UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS

SECOND SESSION

VOLUME 128—PART 16

AUG. 16, 1982 TO AUG. 19, 1982

(PAGES 21159 TO 22535)

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UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1982

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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Monday, August 16, 1982*

The Senate met at 12 noon, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray:

Lord, Thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hadst formed the earth and the world, from everlasting to everlasting Thou art God.—Psalm 90: 1-2 RSV.

Almighty God, eternal Father, make Thy presence felt in this place today. Grant that all who do business here may experience a fresh touch from Thee. As the Senators enter into this very full week, help them to have a perspective which sees the parts in light of the whole. Free them from the tyranny of urgency which makes it impossible to see the forest for the trees. Help them not to allow the transitory to obliterate the transcendent. Give them vision which sees the temporary in light of the permanent, the temporal in light of the eternal.

Guide them to decisions which will honor Thee and bless the people. In Jesus' name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of the Senate be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, at the close of business on Friday I believe the Senate adjourned, did it not?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. And an order was entered to provide that no resolution would come over under the rule and the call of the calendar would be dispensed with?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BAKER. I would remind Members this is a new legislative day as well as a new calendar day.

"IF"

Mr. BAKER. Mr. President, one of my earliest literary recollections is my father's affection for the poetry of Rudyard Kipling. One of Kipling's poems "If" seems particularly appropriate today in light of the urgent business in a fairly short time which we will have to deal with it. I ask unanimous consent that this week's poem "If" be printed in the RECORD.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

IF—

If you can keep your head when all about you
  Are losing theirs and blaming it on you;
If you can trust yourself when all men doubt you,
  But make allowance for their doubting too;
If you can wait and not be tired by waiting,
  Or, being lied about, don't deal in lies,
Or, being hated, don't give way to hating,
  And yet don't look too good, nor talk too wise;
If you can dream—and not make dreams your master;
  If you can think—and not make thoughts your aim;
If you can meet with triumph and disaster
  And treat those two impostors just the same;
If you can bear to hear the truth you've spoken
  Twisted by knaves to make a trap for fools,
Or watch the things you gave your life to broken,
  And stoop and build 'em up with wornout tools;
If you can make one heap of all your winnings
  And risk it on one turn of pitch-and-toss,
And lose, and start again at your beginnings
  And never breathe a word about your loss;
If you can force your heart and nerve and sinew
  To serve your turn long after they are gone,
And so hold on when there is nothing in you
  Except the Will which says to them: "Hold on";
If you can talk with crowds and keep your virtue,
  Or walk with kings—nor lose the common touch;
If neither foes nor loving friends can hurt you;
  If all men count with you, but none too much;
If you can fill the unforgiving minute
  With sixty seconds' worth of distance run—
Yours is the Earth and everything that's in it,
  And—which is more—you'll be a Man my son!

—RUDYARD KIPLING.

SENATE SCHEDULE

TEMPORARY DEBT LIMIT INCREASE

Mr. BAKER. Mr. President, after the expiration of time for morning business, which will follow on after the recognition of the two leaders, the Chair will be asked to lay before the Senate, House Joint Resolution 520, Calendar Order No. 752, to provide for a temporary increase in the public debt. It is anticipated, Mr. President, that there will be a number of amendments to this bill, which is perhaps the most massive understatement I will utter today. Among them will be at least one and, perhaps, several amendments to deal with abortion.

I continue to hope that we can arrive at an orderly arrangement for debate and the disposition of those amendments by unanimous consent. My efforts in that respect have not succeeded in the last week. Perhaps it will be appropriate to renew a request if some of the differences between the parties can be negotiated. But with or without unanimous consent we are going to have the abortion debate this week, and I expect it will be all of this week. I do not intend to ask the Senate to lay aside the debt limit to go to other matters except as that may be urgently necessary to take up privi-

leged matters or other matters that may be dealt with in a very short period of time.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

In that connection, Mr. President, I remind Senators also that an order was entered on Friday that no further amendments to the immigration bill would be in order, and that on tomorrow, beginning at 10 o'clock in the morning, 10 record votes will occur, which must be near a record for that hour of the morning in the Senate. The first vote will be 15 minutes in length, and the remaining nine will be 10 minutes in length. That will take most of the morning, so Senators should be here and on tap to begin a series of rollcall votes, a series of 10 rollcall votes, beginning at 10 a.m., with uninterrupted voting, to continue almost maybe until the time we will recess, as we normally do on Tuesday, for the two caucuses.

After that, Mr. President, there will be third reading of the immigration bill, to be followed by final passage.

DEPARTMENT OF DEFENSE AUTHORIZATION—CONFERENCE REPORT

Mr. President, after the immigration bill is completed on tomorrow, it is the intention of the leadership to ask the Senate to consider briefly the Department of Defense authorization conference report. I point out to Senators, however, that even with the several votes on the immigration bill tomorrow and the disposition of that conference report—that is to say the Department of Defense authorization conference report—we will still have time for, and indeed we will be expected to continue the debate on the debt limit, including the abortion amendments if they are offered, as I expect them to be.

(Note.—The text of the Department of Defense Authorizations Conference Report is printed in the House proceedings of today's RECORD.)

Mr. BAKER. Mr. President, Senators should be advised that any day this week may be a late day. I remind my friends and colleagues once more that the 27th of August is our stated adjournment date not the 20th, as is the case in the House of Representatives, and if we have not satisfactorily dispatched our responsibility on the Senate side to deal with important matters, such as the conference reports on the budget, the reconciliation bill, and other matters of that sort, that I will have no hesitation in asking the Senate to remain past Friday. That is not my hope, it is not my wish, but for many days now I have reminded Senators that our adjournment date is the 27th not the 20th. I hope for the 20th, but that is by no means assured.

Now, Mr. President, I think that is all the bad news I will utter at one sitting.

I have no need for the remainder of my time under the standing order, and I ask unanimous consent that any time I have remaining may be used during the remainder of this calendar day.

The PRESIDING OFFICER (Mr. HUMPHREY). Without objection, it is so ordered.

Mr. BAKER. I yield the floor, Mr. President.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. DIXON. Mr. President, the minority leader has no request for time, so we reserve the minority leader's time, with an understanding that I will require about a half-minute in routine morning business, and I have been asked by the Senator from Wisconsin that he be allotted several minutes.

Mr. BAKER. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. Yes.

Mr. BAKER. Mr. President, if the Senator has no further need for his leader time, is there an order that the Senate will have a period for the transaction of routine morning business at this point?

The PRESIDING OFFICER. That is correct.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for a transaction of routine morning business.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

NEEDED: A STATED ARMS CONTROL POLICY

Mr. PROXMIRE. Mr. President, I want to give credit and encouragement to the Senator from Missouri (Mr. DANFORTH) for the effort he has made in drafting a resolution calling on the President to clarify his arms control and nuclear warfare policies.

A bipartisan group of 21 Senators has signed this resolution and it also has been supported by a distinguished group of arms control experts from several prior administrations.

As a cosponsor of this resolution, I not only want to commend Senator DANFORTH but to reemphasize the importance of the President establishing a public policy for Americans to debate. Unfortunately, one cannot characterize just what the position of this administration is with regard to safeguarding our deterrent, or inhibiting the proliferation of nuclear materials, or in pursuing mutually verifiable arms control treaties. The indecision about what to do with the MX missile; the apparent lack of interest in nonproliferation; the set aside of SALT II and the test ban proposals; all raise concerns about the dedication of this administration to arms control and consistent defense planning.

Delay in our arms control efforts only makes a successful treaty less likely. Delay causes increasing confusion at home and abroad. Delay results in serious questioning about the goals and reliability of American leadership.

From time to time there may be legitimate reasons for delay of arms control proposals. But if that delay turns into a pattern of inactivity, then it symbolizes a much more serious deficiency in our national security planning.

Mr. President, I ask unanimous consent that an article from the New York Times about the Danforth resolution be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 12, 1982]

ATOM ARMS POLICY COMES UNDER FIRE

(By Judith Miller)

WASHINGTON, Aug. 11—President Reagan's nuclear arms control policies have come under criticism from a bipartisan group of 21 senators and from six former senior Government officials.

On Monday, Senator John C. Danforth, Republican of Missouri, and his colleagues sponsored a resolution urging Mr. Reagan to clarify his policies and recent actions, which, the measure states, "have caused anxiety at home and abroad."

In addition, the six officials, who are either former directors of the Arms Control and Disarmament Agency or former arms negotiators, said in a statement that they could not support the President's decision to defer talks on a treaty for a comprehensive nuclear test ban. Tests are now banned in the atmosphere, the sea and outer space, but are permitted under ground.

The two moves reflect concern in Congress and in arms control circles over Mr. Reagan's approach to arms control.

The statement of the former officials says his decision last month to postpone talks with Britain and the Soviet Union on a complete test ban "undercuts a national security objective set by President Eisenhower and pursued by every Administration since."

The officials added that the decision also cast doubt on American sincerity in the talks with the Soviet Union on strategic, or long-range, nuclear weapons and other arms issues.

The statement, which was issued by the Committee for National Security a Washington-based group, was signed by four former directors of the arms control agency: William C. Foster, who served from 1962 to 1969; Gerard C. Smith, 1969 to 1972; Paul C. Warnke, 1977 and 1978, and Ralph Earle 2d, 1979 and 1980.

The text was also endorsed by Adrian S. Fisher, who served in 1967 and 1968 as negotiator of the treaty to halt the spread of nuclear weapons, and Herbert F. York, who was negotiator in 1979 and 1980 in the talks on a comprehensive nuclear test ban.

Two former arms control directors did not join in the statement: Fred C. Iklé, who is now Under Secretary of Defense for Policy, and George M. Seignious, who worked for President Carter.

On the Senate Floor on Monday, Senator Danforth called on President Reagan to provide a comprehensive report on United States nuclear weapons policy by Dec. 1. The Senator noted that more than 10 years had passed since the United States and the Soviet Union had ratified an accord in the arms field.

"The Government of the United States must get off the dime," he asserted.

Senator Danforth also chided the Administration for deterring efforts to negotiate a total test ban and for delaying ratification on two other treaties limiting underground nuclear testing until verification provisions could be strengthened.

He said ratification of the two treaties was long overdue and the decision to defer the talks for a complete test ban was tantamount to "throwing years of useful negotiations into the wastebasket" The Senator also maintained that it was inconsistent for the President to pursue the strategic arms talks while opposing a complete ban on testing.

In addition, he said that President Reagan's new policies on stemming the spread of nuclear weapons had created "grave uncertainty about United States weapons policy." Specifically, the Senator called on the President to explain how the relaxation of export controls in nuclear fuel and sensitive nuclear technologies would help halt the nuclear weapons spread.

"Our credibility as a leader in non-proliferation is at stake," Senator Danforth said.

THE MISSING TREATY

Mr. PROXMIRE. Mr. President, just the other day my office received a State Department publication entitled "Treaties in Force." This publication lists and briefly describes all active treaties and other international agreements of the United States. In reading this document, I am encouraged by the noble steps taken by this Nation to help insure peace, stability, fairness, and sound relations with the nations of the world.

Nevertheless, Mr. President, I am very disheartened by the omissions from this book. Omissions that do not result from a failure on the part of the State Department or the printer. But a failure on the part of the Senate, of each and every Member of this body, to assure that fundamental human rights are guaranteed by the fabric of international law.

Mr. President, what could be more appalling than our unwillingness to insure the right of survival to all national, ethnical, racial, or religious groups? What could be more basic?

The argument that genocide is a domestic matter and, therefore, not a proper subject for treatymaking has been consistently and successfully refuted. The history of treaties ratified by the United States shows a long line of areas having a direct impact on subjects of domestic concern, including the Slavery Convention and the Refugee Protocol Treaty. In fact, the Supreme Court in Geofrey against Riggs (1890) stated that "the treaty power of the United States extends to all proper subjects of negotiations between our government and the governments of other nations."

Some critics argue that this treaty exceeds Congress treatymaking authority. Mr. President, in the same 1890 case of Geofrey against Riggs, Justice Field said the only limitation in this area is that which the Constitution expressly forbids, such as the attempt to change the form of the Federal or State government or changing State boundaries without consent. In the case of Missouri against Holland, Justice Holmes ruled that there was no unwritten limitations on the power of Congress to give its "advise and consent" to treaties.

Mr. President, paging through the State Department publication, readers will notice that we have ratified treaties protecting polar bears, whales, and seals. I ask the Senate, why can we not take action in protecting the lives of human beings? Throughout the 34-year history of the Genocide Convention, that question has yet to be answered.

As I have said so many times before, the Genocide Convention does have a place both in the Senate and throughout the world. I urge the Senate to recognize that fact and ratify this statement of profound importance.

S. 2838—FINALITY OF CRIMINAL JUDGMENTS IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, I wish to call up a bill at the desk and introduce it at this time.

The PRESIDING OFFICER. The bill will be read the first time.

The bill, introduced by Mr. THURMOND, for himself, Mr. NUNN, and Mr. CHILES, was read the first time.

Mr. THURMOND. Mr. President, I ask unanimous consent that it be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Reserving the right to object, Mr. President. Mr. President, on behalf of several Senators, I must object to this request.

Mr. THURMOND. Mr. President, I ask it be put on the calendar.

The PRESIDING OFFICER. Is there objection?

Mr. DIXON. Mr. President, reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

Mr. THURMOND. Mr. President, today, I am introducing a bill to provide important and long-overdue improvements in Federal procedures for review of State criminal convictions. The time has come to establish reasonable parameters for readjudication of criminal judgments and limit ceaseless relitigation of matters fully and fairly determined by State courts.

Mr. President, in this Congress I have been actively involved in seeking changes in this area. On March 10, 1981, I introduced S. 653, a proposal to modify habeas corpus procedures That measure was referred to the Committee on the Judiciary, and a hearing was held on November 13, 1981. As a result of suggestions made at that hearing, I introduced an alternative proposal, S. 2216, on March 16, 1982. A hearing was held by the full committee on that bill, at which time certain improvements were advanced to clarify the intent of the legislation. The bill I am submitting today has evolved from those hearings and will most appropriately define the scope and function for Federal collateral remedies without jeopardizing the legitimate protection of Federal rights.

The administration has strongly endorsed the reforms embodied in this legislation. Limitation of procedures allowing repetitive review of criminal convictions was recommended by the Attorney General's task force on violent crime and advocated by the National Association of District Attorneys. Representatives of the Association of State Attorneys General and the Conference of State Supreme Court Justices testified in strong support for these proposals. Moreover, Federal judges have been equally emphatic in their calls for more reform. Chief Justice Burger recently urged Congress to consider narrowly restricting the availability of Federal collateral relief stating:

> The administration of justice in this country is plagued and bogged down with lack of reasonable finality of judgments in criminal cases.

More recently, Justice Powell observed:

> The present scope of habeas corpus tends to undermine the values inherent in our Federal system of government. To the extent that every State criminal judgment is to be subject indefinitely to broad and repetitious Federal oversight, we render the actions of State courts a serious disrespect in derogation of the constitutional balance between the two systems.

The measure I am now introducing seeks to restore this constitutional balance between the Federal and State judicial systems.

The primary consideration of these reforms is to recognize the dignity and independent stature of State courts and to insure the finality of criminal convictions. Swift and sure punishment is an essential deterrent of the criminal law, but it is a deterrent that has been weakened by the abuse of habeas corpus petitions. The writ was designed as a shield to protect innocent citizens, but it has become a tool

by which convicted criminals delay punishment and frustrate the judicial process. Adoption of reforms in procedures for Federal review of criminal judgments is a necessary and long-belated step toward regaining public confidence in our criminal justice system.

Justice O'Connor has commented on the need for limiting Federal collateral remedies and the necessity to defer to the results of full and fair State adjudications. She has stated:

If our Nation's bifurcated system is to be retained, as I am sure it will be, it is clear that we should strive to make both the Federal and the State systems strong, independent, and viable. State courts will undoubtedly continue in the future to litigate Federal constitutional questions. State judges in assuming office take an oath to support the Federal as well as the State constitution. State judges do in fact rise to the occasion when given the responsibility and opportunity to do so. It is a step in the right direction to defer to the State courts and give finality to their judgments on Federal constitutional questions where a full and fair adjudication has been given in the State court.

The reforms contained in this proposal would amend title 28 of the United States Code to effect the following changes:

To ordinarily bar consideration by a Federal habeas court of a claim that was not properly raised in State proceedings.

To establish a 1-year limitation period, normally commencing at the time when State remedies are exhausted, for application for Federal collateral relief.

To require deference to State determinations of factual and legal matters that have been fully and fairly adjudicated in State proceedings.

To vest the authority to issue certificates of probable cause for appeal in habeas corpus proceedings exclusively in the courts of appeals.

To clarify that applications for writs of habeas corpus can be denied on the merits without requiring exhaustion of State remedies.

Mr. President, in closing, I wish to remind my colleagues that crime in this country is out of control. The law enforcement authorities need our help—they need stronger laws, stiffer penalties, and more stringent legal procedures. The bill I am introducing is an important step in that direction.

I ask unanimous consent that a copy of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2838

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Finality of Criminal Judgments Improvements Act."

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"Rule 22. Habeas Corpus and Section 2255 Proceedings

"(a) APPLICATION FOR AN ORIGINAL WRIT OR HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, and appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)" respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(b) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(c) by redesignating subsection "(d)" as subsection "(e)," and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.".

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the

exercise of reasonable diligence prior to the procedural default.

"A two year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

HOW THE PRESS GOT IT WRONG IN MOSCOW

Mr. HELMS. Mr. President, as a longtime friend of Dr. Billy Graham, I was concerned—as were a number of his other friends—when I read various press reports about Billy's trip to Moscow in May.

As I say, Mr. President, I have known Billy Graham for many years. Our respective birthplaces in North Carolina are about 20 miles apart. Our families are very close, including our children. I believe I know how Billy Graham thinks, having spent countless hours visiting and talking with him and his family. I know how he feels about America. I know how he feels about Communist tyranny. Thus, when the press reports came in, describing what he was purported to have said in Moscow in May, I was puzzled.

Billy Graham is like the rest of us. There have been times when his views and statements and activities have been misrepresented by the media. I found it comforting, therefore, when I read an article in the June 23 issue of the Christian Century by Edward E. Plowman, entitled "How the Press Got It Wrong in Moscow." Mr. Plowman was traveling with Billy Graham on the trip to the Soviet Union. Mr. Plowman knows what Billy Graham said—he recorded all of Billy's many statements—and he knows what Billy Graham did not say.

Mr. President, I ask unanimous consent that Mr. Plowman's article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Century, June 23, 1982]

HOW THE PRESS GOT IT WRONG IN MOSCOW

(By Edward E. Plowman)

As a journalist who traveled with Billy Graham on his recent visit to Moscow, I am disturbed by the questionable quality of much of the media coverage of that event. A towering exception is John Burns of the New York Times; overall, his reporting was perceptive and right on target.

Normally, I'm defensive when people take potshots at the press, but I feel constrained to set the record straight in this case. Most of the criticism leveled against Graham in the West as a result of his visit rests on distorted and inaccurate reporting. I tape-recorded all of Graham's public talks and almost every one of his many, many press interviews with both Soviet and Western reporters (it was the busiest five-day press schedule of his entire life). It is revealing to compare what he actually said with what he is reported to have said.

For example, contrary to widely published reports, Graham never said or "suggested" that the churches in the Soviet Union have greater freedom, or even as much freedom, as the churches in Great Britain. He neither said nor suggested that there is no religious repression in the Soviet Union, and he nowhere "defended the Soviet policy toward religion" (as a Chicago Tribune reporter asserted).

He did not preach a sermon on Romans 13, exhorting his Baptist listeners to obey the authorities, as numerous newspapers reported. He did not exhibit callousness toward a female demonstrator in the Baptist church or toward the worshipers outside who could not get in.

In reality, he took public exception in a press conference to an Indian clergyman's assessment that the nuclear disarmament conference then in progress dispelled the "myth that there is no religious freedom in the Soviet Union." Graham was the only major speaker at the disarmament conference who spoke up for religious freedom. In his New York Times dispatch, John Burns wrote of Graham: "Although he did not mention the Soviet Union in this context [of a call for religious freedom], it seemed clear that he had the host government primarily in mind when he urged 'all governments to respect the rights of religious believers as outlined in the United Nations universal declaration of human rights.'"

Reporters who followed Graham closely in Moscow could readily agree with Burns' published perception that the evangelist "seemed to steer a careful course between the desire to be gracious to his hosts and the concern to show religious and other opponents of the Soviet regime that he is aware of their plight."

I feel sympathy toward many in the Western press corps in Moscow. A disheartened bunch, they face obstacles and hostility we cannot imagine. One consequence: they have become bitterly anti-Soviet. This trait showed up repeatedly in their coverage of Graham. The vast majority of their questions were actually challenges to him to say something anti-Soviet while on Soviet soil. Ironically, Soviet reporters asked many of the questions that American reporters should have asked.

These Western reporters in Moscow can be persevering. I saw them stand for hours in the rain waiting for Graham to emerge from a private meeting with a communist official about which they were certain he would make no comment. But at other times they were less aggressive, preferring to rely on a wire-service colleague's report or an interview with another journalist. Some reporters who did not see or hear Graham at all nevertheless managed to file major by-lined accounts. In critical instances, this secondhand brand of reporting ended in errors and distortions.

During his hour-long sermon at the Baptist church on the John 5 account of the healing of a paralytic man by Jesus, Graham listed marks of a convert's life. Among other things, he pointed out that a believer is not slothful but is a diligent worker and a good citizen, obeying those in authority over him—an allusion to a verse in Romans 13. A wire-service reporter, one of the few news people who remained throughout Graham's speech, elevated that single phrase to the lead paragraph of his story, suggesting that Graham had made a major point of urging his listeners to submit to government authorities. Other reporters and commentators, not knowing the context, twisted the matter worse by reporting that Graham had preached on Romans 13, urging his listeners to submit to the authorities.

On occasion, television reporters tried to create news. On the day before Graham arrived, they obtained letters to the envangelist from the Siberian Pentecostals who have taken refuge in the American embassy for nearly four years. These letters apparently aired their grievances and called on Graham to intervene with the Soviet government on their behalf. When Graham arrived at the Moscow airport, the reporters tried to thrust the letters into his hand—on camera—and asked for his response to the dissidents. This is hardly the objective journalism I was taught. If reporters choose to be conduits for protest, that is their right. But for reasons of journalistic ethics, they then should step aside and let someone else do the story.

I was also distressed by traces of press hypocrisy. Virtually all the reporters said they were sick and tired of the Siberian Pentecostals in the American embassy. They said that the Siberians had become arrogant, manipulative, and unreasonably demanding, and that they wished their U.S. editors would stop asking for "another story" on the group. Yet some press accounts of the meeting between Graham and the Siberians oozed with righteous indignation that the evangelist hadn't done more for them. (Both the Siberians and the reporters were angry that Graham had insisted the visit be a private pastoral one rather than a media event.)

When you take into account the press foulups, much of the public criticism of Graham disappears. That which remains seems to boil down to this assertion: Graham should have spoken out firmly, clearly and specifically against religious repression in the Soviet Union, and he should have done it publicly.

"Publicly" is the bone of contention. For Graham did raise the issues in private with leaders of the Communist Party. He took with him to those meetings lists of religious prisoners. He discussed the plight of the Siberian Pentecostals and other issues of interest to religious leaders. As with all private negotiations, the details of these talks must understandably remain confidential. It is, of course, too early to see what the outcome of these discussions might be.

But one thing is certain. If Graham had taken a loud, condemnatory stand in his dealings with the Soviets, he would not have been received and listened to by people in power. Noisy diplomacy has its place: raise the issues, keep the pressure on, press for action. Quiet diplomacy also has its place, for it is at this level that one deals with people who are able to effect an outcome. So far, Graham, who chose the path of quiet diplomacy, has been the only Western religious figure to gain entry into Soviet cor-

ridors of power on behalf of the various important concerns of the church.

Most people, including many of Graham's fellow evangelicals, have failed to grasp the full significance of his visit, or to comprehend his strategy. Partly it is the press' fault. How so many seasoned political reporters could miss the important aspects of the story while majoring in minors is beyond me.

Mr. HELMS. Now, Mr. President, I would like for the RECORD to include at this point the text of a statement issued by Billy Graham on May 19, immediately after he returned to the United States from the Soviet Union. I ask unanimous consent that this statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

PRESS STATEMENT BY DR. BILLY GRAHAM
(New York, May 19, 1982)

During the last few weeks I have had one of the busiest—and yet most fulfilling schedules of my entire ministry. I have just returned to the United States from London, where I had the honor of receiving the 1982 Templeton Prize for Progress in Religion. It was awarded in a private ceremony at Buckingham Palace by Prince Philip, and I am deeply grateful to the international and inter-religious panel of judges who selected me for this high honor. As I indicated when the award was originally announced here in New York some weeks ago, I intend to donate the prize money to various projects, including the cause of world hunger, the education of third world students, and evangelistic projects in Great Britain.

Before coming to London I spent about five and a half days in Moscow, where I had the unprecedented opportunity to preach the Gospel of Jesus Christ both publicly and privately on numerous occasions. I went to the Soviet Union at the invitation of the head of the Russian Orthodox Church, with the cooperation of the All-Union Council of Evangelical Christians-Baptists of the U.S.S.R. During my stay in Moscow I was briefly an observer (not a delegate) at a conference of religious leaders from many countries (including the United States) called to discuss the danger of nuclear war. I also had the opportunity to preach the Gospel in an address to the conference.

As you know, various American officials had expressed some concern to me that the conference would be anti-American and unbalanced in its perspective. Although I was not present for most of the conference and had left Moscow before it was over, I have been pleased to note from press reports (such as that in the London Times of May 18) that this apparently was not the case, due in part to the influence of Western participants, especially Americans.

It was a special privilege for me to preach the Gospel in the Moscow Baptist Church on Sunday, May 9. I was informed later that several hundred were not able to get into the church because the church was full. Immediately after the Baptist service I attended the Divine Liturgy of the Patriarchal Cathedral and spoke for these opportunities to preach the Gospel publicly.

In addition to these public meetings, I had a very full schedule of private meetings with various church and government officials. Their hospitality was always very gracious, and in every one of these meetings I had an opportunity to share very openly and directly my convictions as a Christian. Included in my schedule were several meetings with members of the Central Committee of the Communist Party. These were unique opportunities, and although it would not be appropriate for me to reveal the details of some of these private discussions, I can say that I spoke frankly about some of the issues that are of great concern in the United States, such as religious toleration. I also listened to some of their concerns about the tensions between our two nations.

The conference provided a chauffeur driven car, as they did for a number of the religious leaders visiting Moscow for the conference. Many of the press wondered where I was going and whom I was seeing. I packed into those few days more than any five and a half days of my entire life. For example, I met for three hours with the Institute of American-Canadian Studies; I met for one and one-half hours with the leadership of the All-Union of Evangelical Christians-Baptists; I had dinner at the publishing department of the Orthodox Church; a two hour meeting with the Soviet Peace Committee; one and one-half hour meeting with the Council for Religious Affairs; a meeting with some of the Jewish leaders of Moscow including the Chief Rabbi; a private meeting with the Pentecostals in the United States Embassy; and an hour and one-half meeting with Mr. Ponomarev (who wears many hats). He met me as Chairman of the Foreign Relations Committee of the Supreme Soviet. He is also the Secretary of the Communist Party.

Now in various meetings and conferences like this—what would you think we talked about? We rarely ever discussed the weather! We discussed how to improve relations between our two countries; human rights; and on each occasion I had the opportunity to tell them at length about the religious situation in the United States, the growth of evangelicalism, and give my own Christian testimony. I never left one person but what I felt I had proclaimed the Gospel to him. There were many other meetings that I cannot enumerate.

I would not, of course, pretend in the least to be an expert on the Soviet Union after only five and one-half days in Moscow. I received many impressions that I will, I am sure, be reflecting upon for some time to come. However, my primary goal in going to the Soviet Union was to preach the Gospel, as I have done all over the world for many years. I had more opportunities than I ever expected to accomplish this goal.

Finally, I would like to say a few words about the issue of religious freedom in the Soviet Union, since some of my remarks on this subject have apparently been quoted out of context or misconstrued. It is well-known that the Soviet Union closely regulates all organizations and movements, including religion. There are certainly many who by the standards of our society do not have full freedom to express their criticisms of Soviet policy, and are considered lawbreakers if they do. I am well aware that there are prisoners of conscience in the Soviet Union including some who have said they have chosen to resist the law because of religious reasons. Among these are many Jews as well as Christians.

Again, I cannot claim to be an expert. However, my impressions of religious freedom were perhaps most accurately summed up by the headline in the May 14 issue of the International Herald-Tribune which said, "Graham says Russia offers some measure of church freedoms." The article then quotes from a story by John Burns of the New York Times which said: "The 63-year-old evangelist also called directly for religious freedom, by urging 'all governments to respect the rights of religious believers as outlined in the United Nations Universal Declaration of Human Rights.' Mr. Graham also quoted a section of the Helsinki agreement, signed in 1975 by 35 nations, including the Soviet Union, in which governments are obligated to respect freedom of religion and other beliefs. Later Tuesday, Mr. Graham took another action that invited Soviet displeasure when he visited six Soviet Pentecostalists who have been living in the U.S. Embassy basement since 1978." Thus, I have never said there was religious freedom in the Soviet Union.

Freedom is relative. I don't have freedom in the United States to go into a public school and preach the Gospel, nor is a student free in a public school to pray, or a teacher free to read the Bible publicly to the students. At the same time, we have a great degree of freedom for which I am grateful.

In China there are many restrictions and yet leaders in the United States seem to be applauded for going to China. Perhaps less than two hundred churches are open in a population of about one billion. In the Soviet Union there are an estimated 20,000 places of worship of various religions open and each year hundreds of permits are granted for new churches. Most authorities in the field say there are more practicing Christians than Marxists. However, there are clearly restrictions. The Soviet Union is not the United Kingdom or the United States of America—I know that. It is an atheistic society which does not encourage religion—there are many restrictions on every aspect of Soviet society including the church. This is part of their practice and policy. At present, churches have some measure of freedom to hold public worship services on church properties if they agree to abide by government regulations. In many places families are free to teach their children the Bible and to have prayer in their homes. According to most authorities, by the late 1930's churches had virtually ceased to exist as institutions. Compared with that period in Soviet history, we should be grateful for what has happened in allowing some measure of freedom since then. At the same time, I pray that this measure of freedom—limited as it may be by our standards—will increase.

I also had the opportunity to say some of the things I have been saying in New England at various universities about peace. I plainly stated publicly in an address (that will be printed in full here in the United States in "Christianity Today" in its forthcoming issue) that I am not a pacifist and that I am not for unilateral disarmament. However, I am for a negotiated verifiable treaty to ban all weapons of mass destruction and also greatly reduce conventional weapons. Although I intend to continue to speak out on the issue of peace from time to time, I stated publicly in Moscow that I do not intend to become a leader in the peace movement. I intend to continue my work as an evangelist in preaching the Gospel of Jesus Christ in various parts of the world.

Before going to the Soviet Union I prayed a great deal about it and felt that God had led me. Upon my return I feel even more certain that I was doing the will of God. It may be some time before the full results of

my visit can be evaluated, but even the short-term results are gratifying.

Mr. HELMS. Mr. President, what precisely did Billy Graham say on May 11 at the conference in Moscow. The fine publication, Christianity Today, has published the text of Dr. Graham's address.

I ask unanimous consent that this be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GRAHAM'S MISSION TO MOSCOW

(By Billy Graham)

(Following is the text of Billy Graham's address, "The Christian Faith and Peace in a Nuclear Age," which he gave in Moscow on May 11, at the world conference, "Religious Workers for Saving the Sacred Gift of Life from Nuclear Catastrophe.")

Your Holiness Patriarch Pimen, Your Eminence Metropolitan Filaret, honorable representatives of the government of the USSR, esteemed delegates, observers, guests, and friends.

I am deeply honored and humbled by the gracious invitation of His Holiness Pimen, patriarch of Moscow and all Russia, and of the International Preparatory Committee and its chairman, His Eminence Metropolitan Filaret, to give this summary address on "The Christian Faith and Peace in a Nuclear Age" to this important world gathering of religious workers, following the panel discussion this morning on "The Responsibility of Religious Workers in Preventing Nuclear Catastrophe."

I recognize that we come to this conference from many different backgrounds—culturally, politically, and religiously. But in spite of many fundamental differences between us, we come together in an atmosphere of mutual respect and concern because we share at least two things in common.

First, regardless of our background, we are all members of the human race, and the problem we are dealing with is one that affects every human on this planet, no matter what his cultural or political or religious views may be.

Second, although we have various religious differences, we share a basic conviction about the sacredness of human life and the need for spiritual answers to the problems that confront humanity.

I speak to you today as a follower of Jesus Christ. I shall never forget when Mr. U Thant of Burma departed as secretary general of the United Nations and a banquet was given in his honor. When the time came for him to speak, he stood and said simply, "Everything I have ever been, or am, or ever hope to be, I owe to Buddha." Not very many of those at the banquet shared his religious beliefs, but they all understood and accepted his commitment. They admired his humble and bold dedication to his religious faith.

I would make a similar statement to you as a Christian, declaring that everything I have ever been, or am, or ever hope to be in this life or the future life, I owe to Jesus Christ. I am sure my fellow Christians at this gathering would say the same. In these few minutes, therefore, I would like to present what I believe to be the Christian's responsibility for peace in a nuclear age as it is found in the Bible.

There is a farm in the central part of the United States. On that farm is a monument marking the exact point of the geographical center of the nation. It is a fixed reference point from which, I understand, all other geographical points in the nation can be measured. Each of us has his reference point, and as a Christian, the reference point by which I measure my life and thought is the Bible, the Holy Scriptures of the Old and New Testaments.

There is no doubt that the world is facing the most critical moment since the beginning of human history. We live in a time that is without parallel, because never before has humanity held in its hands such awesome weapons of mass destruction—weapons that could destroy life on this planet within a matter of hours. The quantum leap in technology has resulted in a quantum leap in our ability to destroy our entire planet. Every thinking man knows that the world is like a powder keg, and if we cannot soon find a way to eliminate this danger of a nuclear catastrophe then we may be writing the obituary of much of humanity. The whole human race sits under a nuclear Sword of Damocles, not knowing when someone will push the button or give the order that will destroy much of the planet.

The possibility of nuclear war, therefore, is not merely a political issue. We must understand, of course, that there are underlying causes and problems that must be removed before the nuclear arms issue will be completely solved, and these issues must be addressed also. These underlying causes have brought about serious political conflicts between nations, and this is not God's intention.

The nuclear arms race is primarily a moral and spiritual issue that must concern us all. I am convinced that political answers alone will not suffice, but that it is now time for us to urge the world to turn to spiritual solutions as well. We need a new breakthrough in how the problem of the nuclear arms race is approached. The vicious cycle of propaganda and counterpropaganda, charge and countercharge, mistrust and more mistrust among nations must somehow be broken. The unending and escalating cycle of relying on deterrents, greater deterrents, and supposedly ultimate deterrents should also be defused. Policies which constantly take nations to the brink of nuclear war must be rejected. We need to turn from our political and ideological conflicts on all sides and moderate them for the sake of sanctity of human life.

I agree with Albert Einstein, who said, "The unleashed power of the atom has changed everything except our way of thinking. We shall require a substantially new manner of thinking if mankind is to survive." Perhaps a conference like this, stressing the spiritual nature of man and the need for spiritual answers to the problems we face, can help bring about that new way of thinking.

Pope John Paul II has stated: "Our future on this planet, exposed as it is to nuclear annihilation, depends on one single factor: humanity must make a moral about-face." But the question that confronts us is, How can this happen? Technologically, man has far exceeded his moral ability to control the results of his technology. Man himself must be changed. The Bible teaches that this is possible through spiritual renewal. Jesus Christ taught that man can and must have a spiritual rebirth.

This leads me to some specific comments about a Christian understanding of peace in a nuclear age.

First, the Christian begins with the Bible's affirmation that life is sacred. "In the beginning God created the heavens and the earth," the Bible declares (Gen. 1:1). The world is not here by chance, nor is human life a biological accident. God brought it all into existence. Furthermore, man occupied a very special place in God's creation, because man alone was created in the image of God. He had within him the character of God himself, and one reason for this was so man and God could have fellowship with each other. Human life is sacred not only because God created it, but because he loves us and desires to have a personal relationship with us. Life is a sacred gift of God, and the taking of human life is an offense to God's original design of his creation. The individual person has dignity before God, and this is a fundamental fact that stresses his uniqueness and underlines his value within society.

Second, the Bible also teaches, however, that man, the creature, has turned his back on God, the Creator. Our first parents deliberately chose to rebel against God, and this has caused chaos in God's world ever since. This rebellion against God is what the Bible calls sin. It cuts man off from God, but it also cuts man off from other men and even brings disorder into his own individual life. Hate takes the place of love; greed takes the place of sharing; the lust for power and domination over others takes the place of service and humility. Instead of peace there is war. The first son of Adam and Eve committed the first act of violence by killing his brother.

We live in a world, therefore, that is distorted and warped by sin. We may not fully understand why God—who is all-powerful and loving—permits evil in this world. But whatever else we might say, it must be stressed that man, not God, is guilty of the evil in the world. It is man who bears the responsibility, because man was given the ability to make free moral choices, and he chose deliberately to disobey God. The world as it now exists is not the way God intended it to be.

From a biblical perspective, therefore, I am convinced that the basic issue that faces us today is not merely political, social, economic, or even moral or humanitarian in nature. The deepest problems of the human race are spiritual in nature. They are rooted in man's refusal to seek God's way for his life. The problem is the human heart, which God alone can change.

During World War II, Prof. Albert Einstein helped bring a German photographer to the United States. They became friends and the photographer took a number of pictures of Einstein. Einstein never liked photographers, and he never liked any picture of himself. But one day he looked into the camera and started talking. He spoke about his despair that his formula, $E=mC^2$, and his letter to President Roosevelt had made the atomic bomb possible, and his scientific research had resulted in the death of so many human beings. He grew silent. His eyes had a look of immense sadness. There was a question and a reproach in them.

At that very moment the cameraman released the shutter. Einstein looked up and the cameraman asked him: "So you don't believe that there will ever be peace?"

"No," he answered. "As long as there will be man, there will be wars."

The Bible says, "What causes fights and quarrels among you? Don't they come from your desires that battle within you? You want something but don't get it. You kill

and covet, but you cannot have what you want. You quarrel and fight" (James 4:1-2, NIV). Jesus declared, "For from within, out of men's hearts, come evil thoughts . . . murder . . . greed, malice, deceit . . . arrogance and folly" (Mark 7:21-22).

I am convinced one of the most vivid and tragic signs of man's rebellion against God's order in our present generation is the possibility of a nuclear war. I include here the whole scope of modern weapons that are able to destroy life—conventional, biochemical, and nuclear weapons. I know that the issue of legitimate national defense is complex. I am not a pacifist, nor am I for unilateral disarmament. Police and military forces are unfortunately necessary as long as man's nature is the way it is. But the unchecked production of weapons of mass destruction by the nations of the world is a mindless fever which threatens to consume much of our world and destroy the sacred gift of life.

From a Christian perspective, therefore, the possibility of a nuclear war originates in the greed and covetousness of the human heart. The tendency toward sin is passed on from generation to generation. Therefore, Jesus predicted that there would be wars and rumors of wars till the end of the age. The psalmist said, "In sin did my mother conceive me." Thus, there is a tragic and terrible flaw in human nature that must be recognized and dealt with. That is why I have come to see that the nuclear arms race is not God's will, and that as a Christian I have a responsbility to do whatever I can to work for peace and against nuclear war.

I have said that life is sacred because God has made it that way, and that man has perverted the gift of life by rebelling against God's will. But does that mean peace is not possible? No! Peace could be possible if we would humble ourselves and learn again God's way of peace.

That brings me to a third point: the word "peace" is used in the Bible in three main ways—much different from the way peace is used in some places.

First, there is spiritual peace. This is peace between man and God.

Second, there is psychological peace, or peace within ourselves.

Third, there is relational peace, or peace among men.

Sin, the Bible says, has destroyed or seriously affected all three of these dimensions of peace. When man was created he was at peace with God, with himself, and with his fellow human. But when he rebelled against God, his fellowship with God was broken. He was no longer at peace within himself, and he was no longer at peace with others.

Can these dimensions of peace ever be restored? The Bible says "Yes." It tells us man alone cannot do what is necessary to heal the brokenness in his relationships—but God can, and has.

The Bible teaches that Jesus Christ was God's unique Son, sent into the world to take away our sins by his death on the cross, therefore making it possible for us to be at peace—at peace with God, at peace within ourselves, and at peace with each other. That is why Jesus Christ is central to the Christian faith. By his resurrection from the dead, Christ showed once for all that God is for life, not death. The Orthodox tradition and its Divine Liturgy especially make central this jubilant and glorious event. The Bible states, "For the wages of sin is death; but the gift of God is eternal life through Jesus Christ our Lord" (Rom. 6:23). The ultimate sign of man's alienation is death; the ultimate sign of God's reconciling love is life.

Throughout all Christendom you will notice there is one symbol common to all believers—the cross. We believe that it was on the cross that the possibility of lasting peace in all of its dimensions has been made. The Bible says about Christ that "God was pleased to have all his fullness dwell in him, and through him to reconcile to himself all things . . . by making peace through his blood, shed on the cross" (Col. 1:19-20). The Bible again says, "For he himself is our peace, who has made the two one and has destroyed the barrier, the dividing wall of hostility . . . He came and preached peace to you who were far away and peace to those who were near" (Eph. 2:14, 17).

The Christian looks forward to the time when peace will reign over all creation. Christians all over the world pray the prayer Jesus taught his disciples: "Thy kingdom come. Thy will be done in earth, as it is in heaven" (Matt. 6:10). Only then will the spiritual problem of the human race be fully solved. Both the Bible and the Christian creeds teach that there will be a universal judgment. Christ will come again, in the words of the ancient Apostles' Creed, "to judge the quick and the dead." But then the kingdom of God will be established, and God will intervene to make all things new. That is our great hope for the future.

Several weeks ago I was at the headquarters of the United Nations. On exhibit there is a magnificent and spectacular statue, which was a gift to the United Nations from the Soviet Union. It shows a man with a hammer, forging a plowshare from a sword, and it is an illustration of the biblical hope found in the words of the prophet Isaiah: "They will beat their swords into plowshares and their spears into pruning hooks. Nation will not take up sword against nation, nor will they train for war anymore" (Isa. 2:4). This ringing hope was also the basis of Patriarch Pimen's July 1981 appeal on nuclear disarmament, which led to this conference.

But in the meantime, God is already at work. The kingdom of God is not only a future hope but a present reality. Wherever men and women turn to God in repentance and faith, and then seek to do his will on earth as it is done in heaven, there the kingdom of God is seen. And it is in obedience to Jesus Christ, who is called in the Bible the Prince of Peace, that Christians are to cooperate with all who honestly work for peace in our world.

When Christ was born, the Bible tells us, the angels sang, "Glory to god in the highest, and on earth peace to men" (Luke 2:14). Jesus declared, "Blessed are the peacemakers, for they will be called the sons of God" (Matt. 5:9). The New Testament urges Christians, "Live in harmony with one another. . . . If it is possible, as far as it depends on you, live at peace with everyone. Do not take revenge" (Rom. 12:16, 18-19). We are to pray for peace, and we—both individually and collectively—are to work for peace in whatever ways God would open up for each of us. Christ came to bring peace, and we are to proclaim the possibility of peace, which the Christian believes is found in Christ.

But some people ask pessimistically, "Can anything really be done for international peace? Is it not already too late?" I would suggest that our responsibility in the world is clear no matter what conditions might be or how late the hour might seem. We must not join with those who stand by and wring their hands, saying all is hopeless. I believe that in spite of the chaos threatening our world there can be hope for our generation and generations to come. We must be realists, but we must also be optimists. When ancient Nineveh was on the verge of destruction, it was saved when the people repented and turned to God.

As a Christian, I have hope for several reasons. For one thing, as a Christian I believe that God is the Lord of all history. He is sovereign and he is able to intervene in human affairs to accomplish his saving and reconciling purposes, no matter how difficult things may seem. We do not live in a world of blind chance. My confidence is in the living God who remains faithful to his purposes and will ultimately accomplish his will for this world which he has created.

I also have hope, however, because I believe it is still possible for us to turn to God and grapple with many of our problems and begin to solve them—as long as there are responsible leaders in the international arena from every area of life who have the dedication and the vision to provide moral and spiritual leadership for our generation. Yes, man often fails, and agreements that are solemnly made in one generation are often broken in the next generation. But that must not lead us to despair.

One of the horrors of World War I was the development and use of deadly poisonous gases that killed and maimed vast numbers of people. Afterward, the nations of the world agreed to ban such weapons, and during World War II the warring parties refrained from using those weapons of mass destruction on the battlefield. Thus it is possible to reach international understandings. And I believe it is the special responsibility of religious leaders who see life as sacred to work toward an international negotiated treaty to vastly reduce or ban today's weapons of mass destruction.

But what specifically can we do? What are the steps people who consider life as sacred can take to be peacemakers in our world, especially those of us who are gathered here today?

It is not my intention today to present a comprehensive plan or procedure for disarmament, for I do not consider myself competent to deal with such a highly technical matter. I also know that any specific remarks on this which I or anyone else here might make could easily be misinterpreted as being biased or political in nature. Our purpose is to rise above narrow national interests and give all of humanity a spiritual vision of the way to peace. All too often religious leaders have accepted war without question as a fact of life by which international disputes are too often settled. In the present nuclear age, however, we must not fall into this psychological trap.

With this in mind, let me suggest five steps that I believe we can and must take if we are to do our part in saving the sacred gift of life from nuclear catastrophe.

1. Let us call the nations and leaders of our world to repentance. In addition to personal repentance, which we all need if we are to be accepted by God, we need to repent as nations and peoples over our past failures—the failure to accept each other, the failure to be concerned about the needs of the poor and starving of the world, the failure to place top priority on peace instead of war, the failure to restrain the international arms race. No nation, large or small, is exempt from blame for the present state of international affairs.

2. Let us call the nations and leaders of our world to a new and determined commitment to peace and justice. For the last several decades the world has witnessed an unprecedented arms race. Would it not be wonderful to have a new race among the nations of the world—a disarmament race—one which is equal on both sides, verifiable, and leads to at least a few generations of peace.

As a Christian, I believe that lasting peace will only come when the kingdom of God prevails. However, let the leaders of our world face the fact that the overwhelming desire of the peoples of the earth is for peace, not war. If a poll were taken of the peoples of the world today you would find, I am convinced, that over 95 percent of the peoples of the world would vote for peace in a nuclear age. Let us urge the leaders of the world to act in accordance with the wishes of the peoples of the world and set nuclear disarmament as the top priority for the rest of this century.

3. Let us call the nations and the leaders of the nations to take specific steps that will lead toward peace. Talk about peace must never become a substitute for actions that will lead to peace. In this connection I would urge three things.

First, I would urge the leaders of the nations, especially the major powers, to declare a moratorium on hostile rhetoric. Peace does not grow in a climate of mistrust in which each side to a greater and greater degree is constantly accusing the other of false motives and hidden actions. Yes, there are fundamental differences of ideology separating our world, and it is unrealistic to assume that these ideologies will be surrendered anytime soon by those who hold them. But the cause of peace is not served when nations refuse to listen to each other's views and to take seriously what is being expressed by the other side. I am encouraged that recently there has been some hint of a lessening in that rhetoric that can only lead to greater suspicion and heightened tensions.

Second, I would urge the leaders of the world to take specific steps to increase trust and understanding among nations and peoples. Often we are suspicious of each other because we do not know each other. Expanded cultural exchanges, student exchanges, educational exchanges, trade relations, tourist travel—all of these can help us get to know one another as people and lead over the years to greater understanding and trust. I include, as a major part of this, opportunities for religious contacts such as we are sharing in the conference. I also think we need to reaffirm our commitment to mutual respect among religions, such as we are practicing here.

In connection with this, we should urge all governments to respect the rights of religious believers as outlined in the United Nations Universal Declaration of Human Rights. We must hope that some day all nations (as all those who signed the Final Act of Helsinki declared) "will recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience" (Final Act of Helsinki, section VII).

I also feel it is important for the leaders of the world to get to know one another personally through personal contact. Is it too much to hope for a summit meeting in which the leaders of the major powers do not come together just to sign a prepared document, but simply to get to know one another as human beings?

Third, I would urge the leaders of the world to take specific steps for meaningful negotiations leading to major arms reductions. We should pray for the success of every effort that is made in this direction. We should encourage every initiative that honestly seeks mutual, balanced, verifiable arms reductions among nations. But more than that, we should set before the world the ultimate goal of eliminating all nuclear and biochemical weapons of mass destruction. Several years ago, when I saw the apparent futility of so many negotiations and conferences about disarmament, I came out for what I have called SALT 10—the complete destruction by all nations of the world of all atomic bombs, hydrogen bombs, biochemical weapons, laser weapons, and all other weapons of mass destruction. I know this may be impossible to achieve, but it can be our ultimate goal.

4. Let us call the peoples of the world to prayer. If the peoples of the world would turn to God and seek his will in prayer, it would have a tremendous impact on the issues that face us. As God promised through the prophet Jeremiah, "Call unto me, and I will answer thee, and shew thee great and mighty things, which thou knowest not" (Jer. 33:3).

5. Finally, let us who are assembled here today rededicate ourselves personally to the task of being peacemakers in God's world. As we call upon others to a determined commitment to peace, let us also rededicate ourselves to that same commitment. As we call upon others to take specific steps to work for peace, let us also decide what we can do within our own nations to work for peace. As we call upon others to pray, let us also pray. Let the leaders of our own nations, and the peoples of our own nations, hear our voices as we speak for peace in our world.

I would like to close with this observation. Last Sunday morning His Holiness Patriarch Pimen graciously invited me to attend the Divine Liturgy in the Orthodox Cathedral and say words of fraternal greeting to the congregation and proclaim the gospel. I could not help but recall in my remarks that the date was May 9, the thirty-seventh anniversary of the unconditional surrender in Berlin of the forces of nazism to the Soviet Union and its allies, bringing World War II to an end. I recalled the Soviet Union, more than any other nation in that terrible conflict, experienced death and incredible devastation as a result of that horrible war. I also noted that during the war the great peoples of the Soviet Union and the United States of America were allies, fighting side by side against the common enemy of nazism. We did not agree at that time in our basic ideology, but we united as allies because we faced a common enemy—an enemy so great that our differences faded.

Today, I would suggest we—not only the two great superpowers, the United States and the Soviet Union, but every nation on earth—again face a common enemy. Our common enemy today is the threat of impending nuclear destruction. Is it too much to hope and pray that we can unite in a dedicated alliance against this enemy which threatens to destroy us? May all of us, whether we are from large nations or small nations, do all we can to remove this deadly blight from our midst and save the sacred gift of life from nuclear catastrophe.

Mr. HELMS. Mr. President, again I turn to the publication, Christianity Today, this time for a commentary on Billy Graham's visit to Moscow. I invite Senators' attention to it. It is entitled, "Graham in Moscow: What Did He Really Say?" I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was order to be printed in the RECORD, AS FOLLOWS:

GRAHAM IN MOSCOW: WHAT DID HE REALLY SAY?

What many hoped would be the climax to the life of an evangelist devoted to preaching the gospel has threatened instead to end in tragic rejection by friend and foe alike. Scarcely had Billy Graham arrived in Moscow last month when the quiet warnings of some people rapidly crescendoed to a roar of disapproval. Never before in all his career has the evangelist faced such condemnation from the American press and from evangelical leaders.

Of course, the jury is not yet in with the final word. But in the continuing furor, two quite different questions must be examined: (1) Should Graham have gone to Moscow; and (2) Did he betray his own cause by things he said or omitted saying while there?

These two questions are intertwined. If making this trip of necesssity required such a betrayal, then the answer to the first question is: No, Graham should not have gone.

The evidence, however, does not warrant linking betrayal with his going. Many religious leaders—members of the National Council of Churches, extreme theological liberals, mainline liberals, Southern Baptists (President Bailey Smith, for example), independents, and parachurch leaders (such as Bill Bright)—have all at one time or another visited the Soviet Union. Many Church leaders attended the same conference on nuclear war.

In the past, no one has objected to others undertaking such trips. We must conclude, therefore, that there was nothing inherently wrong or unwise about Billy Graham's visit to Moscow. Given Graham's goals, his priorities, and the promises made to him, we are convinced he chose rightly. Any evangelical with similar goals, priorities, and promises would have—and should have—made the same decision.

But what were his goals? And what assurances did he secure from the Soviets before he went?

First of all, Graham did not go blindly or naively. He realized he would be used. In one interview, he said: "I knew there were risks involved in this mission. I knew I risked being misunderstood and even exploited, but I considered the risk worth taking."

GRAHAM'S GOALS

1. He wanted to preach the gospel publicly at the nuclear conference, at the Orthodox cathedral, at the Baptist church, and privately to Soviet political officials and church leaders.

This he was able to accomplish. In each of these places, Graham presented the claims of Christ to many who had never before heard them and might well never hear again.

2. He wished to plead the case for religious freedom in private meetings with high Soviet officials.

Graham was assured that he would have oportunity to plead the case for the "Siberian Six," the unregistered evangelicals, the registered evangelical churches, and for

freedom of religion in general. This request was honored. He did in fact plead their case in private, and the results are yet to be seen. While direct confrontation has sometimes been effective, it is not the only way to move the Soviets to action. It would seem the act of charity and of wisdom to allow Billy Graham to attempt nonconfrontational, behind-the-scenes diplomacy in an effort to win some relief for the people of Russia who are being persecuted for their religions convictions and practices.

Before he finally decided to make the trip, Graham consulted many world leaders: individuals who are highly knowledgeable about Soviet affairs—including such people as Henry Kissinger, the Pope, scholars, diplomats, and many evangelicals. Their advice, overwhelmingly, was than quiet, nonconfrontational diplomacy would be far more likely to secure concessions for the persecuted in that land that direct confrontation and mass-media exposure.

3. He wanted to warn of the tragic consequences of nuclear buildup and the armament race.

More and more, Graham has become convinced of the horror of nuclear warfare. He sincerely hoped to do something dramatic to bring the world to its senses so that tens of millions—perhaps hundreds of millions—will not be destroyed in a nuclear holocaust. He is not a pacifist. He is not even a nuclear pacifist. He did not argue for any unilateral renunciation of nuclear weapons. Rather, he warned of dire consequences to come if the nations continue their current nuclear buildup and prolong indefinitely the arms race. He called for a negotiated reduction and eventual elimination of nuclear armaments and other weapons of mass destruction. Such disarmament would have to be by mutual agreement, and carried out with adequate means of verification. It is a sane, feasible, and very necessary approach to the persent arms race. It would protect the innocent, yet it would hold out possibilities for great relief to our entire planet, and especially the tax-burdened peoples of Russia, Western Europe, and the United States.

4. He hoped to be permitted eventually to hold preaching missions in large cities throughout the Soviet Union.

Right from the first, this goal did not loom as large for Graham as it did in the public news media. Yet, he is convinced that Soviet leaders are open to the possibility of such a mission. He is still convinced that there is at least a fifty-fifty chance that he will be able to do this. Though Graham is aware that there would be great risk in such an evangelistic tour, he also knows that so far his public and private messages have not been censored. He also knows that many Soviet religious leaders wish such a mission.

Certainly these are worthy goals. No fair-minded person—let alone any evangelical Christian—could object to them.

THE COST TO GRAHAM

But what price did Billy Graham pay to achieve his goals? Was the cost too great, as his critics claim? To gain his ends, did he have to sell his soul? Or, more accurately, did he have to compromise his own integrity as a Christian, as a man who loves justice and freedom, as one who prizes religious freedom above life itself, and who wishes to be a loyal American? What was the price tag for Graham?

He was free to preach his gospel message; he did not have to deny his own precious conviction of freedom. Undoubtedly it was assumed by both sides that he would not make open and public denunciations of Soviet policies, including its repression of political and religious freedoms.

But Graham was not silent about political and religious freedom. In private, he pled the case for the Siberian Six and for the 150 imprisoned pastors. In his public address, he boldly called upon the nations of the world to uphold rigorously the Helsinki agreements. He pled especially for full freedom of religious worship and practice, for without freedom and justice there will be no peace: genuine justice is the foundation for peace. (See the full text of Graham's speech, beginning on page 20.) His one concession on this occasion was not to single out specially, and bluntly condemn, the Soviet Union for its lack of religious freedom.

All of this Graham clearly understood. Yet he thought he could accomplish more through quiet diplomacy and public preaching of the gospel than by openly denouncing the Soviet government for lack of religious freedom. Was that price too great? Billy Graham thought not. We agree. But the decision of others will depend on the relative values each assigns, on the one hand, to preaching the gospel, to quiet behind-the-scenes diplomacy on behalf of freedom, and to the necessity of warning against nuclear war and the armament race, and on the other hand, to the opportunity to speak out publicly in condemnation of Soviet violations of political and religious freedom.

It should not surprise us that many people disagreed with Graham. One leading newsman, who reacted strongly against Graham, denounced him bitterly: "Graham was a dupe—a fool. Mouthing the gospel to Soviet leadership and privately urging them to act contrary to their basic convictions was an utter waste of time. Of course, he could preach his gospel and tell them in private to relax their restrictions against religion. But do you think Graham will convert those Communists or move them to lower their tyrannic grip? Of course not. Graham was a fool to think so. He was duped by them to fit into their propaganda and their Marxist program for nothing in return."

That criticism sums it all up. But Billy Graham believes that God can and does use the frail human preaching of the gospel to transform people. It is not his business to preach the gospel only to likely candidates, but rather to every human creature. Moreover, Graham manages his life and ministry by the long look. The gospel is a time bomb. Working quietly through it, the Spirit of God can overturn nations and civilizations. The first Chiristians rarely mentioned slavery, the rights of women, the gladiatorial shows, and direct governmental involvement in moral rottenness. In time, though, the dynamite of the gospel penetrated the Roman empire and its tyranny.

WAS GRAHAM RIGHT?

The question of whether Graham did the right thing in going to Moscow depends on how highly a person values the proclamation and the power of the gospel. Only time and eternity will reveal the full answer. But at this point we are not prepared to condemn him.

The second and equally crucial question concerns what Graham said in Moscow. Did he, on the give-and-take with the press, inadvertently and foolishly betray his own cause and the cause of freedom? In short, did he play his hand properly and adroitly at every point during his six days in Russia?

Billy Graham would be the last person to claim infallibility for himself. Reflecting upon the outcry that greeted him on his return, he commented: "I am an evangelist—not an expert in church-state relations in the Soviet Union. I regret that some of the statements I made regarding my visit to the Soviet Union were misconstrued and misinterpreted by the media. I care deeply about the plight and suffering of believers everywhere in the world where religious freedoms are restricted, including the Soviet Union. I sincerely regret any public statements which I made that might seem to indicate otherwise."

But we insist that the record be set straight. By taking Graham's words out of the context in which they were spoken and placing them in an alien context of their own concerns, some news people, consciously or even unconsciously, falsified many of Graham's statements. They thus wrongly pictured him as betraying his own deepest convictions.

For example, Graham never advocated a U.S. retreat before Russian aggression. He warned of the awful consequences of the nuclear arms race and called for mutual, negotiated, verifiable disarmament. Likewise he did not ignore publicly the issue of political, social, and religious freedom. Rather, in a most pointed manner, and in a most public way, he called the nations of the world to justice and freedom. He did so in a manner that all understood to be a rebuke of Soviet failures in this regard.

He got no applause when he made this point at the Soviet congress. He was met with only a stony silence. Nor did he declare in answer to direct questions that Russia is a land of religious freedom. He conceded instead—something that implied the opposite—that there was more freedom there than he had thought before going, and more than in today's China, though it is not like the United States. And it is hardly an affirmation of approval to state that a political leader is not so bad as Hitler.

Neither did Graham say there is more religious freedom in Russia than in Great Britain. In a context not of religious freedom but of church-state structures, he pointed out that Britain, unlike Russia or the United States, has a state church of which the queen is the titular head. When someone called to his attention how his words had been interpreted, his response was: "Ridiculous! There is no comparison between the religious freedom in Britain and that in Soviet Russia."

One of the most disturbing comments recorded in the news was Graham's statement, "I have seen no religious persecution during my stay in Russia." Out of context this sounded like a blanket endorsement of religious freedom in Russia. Yet Graham's answer was a reply to a very explicit question: "Have you personally witnessed any religious persecution while you have been here?" Graham later expressed deep regret that he had not cited the Siberian Six. He added: "I recognize that there is a difference between religious fervor, which is great in the Soviet Union, and religious freedom, which is severely restricted. The Soviet Union is an officially atheistic state, and many believers pay a price to follow Christ."

The same can be said for his point that a Christian ought to work hard, be a better citizen, and obey his government. Scripture says all of this. But Graham himself has acknowledged that if he had the chance to do it over again, he would not have referred to these biblical truths in a context where they were liable to be interpreted far beyond what the Scripture passages really mean.

All of us can remember times when we should have said more about something, or

less, or even differently. But we who sit on the sidelines in this classic struggle should be the last to condemn Billy Graham for lack of foresight in offhand comments to one or more newsmen. We should judge him on the basis of his stated goals and the main thrust of his formal messages. An ocean voyage does not make a missionary, and we should not expect a trip to Moscow to make an instant diplomat. After all, Billy Graham is an evangelist.

An even more obvious lesson to be learned from the news coverage of Graham's trip to Moscow is that evangelicals dare not trust the secular news media's coverage of religious news (see News, pp. 46-48, for further illustrations of the dilemma this poses). On the basis of initial reports, many evangelicals were dismayed at what they believed Graham said. Others became angry and violently attacked Graham for betraying the persecuted people of Russia. Among evangelical leaders, Jerry Falwell and Charles Colson stood out for their temperate response. Perhaps their own experiences with a press not careful to get things straight have taught them to be more understanding.

Finally, those of us who believe the gospel of Jesus Christ is the dynamite of God, able to blast away sin and the sinful structures of an unjust society, may indeed regret any slips and the unfortunate infelicities of unplanned spontaneous comments. But we rejoice at the opportunity to preach the gospel—actual and potential—with the hope that the power of the gospel can change the hearts of men, as well as the evil structures of even a Communist society.

Mr. HELMS. Mr. President, on a number of occasions I have observed various attempts to discredit Billy Graham and his remarkable ministry. I confess to a prejudice in favor of my friend, but I am obliged to say that I have never known anyone more dedicated, or anyone with greater intellectual honesty, than Billy Graham.

It appears to be fashionable these days to try to downgrade effective evangelists. Even clergymen have been known to join in what seems to me to be unconscionable attacks on evangelists who are taking the Word of God to millions.

I have found incredible some of the epithets hurled at Dr. Jerry Falwell, for example. Yet who had done more than Dr. Falwell. His critics should go to Lynchburg, Va., and witness five separate services on Sunday when Dr. Falwell's church sanctuary is packed. They should walk around Liberty Bible College. They should examine the countless projects that Dr. Falwell is successfully pushing.

I think also of my friend, Pat Robertson, who is such a remarkably effective evangelist. And then consider the hundreds of thousands to whom Billy Graham regularly preaches—in stadiums, in auditoriums, and by television.

Whatever mistakes they may make—and, after all, they are human—history will record that they have made the most of every opportunity to reach the hearts and minds of men and women, and to lead literally millions to salvation. They deserve better than to be reviled and misrepresented. They deserve our prayers of support.

LINKAGES EDUCATION/EMPLOYMENT EXPLORATION PROGRAM

Mr. DIXON. Mr. President, today I would like to take note of an exceptional project in my home State of Illinois. Known as the "Linkages Education/Employment Exploration Program," or LEFEP, it is designed to promote educational and training services for young people in Madison County, Ill. The program establishes goals for its participants that include educational improvement and familiarization with the employment sector on a personal basis. It is conducted with the cooperation of business, industry, organized labor, and government and currently includes 89 employers.

Mr. President, apparently this approach has much to recommend it. It has achieved mean gains of 1.4 year in reading, 1.2 year in mathematics, and an attendence rate of 94 percent. One-third of the participants elected to return to school on either a part-time or full-time basis when the program concluded and the other two-thirds were hired on either a part-time or full-time basis after their training period.

The project has been funded 100 percent by the Federal Government as 1 of 10 nationwide Vocational Education/CETA Linkage pilot projects to determine the most effective method of educating and training our disadvantaged youth. Locally administered, it has won national recognition in its first year and, now in its second, it is being expanded as employers prove to be competent and effective instructors.

I believe special recognition is due the project director, Shirley Balsingame, and staff of the State board of education, department of adult, vocational, and technical education, who have been cited as largely responsible for the program's success. Their time and dedication have surely brightened the future of many young people as well as the local community.

Mr. President, I am proud that my State can boast of such innovative projects and enterprising individuals and hope that this program serves as an example to all of us as we seek to formulate policies addressing this Nation's educational and occupational problems.

The PRESIDING OFFICER. Is there further morning business?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended to 1 p.m. under the same terms and conditions as heretofore.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, at 1 p.m., the Chair then will lay before the Senate the debt limit bill. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I anticipate that, at 1 p.m., I will call up an amendment to that bill, and following on after that I would expect there will be an abortion amendment offered.

Mr. President, I suggest the absence of a quorum,.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JACKSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LONG-TERM, MONITORED, RETRIEVABLE STORAGE OF NUCLEAR WASTE

Mr. JACKSON. Mr. President. The National Nuclear Waste Policy Act, S. 1662, which passed the Senate by a vote of 69-9 in April of this year, now appears to have a good chance to become a public law in this session of Congress. On August 4, the House Committee on Energy and Commerce ordered a companion bill reported to the full House, and the day when the House could act on this matter may almost be in sight. I congratulate the House Chairmen—JOHN DINGELL, MO UDALL, DON FUQUA and MEL PRICE—on the progress made so far.

I am particularly pleased that both the Dingell and Udall versions of the nuclear waste policy bill contain monitored, retrievable storage (MRS) provisions very similar to those sponsored by Senator JOHNSTON in the Senate. These provisions require the President to develop a proposal giving the United States an option to safely isolate spent nuclear fuel and highlevel waste over the long-term in facilities which permit continuous monitoring and ready retrieval of the fuel or waste. Monitored retrievable storage has significant advantages in terms of

scientific simplicity and clear technical feasibility and in terms of basic fairmess and political acceptability. With a viable MRS option as a worthwhile alternative, we can afford a careful and thorough search for suitable geologic sites for irreversible disposal of nuclear wastes.

The case for the MRS was made far more eloquently than I ever could make it by the chairman of the California Energy Commission, Gene Varanini, in a recent issue of the Radioactive Exchange. The July 31 Exchange prints a very interesting interview with commissioner Varanini, who is a recognized expert in matters of nuclear waste policy. I ask unanimous consent that the full text of this interview be printed in the RECORD for the information of my colleagues and the public.

There being no objection, the interview was ordered to be printed in the RECORD, as follows:

GENE VARANINI, COMMISSIONER, CALIFORNIA ENERGY COMMISSION—ON HIGH LEVEL WASTE

(Commissioner Varanini has been with the California Energy Resources Conservation and Development Commission since its establishment in 1976. As a consultant with the legislature, he played a significant role in developing the California Power Plant siting law that created the Commission. He has served as a consultant to the Swedish and Australian governments on energy issues and nuclear waste management. He is the author of several notable articles in high level waste management and has been a participant in several major international and domestic conferences. This is the first of two installments.)

Commissioner Varanini, as a state official, what is your view of federal versus state role in the siting of high level waste repositories? Do you endorse the concept of state consultation concurrence included in the current Senate or House bills?

Well, my basic feeling is that the problem isn't really a problem between the state and the federal government and the need to protect the state interest through either a veto or congressional concurrence of veto. The real problem is to establish a viable technology. In my opinion, the only real reason to need a two house override over a state' objection is to overcome the lack of confidence in what the DOE is doing.

The states are taking this political approach supporting the two house override, or stopping DOE activity within their boundaries, because that is the route that is most readily open to them.

In some states these actions have been taken strictly for parochial political reasons. However, in most cases, if you examine the facts, you will find that the fear among state officials about DOE's HLW program is supported by a correct analysis that the program lacks the necessary technological base on which to proceed to develop a deep geological repository. This fear prompts the states to take preemptive action to keep the federal government as far off their turf as possible, lest they become victims of some sort of compromise with the federal government.

In a way, the states that have taken some of the more outrageous political moves against the federal government have perceived the problem and the way to address it better than many who have attempted to deal with the problem on technical grounds.

You are saying then, that the states' political action regarding HLW, sometimes taken for parochial reasons, has successfully stopped actions that should not have been taken anyway, because of a lack of a sound technical and scientific basis . . .

Yes, that is exactly what is happening. But that is the typical type of reaction in any siting process. At the Energy Commission, we have been involved in numerous siting processes, and when opponent groups felt that proposals were technically insufficient, they would use any tactics that were available. The easiest tactic, and the one that has the most profound effect, is to establish some form of political rights. The states are using this tactic now, calling on their constitutionally guaranteed "States' Rights" to protect them from having a high level waste site in their boundaries, without ever getting into some intermediary or mediation type process.

Do you feel that states are justified in opposing DOE activities because the program lacks the necessary technical and scientific basis?

Yes.

In your view, at what scientific or technical level is the U.S. program for dealing with high level wastes? Are we at the point where site specific studies should be undertaken?

No, we are not far enough along to look at specific sites for ultimate disposal of high level wastes. I think we are only in the stages of understanding the science, and we have confused the difference between understanding the science and the engineering technology. In many cases we have violated the first principle of the scientific method. We have jumped, basically, from science to engineering. I think that there is a belief, that no matter what type of environment you find, that a geological repository can be engineered around any of the uncertainties through a multiple barrier system. That would be the way to go if time were of the absoiute essence, and it was necessary to rush into this for some fundamental reason where time became more important than doing it right. However, I don't think we are in that case at all. The decision to move ahead is a political one that is based essentially on the belief that if we don't take some cosmetic action to deal with the back end of the fuel cycle, that there will be political retribution and light water reactors will be less robust in the 1990's.

So you would like to see the DOE take a step or two back?

Yes, in my opinion what I've been saying for the past three years is that we should be into long-term storage and in the meantime the concomitant policy would be to establish a thorough fundamental and very scientifically correct process to check out geological disposal and to do it right. And doing it right means understanding the fundamental science, understanding the variety of risks, no matter how small, and overcoming them or mitigating these risks through an engineering technique to the extent that such methodologies exist.

At this stage of development then, you personally favor the monitored retrievable storage approach being advocated by Senator Bennett Johnston and adopted by the British, rather than proceeding immediately toward deep geological disposal?

Yes, I think Senator Johnston has the right approach. His continued push to have the government pursue this route is the type of leadership we need to deal with this problem.

Basically, in the United States we know how to store high level waste. We know how to watch spent fuel and other residuals from the nuclear program very well. If you take the position that you should do what you know how to do, then we should be into a long-term storage program. If we go ahead and store the fuel, we can retrieve it for the value of the spent fuel. Then what we need to do is set up a scientific program, one that honors the scientific method and proceed to solving the scientific uncertainties and lack of fundamental understanding that are imbedded in using the geological options for waste management.

The Swedes have done exactly that and have kept the faith of the Swedish people.

I would add that another element that is not addressed in the arguments regarding monitored retrievable storage facilities is the need to have facilities now to take back and store foreign fuel.

I think we ought to take foreign spent fuel back and get control or custody in that form. I think that it would be a very positive antiproliferation policy and to do this we probably would need a separate facility.

Could you outline in a step by step approach how you would prefer the U.S. high level waste program to proceed?

I think a step by step approach is predicated on two factors: one, doing what we know how to do and, two, making the fundamental commitment to understand the scientifically correct way, and the competitive technologies that are available for the ultimate disposition of high level waste. This means that we probably have to have a retrievable storage system that is capable of being monitored for a significant period of time.

How long, a hundred years?

Well maybe, but the number doesn't mean much to me, fifty to a hundred years is a very long time. Something in that range is probably appropriate. I think we reserve the fuel value in the spent fuel that can be used economically in a recycling type of processing system. Finally we can conduct scientific research, not engineering demonstrations, but scientific research both at the bench level and at full scale that would allow us to fully understand the science behind geologic waste repositories and the nature and extent of the engineering barrier systems.

I think that the geologic high level waste process can be validated or invalidated without having to have a full scale operating repository, and as I said previously, the rush to full scale operating repository is a cosmetic attempt to close the nuclear fuel cycle and to decrease the emotional opposition one finds in many parts of the country and many parts of society to additional commitments to light water reactors.

What about the intergovernmental decision process—the state versus federal role with regard to siting a high level repository? Should this be viewed as a high priority as it is now by the Governors and the Congress, in developing national high level waste programs?

No, I believe that escalating the deliberations of a high level waste disposal strategy to a political level at this point in time will only cause problems down the road. In my view the attention paid to this issue now is a latent drive to use the political process to defer bad science. I think it is simply too easy to use the political process. It is too readily available.

As a state regulator, would you support a state veto over a site recommendation, as part of a final decision process?

I think that an absolute state veto is inconsistent with the whole principle of federalism and it is inconsistent with good science policy. The process should be well defined enough in the bill that the last resort for the state, in terms of the violation of due process of the statutory requirements of the law, should be in the courts.

How would you envision setting up the scientific and technical decisionmaking process that you are advocating?

First I think there needs to be a series of skeptical peer reviews conducted very early on. Committees and various peer processes could be designed to take a look at the scientific and technological proposals. The participants, the scientist and engineers, need to be individuals that don't derive their income either directly or indirectly from the nuclear industry. I also think there has to be an attempt to conduct a virtual scientific mediation process where technical experts with identified biases and identified points of view are brought into the process with the proper mix to assure collective objectivity rather than assuming that any given scientist is by definition objective. You then establish a series of boards, committees funded by the Federal Government, to be involved in this process.

For example, the Swedes went out and brought in diverse views into their process, and actually structured pro and con papers. Scientists with stated points of view were involved. Their work was reviewed by both the scientific community and the policy community. Review committees were established to play the role of skeptics, to question the whole exercise.

Can you put a time line on such a process? Would it take ten years, five years?

I think you could complete this type of process in a fairly short, fairly nominal time frame. As I recall, the Swedes identified the uncertainties, and identified what types of science, and the types of engineering that would be necessary to meet the whole set of uncertainties. Then they identified and agreed upon a series of review stages and the sort of documents that would be needed very early on. This might take several years in order to document the work. However, at one time during my work with the Swedes, we ran an outlined accelerated process to test and confirm theoretical understanding of all the elements of a nuclear waste geological repository system, and found that it could be done very quickly, in about three years.

From that point, then you proceed to specific work, like data compilation, and then through the sort of planning stages that are identified with the national government.

The critical element in undertaking this kind of effort in a reasonable and effective manner is making the decision to keep the waste in long term supervised storage. Once this decision is made, you don't have the pure hysteria that you are going to pile up spent fuel and you are going to shut down reactors.

AIRBAGS OR AUTOMATICALLY CLOSING SEATBELTS

Mr. GORTON. Mr. President, the U.S. court of appeals last week ordered the National Highway Traffic Safety Administration to reinstate a rule it revoked last year requiring so-called passive restraints in all automobiles. The court's order effectively requires all cars manufactured after September 1983 to be equipped with airbags or automatically closing seatbelts.

I am pleased that the court has seen through the faulty reasoning on which NHTSA based its decision to repeal this long overdue safety measure. I am troubled, however, by indications that NHTSA will continue to battle the implementation of this rule.

Earlier this summer, Robert F. McDermott, the chief executive officer of United Services Automobile Association (USAA Group), addressed the San Antonio, Tex., Rotary Club on the subject of passive restraint technology. His speech articulates the importance of this technology to saving lives on America's highways. I ask unanimous consent that Mr. McDermott's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY ROBERT F. MCDERMOTT

THE SAFE CAR: IF YOU DON'T ASK FOR IT, YOU MAY BE ASKING FOR IT

I know many of you will say that people cause traffic accidents—and you are right. And you will note further the national campaigns now underway by such groups as MADD (Mothers Against Drunk Drivers) to keep drunk drivers—who are involved in approximately one-half of all traffic fatalities—off the road.

Believe me, USAA and I personally support MADD and all of the other groups fighting against drunken drivers. We also support Defensive Driving Education Programs all over the country. All preventive measures—by individuals, by groups, by highway departments—most certainly address the problem. But all together they do not, and never will, prevent even a majority of collisions, and they do not address the so-called "second collision"—the impact of the individual within the vehicle against the steering wheel, the dashboard, doorknobs, the windshield, or the highway after ejection from the vehicle. It is this "second collision" that is the subject of my address today.

If Americans had accepted the ignition interlock system of a few years back that required buckling up seat belts, if they would respond overwhelmingly to yet another nation-wide program to increase the use of lap and shoulder belts, if three-fourths of them would follow the example of doctors of the Harvard Medical School, then I wouldn't have very much to talk about today.

But even if I had any doubts about whether or not I had something worthwhile to talk about, all I would have to do is poll you as an audience and find out how many of you buckled up on the way here this noon time. I won't embarrass you by asking, because I think I already know the answer—plus or minus a very few percentage points from the national average of 11 percent.

And so, while I give my support to all ongoing accident prevention measures, and to another "Buckle Up Campaign", I finally get down to asking myself the following questions:

How safe are cars once the crash occurs?

Can they be made safer at an affordable price?

Does the consumer want a safer car?

Can we count on the free enterprise system to address these problems responsibly, or do we have to rely on mandates and Court Orders from the Federal Government?

I would like to start my responses to these questions by addressing the subject of passive restraints.

We believe that greater built-in safety features—such as passive restraints—represent the best philosophical approach to automotive safety.

One piece of technology which has already been developed could save some 9,000–10,000 lives a year . . . whether drunks are kept off the road or not.

That technology is called the airbag, which has proven itself as a lifesaver in frontal collisions.

Today, you cannot buy a new airbag-equipped car in this country, even though the airbag technology has been around for nearly a decade, and airbag effectiveness has been proven on the nation's streets and highways.

Another type of passive restraint is the automatic seat belt, which automatically fastens around you when you get into your car. It requires no action by the driver or a front seat passenger.

Yet the Volkswagen Rabbit and one Toyota model are the only automobiles sold today which even offer automatic belts as an option.

Now I know you have all heard the line that airbags and automatic belts are effective only in frontal crashes, as if to imply that a partial solution isn't very worthwhile. That's analogous to implying that a medical discovery that would cure only prostate cancer is unimportant. To put the matter into proper perspective, if these passive restraints prevent only 10,000 deaths per year in frontal crashes, that is the equivalent of 128 Air Florida crashes into the 14th Street Bridge every year.

Let's turn from death to disfigurement to discuss another state-of-the-art passive restraint which, like the airbag, you cannot buy in the United States today.

I heard some good news very recently on the subject of disfigurement. A Swiss pharmaceutical company has developed a new drug called Acutane, which has the potential of curing severe, cystic acne, the kind that leaves deep scars. It is estimated that there are over 300,000 American teenagers who may benefit from this cure when the drug is released for distribution in the U.S. this Fall.

In contrast with this good news, there are another 300,000 Americans this year, last year and every year who are scarred by windshields that shatter into thousands of tiny knives when people are thrown into them in automobile crashes.

The real heartbreak is that there is a cure—also from Europe—that could significantly reduce the severe laceration and disfigurement of these 300,000 Americans. There is a new type of windshield design which provides an extra layer of plastic on the surface of the windshield nearest the occupants, effectively reducing the laceration problem.

It is already installed on thousands of cars in Europe, but it is not available in the United States.

There are still other ways to make cars safer that don't require human intervention . . . The removal or recessing of protruding

instrument panels and knobs, for example, could save lives and prevent serious injury to small children and other passengers who are thrown into the dash on impact.

Still another safety measure would be the re-design of car doors so that they don't fly open on crash impact and throw the riders out of the car. It has been estimated that your chances of being killed in an accident are 25 times greater if you are ejected from the vehicle.

What I'm suggesting is that design modifications alone could reduce the number of people killed in traffic wrecks annually by as much as 40 percent . . . That means more than 20,000 lives saved a year—and that's in front of any lives saved as a result of anti-drunk driver campaigns.

But these changes in design—these passive restraint systems that don't rely on human foibles—are not being placed into cars in this country. It's not that I've been talking about "blue-sky" dreams—the technology exists, it has been proven in "real world" conditions and is affordable. For example, airbags built into cars on a mass production basis would only add about $200 to the cost of the vehicle—less than you would pay for wire wheels or a cassette player.

We have been told for years by Detroit that "safety doesn't sell." The auto makers cite the attempt in 1956 by Ford to sell the car-buying public for the first time on the idea of using seat belts, which Ford was making available in its cars that year. The campaign failed, although it may only have proved that in 1956 people liked General Motors cars and Chryslers more than they liked Fords.

Nevertheless, in the past 26 years, there has been no attempt by domestic or foreign auto manufacturers to sell safety features equally with cosmetic features.

But I believe that in the 1980s and beyond, safety will sell—and that consumer demand can bring about safer cars. Since the automobile companies remain reluctant—and that's putting it mildly—to market safety features to consumers as part of the buying decision, we at USAA are working to promote consumer awareness of this existing safety technology, and we're asking car buyers to question auto dealers about the lack of passive restraint safety systems in cars.

This past January, USAA, in conjunction with the Insurance Institute of Highway Safety (IIHS), unveiled to the media and the public the results of a study which ranked cars on the basis of "real world" accident data. That information was compiled from the federal government's Fatal Accident Reporting System and from actual death and injury claims made to the ten largest automobile insurers in the country, one of which is USAA.

The study revealed that twice as many people were killed while riding in small compact or subcompact vehicles than were killed in full-sized cars.

It also showed, coincidentally, that of all cars on the road, the safest were American-made. And the least safe were Japanese-made. Even when comparing compact to compact and subcompact to subcompact, American-made automobiles came out ahead of their Japanese counterparts.

The response to this information leads me to believe that we have begun an effort which has a realistic chance to save thousands of lives and hundreds of thousands of injuries every year.

The week after the news conferences, USAA placed a full-page ad in the Wall Street Journal which displayed the IIHS study's ratings of the various makes of cars. Just two weeks later, General Motors began a massive advertising blitz in every major news publication, including, to no one's surprise, the San Antonio daily newspapers. Taking a table from the USAA-published study, the ads were headlined "GM Cars Rated Best." The ad highlighted a list of the "best" and "worst" models in terms of insurance injury claims experience—15 of the 19 best were made by General Motors, while 13 of the 17 worst were made in Japan, and none by General Motors.

Those advertisements appeared in more than 330 newspapers and magazines with an estimated readership of better than 100 million people. General Motors then used that same ad as the inside back cover of its latest annual report.

And beginning in May, GM started a new ad series. The headline this time reads "Are You Driving On The Wrong Side Of This Ad?" The "best" and "worst" charts appear below the headline.

Apparently, we got somebody's attention at General Motors. We still don't know if we got the attention of the Japanese manufacturers.

Frankly, I hope the Japanese, who are extremely sensitive to market pressures, will react as they did when gasoline prices began to go up in the early 1970s.

Back then, most American auto makers steadfastly continued to make their very large and very heavy automobiles, apparently convinced that miles-per-gallon were not as important to American car buyers as styling and luxury. Meanwhile, the Japanese began to gain a large share of the market by making small cars which got very good gas mileage.

Today, the Japanese have a major edge over American auto makers because they responded to American consumers, which Detroit refused to do. In just a few short years, consumer demand for more fuel-efficient automobiles has changed the way cars are made, how they look and how they perform.

Remember, the same people who have been telling us for 25 years that "Safety won't sell," are the ones who, in effect, told us ten years ago that "People don't care about miles-per-gallon."

You can be sure that if the Japanese sense they might lose a competitive advantage—or might gain a competitive advantage—because of consumer demand for built-in safety features, then they will respond quickly to the market place.

As an American who is acutely aware of the economic difficulties facing domestic auto makers, I hope Detroit seizes on the safety edge it already has over the Japanese and adds to it by installing into new cars the life-saving passive restraint systems and other safety features they have already designed.

Good marketeers should be able to recognize a developing trend and take advantage of it—the desire for increased automobile safety has obviously taken hold in this country, as the auto makers' own market surveys have demonstrated.

But if American car manufacturers still refuse to open their eyes—as has been the case historically—then I say let's hope the Japanese take the lead again. Detroit will be forced to follow. Finally, we will begin to stop some of the human wreckage on the roads.

That brings me to a central question: What is responsible free enterprise?

We're not talking here about making a faster computer, or manufacturing a longer-lasting pair of panty hose. We are discussing people being killed and people being hurt—a yearly casualty count in dead and injured which totals more people than now live in Dallas and Houston combined.

Let's face it—automobile crashes pose an enormous public health hazard.

So is it "responsible free enterprise" for the automobile companies to have in hand—tested, proven and affordable—a device known as the airbag which most automotive safety engineers agree will save as many as 10,000 lives a year . . . and then fight any suggestion that the airbag should be offered even on an optional basis to car buyers, much less be made standard equipment?

The key to free enterprise is that the customer is given a choice. Today, when it comes to automotive safety, we—you and I—as customers are not given a choice, even though the products—airbags and automatic safety belts—which could make that choice possible are ready for use.

The auto companies force us to buy cars with standard cosmetic features which we may or may not want, but they won't even give us the option to buy safety features which could save our lives.

In 1979, in response to a request from a Congressional Subcommittee, GM reluctantly supplied four internal GM customer surveys. The studies—carried out in 1971, 1975, 1978 and 1979—all showed very strong consumer demand for airbags in new cars.

Now, what does General Motors want us to believe? Their own private studies of 1971, 1975, 1978 and 1979 or their statement in April, 1982, that consumers do not want airbags?

What would you say if a pharmaceutical company had discovered a drug which could cure cancer in a significant number of cases, but chose to withhold it from the market for any reason?

You would be outraged, wouldn't you? You would say: "The company has no right to withhold that medicine." And you would be absolutely correct.

General Motors, Ford, Chrysler, Toyota, Nissan, Volvo and all the rest have no moral right to withhold the passive restraint technology and other safety features which could significantly cut the number of killed and injured resulting from this public health hazard.

As one who works in one of the nation's most highly regulated industries—the insurance industry—I am hardly an advocate of additional government regulation of business.

But history shows that it's when business refuses to fulfill its free enterprise responsibilities that it literally invites government intervention.

We all know that businesses and individuals don't like to be forced to do anything, and that's why I favor regulation on the passive restraint issue only as a last resort. But I am more tolerant of people who want passive restraints mandated in than I am of those in the auto industry who want them mandated out by not giving us—the car buyers—the chance to decide if we want them or not.

As a practical matter, I think the best way to sell the passive restraint concept to the American people is to give each of us the opportunity to buy them and form our own conclusions . . . and that means the car companies should make passive restraints available as an option, along with voice synthesizers.

I'm confident that once people experience the life- and injury-saving results of these systems, they will demand passive restraints and other safety features as standard equipment. Not only will thousands of lives be saved, but the free enterprise system will have worked again—giving the customer a choice and responding to customer demands.

While there appears to be little interest in passive restraints among automobile manufacturers, there is considerable interest in Washington.

There is legislation now before the Congress which will provide a refundable tax credit to domestic auto manufacturers which install airbags as original equipment. This bill has been introduced by Senator John Danforth (Republican from Missouri). If enacted, it will be to the American auto makers' economic advantage to put in airbags.

And, there is ongoing discussion and interest in a federal airbag demonstration program which would lead to installation of airbags in federal vehicles. While nothing has been decided yet, we have learned that there is more than a little support for such a program within the Reagan Administration.

Probably the most encouraging result of USAA's information campaign has been the invitation to me by General Motors to arrange a meeting between the nation's leading property and casualty insurance executives and GM in Detroit for the purpose of discussing this entire safety subject in a frank and open way.

The desire of General Motors to discuss these matters with us signifies to me a positive step in the recognition of automotive safety concerns. Rather than a confrontation, we hope this all-day session in Detroit will be the beginning of significant action by the automobile companies to help reduce the carnage on our streets and highways.

At present rates, one in every 60 children born today in this country is expected to die in an automobile accident, and two out of every three will suffer injuries in a crash.

Those children could be your children, or your grandchildren. For their sakes, if not for your own, ask for—demand—a safer car from the people who make those cars.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will state House Joint Resolution 520.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate proceeded to consider the joint resolution which had been reported from the Committee on Finance with an amendment to strike out all after the resolving clause, and insert the following:

That (a) the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b) is amended by striking out "$400,000,000,000" and inserting in lieu thereof "$1,290,200,000,000".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

Mr. BAKER. Mr. President, will the distinguished chairman of the Finance Committee, the manager of the joint resolution for the majority, yield to me for a minute?

Mr. DOLE. I am pleased to yield to the distinguished majority leader.

Mr. BAKER. I thank the Senator.

Mr. President, this is the debt limit joint resolution. This is the one on which we will have our debate about abortion and perhaps a number of other things.

I have advised a number of Senators, including the minority leader, the Senator from Wisconsin (Mr. PROXMIRE) and others that there will be an amendment dealing with the gymnasium situation. I wish that to be first. I also wish to have unanimous consent that after the amendment is introduced any rollcall vote that may be ordered on that amendment will be put over until tomorrow at 2 p.m.

The principals on the joint resolution are not here at the moment with the exception of Senator DOLE who will manage for us.

Is the Senator from Virginia (Mr. HARRY F. BYRD, JR.) manager on behalf of the minority?

Mr. HARRY F. BYRD, JR. Yes.

Mr. BAKER. I thank the Senator.

Madam President, while I attempt to confer with the minority leader on the arrangements I have just described, with the consent of the managers, I suggest the absence of a quorum for just a moment.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The present temporary public debt limit expires on September 30, 1982. Since the permanent debt limit of $400 billion is only 35 percent of the combined limit, it is too low to permit the Treasury to continue operating at the current level of outstanding debt. The Treasury Department would not even be allowed to refund maturing debt issues.

The last increase in the public debt limit, which was enacted less than 2 months ago, increased the debt limit to $1,143.1 billion for the rest of fiscal year 1982. The amount was set as the appropriate debt level for the rest of this fiscal year in the budget resolution passed in June.

Those are two powerful reasons for enacting a new debt limit. The temporary limit expires at the end of September and the permanent limit is too low even to maintain the present amount of debt. If we do not complete action on this resolution before the temporary limit expires, the administration might be able to operate for a few days or a few weeks, depending on its cash balance on September 30. Under the best of circumstances, the Treasury would exhaust all resources for dealing with this contingency before the mid-October adjournment of the Congress.

The new public debt limit provided in this joint resolution is the same level specified in the June budget resolution—$1,290.2 billion—and in House Joint Resolution 520 as passed by the House. The public debt limit passed by the House incorporates $890.2 billion of temporary borrowing authority that lasts for a finite period of time, in this case, through the end of the next fiscal year.

The Finance Committee made two changes in the House resolution. The $1,290.2 billion debt limit was made permanent. pursuant to the amendment offered by the distinguished Senator from Colorado (Mr. ARMSTRONG) and the distinguished Senator from Louisiana (Mr. LONG). That was made permanent at that level, a step which makes the permanent amount a credible level. House Joint Resolution 520 does not place an expiration date on the new limit, and as a result, the Government may not have to face a doomsday scenario come September 30, 1983. We think this is an important and necessary change.

I urge the Senate to approve House Joint Resolution 520 as amended by the Committee on Finance.

Madam President, I ask unanimous consent to have printed in the RECORD a more technical explanation of House Joint Resolution 520.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE RESOLUTION

PRESENT LAW

The combined permanent and temporary debt limit is $1,143.1 billion through September 30, 1982. This limit is the sum of the permanent debt limit of $400 billion which has no expiration date and the temporary limit of $743.1 billion which will expire after September 30, 1982. As of October 1, 1983, the statutory public debt limit will be $400 billion, under present law.

The present public debt limit was enacted on June 28, 1982, to provide sufficient bor-

rowing authority to meet the financing requirements of the Federal Government through September 30, 1982. The level of the debt limit is the amount specified in the first budget resolution for fiscal year 1983 as the appropriate level for fiscal year 1982. In its Mid-Session Review of the 1983 Budget, the Administration estimated that it will be able to finance the Federal Government for the remainder of fiscal year 1982 with the present debt limit.

Since the present limit expires with the current fiscal year, Congress must enact a new public debt limit that will permit the Treasury Department to finance presently authorized spending levels.

The appropriate level of the public debt limit specified in the first budget resolution for fiscal year 1983 is $1,290.2 billion.

On June 23, 1982, the House considered and agreed to H.J. Res. 520 to provide a temporary increase in the public debt limit to $1,290.2 billion for fiscal year 1983.

COMMITTEE ACTION

The committee agreed to increase the debt limit to $1,290.2 billion, as specified in H.J. Res. 520.

However, the committee amended the resolution to change the temporary limit on the public debt into a permanent debt limit that will become effective on October 1, 1982. This action provides the same amount of borrowing authority for fiscal year 1983 as is contained in the House-passed version of H.J. Res. 520.

There are two major differences between the Committee of Finance version of the resolution and the version approved by the House. First, the committee amendment will not precipitate a major crisis when the debt limit runs out. Under the House resolution in that circumstance, the debt limit would become $400 billion on October 1, 1983, and no debt obligations could be issued to refund outstanding debt or to increase the amount outstanding until the amount of outstanding debt decreased to $400 billion, or a new increase was enacted. The committee resolution would enable the Treasury Department to refund maturing issues of the outstanding debt so long as the total amount of debt remains within the permanent limit. As a result, the Federal Government need not come to a halt after fiscal year 1983, as it could under the House-passed resolution.

Second, under the House resolution, Congress is required to act again to increase the debt limit by September 30, 1983, even if the $1,290.2 billion limit would continue to be adequate. Under the committee resolution, it will not be necessary for the Congress to change the public debt limit until a higher debt limit becomes mandatory.

Under the House rules, a joint resolution to change the public debt limit for a fiscal year is generated each time a conference report on a budget resolution is approved by the Congress. A separate joint resolution is produced for each debt limit for each fiscal year covered in the budget resolution. So, there will be a choice of joint resolutions on the public debt available for the Senate to act on whenever another public debt limit must be established. Alternatively, the House could amend Rule XLIX so that its resolution changes the current permanent debt limit.

The table which follows summarizes legislation on the public debt limit since 1947.

STATUTORY DEBT LIMITATION, FISCAL YEARS 1947 TO DATE AND PROPOSED PERMANENT DEBT LIMIT

[In billions of dollars]

Fiscal year	Statutory debt limitation		
	Permanent	Temporary additional	Total
1947–54	275	0	275
1955 through Aug. 27	275	.....	275
1955: Aug. 28 through June 30	275	6	281
1956	275	6	281
1957	275	3	278
1958 through Feb. 25	275	.....	275
1958: Feb. 26 through June 30	275	5	280
1959 through Sept. 1	275	5	280
1959: Sept. 2 through June 29	283	5	288
1959: June 30	288	5	290
1960	285	10	295
1961	285	8	293
1962 through Mar. 12	285	13	298
1962: Mar. 13 through June 30	285	15	300
1963 through Mar. 31	285	23	308
1963: Apr. 1 through May 28	285	20	305
1963: May 29 through June 30	285	22	307
1964 through Nov. 30	285	24	309
1964: Dec. 1 through June 28	285	30	315
1964: June 29 and 30	285	30	324
1965	285	39	324
1966	285	43	328
1967 through Mar. 1	285	45	330
1967: Mar. 2 through June 30	285	51	336
1968 [1]	358	.....	358
1969 through Apr. 6 [1]	358	7	365
1969 after Apr. 6 [1]	358	.....	358
1970 through June 30 [1]	365	12	377
1971 through June 30 [1]	380	15	395
1972 through June 30 [1]	400	50	450
1973 through Oct. 31 [1]	400	50	450
1973 through June 30 [1]	400	65	465
1974 through Nov. 30 [1]	400	65	465
1974: Dec. 3 through June 30 [1]	400	75.7	475.7
1975 through Feb. 18 [1]	400	95	495
1975: Feb. 19 through June 30 [1]	400	131	531
1976 through Nov. 15 [1]	400	177	577
1976 through Mar. 15 [1]	400	195	595
1976 through June 30 [1]	400	227	627
TQ: from enactment through Sept. 30, 1971 [1]	400	236	636
1977: from Oct. 1, 1976 through Mar. 31, 1977 [1]	400	282	682
1977: from Apr. 1 through Sept. 30, 1977 [1]	400	300	700
1978: from Oct. 1, 1977, through July 31, 1978 [1]	400	352	752
1978: from Aug. 3, 1978, through Mar. 31, 1979 [1]	400	398	798
1979: from Apr. 2 through Sept. 30, 1979 [1]	400	430	830
1980: through June 30, 1980 [1]	400	479	879
1981: through Feb. 28, 1981 [1]	400	525	925
1981: through Sept. 30, 1981 [1]	400	535.1	935.1
1981: through Sept. 30, 1981 [1]	400	585	985
1982: through Sept. 30, 1982 [1]	400	679.9	1,079.9
1982: through Sept. 30, 1982 [1]	400	743.1	1,143.1
Proposed: From Oct. 1, 1982 [1]	1,290.2	.....	1,290.2

[1] Includes FNMA participation certificates issued in fiscal year 1968.

Mr. DOLE. Madam President, I understand that Senator BAKER and the distinguished minority leader, Senator ROBERT C. BYRD, have an amendment pending, and it is my hope that no additional amendments will be offered until that amendment is disposed of or some other disposition is made of it.

THE TAX BILL

In the interim, I would like to indicate just a few thoughts about the so-called revenue increase and spending reduction bill which was agreed upon by the conferees yesterday morning at about 2 a.m.

Let me say at the outset in my view it is primarily tax reform, and we will have all kinds of information breaking down how much is compliance and how much is closing loopholes and how much may be considered to be not reform but just plain raising of revenue, such as the cigarette tax and the tax on telephones. But I might suggest that these taxes are a very small portion of the total amount.

In addition, we did a number of other things during that long conference which, I think, will strengthen the bill. We made certain changes in the pension area, we did add near the end of the conference an unemployment compensation proposal of $2 billion in cost which will help 2 million unemployed persons. We pay for that by taxing benefits, through lowering the threshold on benefits to make certain we can recover the total amount of that expenditure over the next 3 years.

To me that is very important because we find more and more people exhausting their benefits in this time of economic crisis. We believe that under this special—and it is a special—unemployment benefit proposal, every State will be able to participate, every State and the District of Columbia. There may be another jurisdiction or two.

Effective upon enactment through March 31, 1983:

First, we allow up to 10 additional weeks of unemployment compensation benefits would be provided for unemployed workers in States in which extend benefits (EB) have been payable at some time since June 1, 1982.

Second, up to 8 additional weeks of unemployment compensation benefits would be provided in States with extended benefit trigger rates at or above 3.5 percent.

Third, up to 6 additional weeks of unemployment compensation benefits would be provided in all other States.

We hope to have a list of those States, and whether they qualify for 10 weeks, 8 weeks, or 6 weeks placed in the RECORD following my statement. We are now having it rechecked by the Labor Department so that Members may know in both the Senate and the House where their State qualifies. We will also place in the RECORD a more complete description of the unemployment benefit proposal.

Fourth, the additional benefits would be paid to unemployed workers whose entitlement to State benefits (benefit year) or extended benefits ended on or after June 1, 1982; and, who have exhausted all State or State and extended benefits to which they are entitled; who have worked 20 or more weeks—or had the equivalent in wages as specified in the extended benefit program—prior to applying for unemployment compensation; and, who continue to meet all other State and extended benefit requirements.

Fifth, benefit and administrative costs of the program would be financed out of Federal general revenues. That will be reimbursed, as I have indicated, through a tax on benefits.

The proposal is estimated to cost $1.968 billion total; $1.716 billion fiscal year 1983.

I mention it at this time because a number of Senators indicated interest. In fact, Senator SCHMITT from New Mexico and Senator METZENBAUM from the State of Ohio had more or less instructed the Senate conferees in a sense of the Senate resolution that we should provide certain additional benefits for those who are unemployed.

We also had an amendment offered by Senator SCHMITT which would make certain that the funding was available if, in fact, the conferees did act, and so we believe that based on the vote in the Senate on the sense of the Senate resolution—I do not recall the exact vote but it was an overwhelming vote, I think 80 some to 13—we have complied with the sense of the Senate resolution.

We have complied with the request of Senator SCHMITT and others. We would hope that our colleagues would have an opportunity to review what the conferees did, not only in this area but in all other areas.

Second, let me discuss—and I will place more detail in the RECORD—another matter that I felt we might be able to soften, and that was the excise tax on cigarettes.

Under the Senate-passed bill, excise taxes on cigarettes were doubled. They are now 8 cents a pack. They have not been changed since 1951. They were increased to 16 cents a pack. It was my thought throughout the conference—in fact, I had spoken to a number of Senators—particularly the senior Senator from North Carolina, the senior Senator from Virginia, the junior Senator from Virginia, and the junior Senator from North Carolina and both Senators from Kentucky—that we would hope in the conference itself we could find enough money as we went through the conference so we could take any surplus—that is anything above the $98.3 billion—and apply it against the excise tax provision on cigarettes.

As I recall, at about 1 a.m. yesterday morning, the cigarette excise tax matter was among the last matters to be considered. We completed our action on everything else and we had, I guess you could call it, a surplus—maybe Senator BYRD would not call it a surplus—but we had raised more revenue than we needed to raise on the budget resolution by about $1.8 billion.

The Senate conferees were in no position to offer anything to the House, because we had a provision in our bill and the House could recede to our provision and that would end the matter. So knowing of Senator BYRD's concern, a member of the conference, and also the concern of Congressman DUNCAN of Tennessee, I made the proposal which said, in effect, that for 1983, rather than an 8-cent increase on cigarettes, there would be no increase. We had enough money at that point so we could avoid any increase in 1983. The 8-cent increase in 1984 and 1985 would still remain. But it occurred to me and others that that would give those who did not like that particular tax an opportunity, a full year, to try to reduce it, eliminate it, or whatever.

We made, I felt, a persuasive argument and pointed out this was a heavy tax on the industry; that I could say with some objectivity and candor that this is not an area of tax reform; that this is an area where we just needed the money, so we raised the tax, and I had hoped we would have five votes on the House side to accept that suggestion and make the appropriate motion to modify the Senate provision.

After what I thought was a rather—particularly considering how long we had been there and the time of the morning—persuasive case, I was rather politely told by the chairman of the House Ways and Means Committee, I think, as I recall: "Mr. Chairman," he said—I was chairman of the conference—"we appreciate your comments, but the House recedes." And that more or less ended our efforts to soften the impact on those who have a great deal at stake in this particular area.

But having failed in that effort and not wanting to have a higher revenue figure than $98.3 billion, I then asked the same House conferees who said we could not possibly change the cigarette tax because we really did not have the surplus because of what we had done in unemployment compensation, I said,

OK, if we can't lower the excise tax on cigarettes, would you be willing to spend $1.1 billion of that surplus to delay withholding on interest and dividends from January 1 until July 1?

As I recall the general feeling was that was a great idea. That argument they used on cigarettes was no longer used. So we did delay withholding interest and dividends for 6 months. We think that, in itself, will give banks and thrift institutions and credit unions and companies and others who must comply with this provision, if, in fact, the conference report is adopted, an additional 6 months.

It will also give the American consumer, the person who has interest income and dividend income, time to understand that this is not a new tax. We are getting a lot of mail saying, "You are putting a new tax on interest and dividend income." That is not the case. But this provision has been represented by some as a new tax. All we are suggesting is that you ought to report your interest and dividend income and since many people do not report their interest and dividend income we are going to have withholding with a lot of exceptions, a lot of exemptions, and it is going to pick up about $12 billion over the next 3 years. Now it will pick up about $11 billion because we reduced that figure by about $1.1 billion early yesterday morning. So, there are areas that are misunderstood about the tax bill.

It should also be pointed out—again my good friend from Virginia does not think we did well enough on the spending reduction side, but he also knows some of the problems we had, I hope, on the House side, trying to get any spending cuts. They do not believe in cutting spending, some Members of the House. They would like to increase spending, despite the deficits and interest rates.

We will place in the RECORD sometime today a number of explanations of our spending reductions, how they were achieved and why they are what we feel were solid spending cuts and, frankly, what we feel are smoke in some cases. There is a little smoke in there, but for the most part, it is solid spending reductions.

There were other changes, as I said, made in the conference. We were able to preserve most of the amendments that Senators from both sides of the aisles had an interest in. The foundation amendments, we had a total of six, I believe, on the Senate side. None were agreed to, except the House conferees did agree that they would hold hearings early next year, not just hold hearings, but try to come up with some general legislation that would ease the questions of some of the foundations.

We had, as I recall the Senator from Connecticut, Senator DODD; the Senator from Texas, Senator BENTSEN; the Senator from Colorado, Senator ARMSTRONG; the Senator from South Carolina, Senator THURMOND; and I believe one or two other foundation amendments.

We were able to take care of a number of specific transitional rules, I might say to the Senator from North Carolina, one involving an insurance company in North Carolina. We were able to solve that problem. We were able to solve the problem the Senator from South Carolina had with the transitional rule. We were able to solve the problem Ford Motor Co. had with the safe harbor legislation and that I.T. & T. had with the safe harbor legislation. We will try to put all of that information in the RECORD. We want to make certain that every one was a legitimate amendment and we did make the effort to try to sustain the Senate's position in every case.

It was more difficult because there was not any House bill. Normally, you can trade certain things, but there was not anything to trade. So, we found ourselves at some distance because the

House had not initiated their own revenue measure.

But, Madam President, in my view, it is still a good bill. It ought to meet most every test except, as I said, with regard to a few provisions. It is, for the most part, closing loopholes, loopholes the President suggested should have been closed. In fact, he made that recommendation in September 1981. So, we are looking forward to dealing with the conference report later on this week.

Madam President, I ask unanimous consent to have printed in the RECORD a summary of the conference agreement.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—SUMMARY OF CONFERENCE AGREEMENT

COMPLIANCE AND COLLECTION MEASURES

The bill contains measures to reduce the so-called tax gap from noncompliance and to facilitate the collection of taxes already owed. These include provisions to improve and expand information reporting to the IRS, increase penalties for noncompliance, change interest computation rules, revise pension withholding, and allow partnership level audits. The bill requires that all bonds (both tax-exempt and taxable) be issued in registered form after December 31, 1982. The bill further provides rules for access to tax information for use in nontax criminal investigations and prosecutions.

In lieu of limiting deductions for business meals, the conferees substitute a provision requiring food establishments to report gross receipts and tip information to the IRS. After April 1, 1983, an establishment must allocate 8 percent of gross receipts among its tipped employees unless they already have reported tip income equal to this amount.

The payment of corporate estimated income taxes is accelerated by changes which include increasing payments from 80 to 90 percent of the actual tax due and requiring all remaining tax to be paid on the return due date. The conferees provide special rules for seasonal industries.

Withholding at a flat rate of 10 percent will be required on payments of interest and dividends after June 30, 1983. Special rules are provided to minimize the financial and administrative burdens on financial institutions adjusting to the system, including authority to the Treasury for the first six months after the provision is in place to waive withholding requirements for various payors. Interest payments of $150 or less on an annual basis are exempt. Low income individuals whose tax liability for the prior year did not exceed $600 ($1,000 on a joint return) are exempt, as are individuals age 65 or over with tax liabilities not over $1,500 ($2,500 for a married couple filing jointly). This exempts those over 65 with adjusted gross incomes in 1984 of less than $14,450. ($24,214 on a joint return).

Direct sellers and licensed real estate agents are excluded from the definition of employee for employment purposes. The moratorium on reclassification of independent contractors as employees is extended, pending further Congressional action.

REDUCTIONS IN UNINTENDED OR UNWARRANTED BENEFITS

Individual minimum tax.—The bill strengthens the existing alternative minimum tax by shifting to that tax base items currently subject to the add-on minimum tax and by adding several new items to existing preferences. Interest on tax-exempt bonds is not a preference item. The existing add-on tax is repealed. The conference bill applies a flat 20 percent rate to all preferences in excess of $30,000 for single individuals ($40,000 for joint returns). This provision affects only several hundred thousand of the 90 million individual tax returns filed.

Pensions.—Pension tax benefits for high income individuals are limited. The maximum annual addition to a defined contribution plan is reduced from $45,475 to $30,000 and the maximum annual benefit under a defined benefit plan is reduced from $136,425 to $90,000. Where a combination of plans is provided, the maximum benefits allowable are reduced from 140 to 125 percent, applicable to dollar limits only. Cost of living adjustments are frozen until 1986. The bill achieves parity between corporate and noncorporate plans by increasing allowable deductible contributions to noncorporate plans to the levels allowable for corporate plans, and by placing restrictions on certain corporate and noncorporate plans favoring key employees. Loans to plan participants are limited to the lessor of $50,000 or one-half of the participant's nonforfeitable benefits, and must be repaid within 5 years (except for certain home mortgages). The credit for integration of defined contribution plans with social security will be limited to the statutory OASDI rate. The estate tax exclusion allowed for distributions from qualified plans is limited to $100,000.

Casualty and medical deductions.—The bill makes casualty losses deductible only to the extent they exceed 10 percent of adjusted gross income. The conferees raise the floor for deductible medical expenses from 3 percent to 5 percent in the Senate bill. After 1983, the deduction for drugs is limited to prescription drugs and insulin, and the separate 1 percent floor for drugs is eliminated. The conferees repeal the present law rule allowing one-half of medical insurance premiums up to $150 per year to be deducted without regard to the floor (the Senate bill had allowed a $100 deduction).

Original issue discount and stripped coupon bonds.—The bill provides amortization rules for original issue discount bonds and eliminates unwarranted tax advantages from coupon "stripping." The conferees change the effective date of these provisions to July 1, 1982.

Changes to ACRS.—The bill repeals the more rapid recovery rates scheduled to take effect in 1985 and 1986 under the accelerated cost recovery system. Moreover, the bill requires an adjustment to reduce the cost basis of an asset by 50 percent of the investment tax credit and other credits in computing deductions under ACRS. However, the conference bill permits taxpayers to avoid the reduction in basis for any asset by electing to reduce the allowable investment credit by 2 percentage points. Special transitional rules are provided. These provisions are designed to insure that the combination of ACRS deductions and tax credits do not result in treatment more favorable than expensing of equipment costs.

Safe harbor leasing.—The bill phases out safe harbor leasing by January 1, 1984. During the interim, leasing is extended to certain closely-held businesses. The rules are modified substantially to include limits on the amount of property that may be leased and the amount of benefit from depreciation and investment tax credits available to lessors. Certain abuses of leasing, including its use to increase the benefits of percentage depletion, are expressly barred. Transition rules are provided for certain investments and classes of taxpayers (including airlines and auto manufacturers). Leasing of certain mass transit vehicles, including ferries, continues through 1987.

Cutback of corporate tax preference.—The bill supplements the existing corporate minimum tax with a new set of rules that generally require a 15 percent cutback in the availability to corporations of certain items of tax preference. In addition, the limit on the amount of tax which may be offset by the investment tax credit is reduced from 90 to 85 percent.

Construction period interest and taxes.—The bill requires corporations to capitalize and amortize over 10 years interest and real property taxes attributable to the construction period of nonresidential real estate. The Alaska Natural Gas Transportation System will not be affected by this change, and transition rules are provided for certain hotel, motel, hospital and nursing home construction.

Completed contract method of accounting.—The bill instructs the Treasury Department to amend its completed contract regulations to establish rules relating to the termination and severability of long-term contracts. For all contracts expected to take more than 24 months to complete, Treasury is to provide new rules which would allocate items formerly treated as period costs to the contract. These cost rules will not apply to a construction contractor with average gross receipts over the prior 3 years of $25 million or less, or to any construction contract of 36 months or less.

Tax-exempt bonds.—In order for a private purpose tax exempt issue to be allowed, the bill requires public accountability through reporting, public hearings, and local approval by elected officials or legislative action. To the extent facilities placed in service after December 31, 1982, are financed by industrial development bonds (IDBs) issued afte. July 1, 1982, accelerated cost recovery is limited, with exceptions for low income housing, municipal solid waste or sewage facilities, UDAG assisted facilities, and certain pollution control equipment. The exemption for small issue IDBs will not be available after December 31, 1986. In addition, IDBs generally will not be available to finance automobile dealerships, as well as recreational, entertainment and retail food and beverage facilities. Several changes also were made to liberalize the present law limitations on mortgage subsidy bonds.

Life insurance company taxation.—The bill includes the Administration proposal to prohibit the abuse of modified coinsurance. The bill also changes the treatment of annuity contracts, taxing withdrawals to the extent of investment income. A number of other changes to life insurance taxation (sought by the industry) will be effective through 1983, including rules governing deductions for policyholder dividends.

Possessions corporations.—With respect to the special credit against U.S. tax liability for a possessions corporation, the conferees accept the compromise proposal developed by the Administration and the Puerto Rican government. This proposal limits the

tax benefits of possessions corporations, but is not nearly as restrictive as the Senate bill. The possessions corporation will be entitled to the return on intangibles provided it bears a proportionate share of research and development costs; alternatively, the taxpayer may split income from products made in the possession between the possession and the United States.

Foreign oil and gas income.—This provision repeals the per-country extraction loss rule which currently operates to increase the special foreign tax credit limitation for taxpayers with oil and gas extraction income in other foreign countries. As a result, foreign taxes paid on extraction activities could not be used to offset U.S. tax on other foreign source income. In addition, the bill eliminates the deferral of tax on certain foreign oil-related income. Deferral would still be allowed for income of certain independent traders and refiners.

Mergers and acquisitions.—Tax incentives for corporate mergers and acquisitions are reduced, with transition rules for specific situations.

OTHER PROVISIONS

Airport and airway user taxes are increased to provide funds for airport and airway system development provisions.

The targeted jobs tax credit is extended for 2 years, and modified to encourage summer youth employment.

The bill extends the FICA hospital insurance tax and Medicare benefits to Federal employees.

The Federal Unemployment Tax Act wage base is increased to $7,000 and the effective Federal tax rate, after credit for state taxes, is increased from 0.7 to 0.8 percent. The conference agreement increases unemployment compensation benefits for certain long-term unemployed workers. The threshold above which unemployment benefits are subject to income tax is lowered to $12,000 ($18,000 on a joint return).

The telephone excise tax is raised to 3 percent in 1983, 1984 and 1985. The tax will terminate after 1985.

The present Federal excise tax on cigarettes is increased from 8 to 16 cents per pack. This increase sunsets on September 30, 1985.

An extension of time is allowed for refunds of certain excise taxes for buses.

The special Trans-Alaska Pipeline System adjustment under the windfall profit tax is repealed.

Tax-exempt status for certain veterans organizations and amateur athletic organizations is provided.

The bill extends for two additional years the income tax exclusion for National Research Service Awards.

The bill extends the annual accrual accounting method to certain farming partnerships.

Payments legal under the Foreign Corrupt Practices Act will be allowed a business expense deduction.

Certain debt management authority is provided to the Secretary of the Treasury, including discretion to set yields on U.S. savings bonds.

Beginning March 1, 1983, taxpayers who prevail in litigation where the government has been unreasonable are entitled to an award of attorneys' fees of up to $25,000. Where a taxpayer brings as action for delay or takes a frivolous or groundless position, the Tax Court could award the government damages of up to $5000.

Minor adustments are made in the treatment of personal holding companies and Alaska Native Corporations.

Mr. HELMS. Will the Senator yield for a question?

Mr. DOLE. I am happy to yield to the Senator from North Carolina.

Mr. HELMS. Madam President, perhaps I should ask this question privately rather than for the record but, on the other hand, perhaps it ought to be for the record.

Did the House conferees consider the proposal made by the Senator from North Carolina to impose a 25-percent tax increase across the board for beer, wine, liquor, and cigarettes?

Mr. DOLE. The House considered most of that proposal. It was offered by Congressman DUNCAN. The Congressman from Tennessee offered an amendment to impose a 25-percent tax on distilled spirits and wine, a 10-percent excise on coin-operated amusements, a 10-percent excise on autos costing over $20,000, and a 10-percent excise on boats and yachts costing over $10,000. The revenues from that tax, I believe about $2.8 billion, would have been used to reduce the cigarette tax to 10 cents a pack. However, the Duncan amendment was rejected by the House conferees on a voice vote, and the Senate conferees had no opportunity to consider it.

So I would say that on the House side Congressman DUNCAN made a valiant effort. On the Senate side, the Senator from Virginia made a valiant case for reducing the tax, but we were not in a very strong position. We could not modify our provision.

We could not modify our provision. But I know that Congressman DUNCAN's intent was along the lines of what the Senator from North Carolina suggested.

Mr. HELMS. Perhaps the staff could check and the Senator could insert at this point in the RECORD what the vote was.

As I recall, instead of the 8-cent increase on cigarettes, there would have been 2 cents, and on a six-pack of beer about 4 or 5 cents. Wine would have been negligible and whisky would have been 25 cents, or something in that neighborhood. It seemed to the Senator from North Carolina that was a fair and equitable approach. I believe the Senate conferees were prepared to accept that, as the Senator from Kansas said. As the Senator said, he could not propose because of the conference rules. I am sorry that that was not accepted. I do appreciate the able Senator from Kansas making the effort.

Mr. DOLE. As I indicated, there was a voice vote on the Duncan amendment. Let me say to my friend from North Carolina it was not an empty gesture. We had the money. We were not blowing smoke. We had the $1.7 billion available. There was nothing else to be done on the bill. The choice was as to whether we should raise taxes $100.1 billion or $98.3 billion or to reduce some area. We pledged the Senator from North Carolina, and other Senators, including one of the conferees, Senator BYRD, that we would try to use that to reduce the excise tax. So we did not come in emptyhanded. We came in with the money to reduce the tax. When they refused that offer, as I indicated, we put $300 million more in the Puerto Rican compromise and accepted the administration proposal. We put $1.1 billion in delaying withholding on interest and dividends, and I guess there were a couple hundred million dollars left which may disappear as they put the bill together.

Madam President, I ask unanimous consent to have inserted in the RECORD at this point a further discussion of the cigarette tax debate including a portion of the transcript of the conference discussion of this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Although H.R. 4961 doubled the present excise tax on cigarettes as passed by the Senate, it was my hope that we would be able to reduce that rate in the conference. Since the House members did not come to the conference with a House-passed tax bill, the Senate conferees had less leverage than we would have wanted because there were no House-passed provisions which the House conferees had to protect. As an alternative, we reserved the excise taxes on cigarettes as one of the last provisions which we discussed, hoping that we could persuade House conferees to use any surplus over the reconciliation target to reduce the excise taxes on cigarettes.

Indeed, we did in fact end up with a surplus of $1.7 billion over the $98.3 billion reconciliation target. At that point, the Senator from Kansas suggested to the House conferees that we apply the additional revenue to the increase in the excise taxes on cigarettes. I specifically suggested that the Senate conferees would be pleased if the House conferees would not recede to the Senate provisions concerning excise taxes on cigarettes without modification. Specifically, the Senate conferees expressed the hope that the House conferees would use the surplus revenues to eliminate the increase in excise tax on cigarettes for 1983.

Unfortunately, the House conferees would not take our suggestion and, contrary to our expressed desire, receded to the Senate provision on the excise taxes on cigarettes.

Mr. DOLE. Madam President, the Senator from Kansas assures the Members of the Senate that he is as concerned about the doubling of the excise taxes on cigarettes as anyone. Unfortunately, our attempts to reduce this tax in the conference did not work out as we hoped they would. I hope that those who are concerned about the cigarette excise tax do not use our failure in conference as an excuse to attempt to defeat this bill. I also would hope that at some convenient time we will be able to reduce the excise tax on cigarettes and, if need be, replace it with another revenue provision.

The material that follows is the discussion of the cigarette tax before the conference committee on H.R. 4901, which took place early in the morning of Sunday, August 15, 1982.

Chairman DOLE. Could I ask, and I know it can't be totally accurate, but as I understand, based on preliminary estimates and computations, we do have more money than requested or than required by the budget resolution in revenues, is that correct?

Mr. MCCONAGHY. That is correct, Mr. Chairman.

Chairman DOLE. And is there an estimate of that amount?

Mr. MCCONAGHY. Yes, if you assume a $1.2 billion with respect to possessions, then we are $1.7 billion over the $98.3 target.

Chairman DOLE. I am wondering, and I am probably not in a position to propose this, because we have a provision in our bill, and it relates to the cigarette excise tax.

I would hope that we might use the additional revenue to apply on the first year of the 8 cent tax increase, in other words, the increase that would increase from 8 to 16 cents per pack starting January 1, 1983, if we might use this surplus to reduce or eliminate that tax in the first year, and the tax in 1984 and 1985 would continue at the 16 cent per pack rate as opposed to 8 cents at the present level.

Mr. MCCONAGHY. I think, Mr. Chairman, that if you never had the effective date of that and did not have the increasing into effect for 1983, then the revenue from that would be about $1.7 or $0.8 billion, which is about the surplus you are over if you adopt the provisions suggested.

Mr. GIBBONS. I have a little trouble with that figure that you and Mr. McConaghy just came up with, because when we started this discussion, we were not planning to put any extended benefits in this entire package. We have just put in extended benefits that will spend out at the rate of, in a 12-month period, of $3.7 billion.

I hope they will not last that long but at least they will spend out at the rate of $1.9 billion, so instead of being $1.7 billion under or surplus, it looks like to me, we are at least $200 million, at least that short.

I can't see where you laid a predicate for a cigarette tax.

Mr. PICKLE. I am confused.

Mr. GIBBONS. I will be glad to go back through those figures when we started off. We had not planned to put any unemployment compensation in this whole legislative process. We put in at least $1.6 billion, and Mr. McConaghy said we were $1.9 billion, and Mr. McConaghy said we were $1.7 over, so we are at least $200 million short.

Chairman DOLE. As I understand, offsetting receipts, that is not the problem suggested by Congressman Gibbons?

Mr. ROSTENKOWSKI. Mr. Chairman, there comes a time in the legislative process when it is very painful, because as we all are aware, the conference, when a body comes to the conference with their proposal after having worked in the vineyard to try and fashion a piece of legislation that really sets the stage for the culmination of many weeks' work, certainly nobody, no one individual has worked harder than you at putting and fashioning this package; and you are totally defenseless at this point, and certainly I realize that, because the House has the privilege of receding and there is no action that the Senate can take.

We have discussed this in our caucus, in our Conference, and it was almost a unanimous vote of that caucus, at least at the time that we were polled, that this provision in the Conference, we would recede to, and so——

Mr. CONABLE. What provision are you referring to, Mr. Chairman.

Mr. ROSTENKOWSKI. The provision with respect to the cigarette tax, and so, Mr. Chairman, I am terribly sorry but at this juncture, the House recedes to the position of the Senate.

Chairman DOLE. That is not unexpected.

I suggest that, I can't quarrel with that decision. We thought there would be a House bill, and we could trade off a few things but there is not any House bill, and we can't trade off what we brought, and we brought the best we could.

I do think we were, in retrospect, pretty tough on one industry, but, again, that has been done.

Mr. DOLE. Madam President, I ask unanimous consent to have printed in the RECORD a summary of the spending reduction provisions of H.R. 4961 agreed to by the House and Senate conferees. I also ask unanimous consent to have printed in the RECORD a table showing a State-by-State breakdown of the additional weeks of unemployment benefits that will be available under the unemployment compensation provision agreed to by our conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY

MEDICARE

1. Medicare Payments Secondary for Older Workers Choosing to be Covered Under Group Health Plans—The conferees agreed to the Senate provision which would require employers to offer employees aged 65 through 69 and their dependents the same health benefit plan offered to younger workers and would make medicare the secondary payor to those plans for such employees and their aged spouses. The decision whether to take this private coverage or select medicare as primary payor would be voluntary for the individual. Medicare payments would be reduced for any item or service furnished to an employee or spouse if the combined payment under medicare and the employer's health plan would otherwise exceed, for items or services reimbursed on a cost basis, their reasonable cost, or, for items or services reimbursed on a charge basis, the higher of medicare's reasonable share or the amount allowable under the employer health benefit plan. In no case would medicare pay more than it would otherwise have paid. Employers with less than 20 employees would be exempt from the provision. The measure would become effective January 1, 1983.

2. Reimbursement for Inpatient Radiology and Pathology Services—Under current law, medicare part B pays 100 percent of the reasonable charges of radiologists and pathologists who furnish radiology and pathology services to hospital inpatients and who accept assignment in all cases for these services.

The conferees agreed to the Senate provision which eliminates the special 100 percent reimbursement rate thereby providing that medicare will pay for such services on the same basis as other physicians' services, i.e., 80 percent of reasonable charges after the part B deductible has been met.

3. Elimination of the Inpatient Routine Nursing Salary Cost Differential—The conferees agreed to the Senate provision which eliminates the routine nursing salary cost differential.

4. Reimbursement of Provider-Based Physicians—The conferees agreed to a Senate provision, with minor modifications, which directs the Secretary of Health and Human Services to prescribe regulations which will distinguish between (1) professional medical services which are personally rendered to an individual patient, which contribute to the patient's diagnosis or treatment, and are reimbursable only under part B on a charge basis; and (2) professional medical services which are of benefit to patients generally and which can be reimbursed only on a reasonable cost basis. Reasonable cost reimbursement for provider-based services could not exceed a reasonable compensation equivalent established by the Secretary in regulations.

5. Part B Premium as Constant Percentage of Costs—Individuals who elect to be covered under medicare part B are required to pay a monthly premium. The amount of the premium, which is set annually, is $12.20, effective July 1, 1982.

Currently, annual increases in the premium are limited to the percentage by which cash social security benefits have most recently been increased. The Senate provision would suspend this limitation and increase premiums on October 1, 1982, on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues for each period beginning on such date equal to 25 percent of program costs for aged beneficiaries. The normal part B premium calculation and limitation would resume on July 1, 1985.

The conferees agreed to the Senate provision with a modification under which no premium increase would occur before July 1, 1983. The measure will result in a projected monthly premium of $13.70 beginning July 1, 1983 (rather than the $13.10 projected under current law), and a monthly premium of $15.30 beginning July 1, 1984 (rather than $14.00 under current law).

6. Medicare Reimbursement to Hospitals—The conferees agreed to hospital reimbursement provisions, as follows:

(a) Expansion of Section 223 Limits to Include Ancillary Costs—

(i) The current Section 223 limitation would be extended to include ancillary costs, applied on an average cost-per-case basis, and adjusted for case mix. In no case would reimbursement on a cost-per-case basis be reduced below the current allowable cost-per-case. The new limitation would be applicable to hospital cost reporting periods beginning on or after October 1, 1982. For the first year, the limitation would be set at 120 percent of the mean for hospitals of the same type; for the second year, the limitation would be 115 percent of the mean; and for the third and subsequent years, the limitation would be 110 percent of the mean.

(ii) Appropriate adjustments would be required for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Rural hospitals with less than 50 beds would be excluded. Other appropriate exemptions, exceptions, and adjustments would be required as in the Senate provision.

(b) Three-year Rate of Increase Provision—

(i) A "target" reimbursement system would be established. The target rate would be the previous year's allowable operating costs per case (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus one percentage point. A hospital with operating costs below the target rate would be paid its costs plus a bonus of 50 percent of the savings (not to exceed 5 percent of the target rate); a hospital with costs above the target rate would be allowed 25 percent of its costs in excess of the target for the first two years; none of the excess would be reimbursed in the third year. Provider payments under the target reimbursement system could not exceed the amount payable under the new Section 223 limitations.

(ii) The Secretary of HHS would be required to provide for appropriate exemptions, exceptions, and adjustments as in the Senate provision.

(iii) The target reimbursement system would be applicable to a hospital's first three cost-reporting periods beginning on or after October 1, 1982, but cease upon implementation of a prospective payment system.

(c) Prospective Payments for Hospitals and Skilled Nursing Facilities—The Secretary would be required to develop, in consultation with the Senate Committee on Finance and the House Committee on Ways and Means, medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and, to the extent feasible, other providers, and to report to the committees on the proposals within five months of the date of enactment.

(d) Recognition of State Hospital Cost Control Systems—The Secretary would be authorized to provide, at the request of a State, that medicare hospital payments could be made under a hospital reimbursement control system in the State if, and so long as: (1) the system applies to substantially all non-Federal hospitals and at least 75 percent of hospital inpatient revenues in the State; (2) the system treats payors, hospital employees, and patients equitably; and (3) the Secretary is satisfied that it will not result in greater medicare expenditures over a three-year period. In making this determination, the Secretary could recognize previous cost savings under the system. With respect to the authority provided to the Secretary under current law to establish and continue medicare demonstration projects, the Secretary would be prohibited from terminating a project for six months after he notifies the State of his decision to terminate.

7. Elimination of Private Room Subsidy—The conferees agreed to the Senate provision, Medicare currently determines its payments to hospitals on the basis of the average costs for all its accommodations, including the additional costs of private rooms even though medicare generally is intended to cover only the costs of semi-private room accommodations. The provision requires the Secretary to publish regulations which would eliminate the subsidy for the extra cost of private rooms.

8. Single Reimbursement Limits for Skilled Nursing Facilities and Home Health Agencies—The conferees agreed to the Senate provision which requires the Secretary to establish a single payment limit for hospital-based and freestanding skilled nursing facilities and a single payment limit for home health agencies on the basis of the cost experience of freestanding facilities.

9. Elimination of Duplicate Payments for Outpatient Services—The conferees agreed to the Senate provision which requires the Secretary of Health and Human Services to issue regulations that would eliminate the duplicative payment of overhead expenses from the charges of a physician who performs services in a hospital's outpatient department.

10. Audit and Medical Claims Review—The conferees agreed to the Senate provision which requires that the medicare contractor budgets for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent for contractor audit and medical review activities.

11. Temporary Delay in Periodic Interim Payments—The conferees agreed to the Senate provision. Under present law, hospitals may receive payments for services rendered to beneficiaries on the basis of periodic interim payments (PIP) that result in an average 3-week lag between the rendering of service and the receipt of payment.

The provision changes the periodic interim payment procedure by providing for a delay in the flow of PIP payments during September 1983. A similar deferral is authorized during September 1984.

12. Reimbursement of Assistants at Surgery—The conferees agreed to the Senate provision, with minor modifications. The provision prohibits reasonable charge reimbursement for an assistant at surgery in hospitals where an approved training program exists in the specialty, except under the following exceptional circumstances: (1) the service is complex and requires performance by a team of physicians; (2) the patient has multiple conditions which require the presence of and active care by a physician of another specialty during an operation; (3) exceptional medical circumstances; and (4) other exceptional circumstances as determined by the Secretary.

13. Prohibition of Payment for Ineffective Drugs—The conferees agreed to the Senate provision implementing Section 2103 of the Omnibus Budget Reconciliation Act of 1981 which prohibits the use of Federal funds under medicare Part B and under medicaid to pay for certain less than effective drugs.

14. Health Maintenance Organizations and Other Competitive Medical Plans—The conferees agreed to the Senate provision with the following changes:

(a) accept the Senate definition of an eligible plan, except that State licensed HMO's would not be included in the definition;

(b) accept a provision with regard to HMO and other plan qualification standards which requires the HMO to provide all medicare services, and requires the Secretary to approve a minimum benefit package;

(c) require the Secretary to establish guidelines for beneficiary information;

(d) accept the Senate provision with regard to enrollment mix with a modification eliminating the requirement that medicare enrollment in a plan not exceed 50 percent;

(e) accept the Senate provision with a modification requiring that participating HMO's or plans have at least 5,000 members (although the Secretary could waive the requirement for rural HMO's and plans) and requiring the Secretary to be satisfied that an HMO has the capacity to bear the risk of potential financial losses;

(f) accept a modification requiring enrollment of two medicare beneficiaries who are not members of an HMO in order to convert one medicare beneficiary;

(g) accept, with minor modification, the Senate provision relating to the calculation of the government contribution;

(h) accept the Senate provision relating to distribution of HMO and plan savings except (i) the requirement for approval of a broader minimum benefit package by a committee of members and (ii) the requirement that "rebates and dividends" be offered to beneficiaries.

15. Technical Corrections Relating to Medicare—The conferees agreed to the Senate provision making miscellaneous technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

16. Hospice Care—The conference agreement follows the Senate provision with the following changes:

(a) the benefit period would consist of two periods of 90 days and one period of 30 days;

(b) the reference to "speech therapy" would be changed to "speech-language pathology";

(c) the Senate provisions would be clarified to authorize the Secretary to eliminate duplication where any provider requirements under this provision are identical to requirements already met by the provider under other agreements with the Secretary;

(d) there would be no reimbursement under part B for an individual's attending physician who is employed by the hospice;

(e) counseling would be included as a care service;

(f) the Senate provisions would be clarified to provide that non-care services could be provided, under arrangements, by others;

(g) a five-percent copayment on respite care services and a five-percent copayment on drugs covered are required under the provision.

The entire hospice provision expires on September 30, 1986.

17. Coverage of Extended Care Services Without Regard to 3-Day Prior Hospitalization Requirement—The conferees agreed to a provision which authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

18. Medicare-Coverage of, and Application of Hospital Insurance Tax to, Federal Employment—The provision adopted by the conferees with respect to application of the hospital insurance tax to Federal employment appears under items relating to revenue.

19. Prohibiting Recognition of Payments Under Percentage Arrangements—The conferees agreed that, with respect to all providers, no cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Further, the provision would not apply to a percentage contract that is reasonable and where such contract is a customary commercial business practice or provides incentives for the efficient and economical operation of the provider of services.

20. Interest Charges on Overpayments and Underpayments—The conferees agreed to a modified proposal which would require interest payments with respect to medicare overpayments. Similarly, the medicare pro-

gram would be required to pay providers interest on underpayments.

21. Prohibiting Payment for Hill-Burton Free Care—The conferees agreed to a provision which requires the Secretary to provide, by regulation, that the cost incurred by a hospital on SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

22. Prohibiting Payment for Anti-Unionization Activities—The conferees agreed to a provision which prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

23. Eliminating "Lesser of Cost or Charges" Provision—Under present law, payment for services furnished by providers is limited to the lower of the provider's customary charge or the reasonable cost of the service. The conference agreement would provide that the lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

24. Extending Medicare Proficiency Examination Authority—The conferees agreed to a provision that would extend to September 30, 1983, the authority of the Secretary of HHS to conduct a program to determine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

25. Retroactivity of Regulations Regarding Access to Books and Records—Section 952 of P.L. 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision requires that the Secretary prescribe in regulations the procedures and criteria to be used in obtaining access to the appropriate books, documents and records. The regulations have yet to be proposed.

The conferees agreed to a provision which would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1983, preceded by a comment period of no less than 60 days.

26. Private Sector Utilization Review—The conferees agreed to a statutory provision which would require the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities. The initiative would include the development of specific standards for measuring the performance of intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

27. Special Part B Enrollment Without Penalty—The conferees agreed to a provision requiring a special open enrollment period under medicare during which time merchant seamen, whose free health care coverage under the Public Health Service Act was eliminated in 1981, could enroll without being required to pay a late penalty.

28. Establishment of Utilization and Quality Control Peer Review Program—The conferees agreed, with modifications, to the Senate provision repealing the existing Professional Standards Review Organization (PSRO) program and requiring the Secretary of HHS to enter into performance contracts for utilization and quality control peer review.

The conference agreement follows the Senate provision requiring two-year contracts with peer review organizations composed of, or having available, a substantial number of licensed physicians with a modification which would:

(a) prohibit contracts with provider or provider-affiliated organizations (although subcontracts for delegated review);

(b) provide that contract termination procedures would not apply to contract nonrenewals.

The conferees agreed to the Senate provision exempting review organizations from the Freedom of Information Act and establishing disclosure rules for such organizations with a modification which would:

(a) require the review organization to disclose to the appropriate State agency information identifying a particular practitioner or provider when, in the organization's judgment, there is reason to believe that a risk to the public health exists; and

(b) require the review organization to disclose information to a State or Federal fraud or abuse agency or an authorized State licensure or certification agency, at the request of such agency on a case-by-case basis. This information could include institution or practitioner-specific data.

The conference agreement follows the Senate provision relating to the transition from the existing PSRO program with a modification which would prohibit the Secretary from terminating an operating PSRO, until such time as the Secretary has entered into a contract with a review organization under this provision.

The conferees agreed to the Senate provision requiring the Secretary to report to the Congress annually with a modification requiring the Secretary to provide information on the efficiency of payment methodologies used by the Secretary in contracting with review organizations.

29. Provisions Not Included in the Conference Agreement—The conference agreement does not include the provisions relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board; and the optional alternative medicare program (medicare vouchers).

MEDICAID

1. Medicaid Optional Copayments—The conferees agreed to the Senate provision regarding copayments with the following modifications:

(a) all copayments would be nominal, except the "nominal" requirement could be waived by the Secretary in the case of nonemergency services in emergency rooms where certain conditions are met;

(1) children under 18 (States at their option could exempt children up to 21 from copayments);

(2) services related to pregnancy (or, at State option, all services for pregnant women);

(3) patients in skilled nursing and intermediate care facilities;

(4) catagorically needy persons enrolled in an HMO (and a State may elect to exclude all medicaid enrollees in an HMO from copayments);

(5) emergency services and family planning services.

2. Liens/Transfer of Assets—The conferees agreed to a modification of the Senate provision, which provides that:

(a) a State may not impose a lien on the home of an institutionalized medicaid recipient if there is a spouse, sibling, disabled or dependant child in the home;

(b) the lien could not be closed until the home is sold or the recipient dies, or while certain nondependent children remain in the home;

(c) a State may deny medicaid to persons who transfer a home for less than market value for a specified period.

The conferees also agreed to a provision to allow medicaid for persons like Mattie Dudley who have burial funds which currently disqualify them from medicaid.

3. Medicaid Error Rate—The conferees agreed to the Senate provision to reduce matching to States with eligibility error rates in excess of three percent with the following modifications: overpayment errors due to resource tests would be treated in the same manner as overpayments due to incorrectly applied spend-down liability, and technical errors would be excluded.

4. Optional Medicaid Coverage of Disabled Children at Home—The conferees agreed to a provision that would allow States home to certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previously medicaid was not available if the child received care at home.

5. Medicaid Technical Amendments—The conferees agreed to provisions making certain technical corrections to the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35).

6. Six-Month Moratorium on Nursing Home Regulations—The conferees agreed to a provision that would prevent the regulations currently proposed by the Secretary regarding changes in surveys and certification requirements for nursing homes from going into effect for six months.

7. Medicaid Funding in American Samoa—The conferees agreed to a provision that would provide Federal funding for medical services in American Samoa.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

The conferees did not agree to the following proposals: provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981; and a provision expanding States' options to qualify for a one-percent offset to last year's matching reductions by holding down increases in hospital costs.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Rounding of AFDC Eligibility and Benefit Amounts—The conferees agreed to a Senate provision requiring States to round both their standards and actual monthly benefit amounts to the lower whole dollar.

Prorate First Month's Benefit Based on Date of Application—The conferees agreed to a Senate provision requiring States to pay benefits beginning no earlier than the date an application is filed. The benefit amount would be prorated based on the date of application.

Eliminate Military Service as Basis for AFDC Eligibility—The conferees agreed to a Senate provision excluding absence based solely on military duty as a basis for need. However, if the parent has left the home for other reasons and is not providing support, the family may still be eligible for assistance. In this case, as provided in present law, the custodial parent would have to assign to the State any rights to child support which have accrued.

Job Search—The conferees agreed to a House provision which permits States to require AFDC applicants and recipients to participate in a program of employment search beginning at the time of application. States exercising this option may limit participation to certain groups or classes of individuals who are required to register for WIN and the provision permit the State to shorten the duration of the sanction period. Transportation and other necessary costs incurred by participants must be paid and States would receive 50 percent Federal matching funds for transportation and other services. An initial 8-week search period is allowed plus an additional 8-week period each year (which could add up to 16 weeks in the first year). States may not use the job search requirement as a reason for delaying eligibility determinations or making payments to those otherwise eligible.

Prorating Shelter and Utilities for AFDC Families Which Share Households—The conferees agreed to a Senate provision allowing States to adjust the AFDC benefit when the AFDC family shares a household with other individuals. (States could not prorate in the case of an SSI recipient to whom a one-third benefit reduction applies.) States would be authorized to prorate, on a reasonable basis, the portion of the AFDC grant which the State designates for shelter and utilities. In States which elect this option, the State would be free to design the method of proration and the circumstances in which proration would be applied. The Secretary is authorized to prescribe broad guidelines for States which use this option.

Reduce Federal Match for Errors—The conferees agreed to a modification of a Senate provision limiting the Federal match for erroneous benefit payments in the AFDC program to four percent in fiscal year 1983, and three percent in fiscals years 1984 and 1985. The imposition of fiscal sanctions would be applied on a retrospective basis. The Secretary of Health and Human Services may exercise waiver authority in cases he or she deems appropriate.

Retrospective Accounting Option.—The conferees agreed to a Senate provision allowing States the option of excluding from calculations of AFDC benefit amounts, any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated.

WIN Demonstration Authority.—The conferees agreed to a Senate provision reopening the option for States to operate Work Incentive (WIN) Demonstration Programs. A provision of the 1981 Omnibus Budget Reconciliation Act authorized the States, at their option, to operate three-year work incentive demonstration programs. However, the State had to declare its intention to operate such a demonstration program within 60 days of enactment of the Omnibus Budget Reconciliation Act. The provision would reopen this option for the States for an additional two years. The requirements and regulations which applied to the earlier WIN Demonstration Program would apply to the extension.

Exclusion from Income of Certain State Payments.—The conferees agreed to a House provision which allows States to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by a State to AFDC households.

Technical Amendments to Title XX Social Services and Foster Care Program.—The conferees agreed to a House provision which makes technical corrections to social services and foster care provisions of Public Law 97-35.

The conferees did not agree to the following proposals: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (counting eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT

Collection of Administrative Costs for Non-AFDC Child Support Enforcement—The conferees agreed to a Senate provision repealing the provisions enacted in P.L. 97-35 which would require States, in cases involving non-AFDC families, to charge any absent parent who is obligated to pay child support through the State Child Support Enforcement Agency a fee equal to 10 percent of the child support payment. The provisions restores the law in effect prior to P.L. 97-35 which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. The provision also retains, as a State option, the authority to collect from the parent who owed child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments for Child and Spousal Support by Members of the Armed Forces—The conferees agreed to a Senate provision with a House modification which requires allotments from the pay and allowances of any member of the uniformed service, on active duty, when he or she fails to make child (or minor and spousal) support payments. The requirement would arise when the member failed to make support payments in an amount at least equivalent to the value of two months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the servicemember's pay subject to allotment would be limited. In addition, the servicemember would be given an opportunity to consult a judge advocate or other law specialist.

Reimbursement of State Agency—The conferees agreed to a Senate provision that would allow States to reimburse themselves from the amount of support collected for AFDC that was already paid in the final month of eligibility. Thus, the family would not receive double payment for the same month, first in the form of AFDC and then through receipt of the proceeds of the support collection.

Reduction in Federal Matching for State Child Support Costs—The conferees agreed to a House provision which would reduce the Federal matching rate for State costs of operating the child support enforcement (CSE) program. Effective October 1, 1982, the rate will be reduced from 75 to 70 percent. Effective October 1, 1983, all matching will be eliminated for costs incurred by State and local courts in connection with the CSE program. In addition, the provision reduces State CSE incentive payments from 15 to 12 percent, effective October 1, 1983.

Technical Amendments to Child Support Enforcement Program—The conferees agreed to a House provision which makes several technical corrections in the child support enforcement provisions contained in Public Law 97-35, including the correction of inaccurate references.

SUPPLEMENTAL SECURITY INCOME (SSI)

Prorate First Month's Benefit Based Upon Date of Application—The conferees agreed to a Senate provision to prorate the first month's SSI benefit from the date of application or the date of eligibility, whichever is later.

The provision would also apply to the month in which an individual reapplies after a period of ineligibility.

Round SSI Eligibility and Benefit Amounts—The conferees agreed to a Senate provision to round SSI monthly benefits and income eligibility amounts to the next lower dollar. Rounding would take place after the cost-of-living adjustment is made.

Coordination of SSI and OASDI Cost-of-Living Adjustment—The conferees agreed to a Senate provision coordinating the cost-of-living increases in SSI and social security (OASDI). At the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month, rather than in the second preceding month. In addition, whenever the Secretary determines that there is reliable information, on a recipient's income or resources in a given month, the SSI benefit would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information concerning a future event could be used to determine the monthly SSI benefit.

Phase Out of "Hold Harmless" Protection—The conferees agreed to a House provision continuing the phase out of "hold harmless" payments as follows: hold harmless payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no hold harmless payments made in 1985 and years thereafter.

Exclusion from Resources of Amounts Set Aside for Burial Expenses—The conferees agreed to a House provision which would, for the purposes of determining SSI eligibility, exclude from countable resources burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary). Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies. In addition, the $1,500 limit would be reduced by any amounts held by the individual in an irrevocable burial contract or other arrangements made to meet burial expenses. The Secretary would be authorized to periodically raise the $1,500 limit as may be necessary.

SSI Pass-Through Requirement—The conferees agreed to a House provision to allow a State to shift from the aggregate spending option to the State supplementation pay-

ment level option. A State could not decrease its State supplementation payment below the level in the previous December.

Treatment of Unnegotiated SSI Checks—The conferees agreed to a House provision that clarifies the authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks.

Recovery of SSI Overpayments—The conferees did not agree to a Senate provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits).

UNEMPLOYMENT COMPENSATION

1. Rounding of Unemployment Benefits—The conferees agreed to a Senate provision under which the Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

2. Reed Act Funds—The conferees agreed to a House provision which extends for 10 years the authority for States to use Reed Act funds for administrative purposes. The provision also permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

3. Exclusion from FUTA of Wages Paid to Student Interns—The conferees agreed to a House provision which exempts from FUTA tax any wages paid to a student enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program.

4. Extension of Exclusion from FUTA of Wages Paid to Certain Alien Farmworkers—The conferees agreed to a House provision which extends for two years, from January 1, 1982, to January 1, 1984, the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA wages.

5. Unemployment Compensation (UC) Financing—The conferees agreed to the Senate provisions which increase the Federal unemployment tax (FUTA) wage base from $6,000 to $7,000 and which increase the FUTA rate from 3.4 to 3.5 percent effective January 1, 1983. (Employers in States with approved State programs will continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate is increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current State law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

The conferees also agreed to the following additional UC financing provisions which:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration (ESAA) and 40 percent to the extended unemployment compensation (EUCA) accounts in the Federal Unemployment Trust Fund. Amounts allocated to EUCA which exceed the Federal share of extended benefit expenditures will be used to repay Federal general revenue advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues will be allocated to ESSA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience rating system and/or benefit reductions;

(c) drop the present law additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferral amount.)

6. Treatment of Certain Employees of Institutions of Higher Education—The conferees agreed to a House provision which allows States to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years or terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

7. Short-time Compensation—The conferees agreed to a House provision which directs the Department of Labor to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor is directed to evaluate the operation and impact of any such programs implemented by the states and report its findings to Congress no later than October 1, 1985.

The conferees did not agree to the following proposals: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

RECONCILIATION INSTRUCTION

[In millions]

	Fiscal Year			Total
	1983	1984	1985	
Senate Finance	4,429	5,564	5,976	15,969
Ways and Means	3,755	4,827	5,168	13,750
Medicare	3,162	4,122	4,240	11,524
Medicaid	674	737	808	2,219
Public assistance	593	705	928	2,226
Conference agreement [1] (preliminary estimates)				
Total savings	3,695	5,958	7,865	17,518
Medicare	2,879	4,430	5,998	13,307
Medicaid	275	364	502	1,141
AFDC	85	157	163	405
CSE	92	141	151	384
SSI	116	126	144	386
UC	−81	49	49	17
Debt management	329	691	858	1,878

[1] This table does not reflect the additional food stamp outlays of $184 million and additional medicaid outlays of $111 million resulting from two medicare provisions over the three-year period. Thus the total net outlay savings are $17,233 million. The table reflects the savings to each of the programs identified. The minus sign (−) for 1983 in unemployment compensation represents additional outlays.

ADDITIONAL WEEKS OF UNEMPLOYMENT BENEFITS (FSB) ANTICIPATED

[To be available (based on CBO projections except as noted)]

State	First quarter Number of weeks	Second quarter Number of weeks
Alabama	10	10
Alaska	10	10
Arizona	10	10
Arkansas	10	10
California	10	10
Colorado	6	6
Connecticut	6	[1] (6)
Delaware	10	10
Dist. of Columbia	6	8
Florida	6	6
Georgia	6	8
Hawaii	8	8
Idaho	10	10
Illinois	10	10
Indiana	10	10
Iowa	10	10
Kansas	10	10
Kentucky	10	10
Louisiana	10	10
Maine	10	10
Maryland	10	10
Massachusetts	10	10
Michigan	10	10
Minnesota	10	10
Mississippi	10	10
Missouri	10	10
Montana	10	10
Nebraska	6	8
Nevada	10	10
New Hampshire	6	6
New Jersey	10	10
New Mexico	10	10
New York	8	8
North Carolina	10	10
North Dakota	[1] (6)	8
Ohio	10	10
Oklahoma	6	6
Oregon	10	10
Pennsylvania	10	10
Puerto Rico	10	10
Rhode Island	10	10
South Carolina	10	10
South Dakota	6	6
Tennessee	10	10
Texas	6	6
Utah	10	10
Vermont	10	10
Virginia	6	6
Virgin Islands	10	10
Washington	10	10
West Virginia	10	10
Wisconsin	10	10
Wyoming	6	[1] (6)

[1] Based on Department of Labor projections.

Mr. HARRY F. BYRD, JR. Madam President, before commenting on the issue at hand and the debt limitation increase, I will comment just briefly on the conference action.

First, let me say that our colleague, the distinguished Senator from Kansas, did a tremendous job as chairman of the conferees. He worked constantly. I do not know how many hours the conference was in session, but we started early Friday afternoon and went all night Friday night, recessing around 9 a.m. Saturday morning. Then we came back into session at 3:30 Saturday afternoon. We were then in session until almost 3 o'clock Sunday morning.

During that entire period, the distinguished Senator from Kansas, Senator DOLE, had command of the situation, so to speak, and he spent full time going from one conference to another; there were a multitude of miniconference going on simultaneously.

The only comment I will make about the conference action, Madam President, is in regard to the spending re-

ductions. The Senate proposed mandated a reduction in spending of $17 billion.

The conference would not agree to that much of a spending reduction and indeed added to the spending before the conference was over. So the spending reduction, leaving out the smoke, as the chairman described it, the real spending reduction in this conference report will equal $13 billion compared to the $17 billion approved by the Senate. To me, that was very disappointing. As I said, I had not planned on commenting on the conference report today.

In regard to the debt limitation increase, the acting manager of the bill on the minority side voted against the debt increase legislation when it was before the Finance Committee. But I want to say for the record that on the minority side there were only three votes in opposition, including that of the Senator from Virginia, and on the majority side it was unanimous with no votes cast in opposition.

I wish to refer to just a few figures. In May of this year, the national debt stood at $1.065 trillion. Under this legislation, the debt ceiling and the debt is projected to go to $1.290 trillion as of September 30, 1983.

What that means is that in that short period of time of 17 to 18 months, the national debt will increase by $225 billion or 21 percent.

Madam President, that to the Senator from Virginia is deeply alarming. It dramatizes that we are not getting spending under control, that the deficits are huge.

Let us take it another step. The Senate budget resolution, which the Senate already has approved, provides for an increase in the national debt to a total of 1 trillion and 533 billion dollars by the end of September 1985. When one analyzes that, what the Senate has done by formal action is to initiate spending to the degree that spending will increase by $468 billion in a period of 3 years and 5 months ending September 30, 1985.

To put it another way, the national debt under legislation already initiated by the Senate will increase by 44 percent in 3 years and 5 months.

To me, that puts in focus just how serious is our Nation's economic policy, just how serious is our Government's financial problem. The national debt will increase from $1,065,000,000,000 in May 1982 to $1,533,000,000,000 by September 1985, 3 years and 5 months.

When one analyzes that, one finds that for 3 years in a row the Government will be operating at deficits exceeding $100 billion and averaging somewhere around $150 billion.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1246

(Purpose: To prohibit the use of funds for the physical fitness facility in the Hart Senate Office Building and for the physical fitness facility in the Dirksen Senate Office Building, and for other purposes)

Mr. BAKER. Madam President, I have an amendment at the desk to the debt limit bill for myself, the distinguished minority leader (Mr. ROBERT C. BYRD), the distinguished Senator from Vermont (Mr. STAFFORD), and the distinguished Senator from Louisiana (Mr. JOHNSTON). I ask unanimous consent that that be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself, Mr. ROBERT C. BYRD, Mr. STAFFORD, and Mr. JOHNSTON, proposes an unprinted amendment numbered 1246.

Mr. BAKER. Madam President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . (a)(1) Notwithstanding the directive of the Senate Office Building Commission of March 19, 1982, and notwithstanding any other provision of law, the Architect of the Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building.

(2) The Architect of the Capitol is authorized to obligate and expend from the construction contingency funds for the Hart Senate Office Building amounts which are prohibited to be obligated, committed, or expended by the first paragraph of this subsection for such other necessary expenses relating to the completion of the Hart Senate Office Building as the Architect of the Capitol deems necessary.

(b) No funds may be expended for the operation of the physical fitness facility in the Dirksen Senate Office Building after the date of enactment of this joint resolution.

(The names of Mr. HELMS, Mr. FORD, Mr. THURMOND, Mr. PROXMIRE, Mr. COHEN, Mr. DOMENICI, and Mr. CHILES were added as cosponsors of the amendment.)

Mr. BAKER. Madam President, I announced last week that I had written to the Building Commission asking them to defer funding of the gym in the new Hart Building pending further action by the Senate. This amendment provides, first, that no funds will be available for the purpose of outfitting the Hart Building gymnasium and, second, that no funds will be available for the operation of the gymnasium in the Dirksen Senate Building.

Madam President, the intent and purpose of that is obvious, I believe. That is, we have one gym, which will be in the Russell Building, and the other two will not be authorized.

I have no desire to debate this at length. Indeed, I ask unanimous consent that the amendment now be temporarily laid aside and that any rollcall votes which may be ordered on that amendment or in relation to it dealing with Senate gyms or any germane second-degree amendment thereto be postponed to begin at 2 p.m. tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, Madam President, may I inquire, the amendments in the second degree would be in order on this amendment pertaining to the gym of the Hart Building?

Mr. BAKER. Yes.

Mr. HATFIELD. In other words, an amendment to abolish the exercise room in the Dirksen Building, 15 feet by 15?

Mr. BAKER. I say to my friend from Oregon, that is subsection (b).

Mr. HATFIELD. I am very grateful that was incorporated.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

Mr. President, I ask that it be in order to ask for the yeas and nays on the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. I ask unanimous consent that the amendment may lie at the desk for further cosponsors during the balance of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, it is my understanding that the Senator from North Carolina (Mr. HELMS) is in a position to offer the first of the abortion amendments.

I understand the distinguished manager of the bill, the chairman of the Committee on Finance, has an amendment that he wants to offer first, which is agreeable on both sides of the aisle. I shall yield to him so he may proceed with that. Members should be on notice that immediately after that, I anticipate that the Helms abortion amendment will be offered.

Mr. DOLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. A parliamentary inquiry. Is there an amendment pending?

The PRESIDING OFFICER. The committee amendment in the nature of a substitute is pending.

Mr. DOLE. And it is open to amendment?

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 1247

(Purpose: To decrease the holding period required for long-term capital gain or loss treatment)

Mr. DOLE. Madam President, I send an unprinted amendment to the desk for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, and Mr. HARRY F. BYRD, JR., proposes an unprinted amendment numbered 1247.

Mr. DOLE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (20) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7), of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234 (b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d)(1) Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of property held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Madam President, let me explain briefly what this amendment does. I know of no objection to the amendment. It has been cleared on both sides. In fact, it was in the bill passed last year in the House and in the bill we just finished going to conference on that was in the Senate bill.

I am offering the amendment for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) to House Joint Resolution 520 to deal with an important tax change that was included in the Senate version of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. This change—reducing the holding period for long-term capital gains from 12 months to 6 months—unfortunately was rejected by the House conferees on the tax bill this weekend. However, after discussion with House Members and others who have an interest in this matter, I have determined that it is worth making another try at this time.

The 6-month holding period for capital gains was, I believe, one of the more important provisions of the Senate-passed tax bill. There is considerable evidence that the difference in tax treatment of short- and long-term transactions under present law provides an incentive for investors not to realize short-term gains. Studies of capital asset sales data confirm that investors are "locked in" to investments simply because they do not want to be taxed on short-term gains. As a result, the efficiency of capital markets is reduced because investors hold assets longer than they might otherwise, in the absence of tax considerations. By reducing the capital gains holding period, we expect to reduce the lock-in effect and its adverse impact on capital market efficiency. It should also be noted that, prior to 1976, the holding period was 6 months.

Madam President, this issue has been carefully considered both this year and last, and there is considerable support for it. It is endorsed by the Reagan administration, and it was passed by the House of Representatives last year in its consideration of ERTA. The provision did not survive conference on ERTA, however, just as it did not survive this year's conference. But surely it is significant that each House now has passed major legislation including a 6-month holding period provision. It was a deep disappointment to me that this provision could not be agreed to by the House in the conference on H.R. 4961. However, I discussed the matter at some length with Chairman ROSTENKOWSKI and others, and I believe that the provision will be carefully considered if it is added to another revenue bill, there is considerable interest in this on both sides of the aisle in both the House and the Senate, and as I have indicated before for that reason we are offering it today.

I should also note that the amendment I offer today deals with a technical problem that was overlooked in the comparable provision of H.R. 4961. When we drop the holding period to 6 months, we change the definition of long-term losses as well as gains. It has come to our attention, however, that some investors may have been counting on a short-term loss on assets held between 6 and 12 months to offset other short-term gains they may have had. Unless we expressly provide for that contingency, those short-term losses attributable to sales or exchanges after June 30 will be converted to long-term losses if the asset was held more than 6 months. Accordingly, my amendment contains an appropriate transition rule to allow a grace period for the change regarding the definition of short-term losses, so the taxpayer who relied on prior law will have sufficient time to realize a short-term loss needed to offset a short-term gain.

STRADDLE PROBLEM

Madam President, I should also note that I am aware that the language contained in the amendment I offer today does not include a technical conforming amendment that may be needed to deal with an unintended impact of this change on the treatment of certain stock options under the tax straddle rules enacted last year in the Economic Recovery Tax Act. In general, I believe that where there is no possibility of the conversion of ordinary income or short-term capital into long-term capital gain, through offsetting stock option positions, the complex tax straddle rules should not apply. I hope to offer a technical amendment in the near future or to incorporate language during conference on this measure to deal with this problem and make absolutely clear the relation between the new 6-month holding period rule and the tax straddle rules.

Madam President, I believe that summarizes the case for this amendment. I hope it will be adopted by the Senate and enacted into law.

Mr. HARRY F. BYRD, JR. Madam President, this I think is a good amendment offered by the Senator from Kansas on behalf of himself and the Senator from Virginia. The Senate has passed this proposal earlier, but, as the Senator from Kansas indicated, it was eliminated from the tax bill by the joint Senate-House conference.

While I support the amendment and think it is a good one, and feel it should be enacted, I will have to ask that it not be voted on at this time; there may be Members of the Senate who have different ideas who would be inclined to oppose it. They should have the opportunity to debate it.

May I say to the Senator from Kansas that I do not know whether it is his idea whether there be a recorded vote or whether it should be done by voice vote. If it is to be done by a voice vote, I ask that it not be done at the present time; there may be Members on this side of the aisle who would be inclined to oppose it, although I think it will be approved overwhelmingly when it does come to a vote.

Mr. DOLE. I am perfectly willing to do it either way. I will not ask for a vote until everybody has had a chance to be notified. If there is any doubt, I do not want to approve it at this time. As I said, we used to have a 6-month holding period up until 1976. It was a part of the House provision in the Economic Recovery Tax Act last year. It was a part of the Senate provision this year. We lost it in conference on two occasions, but I certainly do not want to deny anybody an opportunity to speak against the amendment or speak for the amendment. I understand there may be others who would like to speak for the amendment. So we could probably work out some accommodation as was done on the last amendment, to ask permission that this be laid aside until Members have had an opportunity to take a look at it.

Mr. HARRY F. BYRD, JR. I might say that the Senator from Arkansas (Mr. BUMPERS) has phoned that he would like to come to debate the issue.

Mr. DOLE. Does the Senator want to do that now?

Mr. HARRY F. BYRD, JR. He is supposed to be on his way.

Mr. DOLE. Then I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I yield to the distinguished majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I thank the Chair, and I thank the Senator from Kansas.

Mr. President, I have discussed this now with the author of the amendment, the managers of the joint resolution, and the minority leader. I believe it has been cleared by all of the principals involved, and I will state it now for the consideration of the Senate.

Mr. President, I ask unanimous consent that the Dole amendment which is now pending be temporarily laid aside and that it will occur as the pending question at the suggestion of the majority leader at any time after first consulting with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. President, I hope that shortly we can have the Helms amendment pending and I will either yield the floor for that purpose or I will suggest the absence of a quorum.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS, Mr. President, I thank the Chair.

UP AMENDMENT NO. 1248

Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1248.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. PACKWOOD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the end thereof, add the following: TITLE II.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

Mr. PACKWOOD. Mr. President, I did not hear the reading. I am sorry.

The PRESIDING OFFICER. The clerk will read the amendment.

The assistant legislative clerk read as follows:

At the end thereof, add the following: TITLE II.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, we are about to enter into apparently a rather lengthy discussion on the subject of abortion amendments, maybe more than one.

We had hoped that we would be able to reach a unanimous-consent agreement last week on considering both an abortion bill and an amendment and a constitutional amendment, but we were unable to reach that conclusion.

In that case, I think it clear that we are going to need lengthy discussion on this subject in an effort to attach these amendments to the debt ceiling.

So I wish to have a chance to read to the Senate the "History of Abortion in America" by Dr. James C. Mohr so that the Senate might be aware of what the situation was in this country

at the time of its founding and what the situation has been involving abortion from the time of the founding of this country until now.

In the absence of any legislation whatsoever on the subject of abortion in the United States in 1980, the legal status of the practice governed by the traditional British common law as interpreted by the local courts of the new American states. For centuries prior to 1800 the key to the common law's attitude toward abortion had been a phenomenon associated with normal gestation known as quickening. Quickening was the first perception of fetal movement by the pregnant woman herself. Quickening generally occurred near the midpoint of gestation, late in fourth or early in the fifth month, though it could and still does vary a good deal from one woman to another. The common law did not formally recognize the existence of a fetus in criminal cases until it had quickened. After quickening, the expulsion and destruction of a fetus without due cause was considered a crime, because the fetus itself had manifested some semblance of a separate existence: the ability to move. The crime was qualitatively different from the destruction of a human being, however, and punished less harshly. Before quickening, actions that had the effect of terminating what turned out to have been an early pregnancy were not considered criminal under the common law in effect in England and the United States in 1800.

Mr. President, let me read that sentence again.

Before quickening, actions that had the effect of terminating what turned out to have been an early pregnancy were not considered criminal under the common law in effect in England and the United States in 1800.

Both practical and moral arguments lay behind the quickening distinction. Practically, because no reliable tests for pregnancy existed in the early nineteenth century, quickening alone could confirm with absolute certainty that a woman really was pregnant. Prior to quickening, each of the telltale signs of pregnancy could, at least in theory, be explained in alternative ways by physicians of the day. Hence, either a doctor or a woman herself could take actions designed to restore menstrual flow after one or more missed periods on the assumption that something might be unnaturally "blocking" or "obstructing" her normal cycles, and if left untreated the obstruction would wreak real harm upon the woman. Medically, the procedures for removing a blockage were the same as those for inducing an early abortion. Not until the obstruction moved could either a physician or a woman, regardless of their suspicions, be completely certain that it was a "natural" blockage—a pregnancy—rather than a potentially dangerous situation. Morally, the question of whether or not a fetus was "alive" had been the subject of philosophical and religious debate among honest people for at least 5000 years. The quickening doctrine itself appears to have entered the British common law tradition by way of the tangled disputes of medieval theologians over whether or not an impregnated ovum possessed a soul. The upshot was that American women in 1800 were legally free to attempt to terminate a condition that might turn out to have been a pregnancy until the existence of that pregnancy was incontrovertibly confirmed by the perception of fetal movement.

Again, Mr. President, I shall read that sentence:

The upshot was that American women in 1800 were legally free to attempt to terminate a condition that might turn out to have been a pregnancy until the existence of that pregnancy was incontrovertibly confirmed by the perception of fetal movement.

An ability to suspend one's modern preconceptions and to accept the early nineteenth century on its own terms regarding the distinction between quick and unquick is absolutely crucial to an understanding of the evolution of abortion policy in the United States. However doubtful the notion appears to modern readers, the distinction was virtually universal in America during the early decades of the nineteenth century and accepted in good faith. Perhaps the strongest evidence of the tenacity and universality of the doctrine in the United States was the fact that American courts pointedly sustained the most lenient implications of the quickening doctrine even after the British themselves had abandoned them. In 1803 Parliament passed a law, the details of which will be discussed in the next chapter, that made abortion before quickening a criminal offense in England for the first time. But the common law in the United States, as legal scholars have pointed out, was becoming more flexible and more tolerant in the early decades of the nineteenth century, especially in sex-related areas, not more restrictive.

In 1812 the Massachusetts Supreme Court made clear the legal distance between the new British statute on abortion and American attitudes toward the practice. In October of that year the justices dismissed charges against a man named Isaiah Bangs not on the grounds that Bangs had not prepared and administered an abortifacient potion; he probably had. They freed Bangs because the indictment against him did not aver "that the woman was quick with child at the time." In Massachusetts, the court was asserting, an abortion early in pregnancy would remain beyond the scope of the law and not a crime. *Commonwealth v. Bangs* remained the ruling precedent in cases of abortion in the United States through the first half of the nineteenth century and, in most states, for some years beyond midcentury. Prosecutors took the precedent so much for granted that indictments for abortion prior to quickening were virtually never brought into American courts. Every time the issue arose prior to 1850, the same conclusion was sustained: the interruption of a suspected pregnancy prior to quickening was not a crime in itself.

Because women believed themselves to be carrying inert non-beings prior to quickening, a potential for life rather than life itself, and because the common law permitted them to attempt to rid themselves of suspected and unwanted pregnancies up to the point when the potential for life gave a sure sign that it was developing into something actually alive, some American women did practice abortion in the early decades of the nineteenth century. One piece of evidence for this conclusion was the ready access American women had to abortifacient information from 1800 onward. A chief source of such information was the home medical literature of the era.

Home medical manuals characteristically contained abortifacient information in two different sections. One listed in explicit detail a number of procedures that might release "obstructed menses" and the other identified a number of specific things to be avoided in a suspected pregnancy because they were thought to bring on abortion. Americans probably consulted William Buchan's "Domestic Medicine" more frequently than any other home medical guide during the first decades of the nineteenth century. Buchan suggested several courses of action designed to restore menstrual flow if a period was missed. These included bloodletting, bathing, iron and quinine concoctions, and if those failed, "a tea-spoonful of the tincture of black hellebore [a violent purgative] . . . twice a day in a cup of warm water." Four pages later he listed among "the common causes" of abortion "great evacuations [and] vomiting," exactly as would be produced by the treatment he urged for suppressed menses. Later in pregnancy a venturesome, or desperate, woman could try some of the other abortion inducers he ticked off: "violent exercise; raising great weights; reaching too high; jumping, or stepping from an eminence; strokes [strong blows] on the belly; [and] falls."

American women of the early nineteenth century who wanted more detailed information could consult books like Samuel K. Jennings' "The Married Lady's Companion." The Jennings volume, which billed itself in subtitle as a Poor Man's Friend, had its second printing in 1808 and was intended for women in rural areas, where there were no physicians, and for families unable to afford a doctor's fee. The book was remarkably straightforward about advising otherwise healthy girls afflicted with "what you call a common cold." "Taking the cold" was a common nineteenth-century euphemism for missing a menstrual period, and there can be no doubt that Jennings's italics sufficiently alerted his readers. Jennings favored bleeding from the foot, hot baths, and doses of calomel and aloes. Calomel was prescribed for almost anything in the early decades of the nineteenth century; aloes, another strong cathartic, remained a standard ingredient in abortifacient, preparations for the next hundred years.

Like most early abortion material, Buchan's and Jennings's advice harked back to almost primordial or instinctual methods of ending a pregnancy. Bloodletting, for example, was evidently thought to serve as a surrogate period; it was hoped that bleeding from any part of the body might have the same flushing effect upon the womb that menstrual bleeding was known to have. This primitive folk belief lingered long into the nineteenth century, well after bleeding was abandoned as medical therapy in other kinds of cases, and it was common for abortionists as late as the 1870s to pull a tooth as part of their routine. This procedure had been given learned sanction in 1808, when the first American edition of John Burns's classic "Observations on Abortion" appeared. Burns, a Glasgow medical professor whose volume remained a standard for half a century, was primarily concerned with spontaneous miscarriage rather than induced abortion, but twice in different contexts stated: "The pulling of a tooth . . . sometimes suddenly produces abortion." Aside from the pain and shock of an extraction without anesthetic, which probably could induce miscarriage in some women, the process must have been psychologically akin to pulling a plug for the patient. In later years it also offered the sophisticated abortionist a medical camouflage upon which he or she might blame possible postoperative complications. Similarly, bathing, though it may have had some abortive effect as a muscle relaxer and a source of in-

ternal infection, probably went back to primitive beliefs that the pregnancy could simply be washed away, physically expunged. Finally, Jennings's recommendations of calomel and aloes paralleled Buchan's reliance on black hellebore. These substances were ingested on the reasonably plausible theory that a sufficiently violent disruption of the lower digestive tract might cause the uterus to empty its contents also. This belief became the basis of a booming pharmaceutical business in abortifacient preparations, which will be discussed later in another context.

Joseph Brevitt's "The Female Medical Repository," which was published in Baltimore in 1810, made many of the same points that Buchan and Jennings made, but added some significant details. Brevitt liked hellebore and aloes, but he considered savin especially effective. Savin, as Brevitt's work reminded American women, had a tremendous advantage in the United States over hellebore or aloes because any woman could easily obtain some simply by extracting the oil from one of the common juniper bushes that grew wild all over North America. Both black hellebore and aloes, on the other hand, had to be imported and were, as a result, expensive. Reports of attempted abortion by ingesting savin, and of accidental death from savin overdoses, remained common throughout the nineteenth century. There can be little doubt that juniper extract was the single most commonly employed folk abortifacient in the United States during the early decades of the nineteenth century. Jalap, scammony, and bitter apple could also be tried in a pinch, according to "The Female Medical Repository." Brevitt asserted that the French preferred horehound, and he believed, wrongly, that madder root worked directly upon the muscles of the uterus itself. He cautioned against cantharides, or Spanish fly, because he considered it dangerous to the urinary tract, but the fact that he made such a warning suggests that at least some women were trying it for abortifacient purposes. "Electricity," he added, "generally and sometimes locally applied, has frequently been known to restore the discharge." This idea, too, was subsequently picked up by later nineteenth-century entrepreneurs, who developed a number of galvanic contraptions designed to aid women who were "obstructed."

After listing the usual "external causes" of abortions, which included riding, jumping, falls, and the like, Brevitt added an asterisk and a footnote that helped confirm further the fact that Americans from an early period were practicing abortion: "I feel constrained to note here, the horrid depravity of human weakness, in wretches lost to every sense of religion, morality, and that natural attachment from a mother to her offspring, and every tender tie in nature, seek the means to procure abortion: nor are there wanted, in the other sex, infernals wicked enough to aid their endeavors." Considering the detailed abortifacient information that Brevitt's own volume contained, that statement might appear singularly disingenuous. But it probably was not. In Brevitt's terms the word "abortion" implied the termination of a pregnancy after the pregnancy was certain, that is, after quickening. He was testifying that even illegal abortions were being performed in the United States in 1810, abortions after quickening, and that some physicians were willing to provide abortion services for women at virtually any stage of gestation. The procedures Brevitt counseled, even though they were designed to bring on what the twentieth century would call an abortion, were not considered criminally abortifacient either in Brevitt's terms or in the opinions of his readers, unless a woman persisted in them after she quickened.

The Virginian Thomas Ewell, a surgeon at Navy Hospital in Washington, D.C., was another who wrote forthrightly about unblocking obstructed menses in his "Letters to Ladies," published in 1817. Like many before him, he urged hot sitz baths, doses of aloes, and a number of straining exercises. Walking, horseback riding, and jumping, the more the better, all helped bring on abortion, he counseled, especially at the time menses would normally have occurred had the last period not been missed. Ewell, too, thought electricity through the thighs might end a suppression and that light bleeding could be beneficial. To those rather elemental staples, however, Ewell added some medically more advanced ideas including internal douching with strong brandy, water as hot as could be tolerated, vinegar, wine, or strong brine. Considering that the book appeared in 1817, this was reasonably sophisticated advice. Though Ewell could not have known anything about bacteria, each of the douches he recommended (assuming that the water was cooled from a boil) was fairly antiseptic. Moreover, he correctly speculated that the douches were not abortifacients themselves but provoked menstrual flow by causing cervical irritation, as in fact they might have done. If forced into the uterus itself after cervical dilation, which was something medical practitioners knew how to do, such solutions would almost certainly have been effective abortifacients and not prohibitively unsafe.

In addition to home medical guides and health manuals addressed to women, abortions and abortifacient information were also available in the United States from midwives and midwifery texts. Midwives had long enjoyed a dubious reputation as abortion procuresses both in England and in America. This led to difficult problems for male physicians like Valentine Seaman, who wanted to upgrade America's midwife corps. Seaman, who was physician to the lying-in (or maternity) ward of the New York City Almshouse and also associated with New York Hospital, taught midwifery. In his classes he had to instruct midwives on how to perform abortions in order that they might meet such crises as the death of a fetus in utero or an incomplete spontaneous abortion or a badly handled intentional abortion begun by someone else. But when he published his lectures in 1800, he was at considerable pains to point out that he cautioned new midwives against prescribing for obstructed menses on their own, lest they inadvertently become the dupes of women who already knew they were pregnant and wanted abortions. Again the caution suggests that some American women were approaching midwives for abortifacient services.

Herbal healers, the so-called Indian doctors, and various other irregular practitioners also helped spread abortifacient information in the United States during the early decades of the nineteenth century. Their surviving pamphlets, of which Peter Smith's 1813 brochure entitled "The Indian Doctor's Dispensary" is an example, contained abortifacient recipes that typically combined the better-known cathartics with native North American ingredients thought to have emmenagogic properties. For "obstructed menses" Smith recommended a concoction he called "Dr. Reeder's chalybeate." The key ingredients were myrrh and aloes, combined with liquor, sugar, vinegar, iron dust, ivy, and Virginia or seneca snakeroot. A sweet-and-sour cocktail like that may or may not have induced abortion, but must certainly have jolted the system of any woman who tried one.

The snakeroot to which Smith referred appears to have been another of the popular folk abortifacients used in the United States early in the nineteenth century. When Thomas Massie, a medical student at the University of Pennsylvania, wrote his 1803 doctoral dissertation on the properties of Polygala Senega, he quoted a letter from an eminent medical man in Harford County, Maryland, to the effect that seneca snakeroot was frequently used among the illiterate rural population of his area "intentionally to destroy the foetus in utero." Massie's thesis, subsequently selected for publication in 1806, put forward the likelihood that seneca acted directly upon the uterus itself, as he and Brevitt and others also believed madder did, and that regular physicians might administer it "with great advantage . . . to those labouring under obstructed catamenia." Thirty years later John B. Beck, by then the nation's leading authority on the medical jurisprudence of abortion, confirmed that seneca "has now been known and used in this country for a number of years, for the purpose of acting on the uterine organ, with a view of restoring menstrual secretion." Beck added along the same line that folk doctors also liked common North American black cohosh, sometimes called squawroot, for the same purpose. Native Indian women evidently employed an herbal brew of cohosh as an emmenagogue and, according to Beck, the same brew for the same purpose was "a good deal used by our American practitioners."

Finally, and most importantly, America's regular physicians, those who had formal medical training either in the United States or in Great Britain or had been apprenticed under a regular doctor, clearly possessed the physiological knowledge and the surgical techniques necessary to terminate a pregnancy by mechanical means. They knew that dilation of the cervix at virtually any stage of gestation would generally bring on uterine contractions that would in turn lead to the expulsion of the contents of the uterus. They knew that any irritation introduced into the uterus would have the same effect. They knew that rupturing the amniotic sac, especially in the middle and later months of pregnancy, would usually also induce contractions and expulsion, regardless of whether the fetus was viable. Indeed, they were taught in their lecture courses and in their textbooks various procedures much more complex than a simple abortion, such as in utero decapitation and fetal pulverization, processes they were instructed to employ in lieu of the even more horribly dangerous Caesarean section. Like the general public, they knew the drugs and herbs most commonly used as abortifacients and emmenagogues, and also like the general public, they believed such preparations to have been frequently effective.

Moreover, there is little reason to doubt that American physicians sometimes used their knowledge to terminate unwanted pregnancies for their patients. Walter Channing, who lectured on midwifery and the diseases of women and children at the Har-

vard Medical School during the 1820s, taught his students that pregnancy was impossible to diagnose with complete accuracy during the early months of gestation. Textbooks repeated the same dictum. Even John Beck, an opponent of induced abortions at any stage of gestation, had to assert unequivocally that pregnancy could not be legally determined beyond all doubt prior to quickening. As a medical student reminded himself in his lecture notebook very early in the nineteenth century: "When reliance can be put on the account of ye patient, there is no fear of confounding this disease [amenorrhea or blocked menstrual flow] with any o[ther]. [I]t is chiefly characterized by ye want of the menses at their usual period, but even when this is wanting, difficulties sometimes occur, [W]e cannot always determine the state of the patient, the Menses should be wanting during pregnancy, and those who want to conceal pregnancy often pretend that they are subject to a variety of symptons in consequence of the obstructed menses."

This placed great pressure on physicians to provide what amounted to abortion services early in pregnancy. An unmarried girl who feared herself pregnant, for example, could approach her family doctor and ask to be treated for menstrual blockage. If he hoped to retain the girl and her family as future patients, the physician would have little choice but to accept the girl's assessment of the situation, even if he suspected otherwise. He realized that every member of his profession would testify to the fact that he had no totally reliable means of distinguishing between an early pregnancy, on the one hand, and the amenorrhea that the girl claimed, on the other. Consequently, he treated for obstruction, which involved exactly the same procedures he would have used to induce an early abortion, and wittingly or unwittingly terminated the pregnancy. Regular physicians were also asked to bring to a safe conclusion abortions that irregulars or women themselves had initiated. "The Medical Recorder" of Philadelphia detailed exactly such a case in 1825 and the regular who was called upon, despite some moral qualms, considered it his duty to finish the job for the young woman involved. And through all of this the physician might bear in mind that he could never be held legally guilty of wrongdoing. No statutes existed anywhere in the United States on the subject of abortion, and the common law, as reaffirmed in America in the Bangs case, considered abortion actionable only after a pregnancy had quickened. No wonder then that Heber C. Kimball, recalling his courtship with a woman he married in 1822, claimed that she had been "taught . . . in our young days, when she got into the family way, to send for a doctor and get rid of the child"; a course that she followed.

In summary, then, the practice of aborting unwanted pregnancies was, if not common, almost certainly not rare in the United States during the first decades of the nineteenth century. A knowledge of various drugs, potions, and techniques was available from home medical guides, from health books for women, from midwives and irregular practitioners, and from trained physicians. Substantial evidence suggests that many American women sought abortions, tried the standard techniques of the day, and no doubt succeeded some proportion of the time in terminating unwanted pregnancies. Moreover, this practice was neither morally nor legally wrong in the eyes of the vast majority of Americans, provided it was accomplished before quickening.

The actual number of abortions in the United States prior to the advent of any statutes regulating its practice simply cannot be known. But an equally significant piece of information about those abortions can be gleaned from the historical record. It concerns the women who were having them. Virtually every observer through the middle of the 1830s believed that an overwhelming percentage of the American women who sought and succeeded in having abortions did so because they feared the social consequences of an illegitimate pregnancy, not because they wanted to limit their fertility per se. The doctor who uncovered the use of snakeroot as an abortifacient, for example, related that in all of the many instances he heard about "it was taken by women who had indulged in illegitimate love." Beck realized in the early 1820s that abortion was "sometimes . . . even employed by married women, to obviate," he thought, "a repetition of peculiarly severe labour-pains." But he believed as a general rule that "the practice of causing abortion was resorted to by unmarried females, who through imprudence or misfortune, have become pregnant, to avoid disgrace which would attach to them from having a living child." The important early court cases all involved single women trying to terminate illegitimate pregnancies. As late as 1834 it was axiomatic to a medical student at the University of Maryland, who wrote his dissertation on spontaneous abortion, that women who feigned dysmenorrhea in order to obtain abortions from physicians were women who had been involved in illicit intercourse. Cases reported in medical journals prior to 1840 confirmed the same perception.

In short, abortion was not thought to be a means of family limitation in the United States, at least on any significant scale, through the first third of the nineteenth century. This was hardly surprising in a largely rural and essentially preindustrial society, whose birthrates were exceeding any ever recorded in a European nation. One could, along with medical student Massie, be less than enthusiastic about such an "unnatural" practice as abortion, yet tolerate it as the "recourse . . . of the victim of passion . . . the child of nature" who was driven by "an unrelenting world" unable to forgive any "deviation from what they have termed virtue." Consequently, Americans in the early nineteenth century could and did look the other way when they encountered abortion. Nothing in their medical knowledge or in the rulings of their courts compelled them to do otherwise, and, as Massie indicated, there was considerable compassion for the women involved. It would be nearly midcentury before the perception of who was having abortions for what reasons would begin to shift in the United States, and the shift would prove to be one of the critical developments in the evolution of American abortion policy.

A final point remains to be made about abortion in the United States during the first decades of the nineteenth century. Most observers appeared to consider it relatively safe, at least by the medical standards of the day, rather than extremely dangerous. Burns, the acknowledged international expert, thought the use of violent purgatives as abortifacients very dangerous to the mother and largely ineffective, and this fairly accurate medical opinion would directly influence the earliest abortion statutes both in England and the United States. But Burns described extensively many of the complications that could occur in a spontaneous abortion and made even the worst of them sound manageable. A physically produced abortion handled by a competent physician was not a fearsome process as described by Burns. Samuel Jennings quoted Dr. Denman, one of the leading obstetrical writers of the day, to reassure his readers: "In abortions, dreadful and alarming as they are sometimes, it is great comfort to know that they are almost universally void of danger either from the hemorrhage, or on any other account." Again the context was spontaneous rather than induced abortion, but in a book with such explicit suggestions for relieving the common cold, women could easily conclude that the health risks involved in bringing on an abortion were relatively low, or at least not much worse than childbirth itself in 1808, when Jennings wrote his book. Valentine Seaman advised his midwifery classes that the dangers of abortion were proportional to the stage of gestation at which it occurred; the earlier it came on, the safer it would be. This too must have reassured women who decided to risk an abortion before quickening. According to the lecture notes of one of his best students, Walter Channing told his Harvard classes that abortion could be troublesome when produced by external blows, because severe internal hemorrhage would be likely, but that generally considered, "abortion [was] not so dangerous as commonly supposed."

The significance of these opinions lay less in whether or not they were accurate than in the fact that writers on abortion, including physicians saw no reason to stress the dangers attendant to the process. Far from it. They were skeptical about poisons and purgatives, but appear to have assessed physically induced abortions as medically acceptable risks by the standards of the day, especially if brought on during the period of pregnancy when both popular belief and the public courts condoned them anyhow. Here again was a significant early perception that would later change. That change, like the shift in the perception of who was having abortions for what purposes, would also have an impact on the evolution of American abortion policy.

Mr. BAUCUS. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I am happy to yield for a question without losing my right to the floor.

Mr. BAUCUS. Mr. President, as the Senator from Oregon well knows, one of the very basic questions facing us here today, unlike the question that underlies this very basic issue, is the degree by which Congress, by statute, can overrule decisions of the U.S. Supreme Court.

I have before me some excerpts of testimony of various constitutional scholars to the Separation of Powers Subcommittee on this issue. I would like to read some excerpts from that hearing and ask the Senator from Oregon in his view whether he agrees with the views of these constitutional scholars.

I will begin first with Prof. Charles Alan Wright. He stated in a letter to

the Separation of Powers Subcommittee as follows:

. . . I find Roe unpersuasive. Nevertheless, Roe exists, it has been repeatedly reaffirmed and even extended, and I do not think Congress has authority by statute to overrule a Constitutional decision of the Supreme Court. Whatever the arguments might have been if the matter were one of first impression, we have long since accepted the notion that "it is emphatically the province and duty of the Judicial Department to say what the law is" (*Marbury* v. *Madison*), that the duty is now more specifically that of "this court" (*United States* v. *Nixon*), and that "the federal judiciary is supreme in the exposition of the law of the Constitution . . ." (*Cooper* v. *Aaron.*)

That is Prof. Charles Alan Wright in his testimony before our subcommittee.

To further state from Prof. Philip Kurland, he wrote to the subcommittee:

The question is not whether the Supreme Court decisions are sound or unsound. The question is what is the meaning of the word "person" in the due process clauses of the 5th and 14th Amendments. The Supreme Court has decided that a fetus is not a "person" within the meaning of those provisions. If that Constitutional determination is to be overruled, it can be done only by the Supreme Court or by Constitutional Amendment.

I quote further from former Solicitor Erwin Griswold, who wrote to our subcommittee on this very same point; that is, the degree to which Congress can, by statute, overturn a decision of the Supreme Court:

For the Congress to undertake to interfere with that decision, even under Section V of the 14th Amendment, would, in my view, be an inappropriate legislative interference with the judicial power, and thus a violation of the separation of powers, which is one of the two major premises of the United States Constitution—the other being the appropriate division of powers between the states and the federal government.

I further point out to the Senator from Oregon, as he ponders his answer to the basic question here, a statement by former Solicitor General Archibald Cox, who also told the subcommittee as follows:

Over the years, a few decisions have proved clearly wrong headed, and perhaps *Roe* v. *Wade* is such a case. I, myself, wrote critically of *Roe* v. *Wade* a little while after the decision came down.

But wrong headed decisions can be changed by time and debate or by Constitutional amendments. But the very function of the Constitution and Court is to put individual liberties beyond the reach of both Congressional majorities and popular clamor. Any principle which permits Congress, with the approval of the President, to nullify one Constitutional right protected by the Constitution, as interpreted by the Court—that principle would sanction the nullification of others, and that is why I say that the principle of the "human life statute" is exceedingly dangerous, and I can only call it radical.

Finally, former Solicitor General Robert Bork told the subcommittee on the same basic question:

The question to be answered in assessing the "human life statute" is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformation. Only if we are prepared to say that the Court has become intolerable in a fundamentally Democratic society and that there is no prospect whatever for getting it to behave properly, should we adopt a principle which contains within it the seeds of the destruction of the court's entire Constitutional role. I do not think we are at that stage.

Finally, let me quote from a statement signed by six former Attorneys General—Attorneys General Brownell, Katzenbach, Clark, Richardson, Saxbe, and Civiletti. It is very short and I ask the Senator to tell whether he agrees with the statement of these six former Attorneys General as well as other constitutional scholars.

Our views abut the correctness of the Supreme Court's 1973 abortion decision vary widely, but all of us are agreed that Congress has no Constitutional authority . . . to overturn that decision by enacting a statute redefining such terms as "person" or "human life," . . .

We thus regard (such provisions) as an attempt to exercise unconstitutional power and a dangerous circumvention of the avenues that the Constitution itself provides for reversing Supreme Court interpretations of the Constitution.

My question to the Senator from Oregon is the degree to which he agrees with the basic point of these distinguished Americans—that is, that it is improper to overturn Supreme Court decisions by statute.

Mr. HELMS. Mr. President, I call for regular order.

Mr. PACKWOOD. I agree totally with the——

Mr. HELMS. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon has the floor and he yielded for a question. Now the Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, I appreciate very much the question of the Senator from Montana. I find the question very pertinent.

The consequences of a decision by the Supreme Court to uphold the Congress power to enact this amendment would be disastrous for our system of government as we now know it. If Congress can alter the Court's ruling on a constitutional term as basic as the interpretation of "person" under the 14th amendment, then there is virtually no constitutional protection that Congress could not dilute or eliminate by simple majority vote.

Additionally, if Congress can find today by statute that life begins at conception, then a future Congress can alter or reverse that result. This approach envisions a system of government where constitutional protections are more transitory or illusory than they are today. The basic terms of the Constitution are left to be determined by the shifting majorities in Congress.

It is for these basic reasons that most of the country's leading scholars and those who have served the Nation as the highest ranking legal officers have publicly announced their view that the human life statute is unconstitutional. It is highly unusual to find agreement among six former Attorneys General, three former Solicitors General, and the Nation's most distinghuished constitutional scholars on such a controversial issue.

Mr. President, again, I thank my distinguished colleague from Montana for asking that question. Now I would like to go into chapter two of the book "Abortion in America." That chapter is entitled, "The First Wave of Abortion Legislation 1821–1841."

The earliest laws that dealt specifically with the legal status of abortion in the United States were inserted into American criminal codebooks between 1821 and 1841. Ten states and one federal territory during that period enacted legislation that for the first time made certain kinds of abortions explicit statute offenses rather than leaving the common law to deal with them. The nature of that early legislation, the probable reasons for its appearance, the significance of the procedures by which most of those first statutes were passed, and the way that those earliest laws reflected the circumstances described in the preceding chapter are the chief burdens of this chapter.

At their May session in 1821 members of the general assembly of Connecticut passed a revised "Crimes and Punishments" law. Zephaniah Swift, Lemuel Whitman, and Thomas Day, the three legal scholars who drafted that omnibus act at the legislature's request, had placed between section 13, "intent to kill or rob," and section 15, "secret delivery of a bastard child," a section 14, part of which was without precedent in the United States:

"Every person who shall, wilfully and maliciously, administer to, or cause to be administered to, or taken by, any person or persons, any deadly poison, or other noxious and destructive substance, with an intention him, her, or them, thereby to murder, or thereby to cause or procure the miscarriage of any woman, then being quick with child, and shall be thereof duly convicted, shall suffer imprisonment, in newgate prison, during his natural life, or for such other term as the court having cognizance of the offence shall determine."

The part of section 14 that was new was the miscarriage clause, for this was the first time that an American legislature had addressed the question of abortion in statute form. Though the law was imperfectly drafted, it is worth analyzing in some detail not only because it was the first measure of its kind, but because many of its essential features would recur shortly in the other thirteen statutes that collectively made up the first stage in the evolution of American abortion policy during the period between 1821 and 1841.

First, the law was primarily concerned with attempted murder by poisoning. Indeed, it might best be characterized as a poison control measure. The revisers, however, were evidently upset not only about the administration of obvious poisons with

murderous intent, but also about the potential dangers of the violent purgatives and pernicious herbal extracts then being recommended in the United States as abortifacients. In their miscarriage clause the revisers followed the English-speaking world's leading authority on the subject, John Burns. In the American edition of his book on abortion, Burns had held: "It cannot be too generally known, that when these medicines [violent purges and the like] do produce abortion, the mother can seldom survive, their effects." If the best available evidence suggested that the use of hellebore, for example, which was known to be fatal in large doses, was as likely to end a woman's life as it was to end her pregnancy, then the public should be apprised of that fact and forced to modify its traditional practices for its own good. It must be stressed in this context that section 14 did not proscribe abortion per se; it declared illegal one particular method of attempting to induce an abortion because that method was considered prohibitively unsafe owing to the threat of death by poisoning. Abortions by mechanical or surgical methods were not affected by this law. Moreover, and this too is worth careful note, the law did not make the woman herself guilty of anything, but rather the "person" who caused the poison "to be administered." It is likely, in other words, that the abortion clause in section 14, the nation's first, was aimed primarily at apothecaries and physicians, who the state could presume should know better than to seek profit by selling preparations that were only marginally effective as abortifacients, but demonstrably dangerous as poisons.

Second, section 14 explicitly accepted the quickening doctrine, even though that doctrine weakened the measure as a poison control statute. A person could only be convicted under this law if the poison was administered to a woman "quick with child." Prior to quickening there continued to be no crime. Phrased differently, the revisers of 1821 chose to preserve for Connecticut women their long-standing common law right to attempt to rid themselves of a suspected pregnancy they did not want before the pregnancy confirmed itself, even though they risked poisoning themselves in the process. In this respect the law testified eloquently to how deeply committed Americans of the early nineteenth century were to the quickening doctrine, to what they considered to be the commonsensical distinction between a living fetus, on the one hand, which had taken on at least one of the manifestations of separate existence, motion, and an inanimate embryo, on the other hand, the very existence of which, paradoxically, could only be proved with complete certainty after it had been aborted.

Third, while no other American jurisdiction had passed any statute dealing specifically with abortion, there did exist one British precedent on the subject. Because the precedent was frequently mentioned in American courts, Connecticut's revisers were doubtless aware of it. Yet the ways in which the revision of 1821 failed to follow that precedent are as instructive as the ways in which they tried to copy it. The law in question was known as Lord Ellenborough's Act, after the chief justice of England who had been influential in its passage in 1803. That year Ellenborough, who was an extreme conservative and upset at the steady liberalization of British criminal law, evidently cast about for as many new capital felonies as he thought he could reasonably create and lumped them together, ten in all, into an omnibus crime bill. Parliamentary debates indicates that the two sections of greatest importance to British lawmakers in Ellenborough's package dealt with capital cases of assault and with a quaint Irish custom of burning one's own house to defraud the London insurance companies. But Ellenborough had also made attempted murder by poisoning a hanging offense and, as a sort of rider to that section, he made attempts to produce abortion by the use of poisons after quickening another new capital felony as well. Almost as if to justify capital punishment for the latter crime, he declared attempts to produce abortion by any method before quickening transportable offenses (convicted offenders would be deported to a penal colony), thereby making illegal in Great Britain in 1803 a practice that Americans would refuse to outlaw for half a century.

As a special committee later reported to the House of Commons, Ellenborough's abortion clauses were very badly drafted. The new offense of abortion prior to quickening included all types of abortions, those involving poisons as well as those involving instruments, while the capital offense of abortion after quickening was worded to include only the use of poisons. No reference was made to other methods. It appears that the Connecticut revisers shared Ellenborough's concern for poisoning, including abortion-related poisoning, but not his concern for abortion per se as a possible offense. They used the more restrictive of his two clauses, the one that referred only to abortion after quickening and only to abortion by the use of poisons, and pointedly refused to follow his precedent on outlawing attempted abortions before quickening. Moreover, the American statute was carefully drafted to retain the woman's own immunity from prosecution; the British law was much more ambiguous on that subject, and as a result women were tried and convicted in England under Ellenborough's Act for self-abortions. Put somewhat differently, America's first anti-abortion law, ironically enough, does not appear to have been greatly opposed to abortion itself. Explicit British precedent on the subject was deliberately modified to suit Connecticut's circumstances and to conform to a strong public consensus on the American side of the Atlantic.

In 1828 the so-called Lord Lansdowne's Act eliminated the inconsistencies in Ellenborough's statute, not by eliminating instrumental abortion before quickening as an offense but by making instrumental abortion after quickening a crime equal to the use of poisons after quickening. This confirmed what would continue to be the English govenment's official attitude toward abortion for over a century thereafter: abortion itself, not just its more dangerous aspects, would be proscribed. Two years later Connecticut's legislators likewise revised their state's criminal codes by enacting another massive omnibus bill. One of that law's 157 sections also made abortion by the use of instruments after quickening a crime equal to the use of poisons after quickening. The revisers of 1830 realized that they were making a change of substance rather than a technical adjustment. The penalty for the offense of attempting an abortion after quickening, now that it is more clearly distinguished from the threat of death by poisoning, was set at seven to ten years' imprisonment, rather than up to life as in the old statute. Though qualitatively different from the various degrees of homicide, and punished less severely than any of them, the attempt to terminate a pregnancy by any means after quickening would henceforth be a statute crime in Connecticut.

On the one hand, this 1830 law followed the Lansdowne precedent of outlawing all kinds of abortion after quickening. On the other, it again rejected the British precedent of punishing attempts to abort before quickening. The latter would remain legal regardless of what method the would-be abortionist decided to try. By 1830, in other words, the first state to move into the realms of abortion legislation in the United States had enshrined in its criminal code no more than a written version of the traditional common law doctrines on abortion that had been sustained by the Massachusetts Supreme Court in 1812. And in a sense, Connecticut's early laws might be viewed as pro-abortion laws rather than anti-abortion laws, since Connecticut's reaffirmation of the common law attitude toward abortion was taken in the face of British precedents that had abandoned that position in favor of a more restrictive one.

In the interval between Connecticut's first two abortion laws three other states—Missouri in 1825, Illinois in 1827, and New York in 1828—also passed laws that dealt specifically with abortion. Both the Missouri law and the Illinois law followed Connecticut's 1821 statute closely and, like that Connecticut law, they were as much poison control measures as anti-abortion measures. Unlike the Connecticut law, however, neither the Missouri law not the Illinois law made any explicit reference to the quickening doctrine; they appeared to make the administration of poisonous substances with the intent to induce abortion illegal at any stage of gestation. Yet in practice, indictments could not be brought under these laws before quickening because intent had to be proved and the only way that intent could be proved was to demonstrate that the person who administered the poison could have known beyond any doubt that the woman was pregnant. Thus, the omission of explicit reference to quickening in these two early laws probably reflected the fact that the quickening distinction was taken completely for granted rather than any effort to eliminate it. Neither state mentioned instrumental abortions, though Missouri moved to proscribe those as well in 1835. Illinios, on the other hand, did not add instrumental abortion to its code as a statute crime until 1867, when, as will become apparent, very different circumstances prevailed in the United States. The law passed in New York was more complex than those enacted in Missouri and Illinois. Because a good deal is known about the origins of New York's 1828 abortion legislation and because it was fairly widely copied by other states in later decades, it too is worth examining in some detail.

The New York criminal code that was drafted and passed in 1828, was published in 1829, and went into effect January 1, 1830, addressed abortion in three separate clauses. Two of them had the cumulative effect of banning abortion by any means after quickening. Under them an early abortion would remain legal, the death of "an unborn quick child" was second-degree manslaughter, and the "person" who performed the abortion was criminally liable, not the woman herself. Moreover, either the woman or the fetus had to die in order for the crime to exist. An unsuccessful abortion,

provided the woman was not injured in the process, was not punishable under either of these two clauses. Thus New York, like Connecticut, seemed to be writing the common law into its criminal code.

Section 21 of Title VI, Chapter I, Part IV, the third section of the new code to deal with abortion, appeared twenty-eight pages away from the two clauses just referred to. It read in full:

"Every person who shall willfully administer to any pregnant woman, any medicine, drug, substance or thing whatever, or shall use or employ any instrument or other means whatever, with intent thereby to procure the miscarriage of any such woman, unless the same shall have been necessary to preserve the life of such woman, or shall have been advised by two physicians to be necessary for that purpose; shall, upon conviction, be punished by imprisonment in a county jail no more than one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment."

Section 21 was an important law in historical context. It was the first American statute to follow Ellenborough's proscriptive language, a precedent lawmakers in the United States had studiously avoided following for a quarter of a century. It was also the first abortion-related statute to make explicit what was known in legal terms as a "therapeutic exception." The conjunction of these two firsts was more than merely coincidental, and the available evidence about the probable origins of this 1828 enactment throws bright light on the kinds of pressures that led to the nation's earliest statutory abortion policies.

Fortunately for historians, the notes of the commission that revised New York's criminal code in 1828 have survived. Cyril C. Means, Jr., who brought the significance of those notes to the attention of legal scholars in 1968, argued persuasively that New York's lawmakers had been more concerned with protecting their state's women from dangerous medical and quasi-medical treatments than with outlawing or ending the practice of abortion itself. His strongest piece of evidence was the revisers' note to a section of this same title that the legislature subsequently struck from the bill before passing the new code. The unenacted section would have made guilty of a misdemeanor "every person who shall perform any surgical operation, by which human life shall be destroyed or endangered, such as the amputation of a limb, or of the breast, trepanning, cutting for the stone, or for *hernia*, unless it appear that the same was necessary for the preservation of life, or was advised, by at least two physicans." The revisers appended to this proposed section the following note of explanation:

"The rashness of many young practitioners in performing the most important surgical operations for the mere purpose of distinguishing themselves, has been a subject of much complaint, and we are advised by old and experienced surgeons, that the loss of life occasioned by the practice, is alarming. The above section furnishes the means of indemnity, by a consultation, or leaves the propriety of the operation to be determined by the testimony of competent men. This offence is not included among the malpractices in manslaughter, because, there may be cases in which the severest punishments ought not to be inflicted. By making it a misdemeanor, and leaving the punishment discretionary, a just medium seems to be preserved."

This "remarkable disquisition," as Means puts it, indicated that the revisers were concerned about operations generally, rather than abortions exclusively. In other words, major surgery itself was very dangerous, and the state should permit it to be gambled upon only when the patient would actually die without it. If all physicians were cautious, such a law would be unnecessary. But some evidently were not, and the revisers thought it best to force the most unscrupulously ambitious practitioners to gain the consent of at least two of their would-be competitors, presumably the "old and experienced" ones, before proceeding. Means argued that this same assumption also underlay section 21 of the code of 1828, which helps explain why the therapeutic exception was inserted there as well. Had the revisers known about any perfectly safe methods of abortion, according to Mean's reasoning, they would have permitted those methods to remain legal operations, at least prior to quickening.

Means, who was openly trying in 1968 to build a case upon which New York state courts might invalidate anti-abortion legislation on the grounds that twentieth-century medicine had rendered an abortion every bit as safe or safer than a full-term delivery, was less than convincing on several points. First, he hung a great deal of his interpretation upon the fact that the New York revisers were the first lawmakers anywhere in the English-speaking world to include a therapeutic exception in an abortion statute. This action ultimately demonstrated, for Means, the crucial connection that he posited between the revisers' underlying motives in section 21 and the argument they made on behalf of the unpassed surgical section. He does not make much of the fact, however, that therapeutic exceptions had been implicit in previous abortion laws, including Ellenborough's own, and hence it seems more difficult to argue that its inclusion in New York's law of 1828 fundamentally distinguished the rationale of that act from the rationale of any other. The sacrifice of an unborn child in order to save the life of the mother, even during the process of delivery, had been legally and medically acceptable both in England and in the United States at least since 1756, when a London medical convocation on the problem decided it was justifiable. Certainly this was the reason why Channing could lecture at Harvard on methods of in utero craniotomy and the like.

Second, the revisers did, after all, separate abortion from other forms of surgery. This not only set up the possibility that the abortion section would pass whether the more controversial surgical section passed or failed, which is of course what happened, but also implied that abortion as an operation was qualitatively different in degree of danger from attempts to repair a hernia, an amputation, or a mastectomy. It was logically necessary to Means's argument to allege that abortion at any stage in pregnancy in 1828 had to be, or at least could be made to seem, substantially more dangerous than childbirth. Means asserted that this was the case due to the twin threats of shock and infection, which could not have been seriously reduced prior to the successful use of anesthetics in the late 1840s and the introduction of antiseptic theory in this country in the late 1860s. Only at some point between 1867 and 1950, Means surmised, though he did not know when during that long period, could properly performed abortions have become no more dangerous to the mother than childbirth itself in the United States.

This argument is open to serious question. Childbirth was just as subject to shock and infection as abortion until the dates Means cites, and it is difficult to imagine that the deathrate from abortions in 1828 substantially exceeded the deathrate from childbirth, especially since contemporary writers did not stress the great dangers of an abortion induced by mechanical means. Quite the contrary; they were much more likely to bemoan the ease and impunity with which irregular practitioners, greedy physicians, and folk women themselves were able to induce abortion. It seems entirely logical, in fact, that the revisers of 1828 separated abortion from operations like hernia repair, amputation, and mastectomy because Americans would not have considered abortion an operation comparable to any of those either in medical difficulty or in inherent danger. The revisers might have reasoned, in other words, that abortion was minor surgery at worst and would not have been covered under their proposed section regulating major surgery. Hence, if the revisers wanted to restrict abortion, they would have to single it out by itself, which was what they did.

Notwithstanding these questions about some of Means's specific arguments, however, the basic insight that emerges from his discussion seems undeniably on the mark: the evolution of abortion policy in the United States was inextricably bound up with the history of medicine and medical practice in America, and would remain so through the rest of the nineteenth century. Other considerations would begin to enter in, but the fundamental outlines of abortion policy would continue to be hammered out primarily within the context of medical regulation, a subject which became an enormous headache for American state legislators. Even though they were ill-equipped to face the issue, state legislators found themselves deeply embroiled in the question of who should be allowed to do what to whom in the name of medicine. During the middle decades of the nineteenth century, legislators felt a special obligation to protect the public from an occupational group that was, at least collectively, reaching something of a nadir. By the late 1820s physicians, with a good deal of justification, were viewed by many Americans as menaces to their society. And it was in this context, as Means suggested, that the origins of America's abortion policies make the most sense; not in a context of metaphysical debates, demographic trends, or public opinions.

In order to understand what had happened to the practice of medicine in the United States by the late 1820s, a slight digression might be helpful. Physicians had enjoyed elite status in America through the seventeenth and eighteenth centuries. They were generally learned men from families of solid social standing and they were looked up to in the colonies of North America. But the established physicians of the colonial period as a group ultimately lacked a basis upon which to solidify their elite status, because they really could not do what they claimed they could do. They could not cope very well with the common human diseases of the day.

During the first four decades of the nineteenth century, a large number of people came forward to try to fill the gap. They were encouraged to compete in the medical field by the inherent weakness of the older practitioners, by the lack of anything blocking access to the field, such as licensing laws, and by a general democratization of the professions that took place during that period in American history. Most of these

newcomers lacked formal training altogether or were trained in medical systems at variance with previously accepted doctrines. As early as 1800, for example, two-thirds of the people who made their livings as physicians in the city of Philadelphia were neither members of the local College of Physicians nor graduates of any medical school of any kind. And this was in a major eastern city with a strong tradition of learned medicine established by the likes of Benjamin Rush and Benjamin Franklin. Moreover, the best-educated and most-established physicians in Philadelphia were but provincial practitioners by European standards. Out in the American countryside, where learned physicians had been largely absent from the time of settlement, countless numbers of self-taught lay healers and part-time folk doctors dispensed medicines of all kinds and performed simple surgery.

Even among physicians who held a medical degree, standards of competence varied enormously. Twentieth-century Americans are familiar with educationally rigorous medical schools that enforce almost impossibly difficult standards for admission and train some of society's brightest young men and women in the intricacies of modern medicine. But it would be a great mistake to project such an image backwards into the early nineteenth century. Prior to the Civil War most American medical schools were run as private businesses and competed for paying customers. Few applicants were denied admission and no professor wanted to drive away—by enforcing high standards—the people who literally paid his salary. Many medical schools were out and out degree mills, where tuition dollars virtually bought a medical diploma. No wonder, then, that empirical medicine, using the term objectively rather than pejoratively, remained so strong among the American people at least through the middle of the nineteenth century.

Among those most deeply troubled by the state of medical practice in America during the first half of the nineteenth century were those physicians dedicated to the principles of what later became scientific medicine. These doctors, known collectively as the "regulars," tended to be graduates of the country's better medical schools or to follow the lead of those who were. As a group they believed in the long-term efficacy of such principles as rational research and cooperative intercommunication. The regulars organized and maintained state and local medical societies, published learned journals, and tried to encourage high educational standards among the nation's medical schools. If the regulars realized that their own commitment to scientific education and rational research had not yet paid the kind of dividends that they were looking forward to for themselves and for their patients, they also recognized that most of the alternative approaches to medicine then competing with theirs for the patronage of the American people were patently absurd. Consequently, the regulars bitterly opposed what they regarded as quack theories, though in truth many of the irregulars advocated courses of treatment less detrimental to health than the regulars' own.

There was more at stake for regulars, however, than matters of principle and questions of theory, important as they were. The unrestricted entry of irregulars into the medical field, particularly between 1820 and 1850, also produced an intense competition for paying patients that hurt the regulars badly. As Edward C. Atwater made clear in a fine study of this phenomenon in a single small city, Rochester, New York, the problem was very real. Doctors' incomes fell sharply and regular physicians were being driven not only from high social status, but out of the profession itself.

In the face of such crises many regular physicians in the United States decided to try to defend both their medical theories and their material livelihoods in the best way they could: through the state legislatures. The regulars perceived that their education credentials, their persuasive powers, and their generally well-established social backgrounds would, in the long run, give them something of an advantage over their rivals in those public forums. Their ongoing and ultimately successful efforts to influence medical-related legislation of all kinds became crucial to the evolution of abortion policy at the state level because, unlike most of their irregular rivals and unlike a majority of the American people, regular physicians opposed abortion not only after quickening but before quickening as well.

The regulars' opposition to abortion was partly ideological, partly scientific, partly moral, and partly practical. Ideologically, one of the things that distinguished the regulars was their adherence to the Hippocratic Oath, and the Hippocratic Oath condemned abortion. In this respect the father of medicine had also held a distinctly minority view in his own society; both Plato and Aristotle, for example, condoned the practice. Yet Hippocrate's creed had become one of the touchstones of regular medicine in the United States by the early nineteenth century, and the oath was considered the basic platform upon which the regulars were attempting to upgrade the ethical standards of their profession in a host of different areas, not just in regard to abortion. Since opposition to abortion was in that creed, the regulars tried to stick by it. In one of the earliest cases of ethical self-regulation in the United States, the Oneida County (New York) Medical Society expelled an unwanted member in 1834 on the official pretext that he had performed an abortion.

Scientifically, regulars had realized for some time that conception inaugurated a more or less continuous process of development, which would produce a new human being if uninterrupted. Consequently, they attacked the quickening doctrine on the logical grounds that quickening was a step neither more nor less crucial in the process of gestation than any other. John Beck, for example, in his long-standard 1823 discussion of abortion from the standpoint of medical jurisprudence, put forward two different theories to explain the physiology of quickening in an effort to lessen its importance, though he admitted that the continued viability of that doctrine had a "direct tendency . . . to countenance . . . abortion, at least in the earlier stages of pregnancy." Before Beck, Burns, too, had denied that there was anything physiologically special about quickening, and had opposed any attempt to "prevent life from continuing, until it arrive at perfection" once conception had taken place.

From this scientific reasoning stemmed the regulars' moral opposition to abortion at any stage in gestation. If society considered it unjustifiable to terminate a pregnancy after the fetus had quickened, and if quickening was a relatively unimportant, almost incidental step in the overall gestation process, then it was just as wrong to terminate a pregnancy before quickening as after quickening. Regulars believed it immoral, in other words, to make a life or death decision on the basis of a distinction that they could demonstrate to have very little relation to life or death.

There was more to the physicians' moral opposition to abortion than scientific logic, however, for another dimension also emerged forcefully from their writings throughout the nineteenth century. The nation's regular doctors, probably more than any other identifiable group in American society during the nineteenth century, including the clergy, defended the value of human life per se as an absolute. Scholars interested in the medical mentality of the nineteenth century will have to explain the reasons for this ideological position. It may have been related to the physicians' role as social and intellectual modernizers in a world that still took largely for granted the assumption that a widespread and routine destruction of life was part of the human condition; it may have been related to the fact that physicians tended to be men who wished to find secular absolutes to replace spiritual ones; it may have been related to the physicians' psychological commitment as ministers and defenders of life against the forces seen and unseen trying to snuff it out; or it may have been related to factors that historians simply do not yet fully understood. But whatever the reasons, regular physicians felt very strongly indeed on the issue of protecting human life. And once they had decided that human life was present to some extent in a newly fertilized ovum, however limited that extent might be, they became the fierce opponents of any attack upon it.

Practically, the regular physicians saw in abortion a medical procedure that not only gave the competition an edge but also undermined the solidarity of their own regular ranks. If a regular doctor refused to perform an abortion, he knew the woman could go to one of several types of irregulars and probably receive one. And, as the regulars themselves pointed out, it was not so much the short-term loss of a fee for the abortion that upset them, but the prospects of a long-term loss of patients. As more and more irregulars began to advertise abortion services openly, especially after 1840, regular physicians grew more and more nervous about losing their practices to healers who would provide a service that more and more American women after 1840 began to want. Yet, if a regular gave in to the temptation to perform an occasional discreet abortion, and physicians testified repeatedly that this frequently happened among the regulars, he would be compromising his own commitment to an American medical practice that would conform to Hippocratic standards of behavior. The best way out of these dilemmas was to persuade state legislators to make abortion a criminal offense. Anti-abortion laws would weaken the appeal of the competition and take the pressure off the more marginal members of the regulars' own sect. For all of these reasons, regular physicians became interested in abortion policy from an early date and repeatedly dragged it into their prolonged struggle to control the practice of medicine in the United States. At times abortion policy became a focal point in that struggle, at times an incidentally affected byproduct, but the struggle itself was always there in the background.

Consider the situation in New York once again in this context. The regular physicians there, by controlling through the

speaker of the assembly all appointments to the standing committee on medical practice, had pushed through the legislature in 1827 the toughest medical regulation law the state had ever had, tougher than the so-called Anti-Quack Act of 1819. The 1827 law granted great power to the regular physicians, who were organized as the state medical society, by declaring the unauthorized practice of medicine a misdemeanor. There is every reason to believe that these regulars, who were still influential in Albany the following year, were the "old and experienced surgeons" to whom the revisers of 1828 said they listened when they drew up the medically related sections of the state code, including the specially set aside section proscribing abortion for the first time in the United States in terms approaching Ellenborough's. Moreover, not only does the proscription of abortion itself make sense in this context of a temporary ascendancy of the regulars in their long battle to control medical practice at the state level, but so also does the sudden appearance for the first time of a therapeutic exception that stipulated consultation with at least "two physicians" before performing an abortion for medical reasons. One of the cardinal points of the New York regulars' code of ethics was the principle of mandatory consultation in difficult cases; the regulars had given that principle a great deal of attention when they drafted their ethics. In 1828, by persuading the revisers to make explicit something that might well have been left implicit as before, they were able to introduce their cherished principle of consultation into the state code. They also, of course, placed themselves in the position of deciding when the law would be applied to its letter and when it would be bent on behalf of a patient.

Public reaction to the success of the regulars in Albany in 1827 and 1828 was as telling as the legislative results the regulars obtained. Irregulars organized protests and launched a counteroffensive of major proportions in favor of what might be termed laissez-faire medicine. The irregulars succeeded in 1830 in forcing the alteration of the 1827 medical practices act, faltered in the mid-1830s when the regulars regrouped their forces, but then successfully counterattacked again at the end of the decade. Whereas the regulars relied upon their influence in official channels, the irregulars relied upon the anti-elitist spirit of the 1830s and the generally permissive attitude of the American people as a whole regarding the right to decide one's own fate. By the early 1840s, between 30,000 and 40,000 people were said to have signed petitions opposed to the rigid regulation and regularization of medicine in New York. Under these circumstances, New York's statutory prohibition of abortion, which could have been interpreted to cover abortions before quickening as well as after quickening, lay buried in the code, unenforced. A precedent had been established for future abortion policies, but the practice of abortion itself was little affected by the legislation of 1828 in New York.

The decade of the 1830s, generally speaking, was one of wide-open medical practices throughout the nation, not just in New York. New York's foray into medical regulation was not widely imitated elsewhere, and those states that had passed medical practice acts similar to New York's 1827 law repealed them during the 1830's. Consequently, it is not surprising that the period was not one of vigorous anti-abortion activity in state legislatures. One of the exceptions was Ohio. In 1834 legislators there made attempted abortion a misdemeanor without specifying any stage of gestation, and they made the death of either the mother or the fetus after quickening a felony. The law that contained those provisions also had four other sections: one of them made it an offense for a physician to prescribe any medicine while drunk; another made it a misdemeanor to sell secret remedies that endangered life; a third spelled out how these new offenses would be tried and awarded any fines collected to the common schools of the county where the offense took place and the last stated that the law would go into effect in June 1834. That statute not only revealed the general attitude of legislators toward physicians during the 1830s, but also demonstrated once again that the nation's early abortion laws were enacted by policymakers trying to control medical practices in the name of public safety.

Indiana added an anti-abortion statute to its state code in 1835, and Missouri overhauled its 1825 anti-poisoning law the same year. The Indiana law was an omnibus response to three resolutions passed by the state's house of representatives pointing out confusions and omissions in the old code. The abortion section they added was similar to Ohio's enactment the previous year, but Indiana created no new felony in cases of death after quickening. Missouri made the use of instruments to induce an abortion after quickening a crime equal to the use of poisonous substances after quickening, and added a section that made abortion before quickening a misdemeanor, at least on paper. In 1837 the first session of the Arkansas legislature included in that state's new criminal code a section that made abortion after quickening a manslaughter offense, but said nothing about abortion before quickening. In 1839 the first session of the Iowa territorial legislature included a poison control provision in its new code similar to those passed in Connecticut, Missouri, and Illinois during the 1820s, but did not refer to the subject of abortion anywhere else in the code. In that same year revisers in the state of Mississippi made abortion after quickening second-degree manslaughter but, like legislators in Arkansas, refrained from mentioning anything about the practice before quickening. Alabama enacted a major code revision during the 1840-41 session of its legislature that made the abortion of "any pregnant woman" a statute crime for the first time in that state, but pregnant meant quickened.

The last law enacted in the nation's first wave of abortion legislation was also the strongest, partly because American perceptions of abortion were beginning to change in ways that will be discussed in the next chapter. A code revision in Maine in 1840 made attempted abortion of any woman "pregnant with child" an offense, "whether such child be quick or not" and regardless of what method was used. The two revisers, Philip Eastman and Ebenezer Everett, had added the latter clause consciously in an effort to correct what they regarded as one of the "supposed deficiencies" of the state's existing law. They were aware that the ruling precedent on abortion cases in their state was the 1812 Massachusetts Supreme Court decision sustaining the old common law, for they cited that decision. But they wanted the doctrine changed. The person who performed the attempt was liable to up to a year in jail or up to $1000 fine. If an unborn child was actually destroyed, again regardless of whether it had been quick or unquick, a separate section increased the prison term to a possible five years, though the fine remained the same. A therapeutic exception, if the mother's life was threatened, was included in the law.

Notwithstanding its apparently unambiguous language and hard line toward abortion, the Eastman-Everett Act failed to close several of the loopholes characteristic of this first wave of anti-abortion statutes generally. The largest loophole in these early laws was the necessity to prove intent, which was simply impossible to do, given the tolerant attitude of American courts toward abortion when an irregular physician treated an unquickened woman for something he claimed he thought was not pregnancy. The subsequent fate of Maine's 1840 anti-abortion statute illustrated this difficulty perfectly. In 1853 that law came before the Maine Supreme Court in what appeared to be a cut-and-dried case. But Justice John S. Tenney, even though he recognized that Eastman and Everett had "essentially changed the common law" by trying to eliminate the quickening doctrine, freed an abortionist, who gave his name as Smith, on the grounds that the state prosecutors could not prove that Smith intended that the operation he performed would produce abortion, as distinguished from some other intent. Considering that a woman had died in this case after Smith inserted a wire into her uterine cavity, the loophole of intent, as American courts interpreted it, was very large indeed.

In further assessing the first wave of abortion legislation in the United States, it is worth noting that not a single one of these early abortion provisions was passed by itself. They were all contained in large revisions of the criminal codes in their jurisdictions or in omnibus "crimes and punishments" bills. This is significant because it indicates that there was no substantial popular outcry for anti-abortion activity; or, conversely, no evidence of public disapproval of the nation's traditional common law attitudes. No legislator took a political stand on abortion; no legislator cast a recorded vote for or against abortion as a question by itself. The popular press neither called for nor remarked upon the passage of the acts; the religious press was equally detached. This would later change, but the criminal status of abortion originated as a doctors' and lawyers' issue, not as a popular issue in any sense. The kind of legal scholars to whom legislators delegated the job of code revision would have been aware of the question of abortion because they kept track of legal developments in England and the United States. Physicians, or, more precisely, the regular physicians to whom those legal scholars would look for guidance in drafting their codes, had reasons of their own for wanting abortion proscribed, some of which have been explored. But as far as the vast majority of the population was concerned, the country's first laws on abortion remained deeply buried in the ponderous prose of criminal codes and were evidently little noticed and rarely enforced by anybody.

The United States remained in 1841, notwithstanding an initial wave of abortion legislation, a nation still committed to the basic tenets of the common law tradition. Sixteen of the twenty-six states in the Union in 1840 had passed no abortion laws at all, and the common law as interpreted by the Massachusetts Supreme Court in 1812 remained in effect in those states.

(Mr. WALLOP assumed the chair.)

Mr. PACKWOOD. Mr. President, let me read that sentence again:

16 of the 26 States in the Union in 1840 had passed no abortion laws at all, and the common law as interpreted by the Massachusetts Supreme Court in 1812 remained in effect in those States.

Of the ten states that had decided to address abortion in statute form, five were explicit in making it a crime only after quickening. The remaining five, however, the only ones that might be said to have moved to a more anti-abortion position than the nation opened the nineteenth century with, had passed statutes that were essentially unenforced and unenforceable insofar as they addressed abortion prior to quickening. In all cases the laws contained either the need to prove pregnancy or the need to prove intent, neither of which could be determined beyond doubt without quickening.

The first wave of abortion legislation in American history emerged from the struggles of both legislators and physicians to control medical practice rather than from public pressures to deal with abortion per se. Every one of the laws passed between 1821 and 1841 punished only the "person" who administered the abortifacient or performed the operation; none punished the woman herself in any way. The laws were aimed, in other words, at regulating the activities of apothecaries and physicians, not at dissuading women from seeking abortions. Most of these early laws, in fact, might be labeled malpractice indictments in advance. If anything went wrong in an abortion, and the woman was harmed, the "person" taking her money was being reminded in advance that he or she would be charged with a crime if the woman had quickened.

All of this probably reflected the continued perception of abortion in the United States as a fundamentally marginal practice usually resorted to by women who deserved pity and protection rather than criminal liability. While the accuracy of that perception can never be checked, the available evidence on abortion during the 1830s continued to confirm it. John Beck still believed in 1835 that most abortees were young women in trouble. Professor Hugh Hodge of the University of Pennsylvania asserted in 1839 that the intent of most abortions was "to destroy the fruit of illicit pleasure, under the vain hope of preserving [the abortee's or the paramour's] reputation by this unnatural and guilty sacrifice." The court cases that were recorded by state officials or written up in medical journals prior to 1840 generally involved unmarried young women.

The best data for the 1830s were amassed by a Mendon, Massachusetts, physician, Dr. John G. Metcalf, a Harvard-trained regular with a deep devotion to the value of accurate aggregate statistics. In 1843 he published the detailed records he had kept on 300 obstetrical cases that he was involved in prior to 1839. Five of them eventually ended in abortion, and two of those had been illegitimate pregnancies. Metcalf knew also that one of the women who aborted "had drunk freely of tansy tea [another of the substances popularly thought to have emmenagogic powers] for some days before the occurrence of labour" and that "her paramour, as she averred, had also offered to procure some 'pothecary medicine' to expedite the process, if she would take it, but she declined." Summarizing his experiences during the 1830s, Metcalf also commented that "physicians [were] sometimes applied to for the procurement of abortions," but hoped that "such solicitations" would be resisted unless "the condition of the mother should justify [medical] interference."

Even as Metcalf published his statistics, however, the American perception of who was having how many abortions for what purpose was shifting dramatically. That shift, along with a professional resurgence of the regular physicians following their eclipse and disillusionment during the 1830s, would have a profound impact upon the next stage in the evolution of abortion policy in the United States.

Chapter Three. The Great Upsurge of Abortion, 1840-1880

In the early 1840s three key changes began to take place in the patterns of abortion in the United States. These changes profoundly affected the evolution of abortion policy for the next forty years. First, abortion came out into public view; by the mid-1840s the fact that Americans practiced abortion was an obvious social reality, constantly visible to the population as a whole. Second, the overall incidence of abortion, according to contemporary observers, began to rise sharply in the 1840s and remained at high levels through the 1870s; abortion was no longer a marginal practice whose incidence probably approximated that of illegitimacy, but rather a widespread social phenomenon during the period. Third, the types of women having recourse to abortion seemed to change; the dramatic surge of abortion in the United States after 1840 was attributed not to an increase in illegitimacy or a decline in marital fidelity, but rather to the increasing use of abortion by white, married, Protestant, native-born women of the middle and upper classes who either wished to delay their childbearing or already had all the children they wanted. This chapter will examine the evidence for the first two of these crucial changes; the following chapter will explore the third.

The increased public visibility of abortion may be attributed largely to a process common enough in American history: commercialization. Beginning in the early 1840s abortion became, for all intents and purposes, a business, a service openly traded in the free market. Several factors were involved in the commercialization of abortion, but the continued competition for clients among members of the medical profession stood out. Because that competition was so intense, many marginal practioners began in the early 1840s to try to attract patients by advertising in the popular press their willingness to treat the private ailments of women in terms that everybody recognized as signifying their willingness to provide abortion services. Abortion-related advertising by physicians, which was not prohibited during this period, quickly became a common practice in the United States and was encouraged by members of the also fiercely competitive press corps, hungry for advertising revenue. Abortion-related advertisements appeared in both urban dailies and rural weeklies, in specialty publications, in popular magazines, in broadsides, on private cards, and even in religious journals. To document fully the pervasiveness of those open and obvious advertisements would probably require the citation of a substantial portion of the mass audience publications circulated in the United States around midcentury.

During the 1840s Americans also learned for the first time not only that many practitioners would provide abortion services, but that some practitioners had made the abortion business their chief livelihood. Indeed, abortion became one of the first specialties in American medical history. Even its opponents considered it "a regularly-established moneymaking trade" throughout the United States by 1860. Preeminent among the new abortion specialists was Madame Restell of New York City. Restell, an English immigrant whose real name was Ann Lohman, had begun performing abortions on a commercial scale late in the 1830s, but did not gain public attention until the early 1840s. In 1841 her first arrest placed both her name and her occupation before the public. Although at least one irate citizen made unveiled public suggestions about "a recourse to Lynch law," and although Restell's prosecutor warned that "lust, licentiousness, seduction and abortion would be the inevitable occurrences of every day" if her activities were not stopped quickly and completely, she was convicted only of two minor infractions of the law. The publicity she gained more than offset any temporary inconvenience, and by the middle of the 1840s Restell had branch agencies in Boston and Philadelphia. Salesmen were on the road peddling her abortifacient pills and, if the pills failed to work, her salesmen were authorized to refer patients to the main clinic in New York. Restell's enterprise would remain lucrative and successful into the late 1870s, when Madame Restell herself was destined to be one of the most celebrated victims of America's sharp shift on abortion policy.

It is important to note that Restell was no isolated aberration, but only the most flamboyant and the most publicized of the abortionists who began to appear during the 1840s. In the week beginning January 4, 1845, to cite but a single example, the Boston Daily Times contained the advertisements of a Dr. Carswell: "particular attention given to all Female complaints, such as Suppressions. . . . Dr. Carswell's method of treating these diseases, is such as to remove the difficulty in a few days. . . . Strict secrecy observed, and no pay taken unless a cure is performed"; a Dr. Louis Kurtz of Leipsic, who would treat "private diseases" in the same manner and had the additional selling point of speaking English, German, and French; a Dr. Dow, whose advertisement was similar to Carswell's, but added: "N.B. Good accommodations for ladies"; and for Madame Restell's Boston branch. "Sleeping Lucy," a Vermont clairvoyant, had opened a small business in the abortion trade in 1842; her expanded enterprise would remain vigorous through the 1870s. In its first major statement on abortion in the United States, the prestigious Boston Medical and Surgical Journal noted with alarm in 1844 that abortionists had come out into the open and were thriving. "The law has not reached them," the Journal rightly observed, "and the trade of infanticide [i.e. abortion] is unquestionably considered, by these thrifty dealers in blood, a profitable undertaking."

The popular press began to make abortion more visible to the American people during the 1840s not only in its advertisements but also in its coverage of a number of sensational trials alleged to involve botched abortions and professional abortionists. In Massachusetts, New York, New Jersey, and Iowa such cases evoked direct legislative responses, which will be examined in a subsequent chapter, but in the present context the very fact of public coverage indicated an increased awareness of abortion in the United States. Prior to 1840 virtually noth-

ing had been mentioned about abortion in the popular press; during the period when the first laws concerning abortion were being passed in state legislatures, the practice had not been a public issue. By the early 1840s, however, the press had become interested in the phenomenon. When Madame Restell was arrested for a second time in 1845, the New York City dailies and the new National Police Gazette covered the story closely and expressed concern about the lack of restriction on abortion in the United States. Freed once again, Madame Restell herself took to the columns of the New York Tribune in August of 1847 to counter what she regarded as unjustified slurs upon her and her line of work.

By 1850, then, commercialization had brought abortion out into public view in the United States, and the visibility it gained would affect the evolution of abortion policy in American state legislatures. At the same time a second key change was taking place: American women began to practice abortion more frequently after 1840 than they had earlier in the century. As a reasonable guess, abortion rates in the United States may have risen from an order of magnitude approximating one abortion for every twenty-five or thirty live births during the first three decades of the nineteenth century to an order of magnitude possibly as high as one abortion for every five or six live births by the 1850s and 1860s. Clearly, a change like that was also likely to have some effect upon the evolution of abortion laws.

(Ann Lohman, calling herself Madame Restell, helped commercialize abortion in the United States during the 1840s by the use of modern business techniques, including the use of traveling salesmen and the opening of branch offices. Essential to her thirty-five years of lucrative success was her use of advertising, early examples of which are reproduced here. From New York Sun, Mar. 3, 1846, and Boston Daily Times, Jan. 2, 1845.)

One indication that abortion rates probably jumped in the United States during the 1840s and remained high for some thirty years thereafter was the increased visibility of the practice. It is not unreasonable to assume that abortion became more visible at least in part because it was becoming more frequent. And as it became more visible, more and more women would be reminded that it existed as a possible course of action to be considered. The advertisement of abortion services remained vigorous from the early 1840s, when it first appeared, through the late 1870s, when anti-advertising and anti-obscenity laws drove it from the market place. Madame Restell's empire alone was reported in 1871 to be spending approximately $60,000 per year on advertising. Economists argue that advertising both responds to a perceived market and helps to expand that market. Hence, abortifacient advertising was presumably aimed throughout the period from 1840 through 1880 at a clientele large enough to justify its expense, it presumably helped to maintain the size of that clientele, and it may actually have been a factor in expanding the clientele in certain areas.

A second piece of evidence for high abortion rates for the period was the existence during that time of a flourishing business in abortifacient medicines. The Boston Medical and Surgical Journal asserted that there were at least six practitioners openly retailing abortifacient preparations in Boston by the summer of 1844, and before midcentury the abortifacient drug business would become a major and apparently very profitable enterprise. Moreover, and this point is important in the present context, the effectiveness of nineteenth-century abortifacient preparations is not really an issue. It is probable that these preparations helped to trigger a relatively small number of actual abortions. But the booming business in abortifacients indicated that a significant number of American women were trying to have abortions. After all, they did not know that the drugs were incapable of doing what their advertisers claimed they could do. And it is likely that many of the women who failed to get results with medicines would turn next to surgical methods of terminating their pregnancies.

During the week of January 4, 1845, the Boston Daily Times advertised Madame Restell's Female Pills; Madame Drunette's Lunar Pills; Dr. Peter's French Renovating Pills, which were sold as "'a blessing to mothers' . . . and although very mild and prompt in their operations, pregnant females should not use them, as they invariably produce a miscarriage"; Dr. Monroe's French Periodical Pills, also "sure to produce a miscarriage"; and Dr. Melveau's Portuguese Female Pills, likewise "certain to produce miscarriage." These ads, to repeat, were from a single paper for a single week in 1845. The "meaning and intent" of advertisements like that, it was widely acknowledged, were well known to "every school-girl" in America, and the fact that abortionists frequently advertised in the "personal" columns as astrologers and clairvoyants was also clearly understood by nineteenth-century newspaper readers.

A physician who had grown up in France and studied medicine there before emigrating to New England confirmed, with a good deal of shock, that abortifacient ads in "the press of the United States . . . [were] intelligible not only to fathers and mothers, but also to boys and girls!" The "licentiousness" of the newspapers appalled this Frenchman, who blamed the press for creating an impression in young girls' minds that abortion was a common, acceptable practice. He believed that "a large proportion of the increase of abortion" could "be traced to the dissemination of immoral and criminal advertisements in daily journals."

The abortifacient drug industry that emerged as a large-scale business in the 1840s continued to boom through the 1870s, and was not completely dead even in the early twentieth century. Nevertheless, the industry is difficult to deal with historically. No business records from the small abortifacient manufacturing firms have survived, and none of the in-house narrative histories of major drug companies mentions abortifacient preparations. The best information about the commercial abortifacient preparations that became so common on the American market after 1840 comes from research conducted by a remarkable physician-pharmacologist named Ely Van de Warker in Syracuse, New York, in the late 1860s and the early 1870s.

In an effort to discover what was in the commercial abortifacients that his female patients used so extensively, Van de Warker purchased samples of eleven of the leading brands available in his local area and did two things. First, he took a dose of each according to the directions on the wrappers and described the symptoms. Second, he made what chemical analyses he could of each of them, given the state of chemical analysis generally at that time and the limitations of his own laboratory facilities. Two of the eleven seemed "perfectly inert." Three others were reasonably mild laxatives and, in Van de Warker's opinion, "would not cause an abortion unless used by women very liable to external and mental influences." Such purgatives might, in other words, have considerable powers of suggestion, but were chemically harmless and not really abortifacients. The remaining six, however, could be dangerous drugs in the hands of desperate women willing to try large doses rather than the recommended amounts. The active ingredient in one seemed to be ergot, in another a mixture of ergot with oil of tansy and oil of savin. Aloes appeared to be the chief ingredient of the last four. Van de Warker also mentioned that a twelfth popular brand of abortifacient that he knew about probably depended upon black hellebore.

The volume of the trade in alleged abortifacients during the period from 1840 through 1880, while obviously impossible to gauge with accuracy, was estimated to be very large. Historians of pharmacy have pointed out that this period was one of rapid expansion in the drug industry and that the leading manufacturing firms moved into the field of specialized medicines during this period for the first time on a broad scale. The ingredients identified by Van de Warker in 1871 had been available in North America since the outset of the nineteenth century and continued to be imported or produced here in large amounts. Van de Warker thought the distribution of abortifacient and emmenagogic preparations "enormous" in the United States and estimated their sales to be in excess of a million dollars. He guessed the supply of female pills in the Syracuse-Troy area, which by 1870 had a population of slightly under 100,000 people, to be 63 gross.

The East River Medical Association of New York obtained an affidavit from the Commissioner of Internal Revenue in 1871 declaring that a single manufacturer had produced so many packages of abortifacient pills "during the last twelve months" that 30,841 federal revenue stamps had been required of him. William R. Merwin of Middle Granville, New York, ran a mail-order drug business from his home. When he was arrested in 1973, authorities confiscated 130 dozen boxes of abortifacient pills and an unspecified number of abortifacient instruments for the do-it-yourself trade. John Kern of Chicago, arrested a year later, had 500 boxes of abortifacient pills. A Detroit physician noted in 1874 that a single "humbug" in his city sold over 500 pounds of female pills each year. The profit margin in the abortifacient drug business, incidentally, was handsome. Alexander Ruden, arrested in 1878, wholesaled pills prepared in New York City by Orlando Bradford for $7.50 per bottle of 600. The same pills retailed for 50 cents a pill or $10 per box of twenty. The *American Druggists' Circular and Chemical Gazette*, the standard trade paper for pharmacists and apothecaries, notified local retailers as early as 1859 that they could purchase sugar-coated ergot pills produced in France at attractive bulk rates for resale in the United States. The profits were sufficient to lure Parke, Davis and Company into the business by the early 1870s.

In addition to the brisk trade in commercial abortifacients, what was probably an even larger business in abortifacient drugs was being conducted over-the-counter between women and local apothecaries. The

story of cottonroot is instructive in this context. Beginning in 1840 several Southern physicians drew attention to the fact that slave women used cottonroot as an abortifacient, and they considered it both mild and effective. Although regular physicians never prescribed cottonroot for any purpose in normal practice, druggists around the country were soon beginning to stock it. By the late 1850s, according to the *Boston Medical and Surgical Journal*, cottonroot had "become a very considerable article of sale" in New England pharmacies. In 1871 "a druggist in extensive trade" informed Van de Warker "that the sales of ext[ract of] cotton-wood had quadrupled in the last five years" and that it was "purchased very extensively by small miscellaneous country merchants, who always have the extract among their stock of drugs." Cottonroot remained available to American women in pharmacies and retained its "popular reputation as an abortive agent" into the early 1880s.

Cottonroot, however, was only one of the drugs involved in the informal trade between women and apothecaries. "Having been part owner of a drug store, in a populous city," wrote Ely Van de Warker, "I speak from personal knowledge."

(The following proceedings occurred during the remarks of Mr. PACKWOOD:)

Mr. JOHNSTON. Mr. President, will the Senator yield for the purpose of speaking on another matter and without his losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

THE GYMNASIUM IN THE HART OFFICE BUILDING

Mr. JOHNSTON. Mr. President, tomorrow at 2 o'clock, as I understand it, Mr. BAKER, I, Mr. ROBERT C. BYRD, and Mr. STAFFORD, who is chairman of the Senate Office Building Commission, will sponsor, and the Senate will vote on, an amendment which will kill the Senate gymnasium in the Hart Building.

Mr. President, it is with some amusement, some sadness, some resignation that I could sponsor and recommend this amendment to the Members of the Senate—amusement because this is a matter that has been jockeying about in the Senate now for at least 3 or 4 years.

I was asked by the majority leader at that time, Senator ROBERT C. BYRD, to chair the Senate Office Building Commission at a time when it was a structure half complete, steel rising up in the air without the funds to complete it.

Senator ROBERT C. BYRD asked, and I resisted because everyone knows that something like chairing a Senate Office Building Commission is a political liability, but he asked and I agreed, the idea being that the decisions of prior years, in this case decisions that were made in the late sixties and early seventies with respect to the Senate Office Building Commission should be finally completed, that it was unacceptable to have a structure half complete not completed; that all of the debates about whether or not the Senate Office Building was needed had been concluded because the commitment had been made.

I happen to believe that there is a need for additional space. Whether or not the Hart Office Building perfectly meets that need, whether or not the Hart Office Building exceeds the need, whether or not there are particular rooms in that building which are more commodious than they need to be, all of those questions, Mr. President, were resolved some time ago when the Senate voted the Senate Office Building in the late sixties and early seventies, voted to have the Senate Office Building completed.

My job, when I was appointed chairman, was to see that this matter should be completed. Consequently, we worked out a plan which would put a limit on the amount to be spent on the Senate Office Building which was, as I recall, $137 million.

Putting that ceiling on we also had some deductions from the scope of the work to be done. We deducted the restaurant, for example, on the top which all of us thought to be beyond the needs of the Senate.

We deducted a whole list of things, almost 20 in length, which we regarded as very good to complete, but unnecessary to complete. Consequently, among the $137 million we had a whole list of deductions in order of priority. At the same time, Mr. President, we stated publicly, and we stated it was our hope, that if money could be saved in the building of the Hart Senate Office Building such savings would be applied to the completion of those items in order of priority. Some of those things were of very high priority. One dealt with a fire control system which most fair-minded people—I would say almost all fair-minded people—would say to be absolutely essential for the completion of the Hart Senate Office Building.

Another was the computerized control system for the air-conditioning and heating which, in turn, over a very short period of time would save more money than it would cost, and a whole list of other things which I shall not here describe.

Nevertheless, Mr. President, the Architect of the Capitol and the contractor proceeded to build the Senate Office Building and to make a great deal of savings, sufficient to cover that list of priorities and, consequently, the Senate Office Building Commission authorized the Architect of the Capitol to use the savings within the cap of $137 million to complete these various priorities.

Mr. President, we all know what has happened in the meantime. We have been told that the Senate is appropriating money for a third Senate gymnasium; that the same is, as I say, a third Senate gymnasium. I would like to respond, Mr. President, to two points that were stated in the editorial in the Washington Post because I think it is very important for my colleagues who have been roundly excoriated for voting for a third Senate gymnasium. Two points:

First of all, Mr. President, the vote was not for a third Senate gymnasium. The vote was for upholding the decision of the Chair that you should not have legislation on an appropriation bill. I know the idea is that Senators use the rules for themselves when it is convenient, and otherwise ignore the rules.

Mr. President, that is not true. If you allowed legislation on an appropriation bill, if the Senate would routinely overrule the ruling of the Chair and allow legislation on an appropriation bill, then anything from school prayer to school busing—which I support—to abortion, to whatever bill there is would be put on a appropriation bill.

Why is it important that it not be put on an appropriation bill, Mr. President? For the simple reason that an appropriation bill must pass. The activities of Government would come to a stop if you put general legislation on appropriation bills.

To be sure, we have put abortion of a sort, and other matters, on appropriation bills. But the phrasing of those amendments has always been something like this: That no funds authorized in this appropriation may be used for a specific purpose.

The difference between that kind of legislation on an appropriation bill, if you will, and this kind is that that regards only the use of the funds appropriated in that particular appropriation bill. Indeed, if we were to ignore and routinely reverse the ruling of the Chair in legislation on an appropriation bill, then each year we would have a whole series of bills attached to appropriation bills.

If my friends in the press would care to watch, you are going to see that very phenomenon take place with respect to the continuing appropriation. There will be every species of legislation attached to bills which I think are very good and some of which I intend to support. But you will find if you take a bill that has to pass and you allow any bill to be attached to it, then every bill will be attached to it and sooner or later the Senate will rise up and say "Enough." And that is exactly what is going to happen on this particular bill.

I hope this bill relating to the Senate gymnasium will survive. If it does not, the Senate Office Building Commission, in the meantime, will rule on it.

Nevertheless, Mr. President, I think it was a great miscarriage of justice to

have my colleagues criticized in the Washington Post as having voted to appropriate money for a third Senate gymnasium. It just simply was not true. My colleagues voted to sustain the ruling of the Chair.

If there is blame to be made for the decision as to whether to finish the third Senate gymnasium, that blame should rest with me and for my colleagues on the Senate Office Building Commission, but principally with me. Because, Mr. President, whether or not we needed the third Senate gymnasium—and I neither designed it nor authorized it nor was chairman of the Commission at the time it was authorized—the third Senate gymnasium, if that is what you want to call it, a third, and really I think it is a first in terms of a physical fitness facility, nevertheless, it exists.

The building is there, the room is there. The question is whether you finish it. And it seems to me when you have the room existing, that you ought to at least put in a floor and you ought to at least put in lights and sides and walls and whatever else because it has great ability to be used for a whole range of uses, such as a hearing room, such as a reception room, such as many other things.

Nevertheless, Mr. President, it is the will of the Senate on the substance of the matter not to complete the Senate physical fitness facility, and I endorse the feelings of my colleagues if that is their wish. I do not think it is good policy.

Nevertheless, I will go along with it. I will, I guess, if not protest, then at least call to the attention of the Senate and of the country that if there was a mistake made, and I think maybe the whole Hart Senate Office Building was a gigantic mistake simply because of the mood of the country, but if that mistake was made, it was made a long time ago and it was not made by this Senate. If I am still in the Senate when it is completed, and I hope I am here long enough, I doubt if it will be too many years before it will be completed, and unquestionably at a greater cost.

I wish the press somehow would be fair enough to recognize that if a mistake is made we ought to make the best of it—which is I think completing a room that is there—and at least to recognize that if some of us stand up, particularly if I stand up and make the point of order, blame me for the point of order, but do not blame the Senate for upholding the rules of the Senate.

Yes, the rules of the Senate are not 100-percent respected; yes, occasionally the Senate will overrule the Chair, but not very often.

Mr. President, it is important that those rules be respected and that you go beyond the particular issue, because if the press puts enough pressure on the Senate and if the country indeed puts enough pressure on the Senate, there is no rule that will be sacrosanct. And if the press believes that the Senate gymnasium should not be completed, so be it. But tomorrow the issue will be something different, where the press and the people will have another opinion.

It seems to me, Mr. President, we ought to be fair with the Members of the Senate and at least accurately detail how they vote.

Having said that, Mr. President, when the vote comes up tomorrow, I will vote for the amendment. As a matter of fact I am a cosponsor of the amendment which will provide for the cessation of any further commitment of funds or completion of the Senate gymnasium and indeed will shut down the so-called second gymnasium in the Dirksen Senate Building. Let me say I was not aware that there was such a thing as a second gymnasium in the Dirksen Senate Building. In fact, I do not think—I still have not seen it—but from what has been described to me it is not worthy of being called that. But it ought to be shut down and this amendment will do just that. And I hope all Senators will be excluded from that so that from now on it will not be said that there are two Senate gymnasiums, because in fact it is not intended to be a second gymnasium.

It any event, Mr. President, having said that I will enthusiastically support it—I say "enthusiastically"—I will realistically, I should say, support the motion to take out the money for the Hart gymnasium.

I yield the floor, Mr. President.

Mr. PACKWOOD. I thank my distinguished colleague. I might say I have seen the "gym" in the Dirksen Office Building and it consists, as I recall, of four or five shower stalls, some lockers, and then there is an adjacent room that has a mat on the floor and there may or may not be some barbells, I cannot remember. But that is the extent of the gym. And there is nothing else there.

And, apart from losing the showers, it is not a great loss if we close it. I think it is probably wise to do so, because in people's minds when they hear the word "gym," they think of the YMCA or a local high school with basketball pavilions, and everything else, and it is marginal at best.

Mr. JOHNSTON. The Senator is entirely correct. First, let me thank him for yielding to me.

Let me say that I would hope that this facility is open to the staff. Many staffers go out and jog at noon or in the evening or whatever and have no place to change and no place to take a shower. I think this ought to be open to the staff.

This amendment does not so state. I might state I did not draw this amendment up. I had one drawn before this one was put in, and my amendment directed that it be made available to the staff. This is not inconsistent with that.

But I hope it is the ruling of the Rules Committee, which is in control of the use of the rooms in the Dirksen Senate Office Building, that they will make it available to the staff, if for no other purposes.

Mr. PACKWOOD. I might join in the sentiment of the Senator from Louisiana. A number of my staff jog at midday, and I wish they had some place to shower.

(Conclusion of earlier proceedings.)

Mr. BAKER. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. PACKWOOD. I yield.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I ask unanimous consent that when we resume consideration of this joint resolution the Senator from Oregon be recognized for the purpose of continuing his debate.

Mr. PACKWOOD. Mr. President, when do we plan to continue?

Mr. BAKER. Mr. President, before the Chair puts the request, in answer to the question of the Senator from Oregon, tomorrow at 10 a.m., according to the order previously entered, we will start a voting cycle that will take us to about noon. There are 10 votes already ordered. It is my anticipation that we will recess tomorrow from noon until 2 p.m., as we usually do on Tuesday, to enable Members on both sides to attend their party caucuses. At 2 p.m. I hope we will devote an hour to the passage of the Department of Defense authorization conference report and then we will be back on the debt limit joint resolution.

Mr. PACKWOOD. Mr. President, do I understand we are not going on on this tonight but we are going to finish morning business, go over until tomorrow and then when we are finished with the already prescribed business I will have the floor back at 3 p.m. or whatever time we finish.

Mr. BAKER. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, once again we will have no further debate on the debt limit joint resolution today. We will resume consideration of this measure tomorrow, after we have done the sequence of votes on the immigration bill and the Department of Defense conference report and vote I believe on the Baker-Byrd amendment tomorrow.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be

a brief period for the transaction of routine morning business to extend not past the hour of 5 p.m. in which Senators may speak for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are certain items on today's Executive Calendar which are cleared on this side for action at this time, beginning with the Department of State on page 4 and continuing through pages 5 and 6.

May I inquire of the minority leader if he is in position to consider all or any part of these nominations at this time?

Mr. ROBERT C. BYRD. Mr. President, we on this side of the aisle are ready to proceed to the consideration of the first nomination under Department of State, may I suggest.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations on today's Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of Robert H. Phinny, of California, to be Ambassador to the Kingdom of Swaziland.

Mr. TSONGAS. Mr. President, As ranking member of the Senate Subcommittee on African Affairs, I find it necessary to oppose the nomination of Robert H. Phinny for U.S. Ambassador to Swaziland.

This decision does not reflect any concern about the personal qualities of Mr. Phinny. I have no doubt that he is an honest, competent, and serious man committed to doing the best possible job representing our country in Swaziland. Nevertheless, after reviewing Mr. Phinny's testimony to the Senate Foreign Relations Committee, I seriously question his qualifications and ability to perform in this sensitive position.

Swaziland, a small nation located in between South Africa and Mozambique, will have an important role to play in the future political development of southern Africa. I believe that our Ambassador to Swaziland must have a sound, comprehensive understanding of the historical, political, and social complexities of the region. This is essential to a successful U.S. southern African policy. I have profound reservations as to whether Mr. Phinny, at this time, is the right man for the job.

To his credit, Mr. Phinny has expressed a desire to devote the necessary time and effort to become acquainted with southern Africa. I hope he is successful. I am also convinced that Mr. Phinny will be surrounded with experienced and qualified Foreign Service officers, particularly the Deputy Chief of Mission. I, however, as a matter of principle and out of concern for a thoughtful southern Africa policy, cannot support the nomination of Robert H. Phinny.

The PRESIDING OFFICER. The question is on agreeing to the nomination.

The nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, if the majority leader will yield, I now respond to his request that he previously made and state that there is no objection to proceeding to the nominations under the Department of State, the judiciary, under new reports down through U.S. Synthetic Fuels Corporation on page 6.

Mr. BAKER. I thank the minority leader.

In view of that, I ask unanimous consent that the nominations identified by the distinguished minority leader be considered en bloc.

The PRESIDING OFFICER. The nominations previously identified are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the U.S. Commissioner on the United States-USSR Consultative Commission.

THE JUDICIARY

Mary Ann Cohen, of California, to be a judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

Lapsley Walker Hamblen, Jr., of Virginia, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

SECURITIES INVESTOR PROTECTION CORPORATION

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982. (Reappointment.)

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

UNITED STATES SYNTHETIC FUELS CORPORATION

Milton M. Masson, Jr., of Arizona, to be a member of the Board of Directors of the United States Synthetic Fuels Corporation for a term of 1 year.

John B. Carter, Jr., of Texas, to be a member of the Board of Directors of the United States Synthetic Fuels Corporation for a term of 2 years.

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to reconsider the vote by which both actions were taken in respect to the nominees.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominess were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has confirmed the nominations.

NOMINATION OF MILTON M. MASSON, JR., TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. SYNTHETIC FUELS CORPORATION

Mr. McCLURE. Mr. President, on August 13, the Committee on Energy and Natural Resources favorably reported the nomination of Milton M. Masson, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation. The vote was 17 to 0. The committee's vote followed a nomination hearing held on August 12.

Mr. Masson is executive vice president and treasurer of Sullivan & Masson, Inc., an architect-engineering firm located in Phoenix, Ariz. Mr. Masson holds a B.S. degree in electrical engineering and is licensed as a professional engineer in 10 States. He has a broad business background, including extensive experience in the construction industry.

Mr. President, Mr. Masson has filed a detailed information statement with the Committee on Energy and Natural Resources, and he has complied with all committee requirements pertaining to Presidential nominees. On behalf of the Committee on Energy and Natural Resources, I recommend that the Senate approve the President's nomination of Milton M. Masson, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation.

NOMINATION OF JOHN B. CARTER, JR., TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE U.S. SYNTHETIC FUELS CORPORATION

Mr. President, on August 13 the Committee on Energy and Natural Resources, by a vote of 17 to 0, reported the nomination of John Boyd Carter, Jr., to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation. Mr. Carter's nomination hearing was held on August 12. He has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement.

Since the early fifties, Mr. Carter has spent the major portion of his

business career involved in energy projects and energy companies. He has substantial experience as an investment banker, a financial consultant, and an independent oil operator. He is currently senior vice president and a director of POGO Producing Co., an oil and gas exploration company headquartered in Houston, Tex.

Mr. President, on behalf of the Committee on Energy and Natural Resources, I recommend Senate approval of the Presidential nomination of John Boyd Carter, Jr., for a position on the Board of Directors of the U.S. Synthetic Fuels Corporation.

NOMINATION OF LAPSLEY WALKER HAMBLEN, JR., TO BE A JUDGE OF THE U.S. TAX COURT

Mr. DOLE. Mr. President, on August 12, 1982, the Committee on Finance held hearings on the nomination of Lapsley Walker Hamblen, Jr., to be a judge of the U.S. Tax Court. As chairman of the committee I am pleased to report that the committee has unanimously ordered his nomination to be favorably reported.

Mr. Hamblen who is a resident of Lynchburg, Va., was introduced to the committee by Senator BYRD. As Senator BYRD indicated, Mr. Hamblen is well suited for the position to which he has been nominated. After serving in the U.S. Navy during World War II he attended the Georgia Institute of Technology and the University of Virginia from which he received a B.A. degree. Following undergraduate school he entered law school at the University of Virginia from which he graduated in 1953. He served as president of the law school and was asked to be a member of the Order of the COIF.

Mr. Hamblen was admitted to the bar in West Virginia in 1954, in Ohio in 1955, and in Virginia in 1957. He served as attorney-adviser to the Tax Court of the United States, Washington, D.C.; and trial attorney in regional counsel's office of Internal Revenue Service, Atlanta, Ga., prior to his present position. Since 1957 he has been a member and partner in the law firm of Caskie, Frost, Hobbs & Hamblen of Lynchburg, Va. His practice consists mainly of corporate, probate and tax planning, and representation in corporate, probate and tax matters in controversy or litigation with emphasis on tax aspects of corporate and estate or probate practice, especially corporate acquisitions and related matters.

Mr. Hamblen's business and professional activities include service as special consultant to Worrell Newspapers, Inc., Charlottesville, Va.; former director, vice president, and general counsel, Carter Glass & Sons Publishers, Inc., Lynchburg, Va.; director and member of executive committee, Virginia National Bank, Lynchburg, Va.; trustee, Southern Federal Tax Institute, Atlanta, Ga.; codirector, Annual Virginia Conference on Federal Taxation, University of Virginia, Charlottesville, Va.; former chairman, tax section board of governors, Virginia State bar; and member, tax section, American Bar Association.

Mr. Hamblen has written numerous articles and lectured on numerous occasions in tax law matters. His education and experience make him uniquely qualified to be a judge on the Tax Court. I am pleased that my colleagues have confirmed his nomination.

NOMINATION OF MARY ANN COHEN TO BE A JUDGE OF THE U.S. TAX COURT

Mr. President, on August 12, 1982, the Committee on Finance held hearings on the nomination of Mary Ann Cohen to be a judge of the U.S. Tax Court. It is a pleasure for me as chairman of the committee to report that the committee has unanimously voted to order her nomination favorably reported.

Ms. Cohen brings outstanding credentials to this position. She received a B.S. degree from the University of California in business administration and a J.D. from the University of Southern California law center where she was an editor of the law review. Upon graduation, Ms. Cohen was admitted to the California bar and was employed in a law firm in which she became a partner 2 years later. Since 1969 she has practiced law in the firm of Abbot & Cohen in Los Angeles.

The firm's practice consists primarily of business and tax litigation and counseling. A substantial portion of the practice includes defense of criminal tax investigations and prosecutions which ranges from representation of corporations and/or their officers to defense of tax offenses of individuals. Civil tax matters handled cover a broad variety of situations such as those arising from settlement of complex business litigation; partnership and corporate liquidations; marital dissolutions; and processing of civil aspects of tax cases subsequent to disposition of criminal investigation or prosecution.

Ms. Cohen's familiarity with tax issues involving professional corporations and qualified retirement plans arises out of administration of the law firm, as well as general counseling of clients with respect to such matters.

Ms. Cohen is a member of the American Bar Association and its section on taxation and the committees on civil and criminal tax penalties, of which she served as chairman from 1977 to 1979. She has also been a member of a number of other bar association committees and authored several articles on tax laws.

Mr. President, Ms. Cohen is obviously qualified to be a judge of the Tax Court, and I am pleased my colleagues have confirmed her nomination.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT OF 1982

Mr. KASTEN. Mr. President, I am pleased to join as a cosponsor of S. 2784, the "Major League Sports Community Protection Act of 1982." S. 2784 will help guarantee that the great financial and emotional investments that fans and communities make on behalf of their local sports teams will be protected. This is especially important for smaller cities who now have successful teams, such as the city of Green Bay, Wis., and their great football team, the Green Bay Packers.

Green Bay, Wis., is presently the smallest city represented in the NFL. The Green Bay Packers football team is the oldest member of the NFL and is without question its most successful franchise. The legislation I have cosponsored will help assure that the success of the Packers will continue, and that the Packers can always call Green Bay their home.

Mr. President, the Green Bay Packers are part of the great sports tradition of the State of Wisconsin, and of professional football in this country. The Packers began as a team in 1919, when Earl (Curley) Lambeau formed the club and named it in honor of the company that helped get it started. The Packers' winning ways started that first year when they won 10 straight games.

The Packers were the first team to use the passing game. Such innovations helped the Packers to become NFL champs in 1929, 1930, and 1931.

In 1959 the Packers hired Vince Lombardi as coach. During the sixties under the great Lombardi, the Packers dominated the sport of football, winning four world championships. They overwhelmed their opponents in Superbowls I and II.

Many great athletes have played on Packers teams. In addition to coach Lombardi was Bart Starr, who quarterbacked the Packers in Superbowls I and II. There was Paul Hornung, Herb Adderly, Boyd Dowler, Ray Nitschke, and Don Chandler, to name only a few.

Mr. President, the Packers have a long and illustrious history of success in Green Bay. They will continue to be a great team in the future. The legislation I have cosponsored will help assure that the Packers remain a great team and a part of the heritage of successful sports teams in the State of Wisconsin.

MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 13, 1982, the Secretary of the Senate, on August 16, 1982, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House insists upon its amendments to the bill (S. 2036) to provide for a job training program and for other purposes; disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PERKINS, Mr. HAWKINS, Mr. FORD of Michigan, Mr. CLAY, Mr. BIAGGI, Mr. SIMON, Mr. WEISS, Mr. CORRADA, Mr. WASHINGTON, Mr. ERLENBORN, Mr. JEFFORDS, Mr. PETRI, Mrs. FENWICK, and Mr. DENARDIS as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6542. An act to withdraw certain lands from mineral leasing, and for other purposes.

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6542. An act to withdraw certain lands from mineral leasing, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 439. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2305;

S. Res. 440. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4347; and

S. Res. 443. Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S, 2812.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THURMOND (for himself, Mr. NUNN, and Mr. CHILDS):

S. 2838. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; read the first time.

By Mr. GARN (by request):

S. 2839. A bill to authorize appropriations for the Bureau of the Mint; to the Committee on Banking, Housing, and Urban Affairs.

S. 2840. A bill to authorize the appropriation of funds for the improvement of mint facilities; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JACKSON:

S. 2841. A bill for the relief of Gordon H. Hay; to the Committee on Armed Services.

S. 2842. A bill to provide for equitable waiver in the compromise and collection of Federal claims; to the Committee on Governmental Affairs.

By Mr. DIXON (for himself and Mr. STEVENS):

S. 2843. A bill to amend the Internal Revenue Code of 1954 to limit the application of the stock voting rights passthrough to certain employee stockownership plans, and for other purposes; to the Committee on Finance.

By Mr. QUAYLE:

S. 2844. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and to reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself, Mr. NUNN, and Mr. CHILES):

S. 2838. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; read the first time.

(The remarks of Mr. THURMOND on this legislation appear earlier in today's RECORD.)

By Mr. JACKSON:

S. 2841. A bill for the relief of Gordon H. Hay; to the Committee on Armed Services.

RELIEF OF GORDON H. HAY

Mr. JACKSON. Mr. President, Mr. Gordon H. Hay, a resident of my home State of Washington has applied for a Navy retirement pension but has been denied.

In brief, Mr. Hay served in the U.S. Navy for almost 4 years during World War II. Upon his release from active duty in December 1945, he agreed to remain in the Reserves. He performed no duties with the Navy following the war as the local Reserve units were unorganized and untrained. However, in 1963 a chief warrant officer and Navy recruiter advised Mr. Hay that "gratuitous points" toward retirement would be awarded for the period from December 1945 to June 1949 if Mr. Hay reenlisted in the V-6 program of the U.S. Naval Reserves. The CWO who made the statement has confirmed in writing that he so informed Mr. Hay; however, it turns out this information was in error.

Believing he was earning retirement points, Mr. Hay was a member of the Naval Standby Reserves during the 1946–49 period following his 13 years of active duty Navy service but he does not have records substantiating the Reserve duty. Having been a Member of Congress during the V-6 classification era, I can vouch that the V-6 program had little organization and was administered with a great deal of confusion. It is certainly conceivable that personnel records were not furnished to the personnel serving in the V-6 program.

There is no question that Mr. Hay served honorably for almost 18 years. It is also clear that, on the erroneous advice of a Navy recruiter, Mr. Hay reenlisted in the Navy Reserves for the purpose of earning retirement credit. Under these circumstances, Mr. Hay has had unfair treatment and I feel it is only fair that the United States make special arrangements to grant Mr. Gordon Hay the pension he earned and that he deserves.

I ask unanimous consent that my legislation in behalf of Mr. Hay be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of determining eligibility for retired pay benefits under chapter 67 of title 10, United States Code, Gordon H. Hay, of Bremerton, Washington, shall be deemed to have performed 20 years of service as computed under section 1332 of such title, the said Gordon H. Hay having reenlisted in the Naval Reserve in 1963 relying on the erroneous representation of a Navy recruiter that the said Gordon H. Hay would receive credit for retirement purposes for service in the V-6 Naval Reserve program from December 1945 to June 1949.

SEC. 2. No benefits shall be paid to the said Gordon H. Hay by virtue of the enactment of this Act for any period prior to such date of enactment.

By Mr. JACKSON:

S. 2842. A bill to provide for equitable waiver in the compromise and collection of Federal claims; to the Committee on Governmental Affairs.

COLLECTION OF CERTAIN FEDERAL CLAIMS

Mr. JACKSON. Mr. President, today I am introducing a bill which has been recommended to the Congress by the General Accounting Office which would authorize agency heads to grant equitable waivers in the compromise and collection of Federal claims involving inadvertent overpayments of travel and transportation expenses. Current law permits agency heads to waive claims for overpayments involving pay and allowances. My bill would simply expand that authority to include waivers for travel and transportation expenses.

My bill would also increase the amount of claims which could be waived from the existing level of no more than $500 per claim to no more than $5,000 per claim.

Mr. President, my interest in this legislation stems from a case which

was recently brought to my attention involving 17 of my constituents who are employees of the GAO in the Seattle regional office of that agency. These employees were paid per diem for travel and transportation at a higher rate than authorized and are being requested to make repayment. These overpayments were received in good faith and the employees in question will suffer financial hardship if they are required to make repayment of these funds which they received and expended based on an honest but incorrect understanding of the per diem limits.

It is my understanding that this is a recurring problem which the GAO and other agencies face and that the case involving my constituents is not unique. For this reason the Comptroller General has recommended that the existing law be amended to permit waivers for claims involving travel and transportation expenses. I ask unanimous consent that the bill and a letter from the Comptroller General to Chairman RODINO of the House Judiciary Committee explaining the need for this bill be included in the RECORD at the conclusion of my remarks to provide further clarification of the need for this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2842

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the analysis of subchapter VIII of Chapter 55 of title 5, United States Code is amended by striking out of the title of section 5584, "other than" and inserting in lieu thereof "including"; and section 5584 of title 5, United States Code, is amended (1) by striking out of the catchline "other than" and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after July 1, 1960," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of pay or allowances on or after July 1, 1960, and including a claim of the United States against a person arising out of an erroneous payment of travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title, on or after January 1, 1979,"; (3) by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) by striking out of clause (3) of section (b) the final conjunctive word "or" and by striking out of clause (4) of section (b) the final word and punctuation "later." and inserting in lieu thereof "later; or"; (5) and by adding the following clause at the end of section (b):

"(5) in all cases involving claims for waiver of over payments of travel and transportation expenses and allowances and relocation expenses, if the erroneous payment occurs before January 1, 1979, or if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment was discovered.

(b) the analysis of Chapter 165 of title 10, United States Code is amended by striking out of the title of section 2774., "other than" and inserting in lieu thereof "including"; and section 2774 of title 10, United States Code is amended by (1) striking out the catchline "other than" and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after October 2, 1972," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before or after October 2, 1972, and including a claim of the United States against a person arising out of an erroneous payment of travel and transportation allowances on or after January 1, 1979,"; (3) by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) and by striking out of clause (2) of section (b) "of pay or allowances, other than travel and transportation allowances,".

(c) the analysis of Chapter 7 of title 32, United States Code is amended by striking out of the title of section 716., "other than" and inserting in lieu thereof "including"; and section 716 of title 32, United States Code, is amended (1) by striking out of the catchline "other than" and inserting in lieu thereof "including"; (2) by striking out of section (a) "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances, other than travel and transportation allowances, made before or after October 2, 1972," and substituting therefor "A claim of the United States against a person arising out of an erroneous payment of any pay or allowances made before or after October 2, 1972, and including a claim of the United States against a person arising out of an erroneous payment of travel and transportation allowances on or after January 1, 1979,"; by striking out of subsection (a)(2)(A) "$500;" and inserting in lieu thereof "$5,000;"; (4) by striking out of clause (2) of section (b) "of pay or allowances, other than travel and transportation allowances,".

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., May 5, 1981.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: This responds to your letter of February 13, 1981, in which you request our views on H.R. 1025, 97th Congress, 1st Session, a bill "[t]o provide for equitable waiver in the compromise and collection of Federal claims."

The purpose of the Waiver Acts—5 U.S.C. § 5584, 10 U.S.C. § 2774 and 32 U.S.C. § 716—is to allow the waiver, either in whole or in part, of a claim of the United States against an employee or former employee of a Federal agency or a member or foreign member of the military service or National Guard arising out of an erroneous payment of pay or allowances, the collection of which would be against equity and good conscience and not in the best interests of the United States.

The present bill is similar to a bill, H.R. 13393, originally introduced in the 94th Congress, 2d Session, at the request of the General Accounting Office. The original bill sought to permit the ceiling on the amount of an overpayment which could be finally adjudicated at the agency level from $500 to "* * * not in excess of amounts to be prescribed by the Comptroller General from time to time."

The present bill, H.R. 1025, specifically raises the ceiling on agency action from $500 to $5,000. We believe that this proposed amendment would improve the overall economy and efficiency of waiver processing. It would result in no additional administrative workload to the agencies because they must review waiver requests regardless of whether the cases are forwarded to GAO or settled at the administrative level. The overall procedures for handling waivers will not be significantly changed because waiver cases will continue to be handled in accordance with standards prescribed by the Comptroller General. Agency performance will continue to be evaluated by GAO during onsite reviews of agency operations and doubtful cases and appeals will continue to be submitted to the Comptroller General for review.

Accordingly, we strongly support the provisions of H.R. 1025.

At the same time we would like to repeat a proposal we made to your committee last year in our comments on H.R. 224, 96th Congress, 1st Session, and to reassert our continuing concern for the specific category of equitable claims which is precluded from consideration for waiver. The existing waiver statutes expressly do not apply to overpayments of travel and transportation allowances and expenses and relocation expenses.

Our experience demonstrates that serious hardship has been caused in many travel cases and that employees have been required to make substantial refunds to the Government as a result of circumstances which were not their fault. More particularly, our experience shows that many of these claims arise from erroneous agency authorizations which employees rely on in good faith to their detriment. Indeed, we have decided a number of individual claims where the increasing complexity of the laws relating to travel and transportation entitlements has outdistanced the agencies' ability to regulate these entitlements. The examples presented in Appendix II are indicative of the broad range of travel and transportation expenses and relocation expenses claims for which waiver consideration is precluded by the applicable statutes. No other administrative relief was possible in any of these cases, but in all of them, if waiver had been available it would have been considered and probably granted. At the present time, however, the only available remedy in such cases is the pursuit of a private relief bill through the Congress.

Accordingly, we are offering in Appendix I a proposed amendment addressing our additional concern expressed here. Enactment of the legislation recommended in Appendix I would provide a mechanism for relieving individuals who are overpaid travel and transportation expenses and allowances and relocation expenses in circumstances such as described in Appendix II.

Sincerely yours,

MILTON J. FOWLER,
Acting Comptroller General of the United States.

By Mr. DIXON (for himself and Mr. STEVENS):

S. 2843. A bill to amend the Internal Revenue Code of 1954 to limit the ap-

plication of the stock voting rights passthrough to certain employee stock ownership plans, and for other purposes; to the Committee on Finance.

EMPLOYEE STOCK OWNERSHIP PLAN EXPANSION ACT

Mr. DIXON. Mr. President, the bill I am introducing today with Senator STEVENS, the ESOP Expansion Act, would remove certain obstacles to the formation of employee stock ownership plans (ESOP's) by closely held corporations with minimal, if any, cost to the U.S. Treasury.

An ESOP is a tax-qualified method of providing employees with beneficial ownership of stock in their company without requiring cash outlay on their part. Before 1978, the Tax Code recognized two types of ESOP's: First, the leveraged ESOP, which could hold any form of employee security and did not require passthrough of voting rights, and second, the tax reduction ESOP, which was eligible for an additional 1 percent investment tax credit and which was required to hold only voting stock and to pass through voting rights to employees who participated in the plan. In 1978, we consolidated these two types of plans and imposed the voting passthrough and voting stock requirements on leveraged ESOP's as well as those eligible for the tax credit. Recognizing that such requirements might be unduly burdensome for closely held companies, we limited the voting passthrough and voting stock requirements to major corporate issues such as mergers and amendments to the articles of incorporation.

Although the 1978 law has not caused difficulties for publicly traded companies, it has created severe problems for many closely held and family businesses that want to share ownership with their employees. The voting passthrough and voting rights requirements may, in cases where there is high employee turnover, cause such a broad dispersal of stock among former employees that a small or family business may become publicly owned against the wishes of those who formed it.

The voting rights requirement may cause additional problems for closely held companies, as the example of a small publishing company in my home State of Illinois will illustrate. This company has outstanding both voting and nonvoting stock. Its corporate treasury contains shares of nonvoting stock which would be available for the formation of an ESOP but for the voting-rights requirement in current law. This company, however, is unable to issue any new voting stock, either for ESOP formation or for other purposes, because of an agreement made at the insistance of some of its creditors. Thus, the company is effectively prevented from forming a tax-qualified ESOP because current law conflicts with the company's need to satisfy its lenders' demands.

Closely held companies such as this one often can be made subject to restrictions against the issuance of new voting stock. Such stipulations may frequently be made by lenders who want to be satisfied that control of the corporation will remain in the hands of those who control it at the time the agreement to extend credit is made. Alternatively, the corporation may wish to obtain additional financing through the issuance of voting stock to limited numbers of new stockholders. These new stockholders, in order to be assured that their share of control of the company will not be diluted, may condition their purchase of stock on an agreement that the company issue no new voting stock thereafter. In either situation, the company, in order to obtain needed financing through debt or new stock issues, must respond to the demands of lenders or prospective stockholders. Obviously, in such cases the corporation is effectively prevented from forming tax-qualified ESOP's by the need for an infusion of capital. In a period of high interest rates, such a situation imposes especially severe burdens on closely held businesses.

In essence, Mr. President, the voting passthrough and voting-stock requirements applicable to ESOP's under current law prevent many small business owners from offering their employees a share in the growth of their company. Not surprisingly, business groups indicate a sharp decline of interest in ESOP's among closely held companies since these requirements were imposed in 1978. The express intent of Congress to avoid unduly burdensome requirements for closely held companies has, in practice, been frustrated.

In 1981, the Senate attempted at least a partial remedy to this situation. By a vote of 94 to 3, this body added an amendment offered by Senator STEVENS which would have repealed the voting passthrough requirement for closely held companies. Unfortunately, this amendment was dropped in conference with the House.

The bill we are introducing today would more broadly remedy the obstacles imposed by current law to the formation of leveraged ESOP's by closely held companies. Section 2 would remove the voting passthrough requirement for closely held companies. Section 3 would remove the voting-stock requirement for such companies. This bill, however, contains an important limitation which would mitigate or prevent any loss of revenues as a result of the change. The bill would apply only to those companies which are willing to forgo the new ESOP tax credits allowed by sections 44G and 48(n) of the code. Moreover, the bill would not affect current legal requirements governing ESOP's in publicly traded corporations. The revenue effect of the bill is estimated, therefore, to be negligible; that is, not in excess of $10 million.

This bill, Mr. President, will promote equity by rendering limited ESOP tax incentives available as a practical matter to closely held as well as publicly traded companies. All ESOP transactions will continue to be subject to the fair market value standard of ERISA, thus insuring that nonvoting stock contributed to an ESOP by a closely held company will have a definable value. Employees of many closely held companies will now have the opportunity to receive a share in their companies' earnings and growth.

In short, Mr. President, I respectfully urge that my colleagues favorably consider this bill, which provides a simple and fiscally conservative means of effectuating Congress concern in 1978 to avoid unduly burdensome requirements with respect to the formation of ESOP's by closely held companies.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2843

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Stock Ownership Plan Expansion Act".

SEC. 2. PASSTHROUGH OF STOCK VOTING RIGHTS.

(a) IN GENERAL.—Paragraph (22) of section 401(a) of the Internal Revenue Code of 1954 (relating to qualification requirements) is amended to read as follows:

"(22) If a defined contribution plan (other than a profit-sharing plan)—

"(A) is established by an employer—

"(i) with respect to whom the requirements of section 44G or 48(n) are applicable for the taxable year by reason of an election made by the employer, and

"(ii) whose stock is not publicly traded, and

"(B) after acquiring securities of the employer, more than 10 percent of the total assets of the plan are securities of the employer,

any trust forming part of such plan shall not constitute a qualified trust under this section unless the plan meets the requirements of subsection (e) of section 409A for the plan year ending with, or within, such taxable year.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to acquisitions of securities after December 31, 1982.

SEC. 3. ACQUISITION OF NONVOTING STOCK BY A TAX CREDIT ESOP.

(a) IN GENERAL.—Subsection (1) of section 409A of the Internal Revenue Code of 1954 (relating to employer securities) is amended by adding at the end thereof the following new paragraph:

"(15) CERTAIN NONVOTING COMMON STOCK.—Nonvoting common stock issued by the em-

ployer (or by any corporation which is a member of the same controlled group of corporations of which the employer is a member) shall be treated as employer securities if—

"(A) none of the common stock issued by the employer (or by any such corporation) is readily tradable on an established securities market, and

"(B) the employer and any corporation of the same controlled group of corporations of which the employer is a member have not elected the application of the requirements of section 44G or 48 (n) for the taxable year of the employer, or of such corporation, for which such stock is transferred to, or purchased by, the plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1982.

By Mr. QUAYLE:

S. 2844. A bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION IN EMPLOYMENT AMENDMENTS OF 1982

● Mr. QUAYLE. Mr. President, I am today introducing the Age Discrimination in Employment Amendments of 1982, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate the upper age limitation of 70 years of age, to make procedural reforms, and reinstate the tenured faculty exemption, and for other purposes.

This bill has three major purposes: the first is to remove the current 70-year cap on the protections afforded by the Discrimination in Employment Act; the second is to make procedural reforms in the enforcement provisions of the act to make it more consistent with other employment discrimination statutes; and the third is to restore the exemption from the ban on mandatory retirement for tenured faculty members, which expired at the beginning of last month.

I recognize that there are, and will be, other bills to deal with this issue. After meeting with others and discussing various approaches to amending the ADEA, I have decided that there is still a need to introduce my proposal. My bill is drafted on the premise that all issues should be put on the table so that when the committee and the Congress decide to act, it will be after a full attainment of the issue.

1. LIFTING THE AGE 70 CAP

Under present law, the protection against age discrimination is limited to individuals who have not attained age 70. The bill removes that restriction. This provision is premised on the right of older workers to continue working, if they are able and willing to do so, and is supported by the fact that conditions which once justified encouraging early retirement of older workers are changing. Demographic projections indicate that we will have an increasingly older work force, while at the same time an increasing number of jobs do not require great physical stress and take place in an office setting. Increasing opportunities for older workers is thus not only a matter of equity for the workers but also makes commonsense in terms of labor market changes. It also has the potential of providing relief for the hard-pressed social security system.

Over the coming decades, the age distribution of the population will be shifting dramatically. The absolute number of older people in our society will increase and both the public and private sectors will need to pay more attention to the concerns of older workers. While the percentage of older Americans will not change from the current level for the balance of this century, the number of older workers is likely to increase dramatically in the early years of the 21st century.

This change in the structure of the available work force will have great implications for older workers. In the past, the great influx of younger workers created enormous pressure to remove older workers from the labor force. In the future, the demographics will work in favor of retaining older workers and labor market needs will require their utilization.

Yet, few trends in the 20th century have been more pronounced than the decline in the labor force participation of older persons. The participation rates of older workers—especially men—has been declining at an alarming rate for the past 20 years. Participation rates in the labor force for men aged 65 and over has dropped from 34 percent in 1960 to less than 20 percent in 1981. For men aged 55 to 64, the rate has dropped 15 percent over the last 20 years. The participation rates for women over age 65 has always been and still remains very low. Recently there has been an increase in the number of women aged 55 to 64 entering the labor force.

With an increasingly older population, greater attention will have to be paid to Federal policies which intentionally or unintentionally restrict participation in the work force by older Americans. We must encourage more flexible arrangements for continued work.

These facts and issues have been recognized for many years and have been stated countless times in testimony before Congress and in studies presented by the Department of Labor. Recent surveys have shown that 9 out of 10 Americans oppose forced retirement because of age. Removal of the 70-year age cap is a necessary step in encouraging continued participation of older workers in the labor force.

The administration has already spoken out in favor of prohibiting mandatory retirement to individuals over the age of 70. My bill would eliminate not only mandatory retirement but also all other discrimination against workers over age 70.

No American should be forced to retire at a certain age without regard to physical or mental condition. An individual who desires to continue working should be permitted to do so, if capable. Ability, not age, should be the guiding criteria in developing a retirement policy.

The ADEA prohibits arbitrary discrimination against workers, on the basis of age, in all reas of employment policy. This includes hiring, firing, and promotions. We should extend all these protections of the ADEA to workers over 70 and not limit their protection to a prohibition on mandatory retirement. How can we prohibit discrimination in some areas of employment policy and permit it in others?

I do not wish to suggest that the aging process does not affect an individual's capabilities. For this reason I would like to emphasize that "arbitrary" is a key word in the legislative history of the act. In 1965, Willard Wirtz, as the Secretary of Labor, presented the findings of a study on the evidence of age discrimination in our society, which subsequently led to enactment of the ADEA. Secretary Wirtz, carefully distinguished between arbitrary discrimination where there is no factual basis for assumptions about the effect of age on an individual's ability to do a job and those cases where there is in fact a demonstrable relationship between age and ability to perform a job. For this reason, the ADEA permits exemptions to the prohibitions of the act which are based on reasonable factors other than age and bona fide occupational qualifications. These provisions will continue to enable employers to take necessary personnel actions in those cases where age does affect an individual's ability to perform a job.

2. REVISING THE ENFORCEMENT PROCEDURES

The current enforcement provisions of the ADEA are modeled on those of the Fair Labor Standards Act, (the Federal minimum wage law) which are geared to enabling plaintiffs to recover the wages that they have been underpaid, that is, to get a money judgment. In such actions for money damages, the right to a jury trial is, of course, appropriate and even constitutionally required. But the purpose of an antidiscrimination statute, such as the ADEA, is not to collect money damages; it is to change the nature of employment practices. Therefore, the remedies in antidiscrimination laws—most importantly title VII of the Civil Rights Act—are geared to equitable relief, to orders for future compliance for which backpay may be an appropriate auxiliary remedy. Such actions

are not appropriate for jury trial. I believe that what is appropriate as an individual's remedy for discrimination on account of race or sex or national origin is also appropriate for discrimination based on age. That is why I have revised the enforcement procedure so as to eliminate the jury trial and liquidated damage provisions taken from the FLSA and replaced them with equitable relief provisions as found in other antidiscrimination statutes.

This reform is particularly called for because of the implementation of Reorganization Plan No. 1 of 1978. Prior to that reorganization plan, the ADEA was administered by the Department of Labor, which also administers the FLSA. There was, therefore, at least some logic in having similar enforcement for the two statutes. But the reorganization plan transfers administration of ADEA to the Equal Employment Opportunities Commission and the same logic that supported the transfer dictates the revision of the enforcement procedures.

Like title VII, the emphasis in the ADEA is on voluntary compliance through informal methods of conciliation, conference, and persuasion. Liquidated damages encourage complainants to litigate and discourage informal resolution of lawsuits.

3. RESTORING THE TENURED FACULTY EXEMPTION

When the ADEA was amended in 1978 to raise the protections of the act from age 65 to age 70, a temporary exemption for tenured faculty was provided so that such faculty could continue to be retired at age 65. At that time, the rationale given for the exemption of tenured faculty was that for the foreseeable future the number of available positions would be closely related to the number of retirements, thereby making it difficult to employ younger professors. The exemption expired on July 1 of this year. However, the situation is the same today as it was in 1978 and will continue to be a problem in the foreseeable future.

The tenure system presents a unique case among professions because it is a contract which insures that faculty members are guaranteed employment and acquire the freedom to think, study, teach, and write without fear of reprisal. This guarantee is granted in exchange for a set retirement date. If we do not restore this exemption colleges and universities will be faced with a choice between two very undesirable options.

If mandatory retirement for tenured faculty is eliminated, colleges and universities could elect to keep the tenure system as it now functions essentially intact. The result would be that individuals would have the assurance of continued employment, for life—with harmful effects on education, on the advancement of new faculty members, and on the academic enterprise as a whole. Another alternative would be to eliminate tenure, or substantially alter it, perhaps by introducing periodic reviews of competence—with chilling effects on academic freedom and consequently, on teaching, faculty morale and the advancement of knowledge.

A stipulated mandatory retirement age has the important advantage of allowing institutions to achieve the positive purposes which tenure provides while simultaneously assuring some regular degree of turnover. It also permits far more humane conclusions to careers then would otherwise occur if senior faculty members had to be told by their colleagues when they were no longer fit to teach. Tenure is an effective device to assure academic vitality, but it probably will not endure in the absence of a mandatory retirement age.

I ask unanimous consent that the text of the bill be inserted at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2844

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Age Discrimination in Employment Amendments of 1982".

SEC. 2. (a)(1) Section 7(b) of the Age Discrimination in Employment Act of 1967 is amended to read as follows:

"(b)(1) The provisions of this Act shall be enforced in accordance with the provisions of this subsection and subsection (c) of this section.

"(2) The Commission shall, upon receiving a complaint or as a result of investigations, attempt to eliminate the discriminatory practice or practices alleged, and to affect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion.

"(3) Any person claiming to be aggrieved by an act prohibited under section 4 of this Act or the Commission may bring a civil action for such equitable relief as will carry out the purposes of this Act. If the court finds that the respondent has engaged in or is engaging in acts prohibited under section 4 of this Act charged in the complaint, the court may enjoin the respondent from engaging in acts prohibited under section 4 of this Act, and order such equitable relief as may be appropriate, which may include reinstatement or hiring of employees, with or without back pay (payable by the employer, employment agency, or labor organization, as the case may be, responsible for the acts prohibited under section 4 of this Act).

"(4) The right of any person to bring or maintain such action shall terminate upon the commencement of an action by the Commission to enforce the right of such employee under this Act.".

(2) Section 11 of such Act is amended by adding at the end thereof the following:

"(j) The term 'Commission' means the Equal Employment Opportunity Commission.".

(b) Section 7(c) of such Act is amended to read as follows:

"(c) Each United States district court subject to the jurisdiction of the United States shall have jurisdiction of actions brought in such court under this Act. Such an action may be brought in any judicial district in the State in which the prohibited acts are alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the aggrieved person would have worked but for the alleged prohibited acts, but if the respondent is not found within any such district, such an action may be brought within the judicial district in which the respondent has his principal office. For purposes of sections 1404 and 1406 of title 28 of the United States Code, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.".

SEC. 3. Section 12(a) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but less than 70 years of age".

SEC. 4. (a) Section 12(c)(1) of the Age Discrimination in Employment Act of 1967 is amended by striking out "but not 70 years of age".

(b) Section 12 of such Act is amended by adding after subsection (c) the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age, and who is serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) at an institution of higher education (as defined by section 1201(a) of the Higher Education Act of 1965).".

SEC. 5. The amendments made by section 2 of this Act shall take effect with respect to civil actions brought after the date of enactment of this Act. The amendment made by section 3 of this Act shall take effect on January 1, 1983, or six months after the date of enactment of this Act, whichever is later. The amendment made by section 4 of this Act shall take effect on July 1, 1982.●

ADDITIONAL COSPONSORS

S. 1141

At the request of Mr. BAUCUS, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 1141, a bill to establish the National Forest Investment Fund, and for other purposes.

S. 2801

At the request of Mr. JACKSON, the names of the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. BUMPERS), the Senator from Ohio (Mr. METZENBAUM), the Senator from Vermont (Mr. STAFFORD), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Montana (Mr. BAUCUS), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 2801, a bill to withdraw certain lands from mineral leasing, and for other purposes.

SENATE RESOLUTION 445

At the request of Mr. DOLE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of Senate Resolution 445, a resolution to express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom.

AMENDMENTS SUBMITTED FOR PRINTING

DEBT LIMIT EXTENSION

AMENDMENT NO. 2029

(Ordered to be printed.)

Mr. BAKER (for himself, Mr. ROBERT C. BYRD, Mr. JOHNSTON, Mr. STAFFORD, Mr. HELMS, Mr. FORD, Mr. PROXMIRE, Mr. COHEN, Mr. CHILES, and Mr. THURMOND) proposed an amendment to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2030

(Ordered to be printed.)

Mr. DOLE (for himself and Mr. HARRY F. BYRD, JR.) proposed an amendment to the joint resolution, House Joint Resolution 520, supra.

AMENDMENT NO. 2031

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the joint resolution, House Joint Resolution 520, supra.

BROADCASTING OF ACCURATE INFORMATION TO CUBA

AMEMDMENT NO. 2032

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill (H.R. 5427) to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to continue the clean air markup.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to consider S. 2562, the Federal Energy Reorganization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Monday, August 16, at 9 a.m., to consider S. 2818 and S. 2805, bills relating to timber sales.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, August 17, at 2 p.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Monday, August 16, to consider S. 2784, the Major League Sports Community Protection Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 16, at 10:30 a.m., to consider the nomination of Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State for Public Affairs, and William Schneider, of New York, to be Under Secretary of State for Security Assistance, Science, and Technology.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 16, at 2 p.m., to consider the nomination of James Malone Renschler, of Pennsylvania, to be Ambassador of the Republic of Malta.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 17, at 5:15 p.m., to receive a secret consultation by Secretary Shultz.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WILL IMPORTS AND GOVERNMENT REGULATION KILL THE U.S. TEXTILE INDUSTRY?

● Mr. HELMS. Mr. President, my good friend from Mount Airy, N.C., Mr. Jim Crossingham, President of Spencer's Inc., recently sent me a copy of an editorial from the Winston-Salem Journal. The editorial bears the title "The Textile Problem," but it could well be headed "Will Imports and Government Regulations Kill the U.S. Textile Industry?"

The American Textile Manufacturers Institute recently reported that despite a recession-hit market, textile and apparel imports are up 6 percent in the first 6 months of this year over 1981. Our textile trade deficit is headed for a record level. Domestic sales are down. Unemployment in the textile industry approaches 14 percent; in apparel, 16 percent. We have a crisis on our hands, Mr. President, and it is acute in my State, where more than 350,000 people depend on textiles or apparel for their livelihood.

American textile workers are the most productive in the world. But how are they to compete with the starvation wages paid workers in other countries? How can they compete against foreign manufacturers in countries with few or no expensive regulatory burdens?

Will imports and Government regulation kill the U.S. textile industry? I hope not, Mr. President. But I am not encouraged. I ask that this editorial be printed in the RECORD at the conclusion of my remarks. I hope my colleagues and anyone interested in the stability and future of the U.S. textile industry will take time to read it. It is a well-written, articulate, and concise statement of a very serious problem.

The editorial follows:

[From the Winston-Salem (N.C.) Journal, July 18, 1982]

THE TEXTILE PROBLEM

North Carolina has—by a wide margin—more textile workers than any other state in the union, more than 350,000 at last count. While it can be argued that the South in general and North Carolina in particular have not suffered as severely as other areas of the nation during the current economic disruption, a close look at the domestic textile industry picture is not a comforting one.

At the heart of the problem are imports and government regulation. To understand the seriousness of the situation, some history is necessary. During the past two decades, domestic production has not kept pace with consumption. There are fewer textile

companies in the United States, employing fewer workers, than there were 20 years ago. Their profits are low relative to other industries, and prices have not kept up with the general level of price increases.

The textile industry has been finding it more and more difficult to compete on an even footing with the textile industries in other countries, especially in the Far East. Fortunately for North Carolina, the textile mill products end of the industry hasn't been hit as hard as the labor-intensive apparel segment of the industry. North Carolina has more than 250,000 workers employed in the textile mill products part of the industry but only 88,000 in apparel. Nonetheless, competition shortcomings plague all areas of the industry.

Foreign governments tend to subsidize their textile industries. The United States tends to regulate its industry. Whatever else one wants to say about regulations governing such things as employee safety and the environment, they add significantly to the cost of doing business. The higher standard of living in the United States makes labor costs substantially higher here than in nations with which the American textile industry competes.

Despite these handicaps, the American textile industry could probably hold its own in many areas of the world textile market if free trade ruled. American technology remains dominant. But the U.S. government has a real stake in the prosperity of developing nations and has been reluctant to exercise its influence against protection measures that such nations impose against imports into their own markets.

Furthermore, the United States indirectly subsidizes the industries of such nations as Japan, South Korea and the Philippines by relieving them of substantial portions of their defense cost requirements—there are 46,000 U.S. soldiers in Japan, 39,000 in South Korea and 14,000 in the Philippines. That comes on top of direct aid totaling at least $12 billion since World War II to Japan, South Korea and Taiwan alone.

The basic document governing world textile trade is something called the Multifiber Arrangement, adopted in 1974 and extended last year until July 1, 1986. Under that agreement, nations may restrict textile imports through bilateral agreements, or where no such agreement can be reached, by unilateral action. The United States has some two dozen such agreements in effect. A major element of the Multifiber Arrangement prohibits the restraining of import growth in most apparel categories below 6 percent annually, regardless of the growth in domestic consumption. A flexibility provision allows unused portions of that minimum growth percentage to be carried over for as many as four years for some products, meaning that some imports have grown as much as 24 percent in a year when domestic consumption has grown only 1 or 2 percent.

President Reagan as a candidate agreed with the American industry's proposal that the Multifiber Arrangement be amended to tie import growth more closely to growth in domestic consumption, but so far, that has not been done. Textile imports have grown like Topsy.

Two decades ago, the textile industries in South Korea, Japan, Taiwan and Hong Kong were in their infancy. Apparel exports to the United States were more or less nonexistent. Today, those countries exports to the United States account for about a quarter of the total American market. During the 1970s, clothing imports increased 256 percent, to $3.7 billion. Other textile imports increased 36 percent, to $1.3 billion

The result of all this is simply a depressed domestic textile industry, especially in the apparel segment, with an inevitable increase in unemployment. That has a ripple effect in other industries that supply to or buy from the textile industry. Difficult if not impossible to measure, that effect is, economists generally agree, substantial. If the trend is allowed to continue, the United States could become dependent on imports for its textile needs. In a world as unstable as the current one, that is not a comfortable prospect.

There are no easy answers. U.S. economic objectives frequently collide with foreign policy goals and defense requirements. All are vital to the national interest. But recognizing the problems besetting the textile industry is the first step toward solving them. The taking of that step has been too tentative thus far. That step needs to be taken boldly—and now.●

SOVIET PIPELINE SANCTIONS

● Mr. PELL. Mr. President, last Friday I joined my colleague from New England, Senator PAUL TSONGAS of Massachusetts, as a cosponsor in introducing S. 2836, a bill to lift restrictions on exports and reexports of U.S. origin oil and gas goods and technical data to the Soviet Union. This bill in no way would weaken or affect controls on strategic technology or equipment which might strengthen the Soviets militarily, which I strongly support because these make sound national security and foreign policy sense.

Over the past several weeks, the Committee on Foreign Relations has held extensive hearings and briefings on the vulnerability of the Soviet economy to sanctions imposed by the West, and the effectiveness of such sanctions in altering Soviet domestic and international behavior. Obviously, the issue of the June 18 decision by the President to expand the sizes of sanctions already imposed a U.S. sale of equipment and technology destined for use in the construction of the Siberian pipeline as discussed at length. After listening to extensive testimony by a variety of experts in the field, I have come to the conclusion that the administration's decisions with respect to the imposition of sanctions have been seriously in error.

I have become convinced that the United States, acting unilaterally, cannot be effective in influencing Soviet behavior in a positive way. Quite to the contrary, I believe that the President's recent decision to expand sanctions on the sale of oil- and gas-related equipment and technology has only succeeded in driving a serious wedge between the United States and our most critical allies. This has given the Soviets a wonderful propaganda weapon to wield against us in Europe in attempting to convince the Europeans that the United States is insensitive to European interests, and that the real threat to world peace is the United States, and not the Soviet Union.

Were the Soviets to be seriously affected by the unilateral actions which the administration has taken, and Soviet policymakers did in fact alter their decisions with respect to Poland or Afghanistan, then perhaps the domestic cost to American business and labor as well as the political capital expended with our allies might be worth the price. Sadly that appears not to be the case. Most experts agree that at best pipeline construction will be slowed by up to 2 years, but more likely by 6 months to 1 year. However even this construction delay will not stop the Soviets from meeting the deadline to sell gas to Europe by 1984.

Therefore, to ask one segment of the American business community to bear the cost of these sanctions which has been conservatively estimated at $1.5 billion by the administration seems patently unfair. We have tied the hands of U.S. exporters in their attempts to compete abroad, while their European and Japanese counterparts are free to take over what were formerly U.S. markets. How can the administration explain to those in the oil and gas equipment sector why they must not trade with the Soviets, at the same time that the administration has given the go ahead to the sale of U.S. grain which will assist the Soviets with their harvest shortfall? I think the answer is that there is no justification for these decisions.

Given these facts, the administration's decisions with respect to sanctions make little domestic or foreign policy sense. I therefore hope that the President, too, will come to realize the folly of continuing sanctions, and lift these restrictions in the near future. If not, then I urge my colleagues to support the efforts of Senator TSONGAS and myself to correct this mistaken foreign policy decision, and to reverse the unfair burden currently being imposed on certain segments of the U.S. economy.●

HENRY FONDA

● Mr. BAUCUS. Mr. President, a friend of mine and three generations of Americans died last week.

Most of us cannot remember a time when Henry Fonda was not entertaining and inspiring millions with his remarkable talent.

His exceptional acting ability, however, was by no means his most remarkable characteristic. Henry Fonda's integrity, honesty, and quiet courage in real life were his greatest attributes.

Many people believe that because he was such a natural and gifted actor, whose roles were often heroic, his fans just assumed he was that way in real life.

Those of us who knew Henry understood that it was the other way around. It was the honesty, thoughtfulness, and intelligence of Henry Fonda the man that was transferred into his acting. It was Henry Fonda the man that captured the hearts of Americans.

If there is ever to be an award for being fair and decent and honest and caring it will surely be called the Henry Fonda award. And fortunately, because of the magic of film, Americans for a long, long time will have the opportunity and the privilege of knowing Henry Fonda, and this great man will continue to mold and influence American ideals. In life and in film, he was what we all want to be and what we all hope America is.●

TRIBUTE TO FORMER SENATOR THRUSTON B. MORTON

● Mr. FORD. Mr. President, funeral services were held in Louisville today for former Kentucky Senator Thruston Ballard Morton, who died Saturday at the age of 74.

Thruston Morton, who represented Kentucky in the Senate from 1957–68, dedicated the greater part of his life to public service. He served three terms in the U.S. House of Representatives, was an Assistant Secretary of State in the Eisenhower administration, and was chairman of the Republican National Committee.

Perhaps the word "action" best fits Thruston Morton. He was a public official, corporate director, navy officer, and much more.

He was born in 1907 in the tradition of public service. His grandfather, S. Thruston Ballard, served as Kentucky's Lieutenant Governor. Through the years, Senator Morton carried on that family tradition with great honor and distinction.

He will be remembered as a leader and a man of integrity. He will be remembered as a statesman and a man who kept his word. He strongly believed in the existence of the two-party system, and he knew that it was essential to our form of government.

His contributions were important and many. His loss is a great one to our country and the people he served so well and so long in the Commonwealth of Kentucky.

An editorial in The Courier-Journal on Sunday, August 15, summed up Senator Morton's career this way: He served his State and Nation well. It is a fitting epitaph, and I ask that the editorial be printed in the RECORD.

The editorial follows:

[From the Courier-Journal, Louisville, Ky., Aug. 15, 1982]

THRUSTON MORTON: HE SERVED HIS STATE AND NATION WELL

Kentucky has been fortunate over the years to have some strong and respected representatives in Washington. Thruston Ballard Morton, who died yesterday at 74, was for a long time one of them.

He was from the sort of family in which public service came naturally. His grandfather was a lieutenant governor of Kentucky. His brother was a U.S. congressman, Secretary of the Interior and chairman of the Republican National Committee. It was no surprise when Thruston Morton, after four years of duty aboard a minesweeper in the Pacific during world War II, ran for the U.S. House in 1946 rather than return to running the family flour-milling business.

Others were making the same jump into politics and government that year, including another Navy veteran who joined the same "Class of '46" in Congress: California's Richard Nixon.

Mr. Morton served three terms in the House, then three years as an assistant Secretary of State. In 1957 he ran for the Senate, won in an upset by unseating Earle C. Clements, and remained for two six-year terms. The second one followed a hard-fought defeat of Democrat Wilson Wyatt in 1962—a race that included dirty tactics. He later said apologetically:

"It was a helluva campaign and I'm glad I don't have to go through that again. We made the ADA [Americans for Democratic Action] a dirty word. It could have been the American Dairy Association, but the people thought it was communist."

"In this game," he said of such tactics, "you've got to hit. . . . [But] we did a lot of things that made my sensitive family unhappy."

Thruston Morton was generally allied with the more liberal wing of the Republican Party. He had a warm relationship with Dwight Eisenhower, whom he supported for the presidential nomination in 1952 against the almost solid backing of the Kentucky delegation for Robert Taft. In 1960 he was GOP national chairman.

During his years in Washington, Mr. Morton was a popular and genial figure. The press corps especially liked him, finding him frank, open and humorous. It was generally agreed that he could have remained in the Senate for many years, but he decided instead, after 12 years, to return to his home state, where his roots were deep.

Thruston Morton obviously was a successful politician. He could be tough-minded and positive on issues. But there was another side of his nature, less often observed in public life but known to those who were close to him. He was sensitive, idealistic and given to strong loyalties and friendships. His sense of humor was at times whimsical. He never lost the manner of a Kentucky gentleman in the hurly-burly of politics. His death is a sorrow to a wide and varied circle of friends.●

THRUSTON BALLARD MORTON

● Mr. HUDDLESTON. Mr. President, the Commonwealth of Kentucky has a tradition of sending its native sons to Washington to serve not only the interests of Kentucky, but the interests of the Nation as a whole. Thruston Ballard Morton was certainly one of these.

Over the course of a public and business career that spanned almost literally his entire 74 years, Thruston Morton was a sparkling part of that tradition. No matter what one's politics, one had to respect Morton's integrity, his devotion to service to his country, his State, his city, and his political party.

He was a Republican Senator from a predominantly Democratic State, he took stands on issues that were sometimes less than popular, but whatever his politics or his position, the one thing you could count on was that Thruston Morton did what he believed was right.

Mr. President, the Louisville Courier-Journal on Sunday, August 15, printed an excellent article on Thruston Morton's career, and I ask that it be printed in the RECORD as a testament to the 6 years he spent in the House of Representatives and the 12 years he spent in this great body.

The article follows:

[From the Louisville Courier-Journal, Aug. 15, 1982]

FORMER GOP POWER THRUSTON MORTON DIES

TOUGH LEADER PUSHED PARTY IN DIRECTION OF MODERATION

(By Bob Johnson)

Thruston Ballard Morton, the urbane Kentuckian who served in both houses of Congress, in the U.S. State Department and as Republican national chairman, died of cancer early yesterday at his Louisville home. He was 74.

Morton, who returned to Louisville after his retirement from the U.S. Senate in 1968, had been in poor health for several years.

Belle Clay Lyons Morton, his wife of 51 years, survives.

The funeral will be at 11:30 a.m. tomorrow at Christ Church Cathedral, 421 S. Second St., with a private burial in Cave Hill Cemetery.

Known as a thoughtful advocate of moderate policies during his 22 years in national politics, Morton was also a tough-talking republican partisan.

He was of that generation of American leaders whose careers were shaped in part by World War II and the conflicts that followed.

Morton entered politics in 1946, after serving as a Navy officer in the Pacific. Elected that year to the U.S. House from Jefferson County, which then formed the 3rd District, he promised to seek "a world policy for peace, not a foreign policy for war."

He went on to serve three terms in the House and two in the Senate.

When he retired from the Senate, the country was bitterly divided over the stalemate in Vietnam. Morton urged ending that war and dealing with a changing communist world in ways that might lead to peace.

"I hate communism," he told an interviewer. "But I think that if the Russians and ourselves could sit down together like grown men, and say we're going to stop wars, why, we could do it."

While he could be a bare-knuckle campaigner, Morton also counseled moderation within the Republican Party.

He alone among the Kentucky delegates to the 1952 Republican National Convention supported the nomination of Gen. Dwight D. Eisenhower. The others wanted the more conservative Robert Taft of Ohio.

In 1964, after the GOP nominated Sen. Barry Goldwater of Arizona, Morton publicly warned the party against aligning itself with extremists and Southern segregation-

ists. He spoke with the authority of a former national party chairman, as permanent chairman of the 1964 convention and as a man Richard Nixon had considered as a possible running mate in 1960.

When asked to assess his career, Morton once said, "I haven't done too much. I think if I've accomplished anything, it's been in trying to give one of the two great parties a sense of being in 1968—not 1868."

"I do think I've had some influence getting them out of the last century."

Former Kentucky Sen. John Sherman Cooper, who served with Morton for 12 years in the Senate, said in a recent interview that Morton was "a very exceptional man of a quality you just don't see all the time."

Marlow W. Cook, who succeeded Morton in the Senate, said, "He was just a guy you have to love."

Cook, who practices law in Washington, said he got his first political experience during Morton's 1946 congressional campaign. Later, as Cook and a new generation of Republicans began their careers, Morton helped.

"If you wanted his advice, it was there. If you wanted him to come, he was there," Cook said.

Kentucky's Republican National Committeeman Larry Forgy said that, during the years Morton and Cooper served together in the Senate, it was "generally conceded in Washington" that Kentucky had two of the most effective senators in the Capitol. He also credited Cooper and Morton with building Kentucky into a two-party state.

Morton was born at Glenview on Aug. 19, 1907, the son of Dr. David Cummins Morton and Mary Ballard Morton, a family long-prominent in Louisville's business and political life.

Morton attended public schools in Louisville, including Male High School, and Woodberry Forest School at Orange, Va. He graduated from Yale in 1929.

A younger brother, Rogers C. B. Morton, who died in April 1979, also served in Congress as a representative from Maryland, as Republican national chairman and as a Cabinet officer under Presidents Nixon and Gerald Ford.

A seventh-generation Kentuckian, Thruston Morton traced his interest in public affairs to the influence of his grandfather, S. Thruston Ballard, whom President Woodrow Wilson chose to serve on a federal commission in 1914.

Morton, then 7, went to Washington with his grandfather and could recall Ballard's conversations with other members of the commission, including Samuel Gompers, one of the founders of the American labor movement.

In 1919, Ballard was elected lieutenant governor of Kentucky, and young Thruston tagged along to Frankfort as a page in the General Assembly.

Morton was nearly 40 when he won his first race for Congress. He was elected three times before deciding in 1952 that he would work for the Republican national ticket rather than seek another term.

While Morton had intended to return to Louisville and his business career after the campaign, Eisenhower's secretary of state, John Foster Dulles, persuaded him to become assistant secretary of state for congressional affairs—the department's top lobbyist on Capitol Hill.

Morton would later say that his one regret in public life was his decision to leave the House of Representatives. "I love the House. It's a much more responsive body, much more interesting. Among 435 guys, you find much more camaraderie, more guys you like," he said.

He also observed that, had he stayed in the House, he almost certainly would have risen to a leadership position. But he was persuaded to run for the Senate in 1956.

Eisenhower was seeking a second term, Cooper was running for the balance of the term of Sen. Alben W. Barkley, who had died suddenly, and the Republicans needed someone to run against Sen. Earle Clements, a former governor and one of the most powerful Democrats in Washington.

At Eisenhower's urging Morton made his first statewide race. Many considered it a hopeless assignment.

"When I ran against Clements in '56, they just tore me apart on agriculture. Hell, my idea of an agriculture problem was a window box. I'd been voting (in the House) for the consumer, not the farmer. Coal? What did I know about coal? It was hard running in a state like Kentucky with all the different interests."

Thanks to Eisenhower's coattails and a bitter split among the Democrats, Morton beat Clements by 6,981 votes. Cooper also won, giving the GOP both Senate seats from a heavily Democratic state.

Reached yesterday at his home in Morganfield, Clements described Morton as "a great friend. Personally, I was very fond of Thruston."

Morton won a second term in 1962 by a more comfortable margin—45,000 votes—in a bitter campaign against Lt. Gov. Wilson W. Wyatt. Behind in his own polls, Morton's campaign painted Wyatt and the liberal Americans for Democratic Action, which he had helped found, with a red brush.

"It was a helluva campaign, and I'm glad I don't have to go through that again," he said in an interview. "We made the ADA an ugly word. It could have been the American Dairy Association, but the people thought it was communist."

Morton acknowledged that the attacks on Wyatt, a prominent Louisville attorney, upset the Democrat's family. But from the perspective of a political realist, they were necessary.

"In this game, you've got to hit. I've made a lot of rough statements. But if you don't say it strongly, you wind up in the want ads. If you don't say something that will make the editor put it on the front page, hell, there's no use in saying it."

In the wake of the 1964 presidential campaign, Morton made another of his tough statements, this one aimed at right-wing extremists. The John Birch Society, an extremist group, deserved "a kick in the pants," he said.

His remarks had enormous impact. Other Republicans disowned extremist groups and their influence declined.

"We got buckets of mail from all over calling me a SOB," Morton said. "I really caught hell, but I knocked hell out of the Birch Society."

Morton's rise to leadership within the party had begun in 1959, when Eisenhower tapped him to become Republican national chairman. A number of Republicans opposed Morton because there was little in his background to suggest he could handle the job.

A year later, The New York Times wrote: "But he has so charmed and converted his critics . . . that many now regard him as among the ablest and most efficient chairmen the party has had."

The party was gearing up for the 1960 presidential election, with Nixon, then vice president, the obvious nominee at the Chicago convention. But the GOP's competing wings were engaged in a tug-of-war for control of the party, with Goldwater's supporters pulling from the right and backers of New York Gov. Nelson Rockefeller pulling from the left.

Morton skillfully guided the party through the shoals and, according to Nixon's memoirs, was under serious consideration for the vice presidential nomination.

But Nixon chose Henry Cabot Lodge of Massachusetts in the hope of strengthening the ticket in the East. Nixon narrowly lost the election to Sen. John F. Kennedy of Massachusetts, leaving some to speculate that Morton would have made a better running mate than the aristocratic Lodge.

While he was an effective campaigner, Morton was ever the Yale-educated business executive. A reporter covering a campaign trip to Harlan marveled that he would wear tasseled-loafers and French cuffs.

Cooper, in a recent Washington interview, suggested that Morton was effective because he didn't try to patronize rural audiences. "They just accepted him as a city fellow," he said.

In his speeches to Kentucky political groups, Morton would spin stories about the burdens of running in a predominantly Democratic state.

One told of how he and his brother Rogers Morton, in the hectic closing days of a statewide race, decided to divide the handshaking in a small Kentucky town.

Rogers Morton, who, at 6-foot-7, was four inches taller than Thruston Morton, was to tell prospective voters only that his name was Morton and that he was running for the Senate.

As Thruston Morton told it, he shook hands with a man who later ran into his brother. As Rogers Morton offered his hand, the man looked up at him skeptically and said "You sure are a growin' SOB."

Morton also liked to tell of a campaign stop in Fulton, where the Kentucky-Tennessee state line splits the town. He and Cooper worked the town together and learned later, to their chagrin, that Cooper had spent the day on the Tennessee side of the line.

In Washington, Morton was known more for his concern about international affairs than as an advocate of his state's parochial interests. His voting record was rated "moderate to conservative" by Congressional Quarterly, the respected digest of congressional affairs.

When asked if he considered himself a liberal or conservative, Morton liked to reply that he was "two degrees to the left of center."

His decision to retire from the Senate, announced without fanfare at a Louisville news conference in February 1968, came as a surprise.

Although his chances of re-election were excellent, Morton was tired of Washington. Approaching his 61st birthday, he declared, "To use an old Kentucky expression, I suppose I am just plain track sore."

Cook, then Jefferson County judge, won the seat, and Morton—his career in Washington at an end—returned to Louisville and the business community that he had left in 1946.

Before entering politics, he had served as president and board chairman of Ballard and Ballard Co., the family flour-milling business.

After his retirement from the Senate, Morton served as vice chairman of Liberty National Bank & Trust Co. and as chairman of Churchill Downs Inc.

He took the assignment at the Downs in 1969 after the track had fended off a hostile tender offer from National Industries Inc. Later, he helped get a law passed establishing a state authority that would buy the Downs if it were ever faced with another take-over bid. He also served as president of the American Horse Council, a trade association that promotes the horse industry.

With his 1962 Senate rival, Wilson Wyatt, Morton sponsored a proposal to consolidate Louisville and Jefferson County governments, but the "Morton-Wyatt Plan" failed in the 1970 General Assembly.

He also assumed the leadership of a task force appointed by the Louisville Chamber of Commerce to promote the development of an international airport, a project that was later dropped.

Morton and Cooper teamed up in 1976 to work for then-President Ford's election. In 1980, campaigning for Ronald Reagan, Morton and Cooper made their last appearances together. Cooper said Morton was ill at that time and "showed great courage."

Morton was also director of a number of major companies: United States Trust Co., Cochran Foil Co., Brown Forman Distillers Inc., R. J. Reynolds Industries, the Pillsbury Co., the Pittston Co., and Texas Gas Transmission Corp.

During his five years in the Navy, Morton held three commands in the Pacific, including the destroyer USS Doyle. He retired from the naval reserve with the rank of commander

Besides his wife, survivors include two sons, Thruston Ballard Morton Jr., vice chairman of Cosmos Broadcasting Corp., and Clay Lyons Morton, a Louisville attorney; a sister, Mrs. Jane Morton Norton; and five grandchildren.

Visitation will be at Morton's residence at 5815 Round Hill Road from 2 to 7 p.m. today.

Pearson's, 149 Breckenridge Lane, is in charge of arrangements.

The family requests that expressions of sympathy take the form of contributions to the J. Graham Brown Cancer Research Center or to charity.●

S. 1844, COAL DISTRIBUTION AND UTILIZATION ACT OF 1982

● Mr. BAUCUS. Mr. President, in a few weeks, the Senate will likely begin consideration of S. 1844, the Coal Distribution and Utilization Act of 1982, or the so-called coal slurry bill.

This bill would grant the power of Federal eminent domain for the construction of coal slurry lines nationwide. I have serious reservations about the bill, particularly as it relates to protection of State rights and impacts on water supplies. I intend to fully express my reservations on these grounds when the Senate begins consideration of the bill.

There is another issue, however, which I believe all Senators should keep in mind: the economics of coal slurry.

On August 6, 1982, Mr. Thomas E. Dewey, Jr., president, Thomas E. Dewey, Jr. & Co. of New York, testified on the economics of coal slurry before the House Subcommittee on Commerce Transportation, and Tourism. I believe every Senator should take the time to read Mr. Dewey's cogent remarks.

Mr. Dewey points out the "suspiciously little has been advanced to document the assertion that these pipelines, if built, will transport coal more cheaply than the Nation's railroads." To document this point, he looks at the proposed Energy Transportation System, Inc. line. Assuming the project is built within the new estimated cost of $3.5 billion—and that is highly unlikely—the cost to consumers would be between $35 and $53 per ton to transport the coal. A comparable cost for coal transported by railroad is $12 to $22 per ton.

Even more interesting, Mr. Dewey expresses skepticism that investors can be found for the projects, and that it can be built within the proposed budget of $3.5 billion. This causes Mr. Dewey to conclude that this legislation could lead to some form of Federal Government guarantees to make up for "the requirement for equity capital, lower the cost of debt capital and eliminate the problem of cost overruns * * *." Mr. Dewey believes, and I am convinced he may be correct, that this legislation could lead to the Federal Government writing a blank check to pipelines in the future. Certainly our recent experience with the Alaska natural gas pipeline shows this can happen.

Mr. President, I ask that Mr. Dewey's testimony be included at this point in the RECORD.

The statement follows:

STATEMENT OF THOMAS E. DEWEY, JR.

Mr. Chairman, my name is Thomas E. Dewey, Jr., and my business address is 14 Wall Street, New York, N.Y. I appreciate your invitation to testify here today, as well as your having introduced into the CONGRESSIONAL RECORD my testimony of May 10, 1982, before the Senate Committee on Energy and Natural Resources.

I am a graduate of Princeton University and Harvard Business School, and am President of Thomas E. Dewey, Jr. & Co., Incorporated, a financial advisory services firm founded in December 1975.

Prior to that I was a partner of the international investment banking firm of Kuhn Loeb & Co. from 1965 through 1975 and associated with that firm from 1958 to 1965. My career has covered most phases of industrial, transportation and utility corporate finance, both in the United States and abroad. I have appeared as an expert witness before numerous courts, regulatory bodies and the U.S. Congress.

I am retained as financial consultant by Kansas City Southern Industries, Inc., parent company of the Kansas City Southern Railway Company. I am testifying in their behalf here today on the financial aspects and implications of coal slurry pipelines.

Over the years the proponents of coal slurry pipelines have been seeking federal eminent domain legislation, mountains of testimony have been introduced, but suspiciously little has been advanced to document the assertion that these pipelines, if built, will transport coal more cheaply than the nation's railroads. It is this subject that I intend to discuss in my testimony today.

Short of a full-scale consulting study, it is impossible to examine the economics of all the coal slurry pipelines which have been proposed. Of all the candidates, the one which is farthest advanced is that proposed by Energy Transportation Systems, Inc. (ETSI). It is also among the longest, and thus presumably one of the most cost effective, and it is upon this pipeline that I will focus. My methodology and estimates of interest costs and equity returns can, of course, be equally applied to other proposed pipelines once their length and estimated construction costs are known.

The present official cost estimate for the ETSI pipeline has been given as approximately $3.5-billion, although of course no one knows how much the final cost would be. Recent cost estimating experience with giant construction projects has been very poor, and investors will not soon forget the Alaska pipeline, where the final cost was approximately eight times the original estimate, or the nuclear power plant programs of Washington Public Power Supply System, where cost overruns were so large that the assembled credit base was insufficient to permit completion of the five power plants, at least two of which have now been abandoned.

Nonetheless, we should start with the estimated construction cost and develop our analysis, later to see what conclusions follow as regards competitive efficiency and financeability.

The first step in postulating a financing plan is to estimate what portion of the financing can be financed through the issuance of debt securities and what portion by means of equity securities. Assuming satisfactory credit, large projects such as this are generally financed mostly by debt. Taking into account the factors present in this situation, I would set 70 percent as the maximum debt financing, with the remaining 30 percent required as equity. The $2.45-billion of debt financing will most likely be arranged through private placement with institutional investors, which will not be easy in today's climate, not just because of the size of the issue, but also because traditional sources of private placement financing have become increasingly unwilling to make long-term fixed rate investments in our present inflationary climate. I would therefore be surprised to see a maturity of more than 20 years for this security and I am estimating that an interest rate of 17 percent would be necessary to accomplish the financing. Assuming an annual sinking fund, on a level debt service basis this would require $435-million annually to service the debt.

It is much harder to determine what might be the minimum equity return necessary to attract $1.05-billion. On the one hand, the sponsors of the project, who have other rewards in mind, may be willing to make a substantial investment at a concessionary rate. Arms-length investors, however, will be hard to come by, as the nature of regulation will only allow them to earn up to a stated ceiling, and then only to the extent that they have a net investment in the project. Thus, the idea of getting their money back and still being able to have earnings cannot work in this instance. I have assumed for calculation purposes a blended equity return of 20 percent, figur-

ing that the sponsors will take less and arms-length investors will require more. Again assuming annual payments, including repayment of the original equity, this would require payments to equity owners annually of $216-million.

To the cost of debt and equity must be added sufficient revenues to pay income taxes, as the return to equity owners and repayment of principal of the debt must be earned after taxes. Depreciation, a non-cash charge, is an offset. Assuming straight line depreciation, income taxes for the first year would be $60-million, and in the twentieth year taxes would have escalated to $413-million. Thus the revenues required just to service the capital employed in this pipeline project would rise from $711-million in the first year to $1,064-million in the twentieth year. Assuming constant 100 percent utilization of the pipeline, a highly unrealistic assumption, the capital charge for the 37.5-million tons of annual through-put would rise from approximately $19 per ton in the first year to more than $28 per ton in the twentieth year. Assuming a more reasonable 80 percent utilization of capacity or 30-million tons of annual throughput, the capital cost charge would rise from almost $24 per ton in the first year to more than $35 per ton in the twentieth year.

Capital costs, of course, are not the only costs involved in operating a pipeline. There is labor, insurance, administrative expenses, and of course the cost of water, a very important item. In addition, this particular pipeline will have an added cost, as presently envisaged, of building and operating a water pipeline some 275 miles in length to bring water to the input point of the slurry line. Estimating costs such as these is not within my area of expertise, but I know that some experts feel that capital costs of a coal slurry pipeline should prove to be approximately two-thirds of total cost. In that the figure I am using for capital costs is for the slurry line only and does not include the capital cost of the water line, my extrapolation will therefore probably tend to underestimate total annual costs. Nonetheless, if the above capital cost charges per ton were to equal two-thirds of total cost, total cost per ton at 100 percent of capacity would rise from more than $28 in the first year to more than $42 in the twentieth year, and at 80 percent of capacity would rise from more than $35 per ton in the first year to more than $53 per ton in the twentieth year. Recent railroad tonnage charges for unit trains from the Powder River Basin to the ETSI destination area available to me vary from approximately $12 to more than $22 per ton.

All these numbers are of course constructed on the assumption that, unlike virtually every other giant construction project in modern times, the ETSI pipeline will not exceed its current estimated costs. (It should be pointed out here that as recently as 1979 ETSI's cost estimate for this project was $1.25-billion.) Any cost overruns will of course have to be financed, and firm "hell or high water" contracts against which such financing is to be done will have to be totally open-ended in this regard unless the sponsors can provide some other means of assuring investors that, once begun, the project will be finished and become operational.

There exists a serious question as to whether prospective contracting utilities in the delivery area will have sufficient demand to justify contracting for 37.5-million tons of slurry annually. It is my understanding that ETSI has long planned to have a portion of the slurry available for export and for sale to non-contract purchasers in the delivery area. However, as export and non-contract arrangements do not provide a basis for credit, the contracting utilities would thus wind up with the entire capital charge liability and contingent liability for cost overruns, only spread over a smaller tonnage. The liability of contracting utilities, thus, would on a per ton basis escalate proportionately from the numbers arrived at above.

Even assuming that one or more utilities will be willing to enter into contracts which can provide the basis for this massive financing, there are obvious public policy questions involved in permitting such contracts. Any such contract of necessity takes out of the hands of state public service commissions the continuing overview of the prices to be paid by the utilities for fuel, their largest element of cost after money. Further, the open-ended and inflexibile nature of the obligation could well produce a situation where the utilities, and thus their ratepayers, would be paying more, and perhaps substantially more, for coal than coal could be purchased for elsewhere. The slurry would also have to be paid for whether it was delivered or not.

The above and other factors instill in me a fear that the right of federal eminent domain is only the first half of the eventual shopping list of the sponsors of coal slurry pipeline projects. U.S. government guarantees of debt financing for these pipelines would eliminate the requirement for equity capital, lower the cost of debt capital and eliminate the problem of cost overruns, as the blank check of the taxpayers would be involved. I don't know if any meaningful discussions on this subject have taken place during these or other hearings on this subject, but I find it hard to believe that the Congress would look favorably on putting the taxpayers' credit behind projects whose costs are unknown, economics are dubious, and the demand for whose product is yet to be proved.

Mr. Chairman, I urge the Committee to have developed for it an analysis in depth of the financing plans and economic competitiveness of these pipelines before acting on the bill which is before you.

I appreciate having had this opportunity to testify and will be happy to answer any questions your Members might have.●

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW AND ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, this request has been cleared, I believe with the minority leader, and I will state it now for the consideration of the Senate.

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 a.m. tomorrow; and that on the convening of the Senate the reading of the Journal be dispensed with, that no resolutions come over under the rule, and that the call of the calendar be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR THE RECOGNITION OF SENATORS CHILES AND TOWER ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order on tomorrow that the distinguished Senators from Florida and Texas, Messrs. CHILES and TOWER, be recognized on special order, in each case for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders, any time remaining prior to the hour of 10 a.m. be devoted to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTES BEGIN AT 10 A.M. TOMORROW

Mr. BAKER. Mr. President, at 10 a.m. on tomorrow, according to the order previously entered, the Senate will resume consideration of the immigration bill, at which time 10 votes have been ordered to occur beginning at that hour, the first vote to be 15 minutes in length and each succeeding vote to be 10 minutes each.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, I see no other Senators seeking recognition in morning business. Could I inquire of the minority leader if he has any other business he wishes to transact?

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I have no other business.

Mr. BAKER. I thank the minority leader.

Would the Chair inquire as to whether there is further morning business?

The PRESIDING OFFICER. Is there further morning business? No one appears to seek recognition. Morning business is closed.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate now stand in adjournment until the hour of 9 a.m. tomorrow.

The motion was agreed to; and, at 4:47 p.m., the Senate adjourned until Tuesday, August 17, 1982, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 16, 1982:

U.S. SYNTHETIC FUELS CORPORATION

Milton M. Masson, Jr., of Arizona, to be a Member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 1 year.

John B. Carter, Jr., of Texas, to be a Member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 2 years.

DEPARTMENT OF STATE

Robert H. Phinny, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Swaziland.

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the U.S. Commissioner on the United States-U.S.S.R. Consultative Commission.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

SECURITIES INVESTOR PROTECTION CORPORATION

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982.

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

THE JUDICIARY

Mary Ann Cohen, of California, to be a Judge of the U.S. Tax Court for a term expiring 15 years after she takes office.

Lapsley Walker Hamblen, Jr., of Virginia, to be a Judge of the U.S. Tax Court for a term expiring 15 years after he takes office.

HOUSE OF REPRESENTATIVES—*Monday, August 16, 1982*

The House met at 12 o' clock noon, and was called to order by the Speaker pro tempore (Mr. FOLEY).

DESIGNATION OF SPEAKER PRO TEMPORE)

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
August 13, 1982.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Monday, August 16, 1982.

THOMAS P. O'NEILL, Jr.
Speaker of the House of Representatives.

PRAYER

The former Chaplain of the U.S. House of Representatives, the Reverend Edward G. Latch D.D., L.H.D., offered the following prayer:

Thou shalt keep the Commandments of the Lord Thy God, to walk in His ways and to fear Him.— Deuteronomy 8: 6.

Almighty God, our Father, in whose hands are all our days and all our ways, we thank Thee that in Thy mercy we have come to the beginning of another week. Help us to show our gratitude by serving Thee more faithfully and by being more fruitful in our endeavors on behalf of our beloved country.

Grant to our President, our Speaker, our Representatives, and all who work with them the wisdom to know Thy will and the strength to do it day by day. Direct their deliberations, prosper their planning, motivate their minds as they labor for the good of our country that truth and justice, peace, and good will may be established among us now and come to dwell in the lives of all people: to the glory of Thy holy name and the good of all mankind. Amen and amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) entitled "An act to establish the Mount St. Helens National Volcanic Area, and for other purposes."

The message also announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House is requested:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony;

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes;

S. 2625. An act to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes; and

S.J. Res. 188. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day."

CONSENT CALENDAR

The SPEAKER pro tempore. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

SUPREME COURT POLICE

The Clerk called the bill (H.R. 6204) to amend title 28 of the United States Code and related statutes with respect to the appointment and jurisdiction of the Supreme Court Police.

There being no objection, the Clerk read the bill as follows:

H.R. 6204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 672(b) of title 28, United States Code, is amended to read as follows:

"(b) The Marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and employees to attend the Court, employees to serve as Supreme Court Police, and necessary custodial employees.".

SEC. 2. Section 672(c) of title 28, United States Code, is amended by changing the period at the end of paragraph (7) thereof to a semicolon and by adding the following new paragraphs:

"(8) Oversee the work of those employees appointed in the capacity of Supreme Court Police, who shall serve as law enforcement officers to police the Supreme Court building, grounds, and adjacent streets, and to protect the Chief Justice, Associate Justices, the officers and employees, guests, and property of the Court and shall be authorized to bear arms and to make arrests in such capacity; and

"(9) Prescribe such regulations, approved by the Chief Justice and consistent with sections 2 through 6 of the Act of August 18, 1949, chapter 479, 63 Stat. 616 (40 U.S.C. 13g–13k), as may be necessary for the adequate protection of the Supreme Court building, grounds, persons and property, and for the maintenance of suitable order and decorum, which regulations shall be posted in a public place at the Supreme Court building and copies of which shall be made reasonably available to the public.".

SEC. 3. Section 1 of the Act of August 18, 1949, chapter 479, 63 Stat. 616 (40 U.S.C. 13f) is amended by striking all language following the word "may" and substituting therefor, "appoint employees to serve as Supreme Court Police, for duty as law enforcement officers in policing the Supreme Court building, grounds, and adjacent streets, and in protecting the Chief Justice, Associate Justices, officers and employees, guests and property of the Court.

SEC. 4. Section 7 of the Act of August 18, 1949, chapter 479, 663 Stat. 617 (40 U.S.C. 131) is repealed and sections 8 through 11 of that Act (40 U.S.C. 13m–13p) are redesignated as sections 7 through 10 respectively.

SEC. 5. Section 8 of the Act of August 18, 1949, chapter 479, 63 Stat. 617 (40 U.S.C. 13m), redesignated by section 4 of this Act as section 7 of the Act (40 U.S.C. 131), is amended to read as follows:

"Whoever violates any provision of sections 2 through 6, inclusive, of this Act, or of any regulation prescribed under section 672(c)(9) of title 28, shall be fined not more than $100 or imprisoned not more than sixty days, or both, prosecution for such offenses to be had in the courts for the District of Columbia, upon information by the United States attorney or any of his assistants: In any case where, in the commission of any such offense, public property is damaged in an amount exceeding $100, the period of imprisonment for the offense may be not more than five years."

SEC. 6. Section 9 of the Act of August 18, 1949, chapter 479, 63 Stat. 617 (40 U.S.C. 13n), as subsequently amended and as redesignated by section 4 of this Act is further amended to read as follows:

"The Marshal and the Supreme Court Police provided for by section 672(c)(8) of title 28, United States Code, and by section 1 of this Act shall have the authority as law enforcement officers to bear arms while within or outside the boundaries of the Supreme Court building, grounds, and adjacent streets in such a manner and at such times as the Marshal may by regulation prescribe. They shall have the power to enforce and to make arrests for the violation of sections 2 through 6, inclusive, of this Act, any law of the United States, the District of Columbia, or any State, and any regulation prescribed by the Marshal of the Supreme Court under section 672(c)(9) of title 28, United States Code. The Metropolitan Police of the District of Columbia shall have concurrent jurisdiction with the Supreme Court Police to patrol the Supreme Court building and grounds, and to make arrests therein, when requested to do so by the Marshal of the Supreme Court or his duly authorized assistants. Such authority shall not be construed to empower the Metropolitan Police to enter the Supreme Court building and grounds unless the Marshal of the Supreme Court or his assistants have requested or consented to such entry."

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

H.R. 6204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the first section of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States", approved August 18, 1949 (40 U.S.C. 13f), is amended—

(1) by striking out "special policemen" and inserting in lieu thereof "members of the Supreme Court Police"; and

(2) by striking out ", for duty" and all that follows through "adjacent streets".

(b) Subsection (b) of section 7 of such Act (40 U.S.C. 13l(b)) is amended by striking out "promulgated under" and all that follows through the end of the subsection and inserting in lieu thereof "prescribed under this section shall be posted in a public place at the Supreme Court Building and shall be made reasonably available to the public in writing.".

(c)(1) Section 9 of such Act (40 U.S.C. 13n) is amended by striking out "SEC. 9. The special" and all that follows through ": *Provided,* That the Metropolitan Police force of the District of Columbia" and inserting in lieu thereof the following:

"SEC. 9. (a) The Marshal of the Supreme Court and the Supreme Court Police shall have authority, in accordance with regulations prescribed by the Marshal and approved by the Chief Justice of the United States—

"(1) to police the Supreme Court Building and grounds, and adjacent streets for the purpose of protecting persons and property;

"(2) in any part of the United States, to protect—

"(A) the person of the Chief Justice of the United States, any Associate Justice of the Supreme Court, and any official guest of the Supreme Court; and

"(B) the person of any officer or employee of the Supreme Court while such officer or employee is engaged in the performance of official duties;

"(3) in the performance of duties necessary for carrying out paragraph (1) of this subsection, to make arrests for any violation of a law of the United States or any State and any regulation under such law;

"(4) in the performance of duties necessary for carrying out paragraph (2) of this subsection to make arrests for any violation of a law of the United States and any regulation under such law; and

"(5) to carry firearms as may be required for the performance of duties under this Act.

"(b) The Metropolitan police force of the District of Columbia".

(2) Section 9 of such Act (40 U.S.C. 13n), as amended by paragraph (1) of this subsection, is further amended by adding at the end the following new subsections:

"(c) Duties under subsection (a)(2)(A) of this section with respect to an official guest of the Supreme Court in any part of the United States (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice of the United States or an Associate Justice of the Supreme Court, if such duties require the carrying of firearms under subsection (a)(5) of this section.

"(d) As used in this Act, the term—

"(1) 'official guest of the Supreme Court' means an individual who is a guest of the Supreme Court, as determined by the Chief Justice of the United States or any Associate Justice of the Supreme Court;

"(2) 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States; and

"(3) 'United States', when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(d) Section 11 of such Act (40 U.S.C. 13p) is amended by adding at the end the following new sentence: "In addition to the property referred to in the preceding sentence, for the purposes of this Act, the Supreme Court grounds are comprised of any property under the custody and control of the Supreme Court as part of the Supreme Court grounds, including property acquired as provided by law on behalf of the United States in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building.".

SEC. 2. Section 672(c) of title 28, United States Code, is amended—

(1) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraph:

"(8) Oversee the Supreme Court Police.".

SEC. 3. Section 3 of the Act entitled "An Act to provide for the acquisition of certain property in square 758 in the District of Columbia as an addition to the grounds of the United States Supreme Court Building", approved December 15, 1980 (40 U.S.C. 13p note), is amended by striking out "Act of May 7, 1934 (40 U.S.C. 13a through 13p), as amended" and inserting in lieu thereof "Act entitled 'An Act to provide for the custody and maintenance of the United States Supreme Court Building and the equipment and grounds thereof', approved May 7, 1934 (40 U.S.C. 13a–13c), and section 6 of the joint resolution entitled 'Joint resolution to provide for the use and disposition of the bequest of the late Justice Oliver Wendell Holmes to the United States, and for other purposes', approved October 22, 1940 (40 U.S.C. 13e)".

● Mr. SAM B. HALL, JR. Mr. Speaker, this bill, H.R. 6204 was introduced by Mr. RODINO for himself and Mr. MCCLORY in an attempt to clarify the authority of the Supreme Court Police to protect Supreme Court personnel both on and off the premises of the Court and to clarify the authority of the Supreme Court Police to use firearms and make arrests in the performance of their protective function. Following a hearing where representatives of the Court testified, the subcommittee worked with representatives of the Court and formulated the amendment in the nature of a substitute.

Currently, security arrangements for the Supreme Court personnel off the premises of the Court are handled through the cooperation of the U.S. Marshal's service. Members of the Supreme Court Police Force are not authorized to carry firearms off the premises of the Court. Their arrest authority off the premises of the Court is unclear. While many members of the Supreme Court Police force are Deputy U.S. Marshals and are therefore authorized to carry firearms and make arrests off the Court premises, passage of this bill will clarify their authority in an appropriate fashion, by amendment to the provisions of title 40 which authorize the Supreme Court Police.

As amended by the committee the bill amends the provisions in title 40 of the United States Code which currently authorized the Supreme Court Police in the following respects:

First, it clarifies the authority of the Supreme Court Police to protect the property of the Supreme Court and persons in the vicinity of the Court property.

Second, it authorizes the Supreme Court Police to protect the Justices, their official guests, and officers or employees of the Court who are engaged in the performance of official duties in any part of the United States.

Third, it clarifies the arrest authority of the Supreme Court Police and limits arrest authority in the performance of their protective function away from the Supreme Court grounds to arrests for violations of Federal laws.

Fourth, it clarifies and makes explicit the authority of the members of the Supreme Court Police force to carry firearms as may be required for the performance of duties under the act.

Fifth, it repeals the requirement that the Marshal of the Supreme Court shall publish regulations deemed necessary for the protection of the Supreme Court Building and grounds in a local newspaper for 10 days prior to their effective date, and substitutes a requirement that the proposed regulations be posted at the Supreme Court Building and be made

reasonably available to the public in writing.

The amendment in the nature of a substitute improves upon H.R. 6204 by more carefully defining the protective functions of the police and by specifically relating their arrest authority and their authority to carry firearms to those functions. Moreover, the committee amendment requires that the justices identify their official guests and provide written authorization for the Supreme Court Police to carry a firearm while protecting such official guests outside of Virginia, Maryland, and the District of Columbia.●

● Mr. MOORHEAD. Mr. Speaker, ordinarily, I would be opposed to the establishment of another specialized police force. But in view of recent events I think the legislation is well advised. The assault on Justice White last month, threats against Justice O'Connor during her confirmation and documented threats received by the Chief Justice, call for some form of specialized protection.

The current status of the Supreme Court Police is that of a mere guard force with uncertain arrest authority and no explicit permission to carry firearms. Under present law the Supreme Court Police cannot do their job. I think we should change it. I urge my colleagues to vote aye on H.R. 6204.●

● Mr. McCLORY. Mr. Speaker, under current statutes the Supreme Court constabulary lacks authority commensurate with their duties and responsibilities. If the law is read closely, only a superintendent function is permitted. The fact that a Supreme Court employee was shot to death last year cries for a statutory overhaul so that the Supreme Court Police can perform their true law enforcement function.

Street crime, assassination attempts, and terrorist activities have become daily facts of life, yet the police of the Supreme Court have no direct authority to carry weapons when protecting the Justices. In a letter to the Congress from the High Court it was noted that Justice Marshall was the target of at least one threat last year and Justice Sandra Day O'Connor was subject to at least two death threats during the time of her confirmation. A recent assault on Justice White reflects the intensity of feeling that any Supreme Court opinion can generate. This physical vulnerability could have a chilling effect on Court decisions that must be decided without fear or favor. Another deficiency in the present law is its failure to provide for arrest authority. Even if a Supreme Court policeman saw a crime committed on an adjacent street to the Court, he has no arrest authority and indeed could be subject to a personal suit if he intervened.

To get around present statutory deficiencies, Supreme Court Police have to go through the awkward procedure of being deputized as temporary U.S. marshals by the U.S. marshal for the District of Columbia. This authority expires every 6 months and they have to be redeputized. Therefore, any meaningful police authority is derived at the temporary sufference of the U.S. marshal for the District of Columbia. Supreme Court Police are second-class citizens and this arrangement is a heavy blow to morale, besides entailing a lot of unnecessary paperwork.

Mr. Chairman, I strongly support this legislation not only as an accommodation to the Justices but also for the safety and security of all Supreme Court personnel. The Supreme Court Police are law enforcement officers for a coordinate branch of the Federal Government, they should have a clear and unqualified statutory authority to serve in that capacity.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to provide for appointment and authority of the Supreme Court Police, and for other purposes."

A motion to reconsider was laid on the table.

DIRECTING SECRETARY OF THE INTERIOR TO RELEASE CERTAIN CONDITIONS CONTAINED IN PATENT CONCERNING CERTAIN LAND CONVEYED BY UNITED STATES TO EASTERN WASHINGTON UNIVERSITY

The Clerk called the bill (H.R. 6419) to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

There being no objection, the Clerk read the bill as follows:

H.R. 6419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to section 2, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release certain conditions contained in patent numbered 1216646 concerning the land described in subsection (b) conveyed by the United States to Eastern Washington University (formerly the Eastern Washington College of Education) (hereinafter in this Act referred to as the "University"). Such conditions provide that such land will revert to and revest in the United States if the University or any successor of the University—

(1) uses such land for purposes other than recreational and educational purposes, or

(2) attempts to transfer title to such land.

(b) The land referred to in subsection (a) comprises 21 acres and may be described as lot 6, section 34, Township 22 North, Range 41 East, Willamette Meridian, Washington.

SEC. 2. The Secretary shall carry out subsection (a) of the first section of this Act only after the University has demonstrated to the satisfaction of the Secretary that—

(1) the University will dispose of the land described in subsection (b) of such section only for the purpose of acquiring, by exchange or purchase, real property which is more suitable for educational or recreational purposes than such land,

(2) if the University exchanges such land for other real property—

(A) the fair market value of such real property will not be less than the fair market value of such land, or

(B) the University will pay to the United States any amount by which the fair market value of such land exceeds the fair market value of such real property,

(3) if the University sells such land—

(A) the amount received by the University from such sale will be not less than the fair market value of such land, and

(B) the University will pay to the United States any portion of such amount which is not used to purchase other real property as provided in paragraph (1), and

(4) title to any real property acquired by the University by exchange of such land or by purchase with the proceeds of the sale of such land will vest in the United States if the University or any successor of the University—

(A) uses such real property for purposes other than educational or recreational purposes,

(B) attempts to transfer title to such real property, or

(C) prohibits or restricts, directly or indirectly, or permits its agents, employees, contractors, or subcontractors (including lessees, sublessees, or permittees) to prohibit or restrict, directly or indirectly, the use of such real property or any facility thereon by any individual because of such individual's race, creed, color, sex, or national origin.

With the following committee amendments:

Page 2, after line 16, insert the following:

"(c) The authority of the Secretary to release such conditions shall expire five years after enactment of this Act."

Page 2, lines 19 and 20, strike "the University has demonstrated to the satisfaction of the Secretary that—" and in lieu thereof insert:

"The University concludes an agreement with the Secretary, and delivers to the Secretary a recordable document setting forth the terms of such agreement, that—"

Page 3, line 20, strike "and".

Page 4, line 11, change "origin." to "origin, and" and insert the following:

"(5) the University will include the terms of such agreement in any document transferring to the University property acquired by the University pursuant to such agreement."

The committee amendments were agreed to.

The bill was ordered engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING THE SECRETARY OF THE INTERIOR TO ACQUIRE BY EXCHANGE CERTAIN LANDS WITHIN INDIANA DUNES NATIONAL LAKESHORE

The Clerk called the bill (H.R. 6029), to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana.

There being no objection, the Clerk read the bill as follows:

H.R. 6029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the fourth sentence of section 2(a) of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u—1(a)), or any other provision of law, the Secretary of the Interior is authorized—

(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as "Heron Rookery", and

(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as "Hoosier Prairie".

With the following committee amendment:

Strike all after enacting clause and insert in lieu thereof the following:

That (a) notwithstanding the fourth sentence of section 2(a) of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966 (16 U.S.C. 460u-1(a)), or any other provision of law, the Secretary of the Interior is authorized—

(1) to accept from the State of Indiana the conveyance of 69.17 acres of land located within area IV-A, as designated on the map referred to in the first section of such Act (16 U.S.C. 460u), commonly known as "Blue Heron Rookery", and

(2) in exchange for such conveyance, to convey to the State of Indiana 31.26 acres of land located within area IV, as designated on such map, commonly known as "Hoosier Prairie".

(b) The Secretary of the Interior may not carry out the conveyance specified in subsection (a)(2) unless, simultaneously with such conveyance and in consideration of such conveyance, the State of Indiana—

(1) transfers to the Secretary all right, title, and interest in the land described in subsection (a)(1);

(2) enters into a recordable agreement satisfactory to the Secretary providing that—

(A) the State will not use, or permit the use, of the land described in subsection (a)(2) for any purpose other than the interpretation and public appreciation and use of the Hoosier Prairie Unit of the Indiana Dunes National Lakeshore;

(B) the State will not transfer any right, title, or interest in, or control over, any land described in subsection (a)(2) to any person other than the Secretary;

(C) the State will permit access by the Secretary at reasonalbe times to the land described in subsection (a)(2); and

(D) upon a final determination by the Secretary that

(i) the State has failed to comply with the requirement of subparagraph (A) or (B), and

(ii) after receipt of notice from the Secretary respecting such failure, the State has failed or refused to comply with such requirements

all right, title, and interest in such land shall revert to the United States for administration by the Secretary as part of the lakeshore.

The Secretary may make a determination under subparagraph (D) only after notice and opportunity for hearing on the record. The reversion under subparagraph (D) shall take effect upon publication of such determination by the Secretary in the Federal Register without further notice or requirement for physical entry by the Secretary unless an action for judicial review is brought in the United States Court of Appeals for the appropriate circuit within 90 days following such publication. In any such action the court may issue such orders as appropriate to carry out the requirements of this subsection.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRECTING THE SECRETARY OF THE INTERIOR TO RELEASE CERTAIN RESTRICTIONS CONTAINED IN PREVIOUS CONVEYANCE OF LAND TO THE STATE OF FLORIDA

The Clerk called the bill (H.R. 5627) to direct the Secretary of the Interior to release certain restrictions contained in a previous conveyance of land to the State of Florida and to allow the State of Florida to purchase the mineral interests of the United States in such land.

There being no objection, the Clerk read the bill as follows:

H.R. 5627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to the land described in section 3, part of which was conveyed by the United States to the State of Florida by a patent numbered 1144377 and the remainder of which was conveyed by the United States to the Florida Board of Forestry and Parks (presently named the Florida Department of Natural Resources) by a patent numbered 1123723, the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall release conditions in such patents which require that such land be used for park or recreational purposes and, if not so used, that such land shall revert to the United States.

SEC. 2. (a) Upon an application filed by the State of Florida in accordance with subsection (b)(1), the Secretary shall convey to the State of Flordia the mineral interests of the United States in the land described in section 3 at the fair market value of such interests, as determined by the Secretary.

(b)(1) Any application for conveyance filed by the State of Florida under subsection (a) shall be filed not later than one year after the date of the enactment of this Act and shall be accompanied by a sum of money which the Secretary estimates is sufficient to pay the administrative costs of carrying out this section. If such sum is less than the actual amount of administration costs, then, whether or not a conveyance is made, the State of Florida shall pay the difference to the Secretary. If such sum is greater than the actual amount of administrative costs, then, whether or not a conveyance is made, the Secretary shall refund the difference to the State of Florida.

(2) As used in paragraph (1), the term "administrative costs" includes the costs of—

(A) conducting such exploratory programs as the Secretary deems necessary to determine the character of the mineral deposits in the land described in section 3;

(B) evaluating the data obtained under such exploratory programs to determine the fair market value of such deposits; and

(C) preparing and issuing any instrument of conveyance under subsection (a) with respect to such deposits.

SEC. 3. The land referred to in this Act is as follows: lot 2, southwest quarter, southwest quarter, section 15, township 4 south, range 15 west, of the Tallahassee meridian, Florida.

With the following committee amendment:

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) with respect to the land described in section 2, the right of reverter and the reserved mineral interests held by the United States in such land are hereby conveyed, without warranty, to the State of Florida for the purpose of allowing the State of Florida to exchange such lands for privately owned lands, such conveyance to the State of Florida to be contingent and effective upon the conveyance to the United States of marketable title to the land described in section 3, in fee simple absolute, free and clear of all liens and encumbrances, except those acceptable to the Secretary of the Interior.

(b) Immediately upon receipt by the United States of title to the land described in section 3, the Secretary of the Interior shall convey, without warranty, the land described in section 3 to the State of Florida. The document of conveyance shall:

(1) reserve to the United States all mineral deposits found at any time in the land and the right to prospect for, mine and remove the same; and

(2) provide that the land shall revert to the United States upon a finding by the Secretary of the Interior that for a period of 5 consecutive years such land has not been used by the State of Flordia for park or recreational purposes, or that such land or any part thereof is being devoted to other uses.

SEC. 2. The land referred to in section 1(a) is approximately 0.69 of an acre of land, presently encroached upon by the adjoining landowners or occupants, within an area generally described as lot 2, southwest quarter southwest quarter, section 15, township 4 south, range 15 west, Tallahassee meridian, Florida. Part of the tract was included in the land conveyed by the United States to the State of Florida on May 10, 1954, by patent numbered 1144377, and part was included in the land conveyed by the United States to the Florida Board of Forestry and Parks (presently named the Florida Depart-

ment of Natural Resources) on July 26, 1948, by patent numbered 1123723.

SEC. 3. The land to be received in exchange for the land described in section 2 consists of approximately 1.10 acres of land located in a tract generally described as section 16, township 4 south, range 15 west, Tallahassee meridian, Florida, and more particularly described as follows: Begin at the intersection of the South right of way line of Thomas Drive (State Road No. 392) and the East line of Section 16, Township 4 South, Range 15 West, Bay County, Florida. Thence South 0°31'37" West along the East line of said Section 16 for 468.20 feet to the South line of said Section 16; thence North 89°28'23" West along said South line of Section 16 for 205 feet; thence North 24°10'23" East for 511.11 feet to the Point of Beginning, containing 1.10 acres more or less.

SEC. 4. The State of Florida shall pay promptly to the Secretary of the Interior, any and all costs, including administrative overhead, that may be incurred by the United States in connection with the transactions authorized under section 1 of this Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes."

A motion to reconsider was laid on the table.

NEW HAMPSHIRE-VERMONT COMPACT

The Clerk called the bill (H.R. 5288), granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste.

There being no objection, the Clerk read the bill as follows:

H.R. 5288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the compact entered into between the States of New Hampshire and Vermont providing for cooperative agreements to construct and operate facilities for the processing or disposal of solid waste, and to carry out related purposes, which compact was approved by the State of New Hampshire on June 23, 1981, and by the State of Vermont on April 16, 1981. Such compact is substantially as follows:

"ARTICLE I

"A. Statement of Policy.

"It is recognized that municipalities in New Hampshire and Vermont may, in order to avoid duplication of cost and effort, and, in order to take advantage of economies of scale, find it necessary or desirable to enter into an agreement whereby joint solid waste disposal and resource recovery facilities are constructed and maintained. The States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to capture the economic benefits of reduced solid waste disposal costs and to enhance the economy through a reduction in demand for imported energy and the promotion of employment. Furthermore, the States of New Hampshire and Vermont recognize the value of and the need for such a cooperative agreement to maintain a safe and healthy environment, including a clean and renewable supply of the water resources.

"B. Requirement of Administrative and Congressional Approval.

"This compact shall not become effective until approved by the Administrator of the United States Environmental Protection Agency and the United States Congress.

"C. Definitions.

"1. 'Resource recovery facility' shall mean any facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise, separating and preparing solid waste for reuse.

"2. 'Municipalities' shall mean in Vermont, a municipality as defined in 1 V.S.A. § 126 and a union municipal district established under the authority of 24 V.S.A. Chapter 121; shall mean in New Hampshire, a public agency as defined in RSA 53-A:2 and a regional refuse disposal district established under the authority of RSA 53-B.

"3. 'Solid waste agencies' shall mean those agencies within New Hampshire and Vermont possessing authority to regulate solid waste disposal and to administer the Resource Conservation and Recovery Act of 1976, as amended (42 USCA Chapter 82).

"4. 'Sanitary landfills' shall mean a facility for the disposal of solid waste which meets the criteria published under 42 USCA § 6944 of the Resource Conservation and Recovery Act of 1976, as amended.

"5. 'Solid waste' shall mean any garbage, refuse, metal goods, tires, demolition and construction waste, yard waste, and sludge from a waste water treatment plant, or other discarded materials, possessing no value to the producer in its present form where it is located, produced by normal residential, commercial, and industrial activities, but does not include hazardous waste.

"6. 'Hazardous waste' shall mean any solid, semi-solid, liquid, or contained gaseous waste, or any combination of these wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed, or any waste classified as hazardous at any time under applicable laws and regulations of the United States, New Hampshire, and Vermont or any subdivision thereof pursuant to a valid grant of authority.

"ARTICLE II

"PROCEDURES AND CONDITIONS GOVERNING INTERGOVERNMENTAL AGREEMENTS

"A. Cooperative Agreements Authorized.

"Any two or more municipalities, one or more located in New Hampshire and one or more located in Vermont, may enter into cooperative agreements for the construction, maintenance, and operation of a resource recovery facility or sanitary landfill or both, and those related services needed for the efficient operation thereof. The agreement may also include the sale of energy and other byproducts.

"B. Approval of Agreements.

"Any agreement entered into under this compact shall, prior to becoming effective, be approved by the solid waste agencies of both New Hampshire and Vermont as in conformance with each State's solid waste management plan.

"C. Method of Adopting Agreements.

"Agreements hereunder shall be adopted in accordance with existing statutory procedures for the adoption of inter-governmental agreements between municipalities within each State, and further in New Hampshire, as provided in RSA 53-B.

"D. Review and Approval of Plans.

"The solid waste agencies of the State in which any part of a solid waste disposal and resource recovery facility which is proposed under an agreement pursuant to this compact is proposed to be or is located is hereby authorized and required, to the extent such authority exists under its State law to assure that the proposed facility is compatible with the existing State plan.

"E. Contents of Agreements.

"Agreements entered into pursuant to this compact shall contain the following:

"1. Duration of the agreement.

"2. Purpose of the agreement.

"3. Provision for a joint board and/or administrator, responsible for administering the cooperative undertaking and the powers to be exercised thereby. All municipalities party to the agreement shall be represented.

"4. The manner of acquiring, holding, and disposing of real and personal property used in the cooperative undertaking.

"5. The manner of financing the cooperative undertaking and establishing a budget therefor.

"6. The manner and method of establishing and imposing fair and equitable charges for the users of the facilities.

"7. A provision establishing a procedure for the arbitration of disputes.

"8. The conditions and procedure under which a municipality may withdraw from or be added to a cooperative agreement.

"9. The manner in which the agreement may be amended.

"10. The methods to be employed in the termination of the agreement and for disposing of property upon termination.

"ARTICLE III

"EFFECTIVE DATE

"A. This compact shall become effective when ratified by New Hampshire and Vermont and approved by the United States Congress.".

SEC. 2. Nothing contained in the compact described in the first section of this Act shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of the agreement.

SEC. 3. The right to alter, amend, or repeal this Act is expressly reserved.

● Mr. SAM B. HALL, JR. Mr. Speaker, pursuant to article I, section 10 of the U.S. Constitution, this bill extends congressional consent to an agreement already ratified by the legislatures of Vermont and New Hampshire. Under the agreement, municipalities in the two States would be authorized to enter into agreements to jointly construct and maintain facilities for the disposal of solid waste and the generation of electricity. According to testimony before the subcommittee, communities in both Vermont and New

Hampshire have been participating in an interstate solid waste project with the cooperation and support of the Environmental Protection Agency since 1979. The approval of this compact will make it possible for these communities to continue to cooperate and produce electric power by burning their solid wastes.

The Environmental Protection Agency supports enactment of this legislation and its passage would not detrimentally affect any Federal interest.

I urge my colleagues to support this bill giving the consent of Congress to the compact between the States of New Hampshire and Vermont.●

● Mr. MOORHEAD. Mr. Speaker, to avoid duplication and unnecessary expense, New Hampshire and Vermont have entered into a compact of mutual assistance under the Resource Conservation and Recovery Act.

This compact is the implementation on a regional basis of a solid waste disposal plan. Instead of each State having to build separate facilities at enormous cost, both States will use the same facilities at optimum levels. This arrangement is an economical and efficient use of the Federal tax dollar and enables two States to share the burdens and the rewards of a cooperative plan.

Solid waste disposal has turned from a municipal headache into an abundant source of energy. In the cold New England winters the generation of 12.5 kilowatts of electricity from materials that were once buried in the ground, should be a source of financial and physical comfort.

Since the compact is between two States, the Constitution requires a congressional blessing. I strongly support this legislation and urge my colleagues to vote aye.●

● Mr. McCLORY. Mr. Speaker, this is the first interstate compact under the Resource Conservation and Recovery Act of 1976. It enables municipalities of both States to enter into agreements for the construction and maintenance of joint solid waste disposal and resource recovery facilities.

Once the source of perpetual controversy among communities, solid waste disposal has turned into a hidden bonanza for all participants. Technology makes it possible to convert waste into useful power—it is estimated that more than 12.5 million kilowatts of electricity will be generated per year under this program. Moreover, it will also reduce the need for landfill by 80 percent for the communities involved. Separation of solid waste will also make it possible to recover metals for reuse. This is my definition of sound environmental legislation.

Years ago States and local governments were battling about where the next landfill would be; today it seems the reverse. Communities have tried to outbid one another for waste disposal and separation facilities for the jobs and other economic benefits to be derived by placement of such facilities in their community.

We must give credit to the States of New Hampshire and Vermont for implementing resource conservation and recovery. "Yankee ingenuity" is alive and well.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CRIMINAL PENALTY FOR THREATS AGAINST FORMER PRESIDENTS AND CERTAIN OTHER PERSONS PROTECTED BY THE SECRET SERVICE

The Clerk called the bill (H.R. 6168) to amend chapter 41 of title 18, United States Code, to prohibit threats against Presidental candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose.

There being no objection, the Clerk read the bill as follows:

H.R. 6168

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) chapter 41 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 879. Threats against certain other United States Secret Service protectees

"(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon a former President of the United States; the spouse, widow, or minor child under the age of sixteen years of a former President; a major candidate or the spouse of a major candidate for the Office of the President or Vice President, or a member of the immediate family of the President, the President elect, the Vice President, the Vice President elect, or a former Vice President, any of whom is receiving Secret Service protection, shall be fined not more than $1,000 or imprisoned not more than three years; or both.

"(b) As used in this section—

"(1) 'major candidate or the spouse of a major candidate for the Office of the President or Vice President' means any person receiving Secret Service protection pursuant to provisions of Public Law 90-331 (82 Stat. 170), as amended;

"(2) 'immediate family' includes—

"(A) any person who is related by blood, marriage, or adoption to the President, President elect, the Vice President, or the Vice President elect and who receives Secret Service protection; or

"(B) any person to whom the President, President elect, Vice President, or Vice President elect stands in loco parentis and who receives Secret Service protection; and

"(3) 'President elect' and 'Vice President elect' shall have the same meaning given those terms in section 871(b) of this title.".

(2) Section 3056(a) of title 18, United States Code, is amended by striking out in the fifth clause the phrase "and 871" and inserting in lieu thereof "871, and 879".

(3) The analysis for chapter 41 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"879. Threats against certain other United States Secret Service protectees.".

(4) Section 871 of title 18, United States Code, is amended by inserting the words ", to kidnap," in subsection (a) after the words "to take the life of".

With the following committee amendments:

Strike out all after the enacting clause and insert in lieu thereof the following:

That (a) chapter 41 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 879. Threats against former Presidents and certain other persons protected by the Secret Service

"(a) Whoever knowingly and willfully threatens to kill, kidnap, or inflict bodily harm upon—

"(1) a former President or a member of the immediate family of a former President;

"(2) a member of the immediate family of the President, the President-elect, the Vice President, or the Vice President-elect; or

"(3) a major candidate for the office of President or Vice President, or the spouse of such candidate;

who is protected by the Secret Service as provided by law, shall be fined not more than $1,000 or imprisoned not more than three years, or both.

"(b) As used in this section—

"(1) the term 'immediate family' means—

"(A) with respect to subsection (a)(1) of this section, the wife of a former President during his lifetime, the widow of a former President until her death or remarriage, and minor children of a former President until they reach sixteen years of age; and

"(B) with respect to subsection (a)(2) of this section, a person to whom the President, President-elect, Vice President, or Vice President-elect—

"(i) is related by blood, marriage, or adoption; or

"(ii) stands in loco parentis;

"(2) the term 'major candidate for the office of President or Vice President' means a candidate referred to in the first section of the joint resolution entitled 'Joint resolution to authorize the United States Secret Service to furnish protection to major Presidential or Vice Presidential candidates', approved June 6, 1968 (18 U.S.C. 3056 note); and

"(3) the terms 'President-elect' and 'Vice President-elect' have the meanings given those terms in section 871(b) of this title.".

(b) The table of sections for chapter 41 of title 18, United States Code, is amended by adding at the end the following new item:

"879. Threats against former Presidents and certain other persons protected by the Secret Service.".

SEC. 2. Section 871(a) of title 18, United States Code, is amended by inserting after "to take the life of" the following: ", to kidnap,".

SEC. 3. The sentence beginning "Subject to the direction" in section 3056(a) of title 18, United States Code, is amended—

(1) by striking out "and 871 of this title" and inserting in lieu thereof "871, and 879 of this title"; and

(2) by striking out ", joint-stock land banks and Federal land bank associations are concerned, of sections 218, 221" and inserting in lieu thereof "and Federal land

bank associations are concerned, of sections 213, 216."

SEC. 4. (a) Section 1013 of title 18, United States Code, is amended by striking out ", or by any joint-stock land bank or banks".

(b) Section 1014 of such title is amended by striking out "a joint-stock land bank,".

(c) Section 1907 of such title is amended by striking out ", Federal land bank, or joint-stock land bank" and inserting in lieu thereof "or Federal land bank".

● Mr. SAM B. HALL, JR. Mr. Speaker, as introduced, H.R. 6168 accomplishes two major purposes. It amends the Presidential threat statute, 18 U.S.C. 871, to prohibit threats to kidnap the President or other persons named in that section, and it creates a new section 879 which prohibits threats against Presidential candidates and other persons protected by the Secret Service who are not covered by the present sections 871 or 112 of title 18. The need to criminalize kidnap threats against the President is self-evident. The new section 879 will provide the Secret Service with jurisdiction to investigate threats against any authorized Secret Service protectees. Currently, Secret Service investigations and the prosecution of persons who make threats against protectees are hampered by reliance on various State laws. The bill as amended will meet these needs.

The committee amendment in the nature of a substitute substantially changes the bill in only one respect. It deletes the reference to "a former Vice President" in the new section 879. Since the Secret Service is not authorized under current law to protect former Vice Presidents, it is not appropriate that threats on the life of a former Vice President constitute a distinct Federal criminal offense.

The committee amendment otherwise improves the bill by:

More carefully tracking the language of 18 U.S.C. 3056 which authorizes the Secret Service;

Clarifying section "(2)" of the bill (That section amends 18 U.S.C. 3056 by adding a reference to new section 879 of title 18); and by

Making technical amendments to 18 U.S.C. 3056 deleting references to nonexistent "Joint Stock Land Banks" and revising erroneous section numbers.

In addition, I call my colleagues' attention to language in the committee report which clarifies the meaning of the term "knowingly and willfully" as it is used in the new section 879. There has been considerable disagreement among courts construing the identical term in section 871 of title 18. Our report construes "knowingly and willfully" as requiring proof of a subjective intent to make a threat.●

● Mr. MOORHEAD. Mr. Speaker, I lend my support to this bill. It fills a gap in the protective activities of the Secret Service and has also been recommended by the Select Committee on Assassinations.

All of the new persons covered under H.R. 6168 are already protectees of the Secret Service. They are individuals of high visibility and are most likely to receive serious threats.

Presently, when a protectee of the Secret Service, other than the President, receives a threat of death or serious bodily harm, the Secret Service cannot arrest and therefore must rely on local law and local officials for action. Such an arrangement is awkward and uncertain.

During committee action on this bill we discussed its impact on constitutionally protected speech. While free speech is a sacred right within the democratic process, it was hardly meant to protect death threats. HiStory tells us that our public figures are much too vulnerable to let serious verbal threats to go uninvestigated. The Constitution was never meant to protect license or permissiveness. Suffice it to say then that we should err on the side of caution.

I urge my colleagues to vote for H.R. 6168.●

● Mr. McCLORY. Mr. Speaker, a threat against the life of the President is a felony under Federal law. Besides the President, this law applies only to a select few, such as Presidential successors as well as the President and Vice-President-elect. Many other elected public figures and their families now protected by the Secret Service are not protected by a threat statute. Nor do major Presidential candidates have this much needed statutory coverage.

Because the Secret Service is required to protect these persons, their protective job is hampered by the fact that there is no Federal threat statute. Investigation, arrest, prosecution, and conviction must be based upon local law and the cooperation of local officials. Each State has a different law with different degrees of proof. Local resources and quality of local officials may also vary, thereby confounding the job of the Secret Service.

This legislation provides the much needed independent basis for the Secret Service to do its job. It gives them authority commensurate with its responsibility. Under this amendment, investigation and prosecution would be streamlined. A report from the Congressional Budget Office states that this legislation has no budget impact.

In closing, I would like to say that our committee examined the first amendment implications of this extension of the threat statute. I am satisfied a fair balance has been struck between constitutionally protected utterances and intentional death threats. Political rhetoric shall be protected; substantial threats shall be punished. I urge my colleagues to vote for this bill.●

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes."

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. This concludes the call of the Consent Calendar.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks in connection with the bills, H.R. 6204, H.R. 5288, and H.R. 6168, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. WHITE. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, August 16, 1982, to file a conference report on the Senate bill, S. 2248, the Department of Defense Authorization Act, fiscal year 1983.

The SPEAKER pro tempore. Is there any objection to the request of the gentleman from Texas?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON AUGUST 17, 18, AND 19, 1982

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, Wednesday, and Thursday, August 17, 18, and 19, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. JOHNSTON. Mr. Speaker, reserving the right to object, has that been cleared with the minority?

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, the minority has been consulted on this.

Mr. JOHNSTON. Has that been cleared with the minority?

Mr. SEIBERLING. It has been cleared with them in the sense that they have been consulted. I cannot say of my own knowledge that they have consented, but as far as I know, there is no objection.

Mr. JOHNSTON. Will the gentleman from Ohio withdraw his request until we have a chance to check?

Mr. SEIBERLING. I will be glad to do that, without prejudice.

Mr. Speaker, I withdraw the request.

The SPEAKER pro tempore. The gentleman from Ohio withdraws his request.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY AND THE REST OF THE WEEK DURING 5-MINUTE RULE

The SPEAKER pro tempore. For what purpose does the gentleman from Michigan (Mr. DINGELL) rise?

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce have the permission of the House to sit today and for the rest of the week for the purposes of the consideration of legislation while the House is sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DANNEMEYER. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Michigan can enumerate what legislation this request relates to.

Mr. DINGELL. It is my expectation to consider the Clean Air Act amendments.

Mr. DANNEMEYER. Reserving the right to object, the request relates only to the legislation dealing with the Clean Air Act?

Mr. DINGELL. That is correct.

Mr. DANNEMEYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. The Chair is not recognizing the gentleman for that purpose at this time.

Mr. WAXMAN. Reserving the right to object, and pending that, Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. That is not in order at this point. I wonder if we could ask the gentleman from Michigan to temporarily withhold his request.

Mr. DINGELL. Mr. Speaker, I believe that this is proper business of the House. The Chair has just considered a request of this kind. If it is the wish of the gentleman from California to obfuscate and delay the business of the Committee on Energy and Commerce, the business of the House, then it is his right to do so, and I think it is my right to have him take that step.

PARLIAMENTARY INQUIRY

Mr. WAXMAN. Mr. Speaker, a point of parliamentary procedure.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. I would like to know how the rules would protect Members who have been informed that a controversial unanimous-consent request would not be brought up on a day when there are no votes, except to allow a Member to ask for a quorum call so the Members can participate in a decision that is made.

Mr. DINGELL. I call for the regular order.

The SPEAKER pro tempore. The Chair has indicated that a motion at this time or objection at this time that a quorum is not present is not in order. The gentleman from Michigan insists on his unanimous-consent request.

Mr. DINGELL. That is correct.

Mr. WAXMAN. A point of parliamentary procedure.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WAXMAN. I renew my inquiry to the Speaker on how the rules are permitted to protect Members when there are no indications of any controversy being brought up on a day when the House is not required to have votes.

Mr. DINGELL. Mr. Speaker, I demand the regular order. I make the point of order that is not a proper parliamentary inquiry.

Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The gentleman insists on the regular order. The gentleman from California insists on his right to make an objection, pending which he makes the point of order a quorum is not present.

Mr. SEIBERLING. Mr. Speaker, will the gentleman withhold for a minute his point of order?

The SPEAKER pro tempore. Does the gentleman yield to the gentleman from Ohio?

Mr. WAXMAN. I will be pleased to yield.

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is reading for amendment under the 5-minute rule on Tuesday, Wednesday, and Thursday, August 17, 18, and 19, 1982.

Mr. DINGELL. I have a similar request pending, and I object.

The SPEAKER pro tempore. The gentleman is within his rights to object to yield for that purpose. The gentleman did not recognize the gentleman for that purpose at this time.

The Chair at this time will withhold recognition for any further purpose for a period. The Chair will protect the gentleman from Michigan's rights in this matter.

Mr. DINGELL. Mr. Speaker, I am entitled to have a ruling on my unanimous-consent request.

The SPEAKER pro tempore. The Chair will reserve a ruling. The Chair will protect the gentleman's rights.

Mr. DINGELL. Mr. Speaker, I believe I am entitled to be protected at this time.

The SPEAKER pro tempore. It is a matter of recognition, and the Chair is going to exercise his rights of recognition at this time. The Chair assures the gentleman that his rights will be protected.

Mr. DINGELL. Mr. Speaker, I would observe that if I am denied recognition at this time, I may very well be denied my rights. I have a unanimous-consent request for which I was properly recognized. I would point out another request was recognized for a similar unanimous consent just previous to me. That request was granted.

The SPEAKER pro tempore. It was not granted.

Mr. DINGELL. Perhaps the Speaker can explain to me why I am being denied my rights.

The SPEAKER pro tempore. The gentleman from Ohio withdrew his request.

Mr. DINGELL. The gentleman previous to that.

The SPEAKER pro tempore. The gentleman from Ohio withdrew his request.

Mr. DINGELL. Are you forgetting that another Member had just made a request on behalf of the Armed Services Committee?

The SPEAKER pro tempore. The gentleman from the Armed Services Committee, Mr. WHITE of Texas, asked to file a report, and that unanimous-consent request was granted.

Mr. DINGELL. Unanimous-consent request that the Armed Services Committee be permitted to sit.

The SPEAKER pro tempore. I am sorry to disagree with the gentleman. The Chair did not grant permission to sit or entertain that motion from the gentleman from Texas.

The Chair will take 1 minute speeches at this time.

OLDER AMERICANS VOCATIONAL EDUCATION ACT INTRODUCED

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, last week, I introduced a bill to help the millions of older Americans in our Nation who want to work but cannot, men and women aged 55 and older who find entering or reentering the job market exceedingly difficult—

those, Mr. Speaker, who seek to remain hardworking and self-sufficient, but are unable to fit into the changing face of the American job market.

The Older Americans Vocational Education Act would remedy this dilemma for the older worker. The bill establishes a 3-year demonstration program to encourage training and retraining for older workers. It expands the focus of vocational education to include the needs of a greatly neglected segment of our population—the older worker.

By the year 2000, the number of persons aged 55 and over will rise by 19 percent. As policymakers, we must begin to consider the implications of a population which will not only live longer, but will want to work longer. I hope my colleagues will support this small, but valuable investment in older Americans.

□ 1215

"HERE WE GO AGAIN" ON THE CONGRESSIONAL PAY RAISE ISSUE

(Mr. WALGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALGREN. Mr. Speaker, these remarks, I am afraid, fall under the category of the "Here we go again" department.

Just several weeks ago, the House repealed the tax break for Members of Congress that had been slipped through in the rush of the last day of the session last year. Undoing the damage that the Congress did to its standing with the public took a long time. Yet, here we go again.

Last week, the Senate approved by voice vote an amendment to the pending supplemental appropriation bill which would require a special pay commission to submit recommendations for pay increases for Congressmen and other Federal officials just 2 weeks after the November elections coming up this fall.

This is simply another attempt to raise congressional pay without the honesty of requiring Congress to deal with the issue alone, up or down, on its own merits.

This measure would instruct the commission to report its recommendations to the President by November 15, 1982. Once approved by the President, the recommendations would take effect 30 calendar days after they are submitted to Congress unless a concurrent resolution were adopted overturning those recommendations by both Houses of Congress.

This raises the specter of the probability of a substantial pay increase for Members of Congress with no vote by the Congress one way or the other so that the public will have no say in the matter.

Mr. Speaker, we owe it to the American public to deal with the issue of congressional pay in an open and honest manner and not to push through another sneaky backdoor pay raise.

I want to share with my colleagues a letter I have sent to the Hon. RICHARD BOLLING, chairman of the Rules Committee, urging a separate vote on this raise when the House acts on the conference report on H.R. 6863, the supplemental appropriation bill. I hope all my colleagues will join in this request so that this kind of measure is clearly dealt with by the House on its merits.

A VOTE FOR THE CURRENT TAX BILL WOULD COMPOUND CONGRESSIONAL ERROR

(Mr. WALKER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, suppose some Member introduced a bill in the House which did the following things:

Penalized the savings of our elderly in order to give big financial institutions 30 days' free use of the senior citizens' money;

Hired 5,200 new Federal employees with the express role of harassing productive American working people;

Allowed corporate America to deduct from their taxes the bribes they pay to Government officials;

Raised the utility bills of nearly all Americans;

Cut back on a middly-income family's ability to pay its highest medical bills;

Made everyone's tax attorney or accountant into a Government spy against them;

Created the most massive new regulatory burden in recent years; and

Diminished economic activity resulting in the loss of thousands of jobs.

We would say that someone was crazy to introduce a bill doing all those things, that he or she was committing political suicide. Yet those who voted to send the tax bill to conference without the House even looking at it voted for all those provisions in one bill.

Mr. Speaker, let us hope that this House does not compound the error by allowing the tax bill to become law.

PENDING TAX BILL DESCRIBED AS A PIG IN A POKE

(Mr. BETHUNE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, the people are asked to believe that the big tax increase that is being pushed is really a deficit reduction plan, and aside from the wisdom that you cannot reduce deficits by increasing taxes, the pitch seems to be that we are going to get 3 dollars' worth of spending cuts for every dollar's worth of tax increases and we need to take it and run because that is the best we can do because of all the big spenders here in the Congress who will not let us have more.

This is a bad bargain because the $228 billion worth of tax increases over the next 5 years will be set in stone. They will be set in stone, whereas the mandated spending cuts that were supposed to be given in exchange for this will work out to be about 27 cents for every dollar's worth of tax increases, and the rest of it is just pure smoke and is likely to never materialize given the spending habits of this Congress.

What it boils down to here is the fact that the administration has bought a pig in a poke and now they are trying to sell it to the American people. What we have got is a situation where we are going to be raising taxes over a 5-year period of time in the sum of over $230 billion, and we are expected to rely on the good faith of Congress to deliver three times as much in spending cuts. Who is going to believe that the Congress is going to deliver such spending cuts? I do not think anyone believes that the best way to satisfy the appetite of this big spending Congress is to set a 5-year supply of money on the table and then expect them to cut spending. They have never done it in the past, and they are not going to do it now.

Mr. Speaker, they are not going to use this money to reduce the deficit; they are going to spend it just like they have spent it in the past.

MEDICINE, NOT POISON

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks)

Mr. CONABLE. Mr. Speaker, back when I was a boy, medicine usually did not taste good. But despite efforts to rationalize, we knew we would have to take it if we wanted to get better. The tax bill facing us this week is medicine, not poison. No matter how much we rationalize, most of us know we are going to have to get the deficit down if the economy is going to become healthy again. The fever of inflation and high interest rates will not break if we refuse to deal with the illness.

We can not deal with deficit solely on the revenue side, and should not. Important expenditure cuts are included in this dose of medicine. Other cuts face us, and some of them will not taste good either, but a balanced and politically acceptable course of treat-

ment will include both budget cuts and tax increases, I hope in the 3-to-1 ratio prescribed by the budget.

As a participant in the tax conference, I must tell you it was not a pleasant experience. Without a House version, every element in the Senate bill was wide open, and the conferees had to start from scratch on hundreds of technically difficult proposals. House default of this sort was thoroughly confirmed as poor procedure.

But we did knock some of the sharp corners off the Senate bill. The medicine is not going to kill the patient. The ingredients still put the emphasis on compliance—collecting taxes already due—and on the tightening of some business taxes. There is the sugar-coating of unemployment insurance extension to help the medicine go down.

Mr. Speaker, I will not pretend I like taking medicine, but I intend to help this country get well.

HOUSE REPUBLICANS URGED TO REJECT THE TAX BILL

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, the gentleman from New York is a statesman, a scholar on the Tax Code, and a man who, if he had had real representation in the conference, would have produced a better tax bill.

It is tragic for us Republicans that we have had for all practical purposes no input on the Rostenkowski-Dole bill. The Rostenkowski-Dole bill is a 5-year, $228 billion tax increase. It is either the biggest or the second biggest tax increase in history.

On the issue of fairness, it offers us a chance to protect lobbyists' lunches while going after waiters and waitresses. It is a tribute to the power of lobbyists and all-night sessions. It withholds interest on savings and will discourage all senior citizens and others from putting money into savings accounts.

On balance, it is an appropriate bill for the gentleman from Illinois (Mr. ROSTENKOWSKI) to offer. It is an appropriate bill for the New York Times, the New Republic, and the Washington Post to endorse, but it is a bill which every House Republican should reject out of a sense of pride, out of the dignity of their institutions, and out of a sense of rejecting the steamroller which forced their members on the Committee on Ways and Means to have virtually no impact on this bill.

Mr. Speaker, every House Republican should vote against this bill and should scorn the process which has brought us to this place.

CONSTITUTIONAL AMENDMENT OFFERED TO CLARIFY ORIGINATION OF REVENUE BILLS

(Mr. KINDNESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, over the past few weeks, we have heard a lot of warnings about the need to exercise caution in amending the Constitution. We have been told that the Constitution has served us well for nearly 200 years and that we should leave it alone. And we have been told that the Constitution should never be amended in a way that would limit the flexibility of Congress. "We can't let the Constitution become a straitjacket," we are told. "We can't make everybody's pet issue the subject of a constitutional amendment."

Even so, the experience of this Congress in dealing with the Nation's economic crisis convinces me more than ever that the time has come to change the way we are doing things.

Accordingly, my esteemed colleague, Mr. BROWN of Ohio, and I are introducing a constitutional amendment providing that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills."

If that language sounds familiar, it has been all but overlooked in the development of the tax package we are about to consider.

THE NEED FOR HIGH-LEVEL NUCLEAR WASTE DISPOSAL LEGISLATION

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, once again we are coming to the closing days of a Congress; yet, there is no high-level nuclear waste disposal legislation that has passed the House. The same thing happened 2 years ago. Unless the majority of House Members are allowed to work its will, this Congress may too adjourn without enactment of this vital legislation.

Four committees of this House have finally approved legislation to resolve this problem. The Senate has similarly acted. Yet, none of these measures is scheduled for House debate. No one knows when or if we will be allowed to debate any or all of these measures fully and openly.

I urge my colleagues from both sides of the aisle to join with me in impressing upon the House leadership how imperative it is that this legislation is brought to the full House as soon as possible. Although I fully understand the objectives of those who would oppose this request, I would hope nevertheless that a small minority would not be allowed to frustrate the will of the majority. Further delay in resolving this problem will only serve to harm the entire Nation and will benefit no particular congressional district.

I trust that the leadership will heed this call and take action soon to bring this legislation before the full House. Congress must not fail the American people as it did in the 96th Congress.

CHANGES IN PENSION PROCEDURES IS A NEW "ZINGER" IN THE TAX BILL

(Mr. JOHNSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSTON. Mr. Speaker, last September a few Members of this House got somewhat surprised when they found out that a bill that ostensibly had to do with black lung benefits in fact provided them a new break insofar as their own incomes are concerned.

Well, there is a "zinger" in this tax bill, too, that the American people will probably find out about in due time. Our present Tax Code permits those out there in the real world in the private sector to increase their pensions or the amount of contributions to their pension plans each year based on the increase in cost of living. That is the so-called COLA clause for the private sector.

This plan or this new tax bill takes that away from them. But what does it do to Congress? It does nothing but leave Congress intact. Congress can still adjust its pensions for the COLA. So can the bureaucrats, and so can the military. Do the Members remember that vote we had last week where we voted against capping civil service pensions at 4 percent? They are still protected. We now have a two-tier system of pensions just like we have a two-tier system of compensation. The bureaucrats, the military, and ourselves, are protected against inflation, but we deny that protection to the private sector of the economy.

Mr. Speaker, I say to the Members of the House that is wrong.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on tomorrow, Tuesday, August 17, 1982.

PLATTE RIVER WATER RESOURCE STUDIES

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6188), to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6188

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a special study to assist the State of Nebraska in establishing water resource conservation and development priorities, consistent with constitutional and statutory provisions of the State of Nebraska, in the Platte River Basin from the western border of the State of Nebraska to the confluence of the Platte and Missouri Rivers.

The purposes of the study shall be to—

(a) determine the availability of water resources within the basin;

(b) identify, define, and quantify the existing and foreseeable intrabasin and interbasin demands on such resources within the State of Nebraska (including irrigation, ground water stabilization and recharge, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, preservation of scenic qualities, flood control, hydroelectric power development, municipal and industrial water supplies, and such other demands as the study may identify);

(c) identify, evaluate, and estimate costs for alternative methods of meeting the identified water demands, including but not limited to withdrawals from the Platte River, groundwater pumping, water conservation, and improved water management.

(d) resolve the identified conflicts by making specific recommendations on the full and best utilization of the available water supply, including a priority ranking for implementing recommended water conservation and development projects.

SEC. 2. The special study authorized by section 1 of this Act shall be a Federal-State study conducted jointly by the Bureau of Reclamation and the Nebraska Natural Resources Commission. The broadly constituted study body responsible for making the recommendations required by section 1 shall consist of such citizens, representatives of agricultural, environmental and development groups, State and local officials, and Federal agency representatives as the Governor of Nebraska and the Secretary shall jointly determine. Federal agencies invited to participate shall include, but not be limited to, the U.S. Geological Survey, the U.S. Fish and Wildlife Service, and the Environmental Protection Agency. The special study authorized by section 1 of this Act shall be completed within thirty months after funds are first appropriated under this Act.

SEC. 3. (a) There is hereby authorized to be appropriated the sum of $350,000 to carry out section 1 of this Act. One-half of this sum shall be made available as a grant to the Nebraska Natural Resources Commission and shall be matched equally by direct contribution or inkind services by the State of Nebraska, its political subdivisions, or other non-Federal entities.

(b) The sums expended or services provided by the State of Nebraska, its political subdivisions, or other non-Federal entities after March 9, 1982, for the purposes of this Act shall be considered in the determination of the matching non-Federal share.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6188, as amended by the Committee on Interior and Insular Affairs, would authorize the Secretary of the Interior to participate with the State of Nebraska in a special study that would result in the establishment of water resource development priorities in the Platte River Basin. This unique study would involve not only the Bureau of Reclamation, but also the U.S. Fish and Wildlife Service, the U.S. Geological Survey, the Environmental Protection Agency, and other Federal agencies. The bill authorizes the appropriation of $350,000, one-half of which would be made available as a grant to the Nebraska Natural Resources Commission and would be matched by funds and inkind contributions by the State and other non-Federal entities.

Mr. Speaker, over the past few years it has become increasingly apparent that there is not enough water in the Platte River to satisfy all of the demands that have been placed on that resource. In order to resolve conflicts among the competing interests for Platte River water, the Nebraska Natural Resources Commission recently developed a conflict resolution process. This process brings together the competing interests and provides decisionmakers with a rational, documented basis for their actions.

For the conflict resolution process to be a success, it must be based upon the best available information regarding the amount of water in the Platte River, and the nature and extent of the competing demands for that resource. The Bureau of Reclamation, with its vast technical background in water resources, would greatly enhance the quality of the study.

Mr. Speaker, enactment of the bill is supported by the administration.

I urge my colleagues to support this bill, and I reserve the balance of my time.

□ 1230

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the first of two Nebraska water bills which we are considering today, H.R. 6188, will authorize the Bureau of Reclamation to assist the State of Nebraska in making a special conflict resolution study of the entire Platte River Valley in Nebraska. This study is designed to assess the relative merits of all proposals which have been made for water development and conservation on that stretch of this, the most important river that flows through our State. There are currently eight proposed water development projects in various stages of development along the river, and there are certain to be a great number of other competing claims for the water which flows in the Platte. Although I fully support the Prairie Bend proposal, to be considered following this bill, I do believe that it is essential that the needs of all Nebraskans be considered as the State proceeds to allocate these Platte River waters and, at the same time, maintain the required minimum streamflows for fish and wildlife habitat and other purposes. Every expert tells us that there is simply not enough water in the Platte River to satisfy all the demands which are being placed upon that limited resource; therefore, it is important that some process for the resolution of these competing interests be initiated.

This bill was introduced in an effort to provide the State of Nebraska with financial, as well as technical, assistance in its efforts to make a comprehensive assessment of the Platte River within the State of Nebraska and to require that very specific recommendations as to the future conservation and use of the waters contained in that river basin be made as a part of the conclusion of the study. The bill requires the establishment of a broadly based study body which will, with the technical assistance of the Bureau of Reclamation, and the advice of the U.S. Geological Survey, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and other Federal agencies, make an inventory of the waters in the Platte, assess the various proposals for development along the Platte, as well as the existing and foreseeable nondevelopment uses such as municipal use and fish and wildlife habitat, and then make specific recommendations as to future allocation of those waters. I believe it is important to stress the requirement for those specific recommendations which this bill mandates.

As primary sponsor of this bill, it is my intention that the Bureau shall have available $175,000 of the $350,000 authorized in the bill to enable it to provide the needed technical assistance to the State agencies, while the remaining $175,000 will simply be passed through the Bureau directly to the Natural Resources Commission, acting on behalf of the State of Nebraska. I want to emphasize that the

$175,000 provided to the State will be matched, on a 1-to-1 basis, by funds and inkind contributions by the State and other non-Federal sources. I believe that it is important for the State to show its commitment through this type of financial involvement.

Mr. Speaker, I believe that the time has come for us to begin to consider these water development issues in a comprehensive or holistic manner. Each of these competing interests must be considered as an integral part of a larger plan for water resource development in the individual States and the country as a whole. We must focus on the need for a new approach to water resource development, rather than continuing to pursue a piecemeal approach to water policy. The conflict resolution bill which I have introduced offers us an example of the comprehensive planning approach, and I consider it to be an essential part of the process of authorizing future feasibility studies for any project on the Platte.

The State of Nebraska has already begun the early stages of this study, and the authorized assistance of the Bureau of Reclamation in that ongoing effort is extremely important. The hydrological and geological data, coupled with the expertise of the Bureau's technicians, analysts and planners, are essential to this important effort. While the Bureau could make these resources available to the State of Nebraska without additional authorization through its programs of technical assistance to the States, I agree with key water leaders in Nebraska that it is important that the Bureau be required to give specific, fulltime and on-going support to this effort.

The study which I am proposing in this bill is a logical follow-on to the Platte level B study of recent years, in that it is drafted to require that specific recommendations concerning future projects and programs be made at the conclusion of the study. While the final decisions as to future development in the Platte River Valley are and should be left to those officials of the State of Nebraska and its political subdivisions who are charged with the responsibility for establishing water policy, the assistance authorized in the legislation will help those officials in arriving at the best decisions for sound water development in Nebraska.

The bill before us would authorize a total of $350,000 to be spent on this conflict resolution study. I have been informed that funding in the amount of $150,000 can be expected for fiscal 1983 by the Appropriations Subcommittee on Energy and Water Development, again contingent upon the passage of this authorization.

I would also like to make note of the support of the administration for this bill. The recognition of the need for the type of conflict resolution process embodied in the bill on the part of the administration gives added credibility to this statewide approach which considers all the users and potential users of these and similar natural resources.

Mr. Speaker, I must reemphasize the strong commitment of these projects on the part of the State of Nebraska, a commitment which is indicated by its willingness to devote its own financial resources to join with the Federal Government in a new water development partnership. Finally, I hope that the House will appreciate that commitment, and recognizing the importance of these efforts, give its approval to this bill.

Mr. KAZEN. Mr. Speaker, I have no further requests for time.

Mr. BEREUTER. Mr. Speaker, I yield 5 minutes to the ranking member of the Committee on Interior and Insular Affairs, the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, As a member of Interior's Water and Power Resources Subcommittee and as ranking Republican member of the full Interior Committee, I have had the benefit of hearings on both H.R. 6188 and H.R. 5536. We heard from the administration and from groups within Nebraska. Both bills are supported by the administration and both bills have been reported out of the Interior Committee with a do pass recommendation.

H.R. 6188 sponsored principally by my subcommittee colleague, Mr. BEREUTER, would provide the assistance of the Bureau of Reclamation and other Federal agencies to the State of Nebraska in helping the State do a conflict resolution study for the Platte River Basin from the western border of Nebraska to the confluence of the Platte and Missouri Rivers. This portion of the basin spans the entire State of Nebraska from west to east. In such a study, the local people of the basin would set their own conservation and development priorities. I know of no opposition to this bill and am able to endorse the concept of local people setting their own water resource development and management priorities. Moreover, I think it is appropriate that the bill provide, as it does, that the $175,000 grant provided to the State for the study be matched equally by the State agencies participating in the study.

H.R. 5536 is principally sponsored by VIRGINIA SMITH of Nebraska and is unanimously endorsed by the entire Nebraska delegation. The severe ground water decline problem in the affected area is a matter of concern and would be included by an area ground water model within the feasibility study. I believe it is also appropriate that the bill provide for cost sharing by the Prairie Bend proponents. As we have been informed by the gentlelady from Nebraska during our June subcommittee hearings, the interested parties already have spent more than $400,000 toward the realization of Prairie Bend and are ready to put up an additional $240,000 in cash to get the study under way. Moreover, the committee has provided that any effect of the proposed Prairie Bend unit on the habitat of migratory wildlife such as sandhill cranes be specifically included in the feasibility study provided for by H.R. 5536.

I urge my colleagues to support H.R. 6188 and H.R. 5536, both important matters of water resources within Nebraska.

● Mr. CLAUSEN. Mr. Speaker, I am pleased to speak today in favor of H.R. 6188, a bill to assist the State of Nebraska in a conflict resolution study for the Platte River Basin. I have agreed to cosponsor the bill with my subcommittee colleague, Mr. BEREUTER, of Nebraska, because I firmly believe that it will not only help resolve the competitive interests in and demands on the water resources within Nebraska's Platte River Basin, but also it could serve as a positive precedent for other regions and for the Nation as a whole.

Mr. Speaker, as a member of the Committee on Interior and Insular Affairs and as the ranking Republican member of its Subcommittee on Water and Power Resources, I have for many years been involved with and interested in water resource management and development. I have long urged taking an integrated, coordinated approach to water resources management and planning and generally prefer that to a piecemeal, project-by-project one. H.R. 6188 represents the former approach, which is clearly my preference, rather than the latter, piecemeal one and I commend Mr. BEREUTER and his constitutents within Nebraska for bringing this matter through the subcommittee, the full committee, and now to the floor of the House.

Under this bill, various Federal agencies, led by the Bureau of Reclamation, would assist the State of Nebraska in resolving the conservation and development demands and interests and in setting specific priorities for the entire Platte River Basin from the Western Border of Nebraska to the confluence of the Platte and Missouri Rivers. The study participants would be broadly constituted with a wide diversity of interests and great deal of local input. As close to a consensus as is possible should be arrived at as a result of this study. Equally importantly, those making the decisions and setting the priorities will be doing so for themselves, a situation which should serve to enhance the soundness of the results.

I urge my colleagues to support H.R. 6188 as an enlightened approach to

water resources management and development.●

● Mr. DAUB. Mr. Speaker, I rise in strong support for the enactment of H.R. 6188, a bill which provides for the participation of the Department of the Interior in a study of the water use and development of the Platte River.

The Platte River is Nebraska's primary source of water and it meets the needs of our cities and towns as well as the agriculture demands of the State. This study will entail the cooperative resources of the Nebraska Natural Resources Commission and the Bureau of Reclamation together with other Federal agencies which will produce, I believe, a report that for years hereafter will be instrumental in decisionmaking with regard to the Platte River.

Mr. Speaker, I would like to take this occasion to commend my colleague, friend, and fellow Nebraskan DOUG BEREUTER for his leadership in this matter. The people of Nebraska's First District—as well as all in Nebraska who depend on the Platte—are well served by his dedication, intelligence and legislative skill.●

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SEIBERLING). The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill, H.R. 6188, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the conferees on the bill, H.R. 4961, may have permission to file the conference report thereon at any time until midnight tomorrow, August 17.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FEASIBILITY STUDIES, CENTRAL PLATTE VALLEY, NEBRASKA

Mr. KAZEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in feasibility studies of water resource development and for other purposes in the Central Platte Valley, Neb., as amended.

The Clerk read as follows:

H.R. 5536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to engage in a feasibility study for the Prairie Bend unit, Pick-Sloan Missouri River Basin program, located in Dawson, Buffalo, and Hall Counties in Nebraska for irrigation stabilization of ground-water levels, enhancement of water quality, small community and rural domestic water supplies, management of fish and wildlife habitat, public outdoor recreation, flood control, and other purposes determined to be appropriate. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. Before funds are expended for the feasibility study, the State of Nebraska, or other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the costs may be partly or wholly in the form of services directly related to the conduct of the study.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. KAZEN) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.

Mr. Speaker, H.R. 5536, as amended by the Committee on Interior and Insular Affairs, would authorize the Secretary of the Interior to engage in a feasibility study for the Prairie Bend unit of the Pick-Sloan Missouri River Basin program. The proposed Prairie Bend unit would be located in central Nebraska.

Local entities have already contributed more than $400,000 to water quality studies and the bill requires the State of Nebraska or some other non-Federal entity to participate and share in the cost of the feasibility study. It is expected that the Secretary of the Interior will require that this share be a reasonable share and not merely a token contribution. According to the Bureau of Reclamation, the study will take 4 years to complete and will cost $1,600,000. Enactment of the bill is supported by the administration.

The area where the Prairie Bend unit would be located is predominately agricultural with several rural towns. Private development of well irrigation has resulted in declining ground-water levels, deteriorating ground-water quality and degradation of waterfowl habitat. Furthermore, some of the creeks and drains in the area experience frequent flooding.

This study will examine the feasibility of a multipurpose project which would maintain a reliable irrigation economy through conjunctive use of ground and surface water, provide flood protection, assist in maintaining desired habitat for migratory birds, provide for water-based recreation, improve ground water quality and regulate streamflows.

Mr. Speaker, the Interior Committee amended H.R. 5536 to require the Secretary of the Interior to include in the feasibility study a detailed report on any effects the proposed project might have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane. The inclusion of this requirement demonstrates the committee's particular concern over allegations that habitat for the sandhill crane and the endangered whooping crane might be adversely affected by the construction of this proposed project. The committee makes it perfectly clear that the feasibliity study report should contain the type of detailed information relating to the effects the proposed project might have on wildlife habitat that will enable the Congress to make an informed judgement should authorizing legislation for the project be proposed and considered.

Mr. Speaker, I urge my colleagues to support this bill and I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, H.R. 5536, would authorize a feasibility study of the Prairie Bend unit in central Nebraska. The Prairie Bend project was originally proposed in 1976. It would provide direct irrigation water for approximately 70,000 acres in central Nebraska and will also help to recharge local ground water tables in an additional 136,000 acres of an area which has suffered some of the most significant declines of any area of Nebraska in recent years. The project enjoys overwhelming local support and the support of the Governor of Nebraska, the Nebraska Natural Resources Commission, the Interagency Water Coordinating Committee, and the entire Nebraska delegation in the U.S. House of Representatives. Similar legislation has been introduced in the Senate and

is included in the omnibus feasibility study bill which is currently awaiting consideration in that body. Funds for commencing the feasibility study in fiscal 1983 are expected to be included in the energy and water appropriation measure to be considered later this year.

The study would develop and assess multiobjective alternatives to irrigate up to about 70,000 acres of land using water from the Platte River, stabilize ground water in an area of about 136,000 total acres, provide outdoor recreation, maintain and enhance habitat for water-fowl including the endangered whooping crane, enhance the quality of ground water and other beneficial uses. The study would evaluate the availability of water resources in the area for all beneficial uses and the physical and economic feasibility of alternatives.

The Prairie Bend unit is located in a predominately agricultural area with several rural-orientated towns. The closest large metropolis is Grand Island, Nebr., a city of over 30,000 population. Private well irrigation development has resulted in declines in ground water levels causing increased pumping lifts, operating costs, and energy use. Some of the area and towns are experiencing deteriorating ground water quality and are having to seek other locations for wells for domestic and municipal uses. Pumping may be affecting the wet meadow complexes which are necessary habitat for the endangered whooping cranes and other migratory water fowl. Also some of the creeks and drains in the area experience frequent flooding. Development of a multipurpose project would maintain a reliable irrigation economy by means of conjunctive use of ground and surface water, provide flood protection, assist in maintaining desired habitat for migratory birds including the sandhill and whooping cranes and other wildlife, provide for water-based recreation, a sports fishery, save energy, and improve ground water quality and regulate streamflows.

The Central Nebraska Conservancy Association and the Central Platte Natural Resource Districts are sponsors of the project and are seeking authorization for feasibility studies. The Central Nebraska Conservation Association has water right application on file with the State of Nebraska to divert a portion of the Platte River in the off-season for irrigation and offstream storage. They have held numerous meetings within the area and have obtained overwhelming local support.

I would like to point out that this bill has the support of the administration, and the Bureau of Reclamation has expressed its willingness to move forward with the study as soon as funds are made available.

Mr. Speaker, the potential effects of actual construction of the Prairie Bend project upon the habitat of the sandhill cranes and the endangered whooping crane is an important issue. The area downstream from the proposed project area is a prime habitat of these graceful and magnificent birds, and of course any adverse impact upon that area must be given the most serious consideration before any project can be authorized. In fact, during committee consideration of this bill, I supported an amendment to specifically require a detailed study of those effects, even though I was confident that the environmental impact statement associated with the feasibility study would do so in the absence of such an amendment.

Mr. Speaker, one particular aspect of the bill, the cost-sharing arrangement by which the local sponsoring agencies have agreed to accept a substantial portion of the cost, is a significant step for the Congress to take in authorizing feasibility studies for water projects. The willingness of the potential beneficiaries to bear that cost is indicative of the strong support in the local area, and will serve as an example for future project sponsors that they will henceforth be expected to contribute to meeting the cost of these projects and the associated studies. The adoption of this bill by the House, as well as the previous bill, marks the dawning of a new day in water resource development, with the inclusion of these cost-sharing provisions.

Mr. Speaker, with these comments, I urge my colleagues to lend their support to the passage of this measure under suspension of the rules.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I am very pleased to be able to rise in support of and to have been afforded the opportunity to offer such a worthy and greatly-needed piece of legislation. Concerned and dedicated residents of the Prairie Bend region in Nebraska have carefully and meticulously built a State and local consensus of support such that I have never seen paralleled.

As a result of these painstaking efforts to demonstrate the pressing need for water conservation and improved water management in this region, the domestic budget-conscious administration fully endorses this project and included a request for $150,000 in its fiscal year 1983 budget estimate to begin this study.

The State of Nebraska also endorses this project, as well as numerous water project organizations, chambers of commerce, service clubs, city and county commissions, and thousands of citizens have expressed themselves formally and in writing in support of this project.

Local support is so strong that these groups have collectively spent more than $400,000 toward this study alone, and have an additional $240,000 in cash ready to help start the study. Also, more than 300 farmers have assessed themselves 10 cents an acre to join the Prairie Bend Association in hopes of such a feasibility study being conducted.

Although the efforts of these people, combined with the overall support this project has received, is important, the reason we should approve this study today is because of the urgent need to conserve and better manage water within the Central Platte Valley of Nebraska.

An irrigation and ground-water recharge project must be developed to combat the declining water table in the area, as well as declining production of many wells if the economy and well-being of the area is to be preserved. Residents of this area are highly dependent upon irrigated agriculture, and decreasing ground-water supplies are their primary water source.

Unfortunately, ground-water levels have been declining while pumping costs have increased. This has resulted in a reduction in well production as ground water levels have declined as much as 25 feet in recent years, and are expected to decline further.

Another serious problem is that the 125,000 residents in the eastern half of this region must rely on ground water for drinking water that is contaminated to the point that many municipalities have abandoned wells because of impurity levels which exceed the U.S. Public Health Service's published maximum safe levels for human consumption.

Corrective action must be taken soon or thousands of irrigated acres will be reverted to dryland, and costs of water treatment for human consumption will continue to rise. Responsible water management, which can only be achieved through a carefully planned program, appears to be the only solution.

Furthermore, even though our major water problems are related to inadequate ground-water supplies, the area also experiences periodic flooding. The flood of June 1967 caused more than $30 million worth of damage in the eastern half of the region, and such a disaster could easily happen again if proper preventive action is not taken.

In addition, there are other water-related needs in this area. Because the Prairie Bend area of the Platte River basin is a sanctuary for up to 7 million migratory waterfowl each year, we must maintain adequate water supplies for them. Also, there are many

water-related recreation facilities that can only be maintained through better water-management programs.

Therefore, because of the genuine need for such a project, as well as the many groups and organizations that have worked for years toward insuring a comprehensive multipurpose water-resource project is implemented in this area so major water-related problems can be averted, the Prairie Bend feasibility study deserves this body's full support.

Mr. KAZEN. Mr. Speaker, I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I would like to thank the distinguished gentleman from Texas (Mr. KAZEN) for his outstanding cooperation and leadership on this legislation and to extend those thanks and compliments also to the gentleman from Arizona (Mr. UDALL) and the staff members on both sides of the aisle.

I yield back the balance of my time.

● Mr. CLAUSEN. Mr. Speaker, I urge the passage of House Resolution 5536 which provides for a feasibility study of the proposed Prairie Bend unit located within the Central Platte Valley of Nebraska. The potential area which would be served by any future Prairie Bend project is north of the Platte River between Kearney and Grand Island, Nebr.

During hearings before the Interior Committee's Subcommittee on Water and Power Resources, all three of our Nebraska colleagues in the House of Representatives spoke in favor of the feasibility study. The gentlelady VIRGINIA SMITH, as principal sponsor, HAL DAUB from the Second District, and my subcommittee colleague, DOUG BEREUTER personally appeared before the subcommittee to make the point that the feasibility study for which the administration already has included $150,000 in its fiscal year 1983 budget should go forward.

The study provided for by this bill is supported by the administration which also appeared before the subcommittee. While House Resolution 5536 authorizes no specific amount of funds, the administration plans 4 years to complete the study and has already provided for the study in its 1983 budget.

During the subcommittee hearings, there appeared to be enthusiastic support for the study from other than elected officials as well. These proponents consisted of those affected in the local area by the current problems and included numerous citizens groups as well as the Central Nebraska and Twin Valley Conservation Associations and the Central Platte Natural Resource District. As ranking Republican member of the Water and Power Resources Subcommittee, I have over the years participated in a great many hearings on different proposed projects, and I must say that I was impressed by the diversity and the unanimity of the supporters of the study provided for by this bill.

The information provided the subcommittee indicated problems of a declining ground-water level and increasing pumping depths and costs. The ground water table decline has occurred over the past 30 years and is expected to continue. One study projected that by the year 2020, half of the 80 percent of the wells in the area pumping entirely from shallow gravel and sand aquifers will dry up. This could very well result in cropland reverting to dryland in the absence of other wells into the deeper Ogallala Aquifer. This study would investigate ways to stabilize the ground-water level over approximately 136,000 acres and would include a mathematical ground water model. Moreover, the unit, if constructed, would provide direct surface water service for up to 32,000 acres.

During full Interior Committee markup, we made the requirement to study the effect on wildlife an express provision of the bill specifically to make sure that the impact on the habitat of sandhill cranes and whooping cranes, if any, was taken into account. The Interior Committee reported H.R. 5536 out as amended with a do pass recommendation.

I would think that even the opponents of a Prairie Bend project would want to know whether or not the project is feasible. I urge my colleagues to support the feasibility study provided for in H.R. 5536.●

● Mr. DAUB. Mr. Speaker, we face a number of problems in the years ahead nationally that we in Nebraska are looking at today. The demands for water will increase but as we all know our supplies are not without limit.

In this bill we seek to analyze the water resource development in the Central Platte Valley in Nebraska.

Within the Prairie Bend Unit of the Pick-Sloan Missouri Basin we seek to answer the questions concerning the use of water, whether it be for irrigation, recreation, wildlife, or to insure that ground water tables are stabilized and of good quality. We seek answers not only to these problems for today's use but so as to insure that we make decisions with the future in mind, for it is our children that will surely suffer or benefit from the decisions we make.

I would like to point out that Mrs. SMITH and Mr. BEREUTER have, in my mind, exercised great wisdom in their support of this legislation. The people of Nebraska are well served by the thoughfulness and commitment we see evidenced by this legislation.

Water will be the great question for the rest of this century. The experience we undertake in the next few years will largely shape our reaction to it and the wisdom with which we address it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. KAZEN) that the House suspend the rules and pass the bill, H.R. 5536, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "a bill to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KAZEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

JOINT CHIEFS OF STAFF REORGANIZATION ACT OF 1982

Mr. WHITE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6954) to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense.

The Clerk read as follows:

H.R. 6954

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Joint Chiefs of Staff Reorganization Act of 1982".

JOINT CHIEFS OF STAFF

SEC. 2. Section 141(d) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(d)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) A member of the Joint Chiefs of Staff may submit to the Secretary of Defense any opinion in disagreement with military advice of the Chairman or the Joint Chiefs of Staff. After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may submit to the President any opinion in disagreement with military advice of the Chairman or the Joint Chiefs of Staff.".

CHAIRMAN OF JOINT CHIEFS OF STAFF

SEC. 3. Section 142(b)(3) of title 10, United States Code, is amended by striking out "have not agreed" and inserting in lieu thereof "have agreed and have not agreed and provide military advice in his own right".

DEPUTY CHAIRMAN OF JOINT CHIEFS OF STAFF

SEC. 4. (a)(1) Chapter 5 of title 10, United States Code, is amended by inserting after section 142 the following new section:

"§ 142a. Deputy Chairman

"(a)(1) There is a Deputy Chairman of the Joint Chiefs of Staff. The Deputy Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from the officers of the regular components of the armed forces. The Chairman and Deputy Chairman may not be members of the same armed force.

"(2) The Deputy Chairman serves at the pleasure of the President for a term of up to two years and may be reappointed in the same manner for one additional term, except that in time of war declared by Congress there is no limit on the number of reappointments.

"(b) The Deputy Chairman acts as Chairman in the absence or disability of the Chairman and exercises such duties as may be delegated by the Chairman with the approval of the Secretary of Defense. When there is a vacancy in the office of Chairman, the Deputy Chairman, unless otherwise directed by the President or Secretary of Defense, shall perform the duties of the Chairman until a successor is appointed.

"(c) The Deputy Chairman may attend all meetings of the Joint Chiefs of Staff but may not vote on a matter before the Joint Chiefs of Staff except when acting as Chairman in the absence of disability of the Chairman or when there is a vacancy in the office of Chairman.

"(d) The Deputy Chairman, while so serving, holds the rank of general or, in the case of an officer of the Navy, admiral. The Deputy Chairman may not exercise military command over the Joint Chiefs of Staff or any of the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 142 the following new item:

"142a. Deputy Chairman.".

(b) Section 525(b)(3) of such title is amended by inserting "or Deputy Chairman" after "Chairman".

JOINT STAFF

SEC. 5. (a) Subsection (a) of section 143 of title 10, United States Code, is amended to read as follows:

"(a)(1) There is under the Joint Chiefs of Staff a Joint Staff consisting of not more than four hundred officers. The members of the Joint Staff shall be selected by the Chairman of the Joint Chiefs of Staff in approximately equal numbers from—

"(A) the Army;

"(B) the Navy and the Marine Corps; and

"(C) the Air Force.

"(2) Selection of officers of an armed force to serve on the Joint Staff shall be made by the Chairman from a list of officers submitted by that armed force. Each officer whose name is submitted shall be among those officers considered to be the most outstanding officers of that armed force. The Chairman may specify the number of officers to be included on any such list.

"(3) Officers assigned to the Joint Staff shall be assigned for a period of three years, except that in time of war there is no limit on the tenure of members of the Joint Staff. Members of the Joint Staff serve at the pleasure of the Secretary of Defense, and the tenure of a member of the Joint Staff may at the discretion of the Secretary of Defense be extended for a period of up to three additional years.

"(4) Except in time of war, officers completing a tour of duty with the Joint Staff may not be reassigned to the Joint Staff for a period of not less than three years following their previous tour of duty on the Joint Staff, except that selected officers may be recalled to Joint Staff duty in less than three years with the approval of the Secretary of Defense in each case. The number of such officers recalled to Joint Staff duty in less than three years shall not exceed one hundred serving on the Joint Staff at any one time.".

(b) Subsection (c) of such section is amended by striking out ", on behalf of the Joint Chiefs of Staff" and inserting in lieu thereof "in the performance of those duties".

(c) Subsection (d) of such section is amended by inserting "and the Chairman" after "Joint Chiefs of Staff".

(d) Such section is further amended by adding at the end thereof the following new subsections:

"(e)(1) Subject to guidelines established by the Secretary of Defense, each officer serving as a chief of service or as the commander of a unified or specified command may have an opportunity to provide formal comments on any report or recommendation of the Joint Staff prepared for submittal to the Joint Chiefs of Staff before such report or recommendation is submitted to the Joint Chiefs of Staff. A copy of any such comment shall at the discretion of the officer submitting the comment, be included as an appendix in the submittal of such report or recommendation to the Joint Chiefs of Staff. For purposes of this paragraph, the chiefs of service are the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, and the Commandant of the Marine Corps.

"(2) The Secretary of Defense shall ensure that the Joint Staff is independently organized and operated so that the Joint Staff, and the members of the Joint Staff, support the Chairman of the Joint Chiefs of Staff and the Joint Chiefs of Staff in meeting the congressional purpose set forth in the last clause of section 2 of the National Security Act of 1947 (50 U.S.C. 401) to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces.

"(f)(1) The Secretary of Defense, in consultation with the Chairman, shall ensure that officer personnel policies of the armed forces concerning promotion, retention, and assignment give appropriate consideration to the performance of an officer as a member of the Joint Staff.

"(2) In the case of an officer who has served on the Joint Staff and who is selected for recommendation to the President for appointment to a grade above major general or rear admiral, the Chairman shall submit to the President, at the same time as the recommendation for such appointment is submitted, the evaluation of the Chairman of the performance of that officer as a member of the Joint Staff.".

SENIOR STRATEGY ADVISORY BOARD

SEC. 6. (a)(1) Chapter 7 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 178. Senior Strategy Advisory Board

"(a) There is established in the Department of Defense a Senior Strategy Advisory Board. The Board shall, from time to time, provide such advice and recommendations on matters of military strategy and tactics as it considers appropriate to the President, the Secretary of Defense, and the Joint Chiefs of Staff.

"(b)(1) The Board shall consist of ten members appointed by the President from among retired officers in the grade of general or admiral, who, while on active duty, served as a member of the Joint Chiefs of Staff or as the commander of a unified or specifed command.

"(2) Each member of the Board shall be appointed for a term of five years, except that—

"(A) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term;

"(B) a member whose term of office has expired shall continue to serve until his successor is appointed; and

"(C) of the members first appointed, three shall be appointed for a term of one year, three shall be appointed for a term of three years, and four shall be appointed for a term of five years, as designated by the President at the time of appointment.

Members whose terms has expired may be reappointed for one additional term.

"(3) The Chairman of the Board shall be designated by the President from among the members of the Board.

"(c) The Board shall meet regularly at the call of the Chairman or a majority of the members of the Board, but not less often than once each month.

"(d) Members of the Board are not entitled to compensation for service on the Board but may be paid per diem and travel and transportation allowances authorized under section 5703 of title 5.

"(e) The Board shall continue in existence until terminated by law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item: "178. Senior Strategy Advisory Board.".

(b) Section 178 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. WHITE) will be recognized for 20 minutes, and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, serious organizational flaws mar the performance of the Joint Chiefs of Staff. As a result, our highest military body might fail to function adequately in case of war. And, as was the case during World War II, World War I, and as far back as the Spanish-American War, we would be faced with the necessity of making fundamental changes to our military organization in the midst of a crisis. The most casual observer must realize that there may not be time for such a realignment in a future conflict. Equally important in a continual-

ly threatening peacetime environment, timely, clear-cut, realistic, feasible, and prudent professional military advice is often not available to civilian leaders. Consequently, the influence of the military in civilian counsel has diminished over time and, because decisions must nevertheless be made, has often been overshadowed by civilian analysts.

Those and many other significant criticisms of the joint military structure are voiced persuasively by an impressive body of critics who recently shared their views with the Congress.

On February 3, 1982, Gen. David C. Jones, the Chairman of the Joint Chiefs of Staff, announced in a hearing before the Armed Services Committee that he was concerned about basic shortcomings in the organization of the Joint Chiefs of Staff. He further stated that he intended to submit proposals to correct those shortcomings and would work to achieve their acceptance throughout the remaining months of his tenure and thereafter. Though the joint military structure has received much criticism over the years, it was nevertheless unprecedented for an incumbent Chairman of the Joint Chiefs of Staff to fault the organization in such explicit terms and announce a determined reform effort. Almost as extraordinary was the subsequent action of Gen. Edward C. Meyer, the Army Chief of Staff, who joined General Jones in criticizing the present structure and suggested that the Chairman had not gone far enough in his recommendations for change.

Prompted by the actions of two of the most senior Armed Forces officers in the Nation, the Investigations Subcommittee of the Armed Services Committee began hearings on JCS reorganization on April 21, 1982. The subcommittee found near unanimous agreement that organizational problems hamper the performance of the present Joint Chiefs of Staff. But it learned that views diverge on what, if anything, should be done to correct the existing deficiencies.

This section will outline the organizational problems of the existing military structure. It will then explain the proposed Armed Services Committee approach to correcting those deficiencies through legislation and a program of more intense legislative oversight.

Title 10 of the United States Code states that the Joint Chiefs of Staff "are the principal military advisers to the President, the National Security Council, and the Secretary of Defense." The advice rendered by the JCS as a corporate body at present is often inadequate. The joint military system is slow to develop formal military positions. As a result, JCS advice often is not available when needed. When formal advice is finally rendered, its form and substance has been so diluted by the joint staffing process, which in effect gives each service a veto on every word, that it is of little use to civilian leaders. According to former Secretary of Defense Harold Brown:

> When it comes to the formal product, the papers that come up through the Joint Staff that are approved by the action officers, the planners, the various desks, and the chiefs themselves, and to which they put their signatures, are almost without exception either not very useful or the reverse of being helpful. That is, worse than nothing. I think that is the difference between the people and the system.

The advice rendered by the JCS is also faulted for a lack of realism and the absence of strategic content. The structure of the Joint Chiefs is such that the group often cannot deal realistically with issues which affect service interests. Those issues include matters of fundamental importance to national security: The allocation of resources to various defense missions; the unified command plan which assigns the geographical and functional responsibilities of field commanders; roles and missions of the services; and joint doctrine and training. Concerning strategic thought, witnesses suggested that the multitude of disparte responsibilities shouldered by the chiefs leaves little time or inclination for reflective strategic analysis.

Witnesses uniformly distinguished between the performance of individual service chiefs, whose personal advice was given high marks, and the performance of the JCS as a group of advisers acting collegially. Thus, the hearings clearly indicated that JCS problems are organizational in nature and by no means reflect on the competence of the members. Among the most significient of the organizational problems which the committee proposes that Congress do something about through legislation are the following:

The contradiction between the responsibilities of an individual as a member of the Joint Chiefs of Staff and as chief of his service. As a JCS member, a chief is called upon to transcend service interest and participate in developing advice from a joint, unified military perspective—a "national" viewpoint. Yet, as a chief of service, the same individual is looked upon as its principal advocate. General Jones emphasized that:

> If a chief departed a great deal, and consistently, from what came up through the system—from his service—he would be in danger, as has happened in the past, of losing the support of his service.

Also contradietory is the time demanded by the dual responsibilities of the chiefs. Gen. Omar Bradley once indicated that he did not have time to do both jobs well. And General Meyer emphasized this point forcefully during the hearings.

The limitations of the Joint Staff. The quality of Joint Staff work is adversely affected by a number of restrictions. Some of these constraints are contained in present legislation; others result from the overwhelming influence exerted by service interests on the joint military organization. In combination, the restrictions have a number of adverse results: A lack of Joint Staff continuity because assignments are legally limited to 3 years; no guarantee that the most outstanding officers will be assigned to this most important and complex of U.S. military staffs; and crippling procedural constraints that give inordinate influence to service staffs, thereby preventing the Joint Staff from authoring its own work.

Though the hearings revealed a number of other significant problems, the Armed Services Committee choose to attack the most serious, improving the quality of military advice, in H.R. 6954 for several reasons. The legislative measures required to remove restrictions and make the joint military organization more independent are relatively clear cut, modest, and noncontroversial. Moreover, they may possibly be sufficient in themselves with respect to necessary changes in the law because the Secretary of Defense possesses significant authority to initiate internal reorganization without resort to Congress. A larger purpose of H.R. 6954 is to encourage internal Department of Defense action. The committee intends to monitor the process through periodic oversight hearings. In the meantime, the committee would much rather err on the side of caution than to strike out into the uncharted waters of fundamental organizational change. If joint military performance does not improve sufficiently as a result of H.R. 6954 and subsequent Defense Department action, the Congress can always reexamine the organization and implement any additional changes which may be necessary.

Another reason for a modest approach is the reservations expressed by some witnesses who, despite generally acknowledging that problems exist, oppose organizational change. The bill is designed to address many of the major areas of concern voiced by advocates of reorganization while accommodating, through specific legislative provisions, the reservations of opponents. H.R. 6954 does this, however, without in any way diminishing its overall purpose of improving the quality of military advice for civilian leaders and thereby restoring the military voice to its appropriate stature in the highest councils of government.

A brief summary of the provisions in the bill illustrates the committee approach. The Chairman of the JCS would become responsible for providing military advice in his own right as

well as acting as the spokesman for the Joints Chiefs of Staff and reporting to the Secretary of Defense and President those issues on which the JCS have agreed and have not agreed.

Any member of the Joint Chiefs of Staff who disagrees with military advice of the Chairman of the Joints Chiefs of Staff would be authorized to submit his views to the Secretary of Defense and, subsequently, to the President.

A Senior Strategy Advisory Board composed of retired former members of the Joint Chiefs of Staff and commanders of unified and specified commands would provide advice to the President, Secretary of Defense, and Joint Chiefs of Staff on military strategy and tactics. They would serve without compensation except for per diem and travel expenses.

To assist the JCS Chairman in carrying out his responsibilities, a Deputy Chairman would be created who would act as Chairman in the absence or disability of the Chairman and exercise such duties as may be delegated by the Chairman with the approval of the Secretary of Defense. The Deputy Chairman would be permitted to attend JCS meetings but would participate as a full member only when acting for the Chairman in the latter's absence or disability. The Deputy Chairman would be of a different service from the Chairman.

Joint Staff officers would be selected solely by the JCS Chairman from among the most outstanding service officers submitted by the respective services. The Secretary of Defense, in consultation with the Chairman, would be responsible for insuring that personnel policies of the Armed Forces concerning promotion, retention, and assignment of officers give appropriate consideration to the performance of an officer as a member of the Joint Staff. The JCS Chairman would be required to submit to the President an evaluation of the performance of an officer who had served on the Joint Staff when he was recommended for promotion above major general or rear admiral.

Length of assignment to the Joint Staff, presently limited to 3 years, could be extended at the discretion of the Secretary of Defense up to 3 additional years. The limit on the number of officers serving on the Joint Staff who had been recalled to Joint Staff duty in less than 3 years would be increased from 30 to 100.

The Joint Staff would become responsible for supporting the JCS Chairman as well as the Joint Chiefs. The Chairman's responsibility for managing the Joint Staff would continue as in present law. His management, however, must take cognizance of the Joint Staff charter and would include providing support for himself as well as the Joint Chiefs of Staff. Subject to guidelines established by the Secretary of Defense, chiefs of service and unified and specified commanders would have an opportunity to provide formal comments on Joint Staff reports or recommendations prepared for the Joint Chiefs of Staff.

The Secretary of Defense would be responsible for insuring that the Joint Staff is independently organized and operated to support the Joint Chiefs of Staff and the Chairman in meeting the congressional purposes expressed in the National Security Act of 1947 to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces.

Let me now turn to one explanation of the provisions in the bill. First, provisions designed to expand and strengthen the sources of military advice.

Although the committee agrees that the dual responsibilities of service chiefs may undermine the advisory capability of the Joint Chiefs of Staff as a corporate group with respect to certain issues, it is not prepared to admit that the JCS is fatally flawed. For one thing, a range of important issues do not involve service conflicts. Little criticism of JCS performance in those areas was heard during the hearings. Another consideration stems from review of the types of issues on which the Joint Chiefs of Staff allegedly stumbles. Decisions concerning such issues as resource allocation, roles and missions, and doctrine would cause intense internal conflicts within the Department of Defense whether it were organized into services, as at present, or in some other way. Those conflicts have their counterparts in most other large organizations, both public and private. Eliminating the Joint Chiefs of Staff or installing a single military individual in its stead, to whom the JCS would provide advice, would by no means eliminate the conflicting issues which must be resolved. Such measures would merely lessen the potential influence of individuals representing the collective knowledge and experience of the organizations most qualified to judge land, sea, and air warfare issues. Consequently, the committee proposes to expand and strengthen the sources of military advice, retaining the JCS as the principal military advisers.

H.R. 6954 would accomplish the committee purpose by establishing a Senior Strategy Advisory Board, strengthening the JCS Chairman's role as a military adviser, and creating a deputy chairman to assist the Chairman in his added responsibilities.

The Board will fill the void in reflective thinking on military matters emphasized by several witnesses, particularly with respect to long-range strategy. It will consist of 10 retired generals or admirals who, while on active duty, served on the Joint Chiefs of Staff or as a commander of a unified or specified command. The Board will provide such advice and recommendations on military strategy and tactics as it considers appropriate to the President, the Secretary of Defense, and the Joint Chiefs of Staff. It should be provided appropriate staff support by the Department of Defense, access to all necessary documents, and the requisite call on information from throughout the Department.

The Chairman of the Joint Chiefs of Staff is uniquely qualified to assume additional responsibilities as an adviser championing the unified military viewpoint. He is the only member of the Joint Chiefs of Staff who has no service responsibilities. Though Chairmen continue to wear the uniform of their services, experience has shown that they have traditionally assumed a joint or unified perspective in evaluation military issues, unbiased by former service ties.

H.R. 6954 makes the Chairman responsible for providing military advise in his own right and gives him access to the Joint Staff for assistance in developing his formal positions. Though his advisory responsibility is not confined by the bill to any one area, the committee intends that the Chairman give special attention to those issues which the collegial JCS has been unable to address effectively—for example, resource allocation, roles and missions, the unified command plan, and joint doctrine and training. The committee also intends for the Chairman to forge stronger links with the unified commanders in developing his positions. He should serve as their spokesman in Washington, establishing priorities and integrating their recommendations, into a coherent set of combatant command proposals.

Strengthening the Chairman's advisory role should provide an opportunity for Defense Department action which would relieve the present burden of the service chiefs by diminishing the issues they address as members of the JCS and making it less difficult for them to arrive at joint positions articulated by the Chairman. Evolution along these lines is not meant to stifle legitimate dissent, however. To insure open channels for expressing opposing views, H.R. 6954 provides that a Chief may submit any opinion in disagreement with the military advice of the Chairman or the Joint Chiefs of Staff to the Secretary of Defense, and subsequently, to the President.

Although the argument for creating a Deputy Chairman is strengthened by the provisions which increase the Chairman's responsibilities, establishing the position makes sense in any case. The JCS Chairman is the senior

military officer in the United States. His responsibilities are in proportion to his rank. Yet, unlike the Secretary of Defense, secretaries of the military departments, or chiefs of each service, the Chairman has no deputy. As a consequence, when he is absent the acting chairmanship is often passed among the other chiefs. Testimony revealed that it was not uncommon for the acting Chairman to change numerous times within a few days during the Chairman's absence. Adm. Carl Thor Hanson, a former Director of the Joint Staff, testified:

During one week of my Director's tour, we had, as I recall, seven changes of the Acting Chairman. There was a fairly active crisis at the time and each rotation involved an updated briefing book for the new Acting Chairman and the resultant quickly and possibly inadequately absorbed knowledge.

On more than a few occasions during my tour as Secretary Brown's Military Assistant, I recall his frustration with having to take a quickly and inadequately briefed Acting Chairman to an NSC, SCC, or PRC meeting when then-Chairman Gen. George Brown was out of town. Although theoretically any member of the Joint Chiefs of Staff should be completely conversant with all national security issues, practically the responsibilities of being a Service Chief simply preclude complete familiarity with the complex national security issues faced by the Chairman and the Secretary of Defense daily.

H.R. 6954 would correct this situation and provide added support and continuity in the performance of the Chairman's responsibilities.

I now turn to provisions designed to improve staff support. First, Joint Staff personnel.

Testimony revealed a number of disincentives which at times have had the effect of discouraging officers from seeking Joint Staff assignments. Promotions of Joint Staff members have lagged. Services disagree on the caliber of the officers who should be assigned. Joint Staff influence is perceived as limited; as a result, officers who seek challenge may avoid Joint Staff service.

The committee considers the Joint Staff the preeminent U.S. military staff. The personnel provisions of H.R. 6954 are designed to insure that the committee's conviction concerning the Joint Staff become manifest in the structure of the Department of Defense. The bill clearly requires assignment of the most outstanding service officers to the Joint Staff. To insure that result, the bill provides that selection of Joint Staff assignees shall be made solely by the Chairman of the Joint Chiefs of Staff from service lists containing only officers considered to be among the most outstanding.

The bill also includes two provisions concerning promotions. First, it requires the JCS Chairman to submit an evaluation to the President of the performance of any officer who has worked on the Joint Staff and who is recommended for promotion to a grade above major general or rear admiral. Second, the bill makes the Secretary of Defense, in consultation with the Chairman, responsible for insuring that Joint Staff officers receive equitable career rewards for their performance. Because the demands and complexity of Joint Staff work require talented and dedicated officers, the committee is convinced that performance at the Joint Staff level should be considered a mark of distinction deserving special attention by promotion boards. Though no individual should be guaranteed advancement as a result of Joint Staff service, statistical analyses of serving and former Joint Staff officers should be developed and monitored to insure that Joint Staff performance is given appropriate consideration.

Next, provisions which would improve Joint Staff continuity and experience. Existing legislative provisions limiting Joint Staff assignments to 3 years and prohibiting reassignment in less than 3 years—except for 30 officers—erect insuperable obstacles to staff continuity. At present, the average Joint Staff assignment is less than 30 months; that means the entire staff turns over every 2½ years and the average experience level of Joint Staff officers is less than 15 months.

The legislative faults are compounded by poor Department of Defense management. General Jones indicated that only 2 percent of the Joint Staff officers have previous Joint Staff experience. Moreover, he reported that only 13 percent of middle grade Joint Staff officers, and less than 25 percent of the colonels and Navy captains, have joint schooling.

General Jones remarked to Congressmen:

It is just as though every time you went through an election and came to Washington, you had a whole new staff and only two percent of them ever had any experience in the Congress.

H.R. 6954 relaxes the legislative restrictions on Joint Staff assignments. It provides that the Secretary of Defense may extend the 3-year assignment for as much as an additional 3 years. Also, as many as 100 Joint Staff members, as opposed to 30 at present, could return to Joint Staff duty in less than 3 years. These less restrictive provisions should afford the flexibility needed to overcome the deficiencies in Joint Staff continuity. At the same time, retaining legislative constraints on the tenure of Joint Staff assignments continues safeguards against the possibility, however remote, that the Joint Staff could evolve into a powerful, self-sustaining, elite military organization superimposed between civilian authorities and the services and combatant commands.

The bill does not address the problems of Joint Staff inexperience caused by faulty Department of Defense personnel management procedures and inattention to joint education. Several witnesses discussed these problems during the hearings. Based on their thoughtful comments, the committee is convinced of the seriousness of those problems and the necessity for corrective measures. But legislative relief is not required. Consequently, the committee intends to monitor Defense Department actions to resolve the problems relating to Joint Staff experience identified in the hearings.

Finally, I will review provisions to improve Joint Staff management and procedures, and establish a Joint Staff charter.

At present the Joint Staff is smothered by complex, voluminous operating procedures which insure that the services control the form and content of Joint Staff work. Although the Chairman manages the Joint Staff, by law, he does so on behalf of the Joint Chiefs. And the Chiefs, over time, have developed an ironclad system which protects service interests and, as a corollary, tends to convert the Joint Staff into an executive secretariat dependent on service staffs.

The following description of the joint staffing process graphically illustrates the debilitating effects of the present system. It is excerpted from an answer for the record received from the Chairman of the Joint Chiefs of Staff.

General Jones. A typical joint staffing action can be illustrated by outlining how a request from the Secretary of Defense for JCS views on an important defense issue would be handled.

The Joint Staff action officer is under institutional pressure to find a position with which each of the Services can agree * * *. Likewise, the Service action officers are under institutional pressure to insure that Service roles and missions are not abridged, that major Service weapons systems are emphasized, and that a proposed strategy does not imply more than a fair share of emphasis for another Service.

The Joint Staff action officer must prepare the initial draft of the response—called the Flimsy. In doing so, he or she is bound to consider the views of the Service action officers and the appropriate CINCs. . . . Each Service representative might write a portion of the paper, a portion of the paper might be provided by a CINC or his staff, or the Joint Staff A/O might assume the entire task. Generally, because the Service staffs are larger and have Service-unique data and analysis not available to the Joint Staff, the Joint Staff action officer is very dependent on Service Staff inputs.

Once the Flimsy is prepared, the Joint and Service action officers meet to discuss its content. . . . For a substantive paper of some length, each Service action officer may have as many as 100 recommended changes. They quickly learn the art of compromise—each agreeing to support the balance of the changes proposed by the other in return for equal support. The Joint Staff

action officer then publishes a Buff paper—reflecting the consensus of the meeting. . . .

Each of the action officers who worked on the Flimsy takes the Buff paper to his Service or Joint Staff planner (O-6). . . . There may be as many as 20 issues left to be resolved. The Planners generally are able to resolve all but two or three of them. The Joint Staff Planner then . . . publishes a final draft on Green paper.

The Service A/O and Planner present the Green to their Service Operations Deputy (on some occasions an additional review layer—the Deputy Operations Deputy—is added).

The Operations Deputies represent the first level of review at which a truly joint perspective is brought to bear on the issue. However, the Operations Deputies are dual-hatted, as are the Chiefs, and they are under great institutional pressure to represent Service as well as national interests.

. . . Significant compromise may occur at this level of review. Yet to be resolved issues and divergent views, if any, are highlighted, and the Green is placed on the agenda for the Chiefs to consider.

The Chiefs then consider the Green, make adjustments as necessary, and send the paper to the SECDEF.

In sum, the current Joint Staff process encourages compromise, relies too heavily on Service participation, and depends on staff officers who are well versed in Service interests but are ill prepared to address issues from a joint perspective.

The committee intends that Joint Staff procedures be revised to insure its independence and focus its efforts toward achieving joint military objectives. H.R. 6954 provides that the JCS Chairman shall manage the Joint Staff in the performance of its duties. Moreover, it directs the Secretary of Defense to insure that the Joint Staff is independently organized and operated. Finally, it provides a charter for the Joint Staff which prescribes the objective of its duties: To support the Chairman and the Joint Chiefs of Staff in meeting the purposes set forth in the National Security Act of 1947 (50 U.S.C. 401) to provide for the unified strategic direction of the combatant forces, for their operation under unified command, and for their integration into an efficient team of land, naval, and air forces. These provisions provide unmistakable authority for the Chairman to revise the current joint staffing procedures and a corresponding responsibility to do so in shaping the Joint Staff to fulfill its charter. In addition, the provisions vest ultimate responsibility in the Secretary of Defense who is charged with insuring Joint Staff independence and that the charter be followed.

H.R. 6954 also modifies the terms of reference for managing the Joint Staff. It removes the condition that the Chairman's management shall be "on behalf of the Joint Chiefs of Staff." Thus the Chairman's authority is independent of the JCS. But his management must conform to the Joint Staff charter and would be subject to challenge by the JCS if that body deems Joint Staff support inadequate to its needs. Finally, the provisions would also give the Chairman latitude to elicit Joint Staff support in the performance of his duties as a military adviser in his own right.

An additional provision insures that the Joint Staff will continue to receive information from the services and the combatant commands with respect to reports and recommendations prepared for the Joint Chiefs of Staff. As previously emphasized, the committee intends H.R. 6954 to establish conditions in which the Joint Staff is the independent author of its own work. But the committee does not intend to diminish the vital channels of communication between the Joint Staff, services, and combatant commands which are necessary to provide the basic information necessary for competent staff work. To maintain continued intimate interaction among the various military elements as well as insure that channels for dissent remain open, H.R. 6954 provides that, subject to guidelines established by the Secretary of Defense, each officer serving as a chief of service or as the commander of a unified or specified command may have an opportunity to provide formal comments on any report or recommendation of the Joint Staff prepared for submission to the Joint Chiefs of Staff before the report or recommendation is submitted.

Mr. WHITEHURST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the bill H.R. 6954 and urge my colleagues to support it.

This legislation will improve the quality, timeliness, and realism of military advice rendered to the civilian elements of government, and I strongly support it.

During hearings on JCS reform, witnesses repeatedly emphasized a number of organizational problems which impact adversely on the adequacy of military advice at present. We are grateful to Gen. David C. Jones and Gen. Edward C. Meyer for speaking out. The committee also appreciates all of the other witnesses, military and civilian, who gave us the benefit of their views on the functioning of the Joint Chiefs of Staff. I am convinced that the generals' diagnosis is essentially correct because their testimony so closely parallels that of many of the other witnesses, including former Secretaries Harold Brown, Elliott Richardson, David Packard, Stuart Symington, Maxwell Taylor, Brent Scowcroft, and Richard Steadman.

Congress has a constitutional responsibility "to raise and support armies * * * to provide and maintain a Navy; [and] to make rules for the Government and regulation of the land and naval forces." In view of that responsibility, we cannot ignore the problems so forcefully brought to our attention during the hearings on JCS reorganization.

To overcome the organizational problems, H.R. 6954 would strengthen the military structure in three areas. First, the bill would create a Deputy Chairman of the Joint Chiefs of Staff who would act as Chairman in the absence or disability of the Chairman, and exercise such other duties as might be delegated.

Second, the bill would strengthen the channels for providing military advice. Though the Joint Chiefs of Staff would remain the principal military advisers, the bill would establish a Senior Strategy Advisory Board to advise the President, the Secretary of Defense, and JCS on matters of military strategy and tactics. The bill would also make the JCS Chairman responsible for providing military advice in his own right. It would provide, however, that any member of the Joint Chiefs of Staff who disagreed with military advice of the Chairman or the Joint Chiefs might submit his own views to the Secretary of Defense and the President.

Third, the bill would modify and add several provisions to existing law relating to the Joint Staff to insure assignment of outstanding officers, strengthen Joint Staff career incentives, increase Joint Staff continuity and independence, and afford the JCS Chairman greater personnel, supervisory, and management latitude and staff support. It would also safeguard the right of service chiefs and field commanders to comment formally on Joint Staff reports and recommendations.

Mr. Speaker, I acknowledge that H.R. 6954 is not as far-reaching as many witnesses proposed. Several recommended downgrading or eliminating the Joint Chiefs of Staff. The JCS would either become an advisory body to the Chairman, who would become the principal military adviser, or the JCS would be disbanded in favor of a National Military Advisory Council no longer tied to the services. Many of those who support H.R. 6954 agree that fundamental changes along those lines may eventually be required. At the present time, however, such far-reaching reforms do not appear possible. In the absence of such radical reforms, the provisions of this bill are steps in the right direction.

Consequently, I strongly recommend acceptance of H.R. 6954. As the gentleman from Texas, who deserves tremendous credit for his work on this legislation, has stated, this bill may be sufficient to overcome the current organizational problems. That will depend on whether the Defense Department undertakes concerted action to implement it and initiates other reforms internally. If joint military per-

formance does not improve sufficiently, the Congress will have ample opportunity to take further steps in the future. For today, H.R. 6954 represents significant progress, and I urge the Members' support.

Mr. WHITE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, I am pleased to support the bill H.R. 6954, the Joint Chiefs of Staff Reorganization Act.

While the bill does not attempt to address all of the deficiencies in the Joint Chiefs of Staff organization, it attempts to solve some of the more important problems. One such solution is the establishment of the Senior Strategy Advisory Board which will provide advice and recommendations on military strategy and tactics to the President, the Secretary of Defense, and the Joint Chiefs of Staff.

The Joint Chiefs of Staff are chiefs of their respective services as well as members of the Joint Chiefs. Consequently, they must divide their time and energies between the day-to-day direction of their services and their duties as principal military advisers to the national command authorities. Both are full-time jobs and even the outstanding men who have been cnosen for these very demanding positions have been unable to find sufficient time to perform both. As a result, current problems which are the most urgent have received most of their attention while long-range planning and studies have suffered; not because of lack of interest, but because of lack of time. General Meyer proposed that the service chiefs be relieved of their Joint Chiefs of Staff responsibilities and be allowed to devote their full time to leadership and management of the services.

Meanwhile, there is a vast reservoir of military experience which at present is largely unused. There are the men who have been Chairmen or members of the Joint Chiefs of Staff, for example, General Jones and Adm. Thomas Hayward, or who have commanded one of the unified or specified commands were of the stature of the late Admiral McCain, for example. In retirement, these men are free of the training, procurement, and operational requirements which always bedevil the members of the Joint Chiefs of Staff. They have the time to study the long-range problems and to evaluate possible solutions. Moreover, they no longer have the demand for loyalty to a particular service so that they can view matters from a true joint perspective.

The Senior Strategy Advisory Board will be composed of such retired generals and admirals who were members of the Joint Chiefs of Staff, or commanders of combatant commands. They will be free to concentrate exclusively on planning, both strategic and tactical. They will be able to bring their vast experience to these issues. Unencumbered with other responsibilities, they can study these problems and present their recommendations and advice to the Joint Chiefs of Staff as well as the President and the Secretary of Defense.

As we found in our hearings, the people who make the strategy today are not the Joint Chiefs of Staff. Much of our strategy is being developed by civilians who have never been in combat or by some lieutenant who starts the paper which then goes to some lieutenant colonel. By the time it comes up to the Joint Chiefs of Staff level, as two or three witnesses testified, they have practically no time to spend on analyzing it or developing an alternative. And that, after all, is one of our big weaknesses. The services have all kinds of acquisition people and weapons development people, but nobody knows a thing about how to fight a war. That is what we need in this modern Army and Navy, in my judgment, and that is what this Advisory Board is intended to supply.

This Board is patterned on something that prevailed in the Navy for many years, and something that has been a tradition in Japan. The General Board in the Navy was a group of senior retired Navy officers who would provide advice and recommendations to the Chief of Naval Operations. The Japanese had a tradition that once their admirals and generals retired—and I think it was also senior civilian people—they would become what were called Genro and were an unofficial body which advised the Emperor when he had momentous decisions to make—for example, at the beginning of World War II, whether to go along with the military and declare war; and later of course, the agonizing decision of whether to surrender.

Mr. Speaker, I believe the Senior Strategy Advisory Board will fill a void in our strategic planning.

I urge my colleagues to vote for passage of H.R. 6954.

Mr. WHITE. Mr. Speaker, I commend the gentleman from New York for his efforts on behalf of this bill.

Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAN DANIEL), and I also wish to commend him for his efforts on behalf of his bill.

Mr. DAN DANIEL. Mr. Speaker, I rise in support of H.R. 6954. This legislation represents a tremendous amount of productive effort by the chairman of the Investigations Subcommittee, Congressman WHITE. I want to commend the gentleman from Texas for his dedication and resourcefulness in crafting this bill. He has characterized it as a "modest proposal." In some respects, it is. But it addresses the major areas of concern emphasized by several witnesses during the hearings and at the same time accommodates the reservations expressed by others. It is the most significant legislation with respect to the organization of the Joint Chiefs of Staff in almost a quarter of a century.

My major interest is to improve the quality of advice given our highest civilian authorities by the uniformed services. It is the judgment of this Member that the quality of that advice must improve. Former Secretary of Defense Harold Brown told the subcommittee that the formal advisory documents forwarded by the JCS are "not very useful." At the same time, Dr. Brown hastened to praise the competence of the individual chiefs. So it is the procedure that needs correcting.

The Joint Chiefs of Staff, with unsurpassed experience and resources to judge particular land, sea, and air warfare issues, will remain responsible for giving advice from a "national" perspective. Their contributions will be most valuable on issues which involve more than one service—that is, issues the Chiefs traditionally have trouble addressing realistically. Since one of my principal concerns is readiness, I favor this change because I foresee the Chairman, in developing his joint advice, forging stronger ties with the unified and specified commanders and placing greater emphasis on addressing and improving readiness in our field commands.

Finally, the Senior Strategy Advisory Board should add that element of reflection to strategic thinking, long-range planning, and military tactics which has often been lacking.

In sum, this is a balanced, well-thought-out piece of legislation that is long overdue. I strongly urge passage of H.R. 6954.

Mr. WHITE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I have always been very much concerned—as a matter of fact, since the adoption of the 1947 Reorganization Act—that the Congress has not addressed itself to what I think the debate during the consideration of the Reorganization Act called for, and that was a continuing review by the Congress. The 1947 act was not viewed then as sort of an edict, as holy scripture, and, as a matter of fact, the first Secretary of Defense, Secretary Forrestal, had to come in, less than 1 year after he had assumed office, for a very significant amendment to that.

Then, subsequent to that time, we had such things as the Bay of Pigs, for example, and the kind and pattern of judgment-making decisions, evaluations, that heretofore, before the Reorganization Act, and when you had

the old Department of War, I do not think would have permitted, even though it was a rigid system, which obviously mandated the system that the Congress sanctioned with the 1947 act, nevertheless I doubt seriously that such a thing as the Bay of Pigs and the admixture since World War II of the military, political, social, even, complexity of the decisions have been addressed by the Congress.

Mr. WHITE. Mr. Speaker, the gentleman has a very important point. I think that the gentleman will find that we have addressed most of the gentleman's concerns.

Mr. GONZALEZ. But does not this tend to further complicate the cumbersomeness of getting the purely military judgment-making evaluations?

When we reach the point where a President is making telephone decisions on a platoon basis in the field, there is something terribly wrong, in my opinion. And when you have such things as last-minute decisions predicated on military know-how, military expertise, such as, should the President call in air support on the so-called Bay of Pigs invasion?

Now, it seems to me that unless this will tend to reduce the continuance of that discrepancy in being able to get the military expertise and judgment in that level, not into the political level, that unless this addresses itself to that, it will just further compound it.

Mr. WHITE. Mr. Speaker, the gentleman is absolutely right in his concern. We have addressed this in two facets. One would be an advisory council in the board that the gentleman from New York (Mr. STRATTON) has provided for, and in the streamlining that the bill provides for in the deputy chairman, and the better use of the staff. All of these things are directed to more crisp, better military advice.

I want to thank the gentleman for his observation.

Mr. GONZALEZ. Mr. Speaker, I want to thank the gentleman and say that my distinguished colleague, the gentleman from Texas, has been a very valuable member of the Armed Services Committee, and perhaps this will be one of the last formal pieces of legislation he is handling. I hope not. But his departure from the Congress is to be regretted, in that he has been a very strong stalwart of proper levels and realistic levels of defense.

I am glad that this issue is being addressed, because we have just had the recent experience of the outgoing Joint Chief of Staff General Jones, which I think really is tragic in the manner in which he was permitted to go, and clearly revealed the continuing dilemma in this area.

So I compliment the gentleman for his leadership in trying to address himself to that problem.

● Mr. DICKS. Mr. Speaker, the House just completed debate on the fiscal year 1983 defense authorization bill, which provides for substantial increases in real defense spending. I agree that our national security requires real growth in the resources we allocate to defense. But bolstering budgets will produce fewer defense benefits than desired unless U.S. leaders stand back, survey the strategic forest instead of the tactical trees, stress proven principles and press for practical change.

Unfortunately, sound cohesive strategies all too often fail to shape the requirements for the U.S. Armed Forces, and we will continue to pay more than necessary for capabilities that fail to match ends with means until the shortcoming is corrected.

In fact, if our increased spending commitments are not properly applied they could in fact weaken our security by eroding the public consensus in support of a strengthened defense effort.

There is a general and growing consensus that we have serious problems in our defense planning structure. These weaknesses are not unique to this administration and are at least in large part of an organizational nature. As a member of the Defense Appropriations Subcommittee I am disturbed by the all-too-common fascination with a particular weapon system and the lack of an appreciation of how it fits into an overall fighting strategy and how it compares to other options to meet the agreed-upon goal.

It was for these reasons that last year I requested the Congressional Research Service to perform a major study of this Nation's defense planning apparatus. Mr. John Collins, senior specialist in national defense at CRS has labored hard on this study and it is due to be published shortly. I am confident that it will serve to help stimulate debate on this important issue and shed light on the shortcomings of the present situation.

Central to any improvements must be actions relating to the Joint Chiefs of Staff, who are by law designated as the principle military advisers to the President, and in reality to the Congress.

The present structure has many shortcomings. It allows interservice rivalries to flourish because the Joint Chiefs also serve as Chiefs of their respective services and the Joint Staff is dependent on service staffs for support. There is a lack of realism and absence of strategic content, in the view of many, in JCS positions. The Joint Chiefs are slow to develop positions and when they finally do, they are often diluted beyond usefulness.

These problems exist not because JCS officers and staff are doing less than their best. They are the result of both organizational and longstanding attitudinal factors. We can address the portion of the problem that is organizational through corrective legislation, and H.R. 6954 is a productive step in that direction. And we can encourage a change in the attitudinal precedents by demonstrating the concern of the Congress and providing opportunities to make these changes. This is perhaps the more important aspect of H.R. 6954 and one that can be monitored by close oversight.

We are very fortunate that as the result of some courageous men, the issue of JCS reform has reached more than the talking stage. Much credit must be given to Gen. David Jones, the recently retired chairman of the Joint Chiefs of Staff. It was he who took the first bold step and proposed comprehensive structural changes while still serving as chairman. Recognition is also due Gen. E. C. Meyer, Chief of Staff of the Army who followed on Chairman Jones proposals and made even more dramatic suggestions for changes in defense planning through the JCS.

Finally, and most importantly I want to commend Chairman WHITE. All to often in the past, there has been a tendency to miss opportunities to push needed changes, and not stick to them when the focus of national attention has subsided. It would have been easy, especially in light of the institutional resistance to change that always exists, to let the issue slip back into obscurity. But Chairman WHITE did quite the opposite. The Investigations Subcommittee began a long and very comprehensive series of hearings on the issue beginning on April 26. It was my privilege to have an opportunity to express my concerns and present the results of Mr. Collins' examination of JCS problems on May 5. Overall, the chairman's hearings received the learned observations of a wide range of both incumbent and retired military and civilian personnel that have worked intimately with the Joint Chiefs. The forum these hearings presented was in and of itself an extremely valuable contribution to the national security debate.

But hearings alone will not correct the problem, action is required. This bill, H.R. 6954 is that action, and I am convinced it will produce immediate and beneficial changes in the way the Joint Chiefs operates and in the product it produces.

The bill takes a number of steps to improve the ability of the JCS to provide quality and timely military advice. First, for the first time it gives the Chairman responsibility to provide military advice in his own right in addition to his role as spokesman for the Joint Chiefs. This will allow him to avoid the time consuming and softening process of the present JCS bureaucracy and should produce the

kind of frank assessments that we policymakers urgently require. In addition the bill calls for dissenting views from other Joint Chiefs who may disagree with the Chairman. I think this provision is most important, because I am one who believes the best decisions are those that are made after decisionmakers have been presented with the entire range of arguments on an issue. This is the cornerstone of our legal and legislative process, and it is high time it was introduced into the open in the field of strategy development.

This legislation also creates a Deputy JCS Chairman. This step will not only give the Chairman critical support in carrying out his awesome responsibilities but will improve continuity in JCS operations that is lacking under the present rotating acting Chairman concept.

A final provision relating to the military advice function of the JCS is the creation of a Senior Strategy Advisory Board composed of former retired members of the Joint Chiefs and commanders of unified and specified commands. This is a very important, and I think positive concept. This Nation should take better advantage of the accumulated wisdom of its past leaders, and this Board could provide the structural mechanism to better accomplish this. While some details may have to be modified because of the pioneering nature of this Board, we should make sure that its essence is implemented.

The bill also makes a number of changes relating to the Joint Staff. All of us in the Congress recognize the importance of quality staff support to proper decisionmaking. But the present Joint Staff has shortcomings due to lack of continuity, lack of rewards in joint service, and inadequate size in relation to service staffs.

In order to insure that the most outstanding service officers are assigned to the critical joint planning role, and to insure that proper rewards are in place to encourage officers to seek these posts, the bill gives the Secretary of Defense responsibility to insure that policies of the armed services concerning promotion, retention, and assignment of officers give appropriate consideration to the performance of an officer as a member of the Joint Staff. In addition, H.R. 6954 provides guarantees of Joint Staff independence and establishes a new charter, to provide the climate that will allow needed attitudinal changes within DOD and the services to be implemented.

A step that appears modest, but which has very important implications is the authority to lengthen assignments and to return more officers to the Joint Staff without a 3-year absence. One observer likened the present situation to a House Member having an entirely new staff after every election. Clearly we need more experienced personnel in the Joint Staff, and I am confident we can do that without any danger of creating an overpowering "General Staff".

H.R. 6954 does not seek radical or fundamental changes. I for one think that additional reforms may be needed. For instance the central issue of the dual-hat status of JCS members is not addressed in this bill.

But on many of these issues, there is not a clear-cut consensus. And I think it is important to enact legislation that will make real and immediate improvements in the Joint Chiefs and will foster needed attention to additional oversight both within the Department and on the Hill.

H.R. 6954 is an important vehicle for beginning our quest to improve the strategic planning structure. More may be needed in the JCS, and certainly the other factors, including DOD, the National Security Council, and the Congress must be looked at. I am confident that Chairman WHITE will follow through on this task and maintain the type of detailed oversight he has already so ably conducted.

In doing so, we can better insure that our costly, but necessary investment in national defense will not go for naught.●

Mr. WHITE. Mr. Speaker, H.R. 6954 is designed to address the most pressing JCS organizational problems and leave others for future resolution, quite possibly through internal Defense Department measures and without recourse to legislation. This approach by the Armed Services Committee is not intended to infer that the other organizational problems are insignificant. To the contrary, in some cases, they rank in importance with those addressed in H.R. 6954. Though legislation may not be required, periodic legislative oversight may be necessary until Congress is satisfied with the revised organizational structure.

Among those problems not addressed in H.R. 6954 and which should be the subject of executive and legislative branch attention are the following:

First, the chain of command from the President to the unified and specified commanders who lead U.S. forces in the field. The chain now runs by law fromthe President to the Secretary of Defense to the unified and specified commanders. By Pentagon directive, the Joint Chiefs have been inserted in the chain of command so that in practiceit runs from the Secretary of Defense throught the JCS to the unified and specified commanders.

A number of witnesses during the hearing on JSDC reorganization expressed concern that a committee, the JSC, has been included into the chain of commmand. Those witnesses recommended placing a single military indivual in the chain.

Within our present organizatioon, that individual would be the JCS Chairman. By law, however, the JCS Chairman is prohibited from exercising "military command over the Joint Chiefs of Staff or any other Armed Forces." It is not clear whether that provision precludes the Chairman from replacing the JCS because the Defense Department directive merely routes the chain throught the JCS. In any case, the Department of Defense should study the issue and initiate measures to streamline the chain of command if that is required. If one of those measures is legislative relief fromthe prohibition against command by the Chairman, the Department should submit a legislative proposal forthwith.

Second, education and training of officers for joint assignments. The Department of Defense operates a number of educational institutions whose purpose is to prepare officers for joint duty. Among them are the Armed Forces Staff College, the Industrial College of the Armed Forces, and the National War College. Yet the hearings revealed that only 13 percent of middle-grade Joint Staff officers, and less than 25 percent of the colonels and Navy captains, have joint schooling. That is only one of a number of indications that disconnects exist between the educational input at the schools and joint performance output on the various joint military staffs. The Department of Defense should take action to tailor the career development of officers selected for joint duty to insure their military education and experience equip them for such assignments.

Third, position of the unified and specified commanders in the joint military organizations. A number of witnesses suggested that the unified and specified commanders, who would be responsible for leading our combat forces in wartime, are not influential enough in the peacetime Defense Department organization to have a sufficient hand in shaping the forces with which they would have to fight. Among the reasons given for the relative weakness of the combatant commanders are insubstantial links to Washington; a unified commander organizational structure which features strong service components rather than a more unified approach; overwhelming service influence over the component commands of the unified commands; absence of independent, integrated, uniform readiness assessments by unified commanders from an overall theater perspective; and headquarters organizations which are not staffed to relate readiness assessments to resource allocation recommendations. The Secretary of Defense

should assess the appropriate position of the unified and specified commanders in the joint military organization and insure that they are equipped to meet the requirements of that position.

The serious problems summarized here by no means exhaust the issues which the hearings on JCS reorganization revealed. Those hearings should be studied carefully by the Department of Defense. And the above issues, as well as many other discussed by a host of conscientious and thoughful witnesses, should be addressed expeditiously.

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 17, 1982, TO FILE CONFERENCE REPORT ON H.R. 6955

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow to file a conference report on the bill, H.R. 6955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. WHITE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITEHURST. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE) that the House suspend the rules and pass the bill, H.R. 6954.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WHITE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 6954, just passed.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT ON TUESDAY, WEDNESDAY, AND THURSDAY OF THIS WEEK DURING 5-MINUTE RULE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit while the House is meeting under the 5-minute rule on Tuesday, Wednesday, and Thursday of this week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON S. 2248

Mr. PRICE submitted the following conference report and statement on the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-749)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Defense Authorization Act, 1983".

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, weapons and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $2,541,600,000.

For missiles, $2,846,600,000.

For weapons and tracked combat vehicles, $4,707,600,000.

For ammunition, $2,486,400,000.

For other procurement, $4,391,100,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft for the Navy in the amount of $11,304,600,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,058,600,000.

For the MK-48 torpedo program $134,300,000.

For the MK-46 torpedo program $141,200,000.

For the MK-60 torpedo program $151,400,000.

For the MK-30 mobile target program, $19,400,000.

For the MK-38 mini-mobile target program, $2,300,000.

For the anti-submarine rocket (ASROC) program, $10,100,000.

For the modification of torpedoes, $89,300,000.

For the torpedo support equipment program, $66,900,000.

For the MK-15 close-in weapons system program, $118,700,000.

For the MK-75 76-millimeter gun mount program, $10,700,000.

For the MK-19 gun mount program, $400,000.

For the 25-millimeter gun mount program, $400,000.

For the modification of guns and gun mounts, $19,700,000.

For the guns and gun mounts support equipment program, $17,500,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1983 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,786,000,000.

For the CVN nuclear aircraft carrier program, $6,795,300,000.

For the SSN-688 nuclear attack submarine program, $1,443,400,000.

For the battleship reactivation program, $417,400,000.

For the aircraft carrier service life extension program, $699,500,000.

For the CG-47 Aegis cruiser program, $3,134,400,000.

For the LSD-41 landing ship dock program, $417,000,000.

For the LHD-1 air-capable amphibious ship program, $55,000,000.

For the FFG-7 guided missile frigate program, $706,400,000, of which $40,000,000 is available only for an X-band phased array radar.

For the mine countermeasures (MCM) ship program, $371,600,000.

For the T-AO fleet oiler ship program, $320,000,000.

For the ARS salvage ship program, $84,000,000.

For the TAKRX fast logistic ship program, $322,600,000.

For the TAHX hospital ship program, $300,000,000.

For service craft and landing craft, $162,100,000.

For outfitting, post delivery, cost growth, and escalation on prior year programs, $828,100,000.

For ship contract design, $97,200,000.

For the manufacturing technology program, $25,000,000.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1983 for other procurement for the Navy in the amount of $3,936,500,000, of which—

(1) the sum of $568,900,000 is available only for the ship support equipment program;

(2) the sum of $1,484,600,000 is available only for the communications and electronics equipment program; and

(3) the sum of $786,200,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement for the Marine Corps (including missiles, tracked

combat vehicles, and other weapons) in the amount of $2,131,600,000.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $17,485,700,000.

For missiles, $6,038,700,000.

For other procurement, $5,656,700,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of $186,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1983 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

(c) Of the funds authorized to be appropriated in this section for missiles for the Air Force, the sum of $988,000,000 is available only for the Advanced Intercontinental Ballistic Missile (MX) program. Of such amount, $158,000,000 is authorized for basing and deployment and may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

AUTHORIZATION OF APPROPRIATIONS, NATIONAL GUARD AND RESERVE COMPONENTS

SEC. 104. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, and other procurement for the reserve components of the Armed Forces as follows:

For the Army National Guard, $50,000,000.

For the Air National Guard, $30,000,000.

For the Army Reserve, $30,000,000.

For the Naval Reserve, $30,000,000.

For the Marine Corps Reserve, $30,000,000.

For the Air Force Reserve, $30,000,000.

(b) The authorizations of appropriations contained in subsection (a) are in addition to any other amounts authorized to be appropriated by this or any other Act.

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 105. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement by the Defense agencies in the amount of $859,600,000.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 106. Effective on October 1, 1982, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983".

REQUIREMENTS RELATING TO MULTIYEAR CONTRACTS FOR CERTAIN EQUIPMENT

SEC. 107. (a) Notwithstanding any other provision of law, a multiyear contract for the procurement of any of the equipment listed in subsection (b) may not be entered into until—

(1) the Secretary of the military department concerned has submitted to the Committees on Armed Services of the Senate and House of Representatives a written report setting forth the justification for entering into a multiyear contract for the procurement of the equipment concerned; and

(2) a period of 30 days has elapsed after the date on which the report is received by those committees.

(b) The equipment referred to in subsection (a) is the following:

(1) F-111 weapon navigation computers.

(2) C-2 aircraft.

(3) EA-6B aircraft.

(4) A-6E aircraft.

(5) MULE laser designators.

(6) CH-53E helicopters.

(7) MLRS rocket systems.

(8) ALQ-136 radio jammers.

ENHANCEMENT OF NORTH AMERICAN AIR DEFENSE COMMAND LOW LEVEL RADAR CAPABILITIES IN FLORIDA

SEC. 108. The Secretary of the Air Force, using funds available under section 103, may acquire one tethered aerostat radar set (of the type currently in use at Cudjoe Key, Florida) for deployment at Kennedy Air Force Station, Florida. Concurrently with such procurement, the Secretary shall provide for necessary improvements to the radar set to be acquired and the existing set at Cudjoe Key, Florida. Such improvements and the operation and maintenance of such radar sets may be provided using funds available under this Act.

SECURE COMMUNICATIONS EQUIPMENT AND A SPECIAL CLASSIFIED PROGRAM

SEC. 109. The Secretary of Defense is authorized to procure secure telephone communication systems, including equipment and related items, during fiscal year 1983 for the Department of Defense and other government agencies and entities to support a national program to provide secure telephone service. Of the funds authorized to be appropriated pursuant to this title, not more than $50,000,000 may be used to provide secure telephone equipment and related items to the Department of Defense and other government agencies and entities in support of such a national program. Equipment provided to government agencies and entities outside the Department of Defense under the authority of this section and such related services as may be necessary may be furnished by the Secretary of Defense without reimbursement. In addition, of the funds authorized to be appropriated pursuant to this Act, not more than $132,000,000 is authorized for a special classified program.

PROHIBITION OF ACQUISITION OF 9-MILLIMETER HANDGUN

SEC. 110. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended in connection with the purchase of a 9-millimeter handgun for the Armed Forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, $3,926,367,000.

For the Navy (including the Marine Corps), $6,179,115,000.

For the Air Force, $10,720,884,000, of which $1,000,000 is available only for research, development, test, and evaluation of the C-17 type cargo transport aircraft.

For the Defense Agencies, $2,271,503,000, of which $55,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

(c) Of the total amount authorized to be appropriated in this section for research, development, test, and evaluation for the Air Force related to the basing of the MX missile system, $715,000,000 may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the long-term basing mode in which the MX missile system will be deployed and thirty days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain or an adjournment sine die.

LIMITATION ON FUNDS FOR THE NAVY

SEC. 202. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) $12,000,000 is available only for the development of a derivative of the Firebolt advanced aerial target;

(2) $15,000,000 is available only for the phased array radar improvement program for the Mark 92 fire control system;

(3) $60,000,000 is available only for the development, test, evaluation, and initial deployment of the 5-inch semi-active laser guided projectile and the Seafire electro-optical fire control system;

(4) $26,500,000 is available only for the Medium-Range Air-to-Surface Missile (MRASM) system;

(5) $138,595,000 is available, subject to subsection (b), only for the DDG-X (DDG-51) ship program;

(6) $900,000,000 is available only for Surface Warfare programs; and

(7) $5,555,000 is available only for the development of an advanced mine to replace the Captor mine.

(b) None of the funds appropriated pursuant to the authorization of appropriations in section 201 for the Navy may be obligated or expended for the DDG-X (DDG-51) ship program until the Secretary of the Navy has submitted to the Committees on Armed Services of the Senate and House of Representatives a plan for the deployment of the 5-inch semi-active laser guided projectile and Seafire electro-optical fire control system concurrently with the deployment of the DDG-51 lead ship.

REQUIREMENT FOR COMPETITION BETWEEN THE AIR FORCE LANTIRN AND FLIR SYSTEMS

SEC. 203. No funds appropriated pursuant to this title for the Air Force may be obligated or expended for the development of the Low Altitude Navigation Targeting System for Night (LANTIRN) system until the Secretary of the Air Force submits to the Commit-

tees on Armed Services and Appropriations of the Senate and House of Representatives a written statement certifying that the LANTIRN program has been restructured to provide a competitive demonstration between the current LANTIRN System and a suitably modified version of the Navy's F/A-18 aircraft FLIR system. The Secretary of the Air Force may not enter into any contract for the production of the Targeting Infrared for Night (TIRN) System until after a competitive demonstration between the LANTIRN System and the suitably modified version of the Navy's F/A-18 aircraft FLIR System has been carried out.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $16,750,050,000.
For the Navy, $21,702,550,000.
For the Marine Corps, $1,472,500,000.
For the Air Force, $17,339,500,000.
For the Defense Agencies, $5,693,650,000.
For the Army Reserve, $704,889,000.
For the Navy Reserve, $671,700,000.
For the Marine Corps Reserve, $51,115,000.
For the Air Force Reserve, $766,300,000.
For the Army National Guard, $1,166,900,000.
For the Air National Guard, $1,779,000,000.
For the National Board for the Promotion of Rifle Practice, $875,000.
For Defense Claims, $172,500,000.
For the Court of Military Appeals, $3,210,000.

(b) There are authorized to be appropriated for fiscal year 1983, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a);

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by subsection (a).

LIMITATION ON FUNDS FOR SHIP OVERHAULS

SEC. 302. Of the amount appropriated pursuant to authorizations of appropriation in section 301 for the Navy, not more than $2,756,000,000 may be obligated or expended for ship overhauls.

RESTRICTION ON LONG-TERM LEASES OF VESSELS FOR THE NAVY

SEC. 303. (a) None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended in connection with a long-term lease of a vessel for the Navy if the lease includes a substantial termination liability unless and until (1) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed lease, and (2) a period of 30 days has elapsed after the date on which such committees receive such notification. Any such notification shall include a description of the terms of the proposed lease and a justification for entering into such a lease rather than obtaining the vessel involved by acquisition.

(b) Subsection (a) does not apply with respect to the lease of a vessel if the vessel was being leased by the Navy on September 30, 1982.

T-5 REPLACEMENT TANKER PROGRAM

SEC. 304. (a) None of the funds appropriated pursuant to authorizations of appropriations in this title for the Navy may be obligated or expended for any activity in connection with the lease of any vessel associated with the T-5 Replacement Tanker program which has a main propulsion system or any other major component not built in the United States.

(b) Subsection (a) does not apply with respect to the lease of a vessel if a contract for the lease of that vessel results from a request for proposal circulated before July 1, 1982.

LIMITATION ON STUDIES OF CONTRACTING-OUT OF CERTAIN COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 305. (a)(1) Except as provided in paragraph (2), funds appropriated pursuant to an authorization of appropriations in this title may not be obligated or expended in connection with any study begun during the period beginning on October 1, 1982, and ending on March 31, 1983, of the benefits or feasibility of contracting for performance by contractor personnel of any commercial or industrial type function or activity of the Department of Defense being performed by Department of Defense personnel on September 30, 1982.

(2) Paragraph (1) does not prohibit the obligation or expenditure of funds in connection with—

(A) any study the purpose of which is to determine the most efficient and cost effective organization of any commercial or industrial type function of the Department of Defense for performance by Department of Defense personnel; or

(B) any study carried out with respect to the contracting for the performance by contractor personnel, rather than Department of Defense personnel, of any of the following:

(i) Custodial functions.
(ii) Laundry functions.
(iii) Refuse collection functions.
(iv) Grounds maintenance functions.
(v) Food service and preparation functions (other than commissaries).
(vi) Base transportation functions.

(b) Of the total amount of funds authorized in this title, $283,800,000 is available only for salaries and other costs for the employment of and performance of functions by direct-hire civilian employees of the Department of Defense in excess of 947,000 such employees.

TITLE IV—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

(1) The Army, 782,500.
(2) The Navy, 560,300.
(3) The Marine Corps, 194,600.
(4) The Air Force, 592,600.

AUTHORITY TO EXCEED END-STRENGTH AUTHORIZATIONS

SEC. 402. (a) Section 138(c)(1)(A) of title 10, United States Code, is amended by inserting the following new sentence after the first sentence: "The end strength authorized for a component of the armed forces for a fiscal year may be increased by a number equal to not more than 0.5 percent of the total end strength authorized for such component for that fiscal year if the Secretary of Defense determines that such increase is in the national interest.".

(b) The amendment made by subsection (a) shall apply with respect to end strengths for active-duty personnel authorized for fiscal years beginning after September 30, 1981.

QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

SEC. 403. Effective on October 1, 1982, section 302(a) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 10 U.S.C. 520 note), is amended by striking out "October 1, 1981" and "September 30, 1982" and inserting in lieu thereof "October 1, 1982" and "September 30, 1983", respectively.

SAVING PROVISION FOR CERTAIN ACCRUED LEAVE

SEC. 404. A member of the Armed Forces who was authorized under section 701(f) of title 10, United States Code, to accumulate 90 days leave during fiscal year 1980 and who lost any leave at the end of fiscal year 1981 shall be credited with the amount of the leave lost and may retain leave in excess of 60 days until the end of fiscal year 1982, but in no case may a member accumulate leave in excess of 90 days.

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

SEC. 501. (a) For fiscal year 1983 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 407,400.
(2) The Army Reserve, 258,700.
(3) The Naval Reserve, 105,500.
(4) The Marine Corps Reserve, 38,300.
(5) The Air National Guard of the United States, 101,100.
(6) The Air Force Reserve, 66,000.
(7) The Coast Guard Reserve, 12,000.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 14,419.
(2) The Army Reserve, 8,251.
(3) The Navy Reserve, 12,038.
(4) The Marine Corps Reserve, 678.
(5) The Air National Guard of the United States, 5,158.
(6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 503. (a) The table in section 517(b) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E–9	265	156	132	6
E–8	1,244	329	441	56".

(b) The columns under the headings "Army", "Air Force", and "Marine Corps" in the table in section 524(a) of such title are amended to read as follows:

"Army	Air Force	Marine Corps
1,351	281	95
671	267	40
234	170	21".

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1983, of 1,050,060.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c)(1) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program.

(2) Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.

(3) Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1983 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnel strength under this subsection.

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 78,311.
(2) The Navy, 66,930.
(3) The Marine Corps, 20,435.
(4) The Air Force, 48,769.
(5) The Army National Guard of the United States, 18,052.
(6) The Army Reserve, 14,579.
(7) The Naval Reserve, 1,000.
(8) The Marine Corps Reserve, 2,971.
(9) The Air National Guard of the United States, 2,328.
(10) The Air Force Reserve, 1,351.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

EXTENSION OF REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS

SEC. 702. Section 602 of the Department of Defense Authorization Act, 1981 (Public Law 96–342; 94 Stat. 1087), is amended by striking out "August 31, 1982" and inserting in lieu thereof "August 31, 1983".

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1983 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251–2297) the sum of $152,340,000.

AMOUNT AUTHORIZED FOR CONTRIBUTION FOR STATE PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 802. Notwithstanding the second proviso of section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260), $60,000,000 of the amount authorized to be appropriated by the first section of this Act is available for appropriations for contributions to the States under section 205 of such Act (50 U.S.C. App. 2286) for personnel and administrative expenses.

TITLE IX—SUPPLEMENTAL AUTHORIZATIONS FOR FISCAL YEAR 1982

PROCUREMENT

SEC. 901. In addition to the funds authorized to be appropriated in title I of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1099), there is hereby authorized to be appropriated to the Air Force for fiscal year 1982 for procurement of aircraft the sum of $120,000,000.

OPERATION AND MAINTENANCE

SEC. 902. In addition to the funds authorized to be appropriated in title III of the Department of Defense Authorization Act, 1982, funds are hereby authorized to be appropriated for fiscal year 1982 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for operation and maintenance in amounts as follows:

For the Army, Army Reserve, and Army National Guard, $6,600,000.
For the Navy, the Naval Reserve, and the Marine Corps, $5,000,000.
For the Air Force, Air Force Reserve, and Air National Guard, $25,000,000.
For the Defense Agencies and other Defense-wide activities, $25,800,000.

INCREASE IN END STRENGTH AUTHORIZED FOR THE ARMY FOR FISCAL YEAR 1982

SEC. 903. Section 401 of the Department of Defense Authorization Act, 1982 (Public Law 97–86; 95 Stat. 1104), is amended by striking out "Army, 780,300" and inserting in lieu thereof "Army, 782,500".

TITLE X—FORMER SPOUSES' PROTECTION

SHORT TITLE

SEC. 1001. This title may be cited as the "Uniformed Services Former Spouses' Protection Act".

PAYMENT OF RETIRED AND RETAINER PAY

SEC. 1002. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of a foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

"(2) 'Court order' means a final decree of divorce, dissolution, annulment, or legal

separation issued by a court, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)))";

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c)))"; or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

"(3) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(4) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled (other than the retired pay of a member retired for disability under chapter 61 of this title) less amounts which—

"(A) are owed by that member to the United States;

"(B) are required by law to be and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

"(5) 'Member' includes a former member.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

"(b) For the purposes of this section—

"(1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face;

"(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

"(D) the court order or other documents served with the court order certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 501 et seq.) were observed; and

"(2) a court order is regular on its face if the order—

"(A) is issued by a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning after June 25, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order a member to apply for retirement or retire at a particular time in order to effectuate any payment under this section.

"(4) A court may not treat the disposable retired or retainer pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court.

"(d)(1) After effective service on the Secretary concerned of a court order with respect to the payment of a portion of the retired or retainer pay of a member to the spouse or a former spouse of the member, the Secretary shall, subject to the limitations of this section, make payments to the spouse or former spouse in the amount of the disposable retired or retainer pay of the member specifically provided for in the court order. In the case of a member entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date of effective service. In the case of a member not entitled to receive retired or retainer pay on the date of the effective service of the court order, such payments shall begin not later than 90 days after the date on which the member first becomes entitled to receive retired or retainer pay.

"(2) If the spouse or former spouse to whom payments are to be made under this section was not married to the member for a period of 10 years or more during which the member performed at least 10 years of service creditable in determining the member's eligibility for retired or retainer pay, payments may not be made under this section to the extent that they include an amount resulting from the treatment by the court under subsection (c) of disposable retired or retainer pay of the member as property of the member or property of the member and his spouse.

"(3) Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with a court order.

"(4) Payments from the disposable retired or retainer pay of a member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

"(5) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired or retainer pay.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) may not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse from the disposable retired or retainer pay of a member, such pay shall be used to satisfy (subject to the limitations of paragraph (1)) such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i); and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less any amount paid during such month pursu-

ant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amount paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i); and

"(II) the amount of disposable retired or retainer pay retained under clause (ii).

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to a member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay that exceeds the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4), shall not be considered to be irregular on its face solely for that reason. However, such order shall be considered to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the maximum amount of disposable retired or retainer pay permitted under paragraph (1) and subparagraph (B) of paragraph (4).

"(6) Nothing in this section shall be construed to relieve a member of liability for the payment of alimony, child support, or other payments required by a court order on the grounds that payments made out of disposable retired or retainer pay under this section have been made in the maximum amount permitted under paragraph (1) or subparagraph (B) of paragraph (4). Any such unsatisfied obligation of a member may be enforced by any means available under law other than the means provided under this section in any case in which the maximum amount permitted under paragraph (1) has been paid and under section 459 of the Social Security Act (42 U.S.C. 659) in any case in which the maximum amount permitted under subparagraph (B) of paragraph (4) has been paid.

"(f)(1) The United States and any officer or employee of the United States shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h).

"(2) An officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall not be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(g) A person receiving effective service of a court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy of such order) to the member affected by the court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations for the administration of this section.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

ANNUITIES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1003. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(10) 'Regular on its face,' when used in connection with a court order, means a court order that meets the conditions prescribed in section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

"(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a written agreement entered into voluntarily with the former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether the election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)".

(d) Section 1450(f) of such title is amended to read as follows:

"(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary concerned shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness as are set forth in section 1448(a)(5) of this title.

"(2) A person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) unless—

"(A) in a case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in a case in which such agreement has not been incorporated or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 1004. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (D);

(2) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new clause:

"(F) the unremarried former spouse of a member or former member who (i) on the date of the final decree of divorce, dissolution, or annulment, had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, and (ii) does not have medical coverage under an employer-sponsored health plan.".

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072(2)(F) of this title may be provided medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause.".

(c) Section 1086(c) of such title is amended by inserting after clause (2) the following new clause:

"(3) A dependent covered by section 1072(2)(F) of this title.".

COMMISSARY AND EXCHANGE PRIVILEGES

SEC. 1005. The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of title 10, United States Code (as added by section 904), is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

EFFECTIVE DATES AND TRANSITION

SEC. 1006. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of the enactment of this title.

(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 1002(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of this title, but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

(c) The amendments made by section 1003 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan provided for in subchapter II of chapter 73 of title 10, United States Code, before, on, or after the effective date of such amendments.

(d) The amendments made by section 1004 of this title and the provisions of section 1005 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 1002 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(a)(6) of such title (as added by section 1002 of this title); and

(3) the term "uniformed services" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 1002 of this title).

TITLE XI—GENERAL PROVISIONS

TRANSFER AUTHORITY

SEC. 1101. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

WAIVER OF AUTHORIZATION REQUIREMENT FOR CERTAIN PREVIOUSLY APPROPRIATED FUNDS

SEC. 1102. The provisions of section 138(a) of title 10, United States Code, providing that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law shall not apply with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

(1) Procurement of aircraft for the Army.

(2) Procurement of aircraft for the Air Force.

(3) Procurement of missiles for the Air Force.

(4) Operations and maintenance for Defense-wide activities.

INCREASE IN AUTHORIZATION FOR SPECIAL DEFENSE ACQUISITION FUND

SEC. 1103. Section 138(g) of title 10, United States Code, is amended—

(1) by striking out "and" after "1982" and inserting in lieu thereof a comma; and

(2) by inserting ", and may not exceed $900,000,000 in fiscal year 1984" after "1983".

INCREASE IN DOLLAR THRESHOLD FOR REPORTS TO CONGRESS REGARDING TRANSFER OF DEFENSE ARTICLES

SEC. 1104. Section 813 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 133 note), is amended by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

REPORTS ON FUNDING OF TECHNOLOGY TRANSFER CONTROL POLICY

SEC. 1105. Section 138 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary of Defense shall submit to Congress a written report, not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to the Department of Defense for the next fiscal year for functions relating to the formulation and carrying out of Department of Defense policies on the control of technology transfer and activities related to the control of technology transfer. The Secretary shall include in that report the proposed allocation of the funds requested for such purpose and the number of personnel proposed to be assigned to carry out such activities during such fiscal year.".

LIMITATION ON DEFENSE FUNDS FOR SPACE SHUTTLE

SEC. 1106. Notwithstanding any other provision of law, during fiscal year 1983 the Secretary of Defense shall not transfer funds to the Administrator of the National Aeronautics and Space Administration to pay any part of the cost of placing Department of Defense payloads into orbit by means of the Space Shuttle except in accordance with laws in effect on July 1, 1982, and interagency agreements made pursuant to such laws.

IMPROVED OVERSIGHT OF COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. 1107. (a)(1) Chapter 4 of title 10, United States Code, is amended by inserting after section 139 the following new sections:

"§139a. Oversight of cost growth in major programs: Selected Acquisition Reports

"(a) In this section:

"(1) 'Major defense acquisition program' means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

"(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).

"(2) 'Program acquisition unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

"(3) 'Procurement unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total of all procurement funds appropriated for the program for a fiscal year, reduced by the amount of funds appropriated for such

fiscal year for advanced procurement for such program in any subsequent year and increased by any amount appropriated in years before such fiscal year for advanced procurement for such program in such fiscal year, divided by (B) the number of fully-configured end items to be procured with such funds during such fiscal year.

"(4) 'Major contract', with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program that is one of the six largest contracts under the program in dollar amount.

"(b)(1) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in paragraphs (2) and (3), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this section shall be known as Selected Acquisition Reports.

"(2) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and there has been no change in program cost, performance, or schedule since the most recent such report.

"(3) A status report on a particular major defense acquisition program need not be included in any Selected Acquisition Report with the approval of the Committees on Armed Services of the Senate and House of Representatives.

"(c) Each Selected Acquisition Report for the first quarter of a fiscal year shall include (1) the same information, in detailed and summarized form, as is provided in reports submitted under section 139 of this title, (2) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (3) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

"(d)(1) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

"(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (e); and

"(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in subsection (c).

"(2) Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

"(e) Information to be included under this subsection in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

"(1) The quantity of items to be purchased under the program.

"(2) The program acquisition cost.

"(3) The program acquisition unit cost.

"(4) The current procurement cost for the program.

"(5) The current procurement unit cost for the program.

"(6) The reasons for any change in program acquisition cost, program acquisition unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

"(7) The major contracts under the program and the reasons for any cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(8) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(9) Program highlights since the last Selected Acquisition Report.

"(f) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 30 days after the end of the fiscal-year quarter. If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report.

"§ 139b. Oversight of cost growth of major programs: unit cost reports

"(a) In this section:

"(1) 'Major defense acquisition program', 'program acquisition unit cost', 'procurement unit cost', and 'major contract' have the same meanings as provided in section 139a(a) of this title.

"(2) 'Baseline Selected Acquisition Report', with respect to a unit cost report that is submitted under this section to the Secretary concerned on a major defense acquisition program, means the Selected Acquisition Report in which information on the program is first included or the comprehensive annual Selected Acquisition Report for the fiscal year immediately before the fiscal year containing the quarter with respect to which the unit cost report is submitted, whichever is later.

"(3) 'Procurement program' means a program for which funds for procurement are authorized to be appropriated in a fiscal year.

"(b) The program manager for a defense acquisition program that as of the end of a fiscal-year quarter is a major defense acquisition program (other than a program not required to be included in the Selected Acquisition Report for that quarter under section 139a(b)(3) of this title) shall, not more than 7 days after the end of that quarter, submit to the Secretary concerned a written report on the unit costs of the program. The program manager shall include in each such unit cost report the following information with respect to the program (as of the last day of the quarter for which the report is made):

"(1) The program acquisition unit cost.

"(2) In the case of a procurement program, the procurement unit cost.

"(3) Any cost variance or schedule variance in a major contract under the program since the baseline Selected Acquisition Report was submitted.

"(4) Any changes from program schedule milestones or program performances reflected in the baseline Selected Acquisition Report that are known, expected, or anticipated by the program manager.

"(c)(1) If the program manager of a major defense acquisition program for which a unit cost report has previously been submitted under subsection (b) determines at any time during a fiscal-year quarter that there is reasonable cause to believe—

"(A) that the program acquisition unit cost for the program has increased by more than 15 percent over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report;

"(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 15 percent over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report; or

"(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent over the cost of the contract as of the time the contract was made;

and if a unit cost report indicating an increase of such percentage or more has not previously been submitted to the Secretary concerned during the current fiscal year (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year), then the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required under subsection (b).

"(2) If in any fiscal year the program manager for a major defense acquisition program has submitted to the Secretary concerned a unit cost report (other than the unit cost report under subsection (b) for the last quarter of the preceding fiscal year) indicating an increase of 15 percent or more in a category described in clauses (A) through (C) of paragraph (1) and subsequently determines that there is reasonable cause to believe—

"(A) that the current program acquisition unit cost of the program has increased by more than 5 percent over the current program acquisition unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

"(B) in the case of a major defense acquisition program that is a procurement program, that the current procurement unit cost for the program has increased by more than 5 percent over the current procurement unit cost as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program; or

"(C) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 5 percent over the cost of the contract as shown in the most recent report under this subsection or subsection (b) submitted to the Secretary concerned with respect to that program;

the program manager shall immediately submit to the Secretary concerned a unit cost report containing the information, determined as of the date of the report, required by subsection (b).

"(d)(1) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program, the Secretary shall determine whether the current program acquisi-

tion unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the program acquisition unit cost for the program as shown in the baseline Selected Acquisition Report.

"(2) When a unit cost report is submitted to the Secretary concerned under this section with respect to a major defense acquisition program that is a procurement program, the Secretary concerned shall, in addition to the determination under paragraph (1), determine whether the current procurement unit cost for the program has increased by more than 15 percent, or by more than 25 percent, over the procurement unit cost for the program as reflected in the baseline Selected Acquisition Report.

"(3) If the Secretary concerned determines (for the first time since the beginning of the current fiscal year) that the current program acquisition unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (1) or that the current procurement unit cost has increased by more than 15 percent, or by more than 25 percent, as determined under paragraph (2)—

"(A) the Secretary shall notify Congress in writing of such determination and of the increase with respect to such program within 30 days after the date on which the unit cost report that is the basis for such determination was submitted to him and shall include in such notification the date on which the determination was made; and

"(B) except as provided in subsection (e), additional funds may not be obligated in connection with such program—

"(i) after the end of the 30-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 15 but less than 25 percent; or

"(ii) after the end of the 60-day period beginning on the day on which the Secretary makes such determination, in the case of a percentage increase of more than 25 percent.

"(e)(1) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply in the case of a determination of a 15 percent increase (as determined under subsection (d)) if the Secretary concerned submits to Congress, before the end of the 30-day period referred to in such subsection, a report containing the information described in subsection (g).

"(2) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program does not apply in the case of a program to which it would otherwise apply, in the case of a determination of a 25 percent increase (as determined under subsection (d))—

"(A) if the increase was due to termination or cancellation of the acquisition program; or

"(B) if the Secretary of Defense submits to Congress, before the end of the 60-day period referred to in such subsection—

"(i) a written certification stating that—

"(I) such acquisition program is essential to the national security;

"(II) there are no alternatives to such acquisition program which will provide equal or greater military capability at less cost;

"(III) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

"(IV) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost; and

"(ii) if a report under paragraph (1) has been previously submitted to Congress with respect to such program for the current fiscal year but was based upon a different unit cost report from the program manager to the Secretary concerned, a further report containing the information described in subsection (g), determined from the time of the previous report to the time of the current report.

"(3) The prohibition in subsection (d)(3)(B) on the obligation of funds for a major defense acquisition program shall cease to apply in the case of a program to which it would otherwise apply if, after such prohibition has taken effect, the Committees on Armed Services of the Senate and House of Representatives waive the prohibition with respect to such program.

"(f) Any determination of a percentage increase under this section shall include expected inflation.

"(g)(1) Except as provided in paragraph (2), each report under subsection (e) with respect to a major defense acquisition program shall include the following:

"(A) The name of the major defense acquisition program.

"(B) The date of the preparation of the report.

"(C) The program phase as of the date of the preparation of the report.

"(D) The estimate of the program acquisition cost for the program as shown in the Selected Acquisition Report in which the program was first included, expressed in constant base-year dollars and in current dollars.

"(E) The current program acquisition cost in constant base-year dollars and in current dollars.

"(F) A statement of the reasons for any increase in program acquisition unit cost or procurement unit cost.

"(G) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(H) The fiscal year in which information on the program was first included in a Selected Acquisition Report (referred to in this paragraph as the 'base year') and the date of that Selected Acquisition Report in which information on the program was first included.

"(I) The date of the baseline Selectcd Acquisition Report.

"(J) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

"(K) The current change and the total change, in dollars and expressed as a percentage, in the procurement unit cost, stated both in constant base-year dollars and in current dollars.

"(L) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

"(M) The identities of the military and civilian officers responsible for program management and cost control of the program.

"(N) The action taken and proposed to be taken to control future cost growth of the program.

"(O) Any changes made in the performance or schedule milestones of the program and the extent to which such changes have contributed to the increase in program acquisition unit cost or procurement unit cost.

"(P) The following contract performance assessment information with respect to each major contract under the program:

"(i) The name of the contractor.

"(ii) The phase that the contract is in at the time of the preparation of the report.

"(iii) The percentage of work under the contract that has been completed.

"(iv) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

"(v) The percentage by which the contract is currently ahead of or behind schedule.

"(vi) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.

"(2) If a program acquisition unit cost increase or a procurment unit cost increase for a major defense acquisition program that results in a report under this subsection is due to termination or cancellation of the entire program, only the information specified in clauses (A) through (F) of paragraph (1) and the percentage change in program acquisition unit cost or procurement unit cost that resulted in the report need be included in the report.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 139 the following new items:

"139a. Oversight of cost growth in major programs: Selected Acquisition Reports.

"139b. Oversight of cost growth in major programs: unit cost reports.".

(b) Section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note), is repealed.

(c) Sections 139a and 139b of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) shall take effect on January 1, 1983.

OVERSIGHT OF DEFENSE EXPENDITURES

SEC. 1108. (a) Concurrent with the submission of the budget to Congress for fiscal year 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report concerning the strength requested in such budget for civilian personnel for the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service. Such report shall state the number of such personnel at the end of fiscal year 1982, the number at the time the report is submitted, and the number requested in that budget and shall include a justification for the number requested. The report shall also include the opinion of the Secretary of Defense on whether the number requested is sufficient for those agencies to accomplish their functions with respect to the reduction of waste, fraud, and abuse in defense expenditures during the next fiscal year, particularly in light of any increases (in real terms) in the levels of appropriations requested in that budget for operations, procurement of new equipment, and

for research, development, test, and evaluation.

(b) The Secretary shall include in the report under subsection (a) information concerning the savings in defense expenditures achieved by the Defense Contract Audit Agency, the Defense Audit Service, and the Defense Criminal Investigative Service during fiscal year 1982, including a statement for each agency of the amount of such cost savings achieved as a percentage of the number of dollars spent by such agency during such year.

CONTINUATION OF TEST PROGRAM TO AUTHORIZE PRICE DIFFERENTIAL TO RELIEVE ECONOMIC DISLOCATIONS

SEC. 1109. (a) The Secretary of Defense should conduct a test program during fiscal year 1983 in accordance with this subsection to test the effect of exempting certain contracts of the Department of Defense from the provisions of section 2892 of title 10, United States Code, and paying a price differential under such contracts for the purpose of relieving economic dislocations. Under such test program, the Secretary of Defense may exempt from the provisions of such section any contract (other than a contract for the purchase of fuel) made by the Defense Logistics Agency during fiscal year 1983 if the contract is to be awarded to an individual or firm located in a Labor Surplus Area (as defined and identified by the Department of Labor) and if the Secretary determines—

(1) that the awarding of such contract will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that the award of such contract will be made at reasonable cost to the United States;

(3) that the price differential to be paid under such contract will not exceed 2.2 percent; and

(4) the value of such contract, when added to the cumulative value of all other contracts awarded under the test program authorized by this section, will not exceed $4,000,000,000.

(b) Not later than April 15, 1983, the President shall submit a report to Congress on the implementation and results to that date of the test program authorized by subsection (a). The report shall include an assessment of the costs and benefits of the test program.

PROHIBITION AGAINST CONSOLIDATING FUNCTIONS OF THE MILITARY TRANSPORTATION COMMANDS

SEC. 1110. None of the funds appropriated pursuant to an authorization of appropriations in this or any other Act may be used for the purpose of consolidating any of the functions being performed on the date of the enactment of this Act by the Military Traffic Management Command of the Army, the Military Sealift Command of the Navy, or the Military Airlift Command of the Air Force with any function being performed on such date by either or both of the other commands.

PROHIBITION REGARDING CONTRACTS FOR THE PERFORMANCE OF FIREFIGHTING AND SECURITY FUNCTIONS

SEC. 1111. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to enter into any contract for the performance of firefighting functions or security-guard functions at any military installation or facility, except when such funds are for the express purpose of providing for the renewal of contracts in effect on the date of the enactment of this Act.

MODIFICATION OF REPORTS ON CONVERSION OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE

SEC. 1112. (a) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note), is amended—

(1) by striking out "Department of Defense personnel" each time it appears and inserting in lieu thereof "Department of Defense civilian employees"; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Except as provided in subsection (a)(1), subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 10 or fewer Department of Defense civilian employees.

"(e) In no case may any commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a)(2) the conversion of all or any part of such function to performance by a private contractor.

"(f) The provisions of this section shall not apply during war or a period of national emergency declared by the President or the Congress.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1113. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) Any person who is required under section 3 to present himself for and submit to registration under such section and fails to do so in accordance with any proclamation issued under such section, or in accordance with any rule or regulation issued under such section, shall be ineligible for any form of assistance or benefit provided under title IV of the Higher Education Act of 1965.

"(2) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

"(3) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (2). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.

"(4) The Secretary of Education, in consultation with the Director, shall issue regulations to implement the requirements of this subsection. Such regulations shall provide that any person to whom the Secretary of Education proposes to deny assistance or benefits under title IV for failure to meet the registration requirements of section 3 and regulations issued thereunder shall be given notice of the proposed denial and shall have a suitable period (of not less than 30 days) after such notice to provide the Secretary with information and materials establishing that he has complied with the registration requirement under section 3. Such regulations shall also provide that the Secretary may afford such person an opportunity for a hearing to establish his compliance or for any other purpose.".

(b) The amendment made by subsection (a) shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning after June 30, 1983.

MILITARY RECRUITING INFORMATION

SEC. 1114. (a) The Congress finds that in order for Congress to carry out effectively its constitutional authority to raise and support armies, it is essential—

(1) that the Secretary of Defense obtain and compile directory information pertaining to students enrolled in secondary schools throughout the United States; and

(2) that such directory information be used only for military recruiting purposes and be retained in the case of each person with respect to whom such information is obtained and compiled for a limited period of time.

(b)(1) Section 503 of title 10, United States Code, is amended—

(A) by inserting "(a)" before "The Secretary"; and

(B) by adding at the end thereof the following new subection:

"(b)(1) The Secretary of Defense may collect and compile directory information pertaining to each student who is 17 years of age or older or in the eleventh grade (or its equivalent) or higher and who is enrolled in a secondary school in the United States or its territories, possessions, or the Commonwealth of Puerto Rico.

"(2) The Secretary may make directory information collected and compiled under this subsection available to the armed forces for military recruiting purposes. Such information may not be disclosed for any other purpose.

"(3) Directory information pertaining to any person may not be maintained for more than three years after the date the information pertaining to such person is first collected and compiled under this subsection.

"(4) Directory information collected and compiled under this subsection shall be confidential, and a person who has had access to such information may not disclose such information except for the purposes described in paragraph (2).

"(5) The Secretary of Defense shall prescribe regulations to carry out this subsection. Regulations prescribed under this subsection shall be submitted to the Committees on Armed Services of the Senate and House of Representatives. Regulations prescribed by the Secretaries concerned to carry out this subsection shall be as uniform as practicable.

"(6) Nothing in this subsection shall be construed as requiring, or authorizing the Secretary of Defense to require, that any educational institution furnish directory information to the Secretary.

"(7) In this subsection, 'directory information' means, with respect to a student, the student's name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational agency or institution attended by the student.".

(2) The heading for such section is amended to read as follows:

"§ 503. Enlistments: recruiting campaigns; compilation of directory information".

(3) The item relating to such section in the table of sections at the beginning of chapter

31 of such title is amended to read as follows:

"503. Enlistments: recruiting campaigns; compilation of directory information.".

(c)(1) Chapter 31 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 520a. Criminal history information for military recruiting purposes

"(a) Each State and each unit of general local government of a State is requested to make available, upon request, to the Secretary concerned any criminal history information maintained by or available to such State or unit of general local government which pertains to any person who, within 90 days before the date on which such information was requested (1) has applied for enlistment in the armed forces, or (2) has applied, in connection with such person's application for enlistment, for participation in a program of the armed forces which requires a determination of the trustworthiness of persons who participate in such program.

"(b) In this section, 'criminal history information' means the following information with respect to any juvenile or adult arrest, citation, or conviction of any person referred to in subsection (a):

"(1) The offense involved.

"(2) The age of the person with respect to whom such information pertains.

"(3) The dates of the arrest, citation, and conviction, if any.

"(4) The place the offense was alleged to have been committed, the place of the arrest, and the court to which the case was assigned.

"(5) The disposition of the case.

"(c) Criminal history information received under this section shall be confidential, and a person who has had access to any information received under this section may not disclose such information except to facilitate military recruiting.

"(d) The Secretaries concerned shall prescribe regulations, which shall be as uniform as practicable, to carry out this section. Regulations prescribed under this section shall be submitted to the Committees on Armed Services of the Senate and House of Representatives.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"520a. Criminal history information for military recruiting purposes.".

ACTIVE DUTY FOR TRAINING OF PERSONS ENLISTING IN A RESERVE COMPONENT OF THE ARMED FORCES

SEC. 1115. (a) The second sentence of section 511(d) of title 10, United States Code, is amended by striking out "180 days" and inserting in lieu thereof "270 days".

(b) The amendment made by this section shall be effective with respect to persons enlisting in a reserve component of the Armed Forces after the end of the 90-day period beginning on the date of the enactment of this Act.

TEMPORARY INCREASE IN NUMBER ON NAVY OFFICERS THAT MAY SERVE IN THE GRADE OF VICE ADMIRAL

SEC. 1116. During fiscal year 1983, the number of officers of the Navy authorized under section 525(b)(2) of title 10, United States Code, to be on active duty in grades above rear admiral is increased by three. None of the additional officers in grades above rear admiral authorized by this section may be in the grade of admiral.

DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL

SEC. 1117. (a) The Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting "the Department of Defense," after "Commerce," in section 2(1);

(2) by redesignating subparagraphs (C) through (M) of section 9(a)(1) as subparagraphs (D) through (N), respectively;

(3) by inserting after subparagraph (B) of section 9(a)(1) the following new subparagraph:

"(C) of the Department of Defense, the offices of that department referred to as the 'Defense Audit Service' and the 'Office of Inspector General, Defense Logistics Agency', and that portion of the office of that department referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations;";

(4) by inserting "Defense," after "Commerce," in section 11(1); and

(5) by inserting "Defense," after "Commerce," in section 11(2).

(b) Section 8 of the Inspector General Act of 1978 is amended to read as follows:

"ADDITIONAL PROVISIONS WITH RESPECT TO THE INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

"SEC. 8. (a) No member of the Armed Forces, active or reserve, shall be appointed Inspector General of the Department of Defense.

"(b)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of Defense with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning—

"(A) sensitive operational plans;

"(B) intelligence matters;

"(C) counterintelligence matters;

"(D) ongoing criminal investigations by other administrative units of the Department of Defense related to national security; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described in paragraph (1) the Secretary of Defense may prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpoena, after the Inspector General has decided to initiate, carry out or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to preserve the national security interests of the United States.

"(3) If the Secretary of Defense exercises any power under paragraph (1) or (2), the Inspector General shall submit a statement concerning such exercise within 30 days to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

"(4) The Secretary shall, within 30 days after submission of a statement under paragraph (3), transmit a statement of the reasons for the exercise of power under paragraph (1) or (2) to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees.

"(c) In addition to the other duties and responsibilities specified in this Act, the Inspector General of the Department of Defense shall—

"(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the Department;

"(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) as the Inspector General considers appropriate;

"(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness;

"(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General considers appropriate;

"(5) develop policy, monitor and evaluate program performance and provide guidance with respect to all Department activities relating to criminal investigation programs;

"(6) monitor and evaluate the adherence of Department auditors to internal audit, contract audit, and internal review principles, policies, and procedures;

"(7) develop policy, evaluate program performance, and monitor actions taken by all components of the Department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

"(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

"(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoiding duplication and insuring effective coordination and cooperation.

"(d) Notwithstanding section 4(d), the Inspector General of the Department of Defense shall expeditiously report suspected or alleged violations of chapter 47 of title 10, United States Code (Uniform Code of Military Justice), to the Secretary of the military department concerned or the Secretary of Defense.

"(e) For the purposes of section 7, a member of the Armed Forces shall be deemed to be an employee of the Department of Defense.

"(f)(1) Each semiannual report prepared by the Inspector General of the Department of Defense under section 5(a) shall include information concerning the numbers and types of contract audits conducted by the Department during the reporting period. Each such report shall be transmitted by the Secretary of Defense to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees or subcommittees of the Congress.

"(2) Any report required to be transmitted by the Secretary of Defense to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified in such section, to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives.

"(g) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by,

under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act."

(c) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure of information which is—

"(A) specifically prohibited from disclosure by any other provision of law;

"(B) specifically required by Executive order to be protected from disclosure in the interest of national defense or national security or in the conduct of foreign affairs; or

"(C) a part of an ongoing criminal investigation.

"(2) Notwithstanding paragraph (1)(C), any report under this section may be disclosed to the public in a form which includes information with respect to a part of an ongoing criminal investigation if such information has been included in a public record.

"(3) Nothing in this section or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"( ) Inspector General, Department of Defense."

(e) In addition to the positions transferred to the Office of the Inspector General of the Department of Defense, pursuant to the amendments made by subsection (a) of this section, the Secretary of Defense shall transfer to the Office of Inspector General of the Department of Defense not less than 100 additional audit positions. The Inspector General of the Department of Defense shall fill such positions with persons trained to perform contract audits.

EXTENSION OF PERIOD FOR TRANSFER OF DEFENSE DEPENDENTS' EDUCATION SYSTEM TO DEPARTMENT OF EDUCATION

SEC. 1118. The first sentence of section 302(a) of the Department of Education Organization Act (20 U.S.C. 3442) is amended by striking out "three years after the effective date of this Act" and inserting in lieu thereof "May 4, 1984".

OPEN ENROLLMENT PERIOD FOR RESERVES UNDER THE SURVIVOR BENEFIT PLAN

SEC. 1119. (a) Subsection (b) of section 212 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 383) is amended by striking out the period at the end and inserting in lieu thereof ", in the case of a member or former member of the uniformed services who on August 13, 1981, was entitled to retired or retainer pay, and the period beginning on October 1, 1982, and ending on September 30, 1983, in the case of a member or former member who on August 13, 1981, would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.".

(b) Subsection (e)(1) of such section is amended to read as follows:

"(1) The term 'eligible member' means a member or former member of the uniformed services who on August 13, 1981 (A) was entitled to retired or retainer pay, or (B) would have been entitled to retired pay under chapter 67 of title 10, United States Code, but for the fact that he was under sixty years of age on that date.".

REPORT ON ALLIED CONTRIBUTIONS TO THE COMMON DEFENSE

SEC. 1120. Section 1006(c) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1120), is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "March 1, 1982" and inserting in lieu thereof "March 1, 1983";

(3) by redesignating clauses (1) through (5) as clauses (A) through (E), respectively;

(4) by inserting "and their impact on mutual defense efforts" before the semicolon at the end of clause (A) (as so redesignated);

(5) by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983";

(6) by striking out "and" at the end of clause (D) (as so redesignated);

(7) by striking out the period at the end of clause (5) (as so redesignated) and inserting in lieu thereof a semicolon and "and"; and

(8) by adding after clause (E) the following:

"(F) a description of what additional actions the President plans to take should the efforts by the United States referred to in clauses (B) and (E) fail and, in those instances where such additional actions do not include consideration of the repositioning of elements of the Armed Forces of the United States, a detailed explanation as to why such repositioning is not being so considered.

"(2) If the report required by paragraph (1) as submitted to Congress is designated as having been classified, pursuant to Executive order, as requiring protection against unauthorized disclosure in the interest of national defense or foreign policy, then not later than 30 days after the submission of such report the Secretary shall submit to Congress a further report containing all the information in the initial report that does not require such protection.".

REPORT ON STANDARDIZATION OF NATO WEAPONS

SEC. 1121. Section 302(c) of the Department of Defense Appropriation Authorization Act, 1975 (88 Stat. 402; 10 U.S.C. 2451 note), is amended by adding at the end thereof the following: "The Secretary shall also include in each such report—

"(1) a description of each existing and planned program of the Department of Defense that supports the development or procurement of a weapon system or other military equipment originally developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States and for which funds have been authorized to be appropriated for the fiscal year in which the report is submitted;

"(2) a summary listing of the amount of funds appropriated for all such existing and planned programs for the fiscal year in which the report is submitted; and

"(3) a summary listing of the amount of funds requested, or proposed to be requested, for all such programs for each of the two fiscal years following the fiscal year for which the report is submitted.

Such report shall also include a description of each weapon system or other military equipment originally developed or procured in the United States and that is being developed or procured by members of the North Atlantic Treaty Organization (NATO) other than the United States during the fiscal year for which the report is submitted.".

NATO DEFENSE INDUSTRIAL COOPERATION

SEC. 1122. (a) The Congress finds that—

(1) the United States remains firmly committed to cooperating closely with its North Atlantic Treaty Organization (hereinafter in this section referred to as "NATO") allies in protecting liberty and maintaining world peace;

(2) the financial burden of providing for the defense of Western Europe and for the protection of the interests of NATO member countries in areas outside the NATO treaty area has reached such proportions that new cooperative approaches among the United States and its NATO allies are required to achieve and maintain an adequate collective defense at acceptable costs;

(3) the need for a credible conventional deterrent in Western Europe has long been recognized in theory but has never been fully addressed in practice;

(4) a more equitable sharing by NATO member countries of both the burdens and the technological and economic benefits of the common defense would do much to reinvigorate the North Atlantic Treaty Organization alliance with a restored sense of unity and common purpose;

(5) a decision to coordinate more effectively the enormous technological, industrial, and economic resources of NATO member countries will not only increase the efficiency and effectiveness of NATO military expenditures but also provide inducement for the Soviet Union to enter into a meaningful arms reduction agreement so that both Warsaw Pact countries and NATO member countries can devote more of their energies and resources to peaceful and economically more beneficial pursuits.

(b) It is the sense of the Congress that the President should propose to the heads of government of the NATO member countries that the NATO allies of the United States join the United States in agreeing—

(1) to coordinate more effectively their defense efforts and resources to create, at acceptable costs, a credible, collective, conventional force for the defense of the North Atlantic Treaty area;

(2) to establish a cooperative defense-industrial effort within Western Europe and between Western Europe and North America that would increase the efficiency and effectiveness of NATO expenditures by providing a larger production base while eliminating unnecessary duplication of defense-industrial efforts;

(3) to share more equitably and efficiently the financial burdens, as well as the economic benefits (including jobs, technology, and trade) of NATO defense; and

(4) to intensify consultations promptly for the early achievement of the objectives described in clauses (1) through (3).

STUDY OF IMPROVED CONTROL OF USE OF NUCLEAR WEAPONS

SEC. 1123. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises. Such study and evaluation shall include consideration of the following:

(1) Establishment of a multi-national military crisis control center for monitoring and containing the use or potential use of nuclear weapons by third parties or terrorist groups.

(2) Development of a forum through which the United States and the Soviet Union could exchange information pertaining to nuclear weapons that could potentially be used by third parties or terrorist groups.

(3) Development of measures for building confidence between the United States and

the Soviet Union for improved crisis stability and arms control, including—

(A) an improved United States/Soviet Union communications hotline for crisis control;

(B) improved procedures for verification of any arms control agreements;

(C) measures to reduce the vulnerability of command, control, and communications of both nations; and

(D) measures to lengthen the warning time each nation would have of potential nuclear attack.

(b) The Secretary of Defense shall submit a report of the study and evaluation under subsection (a) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by February 1, 1983. Such report should be available in both a classified, if necessary, and unclassified format.

(c) The President shall report to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives by March 1, 1983, on the merits to the arms control process of the initiatives developed under the study and evaluation required by subsection (a) and on the status of any such initiative as it may relate to any arms control negotiation with the Soviet Union.

NEGOTIATIONS FOR BANNING OF CHEMICAL WEAPONS

SEC. 1124. It is the sense of Congress that the President should—

(1) continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction;

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law; and

(3) communicate to the Government of the Union of Soviet Socialist Republics the earnest desire of the Government of the United States for a comprehensive, verifiable ban on chemical weaponry and the willingness of the Government of the United States to participate in negotiations toward this end as soon as the Government of the United States can be satisfied that the Soviet Union is not in violation of existing international accords applying to the prohibition of first use of chemical weapons and the production and transfer of biological weapons and that the Soviet Union is prepared to agree to provisions needed to ensure the verifiability of an accord banning chemical warfare.

COOPERATIVE MILITARY AIRLIFT AGREEMENTS

SEC. 1125. (a) Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2213. Cooperative military airlift agreements

"(a) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into cooperative military airlift agreements with the government of any allied country for the transportation of the personnel and cargo of the military forces of that country on aircraft operated by or for the military forces of the United States in return for the reciprocal transportation of the personnel and cargo of the military forces of the United States on aircraft operated by or for the military forces of that allied country. Any such agreement shall include the following terms:

"(1) The rate of reimbursement for transportation provided shall be the same for each party and shall be not less than the rate charged to military forces of the United States, as determined by the Secretary of Defense under section 2208(h) of this title.

"(2) Credits and liabilities accrued as a result of providing or receiving transportation shall be liquidated not less often than once every three months by direct payment to the country that has provided the greater amount of transportation.

"(3) During peacetime, the only military airlift capacity that may be used to provide transportation is that capacity that (A) is not needed to meet the transportation requirements of the military forces of the country providing the transportation, and (B) was not created solely to accommodate the requirements of the military forces of the country receiving the transportation.

"(4) Defense articles purchased by an allied country from the United States under the Arms Export Control Act (22 U.S.C. 2751 et seq.) or from a commercial source under the export controls of the Arms Export Control Act may not be transported (for the purpose of delivery incident to the purchase of the defense articles) to the purchasing allied country on aircraft operated by or for the military forces of the United States except at a rate of reimbursement that is equal to the full cost of transportation of the defense articles, as required by section 21(a)(3) of the Arms Export Control Act (22 U.S.C. 2761(a)(3)).

"(b) Subject to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into nonreciprocal military airlift agreements with North Atlantic Treaty Organization subsidiary bodies for the transportation of the personnel and cargo of such subsidiary bodies on aircraft operated by or for the military forces of the United States. Any such agreement shall be subject to such terms as the Secretary of Defense considers appropriate.

"(c) Any amount received by the United States as a result of an agreement entered into under this section shall be credited to applicable appropriations, accounts, and funds of the Department of Defense.

"(d) Notwithstanding chapter 138 of this title, the Secretary of Defense may enter into military airlift agreements with allied countries only under the authority of this section.

"(e) In this section:

"(1) 'Allied country' means any of the following:

"(A) A country that is a member of the North Atlantic Treaty Organization.

"(B) Australia or New Zealand.

"(C) Any other country designated as an allied country for the purposes of this section by the Secretary of Defense with the concurrence of the Secretary of State.

"(2) 'North Atlantic Treaty Organization subsidiary bodies' has the meaning given to it by section 2331 of this title.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"2213. Cooperative military airlift agreements.".

PURCHASE OF FOREIGN-MADE ADMINISTRATIVE MOTOR VEHICLES

SEC. 1126. (a) The Secretary of a military department may, after the date of the enactment of this Act, enter into contracts for the purchase of administrative motor vehicles without regard to section 783 of Public Law 97-114.

(b) None of the funds appropriated pursuant to authorizations in this Act may be used by the Secretary of a military department to make a contract or agreement for the purchase of administrative motor vehicles that are manufactured outside the United States or Canada unless the contractor was selected through competitive bidding without a differential in favor of foreign manufacturers. This subsection does not apply to contracts for amounts less than $50,000 or to any contract or agreement in effect on the date of the enactment of this Act with the Federal Republic of Germany, the United Kingdom, or Italy, so long as the vehicles procured under such contract or agreement are standardized or interoperable with the vehicles of the host country.

RESTRICTION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 1127. (a) Chapter 633 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§7309. Restriction on construction of naval vessels in foreign shipyards

"(a) Except as provided in subsection (b), no naval vessel, and no major component of the hull or superstructure of a naval vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when he determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"7309. Restriction on construction of naval vessels in foreign shipyards.".

PRIOR NOTIFICATION TO CONGRESS ON FOREIGN SOLE-SOURCE PROCUREMENTS

SEC. 1128. Subject to the provisions of chapter 138 of title 10, United States Code (relating to North Atlantic Treaty Organization mutual support), none of the funds authorized to be appropriated in this Act may be used to enter into a prime contract for the purchase of a major article of equipment essential to the national defense from a manufacturer outside the United States that makes the United States dependent on that manufacturer as a sole source unless the Secretary of Defense has notified the Committees on Armed Services and Appropriations of the Senate and House of Representatives, in writing, of such proposed contract.

PURCHASE OF CHEMICAL WARFARE PROTECTIVE CLOTHING AND ITEMS CONTAINING SPECIALTY METALS FROM FOREIGN SOURCES

SEC. 1129. Section 723 of the Department of Defense Appropriations Act, 1982 (Public Law 97-114; 95 Stat. 1582) is amended by inserting after the first colon the following: "Provided, That nothing in this section shall preclude the procurement of specialty metals or chemical warfare protective cloth-

ing produced outside the United States or its possessions if such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or if such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within the North Atlantic Treaty Organization (NATO) so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act (22 U.S.C. 2776) and section 814 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 2351 note):".

RECOGNITION OF NATIONAL GUARD AND RESERVE FORCES

SEC. 1130. (a) The Congress finds that—

(1) the National Guard and Reserve Forces of the United States are an integral part of the total force policy of the United States for national defense and need to be ready to respond, on short notice, to augment the active military forces in time of national emergency;

(2) attracting and retaining sufficient numbers of qualified persons to serve in the Guard and Reserve is a difficult challenge during a period in which authority to induct persons for training and service in the Armed Forces is not provided by law; and

(3) the support of employers and supervisors in granting employees a leave of absence from their jobs to participate in military training without detriment to earned vacation time, promotions, and job benefits is essential to the maintenance of a strong Guard and Reserve force.

(b)(1) It is, therefore, the sense of Congress that the citizen-military volunteers who serve the Nation as members of the National Guard and Reserve require and deserve public recognition of the essential role they play in the national defense, and particularly require and deserve the support and cooperation of their civilian employers, in order to be fully ready to respond to national emergencies.

(2) The Congress recognizes, and requests all citizens to recognize, the vital need for a trained, ready National Guard and Reserve in the national defense posture of the United States and urges and requests employers and supervisors of employees who are members of the National Guard or Reserve to abide by the provisions of chapter 43 of title 38, United States Code, by granting a leave of absence for military training, exclusive of earned vacation, to employees who are members of the Guard and Reserve and by providing such employees equal consideration for job benefits and promotions as all other employees.

REPORT ON VISTA 1999 TASK FORCE REPORT

SEC. 1131. (a) The Secretary of Defense shall conduct a full and complete study and evaluation of the report entitled "Vista 1999, A Long-Range Look at the Future of the Army and Air National Guard" submitted by the Chairman of the VISTA 1999 task force to the Chief of the National Guard Bureau on March 8, 1982. The study and evaluation shall include to the following:

(1) A detailed evaluation of the findings, conclusions, and recommendations of the "Vista 1999" study.

(2) The views of the Chief of the National Guard Bureau on the "Vista 1999" study.

(3) Any plans and recommendations for implementation of the recommendations of the "Vista 1999" study.

(b) The Secretary of Defense shall submit a report of the study and evaluation required by subsection (a) to the Committees on Armed Services of the Senate and House of Representatives no later than February 1, 1983.

MILITARY PERSONNEL CLAIM RESULTING FROM IRANIAN CRISIS

SEC. 1132. (a) The head of the military department having jurisdiction over Colonel Thomas E. Schaefer, United States Air Force, a member of the uniformed services who was held as a hostage in the Islamic Republic of Iran on or after November 4, 1979, and before January 22, 1981, may settle and pay an amount determined under subsection (b) for any claim against the United States made by such member for the loss of personal property in the Islamic Republic of Iran if the head of the military department determines that—

(1) the loss resulted from acts of mob violence, terrorist attacks, or other hostile acts, directed against the United States Government or its officers or employees;

(2) the loss was incurred on or after December 31, 1978, and before January 22, 1981;

(3) the property was owned and possessed in the Islamic Republic of Iran by the claimant and the ownership and possession of such property was appropiate and reasonable considering the official representational duties and responsibilities of the claimant; and

(4) the claimant had no reasonable opportunity to remove the property from the place where it was lost or could not reasonably have been expected to remove the property from such place before it was lost.

(b) The amount payable under subsection (a) shall be equal to the lesser of—

(1) the excess (if any) of the full replacement cost of the lost personal property over the total amount of compensation for the loss available in such case under section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) and from all other sources; or

(2) $75,000.

(c) A claim may be allowed under this section if it is presented in writing within one year after the date of enactment of this Act.

(d) The provisions of section 9 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 243a) that are not inconsistent with any provision of this section shall apply in the administration of this section.

(e) For the purposes of this section, the terms "agency", "uniformed services", "settle", and "military department" have the same meanings provided in section 2 of the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 240).

USE OF CERTAIN GIFTS TO THE UNITED STATES MILITARY ACADEMY

SEC. 1133. (a) Under regulations prescribed by the Secretary of the Army, the Superintendent of the United States Military Academy may (without regard to section 2601 of title 10, United States Code) accept, hold, administer, invest, and spend any gift, devise, or bequest of personal property of a value of $20,000 or less made to the United States on the condition that such gift, devise, or bequest be used for the benefit of the United States Military Academy or any entity thereof. The Secretary of the Army may pay or authorize the payment of all reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest under this section.

(b) This section applies with respect to any gift, devise, or bequest made on or after the date of the enactment of this Act for the purpose described in subsection (a) and applies to any such gift, devise, or bequest, or devise made before the date of the enactment of this Act with respect to which the Secretary of the Army has approved application of this section rather than section 2601 of title 10, United States Code.

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 1134. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following: "An Act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, to authorize supplemental appropriations for fiscal year 1982, and for other purposes.".

And the House agree to the same.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL STRATTON,
RICHARD C. WHITE,
BILL NICHOLS,
JACK BRINKLEY,
ROBERT H. MOLLOHAN,
DAN DANIEL,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
ROBIN BEARD,
MAJORIE S. HOLT,

When difference regarding intelligence-related activities are under consideration:

EDWARD P. BOLAND,
NORMAN Y. MINETA,
J. K. ROBINSON,

Solely for consideration of section 1011 of the House amendment and modifications committed to conference:

JACK BROOKS,
L. H. FOUNTAIN,
DANTE B. FASCELL,
FRANK HORTON,
JOHN N. ERLENBORN,

Managers on the Part of the House.

JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,

J. WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
ROGER W. JEPSEN,
DAN QUAYLE,
JEREMIAH DENTON,
NICHOLAS F. BRADY,
JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD, Jr.,
SAM NUNN,

For consideration of section 1122 pertaining to the Inspector General section of the bill:

BILL ROTH,
TOM EAGLETON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SUMMARY STATEMENT OF CONFERENCE ACTION

The conferees have agreed to authorizations in Titles I, II, III and VIII for procurement, research, development, test, and evaluation, operation and maintenance, and civil defense that total $177.9 billion. This figure is $5.6 billion below the President's budget request, comparable to the figures recommended in the Senate bill and $0.8 billion above the comparable figures in the House amendment. Both the Senate bill and House amendment contained general provisions that would have had the effect of altering the above figures, but these provisions were not agreed to by the conferees.

The Defense authorization bill provides authorizations for appropriations but does not provide budget authority. Budget authority for Department of Defense programs will be provided in appropriations bills. Because the first budget resolution provides for target levels of budget authority and outlays, there is not a direct relation between the Defense authorization bill and the budget resolution. Nevertheless the conferees were mindful that the Congress has adopted a budget resolution that targets a $9.8 billion reduction in budget authority to the President's budget for National Defense.

The conference agreement would make a reduction of $5.6 billion. The conferees believe that this reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Included are reductions in military pay, both active and retired, military construction and Department of Energy Military Application programs. Reductions in civilian pay from the levels assumed in the President's budget will result in further reductions. The conferees would also note that further adjustments in Department of Defense programs are usually made during the appropriations process.

SUMMARY OF CONFERENCE ACTION ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

[Dollars in thousands]

Item	February fiscal year 1983 request	House	Senate	Conference	Change from request
Procurement:					
Army:					
Aircraft	2,745,900	2,541,600	1,786,900	2,541,600	−204,300
Missiles	2,846,600	2,898,500	2,846,600	2,846,600	
Weapons and tracked combat vehicles	5,030,700	4,707,700	4,705,000	4,707,600	−323,100
Ammunition	2,639,000	2,410,600	2,733,400	2,486,400	−152,600
Other procurement	4,567,500	4,509,500	4,364,000	4,391,100	−176,400
Army National Guard equipment	0	0	50,000	50,000	+50,000
Army Reserve equipment	0	0	30,000	30,000	+30,000
Total, Army procurement	17,829,700	17,067,900	16,515,900	17,053,300	−776,400
Navy:					
Aircraft	11,582,300	11,424,500	11,167,800	11,304,600	−277,700
Weapons procurement	3,901,600	3,860,900	3,810,200	3,840,900	−60,700
Shipbuilding and conversion	18,648,300	18,228,400	18,368,700	17,965,000	−683,300
Other procurement	3,970,200	3,933,300	3,971,800	3,936,500	−33,700
Procurement, Marine Corps	2,300,700	1,984,900	2,198,700	2,131,600	−169,100
Navy Reserve equipment	0	0	30,000	30,000	+30,000
Marine Corps Reserve equipment	0	0	30,000	30,000	+30,000
Total, Navy procurement	40,403,100	39,432,000	39,577,200	39,238,600	−1,164,500
Air Force:					
Aircraft	17,756,700	17,243,400	17,783,800	17,485,700	−271,000
Missiles	6,827,900	6,333,300	5,269,800	6,038,700	−789,200
Other procurement	5,845,200	5,656,700	5,721,600	5,656,700	−188,500
Air Force Reserve equipment	0	0	30,000	30,000	+30,000
Air Force National Guard equipment	0	0	30,000	30,000	+30,000
Total, Air Force procurement	30,429,800	29,233,400	28,835,200	29,241,100	−1,188,700
Defense agencies procurement	890,300	863,400	859,600	859,600	−30,700
Total, procurement	89,552,900	86,596,700	85,787,800	86,392,600	−3,160,300
Research, development, test, and evaluation:					
Army	4,484,000	3,651,741	4,161,741	3,926,367	−557,633
Navy (including Marine Corps)	6,235,316	6,026,208	6,131,698	6,129,115	−106,201
Air Force	11,220,400	10,409,196	10,760,643	10,720,884	−499,516
Defense agencies	2,320,684	2,219,730	2,276,384	2,271,503	−49,181
Total, R.D.T. & E.	24,260,400	22,306,875	23,330,466	23,047,869	−1,212,531
Operation and maintenance:					
Army	18,638,775	18,554,775	18,675,775	18,622,714	−16,061
Navy (including Marine Corps)	24,348,985	23,722,215	24,075,915	23,897,865	−451,120
Air Force	20,472,800	19,783,900	19,937,300	19,884,800	−588,000
Defensewide activities	5,931,110	5,849,310	5,896,010	5,869,360	−61,750
Total, O. & M.	69,391,670	67,910,200	68,585,000	68,274,739	−1,116,931
Civil defense	252,340	252,340	144,530	152,340	−100,000
Grand total, authorization bill	183,457,310	177,066,115	177,847,796	177,867,548	−5,589,762

TITLE I.—PROCUREMENT, AIRCRAFT PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Fixed wing:								
C–12D (Huron)	6	11.0	12	22.0	6	11.0	12	22.0
RC–12D (Guardrail)	6	41.2	6	41.2	6	41.2	6	41.2
Rotary:								
EH–60A (Quickfix) advance procurement (CY)		33.3		25.4		25.4		25.4
AH–64 (Apache)	48	(824.7)	48	(777.7)	0	(137.4)	48	(774.4)
Less advance procurement (PY)		(−64.4)		(−64.4)		(−64.4)		(−64.4)
Net		760.3		713.3		73.0		710.0
AH–64 advance procurement (CY)		116.5		116.5		0		115.0
AH–1S (Cobra/Tow)		0	12	58.8		0	11	53.9
UH–60A (Black Hawk)	96	(569.2)	96	(483.6)	96	(483.6)	96	(483.6)
Less advance procurement (PY)		(−60.6)		(−60.6)		(−60.6)		(−60.6)
Net		508.6		423.0		423.0		423.0
UH–60A advance procurement (CY)		207.6		145.9		145.9		145.9
Total, aircraft		(1,678.5)		(1,546.1)		(719.5)		(1,536.4)
Modification of aircraft		405.6		415.5		405.6		386.0
AH–1		(32.7)		(87.7)		(32.7)		(32.7)
AHIP		(45.1)		(0)		(45.1)		(28.7)
Undistributed reduction		(0)		(0)		(0)		(−3.2)
Spares and repair parts		482.5		421.3		482.5		448.2
AH–1S		(4.7)		(13.5)		(4.7)		(7.7)
Replenishment spares		(331.1)		(261.1)		(331.1)		(293.8)
Support equipment and facilities		179.3		158.7		179.3		171.0
AH–1 flight simulators		(41.6)		(27.7)		(41.6)		(40.0)
High technology test bed		(6.7)		(0)		(6.7)		(0)
Total, aircraft procurement, Army		2,745.9		2,541.6		1,786.9		2,541.6

C–12D utility aircraft (Huron)

The budget request contained $11.0 million for procurement of 6 C–12 aircraft. The Senate bill authorized the amount requested. The House amendment authorized $22.0 million for 12 C–12 aircraft.

The conferees recommend authorization of $22.0 million for procurement of 12 aircraft.

AH–64 attack helicopter (Apache)

The budget request contained $760.3 million for procurement of 48 AH–64 helicopters and $116.5 million for advance procurement. The Senate bill authorized $73.0 million to defer production of the AH–64 for one year and contained no funds for advance procurement. The House amendment authorized $713.3 million for procurement of 48 helicopters and $116.5 million for advance procurement.

The conferees recommend authorization of $710.0 million for procurement of 48 AH–64 helicopters and $115.0 million for advance procurement.

AH–1S attack helicopter (Cobra/TOW)

No authorization was requested for the AH–1S helicopter. The House amendment authorized $58.8 million for procurement of 12 AH–1S helicopters. The Senate bill contained no authorization for AH–1S helicopters.

The conferees recommend authorization of $53.9 million for procurement of 11 AH–1S helicopters.

Modification of aircraft

The budget request contained $405.6 million for modification of Army aircraft including $32.7 million for AH–1 modifications and $45.1 million for the Army helicopter improvement program (AHIP). The Senate bill authorized the amount requested. The House amendment authorized $415.5 million for modification of Army aircraft, including $87.7 million AH–1 modifications and no funds for AHIP modifications.

The conferees recommend authorization of $386.0 million for modification of Army aircraft, including $32.7 million for AH–1 modifications, $28.7 million for AHIP modifications and a $3.2 undistributed reduction.

Aircraft spares and repair parts

The budget request contained $482.5 million for procurement of Army aircraft spares and repair parts including $4.7 million for AH–1 parts and $331.1 million for replenishment spares. The Senate bill authorized the amount requested. The House amendment authorized $421.3 million for Army aircraft spares and repair parts including $13.5 million for AH–1 parts and $261.1 million for replenishment spares.

The conferees recommend authorization of $448.2 million for procurement of Army aircraft spares and repair parts including $7.7 million for AH–1 parts and $293.8 million for replenishment spares.

Aircraft support equipment and facilities

The budget request contained $179.3 million for Army aircraft support equipment and facilities including $41.6 million for AH–1 flight simulators and $6.7 million for high technology test base. The Senate bill authorized the amount requested. The House amendment authorized $158.7 million for Army aircraft support equipment and facilities including $27.7 million for AH–1 flight simulators and no funds for high technology test base.

The conferees recommend authorization of $171.0 million for Army aircraft support equipment and facilities including $40.0 million for AH–1 flight simulators and no funding for high technology test base.

MISSILE PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Amount	Quantity	Quantity	Amount
Surface-to-air missiles:								
U.S. Poland		61.3		61.3		61.3		61.3
Patriot	376	805.1	376	805.1	376	805.1	376	805.1
Stinger	2,256	214.6	2,256	214.6	2,256	214.6	2,256	214.6
Chaparral		0	[1]16	51.9		0		0
Air-to-surface missiles: Laser Hellfire	3,971	249.2	3,971	249.2	3,971	249.2	3,971	249.2
Antitank/assault missiles:								
TOW (BGM–71A, BTM–71A)	12,000	145.2	12,000	145.2	12,000	145.2	12,000	145.2
Pershing II	91	498.3	91	498.3	91	498.3	91	498.3
Multiple launch rocket system	23,640	368.9	23,640	368.9	23,640	368.9	23,640	368.9
Multiple launch rocket system advance procurement (CY)		53.2		53.2				53.2
Other missile support		4.5		4.5		4.5		4.5
Total, missiles		(2,400.3)		(2,452.2)		(2,400.3)		(2400.3)

MISSILE PROCUREMENT, ARMY—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Amount	Quantity	Quantity	Amount
Modification of missiles		93.0		93.0		93.0		93.0
Spares and repair parts		233.3		233.3		233.3		233.3
Support equipment and facilities		120.0		120.0		120.0		120.0
Total, missile procurement, Army		2,846.6		2,898.5		2,846.6		2,846.6

[1] Fire units.

Chaparral

The budget request did not contain funds for the procurement of Chaparral air defense systems. The House amendment authorized $51.9 million for the procurement of 16 Chaparral air defense fire units. Further, the House report (H. Rept. 97-482) instructs the Army to transfer to the Army National Guard 16 of the 32 Chaparral fire units used as replacements for units in depot maintenance. The Senate bill contained no authorizations for Chaparral air defense systems.

The conferees agree that there is a requirement to equip National Guard units with air defense systems adequate to meet the air threat of the 1980's and beyond. Accordingly, the conferees noted that the Army should give full consideration to Army National Guard air defense requirements in future budget requests.

The House recedes.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

[Amount in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tracked combat vehicles:								
M577A2 command post vehicle	114	23.5	0	0	114	23.5	0	0
M113A2 armored personnel carrier	520	92.0	520	92.0	520	92.0	520	92.0
M2/M3 Bradley fighting vehicle	600	(853.1)	600	(865.5)	600	(843.1)	600	(843.1)
Less advance procurement (PY)		(−59.8)		(−59.8)		(−59.8)		(−59.8)
Net		793.3		805.7		783.3		783.3
M2/M3 advance procurement (CY)		49.2		49.2		49.2		49.2
F/IFV/CFV training devices		38.3		38.3		38.8		38.8
Field artillery ammunition support vehicle (FAASV)	250	106.2	144	61.0	0	0	144	61.0
M88a1 recovery vehicle	180	157.8	180	157.8	180	157.8	180	157.8
M1 Abrams tank	776	(1,671.8)	776	(1,592.2)	720	(1,545.6)	855	(1,773.4)
Less advance procurement (PY)		(−214.8)		(−214.8)		(−214.8)		(−214.8)
Less PY authorization transfer		(0)		(0)		(0)		(−198.2)
Net		1,476.0		1,376.4		1,330.8		1,360.4
M1 advance procurement (CY)		432.3		432.3		363.9		380.9
M60 tank training devices		12.6		12.6		12.6		12.6
M1 tank training equipment		58.2		58.2		58.2		58.2
Light armored squad carrier	158	51.7	0	0		0		0
Mobile protected gun-cannon vehicle	76	51.9	0	0	175	11.3		25.0
Mobile protected gun-recovery vehicle	24	7.7	0	0	0	0	0	0
Modification of tracked combat vehicles		378.5		266.6		378.5		357.3
M60 modifications		(162.9)		(132.9)		(162.9)		(162.9)
ITV modifications		(81.9)		(0)		(81.9)		(60.7)
FIST–V		(63.8)		(63.8)		(63.8)		(40.0)
Spares and repair parts		383.5		383.5		373.2		381.3
FAASV		(4.6)		(4.6)		(0)		(4.6)
M–1		(135.7)		(135.7)		(130.0)		(133.5)
Production base support		105.5		147.2		105.5		147.2
Items less than $900,000		.9		.9		.9		.9
Total, tracked combat vehicles, Army		(4,200.8)		(3,882.2)		(3,879.5)		(3,82.1)
Weapons:								
DIDAD gun	96	(575.2)	96	(575.2)	96	(575.2)	96	(575.2)
Less advance procurement (PY)		(−54.1)		(−54.1)		(−54.1)		(−54.1)
Net		521.1		521.1		521.1		521.1
DIVAD advance procurement (CY)		74.4		74.4		74.4		74.4
M240 armor machine gun	5,400	26.4	5,400	26.4	5,400	26.4	5,400	26.4
Squad automatic weapon (SAW)	3,579	10.5	3,579	10.5	3,579	10.5	3,579	10.5
Launcher, smoke grenade	5,742	3.4	5,742	3.4	5,742	3.4	5,742	3.4
XM252 (81mm mortar)	352	10.6	352	10.6	352	10.6	352	10.6
9mm personal defense weapons	11,500	4.4	0	0	0	0	0	0
Vehicle rapid fire weapons system	532	33.4	532	33.4	532	33.4	532	33.4
Magnetic heading set	480	3.7	480	3.7	480	3.7	480	3.7
MHS-gyro group	76	1.5	76	1.5	76	1.5	76	1.5
Modification of other weapons		.9		.9		.9		.9
Support equipment and facilities		139.6		139.6		139.6		139.6
Spares and repair parts		(107.9)		(107.9)		(107.9)		(107.9)
Total, weapons, Army		(829.9)		(825.5)		(825.5)		(825.5)
Total, procurement of weapons and tracked combat vehicles, Army		5,030.7		4,707.7		4,705.0		4,707.6

M557A2 command post carrier

The budget request contained $23.5 million for the procurement of 114 command post carriers. The Senate bill authorized the requested amount. The House amendment authorized no funds for the procurement of the M557A2 Command Post Carrier.

The Senate recedes.

Bradley fighting vehicles

The budget request contained $793.3 million for the procurement of 600 Bradley Fighting Vehicles and $49.2 million for advance procurement of longlead components. The Senate bill authorized $783.3 million for the procurement of 600 Bradley Fighting Vehicles, a reduction of $10 million. The Senate bill also authorized $49.2 million for advance procurement. The House amendment authorized $805.7 million for 600 Bradley Fighting Vehicles and $49.2 million for advance procurement.

The House recedes.

Field Artillery Ammunition Support Vehicle

The budget request contained $106.4 million for the procurement of 250 Field Artillery Ammunition Support Vehicles (FAASV's). The Senate bill deleted funds for the FAASV. The House amendment authorized $61 million for the procurement of 144 FAASV's.

The Senate recedes.

M-1 Abrams tank

The budget request contained $1,457 million to procure 776 M-1 tanks and $432.3 million for advance procurement. The Senate bill authorized $1,330.8 million for the procurement of 720 tanks and $363.9 million for advance procurement.

The House amendment authorized $1,376.4 million for the procurement of 776 M-1 tanks and $432.3 million for advance procurement. The House authorization represents a reduction of $80.6 million. The $80.6 million was initially intended to be used to support the development of a second source contractor for portions of the M-1 fire control system. The $80.6 million is no longer needed because the Army has decided to use a multiyear contracting approach in lieu of the second source approach.

The conferees were informed that because of favorable contract negotiations, it is now possible to procure 855 M-1 tanks, 79 more tanks than originally requested, for $1,360.4 million, which is $96.6 million less than requested. The conferees were told that in order to realize these cost efficiencies, it would be necessary to allow the Army to transfer forward from prior year authorizations a total of $198.2 million.

The conferees agreed to authorize $1,360.4 million for the procurement of 855 M-1 tanks, to authorize $380.9 million for advance procurement for 900 M-1 tanks, and to provide transfer authority to allow the Army to utilize the $198.2 million from prior year authorizations.

Mobile protected gun-cannon vehicle

The budget request contained $51.9 million to procure 76 Mobile Protected Gun-cannon (MPG-C) vehicles, $51.7 million to procure 158 Light Armored Squad Carriers (LASC's), and $7.7 million to procure 24 Mobile Protected Gun-recovery (MPG-R) vehicles. Subsequent to the original budget request, the Army decided to restructure the program by eliminating the requirement for the MPG-R and the LASC. The restructured program resulted in a budget request of $111.3 for 175 Mobile Protected Gun-cannon Vehicles. The Senate bill authorized the $111.3 million for 175 vehicles. The House amendment did not authorize funds for the MPG-C vehicle.

The conferees recommend the authorization of $25 million for the procurement of Mobile Protected Gun-cannon Vehicles, a reduction of $86.3 million from the budget request.

The conferees agreed that none of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement of Mobile Protected Gun-cannon vehicles for the Army until 30 days following submission of a report by the Secretary of Defense explaining and providing rationale for the source selection decision for such vehicles. Such report shall also dscribe the mission variants of vehicles and the numbers of such mission variants to be procured by the Army and Marine Corps to constitute a complete procurement program. Such report shall also include a certification by the Secretary of Defense:

That the baseline light armored vehicle selected by the Army and Marine Corps for procurement from among the candidates evaluated for source selection is the most cost-effective of such candidates; and

That the procurement program for the Army described by the Secretary in his report is affordable within the Army's overall procurement program from fiscal year 1983 through fiscal year 1987.

The conferees further agreed that funds appropriated for the Army procurement program for mobile protected guns should be transferred to the Marine Corps procurement program for light armored vehicles if the requested report and certifications are not received from the Secretary of Defense by December 31, 1982.

Tracked and combat vehicle modifications

The budget request contained $378.5 million for the modification of tracked and combat vehicles. The budget request included $162.2 million for modification kits for the M60 tank series, $81.5 million for modification kits for the Improved Tow Vehicle (ITV), and $63.8 million for modifications to the Fire Support Team Vehicle (FISTV). The Senate bill authorized the requested amount. The House amendment reduced the amount requested by $111.9 million to $266.6 million.

The conferees recommend an authorization of $353.3 million, including $162.9 million for M60 tank modifications, $60.7 million for ITV modifications, and $40 million for FISTV modifications.

Spares and repair parts/productions base support

The budget request contained $489.9 million for support equipment and facilities to include $383.5 million for spares and repair parts. The $383.5 million for spares and repair parts included $135.7 million for the M1 tank spares and repair parts and $4.6 million for spares and repair parts for the Field Artillery Ammunition Support Vehicle (FAASV). The Senate bill authorized $479.6 million for support equipment and facilities to include $130 million for the M1 tank spares and repair parts. The Senate bill deleted $4.6 million for spares and repair parts for the FAASV. The House amendment authorized $531.6 million for support equipment and facilities, including $135.7 million for spares and repair parts for the M1 tank and $4.6 million for the FAASV. The House amendment also authorized $41.7 million for production base supports for the continuation of the Renovation of Armament Manufacturing (REARM) program. Additionally, the House report (H. Rept. 97-482) requested that future Defense Department budgets reflect funding for the REARM program in the Army weapons and tracked vehicle account. This would permit the continuation of the REARM program as an integral part of the weapons and tracked combat vehicles program.

The Senate recedes on the $4.6 million for the FAASV and the $41.7 million for the REARM program.

The conferees recommend authorization of $133.5 million for spares and repair parts for the M1 tank, $4.6 million for spares and repair parts for FAASV, and $41.7 million for the REARM program.

AMMUNITION, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ammunition		2,205.6		1,987.2		2,305.6		2,068.6
Copperhead		(183.6)		(0)		(183.6)		(15.0)
Bushmaster (25mm)		(103.8)		(87.4)		(103.8)		(103.8)
Chemical munitions		(18.4)		(0)		(18.4)		(0)
Undistributed		(0)		(0)		(100.0)		(50.0)
Ammunition production base support		433.4		423.4		433.4		423.4
Less financing adjustments						−5.6		−5.6
Total, ammunition, Army		2,639.0		2,410.6		2,733.4		2,486.4

Copperhead 155mm projectiles

The budget request contained $183.6 million for the procurement of 7,629 Copperhead 155mm projectiles. The Senate bill authorized the requested amount. The House amendment deleted funds for the procurement of Copperhead 155mm projectiles.

The conferees noted that the Copperhead program has experienced technical difficulties and cost growth, and that Copperhead inventory levels are generally sufficient to satisfy currently planned inventory requirements. The conferees were informed that $15 million would be required to cover the cost of terminating the Copperhead program.

Without prejudice, the conferees, therefore, recommend authorization of $15 million.

25 millimeter ammunition

The budget request contained $103.8 million for the procurement of Bushmaster 25mm ammunition. The Senate bill authorized the requested amount. The House amendment authorized $87.4 million for 25mm ammunition, a reduction of $16.4 million.

The House recedes.

Chemical munitions

The budget request contained $18.4 million for the procurement of 155mm binary munitions. The Senate bill authorized the requested amounts. The House amendment

contained no funds for the production of 155mm binary chemical munitions.

The Senate recedes with an amendment (see detail explanation in the discussion in section 1124).

Undistributed

The budget request contained a total of $2639.0 million for the procurement of Army ammunition. The Senate bill authorized an increase of $100 million to be used in support of training and war reserve requirements. The House amendment did not authorize any additional funds for this account.

The conferees recommend the authorization of $50 million for training and war reserve requirements.

Ammunition production base support

The budget request contained $10 million for industrial facilities to support binary chemical production. The Senate bill authorize the amount requested. The House amendment contained no funds for binary production.

The Senate recedes with an amendment (see detail explanation in the discussion in section 1124).

Financing adjustment

The Senate bill contained a budget adjustment of $5.6 million in the Army ammunition account. The House amendment did not include the $5.6 million reduction.

The House recedes.

OTHER PROCUREMENT, ARMY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Tactical and support vehicles		1,256.5		1,356.5		1,256.5		1,256.5
Communications and electronics equipment		2,339.2		2,221.6		2,135.7		2,162.8
IDHS		(8.5)		(6.4)		(6.0)		(6.0)
Tactical digitial facsimile		(6.8)		(0)		(6.8)		(6.8)
Piranha applique jammer		(10.2)		(0)		(6.0)		(8.2)
Army Nat'l Guard equipment		(0)		(11.9)		(0)		(0)
Joint crisis mgmt cap		(44.5)		(0)		(0)		(0)
Hi speed buffer TD–1065		(28.5)		(23.5)		(23.5)		(23.5)
DLDED		(24.6)		(15.4)		(15.4)		(15.4)
4th Psyops GP equipment		(13.5)		(5.8)		(5.8)		(5.8)
Intel camm equipment		(7.9)		(3.9)		(3.9)		(3.9)
Initial spares		(209.5)		(189.5)		(189.5)		(189.5)
Team pack		(9.7)		(9.7)		(0)		(0)
AN/TRC–170		(39.6)		(39.6)		(35.6)		(35.6)
AN/GRC–193		(29.6)		(29.6)		(24.6)		(29.6)
AN/DRC–104		(22.8)		(22.8)		(17.8)		(20.0)
AN/TRC–113		(23.4)		(18.4)		(18.4)		(18.4)
AN/TRC–145		(23.9)		(18.9)		(18.9)		(18.9)
TD–1289		(23.4)		(23.4)		(15.4)		(15.4)
EUCOM C3		(44.9)		(44.9)		(29.9)		(29.9)
KY–57		(53.2)		(48.2)		(48.2)		(48.2)
KY–58		(11.8)		(6.8)		(6.8)		(6.8)
PLRS		(32.4)		(32.4)		(17.4)		(25.4)
SIGINT simulators		(12.0)		(12.0)		(7.9)		(7.9)
Team pack PIPS		(28.0)		(28.0)		(16.0)		(25.7)
Undistributed		(0)		(0)		(−7.6)		(−7.6)
Items less than $900,000		(7.0)		(7.0)		(6.0)		(6.0)
Other support equipment		(971.8)		(971.8)		(971.8)		(971.8)
PY authorization transfer		(0)		(−40.4)		(0)		(0)
Net		971.8		931.4		971.8		971.8
Total, other procurement, Army		4,567.5		4,509.5		4,364.0		4,391.1

Tactical and support vehicles

The budget request contained $1,256.5 million for the procurement of tactical and support vehicles to include 5-ton trucks, 10-ton trucks, high mobility multi-purpose wheeled vehicles (HMMWV), and commercial and utility cargo vehicles (CUCV). The House amendment authorized $1,356.5 million for tactical and support vehicles which represent an increase of $100 million over the budget request. The House indicated that the additional authorization is to procure 5-ton and 10-ton trucks for Army National Guard and Reserve units and to procure additional ¼-ton and ¾-ton vehicles for active Army units. The House also requested the Army to conduct a comprehensive study of its vehicle replacement requirements.

The Senate bill did not authorize additional funds in the Army tactical and support vehicle account.

The conferees agreed that shortages exist in the area of tactical and support vehicles and that these shortages are particularly acute in Army National Guard and Reserve units. The conferees noted that the Senate bill contained a total of $80 million for Army National Guard and Reserve equipment which could, in part, be used to procure tactical and support vehicles.

The House recedes.

Intelligence Data Handling System

The Army request contained $8.5 million for an Intelligence Data Handling System. The Senate bill would authorize $6 million for that purpose. The House amendment would authorize $6.4 million. The conferees recommend an authorization of $6 million.

The House recedes.

Tactical digital facsimile

The budget request contained $6.8 million for the procurement of tactical digital facsimile equipment. The Senate bill authorized the requested amount. The House amendment did not contain funds for tactical data facsimile equipment.

The House recedes.

Piranha Applique Jammer

The budget request contained $10.2 million for the Piranha Applique Jammer. The Senate bill authorized $6.0 million.

The conferees recommended $8.2 million for the procurement of Piranha Applique Jammers.

Army National Guard equipment

The House amendment authorized $11.9 million for the procurement of communications and electronics equipment for the Army National Guard. The Senate bill did not contain a specific authorization for communications and electronics equipment for the Army National Guard.

The conferees agreed that because the Senate bill contained funds for Army National Guard equipment, a specific line item authorization for the procurement of communications and electronics equipment is not necessary.

The House recedes.

Team Pack

The Army request contained $9.7 million for Team Pack, an intelligence system. The Senate bill would provide no authorization for this item. The House amendment would authorize $9.7 million.

The conferees recommended no authorization for Team Pack for fiscal year 1983.

The House recedes.

AN/TRC-170 radio terminal

The budget request contained $39.6 million for the procurement of AN/TRC-170 equipment. The House amendment authorized the amount requested. The Senate bill reduced the amount requested by $4 million and authorized $35.6 million for the procurement of requested equipment.

The House recedes.

AN/GRC-193 HF radio

The budget request contained $29.6 million for the procurement of AN/GRC-193 equipment. The House amendment authorized the requested amount. The Senate bill authorized $24.6 million for the procurement of the equipment requested.

The Senate recedes.

AN/PRC-104 HF radio

The budget request contained $22.8 million for procurement of AN/PRC-104 equipment. The House amendment authorized the requested amount. The Senate bill au-

thorized $17.8 million for the requested equipment.

The conferees recommend an authorization of $20 million for the procurement of the equipment requested.

TD-1289 FM multiplexer

The budget request contained $23.4 million for the procurement of TD-1289 equipment. The House amendment authorized the requested amount. The Senate bill authorized $15.4 million for the procurement of the TD-1289 equipment.

The House recedes.

European Command (EUCOM) command control communications

The budget request contained $44.9 million for the procurement of EUCOM Command Control Communications. The House amendment authorized the requested amount. The Senate bill reduced the amount by $15 million for an authorization of $29.9 million.

The House recedes.

Position locating radar system (PLRS)

The budget request contained $32.4 million for the procurement of PLRS. The House amendment recommended authorization of the requested amount. The Senate bill recommended $17.4 million for PLRS.

The conferees recommend authorization of $25.4 million for the procurement of PLRS.

Signal intelligence simulators

The Army requested $12 million for Signal Intelligence Simulators. The Senate bill would authorize $7.9 million for this purpose. The House amendment would authorize the amount requested. The conferees recommend an authorization of $7.9 million.

The Senate recedes.

Team pack PIPS

The Army request contained $28 million for Team Pack System Improvements. The Senate bill would authorize $16 million for this purpose. The House amendment would authorize the amount requested. The conferees recommend an authorization of $25.7 million

The Senate recedes with an amendment.

Undistributed reduction

The Senate bill authorized an undistributed reduction of $7.6 million within the communications and electronics equipment account. The House amendment did not contain a similar reduction.

The House recedes.

General Defense Intelligence Programs (GDIP)

The budget request contained $7 million for GDIP. The House amendment recommends authorization of the required amount. The Senate bill recommends authorization of $6 million for GDIP.

The House recedes.

Other support equipment

The budget request contained $971.8 million for other support equipment. The Senate bill authorized the requested amount.

The House report pointed out that no authorization was requested in fiscal year 1983 for the procurement of the Armored Combat Earthmover (ACE). The report further indicated that although $40.4 million was appropriated in fiscal year 1982 to procure 36 ACE's, the Army had not developed and approved an acquisition strategy for the ACE program. Consequently, the House amendment authorized a transfer forward to fiscal year 1983 of $40.4 million as an offset to fiscal year 1983 Army Other Support Equipment requests. This resulted in a House authorization of $931.4 million. The Army has since developed an approved acquisition strategy for the ACE program.

The House recedes.

AIRCRAFT PROCUREMENT, NAVY [1]

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Combat aircraft:								
A-6E (Intruder)	8	(255.0)	8	(255.0)	0	(25.6)	8	(255.0)
Less advance procurement (PY)		(−7.3)		(−7.3)		(−7.3)		(−7.3)
Net		247.7		247.7		18.3		247.7
A-6E advance procurement (CY)		13.3		8.3		0		8.3
EA-6B (Prowler)	6	(306.8)	6	(306.8)	12	(511.3)	6	(306.8)
Less advance procurement (PY)		(−16.9)		(−16.9)		(−16.9)		(−16.9)
Net		289.9		289.9		494.4		289.9
EA-6B advance procurement (CY)		26.7		17.6		44.9		17.6
AV-8B (Harrier)	18	(714.1)	24	(845.5)	18	(714.1)	21	(816.0)
Less advance procurement (PY)		(−37.0)		(−37.0)		(−37.0)		(−37.0)
Net		677.1		808.5		677.1		779.0
AV-8B advance procurement (CY)		73.8		90.1		73.9		73.9
F-14A (Tomcat)	24	(1096.4)	24	(1096.4)	24	(1096.4)	24	(1096.4)
Less advance procurement (PY)		(−181.1)		(−181.1)		(−181.1)		(−181.1)
Net		915.3		915.3		915.3		915.3
F-14A advance procurement (CY)		202.4		202.4		202.4		202.4
F-18 (Hornet)	84	(2633.6)	84	(2633.6)	84	(2633.6)	84	(2633.6)
Less advance procurement (PY)		(−189.7)		(−189.7)		(−189.7)		(−189.7)
Net		2443.9		2443.9		2443.9		2443.9
F-18 advance procurement (CY)		283.7		283.7		319.2		283.7
CH-53E (Super Stallion)	11	(258.1)	11	(258.1)	11	(258.1)	11	(258.1)
Less advance procurement (PY)		(−2.5)		(−2.5)		(−2.5)		(−2.5)
Net		255.6		255.6		255.6		255.6
CH-53E advance procurement (CY)		33.5		2.9		33.5		2.9
AH-1T (Sea Corbra) advance procurement (CY)		17.2		17.2		17.2		17.2
SH-60B (Seahawk)	48	(995.8)	27	(695.8)	24	(675.8)	27	(754.1)
Less advance procurement (PY)		(−137.4)		(−137.4)		(−137.4)		(−137.4)
Net		858.4		558.4		538.4		616.7
SH-60B advance procurement (CY)		137.0		137.0		67.0		102.0
P-3C (Orion)	6	(335.0)	6	(335.0)	6	(335.0)	6	(335.0)
Less advance procurement (PY)		(−54.4)		(−54.4)		(−54.4)		(−54.4)
Net		280.6		280.6		280.6		280.6
P-3C advance procurement (CY)		48.8		48.8		48.8		48.8
E-2C (Hawkeye)	6	(336.8)	6	(336.8)	6	(336.8)	6	(336.8)
Less advance procurement (PY)		(−20.6)		(−20.6)		(−20.6)		(−20.6)
Net		316.2		316.2		316.2		316.2
E-2C advance procurement (CY)		21.3		21.3		21.3		21.3
SH-2F (Seasprite)	18	(189.1)	18	(189.1)	18	(189.1)	18	(189.1)
Less advance procurement (PY)		(−20.1)		(−20.1)		(−20.1)		(−20.1)
Net		169.0		169.0		169.0		169.0
SH-2F advance procurement (CY)		20.4		20.4		20.4		20.4
Total, combat aircraft		(7331.9)		(7134.8)		(6957.4)		(7112.4)

AIRCRAFT PROCUREMENT, NAVY [1]—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Airlift aircraft:								
C-9 (Skytrain II)		16.2		40.2		16.2		16.2
C-2 (COD)	8	(251.9)	8	(224.8)	8	(251.9)	8	(224.8)
Less advance procurement (PY)		(−33.0)		(−32.0)		(−33.0)		(32.0)
Net		218.9		192.8		218.9		192.8
C-2 advance procurement (CY)		48.9		10.8		48.9		10.8
Total, airlift aircraft		(284.0)		(243.8)		(284.0)		(219.8)
Trainer aircraft:								
T-34C (Mentor)	30	34.4	30	34.4	30	34.4	30	34.4
TH-57 (Sea Ranger)	21	23.2	21	23.2	21	23.2	21	23.2
Total, trainer aircraft		(57.6)		(57.6)		(57.6)		(57.6)
Other aircraft EC-130Q (Hercules TACAMO)		36.8		36.8		36.8		36.8
Modification of aircraft		1311.1		1356.1		1311.1		1356.1
R/F4		(9.9)		(54.9)		(9.9)		(54.9)
Spares and repair parts		2080.9		2115.4		2040.9		2041.9
AV-8B		(191.9)		(222.5)		(191.9)		(207.2)
F-14		(60.9)		(60.8)		(60.9)		(60.9)
C-9		(0)		(4.0)		(0)		(0)
SH-60B		(236.2)		(236.2)		(176.2)		(181.9)
EA-6B		(30.5)		(30.5)		(50.5)		(30.5)
Support equipment and facilities		480.0		480.0		480.0		480.0
Total, aircraft procurement, Navy		11582.3		11424.5		11167.8		11304.6

[1] Including Marine Corps aircraft.

A-6E attack aircraft (Intruder)

The budget request contained $247.7 million for procurement of 8 A-6E aircraft and $13.3 million for advance procurement. The Senate bill contained $18.3 million for production line termination costs and deleted advance procurement funding. The House amendment contained $247.7 million for procurement of 8 A-6E aircraft and $8.3 million for advance procurement.

The conferees recommend authorization of $247.7 million for procurement of 8 A-6E aircraft and $8.3 million for advance procurement.

EA-6B attack aircraft (Prowler)

The budget request contained $289.9 million for procurement of 6 EA-6B aircraft and $26.7 million for advance procurement. The Senate bill authorized $494.4 million for procurement of 12 aircraft and $44.9 million for advance procurement. The House amendment authorized $289.9 million for procurement of 6 aircraft and $17.6 million for advance procurement.

The conferees recommend authorization of $289.9 million for procurement of 6 EA-6E aircraft and $17.6 million for advance procurement.

AV-8B attack aircraft (Harrier)

The budget request contained $677.1 million for procurement of 18 AV-8B aircraft and $73.9 million for advance procurement. The Senate bill authorized the amount requested. The House amendment authorized $808.5 million for procurement of 24 aircraft and $90.1 million for advance procurement.

The conferees recommend authorization of $779.0 million for procurement of 21 AV-8B aircraft and $73.9 million for advance procurement.

F/A-18 fighter/attack aircraft (Hornet) (advance procurement)

The budget request contained $283.7 million for advance procurement of 96 F/A-18 aircraft. The Senate bill authorized $319.2 million for advance procurement. The House amendment authorized the amount requested.

The conferees recommend authorization of $283.7 million.

CH-53E helicopter (Super Stallion) (advance procurement)

The budget request contained $33.5 million for advance procurement for CH-53E helicopters. The Senate bill authorized the amount requested. The House amendment authorized $2.9 million.

The conferees recommend authorization of $2.9 million for advance procurement of CH-53 helicopters.

SH-60B ASW helicopter (Seahawk)

The budget request contained $858.4 million for procurement of 48 SH-60B helicopters and $137.0 million for advance procurement. The Senate bill authorized $538.4 million for procurement of 24 helicopters and $67.0 million for advance procurement. The House amendment authorized $558.4 million for procurement of 27 helicopters and $137.0 million for advance procurement.

The conferees recommend authorization of $616.7 million for procurement of 27 SH-60B helicopters and $102.0 million for advance procurement.

C-9 airlift aircraft (Skytrain II)

The Navy request contained $16.2 million for procurement of C-9 airlift aircraft. The Senate bill would authorize the amount requested. The House amendment would authorize $44.2 million, including $4 million for spares.

The conferees recommend an authorization of $16.2 million for procurement of C-9 airlift aircraft for the Navy in view of the authorization of $30 million for Naval Reserve equipment in Section 104 of the conference report.

The House recedes.

C-2 airlift aircraft (COD)

The budget request contained $218.0 million for procurement of 8 C-2 aircraft and $48.9 million for advance procurement under a multi-year procurement strategy. The Senate bill authorized the amount requested. The House bill authorized eight C-2 aircraft at $192.8 million with $10.8 million for advance procurement on an annual procurement basis.

The conferees agreed to an authorization of $192.8 million for procurement of 8 C-2 aircraft and $10.8 million for advance procurement.

Modification of aircraft, Navy

The Navy request contained $1,311.1 million for modification of Navy and Marine Corps aircraft. The Senate bill would authorize the amount requested. The House amendment would authorize $1,356.1 million—an increase of $45 million—for the procurement of side looking airborne radar and tactical electronic reconnaissance equipment for RF-4 aircraft operated by the Marine Corps. The conferees recommend an authorization of $1,356.1 million for the modification of aircraft.

The Senate recedes.

Aircraft spares and repair parts

The budget request contained $2,080.9 million for procurement of Navy aircraft spares and repair parts including $191.9 million for AV-8B, $60.9 million for F-14, $236.2 million for SH-60B, and $30.5 million for EA-6B. The Senate bill authorized $2,040.9 million for Navy aircraft spares and repair parts including $191.9 million for AV-8B, $60.9 million for F-14, $176.2 million for SH-60B and $50.5 million for EA-6B. The House amendment authorized $2,115.4 million for Navy aircraft spares and repair parts including $222.5 million for AV-8B, $60.8 million for F-14, $4.0 for C-9, $236.2 million for SH-60B, and $30.5 million for EA-6B.

The conferees recommend authorization of $2,041.9 million for procurement of Navy aircraft spares and repair parts including $207.2 million for AV-8B, $60.9 million for F-14, $181.9 million for SH-60B, and $30.5 million for EA-6B.

WEAPONS PROCUREMENT, NAVY

[Amounts in million of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic missiles:								
UGM–72 (Poseidon)		9.7		9.7		9.7		9.7
UGM–96A (Trident I)	72	(816.1)	72	(816.1)	72	(813.1)	72	(813.1)
Less advance procurement (PY)		(−116.6)		(−116.6)		(−116.6)		(−116.6)
Net		699.5		699.5		696.5		696.5
UGM–96A advance procurement (CY)		43.3		43.3		36.3		36.3
Modification of ballistic missile		7.5		7.5		7.5		7.5
Spares and repair parts		1.1		1.1		1.1		1.1
Industrial facilities		2.6		2.6		2.6		2.6
Astronautics		12.8		12.8		12.8		12.8
Total, ballistic missiles		(776.5)		(776.5)		(766.5)		(766.5)
Other missiles:								
Strategic missiles:								
BGM–109 (Tomahawk)	120	(285.0)	120	(285.0)	120	(285.0)	120	(285.0)
Less advance procurement (PY)		(−14.0)		(−14.0)		(−14.0)		(−14.0)
Net		271.0		271.0		271.0		271.0
BGM–109 advance procurement (CY)		21.2		21.2		21.2		21.2
Tactical missiles:								
AIM/RIM–7 F/M (Sparrow)	670	132.8	670	132.8	670	132.8	670	132.8
AIM–9L/M (Sidewinder)	500	41.5	500	41.5	500	41.5	500	41.5
AIM–54A/C (Phoenix)	108	(249.1)	108	(249.1)	108	(249.1)	108	(249.1)
Less advance procurement (PY)		(−27.0)		(−27.0)		(−27.0)		(−27.0)
Net		222.1		222.1		222.1		222.1
AIM–54 advance procurement (CY)		34.2		34.2		34.2		34.2
AGM–84A (Harpoon)	231	(214.8)	231	(236.1)	231	(214.8)	231	(236.1)
Less advance procurement (PY)		(21.3)		(0)		(−21.3)		(0)
Net		236.1		236.1		236.1		236.1
AGM–88A (Harm)	208	176.8	208	176.8		95.8	208	176.8
RIM–66B (Standard MR)	650	192.3	650	192.3	650	192.3	650	192.3
RIM–66B advance procurement (CY)		60.3		0		60.3		0
RIM–66C (Standard MR)	150	122.8	150	122.8	150	122.8	150	122.8
RIM–67B (Standard ER)	375	302.8	375	302.8	375	302.8	375	302.8
AGM–65G (Laser Maverick)	90	33.1	90	33.1	90	33.1	90	33.1
Other missile support		5.3		5.3		5.3		5.3
Aerial targets		76.6		76.6		76.6		76.6
Modification of missiles		74.2		74.2		74.2		74.2
Spares and repair parts		103.5		103.5		103.5		103.5
Weapons industrial facilities		11.8		11.8		11.8		11.8
Energy conservation		2.7		2.7		2.7		2.7
Fleet satellite communications	2	231.3	2	231.3	2	231.3	2	231.3
Total, other missiles, Navy		(2352.4)		(2292.1)		(2271.4)		(2292.1)
Total, missiles, Navy		(3128.9)		(3068.6)		(3037.9)		(3058.6)
Torpedoes and related equipment:								
MK–48 torpedo	120	124.3	144	144.3	120	124.3	144	134.3
MK–46 torpedo	440	105.7	440	105.7	440	105.7	440	105.7
MK–46 advance procurement (CY)		35.5		35.5		35.5		35.5
MK–60 captor	500	151.4	500	151.4	500	151.4	500	151.4
MK–30 mobile target	5	19.4	5	19.4	5	19.4	5	19.4
MK–38 mini mobile target	1,200	2.3	1,200	2.3	1,200	2.3	1,200	2.3
Antisubmarine rocket (ASROC)		10.1		10.1		10.1		10.1
Modification of torpedoes		89.3		89.3		89.3		89.3
Support equipment		53.8		53.8		53.8		53.8
Spares and repair parts		13.1		13.1		13.1		13.1
Total, torpedoes and related equipment		(604.9)		(624.9)		(604.9)		(614.9)
Other weapons:								
MK–15 close in weapons system	39	118.7	39	118.7	39	118.7	39	118.7
MK–75 76MM gun mount	3	10.7	3	10.7	3	10.7	3	10.7
MK–19 machine gun	14	.4	14	.4	14	.4	14	.4
25MM gun mount	6	.4	6	.4	6	.4	6	.4
9MM handgun	1,100	.4	0	0	0	0	0	0
Modifications of guns and amounts		19.7		19.7		19.7		19.7
Support equipment		.4		.4		.4		.4
Spares and repair parts		17.1		17.1		17.1		17.1
Total, other weapons		(167.8)		(167.4)		(167.4)		(167.4)
Total weapons procurement, Navy		3901.6		3860.9		3810.2		3840.9

WEAPONS

The President's budget contained $3,901.6 million for Navy weapons.

The Senate bill contained an authorization of $3,810.2 million. The House amendment contained authorizations for Navy weapons totaling $3,860.9 million.

The conferees agreed to authorizations totaling $3,840.9 million for Navy weapons.

UGM–96A (C–4) ballistic missile (Trident I)

The budget request included $699.5 million for procurement of 72 Trident I missiles. The request also included $43.3 million for Trident I missile advance procurement. The Senate bill would authorize $696.5 million for procurement and $36.3 million for advance procurement. The House amendment would provide authorizations in the amounts requested.

The conferees recommend authorizations of $696.5 million for Trident I missile procurement and $36.3 million for advance procurement.

The House recedes.

AGM–88A missile (HARM)

The budget request contained $176.8 million for procurement of 208 HARM missiles. The Senate bill authorized $95.8 million for an indeterminate quantity of missiles. The House amendments authorized the amounts requested.

The conferees agreed to an authorization of $176.8 million for procurement of 208 missiles.

RIM-66B missile (Standard MR) (advance procurement)

The budget request contained $60.3 million for advance procurement for the RIM-66B Standard MR missile. The Senate bill authorized the amount requested. The House amendments authorized no funds for Standard MR missile advance procurement.

The conferees agreed to authorize no funding for Standard MR missile advance procurement.

MK-48 torpedo

The budget request included $124.3 million for procurement of 120 MK-48 torpedoes.

The Senate bill recommended authorization as requested.

The House amendment recommended authorization of $144.3 million for procurement of 144 torpedoes.

The conferees agreed to an authorization of $134.3 million for procurement of 144 torpedoes.

SHIPBUILDING AND CONVERSION, NAVY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Trident ballistic missile submarine (nuclear)	2	(2,768.2)	1	(1,787.6)	2	(2,488.6)	1	(1,787.6)
Less advance procurement (PY)		(−527.1)		(−283.6)		(−527.1		(−283.6)
Net		2,241.1		1,504.0		1,961.5		1,504.0
Trident advance procurement (CY)		243.9		282.0		243.9		282.0
CVN nuclear aircraft carrier	2	(7,270.3)	2	(7,270.3)	2	(7,270.3)	2	(7,270.3)
Less advance procurement		(−475.0)		(−475.0)		(−475.0)		(−475.0)
Net		6,795.3		6,795.3		6,795.3		6,795.3
SSN-688 nuclear attack submarine	2	(1,196.8)	2	(1,196.8)	2	(1,196.8)	2	(1,196.8)
Less advance procurement (PY)		(−169.4)		(−169.4)		(−169.4)		(−169.4)
Net		1,027.4		1,027.4		1,027.4		1,027.4
SSN-688 advance procurement (CY)		416.0		416.0		416.0		416.0
Battleship reactivation (Iowa)	1	(4,11.4)	1	(4,11.4)	1	(4,11.4)	1	(4,11.4)
Less advance procurement (PY)		(−88.0)		(−88.0)		(−88.0)		(−88.0)
Net		323.4		323.4		323.4		323.4
Battleship reactivation (Missouri) advance procurement		94.0		94.0		94.0		94.0
CV SLEP (service life extension program)	1	(698.5)	1	(698.5)	1	(698.5)	1	(698.5)
Less advance procurement (PY)		(−162.0)		(−162.0)		(−162.0)		(−162.0)
Net		536.5		536.5		536.5		536.5
CV SLEP advance procurement (CY)		163.0		163.0		163.0		163.0
CG-47 Aegis cruiser	3	(3,132.9)	3	(3,132.9)	3	(3,132.9)	3	(3,132.9)
Less advance procurement (PY)		(−20.7)		(−20.7)		(−20.7)		(−20.7)
Net		3,112.2		3,112.2		3,112.2		3,112.2
CG-47 Aegis advance procurement (CY)		22.2		22.2		22.2		22.2
LSD-41 landing ship dock	1	379.2	1	379.2	1	379.2	1	379.2
LSD-41 advance procurement (CY)		37.8		37.8		37.8		37.8
LHD-1 air capable amphibious ship advance procurement (CY)		55.0		55.0		55.0		55.0
FFG-7 guided missile frigate	2	666.4	2	666.4	2	666.4	2	706.4
MCM mine countermeasure ship	4	371.6	4	371.6	4	371.6	4	371.6
TAO oiler (MYP)	1	210.2	1	210.2	1	210.2	1	210.2
TAO oiler advance procurement (CY)		109.8		109.8		109.8		109.8
AGOS SWATH ocean surveillance ship advance procurement (CY)		24.3		0		24.3		0
ARS salvage ship	1	74.0	1	74.0	1	74.0	1	74.0
ARS salvage ship advance procurement (CY)		10.0		10.0		10.0		10.0
TAKRX fast logistic ship (Conv.)	4	322.6	4	322.6	4	322.6	4	322.6
TAHX hospital ship (Conv.)	1	300.0	1	300.0	1	300.0	1	300.0
Service craft		79.0		79.0		79.0		79.0
Landing craft		(84.5)		(84.5)		(84.5)		(84.5)
Less advance procurement (PY)		(−1.4)		(−1.4)		(−1.4)		(−1.4)
Net		83.1		83.1		83.1		83.1
Outfitting		136.4		136.4		136.4		136.4
Post delivery		168.3		168.3		168.3		168.3
Ship contract design		97.2		97.2		97.2		97.2
Cost growth		314.2		314.2		314.2		314.2
Escalation on prior year programs		209.2		209.2		209.2		209.2
Manufacturing technology		25.0		25.0		25.0		25.0
Total, shipbuilding and conversion, Navy	25	18,648.3	24	18,228.4	25	18,368.7	24	17,965.0

SHIPBUILDING AND CONVERSION

The President's budget request contained $18,648.3 million for the construction, conversion, reactivation, service life extension and acquisition of 25 naval vessels.

The Senate bill contained an authorization of $18,368.7 million for 25 naval vessels. The House amendment contained authorizations totaling $18,228.4 million for 24 naval vessels.

The conferees agreed to authorizations totaling $17,965 million for 24 naval vessels.

Trident ballistic missile submarine (SSBN)

The President's budget request contained $2,485 million for the Trident submarine program, including full funding for the tenth and eleventh Trident submarines equipped to carry the Trident C-4 missile ($2,241.1 million) and long lead funding for the twelfth and thirteenth Trident submarines ($243.9 million).

The Senate bill recommended authorization of $2,205.4 million for the Trident submarine program, including partial funding for the tenth and eleventh Trident submarines ($1,961.5 million) and long lead funding for the twelfth and thirteenth Trident submarines ($243.9 million). The Senate recommendation excluded funds necessary to purchase equipment unique to the Trident C-4 missile.

The House amendment recommended authorization of $1,786 million for the Trident program, including $1,504 million for full funding of the tenth Trident submarine equipped to carry the Trident D-5 missile and $282 million for long lead procurement for the eleventh, twelfth and thirteenth Trident submarines and ship design work necessary to accommodate the D-5 missile.

The Senate recedes.

Guided missile frigate (FFG-7)

The budget request contained $666.4 million for procurement of two FFG-7 class guided missile frigates.

The Senate bill recommended authorization as requested.

The House amendment recommended authorization of $706.4 million for two FFG-7 class guided missile frigates with the provi-

sion that the $40 million addition to the budget request may be used only for the installation of an x-band phased array radar to improve the performance of the missile fire control system.

The conferees agreed to authorize $706.4 million for procurement of two FFG-7 class guided missile frigates with the provision that $40 million may be used only for an x-band phased array radar to provide an improved performance missile fire control system. The conferees intend that at least one of the two FFG-7 ships authorized be equipped with an x-band phased array radar.

The Senate recedes with an amendment.

Ocean surveillance ship (AGOS-SWATH)

The budget request contained $24.3 million for procurement of long lead components for a new class of ocean surveillance ship with a Small Water Area Twin Hull (SWATH) configuration.

The Senate bill recommended authorization as requested.

The House amendment recommended that the authorization be denied.

The Senate recedes.

Cost growth

The budget request contained $314.2 million for cost growth.

The Senate bill recommended authorization as requested by the President.

The House amendment recommended authorization of $577.6 million for cost growth, including the amount requested in the budget request and $263.4 million requested by the President as a supplementary authorization for fiscal year 1982.

The House recedes.

OTHER PROCUREMENT, NAVY

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ship support equipment		568.9		568.9		568.9		568.9
Communications and electronics		1,488.0		1,477.6		1,488.0		1,484.6
TRI-TAC		(7.0)		(0)		(7.0)		(7.0)
Prairie Wagon		(137.1)		(133.7)		(137.1)		(133.7)
Aviation support equipment		608.2		582.5		608.2		582.5
Bigeye chemical weapon		(25.7)		(0)		(25.7)		(0)
Ordnance support equipment		785.2		787.2		789.6		786.2
Submarine Tomahawk support equipment (SUBROC)		(31.4)		(33.4)		(31.4)		(32.4)
Small arms ammunition		(15.5)		(15.5)		(15.3)		(15.5)
Trident support equipment		(13.8)		(13.8)		(18.4)		(13.8)
Civil engineering support equipment		172.8		172.8		172.8		172.8
Supply support equipment		91.2		87.7		91.2		87.7
Special activities		(16.1)		(12.6)		(16.1)		(12.6)
Personnel/command support equipment		255.9		256.9		253.1		253.8
Support equipment		(24.0)		(24.7)		(21.2)		(21.9)
Total, Navy other procurement		3,970.2		3,933.3		3,971.8		3,936.5

OTHER PROCUREMENT

The President's budget request contained $3,970.2 million for Navy other procurement.

The Senate bill contained an authorization of $3,971.8 million. The House amendment contained an authorization totaling $3,933.3 million.

The conferees agreed to an authorization of $3,936.5 million for other procurement.

AN/UXC-4 (TRI-TAC)

The budget request contained $7 million for TRI-TAC. The Senate bill authorized the amount requested. The House amendment contained no authorization for TRI-TAC.

The House recedes.

AN/WLQ-4 (Prairie Wagon)

The Navy request contained $137.1 million for procurement for the Prairie Wagon program. The Senate bill would authorize the amount requested. The House amendment would authorize $133.7 million for this program. The conferees recommend an authorization of $133.7 million.

The Senate recedes.

Bigeye chemical weapon

The budget request contained $25.7 million for procurement of tooling and munitions for the Bigeye Binary Chemical Weapon. The Senate bill authorized the requested amount. The House bill contaned no funds for the Bigeye Binary Chemical Weapon.

The Senate recedes with an amendment (see detail explanation in discussion in section 1124).

Ordnance support equipment

The budget request contained $785.2 million for ordnance support equipment.

The Senate bill recommended $789.6 million for ordnance support equipment. The Senate recommendation included an addition of $4.6 million for Trident support equipment associated with the Trident D-5 missile and a reduction of $253 thousand to eliminate funds requested for procurement of 9 millimeter ammunition.

The House amendment recommended $787.2 million for ordnance support equipment, an addition of $2 million to the budget request to authorize support equipment necessary to maintain a capability to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the Tomahawk missile.

The conferees agreed to $786.2 million for ordnance support equipment, an addition of $1 million to the budget request to authorize support equipment necessary to maintain a capability to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the Tomahawk missile.

The Senate recedes with an amendment.

Supply support equipment, special activities

Within the amount requested for Navy supply support equipment, $16.1 million was included for special activities. The Senate bill would authorize the amount requested for this purpose. The House amendment would authorize $12.6 million. The conferees recommend the authorization of $12.6 million.

The Senate recedes.

Personnel/command support equipment, intelligence support equipment

Within the amount requested for Navy personnel and command support equipment, $24 million was included for intelligence support equipment. The Senate bill would authorize $21.2 million for this purpose. The House amendment would authorize $24.7 million. The conferees recommend an authorization of $21.9 million.

The House recedes with an amendment.

PROCUREMENT, MARINE CORPS

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ammunition		630.2		470.0		530.2		470.0
155mm ammunition		(396.1)		(235.9)		(396.1)		(235.9)
Undistributed reduction		(0)		(0)		(—100.0)		(0)
Tracked combat vehicles:								
LVT7A1 assault amphibian vehicle	168	151.5	168	151.5	168	151.5	168	151.5
LVT7 (SLEP)	363	157.2	363	157.2	363	157.2	363	157.2
Light armored vehicles	134	89.7	0	0	134	89.7	134	89.7
Spares and repair parts		15.0		15.0		15.0		15.0

PROCUREMENT, MARINE CORPS—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Modification kits		4.1		4.1		4.1		4.1
Total, tracked combat vehicles, Marine Corps		(417.5)		(327.8)		(417.5)		(417.5)
Artillery		7.5		7.5		7.5		7.5
Weapons:								
M2 50 caliber machinegun	273	3.0	273	3.0	273	3.0	273	3.0
9mm handgun	5,000	2.0	0	0	0	0	0	0
M60 machinegun	60	.2	60	.2	60	.2	60	.2
5.56mm light machinegun	2,907	8.4	2,907	8.4	2,907	8.4	2,907	8.4
M16A1 5.56mm rifle	54,725	28.5	54,725	28.5	54,725	28.5	54,725	28.5
MK–19 40mm machinegun	570	16.5	570	16.5	570	16.5	570	16.5
EOD equipment		.2		.2		.2		.2
SMAW 18mm rocket	295	2.2	295	2.2	295	2.2	295	2.2
Total, weapons, Marine Corps		(61.0)		(59.0)		(59.0)		(59.0)
Guided missiles:								
MIM–23B (Hawk)	213	75.4	213	75.4	213	75.4	213	75.4
MIM–23B (Hawk) modifications		20.7		20.7		20.7		20.7
Stinger	1,560	115.6	1,560	115.6	1,560	115.6	1,560	115.6
FGM–77 (Dragon)		.7		.7		.7		.7
BGM–71–A (TOW)	1,000	28.6	1,000	28.6	1,000	28.6	1,000	28.6
BGM–71–A (TOW) modifications		9.4		9.4		9.4		9.4
Spares and repair parts		12.0		12.0		12.0		12.0
Modification kits		1.5		1.5		1.5		1.5
Total, missiles, Marine Corps		(263.9)		(263.9)		(263.9)		(263.9)
Communications and electronics		476.8		426.8		476.8		476.8
AN/TPS–59 radar		(126.3)		(76.3)		(126.3)		(126.3)
Support vehicles		190.9		190.9		190.9		190.9
Engineer and other equipment		252.9		239.0		252.9		246.0
Medium tractor		(30.2)		(16.3)		(30.2)		(23.3)
Total procurement, Marine Corps		2,300.7		1,984.9		2,198.7		2,131.6

155 millimeter ammunition

The budget request contained $396.1 million for 155 mm ammunition. The Senate bill authorized the requested amount. The House amendment reduced the requested amount to $235.9 million, a reduction of $160.2 million.

The Senate recedes.

Undistributed reduction

The budget request contained $630.2 million for Marine Corps ammunition. The Senate bill authorized a general reduction of $100 million. The House amendment did not contain a similar reduction.

The Senate recedes.

Light armored vehicle

The budget request contained $89.7 million for the procurement of 134 Light Armored Vehicles (LAV's). The Senate bill authorized the requested amount. The House amendment deleted funds for the LAV program.

The House recedes.

AN/TPS–59 radar set

The budget requested contained $126.3 million for the procurement of 10 AN/TPS–59 radar sets. The Senate bill supported the budget request. The House amendment authorized the procurement of 5 AN/TPS–59 radar sets for $76.3 million, a reduction of $50 million.

The House recedes.

Tractors, medium full tracked

The budget request contained $30.2 million for the procurement of 216 medium tractors. The Senate bill authorized the requested amount. The House amendment bill authorized $16.3 million for the procurement of 116 medium tractors. The conferees recommend authorization of $23.3 million for the procurement of medium tractors.

AIRCRAFT PROCUREMENT, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Combat aircraft:								
Strategic offensive:								
LRCA (B1–B)	7	(3,650.1)	7	(3,650.1)	7	(3,650.1)	7	(3,650.1)
Less advance procurement (PY)		(−257.0)		(−257.0)		(−257.0)		(−257.0)
Net		3,393.1		3,393.1		3,393.1		3,393.1
B1–B-advance procurement (CY)		475.0		475.0		475.0		475.0
Tactical forces:								
A–10A/B (Thunderbolt II)	20	(398.3)	30	(427.1)	0	(70.0)	0	(70.0)
Less advance procurement (PY)		(−41.0)		(−62.2)		(−41.0)		(−41.0)
PY authorization transfer		(0)		(−35.6)		(0)		(0)
Net		357.3		329.3		29.0		29.0
A–10 advance procurement (CY)		0	LL 20	28.0		0		0
F–5F (Tiger II)	3	(33.3)	3	(33.3)	3	(33.3)	3	(33.3)
Less advance procurement (PY)		(−4.8)		(−4.8)		(−4.8)		(−4.8)
Net		28.5		28.5		28.5		28.5
F–15A/B/C/D/E (Eagle)	42	(1,422.2)	30	(1,082.6)	48	(1,530.6)	39	(1,340.4)
Less advance procurement (PY)		(−125.4)		(−100.4)		(−125.4)		(−100.4)
Net		1,296.8		982.2		1,405.2		1,240.4
F–15 advance procurement (CY)	LL 60/96	305.4	LL 30/30	142.1		202.5		162.0
F–16A/B (Falcon)	120	(2,107.7)	120	(2,107.7)	120	(2,107.7)	120	(2,083.9)
Less advance procurement (PY)		(−372.3)		(−372.3)		(−372.3)		(−372.3)
Net		1,735.4		1,735.4		1,735.4		1,711.6

AIRCRAFT PROCUREMENT, AIR FORCE—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
F-16 advance procurement (CY)		223.3		223.3		390.6		323.3
Other combat aircraft:								
KC-10A (Extender)	8	528.8	8	528.8		354.0		354.0
KC-10 advance procurement (CY)		261.3		261.3		441.0		441.0
E-3A (AWACS)	2	(232.9)	1	(130.6)	2	(232.9)	2	(232.9)
Less advance procurement (PY)		(−92.3)		(−100.0)		(−92.3)		(−92.3)
Net		140.6		30.6		140.6		140.6
E-3A advance procurement (CY)		25.7		50.0		25.7		25.7
MC-130H		0	2	(65.3)		0	2	(65.3)
Less advance procurement (PY)		0		(−27.0)		0		(−27.0)
Net		0		38.3		0		38.3
MC-130 advance procurement (CY)		0	LL 2	32.2		0		0
Total, combat aircraft		(8,771.2)		(8,278.1)		(8,620.6)		(8,362.5)
Strategic airlift:								
C-5B (Galaxy)	2	(970.0)	2	(970.0)	0	0	1	(747.5)
Less advance procurement (PY)		(−270.0)		(−270.0)		0		(−50.0)
Net		700.0		700.0		0		697.5
C-5B advanced procurement (CY)		100.0		100.0		0		102.5
Wide bodied cargo aircraft		0		0		(350.0)	3	(144.8)
Less advance procurment (PY)		0		0		(0)		(−84.8)
Net		0		0		350.0		60.0
Tactical airlift:								
European distribution aircraft	2	5.0	2	5.0	0	0	2	5.0
C-130H		0	8	144.6	4	75.0	4	72.5
C-130H (ski equipped)		0	4	106.5		0	4	106.5
Total, airlift aircraft		(805.0)		(1,056.1)		(425.0)		(1,044.0)
Other aircraft:								
TR-1A	4	(155.4)	4	(155.4)	4	(155.4)	4	(155.4)
Less advance procurement (PY)		(−9.6)		(−9.6)		(−9.6)		(−9.6)
Net		145.8		145.8		145.8		145.8
TR-1A advance procurement (CY)		10.7		10.7		10.7		10.7
Modification of aircraft		2,600.0		2,481.4		2,715.0		2,578.9
OV-10 SEEK TALK		(3.5)		(0)		(3.5)		(0)
F/RF-4		(127.3)		(120.2)		(127.3)		(120.2)
A-7		(41.5)		(90.5)		(41.5)		(90.5)
KC-135 reengining (CFM-56)		(490.6)		(375.6)		(490.6)		(375.6)
KC-135 reengining (JT-3D)		(0)		(0)		(115.0)		(60.0)
B-52		(554.6)		(521.6)		(554.6)		(554.6)
Undistributed		(0)		(−9.0)		(0)		(−4.5)
Spares and repair parts		3,656.6		3,526.6		3,654.4		3,578.4
C-130H		(0)		(10.0)		(0)		(7.0)
MC-130H		(0)		(5.0)		(0)		(5.0)
F-15		(80.1)		(57.1)		(88.9)		(74.4)
KC-10		(39.0)		(39.0)		(28.0)		(28.0)
C-5B		(60.0)		(60.0)		(0)		(47.5)
Wide-bodied cargo aircraft		(0)		(0)		(60.0)		(0)
Undistributed		(0)		(−122.0)		(0)		(−61.0)
Support equipment and facilities		1,767.4		1,744.7		1,767.4		1,765.3
Other production charges:								
LANTIRN		(15.7)		(0)		(15.7)		(15.7)
ECM pods		(237.4)		(275.9)		(237.4)		(275.9)
Classified program		(0)		(0)		(−5.1)		(−5.1)
Common ground equipment		(332.6)		(312.6)		(332.6)		(312.6)
War consumables		(140.8)		(115.3)		(140.8)		(125.3)
Total, other aircraft		(8,180.5)		(7,909.2)		(8,288.2)		(8,079.1)
Total, aircraft procurement, Air Force		17,756.7		17,243.4		17,333.8		17,485.7

A-10 aircraft (Thunderbolt II)

The budget request contained $357.3 million for procurement of 20 A-10 aircraft. The Senate bill authorized no aircraft and $29.0 million for line termination costs. The House amendment authorized $329.3 million for procurement of 30 aircraft and $28.0 million for advance procurement of 20 aircraft in fiscal year 1984.

The conferees agreed to authorize no aircraft and $29.0 million for line termination costs. The reduction from the amount requested is without prejudice.

F-15A/B fighter aircraft (Eagle)

The budget request contained $1,296.8 million for procurement of 42 F-15 aircraft in fiscal year 1983 and $305.4 million for advance procurement to support acquisition of 60 F-15's in fiscal year 1984 and 96 in fiscal year 1985. The Senate bill authorized $1,405.2 million for procurement of 48 aircraft in fiscal year 1983 and advance procurement of $202.5 million to support acquisition of 42 F-15's per year in fiscal years 1984 and 1985. The House amendment authorized $982.2 million for procurement of 30 aircraft in fiscal year 1983 and $142.1 million for advance procurement to support acquisition of 30 F-15's per year in fiscal years 1984 and 1985.

The conferees agreed to an authorization of $1,240.4 million for procurement of 39 aircraft in fiscal year 1983 and $162.0 million for advance procurement.

F-16A/B fighter aircraft (Falcon)

The budget request contained $1,735.4 million for procurement of 120 F-16's and $223.3 million for advance procurement of 120 aircraft per year in fiscal years 1984 and 1985 under a multiyear procurement contract. The Senate bill authorized the amount requested for fiscal year 1983 and authorized $390.6 million for advance procurement to support acquisition of 180 F-16's per year in fiscal years 1984 and 1985. The House amendment authorized the amounts requested.

The conferees agreed to an authorization of $1,711.6 million for procurement of 120 aircraft in fiscal year 1983. The reduction of $23.8 million deletes authorization for SEEK-TALK peculiar modifications to the F-16. The conferees also agreed to an authorization of $323.3 million for advance procurement, an increase of $100.0 million over the amount requested. This increase is to support the procurement of 30 additional F-16 aircraft in fiscal years 1984 and 1985 (for a total of 150 aircraft in each year) either by modification of the existing multiyear contract or by separate contract, whichever is more economical.

KC-10A advanced tanker/cargo aircraft

The request contained $528.8 million for procurement of 8 KC-10A aircraft in fiscal year 1983, $261.3 million for advance procurement and $39 million for initial spares. The Senate bill would authorize $354 million to procure 8 aircraft in fiscal year 1983, $441 million for advance procurement and $28 million for initial spares. The House amendment would authorize the amounts requested.

The conferees noted that the Senate amounts more closely match the authorizations required to fund the fiscal year 1983 increment of a multiyear contract for 44 KC-10A aircraft. The conferees, therefore, recommend authorizations of $354 million for procurement of 8 aircraft in fiscal year 1983, $441 million for advance procurement and $28 million for initial spares.

The conferees also note that the KC-10 multiyear contract is structured to begin with funding authorized for fiscal year 1982. The Administration has requested that $120 million be authorized and appropriated for that purpose. The Senate bill would authorize a supplemental appropriation for KC-10 aircraft in the amount of $120 million. The House amendment contained no supplemental authorization for that purpose. Title IX of the conference report contains a supplemental authorization of $120 million for Air Force aircraft. The conferees recommend that this amount be directed to the KC-10 program.

The House recedes.

E-3A Airborne Warning and Control System (AWACS)

The request contained $140.6 million to procure two E-3A aircraft in fiscal year 1983, $25.7 million for advance procurement for one aircraft in fiscal year 1984 and $10.4 million for spares. The Senate bill would authorize the amounts requested. The House amendment would authorize $30.6 million for one aircraft in fiscal year 1983, $50 million for advance procurement for two aircraft in fiscal year 1984 and $10.4 million for spares.

The conferees recommend authorizations in the amounts requested.

The House recedes.

MC-130H aircraft (Combat Talon)

No MC-130H aircraft were requested in the fiscal year 1983 budget request. The Senate bill contained no authorization for the MC-130H. The House amendment authorized $38.3 million for procurement of 2 MC-130H aircraft in fiscal year 1983 and $32.2 million for advance procurement to support acquisition of 2 aircraft in fiscal year 1984.

The conferees agreed to an authorization of $38.3 million for procurement of 2 MC-130H aircraft in fiscal year 1983. The conferees agreed to authorize no advance procurement.

C-5B airlift aircraft

The request contained $700 million to procure 2 C-5B aircraft in fiscal year 1983, $100 million for advance procurement for fiscal year 1984, and $60 million for initial spares. The Senate bill contained a provision (sec. 1129) that would prohibit the use of funds authorized to be appropriated for fiscal year 1983 or for prior fiscal years for the reestablishment of production facilities for manufacturing additional C-5 aircraft or for the procurement of additional C-5 aircraft.

The House amendment would authorize the appropriation of $860 million for facilities, materials, components, and other recurring and nonrecurring costs to begin a program for procurement of 50 C-5B aircraft and to procure two such aircraft in fiscal year 1983.

The conferees have strongly supported an increased outsize strategic airlift capability. The conferees have agreed to the earliest initiation of the C-5B program as the cornerstone of a comprehensive and balanced airlift program that includes KC-10A aircraft, the Civil Reserve Air Fleet (CRAF) enhancement program or another program to improve the military utility of commercial aircraft, and C-17 type technology development.

The conferees recommend authorization of $847.5 million for C-5B aircraft procurement for fiscal year 1983, consisting of: $697.5 million for procurement of facilities, materials, tooling, recurring and nonrecurring costs and for procurement of one C-5B; $102.5 million for advance procurement; and $47.5 million for initial spares. In addition, the conferees recommend authorizing the transfer of $50 million authorized and appropriated in fiscal year 1982 to the C-5B program.

The Senate recedes with an amendment.

Wide-bodied cargo aircraft

Section 1129 of the Senate bill would authorize $350 million for procurement in fiscal year 1983 of surplus commercial wide-bodied cargo aircraft that are suitable for conversion to military cargo configurations and that were owned by domestic companies on or before May 13, 1982. In addition, the Senate bill would authorize $120.9 million previously authorized and appropriated for the Civil Reserve Air Fleet (CRAF) enhancement program for the purpose of procuring surplus commercial wide-bodied aircraft.

The House amendment contained no similar provision.

The conferees agreed to authorize procurement of three commercial cargo aircraft for military airlift. The conferees have authorized $60 million for this purpose, in addition to reauthorizing for this new purpose $84.8 million appropriated in fiscal years 1981 and 1982 for the CRAF enhancement program.

The House recedes with an amendment.

European distribution system aircraft

The request contained $5 million to procure 2 off-the-shelf small cargo aircraft for use by the Air Force in the European Distribution System. The Senate bill contained no authorization for these aircraft. The House amendment would authorize the amount requested. The conferees recommend authorization of $5 million for two European Distribution System aircraft.

The Senate recedes.

C-130H tactical airlift aircraft

No authorization was requested for procurement of C-130H aircraft in fiscal year 1983. The Senate bill would authorize $75 million to procure 4 aircraft. The House amendment would authorize $251.1 million to procure 12 C-130H aircraft and $10 million for initial spares. Four of the aircraft that the House amendment would authorize would be equipped with skis for arctic operations.

The conferees recommend authorizations of $72.5 million for 4 C-130H aircraft, $106.5 million for 4 ski-equipped C-130H aircraft and $7 million for initial spares.

The Senate recedes with an amendment.

Modification of aircraft

The budget request contained $2,600.0 million for modification of Air Force aircraft. The Senate bill authorized $2,715.0 million. The House amendment authorized $2,481.4 million.

The conferees agreed to an authorization of $2,578.9 million for modification of Air Force aircraft including no authorization for CV-10 SEEK TALK modifications; $120.2 million for F/RF-4 modifications; $90.5 million for A-7 modifications of which $49.0 million is authorized for the A-7 forward looking infra-red (FLIR) modification program; $375.6 million for KC-135 CFM-56) reengining modifications; $60.0 million for KC-135 (JT-3D) reengining modifications; $554.6 million for B-52 avionics modifications; and a $4.5 million undistributed reduction in the aircraft modification account.

KC-135 CFM-56 reengining program. The Air Force request contained $490.6 million to modify 20 KC-135 tanker aircraft and for procurement of CFM-56 engines. The Senate bill would authorize the amount requested. The House amendment would authorize $375.6 million for the KC-135 CFM-56 modification program to modify 15 aircraft in fiscal year 1983. The conferees recommend the authorization of $375.6 million for KC-135 CFM-56 modifications.

The Senate recedes.

KC-135 JT-3D engine modification. No authorization was requested for procurement of used 707 aircraft or JT-3D aircraft engines. The Senate bill would authorize $115 million to procure a number of used commercial 707 aircraft to modify a number of KC-135 aircraft with used JT-3D engines. The House amendment contained no authorization for this purpose.

The conferees recommend the authorization of $60 million for reengining KC-135 aircraft with JT-3D engines.

The House recedes with an amendment.

B-52 avionics modification. The Air Force request contained $554.6 million for B-52 modifications, including $305.3 million for B-52 avionics modernization. The Senate bill would authorize the full amounts requested. The House amendment would authorize $521.6 million for B-52 modifications, reducing the authorization for avionics modernization by $33 million.

The conferees recommend an authorization of $554.6 million for B-52 modifications, including $305.3 million for avionics modernization.

The House recedes.

Aircraft spares and repair parts

The budget request contained $3,656.6 million for aircraft spares and repair parts. The Senate bill recommended authorization of $3,654.4 million for aircraft spares and repair parts. The House amendment authorized $3,526.6 million for this purpose. The conferees recommend the authorization of $3,578.4 million for Air Force aircraft spares and repair parts.

Included in this authorization is $7.0 million for C-130H spares and repair parts and $5.0 million for MC-130H spares and repair parts. Both the budget request and the Senate bill contained no recommended authorization for these items.

The administration requested $80.1 million for F-15 spares and the conferees recommended $74.4 million.

The budget request contained $39.0 million for KC-10 spares. The conferees recommended $28.0 million.

The House recommended an undistributed reduction of $122.0 million in spares and repair parts. The conferees agreed to a $61.0 million undistributed reduction.

Other production charges

The budget request contained $1,767.4 million for Air Force aircraft support equipment and facilities. The Senate bill authorized the requested amount while the House amendment recommended authorization of $1,744.7 million for aircraft support equipment and facilities.

The conferees recommend an authorization of $1,765.3 million for Air Force aircraft support equipment and facilities.

This recommendation would include authorization of $15.7 million for LANTIRN, $275.9 million for ECM pods, $312.6 million for common ground equipment and $125.3 million for war consumables.

Other production charges, classified program. The Senate bill would have reduced a classified program contained within the amount requested for the Air Force aircraft, Other Production Charges request by $5.1 million. The House amendment would not reduce this program. The conferees recommend a reduction of $5.1 million in this classified program. This action will be reflected in a classified annex to the statement of the managers.

The House recedes.

Airlift

The conferees, in this conference report, have strongly supported an increased outsize strategic airlift capability. The conferees have agreed to the early initiation of the C-5B program as the cornerstone of a comprehensive and balanced airlift program that includes KC-10A aircraft, the Civil Reserve Air Fleet (CRAF) enhancement program or other programs to improve the military utility of commercial aircraft, C-17 type aircraft technology development, and procurement of three wide-body airlift aircraft.

Civil Reserve Air Fleet (CRAF)

While the Civil Reserve Air Fleet (CRAF) program was not within the scope of the matters committed to the Joint Conference Committee, the conferees expect the Air Force to accelerate the CRAF enhancement program that is now a part of the five year defense plan. The Air Force has proposed revisions in its contracting procedures to achieve participation by commercial carriers and there are indications that the program can be executed on an accelerated basis.

The conferees would consider reprogramming requests to achieve that propose.

MISSILES, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Ballistic missiles:								
Advanced ICBM (M-X)	9	(1,446.4)	9	(1,164.2)	0	0	5	(988.0)
PY authorization transfer				(−22.3)				(0)
Net		1,446.4		1,141.9		0		988.0
Other missiles:								
Strategic missiles:								
AGM-86B (ALCM)	440	(622.7)	440	(622.7)	440	(622.7)	440	(622.7)
Less advance procurement (PY)		(−1.2)		(−1.2)		(−1.2)		(−1.2)
Net		621.5		621.5		621.5		621.5
AGM-86 advance procurement (CY)		43.0		43.0		43.0		43.0
BGM-109 (GLCM)	120	(520.1)	120	(520.1)	120	(520.1)	120	(520.1)
Less advance procurement (PY)		(−29.8)		(−29.8)		(−29.8)		(−29.8)
Net		490.3		490.3		490.3		490.3
BGM-109 advance procurement (CY)		29.6		29.6		29.6		29.6
Tactical missiles:								
AIM-7F/M (Sparrow)	1,300	198.6	1,300	198.6	1,300	198.6	1,300	198.6
AIM-9L/M (Sidewinder)	1,920	114.7	1,920	114.7	1,920	114.7	1,920	114.7
AGM-65D (Maverick)	2,560	342.6	1,335	270.6	1,355	244.9	1,355	244.9
AGM-88A (Harm)	206	159.8	206	159.8		90.8	206	159.8
Rapier		98.9		148.9		98.9		148.9
Target drones		40.2		40.2		40.2		40.2
Total, other missiles		(2,139.2)		(2,117.2)		(1,972.5)		(2,091.5)
Modification of missiles		160.0		53.7		233.8		94.2
Titan II		(0)		(0)		(73.8)		(0)
Minuteman class V		(35.5)		(0)		(35.5)		(35.5)
Minuteman class IV		(57.8)		(42.8)		(57.8)		(42.8)
Minuteman transfer from fiscal year 1982		(0)		(−5.0)		(0)		(0)
ALCM		(50.8)		(0)		(50.8)		(0)
Spares and repair parts		274.0		223.3		223.3		223.3
Advanced ICBM (M-X)		(50.7)		(0)		(0)		(0)
Other support:								
Spaceborne equipment (COMSEC)		13.1		13.1		13.1		13.1
NAVSTAR GPS		102.0		102.0		102.0		102.0
Space launch support		87.6		87.6		87.6		87.6
Advance procurement (CY)		68.2		68.2		68.2		68.2
Satellite data system		(43.8)		(43.8)		(43.8)		(43.8)
Less advance procurement (PY)		(−21.3)		(−21.3)		(−21.3)		(−21.3)
Net		22.5		22.5		22.5		22.5
Defense meteorological satellite program		137.2		137.2		137.2		137.2
Advance procurement (CY)		30.7		30.7		30.7		30.7
Defense support program		(515.1)		(515.1)		(515.1)		(515.1)
Less advance procurement (PY)		(−107.6)		(−107.6)		(−107.6)		(−107.6)
Net		407.5		407.5		407.5		407.5
Defense satellite comm system		(201.4)		(201.4)		(176.4)		(191.4)
Less advance procurement (PY)		(−8.5)		(−8.5)		(−8.5)		(−8.5)
Net		192.9		192.9		167.9		182.9
AF satellite comm system		28.6		28.6		28.6		28.6
Space boosters		(39.1)		(39.1)		(39.1)		(39.1)
Less advance procurement (PY)		(−35.6)		(−35.6)		(−35.6)		(−35.6)
Net		3.5		3.5		3.5		3.5
Advance procurement (CY)		67.6		67.6		67.6		67.6
Space Shuttle		136.0		136.0		136.0		136.0
Industrial facilities		27.2		27.2		27.2		27.2
Special programs		(1,483.8)		(1,472.7)		1,540.7)		(1,481.2)
Less PY authorization transfer		(0)		(0)		(0)		(−154.0)
Net		1,483.8		1,472.7		1,540.7		1,372.2

MISSILES, AIR FORCE—Continued

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Special programs		(1,183.8)		(1,172.7)		(1,140.7)		(1,140.7)
Special update programs		(258.4)		(258.4)		(358.4)		(298.9)
Total, other support		(2,808.3)		(2,797.3)		(2,840.3)		(2,641.7)
Total, missiles, Air Force		6,827.9		6,333.3		5,269.8		6,038.7

MISSILE PROCUREMENT

The President's budget contained $6,827.9 million for missile procurement, Air Force.

The Senate bill contained an authorization of $5,269.8 million. The House amendment contained an authorization of $6,333.3 million.

The conferees agreed to an authorization of $6.038.7 million for the procurement of missiles for the Air Force. In addition to authorization for fiscal year 1983 the conferees agreed to authorize the transfer of $154 million authorized and appropriated in fiscal year 1982, but not used, for the procurement of missiles for the Air Force.

Advanced intercontinental ballistic missile (M-X)

The budget request contained $1,446.4 million to procure 9 M-X missiles in fiscal year 1983 and $50.7 million for initial spares. The amount requested for procurement would include the costs of establishing a production base for the M-X missile, missile support equipment, and the procurement of items related to basing and deployment of the M-X missile system.

The Senate bill provided no authorization for M-X missile procurement in fiscal year 1983.

The House amendment would provide $1,141.9 million for the procurement of 9 M-X missiles, including production start-up costs. The House amendment would delete $282.2 million requested for interim M-X basing and $50.7 million requested for spares. The House amendment would have provided a limited authorization for missile support equipment and for basing and deployment work that would be necessary regardless of the basing mode finally selected for the M-X missile. The House amendment would provide $882 million for missile procurement and $259.9 million for procurement related to basing and deployment. The House amendment also would provide that the $259.9 million that would be authorized for basing and deployment cannot be obligated until the President completes his review of alternative M-X missile basing modes and notifies the Congress in writing of the basing mode in which the M-X missile will be deployed and 30 days of session of Congress have expired after the receipt by Congress of such notice.

The conferees agreed that the M-X missile program should be started with initial procurement authorized for fiscal year 1983 in order to permit the initial operational capability of this system in 1986. The conferees recommend the authorization of $988.0 million for the M-X missile procurement in fiscal year 1983. Of this amount, $830.0 million is for the procurement of 5 missiles and the costs of establishing a production base. The remaining $158.0 million is authorized for missile support equipment and for procurement related to basing and deployment of the missile. The conferees approved language restricting the obligation of the $158.0 million recommended for procurement related to basing and deployment until after the President notifies the Congress that a basing mode has been selected and 30 legislative days have expired after the receipt by Congress of such notice.

The conferees fully endorse the Administration's commitment to the maintenance of a balanced, credible strategic Triad consisting of modern and survivable land-, sea- and air-based legs. The conference committee action on M-X procurement and research and development funding is intended to be consistent with that commitment and with the President's expressed intent to provide to the Congress his plan for permanent basing of the M-X by December 1, 1982.

The conferees have not prejudged the outcome of the President's decision. The conference committee expects that, at the time that decision is provided to the Congress, it should be accompanied by a statement outlining not only the near-term permanent basing system selected, but also any ancillary and complementary systems envisioned to support the initial deployment mode. Depending upon the system selected, such additional adjuncts as ballistic missile defense, deceptive basing, deep underground basing, multiple missile arrays, or south-sope basing, may be appropriate. The requested statement should indicate the Administration's plans for developing such options as are deemed desirable, the anticipated costs and the key decision points involved in developing and deploying such systems.

The conference committee strongly endorses the Administration's efforts to reduce the danger of nuclear war through negotiated strategic and theater nuclear arms reductions.

The conferees believe that the development and procurement of the M-X is consistent with and supportive of the aims advocated by the Administration for increased strategic stability at lower levels of nuclear forces.

The Senate recedes with an amendment.

AGM-65D missile (Maverick)

The budget request contained $342.6 million for procurement of 2560 Maverick missiles. The Senate bill authorized $244.9 million for procurement of 1355 missiles. The House amendment authorized $270.6 million for procurement of 1335 missiles.

The conferees agreed to an authorization of $244.9 million for procurement of 1355 missiles.

AGM-88A missile (HARM)

The budget request contained $159.8 million for procurement of 206 HARM missiles. The Senate bill authorized $90.8 million for procurement of an undetermined number of missiles. The House amendment authorized the amount requested.

The conferees agreed to an authorization of $159.8 million for procurement of 206 missiles.

Rapier missile

The budget request contained $98.9 million for procurement of Rapier missiles for defense of U.S. air bases in the United Kingdom. The Senate bill authorized the amount requested. The House amendment authorized $148.9 million and directed the Air Force to explore cooperative arrangements to extend the Rapier role model (U.S. procurement, European manning) to include U.S. airbases in continental Europe.

The conferees agreed to authorize $148.9 million for procurement of Rapier missiles, of which $50.0 million is to be used for procurement of missiles for defense of U.S. airbases in continental Europe.

Modification of missiles, Air Force

The request contained $160 million for the modification of Air Force missiles. The Senate bill provided $233.8 million for this purpose. The House amendment provided $53.7 million for missile modifications. The House amendment would carry forward $5 million appropriated for the Minuteman III program in fiscal year 1982.

The conferees recommend the authorization of $94.2 million for missile modifications. This recommendation does not include the transfer of $5 million of fiscal year 1982 appropriations as proposed by the House amendment.

Specific items are set forth below.

Class IV missile modifications (Titan II). The request contained $62.4 million for all fiscal year 1983 Class IV modifications to Air Force missiles. The Senate bill would authorize an increase of $73.8 million. The $73.8 million additional authorization provided in the Senate bill was for the purpose of modifying Titan II intercontinental ballistic missiles so that these missiles could be retained in an alert status rather than being phased out of the inventory as planned by the Administration.

The House amendment would authorize the $62.4 million requested for Class IV missile modifications and would be in concurrence with the planned retirement of the remaining 52 Titan missiles during the next three years.

The conferees considered the age, design, and effectiveness of the remaining Titan missiles as a strategic deterrent. The conferees also considered the fact that Titan missiles represent a considerable percentage of the destructive power of the United States' strategic deterrent forces. The conferees recommend the authorization of $62.4 million for Class IV missile modifications in fiscal year 1983. The $73.8 million additional authorization contained in the Senate bill is deleted without prejudice. If the President should decide during fiscal year 1983 that conditions require additional Class IV modifications to Titan missiles, the authorizing committees will entertain reprogramming requests for that purpose.

The Senate recedes.

Class V missile modifications (Minuteman III). The request contained $35.5 million for the procurement of lithium batteries as a source of emergency power for Minuteman III missile silos—a Class V missile modification. The Senate bill would authorize the amount requested. The House amendment contained no authorization for this program. The conferees recommend authorization of $35.5 million for the Minuteman III Class V modification program.

The House recedes.

Class IV missile modifications (Minuteman II). Within the $160 million requested for the modification of missiles, $15 million was requested for Minuteman II modifications related to the deployment of additional missiles. The Senate bill included this amount. The House amendment included no authorzation for this purpose. The conferees recommend a reduction of $15 million from the Minuteman Class IV modification request with appropriate offsets to be provided from the relevant operations and maintenance account.

The Senate recedes.

Air Launched Cruise Missile modifications (HAVE RUST). The request contained $50.8 million for the HAVE RUST modification to air launched cruise missiles. The Senate bill would authorize the amount requested. The House amendment provided no authorization for this purpose. Based on a decision by the Air Force not to proceed with procurement of this program in fiscal year 1983, the conferees recommend that no authorization be provided for fiscal year 1983.

The Senate recedes.

Defense Satellite Communications System (DSCS)

The request contained $192.9 million for procurement of Defense Satellite Communications System (DSCS) satellites for fiscal year 1983. The Senate bill would authorze $167.9 million for that purpose. The House amendment would authorize the amount requested. The conferees recommend the authorization of $182.9 million of DSCS satellite procurement without prejudice.

The Senate recedes with an amendment.

Special programs

The request contained $1,183.8 million for Air Force special programs for fiscal year 1983. The Senate bill contained $1,140.7 million for that purpose. The House amendments would authorize $1,172.7 million for special programs. The conferees recommend the authorization of $1,140.7 million for special programs. This action will be reflected in a classified annex to the statement of the managers.

The House recedes.

Special update programs

The request contained $258.4 million for Air Force missile special update programs. The Senate bill would authorize $358.4 million for that purpose. The House amendment would authorize the amount requested. The conferees recommend the authorization of $298.9 million for special update programs. Details of this action will be included in a classified annex to the statement of the managers. The Senate recedes with an amendment.

OTHER PROCUREMENT, AIR FORCE

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Munitions and associated equipment		854.2		803.9		841.4		846.4
CBU 90		(54.4)		(0)		(54.4)		(54.1)
9mm handgun		(3.9)		(0)		(0)		(0)
FMU-112/FMU 139 fuzes		(8.3)		(16.3)		(5.0)		(10.3)
BDU-33 practice bomb		(29.4)		(29.4)		(24.4)		(24.4)
9mm ammunition		(0.6)		(0.6)		(0)		(0)
Vehicular equipment		350.4		350.4		350.4		350.4
Electronics and telecommunication equipment		1427.3		1377.8		1425.8		1355.1
Seek talk		(10.5)		(0)		(10.5)		(0)
PY authorization transfer		(0)		(−12.1)		(0)		(−12.1)
Tri Tac		(12.8)		(9.8)		(12.8)		(12.8)
Air National Guard		(0)		(36.7)		(0)		(0)
Distant early warning		(31.2)		(0)		(31.2)		(0)
Tactical signal intelligence support		(20.5)		(18.5)		(20.5)		(18.5)
Transport ground intercept facility		(27.4)		(0)		(27.4)		(11.0)
Classified programs		(2.9)		(2.9)		(1.4)		(2.9)
Other base maintenance and support equipment		3213.3		3124.6		3104.0		3104.8
Production activity		(3.8)		(2.3)		(3.8)		(2.3)
Photo processing/interpretation systems		(11.1)		(6.5)		(11.1)		(9.9)
Selected activities		(2532.5)		(2449.9)		(2423.2)		(2426.7)
Total, other procurement, Air Force		5845.2		5656.7		5721.6		5656.7

CBU-90 (ACM)

The budget request contained $54.4 million for the procurement of 2,000 CUB-90 bombs. The Senate bill authorized the amount requested. The House amendment deleted all funds for the CBU-90 bomb.

The conferees recommend the authorization of $54.1 million for long-lead components to support the procurement of cluster munitions.

FMU-12/FMU-139 fuzes

The budget request contained $8.3 million for the procurement of 10,000 FMU-12 or FMU-139 fuzes. The Senate bill authorized $5 million for the procurement of FMU-12/FMU-139 fuzes.

The House report notes that the FMU-12 fuze which was developed by the Air Force, recently entered low-rate production after an expensive development period. The report further states that the FMU-139 fuze is being developed by the Navy, and it may be at least two years before the FMU-139 is ready for production. The report notes that the Air Force has indicated a requirement for additional fuzes to meet operational commitments. The House amendment, therefore, authorized $16.3 million for the procurement of 20,000 FMU-12 or FMU-139 fuzes.

The conferees recommend authorization of $10.3 million for the procurement of FMU-12 or FMU-139 fuzes.

BDU-33 practice bomb

The budget request contained $29.4 million for the procurement of 568,480 BDU-33 practice bombs. The House amendment authorized the amount requested. The Senate bill authorized $24.4 million for the procurement of 568,480 DU-33 practice bombs.

The House recedes.

9 millimeter handgun ammunition

The budget request contained $0.6 million for 9 millimeter handgun ammunition. The House amendment authorized the amount requested. The Senate bill contained no funds for 9 millimeter handgun ammunition.

The House recedes.

SEEK TALK

The budget request contained $10.5 million for the procurement of SEEK TALK equipment. The Senate bill authorized the amount requested. The House amendment authorized the transfer forward from prior years SEEK TALK authorizations of $12.1 million as an offset to the Other Procurement Electronics and Telecommunications request for fiscal year 1983.

The conferees recommend an offset of $12.1 million to the electronics and telecommunications equipment, fiscal year 1983 authorization request.

TRI-TAC (AN/UXC-4) digital facsimile

The budget request contained $12.8 million for the procurement of TRI-TAC equipment. The Senate bill authorized the amount requested. The House amendment authorized $9.8 million for TRI-TAC equipment.

The House recedes.

Air National Guard

The House amendment authorized $36.7 million, specifically for electronics and telecommunications equipment for the Air National Guard. The budget request did not specifically contain funds for electronic and telecommunications equipment for the Air National Guard, and the Senate bill did not authorize specific amounts for electronic and telecommunications equipment for the Air National Guard. The Senate bill, however, did contain $30 million for the procurement of a variety of Air National Guard equipment.

The House recedes.

Distant early warning (DEW) radar

The request contained $31.2 million to begin the procurement of radars to replace existing equipment used on the distant Early Warning (DEW) line. The Senate bill would authorize the amount requested. The House amendment would provide no authorization for this purpose. The conferees recommend that no authorization be provided for Distant Early Warning radar procurement in fiscal year 1983.

The Senate recedes.

Tactical signal intelligence support

The request contained $20.5 million for Tactical Signal Intelligence Support procurement. The Senate bill would authorize the amount requested. The House amendment would authorize $18.5 million for that purpose. The conferees recommend the authorization of $18.5 million for Tactical Signal Intelligence Support.

The Senate recedes.

transport ground intercept facility

The request contained $27.4 million for procurement related to a Transport Ground Intercept Facility. The Senate bill would authorize the amount requested. The House amendment contained no authorization for this purpose. The conferees recommend the authorization of $11 million for Transport Ground Intercept Facility procurement.

The House recedes with an amendment.

Electronic and telecommunications equipment, classified programs

The Air Force Electronic and Telecommunications Equipment request contained $2.9 million for classified programs. The Senate bill would authorize $1.4 million for that purpose. The House amendment would authorize $2.9 million for classified programs. The conferees recommend the authorization of $2.9 million.

The Senate recedes.

Intelligence production activity

The Air Force authorization request for other base maintenance and support equipment included $3.8 million for an intelligence production activity. The Senate bill would authorize the amount requested. The House amendment would authorize $2.3 million for this purpose. The conferees recommend an authorization of $2.3 million.

The Senate recedes.

Photo processing and interpretation system

The request contained $11.1 million for a photo processing and interpretation system. The Senate bill would authorize the amount requested. The House amendment would authorize $6.5 million. The conferees recommend an authorization in the amount of $9.9 million.

The House recedes with an amendment.

Base maintenance and support equipment, selected activities

Within the amount requested for Air Force Base Maintenance and Support Equipment, $2,532.5 million was requested for selected activities. The Senate bill contained $2,423.2 million for that purpose. The House amendment contained $2,449.9 million for selected activities. The conferees recommend the authorization of $2,426.7 million for selected activities in fiscal year 1983.

The House recedes with an amendment.

PROCUREMENT, DEFENSE AGENCIES

[Amounts in millions of dollars]

Item	February fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Procurement, defense agencies		890.3		863.4		859.6		859.6
Classified programs		(671.8)		(644.9)		(641.1)		(641.1)
Total, procurement, Defense Agencies		890.3		863.4		859.6		859.6

Procurement, defense agencies

The Department of Defense request contained $890.3 million for Defense Agencies procurement. The Senate bill would authorize $859.6 million for that purpose. The House amendment would authorize $863.4 million. The conferees recommend an authorization in the amount of $859.6 million for Defense Agencies procurement.

The House recedes.

GUARD AND RESERVES

[Amounts in millions of dollars]

Item	February—Fiscal year 1983 request		H.R. 6030		S. 2248		Conference	
	Quantity	Amount	Quantity	Amount	Quantity	Amount	Quantity	Amount
Army Reserve equipment		0		0		30.0		30.0
Army National Guard equipment		0		0		50.0		50.0
Naval Reserve equipment		0		0		30.0		30.0
Marine Corps Reserve equipment		0		0		30.0		30.0
Air Force Reserve equipment		0		0		30.0		30.0
Air National Guard equipment		0		0		30.0		30.0
Total, Guard and Reserves		0		0		200.0		200.0

National Guard and Reserve equipment

The Senate bill contained a provision for authorization of $200 million for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons and other procurement for the reserve components as follows:

For the Army National Guard, $50,000,000.

For the Air National Guard, $30,000,000.

For the Army Reserve, $30,000,000.

For the Naval Reserve, $30,000,000.

For the Marine Corps Reserve, $30,000,000.

For the Air Force Reserve, $30,000,000.

The House amendment contained no authorization for this purpose.

In addition to funds authorized for the National Guard and Reserve elsewhere in this bill, these funds are authorized for items of equipment contained in the tables of authorized equipment of Guard and Reserve units. The chief of each reserve component will determine the priority for spending these funds and shall report to the Committees on Armed Services of the House and Senate by January 31, 1983 on the items of equipment procured with these funds.

The House recedes.

Authority of the Secretary of Defense in connection with the NATO AWACS program (sec. 106)

The Senate bill contained a provision (sec. 103) that would permanently extend the authority of the Secretary of Defense to waive certain reimbursement and surcharges and to assume certain contingent liabilities under the NATO AWACS Programme Memorandum of Understanding. This authority was provided by the fiscal year 1982 Department of Defense Authorization Act (Section 103(a)).

The House amendment contained a provision (sec. 105) that would provide authority identical to that provided by the Senate bill for fiscal year 1983 only.

The Senate recedes.

Restriction on multiyear procurement (sec. 107)

The Senate bill contained a provision (Sec. 102) that would require the Secretary of the military department concerned to submit written reports to the Armed Services Committees of the House and Senate and the House of Representatives justifying multiyear contracts for: F-111 weapon navigation computers; C-2 aircraft; EA-6B aircraft; A-6E aircraft; MULE laser designators; CH-53E helicopters; MLRS rocket systems, and ALQ-136 radio jammers. Under this provision, thirty days must elapse after receipt of such justification reports before the military department concerned may

enter into a multiyear contract for procurement of the equipment listed in Sec. 102.

The House amendment contained no similar amendment.

The House recedes.

Enhancement of North American Air Defense Command low-level radar capabilities in Florida (sec. 108)

The House amendment contained a provision (sec. 109) that would authorize the Air Force to procure one tethered aerostat radar set for deployment at Kennedy Air Force Station, Florida, and to make necessary improvements to this radar set and to the set currently in use at Cudjoe Key, Florida.

The Senate bill contained no similar provision.

The Senate recedes.

Secure communications equipment (sec. 109)

The House amendment contained a provision (sec. 110) that would allow the Department of Defense to act as the Executive Agent for a National Secure Telephone program. This provision authorized the Department of Defense to use up to $50 million for procurement of secure telephones for government-wide use.

The Senate bill contained no similar provision.

The U.S. has established as a national priority a requirement to protect sensitive information passed over government telecommunications systems. The Secretary of Defense has been designated the Executive Agent to carry out the communications security activities of the United States Government and is responsible for developing and providing secure communications equipment.

In order to adequately protect U.S. government telephone communications, a government-wide secure telephone service has been established. A secure telephone device, developed by the Department of Defense, would be the primary protected communications component of this service. This device would provide service through standard telephone networks. A priority effort is being pursued to implement this program, and initial production requirements of approximately 5,000 secure telephone devices and related equipments have been identified. In order to carry out this effort in an efficient and cost effective manner, the Defense Department will fund, without reimbursement from other government agencies, the initial procurement of these and related equipments.

The purpose of section 109 is to provide an authorization of $50 million to the Department of Defense to enable the department to procure secure telephones for government-wide use. This provision provides an exception to Section 628 of Title 31, U.S.C., Economy Act, thereby allowing the Defense Department to provide secure telephone service to other government agencies without reimbursement. This provision does not add to the bill total but simply provides authorization for the Defense Department to execute the program within the total authorization provided in Title I. The Department is required to notify the Armed Services Committees of the Senate and the House of Representatives as to the source of funds that will be used for this purpose in accordance with normal reprogramming procedures. Further, the provision in no way restricts the Defense Department from using funds that might otherwise be included in Title I for secure telephone programs to execute these programs. It is only intended to provide the authorization required to allow the Defense Department to carry out its responsibilities as the Executive Agent for the National Secure Telephone program.

The Senate recedes.

The special classified program will be the subject of separate classified correspondence between the Armed Services Committees and the Secretary of Defense.

Prohibition of acquisition of 9 millimeter handgun (sec. 110)

The House amendment contained a provision (sec. 108) that would provide that none of the funds appropriated pursuant to an authorization of appropriations in the bill could be obligated or expended in connection with the purchase of a 9 millimeter handgun for the armed forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9 millimeter handgun for the armed forces.

The Senate bill contained no similar provision.

The conferees agreed that the provision would not preclude the Department of the Army from functioning as the executive agent for the procurement of 9mm handguns for the Department of Transportation law enforcement function.

The Senate recedes.

Prohibition against procurement of additional A-10 aircraft

The Senate bill contained a provision (sec. 104) prohibiting procurement of A-10 aircraft for the Air Force beyond the funding levels authorized in the fiscal year 1982 Department of Defense Authorization Act.

The House amendment contained no similar provision.

The Senate recedes.

Prohibition against procurement of additional AH-64 helicopters

The Senate bill contained a provision (sec. 105) prohibiting funding for additional AH-64 attack helicopters beyond levels authorized in the Senate bill unless specifically authorized by further legislation.

The House amendments contained no similar provision.

The Senate recedes.

TACAMO aircraft

The Senate bill contained a provision (sec. 106) that would prohibit the obligation or expenditure of funds authorized for procurement of two communications suites for TACAMO EC-130Q aircraft until a report is submitted to the Armed Services Committees of the Senate and House of Representatives concerning the feasibility of procuring more modern communications gear consistent with the planned purchase of replacement aircraft. Three million dollars was provided in Title II of the Senate bill to perform this study. The House amendment had no comparable provisions.

The conferees agreed that it would be desirable to have such a report submitted but decided against restricting the use of funds authorized in connection with the TACAMO procurement. It is expected that a report on TACAMO communications system alternatives and related procurement strategies will be available at the time of Congressional consideration of the fiscal year 1984 budget request.

The Senate recedes.

CBU/90 antiarmor cluster munition

The Senate bill contained a provision (sec. 107) that would require the Secretary of the Air Force to provide written certification to the Armed Services Committees that CBU/90 procurement is essential to the Air Force inventory before funds authorized for fiscal year 1983 could be obligated or expended. The House bill contains no similar provision.

The Senate recedes.

Prohibition of construction of naval vessels in foreign shipyards

The House amendment contained a provision (sec. 106) that would prohibit the use of funds authorized to be appropriated for the procurement of naval vessels to be used for construction or conversion of naval vessels in foreign shipyards.

The Senate bill contained no similar provision.

The House recedes.

Construction or conversion of new hospital ship in United States shipyards

The House amendment contained a provision (sec. 107) that would provide that the hospital ship (T-AHX) for which funds are authorized to be appropriated in title I should be constructed or converted in a United States shipyard. It further would provide that if the ship is converted from an existing ship, it should be converted from a ship originally built in a United States shipyard.

The Senate bill contained no similar provision.

The conferees noted that these restrictions have been incorporated in the Navy program and that the provision is not necessary.

The House recedes.

Prohibition on procurement of binary chemical munitions and related production facilities

The House amendment contained a provision (sec. 111) that would prohibit the obligation and expenditure of funds for procurement of binary chemical munitions. The Senate bill contained no similar provision.

The House recedes. See the discussion in section 1124 of the Statement of Managers for a detailed explanation of the conference action on chemical munitions.

Sense of Congress on chemical warfare negotiations

The House amendment contained a provision (sec. 112) that would express the sense of Congress that the President should seek to actively promote negotiations aimed at banning the production and stockpiling of chemical weapons. The Senate bill contained a similar provision (sec. 1141).

The conferees agreed to drop section 112 of the House amendment and accept the Senate provision. An explanation of the conference action is included in the discussion of section 1124 of the Statement of Managers.

TITLE II—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

GENERAL

The Administration requested a total authorization of $24,260,400,000 for the fiscal year 1983 Research, Development, Test and Evaluation (RDT&E) appropriations. The conferees agreed on a total authorization of $23,047,869,000 for the RDT&E program, a reduction of $1,212,531,000 from the Administration's request. The following tables summarize the conference actions.

RDT&E SUMMARY

[In thousands of dollars]

	Request	Senate	House	Conference
Army	4,484,000	4,161,741	3,651,741	3,926,367
Navy [1]	6,235,316	6,131,698	6,026,208	6,129,115
Air Force	11,220,400	10,760,643	10,409,196	10,720,884
Defense Agencies	2,320,684	2,276,384	2,219,730	2,271,503
Total, RDT&E	24,260,400	23,330,466	22,306,875	23,047,869

[1] Includes $3,016,000 in special foreign currency.

CONFERENCE SUMMARY

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

[Dollar amounts in thousands]

Item No.	Description	Request	Senate—S.2248, as passed May 14, 1982	House—H.R. 6030 (S. 2248) as passed July 29, 1982	Change from Senate	Conference action
	ARMY					
1	Aero technology	24,349	22,349	20,349	−2,000	22,349
2	RPV support technology	1,588	−12	0	+12	0
3	Aircraft avionics technology	8,389	8,389	6,389	−2,000	7,389
4	High energy laser technology	31,327	31,327	35,000	+36,743	45,000
5	Joint services small arms	3,706	3,706	6,506	+2,800	4,700
6	Methanol fueled vehicles	0	1,100	0	−1,100	1,100
7	Aircraft weapons	5,581	5,581	424	−5,157	424
8	Light helicopter advanced technology demonstration	944	944	0	−944	0
9	Terminally guided projectile	6,814	6,814	0	−6,814	6,814
10	High technology test bed	10,711	10,711	0	−10,711	7,300
11	Combat engineering system	2,730	2,730	1,730	−1,000	1,730
12	Advanced development of automatic test systems	11,335	11,335	0	−11,335	7,000
13	Anti-radiation projectile	0	0	5,000	+5,000	0
14	Battlefield data systems	27,868	0	27,868	+27,868	26,000
15	Battlefield data systems	1,891	0	1,891	1,891	2,000
16	High-to-medium air defense development (antitactical missile)	27,172	19,572	0	−19,572	19,572
17	Advanced rocket control system	27,869	12,269	0	−12,269	0
18	UH–60 Blackhawk	6,708	6,708	5,664	−44	5,664
19	Surface-to-air Hawk improvement program	37,971	37,971	52,971	+15,000	42,000
20	Communications system engineering program	1,485	1,485	0	−1,485	0
21	European C³ system	527	527	0	−527	527
22	Special electronic mission aircraft	498	498	0	−498	0
23	Surface-to-surface missile rocket system (MLRS terminally guided warhead)	16,407	16,407	2,000	−14,407	6,400
24	Lightweight air defense system	3,466	3,466	0	−3,466	0
25	Field artillery ammo development	23,951	23,951	39,994	+16,043	26,000
26	Aircraft propulsion system	1,007	1,007	0	−1,007	0
27	Army helicopter improvement program	75,811	75,811	0	−75,811	75,811
28	Joint services rotary wing aircraft development	49,765	49,765	0	−49,765	30,000
29	Aircraft component improvement program	10,996	10,996	5,000	−5,996	8,000
30	Heliborne missile—Hellfire	19,327	19,327	3,000	−16,327	16,300
31	Education and training	995	995	0	−995	500
32	Fighting vehicle system	50,488	50,488	40,000	−10,488	46,000
33	Tactical electronic surveillance system	0	0	−4,000	−4,000	−4,000
34	Tactical electronic surveillance system	0	0	−4,600	−4,600	−1,700
35	TRADOC studies and analyses	3,287	1,487	1,500	+13	1,487
36	Program wide activities	70,101	65,001	65,000	−1	65,000
37	MAINSITE	17,119	7,119	0	−7,119	3,000
38	Defense Systems Management College	202	202	0	−202	0
39	Defense research sciences	199,921	199,921	182,000	−17,921	184,000
40	Medical defense against chemcial agents	26,865	26,865	27,865	+1,000	27,865
41	Tactical ADP technology	7,076	7,076	0	−7,076	7,076
42	High energy laser components	33,116	33,116	0	−33,116	0
43	Nontactical ADP technology	495	495	0	−495	0
44	BMD systems technology	727,311	527,311	259,744	−267,567	377,311
45	Command and control	13,650	10,650	10,600	−50	10,600
46	Command and control	22,133	22,133	10,268	−11,865	20,000
47	Mobile protected gun	37,354	10,354	37,354	+27,000	12,354
48	Aircraft avionics	3,799	3,799	1,229	−2,570	3,799
	Programs not in dispute	2,829,895	2,810,995	2,810,995		2,810,995
	Total, Army R.D.T. & E.	4,484,000	4,161,741	3,651,741	−510,000	3,926,367
	NAVY					
1	Advanced air-launched air-to-surface missile	4,011	11	0	−11	0
2	Aircraft systems (advanced)	3,430	3,430	0	−3,430	3,000
3	Training devices technology	7,399	7,399	5,000	−2,399	6,200
4	AV–8B aircraft	114,071	136,071	114,071	−22,000	136,071
5	AV–8BT	0	15,000	0	−15,000	7,500
6	Tilt Fan	36,284	−16	0	+16	0
7	Tomahawk II	19,900	4,900	39,999	+35,000	26,500
8	Avionics development/VAST	8,960	4,060	1,581	−2,529	4,000
9	Helicopter development	26,500	16,400	10,282	−6,198	15,300
10	HXM	9,522	5,022	0	−5,022	5,000
11	Air-to-air missile systems engineering	23,844	22,844	13,844	−9,000	22,844
12	Cruise missile	18,010	18,010	0	−18,010	0
13	VTXTS	9,654	9,654	0	−9,654	9,654
14	IIR Maverick	4,992	4,992	0	−4,992	3,500
15	AMRAAM	4,714	4,714	3,000	−1,714	4,714
16	Materials technology	33,019	41,019	33,019	−8,000	37,000
17	Defense research sciences	290,061	288,961	289,000	+49	289,000
18	Navy strategic communications	69,314	72,314	27,756	−44,558	65,000
19	SSBN subsystems technology	4,869	−2	0	+2	0
20	Trident I (MK-500)	90,565	64,065	90,565	+25,508	74,000
*21	Tactical electro-support	4,095	4,095	0	−4,095	0
22	Ships, submarine and boats technology	44,156	34,956	25,000	−9,965	30,000
23	Man-machine technology	1,365	531	0	−531	0
24	Medical development (advanced)	8,858	8,384	8,858	+474	8,384
25	Navy technical information presentation system	1,452	1,258	1,452	+200	1,253
26	Ship propulsion system (advanced)	20,457	20,457	28,487	+8,000	25,000
27	Naval special warfare	6,037	6,037	11,037	+5,000	8,287
28	Marine Corps assualt vehicles	15,810	1,000	15,810	+14,810	2,000

29	Air ASW	13,994	17,994	13,994	−4,000	17,994
30	New ship design	4,911	4,411	4,911	+500	4,411
31	Ship concept formulation	18,810	15,810	18,810	+3,000	15,810
32	Ship systems engineering standards (SSES)	1,749	14,749	18,000	+3,251	15,000
*33	Surface ASW	4,408	8	0	−8	0
34	Combat systems architecture	2,786	−14	0	+14	0
*35	S–3 weapons system improvement program	78,344	68,044	68,000	−44	63,000
36	SH–68 CV variant	9,888	−32	0	+32	0
37	Pentagon combat systems development	1,623	23	0	−23	0
38	Estimated modular signal processes	14,497	13,087	0	−13,097	13,097
39	Combat information center conversion	27,014	18,414	18,454	+40	18,414
40	Electro-optics senser devices	10,422	5,022	0	−5,022	0
41	Air warfare training development	20,090	18,089	0	−18,089	17,000
42	Combat systems integration	17,133	17,133	0	−17,133	8,000
43	LINE HAZEL	42,760	42,760	0	−42,760	1,000
44	ASW surveillance	1,284	1,284	0	−1,284	1,000
45	Advanced signal processor	3,525	3,525	0	−3,525	1,000
46	MK–92 fire control systems	9,628	9,628	24,628	+15,000	24,628
47	Vertical launch systems	33,878	33,378	61,498	+27,615	38,000
48	Submarine engineering	1,950	1,950	0	−1,950	1,000
49	AN/SQS–52C sonar	35,960	35,960	45,980	+10,000	45,980
50	Joint A/N SAL GP (eng.)	986	986	117,986	+117,000	61,000
51	Submarine warfare training devices	3,226	3,226	0	−3,226	0
52	Amphibious assault craft	10,437	10,437	14,437	+4,000	13,437
53	Studies and anaylses support, Navy	7,880	5,980	5,000	−980	5,000
54	Target systems development	43,901	43,901	20,000	−23,901	43,901
55	Firebrand	0	0	23,000	+23,000	0
56	R.D.T. & E. instrumentation and material support	31,707	31,707	41,707	+10,000	37,000
57	Studies and analyses support, Marine Corps	2,148	2,148	1,000	−1,148	2,000
58	Long-range planning support	1,281	1,281	0	−1,281	1,000
59	Civilian education program	1,157	1,157	0	−1,157	0
60	General reduction	0	0	−117,000	−117,000	−40,000
61	Special activities	120,380	120,380	134,033	+13,653	134,038
62	Anti-radiation seeker technology	0	0	0	0	4,000
	Programs not in dispute	4,776,198	4,798,198	4,798,198	0	4,798,198
	Total Navy R.D.T.&E.	6,235,316	6,131,698	6,026,206	−105,490	6,129,115

AIR FORCE

1	Aerospace propulsion	58,645	58,645	53,000	−5,645	53,000
2	Advanced airborne radar	3,475	3,475	0	−3,475	0
3	Crews systems technology	4,055	4,055	0	−4,055	4,055
4	Cartographic application	890	890	0	−890	0
5	Advanced missile propulsion	894	894	0	−894	0
6	Hypervelocity missile	992	992	10,992	+10,000	3,500
7	Electro-optical warfare	15,927	15,927	12,000	−3,927	14,000
8	Night precision attack	103,758	88,758	110,758	+22,000	100,000
9	Advanced communications system (SEEK TALK)	78,210	70,210	889	−69,321	10,888
10	F–15 squadrons	125,318	113,018	99,018	−14,000	113,018
11	F–16 squadrons	86,142	76,142	42,000	−34,142	76,142
12	Medium range air to surface missile	42,682	−18	42,682	+42,700	42,682
13	Advanced tactical fighter technologies	27,338	27,338	0	−27,338	23,000
14	Electric warfare technology	18,724	18,724	12,000	−6,724	15,350
15	Early warning counter response	27,335	27,335	2,735	−24,600	22,000
16	Conventional standoff weapon	38,858	38,858	0	−38,858	32,500
17	Wide area antiarmor munition	8,503	8,503	28,503	+20,000	18,503
18	Low-level laser-guided bomb	3,016	3,016	1,000	−2,016	3,016
19	Combat identification system	20,552	20,552	16,000	−4,552	19,000
20	Protective systems	110,234	110,234	95,534	−14,700	110,234
21	Intelligence equipment	18,469	18,469	12,869	−5,600	16,469
22	A–10 squadrons	6,488	6,488	5,000	−1,488	5,000
*23	Tactical airborne command and control system	78,852	78,852	63,000	−15,852	71,000
24	Traffic control and landing system	5,060	5,060	4,360	−700	4,360
25	Concept development	984	984	0	−984	0
26	Acquisition and command support	269,229	269,229	265,000	−4,229	267,000
27	Advance systems engineering/planning	5,443	5,443	2,000	−3,443	3,500
28	Defense research sciences	165,858	165,858	160,000	−5,858	160,000
*29	Personnel utilization technology	7,194	7,194	5,600	−1,594	6,500
30	Space system environmental interactions technology	1,583	1,583	0	−1,583	1,000
31	VHSIC	66,004	66,004	80,004	+14,000	66,004
32	Space laser program	40,561	40,561	0	−40,561	0
33	Advanced computer technology	4,957	4,957	3,457	−1,500	3,457
34	MX	2,759,332	2,277,332	2,609,332	+332,000	2,509,332
35	Military strategic tactical relay system	79,784	129,784	79,784	−50,000	117,784
36	Advanced strategic missile system	49,737	49,737	70,000	+20,263	60,000
37	Space surveillance technology	40,285	40,285	20,285	−20,000	20,285
38	Tanker, transport, bomber training systems	560	560	0	−560	0
39	B–52 squads	121,767	121,767	60,000	−61,767	90,000
40	DEW radar stations	7,995	7,995	0	−7,995	0
41	Aircraft avionics equipment development	21,237	21,237	17,137	−4,100	17,137
42	Computer resources management technology	4,993	4,993	4,697	−296	4,697
43	Chemical/biological defense equipment	16,339	16,339	26,339	+10,000	20,000
44	Advanced military spaceflight capability	2,670	2,670	0	−2,670	0
45	Project Air Force	16,231	16,231	10,000	−6,231	16,231
46	Operational support airlift	2,557	0	2,557	+2,557	2,557
47	Postattack reconnaissance	9,919	9,919	1,000	−8,919	0
48	SR–71 squads	0	0	−3,200	−3,200	−3,200
49	Special activities	1,128,400	1,191,200	870,500	−320,700	1,131,200
50	Consolodated cruise missile program					−42,682
	Programs not in dispute	5,512,364	5,512,364	5,512,364		5,512,364
	Total, Air Force R.D.T. & E.	11,220,400	10,760,643	10,409,196	−351,447	10,720,884

DEFENSE AGENCIES

1	Defense research sciences	112,100	112,100	101,000	−11,100	101,000
2	Technology studies	3,300	3,300	0	−3,300	1,000
3	High energy laser technology	44,700	44,700	0	−44,700	44,700
4	Short wavelength laser technology	0	0	50,000	+50,000	20,000
5	Particle beam technology	31,000	31,000	33,000	+2,000	33,000
6	ALPHA	21,800	21,800	0	−21,800	21,800
7	LODE	14,200	14,200	0	−14,200	14,200
8	Defense Nuclear Agency	326,600	315,000	326,600	+11,100	315,500
9	CINC C² initiatives	700	700	0	−700	700
10	Long haul communications (DCS)	18,935	18,935	16,181	−2,754	18,935
11	Defense technical information	17,560	17,560	16,000	−1,560	16,000
12	Information Analysis Centers	5,140	5,140	4,000	−1,140	4,000
13	Technical support to USDR&E	16,649	16,649	12,000	−4,649	12,000
14	General support PA&E	3,712	3,712	2,000	−1,712	2,000
15	General support policy/ISA	4,419	4,419	2,000	−2,419	4,419

16	General support net assessment	4,006	4,006	2,000	−2,006	3,500
17	General support MRA&L	3,014	3,014	2,000	−1,014	2,000
18	Technology transfer control	0	0	2,000	+2,000	2,000
19	OSD/JCS studies/analysis	0	−7,000		+7,000	
20	Director, test and evaluation	60,000	54,000	57,000	+3,000	55,000
21	Crypto activities		−19,900	−6,200	+13,700	−13,400
22	GDIP		−300		+300	
23	Defense reconnaissance support program			−32,700	−32,700	−19,700
	Programs not in dispute	1,632,849	1,632,849	1,632,849		1,632,849
	Total Defense Agencies R.D.T. & E	2,320,684	2,276,384	2,219,730	−56,654	2,271,503

* Were reduced without prejudice.

ADVANCED COMMUNICATIONS SYSTEMS

The Administration requested $78.21 million for the Air Force Advanced Communications Systems program of which $77.321 million was for the SEEK TALK secure, jam-resistant UHF voice communication system program.

The Senate bill reduced the SEEK TALK request by $8 million, and the report expressed concern about the lack of a joint service secure, anti-jam airborne communications architecture within the Department of Defense. The Senate report directed the Secretary of Defense to perform an analysis of the projected jamming threat for the mid to late 1980s to determine the future requirements of each of the services for anti-jam voice communications and to propose a system architecture that would provide U.S. forces with the necessary capability. The Senate report further requested the Defense Department to evaluate modifications to the HAVE QUICK system and the potential of modifying the Joint Tactical Information Distribution System (JTIDS) to expand its voice capability before committing to a $3.6 billion Air Force only SEEK TALK system. The Senate report requested that this architecture study be completed and submitted to the Armed Services Committees of the Senate and House of Representatives by December 1, 1982.

The House amendment deleted the entire SEEK TALK request of $77.321 million and proposed that the program be terminated. The House concerns about the SEEK TALK program were similar to those expressed by the Senate. The House viewed SEEK TALK as an expensive, "Air-Force only" program that lacked commitment from the other services and NATO. The House recommended that the SEEK TALK program be terminated, that the HAVE QUICK system be used as the near term U.S. voice communications standard and that JTIDS be developed as the next generation standard for secure, interoperable, jam-resistant communications.

Subsequent to the House and Senate Armed Services Committees reporting their bills to their respective Houses, the Air Force redirected the SEEK TALK program. Several alternative approaches to meeting the Air Force secure, anti-jam airborne communications requirements are currently under consideration including a modified version of the original SEEK TALK approach. The Air Force informed the conferees that a major Air Force jam resistant tactical communications architecture review would be completed in the December 1982/January 1983 time frame.

The conferees believe that the original SEEK TALK program, as described in the President's fiscal year 1983 budget submission, should be terminated and, accordingly, deny the $77.321 million requested for the SEEK TALK program. The conferees, however, do not desire to pre-judge the results of the Air Force architectural study. The conferees understand that $15 million in fiscal year 1982 SEEK TALK funds will not be obligated for SEEK TALK because of the restructuring of the program. The conferees agreed that these funds could be carried forward into fiscal year 1983 and could be used to support the Air Force architectural study effort. In addition, the conferees agreed that a fiscal year 1983 authorization of $10 million should also be provided to support this effort. The conferees direct, however, that this study be expanded to include the analysis, requested by the Senate on page 99 of Senate Report No. 97-330. The conferees agreed that the December 1, 1982, deadline for Congressional receipt of this study should be extended to February 15, 1983. The conferees further agreed that should additional fiscal year 1983 funding be required for the Advanced Communications Systems program, the Air Force may submit a reprogramming request after the anti-jam architectural study has been completed.

The Senate recedes with an amendment.

ADVANCED MINE

The Administration requested $5.555 million for the Navy Advanced Mine system program.

The Senate bill provided the full request. The House amendment supported the Administration's request, however, added a provision requiring that the authorization was only for the Intermediate Water Depth Mine program.

The conferees, in recognition of the deficiencies of the Navy's Captor mine, agreed that an entirely new advanced mine-not a derivative of the Captor mine is required in view of the enemy threat.

The conferees agreed to an authorization of $5.555 million intending that a full competition be conducted for the development of an advanced mine.

Section 202 would require that the authorization be used only for this purpose.

ADVANCED SIGNAL PROCESSOR

The Administration requested authorization of $3.252 million to continue the development of the Navy Advanced Signal Processor (ASP) program.

The Senate bill provided the full authorization; the House amendment deleted the entire request.

The conferees agreed to authorize $1 million for the ASP program, with the understanding that these funds will be used to complete this program during fiscal year 1983.

The House recedes with an amendment.

AIR ASW (ARAPAHO)

The Administration requested $13.994 million for the Navy Air-Anti-Submarine Warfare (Air ASW) program which includes the ARAPAHO project to examine containerized helicopter ASW support for merchant ships.

The Senate bill recommended an additional $4 million of authorization to continue the development of the ARAPAHO project. The House amendment provided authorization as requested.

The conferees agreed to authorize $17.994 million for the Air ASW program; however, the conferees also agreed that the examination of containerized ASW support for merchant ships should be expanded to include a study of the potential applications of containerized concepts for other forms of naval warfare and weapons. Initial emphasis should be placed on those methods employed by the United Kingdom during the Falkland Islands conflict.

The conferees agreed that an initial report should be presented to the Committees on Armed Services of the Senate and the House of Representatives no later than March 15, 1983.

The House recedes.

ANTI-RADIATION PROJECTILE (ARP)

The Administration requested no funds for the joint Army/Navy Anti-Radiation Projectile program.

The Senate bill provided no authorization for this program; the House amendment provided $5 million in additional authorization to the Army program for this purpose.

The conferees agreed that the Anti-Radiation Projectile technology that has been developed in a Navy laboratory offers great promise for a low-cost effective guidance system.

The conferees agreed to an authorization of $4 million in the Navy Research, Development, Test and Evaluation account.

The Senate recedes with an amendment.

BALLISTIC MISSILE DEFENSE (BMD)

The Administration requested $727.3 million for research and development on ballistic missile defense systems technology. The House amendment reduced the request to $259.7 million. This reduction was made in view of tight budgetary constraints and out of concern about the prudence of accelerating development of the Low Altitude Defense System (LoADS) for defense of the MX missile when such uncertainty about the basing mode of the MX persisted. The House also expressed reservations about the degree of cooperation and coordination between the Army and the Air Force in planning and developing basing modes and defensive systems to protect them.

The Senate, prompted by similar concerns, reduced the requested funding by a lesser amount to $527.3 million. Of this amount, not more than $100 million was to be available for a low exoatmospheric/high endoatmospheric system intended to complement LoADS if such a capability was determined to be of utility in defending the MX basing mode selected by the President by December 1, 1982.

The conferees agreed that ballistic missile defense could have an important role to play in providing a measure of increased survivability for the MX missile force. They also agreed, however, that until a resolution of the MX basing issue has been achieved, it would be ill-advised to embark upon an aggressive LoADs development program.

Consequently, the conferees agreed to drop the restrictive BMD language included by both the House (sec. 202) and Senate (sec. 204) in their respective bills and provid-

ed a total of $377.1 million for BMD systems technology with the understanding that this amount is to be expended in such a way as to achieve an optimal defensive capability for whichever MX basing mode is selected. To this end, the conferees request that, at the time the President's decision on such basing is submitted to the Congress, a report be provided detailing the role envisioned for BMD in the selected basing system, the technologies to be utilized, and the plan for developing and deploying the appropriate systems and their phasing with MX deployment.

The conferees expect the Army and the Air Force to participate fully and cooperatively in the analysis supporting the preparation of the requested report. The goal is a program that realizes the maximum possible synergistic effect from an MX/BMD deployment while eliminating redundant efforts and minimizing independent activities by one service which are at cross-purpose with the work being undertaken by the other service.

B-52 squardrons

The budget request contained $121.767 million for B-52 Squadrons. The Senate bill provided full authorization; the House amendment provided $60.0 million. The conferees recommended authorization of $90.0 million with the desire that priority be given to the B-52 radar and autopilot upgrade. The conferees also desire that testing for Electro Magnetic Pulse (EMP) hardness of the B-52 be cancelled.

C-17 CARGO TRANSPORT AIRCRAFT

The Administration did not request authorization for fiscal year 1983 for research and development of the Air Force C-17 cargo transport aircraft.

The Senate bill did not provide authorization for the C-17 program; the House amendment provided an authorization for research, development, test and evaluation of the C-17 aircraft.

The conferees approve $1 million in R&D for the C-17 type technology effort. There is a long-term requirement for replacement of the C-141 fleet and the Department of Defense desires to continue work on new technology related to future airlifters. The conferees expect an orderly and steady C-17 type aircraft technology program. With the funding from previous years already obligated, and with the $1 million in fiscal year 1983, this should contribute to development work which will point toward a full-scale development decision of a C-17 type technology airlifter in the latter half of this decade. This technology development would benefit any future airlifter. The conferees would be willing to consider reprogramming requests to achieve that purpose.

Section 201 would require that the authorization of $1 million be used only for the C-17 type aircraft.

The Senate recedes with an amendment.

CONVENTIONAL STANDOFF WEAPON

The Administration requested $38.858 million for the Air Force Conventional Standoff Weapon system.

The Senate bill provided the full authorization requested; the House amendment denied all funds for this program.

The conferees were advised that the Office of the Under Secretary of Defense for Research and Engineering has restructured the conventional standoff weapon program into a joint Army/Air Force project to incorporate the technology of the Army Corps Support Weapon System Development project. The conferees support this restructured program, and accordingly agreed to an authorization of $32.5 million with the understanding that this effort will provide a single common missile that is fully compatible with Air Force tactical aircraft and Army ground launcher systems. The authorization is intended for this purpose and additionally for development and integration of a weapon for the Precision Location Strike System (PLSS) aircraft and for a classified program.

The House recedes with an amendment.

DEFENSE RESEARCH SCIENCES

The Administration requested $768.0 million for basic research performed within the Defense Research Sciences lines of each service and the Defense Advanced Research Projects Agency (DARPA). The following sums were requested: for the Army, $199.9 million; for the Navy, $290.1 million; for the Air Force, $165.9 million; for DARPA, $112.1 million.

These amounts represented significant increases over the preceding fiscal years' allocations, reflecting an increased awareness on the part of the Administration of the important role basic research must play in understanding and exploiting promising technologies and anticipating breakthroughs on the part of potential adversaries. In particular, as both committees noted in their respective reports, new and welcome emphasis was being placed upon encouraging the involvement of the academic community in such research.

Due to budgetary constraints, the conferees felt obliged to reduce the extent of the growth planned for these accounts. Consequently, the following sums were authorized: for the Army, $184 million; for the Navy, $289 million; for the Air Force $160 million; and for DARPA, $101 million. The conference committee intended in no way to discourage the Department of Defense's efforts to work more closely with U.S. academic institutions and urges that, to the maximum degree feasible, the reductions imposed upon these accounts not be made at the expense of such increased cooperation.

Furthermore, the conferees ask that $2 million of these funds authorized for the Army's Defense Research Sciences program be made available for the purpose of assessing the requirements of the Defense Department and the intelligence community for a national research resource base which promotes the study and understanding of foreign languages and nations, in particular, the Soviet Union, and which supports the unique requirements of the Army and other military intelligence users for high quality, informed research on matters of special interest which require such understanding. The conferees request that a report containing the findings of this assessment be forwarded to the Senate and House Armed Services committees, no later than March 1, 1983.

DEPARTMENT OF DEFENSE COMPUTER TECHNOLOGY

The conferees recognize that the proliferation of computers used in weapon systems—referred to as embedded computers—has caused a serious logistics support problem within the Department of Defense. The Army has over 60 different computers in its battlefield weapon and command and control systems. During the past two decades, the Department of Defense has devoted substantial time, effort and money in attempting to standardize computers. Although the Department's efforts should be acknowledged, unsatisfactory progress has been made to date and the Department of Defense's computer technology has not kept pace with the advances made by the commercial sector in semiconductors and computers.

At present, the Department of Defense proposes a two-fold plan to achieve computer standardization. The first element is to standardize on a common computer system language called Ada. The conferees fully support Ada and agree that it would contribute significantly to reducing the Department of Defense annual software (computer program) generation and maintenance costs. The second element of the department's plan is the implementation of Instruction 5000.5X—a directive that defines the computer Instruction Set Architecture (ISA) levels with, unless special exemptions are provided, are to be used by elements of the Department of Defense to achieve increased service-wide inter-service computer hardware and software standardization.

The conferees are concerned that standardization at the ISA level may adversely affect the options available to the department for achieving maximum effectiveness in new weapon systems. The House conferees emphasized that at least one major U.S. semiconductor company has developed a powerful computer consisting of just a few large-scale integrated circuit chips optimized to execute the Ada software language that provides multiprocessing capability offering up to one trillion locations of virtual memory.

Because of those concerns, the conferees agree that the Department of Defense should not promulgate or implement Instruction 5000.5X pending the completion and submission to the Committees on Armed Services of the Senate and House of Representatives of a study that addresses the following issues:

(a) A full assessment of the applicability of commercial computer technology including, but not limited to computer hardware, semiconductors and associated ISA's to Defense Department missions.

(b) The desirability of standardization at ISA level in light of alternative approaches, including those taking advantage of the technology mentioned in paragraph (a).

(c) The degree of software transportability (transferring computer programs from one computer to another) that the various approaches permit and how each approach would affect Department of Defense hardware/software logistics support requirements and the cost of computer system ownership.

(d) An assessment of the relative merits and liabilities involved in the incorporation of each approach into Department of Defense weapon systems.

(e) A justification for all on-going service computer development projects including but not limited to the Army's Military Computer Family all other Army computers, the Navy's AN/AYK-43/44, the AN/UYK-7, the AN/UYK-20 and all Air Force computers including the family of military-standard 1750 ISA computers.

(f) A plan to reduce the proliferation of these computers.

The conferees believe that this report would provide a necessary blueprint for Executive branch management and Congressional oversight of the Department of Defense's efforts to streamline its computer logistics situation while laying the ground work for an approach that provides vigorous competition and, to the maximum degree

possible, preserves the option for technology insertion.

Pending the submission of the required report, the conferees agreed on the following:

(1) The Department of Defense should accelerate implementation of the Ada high order language and constrain to the maximum extent feasible service variations on Ada to ensure the utmost commonality of systems support software.

(2) An authorization of $9.865 million is provided to complete only the advanced development models of its Military Computer Family (MCF) and to perform systems testing of these prototype computers. No funds authorized by this Act are to be used for product improvement of the advanced development models or to initiate full-scale engineering development of the MCF.

(3) No new development of Air Force military-standard 1750 computer systems may be initiated in fiscal year 1983 beyond the variants that currently exist. If, during fiscal year 1983, the Air Force requires a waiver of this restriction in order to pursue a system development program, this requirement should be coordinated with the Office of the Under Secretary of Defense for Research and Engineering and a report provided to the Congress with a justification for the exception.

(4) The Navy is expected to validate the technical data package for the AN/AYK-14 computer to enable second sourcing should such a plan be approved. Until such time, no funds authorized by this Act may be used to initiate second sourcing.

In consonance with the action of the conferees, the following authorization is recommended:

Service	Program	(In thousands of dollars)			
		Request	House	Senate	Conference
Army	Tactical ADP Tech	7,076	0	7,076	7,076
Army	Non-Tactical ADP Tech	495	0	495	0
Army	Command and Control (Eng. Dev.)	13,650	10,600	10,650	10,600
Army	Command and Control (Adv. Dev.)	22,133	10,268	22,133	20,000
Navy	Avionics Development	8,960	1,531	4,060	4,000
Air Force	Aircraft Avionics Equipment Dev	21,237	17,137	21,237	17,137
Air Force	Computer Resources Management Tech	4,993	4,697	4,993	4,697
Air Force	Adv. Computer Tech	4,957	3,457	4,957	3,457

DIRECTED ENERGY PROGRAMS

The capability of the United States to develop and deploy militarily effective space laser systems is a matter of considerable concern to the conferees. The Senate supported the approach recommended in the President's budget request which emphasizes long-wavelength chemical laser systems for near-term space weaponry capabilities while pursuing short-wavelength technologies at a lower level of effort as longer-term options. The House, by contrast, proposed a restructuring of the space laser programs located in the Air Force and Defense Advanced Research Projects Agency (DARPA) accounts. The House amendment would have terminated development efforts on long-wavelength laser systems and accelerated research and development on short-wavelength laser systems.

The conferees agree that the technology development being pursued in the DARPA Triad program has an important place in understanding the promise and possible shortcomings of long-wavelength chemical laser systems. Consequently, the House recedes to the Senate on the Alpha and Large Optics Demonstration Experiment (LODE) programs restoring them to the requested amount.

In addition, the conferees agree that the laser vulnerability and lethality studies and system development work for which funding was requested in the Air Force account should be pursued as a joint DARPA-Air Force program. The conferees agree that $20 million which was appropriated for fiscal year 1982 should be forward funded to permit the Air Force to participate in this joint program under the Air Force Advanced Radiation Technology program. If additional funds are required by the DARPA in fiscal year 1983 to participate in this joint effort, the DARPA may submit a reprogramming request to cover the funding shortfall.

In appreciation of the important role that short-wavelength lasers might have in space laser applications, the conferees agree to provide $20 million to accelerate development of such systems in addition to the $27.6 million requested for this purpose within DARPA's high energy laser technology program.

In view of the strong objections of the House conferees to the statutory direction included in the Senate bill that would mandate an on-orbit demonstration of long wavelength technology systems within the decade, the Senate reluctantly recedes on this bill language. The Senate conferees continue to believe that the maintenance of an option to deploy a militarily effective laser system in space at the earliest feasible time is a high national priority.

The Senate also recedes to the House addition of $2 million to the particle beam technology program with the Defense Advanced Research Projects Agency program in the belief that such an addition will make possible necessary research in the promising free electron laser technologies.

The conferees believe that the resolution of these issues adopted by the conference committee supports a balanced and comprehensive research and development effort into directed energy technologies and ensures that such R&D will be adequately funded in fiscal year 1983.

DISTANT EARLY WARNING (DEW) RADAR STATIONS

The Administration requested $7.995 million in the research and development account and $31.2 million in the procurement account to initiate a major upgrade of the Distant Early Warning (DEW) Line radar network. The Senate bill fully supported the request. The House amendment denied the request and questioned the utility and cost effectiveness of the proposed upgrade.

The conferees agreed to defer, without prejudice, initiation of the DEW Line upgrade program during fiscal year 1983. This deferral is based on fiscal constraints and not the merits of the DEW Line program.

The Senate recedes with an amendment.

ELECTRO-OPTICAL WARFARE

The Administration requested $15.927 million for the Electro-Optical Warfare program.

The Senate bill provided the full request; while the House amendment reduced the authorization by $3.927 million.

The conferees agreed to an authorization of $14 million with the understanding that the Office of the Under Secretary of Defense for Research and Engineering will conduct a complete review of all service infrared and radio frequency countermeasure programs to reduce the proliferation of systems and provide greater efficiency through triservice commonality.

ENHANCED MODULAR SIGNAL PROCESSOR

The Administration requested $14.497 million for the Navy Enhanced Modular Signal Processor (EMSP) program.

The Senate bill provided authorization of $13.087 million. The House amendment deleted the entire request for authorization.

The conferees agreed to authorize $13.087 million for the EMSP; however, the obligation of these funds is predicated on the Navy modifying existing contracts to require that EMSP be made a Very High Speed Integrated Circuit (VHSIC) proof of principal project and that VHSIC technology insertion be made at the earliest possible date.

The House recedes.

HIGH ENERGY LASER COMPONENTS

The Administration requested $33.116 million for the Army's High Energy Laser Component program.

The Senate bill provided the full request; the House amendment denied the authorization. The Army's past program in high energy lasers has advanced the technology; however, previous attempts at developing prototype laser weapon systems such as the mobile test unit have not materialized. The House conferees strongly opposed the conduct of the Forward Area Laser Weapon (FALW) demonstration but agreed with the Senate position that the close combat laser weapon system program may be continued under the High Energy Laser Component Program.

The conferees, therefore, recommend additional authorization of $13.808 million for the Army laser program weapon technology program. No funds authorized by this Act are to be used for the FALW demonstration.

HIGH TO MEDIUM AIR DEFENSE DEVELOPMENT (ANTI-TACTICAL MISSILE)

The Administration requested $27.172 million for the development of an Army Anti-Tactical Missile and requested authorization of $27.869 million for the development of an Advance Rocket Control System.

The Senate bill provide the full authorization for these two programs; the House amendment denied both requests for authorization.

The conferees are advised that the Department of Defense has restructured the anti-tactical missile program in a way to reduce substantially program development costs.

On the basis of the restructured program for the Anti-Tactical Missile, the conferees agreed to an authorization of $19.572 million to explore the applicability of the HAWK Surface-to-Air missile system as well as other alternatives and for the further development of an Advanced Rocket Control System.

The House recedes with an amendment.

JOINT ARMY/NAVY SEMI-ACTIVE LASER GUIDED PROJECTILE SYSTEM

The Administration requested $0.995 million for the Joint Army/Navy Semi-Active Laser Guided Projectile (SAL-GP) program.

The Senate bill authorized the full request; the House amendment provided additional authorization of $117 million with the provision that this authorization be used only for the 5-inch SAL projectile and the SEAFIRE Electro-Optical Fire Control system.

The conferees agreed to an authorization of $61 million, of which $60 million would be provided only for the 5-inch SAL projectile and the SEAFIRE fire control system. Sec. 202 requires that the authorization of $60 million be used only for this purpose. Moveover, of the total amount authorized, an amount not to exceed $1 million may be used to continue development of the Infrared Search and Track (IRST) system.

Sec. 202 further requires that the obligation and expenditure of funds for the DDG-X (DDG-51) are contingent upon the submission of a plan from the Secretary of the Navy to the Committees on Armed Services of the House and Senate to deploy the SEAFIRE and guided projectile with the DDG-51 lead ship.

JOINT SERVICES ROTARY WING AIRCRAFT PROGRAM (JVX)—MEDIUM ASSAULT TRANSPORT (V/HXM)

The Administration requested authorization of $49.765 million for the Army and $9.522 million for the Navy/Marine Corps participation in a new Joint Services Rotary Wing Aircraft program—the JVX. The Senate bill fully supported the JVX program. The House amendment deleted all authorization for the JVX along with the authorization requested for several other rotary wing aircraft programs. In so doing, the House expressed concern about the proliferation of rotary wing development programs. The House further indicated that future support for the JVX program would be contingent upon the Defense Department developing a comprehensive plan for its future rotary wing requirements.

The conferees agreed to provide a total authorization of $35 million to the Joint Services Rotary Wing aircraft program, $30 million to the Army and $5 million to the Navy/Marine Corps, with the understanding that it will be used to establish a better assessment of the cost, technical risk, schedule and mission requirements associated with the development and ultimate deployment of a 30,000-40,000 pound class tilt-rotor aircraft for joint service use. The conferees strongly support the tilt rotor concept by believe that additional development work needs to be done on the tilt rotor before a commitment is made to its use for multi-mission applications. In this regard, the conferees wish to reserve judgment on the need for a "gap-filler" solution to replace the Marine Corps aging CH-46 medium assault transport helicopter fleet. A decision need not be made to go forward with a "gap-filler" during fiscal year 1983; and the conferees prefer to gain a better understanding of the cost, technical risk and schedule associated with a multi-mission tilt-rotor aircraft.

The House recedes with an amendment.

MARK 92 FIRE CONTROL SYSTEM

The Administration requested $9.628 million for the Navy Mark 92 Fire Control System (FCS) program.

The Senate bill provided full authorization; the House amendment provided additional authorization of $15 million to enhance the capability of the Mark 92 FCS by adding a phased array radar. The House amendment provided statutory language requiring that the additional authorization of $15 million be used only for this purpose.

The conferees recommended authorization of $24.628 million. Sec. 202 requires that this authorization be used only for the Mark 92 FCS upgrade.

The Senate recedes.

MEDIUM RANGE AIR-TO-SURFACE MISSILE

The Administration requested $19.9 million for Navy development of the Tomahawk II, a Medium Range Air-to-Surface Missile (MRASM).

The Senate bill provided authorization of $4.9 million; the House amendment provided authorization of $39.9 million.

The conferees agreed that the Navy should continue the development of the MRASM because it would enable Navy tactical aircraft to standoff at greater ranges from enemy surface ships. The conferees agreed that an authorization of $26.5 million is adequate for the fiscal year 1983 MRASM research and development program. Section 202 would require that this authorization be used only for this purpose.

The Senate recedes with an amendment.

MILITARY STRATEGIC-TACTICAL RELAY SYSTEM (MILSTAR)

The Administration requested $79.8 million for research and development on the Military Strategic-Tactical Relay System (MILSTAR). The Senate bill authorized an additional $50 million to ensure that Extremely High Frequency (EHF) applique packages could be added to Fleet Satellites (FLTSAT) #7 and #8 and to reduce the risk that the MILSTAR sysmeet its scheduled initial operational capability. The House amendment support the Administration's request.

The conferees agreed to authorize $117.8 million to accomplish the purposes envisioned by the Senate. The conferees expect that no less than half the amount added to the original request will be applied toward the FLTSAT/EHF program so that the transition to EHF communications can begin as soon as possible and enjoy the maximum coverage achievable pending the introduction of the MILSTAR system.

The conferees also anticipate that the Administration will take appropriate steps, both with respect to fiscal year 1983 and future years, to ensure that the high priority MILSTAR program is sufficiently funded to meet its planned IOC.

The House recedes with an amendment.

MODULAR AUTOMATED INTEGRATED SYSTEMS INTEROPERABILITY AND EVALUATION (MAINSITE)

The Administration requested $17.119 million for the Army Modular Automated Integrated Systems Interoperability Test and Evaluation (MAINSITE) program. The Senate bill reduced the request by $10 million. The House amendment deleted the entire request and expressed concern about initiating a new command, control, communications and intelligence test bed at a time when the Army is unable to procure sufficient numbers of tactical battlefield radios and secure voice devices because of funding constraints.

The conferees expressed concern about the scope and cost of the MAINSITE program and agreed to provide an authorization of $3 million for the purpose of establishing a detailed plan. This plan should establish a schedule for MAINSITE, refine program cost estimates and provide an assessment of the technical complexity. The conferees reserved judgment on approving MAINSITE until a plan is developed and presented to the Congress. If additional fiscal year 1983 funds are needed to support MAINSITE, a reprograming request may be submitted after the detailed plan has been forwarded to the Armed Services and Appropriation Committees of the Senate and the House of Representatives.

The Senate recedes with an amendment.

MX MISSILE

The Administration requested $2,759.3 billion for the Air Force MX missile system.

The Senate bill recommended authorization of $2,277.3 million; the House amendment recommended authorization of $2,609.3 million. In addition, the House amendment prohibited the obligation of $715 million of the amount authorized until the President completes a review of alternative MX missile system basing modes and provides written notification to the Congress of the long-term basing mode selection. The House amendment fully supported the development of the MX missile together with the Advanced Ballistic Reentry Vehicle (ABRV) system.

The conferees agreed to an authorization of $2,509.3 million for the MX missile system of which $715 million is subject to the same provision as in the House amendment. The conferees agreed with the House position to provide full support for the research and development of MX missile and the associated ABRV.

The Senate recedes with an amendment.

NATO CONVENTIONAL CAPABILITY IMPROVEMENT STUDY

The report accompanying the Senate bill directed the Secretary of Defense to submit a NATO Conventional Capability Improvement Study to the Congress concurrent with the President's budget request for fiscal year 1984. The House amendment had no similar provision.

The conferees expressed continued concern regarding NATO's conventional warfighting capabilities. Although improvements have occurred, additional improvements are necessary in view of the increased capabilities of Soviet conventional forces and an overreliance on theater nuclear weapons for NATO's defense. The conferees, therefore, believe that a timely and comprehensive NATO conventional force modernization program is necessary and urgent.

The U.S. Army recently revised its fighting doctrine to increase the combat effectiveness of existing units. This doctrine anticipates significant technological advances in conventional weapons, precision guided munitions, surveillance techniques, information processing, targeting and engagement systems.

The conferees believe that the Department of Defense should fully evaluate the potential of these technological advances to enhance NATO's conventional force capabilities and should determine whether these programs should be given higher priority in resource allocation decisions.

The conferees are not advocating a massive conventional military force buildup that seeks to match quantity with quantity. Instead the conferees believe that a carefully planned U.S.-NATO conventional force modernization program that is based on such initiatives as the Assault Breaker Technology Demonstration Program can, through its force multiplier effects, represent a cost-effective alternative to seeking a quantitative military balance. Conventional force improvements can enhance the linkage between NATO's deterrent triad of forces, as well as contribute to stability by raising the nuclear threshold level.

The conferees, therefore, direct the Secretary of Defense to submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive study of potential advancements in conventional weapons and munitions that may improve the warfighting capabilities of NATO forces. This study should be submitted concurrent with the President's budget request for fiscal year 1984.

The views and analyses of appropriate theater commanders, including the Supreme Allied Commander, Europe, should be incorporated in the study. This study should evaluate programs for each of the services and be consistent with current military doctrine for an air-land battle.

The study should include a comprehensive program for a second echelon interdiction capability and a counter air weapon capability. This program should define a development and acquisition program, including schedule and costs, options for program acceleration, and an early IOC (1986) utilizing past and current development programs. In particular, the second echelon interdiction weapon program should make maximum use of the results from the resources that have already been expended on the Assault Breaker Program (more than $200 million since 1978) and the technologies that were developed in that program, including sensor-surveillance systems, information processing, target acquisition and delivery systems, and submunitions.

The proposed program for the second echelon interdiction weapon system should conform to the emerging military doctrine for an air-land battle. To permit early IOC (1986), while minimizing program costs, the proposed development and acquisition program(s) for the Army and Air Force should make use of common systems, subsystems, and components, including a common missile, sensor or sensors derived from the Assault Breaker-PAVE Mover and Precision Location Strike System programs, and a properly funded program for terminally guided submunitions to meet the weapon system's IOC.

The proposed program for counter air should be measured against the projected European threat environment and designed to augment and complement aircraft through the use of a ground-based system for fixed targets. To minimize program development and acquisition costs and to permit an early IOC, maximum use of past and present developed hardware should be made.

Both programs should entail plans for subsequent European participation through co-development and co-production agreements.

NIGHT PRECISION ATTACK

The Administration requested $103.758 million to continue the development of the Air Force Low Altitude Navigation Target Infrared for Night (LANTIRN) system under the Night Precision Attack program.

The Senate bill provided authorization of $88.75 million with a provision that would prohibit the obligation or expenditure of funds for LANTIRN until the Secretary of the Air Force provides written certification to the Congress stating that the program has been restructured to provide a competitive demonstration between the LANTIRN system and a variant of the Navy F/A-18 Forward Looking Infrared (FLIR) system. The Senate provision would also prohibit the Air Force from entering into a production contract for LANTIRN until completion of the development program competition.

The House amendment provided authorization of $110.758 million of which $7 million was for the integration of the Navy FLIR system on the Air Force F-16 tactical aircraft.

It is the intent of the conferees that the LANTIRN targeting pod be competed against a suitably modified F/A-18 FLIR system. This competition shall not include the automatic target recognizer proposed for LANTIRN, however, both pods are expected to possess sufficient growth capacity to accommodate this capability should it be successfully developed. The conferees agreed that this competition should be conducted between two pods sufficiently mature in their development to enable a valid comparison of both capability and production costs.

The conferees strongly support the requirement for a competitive demonstration between the LANTIRN and a variant of the F/A-18 FLIR systems and agreed to an authorization of $100 million. An additional authorization of $22 million was recommended for the Navy's F/A-18 program to begin development of the necessary modifications of the F/A-18 FLIR system. The conferees also agreed to accept the provision of the Senate bill as amended to permit the transition of the Low Altitude Navigation pod from development to production.

Section 203 contains the Senate provision as amended.

The House recedes with an amendment.

SHIP CONCEPT FORMULATION

The Administration requested authorization of $18.810 million for the Ship Concept Fomulation program.

The Senate bill recommended authorization of $15.810 million with the understanding that none of these funds were to be used for design work on "notional" ships described in the Navy's Extended Planning Annex. The House amendment provided full authorization.

The conferees agreed to an authorization of $15.810 million without restriction on the use of this authorization.

The House recedes.

SHIP SYSTEMS ENGINEERING STANDARDS

The Administration requested authorization of $1.749 million for the Navy Ship Systems Engineering Standards (SSES) program.

The Senate bill provided additional authorization of $13 million; the House amendment provided additional authorization of $16.251 million.

The conferees agreed to an authorization of $15 million and concur in the House position that this authorization is to be used to continue the generic SSES program to develop design criteria for medium and large sized combatants and to initiate the design phase of a variable payload, medium sized combatant (MSC) ship. The detailed design for the MSC is expected to be completed in fiscal year 1984.

The Senate recedes with an amendment.

SURFACE WARFARE

The House amendment contained a provision requiring that an authorization of $1,100.0 million be available only for Navy surface warfare programs. The Senate bill contained no similar provision.

The conferees in recognition of the deficiencies of the Navy's surface fleet agreed that at least $900 million be authorized for surface warfare programs.

This authorization reflects the amount of funds that the Navy plans to allocate for surface warfare programs during fiscal year 1983.

Section 202 would require that $900 million be available only for surface warfare programs.

The Senate recedes with an amendment.

STANDARD MISSILE 2, BLOCK III

The Administration requested $16.483 million to develop the next generation of the Navy Standard Missile, a surface-to-air weapon for surface vessels.

The Senate bill provided the full authorization request; however, $2 million was authorized to study various alternatives to the Standard Missile and none of the remaining authorization was to be obligated or expended until the study effort was completed and the results forwarded to the Committees on Armed Services of the Senate and House of Representatives. The House amendment provided the authorization as requested.

The conferees agreed to an authorization of $16.483 million of which $14.483 million is only for the research and development necessary for developing Standard Missile 2 Block III. The remaining authorization of $2 million is to be used only to study further missile alternatives required by the Navy to maintain maritime air superiority in the future.

TARGET SYSTEM DEVELOPMENT

The Administration's request included $43.901 million for the Navy Target System Development program.

The Senate bill recommended the full authorization request. The House amendment reduced the request to $23.901 million and required that the authorization that was requested for the Vandal target be used instead for the development of a Firebrand Advanced Aerial Target.

The conferees agreed to provide the full authorization request by the Department of Defense; however, $12 million must be used for the development of a derivative of the Air Force Firebolt target. Sec. 202 requires that the authorization of $12 million be used only for this purpose.

The action taken by the conferees would enable the Navy to complete the near term Vandal target while initiating the development of the urgently needed Firebolt.

The House recedes with an amendment.

TERMINALLY GUIDED PROJECTILE

The Department of Defense requested $6.8 million for the development of a terminally guided 155mm projectile. The House denied the Administration's request while the Senate funded the full amount. The

conferees agreed to restore the Administration's request for $6.8 million.

The conferees recognize the requirement to develop a terminally guided 155mm projectile since a majority of the Army's artillery tubes are that caliber. Prior efforts to develop this capability have involved the exploration of a broad range of technologies but have not yielded a weapon ready for development.

Under the Terminally Guided Projectile program the Army is currently evaluating at least five different technologies to meet this requirement. Similar research has been conducted under the Army's Field Artillery Ammunition Development program (which developed the 8-inch SADARM projectile), the Advanced Indirect Fire System funded by DARPA, and the DARPA Assault Breaker program.

The conferees agreed that since resources are limited and sufficient research has been completed to permit the selection of the most promising technologies, the Army should restrict the scope of the work conducted under this program to two seeker types—the Sense and Destroy Armor (SADARM) seeker and the SKEET seeker developed for the Defense Advanced Research Projects Agency.

The House recedes with an amendment.

TACTICAL AIRCRAFT

In assessing the Administration's request for both the procurement and development of tactical aircraft, the conferees expressed concern over the proliferating number of military aircraft production lines. The Department of Defense is currently procuring aircraft from more than 25 production lines, not a single one of which is operating at the most efficient production rate.

While the conferees recognize that the total number of tactical aircraft being procured today is greater than that achieved by the previous Administration, they nevertheless believe that greater economics can and should be realized. By reducing the number of production lines in operation and increasing the production rates of those that remain, unit costs could be reduced substantially.

In spite of the growing number of aircraft production lines, the Administration has proposed the development of several new military aircraft. These include two new jet trainers (the Navy's VTX and the Air Force's NGT or Next Generation Trainer), a new strategic communications aircraft (ECX) for the Navy, a new strategic airlift (C-17), and a Joint Services Rotor Aircraft (JVX). While the conferees recommended approval of funding for each of these new development aircraft they also agreed to reserve judgment on any production decisions until the Congress is presented a comprehensive plan which persuasively establishes the Administration's ability to fund these new developments without diverting resources from existing production lines. The conferees will not be inclined to support these new developments if they lead only to greater inefficiencies in the production of other aircraft.

The conferees direct the Secretary of Defense to prepare such a comprehensive report addressing both the current and future requirements of each of the services for military aircraft. This analysis should take into account the various requirements for tactical, strategic, airlift, trainer, and utility aircraft, but should focus primarily on tactical requirements. For the Air Force it should address both force size (number of tactical fighter airwings) and force composition. Similarly, for the Navy it should address the number of carrier airwings and composition of those airwings. For the Army and the Marine Corps it should address the modernization of assault and attack rotary wing units. Consideration should also be given to the requirement for modernizing existing inventory aircraft such as the Army's Cobra, which will continue to comprise the majority of our Army and Marine attack helicopter forces well into the next decade.

The conferees also request that within this comprehensive report on tactical airpower requirements, an analysis be presented on how resources should be allocated between the procurement of additional aircraft and the air-to-air and air-to-ground weapons they must deliver to successfully carry out their mission. The conferees question the merits of increasing force structure if it comes at the expense of equipping existing force levels with vitally needed weapons. The conferees request that this report be completed and presented to the Committees on Armed Services of the House of Representatives and the Senate no later than February 15, 1983.

The conferees stress that future support for such new developments as the JVX, ECX, VTX and NGT will be contingent upon the Administration's ability to fund these programs without imposing economic penalties on existing production programs.

SPECIAL CONSIDERATIONS—TACTICAL AIR

Advanced tactical fighter technologies (ATFT)

The Administration requested $27.3 million for the Air Forces' Advanced Tactical Fighter program. The Senate authorized $27.3 million. The House denied the request.

The conferees agreed to an authorization of $23.0 million to permit the Air Force to begin evaluation of promising technologies for possible application to a future tactical fighter aircraft. These funds are intended only for the evaluation of technologies (both airframe and engine) and do not represent a commitment to the development of an advanced tactical fighter.

The conferees request that the title of this program be modified to Advanced Tactical Fighter Technologies to reflect Congressional intent.

F-15E/F-16E

The Senate authorized $13.0 million for the air-to-ground F-15E and $11.0 million for the F-16E. The House deleted both amounts. The conferees agreed to accept the Senate approved funding levels.

These funds are authorized to permit the Air Force to conduct a comparative flight demonstration between the F-15E and F-16E. Until the results of this comparative demonstration are satisfactorily presented to the Congress and the costs associated with both programs are thoroughly defined, the conferees withhold a commitment to the full scale development of either aircraft.

UNDERGRADUATE FLIGHT TRAINING SYSTEM

The conferees agreed to authorize $9.6 million for the development of a new Navy jet trainer (VTX), but expressed concern over the projected cost of the program. The continued support of the conferees for the VTX will be predicated on the Navy's ability to adequately address the VTX program schedule, priority and overall affordability within the Navy's tactical aircraft procurement account. The conferees expressed particular concern about the total projected cost of the VTX program and specifically request that steps be taken to reduce these costs.

SPECIAL PROVISIONS—TITLE II

C-17 cargo transport (sec. 201)

The House amendment contained a provision that would specify that, of the amount authorized for the Air Force Research, Development, Test and Evaluation, $1 million is available only for the effort associated with the C-17 cargo transport aircraft. The Senate bill contained no similar provision; the Senate recedes.

Limitation on funds for the Navy (sec. 202)

Section 203 of the House amendment contained a provision that would place a limitation on funds for the Navy on the following programs: The Firebrand (Firebolt) Aerial Target program, the Mark 92 Gunfire Control system, the 5-Inch Semi-Active Laser Guided Projectile and the Seafire Electro-Optical Fire Control system, the Medium Range Air-to-Surface (MRASM) system, the DDG-X (DDG-51) Ship program as it relates to the Guided Projectile program, the Advanced Mine program, the authorization of funds for Surface Warfare programs and the Vertical Launching Anti-Submarine Rocket system.

The Senate bill contained no similar provision.

With the exception of the Vertical Launching Anti-Submarine rocket system, the conferees agreed to accept the House provision with an amendment. The specific action of the conferees is described under each program in this Statement of Managers. The Senate recedes with an amendment.

LANTIRN system (sec. 203)

The Senate bill contained a provision (sec. 202) that would restrict expenditures on the Air Force Low Altitude Navigation Targeting Infrared for Night (LANTIRN) system. The House amendment contained no similar provision. The House recedes. The specific action of the conferees is discussed in the Night Attack Program of this Statement of Managers.

Submarine advanced combat systems

Section 203 of the Senate bill would restrict the obligation or expenditure of funds for the Navy Submarine Advanced Combat system program pending receipt of a plan from the Secretary of the Navy outlining the Navy's plan to proceed with the improvement of the Mark 92 Gunfire Control system. The House amendment contained no similar provision. The Senate recedes.

BMD technology program

Section 202 of the House amendment would provide that not more than $259.744 million would be available for Army Ballistic Missile Defense (BMD) technology program. The Senate bill contained a provision (sec. 204) that would limit the amount of authorization for the development of a low exo-atmospheric/high endo-atmospheric BMD system to $100 million and additionally would require the Secretary of Defense to submit a report on BMD to the Congress by December 1, 1982. Neither the Senate bill nor the House amendment provision was adopted by the conferees. the specific action of the conferees on the BMD is described in the BMD program in this Statement of Managers.

High energy laser program

Section 204 of the House amendment contained a provision that would prohibit the obligation or expenditure of funds for the

Defense Advanced Research Projects Agency High Energy Laser program. This provision further stated that $50 million would be available only for the effort related to short wavelength laser technology. The Senate bill contained no similar provision. The House recedes. The specific action of the conferees is described in the Directed Energy program in this Statement of Managers.

TITLE III—OPERATION AND MAINTENANCE

GENERAL ISSUES

Fuel cost reestimate

The fiscal year 1983 Department of Defense request included $9.4 billion for fuel purchases. In view of the existing oil surplus and lower than anticipated fuel prices, both the Senate bill and the House amendment reflect a readjustment of the Department of Defense estimate of the cost of a composite barrel of fuel from $49.98 to $47.46. This would result in a net reduction of approximately $440 million.

The resolution of differences is allocating these reductions between the Senate bill and the House amendment within major account titles is as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	−27.5	−24.8	−24.8
Navy	−154.0	−143.8	−154.0
Marine Corps	0	−2.1	0
Air Force	−259.0	−223.3	−259.0
Defense agencies	0	−0.2	−0.2
Army Reserve	0	−0.9	−0.9
Navy Reserve	0	−8.4	0
Air Force Reserve	0	−8.0	0
Army National Guard	0	−2.7	−2.7
Air National Guard	0	−27.4	0

Foreign currency revaluation

In view of the continuing strength of the U.S. dollar since the submission of the fiscal year 1983 Department of Defense request, the Senate bill and House amendment reflect recalculated budgeted currency exchange rates on the basis of more favorable rates existing on April 20, 1982. This revaluation resulted in an overall reduction of approximately $198 million.

The resolution of differences in allocating these reductions between the Senate bill and the House amendment within major account titles is as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Navy	−32.0	−33.8	−33.8
Marine Corps	−10.2	−10.0	−10.2
Air Force	−47.5	−46.2	−47.5
Defense agencies	−11.6	−9.4	−11.6

tracting out Con-

The fiscal year 1983 request contained approximately $33.5 million to perform detailed cost studies associated with the OMB Circular A-76 contracting out program. The Senate bill authorized the amount requested. The House amendment deleted authorization for this purpose. The conferees agreed to a six month moratorium on cost studies with certain exceptions. The conferees restored half of the request by major account title as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	13.5	0	−6.75
Navy	5.7	0	−2.85
Marine Corps	1.2	0	−0.6
Air Force	10.8	0	−5.4
Defense agencies	2.3	0	−1.15

The House amendment also provided that $316.3 million in authorization requested for salaries associated with 17,000 additional contract conversions proposed in fiscal year 1983 be used only for salaries for additional direct hire civilian personnel. The Senate bill contained no similar provision. The conferees agreed to restrict availability of $158.15 million of the authorization requested for contract salaries to be used only for salaries of additional direct hire personnel distributed among the major accounts as follows:

[In millions of dollars]

Major account	House amendment	Conference action
Army	50.0	25.0
Navy	162.0	81.0
Marine Corps	3.0	1.5
Air Force	83.4	41.7
Defense agencies	17.9	8.95

In addition, the House amendment provided that $251.3 million in authorization associated with the functions proposed for conversion in fiscal year 1983 be obligated only in conjunction with performance by Federal civilian personnel. The Senate bill contained no similar provision. The conferees agreed that half of the authorization requested associated with the functions proposed for conversion in fiscal year 1983 be obligated only in conjunction with performance by Federal civilian personnel to be distributed among the major accounts as follows:

[In millions of dollars]

Major account	House amendment	Conference action
Army	50.0	25.0
Navy	100.0	50.0
Air Force	83.4	41.7
Defense agencies	17.9	8.95

Real property maintenance

The fiscal year 1983 request contained $3.7 billion for maintenance, repair and minor construction of real property. The Senate bill added $348.4 million in authorization for real property maintenance. The House amendment increased the request by $295.2 million.

The conferees agreed to increase the amount requested for real property maintenance by $305.3 million in authorization and resolved specific differences in the allocation of increases contained in the Senate bill and the House amendment within major account titles as follows:

[In millions of dollars]

Major account	Senate bill	House amendment	Conference action
Army	+245.0	+200.0	+203.0
Navy	+75.0	+50.0	+50.0
Marine Corps	+5.0	+15.0	+15.0
Air Force	−20.0	−5.7	−20.0
Defense agencies	+20.0	0	+20.0
Army Reserve	+7.4	+8.1	+8.1
Navy Reserve	+10.0	0	+10.0
Air Force Reserve	0	3.1	0
Army National Guard	0	+10.2	+13.2
Air National Guard	+6.0	+10.0	+6.0

OPERATION AND MAINTENANCE, ARMY

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
General Purpose Forces	6,089.1	6,083.7	−5.4
Base operations			(−11.3)
Currency revaluation			(−66.6)
Contracting out studies			(−2.1)
Borrowed military manpower (−1,500 civilian personnel)			(−30.0)
Force modernization			(−53.0)
POMCUS			(−10.2)
Inactivate CDEC [1]			(−2.0)
CINC readiness fund			(−15.7)
Real property maintenance			(+158.9)
Morale, welfare and recreation			(+16.6)
Bachelor housing furniture			(+10.0)
Intelligence and Communications	916.9	910.7	−6.2
Currency revaluation			(−6.2)
Contracting out studies			(−0.3)
Other			(−1.2)
Classified programs			(−1.5)
Base operations			(−0.2)
Real property maintenance			(+3.0)
Moral, welfare and recreation			(+0.2)
Central Supply and Maintenance	5,102.3	4,988.9	−23.4
Fuel cost reestimate			(−24.8)
Currency revaluation			(−16.6)
Contracting out studies			(−1.3)
POMCUS [2]			(−5.8)
Base operations			(−0.8)
CINC readiness fund			(−11.1)
Force modernization			(−7.0)
Real property maintenance			(+3.5)
Morale, welfare and recreation			(+0.5)
Maintenance and support activities			(+40.0)
Training, Medical and Other General Personnel Activities	3,638.2	3,602.3	−35.9
REARM offset [3]			(−0.1)
Base operations			(−6.5)
CINC readiness fund			(−3.2)
Currency revaluation			(−3.1)
Contracting out studies			(−2.2)
Recruiting/advertising			(−25.0)
Army continuing education system			(−30.0)
Skill qualification test			(−5.0)
Real property maintenance			(+37.6)
Morale, welfare and recreation			(+1.6)
Administration	1,040.7	1,038.8	−1.9
Base operations			(−1.2)
Contracting out studies			(−0.8)
Morale, welfare and recreation			(+0.1)
Support of other nations	130.3	125.6	−4.7
Currency revaluation			(−4.7)
Total, Army	16,827.6	16,750.1	(−77.5)

[1] CDEC—Combat Development Experimentation Command.
[2] POMCUS—Prepositioned material configured in unit sets. Four division sets of equipment are currently prepositioned in Europe to support airlifted reinforcing U.S. soldiers.
[3] REARM—Renovation—armament materiel is a program to upgrade capital equipment at Army Arsenals.

Base operations

The fiscal year 1983 request contained $3,899.9 million for Army base operation support. The Senate bill reduced the Army request by $20 million. The House amendment authorized the amount requested.

The House recedes.

Civilian personnel

The fiscal year 1983 Army request included 386,444 civilian personnel. The Senate bill reduced this amount by 8,400 with a corresponding reduction in the Army operation and maintenance account of $103.7 million. The House amendment reduced Army civilian end strength by 1,000 with a corresponding reduction in the operation and maintenance request of $20 million.

The conferees agreed to a civilian end strength reduction of 1,500 with a corre-

sponding decrease in the Army operation and maintenance request of $30 million.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $30 million from the Army operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

Intelligence and communications/classified programs

The fiscal year 1983 request contained $916.9 million for intelligence and communications and classified programs. The Senate bill authorized $914.6 million—a reduction of $2.3 million. House amendment contained a reduction of $0.9 million.

The conferees agreed to a reduction of $2.7 million in authorization for Army intelligence and communications activities.

Maintenance support activities

The fiscal year 1983 request contained $476.4 million for maintenance support activities. The Senate bill authorized $538.4 million—an increase of $62 million. The House amendment authorized the amount requested.

The conferees agreed to an authorization of $516.4 million for Army maintenance support activities—an increase of $40 million.

Force modernization

The fiscal year 1983 request contained $1,438.5 million for Army force modernization activities. The Senate bill authorized the amount requested. The House amendment authorized 1,338.5 million—a decrease of $100 million.

The conferees agreed to an authorization of $1,378.5 million—a reduction of $60 million.

Prepositioned material configured in unit sets 5 and 6 (POMCUS)

The fiscal year 1983 request contained $31 million for POMCUS sets 5 and 6 located in the Netherlands and Belgium. The Senate bill authorized the amount requested. The House amendment deleted all authorization for that purpose.

The conferees expressed their concerns about the effect of prepositioning equipment on the ability of U.S. forces to respond to contingencies outside NATO. Nevertheless, because of geographical disadvantages and acute shortages of strategic lift, the conferees are sympathetic to the requirement for POMCUS sets 5 and 6 and support the U.S. commitment to this policy to the extent that such commitment does not degrade overall National Guard and Reserve readiness.

The conferees agreed to an authorization of $15 million for POMCUS sets 5 and 6.

Morale, welfare and recreation

The fiscal year 1983 request contained $179.9 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $198.9 million—an increase of $19 million.

The Senate recedes.

Bachelor housing furniture

The fiscal year 1983 request contained $42.9 million for bachelor housing furniture. The Senate bill authorized the amount requested. The House amendment authorized $63.9 million—an increase of $21 million.

The conferees agreed to an authorization of $52.9 million.

Renovation-armament materiel (REARM)

The fiscal year 1983 request contained $0.1 million associated with the transfer of REARM activities at Watervliet Arsenal to the Department of Defense capitalization program. The Senate authorized the amount requested. The House amendment deleted funding for that purpose.

The Senate recedes.

Army continuing education system (ACES)

The fiscal year 1983 request contained $157.3 million for the Army continuing education system. The Senate bill reduced authorization for that program by $15 million. The House amendment authorized $127.3 million—a decrease of $30 million.

The Senate recedes.

Skill qualification test (SQT)

The fiscal year 1983 request contained $18 million for the Army skill qualification test program. The Senate bill authorized the amount requested. The House amendment authorized $9 million.

The conferees agreed to an authorization of $13 million.

Cancel/delay new unit activations

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identifed $2 million in possible reductions associated with the cancellation or delay of various new unit activation. The Senate bill authorized the amount requested. The House amendment reduced the authorization by $2 million.

The House recedes.

Reduce 4 battalions

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $15 million in possible reductions associated with the reduction of 4 active Army battalions. The Senate bill authorized the amount requested. The House amendment reduced the authorization by $15 million.

The House recedes.

OPERATION AND MAINTENANCE, NAVY

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Strategic Forces	1,774.6	1,774.6	0
General Purpose Forces	11,073.3	10,715.2	−358.2
Currency revaluation			(−24.2)
Uranium enrichment			(−109.0)
TAKX charter and convert			(−40.0)
Fleet command and staff			(−5.0)
End strength support			(−2.5)
Contracting out studies			(−0.4)
Ship maintenance and modification			(−50.0)
Base operations			(−15.0)
CINC readiness fund			(−30.0)
Decommissioned ships			(−187.1)
Increased steaming days			(+75.0)
Morale, welfare and recreation			(+7.0)
Real property maintenance			(+23.0)
Intelligence and Communications	942.4	930.9	−11.5
Other			(−11.9)
Currency revaluation			(−2.5)
Contracting out studies			(−0.1)
Real property maintenance			(+3.0)
Central Supply and Maintenance	6,043.4	5,950.2	−93.2
Fuel cost reestimate			(−154.0)
Aircraft depot maintenance			(−50.0)
Currency revaluation			(−5.4)
Base operations			(−3.0)
Contracting out studies			(−1.4)
End strength support			(−1.3)
Decommissioned ships			(−2.9)
Installation of aircraft modifications			(+101.3)
Real property maintenance			(+13.5)
SUBROC			(+10.0)
Training, Medical and Other General Activities	1,836.9	1,837.7	+0.8
Recruiting/advertising			(−15.0)
Base operations			(−2.0)
Currency revaluation			(−1.7)
Contracting out studies			(−0.3)
End strength support			(−0.7)
Real property maintenance			(+10.5)
Morale, welfare and recreation			(+10.0)
Administration Contracting Out Studies	495.1	494.4	−0.7
Support of Other Nations	.2	.2	0
Total, Navy	22,165.8	21,702.6	−463.2

Note.—Totals may not add due to rounding.

Base operations

The fiscal year 1983 request contained $2.108.7 million for base operation support. The Senate bill authorized $2,088.7 million—a reduction of $20 million. The House amendment authorized the amount requested.

The House recedes.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $30 million from the Navy operation and maintenance request to that account. The House amendment provides for no such transfer.

The House recedes.

Intelligence and communications

The fiscal year 1983 request contained $942.4 million for intelligence and communication activities. The Senate bill authorized $940.1 million. The House amendment authorized $930.9 million.

The conferees agreed to an authorization of $930.5 million—a reduction of $11.9 million.

Installation of aircraft modifications

The fiscal year 1983 request contained $214.4 million for the installation of aircraft modifications. The Senate bill authorized $315.7 million—an increase of $101.3 million. The House amendment authorized $259.4 million.

The House recedes.

Morale, welfare and recreation

The fiscal year 1983 request contained $141.5 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $158.5 million—an increase of $17 million.

The Senate recedes.

Uranium enrichment

The fiscal year 1983 request contained $109 million for uranium enrichment services for the Naval Nuclear Propulsion Program. The Senate bill authorized the amount requested. The House amendment deleted the $109 million authorization requested for that purpose and recommended its transfer back to the Department of Energy budget to be authorized as part of the Department of Energy defense programs.

The Senate recedes.

Fleet command and staff

The fiscal year 1983 request contained $255.6 million for fleet command and staff activities. The Senate bill authorized the amount requested. The House amendment

authorized $250.6 million—a $5 million reduction.

The Senate recedes.

General purpose ship maintenance and modification and aircraft depot maintenance

The fiscal year 1983 request contained $5,989 million for general purpose ship maintenance and modification and aircraft depot maintenance. The Senate bill authorized the amount requested. The House amendment contained a $100 million reduction in authorization divided equally between the ship and aircraft depot maintenance accounts.

The Senate recedes.

Increased steaming days

The fiscal year 1983 request contained $2.9 billion for ship operations. The Senate bill authorized the amount requested. The House amendment included an increase of $75 million in authorization for additional steaming hours.

The Senate recedes.

SUBROC

The fiscal year 1983 request contained no authorization for modification necessary to carry the SUBROC antisubmarine weapon on attack submarines after they have been modified to carry the TOMAHAWK missile. The Senate bill contained no authorization for this purpose. The House amendment authorized $20 million for SUBROC modifications.

The conferees agreed to authorize $10 million for SUBROC modifications.

Navy commissary store operations

The fiscal year 1983 Navy budget reflects the transfer of 3,000 direct-hire civilians working in commissaries to a nonappropriated fund (NAF) status and requires O&M funds to be used as a source for reimbursing the NAF instrumentality. Due to serious concern regarding legal, personnel, and cost savings issues involved in these transactions, the House amendment deleted $110 million associated with this transfer and the absorption of 3,000 direct hire spaces and directed that commissary employees remain in a civil service status. The Senate bill contained no such provision.

The conferees agreed that the Navy commissary store system should continue to operate as an appropriated fund activity consistent with prior year funding levels. The conferees further agreed to restore the $110 million, provided that $50 million of that amount be used only for salaries associated with 3,000 additional Navy direct hire employees

The House recedes.

End strength decrease

In accordance with a reduction of 5,000 in Navy active duty end strength the House amendment reflected a corresponding reduction of $4.5 million associated with operation and maintenance support. The Senate bill made no such reduction.

The Senate recedes.

Decommissioning ships

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $248.9 million in savings associated with the early decommissioning of 22 ships. The Senate bill would reduce the original request by $154 million related to 13 decommissioning vessels. The House amendment deleted the entire $248.9 million.

Although the conferees concluded that the early retirement of older, less capable ships would not impair fleet effectiveness, they agreed that the Navy should be given the flexibility to retain any vessels necessary to meet unforeseen changes in fleet requirements.

The conferees agreed to a reduction in authorization of $189.9 million. The conferees further agreed to authorize $29 million to continue to operate 5 LSD-28 vessels and $30 million for the operation of 4 DDGs throughout planned deployment schedules in fiscal year 1983.

Support personnel end strength reductions

The Senate bill included a reduction of $3.5 million associated with support for military personnel end strength reduction.

The House bill contained no similar provision.

The Senate recedes.

OPERATION AND MAINTENANCE, MARINE CORPS

(Amounts in millions of dollars)

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
General Purpose Forces	861.8	852.6	−9.2
CINC readiness fund			(−10.0)
Currency revaluation			(−10.2)
Contracting out studies			(−0.5)
Military personnel support			(−1.5)
Real property maintenance			(+10.0)
Morale, welfare and recreation			(+3.0)
Central Supply and Maintenance	358.9	361.8	+2.9
Contracting out studies			(−0.1)
Real property maintenance			(+3.0)
Training, Medical and Other General Personnel Activities	190.2	187.2	−3.0
Recruiting/advertising			(−5.0)
Real property maintenance			(+2.0)
Administration	71.0	71.0	0.0
Total, Marine Corps	1,481.8	1,472.5	−9.3

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for contingencies for the Unified Commands. The Senate bill would transfer $10 million from the Marine Corps operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

Support personnel end strength reduction

The Senate bill included a reduction of $1.5 million associated with civilian personnel adjustments in the Department of the Navy.

The House bill contained no similar provision.

The House recedes.

Recruiting and advertising

The fiscal year 1983 request contained $56.1 million for recruiting and advertising activities. The Senate bill authorized the amount requested. The House amendment authorized $51.1 million—a $5 million reduction.

The Senate recedes.

Morale, welfare and recreation

The fiscal year 1983 request contained $22.6 million for morale, welfare and recreation activities. The Senate bill authorized the amount requested. The House amendment authorized $25.6 million—a $3 million increase.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR FORCE

(Amounts in millions of dollars)

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Strategic forces	3,084.5	3,072.8	−11.7
Base operations			(−5.0)
CINC Readiness Fund			(−4.0)
Foreign currency revaluation			(−5.0)
Real property maintenance			(−2.7)
B-52D			(+2.0)
Contracting-out studies			(−1.0)
Morale, welfare and recreation			(+4.0)
General purpose forces	3,832.6	3,742.5	−90.1
Base operations			(−9.0)
CINC Readiness Fund			(−7.0)
Foreign currency revaluation			(−40.0)
Real property maintenance			(−9.9)
Contracting-out studies			(−1.0)
Morale, welfare and recreation			(+4.0)
Deferral of air wing activation			(−27.0)
Support of end-strength reductions			(−0.2)
Intelligence and communications	1,417.5	1,419.1	+1.6
Programs 3 (classified program)			(+0.6)
Morale, welfare and recreation			(+1.0)
Airlift and sealift	1,202.2	1,196.3	−5.9
Base operations			(−2.0)
CINC Readiness Fund			(−2.0)
Foreign currency revaluation			(−2.0)
Real property maintenance			(−2.0)
Contracting-out studies			(−0.4)
Morale, welfare and recreation			(+.05)
C-140B replacement			(+3.0)
Deferral of air wing activation			(−1.0)
Central supply and maintenance	6,034.5	5,557.2	−477.3
Fuel cost reestimate			(−259.0)
Base operations			(−2.0)
CINC Readiness Fund			(−12.0)
Real property maintenance			(−2.4)
Contracting-out studies			(−2.0)
Deferral of air wing activation			(−10.0)
Support of end-strength reduction			(−1.0)
Depot maintenance contracting			(−190.0)
Inventory control point			(+0.5)
Procurement operations			(+0.6)
Training, medical and other general personnel activities	1,978.1	1,956.3	−21.8
Base operations			(−2.0)
CINC Readiness Fund			(−5.0)
Contracting-out studies			(−1.0)
Real property maintenance			(−3.0)
Morale, welfare and recreation			(+0.5)
USAF Academy operations			(−2.0)
Professional Development Education			(−1.5)
Recruiting/advertising			(−5.0)
Deferral of air wing activation			(−2.0)
Support of end-strength reduction			(−0.3)
Foreign currency revaluation			(−0.5)
Administration	388.5	388.5	
Support of other nations	6.8	6.8	
Total, Air Force	17,944.7	17,339.5	(−605.2)

Base operations

The fiscal year 1983 request contained $2,338.2 million for Air Force base operation support.

The Senate bill reduced the request by $20 million. The House amendment authorized the amount requested.

The House recedes.

CINC readiness fund

The Defense Agencies operation and maintenance request contained $100 million in authorization for the Joint Chiefs of Staff Commanders-In-Chief Readiness Fund. The Senate bill would transfer $30 million from the Air Force operation and maintenance request to fund that account.

The House amendment contained no such transfer.

The House recedes.

B-52D

The fiscal year 1983 request did not contain an authorization for the B-52D.

The Senate bill contained an authorization of $20 million to maintain enhanced readiness of one of three wings of B-52D's to be retired.

The House amendment did not contain any authorization for this purpose.

The conferees agreed to an increase of $2 million, and that the objective of retaining the ability to rapidly reactivate one squadron of B-52D's can be accomplished through retaining one of the three squadrons in inviolate storage.

The conferees recognized the value of a comprehensive study and evaluation of the use of B-52D's in force projection and maritime missions and authorized $2 million for such effort.

Titan

The fiscal year 1983 request contained $19.0 million for the operation and maintenance of the Titan II intercontinental ballistic missile system.

The Senate bill provided an increase of $6.2 million. The House amendment authorized the amount requested.

The Senate recedes.

Intelligence and communications/classified programs

The fiscal year 1983 request contained $916.9 million for intelligence and communications and classified programs.

The Senate bill contained a reduction of $.6 million.

The House amendment authorized the amount requested.

The House recedes.

Support to end strength reduction

The Senate bill included a reduction of $8 million as a pro-rata cost for personnel support corresponding to end strength reductions.

The House amendment provided the amount requested.

The conferees agreed that there would be a reduction of $1.5 million.

Morale, welfare and recreation

The fiscal year 1983 request contained $322.4 million for morale, welfare and recreation.

The House amendment authorized an increase of $10 million for this purpose.

The Senate bill authorized the amount requested.

The Senate recedes.

C-140B replacement

The request for lease of aircraft in fiscal year 1983 to replace C-140B aircraft was $9.0 million. The Senate supported the request and the House added $3.0 million to accelerate retirement of the C-140B.

Because of importance of the mission to be performed, the conferees agree that the replacement aircraft selected by the Air Force should be safe and dependable. In addition, the conferees agree that in deciding on the type of fleet of replacement aircraft, of either one or more types, the Air Force should conduct a spirited and open competition that does not preclude either option. The decision should be based on, among other things, total life-cycle costs and overall ability of each fleet type to meet mission requirements.

The Senate recedes.

Eastern Missile Test Range

The Senate bill contained $94 million for the operation and maintenance of this test range. The House amendment did not.

The House recedes.

Western Missile Test Range

The Senate bill included $57.1 million, the amount requested for the operation and maintenance of this test range. The House amendment deleted the $57.1 million.

The House recedes.

Inventory control point

The Senate bill contained $411.2 million the amount requested, associated with the Air Force inventory control point operation, including management of consumable supply items. The House amendment provided an increase of $.5 million.

The Senate recedes.

Procurement operations

The request contained $152.8 million for procurement functions including consumable supply items. The Senate bill authorized the amendment requested. The House amendment added $.6 million.

The Senate recedes.

USAF Academy operations

The Senate bill provided $29.3 million for USAF Academy operation and maintenance for fiscal year 1983, an increase of $3.4 million over fiscal year 1982. The House amendment denied $2 million of the requested increase.

The Senate recedes.

Professional Development Education

The Senate bill authorized a $3 million increase in Professional Development Education. The House amendment authorized $1.5 million of the increase.

The Senate recedes.

Deferral of air wing activation

Subsequent to the submission of the fiscal year 1983 request, the Department of Defense identified $40 million in possible reductions associated with the deferral of the activation of an air wing.

The Senate bill authorized the amount requested. The House amendment reduced the authorization by $40 million.

The Senate recedes.

Although the conferees concluded that current budget restrictions would require the Air Force to defer previously planned growth in force structure, they also agreed that the Air Force should retain the flexibility to distribute this reduction in a manner consistent with evolving priorities.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
General purpose forces	343.9	343.9	0.0
Intelligence and communications	1,932.7	1,901.5	−31.2
Intelligence programs			(−19.1)
Foreign currency revaluation			(−0.6)
Contracting out studies			(−0.3)
Civilians			(−11.2)
Central supply and maintenance	1,389.0	1,392.9	+3.9
Foreign currency revaluation			(−1.6)
Contracting out studies			(−0.4)
Fuel cost reestimate			(−0.2)
Civilians			(−8.9)
Real property maintenance			(+15.0)
Training, medical and other general support activities	1,733.3	1,703.9	−29.4
Foreign currency revaluation			(−9.4)
CHAMPUS			(−20.0)
Contracting out studies			(−0.3)
Civilians			(−4.7)
Real property maintenance			(+5.0)
Administration	356.5	351.4	−5.1
Contracting out studies			(−0.3)
Civilians			(−4.8)
Total Defense agencies	5,755.4	5,693.6	−61.8

Note: Totals may not add due to rounding.

Civilian personnel and consumable item management

The Senate bill reduced Defense Agencies personnel end strength by 2,600 spaces and $34.7 million. The House amendment reduced the request by $24.5 million, including a specified reduction of 403 personnel spaces and $9.9 million from the Defense Logistics Agency (DLA). The conferees agreed to a total reduction of $29.6 million and, that within the funds authorized, agreed that the DLA may hire additional personnel to manage the proportion of the 200,000 consumable items to be retained by DLA.

The conferees further agreed that management of weapon-system related consumable items should be retained in the service responsible for the parent system; that a certification procedure for service-retained items should be established at the Joint Chiefs' or Joint Logistics Commanders' level; that items to be routinely transferred to the DLA from the services should be screened against existing criteria; and that of the 200,000 items currently being transferred, DLA should retain those eligible for transfer under existing criteria, and management of weapon-system sensitive items should be restored to the services.

Program 3 (Intelligence and Communications)

The request for Program 3 was $1,932.7 million.

The Senate bill contained a reduction of $8.8 million from the request. The House amendment reduced the authorization by $22.8 million.

The conferees agreed to a reduction of $19.1 million from the request.

Recruiting/Advertising

The total request for joint recruiting and advertising was $21.0 million. The Senate bill contained the amount requested. The House amendment reduced the amount by $2.5 million.

The House recedes.

CHAMPUS

The Senate bill contained $1,080 million, the amount requested, for the CHAMPUS program. The House amendment reduced the CHAMPUS program by $20 million.

The Senate recedes.

OPERATION AND MAINTENANCE, ARMY RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	423.6	433.3	+9.7
Fuel cost reestimate			(−0.6)
Readiness training for tactical intelligence			(+0.3)
Stock funded unit equipment			(+9.0)
CAPSTONE training			(+1.0)
Depot maintenance	7.7	7.7	0.0
Other support	255.0	263.8	+8.8
Fuel cost reestimate			(−0.3)
Automated pay/attendance			(+1.0)
Real property maintenance			(+7.4)
Minor construction			(+0.7)
Total, Army Reserve	686.4	704.9	+18.5

Tactical intelligence training

The fiscal year 1983 request contained $0.4 million for tactical intelligence training. The Senate bill authorized $0.716 million—an increase of $0.316 million. The House amendment authorized $0.7 million.

The Senate recedes.

Testing the automated pay system

The fiscal year 1983 request contained $0.8 million for testing of the automated pay system. The Senate bill authorized $1.795 million—an increase of $0.995 million. The House amendment authorized $1.8 million.

The Senate recedes.

CAPSTONE training

The fiscal year 1983 request contained $0.6 million for CAPSTONE training. The Senate bill authorized $1.593 million—an increase of $0.993 million. The House amendment authorized the amount requested.

The House recedes.

Stock funded unit equipment

The fiscal year 1983 request contained $150.4 million for stock funded unit equipment. The Senate bill authorized the amount requested. The House amendment authorized $160.4 million

The conferees authorized $159.4 million—an increase of $9 million.

Minor construction

The fiscal year 1983 request contained $3.1 million for minor construction. The Senate bill authorized the amount requested. The House amendment authorized $3.8 million—a $0.7 million increase.

The Senate recedes.

OPERATION AND MAINTENANCE, NAVY RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	398.3	398.3	0.0
Depot maintenance	103.8	112.5	+8.7
Installation of aircraft modifications			(+8.7)
Other support	150.9	160.9	+10.0
Real property maintenance			(+10.0)
Total, Naval Reserve	653.0	671.7	+18.7

Installation of aircraft modifications

The fiscal year 1983 request contained $5.9 million for the installation of aircraft modifications. The Senate bill authorized $14.6 million—an increase of $8.7 million. The House amendment authorized the amount requested.

The House recedes.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[Amounts in millions of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	24.7	27.4	+2.7
Organizational equipment and consumable supplies			(+1.7)
Mobilization deployment airlift support			(+0.2)
Individual equipment			(+0.3)
Transportation of equipment			(+0.2)
Contracting airlift support			(+0.3)
Depot maintenance	1.5	1.5	0.0
Other support	22.2	22.2	0.0
Total, Marine Corps Reserve	48.4	51.1	+2.7

Organization equipment and consumable supplies

The fiscal year 1983 request contained $17.1 million for organizational equipment and consumable supplies. The Senate bill authorized the amount requested. The House amendment authorized $18.8 million—an increase of $1.7 million.

The Senate recedes.

Mobile deployment airlift support

The fiscal year 1983 request contained $1 million for mobile deployment airlift support. The Senate bill authorized the amount requested. The House amendment authorized $1.2 million—an increase of $0.2 million.

The Senate recedes.

Individual equipment

The fiscal year 1983 request contained $1.2 million for individual equipment. The Senate bill authorized the amount requested. The House amendment authorized $1.5 million—an increase of $0.3 million.

The Senate recedes.

Transportation of equipment

The fiscal year 1983 request contained $1.1 million for the transportation of equipment. The Senate bill authorized the amount requested. The House amendment authorized $1.3 million—an increase of $0.2 million.

The Senate recedes.

Contracting airlift support

The fiscal year 1983 request contained no funding for contracting airlift support. The Senate bill contained no such authorization. The House amendment authorized $0.3 million.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[Amounts in millions of dollars]

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Mission forces	543.3	543.3	0.0
Depot Maintenance	101.4	101.4	0.0
Other support	121.6	121.6	0.0
Total, Air Force Reserve	766.3	766.3	0.0

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[Amounts in millions of dollars]

Budget activity	Administration's fiscal year 1983 request	Conference recommendation	Net change from request
Training operations	184.3	192.2	+7.9
Real property maintenance			(+4.8)
Minor construction			(+2.5)
Security guard support			(+0.6)
Logistical support	852.2	887.3	+35.1
Fuel cost reestimate			(−2.7)
Chemical defense equipment			(+10.0)
Cold weather clothing and equipment			(+10.0)
Camouflage systems			(+4.1)
Real property maintenance			(+3.9)
Repair parts			(+2.8)
Minor construction			(+2.0)
Security guard support			(+2.0)
Medical equipment			(+3.0)
Headquarters and command support	79.3	79.3	0
Medical support	8.0	8.0	0
Total, Army National Guard	1,123.9	1,166.9	+43.0

Chemical defense equipment

The fiscal year 1983 request contained $13 million for chemical defense equipment. The Senate bill authorized $33 million. The House amendment authorized $15.5 million.

The conferees agreed to an authorization of $23 million—a $10 million increase.

Medical equipment

The fiscal year 1983 request contained $5.8 million for medical equipment. The Senate bill authorized $8.8 million. The House amendment contained no such authorization.

The House recedes.

Cold weather clothing and equipment

The fiscal year 1983 request contained $30.2 million for cold weather clothing and equipment. The Senate bill authorized $50.2 million. The House amendment authorized $34.2 million.

The conferees agreed to an authorization of $40.2 million—an increase of $10 million.

Minor construction

The fiscal year 1983 request contained $6 million for minor construction. The Senate bill authorized the amount requested. The House amendment authorized $10.5 million—an increase of $4.5 million.

The Senate recedes.

Security guard support

The fiscal year 1983 request contained $5.5 million for security guard support. The Senate bill authorized the amount requested. The House amendment authorized $8.1 million—a $2.6 million increase.

The Senate recedes.

Camouflage screens

The fiscal year 1983 request contained $1.9 million for camouflage screens. The Senate bill authorized the amount requested. The House amendment authorized $6.0 million—an increase of $4.1 million.

The Senate recedes.

Repair parts

The fiscal year 1983 request contained $113.1 million for repair parts. The Senate bill authorized the amount requested. The House amendment authorized $115.9 million—an increase of $2.8 million.

The Senate recedes.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[Amounts in million of dollars]

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
Operation of aircraft	530.6	530.6	(0.0)
Logistical support	289.6	306.8	(+17.2)
Real property maintenance			(+6.0)
Cold weather equipment			(+8.2)
Chemical defense equipment			(+3.0)
Training support	937.9	937.9	(0.0)
Servicewide support	3.7	3.7	(0.0)
Total, Air National Guard	1,761.8	1,779.0	+17.2

OPERATION AND MAINTENANCE

AIR NATIONAL GUARD

Cold weather equipment

The Senate bill provided $8.2 million for an unfunded requirement for the cold weather equipment. The House amendment contained no such authorization.

The House recedes.

Chemical defense equipment

The Senate bill provided $3 million for an unfunded requirement for chemical defense equipment. The House amendment contained no such authorization.

The House recedes.

OTHER BUDGET ACTIVITIES

Budget activity	Administration fiscal year 1983 request	Conference recommendation	Net change from request
National Board for the Promotion of Rifle Practice	0.9	0.9	(0.0)
Claims, Defense	172.5	172.5	(0.0)
Court of Military Appeals	3.2	3.2	(0.0)

OTHER PROVISIONS

Operation and maintenance accounts (sec. 301)

Section 301 of the Senate bill would authorize funds for operation and maintenance purposes separately by service (Army,

Navy, Marine Corps, Air Force, Defense Agencies and other activities). Section 301 of the House amendment would authorize funds for operation and maintenance purposes by major account title (Army, Navy, Marine Corps, Air Force, Defense Agencies, Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve, Army National Guard, Air National Guard, National Board for the Promotion of Rifle Practice—Army, Claims—Defense, Court of Military Appeals—Defense) specifically by budget activity within account titles.

The conferees agreed to authorize funds for Department of Defense operation and maintenance purposes by major account title, with tables and exhibits accompanying the statement of managers subdividing major account authorizations by budget activity. In the event that this constitutes insufficient authorization guidance, the conferees agreed that appropriate corrective action would be considered including authorization of the fiscal year 1984 Department of Defense operation and maintenance request by major account title and budget activity.

Navy ship overhauls (sec. 302)

Section 302 of the Senate bill would establish an authorization ceiling of $2,756.0 million for Navy ship overhauls. The House amendment contained no similar provision.

The House recedes.

Restriction on long-term leases for naval vessels (sec. 303)

Section 303 of the House amendment would prohibit the Navy from entering into contracts for the long-term leasing of naval vessels if such lease contains substantial termination liability unless and until the Secretary of the Navy notified the Armed Services Committees and Appropriations Committees of the Senate and House of Representatives and thirty days have elapsed since receipt of notification. Section 303 would further provide that such notification shall include a description of the lease and justification for leasing rather than purchasing such vessel or vessels. However, this section would not apply to a ship being leased by the Navy as of September 30, 1982.

The Senate bill contained no similar provision.

The Senate recedes.

T-5 replacement tanker program (sec. 304)

Section 304 of the House amendment would prohibit expenditure of Navy operation and maintenance funding authorized by this Act associated with the leasing of any vessel under the T-5 replacement tanker program that has a main propulsion system of other major components not built in the United States.

The Senate bill contained no similar provision.

The conferees recognize the importance of the T-5 replacement tanker program and oppose any restriction that would disrupt the ongoing source selection. However, the conferees agreed to prohibit the expenditure of operation and maintenance funding authorized in this conference report associated with the leasing of any additional T-5 replacement vessels under requests for proposal circulated after July 1, 1982.

The Senate recedes with amendment.

Limitation on studies of contracting out of commercial and industrial type functions (sec. 305)

The House amendment contained a provision (sec. 306) that would limit the obligation or expenditure of operation and maintenance funds in fiscal year 1983 for commencing a study after September 30, 1982, for contracting out a commercial or industrial type function of the Department of Defense that is being performed by Department of Defense personnel on September 30, 1982. The provision also limits $567,600,000 in operation and maintenance funds to be available only for salaries or other related costs of direct-hire civilian employees in excess of the 947,000 direct-hire employees contained in the fiscal year 1983 Administration request.

The Senate bill contained no similar provision.

The Senate recedes with an amendment.

The conferees agreed to prohibit the use of funds for commencing studies on contracting out prior to April 1, 1983—a six-month limitation on commencing such studies. The six-month limitation on commencing studies would not apply to Department of Defense activities performed by government personnel involving custodial services, laundry and dry cleaning services, refuse collection, grounds maintenance (such as lawnmowing, etc.), food service and preparation (excluding military commissary operations), and base transportation services (excluding vehicle maintenance). During the six-month period when studies may not be commenced. The limitation would not prohibit government activities from determining the most efficient and cost effective organization for performance of the function and associated work in anticipation of formal studies of contracting out the function.

The limitation on funds would also not prevent the renewal or award to a lower bidder of a contract in effect on the date of enactment of the bill. The conferees also agreed to limit the availability of $283,800,000 to salaries or other related costs of civilian employees in excess of the 947,000 direct-hire civilian employee level contained in the fiscal year 1983 Administration request.

The contracting out program. The Senate conferees agreed to support language in the Senate version of H.R. 6317—the military pay bill. That language would be similar, with one exception, to language in section 401 of H.R. 6317 as reported by the House Committee on Armed Services. That one exception involves the provision in H.R. 6317 dealing with the allocation of the costs of the cost comparison process to ensure the allocation takes into account the length of the contract. The language agreed upon could not be included in the conference report but will be considered in the respective pay bills.

The conferees also agreed to consider language in the pay bill prohibiting the Secretary of Defense from administering a civilian personnel ceiling imposed by the Office of Management and Budget, although there is no agreement concerning support for such language.

Stationing of E-4 national emergency airborne command post aircraft

Section 302 of the Senate bill provided that none of the funds appropriated by this conference report could be obligated or expended for stationing of E-4 Emergency Airborne Command Post aircraft or its associated maintenance and logistical support at Andrews Air Force Base, Camp Springs, Maryland unless the President provides written certification to the Congress that the continued deployment of the aircraft at Andrews Air Force Base is essential to the national security of the United States.

The House amendment contained no similar provision.

The conferees were advised that the Administration is presently undertaking a study that addresses the coordination and organization of government during a crisis, including the role of the E-4 Airborne Command Post aircraft. Accordingly, the conferees agreed to delete the provision of the Senate bill and, instead, require the President to advise the Congress, in writing, prior to submission of the fiscal year 1984 Department of Defense request for authorization of the desirability of locating the alert E-4 aircraft and its ancillary equipment farther inland than Andrews Air Force Base.

The Senate recedes.

Restriction on the purchase of coal for military bases in Europe

Section 305 of the House amendment would prohibit expenditure of the Department of Defense operation and maintenance funding authorized by this Act to purchase U.S.-mined coal or coke for use at U.S. military installations in Europe.

The Senate bill contained no similar provision.

The House recedes.

TITLE IV—ACTIVE FORCES

Active duty military strengths for the Army, Navy, Marine Corps, and Air Force in the Senate bill and the House amendment differed by a total of 21,100. The conference agreement, which was 17,600 below the Administration request, is summarized in the following table:

	House	Senate	Conference
Army	783,800	778,600	782,500
Navy	564,200	555,800	560,300
Marine Corps	194,600	193,300	194,600
Air Force	595,700	589,500	592,000
Total	2,138,300	2,117,200	2,130,000

The conference agreement for the Army involved a reduction of 1,300 from the request. The conferees agreed that the Army should have the discretion to implement this reduction in the manner considered most appropriate.

Authority to exceed end strengths (Sec. 402)

The House amendment contained a provision (sec. 401(b)) that would permit the Secretary of Defense to exceed the authorized end strength for each of the active components by not more than one-half of one percent for each component when he considers such an increase in the national interest. The authority provided would have been effective only in fiscal years 1982 and 1983.

The Senate bill contained a similar provision (sec. 402) that would provide permanent authority for the Secretary to exceed the end strengths if the increase is needed to maintain a stable personnel force.

The House recedes with an amendment authorizing such increases when the Secretary determines the increases to be in the national interest.

Saving provision for certain accrued leave (Sec. 404)

The Senate bill contained a provision (sec. 404) that would authorize members of the Armed Forces who were previously authorized to accumulate 90 days of leave during fiscal year 1980 and who lost any leave at the end of fiscal year 1981 to be recredited with such lost leave until the end of fiscal year 1982.

The House amendment contained no similar provision.

The House recedes.

TITLE V—RESERVE FORCES

The average strength for the Coast Guard Reserve in the Senate bill and the House amendment differed by a total of 1,300. There was no disagreement on the average strength for any other reserve component.

The conference agreement, which was 1,300 above the Administration request, is summarized in the following table.

	House	Senate	Conference
Army National Guard	407,400	407,400	407,400
Army Reserve	258,700	258,700	258,700
Naval Reserve	105,500	105,500	105,500
Marine Corps Reserve	38,300	38,300	38,300
Air National Guard	101,100	101,100	101,100
Air Force Reserve	66,000	66,000	66,000
Coast Guard Reserve	12,000	10,700	12,000
Total	989,000	987,700	989,000

Increase in grades for full-time manning (Sec. 503)

The House amendment contained a provision (sec. 503) that would permit an increase in the number of personnel authorized in certain grades for personnel on active duty in support of the reserve components. The increase, authorized for fiscal year 1983 only, would be commensurate with the increase in the total number of personnel authorized to be on active duty in support of the reserve components.

The Senate bill contained a provision (sec. 503) that was identical to the House provision except that the increase would be permanent.

The House recedes.

TITLE VI—CIVILIAN PERSONNEL

The Department of Defense requested an end strength of 1,035,500 for civilian personnel.

The Senate bill would authorize an end strength for the Department of Defense totaling 1,024,400.

The House amendment would authorize a department-wide end strength of 1,050,060.

The conferees agreed to provide an overall Department of Defense authorization for civilian personnel of 1,050,060.

The conference agreement encompasses the following elements. For the Army, the Senate bill reduced the level requested to replace borrowed military manpower by 8,400; the House amendment reduced the level by 1,000. The conferees agreed to increase the level authorized for the Army by 5,900 over the level in the Senate bill. All of these spaces are to be used for the borrowed military manpower program. However, 1,500 of the spaces may be used only for the hiring of dependents of military personnel in overseas areas. For the Navy, the conferees agreed to add 3,000 spaces to the level requested for the Navy to permit the performance of commissary activities by in-house personnel. For Defense agencies, the Senate bill proposed a reduction of 2,600 from the request; the House amendment proposed a reduction of 1,000. The conferees agreed to a reduction of 1,300 for civilian personnel in Defense agencies.

The conferees also adjusted the request by 15,460 spaces to add back most of those spaces withdrawn in advance from the budget in anticipation of contracting out. This increase is an accounting adjustment and entails no additional cost because funds were requested for the performance of the functions that will be studied whether performed by government personnel or private contractors.

The House amendment proposed a reduction of 440 personnel who would be used as new administrators in the contracting out program. The Senate bill contained no similar provision. The House recedes.

The conferees are aware that the Office of Management and Budget has prevented the Army from using 3,000 of the increase approved by the Congress for fiscal year 1982. The increase provided by the Congress was requested by the Administration last year and approved by the Congress after being substantiated by testimony from Department of Defense witnesses.

The conferees are concerned about the undermining of clearly-expressed congressional intent. If this practice continues, future legislation will be drafted in a form to preclude flexibility on the part of the executive branch on these matters.

The conferees again direct the Secretary of Defense to discontinue the practice of reducing civilian personnel authorization requests in anticipation of unspecified conversions to performance by private contractors. If this direction is not complied with, the Congress will seriously consider placing such restrictions in the law next year.

Accounting for overseas dependent employees (Sec. 601(c))

The House amendment contained a provision (sec. 601(c)) that would permit the Department of Defense to account for overseas dependent employees on a pro rata basis if they are part-time personnel.

At the present, the Part-Time Career Employment Act of 1978 permits Federal agencies to count part-time personnel on a proportional basis in an effort to expand job opportunities for personnel wishing to work part-time. That Act does not apply to overseas areas.

The House amendment would permit overseas dependents to be counted in the same manner as is the case within the United States.

The Senate bill contained no similar provision.

The Senate recedes.

TITLE VII—MILITARY TRAINING STUDENT LOADS

One-year extension of reduction in number of students required to maintain a Junior Reserve Officers' Training Corps unit (Sec. 702)

The House amendment contained a provision (Sec. 702) that would extend until August 31, 1983, the provision that permits a Junior Reserve Officers' Training Corps (JROTC) unit to be maintained with a minimum enrollment of 100 students or 10 percent of the students enrolled at the institution who are at least 14 years of age, whichever is less.

The Senate bill contained no similar provision.

The Senate recedes.

TITLE VIII—CIVIL DEFENSE

The Senate bill contained a provision (sec. 801) that would provide $144.53 million for civil defense. The House amendment (sec. 801) authorized $252.34 million as requested by the Administration and distributed the authorization among three civil defense appropriation accounts. The conferees agreed to authorize $152.34 million.

The Senate bill (sec. 802) would permanently increase the appropriations ceiling for emergency management assistance contributions that may be provided to the states for personnel and administrative expenses associated with civil defense from $47 million to $50 million. The House amendment (sec. 802) would increase the ceiling during fiscal year 1983 to $60 million. The Senate recedes.

The House amendment (sec. 803) would redesignate the Federal Emergency Management Agency (FEMA) as the Civil Disaster Agency. The Senate bill contained no similar language. House conferees receded after it was agreed that the Armed Services Committees of the Senate and the House of Representatives will hold hearings on the question of renaming FEMA to the Civil Disaster Agency.

TITLE IX—SUPPLEMENTAL AUTHORIZATIONS FOR FISCAL YEAR 1982

The budget request contained supplemental authorizations totaling $1,451.8 million for fiscal year 1982 as follows:

$263.4 million for naval vessels;

$219.1 million for Air Force aircraft;

$126 million for Army tracked combat vehicles;

$57 million for research, development, test, and evalution for the Air Force;

$365.2 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$254.6 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps;

$105.3 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$61.2 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

The budget request would also increase the end strength authorization for the Army for fiscal year 1982 to 784,400.

The Senate bill in title IX recommended supplemental authorizations totaling $830.5 million for fiscal year 1982 as follows:

$263.4 million for naval vessels;

$219.1 million for Air Force aircraft;

$5.3 million for Air Force missiles;

$16.4 million for research, development, test, and evaluation for the Air Force;

$90.2 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$164.6 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps;

$30.3 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$41.2 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

The Senate bill would also increase the end strength authorization for the Army for fiscal year 1982 to 784,400.

The House amendment contained no comparable provision.

The conferees agreed to supplemental authorizations totaling $182.4 million for fiscal year 1982 as follows:

$120 million for Air Force aircraft;

$6.6 million for the operation and maintenance for the Army, Army Reserve and Army National Guard;

$5 million for the operation and maintenance for the Navy, Naval Reserve and Marine Corps.

$25 million for the operation and maintenance for the Air Force, Air Force Reserve and Air National Guard; and

$25.8 million for the operation and maintenance for the Defense agencies and Defense-wide activities.

The conferees also agreed to an end strength authorization for the Army for fiscal year 1982 of 782,500.

The conferees agreed that the reduction in the request for naval vessels was without prejudice.

The House recedes with an amendment.

In addition to supplemental authorization for fiscal year 1982, the conferees agreed to approve certain transfers of existing 1982 authorization. The approval of transfers in this statement of managers is in lieu of individual reprogramming actions. The transfers approved are:

$23.5 million to Operations and Maintenance, Army, to be derived by transfer of $5.7 million from Missile Procurement, Army; $6.3 million from Weapons and Tracked Combat Vehicles Army; $10 million from Other Procurement, Army; and $1.5 million from Ammunition.

$117.4 million to Operations and Maintenance, Navy, to be derived by transfer of $19.6 million from Research, Development, Test, and Evaluation, Navy; $71.1 million from Aircraft Procurement, Navy; $7.5 million from Weapons Procurement, Navy; and $19.2 million from Other Procurement, Navy.

$2 million to Operations and Maintenance, Marine Corps, to be derived by transfer from Procurement, Marine Corps.

TITLE X—FORMER SPOUSES' PROTECTION

The House amendment contained provisions (sec. 901-907) that would provide certain rights and benefits for the former spouse of a member of a uniformed service. The Senate bill contained no similar provisions, however, the Senate Committee on Armed Services had reported a bill on July 14, 1982, with similar provisions (S. 1814).

General description

The House amendment would permit disposable military retired pay to be considered as property in divorce settlements under certain specified conditions. This provision in the House amendment would have the effect of reversing the decision of the United States Supreme Court in the case of *McCarty* v. *McCarty*, 453 U.S. 210 (1981), which held that a court could not order a division of non-disability retired pay as part of a distribution of community property incident to a divorce proceeding.

The House amendment would also permit the former spouse to receive court-awarded payments directly from the military finance center without having to resort to periodic garnishment proceedings. Direct payments could be made out of military retired pay for court-awarded alimony, child support, and division of property.

The House amendment contained several provisions that would place restrictions on the division of retired pay. Under the House amendment, military retired pay could only be considered property if the marriage lasted at least 10 years while the service member was performing creditable service. Further, the amendment specified that courts could not treat military retired pay as property unless the court has jurisdiction over the member by reason of the member's residence in the state other than because of military orders, domicile (legal residence) in the state, marriage in that state, or consent to the court's jurisdiction. In addition, the House amendment provided that payments for alimony and division of retired pay would terminate if the former spouse remarried before age 60. Finally, the House amendment would require that court orders presented to the service Secretaries for the purpose of direct payments to the former spouse certify that the court had complied with the provisions of the Soldiers' and Sailors' Civil Relief Act.

The amendment also would authorize the service Secretaries to pay to a former spouse a portion of disposable military retired pay to satisfy a court order garnishing retired pay for non-payment of property settlements other than retired pay. This provision would have the effect of expanding existing garnishment procedures in section 459 of the Social Security Act (42 U.S.C. 659) as they apply to military retired pay to include garnishment for non-payment of property settlements unrelated to division of retired pay.

The House amendment contained a provision that would authorize care in military medical facilities or under the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS) for unremarried former spouses who had been married to the member for at least 20 years while the member was performing creditable service. The coverage provided would be the same as the coverage for retirees, dependents of retirees and survivors. The benefit would only be available during periods when the former spouse was not covered by another health benefit plan as a result of his or her employment.

The House amendment would also direct the Secretary of Defense to prescribe regulations authorizing commissary and exchange benefits for the unremarried former spouse who had been married to the member for at least 20 years while the member was performing creditable service.

The House amendment would authorize coverage for a former spouse under the insurable interest provisions of the Survivor Benefit Plan if the service member voluntarily elected to provide that coverage.

The House amendment would apply to court orders finalized before the McCarty decision, but not to subsequent modifications thereto which have the effect of implementing the holding in the McCarty decision (for example, divesting a former spouse of a previously awarded right to a portion of a member's retired pay) or which, based on the enactment of the new title X, effected a first-time division of retired pay. It would also apply to court orders finalized on or after the McCarty decision as well as to subsequent modifications. The provisions related to medical care and eligibility for commissary and exchange privileges would only apply to former spouses divorced after the effective date of the changes.

Finally, the House amendment contained a provision (sec. 907) that would provide that nothing in title IX of the House amendment would overrule or require the modification of any state law or court decision in any state that treats marital property as community property.

The Senate recedes with amendments.

The conferees agreed to remove the restriction that would require 10 years of marriage before military retired pay could be considered property by the courts. The conferees further agreed, however, that direct payments by the service finance centers to a former spouse from the member's retired pay based on a division of that retired pay as property would be limited to situations in which the former spouse was married to the member for at least 10 years while the member performed military service. The 10-year restriction would not apply to direct payments based on the award of child support or alimony.

Currently, there is no Federal enforcement mechanism for court-ordered property division of military retired pay available to former spouses of military personnel. The conferees agreed to a Federal enforcement provision as described above; however, jurisdiction of the courts to consider military retired pay when fixing the property rights between the parties to a divorce, dissolution, legal separation or annulment would not be affected by the 10-year marriage requirement.

The conferees agreed to retain the 10-year requirement as a part of the enforcement procedures after due deliberation but remain uncertain about the potential impact of restricting Federal enforcement remedies based upon duration of marriage. Specifically, there is insufficient evidence on the retention impact. Therefore, the conferees expect the Armed Services Committees of the Senate and the House of Representatives to monitor closely whether the 10-year restriction on enforcement might become a disincentive for men and women deciding whether to reenlist for a third tour of duty. The conferees believe that there is insufficient evidence to evaluate the contention that returning to the states the authority to divide military retired pay would have a detrimental impact on retention. Continued oversight of the impact of the 10-year provision will better enable the Armed Services Committees to determine whether a duration of marriage rule of any length promotes military manpower goals or whether future legislative modifications may be required.

The conferees agreed to delete the provision in the House amendment that would terminate payments for alimony or a division of retired pay to a former spouse if the former spouse remarried before age 60.

The conferees also agreed that courts could not treat retired pay as property unless the court has jurisdiction over the member by reason of the member's residence in the state other than because of military orders, domicile in the state or consent to the court's jurisdiction.

Finally, in view of the other changes recommended by the conferees, the conferees agreed to delete section 907 of the House amendment.

The conferees adopted the provision contained in the House amendment, related to the application of the new title X to court orders finalized before the McCarty decision. Although the conference report contains no prohibition against courts reopening decisions before that date, the conferees agreed that changes to court orders finalized before the McCarty decision should not be recognized if those changes were effected after the McCarty decision (and before the effective date of the new title X) to implement the holding in that decision (for example, a modification setting aside a pre-McCarty division of military retired pay).

In additions, the conferees intend this provision to preclude recognition of changes to court orders finalized before the McCarty decision if those changes are effected after the McCarty decision and as a direct result of the enactment of the new title X of this conference report. In other words, the courts should not favorably consider applications based on the enactment of this title to reopen cases finalized before the McCarty decision wherein military retired pay was not divided.

Other provisions

With certain exceptions the provisions adopted by the conferees are similar to the provisions of S. 1814 as reported by the Senate Armed Services Committee (S. Rept 97-502). For the purpose of describing these similar provisions, the section-by-section analysis (p. 12-28) in the Senate report is referred to.

Limited medical coverage for deserving former spouses

The conferees recognize that, because the medical care provision is prospective, certain deserving former spouses whose divorces occurred prior to the effective date will not be eligible to receive medical care even though they may suffer from illinesses or diseases that were incurred during a period of the member's military service. For example, one case was brought to the attention of the conferees in which a former spouse was unable to obtain private sector medical insurance because she suffered from a chronic disease contracted while she accompanied her husband on a tour of military duty in the Philippines.

In situations such as these, particularly those in which it can be determined that the illness or disease was caused or aggravated by conditions associated with the member's military service, the conferees strongly encourage the Secretary of Defense and the Secretaries of the Military Departments to use the discretionary authority provided by title 10, United States Code, to judiciously authorize space available medical care in uniformed services medical treatment facilities. In making this recommendation, the conferees expect the Secretaries to limit this special medical designee status to certain deserving former spouses where the marriage lasted for at least 20 years during which the member served in the uniformed services. As with the medical care authorized in this bill, the conferees do not envision exercising this Secretarial authority if the former spouse is enrolled in or covered by a medical insurance program.

TITLE XI—GENERAL PROVISIONS

Transfer authority (sec. 1101)

The House amendment contained a provision (sec. 1001) that would permit the transfer of an authorization made available in the fiscal year 1983 Defense Authorization Act to any other authorization made available in the Act only upon determination by the Secretary of Defense that such a transfer were in the national interest. The authority to transfer could only be used to provide authorization for higher priority items than the items from which authorization was transferred and could not be used to provide authorization for an item that was denied authorization by the Congress. The Secretary of Defense would be required to promptly notify the Congress of transfers. The total amount of transfers would be limited to $1.5 billion.

The Senate bill contained no similar provision.

The conferees believe that this provision is necessary to permit efficient operations of the Department of Defense.

The obligation or expenditure of funds by the Department of Defense for procurement, research and development or operation and maintenance is prohibited by law (section 138 of title 10, United States Code) unless such funds have been previously authorized. Transfer authority would permit the Secretary of Defense to act promptly to continue the efficient conduct of activities authorized by this Act without obtaining prior legislative authorization.

Under agreements that have evolved over the years, the Secretary of Defense has consulted with the Committees on Armed Services and Appropriations of the Senate and House of Representatives about realignments of defense programs subsequent to the enactment of authorization and appropriation. This process, known as reprogramming, has worked well. The conferees direct the Secretary of Defense to use the transfer authority that would be authorized in this section pursuant to the existing procedures governing reprogramming.

The Senate recedes.

Waiver of authorization requirement for certain previously appropriated funds (sec. 1102)

The House amendment contained a provision (sec. 1007) that would waive the provisions of section 138(a) of title 10, United States Code (which requires that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law), with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this Act for the following purposes:

procurement of aircraft for the Army;

procurement of aircraft for the Air Force;

procurement of missiles for the Air Force; and

operation and maintenance for Defense-wide activities.

The Senate bill contained no similar provision.

The Senate recedes.

The Senate bill in Title X recommended additional authorization for fiscal year 1982 where appropriations exceeded authorization as follows:

$123.6 million for naval vessels;

$137.8 million for Air Force aircraft;

$12 million for Air Force missiles;

$53.969 million for research, development, test, and evaluation for the Navy; and

$73 million for research, development, test, and evaluation for the Air Force.

The House amendment contained no similar provision.

Consistent with the agreement on sec. 1102, the Senate recedes on its original Title X.

Increase in Authorization for Special Defense acquisition Fund (Sec. 1103)

The Senate bill contained a provision (sec. 1101) that would establish a funding ceiling for the Special Defense Acquisition Fund of $900.0 million for fiscal year 1984.

The House amendment contained no similar provision.

The House recedes.

Transfer of Defense Articles (Sec. 1104)

The Senate bill contained a provision (sec. 1102) that would increase the $25.0 million reporting threshold of the fiscal year 1976 Department of Defense Authorization Act for proposal sales or other transfers from Department of Defense inventories or current production of defense articles to make it consistent with the $50.0 million threshold of the Arms Export Control Act.

The House amendment contained no similar provision.

The House recedes.

Reports on technology transfer control policy (sec. 1105)

The Senate bill contained a provision (sec. 1110) that would require the Secretary of Defense to conduct a study of the effectiveness of the technology transfer control policy of the Department of Defense and require that the results of such study be submitted to the Congress no later than December 31, 1982. The report would include the Secretary's recommendations for making improvements to the Department's technology transfer control policy as well as the desirability of establishing a separate office to manage and coordinate such policies within the Department of Defense.

The House amendment contained no similar provision but provided an authorization of $2 million that was to be used by the Office of the Assistant Secretary of Defense (International Security Policy) to carry out the required effort in the area of technology transfer.

The conferees agreed that there is an urgent requirement to address the issue of technology transfer control and accordingly agreed to the provision of the Senate bill together with the $2 million authorization provided by the House amendment. The conferees also agreed to the provision of the Senate bill requiring the Secretary of Defense to submit to the Congress a written report not later than February 15 of each fiscal year, recommending the amount of funds to be appropriated to carry out the technology transfer control policy formulation and related activities of the Department of Defense during the next fiscal year.

The conferees further agreed that should additional funding be required during fiscal year 1983 to carry out this effort, a reprogramming request may be submitted for this purpose.

The House recedes with an amendment.

Limitation on defense funds for space shuttle (Sec. 1106)

The House amendment contained a provision (sec. 1008) that would limit the amount the Department of Defense may be required to pay the National Aeronautics and Space Administration (NASA) for placing DOD payloads in orbit.

The Senate bill contained no similar provisions.

The conferees agreed to the House provision with the understanding that it is not the intention of the conferees to preclude a revision of existing DOD/NASA interagency agreements as they might relate to space shuttle cost sharing arrangements between the DOD and NASA. The conferees intend, however, to insure that such cost sharing arrangements will only be in accordance with laws in effect on July 1, 1982, and interagency agreements negotiated by the DOD and NASA pursuant to such laws.

The Senate recedes with an amendment.

Improved oversight of cost growth in major defense acquisition programs (Sec. 1107)

The Senate bill contained a provision (sec. 1103) that would establish in permanent law a requirement for the unit cost reporting system that was approved in the fiscal year 1982 Defense Authorization Act for a one-year period only.

The House amendment contained a provision (sec. 1003) that would modify the Selected Acquisition Report (SAR) System and requires the Department of Defense to provide on an exception basis contract cost and schedule information for those SAR programs that breached specific cost growth thresholds.

Specifically, section 1003 would require the Secretary of Defense to provide SAR's on those programs that exceed $200 million in RDT&E funds or exceed $1 billion in procurement funding. It would require that

comprehensive SAR's be provided only for the fiscal quarter ending December 31 with abbreviated SAR's being submitted for the three other fiscal quarters when there are changes in cost, performance, or schedule. The provision also would require the program manager to submit reports to the service Secretaries when he has reason to believe that there would be a 15 percent increase in contract cost or a 15 percent slippage in contract schedule. Based on the program manager's reports, the service Secretary would submit a program cost assessment report to the Congress that would contain contract cost and schedule information if he determines that there had been a greater than 15 percent increase in program unit cost. The provision further would require additional reports from the program manager and the service Secretary for every 5 percent increase above the original 15 percent cost growth in contract cost or program unit cost. The provision would permit the Defense Department to submit to the Armed Services Committees of the Senate and House of Representatives a request for waiver of the requirement to report major programs that exceed the SAR reporting thresholds.

The Senate recedes with an amendment that incorporates many of the provisions of the House amendment into the unit cost reporting system.

Oversight of defense expenditures (Sec. 1108)

The House amendment contained a provision (sec. 1004) that would require a report by the Secretary of Defense on the adequacy of the civilian personnel strength requested in the fiscal year 1984 budget of the Defense Contract Audit Agency, Defense Audit Service and the Defense Criminal Investigative Service, and information concerning the savings in defense expenditures achieved by them in fiscal year 1982.

The Senate bill contained no similar provision.

The Senate recedes.

Continuation of test program to authorize price differential to relieve economic dislocations (Sec. 1109)

The Senate bill contained a provision (sec. 1132) that would continue a one-year test program that allows a limited price differential to be paid for the purpose of relieving economic dislocations on contracts entered into by the Defense Logistics Agency except for fuel purchases. The test program is an exception to section 2392 of title 10, United States Code, commonly referred to as the Maybank amendment, which prohibits the use of funds appropriated to or for the use of the Department of Defense, in connection with any contract awarded by the Department of Defense, to pay a price differential for the purpose of paying higher prices on contracts in areas of high unemployment (labor surplus areas).

Under the test program, the aforementioned prohibition would not apply to contracts, other than contracts for fuel purchases, entered into by the Defense Logistics Agency during fiscal year 1983 if the Secretary of Defense were to make certain determinations. The Secretary would be required to determine that such contract would not adversely affect national security; that there would be a reasonable expectation that bids would be received from a sufficient number of responsible bidders so that the award of such contract would be made at reasonable cost to the United States; that the price differential to be paid under such contract would not exceed 1½ percent; and that the cumulative value of all contracts awarded under this exception would not exceed $3 billion.

The Senate provision also directed the President to submit a report to Congress by April 15, 1983, on the implementation and results of the test program.

The House amendment contained a similar provision (sec. 1002) that would continue a test program; however, the price differential to be paid under the contract could not exceed 3 percent and the cumulative value of all contracts awarded under this exception could not exceed $5 billion.

The conferees agreed that the price differential to be paid under a contract could not exceed 2.2 percent and the cumulative value of all contracts awarded under this exception could not exceed $4 billion.

The conferees intend that the price differential to be paid under a contract awarded as the result of solicitations issued before the date of enactment of the Department of Defense Authorization Act for fiscal year 1983 or October 1, 1982, whichever is later, may not exceed five percent.

The Senate recedes with an amendment.

Prohibition against consolidating functions of the military transportation commands (Sec. 1110)

The Senate bill contained a provision (sec. 1107) that would prohibit the consolidation of the functions of the Military Sealift Command, the Military Traffic Management Command, and the Military Airlift Command and would require a report from the Secretary of Defense on the management and cost issues associated with consolidation of the commands.

The House amendment contained no similar provision.

The conferees agreed that the functions of the Military Sealift Command and the Military Traffic Management Command should not be consolidated into a Unified Command at this time and suggest that this is an area appropriate for legislative consideration.

The conferees further agreed that the Armed Services Committees of the Senate and the House of Representatives will hold hearings on mobilization enhancement. The Secretary of Defense is encouraged to submit legislative proposals for the purpose of enhancing the peacetime and wartime operations of transportation commands.

Furthermore, the conferees observed that the Secretary of Defense should take necessary measures to improve the communication and information systems that interact between the transportation commands.

The House recedes with an amendment.

Prohibition regarding contracts for the performance of firefighting and security functions (Sec. 1111)

The Senate bill contained a provision (sec. 1116) that would prohibit the obligation or expenditure of funds in this or any other act for entering into a contract for the performance of firefighting or security guard functions at a military installation, except for the renewal of contracts in effect on the date of enactment.

The House amendment contained a similar provision (sec. 1014) that would be limited to fiscal year 1983.

The Senate recedes.

Modification of reports on conversion of commercial and industrial-type functions to private contractors (Sec. 1112)

The Senate bill contained a provision (sec. 1113) that would exempt functions performed entirely by military personnel or by fewer than 50 Department of Defense civilian personnel from the notification and detailed cost comparison requirements contained in section 502 of the Department of Defense Authorization Act, 1981 (Public Law 96-342). The committee report contained language directing that simplified cost comparisons be conducted on these smaller functions to ensure that cost data are fully considered in decisions on commercial activities. The Senate provision would also suspend the requirements of section 502 entirely during war or during a period of national emergency.

The House amendment contained no similar provision.

The House recedes with an amendment exempting those activities with 10 or less employees from the formal requirements of section 502. The conferees intend that the Senate committee report directing that simplified cost comparisons be prepared and cost data be fully considered be adhered to.

Enforcement of Military Selective Service Act (Sec. 1113)

The Senate bill contained a provision (sec. 1121) that would deny eductional assistance under Title IV of the Higher Eduction Act of 1965 to young men who fail to register under section 3 of the Military Selective Service Act. The Senate provision would place primary responsibility for verification of certifications of registration with the Secretary of Education.

The House amendment contained a similar provision (sec. 1010) that would require, as a condition for receipt of any grant, loan, or work assistance under Title IV of the Higher Education Act of 1965, the individual to file a statement of compliance with the registration provisions of section 3 of the Military Selective Service Act. The Secretary of Education, in consultation with the Director of Selective Service, would prescribe the methods for verifying the accuracy of such statements of compliance.

The Senate recedes with an amendment to ensure due process to an individual who has complied but whose compliance may not be immediately verifiable.

The conferees strongly urge that such regulations and procedures necessary to implement this provision minimize the administrative burden on colleges and universities and the delays in processing aid applications and awards.

Military recruiting information (Sec. 1114)

The Senate bill contained a provision (sec. 1114) that would authorize the Secretary of Defense to collect specific, limited high school directory information for use on a confidential basis in military recruiting. In addition, the Senate provision would authorize the service Secretaries to request from state and local governments certain criminal history information about individuals who apply for enlistment in the armed forces or for participation in programs that require a determination of trustworthiness.

The House amendment contained no similar provision.

The House recedes with an amendment to clarify that the Secretary of Defense is authorized to request high school directory information but that such a request implies no compulsion and that compliance with the request by local school boards and principals is completely voluntary on their part.

Active duty for training of persons enlisting in a reserve component of the Armed Forces (Sec. 1115)

The Senate bill contained a provision (sec. 1123) that would extend the period of time allowed between enlistment and the beginning of initial active duty for training from 180 to 270 days for reserve and national guard personnel. In addition, the Senate bill would permit the initial 12-week basic training requirement to be satisfied in the equivalent of 12 weeks, as prescribed by the service Secretary.

The House amendment contained no similar provision.

The House recedes on the increase in the time allowed between enlistment and initial training from 180 to 270 days.

The Senate recedes on a change to the 12-week basic training requirement.

Temporary increase in number of Navy officers that may serve in the grade of vice admiral (Sec. 1116)

Current law authorizes the Navy 15 percent of its total number of flag officers (officers in the grade of commodore and above) in the grades of vice admiral and admiral. Of this number, 25 percent may be in the grade of admiral. Currently the Navy is authorized 37 spaces for admirals and vice admirals. Of this total, 28 spaces are filled with vice admirals.

The Senate bill contained a provision (sec. 1112) that would authorize the Navy 17.5 percent of its total number of flag officers in the grade of vice admiral and admiral.

The House amendment contained no similar provision.

The conferees agreed to authorize 3 additional spaces for the grade of vice admiral during fiscal year 1983. This would provide a total authorization of 31 spaces for the grade of vice admiral.

The House recedes with an amendment.

Department of Defense Office of Inspector General (Sec. 1117)

The Senate bill contained a provision (sec. 1122) that would amend the Inspector General Act of 1978 (Title 5, United States Code, Appendix I (Public Law 95-452)) to provide for an Inspector General in the Department of Defense under the authority, direction and control of the Secretary of Defense. The Senate provision placed no control over the delegation of the Secretary's authority. The Senate provision would also authorize the Secretary to prohibit certain activities of the Inspector General whenever the Secretary found such prohibition necessary for purposes of preserving national security interests. If, however, such authority were exercised, the Secretary and the Inspector General would be required to report to the Congress. The Senate bill would transfer to the Office of Inspector General the Defense Audit Service and that portion of the Defense Investigative Service assigned responsibility for investigating criminal violations. In addition, the Senate bill would transfer the responsibility for post-award audits, together with not less than 1400 positions, from the Defense Contract Audit Agency to the Office of Inspector General. In addition to the responsibilities and authorities of the Inspector General enumerated in the Inspector General Act of 1978, the Senate bill contained a number of additional provisions with respect to the Inspector General of the Department of Defense.

The House amendment contained a provision (sec. 1011) that would amend the Inspector General Act of 1978 to provide for an Inspector General in the Department of Defense under the general supervision of the Secretary of Defense. The authority of the Secretary to supervise could be delegated only to the officer next in rank. The Secretary would not have authority to intervene in or to prohibit activities of the Inspector General. As under the provision in the Senate bill, the Defense Audit Service and that portion of the Defense Investigative Service with responsibility for investigating alleged criminal violations would be transferred to the Office of the Inspector General. In addition, the House provision would transfer to the Office of Inspector General the Office of Inspector General of the Defense Logistics Agency. The House amendment would not transfer any functions of the Defense Contract Audit Agency to the Inspector General but would require the Inspector General to submit within one year a recommendation to the Secretary of Defense and to the Congress addressing whether the Defense Contract Audit Agency should be transferred to the Office of Inspector General. The House amendment further provides that nothing in the amendment should be construed to authorize the withholding of information from the Congress or its committees.

Both the House and Senate provisions would prohibit the appointment of a member of the Armed Forces, active or reserve, as Inspector General of the Department of Defense. Both the Senate bill and the House amendment contained language that would prohibit the public disclosure of information that is specifically prohibited from disclosure by law or specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

The conferees agreed to provide an Inspector General for the Department of Defense appointed by the President and confirmed by the Senate. The Inspector General would work under the general supervision of the Secretary of Defense. The authority of the Secretary to supervise could be delegated only to the officer next in rank. With respect to audits or investigations that require information concerning sensitive operational plans, intelligence matters, counter-intelligence matters, ongoing criminal investigations of other administrative units of the Department of Defense related to national security, or other matters the disclosure of which would constitute a serious threat to national security, the conferees believe the Inspector General should be under the authority, direction and control of the Secretary of Defense. The Secretary could prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpenas, with respect to the above-mentioned matters when the Secretary determines such prohibition is necessary to preserve the national security interests of the United States. The Secretary and the Inspector General would be required to report to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives and to other appropriate committees and subcommittees of the Congress should the Secretary exercise his authority established by the amendment.

In addition to the transfers contained in both the House and Senate provisions, the conferees agreed that the Office of Inspector General of the Defense Logistics Agency, should be transferred to the Office of Inspector General of the Department of Defense. The conferees agreed not to transfer any functions from the Defense Contract Audit Agency, however. Instead, the conferees agreed to direct the Secretary of Defense to transfer not less than 100 additional positions to the Office of Inspector General to be filled by the Inspector General with persons trained to perform contract audits. The conferees believe that it is essential that the new Inspector General develop a significant capability in the highly technical area of contract audit. The conferees do not intend that these auditors advise Department of Defense contracting officers in the process of negotiating contracts, a function that the Defense Contract Audit Agency auditors perform. The conferees envision the contract audit capability in the Office of Inspector General to be used (1) to provide the manpower and technical expertise to oversee effectively and review the work of the Defense Contract Audit Agency, and (2) to provide the Inspector General flexibility and resources in situations where he deems it necessary or appropriate to look at entire procurements—the performance of defense contractors as well as the performance of defense personnel.

The conferees also agreed to impose duties and responsibilities on the Inspector General of the Department of Defense in addition to those contained in the 1978 Inspector General Act, including the following:

The Inspector General of the Department of Defense would—

(1) be the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste, and abuse in the programs and operations of the department;

(2) initiate, conduct, and supervise such audits and investigations in the Department of Defense (including the military departments) that the Inspector General deems appropriate;

(3) provide policy direction for audits and investigations relating to fraud, waste, and abuse and program effectiveness:

(4) investigate fraud, waste, and abuse uncovered as a result of other contract and internal audits, as the Inspector General deems appropriate;

(5) develop policy, monitor and evaluate program performance, and provide guidance with respect to all department activities relating to criminal investigation programs;

(6) monitor and evaluate the adherence of department auditors to internal audit, contract audit, and internal review principles, policies and procedures;

(7) develop policy, evaluate program performance, and monitor actions taken by all components of the department in response to contract audits, internal audits, internal review reports, and audits conducted by the Comptroller General of the United States;

(8) request assistance as needed from other audit, inspection, and investigative units of the Department of Defense (including military departments); and

(9) give particular regard to the activities of the internal audit, inspection, and investigative units of the military departments with a view toward avoid duplication and insuring effective coordination and cooperation.

The conferees also agreed to amend section 8 of the Inspector General Act of 1978 to require the Inspector General to report to the Secretary of Defense, or the Secretary of the military department concerned,

any alleged or suspected violations of the Uniform Code of Military Justice.

In addition the conferees agreed that members of the Armed Forces should be treated as employees of the Department of Defense with respect to the provisions of section 7 of the Inspector General Act of 1978, that the semi-annual report of the Inspector General of the Department of Defense should include information regarding the numbers and types of contract audits conducted by the department during the reporting period, that any report required by sections 5(a) and 5(d) of the Inspector General Act of 1978 should be transmitted to the Committees on Armed Services and Governmental Affairs of the Senate and the Committees on Armed Services and Government Operations of the House of Representatives, and that nothing in the provisions recommended would prevent the disclosure of information to the Congress.

The conferees also agreed to amend section 5315 of title 5, United States Code, by adding the Inspector General, Department of Defense, to the Level IV Executive Schedule.

Extension of period for transfer of Defense Dependents' Education System to Department of Education (Sec. 1118)

The Senate bill contained a provision (Sec. 1117) that would repeal the transfer of the Department of Defense Dependents' School system from the Department of Defense to the Department of Education. This transfer is currently scheduled to take place in May 1983 under the terms of the Department of Education Organization Act.

The House amendment contained no similar provision.

The House recedes with an amendment that would extend the scheduled transfer date for one year until May 1984.

Open enrollment period for reserves under the survivor benefit plan (sec. 1119)

The Senate bill contained a provision (sec. 1124) that would provide a 12-month open enrollment period to elect coverage in the Survivor Benefit Plan for reservists who before December 1, 1980, had completed sufficient service to be entitled to retirement benefits under the reserve retirement program, chapter 67 of title 10, United States Code, but who were not yet age 60.

The House amendment contained no similar provision. A similar open enrollment period is included, however, in H.R. 6317, the Uniformed Services Pay Act of 1982, as reported from the House Armed Services Committee on May 17, 1982.

The House recedes with a technical amendment.

Report on allied contributions to the common defense (sec. 1120)

The Senate bill contained a provision (sec. 1108) that would express the sense of Congress that the NATO allies and Japan should increase their contributions to the common defense to levels more commensurate with their economic resources. It requires a report from the Secretary of Defense on allied contributions to the common defense.

The House amendment contained no similar provision.

The House recedes with an amendment to extend the existing report for one year.

Report on standardization of NATO weapons (sec. 1121)

The Senate bill contained a provision (sec. 1111) that expands the annual report on standardization and interoperability of NATO weapons and equipment to identify existing and planned development and procurement programs by one NATO member from systems originally developed or procured by another.

The House amendment contained no similar provision.

The House recedes.

NATO defense industrial cooperation (sec. 1122)

Section 1126 of the Senate bill would express the sense of Congress that the U.S. President should propose at the NATO summit meeting in June 1982 that the NATO allies agree to (1) more effectively pool their defense efforts, (2) establish a cooperative defense-industrial effort to reduce otherwise necessary defense costs, (3) share more equitably and efficiently the financial burdens and economic benefits of NATO defense, and (4) begin negotiations promptly to give full effect to these agreements.

The House amendment contained no similar provision.

The House recedes with an amendment.

Study of improved control of use of nuclear weapons (sec. 1123)

The Senate bill contained a provision (sec. 1137) directing the Secretary of Defense to conduct a study and evaluation of initiatives for improving the containment and control of the use of nuclear weapons. The Senate provision further provides that a report on such study and evaluation shall be provided to the Committees on Armed Services and Foreign Relations of the Senate and the House of Representatives by August 1, 1982. The Senate provision also directs the President to report to the Committees on Armed Services and Foreign Relations of the Senate and the House of Representatives on September 1, 1982, on the merits of initiatives developed to control nuclear weapons and on the status of any such initiatives as they may be related to any arms control negotiations with the Soviet Union.

The conferees agreed that the study and reports required by the Senate provision could be useful to the Congress. However, the reporting dates contained in Section 1137 of the Senate bill do not allow sufficient time to make a thorough study or to prepare reports.

The House amendment contained no similar provision.

The conferees recommend technical amendments to the Senate provision that require the Secretary of Defense to report to the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House by February 1, 1983, and the President to submit a report on March 1, 1983.

The House recedes with an amendment.

Negotiations for banning of chemical weapons (sec. 1124)

One of the most controversial aspects of the Administration's fiscal year 1983 budget request was the inclusion of $54 million for procurement of long-lead items in support of production of binary chemical munitions. This request was accompanied by a certification by the President that the "production of lethal binary chemical munitions is essential to the national interest."

The Senate approved the recommendation. The House, however, voted to ban production of binary weapons in fiscal year 1983.

The Senate conferees regard the initiation of binary munitions production as vital to the national security. The unilateral cessation of chemical weapons production thirteen years ago has resulted in an increasingly obsolescent U.S. stockpile and raises questions about the deterrent value of America's retaliatory chemical inventory, the Senate conferees stated. Evidence of Soviet and Soviet proxy use of chemical and biological munitions in Southwest and Southeast Asia and the USSR's intransigence in negotiating comprehensive, verifiable bans on chemical weaponary raise the specter of a willingness and ability on the part of the Soviet Union to make use of such weapons when it suits its purposes to do so. The Senate conferees believe that America's determination to maintain a safe, effective, and credible retaliatory chemical arsenal—comprised of modern binary munitions—is the best hope for deterring chemical war and for inducing the USSR to agree to terms that will lead to a total and verifiable chemical disarmament accord.

However, the House managers were adamant and the conferees agreed to eliminate the funding for production this year *without prejudice.*

The House conferees receded on a provision (section 111 of the House amendment) to ban such production.

The Senate receded on section 1135 of its bill which would have placed certain restrictions on the amounts of new binary chemical munitions that could be introduced into the chemical munitions stockpile.

In related action, the conferees agreed to a Senate provision (section 1141 of the Senate bill) in lieu of a similar House provision (section 112 of the House amendment) that would express the sense of the Congress in support of the initiation of arms control negotiations aimed at achieving a total, verifiable ban on all chemical weapons. The Senate receded on section 1134 of the Senate bill that would call for amending the convention on Bacteriological and Toxin Weapons to establish verification standards and procedures.

Cooperative military airlift agreements (Sec. 1125)

The Senate bill contained a provision (sec. 1115) that would expand the authority of the Secretary of Defense to enter into cooperative airlift agreements with the United States allies that are not geographically constrained to Europe and adjacent waters and that include allies other than NATO members.

The House amendment contained no similar provision.

The House recedes.

Purchase of foreign made administrative motor vehicles (sec. 1126)

The Senate bill contained a provision (sec. 1105) that would repeal section 783 of the fiscal year 1982 Department of Defense Appropriations Act which placed specific restrictions on the procurement of administrative motor vehicles manufactured outside the United States or Canada.

The House amendment contained no similar provision with respect to repealing section 783 of the fiscal year 1982 DOD Appropriations Act. However, the House amendment contained a provision (sec. 1012) that would allow a service Secretary to award a contract over $50,000 for administrative motor vehicles that are to be used outside the United States or Canada only to the lowest responsible bidder from the U.S. or the host nation. The Senate bill contained no similar provision.

The House recedes to the Senate with an amendment regarding section 1105.

The Senate recedes to the House with an amendment regarding section 1012. Both amended provisions are incorporated in section 1126 of the conference report.

Prior notification to Congress on foreign sole-source procurements (sec. 1128)

The House amendment contained a provision (sec. 1009) that would require that none of the funds authorized to be appropriated in this Act could be used for a prime contract for the purchase of a major article of defense equipment essential to the national defense from a foreign manufacturer if such a procurement would make the U.S. dependent on that manufacturer as a sole source unless the Secretary of Defense first notified the Committees on Armed Services and Appropriations of the Senate and House of Representatives of a planned procurement and 30 days elapsed from receipt of such notice.

The Senate bill contained no similar provision.

The conferees agreed that it would be worthwhile for the Congress to be informed of a procurement that would make the United States dependent on a foreign manufacturer for essential equipment and, therefore, agreed on a modification of the provision to provide for the notification as specified without the requirement for the 30 day delay in procurement.

The term "a major article of equipment essential to the national defense" shall apply to major systems as designated by the Secretary of Defense.

The Senate recedes with an amendment.

Purchase of chemical warfare protective clothing and items containing specialty metals from foreign sources (sec. 1129)

The Senate bill contained a provision (sec. 1106) that would amend section 723 of fiscal year 1982 Appropriations Act to allow the Department of Defense to buy foreign-made specialty metals or chemical warfare protective clothing for the purpose of offsetting U.S. sales overseas or furthering NATO rationalization, standardization and interoperability.

The House amendment contained no similar provision.

The House recedes.

Recognition of guard and reserve forces (sec. 1130)

The Senate bill contained a provision (sec. 1127) that would declare the sense of Congress that members of the reserve and national guard deserve public recognition for their important role in national defense and also would urge that employers and supervisors abide by the Veterans' Reemployment Rights Act to ensure that their employees are not penalized in any way for participation in reserve and national guard training exercises.

The House amendment contained no similar provision.

The House recedes.

Settlement of military personnel claim resulting from Iranian hostage crisis (sec. 1132)

The Senate bill contained a provision (sec. 1118) that would provide the Secretary concerned with additional authority to settle claims of up to $55,000 by military personnel for damage to or loss of personal property in a foreign country after December 30, 1978, and before January 22, 1981, the period of the Iranian crisis. In addition, the Senate provision would authorize the Secretary concerned to provide compensation above the amount for loss of property purchased to fulfill representational obligations.

The House amendment contained no similar provision.

The House recedes with an amendment limiting the applicability of the provision to one individual. It would allow Col. Thomas E. Schaefer to recover the full replacement value of property purchased primarily in order to fulfill his representational responsibilities as a military attache in Iran without regard to the table of maximum allowances on the table of depreciation.

Use of certain gifts to the United States Military Academy (sec. 1133)

The House amendment contained a provision (sec. 1018) that would permit the Superintendent of the U.S. Military Academy, under regulations prescribed by the Secretary of the Army, to accept, hold, administer, invest, and spend gifts of $20,000 or less made for the benefit of the Academy.

The Senate bill contained no similar provision.

The Senate recedes.

Designation of Estonia, Latvia, and Lithuania on Defense maps (sec. 1134)

Section 1006 of the House amendment would prohibit the use of funding authorized by this conference report for the preparation, production, or purchase of any map of the Union of Soviet Socialist Republics that does not:

"(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

"(2) include the designation 'Soviet Occupied' in parenthesis under each of those names; and

"(3) include in close proximity to the area of the Baltic countries the following statement: 'The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union'."

The Senate bill contained no similar provision.

The Senate recedes.

Requirements relating to the awarding of sole-source contracts

The Senate bill contained a provision (sec. 1104) that would require a 30 day public notice with certain exceptions prior to negotiation of sole-source contracts over $100,000 and an annual report on all sole-source contracts exceeding $100,000.

The House amendment contained no similar provision.

The conferees urge the Department of Defense to extend, by regulation, to 30 days the existing 10-day notice period in the Commerce Business Daily for sole-source contracts over $100,000. The House Committee on Armed Services will promptly complete its hearings on sole-source procurement.

The Senate recedes.

Critical skill needs and supplies

The Senate bill contained a provision (sec. 1109) that would require the Secretary of Defense, in conjunction with the Secretary of Labor, to conduct a study to determine skilled labor needs and the availability of such individuals in the civilian work force for Department of Defense programs through 1987 or in the event of a mobilization.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees agree that the study should be conducted. To that end, the conferees direct the Secretary of Defense, in conjunction with the Secretary of Labor, to conduct a study to determine the level of skilled labor needed and available in the civilian work force to accomplish the programs planned by the Department of Defense for fiscal years 1983 through 1987 and needed and available during a mobilization period. The Secretary shall submit a report on the results of such study, not later than February 15, 1983, to the Committees on Armed Services of the Senate and the House of Representatives. Such report shall include the following:

(1) an analysis of the expected level of the demand for skilled labor in the civilian work force, by type of skill and by regions of the country, to accomplish defense programs during fiscal years 1983 through 1987 and the expected level of the supply of such labor in the civilian work force available to meet such demand during such fiscal years;

(2) an analysis of the expected level of demand for skilled labor in the civilian work force, by skill and by regions of the country, during a mobilization period and of the ability of the present civilian labor work force to meet such a demand; and

(3) recommendations for programs or legislation to effect any improvements in the level of skilled labor in the civilian work force needed to accomplish defense programs during fiscal years 1983 through 1987 or during a mobilization period.

Social security

The Senate bill contained a provision (sec. 1119) that would express the Senate's commitment to ensuring that the social security system is preserved and strengthened and that would declare Congress' intention to await the recommendations of the National Commission on Social Security Reform prior to deciding any major changes in the current program.

The House amendment contained no similar provision. The House conferees pointed out that the provision would be nongermane to this conference report under the Rules of the House of Representatives.

The Senate recedes.

Summit meeting on reducing the risk of nuclear war

The Senate bill contained a provision (sec. 1120) that would express the sense of Congress that the President of the United States should be commended for his desire to meet with the President of the Soviet Union in June of 1982.

The House amendment contained no similar provision.

The Senate recedes.

Extension of student loan repayment for certain officers

The Senate bill contained a provision (sec. 1125) that would expand the authority to repay a portion of any loan made, insured, or guaranteed under part B of the Higher Education Act of 1965, or any loan made under part E of that Act, after October 1, 1975. Under current law, that repayment authority is limited to individuals who enlist in either the active or reserve forces in a military specialty designated by the Secretary of Defense. The Senate bill would extend the repayment authority to reserve and guard officers in grades of O-1 and O-2 who were promoted from enlisted status.

The House amendment contained no similar provision.

The Senate recedes.

Report on maneuver warfare concepts

The Senate bill contained a provision (sec. 1128) that would direct the Secretary of the Army and the Secretary of the Navy to submit a written report explaining the manner in which maneuver warfare concepts are being or have been incorporated into the policies and training of the Army and Marine Corps, respectively. Each such report would be required to indicate the extent to which field manuals and other doctrinal, operational, and training publications reflect such concepts.

The term "maneuver warfare concept" was defined in the provision to mean perceiving or envisioning any armed conflict as time-competitive observation-orientation-decision-action cycles in which the object is to destroy the enemy's cohesion by maintaining a consistently faster cycle.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of the Army and the Secretary of the Navy to submit a written report as outlined in the provision of the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Adjustments in authorization for procurement of aircraft

The Senate bill contained a provision (sec. 1129) that would prohibit the obligation of any funds appropriated pursuant to the fiscal year 1983 Department of Defense Authorization Act or funds appropriated in prior years for reestablishment of production facilities for manufacturing additional C-5 aircraft or for the procurement of any additional C-5 aircraft. The Senate provision would also limit the authorization for Air Force aircraft procurement in fiscal year 1983, authorize $186.1 million for the NATO AWACS program, and authorize $350 million for the procurement of commercial wide-body cargo aircraft through competitive bidding.

Section 1129 of the Senate bill would also authorize the appropriation of an additional $120 million for procurement of aircraft for the Air Force for fiscal year 1982 and would authorize the transfer of $120.9 million authorized and appropriated in prior years for the Civil Reserve Air Fleet enhancement program to procure commercial wide-body aircraft that are available as surplus.

The House amendments contained no similar provision.

The conferees recommend that section 1129 of the Senate bill not be adopted. The conferees direct that the $84.8 million which is authorized and appropriated by law for the Civil Reserve Air Fleet enhancement program be authorized for procurement through competitive bidding of the most cost effective commercial wide-body aircraft that are available as surplus. The aircraft procured with funds under the preceding sentence shall be suitable for military cargo configurations.

The Senate recedes.

Space laser program

The Senate bill contained a provision (sec. 1130) that would require the Secretary of Defense to expend funds as authorized and appropriated for an on-orbit laser weapon system as quickly as the technology would allow and that would require a report to the Congress by December 1, 1982, describing the management and programmatic actions that must be taken to achieve the aforementioned objective. The House amendment contained no similar provision.

The House conferees were strongly opposed to a legislative mandate prescribing the type of laser technology and the schedule of such technology for an on-orbit experiment. It was the judgment of the House conferees that short, rather than long, wavelength technology should be emphasized. The Senate conferees in contrast strongly supported the Administration's proposal for laser technology.

The conferees agreed to support a vigorous technology program in the Defense Advanced Research Projects Agency for both long and short wavelength lasers. A description of the specific actions taken by the conferees is discussed in the Statement of Managers for Title II.

The Senate recedes.

Report on the teaching of military history

The Senate bill contained a provision (sec. 1131) that would direct the Secretary of each military department to conduct a survey of each school and training program under his jurisdication with a view to determining the extent to which, if at all, military history is taught in such school and training program.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of each military department to submit the results of the survey outlined in the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Convention on toxin weapons

The Senate bill contained a provision (sec. 1134) that would call for amending the Convention on Bacteriological and Toxin Weapons to etablish verification standards and procedures for banning these weapons. The House amendment contained no similar provision.

The conferees agreed to drop this provision because of the House conferees concern regarding germaneness. See also the discussion in section 1124 and in the following section.

Binary chemical weapons

In approving the Administration's request to begin production of binary chemical weapons, the Senate included a provision (sec. 1135) that would limit the number of 155 mm artillery shells that could be placed in the chemical weapons stockpile. The House amendment contained no similar provision.

The conferees agreed to drop this provision along with eliminating all authorization for the production of binary chemical weapons.

General Accounting Office assessment of unit cost growth reports

The Senate bill contained a provision (sec. 1138) that would require the Comptroller General to review and analyze reports on unit cost growth in major defense systems submitted to the Congress as a result of the unit cost reporting system established last year.

The House amendment contained no similar provision.

The Senate recedes.

However, the conferees strongly believe that the Comptroller General should be prepared to review and analyze Department of Defense reports on unit cost growth in major defense acquisition programs promptly after these reports are submitted to the Congress. The conferees recognize the importance of an independent assessment of the findings and conclusions contained in these unit cost reports. The Comptroller General can expect to receive direction from the Armed Services Committees of the Senate and the House of Representatives to provide the type of review, analysis and recommendations outlined in section 1138 of the Senate bill.

Unit cohesion initiatives

The Senate bill contained a provision (sec. 1139) that would direct the Secretary of Defense to submit a written report regarding unit cohesion initiatives, if any, that have been taken in each of the armed forces and any such initiatives planned for any of the armed forces for the next five years.

The term "unit cohesion initiatives" was defined in the provision to mean, in the case of any armed force, any plan or program of such armed force to retain its members in the same regiment, company, platoon, or other military unit from the time such members enter such armed force until they are discharged, released, or retired from such armed force.

The House amendment contained no similar provision.

The Senate recedes with regard to language in the bill; however, the conferees request the Secretary of Defense to submit a written report as outlined in the provision of the Senate bill to the Committees on Armed Services of the Senate and the House of Representatives by January 1, 1983.

Plaque honoring service members who died during the attempt to rescue Iranian hostages

The Senate bill contained a provision (sec. 1140) that would express the sense of Congress that the Secretary of the Army should construct and place in Arlington National Cemetery a plaque honoring the eight members of the armed forces who died in the April 25, 1980, attempt to rescue American hostages held in Iran.

The House amendment contained no similar provision.

The Senate recedes; however the conferees agree that the Secretary of the Army should construct and place a plaque in Arlington National Cemetery honoring the eight members of the armed forces who died in the April 25, 1980, attempt to rescue American hostages held in Iran.

Limitation on strategic weapons

The House amendment contained a provision (sec. 1005) that would prohibit the use of funds authorized to be appropriated for procurement, testing, deployment, or operation and maintenance of any strategic nuclear weapon or nuclear weapon system if such actions would contravene existing strategic arms policies of the United States. The provision referred to a statement made by the President on May 31, 1982, to the effect that the United States will refrain from actions that undercut existing strategic arms agreements so long as the Soviet Union shows equal restraint. The limitations imposed by this provision would not apply if the President certified to the Congress that such limitations were not in the supreme national interest of the United States and set forth his reasons for such certification.

The Senate bill contained no similiar provision.

The conferees considered the provisions of section 1005 in the light of the strategic and intermediate-range arms reduction negotiations now in progress. The conferees con-

cluded that a statutory provision based upon a single statement of the President would not add anything to the negotiating position of the United States in attempting to reach agreements on the reduction of nuclear weapons.

The House recedes.

One-year restriction on transfer of naval vessels to foreign countries

The House amendment contained a provision (sec. 1013) that would provide that during the one-year period beginning on the date of enactment of this Act, no naval vessel could be sold, leased, granted, loaned, bartered, transferred, or otherwise disposed of to another nation unless specifically authorized by law.

The Senate bill contained no similar provision.

The conferees agreed that a naval vessel should not be retired from the Naval Reserve force for transfer to a foreign country until a replacement vessel is provided for the vessel being transferred. The conferees further agreed that the Committees on Armed Services of the Senate and the House of Representatives would hold hearings to investigate whether the transfer of naval vessels to foreign nations is in the national security interests of the United States and consistent with the goal of building to a 600 ship Navy.

The House recedes.

Study of foreign language requirement

The House amendment contained a provision (sec. 1016) that would direct the Secretary of Defense to study the feasibility of a two-year requirement for foreign language training for cadets and midshipmen at the service academies and for participants in the Reserve Officer Training Corps programs. The provision also would direct a study of the feasibility and desirability of a bonus for personnel proficient in the foreign language of the country in which they were stationed.

The Senate bill contained no similar provision.

The House recedes with regard to language in the bill; however, the conferees request the Secretary of Defense to conduct the studies outlined in the House amendment and report the findings to the Committees on Armed Services of the Senate and House of Representatives by March 1, 1983.

Limitation on obligation of authorizations

The House amendment contained a provision (sec. 1019) that would place a limitation on the amount of the sum total of authorizations in this Act that may be obligated or expended. Specifically, the section would limit obligation or expenditure to the total amount appropriated pursuant to such authorization or $175,300,000,000 whichever is less.

Under the requirements of the House rules relating to scope, it is not possible to reduce the authorizations in the bill to the sum total $175.3 billion.

In view of that and in view of the adamant opposition of the Senate to a spending limitation that did not include specific direction on authorization by account, the conferees agreed that any further reductions from the authorization permitted under the bill should more appropriately be made, if determined as necessary, in the normal appropriations process.

The House reluctantly recedes.

MELVIN PRICE,
CHARLES E. BENNETT,
SAMUEL STRATTON,
RICHARD C. WHITE,
BILL NICHOLS,
JACK BRINKLEY,
ROBERT H. MOLLOHAN,
DAN DANIEL,
WM. L. DICKINSON,
G. WILLIAM WHITEHURST,
FLOYD SPENCE,
ROBIN BEARD,
MARJORIE S. HOLT,

When difference regarding intelligence-related activities are under consideration:

EDWARD P. BOLAND,
NORMAN Y. MINETA,
J. K. ROBINSON,

Solely for consideration of section 1011 of the House amendment and modifications committed to conference:

JACK BROOKS,
S. H. FOUNTAIN,
DANTE B. FASCELL,
FRANK HORTON,
JOHN N. ERLENBORN
Managers on the Part of the House.

JOHN TOWER,
STROM THURMOND,
BARRY GOLDWATER,
J. WARNER,
GORDON J. HUMPHREY,
BILL COHEN,
ROGER W. JEPSEN,
DAN QUAYLE,
JEREMIAH DENTON,
NICHOLAS F. BRADY,
JOHN C. STENNIS,
HENRY M. JACKSON,
HOWARD W. CANNON,
HARRY F. BYRD, JR.,
SAM NUNN,

For consideration of section 1122 pertaining to the Inspector General section of the bill:

BILL ROTH,
TOM EAGLETON,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma submitted the following conference report and statement on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.).

CONFERENCE REPORT (H. REPT. No. 97-750)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight of milk containing 3.67 per centum milkfat.

"(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1983.

"(C) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

"(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorized by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commercial marketings from such marketings during the base period. For the purpose of this paragraph, the based period shall be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

"(B) Refunds under this paragraph shall be based on reductions in commercial marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount

of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

"(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.

"(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.

"(E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, remedies otherwise provided at law or in equity.

"(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

"(A) administrators of Federal milk marketing orders;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or

"(C) administrators of State milk marketing programs.".

Subtitle B—Donation of Dairy Products

SEC. 110. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.".

Subtitle C—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

ADVANCE DEFICIENCY PAYMENTS

SEC. 120. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107B (7 U.S.C. 1445b-1) the following new section:

"ADVANCE PAYMENTS

"SEC. 107C. (a)(1) Effective with respect to the 1982 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall make available to producers who participate in an acreage limitation program established for wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, advance deficiency payments in accordance with this section (other than subsection (b)) if the Secretary determines that deficiency payments likely will be made under this Act.

"(2) Advance deficiency payments under paragraph (1) shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made as soon as practicable after October 1, 1982.

"(B) Such payments shall be made in an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 70 per centum of the projected payment rate, as determined by the Secretary. Notwithstanding the preceding sentence, in any case in which a producer has received disaster payments for wheat, feed grains, upland cotton, or rice under section 107(B)(b)(2), 105B(b)(2), 103(g)(4), or 101(i)(3), respectively, the Secretary may make such adjustment in the advance deficiency payments made under this subsection as the Secretary determines appropriate.

"(b)(1) Effective with respect to the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice, if the Secretary establishes an acreage limitation or acreage set-aside program for a crop of wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(b)(5), respectively, and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

"(A) for the 1983 crop of such commodity, shall make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program; and

"(B) for the 1984 and 1985 crops of such commodities, may make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program.

"(2) Advance deficiency payments under this subsection shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made available to producers as soon as practicable after the producer files a notice of intention

to participate in such program, but in no case prior to October 1, 1982.

"(B) Such payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary.

"(c) Advance deficiency payments under this section shall be made to producers under the following terms and conditions:

"(1) In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency payment for the crop concerned.

"(2) If the Secretary determines under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments.

"(3) Any refund required under paragraph (1) or (2) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

"(4) If a producer fails to comply with the requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

"(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.".

1983 WHEAT LOANS

SEC. 121. Section 107B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b–1(a)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.65 per bushel.".

1983 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 122. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b–1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) Notwithstanding any previous announcement to the contrary, for the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.";

(3) in paragraph (2), inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 5 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 123. Section 105B(a)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)(1)) is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.65 per bushel.".

1983 FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 124. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Nothwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) For the 1983 crop of feed grains, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 15 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.";

(3) in paragraph (2), inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of feed grains under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to 5 per centum of the feed grain acreage base in addition to the reduction required under paragraph (2) or (3), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The diversion payment rate shall be established by the Secretary at not less than $1.50 per bushel for corn, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per

centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 RICE ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 125. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

(1) striking out in the first sentence of subparagraph (A) "Nothwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of subparagraph (A) the following: "For the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.";

(3) inserting immediately after the ninth sentence of subparagraph (A) (as amended by paragraph (2) of this section) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of subparagraph (B) the following: "Notwithstanding the foregoing provisions of this subparagraph, the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 per centum of the rice acreage base in addition to the reduction required under subparagraph (A), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payment under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

Subtitle D—Agricultural Export Promotion

SEC. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than $175,000,000 nor more than $190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture of the Commodity Credit Corporation under any other provision of law.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

SEC. 140. This subtitle may be cited as the "Food Stamp Act Amendments of 1982".

REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 141. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

HOUSEHOLD DEFINITION

SEC. 142. Section 3(i) (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence—

(A) inserting ", or siblings," after "children"; and

(B) inserting ", or siblings," after "the parents"; and

(2) inserting after the first sentence the following new sentence: "Notwithstanding clause (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.".

ROUNDING DOWN

SEC. 143. (a) The second sentence of section 3(o) (7 U.S.C. 2012(o)) (as amended by section 144 of this Act) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of much diet)" after "adjustments"; and

(2) in clauses (6), (7), and (8), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso of clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

THRIFTY FOOD PLAN ADJUSTMENTS

SEC. 144. The second sentence of section 3(o) (7 U.S.C. 2012(o)) is amended by striking out "(6)" and all that follows through "twelve months ending the preceding June 30" and inserting in lieu thereof the following: "(6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, and (8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest dollar increment".

DISABLED VETERANS AND SURVIVORS

SEC. 145. (a) Section 3 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A) has a service-connected disability which is rated as total under title 38, United States Code; or

"(B) is considered in need of regular aid and attendance or permanently housebound under such title;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section

221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through the end of the sentence and inserting in lieu thereof "an elderly or disabled member.".

(c) Section 5(c)(2) (as amended by section 146(a) of this Act) is amended by striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) (7 U.S.C. 2014(e)) (as amended by section 146(b) of this Act) is amended by—

(1) in the first sentence, striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member"; and

(2) in the fourth sentence, striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(3) in the last sentence—

(A) in the matter preceding subclause (A), striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(B) in subclause (A), striking out "household members" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

INCOME STANDARDS OF ELIGIBILITY

SEC. 146. (a) Subsection (c) of section 5 (7 U.S.C. 2014(c)) is amended to read as follows:

"(c) The income standards of eligibility shall provide that a household shall be ineligible to participate in the food stamp program if—

"(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

"(2) in the case of a household that does not include a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), the household's income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.".

(b) The first sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "households described in subsection (c)(1)" and inserting in lieu thereof "households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.)".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 147. Section 5(d) (7 U.S.C. 2014(d)) is amended by—

(1) striking out "and" at the end of clause (10); and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective".

ADJUSTMENT OF DEDUCTIONS

SEC. 148. Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) of the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subclause (i) of the proviso of clause (2) of the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 149. (a) Section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following new sentences: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.".

(b) Subclause (B) of the last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

MIGRANT FARMWORKERS

SEC. 150. The last sentence of section 5(f)(4) (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A))".

FINANCIAL RESOURCES

SEC. 151. The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "June 1, 1977" and inserting in lieu thereof "June 1, 1982";

(2) striking out "and" after "vacation purposes,"; and

(3) inserting after "$4,500," the following: "and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts),".

STUDIES

SEC. 152. (a) The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "(1)"; and

(2) striking out ", and (2)" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Subsections (d) and (e) of section 17 (7 U.S.C. 2026 (d) and (e)) are repealed.

CATEGORICAL ELIGIBILITY

SEC. 153. Section 5 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c)(2) to have satisfied the resource limitations prescribed under subsection (g).".

MONTHLY REPORTING

SEC. 154. The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" after "which all"; and

(2) inserting before the period at the end thereof the following: ", except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

PERIODIC REPORT FORMS

SEC. 155. The last sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out ", on a form designed or approved by the Secretary,".

REPORTING REQUIREMENTS

SEC. 156. Section 6(c) (7 U.S.C. 2015(c)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.".

JOB SEARCH

SEC. 157. Section 6(d)(1)(ii) (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting before the semicolon at the end thereof the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 158. (a) The proviso of section 6(d)(1)(iii) (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days from the time of the voluntary quit" and inserting in lieu thereof "ninety days".

(b) Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: "An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.".

PARENTS AND CARETAKERS OF CHILDREN

SEC. 159. Clause (C) of section 6(d)(2) (7 U.S.C. 2015(d)(2)(C)) is repealed.

JOINT EMPLOYMENT REGULATIONS

SEC. 160. Paragraph (3) of section 6(d) (7 U.S.C. 2015(d)(3)) is repealed.

COLLEGE STUDENTS

SEC. 161. Section 6(e) (7 U.S.C. 2015(e)) is amended by striking out "or (B)" and all that follows through "or (C)" and inserting in lieu thereof "; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E)".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 162. Section 7 (7 U.S.C. 2016) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary may require a State agency—

"(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

"(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program.".

INITIAL ALLOTMENTS

SEC. 163. (a) The first sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

(b) Clause (2) of the last sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days".

NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 164. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty.".

HOUSE-TO-HOUSE TRADE ROUTES

SEC. 165. Section 9 (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.".

APPROVAL OF STATE PLAN OF OPERATION

SEC. 166. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.".

POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 167. (a) The last sentence of section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for".

(b) Paragraph (13) of section 11(e) (7 U.S.C. 2020(e)(13)) is repealed.

AUTHORIZED REPRESENTATIVES

SEC. 168. Section 11(e)(7) (7 U.S.C. 2020(e)(7)) is amended by—

(1) striking out "any" each place it appears and inserting in lieu thereof "an"; and

(2) inserting before the semicolon at the end thereof the following: ", except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph".

DISCLOSURE OF INFORMATION

SEC. 169. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended by striking out "or the regulations issued pursuant to this Act" and inserting in lieu thereof ", regulations issued pursuant ot this Act, Federal assistance programs, or federally assisted State programs".

EXPEDITED COUPON ISSUANCE

SEC. 170. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—

"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than $150 per month; or

"(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed $100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 171. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end thereof the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

SEC. 172. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(22) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State.".

CERTIFICATION SYSTEMS

SEC. 173. Section 11(i) (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following new sentence: "Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.".

CASHED-OUT PROGRAMS

SEC. 174. Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1).".

AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 175. Section 12 (7 U.S.C. 2021) is amended by—

(1) inserting "(a)" after the section designation;

(2) in the first sentence, striking out "$5,000" and inserting in lieu thereof "$10,000";

(3) striking out the second sentence and inserting in lieu thereof the following new subsection:

"(b) Disqualification under subsection (a) shall be—

"(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

"(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification ; and

"(3) permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern."; and

(4) designating the last sentence as subsection (c).

BONDS

SEC. 176. (a) Section 12 (7 U.S.C. 2021) (as amended by section 175 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act. Such store or concern may obtain a hearing on such forfeiture pursuant to section 14.".

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting "or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act," after "section 12 of this Act,".

ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCES

SEC. 177. (a) Section 13(b)(1) (7 U.S.C. 2022(b)(1)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection.".

(b) Section 13(b)(2) (7 U.S.C. 2022(b)(2)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.".

CLAIMS COLLECTION PROCEDURE

SEC. 178. The second sentence of section 13(b)(1)(A) (as amended by section 177(a) of this Act) is amended by inserting "within thirty days of a demand for an election" after "election".

COST-SHARING FOR COLLECTION OF OVERISSUANCES

SEC. 179. The first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended by inserting before the period at the end thereof the following: ", except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency".

ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) the following new subsection:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b)(1) Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by—

(A) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(B) striking out "quality control program" and inserting in lieu thereof "error rate reduction system".

(2) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (c) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

EMPLOYMENT REQUIREMENT PILOT PROJECT

SEC. 181. Section 17 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'qualification period' means a period of time immediately preceding—

"(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

"(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

"(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

"(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program estab-

lished under section 210, during a qualification period of—

"(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

"(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

"(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

"(A) is under eighteen or over fifty-nine years of age;

"(B) is certified by a physician as physically or mentally unfit for employment;

"(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

"(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

"(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

"(F) is a member of any other group described by the Secretary.

"(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

"(A) has an unemployment rate of over 10 per centum; or

"(B) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.

"(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

"(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

"(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.".

BENEFIT IMPACT STUDY

SEC. 182. Section 17 (7 U.S.C. 2026) (as amended by section 181 of this Act) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 183. The first sentence of section 18(a)(1) (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,874,000,000 for the fiscal year ending September 30, 1983; not in excess of $13,145,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,933,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO BLOCK GRANT

SEC. 184. (a) Section 19(a)(1)(A) (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" after "expenditures for".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include an analysis of the impact on both the nutritional status of residents of the Commonwealth and the economy of the Commonwealth. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

SIMILAR WORKFARE PROGRAMS

SEC. 185. Section 20(a) (7 U.S.C. 2029(a)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

"(B) A political subdivision may comply with the requirements of this section by operating—

"(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.".

WIN PARTICIPANTS

SEC. 186. Clause (4) of section 20(b) (7 U.S.C. 2029(b)) is amended by striking out "subject to and currently involved" and inserting in lieu thereof "at the option of the operating agency, subject to and currently actively and satisfactorily participating".

HOURS OF WORKFARE

SEC. 187. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out "either" and all that follows through the end of the sentence and inserting in lieu thereof: ", when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.".

REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 188. Section 20(g) (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) inserting after paragraph (1) the following new paragraph:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participating is terminated.".

TECHNICAL CORRECTIONS

SEC. 189. (a) Section 5(f)(2)(A) (as amended by section 107(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 360)) is amended by striking out "propsective" and inserting in lieu thereof "prospective".

(b)(1) Clause (2) of section 6(g) (7 U.S.C. 2015(g)) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 11 (7 U.S.C. 2020) is amended by—

(A) in subsection (i), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services", and

(B) in subsection (j), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(3) The second sentence of section 16(e) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(c) Section 16(f) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "; and" and inserting in lieu thereof a period.

CONFORMING AMENDMENTS

SEC. 190. (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as amended by section 159 of this Act) is amended by redesignating clauses (D) through (F) as clauses (C) through (E), respectively.

(b) Section 6(d) (7 U.S.C. 2015(d)) (as amended by section 160 of this Act) is amended by redesignating paragraph (4) as paragraph (3).

(c)(1) Section 11(e) (17 U.S.C. 2020(e)) (as amended by sections 167(b) and 172 of this Act) is amended by redesignating paragraphs (14) through (22) as paragraphs (13) through (21), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out "section 11(e)(21)" and inserting in lieu thereof "section 11(e)(20)".

(d) Section 17 (7 U.S.C. 2026) (as amended by sections 152(c), 181, and 182 of this Act) is amended by redesignating subsections (f) through (h) as subsections (d) through (f), respectively.

DISTRIBUTION OF SURPLUS COMMODITIES

SEC. 191. (a) The Congress finds that—

(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

(7) in these items of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

(b) It is the sense of the Congress that—

(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.

EFFECTIVE DATES OF PRIOR AMENDMENTS TO THE FOOD STAMP ACT OF 1977

SEC. 192. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101 through 114 of such Act, other than sections 107(b) and 108(c) of such Act, shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 117 of such Act.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 1338 of such Act.

EFFECTIVE DATES

SEC. 193. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 180 and 188 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: ": Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require)" in paragraph (3)(D) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(g) The amendments made by this section, other than by subsection (b), may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.

BUREAU OF THE MINT

SEC. 202. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed $50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1983, 1984, AND 1985

SEC. 301. (a)(1) Except as provided in paragraph (3), the cost-of-living increase under any Government retirement system in annuity or retired or retainer pay of any early retiree during fiscal years 1983, 1984, and 1985, shall be equal to one-half of the assumed increase in the price index for that year.

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if—

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(C) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(3) If the percentage increase in the price index for fiscal year 1983, 1984, or 1985 (as determined by the Office of Personnel Management) exceeds the assumed increase in the price index for that year, then the in-

crease in the annuity or retired or retainer pay of an early retiree under paragraph (1) for that fiscal year shall be equal to—

(A) one-half of the assumed increase in the price index for that year, plus

(B) the amount by which the percentage increase in the price index exceeds the assumed price index increase.

(4) As used in this subsection—

(A) the term "price index" has the meaning given such term in section 8331(15) of title 5, United States Code; and

(B) the term "assumed increase in the price index" means—

(i) 6.6 percent, in the case of fiscal year 1983,

(ii) 7.2 percent, in the case of fiscal year 1984,

(iii) 6.6 percent, in the case of fiscal year 1985.

(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if ths subsection had not been enacted.

(b)(1) Notwithstanding any other provision of law, any cost-of-living increase under a Government retirement system shall not take effect until—

(A) the first day of the first calendar month after the date such increase would otherwise take effect, in the case of increases taking effect duting fiscal year 1983;

(B) the first day of the second calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1984; and

(C) the first day of the third calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1985.

(2) Nothing in this subsection shall be construed to affect the eligibility for any increase in annuity or retired or retainer pay or the amount of the first increase in annuity or retired or retainer pay under section 8340 (b) or (c) of title 5, United States Code, or comparable provisions of law.

(c) For purposes of this section, the term "cost-of-living increase under a Government retirement system" means any increase under—

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

(a)(1) In the case of any member or former member of a uniformed service who, during any period in fiscal year 1983, 1984, or 1985, is receiving retired or retainer pay and holds a civilian position, there shall be deducted from the pay for such position an amount equal to the amount of any increase in such individual's retired or retainer pay pursuant to section 1401a(b) of title 10, United States Code, which takes effect during any of such fiscal years in which he holds such a civilian position and which is allocable to the period of actual employment in such civilian position. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States.

(2) For the purpose of this subsection—

(A) the term "uniformed service" has the meaning given that term by section 2101 of title 5, United States Code; and

(B) the term "civilian position" means a position, as defined in section 5531(2) of title 5, United States Code.

(3) This subsection shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(4) The reduction in pay required by this subsection does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

(A) resulting from injury of disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

DISABILITY RETIREMENT

SEC. 302. (a) Section 8337 of title 5, United States Code, is amended—

(1) by striking out "1 year" in the second sentence of subsection (d) and inserting in lieu thereof "180 days";

(2) by striking out "each of 2 succeeding calendar years" in the third sentence of subsection (d) and inserting in lieu thereof "any calendar year"; and

(3) by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection, the term 'technician' means an individual employed under section 709(a) of title 32 who, as a condition of the employment, is required under section 709(b) of such title to be a member of the National Guard and to hold a specified military grade.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, an individual shall be retired under this section if the individual—

"(i) is separated from employment as a technician under section 709(e)(1) of title 32 by reason of a disability that disqualifies the individual from membership in the National Guard or from holding the military grade required for such employment;

"(ii) is not considered to be disabled under the second sentence of subsection (a) of this section;

"(iii) is not appointed to a position in the Government (whether under paragraph (3) of this subsection or otherwise); and

"(iv) has not declined an offer of an appointment to a position in the Government under paragraph (3) of this subsection.

"(B) Payment of any annuity for an individual pursuant to this subsection terminates—

"(i) on the date the individual is appointed to a position in the Government (whether pursuant to paragraph (3) of this subsection or otherwise);

"(ii) on the date the individual declines an offer of appointment to a position in the Government under paragraph (3); or

"(iii) as provided under subsection (d).

"(3) Any individual applying for or receiving any annuity pursuant to this subsection shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

"(A) the position is located within the commuting area of the individual's former position;

"(B) the individual is qualified to serve in such position, as determined by the head of the agency; and

"(C) the position is at the same grade or equivalent level as the position from which the individual was separated under section 709(e)(1) of title 32.".

(b) Section 8347(m) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1) and inserting a semicolon in lieu thereof;

(2) by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(4) the Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of chapter 81 of this title.".

(c)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall take effect October 1, 1982, and shall apply with respect to individuals retiring on or after such date.

(2) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect with respect to income earned after December 31, 1982.

(3) Subsection (h) of section 8337 of title 5, United States Code (as added by subsection (a)) shall apply to any technician (as defined in paragraph (1) of such subsection (h)) who separated from employment as a technician on or after December 31, 1979, and before October 1, 1982, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act. Any annuity resulting from such application shall commence as of the day after the date such application is received by the Office.

INTEREST RATES, DEPOSITS, REFUNDS, AND REDEPOSITS

SEC. 303. (a)(1) Section 8334(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) Interest under subsection (c), (d), or (j) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

"(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d), or (j) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

"(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding calendar year from all obligations purchased by the Secretary of the Treasury during such calendar year under section 8348 (c), (d), and (e) of this title, as determined by the Secretary.".

(2) The second sentence of section 8343(a) of title 5, United States Code, is amended by

inserting after "at 3 percent a year" the following: "through December 31, 1984, and thereafter at the rate computed under section 8334(e) of this title,".

(b) Section 8339(i) of title 5, United States Code, is amended to read as follows:

"(i) For the purposes of subsections (a)-(h) and (n) of this section, the total service of any employee or Member shall not include any period of civilian service after July 31, 1920, for which retirement deductions or deposits have not been made under section 8334(a) of this title unless—

"(1) the employee or Member makes a deposit for such period as provided in section 8334(c) or (d) of this title; or

"(2) no deposit is required for such service, as provided under section 8334(g) of this title or under any statue.".

(c) Section 8342(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee or Member who—

"(1)(A) is separated from the service for at least thirty-one consecutive days; or

"(B) is transferred to a position in which he is not subject to this subchapter and remains in such position for at least thirty-one consecutive days;

"(2) files an application with the Office of Personnel Management for payment of the lump-sum credit;

"(3) is not reemployed in a position in which he is subject to this subchapter at the time he files the application; and

"(4) will not become eligible to receive an annuity within thirty-one days after filling the application.

is entitled to be paid the lump-sum credit. The receipt of the payment of the lump-sum credit by the employee or Member voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, unitl the employee or Member is reemployed in the serice subject to this subchapter.".

(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to refunds made on or after such date. The provisions of section 8334 and section 8339(i) of title 5, United States Code, as in effect the day before the date of the enactment of this Act, shall continue to apply with respect to periods of service and refunds occurring on or before such date.

(2) The amendment made by subsection (c) shall take effect October 1, 1982.

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 304. (a) The first sentence of section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 305. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.".

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

CREDITABLE SERVICE BASED ON MILITARY SERVICE

SEC. 306. (a) Section 8331(8)(B) of title 5, United States Code, is amended by inserting after "service" a comma and "including any amounts deposited under section 8334(j) of this title".

(D) Section 8332(c) of title 5, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and subsection (d) of this section—

"(A) the service of an individual who first becomes an employee or Member before October 1, 1982, shall include credit for each month of military service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject to section 8332(j) of this title; and

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for each month of military service (performed before the date of the separation on which the entitlement to an annuity under this subchapter is based) only if a deposit with interest, if any, is made with respect to that month, as provided in section 8334(j) of this title.

"(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

"(A) based on a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

"(B) under chapter 67 of title 10.".

(c) Subsection (j) of section 8332 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(j)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection relating to credit for military service shall not apply to—

"(A) any month of military service of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(j) of this title; or

"(B) the service of any employee or Member described in section 8332(c)(1)(B) of this title.".

(d) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue within 90 days after the effective date of this subsection, to the agency by which the employee is employed or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each month of military service after December 1956, as certified to the agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, upon the employee's or Member's request.

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) October 1, 1982; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.".

(e) Section 8334(g)(2) of title 5, United States Code, is amended by inserting after "military service" the following: ", except to the extent provided under section 8332(c) or section 8334(j) of this title".

(f) Section 8348(g) of title 5, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "less an amount determined by the Office to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 8334(j) of this title.".

(g) The amendments made by this section shall take effect October 1, 1982.

RECOMPUTATION AT AGE 62 OF CREDIT FOR MILITARY SERVICE OF CURRENT ANNUITANTS

SEC. 307. (a) The provisions of section 8332(j) of title 5, United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on or before the date of enactment of this Act.

(b) Subject to subsection (b), in any case in which an individual described in subsection (a) is also entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such in-

dividual is entitled under subchapter III of chapter 83 of title 5, United States Code, (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages and deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1)) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under this subchapter to the individual for the determination month if section 8332(j) of title 5, United States Code, applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) October 1982, in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1982.

(f) The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the preceding provisions of this section.

IMMEDIATE RETIREMENT

SEC. 308. (a) Subsection (d) of section 8336 of title 5, United States Code, is amended to read as follows:

"(d) An employee who—

"(1) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(2) while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

"(A) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(B) a significant percent of the employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity. Notwithstanding the first sentence of this subsection, an employee described in paragraph (1) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, which is not lower than 2 grades (or pay levels) below the employee's grade (or pay level), and which is within the employee's commuting area.".

(b) The amendment made by subsection (a) shall take effect October 1, 1982.

GENERAL LIMITATION ON COST-OF-LIVING ADJUSTMENT FOR ANNUITIES

SEC. 309. (a) Section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee's or Member's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date or the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

FEDERAL EMPLOYEE PAY ADJUSTMENT; EXECUTIVE PAY REVIEW

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305 (c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisons of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

(b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

(c) In accordance with section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), except as otherwise provided in this subsection, the Commission on Executive, Legislative, and Judicial Salaries shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall be effective for any pay period which begins more than 30 calendar days after submission to the Congress, unless Congress during such 30-day period disapproves such recommendations by concurrent resolution.

Subtitle B—Limitation on Travel and Transportation Expenses

TRAVEL AND TRANSPORTATION EXPENSES FOR VACATION LEAVE

SEC. 351. (a) Section 5728 of title 5, United States Code, is amended by inserting a comma and "Alaska, and Hawaii" after "continental United States" each place it occurs in subsections (a) and (b).

(b) Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such regulations as the President may prescribe, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

"(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of appointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to this actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii

under a new written agreement made before departing from the post of duty.

"(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.".

(c) Notwithstanding section 5728(c)(3) of title 5, United States Code (as added by subsection (b)(2) of this section), the agency shall pay under section 5728(c)(1) of such title (as added by subsection (b)(2) of this section) the expenses of one round-trip of travel of an employee who has served on consecutive tours of duty at posts of duty in Alaska or Hawaii for a period beginning at least five years before the date of enactment of this Act and including such date and the expenses of transportation of such employee's immediate family on one round-trip.

(d) The amendments made by subsection (a) shall take effect with respect to expenses incurred after the date of enactment of this Act for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

(e) For the purposes of subsections (c) and (d), the term "employee" shall have the same meaning as provided in section 5721(2) of title 5, United States Code.

Subtitle C—Cost-of-Living Adjustments Uniformed Services

SEC. 361. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(2), section 2(c)(2), and section 2(c)(4) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

COAST GUARD

SEC. 362. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(4) and section 2(c)(6) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

FOREIGN SERVICE

SEC. 363. For cost savings achieved through a limitation on the amount of the annual adjustment of the annuity payable from the Foreign Service Retirement and Disability Fund, in satisfaction of the reconciliation requirements of section 2(b)((5) and section 2(c)(5) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and sections 826 and 827 of the Foreign Service Act of 1980.

TITLE IV—VETERANS' BENEFITS

COMMENCEMENT OF CERTAIN PERIODS OF PAYMENT

SEC. 401. (a)(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of period of payment

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

"(d) For the purposes of this section, the term 'award or increased award' means—

"(1) an original or reopened award; or

"(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of period of payment.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.

ADVANCEMENT OF EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 402. (a) Section 3012(b)(2) of title 38, United States Code, is amended by striking out "calendar year" and inserting in lieu thereof "month".

(b) The amendment made by subsection (a) shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.

ROUNDING DOWN OF PENSION TO NEAREST DOLLAR

SEC. 403. (a)(1) Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3023. Rounding down of pension rates

"The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the nearest dollar.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding down of pension rates.".

(b) The amendment made by this section shall apply with respect to amounts payable for periods beginning after May 31, 1983.

ROUNDING RULE FOR CERTAIN RATES OF COMPENSATION

SEC. 404. (a) Section 314(p) of title 38, United States Code, is amended by inserting "down" after "rounded".

(b) The second sentence of section 315(2) of such title is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.".

(c) The amendments made by this section shall take effect on October 1, 1982.

ROUNDING DOWN OF FISCAL YEAR 1983 COMPENSATION COST-OF-LIVING INCREASE

SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, 1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

(b) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$57";

(2) by striking out "$162" in subsection (c) and inserting in lieu thereof "$161";

(3) by striking out "$413" in subsection (f) and inserting in lieu thereof "$412";

(4) by striking out "$604" in subsection (h) and inserting in lieu thereof "$603";

(5) by striking out "$62", "$1,403", "$62", and "$1,966" in subsection (k) and inserting in lieu thereof "$61", "$1,402", "$61", and "$1,965", respectively;

(6) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,402";

(7) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,546";

(8) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,757";

(9) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "$1,965";

(10) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$843" and "$1,256", respectively;

(11) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,263"; and

(12) by striking out "$244" in subsection (t) and inserting in lieu thereof "$243".

(c) Section 315 of such title is amended—

(1) by striking out "$116" in clause (1)(B) and inserting in lieu thereof "$115";

(2) by striking out "$38" in clause (1)(D) and inserting in lieu thereof "$37"; and

(3) by striking out "$38" in clause (1)(G) and inserting in lieu thereof "$37".

(d) Section 362 of such title is amended by striking out "$305" and inserting in lieu thereof "$304".

(e)(1) Subsection (a) of section 411 of such title is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$414
E-2	427
E-3	438
E-4	466
E-5	479
E-6	490
E-7	514
E-8	541
E-9	[1] 566
W-1	524
W-2	545
W-3	561
W-4	594
O-1	524
O-2	541
O-3	579
O-4	612
O-5	675
O-6	760
O-7	823
O-8	902
O-9	969
O-10	[2] 1,060

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $609.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,137.".

(2) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$47".

(3) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$124".

(4) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$61".

(f) Section 413 of such title is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$209";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$300";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$388"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$388" and "$78", respectively.

(g) Section 414 of such title is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$124";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$209"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$106".

(h) The amendments made by this section shall take effect on January 1, 1983.

FEE FOR HOME LOANS

SEC. 406. (a)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1829. Loan fee

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one-half of one percent of the total amount. The amount of the fee may be included in the loan to the verteran and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fee.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

SEC. 501. (a) Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

(1) is prescribed by law;

(2) is in effect before the date of the enactment of this Act; and

(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.

(b)(1) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out "seven" and inserting in lieu thereof "five".

(2) The last sentence of section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows: "The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

(3) Section 4(h) of the Communications Act of 1934 (47 U.S.C. 154(h)) is amended by striking out "Four" and inserting in lieu thereof "Three".

(4) The amendments made in paragraphs (1), (2), and (3) of this subsection shall take effect on July 1, 1983.

INTERSTATE COMMERCE COMMISSION

SEC. 502. (a) Effective January 1, 1983, each office within the Interstate Commerce Commission provided in section 10301(b) of title 49, United States Code (except one of the two offices prescribed by law to expire on December 31, 1984), which was vacant on July 1, 1982, is abolished.

(b) Effective Janaury 1, 1983, section 10301(b) of title 49, United States Code, is amended (1) by striking out "11" and inserting in lieu thereof "7", and (2) by striking out "6 members" and inserting in lieu thereof "4 members".

(c) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985 and such office shall be abolished immediately after the expiration of that date.

(d) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(e) Effective January 1, 1986, section 10301(b) of title 49, United States Code, is amended (1) by striking out "7" and inserting in lieu thereof "5", and (2) by striking out "4 members" and inserting in lieu thereof "3 members".

(f) Nothing in subsection (c) or (d) of this section shall be construed as prohibiting the reappointment of any person serving in such office in terms expiring on December 31, 1982, or December 31, 1983, respectively.

(g) The term of office of one of the two persons appointed to fill an office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1987, shall end on December 31, 1991. At the time of the first of such two appointments, the President shall designate which appointment is to fill the term of office which shall end under the preceding sentence on December 31, 1991.

(h)(1) Section 10301(c) of title 49, United States Code, is amended by striking out "7 years" and inserting in lieu thereof "5 years".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1984, and shall apply to any person appointed, after such date, to fill any office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire after such date, except that such amendment shall not apply to the person designated by the President to fill the term of office which is to end under subsection (g) of this section on December 31, 1991.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

JIM JONES,
LEON PANETTA,
RICHARD A. GEPHARDT,
DELBERT LATTA,
BILL FRENZEL,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

LES ASPIN,
BRIAN DONNELLY,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
DAVID R. BOWEN,
BILL WAMPLER,
PAUL FINDLEY
(on all matters except as listed below),

TOM HAGEDORN
(on all matters except as listed below),
E. THOMAS COLEMAN
(in lieu of Mr. HAGEDORN) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment (food stamps),
WM. THOMAS
(in lieu of Mr. FINDLEY) on sections 101-130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

CLEMENT J. ZABLOCKI,
LEE H. HAMILTON,
JONATHAN B. BINGHAM,
WM. BROOMFIELD,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
FRANK ANNUNZIO,
J. W. STANTON,
CHALMERS WYLIE,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

JOHN G. DINGELL,
TIMOTHY E. WIRTH,
J. J. FLORIO,
JAMES T. BROYHILL,
N. F. LENT,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

GLENN M. ANDERSON,
NICK RAHALL,
BOB EDGAR,
DON H. CLAUSEN,
BUD SHUSTER,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

WILLIAM D. FORD,
MO UDALL,
W. CLAY,
ED J. DERWINSKI,
GENE TAYLOR,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

JACK BROOKS,
JOHN L. BURTON,
DAVE EVANS,
FRANK HORTON,
BOB WALKER,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. MONTGOMERY,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS WYLIE,

Managers on the Part of the House.

Committee on the Budget:

PETE V. DOMENICI,
W. L. ARMSTRONG,
NANCY LANDON KASSEBAUM,
RUDY BOSCHWITZ,
JOHN TOWER,

Committee on Agriculture, Nutrition, and Forestry: For title I:

JESSE HELMS,
BOB DOLE,
S. I. HAYAKAWA,
DICK LUGAR,
WALTER D. HUDDLESTON,

Committee on Banking, Housing, and Urban Affairs: For title III:

JAKE GARN,
JOHN TOWER,
DICK LUGAR,
DON RIEGLE,

Committee on Commerce, Science, and Transportation: For sections 402 and 403 of title IV:

BOB PACKWOOD,
BARRY GOLDWATER,
TED STEVENS,
HOWARD CANNON,

Committee on Governmental Affairs: For title VI:

BILL ROTH,
TED STEVENS,
MACK MATTINGLY,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

AL SIMPSON,
STROM THURMOND,
ROBERT T. STAFFORD,
ALAN CRANSTON,
JENNINGS RANDOLPH,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The joint statement of managers which follows was prepared by the committees of jurisdiction, but is arranged by title of the conference agreement. A brief overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

By approving the First Budget Resolution for Fiscal Year 1983, which included reconciliation instructions, Congress continued and expanded its efforts to maintain control over Federal expenditures. Those reconciliation instructions directed eight Senate and nine House committees to report legislation achieving unprecedented reductions which impact on Federal spending during fiscal years 1983, 1984, and 1985.

The legislative recommendations reported by the Senate Finance Committee and the House Ways and Means and Energy and Commerce Committees were incorporated into H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, which has been approved by a separate Senate-House conference committee. This bill (H.R. 6955) incorporates the legislative recommendations of the other Senate and House committees.

The provisions of the Omnibus Reconciliation Act of 1982 are the culmination of the work of the committees in complying with the reconciliation directives. The savings which have been achieved compare favorably with the reconciliation bills as passed by the House and Senate.

The managers for the Committees on the Budget wish to acknowledge the extraordinary efforts of the conference participants, particularly the chairmen and ranking Members of the House and Senate committees, in achieving these savings.

The Senate bill contained "Sense of the Senate" language directing the conferees on H.R. 4961 to include in the conference report on that measure a provision for a Federal supplemental unemployment benefits program. The House bill contained no such provision.

In view of the fact that the conferees for H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, have included a provision relating to supplemental unemployment benefits, this language is no longer necessary. The Senate therefore recedes to the House.

The Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations; and the House Committees on Armed Services; Energy and Commerce; Foreign Affairs; and Merchant Marine and Fisheries were instructed in the First Budget Resolution to report recommended changes in direct spending programs (as defined by subsection 401(c)(2)(C) of the Budget Act) within their jurisdiction. Savings under the jurisdiction of these committees will occur automatically under this bill because the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service recommended changes in cost-of-living adjustments (COLAs) for civil service retirees. The uniformed service and foreign service retiree COLAs are tied by law to the civil service retirement COLA. The Senate bill included provisions in title II, IV, and V to clarify how the reconciliation instructions for the Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations were met.

The House recedes to the Senate with an amendment to clarify how the reconciliation instructions for the House Committees on Armed Services, Energy and Commerce, Foreign Affairs, and Merchant Marine and Fisheries were met.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—DAIRY PRICE SUPPORT PROGRAM

The House bill amends the statute governing the dairy price support program to provide that:

(a) A two-tier price support program would be effective for fiscal years 1983, 1984, and 1985.

(b) For that portion of the national milk supply needed to meet domestic commercial market needs, the price support level would be: (1) for fiscal year 1983—$13.10 per cwt. and (2) for fiscal years 1984 and 1985—a level that represents the percentage of parity that $13.10 per cwt. represented as of October 1, 1982.

For that portion of the national milk supply excess to domestic commercial market needs, the support level would be the higher tier level of support reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program that is the responsibility of milk producers.

(c) The funds represented by such reduction would be remitted to CCC by each person making payment to producers for milk purchased from the producer, and in the case of a producer who markets his own milk directly to consumers the funds would be remitted by the producer.

(d) Producers of milk would have responsibility each fiscal year for that portion of the cost of purchases by CCC under the price support program in excess of 5 billion pounds milk equivalent, related costs, the amount of marketing reduction incentive payments due producers for reductions in their milk production, expenses of the National Dairy Board, and any balance remaining from the past year on advances made to the Board by CCC. There would be deducted from such total amount the estimated receipts from the sale or transfer of dairy products in CCC inventories.

(e) If dairy product imports should be increased under section 22 of the Agricultural Adjustment Act, the portion of the cost of the price support program that is the responsibility of producers would be reduced by the milk equivalent of the increased imports.

(f) The price of milk would be supported through the purchase of milk and its products, all such purchases to be made at the higher level of support.

(g) If the lower tier support rate is in effect, nontransferable incentive payments would be made to producers whose marketings of milk during the current period have been reduced from their marketings during the corresponding period of the prior year. The payment would be made on a quantity of milk up to the quantity on which the person was paid at the lower tier support rate and at a rate of payment that could not exceed the difference between the higher and lower tier support levels. If the lower tier support rate is provided for consecutive fiscal years, the Board would recognize actions taken by producers in reducing milk marketings in prior years, except to the extent that such reduction had been offset by increases in subsequent years.

(h) Program decisions would be made by a National Dairy Board consisting of 16 members including the Secretary, 15 members of the Board to be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations representing milk producers and certified by the Secretary. The Board would have authority to dispose of dairy products acquired through price support operations, including those acquired before the date of enactment of the bill. Dispositions would include sales to the domestic commerical trade for unrestricted use at not less than the current market price or 110 percent of the current CCC purchase price based on the higher tier support price, transfers to Federal, State, and local agencies for food assistance programs, sales for commercial export and other sales or donation efforts. The Board could require the operation of the program to be carried out through products other than those purchased by the CCC.

The proceeds from inventory disposition operations would be credited to the account of the Board. Dairy products up to 5 billion pounds milk equivalent would be made available for child nutrition and similar programs, including those conducted under the Older Americans Act at the request of the Secretary without cost.

(i) Nominations to the initial Board would be submitted to the Senate not later than January 1, 1983, and as a transition matter the Secretary of Agriculture would exercise the authority of the Board until such time as the Board was functioning but not later than April 1, 1983.

(j) The Secretary's responsibilities would include providing for collection of the funds resulting from payments on marketings by farmers of their excess production, providing the facilities and support required by the Board, and otherwise cooperating with the Board in the performance of its duties.

(k) Provisions for enforcement are included in the bill, including payments of penalties by persons who willfully fail or refuse to remit amounts due under the program.

The Senate amendment provides that, effective for the period beginning with December 22, 1981, and ending September 30, 1985, the support price for milk shall be set at the level determined appropriate by the Secretary, but not less than $13.10 per hundredweight for milk containing 3.67 percent milk fat.

The Conference substitute amends the statute governing the dairy price support program to provide that:

(a) The price support level for the years beginning October 1, 1982, and October 1, 1983, would be not less than $13.10 per hundredweight; and for the year beginning October 1, 1984 would be not less than the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

(b) The Secretary would be given authority to provide for a deduction of 50 cents per hundredweight for the period beginning October 1, 1982, and ending September 30, 1985, from the proceeds of sale of all milk marketed by producers to be remitted to Commodity Credit Corporation to offset a portion of the cost of the price support program. Authority for this deduction would not apply for any fiscal year for which the projected annual price support purchases are less than 5 billion pounds milk equivalent. If at any time during a fiscal year, the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pound, the authority for making deductions would not apply for the balance of the year.

(c)(1) The Secretary would be given authority to provide for an additional deduction of 50 cents per hundredweight for the period beginning April 1, 1983, and ending September 30, 1985, to be remitted to Commodity Credit Corporation subject to the following conditions.

(2) The provision for this deduction could only be implemented if the Secretary established a program to refund the assessment to farmers that reduce their commercial marketings from a base period. The base period would be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make adjustments in individual bases to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. The refunds would be based on reductions in commercial marketings, as specified by the Secretary, but the Secretary could not require a reduction of marketings in excess of a reduction equivalent to the ratio that the total projected surplus milk for the fiscal year bears to the total milk production estimated for such period.

(3) Authority for the additional deduction would not apply for any fiscal year for which projected annual purchases by Commodity Credit Corporation are less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for making the additional deduction would not apply for the balance of the year.

(d) The Secretary would be responsible for administration of the program described above, and provisions for a Dairy Board as contained in the House bill would be deleted.

SUBTITLE—DAIRY PROMOTION

The House bill provides new authority for a National Dairy Products Promotion program to improve markets and income for United States dairy producers as follows:

(a) The program would be funded by a uniform nonrefundable check-off of 5 cents per hundredweight on all milk marketed.

(b) Initiation of the program would be subject to approval of a proposed promotion order in an industry-wide referendum of dairy producers in which a majority of those voting favor the proposed order. Approval by a milk marketing cooperative of producers would be considered as the approval of member producers, except that the cooperative must provide its members an opportunity to vote if they should so wish.

(c) An additional referendum would be held at the end of a 5-year period to determine whether milk producers favor continuation of the order.

(d) The program would be administered by a Board of Directors of not less than 36 members appointed by the Secretary of Agriculture from nominees submitted by producers and selected on a geographical basis to assure representation of all milk producing regions.

(e) Promotional activities of the Board would be limited to processed dairy products for the first 2 years of the program and must make no reference to any private brand or name.

(f) The government would be reimbursed for its costs (other than salaries paid to government employees incurred in administration of the program from assessments collected from milk producers).

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE B—DONATION OF DAIRY PRODUCTS

The House bill provides additional authority to the Commodity Credit Corporation to dispose of dairy products acquired under the price support program to needy households in the United States and through foreign governments and public and nonprofit private humanitarian organizations for assistance to needy persons outside the United States. The CCC would be authorized to pay reprocessing, packaging, transportation, handling and other charges incurred on the donated commodities.

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations must be coordinated through the mechanism designated by the President to coordinate assistance under Public Law 480 and shall be in addition to the level of assistance programmed under that Act.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make clear that the donations for distribution in the United States would include donations to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.

With respect to the donation of dairy stocks abroad, the Conferees stress that care must be exercised to avoid unintended harmful effects from distribution of dairy products, particularly within developing countries with poor populations. The inability of some needy groups to consume nonfat dried milk without further processing, their particular dietary needs and deficiencies, and the lack of sanitary facilities and potable water are among the factors taken into account in food distributions carried out under Public Law 480, title II aid programs. The Conferees intend that safeguards similar to those exercised under title II, Public Law 480 programs also apply to donations under the new authority.

SUBTITLE C—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, AND RICE

(1) Advance deficiency payments

The Senate amendment provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. For the 1982 and 1983 crops, the Secretary would be required to make advance payments, as follows: (a) for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and (b) for 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance payments in amounts up to 50 percent of the projected final payments. Any overpayments are required to be refunded to the Secretary by producers by the end of the marketing year for the crop involved. Any advance payments made to a producer who fails to meet the program requirements must be repaid, with interest, immediately.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Loan rates for wheat and feed grains

(a) The House bill increases the minimum loan level for the 1983 crop of wheat to $3.80 per bushel (a 25-cent per bushel increase over the 1982 loan level).

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of wheat to $3.65 per bushel.

(b) The House bill also increases the minimum loan level for the 1983 crop of corn to $2.71 per bushel (a 16-cent per bushel increase over the 1982 loan level). The loan price support level for the other feed grains would be set under current law at such level as the Secretary determines fair and reasonable in relation to the level set for corn.

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of corn to $2.65 per bushel.

(3) 1983 wheat acreage reduction program

(a) The House bill requires the Secretary to provide for a 1983 wheat acreage limitation program under which the acreage planted to wheat would be limited to the wheat acreage base for the farm reduced by 15 percent and a paid diversion program under which the wheat acreage on the farm would be reduced an additional 10 percent of the wheat acreage base. The House bill further makes participation in both the acreage limitation and land diversion programs a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a wheat acreage limitation program and paid diversion program on the 1983 crop of wheat under which the wheat acreage would be reduced in the same amounts as in the House provision. The Senate amendment requires participation in the acreage limitation program as a condition of eligibility for program benefits but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation program under which the acreage planted to wheat on the farm would be limited to the farm acreage base reduced by 15 percent and a diversion program under which the wheat acreage would be reduced an additional 5 percent of the wheat acreage base. Producers would be required to participate in both the acreage limitation program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage than a total of 20 percent of the wheat acreage base. This could be accomplished by increasing the requirements for diversion in excess of 5 percent of the wheat acreage base or by increasing the reduction required to be made under the acreage limitation program. In the latter event, however, the Secretary must increase the diversion requirement in an amount proportionate to any increased reduction required to be made under the acreage limitation program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate of $3 per bushel multiplied by the farm program payment yield for the crop by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate not less than $120 per acre as determined appropriate by the Secretary. The payment rate would be adjusted by the Secretary for each farm to reflect differences in yield per acre among wheat farms.

The Conference substitute adopts the House provision with an amendment that provides that the diversion payment would be a minimum of $3 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(4) 1983 feed grain acreage reduction program

(a) The House bill requires the Secretary to provide for a feed grain acreage limitation (or set-aside) program for the 1983 crop of feed grains under which the acreage planted to feed grains would be limited to the feed grain acreage base for the farm reduced by 10 percent and a paid diversion program under which the feed grain acreage would be reduced by an additional 10 percent of the feed grain acreage base, if the Secretary estimates on October 15, 1982, that the 1982 corn crop will exceed 7.3 billion bushels. The House bill further requires participation in both the acreage limitation program and the land diversion program as a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a feed grain acreage limitation program and paid diversion program on the 1983 crop of feed grains under which the feed grain acreage would be reduced in the same amounts as in the House provision. The Senate amendment, however, does not make the programs contingent on the estimated production of the 1982 crop of corn and requires participation in the acreage limitation program as a condition of eligibility for program benefits, but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation (or set-aside) program under which the acreage planted to feed grains on the farm would be limited to the feed grain acreage base for the farm reduced by 10 percent and a diversion program under which the feed grain acreage would be reduced an additional 5 percent of the feed grain acreage base. Producers would be required to participate in both the acreage limitation (or set-aside) program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the feed grain acreage reduction program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of $1.50 per bushel multiplied by the farm program payment yield by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of not less than $150 per acre—the rate to be adjusted to reflect differences in

yield per acre among feed grain producing farms.

The Conference substitute adopts the House provision with an amendment that provides that the corn diversion payment would be a minimum of $1.50 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(5) Acreage base for the farm

(a) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted, to reflect factors the Secretary determines should be considered in determining a fair and equitable base. It further provides that the acreage base for producers following a normal summer fallow crop rotational practice for at least 3 years shall be the previous year's acreage (or the average acreage for the 2 previous years) expanded by adding to it the amount determined by multiplying one-half the announced acreage limitation percentage by the acreage annually idled and devoted to summer fallow.

The Senate amendment provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted for factors, which in the case of wheat include summer fallow.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted to reflect factors the Secretary determines should be considered in determining a fair and equitable base. In making adjustments in the base, the Secretary is expected to consider the special problems of producers that follow a normal summer fallow crop rotational practice.

(b) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of upland cotton and rice shall be the same as the acreage base for the 1982 crop of such commodities with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base.

The Senate bill contains no comparable provisions.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of rice shall be the same as the acreage base for the 1982 crop with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base. The conference substitute deletes the House provision relating to the acreage base for upland cotton.

(6) 1983 upland cotton acreage reduction program

(a) The House bill requires that if the Secretary should establish a reduction program for the 1983 crop of upland cotton, 25 percent of any acreage reduction must be under a paid diversion program and the balance under the acreage limitation program. Upland cotton producers must comply with the combined acreage reduction and paid diversion programs to be eligible for program benefits.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. If the Secretary should establish an acreage reduction program for the 1983 crop upland cotton, the conferees urge the Secretary to implement a paid diversion program in combination therewith.

(b) The House bill provides that the 1983 crop upland cotton producer who meets the combined acreage reduction requirement shall receive a diversion payment determined by multiplying a rate of 25 cents per pound, by the farm program payment yield, and by the additional acreage diverted under the paid diversion program.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) 1983 rice acreage reduction program

(a) The House bill requires that if on November 15, 1982, the Secretary estimates the 1982 crop of rice will exceed 145 million hundredweight (rough rice basis), the Secretary must provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 10 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 10 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits.

The Senate bill contains no comparable provision.

The Conference substitute requires the Secretary to provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 15 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 5 precent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits. This requirement is a minimum. Under the statue, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage of rice. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the rice acreage reduction program.

(b) The House bill provides that the payment for participation in the 1983 crop rice land diversion program would be at a rate of $3.00 per hundredweight, multiplied by the farm program payment yield, by the additional acreage diverted under the paid diversion program.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes the $3.00 per hundredweight a minimum rate and provides that the Secretary is authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

Advance diversion payments

The House bill provides in the case of 1983 crop wheat, feed grains, upland cotton, and rice, that the Secretary is required to advance at least 50 percent of any land diversion payments as soon as practicable after a producer enters into a land diversion contract. If Thereafter a producer fails to comply with the diversion contract, the producer must repay the advance with interest.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision as to wheat, feed grains, and rice, and deletes the House provision as to upland cotton.

SUBTITLE D—AGRICULTURAL EXPORT PROMOTION

The Senate amendment requires the Secretary of Agriculture for each of the fiscal years 1983, 1984, and 1985 to use between $175 million and $190 million of Commodity Credit Corporation funds for agricultural export promotion activities to discourage and neutralize agricultural export subsidy programs by foreign countries. The Secretary would be required to use the funds to (a) buy-down the rate of interest on export credit financing for a term of up to 10 years and guarantee the repayment of loans for which interest reduction payments are made, or (b) initiate export subsidy programs with respect to one or more agricultural commodities that have been or are involved in unfair trade practice cases under section 301 of the Trade Act of 1974, as amended, as the Secretary determines appropriate to neutralize subsidies on the same commodities by foreign countries. The Secretary must safeguard the usual marketings of U.S. agricultural commodities.

The House bill contains no comparable provision.

The Conference substitute provides that effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture would be required to use not less than $175 million nor more than $190 million of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under current provisions of law. This authority would be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities authorized under current provisions of law. These activities include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5(d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential. The Conferees intend that the Secretary, to the greatest extent practicable and where appropriate, use these funds for interest buy-downs, or direct export sales, or export subsidies in order that American farmers and exporters may compete in international trade on an equal basis.

The Conferees are strongly concerned about the use of export subsidies by foreign countries in violation of obligations under trade agreements with the United States that have had the effect of impacting adversely on agricultural exports from the United States, contributing to the depressed farm economy in the United States.

These subsidies result in the displacement of potential exports of U.S. farm products in third-country markets, with a resulting

adverse impact on American and world prices. The Conferees express a continued commitment to the General Agreement on Tariffs and Trade (GATT) and its accompanying international obligations incumbent on the United States. At the same time the Conferees believe that the United States cannot tolerate unfair trade practices and should act to counter them in a direct way.

In this regard the Conferees call attention to the many pending cases initiated by the United States involving unfair trade practices under section 301 of the Trade Act of 1974, as amended.

The Conferees have deleted the specific provision in the Senate bill for the use of export subsidies by the Secretary to neutralize subsidies on the same commodities by foreign countries that are the subject of pending section 301 cases. This change was made in part as a result of assurances from the Administration that these cases will be pressed and resolved in a year. The Conferees do not intend that the funds made available by this provision be used, in any way, in contravention of international obligations of the United States, but on the other hand the Conferees do not want the United States to sit idly by while other countries make use of export subsidies to capture markets from the United States.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

(1) Short title

The House bill provides that the food stamp amendments may be cited as the "Food Stamp Act Amendments of 1982."

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provisions.

(2) Definition of household

(a) The House bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The Senate amendment requires that all related persons who live together be treated as a single household, unless one of the related persons is elderly or disabled.

The Conference substitute adopts the House provision.

(b) The House bill specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disibility recognized by the Social Security disability program or a nondisease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the nonfarm income poverty guidelines.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

While retaining the "purchase food and prepare meal separately" rule in the household definition for some categories of applicants—that is, unrelated persons, elderly and disable persons (except spouse), and nonsibling relatives—the conferees expect that eligibility workers could effectively question claim and that the burden of proof for establishing "separateness" in such cases would be placed on the household, rather than the administering agency.

With regard to household members, the conferees note that both the House bill and the Senate amendment contain provisions adding to the Food Stamp Act of 1977 a definition of the term "elderly or disabled member". The definition includes certain disabled veterans and disabled surviving spouses and children of veterans. The spouses and children covered by this definition are those who are, among other things, entitled to compensation for a service connected death or pension benefits for a nonservice connected death under title 38, United States Code. The conferees intend that the word "entitled", as used in this definition, includes only those spouses and children who are receiving such compensation or pension benefits or who have applied for and been adjudged entitled to such benefits.

(3) Thrifty food plan adjustments

The Senate amendment revises the measurement periods used for each October's adjustment of the cost of the thrifty food plan. The adjustment scheduled for October 1, 1982, will be based on food price changes for the 18 months ending March 31, 1982. The October 1983 adjustment will be based on changes in the 13-month period ending April 30, 1983. The October 1984 adjustment will be based on changes in the 13-month period ending May 31, 1984. The October 1985 adjustment will be based on changes in the 13-month period ending June 30, 1985. Each subsequent October 1 adjustment will be based on the 12 months ending the preceding June 30.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

(4) Income standards of eligibility

The Senate amendment revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) Adjustment of deductions

The House bill delays the July 1, 1983, adjustment of the standard deduction until October 1, 1983.

The Senate amendment delays the July 1, 1983, adjustment of the standard deduction until October 1, 1984. The Senate amendment also revises the measurement periods used to adjust the standard deduction to provide that the adjustment for October 1, 1984, will be based on changes in the nonfood elements of the Consumer Price Index (CPI) for the 21-month period ending September 30, 1983; the adjustment for October 1, 1985, will be based on changes in the CPI during the 21-month period ending June 30, 1985; and the adjustments for October 1, 1986, and each October 1 thereafter will be based on changes in the CPI for the 12-month period ending the preceding June 30.

The Conference substitute adopts the House provision.

(6) Averaging income

The House bill provides that, in determining income for purposes of food stamp eligibility, income received on a weekly or biweekly basis from the same source shall be converted to a monthly amount of income.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Migrant farmworkers

The House bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(8) Financial resources

The Senate amendment precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The Senate amendment would also require accessible pension funds and savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the cash value of any accessible pension funds.

The conferees intend that the provision requiring that retirement funds be counted as financial resources would only be applied to savings accounts, individual retirement accounts, and Keogh plans where no contractual relationship with other individuals is involved.

(9) Categorical eligibility

The House bill permits States to consider households in which all members receive aid to families with dependent children benefits, and (i) whose net income does not exceed 100 percent of the nonfarm poverty guideline in the case of households containing an elderly or disabled member, or (ii) whose gross income does not exceed 130 percent of the nonfarm poverty guideline in the case of all other households, as having satisfied the resource limitation requirements under the foods stamp program.

The Senate amendment permits States to consider households in which all members receive aid to families with dependent children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

The Conference substitute adopts the Senate provision.

(10) Approval of periodic reporting forms

The Senate amendment removes the requirement that the Secretary of Agriculture design or approve the forms by the States for nonperiodic reporting of changes in household circumstances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The House bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals. The House bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

The Senate amendment permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extent necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the aid to families with dependent children program.

The Conference substitute adopts both the House and Senate provisions.

(12) Employment and job search requirements; voluntary quit

(a) The Senate amendment revises work registration and job search requirements to provide that an entire household would be disqualified for failure to comply with whatever reasonable job search requirements are prescribed by the Secretary. Such disqualification will remain in effect until the requirement is satisfied. The Senate amendment will also specifically provide that households will be ineligible to participate in the food stamp program if a member of the household subject to these provisions, without good cause, refuses to report for a job interview, refuses to provide information regarding employment status or availability for work, or refuses to report for a work opportunity.

The House bill contains no comparable provisions.

The conference substitute deletes the Senate provision.

(b) The House bill provides that, at the option of the state, job search requirements could be imposed on applicants, as well as recipients.

The Senate amendment permits the Secretary to impose job search requirements on applicants for food stamps, as well as recipients.

The Conference substitute adopts the House provision.

(c) The Senate amendment permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Parents and caretakers of children

The Senate amendment eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(14) Hours of employment

The Senate amendment revises the work registration requirement to exempt those individuals (i) employed a minimum of 150 hours per month or (ii) receiving monthly earnings equal to the applicable minimum wage rate multiplied by 150 hours, rather than those employed 30 hours per week or receiving earnings equivalent to the minimum wage times 30 hours.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) Joint employment regulations

The Senate amendment removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the work incentive program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(16) College students

The Senate amendment revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that college students who are otherwise eligible to participate in the food stamp program may not be disqualified when the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

(17) Income and assets of ineligible aliens

The Senate amendment requires that all the income and assets of an ineligible alien be attributed to the household of which the alien is a member for purposes of determining food stamp eligibility and benefits due the household.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) Initial allotments

The House bill eliminates any prorated benefits of less than $10.

The Senate amendment requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

The Conference substitute adopts both the House and Senate provisions.

(19) Effect of noncompliance with other programs

The Senate amendment prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(20) House-to-house trade routes

The Senate amendment authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(21) Approval of State agency materials

The Senate amendment prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Bilingual personnel and printed materials

The Senate amendment eliminates the requirement for State agencies to use appropriate bilingual personnel and printed materials in administering the food stamp program in those portions of political subdivisions in the State where a substantial number of low-income persons speak a language other than English. The Senate amendment gives the States the option of using such personnel and materials.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees understand that the Department of Agriculture has solicited comments from the States on the regulations relating to the use of bilingual personnel and material. The conferees support any efforts by the Department to eliminate burdensome requirements in this area.

(23) Points and hours of certification and issuance

The Senate amendment eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(24) Authorized representatives

The Senate amendment permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorized representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees do not intend that households be barred from using authorized representatives on the basis of age, household composition, or employment status unless a determination has been made that such restrictions are a necessary means to control a documented pattern of abuse.

(25) Expedited service

The House bill provides that food stamps shall be provided on an expedited basis in accordance with regulations in effect on July 1, 1982, to destitute migrant or seasonal farmworker households and to any other household in immediate need because of no net income, as defined in sections 5 (d) and (e).

The Senate amendment requires that expedited 5-day service be provided to households (i) having gross incomes lower than $85 per month or headed by a destitute migrant or seasonal farmworker and (ii) having liquid assets of not more than $100. A State agency would not be required to provide this expedited service to a given household more than once in a 6-month period, unless that household is headed by a destitute migrant or seasonal farmworker. The State agency is required, to the extent practicable, to verify the income and resources of the recipient household prior to the issuance of food stamps.

The Conference substitute adopts the Senate provision with an amendment providing that 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farmworker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

(26) Duplicate receipt of food stamps

The Senate amendment requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees understand that the Secretary will require State agencies to proceed promptly to implement this essential control on dual participation. The conferees recognize that not all States currently have the computer capability to begin immediate, comprehensive statewide control. In the interim, all States are expected to implement this control to the extent of their current capability and to proceed systematically toward upgrading their capabilities to achieve total State coverage of participants by the control system.

(27) Certification systems

The Senate amendment permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, an (ii) food stamp applicants must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees emphasize that current procedures under which households terminated from the aid to families with dependent children program are kept on food stamps if still eligible are to be continued. A separate determination of food stamp eligibility must occur if a household is terminated from AFDC.

(28) Assurance of nonduplication with "cashed out" benefits

The House bill requires State agencies to determine at least annually whether households that have been "cashed out" of the food stamp program are also receiving food stamps.

The Senate amendment mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

The Conference substitute adopts the Senate provision.

(29) Issuance procedures

The House bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

The Senate amendment authorizes the Secretary of Agriculture to require a State agency to implement new or modified issuance procedures that the Secretary finds would improve program integrity and be cost effective.

The Conference substitute adopts the House provision.

(30) Disqualification and penalties for food stores

The Senate amendment raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(31) Bonding for food stores

The Senate amendment permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of such bond by regulation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Alternative means for collection of overissuances and States' share of recovered moneys

(a) The Senate amendment permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Fraud claims collection procedure

The Senate amendment allows the household of a disqualified person 30 days after a demand for an election to choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Employment requirement pilot project

The Senate amendment authorizes the Secretary of Agriculture to conduct pilot projects in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing four pilot projects.

(35) Distribution of surplus commodities

The Senate amendment states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(36) Appropriation authorization

The House bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.648 billion for fiscal year 1983, $12.908 billion for fiscal year 1984, and $13.651 billion for fiscal year 1985.

The Senate amendment extends the authorization of appropriations for the food stamp program, except for the Puerto Rican block grant, as follows: $11.9 billion for fiscal year 1983, $12.3 billion for fiscal year 1984, and $13.2 billion for fiscal year 1985. The Senate amendment also provides a separate authorization of appropriations for a Puerto Rican block grant of $825 million for each of fiscal years 1983 through 1985.

The Conference substitute adopts the House provision with an amendment to establish the authorization levels as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

(37) Puerto Rico block grant

(a) The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact on the nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate agriculture committees no later than 6 months after the effective date of the bill.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(38) Similar workfare programs

The Senate amendment requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the aid to families with dependent children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(39) Exemption of WIN participants from workfare

The Senate amendment deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(40) Hours of workfare

The Senate amendment revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(41) Reimbursement for workfare administrative expenses

The House bill directs the Secretary to reimburse agencies operating workfare projects for administrative expenses not otherwise reimbursable from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30-day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

As stated last year in the Conference report on the Agriculture and Food Act of 1981, the conferees do not intend that federally-shared administrative expenses include the cost of equipment, tools, or materials used in connection with work performed by workfare participants or the costs of supervising workfare participants and, further, do not intend that participants be reimbursed for meals away from home.

(42) State block grant option

The Senate amendment permits a State, at its option, to operate a low-income nutritional assistance block grant to finance expenditures for food assistance for needy persons within the State, in lieu of operating a food stamp program within the State. The State would be allowed to design its own low-income nutritional assistance program. States making such an election would receive, at the start of the fiscal year, a percentage of the annual Federal food stamp appropriation equal to their proportionate share of food stamp benefits (including cash benefits in lieu of food stamps and the Federal share of administrative expenses) during the period April 1, 1981, through March 31, 1982. No State would receive less than 0.25 percent of the appropriation.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees intend that both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry hold early and thorough hearings on the concept of a State block grant option in order to expedite further congressional consideration of this issue.

(43) Technical corrections

The Senate amendment makes various technical corrections in the Food Stamp Act of 1977 to correct two typographical errors and to change references to the Secretary of Health, Education, and Welfare to the Secretary of Health and Human Services.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(44) Effective dates

(a) The House bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The Senate amendment provides that all the food stamp provisions of the bill will be effective October 1, 1982, and implemented no later than January 1, 1984.

The Conference substitute adopts the House provision.

(b) The House bill makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the Agriculture and Food Act of 1981 effective on the date of enacement of the bill unless already effective.

The Senate amendment provides that, except as otherwise specifically provided, the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 shall be effective on August 13, 1981, and shall be implemented no later than June 1, 1983, and the food stamp provisions of the Agriculture and Food Act of 1981 shall be effective on December 22, 1981, and shall be implemented no later than July 1, 1983.

The Conference substitute adopts the House provision.

TITLE II—BANKING

The Senate bill contains provisions excluding lump sum mortgage insurance premiums from the maximum mortgage limits and minimum downpayment requirements on FHA insured loans. The House bill contains these same provisions with i) additional requirements for the FHA program for refunds to those selling a home in the early years of the mortgage and for a determination by the HUD Secretary that the program of advance mortgage insurance premiums is actuarially sound before implementation of the amendments made by the provisions and ii) an authorization of $50,165,000 for fiscal year 1983 for the expenses of the Bureau of the Mint. The conference report contains the House provision with a technical amendment to clarify that refunds are required for any program of advance premium collection even if the Secretary does not find the exclusion of the insurance premium from mortgage and downpayment limits to be actuarially sound.

The Conferees direct the Secretary to use the regulatory process to implement this provision in order to assure that Congress and the public have an opportunity to review and comment on the structure of the program, prior to its actual implementation. The Conferees further expect that at the time the regulation is proposed the specific information that the Secretary used to make the required determination will be provided to the House and Senate Banking Committees. The determination must assess the actuarial soundness of the program including an analysis of the impact of allowing loan to value ratios in excess of 100 percent in the early years of the mortgage and the impact of the program on the ability of moderate income families to afford the re-

sulting monthly payments and downpayments. If the Secretary determines that implementation of the amendments made by this section is not actuarially sound, the conferees expect that the Secretary will propose ways to preserve the current affordability of FHA insured mortgages for home buyers who can only afford minimum downpayments, including retention of the current system for those marginal purchasers. The Conferees further expect that the secretary shall require, in the regulations, that payment of such premiums be made promptly after settlement as is required by Section 530 of the National Housing Act.

TITLE III—CIVIL SERVICE AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

Cost-of-living adjustments (section 301)

Section 601 of the Senate amendment limits civil service retirement cost-of-living adjustments to 4 percent in each of fiscal years 1983, 1984, and 1985.

The House bill contains no comparable provision.

The House recedes to the Senate and concurs in the provisions of the Senate amendment with an amendment.

The conference substitute contains three parts.

First, the conference substitute provides that payment of civil service retirement cost-of-living adjustments which occur under section 8340 of title 5, United States Code, will be delayed one month in each of the next three calendar years. Adjustments currently are payable April 1 of each year. Under the conference substitute, adjustments will be payable May 1, 1983, June 1, 1984, and July 1, 1985.

Second, the conference substitute provides that civil service retirees who are under age 62 at the time of a cost-of-living adjustment under section 8340 shall receive only one-half of such adjustment. For the next three years the full adjustments are projected to be 6.6 percent, 7.2 percent, and 6.6 percent. Thus, under the conference substitute, retirees under age 62 would receive adjustments of at least 3.3 percent, 3.6 percent, and 3.3 percent. The conference substitute further provides that retirees subject to the limitation will receive an additional adjustment if the cost-of-living adjustment which actually occurs under section 8340 exceeds the projected adjustment. If this occurs, the retiree will receive one-half of the projected adjustment plus the entire amount by which the actual adjustment exceeds that projected. For example, if the full cost-of-living adjustment effective in 1983 is 7.6 percent rather than the projected 6.6 percent, retirees subject to the limitation in the conference substitute would receive 4.3 percent (one-half of the projected adjustment plus an additional one percent reflecting the error in the projection). The limitation in the conference substitute does not apply to individuals receiving survivor annuities or individuals retired on disability.

The timing and amount of cost-of-living adjustments under several other government retirement systems (e.g., the military retirement system and the Foreign Service retirement system) are linked, by law, to the civil service retirement system adjustment mechanism. Thus, the changes in timing and amount discussed above also will apply to these other retirement systems, resulting in additional outlay reductions.

The third part of the conference substitute affects the pay of military retirees who are employed in civil service postions. Currently, the vast majority of these individuals receive both a full civil service salary and a fully indexed military pension. Thus, each year these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference substitute provides that when such an individual receives a retirement cost-of-living adjustment, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

Disability retirement (section 302)

Section 602 of the Senate amendment makes five substantive changes with respect to disability retirement under the civil service retirement System. First, it prohibits individuals eligible for immediate retirement from retiring on disability. Second, it reduces from one year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. Third, it changes the current earning capacity test period from two years to one year. Fourth, it authorizes the Office of Personnel Management to obtain information from the Departments of Health and Human Services, Labor, and Defense and the Veterans Administration. Finally, National Guard technicians who are separated from employment as technicians on or after December, 1979, due to disabilities that disqualify them from the National Guard or military service, will be eligible for disability retirement. Such service is required for employment as a technician.

The House bill contains no comparable provision.

The conference substitute adopts the provisions of the Senate amendment with minor changes. The provision prohibiting disability retirement for individuals eligible for optional retirement is deleted. The provision for payment of disability annuity benefits to National Guard technicians is made prospective and dependent on the individual concerned making application to Office of Personnel Management not later than twelve months after the date of the enactment of the conference substitute. Finally, the provisions relating to restoration of earning capacity are made effective with respect to income earned after December 31, 1982. The conference substitute includes other stylistic and technical changes.

Interest rates, deposits and redeposits under the civil service retirement system (section 303)

Section 603 of the Senate amendment provides that effective January 1, 1985, the interest rate for any given year on redeposits of refunds and deposits for periods of service for which no deductions were made shall be equal to the overall average yield on all obligations in which the Fund was invested during the fiscal year ending during the preceding calendar year. Currently the interest rate charged is set by statute at three percent. The Senate amendment also provides that no retirement credit will be allowed for periods of service for which retirement deductions were not made unless a deposit for such service is made to the Fund. Finally, the Senate amendment provides that an employee must be separated for at least 31 days before a refund of retirement contributions may be made. Currently, an employee need be separated for only three days.

The House bill contains no comparable provision.

The conference substitute adopts the Senate amendment with minor changes. The conference substitute clarifies the interest rates which will be effective in the future. Under the substitute the rate of interest for any calendar year will be equal to the overall average yield to the civil service retirement fund during the preceding calendar year, as determined by the Secretary of the Treasury, from all obligations purchased by the Secretary during the calendar year under section 8348(c), (d), and (e) of title 5, United States Code. The conference substitute further provides that the new interest rates will apply only with respect to refunds and periods of service which occur after October 1, 1982. Finally, the provisions relating to the required 31 day separation are made effective October 1, 1982, to conform to the general effective date of the conference substitute.

Reduction of annuities for early retirement

Section 604 of the Senate amendment provides that the annuity of a retiring employee shall be reduced four percent for each year the employee is under age 55 at the time of retirement. Under current law the reduction is two percent for each year.

The House bill contains no comparable provision.

The Senate recedes to the House.

Rounding down of civil service retirement annuities (section 304)

Section 301 of the House bill and section 606(a) and (b) of the Senate amendment provide that civil service annuity benefits shall be rounded to the next lowest dollar. Under existing law annuities are rounded to the nearest whole dollar. This change will apply to initial annuities and to annuities adjusted annually to reflect changes in the cost-of-living. The conferees agreed that the new rounding provisions shall apply with respect to annuities commencing on or after October 1, 1982, and with respect to adjustments or redeterminations of annuities made on or after that date.

Later commencement date for certain annuities (section 305)

Section 302 of the House bill and section 606(c) of the Senate amendment provide that the annuities of retiring employees and Members will commence on the first day of the month after separation from the service. Under existing law, such annuities commence on the day following separation. The House provision, however, would not apply to individuals retiring involuntarily (except for cause) or on disability. The House bill provides that the amendment applies to annuities commencing on or after October 1, 1982.

The Senate recedes to the House.

Creditable service based on military service; recomputation at age 62 of credit for military service of current annuitants (section 306, 307)

"Catch-62" is the term used to describe a situation where an individual with military service retiring under the civil service retirement system may credit the years of post-1956 military service for a civil service annuity. These military years are also automatically creditable for social security benefit purposes. In order to prevent coverage under both systems for the same period of service, the civil service retirement annuity, by law, is recomputed at age 62 (when social security eligibility begins) to eliminate the period of military service from the civil service annuity. The additional social security benefit gained for these years of military service often does not match the reduction in the civil service annuity. Sections 607 and 608 of the Senate amendment address this problem in three ways.

The House bill contains no comparable provision.

The House recedes to the Senate with technical amendments. The conference substitute provides the following:

(a) An employee first employed in a position under the civil service retirement system on or after October 1, 1982, will not receive credit for military service toward a civil service annuity unless the employee deposits in the civil service retirement fund an amount equal to 7 percent of his military base pay for each year of military service that he wants credited for civil service retirement purposes. If the employee makes a deposit, he will be entitled to credit under both the civil service and social security systems. An employee has a two-year grace period after employment begins during which no interest will be applied to amounts which are desposited. Amounts deposited after the two-year period are subject to interest at an annual interest rate equal to the yield on new civil service retirement fund investments.

(b) Employees first employed before October 1, 1982, will also be given an opportunity to make a deposit to the civil service retirement fund to cover military service. If they do, they will also be entitled to credit under both the civil service and social security systems and thus will avoid a "Catch 62" reduction. The same grace period and interest provisions as for new employees will apply. If they choose not to make a deposit, they would continue to be subject to the "Catch-62" reduction.

(c) Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service. For an annuitant not yet age 62, military service will not be deducted from an annuity at age 62. Upon recomputation of the civil service annuity (in the case of annuitants 62 or older), and upon reaching age 62 (in the case of annuitants currently under that age) there will be a recomputation of social security benefits removing credit for periods of military service and reducing the civil service annuity by an appropriate that amount. However, in no case will an individual receive less than the amount he would receive or is receiving had he remained subject to the "Catch-62" reduction.

Immediate retirement (section 308)

Section 609 of the Senate amendment amends the early retirement provisions of existing law (5 U.S.C. 8336(d)) in two significant respects. The first change requires the Office of Personnel Management to determine that a significant percentage of the employees serving in an agency will be separated or subject to an immediate reduction in basic pay during a major reorganization, reduction in force, or transfer of function before the Office of Personnel Management may authorize employees of the agency to retire voluntarily under the early retirement provisions of section 8336(d). The second change provides that an employee who is separated from the service involuntarily is not entitled to an annuity if the employee has declined a reasonable offer of another position in the agency.

The House bill contains no comparable provisions.

The conferees agreed to the Senate provision with an amendment to clarify the phrase "reasonable offer of another position." Under the conference substitute, the offered position must be one for which the employee is qualified, be not lower than two grades or pay levels below the employee's grade or pay level, and be within the employee's commuting area.

General limitation on annuity cost-of-living adjustments (section 309)

Section 610 of the Senate amendment provides that no civil service annuity (including survivor annuities) may be increased as the result of a cost-of-living adjustment to an amount which exceeds the greater of (a) the maximum pay payable for GS-15 (currently $57,500), or (b) the final pay (or average pay, if higher) of the employee or Member increased by the overall annual average percentage adjustments in the General Schedule pay rates that have occurred between the date the employee's or Member's annuity commenced and the date of the cost-of-living adjustment. For the purpose of determining the final or average pay of an employee or Member, the term "pay" is defined to mean the rate of salary or basic pay which is payable under any provision of law, including provisions of law which limit the expenditure of appropriated funds. The Senate amendment further provides that the amendment shall not cause any annuity to be reduced below the rate payable on the date of enactment but that such amendment shall apply to any cost-of-living adjustment occuring on or after the date of enactment. Moreover, the amendment applies with respect to any civil service annuity regardless of its commencing date.

The House bill contains no comparable provisions.

The House recedes to the Senate.

General employee pay adjustments; executive pay review (section 310).

Section 303 of the House bill provides that if the President, before September 1, 1982, transmits an alternative pay plan to the Congress proposing a pay adjustment of less than 4 percent and that alternative plan is disapproved by either House in accordance with existing law, the pay adjustment for the statutory pay systems shall be 4 percent. Under existing law, Federal employees are entitled to the full pay comparability increase (estimated to be close to 20 percent this October) in the event either House disapproves the President's alternative pay plan.

The Senate amendment contains no comparable provisions.

The Senate recedes to the House and concurs with an amendment.

The conference substitute has three parts. First, it adopts without change the provisions of the House bill relating to the disapproval of an alternative pay plan. Second, it directs the appointment of an ad-hoc Commission on Executive, Legislative, and Judicial Salaries. The Commission is directed to make recommendations and report, in accordance with existing law, except as provided by the conference substitute. Its report must be transmitted to the President not later than November 15 of this year, and the President would then promptly formulate his recommendations and submit them to Congress for review. The President's recommendations would become effective for any pay period beginning more than 30 days after they are transmitted unless the Congress, by concurrent resolution, diapproves the recommendations during the 30-day period. The recommendations will supersede any pay rate or pay cap established by prior provisions of law. Finally, commencing in fiscal year 1984, the conference substitute changes the basis for computing pay for employees under the General Schedule. Currently, General Schedule pay is computed on the basis of 260 work days or 2,080 hours rather than the 261 or 262 work days that usually occur in a calendar year. The conference substitute provides that pay shall be computed on the basis of the average work hours in a calendar year (2087 hours). This change is effective only for fiscal years 1984 and 1985. This provision does not necessarily affect the calculation of retirement benefits. Whether there should be a corresponding change in the basis of calculating such benefits is left to the discretion of the Office of Personnel Management.

SUBTITLE B—LIMITATION ON TRAVEL AND TRANSPORTATION EXPENSES

Travel and transportation expenses for vacation leave

Section 605 of the Senate amendment would terminate certain travel provisions in current law for Federal employees assigned to duty stations in Hawaii and Alaska. Under 5 USC 5728, Federal employees assigned to posts of duty outside the continental United States are allowed, for each tour of duty, payment for travel expenses for one round trip to their actual place of residence at the time of appointment. This benefit is also extended to the employee's immediate family. By adding the words "Alaska and Hawaii" to the term "continental United States", the Senate amendment would terminate these payments with regard to Federal employees assigned to posts of duty in Alaska and Hawaii. The Senate amendment provides that an employee whose post of duty is in Alaska or Hawaii on the date of enactment of this Act shall be entitled to one round-trip travel commenced after the date of enactment of this Act.

The House bill contains no such provision.

The conference agreement would add the words "Alaska and Hawaii" to the term "continental United States", thereby terminating the round-trip travel benefits for Federal employees assigned to those two states. However, the conference agreement contains provisions allowing the head of an agency to provide for such round-trip travel benefits when he determines that such expenditure is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post in Alaska or Hawaii. The intent of this provision is to assure an agency the availability of employees with special qualifications which are not in ready supply in these locations and to assure the availability of personnel to fill positions in remote areas. It is intended that the provision be used sparingly and only when necessary to fulfill the agency's mission. The payment of such expenses is limited to not more than two round-trip commenced within five years after the date the employee first commences any period of consecutive tours of duty in Alaska and Hawaii. The conference agreement further provides that the termination of these travel benefits shall not be applicable to the first round-trip travel commenced after the date of enactment of this Act by an employee whose post of duty on the date of enactment of this Act is in Alaska and Hawaii, but counts such first trip toward the two-trip limit.

TITLE IV: VETERANS' BENEFITS

The House bill and the Senate amendment, according to CBO estimates, would have achieved total cost savings of $169.7 million and $168.1 million, respectively, in budget authority and $169.4 million and $166.9 million, respectively, in outlays in fiscal year 1983.

The conference agreement, according to CBO estimates, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays in fiscal year 1983. The first three years' savings are shown in the following table:

COST SAVINGS

[In millions of dollars]

	Fiscal year 1983		Fiscal year 1984		Fiscal year 1985	
	BA	O	BA	O	BA	O
Section 401—Commencement of payment periods	53.5	53.5	56.3	56.3	59.2	59.2
Section 402—Advance date of reductions	3.2	2.9	3.5	3.2	3.9	3.5
Section 403—Pension rounding	3.6	2.7	10.4	10.4	10.1	10.1
Sections 404 and 405—Compensation rounding	18.8	18.8	18.9	18.9	19.1	19.1
(Subtotal: Entitlements)	(79.1)	(77.9)	(89.1)	(88.8)	(92.3)	(91.9)
Section 406—Home-loan fee	89.6	89.6	99.8	99.8	104.1	104.1
Conference report total	168.7	167.5	188.9	188.6	196.4	196.0
House bill total	169.7	169.4	185.8	185.5	195.0	194.6
Senate amendment total	168.1	166.9	192.1	191.8	202.0	201.6

A description of the provisions of the House bill, Senate amendment, and conference agreement follows.

1. Commencement of certain periods of payment

Both the House bill and the Senate amendment would, effective October 1, 1982, postpone the commencement of the period for which a new award or an increased award of Veterans' Administration compensation, dependency and indemnity compensation (DIC), or pension is paid. The commencement of the period of payment would be delayed until the first day of the calendar month following the effective date of the award or increased award.

The conference agreement includes this provision with a clarifying amendment defining "award or increased award". Under this definition, the term would mean an original award, a reopened award, or an award that is increased because the recipient has acquired a new dependent, the recipient's disability or disability rating has been increased, or the recipient's income has declined.

The conferees emphasize that this provision would not apply to various types of adjustments of awards—as opposed to new awards or increases in awards—such as occur, for example, in the case of an apportionment and in the case of the termination of any withholding, reduction, or suspension of an award by reason of a recoupment, an offset to collect an indebtedness, institutionalization, incompetency, incarceration, or an estate that exceeds the limitation for certain hospitalized incompetent veterans. The conferees also emphasize that this provision does not apply to any increase in benefit payments resulting solely from the enactment of legislation—such as a cost-of-living increase in compensation and DIC rates or a change in the criteria for statutory award designations—or from a cost-of-living adjustment in pension rates pursuant to section 3112 of title 38. The term would also include any new award of "improved" pension pursuant to an election under section 306 of Public Law 95-588 and any increase in the amount of compensation, pursuant to VA regulations (sections 4.29 and 4.30 of title 38, Code of Federal Regulations), by reason of hospitalization of a veteran, under certain circumstances, for a period in excess of 21 days for a service-connected disability, or of a veteran's convalescence following certain surgical or medical procedures for a service-connected disability.

Cost savings associated with this provision, according to CBO estimates, would be $53.5 million in both budget authority and outlays in fiscal year 1983, $56.3 million in both budget authority and outlays in fiscal year 1984, and $59.2 million in both budget authority and outlays in fiscal year 1985.

2. Advancement of effective date of certain reductions of compensation and pension

Both the House bill and the Senate amendment would provide that, effective October 1, 1982, the effective date of a reduction of VA compensation, DIC, or pension by reason of a reduction in the number of the recipient's dependents resulting from the marriage, annulment, divorce, or death of a dependent shall be the last day of the month—rather than the last day of the year—in which the number of dependents decreased.

The conference agreement contains this provision made applicable, in order to avoid creating overpayments, only to changes in dependency occurring after September 30, 1982.

Cost savings associated with this provision, according to CBO estimates, would be $3.2 million in budget authority and $2.9 million in outlays in fiscal year 1983, $3.5 million in budget authority and $3.2 million in outlays in fiscal year 1984, and $3.9 million in budget authority and $3.5 million in outlays in fiscal year 1985.

3. Rounding down of pension to nearest dollar

Both the House bill and the Senate amendment would provide that, in computing amounts of monthly non-service-connected pension payments, amounts of $0.99 or less shall be rounded down to the nearest lower dollar. Under the House bill, this provision would become effective October 1, 1982, and under the Senate amendment it would take effect with respect to payments for periods beginning after May 31, 1983.

The House recedes with a technical amendment clarifying that the amount to be rounded is the monthly (or other periodic) rate of pension. Hence, in the case of an unrounded deduction for an insurance premium payment or for an indebtedness offset, the pensioner may receive payment in an unrounded amount.

The conferences stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95-588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

Cost saving associated with this provision, according to CBO estimates, would be $3.6 million in budget authority and $2.7 million in outlays in fiscal year 1983, $10.4 million in both budget authority and outlays in fiscal year 1984, and $10.1 million in both budget authority and outlays in fiscal year 1985.

4. Rounding down of fiscal year 1983 compensation cost-of-living increase

The House bill would provide, effective October 1, 1982, and "adjusted" 7.4-percent cost-of-living increase in compensation and DIC benefits—that is, an increase of 7.4 percent in the current rates with all amounts from $0.01 to $0.99 rounded down to the next lower dollar. The Senate amendment would reduce, effective January 1, 1983, various current compensation and DIC rates—in anticipation of the enactment prior to that date of a similarly "adjusted" cost-of-living increase, effective October 1, 1982, in the current compensation and DIC rates that would supersede the rounding-down reductions.

The ultimate intended effect both of the House provisions and of the Senate provisions coupled with the subsequent anticipated cost-of-living increase would be a compensation/DIC cost-of-living increase costing less than 7.4-percent increase calculated in accordance with the customary Congressional practice by which, in legislating such increases, amounts of $0.50 or more are rounded up to the next higher dollar and amounts of less than $0.50 are rounded down to the next lower dollar. Such lower cost for the total compensation/DIC increase this year is necessary in order to keep the cost within the pertinent fiscal year 1983 budget allocations to the Veterans' Affairs Committees under section 302(a) of the Congresional Budget Act of 1974.

The rate reductions in the Senate bill were arrived at so as to achieve estimated fiscal year 1983 cost-savings equal to the savings ($29.5 million in both budget authority and outlays) that would be achieved through the enactment of an "adjusted" 7.4-percent compensation/DIC cost-of-living increase—with rates rounded down to the nearest dollar, with the rounded increased rate for those with disabilities rated at 10 percent reduced by $1.00 and with a realignment of dependents' allowances (to provide for rate uniformity)—rather than a 7.4-percent increase enacted in accordance with customary Congressional practice on rounding.

Both the House bill and the Senate amendment would modify the method by which compensation dependent's allowances for veterans with disabilities rated from 30-percent through 90-percent disabling are computed. Under current law, these dependents' allowances are computed as a percent-

age—equal to the veteran's percentage disability rating—of the dependents' allowances payable to veterans rated totally disabled, with amounts of $0.50 or more rounded up and amounts less than $0.50 rounded down. The House bill and the Senate amendment would require rounding down all amounts.

The House recedes, with adjustments in certain current-rate reductions and a conforming amendment providing for rounding down certain intermediate rates pursuant to section 314(p) of title 38, United States Code. The fiscal year 1983 cost savings of $18.8 million achieved through the conference agreement provisions reflect the House bill's treatment of the 7.4-percent increase for 10-percent disabled veterans. The conferees emphasize that these provisions are based upon an expectation that they will be superseded by the enactment of a compensation bill, prior to January 1, 1983, providing for an "adjusted" 7.4-percent cost-of-living increase with rates rounded down to the nearest dollar and with dependency allowances realigned.

Cost saving associated with these provisions, according to CBO estimates, would be $18.8 million in both budget authority and outlays in fiscal year 1983, $18.9 million in both budget authority and outlays in fiscal year 1984, and $19.1 million in both budget authority and outlays in fiscal year 1985.

5. Fee for home loans

Both the House bill and the Senate amendment would require the payment of a fee of 0.5 percent of the original loan principal of all VA home loans guaranteed, insured, or made to veterans—other than those who are in receipt of VA compensation for a service-connected disability or who, but for the receipt of military retirement pay, would be entitled to receive such compensation—and to certain spouses and surviving spouses. The House bill would also exempt the surviving spouses of those who have died from a service-connected disability. Under both provisions, the fee would be required with respect to loans closed after September 30, 1982.

The House bill, but not the Senate amendment, provides that the requirement for the payment of the fee would not apply with respect to any loan closed after September 30, 1985.

The Senate recedes.

Savings associated with this provision, according to CBO estimates, would be $89.6 million in both budget authority and outlays in fiscal year 1983, $99.8 million in both budget authority and outlays in fiscal year 1984, and $104.1 million in both budget authority and outlays in fiscal year 1985.

6. Termination of pension benefits for certain children

Both the House bill and the Senate amendment would terminate, in the cases of children who reach age 18 after September 30, 1982, VA pension benefits payable under the "improved" pension program, enacted in Public Law 95-588, to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing a post-secondary education.

The Senate bill, but not the House amendment, in the cases of children who reach age 18 after September 30, 1982, would terminate pension benefits payable under section 306(a) of Public Law 95-588 (under which the benefits of certain pensioners who were in receipt of pension as of December 31, 1978, the day before the "improved" program went into effect, were "grandfathered") to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing post-secondary education.

Both the House bill and the Senate amendment would phase-out—through annual 25-percent reductions, beginning with the first reduction on October 1, 1982—the pension benefits payable under both the "improved" program and section 306(a) to veterans' children who reach age 18 prior to October 1, 1982, and are pursuing post-secondary education.

The conferees did not resolve the differences between the House and Senate versions, and the conference agreement does not contain these provisions.

7. Correspondence training

The House bill, but not the Senate amendment, would repeal, effective October 1, 1982, the authority under which GI Bill educational assistance benefits are paid to veterans, dependents, and service personnel for the pursuit of correspondence training.

The House recedes.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Section 501 reduces the size of the Federal Communications Commission (FCC) to 5 from 7 members. The relevant parts of the Communications Act of 1934 specify that the FCC shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate. The Act further specifies that 4 members shall constitute a quorum.

This proposal would result in savings of approximately $100,000 in fiscal year 1983 and $500,000 annually, thereafter.

The proposal provides that the reduction of 2 positions will take place on July 1, 1983, thereby allowing for an abbreviated appointment to the term of office which expired on June 30, 1982. The second term, expiring on June 30, 1983, will not be filled. The terms of the other members are not affected. The number of members constituting a quorum as of July 1, 1983, is reduced to 3 from 4.

The concept of reducing the size of the FCC is not new. A January 1971 study entitled, "A New Regulatory Framework: Report on Selected Independent Regulatory Agencies" (prepared by the President's Advisory Council on Executive Organizations), recommended that "the number of FCC Commissioners be reduced from seven to five to minimize inefficiency caused by the sheer number of Commissioners considering each issue." The study also concluded that a reduced number of Commissioners would result in "improved regulatory effectiveness without raising the prospect of partisian control over the broadcast media, or individual interference with the free exchange of ideas or information (at pp. 118-119).

In 1974, a former FCC General Counsel, Henry Geller, endorsed this concept in "A Modest Proposal to Reform the Federal Communications Commission," The Rand Corporation, Washington, D.C. (April, 1974).

A 1977 Congressional study of regulatory commissions ("Study on Federal Regulation," Vol. IV, "Delay in the Regulatory Process" Committee on Governmental Affairs, U.S. Senate, 95th Congress, 1st Session, p. 115 (July, 1977)), concluded that policymaking bodies of 5 are preferable to larger groups, the primary advantage being the speed of decision making.

Most recently, the Comptroller General of the United States called for FCC reduction in a July 1979 report entitled "Organizing the Federal Communications Commission for Greater Management and Regulatory Effectiveness," at pp. 15-16. As such, the FCC reduction seems long overdue.

INTERSTATE COMMERCE COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment provides that effective January 1, 1983, each office within the Interstate Commerce Commission (ICC) that is provided for by 49 U.S.C. 10301 (other than the office prescribed to expire on December 31, 1985) and that is vacant on July 1, 1982, shall be abolished and, effective January 1, 1983, amends such section to provide that the ICC will be composed of 7 members with no more than 4 members from the same political party.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office after such date shall be appointed for a term of office which ends on Debemrer 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment amends 49 U.S.C. 10301(b), effective January 1, 1936, to provide that the ICC shall be composed of 5 members. It further amends such section to provide that no more than 3 members shall be appointed from the same political party.

The Senate amendment also provides that any member of the ICC whose term of office expires on December 31, 1982, or December 31, 1983, may be reappointed as a member of the Commission, and this provision is consistent with existing law.

Conference substitute

The conference substitute is the same as the Senate amendment except that (1) the vacant office which is retained on the Interstate Commerce Commission is one of the two offices which are prescribed to expire on December 31, 1984, instead of the office which is prescribed to expire on December 31, 1985; (2) one of the persons appointed to fill one of the two offices the terms for which are prescribed to expire on December 31, 1987, shall be appointed for a term of office which ends on December 31, 1991, instead of December 31, 1992; and (3) section 10301(c) of title 49, United States Code, is amended to reduce the terms of office of members of the Interstate Commerce Commission from seven years to five years. The amendment made under clause (3) of the preceding sentence shall take effect on January 1, 1984, and apply to persons appointed, after such date, to fill any office of the Interstate Commerce Commission, except that such amendment does not apply to one of the two persons appointed to fill an office the term for which is prescribed to expire on December 31, 1987.

OTHER PROVISIONS

INDUSTRIAL FUNDING OF SUPPLY OPERATIONS

Section 611 of the Senate bill would amend the Federal Property and Administrative Services Act of 1949 to permit GSA to pass on to other Federal agencies costs incurred for wages, space and other personnel costs relating to the contracting, procurement, inspection, storage, management, distribution, and accountability of supplies and materials provided by GSA to such Federal agencies. The Senate bill would provide that all executive agencies shall requisition from the GSA all needed items of personal property and nonpersonal property which are managed by GSA unless otherwise authorized by GSA. The Senate bill further provides that the Administrator of GSA shall report twice each year to the Senate Committee on Governmental Affairs and the House Committee on Government Operations on the status and operations of the General Supply Fund.

The House bill contains no such provision.

The Senate recedes to the House position.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

JIM JONES,
LEON PANETTA,
RICHARD A. GEPHARDT,
DELBERT LATTA,
BILL FRENZEL'

Solely for consideration of title I of the House bill and title I of the Senate amendment:

LES ASPIN,
BRIAN DONNELLY,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
DAVID R. BOWEN,
BILL WAMPLER,
PAUL FINDLEY
(on all matters except as listed below),
TOM HAGEDORN
(on all matters except as listed below),
E. THOMAS COLEMAN
(in lieu of Mr. HAGEDORN) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment (food stamps),
WM. THOMAS
(in lieu of Mr. FINDLEY) on sections 101–180 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

CLEMENT J. ZABLOCKI,
LEE H. HAMILTON,
JONATHAN D. BINGHAM,
WM. BROOMFIELD,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
FRANK ANNUNZIO,
J. W. STANTON,
CHALMERS WYLIE,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

JOHN G. DINGELL,
TIMOTHY E. WIRTH,
J. J. FLORIO,
JAMES T. BROYHILL,
N. F. LENT,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

GLENN M. ANDERSON,
NICK RAHALL,
BOB EDGAR,
DON H. CLAUSEN,
BUD SHUSTER,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601–604 and 606–610 of the Senate amendment:

WILLIAM D. FORD,
MO UDALL,
W. CLAY,
ED J. DERWINSKI,
GENE TAYLOR,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

JACK BROOKS,
JOHN L. BURTON,
DAVE EVANS,
FRANK HORTON,
BOB WALKER,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and section 701–706 and 708 of the Senate amendment:

G. V. MONTGOMERY,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS WYLIE,

Managers on the Part of the House.

Committee on the Budget:

PETE V. DOMENICI,
W. L. ARMSTRONG,
NANCY LANDON KASSEBAUM,
RUDY BOSCHWITZ,
JOHN TOWER,

Committee on Agriculture, Nutrition, and Forestry: For title I:

JESSE HELMS,
BOB DOLE,
S. I. HAYAKAWA,
DICK LUGAR,
WALTER D. HUDDLESTON,

Committee on Banking, Housing, and Urban Affairs: For title III:

JAKE GARN,
JOHN TOWER,
DICK LUGAR,
DON RIEGLE,

Committee on Commerce, Science, and Transportation: For sections 402 and 403 of title IV:

BOB PACKWOOD,
BARRY GOLDWATER,
TED STEVENS,
HOWARD CANNON,

Committee on Governmental Affairs: For title VI:

BILL ROTH,
TED STEVENS,
MACK MATTINGLY,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701–706 and 708 of the Senate amendment:

AL SIMPSON,
STROM THURMOND,
ROBERT T. STAFFORD,
ALAN CRANSTON,
JENNINGS RANDOLPH,

Managers on the Part of the Senate.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FOLEY, subsequent to the passage of H.R. 6419.

SENATE BILLS AND JOINT RESOLUTION REFERRED

Bills and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1468. An act to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony; to the Committee on Interior and Insular Affairs.

S. 2059. An act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes; to the Committee on the Judiciary; and

S.J. Res. 188. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON TODAY AND BALANCE OF THE WEEK

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit for the purposes of considering legislation during the time that the House is sitting under the 5-minute rule today and for the balance of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, I reserve the right to object.

CALL OF THE HOUSE

Mr. WAXMAN. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 280]

ANSWERED "PRESENT"—135

Akaka	Bedell	Benjamin
Barnes	Bellenson	Bennett

Bereuter	Glickman	Mazzoli
Bethune	Gonzalez	McClory
Bevill	Gore	McCurdy
Biaggi	Gradison	McGrath
Boner	Grisham	McHugh
Bowen	Hagedorn	Miller (CA)
Brinkley	Hall, Sam	Mineta
Burton, Phillip	Hamilton	Mitchell (MD)
Carney	Hammerschmidt	Moakley
Clausen	Hansen (ID)	Moore
Coelho	Hiler	Moorhead
Conable	Holt	Murtha
Corcoran	Horton	Myers
Coughlin	Hoyer	Napier
Craig	Hubbard	Natcher
Daniel, Dan	Huckaby	Neal
Dannemeyer	Hutto	Nichols
Daub	Jacobs	Oakar
de la Garza	Johnston	Ottinger
Dellums	Jones (NC)	Panetta
Dingell	Jones (TN)	Patman
Duncan	Kazen	Patterson
Edwards (AL)	Kildee	Peyser
Emerson	Kindness	Pickle
Fascell	Leath	Price
Fazio	Leland	Pritchard
Findley	Lent	Rangel
Fish	Lewis	Ratchford
Foley	Livingston	Robinson
Frost	Lowry (WA)	Roemer
Gibbons	Lujan	Rogers
Gingrich	Madigan	Rose
Schulze	Studds	Wampler
Seiberling	Stump	Waxman
Sensenbrenner	Swift	Weaver
Sharp	Synar	White
Skeen	Tauke	Whitehurst
Smith (IA)	Tauzin	Whittaker
Smith (NE)	Thomas	Wilson
Solomon	Udall	Winn
Spence	Volkmer	Wirth
Stark	Walgren	Wyden
Stratton	Walker	Yatron

□ 1315

Mr. PHILLIP BURTON. Mr. Speaker, regular order.

Mr. Speaker, regular order.

The SPEAKER pro tempore (Mr. DE LA GARZA). The Chair is observing the regular order.

Mr. PHILLIP BURTON. Mr. Speaker, regular order as to the time to note the presence of Members has expired.

The SPEAKER pro tempore. Are there any Members who have not yet recorded their presence?

The Chair will advise the gentleman from California that 15 minutes is a minimum, not a maximum.

ADJOURNMENT

Mr. DE LA GARZA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 1 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 17, 1982, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 and MAR. 31, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Codel Obey:											
Group expenses	3/7	3/8	Austria				279.75				279.75
Local transportation											
Group expenses	3/8	3/9	Italy				305.79				305.79
Local transportation									439.24		439.24
Miscellaneous expenses											
Committee total							585.54		439.24		1,024.78

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

James R. Jones, Chairman, July 28, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
DELEGATION TO MIDDLE EAST AND AFRICA, APR. 7-19, 1982											
Holt, Congresswoman Marjorie S.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
HUTTO, Congressman Earl D.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Mollohan, Congressman Robert H.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Montgomery, Congressman G. V.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Transportation, Department of the Air Force							13,409.00				13,409.00
Spence, Congressman Floyd D.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Stump, Congressman Bob	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
White, Congressman Richard C.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00						138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Won Pat, Congressman Antonio B.	4/7	4/7	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Bauser, Edward J.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Kriser, Louis	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Moore, Alma B.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Scrivner, Peter C	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					803.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00				13,409.00
Tsompanas, Paul L.	4/7	4/9	Morocco	884.32	150.00					884.32	150.00
	4/9	4/11	Egypt	124.750	150.00					124.750	150.00
	4/11	4/13	Israel		180.00						180.00
	4/13	4/14	Oman	47.610	138.00					47.610	138.00
	4/14	4/15	Kenya	803.65	75.00					806.65	75.00
	4/15	4/17	Mauritius	1,605	150.00					1,605	150.00
	4/17	4/18	South Africa	78.13	75.00					78.13	75.00
	4/18	4/19	Barbados		96.00						96.00
Transportation, Department of the Air Force							13,409.00		1,842.21		13,409.00
Delegation expenses incurred in Egypt							368.83				2,211.04
Delegation expenses incurred in Oman									653.65		653.65
Delegation expenses incurred in Kenya							665.81		26.45		692.26
Delegation expenses incurred in South Africa							1,483.93		310.60		1,794.53
Delegation expenses incurred in Barbados							555.00				555.00
MISCELLANEOUS COMMITTEE TRAVEL, May 27–June 15, 1982											
Byron, Congresswoman Beverly B.	6/27	6/29	United Kingdom	100.58	176.00					100.58	176.00
	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
Transportation, Department of State							1,863.40				1,863.40
Transportation, Norway, Department of State							175.95				175.95
Cofer, Williston B., Jr.	6/29	7/4	Germany	1,045.80	420.00					1,045.80	420.00
	7/4	7/11	Spain	59,270	533.00					59,270	533.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Transportation, Department of State							974.56				974.56
Foglietta, Congressman Thomas M.	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
	7/8	7/15	Italy	732,200	525.00					732,200	525.00
Less total refund											−111.17
Transportation, Department of State							3,926.50				3,926.50
Transportation, Norway, Department of State							175.95				175.95
Ford, John J.	5/27	5/29	Italy	195,610	152.35					195,610	152.35
	5/31	6/2	Switzerland	335.40	170.00					335.40	170.00
Transportation, Department of the Air Force							1,669.00				1,669.00
Klein, Adam J.	6/27	6/29	United Kingdom	100.58	176.00					100.58	176.00
	6/30	7/2	Norway	2,323.60	369.00					2,323.60	369.00
	7/2	7/4	Denmark	1,289.77	150.00					1,289.77	150.00
	7/4	7/7	Switzerland	532.20	255.00					532.20	255.00
Transportation, Department of State							1,863.40				1,863.40
Transportation, Norway, Department of State							175.95				175.95
Waters, James C.	6/29	7/4	Germany	1,045.80	420.00					1,045.80	420.00
	7/4	7/11	Spain	59,270	533.00					59,270	533.00
Transportation, Department of State							974.56				974.56
White, Justus P.	5/28	6/1	Portugal	28,000	400.00					28,000	400.00
Transportation, Department of the Army							2,889.61				2,889.61
Committee total					18,994.18		192,079.45		2,832.91		213,906.54

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MELVIN PRICE, Chairman. July 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE BUDGET, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael Telson	6/27	7/4	United Kingdom	344.82	600.00		996.00				1,596.00
Committee total					600.0		996.00				1,596.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

JAMES R. JONES, Chairman, July 28, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Rahall, Congressman Nick Joe II	5/21	5/22	Spain	7,892	77.00					7,892	77.00
	5/22	5/26	Italy	439,470	432.00					439,470	432.00
Air Transportation			Germany			7,372.40	3,186.00		837.50	7,372.40	3,186.00
Military air transportation							500.00				837.50
Committee total					509.80		3,686.00		837.50		500.00
											5,032.50

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

James J. Howard, Chairman, July 30, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Greene		5/10	United State				2,198.00				2,198.00
	5/11	5/19	Kenya	6,407.30	615.00					6,407.30	615.00
	5/19		United States								
Hanson		5/10	United States				2,029.00				2,029.00
	5/11	5/19	Kenya	4,844.55	465.00					4,844.55	465.00
	5/19		United States								

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON SCIENCE AND TECHNOLOGY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Krebs		6/27	United States				1,384.00				1,384.00
	6/28	7/3	England	287.35	548.00					287.35	548.00
	7/3		United States								
Greene		6/11	United States				542.00				542.00
	6/12	6/20	England	448.17	856.00					448.17	856.00
	6/20		United States								
Palmer		6/11	United States				542.00				542.00
	6/12	6/20	England	448.17	856.00					448.17	856.00
	6/20		United States								
Scheuer		6/11	United States				3,926.00				3,926.00
	6/12	6/17	England	280.10	535.00					280.10	535.00
	6/17		United States								
Committee total					3,875.00		10,621.00				14,496.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DON FUQUA, Chairman, July 30, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4589. A letter from the Vice President of Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of April, 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4590. A letter from the Secretary of the Interior, transmitting a report on the rental charges for noncompetitive oil and gas leases, pursuant to section 1401(d)(2) of Public Law 97-35; to the Committee on Interior and Insular Affairs.

4591. A letter from the General Counsel of the Department of Defense, a draft of proposed legislation to amend chapter 47 of title 10, United States Code, (the Uniform Code of Military Justice), to improve the quality and efficiency of the military Justice), to improve the quality and efficiency of the military justice system, to revise the laws concerning review of courts-martial and for other purposes; jointly, to the Committees on Armed Services and the Judiciary.

4592. A letter from the Assistant Secretary of Defense (Comptroller), transmitting selected acquisition reports and SAR summary tables for the quarter ending June 30, 1982, pursuant to section 811(a) of Public Law 94-106; to the Committee on Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee of conference. Conference report on S. 2248 (Rept. No. 97-749). Ordered to be printed.

Mr. JONES of Oklahoma: Committee of conference. Conference report on H.R. 6955. (Rept. No. 97-750). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO:

H.R. 6993. A bill to revise, codify, and enact without substantive change certain general and permanent laws related to transportation as subtitle I and chapter 31 of subtitle II of title 49, United States Code, "Transportation"; to the Committee on the Judiciary.

By Mr. WEAVER:

H.R. 6994. A bill to require the Secretary of Interior to convey, without consideration, certain lands in Lane County, Oreg.; to the Committee on Interior and Insular Affairs.

Mr. KINDESS (for himself and Mr. BROWN of Ohio):

H.J. Res. 579. Joint resolution proposing an amendment to the Constitution of the United States to provide that all revenue bills shall originate in the House of Representatives; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. MAZZOLI introduced a resolution (H. Res. 564) opposing the granting of permanent residence in the United States to certain aliens, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3600: Mr. FRENZEL.
H.R. 5875: Mr. FRENZEL.
H.R. 5876: Mr. FRENZEL.
H.R. 5877: Mr. FRENZEL.
H.R. 6348: Mr. NELLIGAN, Mr. KAZEN, Mr. NEAL, Mr. DE LA GARZA, Mr. EDWARDS of Oklahoma, Mr. ADDABBO, Mr. MITCHELL of New York, Mr. LEBOUTILLIER, Mr. FITHIAN, Mr. CARNEY, Mr. RICHMOND, Mr. SKEEN, Mr. HANSEN of Idaho, Mr. LOTT, Mr. STUMP, Mr. LAFALCE, Mr. PEYSER, Mr. ZEFERETTI, Ms. OAKAR, Mr. APPLEGATE, and Mr. HUTTO.
H.R. 6760: Mr. DUNN.
H.R. 6768: Mr. LIVINGSTON.
H.R. 6781: Mr. LOWERY of California, Mr. ALEXANDER, Mr. PARRIS, Mr. IRELAND, Mr. SANTINI, Mr. EVANS of Georgia, Mr. ANNUNZIO, Mr. LEWIS, Mr. MCKINNEY, Mr. NELSON, Mr. BRINKLEY, Mr. SMITH of Oregon, Mr. DOWDY, Mr. LOEFFLER, Mr. PAUL, Mr. GRISHAM, Mr. RUDD, Mr. FITHIAN, Mr. STUMP, Mr. SHANNON, Mrs. BYRON, and Mr. STRATTON.
H.R. 6829: Mr. LIVINGSTON and Mr. TAUZIN.
H.R. 6901: Mr. RODINO.
H. Res. 532: Mr. DASCHLE, Mr. SCHUMER, Mr. BENNETT, Mrs. CHISHOLM, Mr. BEILENSON, Mr. PATTERSON, Mr. HORTON, Mr. FOGLIETTA, Mr. BAILEY of Pennsylvania, Mr. RATCHFORD, Mr. DENARDIS, Mr. DELLUMS, Mr. GARCIA, Mr. PRICE, Mr. HATCHER, Mr. PARRIS, Mr. PORTER, Mr. HOYER, Mr. BEVILL, Mr. DOUGHERTY, Mr. STOKES, Mr. CLAY, Mr. SHAMANSKY, Mr. SUNIA, Mr. ERDAHL, Mr. MINETA, Mr. BEDELL, Mr. JAMES K. COYNE, Mr. EDWARDS of California, Mr. STARK, Mr. RHODES, Mr. MOFFETT, Mr. CLAUSEN, Mr. GRAY, Mr. GEJDENSON, Mrs. HECKLER, Mr. CROCKETT, Mrs. KENNELLY, Mrs. COLLINS of Illinois, and Mr. WEAVER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

567. The SPEAKER: presented a petition of Charles A. Stallings, Greenwood, Ind., relative to disability retirement; which was referred to the Committee on Post Office and Civil Service.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540,

By M. BETHUNE:

(Amendment in the nature of a substitute.)

Strike out all after the enacting clause and insert in lieu thereof the following:

That the first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1987".

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made

under this section unless the Secretary of the Treasury determines that the person involved cannot otherwise obtain the financing involved.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase borrowing costs for the Federal Government.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Agriculture determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of such credit, to the agricultural sector of the economy.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Housing and Urban Development determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit or increase the cost of credit to the housing industry or otherwise adversely affect the housing industry.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Education determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to students.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Labor determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to have a negative impact on employment in the United States.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Commerce determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to adversely affect depressed sectors of the domestic economy, such as the automotive, steel, and farm equipment manufacturing sectors.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be issued under this section to any person unless the Secretary of the Treasury determines that an imperfection in the financial or credit markets has prevented other sources of financing from being available to such person.

Redesignate the following subsections accordingly.

—Page 43, after line 10, insert the following:

"(o) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section until the effective date of a Federal law establishing limits on all Federal credit activities.

Redesignate the following subsections accordingly.

—Page 51, after line 9, insert the following:

(g) The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following:

"SEC. 721. Notwithstanding any other provision of law, for fiscal year 1983, new direct loan obligations entered into under this Act shall not exceed $50,000,000 and new loan guarantee commitments shall not exceed $50,000,000.".

By Mr. VENTO:

—Page 41, line 24, strike out ", or the installation of equipment,".

Page 42, beginning on line 15, strike out ", or the installation of equipment,".

H.R. 6956

By Mr. GORE:

—Page 13, line 18, strike out "$544,963,000" and insert in lieu thereof "$555,106,000".

—Page 14, line 3, strike out "$364,575,000" and insert in lieu thereof "$372,970,000".

By Mr. SCHEUER:

—On page 13, line 24, strike out "$121,204,000" and insert in lieu thereof "$146,204,000".

EXTENSIONS OF REMARKS

COMMONSENSE ABOUT TWO GREAT PROBLEMS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. MICHEL. Mr. Speaker, I recently came across two informative and thought-provoking editorials dealing with the questions of our national economy and our national defense. Obviously these two subjects do not lack editorial commentary throughout the Nation. But the editorials I read avoid the usual emotional arguments and bring commonsense to the subjects. I want to share them with you and our colleagues in the hope that commonsense of this kind might prove to be contagious.

At this time I wish to insert in the RECORD "First We Must Survive" and "The Roof Did Fall In," editorials published July 19 and July 17, 1982, in the Peoria Journal Star.

[From the Journal Star, July 19, 1982]

FIRST, WE MUST SURVIVE

We obviously have trouble, today taking seriously the very idea that national survival can be or ever was really at stake.

For many of us, apparently, the concept is simply inconceivable.

We remember the overwhelming victories and dismiss the earlier losses and incapacities as aberrations along the way.

We are conditioned to such a high level of freedom of movement and choice and to such basic national security that anything else is a vague and improbable abstraction that we simply cannot fully grasp.

Many have the inclination, therefore, to dismiss such as nonsense or "paranoia."

It is difficult to conceive the real nature of Soviet society, for example, to start with or to feel the Soviet threat as a real thing unless you have contact with it in some way.

Often, when that happens, the realization comes as a shock and then one may get an exaggerated reaction.

That, however, is closer to reality than shrugging off the question of survival and making all judgments on the basis of the purity of our principles.

In war, "expediency" takes on a very different shape and reality.

If you confront, for example, as a commander, a choice of attacking and losing 150 lives in a day—or staying on the defensive and losing 400 or 500 or 600 over time in a long drawn-out exchange of fire—there is no room for the abstract notion that one killing or 500 is essentially "the same thing."

If you know the men, the survival of 300 or so has to be balanced against the sacrifice you may demand—and a decision has to be made because "no decision" is, in fact, enescapably, a kind of decision in itself that brings its own high price.

So, you either opt out and abandon your people to the injuries of circumstance or you do the best you can.

That goes from a squad leader up to the President of the United States. All have to do it.

Some ideologues have so much passion for "tolerance" and "understanding" that they cannot and will not tolerate or understand that level of pure necessity.

They simply refuse to accept or are incapable of imagining having their backs to the wall or this nation standing with its back to the wall . . . and what would happen to their high abstract notions under such conditions.

One reason England stood alone, against incredible odds, with its back to the wall within the vivid memory of many of us was because the British intelligentsia could not imagine such a threat as being real—until it arrived with the shattered remnants of British units saved at Dunkirk and on the wings of Luftwaffe planes filling the English sky.

Almost too late—and precisely as Winston Churchill had warned—and prophesied—while they sneered at him. (That's why they sent for him when the reality hit them in the face at last.)

This handicap distorts history, old and recent, alike. It is hard for Americans to realize that Mexico and the U.S. at the time of the Mexican war were not greatly different either in physical size or population, that the Mexican army was well-equipped (by European powers) and experienced, and that trained European military observers actually predicted to their governments a Mexican victory. The war was won by brilliant tactics with only 10,000 men operating in very rugged and hostile countryside far from home bases with no trains, no planes and no trucks to bring them aid. It was no "pushover"—no foregone conclusion.

We cannot afford the self-indulgence these days of misreading history, misjudging American motives, misguessing the Soviet mentality and pursuing a "noble", self-congratulatory "cause" born of naivete.

As to the Soviet mentality, the record speaks for itself—and rationalization about them is not a responsible substitute.

National suicide is not the highest form of morality, if that is the reality—no matter what name or claim is made for the policy that produces such a result.

[From the Journal Star, July 17, 1982]

THE ROOF DID FALL IN

When he ran for president, Ronald Reagan told us that we have pushed the tax-spend system ever upward until it has reached the limit—and beyond the limit of economic safety. He warned that we had to have a change in that direction before the roof fell in.

Faced with such major institutional, political and emotional resistance against changing the governmental habits of an entire generation, Reagan proposed a tentative, three-year program that was supposed to dent the trend—lessen the blast of the spending explosion—and then, hopefully, it could be turned around.

He got the first step of the tax side of that program and some budget adjustments (nowhere near enough to actually "cut" spending). In short, he got his foot in the door, but before he could move inside with his program—the roof did fall in.

He was instantly accused of being the Samson who had shoved over the columns holding up the Temple and brought the economy crashing down on us.

Everybody in this country, lobor leader, liberal congressman, business manager, butcher, baker, candlestick maker, knows perfectly well that there has to be a limit to how much of a people's production a government can confiscate for its own manipulations. Every one of us knows that at some point there's a limit to the size of the national debt beyond which it will simply eat us alive.

Everybody knows that expanding the debt and raising taxes could not possibly go on forever.

But those who enjoyed great success (or special benefits) keep wanting to edge it up every year on the theory that you can always do it one more time.

Eventually, we were bound to hit the brick wall.

Well, maybe we have hit it.

But whether we have hit it for sure or not, it would certainly be terribly dangerous and downright irresponsible to persuade ourselves that we can get away with more taxes and more debts for another budget—and another.

There is a break point, and if this isn't it, it's mighty close to it.

We don't know if Reagan's answers are the right answers. We aren't too sure about that. But we feel very sure, indeed, that this country cannot afford to blame the recession on Reagan's sand-bag thrown into the flood and then plunge ahead pretending not only that overspending by government is not what finally strangled the private economy—and there is plenty of room for more of the same.

Yet some tell us eagerly that "morality" demands it and conscience requires it.

There is no morality in poor husbandry of a nation's resources. It is conscienceless to plunge forward on the basis of "good intentions" and a reckless disregard for the ultimate disaster.

Morality is a cheap and superficial fake if it ignores the real threat such a course clearly invites simply because while we all know there has to be a limit, nobody knows for sure just when or where that limit falls.

Nor is it truly "morality" that plunges ahead while passing the buck to God to see to it that no catastrophe follows.

He is not responsible to make any well-meant but otherwise careless folly of ours work.

We try to put that on Him at our peril.

As for the humanists who are unbelievers, but plunge ahead out of sheer arrogance about their own high purposes and glorious ideas—it isn't "morality" to use other people and their property to make you feel good . . . at grave risk to all. To do so with emotional appeals to "morality" is downright immoral in itself.

But it sure doesn't keep the promoters from waving the flag of "morality" as hard as they can . . . hoping nobody sees past it

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

to hold them responsible for actual consequences.●

EFFORTS TO CUT BACK ON SOCIAL SECURITY BENEFITS

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. PEYSER. Mr. Speaker, a little over a year ago, the Reagan administration promised senior citizens that a safety net was spread for them and that there would be no reductions in social security, medicare, or any of the social programs that serve the needs of the people. I am deeply disturbed because during this past year, we have seen cutbacks in programs affecting senior citizens centers, senior nutrition and medicare, and on three separate occasions, efforts to cut back on social security benefits. These cutbacks were supported by all of the Republicans in the House of Representatives.

We are today seeing what I believe to be another equally outrageous act being performed at the direct request of the White House. The Internal Revenue Service is being asked to review the tax records of 3½ million SSI recipients—people who are either blind, handicapped or the poorest of our seniors—to see if, in truth, they are reporting all of their dividend and interest earnings to Social Security for eligibility purposes. This review will not only be of tremendous cost, but if it is carried out, will imply that seniors are not to be trusted. If the administration would concentrate its efforts on trying to collect what the IRS indicates is $66 billion in unpaid taxes by corporations and individual earners, the economic situation in the country would be far better off.

Furthermore, Mr. Speaker, all indications are that the Reagan administration's request earlier this year to cut $40 billion from social security benefits will undoubtedly be on the drawing board after November. I hope for the good of all Americans that the senior citizens recognize this threat and let their voices be heard loud and clear.●

SECRETARY OF ENERGY'S NUCLEAR REMARKS ARE SICK

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. LaFALCE. Mr. Speaker, in the midst of the recent debate on the nuclear freeze resolution, the United States exploded a nuclear device in the Nevada desert. The test, part of our continuous weapons testing program, might have gone unnoticed had it not been for the intemperate remarks of Energy Secretary James Edwards.

Commenting on the weapons testing program, the Secretary said that such tests will and must continue if the United States is to come out No. 1 in a nuclear war.

Mr. Speaker, I hope that all of our colleagues, those who voted for the freeze, and those who backed the administration's substitute, recognize the folly of Mr. Edwards' remarks. As was pointed out in an editorial which appeared in the Lockport Union Sun and Journal, no one will win a nuclear war; there will be no victory parties following a nuclear exchange. What will remain is death and the destruction of life as we know it.

Such remarks are particularly troublesome coming from the cabinet member whose department has the responsibility for the Nation's nuclear weapons development program. Added to the call to nuclear arms from the Departments of Defense and State, such pronouncements tend to subject the administration's commitment to nuclear arms reductions to criticism and ridicule.

Mr. Speaker, I believe that there is no greater cause today than a nuclear arms freeze and reduction. Secretary Edwards' remarks lead me to wonder if the administration can understand, let alone share, my concern and the concern of so many Americans for the future of our world.

[The editorial follows:]

[From the Lockport Union Sun and Journal, Aug. 7, 1982]

ENERGY CHIEF'S N-REMARKS SICK

Sick. Sick. Sick. That's all one can say of Energy Secretary James Edwards remarks about the atomic warhead test below the Nevada desert Thursday.

In case you missed it, Edwards says the Reagan administration plans more tests because—and get this quote—"I want to come out No. 1, not No. 2" in a nuclear war.

On top of that, like a school youngster going to his first prom, he found the test "exciting."

If this sort of thinking prevails among our leaders, we have got problems; real problems.

In the first place, Edwards, if he has a grain of intelligence, must realize that no one—repeat: no one—will win a nuclear war. The horror that would occur in an N-war is almost too frightening to contemplate. Who would want to be left to pick up the pieces?

In the second place, this easy, light talk about nuclear war on the part of an official of cabinet rank makes the Russians seem the soul of discretion and restraint.

Edwards believes that further tests are needed because the U.S. has fallen behind in the past few years. The goal, he maintains, is "peace through strength."

One detects a growing "love affair" in Washington over nuclear weaponry. It isn't a healthy attitude; on the contrary it is scary.

It is one thing to have a strong defense posture and the sophisticated weaponry to back it up. It's quite frightening to suspect that it is becoming a national obsession.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. CORCORAN. Mr. Speaker, due to official business relating to the pending tax bill and a meeting with Treasury Secretary Donald Regan, I was unable to be present and cast my vote on rollcall No. 279 last Friday. Had I been present, I would have voted "no" on the motion to order the previous question on the preferential motion to refer House Resolution 560, relating to the State-Commerce-Justice judiciary appropriations bill, to the Committee on Rules.●

LET US DO THE RIGHT THING NOW FOR FAMILY FARMERS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 16, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, the U.S. Agriculture Secretary recently predicted, in his 1983 wheat program, that the price of wheat will go no higher than $3.80 a bushel for the next 18 months. If that prediction is accurate, and if this Congress does nothing to help stimulate increased farm prices, then we truly face a disaster in agriculture.

Time is already growing short for family farmers. Their income is down, interest rates are high and many lending institutions are tightening the noose.

The problem is that we produce more than we can sell. Therefore, we must develop programs that give farmers incentives to produce less and to sell more—particularly in the export market.

A LITTLE COMMONSENSE WOULD GO A LONG WAY

If this Congress would pay attention to three basic principles, we could develop a farm program that works and gives family farmers a chance to survive.

We should stop interfering with farm export markets. The last four Presidents imposed embargoes or restrictions on farm export sales. That has to stop. When President Reagan tells the Soviets that we will only agree to a 1-year grain sales contract, it is the same as telling them that if they want a long-term contract they should check around with other suppliers such as Canada, Argentina, or France. In my opinion, that is foolish economic policy. It is unworkable and it is time Democrats and Republicans stop using farmers' markets for foreign policy.

If this country is going to compete in international agricultural trade, we have got to develop marketing incentives such as revolving export credit funds, a buy-down on interest rates, an aggressive barter progam, and others. And, we should find new markets here at home by developing an alcohol fuels industry.

To encourage American farmers to reduce production, incentives such as increased loan rates must be offered. When the cost of production of a bushel of wheat is well over $5.50, a loan rate of $3.50 is not going to encourage farmers to participate in a set-aside program. We must provide higher support prices.

We need some real leadership on these issues and we need it now.

SOME OLD FASHIONED SPIRIT

Maybe it is time to remember the days when we had people who were really willing to step out and speak up for the family farmer. Nearly 50 years ago North Dakota Gov. Bill Langer used the National Guard to stop sheriffs from auctioning off farms so family farmers could catch their breath and survive in a period of economic depression. Forty-five years ago Governor Langer ordered the State-owned mill and elevator to offer nearly twice the price for wheat that grain traders offered. The grain traders then decided to increase their own price to match the State mill's offer.

These daring and imaginative acts by Governor Langer were controversial, but the fact is, he was doing something aggressive to give farm families a chance to survive.

Family farmers—particularly the young farmers who are now balancing on the edge of financial collapse—are again looking to us for some aggressive and imaginative help.

Time is short and promises are cheap, but family farmers are an important part of America's future and we simply have to take action to stop them from being forced off the land.

Farmers do not want a free ride. They just want an even chance to make it, and I plead with the Members of this House to join me in taking action on their behalf before it is too late.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 17, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 18

9:30 a.m.
Governmental Affairs
Federal Expenditures, Research and Rules Subcommittee
To hold hearings on S. 1782, eliminating the withholding of retainages by the Federal Government from small business contractors and subcontractors in certain cases.
3302 Dirksen Building

Labor and Human Resources
Labor Subcommittee
Business meeting, to consider proposed amendments revising certain provisions of title IV (plan termination insurance) of the Employee Retirement Income Security Act of 1974.
4232 Dirksen Building

Select on Indian Affairs
Business meeting, to mark up S. 2294, providing for the settlement of certain land claims of the Chitimachea Indian Tribe of Louisiana, S. 2719, providing for the settlement of certain land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and to become a federally recognized tribe, S. 2623, authorizing funds for fiscal years 1985, 1986, and 1987 for the tribally controlled community college program, H.R. 3731, relating to the use of distribution of certain judgment funds awarded by the Indian Claims Commission or the U.S. Court of Claims, and to resume markup of certain pending legislation.
5110 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting, to mark up S. 2245, and S. 2620, authorizing funds for fiscal years 1983 and 1984 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act, and extending the scientific advisory panel to September 30, 1984, and S. 2621, setting standards for State regulation of pesticide products.
324 Russell Building

Appropriations
Business meeting, to mark up the substance of H.R. 6956, appropriating funds for fiscal year 1983 for the Department of Housing and Urban Affairs and certain independent agencies—pending on House calendar.
1114 Dirksen Building

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To resume hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

Judiciary
To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

Select on Intelligence
Closed briefing on intelligence matters.
224 Russell Building

10:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.
3110 Dirksen Building

Finance
To hold oversight hearings to examine the social security disability insurance program.
2221 Dirksen Building

Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

AUGUST 19

9:00 a.m.
Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States.
457 Russell Building

9:30 a.m.
Labor and Human Resources
To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.
4232 Dirksen Building

Small Business
Export Promotion and Market Development Subcommittee
To hold hearings on certain obstacles faced by small business exporters.
424 Russell Building

10:00 a.m.
Energy and Natural Resources
To hold hearings on acid precipitation and the use of fossil fuels.
3110 Dirksen Building

Governmental Affairs
To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.
3302 Dirksen Building

Joint Economic
Monetary and Fiscal Policy Subcommittee
To resume hearings on the current national tax system, focusing on a flat-rate tax proposal.
5110 Dirksen Building

10:30 a.m.
Veterans' Affairs
Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.
412 Russell Building

1:00 p.m.
Conferees
On S. 2036, providing for State and local employment and training assistance.
S-207, Capitol

2:00 p.m.
Environment and Public Works
To hold hearings on S. 2235, to provide improved protection for the diplomatic community in New York City.
4232 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.
235 Russell Building

SEPTEMBER 16

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the overall effects of coal slurry pipelines on the U.S. transportation system.
235 Russell Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

SEPTEMBER 23

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of Government contractors.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

CANCELLATIONS

AUGUST 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 18

10:00 a.m.
Governmental Affairs
To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.
3302 Dirksen Building

AUGUST 24

9:00 a.m.
Governmental Affairs
Civil Service, Post Office, and General Services Subcommittee
To hold hearings on S. 2190, providing for the recruitment and training of volunteers in Federal agencies.
3302 Dirksen Building

HOUSE OF REPRESENTATIVES—*Tuesday, August 17, 1982*

The House met at 10 a.m.

Rabbi N. William Schwartz, Temple Beth El Congregation, Pensacola, Fla., offered the following prayer:

Almighty God: As our House of Representatives gathers, we pray that it will always heed its task of meeting the needs of all Americans.

With a clear vision of what made our beloved country a land of freedom and opportunity, may we always keep in mind that it is from You that this vision became a part of us.

May ours be a land where bigotry and violence shall not be tolerated, where hunger shall be abolished, and where all shall follow the Golden Rule.

Give this body wisdom equal to its strength, and courage equal to its responsibilities, that our Nation may always continue as the leader of the free world.

We pray that You will give strength to all people and we further pray that You will bless all people with peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

RABBI N. WILLIAM SCHWARTZ

(Mr. HUTTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTTO. Mr. Speaker, it is my privilege and pleasure this morning to welcome Rabbi N. William Schwartz and to introduce him to my colleagues. Rabbi Schwartz is the spiritual leader of Temple Beth El in Pensacola, Fla.—a pulpit he has held with distinction for the past 20 years.

Rabbi Schwartz received a bachelor of science degree from the College of William and Mary and was ordained at the Hebrew Union College in Cincinnati, Ohio. He also holds a master of arts in Hebrew letters from the Hebrew Union College and, in 1980, was awarded a doctor of divinity from that institution.

I have known Rabbi Schwartz for several years and have been deeply impressed with his social concerns and strong leadership. An active and influential member of the Pensacola religious and secular communities, Rabbi Schwartz serves on the Pensacola Interfaith Council and is a member of the Central Conference of American Rabbis. Rabbi Schwartz has also served as a U.S. Government auxiliary chaplain at the Eglin Air Force Base and at the Eglin Federal Prison Camp. He is presently serving as chaplain at the Pensacola Naval Air Station.

In addition, Rabbi Schwartz has a long history of active and effective involvement with the social and educational concerns of the community. For example, he is a past board member of the Community Mental Health Center and is currently on the Kiwanis board. He is also an adjunct professor at both the University of West Florida and at Pensacola Junior College, where he teaches Hebrew and introduction to Judaism.

As we begin this day's session, I am proud to welcome Rabbi Schwartz, his wife Elaine, and their children, Marty, Debbie, and Danny. I wish him mazel tov in his future endeavors.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

JENNIFER FERRER

The Clerk called the bill (H.R. 1830) for the relief of Jennifer Ferrer.

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

MOHAMMAD ISMAIL KHAN, HASHMAT ISMAIL KHAN, AND MURAD ISMAIL KHAN

The Clerk called the bill (H.R. 2276) for the relief of Mohammad Ismail Khan, Hashmat Ismail Khan, and Murad Ismail Khan.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SIRAJ YOOSUF PATEL, FARIDA FATIMA SIRAJ PATEL, HUMAIRA SIRAJ PATEL, FAYSAL SIRAJ PATEL, AND FAHD SIRAJ PATEL

The Clerk called the bill (H.R. 2277) for the relief of Siraj Yoosuf Patel, Farida Fatima Siraj Patel, Humaira Siraj Patel, Faysal Siraj Patel, and Fahd Siraj Patel.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EMANUEL F. LENKERSDORF

The Clerk called the bill (H.R. 2520) for the relief of Emanuel F. Lenkersdorf.

There being no objection, the Clerk read the bill as follows:

H.R. 2520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Emanuel F. Lenkersdorf shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

On page 2, strike lines 4 through 6 and insert in lieu thereof: "which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas which are made available to such natives under section 202(e) of such Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TESSIE AND ENRIQUE MARFORI

The Clerk called the Senate bill (S. 191) for the relief of Tessie and Enrique Marfori.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that it shall be in order to consider the six private immigration bills, calendar Nos. 54 through 59, notwithstanding the fact that they have not been on the legislative calendar for 7 legislative days.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

LOURIE ANN EDER

The Clerk called the Senate bill (S. 215) for the relief of Lourie Ann Eder.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUAN ESTEBAN RAMIREZ

The Clerk called the Senate bill (S. 167) for the relief of Juan Esteban Ramirez.

There being no objection, the Clerk read the Senate bill as follows:

S. 167

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Juan Esteban Ramirez shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KANG OK BOON

The Clerk called the bill (H.R. 684) for the relief of Kang Ok Boon.

There being no objection, the Clerk read the bill as follows:

H.R. 684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kang Ok Boon may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Robert J. Cornyn and Linda L. Cornyn, citizens of the United States, pursuant to section 204 of such Act, except that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

With the following committee amendments:

On page 1, line 5, delete "(F)" and insert in lieu thereof "(E)".

On page 2, line 1, delete ", pursuant to section 204 of such Act".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Ok-Boon Kang."

A motion to reconsider was laid on the table.

GEORGE HERBERT WESTON AND MABEL GREGSON WESTON

The Clerk called the bill (H.R. 1481) for the relief of George Herbert Weston and Mabel Gregson Weston.

There being no objection, the Clerk read the bill as follows:

H.R. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, George Herbert Weston and Mabel Gregson Weston shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendments:

On page 2, line 1, delete "and Mabel Gregson Weston".

On page 2, line 5, delete "aliens" and insert in lieu thereof "alien".

On page 2, line 7, delete "two numbers" and insert in lieu thereof "one number".

On page 2, lines 7 and 8, delete "and conditional entries".

On page 2, line 10, delete "aliens" and insert in lieu thereof "alien's".

On page 2, line 12, delete "and entries".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of George Herbert Weston".

A motion to reconsider was laid on the table.

BERENDINA ANTONIA MARIA VAN KLEEFF

The Clerk called the bill (H.R. 2193) for the relief of Berendina Antonia Maria van Kleeff.

There being no objection, the Clerk read the bill as follows:

H.R. 2193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Berendina Antonia Maria van Kleeff shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

With the following committee amendments:

Page 2, line 6, delete the words "and conditional entries".

Page 2, lines 9 and 10, delete the words "and entries".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALEJO WHITE AND SONIA WHITE

The Clerk called the bill (H.R. 6811) for the relief of Alejo White and Sonia White.

There being no objection, the Clerk read the bill as follows:

H.R. 6811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Alejo White and Sonia White may be classified as children within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in their behalf by Mr. and Mrs. Peter L. White, citizens of the United States: *Provided,* That the natural parents or other brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 6955

Mr. PANETTA. Mr. Speaker, I ask unanimous consent to waive all points of order against the conference report on the bill, H.R. 6955.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REAGAN TAX BILL SHOULD BE DEFEATED

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, it has been said that diversity is one of the great strengths of the Democratic Party, and if that is true, the party has never been stronger than it is today.

Mr. Speaker, a tax bill that once again hits the middle and lower middle income families is not one that I believe Democrats should support. The loss of deductions for health and insurance premiums, the tripling of the telephone tax, the loss of casualty deductions the increasing cost for major medical problems, withholding taxes on savings—this is not a Democratic bill.

Mr. Speaker, why do we not go to the real problem, which is the tax bill the President pushed through the Congress last year? Let us get back the 1983 tax cut. Let us put teeth in the windfall profit tax and go after the safe harbor provisions?

A terrible part of this new tax bill, as you know, Mr. Speaker, is cutting $15 billion from medicare and medicaid.

Let us act like Democrats on this one and vote for the people and defeat this tax bill.

DEFICIT FLOW MUST BE STAUNCHED

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, I often take the well to point out my disagreement with the President.

I think it only fair now that I take the well to commend him on the strong speech he delivered last night. I do not know whether he will be able to convince Republicans to vote for the tax bill on the strength of that appeal to the people, but I do know that our President is facing the cold, economic reality of $600 billion in red ink.

The only way to staunch that flow is to continue to cut spending and to face the bitter medicine of raising revenues.

President Reagan intends to do that. However, he glossed over the reasons why we find ourselves raising revenue at this time. His economic plan of last year is not working. If his theories had worked, we would not have been forced into this desperate situation. As long as he understands that, and the Members of this body understand that, we can embrace this necessary measure and bring deficits down, and with them interest rates.

I hope the Members will heed the President's warning of last night. If we do not pass the tax bill, we are in for very tough economic times.

SHAME. SHAME. SHAME.

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, Shame. Shame. Shame.

Last night television viewers in the free world were sickened by the sight of Polish riot squads firing water cannons and tear gas into crowds of unarmed demonstrators.

Many were elderly men, women and children who kneeled and sang hymns as the powerful jets of water struck them down.

What terrible crime had they committed to warrant these gestapo tactics, Mr. Speaker?

Very simply, they were protesting the 8-month old police state that has crushed liberty in Poland and all but snuffed out the free labor movement, Solidarity.

As it approaches the second anniversary of its creation on August 31, most of Solidarity's leaders—including Lech Walesa—remain prisoners of the state.

And, while this Communist reign of terror continues the puppet premier of Poland is visiting his Soviet masters on the beaches of the Black Sea.

Mr. Speaker, freedom-loving people everywhere can only say:

Shame. Shame. Shame.

RAISING TAXES IN WEAK ECONOMY IS NOT THE WAY TO GET PEOPLE TO WORK

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, last night the President, as usual, made a good speech, but this time he is going against the grain. The people do not want and do not need a tax increase at this time. They intuitively know that you cannot balance the budget without growth, and they intuitively know that raising taxes in a weak economy is hardly the way to get people to work, produce, save, and invest.

The strength of the resistance that is being felt now in this House of Representatives is not coming from this Member of Congress. It is not coming from the gentleman from New York, Congressman KEMP. It is coming from the people. In the face of that, the President's advisers, who have been misleading him lately, are saying that a defeat will hurt the President. It will not hurt the President to defeat this bill. The process will go on in this institution as it has for 200 years. In fact, it will strengthen the President because it will reaffirm the mandate the people gave him in 1980 to control the growth of Federal spending, not raise taxes.

That is what the people want. That is what they are trying to say through their Representatives in this institution—hold down spending, get this economy going, do not raise taxes when the economy is in a weakened state, and let us get America to producing, and we will work our way right out of this crisis.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote on the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

PUERTO RICAN PASSENGER SERVICE

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1489), to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available, as amended.

The Clerk read as follows:

H.R. 1489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding any other provision of law, passengers may be transported on passenger vessels not qualified to engage in the coastwise trade between ports in Puerto Rico and other ports in the United States, directly or by way of a foreign port, except as otherwise provided in this Act.

(b)(1) Upon a showing to the Secretary of Transportation, by the vessel owner or charterer, that service aboard a United States passenger vessel qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each vessel transporting passengers under authority of this Act that he shall, within two hundred and seventy days after notification, terminate all such service. Coastwise privileges granted to an owner or operator under this Act shall expire on the two hundred and seventieth day following the Secretary's notification.

(2) Upon a showing to the Secretary, by the vessel owner or charterer, that service aboard a United States passenger vessel not qualified to engage in the coastwise trade is being offered or advertised pursuant to a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation (46 U.S.C. 817e) from the Federal Maritime Commission for service in the coastwise trade between ports in Puerto Rico and other ports in the United States, the Secretary shall notify the owner or operator of each foreign-flag vessel transporting passengers under authority of this Act that he shall, within two hundred and seventy days after notification, terminate all such service. Coastwise privileges granted to an owner or operator under this Act shall expire on the two hundred and seventieth day following the Secretary's notification.

(c) If, at the expiration of the two-hundred-and-seventy-day period specified in subparagraphs (b)(1) and (b)(2) of this Act, the vessel that has been offering or advertising service pursuant to a Certificate described in either of those subparagraphs has not entered the coastwise passenger trade between ports in Puerto Rico and other ports in the United States, then the termination of service required by either of those subparagraphs shall not be required until ninety days following the entry into that trade by the United States vessel.

(d) Any coastwise privileges granted in this Act that expire under subparagraph (b)(1) or (b)(2) shall be reinstated upon a determination by the Secretary that the service on which the expiration of the privileges was based is no longer available.

(e) For the purposes of subparagraphs (b)(1) and (b)(2), the Secretary, by regulation, shall define the term "passenger vessel" and shall consider as the basis for the definition the type and volume of service provided in the Caribbean passenger trades, as well as the volume of service required or being provided between ports in Puerto Rico and other ports in the United States.

□ 1015

The SPEAKER pro tempore. (Mr. BROWN of California). Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1489 is a bill which would allow passenger vessels which are not qualified to engage in the coastwise trade to transport passengers between ports in Puerto Rico and other ports in the United States until service is available on coastwise-qualified vessels.

No passenger vessel qualified to engage in the coastwise trade has transported passengers between Puerto Rico and other ports in the United States for three decades. The residents of Puerto Rico, because of their distance from the mainland and the fact Puerto Rico is an island, are restricted in their travel options. Individuals who cannot fly for physical or psychological reasons must use water transportation via the Virgin Islands that is costly and time-consuming. In addition, since tourism is such an important part of the island's economy, these restrictions deny them millions of dollars in tourist trade annually.

Mr. Speaker, the bill before the House today, while permitting a substantial variance from the restrictions placed on foreign flag vessels, provides appropriate protection so that reasonable service offered by qualified U.S.-flag operators will be allowed to enter this trade. The bill contains several safeguards which prevent this limited variance from our cabotage laws becoming a permanent fixture.

I believe that this legislation serves the dual purpose of providing alternate transportation to Puerto Rico, enhancing that island commonwealth's tourist trade while protecting our vital concerns for our Nation's maritime enterprise.

I ask my colleagues to join me in adopting this legislation.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I rise in support of the bill. The fact that we are considering H.R. 1489 today is a tribute to our colleague from Puerto Rico, BALTASAR CORRADA. He has sponsored similar legislation in previous Congresses and has diligently worked in this session to move the bill through the legislative process.

The bill addresses a problem that affects the people of Puerto Rico—our fellow citizens in the Caribbean. Because of a void in U.S.-flag passenger service over the past three decades, transportation between Puerto Rico and the U.S. mainland has been severely restricted. This bill will be instrumental in changing that. Not only will Puerto Ricans be able to travel more freely to the United States and back home again, but more mainland residents will have the opportunity to take a cruise and vacation in that beautiful resort island. Consequently, more tourist dollars will flow into American businesses in Puerto Rico—thereby helping their economy.

One concern about the bill, however, has been ubiquitous throughout deliberations on this legislation. The concern—voiced by a number of people—is whether passage of this legislation will lead to derogation of the Jones Act philosophy that trade between U.S. ports should be conducted on U.S.-flagged, U.S.-built, and U.S.-manned vessels.

I hasten to reiterate what I have said since the first hearing on H.R. 1489: This legislation addresses a specific and unique problem affecting the people of Puerto Rico. My support for this bill should not be misconstrued to mean that I will support other exemptions from the coastwise trading laws. I believe the integrity of the Jones Act must be protected, because it is important to American labor and the American shipping industry.

As far as I am concerned, the Jones Act philosophy is as vital today as it has ever been.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1489. The bill would, as the chairman has indicated, permit vessels not qualified for the coastwise trade to transport passengers between Puerto Rico and other ports in the United States.

Under current law, only U.S.-flag U.S.-built vessels are permitted to transport cargo or passengers between U.S. ports. While that public policy, known as the Jones Act, has for many years served to promote our U.S.-flag merchant marine, there are occasionally situations in which this policy results in a certain area or trade not being served at all. In such instances, Congress has from time to time granted a limited exemption to the Jones Act. H.R. 1489 is such an exemption.

This bill will permit the transportation of passengers only, between Puerto Rico and other ports in the United States by foreign-built vessels if there are no U.S.-flag passenger vessels available. This bill also directs that a U.S.-flag foreign-built passenger vessel wishing to enter the trade will be given preference over a foreign-flag

foreign-built passenger vessel. The administration has no objection to the bill and I am aware of no objection on this side of the aisle.

I urge the House to act favorably on H.R. 1489.

Mr. JONES of North Carolina. Mr. Speaker, I now yield 7 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, it is with a great sense of satisfaction that I speak in support of H.R. 1489. Since I first came to the Congress in 1977, I have been trying to get legislation enacted that will allow the transportation of passenger between Puerto Rico and U.S. mainland ports on foreign-flag vessels when coastwise qualified vessels' service is not available. With the approval of this bill, we will be restoring the freedom of movement and the right to travel of thousands of persons in Puerto Rico and the U.S. mainland who cannot travel by air, the only mode of transportation currently available between the mainland and the Island.

In addition, this legislation will allow us to expand our tourism industry by developing incentives to attract cruise lines to offer cruise/fly packages and more efficient service to Puerto Rico.

Tourism is a vital industry to the economy of Puerto Rico and its growth has been impressive in the last 20 years. In 1960 the total number of visitors to Puerto Rico was 388,762, of which 41,337 were cruise ship visitors. They spent $64.1 million in our economy. By 1980 that figure had grown to 2,180,464 visitors of which 501,124 were cruise ship visitors. These visitors spent a total of $635 million which is 5 percent of Puerto Rico's gross domestic product. Tourism provides good entry-level jobs in an island which is currently suffering from a level of unemployment that exceeds 23 percent. For every million dollars spent by tourists in Puerto Rico, 140 jobs are created. The annual rate of growth in visitors to Puerto Rico between 1960–80 has been 12.5 percent. These figures are not only impressive but are evidence of Puerto Rico's success in developing a solid and attractive tourism industry, and show the capacity for growth and expansion that exists in this area.

It is estimated that an additional 81,000 visitors to Puerto Rico during the first year of operation could be anticipated as a result of the enactment of this legislation. These additional tourists, spending the average $355 a mainland visitor spends during a stay in Puerto Rico, would bring an additional $28 million to the total tourist expenditures. This would translate into a $60 million increase to Puerto Rico's economic total output and would create 4,000 new jobs.

The other U.S. domestic area in the Caribbean, the U.S. Virgin Islands, is already exempt from these restrictions. It is only fair and equitable that Puerto Rico be given this opportunity for expansion of its tourism industry.

This bill was the subject of 2 days of hearings in San Juan and in Washington. The testimony received at those hearings provided evidence of the strong support that exists for this bill. The legislation is supported by the Department of Transportation and President Reagan endorsed it as part of measures for Puerto Rico at the time we are trying to assist other areas in the Caribbean Basin.

Mr. Speaker, I would like to stress that the need for this bill stems from the fact that since 1953 there has been no U.S.-flag passenger vessels operating between the mainland United States and Puerto Rico and none is contemplated at this time. There are safeguards to insure that U.S.-flag service will displace foreign-flag service once it becomes available. My interest with this bill is to remedy the present situation in a manner that not only offers relief to those who cannot travel by air, but also preserves our Nation's legitimate interest in promoting and protecting the U.S. maritime industry.

I would also like to stress that this bill only addresses passenger transportation. It is not my intention, at this time or at any time in the future, to request an exemption for Puerto Rico from the provisions of the Jones Act relating to cargo. The hearing record on this legislation is very clear on that point and stems from two important factors. First, Puerto Rico's commitment shared with the rest of the Nation, to the continued viability of a U.S. maritime cargo industry; and, second, because as owners of the Puerto Rico Maritime Shipping Authority, the Government of Puerto Rico has a large economic stake on the future of U.S.-flag carriers.

I want to thank the chairman of the Subcommittee and the Committee on Merchant Marine, my good friends Mr. BIAGGI and Mr. JONES, and the ranking members Mr. MCCLOSKEY and Mr. SNYDER for their support and interest in my bill.

The cooperation extended to me and my staff during consideration of this legislation was extensive, close, and deeply appreciated by me.

In closing, I want to urge my colleagues to vote in favor of H.R. 1489 and I thank them for their support.

Mr. Speaker, I want to discuss with the manager of the bill a couple of transcription errors that were printed on the report.

First, on page 2 of the report, there is a phrase left out of the language on section (e). That section should read:

(e) for the purposes of subparagraph (b)(1) and (b)(2), the Secretary, by regulation, shall define the term passenger vessel and shall consider as the basis for the definition the type and volume of service provided in the Caribbean passenger trades, as well as the volume of service required or being provided between ports in Puerto Rico and other ports in the United States.

The phrase "service required or being provided between ports in" was inadvertently left out of the report.

Second, on page 8, in the section-by-section analysis of the bill and again dealing with section (e), there is a phrase that was mistakenly left in when transcribing the report. There should be a period after the words "U.S. ports." The balance of that sentence "and should be measured exclusive of traffic related to inter-Caribbean cruise activity" should be stricken from the report.

Does the chairman agree that these items were inadvertently omitted or retained, respectively, and that the record should show the precise intent of the committee?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, the gentleman from Puerto Rico (Mr. CORRADA) is correct, and the chairman of the committee agees with what he has said.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield for a question?

Mr. CORRADA. I yield to the distinguished gentleman from New York.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding.

Did I understand the gentleman to say at the beginning of his remarks that this was a printer's omission and that it is included in the original report?

Mr. CORRADA. The gentleman is correct.

Mr. BIAGGI. Mr. Speaker, I thank the gentleman. I just wanted to be certain. I was aware of it, and I wanted the RECORD to show that the committee did provide the proper report and that this was a printer's omission.

Mr. JONES of North Carolina. Mr. Speaker, I have no futher requests for time, and I yield back the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 1489, as amended.

The question was taken.

Mr. MOLINARI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

RESERVING CERTAIN SURPLUS NAVY VESSELS FOR HUMANITARIAN PURPOSES

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4828) to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries, as amended.

The Clerk read as follows:

H.R. 4828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that it is in the national interest to make suitable surplus Government vessels available for use by private nonprofit organizations in providing health education, training, care, and technical assistance as well as other humanitarian services to the peoples of developing countries.

SEC. 2. Within ninety days after the enactment of this Act, the Secretary of Transportation shall designate the vessels listed in section 6 as humanitarian service candidates.

SEC. 3. Except as provided in section 4, the vessels listed in section 6 may not be removed from the National Defense Reserve Fleet.

SEC. 4. The vessels listed in section 6 may be removed from the National Defense Reserve Fleet for either of the following reasons:

(a) When the Secretary determines that one or more of the vessels are required for national security purposes, or

(b) Upon the application of Life International, a nonprofit corporation organized under the laws of the District of Columbia, the Secretary may transfer one or more of the vessels to LIFE International upon such terms and conditions as he may prescribe.

SEC. 5. During such time as any one of the vessels is in the possession of LIFE International, it shall be operated as an eleemosynary vessel primarily engaged in providing health education, training, care, technical assistance, and other humanitarian services to the peoples of developing countries. No such vessel may be used for commercial transportation purposes. In the event that LIFE International no longer requires a vessel for the purposes of this Act, that vessel shall be conveyed back to the United States in as good condition as when received, ordinary wear and tear excepted, to the point of original delivery without cost to the United States.

SEC. 6. This Act shall apply to the following vessels currently held in the National Defense Reserve Fleet:

United States Ship *General Nelson M. Walker* P2-SE2-R1

United States Ship *Donner* LSD-20

United States Ship *Colonial* LSD-18

SEC. 7. This Act shall expire by its terms five calendar years after the date of enactment.

□ 1030

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume. H.R. 4828 directs the Secretary of Transportation to reserve for a 5-year period three surplus naval vessels—U.S.S. *General Walker,* U.S.S. *Donner,* and U.S.S. *Colonial.* At any time during this period, the vessels could be transferred to LIFE International—a nonprofit corporation organized to provide health training and other humanitarian services to the people of developing countries.

This bill imposes no requirement on any agency of Government relative to these vessels which would impose any costs. The reservation directed in this bill merely prohibits the Secretary of Transportation from scrapping the named vessels during the 5-year period. If, during that 5-year period the Secretary has not transferred control of any of the named vessels to LIFE International, the Secretary may transfer those vessels out of the Reserve Fleet for a use consistent with and required by our national security. Once again, H.R. 4828 does not order the transfer of these vessels to LIFE International—it authorizes their transfer to LIFE International if the Secretary of Transportation is satisfied that that organization can meet the conditions and terms which the Secretary sets for the transfer.

Should these vessels in fact be transferred, I am pleased that we will have had an opportunity to support in a very real way voluntarism in aid of a humanitarian program without any cost to the taxpayers of the United States.

I ask my colleagues to join me in adopting this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, today the House considers H.R. 4828. This legislation will authorize the Secretary of Transportation to reserve, for a 5-year period, three former naval vessels presently in the national defense reserve fleet. During this period, the Secretary is empowered to transfer these vessels to LIFE International, a nonprofit organization dedicated to providing health training and other humanitarian services to the peoples of developing countries.

I would like to emphasize that this is not a giveaway of Government property. LIFE International will pay for these vessels and will meet whatever other conditions and terms are established by the Secretary. This legislation is needed because the Secretary lacks specific authority to transfer these vessels out of the reserve fleet.

I would like to tell you a little more about the program developed by LIFE International. LIFE grew out of the Christian Service Corps—a sort of private sector Peace Corps which has placed over 600 volunteers in 60 countries. These volunteers make a 2-year commitment and render vocational training and other assistance to the peoples of developing nations.

LIFE plans to outfit these surplus naval vessels as floating clinics—which will provide medical training, health care, and other services to the people of the Third World. The staff of these clinics will consist of volunteers recruited from medical schools and other health-related facilities.

The program will be financed through funds received from the private sector, and by services contributed by various medical and maritime groups. LIFE already has $500,000 in commitments for in-kind contributions from groups such as the American Bureau of Shipping, Shipyards, and Harbor Pilots.

LIFE International is tackling a problem that we cannot ignore. Each year, the failure to deliver adequate medical assistance to the people of developing nations results in unnecessary suffering and death. In developing countries, mortality rates for children under age 4 are 10 to 20 times higher than in developed countries.

Nearly half of all deaths occur among children under 5. The major causes of death in those countries can be effectively and cheaply controlled by measures used in developed countries.

I recognize we cannot solve these problems, but, by providing these vessels to LIFE International, we can assist in improving health conditions for the needy of the Third World. These vessels, flying the U.S. flag and staffed with American personnel, will clearly signal our concern for the underprivileged of the world.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to speak in support of H.R. 4828. H.R. 4828 is a bill which sets aside three specifically named surplus vessels from the national defense reserve fleet (NDRF) for the use of LIFE International. LIFE International is a nonprofit charitable organization which plans to use the three vessels in the provision of health and other humanitarian services to developing countries.

The Merchant Marine Subcommittee held a hearing on May 19 on H.R. 4828. At that time, testimony was received by all interested parties and LIFE International detailed their intentions to use the vessels for humanitarian purposes. While some have questioned whether LIFE International will be able to acquire the necessary funds and expertise to operate the vessels, it is important to point out that the bill before the House does provide the Secretary of Transportation with the authority to prescribe such terms and conditions on the transfer to LIFE

International as he deems to be appropriate.

I am not aware of any Member's objection on this side of the aisle.

Mr. Speaker, I want to especially take note of the support and work that our colleague from Michigan, Mr. VANDER JAGT, has given to this legislation.

● Mr MITCHELL of Maryland. Mr. Speaker, I am very proud to rise in support of H.R. 4828 and urge my colleagues to join me in voting favorably for this measure. The bill before you, which Congressman GUY VANDER JAGT joined me in introducing some months ago, calls for the setting aside of three surplus vessels for use in the provision of health and other humanitarian services to developing countries. The leadership of Representative MARIO BIAGGI in guiding H.R. 4828 through the Subcommittee on Merchant Marine and subsequently, the full Committee on Merchant Marine and Fisheries, reaffirmed our belief that H.R. 4828 deserves the full endorsement of this House.

Mr. Speaker, I would remind my colleagues that the objectives so named in H.R. 4828 can be accomplished through the work of a private, nonprofit organization at no cost to the Federal Government. Specifically, the measure calls for the setting aside of three targeted vessels, to be stored at the Maritime Administration for a 5-year period. LIFE International, a nonprofit group, under the well-respected leadership of Rev. Robert Meyers and his wife Janet, has deemed these ships appropriate to house the facilities necessary to provide health education, training and care, technical assistance, and other humanitarian services to the peoples of developing countries. Additionally, LIFE International will arrange subsequently for the voluntary personnel and funding required to carry out these service deliveries.

I want my colleagues to be aware that, during the 5-year set-aside period, LIFE International will be working arduously to raise the necessary funds to purchase or lease the three vessels which have been approved in the bill before you today. By passing H.R. 4828, we are moving a step closer to the realization that this country can continue in its commitment to developing countries, while encouraging a real partnership between the U.S. Government and private, nonprofit organizations such as LIFE.

The bill before you does provide that at the end of the 5-year set-aside period, the targeted vessels will revert to the Maritime Administration's discretionary use if adequate funds have not been raised by LIFE International. However, if adequate moneys are confirmed, and I have no doubt that we will realize the essential financial goal, then negotiations will begin between this group and the Maritime Administration so that leasing or purchasing arrangements may be finalized.

I must also remind my colleagues that, during the 5-year set-aside period, the Maritime Administration will not incur any extra costs; only regular upkeep costs are involved for the three vessels. Such upkeep is in line with general Maritime Administration jurisdiction in any case.

Lastly, it is important to note that H.R. 4828 is equipped with a precautionary recall provision. This clause confirms that the set-aside provisions would not apply during any time when the three vessels are needed for national security purposes. While the vessels in question are noncombatant, both Congressman VANDER JAGT and I concur with the Committee on Merchant Marine and Fisheries and the Maritime Administration that such a provision is warranted.

The passage of the bill before you meets several objectives. First, the bill aids in the reaffirmation of this country's commitment to developing nations by guaranteeing the continued delivery of fundamental services under the American flag. Second, the effort fostered by the passage of this bill, moves us yet another step closer to strengthening the bond between the public and private entities that wish to come forward and, together, insure the provision of certain services on behalf of our country. Lastly, the measure before you provides an alternative to extra Government expenditures at a time when the budget deficit and other national economic ills have placed a severe strain on the provision of foreign aid.

I strongly urge my colleagues to vote favorably for H.R. 4828.●

● Mr. VANDER JAGT. Mr. Speaker, I want to express my strong support for H.R. 4828, and urge that it be adopted today under suspension of the rules.

Passage of H.R. 4828 today caps a long effort to authorize the release of surplus naval vessels to LIFE International for humanitarian service. Special commendation is due to the gentleman from Maryland (Mr. MITCHELL) for his tireless effort on behalf of legislation to permit the use of surplus ships for assistance to Third World countries.

As an original cosponsor of H.R. 4828, I am extremely pleased that we have succeeded in bringing this legislation to the House floor. I want to express my gratitude to the chairman of the Subcommittee on Merchant Marine, Mr. BIAGGI, the ranking minority member of the Committee on Merchant Marine and Fisheries, Mr. SNYDER, and the chairman of the committee, Mr. JONES, for their cooperation during consideration of H.R. 4828.

Mr. Speaker, H.R. 4828 does not represent a major issue as there will be little or no cost to the Government. Passage of the bill will not result in immediate improvement in the conditions facing the less fortunate in Third World countries.

But, passage of H.R. 4828 does provide hope—hope that an organization with a vision of serving others will be able to provide that assistance. LIFE International has ambitious plans to use these surplus vessels to provide health training and education, as well as other technical services to peoples of developing nations. H.R. 4828 provides the hope that LIFE International will be able to go forward with those ambitious plans.●

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 4828, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SNYDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills, H.R. 1489 and H.R. 4828, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was on objection.

AMENDMENT TO INTERNATIONAL SAFE CONTAINER ACT

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6732) to amend the International Safe Container Act, as amended.

The Clerk read as follows:

H.R. 6732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the International Safe Container Act (46 U.S.C. 1501–1508) is amended—

(1) by amending section 3(b) to read as follows:

"(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before January 1, 1985, an owner of an approved existing container may have a safety approval plate affixed to it, if that container is found to meet the standards of the Convention."; and

(2) by amending section 5(a)(2) by striking out "September 6, 1982" and inserting in lieu thereof "January 1, 1985".

SEC. 2. This Act shall take effect on the later of the date of its enactment or September 6, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. JONES) will be recognized for 20 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume. H.R. 6732 proposes an extension of 3 years for containers to be inspected and plated. The containers involved are only those that were in existence before the 1977 implementation of the International Safe Container Act. The convention sets uniform structural requirements to insure safety in handling, stacking, and transporting of cargo containers in the course of normal operations—and provides for approvals, inspections, and continuation of routine examinations.

The original implementing legislation, Public Law 95-208, required every existing container to be approved, examined, and safety plated by September 6, 1982.

Due to an unexpected increase in the number of containers and a delay in the issuance of regulations, container owners have stated that they will not be able to meet the deadline.

In recognition of this fact, the international maritime organization on April 2, 1981, adopted an amendment to the convention which would still require initial approval of all containers by September 6, 1982, but extends the time limit for examining and plating of the containers in question until January 1, 1985.

Passage of H.R. 6732 will bring U.S. law into conformity with the present convention. This matter was introduced by request of the administration, and I urge its adoption.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 6732.

Although the distinguished chairman of the Merchant Marine and Fisheries Committee has already discussed the reasons why the legislation is necessary, I would like to add a few of my own thoughts on the bill.

H.R. 6732 is necessary because of the enormous number of containers that have yet to be inspected and plated. There are reasons for this backlog—among which are the recent ratification of the convention by the majority of signatory countries, and the dramatic increase in containers after the International Convention on Safe Containers was written.

A third reason for the backlog can be attributed to the container owners and lessors who apparently were less than diligent in plating their fleets of containers. While this may be true, the problems they faced in inspecting and plating such a large number of containers—always on the move—in a relatively short timeframe—were not inconsequential.

In any event, the basic issue—and my chief concern—is safety. There are some who have alleged that, if the extension is granted, dockworkers will be placed in jeopardy. I explored this allegation with various groups—and, despite my request for documented evidence that unplated containers present a danger to workers, I received none. Two Government agencies—the Coast Guard and the Occupational Safety and Health Administration—support the bill. Both concur that this extension will not present a safety hazard to dockworkers.

The Coast Guard's and OSHA's comments on H.R. 6732 have convinced me that safety is not an issue here; therefore, I support the bill.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6732. This bill represents the administration's request that the deadline for examination and plating of existing containers in accordance with the International Convention for Safe Containers, be extended from September 6, 1982, to January 1, 1985. This extension of the deadline for compliance is necessary because of the substantial increase in the number of containers in use which occurred after the convention protocol was signed in 1972. Between then and 1977, their number increased 2½ fold, thereby making compliance within the original timeframe impossible.

H.R. 6732 was introduced at the request of the administration on July 12, 1982, by the chairman of the Merchant Marine and Fisheries Committee, WALTER B. JONES of North Carolina, the chairman of the Merchant Marine Subcommittee, MARIO BIAGGI, and myself as the ranking minority member. A hearing on the bill was held on July 22 and all interested parties were invited to testify. Although one witness did express a general concern that some containers presently in existence are unsafe, this legislation would not prevent the detention of any container that is judged to be in an unsafe condition. The Coast Guard has testified that this bill will present no safety hazard.

I want to congratulate the chairman for moving this bill out of the full committee in a very expeditious manner. This is an important bill and the chairman's prompt action in reporting out this bill, and scheduling it for floor action today, will practically insure its passage prior to the September 6 deadline.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The. SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 6732, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6732, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

INDIAN MINERAL DEVELOPMENT ACT OF 1982

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1894) to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes, as amended.

The Clerk read as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Mineral Development Act of 1982".

SEC. 2. For the purposes of this Act, the term—

(1) "Indian" means any individual Indian or Alaska Native who owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;

(2) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group which owns land or interests in land title to which is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; and

(3) "Secretary" means the Secretary of the Interior.

SEC. 3. (a) Any Indian tribe, subject to the approval of the Secretary and any limitation or provision contained in its constitution or charter, may enter into any joint venture, operating, production sharing, service, managerial, lease or other agreement, or any amendment, supplement or other modification of such agreement (hereinafter referred to as "Minerals Agreement") providing for the exploration for, or extraction, processing, or other development of, oil, gas, uranium, coal, geothermal, or other energy or nonenergy mineral resources (hereinafter referred to as "mineral resources") in which such Indian tribe owns a trust or restricted

interest, or providing for the sale or other disposition of the production or products of such mineral resources.

(b) Any Indian owning a trust or restricted interest in mineral resources may include such resources in a tribal Minerals Agreement subject to the concurrence of the parties and a finding by the Secretary that such participation is in the best interest of the Indian.

SEC. 4. (a) The Secretary shall approve or disapprove any Minerals Agreement submitted to him for approval within (1) one hundred and eighty days after submission or (2) sixty days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) or any other requirement of law, whichever is late. Any party to such an agreement may enforce the provisions of this subsection pursuant to section 1361 of title 28, United States Code.

(b) Not later than thirty days prior to formal approval or disapproval of any Minerals Agreement, the Secretary shall provide written findings forming the basis of his intent to approve or disapprove such agreement to the affected Indian tribe. Notwithstanding any other law, such findings and all projections, studies, data or other information possessed by the Department of the Interior regarding the terms and conditions of the Minerals Agreement, the financial return to the Indian parties thereto, or the extent, nature, value or disposition of the Indian mineral resources, or the production, products or proceeds thereof, shall be held by the Department of the Interior as privileged proprietary information of the affected Indian or Indian tribe.

(c) The authority to disapprove agreements under this section may only be delegated to the Assistant Secretary of the Interior for Indian Affairs. The decision of the Secretary or, where authority is delegated, of the Assistant Secretary of the Interior for Indian Affairs to disapprove a Minerals Agreement shall be deemed a final agency action.

SEC. 5. In approving or disapproving a Minerals Agreement, the Secretary shall determine if it is in the best interest of the Indian tribe and, in connection therewith, shall consider, among other things—

(1) the economic return provided in the agreement in relation to the economic potential of the mineral resource involved;

(2) the nature of the advice and technical assistance available to the Indian tribe in the negotiation of the agreement;

(3) the potential environmental, socioeconomic, and cultural effects of the implementation of the agreement on the tribe and its members;

(4) any provisions in the agreement for tribal access to management, financial, production and other operating information;

(5) any provisions in the agreement relating to diligent exploration and development or tribal monitoring, review, and amendment; and

(6) any provisions in the agreement for resolving disputes which may arise between the parties over the terms or implementation of the agreement:

Provided, That the Secretary shall not be required to prepare any study regarding environmental, socioeconomic, or cultural effects of the implementation of a Minerals Agreement apart from that which may be required under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

SEC. 6. (a) Minerals Agreements, which by their terms do not purport to be leases, entered into by any Indian tribe and approved by the Secretary after January 1, 1975, but prior to the enactment of this Act, shall be processed as provided in this section.

(b) Where an Indian tribe has required ratification of the Secretary's authority to approve an agreement covered under subsection (a) of this section by notifying the Senate Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs after July 27, 1982, but prior to enactment of this Act or by notifying the Secretary within thirty days after enactment of this Act, such authority is hereby ratified: *Provided,* That such ratification shall not constitute a congressional determination of the validity or legality of any particular provision of such agreement.

(c) Where an affected Indian tribe does not provide notice as provided in subsection (b) of this section, the Secretary shall review, within one hundred and twenty days after enactment of this Act, any such prior agreement to determine if it complies with the purposes of this Act and other appropriate provisions of law. Where the Secretary fails to act within the alloted time, the previous approval of the Secretary shall be deemed ratified as provided in subsection (b) of this section.

SEC. 7. Nothing in this Act shall affect, nor shall any Minerals Agreement approved pursuant to this Act be subject to or limited by, the Act of May 11, 1938 (52 Stat. 347; 25 U.S.C. 396a et seq.), as amended, or any other law authorizing the development or disposition of the mineral resources of an Indian or Indian tribe.

SEC. 8. Any Indian tribe, subject to the approval of the Secretary, may enter into an agreement to pledge or hypothecate its interest in mineral resources which have been lawfully severed from the land, or their production, products or proceeds, as security for the repayment of funds provided to Indian tribes to finance the cost of development of its mineral resources. The pledge or hypothecation agreement may be enforced only against the specified pledged severed mineral resources, or the pledged production, products or proceeds, and only in accordance with the terms and conditions of the agreement. The United States shall not be deemed a necessary party in any action to enforce such agreement.

SEC. 9. In carrying out the obligations of the United States, the Secretary shall ensure that upon the request of an Indian tribe and to the extent of his available resources, such tribe shall have available advice, assistance, and information during the negotiation of a Minerals Agreement. The Secretary may fulfill this responsibility either directly through the use of Federal officials and resources or indirectly by providing financial assistance to the Indian tribe to secure independent assistance.

SEC. 10. (a) Within one hundred and eighty days of the date of enactment of this Act, the Secretary of the Interior shall promulgate rules and regulations to facilitate implementation of this Act. The Secretary shall, to the extent practicable, consult with national and regional Indian organizations and tribes with expertise in mineral development both in the initial formulation of rules and regulations and any future revision or amendment of such rules and regulations. Where there is pending before the Secretary for his approval a Minerals Agreement of the type authorized by section 3 of this Act which was submitted prior to the enactment of this Act, the Secretary shall evaluate and approve or disapprove such agreement based upon section 4(b) and section 5 of this Act, but shall not withhold or delay such approval or disapproval on the grounds that the rules and regulations implementing this Act have not been promulgated.

(b) Where the Secretary has approved a Minerals Agreement in compliance with the provisions of this Act and any other applicable provision of law, the United States shall not be liable for any losses sustained by a tribe or individual Indian as a result of changes in markets for any minerals subject to such Minerals Agreement or as a result of decisions made by the parties to the agreement in the course of doing business pursuant to the terms of such agreement: *Provided,* That the Secretary shall continue to have a trust obligation to ensure that the legal rights of a tribe or individual Indian are protected in the event of a violation of the terms of any Minerals Agreement by any other party to such agreement.

(c) Nothing contained in this Act shall absolve the United States from any responsibility to the Indians, including those which derive from the trust relationship and from any treaties, Executive orders, or agreements between the United States and any Indian tribe.

SEC. 11. Nothing in this Act shall impair any right of an Indian tribe organized under section 16 or 17 of the Act of June 18, 1934 (48 Stat. 987), as amended, to develop their mineral resources as may be provided in any constitution or charter adopted by such tribe pursuant to that Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Nebraska (Mr. BEREUTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, this is a fairly simple, straightforward bill. It does not authorize any new program or authorization and will not represent any additional cost to the United States. Yet, this bill is very important to many Indian tribes in becoming less dependent on the Federal Government. In addition, this bill may help the Nation meet its rising demand for energy and nonenergy mineral resources.

S. 1894, as reported by the committee, authorizes Indian tribes to enter into various kinds of commercial agreements for the development of their mineral resources. The bill subjects those agreements to the approval of the Secretary of the Interior, as

trustee, and establishes procedures and criteria for such approval.

In the past, Indian tribes have had to rely upon leasing to derive tribal revenue from their mineral resources. This leasing is done under Federal laws which were enacted at a time when many Indian tribes did not have the ability to effectively manage the development of their own resources.

In recent years, some tribes have sought to abandon the lease method of development, which does not have a great potential for maximizing return. Instead, they have sought to achieve a greater return by assuming a greater risk under joint ventures or like arrangements.

While the Secretary has approved some of these kinds of agreements, the legality of that secretarial approval under existing law has been called into question.

If we do not pass legislation authorizing such agreements, not only will future agreements not be possible, but the existing agreements may be legally endangered.

I can assure you, Mr. Speaker, that this legislation is good for all concerned. We have included language strongly recommended by the administration which would hold the United States harmless from liability for any loss sustained by a tribe due to the approval of such an agreement. Yet, we still maintain the fiduciary obligation of the United States and the Secretary to protect the interests of the Indian tribes.

Mr. Speaker, I urge the Members to support enactment of this bill.

□ 1045

Mr. BEREUTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1894. The basic purpose of this bill is to provide greater flexibility to Indian tribes in their efforts of develop their energy and nonenergy mineral resources.

Currently, Indian minerals are developed primarily through leases under a 44-year-old statute. That statute restricts tribal options for benefiting from development and limits their participation in the management of development activities. Moreover, there is confusion as to the authority of the Secretary of the Interior to approve innovative nonlease mineral development agreements that offer tribes greater profits and involvement in development.

S. 1894 authorizes tribes to enter into any of a wide range of possible agreements which are common to the mineral industry. It will thereby expand tribal options to enable tribes to realize greater profits and to become more involved in the management of development activities on their reservations. The bill also makes clear the authority of the Secretary to approve these minerals agreements, provided he finds them to be in the best interest of the tribe involved and consistent with certain guidelines contained in the bill.

One effect of these minerals agreements is that tribes will be able to take more of what can be termed normal business risks. Both the administration and the committee are concerned that the Secretary—and the American taxpayer—will not be liable for any losses which may occur as a result of the normal course of a tribe's doing business within the terms of a minerals agreement. Amendments adopted by the Interior Committee have, I think, struck a fair balance between the interests of the taxpayers and the proper responsibilities of the Secretary of the Interior, as trustee for Indian tribes and Indian lands, to protect the rights of tribes and individual Indians.

Mr. Speaker, this legislation has wide support. The administration, Indian tribes, and energy companies interested in doing business with tribes all support enactment. I am very pleased to note that this bill will not cost the taxpayers any money. In fact, in the long run it will, as it contributes to the development of the Nation's energy and other mineral resources, benefit all of us.

For these reasons, I support this legislation and I urge its adoption.

Mr. UDALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the Senate bill, S. 1894, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

ORGANIC FARMING ACT OF 1982

Mr. WEAVER. Mr. Speaker, I move to suspend the rules and to pass the bill (H.R. 5618) to require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms, as amended.

The Clerk read as follows:

H.R. 5618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Organic Farming Act of 1982".

PURPOSE

SEC. 2. It is the purpose of this Act to facilitate and promote the scientific investigation and understanding of methods of organic farming and to assist family farmers and other producers to use methods of organic farming to complement conventional chemical-intensive methods of farming. The purpose of this Act shall be achieved in a manner consistent with the family farms provisions of section 102 of the Food and Agriculture Act of 1977, as amended by the Agriculture and Food Act of 1981.

VOLUNTEER PROGRAM

SEC. 3. (a) The Secretary shall recruit, select, and train volunteers who have expertise in organic farming to advise family farmers and other producers who wish to make a transition in whole or in part to organic farming methods.

(b) While performing activities authorized by this Act, a volunteer shall not be considered a Federal employee except for the purposes of sections 2671 through 2680 of title 28, United States Code (relating to tort claims), and chapter 81 of title 5, United States Code (relating to compensation for injury).

(c) The Secretary shall make available to volunteers, at local offices of the cooperative extension services, office facilities, supplies, materials, and other related services which the Secretary deems appropriate to assist volunteers in performing activities authorized by this Act.

PILOT PROJECTS

SEC. 4. (a) The Secretary of Agriculture shall establish six pilot projects, taking into consideration the report and recommendations on organic farming, United States Department of Agriculture (July 1980), and giving particular emphasis to implications for the family farm—

(1) to develop and present scientific information on legume-based crop rotation, green manure crops, animal manures, municipal wastes, soil acidity and liming in relation to nutrient release, intercropping, the role of organic matter in soil productivity and erosion control, and non-chemical weed, disease, and insect control; and

(2) to investigate soil, crop, weed, desease, and insect management problems inherent in making the transition from conventional chemical-intensive methods of farming to methods of organic farming.

(b) The pilot projects established under subsection (a) shall be administered through agreements providing special research grants or other agreements with six land grant or other colleges and universities located in and representing different geographical regions of the United States.

(c) The pilot projects estalished under subsection (a) shall be planned and coordinated in conjunction with the Agricultural Research Service, or its successor agency, in the United States Department of Agriculture, and shall take full advantage of the expertise of the scientists of the Agricultural Research Service, or its successor agency, in the United States Department of Agriculture, working at or near the site of the pilot projects.

DUTIES OF SECRETARY WITH RESPECT TO ORGANIC FARMING

SEC. 5. The Secretary, acting through the Assistant Secretary of Agriculture who performs the duties necessary to carry out the National Agricultural Research, Extension, and Teaching Policy Act of 1977, shall—

(1) serve as a coordinator and consultant to land-grant or other colleges and universities in designing all pilot research and education projects adapted to serve specific regional organic farming needs;

(2) by January 1, 1984, make available to the public, through local offices of the cooperative extension services, existing information on organic farming, such as that set forth under subsection (a) of section 4;

(3) make available to the public, through local offices of the cooperative extension services, information developed through implementation of the pilot projects established under section 4;

(4) obtain and maintain demographic information regarding producers engaged in organic farming;

(5) identify problems and needs of family farmers and other producers engaged in whole or in part in organic farming, with respect to information, support, and incentive programs related to organic farming;

(6) identify marketing and distribution problems and needs of producers engaged in whole or in part in organic farming who operate family farms; and

(7) indentify public policy issues which relate to or affect organic farming.

REPORT TO CONGRESS

SEC. 6. Not later than January 31 of the calendar year following the end of a fiscal year, the Secretary shall submit to the Congress—

(1) a report on the volunteer program established under section 3 of this Act, and

(2) a report describing the activities and projects related to organic farming research and education, in which the Department of Agriculture participated in such fiscal year. This report shall include proposals for legislation and funding necessary to address the needs identified in the report.

DEFINITIONS

SEC. 7. For purposes of this Act—

(1) the term "cooperative extension services" shall have the meaning given it in sections 1404(5) and 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(2) the term "extension" shall have the meaning given it in section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977,

(3) the term "land-grant colleges and universities" shall have the meaning given it in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, and

(4) the term "Secretary" means the Secretary of Agriculture.

(5) the term "organic farming" means a production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators, and livestock feed additives. To the maximum extent feasible, organic farming systems rely upon crop rotation, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks, and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients, and to control insects, weeds and other pests.

AUTHORIZATION OF APPROPRIATIONS

SEC. 8. Section 1463(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311(a)) is amended by inserting "and for the purpose of carrying out the provisions of the Organic Farming Act of 1982," immediately before "$505,000,000".

EFFECTIVE DATE

SEC. 9. This Act shall take effect October 1, 1983.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Oregon (Mr. WEAVER) will be recognized for 20 minutes, and the gentleman from New Mexico (Mr. SKEEN) will be recognized for 20 minutes.

The Chair recognizes the gentleman for Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I introduced this bill in February to assist farmers who want to reduce their production costs by developing and disseminating information about low energy agricultural systems, many of which include organic farming methods. It has broad-based bipartisan support. It has 24 cosponsors. The act is intended to complement, not replace, the chemical intensive methods utilized by the majority of American farmers today.

The key here is that as oil grows more scarce, as nitrogen fertilizers from fossil fuels grow more scarce, we must begin a transition—a gradual, slow transition—into using those techniques that are profitable today and can be integrated into present practices.

The critical thing here is that these techniques must be developed and disseminated to farmers so that they are aware of them. The bill contains six pilot projects and then a volunteer program, and the volunteers are paid nothing, not even expenses, and the information developed from the pilot projects is disseminated through the regular agricultural extension organization.

In April 1979, the USDA assembled a team of leading scientists to gain a better understanding of organic farming systems, and the result was a 94-page study, report, and recommendations on organic farming, released by the USDA in July 1980. The study outlined the problems facing the farmers, increased costs and uncertain availability of energy and chemical fertilizers, excessive soil erosion, and dangers to human and animal health from widespread use of chemical herbicides and pesticides.

The study recommended implementing a series of organizational changes in research programs. H.R. 5618 implements most of the major recommendations of this report.

I would just like to say that presently there are over 400 employees in the Department of Agriculture involved in research, and only one of these was specifically designated for organic farming. He was recently cut to half-time, and now he has recently received his RIF notice. What we are trying to do is aid American agriculture to reduce their costs by integrating workable profitable methods of such organic farming techniques as can be used. And already farmers all over the world and in this country are using these techniques. The more they use them, the better prepared we are going to be to feed the people at a time of fossil fuel shortages that appear before us, when the world will have 5 or 6 or more billion people come here because of the riches that our fossil fuel industry gave us but without the fossil fuels to feed them. So we must begin today. It is urgent that such a program—and this is a very modest program—be instituted today.

Mr. Speaker, I introduced H.R. 5618, the Organic Farming Act of 1982, in February to expand the Department of Agriculture's efforts in assisting farmers who, in an attempt to reduce their production costs, are seeking information about alternative farming methods. It has now been cosponsored by 24 Members, Republican and Democrat alike.

The Organic Farming Act is intended to complement, not replace, the chemical-intensive methods utilized by the majority of American farmers today. The Act is broadly supported by farmers, soil and agricultural scientists, and conservationists across the country; opposition to the bill has been virtually nonexistent.

The term "organic farming" is defined in H.R. 5618 as:

A production system that avoids or largely excludes the use of synthetically compounded fertilizers, pesticides, growth regulators, and livestock feed additives. To the maximum extent feasible, organic farming systems rely upon crop rotation, crop residues, animal manures, legumes, green manures, off-farm organic wastes, mechanical cultivation, mineral-bearing rocks, and aspects of biological pest control to maintain soil productivity and tilth, to supply plant nutrients, and to control insects, weeds and other pests.

The increasingly complex and capital-intensive nature of modern farming has prompted many farmers to consider alternative agricultural methods. The desire to change has been fueled by skyrocketing costs for energy, fertilizer, and pesticides, and by concerns about the dramatic soil erosion and nutrient depletion associated with conventional farming practices.

In April 1979, the USDA assembled a team of leading scientists to gain a better understanding of organic farming systems: Why they are being used; the extent of their use; the economic and ecological impacts of their use;

and to identify needed research and education programs. The result was a 94-page "Report and Recommendations on Organic Farming" released by the Department in July 1980.

The study outlined significant concerns about the existing U.S. agricultural production system. According to the report, major problems confronting farmers and our agricultural system include: First, increasing costs, and uncertain availability of energy and chemical fertilizers; second, excessive soil erosion, loss of soil organic matter, and resultant decline in soil production and tilth; third, degradation of the environment, including hazards to human and animal health from heavy pesticide use; and fourth, demise of the family farm and localized marketing systems.

In order to counteract the impact of these problems, the USDA recommended implementing the following organizational changes and research programs:

First, appoint a permanent organic resources coordinator and establish a multidisciplinary advisory committee on organic agriculture to develop liaison between organic farmers, producer associations, and the Department.

Second, develop informational materials for county extension offices and agents to assist them in providing services needed by organic farmers and farmers interested in utilizing organic techniques.

Third, investigate organic farming systems using a holisitic approach. Because current research and data are fragmentary and piecemeal, there is a need to examine the complex chemical and microbiological interactions that take place in organic farming systems, as well as their relationship to waste recycling, nutrient availability, soil conservation, crop protection, energy conservation and environmental quality.

Fourth, determine the factors responsible for decreased crop yields during the transition from conventional (chemical) to organic farming systems.

Fifth, determine the long-term effects on soil productivity from the use of chemical fertilizers and pesticides.

Sixth, determine the effectiveness of organic wastes for improving the efficiency of chemical fertilizers.

Seventh, develop new and improved techniques for control of weeds, insects, and plant diseases using biological nonchemical methods.

H.R. 5618 would implement most of the major recommendations of the Department of Agriculture. It would require the compilation and dissemination of existing data on organic agriculture. It would also establish a volunteer program through which experienced organic farmers would maintain office hours, conduct seminars, and otherwise provide practical advice to farmers seeking to utilize more organic techniques. These resources would be made available at local offices of the cooperative extension services.

The act further establishes six pilot research projects at land grant and other universities throughout America. These programs would focus on improving organic farming techniques, and developing economically sound methods to help conventional farmers who want to increase their utilization of organic agricultural practices.

The pilot projects would be planned and coordinated in conjunction with the Agricultural Research Services (ARS) in order to take full advantage of the expertise of ARS scientists. However, the projects would not have to be carried out solely at the colleges and universities. H.R. 5618 gives the Secretary flexibility to structure the research programs through agreements that would permit specific projects to be conducted at farms or facilities not directly associated with the colleges. This would allow the Secretary to insure that the various projects in each region will be carried out by researchers with appropriate technical expertise. The research results would also be made available through local extension offices.

Finally, I would like to address the issues raised by several of my distinguished colleagues during markup by the full Agriculture Committee, and in a dissenting view from the committee report. Two primary areas of concern were cited by the dissenters: First, that H.R. 5618 would divert funds from current appropriated research dollars; and second, that it would be premature to divert funds from ongoing programs prior to conducting a comprehensive search of existing data on organic methods.

First, H.R. 5618 would not divert any money from current appropriated research projects. Rather, any funds needed to carry out its purposes could be appropriated from the existing agricultural research authorization under the National Agricultural Research, Extension and Teaching Policy Act of 1977. There is currently authorized $780 million for agricultural research. However, only $431 million of this money has been appropriated for fiscal year 1982.

The total cost of the programs authorized by this bill is estimated to be approximately $2 million annually—less than one-fourth of 1 percent of the total authorization. Fully funded, the program would equal only one-half of 1 percent of the fiscal year 1982 research appropriation. Existing research projects would not be affected in any way. Instead, USDA would seek funding for these new programs from the existing authorization during the normal budget process.

Second, at hearings on the bill, leading agricultural scientists and researchers spoke of the need to increase the information base both for organic farming methods and about the problems inherent in making a transition from chemical based to organic methods. Although some research having organic applications is currently being conducted by the Department, or by the land-grant schools, none of the studies have focused on the effects of integrating specific organic components into an otherwise conventional farming system.

In particular, every time a new component is integrated into a farming system, we need to examine the systemwide effects: How it affects nutrient flow through the soil profile; how it affects nutrient availability to the crops; and how it affects the ability of nitrogen-fixing plants to fix nitrogen in the soil.

The little research that has been done on organic farming methods in the past has been rendered obsolete by a generation of rapid technological advances. New, different, and better machinery; new, different, and better seed varieties; and new and very different tillage methods have combined to minimize or negate the applicability of prior studies.

Farmers are understandably hesitant to make a transition because any such change entails a certain amount of economic risk. This is especially true today, with the tremendous economic pressures facing most farmers. Thus, there is an urgent need to begin to experiment with, and develop and disseminate information on, appropriate organic techniques that might be used by farmers. Where these methods could lower production costs, and where they could help increase yields while at the same time helping protect and conserve the soils and resources, then they could be broadly used to advance and strengthen our Nation's agriculture.

The rapidly escalating costs of fuel, fertilizer, and pesticides are causing our farmers to turn increasingly to alternative, low-energy, farming systems. Passage of the Organic Farming Act will be a major step toward providing our farmers with information and practical advice on these techniques that is not currently available.

I urge my colleagues to support this modest, but vitally important, proposal.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this bill not because I oppose the idea of organic agriculture. As a matter of fact, the reverse is the case.

Those who have been involved in agriculture throughout the years and use this as their main means of livelihood understand that without the incorporation of some of the more major tenets of organic agriculture, that ag-

riculture would not be the most efficient and the most productive industry in the world, as it is in the United States today.

I am not arguing about organic versus inorganic. I do not think that you can separate the two. I do, however, oppose the idea of handcuffing the U.S. Department of Agriculture in a time of fiscal constraints and handcuffing $2 million of the research fund for 5 years, for a total of $10 million, a modest sum in the opinion of my colleague, the distinguished chairman, but, in my opinion, I think a very significant one, in mandating through this legislation that the Department of Agriculture devote 4 or 5 years, $10 million, exclusively to the research projects dedicated to so-called organic agriculture. And I think it is unfortunate that we find ourselves on this floor today competing with one another in discussing an industry that is the most productive, the most efficient of any industry in the world. The only country in the world today that can feed itself is the United States because of the efficiency of our agriculture and its productivity, and because it incorporates a lot of tenets of organic agriculture.

So my point, Mr. Speaker, is this: I think it is an ill-advised move to handcuff or to earmark $2 million for 5 years for six pilot projects to study the principles of organic agriculture that have been studied and studied since the beginning of time and incorporated in agriculture today. I think it is just an ill-advised bill, and that is why I oppose it.

Mr. Speaker, I reserve the balance of my time.

Mr. WEAVER. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in support of this legislation.

I would say to my friend from New Mexico that this is no effort to handcuff the Department of Agriculture. This simply says that, in the one area of our society where we are ahead of all other countries and continue to maintain that lead, we are not going to ignore some of the areas wherein there may be an opportunity for us to continue to keep that lead.

Mr. Speaker, we do not know what the future holds in regard to our supply of petrochemicals. We do not know what is going to happen as far as the cost of fertilizer is concerned. We do know what has been happening, and we do know it has been increasing at a very rapid rate.

I would echo the statement of the chairman of the subcommittee. This is not an effort to supplant what is happening at this time. This is an effort to institute some pilot projects so that we will properly research what well may be the opportunity of the future in order to keep American agriculture the dominant agriculture of our whole planet as it is today.

I would hope that we would not get hung up on $2 million per year on research on anything as important as our total agriculture production, not only for what it does for the food prices here, but what it does for our balance of payments as we compete with other nations of the world.

This not only says that we will conduct the six pilot projects where the land grant colleges will be involved to help us adequately research possible improvements in regard to organic farming, but also that the information will be made available to the public.

I have to tell this House that the gentleman from Iowa was extremely disturbed by what has happened over at the Department of Agriculture. After the Agriculture Committee had passed this bill indicating the support of the committee for this effort, for organic farming, the Department of Agriculture thereafter served a RIF notice to the one person in the Department of Agriculture who at this time was spending one-half of his time trying to let the American farmers know what was being done about organic farming.

So I rise in strong support of this measure. I would hope that we would look to the future. If we do look to the future, I believe we have to properly research and properly disseminate the information on all of the possible improvements that may come about in agriculture. Mr. Speaker, I commend the chairman of the subcommittee for his efforts on behalf of this bill.

Mr. SKEEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not intend to take up more time with the refutation of already a voluminous amount of material available on organic agriculture and what it has contributed to the U.S. agricultural efforts. But I do oppose this bill because of the lockup or the earmarking of funds, which I think is extremely bad practice and one that sets a precedent for the future of allowing any Member of Congress to introduce a bill to merely, I think, acquiesce to some request from a constituent, which I think is very valid, but to earmark even further, even more specifically, every bit of research funding that we have in the Department of Agriculture or any other department in the Federal Government, in requesting that funds be earmarked and totally dedicated to one narrow area of any kind of a question that we deal with.

Mr. Speaker, I oppose the bill and I intend to ask for the yeas and nays.

Mr. WEAVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in conclusion, I would like to commend and congratulate the Rodale Press, Mr. Robert Rodale and others, for their marvelous work in this field. It may save millions and millions of lives in time to come, when we run out of fossil fuels.

I would like to also say that the bill itself does not earmark anything, it contains no specific sums, and it would be taken out of presently authorized funds for research. It does not appropriate any money.

● Mr. WAMPLER. Mr. Speaker, I rise in opposition to the bill and request to revise and extend my remarks.

My opposition to H.R. 5618 comes not from the good intentions of this legislation, but from the fact that this bill, despite the claims of its sponsors, mandates the Secretary of Agriculture to take away limited research and extension funds from high-priority programs of the Department of Agriculture, the State agricultural experiment stations, and the State cooperative extension services and directs that these funds be placed into the relatively low priority research programs mandated by this legislation. And, Mr. Speaker, I might add, that since we removed the specific authorization sections from the bill in committee, we really do not have any figures to say how much this bill is going to cost and how much damage we are going to do to our high-priority agricultural research and extension programs.

I ask the question: How much is this bill going to cost? Our estimates show that as a minimum the bill is going to cost $2,000,000 in research funds, $1,250,000 in extension costs to establish and administer the six pilot programs mandated in this bill, and much more to recruit, train, and pay the travel for an unspecified number of volunteers to advise family farmers and other producers all over this country on organic farming techniques. My bet is this bill is going to cost upwards to $5,000,000 a year.

Now Mr. Speaker, what programs are we going to cut to implement this bill at USDA or at the State level, because that is how we are going pay for this program?

Are we going to cut it from the agricultural research services which conduct basic agricultural research programs, or the animal health and protection research program, or range and pasture research, or the national plant germ plasm research program, or the tropical and subtropical research program, or the research on acid rain precipation program, or research on soil and water conservation, or human nutrition research. Or are we going to raid the Hatch Act, which funds each State's agricultural research program, or the McIntire-Stennis forestry research program, or the special research programs to States for specific State commodity research grants. Or Mr. Speaker, are we going to take it from the State cooperative extension program.

I think it is important to note, Mr. Speaker, that the House Committee on Agriculture and the House Appropriations Subcommittee on Agriculture and Related Agencies have for years been fighting to increase appropriations for agricultural research and extension. Only with the passage of title XIV to the 1977 and 1981 Farm Acts were we really able to get the executive branch to consider even a minute increase in the specific aspects of the agricultural research and extension budget. Ironically we have a slight increase in the fiscal year 1983 budget for high-priority agricultural research programs.

I also think it is important to consider this additional fact, Mr. Speaker. The organic farming proposal, espoused in the bill before us today, did not appear one time in the recommendations in the annual reports to the President and the Congress of the National Agricultural Research and Extension USERS Advisory Board, during the last 4 years. For the edification of my colleagues, this board, made up of the users of agricultural research, that is, the producers, processors, consumers, environmentalists, rural representatives, and labor representatives, is charged by law with duty of recommending research and extension project directions to the Secretary of Agriculture. Neither did the Joint Council on Food and Agricultural Sciences, made up of research scientist at the Federal and State level, consider organic farming as a subject of specific concern. This bill then flies in to the face of traditional project programing. It makes a mockery out of our efforts to concentrate our efforts on high-priority research and protect potentially high payoff projects during periods of Government belt tightening that we find ourselves in today.

I think we need to make one point extremely clear here today, Mr. Speaker. Organic farming is not new research. Thomas Jefferson and George Washington practiced organic farming 200 years ago. It served the country well then when most people lived on farms. We could afford to practice this technique when we did not have many mouths to feed. But today we only have a little over 2 million farmers and ranchers and their responsibility has risen from feeding their own family to feeding over 75 people per farm.

Today most farmers use the best aspects of organic farming, such as minimum tillage, animal manures, and integrated pest management systems. We need to advance our research on the best aspects of organic farming and USDA is spending over $50 million this year in this direction in modernized versions of the art practiced by Washington and Jefferson.

The art of organic farming, the knowledge of it, is being passed on today from father to son as it always has been. Additionally clubs and groups are passing on this knowledge, mostly to suburban gardening groups. I practice a form of it myself in my own garden down in Bristol. Recently USDA began gathering information on this ancient technique and will complete its literature search on this project in about 1 year. By that time they will know how best to disseminate what they are able to gather. Until they have completed their literature search they have formerly notified our committee they are opposed to the bill as well intentioned but, premature.

I stand behind the Secretary of Agriculture's position on H.R. 5618 and urge defeat of this proposal.●

● Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 5618, the Organic Farming Act, that would require the Secretary of Agriculture to establish a network of volunteers with expertise in organic farming to provide technical assistance on methods of organic farming to family farmers and others.

I want to congratulate the sponsor of this important legislation, my distinguished colleague from Oregon. Congressman JAMES WEAVER. The Organic Farming Act will provide an important mechanism for assisting family farmers, the most efficient procuders of food and fiber in our Nation and the world. The timing of his legislation is improtant for it comes at a time in our economic history when family farmers are being victimized by high interest rates and the high costs of chemical-based inputs of production.

Representing an urban area, our Nation's Capital, I have no difficulty in assessing the importance of this legislation for my constituency. Citizens of the District of Columbia have a high stake in protecting and enhancing the family farm system of agriculture as a source of plentiful food at competitive prices. The alternative to the family farm, the corporate farming system, is not efficient and will lead to oligopolistic pricing and manipulated supplies. Urban consumers have a stake in the family farm system of agriculture and this legislation helps to preserve that system.

Urban consumers are also concerned with health and the environment and, therefore, have a stake in this legislation that would offer an alternative to heavy reliance on pesticides and chemical-based agriculture.

H.R. 5618 enhances the ability to develop and provide information and technology to help our family farmers be even more efficient in producing safe, nutritious, and affordable food supplies for all of our citizens.

Specifically, H.R. 5618 would authorize agreements with land grant colleges and universities to develop six pilot projects for the purpose of increasing information on organic farming methods and helping farmers in the transition to organic farming techniques.

I urge its passage.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 5618, as amended.

The question was taken.

Mr. SKEEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1100

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BROWN of California). Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 1489 and then, H.R. 5618, both by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

PUERTO RICAN PASSENGER SERVICE

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1489, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the bill, H.R. 1489, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 387, nays 0, not voting 47, as follows:

[Roll No. 281]

YEAS—387

Addabbo	Badham	Bevill
Akaka	Bailey (MO)	Biaggi
Albosta	Bailey (PA)	Bingham
Alexander	Barnard	Blanchard
Anderson	Barnes	Bliley
Annunzio	Beard	Boggs
Anthony	Bedell	Boland
Applegate	Beilenson	Bolling
Archer	Benedict	Boner
Ashbrook	Benjamin	Bonior
Aspin	Bennett	Bonker
Atkinson	Bereuter	Bouquard
AuCoin	Bethune	Bowen

Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Chisholm
Clausen
Clay
Clinger
Coats
Coelho
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Philip
Crockett
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dornan
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emerson
Erdahl
Erlenborn
Evans (DE)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Heckler
Hefner
Hendon
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Skeen
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki
Zeferetti

NOT VOTING—47

Andrews
Bafalis
Breaux
Brown (OH)
Broyhill
Burton, John
Coleman
Crane, Daniel
D'Amours
Dorgan
Dougherty
Dowdy
Edwards (OK)
Emery
English
Ertel
Evans (GA)
Fountain
Fowler
Gejdenson
Ginn
Goldwater
Hatcher
Hawkins
Heftel
Ireland
Long (LA)
Mattox
Moffett
Neal
Paul
Pursell
Rahall
Richmond
Rosenthal
Roth
Schulze
Simon
Smith (AL)
Vander Jagt
Vento
Washington
Watkins
Whitten
Williams (MT)
Yatron
Young (AK)

□ 1115

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SAM B. HALL, JR.). Pursuant to the provisions of clause 5, rule 1, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings on today.

This is a 5-minute vote.

ORGANIC FARMING ACT OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5618, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. WEAVER) that the House suspend the rules and pass the bill, H.R. 5618, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 189, nays 198, answered "present" 1, not voting 46, as follows:

[Roll No. 282]

YEAS—189

Addabbo
Albosta
Aspin
AuCoin
Barnes
Bedell
Beilenson
Bereuter
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brinkley
Brodhead
Brooks
Brown (CA)
Burton, Phillip
Chisholm
Clausen
Clay
Coelho
Collins (IL)
Conyers
Coyne, James
Coyne, William
Crockett
Daschle
Davis
de la Garza
Deckard
Dellums
DeNardis
Dicks
Dingell
Dixon
Donnelly
Downey
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (CA)
Evans (IA)
Evans (IN)
Fazio
Fenwick
Ferraro
Fithian
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fountain
Frank
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Glickman
Goodling
Gore
Gray
Green
Guarini
Hagedorn
Hall (OH)
Hall, Sam
Hamilton
Harkin
Heckler
Hefner
Hertel
Hightower
Holland
Hollenbeck
Horton
Howard
Hoyer
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jones (NC)
Kastenmeier
Kennelly
Kildee
Kogovsek
Lantos
Leach
Lehman
Leland
Long (MD)
Lowry (WA)
Lundine
Markey
Marks
Martinez
Matsui
Mavroules
McCurdy
McDade
McHugh
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Murphy
Napier
Natcher
Nelligan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Petri
Peyser
Porter
Price
Railsback
Rangel
Reuss
Ritter
Rodino
Roe
Rose
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Shelby
Skelton
Smith (IA)
Smith (NJ)
Smith (PA)
Solarz
St Germain
Stangeland
Stark
Stokes
Studds
Synar
Tauke
Traxler
Udall
Volkmer
Waxman
Weaver
Weiss
Wilson
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (MO)
Zablocki
Zeferetti

NAYS—198

Akaka
Alexander
Anderson
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Benedict
Benjamin
Bennett
Bethune
Bevill
Billey
Boner
Bouquard
Broomfield
Brown (CO)
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clinger
Coats
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Craig
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derrick
Derwinski
Dickinson
Dornan
Dreier
Duncan
Dunn
Edwards (AL)
Emerson
Erdahl
Erlenborn
Evans (DE)
Fary
Fascell
Fiedler
Fields
Findley
Fish
Forsythe
Frenzel
Frost
Gibbons
Gradison
Gramm
Gregg
Grisham
Gunderson
Hall, Ralph
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon

Hiler	McClory	Rousselot
Hillis	McCloskey	Rudd
Holt	McCollum	Santini
Hopkins	McDonald	Schulze
Hubbard	McEwen	Sensenbrenner
Hunter	McGrath	Shaw
Hyde	McKinney	Shumway
Jeffries	Michel	Shuster
Jenkins	Miller (OH)	Siljander
Johnston	Mollohan	Skeen
Jones (OK)	Montgomery	Smith (NE)
Jones (TN)	Moore	Smith (OR)
Kazen	Moorhead	Snowe
Kemp	Morrison	Snyder
Kindness	Mottl	Solomon
Kramer	Murtha	Spence
LaFalce	Myers	Stanton
Lagomarsino	Nelson	Staton
Latta	Nichols	Stenholm
Leath	O'Brien	Stratton
LeBoutillier	Oxley	Stump
Lee	Parris	Swift
Lent	Pashayan	Tauzin
Levitas	Patman	Taylor
Lewis	Perkins	Thomas
Livingston	Pickle	Trible
Loeffler	Pritchard	Walgren
Lott	Quillen	Walker
Lowery (CA)	Ratchford	Wampler
Lujan	Regula	Weber (MN)
Luken	Rhodes	Weber (OH)
Lungren	Rinaldo	White
Madigan	Roberts (KS)	Whitehurst
Marlenee	Roberts (SD)	Whitley
Marriott	Robinson	Whittaker
Martin (IL)	Roemer	Williams (OH)
Martin (NC)	Rogers	Winn
Martin (NY)	Rostenkowski	Wolf
Mazzoli	Roukema	Wortley

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—46

Andrews	Evans (GA)	Richmond
Bafalis	Fowler	Rosenthal
Breaux	Gejdenson	Roth
Brown (OH)	Ginn	Simon
Broyhill	Goldwater	Smith (AL)
Burton, John	Hatcher	Vander Jagt
Coleman	Hawkins	Vento
Crane, Daniel	Heftel	Washington
D'Amours	Ireland	Watkins
Dorgan	Long (LA)	Whitten
Dougherty	Mattox	Williams (MT)
Dowdy	Moffett	Yatron
Edwards (OK)	Neal	Young (AK)
Emery	Paul	Young (FL)
English	Pursell	
Ertel	Rahall	

The Clerk announced the following pairs:

On this vote:

Mr. Washington and Mr. Richmond for, with Mr. Broyhill against.

Mr. Hawkins and Mr. Rahall for, with Mr. Daniel B. Crane against.

Mr. John L. Burton and Mr. Emery for, with Mr. Smith of Alabama against.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

□ 1130

MAKING IN ORDER ON WEDNESDAY, AUGUST 18, 1982, OR ANY DAY THEREAFTER CONSIDERATION OF CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1982

Mr. PRICE. Mr. Speaker, I ask unanimous consent that it may be in order on Wednesday, August 18, 1982, or any day thereafter to consider the conference report on the Senate bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

The SPEAKER pro tempore. Is there objections to the request of the gentleman from Illinois?

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTION IN ENGROSSMENT OF H.R. 684, FOR THE RELIEF OF OK-BOON KANG

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make the following correction in the engrossment of H.R. 684, passed earlier today:

On page 1, line 4, strike "Kang Ok Boon" and insert "Ok-Boon Kang".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, I take this time to ask the gentleman from Kentucky (Mr. MAZZOLI) if this change poses any substantive change in the bill.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, it makes no substantive change in the bill adopted today under the unanimous consent agreement relating to the calendar for private immigration bills. It makes the correction so the name of the person provided for in the adoption is spelled and shown correctly.

Mr. SENSENBRENNER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY AND FOR THE BALANCE OF THE WEEK DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today and for the balance of the week for the purpose of considering legislation during the time that the House is sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, my reservation is for the purpose of inquiring of the gentleman from Michigan whether he plans to take up the Clean Air Act in the Committee on Energy and Commerce?

Mr. DINGELL. Mr. Speaker, it is my intention to move the Clean Air Act bill forward.

Mr. WAXMAN. Mr. Speaker, I must, then, object to the unanimous consent request.

The SPEAKER pro tempore. Objection is heard.

(Messrs. STARK, WEISS, YATES, FRANK, PATTERSON, SHANNON, DONNELLY, and DELLUMS, and Mrs. COLLINS of Illinois also objected.)

The SPEAKER pro tempore. A sufficient number has objected. Objection is heard.

ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1983

Mr. FUQUA. Mr. Speaker, I move the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6323) to authorize appropriations for environmental research, development and demonstration for the fiscal years 1983 and 1984, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6323, with Mr. DOWNEY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from New York (Mr. CARNEY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill before us, H.R. 6323, authorizes fiscal years 1983 and 1984 appropriations for the research programs of the Environmental Protection Agency.

I wish to thank Mr. SCHEUER, chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment, for his leadership in bringing this legislation to the floor, and for the many hours that were devoted to the authorization and oversight hearings which developed the legislation. In addition, I wish to thank the ranking minority members of the committee and subcommittee, Mr. WINN and Mr. CARNEY, for their fine efforts.

This authorization provides the needed congressional direction for research in the areas of air and water quality, drinking water, hazardous waste, pesticides, radiation, toxic substances, and energy. From this research, information necessary for implementing the environmental statutes administered by the EPA and for making sound environmental policy decisions will be generated. The bill also authorizes research on environment and problems of growing concern, such as acid rain, indoor air pollution, groundwater contamination, and energy pollution.

Mr. Chairman, the administration's request for EPA research and development activities was $215.9 million. This is $126.7 million—or 37 percent—below the fiscal year 1981 appropriation of $342.6 million. During this period, EPA's responsibilities and the severity of environmental problems have increased. The committee, after extensive oversight hearings, concluded that the administration's request was inadequate to fund a worthwhile and quality research program. H.R. 6323 authorizes an increase of $80.9 million above the President's request, an authorization level the committee feels would represent that amount of funding needed by the Agency to best discharge its statutory responsibility. Specifically, this bill authorizes $296.7 million in fiscal 1983 and $310.9 million in fiscal 1984. In essence, the committee is recommending 2-year level funding at the current fiscal year 1982 appropriations level—$277.9 million—plus 6 percent per year for inflation.

This bill provides additional support for some areas deeply cut either last year or in this year's budget. These include research pertaining to air, water, hazardous waste, and energy pollution. The committee is also recommending a new program on indoor air pollution which is in response to a growing problem created by energy conservation efforts.

Mr. CHAIRMAN, I conclude by saying that H.R. 6323 contains funding and direction which maintains a strong, viable research program administered by the EPA. I strongly urge its favorable consideration by my colleagues in the House.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong support of H.R. 6323. As chairman of the Subcommittee on Natural Resources, Agriculture Research and Environment, it has been my privilege to work closely on this bill. I especially want to thank the chairman of the full committee, Mr. FUQUA, for his support and efforts in bringing this legislation to the floor. I also want to express my respect and appreciation for the contributions made by the ranking minority member of the subcommittee, the gentleman from New York (Mr. (BILL) CARNEY).

Mr. Chairman, the administration's commitment to protecting the environment and safeguarding the health of our citizens is in serious question. Nowhere is this neglect more evident than in the administration's proposed funding for environmental research at the Environmental Protection Agency. A mere $215.9 million was requested for EPA research in fiscal 1983. This request, measured in real dollars, represented a 50-percent cut in environmental research since President Reagan took office. These cuts were accompanied by promises of streamlining and increased efficiency, coupled with the claim that more will be produced with less resources.

While I wholeheartedly support this sentiment, I believe the budget request goes far beyond what can be offset by management improvements and cuts into the very heart of EPA's research function. Nor can we expect the States and the private sector to take over environmental research eliminated in this proposal. Available resources and sufficient incentives simply do not exist. This situation is especially evident in the development of pollution control technology where high interest rates combined with regulatory uncertainty have made such ventures too risky to justify private sector investment. Thus, it is essential that EPA conducts research in control technology, otherwise these technologies will not be developed.

Recognizing these facts, the committee moved to recommend an EPA research budget that would preserve a basis for issuing sound environmental regulations, for developing ways to meet regulations, and for making rational environmental policies. To do otherwise would undermine EPA's ability to fulfill its mission. Sound standards would not be promulgated in a timely fashion, and once issued, they would be subject to increasing court challenges. The net result would be more pollution and, consequently, a deterioration in environmental quality and public health. Clearly, the American public does not favor such an outcome. The committee responded to this concern by reporting H.R. 6323 which is now before the House.

As noted by the chairman of the full committee, the gentleman from Florida (Mr. FUQUA), we have increased the President's requested funding level for EPA research and related activities from $215.9 million in fiscal year 1983 to $296.8 million in fiscal year 1983 and $310.9 million in fiscal year 1984. This recommendation provides fiscal year 1983 funding equal to the current fiscal year 1982 appropriation, plus 6 percent for inflation. The fiscal year 1984 authorization essentially maintains the same support and direction with a 6-percent across-the-board increase over fiscal year 1983. The major budget actions were made in the air, water quality, interdisciplinary, and energy research programs.

In the air research program, the committee recommended an overall increase of $10.5 million. This addition is primarily for air pollution monitoring activities and for research supporting the development of National Ambient Air Quality Standards, as required by the Clean Air Act, and control strategies to achieve these standards.

The increases in the water quality research program amounted to $16.5 million. The administration's proposal to reduce this program by almost half ($48 million in 1982 to $27.7 million in 1983) is unwise public policy in the committee's view. The funds restored to this program would support water quality monitoring and research needed to develop and evaluate water quality standards and appropriate control technologies.

An area of particular concern to the committee was long-term environmental research which is essential for an effective EPA. The committee felt that attention to this type of research was inadequate in the administration's proposal and, therefore, recommended an additional $15 million in the interdisciplinary research program. This money would fund long-term research in all environmental problem areas and would greatly enhance the credibility and usefulness of the entire EPA research program.

Finally, I would like to address the committee's budget actions in the energy program. Expanding development and utilization of domestic energy resources, especially coal, appears inevitable. Thus, a high priority was placed on insuring that these activities proceed in an acceptable manner which does not degrade either our environment or our health. Responding to this concern, the committee rejected the administration's proposal to eliminate two-thirds of the energy program and recommended a restoration of $24 million. Part of this increase, $4 million, would support a research effort on indoor air pollution. The remaining $20 million is for control technology development, health and ecological research, and monitor-

ing activities related to energy pollution.

Although reprograming between research programs authorized in this bill would be permitted, such reprograming in excess of 5 percent of appropriated funds must be proceeded by congressional notification. This requirement is intended to prevent program terminations and maintain program continuity. Funds may also be spent for reductions-in-force under this bill, but only if congressional notification is given prior to such action. This requirement is intended to insure that authorized programs are not jeopardized by personnel actions.

H.R. 6323 also directs research toward establishing a national environmental monitoring network. The committee recommended this action in response to deficiencies in environmental data which have impaired efforts to detect trends in environmental quality and evaluate the performance of our environmental laws and the programs established to implement them.

The bill further provides for a 2-year study on the management and organization of Federal environmental research programs is authorized. The study is intended to enhance cooperation and coordination between environmental research programs. The committee believes this examination is necessary to improve the effectiveness of these programs in the face of reduced budgets.

Finally, the bill makes several changes in the independent Scientific Advisory Board, which advises EPA and the Congress on EPA programs, needs, and scientific goals. The bill requires that members of the board be appointed from a list of nominees recommended by a nominating committee composed of representatives from national science and health organizations. The legislation also stipulates that the board be selected in a manner to insure a balance of ideologies and backgrounds that represent States, industry, labor, academia, and the general public. The bill provides that no more than one-third of the board members' terms end in the same year, and that members serve out full terms. The EPA is directed to promulgate conflict-of-interest regulations concerning board members within 120 days of the bill's passage. These changes are intended to insure the objectivity and effectiveness of EPA Science Advisory Board.

In closing, I would like to say that the Nation is confronted with serious environmental as well as economic problems that demand viable and effective solutions. Part of the answer to these problems lie in a strong environmental research program and this realization should be recognized by all. This bill will provide such strength and I urge its adoption.

□ 1145

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, on the outset, I would like to extend my appreciation to Chairman FUQUA and the ranking minority member of the full Committee on Science and Technology, the gentleman from Kansas (Mr. WINN). It is through their strong leadership that this committee has succeeded in bringing to the floor not only the first piece of authorizing legislation, but a total of six this year (FAA, NASA, NSF, NBS, NOAA, and EPA).

Today's piece of legislation, the EPA research and development bill is strategically calandered since the appropriating committee dealing with HUD and independent agencies is also scheduled on the floor this same week. Also significant are the actions that took place last week. Despite the critics of the environmental policies of the Reagan administration, the vast majority of us are proud of the FIFRA bill and the Wilderness Protection Act which passed the House overwhelmingly. It is here on this floor that the will of the American people can be worked, and this same will is present today guiding our decisions on the EPA bill.

The Committee on Science and Technology has worked diligently to shape an authorization that would be both responsive to our environmental research needs and realistic to our economic situation. However, in H.R. 6323 we have failed to address our priorities and therefore I must oppose the bill as currently reported. H.R. 6323 contains an $81 million increase over the administration's request for fiscal year 1983 and a 5-percent increase for fiscal year 1984. This represents the highest funding figures in both Chambers and higher than even the first budget resolution passed by the House. We cannot afford to continue operating as if we had an unlimited cash account by automatically increasing funding.

For 2 years I have been on the Subcommittee on Natural Resources, Agriculture Research and Evnironment deliberating over the quality, role and appropriate budget for the Environmental Protection Agency. Year after year the same criticisms are expressed by Congress regarding the management of the agency and the quality of science. I have witnessed my fellow colleagues criticize the measure of funds and recommend that perhaps the agency should be cut back, tapered, trimmed, and the management improved.

The agency, over the last 15 months, has testified 75 times before the House and the Senate, of which 14 times the testimony was delivered by the administrator herself. Each time, the agency has indicated that they are ready, willing and able to proceed in the direction Congress has been asking for. They can pare down, tighten up and improve quality and efficiency, but they have been met by a stone wall. It appears that Congress, despite historic complaints, is plagued with inertia. This is dangerous and troublesome.

My judgement of the performance of the agency has never depended on what party was in the White House. Each time the budget has come up to Congress and the agency has testified I have evaluated it on its merits and on the agency's accomplishments. At times, I have advocated increased funding. On other occasions I have not ben convinced that the agency needed or could do any better with increased funding.

Members are often faced with the frustration that more money does not automatically equate with better science, nor can it speed up scientific results or necessarily improve management.

I am concerned that this is precisely the trap we are falling into with H.R. 6323. It appears that our own House Appropriations Committee might agree, for in full committee they marked up a bill which would appropriate funds 15 percent of what the Science Committee is advocating. Though I would contend that even $12.5 million is an excess, the point, however, is clear that H.R. 6323 is out of proportion.

At the appropriate time, I will offer an amendment which will reduce the level of funding to $9.6 million above the request. In doing so, I have protected those programs which the Committee on Science and Technology has repeatedly expressed their concerns over. In particular, increase funding have been provided for the following research programs: the Great Lakes, both at Grosse Island Lab and the Chicago regional office; aquatic weeds; ocean and sludge disposal; groundwater contaminants; oxidant, mobile sources and hazardous air pollutants; environmental monitoring; and finally long-term environmental research. I urge the support of all my colleagues.

In addition, my amendment calls for a 1-year authorization of the R. & D. programs as opposed to the committee's request for 2 years. Though Chairmen FUQUA and SCHEUER have stated that a 2-year authorization will promote stability and continuity for a credible research program, I find it premature for use to give up future year oversight at a time when the EPA program is undergoing much change. I question the wisdom in altering the practice of an annual authorization.

At subcommittee and full committee, I also expressed my dismay over the extra "baggage" contained in H.R. 6323 as well as language which bears a restrictive tone. H.R. 6323 is not merely authorizing funds for ongoing research and development at the

agency, rather it is also authorizing new programs for which the Science Committee has never held hearings. To top it off, I have heard that others may come forth today with additional amendments to further increase the baggage attached to this bill. I urge my colleagues not to support such actions but rather to keep their attention focused on the real reason we are here today—that is to authorize funds for an R. & D. program that is both environmentally responsible and fiscally realistic.

Mr. Chairman, at this point I yield 5 minutes to the ranking minority member of the full Committee on Science and Technology, the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I thank the gentleman from New York for yielding time to me.

Mr. Chairman, I rise in support of an authorization for the Environmental Protection Agency for fiscal year 1983. Unfortunately, this version that the committee has brought to the floor is one that I cannot support in its present form for a number of reasons, most of which are outlined in the minority views accompanying the report. The gentleman from New York (Mr. CARNEY) the ranking member on the Natural Resources, Agriculture Research and Environment Subcommittee, will offer an amendment at the appropriate time to cure most of the deficiencies in this authorization. I intend to support this amendment and I hope that all members will give it their support.

Mr. Chairman, there is no doubt that environmental research is crucial to this Nation. There is no question that over the past decade a strong national policy for environmental protection has taken hold. I have been and continue to be a strong supporter of the policy. Long-term environmental research such as that provided by the EPA is vital to protecting the health of all of our citizens. One only has to look at the types of research covered by this authorization to realize how crucial it is. This bill covers areas such as risk assessment of hazardous air pollutants, work on pesticides, research on solid hazardous waste, hazardous waste, research on the drinking water program to support the Save Drinking Water Act of 1974, and a research effort on a relatively new concern, acid rain. This list is by no means all inclusive, but it does give some idea of the spread of programs covered by this bill.

Now that I have stressed the importance of this bill overall, let me state some of my concerns about this particular bill, and why I can not support it in its present form. While environmental research has been a proper focus of Federal efforts over the past decade, the fact of the matter has been that the quality of research at the Environmental Protection Agency has not always been the best. Too often over those 10 years, money has been thrown at a problem with the idea that if we spend enough money, then we would find the cure-all for a particular environmental problem. The truth is, that more money does not necessarily mean higher quality research. In my opinion, Administrator Gorsuch has taken some very courageous and needed steps to improve the quality of operations at the agency. The administration's request for fiscal 1983 for EPA's research operations is $215 million. The committee bill is $81 million above that level at approximately $296 million. I frankly feel that such an increase over the request in this year cannot be justified as a wise and efficient expenditure of funds. In addition, the committee has provided an additional outyear authorization for fiscal year 1984 of some $311 million. In the past, our Science Committee has not provided 2-year authorizations for EPA. I feel that this is absolutely the wrong time to begin such a direction. Both the national economy and the needs of environmental research are in a state of flux. A 1-year authorization is far preferable at this time. I know that supporters of a 2-year authorization claim that next year the Congress can provide intensive oversight without having to go through an authorization process. The fact is that this Congress is not very good at conducting oversight and I think it would be much better if we went through the normal authorization process for EPA next year.

Finally, Mr. Chairman, there are some issues in this bill which I feel could be better addressed in separate legislation. An example of this is the section added at full committee on indoor air quality. This is an important issue, but I believe it should be considered separately by the committee at a future date and not tagged on to the EPA annual authorization. If this Congress intends to reduce the size of the deficit, we must keep a watchful eye on Federal spending and attempt to bring these authorization bills down to a workable level. I hope my colleagues will listen carefully to the debate that will take place when amendments are offered. In the meantime, I do want to emphasize my strong support for the work of the Environmental Protection Agency, and my firm belief that we can continue providing for our national policy of environmental protection with a lower level of authorization than contained in this bill.

□ 1200

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHEUER) for the purpose of engaging in a colloquy.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, let me ask the gentleman, would the additional research funds given to EPA by this bill be available for research into the proper disposal of used motor oil and lubricants?

Mr. SCHEUER. Mr. Chairman, I am happy to answer my colleague that this legislation provides for an additional $6 million over the administration's request for energy-related research to be conducted by EPA. That amount would allow sufficient funds for research into waste oil disposal, and the committee certainly would like to see EPA expand its efforts in that area.

Mr. BEDELL. I am very glad to hear that. As the gentleman knows, the Small Business Subcommittee on Energy and Environment, which I chair, held hearings in New York City this past February to study the issue of waste oil recovery.

Mr. SCHEUER. Those of us from New York appreciate your continuing oversight of the Federal Government's programs to deal with used motor oil. As you heard at your hearing in Manhattan, New York City has had some significant health and safety problems caused by improper disposal of waste oil, particularly in the congressional district represented by our colleague, the gentlewoman from New York (Ms. FERRARO) of Queens, where we have had a very real problem. The problem I am referring to is the abandoned and bankrupt Quanta Resources refining plant in Long Island City. At that site there is over 500,000 gallons of waste oil in over 90 tanks of varying sizes ranging from barrels to four-story storage tanks. An analysis of the tanks shows that much of the waste oil is contaminated by PCB's, and some of the tanks contain material with dangerously low flash points. Indeed, a fire could start at the Quanta facility by simply bringing a lighted match in contact with the vapors over the contaminated oil. This facility is located less than one-fourth of a mile from a highly populated residential neighborhood. City and borough officials are working very hard to remove this potential time bomb from our midst. Queens Borough president Donald Manes merits particular commendation for his efforts to obtain State superfund cleanup by the fact EPA has not promulgated its regulations on used oil. Our subcommittee is currently firming up plans to conduct an oversight hearing of the problems posed by the Quanta facility, including the failure of EPA to issue these regulations.

Our State and local officials say they cannot solve the problem without

technical and regulatory help from the Federal Government, and we in New York, along with the gentleman from Iowa, are frustrated by EPA's foot dragging in this regard.

Mr. BEDELL. Those of us who studied the issue can certainly appreciate your frustration.

When we held our hearing in February we asked EPA to tell us what had become of the waste oil regulations they were required by law to have issued by October 1981. They submitted a statement saying that the regs were overdue because the Agency was awaiting the results of testing being done for them by the Department of Energy. EPA said the long-awaited waste oil regulations would be coming out "in a few months."

Mr. SCHEUER. Mr. Chairman, that is absolutely right. I believe that was the research done for EPA by the Energy Department's facility at Bartlesville, Okla.

Mr. BEDELL. That is correct. But when the subcommittee checked with DOE, we found they were in the midst of shutting down the waste oil project in Bartlesville. DOE said they offered to turn the project over to EPA, at whose request the work was being done, but they say EPA told them to let the project die.

The subcommittee was later told by Mrs. Gorsuch that the waste oil regulations that were required to be issued in October 1981 will not be promulgated until mid-1983.

In the meantime, all sectors of the waste oil industry are left in limbo. We have been told by waste oil reprocessors and by lubricant manufacturers that literally tens of millions of dollars in investments are being held up while the industry waits for EPA to issue its regulations.

There are no political issues involved here. Everyone—the used-oil recycling industry, the waste-oil generators, State and local regulators, Congress, even other Federal agencies—everyone wants EPA to issue regulations and clarify what will be the Federal rules for proper handling and disposal of waste oil.

Mr. SCHEUER. The gentleman makes an excellent point. There are many instances where EPA's delays in research or issuing of regulations cause great confusion in the private sector, but the instance that the gentleman has described is certainly one of the more egregious examples.

Mr. BEDELL. Mr. Chairman, I thank the gentleman from New York (Mr. SCHEUER) for his assurance, and I certainly look forward to seeing the proper research being done so we can move forward to solve this problem for everyone involved.

Mr. CARNEY. Mr. Chairman, I yield 6 minutes to my colleague, the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 6323, the authorization provided by the Science Committee for the research programs of the Environmental Protection Agency. H.R. 6323 proposes an EPA research budget at last year's level of funding without a cost-of-living increase, which is within the limits established by the first concurrent budget resolution.

The EPA's Office of Research and Development is responsible for developing the environmental data on which our environmental standards are based. Regardless of how we feel about the Clean Air Act or the Clean Water Act, we ought to be able to agree that whatever standards we do decide on should be based on the best scientific evidence available. The question we then have to ask ourselves is whether the EPA can give us that information if we accept the administration's request and again cut the Agency's budget by 22 percent? As a member of the Science Committee I have spent the last 6 months hearing testimony about the EPA research budget, and I have to conclude that the answer is no.

Let me give you just one example from the testimony we heard. Earlier this year, the National Association of Manufacturers told us that developing data about the health effects of pollution should be a primary responsibility of the EPA. What kind of budget has the EPA proposed to meet this responsiblity? An 18-percent cut in research on the health effects of air pollution, and a 36-percent cut in research on the health effects of water pollution.

The Agency has justified the proposed reductions by claiming that States will pick up the enivornmental responsibilities as fast as the EPA sheds them. That claim just cannot be supported by the evidence. In fact, the National Governors Association has just completed a survey in which most States have indicated most emphatically that they cannot assume new areas of responsibility with respect to the environment. In fact, the States are insisting that EPA's budget cuts would force proportionate reductions in their own programs, which depend on the EPA for information.

My own State of Rhode Island is struggling to cope with the cleanup of three major hazardous waste sites. The Director of our State's Department of Environmental Management has written directly to the EPA to protest proposed reductions in the evaluation of the toxicity of chemicals.

I will quote directly from the State's letter:

> It appears to me that your recent announcement reflects a reduction in your overall commitment to gaining a better understanding of toxic chemicals. Certainly this is not a case where Rhode Island or other States can or should conduct their own research programs. The production and use of toxic chemicals is a national problem and should rightfully receive national attention. I urge you not only to revise your agency's decision to reduce research into toxic effects, but to step up your research and evaluation program in that area.

Shifting program responsibility to States is an excellent long-term goal, but should we not negotiate that shift with the States in the spirit of cooperation and partnership before making wholesale cuts in environmental programs?

Finally, I would ask my colleagues to consider carefully one more question before voting on EPA's research budget today. Can the EPA improve the scientific quality of its research with the kinds of reductions in program support the Agency has proposed? Last year, the distinguished ranking majority member of the Science Committee, the gentleman from California, pointed out in an essay in Science magazine that the quality of scientific research at EPA depended to a large degree on the Agency's capability to conduct long-term, basic environmental research. In other words, if EPA focuses its attention only on short-term research to support the immediate need for standards and regulations, the quality of its science will suffer. That in turn will detract from its ability to develop good research to support our environmental standards.

The EPA has proposed eliminating much of its long-term research capability, choosing instead to focus a greatly reduced R. & D. budget to develop data to support today's regulatory programs. At the same time, the EPA Administrator has, I believe sincerely, pledged to improve the scientific quality of EPA's research, which has been sharply criticized by industry sources and public interest groups. Clearly, we have a contradiction to resolve. We cannot simultaneously cut out long-term research—which attracts the best talent to the Agency and keeps the EPA at the cutting edge of environmental science—and the same time persuade ourselves that we are enhancing the state of scientific inquiry at the Agency.

I would leave my colleagues with this thought—if we turn our backs on environmental research, we are really turning away from the quest for knowledge about how man interacts with the natural world that sustains us. That runs counter to the spirit of scientific inquiry on which we have built our civilization. These words from William Kingdon Clifford, an American scientist from the previous century, should have special meaning for us today:

> Remember, then, that science is the guide of action; that the truth which it arrives at, is not that which we can ideally contemplate without error, but that which we may act upon without fear; and you cannot fail to see that scientific thought is not an ac-

companiment or condition of human progress, but human progress itself.

Mr. Chairman, I urge my colleagues to support the EPA research budget. I think it is imperative that we not be playing games with the EPA research budget but that we unanimously understand that in order to go forward with responsible regulations we have to have the scientific data to back it up, and therefore, it is incumbent upon us to pass H.R. 6323.

Mr. CARNEY. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McGRATH).

Mr. McGRATH. Mr. Chairman, the Environmental Protection Agency has enjoyed bipartisan support in the Congress since its inception under a Republican administration. That same bipartisan concern and support for environmental protection exists in this Congress today.

The primary responsibility of the EPA is the protection of public health and the environment. I have a deep concern for the ability of EPA to fulfill this mandate. I believe the agency must be funded adequately if it is to succeed in doing quality research for the protection of the environment.

I intend to support the amendment of the gentleman from Florida (Mr. FUQUA). This amendment will bring the funding for EPA research and development to $279 million for fiscal year 1983, which is the level of the Senate passed authorization.

I believe this funding level will enable EPA to continue its vital research in clean air, drinking water, hazardous waste, pesticides, and interdisciplinary research.

The amendment also provides for a 1-year authorization. This provision will enable the Committee on Science and Techology to continue its practice of annual authorizations of EPA research programs as a way of insuring that the program is well managed and is supporting the agency's primary role of protecting public health and welfare.

I urge my colleagues to support the amendment of the gentleman from Florida.

Mr. CARNEY. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding me this time, and, first of all, I want to commend the gentleman from New York (Mr. CARNEY) and my colleague, the gentleman from Florida (Mr. FUQUA) for their earlier consideration of authorizing funds for research with regard to ground water supplies under the Safe Water Act.

As the gentlemen know, my congressional district has about 12 communities which are plagued with the presence of barium in small, minute quantities in their ground water and drinking water supplies. There are some ongoing studies in the State of Mississippi, I believe at the University of Mississippi, with regard to animal research to test whether or not barium salts in drinking water, even in excessive doses, has any adverse effect on health. At the same time I believe there are some ongoing epidemiological studies in my congressional district to determine whether or not the long-range presence of barium in the ground water supplies has any adverse or beneficial effect on the population.

As I have observed on earlier occasions, the people in my congressional district of Illinois enjoy long, healthy lives while consuming the wonderful ground water supplies, but the EPA has imposed an arbitrary standard with regard to barium which has resulted in a closedown of some of the newly dug wells. This, in turn, has prevented development in some of the areas as far as residential and industrial development is concerned because it is contended that some of these water supplies, even though drawn from new wells are unusable.

What I would really like to know is whether or not there is any intention in the bill under consideration or under the substitute that may be offered by the gentleman from New York (Mr. CARNEY) to limit in any way the ongoing epidemiological studies or other scientific research which, when completed, can result in clarifying this subject as far as the water supplies in my congressional district are concerned.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, I thank the gentleman for yielding.

I think the answer to that question is that the studies pertaining to barium salts in drinking water would come under health effects and ground water research, and both the chairman of the subcommittee and myself, as the ranking minority member, recognize the importance of those ongoing programs. It is an ongoing program now with EPA.

□ 1215

There has been no indication that they were going to cut that particular program out. However, my amendment would call for an increase of $1 million additional moneys over the EPA request for this specific type of ground water R. & D.

The bill that we are considering calls for an additional $1.5 million over EPA's request in this area.

The EPA, as I said before, has not indicated that they intend to cut out the barium studies and with the substitute you are assured to get at least $1 million more in the ground water research area over what EPA believes they need to continue the studies.

Mr. McCLORY. I thank the gentleman for these assurances. I hope the message will be heard down at the EPA where it seems to me they sometimes make arbitrary decisions.

Mr. FUQUA. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. I would say we are very sympathetic to the gentleman from Illinois (Mr. McCLORY); yet, the gap between needed EPA research and the reality of the administration's budget is clearly apparent on this particular matter.

In the budget request, research for drinking water is reduced $1.9 million for health effects in drinking water.

We have restored $1.5 million of that amount, so under our bill the EPA would still be able to do approximately the same level of research that they are given under current funding.

Mr. McCLORY. Will the gentleman yield to me?

Mr. SCHEUER. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

I really feel that the ongoing studies, including the ongoing epidemiological work, will continue and will not be canceled out. I really feel that it would be unrealistic, it would be most unfortunate to cancel any studies and leave these communities in limbo without reassuring them that they have safe drinking water.

Mr. SCHEUER. Our bill does take that into consideration. But I fear that the Carney proposal which provides for a $1.9 million cut in the health effects of drinking water would not.

Mr. CARNEY. Will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman.

Mr. CARNEY. Obviously with all of the figures we are dealing with, some fall between the cracks.

My amendment clearly calls for a $1 million increase in the ground water research under the Safe Drinking Water Act.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

If I could have the attention of the chairman of the subcommittee I would like to simply clarify the figures.

My amendment calls for $1 million over the request of the agency in safe drinking water. That is specifically for ground water research, and that is where the research you refer to falls.

But I do agree with my chairman that EPA's request was $1.9 million less than what is in fiscal year 1982. I recognize that.

EPA told us that they had no intentions of cutting that program but I recognized that you can just do so much with a limited amount of money and I felt that $1 million more would insure that those programs could continue.

I think the gentleman from New York (Mr. SCHEUER) recognizes how important this is, the gentleman being not only from New York, but he also resides on Long Island and he recognizes the great importance of ground water research and he recognizes how we both diligently worked toward insuring that type of research will go on.

That is precisely the type of research that our colleague from Illinois (Mr. MCCLORY) has been fighting for, for years, because of a very unique situation that he finds wihin his district with the high amounts of barium found in the water of the area he represents.

He has been out in front on this issue for years, as my colleagues remembers. He came before our committee in the 96th Congress and he came before our committee in this Congress, as well, trying to insure that those programs would go on.

The bottom line is that they will.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I am happy to yield to my colleague from New York.

Mr. SCHEUER. Indeed, the gentleman from Illinois (Mr. MCCLORY) has appeared systematically before our committee.

I would like to take this opportunity to say how deeply I regret the gentleman's retirement from this House and how much he will be missed here for his thoughtfulness, for his moderation, for his eschewing of partisan politics at all times, and for the great contribution he has made for many, many years.

Mr. CARNEY. I would like to associate myself with the remarks the chairman just made and echo his sentiments toward our colleague from Illinois (Mr. MCCLORY).

Mr. MCCLORY. If the gentleman will yield, I thank the gentleman and want to express my appreciation for the very generous remarks just made by the gentleman from New York (Mr. SCHEUER) as well as the other gentleman from New York (Mr. CARNEY).

Mr. CARNEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983".

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $57,685,000 for fiscal year 1983 and $61,146,000 for fiscal year 1984 for activities authorized under the Clean Air Act;

(2) $44,210,000 for fiscal year 1983 and $46,862,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $26,406,000 for fiscal year 1983 and $27,990,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $19,213,000 for fiscal year 1983 and $20,366,000 for fiscal year 1984 for interdisciplinary activities;

(8) $29,149,000 for fiscal year 1983 and $30,898,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $58,531,000 for fiscal year 1983 and $62,042,000 for fiscal year 1984 for energy activities, of which—

(A) $25,129,000 in fiscal year 1983 and $26,636,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $11,212,000 for fiscal year 1983, and $11,825,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $57,112,000 is authorized in fiscal year 1983 and $59,812,000 is authorized in fiscal year 1984 for such long-term environmental re-

search and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

(2) $29,281,000 for fiscal year 1983 and $30,291,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the peformance of the programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

SEC. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $46,253,000 for fiscal year 1983 and $49,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Academy of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Administrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) Appropriations authorized for energy research under section 2(a)(9) shall be used for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and therafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) to include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sci-

ences. The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

SEC. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $1,000,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental statutes administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

INDOOR AIR POLLUTION

SEC. 8. (a)(1) The Congress hereby finds that—

(A) the presence of air pollution inside residential, commercial, and other buildings has been recognized for many years, but the significance of the problem—which has been greatly accentuated by the increasing use of new products in construction and by the current emphasis upon energy-efficient buildings—is only now being fully appreciated;

(B) the recent decision of the Consumer Product Safety Commission to ban formaldehyde insulation based on the hazard it poses to human health indicates the need for a thorough, scientific understanding of the indoor air environment;

(C) reports prepared by the General Accounting Office and the National Academy of Sciences find that existing Federal programs involved with indoor air pollution are fragmented, underfunded, and generally limited by an incomplete mandate, and that there exists a need for a comprehensive interagency program of research into the causes, effects of, and solutions to indoor air pollution; and

(D) information made available through such a program should be widely disseminated, and should, where possible, address the need for voluntary standards to be developed by professional societies and related industries to limit pollutants within the indoor environment.

(2) It is therefore the policy of the United States and the purpose of this section to provide for the establishment of an effective and well-coordinated Federal program of research and development with respect to indoor air pollution, to be carried out in cooperation with States, localities, and private industry in a manner which will take full advantage of the roles and expertise of the various participants while avoiding duplication of effort.

(3) As used in this section, the term "indoor air pollution" means the existence of air pollutants in the indoor environment. The term "air pollutants" means airborne contaminants having potential adverse human health effects; and the "indoor environment" includes residences and other non-manufacturing public and private buildings.

(b) In order to carry out the purpose of this section the Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") shall establish and carry out a comprehensive indoor air pollution research and development program, which shall emphasize data gathering and information transfer on all aspects of the indoor air pollution problem and which shall be considered an integral part of the exercise by such Agency of its general responsibility to protect human health and welfare from air pollutants.

(c) The principal objectives of the research and development program under this section shall be—

(1) to contribute to the understanding of indoor air pollution, through the facilities and personnel of the Federal Government, the broad range of health, monitoring, and engineering expertise which is required but which the other participants (individual Federal agencies, State and local governments, the building industry, and professional associations) do not individually possess; and

(2) to coordinate all efforts—Federal, State, local, and private—which involve or promote the conduct of research and development directed at the reduction of indoor air pollution, with particular emphasis upon the development and adoption of professional voluntary standards to prevent or abate air pollution in residential buildings.

(d) To assist the Administrator in the administration of the research and development program under this section, there shall be established—

(1) a Committee on Indoor Air Quality, to be chaired by a representative from the Environmental Protection Agency and co-chaired by a representative from the Consumer Product Safety Commission and a representative from the Department of Energy, and to include as members representatives from the Departments of Housing and Urban Development, Defense, Commerce, Health and Human Services, and Labor, and such other Federal agencies as may be appropriate; and

(2) an advisory group, appointed and supported by the Administrator, which shall be comprised of representatives of industry, the scientific community, and public interest organizations, including the National Institute of Building Standards and the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

In addition, the Administrator shall maintain constant communication with State and local officials having responsibilities re-

lated to the purpose of this section, and with all interested parties from the private sector.

(e) The program under this section shall give particular emphasis to—

(1) the characterization and monitoring of indoor air pollution sources and the monitoring of indoor pollutant levels (including the measurement of various pollutant concentrations and their strengths and sources, the identification of high-risk building types, and the development of better instruments for data collection);

(2) a study of the health effects of indoor air pollution in order to determine exposures and associated risks (including epidemiological studies aimed at identifying illness patterns and the identification of high-risk groups);

(3) the development of control technologies to prevent or abate buildups of indoor air pollution (including the development of generic control devices, the evaluation of individual and generic controls and air distribution patterns, and the testing of control systems);

(4) the development of public information outreach to assure the widest possible dissemination of the research findings to the user community (including the establishment of a toll-free hotline information service); and

(5) any other aspects of the battle against indoor air pollution which the Administrator determines to be especially significant.

In addition, the Administrator shall constantly work with industry representatives whose products may affect or contribute to indoor air pollution with the objective of assisting and encouraging the development and adoption of industrywide voluntary standards for residential buildings to aid in preventing or abating such pollution.

(f) In the course of conducting the program under this section, the Administrator shall submit to the Congress—

(1) within twelve months after the date on which funds are first appropriated to carry out the program, a plan to implement an indoor air research program which shall be based on the current state of knowledge in the field, including the National Academy of Sciences Report, the General Accounting Office Report, and recommendations developed by the Committee on Indoor Air Quality, and which shall—

(A) discuss the effectiveness of existing Federal, State, and local powers to deal with indoor air pollution, and

(B) set forth initial conclusions and recommendations;

(2) within thirty-six months after such date, an interim report which shall—

(A) update the initial report in all areas based on the early results of the program,

(B) give particular emphasis to the evaluation of risks and the identification of susceptible population groups, and

(C) assess future research needs; and

(3) within fifty-four months after such date, a further report which shall—

(A) fully discuss the results of the program through its earlier stages, especially the progress which has been made in developing and applying industrywide voluntary standards designed to prevent or abate air pollution in residential buildings,

(B) update the state of knowledge on indoor air pollution with respect to the assessment of risks to human health,

(C) recommend appropriate governmental and private actions, particularly with respect to the need for additional governmental regulations and the relative roles of each level of government and the private sector, and

(D) assess the need for future research.

(g) Nothing in this section or in the program under this section shall be construed as limiting or altering any authority available to the Occupational Safety and Health Administration under existing law.

(h) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 shall be available to carry out the research and development program under this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 19, strike out line 15 and all that follows down through line 15 on page 26 and substitute the following:

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such committees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry and public interest organizations, as may be necessary to assist the Administrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the program, assessing the state of knowledge concerning the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY

Mr. CARNEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. CARNEY in the nature of a substitute: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983."

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities for the fiscal year 1983 for the following activities:

(1) $48,185,000 for activities authorized under the Clean Air Act;

(2) $30,800,000 for activities authorized under the Federal Water Pollution Act;

(3) $23,906,000 for activities authorized under the Safe Drinking Water Act;

(4) $30,579,000 for activities authorized under the solid Waste Disposal Act;

(5) $6,469,000 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $7,213,000 for interdisciplinary activities;

(8) $26,649,000 for activities authorized under the Toxic Substances Control Act;

(9) $35,030,000 for energy activities, of which—

(A) $16,192,000 is for the Energy Control Technology Research Program;

(B) $2,390,000 is for the Energy Health Effects Research Program;

(C) $3,984,000 is for the Energy Ecological Effects Research Program;

(D) $500,000 is for the Energy Monitoring Research Program; and

(E) $12,029,000 is for the Acid Rain Research Program; and

(10) $6,366,000 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $8,721,000 for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section may be transferred (for the same fiscal year) from that category to any other category so listed: except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 10 per centum thereof, or if the total of all amounts transferred to such other category for such fiscal year would exceed 10 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(e) Appropriations made pursuant to the authority provided in this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a). Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long term environmental research and development.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfer of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) organized and managed for maximum benefit to all programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who could benefit therefrom.

SCIENCE ADVISORY BOARD

Sec. 4. Section 8(e)(2) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95–155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the statutes and the authority of the Administrator."

Mr. CARNEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CARNEY. Mr. Chairman, my amendment calls for a 1-year authorization of the EPA research and development program changing it from the committee bill which is asking for a 2-year authorization.

It also reduces the funding of the EPA bill, changing it from a $8.1 million increase over the administration's request to a $9.6 million increase above that request.

The increases, according to program category, and this is in relation to the administration's request, are as follows:

In air, my amendment would call for an additional $1 million for research in hazardous pollutants, oxidants, and mobile sources.

In water quality, my amendment asks for an additional $1.5 million for the Great Lakes research program; $250,000 for aquatics weeds research program; $625,000 for sludge management research; $725,000 for ocean disposal research.

In the category of safe drinking and the Safe Drinking Water Act, my amendment asks for an additional $1 million for ground water research.

In the category of solid and hazardous waste activities we are asking for an additional $1 million over the request of the budget.

In interdisciplinary activities we are looking for $3 million for the long-term research over the request in the budget.

Finally we are asking for $500,000 in the area of energy activities for energy monitoring systems.

I think one has to realize that it is not often the easiest thing to deal with protecting our environment and at the same time deal with the economic factors of today. We would all like to live in a world where we could have the amounts of money necessary to carry out the programs in Cadillac fashion. But unfortunately realities of today do not dictate that we can go along at that pace and we have to find some common ground to maintain and improve the environment in which we live and at the same time stay within the parameters or restraints that are forced upon us because of budgetary factors.

So I offer this amendment keeping that in mind. I also would like to note that the committee bill we are considering today does not enjoy the support of the Appropriations Committee to

the extent that the Science Committee authorization far exceeds the appropriation recommendation. Keeping that in mind, I think it would be appropriate for us to try to authorize funding levels in an area that we can best serve the environment while being consistent with the thoughts of the Appropriations Committee.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. FUQUA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY

Mr. FUQUA. Mr. Chairman I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. FUQUA to the amendment in the nature of a substitute offered by Mr. CARNEY: Strike out everything after section 1 and insert in lieu thereof the following:

GENERAL AUTHORIZATIONS

SEC. 2.(a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $55,685,000 for fiscal year 1983 and $59,026,000 for fiscal year 1984 for activities authorized under the Clean Air Act:

(2) $40,790,000 for fiscal year 1983 and $43,237,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $25,906,000 for fiscal year 1983 and $27,460,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $13,770,000 for fiscal year 1983 and $14,602,000 for fiscal year 1984 for interdisciplinary activities;

(8) $28,149,000 for fiscal year 1983 and $29,838,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $53,530,000 for fiscal year 1983 and $56,742,000 for fiscal year 1984 for energy activities, of which—

(A) $20,128,000 in fiscal year 1983 and $21,336,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $9,721,000 for fiscal year 1983, and $10,304,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(B) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $54,344,000 is authorized in fiscal year 1983 and $56,876,000 is authorized in fiscal year 1984 for such long-term environmental research and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

(2) $26,513,000 for fiscal year 1983 and $27,355,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the performance of the

programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

SEC. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $43,253,000 for fiscal year 1983 and $46,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Academy of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Admininstrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) Appropriations authorized for energy research under section 2(a)(9) shall be used for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and thereafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) to include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sciences, The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record

with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

SEC. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $750,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental statutes administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal Agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such commitees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry, and public interest organizations, as may be necessary to assist the Adminstrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high-risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the program, assessing the state of knowledge concerning the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. WINN. Mr. Chairman, reserving the right to object, and I shall not object, I just think maybe the gentleman has cut the Reading Clerk off just a little bit early and some of us are not exactly familiar with the gentleman's amendment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. WINN. I yield to the gentleman from Florida.

Mr. FUQUA. I would say to the gentleman the minority side has a copy. This in effect is just about the whole bill.

Mr. WINN. I wonder if the committee chairman would just explain it.

Mr. FUQUA. Yes. I plan to do that.

Mr. WINN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FUQUA. Mr. Chairman the amendment I am offering would reduce the total authorization provided in H.R. 6323 from $296.8 million to $277.9 million in fiscal year 1983, and from $310.9 million to $291 million in fiscal year 1984. This revised authorization level represents a cut of $18.9 million and $19.9 million, respectively.

With this action, the authorization level in the bill will equal the current fiscal year 1982 appropriation of $277.9 million and be slightly less than the funding ceiling for these programs as agreed to by the Congress in the first concurrent budget resolution. That ceiling was $281.9 million for fiscal year 1983.

The amendment accomplishes this overall reduction by distributing cuts across the board. In this way, program direction is maintained but at a reduced level of effort. This is the best way to bring the funding in the bill down while still preserving its integrity and direction. Specifically, the amendment would make the following reductions in fiscal year 1983 program authorization—$2 million in air, $3.4 million in water quality, $0.5 million in

drinking water, $5.4 million in interdisciplinary, $1.1 million in toxic substances, $5 million in energy, and $1.5 million in management and support. Fiscal year 1984 reductions would involve $2.1 million in air, $3.7 million in water quality, $0.5 million in drinking water, $5.8 million in energy, $1.1 million in toxic substances, $5.3 million in energy, and $1.5 million in management and support. No other substantive change would be made to H.R. 6323 by this amendment.

While each of us may not be pleased with reducing the EPA research budget to the level proposed by this amendment, I believe that taken as a whole, H.R. 6323 will still allow the Agency to continue a vigorous and responsible research program. I urge my colleagues to join me in supporting this amendment.

□ 1230

Mr. WINN. Mr. Chairman, I rise in opposition to the Fuqua amendment.

As the chairman has said, his amendment brings this from $296 million down to $277 million. That is still $62 million over the request. I do not care how you color it up or paint the picture, that is still an awful lot of money, and I rise in opposition to the amendment.

I rise in support of the Carney amendment, Mr. Chairman. What the gentleman from New York is trying to do by his balanced substitute is to provide a realistic level of funding for EPA in an era of fiscal restraints. It is very easy to add money to a bill and to arbitrarily establish budget levels which come out at a considerably higher level than the administration has recommended. It is considerably more difficult to take a close, hard look at environmental programs and to fashion an authorization that takes into account both the needs of the agencies and the overall budget realities of the Nation.

There is no doubt that the same bipartisan concern and support for environmental protection that has existed over the past 10 years still exists in Congress today. The question now is: Will the majority take the steps that are necessary to bring about a fiscally responsible budget for EPA while still protecting our Nation's environment?

I want to point out to the Members that, despite our desire to remain within the administration's budget request of $215.9 million, we felt that there were some programs which needed to be protected and were not by the administration's request. Therefore, the alternative EPA budget that the gentleman from New York (Mr. CARNEY), is offering is at the level of $222.9 million.

In addition to this reduced level of funding for EPA, the Carney substitute also makes this a single-year authorization rather than a 2-year authorization. And it deletes from the bill some highly restrictive language that would tie the hands of EPA in trying to administer their own agency.

I ask for defeat of the Fuqua amendment and support for the Carney substitute.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Fuqua amendment. In doing so, I oppose the Carney amendment.

The Fuqua amendment would, in effect, give that hard, tough look that the ranking minority member of the full committee just suggested and reduce our authorization from the $296.8 million that the full committee authorized on May 18 to $277.9 million, or the current level of appropriation.

Now, I have not heard a single Congressman stand up here today and say that the current level of funding is excessive. Yet this proposal by the chairman of the full committee would reduce current funding by the amount of inflation, which is likely to be 8 or 9 or 10 percent, and I think that does reflect that we are in perilous times. I think it does reflect, also, the fact that we cannot destroy R. & D. functions in EPA, otherwise we simply will not have the information base, to make intelligent decisions on environmental regulations.

There has been much complaint out there in industry—and I join in their dissatisfaction—that in the past we have sometimes regulated without factoring into the calculus of our regulations the costs that will be imposed upon industry compliance.

Now, the Fuqua amendment does protect the crucially needed funding for acid rain, indoor aid pollution, energy health effects and hazardsous wastes by maintaining the funding at the current level of funding which, as our distinguished chairman said, is within the first concurrent budget resolution.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I offer my support, as well, for the Fuqua amendment.

The Fuqua amendment preserves full funding for a facility important to the Great Lakes States—the Large Lakes Laboratory funding in Grosse Ile, Mich. That is the only laboratory that looks at the effects of toxics upon human health in the Great Lakes, which are 95 percent of the surface fresh water of America. It is important to enforce and live up to our water quality agreements with the nation of Canada, and continuing the operation of the Grosse Ile facility will allow us to do that.

I am pleased that this amendment, which I think is a reasonable compromise, maintains the Grosse Ile program as well as other programs that the gentleman has cited, and I want to offer my strong support.

Mr. SCHEUER. Mr. Chairman, I wish to thank my colleague for his support of the Fuqua amendment, and I wish to congratulate the gentleman for his vigilance and concern with the water quality of the Great Lakes area and for the hard work and the fine leadership that he has displayed over the years.

The Fuqua amendment does provide adequate funding, even at a somewhat reduced level, and I strongly urge its adoption.

Mr. CARNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Florida (Mr. FUQUA). I would just like to go down some of those reasons why.

Certainly my amendment recognizes the importance of the Great Lakes project, and we authorized moneys for that project, to keep it going, and I can appreciate the concerns that my colleague, the gentleman from Michigan, a member of the committee, has for the Great Lakes. We have taken care of that.

But let us look at the substitute and let us look at the pitfalls that the substitute offers. One, it is a 2-year authorization, something that the Science and Technology Committee has not done before. I think that certainly we should not relinquish our oversight responsibility on a yearly basis and stretch it out to a 2-year basis. I think the topic at hand is too important, as witnessed by the debates here.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from Florida.

Mr. FUQUA. I appreciate the gentleman's yielding.

Mr. Chairman, the gentleman mentioned that we had never had a multiyear authorization before, and I point out that in DOE last year in reconciliation was a 3-year authorization, and we have been looking at the possibility of multiyear authorization so that we would have more time to do oversight work. I thought I would just point that out to the gentleman.

Mr. CARNEY. I am well aware of that, Mr. Chairman, and if I did not make myself clear on that, I apologize. I was referring to the fact that we had never had more than a 1-year authorization on EPA research and development.

Mr. FUQUA. In that statement the gentleman is correct.

Mr. CARNEY. I beg the gentleman's pardon for not making that perfectly clear.

I think that going to a 2-year authorization on EPA, an agency that in its entire history is one that has been

criticized by not only the Congress but by the public in general, an agency that is now in the middle of reprograming, would be inappropriate. We should stand there and hold that agency's feet to the fire each year for their authorizations.

Second, I think we must recognize that some of the excess baggage still remains in the gentleman's amendment perfecting my amendment, and that one program I can think of is the indoor air program. Never before in my memory in serving on the Science and Technology Committee have we ever put a program into an authorization bill without having hearings on the program. We never held hearings on this new indoor air program, and I think that this might be premature.

I certainly am not saying that I would not support the program, but I would rather see it done through the legislative process where we would have the proper hearings and we can recognize the benefits of a program and at the same time the pitfalls that might be associated with that program.

Also, to arbitrarily pick a 6-percent increase in the following 1984 authorization bill would, to me, be irresponsible. No one can really predict what the necessary amounts of funding will be in 1984, and no one can predict what the inflation rates will be.

So I have some grave reservations about that.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. CARNEY. I yield to the gentleman from New York.

Mr. SCHEUER. I just want to point out that in our authorization hearings last spring we very definitely did have witnesses testify on the problem of indoor air pollution. They recommended a very much enlarged level of indoor air pollution R. & D. The gentleman is quite correct, we did not have a whole day of hearings set aside for indoor air pollution; but we had very impressive testimony on the subject as part of our authorization hearings.

Mr. CARNEY. I appreciate the gentleman's comments and, in response to my subcommittee chairman I can only say that the gentlewoman from Rhode Island has had a bill in the hopper for many months on this subject. And again I would not want to be thought of as being opposed to the indoor air program. What I am opposed to is authorizing this program without having hearings on the bill. I have grave reservations about that. I think it is a practice that, if it were to continue into areas of greater expense and more governmental intervention, it could be very, very harmful.

Mr. CHAIRMAN. The time of the gentleman from New York (Mr. CARNEY) has expired.

(On request of Mr. FUQUA and by unanimous consent, Mr. CARNEY was allowed to proceed for 1 additional minute.)

Mr. FUQUA. If the gentleman will yield, I want to further point out—and the gentleman from New York, chairman of the subcommittee mentioned it—that the program for indoor air quality came from a Member on the gentleman's side of the aisle. I think it is a very worthwhile thing for EPA to study. But it was not something that was an accommodation to Members of this side of the aisle.

Mr. CARNEY. If I may reclaim my time, I think I have made it quite clear that the program was and a bill has been submitted by the gentlewoman from Rhode Island (Mrs. SCHNEIDER), a member of the minority party in this body. I have no reservation about that. But what I am saying is that we did not have hearings on it. And I feel that that would be a grave mistake, to start passing authorizing legislation on new programs that this committee has not held hearings on, this committee that is responsible for that new program. That is all I am saying. It does not sell if it is from this side, and it does not sell if it is from the gentleman's side.

Mr. BROWN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from Florida (Mr. FUQUA).

May I first, Mr. Chairman, add my own commendation to those which have been expressed earlier for the work of the distinguished gentleman from New York, who has been speaking so eloquently on this bill. I can testify from my own experience on the committee as to his extreme diligence and contribution to the work of the committee.

□ 1245

Mr. BROWN of California. Mr. Chairman, I am somewhat reluctant to speak on this legislation for two reasons. First, since I arrived late for the debate, it may be that my remarks will be repetitious. I would like to avoid that if possible.

Second, I have spoken many times in the past on this legislation. I have a very deep concern for the health of the EPA research program and specific aspects of it particularly, such as those involving the Clean Air Act. I am afraid that I may be construed as being highly nonobjective. I do not like to get into that position any more than necessary.

Despite that, I feel constrained to rise and make an appeal, at the very least, for the level of authorized funding proposed in the amendment of the gentleman from Florida (Mr. FUQUA).

I personally would feel that the EPA's program would be much better if it were maintained at the higher level of the committee report. In committee, I actually fought for an even higher level than is contained in the present bill.

I say this because, recognizing the need to weigh the requirements of environmental protection against the economic needs of the country, I still feel that we are not giving sufficient weight to the tremendous job that lies ahead of us in cleaning up the environment of this country.

I know that we cannot do it all in 1 year. I know that it will require time and that under these circumstances, it is necessary to make compromises.

I am willing to make those compromises within reason, and I think the compromise offered by the gentleman from Florida (Mr. FUQUA) is probably the very least that I could support with any degree of enthusiasm on legislation as important as what we have here.

I am also cognizant of some of the other objections raised by the gentleman from New York (Mr. CARNEY), the 2-year authorization, for example, and his statement that we need to keep EPA's feet to the fire. I have been keeping EPA's feet to the fire to the best of my ability, as one member, for quite a few years; and it is my honest opinion—and I have expressed this in report language before—that what EPA needs is a period of relative tranquility to get its act together and to carry out a program without the continued harassment which all too unfortunately seems to be the pattern of congressional intervention.

This is out of no desire to make their life comfortable over there. I want to see them do a better job. I think we can do this with ongoing oversight, without the necessity for the annual authorization process. A 2-year authorization is quite reasonable under these circumstances. We took similar action just last Wednesday, for example, on one phase of the EPA program—the FIFRA Act—which we reauthorized for a 2-year period, just as this act does.

I think this will do much to improve the quality of EPA's pesticide regulations.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(At the request of Mr. FUQUA and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. So I cannot agree with the gentleman's statement that we would improve the quality of EPA's work by the continuation of our existing annual authorization. I think a 2-year authorization is desirable at this point.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

I would like to elaborate on that point. It does give the committee an opportunity to do more oversight on the ongoing programs EPA has. I do not see in any way the committee is shirking its responsibility. Even with a 2-year bill, if we felt necessary, we could come in the following year in 1984 with an authorization bill, if the committee deemed that that was appropriate in order to change a program or direction.

The second point I wanted to make is that the amendment brings it below what the first concurrent budget resolution passed by this House provided for, and it is the same as the fiscal year 1982 spending level of the agency. So there is no increase.

I think with the many concerns that we have with our environment, this is a very, very bare bones approach and a budget for this. I urge the adoption of the amendment to the amendment in the nature of a substitute that I have offered.

Mr. BROWN of California. Mr. Chairman, I agree completely with the gentleman from Florida (Mr. FUQUA). In that light, I will make a personal offer to the gentleman from New York (Mr. SCHEUER), to join with him and his subcommittee for the kind of extensive oversight which we are engaged in right now in the Committee on Agriculture over the operations of EPA in order to make sure that they do improve the quality of their research and make it more useful for the purposes of regulation and improving the overall environment of this country. I know that the gentleman from New York (Mr. SCHEUER) will continue to be cooperative in doing this kind of joint oversight.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentleman for yielding.

Mr. Chairman, I want to assure the gentleman I welcome the opportunity to conduct joint hearings with him where we have concurrent jurisdiction on oversight. I have long thought we waste too much time in this Congress having separate committees going over the same ground.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CARNEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 244, noes 153, not voting 37, as follows:

[Roll No. 283]

AYES—244

Akaka	Ford (MI)	Nelson
Albosta	Ford (TN)	Nowak
Alexander	Fountain	Oakar
Anderson	Fowler	Oberstar
Andrews	Frank	Obey
Annunzio	Frost	Ottinger
Anthony	Fuqua	Panetta
Aspin	Garcia	Parris
AuCoin	Gaydos	Patterson
Bailey (PA)	Gejdenson	Pease
Barnard	Gephardt	Pepper
Barnes	Gibbons	Perkins
Bedell	Gingrich	Peyser
Beilenson	Glickman	Pickle
Benjamin	Gonzalez	Porter
Bennett	Gore	Price
Bereuter	Gray	Rangel
Bevill	Green	Ratchford
Biaggi	Gregg	Reuss
Bingham	Grisham	Richmond
Blanchard	Guarini	Rinaldo
Boggs	Gunderson	Ritter
Boland	Hall (OH)	Rodino
Boner	Hamilton	Roe
Bonior	Harkin	Rose
Bonker	Heckler	Rostenkowski
Bouquard	Hefner	Roukema
Bowen	Hertel	Roybal
Brinkley	Hollenbeck	Russo
Brodhead	Horton	Sabo
Brooks	Howard	Santini
Brown (CA)	Hoyer	Savage
Burton, Phillip	Hughes	Scheuer
Chappell	Hutto	Schneider
Chisholm	Jacobs	Schroeder
Clay	Jeffords	Schulze
Clinger	Jenkins	Schumer
Coelho	Jones (NC)	Seiberling
Collins (IL)	Jones (OK)	Shamansky
Conte	Jones (TN)	Shannon
Coughlin	Kastenmeier	Sharp
Courter	Kennelly	Simon
Coyne, William	Kildee	Skelton
Crockett	Kogovsek	Smith (IA)
Daschle	LaFalce	Smith (NJ)
Davis	Lantos	Smith (PA)
de la Garza	Leach	Snowe
Deckard	Lehman	Solarz
Dellums	Leland	Solomon
DeNardis	Lent	St Germain
Dicks	Levitas	Stark
Dingell	Long (LA)	Stokes
Dixon	Long (MD)	Stratton
Donnelly	Lowry (WA)	Studds
Dorgan	Luken	Swift
Dougherty	Lundine	Synar
Dowdy	Markey	Tauke
Downey	Martin (NY)	Traxler
Dwyer	Martinez	Udall
Dymally	Matsui	Vento
Dyson	Mattox	Volkmer
Early	Mavroules	Walgren
Eckart	Mazzoli	Washington
Edgar	McCurdy	Watkins
Edwards (CA)	McDade	Waxman
English	McGrath	Weaver
Erdahl	McHugh	Weber (MN)
Evans (DE)	Mica	Weiss
Evans (IA)	Mikulski	White
Evans (IN)	Miller (CA)	Whitley
Fary	Mineta	Wilson
Fascell	Minish	Wirth
Fazio	Mitchell (MD)	Wolf
Fenwick	Mitchell (NY)	Wolpe
Ferraro	Moakley	Wright
Findley	Molinari	Wyden
Fish	Mollohan	Yates
Fithian	Mottl	Young (MO)
Flippo	Murphy	Zablocki
Florio	Murtha	Zeferetti
Foglietta	Natcher	
Foley	Nelligan	

NOES—153

Applegate	Atkinson	Beard
Archer	Badham	Benedict
Ashbrook	Bailey (MO)	Bethune
Bliley	Hendon	Pashayan
Broomfield	Hightower	Patman
Brown (CO)	Hiler	Petri
Burgener	Hillis	Pritchard
Butler	Hopkins	Pursell
Byron	Hubbard	Quillen
Campbell	Huckaby	Railsback
Carman	Hunter	Regula
Carney	Hyde	Roberts (KS)
Chappie	Jeffries	Roberts (SD)
Cheney	Johnston	Robinson
Clausen	Kazen	Roemer
Coats	Kemp	Rogers
Collins (TX)	Kindness	Roth
Conable	Kramer	Rousselot
Conyers	Lagomarsino	Rudd
Corcoran	Latta	Sawyer
Craig	Leath	Sensenbrenner
Crane, Daniel	LeBoutillier	Shaw
Crane, Philip	Lee	Shelby
Daniel, Dan	Lewis	Shumway
Daniel, R. W.	Livingston	Shuster
Dannemeyer	Loeffler	Siljander
Daub	Lott	Skeen
Derwinski	Lowery (CA)	Smith (NE)
Dickinson	Lujan	Smith (OR)
Dornan	Lungren	Snyder
Dreier	Madigan	Spence
Duncan	Marlenee	Stangeland
Dunn	Marriott	Stanton
Edwards (AL)	Martin (IL)	Staton
Emerson	Martin (NC)	Stenholm
Erlenborn	McClory	Stump
Fiedler	McCloskey	Tauzin
Fields	McCollum	Taylor
Forsythe	McDonald	Thomas
Frenzel	McEwen	Trible
Goodling	Michel	Vander Jagt
Gradison	Miller (OH)	Walker
Gramm	Montgomery	Wampler
Hagedorn	Moore	Weber (OH)
Hall, Ralph	Moorhead	Whitehurst
Hall, Sam	Morrison	Whittaker
Hammerschmidt	Myers	Williams (OH)
Hance	Napier	Winn
Hansen (ID)	Nichols	Wortley
Hansen (UT)	O'Brien	Wylie
Hartnett	Oxley	Young (FL)

NOT VOTING—37

Addabbo	Ertel	Moffett
Bafalis	Evans (GA)	Neal
Bolling	Gilman	Paul
Breaux	Ginn	Rahall
Brown (OH)	Goldwater	Rhodes
Broyhill	Hatcher	Rosenthal
Burton, John	Hawkins	Smith (AL)
Coleman	Heftel	Whitten
Coyne, James	Holland	Williams (MT)
D'Amours	Holt	Yatron
Derrick	Ireland	Young (AK)
Edwards (OK)	Marks	
Emery	McKinney	

□ 1300

Mrs. BYRON, Mr. RALPH M. HALL, and Mr. LATTA changed their votes from "aye" to "no."

Messrs. SANTINI, LENT, FINDLEY, and BEREUTER changed their votes from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. EVANS OF IOWA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CARNEY, AS AMENDED

Mr. EVANS of Iowa. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. EVANS of Iowa to the amendment in the nature of a substitute offered by Mr. CARNEY, as amended: At the end of the amendment add the following new section:

SENIOR ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 9. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is directed to develop a Senior Environmental Assistance Program, designed to assist Federal, State, and local environmental agencies in carrying out programs authorized under this Act.

(b) In providing assistance under subsection (a), the Administrator shall utilize, to the fullest extent possible, existing older American employment programs, as provided for in section 105(b)(4) of Public Law 95-478.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State, or local environmental agency for funding of any activities under this section unless such agency certifies that such activities will supplement and not supplant any existing jobs.

Mr. EVANS of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. EVANS of Iowa. Mr. Chairman, the amendment that I am offering today formally authorizes the EPA to continue a program which has demonstrated successes in promoting environmental quality and giving meaningful work to older Americans. This amendment authorizes no new money and would be implemented with funding already available under title V of the Older Americans Act and with existing EPA personnel.

My amendment is based on a very successful demonstration project conducted by the EPA in conjunction with the Administration on Aging and the Department of Labor. Pilot programs were conducted in Iowa where nearly 100 senior workers were utilized by the departments of agriculture and environmental quality. The demonstration was then expanded to 10 additional States where another 200 workers were employed. In addition, EPA has utilized these older workers in their 10 regional offices in the community noise program. The primary task of these participants is to assist State and local governments with environmental control programs. Many of these programs are mandated by Federal law, but left to the States to implement. Without sufficient personnel or funding, the States cannot comply. An example of this is the survey of drinking water sources required under the Safe Drinking Water Act of 1974. Iowa utilized older workers from this program to conduct this survey. Without this assistance, the survey would have been done at a significantly greater cost to the State and the public.

Mr. Chairman, this amendment has the support of the Natural Resources Defense Council, the Sierra Club, and the Friends of the Earth. In addition, it is my understanding that Senator CHAFEE will be introducing legislation this week which is similar to this amendment. He has six cosponsors for his bill, including the chairman and ranking minority member of the Senate Environment and Public Works Committee.

The Foundation for Applied Research (FAR) which is an independent contractor to the AA, examined the results of this demonstration senior citizens program. It concluded that:

With regard to the costs of the program, we could have simply stated that the program was a grandiose success because it helped the environment in ways that cannot be easily measured in dollars and cents, but surely must be substantial. Or we could have said that the program was cost beneficial because it provided employment for a segment of the popluation which is too often presumed to be unproductive. These benefits are real and they are the greatest benefits of the program.

But even against a tough, analytic yardstick, the SEE program was productive. The FAR evaluation revealed that employment of these senior citizens resulted in savings of 16.5 percent on labor costs. The program was so successful that FAR recommended it be expanded to all 50 States, and that existing State programs be increased.

Mr. Chairman, my amendment authorizes expanded use of senior citizens in both EPA's national and regional offices. It would allow for the employment of eligible older Americans to work within the EPA on such activities as air monitoring and emission testing, pesticide inventory and control, water supply sampling and monitoring, technical libraries and public information, carcinogenic surveys and followups, hazardous materials routing surveys, rural health screening, and noise abatement and control.

Why employ the elderly? First, they are a highly motivate, highly skilled, and experienced work force. Approximately 1.4 million older Americans are unemployed and actively seeking work today. Senior citizens already possess the broad range of skills and extensive on-the-job training that the young worker has yet to accumulate. Older workers also have excellent records of hard work, reliability, and low absenteeism. Second, our system actively discriminates against them. The U.S. Commission on Civil Rights concluded that employment discrimination against the elderly was widespread in Federal job programs. The Commission said:

We are shocked at the cavalier manner in which our society neglects older persons who often desperately need federally supported services and benefits.

In addition to the older Americans who are actively seeking work, there are an estimated 350,000 workers over the age of 55 who are "discouraged workers"—people who have given up looking for a job but would take one if it were offered. Many of these citizens are economically disadvantaged. One in every nine couples with a husband 65 or over had an income of less than $4,000 in 1976. Some 3 million persons aged 65 or older were below the poverty line in 1976.

And yet, these older workers, if given the chance, can be more productive per dollar of Federal cost than younger workers in the same fields of endeavor.

In closing, I reiterate that this amendment will help the EPA stretch its already stretched budget and assist older Americans to obtain productive and meaningful employment by allowing them to give future generations the benefits of a cleaner and safer environment.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Iowa. Yes; I am glad to yield to the distinguished chairman of the committee.

Mr. FUQUA. Mr. Chairman, we have had a chance to review the gentleman's amendment. We think it is constructive, well intentioned, and contributes to the bill. We have no objection to it and are willing to accept the amendment.

Mr. EVANS of Iowa. Mr. Chairman, I thank the gentleman.

Mr. CARNEY. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Iowa. I am happy to yield to the gentleman from New York.

Mr. CARNEY. Mr. Chairman, the minority has had an opportunity to look at the amendment and certainly we are in full accord with the amendment, as the chairman is.

I would like to commend my colleague, the gentleman from Iowa, for presenting this most important amendment to the bill. It is one that will not cost us any money and it answers a requirement of the EPA and of our senior citizens community.

I would be in total support of the gentleman's amendment.

Mr. EVANS of Iowa. Mr. Chairman, I thank the gentleman.

I yield to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as an original cosponsor of legislation to establish a Senior Environmental Assistance Corps to provide environmental career opportunities for older Americans, I strongly support this amendment. I am aware of the successful demonstration program conducted by the Environmental Protection Agency in cooperation with the Administration on Aging. The program was conducted in 10 States and employed hundreds of older Americans who were assigned to State and local environmental agencies to con-

duct special projects. Activities included hazardous wastes industrial surveys, local noise control seminars, management information updates, and a pesticides registration assistance program.

This amendment would formalize the senior environmental assistance program within the Environmental Protection Agency and direct EPA to assist in the development of State and local older American environmental projects as determined in cooperation with State and local environmental agencies.

I understand that the enthusiasm and vitality displayed by these senior environmental workers is inspirational. Working on a 20-hour week, on a part-time basis, the accomplishments of these individuals, all 55 years and older, is outstanding. The unique aspect of this program is that it used existing Federal older worker program funds and did not require any new expenditures from the Environmental Protection Agency. Further, there is ample opportunity for EPA to explore a volunteer-oriented program element within the overall program concept.

I urge adoption of this element.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. EVANS) to the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CARNEY), as amended.

The amendment to the amendment in the nature of a substitute, as amended, was agreed to.

□ 1315

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from New York (Mr. CARNEY), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CARNEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 394, noes 7, not voting 33, as follows:

[Roll No. 284]

AYES—394

Addabbo	Beilenson	Broomfield
Akaka	Benedict	Brown (CA)
Albosta	Benjamin	Brown (CO)
Alexander	Bennett	Burgener
Anderson	Bereuter	Butler
Andrews	Bethune	Byron
Annunzio	Bevill	Campbell
Anthony	Biaggi	Carman
Applegate	Blanchard	Carney
Archer	Bliley	Chappell
Ashbrook	Boggs	Chappie
Aspin	Boland	Cheney
Atkinson	Boner	Chisholm
AuCoin	Bonior	Clausen
Bailey (MO)	Bonker	Clay
Bailey (PA)	Bouquard	Clinger
Barnard	Bowen	Coats
Barnes	Brinkley	Coelho
Beard	Brodhead	Collins (IL)
Bedell	Brooks	Collins (TX)
Conable	Hammerschmidt	Mitchell (NY)
Conte	Hance	Moakley
Corcoran	Hansen (ID)	Molinari
Coughlin	Hansen (UT)	Mollohan
Courter	Harkin	Montgomery
Coyne, James	Hartnett	Moore
Coyne, William	Hatcher	Moorhead
Craig	Hawkins	Morrison
Crane, Daniel	Heckler	Mottl
Crane, Philip	Hefner	Murphy
Daniel, Dan	Hendon	Murtha
Daniel, R. W.	Hertel	Myers
Dannemeyer	Hightower	Napier
Daschle	Hiler	Natcher
Daub	Hillis	Nelligan
Davis	Holland	Nelson
de la Garza	Hollenbeck	Nichols
Deckard	Hopkins	Nowak
Dellums	Horton	O'Brien
DeNardis	Howard	Oakar
Derrick	Hoyer	Oberstar
Derwinski	Hubbard	Obey
Dickinson	Huckaby	Oxley
Dicks	Hughes	Panetta
Dingell	Hunter	Parris
Dixon	Hutto	Pashayan
Donnelly	Hyde	Patman
Dorgan	Jacobs	Patterson
Dornan	Jeffords	Pease
Dougherty	Jeffries	Pepper
Dowdy	Jenkins	Perkins
Downey	Johnston	Petri
Dreier	Jones (NC)	Peyser
Duncan	Jones (OK)	Pickle
Dunn	Jones (TN)	Porter
Dwyer	Kastenmeier	Price
Dymally	Kazen	Pritchard
Dyson	Kemp	Pursell
Early	Kennelly	Quillen
Eckart	Kildee	Railsback
Edgar	Kindness	Rangel
Edwards (AL)	Kogovsek	Ratchford
Edwards (CA)	Kramer	Regula
Emerson	LaFalce	Reuss
English	Lagomarsino	Richmond
Erdahl	Lantos	Rinaldo
Erlenborn	Latta	Ritter
Evans (DE)	Leach	Roberts (KS)
Evans (IA)	Leath	Roberts (SD)
Evans (IN)	LeBoutillier	Robinson
Fascell	Lee	Rodino
Fazio	Lehman	Roe
Fenwick	Leland	Roemer
Ferraro	Lent	Rogers
Fiedler	Levitas	Rose
Fields	Lewis	Rostenkowski
Findley	Loeffler	Roth
Fish	Long (LA)	Roukema
Fithian	Long (MD)	Rousselot
Flippo	Lott	Roybal
Florio	Lowery (CA)	Rudd
Foglietta	Lowry (WA)	Russo
Foley	Lujan	Sabo
Ford (MI)	Luken	Santini
Ford (TN)	Lundine	Savage
Forsythe	Lungren	Sawyer
Fountain	Madigan	Scheuer
Fowler	Markey	Schneider
Frank	Marlenee	Schroeder
Frenzel	Marriott	Schulze
Frost	Martin (IL)	Schumer
Fuqua	Martin (NC)	Seiberling
Garcia	Martin (NY)	Sensenbrenner
Gaydos	Martinez	Shamansky
Gejdenson	Matsui	Shannon
Gephardt	Mattox	Sharp
Gibbons	Mavroules	Shaw
Gilman	Mazzoli	Shelby
Gingrich	McClory	Shumway
Glickman	McCloskey	Shuster
Gonzalez	McCollum	Siljander
Goodling	McCurdy	Simon
Gore	McDade	Skeen
Gradison	McDonald	Skelton
Gramm	McEwen	Smith (IA)
Gray	McGrath	Smith (NE)
Green	McHugh	Smith (NJ)
Gregg	McKinney	Smith (OR)
Grisham	Mica	Smith (PA)
Guarini	Michel	Snowe
Gunderson	Mikulski	Snyder
Hagedorn	Miller (CA)	Solomon
Hall (OH)	Miller (OH)	Spence
Hall, Ralph	Mineta	St Germain
Hall, Sam	Minish	Stangeland
Hamilton	Mitchell (MD)	Stanton
Stark	Vento	Wilson
Staton	Volkmer	Winn
Stenholm	Walgren	Wirth
Stokes	Walker	Wolf
Stratton	Wampler	Wolpe
Studds	Washington	Wortley
Stump	Watkins	Wright
Swift	Waxman	Wyden
Synar	Weaver	Wylie
Tauke	Weber (MN)	Yates
Tauzin	Weber (OH)	Young (FL)
Taylor	White	Young (MO)
Thomas	Whitehurst	Zablocki
Traxler	Whitley	Zeferetti
Trible	Whittaker	
Vander Jagt	Williams (OH)	

NOES—7

Bingham	Fary	Weiss
Burton, Phillip	Ottinger	
Conyers	Solarz	

NOT VOTING—33

Badham	Emery	Neal
Bafalis	Ertel	Paul
Bolling	Evans (GA)	Rahall
Breaux	Ginn	Rhodes
Brown (OH)	Goldwater	Rosenthal
Broyhill	Heftel	Smith (AL)
Burton, John	Holt	Udall
Coleman	Ireland	Whitten
Crockett	Livingston	Williams (MT)
D'Amours	Marks	Yatron
Edwards (OK)	Moffett	Young (AK)

□ 1330

So the amendment in the nature of a substitute, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. DOWNEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6323) to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 535, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. WALKER. Yes, I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. WALKER moves to recommit the bill, H.R. 6323, to the Committee on Science and Technology.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 314, nays 92, not voting 28, as follows:

[Roll No. 285]

YEAS—314

Addabbo	Dorgan	Hightower
Akaka	Dornan	Hillis
Albosta	Dougherty	Holland
Alexander	Dowdy	Hollenbeck
Anderson	Downey	Hopkins
Andrews	Duncan	Horton
Annunzio	Dunn	Howard
Anthony	Dwyer	Hoyer
Aspin	Dymally	Huckaby
Atkinson	Dyson	Hughes
AuCoin	Early	Hutto
Bailey (PA)	Eckart	Hyde
Barnard	Edgar	Jacobs
Barnes	Edwards (AL)	Jeffords
Beard	Edwards (CA)	Jones (NC)
Bedell	English	Jones (OK)
Beilenson	Erdahl	Jones (TN)
Benedict	Erlenborn	Kastenmeier
Benjamin	Evans (DE)	Kazen
Bennett	Evans (IA)	Kennelly
Bereuter	Evans (IN)	Kildee
Bevill	Fary	Kogovsek
Biaggi	Fascell	LaFalce
Bingham	Fazio	Lantos
Blanchard	Fenwick	Leach
Boggs	Ferraro	LeBoutillier
Boland	Fiedler	Lehman
Bolling	Findley	Leland
Boner	Fish	Lent
Bonior	Fithian	Levitas
Bonker	Flippo	Long (LA)
Bouquard	Florio	Long (MD)
Bowen	Foglietta	Lowery (CA)
Brinkley	Foley	Lowry (WA)
Brodhead	Ford (MI)	Luken
Brooks	Ford (TN)	Lundine
Broomfield	Forsythe	Madigan
Brown (CA)	Fountain	Markey
Burton, Phillip	Fowler	Marks
Carman	Frank	Marriott
Carney	Frenzel	Martin (IL)
Chappell	Frost	Martin (NC)
Chisholm	Fuqua	Martin (NY)
Clausen	Garcia	Martinez
Clay	Gaydos	Matsui
Clinger	Gejdenson	Mattox
Coats	Gephardt	Mavroules
Coelho	Gibbons	Mazzoli
Collins (IL)	Gilman	McClory
Conte	Gingrich	McCollum
Coughlin	Glickman	McCurdy
Coyne, James	Gonzalez	McDade
Coyne, William	Gore	McEwen
Crockett	Gradison	McGrath
Daschle	Gray	McHugh
Daub	Green	McKinney
Davis	Gregg	Mica
de la Garza	Guarini	Michel
Deckard	Gunderson	Mikulski
Dellums	Hall (OH)	Miller (CA)
DeNardis	Hall, Sam	Mineta
Derrick	Hamilton	Minish
Derwinski	Harkin	Mitchell (MD)
Dickinson	Hatcher	Mitchell (NY)
Dicks	Hawkins	Moakley
Dingell	Heckler	Molinari
Dixon	Hefner	Mollohan
Donnelly	Hertel	Morrison
Mottl	Rodino	Staton
Murphy	Roe	Stokes
Murtha	Rogers	Stratton
Napier	Rose	Studds
Natcher	Rostenkowski	Swift
Nelligan	Roth	Synar
Nelson	Roukema	Tauke
Nichols	Roybal	Traxler
Nowak	Russo	Udall
O'Brien	Sabo	Vander Jagt
Oakar	Santini	Vento
Oberstar	Savage	Volkmer
Obey	Sawyer	Walgren
Ottinger	Scheuer	Wampler
Panetta	Schneider	Washington
Parris	Schroeder	Watkins
Patman	Schulze	Waxman
Patterson	Schumer	Weaver
Pease	Seiberling	Weber (MN)
Pepper	Shamansky	Weiss
Perkins	Shannon	White
Petri	Sharp	Whitley
Peyser	Shaw	Whittaker
Pickle	Shelby	Williams (OH)
Porter	Simon	Wilson
Price	Smith (IA)	Wirth
Pritchard	Smith (NE)	Wolf
Pursell	Smith (NJ)	Wolpe
Railsback	Smith (PA)	Wright
Rangel	Snowe	Wyden
Ratchford	Solarz	Wylie
Regula	Solomon	Yates
Reuss	Spence	Young (FL)
Rhodes	St Germain	Young (MO)
Richmond	Stangeland	Zablocki
Rinaldo	Stanton	Zeferetti
Ritter	Stark	

NAYS—92

Applegate	Hammerschmidt	Myers
Archer	Hance	Oxley
Ashbrook	Hansen (ID)	Pashayan
Bailey (MO)	Hansen (UT)	Paul
Bethune	Hartnett	Quillen
Bliley	Hendon	Roberts (KS)
Brown (CO)	Hiler	Roberts (SD)
Burgener	Hubbard	Robinson
Butler	Hunter	Roemer
Byron	Jeffries	Rousselot
Campbell	Jenkins	Rudd
Chappie	Johnston	Sensenbrenner
Cheney	Kemp	Shumway
Collins (TX)	Kindness	Shuster
Conable	Kramer	Siljander
Conyers	Lagomarsino	Skeen
Corcoran	Latta	Skelton
Craig	Leath	Smith (OR)
Crane, Daniel	Lee	Snyder
Crane, Philip	Lewis	Stenholm
Daniel, Dan	Livingston	Stump
Daniel, R. W.	Loeffler	Tauzin
Dannemeyer	Lott	Taylor
Dreier	Lujan	Thomas
Emerson	Lungren	Trible
Fields	Marlenee	Walker
Goodling	McDonald	Weber (OH)
Gramm	Miller (OH)	Whitehurst
Grisham	Montgomery	Winn
Hagedorn	Moore	Wortley
Hall, Ralph	Moorhead	

NOT VOTING—28

Badham	Emery	Neal
Bafalis	Ertel	Rahall
Breaux	Evans (GA)	Rosenthal
Brown (OH)	Ginn	Smith (AL)
Broyhill	Goldwater	Whitten
Burton, John	Heftel	Williams (MT)
Coleman	Holt	Yatron
Courter	Ireland	Young (AK)
D'Amours	McCloskey	
Edwards (OK)	Moffett	

□ 1345

Mr. MARTIN of North Carolina changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I call up from the Speaker's table the Senate bill (S. 2577) to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1983, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FUQUA moves to strike out all after the enacting clause of the Senate bill, S. 2577, and to insert in lieu thereof the provisions of the bill, H.R. 6323, as passed, as follows:

SHORT TITLE

SECTION 1. This Act may be cited as the "Environmental Research, Development, and Demonstration Act of 1983".

GENERAL AUTHORIZATIONS

SEC. 2. (a) There are authorized to be appropriated to the Environmental Protection Agency for environmental research, development, and demonstration activities:

(1) $55,685,000 for fiscal year 1983 and $59,026,000 for fiscal year 1984 for activities authorized under the Clean Air Act;

(2) $40,790,000 for fiscal year 1983 and $43,237,000 for fiscal year 1984 for activities authorized under the Federal Water Pollution Act;

(3) $25,906,000 for fiscal year 1983 and $27,460,000 for fiscal year 1984 for activities authorized under the Safe Drinking Water Act;

(4) $31,579,000 for fiscal year 1983 and $33,474,000 for fiscal year 1984 for activities authorized under the Solid Waste Disposal Act;

(5) $6,469,000 for fiscal year 1983 and $6,857,000 for fiscal year 1984 for activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act;

(6) $1,586,000 for fiscal year 1983 and $1,681,000 for fiscal year 1984 for radiation activities authorized under section 301 of the Public Health Service Act;

(7) $13,770,000 for fiscal year 1983 and $14,602,000 for fiscal year 1984 for interdisciplinary activities;

(8) $28,149,000 for fiscal year 1983 and $29,838,000 for fiscal year 1984 for activities authorized under the Toxic Substances Control Act;

(9) $53,530,000 for fiscal year 1983 and $56,742,000 for fiscal year 1984 for energy activities, of which—

(A) $20,128,000 in fiscal year 1983 and $21,336,000 in fiscal year 1984 is for the Energy Control Technology Research Program;

(B) $6,889,000 in fiscal year 1983 and $7,302,000 in fiscal year 1984 is for the Energy Health Effects Research Program;

(C) $11,484,000 in fiscal year 1983 and $12,173,000 in fiscal year 1984 is for the Energy Ecological Effects Research Program;

(D) $3,000,000 in fiscal year 1983 and $3,180,000 in fiscal year 1984 is for the Energy Monitoring Research Program; and

(E) $12,029,000 in fiscal year 1983 and $12,751,000 in fiscal year 1984 is for the Acid Rain Research Program; and

(10) $10,736,000 for fiscal year 1983 and $7,736,000 for fiscal year 1984 for hazardous waste activities authorized under the Com-

prehensive Environmental Response, Compensation, and Liability Act (Superfund).

(b) There are authorized to be appropriated to the Environmental Protection Agency, Office of Research and Development, $9,721,000 for fiscal year 1983, and $10,304,000 for fiscal year 1984, for program management and support.

(c) When the Administrator of the Environmental Protection Agency finds it in the public interest, the Administrator may utilize funds authorized in subsection (a) or (b) for the purpose of conducting appropriate scientific and professional reviews of research and development grant, contract, and cooperative agreement applications and to enter into cooperative agreements to conduct such reviews.

(d)(1) No funds may be transferred from or to any category listed in subsection (a) or (b) of this section or in subsection (a) of section 3, for any purpose, except as specifically permitted under paragraph (2).

(2) Funds authorized for any fiscal year in any category listed in subsection (a) or (b) of this section or subsection (a) of section 3 may be transferred (for the same fiscal year) from that category to any other category so listed; except that no funds may be so transferred from any particular category to another category if the total of all amounts so transferred from that particular category for the fiscal year involved would exceed 5 per centum thereof, or if the total of all amounts so transferred to such other category for such fiscal year would exceed 5 per centum thereof, unless—

(A) a period of thirty legislative days has passed after the Administrator (or the Administrator's designee) has transmitted to the Speaker of the House of Representatives, the President of the Senate, and appropriate committees of the House and Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reasons therefor; or

(B) each committee of the House of Representives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

(3) If any funds are transferred from one category listed in subsection (a) or (b) of this section or subsection (a) of section 3 to another category so listed, and the transfer of such funds or any part thereof is not in full compliance with the requirements of paragraph (2), then (from and after the date of such transfer) none of the funds otherwise available for the fiscal year involved in the category to which the transfer is made (including but not limited to the transferred funds themselves) may be obligated, expended, or otherwise used, for any purpose, until such time as all of such requirements have been fully complied with.

(e) No funds appropriated pursuant to this Act shall be used by the Administrator for any payment for a reduction-in-force in any fiscal year, and no such reduction shall be finalized, unless at least thirty days prior to issuing any general notice of such reduction the Administrator informs the appropriate legislative and appropriation committees of the Senate and House of Representatives in writing of the reasons for such reduction, the impact of such reduction on carrying out the provisions of this Act, the details of such reduction, and other pertinent information.

(f) Appropriations made pursuant to the authority provided by this Act shall remain available for obligation for expenditure, or for obligation and expenditure, for such periods as may be specified in the Acts making such appropriations.

LONG-TERM RESEARCH

SEC. 3. (a) Unless otherwise specified by law, at least 20 per centum of the funds appropriated to the Administrator for fiscal year 1983 and fiscal year 1984 for salaries and expenses and for contracts, grants, and cooperative agreements, pursuant to the authorizations contained in section 2(a), shall be obligated and expended for long-term environmental research and development. Of the funds authorized under section 2(a), $54,344,000 is authorized in fiscal year 1983 and $56,876,000 is authorized in fiscal year 1984 for such long-term environmental research and development in accordance with the following distribution:

(1) $14,690,000 for fiscal year 1983 and $15,812,000 for fiscal year 1984 may be obligated and expended for peer-reviewed research performed inhouse,

(2) $26,513,000 for fiscal year 1983 and $27,355,000 for fiscal year 1984 may be obligated and expended for grants for peer-reviewed research,

(3) $7,928,000 for fiscal year 1983 and $8,164,000 for fiscal year 1984 may be obligated and expended for cooperative agreements with or block grants to university or nonprofit research institutes, and

(4) $5,213,000 for fiscal year 1983 and $5,545,000 for fiscal year 1984 may be obligated and expended for the exploratory research program, with $2,622,000 for fiscal year 1983 and $2,800,000 for fiscal year 1984 being obligated and expended for salaries and expenses.

(b)(1) Any amount which is obligated and expended for any fiscal year under subsection (a) shall be taken from the funds which were appropriated (for that fiscal year) for the category set forth in paragraph (7) of section 2(a), except that if the amount so obligated and expended exceeds the total amount of the funds appropriated for that category, the excess shall be taken from the funds which were appropriated (for that fiscal year) for the other categories set forth in section 2, in proportions which assure that each such other category will have contributed the same percentage of the total amount appropriated for that category under the applicable paragraph of section 2(a).

(2) The use under subsection (a) of any funds appropriated pursuant to authorizations contained in section 2 shall not constitute a transfer of such funds from one category to another for purposes of section 2(d), and shall not be taken into account in applying section 2(d) with respect to transfers of other funds.

(c) The Administrator shall take whatever steps are necessary and appropriate to ensure—

(1) that the programs listed in subsection (a) are organized and managed for maximum benefit to all the programs administered by the Environmental Protection Agency,

(2) that the research funded through the programs listed in subsection (a) are of high scientific quality and relevant, whether directly or indirectly, to the mission of the Environmental Protection Agency, and

(3) that the results of the research funded through the programs listed in subsection (a) are widely disseminated to those who would benefit therefrom.

(d) The Administrator shall prepare an annual report on the performance of the programs listed in subsection (a) and shall submit the report to the appropriate legislative and appropriation committees of the Senate and House of Representatives at the time the President's budget is submitted to Congress. The report shall include—

(1) a list of funded research projects by category of research,

(2) the nature, status, and major results of funded research projects,

(3) how the results of the research projects are likely to be used and what steps are being taken to foster their use, and

(4) other pertinent information on the performance of the programs listed in subsection (a).

ENVIRONMENTAL MONITORING

SEC. 4. (a) Of the funds authorized to be appropriated to the Administrator of the Environmental Protection Agency for environmental research and development under section 2, $43,253,000 for fiscal year 1983 and $46,030,000 for fiscal year 1984 are authorized for environmental monitoring activities which are authorized under the Federal environmental statutes and which support development of a continuing national environmental monitoring program. The Administrator, in consultation and cooperation with the heads of the National Bureau of Standards, the United States Geological Survey, the National Institutes of Health, the National Oceanic and Atmospheric Administration, and other Federal and State agencies involved in environmental monitoring activities, shall take such actions on a continuing basis as may be necessary and appropriate to ensure that the national environmental monitoring program called for in this subsection is comprehensive and national in scope and will allow effective and efficient implementation of the Federal environmental statutes, valid assessments of environmental quality in all media, and accurate determination of the impact of environmental protection programs on environmental quality.

(b) The Administrator shall proceed with the development of the national environmental monitoring program called for in subsection (a) by first developing a national monitoring program for air quality, the features of which shall be applied, where appropriate and useful, to monitoring programs for other media. The Administrator shall prepare, in consultation and cooperation with the heads of appropriate Federal and State agencies involved in environmental monitoring activities, a plan for the design and implementation of the monitoring program called for in this subsection. The plan shall—

(1) include a statement of objectives for the program which conform with and are supportive of the goals of such a program as set forth in subsection (a), steps to achieve these objectives, measures of program performance, program participants and their responsibilities and activities in support of the program, and any other pertinent information which may be necessary for successful implementation and appropriate evaluation of the program;

(2) be reviewed by the National Academy of Sciences, with the results of the review being included in the plan along with the Administrator's response to this review; and

(3) be submitted to the appropriate legislative committees of the Senate and House of Representatives one year after the enactment of this Act, and thereafter biannually, following review and update of the plan by program participants, the National Acade-

my of Sciences, and the Environmental Protection Agency.

(c) On the last day of fiscal year 1984, the Administrator shall issue a report on the state of air quality and the factors affecting air quality based on data gathered through the monitoring program established under this section. The report shall be updated and reissued on the last day of each subsequent fiscal year.

(d) The Administrator shall take such actions on a continuing basis as may be necessary or appropriate—

(1) to promote the development and use of accurate and reliable procedures for gathering environmental data of verifiable accuracy; and

(2) to ensure that any environmental datum which is included in the data base of the environmental monitoring programs established pursuant to subsections (a) and (b) has been subjected to validated quality assurances procedures.

(e) No funds appropriated pursuant to this Act shall be used for special monitoring efforts to acquire data for specific, limited-duration health effects studies, or for estimates of the environmental concentration of recently discovered pollutants.

ENERGY RESEARCH

SEC. 5. (a) the Appropriations authorized for energy research under section 2(a)(9) shall be use for environmental research associated with (1) synthetic fuels production; (2) the extraction, processing, transportation, and combustion of coal, oil, natural gas, and other fossil fuels; and (3) other energy development activities and their related problems, including indoor air pollution, that may pose a threat to public health and environmental quality.

(b) In complying with subsection (a) the Administrator is directed—

(1) to establish and thereafter maintain a long-term health and ecological effects research program on energy-related pollutants whose aim shall be to identify those pollutants most harmful to public health and environmental quality and to elucidate, for those pollutants found most harmful, the relationship between exposure and health effects;

(2) to take whatever steps are necessary and appropriate to ensure that the research program called for in paragraph (1) is effectively coordinated with related research programs of the National Institutes of Health, the Department of Energy, the Department of Commerce, and other Federal agencies involved in such research;

(3) to establish and therafter maintain a monitoring program on energy-related pollutants which conforms with the requirements set forth in section 4;

(4) To include in the report on air quality required under section 4(c) a section reporting the emission and dispersion of energy-related air pollutants based on the data gathered from the monitoring program established under paragraph (3).

(c) The Administrator shall continue to be responsible for conducting, and shall continue to conduct, development and demonstration of energy-related pollution control technologies as necessary to fulfill the requirements of the Clean Air Act, the Federal Water Pollution Control Act, and other pertinent pollution control statutes.

(d) Energy-related environmental research projects authorized to be administered by the Environmental Protection Agency under this Act shall not be transferred administratively to any other Federal or State agency or reduced through budget amendment.

SCIENCE ADVISORY BOARD

SEC. 6. (a) Section 8(b) of the Environmental Research, Development, and Demonstration Authorization Act of 1978 (Public Law 95-155) is amended to read as follows:

"(b)(1) The Board shall be composed of at least nine members appointed by the Administrator from a list of nominees recommended to the Administrator by a nominating committee whose representation shall include the National Institute of Occupational Safety and Health, National Institute of Environmental Health Sciences, National Cancer Institute, National Science Foundation, and National Academy of Sciences. The nominating committee shall be established, chaired, and managed, in consultation with the Administrator, by the National Institute of Environmental Health Sciences. The nominating committee shall solicit from the general public, through notice in the Federal Register, candidates for nomination to the Board. The Administrator may require such information from the nominees to the Board as the Administrator deems necessary, and the Administrator shall publish in the Federal Register the name, address, and professional affiliation of each nominee.

"(2) Each member of the Board and nominee to the Board shall be qualified by education, training, and experience to evaluate scientific and technical information on matters referred to the Board under this section. The Administrator shall select persons nominated for the Board to ensure that Board membership is fairly balanced in terms of the points of view represented and the functions to be performed by the Board. In order to provide this balance, the Board membership must represent the States, industry, labor, academia, consumers, and the general public; and the nominating committee established under paragraph (1) shall make certain that this requirement is met when selecting nominees to the Board which in turn are recommended to the Administrator for selection as members of the Board.

"(3) The terms of the members of the Board shall be three years, and shall be staggered so that the terms of no more than one-third of the total membership of the Board and its committees shall expire within a single fiscal year. Each member of the Board shall serve the full length of that member's term unless that member is unable, for involuntary reasons, to discharge his or her duties as set forth in this section or has violated the regulations promulgated pursuant to paragraph (5).

"(4) If a vacancy on the Board is not filled by the Administrator within ninety days of the occurrence of that vacancy, the nominating committee established under paragraph (1) shall meet and appoint, within sixty days, a member of the Board to fill that vacancy from the list of nominees recommended to the Administrator under paragraph (1) in accordance with the selection criteria set forth in paragraph (2).

"(5) In order to ensure the objectivity of the Board, the Administrator shall promulgate, within one hundred and twenty days after the date of the enactment of this paragraph, regulations regarding conflicts of interest with respect to the members of the Board.".

(b) Section 8(e)(2) of such Act (Public Law 95-155) is amended by adding at the end thereof the following: "The Board's advice and comments and the response of the Administrator shall be included in the record with respect to any proposed rule and published in the Federal Register in accordance with the requirements of the environmental statutes and the authority of the Administrator.".

STUDY ON MANAGEMENT AND ORGANIZATION OF ENVIRONMENTAL RESEARCH

SEC. 7. (a) Of the funds appropriated pursuant to the authorization contained in section 2(b) of this Act for each of the fiscal years 1983 and 1984, the sum of $750,000 shall be available for a study and report, to be conducted outside of the Federal Government, on—

(1) the institutional structure and arrangements of the Federal Government established for the conduct of environmental research,

(2) the coordination of the Federal Government's efforts in environmental research,

(3) the application of the results of such efforts to environmental problems, and

(4) the appropriateness of environmental research in relationship to the mission of the Environmental Protection Agency, focusing particularly on the allocation of the Agency's research priorities.

The study shall focus on developing recommendations for improving the quality, cost-effectiveness, appropriateness and mission relevance, and utilization of environmental research sponsored by the Federal Government and for improving the scientific and technical justification for standards and regulations promulgated under authority provided in the environmental status administered by the Agency.

(b) The study shall be conducted under a contract or contracts let by the Administrator. Any such contract shall—

(1) be developed in consultation with an interagency advisory committee whose membership includes representatives of the Office of Management and Budget, the Office of Science and Technology Policy, and all agencies conducting or using the results of environmental research,

(2) be awarded to a contractor or contractors with demonstrated independence and multidisciplinary capabilities in both scientific and regulatory areas of expertise, and

(3) provide for an oversight and review role by the National Academy of Sciences.

(c) The study shall conclude with a report to be submitted to the President, the Administrator, and the Congress within two years after the date of the enactment of this Act. The report shall include recommendations for action by the President, the Administrator, other agencies, and the Congress, as may be appropriate.

(d) The report called for under subsection (c) shall not be subject to any prior clearance or review (except as specifically provided in this section), nor shall any prior clearance be a part of any contract let under subsection (b).

RESEARCH PROGRAM CONCERNING INDOOR AIR QUALITY

SEC. 8. (a) The Congress finds, on the basis of reports prepared by the General Accounting Office and the National Academy of Sciences, that due to the absence of a statutory mandate for a single Federal agency to undertake and coordinate research, development, and demonstration efforts concerning indoor air pollution—

(1) Federal programs in this field are fragmented and underfunded; and

(2) an adequate information base concerning potential indoor air quality problems is

not being developed by the Federal Government.

(b) The Administrator shall carry out a research program under this section with respect to indoor air quality. Such program shall be designed to (1) gather data and information on all aspects of indoor air quality in order to contribute to the understanding of health problems associated with the existence of air pollutants in the indoor environment, and (2) coordinate Federal, State, local and private research, development, and demonstration efforts relating to the improvement of indoor air quality.

(c) The Administrator may establish such committees, comprised of individuals representing Federal agencies concerned with various aspects of indoor air quality, and such advisory groups, comprised of individuals representing the scientific community, industry, and public interest organizations, as may be necessary to assist the Administrator in carrying out the research program required by this section. The Administrator shall also consult and coordinate with State and local officials and other interested parties having concerns related to the program carried out under this section.

(d) The research program required under this section shall include, but not be limited to—

(1) research, development, and demonstration concerning the identification, characterization, and monitoring of indoor air pollution sources and levels (including research, development, and demonstration relating to (A) the measurement of various pollutant concentrations and their strengths and sources, (B) high-risk building types, and (C) instruments for indoor air quality data collection);

(2) research relating to the effects of indoor air pollution on human health;

(3) research, development, and demonstration relating to control technologies to prevent or abate indoor air pollution (including the development, evaluation, and testing of individual and generic control devices and systems); and

(4) the dissemination of information to assure the public availability of the findings of the Administrator pursuant to the research, development, and demonstration activities under this section.

(d)(1) Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Congress a plan for the implementation of the research program required under this section.

(2) Not later than thirty-six months after such date of enactment, the Administrator shall submit a progress report, including an assessment of future research needs.

(3) Not later than fifty-four months after such date of enactment, the Administrator shall submit to the Congress a final report setting forth the results of the programs, assessing the state of knowledge concernng the risks to human health associated with indoor air pollution, assessing the need for further research, and making such recommendations as may be appropriate.

(4) The progress report and the final report submitted under this subsection shall be submitted to the National Academy of Sciences within a reasonable period before the dates required for submittal to the Congress and, when submitted to Congress, such reports shall contain any comments provided by the National Academy of Sciences.

(e) Nothing in this section shall be construed to authorize the Administrator to carry out any regulatory program or any activity other than research, development, and demonstration and the related reporting, information dissemination, and coordination activities specified in this section. Nothing in this section shall be construed to limit the authority of the Administrator or if any other agency or instrumentality of the United States under any other authority of law.

(f) Of the funds appropriated pursuant to the authorization contained in section 2(a)(9) of this Act for each of the fiscal years 1983 and 1984, the sum of $4,000,000 is authorized to be appropriated to carry out this section.

SENIOR ENVIRONMENTAL ASSISTANCE PROGRAM

SEC. 9. (a) To carry out the purposes of this Act, the Administrator of the Environmental Protection Agency is directed to develop a Senior Environmental Assistance Program, designed to assist Federal, State, and local environmental agencies in carrying out programs authorized under this Act.

(b) In providing assistance under subsection (a), the Administrator shall utilize, to the fullest extent possible, existing older American employment programs, as provided for in Sec. 105(b)(4) of Public Law 95-478.

(c) The Administrator shall not make any grant to, or enter into any agreement with, any State, or local environmental agency for funding of any activities under this section unless such agency certifies that such activities will supplement and not supplant any existing jobs.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6323) was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 6323, the bill just passed.

The SPEAKER pro tempore. (Mr. KILDEE). Is there objection to the request of the gentleman from Florida?

There was no objection.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on H.R. 6324, the bill that we are about to consider in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6324, with Mr. EVANS of Indiana in the chair.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from North Carolina (Mr. JONES) will be recognized for 15 minutes, the gentleman from Washington (Mr. PRITCHARD) will be recognized for 15 minutes, the gentleman from Florida (Mr. FUQUA) will be recognized for 15 minutes, and the gentleman from New York (Mr. CARNEY) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of H.R. 6324, which would authorize fiscal year 1983 and 1984 funds for the National Oceanic and Atmospheric Administration .

I wish to thank Mr. SCHEUER, chairmean of the Subcommittee on Natural Resources, Agriculture Research and Environment, for his leadership in bringing this legislation to the floor, and for the many hours that were devoted to the floor, and for the many hours that were devoted to the authorization and oversight hearings which developed the legislation. In addition, I wish to thank the ranking minority members of the committee and subcommittee, Mr. WINN and Mr. CARNEY, for their fine efforts.

Our committee has worked very closely with the Committee on Merchant Marine and Fisheries on the oceans-related portions of this legislation. I wish to thank Chairman JONES and his staff for their outstanding cooperation in bringing this bill to the floor. I would also like to acknowledge the efforts of Mr. D'AMOURS, Mr. SNYDER, Mr. PRITCHARD, and their staffs, who have been most helpful.

Mr. Chairman, H.R. 6324 is the initial step in a process which I hope will culminate, for the first time, in a com-

prehensive authorization act for the entire agency.

A comprehensive authorization bill for NOAA is very much need. Last year the House passed a NOAA bill reported by the Committee on Science and Technology. Unfortunately, that legislation was not considered by the other body. The committee continues to endorse the view that until a comprehensive organic act is developed for the agency, an annual NOAA authorization bill provides the committee and the Congress with the most effective means of overseeing the agency's programs.

H.R. 6324 authorizes NOAA to conduct essential research and service activities in a wide variety of areas, including weather forecasting, climatic services, atmospheric research, tornado and hurricane warnings, aviation weather, and ocean dumping research. The bill would authorize $542,779,000 for these activities in fiscal year 1983 and $575,346,000 in fiscal year 1984. The fiscal year 1983 total of $44,093,000 or 8 percent greater than the administration's request of $498,686,000. For purposes of comparison, the budget resolution contains approximately $852 million for NOAA's operations account, which is nearly 12 percent above the administration's request. Also included in H.R. 6324 are titles which would:

Amend the National Climate Program Act,

Incorporate the provisions of H.R. 3600, the Great Lakes Protection Act,

Amend title II of the Marine Research, Protection, and Sanctuaries Act, and

Reauthorize the Weather Modification Reporting Act.

The committee provided funds above the administration's request in two major areas—weather satellites and research. An increase of nearly $25 million is targeted for maintenance of two polar-orbiting weather satellites. The administration proposed downgrading this system to a one-satellite system. In its oversight investigation, the committee found that the two-satellite system provides several benefits, including better forecasts, insurance against satellite failure, and positive benefits for developing countries which use the information they generate. In short, it is a cost-effective investment.

Virtually all the other programs for which the committee provided enhanced funding were in the areas of basic research and development. In NOAA's overall budget, the administration proposed to reduce research funding for the Office of Research and Development from $123 million to $68 million—a cut of over 40 percent. The Committee viewed these cuts to be unacceptably large and voted to reinstate programs in ocean dumping and ocean pollution research, Great Lakes research, solar flare research, weather modification research, and climate research.

In summary, we have looked at NOAA's atmospheric, oceanic, and ocean pollution activities in great detail, and we have attempted to balance the needs of the agency and the Nation against the fiscal constraints under which we are attempting to operate. I believe we have struck an appropriate balance in this legislation.

H.R. 6324 contains the rock-bottom figure which will enable NOAA to fulfill the responsibilities which the Congress has mandated for it—weather, agricultural weather, ocean pollution research, and research into acid rain and other forms of atmospheric pollution, I urge my colleagues to support the bill.

Mr. SNYDER. Mr. Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from Kentucky.

Mr. SNYDER. Mr. Chairman, as the gentleman knows, title IV of the tax bill which we will be considering out of conference shortly is an authorization for the airport development aid program. In the conference the conferees agreed to pay out of the airport development aid program trust fund some $26-plus million for fiscal year 1983 and some $28-plus million for fiscal year 1984 to NOAA for weather reporting services.

If the tax bill is adopted and this bill is adopted, that would be a duplicate authorization. If the tax bill is not adopted, there is an understanding that the content of that conference agreement, so far as the authorization for ADAP is concerned, will be substituted for the pending ADAP bill, for which a rule has already been granted by the House, which again means that there would be a duplicate authorization of $26-plus million in fiscal year 1983 and $28-plus million in fiscal year 1984.

My question is, Assuming that there is a duplicate authorization, could we depend upon the gentleman to eliminate that duplication from this authorization when we go to conference?

□ 1400

Mr. FUQUA. The purpose of our intentions is to abide by that agreement.

As the gentleman knows, we have been a part of the conference on the ADAP portion of the bill. It would be our intention in conference on this bill, should the event occur, that there would be a duplication of legislation, to omit that part of the conference that relates to the subject matter the gentleman just spoke to.

Mr. SNYDER. I thank the gentleman for his assurance.

Mr. CARNEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Science and Technology and the Committee on Merchant Marine and Fisheries have expended much effort over the past several months in formulating the piece of legislation before us today. As an active member of both committees, I wish to extend my gratitude to Chairmen FUQUA and JONES, and to the ranking minority members of the full committees, the gentleman from Kansas (Mr. WINN) and the gentleman from Kentucky (Mr. SNYDER). Their strong leadership has facilitated bringing this piece of legislation to the floor of the House.

It is fortuitous for all Members of this body that the NOAA R. & D. authorization bill be considered and debated on its merits prior to any floor action taken on the respective appropriations bill.

Since mid-February of this year, several hearings have been held by the authorizing Subcommittees on Oceanography, and on Natural Resources, Agriculture Research and Environment, to address the research needs of NOAA. Many of NOAA's programs were discussed at great length, and particular concern was focused on programs dealing with research and monitoring of the ocean's resources and the impact of pollution on our ocean resources.

A second major area of concern was the health of the National Weather Service. Midway through hearings in the Science and Technology Committee, I was pleased to receive word from the Department of Commerce that the 45 weather stations proposed for closing would indeed remain open. This is one service which has continually received support from Congress; therefore, a decision to continue funding was well received by all. However, to address any future decisions on the closing or consolidation of weather stations, the gentlewoman from Nebraska (Mrs. SMITH) will come forth at the appropriate time with an amendment. I urge my colleagues to support this amendment which will provide an appropriate mechanism for the Secretary of Commerce to operate under when considering changes.

With regard to the ocean pollution research and National Weather Service, I thank my colleagues, especially the distinguished Member from New York (Mr. SCHEUER) for the strong bipartisanship which he has shown, and I rise in support of the actions these two committees have taken to maintain the vitality of these programs. However, I must admit that I am unable to give my wholehearted support for H.R. 6324 because it calls for a 2-year authorization of all NOAA atmospheric, climatic, and ocean pollution research programs and in doing so, prevents both the committee and the House as a whole from participating in a debate next year such as we are today. Though I do not object to a

change in the normal practice of this committee, I do consider it both unwise and disadvantageous for this Congress to give up its future year oversight at a time when our Nation is fighting to restore and maintain economic stability.

H.R. 6324 also represents increased funding in areas I felt the Committee on Science and Technology could have supported at the administration's request.

I am also troubled and disappointed by the unwillingness of some in the Congress to make use of existing offices and laboratories for protecting our Great Lakes. Instead, they choose to ignore these available means and opt to create a new one, which to this gentleman is an example of bureaucratic waste and inefficiency.

With previous bills, it has been the position of the minority on Science and Technology to disapprove any increases above the President's request, however, after extensive examination of the programs at NOAA, and the state of marine and climatic research, I will support the authorization levels of H.R. 6324

Mr. JONES of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished chairman of the Committee on Science and Technology, Mr. FUQUA, has very ably explained the bill before us, so I will be brief. It is always a pleasure to work with him and his committee, and our joint efforts on H.R. 6324 have been no exception. I compliment and thank him and his staff for their good work on this measure. I would like to highlight the parts of the bill that are of particular interest to the Merchant Marine and Fisheries Committee.

The National Ocean Pollution Planning Act was passed in 1978 in recognition of man's profound, and sometimes adverse, impact on the marine environment, and in acknowledgement of man's dependence on ocean resources. The act seeks to coordinate Federal marine research and monitoring as well as to provide financial assistance to groups engaged in similar endeavors. H.R. 6324 adds a new title to the National Ocean Pollution Planning Act that focuses on the Great Lakes. These lakes, which consititute one of the largest natural resources in the world, have too long been taken for granted. If the abundance of the Great Lakes is to be preserved for futher generations, we must begin to act now. The Great Lakes Protection Act, included as title 4 of the bill, is a good start.

The bill also reauthorizes title 2 of the Marine Protection, Research, and Sanctuaries Act, with a few minor changes. These changes are designed to insure: First, that ocean dumping regulation and ocean pollution research complement each other; second, that serious consideration be given to establishing regional waste management plans; and third, that a report be prepared, including a cost-benefit analysis, on sewage sludge disposal in the New York Bight Apex.

Mr. Chairman, let me add one comment on the form of this bill. This single bill deals with many programs within NOAA. While I believe that this bill is a good bill, deserving the support of every Member, the Merchant Marine and Fisheries Committee reserves judgment of the idea of these so-called omnibus authorizations. We wish to make it clear that this bill does not establish a binding precedent for future authorizations. In certain areas, for example the fish and wildlife programs under our jurisdiction, omnibus authorizations do not necessarily appear to be a good idea.

Mr. Chairman, the joint committee substitute amendment, H.R. 6798, represents the consensus agreement of the Merchant Marine and Fisheries and the Science and Technology Committees. Title 4 of H.R. 6798 is practically identical to H.R. 3600 which was reported out of our committee by unanimous voice vote. Title 5 of H.R. 6798 is essentially the same as H.R. 6112, also reported unanimously by our committee.

The differences between H.R. 6324 and the joint committee substitute, H.R. 6798, are minor. First, the authorization level for marine ecosystems, ocean dumping, and Great Lakes research is raised by $1.2 million. Of that amount, $200,000 goes to the National Ocean Pollution Planning Act, to bring that authorization up to $3 million. This is still $1 million less than the amount passed by our committee and $1 million less than the fiscal 1982 level.

The additional $1 million in section 201(a)(1) of H.R. 6798 is earmarked for the Puget Sound ocean dumping research project. This project was not specifically funded by the Science and Technology Committee but is an important project that both committees now agree should be continued.

A change in title 4 of the bill requires the Administrator of NOAA to consult with the Governors of those States bordering on the Great Lakes before appointing an Executive Director for the Great Lakes Research Office.

Title 5 of H.R. 6798 differs from H.R. 6324 only in that it requires the Environmental Protection Agency, NOAA, and the Army Corps of Engineers, cooperatively to investigate the feasibility of regional waste management plans. Title 5 further requires EPA and NOAA to report by December 31, 1983, on sewage sludge disposal in the New York region, including a cost-benefit comparison to land disposal.

Mr. Chairman, I believe this bill is a good bill. It has been worked out between our two committees and represents a sound compromise. I urge passage of H.R. 6324.

● Mr. D'AMOURS. Mr. Chairman, I rise in support of H.R. 6324, as amended by the substitute, H.R. 6798. As Chairman FUQUA and Chairman JONES have ably stated, H.R. 6798 is the result of negotiations between the Merchant Marine and Fisheries Committee and the Science and Technology Committee. The negotiations were made necessary when the two committees reported out differing versions of H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982.

While the bill before us today authorizes NOAA to conduct essential research and service activities in a wide variety of ocean and atmospheric areas, I would like to use my allotted time to expand upon the two titles of the bill directly pertinent to the jurisdiction of the Oceanography Subcommittee, which I chair.

Title IV of the bill reauthorizes the National Ocean Pollution Planning Act for fiscal years 1983 and 1984. This act was designed to coordinate the various Federal agencies conducting ocean pollution research and monitoring, to identify duplication of effort and to identify areas that are not being adequately addressed. In this way, the act provides needed guidance to the executive branch and to the Congress in assessing our research and monitoring capability and planning for the future.

Additionally, title IV amends the National Ocean Pollution Planning Act by establishing a separate Great Lakes Research Office to provide greater coordination of research efforts between various institutions and agencies involved with Great Lakes Research as a unique environmental, economic and recreational resource. Up until this time, the act has tended to treat the Great Lakes as one integral part of our oceanic environment, thus giving inadequate attention to its very different ecological nature and needs. The Great Lakes office would coordinate approximately 20 institutions, including Federal and State agencies and independent academic efforts, all currently conducting research on Great Lakes pollution.

Title IV contains provisions similar to those in H.R. 3600, the Great Lakes Protection Act of 1982, which was originally introduced by Mr. BLANCHARD of Michigan. H.R. 3600 was unanimously approved by the Merchant Marine and Fisheries Committee, as was H.R. 6324 after it was amended to incorporate the language of H.R. 3600. Both H.R. 3600 and the Merchant Marine version of H.R. 6324 reauthorized the National Ocean Pollution Planning Act at $4 million as

year, which is a level authorization from 1982, and provided that no more than $750,000 of that sum be used to fund the Great Lakes Office. In reconciling the Merchant Marine and the Science and Technology bills, the authorization level was dropped to $3 million for each of the 2 years. This will make for a somewhat leaner program, but I expect that the mandate of the program will continue to be carried out.

Title V of H.R. 6324 and H.R. 6798 amends title II of the Marine Protection, Research and Sanctuaries Act (MPRSA). The MPRSA, commonly known as the Ocean Dumping Act, was enacted in 1972 as a result of concern over the effects of unregulated ocean dumping. The act established a policy to prohibit or strictly limit the ocean dumping of material which may be harmful to humans or the marine environment.

The act is divided into three titles. Title I specifies how ocean dumping shall be regulated and directs the Environmental Protection Agency (EPA) and the Crops of Engineers (COE) to establish dumping permit programs. Title II directs NOAA and EPA to conduct comprehensive research on the effects of and alternatives to ocean dumping. Title III provides for the identification and designation of marine sanctuaries.

Title II authorizes comprehensive research programs on ocean dumping. The Secretary of Commerce is directed to conduct continuing programs of monitoring and research on the effects of ocean dumping and the long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems. EPA is directed to perform various activities to determine the means of minimizing or ending harmful ocean dumping and finding alternatives to ocean dumping. EPA is also directed to assist New York City in evaluating the technological options available for the removal of heavy metals and toxic organic materials from the city's sewage sludge, and to reduce the amount of such pollutants entering the sewage system.

Due to the combination of several events during the past few years, there has been an increased interest by the municipalities, ports, utilities, Federal agencies, and private industry to utilize the oceans for waste disposal.

The potential for increased ocean disposal of wastes by the aforementioned groups could tax EPA's ability to process the required permit applications, perform the site designation work, evaluate and monitor the effects of increased dumping, and conduct the research programs needed to produce timely information for management decisions.

The administration has requested appropriations of $4.835 million to fund title II activities for fiscal year 1983. This represents a reduction of $7.165 million for the amount appropriated in fiscal year 1982. This reduction would reduce or eliminate all support for ocean dumping regional projects, Northeast monitoring program and the ocean dumping program. Individual programs to be eliminated would include monitoring work, research on effects of trace metals on organisms, and cycling of toxic organics in the Great Lakes. Programs would also be terminated in Seattle, Stony Brook, and Ann Arbor including 71 full-time personnel positions.

The Committee on Merchant Marine and Fisheries is concerned that at a time when ocean dumping activities are increasing and there is a growing need for additional information on the effects of such dumping, the administration has proposed reduced funding for EPA and NOAA monitoring and research activities. The Merchant Marine and Fisheries Committee disagrees with the administration's proposed budget reductions which could provide the scientific information needed to predict the consequences of ocean dumping and thus increase the ability to mimimize adverse impacts on marine ecosystems. NOAA's regional projects are an excellent example of the type of work that provides information for managers of ocean dumping. Since many coastal pollution problems cross State boundaries and involve State and Federal waters, regional projects provide a useful mechanism for studying these problems. Beneficiaries of these projects include coastal managers from all levels of government.

The committee also disagrees with the administration's efforts to eliminate the dumpsite monitoring programs mandated under section 201 of the act. Safe utilization of the oceans for waste disposal, requires the ability to determine when adverse effects are occurring. Dumpsite monitoring serves to identify problems before they become serious. Elimination of this program runs the risk of causing irreparable harm if dumping is not monitored.

In testimony before the committee, the National Advisory Committee on Oceans and Atmosphere (NACOA) stressed that "increased use of the oceans for waste disposal must be accompanied by strong and viable management and assessment programs." These would include carefully designed monitoring programs and a solid basic research effort. NACOA also stressed that "EPA and NOAA funding plans for ocean disposal management and research programs fall short of meeting these needs." NACOA recommended that a fee system be implemented to fund management, monitoring, and research programs. The committee concurs with NACOA's statement.

Title V of H.R. 6324 is similar to the provisions of H.R. 6112, which was introduced by myself and unanimously reported out by the Committee on Merchant Marine and Fisheries on May 17, 1982. This title amends and reauthorizes title II of the Marine Protection, Research, and Sanctuaries Act, dealing with research related to ocean dumping of waste materials. The authorization level of $12 million for each of the next 2 years is equal to the current authorization level. The $12 million will authorize funding for several important programs. Included among these are the study of the long-term effects of ocean dumping—$4.8 million—the monitoring of ocean dumpsites—$2.5 million—continuation of the Hudson-Raritan estuary project—$1.5 million—continued research in Puget Sound—$1 million—and initiation of a special study on sewage sludge disposal in the New York City metropolitan area—$0.5 million.

Additionally, title V gives explicit direction to the Environmental Protection Agency to assess the feasibility of establishing regional waste management plans and to perform a comprehensive, multimedia, cost-benefit analysis of sewage sludge disposal in the New York City area. It also assigns additional research programs to be included in NOAA's long-term effects research programs. The following is a section-by-section analysis of title V of H.R. 6798.

SECTION-BY-SECTION ANALYSIS OF H.R. 6798 (AMENDMENTS TO TITLE II OF THE MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT)

SECTION 501—ANNUAL REPORT ON EFFECTS OF DUMPING

This section amends section 201 of the Marine Protection, Research and Sanctuaries Act (MPRSA) by deleting the reporting requirement. All reporting requirements for this title have been consolidated into one section. (See additional discussion under Section 505.)

SECTION 502—NOAA RESEARCH

This section amends section 202 of the MPRSA which directs the Secretary of Commerce to initiate research programs on possible long-range effects of pollution, overfishing and man-induced changes on ocean ecosystems.

The first portion of the amendment changes the requirement that the Secretary conduct long-range research in "consultation" with appropriate Federal agencies to that of "close consultation". This change is intended to signal to the Secretary that the research of National Oceanic and Atmospheric Administration (NOAA) on the effects of dumping should be closely coordinated with the needs of the Environmental Protection Agency (EPA), the U.S. Army Corps of Engineers and other appropriate Federal agencies. The increasing interest in utilizing the ocean for waste disposal in the past few years makes it imperative that the latest information on effects of dumping is available to the agencies charged with evaluating ocean dumping permit applications.

The second portion of the amendment specifies that the long-range research program is to complement, when appropriate, the regulatory activities pertaining to Title I of the MPRSA and specifies four specific activities to be included in the program.

First, NOAA is directed to develop and assess techniques for quantifying and defining degradation of the marine environment. Controversy over utilizing the ocean to dispose of wastes often centers around how to measure degradation and how to apply the results. If the ocean is to be a viable waste disposal option, various techniques for measuring degradation need to be developed and carefully evaluated to insure that unacceptable harm to the marine environment does not occur.

Second, NOAA is directed to assess the ability of the marine environment to assimilate waste materials without degrading the marine environment. If ocean dumping activities increase, or if the capacity of currently used sites is reached, new ocean disposal sites will be required. Potential ocean waste disposal areas, that could assimilate various wastes, exist off the coasts of the United States, but sufficient scientific information is not available to assess the ability of the marine environment to assimilate materials without degradation. Broad-based studies are therefore needed to assess the ability of the marine environment to assimilate wastes. This is especially important if ocean waste disposal areas are to be managed on the basis of their assimilative capacity. The purpose of this amendment is to direct NOAA to assess the assimilative capacity of the different types of ocean waters, based on the relevant characteristics of the waters and wastes, so that forecasts can be made as the maximum acceptable waste loadings on selected ocean areas.

Third, NOAA is directed to continue ongoing monitoring programs to assess the health of the marine environment. The value of programs such as the Northeast Monitoring Program tends to increase with time and it would be unwise to terminate any long-term monitoring program until future research indicates that new directions are appropriate.

Fourth, NOAA is directed to develop methodologies, techniques and equipment to minimize degradation of the marine environment from dumping. Current ocean dumping and disposal technology is limited to direct dumping by barge or disposal by pipe. This amendment charges NOAA with the responsibility to develop scientific and/or engineering alternatives to, or improvements on, existing ocean disposal practices.

SECTION 503—EPA RESEARCH

Section 503 adds two additional activities to EPA's research requirements under section 203 of the MPRSA.

First, the Administrator of EPA, in cooperation with other appropriate Federal, state and local officials, is directed to assess the feasibility of developing regional waste management plans that integrate all waste disposal activities into a comprehensive regional disposal strategy.

Such plans would identify and address applicable Federal, state and local waste disposal actions within a region. They would also identify sources, quantities and types of existing and future waste materials, as well as alternative waste disposal processes. Economic, social, environmental and human health factors affecting the various alternatives would be evaluated and quantified. Finally, the plans would identify improvements in permitting processes, such as regional one-step permitting, that would reduce administrative burdens.

This amendment follows the recommendation of the National Advisory Committee on Oceans and Atmosphere (NACOA). NACOA, in a January 1981 report, urged that the Congress and the Executive Branch adopt an integrated approach to waste management. An integrated approach, to be effective, must consider all alternative means of disposal, in all media, including recycling and improved source control on a region-wide basis. Full knowledge of the various natural and manmade pollutants entering marine waters, air, and land is also necessary. Because an integrated approach would involve many governmental jurisdictions, several disposal alternatives and many pollutant sources, the feasibility of establishing regional waste management plans is unclear. The amendment, therefore, directs EPA to assess the feasibility of such regional waste management plans.

Second, EPA, in cooperation with NOAA, is directed to report to the Congress by December 31, 1983 on a cross-media comparison of sewage sludge disposal in the New York City region. The report will include a cost-benefit comparison of landfilling, incineration and ocean dumping and will include recommendations on regulatory or legislative changes that may be necessary to reduce impacts from sewage sludge disposal.

Public Law 96-572 authorized the Administrator of the Environmental Protection Agency to conduct a study to assist New York City in evaluating the technological options available for removing heavy metals and toxic organics from the sewage sludge of the City and to reduce the amount of such pollutants entering the sewage system. The study, which was to be completed by July 1, 1981, was never initiated. The issues that were the subject of the study mandated by P.L. 96-572 are integrally related to the cross-media comparison required by this subsection. The Committee, therefore, fully expects that these issues will be addressed, as appropriate, in the report required by this subsection.

SECTION 504—AUTHORIZATION OF APPROPRIATIONS

This section amends section 204 of the MPRSA by redesignating the section as section 205 and authorizing appropriations of $12,000,000 for each of fiscal years 1983 and 1984.

SECTION 505—NEW YORK CITY SEWAGE SLUDGE TOXICS AND ANNUAL REPORTS

This section amends section 205 of the MPRSA by: (a) redesignating the section as section 204; (b) deleting the directive to the Administrator to evaluate various options for removing toxic materials from the sewage system and sewage sludge of New York City (see additional discussion under section 503); and (c) consolidating all title II reporting requirements into one section.

Section 204 of the MPRSA, as amended by this amendment, combines various reporting requirements of the Secretary into one report and directs the Administrator to report on ocean dumping research activities. Current law requires the Secretary of Commerce to report separately to the Congress on findings made under section 201 (dumpsite monitoring) and activities taken pursuant to section 202 (long-range effects) including reports required by the Fish and Wildlife Coordination Act (effects of sewage and industrial wastes on wildlife). This amendment consolidates the various reports into one report.

In addition, section 204 would require the Secretary of Commerce to identify the short-term and long-term research requirements that are needed to meet regulatory responsibilities of title I. Title II research activities should not be undertaken independent of title I regulatory actions. In order to meet the objective of the Act to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health, welfare or amenities, or the marine environment, ecological systems, or economic potentialities, EPA and the Corps of Engineers need information that is as complete and timely as possible. The Committee is concerned that the information needed to evaluate ocean dumping permit applications is at times unavailable, and that the research programs authorized under title II are insufficiently tailored to the information requirements of title I. This amendment is an attempt to correct these shortcomings. The amendment requires the Secretary to cooperate closely with the Administrator and officials of other appropriate Federal agencies in identifying the research needed to administer title I activities and describing how the research pertaining to titles I and II will meet those requirements.

Mr. Chairman, the members of our two committees feel strongly that at a time when ocean dumping activities are increasing, there is a growing need for additional information on the effects of such dumping. Many of the research activities authorized by title V of this legislation are slated for reduction or elimination by the administration. The provisions of this bill are intended to maintain the existing research programs in order to provide the scientific information needed to predict the consequences of ocean dumping, and thus increase our ability to minimize adverse impacts on marine ecosystems.

I strongly urge my colleagues to support this legislation.●

Mr. PRITCHARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the programs that the Merchant Marine and Fisheries Committee has joint jurisdiction over, that will be authorized in the substitute to H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982. I particularly want to focus on title V which authorizes $19.019 million for marine ecosystems, ocean dumping and Great Lakes research for fiscal years 1983 and 1984.

Title V of the substitute amendment contains $12 million to be authorized for ocean pollution research activities carried out under title II of the Marine Protection, Research and Sanctuaries Act (MPRSA). As my colleagues have pointed out, this title will insure the continuation of important regional pollution research projects which were developed to increase understanding of environmental consequences of marine disposal of wastes and to transfer that understanding in useful forms to regulatory and re-

source managers at all levels of government.

One million dollars would be authorized for the ongoing Puget Sound regional project commonly referred to as the marine ecosystems analysis (MESA) project, which was not scheduled for completion until 1984. The Seattle/Tacoma metropolitan region has undergone rapid economic development. Certain areas of the Sound are already showing signs of ecological stress. The presence and distribution of contaminants and toxic substances have been determined for Puget Sound, especially around the highly industrialized areas. A number of biological abnormalities in fish have been identified which are associated, at least geographically, with the high concentration of contaminants. Also, the physical processes which affect the transport and flushing of contaminants have been characterized for Seattle and the Sound as a whole.

The combined research that has been conducted in Puget Sound has provided useful scientific information to help guide both State and national policy decisions on marine pollution issues. The MESA project has aided the planning and coordinating of marine pollution research, and in synthesizing and disseminating the results of this research. Also, it has supported efforts to prevent or mitigate effects of accidental release of oil and hazardous materials into the marine environment.

In summary, I believe the provisions dealing with the marine pollution program in the substitute amendment will preserve the research programs that have been so useful in providing the scientific data needed to accomplish the tasks that have been set out in Federal law. That is why I would urge my colleagues to support the passage of this amendment. Thank you, Mr. Chairman.

● Mr. FORSYTHE. Mr. Chairman, as a member of both the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology, I want to express my strong support for the National Oceanic and Atmospheric Administration's research efforts. Their research relating to our oceans, atmosphere, and climate is vital to the economic as well as the social well-being of our Nation.

As our country's population continues to increase, the demands on our resources becomes even greater and the problems relating to the management and rational use of the environment and natural resources multiply. We must assure the continuation of NOAA's research programs in order to find the necessary solutions to our problems—many of which are created only through our own use and sometimes abuse of the environments around us.

There is nothng I would like better than to authorize full funding for all of NOAA's research programs. However, if we are ever to realize a balanced budget and improvements in the economy, we must make decisions on which research activities are of highest priority and see that they are adequately funded. I cosponsored this legislation because I strongly support NOAA's research activities.

One of the most pressing research needs is to determine the effects from the disposal of various types of materials in our oceans. We have no overall Federal plan for managing our Nation's wastes, whether it be on land, in the atmosphere, or in our oceans. Because of the increasing populations and industries along our coasts and the resultant amount of wastes produced, the social, political, and economic pressures in these municipal areas demand further research to determine the best method and media of disposal. With regard to the ocean dumping of waste materials, further information needed includes that related to the long-term effects of ocean dumping, the chemical behavior of pollutants in the marine environment, and whether contaminants contained in ocean bottom sediments and other wastes pose a risk to aquatic life and the food chain. We also need to know more about the environmental and health risks of land-based waste disposal options.

It is my hope that waste disposal in the various environmental media is only a temporary solution to waste management problems, and that one day we will be able to find the techniques for pretreatment and recycling which will turn all our wastes into useful resources.●

Mr. PRITCHARD. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. WINN).

Mr. WINN. Mr. Chairman, I find myself on this NOAA authorization in a position I took on the EPA authorization. That is, I support the fine work that NOAA does, and I support an authorization for them, but I cannot support an authorization at the level contained in this bill.

Mr. Chairman, NOAA's work is tremendously important. The broad range of their mandate covers items such as open dumping research, ocean pollution research, the National Hurricane Center, the National Severe Storms Forecast Center, weather satellite services, and activities such as atmospheric research and monitoring. This last activity provides for study of the increased carbon dioxide concentrations in the atmosphere attributable in part to combustion of fossil fuels, and increased worldwide deforestation.

Of course, the issue that Members hear most about with regard to NOAA, is the weather stations. Initially, the administration had planned to close 45 weather service offices around the country. However, I am pleased to note that these closings will in fact not take place. Because of the vital importance of these weather stations to so many people, the administration has decided not to attempt to close them, but rather to find the money to continue to fund them.

It is my understanding that the gentlelady fron Nebraska, Mrs. SMITH, will offer an amendment at the appropriate time, which would establish objective criteria and procedures for closing, consolidating, or opening new weather stations. This attempt at providing a more orderly process for handling weather stations seems to me to be an excellent idea, and I hope all Members will support her efforts.

While there is no doubt about the solid record of accomplishments achieved by NOAA's many programs, I cannot support this authorization at its current level. The administration request for fiscal year 1983 is for $498 million. The Committee on Science and Technology has recommended a total of $542 million, some $44 million over the request. In addition, the committee has also provided for a second year authorization in fiscal year 1984 at a substantial increase, up to $575 million. As with the EPA authorization, a 2-year authorization for these programs is unprecedented by our committee. As our committee report points out, since its establishment, NOAA has obtained most of its funding for its major programs through direct appropriations, with little or no authorization or congressional oversight.

Thus, we have never seen a full NOAA authorization become law since NOAA was established in 1970. I think it is important that NOAA has an authorization, but it seems to me to be very illogical to make that authorization a 2-year one, when we have been crying over the fact that we have lacked authorizations or oversight in the past. If we want to have truly effective oversight, then let us bring NOAA back here next year before the committee and consider an fiscal year 1984 authorization in light of the facts that exists then, rather than on the speculation as to NOAA's needs 2 years in the future.

In addition to my concerns over the dollar amount of this authorization, and the 2-year period of the bill, I am also concerned over the addition of some programs and provisions that would be better left out of the bill completely or at least considered separately in another piece of legislation. For example, the bill provides an au-

thorization for the Great Lakes research program. This is a new initiative, and on the face of it it sounds like a worthwhile program. A great many States and districts border on the Great Lakes, so, of course, there is a very large natural constituency that would form around such a program. But in fact much is already being done in this area, and the gaps that do exist would not be filled in by this program. The Great Lakes protection program provided by this bill would only add another layer of bureaucracy to the Federal Government, and would only proceed slowly, if at all, to solve the coordination problems that exist in regard to the Great Lakes programs.

In summary, Mr. Chairman, I continue to give my strong support to NOAA's programs. However, I cannot support this authorization as it is now constituted. I intend to support those amendments which will be offered to correct these deficiencies and I hope that it will enable us to proceed from the House with a bill which all Members can support.

□ 1415

Mr. PRITCHARD. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. McGRATH).

Mr. McGRATH. Mr. Chairman, I rise in support of H.R. 6324, the authorization for the National Oceanic and Atmospheric Administration for fiscal year 1983.

I am particularly supportive of this bill as reported because it retains full funding for several of NOAA's very important programs. One of these is the U.S. civilian satellite program, which includes NOAA's polar orbiting meteorological satellites. The fiscal year 1983 budget request for NOAA proposed reduction of the program to a one polar orbiter system.

During the Science and Technology Committee's consideration of the NOAA authorization, I supported an amendment to restore the second polar orbiter to the NOAA budget. Reduction to a one orbiter system would seriously degrade this Nation's ability to provide adequate weather forecasting, particularly 3- to 5-day forecasts.

The polar orbiter system is vital to our ability to predict major storms. If one satellite in orbit fails, we will have none, and there will be an extended time gap before a replacement satellite can be launched—possibly as long as 18 months. Thus, we would be without the powerful microwave sounding capability during the winter months or the hurricane season, when it is most urgently needed.

Studies of the impact of improved forecasts for agriculture, aviation, and snow removal, where economic benefits can be quantified, point to benefits that are 10 to 100 times greater than program costs. For example, it has been estimated that improved wind forecasts of only 1 or 2 percent can result in up to $160 million in fuel cost savings to the aviation industry annually.

An additional example of the benefits resulting from the two polar orbiter system is illustrated by the fact that the British Navy made extensive use of the data from NOAA's polar orbiting satellites during the crisis in the Falklands. I am submitting for the RECORD a copy of a letter of commendation from the commander of the U.S. Naval Oceanography Command to the Assistant Administrator for Satellites of NOAA. The U.S. polar satellite sounding data provided to the British Meteorological Office allowed then to construct charts which allowed a creditable weather forecasting job to be done in a region of the Earth where conventional weather observations are very, very scarce.

It makes good sense to spend the money for a second polar orbiter. The benefits are quite real, and they accrue to agriculture, the building industry, water management, forestry, public utilities, fishing, and safety of the general public. There is not one of us here whose constitutents could not in some way benefit from the two polar orbiter program.

Another important provision contained in the bill is section 203(b) of title II. This language prohibits the transfer of U.S. meteorlogical satellite assets to the private sector without approval by Congress. I strongly support this provision since I believe U.S. taxpayer investments have allowed development of this national resource and we in Congress must assure recoupment of our citizens' investment through receipt of satellite information.

NOAA is required by law to protect public health and safety through the issuance of weather warnings, and their satellites contribute irreplaceable weather information for these public warnings.

If the private sector is given the civilian satellite system, then the government would be required to pay for satellite data. If the Government transfers the satellites to the private sector, not only would U.S. taxpayer investments have been used to develop our satellite capabilities—they would also be used to fund the purchase of satellite weather information from the private sector. We cannot allow our constituent investments to be carelessly wasted by requiring a Government agency to purchase satellite information that is now provided free.

I urge my colleagues to support H.R. 6324 as reported from the Committee on Science and Technology.

DEPARTMENT OF THE NAVY,
COMMANDER NAVAL OCEANOGRAPHY
COMMAND, NSTL STATION
Bay St. Louis, Miss., August 3, 1982.

From: Commander, Naval Oceanography Command.
To: Assistant Administrator for Satellites, National Oceanic and Atmospheric Administration.
Subject: Letter of Commendation.

1. During the recent Falkland Island crisis in the South Atlantic, elements of the Naval Oceanography Command (NAVOCEANCOM) were tasked to provide enviromental analyses and forecasts. The Naval Eastern Oceanography Center, Naval Polar Oceanography Center and Fleet Numerical Oceanography Center provided direct support to the Chief of Naval Operations and the Commander-in-Chief, Atlantic Fleet. Data from the National Earth Satellite Service (NESS) proved to be invaluable in obtaining accurate and timely environmental information for a data sparse region, thus enabling Navy meteorologists and oceanographers to prepare useful analyses and forecasts.

2. NESS provided several non-routine products in a very efficient and timely manner. The Central Data Distribution Facility (CDDF) and the Satellite Field Service Station (SFSS) Washington, DC produced special South Atlantic geostationary enviromental satellite (GOES) sectors of visual and infrared imagery that were transmitted via the SFSS Washington GOES-Tap circuit once per day. This support was later expanded to twice per day at the Navy's request. The commitment of valuable processing resources and the rapid response by CDDF and SFSS Washington were impressive.

3. Very high resolution imagery from polar-orbiting satellites over the crisis area was also scheduled. This was accomplished through use of a priority scheme instituted by NESS in 1981 to accommodate situations such as the Falkland Island crisis. The one-kilometer resolution local area coverage received was scheduled for the spacecraft recorders in a minimal amount of time and provided the only high quality satellite data available in the region. The schedulers and operators of the Satellite Operations Control Center and the Environmental Products Branch of NESS provided these services in an outstanding manner.

4. Overall, NESS made my Command's job a great deal easier and the ultimate product we provided much more accurate. This recent crisis is just another example in a long history of successful support and cooperation between the NESS and NAVOCEANCOM. Your efforts are greatly appreciated, and on behalf of the Naval Oceanography Command I extend sincere congratulations for a job "Well Done".

R. E. HUGHES.●

Mr. PRITCHARD. Mr. Chairman, I know of no other requests for time, and I yield back the balance of my time.

Mr. CARNEY. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. SCHEUER), the distinguished chairman of the subcommittee that considered this in the Science and Technology Committee.

Mr. SCHEUER. I thank the chairman, and I want to congratulate the gentleman and express my appreciation for the fine support he has given us at all times in getting this bill to the floor.

I likewise wish to congratulate the ranking minority member of the subcommittee and the ranking minority member of the full committee, the gentleman from New York (Mr. CARNEY), and the gentleman from Kansas (Mr. WINN) for their fine cooperation throughout the whole process.

Mr. Chairman, I rise in strong support of H.R. 6324, the NOAA authorization.

H.R. 6324 marks the beginning of a new relationship between Congress and the National Oceanic and Atmospheric Administration. NOAA was established by executive reorganization in 1970 with the mission of providing services and research in the sea and in the air. Over the past 11 years, numerous environmental statutes have given NOAA additional duties. The agency is now responsible for a vast array of activities including weather forecasting, acid rain research, fisheries conservation, the national sea grant program, the National Ocean Pollution Office, the National Climate Office, conservation of marine mammals and sensitive marine habitats, and many more programs which the Congress and the American people have regarded as legitimate and important Government services.

Throughout these 11 years, the Congress has voted on numerous occasions to authorize NOAA to carry out various aspects of its environmental responsibilities. However, Congress has never reviewed and evaluated the missions and programs of this important agency as a whole, with the view of understanding how its components ought to relate to each other and to the needs of the people.

H.R. 6324 has provided Members with a good opportunity to review and reorder the agency's priorities. I am confident that this type of oversight will help NOAA to keep its programs in tune with the needs of the public.

Mr. Chairman, as the gentleman from Florida (Mr. FUQUA) indicated, H.R. 6324 authorizes funding for approximately $543 million of the agency's $800 million budget. Let me briefly describe the programs for which the committee voted to provide additional funding above the administration request.

The bill would reinstate nearly $5 million in ocean pollution research. This increase is essential in view of the increasing pressure to open up the oceans for disposal of municipal, industrial, and radioactive wastes. Our subcommittee held extensive hearings on this issue during the spring, and it was clear from the testimony of many expert witnesses that if NOAA abandons its excellent research program in ocean pollution, neither the State governments nor the private sector will be able to pick up the slack. Cuts in these ocean programs will signal a retreat from the goals which the Congress mandated a decade ago in passing the Clean Water Act and the Ocean Dumping Act.

H.R. 6324 contains $500,000 for NOAA to begin, with EPA, a comparative study of the environmental effects of waste disposal in various media—land, sea, and air. Because of the shortsighted approach of Federal agencies in the past, critically needed cross-media comparisons of environmental impacts have never been made. EPA must therefore regulate waste disposal without an adequate understanding of what the relative impact of various disposal options might be, be it ocean dumping, landfill, or incineration. The committees felt strongly that the most appropriate target for a pioneering cross-media study of this sort is the sewage sludge problem in the New York City metropolitan area.

In the area of weather services, the bill would accelerate the procurement of the next generation radar system (Nexrad). This upgrading is essential for future weather services, since the current system is based on 1950's vaccum-tube technology and is rapidly deteriorating. The Nexrad system will incorporate numerous doppler radars, which have the potential to save many lives by early detection of tornados and by detection of unusual meteorological disturbances such as the wind shear conditions which caused the recent airline crash outside of New Orleans. It makes no sense to me to cut back on radar procurement at a time when the technology is available for the first time very greatly to enhance the effectiveness of our systems to protect public safety.

H.R. 6324 would also preserve 63 weather service offices nationwide, an action recently approved for fiscal year 1982 in the emergency supplemental appropriations bill. The bill also funds all of NOAA's agricultural weather services. These activities were scheduled for elimination by the administration. For less than $1.5 million, the National Weather Service provides farmers in over 40 States with information needed to protect crops from frost, to irrigate crops, and to plant, fertilize, spray, and harvest at the optimal time. I doubt that there is a more cost effective $1.5 million expended in the entire Federal budget.

We have provided approximately $5 million to preserve programs in atmospheric and climatic research, programs for which NOAA has a well-deserved international reputation. During times of budgetary restraint, it is tempting to target long-term research programs for reduction. However, it is programs of this sort which provide us with early warning of such important environmental concerns as ozone depletion, acid rain, and the "greenhouse effect." In the case of weather modification research, these basic programs may some day provide us with another tool for solving one of our most important, long-term environmental issues, particularly in the Western States—the provision of adequate quantities of high-quality water.

Finally, let me address the issue of meteorological satellites. The administration is proposing to save $24.7 million by downgrading the polar orbiting weather statellites to a one-satellite system.

This is an issue that we examined long and hard at out authorization hearings. We found that there are two risks associated with downgrading the system.

First, the reliability level of forecasts and services will decline:

Long-range, 3-to-5 day, forecasts will suffer, as will short-range forecasts in tropical areas, in the southern Hemisphere, and in oceanic areas such as Hawaii and Alaska.

Other cooperative programs will suffer, such as Agristars—crop production forecasts—and the world climate program.

Our relations with nations of the Third World will suffer. Currently, over 120 nations receive weather satellite data from the United States. According to NOAA, downgrading the two-polar system would not allow these nations "to do a respectable job under Third World (weather) conditions." Further, many of these nations use satellite information to monitor crop production and to aid in planning for agriculture, fishing, and water management.

The second risk associated with going to a one-polar system is its lack of backup capacity. Thus, in the event of a launch failure or an operational failure, there will be no satellites in orbit for a period of 1 to 18 months. With no polar-orbiting satellites, the art of weather forecasting would be plunged back to the 1940's, and the resultant deterioration in forecasting would lead to losses in many sectors of our economy—from argiculture, to water management, fisheries, construction, forestry, and energy distribution. In sum, the two-satellite system provides better forecasts, insurance against satellite failure, and an inexpensive and much appreciated source of foreign aid; it is a very cost effective investment.

Mr. Chairman, this is a fiscally responsible bill. We estimate that approximately $10 million more would be required to maintain NOAA's programs at current, fiscal year 1982, levels. It is painful to have to propose these cuts in NOAA's budget, but reductions of this sort will be necessary

in many agencies to reduce our Federal deficit to manageable proportions.

But I, for one, do not concur with the administration's view that NOAA should retreat from a large number of programs which the Congress has mandated for it. And neither, I might add, do many of our Republican colleagues on the Senate Commerce Committee, who voted unanimously in June to increase the administration request for NOAA by over $96 million.

Mr. Chairman, H.R. 6324 provides funding for a large number of efficiently operated, highly useful public services. I urge my colleagues to support the bill, which strikes a fair balance maintaining NOAA's essential research and service programs and the necessity for budgetary restraint.

Mr. FUQUA. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Chairman, I want to thank the members of both the Committee on Science and Technology and the Committee on Merchant Marine and Fisheries. I think they have done an excellent job with this bill.

We have one item of particular interest, to those of us from Great Lakes States; it is a bipartisan effort in the bill entitled the Great Lakes Protection Act, included as title IV of H.R. 6324. Many of the people not familiar with the geography of this country are not aware of the fact that the Great Lakes are 95 percent of the surface fresh water of America and 20 percent of the surface fresh water in the world. Protecting the Great Lakes should, indeed, be a matter of national policy. The Great Lakes Protection Act establishes that principle for the first time. Twenty percent of our citizens live along the Great Lakes. Twenty-five percent of our industries are located in the Great Lakes region. Ten million people drink Great Lakes water. The critical importance of the lakes is at long last recognized by this legislation.

The Great Lakes Protection Act recognizes the need to better coordinate Federal research of the Great Lakes. The Great Lakes are too important to be left to the haphazard coordination that presently exists.

The General Accounting Office has recognized this problem, and that is one of the reasons why the GAO endorsed and recommended approval of the Great Lakes Protection Act. Enactment of the Great Lakes Protection Act will also make it easier, as the General Accounting Office has stated, for us to live up to our country's existing water quality agreements with Canada.

The act would not only establish protection of the Great Lakes as a matter of national policy; it sets up a Great Lakes research office within NOAA, to be funded with existing ocean pollution planning funds. It would also establish and would require a new appendix to any environmental impact statement filed as required by law if the EIS is prepared for an action that would significantly affect the Great Lakes.

I strongly urge the adoption of H.R. 6324 for the reasons I have mentioned and for many others. I want to thank my colleagues on both sides of the aisle, not only from Michigan, but from other States as well, for their support of the Great Lakes Protection Act and their support for H.R. 6324 in general. I want to thank again my colleagues on the Committee on Science and Technology and the members of the Committee on Merchant Marine and Fisheries for their fine work.

Mr. JONES of North Carolina. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. HERTEL).

Mr. HERTEL. I thank my chairman of the Committee on Merchant Marine and Fisheries for yielding, and I thank him for the hard work on this bill, as I rise to commend the sponsor of the bill, the gentleman from Michigan (Mr. BLANCHARD), for all of the work he has done in developing the Great Lakes Protection Act, bringing it to our attention, and having both committees in this case pass this bill with, I believe unanimous support.

The tendency on the part of past and present administrations has been to downplay the importance of the Great Lakes in making funding decisions for programs designed to protect Great Lakes water quality. The previous administration attempted to drastically scale down the Great Lakes Large Lakes Research Station located in Gross Ile, Mich., the only facility equipped to monitor Great Lakes water quality and its impact on human health. The gentleman from Michigan (Mr. BLANCHARD) fought that at that time and was successful. It appears to be a bipartisan fight, because this time the administration has attempted to close the facility altogether. The administration is also proposing to decrease the Federal Government's overall commitment to the Great Lakes programs by 70 to 80 percent.

The administration has alleged that the Great Lakes receive enough attention already under the National Ocean Pollution Planning Act, that the Great Lakes have been treated equally with America's other three coasts. But the fact is that the level of funding for ocean pollution activities between 1978 and 1982 fell by 13 percent, which, in consideration of the effects of inflation over those 4 years, represents a substantial reduction in research purchasing ability.

□ 1430

The largest reduction was in the EPA budget where funding for ocean pollution research was cut by 56 percent, more than in half, removing $20 million from the total program budget. The administration position states that the National Ocean Pollution Planning Act 5-year plans must identify Federal, State, and local problems related to the Great Lakes. In reality, leadership and support from Washington's ocean pollution planning headquarters has been neglectful of Great Lakes issues and problems.

For instance in 1978 the EPA opposed international water quality agreements with Canada totally failing to appreciate the seriousness of the contamination of the entire Great Lakes systems by toxic chemicals on which the new agreement focused and thereby causing us problems in the international area.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

Mr. Chairman, I simply offer my thanks to the gentleman for his help on this legislation and to the members of the Committee on Merchant Marine and Fisheries for being so helpful.

As my colleague from Michigan knows, this act will make it much more difficult for anyone to attempt to divert water from the Great Lakes. A critical part of protecting and preserving the Great Lakes is to deter and to prohibit any attempt to divert Great Lakes water. The gentleman's help is deeply appreciated as well as the help of the gentlemen from Michigan (Mr. TRAXLER, Mr. DINGELL, and Mr. PURSELL) on these important matters.

Mr. HERTEL. Mr. Chairman, I thank again the sponsor and I am glad to be included as a new member of the delegation to join this fight with him. I agree the most important part of the act is—as the gentleman mentions—to say our Great Lakes water cannot be diverted to other parts of the country without forthright and fair agreements.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. HERTEL) has expired.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I would hope that no one would oppose it on those grounds because the greatest resources that we have in the Great Lakes region clearly are those lakes. I thank the gentleman for his hard work.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the provision of this legislation that is known otherwise as the Great Lakes Protection Act. The Great Lakes are our largest body of fresh water in this country and certainly unparalleled elsewhere in the world. The Great Lakes represent a national treasure, and we cannot afford to be less than vigilant in protection of the waters of the Great Lakes.

The legislation pending before us is vitally important to the future of that great body of water. I compliment the gentleman from Michigan (Mr. HERTEL) and the gentleman from Michigan (Mr. BLANCHARD) who have done such a splendid job in advocating this legislation.

Mr. HERTEL. Mr. Chairman, I thank the gentleman.

I would make a brief comment. I would point out the Great Lakes Protection Act does not require any increase in spending from the Federal budget. All we are doing is earmarking a modest amount of funding under the National Ocean Pollution Planning Act to meet the needs of the Great Lakes office.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. I yield to the gentleman from Michigan.

Mr. TRAXLER. I thank the gentleman for yielding.

I would like to bring to the Members' attention a report to the Congress by the Comptroller General of the United States entitled, "A More Comprehensive Approach Is Needed to Clean Up the Great Lakes." The number on the report is CED 82-63, May 21, 1982.

In the report—which is excellent and I commend it to the Members—it is made clear that the U.S. efforts to implement and fulfill its commitments to the Canadian Government under the terms of the agreement that we have entered into with them in the late seventies are being hampered and are falling short essentially for three reasons.

First, there is a lack of effective overall strategies for dealing with Great Lakes water quality problems.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. HERTEL) has expired.

Mr. JONES of North Carolina. Mr. Chairman, I yield 2 additional minutes to the gentleman from Michigan.

Mr. TRAXLER. If the gentleman will yield further, first, the lack of effective overall strategies for dealing with Great Lakes water quality problems; second, the lack of knowledge about the extent of pollution problems and the impact of control programs; and third, the need for improved management of Great Lakes pollution control activities. This bill is necessary. It is essential. I commend the gentleman from Michigan (Mr. BLANCHARD), and the chairmen of the two committees affected. Those of us in our area are most appreciative of this. We have a tremendous asset here, as the gentleman from Minnesota (Mr. OBERSTAR) pointed out. We cannot allow it to deteriorate to the point where its value has shrunk to less than the great national treasure which it is.

Mr. HERTEL. I agree with the gentleman. In fact, the Great Lakes have consistently provided the early warning system to the world concerning the problems affecting our ecological systems.

As the sponsor pointed out, the Great Lakes do represent 95 percent of our Nation's fresh water. In our region one of the few growing industries we have is tourism. It is most important to the State of Michigan that we continue to protect it. That is why I commend the sponsor.

● Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6324, the Atmospheric, Climatic and Ocean Pollution Act of 1982. This legislation will consolidate and clarify NOAA's role in a number of important areas ranging from weather information to ocean pollution control.

The importance of NOAA's job in weather forecasting and information cannot be underestimated. It is vital that Federal and State governments, as well as farmers, businessmen, manufacturers, and the general public, among others, have a reliable and comprehensive source of information. In this respect, I want to take particular notice of the committee's action to reinstate funding in the amount of $3,639,000 to maintain open the 45 Weather Service offices and the southern regional headquarters which were proposed for closure by the administration. I urge my colleagues to uphold this action by the committee.

Another section of particular importance to me is title V dealing with Ocean Pollution Research. I share the committee's concern over the possibility of increasing use of the oceans for, among other things, a dumping ground for sewage sludge and industrial and nuclear wastes. The potential long-term impact of ocean dumping and pollution will stay with us for generations to come. As an island, Puerto Rico is particularly sensitive and vulnerable to any change in the waters that surround us.

The funding levels recommended in this legislation are adequate to meet the basic requirements of its different sections and I urge my colleagues to reject any attempt to lower it and to cast their votes in favor of the enactment of H.R. 6324.●

● Mr. HUGHES. Mr. Chairman, I rise in support of the legislation before us today which authorizes appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for fiscal years 1983 and 1984.

Among other things, this legislation provides for the continuation of several important atmospheric and marine environmental research programs as well as providing much needed direction for NOAA's ocean pollution research activities.

TOM EVANS of Delaware and I, along with a number of members of the House Merchant Marine and Fisheries Committee and members of the Science and Technology Committee, are particularly concerned over the fact that the ocean dumping of harmful materials has been allowed to continue despite the Hughes-Evans amendment enacted by Congress in 1977 calling for a halt to such disposal practices by the end of last year. At the same time that the administration has showed an unwillingness to enforce the 1981 ocean dumping deadline, it has also proposed cutting back on several important marine environmental programs.

Title V of the legislation before us provides NOAA with specific guidance in conducting long-term ocean pollution research as required by title II of the Marine Protection, Research and Sanctuaries Act. Among other things, NOAA is directed to develop scientific techniques directed toward improving our understanding of how ocean dumping degrades the marine environment and to develop continuing monitoring programs to assess the health of the marine environment.

In addition to assuring that NOAA's marine research activities focus on many of the environmental considerations surrounding ocean dumping, the legislation also requires an assessment of the feasibility of regional management plans for the disposal of waste material. The legislation also requires the administrators of EPA and NOAA to submit to Congress a report on sewage sludge disposal in the New York region, including a study of the environmental, health and economic factors associated with landfilling, incineration, and ocean dumping.

I urge my colleagues to support this most important legislation.●

Mr. ECKART. Mr. Chairman, the Great Lakes are the largest freshwater resource we have in this country. They, in fact, are one-fifth of all the freshwater in the world. They are a vital resource, to be used wisely. Concern about the future of the Great Lakes must not be taken lightly.

One-fourth of American industry and one-fifth of the Nation's population rely on its waters. The reliance is more than drinking, or boating, or waterway shipping.

Commerce depends upon stable water resources in many ways. Manufacturing, energy, recreation, commercial fishing, shipping, are all totally

dependent upon the preservation of the lakes.

The steps in this bill are long overdue and must not be put off or watered down.

We are failing already to meet our international commitment under the Great Lakes Water Quality Agreement with Canada. Our funding for the Great Lakes programs have gone down 80 percent since 1981.

We must adopt this Great Lakes Protection Act, to provide assurance that pollution problems we began to surmount just 2 or 3 years ago, do not reappear through the budget cuts made by this Congress. We must coordinate Great Lakes research and Great Lakes water quality protection action so that the lakes will continue their vital, and irreplaceable contribution to the national economy.

This Great Lakes Protection Act will do these things. The West and Southwest know what water means—their water resources are dwindling. The day could come when they will ask for water from the Great Lakes for their own region. The lakes must be preserved.

Mr. JONES of North Carolina. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the text of H.R. 6798 shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the committees on Merchant Marine and Fisheries and Science and Technology now printed in the bill, and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 6798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Atmospheric, Climatic, and Ocean Pollution Act of 1982".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—DECLARATION OF FINDINGS AND PURPOSES

SEC. 101. The Congress of the United States finds that:

(1) The oceans and atmosphere surrounding and within the jurisdiction of the United States play a vital role in the Nation's welfare, economy, and security.

(2) The National Oceanic and Atmospheric Administration is the lead agency for oceanic and atmospheric matters in the Nation. It was created on October 3, 1970, by Reorganization Plan Numbered 4 of 1970 to bring together many of the Nation's civil programs related to the oceans and atmosphere. The National Oceanic and Atmospheric Administration's broad goals include the development and operation of national programs to—

(A) manage and conserve selected marine resources for the economic and social good of the Nation;

(B) monitor and predict weather and environmental conditions for the protection of life and property;

(C) archive, analyze, and disseminate data on oceanographic, climatic, geophysical, and solarterrestrial phenomena;

(D) provide basic maps, charts, surveys, and specialized data for safe navigation; and

(E) provide research to advance oceanic and atmospheric science and technology for the better management of the environment and the rational use of our natural resources.

SEC. 102. The purposes of the Congress in this Act are—

(1) to ensure that the National Oceanic and Atmospheric Administration, the lead agency for civil oceanic and atmospheric activities and programs, operates under a clear statutory charter; and

(2) to simplify, streamline, and consolidate the authorization of appropriations for the National Oceanic and Atmospheric Administration, within the Department of Commerce, such that the National Oceanic and Atmospheric Administration's programs can be viewed in a coherent fashion.

The CHAIRMAN. Are there any amendments to title I?

Mrs. SCHNEIDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the authorization granted under H.R. 6798 for the programs of the National Oceanic and Atmospheric Administration. I would point out that the legislation before us, which also includes funding for the Departments of State and Justice, is well within the spending ceiling allowed by the first concurrent budget resolution developed by the House and Senate and accepted by the administration. Today, we will decide whether the House will exercise its own judgment in setting priorities for the programs within the spending limits we have agreed to support.

As a Representative of the Ocean State, I would like to express my support for the NOAA programs that have helped to develop the marine resources of my State, as well as of the New England region. Of particular importance is the sea-grants program—the Merchant Marine Committee wisely rejected the administration's proposal to terminate sea grants, choosing instead to restore $25 million to its budget. The program offers an excellent example of how federalism can work by financing research and extension services that are administered at the local level and specifically tailored to the needs of local communities. The Ocean State is well served by our sea-grant college, the University of Rhode Island, which has used the program's resources to develop improved fishing nets, to increase our scallop harvest, to pioneer in the development of the deep sea red crab fishery along the U.S. east coast, and to provide other vital services to our local community of fishermen. While the individual projects may be small, their value to our fishing economy has been substantial. The annual benefit of the red crab fishery developed through the program, for example, has a value of about $2.8 million, and employs 60 people.

The NOAA budget also supports the Saltonstall-Kennedy Fund, which in turn has supported the New England Fisheries Development Foundation. The Merchant Marine Committee has restored funding for the Saltonstall-Kennedy program, which should enable the New England Fisheries Development Foundation to continue its important work in helping to develop the competitiveness of our fishing industry, by improving the harvesting, processing, and marketing of our local products.

In addition, H.R. 6798 has restored funding for the regional fisheries management councils, which the administration had proposed eliminating. The New England council is responsible for developing management plans for the harvesting of the various species of commercial fish in New England waters. The New England regional commission and the river basin councils both disappeared last year after their Federal funding was cut, and I would expect the same fate to befall the regional fisheries management councils if we do not lend them our support.

If my concerns are beginning to seem exclusively local, let me assure my colleagues that I enthusiastically support the Science Committee's decision, reflected in H.R. 6798, to restore funding to maintain NOAA's two-satellite weather forecasting system. The administration had proposed cutting back to a one-satellite system by stretching out the current launch schedule. As a member of the House Science Subcommittee with jurisdiction over the NOAA budget, I listened to hours of testimony on this issue and had to conclude that the risks we would undertake by moving to a one-satellite system did not justify the short-term budgetary savings.

Having two weather satellites in orbit simultaneously improves our long-range forecasting ability, and short-range forecasts for remote areas such as Alaska and Hawaii. In addition, moving to a one-satellite system poses a more serious risk—in the event of a launch or operational failure, we would not have a backup satellite in place. Thirty years ago, we might have turned to our system of weatherships for support, but that fleet has been disbanded as we have phased into a weather satellite system. With no

weather satellites at all in orbit, we would step backwards in time to the weather broadcasting system we relied on in the 1940's. Having to fall back on primitive forceasing technology would lead to losses in many sectors of our economy, from agriculture, to water management, fisheries, construction, forestry, and energy distribution.

In sum, the authorization for NOAA offer a reasonable balance among programs that provide important extension services to local communities—like sea grants—and programs that increase NOAA's scientific capacity to provide benefits to the general public—like the two-satellite weather forecasting system. I urge the adoption of H.R. 6798 by the House.

The CHAIRMAN. Are there any other amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—GENERAL PROGRAM AUTHORIZATIONS AND REPORTING REQUIREMENTS

SEC. 201. (a) There are authorized to be appropriated to the National Oceanic and Atmospheric Administration of the Department of Commerce for atmospheric, climatic, and ocean pollution programs:

(1) $19,019,000 in fiscal year 1983 and $20,160,000 in fiscal year 1984 for Marine Ecosystems Research, Ocean Dumping Research, and Great Lakes Research.

(2) $323,860,000 in fiscal year 1983 and $343,292,000 in fiscal year 1984 for the Weather Services and Supporting Research.

(3) $17,764,000 in fiscal year 1983 and $18,830,000 in fiscal year 1984 for Atmospheric Research.

(4) $1,800,000 in fiscal year 1983 and $1,908,000 in fiscal year 1984 for the National Climate Program Office.

(5) $156,208,000 in fiscal year 1983 and $165,580,000 in fiscal year 1984 for Environmental Satellite Services.

(6) $25,328,000 in fiscal year 1983 and $26,848,000 in fiscal year 1984 for Environmental Data and Information Services.

(b) Funds may be transferred between categories listed in subsection (a), except that no funds may be transferred between any two categories if the amount transferred would exceed 10 per centum of the amount authorized for either category, unless—

(1) a period of thirty legislative days has passed after the Administrator of the National Oceanic and Atmospheric Administration or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate a written report containing a full and complete statement concerning the nature of the transfer involved and the reason therefor; or

(2) each committee of the House of Representatives and the Senate having jurisdiction over the subject matter involved, before the expiration of such period, has transmitted to the Administrator written notice to the effect that each committee has no objection to the proposed action.

SEC. 202. (a) The Administrator of the National Oceanic and Atmospheric Administration shall keep the appropriate committees of the House of Representatives and the Senate fully and currently informed about all aspects of the atmospheric, climatic, and ocean pollution activities for such Administration.

(b) Each year, at the time of the submission of the President's annual budget request, the Administrator shall make available to the appropriate committees of Congress sufficient copies of a report fully describing the funds requested and the atmospheric, climatic, and ocean pollution activities to be carried out with these funds.

SEC. 203. (a) The Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress and the President, on the date of submission of the fiscal year 1984 budget request, a report on the importance of meteorological satellites to weather forecasting. Such report shall include—

(1) a quantitative analysis of the impacts of weather satellites on weather forecasting;

(2) a quantitative comparison of weather forecasts generated when two, one, or no polar-orbiting satellites are operating;

(3) the importance of National Oceanic and Atmospheric Administration weather satellite data to weather forecasting in other nations;

(4) a statistical analysis of expected lifetimes for National Oceanic and Atmospheric Administration weather satellites;

(5) an analysis of replacement time for a National Oceanic and Atmospheric Administration weather satellite in the event of a launch or operational failure or of consecutive launch or operational failures; and

(6) an analysis of the present or future appropriateness of transferring civilian meteorological satellites to the private sector.

(b) No moneys authorized by this Act shall be used to tranfer to the private sector the ownership or management of any meteorological satellite system and associated ground system equipment unless (1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive plan for the proposed transfer, and (2) each such committee has transmitted to the Secretary written notice (within thirty days after receipt of the plan) to the effect that such committee has no objection to the proposed action.

SEC. 204. The Administrator of the National Oceanic and Atmospheric Administration shall submit to the Congress and the President, on the date of submission of the fiscal year 1984 budget request, a report on the future organization and technological capabilities of the National Weather Service. Such report shall include—

(1) preliminary cost estimates and a preliminary deployment schedule for the next generation radar system;

(2) a preliminary plan for improvement of mesoscale weather forecasting over the next decade; and

(3) a preliminary ten-year plan for the reorganization and consolidation of the Weather Service Forecast Offices and the Weather Service Offices. The plan shall include a list of the criteria to be used in determining those offices that are to be closed or consolidated during the ten-year period.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MRS. SMITH OF NEBRASKA

Mrs. SMITH of Nebraska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SMITH of Nebraska: At the end of title II, add the following new section:

SEC. 205. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary"), at least 60 days before making a determination as to the necessity for the closing or consolidation of any Weather Service Office (whether such determination is made pursuant to the plan described in section 204(3) or is made without regard to such plan), shall provide adequate public notice of his intention to make such a determination in order to ensure that all persons served by such Office will have an adequate opportunity to present their views.

(b)(1) The Secretary, in deciding whether or not to close or consolidate a Weather Service Office, shall take fully into account any views expressed by persons served by such Office during the 60-day period described in subsection (a), and shall specifically consider—

(A) the effect of such closing or consolidation on the community served by such Weather Service Office;

(B) the effect of such closing or consolidation on employees of the National Weather Service employed at such Office;

(C) the economic savings to the National Weather Service resulting from such closing or consolidation; and

(D) such other factors as the National Weather Service determines are necessary.

(2) In making a decision under paragraph (1) the Secretary may hold such hearings as he deems necessary.

(3) The Secretary shall compile a written record including or reflecting all views presented and information received or developed in the course of his consideration of the matters involved in making such a decision, whether or not hearings are held with respect thereto as authorized by paragraph (2). The Secretary shall retain all written materials received or developed in the course of such consideration, for possible use by the Federal Committee for Meteorological Services and Supporting Research under subsection (e).

(c) Any decision of the Secretary to close or consolidate a Weather Service Office shall be in writing and shall set forth the findings of the Secretary with respect to the matters set forth in subparagraphs (A) through (D) of subsection (b)(1) along with a statement of the reasons for such findings and of the basis on which the decision was made. The Secretary's decision shall be made available to persons served by such Weather Service Office.

(d) The Secretary shall take no action to close or consolidate a Weather Service Office until 60 days after his written decision is made available to persons served by such Office as required by the last sentence of subsection (c).

(e) A decision of the Secretary to close or consolidate any Weather Service Office may be appealed by any person served by such Office to the Federal Committee for Meteorological Services and Supporting Research within thirty days after such decision is made available under the last sentence of subsection (c). The Committee shall review such decision on the basis of the record compiled by the Secretary under subsection (b)(3) in the making of such decision; and in the course of such review the Committee may obtain and inspect the written materials retained by the Secretary under the last sentence of subsection (b)(3). The Committee shall make a determination based upon such review no later than one hundred and twenty days after receiving any appeal under this subsection. The Com-

mittee shall set aside any such decision which is found to be—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

(2) without observance of procedure required by law; or

(3) unsupported by substantial evidence on the record.

The Committee may affirm the decision of the Secretary or order that the entire matter be returned for further consideration, but the Committee may not modify the decision. The Committee may suspend the effectiveness of the decision until the final disposition of the appeal (within the time prescribed by the third sentence of this subsection) in any case where the closing or consolidation involved might otherwise occur before the Committee's determination under this subsection can be made.

(f) Any determination or decision made by the Administrator of the National Oceanic and Atmospheric Administration with respect to the closing or consolidation of a Weather Service Office shall be considered for purposes of this section to have been made by the Secretary.

Mrs. SMITH of Nebraska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nebraska?

There was no objection.

Mrs. SMITH of Nebraska. Mr. Chairman, I offer this amendment to H.R. 6324 as amended by H.R. 6798 for myself and for my good friend and colleague, the gentleman from Illinois (Mr. SIMON). Additionally, I offer it also in behalf of a bipartisan group of 44 other cosponsors of a bill, H.R. 6753, from which this amendment is directly taken. Our amendment was printed in the RECORD on August 10, page H5622.

Our amendment would once and for all take the perennial weather-station issue out of the political arena and subject it to an orderly procedural process requiring Washington policymakers to take the views of communities and nongovernment experts into formal consideration before any National Weather Service station could be closed or consolidated.

Our plan for doing this is based directly upon the successful program adopted by the Congress in 1976 for closing post offices.

My colleague, the gentleman from Illinois, who has been so effective in marshaling support for our amendment, was one of the architects of the post office procedural system and has provided much guidance in putting this amendment together.

I would like to share with this body the intent and background of our amendment that would establish objective criteria and orderly procedures for closing or consolidating National Weather Service stations. This amendment has been years in the making, and it is an issue whose time has come.

Those who have been in this body for the last 5 years know that each year, except for fiscal year 1981, the administration in power has come up to Capitol Hill with plans to close weather stations that they feel are no longer important to the Nation's weather-service network. And yet their track record speaks for itself: 72 different stations targeted for closure, and no stations closed.

How could this happen? The answer is easy: Congress has refused to allow even one of the stations to be closed because both the Carter and Reagan administrations failed to consult with the people back home, the people who would be most directly affected.

The amendment that is offered today by myself and the gentleman from Illinois would give the people who would be affected by the closure of a weather station a voice in the reaching of that decision. Here is how the amendment works:

First, the Secretary of Commerce, at least 60 days before making a determination as to the necessity of closing or consolidating a weather station, would have to make public his intention to make such a determination.

Second, the Secretary would have to take into account any views expressed by persons who are served by the station, and specifically consider:

The effect of the closing or consolidation on the communities served by the weather station;

The effect on the employees of the National Weather Service employed at such office;

The economic savings that would result from such closing or consolidation;

Any other factors that the National Weather Service determines are necessary.

Third, the Secretary may hold any hearings he deems necessary.

Fourth, the Secretary will be required to compile a written record that shall include all information received or developed during the course of his consideration of the matter.

Fifth, any decision to close or consolidate a Weather Service office will have to be in writing and be made available to persons who are served by such Weather Service office.

Sixth, the Secretary shall take no action to close or consolidate a Weather Service office until 60 days after his written determination has been made available.

Seventh, the Secretary's decision may be appealed by any person served by such Weather Service office to the Federal Committee for Meteorological Services and Supporting Research within 30 days after such decision has been made available.

Eighth, the Committee may during the course of its review obtain and inspect the written material compiled by the Secretary. The Committee will have no longer than 120 days to reach its decision and that decision will be to either affirm the Secretary's decision or to return the matter for further consideration. In order to return the matter the Committee must find that the decision was: Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; without observance of procedure required by law; or unsupported by substantial evidence on the record.

If the procedure sounds familiar to you, it should. It is the same basic formula that was set up by Congress to deal with the hot potato item of closing post offices. Now after 6 years, you know that the system works because the closure of post offices is no longer a political issue. The closings are now handled on a case-by-case basis. I have here a statement from the Postal Rate Commission that I would like to submit for the RECORD, and it states that in its opinion the system has worked well and at very low cost in the closing, consolidating, or converting of post offices. I also have for the RECORD a statement from the National Weather Service Employee's Union supporting Mr. SIMON's and my bill, H.R. 6269, reintroduced as H.R. 6753, from which this amendment was drafted.

COST OF THE SMITH-SIMON AMENDMENT

In a telephone conversation with staff today, the Chairman of the Postal Rate Commission, Hon. Janet Steiger, reports that two recent routine post office closings cost $1,406.75 and $2,035.54, repectively, in terms of outlays by the Postal Service itself.

Chairman Steiger further stated that no costs of any appeal have been determined by the Postal Rate Commission, but she did say that costs of the appeal were "substantially" below either of the two figures cited as costs to the Postal Service.

While the administration has not come out and formally endorsed our amendment, I have for the RECORD letters from the administrator of NOAA that states their support for the concepts of having objective criteria and procedures for the closing of weather stations.

I will be the first to acknowledge that there probably are stations that could be closed without endangering the lives or property of the citizens of our country. But that has never been a factor in determining which stations should be closed. Instead, the past two administrations have used criteria that are based not on merit; that is, location, service to the community, availability, of alternative source of service, but rather on how badly the stations had been deliberately undermanned and underequipped. They decided that it would be better to close one-person stations—a 100-percent reduction—than to reduce, say, a five-man station

by one person—only 20 percent reduction.

I am sure that technology has advanced to the point that some of the weather stations now in operation are no longer needed. But what I hold is that the Washington policymakers and Weather Service professional meteorologists have no procedural way of deciding which of these stations could be safely closed. Even the highest official in the National Weather Service hierarchy has confessed that he dreads learning of the first bloodshed that is certain to occur when the first undetected tornado rips through an area that has been stripped of proper Weather Service data.

I believe that the amendment Mr. SIMON and myself offer is a good one, and I would welcome any questions from my colleagues about this amendment. At this point I include the following:

POSTAL RATE COMMISSION,
Washington, D.C., August 12, 1982.

Hon. VIRGINIA SMITH,
Rayburn Building,
Washington, D.C.

DEAR REPRESENTATIVE SMITH: This responds to your request for information concerning the operation of the statutory provisions regarding the closing or consolidation of post offices. 39 U.S.C. § 404(b).

BACKGROUND

In considering the operation of the statute, we believe that some historical background may be helpful. The 1970 Reorganization Act which made the Postal Service an independent establishment of the federal government permitted the Postal Service to create its own procedures and criteria for closing post offices. The statute, however, did put a limitation on the Postal Service's discretion and directed it to consider more than finances when deciding whether to retain smaller offices. "No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities." 39 U.S.C. § 101(b).

In a report dated June 4, 1975, GAO pointed out that section 101(b) did not specify what other, non-economic conditions had to occur before the Postal Service was authorized to close a small post office. GAO found that the Postal Service had established restrictive policies in response to the statute. GAO Report, pp. 11-12 (June 4, 1975). The district courts had appellate jurisdiction over the Postal Service's decisions to close post offices, and it appeared that the non-economic criteria would evolve from a myriad of appeals in various district courts. See *Rossford* v. *Klassen*, 359 F. Supp. 1036 (N.D. Ohio 1973).

In 1976 Congress addressed this problem. From the debates it appears that Congress was concerned about a lack of public participation in making decisions whether to close post offices. The purpose of the amendment was to bring affected patrons into the decisionmaking process and establish sound procedures governing any decision which the Postal Service might make in this area. 112 Cong. Rec. (1976) (remarks of Sen. Hathaway). The amendment Congress enacted sought to ensure these goals by requiring the Postal Service to give 60 days' notice of its intention to close an office so that affected patrons would have sufficient opportunity to present their views. Congress listed criteria that the Postal Service was to consider and give affected patrons an opportunity to comment on. These are: effect on the community, effect on postal services, effect on employees, economic savings, and any other factors the Postal Service finds necessary. The Postal Service has to put any determination to close a post office in writing and include findings on the statutory criteria.

CURRENT PRACTICE

From the records the Commission has seen in its review, it appears that the Postal Service has developed techniques to provide for public participation starting at the initial stages of the decisionmaking process. The MSC (Management Sectional Center) manager has the initial responsibility in this decisionmaking process. The MSC manager is the person responsible for the operation of all the post offices within an assigned area. For example, Nebraska has 5 MSC managers responsible for 5 different sections of the state.

The first step the Postal Service takes after concluding that a particular post office might be a candidate for closing is to send a survey to all the patrons receiving delivery from the post office. The service that is proposed to be substituted is explained. The survey requests information on the patrons' current use of the post office and their views on the likely effects if the post office is closed. Questions in the survey concern the criteria that are within the purview of the patrons—the effect on the community and the effect on the level of service provided.

The MSC manager schedules a public meeting in the community. At this meeting the Postal Service presents the proposed change and answers any questions the patrons might have. The patrons are given this opportunity to present their views orally. Sometimes the Postal Service modifies its proposed change because of the views presented at these meetings.

The next step is the writing of the Proposal. The MSC manager presents the Postal Service's proposed action and discusses the statutory criteria. Drawing on the information gathered in the survey, the Postal Service explains how the closing would affect the community and the level of service available. The Postal Service also discusses the two criteria that it can address with information gathered internally—the effect on employees and economic savings.

The Proposal is posted in the affected post offices, and having seen the Postal Service's treatment of the interrelated criteria, the patrons are given an opportunity to comment. The Postal Service addresses these comments in making its Final Determination whether to close the post office. The written Final Determination is posted and the Postal Service may set a date for closing the office if that is the decision made. Patrons may appeal the Postal Service's decision to the Commission within 30 days of the posting of the Final Determination. 39 U.S.C. § 404(b).

In appeals from decisions, the Commission's authority is similar to that of a court of appeals hearing a petition for review of administrative agency action. The standard of review prescribed for the Commission is that used by the court of appeals reviewing the decision of an administrative agency. The Commission cannot reverse the Postal Service merely because it believes a different decision would be better, but must affirm the decision unless it is: "(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence on the record." 39 U.S.C. § 404(b)(5). The Commission may not modify the Postal Service's decision; it must either affirm or return the entire matter to the Postal Service.

In our discussion of the current practice, we concentrated on the public participation in the decisionmaking and did not include the various reviews inside Postal Service management. For the sake of simplicity, we did not discuss consolidation of post offices, which is also covered by 39 U.S.C. § 404(b).

POSSIBLE IMPROVEMENT

From our experience with these cases, we have concluded that the statute could be amended in such a way as to provide for a reduction in the number of full public participation proceedings while at the same time retaining the protections that Congress gave the persons affected by the decision to close a post office.

From the low proportion of appeals to the Commission from decisions to close or consolidate a post office—about 10 percent according to information the Postal Service has supplied—it appears that in many cases the patrons do not oppose the change. Section 404(b) currently requires the Postal Service to make findings on the statutory criteria in every case, regardless of whether the patrons support the change, oppose it, or have no preference.

The statute can be viewed as granting patrons certain substantive and procedural rights, and it might be reasonable to permit the Postal Service to make these decisions internally if the patrons clearly indicate that they do not desire to take advantage of these rights. In particular, the statute could be amended to provide that the Postal Service would initially post a clear, intelligible notice of its intention to close or consolidate a post office and include a statement of the service that would be substituted. The notice would also inform the patrons that, on request, the Postal Service will follow the current statutorily required procedure providing for public participation and consideration of the statutory criteria. If no patron requested the current more formal procedure, the Postal Service could simply close the office as planned.

The GAO has been involved with the issue of the desirability of and the procedure for post office closings for the past 18 years. At present, the GAO is reviewing the situation.

I hope you will find this information helpful. If you have any further questions, please let us know. If you think a meeting would be helpful, please get in touch with my Special Assistant Maureen Drummy.

Sincerely,

JANET D. STEIGER,
Chairman.

NATIONAL WEATHER SERVICE
EMPLOYEES ORGANIZATION,
August 12, 1982.

Hon. VIRGINIA SMITH,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSWOMAN SMITH: The National Weather Service Employees Organization supports the objectives of H.R. 6269. The last two years have been a very traumatic period for all of the employees of the National Weather Service, especially for the employees at the many stations that were

targeted for reduction or closure. Words cannot express the impact on their morale.

The majority of the public regards the National Weather Service as one area of government spending that is useful and valued. Our union has tried to mobilize this public sentiment to retain this essential government service. I believe the message came through very clearly that there are some government services that survive this period of government cutting and budget trimming.

In closing, on behalf of our members, I wish to express our appreciation to you and your many colleagues in the Congress who have felt compassion for the weather employees being affected by the proposed cuts and perhaps more importantly have been sensitive to the public safety and continued need for a good Weather Service.

Sincerely,

LEO R. HARRISON, Jr.,
President, NWSEO.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
Washington, D.C., August 10, 1982.

Hon. VIRGINIA SMITH,
House of Representatives,
Washington, D.C.

DEAR MRS. SMITH: As you discussed with Mr. Vander Myde and Mr. Winchester yesterday, the Department and NOAA agree that the weather station closings could have been handled more smoothly. We agree that formal criteria on which to base future closings are needed. We had planned and hoped that we might be given the opportunity to develop our own criteria based upon programmatic consideratons and contemplated by Section 204(3) of H.R. 6324, now that we have our senior management in place.

I understand that Mr. Winchester has advised you of our opposition to your draft amendment, and in particular to its provisions regarding public hearings and appeals of the Secretary's decisions. Since you are still of the opinion that Congressional action is desirable at this time, I am enclosing, in accordance with your request, a revised version of an amendment. I believe the enclosed version would achieve your goal of formalizing the decision-making process while avoiding the procedural problems which your draft might present.

Sincerely,

JOHN V. BYRNE.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
Washington, D.C., August 11, 1982.

Hon. VIRGINIA SMITH,
House of Representatives
Washington, D.C.

DEAR MRS. SMITH: In my letter of August 10th, I neglected to state that the revised version of the draft amendment to H.R. 6324 that was enclosed had not been reviewed or approved by the Department of Commerce or the Office of Management and Budget. Although Mr. Winchester assures me that he had explained to you that there would be insufficient time to provide a cleared Administration draft, I wish to reiterate that the revised draft amendment provided as a drafting service does not necessarily represent the position of the Administration.

Sincerely,

JOHN V. BYRNE.

Mr. SCHEUER. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to the gentleman from New York.

Mr. SCHEUER. I thank the gentlewoman for yielding.

Mr. Chairman, let me express my appreciation and admiration to the gentlewoman for the splendid leadership she has shown in developing this amendment. We think it is a very thoughtful approach to a real problem. We think it is a useful step in depoliticizing the process of deciding which weather stations should go and which should stay.

That process of triage is very unpleasant when it is politicized. I think the gentlewoman has rendered a great service by providing the leadership to bring this amendment to the floor. I assure the gentlewoman—all of us assure the gentlewoman—we will do everything we can to save it and to protect it in conference.

Mrs. SMITH of Nebraska. I thank the gentleman very much.

Mr. SIMON. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Illinois.

Mr. SIMON. I thank my colleague, the gentlewoman from Nebraska (Mrs. SMITH) for yielding, and for her leadership on this. What she and I are interested in is simply that communities be consulted. We faced precisely the same difficulties in the postal situation and we finally got the law changed so that communities would be consulted.

In the community of Cairo, in my district, the mayor of Cairo, Allen Moss, and the president of the chamber of commerce, John Clarke, had a public hearing attended by a great outpouring of citizens. They sent me a transcript. But under the present law no one pays any attention to that.

The CHAIRMAN. The time of the gentlewoman from Nebraska (Mrs. SMITH) has expired.

(At the request of Mr. SIMON and by unanimous consent Mrs. SMITH of Nebraska was allowed to proceed for 2 additional minutes.)

Mr. SIMON. If the gentlewoman will yield further, the gentlewoman and I are not saying, do not close any weather stations. What we are saying is, someone sitting at a desk in Washington, D.C., should not just arbitrarily do it without consulting the communities involved, without taking a good hard look at what we are doing.

I commend the gentlewoman. I am pleased and proud to be associated with her in this endeavor. This can be a victory not only for the people in our communities but for this Nation.

Mr. Chairman, what my colleague from Nebraska and I are proposing is a simple reform of the process now used to close weather stations.

It is the same kind of good government basic reform which Congress devised 6 years ago to assure some measure of fairness and objectivity in decisions to close or consolidate small post offices.

The inequities of the current procedure were brought home to 38 communities this past year where Weather Service offices were targeted for closure. In carrying out an OMB directive to eliminate 213 positions on the National Weather Service payroll, Department of Commerce policymakers grouped together as many small weather stations as it took to reach that figure of 213 positions, and then they pulled the plug.

One of those stations is in my district in southern Illinois, and I can tell my colleagues from firsthand experience that the department's highhandedness was met with outrage in the four -State area served by the Cairo, Ill., weather station. It is a decision which remains difficult to understand or to justify. For 111 years, the Cairo weather station has supplied communities up and down the Ohio and Mississippi Rivers with vitally important information about river conditions, flood dangers, and growing seasons. In a town meeting—a transcript of which has been sent to several congressional offices, to the Weather Service and to the Secretary of Commerce—and in petitions and hundreds of letters, the people of Illinois, Missouri, Kentucky, and Tennessee have made it clear that the Cairo station is an important community fixture that has more significance than OMB policymakers in Washington apparently realize.

This was my initiation into the hodgepodge process we now use to close a weather station, and I was not favorably impressed with what I saw.

The measure which my colleague from Nebraska and I are offering today does not specify which weather stations should or should not be closed. We have no parochial interest in this other than the desire to permit our communities the chance to make the strong cases for our weather stations which we know they can make. Our aim is to remove those decisions as much as possible from the realm of politics.

The situation closely resembles a similar one 6 years ago when the Postal Service proposed closure of 10,000 small post offices as a cost-saving measure. This was done in the face of a provision in the Postal Service's charter requiring the Postal Service to consider more than just the balance sheet in making decisions to close or consolidate offices. Our battle at that time led to enactment of a new orderly process for making these decisions. It has worked well since that time in protecting the interests of small communities, while also permitting adequate management flexibility.

One group with extensive before-and-after experience in the post office case is the National Association of Postmasters of the United States. Frank Miklozek, the association's able executive director, sees the parallels between the post office and weather station situations and has endorsed the concept represented in our bill in the following letter:

NAPUS,
Arlington, Va., August 11, 1982.

Hon. PAUL SIMON,
House of Representatives,
Washington, D.C.

DEAR PAUL: It has come to my attention that U.S. Weather Stations have been indiscriminately closed during the past few years to the detriment of persons and communities relying on their services and that you have introduced H.R. 6269 in an attempt to establish and formalize objective criteria and procedures for closing and consolidating them.

These closings parallel the wholesale closings of small post offices during 1976 and 1977 and if the program to close and consolidate post offices had not been checked by legislation, many communities would not be served by post offices and the community life in these communities would have suffered greatly.

In 1977, Section 404(b) of Title 39 was amended to provide that the U.S. Postal Service could not close or consolidate a post office unless it observed certain procedures in conformance with this law for the closing and consolidation of post offices.

As a result of this change in law the wholesale closings of post offices was stopped and small communities were protected. The procedures in no way prevented the closing of post offices which in many cases is brought about through a change in circumstances justifying that a post office be closed. The change in law however did prevent small communities and postal patrons in these communities from having their service cut or diminished without having the chance to have hearings and appeal procedures to protect their interests.

As I understand it, the closing and consolidating of U.S. Weather Stations, with the resulting impact upon persons and communities relying on their services, is similar to that which existed in the matter of closing and consolidating of post offices prior to the enactment of the Randolph Amendment into law.

The provisions of HR 6269 establishes criteria and procedures for the closing and consolidating of U.S. Weather Stations similar to those established for the closing of small post offices under Section 404(b) of Title 39 (USCA).

It is felt by us as an organization that this change in law worked well in the matter of closing small post offices. It has allowed those necessary to be closed but has prevented the wholesale closing of post offices. Its effect has been to prevent small communities from having their postal services cut or diminished without hearings or appeal rights. We feel that in order to protect postal patrons in small communities that it is necessary that such criteria and procedures as established be in existence. Without such criteria and procedures postal patrons and communities would have their rights seriously impaired.

We feel that if such criteria and procedures for the closing and consolidating of U.S. Weather Stations were formalized into law such as provided for by HR 6269 that it would have much the same effect in the matter of closing U.S. Weather Stations and we support this bill with the thought that it will give an organized approach to the closing of the weather stations which will provide interested citizens and communities with the means of protecting themselves from adverse effects caused by the closing of these weather stations.

Sincerely yours,

FRANK L. MIKLOZEK,
Executive Director, National Association of Postmasters of the United States.

In summary, Mr. Chairman, I would like to emphasize that this is a good government reform. It forces Federal policymakers to carefully weigh the consequences of their actions whenever they make a decision to terminate weather service operations. It introduces those most directly affected by those decisions into the decisionmaking process.

I urge the adoption of the amendment.

Mr. PRITCHARD. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentlewoman for yielding.

I would like to rise and say I support the very commonsense amendment offered by the gentlewoman from Nebraska. I know of no opposition on this side of the aisle.

Mr. DASCHLE. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I rise in very strong support of the amendment offered by the Members from Illinois and Nebraska. This amendment embodies the language of legislation which I am cosponsoring, the effect of which would be to apply the same public input criteria to proposed weather station closings that now applies to post office closings. The necessity for this type of public review is clearly shown by the experience that the residents of Aberdeen, S. Dak., have undergone in the past year.

This experience started when NOAA, in an entirely capricious and unilateral action, decided that the Aberdeen weather station was no longer needed. They did not ask anybody about this—not the congressional delegation, not the local residents, not the appropriate State agencies, not the State weather service personnel. If they had asked, they would have discovered that closing this station would have left a hole in this country's weather warning network which is larger than some States. They would have discovered that the geographical area they were deciding to leave unprotected is one that is prone to lightning—quick shifts in weather patterns. They would have discovered that closing this station created a clear and present danger to the life and property of over 100,000 people in a 13-county area. And in case some of you are not familiar with my area of the country, a county is an awfully big piece of land.

This clear and present danger was amply demonstrated when, in mid-June of this year, two tornados were sighted by citizens directly north of Aberdeen. These were citizen sightings. There was no tornado alert, no weather warning issued by the National Weather Service, because there was no one in the Aberdeen station at the time. The station was still there, of course. The Federal Government was paying rent for office space, and all the equipment was still in place, but there was no personnel there. The reason for this unconscionable situation was that, because of all the scare stories going around about the intention of the administration to close this station, all personnel, in justifiably looking to their own interests had transferred out of the station, and no replacements had been recruited. So while the station was still legally open, was authorized to be open, and was fully funded, no personnel was assigned to it.

We were lucky in Aberdeen on that day in June. Neither of the two twisters sighted touched down. But I would not like to trust to luck again. The occurrences in June clearly indicate that citizens in the Aberdeen coverage area cannot be adequately protected from severe weather conditions if the Aberdeen station is not in operation.

Just yesterday, a skeleton crew reopened the Aberdeen station, and people in that area now have some protection, the first since October of last year when the station was illegally closed through a back-door maneuver. But the regional office of the National Weather Service informs me that it is having a difficult time bringing staff up to full levels, because of the continuing uncertainly about administration future plans. Until staffing is brought up to full levels, the residents of this area are having their lives and properties gambled with as a result of arbitrary and capricious decisionmaking by bureaucrats far removed from the scene.

I have no illusions that every weather station presently operating in this country is, in fact, vitally necessary. But, out of simple commonsense, would it not be more logical to find out which of them are unnecessary, and which of them are vital, before closing decisions are made? This is all this amendment asks—that there be a mechanism whereby local input is considered before any closures are made.

We are not dealing here with some minor redistribution of offices and agencies. We are dealing with people's lives. I would hope that this Congress would give the people affected by the

decisions NOAA makes at least a chance to present their side of the case before a potentially tragic, and mistaken decision is made. I urge my colleagues to support this amendment, in the interests of the personal safety of their constituents.

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Mr. FUQUA. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I am happy to yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I appreciate the gentlewoman's yielding.

I would like to say that I would like to join also in commending the gentlewoman for offering this amendment.

Mr. OXLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Ohio.

Mr. OXLEY. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois and the gentlewoman from Nebraska. The need for such a provision is clear if we are to insure that all of our constituents receive accurate and timely weather information.

Although it may well be the case that some of the 38 weather stations that are perennially slated for closure are no longer needed, the amendment will insure that such closures do not take place solely at the whim of the Secretary of Commerce. Many of these stations are still needed, and their closure would impose a substantial hardship on those they serve.

The weather station in Mansfield, Ohio, is a case in point. The station was established in 1960 as a part-time operation with three employees. It has continued to serve on that basis ever since. Its size and hours of operation, however, are not indicative of the essential function it serves. Indeed, the station is vitally important to the almost half-million people in its coverage area.

The Mansfield weather station is situated on top of a topographic feature known as the northcentral Ohio Highlands, approximately 1,500 feet in elevation. None of the other weather stations in this region have the same topographic location. Toledo, Findlay, and Cleveland are situated essentially on a low, flat lake plain. Columbus, to the south, is situated at approximately 800 to 900 feet in elevation. There is, therefore, a minimum difference of 600 feet in elevation between the Mansfield station and the other weather stations in the region. The net result of this location is an area with more severe and frequent storms than the surrounding areas.

Complete and accurate weather data are essential if the citizens of this area are to take adequate precautions against such severe weather, which has included a number of tornadoes in recent years. In Xenia 35 people were killed by a tornado in 1974, and more recently, in the spring of 1981, a tornado devastated the small community of Cardington, Ohio.

Another weather station simply cannot do the job that is needed to serve this unique area. I am certain that the Mansfield weather station is not alone in this regard.

Mr. Chairman, I support the amendment because it would take into consideration the needs of the surrounding area before a weather station could be closed. It is not controversial by any stretch of the imagination. Its adoption will help to assure the safety of all Americans against the ravages of severe weather. I urge its adoption.

Mr. EMERSON. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Speaker, I rise in support of the amendment offered by my colleagues, Representative VIRGINIA SMITH and Representative PAUL SIMON, that establishes objective criteria and orderly procedures for closing or consolidating weather stations.

I am an original cosponsor of H.R. 6753, the bill after which this amendment is modeled. This amendment will hopefully end the community suffering that happens every time the Federal Government announces its desire to close a weather station. Briefly, the amendment requires five things:

First, Advance notice to communities whose weather stations are candidates for closure;

Second, Full consideration of the impact of any closure or consolidation on weather service employees;

Third, Full evaluation of economic savings from the proposed action;

Fourth, Provision for hearings; and

Fifth, Right of appeal.

My farmers rely on a weather service station located in Cairo, Ill., that has been threatened with closure several times. Closing this station, in my view, cannot be justified when viewed from an objective basis. This station provides many benefits that clearly outweigh any savings. For example:

First. Cairo weather station has operated for over 100 years providing vital information for farmers, barge operators, and other groups that depend on accurate weather information.

Second. The meteorologist stationed there is a hard-working and truly professional individual.

Third. The area encompassed by the station is one of the largest artificially drained regions in the world; accurate and timely warnings about the weather are mandatory to insure the safety of the public.

For all these reasons, I urge my colleagues to support this amendment, which will give the Congress a tool to examine, in an orderly way, why the Government believes any weather station should be closed. Moreover, those affected by a proposed closing will have the opportunity to voice their concerns and thereby participate in the decisionmaking process.

The CHAIRMAN. The time of the gentlewoman from Nebraska (Mrs. SMITH) has expired.

(At the request of Mrs. BOUQUARD, and by unanimous consent, Mrs. SMITH of Nebraska was allowed to proceed for 1 additional minute.)

Mrs. BOUQUARD. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. Mr. Chairman, I thank the gentlewoman for yielding. I rise in strong support for the amendment offered by my colleague and I want to thank the gentlewoman from Nebraska for the leadership she has shown in fighting the arbitrary closing of weather stations.

The President's fiscal year 1983 budget request called for the elimination of the Chattanooga Weather Service Office in my district. The office provides public weather forecasts, severe weather and flood warnings for 15 counties, surface weather observations, and programing for National Oceanic Atmospheric weather radio broadcasts. The people of this area would have had to rely on weather information from Atlanta and Knoxville, but Chattanooga is located in a valley between two mountain ridges and is subject to unexpected temperature inversions. The Chattanooga area is dependent upon accurate warnings. The $182,000 cost of operating the office works out to about 26 cents per person served. The amendment offered by my colleague would put an end to the unwarranted closing of weather stations and required instead objective guidelines to be followed in determining which stations are necessary and which can be closed or consolidated. It provides for the consideration of savings gained from possible closings but also the consideration of the impact on lives and property. Certainly we need to make savings where we can but we can do so in an objective way realizing that we have saved nothing in the long run if we create potential safety hazards. We are experiencing heavy flooding in my district today. The situation would certainly be worse if it were not for our weather station alerting the citizens to the adverse weather conditions.

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in support of the Smith-Simon amendment to H.R. 6324, the National Oceanic and Atmospheric Administration (NOAA) Authorization Act.

This amendment incorporates the contents of H.R. 6269, of which I am an original cosponsor. I have worked

long with my colleague from Nebraska (Mrs. SMITH) on establishing criteria for determining the future status of Weather Service stations under the Department of Commerce and NOAA.

Weather is important in South Dakota. It is life or death, both in the economic sense for an agricultural operation, and in the sense of the violent storms that sweep across the Great Plains with little notice. The National Weather Service, under NOAA has attempted to meet budget restraints by closing 45 weather stations in the past year. This is not cost effective unless you can determine the real need of each station, and the effect it will have on the area by its absence. This is the case in South Dakota, and I am sure that it is true in other parts of the country.

The Smith-Simon amendment will set up objective criteria and procedures that would have to be followed before a Weather Service station could be closed. This is not new to the problem of closing Government facilities, and these criteria could be implemented easily.

I will continue to promote the use of these Weather Service stations, and it must be proven to me that any should be closed. I have witnessed too many destructive storms that did not destroy life, only because of the warnings received from the Weather Service station.

Each station meets local concerns, something that even the finest weather satellite cannot do completely. I urge my colleagues to support the amendment, for protection of life and property from the ravages of nature.●

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Nebraska (Mrs. SMITH).

The amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—NATIONAL CLIMATE PROGRAM

SEC. 301. This title may be cited as the "National Climate Program Amendments of 1982".

SEC. 302. Section 4 of the National Climate Program Act (15 U.S.C. 2904) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

SEC. 303. (a) Subsection (c) of section 5 of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" before "The Secretary",

(2) by designating the third sentence as paragraph (4), and

(3) by striking out the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program,

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be the spokesman for the program,

"(C) serve as the staff for the Board and its supporting committees and working groups,

"(D) review each agency budget request transmitted under subsection (h)(1) and submit an analysis of the requests to the Board for its review,

"(E) be responsible for coordinating interagency participation in international climate-related activities, and

"(F) work with the National Academy of Sciences, and other private, academic, State, and local groups in preparing and implementing the climate plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grant or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the climate plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(b) Subsection (d) of such section is amended—

(1) by striking out the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and the following: "Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy, (B) atmospheric data collection and monitoring on a statewide and regional basis, (C) advice to regional, State, and local government agencies regarding climate-related issues, (D) information to users within the State regarding climate and climatic effects, and (E) information to the Secretary regarding the needs of persons within the State for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;".

(2) by striking out "biennially" in paragraph (9) and inserting in lieu thereof "at a frequency (not more often than biennially or less often than quadrennially) determined by the Board", and

(3) by striking out "the intergovernmental program under section 6" in paragraph (9) and inserting in lieu thereof "the intergovernmental program described in paragraph (7)".

(c) Such action is amended by striking out subsection (e) and inserting in lieu thereof the following new subsection:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary believes should participate in the program.

"(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program,

"(B) review all agency and department budget requests related to climate transmitted under subsection (h)(1) and submit a report to the Office of Management and Budget concerning such budget requests,

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities, and

"(D) establish and maintain a committee of users and producers of climate data, information, and services to advise the Board, the Director, and the Congress on the conduct of the program.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(d) Subsection (f)(2) of such section is amended by inserting "with the Office" after "shall cooperate".

(e) The first sentence of subsection (g)(1) of such section is amended by inserting before the period at the end of the following: "and shall transmit a copy of such request to the National Climate Program Office".

SEC. 304. Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

SEC. 305. Section 7 of the National Climate Program Act (15 U.S.C. 2906) is amended by striking out "January 30" before paragraph (a) and inserting in lieu thereof "March 31".

SEC. 306. Section 8(a) of the National Climate Program Act (15 U.S.C. 2907(a)) is amended by striking out ", to the extent provided or approved in advance in appropriation Acts,".

SEC. 307. Of the funds authorized for the National Climate Program Office for each of fiscal years 1983 and 1984 pursuant to section 201(a)(4) of this Act, at least 25 per centum shall be made available during each fiscal year for intergovernmental climate-related activities (described in section 5(d)(7) of the National Climate Program Act) and at least 20 per centum shall be made available during each fiscal year for experimental climate forecast centers (described in section 5(d)(8) of the National Climate Program Act).

The CHAIRMAN. Are there any amendments to title III?

AMENDMENTS OFFERED BY MR. FUQUA

Mr. FUQUA. Mr. Chairman, I offer technical amendments, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. FUQUA: On page 10, line 2, after the word "contracts" insert the following: "to the extent provided or approved in advance in appropriation acts";

On page 13, strike lines 3 through 6 and renumber the following section accordingly.

On page 21, line 24, after the word "contract" insert the following: "to the extent

provided or approved in advance in appropriation acts".

Mr. FUQUA. Mr. Chairman, these are technical amendments which are simply designed to conform titles III and IV of H.R. 6798 to the requirements of section 401(a) of the Budget Act. These amendments would make it clear that NOAA is authorized under this section to enter into contracts only to the extent and during the period for which funds have been appropriated by Congress.

The amendments before us are completely consistent with the original intent of the committees; they are consistent with the policy that we would have expected NOAA to adopt regardless of these amendments. The amendments do provide, however, the technical protection needed for compliance with the Budget Act, and I hope that they will be adopted without controversy.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Florida (Mr. FUQUA).

The amendments were agreed to.

The CHAIRMAN. Are there any other amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—GREAT LAKES PROTECTION

SEC. 401. This title may be cited as the "Great Lakes Protection Act of 1982".

SEC. 402. The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended—

(1) by redesignating section 2 as section 101;

(2) by striking out "Act" in subsection (b) of section 101 (as redesignated by paragraph (1)) and inserting in lieu thereof "title";

(3) by redesignating sections 4, 5, and 6 as sections 102, 103, and 104, respectively;

(4) by striking out "under section 6" in subsection (b)(3) of section 103 (as redesignated by paragraph (3)) and inserting in lieu thereof "under section 104";

(5) by striking out "pursuant to section 4(b)(1)(B)" in subsection (a) of section 104 (as redesignated by paragraph (3)) and inserting in lieu thereof "pursuant to section 102(b)(1)(B)";

(6) by striking out sections 3, 7, 8, 9, and 10;

(7) by inserting after the first section the following:

"SEC. 2. DEFINITIONS.

"For purposes of this Act (unless the context requires otherwise)—

"(1) the term 'Administration' means the National Oceanic and Atmospheric Administration;

"(2) the term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration;

"(3) the term 'Director' means the Director of the Office of Science and Technology Policy in the Executive Office of the President;

"(4) the term 'Executive Director' means the Executive Director of the Great Lakes Research Office established by section 202 of this Act;

"(5) the term 'Great Lakes' means Lake Ontario (including the Saint Lawrence River from Lake Ontario to the forty-fifth parallel of latitude), Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, and Lake Superior;

"(6) the term 'marine environment' means the coastal zone (as that term is defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1))), the seabed, subsoil, and waters of the territorial sea of the United States, the waters of any zone over which the United States asserts exclusive fishery management authority, the waters of the high seas, the seabed and subsoil of and beyond the outer Continental Shelf, and the Great Lakes;

"(7) the term 'ocean and coastal resource' means any resource, whether living (including natural or cultured plant life, fish, shellfish, marine mammals, and wildlife), nonliving (including energy sources, minerals, and chemical substances), manmade, tangible, intangible, actual, or potential which is located in, derived from, or traceable to, the marine environment and includes the habitat of any such living resources, the coastal space, the ecosystems, the nutrient-rich areas, and the other components of the marine environment which contribute to or provide (or which are capable of contributing to or providing) recreational, scenic, esthetic, biological, habitational, commercial, economic, or conservation values; and

"(8) the term 'ocean pollution' means any short-term or long-term change in the marine environment.

"TITLE I—OCEAN POLLUTION RESEARCH";

and

(8) by adding after section 104 (as redesignated by paragraph (3)) the following new titles:

"TITLE II—GREAT LAKES PROTECTION

"SEC. 201. FINDINGS, PURPOSE, AND DECLARATION OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) the Great Lakes (containing 95 percent of the surface fresh water of the United States and 20 percent of the world's fresh water) are among the greatest natural resources in the world, continuously serving the people of the United States and other nations as important sources of food, fresh water, recreation, beauty, and enjoyment;

"(2) the Great Lakes are among the world's major waterways, each year carrying tons of waterborne shipping to and from all parts of the globe;

"(3) the productivity and beauty of the Great Lakes in recent years have been diminished and threatened by water pollution, shoreline erosion, and sedimentation;

"(4) numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes;

"(5) the various research projects relating to the Great Lakes, including those conducted at the college and university level and those conducted at the State and local level, can be more effectively coordinated in order to obtain maximum benefits; and

"(6) a greater awareness of the importance of preserving and protecting the environmental quality of the Great Lakes is in the national interest.

"(b) PURPOSE.—The purposes of this title are—

"(1) to provide for a rational and effective coordination of federally supported research aimed at increasing fundamental knowledge in support of efforts to preserve and protect the environmental quality of the Great Lakes;

"(2) to identify the needs and priorities for such research as will be required in the future to preserve and protect the environmental quality of the Great Lakes;

"(3) to assure a comprehensive and balanced approach to federally supported research on the Great Lakes;

"(4) to encourage the utilization of the results and findings of research relating to the Great Lakes in the decisionmaking processes which affect the environmental quality of the Great Lakes; and

"(5) to foster public understanding, and to assure greater understanding at all levels of government, of the role of the Great Lakes as a unique national resource and the greatest ecological entity of its kind.

"(c) DECLARATION OF POLICY.—The Congress, in recognizing the Great Lakes to be a unique national and international resource, declares that—

"(1) it shall be the continuing policy of the Federal Government, in cooperation with State and local governments and other concerned public and private organizations, to use all practicable means and measures in a manner calculated to enhance, preserve, and protect the environmental quality of the Great Lakes, to create and maintain conditions under which individuals, industry, and the Great Lakes can exist in productive harmony, and to fulfill the social, economic, and other requirements of present and future generations; and

"(2) it shall be the policy of the Federal Government to maximize international cooperation with Canada and other nations in maintaining, enhancing, preserving, and protecting the environmental quality of the Great Lakes consistent with the foreign and domestic policies of the United States.

"SEC. 202. GREAT LAKES RESEARCH OFFICE.

"(a)(1) ESTABLISHMENT.—There is established within the Administration a Great Lakes Research Office. All facilities of the Great Lakes Research Office shall be located geographically either in the State of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, or New York.

"(2) EXECUTIVE DIRECTOR.—The Great Lakes Research Office established by paragraph (1) shall be directed by an Executive Director appointed by the Administrator. Before making any appointment, the Administrator shall seek the recommendation of the Governors of Minnesota, Wisconsin, Illinois, Michigan, Indiana, Ohio, Pennsylvania, and New York with respect to individuals who are qualified to serve as the Executive Director.

"(3) STAFF.—The Executive Director may appoint such staff as the Executive Director determines are necessary to carry out the duties and responsibilities and to fulfill the purposes of this title. The staff appointed pursuant to this paragraph shall be appointed subject to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) INVENTORY.—

"(1) COMPILATION.—Not later than one year after the enactment of this title the Executive Director shall compile an inventory of all major actions taken, or planned to be taken, by Federal, State, or local governments which have, or may have, a significant effect on the environmental quality of the Great Lakes (with the significance of the effect to be determined by the Executive Director in conformance with the policy set forth in section 201). The inventory may

be limited by the Executive Director to an inventory of major actions taken after January 1, 1977.

"(2) REVIEW.—The Executive Director shall review and update the inventory compiled pursuant to paragraph (1) every three months. The Executive Director shall consult with Federal, State and local officials in reviewing and updating the inventory.

"(3) SUBMISSION.—The inventory compiled pursuant to paragraph (1), and each review and update made pursuant to paragraph (2), shall be submitted to the President and the Congress.

"(c) FUNCTIONS OF EXECUTIVE DIRECTOR.—

"(1) KNOWLEDGE OF PROGRAMS AND PROJECTS.—The Executive Director shall be responsible for knowledge of programs and projects conducted or funded by the Federal Government which relate to the Great Lakes, including any program or project assisted under the National Sea Grant College Program Act (33 U.S.C. 1121-1131) and any program or project which carries on research directed toward enhancing, preserving, or protecting the environmental quality of the Great Lakes.

"(2) DIRECT RESEARCH.—The Executive Director may direct the staff of the Great Lakes Research Office to conduct direct research in order to carry out the duties and responsibilities of the Office and to fulfill the purposes of this title.

"(3) CONTRACTS.—The Executive Director may enter into any contract which the Executive Director determines is necessary to carry out the duties and responsibilities of the Office.

"(d) CONSULTATION AND ADVISEMENT BY EXECUTIVE DIRECTOR.—In carrying out this title, the Executive Director shall—

"(1) consult with Federal, State, and local governmental officials responsible for maintaining, enhancing, preserving, protecting, or monitoring the environmental quality of the Great Lakes, including the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Director of the Office of Science and Technology Policy in the Executive Office of the President, the President of the National Academy of Sciences, the Director of the National Institutes of Health, the Chairman of the United States Section of the International Joint Commission-United States and Canada, the Chairman of the United States Section of the Great Lakes Fishery Commission, the Executive Director of the Great Lakes Commission, and the Chief of Engineers of the United States Army Corps of Engineers; and

"(2) advise such Federal, State, and local governmental officials on the effect of any Federal, State, or local governmental program or project on the environmental quality of the Great Lakes.

"(e) REPORT.—Not later than one year after the enactment of this title, the Executive Director shall submit to the President and the Congress a report containing—

"(1) information on the current state of research efforts conducted or supported by the Federal Government to improve the environmental quality of the Great Lakes;

"(2) recommendations for the improvement, increased coordination, and use of such research efforts;

"(3) information on the degree of coordination among the States in the vicinity of the Great Lakes in efforts to preserve and protect the environmental quality of the Great Lakes; and

"(4) recommendations for the improvement of such coordination among the States.

"SEC. 203. GREAT LAKES ENVIRONMENTAL IMPACT ANALYSIS.

"(a) APPENDIX.—The responsible Federal official shall include in every statement included pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) in a recommendation or report on proposals for legislation, and other major Federal actions, which significantly affect the Great Lakes (with the significance of the effect to be determined by the Executive Director in conformance with the policy set forth in section 201) an appendix which makes special reference to the Great Lakes and which contains—

"(1) an index to all material contained in such statement which relates to the Great Lakes; and

"(2) a summary of all material contained in such statement which relates to the Great Lakes.

"(b) COMMENTS.—The Executive Director shall submit to the responsible Federal official comments on each statement described in subsection (a) before the statement is included in a recommendation or report pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

"(c) SUBMISSION OF APPENDIX AND COMMENTS.—Copies of any appendix required to be included in a statement pursuant to subsection (a), and any comments submitted by the Executive Director pursuant to subsection (b), shall be submitted to the President and made available to the public pursuant to section 552 of title 5 of the United States Code.

"TITLE III—GENERAL PROVISIONS

"SEC. 301. INTERAGENCY COOPERATION.

"The head of each department, agency, or other instrumentality of the Federal Government which is engaged in, concerned with, or has authority over programs relating to ocean pollution research, development, and monitoring or over research to maintain, enhance, preserve, or protect the environmental quality of the Great Lakes—

"(1) shall cooperate with the administrator in carrying out the purposes of title I and shall cooperate with the Administrator and the Executive Director in carrying out the purposes of title II;

"(2) may, upon written request from the Administrator, Director, or Executive Director, make available to the Administrator, Director, or Executive Director such personnel (with their consent and without prejudice to their position and rating), services, or facilities as may be necessary to assist the Administrator, Director, or Executive Director in achieving the purposes of this Act;

"(3) shall, upon written request from the Administrator, Director, or Executive Director, furnish such data or other information as the Administrator, Director, or Executive Director determines is necessary to fulfill the purposes of this Act.

"SEC. 302. DISSEMINATION OF INFORMATION.

"(a) OCEAN POLLUTION INFORMATION.—The Administrator shall insure that the results, findings, and information regarding ocean pollution research, development, and monitoring programs conducted or sponsored by the Federal Government are disseminated in a timely manner and in useful forms to relevant departments, agencies, and instrumentalities of the Federal Government and to other persons having an interest in ocean pollution research, development, and monitoring.

"(b) GREAT LAKES INFORMATION.—The Administrator, Director, or Executive Director shall insure that the results, findings, and information regarding the Great Lakes compiled by the Great Lakes Research Office are disseminated in a timely manner and in useful forms to relevant department, agencies, and instrumentalities of the Federal Government and to other persons having an interest in the environmental quality of the Great Lakes.

"SEC. 303. EFFECT ON OTHER LAWS.

"Nothing in this Act shall be construed to amend, restrict, or otherwise alter the authority of any Federal department, agency, or instrumentality under any law to undertake research, development, and monitoring relating to ocean pollution, to conduct research relating to the Great Lakes, or to undertake action pursuant to any other Federal law.

"SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—There are authorized to be appropriated to the Administration for the purposes of carrying out this Act not to exceed $5,000,000 for the fiscal year ending September 30, 1979; not to exceed $4,300,000 for the fiscal year ending September 30, 1980; not to exceed $3,000,000 for the fiscal year ending September 30, 1981; not to exceed $4,000,000 for the fiscal year ending September 30, 1982; and, of the funds authorized pursuant to section 201(a) of the Atmospheric, Climatic, and Ocean Pollution Act of 1982, not to exceed $3,000,000 for the fiscal year ending September 30, 1983, and not to exceed $3,000,000 for the fiscal year ending September 30, 1984.

"(b) LIMITATION.—Of any amount appropriated for a fiscal year ending after September 30, 1982, under the authorization contained in subsection (a) an amount not more than $750,000 may be expended by the Executive Director during a fiscal year to carry out title II of this Act.".

The CHAIRMAN. Are there any amendments to title IV?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—OCEAN POLLUTION RESEARCH

SEC. 501. Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 502. Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) The Secretary shall ensure that the program under this section complements, when appropriate, the activities undertaken pursuant to title I. Such program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the ability of the marine environment to assimilate materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations,

contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species; and

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 503. Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibilty of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

"(d) The Administrator, in cooperation with the Administrator of the National Oceanic and Atmospheric Administration, shall submit to the Congress and the President, not later than December 31, 1983, a report on sewage sludge disposal in the New York region. The report shall consider the factors listed in subsection (c) as they relate to landfilling, incineration, and ocean dumping; shall include a cost-benefit comparison of these three alternatives; and shall recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 504. (a) Of the funds authorized pursuant to section 201(a)(1) of this Act, $12,000,000 is authorized to be appropriated in each of the fiscal years 1983 and 1984 to carry out the provisions of title II of the Marine Protection, Research, and Sanctuaries Act of 1972. Of these funds, at least $500,000 shall be made available in each of such fiscal years to carry out the studies authorized in section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972.

(b) Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981," and by inserting ", and not to exceed $12,000,000 for each of the fiscal years 1983 and 1984" immediately after "fiscal year 1982".

SEC. 505. Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping involved;

"(2) the results of activities undertaken pursuant to section 202;

"(3) with the concurrence of the Administrator and after consulting with other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443).".

The CHAIRMAN. Are there any amendments to title V?

If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—OTHER PROGRAMS

SEC. 601. Of the funds authorized pursuant to section 201(a)(3) of this Act, $100,000 is authorized to be appropriated in each of the fiscal years 1983 and 1984 to carry out the provisions of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", as amended (15 U.S.C. 330)

The CHAIRMAN. Are there any amendments to title VI?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. EVANS of Indiana, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes, pursuant to House Resolution 540, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 65, not voting 29, as follows:

[Roll No. 286]

YEAS—340

Addabbo	Daub	Goldwater
Akaka	Davis	Gonzalez
Albosta	de la Garza	Gore
Alexander	Deckard	Gradison
Anderson	Dellums	Gray
Andrews	DeNardis	Green
Annunzio	Derrick	Grisham
Anthony	Derwinski	Guarini
Aspin	Dickinson	Gunderson
AuCoin	Dicks	Hall (OH)
Badham	Dingell	Hall, Ralph
Bailey (MO)	Dixon	Hall, Sam
Bailey (PA)	Donnelly	Hamilton
Barnard	Dorgan	Hammerschmidt
Barnes	Dougherty	Hance
Beard	Dowdy	Harkin
Bedell	Downey	Hartnett
Beilenson	Duncan	Hatcher
Benedict	Dunn	Hawkins
Benjamin	Dwyer	Heckler
Bennett	Dymally	Hefner
Bereuter	Dyson	Hendon
Bevill	Early	Hertel
Biaggi	Eckart	Hightower
Bingham	Edgar	Hiler
Blanchard	Edwards (AL)	Hillis
Bliley	Edwards (CA)	Holland
Boggs	Emerson	Hollenbeck
Boland	English	Hopkins
Bolling	Erdahl	Horton
Bonior	Erlenborn	Howard
Bonker	Evans (DE)	Hoyer
Bouquard	Evans (IA)	Hubbard
Bowen	Evans (IN)	Huckaby
Brinkley	Fary	Hughes
Brodhead	Fascell	Hutto
Brooks	Fazio	Hyde
Broomfield	Ferraro	Jacobs
Brown (CA)	Fiedler	Jeffords
Burton, Phillip	Fields	Jenkins
Butler	Findley	Jones (NC)
Byron	Fish	Jones (OK)
Campbell	Fithian	Jones (TN)
Carney	Flippo	Kastenmeier
Chappell	Florio	Kazen
Chappie	Foglietta	Kennelly
Chisholm	Foley	Kildee
Clausen	Ford (MI)	Kogovsek
Clay	Ford (TN)	LaFalce
Clinger	Forsythe	Lantos
Coats	Fountain	Leach
Coelho	Fowler	Leath
Collins (IL)	Frank	Lehman
Conte	Frost	Leland
Coughlin	Fuqua	Lent
Courter	Garcia	Levitas
Coyne, James	Gaydos	Lewis
Coyne, William	Gejdenson	Long (LA)
Craig	Gephardt	Long (MD)
Crockett	Gibbons	Lott
Daniel, Dan	Gilman	Lowery (CA)
Daniel, R. W.	Gingrich	Lowry (WA)
Daschle	Glickman	Lujan

Luken	Patterson	Smith (AL)
Lundine	Pease	Smith (IA)
Madigan	Pepper	Smith (NE)
Markey	Perkins	Smith (NJ)
Marriott	Petri	Smith (PA)
Martin (IL)	Peyser	Snowe
Martin (NC)	Pickle	Snyder
Martinez	Porter	Solarz
Matsui	Price	Spence
Mattox	Pritchard	St Germain
Mavroules	Pursell	Stangeland
Mazzoli	Quillen	Stark
McClory	Railsback	Stenholm
McCloskey	Rangel	Stokes
McCollum	Ratchford	Stratton
McCurdy	Regula	Studds
McDade	Reuss	Swift
McGrath	Rhodes	Synar
McHugh	Richmond	Tauzin
McKinney	Rinaldo	Taylor
Mica	Ritter	Thomas
Mikulski	Roberts (KS)	Traxler
Miller (CA)	Roberts (SD)	Trible
Miller (OH)	Robinson	Udall
Mineta	Rodino	Vander Jagt
Minish	Roe	Vento
Mitchell (MD)	Rogers	Volkmer
Mitchell (NY)	Rose	Walgren
Moakley	Rostenkowski	Wampler
Molinari	Roth	Washington
Mollohan	Roukema	Watkins
Montgomery	Roybal	Waxman
Morrison	Russo	Weaver
Mottl	Sabo	Weiss
Murtha	Santini	White
Napier	Savage	Whitehurst
Natcher	Sawyer	Whitley
Nelligan	Scheuer	Williams (OH)
Nelson	Schneider	Wilson
Nichols	Schroeder	Wirth
Nowak	Schulze	Wolf
O'Brien	Schumer	Wolpe
Oakar	Seiberling	Wright
Oberstar	Sensenbrenner	Wyden
Obey	Shamansky	Wylie
Ottinger	Shannon	Yates
Oxley	Sharp	Young (MO)
Panetta	Shaw	Zablocki
Parris	Shelby	Zeferetti
Pashayan	Simon	
Patman	Skelton	

NAYS—65

Applegate	Gregg	Myers
Archer	Hagedorn	Paul
Ashbrook	Hansen (ID)	Roemer
Atkinson	Hansen (UT)	Rousselot
Bethune	Hunter	Rudd
Brown (CO)	Jeffries	Shumway
Burgener	Johnston	Shuster
Carman	Kemp	Siljander
Cheney	Kindness	Skeen
Collins (TX)	Kramer	Smith (OR)
Conable	Latta	Solomon
Conyers	Lee	Staton
Corcoran	Loeffler	Stump
Crane, Daniel	Lungren	Tauke
Crane, Philip	Marlenee	Walker
Dannemeyer	Martin (NY)	Weber (MN)
Dornan	McDonald	Weber (OH)
Dreier	McEwen	Whittaker
Edwards (OK)	Michel	Winn
Frenzel	Moore	Wortley
Goodling	Moorhead	Young (FL)
Gramm	Murphy	

NOT VOTING—29

Bafalis	Evans (GA)	Moffett
Boner	Fenwick	Neal
Breaux	Ginn	Rahall
Brown (OH)	Heftel	Rosenthal
Broyhill	Holt	Stanton
Burton, John	Ireland	Whitten
Coleman	Lagomarsino	Williams (MT)
D'Amours	LeBoutillier	Yatron
Emery	Livingston	Young (AK)
Ertel	Marks	

□ 1500

Mr. HILER and Mr. WEAVER changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 6955, OMNIBUS BUDGET RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), and ask unanimous consent that the statement of managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 16, 1982.)

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER pro tempore. The gentleman from Oklahoma, Mr. JONES, will be recognized for 30 minutes, and the gentleman from Ohio, Mr. LATTA, will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

□ 1510

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on the conference report on the bill, H.R. 6955.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. JONES of Oklahoma. Mr. Speaker, this conference report on the Omnibus Budget Reconciliation Act pertains to those spending cuts requested or required of seven different House committees. These committees are the Committee on Agriculture, the Committee on Armed Services, the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, the Committee on Merchant Marine and Fisheries, the Committee on Post Office and Civil Service, and the Committee on Veterans' Affairs.

In the reconciliation instructions, Mr. Speaker, these committees were asked to reduce spending by a total of about $11.1 billion. The actual spending cuts from CBO came to $13.7 billion, an excess of over $2.5 billion more than the committees were asked to achieve. So, I think we can pay a debt of gratitude to the members of these committees and to the committee chairmen who performed so well in carrying out these reconciliation instructions. If we add to this the projected spending cuts of the savings that fall within the jurisdiction of the Committee on Ways and Means and the Committee on Commerce and Energy, the actual reconciliation instructions by the House will have been exceeded or surpassed by about $4 billion.

Mr. Speaker, the success of carrying out these reconciliation instructions is a tribute to allowing the legislative process to work as it should, and it proves emphatically that we do not need and did not need to have last year a Gramm-Latta II substitute at the last minute to undercut the work of the committees and the committee chairmen. Many of the committee chairmen did not support the size of these cuts, but once instructed by the House, they carried out these instructions even more than was required of them.

Let me just repeat, the reconciliation bill before us required of these seven committees to cut spending over the next 3 years in the amount of $11.178 billion. These committees actually cut $13.725 billion, or $2.5 billion more than they were required to do.

Most of the committees did not have any controversy surrounding them. For example, the Committees on Veterans Affairs of the House and Senate both made the cuts of the same nature. The two areas of controversy surrounded the COLA cap, which was primarily in the jurisdiction of the Committee on Post Office and Civil Service, but also had ripple effect in other committees; and second, the Agriculture Committee.

As the Members recall, the other body in the reconciliation instructions required a 4-percent cap on Federal civilian and military pensions beginning in fiscal year 1983. The ripple effect of that 4-percent cap would have created savings of $5.1 billion, roughly, over the next 3 years. The House did not act on a COLA cap even though the Rules Committee made in order such an amendment. In order to reconcile the differences of over $5 billion between the House and the other body, in conference a number of suggestions were made and the conclusion was reached to do two things: One, to put a cap on COLA's for cost-of-living adjustments for all military and civilian retirees under the age of 62. This category of annuitants would receive half

of the regular cost-of-living adjustment. The other thing that was done was to change by 1 month the effective date of the COLA's, so that in 1983 the effective date would be moved 1 month to April, then to May in 1984, and June in 1985, so that in fiscal year 1985 all pension programs, including social security and the Federal civilian and military programs, would receive their cost-of-living adjustments at the same time; namely, July of that year and thereafter. The combination of those two things create savings over the next 3 years of $4.1 billion. For those who felt strongly that there should be some limitation on the automatic increases in Federal pensions, this compromise clearly achieves that.

In the agriculture area there were basically three points of debate. One was the dairy compromise, and in that connection essentially the House position prevailed. The second was on the crop diversion program, and there I know there are a number of disagreements in this body and in the other. The third was on food stamps, where the House and the other body essentially split the difference. I am going to leave the discussions of the differences in the compromise in the Agriculture Committee jurisdiction to Mr. PANETTA, who is chairman of the reconciliation task force on the Budget Committee, and also a member of the Agriculture Committee; and to Mr. FOLEY, who is a member of the Agriculture Committee.

I would turn the Members' attention to today's CONGRESSIONAL RECORD, because the full explanation of the reconciliation conference appears beginning on page H6006. The Government Printing Office did not complete all of the printing of the conference report, and consequently the full report can be found in today's CONGRESSIONAL RECORD. As I said, I commend the House to pass this reconciliation conference report. It meets in every respect and surpasses the reconciliation targets.

□ 1520

To those of you who were concerned that this body did not have the will to carry out the spending cuts mandated of it, I think you can support this conference report and go back home and explain that not only did you meet the targets, but you actually cut spending even more than you were required to do.

So, Mr. Speaker, again I compliment the committees and particularly the chairmen of the committees involved who carried out the instructions of this reconciliation conference in every respect in the best manner of the legislative process.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the beginning of the reconciliation process this year, I have argued against the House procedures for handling reconciliation bills and have opposed the substance of most of those bills as they are reported out of House committees.

With regard to the procedures employed, the bringing of separate reconciliation bills to the floor violated the text and the spirit of both the Budget Act and the first budget resolution for fiscal year 1983 which call for a single reconciliation bill.

With regard to the substance of the bills as reported out of committee—except for the Veterans' Committee bill—the bills fell woefully short of the targets we had established in the budget resolution.

Now that we have a final product from the reconciliation process, we have a chance to assess once again where we stand on the reconciliation process.

Nothing can be done to change the improper procedure of the reconciliation bills as they came out of committee. However, the House did package all those separate bills into one bill prior to the reconciliation conference. Such a move was a step in the right direction and obviously improved the chances of our obtaining a higher percentage of the budget savings which were adopted by the Congress in the first budget resolution.

With regard to the substance of the reconciliation bills, the conference committee significantly improved nearly all of the bills.

In the agriculture subconference, the House increased the food stamp savings from $1.3 to $1.9 billion. Also, the House removed many of the highly undesirable aspects of the dairy program, particularly the establishment of a dairy producers cartel. In fact, the conference agreement will result in savings of approximately $2.3 billion over current law if one calculates savings from current production levels. CBO estimates savings at $4.5 billion over 3 years because it uses January 1982 data which overstate dairy production levels. With regard to the grain program, the conference agreement is far superior to the House agreement. By reducing the paid setaside, the conferees reduced the cost to the Government of this program over the next 3 years to $610 million as opposed to the CBO estimate of savings which was based on January 1982 data. The CBO estimates thus show production levels which are below the actual experience to date. Finally, it cannot yet be determined whether the export promotion provision of the bill will cost or save money. It will save money if the administration "buys down" interest rates in an effort to subsidize agricultural exports. The administration has not yet made that decision and presumably it will be the subject of an intense debate inside the administration.

With regard to the Banking Committee bill, the conferees adopted the version which had been brought forward by Mr. STANTON and which we found acceptable.

With regard to the Veterans Committee bill, the conference changed some of the provisions in the bill on the grounds that earlier calculations of savings had been underestimated. The use of more accurate figures, as developed by the Veterans' Administration and adopted by CBO, allowed the Veterans conferees to retain its initial level of savings through the adoption of fewer changes in law than had been earlier expected.

In the Post Office conference, the conferees very significantly improved upon the savings which had been achieved in the House. The Senate came into the conference with reductions of $5.4 billion over 3 years. The House had a savings of $113 million over 3 years. The conference settled upon $4.1 billion in a way which was moving toward the assumptions which had been contained in the first budget resolution.

CONFERENCE AGREEMENT

	Savings assumed in the budget resolution			CBO estimate of savings			Administration estimate		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Agriculture:									
Food stamps:									
Budget authority	949	1,083	1,428	548	635	756	548	635	756
Outlays	949	1,083	1,428	548	635	756	548	635	756
Dairy:									
Budget authority						1,501			1,197
Outlays	900	600	200	1,501	1,540	1,487	1,197	1,070	0
Grains, cotton, rice:									
Budget authority						+116			0
Outlays				+116	389	88	+347	+263	0
Export promotion:									
Budget authority									
Outlays				116	64	8	0	0	0

CONFERENCE AGREEMENT—Continued

	Savings assumed in the budget resolution			CBO estimate of savings			Administration estimate		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Banking:									
FHA up-front premium:									
Budget authority	695	697	687	690	679	647	690	679	647
Outlays									
Post Office and Civil Service:									
Pension reform:									
Budget authority	104	136	160	56	353	350	56	353	350
Outlays									
COLA:		240	534						
Budget authority	270	917	1,633	150	385	580	150	385	580
Outlays									
Armed services:	213	693	1,231	260	732	1,223	260	732	1,223
Budget authority	213	693	1,231	260	732	1,223	260	732	1,223
Outlays									
Foreign affairs:		2	4	NA	NA	NA	NA	NA	NA
Budget authority	2	8	15	NA	NA	NA	Na	NA	NA
Outlays									
Merchant marine and fisheries:	4	15	27	NA	NA	NA	NA	NA	NA
Budget authority	4	15	27	NA	NA	NA	NA	NA	NA
Outlays									
Veterans' Affairs:									
Entitlement savings:	77	155	155						
Budget authority	77	155	155						
Outlays									
Rounding down:				22	29	29	22	29	29
Budget authority				22	29	29	22	29	29
Outlays									
Delay until 1st month:				54	56	59	54	56	59
Budget authority				54	56	59	54	56	59
Outlays									
Other:				3	2	4	3	2	4
Budget authority				3	2	4	3	2	4
Outlays									
VA loan origination fee:	95	105	110	90	100	104	90	100	104
Budget authority	95	105	110	90	100	104	90	100	104
Outlays									
Total outlays	3,309	4,409	5,646	3,374	4,964	5,335	2,723	3,778	3,752
Grand total outlays fiscal year 1983–85		13,400			13,600			10,400	

Note: Figures shown are for reductions from spending under current law, except where (+) indicates a program cost rather than savings. Administration estimates differ from CBO estimates for the following reasons: On dairy: CBO uses estimates of production levels based on January 1982 data. The administration estimates are based on actual June 1982 data. The CBO figures overestimated production levels and consequently the savings associated with the dairy reform proposal. On wheat, feed grains, cotton, and rice: CBO uses crop levels based on January 1982 data. The administration uses actual production levels as of July 1982. The CBO figures underestimated crop levels and thus underestimated the cost of the proposed changes. Also, CBO analysis assumes greater impact on crop reduction as a result of the set-aside program. On export promotion: Savings will accrue only if the administration were to "buy down" interest rates on loans for export sales. CBO assumes such an action will occur. The administration has not decided on such a course however. Therefore, no savings should be assumed.

Overall, the conference adopted a set of savings totaling approximately $13.5 billion if one were to use CBO figures which were based on the assumptions contained in the first budget resolution. However, because some of the CBO estimates of savings in agricultural programs were based on crop levels and production levels which have proven to be out of date in view of the June 1982 and July 1982 figures, the total 3-year savings in this reconciliation bill will actually be closer to $10.4 billion. Because the reconciliation conference agreement represents a significant improvement over the separate bills which passed the House, I believe this bill merits the support of those who cooperated in the passage of the first budget resolution for fiscal year 1983. While the bill did not achieve all of the savings that I would have liked, there is no question that it does represent a real step forward in a very difficult political environment. Therefore, I reluctantly urge the passage of this conference agreement upon Members of the House.

Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, as one of the managers of the House on this reconciliation, I signed the conference report. I would agree with the distinguished gentleman from Ohio (Mr. LATTA) that it is not a perfect report. Indeed, it is far from it, but it does, under CBO scorekeeping, meet the direction of the budget resolution.

I wish we had passed a tougher budget resolution in the first place. I wish our reconciliation instruction had demanded deeper cuts. I am not convinced that we cannot reduce spending more.

Nevertheless, the conferees, the managers on the part of both the House and the Senate, did deliver and did achieve the targets set for them in the budget resolution.

When our budget reconciliation bills left the House, they had less than half of the savings in them that they now have. Some Members, namely, the conferees in these various subconferences, have done a good job. In fact, it is a great job if compared to where the House started.

I am not convinced that any of our scorekeeping services can develop wholly reliable figures for our use. OMB and CBO agree on most of the items within this reconciliation bill, but they are off by about $3 billion in the agricultural section, with about two-thirds of that in the dairy division.

It is a little difficult to sort out who is right, whose assumptions are better, or who is using the better basis for its numbers. But we agreed when we began this whole process to use the CBO numbers, and under the CBO numbers we have met our target.

Mr. Speaker, I urge this body to pass this bill today and the tax bill that will follow this week. Those who vote against either will, I think, be hard pressed to explain how they were willing to add $28 billion to the deficit for the coming fiscal year, and $130 billion over the next 3 years. I do not want the responsibility of adding that deficit amount. Therefore, I shall vote for this bill and for the tax bill that will follow.

There will be many who will grumble that we did not cut spending enough, and those Members will find me in cheerful agreement. But much as I would have liked to have achieved greater cuts there is no excuse at all in my judgment to resist this bill or to resist the following tax bill on the grounds that we did not meet budget targets. The only way we can miss those targets is to fail to pass this bill and to pass the tax bill that follows.

Mr. Speaker, I think the conferees have done an extraordinary job in bringing this bill to the floor and in improving on the very poor job that the House committees did originally. I must congratulate the committee chairmen who entered into the negotiations in an openminded fashion and who tried to produce the best bill they could, knowing how we were directed by the reconciliation instructions. I would also like to compliment all of the Budget Committee conferees.

Mr. Speaker, I hope that this bill will be promptly passed.

□ 1530

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, the budget-cutting process that we have been going through in the name of fiscal austerity has been a long and painful one. In many instances, I am afraid, we sacrificed social justice as we rushed headlong to embrace an economic experiment that so far has brought us nothing but despair and uncertainty.

Under the process, committees of the House were forced to make arbitrary and unwise decisions affecting the lives and futures of millions upon million of Americans.

Given the recklessness of the budget cutters, I feared for the futures of retired civil servants under the jurisdiction of the House Post Office and Civil Service Committee. Our colleagues in the other Chamber seemed bent on exposing these retired people to the ravages of inflation.

Just last night we concluded our conference with the Senate on the budget issues affecting civil service retirees. Considering the starting point, the outcome was not as tragic as it might have been.

In the face of difficult opposition, we were able to preserve full cost-of-living adjustments (COLA) for annuitants 62 or over—those who have left the work force and must rely, in most cases, on their benefits.

Full COLA was also preserved for survivors and the disabled—those least able to protect themselves from the onslaught of inflation.

Morally and socially it was important to continue this full protection.

Perhaps more important, however, is what this means for the future. By holding firm in the case of retired civil servants, we prevented the setting of a dangerous precedent.

There is absolutely no doubt in my mind that capping COLA's for retired civil servants would have been the first wedge in the stump of social security.

Had we allowed ourselves to break a commitment with those retired from the Federal work force, then, later on, it would have been a simple matter to extend this twisted logic to those attempting to survive on social security.

For my part, I am convinced that the action we took goes a long way to assuring all those frightened people out there that we are not just waiting until after the election to wield the budget cutting ax against social security.

Considering what we were up against, I think we took as much of the sting as possible out of the budget cuts for civil service retirees.

The brunt of the burden falls on those retirees under 62—those who, in most cases, are still at work. They will receive half of the annual inflation adjustment. I would have preferred preserving inflation protection for everyone. But in this insane thirst for somebody's blood, this just was not possible.

In a manner of speaking, the decree from Caesar Augustus had gone out and the spilling of some blood was inevitable.

In a sense, this was like being ordered to line 10 people up before a firing squad and having 3 of them granted reprieve at the last moment.

If you focus on the three who were spared, you will like this conference report. If you are like me, however, and dwell on the seven, you will not like it.

This clearly was a situation where all the alternatives were distasteful.

In the end, however, considering the force of this budget cutting juggernaut, we saved more of our integrity than we lost. And that took some doing. And we insured that all the actions are temporary and do not extend beyond fiscal year 1985.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 6 minutes to the distinguished chairman of the Committee on Agriculture, the gentleman from Texas (Mr. DE LA GARZA), who will explain the provisions in the agricultural portion.

I particularly want to compliment the chairman for an excellent job in carrying out his conference responsibilities.

Mr. DE LA GARZA. Mr. Speaker, I rise in support of the conference report on the bill, H.R. 6955.

We are informed that the cuts that we made for the next 3 years are estimated by CBO to total $7 billion, Mr. Speaker. These cuts add up to $3.7 billion more than the $3.29 billion in cuts allocated to the Committee on Agriculture by the first concurrent budget resolution.

The amendments to the commodity programs attack the two principal problems affecting our depressed farm economy, a surplus of dairy products and a surplus of grains.

I want to express my appreciation to all of the members of the conference, the Budget Committee members, the members of my committee, and the subcommittee chairmen who worked with me, the chairman of the Senate conference, Senator HELMS, and his counterpart, the ranking minority member Senator HUDDLESTON. H.R. 6955 passed the House just a week ago and the conference began last Thursday. Because of the assiduous work of the conferees and their willingness to compromise on a number of controversial issues, we were able to complete our work early yesterday.

Mr. Speaker, let me say that in the dairy area we reached a compromise which keeps the parity price concept as was requested by the industry. It keeps the level of price support at 13.10 percent for the first 2 years and then adjusts the level for the third year to a level that represents the percentage of parity represented by $13.10 percent, as of October 1, 1984. Then it has provisions whereby the Government can recoup a portion of the cost of the price support program.

This is not, in my estimation, or in the estimation of any member of our committee, the perfect solution. But it is the one that we could arrive at at this time. We think that it will afford some reduction, hopefully as much as is needed, to bring us to an even keel in the dairy area.

In wheat, in cotton, and rice may I say that a compromise was reached under which incentives are provided to producers to reduce production.

Mr. Speaker, let me say no one is satisfied and probably this is what I would like to emphasize to my colleagues, that no one, including myself, is satisfied with the provisions of the agricultural conference. But yet, dealing with the art of the possible, this is the only thing that we could arrive at that could achieve a consensus and pass the conference.

The important thing is that our directive was to reduce expenditures. Let me remind you that the conference report cuts $2.42 billion more over 3 years than H.R. 6892 as originally reported by the committee.

This is what we did in the conference.

Last year the committee cut $11.624 billion from the deficit, $5 billion for food stamps alone.

The committee has cut a total of $18.640 billion, $18.640 billion in the last two reconciliation bills, more than almost any other committee, I might add. At the same time we revised the structure of the program so that we can give some degree of assistance to dairy, to wheat and feed grains, to cotton and rice, in a period when they are having a very difficult time.

The most important thing, though, is that every time that we speak with any of the producers, interest rates and inflation are what impact them more than anything else, according to what they tell us.

This is our contribution, hopefully, to reduce inflation more and to reduce the deficit, and hopefully reduce interest rates for the benefit of all of society, including the producers.

I say that this is a compromise. As all compromises are, it is not satisfactory to many of us. Some of the things in here could conceivably even be wrong.

But as a package it is balanced.

Let me say to all of my colleagues, especially those from the affected areas, that I more than anyone else want to give the producer everything he asks for. That, however, is not possible.

There are some who would hold out still for 90 percent of parity. That is not in the books at this time.

There are those who still would hold out for higher target prices or higher loan prices. That just is not in the books and I would hope that you would support this compromise because it is the best thing that we can bring you.

With all of the pain and tears and suffering that go into a conference committee it is the best thing that we could bring before the House and the other body.

Your vote would be supportive of those of us who tried to help the producer, to help the general economy under the art of the possible. If there is any secret to legislation it is the art of the possible.

I do not want to be knocking my head into a wall and telling the folks at home that I worked hard for them but I did not get them anything. That is not my way of working.

I think you can vote for this legislation. Then you can tell your constituents how you assisted them, maybe not as much as they needed or wanted, but under the art of the possible this bill was the ultimate that you could do.

I would hope that my colleagues would support the overall reconciliation bill.

At this juncture, I would like to summarize for the Members the provisions relating to food and agriculture contained in the conference report.

DAIRY

The price support level for manufacturing-grade milk, which is used for making cheese, butter, and similar products, would be continued at the current level of $13.10 per hundred pounds for the 1983 and 1984 fiscal years, ending September 30, 1984. For fiscal year 1985, beginning October 1, 1984, the support would be set at the percentage of parity which $13.10 represented on October 1, 1983. In order to further encourage reduction of the dairy surplus, the Secretary of Agriculture would be authorized, beginning October 1, 1982, though September 30, 1985, to provide for a deduction of 50 cents per hundred pounds from the proceeds of all milk sold by farmers, with the funds paid to the USDA to offset the cost of the dairy support program. Authority for the deduction would be suspended, however, when projected annual Government surplus purchases for the fiscal year fall below 5 billion pounds milk equivalent.

Further, the Secretary would be authorized to provide for an additional 50 cent assessment, beginning April 1, 1983, if projected Government surplus purchases are above 7.5 billion pounds (but this second assessment would be suspended whenever projected purchases fall below 7.5 billion pounds). If this second assessment is levied, however, the Secretary must also provide a system under which individual farmers can get refunds—thus escaping part or all of the additional assessment—if they reduce commercial marketings. (In removing either of the assessments, the Secretary could act at any time during a fiscal year that projections of surpluses fall below the trigger levels.) The compromise bill eliminates a House proposal for a referendum among farmers on a checkoff to be used to finance milk promotion, and also eliminates a House-proposed Dairy Board which would have administered price supports and surplus disposal.

WHEAT AND FEED GRAINS

A program is provided for the 1983 wheat crop under which growers who agree to reduce production and put 20 percent of their base acreage into conservation use would receive acreage diversion payments on 5 percent of the base. For example, a farmer with a 100-acre wheat planting base could retire 20 acres and get diversion payments on 5 of the retired acres. Growers participating in the program would become eligible for Federal price support benefits, including price support loans and "target price" income protection. The wheat price support loan rate now $3.55 a bushel, would be raised to $3.65 for the 1983 crop. For corn and other feed grains, producers would be able to elect to reduce feed grain production and put 15 percent of their base acreage into conservation uses, of which 5 percent would be eligible for diversion payments. Participation in the program would be required in order to qualify for price support benefits. The corn support loan rate would be raised from this year's $2.55 a bushel to $2.65 a bushel. Savings in the grain programs would be achieved by reducing surpluses and by cutting potential direct target price support payments which cover the gap between the price support loan rate (or market price, whichever is higher) and a pre-set target price.

RICE

A program comparable to wheat and feed grains is provided for rice. Producers who want to qualify for price support and target price benefits could put 20 percent of their base acreage into conservation use, 5 percent of this retired base would be eligible for diversion payments. The diversion payment rate would be $3 for each 100 pounds normally produced on the acres eligible for payment.

ADVANCE DEFICIENCY PAYMENTS

The conference report also adopts a provision in the Senate bill that provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. This is an important measure to encourage participation in surplus reduction programs at a time when our latest crop reports project a continuation of record production for many of our basic commodities. Under the program in the conference report, the Secretary would be required to make advance payments, as follows: First for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and second, for the 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance payments in amounts up to 50 percent of the projected final payments.

EXPORTS

The bill provides that in each of the 3 fiscal years beginning October 1, 1982, the Secretary of Agriculture would be required to use between $175 million and $190 million in Commodity Credit Corporation funds for export activities authorized by existing law. This authority would be in addition to, not in place of, authorities under any other laws.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities. These include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5 (d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential.

FOOD STAMPS

Under the conference report, projected costs of the food stamp program would be cut by $548 million for fiscal 1983, $635 million for fiscal 1984, and $756 million for fiscal 1985—a total 3-year reduction of $1,939 billion. The savings would be realized by measures including changing temporarily the manner in which benefits are adjusted to reflect changes in food costs; reducing Federal administrative expense payments to States which fail

to meet error-reduction targets; allowing States to require stamp applicants to make a job search; eliminating benefits of under $10 in the first month of an applicant's eligibility; tightening regulations for granting "expedited service" to some applicants; delaying adjustments in the standard deduction used to reduce gross income to net income for calculating stamp benefits; rounding down certain calculations to the next lowest dollar; allowing States to determine standard utility cost deductions based on actual utility costs; and tightening regulations on the eligibility of students for food stamps.

Additionally, the conference report puts ceilings on food stamp program expenditures of $12.874 billion for fiscal 1983, $13.145 billion for fiscal 1984, and $13.933 billion for fiscal 1985. The figure for each of these years includes a 5-percent "cushion," allowing Congress to appropriate funds, if needed, in case conditions in the general economy bring more than the expected number of people into the program, and $825 million per year for Puerto Rico under the block grant food assistance program which current law provides for the Commonwealth.

There are certain aspects of the provisions of the conference report relating to the food stamp program which merit brief comment.

THRIFTY FOOD PLAN

The conferees adopted a compromise under which, for the next 3 fiscal years, each October's adjustment in food stamp allotments will be based on the cost of the thrifty food plan for the previous June, minus 1 percent. Food stamp allotments will be further affected by provisions of the conference report requiring allotments for each household size to be rounded down to the next lower dollar. As a result, the allotments would be computed by taking the unrounded cost of the thrifty food plan for June, reducing this number by 1 percent, making the appropriate household size adjustments, and then rounding the resulting unrounded figure for each household size down to the nearest lower dollar.

STANDARD AND SHELTER DEDUCTIONS

The conferees adopted the House provision under which the standard and shelter adjustment scheduled for July 1983 will be deferred until October 1983. At that time, a new series of deduction adjustments will begin, using $85 as the base for the standard deduction and $115 as the base for the shelter deduction. In making adjustments in the years after 1983, the unrounded numbers from the previous year's adjustment are to be used as a base.

JOB SEARCH

The conferees also maintained the House position regarding job searches by adding a new State option for job search at application. This is consistent with the action of the conferees from the Senate Finance and House Ways and Means Committees in making job search a State option in AFDC as well. In implementing this provision, the Secretary should strive for consistency with the new AFDC job search procedures.

EXPEDITED SERVICE

The conferees adopted a compromise expedited service provision. Expedited service would be restricted to those who either have less than $150 in gross income for the month of application or are destitute migrant or seasonal farmworker households, and also have liquid resources that do not exceed $100. These households would be issued benefits as soon as possible, but no later than 5 calendar days from the date of application. The provision requires that the rules now in effect governing the eligibility of destitute migrant and seasonal farmworkers for expedited service, and the benefit amounts for which they (as destitute households) would qualify, would remain in effect.

BILINGUAL REQUIREMENTS

The conferees likewise adopted the House position on bilingual requirements, which was to retain the current statutory provision in this area. The Secretary has the authority to determine what the specific regulatory requirements for bilingual services should be, and the conferees noted that burdensome regulatory requirements could be changed. This does not mean that the conferees agreed that the current rules are unnecessarily burdensome or that the conferees directed the Secretary to change them. It means that if, after careful examination, it turns out that some aspects of current rules add unwarranted burdens without providing commensurate benefits to the non-English speaking, then it may be useful to make modifications in those areas. Care should be taken to assure that adequate bilingual services continue to be provided.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of this measure. It is, I believe, a balanced omnibus reconciliation bill. Strictly speaking, I assume one could say that it might not meet all of the spending cut goals or requirements of the first concurrent budget resolution (H. Res. 352). However, I understand the Congressional Budget Office places the Committee on Agriculture $113 million in excess of the targeted budget outlay reductions for the 3 years—fiscal years 1983 through 1985—called for in the first concurrent budget resolution.

Yesterday, after the conference report on H.R. 6955 was included for the agriculture portion, I stated as follows:

I have mixed feelings about this agriculture portion of the Reconciliation Bill. On the one hand, I believe the conferees have—as I had hoped—put together a better bill with more solid savings than that which passed the House. But I continue to be concerned that the President's computation of savings may be lower, and while he may sign the bill, we will be back addressing many of the same issues and programs in next year's Reconciliation bill because the projected savings estimates did not result in similar "actual" spending cuts.

I believe the food stamp program savings reported by the conferees are basically hard savings. The only thing that might erode those savings, I believe, would be some delay in the implementation of regulations relating to the substantive provisions amending the Food Stamp Act. I trust such delays will be avoided.

We did provide a cushion to the cap placed on the food stamp program authorization; however, I believe it is important to preserve the cap concept in the Food Stamp Act and that is what we have accomplished.

As to the dairy provisions contained in the agriculture portion of this bill, I guess no one is totally happy with the compromise struck by the conferees. The Department of Agriculture representatives expressed apprehensions about its adoption and representatives of the dairy industry expressed various degrees of reservations about the adoption. I am sure dairy industry officials are concerned about discretionary authority given to the Secretary of Agriculture that could see a net price to milk producers of $12.60 per hundredweight for possibly all of fiscal year 1984. However, if we do not get dairy surplus purchases by the Government below 5 billion pounds by fiscal year 1984, the dairy program as we have known it—and that to a large extent has worked well for years until recently—will be endangered in the Congress.

On the other hand, given the Secretary of Agriculture's reluctance to go to a base plan for the dairy program, we may never see the Department adopting the second discretionary portion of the new dairy provisions calling for a possible 50 cents assessment wherein individual milk producers could get refunds for reducing milk production.

The farm program adjustments for the 1983 crops that provide for a diversion payment for wheat, feed grains, and possibly rice appear to be what farmers are requesting. Especially inasmuch as a 50-percent advance payment will be made. Recent crop reports suggest that pure set-aside tools are not affecting production reductions in the basic commodities. These adjustment provisions may go a long way in obtaining farmer participation and certification in the farm programs. Perhaps more importantly, the

export promotion for selling surpluses overseas may give the best badly needed stimulus to farm prices.

The farm sector is suffering through a serious economic recession. Farm prices are not merely depressed but are so low as to endanger the future of many marginal as well as some good farm operators. It may be questionable logic to spend money to save money—but what is provided for farm programs in this bill is believed by most to have a good chance of success—helping farmers get over a tough recession period and effect certain savings in the outyears.

Therefore, as I said earlier, while some of the savings may be soft and may not result in dollar-for-dollar actual savings in each future fiscal year as estimated, we must push forward. I urge my colleagues to support the agriculture portion of this measure, and I commend my chairman, Mr. DE LA GARZA, for his excellent work in chairing the agriculture portion of the conference and the hard work he has put in on this measure.

STAFF ANALYSIS OF THE FOOD STAMP ACT AMENDMENTS OF 1982

SECTION 142—HOUSEHOLD DEFINITION

All parents and children or siblings living together will be treated as a single household, unless one of the parents or siblings is elderly or disabled. In addition, an individual who lives with others, but who is 60 years or older and is not physically or mentally able to purchase and prepare meals, will be considered a separate household (with his or her spouse) if the gross income of the others does not exceed 165% of the poverty guidelines.

SECTION 143—ROUNDING DOWN

Calculations of the Thrifty Food Plan, both deductions and the individual case computations will be rounded down to the nearest dollqar, rather than rounded to the nearest dollar.

SECTION 144—THRIFTY FOOD PLAN ADJUSTMENTS

The thrifty food plan will be adjusted as scheduled on October 1st. However the amount of the plan will be reduced by 1% in fiscal years 1983, 1984, and 1985.

SECTION 145—DISABLED VETERANS AND SURVIVORS

The definition of "elderly and disabled member" is expanded, wherever it appears in the Food Stamp Act, to include a veteran, a surviving spouse of a veteran, or a child of a veteran who is disabled or receives veteran's compensation.

SECTION 146—INCOME STANDARDS OF ELIGIBILITY

Households without an elderly or a disabled member must meet both the net and gross food stamp income tests in order to be eligible for food stamps.

SECTION 147—COORDINATION OF COST-OF-LIVING INCREASES

Cost-of-living adjustments provided on each July 1 in Social Security and other federal programs will not be counted against food stamp benefits until October 1, when the cost-of-living adjustment to the Thrifty Food Plan is made.

SECTION 148—ADJUSTMENT OF DEDUCTIONS

The adjustment to the standard and the shelter/dependent care deductions will take place on October 1, 1983 and every October 1 thereafter. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the Thrifty Food Plan will take place on the same dates, reducing the work required by state food stamp administrators.

SECTION 149—STANDARD UTILITY ALLOWANCES

States are given an option of using a standard utility allowance. The use of standard utility allowances is prohibited for households, such as those in public housing, that are not billed for heating or cooling costs and for those households living together and sharing utility expenses, unless the allowance is prorated.

SECTION 150—MIGRANT FARMWORKERS

The Secretary is precluded from waiving calculation of income on a prospective basis for migrant farmworker households.

SECTION 151—FINANCIAL RESOURCES

The Secretary is precluded, with some exceptions, from altering the financial resource requirements in effect on June 1, 1982. Accessible savings or individual requirement accounts will be counted in determining the amount of financial resources available to the households.

SECTION 152—STUDIES

The requirements for the Department of Agriculture to conduct studies of the financial resources requirements of the Food Stamp Program, the effect of the elimination of the purchase requirement; the feasibility of recoupment, and the Consumer Price Index are eliminated. These are studies or reports that have been completed by the Department.

SECTION 153—CATEGORICAL ELIGIBILITY

Categorical eligibility as to resources for AFDC households in which all members of the household are AFDC participants is established at state option.

SECTION 154—MONTHLY REPORTING SYSTEMS

(a) A state may, with the approval of the Secretary, select categories of households which may report at less frequent intervals.

(b) Households without earned income in which all adult members are elderly or disabled are not required to report monthly.

SECTION 155—PERIODIC REPORT FORMS

The requirement that the Secretary must design and approve forms for non-periodic reporting of household charges is deleted.

SECTION 156—REPORTING REQUIREMENTS

The Secretary is allowed, upon the request of a state, to waive food stamp periodic reporting rules to permit rules similar to those of the AFDC program.

SECTION 157—JOB SEARCH

States are allowed to require job search at the time of application for food stamp benefits.

SECTION 158—VOLUNTARILY QUITTING A JOB

(a) The disqualification period for voluntarily quitting a job is extended to 90 days and the Secretary is permitted to fix the starting point of such period.

(b) Voluntary quit provisions are extended to Federal, state and local employees who are dismissed from their jobs because of participation in a strike.

SECTION 159—PARENTS AND CARETAKERS OF CHILDREN

Second parents or caretakers in a household are required to register for work when the youngest child reaches age six.

SECTION 160—JOINT EMPLOYMENT REGULATIONS

The requirement for joint issuance of work registration regulations with the Department of Labor is removed. These regulations will not be required to be patterned after the WIN program.

SECTION 161—COLLEGE STUDENTS

Participation by post secondary students is limited to those with dependents under 6 years, or between the ages of 6 and 12 for whom there is not adequate child care, and those receiving AFDC.

SECTION 162—ALTERNATIVE ISSUANCE SYSTEM

The Secretary is given the authority to require that state agencies develop alternative issuance systems when the Secretary, in consultation with the Inspector General, determines that these systems will protect the integrity of the Food Stamp Program. The Secretary will also be given the authority to use innovative methods of delivering food stamp benefits.

SECTION 163—INITIAL ALLOTMENT

(a) Benefits of less than $10 for the initial month or period of food stamp eligibility are eliminated. Households affected would receive the full amount to which they are entitled for the following months or periods.

(b) Food stamps will be prorated to the day of recertification if the application for recertification occurs after the last day of the month for which benefits were received.

SECTION 164—NONCOMPLIANCE WITH OTHER PROGRAMS

Increases in food stamp benefits are prohibited if there is a decrease in income imposed for intentional failure to comply with a Federal, state or local welfare law.

SECTION 165—HOUSE-TO-HOUSE TRADE ROUTES

The Secretary, in consultation with the Inspector General, is authorized to limit house-to-house trade routes if they damage the integrity of the program.

SECTION 166—APPROVAL OF STATE PLAN OF OPERATIONS

The Secretary may not require states to submit for prior approval, state food stamp instructions, unless the state determines they alter the state plan of operation or conflict with the rights or level of benefits of households

SECTION 167—POINTS AND HOUSE OF CERTIFICATION AND ISSUANCE

The requirement that states comply with Federal standards for points and hours of certification and issuance is eliminated.

SECTION 168—AUTHORIZED REPRESENTATIVE

The Secretary is permitted to limit the number of housholds that can be represented by an authorized representative and to set criteria and standards for authorized representatives to meet.

SECTION 169—DISCLOSURE OF INFORMATION

States are authorized to release information obtained from households to persons administering Federal assistance programs or Federally-assisted state programs.

SECTION 170—EXPEDITED COUPON ISSUANCE

Food stamps must be provided as soon as possible, but not later than 5 days after application to households:

(1) having gross income below $150 per month or who are destitute migrant and seasonal farmworkers; and,

(2) having liquid assets below $100. States are required to verify, to the extent practicable, income and liquid assets.

SECTION 171—PROMPT REDUCTION OR TERMINATION OF BENEFITS

A state agency is permitted to take immediate action to reduce or terminate benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required.

SECTION 172—DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

Stated are required to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one area in a state.

SECTION 173—CERTIFICATION SYSTEMS

States are permitted to choose whether (a) AFDC and general assistance households must have their food stamp application included in the AFDC or general assistance application and (b) food stamps applicants must be certified based on information in the AFDC or general assistance file.

SECTION 174—CASHED-OUT PROGRAMS

States that have cashed-out the SSI portion of their food stamp caseload or who operate pilot programs in which cashing out the food stamp benefits is tested are required to match their "cash-out" files with those of regular Food Stamp Program to determine if there is any duplication of benefits.

SECTION 175—AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

The civil penalty is increased from $5,000 to $10,000 for each violation of the Act or regulations by retail food stores or wholesale food concerns. The disqualification periods, now in regulation are set in statute.

SECTION 176—BONDS

The Secretary is permitted to require stores previously disqualified or assessed a civil penalty to furnish a bond to cover the value of food stamp redeemed.

SECTION 177—ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCE

States are permitted to use means other than cash repayment and benefit offset to collect fraud and non-fraud claims.

SECTION 178—CLAIMS COLLECTION PROCEDURE

The houshold of a disqualified person is allowed, 30 days after a demand for repayment, to choose between repayment in cash or benefit offset.

SECTION 179—COST-SHARING FOR COLLECTION OF OVERISSUANCES

States may retain 50 percent of fraud overissuances and 25 percent of non-fraud overissuances which are collected. States may retain none of overissuances recovered which are caused by state agency error.

SECTION 180—ERROR RATE REDUCTION SYSTEM

Targets are set for error reduction by states and sanctions are imposed for states failing to meet the targets. All states are required to lower their error rates to 5 percent or less by 1985. During 1983 and 1984, interim error rate targets are set which require steady error rate reduction toward the goal of getting error rates down to 5 percent by 1985. States failing to achieve their error rate target in any year would lose a portion of the Federal share of their state food stamp administrative costs. An incentive feature is retained for States achieving exceptionally low error rates.

SECTION 181—EMPLOYMENT REQUIREMENT PILOT PROJECT

The Secretary is authorized, upon request of a state or political subdivision, the conduct 4 pilot projects to determine to effect of making certain nonexempt individuals ineligible for food stamps if they do not work at least 20 hours per week or participate in Workfare.

SECTION 182—BENEFIT IMPACT STUDY

The Secretary is required to study the effects of food stamp reductions enacted by the 97th Congress. Interim results of the study will be submitted by February 1, 1984 with final results by March 1, 1985.

SECTION 183—AUTHORIZATION FOR APPROPRIATIONS

The food stamp program is reauthorized for three years and spending levels are set at $12.874 billion for 1983; $13.145 billion for 1984; and, $13.933 billion for 1985.

SECTION 184—PUERTO RICO BLOCK GRANT

Food assistance in Puerto Rico cannot be cashed-out after fiscal year 1983. The Secretary is required to study the effects of cash-out on the residents and the economy of Puerto Rico.

SECTION 185—SIMILAR WORKFARE PROGRAMS

Political subdivisions are permitted to operate food stamp Workfare programs in a manner similar to those operated for other programs.

SECTION 186—WIN PARTICIPANTS

States may, at their option, exempt WIN participants working at least 20 hours a week in WIN programs from Workfare.

SECTION 187—HOURS OF WORKFARE

A Workfare participant cannot be required to work more than 30 hours per week or more hours than those equal to the value of their food stamps divided by the minimum wage.

SECTION 188—REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

One half of the money saved from employment of Workfare participants is to be shared with the political subdivisions operating Workfare. Reimbursement cannot exceed their share of administrative costs.

SECTION 189—TECHNICAL CORRECTIONS

Typographical errors and references to the Secretary of Health, Education and Welfare are corrected.

SECTION 190—CONFORMING AMENDMENTS

SECTION 191—DISTRIBUTION OF SURPLUS COMMODITIES

It is the sense of the Congress that steps should be taken to make wholesome food, which is being wasted or discarded, available for distribution.

SECTION 192—EFFECTIVE DATES OF PRIOR FOOD STAMP ACT AMENDMENTS

The amendments in the 1981 Reconciliation Act and the 1981 Farm Act, except for the amendments concerning retrospective accounting and periodic reporting, will take effect upon enactment of this Act.

SECTION 193—EFFECTIVE DATES

Except as otherwise provided the amendments made by this Act will take effect upon enactment.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, I rise in support of the conference report dealing with agriculture.

As one of the conferees I think there are some redeeming parts to this. I think we have to note that the critical situation that agriculture is in there just is not enough money in the Federal Treasury to do all that is needed. But I think we have laid the foundation for a mandatory set aside plus paid diversion program.

We have $175 to $190 million for export market promotion, in which the moneys can possibly be used by the Commodity Credit Corporation to provide some export subsidies and compete with those subsidies that are being paid by countries, on the export of their farm commodities, especially in the European Common Market, and other ways which will bring about expanded agricultural exports from this country.

I think the one weak part in the whole legislation is the compromise on the dairy program. While it may save some money there is much more that could have been done if the House position had prevailed and the administration had supported our position and the other body had gotten in line.

I predict today that we will be back here in just a few more months. Dairy production really is not going to decline very much. We will not have dealt with the problem and the massive acquisition of dairy stocks will continue.

□ 1540

Until we are willing to face the music and adopt a program like we had proposed in the House language, a two-tier method, in which we would have compelled farmers to either seriously reduce their production about 10 percent or else have it taken over by a very low price being paid for it, we are going to continue to see an excessive amount of dairy production continuing.

In light of the recent crop report that came out, and farm prices having already dropped 5 or 6 percent, this 4-percent reduction in the price being paid to dairy producers will not hit too hard, especially on the commercial producers. The multithousand cow herds are better off today than they were a week ago because of the lower feed costs that are going into the production of that milk, and ultimately they are the only real winners under this dairy compromise solution.

● Mr. HOWARD. Mr. Speaker, the conference report on H.R. 6955 contains a substitute provision for reducing the number of Commissioners who serve on the Interstate Commerce Commission from 11 to 7 by January 1, 1983, and from 7 to 5 on January 1, 1986. This reduction is recommended as a way to reduce costs while at the same time retaining the Commission's ability to conduct orderly and efficient operations.

The provision does not terminate any sitting Commissioner's term of office nor does it shorten any existing term of office. Two seats becoming vacant on December 31, 1982, and December 31, 1983, could be filled only to December 31, 1985, after which they would be abolished in order to reduce the number of Commissioners to five by January 1, 1986.

Currently, there are two seats that are due to expire on December 31, 1987. They are currently filled by Commissioner Sterrett and Commissioner Andre. After the expiration of these two appointments, one of the seats can be filled for a term of 4 years and the other for a term of 5 years. This was done to make future appointments available in a more timely sequence.

After January 1, 1984, all appointments will be for terms of 5 years, rather than for 7 years as provided by existing law.

Mr. Speaker, I urge the House to adopt the provision as agreed upon by the conferees.●

Mr. JONES of Oklahoma. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi (Mr. MONTGOMERY), the distinguished chairman of the Committee on Veterans' Affairs.

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference agreement. The reconciliation instructions contained in the first concurrent budget resolution for fiscal year 1983 directerd the Committee on Veterans' Affairs to adopt legislation that would achieve cost savings of $77 million in fiscal year 1983 and $155 million in fiscal year 1984 and $155 million in 1985.

On July 27 the House passed and sent to the Senate H.R. 6782. Title III of the bill contained several cost-saving provisions to assure compliance with the reconciliation instructions. Total cost savings in H.R. 6782 were as follows: Fiscal year 1983, $169.7 million in budget authority and $169.4 million in outlays; fiscal year 1984, $185.8 million in budget authority and $185.5 million in outlays; fiscal year 1985, $195.0 million in budget authority and $194.6 million in outlays.

Mr. Speaker, I am pleased to report that the House and Senate Veterans' Affairs Committees have achieved savings in excess of those mandated by the first concurrent budget resolution. A description of the provisions of the conference agreement is set out in the statement of the managers; therefore, I shall not dwell on the details except to say that the provisions are very similar to those contained in H.R. 6782 which passed the House on July 27. The cost savings we have agreed to will not, in my view, have a major adverse impact on veterans' benefits and services. They are reasonable and generally acceptable to the veterans' organizations who represent 6 million of our Nation's 30 million veterans.

Mr. Speaker, the conference agreement, according to the Congressional Budget Office estimate, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays for fiscal year 1983, $188.9 million in budget authority and $188.6 million in outlays for fiscal year 1984, and $196.4 million in budget authority and $196.0 million in outlays for fiscal year 1985. As I previously stated, these cost savings are very close to the levels contained in H.R. 6782 and exceed the levels mandated by the House. In fact, over the 3-year period, the savings will total $554 million, $4 million more than the 3-year total savings of $550 million contained in the original House-passed bill.

Mr. Speaker, I would like to thank the very able chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES) and also the gentleman from California (Mr. PANETTA) a member of the Budget Committee who has coordinated the conference report and the staff for working with the Veterans' Affairs Committee. I am most grateful to the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member of our committee, who is always cooperative and helpful, and the work of the gentleman from Ohio (Mr. WYLE). I appreciate the cooperation of the very able chairman of the Senate committee, Senator SIMPSON and its ranking minority member, Senator CRANSTON, and the other Senate conferees. I believe the agreement we have reached with the other body is a reasonable compromise, and I urge my colleagues to support the conference agreement.

Mr. LATTA. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, I rise to express my opposition to a provision in this legislation that could result in a pay increase for Members of Congress. The provision, added in the House-Senate conference on H.R. 6955, provides for the establishment of a Commission on Executive, Legislative, and Judicial Salaries, which is required to report back to the President by November 15 of this year.

Its report should contain the Commission's recommendations on salaries for Senators, Representatives, Federal judges, Cabinet officers, and other Federal officials, The President is then required to submit his own recommendations on salaries to Congress based on what is recommended by the Commission.

Unless Congress passes a concurrent resolution within 30 calendar days following the submission to Congress of the President's recommendations, the recommended pay rates will go into effect automatically. That means both the House and the other body will have to agree to veto any pay raise proposal.

Mr. Speaker, I urge my colleagues to vote to send this bill back to conference so that this salary provision can be deleted. We have every reason to believe that the Commission will recommend a pay increase, that the President will recommend a pay increase, and that Congress will be out of session with no opportunity to vote on a pay increase. The American people will see such a procedure for what it really is: An effort to sneak a pay raise for Members of Congress through the back door.

The last time the Commission met, in December 1980, it recommended that Members of Congress be paid $85,000. If the new Commission merely adjusts the old recommendations for the changes in average weekly earnings since that time, the new recommendations would be $96,400 today and more in November. I know that my constituents, who are taking pay cuts, being laid off their jobs, and making other sacrifices during these hard economic times would not think it necessary for Congress to take a $36,000 pay raise.

I urge my colleagues to vote to recommit this bill.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in opposition to this legislation. We are not supposed to lose our temper around here. But someone better point out what is happening on this legislation. Last year the House passed a pretty decent farm bill. That went to conference. The conferees accepted the worst provisions they could all through that legislation. We came out with a bad farm bill. Today my farmers are getting less than $2 per bushel for their corn. Rural America is on the verge of disaster.

Now, the Senate and the House both passed a provision calling for a 10 percent paid diversion program. The conferees, in complete violation of the rules, reduced this to 5 percent and again wrecked a farm program that might have had some help for our farmers. Farmers are in trouble today. With this action they are going to be in even deeper trouble this next year.

The chairman says everybody is not happy with this conference report. You bet your boots that is right. Some of us are not happy with it, nor do I believe that the conferees should be permitted to completely disregard the rules of the House as they meet in that conference.

I agree that we must live within the budget targets set out in the first budget resolution. I voted for the fiscal year 1983 budget approved by this House and I believe that the

budget reductions called for in this reconciliation bill generally are necessary to assure that the Congress maintains the discipline essential to bringing about economic recovery.

However, I am opposing the bill for two reasons. First, I believe that the conferees charged with negotiating the agricultural provisions of the reconciliation bill blatantly violated the rules of the House limiting the actions of the conference committee to the bounds established by the versions of the agriculture reconciliation bill reported by the respective Agriculture Committees. In my opinion, the conferees clearly went outside of the scope of the conference by agreeing to reducing by one-half the size of the paid diversion programs approved by both this House and the other body. I might add that the original paid diversion proposals sent to conference by both Houses were approved by an overwhelming majority in both this and the other body.

Second, Mr. Speaker, not only did the action of the conferees demonstrate a clear disregard for House rules, it also displayed a flagrant lack of concern for the crisis currently facing agriculture—especially farmers in the Corn Belt. Corn Belt farmers did not ask for special treatment. However, they did ask for an effective program—a program that, according to the Congressional Budget Office, would actually have reduced Federal farm program outlays by minimizing the need for price support loans, deficiency payments, and storage outlays.

The action of the conference committee last week was especially inexcusable, Mr. Speaker, coming as it did just 1 day after the U.S. Department of Agriculture announced record crops of both corn and soybeans. The estimated size of this year's crops—which was totally unanticipated by those in agriculture—fell like a bombshell on farmers already wracked by low prices, high interest rates, and deteriorating farm export markets.

I was tempted to stand here this afternoon and charge that Corn Belt farmers were "sold out" by the agriculture conferees. But that charge would imply that the conferees received something in return for forfeiting the chance for an effective farm program next year. However, as far as I can tell, the conferees—and farmers—received nothing as compensation for gutting a responsible farm program. They merely backed down in the face of opposition from an administration that neither knows nor cares about the magnitude of the farm problem today.

I want to restate the fact that the paid diversion program originally sent to conference by both the House and Senate would have saved Federal farm program dollars. Farmers have not asked for special treatment, but they do deserve a responsible program that recognizes the seriousness of the crisis facing agriculture today.

Mr. Speaker, I urge opposition to this conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, one of the Members of the House who is truly concerned about agriculture is the gentleman who just left the well, the gentleman from Iowa (Mr. BEDELL), and I respect his concern. But the fact of the matter is that the American farm community will not be worse off for this bill. It will be better off because of this bill.

With all respect, the program announced by the Department was insufficient. The Agriculture Committee did produce a better, more effective and efficient and, in the long run, much more cost-effective program, which is in this bill. The farmers will have a chance to set aside land with some diversion payments, which were not part of the administration's program.

We are going to see in grain agriculture a better program than would otherwise exist. Now, it is not as good as he and I would like to have it be. But it is better. And today, more and more, that is the question we have to ask ourselves, whether we can make a program better, whether we can improve it, not whether we can accomplish everything we would like to accomplish if we had no restrictions on the expenditure levels of Government.

I also respectfully point out that there were some major differences between the House and the Senate bill. We did reach an accord that saves a substantial amount of money in the agriculture budget, and I think it tightens up these programs and makes them more efficient, preserves a great deal for farmers and consumers alike, and I hope that all Members of this body will see fit to support this reconciliation act on this ground. It is a major step forward.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Speaker, while I generally support the conference report on H.R. 6955, the Omnibus Budget Reconciliation Act of 1982, I feel compelled to vote for recommital. I do not agree with every provision contained in this package, but I do believe the overall bill is necessary to reduce Government spending to a more acceptable level.

The first title of H.R. 6955 adjusts the dairy price support program to reduce Government costs by reducing excessive purchases of dairy products caused by oversupply. This surplus situation is becoming more serious each day. It is one which must be addressed quickly. Other budget savings in the agricultural section of the bill would provide for paid land diversion for wheat and feed grains and tightened eligibility for food stamp recipients. As a member of the House Agriculture Committee, I have participated in many hearings at which the necessity of these actions was clearly addressed.

This bill is not the optimum solution to the problems facing those military and civilian retirees depending upon cost-of-living adjustments (COLA's) to provide some measure of protection against inflation. However, I do see these provisions as a workable compromise given the current budgetary conditions. I have supported full COLA's in the past, and I would not support this measure if I did not think it a fair compromise addressing the problems of our Federal retirees.

There is, however, a provision contained in H.R. 6955 which greatly concerns me. Until this provision is clarified I will have to vote to recommit this bill. I am concerned over section 310(c), which provides funds for a Commission on Executive, Legislative, and Judicial Salaries, to meet and make recommendations to the President on salaries by November 15 of this year.

The possibility exists that actions taken by this Commission could result in a pay increase for Members of Congress. Such a pay increase is by no means certain; it is simply a possibility, and that is exactly the problem. Something as important as a pay increase needs to be debated openly, discussed thoroughly, and voted on in its own right in full view of the American people. As long as even the possibility of an automatic increase exists without this open debate, I cannot in clear conscience support the conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 1 minute to the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the chairman for yielding. I want to say that I have tried to support most of the reconciliation bills, and I have a great deal of respect for the person who just spoke in the well. I do want to echo the words of the gentleman from Iowa. The fact is that the bill that I voted for in the full Agriculture Committee has been watered down substantially. While we have conference committees there in Congress, the folks out there on the farms are having auction sales. We have got to do something to give these farmers a chance. The road to economic recovery in this country should not be filled with the carcasses of young farm families who have failed at farming because of low prices and

high interest rates. That is not the road to economic recovery.

□ 1550

That conference committee unfortunately watered down the provisions of this farm bill. I think it is time for the Members to move away from these empty promises and move toward real farm programs that give family farmers a chance to make it. That is not what has been happening around here.

A 15-percent setaside with a 10-cent increase on the loan rate on wheat is not enough.

A 5-percent diversion program is not enough. This program will not give family farmers in this country a chance to survive. Giving them a chance to survive represents the road to economic recovery, I am convinced. That is why I am compelled to vote against this bill.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the conference report. A week ago, I took the floor to warn that the supplemental appropriations bill, H.R. 6863, was being used as a backdoor way to give a large post election pay rise to Members of Congress. Well, no sooner did we try to slam that door that another door was found. Section 310(c) of this bill provides the same pay raise contained in the supplemental appropriations bill.

Let me take a minute to explain this pay raise because it is particularly clever. Section 310(c) reconvenes the Commission on Executive, Legislative, and Judicial Salaries, known as the Quadrennial Commission. Never mind that the Commission is not scheduled to come back into existence until the fall of 1984. The Commission is directed to report recommendations on pay for Cabinet Secretaries, Members of Congress, and other high Government officials, to the President by November 15, just 2 weeks after election day. The President is then instructed to get his recommendation to the Hill "as soon as practicable." Those recommendations go into effect 30 days later unless we pass a concurrent resolution disapproving them. This is true whether we are in session or not. The law we passed in 1977 requiring each House to take a record vote on pay raises is ignored.

Now, some claim that a pay raise is far from a certainty. This is not true. The Quadrennial Commission is instructed to set appropriate levels and relationships of pay. It is not told to look at public acceptance or appropriate timing. In December 1980, the Commission recommended that Cabinet Secretaries get $95,000 and that Members of Congress get $85,000. If you adjust this latter figure to reflect changes in wages of all workers, you find that, as of June 30, Members of Congress would get $96,400. I think this is an accurate projection of what the Commission will recommend. And while the President has the statutory power to recommend a lower figure, he is under enormous pressure from his appointees to grant a pay raise.

While we in Congress could pass a concurrent resolution disapproving the increase, such a move is unlikely considering the shortage of time provided, the difficulty in forcing committee action, and the fact that this occurs directly after the election.

So, simply put, a vote for this conference report is a vote for a $36,000 pay raise.

This pay raise should be put in context of the rest of this bill. The bill cuts off food stamps for households which do not fall below the poverty line. It makes numerous other changes to reduce eligibility and benefits under the food stamp program. So, in a single vote, you can vote to increase your own pay and take food stamps away from some poor people.

The bill restricts the availability of FHA insured loans to home buyers. So, in a single vote, you can make home mortgages even more difficult to get for your constituents and give yourself a pay raise.

The bill also eliminates half the cost-of-living adjustment to retirees, mainly from the military, who are under age 62. It calls for a slight reduction in civil service pay. It greatly reduces the possibility of early retirement and delays the payment of cost-of-living adjustments to all retirees. So, in a single vote, you can inflict pain on those who have given their careers to the Federal Government and are now retired and raise your own pay.

I am committed to reducing the Government expenditures and the deficit. We must bring the budget under control to reduce the burden the Federal Government places on the credit markets. As I pointed out during the debate on the Defense authorization, there are numerous places to cut. Somehow, we never get around to reducing defense expenditures and spend our time cutting muscle out of our domestic programs, like aid to the elderly, housing, and nutrition. Without the pay raise, this bill would be unacceptable to me because it is a perversion of my priorities for cuts. With the pay raise in this bill, I believe it is reprehensible.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I thank the chairman of the Committee on the Budget for yielding me this time.

I would simply like to again take note of what is happening in this bill as it relates to dairy legislation.

For the past 2 years, dairy farmers have been frozen in terms of the amount that they receive on their milk check. This provision in the reconciliation bill today means that as of October 1 of this year, the Secretary of Agriculture will have the authority to effectively reduce by 50 cents per hundredweight the effective income for dairy farmers by the imposition of an assessment against that milk check on first handling.

It also provides that on April 1, 1983, the Secretary will be given additional authority to provide an additional 50 cent reduction per hundredweight at that time.

One of the problems that I have with this proposal is that in addition to what it means to the income of the average dairy farmer in this country, there is no effective—and I underline the word effective—distinction being made in this legislation between farmers who are overproducing and farmers who are not overproducing.

What it means, in essence, is that this legislation will not have any significant incentives to reduce production which many observers see is at the root of the problem.

I am not a lawyer, but my brother-in-law is. He told me last weekend he has over the past years handled about four abstracts per year involving farm bankruptcies. He is now up to about five or six a week, and I would suggest to the Members that with this provision, that number is not going to go down, that number is going to go up.

The cost of production for dairy products right now is higher than this bill will allow under the Secretary's authority. I would suggest any person from a dairy area to take a good look at it before he votes yes on final passage.

Mr. LATTA. Mr. Speaker, I have no further requests for time.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, first of all, I would like to express my thanks to the chairman of the Committee on the Budget and the members of the Budget Committee who worked on reconciliation plus the chairmen of the other committees involved in reconciliation and also the staffs of both the Budget Committee and other committees.

There is a great deal of work involved in trying to get a bill like this put together and before the House.

Speaking of that, I think just in passing I should say that when approaching a bill like this that involves some $13 billion in savings, Members ought to be aware of the fact there are no magic answers in trying to achieve

these savings. You cannot simply reduce deficits by wishing them away. I know it is easy to go back and complain about the size of deficits, but it is when it comes to votes like this on issues like this that Members truly will express to their constituents whether they are willing to stand up and make the tough vote when it counts.

I recognize that there are Members who sincerely disagree with points that are contained in the reconciliation bill, and yet overall, I can tell the Members that this represents a fair compromise between the House and Senate positions in terms of the issues that were before the committees and, second—and perhaps most importantly—it represents a very important procedural victory in terms of reconciliation, because the committees were able to bring their approaches to the floor separately. They had their separate input. Indeed, the House was able to vote separately on each of these provisions. They were not hidden. We have not closed them up in one vote up or down. Members had the opportunity to express their will with regards to each of the packages. I think that is an important procedural point to keep in mind.

Let me just state generally what we are dealing with here. Basically the House was instructed, as a result of the budget resolution, to come up with $27.1 billion in savings plus the $99 billion in revenues for a total of almost $126 billion in deficit reductions contained in the budget resolution.

That was divided up into two separate packages: The Ways and Means and Finance Committee have a separate package that involves reductions in their jurisdiction of approximately $15 to $17 billion plus the revenue package. That will be voted on later this week before the House and the Congress.

What is contained in this package is the work of approximately seven committees in a separate reconciliation bill.

The instruction was to achieve savings totaling approximately $11 billion; the committees have achieved almost $13 billion in savings.

That package contains essentially these elements: The first is the veterans' portion. The veterans' portion was unanimously adopted by this House.

Based on the substance that is contained in this bill which I think represents a fair compromise and also on the procedural basis that allows committees to have the opportunity to vote separately on these issues and to have had their input, I would urge the Members of the House to support the conference report.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I am limiting my remarks to that portion of the conference on which I worked and which I oppose in its present form. Frankly, there are other parts of the conference report which I also oppose.

The conference report on Post Office and Civil Service matters provides that cost-of-living adjustments will be delayed 1 month in each of the next 3 calendar years. Adjustments currently are payable April 1. Retirees who are under age 62 will receive one-half of the COLA, and military retirees who are employed in civil service positions will have civil service pay reduced by the dollar amount of the military COLA.

General Schedule pay will be computed on the basis of 2,087 hours a year. Currently General Schedule pay is computed on the basis of 2,080 hours. The change will be effective only in 1984 and 1985. Annuities will be rounded to the next lowest dollar. Under existing law, annuities are rounded to the nearest whole dollar. In addition, annuities will commence on the first day of the month after separation from the service. Under existing law, annuities commence on the day following separation.

No civil service annuity may be increased as the result of a COLA, if the adjustment would cause the annuity to exceed: First, the greater of the maximum pay for GS–15—currently $57,500—or second, the final pay—or average pay if higher—of the employee.

Interest rates on redeposits to the civil service retirement system will be increased to equal the overall average yield on obligations in which the retirement fund was invested. The current interest rate charged is only 3 percent. The change will become effective after October 1, 1982. On disability retirement, it reduces from 1 year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. It also changes the current earning capacity test period from 2 year to 1 year.

On creditable service based on military service, an employee first appointed under the civil service system on or after October 1, 1982, will not receive credit for military service unless the employee deposits in the civil service fund an amount equal to 7 percent of his military base pay for each year of military service he wants credited for retirement purposes. Employees in the civil service system before October 1, 1982, also will be given an option to make a deposit to cover military service. Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service after 1956.

Finally, an Ad Hoc Commission on Executive, Legislative, and Judicial Salaries is created. The Commission must submit its recommendations no later than November 15 of this year. The President then would submit his recommendations to Congress for review. His recommendations would become effective within 30 calendar days unless disapproved by concurrent resolution.

Because of this item, I fully expect my motion will carry.

Mr. LATTA. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, the conference report we are considering today should be supported by all Members of the House of Representatives. It provides according to CBO a 3-year savings in excess of $7 billion, while providing needed measures to bring surplus agricultural production more into line with demand.

Like other members of the conference committee, I still have some problems with this report. I do not feel that the dairy provisions adopted by the committee go far enough toward solving our problem with surplus production. I am still concerned that loan rate increases for grains may be ill-advised at this time, although the increases are more modest than those in the bill originally approved by the House.

The food stamp provisions contained in this report offer still more savings and greater efficiencies. There are greater incentives for individuals to find work. There are incentives for States to administer the program more efficiently. And, there are greater incentives, as a result of my amendment, for local governments to implement workfare programs.

Some of the savings achieved in the agricultural programs will be used to find overseas markets for our surplus farm products. In fact, at least $175 million is to be used for export promotion activities. This is essential if we are to avoid even larger Federal price support outlays over the longer term.

We are facing a crisis in agriculture today. Last week, the respected weekly financial newspaper, Barron's, reported that Illinois farmland values fell 9 percent in nominal value during the last 14 months. Adjusted for inflation, that is a 17.6-percent decline.

In Iowa, Barron's reported, a combine that sold new last year for $106,000 brought only $42,000 at a farm sale.

Barron's noted what is called ominous similarities between the present period and the period 1915 through 1920.

Another respected financial publication, Forbes, reported that of the approximately 35 million metric tons of grain that will be added to world stocks this year, no less than 33 million will come from the United States. This bill may not solve all the problems in the farm economy, but it will help us control the growth in grain stocks.

The fact is, gentlemen, that action is needed. This bill is a step in the right direction. It is not perfect. It does not go as far as I would like in some areas, notably dairy. I firmly believe that more legislation will be needed in the near future. However, I firmly believe that this bill is the best that is possible at this time, and I strongly urge my colleagues to support it.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, I rise in reluctant support of this conference report. I think in the words of the chairman of the House Agriculture Committee, this was a compromise in the art of the possible.

Certainly the House position as crafted by the chairman, as crafted by the gentleman from Washington (Mr. FOLEY), is far superior to the economic problems of agriculture today; but this conference committee was not willing to go along with the House position. It came in with a compromise position.

I would predict to the Members that sometime late in November, or early in the next session of Congress, we are going to be back to try to solve the economic ills of agriculture. Until we solve the economic ills of agriculture, we are going to continue to have a slow growth in the economy and a very slow economic recovery.

For those Members who come from urban areas, for those Members who come from industrialized areas, one will find when one improves the health of that agriculture economy, we are going to create jobs, create jobs in steel mills, automobile factories, farm equipment plants.

We say big business takes care of itself and can thrive in this economy and climate that we have. I just point to International Harvester and the extreme financial difficulties they are having. Those difficulties can be directly related to a very ailing agricultural economy. Until we take steps to strengthen that economy what we are going to find will be the total economic ills of this country recover very slowly.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. STANGELAND. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I would like to support heartily all those sections of the bill referring to the health of the agricultural community. It is absolutely essential that we act not just for the sake of the farmers themselves but those who live on the profits of a sound farm economy.

Mr. Speaker, there is something else in this bill that perhaps many people in this House are not aware of. There is a section 310. If we allow that to pass without change, what are we going to find? Another move such as we saw here before, Mr. Speaker. Here we are empowering the Commission to pass on our salaries after November 15 when we will be in recess. We have the right, here in Congress, to veto any raise in 30 days after that.

□ 1600

The SPEAKER. The time of the gentlewoman from New Jersey has expired.

Mr. LATTA. Mr. Speaker, I yield 1 additional minute to the gentlewoman.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for giving me another minute.

This is something we are going to be sorry for. This is not proper. We are giving this Commission the power to decide on our salaries. Any raise has to be vetoed by the House between the 15th of November and the 15th of December and we may not even be here.

I think we should not do this through a section of an agricultural bill.

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding.

What we had hoped to do is to offer a motion to recommit with instructions to strike section 310 out of the bill so that in the reconciliation package we would deal with the important spending cuts and not congressional pay raises.

Now as I understand it, we are going to have a straight motion to recommit. I think those of us who are concerned about the potential of a pay raise in section 310 will want to vote for the straight motion to recommit so that this bill can be sent back to the conference to strike that section.

Mr. JONES of Oklahoma. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I rise in opposition to the conference report to accompany H.R. 6955, the Omnibus Reconciliation Act of 1982. This legislation makes over $30 billion in domestic program cuts, of which $4 billion is from the pay and benefits of our Federal workers and retirees. The legislation before the House denies a full cost-of-living adjustment for almost 1 million military retirees and almost 200,000 civil service retirees. As I said last month during debate on the 4-percent COLA cap, which the House wisely rejected on three separate occasions, it is not fair to cut the retirement benefits of civilian and military retirees while all other Federal retirement benefits are allowed to receive the full COLA's as mandated by the increase in the Consumer Price Index.

Mr. Speaker, Federal workers and retirees have already sacrificed enough at the altar of reconciliation—they lost over $6 billion in pay to which they were entitled under the principle of pay comparability. In addition, the Tax bill contains a 1.3-percent medicare tax that will cost Federal workers another $700 million in a back door pay cut, and this reconciliation bill will cut benefits by $4 billion more. That is a grand total of $10 million in pay and benefit cuts, and I say enough is enough.

Federal workers and retirees are being asked to bear a disproportionate share of the reconciliation cuts, and I urge its rejection.

It is time we recognize the outstanding service our Federal work force performs on a day-in, day-out basis. Federal employees do not march in the streets to demand higher wages or better working conditions. They report faithfully to their jobs each morning and fulfill their responsibilities in a conscientious and competent manner, hopeful that their employer—the Federal Government—will protect the full value of their pay and benefits. This is the most that they ask for, and certainly the least that they deserve.

Mr. JONES of Oklahoma. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Speaker, I simply want to say, I honor perhaps as much as anybody the work that has gone into this reconciliation. It is no easy job to cut billions and billions of dollars, particularly from the truly needy; but I do want to say how inappropriate I believe it is for the House to set in motion any mechanism which has to do with the pay level of Members of Congress without a separate recorded vote on that issue alone.

● Mr. MOFFETT. Mr. Speaker, I strongly object to the reconciliation bill before us today. It epitomizes, unfortunately, precisely the distorted priorities that this Congress has been supporting the past 2 years—namely, cutting programs that are vital to those living in poverty, to retirees and to the average taxpayers, while rewarding special interest groups with excessive subsidies. Equally objectionable, the bill contains a classic back door pay raise that will boost congressional salaries to $85,000 a year, unless the entire package is rejected. That back door pay raise is sufficient reason alone, in my view, to defeat this bill.

This reconciliation bill, in the guise of cutting spending, is aimed at those who should no longer bear the brunt of the administration's inability to control Pentagon spending and waste in Government. In particular, the bill calls for another $1.9 billion cut in food stamps, a program that has been repeatedly cut over the past 18 months. This $1.9 billion is actually more than was "necessary" under budget guidelines adopted last June—when a cut of "only" $1.3 billion was mandated. Recent reports have revealed that the number of Americans living below the official poverty line increased by 2.2 million in 1981, bringing the total to 14 percent of our citizens. This means that one American in seven now lives in poverty. That is a disgrace to our Nation. But it is even more disgraceful when we punish these people—many of whom have been thrown into poverty because of this Reagan recession and increasing unemployment—by cutting the basic benefits that keep them from going hungry.

Even worse, the same reports reveal that 20 percent of American children—one in every five—now live below the poverty line. It is absolutely essential that children receive sufficient nutrition, which the food stamp program is supposed to provide. But the budget cuts imposed by the Reagan administration, and certified by this Congress, have made adequate coverage nearly impossible. Another $1.9 billion cut, as contained in this legislation, is simply intolerable.

This bill takes aim not only at the poor, but also at retired workers. It does so by changing the timing and amounts of cost-of-living adjustments—COLA's—that retired Federal workers receive. Under the provisions of the bill, the annual COLA for retired Federal employees would be delayed by 1 month in each fiscal year for the next 3 years. Thus, over the course of the next 3 years, the COLA will be moved from April 1 to July 1.

In addition, retired Federal employees under the age of 62 will receive only one-half of their COLA. This is a particular hardship for persons who have retired for health reasons, and who depend on COLA's to keep up with inflation. There simply is no good reason why we should cut inflation adjustments for persons who retire before age 62. All retired citizens are entitled to some protection against the ravages of inflation, and COLA's are essential for such protection.

This bill will also make it more difficult for the average citizen to purchase a home. It does so by increasing the up-front costs to home buyers by changes in FHA mortgage rules. I find it remarkable that we should be asked to increase such costs at a time that the housing industry is in its worst slump in a quarter century. Despite the recent fall in the prime interest rate, long-term mortgage rates remain impossibly high—near 17 percent—for home buyers. The housing market is "dead in the water," to borrow a phrase from the Secretary of the Treasury.

In my own State of Connecticut, only 10,000 new homes were built during all of 1981. Construction of new units is expected to be even lower this year. Yet here we have legislation that will—incredibly—actually increase the cost of buying a new home. With these kinds of priorities, it is hardly surprising that the American people despair of finding leadership among their elected representatives.

Finally, this bill is an insult to the intelligence of both the public and the Congress, with its hidden, back door pay raise provision.

Mr. Speaker, last December the House passed a similar hidden pay raise, through a voice vote on an amendment that was never read or printed before a vote was rammed through the House. After months of vociferous public protest, that pay raise was rescinded by the urgent supplemental appropriation bill we approved this past June. Yet here we have a similar hidden provision, which takes advantage of obscure parliamentary rules. If we pass this bill, congressional salaries will automatically rise 30 percent, to $85,000 a year. At a time when 1 in 10 Americans is jobless; when 1 in 5 American children live in poverty; when we have repeatedly cut vital social services; when we have tax cuts targeted to those earning over $200,000 a year; and when we are asking middle-class parents to foot huge new increases in education and health costs, the Congress shows its indifference by trying to vote itself a $23,000 pay raise.

Mr. Speaker, I think it is clear why this reconciliation bill is unacceptable legislation. Each provision that I have discussed is enough to justify voting against. But it is a package of objectionable provisions, and for that reason I reject it even more strongly.●

● Mr. ANDERSON. Mr. Speaker, the results of the reconciliation subconference on the issue of Interstate Commerce Commission membership should facilitate its efficient operation and continue to allow it to fulfill its mandate while saving the taxpayers money.

Present law permits the appointment of 11 Commissioners. This agreement would reduce the number to seven through 1985, and to five thereafter. Based on estimates that each Commission office costs an estimated $500,000 a year to operate, this provision could save as much as $3 million per year.

It should be pointed out, that recent practices have resulted in membership well below 11 members, and that 6 members currently serve on the Commission.

An additional feature of the subconference agreement is the reduction in ICC terms from 7 years to 5. When this provision is fully in place, one Commission seat will expire every year, and so every year the President will have the opportunity to appoint a new Commissioner.

Of course, we have maintained the principle that no more than a bare majority of a full Commission can be from a single political party. This legislation would prohibit there being more than three Commissioners appointed from one party.

Mr. Speaker, I am pleased to say that all five of the House Public Works and Transportation conferees agreed to our subconference provision. This unanimous signoff is indicative of the fair and equitable agreement that was reached.●

● Mr. PARRIS. Mr. Speaker, as many of my colleagues know, I worked very hard last year in an effort to win congressional approval of the President's economic program. While I have the same enthusiasm for reducing Federal spending and eliminating the incredible deficit, I am outraged over the recent actions taken by congressional leaders to unfairly penalize our Nation's retirees.

In their haste to reach an agreement on the budget for fiscal year 1983, the conferees on the budget have done a horrible disservice to millions of this Nation's most dedicated citizens. The conference committee has given its approval to delay the cost-of-living adjustment for Federal civilian and military retirees for 1 month, in each of the next 3 years. All those retirees who are under the age of 62 would receive only half of the cost-of-living increase to which all retirees are now entitled in accord with the Consumer Price Index.

The conference committee would have us do this at a time when the Congress has determined that it is inappropriate to tamper with the cost-of-living adjustments of our Nation's social security recipients. I can assure my colleagues that it is just as much an inequity to tamper with the pensions of military and Federal civilian retirees as it is to reduce the benefits of social security beneficiaries. Military and civilian retirees may not be as great in number as those receiving social security, but their Federal Government has the same obligation to protect their rights and benefits.

These retirees are living on fixed incomes and are hard hit by the high cost of living. It would be great if there was no need for a cost-of-living

increase but that cannot be guaranteed. We certainly cannot expect to turn this economy around by penalizing Federal civilian and military retirees. They do not object to making their contribution to society but they have already done more than has been required of any other group of citizens. Their well-thought-out plans for retirement will be severely disrupted if the Congress does not honor its commitment. We have a contractual and moral obligation to provide the full COLA in a timely manner. We are only asking for equity and fairness.

Obviously we need to do something about the size of the budget deficit projected for fiscal year 1983. But we can reduce the deficit in a responsible manner without jeopardizing the security of military and Federal civilian retirees. I hope that my colleagues will support our efforts and oppose the conference report on the budget when it comes before the House.●

● Mrs. SCHNEIDER. Mr. Speaker, it is my intention to vote for recommittal of H.R. 6955, the reconciliation conference report, for two reasons. First, I am outraged that the other body would use this bill as a vehicle to set up a commission which may, or may not, have the effect of raising Members' compensation.

Once again, this body is being asked to approve by the back door a proposal on Members' salaries without a direct vote, and I cannot support this bill for that reason. Perhaps the other body finally found a way to deal with the question of Members' compensation fairly—but I doubt it, considering the manner in which it has been sneaked into the bill. I have said before, and I will say again, we must not deal with compensation for ourselves without open hearings and clear, separate votes. I note that the funding for this commission is contained in the Supplemental Appropriations bill which we will consider later today or during the balance of the week. I urge all my colleagues to support the motion to recommit the Reconciliation bill in order to strike the provision and to make the funding provision of the Appropriations bill moot.

Second, I must support the motion to recommit over the question of COLA adjustments. Perhaps this is the best means available to accomplish required savings. But it is complicated at best and at least worthy of further review by the conference committee.●

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I would just like to make a few comments. First of all, this conference report ought to be passed by this body. It has had the strong endorsement of a bipartisan committee for a responsible Federal budget, cochaired by our former colleagues, the chairman of the Budget Committee, Bob Giaimo, and former ranking member of the Senate Budget Committee, Henry Bellmon; directors Brock Adams, Jim McIntyre, Ed Muskie, Bob Strauss, Al Ullman, Del Clausen, Roy Ash, Alan Greenspan, Jim Lynn, Peter Peterson, and several others.

So we ought to pass this conference report.

I would also point out to those who would make a motion to recommit, with or without instructions, that all that will do is to have the effect of sending this conference report back to conference. It will have no effect of necessarily striking out any particular section.

The section 310 which was alluded to by the gentlewoman from New Jersey was put in by the other body. There is some confusion on this, that this may be a congressional pay raise. I recognize we are on television and this is a very hot political issue and always wins votes back home; but let us know what the facts are. The facts are that in this particular provision, that the Quadrennial Commission is asked to report to the President what the pay raise or the pay level for Members of Congress should be. They report to the President.

As I understand it, the President has full discretion as to when he reports that recommendation to the Congress. The Congress at that point has full discretion and veto power to reject what the President submits to the Congress; so I want that point to be very clear.

Mr. Speaker, I yield to the gentleman from California (Mr. FAZIO) for a clarification.

Mr. FAZIO. Mr. Chairman, I appreciate the gentleman yielding.

I have had some connection with this, because it is also, as many Members know, part of the supplemental appropriations measure.

I think the question of any attempt that has been made to pass this through without proper consideration is inappropriate.

I also appreciate the gentleman's most recent comment that this will be back before the Congress. The President does control the submission of whatever commission recommendations come forth. They will probably be brought forth some time during the latter part of the year, but they will sit before the Congress for 30 days. If we wish to by concurrent resolution reduce or cancel them, we have the power to do so.

The President's recommendation to us is at his discretion. I would hope certainly he would prepare his recommendation and make it to us at a time we could consider it. I think that would be the proper way for the President to proceed.

There is no question that this is the best way for the body to consider this issue. We need to have some outside objective source to provide the recommendations to us and let us take those recommendations into consideration and act as we believe appropriate.

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman.

Mr. Speaker, there are a lot of reasons why we should not follow through on our requirement to cut spending; but I think we would be making a great mistake if we either voted this down or recommitted this conference report.

We ought to follow through on the reconciliation instructions and cut the spending by the amount which was called for by the various committees.

Mr. Speaker, upon adoption of the conference report, which I hope this body will do, I plan to ask unanimous consent for the House to consider a concurrent resolution to make technical corrections in the conference report.

Mr. JONES of Oklahoma. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair, without getting into any debate, wants the House to be aware of the parliamentary situation. It is understood that there will be a motion to recommit. If the motion to recommit prevails, then the bill will have to go back to the conference committee and the Chair struggles to see how we could possibly bring this bill up again before the tax bill. The leadership has scheduled the tax bill for Thursday, but this conference committee would have to go back, it would have to get unanimous consent to have it brought up when filed; so the Chair just wants Members to have in mind the technicality of what is happening.

MOTION TO RECOMMIT OFFERED BY MR. DERWINSKI

Mr. DERWINSKI. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report?

Mr. DERWINSKI. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DERWINSKI moves to recommit the conference report to accompany the bill, H.R. 6955, to the committee of conference.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 266, nays 145, not voting 23, as follows:

[Roll No. 287]

YEAS—266

Albosta	Fields	Mavroules
Alexander	Findley	McClory
Anderson	Fish	McCollum
Andrews	Fithian	McCurdy
Annunzio	Flippo	McDonald
Anthony	Florio	McEwen
Applegate	Foglietta	McGrath
Archer	Frank	McHugh
Ashbrook	Fuqua	Mica
Atkinson	Gaydos	Michel
AuCoin	Gephardt	Mikulski
Bailey (MO)	Gilman	Miller (CA)
Bailey (PA)	Gingrich	Miller (OH)
Barnard	Glickman	Minish
Beard	Gonzalez	Mitchell (NY)
Bedell	Goodling	Molinari
Benedict	Gradison	Moore
Bennett	Gramm	Moorhead
Bereuter	Gregg	Mottl
Bethune	Guarini	Murphy
Bevill	Gunderson	Myers
Blanchard	Hagedorn	Napier
Bliley	Hall, Ralph	Natcher
Boggs	Hall, Sam	Nelligan
Boland	Hamilton	Nelson
Boner	Hammerschmidt	Nichols
Bonior	Hance	O'Brien
Bouquard	Hansen (ID)	Oakar
Broomfield	Hansen (UT)	Ottinger
Brown (CO)	Harkin	Oxley
Byron	Hatcher	Parris
Campbell	Heckler	Pashayan
Carman	Hefner	Patman
Carney	Hendon	Paul
Chappell	Hightower	Pease
Chappie	Hiler	Petri
Cheney	Hollenbeck	Pickle
Clausen	Hopkins	Quillen
Clinger	Hubbard	Ratchford
Coats	Huckaby	Regula
Collins (TX)	Hughes	Reuss
Conable	Hunter	Rinaldo
Corcoran	Hutto	Ritter
Courter	Jacobs	Roberts (KS)
Coyne, James	Jeffords	Roberts (SD)
Coyne, William	Jeffries	Robinson
Craig	Jenkins	Roe
Crane, Daniel	Johnston	Roemer
Crane, Philip	Jones (TN)	Rose
Daniel, R. W.	Kastenmeier	Roth
Dannemeyer	Kazen	Roukema
Daschle	Kemp	Rudd
Daub	Kennelly	Santini
Davis	Kildee	Sawyer
Deckard	Kindness	Schneider
DeNardis	Kogovsek	Schroeder
Derrick	Kramer	Schulze
Derwinski	LaFalce	Seiberling
Dicks	Lagomarsino	Sensenbrenner
Dorgan	Lantos	Shamansky
Dornan	Latta	Sharp
Dreier	Leach	Shaw
Duncan	LeBoutillier	Shuster
Dunn	Lee	Siljander
Dwyer	Lent	Skeen
Dyson	Levitas	Skelton
Eckart	Loeffler	Smith (AL)
Edgar	Long (LA)	Smith (IA)
Edwards (OK)	Long (MD)	Smith (NE)
Emerson	Lowery (CA)	Smith (NJ)
English	Lujan	Smith (OR)
Erdahl	Luken	Snowe
Evans (DE)	Markey	Snyder
Evans (GA)	Marlenee	Solomon
Evans (IA)	Marriott	Spence
Fascell	Martin (IL)	St Germain
Fenwick	Martin (NC)	Stangeland
Fiedler	Martin (NY)	Stark
Staton	Vander Jagt	Whittaker
Stenholm	Volkmer	Williams (OH)
Studds	Walgren	Winn
Stump	Walker	Wirth
Swift	Wampler	Wolpe
Synar	Watkins	Wortley
Tauke	Weaver	Wyden
Tauzin	Weber (MN)	Yates
Taylor	Weber (OH)	Young (FL)
Traxler	Whitehurst	Young (MO)
Trible	Whitley	

NAYS—145

Addabbo	Fountain	Nowak
Akaka	Fowler	Oberstar
Aspin	Frenzel	Obey
Badham	Frost	Panetta
Barnes	Garcia	Patterson
Beilenson	Gejdenson	Pepper
Benjamin	Gibbons	Perkins
Biaggi	Goldwater	Peyser
Bingham	Gore	Porter
Bolling	Gray	Price
Bonker	Green	Pritchard
Bowen	Grisham	Pursell
Brinkley	Hall (OH)	Railsback
Brodhead	Hartnett	Rangel
Brooks	Hawkins	Rhodes
Brown (CA)	Hertel	Richmond
Burgener	Hillis	Rodino
Burton, Phillip	Holland	Rogers
Butler	Horton	Rostenkowski
Clay	Howard	Rousselot
Coelho	Hoyer	Roybal
Collins (IL)	Hyde	Russo
Conte	Jones (NC)	Sabo
Conyers	Jones (OK)	Savage
Coughlin	Leath	Scheuer
Crockett	Lehman	Schumer
Daniel, Dan	Leland	Shannon
de la Garza	Lewis	Shumway
Dellums	Livingston	Simon
Dickinson	Lott	Smith (PA)
Dingell	Lowry (WA)	Solarz
Dixon	Lundine	Stanton
Donnelly	Lungren	Stokes
Dougherty	Madigan	Stratton
Dowdy	Marks	Thomas
Downey	Martinez	Udall
Dymally	Matsui	Vento
Early	Mattox	Washington
Edwards (AL)	Mazzoli	Waxman
Edwards (CA)	McCloskey	Weiss
Erlenborn	McDade	White
Evans (IN)	McKinney	Wilson
Fary	Mineta	Wolf
Fazio	Mitchell (MD)	Wright
Ferraro	Moakley	Wylie
Foley	Mollohan	Zablocki
Ford (MI)	Montgomery	Zeferetti
Ford (TN)	Morrison	
Forsythe	Murtha	

NOT VOTING—23

Bafalis	Emery	Rahall
Breaux	Ertel	Rosenthal
Brown (OH)	Ginn	Shelby
Broyhill	Heftel	Whitten
Burton, John	Holt	Williams (MT)
Chisholm	Ireland	Yatron
Coleman	Moffett	Young (AK)
D'Amours	Neal	

□ 1620

Messrs. FRANK, PARRIS, HEFNER, WHITLEY, FINDLEY, WILLIAMS of Ohio, FIELDS, LEE, LONG of Maryland, OXLEY, LOEFFLER, ST GERMAIN, YOUNG of Missouri, BEARD, HUCKABY, Mrs. ASHBROOK, Messrs. CHAPPIE, SKEEN, JENKINS, HAMILTON, PEASE, CHAPPELL, ALEXANDER, TRAXLER, PICKLE, ECKART, SEIBERLING, ANTHONY, CLINGER, BAILEY of Missouri, BARNARD, MAVROULES, ANNUNZIO, KOGOVSEK, FITHIAN, MINISH, GUARINI, DWYER, CHENEY, DAVIS, MARKEY, LUKEN, WIRTH, HATCHER, ALBOSTA, DICKS, ROSE, BONER of Tennessee, MARTIN of North Carolina, LANTOS, OTTINGER, DERRICK, MARRIOTT, KEMP, ANDREWS, BONIOR of Michigan, STARK, NICHOLS, BEVILL, FOGLIETTA, and MILLER of Ohio changed their votes from "nay" to "yea."

Mr. SABO changed his vote from "yea" to "nay."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

□ 1630

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the managers have until midnight tonight to file a conference report, and that this conference report may be taken up tomorrow or any day thereafter, and again that we would waive all points of order.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. For the information of the House, the conferees automatically remain appointed to the same conference.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6156, CLARIFYING JURISDICTION OF SECURITIES AND EXCHANGE COMMISSION

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-574) on the resolution (H. Res. 565) providing for the consideration of the bill (H.R. 6156), to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-755) on the resolution (H. Res. 566) providing for the consideration of the bill (H.R. 5447), to extend the Commodity Exchange Act, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6329, NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUTHORIZATION ACT OF 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-756) on the resolution (H. Res. 567) providing for the consideration of the bill (H.R. 6329) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 1640

AUTHORIZING ENLARGEMENT OF BUFFALO BILL DAM AND RESERVOIR IN WYOMING

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1409) to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyo., and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Reserving the right to object, Mr. Speaker—and I shall not object—I just want to advise my colleague that the minority has reviewed this, and we have no objection at all to this request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the genetleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservoir shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservoir by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided,* That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 3. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 7 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 4. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this Act to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

SEC. 5. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 6. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided,* That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 7 of this Act.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this Act, together with such sums as may be required for operation and maintenance of the works authorized by section 4(a).

SEC. 7. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Page 1, line 3, strike all after the enacting clause and insert the following:

TITLE I

SEC. 101. The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplemental thereto), is hereby authorized to construct, operate, and maintain modifications to the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin program, Wyoming, for the purposes of providing approximately seventy-four thousand acre-feet of additional water annually for irrigation, municipal and industrial use, increased hydroelectric power generation, outdoor recreation, fish and wildlife conservation and development, environmental quality, and other purposes. The principal modifications to the Buffalo Bill Dam and Reservior shall include raising the height of the existing Buffalo Bill Dam by twenty-five feet, enlarging the capacity of the existing Buffalo Bill Reservior by approximately two hundred and seventy-one thousand acre-feet, replacing the existing Shoshone Powerplant, enlarging a spillway, construction of a visitor's center, dikes and impoundments, and necessary facilities to effect the aforesaid purposes of the modifications. These modifications are hereby authorized as part of the Pick-Sloan Missouri Basin program: *Provided,* That the powerplant authorized by this section shall be designed, constructed, and operated in such a manner as to not limit, restrict, or alter the release of water from any existing reservoir, impoundment, or canal adverse to the satisfaction of valid existing water rights or water delivery to the holder of any valid water service contract.

SEC. 102. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the modification of Buffalo Bill Dam and Reservoir shall be in accordance with the Federal Water Project Recreation Act (79 Stat. 213), as amended.

SEC. 103. The modifications of the Buffalo Bill Dam and Reservoir shall be integrated physically and financially with the other Federal works constructed under the comprehensive plan approved by section 9 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 891), as amended and supplemented. Revenues for the return of costs allocated to power shall be determined by power rate and repayment analysis of the Pick-Sloan Missouri Basin program. Repayment contracts for the return of costs allocated to municipal and industrial water and irrigation water supplies exclusive of State participation pursuant to section 7 shall be negotiated under provisions of the Reclamation Project Act of 1939 (53 Stat. 1198) or the Water Supply Act of 1958 (72 Stat. 320), as amended, and shall be prerequisite to the initiation of construction of facilities for this purpose. Costs allocated to environmental quality shall be nonreimbursable and nonreturnable under Federal reclamation law.

SEC. 104. (a) The Secretary of Energy is authorized to construct, operate, and maintain transmission interconnections as required physically to interconnect the hydroelectric powerplant authorized by this Act to existing power systems as he determines necessary to accomplish distribution and marketing of the power generated.

(b) Hydroelectric power generated by the facility constructed pursuant to this Act shall be delivered to the Secretary of Energy for distribution and marketing. Such facility shall be financially integrated with the Western Division, Pick-Sloan Missouri Basin program power system and the power marketed under rate schedules in effect for such system.

SEC. 105. The interest rate used for computing interest during construction and interest on the unpaid balance of the reimbursable costs of the Buffalo Bill Dam and Reservoir modifications shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction of the unit is commenced, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which are neither due nor callable for fifteen years from date of issue.

SEC. 106. (a) There is hereby authorized to be appropriated beginning October 1, 1982, for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation, maintenance, and replacement of the works of said modifications: *Provided*, That, such sums authorized to be appropriated for construction, operation, maintenance, and replacement shall be reduced by the amounts contributed to the project under the provisions of section 7 of this Act.

(b) There is also authorized to be appropriated beginning October 1, 1982, such sums as may be required by the Secretary of Energy to accomplish interconnection of the powerplant authorized by this Act, together with such sums as may be required for operation and maintenance of the works authorized by section 4(a).

SEC. 107. The Secretary of the Interior is authorized to enter into contracts with the State of Wyoming, upon such terms and conditions as he deems necessary, for the division of additional water impounded by the modifications, the sharing of revenues from the modifications, and the sharing of the costs of construction, operation, maintenance, and replacement of the Buffalo Bill Dam and Reservoir modifications.

TITLE II

SEC. 201. This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

DEFINITIONS

SEC. 202. As used in this title, the term—

(a) "Secretary" shall mean the Secretary of the Interior;

(b) "Federal reclamation laws" shall mean the Act of June 17, 1902 (43 U.S.C. 371), and all Acts amendatory or supplementary thereto;

(c) "person" shall mean any individual, including his or her spouse, and including other dependents thereof within the meaning of the Internal Revenue Code (26 U.S.C. 152), who is a citizen of the United States or a resident alien thereof, or any partnership or association of such individuals organized under State law, or a domestic corporation which is not a member of an affiliated group and which does not have more than eighteen individual shareholders;

(d) "project" shall mean any reclamation or irrigation project, including incidental features thereof, authorized by the Federal reclamation laws, or constructed by the United States pursuant to such laws, or in connection with which there is a repayment contract executed by the United States pursuant to such laws, or any project constructed by the Secretary through the Bureau of Reclamation for the reclamation of lands;

(e) "project water" shall mean water developed or furnished by or through federally financed facilities for a Federal reclamation project as authorized by Congress and which is made available for agricultural purposes pursuant to a contract with the Secretary;

(f) "district" shall mean any conservancy district, irrigation district, or other organization which is established under State law and which has capacity to enter into contracts with the United States pursuant to the Federal reclamation laws;

(g) "contract" shall mean any contract between the United States and a district providing for the payment of construction charges to the United States and normal operation, maintenance, and replacement costs pursuant to the Federal reclamation laws or any water service contract;

(h) "recordable contract" shall mean a contract between the Secretary and a landowner in writing capable of being recorded under State law providing for the sale or disposition of lands held in excess of the acreage limitations of the Federal reclamation laws including this Act; and

(i) "full cost" shall mean an annual rate as determined by the Secretary, that shall amortize the construction costs properly allocable to irrigation facilities in service, less payments, over such periods as may be required under reclamation law or applicable contract provisions, with interest. The interest rates used pursuant to this Act shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all publicly held, interest bearing, marketable issues sold during the fiscal year in which the expenditures by the United States were or are made, but shall not be less than five per centum per annum: *Provided*, That normal operation, maintenance and replacement charges will be collected in addition to the full cost charge.

Subtitle A

NEW AND AMENDED CONTRACTS

Sec. 203. (a) The provisions of this subtitle shall be applicable to any district which:

(1) enters into a contract with the Secretary subsequent to the effective date of this Act;

(2) has an existing contract with the Secretary which is amended to enable the district to receive supplemental or additional benefits not previously authorized by law.

(b) Any district or individual which has an existing contract with the Secretary as of the effective date of this title may, within two years of such date, make a written request to the Secretary for his approval that such contract be amended only to conform with the provisions of the subtitle: *Provided*, That the Secretary shall extend the period in which to file the request if the request cannot be made due to circumstances beyond the control of the district. If the Secretary determines that the proposed amendments would conform with the provisions of this subtitle, he shall consider the contract so amended for purposes of this title. Such an amendment shall be binding upon the district or individual and the Secretary for the duration of such contract.

(c) In the absence of an amendment to a contract approved by a district or a request therefore, as provided in subparagraphs (a) and (b) of this Section, a person may elect to be brought under the provisions of this title by executing an election in a form approved by the Secretary to comply with this title. The district shall thereupon deliver project water to and collect from such persons, for the credit of the United States, the additional charges required by this subtitle and assignable to the person making the election.

LIMITATION ON OWNERSHIP

SEC. 204. No project water shall be delivered by the Secretary pursuant to a contract, or contracts, for the irrigation of lands in private ownership, whether situated in one or more districts, which exceed nine hundred and sixty acres of class I land or its equivalent.

PRICING

SEC. 205. (a) Notwithstanding any other provision of law or contract to the contrary, the Secretary shall not enter into any contract with a district which provides for the delivery of project water, nor shall he deliver project water to lands held by any person whether as the owner thereof or as a tenant, in excess of nine hundred and sixty acres of class I land or its equivalent, in the aggregate, whether situated in one or more districts, at a price which is other than the full cost thereof as defined herein: *Provided*, That any contract entered into pursuant to this subsection shall contain a provision requiring that the full price which shall be charged for project water delivered to lands held by any person in excess of nine hundred and sixty acres, as provided by this title, shall be paid only by that person, and shall not be assigned, either wholly or in part, to any other person.

(b) The Secretary may enter into a contract with a district which provides for the delivery of project water to any person for land held by such person as the owner thereof or as a tenant, not in excess of nine hundred and sixty acres of class I land or its equivalent, in the aggregate, whether situated in one or more districts, at a price to be fixed by him pursuant to the Federal reclamation laws in effect prior to the effective date of this title or, in the case of an amended contract, upon the terms and conditions established by such contract prior to the date of its amendment.

CORPORATIONS

SEC. 206. Notwithstanding any other provision of this Act, the Secretary may enter into a contract which provides for the delivery of project water to any corporation having more than eighteen individual shareholders only at a price which is full cost of all the project water delivered for use on lands in excess of 160 acres owned or leased by it: *Provided, however,* That the Secretary may enter into a contract which provides for the delivery of project water to any such corporation which was not receiving, or had not received, project water on or before October 1, 1981, only at a price which is full cost as herein defined of all the project water delivered for use on lands owned or leased by it: *Provided further,* That any such corporation shall, in any event, be subject to the restrictions contained in section 204.

CERTIFICATION

SEC. 207. As a condition to the receipt of project water for the irrigation of lands in a district which becomes subject to the provisions of this subtitle, each landowner and lessee within such district shall furnish the district, in a form prescribed by the Secretary, a certificate that they are in compliance with the provisions of this title. The Secretary may require any lessee to submit to him, for his examination, a complete copy of any such lease executed by each of the parties thereto.

EQUIVALENCY

SEC. 208. Upon the request of any district, the acreage limitations imposed by this title shall apply to the irrigable lands classified within such district by the Secretary as having class I productive potential or the equivalent thereof in larger acreage of less productive potential, as determined by the Secretary, taking into account all factors which significantly affect productivity, including but not limited to topography, soil characteristics, length of growing season, elevation, adequacy of water supply, and crop adaptability.

DISPOSITION OF EXCESS LANDS

SEC. 209. (a) Project water made available in the operation of reclamation project facilities constructed after the enactment of this title may not be delivered for use in the irrigation of lands held in excess of the ownership limitations imposed by the Federal reclamation laws, including this title, unless and until the owners thereof shall have executed a recordable contract with the Secretary requiring the disposal of their interest in such excess lands within a reasonable time. Such reasonable time shall be established by the Secretary, but shall not exceed ten years after the recordable contract is executed by the Secretary in accordance with the terms and conditions required by the Federal reclamation laws generally.

(b) Lands held in excess of the ownership limitations imposed by the Federal reclamation laws, including this title, which, on the date of enactment of this title, are receiving delivery of project water made available by the operation of existing reclamation project facilities may continue to receive such deliveries only—

(1) if the disposal of the owner's interest in such lands is required by an existing recordable contract with the Secretary, or

(2) if the owners of such lands have requested that a recordable contract be executed by the Secretary.

(c) All recordable contracts covering excess land sales shall provide that a power of attorney shall vest in the Secretary to sell any excess lands not disposed of by the owners thereof within the period of time specified in the contracts. In the exercise of that power, the Secretary shall sell such lands through an impartial selection process only to qualified purchasers according to such reasonable rules and regulations as he may establish: *Provided,* That the Secretary shall recover for the owner the fair market value of the land, unrelated to project water deliveries plus the current fair market value of any improvements thereon.

(d) Excess lands which are hereafter disposed of in compliance with any provision of the Federal reclamation laws, or this title may be considered eligible to receive project water made available through the operation of project facilities only—

(1) if they are held by nonexcess owners under this title or any other applicable provision of the Federal reclamation laws; and

(2) if their title is burdened by a covenant prohibiting their sale, for a period of ten years after their original disposal to comply with the Federal reclamation laws or subtitle A of this title, for values exceeding the sum of the value of the newly added improvements and the value of the land as increased by market appreciation unrelated to the delivery of project water. Upon expiration of the terms of such covenant, the title to such lands shall be freed of the burden of any limitation on subsequent sale values which might otherwise be imposed by the operation of section 423e of title 43, United States Code.

OPERATION AND MAINTENANCE COSTS

SEC. 210. (a) Notwithstanding any other provision of this subtitle, the price of project water delivered by the Secretary pursuant to a contract with a district shall be at least sufficient to recover all operation and maintenance charges which the district is obligated to pay to the United States.

(b) Whenever a district enters into a contract or requests that its contract be amended pursuant to this subtitle and each year thereafter, the Secretary shall calculate such operation and maintenance charges and shall modify the price of project water delivered under the contract as necessary to reflect any changes in such costs by amending the district's contract accordingly.

(c) This section shall not apply to districts which operate and maintain project facilities and finance the operation and maintenance thereof from non-Federal funds.

WATER CONSERVATION

SEC. 211. (a) Each repayment contract or water service contract entered into or amended subsequent to the date of enactment of this title by the Secretary or his designee pursuant to Federal reclamation laws or the Water Supply Act of 1958, as amended (43 U.S.C. sec. 390b), shall require the non-Federal party entering into such contract to develop and implement a water conservation program. This section shall apply to all such contracts regardless of their duration or any other prior contracts entered into by the Secretary or his designee.

(b) For purposes of this section, a water conservation program shall—

(1) apply to all uses of water which is provided from, or conveyed through, federally constructed or federally financed facilities;

(2) contain definite goals;

(3) include loss reduction measures and demand management practices which ensure that the available water supply is used in an economically efficient and environmentally sensitive manner;

(4) contain time schedules for meeting program goals and delineate actions to be taken by the Secretary or his designee in the event such schedules are not met; and

(5) provide for review and modification of the plan at not-to-exceed five-year intervals.

(c) When a State agricultural or natural resource agency has found and published a report or document determining that a district within that same State is wasting irrigation water, the Secretary is directed to take appropriate actions, which may include a surcharge on water service.

SUBTITLE B

RESIDENCY NOT REQUIRED

SEC. 212. Notwithstanding any other provision of law, the receipt of project water pursuant to a contract with the Secretary under the Federal reclamation laws, including this title, shall not be conditioned on residency on or near the lands to which the project water is delivered.

CORPS OF ENGINEERS PROJECTS

SEC. 213. (a) Notwithstanding any other provision of law to the contrary, neither the acreage limitation nor the other provisions of the Federal reclamation laws, including this title, shall be applicable to landholdings receiving benefits from Federal water resource projects constructed by the United States Army Corps of Engineers, unless—

(1) the project has by Federal statute explicitly been designated, made a part of, or integrated with a Federal reclamation project; or

(2) the Secretary, pursuant to his authority under the Federal reclamation law, has provided project works for the control or conveyance of an agricultural water supply for the lands involved.

(b) Notwithstanding any other provision of this section to the contrary, obligations that require water users, pursuant to contracts with the Secretary, to repay the share of construction costs and to pay the share of the operation and maintenance and contract administrative costs of a Corps of Engineers project which are allocated to conservation storage or irrigation storage shall remain in effect.

APPLICABILITY

SEC. 214. The acreage limitations of section 204 of this title or the acreage limitations provided in any other provision of the Federal reclamation laws shall not apply to lands in a district—

(a) after the obligation of a district for the repayment of the construction costs of the project facilities used to make project water available for delivery to such lands shall have been discharged by a district (or by a person within the district pursuant to a contract existing on the date of enactment of this title) by payment of periodic installments throughout a specified contract term, including individual or district accelerated payments where so provided in contracts ex-

isting on the date of enactment of this title: *Provided,* That the appropriate district with respect to which the contractual repayment obligation shall have been discharged may request, and the Secretary shall provide, a recordable certificate acknowledging that the acreage limitation provisions of the reclamation law no longer apply to such lands;

(b) so long as the lands are held by a trustee, individual or corporate, in a fiduciary capacity for a beneficiary or beneficiaries whose interest in the lands served do not exceed the limits imposed by the Federal reclamation laws or subtitle A of this title: *Provided,* That the provisions of section 205 of subtitle A shall be applicable to each beneficial interest if the lands are subject to the provisions of subtitle A;

(c) when the lands served receive only a temporary, not to exceed one year, supply made possible as a result of—

(1) an unusually large project water supply not othewise storable for project purposes; or

(2) infrequent and otherwise unmanaged flood flows of short duration;

(d) acquired by involuntary foreclosure, or similar involuntary process of law, by bona fide conveyance in satisfaction of mortgage, by inheritance, or by devise: *Provided,* That such lands were eligible to receive project water prior to such transfer of title or the mortgaged lands became ineligible to receive water after the mortgage is recorded but before it is acquired by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of mortgage: *Provided further,* That if, after acquisition, such lands are not qualified under the Federal reclamation laws, including this title, they shall be furnished temporarily with a project water supply for a period not exceeding five years from the effective date of such an acquisition, delivery of project water thereafter ceasing until the transfer thereof to a landowner qualified under such laws: *Provided further,* That the provisions of section 205 of subtitle A shall be applicable separately to each acquistion under this subsection if the lands are subject to the provisions of subtitle A;

(e) which are isolated tracts found by the Secretary to be economically farmable only if they are included in a larger farming operation but which may, as a result of their inclusion in that operation, cause it to exceed the limitations imposed by the Federal reclamation laws, including this title; and

(f) the provisions of section 205 of subtitle A herein shall be applicable to the lands described in subsection (e) of this section if such lands would otherwise be subject to the provisions of section 205 of subtitle A.

RELIGIOUS OR RELIGIOUS CHARITABLE ORGANIZATIONS

SEC. 215. An individual religious or religious charitable entity (including but not limited to a congregation, parish, school, ward, or chapter) which owns, operates, or leases any lands within a district shall be treated as a person under the provisions of this title, regardless of such entity's affiliation with a central organization or its subjugation to a hierarchical authority of the same faith.

(1) If such individual entity is not the owner of record of any such land, it shall be treated as a person so long as—

(i) said owner of record is a religious or religious charitable organization which is exempt from taxation under section 501 of the Internal Revenue Code of 1954, as amended;

(ii) the agricultural produce and the proceeds of sales of such produce are directly used only for charitable purposes;

(iii) said land is operated by said individual religious or religious charitable entity (including but not limited to a congregation, parish, school, ward, or chapter); and

(iv) not part of the net earning of such religious or religious charitable organization shall inure to the benefit of any private shareholder or individual.

(2) If the lands operated by such religious or religious charitable organization are other wise subject to the provisions of subtitle A of this title, they shall be subject to the provisions of section 205 of this title.

CONTRACT REQUIRED

SEC. 216. Project water temporarily made available from reclamation facilities in excess of ordinary quantities not otherwise storable for project purposes or at times when such project water would not have been available without the operations of those facilities, may be used for irrigation, municipal, or industrial purposes only to the extent covered by a contract requiring payment for the use is such project water, executed in accordance with the Reclamation Project Act of 1939, or other applicable provisions of the Federal reclamation laws: *Provided, however,* That the Secretary shall have the authority to waive such payments for water described in section 214(c)(2).

WAIVER OF SOVEREIGN IMMUNITY

SEC. 217. Consent is given to join the United States as a necessary party defendant in any suit to adjudicate, confirm, validate, or decree the contractual rights of a contracting entity and the United States regarding any contract executed pursuant to the Federal reclamation laws. The United States, when a party to any suit, shall be deemed to have waived any right to plead that it is not amenable thereto by reason of its sovereignty, shall be subject to judgment, orders and decrees of the court having jurisdiction, and may obtain review thereof, in the same manner and to the same extent as a private individual under like circumstances. Any suit pursuant to this section may be brought in any United States district court in the State in which the land involved is situated.

EXTENSIONS OF TIME UNDER RECORDABLE CONTRACTS

SEC. 218. In the event that the owner of any lands in excess of the acreage limitations of the Federal reclamation laws has heretofore entered into a recordable contract with the Secretary for the disposition of such excess lands and has been prevented from disposing of them because the Secretary may have withheld the processing or approval of the disposition of the lands (whether he may have been compelled to do so by court order or for other reasons), the period of time for the disposal of such lands by the owner thereof pursuant to the contract shall be extended from the date on which the Secretary again commences the processing or the approval of the disposition of such lands for a period which shall be equal to the remaining period of time under the recordable contract for the disposal thereof by the owner at the time the decision of the Secretary to withhold the processing or approval of such disposition first became effective.

EXCESS CROP RESTRICTIONS

SEC. 219. Notwithstanding any other provision of law, no water from any Federal reclamation project authorized after the date of enactment of this title shall be delivered within ten years from the date irrigation water is first made available to construction blocks within such project for the irrigation of any basic agricultural commodity, as defined in section 408(c) of the Agricultural Act of 1949 (7 U.S.C. 1428(c)), or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would be marketed is in excess of the normal supply, as defined, in the case of extra long staple cotton, in section 301(b)(10), as amended, and for such other commodities, as defined in section 1107 of the Agriculture and Food Act of 1981 (7 U.S.C. 1310a), unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security. In addition, notwithstanding any other provision of law, in the case of any Federal reclamation project authorized before the date of enactment of this title, any restriction prohibiting the delivery of project water for the production of excess basic agricultural commodities shall extend for a period no longer than ten years after the date of the initial authorization of such project.

SMALL RECLAMATION PROJECTS ACT

SEC. 220. Section 5(c) of the Act of August 6, 1956, as amended (43 U.S.C. 422e), is further amended to strike therefrom the words "one hundred and sixty" and insert in lieu thereof the words "nine hundred and sixty".

PENALTIES

SEC. 221. (a)(1) Any person, district, or other entity who violates any provision of this title or the Federal reclamation laws by knowingly accepting project water to which such person is not entitled by reason of the acreage limitation under this Act or the Federal reclamation laws and any other person, district, or other entity who violates any provision of this title relating to the payment of full cost for project water, or who knowingly falsifies any information provided to the Secretary pursuant to this title, shall be liable to the United States for a civil penalty which is not less than an amount equal to twice the fair market value of the project water delivered to the land involved in violation of any such provision. For purposes of assessing the penalty under this paragraph, the fair market value of such project water shall be determined by taking into consideration the cost of private irrigation, ground water pumping costs, and other factors considered relevant by the Secretary.

(2) Any person, district, or other entity who knowingly violates any provision of this title or of the Federal reclamation laws, other than any provision referred to in paragraph (1) of this subsection, shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation. Each day such a violation continues shall, for purposes of this section, constitute a separate violation.

(b)(1) Any civil penalty for a violation referred to in subsection (a) of this section shall be assessed by the Secretary by an order made after an opportunity for a hearing. Before issuing such an order, the Secretary shall give written notice to the person to be assessed of this intent to issue the order and shall provide him an opportunity to request a hearing on the order, within fifteen days of the date the notice is received.

(2) Any hearing held under paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. In any such hearing, the Secre-

tary may administer oaths and subpenas for the attendance and the production of relevant papers, books, and documents. In the case of refusal to obey any subpena served upon any person or entity pursuant to this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person or entity, shall have jurisdiction to issue an order requiring such person or entity to appear and comply with the requirements of the subpena. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Any person who requested in accordance with subsection (b)(1) of this section a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing such penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia or the court of appeals of the United States for any circuit in which such person resides or transacts business. Such a petition may be filed within the thirty-day period beginning on the date the order making such assessment was issued. The court shall hear any action under this subsection on the record made before the Secretary and shall sustain the Secretary's order if it is supported by substantial evidence on the record considered as a whole.

(d) If any person fails to pay an assessment of a civil penalty—

(1) after the order making the assessment has become a final order (in the case of a person who does not file a petition for judicial review under subsection (c) of this section); or

(2) after a court in an action brought under subsection (c) of this section has entered a final judgment in favor of the Secretary, the Attorney General may recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the thirty-day period referred to in subsection (c) of this section or the date of such final judgment as the case may be) in any action brought in any appropriate district court of the United States. In any such action, the validity, amount, and the appropriateness of such penalty shall not be subject to review.

ADMINISTRATIVE PROVISIONS

SEC. 222. (a) Nothing in this title shall repeal or amend any existing statutory exemptions from the acreage limitation provisions of the Federal reclamation laws.

(b) The Secretary may prescribe regulations and shall collect all data necessary to carry out the provisions of this title and other provisions of the Federal reclamation laws.

(c) Section 3 of the Act of July 7, 1970 (43 U.S.C. 425b) is amended by striking the phrase "for a period not to exceed twenty-five years" following the term "project water".

(d) Any nonexcess land which is acquired into excess status pursuant to involuntary foreclosure or other process of law, conveyance in satisfaction of mortgage, inheritance, or devise, may be sold at its fair market value within five years without regard to any other provision of this Act or of section 46 of the Act entitled "An Act to adjust water rights charges, to grant certain relief on the Federal irrigation projects, and for other purposes." approved May 25, 1926 (43 U.S.C. 423): *Provided*, That if the status of the mortgage land changes from nonexcess to excess after the mortgage is recorded and is subsequently acquired by the lender by involuntary foreclosure or similar involuntary process of law or by bona fide conveyance in satisfaction of the mortgage, such land may be sold at its fair market value: *Provided further*, That nonexcess lands subject to a covenant under section 209(d)(2) of this title shall be sold for not more than the greater of the current value as determined under section 209(d)(2) of this title or the amount necessary to satisfy the mortgage, other than a purchase money mortgage which shall be satisfied by sale for not more than the value as determined under section 209(d)(2).

(e) The provisions of any contract entered into prior to October 1, 1981, by the Secretary with a district, which define project or nonproject water, or describe the delivery of project water through nonproject facilities or nonproject water through project facilities to lands within the district, are hereby authorized and validated on the part of the United States.

(f) Effective October 1, 1982, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title: *Provided*, That authority to enter into contracts, to incur obligations, or to make payments under this title shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

PUBLIC PARTICIPATION

SEC. 223. Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by adding at the end the following new subsection:

"(f) No less than sixty days before entering into or amending any repayment contract or any contract for the delivery of project water for irrigation purposes (including any contract for the delivery of surplus or interim project water whose duration is longer than one year) the Secretary shall—

"(1) publish notice of the proposed contract or amendment in newspapers of general circulation in each region and otherwise notify interested parties which may be affected by such contract or amendment, together with information indicating to whom comments or inquiries concerning the proposed actions can be addressed; and

"(2) provide an opportunity for submission of written data, views and arguments, and shall consider all substantive comments so received.".

COORDINATION OF WATER CONSERVATION PROGRAMS

SEC. 224. The Secretary is authorized and directed to enter into memorandums of agreement with those Federal agencies having capability to assist in implementing water conservation measures to assure coordination of ongoing programs. Such memorandums should provide for involvement of non-Federal entities such as States, Indian tribes, and water user organizations to assure full public participation in water conservation efforts.

SEC. 225. The first proviso in the third paagraph of section 1 of the Act of April 4, 1910 (36 Stat. 269, 270), as amended by the Act of August 7, 1946 (60 Stat. 866, 867) is hereby repealed.

SEVERABILITY

SEC. 226. If any provision of this title or the applicability thereof to any person or circumstances is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

Subtitle C

AUDIT COMPLIANCE

SEC. 227. (a)(1) The Inspector General of the Department of the Interior shall undertake a review of all audit reports prepared by the Department of the Interior since January 1977, pertaining to Bureau of Reclamation water resource projects, including, but not limited to—

(A) "Review of the Central Valley Project—Bureau of Reclamation", January 1978;

(B) "Review of Repayment Status of Pick-Sloan Missouri Basin Program and Individually Authorized Projects", July 1978;

(C) "Review of Muinicipal and Industrial Water Activities, Central Valley Project", September 1979;

(D) "Review of Colorado River Storage Project and Related Individual Participating Projects", September 1980;

(E) "Review of Central Arizona Project, Lower Colorado Region", September 1980;

(F) "Review of Selected Economic and Financial Aspects of the Fryingpan—Arkansas Project", August 1980; and

(G) "Review of Balance Sheet and Repayment Status as of September 30, 1980, Southern Nevada Water Project", August 1981.

(2) No later than ninety days after the date of enactment of this title the Inspector General shall prepare, and transmit to the Secretary of the Interior, and to the Congress, a list of recommendations based upon the review of audit reports which he has conducted pursuant to paragraph (1) of this subsection.

(b) No later than two hundred and seventy days after the date of enactment of this title the Secretary of the Interior shall implement all recommendations which have been made by the Inspector General pursuant to paragraph (a)(2) of this section, unless he earlier informs the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, in writing, of his detailed reasons for not implementing such recommendations.

TITLE III

CONGRESSIONAL FINDINGS

SEC. 301. The Congress finds that—

(1) water rights claims of the Papago Tribe with respect to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation are the subject of existing and prospective lawsuits against numerous parties in southern Arizona, including major mining companies, agricultural interests, and the city of Tucson;

(2) these lawsuits not only will prove expensive and time consuming for all participants, but also could have a profound adverse impact upon the health and development of the Indian and non-Indian economies of southern Arizona;

(3) the parties to the lawsuits and others interested in the settlement of the water rights claims of the Papago Indians within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area have diligently attemtped to settle these claims and the Federal Government, by providing the assistance specified in this title, will make possible the execution and implementation of a permanent settlement agreement;

(4) it is in the long-term interest of the United States, the State of Arizona, its political subdivisions, the Papago Indian

Tribe, and the non-Indian community of southern Arizona that the United States Government assist in the implementation of a fair and equitable settlement of the water rights claims of the Papago Indians respecting certain portions of the Papago Reservation; and

(5) the settlement contained in this title will—

(A) provide the necessary flexibility in the management of water resources and will encourage allocation of those resources to their highest and best uses; and

(B) insure conservation and management of water resources in a manner consistent with the goals and programs of the State of Arizona and the Papago Tribe.

DEFINITIONS

SEC. 302. For purposes of this title—

(1) The term "acre-foot" means the amount of water necessary to cover one acre of land to a depth of one foot.

(2) The term "Central Arizona Project" means the project authorized under title III of the Colorado River Basin Project Act (82 Stat. 887; 43 U.S.C. 1521, et seq.).

(3) The term "Papago Tribe" means the Papago Tribe of Arizona organized under section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "subjugate" means to prepare land for the growing of crops through irrigation.

(6) The term "Tucson Active Management Area" means the area of land corresponding to the area initially designated as the Tucson Active Management Area pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1.

(7) The term "December 11, 1980, agreement" means the Central Arizona Project water delivery contract between the United States and the Papago Tribe.

(8) The term "replacement costs" means the costs of acquiring and delivering water from sources within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area. Such costs shall include costs of necessary construction amortized in accordance with standard Bureau of Reclamation Procedures.

(9) The term "value" means the value attributed to the water based on the Tribe's anticipated or actual use of the water, including its fair market value.

WATER DELIVERIES TO TRIBE FROM CAP; MANAGEMENT PLAN; REPORT ON WATER AVAILABILITY; CONTRACT WITH TRIBE

SEC. 303. (a) As soon as is possible but not later than ten years after the enactment of this title, if the Papago Tribe has agreed to the conditions set forth in section 306, the Secretary, acting through the Bureau of Reclamation, shall—

(1) in the case of the San Xavier Reservation—

(A) deliver annually from the main project works of the Central Arizona Project twenty-seven thousand acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 4(a); and

(B) improve and extend the existing irrigation system on the San Xavier Reservation and design and construct within the reservation such additional canals, lateral, farm ditches, and irrigation works as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(2) in the case of the Schuk Toak District of the Sells Papago Reservation—

(A) deliver annually from the main project works of the Central Arizona Project ten thousand eight hundred acre-feet of water suitable for agricultural use to the reservation in accordance with the provisions of section 4(a); and

(B) design and construct an irrigation system in the Eastern Schuk Toak District of the Sells Papago Reservation, including such canals, laterals, farm ditches, and irrigation works, as are necessary for the efficient distribution for agricultural purposes of the water referred to in subparagraph (A); and

(3) establish a water management plan for the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as any management plan developed under Arizona law.

(b)(1) In order to encourage the Papago Tribe to develop sources of water on the Sells Papago Reservation, the Secretary shall, if so requested by the tribe, carry out a study to determine the availability and suitability of water resources within the Sells Papago Reservation but outside the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area.

(2) The Secretary shall, in cooperation with the Secretary of Energy, or, with the appropriate agency or officials, carry out a study to determine—

(A) the availability of energy and the energy requirements which result from the enactment of the provisions of this title, and

(B) the feasibility of constructing a solar power plant or other alternative energy producing facility to meet such requirements.

(c) The Papago Tribe shall have the right to withdraw ground water from beneath the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation subject to the limitations of section 6(a).

(d) Nothing contained in this title shall diminish or abrogate any obligations of the Secretary to the Papago Tribe under the December 11, 1980, agreement.

(e) Nothing contained in sections 303(c) and 306(c) shall be construed to establish whether or not the Federal reserved rights doctrine applies, or does not apply, to ground water.

DELIVERIES UNDER EXISTING CONTRACT; ALTERNATIVE WATER SUPPLIES; OPERATION AND MAINTENANCE

SEC. 304. (a) The Water delivered from the main project works of the Central Arizona Project to the San Xavier Reservation and to the Schuk Toak District of the Sells Papago Reservation as provided in section 303(a), shall be delivered in such amount, and according to such terms and conditions, as are set forth in the December 11, 1980, agreement, except as otherwise provided under this section.

(b) Where the Secretary, pursuant to the terms and conditions of the agreement referred to in subsection (a), is unable, during any year, to deliver from the main project works of the Central Arizona Project any portion of the full amount of water specified in section 303(a)(1)(A) and section 303(a)(2)(A), the Secretary shall acquire and deliver an equivalent quantity of water from the following sources or any combination thereof:

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within that area in the State of Arizona:

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands or interests referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(c) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section or paragraphs (1)(A) and (2)(A) of section 303(a), he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where the delivery system is completed.

(d) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (b) without the consent of the owner thereof. No private lands may be acquired under subsection (b)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water right the use of which is recognized by State law. In acquiring any private lands under subsection (b)(3)(A), the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire or disturb the water rights of any Indian tribe, band, group, or community.

(e)(1) To meet the obligation referred to in paragraphs (1)(A) and (2)(A) of section 303 (a), the Secretary shall, acting through the Bureau of Reclamation, as part of the main project works of the Central Arizona Project—

(A) design, construct and, without cost to the Papago Tribe, operate, maintain, and replace such facilities as are appropriate including any aqueduct and appurtenant pumping facilities, treatment plants, powerplants, and electric power transmission facilities which may be necessary for such purposes; and

(B) deliver the water to the southern boundary of the San Xavier Reservation, and to the boundary of the Schuk Toak District of the Sells Papago Reservation, at points agreed to by the Secretary and the tribe which are suitable for delivery to the reservation distribution systems.

(2) There is hereby authorized to be appropriated by this title in addition to other sums authorized to be appropriated by this title, a sum equal to that portion of the total costs of phase B of the Tucson Aqueduct of the Central Arizona Project which

the Secretary determines to be properly allocable to construction of facilities for the delivery of water to Indian lands as described in subparagraphs (A) and (B) of paragraph (1). Sums allocable to the construction of such facilities shall be reimbursable as provided by the Act of July 1, 1932 (Public Law 72-240; 25 U.S.C. 386(a)), as long as such water is used for irrigation of Indian lands.

(f) To facilitate the delivery of water to the San Xavier and the Schuk Toak District of the Sells Papago Reservation under this title, the Secretary is authorized—

(1) to enter into contracts or agreements for the exchange of water, or for the use of aqueducts, canals, conduits, and other facilities for water delivery, including pumping plants, with the State of Arizona or any of its subdivisions, with any irrigation district or project, or with any authority, corporation, partnership, individual, or other legal entity; and

(2) to use facilities constructed in whole or in part with Federal funds.

RECLAIMED WATER; ALTERNATIVE WATER SUPPLIES

SEC. 305. (a) As soon as possible, but not later than ten years after the date of enactment of this title, the Secretary shall purchase reclaimed water in accordance with the agreement described in section 1077(a)(1) and deliver annually twenty-three thousand acre-feet of water suitable for agricultural use to the San Xavier Reservation and deliver annually five thousand two hundred acre-feet of water suitable for agricultural use to the Schuk Toak District of the Sells Papago Reservation.

(b)(1) The obligation of the Secretary referred to in subsection (a) to deliver water suitable for agricultural use may be fulfilled by any additional treatment, including land filtration, of the reclaimed water acquired by the Secretary as provided herein, by any other means which renders such reclaimed water suitable for agricultural use, or by voluntary exchange of that reclaimed water for any other water suitable for agricultural use. To make available and deliver such water, the Secretary acting through the Bureau of Reclamation shall design, construct, operate, maintain, and replace such facilities as are appropriate. The costs of design, construction, operation, maintenance, and replacement of on-reservation systems for the distribution of the water referred to in subsection (a) are the responsibility of the Papago Tribe.

(2) The Secretary shall not construct a separate delivery system to deliver reclaimed water referred to in subsection (a) to the San Xavier Reservation and the Schuk Toak District of the Sells Papago Reservation.

(3) To facilitate the delivery of water under this title, the Secretary shall, to the extent possible, utilize unused capacity of the main project works of the Central Arizona Project.

(c) The Secretary may, as an alternative to, and in satisfaction of the obligation to deliver the quantities of water to be delivered under subsection (a), acquire and deliver pursuant to agreements authorized in section 107(b), an equivalent quantity of water from the following sources or any combination thereof—

(1) agricultural water from the Central Arizona Project which has been contracted for but has been released or will be unused by the contractor during the period in which the Secretary will acquire the water;

(2) any water available for delivery through the Central Arizona Project which exists by reason of the augmentation of the water supply available for use and distribution through the Central Arizona Project by subsequent Acts of Congress; and

(3) water from any of the following sources or any combination thereof within the Tucson Active Management Area in the State of Arizona and that part of the Upper Santa Cruz Basin not within that area—

(A) private lands or interests therein having rights in surface or ground water recognized under State law; or

(B) reclaimed water to which the seller has a specific right.

Deliveries of water from lands referred to in subparagraph (A) shall be made only to the extent such water may be transported within the Tucson Active Management Area pursuant to State law.

(d) If the Secretary is unable to acquire and deliver quantities of water adequate to fulfill his obligations under this section, he shall pay damages in an amount equal to—

(1) the actual replacement costs of such quantities of water as are not acquired and delivered, where a delivery system has not been completed within ten years after the date of enactment of this title, or

(2) the value of such quantities of water as are not acquired and delivered, where a delivery system is completed.

(e) No land, water, water rights, contract rights, or reclaimed water may be acquired under subsection (c) without the consent of the owner thereof. No private lands may be acquired under subsection (c)(3)(A) unless the lands have a recent history of receiving or being capable of actually receiving all or substantially all of the water the right to the use of which is recognized by State law. In acquiring said private lands, the Secretary shall give preference to the acquisition of lands upon which water has actually been put to beneficial use in any one of the five years preceding the date of acquisition. Nothing in this section shall authorize the Secretary to acquire of disturb the water rights of any Indian tribe, band, group, or community.

LIMITATION ON PUMPING FACILITIES FOR WATER DELIVERIES; DISPOSITION OF WATER

SEC. 306. (a) The Secretary shall be required to carry out his obligation under subsections (b), (c), and (e) of section 304 and under section 305 only if the Papago Tribe agrees to—

(1) limit pumping of ground water from beneath the San Xavier Reservation to not more than ten thousand acre-feet per year;

(2) limit the quantity of ground water pumped from beneath the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area to those quantities being withdrawn on January 1, 1981; and

(3) comply with the management plan established by the Secretary under section 303(a)(3).

Nothing contained in paragraph (1) shall restrict the tribe from drilling wells and withdrawing ground water therefrom on the San Xavier Reservation if such wells have a capacity of less than thirty-five gallons per minute and are used only for domestic and livestock purposes. Nothing contained in paragraph (2) shall restrict the tribe from drilling wells and withdrawing ground water therefrom in the eastern Schuk Toak District of the Sells Papago Reservation which lies within the Tucson Active Management Area if such wells have a capacity of less than thirty-five gallons per minute and which are used only for domestic and livestock purposes.

(b) The Secretary shall be required to carry out his obligations with respect to distribution systems under paragraphs (1)(B) and (2)(B) of section 303 (a) only if the Papago Tribe agrees to—

(1) subjugate, at no cost to the United States, the land for which those distribution systems are to be planned, designed, and constructed by the Secretary; and

(2) assume responsibility, through the tribe or its members or an entity designated by the tribe, as appropriate, following completion of those distribution systems and upon delivery of water under this title, for the operation, maintenance, and replacement of these systems in accordance with the first section of the Act of August 1, 1914 (38 Stat. 583; 25 U.S.C. 385).

(c)(1) The Papago Tribe shall have the right to devote all water supplies under this title, whether delivered by the Secretary or pumped by the tribe, to any use, including but not limited to agricultural, municipal, industrial, commercial, mining, or recreational use whether within or outside the Papago Reservation so long as such use is within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within such area.

(2) The Papago Tribe may sell, exchange, or temporarily dispose of water, but the tribe may not permanently alienate any water right. In the event the tribe sells, exchanges, or temporarily disposes of water, such sale, exchange, or temporary disposition shall be pursuant to a contract which has been accepted and ratified by a resolution of the Papago Tribal Council and approved and executed by the Secretary as agent and trustee for the tribe. Such contract shall specifically provide that an action may be maintained by the contracting party against the United States and the Secretary for the breach thereof. The proceeds from any sale, exchange, or disposition of water by the Papago Tribe shall be used for social or economic programs or for tribal administrative purposes which benefit the Papago Tribe.

(d) Nothing in section 106(c) shall be construed to establish whether or not reserved water may be put to use, or sold for use, off of any reservation to which reserved water rights attach.

OBLIGATION OF THE SECRETARY; CONTRACT FOR RECLAIMED WATER; DISMISSAL AND WAIVER OR CLAIMS OF PAPAGO TRIBE AND ALLOTTEES

SEC. 307. (a) The Secretary shall be required to carry out his obligations under subsections (b), (c), and (e) of section 304 and under section 105 only if—

(1) within one year of the date of enactment of this Act—

(A) the City of Tucson and the Secretary agree that the city will make available, without payment to the city, such quantity of reclaimed water as is adequate, after evaporative, additional treatment, or land filtration losses, to deliver annually, as contemplated in section 305(a), twenty-eight thousand two hundred acre-feet of water; such agreement may provide terms and conditions under which the Secretary may relinquish to the City of Tucson such quantities of water as are not needed to satisfy the Secretary's obligations under this title;

(B) the Secretary and the City of Tucson, the State of Arizona, the Anamax Mining Company, the Cyprus-Pima Mining Company, the American Smelting and Refining

Company, the Duval Corporation, and the Farmers Investment Company agree that funds will be contributed, in accordance with the paragraphs (1)(B) and (2) of subsection (b) of section 313, to the Cooperative Fund established under subsection (a) of such section;

(C) the Papago Tribe agrees to file with the United States District Court for the District of Arizona a stipulation for voluntary dismissal with prejudice, in which the Attorney General is authorized and directed to join on behalf of the United States, and the allottee class representatives' petition for dismissal of the class action with prejudice in the United States, the Papago Indian Tribe, and others against the city of Tucson, and others, civil numbered 75-39 TUC (JAW); and

(D) the Papago Tribe executes a waiver and release in a manner satisfactory to the Secretary of—

(i) any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from time immemorial to the date of the execution by the tribe of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona; and

(ii) any and all future claims of water rights (including water rights in both ground water and surface water) within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, from and after the date of execution of such waiver, which the Papago Tribe has against the United States, the State of Arizona and any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, under the laws of the United States or the State of Arizona; and

(2) the suit referred to in paragraph (1)(B) is finally dismissed;

(b) After the conditions referred to in subsection (a) have been met the Secretary shall be authorized and required, if necessary or desirable, to enter into agreements with other individuals or entities to acquire and deliver water from such sources set forth in section 305(c) if through such contracts as exercised in conjunction with the contract required in subsection (a)(1)(A) it is possible to deliver the quantities of water required in section 305(a).

(c) Nothing in this section shall be construed as a waiver or release by the Papago Tribe of any claim where such claim arises under this title.

(d) The waiver and release referred to in this section shall not take effect until such time as the trust fund referred to in section 309 is in existence, the conditions set forth in subsection (a) have been met, and the full amount authorized to be appropriated to the trust fund under section 309 has been appropriated by the Congress.

(e) The settlement provided in this title shall be deemed to fully satisfy any and all claims of water rights or injuries to water rights (including water rights in both ground water and surface water) of all individual members of the Papago Tribe that have a legal interest in lands of the San Xavier Reservation and the Schuk Toak District of the Sells Reservation located within the Tucson Active Management Area and that part of the Upper Santa Cruz Basin not within said area, as of the date the waiver and release referred to in this section take effect. Any entitlement to water of any individual member of the Papago Tribe shall be satisfied out of the water resources provided in this title.

STUDY OF LANDS WITHIN THE GILA BEND RESERVATION; EXCHANGE OF LANDS AND ADDITION OF LANDS TO THE RESERVATION; AUTHORIZED APPROPRIATIONS SEC. 308. (a) The Secretary is hereby authorized and directed to carry out such studies and analysis as he deems necessary to determine which lands, if any, within the Gila Bend Reservation have been rendered unsuitable for agriculture by reason of the operation of the Painted Rock Dam. Such study and analysis shall be completed within one year after the date of the enactment of this title.

(b) If, on the basis of the study and analysis conducted under subsection (a), the Secretary determines that lands have been rendered unsuitable for agriculture for the reasons set forth in subsection (a), and if the Papago Tribe consents, the Secretary is authorized to exchange such lands for an equivalent acreage of land under his jurisdiction which are within the Federal public domain and which, but for their suitability for agriculture, are of like quality.

(c) The lands exchanged under this section shall be held in trust for the Papago Tribe and shall be part of the Gila Bend Reservation for all purposes. Such lands shall be deemed to have been reserved as of the date of the reservation of the lands for which they are exchanged.

(d) Land exchanged under this section which, prior to the exchange, were part of the Gila Bend Reservation, shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(e) The Secretary may require the Papago Tribe to reimburse the United States for moneys paid, if any, by the Federal Government for flood easements on lands which the Secretary replaces by exchange under subsection (b).

ESTABLISHMENT OF TRUST FUND; EXPENDITURES FROM FUND

SEC. 309. (a) To the extent provided by an appropriation enacted pursuant to the authorization contained in section 314, the Secretary of the Treasury shall pay to the authorized governing body of the Papago Tribe the sum of $15,000,000 to be held in trust for the benefit of such Tribe and invested in interest bearing deposits and securities including deposits and securities of the United States.

(b) The authorized governing body of the Papago Tribe, as trustee for such Tribe, may only spend each year the interest and dividends accruing on the sum held and invested pursuant to subsection (a). Such amount may only be used by the Papago Tribe for the subjugation of land, development of water resources, and the construction, operation, maintenance, and replacement of related facilities on the Papago Reservation which are not the obligation of the United States under this or any other Act of Congress.

APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

SEC. 310. The functions of the Bureau of Reclamation under this title shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

EXTENSION OF STATUTE OF LIMITATIONS

SEC. 311. Except as otherwise provided in section 107 of this title, notwithstanding section 2415 of title 28, United States Code, any action relating to water rights of the Papago Indian Tribe or any member of such tribe brought by the United States for, or on behalf of, such tribe or member of such tribe, or by such tribe on its own behalf, shall not be barred if the complaint is filed prior to January 1, 1985.

ARID LAND RENEWABLE RESOURCE ASSISTANCE

SEC. 312. If a Federal entity is established to provide financial assistance to undertake arid land renewable resources projects and to encourage and assure investment in the development of domestic sources of arid land renewable resources, such entity shall give first priority to the needs of the Papago Tribe in providing such assistance. Such entity shall make available to the Papago Tribe—

(1) price guarantees, loan guarantees, or purchase agreements,

(2) loans, and

(3) joint venture projects,

at a level to adequately cultivate a minimum number of acres as determined by such entity to be necessary to the economically successful cultivation of arid land crops and a level to contribute significantly to the economy of the Papago Tribe.

COOPERATIVE FUND

SEC. 313. (a) There is established in the Treasury of the United States a fund to be known as the "Cooperative Fund" consisting of such amounts as may be appropriated or transferred to such Fund as provided in this section.

(b)(1) The Cooperative Fund shall consist of—

(A) amounts appropriated to the Fund under paragraph (3) of this subsection;

(B) $5,250,000 to be contributed as follows:

(i) $2,750,000 (adjusted as provided in paragraph (2)) contributed by the State of Arizona;

(ii) $1,500,000 (adjusted as provided in paragraph (2)) contributed by the City of Tucson; and

(iii) $1,000,000 (adjusted as provided in paragraph (2)) contributed jointly by the Anamax Mining Company, the Cyprus-Pine Mining Company, the American Smelting and Refining Company, the Duval Corporation, and the Farmers Investment Company; and

(C) interest accruing to the Fund under subsection (a) which is not expended as provided in subsection (c).

(2) The amounts referred to in subparagraph (B) of paragraph (1) shall be contributed before the expiration of the 3-year period beginning on the date of the enactment of this title. To the extent that any portion of such amounts is contributed after the 1-year period beginning on the date of the enactment of this title, the contribution shall include an adjustment representing the additional interest which would have been earned by the Cooperative Fund if that portion had been contributed before the end of the 1-year period.

(3) $5,250,000 are hereby authorized to be appropriated to the Cooperative Fund. If the Secretary submits to the Congress before January 1, 1992, notice that the amounts in the Cooperative Fund are insufficient to meet his obligations under this title, there are authorized to be appropri-

ated for fiscal years following submission of the notice, such additional sums as may be necessary for such purposes, but not to exceed $16,000,000 (adjusted as provided in paragraph (2)).

(c)(1) Only interest accruing to the Cooperative Fund may be expended and no such interest may be expended prior to the earlier of—

(A) 10 years after the date of the enactment of this title; or

(B) the date of completion of the main project works of the Central Arizona Project.

(2) Interest accruing to the Fund during the 12 month period before the date determined under paragraph (1) and interest accruing to Fund thereafter shall, without further appropriation, be available for expenditure after the date determined under paragraph (1) for purposes of carrying out the obligations of the Secretary under sections 303, 304, and 305 of this title, including—

(A) operation, maintenance, and repair costs related to the delivery of water under sections 303, 304, and 305;

(B) any costs of acquisition and delivery of water from alternative sources under section 304(b) and 305(c); and

(C) any damages payable by the Secretary under section 304(c) or 305(d) of this title.

(d) The Secretary of the Treasury shall be the trustee of the Cooperative Fund. It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments shall be in public debt securities with maturities suitable for the needs of such Fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(e) If, before the date three years after the date of the enactment of this title—

(1) the waiver and release referred to in section 307 does not take effect by reason of section 307(d); or

(2) the suit referred to in Section 307(a)(1)(B) is not finally dismissed

the Cooperative Fund under this section shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of accrued interest) to the respective contributors. Upon such termination, the share contributed by the United States under subsection (b)(3) shall be deposited in the General Fund of the Treasury.

AUTHORIZATION OF APPROPRIATIONS

SEC. 314. (a) Subject to subsection (b), there are authorized to be appropriated for fiscal year 1983, and each fiscal year thereafter, such sums as may be necessary to carry out the purposes of this title.

(b) No more than $3,500,000, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved, is authorized to be appropriated for those features of the irrigation system described in paragraphs (1)(B) or (2)(B) of section 303(a) which are not authorized to be constructed under any other provision of law.

COMPLIANCE WITH BUDGET ACT

SEC. 315. No authority under this title to enter into contracts or to make payments shall be effective except to the extent and in such amounts as provided in advance in appropriations Acts. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1982.

SHORT TITLE

SEC. 316. This title may be cited as the "Southern Arizona Water Rights Settlement Act of 1982".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I would ask the gentleman to explain what is involved here.

Mr. UDALL. If the gentleman will yield, the bill being considered is an amendment in the nature of a substitute which authorizes the modifications of the Buffalo Bill Dam and Reservoir in the State of Wyoming. The modification will provide increased storage for beneficial uses.

This is not a new project, nor will any new dams be constructed. In fact, this project goes back to 1904.

The authorization level is $106 million. The bill specifically provides for cost sharing by the State of Wyoming, and the Wyoming Legislature has already appropriated $47 million toward the cost.

The bill has the support of the administration, the Governor of Wyoming, the entire Wyoming congressional delegation and, as far as I know, the people of Wyoming.

The amendment incorporates the language of the Reclamation Reform Act which passed the House earlier this year. The language is identical to the bill approved by the House, and only technical changes, section numbers, and so forth, have been made.

The amendment also incorporates the language of a bill to settle certain water rights in southern Arizona approved by the House last March. The language has been modified to meet the objections of the administration.

Mr. LUJAN. Mr. Speaker, I express my appreciation to the gentleman from Arizona (Mr. UDALL) for his efforts, and I support the amendment.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The question is on the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL).

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1409

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1409, and ask for a conference with the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and appoints the following conferees: Messrs. UDALL, KAZEN, PHILLIP BURTON, SEIBERLING, MILLER of California, COELHO, LUJAN, CLAUSEN, and PASHAYAN.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

CONFERENCE REPORT ON H.R. 6530, ESTABLISHING MOUNT ST. HELENS VOLCANIC AREA

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 13, 1982.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to bring before the House the conference report on H.R. 6530, a bill to establish the Mount St. Helens National Volcanic Monument and for other purposes, the conferees have agreed on a conference report which establishes a Mount St. Helens National Volcanic Monument of approximately 110,000 acres under the jurisdiction of the Forest

Service of the U.S. Department of Agriculture. In so doing, the report strikes a fair and equitable balance among the interests of the various parties who have been involved with this legislation. Members may recall that the House bill included about 115,000 acres in the area, while the Senate version encompassed approximately 105,000 acres.

The conference report maintains the essential thrust of the House bill. It emphasizes protection of the scientific and recreational values of the unique features created by the eruption of Mount St. Helens, while insuring public access to the area for research as well as pleasure. On the other hand, it addresses the concerns which have been expressed over the potential fiscal impact of the legislation.

With respect to this particular concern, the boundaries agreed to by the conferees virtually exclude existing mining claims within the Green River/Polar Start area. Further, the conferees have preserved authority for the Secretary of Agriculture to make minor boundary adjustments and have noted, in the statement of managers, that this authority could be used by the Secretary to exclude the remaining mining claims.

In a further effort to address the concerns over potential budget implications of this legislation, the conferees directed the Secretary to use exchange as the primary means of acquiring privately held lands and interests in lands within the monument. Indeed, the conferees agreed to limit acquisition of mineral and geothermal interests to exchange only.

The conference report includes the House bill's provisions regarding specific legislated exchanges for the surface rights held by the largest non-Federal landowners in the area—the Weyerhaeuser Co. and Burlington Northern Inc.

However, the conference report does not include the House provisions legislating specific exchanges for mineral and geothermal interests within the monument held by Weyerhaeuser. The conferees agreed that those interests and similar interests held by Burlington Northern should be subject to the general exchange authority mandated elsewhere in the report. As I indicated earlier, these mineral and geothermal interests may be acquired only by exchange.

The Senate version of this legislation specifically exempted exchanges pursuant to the act from provisions of the National Environmental Policy Act requiring the preparation of an environmental impact statement. The conference report did not adopt this provision. In recognition of the general agreement among the conferees that exchanges should be carried out as expeditiously as possible, the conference report requires that an environmental assessment be prepared for proposed exchanges for mineral and geothermal interests authorized by the act.

After full discussion of this issue and at the request of our colleague from Montana, Mr. WILLIAMS, the conferees agreed to require that, as part of this environmental assessment, at least one public hearing be held by the Secretary in the vicinity of the mineral or geothermal interests to be conveyed by the United States and that the congressional committees of jurisdiction be provided at least 30 days' advance notice of the Secretary's intention to consummate such an exchange.

The conference agreement clearly defines the very narrow circumstances under which timber salvage operations can take place within the monument. I believe that this is very important to achievement of the objective of the act. I would like to cite the specific language of the statement of managers relating to it:

The conferees agreed to adopt Senate language modified to ensure that commercial harvesting, while permitted in limited circumstances, is to be undertaken only to the minimum extent necessary to control fire, insects, and disease on Federal lands that would endanger irreplaceable features within the monument, cause substantial damage to significant resources adjacent to the monument, or endanger public safety. The respective committees of Congress are to be kept apprised regarding the use of this authority.

The conferees agree that the "control" of fire and/or insect infestations in the area could include preventative or presuppression activities provided they are kept to the minimum level necessary and carried out only to the extent necessary to deal with those emergency situations or those imminent emergency situations identified in subsection 4(g).

The conferees stressed that this authority was very narrowly drawn and should definitely not be considered as general authority to provide for commerical timber harvesting operations within the Monument.

The conferees expect that the Secretary will seek the advice of the Scientific Advisory Board regarding the effects of possible timber removal authorized by subsection 4(g) on areas of special scientific concern within the monument. While the final management decisions regarding the implementation of timber removal activities rest solely with the U.S. Forest Service, the conferees felt that the Board could make a contribution by making its scientific and research expertise available to the Forest Service on a regular basis with regard to this matter.

The conferees further expect that the Secretary will provide the Scientific Advisory Board, as soon as reasonably possible, copies of any notices of timber salvage operations submitted to the committees of Congress pursuant to subsection 4(g).

Mr. Speaker, the Washington delegation has worked long and hard in the development of this legislation. Initial proposals ranged from 40,000 acres—supported by certain timber interests—to a 216,000-acre proposal advanced by environmental interests. At each stage in the development of this measure, we have sought to be responsive to the various interests concerned with the area. In this effort, we have had the invaluable assistance of our colleagues on the Agriculture Committee and the Committee on Interior and Insular Affairs.

We are united in support of the conference report, which was approved without dissent this past Friday by the Senate.

We are particularly grateful to our colleagues who have shown understanding of the position of the State of Washington and have agreed to include provisions in this legislation that address our unique situation and interests.

The legislation in its current form enjoys broad bipartisan support and I urge my colleagues to join with me in approving this conference report.

● Mr. DE LA GARZA. Mr. Speaker, I rise in strong support of the conference report on H.R. 6530, a bill to establish the Mount St. Helens National Volcanic Monument and for other purposes. The report brought to us by the conferees establishes a Mount St. Helens National Volcanic Monument of approximately 110,000 acres. The monument will be administered under the jurisidiction of the Forest Service of the U.S. Department of Agriculture.

As the Members will recall, on May 18, 1980, after a 123-year dormant period, Mount St. Helens violently erupted, devastating over 235 square miles of national forest, State, private timber, and recreational lands in the area. Preceded by an earthquake measuring 5.0 on the Richter scale, the lateral explosion destroyed the top one-third of the mountain, obliterated or blew down over 3 billion board feet of timber, destroyed all other vegetation, and exacted a heavy toll on fish, wildlife, and their habitats.

While the eruption was, in many respects, a disaster, it has created unique opportunities for research as well as recreation. A primary objective of the House bill was to protect and preserve these opportunities, and to insure reasonable access to the area by the public for purposes of study, research, and simple enjoyment. The conference report preserves this objective.

During consideration of this legislation, concerns were expressed regarding mining claims in the vicinity of Mount St. Helens, and other aspects of the measure that might have a fiscal impact. The conference report judiciously resolves these concerns by drawing boundary lines that exclude most of the claims, by making clear that the acquisition of surface rights by the Government is to be accomplished primarily by exchange, and by requiring that mineral and geothermal rights within the monument be ac-

quired by the Government solely by exchange.

I am pleased that the conference report will preserve, for the future enjoyment and benefit of the American people, a natural laboratory not available in any other location in the United States. The report accommodates the interest of the scientific community, environmental and recreational groups, the State of Washington, and those concerned about budgetary results. It is, in my view, a very happy resolution of the matter.

I would add that this legislation is the product of outstanding cooperation by the several committees involved. On the House side, the Committee on Interior and Insular Affairs has worked diligently and cooperatively with our committee at both the Member and staff level. That cooperation has continued during work with the Senate Committee on Energy and Natural Resources. And the Washington delegation has, in a cohesive fashion, done diligent work with all of the diverse parties interested in this legislation. The end product is a conference report worthy of these productive efforts.

I urge all Members to join me in giving the conference report the enthusiastic support it deserves.●

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

□ 1650

Mr. Speaker, I rise in support of the conference report on H.R. 6530, which designates approximately 110,000 acres of the Gifford Pinchot National Forest in the State of Washington as the "Mount St. Helens National Volcanic Monument," and I genuinely want to compliment the distinguished gentleman from Washington (Mr. FOLEY) who served as the chair of our conference committee as well as all of the conference members who worked on the legislation.

While the House- and Senate-passed bills differed somewhat in both designated acreage and management provisions, the objectives overall were much the same. That similarity contributed a great deal toward resolution of the final measure which is before the Members here today.

This area will continue to be managed by the Forest Service under a special protective prescription provided for by this legislation. Basically, the natural forces will be permitted to continue uninterrupted by man's intervention, except for instances seriously threatening human life and property. The area will continue to display the explosively forceful works of nature of the recent past, as well as the natural healing processes of the future. The area will retain a special quality for continuing scientific research on volcanism and geological processes, as well as ecological succession. A scientific advisory board is established to help assure sensitivity in future management of the area.

The legislation also provides for measures to be instituted to assist visitor access and enjoyment of the area. The Forest Service is to prepare a comprehensive management plan to guide the future administration of the area.

During the consideration of the legislation, a concern was expressed by the Department of Agriculture that if the exchanges are not completed, acquisition might be required of large tracts of privately owned land at very high cost to the Federal Government.

So for that reason, I would like to call to the attention of the Members the statement of the managers in which we state:

The conferees wish to reaffirm the clear intent of this legislation that acquisition of lands and interests in lands within the Monument should be completed as expeditiously as possible, and acquisition by exchange shall be carried out to the maximum extent feasible.

Throughout the legislative process the two major companies involved, Weyerhauser and Burlington Northern, have worked diligently to bring about the exchange of their lands for lands outside the area. Their cooperation together with the expertise of the Forest Service should bring about a prompt exchange. As a conferee, I certainly would encourage this effort and I do not envison any need for major acquisitions.

Mr. Speaker, this legislation is the product of the concern and effort of a great many people. It was fashioned by three committees of the Congress: The Senate Committee on Energy and Natural Resources and the House Committees on Agriculture as well as Interior and Insular Affairs, drawing from many ideas espoused by numerous interest groups.

To be particularly commended are our colleagues comprising the delegation of the State of Washington who did, in my judgment, a splendid job of pulling all the pieces of this legislation together.

I would also like to express our appreciation to the staff of the House Interior and Insular Affairs Committee, the House Agriculture Committee, and the Senate Energy and Natural Resources. They spent many long hours working on the final legislation and did an excellent and very professional job.

Mr. Speaker, it is also important to note the fine cooperation this legislation has received from both the affected timber companies and the environmental community. They all worked quite cooperatively together to meld this final product.

I believe it is a good piece of legislation, Mr. Speaker, which will bring great benefits and much future enjoyment to the American public out of what was generally recognized throughout the country as a great disaster in the State of Washington during the time of the eruption of the volcano.

I urge my colleagues to vote in favor of its adoption.

Mr. Speaker, I yield such time as he may consume to the very distinguished gentleman from the State of Washington (Mr. MORRISON), who played a key role in advising the House conferees on those matters of concern to the particular area which he represents so well.

Mr. MORRISON. Mr. Speaker, I thank the gentleman for yielding and for his leadership on this particular conference.

Mr. Speaker, I do support the conference report on the Mount St. Helens National Volcanic Monument and recommend it to the Members of this body for their support. It is a reasonable compromise. The legislated land exchanges are fair with the dollar for dollar values determined by the U.S. Forest Service.

I would like to read into the RECORD, Mr. Speaker, a statement to clarify the intent of Burlington Northern Timberlands Inc. as to acquired property under the exchange provision of this act.

First, Mr. Speaker, the logs offered for open bidding will be sold on a delivered basis and will be harvested and delivered by Burlington Northern Timberlands Inc. and its subcontractors. Point No. 2, no restrictions are contemplated as to large business or small business purchasers and their ultimate utilization of the logs.

Mr. Speaker, I would like to extend my thanks not only to the distinguished gentleman from California (Mr. CLAUSEN) on this side of the aisle, but to my colleague, the gentleman from Washington (Mr. FOLEY), for his chairmanship of the conference and I think an excellent bit of team work on the part of the entire Washington State delegation because this mountain was significant to all of us in its damage and destruction to our State. Now, it is most significant to all of the United States and indeed to the world as it is available for scientific research, evaluation, and certainly for tourism.

My thanks also go to the House Committees on Agriculture and Interior and Insular Affairs and to the subcommittees which handled this matter very expeditiously and I think with tribute to the ability of this Congress to act when we have an opportunity as we have with this particular mountain.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MORRISON. I yield to the gentleman from Washington.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, I would like to repay the compliment and tell the Members this is an issue on which the Washington State delegation on both sides of the aisle supported the House bill also support the conference report.

The gentleman from Washington (Mr. MORRISON) was a very key part of that unanimity as was the gentleman from Washington (Mr. PRITCHARD), to say nothing, of course, of the author of the bill, the gentleman from Washington (Mr. BONKER), and other Members.

I think it is a fine bill which reflects the consensus the gentleman spoke of.

Mr. MORRISON. I thank the gentleman for his statement.

Mr. CLAUSEN. Mr. Speaker, I reserve the balance of my time.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WEAVER), the chairman of the Subcommittee on Forests, Family Farms, and Energy of the Committee on Agriculture.

Mr. WEAVER. Mr. Speaker, I thank my distinguished colleague, the gentleman from Washington (Mr. FOLEY) who played such an important part in this bill.

This bill commemorates the greatest natural phenomenon of our time, the explosion of the volcano, Mount St. Helens. When it first occurred, I told my friends from the State of Washington that it was their issue to deal with as they felt best, because it was in their State, but I asked them, if they would not mind, to please keep the mountain within their State.

Recently, they have done that. So we have been able to get together and compromise our differences and passed this bill.

Mr. Speaker, I want to commend the fine work of the delegation from Washington. They worked together both in the Senate and in the House very well. They compromised their differences and brought forth what I consider to be an excellent, excellent monument to not only the legislative process but to science and recreation and enjoyment of the public for many years to come.

I also want to thank and commend all those fine people in the scientific community and the environmental community and in the timber industry who also worked so hard and dedicated themselves to bringing this accomplishment about, a bill to preserve the Mount St. Helens areas for science, for recreation, for observation, for this generation and many years to come.

Mr. FOLEY. Mr. Speaker, I would say, of course, in addition to being the reflection of agreement and support from both sides of the aisle in the State of Washington, we had excellent support from the minority in general and also between two committees with jurisdiction over this.

The distinguished gentleman from Oregon (Mr. WEAVER), the chairman of the Subcommittee on Forests, Family Farms, and Energy is a very key person in bringing this legislation to the floor.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. BONKER), the author of this legislation and whose strong support for it has been a driving force for its passage.

Mr. BONKER. Mr. Speaker, I thank the gentleman and I would like to commend the chairman of the conference committee, the gentleman from Washington (Mr. FOLEY) and his fellow conferees for an excellent job in bringing this legislation and this conference report to the floor today.

It has already been said countless times this has been a model effort in bringing what appeared to be a very controversial issue at the outset through the process and developing a consensus which was so important to bring about a unanimous consent vote on the floor a few weeks ago on this important bill. The same process has been followed in the other body.

The conferees were able to sort out the differences and come to terms with some of the remaining differences in the legislation. We now have before us an excellent bill.

This legislation is really important for the timber owners who have public lands within the designated area; for if they are not allowed to engage in some kind of transaction—preferably exchanges—within the near future, they would be forced to commence salvage operations which would be detrimental preservation of this important area.

The bill is also important to the scientific and environmental communities, for they have long sought to preserve this area because of its unique geological features; and if we are going to make this a depository of scientific knowledge for years to come, it is very important we take action to preserve the Mount St. Helens volcanic monument.

It is also important for the local area, because the area has been devastated by the current recession and added to that, the economic dislocations which will necessarily occur because of the volcanic eruption of a few years ago, we need desperately fo find some kind of economic diversification.

The projected economic growth that will come with increased tourism will greatly enhance the area's economic growth in the future.

For all these reasons, I think this is ideal legislation, and because of the efforts of the chairman of the conference committee, the chairman of the Agriculture Subcommittee, the gentleman from Oregon (Mr. WEAVER), and the gentleman from Ohio (Mr. SEIBERLING), not to mention my colleagues on the other side, the gentleman from California (Mr. CLAUSEN); my colleague, the gentleman from Washington (Mr. MORRISON), without whose cooperation and support this legislation would not be here today, I urge adoption of the conference report.

□ 1700

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6530.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FORD of Tennessee. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 393, nays 8, not voting 33, as follows:

[Roll No. 288]

YEAS—393

Addabbo	Brinkley	Daub
Akaka	Brodhead	Davis
Albosta	Brooks	de la Garza
Alexander	Brown (CA)	Deckard
Anderson	Brown (CO)	Dellums
Andrews	Burgener	DeNardis
Annunzio	Burton, Phillip	Derrick
Anthony	Butler	Derwinski
Applegate	Byron	Dickinson
Archer	Campbell	Dicks
Aspin	Carman	Dingell
AuCoin	Carney	Dixon
Badham	Chappell	Donnelly
Bailey (MO)	Chappie	Dorgan
Bailey (PA)	Cheney	Dornan
Barnard	Chisholm	Dougherty
Barnes	Clausen	Dowdy
Beard	Clay	Downey
Bedell	Clinger	Duncan
Beilenson	Coats	Dunn
Benedict	Coelho	Dwyer
Benjamin	Collins (IL)	Dymally
Bennett	Collins (TX)	Dyson
Bereuter	Conable	Early
Bethune	Conte	Eckart
Bevill	Corcoran	Edgar
Biaggi	Coughlin	Edwards (AL)
Bingham	Courter	Edwards (CA)
Blanchard	Coyne, James	Emerson
Bliley	Coyne, William	English
Boggs	Craig	Erdahl
Boland	Crane, Daniel	Erlenborn
Bolling	Crockett	Ertel
Boner	Daniel, Dan	Evans (DE)
Bonker	Daniel, R. W.	Evans (GA)
Bouquard	Dannemeyer	Evans (IA)
Bowen	Daschle	Evans (IN)

Fary	LeBoutillier	Roberts (SD)
Fascell	Lee	Robinson
Fazio	Lehman	Rodino
Fenwick	Leland	Roe
Ferraro	Lent	Roemer
Fiedler	Levitas	Rogers
Fields	Lewis	Rose
Findley	Loeffler	Rostenkowski
Fish	Long (LA)	Roth
Fithian	Long (MD)	Roukema
Flippo	Lott	Roybal
Florio	Lowery (CA)	Rudd
Foglietta	Lowry (WA)	Russo
Foley	Lujan	Sabo
Ford (MI)	Luken	Santini
Ford (TN)	Lundine	Savage
Forsythe	Madigan	Sawyer
Fountain	Markey	Scheuer
Fowler	Marriott	Schneider
Frank	Martin (IL)	Schroeder
Frenzel	Martin (NC)	Schulze
Frost	Martin (NY)	Schumer
Fuqua	Martinez	Seiberling
Garcia	Matsui	Sensenbrenner
Gaydos	Mattox	Shamansky
Gejdenson	Mavroules	Shannon
Gephardt	Mazzoli	Sharp
Gibbons	McClory	Shaw
Gingrich	McCloskey	Shelby
Glickman	McCollum	Shumway
Gonzalez	McCurdy	Shuster
Goodling	McDade	Siljander
Gore	McEwen	Simon
Gradison	McGrath	Skeen
Gramm	McHugh	Skelton
Gray	McKinney	Smith (AL)
Green	Mica	Smith (IA)
Gregg	Michel	Smith (NE)
Grisham	Mikulski	Smith (NJ)
Guarini	Miller (CA)	Smith (OR)
Gunderson	Miller (OH)	Smith (PA)
Hagedorn	Mineta	Snowe
Hall, Ralph	Minish	Snyder
Hall, Sam	Mitchell (MD)	Solarz
Hamilton	Mitchell (NY)	Solomon
Hammerschmidt	Moakley	Spence
Hance	Molinari	St Germain
Hansen (ID)	Mollohan	Stangeland
Hansen (UT)	Montgomery	Stark
Harkin	Moore	Staton
Hartnett	Moorhead	Stenholm
Hatcher	Morrison	Stokes
Hawkins	Mottl	Stratton
Heckler	Murphy	Studds
Hefner	Murtha	Stump
Hendon	Myers	Swift
Hertel	Napier	Synar
Hightower	Natcher	Tauke
Hiler	Nelligan	Tauzin
Hillis	Nelson	Taylor
Holland	Nichols	Thomas
Hollenbeck	Nowak	Traxler
Hopkins	O'Brien	Trible
Horton	Oakar	Udall
Howard	Oberstar	Vander Jagt
Hoyer	Obey	Vento
Hubbard	Ottinger	Volkmer
Huckaby	Oxley	Walgren
Hughes	Panetta	Walker
Hunter	Parris	Wampler
Hutto	Pashayan	Washington
Hyde	Patman	Watkins
Jacobs	Patterson	Waxman
Jeffords	Pease	Weaver
Jeffries	Pepper	Weber (MN)
Jenkins	Perkins	Weber (OH)
Johnston	Petri	Weiss
Jones (NC)	Peyser	White
Jones (OK)	Pickle	Whitehurst
Jones (TN)	Porter	Whitley
Kastenmeier	Price	Whittaker
Kazen	Pritchard	Williams (OH)
Kemp	Pursell	Wilson
Kennelly	Quillen	Winn
Kildee	Railsback	Wirth
Kindness	Rangel	Wolf
Kogovsek	Ratchford	Wolpe
Kramer	Regula	Wortley
LaFalce	Reuss	Wright
Lagomarsino	Rhodes	Wyden
Lantos	Richmond	Young (FL)
Latta	Rinaldo	Young (MO)
Leach	Ritter	Zablocki
Leath	Roberts (KS)	Zeferetti

NAYS—8

Ashbrook	Edwards (OK)	McDonald
Crane, Philip	Lungren	Paul
Dreier	Marlenee	

NOT VOTING—33

Atkinson	Emery	Neal
Bafalis	Gilman	Rahall
Bonior	Ginn	Rosenthal
Breaux	Goldwater	Rousselot
Broomfield	Hall (OH)	Stanton
Brown (OH)	Heftel	Whitten
Broyhill	Holt	Williams (MT)
Burton, John	Ireland	Wylie
Coleman	Livingston	Yates
Conyers	Marks	Yatron
D'Amours	Moffett	Young (AK)

□ 1710

Mrs. ASHBROOK, Mr. DREIER, and Mr. EDWARDS of Oklahoma changed their votes from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) entitled "An Act to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths, for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes."

THE PROPOSED TAX INCREASE—A DISCUSSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGRICH) is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I have taken this special order to allow Members to have a chance to talk some about the proposed tax increase, and to provide an opportunity for Members to look at some of the details in the bill.

It was interesting to note in the New York Times, for example, that the head of the ABA said that every good liberal should vote for this bill; it was the perfect liberal reform bill. I was frankly surprised, not that I found it unusual that a bill which had been endorsed by the Washington Post and the New York Times and the New Republic was described as a liberal bill, but because I know that there are many reform Democrats that will have a difficult time voting for a bill which has in it a section that describes grease payments, or illegal bribes. It is true, though, if you look at pages 164 and 165 of the Committee on Finance of the U.S. Senate. You will find a section of the bill which makes it tax deductible to bribe foreigners and take a tax deduction if you are a multinational corporation and find it useful to bribe foreign governments.

On page 165, I quote:

> There are two principal types of payments that are allowed as a deduction under the bill that are not deductible under present law. The first are facilitating or "grease" payments. These are payments made to government officials to facilitiate routine administrative actions that are non-discretionary on their part; thus, payments to a customs official to expedite goods through customs are allowed as a deductible payment under the bill.

I would suggest, Mr. Speaker, that very few Members, at a time of loophole closing and reform, as the President told us last night, would want to close loopholes on senior citizens who save by withholding interest on their savings and on their stocks, or would want to close the loophole in medical deductions, or would want to close the loophole by raising the long distance telephone bills, but would then want to turn and create a new loophole, a peculiarly unethical loophole.

Now, some of my colleagues will point out that in fact it is a matter of practical business in large parts of the world to provide a small stipend for customs agents and others to permit business to go on. Certainly, as a former history teacher, I am well aware of the degree to which, for example, in the Chinese Empire in the 19th century, providing a small amount of cash was the normal part of doing business.

It is one thing to say, yes, that may happen and we will not prosecute under American law businessmen who engage in local customs even though they may not be customs we would like in America. But it is a radically different thing for the U.S. Government in its Tax Code to say, "We will legally permit our multinational corporations to take a deduction for bribing your custom agents."

I would simply suggest that that Senate provision was never voted on in the Ways and Means Committee of the House, was never debated on the floor of the House, was never voted on by House Members. That provision in and of itself on ethical grounds, on grounds of America's standing in the world community, should entitle this bill to defeat.

I cannot imagine that the President in his speech last night, when he talked strongly about the need to close loopholes, could have known that he was opening a loophole by which multinational corporations could use brib-

ery as a legitimate means of business and then take tax deductions at the expense of the American taxpayer. In effect, if you are an honest, law-abiding, taxpaying citizen who runs a small business, you will be paying slightly more in taxes to subsidize the multinational corporation who happens to be taking a deduction for grease.

Beyond that, the second major argument for the bill is that it is a good trade because of savings, but let me report on reconciliation savings from the omnibus reconciliation conference report:

> The fiscal year 1983–1985 reconciliation instructions for all committees total $27.2 billion, of which $11.2 billion, or 41 percent, was assigned to the four committees that produced the Omnibus Reconciliation Act. The conference agreement results in reconciliation savings of $11.0 billion, or 98 percent of the instructions.

That is positive. That is encouraging. The problem is, that is not the total story. The fact is, even under reconciliation the savings tend to be made in the areas in which, frankly, liberal Democrats would be most happy, and the difficulties tend to come in the areas, in which, frankly, the administration is least happy.

□ 1730

While we are gradually reconciling those specific savings mentioned in the act, which I would vote for, they are only a small start.

Consider $11 billion in savings in 3 years under reconciliation in the Omnibus Act, 98 percent of the instructions, worth voting for in itself, to be traded against what? To be traded against $228 billion in additional taxes over the next 5 years.

That is not a $3 saving for $1 of taxes trade. That is in fact quite the opposite. It is a $20 of tax for $1 of savings trade.

I would argue that in fact we are walking ourselves into a blind corridor by adopting a 5-year $228 billion tax increase and that is what the Senate Finance Committee report called it on pages 414 and 415.

We are locking the hands of conservatives who wish to shrink the size of government. We are guaranteeing that next year's negotiations will start from a higher plateau, and that in fact we will end up with more spending and with a government that has not reached the President's 24.5 percent of gross national product as he mentioned on television last night. Instead, if you project out at the current pattern, we will be at 23 to 23.5 percent of gross national product or a government which will be $100 billion to $150 billion bigger in 1985 than President Reagan asked for.

That is reality.

The reality is of the $280 billion in savings the President cited last night, only about $60 billion have any reference to the Congress. Most of those savings come from presumed interest rate savings as the interest rates go down.

That leads me to another point: interest rates. We have been told all year you have to do this or you have to do that in the Congress for interest rates to come down.

Now we have seen for the last 6 weeks that when Mr. Volcker wants interest rates to come down interest rates come down.

In fact, there is very little direct relationship between what we do in the Congress on fiscal policy and what happens on monetary policy.

I would argue that should we defeat this tax bill, should we not raise taxes, if interest rates were to go up, the place to look would not be the House of Representatives. It would be in Mr. Volcker's office and the memos for the Congress to subpena would be memos from Mr. Volcker, not memos from the Congress.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I will be delighted to yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. First of all I would like to commend the gentleman from Georgia for taking out this special order and bringing these very important points to the attention of the Members.

I think many of the Members are not as familiar with the legislation, particularly the first point the gentleman brought out in his remarks.

I am interested in the point about interest rates, though, and as long as the gentleman is referring to those points I would like to make some observations about what happened today in the marketplace because we saw a very substantial rally in the stock market today.

It is obvious to me that some analysts of what is going on economically and politically in the country are going to try and draw some conclusions about the timing of the President's speech last night and what happened in the marketplace today and, therefore, strengthen the case the gentleman is now in the process of rebutting about the link between this bill and a reduction in interest rates.

I think it is interesting to look at what happened in the bond market because the bond market is probably a better indicator of impact we are having on interest rates in this country than the stock market itself.

The bond market today, after the President's speech last night, opened absolutely unchanged. In other words, those people who were trading bonds in the market today were not moved one iota by the strength of the President's exhortations last night and were not moved to have a more favorable outlook in terms of interest rates because of any perception that there was an increased likelihood that the tax bill would indeed be passed.

However, within a matter of an hour after Mr. Henry Kaufman issued his new prediction about the future course of interest rates we saw the bond market raise the legal limit on most exchanges today.

I bring that out because I think it is important for Members as they look at again today's financial events to sort out what really happened from what we may be told actually happened.

The strength of the bond market and the strength of the stock market today is, as the gentleman points out, related to what is happening in the Federal Reserve Board and what has been happening in the interest rate market and is absolutely unrelated to the tax bill which is presently working its way through Congress and the President's exhortations on its behalf.

I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I think we might want to talk a little about the spending ratio to the tax ratio as well. I think it is important that we talk about a study done by the Federal Reserve Bank of New York because the case being made for the tax bill here is somehow that we are going to match up spending to taxes and the spending comes out to a 3-to-1 margin ahead of the tax increases over a period of 3 years.

In fact, the Federal Reserve Bank of New York did a study and found that the ratio of 3 to 1 of spending cuts to taxes is totally fallacious and by their analysis the real ratio is much closer to a 1-to-1 ratio.

I think it is important to look at that also in terms of what we are talking about in the spending area.

A study by the chamber of commerce reveals that when you take a look at spending you will find that we are spending at rates in the new budget resolution at something similar to what was proposed by the Democratic majority in this House earlier this year.

If you put those two things together, what it says is we are raising taxes by the same amount we are cutting spending and we are continuing the spending at levels that are totally acceptable to the majority party in this body.

By saying that, we can make the case that the spenders are really in control of this body and probably of the Congress.

That is an important thing for the American people to understand because what it tells me is that of the

$228 billion of new revenues that will flow into the Federal Government over the next 5 years we already have plans to spend all of that money.

We are going to find ways to literally spend every dime of that here in Washington. This is not going to be used to bring down the deficit. This is not going to be used for financial strength across the total of the productive economy. It is going to be spent right here.

The studies which are now showing that the relationship between spending cuts and tax cuts is nowhere close to the 3-to-1 margin that is being claimed will also bear out then that what we are going to end up with is feeding the money machine.

The spending machine here in Washington is going to get extra food from this tax bill and that is the reason why there is so much enthusiastic support being built into the country in the liberal media among many liberal politicians. They realize that this is an extra pot of money out of which to spend in the years ahead that they would not otherwise have.

I think the American people who have said on occasion after occasion that they want this Congress to cut spending, they do not want this Congress to raise taxes, the new Gallop poll out shows that conclusively.

We need to reflect on the fact that we are feeding the spending machine, not curtailing it, with this particular tax bill.

Mr. WEBER of Minnesota. If the gentleman will yield, a colleague from Pennsylvania makes an important point. It is particularly important in relation to one of the first points the gentleman in the well brought up which is that this tax bill is being sold to the American people on the basis of fairness and as a loophole-closing bill when, as our colleague just pointed out, the obvious intent of the bill is to raise revenues to feed the Federal Government.

I think it is important for the people to consider that argument, that it would be possible indeed to close loopholes, to reform taxes, but if that was the intent of the writers of the legislation I would suggest that for every dollar of increased revenue that came from the closing of a loophole there would be another dollar of reduced taxes probably in an across-the-board manner.

So instead of simply feeding the Federal revenue machine we would be establishing some greater equity of payment of taxes but not at a higher level.

The fact that these revenues are not being used to offset excessive tax burdens elsewhere in the Tax Code indicates to me clearly that it is a revenue measure, as the gentleman suggests, not a tax reform measure.

Mr. GINGRICH. If I may reclaim my time, it seems to me one of the easiest tests of that would be to have someone offer a motion to recommit, to turn the bill into a genuine revenue balancer that had a tax cut aimed at the individual income rates for every dollar that was picked up by closing loopholes.

I would be interested to see what the administration's position would be if we gave them a chance to have a genuine reform bill that did not raise taxes.

I suspect that we would find a number of people running around talking about closing loopholes and reforming the system who would suddenly go "Oh, no, you can't do that because * * *" and I think both of you are exactly right. It is because they want the money.

Mr. WALKER. If the gentleman would yield further, a few moments ago I referred to the latest Gallop survey that has come out on the whole question of spending versus taxes.

□ 1740

It was conducted on August 13 to 15, so it is a very, very recent poll. It certainly has been conducted since there has been all of the public discussion about the tax increase bill, and the public was specifically asked this question:

Given a choice, which of the following do you favor: Raising taxes, reducing spending, both raising taxes and reducing spending, or doing neither and leaving the deficit as it is?

The public was very clear in what they had to say. "Raising taxes" got all of 4 percent of the public saying that they think that is the way we ought to go.

"Reducing spending" got virtually half, got 50 percent of the public saying that that is what they wanted to do.

Both "reducing spending" and "raising taxes" got 22 percent.

So if you put the two of them together, if you put the 50 percent with the 22 percent of the public who want to see spending reduced, you get 72 percent of the American people who are talking about spending cuts as one part of the formula that they think this Congress ought to be addressing. "Doing neither and leaving the deficit as it is" got 15 percent, with "don't know" at 9 percent.

But the conclusive opinion of the American people is that we need to cut spending, and that is specifically what we are unwilling to do in this body. It is specifically what Congress has shown itself unwilling to do. And to now come along with a major tax increase, in order to feed the spending machine that we have created and continue to fuel, is absolutely disastrous for the economy, in my opinion.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, I know that the gentleman has worked hard on this issue, and I compliment him for what he has done on it.

I would like to come back to the question of interest rates, because everything that we have done in the Congress this year seems to be directed to the question of: How do we get interest rates down?

I think that while the attention given to the deficit has been important—certainly it is an important part of the interest rate question—we have developed a slight case of myopia in that that is the only thing that we have considered.

In fact, there are other elements that have to be taken into account when we address the interest rate question. For instance, if we assume that there is a supply of credit available in this country, we should ask ourselves: Is that pool of available credit static, or can it grow? And if it grows, what makes it grow?

Well, obviously, the easy answer, the elementary answer, to the question is that savings make the pool of available credit grow.

And so the interest rate is affected not only by the demand on the credit pool, but on the supply to the credit pool.

If we can stimulate savings in this country, as we have since the tax cuts were passed last year and since the IRA accounts and other things of that nature have come into effect, then we enlarge the pool of available credit. And when you increase the supply of available credit, you relieve the tension on the credit market, just as much or perhaps more so than you do by reducing the demand that the Government has on the credit market.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. Mr. Speaker, I would like to interrupt the gentleman at that point, because I think that is a very interesting point.

I saw a very small article in the New York Times. It did not get a lot of attention, but it pointed out that so far the impact of the IRA legislation this Congress passed last year has been to add a net total of $14 billion to the credit markets of this country, to the credit pool that the gentleman has described. I thought that was an interesting number because it probably comes very close to being the same as the number of additional revenues that the administration hopes to generate in net terms, many of us would argue, after we went through this tax increase. Even accepting the grounds on which the administration is basing its case, we have probably seen an

equivalent downward pressure on interest rates generated by the expansion of the credit pool through the IRA legislation that this Congress passed last year, without any of the negative downside that we can all identify accompanying the tax increase. This points out to me the correctness of the gentleman's position and the correctness of the position of this Congress last year in embarking on a course of tax rate reduction and incentive for savings and investment, in the first place.

Mr. BETHUNE. If the gentleman will yield further, in addition to increasing the size of the available credit or the credit pool in this country through stimulating savings, we also know that monetary policy, as the gentleman has already indicated, has a lot to do with the supply of available credit in this country.

Recently we have noticed that interest rates are coming down as the Fed seems to be loosening some on the supply of available credit in the country.

So there you are looking at the supply side, if you will, of the credit pool, and that affects the interest rates that will be charged to people, just as much as the factors on the demand side affect the interest rate equation.

Now, on the demand side we frequently spend a lot of time talking about the deficits. I like to refer to the discussions we have here as the raw deficit, the difference between spending and the revenues that we take in in the Government, and we look at that number and we say, "That is the deficit, and that is the preeminent factor in determining what the interest rates are going to be in the country," ignoring the savings rates, ignoring the monetary policy and what it can do to the pool of available credit.

But there is another factor that is really overlooked, and that is the array of credit assistance programs that this Government finances and supports and continues year after year. I call that Federal lending.

So in addition to sopping up credit from the credit market with the raw deficit, this Government also causes to be sopped up a vast amount of credit through loan guarantees, direct loans, and other types of credit assistance programs. An example or two would be the Chrysler bailout, the SBA loans, the Farmers Home loans, all of those loans which, when added up, believe it or not, now constitute outstanding obligations in the sum of $600 billion.

Federal lending programs, such as I have just described, student loans, the whole panoply, are now growing faster than spending. Let me say that again: Federal lending programs are growing faster than Federal spending programs.

So you have several factors, then, that affect the interest rate equation: The savings rate, the monetary policy, the demand on the credit pool caused by the raw deficit, and the demand on the credit pool which is excited and stimulated by these artificially designed credit programs of the Federal Government.

Now, those are the things that we must address if we are serious about getting interest rates down. So we need to increase the savings in the country, we need to rectify the monetary policy which is crimping and cramping the available credit in the country, we need to reduce the demand caused by the raw deficit—and you do that by holding down the spending programs in the country—and you need also to make sense out of those Federal credit assistance programs. And when we get all of that done, then we will have treated a very complex and sophisticated program and the problem.

Mr. WEBER of Minnesota. If the gentleman will yield further, I think the gentleman makes a good point. I would add one additional item, and that is the health of the private sector of the economy and how the health of the private sector of the economy relates to the private sector's borrowing needs.

One of the upward pressures on interest rates lately, of course, has been the tremendous amount of short-term borrowing that many firms in the private sector have been forced to undergo because of their weakened cash flow position. So when we consider legislation such as tax legislation, in addition to just considering in a very static manner how it might increase revenues to the Government, we have to take into account what it might do to the cash flow of some of those marginal firms who may be forced to go into the credit markets for short-term operating cash, because every dollar that they have to borrow to keep financing because they are not operating profitably is a dollar that comes out of that credit pool again.

So to the extent that the tax increase legislation that we are now considering adversely affects those firms, it will have an upward pressure on interest rates rather than a downward pressure.

□ 1750

Mr. BETHUNE. Mr. Speaker, if the gentleman would yield further, if we could come back to this particular tax bill and consider one aspect of this bill in connection with the discussion that we have just been having here about the credit market, one would have to ask, Why would one want to create a disincentive for savings at a time when we need to enlarge the pool of available credit in the country?

That is exactly what the new tax bill would do. The withholding on savings provision is simply going to take a certain amount of money out of the credit pool, which people are not putting in there, in their savings. It is going to take that money out of the credit pool. It is going to bring it around and give it to the Government to reduce the deficit which reduces the demand on the very same credit pool.

Of course, if one assumes the amount taken out of the pool—out of the supply of credit—is brought around and reduces the deficit by a like amount, then one would have a standoff; but that is not what would happen. When one takes the money out of the savings pool and starts on that circuitous route to reduce the deficit with it, first one has to siphon off 30-days float for the banks to compensate them for handling it. One loses that much out of the savings pool.

Next, one has to let the Government siphon off whatever part it is not going to use to reduce the deficit but instead use to fuel and spend on the existing spending programs; and then, one brings the balance around to reduce the drain on the credit market.

To me, it would be a net loss in the fight to reduce interest rates, not a gain. It seems to me we are going at the question of reducing interest rates backwards as we say down home.

I am very concerned that there are other similar disincentives that are being built in through this tax legislation which are going to affect the interest rate question. For all those people who say, " We must get down the deficit by raising taxes," I would remind them that the deficit is not the sole criteria in getting down the interest rates in this question. It is a much more complicated problem, but we will not get to it by raising taxes on the American people, especially when this economy is in a weakened condition.

What we need to do is control spending; we need to control those credit assistance programs; we need to rectify the monetary policy. Then we will have growth. When we have growth, and we have 1-percent reduction in the unemployment rate, we will reduce the deficit by $25 billion. That is much more than all these fellows with their green eye shades who are trying to calculate through the budget process some way to manage this country's economy.

The fact of the matter is the economy in this country drives the budget and the budget numbers; the budget does not drive the economy in the American free enterprise system.

I thank the gentleman for yielding. I hope we will be successful in our fight to defeat what I consider to be an idiotic tax bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. GINGRICH. I would be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I heard the gentleman a bit ago discuss the fact there are horrendous provisions in this bill including—I think the gentleman referred to—the grease payment section of the bill which I think shows conclusively that this is a tax deform bill rather than a tax reform bill, but I think also we need to point out there are several other sections that are just as onerous.

Has the gentleman mentioned, for example, the provision of the bill that requires everyone's tax accountant or tax attorney to spy on them on behalf of the Government?

Mr. GINGRICH. No. I had not had a chance to explain that. I am sure people would be interested in that.

Mr. WALKER. I think the American people ought to know we are asking them to pay a tax attorney or a tax accountant to become a Government spy for them because there is a provision in the bill that now says if one's tax attorney or tax accountant in figuring one's taxes takes a kind of frontier kind of attitude toward one's tax bill and trties something rather unique in terms of tax status—nothing illegal, we are not talking about illegal kinds of things here—but does something which is not established by precedent, they have got to put a check on the front of the tax form to tell the IRS that it should be audited; and they are under penalty of criminal law if they do not mark the tax form.

What we have here is a tremendous invasion of the right of privacy of people and a targeting of those people by the IRS using one's own tax attorney or tax accountant. It seems to me that that kind of provision is also a horrendous example of the fact that we are really deforming the way in which we go about handling tax matters in this country.

I think also the fact that the banks and the big financial institutions are going to be permitted a 30-day float of people's money in order to help them pay the costs of managing this new withholding system, but that float really means that we are going to give big financial institutions the free 30-day use of the money saved by some poor widow who is trying to survive herself.

I just do not understand that kind of logic that is within the bill other than the fact that we have had to address some special interests in order to get this special interest bill passed.

There are numerous other examples within the bill of these little things that are down in there that are going to prove to be horrendous problems for us for the future.

I think one of the basic problems with this bill is the fact that it creates a regulatory overload the likes of which we have not seen in recent years. This is an administration that can be rightfully proud of what it has done to cut down on some of the regulations of Government. Yet here we come along with a bill that many people think in the 300 pages of the bill is going to create massive new volumes of regulations for IRS to begin administering across the country. This bill becomes the antithesis of regulatory reform by creating a new regulatory overload that we will find ourselves buried under for some years to come.

I thank the gentleman for yielding.

Mr. GINGRICH. I thank my colleague.

I think all my colleagues have indicated clearly why this bill needs to be looked at carefully, and in our judgment needs to be defeated.

Let me carry this a step or two beyond. As was mentioned earlier, the Gallup poll came out and said by 66 to 21, the American people are opposed to this tax increase. That is, by about 3 to 1 the American people are opposed to raising taxes. When asked how to balance the budget, 50 percent of the American people said cut spending; only 4 percent said raise taxes; and 22 percent said do some of both.

But imagine, by 12 to 1, the country is biased in favor of cutting spending, not raising taxes.

So those Members who cheerfully vote for this bill can lean on the 4 percent, but they have to explain to the 50 percent why they did it.

Members have discovered today that in fact the country is not excited about this bill even after an eloquent and excellent presentation by President Reagan. The fact is the President's speech was not a success in political terms. The phone calls did not come in, in large numbers. In my own district, which I think was relatively typical of the country at large, yesterday there were 19 phone calls against the bill and 2 in favor. Today there were 18 phone calls against the bill and 23 in favor. That means in the 2 days we had 25 in favor and 37 against.

The shift, while it was significant for 1 day, was not large enough to even provide the normal sort of telephone response President Reagan has gotten in the past. As I talked to colleagues across the country—in Nebraska, in Pennsylvania, in Virginia, in California—I found again and again that the great tidal wave of public support that the President has gotten in the past was not there. I think there is a reason for that.

President Reagan is not so much a great communicator as he is a great articulator. He has articulated brilliantly the values of working Americans, saving Americans, the decent hard-working people who made and make this country great. Because they responded warmly to his articulation of their beliefs, they worked with him on every major issue. Up until now he has been able to go on television and say, "This is where we stand together, please call your Congressman."

He has had an echo effect of people who said, "that's right, that is where we stand." Last night, for the first time in his Presidency, the President went to the country on an issue which, as Gallup said, the country is 3 to 1 opposed to his position. He did not have an echo effect. He had confusion. Most Americans like President Reagan, as I like him. Most Americans want to help him, as I want to help him.

Yet down deep, we are committed as a people to cutting spending, not to raising taxes We have crossed the great watershed by which we would once debate the liberal welfare state. We are now committed to a new era of less government and any tactic which raises taxes more than it cuts spending frankly confuses us.

Some people have said this bill will not hurt anyone. If you never use long distance telephones and do not have any medical expenses and do not fly in an airplane and have no savings and own no stock and you are not a small businessman or businesswoman with a pension and the list could go on and on and on. Obviously a 5 year, $228 billion tax increase, as the Senate Finance Committee report called it, is going to hurt many, many Americans.

Why? The provision that cuts out your tax deduction for your health insurance by itself will hurt 18 million working families. Clearly this bill has many provisions which will hurt many people. Members should recognize that while temporarily some people are buoyed up by a speech and may call in or write in, that every single group affected by this bill will remember it.

□ 1800

One Member told me today of a waitress in his district who had called in and said, "Is my Congressman against the bill?"

When told yes, she said, "Please send me some bumper stickers."

Now, she understood the legitimate, reasonable contract between a voter and her Congressman, the whole purpose of representative government.

She also understood that a bill which had preserved the three-martini lunch for tax lobbyists in Washington by going after waiters and waitresses could hardly be called a fair bill. In fact, in the case of waiters and waitresses, in the case of people who have savings, this bill now creates the precedence that the Government will presume you are guilty and require you to

prove your innocence in order to gain back your own money; but there is a deeper problem with this bill, as several gentlemen have said. The real difficulty with the deficit is two things: Too much spending and the state of the economy.

We have made a serious effort of bringing spending under control. But we have not really cut it yet. We have cut the rate of increase, but we have not yet really confronted the reality that if we simply had full employment, we would have no deficit. If we had 5 percent unemployment right now, rather than 9.8, we would have a balanced budget this year even with this spending. That is why this fight is so important.

Never in American history have we had an effort to raise taxes on this scale, except by Herbert Hoover in 1931 and 1932. Only then was there an effort made and it threatened to break the backs of American business and the American economy.

Rising taxes in the middle of a recession will increase unemployment, lengthen the recession and make things worse. It will not put people back to work.

It would be a sad thing, indeed, to tack on 10 weeks of unemployment on a bill that provides 5 years of additional taxes. Think of that. For every 2 weeks of unemployment benefits, you get an additional year of taxes. That is a 26-to-1 trade.

Surely, no one in any State in America would want to trade 4 cents for a dollar; yet that is the trade those people who are worried about unemployment are being asked to take.

What we need to do is get the economy moving again, to put people back to work. If we need an additional time period for unemployment compensation, and I believe there are States clearly that are so severely unemployed that areas in them are depressed, not in a recession; then we should have an unemployment bill by itself to provide real help. But it is a travesty to provide unemployment help in a bill which will increase unemployment. That is not the kind of help the American people need.

Beyond the matter of public policy, beyond the matter of public opinion, this fight over this tax bill is critical because it is a direct test of the prerogatives and powers of the House.

In the first place, this tax bill may well be unconstitutional. It clearly did not originate in the House. It clearly violates the provisions that all revenue raising measures shall originate in the House.

In addition to that, though, the process by which this bill has been debated has been so totally derelict of House participation that no House Member—with the exception of the handful in the Ways and Means Committee on the Democratic side who served on the conference committee—should feel constrained to vote for the bill.

Remember the sequence: Written in the Senate, sent over to the House, looked at briefly by the committee and then quickly, with little notice, with a motion to debate tabled, with almost no time to talk, the House was rushed to go to conference on a bill we had never looked at, that we did not understand and we could not possibly have approved in detail.

The conference committee met. The conservative members of the conference committee from the House were defeated again and again in their efforts to change the bill. The liberal Members of the House and the conference committee were successful again and again in their efforts to change the bill.

Now it comes back to us, still being printed, still not here, with no Member outside that handful having looked at it, containing a variety of provisions that are as odious as having your tax accountant or your tax lawyer report to the IRS about you; provisions such as requiring that you sign the equivalent of a pauper's oath in order to avoid withholding if you are a senior citizen; requirements such as allowing a tax deduction for multinational corporations to bribe other governments; all those provisions and more are waiting for us in this massive bill.

Still, we will not have hearings; still, the average Member will not have a chance to look at it. The fact is that the debate will be too short and clearly inadequate.

The very prerogatives of the House require that every Member consider voting against this bill simply to send a message to the executive branch that the House is a coequal body, that constitutionally we do have a status of equality with the Presidency, and that it is not possible to make a deal with a handful of Members in the other body and a handful of Members in this body and then ram it through by persuasion and effort and sheer pressure.

For a year and a half I worked very, very hard with President Reagan. I consider myself part of his team. I hope next week to again be part of that team.

We won great victories together, some of them breathtakingly close, some of them at the last minute. On this bill, I think there shall be no victory for either side.

It is a very sad thing to fight with your own team, to fight with your own leader, and yet if we were playing a football game and the halfback grabbed the ball and was stunned and began to run the wrong way, it would be the obligation of every member of his team to try to tackle him before he scored a touchdown for the other side.

The fact is, on this particular bill, the President is trying to score a touchdown for liberalism, for the liberal welfare state, for big government, for the Internal Revenue Service, for multinational corporations, and for the various forces that consistently voted against this President.

I think it is essential that we tackle him in his own best interests and the Nation's best interests, so that we stop, we look at this bill carefully, so that we go back to cutting spending; that in the end we pass, as the House promised to in the budget, a one year, $21 billion tax increase, that that is the best, the wisest course, and that is the course I hope we take.

CATASTROPHIC HEALTH EXPENSE AND COST CONSTRAINT ACT OF 1982 (CHECC), H.R. 7000

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MARTIN) is recognized for 30 minutes.

● Mr. MARTIN of North Carolina. Mr. Speaker, I am pleased to join today with House Budget Committee Chairman JIM JONES in introducing H.R.7000, the Catastrophic Health Expense and Cost Constraint Act of 1982 (CHECC). The goals of this legislation are twofold: First, to aid those citizens who are truly without the resources to protect themselves from catastrophic medical expenses; and second, to introduce new cost constraints on the part of hospitals, physicians, and consumers when using our health-care system.

As Members of Congress, we are right now in the painful process of determining specific ways to reduce the mammoth Federal deficit this Nation has accumulated. We know from national opinion polls that a majority of Americans fear that the elderly and poor will suffer inordinately under these budget cuts. Our legislation is designed to deal with these fears by making the present health-care system more equitable for all our citizens.

A recently released study conducted by the Department of Health and Human Services (DHHS) found that there were in 1978 some 34 million citizens unprotected against catastrophic medical expenses. This represents roughly 18 million people who are uninsured throughout the year and an additional 16 million who are uninsured part of the time. While the remaining population—roughly 84 percent of the Nation—does have insurance year round, the fact remains that these 34 million Americans are forced to live with the fear that they can be financially ruined if a major illness strikes their family.

Mr. Speaker, we know that Congress is not likely to spend new funds to provide these families this needed protection while faced with such mammoth

Federal deficit projections. At the same time, we know a major factor contributing to this Federal deficit is the runaway inflation in the health care sector itself. We are all aware of the fact that health care costs are running twice the rate of inflation found in the rest of the economy. In 1981, we spent $59 billion alone on medicare and medicaid; in just 6 years these same two programs will cost us $133 billion. Medicare and medicaid reimbursements to hospitals more than doubled between 1976 and 1981, and, if current policies do not change, these reimbursements will double again by 1986.

Mr. Speaker, it is with this situation in mind that we are introducing legislation designed to address both the problem of constraining health care costs and of improving insurance protection for those who are otherwise caught in the gaps.

For some time now, there has been widespread agreement em has given hospitals and doctors little incentive to save—in fact, when they do reduce their expenditures, they get less money from the Federal Government. It is widely acknowledged that this system is inflationary and has to be replaced; nevertheless, there is little agreement as to the specifics of setting up a prospectively paid system. As the General Accounting Office (GAO) has pointed out, prospective payment is more a concept than a system; a particular set of rules to pay providers could be designed to gain almost any level of program savings desired. Yet, we must begin to encourage prospective payment under medicare. Right now the 29 million benficiaries in the program account for a whopping one-third of the $80 billion spent in community hospitals—1980 figures.

A variety of prospective payment systems are underway in States today—systems that include budget review, formula, and negotiation. The Department of Health and Human Services is currently reevaluating the experiments it has been conducting, whereby medicare has been allowed to participate in prospective payment systems. The Congressional Budget Office (CBO) and others are in the process now of evaluating these diverse efforts.

The latest findings of CBO demonstrate that these State cost constraint efforts are successful. That office cites experience from 1976 to 1980 when community hospital expenditures per capita in the six States with mature prospective payment systems increased at an annual rate of 10 percent per year, compared with a 14 percent rate for the rest of the country. CBO further concludes that prospective payment generally does offer the possibility of long-term budget savings. It also points out that State prospective payment systems, unlike section 223 limits which are now being used to tighten payments for routine hospital costs, will change the incentives for all hospitals, not just those exceeding specified limits. These State systems reward hospitals for reducing costs even further—below the arbitrary limits, thereby offering greater potential long-term savings.

Mr. Speaker, H.R. 7000 does not limit cost constraint efforts to the medicare program only. In the private sector, where 57 percent of our Nation's health-care spending takes place, there also must be changes to make our system more equitable. Right now, we are spending over $25 billion in lost Federal revenues to subsidize the purchasing of private health insurance. Yet this subsidy is both inequitable and regressive. At Ways and Means hearings this year we heard testimony from the Department of Health and Human Services researcher Gail Wilensky, who conducted the 1977 national health-care expenditures study. Her data shows that of the $42 billion in Government outlays spent in 1977 on health care, including lost tax revenues, one-third of these funds went to the poor, while 50 percent went to middle- and high-income people. She pointed out that any attempts to curb Government spending in health must examine tax expenditures as well as the medicare and medicaid programs, since this tax component is significant in determining the distributional effects of total Government expenditures. Her data shows that tax expenditures have been growing at a faster rate than both medicare and medicaid. In just the period 1977–81, the cost to the Government of excluding employer-paid health insurance premiums from taxable income jumped from $8 billion to nearly $20 billion. By 1987, this subsidy will cost the Nation over $45 billion.

Unlike other exclusions from income in the Internal Revenue Code, this health insurance exclusion is unconditional and unlimited. The result has been tremendous growth in what insurance now covers—so much so that insurance policies are covering even the most routine and predictable services, despite the fact that it is oftentimes more economical for the individual to pay for these routine expenses directly. Just as it does not make any sense to insure a car for a routinely needed lube job, likewise, we can save money by purchasing some routine health-care services directly, rather than paying for the additional costs associated with insurance.

Not only has the unlimited nature of this subsidy resulted in an excessive amount of aid going to those purchasing comprehensive policies, but also this subsidy is distributed inequitably. Recent findings by CBO show that 48 percent of all households receive no benefit whatsoever from this provision in the Internal Revenue Code; moreover, those who do benefit tend to be in the upper income levels. For example, under current law the average tax benefit for those in the $10,000 to $15,000 range of income is $83; yet for those in the $50,000 to $100,000 range, the average benefit is $633.

For these reasons, in our bill we place a ceiling on the amount of employer contributions that can be excluded from an employee's income for tax purposes. While this ceiling does not probibit employers from making larger contributions to purchase workers' coverage, it would mean the excess contributions would be treated as wages and therefore taxable to the employee. To make this subsidy more equitable, we redistribute some of these benefits to those who now are getting no Federal aid whatsoever—the 34 million citizens who are without public or private insurance.

Who are these unprotected Americans? We are talking about the working poor and other medically indigent individuals left out of medicaid due to varying eligibility criteria from State to State, the temporarily unemployed, and others who are uninsurable due to specific medical conditions or otherwise unable to obtain private insurance. For these citizens, we provide new incentives—and new financial assistance so that those who are able will purchase private insurance. Finally, those who still remain and are without the means to get private coverage, we provide a last resort fallback program for which eligibility is tied to both income level and amount of medical expenses.

Before discussing this Federal fallback program for the most vulnerable, let me describe the provisions of the bill which are designed to improve insurance protection for those who currently buy private insurance. Our goal, Mr. Speaker, is to improve both the availability of affordable private insurance—for those who previously have been unable to get insurance because of cost—and to guarantee that these policies in fact do cover certain minimum levels of care, particularly expensive illnesses.

Under our bill, employers would be encouraged, but not required, to offer a health plan to their workers which provides a certain minimum level of care. This plan would have to cover all medical expenses that exceed $3,500 in out-of-pocket expenses. Thus, in order for workers to continue to claim their health insurance premiums as an exclusion from taxable income, the employer sponsored policy would have to meet this stipulation. Several other minimum provisions are also contained in our bill, including one which states that there can be no exclusion for preexisting conditions and one that requires the employer to pay 50

percent of the least expensive plan offered. This will assure workers, particularly low-wage earners, that the plan offered will be an affordable one. An employer does not have to offer this qualified plan in order to continue to deduct his contribution as a business expense; however, if the plan offered does not meet these minimum provisions, then the employer's contributions will be fully taxable to the employee.

Mr. Speaker, one of our main goals in this legislation is to give an affordable health insurance option to more people. Right now only 18 percent of people in work-related groups are given more than one option; nevertheless studies indicate workers would like more choice. A recent DHHS study shows that low-option plans are relatively popular when they are available. In fact, this massive study, involving 14,000 households, determined in the most surprising finding of the study, that of those offered the option of both more and less expensive options, almost as many employees choose the least expensive option offered. The report concluded:

> This apparent demand for low option plans that is widespread in our analysis, suggest that the market may indeed respond to these policies which are designed to install it as the regulator of health care costs.

Our bill also includes provisions to further equalize the current tax subsidy that is given those employees buying health insurance at work as compared to those individuals who must purchase health insurance without the benefit of an employer contribution, group rates, or the ability to exclude these contributions from taxable income. In our bill, those who purchase individual, nongroup plans can deduct up to $500 for 100 percent of the cost of the premium, instead of the current $150 limit allowed for 50 percent of the premium cost.

Despite these new financial incentives to encourage reliance on our private insurance network, we recognize that some families, the very poor for instance, will still be unable to afford private insurance. For these most vulnerable citizens, we will provide a fallback program called the catastrophic automatic protection plan (CAPP) to provide a financial cushion against large medical expenses—expenses that are not reimbursable under any private or public insurance program. This assistance will be based on a family's income, so that taxpayers will not be paying for care for those who really do not need Federal aid. Those qualifying for the program CAPP will receive aid once they have spent a reasonable percent of their income on out-of-pocket medical expenses. Thus, families will be expected to budget and to handle medical bills as they do other living expenses. Yet, once a family has incurred expenses beyond this reasonable amount, the Federal program CAPP will step in and provide assistance. We believe no family should be wiped out of their life's savings before getting any help from the Government.

CAPP will be administered essentially as medicare is today; we use the same forms, administration, and procedures to provide essentially the same benefits as medicare plus several additional services, once a family qualifies for CAPP. One of the advantages of providing care in this way; that is, having the Federal Government assist only that small percentage of families that actually do end up with catastrophic expenses not covered elsewhere, is that the Federal Government does not have to pay for every family to purchase a policy. Since many of these people are in and out of public programs such as medicaid and are frequently on the move, we found that it costs the Government less to have this fallback program built around medicare than to try to track down and enroll these families in private plans via Government-funded premiums. Another advantage of having CAPP in place is that for the first time the elderly and disabled on medicare will have true catastrophic coverage. Medicare presently has limits on the number of hospital days it provides its beneficiaries, leaving many beneficiaries vulnerable.

Mr. Speaker, right now these uncovered individuals constitute the charity cases at many of our Nation's hospitals. Public hospitals particularly are suffering enormous financial burdens. In 1980, over $597 million in nonmedicaid charity care was provided at the Nation's 15 largest hospitals alone. As medicare and medicaid cuts force hospitals to shift their unreimbursed costs to private patients, the costs of a hospital stay to private patients continues to climb astronomically. This cost shifting is unfair to private patients and is making the costs of a hospital stay prohibitably expensive. It is imperative that we subsidize these charity cases more directly and more equitably by spreading the burden among all taxpayers.

Mr. Speaker, opponents of catastrophic care coverage claim that by encouraging cost sharing in private insurance and in the Federal fallback program, CAPP, we will cause families to delay needed treatment when they do get sick, thereby ultimately costing the system more in the long run. Yet, this assertion is not true. Preliminary results of a massive 10-year study sponsored by the DHHS—a study involving over 7,000 people—indicate cost sharing does not increase expenditures over time, provided the cost sharing is income related. Moreover, families that had 25 percent cost sharing up to a specified maximum limit spent 19 percent less on services than those with comprehensive coverage.

Mr. Speaker, we do not claim that this legislation answers all the problems of the health-care system. We do believe, however, that it is an important step, a realistic and feasible step toward reform. We have got to address health care inflation in a comprehensive manner, from the standpoint of both the public programs we are funding and also the tax subsidies we are providing in the private sector. We believe this system of aid can be made more equitable with only modest changes to the system. The legislation as a whole has been structured so that the savings generated by the bill will provide the necessary funds to care for our most vulnerable citizens—with minimal Government involvement and with no additional costs to the Federal budget.

Most of the perennial interest in National Comprehensive Health Insurance cites the misfortune of people whose income, assets, and community standing are consumed and destroyed by heavy medical expenses for which they were underinsured, uninsured, or uninsurable. Our legislation is designed to relieve that burden, in a way that we can afford, and do so without drastic changes for those citizens who now are protected.●

● Mr. JONES of Oklahoma. Mr. Speaker, we have 34 million people without adequate protection against catastrophic medical expenses who risk financial ruin now. As the clock keeps ticking on the time bomb known as rising health care costs, more and more people are threatened by the staggering costs. Both from a humane standpoint and a fiscal standpoint, we must do something soon. Because of my great concern in both of these areas, I have joined with my colleague from the other side of the aisle, Mr. MARTIN, in introducing H.R. 7000, the Catastrophic Health Expense and Cost Constraint Act of 1982.

First and foremost, I strongly believe that we must in some way assure coverage for catastrophic medical expenses. In 1981, the National Center for Health Services Research published the results of a survey stating that about 34 million Americans, nearly one-sixth of the population, lack full time year-round health insurance coverage. Blacks, Hispanics, poor people, young adults, farmers, and residents of the West and South had the worst coverage rates.

We must insure catastrophic protection for two reasons. First, those people without coverage nonetheless become ill or injured and need medical care. This group of people is categorically ineligible for medicare or medicaid, cannot afford to purchase private insurance, or is uninsurable due to their medical condition. For them, an

illness can destroy both their health and their life savings. This situation arises when there is a serious illness that is expensive to treat, or where there is a prolonged illness that is costly over time. But for the poor or the near-poor, this can occur just when a brief stay in the hospital is necessary. They simply cannot afford it. The lack of public or private insurance means that some individuals are denied treatment. The recent example of John Lacy poignantly reminds us that some people are turned away from hospital after hospital in State after State, until finally they die. More frequently, however, these individuals are treated by hospitals at advanced stages of illness in emergency room situations. Such treatment is costly and often does not represent the appropriate intervention point. In these charity cases, they inevitably become a bad debt.

This brings me to my second reason for supporting a catastrophic program. Charity cases and bad debts are a hidden cost in the health care delivery system. Providers are forced to game the system somewhat because they know that they must stay in the black. These hidden costs mean higher rates for the third party payors, including medicare and medicaid.

I believe that the American people want a society that cares for people in these dire situations. As I noted earlier, we do that for the most part now, but not in a straightforward manner. I would prefer to see us directly fund a catastrophic program that is the payor of last resort, and would pick up those individuals who fall through the gaps of the other public programs and who are not able to get private insurance. For this reason, our bill establishes a fallback government program known as the catastrophic automatic protection plan (CAPP).

I also want to see strong incentives for people to obtain private insurance that is catastrophic in nature. The bill contains several provisions that will promote this concept.

The private sector and public sector initiatives contained in this proposal would eliminate the single greatest fear that people have regarding health care costs. Everyone would know that their life savings would not be wiped out and that they would not be reduced to bankruptcy by medical bills. Passage of this legislation would eliminate one of the major gaps in health insurance in this country today.

The other major thrust of the bill is included to begin addressing the continual upward spiral in health care costs. The legislation encourages a shift to prospective payments under medicare, replacing the current retrospective accounting system. When the Federal Government is willing to pay for whatever services are rendered and only sees the bill after-the-fact, medicare costs will continue to go up at astronomical rates and threaten the stability of the health insurance trust fund.

The Federal Government must set a good example with the way we pay for medical care. Right now, the retrospective accounting system is inherently inflationary and fuels the increased costs throughout the entire health system. We can reverse this trend by giving providers the financial incentive to provide care at the appropriate level for the lowest cost.

CHECC would allow a State or legal entity to apply to the Secretary of Health and Human Services for a waiver from the medicare reimbursement rules so long as their proposal establishes a prospective payment system and does not cost the Federal Government any more than it would have under the current system. Certain safeguards are included to assure that these plans treat individual patients, and those who pay for hospital care, in an equitable fashion.

Mr. Speaker, Mr. MARTIN and I do not offer this bill as the answer to all the health problems that face this country, nor as the ultimate solution to our current dilemma. We believe, however, that we must begin looking ahead for solutions to the situation before it is too late. Unless we want to see health care heavily regulated and rationed in this country, we recognize that something must be done, and offer our bill as a responsible beginning point.

With your permission, I would like to include a brief summary of the bill for the RECORD which will highlight the major provisions of the bill:

CATASTROPHIC HEALTH EXPENSE AND COST CONSTRAINT ACT—CHECC

The Catastrophic Health Expense and Cost Constraint Act (CHECC) is being introduced because of the prime sponsors' concerns with two important health issues: First, the lack of coverage for catastrophic medical expenses for all individuals in this country; and second, the effect of continued high health care costs on all Americans, whether they are covered by private insurance, Medicare, Medicaid, or have no insurance.

The first section of the bill addresses the major gap in health insurance; that is coverage for catastrophic medical expenses. This goal would primarily be accomplished through the private sector by way of incentives—not mandatory requirements—to improve private insurance protection. In addition, a fall-back government program would care for those who incurred catastrophic expenses and were uncovered by a private plan. This government plan, the Catastrophic Automatic Protection Plan (CAPP), will provide coverage for the individual citizens who are now most vulnerable: the very poor who are categorically ineligible for Medicaid or Medicare, the near poor who cannot afford private insurance, and the uninsurables. Eligibility for CAPP is tied to both the level of income and the amount of medical expenses. CAPP would cover the very group that constitutes the charity cases in our hospitals today. Presently, particularly the urban hospitals are carrying an excessive number of such cases, and as a result, are suffering great financial hardships; CAPP will provide relief from this burden. In addition, the costs of these bad debts from the charity cases would not be shifted to the bills of other paying patients, that is, those with private insurance, Medicare, or Medicaid.

The sponsors of the bill are well aware that this particular budgetary climate poses great problems for creating new programs, regardless of how modest, reasonable, and necessary the program might be. In looking at a way to finance this program for those in the insurance gaps, consideration was given to current federal expenditures for health care. Primarily, the federal government subsidizes health programs through Medicare, Medicaid, and tax expenditures for health care. Both Medicaid and Medicare have been cut under the budget reconciliation process and there is no indication that these programs will be expanded to take care of catastrophic expenses for those currently unprotected.

The second section of the bill is recommended after taking a long, hard look at the other major area of federal expenditures for health care: tax expenditures. In examining the tax expenditures for health care and the substantial subsidy that is afforded to some individuals through the Internal Revenue Code, a basic equity question arises. Can we afford to leave the subsidy for health insurance premiums open ended at the same time that we deny any direct or indirect subsidies to 35–40 million individuals? A recent report by the Congressional Budget Office points out that the tax benefits from this provision in the code, are unevenly distributed and that this is a regressive subsidy.[1] The average tax benefit under current law for all households with incomes between $10,000–$15,000 per year is $83, while the benefit for households with annual incomes between $50,000–$100,000 is $622. On the basis of fairness and equity, CHECC places a cap on this tax expenditure and redistributes the subsidy to those who qualify for CAPP. All tax changes in the bill are specifically designed to make available this last resort catastrophic program to those in the gaps and at the same time to encourage more complete catastrophic coverage in the private sector.

The final section of the bill was added to address the sponsors' pervasive concern with the long-term costs of CAPP, Medicare, Medicaid and health care costs in general. This section of the bill would allow a state or local entity to petition the Secretary of Health and Human Services for a Medicare waiver because of the establishment of a perspective reimbursement system. The petitioners would have to assure the Secretary that their perspective plan will not cost the federal government any more than the cost-based reimbursement system would have, had it been in place. The state and local people can decide how inclusive they would like their prospective system to be, that is, which payors will be covered. Realistically, this is the only way that a prospective system can be put in place, since each locality has a unique set of circumstances regarding what costs need to be constrained.

[1] Containing Medical Care Costs Through Market Forces, May, 1982, Congressional Budget Office.

CATASTROPHIC HEALTH INSURANCE

Details of the bill:

Catastrophic Health Insurance (CHI) is a gurantee that direct costs to individuals for their medical expenses will be limited to a modest amount in relation to family resources. For the purposes of this bill, the term "catastrophic" applies to the financial consequences of an illness at various income levels, rather than to the medical diagnosis and its consequences on the individual's health status.

There are existing private and public programs which approximate this essential criterion, while differing substantially in other dimensions. Within the private sector, contracts vary in the type of services covered, the amount of cost sharing and the choice of providers. A major example of private catastrophic coverage is a "stop loss" provision in an insurance contract limiting the annual family cost share to a fixed amount, such as $2,000. However, such a policy may also have a $100,000 maximum benefit and may not cover long-term nursing care. People enrolled in Health Maintenance Organizations (HMOs) generally have comprehensive financial protection for acute care, but their choices of providers and services are restricted. In the public sector, government programs provide CHI coverage to selected populations. There is variation in deductible and copayment sizes and covered services. In the Medicaid program, beneficiaries must meet categorical eligibility criteria involving family structure, disabilities, income and asset levels to qualify. These criteria differ among the states, but often include some "spend down" option so that categorically eligible persons of higher income can use the program after incurring large medical bills.[2] Medicaid generally provides catastrophic coverage for those individuals who are eligible and those services which are allowed. The federal Medicare program is the most significant third party payor of health expenses; however, it does not provide a "stop loss."

Since some people are obviously covered by these public and private insurance programs for their medical expenses, who are the uncovered individuals? In a Profile of Health Care Coverage: The Haves and Have-Nots (March, 1979, Congressional Budget Office Background Paper), this group is identified:

INCOME

People with family incomes below $10,000 are almost twice as likely to lack health care coverage as are people with incomes between $10,000 and $15,000. Compared with those in the $15,000-and-over income group, they are three times more likely to lack coverage by a private or public plan. These lower-income persons make up 55 percent of the uninsured population.

EMPLOYMENT STATUS

Because much health insurance is provided through employers, lack of coverage is to a large extent a function of whether one is employed or unemployed. It also depends upon other factors such as the industry in which one is employed, how long one has been in a particular job, or how long one has been unemployed.

More than one-third of the uncovered are employed. Although there are many more uncovered full-time wage earners than uncovered part-time wage earners or self-employed persons, full-time workers are much less likely to lack coverage than either of the other groups. Only 6.5 percent of full-time wage earners are without coverage, compared with 12 percent of part-time wage earners and 15 percent of the self-employed. Insurance coverage among part-time workers is low because most employers do not provide health insurance or other fringe benefits to part-time workers. Among the self-employed, insurance coverage is lower because, unless they can obtain group coverage through membership in an association, the self-employed must buy individual coverage that is more expensive.

The employed uncovered are principally in the agriculture and forestry, personal services, construction, and retail trade industries. The lower rate of coverage in these industries reflects several factors, such as the intermittent or seasonal nature of employment, the relatively higher proportion of part-time and self-employed workers in these industries, and the relatively lower wages of the workers, which means fewer resources to be devoted to health insurance.

Twenty-seven percent of the unemployed are without health coverage, compared with eight percent of the employed. This relatively low rate of 27 percent is explained by two factors: (1) some unemployed are covered under policies of other family members; and (2) some unemployed are out of work for only short periods and have coverage that is extended during layoffs.

FAMILY STATUS

While more than half of the uncovered persons are not in the labor force, 90 percent of this group are dependents in families. Often, the family members lack coverage although the family head has coverage. The family head may not have been offered, or may have waived, an opportunity to insure the dependents.

The second large group of uncovered persons are employed: they make up one-third of the uncovered. In four out of five cases when an employed family head lacks coverage, the family is without coverage as well. Therefore, lack of insurance coverage among this group has ramifications for a much larger group of people.

Although the unemployed have been a legitimate focus of concern in the past discussions of national health insurance, it appears from the CBO data that lack of health insurance among the employed has even greater ramifications: not only are they a larger proportion of the uncovered, but more of them are family heads. Only 15 percent of the uncovered unemployed are family heads, compared with 32 percent of uncovered full-time wage earners. Moreover, the uncovered employed have eight times as many uncovered dependents as do the uncovered unemployed.

This information from CBO provides the sponsors with the basis for encouraging more catastrophic coverage in the private sector through incentives, and a strong justification for providing some form of public assistance for those individuals in the gaps, primarily the lower-income. The specific details of the provisions of the bill for the private and public sectors follows.

THE CATASTROPHIC PLAN

PRIVATE SECTOR

Employer-paid premiums

Employers will be encouraged, but not required, to offer a health plan that meets the following conditions:

1. Catastrophic coverage: A plan, perhaps the only plan offered by a company, would cover all catastrophic medical expenses that exceed $3,500 in out-of-pocket expenses. One plan must be offered at this level of coverage in order for the company's employees to claim their health insurance premiums as a tax exclusion.

2. Such a plan will be made available to all full-time employees, that is, those who work 30 hours a week for at least 13 weeks.

3. The employer agrees to pay 50 percent of the least expensive premium.

4. Conversion privileges will be offered when there is a change in the policyholder's life situation, that is, death, retirement, divorce.

5. Any contribution by an employer to an employee's plan that exceeds $100/month/family would be treated as taxable wages. The employee would pay taxes on the additional amount, and the employer would pay FICA and FUTA taxes. The employer's contribution in excess of the tax cap would continue to be a business deduction, as it would be if the compensation came directly in the form of wages.

* * * * *

These conditions are presented as incentives to the employer to offer, at the very least, a catastrophic health insurance plan which all full-time employees can afford. Currently, some employers offer a health insurance plan only to their top executives, and make no such offer to the low-wage earner in the company. If this practice were to continue, under CHECC, those contributions will be fully taxable to the employee. In other words, the bill has strong incentives for an employer to offer some plan to every employee and extend them the benefit of group rates.

The provision that the employer pay for 50 percent of the least expensive premium assures that the same low-wage earner will not have to bear the full cost of the premium on his own. This corresponds to an inducement not to rely on the public plan whereby a stiff penalty is imposed under CAPP for those who have been offered a private plan at work, but refused it. Without this provision, some low-wage earners would have to pay the full cost of their private plan premiums or be subjected to penalties under CAPP. Because the sponsors want people to purchase private insurance and not utilize CAPP unless absolutely necessary, this protection is needed to assure the low-wage earner that an adequate, affordable plan can be purchased.

Similarly, conversion privileges are suggested so that individuals do not go uncovered for their medical expenses during transition times in their lives. If uncovered, they are potentially candidates for CAPP. CAPP will be there for them, if necessary, but preferably they will have private insurance.

As explained earlier, the placement of a limitation on the tax benefit is justified on an equity basis. Because of limited federal resources, this subsidy is restricted and redistributed to those Americans who currently have no form of public or private insurance for their catastrophic medical expenses. This change would in no way prohibit a larger contribution to an individual's

[2] "On the Surprising Low Cost of State Catastrophic Health Insurance Programs," Working Paper No. 64, May, 1982. By Bernard Friedman, Caroline Ross, Glen Misek of the Center for Health Services and Policy Research, Northwestern University, Evanston, Illinois.

health premium by the employer, but would affect the tax treatment of any amount in excess of the tax cap.

If an employer chooses not to adhere to these conditions, this would not affect his business deductions for such contributions. However, all contributions to any employee's health plan will be treated as wages, and the employee will be taxed accordingly.

Insurance purchased by individuals, not at group rates

Currently, any individual who itemizes gets a tax deduction of $150 for 50 percent of their premium payments. However those who purchase individual, non-group plans do not receive employer contributions toward their premiums, an additional tax advantage; neither do they reap the benefit of group rates. To equalize the subsidy to these individuals, and to give them an incentive to either purchase or retain their private insurance rather than relying on CAPP, the maximum premium deduction to qualified individual health plans is raised to 100 percent of $500 annually.

PUBLIC SECTOR PROGRAM

ELIGIBILITY

Catastrophic automatic protecton plan: CAPP

The point at which an individual becomes eligible for assistance under CAPP varies with his income. CAPP establishes a series of income-related deductibles, co-payment requirements, and "stop loss" limits. Initially, an individual would verify that his family had incurred medical expenses which were equal to the deduction for his income level and were not covered by another health plan, including Medicare and Medicaid. After that point, the person would pay for a percentage of his additional expenses and CAPP would cover the substantial remainder. Finally, when a persons' out-of-pocket expenses reached the "stop loss" limit for his income level, CAPP would pay for 100 percent of all covered services. The following table shows the income levels and related obligations under CAPP:

Family income	Deductible	Copayment rate (percent)	Stop loss limit
$5,000 or less	$250	10	$500.
$5,000 to $7,500	$250 plus 20 percent of income over $5,000.	15	$500 plus 25 percent of income over $5,000.
Over $7,500	$750 plus 30 percent of income over $7,500.	20	$1,125 plus 35 percent of income over $7,500.

Note.—Indexed to the average per family income change.

BENEFITS

CAPP simply extends current Medicare benefits to those who become eligible for the program. Expenditures made by the individual for services covered by Medicare will also count toward the deductible and stop loss limits.

There are certain cost-effective, preventive services that will be covered under CAPP that are not now covered under Medicare. They are: pre-natal care, first year well-baby care, immunizations, and certain chronic-treatment drugs.

RESTRICTIONS

An individual who refuses a qualified plan that was offered by his employer with the idea of using CAPP if he gets sick will be severely penalized under the program. That individual's stop loss limit will increase 100 percent, or $1,850, whichever is greater, with corresponding increases in the deductibles.

TAX PROVISIONS

Two of the three tax changes have already been mentioned, and the justifications given. To recapitulate:

1. A tax cap of $100/month/family is placed on the federal subsidy towards a qualified health plan.

2. The premium deduction for individual plans is raised to 100 percent of $500 annually. Current law which allows a deduction for 50 percent of $150 payment toward a premium will remain intact for those who benefit from a group plan offered by their employer.

There is one other tax change:

3. The provision in current law that allows for a medical deduction of any amounts exceeding 3 percent of an individual's Adjusted Gross Income (AGI) is eliminated, with a few exceptions, e.g., this deduction would continue for the taxpayer, his spouse, and dependents while a resident of a long-term care facility.

This provision was included in the code in 1942 when most people did not have basic health insurance. In recent years, its continuation has been justified on the ground that it assists people with extraordinary and involuntary expenses. Under CHECC, these expenses will either be covered under private plans or CAPP, and its continuation is therefore unnecessary.

The exception is allowed because CAPP does not cover long-term care. A CBO study [3] indicates that this provision is used by many lower-income elderly as a way of protecting themselves against the catastrophic expenses of long-term care in nursing homes. In fact, 66 percent of the over-65 year olds that use this provision of the code have an AGI of less than $20,000, while only 2.5 percent of those earning over $100,000 claimed this tax deduction. It is unusual that those making below $20,000 would even bother to itemize, but their medical expenses for long-term care force them to do so. Many of these individuals would otherwise be forced onto the Medicaid program, which already spends 40 percent of its budget for long-term care.

* * * * *

The sponsors reiterate the point that all changes in the tax code relate to the creation of a catastrophic plan in the public sector, and a desire to see more catastrophic coverage in the private sector. Every effort has been made to make as few changes as possible in the current system, and still accomplish the goals of the legislation.

Please note that there are no provisions in the bill specifying the number of plans an employer should offer. The bill is also silent on the issue of fixed contributions and rebates.

PROSPECTIVE PAYMENT PROPOSAL

The last major provision of the bill provides that a state or legal entity may apply to the Secretary of Health and Human Services to have all affected hospitals reimbursed under a prospective payment system rather than on the bases otherwise provided under Medicare. The Secretary must approve the request if the proposed system meets the following criteria:

(1) The applicant must provide satisfactory assurances that under the new system, Medicare and Medicaid expenditures for hospital services will not be greater than the expenditures which would have been made under the existing system.

(2) The proposal must assure that the operation of the system will not result in any change in hospital admission practices which result in a significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is less than the anticipated charges for or costs of such services, the refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital, or the refusal to provide emergency services if the hospital provides such services.

(3) The applicant must treat all public entities and programs that pay hospitals for inpatient hospital services equitably.

* * * * *

For a state to seek a waiver, the prospective system must be established by statute and be operated directly by the state.

Furthermore, a legal entity's proposal must (a) be approved by the chief executive officer of each state in which a hospital is covered by the system, and (b) not apply to a hospital which is covered under a State alternative system, except as may be provided for by the Secretary through a waiver.

The sponsors recognize that the shift to a new system, including a prospective one, will not be simple or easy. However, the retrospective system is not working and something else must be tried. The merits of a prospective system are: First, the Federal Government, and other health insurers who are included in the proposal, can have predictable outlays, and second, there is an incentive for the provider to use the most cost-effective approach to treating the patient, since any savings from the predetermined amount is a profit to the provider. Otherwise, the provider is at risk for the additional amount.

The move towards a prospective system has wide-spread support from many groups, including some eldlerly organizations, insurers, hospital associations, and business groups. On the specifics, however, there is a good deal of disagreement on what type of proposal would actually work best. That is why it would be very difficult to develop a solution that would be applicable nationwide. We can have national standards and criteria, without having identical programs throughout the country.●

[3] Reducing the Federal Deficit: Strategies and Options, February, 1982, Congressional Budget Office.

GENERAL LEAVE

Mr. GINGRICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today of the gentleman from North Carolina (Mr. MARTIN).

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Georgia?

There was no objection.

SUPER SENIOR SUNDAY IN SAN FRANCISCO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, September 26, 1982, will be Super Senior Sunday in the San Francisco Bay area. The Fifth Annual Senior Picnic and Fair will be held at Civic Center Plaza in San Francisco.

This innovative approach to the problem of seniors might well be a role model for the rest of the Nation.

This massive nonprofit event has two primary aims:

Provide information to seniors—from senior agencies and services—that improve the lives of seniors.

Improve the services and cost effectiveness of agencies that serve seniors by bringing them face to face with large crowds of the very seniors they are trying tor reach.

Super Senior Sunday can be best understood by relating to the elements that comprise the entire project:

"Medical Garden," offers free medical testing, information, and referrals, coordinated by Olsten Health Care Services.

"Housing and Preretirement Center," a wide range of housing and preretirement alternatives. Housing information directed by Retirement Inn of Burlingame.

"Young at Heart," live animals from Marine World Africa USA, the San Francisco Zoo, San Mateo County, 4-H program, and a wide range of senior services on pet care. "Young at Heart" information directed by the San Francisco SPCA.

"Creative Elders," arts and crafts made and displayed by seniors. This are under the direction of Pleasure Endeavors Project, Inc.

"Information Bonanza," over 60 educational booths of a diverse nature will provide seniors with assistance and information, directed by the Gray Panthers and Legal Assistance for the Elderly.

"Super Stage," three to four stage shows will take place on the "Super Stage" that will be erected in front of city hall. Additional entertainment will also take place within Civic Center Plaza throughout the day.

Food—senior-oriented nonprofit organizations will sell food at prices lower than retail with any profits going to aid their own senior programs.

The original concept of Super Senior Sunday was created in 1978 by Charles L. Kirk with the help of the late Mayor George Moscone. For the last 4 years, 1978 to 1981, this project was simply called the Annual Senior Picnic and Fair and was held on a Thursday at Sigmund Stern Grove. The need for this type of project and the expertise to make it happen is based on 4 years of proven experience. The worth of this project to seniors has for 4 years been measured by the seniors who attend and reports received from nonprofits that participated.

I am happy to call this unique and most worthwhile event to the attention of my colleagues in the House.●

TRIBUTE TO JONATHAN BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. O'NEILL) is recognized for 5 minutes.

● Mr. O'NEILL. Mr. Speaker, one of the happier duties of a Speaker of the House of Representatives is the swearing in of House Members of a new Congress every 2 years. And one of the sadder duties is to rise to say farewell to one of them, especially one of the caliber of JACK BINGHAM.

Journalist, author, soldier, administrator, and diplomat, JACK brought a unique background to this House 18 years ago. He leaves with an even more impressive record, having earned the unofficial title "Ambassador of Peace."

Counselor and confidante to the likes of New York Governor Averell Harriman and United Nations Ambassador Adlai E. Stevenson, JACK learned from these giants of American history to work tirelessly to solve world problems through quiet diplomacy, not war. He practiced that lesson with consumate skill in his years of service in this House. It is only natural that he would become the author of the Nuclear Non-Proliferation Act, coauthor of the Bingham-Nelson Arms Export Control Act, and more recently a leader in the nuclear freeze movement.

This quiet and peaceful man waded into the rough and tumble politics of ther Bronx to upset an entrenched and tough incumbent, Charles Buckley, in 1964. I understand that since then JACK never got less than 70 percent of the vote in his district. He obviously did his homework for his constituents, but he brought the same dedication to the legislative process.

In addition to his deep interest in world affairs, JACK worked equally hard on his other committee assignment, Interior and Insular Affairs, where he joined with Chet Holifield and FRANK HORTON to create the Energy Research and Development Administration, the forerunner to the present Department of Energy, and distinguished himself as a leading environmentalist.

JACK's long experience in the diplomatic corps trained him well in the art of compromise, without which the political process could not proceed. But another attribute that JACK brought to his congressional service was political courage. He showed it in 1967 in only his second term in the House, joining only 17 other Members to challenge a powerful President of his own party and vote to stop the bombing in North Vietnam. Again as a member of the Steering and Policy Committee, in 1974, he sponsored the move for a closed ballot in recommending committee chairmanships to the Democratic Caucus, a key part of the reform movement.

When the fortunes of reapportionment confronted JACK with running against a Democratic incumbent who practices the same brand of liberalism as he has in his nearly two decades in the House, he stepped aside to TED WEISS, his junior in service, take the nomination. In this decision, as in his conduct throughout his years in Congress, JACK BINGHAM demonstrated the graciousness and thoughtfulness for which he is so widely admired by his colleagues and by all who know him.

Mr. Speaker, my wife Millie joins me in wishing JACK and his devoted and talented wife, June, many continued productive and happy years. The House will miss him.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, July 23, 24, 25, and 26 I had the privilege of being one of the congressional delegates to the World Conference on Aging in Vienna, Austria sponsored by the United Nations. Unfortunately that forced me to miss a number of votes. Thus I would like to make my position known by inserting into the CONGRESSIONAL RECORD how I would have voted if I were present respecting the rollcalls I missed.

Rollcall No. 214: Approval of the Journal for July 26, "yea."

Rollcall No. 215: H.R. 6782, veterans' disability compensation amendments. Motion to suspend the rules and pass the bill, "yea."

Rollcall No. 217: Approval of the Journal for July 27, "yea."

Rollcall No. 218: House Resolution 536, adoption of the rule for H.R. 6862—Civil Service Reconciliation, "yea."

Rollcall No. 219: H.R. 6030, Hance amendment to the Scrhoeder amendment as amended by the Nichols amendment, to allow State courts, in States that treat marital property as community property, to decide whether to include armed service members' military pensions and military benefits in the property to be divided by a divorce settlement, "yea."

Rollcall No. 220: H.R. 6030, Stratton amendment to extend for one year a test policy allowing the Pentagon to pay a premium price in order to pur-

chase certain goods from firms in areas of high unemployment, "yea."

Rollcall No. 221: H.R. 6030, Simon amendment to prohibit Federal education assistance to any young man who did not comply with the law requiring registration with the Selective Service System, "yea."

Rollcall No. 222: H.R. 6030, Solomon amendment, as amended, to prohibit federal education assistance to any young man who did not comply with the law requiring registration with the Selective Service System, "yea."

Rollcall No. 223: H.R. 4961 budget reconciliation tax increases/spending cuts motion to table the Rousselot resolution, House Resolution 541, "yea."

Rollcall No. 224: H.R. 4961 budget reconcilation tax increases/spending cuts—Rostenkowski motion to disagree to the Senate amendments and to agree to a conference, "yea."

Rollcall No. 225: H.R. 4961 Conable motion to instruct the conferees to insist that the conference agreement reach the revenue-raising and spending-reduction targets in the first fiscal year 1983 budget resolution, "nay."

Rollcall No. 226: H.R. 6030 Markey amendment to reduce the authorization for civil defense programs by $108 million, "nay."

Rollcall No. 227: H.R. 6030 Downey amendment to delete $336.7 million for development of the Trident II submarine-launched missile and $26 million to modify Trident submarines to carry the Trident II missiles and add $26 million for development of the Axe nonnuclear missile "nay."

Rollcall No. 228: H.R. 6030 Schroeder amendment to reduce by 50 percent the number of U.S. military personnel stationed overseas over a 4-year period, "nay."

Rollcall No. 229: H.R. 6863 supplemental appropriations fiscal year 1982, "yea."

Rollcall No. 230: H.R. 6030 Glickman substitute to the Schroeder amendment to cut 5 percent across-the-board (Glickman substitute cut 1 percent), "yea."

Rollcall No. 231: H.R. 6030 Schroeder amendment as amended by Glickman, "yea."

Rollcall No. 232: H.R. 6030, Department of Defense fiscal year authorization final passage, "yea."●

CODIFICATION OF SUBTITLE I AND CHAPTER 31 OF TITLE 49, UNITED STATES CODE, "TRANSPORTATION"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitle I and chapter 31 of title 49, United States Code. Subtitle I codifies laws related to the general organization, duties, and powers of the Department and Secretary of Transportation and chapter 31 codifies laws related to motor carrier safety. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the Office to prepare and submit to the Judiciary Committee of the House of Represenatives, for enactment into positive law, all titles of the United States Code.

Anyone interested in obtaining a copy of the bill, and a copy of the draft report to accompany the bill, should contact: Mr. Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2-304, House Annex No. 2, Washington, D.C. 20515.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than 5 p.m., September 15, 1982.●

DISAPPROVAL OF DEPARTMENT OF EDUCATION REGULATIONS (H. CON. RES. 388)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, the following remarks concern House Concurrent Resolution 388, the disapproval of Department of Education regulations. I was unable to make these remarks during the debate, but wanted to include them for the RECORD.

Once again the House of Representatives faces the necessity to reject Department of Education regulations which are in conflict with statute. In this case, the Department attempts to exempt the regulations governing the Education Consolidation and Improvement Act from the requirements of the General Education Provisions Act, and specifically from the legislative review provision—section 431.

I strongly support House Concurrent Resolution 388, to disapprove these regulations.

This action by the Department of Education is clearly outside the letter and spirit of the authorizing statue.

It is particularly ironic in light of the history of this Department. When the Department of Education Organization Act was being considered on the floor of the House of Representatives, there was a colloquy between Chairman JACK BROOKS of the Government Operations Subcommittee and myself regarding the applicability of the legislative review provision, section 431 of the General Education Provisions Act, to the new Department of Education (CONGRESSIONAL RECORD, June 7, 1979, pp. H4229-H4230). It was made crystal clear at that time that the applicability of the legislative review section was to be in no way diminished.

Mr. LEVITAS. . . . Now, Mr. Chairman, if I could get the attention of the chairman of the full committee, my distinguished colleague from Texas (Mr. BROOKS) for the purpose of clarifying and spelling out the legislative history of section 424 of this bill (ed: 414 in final Stat.). I would like to ask the chairman of the Government Operations Committee some questions about the section-by-section discussion of section 424 in the committee report. Is my understanding correct that it is not the intention of the committee to cut back on the previous application of the scope of the rule and regulation review contained in the General Education Provisions Act to any program it now covers?

Mr. BROOKS. That is my understanding, yes.

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Mr. BROOKS. My distinguished friend, it was not the intention of the committee to cut back on the coverage of the GEPA provisions. The language of the bill clearly indicates that the GEPA provisions are to continue to apply to the same extent that they are now applicable and in addition, certain new tranferred functions will additionally be made subject to the GEPA rule and regulatory review and veto provisions as specified in section 424 of this bill.

Mr. LEVITAS. I thank the chairman for qualifying this point so there will be no mistake about the legislative history on this question.

Thus, it is obvious from the legislative history, the General Education Provisions Act is to apply to all statutes unless specifically exempted. Therefore, it should be applied to the Education Consolidation and Improvement Act.

Section 414(b) of the Department of Education Organization Act specifically applies section 431 to rules and regulations promulgated by the Secretary of Education. At the time the original bill H.R. 2444 was reported by the Committee on Government Operations, I made this observation a separate view published in the report:

My other amendment makes this the first Government agency to be established from the outset with a legislative veto provision on substantially all of its rules and regulations. . . . This congressional veto will have a twofold effect. It makes the Department more responsive to the public and to Congressional intent by establishing the unquestioned realization in each agency that they cannot promulgate regulations with impunity. . . . It is axiomatic that we will see more carefully drafted regulations, as weli as more attention being paid to the views of citizens during the comment period. Its very existence during the comment period. Its very existence will sensitize the bureaucracy and make it more responsive. (H. Rept. 96-143, p. 45: Separate Views of Hon. Elliott H. Levitas.)

The inclusion of this provision in the law, and indeed the creation of the Department of Education itself, was intended to increase such responsiveness and to curtail uncontrolled bureaucratic activity.

The Department of Education is now attempting to jettison the General Education Provisions Act, with its

substantial protections: provisions for advance funding of education programs, privacy of student records control of Federal paperwork burdens, prohibition of Federal control of education, and many other important provisions. This clearly contradicts the intent of Congress in enacting the authorizing statute—the Education Consolidation and Improvement Act. In addition, such an action is a giant leap away from the responsiveness purposely built into the Department of Education at its inception.

Most important, the Department's action here interferes with the Congressional duty to review regulations—the "mini-laws" the bureaucracy thrusts upon the American public.●

LEGISLATION TO REVIVE FOREST PRODUCTS INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BONKER) is recognized for 5 minutes.

● Mr. BONKER. Mr. Speaker, I am today introducing legislation to revive the forest products industry, restore jobs, and boost revenues to Federal and local governments.

Without action by Congress and support from the administration, innumerable small and independent businesses in timber-producing States are doomed to fail.

Production of wood products in the West, accounting for nearly half the nationwide total, was down 15 percent 1 week recently. This, according to the Western Wood Products Association, was the "high" for 1982. Some 10,639 workers were unemployed that week; 21,687 were working curtailed hours; 97 mills were closed; 181 operations were curtailed.

The Federal Government, the major seller of timber in the West, has suffered increasing losses in revenue as businesses continue unable to meet Government contracts. Revenue to local governments, covering such things as school and road construction, also has taken a nosedive.

The cure will produce, not lose, money for the Government. This legislation will enable the administration to terminate or modify overpriced contracts upon a showing of economic hardship, many of which will be defaulted on otherwise.

During the last decade, housing starts reached 2 million a year. Many of these firms, basing their actions on constant predictions of a continued housing boom, invested substantial sums in high-priced contracts to avoid projected timber shortages. Housing starts have fallen in half since then.

These contracts are now coming due. The price is higher than the market will bear any time in the forseeable future.

Termination of some contracts will enable firms to rebid, harvest timber that otherwise would remain uncut, and pass savings onto consumers throughout the Nation. Extension of some contracts will enable mills to hang on. This legislation provides both options, and further, allows modification of contract terms.

While Congress mulls the question of aiding a distressed industry, Canada continues its policy of low-stumpage prices, Canadian lumber exports to the United States has gone from 19 percent in 1975 to over 30 percent in 1981.

While the administration mulls the question, housing starts have fallen to 1 million a year. When the economy picks up, we must have an industry in place to serve the needs of the American public. If many independent and small businesses have succumbed in the interim, competition in the marketplace also will have dwindled. The result will be higher prices to consumers.

Simple extension of contracts will not do. Delaying defaul or severe economic hardship will not serve the needs of industry or the Nation. And it certainly will not put bread on the table of thousands of unemployed loggers, truckers, and other forest products industry workers.

I am pleased to introduce this bipartisan legislation with my colleagues NORM DICKS, AL SWIFT, DON YOUNG, and DON CLAUSEN. Individually, we all differ on the perfect solution to the problem. Together, we offer it as a fast-track discussion vehicle.

It is similar to legislation introduced in the Senate by Senators HATFIELD, JACKSON, GORTON, and others, and in the House by Representatives WEAVER and AUCOIN.

This legislation, however, would create a timber contract relief task force to advise the Secretaries of Agriculture and Interior on contract modification.

It further would require the Secretaries to report back to the President and to Congress on their efforts.

I applaud the quick action in both Houses to conduct hearings on this pressing problem, and urge my colleagues' support.

Congress once before enacted similar legislation. The year was 1935. Let us not wait for the economy to grow any worse before we act this time.

I include at this time a copy of this legislation in the RECORD:

H.R. 6996

A bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that in order to avert widespread bankruptcies, sustain the flow of income from Federal forest lands to the Federal treasury and to units of local government, and assist in restoration of employment, it is in the national interest to provide for the modification of certain contracts for the purchase of timber from Federal lands.

SEC. 2. Upon a showing of economic hardship by the private contractin of a portion of timber sales contracts for the purchase of timber bid prior to January 1, 1982, held by a private contracting party;

(2) extension of the termination dates of such contracts, not to exceed five years beyond original termination dates of such contracts; and

(3) modification of the purchase price of the timber sold, reflecting current market values, for such contracts that are not extended.

SEC. 3. The Secretaries shall publish procedures for the modification of contracts pursuant to this Act in the Federal Register within 60 days after the date of enactment of this Act.

SEC. 4. The authority granted pursuant to this Act shall expire one year after the date of enactment of this Act.

SEC. 5. (a) There is hereby established a Timber Contract Relief Task Force (hereinafter in this section referred to as the "Task Force").

(b) The Secretaries shall appoint jointly the members of the Task Force not later than 15 days after the date of enactment of this Act. Such members shall represent the views of all segments of the forest products industry (including independent forest product manufacturers, mill owners, and labor organizations) and the views of other interested persons.

(c) The Secretaries are required to consider the recommendations of Task Force members concerning modification of contracts under section 3 prior to the publication of procedures for the modification of contracts in the Federal Register.

(d) The Task Force shall furnish, as the Secretaries carry out contract modifications, information and advice to the Secretaries concerning the effectiveness of such modifications in achieving the purposes of this Act.

(e) Members of the Task Force shall serve without compensation as such, but the Secretaries are authorized to pay, upon vouchers presented by the Task Force members, expenses reasonably incurred by the Task Force and its members in carrying out their responsibilities under this Act.

(f) The Task Force shall terminate one year after the date of enactment of this Act.

SEC. 6. Not later than 180 days after the date of the enactment of this Act, the Secretaries shall submit a report to the President of the United States, the Speaker of the House of Representatives, and the President of the Senate containing findings and conclusions concerning the effectiveness of the modifications of contracts carried out under section 3 in achieving the purposes of this Act.●

● Mr. SWIFT. Mr. Speaker, the Pacific Northwest has been severely hit by the depression. The unemployment figures in the region are double and in some counties triple the national average. These economies have one thing in common—they are based on the forest products industries. The economies of entire towns depend on this vital commodity.

No particular portion of the industry has remained unscathed—from mill closures, to layoffs to shutdowns, each

is hurting for some assistance. We must make an effort to help by spurring the wood products industries and putting life back into our communities.

Today, along with my other colleagues from the West, I am introducing a bill that will provide a vehicle for this effort. It may not be the complete answer but it is a start toward that important revitalization this industry—and the economy of the Northwest—so badly needs.

This bill allows the Secretaries of Interior and Agriculture, upon proven economic hardship to modify, extend or cancel timber sale contracts. This bill would also create an industry task force which would provide input into the process and report on the effectiveness of the program.

Mr. Speaker, hearings have already been scheduled on this issue and I would like to thank the chairman of the Subcommittee on Forests for recognizing this problem and for his quick action to seek a solution.●

● Mr. DICKS. Mr. Speaker, today I rise to join my good friends and colleagues from the Pacific Northwest in sponsoring legislation which will provide much needed relief to the forest products industry and to those it employs.

Like my colleagues, I am very concerned about the numerous bankruptcies in the region's forest products industry, the high levels of unemployment in this sector of the Pacific Northwest's economy, and the reduced flow of income from Federal forest lands to the U.S. Treasury and to units of local government.

As many in this House know, high interest rates have thrown the housing industry into the worst depression since the thirties, and as a result lumber prices have plummeted to levels half as high as they were in 1979. Sawmills, plywood plants, and shake mills in the Northwest have experienced repeated and lengthy closures. In addition, the economy of the area, where the forest products industry is the largest industrial employer, has been rocked by the highest levels of unemployment since the Great Depression of the thirties.

This situation is cruel to workers and their families; devastating to small, family-owned mills; and bad for Federal fiscal policy—especially since the costs of unemployment in the region increases the Federal deficit.

In 1936, the Congress and the industry faced a similar depression in the forest products industry. Then Congress responded by passing legislation which allowed for termination of certain timber sales contracts on Federal lands. At this time, I believe Congress should again consider this alternative and other timber contract relief measures.

The issue is not whether the Federal Government will receive the prices bid for current timber sales or forgo that revenue for the lower prices the timber would resell for today. The real question is: Should legislation, like the bill we introduce today, be passed to deal with a problem experienced by an industry which employs hundreds of thousands of workers and which has been devastated by high interest rates?

It is a fact that timber at current prices will not be harvested. Without this harvest more mills will shut down; loggers, equipment operators, and suppliers will remain unemployed and the economy of the area will continue to suffer from these revenue losses.

Only if timber is available at a price which allows mills to come close to breaking even will this timber be harvested. Then and only then will workers be rehired and the drain on the Federal Treasury due to unemployment benefits and food stamps be reduced.

To accomplish this, legislation solving these problems must be passed.

I urge those in this House and in the Senate to join us in this effort.●

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Washington (Mr. BONKER).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

RONALD REAGAN, UNION BUSTING, AND AIR SAFETY

(Mr. GONZALEZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. GONZALEZ. Mr. Speaker, a week before last, I spoke out on the critical issue involving safety in our national air transportation system. I pointed out that lost sight, in the wake of the highly charged, emotional issue of the strike, was the basic issue of deteriorated and dangerous air safety capacity of the system.

I also pointed out the most ominous byproduct and that is that for the first time in our history, the Government kills or blots out a labor union. The meaning and the ultimate ramifications of the impact of this has yet to be realized. I have appealed to the President for months, since the demise of the union, to recall the experienced traffic controllers—but above all in doing so—saving the $1 billion that he is spending in hiring new air route traffic controllers after training in order to do the absolute essential upgrading and modernizing of the air route traffic control system and the technology that is sorely needed.

The two terrible tragedies costing over a couple of hundred lives, in my opinion, needlessly, can be directly attributable to the failure to, first, man at the proper levels the air traffic control roster; and, second, the unpardonable tragedy of not even modernizing the techniques of weather information dissemination.

The President, the Secretary of Transportation, Drew Lewis, particularly, the Director of the Federal Aviation Agency, the Chairman and the Members of the Board of the National Transportation Safety Board, all are individually and collectively just as guilty of these two tragedies—the first in January at National Airport, and the second more recently in New Orleans—as much as anyone and certainly as much as the poor pilots, now dead, who cannot defend themselves, but who are now, in post mortems, being tagged with the culpability and responsibility of these tragedies. I believe this is abominable.

Ronnie Reagan, the chief union buster in the country, and his deputies, cannot escape fate's ultimate judgment and the inexorable confrontation with justice. But at this time, I plead and implore with these leaders to recall the traffic controllers, man the personnel at realistic levels, and above all, modernize our antiquated equipment.

Regrettably, I must continue to press another point and that is that future, equally tragic and perhaps far worse—tragedies though God forbid—are in the making. For example, National Airport continues to be a terrible danger and yet just this last week Federal officials announced they were going to increase the traffic at that airport. I warn that the potential for terrible disaster continues every day and night at National, because of fundamental, structural, inherent dangers in the runway system of an airport that has outgrown its safety. While, on the other hand, Federal officials have allowed the safest airport in the world—Dulles International Airport—to be practically vacated. This is a horrible, perverted sense of priorities.

Mr. Speaker, I offer for the RECORD, at this point, enclosed reports concerning this matter:

[From the Dallas Morning News, Aug. 1, 1982]

SETBACKS FROM AIR CONTROLLERS' STRIKE LINGER

(By Anne Swardson)

WASHINGTON.—On the face of it, air travel is still suffering from the effects of the walkout last year by air traffic controllers.

One year after 11,400 controllers struck and promptly were fired, delays are longer, flights are fewer and airlines are having

trouble getting permission to expand their service.

Airlines, private aviation, passengers and even other government agencies complain about the government agency that made it happen, the Federal Aviation Administration.

But the gripes often are contradictory, and most of the complainers also say that the FAA has done a good job during difficult circumstances. The gripes are coming from all sides, suggesting that the FAA has had some success in balancing competing claims to the newly limited airspace.

"Am I satisfied? No. But I understand what they did and why they did it," said Wesley Kaldahl, senior vice president-planning for American Airlines.

The grievances with the agency's handling of the aftermath of the controllers' walkout tend to reflect the losses each interest group has suffered as a result of the strike rather than a unified view of how the FAA could have performed better.

The agency stands accused of favoring large, established airlines and of favoring small, new airlines. The FAA has been faulted for aiding private planes at the expense of commercial air carriers and vice versa.

Officials at the Dallas/Fort Worth Airport said the FAA has ignored its need for more flights in the growing region while permitting expansion in areas with less travel demand. Meanwhile, smaller communities said the big cities are getting better air service.

"There has been a great deal of pressure from all directions," said Don. L. Adams, vice president-law for Delta Air Lines. "Of course, we'd like to see it resolved in the way that's best for us."

Most of those affected by the controllers' walkout said that during the last year the FAA has done as well as could be expected in coping with averting a shutdown of the entire system.

The FAA method of limiting airport-landing times, or slots, however, has been criticized heavily in the Dallas area. The May 13 bankruptcy of Braniff International exacerbated the unfair way the FAA limited slots at D/FW, officials said.

The agency had passed out most of the slots at the 22 largest airports through a series of lotteries. But when Braniff went under, about 100 of its 411 slots simply were handed to other airlines after closed-door agency meetings. Even after the FAA redistributed them through more lotteries, the agency decided to eliminate 50 slots at D/FW for safety reasons and switch another 16 to Love Field.

Nor did the agency grant the D/FW request for additional slots earlier in the year even though traffic hit records in March.

"It's patently unfair, the way we're being treated in this thing," D/FW spokesman Jim Street said. "It's totally insane to put (slot) increases in passenger demand."

D/FW now has about 1,200 flights in and out every day, down from 1,400 before Braniff went under and 1,600 during July 1981, Street said. The drop is a 25 percent decline from last year. Nationwide the drop in service is only 17 percent, FAA figures show.

FAA administrator Lynn Helms does not give news interviews. But FAA spokesman John Leydon said the agency is creating new slots as fast as the air traffic control system can absorb them.

"We were having some severe delay problems at D/FW," he said. "The number of additional slots reflect what we consider to be the capacity at that airport." Leydon also said understafing at air traffic control centers, which oversee airplanes after they leave the control of the airport tower, act as an additional restraint on capacity.

Airlines in Texas and elsewhere fault the FAA for its slot-allocation methods—but politely. The agency, now overseeing the granting of what effectively amounts to air routes even through the industry ostensibly is deregulated, has more power over air carriers than at any other time.

"The underlying unhappiness with the way the FAA has run the system you'll never hear from the airlines. The FAA has life and death power over them," a Senate aviation staff aide said.

Michael Muse, president of Muse Air Corp., which has been involved in a dispute with the FAA concerning air slots in Midland and Tulsa, echoed the sentiment.

"Our comments have gotten us into a lot of trouble with the FAA. I think I'll withhold comment," he said. The slot controls "are definitely economic regulation, the worst kind," Muse said.

But most airline officials expressed the sentiments of Herbert Kelleher, chairman of Southwest Airlines.

"I'm not saying the system is perfect. But I defy anyone to come up with a system that's more equitable," he said.

Passenger delays throughout the nation are worse than they were before the controller walkout, although not as bad as they were immediately after the strike, the FAA said. According to FAA figures, almost 4 percent of commercial air flights in June were delayed by 15 minutes or more at the 16 largest airports, a 9 percent increase from June 1981.

Experts cannot say whether the controller walkout has affected air safety because of passenger convenience improvements. Three fatal commercial air crashes have occurred during the last year, but the National Transportation Safety Board has not determined the cause of any of them.

A board spokeswoman said the NTSB "has some concerns" about the long hours the 10,300 full-fledged and newly trained controllers are working. But the board has not done a study on controller fatigue since last fall, when the system was determined to be safe.

[From the Washington Post, Aug. 12, 1982]

BOARD ADVISES 11 NEW SAFETY MEASURES FOR 737 JETLINER TAKEOFFS

(By John Burgess)

Boeing 737 jetliner pilots should be required to take new safety precautions when taking off in icy weather, the National Transportation Safety Board recommended yesterday.

The recommendation, one of 11 the board approved yesterday in wrapping up its investigation into why an Air Florida 737 struck the 14th Street bridge during a snowstorm last Jan. 13, is intended to guard against control problems that 737s have experienced in icy weather.

Pilots should apply all or some of the following steps, the board said: Use wing antiice devices while the plane is on the ground to melt any deposits before take-off, increase runway speed beyond current standard levels and employ different wing flap settings to provide extra lift.

On Tuesday, the board ruled that pilot error, including a decision to take off despite the presence of lift-reducing ice or snow on the wings, wal amounts of snow or ice" are present on the wings' leading edges.

The board's recommendations, issued under its mandate to prevent accidents, were addressed to the Federal Aviation Administration, which yesterday declined comment pending detailed study. By law, the FAA is required to respond to, but not necessarily adopt, the recommendations.

The board also called on the FAA to:

Meter traffic more carefully to "minimize airport saturation and extensive traffic delays." The board has cited as a factor in the crash the 49-minute delay between the time ground crews deiced Air Florida Flight 90 and the time it took off, which allowed extra snow and ice to build up on the plane.

Emphasize to tower controllers that arriving and departing planes using the same runway must be at least two miles apart. The FAA should also tighten procedures to assure that controllers errors are reported and investigated, the board said.

The board concluded that a National Airport controller violated regulations by allowing an Eastern Airlines jet approaching from the south to touch down on the southern end of Runway 36 before the Air Florida jet lifted off from the northern end.

Provide "essential equipment and increase personnel training" for water rescues around National Airport, which the FAA owns and operates, as well as "necessary funding for surrounding communities" that would send rescue units to respond to a crash.

National Airport spokesman Dave Hess said the airport already is acting to improve rescue capabilities. Since the crash, he said, the airport has received two new rescue boats and is expecting a third, has bought two helicopter nets for lifting survivors form the water, has installed direct telephone lines to D.C. police marine and helicopter units and is training a diving team.

In the past, the FAA has argued that it should not pay for heavy equipment that local jurisdictions may want to buy, such as helicopters and Hovercraft.

Require that airports with flight paths over water have "adequate water rescue capabilities." Current rules do not require any preparation, though large airports or surrounding jurisdictions generally do have plans in place.

Emphasize to airlines the importance of proper maintenance for ground equipment. The board ruled that a replacement nozzle on a deicing-fluid hose created a mixture more diluted than intended.

Ensure that ground-service contractors understand maintenance procedures for planes they are working on and know who is in charge. The report found that American Airlines personnel who deiced the Air Florida jet on contract did a "deficient" job.

The proposed safety precautions for 737s at takeoff matched in part steps that Britain's Civil Aviation Authority had already taken for British-operated 737s. The CAA ordered "overspeed" and different flap settings earlier this year.

Shortly after the Jan. 13 crash, Air Florida also implemented steps for foul-weather takeoffs that effectively required higher speeds for its 737s. The airline has argued that uncontrollable "pitch-up" for the Boeing aircraft was the prime cause of the accident.

At least 23 incidents of 737s pitching up suddenly in icy flying conditions have been reported since 1968. Boeing has repeatedly advised airlines on how to counter it. Yesterday, Boeing spokesman Tom Cole noted that the company's advice has included overspeed.

In related development yesterday, the Air Line Pilots Association (ALPA) contested the boards's finding of pilot error.

Testifying during a joint hearing into bad-weather aviation accidents by two subcommittees of the House Science and Technology Committee, Jack D. Howell, executive central air safety chairman for ALPA, said he was "baffled by how [the board] could say that pilot error was the cause . . . When you say pilot error, period, full stop, then we don't benefit" from lessons the accident might offer, Howell said.

An ALPA official who took part in the board investigation, Jim McWilliams, added yesterday: "When you come out and say a pilot made an error but don't explain why he made an error, you haven't done one thing to relieve the safety problem."

(Washington Post staff writer Douglas B. Feaver contributed to this article.)

[From the Dallas Morning News, July 15, 1982]

TOWER FAILED TO DETAIL DANGER BEFORE CRASH

WASHINGTON.—The New Orleans control tower apparently violated federal regulations by not issuing detailed information concerning a wind-shear alert before a Pan American World Airways jetliner crashed in a thunderstorm last week, federal investigators confirmed Wednesday.

The National Transportation Safety Board is investigating whether wind shears—sudden, dangerous shifts in wind speed and direction—might have been a factor in the crash that killed 154 people Friday.

Five wind-shear alerts were issued in the 90 minutes before the crash Friday, an NTSB spokeswoman said.

Control-tower instruments buzz and light up when strong winds are detected in the center of the airfield or at any of its boundaries.

At 4:11 p.m., the local controller, who handles takeoffs, said "all quadrants lighting up from minor wind shear."

The Federal Aviation Administration traffic-control manual states that an advisory must be issued after such a multiple alert to indicate the wind position at each quadrant where the shears were reported.

The only subsequent wind-shear advisory on the tape recordings of conversations in the tower was made 17 seconds later, however, when the local controller issued a general advisory saying, "No wind-shear registering in south quadrant."

"According to the ATC (air traffic controller) handbook, they are required to do so (give specific wind readings)," NTSB spokeswoman Barbara Dixon said in New Orleans. "And preliminary readings from the tapes appear to show they did not.

"It does appear . . . upon reading this (the manual) to require that the boundary measurement be given," Ms. Dixon said after consulting with the technical staff in Washington.

Matthew Finucane of the Aviation Consumer Action Project, a Ralph Nader-backed group based in Washington, said the all-quadrant alert, followed by concellation of the alert for the south quadrant only, "could mean there was wind shear in the direction Pan Am was taking off in."

It is not known exactly when Flight 759 switched to the local controller's radio frequency, but its first transmission on that frequency was about two minutes after the fifth wind-shear advisory.

In Washington, NTSB spokesman Ira Furman said lab experts are making "very slow progress" in isolating voices and other sounds on the cockpits voice tape recovered from the Boeing 727-200.

[From the New York Times, Aug. 1, 1982]

AIR TRAFFIC SYSTEM LOOKS TO RECOVERY—YEAR AFTER STRIKE, IT FUNCTIONS, BUT NOT WITHOUT PROBLEMS

(By Richard Witkin)

The nation's air traffic control system appears to have weathered the year since 11,400 union members illegally walked out and were then dismissed by the President much better than was generally expected.

But the underlying labor-management struggle is still being played out, and the consensus of aviation experts is that several uncertainties cloud the outlook for the Reagan Administration's plan to rebuild and refine the system.

Traffic volume is 83 percent of the prestrike level, the experts note, with negligible effect on the number of people flying. And there have been no major accidents attributable to a control error. While travelers have had to tolerate considerably more flight delays than before the strike, that problem has not been as bad as initially feared.

BURDENS AND STRESSES

Two-thirds or more of the dismissed strikers are employed, officers of the controllers' defunct union say, though many are in other fields and their average income is much less than the $33,000 they had been receiving. About 200 are working as controllers abroad.

But many are suffering the burdens of unemployment or inadequate income, and the stresses that followed the walkout have led in some cases to broken marriages and even to several suicides. For others, the difficult readjustments have cemented some family ties.

"We're still in the midst of turmoil, going from a high-paying job to starting over," said Charles Holt, who is 35 years old and took a job as an elevator mechanic after joining the walkout in Miami. Mr. Holt, whose wife has gone to work, added, "I think my relationship with my family is better."

William Cousins, who is also 35, recently opened a heating and cooling subcontracting business and expects to net $10,000 this year, as against $42,000 as a controller. His wife has taken a $12,000 job as a dental assistant.

"I'm going to succeed at whatever I do," he said. "It sure doesn't take money to keep my family happy. But I loved my work."

With the dismissal of so many experienced controllers, a heavy workload was imposed on the curtailed work force, and that is one of the big uncertainties in rebuilding the system. Also, a Congressional deadlock over getting those controllers more pay has had a negative effect on morale.

A second uncertainty is the ability of the airlines and other operators to sustain whatever economic penalties are imposed by disrupted conditions. That, in turn, affects the dispute over whether it is time to decide that the punishment, in lost wages and benefits, has already fit the crime and to do some rehiring of those who lost their jobs.

Finally, there is the issue of safety. The consensus of safety experts is that traffic control today is at least as safe, probably safer, than it was, if only because the controller shortage has led the Government to increase the distances by which airborne planes are separated.

There have been no major accidents tied to controller mistakes since the walkout, but, were such a crash to occur, it might alter public opinion and the Administration's position against rehiring.

Though the walkout cut the number of flights, it has evidently had a negligible effect on domestic airline passenger totals. Throughout 1981, both before and after the walkout, passenger volume was down about 5 percent from 1980, according to the Air Transport Association. In the first six months of this year, it was up about 4.8 percent over the comparable period in 1981. The rise is largely attributed to the many offers of deeply discounted air fares.

ADMINISTRATION HAS FEW DOUBTS

At the moment, the Administration entertains few doubts that it has chosen the right course and will meet its target date for having the system virtually back to normal. Its response to the walkout, which began a year ago Tuesday, marked the first time that a union of Federal employees had been put out of existence by the Government.

Transportation Secretary Drew Lewis said in a recent interview, "We did the right thing, and I am positive the traffic-control system is being rebuilt."

The current traffic volume of 83 percent of the prestrike level contrasts with the low point of 75 percent in the first week of the strike. Mr. Lewis suggested at one point that the 100 percent level could be reached by next February, but he and other Government officials soon settled on next spring.

The Administration is now sticking to the prediction. However, air travelers will still have to put up with schedules that are not the most convenient and with more peak-hour delays than before the walkout. It will be December 1983, the officials say, before those inconveniences are eliminated and July 1984 before supervisors and other staff members are all back to normal duties.

In the interview, Mr. Lewis was asked to comment on proposals to speed things along by rehiring some controllers while taking care to screen out strike leaders and known troublemakers. He replied, "There's no way to rehire selectively without being subject to charges of discriminatory hiring." He also reiterated the view that putting strikers to work alongside nonstrikers would create friction that could make the airways unsafe.

CONTROLLERS DISAGREE ON POLL

This is a view that is disputed by a scattering of nonstriking controllers who have been circulating petitions urging selective rehiring. A Government-commissioned Roper Organization poll of 897 nonstriking controllers showed that 31 percent believed some of their former colleagues "should be hired back under certain conditions" while 58 percent opposed rehiring "under any circumstances."

The success of the Administration's policy to date is largely owed to the talents, esprit and stamina of the current work force. It is a force of only about 10,000, consisting mainly of nonstrikers and supervisors, plus a sprinkling of returned retirees and people borrowed from the military. The Administration has no intention of rebuilding to the prestrike strength of 16,000, contending this was at least 3,000 more than needed.

It was commonplace in the first weeks after the walkout for controllers to put in 60-hour weeks in response to the crisis. They did it with an enthusiasm that seemed almost universal, particularly impressing pilots with whom they dealt. And they made a signal contribution to dashing the union's

calculations that it could cripple air transportation and win key demands.

The public, which largely supported President Reagan's handling of the strikers, was mainly disenchanted by union demands for a $10,000-a-year raise for all controllers. The union officers have insisted that the more basic issues were a shorter workweek, to decrease stress and increase safety, and an improved retirement plan.

It was assumed from the start of the walkout that those who stayed at work could not take 60-hour weeks very long.

The pressure did steadily subside as the Federal Aviation Administration began to master its intricate game plan, which included quotas on traffic bound for the nation's 22 busiest airports. It also provided that flight delays would be taken on the ground before departure rather than in circling patterns where planes had to be watched by controllers on radar.

Figures have been complied by the aviation agency for 16 major airports covering departure delays of 15 minutes or more. They show that the overall average climbed to 36.3 delays per 1,000 operations last May, compared with 26.8 in May 1981. Among the airports hit hardest were Los Angeles, Dallas-Fort Worth and Washington National, where so many planes had to wait to leave because of heavy traffic flowing into such cities as New York and Boston.

At present, according to J. Lynn Helms, head of the agency, 75 percent of the controllers are working 40-hour weeks. "Of course," he said in a written answer to questions, "we still have facilities with critical staffing problems—the N.Y. center is just one of them—where controllers are working six-day weeks. But we are just now beginning to get the newly trained controllers into operational positions in the system so that the situation should start to improve in the coming months."

Whether the improvement will be extensive enough and fast enough for the Administration's rebuilding plan is not yet clear. Indications have been growing that the early flush of controller enthusiasm has given way to some deterioration of morale.

CONDITIONS "WORSE NOW"

Don Mongeon, a former Miami controller who is getting financial help from relatives, says that some nonstrikers at his former job told him that "the overall working conditions are worse now than they have ever been."

Any drop in morale is also generally attributed to the minimum vacation time that has been allowed to date. It evidently comes too from the buildup in on-the-job training of controllers newly graduated from the Government academy in Oklahoma City. But there is another important reason.

The Administration has asked Congress, as it promised from the start, for a raise for controllers who stayed on. It would be similar to the increase in a contract that the union negotiating team had tentatively accepted in June 1981, only to have it rejected by the rank and file.

The Reagan pay bill, which has passed the Senate, is being blocked in the House by the powerful chairman of the Post Office and Civil Service Committee, Representative William D. Ford. Mr. Ford, a Democrat from the heavily unionized Detroit area, has a competing bill that won approval from his committee. It would provide a one-time bonus for those who have been operating the system, would require that the system by rebuilt to its prestrike condition by next year and would authorize selective rehiring of some strikers if necessary.

The dominant view of knowledgeable people watching the situation is that the Congressional deadlock is not likely to be broken this year. The point in determining whether the Administration will have to relax its stand will come, it is felt, only after the plan has had six more months of testing. The results, in turn, will permit aircraft operators to reach firmer conclusions on how the conflicting courses of action would affect their economic health. For the time being, the airlines are bringing no public pressure on the Administration to agree to rehiring.

"The whole problem, right now, is probably at its toughest point," said Lawrence M. Jones, who headed a three-member Government-created team of experts that issued a report in mid-March indicting the aviation agency's handling of employee relations.

"We're in the midst of having to train the people coming out of Oklahoma City," he said. "It will take most of this year and probably longer before there is any relief from the controller workload. The dog days of their effort will be in the next six months."●

CONFERENCE REPORT ON H.R. 6955

Mr. JONES of Oklahoma submitted the following conference report and statement on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

CONFERENCE REPORT (H. REPT. NO. 97-759)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) Effective for the period beginning October 1, 1982, and ending September 30, 1984, the price of milk shall be supported at not less than $13.10 per hundredweight of milk containing 3.67 per centum milkfat.

"(B) Effective for the fiscal year beginning October 1, 1984, the price of milk shall be supported at not less than such level that represents the percentage of parity that the Secretary determines $13.10 represented as of October 1, 1983.

"(C) The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) Effective for the period beginning October 1, 1982, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Commodity Credit Corporation to offset a portion of the cost of the milk price support program. Authority for requiring such deductions shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 5 billion pounds milk equivalent. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pounds, the authority for requiring such deduction shall not apply for the balance of the year.

"(3)(A) Effective for the period beginning April 1, 1983, and ending September 30, 1985, the Secretary may provide for a deduction of 50 cents per hundredweight, in addition to the deduction referred to in paragraph (2), from the proceeds of sale of all milk marketed commercially by producers to be remitted to the Corporation. The deduction authorized by this subparagraph shall be implemented only if the Secretary establishes a program whereby the funds resulting from such deductions would be refunded in the manner provided in this paragraph to producers who reduce their commercial marketings from such marketings during the base period. For the purpose of this paragraph, the base period shall be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make such adjustments in individual bases under this subparagraph as the Secretary determines necessary to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base.

"(B) Refunds under this paragraph shall be based on reductions in commercial marketings as specified by the Secretary, but the Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period. The Secretary may provide for refunds to be made of amounts collected from producers on a pro rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

"(C) The funds remitted to the Corporation as a result of the deductions provided for under this paragraph that are not used in making refunds to producers shall be used to offset the cost of the milk price support program. Authority for making deductions under this paragraph shall not apply for any fiscal year for which the Secretary estimates that net price support purchases of milk or the products of milk would be less than 7.5 billion pounds milk equivalent. If

at any time during a fiscal year the Secretary should establish that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for requiring such deductions shall not apply for the balance of the year.

"(D) The Secretary may provide for refunds to producers on a periodic basis during the year. If, based on total marketings for the year, the Secretary should determine that an overpayment has been made to the producer for the year, the producer shall repay the amount of the overpayment.

"(E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(4) The funds represented by the deductions referred to in paragraphs (2) and (3) shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(5) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provisions of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(6)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating any provision of this subsection or any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropiate action. Nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of this subsection or any regulation issued under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than $1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subparagraphs (A) and (B) shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(7) In carrying out this subsection, the Secretary may, on a reimbursable or nonreimbursable basis, as the Secretary deems appropriate, use—

"(A) administrators of Federal milk marketing orders;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act; or

"(C) administrators of State milk marketing programs.".

Subtitle B—Donation of Dairy Products

SEC. 110. Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet t(e needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act.".

Subtitle C—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

ADVANCE DEFICIENCY PAYMENTS

SEC. 120. Effective only for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice, the Agricultural Act of 1949 is amended by inserting after section 107B (7 U.S.C. 1445b-1) the following new section:

"ADVANCE PAYMENTS

"SEC. 107C. (a)(1) Effective with respect to the 1982 crops of wheat, feed grains, upland cotton, and rice, the Secretary shall make available to producers who participate in an acreage limitation program established for wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(i)(5), respectively, advance deficiency payments in accordance with this section (other than subsection (b)) if the Secretary determines that deficiency payments likely will be made under this Act.

"(2) Advance deficiency payments under paragraph (1) shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made as soon as practicable after October 1, 1982.

"(B) Such payments shall be made in an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 70 per centum of the projected payment rate, as determined by the Secretary. Notwithstanding the preceding sentence, in any case in which a producer has received disaster payments for wheat, feed grains, upland cotton, or rice under section 107B(b)(2), 105B(b)(2), 103(g)(4), or 101(i)(3), respectively, the Secretary may make such adjustment in the advance deficiency payments made under this subsection as the Secretary determines appropriate.

"(b)(1) Effective with respect to the 1983 through 1985 crops of wheat, feed grains, upland cotton, and rice, if the Secretary establishes an acreage limitation or acreage set-aside program for a crop of wheat, feed grains, upland cotton, or rice under section 107B(e), 105B(e), 103(g)(9), or 101(b)(5), respectively, and determines that deficiency payments will likely be made for such commodity for such crop, the Secretary—

"(A) for the 1983 crop of such commodity, shall make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program; and

"(B) for the 1984 and 1985 crops of such commodities, may make available, as provided in this section (other than subsection (a)), advance deficiency payments to producers who agree to participate in such program.

"(2) Advance deficiency payments under this subsection shall be made to producers under the following terms and conditions:

"(A) Such payments shall be made available to producers as soon as practicable after the producer files a notice of intention to participate in such program, but in no case prior to October 1, 1982.

"(B) Such payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in such program, except that such amount may not exceed an amount determined by multiplying (i) the estimated farm program acreage for the crop, by (ii) the farm program payment yield for the crop, by (iii) 50 per centum of the projected payment rate, as determined by the Secretary.

"(c) Advance deficiency payments under this section shall be made to producers under the following terms and conditions:

"(1) In any case in which the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under section 107B(b)(1), 105B(b)(1), 103(g)(3), or

101(i)(2), is less than the amount paid to the producer as an advance deficiency payment for the crop under this section, the producer shall refund an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producers as a deficiency payment for the crop concerned.

"(2) If the Secretary determines under section 107B(b)(1), 105B(b)(1), 103(g)(3), or 101(i)(2) that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this section, the producers who received such advance payments shall refund such payments.

"(3) Any refund required under paragraph (1) or (2) shall be due at the end of the marketing year for the crop with respect to which such payments were made.

"(4) If a producer fails to comply with the requirements under the acreage limitation or set-aside program involved (and, in the case of the 1983 crops of wheat, feed grains, and rice, the requirements of the land diversion program involved) after obtaining an advance deficiency payment under this section, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulations.

"(d) The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(f) The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provisions of law.".

1983 WHEAT LOANS

SEC. 121. Section 107B(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(a)) is amended by adding at the end thereof the following: "Notwithstanding the foregoing provisions of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than $3.65 per bushel.".

1983 WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 122. Section 107B(e) of the Agricultural Act of 1949 (7 U.S.C. 1445b-1(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) Notwithstanding any previous announcement to the contrary, for the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation program and diversion program.";

(3) in paragraph (2), inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of wheat under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of wheat whose acreage planted to wheat for harvest on the farm is reduced so that it does not exceed the wheat acreage base for the farm less an amount equivalent to 5 per centum of the wheat acreage base in addition to the reduction required under paragraph (2), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the wheat acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this paragraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per bushel, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 FEED GRAIN LOANS

SEC. 123. Section 105B(a)(1) of the Agricultural Act of 1949 (7 U.S.C. 1444d(a)(1)) is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than $2.65 per bushel.".

1983 FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 124. Section 105B(e) of the Agricultural Act of 1949 (7 U.S.C. 1444d(e)) is amended by—

(1) striking out in the first sentence of paragraph (1) "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the";

(2) adding at the end of paragraph (1) the following new subparagraph:

"(B) For the 1983 crop of feed grains, the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 15 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program.";

(3) in paragraph (2), inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the program for the 1983 crop of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of paragraph (5) the following: "Notwithstanding the foregoing provisions of this paragraph, the Secretary shall implement a land diversion program for the 1983 crop of feed grains under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of feed grains whose acreage planted to feed grains for harvest on the farm is reduced so that it does not exceed the feed grain acreage base for the farm less an amount equivalent to 5 per centum of the feed grain acreage base in addition to the reduction required under paragraph (2) or (3), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the feed grain acreage base under this paragraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The diversion payment rate shall be established by the Secretary at not less than $1.50 per bushel for corn, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The payment rate for grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines is fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

1983 RICE ACREAGE REDUCTION AND DIVERSION PROGRAMS

SEC. 125. Section 101(i)(5) of the Agricultural Act of 1949 (7 U.S.C. 1441(i)(5)) is amended by—

(1) striking out in the first sentence of subparagraph (A) "Nothwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of subparagraph (A) the following: "For the 1983 crop of rice, the Secretary shall provide for a combination of (i) an acreage limitation program as described under this subparagraph and (ii) a diversion program as described under subparagraph (B) under which the acreage planted to rice for harvest on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 5 per centum under the diversion program. As a condition of eligibility for loans, purchases, and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.";

(3) inserting immediately after the ninth sentence of subparagraph (A) (as amended by paragraph (2) of this section) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the program for the 1983 crop of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."; and

(4) inserting at the end of subparagraph (B) the following: "Notwithstanding the foregoing provisions of this subparagraph, the Secretary shall implement a land diversion program for the 1983 crop of rice under which the Secretary shall make crop retirement and conservation payments to any producer of the 1983 crop of rice whose acreage planted to rice for harvest on the farm is reduced so that it does not exceed the rice acreage base for the farm less an amount equivalent to 5 per centum of the rice acreage base in addition to the reduction required under subparagraph (A), and the producer devotes to approved conservation uses an acreage of cropland equivalent to the reduction required from the rice acreage base under this subparagraph. Such payments shall be made in an amount computed by multiplying (i) the diversion payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The diversion payment rate shall be established by the Secretary at not less than $3.00 per hundredweight, except that the rate may be reduced up to 10 per centum if the Secretary determines that the same program objective could be achieved with the lower rate. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance, but in no case prior to October 1, 1982. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance.".

Subtitle D—Agricultural Export Promotion

SEC. 135. Effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture shall use not less than $175,000,000 nor more than $190,000,000 of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under the provisions of law in effect on the date of enactment of this section, notwithstanding the fact that the activity may not be included in the budget program of the Corporation. The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation. The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary of Agriculture of the Commodity Credit Corporation under any other provision of law.

Subtitle E—Food Stamp Act Amendments of 1982

SHORT TITLE

SEC. 140. This subtitle may be cited as the "Food Stamp Act Amendments of 1982".

REFERENCES TO THE FOOD STAMP ACT OF 1977

SEC. 141. Except as otherwise specifically provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

HOUSEHOLD DEFINITION

SEC. 142. Section 3(i) (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence—

(A) inserting ", or siblings," after "children"; and

(B) inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence the following new sentence: "Notwithstanding clause (1) of the preceding sentence, an individual who lives with others, who is sixty years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from a severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household, without regard to the purchase of food and preparation of meals, if the income (as determined under section 5(d)) of the others, excluding the spouse, does not exceed the poverty line, as described in section 5(c)(1), by more than 65 per centum.".

ROUNDING DOWN

SEC. 143. (a) The second sentence of section 3(o) (7 U.S.C. 2012(o)) (as amended by section 144 of this Act) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of much diet)" after "adjustments"; and

(2) in clauses (6), (7), and (8), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso of clause (2) of the fourth sentence, striking out "nearest $5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

THRIFTY FOOD PLAN ADJUSTMENTS

SEC. 144. The second sentence of section 3(o) (7 U.S.C. 2012(o)) is amended by striking out "(6)" and all that follows through "twelve months ending the preceding June 30" and inserting in lieu thereof the following: "(6) on October 1, 1982, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twenty-one months ending June 30, 1982, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, (7) on October 1, 1983, and October 1, 1984, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30, reduce the cost of such diet by 1 per centum, and round the result to the nearest dollar increment, and (8) on October 1, 1985, and each October 1 thereafter, adjust the cost of such diet to reflect changes in the cost of the thrifty food plan for the twelve months ending the preceding June 30 and round the result to the nearest dollar increment".

DISABLED VETERANS AND SURVIVORS

SEC. 145. (a) Section 3 (7 U.S.C. 2012) is amended by adding at the end thereof the following new subsection:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disablility or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A) has a service-connected disability which is rated as total under title 38, United States Code; or

"(B) is considered in need of regular aid and attendance or permanently housebound under such title;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under title 38, United Staes Code; or

"(B) is entitled to compensaiton for a service-connected death or pension benefits for a non service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) is entitled to compensation for a service-connected death or pension benefits for a non-service-connected death under title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)).".

(b) The first sentence of section 3(i) (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through the end of the sentence and inserting in lieu thereof "an elderly or disabled member.".

(c) Section 5(c)(2) (as amended by section 146(a) of this Act) is amended by striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) (7 U.S.C. 2014(e)) (as amended by section 146(b) of this Act) is amended by—

(1) in the first sentence, striking out "a member who is" and all that follows through "(42 U.S.C. 301 et seq.)" and inserting in lieu thereof "an elderly or disabled member";

(2) in the fourth sentence, striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inerting in lieu thereof "an elderly or disabled member"; and

(3) in the last sentence—

(A) in the matter preceding subclause (A), striking out "a member" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "an elderly or disabled member"; and

(B) in subclause (A), striking out "household members" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and insering in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty" and all that follows through "titles I, II, X, XIV, and XVI of the Social Security Act" and inserting in lieu thereof "elderly or disabled members".

INCOME STANDARDS OF ELIGIBILITY

SEC. 146. (a) Subsection (c) of section 5 (7 U.S.C. 2014(c)) is amended to read as follows:

"(c) The income standards of eligibility shall provide that a household shall be ineligible to participate in the food stamp program if—

"(1) the household's income (after the exclusions and deductions provided for in subsections (d) and (e)) exceeds the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for the forty-eight contiguous States and the District of Columbia, Alaska, Hawaii, the Virgin Islands of the United States, and Guam, respectively; and

"(2) in the case of a household that does not include a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), the household's income (after the exclusions provided for in subsection (d) but before the deductions provided for in subsection (e)) exceeds such poverty line by more than 30 per centum.

In no event shall the standards of eligibility for the Virgin Islands of the United States or Guam exceed those in the forty-eight contiguous States.".

(b) The first sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "households described in subsection (c)(1)" and inserting in lieu thereof "households containing a member who is sixty years of age or over or a member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) or disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.)".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 147. Section 5(d) (7 U.S.C. 2014(d)) is amended by—

(1) striking out "and" at the end of clause (10); and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the first month in which the adjustment was effective".

ADJUSTMENT OF DEDUCTIONS

SEC. 148. Section 5(e) (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) of the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subclause (i) of the proviso of clause (2) of the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 149. (a) Section 5(e) (7 U.S.C. 2014(e)) is amended by inserting after the fourth sentence the following new sentences: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households, with regard to such expense, only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.".

(b) Subclause (B) of the last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

MIGRANT FARMWORKERS

SEC. 150. The last sentence of section 5(f)(4) (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A))".

FINANCIAL RESOURCES

SEC. 151. The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "June 1, 1977" and inserting in lieu thereof "June 1, 1982";

(2) striking out "and" after "vacation purposes,"; and

(3) inserting after "$4,500," the following: "and, regardless of whether there is a penalty for early withdrawal, any savings or retirement accounts (including individual accounts),".

STUDIES

SEC. 152. (a) The second sentence of section 5(g) (7 U.S.C. 2014(g)) is amended by—

(1) striking out "(1)"; and

(2) striking out ", and (2)" and all that follows through the end of the sentence and inserting in lieu thereof a period.

(b) Section 8(a) (7 U.S.C. 2017(a)) is amended by striking out the second sentence.

(c) Subsections (d) and (e) of section 17 (7 U.S.C. 2026(d) and (e)) are repealed.

CATEGORICAL ELIGIBILITY

SEC. 153. Section 5 (7 U.S.C. 2014) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c)(2) to have satisfied the resource limitations prescribed under subsection (g).".

MONTHLY REPORTING

SEC. 154. The first sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" after "which all"; and

(2) inserting before the period at the end thereof the following: ", except that a State agency may, with the prior approval of the Secretary, select categories of households which may report at specified less frequent intervals upon a showing by the State agency, which is satisfactory to the Secretary, that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

PERIODIC REPORT FORMS

SEC. 155. The last sentence of section 6(c)(1) (7 U.S.C. 2015(c)(1)) is amended by striking out ", on a form designed or approved by the Secretary,".

REPORTING REQUIREMENTS

SEC. 156. Section 6(c) (7 U.S.C. 2015(c)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary is authorized, upon the request of a State agency, to waive any provisions of this subsection (except the provisions of the first sentence of paragraph (1) which relate to households which are not required to file periodic reports) to the extent necessary to permit the State agency to establish periodic reporting requirements for purposes of this Act which are similar to the periodic reporting requirements established under the State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in that State.".

JOB SEARCH

SEC. 157. Section 6(d)(1)(ii) (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting before the semicolon at the end thereof the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 158. (a) The proviso of section 6(d)(1)(iii) (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days from the time of the voluntary quit" and inserting in lieu thereof "ninety days".

(b) Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by adding at the end thereof the following new sentence: "An employee of the Federal Government, or of a State or political subdivision of a State, who engaged in a strike against the Federal Government, a State or political subdivision of a State and is dismissed from his job because of his participation in the strike shall be considered to have voluntarily quit such job without good cause.".

PARENTS AND CARETAKERS OF CHILDREN

SEC. 159. Clause (C) of section 6(d)(2) (7 U.S.C. 2015(d)(2)(C)) is repealed.

JOINT EMPLOYMENT REGULATIONS

SEC. 160. Paragraph (3) of section 6(d) (7 U.S.C. 2015(d)(3)) is repealed.

COLLEGE STUDENTS

SEC. 161. Section 6(e) (7 U.S.C. 2015(e)) is amended by striking out "or (B)" and all that follows through "or (C)" and inserting in lieu thereof "; (B) is not a parent with responsibility for the care of a dependent child under age six; (C) is not a parent with responsibility for the care of a dependent child above the age of five and under the age of twelve for whom adequate child care is not available; (D) is not receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or (E)".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 162. Section 7 (7 U.S.C. 2016) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that it would improve the integrity of the food stamp program, the Secretary may require a State agency—

"(A) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(B) to issue, in lieu of coupons, reusable documents to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food.

"(2) The cost of documents or systems that may be required pursuant to this subsection may not be imposed upon a retail food store participating in the food stamp program.".

INITIAL ALLOTMENTS

SEC. 163. (a) The first sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than $10".

(b) Clause (2) of the last sentence of section 8(c) (7 U.S.C. 2017(c)) is amended by striking out "of more than thirty days".

NONCOMPLIANCE WITH OTHER PROGRAMS

SEC. 164. Section 8 (7 U.S.C. 2017) is amended by adding at the end thereof the following new subsection:

"(d) A household against which a penalty has been imposed for an intentional failure to comply with a Federal, State, or local law relating to welfare or a public assistance program may not, for the duration of the penalty, receive an increased allotment as the result of a decrease in the household's income (as determined under sections 5(d) and 5(e)) to the extent that the decrease is the result of such penalty.".

HOUSE-TO-HOUSE TRADE ROUTES

SEC. 165. Section 9 (7 U.S.C. 2018) is amended by adding at the end thereof the following new subsection:

"(f) In those areas in which the Secretary, in consultation with the Inspector General of the Department of Agriculture, finds evidence that the operation of house-to-house trade routes damages the program's integrity, the Secretary shall limit the participation of house-to-house trade routes to those routes that are reasonably necessary to provide adequate access to households.".

APPROVAL OF STATE PLAN OF OPERATION

SEC. 166. Section 11(d) (7 U.S.C. 2020(d)) is amended by inserting after the first sentence the following new sentence: "The Secretary may not, as a part of the approval process for a plan of operation, require a State to submit for prior approval by the Secretary the State agency instructions to staff, interpretations of existing policy, State agency methods of administration, forms used by the State agency, or any materials, documents, memoranda, bulletins, or other matter, unless the State determines that the materials, documents, memoranda, bulletins, or other matter alter or amend the State plan of operation or conflict with the rights and levels of benefits to which a household is entitled.".

POINTS AND HOURS OF CERTIFICATION AND ISSUANCE

SEC. 167. (a) The last sentence of section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended by striking out "points and hours of certification, and for".

(b) Paragraph (13) of section 11(e) (7 U.S.C. 2020(e)(13)) is repealed.

AUTHORIZED REPRESENTATIVES

SEC. 168. Section 11(e)(7) (7 U.S.C. 2020(e)(7)) is amended by—

(1) striking out "any" each place it appears and inserting in lieu thereof "an"; and

(2) inserting before the semicolon at the end thereof the following: ", except that the Secretary may restrict the number of households which may be represented by an individual and otherwise establish criteria and verification standards for representation under this paragraph".

DISCLOSURE OF INFORMATION

SEC. 169. Section 11(e)(8) (7 U.S.C. 2020(e)(8)) is amended by striking out "or the regulations issued pursuant to this Act" and inserting in lieu thereof ", regulations issued pursuant ot this Act, Federal assistance programs, or federally assisted State programs".

EXPEDITED COUPON ISSUANCE

SEC. 170. Paragraph (9) of section 11(e) (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—

"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than $150 per month; or

"(II) is a destitute migrant or a seasonal farmworker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed $100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household;".

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 171. Section 11(e)(10) (7 U.S.C. 2020(e)(10)) is amended by inserting before the semicolon at the end thereof the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF COUPONS IN MORE THAN ONE JURISDICTION WITHIN A STATE

SEC. 172. Section 11(e) (7 U.S.C. 2020(e)) is amended by—

(1) striking out "and" at the end of paragraph (20);

(2) striking out the period at the end of paragraph (21) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(22) that the State agency shall establish a system and take action on a periodic basis to verify and otherwise assure that an individual does not receive coupons in more than one jurisdiction within the State.".

CERTIFICATION SYSTEMS

SEC. 173. Section 11(i) (7 U.S.C. 2020(i)) is amended by adding at the end thereof the following new sentence: "Each State agency shall implement clauses (1) and (2) and may implement clause (3) or (4), or both such clauses.".

CASHED-OUT PROGRAMS

SEC. 174. Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(n) The Secretary shall require State agencies to conduct verification and implement other measures where necessary, but no less often than annually, to assure that an individual does not receive both coupons and benefits or payments referred to in section 6(g) or both coupons and assistance provided in lieu of coupons under section 17(b)(1).".

AMOUNT OF PENALTY AND LENGTH OF DISQUALIFICATION

SEC. 175. Section 12 (7 U.S.C. 2021) is amended by—

(1) inserting "(a)" after the section designation;

(2) in the first sentence, striking out "$5,000" and inserting in lieu thereof "$10,000";

(3) striking out the second sentence and inserting in lieu thereof the following new subsection:

"(b) Disqualification under subsection (a) shall be—

"(1) for a reasonable period of time, of no less than six months nor more than five years, upon the first occasion of disqualification;

"(2) for a reasonable period of time, of no less than twelve months nor more than ten years, upon the second occasion of disqualification ; and

"(3) permanent upon the third occasion of disqualification or the first occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern."; and

(4) designating the last sentence as subsection (c).

BONDS

SEC. 176. (a) Section 12 (7 U.S.C. 2021) (as amended by section 175 of this Act) is amended by adding at the end thereof the following new subsection:

"(d) As a condition of authorization to accept and redeem coupons, the Secretary may require a retail food store or wholesale food concern which has been disqualified or subjected to a civil penalty pursuant to subsection (a) to furnish a bond to cover the value of coupons which such store or concern may in the future accept and redeem in violation of this Act. The Secretary shall, by regulation, prescribe the amount, terms, and conditions of such bond. If the Secretary finds that such store or concern has accepted and redeemed coupons in violation of this Act after furnishing such bond, such store or concern shall forfeit to the Secretary an amount of such bond which is equal to the value of coupons accepted and redeemed by such store or concern in violation of this Act. Such store or concern may obtain a hearing on such forfeiture pursuant to section 14.".

(b) The first sentence of section 14(a) (7 U.S.C. 2023(a)) is amended by inserting "or a retail food store or wholesale food concern forfeits a bond under section 12(d) of this Act," after "section 12 of this Act,".

ALTERNATIVE MEANS OF COLLECTION OF OVERISSUANCES

SEC. 177. (a) Section 13(b)(1) (7 U.S.C. 2022(b)(1)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons based on an ineligibility determination under section 6(b), other than claims collected pursuant to subparagraph (A), by using other means of collection.".

(b) Section 13(b)(2) (7 U.S.C. 2022(b)(2)) is amended by—

(1) inserting "(A)" after the paragraph designation; and

(2) adding at the end thereof the following new subparagraph:

"(B) State agencies may collect any claim against a household arising from the overissuance of coupons, other than claims collected pursuant to paragraph (1) or subparagraph (A), by using other means of collection.".

CLAIMS COLLECTION PROCEDURE

SEC. 178. The second sentence of section 13(b)(1)(A) (as amended by section 177(a) of this Act) is amended by inserting "within thirty days of a demand for an election" after "election".

COST-SHARING FOR COLLECTION OF OVERISSUANCES

SEC. 179. The first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended by inserting before the period at the end thereof the following: ", except the value of funds or allotments recovered or collected pursuant to section 13(b)(2) which arise from an error of a State agency".

ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underissued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g) and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) the following new subsection:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14.".

(b)(1) Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by—

(A) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(B) striking out "quality control program" and inserting in lieu thereof "error rate reduction system".

(2) The first sentence of section 18(e) (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (c) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

EMPLOYMENT REQUIREMENT PILOT PROJECT

SEC. 181. section 17 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(g)(1) As used in this subsection, the term 'qualification period' means a period of time immediately preceding—

"(A) in the case of a new applicant for benefits under this Act, the date on which application for such benefits is made by the individual; or

"(B) in the case of an otherwise continuing recipient of coupons under this Act, the date on which such coupons would otherwise be issued to the individual.

"(2) Upon application of a State or political subdivision thereof, the Secretary may conduct one pilot project involving the employment requirements described in this subsection in each of four project areas selected by the Secretary.

"(3) Under the pilot projects conducted pursuant to this subsection, except as provided in paragraphs (4), (5), and (6), an individual who resides in a project area shall not be eligible for assistance under this Act if the individual was not employed a minimum of twenty hours per week, or did not participate in a workfare program established under section 20, during a qualification period of—

"(A) thirty or more consecutive days, in the case of an individual whose benefits under a State or Federal unemployment compensation law were terminated immediately before such qualification period began; or

"(B) sixty or more consecutive days, in the case of an individual not described in clause (A).

"(4) The provisions of paragraph (3) shall not apply in the case of an individual who—

"(A) is under eighteen or over fifty-nine years of age;

"(B) is certified by a physician as physically or mentally unfit for employment;

"(C) is a parent or other member of a household with responsibility for the care of a dependent child under six years of age or of an incapacitated person;

"(D) is a parent or other caretaker of a child under six years of age in a household in which there is another parent who, unless covered by clause (A) or (B), or both such clauses, is employed a minimum of twenty hours per week or participating in a workfare program established under section 20;

"(E) is in compliance with section 6(d) and demonstrates, in a manner prescribed by the Secretary, that the individual is able and willing to accept employment but is unable to obtain such employment; or

"(F) is a member of any other group described by the Secretary.

"(5) The Secretary may waive the requirements of paragraph (3) in the case of all individuals within all or part of a project area if the Secretary finds that such area—

"(A) has an unemployment rate of over 10 per centum; or

"(B) does not have a sufficient number of jobs to provide employment for individuals subject to this subsection.

"(6) An individual who has become ineligible for assistance under this Act by reason of paragraph (3) may reestablish eligibility for assistance after a period of ineligibility by—

"(1) becoming employed for a minimum of twenty hours per week during any consecutive thirty-day period; or

"(2) participating in a workfare program established under section 20 during any consecutive thirty-day period.".

BENEFIT IMPACT STUDY

SEC. 182. Section 17 (7 U.S.C. 2026) (as amended by section 181 of this Act) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, the Food Stamp and Commodity Distribution Amendments of 1981, the Food Stamp Act Amendments of 1982, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984, and a final report on the results of such study no later than March 1, 1985.".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 183. The first sentence of section 18(a)(1) (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981;", and

(2) inserting before the period at the end thereof the following: "; not in excess of $12,874,000,000 for the fiscal year ending September 30, 1983; not in excess of $13,145,000,000 for the fiscal year ending September 30, 1984; and not in excess of $13,933,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO BLOCK GRANT

SEC. 184. (a) Section 19(a)(1)(A) (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "noncash" after "expenditures for".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for the fiscal year ending September 30, 1982, or the fiscal year ending September 30, 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include an analysis of the impact on both the nutritional status of residents of the Commonwealth and the economy of the Commonwealth. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

SIMILAR WORKFARE PROGRAMS

SEC. 185. Section 20(a) (7 U.S.C. 2029(a)) is amended by—

(1) inserting "(1)" after the subsection designation; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) The Secretary shall promulgate guidelines pursuant to paragraph (1) which, to the maximum extent practicable, enable a political subdivision to design and operate a workfare program under this section which is compatible and consistent with similar workfare programs operated by the subdivision.

"(B) A political subdivision may comply with the requirements of this section by operating—

"(i) a workfare program pursuant to title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) any other workfare program which the Secretary determines meets the provisions and protections provided under this section.".

WIN PARTICIPANTS

SEC. 186. Clause (4) of section 20(b) (7 U.S.C. 2029(b)) is amended by striking out "subject to and currently involved" and inserting in lieu thereof "at the option of the operating agency, subject to and currently actively and satisfactorily participating".

HOURS OF WORKFARE

SEC. 187. Section 20(c) (7 U.S.C. 2029(c)) is amended by striking out "either" and all that follows through the end of the sentence and inserting in lieu thereof: ", when added to any other hours worked during such week by such member for compensation (in cash or in kind) in any other capacity, exceeds thirty hours a week.".

REIMBURSEMENT FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 188. Section 20(g) (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) inserting after paragraph (1) the following new pargraph:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to three times the dollar value of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participating is terminated.".

TECHNICAL CORRECTIONS

SEC. 189. (a) Section 5(f)(2)(A) (as amended by section 107(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 360)) is amended by striking out "propsective" and inserting in lieu thereof "prospective".

(b)(1) Clause (2) of section 6(g) (7 U.S.C. 2015(g)) is amended by striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(2) Section 11 (7 U.S.C. 2020) is amended by—

(A) in subsection (i), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services", and

(B) in subsection (j), striking out "Secretary of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Health and Human Services".

(3) The second sentence of section 16(e) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "Secretary of Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Secretary of Health and Human Services".

(c) Section 16(f) (as redesignated by section 180(a)(2) of this Act) is amended by striking out "; and" and inserting in lieu thereof a period.

CONFORMING AMENDMENTS

SEC. 190 (a) Section 6(d)(2) (7 U.S.C. 2015(d)(2)) (as amended by section 159 of this Act) is amended by redesignating clauses (D) through (F) as clauses (C) through (E), respectively.

(b) Section 6(d) (7 U.S.C. 2015(d)) (as amended by section 160 of this Act) is amended by redesignating paragraph (4) as paragraph (3).

(c)(1) Section 11(e) (17 U.S.C. 2020(e)) (as amended by sections 167(b) and 172 of this Act) is amended by redesignating paragraphs (14) through (22) as paragraphs (13) through (21), respectively.

(2) Section 7(f) (7 U.S.C. 2016(f)) is amended by striking out "section 11(e)(21)" and inserting in lieu thereof "section 11(e)(20)".

(d) Section 17 (7 U.S.C. 2026) (as amended by sections 152(c), 181, and 182 of thie Act) is amended by redesignating subsections (f) through (h) as subsections (d) through (f), respectively.

DISTRIBUTION OF SURPLUS COMMODITIES

SEC. 191. (a) The Congress finds that—

(1) for an increasing number of people in the United States, these are times of great suffering and deprivation;

(2) rising unemployment, decreasing appropriations for social services, and increasingly adverse economic conditions have all contributed to produce hunger and want on a scale not experienced since the time of the Great Depression;

(3) the demand for every conceivable form of assistance for the hungry and needy people of the United States grows more critical daily, while the availability of goods and services to meet the needs of such people is rapidly diminishing;

(4) soup kitchens, food banks, and other organizations which provide food to the hungry report an astronomical increase in the number of persons seeking the assistance of such organizations;

(5) according to a study completed by the General Accounting Office in 1977, one hundred and thirty-seven million tons of food, or more than 20 per centum of this country's total annual food production, is wasted or discarded in the United States each year;

(6) at wholesale and retail food distributors, shipping terminals, and other establishments all across the country, enormous quantities of fresh fruits and vegetables and dated dairy and bakery products are discarded each day, while growing numbers of Americans go to bed hungry and undernourished each night;

(7) in these times of budget constraints and appeals for reductions in Federal spending, the use of private resources to meet the basic food requirements of our citizens should be encouraged; and

(8) many States and local governments have not enacted laws which limit the liability of food donors, such as so-called Good Samaritan Acts and donor liability laws, and thus have discouraged donation of food to the needy by private persons.

(b) It is the sense of the Congress that—

(1) departments and agencies of the Federal Government should take such steps as may be necessary to distribute to hungry people of the United States surplus food or food which would otherwise be discarded;

(2) State and local governments which have not yet enacted so-called Good Samaritan or donor liability laws to encourage private cooperative efforts to provide food for hungry people within their respective jurisdictions should do so as quickly as possible; and

(3) wholesale and retail food distributors, shipping terminals, and other establishments should work more closely with religious, community, and other charitable organizations to make wholesome food which is currently being wasted or discarded by such establishments available for immediate distribution to hungry people of the United States.

EFFECTIVE DATES OF PRIOR AMENDMENTS TO THE FOOD STAMP ACT OF 1977

SEC. 192. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101 through 114 of such Act, other than sections 107(b) and 108(c) of such Act, shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 117 of such Act.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the earlier of the date of the enactment of this subtitle or the date on which such amendments became effective pursuant to section 1338 of such Act.

EFFECTIVE DATES

SEC. 193. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 180 and 188 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

SEC. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: ": Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: ": Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require)" in paragraph (3)(D) the following: ": Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(g) The amendments made by this section, other than by subsection (b), may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.

BUREAU OF THE MINT

SEC. 202. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed $50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for.".

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

SUBTITLE A—CIVIL SERVICE PROGRAMS

COST-OF-LIVING ADJUSTMENTS DURING FISCAL YEARS 1983, 1984, AND 1985

SEC. 301. (a)(1) Except as provided in paragraph (3), the cost-of-living increase under any Government retirement system in annuity or retired or retainer pay of any early retiree during fiscal years 1983, 1984, and 1985, shall be equal to one-half of the assumed increase in the price index for that year.

(2) For purposes of this subsection, an individual shall be considered to be an early retiree if—

(A) the individual is under the age of 62 years as of the effective date of the cost-of-living increase involved (determined without regard to subsection (b));

(B) the annuity or retired or retainer pay of the individual is not computed in whole or in part based on any disability of the individual; and

(C) the annuity or retired or retainer pay of the individual is based upon the Government service of the individual.

(3) If the percentage increase in the price index for fiscal year 1983, 1984, or 1985 (as determined by the Office of Personnel Management) exceeds the assumed increase in the price index for that year, then the increase in the annuity or retired or retainer pay of an early retiree under paragraph (1) for that fiscal year shall be equal to—

(A) one-half of the assumed increase in the price index for that year, plus

(B) the amount by which the percentage increase in the price index exceeds the assumed price index increase.

(4) As used in this subsection—

(A) the term "price index" has the meaning given such term in section 8331(15) of title 5, United States Code; and

(B) the term "assumed increase in the price index" means—

(i) 6.6 percent, in the case of fiscal year 1983,

(ii) 7.2 percent, in the case of fiscal year 1984, and

(iii) 6.6 percent, in the case of fiscal year 1985.

(5) The amount of any survivor annuity which is based on the service of any early retiree subject to this subsection shall be computed as if this subsection had not been enacted.

(b)(1) Notwithstanding any other provision of law, any cost-of-living increase under a Government retirement system shall not take effect until—

(A) the first day of the first calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1983;

(B) the first day of the second calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1984; and

(C) the first day of the third calendar month after the date such increase would otherwise take effect, in the case of increases taking effect during fiscal year 1985.

(2) Nothing in this subsection shall be construed to affect the eligibility for any increase in annuity or retired or retainer pay or the amount of the first increase in annuity or retired or retainer pay under section 8340 (b) or (c) of title 5, United States Code, or comparable provisions of law.

(c) For purposes of this section, the term "cost-of-living increase under a Government retirement system" means any increase under—

(1) section 8340(b) of title 5, United States Code;

(2) section 826 of the Foreign Service Act of 1980;

(3) the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note);

(4) section 1401a(b) of title 10, United States Code; or

(5) any other adjustment of any annuity under a retirement system for Government officers or employees which the President determines, by Executive order, is based on adjustments under any of the provisions referred to in the preceding paragraphs.

(a)(1) In the case of any member or former member of a uniformed service who, during any period in fiscal year 1983, 1984, or 1985, is receiving retired or retainer pay and holds a civilian position, there shall be deducted from the pay for such position an amount equal to the amount of any increase in such individual's retired or retainer pay pursuant to section 1401a(b) of title 10, United States Code, which takes effect during any of such fiscal years in which he holds such a civilian position and which is allocable to the period of actual employment in such civilian position. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States.

(2) For the purpose of this subsection—

(A) the term "uniformed service" has the meaning given that term by section 2101 of title 5, United States Code; and

(B) the term "civilian position" means a position, as defined in section 5531(2) of title 5, United States Code.

(3) This subsection shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office.

(4) The reduction in pay required by this subsection does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

(A) resulting from injury of disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38, United States Code.

DISABILITY RETIREMENT

SEC. 302. (a) Section 8337 of title 5, United States Code, is amended—

(1) by striking out "1 year" in the second sentence of subsection (d) and inserting in lieu thereof "180 days";

(2) by striking out "each of 2 succeeding calendar years" in the third sentence of subsection (d) and inserting in lieu thereof "any calendar year"; and

(3) by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection, the term 'technician' means an individual employed under section 709(a) of title 32 who, as a condition of the employment, is required under section 709(b) of such title to be a member of the National Guard and to hold a specified military grade.

"(2)(A) Except as provided in subparagraph (B) of this paragraph, an individual shall be retired under this section if the individual—

"(i) is separated from employment as a technician under section 709(e)(1) of title 32 by reason of a disability that disqualifies the individual from membership in the National Guard or from holding the military grade required for such employment;

"(ii) is not considered to be disabled under the second sentence of subsection (a) of this section;

"(iii) is not appointed to a position in the Government (whether under paragraph (3) of this subsection or otherwise); and

"(iv) has not declined an offer of an appointment to a position in the Government under paragraph (3) of this subsection.

"(B) Payment of any annuity for an individual pursuant to this subsection terminates—

"(i) on the date the individual is appointed to a position in the Government (whether pursuant to paragraph (3) of this subsection or otherwise);

"(ii) on the date the individual declines an offer of appointment to a position in the Government under paragraph (3); or

"(iii) as provided under subsection (d).

"(3) Any individual applying for or receiving any annuity pursuant to this subsection shall, in accordance with regulations prescribed by the Office, be considered by any agency of the Government before any vacant position in the agency is filled if—

"(A) the position is located within the commuting area of the individual's former position;

"(B) the individual is qualified to serve in such position, as determined by the head of the agency; and

"(C) the position is at the same grade or equivalent level as the position from which the individual was separated under section 709(e)(1) of title 32.".

(b) Section 8347(m) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1) and inserting a semicolon in lieu thereof;

(2) by striking out the period at the end of paragraph (2) and inserting a semicolon in lieu thereof; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(4) the Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of chapter 81 of this title.".

(c)(1) Except as provided in paragraphs (2) and (3), the amendments made by subsections (a) and (b) shall take effect October 1, 1982, and shall apply with respect to individuals retiring on or after such date.

(2) The amendments made by paragraphs (1) and (2) of subsection (a) shall take effect with respect to income earned after December 31, 1982.

(3) Subsection (h) of section 8337 of title 5, United States Code (as added by subsection (a)) shall apply to any technician (as defined in paragraph (1) of such subsection (h)) who separated from employment as a technician on or after December 31, 1979, and before October 1, 1982, if application therefor is made to the Office of Personnel Management within 12 months after the date of the enactment of this Act. Any annuity resulting from such application shall commence as of the day after the date such application is received by the Office.

INTEREST RATES, DEPOSITS, REFUNDS, AND REDEPOSITS

SEC. 303. (a)(1) Section 8334(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) Interest under subsection (c), (d), or (j) of this section is computed in accordance with paragraphs (2) and (3) of this subsection and regulations prescribed by the Office of Personnel Management.

"(2) Interest accrues annually on the outstanding portion of any amount that may be deposited under subsection (c), (d), or (j) of this section, and is compounded annually, until the portion is deposited. Such interest is computed from the mid-point of each service period included in the computation, or from the date refund was paid. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

"(3) The rate of interest is 4 percent a year through December 31, 1947, and 3 percent a year beginning January 1, 1948, through December 31, 1984. Thereafter, the rate of interest for any calendar year shall be equal to the overall average yield to the Fund during the preceding calendar year from all obligations purchased by the Secretary of the Treasury during such calendar year under section 8348 (c), (d), and (e) of this title, as determined by the Secretary.".

(2) The second sentence of section 8343(a) of title 5, United States Code, is amended by inserting after "at 3 percent a year" the following: "through December 31, 1984, and thereafter at the rate computed under section 8334(e) of this title,".

(b) Section 8339(i) of title 5, United States Code, is amended to read as follows:

"(i) For the purposes of subsections (a)–(h) and (n) of this section, the total service of any employee or Member shall not include

any period of civilian service after July 31, 1920, for which retirement deductions or deposits have not been made under section 8334(a) of this title unless—

"(1) the employee or Member makes a deposit for such period as provided in section 8334(c) or (d) of this title; or

"(2) no deposit is required for such service, as provided under section 8334(g) of this title or under any statute.".

(c) Section 8342(a) of title 5, United States Code, is amended to read as follows:

"(a) An employee or Member who—

"(1)(A) is separated from the service for at least thirty-one consecutive days; or

"(B) is transferred to a position in which he is not subject to this subchapter and remains in such position for at least thirty-one consecutive days;

"(2) files an application with the Office of Personnel Management for payment of the lump-sum credit;

"(3) is not reemployed in a position in which he is subject to this subchapter at the time he files the application; and

"(4) will not become eligible to receive an annuity within thirty-one days after filing the application,

is entitled to be paid the lump-sum credit. The receipt of the payment of the lump-sum credit by the employee or Member voids all annuity rights under this subchapter based on the service on which the lump-sum credit is based, until the employee or Member is reemployed in the service subject to this subchapter.".

(d)(1) The amendments made by subsections (a) and (b) shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to refunds made on or after such date. The provisions of section 8334 and section 8339(i) of title 5, United States Code, as in effect the day before the date of the enactment of this Act, shall continue to apply with respect to periods of service and refunds occurring on or before such date.

(2) The amendment made by subsection (c) shall take effect October 1, 1982.

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 304. (a) The first sentence of section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest" and inserting in lieu thereof "rounded to the next lowest".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 305. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met.".

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

CREDITABLE SERVICE BASED ON MILITARY SERVICE

SEC. 306. (a) Section 8331(8)(B) of title 5, United States Code, is amended by inserting after "service" a comma and "including any amounts deposited under section 8334(j) of this title".

(b) Section 8332(c) of title 5, United States Code, is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection and subsection (d) of this section—

"(A) the service of an individual who first becomes an employee or Member before October 1, 1982, shall include credit for each month of military service performed before the date of the separation on which the entitlement to an annuity under this subchapter is based, subject to section 8332(j) of this title; and

"(B) the service of an individual who first becomes an employee or Member on or after October 1, 1982, shall include credit for each month of military service (performed before the date of the separation on which the entitlement to an annuity under this subchapter is based) only if a deposit with interest, if any, is made with respect to that month, as provided in section 8334(j) of this title.

"(2) If an employee or Member is awarded retired pay based on any period of military service, the service of the employee or Member may not include credit for such period of military service unless the retired pay is awarded—

"(A) based on a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

"(B) under chapter 67 of title 10.".

(c) Subsection (j) of section 8332 of title 5, United States Code, is amended—

(1) by inserting "(1)" after "(j)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The provisions of paragraph (1) of this subsection relating to credit for military service shall not apply to—

"(A) any month of military service of an employee or Member with respect to which the employee or Member has made a deposit with interest, if any, under section 8334(j) of this title; or

"(B) the service of any employee or Member described in section 8332(c)(1)(B) of this title.".

(d) Section 8334 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(j)(1) Each employee or Member who has performed military service before the date of the separation on which the entitlement to any annuity under this subchapter is based may pay, in accordance with such regulations as the Office shall issue within 90 days after the effective date of this subsection, to the agency by which the employee is employed or, in the case of a Member or a Congressional employee, to the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate, an amount equal to 7 percent of the amount of the basic pay paid under section 204 of title 37 to the employee or Member for each month of military service after December 1956, as certified to the agency, the Secretary of the Senate, or the Clerk of the House of Representatives, as appropriate, by the Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, upon the employee's or Member's request.

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

"(A) October 1, 1982; or

"(B) the date on which the employee or Member making the deposit first becomes an employee or Member,

shall include interest on such amount computed and compounded annually beginning on the date of the expiration of the two year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (e) of this section.

"(3) Any payment received by an agency, the Secretary of the Senate, or the Clerk of the House of Representatives under this subsection shall be immediately remitted to the Office for deposit in the Treasury of the United States to the credit of the Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Office as the Office may determine to be necessary for the administration of this subsection.".

(e) Section 8334(g)(2) of title 5, United States Code, is amended by inserting after "military service" the following: ", except to the extent provided under section 8332(c) or section 8334(j) of this title".

(f) Section 8348(g) of title 5, United States Code, is amended by striking out the period at the end of the first sentence and inserting in lieu thereof a comma and "less an amount determined by the Office to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 8334(j) of this title.".

(g) The amendments made by this section shall take effect October 1, 1982.

RECOMPUTATION AT AGE 62 OF CREDIT FOR MILITARY SERVICE OF CURRENT ANNUITANTS

SEC. 307. (a) The provisions of section 8332(j) of title 5, United States Code, relating to credit for military service, shall not apply with respect to any individual who is entitled to an annuity under subchapter III of chapter 83 of title 5, United States Code, on or before the date of enactment of this Act.

(b) Subject to subsection (b), in any case in which an individual described in subsection (a) is also entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor), the amount of the annuity to which such individual is entitled under subchapter III of chapter 83 of title 5, United States Code, (after taking into account subsection (a)) which is payable for any month shall be reduced by an amount determined by multiplying the amount of such old-age insurance benefit for the determination month by a fraction—

(1) the numerator of which is the total of the wages (within the meaning of section 209 of the Social Security Act) for service referred to in section 210(1) of such Act (relating to service in the uniformed services) and deemed additional wages (within the meaning of section 229 of such Act) of such individual credited for years after 1956 and before the calendar year in which the determination month occurs, up to the contribution and benefit base determined under section 230 of the Social Security Act (or other applicable maximum annual amount referred to in section 215(e)(1) of such Act) for each such year, and

(2) the denominator of which is the total of all wages and deemed additional wages described in paragraph (1) of this subsection plus all other wages (within the meaning of section 209 of such Act) and all self-employment income (within the meaning of section 211(b) of such Act) of such individual credited for years after 1936 and before the calendar year in which the determination month occurs, up to the contribution and benefit base (or such other amount referred to in such section 215(e)(1)) for each such year.

(c) Subsection (b) shall not reduce the annuity of any individual below the amount of the annuity which would be payable under this subchapter to the individual for the determination month if section 8332(j) of title 5, United States Code, applied to the individual for such month.

(d) For purposes of this section, the term "determination month" means—

(1) the first month the individual described in subsection (a) is entitled to old-age insurance benefits under section 202(a) of the Social Security Act (or would be entitled to such benefits upon filing application therefor); or

(2) October 1982, in the case of any individual so entitled to such benefits for such month.

(e) The preceding provisions of this section shall take effect with respect to any annuity payment payable under subchapter III of chapter 83 of title 5, United States Code, for calendar months beginning after September 30, 1982.

(f) The Secretary of Health and Human Services shall furnish such information to the Office of Personnel Management as may be necessary to carry out the preceding provisions of this section.

IMMEDIATE RETIREMENT

SEC. 308. (a) Subsection (d) of section 8336 of title 5, United States Code, is amended to read as follows:

"(d) An employee who—

"(1) is separated from the service involuntarily, except by removal for cause on charges of misconduct or delinquency; or

"(2) while serving in a geographic area designated by the Office of Personnel Management, is separated from the service voluntarily during a period in which the Office determines that—

"(A) the agency in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function; and

"(B) a significant percent of the employees serving in such agency will be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53 of this title or comparable provisions);

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity. Notwithstanding the first sentence of this subsection, an employee described in paragraph (1) of this subsection is not entitled to an annuity under this subsection if the employee has declined a reasonable offer of another position in the employee's agency for which the employee is qualified, which is not lower than 2 grades (or pay levels) below the employee's grade (or pay level), and which is within the employee's commuting area.".

(b) The amendment made by subsection (a) shall take effect October 1, 1982.

GENERAL LIMITATION ON COST-OF-LIVING ADJUSTMENT FOR ANNUITIES

SEC. 309. (a) Section 8340 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) An annuity shall not be increased by reason of any adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS-15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the employee or Member with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of this title during the period—

"(i) beginning on the date the annuity commenced (or, in the case of a survivor of the retired employee or Member, the date the employee's or Member's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

(b) The amendment made by subsection (a) of this section shall not cause any annuity to be reduced below the rate that is payable on the date of the enactment of this Act, but shall apply to any adjustment occurring on or after such date of enactment under section 8340 of title 5, United States Code, to any annuity payable from the Civil Service Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after the date of enactment of this Act.

FEDERAL EMPLOYEE PAY ADJUSTMENTS

SEC. 310. (a)(1) Notwithstanding any other provision of law, if—

(A) before September 1, 1982, the President transmits to the Congress pursuant to section 5305 (c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(B) the alternative plan referred to in subparagraph (A) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

(b)(1) Notwithstanding any other provision of law, effective with respect to fiscal years 1984 and 1985, and applicable in the case of an employee under the General Schedule, any hourly rate derived under section 5504(b)(1) of title 5, United States Code, shall be derived by dividing the annual rate of basic pay by 2,087.

(2) Paragraph (1) shall not apply in determining basic pay for purposes of subchapter III of chapter 83 of title 5, United States Code.

(3) The Office of Personnel Management may prescribe regulations necessary for the administration of this subsection insofar as this subsection affects employees in or under an Executive agency.

Subtitle B—Limitation on Travel and Transportation Expenses

TRAVEL AND TRANSPORTATION EXPENSES FOR VACATION LEAVE

SEC. 351. (a) Section 5728 of title 5, United States Code, is amended by inserting a comma and "Alaska, and Hawaii" after "continental United States" each place it occurs in subsections (a) and (b).

(b) Such section is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Under such regulations as the President may prescribe, an agency may pay, subject to paragraph (3) of this subsection, the expenses described in paragraph (2) of this subsection in any case in which the head of the agency determines that the payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii.

"(2) The expenses payable under paragraph (1) of this subsection are the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty in Alaska or Hawaii to the place of his actual residence at the time of apppointment or transfer to the post of duty, incurred after he has satisfactorily completed an agreed period of service in Alaska or Hawaii and in returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty in Alaska or Hawaii under a new written agreement made before departing from the post of duty.

"(3) The payment of expenses of any employee and the transportation of his family under paragraph (1) of this subsection is limited to the expenses of travel and transportation incurred for not more than two round trips commenced within 5 years after the date the employee first commences any period of consecutive tours of duty in Alaska or Hawaii.".

(c) Notwithstanding section 5728(c)(3) of title 5, United States Code (as added by subsection (b)(2) of this section), the agency shall pay under section 5728(c)(1) of such title (as added by subsection (b)(2) of this section) the expenses of one round-trip of travel of an employee who has served on consecutive tours of duty at posts of duty in Alaska or Hawaii for a period beginning at least five years before the date of enactment of this Act and including such date and the expenses of transportation of such employee's immediate family on one round-trip.

(d) The amendments made by subsection (a) shall take effect with respect to expenses incurred after the date of enactment of this Act for round-trip travel (commenced after such date) of an employee or transportation of his immediate family from his post of

duty to the place of his actual residence at the time of appointment or transfer to the post of duty.

(e) For the purposes of subsections (c) and (d), the term "employee" shall have the same meaning as provided in section 5721(2) of title 5, United States Code.

Subtitle C—Cost-of-Living Adjustments Uniformed Services

SEC. 361. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(2), section 2(c)(2), and section 2(c)(4) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

COAST GUARD

SEC. 362. For cost savings achieved through a limitation on the amount of the annual adjustment of retired and retainer pay of members and former members of the uniformed services, in satisfaction of the reconciliation requirements of section 2(b)(4) and section 2(c)(6) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and section 1401a(b) of title 10, United States Code.

FOREIGN SERVICE

SEC. 363. For cost savings achieved through a limitation on the amount of the annual adjustment of the annuity payable from the Foreign Service Retirement and Disability Fund, in satisfaction of the reconciliation requirements of section 2(b)(5) and section 2(c)(5) of the first concurrent resolution on the budget for fiscal year 1983, see section 301 of this Act and sections 826 and 827 of the Foreign Service Act of 1980.

TITLE IV—VETERANS' BENEFITS

COMMENCEMENT OF CERTAIN PERIODS OF PAYMENT

SEC. 401. (a)(1) Chapter 51 of title 38, United States Code, is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of period of payment

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made to an individual for any period before the first day of the calendar month following the month in which the award or increased award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) Except as provided in paragraph (2) of this subsection, during the period between the effective date of an award or increased award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received, but for such veteran's death, for the month in which such veteran's death occurred.

"(d) For the purposes of this section, the term 'award or increased award' means—

"(1) an original or reopened award; or

"(2) an award that is increased because of an added dependent, increase in disability or disability rating, or reduction in income.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of period of payment.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall apply to awards and increased awards the effective dates of which are after September 30, 1982.

ADVANCEMENT OF EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 402. (a) Section 3012(b)(2) of title 38, United States Code, is amended by striking out "calendar year" and inserting in lieu thereof "month".

(b) The amendment made by subsection (a) shall apply with respect to any marriage, annulment, divorce, or death that occurs after September 30, 1982.

ROUNDING DOWN OF PENSION TO NEAREST DOLLAR

SEC. 403. (a)(1) Chapter 51 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3023. Rounding down of pension rates

"The monthly or other periodic rate of pension payable to an individual under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the nearest dollar.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding down of pension rates.".

(b) The amendment made by this section shall apply with respect to amounts payable for periods beginning after May 31, 1983.

ROUNDING RULE FOR CERTAIN RATES OF COMPENSATION

SEC. 404. (a) Section 314(p) of title 38, United States Code, is amended by inserting "down" after "rounded".

(b) The second sentence of section 315(2) of such title is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be rounded down to the nearest dollar.".

(c) The amendments made by this section shall take effect on October 1, 1982.

ROUNDING DOWN OF FISCAL YEAR 1983 COMPENSATION COST-OF-LIVING INCREASE

SEC. 405. (a) In contemplation of the enactment, after the date of the enactment of this Act, of legislation providing for cost-of-living increases to be effective on October 1, 1982, in the rates of disability compensation and dependency and indemnity compensation under chapters 11 and 13, respectively, of title 38, United States Code, and the rounding down of the amounts so provided to the nearest dollar and the realigning of the amounts of disability compensation paid on account of dependents, the adjustments made by this section in the current rates under such chapters are enacted, effective January 1, 1983, with the intent that they be superseded by the rounded and realigned increased rates to be provided for in such legislation.

(b) Section 314 of title 38, United States Code, is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$57";

(2) by striking out "$162" in subsection (c) and inserting in lieu thereof "$161";

(3) by striking out "$413" in subsection (f) and inserting in lieu thereof "$412";

(4) by striking out "$604" in subsection (h) and inserting in lieu thereof "$603";

(5) by striking out "$62", "$1,403", "$62", and "$1,966" in subsection (k) and inserting in lieu thereof "$61", "$1,402", "$61", and "$1,965", respectively;

(6) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,402";

(7) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,546";

(8) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,757";

(9) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof in each such place "$1,965";

(10) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$843" and "$1,256", respectively;

(11) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,263"; and

(12) by striking out "$244" in subsection (t) and inserting in lieu thereof "$243".

(c) Section 315 of such title is amended—

(1) by striking out "$116" in clause (1)(B) and inserting in lieu thereof "$115";

(2) by striking out "$38" in clause (1)(D) and inserting in lieu thereof "$37"; and

(3) by striking out "$38" in clause (1)(G) and inserting in lieu thereof "$37".

(d) Section 362 of such title is amended by striking out "$305" and inserting in lieu thereof "$304".

(e)(1) Subsection (a) of section 411 of such title is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade	Monthly rate
E-1	$414
E-2	427
E-3	438
E-4	466
E-5	479
E-6	490
E-7	514
E-8	541
E-9	[1]566
W-1	524
W-2	545
W-3	561
W-4	594
O-1	524
O-2	541
O-3	579
O-4	612
O-5	675
O-6	760

	Monthly
O–7	823
O–8	902
O–9	969
O–10	[2]1,060

[1]If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $609.

[2]If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,137.".

(2) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$47".

(3) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$124".

(4) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$61".

(f) Section 413 of such title is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$209";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$300";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$388"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$388" and "$78", respectively.

(g) Section 414 of such title is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$124";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$209"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$106".

(h) The amendments made by this section shall take effect on January 1, 1983.

FEE FOR HOME LOANS

SEC. 406. (a)(1) Subchapter III of chapter 37 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 1829. Loan fee

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a housing loan guaranteed, made, or insured under this chapter, and no such loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been remitted to the Administrator. The amount of the fee shall be one-half of one percent of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee may not be collected under this section from a veteran who is receiving compensation (or who but for the receipt of retirement pay would be entitled to receive compensation) or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fee.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

SEC. 501. (a) Upon expiration of the term of office as a member of the Federal Communications Commission, which is prescribed by law to occur on June 30, 1982, any member appointed to fill such office after such date shall be appointed for a term which ends on June 30, 1983, and such office shall be abolished on July 1, 1983. Upon expiration of the term of office as a member of such Commission, which—

(1) is prescribed by law;

(2) is in effect before the date of the enactment of this Act; and

(3) is to occur on June 30, 1983;

no person shall be appointed to fill such office after such date, and such office shall be abolished on July 1, 1983.

(b)(1) Section 4(a) of the Communications Act of 1934 (47 U.S.C. 154(a)) is amended by striking out "seven" and inserting in lieu thereof "five".

(2) The last sentence of section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows: "The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

(3) Section 4(h) of the Communications Act of 1934 (47 U.S.C. 154(h)) is amended by striking out "Four" and inserting in lieu thereof "Three".

(4) The amendments made in paragraphs (1), (2), and (3) of this subsection shall take effect on July 1, 1983.

INTERSTATE COMMERCE COMMISSION

SEC. 502. (a) Effective January 1, 1983, each office within the Interstate Commerce Commission provided in section 10301(b) of title 49, United States Code (except one of the two offices prescribed by law to expire on December 31, 1984), which was vacant on July 1, 1982, is abolished.

(b) Effective January 1, 1983, section 10301(b) of title 49, United States Code, is amended (1) by striking out "11" and inserting in lieu thereof "7", and (2) by striking out "6 members" and inserting in lieu thereof "4 members".

(c) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(d) Upon the expiration of the term of office as a member of the Interstate Commerce Commission which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the expiration of that date.

(e) Effective January 1, 1986, section 10301(b) of title 49, United States Code, is amended (1) by striking out "7" and inserting in lieu thereof "5", and (2) by striking out "4 members" and inserting in lieu thereof "3 members".

(f) Nothing in subsection (c) or (d) of this section shall be construed as prohibiting the reappointment of any person serving in such office in terms expiring on December 31, 1982, or December 31, 1983, respectively.

(g) The term of office of one of the two persons appointed to fill an office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire on December 31, 1987, shall end on December 31, 1991. At the time of the first of such two appointments, the President shall designate which appointment is to fill the term of office which shall end under the preceding sentence on December 31, 1991.

(h)(1) Section 10301(c) of title 49, United States Code, is amended by striking out "7 years" and inserting in lieu thereof "5 years".

(2) The amendment made by paragraph (1) of this subsection shall take effect on January 1, 1984, and shall apply to any person appointed, after such date, to fill any office, as a member of the Interstate Commerce Commission, the term for which is prescribed by law to expire after such date, except that such amendment shall not apply to the person designated by the President to fill the term of office which is to end under subsection (g) of this section on December 31, 1991.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

J. JONES,
LEON PANETTA,
RICHARD A. GEPHARDT,
DELBERT LATTA,
BILL FRENZEL,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

LES ASPIN,
BRIAN J. DONNELLY,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
DAVID R. BOWEN,
FRED RICHMOND,
BILL WAMPLER,
PAUL FINDLEY
(on all matters except as listed below),
TOM HAGEDORN
(on all matters except as listed below),
E. THOMAS COLEMAN
(in lieu of Mr. HAGEDORN) on sections 160–186 of the House bill and sections 101–150 of the Senate amendment (food stamps),
WM. THOMAS
(in lieu of Mr. FINDLEY) on sections 101–130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)–(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

CLEMENT J. ZABLOCKI,
LEE H. HAMILTON,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

FERNAND J. ST GERMAIN,
J. WILLIAM STANTON,
CHALMERS WYLIE,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
J. J. FLORIO,
JAMES T. BROYHILL,
NORMAN F. LENT,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

GLENN M. ANDERSON,
NICK RAHALL,
BOB EDGAR,
DON CLAUSEN,
BUD SHUSTER,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

WILLIAM D. FORD,
MO UDALL,
EDWARD J. DERWINSKI,
GENE TAYLOR,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

JACK BROOKS,
DAVE EVANS,
FRANK HORTON,
BOB WALKER,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. MONTGOMERY,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS P. WYLIE,

Managers on the Part of the House.

Committee on the Budget:

PETE V. DOMENICI,
W. L. ARMSTRONG,
NANCY KASSEBAUM,
RUDY BOSCHWITZ,
JOHN TOWER,

Committee on Governmental Affairs: For title VI:

BILL ROTH,
TED STEVENS,
MACK MATTINGLY,
DAVID PRYOR,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress), submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

The joint statement of managers which follows was prepared by the Committees of jurisdiction, but is arranged by title of the conference agreement. A brief overview by the Committees on the Budget appears at the beginning.

STATEMENT OF BUDGET COMMITTEE MANAGERS

By approving the First Budget Resolution for Fiscal Year 1983, which included reconciliation instructions, Congress continued and expanded its efforts to maintain control over Federal expenditures. Those reconciliation instructions directed eight Senate and nine House committees to report legislation achieving unprecedented reductions which impact on Federal spending during fiscal years 1983, 1984, and 1985.

The legislative recommendations reported by the Senate Finance Committee and the House Ways and Means and Energy and Commerce Committees were incorporated into H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, which has been approved by a separate Senate-House Conference committee. This bill (H.R. 6955) incorporates the legislative recommendations of the other Senate and House committees.

The provisions of the Omnibus Reconciliation Act of 1982 are the culmination of the work of the committees in complying with the reconciliation directives. The savings which have been achieved compare favorably with the reconciliation bills as passed by the House and Senate.

The managers for the Committees on the Budget wish to acknowledge the extraordinary efforts of the conference participants, particularly the chairmen and ranking Members of the House and Senate committees, in achieving these savings.

The Senate bill contained "Sense of the Senate" language directing the conferees on H.R. 4961 to include in the conference report on that measure a provision for a Federal supplemental unemployment benefits program. The House bill contained no such provision.

In view of the fact that the conferees for H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, have included a provision relating to supplemental unemployment benefits, this language is no longer necessary. The Senate therefore recedes to the House.

The Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations; and the House Committees on Armed Services; Energy and Commerce; Foreign Affairs; and Merchant Marine and Fisheries were instructed in the First Budget Resolution to report recommended changes in direct spending programs (as defined by subsection 401(c)(2)(C) of the Budget Act) within their jurisdiction. Savings under the jurisdiction of these committees will occur automatically under this bill because the Senate Committee on Governmental Affairs and the House Committee on Post Office and Civil Service recommended changes in cost-of-living adjustments (COLAs) for civil service retirees. The uniformed service and foreign service retiree COLAs are tied by law to the civil service retirement COLA. The Senate bill included provisions in title II, IV, and V to clarify how the reconciliation instructions for the Senate Committees on Armed Services; Commerce, Science, and Transportation; and Foreign Relations were met.

The House recedes to the Senate with an amendment to clarify how the reconciliation instructions for the House Committees on Armed Services, Energy and Commerce, Foreign Affairs, and Merchant Marine and Fisheries were met.

What follows in this statement of managers is a title by title explanation of the conference agreement. This explanation has been prepared by the committees which determined the provisions of the conference agreement which are in their separate jurisdictions.

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

SUBTITLE A—DAIRY PRICE SUPPORT PROGRAM

The House bill amends the statute governing the dairy price support program to provide that:

(a) A two-tier price support program would be effective for fiscal years 1983, 1984, and 1985.

(b) For that portion of the national milk supply needed to meet domestic commercial market needs, the price support level would be: (1) for fiscal year 1983—$13.10 per cwt. and (2) for fiscal years 1984 and 1985—a level that represents the percentage of parity that $13.10 per cwt. represented as of October 1, 1982.

For that portion of the national milk supply excess to domestic commercial market needs, the support level would be the higher tier level of support reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program that is the responsibility of milk producers.

(c) The funds represented by such reduction would be remitted to CCC by each person making payment to producers for milk purchased from the producer, and in the case of a producer who markets his own milk directly to consumers the funds would be remitted by the producer.

(d) Producers of milk would have responsibility each fiscal year for that portion of the cost of purchases by CCC under the price support program in excess of 5 billion pounds milk equivalent, related costs, the amount of marketing reduction incentive payments due producers for reductions in their milk production, expenses of the National Dairy Board, and any balance remaining from the past year on advances made to the Board by CCC. There would be deducted from such total amount the estimated receipts from the sale or transfer of dairy products in CCC inventories.

(e) If dairy product imports should be increased under section 22 of the Agricultural Adjustment Act, the portion of the cost of the price support program that is the responsibility of producers would be reduced by the milk equivalent of the increased imports.

(f) The price of milk would be supported through the purchase of milk and its products, all such purchases to be made at the higher level of support.

(g) If the lower tier support rate is in effect, nontransferable incentive payments would be made to producers whose marketings of milk during the current period have been reduced from their marketings during the corresponding period of the prior year. The payment would be made on a quantity of milk up to the quantity on which the person was paid at the lower tier support rate and at a rate of payment that could not exceed the difference between the higher and lower tier support levels. If the lower

tier support rate is provided for consecutive fiscal years, the Board would recognize actions taken by producers in reducing milk marketings in prior years, except to the extent that such reduction had been offset by increases in subsequent years.

(h) Program decisions would be made by a National Dairy Board consisting of 16 members including the Secretary, 15 members of the Board to be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations representing milk producers and certified by the Secretary. The Board would have authority to dispose of dairy products acquired through price support operations, including those acquired before the date of enactment of the bill. Dispositions would include sales to the domestic commercial trade for unrestricted use at not less than the current market price or 110 percent of the current CCC purchase price based on the higher tier support price, transfers to Federal, State, and local agencies for food assistance programs, sales for commercial export and other sales or donation efforts. The Board could require the operation of the program to be carried out through products other than those purchased by CCC.

The proceeds from inventory disposition operations would be credited to the account of the Board. Dairy products up to 5 billion pounds milk equivalent would be made available for child nutrition and similar programs, including those conducted under the Older Americans Act at the request of the Secretary without cost.

(i) Nominations to the initial Board would be submitted to the Senate not later than January 1, 1983, and as a transition matter the Secretary of Agriculture would exercise the authority of the Board until such time as the Board was functioning but not later than April 1, 1983.

(j) The Secretary's responsibilities would include providing for collection of the funds resulting from payments on marketings by farmers of their excess production, providing the facilities and support required by the Board, and otherwise cooperating with the Board in the performance of its duties.

(k) Provisions for enforcement are included in the bill, including payments of penalties by persons who wilfully fail or refuse to remit amounts due under the program.

The Senate amendment provides that, effective for the period beginning with December 22, 1981, and ending September 30, 1985, the support price for milk shall be set at the level determined appropriate by the Secretary, but not less than $13.10 per hundredweight for milk containing 3.67 percent milk fat.

The Conference substitute amends the statute governing the dairy price support program to provide that:

(a) The price support level for the years beginning October 1, 1982, and October 1, 1983, would be not less than $13.10 per hundredweight; and for the year beginning October 1, 1984 would be not less than the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

(b) The Secretary would be given authority to provide for a deduction of 50 cents per hundredweight for the period beginning October 1, 1982, and ending September 30, 1985, from the proceeds of sale of all milk marketed by producers to be remitted to Commodity Credit Corporation to offset a portion of the cost of the price support program. Authority for this deduction would not apply for any fiscal year for which the projected annual price support purchases are less than 5 billion pounds milk equivalent. If at any time during a fiscal year, the Secretary should estimate that such net price support purchases during that fiscal year would be less than 5 billion pound, the authority for making deductions would not apply for the balance of the year.

(c)(1) The Secretary would be given authority to provide for an additional deduction of 50 cents per hundredweight for the period beginning April 1, 1983, and ending September 30, 1985, to be remitted to Commodity Credit Corporation subject to the following conditions.

(2) The provision for this deduction could only be implemented if the Secretary established a program to refund the assessment to farmers that reduce their commercial marketings from a base period. The base period would be the fiscal year beginning October 1, 1981, or at the option of the Secretary, the average of the two fiscal years beginning October 1, 1980. The Secretary may make adjustments in individual bases to correct for abnormal factors affecting production and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base. The refunds would be based on reductions in commercial marketings, as specified by the Secretary, but the Secretary could not require a reduction of marketings in excess of a reduction equivalent to the ratio that the total projected surplus milk for the fiscal year bears to the total milk production estimated for such period.

(3) Authority for the additional deduction would not apply for any fiscal year for which projected annual purchases by Commodity Credit Corporation are less than 7.5 billion pounds. If at any time during a fiscal year the Secretary should estimate that such net price support purchases during that fiscal year would be less than 7.5 billion pounds, the authority for making the additional deduction would not apply for the balance of the year.

(d) The Secretary would be responsible for administration of the program described above, and provisions for a Dairy Board as contained in the House bill would be deleted.

SUBTITLE—DAIRY PROMOTION

The House bill provides new authority for a National Dairy Products Promotion program to improve markets and income for United States dairy producers as follows:

(a) The program would be funded by a uniform nonrefundable check-off of 5 cents per hundredweight on all milk marketed.

(b) Initiation of the program would be subject to approval of a proposed promotion order in an industry-wide referendum of dairy producers in which a majority of those voting favor the proposed order. Approval by a milk marketing cooperative of producers would be considered as the approval of member producers, except that the cooperative must provide its members an opportunity to vote if they should so wish.

(c) An additional referendum would be held at the end of a 5-year period to determine whether milk producers favor continuation of the order.

(d) The program would be administered by a Board of Directors of not less than 36 members appointed by the Secretary of Agriculture from nominees submitted by producers and selected on a geographical basis to assure representation of all milk producing regions.

(e) Promotional activities of the Board would be limited to processed dairy products for the first 2 years of the program and must make no reference to any private brand or name.

(f) The government would be reimbursed for its costs (other than salaries paid to government employees incurred in administration of the program from assessments collected from milk producers).

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

SUBTITLE B—DONATION OF DAIRY PRODUCTS

The House bill provides additional authority to the Commodity Credit Corporation to dispose of dairy products acquired under the price support program to needy households in the United States and through foreign governments and public and nonprofit private humanitarian organizations for assistance to needy persons outside the United States. The CCC would be authorized to pay reprocessing, packaging, transportation, handling and other charges incurred on the donated commodities.

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations must be coordinated through the mechanism designated by the President to coordinate assistance under Public Law 480 and shall be in addition to the level of assistance programmed under that Act.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment to make clear that the donations for distribution in the United States would include donations to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965.

With respect to the donation of dairy stocks abroad, the Conferees stress that care must be exercised to avoid unintended harmful effects from distribution of dairy products, particularly within developing countries with poor populations. The inability of some needy groups to consume nonfat dried milk without further processing, their particular dietary needs and deficiencies, and the lack of sanitary facilities and potable water are among the factors taken into account in food distributions carried out under Public Law 480, title II aid programs. The Conferees intend that safeguards similar to those exercised under title II, Public Law 480 programs also apply to donations under the new authority.

SUBTITLE C—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, AND RICE

(1) Advance deficiency payments

The Senate amendment provides for the Secretary to make advance deficiency payments for the 1982 through 1985 crops of wheat, feed grains, upland cotton, and rice whenever an acreage limitation or set-aside is implemented by the Secretary. For the 1982 and 1983 crops, the Secretary would be required to make advance payments, as follows: (a) for 1982 crops, the payment would equal 70 percent of the projected final payment and would be made as soon as practicable after October 1, 1982; and (b) for 1983 crops, the payment would be up to 50 percent of the projected final payment and would be made as soon as practicable after producers sign up for the programs, but not before October 1, 1982. For the 1984 and 1985 crops, the Secretary would be authorized, but not required, to make advance pay-

ments in amounts up to 50 percent of the projected final payments. Any overpayments are required to be refunded to the Secretary by producers by the end of the marketing year for the crop involved. Any advance payments made to a producer who fails to meet the program requirements must be repaid, with interest, immediately.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(2) Loan rates for wheat and feed grains

(a) The House bill increases the minimum loan level for the 1983 crop of wheat to $3.80 per bushel (a 25-cent per bushel increase over the 1982 loan level).

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of wheat to $3.65 per bushel.

(b) The House bill also increases the minimum loan level for the 1983 crop of corn to $2.71 per bushel (a 16-cent per bushel increase over the 1982 loan level). The loan price support level for the other feed grains would be set under current law at such level as the Secretary determines fair and reasonable in relation to the level set for corn.

The Senate amendment contains no comparable provision.

The Conference substitute increases the minimum loan rate for the 1983 crop of corn to $2.65 per bushel.

(3) 1983 wheat acreage reduction program

(a) The House bill requires the Secretary to provide for a 1983 wheat acreage limitation program under which the acreage planted to wheat would be limited to the wheat acreage base for the farm reduced by 15 percent and a paid diversion program under which the wheat acreage on the farm would be reduced an additional 10 percent of the wheat acreage base. The House bill further makes participation in both the acreage limitation and land diversion programs a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a wheat acreage limitation program and paid diversion program on the 1983 crop of wheat under which the wheat acreage would be reduced in the same amounts as in the House provision. The Senate amendment requires participation in the acreage limitation program as a condition of eligibility for program benefits but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation program under which the acreage planted to wheat on the farm would be limited to the farm acreage base reduced by 15 percent and a diversion program under which the wheat acreage would be reduced an additional 5 percent of the wheat acreage base. Producers would be required to participate in both the acreage limitation program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage than a total of 20 percent of the wheat acreage base. This could be accomplished by increasing the requirements for diversion in excess of 5 percent of the wheat acreage base or by increasing the reduction required to be made under the acreage limitation program. In the latter event, however, the Secretary must increase the diversion requirement in an amount proportionate to any increased reduction required to be made under the acreage limitation program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate of $3 per bushel multiplied by the farm program payment yield for the crop by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate not less than $120 per acre as determined appropriate by the Secretary. The payment rate would be adjusted by the Secretary for each farm to reflect differences in yield per acre among wheat farms.

The Conference substitute adopts the House provision with an amendment that provides that the diversion payment would be a minimum of $3 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(4) 1983 feed grain acreage reduction program

(a) The House bill requires the Secretary to provide for a feed grain acreage limitation (or set-aside) program for the 1983 crop of feed grains under which the acreage planted to feed grains would be limited to the feed grain acreage base for the farm reduced by 10 percent and a paid diversion program under which the feed grain acreage would be reduced by an additional 10 percent of the feed grain acreage base, if the Secretary estimates on October 15, 1982, that the 1982 corn crop will exceed 7.3 billion bushels. The House bill further requires participation in both the acreage limitation program and the land diversion program as a condition of eligibility for program benefits.

The Senate amendment requires the Secretary to provide for a feed grain acreage limitation program and paid diversion program on the 1983 crop of feed grains under which the feed grain acreage would be reduced in the same amounts as in the House provision. The Senate amendment, however, does not make the programs contingent on the estimated production of the 1982 crop of corn and requires participation in the acreage limitation program as a condition of eligibility for program benefits, but makes participation in the land diversion program voluntary for producers.

The Conference substitute requires the Secretary to provide for an acreage limitation (or set-aside) program under which the acreage planted to feed grains on the farm would be limited to the feed grain acreage base for the farm reduced by 10 percent and a diversion program under which the feed grain acreage would be reduced an additional 5 percent of the feed grain acreage base. Producers would be required to participate in both the acreage limitation (or set-aside) program and diversion program as a condition of eligibility for program benefits. This requirement is a minimum. Under the statute, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the feed grain acreage reduction program.

(b) The House bill provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of $1.50 per bushel multiplied by the farm program payment yield by the acreage diverted under the diversion program.

The Senate amendment provides that the payment for participation in the land diversion program would be at a rate, in the case of corn, of not less than $150 per acre—the rate to be adjusted to reflect differences in yield per acre among feed grain producing farms.

The Conference substitute adopts the House provision with an amendment that provides that the corn diversion payment would be a minimum of $1.50 per bushel and that the Secretary would be authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

(5) Acreage base for the farm

(a) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted, to reflect factors the Secretary determines should be considered in determining a fair and equitable base. It further provides that the acreage base for producers following a normal summer fallow crop rotational practice for at least 3 years shall be the previous year's acreage (or the average acreage for the 2 previous years) expanded by adding to it the amount determined by multiplying one-half the announced acreage limitation percentage by the acreage annually idled and devoted to summer fallow.

The Senate amendment provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted for factors, which in the case of wheat include summer fallow.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of wheat and feed grains shall be the same as the acreage base for the 1982 crop, as adjusted to reflect factors the Secretary determines should be considered in determining a fair and equitable base. In making adjustments in the base, the Secretary is expected to consider the special problems of producers that follow a normal summer fallow crop rotational practice.

(b) The House bill provides that the acreage base for the farm for the 1983, 1984, and 1985 crops of upland cotton and rice shall be the same as the acreage base for the 1982 crop of such commodities with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base.

The Senate bill contains no comparable provisions.

The Conference substitute provides that the acreage base for the farm for the 1983 crop of rice shall be the same as the acreage base for the 1982 crop with adjustments to reflect factors the Secretary determines should be considered in determining a fair and equitable base. The conference substitute deletes the House provision relating to the acreage base for upland cotton.

(6) 1983 upland cotton acreage reduction program

(a) The House bill requires that if the Secretary should establish a reduction program for the 1983 crop of upland cotton, 25 percent of any acreage reduction must be under a paid diversion program and the balance under the acreage limitation program. Upland cotton producers must comply with the combined acreage reduction and paid di-

version programs to be eligible for program benefits.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. If the Secretary should establish an acreage reduction program for the 1983 crop of upland cotton, the conferees urge the Secretary to implement a paid diversion program in combination therewith.

(b) The House bill provides that the 1983 crop upland cotton producer who meets the combined acreage reduction requirement shall receive a diversion payment determined by multiplying a rate of 25 cents per pound, by the farm program payment yield, and by the additional acreage diverted under the paid diversion program.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) 1983 rice acreage reduction program

(a) The House bill requires that if on November 15, 1982, the Secretary estimates the 1982 crop of rice will exceed 145 million hundredweight (rough rice basis), the Secretary must provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 10 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 10 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits.

The Senate bill contains no comparable provision.

The Conference substitute requires the Secretary to provide for producers of the 1983 crop of rice an acreage limitation program under which the acreage planted to rice would be limited to the rice acreage base for the farm reduced by 15 percent of the rice acreage base and a paid diversion program under which the rice acreage would be reduced by an additional 5 percent of the rice acreage base. Producers must comply with both the acreage limitation and paid diversion programs to be eligible for program benefits. This requirement is a minimum. Under the statue, the Secretary could implement a program which requires a producer to make greater reductions in the planted acreage of rice. In such event, the comments made above with respect to the wheat acreage reduction program would apply as well to the rice acreage reduction program.

(b) The House bill provides that the payment for participation in the 1983 crop rice land diversion program would be at a rate of $3.00 per hundredweight, multiplied by the farm program payment yield, by the additional acreage diverted under the paid diversion program.

The Senate bill contains no comparable provision.

The Conference substitute adopts the House provision with an amendment that makes the $3.00 per hundredweight a minimum rate and provides that the Secretary is authorized to reduce the payment rate up to a maximum of 10 percent if the Secretary determines that the same program objective could be achieved with the lower rate.

Advance diversion payments

The House bill provides in the case of 1983 crop wheat, feed grains, upland cotton, and rice, that the Secretary is required to advance at least 50 percent of any land diversion payments as soon as practicable after a producer enters into a land diversion contract. If thereafter a producer fails to comply with the diversion contract, the producer must repay the advance with interest.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision as to wheat, feed grains, and rice, and deletes the House provision as to upland cotton.

SUBTITLE D—AGRICULTURAL EXPORT PROMOTION

The Senate amendment requires the Secretary of Agriculture for each of the fiscal years 1983, 1984, and 1985 to use between $175 million and $190 million of Commodity Credit Corporation funds for agricultural export promotion activities to discourage and neutralize agricultural export subsidy programs by foreign countries. The Secretary would be required to use the funds to (a) buy-down the rate of interest on export credit financing for a term of up to 10 years and guarantee the repayment of loans for which interest reduction payments are made, or (b) initiate export subsidy programs with respect to one or more agricultural commodities that have been or are involved in unfair trade practice cases under section 301 of the Trade Act of 1974, as amended, as the Secretary determines appropriate to neutralize subsidies on the same commodities by foreign countries. The Secretary must safeguard the usual marketings of U.S. agricultural commodities.

The House bill contains no comparable provision.

The Conference substitute provides that effective for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, the Secretary of Agriculture would be required to use not less than $175 million nor more than $190 million of funds of the Commodity Credit Corporation for export activities authorized to be carried out by the Secretary or by the Commodity Credit Corporation under current provisions of law. This authority would be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

These funds could be used, at the election of the Secretary, for a wide variety of market promotion activities authorized under current provisions of law. These activities include, among others, programs under which the Secretary could buy-down the rate of interest on export credit financing, guarantee the repayment of loans for which interest reduction payments are made, and carry out activities of the type provided for under section 1201 of the Agriculture and Food Act of 1981 (the Agricultural Export Credit Revolving Fund) and section 5(d) and (f) of the Commodity Credit Corporation Charter Act. These authorities apply to the broad spectrum of agricultural commodities and products produced in the United States for which there is export potential. The Conferees intend that the Secretary, to the greatest extent practicable and where appropriate, use these funds for interest buy-downs, or direct export credit sales, or export subsidies in order that American farmers and exporters may compete in international trade on an equal basis.

The Conferees are strongly concerned about the use of export subsidies by foreign countries in violation of obligations under trade agreements with the United States that have had the effect of impacting adversely on agricultural exports from the United States, contributing to the depressed farm economy in the United States.

These subsidies result in the displacement of potential exports of U.S. farm products in third-country markets, with a resulting adverse impact on American and world prices. The Conferees express a continued commitment to the General Agreement on Tariffs and Trade (GATT) and its accompanying international obligations incumbent on the United States. At the same time the Conferees believe that the United States cannot tolerate unfair trade practices and should act to counter them in a direct way.

In this regard the Conferees call attention to the many pending cases initiated by the United States involving unfair trade practices under section 301 of the Trade Act of 1974, as amended.

The Conferees have deleted the specific provision in the Senate bill for the use of export subsidies by the Secretary to neutralize subsidies on the same commodities by foreign countries that are the subject of pending section 301 cases. This change was made in part as a result of assurances from the Administration that these cases will be pressed and resolved in a year. The Conferees do not intend that the funds made available by this provision be used, in any way, in contravention of international obligations of the United States, but on the other hand the Conferees do not want the United States to sit idly by while other countries make use of export subsidies to capture markets from the United States.

SUBTITLE E—FOOD STAMP ACT AMENDMENTS OF 1982

(1) Short title

The House bill provides that the food stamp amendments may be cited as the "Food Stamp Act Amendments of 1982."

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provisions.

(2) Definition of household

(a) The House bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The Senate amendment requires that all related persons who live together be treated as a single household, unless one of the related persons is elderly or disabled.

The Conference substitute adopts the House provision.

(b) The House bill specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disability recognized by the Social Security disability program or a non-disease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the non-farm income poverty guidelines.

The Senate amendment contains no comparable provisions.

The Conference substitute adopts the House provision.

While retaining the "purchase food and prepare meal separately" rule in the household definition for some categories of appli-

cants—that is, unrelated persons, elderly and disabled persons (except spouses), and nonsibling relatives—the conferees expect that eligibility workers could effectively question claims and that the burden of proof for establishing "separateness" in such cases would be placed on the household, rather than the administering agency.

With regard to household members, the conferees note that both the House bill and the Senate amendment contain provisions adding to the Food Stamp Act of 1977 a definition of the term "elderly or disabled member". The definition includes certain disabled veterans and disabled surviving spouses and children of veterans. The spouses and children covered by this definition are those who are, among other things, entitled to compensation for a service connected death or pension benefits for a nonservice connected death under title 38, United States Code. The conferees intend that the word "entitled", as used in this definition, includes only those spouses and children who are receiving such compensation or pension benefits or who have applied for and been adjudged entitled to such benefits.

(3) Thrifty food plan adjustments

The Senate amendment revises the measurement periods used for each October's adjustment of the cost of the thrifty food plan. The adjustment scheduled for October 1, 1982, will be based on food price changes for the 18 months ending March 31, 1982. The October 1983 adjustment will be based on changes in the 13-month period ending April 30, 1983. The October 1984 adjustment will be based on changes in the 13-month period ending May 31, 1984. The October 1985 adjustment will be based on changes in the 13-month period ending June 30, 1985. Each subsequent October 1 adjustment will be based on the 12 months ending the preceding June 30.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

(4) Income standards of eligibility

The Senate amendment revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(5) Adjustment of deductions

The House bill delays the July 1, 1983, adjustment of the standard deduction until October 1, 1983.

The Senate amendment delays the July 1, 1983, adjustment of the standard deduction until October 1, 1984. The Senate amendment also revises the measurement periods used to adjust the standard deduction to provide that the adjustment for October 1, 1984, will be based on changes in the nonfood elements of the Consumer Price Index (CPI) for the 21-month period ending September 30, 1983; the adjustment for October 1, 1985, will be based on changes in the CPI during the 21-month period ending June 30, 1985; and the adjustments for October 1, 1986, and each October 1 thereafter will be based on changes in the CPI for the 12-month period ending the preceding June 30.

The Conference substitute adopts the House provision.

(6) Averaging income

The House bill provides that, in determining income for purposes of food stamp eligibility, income received on a weekly or biweekly basis from the same source shall be converted to a monthly amount of income.

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision.

(7) Migrant farmworkers

The House bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(8) Financial resources

The Senate amendment precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The Senate amendment would also require accessible pension funds and savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

The House bill contains no comparable provisions.

The Conference substitute adopts the Senate provision with an amendment deleting the reference to the cash value of any accessible pension funds.

The conferees intend that the provision requiring that retirement funds be counted as financial resources would only be applied to savings accounts, individual retirement accounts, and Keogh plans where no contractual relationship with other individuals is involved.

(9) Categorical eligibility

The House bill permits States to consider households in which all members receive aid to families with dependent children benefits, and (i) whose net income does not exceed 100 percent of the nonfarm poverty guideline in the case of households containing an elderly or disabled member, or (ii) whose gross income does not exceed 130 percent of the nonfarm poverty guideline in the case of all other households, as having satisfied the resource limitation requirements under the food stamp program.

The Senate amendment permits States to consider households in which all members receive aid to families with dependent children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

The Conference substitute adopts the Senate provision.

(10) Approval of periodic reporting forms

The Senate amendment removes the requirement that the Secretary of Agriculture design or approve the forms used by the States for nonperiodic reporting of changes in household circumstances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(11) Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The House bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals. The House bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

The Senate amendment permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extent necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the aid to families with dependent children program.

The Conference substitute adopts both the House and Senate provisions.

(12) Employment and job search requirements; voluntary quit

(a) The Senate amendment revises work registration and job search requirements to provide that an entire household would be disqualified for failure to comply with whatever reasonable job search requirements are prescribed by the Secretary. Such disqualification will remain in effect until the requirement is satisfied. The Senate amendment will also specifically provide that households will be ineligible to participate in the food stamp program if a member of the household subject to these provisions, without good cause, refuses to report for a job interview, refuses to provide information regarding employment status or availability for work, or refuses to report for a work opportunity.

The House bill contains no comparable provisions.

The conference substitute deletes the Senate provision.

(b) The House bill provides that, at the option of the state, job search requirements could be imposed on applicants, as well as recipients.

The Senate amendment permits the Secretary to impose job search requirements on applicants for food stamps, as well as recipients.

The Conference substitute adopts the House provision.

(c) The Senate amendment permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(d) The Senate amendment extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(13) Parents and caretakers of children

The Senate amendment eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(14) Hours of employment

The Senate amendment revises the work registration requirement to exempt those individuals (i) employed a minimum of 150 hours per month or (ii) receiving monthly earnings equal to the applicable minimum wage rate multiplied by 150 hours, rather than those employed 30 hours per week or receiving earnings equivalent to the minimum wage times 30 hours.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(15) Joint employment regulations

The Senate amendment removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the work incentive program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(16) College students

The Senate amendment revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment providing that college students who are otherwise eligible to participate in the food stamp program may not be disqualified when the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

(17) Income and assets of ineligible aliens

The Senate amendment requires that all the income and assets of an ineligible alien be attributed to the household of which the alien is a member for purposes of determining food stamp eligibility and benefits due the household.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

(18) Initial allotments

The House bill eliminates any prorated benefits of less than $10.

The Senate amendment requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

The Conference substitute adopts both the House and Senate provisions.

(19) Effect of noncompliance with other programs

The Senate amendment prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(20) House-to-house trade routes

The Senate amendment authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(21) Approval of State agency materials

The Senate amendment prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(22) Bilingual personnel and printed materials

The Senate amendment eliminates the requirement for State agencies to use appropriate bilingual personnel and printed materials in administering the food stamp program in those portions of political subdivisions in the State where a substantial number of low-income persons speak a language other than English. The Senate amendment gives the States the option of using such personnel and materials.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees understand that the Department of Agriculture has solicited comments from the States on the regulations relating to the use of bilingual personnel and material. The conferees support any efforts by the Department to eliminate burdensome requirements in this area.

(23) Points and hours of certification and issuance

The Senate amendment eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provison.

(24) Authorized representatives

The Senate amendment permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorized representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees do not intend that households be barred from using authorized representatives on the basis of age, household composition, or employment status unless a determination has been made that such restrictions are a necessary means to control a documented pattern of abuse.

(25) Expedited service

The House bill provides that food stamps shall be provided on an expedited basis in accordance with regulations in effect on July 1, 1982, to destitute migrant or seasonal farmworker households and to any other household in immediate need because of no net income, as defined in sections 5 (d) and (e).

The Senate amendment requires that expedited 5-day service be provided to households (i) having gross incomes lower than $85 per month or headed by a destitute migrant or seasonal farmworker and (ii) having liquid assets of not more than $100. A State agency would not be required to provide this expedited service to a given household more than once in a 6-month period, unless that household is headed by a destitute migrant or seasonal farmworker. The State agency is required, to the extent practicable, to verify the income and resources of the recipient household prior to the issuance of food stamps.

The Conference substitute adopts the Senate provision with an amendment providing that 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farmworker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

(26) Duplicate receipt of food stamps

The Senate amendment requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees understand that the Secretary will require State agencies to proceed promptly to implement this essential control on dual participation. The conferees

recognize that not all States currently have the computer capability to begin immediate, comprehensive statewide control. In the interim, all States are expected to implement this control to the extent of their current capability and to proceed systematically toward upgrading their capabilities to achieve total State coverage of all participants by the control system.

(27) Certification systems

The Senate amendment permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, and (ii) food stamp applicants must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

The conferees emphasize that current procedures under which households terminated from the aid to families with dependent children program are kept on food stamps if still eligible are to be continued. A separate determination of food stamp eligibility must occur if a household is terminated from AFDC.

(28) Assurance of nonduplication with "cashed out" benefits

The House bill requires State agencies to determine at least annually whether households that have been "cashed out" of the food stamp program are also receiving food stamps.

The Senate amendment mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

The Conference substitute adopts the Senate provision.

(29) Issuance procedures

The House bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

The Senate amendment authorizes the Secretary of Agriculture to require a State agency to implement new or modified issuance procedures that the Secretary finds would improve program integrity and be cost effective.

The Conference substitute adopts the House provision.

(30) Disqualification and penalties for food stores

The Senate amendment raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(31) Bonding for food stores

The Senate amendment permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of such bond by regulation.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(32) Alternative means for collection of overissuances and States' share of recovered moneys

(a) The Senate amendment permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(b) The Senate amendment specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(33) Fraud claims collection procedure

The Senate amendment allows the household of a disqualified person 30 days after a demand for an election to choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(34) Employment requirement pilot project

The Senate amendment authorizes the Secretary of Agriculture to conduct pilot projects in each of the seven administrative regions of the Food and Nutrition Service of the Department of Agriculture to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment authorizing four pilot projects.

(35) Distribution of surplus commodities

The Senate amendment states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(36) Appropriation authorization

The House bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.648 billion for fiscal year 1983, $12.908 billion for fiscal year 1984, and $13.651 billion for fiscal year 1985.

The Senate amendment extends the authorization of appropriations for the food stamp program, except for the Puerto Rican block grant, as follows: $11.9 billion for fiscal year 1983, $12.3 billion for fiscal year 1984, and $13.2 billion for fiscal year 1985. The Senate amendment also provides a separate authorization of appropriations for a Puerto Rican block grant of $825 million for each of fiscal years 1983 through 1985.

The Conference substitute adopts the House provision with an amendment to establish the authorization levels as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

(37) Puerto Rico block grant

(a) The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(b) The House bill requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact on the nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate agriculture committees no later than 6 months after the effective date of the bill.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

(38) Similar workfare programs

The Senate amendment requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the aid to families with dependent children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(39) Exemption of WIN participants from workfare

The Senate amendment deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work

incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(40) Hours of workfare

The Senate amendment revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(41) Reimbursement for workfare administrative expenses

The House bill directs the Secretary to reimburse agencies operating workfare projects for administrative expenses not otherwise reimbursable from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30-day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision.

As stated last year in the Conference report on the Agriculture and Food Act of 1981, the conferees do not intend that federally-shared administrative expenses include the cost of equipment, tools, or materials used in connection with work performed by workfare participants or the costs of supervising workfare participants and, further, do not intend that participants be reimbursed for meals away from home.

(42) State block grant option

The Senate amendment permits a State, at its option, to operate a low-income nutritional assistance block grant to finance expenditures for food assistance for needy persons within the State, in lieu of operating a food stamp program within the State. The State would be allowed to design its own low-income nutritional assistance program. States making such an election would receive, at the start of the fiscal year, a percentage of the annual Federal food stamp appropriation equal to their proportionate share of food stamp benefits (including cash benefits in lieu of food stamps and the Federal share of State administrative expenses) during the period April 1, 1981, through March 31, 1982. No State would receive less than 0.25 percent of the appropriation.

The House bill contains no comparable provision.

The Conference substitute deletes the Senate provision.

The conferees intend that both the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry hold early and thorough hearings on the concept of a State block grant option in order to expedite further congressional consideration of this issue.

(43) Technical corrections

The Senate amendment makes various technical corrections in the Food Stamp Act of 1977 to correct two typographical errors and to change references to the Secretary of Health, Education, and Welfare to the Secretary of Health and Human Services.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision.

(44) Effective dates

(a) The House bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The Senate amendment provides that all the food stamp provisions of the bill will be effective October 1, 1982, and implemented no later than January 1, 1984.

The Conference substitute adopts the House provision.

(b) The House bill makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the Agriculture and Food Act of 1981 effective on the date of enactment of the bill unless already effective.

The Senate amendment provides that, except as otherwise specifically provided, the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 shall be effective on August 13, 1981, and shall be implemented no later than June 1, 1983, and the food stamp provisions of the Agriculture and Food Act of 1981 shall be effective on December 22, 1981, and shall be implemented no later than July 1, 1983.

The Conference substitute adopts the House provision.

TITLE II—BANKING

The Senate bill contains provisions excluding lump sum mortgage insurance premiums from the maximum mortgage limits and minimum downpayment requirements on FHA insured loans. The House bill contains these same provisions with i) additional requirements for the FHA program for refunds to those selling a home in the early years of the mortgage and for a determination by the HUD Secretary that the program of advance mortgage insurance premiums is actuarially sound before implementation of the amendments made by the provisions and ii) an authorization of $50,165,000 for fiscal year 1983 for the expenses of the Bureau of the Mint. The conference report contains the House provision with a technical amendment to clarify that refunds are required for any program of advance premium collection even if the Secretary does not find the exclusion of the insurance premium from mortgage and downpayment limits to be actuarially sound.

The Conferees direct the Secretary to use the regulatory process to implement this provision in order to assure that Congress and the public have an opportunity to review and comment on the structure of the program, prior to its actual implementation. The Conferees further expect that at the time the regulation is proposed the specific information that the Secretary used to make the required determination will be provided to the House and Senate Banking Committees. The determination must assess the actuarial soundness of the program including an analysis of the impact of allowing loan to value ratios in excess of 100 percent in the early years of the mortgage and the impact of the program on the ability of moderate income families to afford the resulting monthly payments and downpayments. If the Secretary determines that implementation of the amendments made by this section is not actuarially sound, the conferees expect that the Secretary will propose ways to preserve the current affordability of FHA insured mortgages for home buyers who can only afford minimum downpayments, including retention of the current system for those marginal purchasers. The Conferees further expect that the secretary shall require, in the regulations, that payment of such premiums be made promptly after settlement as is required by Section 530 of the National Housing Act.

TITLE III

PART A—CIVIL SERVICE PROGRAMS

Cost-of-living adjustments (section 301)

Section 601 of the Senate amendment limits civil service retirement cost-of-living adjustments to 4 percent in each of fiscal years 1983, 1984, and 1985.

The House bill contains no comparable provision.

The House recedes to the Senate and concurs in the provisions of the Senate amendment with an amendment.

The conference substitute contains three parts.

First, the conference substitute provides that payment of civil service retirement cost-of-living adjustments which occur under section 8340 of title 5, United States Code, will be delayed one month in each of the next three calendar years. Adjustments currently are payable April 1 of each year. Under the conference substitute, adjustments will be payable May 1, 1983, June 1, 1984, and July 1, 1985.

Second, the conference substitute provides that civil service retirees who are under age 62 at the time of a cost-of-living adjustment under section 8340 shall receive only one-half of such adjustment. For the next three years the full adjustments are projected to be 6.6 percent, 7.2 percent, and 6.6 percent. Thus, under the conference substitute, retirees under age 62 would receive adjustments of at least 3.3 percent, 3.6 percent, and 3.3 percent. The conference substitute further provides that retirees subject to the limitation will receive an additional adjustment if the cost-of-living adjustment which actually occurs under section 8340 exceeds the projected adjustment. If this occurs, the retiree will receive one-half of the projected adjustment plus the entire amount by which the actual adjustment exceeds that projected. For example, if the full cost-of-living adjustment effective in 1983 is 7.6 percent rather than the projected 6.6 percent, retirees subject to the limitation in the conference substitute would recieve 4.3 percent (one-half of the projected adjustment plus an additional one percent reflecting the error in the projection). The limitation in the conference substitute does not apply to individuals receiving survivor annuities or individuals retired on disability.

The timing and amount of cost-of-living adjustments under several other government retirement systems (e.g., the military retirement system and the Foreign Service retirement system) are linked, by law, to the civil service retirement system adjustment mechanism. Thus, the changes in timing

and amount discussed above also will apply to these other retirement systems, resulting in additional outlay reductions.

The third part of the conference substitute affects the pay of military retirees who are employed in civil service postions. Currently, the vast majority of these individuals receive both a full civil service salary and a fully indexed military pension. Thus, each year these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference substitute provides that when such an individual receives a retirement cost-of-living adjustment, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

Disability retirement (section 302)

Section 602 of the Senate amendment makes five substantive changes with respect to disability retirement under the civil service retirement System. First, it prohibits individuals eligible for immediate retirement from retiring on disability. Second, it reduces from one year to 180 days the period during which a disability annuity continues after a finding of restored earning capacity. Third, it changes the current earning capacity test period from two years to one year. Fourth, it authorizes the Office of Personnel Management to obtain certain information from the Departments of Health and Human Services, Labor, and Defense and the Veterans Administration. Finally, National Guard technicians who are separated from employment as technicians on or after December, 1979, due to disabilities that disqualify them from the National Guard or military service, will be eligible for disability retirement. Such service is required for employment as a technician.

The House bill contains no comparable provision.

The conference substitute adopts the provisions of the Senate amendment with minor changes. The provision prohibiting disability retirement for individuals eligible for optional retirement is deleted. The provision for payment of disability annuity benefits to National Guard technicians is made prospective and dependent on the individual concerned making application to Office of Personnel Management not later than twelve months after the date of the enactment of the conference substitute. Finally, the provisions relating to restoration of earning capacity are made effective with respect to income earned after December 31, 1982. The conference substitute includes other stylistic and technical changes.

Interest rates, deposits and redeposits under the civil service retirement system (section 303)

Section 603 of the Senate amendment provides that effective January 1, 1985, the interest rate for any given year on redeposits of refunds and deposits for periods of service for which no deductions were made shall be equal to the overall average yield on all obligations in which the Fund was invested during the fiscal year ending during the preceding calendar year. Currently the interest rate charged is set by statute at three percent. The Senate amendment also provides that no retirement credit will be allowed for periods of service for which retirement deductions were not made unless a deposit for such service is made to the Fund. Finally, the Senate amendment provides that an employee must be separated for at least 31 days before a refund of retirement contributions may be made. Currently, an employee need be separated for only three days.

The House bill contains no comparable provision.

The conference substitute adopts the Senate amendment with minor changes. The conference substitute clarifies the interest rates which will be effective in the future. Under the substitute the rate of interest for any calendar year will be equal to the overall average yield to the civil service retirement fund during the preceding calendar year, as determined by the Secretary of the Treasury, from all obligations purchased by the Secretary during the calendar year under section 8348 (c), (d), and (e) of title 5, United States Code. The conference substitute further provides that the new interest rates will apply only with respect to refunds and periods of service which occur after October 1, 1982. Finally, the provisions relating to the required 31 day separation are made effective October 1, 1982, to conform to the general effective date of the conference substitute.

Reduction of annuities for early retirement

Section 604 of the Senate amendment provides that the annuity of a retiring employee shall be reduced four percent for each year the employee is under age 55 at the time of retirement. Under current law the reduction is two percent for each year.

The House bill contains no comparable provision.

The Senate recedes to the House.

Rounding down of civil service retirement annuities (section 304)

Section 301 of the House bill and section 606 (a) and (b) of the Senate amendment provide that civil service annuity benefits shall be rounded to the next lowest dollar. Under existing law annuities are rounded to the nearest whole dollar. This change will apply to initial annuities and to annuities adjusted annually to reflect changes in the cost-of-living. The conferees agreed that the new rounding provisions shall apply with respect to annuities commencing on or after October 1, 1982, and with respect to adjustments or redeterminations of annuities made on or after that date.

Later commencement date for certain annuities (section 305)

Section 302 of the House bill and section 606(c) of the Senate amendment provide that the annuities of retiring employees and Members will commence on the first day of the month after separation from the service. Under existing law, such annuities commence on the day following separation. The House provision, however, would not apply to individuals retiring involuntarily (except for cause) or on disability. The House bill provides that the amendment applies to annuities commencing on or after October 1, 1982.

The Senate recedes to the House.

Creditable service based on military service; recomputation at age 62 of credit for military service of current annuitants (section 306, 307)

"Catch-62" is the term used to describe a situation where an individual with military service retiring under the civil service retirement system may credit the years of post-1956 military service for a civil service annuity. These military years are also automatically creditable for social security benefit purposes. In order to prevent coverage under both systems for the same period of service, the civil service retirement annuity, by law, is recomputed at age 62 (when social security eligibility begins) to eliminate the period of military service from the civil service annuity. The additional social security benefit gained for these years of military service often does not match the reduction in the civil service annuity. Sections 607 and 608 of the Senate amendment address this problem in three ways.

The House bill contains no comparable provision.

The House recedes to the Senate with technical amendments. The conference substitute provides the following:

(a) An employee first employed in a position under the civil service retirement system on or after October 1, 1982, will not receive credit for military service toward a civil service annuity unless the employee deposits in the civil service retirement fund an amount equal to 7 percent of his military base pay for each year of military service that he wants credited for civil service retirement purposes. If the employee makes a deposit, he will be entitled to credit under both the civil service and social security systems. An employee has a two-year grace period after employment begins during which no interest will be applied to amounts which are desposited. Amounts deposited after the two-year period are subject to interest at an annual interest rate equal to the yield on new civil service retirement fund investments.

(b) Employees first employed before October 1, 1982, will also be given an opportunity to make a deposit to the civil service retirement fund to cover military service. If they do, they will also be entitled to credit under both the civil service and social security systems and thus will avoid a "Catch 62" reduction. The same grace period and interest provisions as for new employees will apply. If they choose not to make a deposit, they would continue to be subject to the "Catch-62" reduction.

(c) Current civil service annuitants who are age 62 or older on October 1, 1982, will have their annuities recomputed to give them civil service credit for their military service. For an annuitant not yet age 62, military service will not be deducted from an annuity at age 62. Upon recomputation of the civil service annuity (in the case of annuitants 62 or older), and upon reaching age 62 (in the case of annuitants currently under that age) there will be a recomputation of social security benefits removing credit for periods of military service and reducing the civil service annuity by an appropriate amount. However, in no case will an individual receive less than the amount he would receive or is receiving had he remained subject to the "Catch-62" reduction.

Immediate retirement (section 308)

Section 609 of the Senate amendment amends the early retirement provisions of existing law (5 U.S.C. 8336(d)) in two significant respects. The first change requires the Office of Personnel Management to determine that a significant percentage of the employees serving in an agency will be separated or subject to an immediate reduction in basic pay during a major reorganization, reduction in force, or transfer of function before the Office of Personnel Management may authorize employees of the agency to retire voluntarily under the early retirement provisions of section 8336(d). The second change provides that an employee who is separated from the service involuntarily is not entitled to an annuity if the employee has declined a reasonable offer of another position in the agency.

The House bill contains no comparable provisions.

The conferees agreed to the Senate provision with an amendment to clarify the phrase "reasonable offer of another position." Under the conference substitute, the offered position must be one for which the employee is qualified, be not lower than two grades or pay levels below the employee's grade or pay level, and be within the employee's commuting area.

General limitation on annuity cost-of-living adjustments (section 309)

Section 610 of the Senate amendment provides that no civil service annuity (including survivor annuities) may be increased as the result of a cost-of-living adjustment to an amount which exceeds the greater of (a) the maximum pay payable for GS-15 (currently $57,500), or (b) the final pay (or average pay, if higher) of the employee or Member increased by the overall annual average percentage adjustments in the General Schedule pay rates that have occurred between the date the employee's or Member's annuity commenced and the date of the cost-of-living adjustment. For the purpose of determining the final or average pay of an employee or Member, the term "pay" is defined to mean the rate of salary or basic pay which is payable under any provision of law, including provisions of law which limit the expenditure of appropriated funds. The Senate amendment further provides that the amendment shall not cause any annuity to be reduced below the rate payable on the date of enactment but that such amendment shall apply to any cost-of-living adjustment occuring on or after the date of enactment. Moreover, the amendment applies with respect to any civil service annuity regardless of its commencing date.

The House bill contains no comparable provisions.

The House recedes to the Senate.

Federal employee pay adjustments (section 310).

Section 303 of the House bill provides that if the President, before September 1, 1982, transmits an alternative pay plan to the Congress proposing a pay adjustment of less than 4 percent and that alternative plan is disapproved by either House in accordance with existing law, the pay adjustment for the statutory pay systems shall be 4 percent. Under existing law, Federal employees are entitled to the full pay comparability increase (estimated to be close to 20 percent this October) in the event either House disapproves the President's alternative pay plan.

The Senate amendment contains no comparable provisions.

The Senate recedes to the House and concurs with an amendment.

The conference substitute has two parts. First, it adopts without change the provisions of the House bill relating to the disapproval of an alternative pay plan. Second commencing in fiscal year 1984, the conference substitute changes the basis for computing pay for employees under the General Schedule. Currently, General Schedule pay is computed on the basis of 260 work days or 2,080 hours rather than the 261 or 262 work days that usually occur in a calendar year. The conference substitute provides that pay shall be computed on the basis of the average work hours in a calendar year (2,087 hours). This change is effective only for fiscal years 1984 and 1985. This provision does not affect the calculation of retirement benefits.

SUBTITLE B—LIMITATION ON TRAVEL AND TRANSPORTATION EXPENSES

Travel and transportation expenses for vacation leave

Section 605 of the Senate amendment would terminate certain travel provisions in current law for Federal employees assigned to duty stations in Hawaii and Alaska. Under 5 USC 5728, Federal employees assigned to posts of duty outside the continental United States are allowed, for each tour of duty, payment for travel expenses for one round trip to their actual place of residence at the time of appointment. This benefit is also extended to the employee's immediate family. By adding the words "Alaska and Hawaii" to the term "continental United States", the Senate amendment would terminate these payments with regard to Federal employees assigned to posts of duty in Alaska and Hawaii. The Senate amendment provides that an employee whose post of duty is in Alaska or Hawaii on the date of enactment of this Act shall be entitled to one round-trip travel commenced after the date of enactment of this Act.

The House bill contains no such provision.

The conference agreement would add the words "Alaska and Hawaii" to the term "continental United States", thereby terminating the round-trip travel benefits for Federal employees assigned to those two states. However, the conference agreement contains provisions allowing the head of an agency to provide for such round-trip travel benefits when he determines that such expenditure is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post in Alaska or Hawaii. The intent of this provision is to assure an agency the availability of employees with special qualifications which are not in ready supply in these locations and to assure the availability of personnel to fill positions in remote areas. It is intended that the provision be used sparingly and only when necessary to fulfill the agency's mission. The payment of such expenses is limited to not more than two round-trips commenced within five years after the date the employee first commences any period of consecutive tours of duty in Alaska and Hawaii. The conference agreement further provides that the termination of these travel benefits shall not be applicable to the first round-trip travel commenced after the date of enactment of this Act by an employee whose post of duty on the date of enactment of this Act is in Alaska or Hawaii, but counts such first trip toward the two-trip limit.

TITLE IV: VETERANS' BENEFITS

The House bill and the Senate amendment, according to CBO estimates, would have achieved total cost savings of $169.7 million and $168.1 million, respectively, in budget authority and $169.4 million and $166.9 million, respectively, in outlays in fiscal year 1983.

The conference agreement, according to CBO estimates, would achieve total cost savings of $168.7 million in budget authority and $167.5 million in outlays in fiscal year 1983. The first three years' savings are shown in the following table:

COST SAVINGS

[In millions of dollars]

	Fiscal year 1983		Fiscal year 1984		Fiscal year 1985	
	BA	O	BA	O	BA	O
Section 401—Commencement of payment periods	53.5	53.5	56.3	56.3	59.2	59.2
Section 402—Advance date of reductions	3.2	2.9	3.5	3.2	3.9	3.5
Section 403—Pension rounding	3.6	2.7	10.4	10.4	10.1	10.1
Sections 404 and 405—Compensation rounding	18.8	18.8	18.9	18.9	19.1	19.1
(Subtotal: Entitlements)	(79.1)	(77.9)	(89.1)	(88.8)	(92.3)	(91.9)
Section 406—Home-loan fee	89.6	89.6	99.8	99.8	104.1	104.1
Conference report total	168.7	167.5	188.9	188.6	196.4	196.0
House bill total	169.7	169.4	185.8	185.5	195.0	194.6
Senate amendment total	168.1	166.9	192.1	191.8	202.0	201.6

A description of the provisions of the House bill, Senate amendment, and conference agreement follows.

1. Commencement of certain periods of payment

Both the House bill and the Senate amendment would, effective October 1, 1982, postpone the commencement of the period for which a new award or an increased award of Veterans' Administration compensation, dependency and indemnity compensation (DIC), or pension is paid. The commencement of the period of payment would be delayed until the first day of the calendar month following the effective date of the award or increased award.

The conference agreement includes this provision with a clarifying amendment defining "award or increased award". Under this definition, the term would mean an original award, a reopened award, or an award that is increased because the recipient has acquired a new dependent, the recipient's disability or disability rating has been increased, or the recipient's income has declined.

The conferees emphasize that this provision would not apply to various types of adjustments of awards—as opposed to new awards or increases in awards—such as occur, for example, in the case of an apportionment and in the case of the termination of any withholding, reduction, or suspension of an award by reason of a recoupment, an offset to collect an indebtedness, institutionalization, incompetency, incarceration, or an

estate that exceeds the limitation for certain hospitalized incompetent veterans. The conferees also emphasize that this provision does not apply to any increase in benefit payments resulting solely from the enactment of legislation—such as a cost-of-living increase in compensation and DIC rates or a change in the criteria for statutory award designations—or from a cost-of-living adjustment in pension rates pursuant to section 3112 of title 38. The term would also include any new award of "improved" pension pursuant to an election under section 306 of Public Law 95-588 and any increase in the amount of compensation, pursuant to VA regulations (sections 4.29 and 4.30 of title 38, Code of Federal Regulations), by reason of hospitalization of a veteran, under certain circumstances, for a period in excess of 21 days for a service-connected disability, or of a veteran's convalescence following certain surgical or medical procedures for a service-connected disability.

Cost savings associated with this provision, according to CBO estimates, would be $53.5 million in both budget authority and outlays in fiscal year 1983, $56.3 million in both budget authority and outlays in fiscal year 1984, and $59.2 million in both budget authority and outlays in fiscal year 1985.

2. Advancement of effective date of certain reductions of compensation and pension

Both the House bill and the Senate amendment would provide that, effective October 1, 1982, the effective date of a reduction of VA compensation, DIC, or pension by reason of a reduction in the number of the recipient's dependents resulting from the marriage, annulment, divorce, or death of a dependent shall be the last day of the month—rather than the last day of the year—in which the number of dependents decreased.

The conference agreement contains this provision made applicable, in order to avoid creating overpayments, only to changes in dependency occurring after September 30, 1982.

Cost savings associated with this provision, according to CBO estimates, would be $3.2 million in budget authority and $2.9 million in outlays in fiscal year 1983, $3.5 million in budget authority and $3.2 million in outlays in fiscal year 1984, and $3.9 million in budget authority and $3.5 million in outlays in fiscal year 1985.

3. Rounding down of pension to nearest dollar

Both the House bill and the Senate amendment would provide that, in computing amounts of monthly non-service-connected pension payments, amounts of $0.99 or less shall be rounded down to the nearest lower dollar. Under the House bill, this provision would become effective October 1, 1982, and under the Senate amendment it would take effect with respect to payments for periods beginning after May 31, 1983.

The House recedes with a technical amendment clarifying that the amount to be rounded is the monthly (or other periodic) rate of pension. Hence, in the case of an unrounded deduction for an insurance premium payment or for an indebtedness offset, the pensioner may receive payment in an unrounded amount.

The conferees stress that this provision will become effective at the same time as the cost-of-living adjustment in the rates for the "improved" pension program (enacted in Public Law 95-588), pursuant to section 3112 of title 38, scheduled for June 1, 1983, with the result that no such pensioner's monthly rate will be, by virtue of this provision, reduced below the amount paid for the previous month.

Cost savings associated with this provision, according to CBO estimates, would be $3.6 million in budget authority and $2.7 million in outlays in fiscal year 1983, $10.4 million in both budget authority and outlays in fiscal year 1984, and $10.1 million in both budget authority and outlays in fiscal year 1985.

4. Rounding down of fiscal year 1983 compensation cost-of-living increase

The House bill would provide, effective October 1, 1982, and "adjusted" 7.4-percent cost-of-living increase in compensation and DIC benefits—that is, an increase of 7.4 percent in the current rates with all amounts from $0.01 to $0.99 rounded down to the next lower dollar. The Senate amendment would reduce, effective January 1, 1983, various current compensation and DIC rates—in anticipation of the enactment prior to that date of a similarly "adjusted" cost-of-living increase, effective October 1, 1982, in the current compensation and DIC rates that would supersede the rounding-down reductions.

The ultimate intended effect both of the House provisions and of the Senate provisions coupled with the subsequent anticipated cost-of-living increase would be a compensation/DIC cost-of-living increase costing less than a 7.4-percent increase calculated in accordance with the customary Congressional practice by which, in legislating such increases, amounts of $0.50 or more are rounded up to the next higher dollar and amounts of less than $0.50 are rounded down to the next lower dollar. Such lower cost for the total compensation/DIC increase this year is necessary in order to keep the cost within the pertinent fiscal year 1983 budget allocations to the Veterans' Affairs Committees under section 302(a) of the Congressional Budget Act of 1974.

The rate reductions in the Senate bill were arrived at so as to achieve estimated fiscal year 1983 cost-savings equal to the savings ($29.5 million in both budget authority and outlays) that would be achieved through the enactment of an "adjusted" 7.4-percent compensation/DIC cost-of-living increase—with rates rounded down to the nearest dollar, with the rounded increased rate for those with disabilities rated at 10 percent reduced by $1.00 and with a realignment of dependents' allowances (to provide for rate uniformity)—rather than a 7.4-percent increase enacted in accordance with customary Congressional practice on rounding.

Both the House bill and the Senate amendment would modify the method by which compensation dependent's allowances for veterans with disabilities rated from 30-percent through 90-percent disabling are computed. Under current law, these dependents' allowances are computed as a percentage—equal to the veteran's percentage disability rating—of the dependents' allowances payable to veterans rated totally disabled, with amounts of $0.50 or more rounded up and amounts less than $0.50 rounded down. The House bill and the Senate amendment would require rounding down all amounts.

The House recedes, with adjustments in certain current-rate reductions and a conforming amendment providing for rounding down certain intermediate rates pursuant to section 314(p) of title 38, United States Code. The fiscal year 1983 cost savings of $18.8 million achieved through the conference agreement provisions reflect the House bill's treatment of the 7.4-percent increase for 10-percent disabled veterans. The conferees emphasize that these provisions are based upon an expectation that they will be superseded by the enactment of a compensation bill, prior to January 1, 1983, providing for an "adjusted" 7.4-percent cost-of-living increase with rates rounded down to the nearest dollar and with dependency allowances realigned.

Cost saving associated with these provisions, according to CBO estimates, would be $18.8 million in both budget authority and outlays in fiscal year 1983, $18.9 million in both budget authority and outlays in fiscal year 1984, and $19.1 million in both budget authority and outlays in fiscal year 1985.

5. Fee for home loans

Both the House bill and the Senate amendment would require the payment of a fee of 0.5 percent of the original loan principal of all VA home loans guaranteed, insured, or made to veterans—other than those who are in receipt of VA compensation for a service-connected disability or who, but for the receipt of military retirement pay, would be entitled to receive such compensation—and to certain spouses and surviving spouses. The House bill would also exempt the surviving spouses of those who have died from a service-connected disability. Under both provisions, the fee would be required with respect to loans closed after September 30, 1982.

The House bill, but not the Senate amendment, provides that the requirement for the payment of the fee would not apply with respect to any loan closed after September 30, 1985.

The Senate recedes.

Savings associated with this provision, according to CBO estimates, would be $89.6 million in both budget authority and outlays in fiscal year 1983, $99.8 million in both budget authority and outlays in fiscal year 1984, and $104.1 million in both budget authority and outlays in fiscal year 1985.

6. Termination of pension benefits for certain children

Both the House bill and the Senate amendment would terminate, in the cases of children who reach age 18 after September 30, 1982, VA pension benefits payable under the "improved" pension program, enacted in Public Law 95-588, to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing a post-secondary education.

The Senate bill, but not the House amendment, in the cases of children who reach age 18 after September 30, 1982, would terminate pension benefits payable under section 306(a) of Public Law 95-588 (under which the benefits of certain pensioners who were in receipt of pension as of December 31, 1978, the day before the "improved" program went into effect, were "grandfathered") to or for certain veterans' children who have reached age 18 but are under age 23 and are pursuing post-secondary education.

Both the House bill and the Senate amendment would phase-out—through annual 25-percent reductions, beginning with the first reduction on October 1, 1982—the pension benefits payable under both the "improved" program and section 306(a) to veterans' children who reach age 18 prior to October 1, 1982, and are pursuing post-secondary education.

The conferees did not resolve the differences between the House and Senate ver-

sions, and the conference agreement does not contain these provisions.

7. Correspondence training

The House bill, but not the Senate amendment, would repeal, effective October 1, 1982, the authority under which GI Bill educational assistance benefits are paid to veterans, dependents, and service personnel for the pursuit of correspondence training.

The House recedes.

TITLE V—COMMERCE, SCIENCE, AND TRANSPORTATION

FEDERAL COMMUNICATIONS COMMISSION

Section 501 reduces the size of the Federal Communications Commission (FCC) to 5 from 7 members. The relevant parts of the Communications Act of 1934 specify that the FCC shall be composed of 7 members appointed by the President, by and with the advice and consent of the Senate. The Act further specifies that 4 members shall constitute a quorum.

This proposal would result in savings of approximately $100,000 in fiscal year 1983 and $500,000 annually, thereafter.

The proposal provides that the reduction of 2 positions will take place on July 1, 1983, thereby allowing for an abbreviated appointment to the term of office which expired on June 30, 1982. The second term, expiring on June 30, 1983, will not be filled. The terms of the other members are not affected. The number of members constituting a quorum as of July 1, 1983, is reduced to 3 from 4.

The concept of reducing the size of the FCC is not new. A January 1971 study entitled, "A New Regulatory Framework: Report on Selected Independent Regulatory Agencies" (prepared by the President's Advisory Council on Executive Organizations), recommended that "the number of FCC Commissioners be reduced from seven to five to minimize inefficiency caused by the sheer number of Commissioners considering each issue." The study also concluded that a reduced number of Commissioners would result in "improved regulatory effectiveness without raising the prospect of partisan control over the broadcast media, or individual interference with the free exchange of ideas or information (at pp. 118-119).

In 1974, a former FCC General Counsel, Henry Geller, endorsed this concept in "A Modest Proposal to Reform the Federal Communications Commission," The Rand Corporation, Washington, D.C. (April, 1974).

A 1977 Congressional study of regulatory commissions ("Study on Federal Regulation," Vol. IV, "Delay in the Regulatory Process" Committee on Governmental Affairs, U.S. Senate, 95th Congress, 1st Session, p. 115 (July, 1977)), concluded that policymaking bodies of 5 are preferable to larger groups, the primary advantage being the speed of decision making.

Most recently, the Comptroller General of the United States called for FCC reduction in a July 1979 report entitled "Organizing the Federal Communications Commission for Greater Management and Regulatory Effectiveness," at pp. 15-16. As such, the FCC reduction seems long overdue.

INTERSTATE COMMERCE COMMISSION

House bill

No comparable provision.

Senate amendment

The Senate amendment provides that effective January 1, 1983, each office within the Interstate Commerce Commission (ICC) that is provided for by 49 U.S.C. 10301 (other than the office prescribed to expire on December 31, 1985) and that is vacant on July 1, 1982, shall be abolished and, effective January 1, 1983, amends such section to provide that the ICC will be composed of 7 members with no more than 4 members from the same political party.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1982, any person appointed to fill such office after such date shall be appointed for a term of office which ends on December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment provides that upon the expiration of that member's term of office which is prescribed by law to expire on December 31, 1983, any person appointed to fill such office after such date shall be appointed for a term of office which ends December 31, 1985, and such office shall be abolished immediately after the 1985 expiration date.

The Senate amendment amends 49 U.S.C. 10301(b), effective January 1, 1986, to provide that the ICC shall be composed of 5 members. It further amends such section to provide that no more than 3 members shall be appointed from the same political party.

The Senate amendment also provides that any member of the ICC whose term of office expires on December 31, 1982, or December 31, 1983, may be reappointed as a member of the Commission, and this provision is consistent with existing law.

Conference Substitute

The conference substitute is the same as the Senate amendment except that (1) the vacant office which is retained on the Interstate Commerce Commission is one of the two offices which are prescribed to expire on December 31, 1984, instead of the office which is prescribed to expire on December 31, 1985; (2) one of the persons appointed to fill one of the two offices the terms for which are prescribed to expire on December 31, 1987, shall be appointed for a term of office which ends on December 31, 1991, instead of December 31, 1992; and (3) section 10301(c) of title 49, United States Code, is amended to reduce the terms of office of members of the Interstate Commerce Commission from seven years to five years. The amendment made under clause (3) of the preceding sentence shall take effect on January 1, 1984, and apply to persons appointed, after such date, to fill any office of the Interstate Commerce Commission, except that such amendment does not apply to one of the two persons appointed to fill an office the term for which is prescribed to expire on December 31, 1987.

OTHER PROVISIONS

Industrial Funding of Supply Operations

Section 611 of the Senate bill would amend the Federal Property and Administrative Services Act of 1949 to permit GSA to pass on to other Federal agencies costs incurred for wages, space, and other personnel costs relating to the contracting, procurement, inspection, storage, management, distribution, and accountability of supplies and materials provided by GSA to such Federal agencies. The Senate bill would provide that all executive agencies shall requisition from the GSA all needed items of personal property and nonpersonal property which are managed by GSA unless otherwise authorized by GSA. The Senate bill further provides that the Administrator of GSA shall report twice each year to the Senate Committee on Governmental Affairs and the House Committee on Government Operations on the status and operations of the General Supply Fund.

The House bill contains no such provision.

The Senate recedes to the House position.

And the Senate agree to the same.

Committee on the Budget: For consideration of the entire House bill and Senate amendment:

J. JONES,
LEON PANETTA,
RICHARD A. GEPHARDT,
DELBERT LATTA,
BILL FRENZEL,

Solely for consideration of title I of the House bill and title I of the Senate amendment:

LES ASPIN,
BRIAN J. DONNELLY,

Committee on Agriculture: Solely for consideration of title I of the House bill and title I of the Senate amendment:

E DE LA GARZA,
THOMAS S. FOLEY,
DAVID R. BOWEN,
FRED RICHMOND,
BILL WAMPLER,
PAUL FINDLEY (on all matters except as listed below),
TOM HAGEDORN (on all matters except as listed below),
E. THOMAS COLEMAN (in lieu of Mr. HAGEDORN) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment (food stamps),
WM. THOMAS (in lieu of Mr. FINDLEY) on sections 101-130 of the House bill and section 151 of the Senate amendment (dairy),

Committee on Foreign Affairs: Solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

CLEMENT J. ZABLOCKI,
LEE H. HAMILTON,

Committee on Banking, Finance and Urban Affairs: Solely for consideration of title II of the House bill and title III of the Senate amendment:

FERNAND J. ST GERMAIN,
J. WILLIAM STANTON,
CHALMERS P. WYLIE,

Committee on Energy and Commerce: Solely for consideration of sections 402 and 403 of the Senate amendment:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
J. J. FLORIO,
JAMES T. BROYHILL,
NORMAN F. LENT,

Committee on Public Works and Transportation: Solely for consideration of section 403 of the Senate amendment:

GLENN M. ANDERSON,
NICK RAHALL,
BOB EDGAR,
DON CLAUSEN,
BUD SHUSTER,

Committee on Post Office and Civil Service: Solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

WILLIAM D. FORD,
MO UDALL,
EDWARD J. DERWINSKI,
GENE TAYLOR,

Committee on Government Operations: Solely for consideration of sections 605 and 611 of the Senate amendment:

JACK BROOKS,
DAVE EVANS,
FRANK HORTON,
BOB WALKER,

Committee on Veterans' Affairs: Solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

G. V. MONTGOMERY,
MARVIN LEATH,
JOHN PAUL HAMMERSCHMIDT,
CHALMERS P. WYLIE,

Managers on the Part of the House.

Committee on the Budget:

PETE V. DOMENICI,
W. L. ARMSTRONG,
NANCY KASSEBAUM,
RUDY BOSCHWITZ,
JOHN TOWER,

Committee on Governmental Affairs: For title VI:

BILL ROTH,
TED STEVENS,
MACK MATTINGLY,
DAVID PRYOR,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 4961

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-760).

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Tax Equity and Fiscal Responsibility Act of 1982".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

Subtitle A—Medicare

PART I—CHANGES IN PAYMENTS FOR SERVICES

Subpart A—Amount of Payment for Institutional Services

Sec. 101. Payment for inpatient hospital services.
Sec. 102. Single reimbursement limit for skilled nursing facilities.
Sec. 103. Elimination of inpatient routine nursing salary cost differential.
Sec. 104. Elimination of duplicate overhead payments for outpatient services.
Sec. 105. Single reimbursement limit for home health agencies.
Sec. 106. Prohibiting payment for Hill-Burton free care.
Sec. 107. Prohibiting payment for anti-unionization activities.
Sec. 108. Reimbursement of provider-based physicians.
Sec. 109. Prohibiting recognition of payments under certain percentage arrangements.
Sec. 110. Elimination of lesser-of-cost-or-charge provision.
Sec. 111. Elimination of private room subsidy.

Subpart B—Payments for Other Services

Sec. 112. Reimbursement for inpatient radiology and pathology services.
Sec. 113. Reimbursement for assistants at surgery.
Sec. 114. Payments to health maintenance organizations and competitive medical plans.
Sec. 115. Prohibition of payment for ineffective drugs.

Subpart C—Other Payment Provisions

Sec. 116. Medicare payments secondary for older workers covered under group health plans.
Sec. 117. Interest charges on overpayments and underpayments.
Sec. 118. Audit and medical claims review.
Sec. 119. Private sector review initiative.
Sec. 120. Temporary delay in periodic interim payments.

PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT

Sec. 121. Medicare coverage of Federal employees.
Sec. 122. Hospice care.
Sec. 123. Coverage of extended care services without regard to three-day prior hospitalization requirement.
Sec. 124. Provision temporarily holding part B premium at constant percentage of cost.
Sec. 125. Special enrollment provisions for merchant seamen.

PART III—MISCELLANEOUS PROVISIONS

Sec. 126. Extending medicare proficiency examination authority.
Sec. 127. Regulations regarding access to books and records.
Sec. 128. Technical corrections to Omnibus Budget Reconciliation Act of 1981.

Subtitle B—Medicaid

Sec. 131. Copayments by medicaid recipients.
Sec. 132. Modifications in lien provisions.
Sec. 133. Limitation on Federal financial participation in erroneous medical assistance expenditures.
Sec. 134. Medicaid coverage of home care for certain disabled children.
Sec. 135. Six-month moratorium on deregulation of skilled nursing and intermediate care facilities.
Sec. 136. Medicaid program in American Samoa.
Sec. 137. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

Subtitle C—Utilization and Quality Control Peer Review

Sec. 141. Short title of subtitle.
Sec. 142. Requirement for Secretary to enter into contracts.
Sec. 143. Establishment of utilization and quality control peer review program.
Sec. 144. Facilitation of private review.
Sec. 145. Waiver of liability provision.
Sec. 146. Medicaid provisions.
Sec. 147. Demonstration projects for competitive bidding and other reimbursement methods.
Sec. 148. Technical amendments.
Sec. 149. Effective date.
Sec. 150. Maintenance of current PSRO agreements.

Subtitle D—Aid to Families With Dependent Children

Sec. 151. Rounding of eligibility and benefit amounts.
Sec. 152. Effective date of application; proration of first month's AFDC benefit.
Sec. 153. Absence from home solely by reason of uniformed service.
Sec. 154. Job search.
Sec. 155. Proration of standard amount for shelter and utilities.
Sec. 156. Limitation of Federal financial participation in erroneous assistance expenditures.
Sec. 157. Exclusion from income of certain State payments
Sec. 158. Extension of time for States to establish a work incentive demonstration program.
Sec. 159. Exclusion from income.
Sec. 160. Technical amendments to social services and foster care provisions in 1981 reconciliation Act.
Sec. 161. Delayed effective date in cases requiring conforming State legislation.

Subtitle E—Child Support Enforcement

Sec. 171. Fee for services to non-AFDC families.
Sec. 172. Allotments from pay for child and spousal support owed by members of the uniformed services on actived duty.
Sec. 173. Reimbursement of State agency in initial month of ineligibility for AFDC.
Sec. 174. Reduction in certain Federal payments to States under child support enforcement program.
Sec. 175. Technical amendments to child support enforcement provisions in 1981 reconcilliation Act.
Sec. 176. Delayed effective date in cases requiring State legislation.

Subtitle F—Supplemental Security Income

Sec. 181. Effective date of application; proration of initial SSI benefit payment.
Sec. 182. Rounding of SSI eligibility and benefit amounts.
Sec. 183. Coordination of SSI and OASDI cost-of-living adjustments.
Sec. 184. Phaseout of hold harmless protection.
Sec. 185. Exclusion from resources of burial plots and certain funds set aside for burial expenses.
Sec. 186. Mandatory passthrough under State supplementation provisions.

Sec. 187. Treatment of unnegotiated checks under the supplemental security income program.
Subtitle G—Unemployment Compensation
Sec. 191. Rounding of benefit amounts.
Sec. 192. Use of certain amounts transferred to State unemployment funds.
Sec. 193. Treatment of certain employees of institutions of higher education.
Sec. 194. Short-time compensation.
TITLE II—REVENUE MEASURES
Subtitle A—Provisions Relating to Individuals
Sec. 201. Alternative minimum tax on taxpayers other than corporations.
Sec. 202. Limitation on medical deduction.
Sec. 203. Limitation on deduction for nonbusiness casualty losses.
Subtitle B—Provisions Primarily Relating to Business
PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS
Sec. 204. 15 percent reduction in certain corporate preference items.
Sec. 205. Amendments to investment credit.
Sec. 206. Repeal of 1985 and 1986 increases in accelerated cost recovery deductions.
Sec. 207. Section 189 made applicable to certain corporations for nonresidential real property.
PART II—LEASING
Sec. 208. Limitations and additional requirements on leases under the accelerated cost recovery system.
Sec. 209. Repeal of leasing; special rule for leases with economic substance.
Sec. 210. Motor vehicle operating leases.
PART III—FOREIGN TAX
Sec. 211. Foreign tax credit for taxes on oil and gas income.
Sec. 212. Current taxation of foreign oil related income of controlled foreign corporations.
Sec. 213. Possession tax credit; income tax liability incurred to the Virgin Islands.
PART IV—TAX-EXEMPT OBLIGATIONS
Sec. 214. Modification of exemption for small issues.
Sec. 215. Public approval and information reporting requirements applicable to private activity bonds.
Sec. 216. Cost recovery for certain property financed with tax-exempt bonds.
Sec. 217. Miscellaneous.
Sec. 218. Treatment of certain refunding obligations.
Sec. 219. Limitation on maturity of industrial development bonds.
Sec. 220. Mortgage subsidy bonds.
Sec. 221. Industrial development bonds for certain residential rental property.
PART V—MERGERS AND ACQUISITIONS
Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property
Sec. 222. Partial liquidations.
Sec. 223. Distribution of appreciated property in redemption of stock.
Subpart B—Certain Stock Purchases Treated as Asset Purchases
Sec. 224. Certain stock purchases treated as asset purchases.
Subpart C—Miscellaneous Provisions
Sec. 225. Clarification of section 368(a)(1)(F).
Sec. 226. Amendments relating to bailouts through use of holding companies.
Sec. 227. Application of attribution rules for purposes of sections 306 and 356(a)(2).
Sec. 228. Waiver of family attribution by entities.
PART VI—METHODS OF ACCOUNTING
Sec. 229. Modification of regulations on the completed contract method of accounting.
Sec. 230. Annual accrual method of accounting extended to certain partnerships.
PART VII—ORIGINAL ISSUE DISCOUNT
Sec. 231. Original issue discount taken into account on basis of constant interest rate.
Sec. 232. Tax treatment of stripped bonds.
PART VIII—OTHER BUSINESS PROVISIONS
Sec. 233. Targeted jobs tax credit.
Sec. 234. Acccelerated payment of income tax by corporations.
Subtitle C—Pensions
PART I—CONTRIBUTION AND LOAN LIMITS
Sec. 235. Lower contribution and benefit limits for certain annuities, etc.
Sec. 236. Loans treated as distributions.
PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES
Sec. 237. Repeal of special qualification requirements.
Sec. 238. Repeal of special limitations on deduction for self-employed individuals and subchapter S corporations.
Sec. 239. Allowance of exclusion of death benefit for self-employed individuals.
Sec. 240. Special rules for top heavy plans.
Sec. 241. Effective dates.
PART III—OTHER REQUIREMENTS
Sec. 242. Required distributions for qualified plans.
Sec. 243. Required distributions in case of individual retirement plans.
Sec. 244. Limitation on exclusion for groupterm life insurance purchased for employees.
Sec. 245. Limitation on estatae tax exclusions under section 2039.
Sec. 246. Organizations performing management functions.
Sec. 247. Existing personal service corporations may liquidate under section 333 during 1983 or 1984.
Sec. 248. Employee leasing.
Sec. 249. Nondiscriminatory coordination of defined contribution plans with OASDI.
Sec. 250. Authority of Secretary to allocate income and deductions in the case of certain corporations.
PART IV—MISCELLANEOUS
Sec. 251. Church plans.
Sec. 252. Deferred compensation plans for State judges.
Sec. 253. Profit-sharing plan contributions on behalf of disabled.
Sec. 254. Exemption for trusts which include governmental plans.
Subtitle D—Taxation of Life Insurance Companies and Annuities
PART I—COINSURANCE ARRANGEMENTS
Subpart A—Modified Coinsurance Contracts
Sec. 255. Repeal of optional treatment of policies reinsured under modified coinsurance contracts.
Sec. 256. Specialaccounting rules relating to repeal of section 820.
Subpart B—Other Reinsurance Agreements
Sec. 257. Denial of interest deduction on indebtedness incurred in connection with reinsurance agreements.
Sec. 258. Allocation of income, etc. in the case of other reinsurance agreements.
PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES
Sec. 259. Increase in amount of dividend deduction allowed; pension plan reserves.
Sec. 260. Computation of amount of life insurance reserves.
Sec. 261. Modification of menge formula.
Sec. 262. Consolidated returns to be computed on a botton line basis.
Sec. 263. Effective dates; special rules applicable to transactions before effective date.
PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; COMPUTATION OF RESERVES
Sec. 264. Allowance of deduction for excess interest.
Sec. 265. Treatment of amounts received and under annuity contracts before annuity starting date.
Sec. 266. Flexible premium contracts.
Sec. 267. Reduction in approximate revaluation method of computing reserves.
PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982
Sec. 268. Underpayments of estimated tax for 1982.
Subtitle E—Employment Taxes
PART I—IN GENERAL
Sec. 269. Treatment of real estate agents and direct sellers.
Sec. 270. Simplified procedure for determining amount of employment taxes.
PART II—FEDERAL UNEMPLOYMENT TAX
Subpart A—Increase in Federal Unemployment Tax
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Subtitle A—Extension of Benefits

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Sec. 602. Federal-State agreements.
Sec. 603. Payments to States having agreements for the payment of Federal supplemental compensation.
Sec. 604. Financing provisions.
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Subtitle B—Taxation of Unemployment Compensation

Sec. 611. Taxation of unemployment compensation.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II, III, and IV an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

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Subpart A—Amount of Payment for Institutional Services

PAYMENT FOR INPATIENT HOSPITAL SERVICES

SEC. 101. (a)(1) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"PAYMENT TO HOSPITALS FOR INPATIENT HOSPITAL SERVICES

"SEC. 1886. (a)(1)(A)(i) The Secretary, in determining the amount of the payments that may be made under this title with respect to operating costs of inpatient hospital services (as defined in paragraph (4)) shall not recognize as reasonable (in the efficient delivery of health services) costs for the provision of such services by a hospital for a cost reporting period to the extent such costs exceed the applicable percentage (as determined under clause (ii)) of the average of such costs for all hospitals in the same grouping as such hospital for comparable time periods.

"(ii) For purposes of clause (i), the applicable percentage for hospital cost reporting periods beginning—

"(I) on or after October 1, 1982, and before October 1, 1983, is 120 percent;

"(II) on or after October 1, 1983, and before October 1, 1984, is 115 percent; and

"(III) on or after October 1, 1984, is 110 percent.

"(B)(i) For purposes of subparagraph (A) the Secretary shall establish case mix indexes for all short-term hospitals, and shall set limits for each hospital based upon the general mix of types of medical cases with respect to which such hospital provides services for which payment may be made under this title.

"(ii) The Secretary shall set such limits for a cost reporting period of a hospital—

"(I) by updating available data for a previous period to the immediate preceding cost reporting period by the estimated average rate of change of hospital costs industry-wide, and

"(II) by projecting for the cost reporting period by the applicable percentage increase (as defined in subsection (b)(3)(B)).

"(C) The limitation established under subparagraph (A) for any hospital shall in no event be lower than the allowable operating costs of inpatient hospital services (as defined in paragraph (4)) recognized under this title for such hospital for such hospital's last cost reporting period prior to the hospital's first cost reporting period for which this section is in effect.

"(2) The Secretary shall provide for such exemptions from, and exceptions and adjustments to, the limitation established under paragraph (1)(A) as he deems appropriate, including those which he deems necessary to take into account—

"(A) the special needs of sole community hospitals, of new hospitals, of risk based health maintenance organizations, and of hospitals which provide atypical services or essential community services, and to take into account extraordinary circumstances beyond the hospital's control, medical and paramedical education costs, significantly fluctuating population in the service area of the hospital, and unusual labor costs,

"(B) the special needs of psychiatric hospitals and of public or other hospitals that serve a significantly disportionate number of patients who have low income or are entitled to benefits under part A of this title, and

"(C) a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(3) The limitation established under paragraph (1)(A) shall not apply with respect to any hospital which—

"(A) is located outside of a standard metropolitan statistical area, and

"(B)(i) has less than 50 beds, and

"(ii) was in operation and had less than 50 beds on the date of the enactment of this section.

"(4) For purposes of this section, the term 'operating costs of inpatient hospital services' includes all routine operating costs, ancillary service operating costs, and special care unit operating costs with respect to inpatient hospital services and such costs are determined on an average per admission or per discharge basis (as determined by the Secretary).

"(b)(1) Notwithstanding sections 1814(b) but subject to the provisions of sections 1813, if the operating costs of inpatient hospital services (as defined in subsection (a)(4)) of a hospital for a cost reporting period subject to this paragraph—

"(A) are less than or equal to the target amount (as defined in paragraph (3)) for that hospital for that period, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to the amount of such operating costs, plus—

"(i) 50 percent of the amount by which the target amount exceeds the amount of the operating costs, or

"(ii) 5 percent of the target amount,

whichever is less; or

"(B) are greater than the target amount, the amount of the payment with respect to such operating costs payable under part A on a per discharge or per admission basis (as the case may be) shall be equal to (i) the target amount, plus (ii) in the case of cost reporting periods beginning on or after October 1, 1982, and before October 1, 1984, 25 percent of the amount by which the amount of the operating costs exceeds the target amount;

except that in no case may the amount payable under this title with respect to operating costs of inpatient hospital services exceed the maximum amount payable with respect to such costs pursuant to subsection (a).

"(2) Paragraph (1) shall not apply to cost reporting periods of hospitals beginning on or after October 1, 1985.

"(3)(A) For purposes of this subsection, the term 'target amount' means, with respect to a hospital for a particular 12-month cost reporting period—

"(i) in the case of the first such reporting period for which this subsection is in effect, the allowable operating costs of inpatient hospital services (as defined in subsection (a)(4)) recognized under this title for such hospital for the preceding 12-month cost reporting period, and

"(ii) in the case a later reporting period, the target amount for the preceding 12-month cost reporting period,

increased by the applicable percentage increase under subparagraph (B) for that particular cost reporting period.

"(B) For purposes of subparagraph (A), the 'applicable percentage increase' for any 12-month cost reporting period shall be equal to 1 percentage point plus the percentage, estimated by the Secretary, by which the cost of the mix of goods and services (including personnel costs but excluding non-operating costs) comprising routine, ancillary, and special care unit inpatient hospital services, based on an index of appropriately weighted indicators of changes in wages and prices which are representative of the mix of goods and services included in such inpatient hospital services, for such cost reporting period exceeds the cost of such mix of goods and services for the preceding 12-month cost reporting period.

"(4)(A) The Secretary shall provide for an exemption from, or an exception and adjustment to, the method under this subsection for determining the amount of payment to a hospital where events beyond the hospital's control or extraordinary circumstances, including changes in the case mix of such hospital, create a distortion in the increase in costs for a cost reporting period (including any distortion in the costs for the base period against which such increase is measured). The Secretary may provide for such other exemptions from, and exceptions and adjustments to, such method as the Secretary deems appropriate, including those which he deems necessary to take into account a decrease in the inpatient hospital services that a hospital provides and that are customarily provided directly by similar hospitals which results in a significant distortion in the operating costs of inpatient hospital services.

"(B) Paragraph (1) shall not apply to payment of hospitals which is otherwise determined under paragraph (3) of section 1814(b).

"(5) In the case of any hospital having any cost reporting period of other than a 12-month period, the Secretary shall determine the 12-month period which shall be used for purposes of this section.

"(6)(A) The Secretary shall provide for an adjustment under this paragraph in the amount of payment otherwise provided a hospital under this subsection in the case of a hospital which, as of August 15, 1982, was subject to the taxes (hereinafter in this paragraph referred to as the 'FICA taxes') imposed by section 3111 of the Internal Revenue Code of 1954 and which is not subject to such taxes for part or all of a cost reporting period beginning on or after October 1, 1982.

"(B) In making such adjustment for a cost reporting period the Secretary shall estimate the amount of the operating costs of inpatient hospital services that would have resulted if the hospital was subject to the FICA taxes during that period. In making such estimate the Secretary shall reduce the amount of such FICA taxes that would have been paid (but not below zero) by the amount of costs which the hospital demonstrates to the satisfaction of the Secretary were incurred in the period for pensions, health, and other fringe benefits for employees (and former employees and family members) comparable to, and in lieu of, the benefits provided under title II and this title of the Social Security Act.

"(C) If a hospital's operating costs of inpatient hospital services estimated under subparagraph (B) is greater than the hospital's operating costs of inpatient hospital services determined without regard to this paragraph for a cost reporting period, then the Secretary shall reduce the amount otherwise paid the hospital (respecting operating costs of inpatient hospital services) under this subsection for the period by the amount by which—

"(i) the amount that would have been paid the hospital if (I) the amount of the operating costs of inpatient hospital services estimated under subparagraph (B) were the treated as the amount of the operating costs of inpatient hospital services and (II) subsection (a) did not apply to the determination,

exceeds—

"(ii) the amount that would otherwise have been paid the hospital if subsection (a) (and this paragraph) did not apply;

except that, in making such determination for cost reporting periods beginning on or after October 1, 1984, clause (ii) of paragraph (1)(B) shall continue to apply.

"(c)(1) The Secretary may provide, in his discretion, that payment with respect to services provided by a hospital in a State may be made in accordance with a hospital reimbursement control system in a State, rather than in accordance with the other provisions of this title, if the chief executive officer of the State requests such treatment and if—

"(A) the Secretary determines that the system, if approved under this subsection, will apply (i) to substantially all nonfederal acute care hospitals (as defined by the Secretary) in the State and (ii) to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services and of revenues or expenses for inpatient hospital services provided under the State's plan approved under title XIX;

"(B) the Secretary has been provided satisfactory assurances as to the equitable treatment under the system of all entities (including Federal and State programs) that pay hospitals for inpatient hospital services, of hospital employees, and of hospital patients; and

"(C) the Secretary has been provided satisfactory assurances that under the system, over 36-month periods (the first such period beginning with the first month in which this subsection applies to that system in the State), the amount of payments made under this title under such system will not exceed the amount of payments which would otherwise have been made under this title not using such system.

"(2) In determining under paragraph (1)(C) the amount of payment which would otherwise have been made under this title for a State, the Secretary may provide for appropriate adjustment of such amount to take into account previous reductions effected in the amount of payments made under this title in the State due to the operation of the hospital reimbursement control system in the State if the system has resulted in an aggregate rate of increase in operating costs of inpatient hospital services (as defined in subsection (a)(4)) under this title for hospitals in the State which is less than the aggregate rate of increase in such costs under this title for hospitals in the United States.

"(3) The Secretary shall discontinue payments under a system described in paragraph (1) if the Secretary—

"(A) determines that the system no longer meets the requirement of paragraph (1)(A) or

"(B) has reason to believe that the assurances described in subparagraph (B) or (C) of paragraph (1) are not being (or will not be) met.".

(2) Section 1861(v)(1)(L) of such Act is amended by striking out "(i)" and all that follows through "(ii)".

(b)(1) The amendments made by subsection (a) shall apply to cost reporting periods beginning on or after October 1, 1982.

(2)(A) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement such amendments on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than March 31, 1983.

(B) Chapter 35 of title 5, United States Code, shall not apply, until January 1, 1984, to collection of information and information collection requests which the Secretary of Health and Human Services determines to be necessary to carry out the amendments made by this section.

(3) Section 1135 of the Social Security Act is amended by adding at the end the following new subsection:

"(c) The Secretary shall develop, in consultation with the Senate Committee on Finance and the Committee on Ways and Means of the House of Representatives, proposals for legislation which would provide that hospitals, skilled nursing facilities, and, to the extent feasible, other providers, would be reimbursed under title XVIII of this Act on a prospective basis. The Secretary shall report such proposals to such committees not later than December 31, 1982.".

(c)(1) Section 1814(b) of the Social Security Act is amended—

(A) by striking out "section 1813" in the matter before paragraph (1) and inserting in lieu thereof "sections 1813 and 1886"; and

(B) by striking out "until the Secretary determines" in the second sentence and inserting in lieu thereof "until the first day of the seventh month beginning after the date the Secretary determines and notifies the Governor of the State".

(2) Section 1833(a)(2)(B) of such Act is amended by inserting "and except as may be provided in section 1886" after "except those described in subparagraph (C) of this paragraph".

(d) Section 1861(v)(7) of such Act is amended by inserting "(A)" after "(7)" and by adding at the end thereof the following new subparagraph:

"(B) For further limitations on reasonable cost and determination of payment amounts for operating costs of inpatient hospital services and waivers for certain States, see section 1886.".

SINGLE REIMBURSEMENT LIMIT FOR SKILLED NURSING FACILITIES

SEC. 102. (a) Section 1861(v)(1) of the Social Security Act is amended—

(1) in subparagraph (E), by striking out "; except that" and all that follows and inserting in lieu thereof a period;

(2) in subparagraph (E), by striking out "(E)" and inserting in lieu thereof "(ii)"; and

(3) by inserting after subparagraph (D) the following:

"(E)(i) Such regulations shall provide that any determination of reasonable cost with respect to services provided by hospital-based skilled nursing facilities shall be made on the basis of a single standard based on the reasonableness of costs incurred by free standing skilled nursing facilities, subject to such adjustments as the Secretary may deem appropriate.".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after October 1, 1982.

ELIMINATION OF INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

SEC. 103. (a) Subparagraph (J) of section 1861(v)(1) of the Social Security Act is amended to read as follows:

"(J) Such regulations may not provide for any inpatient routine salary cost differential as a reimbursable cost for hospitals and skilled nursing facilities.".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from such amendment shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

ELIMINATION OF DUPLICATE OVERHEAD PAYMENTS FOR OUTPATIENT SERVICES

SEC. 104. (a) The last sentence of section 1842(b)(3) of the Social Security Act is amended by inserting after "1861(v)(1)(K)" the following: ", and in determining the reasonable charge for such services, the Secretary may limit such reasonable charge to a percentage of the amount of the prevailing charge for similar services furnished in a physician's office, taking into account the extent to which overhead costs associated with such outpatient services have been included in the reasonable cost or charge of the facility".

(b) The amendment made by subsection (a) made by this section shall be effective with respect to services furnished on or after October 1, 1982.

SINGLE REIMBURSEMENT LIMIT FOR HOME HEALTH AGENCIES

SEC. 105. (a) Section 1861(v)(1)(L) of the Social Security Act, as amended by section 101(a)(2) of this subtitle, is amended by inserting "free standing" after "75th percentile of such costs per visit for".

(b) The amendment made by subsection (a) shall be effective with respect to cost reporting periods beginning on or after the date of the enactment of this Act.

PROHIBITING PAYMENT FOR HILL-BURTON FREE CARE

SEC. 106. (a) Section 1861(v)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(M) Such regulations shall provide that costs respecting care provided by a provider of services, pursuant to an assurance under title VI or XVI of the Public Health Service Act that the provider will make available a reasonable volume of services to persons unable to pay therefor, shall not be allowable as reasonable costs.".

(b) The amendment made by subsection (a) shall be effective with respect to any costs incurred under title XVIII of the Social Security Act, except that it shall not apply to costs which have been allowed prior to the date of the enactment of this Act pursuant to the final court order affirmed by a United States Court of Appeals.

PROHIBITING PAYMENT FOR ANTI-UNIONIZATION ACTIVITIES

SEC. 107. (a) Section 1861(v)(1) of the Social Security Act, as amended by section 106(a) of this subtitle, is further amended by adding after subparagraph (M) the following new subparagraph:

"(N) In determining such reasonable costs, costs incurred for activities directly related to influencing employees respecting unionization may not be included.".

(b) The amendment made by subsection (a) shall be effective with respect to costs incurred after the date of the enactment of this Act.

REIMBURSEMENT OF PROVIDER-BASED PHYSICIANS

SEC. 108. (a) Title XVIII of the Social Security Act is amended by adding after section 1886 of the Social Security Act (as added by section 101(a)(1) of this subtitle) the following new section:

"PAYMENT OF PROVIDER-BASED PHYSICIANS

"SEC. 1887. (a)(1) The Secretary shall by regulation determine criteria for distinguishing those services (including inpatient and outpatient services) rendered in hospitals or skilled nursing facilities—

"(A) which constitute professional medical services, which are personally rendered for an individual patient by a physician and which contribute to the diagnosis or treatment of an individual patient, and which may be reimbursed as physicians' services under part B, and

"(B) which constitute professional services which are rendered for the general benefit to patients in a hospital or skilled nursing facility and which may be reimbursed only on a reasonable cost basis.

"(2)(A) For purposes of cost reimbursement, the Secretary shall recognize as a reasonable cost of a hospital or skilled nursing facility only that portion of the costs attributable to services rendered by a physician in such hospital or facility which are services described in paragraph (1)(B), apportioned on the basis of the amount of time actually spent by such physician rendering such services.

"(B) In determining the amount of the payments which may be made with respect to services described in paragraph (1)(B), after apportioning costs as required by subparagraph (A), the Secretary may not recognize as reasonable (in the efficient delivery of health services) such portion of the provider's costs for such services to the extent that such costs exceed the reasonable compensation equivalent for such services. The reasonable compensation equivalent for any service shall be established by the Secretary in regulations.

"(C) The Secretary may, upon a showing by a hospital or facility that it is unable to recruit or maintain an adequate number of physicians for the hospital or facility on account of the reimbursement limits established under this subsection, grant exceptions to such reimbursement limits as may be necessary to allow such provider to provide a compensation level sufficient to provide adequate physician services in such hospital or facility.".

(2) Section 1861(v)(7) of such Act, as amended by section 101(d) of this subtitle, is further amended by adding at the end the following new subparagraph:

"(C) For provisions restricting payment for provider-based physicians' services, see section 1887.".

(c) The Secretary of Health and Human Services shall first promulgate regulations to carry out section 1887(a) of the Social Security Act not later than October 1, 1982. Such regulations shall become effective on October 1, 1982, and shall be effective with respect to cost reporting periods ending after September 30, 1982, but in the case of any cost reporting period beginning before October 1, 1982, any reduction in payments under title XVIII of the Social Security Act to a hospital or skilled nursing facility resulting from the such regulations shall be imposed only in proportion to the part of the period which occurs after September 30, 1982.

PROHIBITING RECOGNITION OF PAYMENTS UNDER CERTAIN PERCENTAGE ARRANGEMENTS

SEC. 109. (a) Section 1887 of the Social Security Act (as added by section 108(a) of this subtitle) is amended—

(1) by inserting "AND PAYMENT UNDER CERTAIN PERCENTAGE ARRANGEMENTS" at the end of its heading, and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), in the case of a provider of services which is paid under this title on a reasonable cost basis, or other basis related to costs that are reasonable, and which has entered into a contract for the purpose of having services furnished for or on behalf of it, the Secretary may not include any cost incurred by the provider under the contract if the amount payable under the contract by the provider for that cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement.

"(2) Paragraph (1) shall not apply—

"(A) to services furnished by a physician and described in subsection (a)(1)(B) and covered by regulations in effect under subsection (a), and

"(B) under regulations established by the Secretary, where the amount involved under the percentage contract is reasonable and the contract—

"(i) is a customary commerical business practice, or

"(ii) provides incentives for the efficient and economical operation of the provider of services.".

(b)(1) Section 1861(v)(1)(H)(iii) of such Act is amended by striking out "(I)" and by striking out ", or (II)" and all that follows through "furnished by the agency".

(2) Section 1861(v)(7)(C) of such Act, as added by section 108(b)(2) of this subtitle, is further amended by inserting "and for payments under certain percentage arrangements" after "services".

(c)(1) The amendments made by this section shall become effective on the date of the enactment of this Act, except that section 1887(b)(1) of the Social Security Act shall not apply before October 1, 1982, to services furnished by a physician and described in section 1887(a)(1)(B) of such Act.

(2) In the case of a contract with a provider of services entered into prior to the date of the enactment of this Act, the amendment made by subsection (a) shall apply to payments under such contract (A) 30 days after the first date (after such date of enactment) the provider of services may unilaterally terminate the contract, or (B) one year after the date of the enactment of this Act, whichever is earlier.

(3) The amendment made by subsection (b)(1) shall not apply to contracts entered into before the date of the enactment of this Act.

ELIMINATION OF LESSER-OF-COST-OR-CHARGE PROVISION

SEC. 110. Section 1886 of the Social Security Act, as added by section 101(a)(1) of this subtitle, is amended by adding at the end the following new subsection:

"(d)(1) The lesser-of-cost-or-charges provisions (described in paragraph (2)) will not apply in the case of services provided by a class of provider of services if the Secretary determines and certifies to Congress that the failure of such provisions to apply to the services provided by that class of providers will not result in any increase in the amount of payments made for those services under this title. Such change will take effect with respect to services furnished, or cost reporting periods of providers, on or after such date as the Secretary shall provide in the certification. Such change for a class of provider shall be discontinued if the Secretary determines and notifies Congress that such change has resulted in an increase in the amount of payments made under this title for services provided by that class of provider.

"(2) The lesser-of-cost-or-charges provisions referred to in paragraph (1) are as follows:

"(A) Clause (B) of paragraph (1) and paragraph (2) of section 1814(b).

"(B) So much of subparagraph (A) of section 1833(a)(2) as provides for payment other than of the reasonable cost of such services, as determined under section 1861(v).

"(C) Subclause (II) of clause (i) and clause (ii) of section 1833(a)(2)(B).".

ELIMINATION OF PRIVATE ROOM SUBSIDY

SEC. 111. (a) The Secretary of Health and Human Services shall, pursuant to section 1861(v)(2) of the Social Security Act, not allow as a reasonable cost the estimated amount by which the costs incurred by a hospital or skilled nursing facility for nonmedically necessary private accommodations for medicare beneficiaries exceeds the costs which would have been incurred by such hospital or facility for semiprivate accommodations.

(b) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) as may be necessary to implement subsection (a) by October 1, 1982. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

Subpart B—Payments for Other Services

REIMBURSEMENT FOR INPATIENT RADIOLOGY AND PATHOLOGY SERVICES

SEC. 112. (a) Section 1833(a)(1) of the Social Security Act is amended—

(1) by striking out clause (B) and inserting in lieu thereof the following: "(B) with respect to items and services described in section 1861(s)(10), the amounts paid shall be 100 percent of the reasonable charges for such items and services,";

(2) by inserting "and" at the end of clause (F); and

(3) by striking out "and (H)" and all that follows through "for such items and services,".

(b) Clause (1) of section 1833(b) of such Act is amended to read as follows: "(1) such total amount shall not include expenses incurred for items and services described in section 1861(s)(10),".

(c) The amendments made by this section shall apply with respect to items and services furnished on or after October 1, 1982.

REIMBURSEMENT FOR ASSISTANTS AT SURGERY

SEC. 113. (a) Section 1842(b)(6) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D)(i) In the case of physicians' services furnished to a patient in a hospital with a teaching program approved as specified in section 1861(b)(6) but which does not meet the conditions described in section 1861(b)(7), no payment shall be made under this part for services of assistants at surgery with respect to a surgical procedure if such hospital has a training program relating to the medical specialty required for such surgical procedure and a qualified individual on the staff of the hospital is available to provide such services; except that payment may be made under this part for such services, to the extent that such payment is otherwise allowed under this paragraph, if such services, as determined under regulations of the Secretary—

"(I) are required due to exceptional medical circumstances,

"(II) are performed by team physicians needed to perform complex medical procedures, or

"(III) constitute concurrent medical care relating to a medical condition which requires the presence of, and active care by, a physician of another specialty during surgery,

and under such other circumstances as the Secretary determines by regulation to be appropriate.

"(ii) For purposes of this subparagraph, the term 'assistant at surgery' means a physician who actively assists the physician in charge of a case in performing a surgical procedure.

"(iii) The Secretary shall determine appropriate methods of reimbursement of assistants at surgery where such services are reimbursable under this part.".

(b)(1) The amendment made by subsection (a) is effective with respect to services performed on or after October 1, 1982.

(2) The Secretary of Health and Human Services shall first issue such final regulations (whether on an interim or other basis) before October 1, 1982, as may be necessary to implement the amendment made by subsection (a) on a timely basis. If such regulations are promulgated on an interim final basis, the Secretary shall take such steps as may be necessary to provide opportunity for public comment, and appropriate revision based thereon, so as to provide that such regulations are not on an interim basis later than January 31, 1983.

PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

SEC. 114. (a) Section 1876 of the Social Security Act is amended to read as follows:

"PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

"SEC. 1876. (a)(1)(A) The Secretary shall annually determine—

"(i) a per capita rate of payment for each class of individuals who are enrolled under this section with a eligible organization which has entered into a risk-sharing contract and who are entitled to benefits under part A and enrolled under part B, and

"(ii) a per capita rate of payment for each class of individuals who are so enrolled with such an organization and who are enrolled under part B only.

For purposes of this section, the term 'risk-sharing contract' means a contract entered into under subsection (g) and the term 'reasonable cost reimbursement contract' means a contract entered into under subsection (h).

"(B) The Secretary shall define appropriate classes of members, based on age, disability status, and such other factors as the Secretary determines to be appropriate, so as to ensure actuarial equivalence. The Secretary may add to, modify, or substitute for such classes, if such changes will improve the determination of actuarial equivalence.

"(C) The annual per capita rate of payment for each such class shall be equal to 95 percent of the adjusted average per capita cost (as defined in paragraph (4)) for that class.

"(D) In the case of a eligible organization with a risk-sharing contract, the Secretary shall make monthly payments in advance and in accordance with the rate determined under subparagraph (C) and except as provided in subsection (g)(2), to the organization for each individual enrolled with the organization under this section.

"(E) The amount of payment under this paragraph may be retroactively adjusted to take into account any difference between the actual number of individuals enrolled in the plan under this section and the number of such individuals estimated to be so enrolled in determining the amount of the advance payment.

"(2) With respect to any eligible organization which has entered into a reasonable cost reimbursement contract, payments shall be made to such plan in accordance with subsection (h)(2) rather than paragraph (1).

"(3) Payments under a contract to an eligible organization under paragraph (1) or (2) shall be instead of the amounts which (in the absence of the contract) would be otherwise payable, pursuant to sections 1814(b) and 1833(a), for services furnished by or through the organization to individuals enrolled with the organization under this section.

"(4) For purposes of this section, the term 'adjusted average per capita cost' means the average per capita amount that the Secretary estimates in advance (on the basis of actual experience, or retrospective actuarial equivalent based upon an adequate sample and other information and data, in a geographic area served by an eligible organization or in a similar area, with appropriate adjustments to assure actuarial equivalence) would be payable in any contract year for services covered under parts A and B, or part B only, and types of expenses otherwise reimbursable under parts A and B, or part B only (including administrative costs incurred by organizations described in sections 1816 and 1842), if the services were to be furnished by other than an eligible organization or, in the case of services covered only under section 1861(s)(2)(H), if the services were to be furnished by a physician or as an incident to a physician's service.

"(5) The payment to an eligible organization under this section for individuals enrolled under this section with the organization and entitled to benefits under part A and enrolled under part B shall be made from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. The portion of that payment to the organization for a month to be paid by the latter trust fund shall be equal to 200 percent of the sum of—

"(A) the product of (i) the number of such individuals for the month who have attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(1), and

"(B) the product of (i) the number of such individuals for the month who have not attained age 65, and (ii) the monthly actuarial rate for supplementary medical insurance for the month as determined under section 1839(c)(4).

The remainder of that payment shall be paid by the former trust fund.

"(6) If an individual is enrolled under this section with an eligible organization having a risk-sharing contract, only the eligible organization shall be entitled to receive payments from the Secretary under this title for services furnished to the individual.

"(b) For purposes of this section, the term 'eligible organization' means a public or private entity (which may be a health maintenance organization or a competitive medical plan), organized under the laws of any State, which—

"(1) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act), or

"(2) meets the following requirements:

"(A) The entity provides to enrolled members at least the following health care services:

"(i) Physicians' services performed by physicians (as defined in section 1861(r)(1)).

"(ii) Inpatient hospital services.

"(iii) Laboratory, X-ray, emergency, and preventive services.

"(iv) Out-of-area coverage.

"(B) The entity is compensated (except for deductibles, coinsurance, and copayments) for the provision of health care services to enrolled members by a payment which is paid on a periodic basis without regard to the date the health care services are provided and which is fixed without regard to the frequency, extent, or kind of health care service actually provided to a member.

"(C) The entity provides physicians' services primarily (i) directly through physicians who are either employees or partners of such organization, or (ii) through contracts with individual physicians or one or more groups of physicians (organized on a group practice or individual practice basis).

"(D) The entity assumes full financial risk on a prospective basis for the provision of the health care services listed in paragraph (1), except that such entity may—

"(i) obtain insurance or make other arrangements for the cost of providing to any enrolled member health care services listed in subparagraph (A) the aggregate value of which exceeds $5,000 in any year,

"(ii) obtain insurance or make other arrangements for the cost of health care service listed in subparagraph (A) provided to its enrolled members other than through the entity because medical necessity required their provision before they could be secured through the entity,

"(iii) obtain insurance or make other arrangements for not more than 90 percent of the amount by which its costs for any of its fiscal years exceed 115 percent of its income for such fiscal year, and

"(iv) make arrangements with physicians or other health professionals, health care institutions, or any combination of such individuals or institutions to assume all or part of the financial risk on a prospective basis for the provision of basic health services by the physicians or other health professionals or through the institutions.

"(E) The entity has made adequate provision against the risk of insolvency, which provision is satisfactory to the Secretary.

Paragraph (2)(A)(ii) shall not apply to an entity which had contracted with a single State agency administering a State plan approved under title XIX for the provision of services (other than inpatient hospital services) to individuals eligible for such services under such State plan on a prepaid risk basis prior to 1970.

"(c)(1) The Secretary may not enter into a contract under this section with an eligible organization unless it meets the requirements of this subsection and subsection (e) with respect to members enrolled under this section.

"(2) The organization must provide to members enrolled under this section, through providers and other persons that meet the applicable requirements of this title and part A of title XI—

"(A) only those services covered under parts A and B of this title, for those members entitled to benefits under part A and enrolled under part B, or

"(B) only those services covered under part B, for those members enrolled only under such part,

which are available to individuals residing in the geographic area served by the organization, except that (i) the organization may provide such members with such additional health care services as the members may elect, at their option, to have covered, and (ii) in the case of an organization with a risk-sharing contract, the organization may provide such members with such additional health care services as the Secretary may approve. The Secretary shall approve any such additional health care services which the organization proposes to offer to such members, unless the Secretary determines that including such additional services will substantially discourage enrollment by covered individuals with the organization.

"(3)(A) Each eligible organization must have an open enrollment period, for the enrollment of individuals under this section, of at least 30 days duration every year, and must provide that at any time during which enrollments are accepted, the organization will accept up to the limits of its capacity (as determined by the Secretary) and without restrictions, except as may be authorized in regulations, individuals who are eligible to enroll under subsection (d) in the order in which they apply for enrollment, unless to do so would result in failure to meet the requirements of subsection (f) or would result in the enrollment of enrollees substantially nonrepresentative, as determined in accordance with regulations of the Secretary, of the population in the geographic area served by the organization.

"(B) An individual may enroll under this section with an eligible organization in such manner as may be prescribed in regulations and may terminate his enrollment with the eligible organization as of the beginning of the first calendar month following a full calendar month after the request is made for such termination (or, in the case of financial insolvency of the organization, as may be prescribed by regulations) or, in the case of such an organization with a reasonable cost reimbursement contract, as may be prescribed by regulations.

"(C) The Secretary may prescribe the procedures and conditions under which an eligible organization that has entered into a contract with the Secretary under this subsection may inform individuals eligible to enroll under this section with the organization about the organization, or may enroll such individuals with the organization.

"(D) The organization must provide assurances to the Secretary that it will not expel or refuse to re-enroll any such individual because of the individual's health status or requirements for health care services, and that it will notify each such individual of such fact at the time of the individual's enrollment.

"(4) The organization must—

"(A) make the services described in paragraph (2) (and such other health care services as such individuals have contracted for) (i) available and accessible to each such individual, within the area served by the organization, promptly as appropriate and in a manner which assures continuity, and (ii) when medically necessary, available and accessible twenty-four hours a day and seven days a week, and

"(B) provide for reimbursement with respect to services which are described in subparagraph (A) and which are provided to such an individual other than through the organization, if (i) the services were medically necessary and immediately required because of an unforeseen illness, injury, or condition and (ii) it was not reasonable given the circumstances to obtain the services through the organization.

"(5)(A) The organization must provide meaningful procedures for hearing and resolving grievances between the organization (including any entity or individual through which the organization provides health care services) and members enrolled with the organization under this section.

"(B) A member enrolled with an eligible organization under this section who is dissatisfied by reason of his failure to receive any health service to which he believes he is entitled and at no greater charge than he believes he is required to pay is entitled, if the amount in controversy is $100 or more, to a hearing before the Secretary to the same extent as is provided in section 205(b), and in any such hearing the Secretary shall make the eligible organization a party. If the amount in controversy is $1,000 or more, the individual or eligible organization shall, upon notifying the other party, be entitled to judicial review of the Secretary's final decision as provided in section 205(g), and both the individual and the eligible organization shall be entitled to be parties to that judicial review.

"(6) The organization must have arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for health care services it provides to such individuals, which program (A) stresses health outcomes and (B) provides review by physicians and other health care professionals of the process followed in the provision of such health care services.

"(d) Subject to the provisions of subsection (c)(3), every individual entitled to benefits under part A and enrolled under part B or enrolled under part B only (other than an individual medically determined to have end-stage renal disease) shall be eligible to enroll under this section with any eligible organization with which the Secretary has entered into a contract under this section and which serves the geographic area in which the individual resides.

"(e)(1) In no case may—

"(A) the portion of an eligible organization's premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under parts A and B) to individuals who are enrolled under this section with the organization and who are entitled to benefits under part A and enrolled under part B, or

"(B) the portion of its premium rate and the actuarial value of its deductibles, coinsurance, and copayments charged (with respect to services covered under part B) to individuals who are enrolled under this section with the organization and enrolled under part B only

exceed the actuarial value of the coinsurance and deductibles that would be applicable on the average to individuals enrolled under this section with the organization (or, if the Secretary finds that adequate data are not available to determine that actuarial value, the actuarial value of the coinsurance and deductibles applicable on the average to individuals in the area, in the State, or in the United States, eligible to enroll under this section with the organization, or other appropriate data) and entitled to benefits under part A and enrolled under part B, or enrolled under part B only, respectively, if they were not members of an eligible organization.

"(2) If the eligible organization provides to its members enrolled under this section services in addition to services covered under parts A and B of this title, election of coverage for such additional services (unless such services have been approved by the Secretary under subsection (c)(2)) shall be optional for such members and such organization shall furnish such members with information on the portion of its premium rate or other charges applicable to such additional services. In no case may the sum of—

"(A) the portion of such organization's premium rate charged, with respect to such additional services, to members enrolled under this section, and

"(B) the actuarial value of its deductibles, coinsurance, and copayments charged, with respect to such services to such members

exceed the adjusted community rate for such services.

"(3) For purposes of this section, the term 'adjusted community rate' for a service or services means, at the election of an eligible organization, either—

"(A) the rate of payment for that service or services which the Secretary annually determines would apply to a member enrolled under this section with an eligible organization if the rate of payment were determined under a 'community rating system' (as defined in section 1302(8) of the Public Health Service Act, other than subparagraph (C)), or

"(B) such portion of the weighted aggregate premium, which the Secretary annually estimates would apply to a member enrolled under this section with the eligible organiza-

tion, as the Secretary annually estimates is attributable to that service or services,
but adjusted for differences between the utilization characteristics of the members enrolled with the eligible organization under this section and the utilization characteristics of the other members of the organization (or, if the Secretary finds that adequate data are not available to adjust for those differences, the differences between the utilization characteristics of members in other eligible organizations, or individuals in the area, in the State, or in the United States, eligible to enroll under this section with an eligible organization and the utilization characteristics of the rest of the population in the area, in the State, or in the United States, respectively).

"(4) Notwithstanding any other provision of law, the eligible organization may (in the case of the provision of services to a member enrolled under this section for an illness or injury for which the member is entitled to benefits under a workmen's compensation law or plan of the United States or a State, under an automobile or liability insurance policy or plan, including a self-insured plan, or under no fault insurance) charge or authorize the provider of such services to charge, in accordance with the charges allowed under such law or policy—

"(A) the insurance carrier, employer, or other entity which under such law, plan, or policy is to pay for the provision of such services, or

"(B) such member to the extent that the member has been paid under such law, plan, or policy for such services.

"(f)(1) Each eligible organization with which the Secretary enters into a contract under this section shall have, for the duration of such contract, an enrolled membership at least one-half of which consists of individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(2) The Secretary may modify or waive the requirement imposed by paragraph (1) only if the Secretary determines that—

"(A) special circumstances warrant such modification or waiver, and

"(B) the eligible organization has taken and is making reasonable efforts to enroll individuals who are not entitled to benefits under this title or under a State plan approved under title XIX.

"(g)(1) The Secretary may enter a risk-sharing contract with any eligible organization, as defined in subsection (b)(1), which has at least 5,000 members, except that the Secretary may enter into such a contract with an eligible organization that has fewer members if the organization primarily serves members residing outside of urbanized areas.

"(2) Each risk-sharing contract shall provide that—

"(A) if the adjusted community rate, as defined in subsection (e)(3), for services under parts A and B (as reduced for the actuarial value of the coinsurance and deductibles under those parts) for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or

"(B) if the adjusted community rate for services under part B (as reduced for the actuarial value of the coinsurance and deductibles under that part) for members enrolled under this section with the organization and entitled to benefits under part B only i less than the average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of an annual contract period for members enrolled under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the eligible organization shall provide to members enrolled under a risk-sharing contract under this section with the organization and entitled to benefits under part A and enrolled in part B, or enrolled in part B only, respectively, the additional benefits described in paragraph (3) which are selected by the eligible organization and which the Secretary finds are at least equal in value to the difference between that average per capita payment and the adjusted community rate (as so reduced); except that this paragraph shall not apply with respect to any organization which elects to receive a lesser payment to the extent that there is no longer a difference between the average per capita payment and adjusted community rate (as so reduced). If the Secretary finds that there is insufficient enrollment experience to determine an average of the per capita rates of payment to be made under subsection (a)(1) at the beginning of a contract period, the Secretary may determine such an average based on the enrollment experience of other contracts entered into under this section.

"(3) The additional benefits referred to in paragraph (2) are—

"(A) the reduction of the premium rate or other charges made with respect to services furnished by the organization to members enrolled under this section, or

"(B) the provision of additional health benefits,
or both.

"(h)(1) If—

"(A) the Secretary is not satisfied that an eligible organization has the capacity to bear the risk of potential losses under a risk-sharing contract under this section, or

"(B) the eligible organization so elects or has an insufficient number of members to be eligible to enter into a risk-sharing contract under subsection (g)(1),
the Secretary may, if he is otherwise satisfied that the eligible organization is able to perform its contractual obligations effectively and efficiently, enter into a contract with such organization pursuant to which such organization is reimbursed on the basis of its reasonable cost (as defined in section 1861(v)) in the manner prescribed in paragraph (3).

"(2) A reasonable cost reimbursement contract under this subsection may, at the option of such organization, provide that the Secretary—

"(A) will reimburse hospitals and skilled nursing facilities either for the reasonable cost (as determined under section 1861(v)) or for payment amounts determined in accordance with section 1886, as applicable, of services furnished to individuals enrolled with such organization pursuant to subsection (d), and

"(B) will deduct the amount of such reimbursement from payment which would otherwise be made to such organization.
If such an eligible organization pays a hospital or skilled nursing facility directly, the amount paid shall not exceed the reasonable cost of the services (as determined under section 1861(v)) or the amount determined under section 1886, as applicable, unless such organization demonstrates to the satisfaction of the Secretary that such excess payments are justified on the basis of advantages gained by the organization.

"(3) Payments made to an organization with a reasonable cost reimbursement contract shall be subject to appropriate retroactive corrective adjustment at the end of each contract year so as to assure that such organization is paid for the reasonable cost actually incurred (excluding any part of incurred cost found to be unnecessary in the efficient delivery of health services) or the amounts otherwise determined under section 1886 for the types of expenses otherwise reimbursable under this title for providing services covered under this title to individuals described in subsection (a)(1).

"(4) Any reasonable cost reimbursement contract with an eligible organization under this subsection shall provide that the Secretary shall require, at such time following the expiration of each accounting period of the eligible organization (and in such form and in such detail) as he may prescribe—

"(A) that the organization report to him in an independently certified financial statement its per capita incurred cost based on the types of components of expenses otherwise reimbursable under this title for providing services described in subsection (a)(1), including therein, in accordance with accounting procedures prescribed by the Secretary, its methods of allocating costs between individuals enrolled under this section and other individuals enrolled with such organization;

"(B) that failure to report such information as may be required may be deemed to constitute evidence of likely overpayment on the basis of which appropriate collection action may be taken;

"(C) that in any case in which an eligible organization is related to another organization by common ownership or control, a consolidated financial statement shall be filed and that the allowable costs for such organization may not include costs for the types of expense otherwise reimbursable under this title, in excess of those which would be determined to be reasonable in accordance with regulations (providing for limiting reimbursement to costs rather than charges to the eligible organization by related organizations and owners) issued by the Secretary; and

"(D) that in any case in which compensation is paid by an eligible organization substantially in excess of what is normally paid for similar services by similar practitioners (regardless of method of compensation), such compensation may as appropriate be considered to constitute a distribution of profits.

"(i)(1) Each contract under this section shall be for a term of at least one year, as determined by the Secretary, and may be made automatically renewable from term to term in the absence of notice by either party of intention to terminate at the end of the current term; except that the Secretary may terminate any such contract at any time (after such reasonable notice and opportunity for hearing to the eligible organization involved as he may provide in regulations), if he finds that the organization—

"(A) has failed substantially to carry out the contract,

"(B) is carrying out the contract in a manner inconsistent with the efficient and effective administration of this section, or

"(C) no longer substantially meets the applicable conditions of subsections (b), (c), and (e).

"(2) The effective date of any contract executed pursuant to this section shall be specified in the contract.

"(3) Each contract under this section—

"(A) shall provide that the Secretary, or any person or organization designated by him—

"(i) shall have the right to inspect or otherwise evaluate (I) the quality, appropriateness, and timeliness of services performed under the contract and (II) the facilities of the organization when there is reasonable evidence of some need for such inspection, and

"(ii) shall have the right to audit and inspect any books and records of the eligible organization that pertain (I) to the ability of the organization to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

"(B) shall require the organization with a risk-sharing contract to provide (and pay for) written notice in advance of the contract's termination, as well as a description of alternatives for obtaining benefits under this title, to each individual enrolled under this section with the organization; and

"(C) shall require the organization to comply with subsections (a) and (c) of section 1318 of the Public Health Service Act (relating to disclosure of certain financial information) and with the requirement of section 1301(c)(8) of such Act (relating to liability arrangements to protect members); and

"(D) shall contain such other terms and conditions not inconsistent with this section (including requiring the organization to provide the Secretary with such information) as the Secretary may find necessary and appropriate.

"(4) The Secretary may not enter into a risk-sharing contract with an eligible organization if a previous risk-sharing contract with that organization under this section was terminated at the request of the organization within the preceding five-year period, except in circumstances which warrant special consideration, as determined by the Secretary.

"(5) The authority vested in the Secretary by this section may be performed without regard to such provisions of law or regulations relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the furtherance of the purpose of this title.".

(b) Section 1861(s)(2) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by inserting "and" after the semicolon in subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) services furnished pursuant to a contract under section 1876 to a member of an eligible organization by a physician assistant or by a nurse practitioner (as defined in subsection (aa)(3)) and such services and supplies furnished as an incident to his service to such a member as would otherwise be covered under this part if furnished by a physician or as an incident to a physician's service;".

(c)(1) Subject to paragraph (2), the amendment made by subsection (a) shall apply with respect to services furnished on or after the initial effective date (as defined in paragraph (4)), except that such amendment shall not apply—

(A) with respect to services furnished by an eligible organization to any individual who is enrolled with that organization under an existing cost contract (as defined in paragraph (3)(A)) and entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act at the time the organization first enters into a new risk-sharing contract (as defined in paragraph (3)(D)) unless—

(i) the individual requests at any time that the amendment apply, or

(ii) the Secretary determines at any time that the amendment should apply to all members of the organization because of administrative costs or other administrative burdens involved and so informs in advance each affected member of the eligible organization;

(B) with respect to services furnished by an eligible organization during the five-year period beginning on the initial effective date, if—

(i) the organization has an existing risk-sharing contract (as defined in paragraph (3)(B)) on the initial effective date, or

(ii) on the date of the enactment of this Act the organization was furnishing services pursuant to an existing demonstration project (as defined in paragraph (3)(C)), such demonstration project is concluded before the initial effective date, and before such initial effective date the organization enters into an existing risk-sharing contract,

unless the organization requests that the amendment apply earlier; or

(C) with respect to services furnished by an eligible organization during the period of an existing demonstration project if on the initial effective date the organization was furnishing services pursuant to the project and if the project concludes after such date.

(2)(A) In the case of an eligible organization which has in effect an existing cost contract (as defined in paragraph (3)(A)) on the initial effective date, the organization may receive payment under a new risk-sharing contract with respect to a current, nonrisk medicare enrollee (as defined in subparagraph (C)) only to the extent that the organization enrolls, for each such enrollee, two new medicare enrollees (as defined in subparagraph (D)). The selection of those current nonrisk medicare enrollees with respect to whom payment may be so received under a new risk-sharing contract shall be made in a nonbiased manner.

(B) Subparagraph (A) shall not be construed to prevent an eligible organization from providing for enrollment, on a basis described in subsection (a)(6) of section 1876 of the Social Security Act (as amended by this Act, other than under a reasonable cost reimbursement contract), of current, nonrisk medicare enrollees and from providing such enrollees with some or all of the additional benefits described in section 1876(g)(2) of the Social Security Act (as amended by this Act), but (except as provided in subparagraph (A))—

(i) payment to the organization with respect to such enrollees shall only be made in accordance with the terms of a reasonable cost reimbursement contract, and

(ii) no payment may be made under section 1876 of such Act with respect to such enrollees for any such additional benefits.

Individuals enrolled with the organization under this subparagraph shall be considered to be individuals enrolled with the organization for the purpose of meeting the requirement of section 1876(g)(2) of the Social Security Act (as amended by this Act).

(C) For purposes of this paragraph, the term "current, nonrisk medicare enrollee" means, with respect to an organization, an individual who on the initial effective date—

(i) is enrolled with that organization under an existing cost contract, and

(ii) is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act.

(D) For purposes of this paragraph, the term "new medicare enrollee" means, with respect to an organization, an individual who—

(i) is enrolled with the organization after the date the organization first enters into a new risk-sharing contract,

(ii) at the time of such enrollment is entitled to benefits under part A, or enrolled in part B, of title XVIII of the Social Security Act, and

(iii) was not enrolled with the organization at the time the individual became entitled to benefits under part A, or to enroll in part B, of such title.

(3) For purposes of this subsection:

(A) The term "existing cost contract" means a contract which is entered into under section 1876 of the Social Security Act, as in effect before the initial effective date, or reimbursement on a reasonable cost basis under section 1833(a)(1)(A) of such Act, and which is not an existing risk-sharing contract or an existing demonstration project.

(B) The term "existing risk-sharing contract" means a contract entered into under section 1876(i)(2)(A) of the Social Security Act, as in effect before the initial effective date.

(C) The term "existing demonstration project" means a demonstration project under section 402(a) of the Social Security Amendments of 1967 or under section 222(a) of the Social Security Amendments of 1972, relating to the provision of services for which payment may be made under title XVIII of the Social Security Act.

(D) The term "new risk-sharing contract" means a contract entered into under section 1876(g) of the Social Security Act, as amended by this Act.

(E) The term "reasonable cost reimbursement contract" means a contract entered into under section 1833(a)(1) of the Social Security Act or under section 1876(h) of such Act, as amended by this Act.

(4) As used in this section, the term "initial effective date" means—

(A) the first day of the thirteenth month which begins after the date of the enactment of this Act, or

(B) the first day of the first month after the month in which the Secretary of Health and Human Services notifies the Committee on Finance of the Senate and the Committees on Ways and Means and on Energy and Commerce of the House of Representatives that he is reasonably certain that the methodology to make appropriate adjustments (referred to in section 1876(a)(4) of the Social Security Act, as amended by this Act) has been developed and can be implemented to assure actuarial equivalence in the estimation of adjusted average per capita costs under that section,

whichever is later.

(d) The Secretary of Health and Human Services shall conduct a study of the additional benefits selected by eligible organizations pursuant to section 1876(g)(2) of the Social Security Act, as amended by subsection (a) of this section. The Secretary shall report to the Congress within 24 months of the initial effective date (as defined in subsection (c)(4)) with respect to the findings and conclusions made as a result of such study.

(e) The Secretary of Health and Human Services shall conduct a study evaluating the extent of, and reasons for, the termination by medicare beneficiaries of their memberships in organizations with contracts under section 1876 of the Social Security Act. Such study may be coordinated with the study provided for under section 2178(d) of the Omnibus Budget Reconciliation Act of 1981. In conducting such study, the Secretary shall place special emphasis on the quantity and quality of medical care provided in such organizations and the quality of such care when provided on a fee-for-service basis. The Secretary shall submit an interim report to the Congress, within two years after the initial effective date (as defined in subsection (c)(4)), and a final report within five years after such date containing the respective interim and final findings and conclusions made as a result of such study.

PROHIBITION OF PAYMENT FOR INEFFECTIVE DRUGS

SEC. 115. (a) Effective September 30, 1982, section 131 of Public Law 97-92 is repealed, and the provisions of such section, and of section 210 of the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act, 1982 (H.R. 4560), as passed by the House of Representatives on October 6, 1981, and of section 209 of such Act as reported by the Senate Committee on Appropriations on November 9, 1981, shall not apply to any sums appropriated for fiscal year 1983 or any succeeding fiscal year.

(b) No provision of law limiting the use of funds for purposes of enforcing or implementing section 1862(c) or section 1903(i)(5) of the Social Security Act, section 2103 of the Omnibus Budget Reconciliation Act of 1981, or any rule or regulation issued pursuant to any such section (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations) shall apply to any period after September 30, 1982, unless such provision of law is enacted after the date of the enactment of this Act and specifically states that such provision is to supersede this section.

MEDICARE PAYMENTS SECONDARY FOR OLDER WORKERS COVERED UNDER GROUP HEALTH PLANS

SEC. 116. (a) Section 4 of the Age Discrimination in Employment Act of 1967 is amended by adding at the end thereof the following new subsection:

"(g)(1) For purposes of this section, any employer must provide that any employee aged 65 through 69 shall be entitled to coverage under any group health plan offered to such employees under the same conditions as any employee under age 65.

"(2) For purposes of paragraph (1), the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.".

(b) Section 1862(b) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3)(A)(i) Payment under this title may not be made, except as provided in clause (ii), with respect to any item or service furnished during the period described in clause (iii) to an individual who is over 64 but under 70 years of age (or to the spouse of such individual, if the spouse is over 64 but under 70 years of age) who is employed at the time such item or service is furnished to the extent that payment with respect to expenses for such item or service has been made, or can reasonably be expected to be made, under a group health plan (as defined in clause (iv)) under which such individual is covered by reason of such employment.

"(ii) Any payment under this title with respect to any item or service during the period described in clause (iii) shall be conditioned on reimbursement to the appropriate Trust Fund established by this title when notice or other information is received that payment for such item or service has been made under a group health plan. The Secretary may waive the provisions of this clause in the case of an individual claim if he determines that the probability of recovery or amount involved in such claim does not warrant the pursuing of the claim.

"(iii) The provisions of clauses (i) and (ii) shall apply to an individual only for the period beginning with the month in which such individual becomes entitled to benefits under this title under section 226(a) and ending with the month in which such individual attains the age of 70 and shall not include any month for which the individual would, upon application, be entitled to benefits under section 226A.

"(iv) For purposes of this paragraph, the term 'group health plan' has the meaning given to such term in section 162(i)(2) of the Internal Revenue Code of 1954.

"(B) Where payment for an item or service under a group health plan is less than the amount of the charge for such item or service, payment may be made under this title (without regard to deductibles and coinsurance under this title) for the remainder of such charge, but—

"(i) such payment under this title may not exceed an amount which would be payable under this title for such item or service in the absence of such group health plan; and

"(ii) such payment under this title, when combined with the amount payable under such plan, may not exceed—

"(I) in the case of an item or service payment for which is determined under this title on the basis of reasonable cost (or other cost-related basis) or under section 1886, the amount which would be payable under this title on such basis; and

"(II) in the case of an item or service for which payment is authorized under this title on another basis, the greater of—

"(a) the amount which would be payable under the group health plan (without regard to deductibles and coinsurance under such plan), or

"(b) the reasonable charge or other amount which would be payable under this title (without regard to deductibles and coinsurance under this title).".

(c) The amendment made by subsection (a) shall become effective on January 1, 1983, and the amendment made by subsection (b) shall apply with respect to items and services furnished on or after such date.

INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS

SEC. 117. (a)(1) Section 1815 of the Social Security Act is amended by adding at the end the following new subsection:

"(d) Whenever a final determination is made that the amount of payment made under this part to a provider of services was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

(2) Section 1833 of such Act is amended by adding at the end the following new subsection:

"(j) Whenever a final determination is made that the amount of payment made under this part either to a provider of services or to another person pursuant to an assignment under section 1842(b)(3)(B)(ii) was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.".

(b) The amendments made by subsection (a) apply to final determinations made on or after the date of the enactment of this Act.

AUDIT AND MEDICAL CLAIMS REVIEW

SEC. 118. In addition to any funds otherwise provided for fiscal years 1983, 1984, and 1985 for payments to intermediaries and carriers under agreements entered into under sections 1816 and 1842 of the Social Security Act, there are transferred from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Fund in such proportions as the Secretary of Health and Human Services determines to be appropriate, an additional $45,000,000 for each of such fiscal years for payments to such intermediaries and carriers under such agreements to be used exclusively for the purpose of carrying out provider cost audits and reviews of medical necessity, consistent with the provisions of sections 1816 and 1842 of the Social Security Act.

PRIVATE SECTOR REVIEW INITIATIVE

SEC. 119. (a) The Secretary of Health and Human Services shall undertake an initiative to improve medical review by intermediaries and carriers under title XVIII of Social Security Act and to encourage similar review efforts by private insurers and other private entities. The initiative shall include the development of specific standards for measuring the performance of such intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

(b) Where such review activity results in the denial of payment to providers of services under title XVIII of the Social Security Act, such providers shall be prohibited, in accordance with sections 1866 and 1879 of such title, from collecting any payments from beneficiaries unless otherwise provided under such title.

TEMPORARY DELAY IN PERIODIC INTERIM PAYMENTS

SEC. 120. Notwithstanding section 1815(a) of the Social Security Act, in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that—

(1) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

(2) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985.

PART II—CHANGES IN BENEFITS, PREMIUMS, AND ENROLLMENT

MEDICARE COVERAGE OF FEDERAL EMPLOYEES

SEC. 121. For provisions providing certain employees of the United States and instrumentalities thereof with entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act, see section 278 of this Act.

HOSPICE CARE

SEC. 122. (a)(1) Section 1811 of the Social Security Act is amended by striking out "and home health services" and inserting in lieu thereof "home health services, and hospice care".

(2) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "hospice care," after "home health services,".

(b)(1) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and one subsequent period of 30 days with respect to which the individual makes an election under subsection (d)(1).".

(2) Section 1812 of such Act is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and one subsequent period of 30 days during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than under arrangements made by the particular hospice program) during the period, and

"(ii) services furnished during the period that are determined (in accordance with guidelines of the Secretary) to be—

"(I) related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made or

"(II) equivalent to (or duplicative of) hospice care;

except that clause (ii) shall not apply to physicians' services furnished by the individual's attending physician (if not an employee of the hospice program) or to other than services provided by (or under arrangements made by) the hospice program.

"(B) After an individual makes such an election with respect to a 90- or 30-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subsection (a)(4) and subparagraph (A)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(C) An individual may, once in each such period, change the hospice program with respect to which the election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect to that hospice program after the date the individual's revocation or change of election with respect to that election takes effect.".

(c)(1) Section 1814(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by inserting after paragraph (7) the following new paragraph:

"(8) in the case of hospice care provided an individual—

"(A)(i) in the first 90-day period—

"(I) the individual's attending physician (as defined in section 1861(dd)(3)(B)), and

"(II) the medical director (or physician member of the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program providing (or arranging for) the care,

each certify, not later than two days after hospice care is initiated, that the individual is terminally ill (as defined in section 1861(dd)(3)(A)), and

"(ii) in a subsequent 90- or 30-day period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;

"(B) a written plan for providing hospice care with respect to such individual has been established (before such care is provided by, or under arrangements made by, that hospice program) and is periodically reviewed by the individual's attending physician and by the medical director (and the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program; and

"(C) such care is being or was provided pursuant to such plan of care.".

(2)(A) Section 1814(b) of such Act is amended by inserting "(other than a hospice program providing hospice care)" after "The amount paid to any provider of services".

(B) Section 1814 of such Act is further amended by adding at the end the following new subsection:

"Payment for Hospice Care

"(i)(1) Subject to the limitation under paragraph (2) and the provisions of section 1813(a)(4), the amount paid to a hospice program with respect to hospice care for which payment may be made under this part shall be an amount equal to the costs which are reasonable and related to the cost of providing hospice care or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations (including those authorized under section 1861(v)(1)(A)), except that no payment may be for bereavement counseling and no reimbursement may be made for other counseling services (including nutritional and dietary counseling) as separate services.

"(2)(A) The amount of payment made under this part for hospice care provided by (or under arrangements made by) a hospice program located in a region (as defined by the Secretary) for an accounting year may not exceed the 'cap amount' for the region for the year (computed under subparagraph (B)) multiplied by the number of medicare beneficiaries in the hospice program in that year (determined under subparagraph (C)).

"(B) For purposes of subparagraph (A), the 'cap amount' for a region for a year is computed as follows:

"(i) The Secretary, using records of the program under this title, shall identify individuals (or a representative sample of such individuals)—

"(I) who died during the base period (as defined in clause (v)),

"(II) with respect to whom the primary cause of death was cancer, and

"(III) who, during the six-month period preceding death, were provided benefits under this title.

"(ii) The Secretary shall determine a national average medicare per capita expenditure amount by (I) determining (or estimating) the amount of payments made under this title with respect to services provided to individuals identified in clause (i) during the six months before death, and (II) dividing such amount of payments by the number of such individuals.

"(iii) The Secretary, using the best available data, shall then compute a regional average medicare per capita expenditure amount for each region, by adjusting the national average medicare per capita expenditure amount (computed under clause (ii)) to reflect the relative difference between that region's average cost of delivering health care and the national average cost of delivering health care.

"(iv) The 'cap amount' for a region for an accounting year is 40 percent of the regional average determined under clause (iii) for that region, increased or decreased by the same percentage as the percentage increase or decrease, respectively, in the medical care expenditure category of the consumer price index for all urban consumers (U.S. city average), published by the Bureau of Labor Statistics, from the fourth month of the base period to the fifth month of the accounting year.

"(v) For purposes of this subparagraph, the term 'base period' means the most recent period of 12 months (ending before the date proposed regulations are first issued to carry out this paragraph) for which the Secretary determines he has sufficient data to make the determinations required under clauses (i) through (iii).

"(C) For purposes of subparagraph (A), the 'number of medicare beneficiaries' in a hospice program in an accounting year is equal to the number of individuals who have made an election under subsection (d) with respect to the hospice program and have been provided hospice care by (or under arrangements made by) the hospice program under this part in the accounting year, such number reduced to reflect the proportion of hospice care that each such individual was provided in a previous or subsequent accounting year or under a plan of care established by another hospice program.".

(3) Section 1816(e) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this title, the Secretary shall designate the agency or organization which has entered into an agreement under this section to perform functions under such an agreement with respect to each hospice program, except

that with respect to a hospice program which is a subdivision of a provider of services (and such hospice program and provider of services are under common control) due regard shall be given to the agency or organization which performs the functions under this section for the provider of services.".

(d)(1) Section 1861(u) of the Social Security Act is amended by inserting "hospice program," after "home health agency,".

(2) Section 1861(w)(1) of such Act is amended by striking out "or home health agency" and by inserting in lieu thereof "home health agency, or hospice program".

(3) Section 1861 of such Act is further amended by adding at the end the following new subsection:

"Hospice Care; Hospice Program

"(dd)(1) The term 'hospice care' means the following items and services provided to a terminally ill individual by, or by others under arrangements made by, a hospice program under a written plan (for providing such care to such individual) established and periodically reviewed by the individual's attending physician and by the medical director (and by the interdisciplinary group described in paragraph (2)(B)) of the program—

"(A) nursing care provided by or under the supervision of a registered professional nurse,

"(B) physical or occupational therapy or speech-language pathology,

"(C) medical social services under the direction of a physician,

"(D)(i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,

"(E) medical supplies (including drugs and biologicals) and the use of medical appliances, while under such a plan,

"(F) physicians' services,

"(G) short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not be provided consecutively over longer than five days, and

"(H) counseling (including dietary counseling) with respect to care of the terminally ill individual and adjustment to his death.

The care and services described in subparagraphs (A) and (D) may be provided on a 24-hour, continuous basis only during periods of crisis (meeting criteria established by the Secretary) and only as necessary to maintain the terminally ill individual at home.

"(2) The term 'hospice program' means a public agency or private organization (or a subdivision thereof) which—

"(A)(i) is primarily engaged in providing the care and services described in paragraph (1) and makes such services available (as needed) on a 24-hour basis and which also provides bereavement counseling for the immediate family of terminally ill individuals,

"(ii) provides for such care and services in individuals' homes, on an outpatient basis, and on a short-term inpatient basis, directly or under arrangements made by the agency or organization, except that—

"(I) the agency or organization must routinely provide directly substantially all of each of the services described in subparagraphs (A), (C), (F), and (H) of paragraph (1), and

"(II) in the case of other services described in paragraph (1) which are not provided directly by the agency or organization, the agency or organization must maintain professional management responsibility for all such services furnished to an individual, regardless of the location or facility in which such services are furnished; and

"(iii) provides assurances satisfactory to the Secretary that the aggregate number of days of inpatient care described in paragraph (1)(G) provided in any 12-month period to individuals who have an election in effect under section 1812(d) with respect to that agency or organization does not exceed 20 percent of the aggregate number of days during that period on which such elections for such individuals are in effect;

"(B) has an interdisciplinary group of personnel which—

"(i) includes at least—

"(I) one physician (as defined in subsection (r)(1)),

"(II) one registered professional nurse, and

"(III) one social worker,

employed by the agency or organization, and also includes at least one pastoral or other counselor,

"(ii) provides (or supervises the provision of) the care and services described in paragraph (1), and

"(iii) establishes the policies governing the provision of such care and services;

"(C) maintains central clinical records on all patients;

"(D) does not discontinue the hospice care it provides with respect to a patient because of the inability of the patient to pay for such care;

"(E)(i) utilizes volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintains records on the use of these volunteers and the cost savings and expansion of care and services achieved through the use of these volunteers;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law; and

"(G) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

"(3)(A) An individual is considered to be 'terminally ill' if the individual has a medical prognosis that the individual's life expectancy is 6 months or less.

"(B) The term 'attending physician' means, with respect to an individual, the physician (as defined in subsection (r)(1)), who may be employed by a hospice program, whom the individual identifies as having the most significant role in the determination and delivery of medical care to the individual at the time the individual makes an election to receive hospice care.

"(4)(A) An entity which is certified as a provider of services other than a hospice program shall be considered, for purposes of certification as a hospice program, to have met any requirements under paragraph (2) which are also the same requirements for certification as such other type of provider. The Secretary shall coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type.

"(B) Any entity which is certified as a hospice program and as a provider of another type shall have separate provider agreements under section 1866 and shall file separate cost reports with respect to costs incurred in providing hospice care and in providing other services and items under this title.".

(e) Section 1813(a) of such Act is amended by adding at the end the following new paragraph:

"(4)(A) The amount payable for hospice care shall be reduced—

"(i) in the case of drugs and biologicals provided on an outpatient basis by (or under arrangements made by) the hospice program, by a coinsurance amount equal to an amount (not to exceed $5 per prescription) determined in accordance with a drug copayment schedule (established by the hospice program) which is related to, and approximates 5 percent of, the cost of the drug or biological to the program, and

"(ii) in the case of respite care provided by (or under arrangements made by) the hospice program, by a coinsurance amount equal to 5 percent of the amount estimated by the hospice program (in accordance with regulations of the Secretary) to be equal to the amount of payment under section 1814(i) to that program for respite care;

except that the total of the coinsurance required under clause (ii) for an individual may not exceed for a hospice coinsurance period the inpatient hospital deductible applicable for the year in which the period began. For purposes of this subparagraph, the term 'hospice coinsurance period' means, for an individual, a period of consecutive days beginning with the first day for which an election under section 1812(d) is in effect for the individual and ending with the close of the first period of 14 consecutive days on each of which such an election is not in effect for the individual.

"(B) During the period of an election by an individual under section 1812(d)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.".

(f) Section 1862(a) of the Social Security Act is amended—

(1) by amending paragraph (1) to read as follows:

"(1)(A) which, except for items and services described in subparagraph (B) or (C), are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member,

"(B) in the case of items and services described in section 1861(s)(10), which are not reasonable and necessary for the prevention of illness, and

"(C) in the case of hospice care, which are not reasonable and necessary for the palliation or management of terminal illness;";

(2) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (6) after "comfort items";

(3) by striking out "paragraph (1)" in paragraph (7) and inserting in lieu thereof "paragraph (1)(B)"; and

(4) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1)(C))" in paragraph (9) after "custodial care".

(g)(1) Section 1862(f) of the Social Security Act is amended by striking out "para-

graph (1)" and inserting in lieu thereof "paragraph (1)(A)".

(2) Section 1863 of the Social Security Act is amended by striking out "and (cc)(2)(I)" and inserting in lieu thereof "(cc)(2)(I), and (dd)(2)".

(3) Section 1864(a) of such Act is amended—

(A) by inserting "or whether an agency is a hospice program" in the first sentence after "home health agency,"; and

(B) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or hospice program".

(4) Section 1865(a) of such Act is amended by striking out "or (o)" in the last sentence and inserting in lieu thereof "(o), or (dd)".

(5) Section 1866(b)(2)(A) of such Act is amended by striking out "or (a)(3)" and inserting in lieu thereof "(a)(3), or (a)(4)".

(6) Section 1866(b)(4)(A) of such Act is amended by inserting "or hospice care" after "home health services".

(h)(1)(A) Subject to subparagraph (B), the amendments made by this section apply to hospice care provided on or after November 1, 1983, and before October 1, 1986.

(B) An individual who on October 1, 1986, has an election under section 1812(d)(1) of the Social Security Act in effect for a period, is entitled to hospice care benefits after that date during the remainder of that period and any consecutive period to which the individual would have been entitled before such date.

(2) In order to provide for the timely implementation of the amendments made by this Act, the Secretary of Health and Human Services shall, not later than September 1, 1983, promulgate such final regulations as may be necessary to set forth—

(A) a description of the care included in "hospice care" and the standards for qualification of a "hospice program", under section 1861(dd) of the Social Security Act, and

(B) the standards for payment for hospice care under part A of title XVIII of such Act, pursuant to section 1814(i) of such Act.

(h)(1) Notwithstanding any provision of law which has the effect of restricting the time period of a hospice demonstration project in effect on July 15, 1982, pursuant to section 402(a) of the Social Security Amendments of 1967, the Secretary of Health and Human Services, upon request of the hospice involved, shall permit continuation of the project until November 1, 1983, or, if later, the date on which payments can first be made to any hospice program under the amendments made by this section.

(2) Prior to September 30, 1983, the Secretary shall submit to Congress a report on the effectiveness of demonstration projects referred to in paragraph (1), including an evaluation of the cost-effectiveness of hospice care, the reasonableness of the 40 percent cap amount for hospice care as provided in section 1814(i) of the Social Security Act (as added by this section), proposed methodology for determining such cap amount, proposed standards for requiring and measuring the maintenance of effort for utilizing volunteers as required under section 1861(dd) of such Act, an evaluation of physician reimbursement for services furnished as a part of hospice care and for services furnished to individuals receiving hospice care but which are not reimbursed as a part of the hospice care, and any proposed legislative changes in the hospice care provisions of title XVIII of such Act.

(i)(1) The Secretary of Health and Human Services shall conduct a study and, prior to January 1, 1986, report to the Congress on whether or not the reimbursement method and benefit structure (including copayments) for hospice care under title XVIII of the Social Security Act are fair and equitable and promote the most efficient provision of hospice care. Such report shall include the feasibility and advisability of providing for prospective reimbursement for for hospice care, an evaluation of the inclusion of payment for outpatient drugs, an evaluation of the need to alter the method of reimbursement for nutritional, dietary, and bereavement counseling as hospice care, and any recommendations for legislative changes in the hospice care reimbursement or benefit structure.

(2) The Comptroller General shall monitor and evaluate the study and the preparation of the report under paragraph (1).

(j) The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act (relating to the cap amount), section 1861(dd)(1)(G) of such Act (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iv) of such Act (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate until October 1, 1986, in a viable manner as a hospice program under title XVIII of the Social Security Act.

COVERAGE OF EXTENDED CARE SERVICES WITHOUT REGARD TO THREE-DAY PRIOR HOSPITALIZATION REQUIREMENT

SEC. 123. (a) Section 1812(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)" and by inserting before the semicolon at the end the following: ", and (B) to the extent provided in subsection (f), extended care services that are not post-hospital extended care services".

(b) Section 1812 of such Act is further amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f)(1) The Secretary shall provide for coverage, under clause (B) of subsection (a)(2), of extended care services which are not post-hospital extended care services at such time and for so long as the Secretary determines, and under such terms and conditions (described in paragraph (2)) as the Secretary finds appropriate, that the inclusion of such services will not result in any increase in the total of payments made under this title and will not alter the acute care nature of the benefit described in subsection (a)(2).

"(2) The Secretary may provide—

"(A) for such limitations on the scope and extent of services described in subsection (a)(2)(B) and on the categories of individuals who may be eligible to receive such services, and

"(B) notwithstanding sections 1814, 1861(v), and 1886, for such restrictions and alternatives on the amounts and methods of payment for services described in such subsection,

as may be necessary to carry out paragraph (1).".

PROVISION TEMPORARILY HOLDING PART B PREMIUM AT CONSTANT PERCENTAGE OF COST

SEC. 124. (a)(1) Section 1839(c)(2) of the Social Security Act is amended by striking out "except as provided in subsection (d)" and inserting in lieu thereof "except as provided in subsections (d) and (g)".

(2) Section 1839(c)(3) of such Act is amended by inserting "(except as otherwise provided in subsection (g))" after "The monthly premium shall".

(b) Section 1839 of such Act is amended by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (c), the monthly premium for each individual enrolled under this part for each month after June 1983 and prior to July 1985 shall be an amount equal to 50 percent of the monthly actuarial rate for enrollees age 65 and over, as determined under subsection (c)(1) and applicable to such month.

"(2) Any increases in premium amounts taking effect prior to July 1985 by reason of paragraph (1) shall be taken into account for purposes of determining increases thereafter under subsection (c)(3).".

(c) Section 1844(a)(1) of such Act is amended by striking out "section 1839(c)(3)" each place it appears in subparagraphs (A)(i) and (B)(i) and inserting in lieu thereof in each instance "section 1839(c)(3) or 1839(g), as the case may be".

SPECIAL ENROLLMENT PROVISIONS FOR MERCHANT SEAMEN

SEC. 125. (a) Any individual who—

(1) was entitled to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect on September 30, 1981), including such entitlement on the basis of continuing medical care under 42 C.F.R. §32.17, at any time during the period beginning on March 10, 1981, and ending on October 1, 1981, and

(2) as of September 30, 1981, was eligible under section 1818(a) or section 1836 of the Social Security Act to enroll in the insurance program established by part A or part B, respectively, of title XVIII of that Act (hereinafter in this section referred to as the "respective program"),

may enroll (if not otherwise enrolled) in the respective program during the period beginning on the first day of the first month beginning at least 20 days after the date of the enactment of this Act and ending on December 31, 1982.

(b)(1) The coverage period under the respective program of an individual who enrolls under subsection (a) shall begin—

(A) on the first day of the month following the month in which the individual enrolls, or

(B) on October 1, 1981, if the individual files a request for this subparagraph to apply and pays the monthly premiums for the months so covered.

(2) The coverage period under the respective program of an individual described in subsection (a) who enrolled in the respective program before the enrollment period described in that subsection shall be retroactively extended to October 1, 1981, if the individual files a request before January 1, 1983, for such retroactive extension and pays the monthly premiums for the months so covered.

(c)(1) For purposes of section 1839(d) of the Social Security Act with respect to the monthly premium for months after September 1981, if an individual described in subsection (a) has enrolled in the insurance program under part B of title XVIII of the Social Security Act at any time before the end of the enrollment period described in subsection (a), any month (before the end of that enrollment period) in which he was not enrolled in that program shall not be treated as a month in which he could have been enrolled in the program.

(2) Paragraph (1) shall not apply to an individual—

(A) if the individual has enrolled in the insurance program before March 10, 1981, unless the enrollment was terminated solely because the individual lost eligibility to be so enrolled, or

(B) unless the individual applies for the benefit of such paragraph before January 1, 1983.

(d)(1) The Secretary of Health and Human Services, beginning as soon as possible but not later than 30 days after the date of the enactment of this Act, shall provide for the dissemination of information—

(A) to unions and other associations representing or assisting seamen,

(B) to offices enrolling individuals under the respective programs, and

(C) to such other entities and in such a manner as will effectively inform individuals eligible for benefits under this section, concerning the special benefits provided under this section.

(2) An individual may establish that the individual was entitled at a date to medical, surgical, and dental treatment and hospitalization under section 322(a) of the Public Health Service Act (as in effect before October 1, 1981) by providing—

(A) documentation relating to the status under which the individual was provided care in (or under arrangements with) a Public Health Service facility on that date,

(B) the individual's seamen's papers covering that date, or

(C) such other reasonable documentation as the Secretary may require.

PART III—MISCELLANEOUS PROVISIONS

EXTENDING MEDICARE PROFICIENCY EXAMINATION AUTHORITY

SEC. 126. Section 1123(a) of the Social Security Act is amended by striking out "December 31, 1981" and inserting in lieu thereof "September 30, 1983".

REGULATIONS REGARDING ACCESS TO BOOKS AND RECORDS

SEC. 127. Section 952 of the Omnibus Reconciliation Act of 1980 (94 Stat. 2646) is amended—

(1) by inserting "(a)" after "SEC. 952.", and

(2) by adding at the end the following new subsection:

"(b) Unless the Secretary of Health and Human Services first publishes final regulations prescribing the criteria and procedures described in the last sentence of section 1861(v)(1)(I) of the Social Security Act by January 1, 1983, after providing a period of not less than 60 days for public comment on proposed regulations, the amendment made by subsection (a) shall only apply to books, documents, and records relating to services furnished (pursuant to contract or subcontract) on or after the date on which final regulations of the Secretary are first published.".

TECHNICAL CORRECTIONS TO OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 128. (a)(1) Section 1861(cc)(1) of the Social Security Act is amended, in the matter following subparagraph (H), by striking out "outpatient" and inserting in lieu thereof "inpatient".

(2) The second sentence of section 1862(b)(1) of such Act is amended by striking out "or plan".

(3) Section 1862(b)(2)(A) of such Act is amended by striking out "section 162(h)(2)" and inserting in lieu thereof "section 162(i)(2)".

(4) The first sentence of section 1862(b)(2)(B) of such Act is amended by inserting "furnished" before "to an individual".

(5) Section 1866(b) of such Act is amended by striking out "(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1))" in the matter preceding paragraph (1).

(6) The second subsection (c) of section 1884 of such Act is redesignated as subsection (d).

(b) Section 162 of the Internal Revenue Code of 1954 is amended—

(1) by redesignating the subsection (i) (relating to cross reference), as redesignated by the Economic Recovery Tax Act of 1981 (Public Law 95-34), as subsection (j), and

(2) by redesignating the subsection (h) (relating to group health plans), as added by section 2146(b) of the Omnibus Budget Reconciliation Act of 1981, as subsection (i).

(c)(1) Section 2143(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "costs" and inserting in lieu thereof "cost".

(2) Section 2203(f)(3) of such Act is amended by striking out "August 1982" and inserting in lieu thereof "August 1981".

(d)(1) Sections 1842(b)(3)(B)(ii)(II) and 1870(c) of the Social Security Act are each amended by striking out "1862" and inserting in lieu thereof "1862(a)".

(2) The final subparagraph (C) of section 1861(e) of such Act is amended by striking out "may (i)," and inserting in lieu thereof "(i) may".

(3) Section 1865(b) of such Act is amended by striking out "an institution" and "such institution" and inserting in lieu thereof "a hospital" and "the hospital", respectively.

(4) Section 1866(a)(1)(B) of such Act is amended by inserting "of section 1862(a)" after "(1) or (9)".

(e)(1) Any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act or the Internal Revenue Code of 1954 made by this section (other than subsection (d)) shall be effective as if it had been originally included as a part of that provision of the Social Security Act or Internal Revenue Code of 1954 to which it relates, as such provision of such Act or Code was amended by the Omnibus Budget Reconciliation Act of 1981.

(3) The amendments made by subsection (d) shall take effect upon enactment.

SUBTITLE B—MEDICAID

COPAYMENTS BY MEDICAID RECIPIENTS

SEC. 131. (a) Section 1902(a)(14) of the Social Security Act is amended to read as follows:

"(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;".

(b) Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

"USE OF ENROLLMENT FEES, PREMIUMS, DEDUCTIONS, COST SHARING, AND SIMILAR CHARGES

"SEC. 1916. (a) The State plan shall provide that in the case of individuals described in section 1902(a)(10)(A) who are eligible under the plan—

"(1) no enrollment fee, premium, or similar charge will be imposed under the plan;

"(2) no deduction, cost sharing or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled;

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(b) The State plan shall provide that in the case of individuals other than those described in section 1902(a)(10)(A) who are eligible under the plan—

"(1) there may be imposed an enrollment fee, premium, or similar charge, which (as determined in accordance with standards prescribed by the Secretary) is related to the individual's income,

"(2) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to—

"(A) services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over),

"(B) services furnished to pregnant women, if such services relate to the pregnancy or to any other medical condition which may complicate the pregnancy (or, at the option of the State, any services furnished to pregnant women),

"(C) services furnished to any individual who is an inpatient in a hospital, skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, or

"(D) emergency services (as defined by the Secretary), family planning services and supplies described in section 1905(a)(4)(C), or (at the option of the State) services furnished to such an individual by a health maintenance organization (as defined in section 1903(m)) in which he is enrolled;

"(3) any deduction, cost sharing, or similar charge imposed under the plan with respect to other such individuals or other care and services will be nominal in amount (as determined by the Secretary in regulations which shall, if the definition of 'nominal' under the regulations in effect on July 1, 1982 is changed, take into account the level of cash assistance provided in such State and such other criteria as the Secretary determines to be appropriate); except that a deduction, cost-sharing, or similar charge of up to twice the nominal amount established for outpatient services may be imposed by a State under a waiver granted by the Secretary for services received at a hospital emergency room if the services are not emergency services (referred to in paragraph (2)(D)) and the State has established to the satisfaction of the Secretary that individuals eligible for services under the plan have actually available and accessible to them alternative sources of nonemergency, outpatient services.

"(c) The State plan shall require that no provider participating under the State plan may deny care or services to an individual eligible for such care or services under the plan on account of such individual's inability to pay a deduction, cost sharing, or similar charge. The requirements of this subparagraph shall not extinguish the liability of the individual to whom the care or services were furnished for payment of the deduction, cost sharing, or similar charge.

"(d) No deduction, cost sharing, or similar charge may be imposed under any waiver authority of the Secretary unless authorized under this section, unless such waiver is for a demonstration project which the Secretary finds after public notice and opportunity for comment—

"(1) will test a unique and previously untested use of copayments,

"(2) is limited to a period of not more than two years,

"(3) will provide benefits to recipients of medical assistance which can reasonably be expected to be equivalent to the risks to the recipients,

"(4) is based on a reasonable hypothesis which the demonstration is designed to test in a methodologically sound manner, including the use of control groups of similar recipients of medical assistance in the area, and

"(5) in which participation is voluntary, or in which provision is made for assumption of liability for preventable damage to the health of recipients of medical assistance resulting from involuntary participation.".

(b) Section 1902(a)(10) of such Act is amended in the matter following subparagraph (D)—

(1) by striking out "and" before "(III)"; and

(2) by inserting before the semicolon at the end thereof the following: "and (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption".

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall become effective on October 1, 1982.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

MODIFICATIONS IN LIEN PROVISIONS

SEC. 132. (a) Section 1902(a)(18) of the Social Security Act is amended to read as follows:

"(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, and transfers of assets;".

(b) Title XIX of such Act is amended by adding after section 1916 (added by section 131 of this Act) the following new section:

"LIENS, ADJUSTMENTS AND RECOVERIES, AND TRANSFERS OF ASSETS

"SEC. 1917. (a)(1) No lien may be imposed against the property of any individual prior to his death on account of medical assistance paid or to be paid on his behalf under the State plan, except—

"(A) pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual, or

"(B) in the case of the real property of an individual—

"(i) who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and

"(ii) with respect to whom the State determines, after notice and opportunity for a hearing (in accordance with procedures established by the State), that he cannot reasonably be expected to be discharged from the medical institution and to return home, except as provided in paragraph (2).

"(2) No lien may be imposed under paragraph (1)(B) on such individual's home if—

"(A) the spouse of such individual,

"(B) such individual's child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614, or

"(C) a sibling of such individual (who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution),

is lawfully residing in such home.

"(3) Any lien imposed with respect to an individual pursuant to paragraph (1)(B) shall dissolve upon that individual's discharge from the medical institution and return home.

"(b)(1) No adjustment or recovery of any medical assistance correctly paid on behalf of an individual under the State plan may be made, except—

"(A) in the case of an individual described in subsection (a)(1)(B), from his estate or upon sale of the property subject to a lien imposed on account of medical assistance paid on behalf of such individual, and

"(B) in the case of any other individual who was 65 years of age or older when he received such assistance, from his estate.

"(2) Any adjustment or recovery under paragraph (1) may be made only after the death of the individual's surviving spouse, if any, and only at a time—

"(A) when he has no surviving child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614; and

"(B) in the case of a lien on an individual's home under subsection (a)(1)(B), when—

"(i) no sibling of the individual (who was residing in the individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution), and

"(ii) no son or daughter of the individual (who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the medical institution, and who establishes to the satisfaction of the State that he or she provided care to such individual which permitted such individual to reside at home rather than in an institution),

is lawfully residing in such home and has lawfully resided in such home on a continuous basis since the date of the individual's admission to the medical institution.

"(c)(1) Notwithstanding any other provision of this title, an individual who would otherwise be eligible for medical assistance under the State plan approved under this title may be denied such assistance if such individual would not be eligible for such medical assistance but for the fact that he disposed of resources for less than fair market value. If the State plan provides for the denial of such assistance by reason of such disposal of resources, the State plan shall specify a procedure for implementing such denial which, except as provided in paragraph (2), is not more restrictive than the procedure specified in section 1613(c) of this Act, and which may provide for a waiver of denial of such assistance in any instance where the State determines that such denial would work an undue hardship.

"(2)(A) In any case where the uncompensated value of disposed of resources exceeds $12,000, the State plan may provide for a period of ineligibility which exceeds 24 months. If a State plan provides for a period of ineligibility exceeding 24 months, such plan shall provide for the period of ineligibility to bear a reasonable relationship to such uncompensated value.

"(B)(i) In the case of any individual who is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution, if such individual is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of his income required for personal needs, and, who, at any time during or after the 24-month period immediately prior to application for medical assistance under the State plan, disposed of a home for less than fair market value, the State plan (subject to clause (iii)) may provide for a period of in-

eligibility for medical assistance in accordance with clause (ii).

"(ii) If the State plan provides for a period of ineligibility under clause (i), such plan—

"(I) shall provide that such individual shall be ineligible for all medical assistance for a period of 24 months after the date on which he disposed of such home, except that, in the case where the uncompensated value of the home is less than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, the period of ineligibility shall be such shorter time as bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home, and

"(II) may provide (at the option of the State) that, in the case where the uncompensated value of the home is more than the average amount payable under the State plan as medical assistance for 24 months of care in a skilled nursing facility, such individual shall be ineligible for all medical assistance for a period in excess of 24 months after the date on which he disposed of such home which bears a reasonable relationship (based upon the average amount payable under the State plan as medical assistance for care in a skilled nursing facility) to the uncompensated value of the home.

"(iii) An individual shall not be ineligible for medical assistance by reason of clause (ii) if—

"(I) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual cannot reasonably be expected to be discharged from the medical institution and to return to that home,

"(II) title to such home was transferred to the individual's spouse or child who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614,

"(III) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the home either at fair market value, or for other valuable consideration, or

"(IV) if the State determines that denial of eligibility would work an undue hardship.

"(3) In any case where an individual is ineligible for medical assistance under the State plan solely because of the applicability to such individual of the provisions of section 1613(c), the State plan may provide for the eligibility of such individual for medical assistance under the plan if such individual would be so eligible if the State plan requirements with respect to disposal of resources applicable under paragraphs (1) and (2) of this subsection were applied in lieu of the provisions of section 1613(c).".

(c) Section 1902 of such Act is amended by striking out subsection (j) thereof.

(d) The amendments made by this section shall become effective on the date of the enactment of this Act, but the provisions of section 1917(c)(2)(B) of the Social Security Act shall not apply with respect to a transfer of assets which took place prior to such date of enactment.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS MEDICAL ASSISTANCE EXPENDITURES

SEC. 133. (a) Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

"(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

"(D)(i) For purposes of this subsection, the term 'erroneous excess payments for medical assistance' means the total of—

"(I) payments under the State plan with respect to ineligible individuals and families, and

"(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

"(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the difference between the actual amount of such resources and the allowable resource level established under the State plan.

"(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

"(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

"(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

"(ii) payments made as the result of a technical error.

"(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

(c) No provision of law limiting Federal financial participation with respect to erroneous payments made by States under a State plan approved under title XIX of the Social Security Act (including any provision contained in, or incorporated by reference into, any appropriation Act or resolution making continuing appropriations), other than the limitations contained in section 1903 of such Act, shall be effective with respect to payments to States under such section 1903 for quarters beginning on or after October 1, 1982, unless such provision of law is enacted after the date of the date of the enactment of this Act and expressly provides that such limitation is in addition to or in lieu of the limitations contained in section 1903 of the Social Security Act.

MEDICAID COVERAGE OF HOME CARE FOR CERTAIN DISABLED CHILDREN

SEC. 134. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) At the option of the State, any individual who—

"(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a);

"(B) with respect to whom there has been a determination by the State that—

"(i) the individual requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility,

"(ii) it is appropriate to provide such care for the individual outside such an institution, and

"(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institu-

tion is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

"(C) if the individual were in a medical institution, would be eligible to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI,

shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

SIX-MONTH MORATORIUM ON DEREGULATION OF SKILLED NURSING AND INTERMEDIATE CARE FACILITIES

SEC. 135. The Secretary of Health and Human Services may not promulgate any change in the regulations prescribed under—

(1) subpart K of part 405 of subchapter B (relating to medicare conditions of participation of skilled nursing facilities),

(2) so much of subpart S of part 405 of subchapter B (relating to certification procedure for providers) as relates to certification of skilled nursing facilities, and

(3) subparts C, D, and E of part 442 of subchapter C (relating to medicaid certification and requirements for skilled nursing and intermediate care facilities),

of chapter IV of title 42 of the Code of Federal Regulations until the first day of the seventh calendar month beginning after the date of the enactment of this Act unless ordered to do so by a court of competent jurisdiction.

MEDICAID PROGRAM IN AMERICAN SAMOA

SEC. 136. (a) Section 1101(a)(1) of the Social Security Act is amended by inserting "and American Samoa" after "Such term when used in title XIX also includes the Northern Mariana Islands".

(b) Section 1108(c) of such Act is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(5) American Samoa shall not exceed $750,000.".

(c) Section 1905(b)(2) of such Act is amended by striking out "and the Northern Mariana Islands" and inserting in lieu thereof "the Northern Mariana Islands, and American Samoa".

(d) Section 1902 of such Act (as amended by section 132(c) of this Act) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program in American Samoa, other than a waiver of the Federal medical assistance percentage, the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa for care and services described in paragraphs (1) through (18) of section 1905(a).".

(e) The amendments made by this section shall become effective on October 1, 1982.

TECHNICAL CORRECTIONS FROM OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SEC. 137. (a)(1) Section 2161(b) of the Ominbus Budget Reconciliation Act of 1981 is amended by striking out "Section 1902" and inserting in lieu thereof "Section 1903".

(2) Paragraphs (1) and (2) of section 2161(c) of such Act are each amended by striking out "section 1902" and inserting in lieu thereof in each instance "section 1903".

(3) Section 2171(a)(3) of such Act is amended by striking out "by striking out paragraph (C)" and inserting in lieu thereof "by striking out '(C) if medical assistance' and all that follows through the semicolon preceding 'except that' ".

(4) Section 2181(b) of such Act is amended by inserting before the period at the end thereof the following: ", except that, in the case of a State plan under title XIX of the Social Security Act which the Secretary determines requires State legislation in order to incorporate the provisions required to be included by this section into such State plan, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to include the provisions required to be included in such State plan by subsection (a)(2) of this section before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act, but the requirements previously set forth in paragraphs (1) through (3) of section 403(g) of the Social Security Act (prior to its repeal by this section) shall apply under title XIX of such Act to such State on and after October 1, 1981, whether or not the provisions required to be included by this section in the State plan under title XIX have been incorporated into such State plan".

(5) Section 2193(c)(3)(B) of such Act is amended by striking out "or X' " and inserting in lieu thereof "or XIX' ".

(b)(1) Section 501(b)(1)(D) of the Social Security Act is amended by striking out "title IV" and inserting in lieu thereof "title VI".

(2) Section 501(b)(2) of such Act is amended by striking out "section 624 of the Economic Opportunity Act of 1964" and inserting in lieu thereof "section 673(2) of the Omnibus Budget Reconciliation Act of 1981".

(3) Section 505(2)(B) of such Act is amended by striking out "502(b)(1)" and inserting in lieu thereof "501(b)(1)".

(4) Section 505(2)(D) of such Act is amended by striking out "the State imposes any charges" and inserting in lieu thereof "any charges are imposed".

(5) Section 1134(4) of such Act is amended by striking out "scale" and inserting in lieu thereof "sale".

(6) The heading of title XVI of such Act as such title applies in the case of Puerto Rico, Guam, and the Virgin Islands is amended by striking out ", OR FOR SUCH AID FOR THE AGED".

(7) Section 1902(a)(10)(A) of such Act is amended to read as follows:

"(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a), to—

"(i) all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including pregnant women deemed by the State to be receiving such aid as authorized in section 406(g) and individuals considered by the State to be receiving such aid as authorized under section 414(g)), or with respect to whom supplemental security income benefits are being paid under title XVI; and

"(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

"(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

"(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,

"(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

"(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

"(V) who are in a medical institution, who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C), or

"(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination that but for the provision of home or community-based services described in section 1915(c) they would require the level of care provided in a hospital, skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under section 1915(c);".

(8) Section 1902(a)(10)(C)(i) of such Act is amended—

(A) by striking out "and (II)" and inserting in lieu thereof ", (II)"; and

(B) by inserting before the semicolon at the end thereof ", and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be the same methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be the same methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups".

(9) Section 1902(a)(10)(C)(ii)(I) of such Act is amended by striking out "described in section 1905(a)(i)" and inserting in lieu thereof "under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i)".

(10) Section 1902(b) of such Act is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(11) Section 1903(g)(1) of such Act is amended by inserting "or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public

Health Service Act)" after "as defined in section 1876".

(12) Section 1903(g)(1)(A) of such Act is amended by striking out "intermediate care facility services described in section 1905(d)" and inserting in lieu thereof "intermediate care facility services provided in an institution for the mentally retarded".

(13) Section 1903(k) of such Act is amended by striking out "section 1876" and inserting in lieu thereof "subsection (m) of this section".

(14) Section 1903(m)(2)(A) of such Act is amended—

(A) by striking out "and" before "(II)" in clause (iv) and inserting in lieu thereof "or"; and

(B) by striking out "unforseen" in clause (vii) and inserting in lieu thereof "unforeseen".

(15) Section 1903(s) of such Act is amended—

(A) in paragraph (1)(A), by striking out "made before fiscal year 1981" and inserting in lieu thereof "made before fiscal year 1982";

(B) in paragraph (1)(A), by striking out "without regard to payments under subsection (t) and" and inserting in lieu thereof "without regard to payments under subsections (a)(6) and (t), without regard to payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service, and";

(C) in paragraph (1)(C), by inserting "a program in operation under" before "a plan approved under this title";

(D) in paragraph (3)(D)—

(i) by striking out "determines that" and inserting in lieu thereof "must determine that";

(ii) by striking out "most recent calendar year" and inserting in lieu thereof "most recent year (which shall consist of a 12-month period determined by the Secretary for this purpose)";

(iii) by striking out "2 or 3 calendar year period" and inserting in lieu thereof "2- or 3-year period"; and

(iv) by striking out "calendar" each place it appears;

(E) in paragraph (4)(B), by inserting "and paragraph (3)(D)" after "subparagraph (A)"; and

(F) in paragraph (5)(A)(i), by inserting "(including amounts saved, to the extent such amounts can be documented to the satisfaction of the Secretary, by reason of the suspension or termination of a provider or other person for fraud or abuse, but only during the period of such suspension or termination or, if shorter, the 1-year period beginning on the date of such termination or suspension)" after "recovered or diverted".

(16) Section 1903(t) of such Act (as added by section 2161(b) of the Omnibus Budget Reconciliation Act of 1981 as amended by subsection (a) of this section) is amended—

(A) in paragraphs (1)(A) and (2)(A), by striking out "other than interest paid under subsection (d)(5)" each place it appears and inserting in lieu thereof in each instance "other than payments under subsection (a)(6), interest paid under subsection (d)(5), and payments for claims relating to expenditures made for medical assistance for services received through a facility of the Indian Health Service";

(B) in paragraph (1)(B), by striking out "between September 1982 and September 1983" and inserting in lieu thereof "for the 12-month period ending on September 30, 1983";

(C) in paragraph (1)(C), by striking out "between September 1982 and September 1984" and inserting in lieu thereof "for the 24-month period ending on September 30, 1984";

(D) in subparagraphs (B) and (C) of paragraph (1), by striking out "consumer price index for all urban consumers (published by the Bureau of Labor Statistics)" each place it appears and inserting in lieu thereof in each instance "Consumer Price Index for all urban consumers (U.S. city average) published by the Bureau of Labor Statistics"; and

(E) by amending paragraph (3) to read as follows:

"(3) Only for the purpose of computing under this subsection the Federal share of expenditures for a State for fiscal years 1982, 1983, and 1984 (in the case of the payment which may be made for the first quarter of fiscal years 1983, 1984, and 1985, respectively), the Federal medical assistance percentage for fiscal years 1982, 1983, and 1984 shall be the Federal medical assistance percentage for States in effect for fiscal year 1981, disregarding any change in such percentage after fiscal year 1981.".

(17) Section 1905(a)(i) of such Act is amended by striking out "or any reasonable category of such individuals,".

(18) Section 1905(a) of such Act is amended by striking out "or" at the end of clause (vi), inserting "or" at the end of clause (vii), and inserting after clause (vii) the following:

"(viii) pregnant women,".

(19)(A) Section 1915(b) of such Act is amended by striking out "and section 1903(m)".

(B) The amendment made by subparagraph (A) shall not apply with respect to any waiver if such waiver was granted, and the arrangement covered by the waiver was in place, prior to August 10, 1982.

(20) Section 1915(b)(1) of such Act is amended—

(A) by inserting "primary care" before "case-management system"; and

(B) by striking out "primary care services" and inserting in lieu thereof "medical care services".

(21) Section 1915(c)(1) of such Act is amended by inserting "payment for part or all of the cost of" after "may include as 'medical assistance' under such plan".

(22) Section 1915(c)(2)(B) of such Act is amended to read as follows:

"(B) the State will provide, with respect to individuals who—

"(i) are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan,

"(ii) may require such services, and

"(iii) may be eligible for such home or community-based care under such waiver,

for an evaluation of the need for such services;".

(23) Section 1915(c)(3) of such Act is amended—

(A) by striking out "subsection (a)(1)" and inserting in lieu thereof "section 1902(a)(1)"; and

(B) by striking out "subsection (a)(10) of section 1902" and inserting in lieu thereof "section 1902(a)(10)".

(24) Section 1915(c)(4) of such Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

(25) Section 1915(f) of such Act is amended by inserting "approval of" before "a proposed State plan".

(26) Subsection (a) of section 1128A of such Act is amended by striking out all that precedes "shall be subject" and inserting in lieu thereof the following:

"(a) Any person (including an organization, agency, or other entity) that—

"(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (h)(1)), a claim (as defined in subsection (h)(2)) that the Secretary determines is for a medical or other item or service—

"(A) that the person knows or has reason to know was not provided as claimed, or

"(B) payment for which may not be made under the program under which such claim was made, pursuant to a determination by the Secretary under section 1128, 1160(b), or 1862(d), or pursuant to a determination by the Secretary under section 1866(b)(2) with respect to which the Secretary has initiated termination proceedings; or

"(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency not to charge a person for an item or service in excess of the amount permitted to be charged,".

(27) Section 1903(s)(5)(B) of such Act is amended by inserting "or quarters" after "carried forward to the following quarter".

(c)(1) Section 914(b)(2)(A) of the Omnibus Reconciliation Act of 1980 is amended by striking out "medical assistance" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title XIX of the Social Security Act.".

(2) Section 914(c)(2) of the Omnibus Reconciliation Act of 1980 is amended by striking out "services provided" and all that follows and inserting in lieu thereof "cost reporting periods, beginning on or after April 1, 1981, of an entity providing services under a State plan approved under title V of the Social Security Act.".

(d)(1) Except as otherwise provided in this section, any amendment to the Omnibus Budget Reconciliation Act of 1981 made by this section shall be effective as if it had been originally included in the provision of the Omnibus Budget Reconciliation Act of 1981 to which such amendment relates.

(2) Except as otherwise provided in this section, any amendment to the Social Security Act made by the preceding provisions of this section shall be effective as if it had been originally included as a part of that provision of the Social Security Act to which it relates, as such provision of the Social Security Act was amended by the Omnibus Budget Reconciliation Act of 1981.

(e) Section 1902(a) of the Social Security Act is amended in the matter following paragraph (44) by inserting ", (26)" after "(9)(A)".

(f) Section 1905(h)(1)(C) of the Social Security Act is amended by redesignating clauses (i) and (ii) as subclauses (I) and (II) respectively, and by redesignating clauses (A) and (B) as clauses (i) and (ii) respectively.

(g) Effective October 1, 1982, section 1903(f)(3) of the Social Security Act is amended by striking out "(without regard to section 408)".

SUBTITLE C—UTILIZATION AND QUALITY CONTROL PEER REVIEW

SHORT TITLE OF SUBTITLE

SEC. 141. This subtitle may be cited as the "Peer Review Improvement Act of 1982".

REQUIREMENT FOR SECRETARY TO ENTER INTO CONTRACTS

SEC. 142. Section 1862 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(g) The Secretary shall, in making the determinations under paragraphs (1) and (9) of subsection (a), and for the purposes of promoting the effective, efficient, and economical delivery of health care services, and of promoting the quality of services of the type for which payment may be made under this title, enter into contracts with utilization and quality control peer review organizations pursuant to part B of title XI of this Act.".

ESTABLISHMENT OF UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

SEC. 143. Part B of title XI of the Social Security Act is amended to read as follows:

"PART B—PEER REVIEW OF THE UTILIZATION AND QUALITY OF HEALTH CARE SERVICES

"PURPOSE

"SEC. 1151. The purpose of this part is to establish the contracting process which the Secretary must follow pursuant to the requirements of section 1862(g) of this Act, including the definition of the utilization and quality control peer review organizations with which the Secretary shall contract, the functions such peer review organizations are to perform, the confidentiality of medical records, and related administrative matters to facilitate the carrying out of the purposes of this part.

"DEFINITION OF UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATION

"SEC. 1152. The term 'utilization and quality control peer review organization' means an entity which—

"(1)(A) is composed of a substantial number of the licensed doctors of medicine and osteopathy engaged in the practice of medicine or surgery in the area and who are representative of the practicing physicians in the area, designated by the Secretary under section 1153, with respect to which the entity shall perform services under this part, or (B) has available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in such area to assure that adequate peer review of the services provided by the various medical specialties and subspecialties can be assured; and

"(2) is able, in the judgment of the Secretary, to perform review functions required under section 1154 in a manner consistent with the efficient and effective administration of this part and to perform reviews of the pattern of quality of care in an area of medical practice where actual performance is measured against objective criteria which define acceptable and adequate practice.

"CONTRACTS WITH UTILIZATION AND QUALITY CONTROL PEER REVIEW ORGANIZATIONS

"SEC. 1153. (a)(1) The Secretary shall establish throughout the United States geographic areas with respect to which contracts under this part will be made. In establishing such areas, the Secretary shall use the same areas as established under section 1152 of this Act as in effect immediately prior to the date of the enactment of the Peer Review Improvement Act of 1982, but subject to the provisions of paragraph (2).

"(2) As soon as practicable after the date of the enactment of the Peer Review Improvement Act of 1982, the Secretary shall consolidate such geographic areas, taking into account the following criteria:

"(A) Each State shall generally be designated as a geographic area for purposes of paragraph (1).

"(B) The Secretary shall establish local or regional areas rather than State areas only where the volume of review activity or other relevant factors (as determined by the Secretary) warrant such an establishment, and the Secretary determines that review activity can be carried out with equal or greater efficiency by establishing such local or regional areas. In applying this subparagraph the Secretary shall take into account the number of hospital admissions within each State for which payment may be made under title XVIII or a State plan approved under title XIX, with any State having fewer than 180,000 such admissions annually being established as a single statewide area, and no local or regional area being established which has fewer than 60,000 total hospital admissions (including public and private pay patients) under review annually, unless the Secretary determines that other relevant factors warrant otherwise.

"(C) No local or regional area shall be designated which is not a self-contained medical service area, having a full spectrum of services, including medical specialists' services.

"(b)(1) The Secretary shall enter into a contract with a utilization and quality control peer review organization for each area established under subsection (a) if a qualified organization is available in such area and such organization and the Secretary have negotiated a proposed contract which the Secretary determines will be carried out by such organization in a manner consistent with the efficient and effective administration of this part. If more than one such qualified organization meets the requirements of the preceding sentence, priority shall be given to any such organization which is described in section 1152(1)(A).

"(2)(A) During the first twelve months in which the Secretary is entering into contracts under this section, the Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), an entity which directly or indirectly makes payments to any practitioner or provider whose health care services are reviewed by such entity or would be reviewed by such entity if it entered into a contract with the Secretary under this part.

"(B) If, after the expiration of the twelve-month period referred to in subparagraph (A), the Secretary determines that there is no other entity available for an area with which the Secretary can enter into a contract under this part, the Secretary may then enter into a contract under this part with an entity described in subparagraph (A) for such area if such entity otherwise meets the requirements of this part.

"(3) The Secretary shall not enter into a contract under this part with any entity which is, or is affiliated with (through management, ownership, or common control), a health care facility, or association of such facilities, within the area served by such entity or which would be served by such entity if it entered into a contract with the Secretary under this part.

"(c) Each contract with an organization under this section shall provide that—

"(1) the organization shall perform the functions set forth in section 1154(a), or may subcontract for the performance of all or some of such functions (and for purposes of paragraphs (2) and (3) of subsection (b), a subcontract under this paragraph shall not constitute an affiliation with the subcontractor);

"(2) the Secretary shall have the right to evaluate the quality and effectiveness of the organization in carrying out the functions specified in the contract;

"(3) the contract shall be for an initial term of two years and shall be renewable on a biennial basis thereafter;

"(4) if the Secretary intends not to renew a contract, he shall notify the organization of his decision at least 90 days prior to the expiration of the contract term, and shall provide the organization an opportunity to present data, interpretations of data, and other information pertinent to its performance under the contract, which shall be reviewed in a timely manner by the Secretary;

"(5) the organization may terminate the contract upon 90 days notice to the Secretary;

"(6) the Secretary may terminate the contract prior to the expiration of the contract term upon 90 days notice to the organization if the Secretary determines that—

"(A) the organization does not substantially meet the requirements of section 1152; or

"(B) the organization has failed substantially to carry out the contract or is carrying out the contract in a manner inconsistent with the efficient and effective administration of this part, but only after such organization has had an opportunity to submit data and have such data reviewed by the panel established under subsection (d);

"(7) the Secretary shall include in the contract negotiated objectives against which the organization's performance will be judged, and negotiated specifications for use of regional norms, or modifications thereof based on national norms, for performing review functions under the contract; and

"(8) reimbursement shall be made to the organization in accordance with the terms of the contract.

"(d)(1) Prior to making any termination under subsection (c)(5)(B), the Secretary must provide the organization with an opportunity to provide data, interpretations of data, and other information pertinent to its performance under the contract. Such data and other information shall be reviewed in a timely manner by a panel appointed by the Secretary, and the panel shall submit a report of its findings to the Secretary in a timely manner. The Secretary shall make a copy of the report available to the organization.

"(2) The Secretary may accept or not accept the findings of the panel. After the panel has submitted a report with respect to an organization, the Secretary may, with the concurrence of the organization, amend the contract to modify the scope of the functions to be carried out by the organization, or in any other manner. The Secretary may terminate a contract under the authority of subsection (c)(5)(C) upon 90 days notice after the panel has submitted a report, or earlier if the organization so agrees.

"(3) A panel appointed by the Secretary under this subsection shall consist of not more than five individuals, each of whom shall be a member of a utilization and quality control peer review organization having a contract with the Secretary under this part. While serving on such panel individuals shall be paid at a per diem rate not to exceed the current per diem equivalent at

the time that service on the panel is rendered for grade GS-18 under section 5332 of title 5, United States Code. Appointments shall be made without regard to title 5, United States Code.

"(e) Contracting authority of the Secretary under this section may be carried out without regard to any provision of law relating to the making, performance, amendment, or modification of contracts of the United States as the Secretary may determine to be inconsistent with the purposes of this part. The Secretary may use different contracting methods with respect to different geographical areas.

"(f) Any determination by the Secretary to terminate or not to renew a contract under this section shall not be subject to judicial review.

"FUNCTIONS OF PEER REVIEW ORGANIZATIONS

"SEC. 1154. (a) Any utilization and quality control peer review organization entering into a contract with the Secretary under this part must perform the following functions:

"(1) The organization shall review some or all of the professional activities in the area, subject to the terms of the contract, of physicians and other health care practitioners and institutional and noninstitutional providers of health care services in the provision of health care services and items for which payment may be made (in whole or in part) under title XVIII for the purpose of determining whether—

"(A) such services and items are or were reasonable and medically necessary or otherwise allowable under section 1862(a)(1);

"(B) the quality of such services meets professionally recognized standards of health care; and

"(C) in case such services and items are proposed to be provided in a hospital or other health care facility on an inpatient basis, such services and items could, consistent with the provision of appropriate medical care, be effectively provided more economically on an outpatient basis or in an inpatient health care facility of a different type.

"(2) The organization shall determine, on the basis of the review carried out under subparagraphs (A) and (C) of paragraph (1), whether payment shall be made for services under title XVIII. Such determination shall constitute the conclusive determination on those issues for purposes of payment under title XVIII, except that payment may be made if—

"(A) such payment is allowed by reason of section 1879;

"(B) in the case of inpatient hospital services or posthospital extended care services, the peer review organization determines that additional time is required in order to arrange for postdischarge care, but payment may be continued under this subparagraph for not more than two days, but only in the case where the provider of such services did not know and could not reasonably have been expected to know (as determined under section 1879) that payment would not otherwise be made for such services under title XVIII prior to notification by the organization under paragraph (3);

"(C) such determination is changed as the result of any hearing or review of the determination under section 1155; or

"(D) such payment is authorized under section 1861(v)(1)(G).

"(3) Whenever the organization makes a determination that any health care services or items furnished or to be furnished to a patient by any practitioner or provider are disapproved, the organization shall promptly notify such practitioner or provider, such patient, and the agency or organization responsible for the payment of claims under title XVIII of this Act. In the case of practitioners and providers of services, the organization shall provide an opportunity for discussion and review of the determination.

"(4) The organization shall, after consultation with the Secretary, determine the types and kinds of cases (whether by type of health care or diagnosis involved, or whether in terms of other relevant criteria relating to the provision of health care services) with respect to which such organization will, in order to most effectively carry out the purposes of this part, exercise review authority under the contract. The organization shall notify the Secretary periodically with respect to such determinations.

"(5) The organization shall consult with nurses and other professional health care practitioners (other than physicians described in section 1861(r)(1)) and with representatives of institutional and noninstitutional providers of health care services, with respect to the organization's responsibility for the review under paragraph (1) of the professional activities of such practitioners and providers.

"(6) The organization shall, consistent with the provisions of its contract under this part, apply professionally developed norms of care, diagnosis, and treatment based upon typical patterns of practice within the geographic area served by the organization as principal points of evaluation and review, taking into consideration national norms where appropriate. Such norms with respect to treatment for particular illnesses or health conditions shall include—

"(A) the types and extent of the health care services which, taking into account differing, but acceptable, modes of treatment and methods of organizing and delivering care, are considered within the range of appropriate diagnosis and treatment of such illness or health condition, consistent with professionally recognized and accepted patterns of care; and

"(B) the type of health care facility which is considered, consistent with such standards, to be the type in which health care services which are medically appropriate for such illness or condition can most economically be provided.

"(7) The organization, to the extent necessary and appropriate to the performance of the contract, shall—

"(A) make arrangements to utilize the services of persons who are practitioners of, or specialists in, the various areas of medicine (including dentistry), or other types of health care, which persons shall, to the maximum extent practicable, be individuals engaged in the practice of their profession within the area served by such organization;

"(B) undertake such professional inquiries either before or after, or both before and after, the provision of services with respect to which such organization has a responsibility for review which in the judgment of such organization will facilitate its activities;

"(C) examine the pertinent records of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1); and

"(D) inspect the facilities in which care is rendered or services are provided (which are located in such area) of any practitioner or provider of health care services providing services with respect to which such organization has a responsibility for review under paragraph (1).

"(8) The organization shall perform such duties and functions and assume such responsibilities and comply with such other requirements as may be required by this part or under regulations of the Secretary promulgated to carry out the provisions of this part.

"(9) The organization shall collect such information relevant to its functions, and keep and maintain such records, in such form as the Secretary may require to carry out the purposes of this part, and shall permit access to and use of any such information and records as the Secretary may require for such purposes, subject to the provisions of section 1160.

"(10) The organization shall coordinate activities, including information exchanges, which are consistent with economical and efficient operation of programs among appropriate public and private agencies or organizations including—

"(A) agencies under contract pursuant to sections 1816 and 1842 of this Act;

"(B) other peer review organizations having contracts under this part; and

"(C) other public or private review organizations as may be appropriate.

"(11) The organization shall make available its facilities and resources for contracting with private and public entities paying for health care in its area for review, as feasible and appropriate, of services reimbursed by such entities.

"(b)(1) No physician shall be permitted to review—

"(A) health care services provided to a patient if he was directly responsible for providing such services; or

"(B) health care services provided in or by an institution, organization, or agency, if he or any member of his family has, directly or indirectly, a significant financial interest in such institution, organization, or agency.

"(2) For purposes of this subsection, a physician's family includes only his spouse (other than a spouse who is legally separated from him under a decree of divorce or separate maintenance), children (including legally adopted children), grandchildren, parents, and grandparents.

"(c) No utilization and quality control peer review organization shall utilize the services of any individual who is not a duly licensed doctor of medicine, osteopathy, or dentistry to make final determinations of denial decisions in accordance with its duties and functions under this part with respect to the professional conduct of any other duly licensed doctor of medicine, osteopathy, or dentistry, or any act performed by any duly licensed doctor of medicine, osteopathy, or dentistry in the exercise of his profession.

"RIGHT TO HEARING AND JUDICIAL REVIEW

"SEC. 1155. Any beneficiary who is entitled to benefits under title XVIII, and any practitioner or provider, who is dissatisfied with a determination made by a contracting peer review organization in conducting its review responsibilities under this part, shall be entitled to a reconsideration of such determination by the reviewing organization. Where the reconsideration is adverse to the beneficiary and where the matter in controversy is $200 or more, such beneficiary shall be entitled to a hearing by the Secretary (to the same extent as is provided in section 205(b)), and, where the amount in contro-

versy is $2,000 or more, to judicial review of the Secretary's final decision.

"OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW

"SEC. 1156. (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under title XVIII, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under such title—

"(1) will be provided economically and only when, and to the extent, medically necessary;

"(2) will be of a quality which meets professionally recognized standards of health care; and

"(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

"(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, any organization having a contract with the Secretary under this part determines that such practitioner or person has—

"(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

"(B) grossly and flagrantly violated any such obligation in one or more instances,

such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under title XVIII, has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide such services on a reimbursable basis. If the Secretary fails to act upon the recommendations submitted to him by such organization within 120 days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

"(2) A determination made by the Secretary under this subsection to exclude a practitioner or person shall be effective at such time and upon such reasonable notice to the public and to the practitioner or person furnishing the services involved as may be specified in regulations. Such determination shall be effective with respect to services furnished to an individual on or after the effective date of such determination (except that in the case of institutional health care services such determination shall be effective in the manner provided in title XVIII with respect to terminations of provider agreements), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

"(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

"(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

"LIMITATION ON LIABILITY

"SEC. 1157. (a) Notwithstanding any other provision of law, no person providing information to any organization having a contract with the Secretary under this part shall be held, by reason of having provided such information, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) unless—

"(1) such information is unrelated to the performance of the contract of such organization; or

"(2) such information is false and the person providing it knew, or had reason to believe, that such information was false.

"(b) No person who is employed by, or who has a fiduciary relationship with, any such organization or who furnishes professional services to such organization, shall be held by reason of the performance by him of any duty, function, or activity required or authorized pursuant to this part or to a valid contract entered into under this part, to have violated any criminal law, or to be civilly liable under any law of the United States or of any State (or political subdivision thereof) provided he has exercised due care.

"(c) No doctor of medicine or osteopathy and no provider (including directors, trustees, employees, or officials thereof) of health care services shall be civilly liable to any person under any law of the United States or of any State (or political subdivision thereof) on account of any action taken by him in compliance with or reliance upon professionally developed norms of care and treatment applied by an organization under contract pursuant to section 1153 operating in the area where such doctor of medicine or osteopathy or provider took such action; but only if—

"(1) he takes such action in the exercise of his profession as a doctor of medicine or osteopathy or in the exercise of his functions as a provider of health care services; and

"(2) he exercised due care in all professional conduct taken or directed by him and reasonably related to, and resulting from, the actions taken in compliance with or reliance upon such professionally accepted norms of care and treatment.

"(d) The Secretary shall make payment to an organization under contract with him pursuant to this part, or to any member or employee thereof, or to any person who furnishes legal counsel or services to such organization, in an amount equal to the reasonable amount of the expenses incurred, as determined by the Secretary, in connection with the defense of any suit, action, or proceeding brought against such organization, member, or employee related to the performance of any duty or function under such contract by such organization, member, or employee.

"APPLICATION OF THIS PART TO CERTAIN STATE PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE

"SEC. 1158. (a) A State plan approved under title XIX of this Act may provide that the functions specified in section 1154 may be performed in an area by contract with a utilization and quality control peer review organization that has entered into a contract with the Secretary in accordance with the provisions of section 1862(g).

"(b) In the event a State enters into a contract in accordance with subsection (a), the Federal share of the expenditures made to the contracting organization for its costs in the performance of its functions under the State plan shall be 75 percent (as provided in section 1903(a)(3)(C)).

"AUTHORIZATION FOR USE OF CERTAIN FUNDS TO ADMINISTER THE PROVISIONS OF THIS PART

"SEC. 1159. Expenses incurred in the administration of the contracts described in section 1862(g) shall be payable from—

"(1) funds in the Federal Hospital Insurance Trust Fund; and

"(2) funds in the Federal Supplementary Medical Insurance Trust Fund,

in such amounts from each of such Trust Funds as the Secretary shall deem to be fair and equitable after taking into consideration the expenses attributable to the administration of this part with respect to each of such programs. The Secretary shall make such transfers of moneys between such Trust Funds as may be appropriate to settle accounts between them in cases where expenses properly payable from one such Trust Fund have been paid from the other such Trust Fund.

"PROHIBITION AGAINST DISCLOSURE OF INFORMATION

"SEC. 1160. (a) An organization, in carrying out its functions under a contract entered into under this part, shall not be a Federal agency for purposes of the provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act). Any data or information acquired by any such organization in the exercise of its duties and functions shall be held in confidence and shall not be disclosed to any person except—

"(1) to the extent that may be necessary to carry out the purposes of this part,

"(2) in such cases and under such circumstances as the Secretary shall by regulations

provide to assure adequate protection of the rights and interests of patients, health care practitioners, or providers of health care, or

"(3) in accordance with subsection (b).

"(b) An organization having a contract with the Secretary under this part shall provide in accordance with procedures and safeguards established by the Secretary, data and information—

"(1) which may identify specific providers or practitioners as may be necessary—

"(A) to assist Federal and State agencies recognized by the Secretary as having responsibility for identifying and investigating cases or patterns of fraud or abuse, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case or pattern;

"(B) to assist appropriate Federal and State agencies recognized by the Secretary as having responsibility for identifying cases or patterns involving risks to the public health, which data and information shall be provided by the peer review organization to any such agency—

"(i) at the discretion of the peer review organization, at the request of such agency relating to a specific case or pattern with respect to which such agency has made a finding, or has a reasonable belief, that there may be a substantial risk to the public health, or

"(ii) upon a finding by, or the reasonable belief of, the peer review organization that there may be a substantial risk to the public health; and

"(C) to assist appropriate State agencies recognized by the Secretary as having responsibility for licensing or certification of providers or practitioners, which data and information shall be provided by the peer review organization to any such agency at the request of such agency relating to a specific case, but only to the extent that such data and information is required by the agency in carrying out a function which is within the jurisdiction of such agency under State law; and

"(2) to assist the Secretary, and such Federal and State agencies recognized by the Secretary as having health planning or related responsibilities under Federal or State law (including health systems agencies and State health planning and development agencies), in carrying out appropriate health care planning and related activities, which data and information shall be provided in such format and manner as may be prescribed by the Secretary or agreed upon by the responsible Federal and State agencies and such organization, and shall be in the form of aggregate statistical data (without explicitly identifying any individual) on a geographic, institutional, or other basis reflecting the volume and frequency of services furnished, as well as the demographic characteristics of the population subject to review by such organization.

The penalty provided in subsection (c) shall not apply to the disclosure of any information received under this subsection, except that such penalty shall apply to the disclosure (by the agency receiving such information) of any such information described in paragraph (1) unless such disclosure is made in a judicial, administrative, or other formal legal proceeding resulting from an investigation conducted by the agency receiving the information. An organization may require payment of a reasonable fee for providing information under this subsection in response to a request for such information.

"(c) It shall be unlawful for any person to disclose any such information described in subsection (a) other than for the purposes provided in subsections (a) and (b), and any person violating the provisions of this section shall, upon conviction, be fined not more than $1,000, and imprisoned for not more than 6 months, or both, and shall be required to pay the costs of prosecution.

"(d) No patient record in the possession of an organization having a contract with the Secretary under this part shall be subject to subpena or discovery proceedings in a civil action.

"ANNUAL REPORTS

"SEC. 1161. The Secretary shall submit to the Congress not later than April 1 of each year, a full and complete report on the administration, impact, and cost of the program under this part during the preceding fiscal year, including data and information on—

"(1) the number, status, and service areas of all utilization and quality control peer review organizations participating in the program;

"(2) the number of health care institutions and practitioners whose services are subject to review by such organizations, and the number of beneficiaries and recipients who received services subject to such review during such year;

"(3) the various methods of reimbursement utilized in contracts under this part, and the relative efficiency of each such method of reimbursement;

"(4) the imposition of penalties and sanctions under this title for violations of law and for failure to comply with the obligations imposed by this part;

"(5) the total costs incurred under titles XVIII and XIX of this Act in the implementation and operation of all procedures required by such titles for the review of services to determine their medical necessity, appropriateness of use, and quality; and

"(6) descriptions of the criteria upon which decisions are made, and the selection and relative weights of such criteria.

"EXEMPTIONS OF CHRISTIAN SCIENCE SANATORIUMS

"SEC. 1162. The provisions of this part shall not apply with respect to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

"MEDICAL OFFICERS IN AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS TO BE INCLUDED IN THE UTILIZATION AND QUALITY CONTROL PEER REVIEW PROGRAM

"SEC. 1163. For purposes of applying this part to American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, individuals licensed to practice medicine in those places shall be considered to be physicians and doctors of medicine.".

FACILITATION OF PRIVATE REVIEW

SEC. 144. Section 1866(a)(1) of the Social Security Act is amended—

(1) by striking out "and" at the end of subparagraphs (A), (B), and (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of title XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area with respect to patients who authorize release of such data for such purposes.".

WAIVER OF LIABILITY PROVISION

SEC. 145. Section 1879(a) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any provider or other person furnishing items or services for which payment may not be made by reason of section 1862(a)(1) or (9) shall be deemed to have knowledge that payment cannot be made for such items or services if the claim relating to such items or services involves a case, provider or other person furnishing services, procedure, or test, with respect to which such provider or other person has been notified by the Secretary (including notification by a utilization and quality control peer review organization) that a pattern of inappropriate utilization has occurred in the past, and such provider or other person has been allowed a reasonable time to correct such inappropriate utilization.".

MEDICAID PROVISIONS

SEC. 146. (a) Section 1902(d) of the Social Security Act is amended—

(1) by striking out "a Professional Standards Review Organization designated, conditionally or otherwise," and inserting in lieu thereof "a utilization and quality control peer review organization having a contract with the Secretary"; and

(2) by striking out "such Organization (or Organizations)" each place it appears and inserting in lieu thereof in each instance "such organization (or organizations)".

(b) Section 1903(a)(3)(C) of such Act is amended by striking out "Professional Standards Review Organization" and inserting in lieu thereof "utilization and quality control peer review organization".

DEMONSTRATION PROJECTS FOR COMPETITIVE BIDDING AND OTHER REIMBURSEMENT METHODS

SEC. 147. Section 402(a)(1) of the Social Security Amendments of 1967 (Public Law 90-248) is amended—

(1) by striking out "and" at the end of subparagraph (I);

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) to determine whether the use of competitive bidding in the awarding of contracts, or the use of other methods of reimbursement, under part B of title XI would be efficient and effective methods of furthering the purposes of that part.".

TECHNICAL AMENDMENTS

SEC. 148. (a) Section 1862(d)(1)(C) of such Act is amended by striking out ", on the basis of reports transmitted to him in accordance with section 1157 of this Act (or, in the absence of any such report, on the basis of such data as he acquires in the administration of the program under this title)," and inserting in lieu thereof "on the basis of information acquired by the Secretary in the administration of this title".

(b) Sections 1815(b), 1861(v)(1)(G), and 1861(w)(2) of such Act are each amended by striking out "Professional Standards Review Organization" and inserting in lieu

thereof in each instance "quality control and peer review organization".

(c) Section 1832(a)(2)(F)(ii) of such Act is amended by striking out "Professional Standards Review Organization (designated, conditionally or otherwise," and inserting in lieu thereof "quality control and peer review organization (having a contract with the Secretary".

(d) Section 1833(i) of such Act is amended by striking out "the National Professional Standards Review Council and".

(e) Section 1879(e) of such Act is amended by striking out "professional standards review organization" and inserting in lieu thereof "quality control and peer review organization".

EFFECTIVE DATE

SEC. 149. The amendments made by this part shall, subject to section 150, be effective with respect to contracts entered into or renewed on or after the date of the enactment of this Act.

MAINTENANCE OF CURRENT PSRO AGREEMENTS

SEC. 150. (a) The Secretary of Health and Human Services shall not terminate or fail to renew any agreement in effect with a professional standards review organization under part B of title XI of the Social Security Act on the earlier of the date of the enactment of this Act or September 30, 1982 until such time as he enters into a contract with a utilization and quality control peer review organization under such part, as amended by this subtitle, for the area served by such professional standards review organization. In complying with this subsection, the Secretary may renew any such contract with a professional standards review organization for a period of less than 12 months.

(b) The provisions of part B of title XI of the Social Security Act as in effect prior to the amendments made by this subtitle shall remain in effect with respect to contracts with professional standards review organizations in effect on the earlier of the date of the enactment of this Act or September 30, 1982, until such time as such contract is terminated or is not renewed, in accordance with subsection (a). Any matters awaiting a determination by a Statewide Professional Standards Review Council on the date of the enactment of this Act shall be transferred to the Secretary of Health and Human Services for a determination unless such determination is made by such Council within 30 days after the date of the enactment of this Act. No payments shall be made under part B of title XI of the Social Security Act to Statewide Professional Standards Review Councils for services performed under section 1162 of such Act after the end of such 30-day period.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

ROUNDING OF ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 151. (a) Section 402(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (32);

(2) by striking out the period at the end of paragraph (33) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(34) provide that both the standard of need applied to a family and the amount of aid determined to be payable, when not a whole dollar amount, shall be rounded to the next lower whole dollar amount.".

(b) The amendment made by this section shall become effective on October 1, 1982.

EFFECTIVE DATE OF APPLICATION; PRORATION OF FIRST-MONTH'S AFDC BENEFIT

SEC. 152. (a) Section 402(a)(10) of the Social Security Act is amended—

(1) by striking out "provide, effective July 1, 1951, that all individuals" and inserting in lieu thereof "(A) provide that all individuals";

(2) by adding "and" after the semicolon; and

(3) by adding at the end thereof the following new subparagraph:

"(B) provide that an application for aid under the plan will be effective no earlier than the date such application is filed with the State agency or local agency responsible for the administration of the State plan, and the amount payable for the month in which the application becomes effective, if such application becomes effective after the first day of such month, shall bear the same ratio to the amount which would be payable if the application had been effective on the first day of such month as the number of days in the month including and following the effective date of the application bears to the total number of days in such month;".

(b) The amendments made by this section shall become effective on October 1, 1982.

ABSENCE FROM HOME SOLELY BY REASON OF UNIFORMED SERVICE

SEC. 153. (a) Section 406(a)(1) of the Social Security Act is amended by inserting "(other than absence occasioned solely by reason of the performance of active duty in the uniformed services of the United States)" "continued absence from the home".

(b) The amendment made by ths section shall become effective on October 1, 1982.

JOB SEARCH

SEC. 154. (a) Section 402(a) of the Social Security Act (as amended by section 151(a) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(35) at the option of the State, provide—

"(A) that as a condition of eligibility for aid under the State plan of any individual claiming such aid who is required to register pursuant to paragrpah (19)(A) (or who would be required to register under paragraph (19)(A) but for clause (iii) thereof), including all such individuals or only such groups, types, or classes thereof as the State agency may designate for purposes of this paragraph, such individual will be required to participate in a program of employment search—

"(i) beginning at the time he applies for such aid (or an application including his need is filed) and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for aid or in issuing a payment to or in behalf of any individual who is otherwise eligible for such aid); and

"(ii) at such time or times after the close of the period prescribed under clause (i) as the State agency may determine but not to exceed a total of 8 weeks in any 12 consecutive months;

"(B) that any individual participating in a program of employment search under this paragraph will be furnished such transportation and other services, or paid (in advance or by way of reimbursement) such amounts to cover transportation costs and other expenses reasonably incurred in meeting requirements imposed on him under this paragraph, as may be necessary to enable such individual to participate in such program; and

"(C) that, in the case of an individual who fails without good cause to comply with requirements imposed upon him under this paragraph, the sanctions imposed by paragraph (19)(F) shall be applied in the same manner as if the individual had made a refusal of the type which would cause the provisions of such paragraph (19)(F) to be applied (except that the State may at its option, for purposes of this paragraph, reduce the period for which such sanctions would otherwise be in effect).".

(b)(1) Section 403(a)(3)(C) of such Act is amended by inserting immediately after "expenditures" the following: "(including as expenditures under this subparagraph the value of any services furnished, and the amount of any payments made (to cover expenses incurred by individuals under a program of employment search), under section 402(a)(35)(B))".

(2) Section 403(a)(3) of such Act is further amended by striking out "other than services" in the matter immediately following subparagraph (C) and inserting in lieu thereof the following: "other than services furnished under section 402(a)(35)(B) (as described in the parenthetical phrase in subparagraph (C)), and other than services".

(c) Section 409(b)(3) of such Act is amended—

(1) in the first sentence—

(A) by inserting ", any program of employment search under section 402(a)(35)," after "pursuant to this section",

(B) by striking out "both such programs" and inserting in lieu thereof "more than one such program", and

(C) by striking out "in the other" and inserting in lieu thereof "in another"; and

(2) in the second sentence, by striking out "both such programs" and inserting in lieu thereof "more than one such program".

(d) The amendments made by this section shall become effective on October 1, 1982.

PRORATION OF STANDARD AMOUNT FOR SHELTER AND UTILITIES

SEC. 155. (a) Section 412 of the Social Security Act is amended to read as follows:

"PRORATING SHELTER ALLOWANCE OF AFDC FAMILY LIVING WITH ANOTHER HOUSEHOLD

"SEC. 412. A State plan for aid and services to needy families with children may provide that, in determining the need of any dependent child or relative claiming aid who is living with other individuals (not claiming aid together with such child or relative) as a household (as defined, for purposes of this section, by the Secretary), the amount included in the standard of need, and the payment standard, applied to such child or relative for shelter, utilities, and similar needs may be prorated on a reasonable basis, in such manner and under such circumstances as the State may determine to be appropriate. For purposes of any method of proration used by a State under this section, there shall not be included as a member of a household an individual receiving benefits under title XVI in any month to whom the one-third reduction prescribed by section 1612(a)(2)(A)(i) is applied.".

(b) The amendment made by this section shall become effective on October 1, 1982.

LIMITATION ON FEDERAL FINANCIAL PARTICIPATION IN ERRONEOUS ASSISTANCE EXPENDITURES

SEC. 156. (a) Section 403(i) of the Social Security Act is amended to read as follows:

"(i)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments (as defined in subparagraph (C)) to its total payments under the State plan, approved under this part exceeds—

"(i) 0.04 for fiscal year 1983, or

"(ii) 0.03 for any fiscal year thereafter,

then the Secretary shall make no payment for such fiscal year with respect to so much of the erroneous excess payments (as so defined) as exceeds the allowable error rate for such fiscal year.

"(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a fiscal year despite a good faith effort by such State.

"(C) For purposes of this subsection, the term 'erroneous excess payments' means that total of (i) payments to ineligible families, and (ii) overpayments to eligible families.

"(2) The State agency administering the plan approved under this part shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made in connection with its administration of such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

"(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

"(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rate for a fiscal year, the amount that would otherwise be payable to such State under this part for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

"(4) This subsection shall not apply with respect to Puerto Rico, Guam, or the Virgin Islands.".

(b) Section 403(a) of such Act is amended by striking out "In the case of calendar quarters beginning after September 30, 1977, and prior to April 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.".

(c) Section 403(j) of such Act is amended by striking out "If the dollar error rate of aid furnished by a State" and inserting in lieu thereof "In the case of Puerto Rico, Guam, or the Virgin Islands, if the dollar error rate of aid furnished by such State".

(d)(1) The amendments made by subsections (a) and (b) shall become effective on October 1, 1982.

(2) The inapplicability of section 403(j) of the Social Security Act to States other than Puerto Rico, Guam, and the Virgin Islands by reason of the amendment made by subsection (c) shall be effective with respect to six-month periods beginning after April 1983.

(e) The regulations currently in effect for fiscal year 1982 with respect to erroneous paymenis made by States under a State plan approved under part A of title IV of the Social Security Act (45 CFR 205.42) shall remain in effect with respect to erroneous payments made by States until new regulations reflecting the changes made by subsection (a) are promulgated and placed in effect.

EXCLUSION FROM INCOME OF CERTAIN STATE PAYMENTS

SEC. 157. (a) The last sentence of section 403(a) of the Social Security Act is amended by inserting before the period at the end thereof the following: ", but any such amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning of section 402(a)(13) for the purpose of determining the amount of aid in the succeeding months".

(b) The amendment made by this section shall become effective on October 1, 1982.

EXTENSION OF TIME FOR STATES TO ESTABLISH A WORK INCENTIVE DEMONSTRATION PROGRAM

SEC. 158. (a) Section 445(b)(1) of the Social Security Act is amended by striking out "Not later than sixty days following the date of the enactment of this section" and inserting in lieu thereof "Not later than June 30, 1984".

(b) Section 445(b)(1)(B) of such Act is amended by inserting before the semicolon at the end thereof the following: ", but subject to waiver of such criteria as provided under section 1115".

(c) The amendments made by this section shall become effective on the date of the enactment of this Act.

EXCLUSION FROM INCOME

SEC. 159. Notwithstanding any other provision of law, payments which are made, under a statutorily established State program, to meet certain needs of children receiving aid under the State's plan approved under part A of title IV of the Social Security Act, if—

(1) the payments are made to such children by the State agency administering such plan, but are made without Federal financial participation (under section 403(a) of such Act or otherwise), and

(2) the State program has been continuously in effect since before January 1, 1979, shall be excluded from the income of such children and their families for purposes of section 402(a)(17) of such Act, and for all the other purposes of such part A and of such plan, effective on the date of the enactment of this Act.

TECHNICAL AMENDMENTS TO SOCIAL SERVICES AND FOSTER CARE PROVISIONS IN 1981 RECONCILIATION ACT

SEC. 160. (a) Section 1108(a) of the Social Security Act is amended by adding at the end thereof after and below paragraph (3)(F))

"Each jurisdiction specified in this subsection may use in its program under title XX any sums available to it under this subsection which are not needed to carry out the programs specified in this subsection."

(b) Section 2003(b) of such Act is amended in the matter following clause (2) by inserting "(other than Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands)" after "the population of all States".

(c) The last sentence of section 1101(a)(1) of such Act is amended by striking out "American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" and inserting in lieu thereof "Guam, and the Northern Mariana Islands".

(d) Section 2353(r) of the Omnibus Budget Reconciliation Act of 1981 is amended to read as follows:

"(r) Section 471(a)(10) of such Act is amended to read as follows:

"'(10) provides for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for foster family homes and child care institutions which are reasonably in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation, and protection of civil rights, and provides that the standards so established shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;'."

(e) The amendments made by this section shall be effective as of October 1, 1981.

DELAYED EFFECTIVE DATE IN CASES REQUIRING CONFORMING STATE LEGISLATION

SEC. 161. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part A of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

SUBTITLE E—CHILD SUPPORT ENFORCEMENT

FEE FOR SERVICES TO NON-AFDC FAMILIES

SEC. 171. (a) Section 454(6) of the Social Security Act is amended—

(1) in clause (A), by inserting "including, at the option of the State, support collection services for the spouse (or former spouse) with whom the absent parent's child is living (but only if a support obligation has been established with respect to such spouse)," after "with the State,";

(2) in clause (B), by striking out "services under the State plan (other than collection of support)" and inserting in lieu thereof "such services"; and

(3) by amending clause (C) to read as follows: "(C) any costs in excess of the fee so imposed may be collected—

"(i) from the parent who owes the child or spousal support obligation involved, or

"(ii) at the option of the State, from the individual to whom such services are made available, but only if such State has in effect a procedure whereby all persons in such State having authority to order child or spousal support are informed that such costs are to be collected from the individual to whom such services were made available;"

(b)(1) Section 454 of such Act is further amended—

(A) by adding "and" after the semicolon at the end of paragraph (18);

(B) by striking out paragraph (19); and

(C) by redesignating paragraph (20) as paragraph (19).

(2) Section 2333(c) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "Section 453(a) of such Act is amended" and inserting in lieu thereof "Section 455(a) of such Act is amended".

(3) Section 303(e)(2)(A)(iii)(II) of the Social Security Act is amended by striking out "454(20)(B)(i)" and inserting in lieu thereof "454(19)(B)(i)".

(c) The amendments made by this section shall be effective on and after August 13, 1981.

ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

SEC. 172. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ALLOTMENTS FROM PAY FOR CHILD AND SPOUSAL SUPPORT OWED BY MEMBERS OF THE UNIFORMED SERVICES ON ACTIVE DUTY

"SEC. 465. (a)(1) In any case in which child support payments or child and spousal support payments are owed by a member of one of the uniformed services (as defined in section 101(3) of title 37, United States Code) on active duty, such member shall be required to make allotments from his pay and allowances (under chapter 13 of title 37, United States Code) as payment of such support, when he has failed to make periodic payments under a support order that meets the criteria specified in section 303(b)(1)(A) of the Consumer Credit Protection Act (15 U.S.C. 1673(b)(1)(A)) and the resulting delinquency in such payments is in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person (as defined in subsection (b)) to the designated official in the appropriate uniformed service. Such notice (which shall in turn be given to the affected member) shall also specify the person to whom the allotment is to be payable. The amount of the allotment shall be the amount necessary to comply with the order (which, if the order so provides, may include arrearages as well as amounts for current support), except that the amount of the allotment, together with any other amounts withheld for support from the wages of the member, as a percentage of his pay from the uniformed service, shall not exceed the limits prescribed in sections 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673 (b) and (c)). An allotment under this subsection shall be adjusted or discontinued upon notice from the authorized person.

"(2) Notwithstanding the preceding provisions of this subsection, no action shall be taken to require an allotment from the pay and allowances of any member of one of the uniformed services under such provisions (A) until such member has had a consultation with a judge advocate of the service involved (as defined in section 801(13) of title 10, United States Code), or with a law specialist (as defined in section 801(11) of such title) in the case of the Coast Guard, or with a legal officer designated by the Secretary concerned (as defined in section 101(5) of title 37, United States code) in any other case, in person, to discuss the legal and other factors involved with respect to the member's support obligation and his failure to make payments thereon, or (B) until 30 days have elapsed after the notice described in the second sentence of paragraph (1) is given to the affected member in any case where it has not been possible, despite continuing good faith efforts, to arrange such a consultation.

"(b) For purposes of this section the term 'authorized person' with respect to any member of the uniformed services means—

"(1) any agent or attorney of a State having in effect a plan approved under this part who has the duty or authority under such plan to seek to recover any amounts owed by such member as child or child and spousal support (including, when authorized under the State plan, any official of a political subdivision); and

"(2) the court which has authority to issue an order against such member for the support and maintenance of a child, or any agent of such court.

"(c) The Secretary of Defense, in the case of the Army, Navy, Air Force, and Marine Corps, and the Secretary concerned (as defined in section 101(5) of title 37, United States Code) in the case of each of the other uniformed services, shall each issue regulations applicable to allotments to be made under this section, designating the officials to whom notice of failure to make support payments, or notice to discontinue or adjust an allotment, should be given, prescribing the form and content of the notice and specifying any other rules necessary for such Secretary to implement this section.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

REIMBURSEMENT OF STATE AGENCY IN INITIAL MONTH OF INELIGIBILITY FOR AFDC

SEC. 173. (a) Section 454(5) of the Social Security Act is amended by inserting "following the first month" after "for any month".

(b) The amendment made by this section shall become effective on October 1, 1982.

REDUCTION IN CERTAIN FEDERAL PAYMENTS TO STATES UNDER CHILD SUPPORT ENFORCEMENT PROGRAM

SEC. 174. (a) Section 455(a)(1) of the Social Security Act is amended by striking out "75 percent" and inserting in lieu thereof "70 percent".

(b) Section 455(c) of such Act is repealed.

(c) Section 458(a) of such Act is amended by striking out "15 per centum" and inserting in lieu thereof "12 percent".

(d) The amendment made by subsection (a) shall apply with respect to quarters beginning on or after October 1, 1982. Subsection (b) shall apply with respect to quarters beginning on or after October 1, 1983; and the amendment made by subsection (c) shall apply with respect to amounts collected on or after October 1, 1983.

TECHNICAL AMENDMENTS TO CHILD SUPPORT ENFORCEMENT PROVISIONS IN RECONCILIATION ACT

SEC. 175. (a)(1) The first sentence of section 452(b) of the Social Security Act is amended by striking out "certify" and all that follows and inserting in lieu thereof "certify to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954 the amount of any child support obligation (including any support obligation with respect to the parent who is living with the child and receiving aid under the State plan approved under part A) which is assigned to such State or is undertaken to be collected by such State pursuant to section 454(6)."

(2) Section 303(e)(2)(A)(i) of such Act is amended by striking out "of this subsection" and inserting in lieu thereof "of paragraph (1)".

(b) The amendments made by this section shall be effective as of October 1, 1981.

DELAYED EFFECTIVE DATE IN CASES REQUIRING STATE LEGISLATION

SEC. 176. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

SUBTITLE F—SUPPLEMENTAL SECURITY INCOME

EFFECTIVE DATE OF APPLICATION; PRORATION OF INITIAL SSI BENEFIT PAYMENT

SEC. 181. (a) Section 1611(c) of the Social Security Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraphs:

"(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Secretary so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Secretary so determines, for such month and the following month) shall—

"(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

"(B) in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.

"(3) For purposes of this subsection, an application of an individual for benefits under this title shall be effective on the later of—

"(A) the date such application is filed, or

"(B) the date such individual first becomes eligible for such benefits with respect to such application.".

(b) The amendment made by this section shall become effective on October 1, 1982.

ROUNDING OF SSI ELIGIBILITY AND BENEFIT AMOUNTS

SEC. 1821. (a) Section 1617 of the Social Security Act is amended to read as follows:

"COST-OF-LIVING ADJUSTMENTS IN BENEFITS

"SEC. 1617. (a) Whenever benefit amounts under title II are increased by any percent-

age effective with any month as a result of a determination made under section 215(i)—

"(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1611, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the amount (if any) by which—

"(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

"(B) the amount in effect for such month under such subsection; and

"(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under title II are increased for such month (and rounded, when not a multiple of $12, to the next lower multiple of $12), effective with respect to benefits for months after such month.

"(b) The new dollar amounts to be in effect under section 1611 of this title and under section 211 of Public Law 93-66 by reason of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 215(i)(2)(D) to be published therein by reason of the determination involved.".

(b) The amendment made by this section shall become effective on October 1, 1982.

COORDINATION OF SSI AND OASDI COST-OF-LIVING ADJUSTMENTS

SEC. 183. (a) Section 1611(c) of the Social Security Act (as amended by section 181 of this Act) is further amended—

(1) in paragraph (1) by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)";

(2) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) For purposes of this subsection, an increase in the benefit amount payable under title II (over the amount payable in the preceding month, or, at the election of the Secretary, the second preceding month) to an individual receiving benefits under this title shall be included in the income used to determine the benefit under this title of such individual for any month which is—

"(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1617, or

"(B) at the election of the Secretary, the month immediately following such month.

"(4)(A) Notwithstanding paragraph (3), if the Secretary determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this title for such month may be determined on the basis of such information.

"(B) The Secretary shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this title.".

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

PHASEOUT OF HOLD HARMLESS PROTECTION

SEC. 184. (a) Section 401 of the Social Security Amendments of 1972 (Public Law 92-603) is amended by adding at the end thereof the following new subsection:

"(d) In addition to the amount which a State must pay to the Secretary for the fiscal year 1983 or the fiscal year 1984, as determined under subsection (a), the State shall also pay, for the fiscal year 1983, 60 percent of the further amount that would be payable but for the limit specified in subsection (a), and, for the fiscal year 1984, 80 percent of such further amount. For each fiscal year thereafter, the limit prescribed in subsection (a) shall be inapplicable and a State shall pay to the Secretary the full amount of any supplementary payments he makes on behalf of such State.".

(b) The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

EXCLUSION FROM RESOURCES OF BURIAL PLOTS AND CERTAIN FUNDS SET ASIDE FOR BURIAL EXPENSES

SEC. 185. (a) Section 1613(a)(2) of the Social Security Act is amended by inserting "(A)" after "(2)", by adding "and" after the semicolon, and by adding at the end thereof the following new subparagraph:

"(B) the value of any burial space (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a place for the burial of the individual, his spouse, or any other member of his immediate family;".

(b) Section 1613 of such Act is further amended by adding at the end thereof the following new subsection:

"FUNDS SET ASIDE FOR BURIAL EXPENSES

"(d)(1) In determining the resources of an individual, there shall be excluded an amount, not in excess of $1,500 each with respect to such individual and his spouse (if any), that is separately identifiable and has been set aside to meet the burial and related expenses of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611(a).

"(2) The amount of $1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life which are owned by him or his spouse and the cash surrender value of which has been excluded in determining the resources of such individual or of such individual and his spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual or his spouse.

"(3) If the Secretary finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, he shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.

"(4) The Secretary may provide by regulations that whenever an amount set aside to meet burial and related expenses is excluded under paragraph (1) in determining the resources of an individual, any interest earned or accrued on such amount (and left to accumulate), and any appreciation in the value of prepaid burial arrangements for which such amount was set aside, shall also be excluded (to such extent and subject to such conditions or limitations as such regulations may prescribe) in determining the resources (and the income) of such individual.".

(c) The amendment made by this section shall take effect on the first day of the second month after the month in which this Act is enacted.

MANDATORY PASSTHROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

SEC. 186. Section 1618 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Any State which satisfies the requirements of this section solely by reason of subsection (b) for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.".

TREATMENT OF UNNEGOTIATED CHECKS UNDER SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 187. (a) Section 1631(i)(2) of the Social Security Act (as added by section 2343(a) of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "included in all checks payable to individuals entitled to benefits under this title but" in the first sentence and inserting in lieu thereof "included in all such benefit checks".

(b) The amendment made by subsection (a) shall become effective October 1, 1982.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

ROUNDING OF BENEFIT AMOUNTS

SEC. 191. (a) Section 204(a)(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "or" at the end of clause (B), and by inserting before the period at the end thereof the following: ", or (D) paid to an individual with respect to a week of unemployment to the extent that such amount exceeds the amount of such compensation which would be paid to such individual if such State had a benefit structure which provided that the amount of compensation otherwise payable to any individual for any week shall be rounded (if not a full dollar amount) to the nearest lower full dollar amount".

(b)(1) Except as provided in paragraph (2), the amendments made by this section shall apply in the case of compensation paid to individuals during eligibility periods beginning on or after October 1, 1983.

(2) In the case of a State with respect to which the Secretary of Labor has determined that State legislation is required in order to provide for rounding down of unemployment compensation amounts, the amendment made by this section shall apply in the case of compensation paid to individuals during eligibility periods which begin on or after October 1, 1983, and after the end of the first session of the State legislature which begins after the date of the enactment of this Act, or which began prior to the date of the enactment of this Act and remained in session for at least twenty-five calendar days after such date of enactment. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

USE OF CERTAIN AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT FUNDS

SEC. 192. (a) Paragraph (2) of section 903(c) of the Social Security Act is amended—

(1) by striking out "twenty-four" each place it appears and inserting in lieu thereof "thirty-four"; and

(2) by striking out "twenty-fourth" in the second sentence and inserting in lieu thereof "thirty-fourth".

(b) Subsection (c) of section 903 of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) If—

"(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals; and

"(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph,

then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

"(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State's account.

"(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under title XII of this Act.

"(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made.".

TREATMENT OF CERTAIN EMPLOYEES OF INSTITUTIONS OF HIGHER EDUCATION

SEC. 193. (a) CLAUSE (II) OF SECTION 3304(A)(6)(A) OF THE INTERNAL REVENUE CODE OF 1954 (RELATING TO REQUIREMENTS FOR APPROVAL OF STATE UNEMPLOYMENT COMPENSATION LAWS) IS AMENDED TO READ AS FOLLOWS:

"(ii) with respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—

"(I) compensation payable on the basis of such services may be denied to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

"(II) if compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I),".

(b)(1) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) The amendment made by subsection (a), insofar as it requires retroactive payments of compensation to employees of educational institutions other than institutions of higher education (as defined in section 3304(f) of the Internal Revenue Code of 1954), shall not be a requirement for any State law before January 1, 1984.

SHORT-TIME COMPENSATION

SEC. 194. (a) It is the purpose of this section to assist States which provide partial unemployment benefits to individuals whose workweeks are reduced pursuant to an employer plan under which such reductions are made in lieu of temporary layoffs.

(b)(1) The Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs, and shall provide technical assistance to States to assist in developing, enacting, and implementing such short-time compensation program.

(2) The Secretary shall conduct a study or studies for purposes of evaluating the operation, costs, effect on the State insured rate of unemployment, and other effects of State short-time compensation programs developed pursuant to this section.

(3) This section shall be a three-year experimental provision, and the provisions of this section regarding guidelines shall terminate 3 years following the date of the enactment of this Act.

(4) States are encouraged to experiment in carrying out the purpose and intent of this section. However, to assure minimum uniformity, States are encouraged to consider requiring the provisions contained in subsections (c) and (d).

(c) For purposes of this section, the term "short-time compensation program" means a program under which—

(1) individuals whose workweeks have been reduced pursuant to a qualified employer plan by at least 10 per centum will be eligible for unemployment compensation;

(2) the amount of unemployment compensation payable to any such individual shall be a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(3) eligible employees may be eligible for short-time compensation or regular unemployment compensation, as needed; except that no employee shall be eligible for more than the maximum entitlement during any benefit year to which he or she would have been entitled for total unemployment, and no employee shall be eligible for short-time compensation for more than twenty-six weeks in any twelve-month period; and

(4) eligible employees will not be expected to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but shall be available for their normal workweek.

(d) For purposes of subsection (c), the term "qualified employer plan" means a plan of an employer or of an employers' association which association is party to a collective bargaining agreement (hereinafter referred to as "employers' association") under which there is a reduction in the number of hours worked by employees rather than temporary layoffs if—

(1) the employer's or employers' association's short-time compensation plan is approved by the State agency;

(2) the employer or employers' association certifies to the State agency that the aggregate reduction in work hours pursuant to such plan is in lieu of temporary layoffs which would have affected at least 10 per centum of the employees in the unit or units to which the plan would apply and which would have resulted in an equivalent reduction of work hours;

(3) during the previous four months the work force in the affected unit or units has not been reduced by temporary layoffs of more than 10 per centum;

(4) the employer continues to provide health benefits, and retirement benefits under defined benefit pension plans (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974, to employees whose workweek is reduced under such plan as though their workweek had not been reduced; and

(5) in the case of employees represented by an exclusive bargaining representative, that representative has consented to the plan.

The State agency shall review at least annually any qualified employer plan put into effect to assure that it continues to meet the requirements of this subsection and of any applicable State law.

(e) Short-time compensation shall be charged in a manner consistent with the State law.

(f) For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(g)(1) The Secretary shall conduct a study or studies of State short-time compensation programs consulting with employee and employer representatives in developing criteria and guidelines to measure the following factors:

(A) the impact of the program upon the unemployment trust fund, and a comparison with the estimated impact on the fund of layoffs which would have occurred but for the existence of the program;

(B) the extent to which the program has protected and preserved the jobs of workers, with special emphasis on newly hired employees, minorities, and women;

(C) the extent to which layoffs occur in the unit subsequent to initiation of the program and the impact of the program upon the entitlement to unemployment compensation of the employees;

(D) where feasible, the effect of varying methods of administration;

(E) the effect of short-time compensation on employers' State unemployment tax rates, including both users and nonusers of short-time compensation, on a State-by-State basis;

(F) the effect of various State laws and practices under those laws on the retirement and health benefits of employees who are on short-time compensation programs;

(G) a comparison of costs and benefits to employees, employers, and communities from use of short-time compensation and layoffs;

(H) the cost of administration of the short-time compensation program; and

(I) such other factors as may be appropriate.

(2) Not later than October 1, 1985, the Secretary shall submit to the Congress and to the President a final report on the implementation of this section. Such report shall contain an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary deems advisable, including recommendations as to necessary changes in the statistical practices of the Department of Labor.

TITLE II—REVENUE MEASURES

SUBTITLE A—PROVISIONS RELATING TO INDIVIDUALS

SEC. 201. ALTERNATIVE MINIMUM TAX ON TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Section 55 (relating to alternative minimum tax for taxpayers other than corporations) is amended to read as follows:

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) TAX IMPOSED.—In the case of a taxpayer other than a corporation, there is imposed (in addition to any other tax imposed by this subtitle) a tax equal to the excess (if any) of—

"(1) an amount equal to 20 percent of so much of the alternative minimum taxable income as exceeds the exemption amount, over

"(2) the regular tax for the taxable year.

"(b) ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of this title, the term 'alternative minimum taxable income' means the adjusted gross income (determined without regard to the deduction allowed by section 172) of the taxpayer for the taxable year—

"(1) reduced by the sum of—

"(A) the alternative tax net operating loss deduction, plus

"(B) the alternative tax itemized deductions, plus

"(C) any amount included in income under section 667, and

"(2) increased by the amount of items of tax preference.

"(c) CREDITS.—

"(1) IN GENERAL.—For purposes of determining any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a))—

"(A) the tax imposed by this section shall not be treated as a tax imposed by this chapter, and

"(B) the amount of the foreign tax credit allowed by section 33(a) shall be determined without regard to this section.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—

"(A) DETERMINATION OF FOREIGN TAX CREDIT.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under subpart A of part III of subchapter N (section 901 and following).

"(B) INCREASE IN AMOUNT OF FOREIGN TAXES TAKEN INTO ACCOUNT.—For purposes of the determination provided by subparagraph (A), the amount of the taxes paid or accrued to foreign countries or possessions of the United States during the taxable year shall be increased by an amount equal to the lesser of—

"(i) the foreign tax credit allowable under section 33(a) in computing the regular tax for the taxable year, or

"(ii) the tax imposed by subsection (a).

"(C) SECTION 904(a) LIMITATION.—For purposes of the determination provided by subparagraph (A), the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by subsection (a) against which such credit is taken and the regular tax as—

"(i) the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(ii) his entire alternative minimum taxable income.

For such purpose, the amount of the limitation of section 904(a) shall not exceed the tax imposed by subsection (a).

"(D) DEFINITION OF ALTERNATIVE MINIMUM TAXABLE INCOME FROM SOURCES WITHOUT THE UNITED STATES.—For purposes of subparagraph (C), the term 'alternative minimum taxable income from sources without the United States' means adjusted gross income from sources without the United States, adjusted as provided in paragraphs (1) and (2) of subsection (b) (taking into account in such adjustment only items described in such paragraphs which are properly attributable to items of gross income from sources without the United States).

"(E) SPECIAL RULE FOR APPLYING SECTION 904(c).—In determining the amount of foreign taxes paid or accrued during the taxable year which may be deemed to be paid or accrued in a preceding or succeeding taxable year under section 904(c)—

"(i) the limitation of section 904(a) shall be increased by the amount of the limitation determined under subparagraph (C), and

"(ii) any increase under subparagraph (B) shall be taken into account.

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—

"(A) IN GENERAL.—In the case of any taxable year in which a tax is imposed by this section, for purposes of determining the amount of any carryback or carryover of any applicable credit to any other taxable year, the amount of the applicable credit limitation for such taxable year shall be deemed to be—

"(i) the amount of the applicable credit allowable for such taxable year (determined without regard to this paragraph), reduced (but not below zero) by

"(ii) the amount of the tax imposed by this section for the taxable year, reduced by—

"(I) the amount of the credit allowable under section 33(a), and

"(II) the amount of such tax taken into account under this clause with respect to any applicable credit having a lower number or letter designation.

"(B) APPLICABLE CREDITS, ETC.—For purposes of this paragraph—

"(i) APPLICABLE CREDIT.—The term 'applicable credit' means any credit allowable under section 38, 40, 44B, 44C, 44E, or 44F.

"(ii) APPLICABLE CREDIT LIMITATION.—The term 'applicable credit limitation' means, with respect to any applicable credit, the limitation under section 46(a)(3), 53(a), 44C(b)(5), 44E(e)(1), 44F(g)(1), or 50A(a)(2), whichever is appropriate.

"(d) ALTERNATIVE TAX NET OPERATING LOSS DEDUCTION DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'alternative tax net operating loss deduction' means the net operating loss deduction allowable for the taxable year under section 172, except that in determining the amount of such deduction—

"(A) in the case of taxable years beginning after December 31, 1982, section 172(b)(2) shall be applied by substituting 'alternative minimum taxable income' for 'taxable income' each place it appears, and

"(B) the net operating loss (within the meaning of section 172(c)) for any loss year shall be adjusted as provided in paragraph (2).

"(2) ADJUSTMENTS TO NET OPERATING LOSS COMPUTATION.—

"(A) POST-1982 LOSS YEARS.—In the case of a loss year beginning after December 31, 1982, the net operating loss for such year under section 172(c) shall—

"(i) be reduced by the amount of the items of tax preference arising in such year which are taken into account in computing the net operating loss, and

"(ii) be computed by taking into account only itemized deductions which are alternative tax itemized deductions for the taxable year and which are otherwise described in section 172(c).

"(B) PRE-1983 YEARS.—In the case of loss years beginning before January 1, 1983, the amount of the net operating loss which may be carried over to taxable years beginning after December 31, 1982, for purposes of subparagraph (A), shall be equal to the amount which may be carried from the loss year to the first taxable year of the taxpayer beginning after December 31, 1982.

"(e) ALTERNATIVE TAX ITEMIZED DEDUCTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'alternative tax itemized deductions' means an amount equal to the sum of any amount allowable as a deduction for the taxable year (other than a deduction allowable in computing adjusted gross income) under—

"(A) section 165(a) for losses described in subsection (c)(3) or (d) of section 165,

"(B) section 170 (relating to charitable deductions),

"(C) section 213 (relating to medical deductions),

"(D) this chapter for qualified interest, or

"(E) section 691(c) (relating to deduction for estate tax).

"(2) AMOUNTS WHICH MAY BE CARRIED OVER.—No amount shall be taken into account under paragraph (1) to the extent such amount may be carried to another taxable year for purposes of the regular tax.

"(3) QUALIFIED INTEREST.—The term 'qualified interest' means the sum of—

"(A) any qualified housing interest, and

"(B) any amount allowed as a deduction for interest (other than qualified housing interest) to the extent such amount does not exceed the qualified net investment income of the taxpayer for the taxable year.

"(4) QUALIFIED HOUSING INTEREST.—

"(A) IN GENERAL.—The term 'qualified housing interest' means interest which is paid or accrued during the taxable year on indebtedness which is incurred in acquiring, constructing, or substantially rehabilitating any property which—

"(i) is the principal residence (within the meaning of section 1034) of the taxpayer at the time such interest accrues or is paid, or

"(ii) is a qualified dwelling used by the taxpayer (or any member of his family within the meaning of section 267(c)(4)) during the taxable year.

"(B) QUALIFIED DWELLING.—The term 'qualified dwelling' means any—

"(i) house,

"(ii) apartment,

"(iii) condominium, or

"(iv) mobile home not used on a transient basis (within the meaning of section 7701(a)(19)(C)(v)),

including all structures or other property appurtenant thereto.

"(C) SPECIAL RULE FOR INDEBTEDNESS INCURRED BEFORE JULY 1, 1982.—The term 'qualified housing interest' includes interest paid or accrued on indebtedness which—

"(i) was incurred by the taxpayer before July 1, 1982, and

"(ii) is secured by property which, at the time such indebtedness was incurred, was—

"(I) the principal residence (within the meaning of section 1034) of the taxpayer, or

"(II) a qualified dwelling used by the taxpayer (or any member of his family (within the meaning of section 267(c)(4))).

"(5) QUALIFIED NET INVESTMENT INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified net investment income' means the excess of—

"(i) qualified investment income, over

"(ii) qualified investment expenses.

"(B) QUALIFIED INVESTMENT INCOME.—The term 'qualified investment income' means the sum of—

"(i) investment income (within the meaning of section 163(d)(3)(B) other than clause (ii) thereof),

"(ii) any net capital gain attributable to the disposition of property held for investment, and

"(iii) the amount of items of tax preference described in paragraph (1) of section 57(a).

"(C) QUALIFIED INVESTMENT EXPENSES.—The term 'qualified investment expenses' means the deductions directly connected with the production of qualified investment income to the extent that—

"(i) such deductions are allowable in computing adjusted gross income, and

"(ii) such deductions are not items of tax preference.

"(6) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, the alternative tax itemized deductions for any taxable year includes the deductions allowable under sections 642(c), 651(a), and 661(a).

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—The adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that the deductions for costs paid or incurred in connection with the administration of the estate or trust shall be treated as allowable in arriving at adjusted gross income.

"(7) LIMITATION ON MEDICAL DEDUCTION.—In applying subparagraph (C) of paragraph (1), the amount allowable as a deduction under section 213 shall be determined by substituting '10 percent' for '5 percent' in section 213(a).

"(8) TREATMENT OF INTERESTS IN LIMITED PARTNERSHIPS AND SUBCHAPTER S CORPORATIONS.—

"(A) CERTAIN INTEREST TREATED AS NOT ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Any amount allowable as a deduction for interest on indebtedness incurred or continued to purchase or carry a limited business interest shall be treated as not allowable in computing adjusted gross income.

"(B) INCOME TREATED AS QUALIFIED INVESTMENT INCOME.—Any income derived from a limited business interest shall be treated as qualified investment income.

"(C) LIMITED BUSINESS INTEREST.—The term 'limited business interest' means an interest—

"(i) as a limited partner in a partnership, or

"(ii) as a shareholder in an electing small business corporation (as defined in section 1371(b)) if the taxpayer does not actively participate in the management of such corporation.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) EXEMPTION AMOUNT.—The term 'exemption amount' means—

"(A) $40,000 in the case of—

"(i) a joint return, or

"(ii) a surviving spouse (as defined in section 2(a)),

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual (as defined in section 143), and

"(ii) is not a surviving spouse (as so defined), and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate or trust.

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 72(q), 402(e), 408(f), 409(c), and 667(b)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43). For purposes of this paragraph, the amount of the credits allowable under such subpart shall be determined without regard to this section."

(b) ITEMS OF TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) EXCLUSION OF INTEREST AND DIVIDENDS.—Any amount excluded from gross income for the taxable year under section 116 or 128.",

(B) by striking out paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) MINING EXPLORATION AND DEVELOPMENT COSTS.—With respect to each mine or other natural deposit (other than an oil or gas well) of the taxpayer, an amount equal to the excess of—

"(A) the amount allowable as a deduction under section 616(a) or 617, over

"(B) the amount which would have been allowable if the expenditures had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.

"(6) CIRCULATION AND RESEARCH AND EXPERIMENTAL EXPENDITURES.—An amount equal to the excess of—

"(A) the amount allowable as a deduction under section 173 or 174(a) for the taxable year, over

"(B) the amount which would have been allowable for the taxable year if the circulation expenditures described in section 173 or the research and experimental expenditures described in section 174 had been capitalized and amortized ratably over the 10-year period beginning with the taxable year in which such expenditures were made.", and

(C) by striking out paragraph (10) and inserting in lieu thereof the following:

"(10) INCENTIVE STOCK OPTIONS.—With respect to the transfer of a share of stock pursuant to the exercise of an incentive stock option (as defined in section 422A), the amount by which the fair market value of the share at the time of exercise exceeds the option price."

(2) CONFORMING AMENDMENTS.—

(A) The next to last sentence of section 57(a) is amended by striking out "(3), (11), and (12)" and inserting in lieu thereof "(1), (3), (5), (6), (11), and (12)(A)".

(B) Section 57(a) is amended by striking out the last sentence.

(c) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES—

(1) Section 58 (relating to rules for application of minimum tax) is amended by adding at the end thereof the following new subsection:

"(i) OPTIONAL 10-YEAR WRITEOFF OF CERTAIN TAX PREFERENCES.—

"(1) IN GENERAL.—For purposes of this title, in the case of an individual, any qualified expenditure to which an election under this paragraph applies shall be allowed as a deduction ratably over the 10-year period beginning with the taxable year in which such expenditure was made.

"(2) QUALIFIED EXPENDITURE.—For purposes of this subsection, the term 'qualified expenditure' means any amount which, but for an election under this subsection, would have been allowable as a deduction for the taxable year in which paid or incurred under—

"(A) section 173 (relating to circulation expenditures),

"(B) section 174(a) (relating to research and experimental expenditures),

"(C) section 263(c) (relating to intangible drilling and development expenditures),

"(D) section 616(a) (relating to development expenditures), or

"(E) section 617 (relating to deduction of certain mining exploration expenditures).

"(3) OTHER SECTIONS NOT APPLICABLE.—Except as provided in this subsection, no deduction shall be allowed under any other section for any qualified expenditure to which an election under this subsection applies.

"(4) SPECIAL ELECTION FOR INTANGIBLE DRILLING AND DEVELOPMENT COSTS NOT ALLOCABLE TO INTEREST AS LIMITED PARTNER.—

"(A) IN GENERAL.—In the case of any nonlimited partnership intangible drilling costs to which an election under this paragraph applies—

"(i) the applicable percentage of such costs (adjusted as provided in section 48(q)) shall be allowed as a deduction for the taxable year in which paid or incurred and for each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable percentage:
1	15
2	22
3	21
4	21
5	21.

"(C) NONLIMITED PARTNERSHIP INTANGIBLE DRILLING COSTS.—For purposes of this paragraph, the term 'nonlimited partnership intangible drilling costs' means any qualified expenditure described in paragraph (2)(C) of an individual which is not allocable to such individual's interest as a limited partner in a limited partnership.

"(5) ELECTION.—

"(A) IN GENERAL.—An election may be made under this subsection with respect to any qualified expenditure.

"(B) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any qualified expenditure may be revoked only with the consent of the Secretary.

"(C) TIME AND MANNER.—An election under this subsection shall be made at such time

and in such manner as the Secretary shall by regulations prescribe.

"(D) PARTNERS.—In the case of a partnership, any election under this subsection shall be made separately by each partner with respect to the partner's allocable share of any qualified expenditure.

"(6) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section)—

"(i) any deduction under paragraph (1) or (4)(A) with respect to costs which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c), and

"(ii) in the case of any credit allowable under section 38 by reason of paragraph (4)(B) which is allocable to such property, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this subsection), any amount allowable as a deduction under paragraph (1) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(7) AMOUNTS TO WHICH ELECTION APPLY NOT TREATED AS TAX PREFERENCE.—Any qualified expenditure to which an election under paragraph (1) or (4) applies shall not be treated as an item of tax preference under section 57(a)."

(2) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking out "and" at the end of paragraph (23), by striking out the period at the end of paragraph (24) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(25) for amounts allowed as deductions under section 58(i) (relating to optional 10-year writeoff of certain tax preferences)."

(c) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to corporate minimum tax) is amended—

(A) by striking out "person" each place it appears and inserting in lieu thereof "corporation",

(B) by striking out "one-half (or in the case of a corporation, an amount equal to)" in subsection (c),

(C) by striking out "sections 72(m)(5)(B), 402(e), 408(f), 531, and 541" in subsection (c) and inserting in lieu thereof "sections 531 and 541",

(D) by striking out "31, 39, 43, and 44G" in subsection (c) and inserting in lieu thereof "39 and 44G", and

(E) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 56. CORPORATE MINIMUM TAX."

(2) The table of sections for part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 56 and inserting in lieu thereof the following:

"Sec. 56. Corporate minimum tax."

(3) Section 58 (relating to rules for application of minimum taxes) is amended—

(A) by striking out subsection (a),

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the items of tax preference for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.", and

(C) in subsection (g)—

(i) by striking out "paragraphs (6) and" in paragraph (1) and inserting in lieu thereof "paragraph", and

(ii) by striking out so much of paragraph (2) as precedes the last two sentences thereof and inserting in lieu thereof the following:

"(2) CAPITAL GAINS.—For purposes of section 56, the items of tax preference set forth in section 57(a)(9) which are attributable to sources within any foreign country or possession of the United States shall not be taken into account if preferential treatment is not accorded gain from the sale or exchange of capital assets (or property treated as capital assets)."

(4) Section 5(a)(4) is amended by striking out "sections 55 and 56" and inserting in lieu thereof "section 55".

(5) Section 511(d)(2) is amended by striking out "and section 56 (as the case may be)".

(6) Subparagraph (A) of section 897(a)(2) (relating to 20-percent minimum tax on nonresident alien individuals) is amended to read as follows:

"(A) IN GENERAL.—In the case of any nonresident alien individual, the amount determined under section 55(a)(1) for the taxable year shall not be less than 20 percent of the lesser of—

"(i) the individual's alternative minimum taxable income (as defined in section 55(b)) for the taxable year, or

"(ii) the individual's net United States real property gain for the taxable year."

(7) Sections 6015(d)(1), 6362(b)(2)(A), and 6654(g)(1) are each amended by striking out "or 56".

(8)(A) Sections 46(a)(4), 53(a), and 901(a) are each amended by striking out "(relating to minimum tax for tax preferences)" and inserting in lieu thereof "(relating to corporate minimum tax)".

(B) Subparagraph (A) of section 936(a)(3) is amended by striking out "(relating to minimum tax)" and inserting in lieu thereof "(relating to corporate minimum tax)".

(9)(A) Section 173 (relating to circulation expenditures) is amended—

(i) by striking out "Notwithstanding section 263" and inserting in lieu thereof

"(a) GENERAL RULE.—Notwithstanding section 263", and

(ii) by adding at the end thereof the following new subsection:

"(b) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

(B) Subsection (e) of section 174 (relating to research and experimental expenditures) is amended—

(i) by striking out "For adjustments" and inserting in lieu thereof

"(1) For adjustments",

(ii) by adding at the end thereof the following new paragraph:

"(2) For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i).", and

(iii) by striking out "CROSS REFERENCE" and inserting in lieu thereof "CROSS REFERENCES".

(C) Section 616 (relating to development expenditures) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under subsection (a), see section 58(i)."

(D) Section 617 (relating to deduction of certain mining exploration expenditures) is amended by adding at the end thereof the following new subsection:

"(j) CROSS REFERENCE.—

"For election of 10-year amortization of expenditures allowable as a deduction under this section, see section 58(i)."

(10) Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) JOINT RETURN.—The term 'joint return' means a single return made jointly under section 6013 by a husband and wife."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) SPECIAL RULE FOR PRE-1983 SECTION 56(b) TAX DEFERRALS.—The amendments made by subsection (c)(1) of this section to section 56(b) of the Internal Revenue Code of 1954 shall not apply to any net operating loss carryover from any taxable year beginning before January 1, 1983, which is attributable to any excess described in section 56(b)(1)(B) of such Code for such taxable year.

SEC. 202. LIMITATION ON MEDICAL DEDUCTION.

(a) GENERAL RULE.—Subsection (a) of section 213 (relating to deduction for medical, dental, etc., expenses) is amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 5 percent of adjusted gross income."

(b) TREATMENT OF MEDICINE AND DRUGS.—

(1) IN GENERAL.—Subsection (b) of section 213 (relating to limitation with respect to medicine and drugs) is amended to read as follows:

"(b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin."

(2) DEFINITION OF PRESCRIBED DRUG.—Subsection (e) of section 213 is amended by inserting after paragraph (1) the following new paragraphs:

"(2) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r))."

(3) CONFORMING AMENDMENTS.—

(A) Subsection (e) of section 213 (as in effect before the amendment made by paragraph (2)) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively.

(B) Subsections (d), (e), and (f) of section 213 are redesignated as subsections (c), (d), and (e), respectively.

(C) Subsection (b) of section 105 is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 203. LIMITATION ON DEDUCTION FOR NONBUSINESS CASUALTY LOSSES.

(a) GENERAL RULE.—Section 165 (relating to losses) is amended by striking out subsection (h), by redesignating subsection (i) as subsection (j), and by inserting after subsection (g) the following new subsections:

"(h) CASUALTY AND THEFT LOSSES.—

"(1) GENERAL RULE.—Any loss of an individual described in subsection (c)(3) shall be allowed for any taxable year only to the extent that—

"(A) the amount of loss to such individual arising from each casualty, or from each theft, exceeds $100, and

"(B) the aggregate amount of all such losses sustained by such individual during the taxable year (determined after application of subparagraph (A)) exceeds 10 percent of the adjusted gross income of the individual.

"(2) SPECIAL RULES.—

"(A) JOINT RETURNS.—For purposes of the $100 and 10 percent limitations described in paragraph (1), a husband and wife making a joint return for the taxable year shall be treated as one individual.

"(B) COORDINATION WITH ESTATE TAX.—No loss described in subsection (c)(3) shall be allowed if, at the time of filing the return, such loss has been claimed for estate tax purposes in the estate tax return.

"(i) DISASTER LOSSES.—

"(1) ELECTION TO TAKE DEDUCTION FOR PRECEDING YEAR.—Notwithstanding the provisions of subsection (a), any loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Relief Act of 1974 may, at the election of the taxpayer, be taken into account for the taxable year immediately preceding the taxable year in which the disaster occurred.

"(2) YEAR OF LOSS.—If an election is made under this subsection, the casualty resulting in the loss shall be treated for purposes of this title as having occurred in the taxable year for which the deduction is claimed.

"(3) AMOUNT OF LOSS.—The amount of the loss taken into account in the preceding taxable year by reason of paragraph (1) shall not exceed the uncompensated amount determined on the basis of the facts existing at the date the taxpayer claims the loss."

(b) CONFORMING AMENDMENT.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended—

(1) by inserting "except as provided in subsection (h)," before "losses" the first place it appears in paragraph (3) thereof, and

(2) by striking out the last three sentences.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982. Such amendments shall also apply to the taxpayer's last taxable year beginning before January 1, 1983, solely for purposes of determining the amount allowable as a deduction with respect to any loss taken into account for such year by reason of an election under section 165(i) of the Internal Revenue Code of 1954 (as amended by this section).

SUBTITLE B—PROVISIONS PRIMARILY RELATING TO BUSINESS

PART I—REDUCTION IN CERTAIN DEDUCTIONS AND CREDITS

SEC. 204. 15 PERCENT REDUCTION IN CERTAIN CORPORATE PREFERENCE ITEMS.

(a) IN GENERAL.—Subchapter B of chapter 1 (relating to computation of taxable income) is amended by adding at the end thereof the following new part:

"PART XI—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

"Sec. 291. Special rules relating to corporate preference items.

"SEC. 291. SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS.

"(a) 15-PERCENT REDUCTION IN CERTAIN PREFERENCE ITEMS, ETC.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) SECTION 1250 CAPITAL GAIN TREATMENT.—In the case of section 1250 property which is disposed of during the taxable year, 15 percent of the excess (if any) of—

"(A) the amount which would be treated as ordinary income if such property was section 1245 property or section 1245 recovery property, over

"(B) the amount treated as ordinary income under section 1250,

shall be treated as gain which is ordinary income and shall be recognized notwithstanding any other provision of this title.

"(2) REDUCTION IN PERCENTAGE DEPLETION.—In the case of iron ore and coal (including lignite), the amount allowable as a deduction under section 613 with respect to any property (as defined in section 614) shall be reduced by 15 percent of the amount of the excess (if any) of—

"(A) the amount of the deduction allowable under section 613 for the taxable year (determined without regard to this paragraph), over

"(B) the adjusted basis of the property at the close of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(3) CERTAIN FINANCIAL INSTITUTION PREFERENCE ITEMS.—The amount allowable as a deduction under this chapter (determined without regard to this section) with respect to any financial institution preference item shall be reduced by 15 percent.

"(4) CERTAIN DEFERRED DISC INCOME.—If an applicable corporation is a shareholder of a DISC, in the case of taxable years beginning after December 31, 1982, section 995(b)(1)(F)(i) shall be applied with respect to such corporation by substituting '57.5 percent' for 'one-half'.

"(5) AMORTIZATION OF POLLUTION CONTROL FACILITIES.—If an election is made under section 169 with respect to any certified pollution control facility, the amortizable basis of such facility for purposes of such section shall be reduced by 15 percent.

"(b) SPECIAL RULES FOR TREATMENT OF INTANGIBLE DRILLING COSTS AND MINERAL EXPLORATION AND DEVELOPMENT COSTS.—For purposes of this subtitle, in the case of an applicable corporation—

"(1) IN GENERAL.—The amount allowable as a deduction for any taxable year (determined without regard to this section)—

"(A) under section 263(c) in the case of an integrated oil company, or

"(B) under section 616(a) or 617,

shall be reduced by 15 percent.

"(2) Special rule for amounts not allowable as deductions under paragraph (1).—

"(A) INTANGIBLE DRILLING COSTS.—The amount not allowable as a deduction under section 263(c) for any taxable year by reason of paragraph (1) shall be allowable as a deduction ratably over the 36-month period beginning with the month in which the costs are paid or incurred.

"(B) MINERAL EXPLORATION AND DEVELOPMENT COSTS.—In the case of any amount not allowable as a deduction under section 616(a) or 617 for any taxable year by reason of paragraph (1)—

"(i) the applicable percentage of the amount not so allowable as a deduction shall be allowable as a deduction for the taxable year in which the costs are paid or incurred and in each of the 4 succeeding taxable years, and

"(ii) such costs shall be treated, for purposes of determining the amount of the credit allowable under section 38 for the taxable year in which paid or incurred, as qualified investment (within the meaning of subsections (c) and (d) of section 46) with respect to property placed in service during such year.

"(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (2)(B), the term 'applicable percentage' means the percentage determined in accordance with the following table:

"Taxable Year:	Applicable Percentage:
1	15
2	22
3	21
4	21
5	21.

"(4) DISPOSITIONS.—

"(A) OIL, GAS, AND GEOTHERMAL PROPERTY.—In the case of any disposition of any oil, gas, or geothermal property to which section 1254 applies (determined without regard to this section) any deduction under paragraph (2)(A) with respect to intangible drilling and development costs under section 263(c) which are allocable to such property shall, for purposes of section 1254, be treated as a deduction allowable under section 263(c).

"(B) APPLICATION OF SECTION 617(d).—In the case of any disposition of mining property to which section 617(d) applies (determined without regard to this section), any amount allowable as a deduction under paragraph (2)(B) which is allocable to such property shall, for purposes of section 617(d), be treated as a deduction allowable under section 617(a).

"(C) RECAPTURE OF INVESTMENT CREDIT.—In the case of any disposition of any property to which the credit allowable under section 38 by reason of paragraph (2)(B) is allocable, such disposition shall, for purposes of section 47, be treated as a disposition of section 38 recovery property which is not 3-year property.

"(5) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer (within the meaning of section 4996(a)(1)) of crude oil other than an independent producer (within the meaning of section 4992(b)).

"(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to intangible drilling and development costs or mining exploration and development costs shall not be taken into account for purposes of determining depletion under section 611.

"(c) SPECIAL RULES RELATING TO POLLUTION CONTROL FACILITIES.—For purposes of this subtitle—

"(1) ACCELERATED COST RECOVERY DEDUCTION.—For purposes of subclause (I) of section 168(d)(1)(A)(ii), a taxpayer shall not be treated as electing the amortization deduction under section 169 with respect to that portion of the basis not taken into account under section 169 by reason of subsection (a)(5).

"(2) 1250 RECAPTURE.—Subsection (a)(1) shall not apply to any section 1250 property which is part of a certified pollution control facility (within the meaning of section

169(d)(1)) with respect to which an election under section 169 was made.

"(d) SPECIAL RULE FOR REAL ESTATE INVESTMENT TRUSTS.—In the case of a real estate investment trust (as defined in section 856), the difference between the amounts described in subparagraphs (A) and (B) of subsection (a)(1) shall be reduced to the extent that a capital gain dividend (as defined in section 857(b)(3)(C), applied without regard to this section) is treated as paid out of such difference. Any capital gain dividend treated as having been paid out of such difference to a shareholder which is an applicable corporation retains its character in the hands of the shareholder as gain from the disposition of section 1250 property for purposes of applying subsection (a)(1) to such shareholder.

"(e) DEFINITIONS.—For purposes of this section—

"(1) FINANCIAL INSTITUTION PREFERENCE ITEM.—The term 'financial institution preference item' includes the following:

"(A) EXCESS RESERVES FOR LOSSES ON BAD DEBTS OF FINANCIAL INSTITUTIONS.—In the case of a financial institution to which section 585 or 593 applies, the excess of—

"(i) the amount which would, but for this section, be allowable as a deduction for the taxable year for a reasonable addition to a reserve for bad debts, over

"(ii) the amount which would have been allowable had such institution maintained its bad debt reserve for all taxable years on the basis of actual experience.

"(B) INTEREST ON DEBT TO CARRY TAX-EXEMPT OBLIGATIONS ACQUIRED AFTER DECEMBER 31, 1982.—

"(i) IN GENERAL.—In the case of a financial institution to which section 585 or 593 applies, the amount of interest on indebtedness incurred or continued to purchase or carry obligations acquired after December 31, 1982, the interest on which is exempt from taxes for the taxable year, to the extent that a deduction would (but for this paragraph) be allowable with respect to such interest for such taxable year.

"(ii) DETERMINATION OF INTEREST ALLOCABLE TO INDEBTEDNESS ON TAX-EXEMPT OBLIGATIONS.—Unless the taxpayer (under regulations prescribed by the Secretary) establishes otherwise, the amount determined under clause (i) shall be an amount which bears the same ratio to the aggregate amount allowable (determined without regard to this section) to the taxpayer as a deduction for interest for the taxable year as—

"(I) the taxpayer's average adjusted basis (within the meaning of section 1016) of obligations described in clause (i), bears to

"(II) such average adjusted basis for all assets of the taxpayer.

"(2) APPLICABLE CORPORATION.—For purposes of this section, the term 'applicable corporation' means any corporation other than an electing small business corporation (as defined in section 1371(b)).

"(3) SECTION 1245 AND 1250 PROPERTY.—The terms 'section 1245 property', 'section 1245 recovery property', and 'section 1250 property' have the meanings given such terms by sections 1245(a)(3), 1245(a)(5), and 1250(c), respectively."

(b) COORDINATION WITH MINIMUM TAX.—Section 57(b) (relating to adjusted itemized deductions) is amended to read as follows:

"(b) APPLICATION WITH SECTION 291.—

"(1) IN GENERAL.—In the case of any item of tax preference of an applicable corporation described in—

"(A) paragraph (4) or (7) of subsection (a), or

"(B) paragraph (8) of subsection (a) (but only to the extent such item is allocable to a deduction for depletion for iron ore and coal (including lignite)),

only 71.6 percent of the amount of such item of tax preference (determined without regard to this subsection) shall be taken into account as an item of tax preference.

"(2) CERTAIN CAPITAL GAINS.—In determining the net capital gain of any applicable corporation for purposes of paragraph (9)(B) of subsection (a), there shall be taken into account only 71.6 percent of any gain from the sale or exchange of section 1250 property which is equal to 85 percent of the excess determined under section 291(a)(1) with respect to such property.

"(3) APPLICABLE CORPORATION DEFINED.—For purposes of this subsection, the term 'applicable corporation' has the meaning given such term by section 291(e)(2)."

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 263 (relating to intangible drilling and development costs) is amended by adding at the end thereof the following new sentence: "This subsection shall not apply with respect to any costs to which any deduction is allowed under section 58(i) or 291."

(2) The table of parts for subchapter B of chapter 1 is amended by adding at the end thereof the following:

"Part XI. Special rules relating to corporate preference items."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) 1250 GAIN.—Section 291(a)(1) of the Internal Revenue Code of 1954 shall apply to sales or other dispositions after December 31, 1982, in taxable years ending after such date.

(3) POLLUTION CONTROL FACILITIES.—Section 291(a)(5) of such Code shall apply to property placed in service after December 31, 1982, in taxable years ending after such date.

(4) DRILLING AND MINING COSTS.—Section 291(b) of such Code shall apply to expenditures after December 31, 1982, in taxable years ending after such date.

(5) REDUCTION IN PERCENTAGE DEPLETION FOR COAL AND IRON ORE.—Section 291(a)(2) of such Code shall apply to taxable years beginning after December 31, 1983.

(6) MINIMUM TAX.—The amendment made by subsection (b) shall apply to taxable years ending after December 31, 1982, with respect to items of tax preference described in section 57(b) of such Code to which section 291 of such Code applies; except that in the case of an item described in section 291(a)(2) of such Code, such amendment shall apply to taxable years beginning after December 31, 1983.

SEC. 205. AMENDMENTS TO INVESTMENT CREDIT.

(a) BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT.—

(1) IN GENERAL.—Section 48 (relating to definitions and special rules involving section 38 property) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) BASIS ADJUSTMENT TO SECTION 38 PROPERTY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a credit is determined under section 46(a)(2) with respect to section 38 property, the basis of such property shall be reduced by 50 percent of the amount of the credit so determined.

"(2) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any section 38 property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to 50 percent of such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under section 47.

"(3) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit determined under section 46(a)(2) for any qualified rehabilitation expenditure in connection with a qualified rehabilitated building other than a certified historic structure, paragraphs (1) and (2) shall be applied without regard to the phrase '50 percent of'.

"(4) ELECTION OF REDUCED CREDIT IN LIEU OF BASIS ADJUSTMENT FOR REGULAR PERCENTAGE.—

"(A) IN GENERAL.—If the taxpayer elects to have this paragraph apply with respect to any recovery property—

"(i) paragraphs (1) and (2) shall not apply to so much of the credit determined under section 46(a)(2) with respect to such property as is attributable to the regular percentage set forth in section 46(a)(2)(B); and

"(ii) the amount of the credit allowable under section 38 with respect to such property shall be determined under subparagraph (B).

"(B) REDUCTION IN CREDIT.—In the case of any recovery property to which an election under subparagraph (A) applies—

"(i) solely for the purposes of applying the regular percentage, the applicable percentage under subsection (c) or (d) of section 46 shall be deemed to be 100 percent, and

"(ii) notwithstanding section 46(a)(2)(B), the regular percentage shall be—

"(I) 8 percent in the case of recovery property other than 3-year property, or

"(II) 4 percent in the case of recovery property which is 3-year property.

For purposes of the preceding sentence, RRB replacement property (within the meaning of section 168(f)(3)(B)) shall be treated as property which is not 3-year property.

"(C) TIME AND MANNER OF MAKING ELECTION.—

"(i) IN GENERAL.—An election under this subsection with respect to any property shall be made on the taxpayer's return of the tax imposed by this chapter for the taxpayer's taxable year in which such property is placed in service (or in the case of property to which an election under section 46(d) applies, for the first taxable year for which qualified progress expenditures were taken into account with respect to such property).

"(ii) REVOCABLE ONLY WITH CONSENT.—An election under this subsection with respect to any property, once made, may be revoked only with the consent of the Secretary.

"(5) RECAPTURE OF REDUCTIONS.—

"(A) IN GENERAL.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

"(B) SPECIAL RULE FOR SECTION 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section."

(2) ALLOWANCE OF DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corpora-

tions) is amended by adding at the end thereof the following new section:

"SEC. 196. DEDUCTION FOR CERTAIN UNUSED INVESTMENT CREDITS.

"(a) ALLOWANCE OF DEDUCTIONS.—If—

"(1) the amount of the credit determined under section 46(a)(2) for any taxable year exceeds the limitation provided by section 46(a)(3) for such taxable year, and

"(2) the amount of such excess has not, after the application of section 46(b), been allowed to the taxpayer as a credit under section 38 for any taxable year,

then an amount equal to 50 percent of the amount of such excess (to the extent attributable to property the basis of which is reduced under section 48(q)) not so allowed as a credit shall be allowed to the taxpayer as a deduction for the first taxable year following the last taxable year in which such excess could under section 46(b) have been allowed as a credit.

"(b) TAXPAYERS DYING OR CEASING TO EXIST.—If a taxpayer dies or ceases to exist prior to the first taxable year following the last taxable year in which the excess described in subsection (a) could under section 46(b) have been allowed as a credit, the amount described in subsection (a), or the proper portion thereof, shall, under regulations prescribed by the Secretary, be allowed to the taxpayer as a deduction for the taxable year in which such death or cessation occurs.

"(c) SPECIAL RULE FOR QUALIFIED REHABILITATED BUILDINGS.—In the case of any credit to which section 48(q)(3) applies, subsection (a) shall be applied without regard to the phrase '50 percent of'."

(3) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT FOR PURPOSES OF EARNINGS AND PROFITS.—Section 312(k) (relating to effect of depreciation on earnings and profits) is amended by adding at the end thereof the following new paragraph:

"(5) BASIS ADJUSTMENT NOT TAKEN INTO ACCOUNT.—In computing the earnings and profits of a corporation for any taxable year, the allowance for depreciation (and amortization, if any) shall be computed without regard to any basis adjustment under section 48(q)."

(4) SPECIAL RULES FOR CERTAIN LEASED PROPERTY.—Section 48(d) (relating to certain leased property) is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH BASIS ADJUSTMENT.—In the case of any property with respect to which an election is made under this subsection—

"(A) subsection (q) (other than paragraph (4)) shall not apply with respect to such property,

"(B) the lessee of such property shall include ratably in gross income over the shortest recovery period which could be applicable under section 168 with respect to such property an amount equal to 50 percent of the amount of the credit allowable under section 38 to the lessee with respect to such property, and

"(C) in the case of a disposition of such property to which section 47 applies, this paragraph shall be applied in accordance with regulations prescribed by the Secretary."

(5) CONFORMING AMENDMENTS.—

(A) Section 48(g) (relating to special rules for qualified rehabilitated buildings) is amended by striking out paragraph (5).

(B) Paragraph (24) of section 1016(a) (relating to adjustments to basis) is amended by striking out "section 48(g)(5)" and inserting in lieu thereof "section 48(q)".

(C) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 196. Deduction for certain unused investment credits."

(b) INVESTMENT CREDIT LIMITED TO 85 PERCENT OF TAX LIABILITY INSTEAD OF 90 PERCENT.—

(1) IN GENERAL.—Subparagraph (B) of section 46(a)(3) (relating to limitation based on amount of tax) is amended to read as follows:

"(B) 85 percent of so much of the liability for tax for the taxable year as exceeds $25,000."

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (a) of section 46 is amended by striking out paragraphs (7) and (8) and by redesignating paragraph (9) as paragraph (7).

(B) Clause (i) of section 46(a)(7)(B), as redesignated by subparagraph (A), is amended to read as follows:

"(i) paragraph (3)(B) shall be applied by substituting '100 percent' for '85 percent', and".

(C) Subparagraph (B) of section 46(a)(7), as redesignated by subparagraph (A), is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) GENERAL RULE.—Except as otherwise provided in this paragraph, the amendments made by subsection (a) shall apply to periods after December 31, 1982, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1954.

(B) EXCEPTION.—The amendments made by subsection (a) shall not apply to any property which—

(i) is constructed, reconstructed, erected, or acquired pursuant to a contract which was entered into after August 13, 1981, and was, on July 1, 1982, and at all times thereafter, binding on the taxpayer,

(ii) is placed in service after December 31, 1982, and before January 1, 1986,

(iii) with respect to which an election under section 168(f)(8)(A) of such Code is not in effect at any time, and

(iv) is not described in section 167(l)(3)(A) of such Code.

(C) SPECIAL RULE FOR INTEGRATED MANUFACTURING FACILITIES.—

(i) IN GENERAL.—In the case of any integrated manufacturing facility, the requirements of clause (i) of subparagraph (B) shall be treated as met if—

(I) the on-site construction of the facility began before July 1, 1982, and

(II) during the period beginning after August 13, 1981, and ending on July 1, 1982, the taxpayer constructed (or entered into binding contracts for the construction of) more than 20 percent of the cost of such facility.

(ii) INTEGRATED MANUFACTURING FACILITY.—For purposes of clause (i), the term 'integrated manufacturing facility' means 1 or more facilities—

(I) located on a single site,

(II) for the manufacture of 1 or more manufactured products from raw materials by the application of 2 or more integrated manufacturing processes.

(D) SPECIAL RULE FOR HISTORIC STRUCTURES.—In the case of any certified historic structure (as defined in section 48(g)(3) of the Internal Revenue Code of 1954), clause (i) of subparagraph (B) shall be applied by substituting "December 31, 1980" for "August 13, 1981."

(E) CERTAIN PROJECTS WITH RESPECT TO HISTORIC STRUCTURES.—In the case of any certified historic structure (as so defined), the requirements of clause (i) of subparagraph (B) shall be treated as met with respect to such property—

(i) if the rehabilitation begins after December 31, 1980, and before July 1, 1982, or

(ii) if—

(I) before July 1, 1982, a public offering with respect to interests in such property was registered with the Securities and Exchange Commission,

(II) before such date an application with respect to such property was filed under section 8 of the United States Housing Act of 1937, and

(III) such property is placed in service before July 1, 1984.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1982.

SEC. 206. REPEAL OF 1985 AND 1986 INCREASES IN ACCELERATED COST RECOVERY DEDUCTIONS.

(a) IN GENERAL.—Paragraph (1) of section 168(b) (relating to amount of accelerated cost recovery deduction) is amended—

(1) by striking out "tables" and inserting in lieu thereof "table";

(2) by striking out:

"(A) FOR PROPERTY PLACED IN SERVICE AFTER DECEMBER 31, 1980, AND BEFORE JANUARY 1, 1985.—"; and

(3) by striking out subparagraphs (B) and (C).

(b) CONFORMING AMENDMENTS.—Paragraph (4) of section 168(e) (relating to property excluded from application of section) is amended—

(1) by striking out subparagraph (H); and

(2) by striking out "1986" in the heading thereof and inserting in lieu thereof "1981".

SEC. 207. SECTION 189 MADE APPLICABLE TO CERTAIN CORPORATIONS FOR NONRESIDENTIAL REAL PROPERTY.

(a) IN GENERAL.—Subsection (a) of section 189 is amended to read as follows:

"(a) CAPITALIZATION OF CONSTRUCTION PERIOD INTEREST AND TAXES.—Except as otherwise provided in this section or in section 266 (relating to carrying charges), no deduction shall be allowed for real property construction period interest and taxes."

(b) EXCLUSION OF CERTAIN PROPERTY.—Subsection (d) of section 189 (relating to certain property excluded) is amended—

(1) by striking out "or" at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) residential real property (other than low income housing) acquired, constructed, or carried by a corporation other than an electing small business corporation (within the meaning of section 1371(b)), a personal holding company (within the meaning of section 542), or a foreign personal holding company (within the meaning of section 552), or".

(c) ALLOCATION OF INTEREST.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended by adding at the end thereof the following sentence: "The Secretary shall prescribe regulations which provide for the allocation of interest to real property under construction."

(d) CONFORMING AMENDMENT.—Paragraph (1) of section 189(e) (relating to construction period interest and taxes) is amended—

(1) by striking out "construction period interest and taxes" and inserting in lieu thereof "real property construction period interest and taxes", and

(2) by striking out the caption thereof and inserting in lieu thereof:

"(1) REAL PROPERTY CONSTRUCTION PERIOD INTEREST AND TAXES.—".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) CERTAIN PLANNED CONSTRUCTION.—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(3)(B) of the Internal Revenue Code of 1954 or which is a hospital or nursing home if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982, and as to which approval from a governmental unit has been requested in writing, and

(B) such construction commences before January 1, 1984, and shall not apply to the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities.

PART II—LEASING

SEC. 208. LIMITATIONS AND ADDITIONAL REQUIREMENTS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.

(a) LIMITATIONS ON LEASES UNDER THE ACCELERATED COST RECOVERY SYSTEM.—

(1) IN GENERAL.—Section 168 (relating to the accelerated cost recovery system) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) LIMITATIONS RELATING TO LEASES OF QUALIFIED LEASED PROPERTY.—For purposes of this subtitle, in the case of safe harbor lease property, the following limitations shall apply:

"(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

"(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all safe harbor lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to safe harbor lease items) by more than 50 percent of such liability.

"(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to safe harbor lease property in such subsequent taxable year.

"(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to safe harbor lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) LIABILITY FOR TAX AND SAFE HARBOR LEASE ITEMS DEFINED.—For purposes of this paragraph—

"(i) LIABILITY FOR TAX DEFINED.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) SAFE HARBOR LEASE ITEMS DEFINED.—The term 'safe harbor lease items' means any of the following items which are properly allocable to safe harbor lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) CERTAIN TAXES NOT INCLUDED.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

"(2) METHOD OF COST RECOVERY.—The deduction allowable under subsection (a) with respect to any safe harbor lease property shall be determined by using the 150 percent declining balance method, switching to the straight-line method at a time to maximize the deduction (with a half-year convention in the first recovery year and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	5 years.
5-year property	8 years.
10-year property	15 years.

"(3) INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any safe harbor lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(4) NO CARRYBACKS OF CREDIT OR NET OPERATING LOSS ALLOCABLE TO ELECTED QUALIFIED LEASED PROPERTY.—

"(A) CREDIT CARRYBACKS.—In determining the amount of any credit allowable under subpart A of part IV of subchapter A of this chapter which may be carried back to any preceding taxable year—

"(i) the liability for tax for the taxable year from which any such credit is to be carried shall be reduced first by any credit not properly allocable to safe harbor lease property, and

"(ii) no credit which is properly allocable to safe harbor lease property shall be taken into account in determining the amount of any credit which may be carried back.

"(B) NET OPERATING LOSS CARRYBACKS.—The net operating loss carryback provided in section 172(b) for any taxable year shall be reduced by that portion of the amount of such carryback which is properly allocable to the items described in paragraph (1)(D)(ii) with respect to all safe harbor lease property with respect to which the taxpayer is the lessor.

"(5) LIMITATION ON DEDUCTION FOR INTEREST PAID BY THE LESSOR TO THE LESSEE.—In the case of interest described in paragraph (1)(D)(ii)(III), the amount allowable as a deduction for any taxable year with respect to such interest shall not exceed the amount which would have been computed if the rate of interest under the agreement were equal to the rate of interest in effect under section 6621 at the time the agreement was entered into.

"(6) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

"(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any safe harbor lease property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) COORDINATION WITH CRUDE OIL WINDFALL PROFIT TAX.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(7) TRANSITIONAL RULE FOR APPLICATION OF PARAGRAPH (1) TO CERTAIN TRANSACTIONS.—In the case of any deduction or credit with respect to—

"(A) any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982), or

"(B) any other safe harbor lease property placed in service during 1982 and to which paragraph (1) does not apply,

paragraph (1) shall not operate to disallow any such deduction or credit for the taxable year for which such deduction or credit would otherwise be allowable but deductions and credits with respect to such property shall be taken into account first in determining whether any deduction or credit is allowable under paragraph (1) with respect to any other safe harbor lease property.

"(8) SAFE HARBOR LEASE PROPERTY.—For purposes of this section, the term 'safe harbor lease property' means qualified leased property with respect to which an election under section 168(f)(8) is in effect."

(2) CONFORMING AMENDMENT.—

(A) Subparagraph (A) of section 168(f)(8) (relating to special rules for leases) is amended by inserting "except as provided in subsection (i)," before "for purposes of this subtitle".

(B) Subparagraph (D) of section 47(a)(5) (relating to certain dispositions, etc., of section 38 property) is amended by adding at the end thereof the following new sentence: "If, prior to a disposition to which this subsection applies, any portion of any credit is not allowable with respect to any property by reason of section 168(i)(3), such portion shall be treated (for purposes of this subparagraph) as not having been used to reduce tax liability."

(b) ADDITIONAL REQUIREMENTS TO QUALIFY AS LEASE FOR PURPOSES OF ACCELERATED COST RECOVERY.—

(1) RELATED PERSONS MAY NOT QUALIFY AS LESSORS.—Subclause (I) of section 168(f)(8)(B)(i) (relating to qualified lessors) is amended by inserting "which is not a related person with respect to the lessee" before the comma at the end thereof.

(2) MAXIMUM LEASE TERM REDUCED.—Clause (iii) of section 168(f)(8)(B) (relating to term of lease) is amended to read as follows:

"(iii) the term of the lease (including any extensions) does not exceed the greater of—

"(I) 120 percent of the present class life of the property, or

"(II) the period equal to the recovery period determined with respect to such property under subsection (i)(2)."

(3) DEFINITION OF QUALIFIED LEASED PROPERTY.—Subparagraph (D) of section 168(f)(8) (defining qualified leased property) is amended to read as follows:

"(D) QUALIFIED LEASED PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'qualified leased property' means recovery property—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 45 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all safe harbor lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to the 45 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as qualified leased property under clause (ii) shall be allocated to safe harbor lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS QUALIFIED LEASED PROPERTY.—The term 'qualified leased property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

"(IV) with respect to which the lessee of the property (other than property described in clause (v)) under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) QUALIFIED MASS COMMUTING VEHICLES INCLUDED.—The term 'qualified leased property' includes recovery property which is a qualified mass commuting vehicle (as defined in section 103(b)(9)) which is financed in whole or in part by obligations the interest on which is excludable under section 103(a).

"(vi) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is safe harbor lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vii) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period used in subsection (i)(2)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(viii) DEFINITIONS; SPECIAL RULE.—For purposes of this subparagraph—

"(I) NEW SECTION 38 PROPERTY.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i)), any property described in clause (i) to which subparagraph (A) applies shall be deemed originally placed in service not earlier than the date such property is used under the lease."

(4) DEFINITIONS AND SPECIAL RULES.—Paragraph (8) of section 168(f) (relating to special rules for leases) is amended by redesignating subparagraph (H) as subparagraph (K) and by inserting after subparagraph (G) the following new subparagraphs:

"(H) DEFINITIONS.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person is related to another person if both persons are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(ii) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

"(I) IN GENERAL.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(II) SPECIAL RULE FOR FARMERS' COOPERATIVES.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization described in section 521 whether or not exempt from taxation under section 521.

"(III) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to tax under section 511.

"(I) TRANSITIONAL RULES FOR CERTAIN TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii), clause (ii) of subparagraph (D) shall not apply to any transitional safe harbor lease property (within the meaning of section 208(d)(3) of the Tax Equity and Fiscal Responsibility Act of 1982).

"(ii) SPECIAL RULES.—For purposes of subparagraph (D)(ii)—

"(I) DETERMINATION OF QUALIFIED BASE PROPERTY.—The cost basis of property described in clause (i) (and other property placed in service during 1982 to which subparagraph (D)(ii) does not apply) shall be taken into account in determining the qualified base property of the taxpayer for the taxable year in which such property was placed in service.

"(II) REDUCTION IN QUALIFIED LEASED PROPERTY.—The cost basis of property which may be treated as qualified leased property under subparagraph (D)(ii) for the taxable year in which such property was placed in service (determined without regard to this subparagraph) shall be reduced by the cost basis of the property taken into account under subclause (I).

"(J) COORDINATION WITH AT RISK RULES.—

"(i) IN GENERAL.—For purposes of section 465, in the case of property placed in service after the date of the enactment of this subparagraph, if—

"(I) an activity involves the leasing of section 1245 property which is safe harbor lease property, and

"(II) the lessee of such property (as determined under this paragraph) would, but for this paragraph, be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under section 465 without regard to this paragraph).

"(ii) SUBPARAGRAPH NOT TO APPLY TO CERTAIN SERVICE CORPORATIONS.—Clause (i) shall not apply to any lessor which is a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

"(iii) SPECIAL RULE FOR PROPERTY PLACED IN SERVICE BEFORE DATE OF ENACTMENT OF THIS SUBPARAGRAPH.—This subparagraph shall apply to property placed in service before the date of enactment of this subparagraph if the provisions of section 465 did not apply to the lessor before such date but become applicable to such lessor after such date."

(c) CERTAIN LEASES BEFORE OCTOBER 20, 1981, TREATED AS QUALIFIED LEASES.—Nothing in paragraph (8) of section 168(f) of the Internal Revenue Code of 1954, or in any regulations prescribed thereunder, shall be treated as making such paragraph inapplicable to any agreement entered into before October 20, 1981, solely because under such agreement 1 party to such agreement is entitled to the credit allowable under section 38 of such Code with respect to property and another party to such agreement is entitled to the deduction allowable under section 168 of such Code with respect to such property. Section 168(f)(8)(B)(ii) of such Code shall not apply to the party entitled to such credit.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by subsections (a) and (b) of this section shall apply to agreements entered into after July 1, 1982, or to property placed in service after July 1, 1982.

(2) TRANSITIONAL RULE FOR CERTAIN SAFE HARBOR LEASE PROPERTY.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall not apply to transitional safe harbor lease property.

(B) SPECIAL RULE FOR CERTAIN PROVISIONS.—Subparagraph (A) shall not apply with respect to the provisions of paragraph (6) of section 168(i) of the Internal Revenue Code of 1954 (as added by subsection (a)(1)), to the provisions of section 168(f)(8)(J) of such Code (as added by subsection (b)(4)), or to the amendment made by subsection (b)(1).

(3) TRANSITIONAL SAFE HARBOR LEASE PROPERTY.—For purposes of this subsection, the term "transitional safe harbor lease property" means property described in any of the following subparagraphs:

(A) IN GENERAL.—Property is described in this subparagraph if such property is placed in service before January 1, 1983, if—

(i) with respect to such property a binding contract to acquire or to construct such property was entered into by the lessee after December 31, 1980, and before July 2, 1982, or

(ii) such property was acquired by the lessee, or construction of such property was commenced by or for the lessee, after December 31, 1980, and before July 2, 1982.

(B) CERTAIN QUALIFIED LESSEES.—Property is described in this subparagraph if such property is placed in service before July 1, 1982, and with respect to which—

(i) an agreement to which section 168(f)(8)(A) of the Internal Revenue Code of 1954 applies was entered into before August 15, 1982, and

(ii) the lessee under such agreement is a qualified lessee (within the meaning of paragraph (6)).

(C) MANUFACTURERS OF CERTAIN PRODUCTS.—Property is described in this subparagraph if such property—

(i) is used to produce a class of products (within the meaning of paragraph (6)(B)) in an industry described in paragraph (6)(A)(ii)(II) (determined without regard to the phrase "other than the taxpayer"), and

(ii) would be described in subparagraph (A) if "October 1" were substituted for "January 1".

(D) CERTAIN AIRCRAFT.—Property is described in this subparagaph if such property—

(i) is a commercial passenger aircraft (other than a helicopter), and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), subparagraph (A)(ii) shall be applied by substituting "June 25, 1981" for "December 31, 1980" and by substituting "February 20, 1982" for "July 2, 1982" and construction of the aircraft shall be treated as having been begun during the period referred to in subparagraph (A)(ii) if during such period construction or reconstruction of a subassembly was commenced, or the stub wing join occurred.

(E) TURBINES AND BOILERS.—Property is described in this subparagraph if such property—

(i) is a turbine or boiler of a cooperative organization described in section 1381(a), and

(ii) would be property described in subparagraph (A) if "July 1" were substituted for "January 1".

For purposes of determining whether property described in this subparagraph is described in subparagraph (A), such property shall be treated as having been acquired during the period referred to in subparagraph (A)(ii) if at least 20 percent of the cost of such, property is paid during such period.

(F) PROPERTY USED IN THE PRODUCTION OF STEEL.—Property is described in this subparagraph if such property—

(i) is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture or production of steel, and

(ii) would be described in subparagraph (A) if "January 1, 1984" were substituted for "January 1, 1983".

(4) SPECIAL RULE FOR ANTIAVOIDANCE PROVISIONS.—The provisions of paragraph (6) of section 168(i) of such Code (as added by subsection (a)(1)), and the amendment made by subsection (b)(1), shall apply to leases entered into after February 19, 1982, in taxable years ending after such date.

(5) SPECIAL RULE FOR MASS COMMUTING VEHICLES.—The amendments made by this section (other than section 168(i) (1) and (7) of such Code, as added by subsection (a)(1)) and section 209 shall not apply to qualified leased property described in section 168(f)(8)(D)(V) of such Code (as in effect after the amendments made by this section) which—

(A) is placed in service before January 1, 1988, or

(B) is placed in service after such date—

(i) pursuant to a binding contract or commitment entered into before April 1, 1983, and

(ii) solely because of conditions which, as determined by the Secretary of the Treasury or his delegate, are not within the control of the lessor or lessee.

(6) QUALIFIED LESSEE DEFINED.—

(A) IN GENERAL.—The term "qualified lessee" means a taxpayer which is a lessee of an agreement to which section 168(f)(8)(A) of such Code applies and which—

(i) had net operating losses in each of the three most recent taxable years ending before July 1, 1982, and had an aggregate net operating loss for the five most recent taxable years ending before July 1, 1982, and

(ii) which uses the property subject to the agreement to manufacture and produce within the United States a class of products in an industry with respect to which—

(I) the taxpayer produced less than 5 percent of the total number of units (or value) of such products during the period covering the three most recent taxable years of the taxpayer ending before July 1, 1982, and

(II) four or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured 85 percent or more of the total number of all units (or value) within such class of products manufactured and produced in the United States during such period.

(B) CLASS OF PRODUCTS.—For purposes of subparagraph (A)—

(i) the term "class of products" means any of the categories designated and numbered as a "class of products" in the 1977 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) information—

(I) compiled or published by the Secretary of Commerce, as part of or in connection with the Statistical Abstract of the United States or the Census of Manufacturers, regarding the number of units (or value) of a class of products manufactured and produced in the United States during any period, or

(II) if information under subclause (I) is not available, so compiled or published with respect to the number of such units shipped or sold by such manufacturers during any period,

shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such period.

(6) UNDERPAYMENTS OF TAX FOR 1982.—No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before October 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by chapter 1 of such Code, to the extent that such underpayment was created or increased by any provision of this section.

SEC. 209. REPEAL OF LEASING; SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.

(a) SPECIAL RULE FOR LEASES WITH ECONOMIC SUBSTANCE.—Paragraph (8) of section 168(f) (relating to special rules for leasing) is amended to read as follows:

"(8) SPECIAL RULES FOR FINANCE LEASES.—

"(A) IN GENERAL.—For purposes of this title, except as provided in subsection (i), in the case of any agreement with respect to any finance lease property, the fact that—

"(i) a lessee has the right to purchase the property at a fixed price which is not less than 10 percent of the original cost of the property to the lessor, or

"(ii) the property is of a type not readily usable by any person other than the lessee,

shall not be taken into account in determining whether such agreement is a lease.

"(B) FINANCE LEASE PROPERTY DEFINED.—For purposes of this section—

"(i) IN GENERAL.—The term 'finance lease property' means recovery property which is subject to an agreement which meets the requirements of subparagraph (C) and—

"(I) which is new section 38 property of the lessor, which is leased within 3 months after such property was placed in service, and which, if acquired by the lessee, would have been new section 38 property of the lessee, or

"(II) which was new section 38 property of the lessee, which is leased within 3 months after such property is placed in service by the lessee, and with respect to which the adjusted basis of the lessor does not exceed the adjusted basis of the lessee at the time of the lease.

"(ii) ONLY 40 PERCENT OF THE LESSEE'S PROPERTY MAY BE TREATED AS QUALIFIED.—The cost basis of all finance lease property (determined without regard to this clause)—

"(I) which is placed in service during any calendar year beginning before January 1, 1986, and

"(II) with respect to which the taxpayer is a lessee,

shall not exceed an amount equal to 40 percent of the cost basis of the taxpayer's qualified base property placed in service during such calendar year.

"(iii) ALLOCATION OF DISQUALIFIED BASIS.—The cost basis not treated as finance lease property under clause (ii) shall be allocated to finance lease property for such calendar year (determined without regard to clause (ii)) in reverse order to when the agreement described in subparagraph (A) with respect to such property was entered into.

"(iv) CERTAIN PROPERTY MAY NOT BE TREATED AS FINANCE LEASE PROPERTY.—The term 'finance lease property' shall not include recovery property—

"(I) which is a qualified rehabilitated building (within the meaning of section 48(g)(1)),

"(II) which is public utility property (within the meaning of section 167(l)(3)(A)),

"(III) which is property with respect to which a deduction is allowable by reason of section 291(b),

"(IV) with respect to which the lessee of the property under the agreement described in subparagraph (A) is a nonqualified tax-exempt organization, or

"(V) property with respect to which the user of such property is a person (other than a United States person) not subject to United States tax on income derived from the use of such property.

"(v) QUALIFIED BASE PROPERTY.—For purposes of this subparagraph, the term 'qualified base property' means property placed in service during any calendar year which—

"(I) is new section 38 property of the taxpayer,

"(II) is finance lease property (not described in subclause (I)) with respect to which the taxpayer is the lessee, or

"(III) is designated leased property (other than property described in subclause (I) or (II)) with respect to which the taxpayer is the lessee.

Any designated leased property taken into account by any lessee under the preceding sentence shall not be taken into account by the lessor in determining the lessor's qualified base property. The lessor shall provide the lessee with such information with respect to the cost basis of such property as is necessary to carry out the purposes of this clause.

"(vi) DEFINITION OF DESIGNATED LEASED PROPERTY.—For purposes of this subparagraph, the term 'designated leased property' means property—

"(I) which is new section 38 property,

"(II) which is subject to a lease with respect to which the lessor of the property is treated (without regard to this paragraph) as the owner of the property for Federal tax purposes,

"(III) with respect to which the term of the lease to which such property is subject is more than 50 percent of the present class life (or, if no present class life, the recovery period under subsection (a)) of such property, and

"(IV) which the lessee designates on his return as designated leased property.

"(vii) DEFINITION; SPECIAL RULES.—For purposes of this subparagraph—

"(I) NEW SECTION 38 PROPERTY DEFINED.—The term 'new section 38 property' has the meaning given such term by section 48(b).

"(II) LESSEE LIMITATION NOT TO APPLY TO CERTAIN FARM PROPERTY.—Clause (ii) shall not apply to any property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982).

"(III) PROPERTY PLACED IN SERVICE.—For purposes of this title (other than clause (i), any finance lease property shall be deemed originally placed in service not earlier than the date such property is used under the lease.

"(C) AGREEMENTS MUST MEET CERTAIN REQUIREMENTS.—The requirements of this subparagraph are met with respect to any agreement if—

"(i) LESSOR REQUIREMENT.—Any lessor under the agreement must be—

"(I) a corporation (other than an electing small business corporation within the meaning of section 1371(b) or a personal holding company within the meaning of section 542(a)),

"(II) a partnership all of the partners of which are corporations described in subclause (I), or

"(III) a grantor trust with respect to which the grantor and all the beneficiaries of the trust are described in subclause (I) or (II).

"(ii) CHARACTERIZATION OF AGREEMENT.—The parties to the agreement characterize such agreement as a lease.

"(iii) AGREEMENT CONTAINS CERTAIN PROVISIONS.—The agreement contains the provision described in clause (i) or (ii) of subparagraph (A), or both.

"(iv) For purposes of this title (determined without regard to the provisions described in clause (iii)), the agreement would be treated as a lease and the lessor under the agreement would be treated as the owner of the property.

"(D) PARAGRAPH NOT TO APPLY TO AGREEMENTS BETWEEN RELATED PERSONS.—This paragraph shall not apply to any agreement if the lessor and lessee are both persons who are members of the same affiliated group (within the meaning of subsection (a) of section 1504 and determined without regard to subsection (b) of section 1504).

"(E) NONQUALIFIED TAX-EXEMPT ORGANIZATION.—

"(i) IN GENERAL.—The term 'nonqualified tax-exempt organization' means, with respect to any agreement to which subparagraph (A) applies, any organization (or predecessor organization which was engaged in substantially similar activities) which was exempt from taxation under this title at any time during the 5-year period ending on the date such agreement was entered into.

"(ii) SPECIAL RULE FOR FARMERS' COOPERATIVES.—The term 'nonqualified tax-exempt organization' shall not include any farmers' cooperative organization which is described in section 521 whether or not exempt from taxation under section 521.

"(iii) SPECIAL RULE FOR PROPERTY USED IN UNRELATED TRADE OR BUSINESS.—An organization shall not be treated as a nonqualified tax-exempt organization with respect to any property if such property is used in an unrelated trade or business (within the meaning of section 513) of such organization which is subject to taxation under section 511.

"(F) CROSS REFERENCE.—

"For special recapture in case where lessee acquires financed recovery property, see section 1245."

(b) SPECIAL LIMITATIONS ON FINANCE LEASE PROPERTY.—Subsection (i) of section 168 (relating to limitations and additional requirements with respect to leases) is amended to read as follows:

"(i) LIMITATIONS RELATING TO LEASES OF FINANCE LEASE PROPERTY.—For purposes of this subtitle, in the case of finance lease property, the following limitations shall apply:

"(1) LESSOR MAY NOT REDUCE TAX LIABILITY BY MORE THAN 50 PERCENT.—

"(A) IN GENERAL.—The aggregate amount allowable as deductions or credits for any taxable year which are allocable to all finance lease property with respect to which the taxpayer is the lessor may not reduce the liability for tax of the taxpayer for such taxable year (determined without regard to finance lease items) by more than 50 percent of such liability.

"(B) CARRYOVER OF AMOUNTS NOT ALLOWABLE AS DEDUCTIONS OR CREDITS.—Any amount not allowable as a deduction or credit under subparagraph (A)—

"(i) may be carried over to any subsequent taxable year, and

"(ii) shall be treated as a deduction or credit allocable to finance lease property in such subsequent taxable year.

"(C) ALLOCATION AMONG DEDUCTIONS AND CREDITS.—The Secretary shall prescribe regulations for determining the amount—

"(i) of any deduction or credit allocable to finance lease property for any taxable year to which subparagraph (A) applies, and

"(ii) of any carryover of any such deduction or credit under subparagraph (B) to any subsequent taxable year.

"(D) LIABILITY FOR TAX AND FINANCE LEASE ITEMS DEFINED.—For purposes of this paragraph—

"(i) LIABILITY FOR TAX DEFINED.—Except as provided in this subparagraph, the term 'liability for tax' means the tax imposed by this chapter, reduced by the sum of the credits allowable under subpart A of part IV of subchapter A of this chapter.

"(ii) FINANCE LEASE ITEMS DEFINED.—The term 'finance lease items' means any of the following items which are properly allocable to finance lease property with respect to which the taxpayer is the lessor:

"(I) Any deduction or credit allowable under this chapter (other than any deduction for interest).

"(II) Any rental income received by the taxpayer from any lessee of such property.

"(III) Any interest allowable as a deduction under this chapter on indebtedness of the taxpayer (or any related person within the meaning of subsection (e)(4)(D)) which is paid or incurred to the lessee of such property (or any person so related to the lessee).

"(iii) CERTAIN TAXES NOT INCLUDED.—The term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a) (other than the tax imposed by section 56).

"(E) CERTAIN SAFE HARBOR LEASE PROPERTY TAKEN INTO ACCOUNT.—Under regulations prescribed by the Secretary, deductions and credits and safe harbor lease items which are allocable to safe harbor lease property to which this paragraph (as in effect for taxable years beginning in 1983) applies shall be taken into account for purposes of applying this paragraph.

"(2) INVESTMENT CREDIT ALLOWED ONLY OVER 5-YEAR PERIOD.—In the case of any credit which would otherwise be allowable under section 38 with respect to any finance lease property for any taxable year (determined without regard to this paragraph), only 20 percent of the amount of such credit shall be allowable in such taxable year and 20 percent of such amount shall be allowable in each of the succeeding 4 taxable years.

"(3) COMPUTATION OF TAXABLE INCOME OF LESSEE FOR PURPOSES OF PERCENTAGE DEPLETION.—

"(A) IN GENERAL.—For purposes of section 613 or 613A, the taxable income of any taxpayer who is a lessee of any financed recovery property shall be computed as if the taxpayer was the owner of such property, except that the amount of the deduction under subsection (a) of this section shall be determined after application of paragraph (2) of this subsection.

"(B) Coordination with crude oil windfall profit tax.—Section 4988(b)(3)(A) shall be applied without regard to subparagraph (A).

"(4) LIMITATIONS.—

"(A) TERMINATION OF CERTAIN PROVISIONS.—

"(i) PARAGRAPH (1).—Paragraph (1) shall not apply to property placed in service after September 30, 1985, in taxable years beginning after such date.

"(ii) PARAGRAPH (2).—Paragraph (2) shall not apply to property placed in service after September 30, 1985.

"(B) CERTAIN FARM PROPERTY.—This subsection shall not apply to property which is used for farming purposes (within the meaning of section 2032A(e)(5)) and which is placed in service during the taxable year but only if the cost basis of such property, when added to the cost basis of other finance lease property used for such purpose, does not exceed $150,000 (determined under rules similar to the rules of section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982)."

(c) DEFINITION OF NEW SECTION 38 PROPERTY.—Subsection (b) of section 48 (defining new section 38 property) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether section 38 property subject to a lease is new section 38 property, such property shall be treated as originally placed in service not earlier than the date such property is used under the lease but only if such property is leased within 3 months after such property is placed in service."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply to agreements entered into after December 31, 1983.

(B) SPECIAL RULE FOR FARM PROPERTY AGGREGATING $150,000 OR LESS.—

(i) IN GENERAL.—The amendments made by subsection (a) shall also apply to any agreement entered into after July 1, 1982, and before January 1, 1984, if the property subject to such agreement is section 38 property which is used for farming purposes (within the meaning of section 2032A(e)(5)).

(ii) $150,000 LIMITATION.—The provisions of clause (i) shall not apply to any agreement if the sum of—

(I) the cost basis of the property subject to the agreement, plus

(II) the cost basis of any property subject to an agreement to which this subparagraph previously applied, which was entered into during the same calendar year, and with respect to which the lessee was the lessee of the agreement described in subclause (I) (or any related person within the meaning of section 168(e)(4)(D)),

exceeds $150,000. For purposes of subclause (II), in the case of an individual, there shall not be taken into account any agreement of any individual who is a related person involving property which is used in a trade or business of farming of such related person which is separate from the trade or business of farming of the lessee described in subclause (II).

(2) SPECIAL RULE FOR DEFINITION OF NEW SECTION 38 PROPERTY.—The amendment made by subsection (c) shall apply to property placed in service after December 31, 1983.

SEC. 210. MOTOR VEHICLE OPERATING LEASES.

(a) IN GENERAL.—In the case of any qualified motor vehicle agreement, the fact that such agreement contains a terminal rental adjustment clause shall not be taken into account in determining whether such agreement is a lease.

(b) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED MOTOR VEHICLE AGREEMENT.—The term "qualified motor vehicle agreement" means any agreement with respect to a motor vehicle (including a trailer)—

(A) which was entered into before—

(i) the enactment of any law, or

(ii) the publication by the Secretary of the Treasury or his delegate of any regulation,

which provides that any agreement with a terminal rental adjustment clause is not a lease,

(B) with respect to which the lessor under the agreement—

(i) is personally liable for the repayment of, or

(ii) has pledged property (but only to the extent of the net fair market value of the lessor's interest in such property), other than property subject to the agreement or property directly or indirectly financed by indebtedness secured by property subject to the agreement, as security for,

all amounts borrowed to finance the acquisition of property subject to the agreement, and

(C) with respect to which the lessee under the agreement uses the property subject to the agreement in a trade or business or for the production of income.

(2) TERMINAL RENTAL ADJUSTMENT CLAUSE.—The term "terminal rental adjustment clause" means a provision of an agreement which permits or requires the rental price to be adjusted upward or downward by reference to the amount realized by the lessor under the agreement upon sale or other disposition of such property.

PART III—FOREIGN TAX

SEC. 211. FOREIGN TAX CREDIT FOR TAXES ON OIL AND GAS INCOME.

(a) AMENDMENT OF SECTION 907(c)(4) TO RECAPTURE FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.—Paragraph (4) of section 907(c) (relating to certain losses) is amended to read as follows:

"(4) RECAPTURE OF FOREIGN OIL AND GAS EXTRACTION LOSSES BY RECHARACTERIZING LATER EXTRACTION INCOME.—

"(A) IN GENERAL.—That portion of the income of the taxpayer for the taxable year which (but for this paragraph) would be treated as foreign oil and gas extraction income shall be treated as income (from sources without the United States) which is not foreign oil and gas extraction income to the extent of the excess of—

"(i) the aggregate amount of foreign oil extraction losses for preceding taxable years beginning after December 31, 1982, over

"(ii) so much of such aggregate amount as was recharacterized under this subparagraph for preceding taxable years beginning after December 31, 1982.

"(B) FOREIGN OIL EXTRACTION LOSS DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'foreign oil extraction loss' means the amount by which—

"(I) the gross income for the taxable year from sources without the United States and its possessions (whether or not the taxpayer chooses the benefits of this subpart for such taxable year) taken into account in determining the foreign oil and gas extraction income for such year, is exceeded by

"(II) the sum of the deductions properly apportioned or allocated thereto.

"(ii) NET OPERATING LOSS DEDUCTION NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), the net operating loss deduction allowable for the taxable year under section 172(a) shall not be taken into account.

"(iii) EXPROPRIATION AND CASUALTY LOSSES NOT TAKEN INTO ACCOUNT.—For purposes of clause (i), there shall not be taken into account—

"(I) any foreign expropriation loss (as defined in section 172(h)) for the taxable year, or

"(II) any loss for the taxable year which arises from fire, storm, shipwreck, or other casualty, or from theft,

to the extent such loss is not compensated for by insurance or otherwise."

(b) EXTRACTION INCOME REMOVED FROM FOREIGN OIL RELATED INCOME.—Paragraph (2) of section 907(c) (defining foreign oil related income) is amended to read as follows:

"(2) FOREIGN OIL RELATED INCOME.—The term 'foreign oil related income' means the taxable income derived from sources outside the United States and its possessions from—

"(A) the processing of minerals extracted (by the taxpayer or by any other person) from oil or gas wells into their primary products,

"(B) the transportation of such minerals or primary products,

"(C) the distribution or sale of such minerals or primary products,

"(D) the disposition of assets used by the taxpayer in the trade or business described in subparagraph (A), (B), or (C), or

"(E) the performance of any other related service."

(c) REPEAL OF SEPARATE APPLICATION OF SECTION 904 TO FOREIGN OIL RELATED INCOME; AMOUNTS TREATED AS FOREIGN TAXES ON SUCH INCOME.—

(1) IN GENERAL.—Subsection (b) of section 907 (relating to special rules in case of foreign oil and gas income) is amended to read as follows:

"(b) FOREIGN TAXES ON FOREIGN OIL RELATED INCOME.—For purposes of this subtitle, in the case of taxes paid or accrued to any foreign country with respect to foreign oil related income, the term 'income, war profits, and excess profits taxes' shall not include any amount paid or accrued after December 31, 1982, to the extent that the Secretary determines that the foreign law imposing such amount of tax is structured, or in fact operates, so that the amount of tax imposed with respect to foreign oil related income will generally be materially greater, over a reasonable period of time, than the amount generally imposed on income that is neither foreign oil related income nor foreign oil and gas extraction income. In computing the amount not treated as tax under this subsection, such amount shall be treated as a deduction under the foreign law."

(2) REPEAL OF SEPARATE TREATMENT OF FOREIGN OIL RELATED LOSS.—Subsection (f) of section 904 (relating to recapture of overall foreign loss) is amended by striking out paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) CARRYBACK AND CARRYOVER OF DISALLOWED CREDITS; TRANSITIONAL RULES.—

(1) TRANSITIONAL RULES.—Subsection (e) of section 907 (relating to transitional rules) is amended to read as follows:

"(e) TRANSITIONAL RULES.—

"(1) CREDITS ARISING IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1983.—The amount of taxes paid or accrued in any taxable year beginning before January 1, 1983 (hereinafter in this paragraph referred to as the 'excess credit year') which under section 904(c) or 907(f) may be deemed paid or accrued in a taxable year beginning after December 31, 1982, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the

enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982.

"(2) CARRYBACK OF CREDITS ARISING IN TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1982.—The amount of the taxes paid or accrued in a taxable year beginning after December 31, 1982, which may be deemed paid or accrued under section 904(c) or 907(f) in a taxable year beginning before January 1, 1983, shall not exceed the amount which could have been deemed paid or accrued if sections 907(b), 907(f), and 904(f)(4) (as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) remained in effect for taxable years beginning after December 31, 1982."

(2) REPEAL OF 2-PERCENT LIMITATION ON CARRYBACK AND CARRYOVER OF DISALLOWED EXTRACTION TAXES.—

(A) IN GENERAL.—Paragraph (1) of section 907(f) (relating to carryback and carryover of disallowed credits) is amended—

(i) by striking out "so much of such excess as does not exceed 2 percent of foreign oil and gas extraction income for such taxable year" and inserting in lieu thereof "such excess",

(ii) by striking out the last sentence.

(B) TECHNICAL AMENDMENTS.—

(i) Subparagraph (B) of section 907(f)(2) is amended—

(I) by striking out "on taxes paid or accrued with respect to foreign oil related income", and

(II) by striking out "with respect to such income" in clause (i).

(ii) Subparagraph (A) of section 907(f)(3) is amended by striking out "with respect to oil-related income".

(iii) Subparagraph (B) of section 907(f)(3) is amended by striking out "oil-related".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WHERE TAXPAYER HAD FOREIGN LOSS FROM AN ACTIVITY NOT RELATED TO OIL AND GAS.—If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a foreign loss attributable to activities not taken into account in determining foreign oil related income (as defined in old section 907(c)(2)), such loss shall not be recaptured from foreign oil related income more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982. For purposes of the preceding sentence, an "old" section is such section as in effect on the day before the date of the enactment of this Act.

SEC. 212. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) FOREIGN OIL RELATED INCOME ADDED TO CURRENTLY TAXED AMOUNTS.—Subsection (a) of section 954 (defining foreign base company income) is amended by adding at the end thereof the following new paragraph:

"(5) the foreign base company oil related income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).".

(b) SPECIAL RULES.—

(1) ALLOWANCE OF DEDUCTIONS AGAINST FOREIGN BASE COMPANY OIL RELATED INCOME.—Paragraph (5) of section 954(b) is amended by striking out "and the foreign base company shipping income" and inserting in lieu thereof ", the foreign base company shipping income, and the foreign base company oil related income".

(2) PREEMPTION OF FOREIGN BASE COMPANY OIL RELATED INCOME.—Subsection (b) of section 954 is amended by adding at the end thereof the following new paragraph:

"(8) FOREIGN BASE COMPANY OIL RELATED INCOME NOT TREATED AS ANOTHER KIND OF BASE COMPANY INCOME.—Income of a corporation which is foreign base company oil related income shall not be considered foreign base company income of such corporation under paragraph (1), (2), or (3) of subsection (a)."

(c) DEFINITION OF FOREIGN BASE COMPANY OIL RELATED INCOME.—Section 954 (relating to foreign base company income) is amended by adding at the end thereof the following new subsection:

"(h) FOREIGN BASE COMPANY OIL RELATED INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'foreign base company oil related income' means foreign oil related income (within the meaning of section 907(c)(2)) other than income derived from a source within a foreign country in connection with—

"(A) oil or gas which was extracted from an oil or gas well located in such foreign country, or

"(B) oil, gas, or a primary product of oil or gas which is sold by the foreign corporation or a related person for use or consumption within such country or is loaded in such country on a vessel or aircraft as fuel for such vessel or aircraft.

"(2) PARAGRAPH (1) APPLIES ONLY WHERE CORPORATION HAS PRODUCED 1,000 BARRELS PER DAY OR MORE.—

"(A) IN GENERAL.—The term 'foreign base company oil related income' shall not include any income of a foreign corporation if such corporation is not a large oil producer for the taxable year.

"(B) LARGE OIL PRODUCER.—For purposes of subparagraph (A), the term 'large oil producer' means any corporation if, for the taxable year or for any preceding taxable year, the average daily production of foreign crude oil and natural gas of the related group which includes such corporation equaled or exceeded 1,000 barrels.

"(C) RELATED GROUP.—The term 'related group' means a group consisting of the foreign corporation and any other person who is a related person with respect to such corporation.

"(D) AVERAGE DAILY PRODUCTION OF FOREIGN CRUDE OIL AND NATURAL GAS.—For purposes of this paragraph, the average daily production of foreign crude oil or natural gas of any related group for any taxable year (and the conversion of cubic feet of natural gas into barrels) shall be determined under rules similar to the rules of section 613A except that only crude oil or natural gas from a well located outside the United States shall be taken into account."

(d) EXCEPTION FROM FOREIGN BASE COMPANY INCOME FOR CERTAIN FOREIGN CORPORATIONS NOT TO APPLY.—Paragraph (4) of section 954(b) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to foreign base company oil related income described in subsection (a)(5)."

(e) CONFORMING AMENDMENTS.—Subsection (a) of section 954 is amended by striking out "and" at the end of paragraph (3), and by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which, or with which, such taxable years of foreign corporations end.

SEC. 213. POSSESSION TAX CREDIT; INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.

(a) POSSESSION TAX CREDIT.—

(1) ACTIVE TRADE OR BUSINESS REQUIREMENT.—Paragraph (2) of section 936(a) (relating to conditions which must be satisfied) is amended—

(A) by striking out "50 percent" in subparagraph (B) and inserting in lieu thereof "65 percent", and

(B) by adding at the end thereof the following new subparagraph:

"(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage tax is:
1983	55
1984	60".

(2) INCOME ATTRIBUTABLE TO CERTAIN INTANGIBLE PROPERTY.—Section 936 (relating to Puerto Rico and possession tax credit) is amended by adding at the end thereof the following new subsection:

"(h) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDERS.—The intangible property income of a corporation electing the application of this section for any taxable year shall be included on a pro rata basis in the gross income of all shareholders of such electing corporation at the close of the taxable year of such electing corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such electing corporation ends.

"(B) EXCLUSION FROM THE INCOME OF AN ELECTING CORPORATION.—Any intangible property income of a corporation electing the application of this section which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person, or

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph).

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation electing the application of this section which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account under subsection (a)(2).

"(3) INTANGIBLE PROPERTY INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible property income' means the gross income of a corporation attributable to any intangible property other than intangible property which has been licensed to such corporation

since prior to 1948 and is in use by such corporation on the date of the enactment of this subparagraph.

"(B) INTANGIBLE PROPERTY.—The term 'intangible property' means any—

"(i) patent, invention, formula, process, design, pattern, or know-how;

"(ii) copyright, literary, musical, or artistic composition;

"(iii) trademark, trade name, or brand name;

"(iv) franchise, license, or contract;

"(v) method, program, system, procedure, campaign, survey, study, forecast, estimate, customer list, or technical data; or

"(vi) any similar item,

which has substantial value independent of the services of any individual.

"(C) EXCLUSION OF REASONABLE PROFIT.—The term 'intangible property income' shall not include any portion of the income from the sale, exchange or other disposition of any product, or from the rendering of services, by a corporation electing the application of this section which is determined by the Secretary to be a reasonable profit on the direct and indirect costs incurred by such electing corporation which are attributable to such income.

"(D) RELATED PERSON,—

"(i) IN GENERAL.—A person (hereinafter referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are members of the same controlled group of corporations.

"(ii) SPECIAL RULES.—For purposes of clause (i)—

"(I) section 267(b) and section 707(b)(1) shall be applied by substituting '10 percent' for '50 percent', and

"(II) section 267(b)(3) shall be applied without regard to whether a person was a personal holding company or a foreign personal holding company.

"(E) CONTROLLED GROUP OF CORPORATIONS.—The term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(i) 'more than 10 percent' shall be substituted for 'at least 80 percent' and 'more than 50 percent' each place either appears in section 1563(a), and

"(ii) the determination shall be made without regard to subsections (a)(4), (b)(2), and (e)(3)(C) of section 1563.

"(4) DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in subparagraph (A) or (B) of subsection (a)(2) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (a)(2)(A) is not satisfied, that portion of the gross income for the period described in subsection (a)(2)(A)—

"(I) which was not derived from sources within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (a)(2)(A),

"(ii) if the condition of subsection (a)(2)(B) is not satisfied, that portion of the gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within a possession, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (a)(2)(B), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of subparagraphs (A) and (B) of subsection (a)(2).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (a)(2) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(5) ELECTION OUT.—

"(A) IN GENERAL.—The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election pursuant to subparagraph (F) is in effect to use one of the methods specified in subparagraph (C).

"(B) ELIGIBILITY.—

"(i) REQUIREMENT OF SIGNIFICANT BUSINESS PRESENCE.—An election may be made to use one of the methods specified in subparagraph (C) with respect to a product or type of service only if an electing corporation has a significant business presence in a possession with respect to such product or type of service. An election may remain in effect with respect to such product or type of service for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession with respect to such product or type of service in such subsequent taxable year. If an election is not in effect for a taxable year because of the preceding sentence, the electing corporation shall be deemed to have revoked the election on the first day of such taxable year.

"(ii) DEFINITION.—For purposes of this subparagraph, an electing corporation has a 'significant business presence' in a possession for a taxable year with respect to a product or type of service if:

"(I) the total production costs (other than direct material costs and other than interest excluded by regulations prescribed by the Secretary) incurred by the electing corporation in the possession in producing units of that product sold or otherwise disposed of during the taxable year by the affiliated group to persons who are not members of the affiliated group are not less than 25 percent of the difference between (a) the gross receipts from sales or other dispositions during the taxable year by the affiliated group to persons who are not members of the affiliated group of such units of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the direct material costs of the purchase of materials for such units of that product by all members of the affiliated group from persons who are not members of the affiliated group; or

"(II) no less than 65 percent of the direct labor costs of the affiliated group for units of the product produced during the taxable year in whole or in part by the electing corporation or for the type of service rendered by the electing corporation during the taxable year, is incurred by the electing corporation and is compensation for services performed in the possession; or

"(III) with respect to purchases and sales by an electing corporation of all goods not produced in whole or in part by any member of the affiliated group and sold by the electing corporation to persons other than members of the affiliated group, no less than 65 percent of the total direct labor costs of the affiliated group in connection with all purchases and sales of such goods sold during the taxable year by such electing corporation is incurred by such electing corporation and is compensation for services performed in the possession.

Notwithstanding satisfaction of one of the foregoing tests, an electing corporation shall not be treated as having a significant business presence in a possession with respect to a product produced in whole or in part by the electing corporation in the possession, for purposes of an election to use the method specified in subparagraph (C)(ii), unless such product is manufactured or produced in the possession by the electing corporation within the meaning of subsection (d)(1)(A) of section 954.

"(iii) SPECIAL RULES.—

"(I) An electing corporation which produces a product or renders a type of service in a possession on the date of the enactment of this clause is not required to meet the significant business presence test in a possession with respect to such product or type of service for its taxable years beginning before January 1, 1986.

"(II) For purposes of this subparagraph, the costs incurred by an electing corporation or any other member of the affiliated group in connection with contract manufacturing by a person other than a member of the affiliated group, or in connection with a similar arrangement thereto, shall be treated as direct labor costs of the affiliated group and shall not be treated as production costs incurred by the electing corporation in the possession or as direct material costs or as compensation for services performed in the possession, except to the extent as may be otherwise provided in regulations prescribed by the Secretary.

"(iv) REGULATIONS.—The Secretary may prescribe regulations setting forth:

"(I) an appropriate transitional (but not in excess of three taxable years) significant business presence test for commencement in a possession of operations with respect to products or types of service after the date of the enactment of this clause and not described in subparagraph (B)(iii)(I),

"(II) a significant business presence test for other appropriate cases, consistent with the tests specified in subparagraph (B)(ii),

"(III) rules for the definition of a product or type of service, and

"(IV) rules for treating components produced in whole or in part by a related person as materials, and the costs (including direct labor costs) related thereto as a cost of materials, where there is an independent resale price for such components or where otherwise consistent with the intent of the substantial business presence tests.

"(C) METHODS OF COMPUTATION OF TAXABLE INCOME.—If an election of one of the following methods is in effect pursuant to subparagraph (F) with respect to a product or type of service, an electing corporation shall compute its income derived from the active conduct of a trade or business in a possession with respect to such product or type of service in accordance with the method which is elected.

"(i) COST SHARING.—

"(I) PAYMENT OF COST SHARING.—If an election of this method is in effect, the electing corporation must make a payment for its share of the cost (if any) of product area research which is paid or accrued by the affiliated group during that taxable year. Such share shall not be less than the same proportion of the cost of such product area research which the amount of 'possession sales' bears to the amount of 'total sales' of the affiliated group. The cost of product area research paid or accrued solely by the electing corporation in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreements with related persons) will reduce (but not below zero) the amount of the electing corporation's cost sharing payment under this method for that year.

"(a) PRODUCT AREA RESEARCH.—For purposes of this section, the term 'product area research' includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions—including amounts paid or accrued for the performance of research or similar activities by another person; qualified research expenses within the meaning of section 44F(b); amounts paid or accrued for the use of, or the right to use, research or any of the items specified in subsection (h)(3)(B)(i); and a proper allowance for amounts incurred for the acquisition of any of the items specified in subsection (h)(3)(B)(i)—which are properly apportioned or allocated to the same product area as that in which the electing corporation conducts its activities, and a ratable part of any such costs, losses, expenses and other deductions which cannot definitely be allocated to a particular product area.

"(b) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' shall mean the electing corporation and all other organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, within the meaning of section 482.

"(c) POSSESSION SALES.—For purposes of this section, the term 'possession sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered, in whole or in part, in the possession in such product area to persons who are not members of the affiliated group.

"(d) TOTAL SALES.—For purposes of this section, the term 'total sales' means the aggregate sales or other dispositions for the taxable year to persons who are not members of the affiliated group by members of the affiliated group of all products in the same product area as is used for determining the amount of product area research, and of services rendered in such product area to persons who are not members of the affiliated group.

"(e) PRODUCT AREA.—For purposes of this section, the term 'product area' shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

"(II) EFFECT OF ELECTION.—For purposes of determining the amount of its gross income derived from the active conduct of a trade or business in a possession with respect to a product produced by, or type of service rendered by, the electing corporation for a taxable year, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property described in subsection (h)(3)(B)(i) which is related to the units of the product produced, or type of service rendered, by the electing corporation. Such electing corporation shall not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) or of any other nonmanufacturing intangible. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of (a) intangible property which was developed solely by such corporation in a possession and is owned by such corporation, (b) intangible property described in subsection (h)(3)(B)(i) acquired by such corporation from a person who was not related to such corporation (or to any person related to such corporation) at the time of, or in connection with, such acquisition, and (c) any intangible property described in subsection (h)(3)(B) (ii) through (v) (to the extent not described in subsection (h)(3)(B)(i)) and other nonmanufacturing intangibles which relate to sales of units of products, or services rendered, to unrelated persons for ultimate consumption or use in the possession in which the electing corporation conducts its trade or business.

"(III) PAYMENT PROVISIONS.—

"(a) The cost sharing payment determined under subparagraph (C)(i)(I) for any taxable year shall be made to the person or persons specified in subparagraph (C)(i)(IV)(a) not later than the time prescribed by law for filing the electing corporation's return for such taxable year (including any extensions thereof). If all or part of such payment is not timely made, the amount of the cost sharing payment required to be paid shall be increased by the amount of interest that would have been due under section 6601(a) had the portion of the cost sharing payment that is not timely made been an amount of tax imposed by this title and had the last date prescribed for payment been the due date of the electing corporation's return (determined without regard to any extension thereof). The amount by which a cost sharing payment determined under subparagraph (C)(i)(I) is increased by reason of the preceding sentence shall not be treated as a cost sharing payment or as interest. If failure to make timely payment is due in whole or in part to fraud or willful neglect, the electing corporation shall be deemed to have revoked the election made under subparagraph (A) on the first day of the taxable year for which the cost sharing payment was required.

"(b) For purposes of this title, any tax of a foreign country or possession of the United States which is paid or accrued with respect to the payment or receipt of a cost sharing payment determined under subparagraph (C)(i)(I) or of an amount of increase referred to in subparagraph (C)(i)(III)(a) shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amounts of such tax so paid or accured.

"(IV) SPECIAL RULES.—

"(a) The amount of the cost sharing payment determined under subparagraph (C)(i)(I), and any increase in the amount thereof in accordance with subparagraph (C)(i)(III)(a), shall not be treated as income of the recipient, but shall reduce the amount of the deductions (and the amount of reductions in earnings and profits) otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group, or, if there is no such domestic member, to the foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(b) If an election of this method is in effect, the electing corporation shall determine its intercompany pricing under the appropriate section 482 method, provided, however, that an electing corporation shall not be denied use of the resale price method for purposes of such intercompany pricing merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

"(c) The amount of qualified research expenses, within the meaning of section 44F, of any member of the controlled group of corporations (as defined in section 44F(f)) of which the electing corporation is a member shall not be affected by the cost sharing payment required under this method.

"(ii) PROFIT SPLIT.—

"(I) GENERAL RULE.—If an election of this method is in effect, the electing corporation's taxable income derived from the active conduct of a trade or business in a possession with respect to units of a product produced or type of service rendered, in whole or in part, by the electing corporation shall be equal to 50 percent of the combined taxable income of the affiliated group (other than foreign affiliates) derived from covered sales of units of the product produced or type of service rendered, in whole or in part, by the electing corporation in a possession.

"(II) COMPUTATION OF COMBINED TAXABLE INCOME.—Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) for each such product or type of service rendered by deducting from the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product or type of service all expenses, losses, and other deductions properly apportioned or allocated to gross income from such sales or services, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated to some item or class of gross income, which are incurred by the affiliated group (other than foreign affiliates). Notwithstanding any other provision to the contrary, in computing the combined taxable income for each such product or type of

service rendered, the research, development, and experimental costs, expenses and related deductions for the taxable year which would otherwise be apportioned or allocated to the gross income of the affiliated group (other than foreign affiliates) derived from covered sales of such product produced or type of service rendered, in whole or in part, by the electing corporation in a possession, shall not be less than the same proportion of the amount of the share of product area research determined under subparagraph (C)(i)(I) (without regard to the third sentence thereof) in the product area which includes such product or type of service, that such gross income from the product or type of service bears to such gross income from all products produced and types of service rendered, in whole or part, by the electing corporation in a possession.

"(III) DIVISION OF COMBINED TAXABLE INCOME.—50 percent of the combined taxable income computed as provided in subparagraph (C)(ii)(II) shall be allocated to the electing corporation. Combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), less the amount allocated to the electing corporation under the preceding sentence, shall be allocated to the appropriate domestic member or members (other than any electing corporation) of the affiliated group and shall be treated as income from sources within the United States, or, if there is no such domestic member, to a foreign member or members of such affiliated group as the Secretary may provide under regulations.

"(IV) COVERED SALES.—For purposes of this paragraph, the term 'covered sales' means sales by members of the affilated group (other than foreign affiliates) to persons who are not members of the affiliated group or to foreign affiliates.

"(D) UNRELATED PERSON.—For purposes of this paragraph, the term 'unrelated person' means any person other than a person related within the meaning of paragraph (3)(D) to the electing corporation.

"(E) ELECTING CORPORATION.—For purposes of this subsection, the term 'electing corporation' means a domestic corporation for which an election under this section is in effect.

"(F) TIME AND MANNER OF ELECTION; REVOCATION.—

"(i) IN GENERAL.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made only on or before the due date prescribed by law (including extensions) for filing the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such election shall be binding on the electing corporation and such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

"(ii) MANNER OF MAKING ELECTION.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made by filing a statement to such effect with the return referred to in subparagraph (F)(i) or in such other manner as the Secretary may prescribe by regulations.

"(iii) REVOCATION.—

"(I) Except as provided in subparagraph (F)(iii)(II), an election may be revoked for any taxable year only with the consent of the Secretary.

"(II) An election shall be deemed revoked for the year in which the electing corporation is deemed to have revoked such election under subparagraph (B)(i) or (C)(i)(III)(a).

"(iv) AGGREGATION.—

"(I) Where more than one electing corporation in the affiliated group produces any product or renders any services in the same product area, all such electing corporations must elect to compute their taxable income under the same method under subparagraph (C).

"(II) All electing corporations in the same affiliated group that produce any products or render any services in the same product area may elect, subject to such terms and conditions as the Secretary may prescribe by regulations, to compute their taxable income from export sales under a different method from that used for all other sales and services. For this purpose, export sales means all sales by the electing corporation of products to foreign persons for use or consumption outside the United States and its possessions, provided such products are manufactured or produced in the possession within the meaning of subsection (d)(1)(A) of section 954, and further provided (except to the extent otherwise provided by regulations) the income derived by such foreign person on resale of such products (in the same state or in an altered state) is not included in foreign base company income for purposes of section 954(a).

"(III) All members of an affiliated group must consent to an election under this subsection at such time and in such manner as shall be prescribed by the Secretary by regulations.

"(6) TREATMENT OF CERTAIN SALES MADE AFTER JULY 1, 1982.—

"(A) IN GENERAL.—For purposes of this section, in the case of a disposition of intangible property made by a corporation after July 1, 1982, any gain or loss from such disposition shall be treated as gain or loss from sources within the United States to which paragraph (5) does not apply.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any disposition by a corporation of intangible property if such disposition is to a person who is not a related person to such corporation.

"(C) PARAGRAPH DOES NOT AFFECT ELIGIBILITY.—This paragraph shall not apply for purposes of determining whether the corporation meets the requirements of subsection (a)(2).

"(7) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including rules for the application of this subsection to income from leasing of products to unrelated persons."

(b) INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.—Section 934 (relating to limitation on reduction in income tax liability incurred to the Virgin Islands) is amended—

(1) by striking out "50 percent" in subsection (b)(2) and inserting in lieu thereof "65 percent", and

(2) by adding at the end thereof the following new subsections:

"(e) TAX TREATMENT OF INTANGIBLE PROPERTY INCOME OF CERTAIN DOMESTIC CORPORATIONS.—

"(1) IN GENERAL.—

"(A) INCOME ATTRIBUTABLE TO SHAREHOLDER.—The intangible property income (within the meaning of section 936(h)(3)) for any taxable year of any domestic corporation which is described in subsection (b) and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1642)), shall be included on a pro rata basis in the gross income of all shareholders of such corporation at the close of the taxable year of such corporation as income from sources within the United States for the taxable year of such shareholder in which or with which the taxable year of such corporation ends.

"(B) EXCLUSION FROM THE INCOME OF THE CORPORATION.—Any intangible property income of a corporation described in subparagraph (A) which is included in the gross income of a shareholder of such corporation by reason of subparagraph (A) shall be excluded from the gross income of such corporation.

"(2) FOREIGN SHAREHOLDERS; SHAREHOLDERS NOT SUBJECT TO TAX; INHABITANTS OF THE VIRGIN ISLANDS.—

"(A) IN GENERAL.—Paragraph (1)(A) shall not apply with respect to any shareholder—

"(i) who is not a United States person,

"(ii) who is not subject to tax under this title on intangible property income which would be allocated to such shareholder (but for this subparagraph), or

"(iii) who is an inhabitant of the Virgin Islands.

"(B) TREATMENT OF NONALLOCATED INTANGIBLE PROPERTY INCOME.—For purposes of this subtitle, intangible property income of a corporation described in paragraph (1)(A) which is not included in the gross income of a shareholder of such corporation by reason of subparagraph (A)—

"(i) shall be treated as income from sources within the United States, and

"(ii) shall not be taken into account for purposes of determining whether the conditions specified in paragraph (1) or (2) of subsection (b) are satisfied.

"(3) DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—

"(A) IN GENERAL.—If the Secretary determines that a corporation does not satisfy a condition specified in paragraph (1) or (2) of subsection (b) for any taxable year by reason of the exclusion from gross income under paragraph (1)(B), such corporation shall nevertheless be treated as satisfying such condition for such year if it makes a pro rata distribution of property after the close of such taxable year to its shareholders (designated at the time of such distribution as a distribution to meet qualification requirements) with respect to their stock in an amount which is equal to—

"(i) if the condition of subsection (b)(1) is not satisfied, that portion of the gross income for the period described in subsection (b)(1)—

"(I) which was not derived from sources within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the condition of subsection (b)(1),

"(ii) if the condition of subsection (b)(2) is not satisfied, that portion of the aggregate gross income for such period—

"(I) which was not derived from the active conduct of a trade or business within the Virgin Islands, and

"(II) which exceeds the amount of such income for such period which would enable such corporation to satisfy the conditions of subsection (b)(2), or

"(iii) if neither of such conditions is satisfied, that portion of the gross income which

exceeds the amount of gross income for such period which would enable such corporation to satisfy the conditions of paragraphs (1) and (2) of subsection (b).

"(B) EFFECTIVELY CONNECTED INCOME.—In the case of a shareholder who is a nonresident alien individual, an inhabitant of the Virgin Islands, or a foreign corporation, trust, or estate, any distribution described in subparagraph (A) shall be treated as income which is effectively connected with the conduct of a trade or business conducted through a permanent establishment of such shareholder within the United States.

"(C) DISTRIBUTION DENIED IN CASE OF FRAUD OR WILLFUL NEGLECT.—Subparagraph (A) shall not apply to a corporation if the determination of the Secretary described in subparagraph (A) contains a finding that the failure of such corporation to satisfy the conditions in subsection (b) was due in whole or in part to fraud with intent to evade tax or willful neglect on the part of such corporation.

"(4) CERTAIN PROVISIONS OF SECTION 936 TO APPLY.—

"(A) IN GENERAL.—The rules contained in paragraphs (5), (6), and (7) of section 936(h) shall apply to a domestic corporation described in paragraph (1)(A) of this subsection.

"(B) CERTAIN MODIFICATIONS.—For purposes of subparagraph (A), section 936(h) shall be applied by substituting wherever appropriate—

"(i) 'Virgin Islands' for 'possession', and

"(ii) qualification under paragraphs (1) and (2) of subsection (b) for qualification under section 936(a)(2).

"(f) TRANSITIONAL RULE.—In applying subsection (b)(2) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for '65 percent':

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60".

(c) DENIAL OF DIVIDEND RECEIVED DEDUCTION IN CASE OF A DISTRIBUTION TO MEET QUALIFICATION REQUIREMENTS.—Section 246 (relating to rules applying to deduction for dividends received) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) CERTAIN DISTRIBUTIONS TO SATISFY REQUIREMENTS.—No deduction shall be allowed under section 243(a) with respect to a dividend received pursuant to a distribution described in section 936(h)(4) or 934(e)(3)."

(d) TRANSFER OF INTANGIBLES BY POSSESSION CORPORATION TREATED AS TRANSFER TO AVOID TAXES.—Section 367 (relating to foreign corporations) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) SPECIAL RULE RELATING TO TRANSFER OF INTANGIBLES BY POSSESSION CORPORATIONS.—

"(1) IN GENERAL.—If, after August 14, 1982, any possession corporation transfers, directly or indirectly, any intangible property (within the meaning of section 936(h)(3)(B)) to any foreign corporation, such transfer shall be treated for purposes of subsection (a) as pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes.

"(2) POSSESSION CORPORATION.—

"(A) IN GENERAL.—The term 'possession corporation' means any corporation—

"(i) to which an election under section 936 applies, or

"(ii) which is described in subsection (b) of section 934 and which is an inhabitant of the Virgin Islands (within the meaning of section 28(a) of the Revised Organic Act of the Virgin Islands).

"(B) FORMER POSSESSION CORPORATION.—A corporation shall be treated as a possession corporation with respect to any transfer if such corporation was a possession corporation (within the meaning of subparagraph (A)) at any time during the 5-year period ending on the date of such transfer.

"(3) TRANSFER BY UNITED STATES AFFILIATES.—A rule similar to the rule of paragraph (1) shall apply in the case of a direct or indirect transfer by a United States affiliate to a foreign person of intangible property which, after August 14, 1982, was being used (or held for use) by a possession corporation under an arrangement with a United States affiliate. For purposes of the preceding sentence, the term "United States affiliate" means any United States person who is a member of an affiliated group (within the meaning of section 936(h)(5)(C)(i)(I)(b)) which includes the possession corporation.

"(4) WAIVER AUTHORITY.—Subject to such terms and conditions as the Secretary may provide, paragraph (1) or (3) shall not apply to any case where the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) CERTAIN SALES MADE AFTER JULY 1, 1982.—Paragraph (6) of section 936(h) of the Internal Revenue Code of 1954, and so much of section 934 to which such paragraph applies by reason of section 934(e)(4) of such Code, shall apply to taxable years ending after July 1, 1982.

(3) CERTAIN TRANSFERS OF INTANGIBLE IS MADE AFTER AUGUST 14, 1982.—Subsection (d) shall apply to taxable years ending after August 14, 1982.

PART IV—TAX-EXEMPT OBLIGATIONS

SEC. 214. MODIFICATION OF EXEMPTION FOR SMALL ISSUES.

(a) COMPOSITE ISSUES.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraphs:

"(K) LIMITATIONS ON TREATMENT OF OBLIGATIONS AS PART OF THE SAME ISSUE.—For purposes of this paragraph, separate lots of obligations which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

"(i) which are located in more than 1 State, or

"(ii) which have, or will have, as the same principal user the same person or related persons.

"(L) FRANCHISES.—For purposes of subparagraph (K), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)—

"(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any obligation the proceeds of which are to be used to finance or refinance such facility, and

"(ii) provides any property, or any franchise, trademark, or trade name (within the meaning of section 1253), which is to be used in connection with such facility."

(b) SMALL ISSUE EXEMPTION NOT ALLOWED WHERE OBLIGATIONS ISSUED AS PART OF ISSUE EXEMPT FROM TAX OTHER THAN AS A SMALL ISSUE.—Paragraph (6) of section 103(b), as amended by subsection (a), is amended by adding at the end thereof the following new subparagraph:

"(M) PARAGRAPH NOT TO APPLY IF OBLIGATIONS ISSUED WITH CERTAIN OTHER TAX-EXEMPT OBLIGATIONS.—This paragraph shall not apply to any obligation which is issued as part of an issue (other than an issue to which subparagraph (D) applies) if the interest on any other obligation which is part of such issue is excluded from gross income under any provision of law other than this paragraph."

(c) TERMINATION OF SMALL ISSUE EXEMPTION AFTER DECEMBER 31, 1986.—Paragraph (6) of section 103(b), as amended by subsections (a) and (b), is amended by adding at the end thereof the following new subparagraph:

"(N) PARAGRAPH NOT TO APPLY TO OBLIGATIONS ISSUED AFTER DECEMBER 31, 1986.—This paragraph shall not apply to any obligation issued after December 31, 1986 (including any obligation issued to refund an obligation issued on or before such date)."

(d) EXCLUSION OF CERTAIN RESEARCH EXPENDITURES FROM THE LIMITATION ON CERTAIN INDUSTRIAL DEVELOPMENT BONDS.—Subparagraph (F) of section 103(b)(6) (relating to exclusion of certain capital expenditures) is amended—

(1) by striking out "or" at the end of clause (ii),

(2) by adding "or" at the end of clause (iii), and

(3) by adding at the end thereof the following new clause:

"(iv) described in clause (i) or (ii) of section 44F(b)(2)(A) for which a deduction was allowed under section 174(a),".

(e) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—Paragraph (6) of section 103(b) is amended by adding at the end thereof the following new subparagraph:

"(O) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—This paragraph shall not apply to an issue if—

"(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

"(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack."

(f) EFFECTIVE DATES.—

(1) COMPOSITE ISSUES; SMALL ISSUE EXEMPTION.—The amendments made by subsections (a) and (b) shall apply to obligations issued after the date of the enactment of this Act.

(2) TERMINATION.—The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) RESEARCH EXPENDITURES.—The amendment made by subsection (d) shall apply with respect to expenditures made after the date of the enactment of this Act.

(4) CERTAIN FACILITIES.—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1982.

SEC. 215. PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS APPLICABLE TO PRIVATE ACTIVITY BONDS.

(a) PUBLIC APPROVAL.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) PUBLIC APPROVAL FOR INDUSTRIAL DEVELOPMENT BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), an industrial development bond shall be treated as an obligation not described in subsection (a) unless the requirements of paragraph (2) of this subsection are satisfied.

"(2) PUBLIC APPROVAL REQUIREMENT.—

"(A) IN GENERAL.—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such obligation, or

"(II) on behalf of which such obligation was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

"(B) APPROVAL BY A GOVERNMENTAL UNIT.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

"(C) SPECIAL RULES FOR APPROVAL OF FACILITY.—If there has been public approval under subparagraph (A) of the plan of financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

"(i) which is issued pursuant to such plan within 3 years after the date of the first issue pursuant to the approval, and

"(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

"(D) REFUNDING OBLIGATIONS.—No approval under subparagraph (A) shall be necessary with respect to any obligation which is issued to refund an obligation approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the maturity date of such obligation is later than the maturity date of the obligation to be refunded.

"(E) APPLICABLE ELECTED REPRESENTATIVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable elected representative' means with respect to any governmental unit—

"(I) an elected legislative body of such unit, or

"(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

"(ii) NO APPLICABLE ELECTED REPRESENTATIVE.—If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

"(I) which is the next higher governmental unit with such a representative, and

"(II) from which the authority of the governmental unit with no such representative is derived."

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Section 103 is amended by redesignating subsection (l) as subsection (m) and by adding at the end thereof the following new subsection:

"(l) INFORMATION REPORTING REQUIREMENTS FOR CERTAIN BONDS.—

"(1) IN GENERAL.—Notwithstanding subsection (b), any industrial development bond or any other obligation which is issued as part of an issue all or a major portion of the proceeds of which are to be used directly or indirectly—

"(A) to finance loans to individuals for educational expenses, or

"(B) by an organization described in section 501(c)(3) which is exempt from taxation by reason of section 501(a),

shall be treated as an obligation not described in paragraph (1) or (2) of subsection (a) unless such bond satisfies the requirements of paragraph (2).

"(2) INFORMATION REPORTING REQUIREMENT.—An obligation satisfies the requirement of this paragraph if the issuer submits to the Secretary, not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the obligation is issued, a statement concerning the issue of which the obligation is a part which contains—

"(A) the name and address of the issuer,

"(B) the date of issue, the amount of lendable proceeds of the issue, and the stated interest rate, term, and face amount of each obligation which is part of the issue,

"(C) where required, the name of the applicable elected representative who approved the issue, or a description of the voter referendum by which the issue was approved,

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facilties provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under subsection (b)(6)(K), any person treated as a principal user under subsection (b)(6)(L), and

"(E) a description of any property to be financed from the proceeds of the issue.

"(3) EXTENSION OF TIME.—The Secretary may grant an extension of time for the filing of any statement required under paragraph (2) if there is reasonable cause for the failure to file such statement in a timely fashion."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 103(b) (defining industrial development bond) is amended by striking out "For purposes of this subsection" and inserting in lieu thereof "For purposes of this section".

(c) EFFECTIVE DATES.—

(1) PUBLIC APPROVAL.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982, other than obligations issued solely to refund any obligation which—

(A) was issued before July 1, 1982, and

(B) has a maturity which does not exceed 3 years.

(2) INFORMATION REPORTING.—The amendments made by subsection (b) shall apply to obligations issued after December 31, 1982 (including any obligation issued to refund an obligation issued before to such date).

SEC. 216. COST RECOVERY FOR CERTAIN PROPERTY FINANCED WITH TAX-EXEMPT BONDS.

(a) COST RECOVERY METHOD.—Subsection (f) of section 168 (relating to special rules for the accelerated cost recovery system) is amended by adding at the end thereof the following new paragraph:

"(12) LIMITATIONS ON PROPERTY FINANCED WITH TAX-EXEMPT BONDS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, to the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest of which is exempt from taxation under section 103(a), the deduction allowed under subsection (a) (and any deduction allowable in lieu of the deduction allowable under subsection (a)) for any taxable year with respect to such property shall be determined under subparagraph (B).

"(B) RECOVERY METHOD.—

"(i) IN GENERAL.—Except as provided in clause (ii), the amount of the deduction allowed with respect to property described in subparagraph (A) shall be determined by using the straight-line method (with a half-year convention and without regard to salvage value) and a recovery period determined in accordance with the following table:

"In the case of:	The recovery period is:
3-year property	3 years.
5-year property	5 years.
10-year property	10 years.
15-year public utility property	15 years.

"(ii) 15-YEAR REAL PROPERTY.—In the case of 15-year real property, the amount of the deduction allowed shall be determined by using the straight-line method (determined on the basis of the number of months in the year in which such property was in service and without regard to salvage value) and a recovery period of 15 years.

"(C) EXCEPTIONS.—Subparagraph (A) shall not apply to any recovery property which is placed in service—

"(i) in connection with projects for residential rental property financed by the proceeds of obligations described in section 103(b)(4)(A),

"(ii) in connection with a sewage or solid waste disposal facility—

"(I) which provides sewage or solid waste disposal services for the residents of part or all of 1 or more governmental units, and

"(II) with respect to which substantially all of the sewage or solid waste processed is collected from the general public,

"(iii) as an air or water pollution control facility which is—

"(I) installed in connection with an existing facility, or

"(II) installed in connection with the conversion of an existing facility which uses oil or natural gas (or any product of oil or natural gas) as a primary fuel to a facility which uses coal as a primary fuel, or

"(iv) in connection with a facility with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974.

"(D) EXISTING FACILITY.—For purposes of this paragraph, the term 'existing facility' means a plant or property in operation before July 1, 1982.

"(E) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLICABLE.—Subparagraph (A) shall not apply to any recovery property if the recovery period which would be applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under subparagraph (B)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property placed in service after December 31, 1982, to the extent such property is financed by the proceeds of an obligation (including a refunding obligation) issued after June 30, 1982.

(2) EXCEPTIONS.—

(A) CONSTRUCTION OR BINDING AGREEMENT.—The amendments made by this section shall not apply with respect to facilities the original use of which commences with the taxpayer and—

(i) the construction, reconstruction, or rehabilitation of which began before July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into before July 1, 1982.

(B) REFUNDING.—

(i) IN GENERAL.—Except as provided in clause (ii), in the case of property placed in service after December 31, 1982 which is financed by the proceeds of an obligation which is issued solely to refund another obligation which was issued before July 1, 1982, the amendments made by this section shall apply only with respect to the basis in such property which has not been recovered before the date such refunding obligation is issued.

(ii) SIGNIFICANT EXPENDITURES.—In the case of facilities the original use of which commences with the taxpayer and with respect to which significant expenditures are made before January 1, 1983, the amendments made by this section shall not apply with respect to such facilities to the extent such facilities are financed by the proceeds of an obligation issued solely to refund another obligation which was issued before July 1, 1982.

In the case of an inducement resolution adopted by an issuing authority before July 1, 1982, for purposes of applying subparagraphs (A)(i) and (B)(ii) with respect to obligations described in such resolution, the term "facilities" means the facilities described in such resolution.

(3) CERTAIN PROJECTS FOR RESIDENTIAL REAL PROPERTY.—For purposes of clause (i) of section 168(f)(12)(C) of the Internal Revenue Code of 1954 (as added by this section), any obligation issued to finance a project described in the table contained in paragraph (1) of section 1104(n) of the Mortgage Subsidy Bond Tax Act of 1980 shall be treated as an obligation described in section 103(b)(4)(A) of the Internal Revenue Code of 1954.

SEC. 217. MISCELLANEOUS.

(a) EXEMPT OBLIGATIONS FOR LOCAL DISTRICT HEATING AND COOLING FACILITIES.—

(1) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended—

(A) by striking out "or" at the end of subparagraph (H),

(B) by striking out the period at the end of subparagraph (I), and inserting in lieu thereof ", or", and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) local district heating or cooling facilities."

(2) LOCAL DISTRICT HEATING OR COOLING FACILITIES DEFINED.—Subsection (b) of section 103 is amended by redesignating paragraph (10) as paragraph (13) and by inserting after paragraph (9) the following new paragraph:

"(10) LOCAL DISTRICT HEATING OR COOLING FACILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'local district heating or cooling facility' means property used as an integral part of a local district heating or cooling system.

"(B) LOCAL DISTRICT HEATING OR COOLING SYSTEM.—

"(i) IN GENERAL.—The term 'local district heating or cooling system' means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

"(I) residential, commercial, or industrial heating or cooling, or

"(II) process steam.

"(ii) LOCAL SYSTEM.—For purposes of this subparagraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and one contiguous county."

(3) CONFORMING AMENDMENT.—Subparagraph (C) of section 103(b)(6) is amended by striking out "paragraph (7)" and inserting in lieu thereof "paragraph (13)".

(b) FACILITIES FOR THE LOCAL FURNISHING OF GAS.—Paragraph (4) of section 103(b) is amended by striking out "electric energy from" in the last sentence and inserting in lieu thereof "electric energy or gas from".

(c) QUALIFIED MASS COMMUTING VEHICLE.—Subparagraph (A) of section 103(b)(9) (defining qualified mass commuting vehicle) is amended—

(1) by inserting "ferry," after "rail car", and

(2) by inserting after "mass commuting services" in clause (ii) the phrase "(or, in the case of a ferry, mass transportation services)".

(d) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITY.—Subsection (b) of section 103 is amended by inserting after paragraph (10) (as added by subsection (a)) the following new paragraph:

"(11) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITIES.—

"(A) IN GENERAL.—For purposes of subparagraph (F) of paragraph (4), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

"(B) RESTRICTIONS.—Subparagraph (A) shall apply only if—

"(i) the amount paid, directly or indirectly, for the facilities does not exceed their fair market value,

"(ii) the fees or charges imposed, directly or indirectly, on the seller for any use of the facilities after the sale are not less than the amounts that would be charged if the facilities were financed with obligations the interest on which is not exempt from tax, and

"(iii) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

"(C) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this paragraph, the term 'qualified regional pollution control authority' means an authority which—

"(i) is a political subdivision created by State law to control air or water pollution,

"(ii) has within its jurisdictional boundaries all or part of at least 2 counties (or equivalent political subdivisions), and

"(iii) operates air or water pollution control facilities."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

SEC. 218. TREATMENT OF CERTAIN REFUNDING OBLIGATIONS.

(a) GENERAL RULE.—Paragraph (1) of section 103(b) of the Internal Revenue Code of 1954 shall not apply to any qualified refunding obligation issued by a qualified issuer after the date of the enactment of this Act.

(b) QUALIFIED REFUNDING OBLIGATION.—For purposes of subsection (a), a qualified refunding obligation is any obligation issued as part of an issue if—

(1) substantially all of the proceeds of such issue are used to defense refunded bonds which were issued under a pooled security arrangement pursuant to a bond resolution which was adopted in 1974 and under which at least 20 facilities have been financed before 1978, and

(2) each refunded bond is to be retired within 6 months after the first date on which there is no premium for early retirement of such bond.

(c) QUALIFIED ISSUER.—For purposes of subsection (a), a qualified issuer is a political subdivision created by a State in 1932 which is engaged primarily in promoting economic development.

SEC. 219. LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS.

(a) GENERAL RULE.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(14) MATURITY MAY NOT EXCEED 120 PERCENT OF ECONOMIC LIFE.—

"(A) GENERAL RULE.—Paragraphs (4), (5), (6), and (7) shall not apply to any obligation issued as part of an issue if—

"(i) the average maturity of the obligations which are part of such issue, exceeds

"(ii) 120 percent of the average reasonably expected economic life of the facilities being financed with the proceeds of such issue.

"(B) DETERMINATION OF AVERAGES.—For purposes of subparagraph (A)—

"(i) the average maturity of any issue shall be determined by taking into account the respective issue prices of the obligations which are issued as part of such issue, and

"(ii) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

"(C) SPECIAL RULES.—

"(i) DETERMINATION OF ECONOMIC LIFE.—For purposes of this paragraph, the reasonably expected economic life of any facility shall be determined as of the later of—

"(I) the date on which the obligations are issued, or

"(II) the date on which the facility is placed in service (or expected to be placed in service).

"(ii) TREATMENT OF LAND.—

"(I) LAND NOT TAKEN INTO ACCOUNT.—Except as provided in subclause (II), land shall not

be taken into account under subparagraph (A)(ii).

"(II) ISSUES WHERE 25 PERCENT OR MORE OF PROCEEDS USED TO FINANCE LAND.—If 25 percent or more of the proceeds of any issue is used to finance land, such land shall be taken into account under subparagraph (A)(ii) and shall be treated as having an economic life of 50 years."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1982.

SEC. 220. MORTGAGE SUBSIDY BONDS.

(a) INCREASE IN AMOUNT OF MORTGAGE INTEREST LIMITATION.—

(1) IN GENERAL.—Subparagraph (A) of section 103A(i)(2) (relating to effective rate of mortgage interest) is amended by striking out "1 percentage point" and inserting in lieu thereof "1.125 percentage points".

(2) CLARIFICATION OF PREPAYMENT ASSUMPTIONS.—Clause (iv) of section 103A(i)(2)(B) (relating to prepayment assumptions) is amended to read as follows:

"(iv) PREPAYMENT ASSUMPTIONS.—In determining the effective rate of interest—

"(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent mortgage maturity experience table published by the Federal Housing Administration for the State (or, if available, the area within the State) in which the residences are located, and

"(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments."

(3) CONFORMING AMENDMENTS.—

(A) The paragraph heading of paragraph (2) of section 103A(i) is amended by striking out "1 PERCENTAGE POINT" and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

(B) Subparagraph (C) of section 103A(i)(4) is amended—

(i) by striking out "1 percentage point" in clause (ii) and inserting in lieu thereof "1.125 percentage points", and

(ii) by striking out "1 PERCENTAGE POINT" in the caption and inserting in lieu thereof "1.125 PERCENTAGE POINTS".

(b) DISPOSITION OF NONMORTGAGE INVESTMENT IN CASE OF LOSS.—Paragraph (3) of section 103A(i) (relating to nonmortgage investment requirements) is amended by adding at the end thereof the following new subparagraph:

"(D) NO DISPOSITION IN CASE OF LOSS.—This paragraph shall not require the sale or disposition of any investment if such sale or disposition would result in a loss which exceeds the amount which would be paid or credited to the mortgagors under paragraph (4)(A) (but for such sale or disposition) at the time of such sale or disposition."

(c) REQUIREMENT THAT MORTGAGORS BE FIRST TIME HOMEBUYERS.—Subsection (e) of section 103A (relating to 3-year requirement) is amended to read as follows:

"(e) 3-YEAR REQUIREMENT.—

"(1) IN GENERAL.—An issue meets the requirements of this subsection only if 90 percent or more of the lendable proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

"(2) EXCEPTIONS.—For purposes of paragraph (1), the proceeds of an issue which are used—

"(A) to provide financing with respect to targeted area residences,

"(B) to provide qualified home improvement loans, and

"(C) to provide qualified rehabilitation loans,

shall not be taken into account.

"(3) MORTGAGOR'S INTEREST IN RESIDENCE BEING FINANCED.—For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account."

(d) INCREASE IN MAXIMUM PURCHASE PRICE.—Subsection (f) of section 103A (relating to purchase price requirement) is amended—

(1) by striking out "90 percent" each place it appears and inserting in lieu thereof "110 percent" and

(2) by striking out "110 percent" in paragraph (5) and inserting in lieu thereof "120 percent".

(e) TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.—Subsection (l) of section 103A (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(10) COOPERATIVE HOUSING CORPORATIONS.—

"(A) IN GENERAL.—In the case of any cooperative housing corporation—

"(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

"(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

"(B) ADJUSTMENT TO TARGETED AREA REQUIREMENT.—In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

"(C) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning give to such term by section 216(b)(1)."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) FIRST TIME HOMEBUYER REQUIREMENT.—The amendments made by subsection (c) shall also apply to obligations issued after April 24, 1979, and before the date of the enactment of this Act but only to the extent that the proceeds of such obligations are not committed as of the date of the enactment of this Act.

SEC. 221. INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN RESIDENTIAL RENTAL PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended to read as follows:

"(A) projects for residential rental property if each obligation issued pursuant to the issue is in registered form and if at all times during the qualified project period—

"(i) 15 percent or more in the case of targeted area projects, or

"(ii) 20 percent or more in the case of any other project,

of the units in each project are to be occupied by individuals of low or moderate income,".

(b) DEFINITIONS.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by inserting after paragraph (11) the following new paragraph:

"(12) PROJECTS FOR RESIDENTIAL RENTAL PROPERTY.—For purposes of paragraph (4)(A)—

"(A) TARGETED AREA PROJECT.—The term 'targeted area project' means—

"(i) a project located in a qualified census tract (within the meaning of section 103A(k)(2)), or

"(ii) an area of chronic economic distress (within the meaning of section 103A(k)(3)).

"(B) QUALIFIED PROJECT PERIOD.—The term 'qualified project period' means the period beginning on the first day on which 10 percent of the units in the project are occupied and ending on the later of—

"(i) the date which is 10 years after the date on which 50 percent of the units in the project are occupied,

"(ii) the date which is a qualified number of days after the date on which any of the units in the project are occupied, or

"(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

For purposes of clause (ii), the term 'qualified number' means, with respect to an obligation described in paragraph (4)(A), 50 percent of the number of days which comprise the term of the obligation with the longest maturity.

"(C) INDIVIDUALS OF LOW AND MODERATE INCOME.—Individuals of low and moderate income shall be determined by the Secretary in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937 (or if such program is terminated, under such program as in effect immediately before such termination), except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (4) of section 103(b) is amended by striking out the second sentence thereof.

(2) Subsection (k) of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is hereby repealed.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any obligation to which the amendments made by section 1103 of the Mortgage Subsidy Bond Tax Act of 1980 do not apply by reason of section 1104 of such Act.

PART V—MERGERS AND ACQUISITIONS

Subpart A—Changes in Tax Treatment of Partial Liquidations and of Certain Distributions of Appreciated Property

SEC. 222. PARTIAL LIQUIDATIONS.

(a) SECTION 331 (WHICH PROVIDES CAPITAL GAIN OR LOSS TREATMENT FOR SHAREHOLDERS IN LIQUIDATIONS) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 331 (relating to gain or loss to shareholders in corporate liquidations) is amended to read as follows:

"(a) DISTRIBUTIONS IN COMPLETE LIQUIDATION TREATED AS EXCHANGES.—Amounts received by a shareholder in a distribution in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock."

(b) SECTION 336 (WHICH PROVIDES NONRECOGNITION OF GAIN AND LOSS ON DISTRIBUTIONS BY LIQUIDATING CORPORATION) LIMITED TO COMPLETE LIQUIDATIONS.—Subsection (a) of section 336 (relating to distributions of property in liquidation) is amended by striking out "partial or complete liquida-

tion" and inserting in lieu thereof "complete liquidation".

(c) DISTRIBUTIONS TO NONCORPORATE SHAREHOLDERS WHICH QUALIFY AS PARTIAL LIQUIDATIONS UNDER EXISTING LAW TREATED AS REDEMPTIONS.—

(1) Subsection (b) of section 302 (relating to redemptions treated as exchanges) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) REDEMPTION FROM NONCORPORATE SHAREHOLDER IN PARTIAL LIQUIDATION.—Subsection (a) shall apply to a distribution if such distribution is—

"(A) in redemption of stock held by a shareholder who is not a corporation, and

"(B) in partial liquidation of the distributing corporation."

(2) Section 302 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) PARTIAL LIQUIDATION DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b)(4), a distribution shall be treated as in partial liuidation of a corporation if—

"(A) the distribution is not essentially equivalent to a dividend (determined at the corporate level rather than at the shareholder level), and

"(B) the distribution is pursuant to a plan and occurs within the taxable year in which the plan is adopted or within the succeeding taxable year.

"(2) TERMINATION OF BUSINESS.—The distributions which meet the requirements of paragraph (1)(A) shall include (but shall not be limited to) a distribution which meets the requirements of subparagraphs (A) and (B) of this paragraph:

"(A) The distribution is attributable to the distributing corporation's ceasing to conduct, or consists of the assets of, a qualified trade or business.

"(B) Immediately after the distribution, the distributing corporation is actively engaged in the conduct of a qualified trade or business.

"(3) QUALIFIED TRADE OR BUSINESS.—For purposes of paragraph (2), the term 'qualified trade or business' means any trade or business which—

"(A) was actively conducted throughout the 5-year period ending on the date of the redemption, and

"(B) was not acquired by the corporation within such period in a transaction in which gain or loss was recognized in whole or in part.

"(4) REDEMPTION MAY BE PRO RATA.—Whether or not a redemption meets the requirements of subparagraphs (A) and (B) of paragraph (2) shall be determined without regard to whether or not the redemption is pro rata with respect to all of the shareholders of the corporation.

"(5) TREATMENT OF CERTAIN PASS-THRU ENTITIES.—For purposes of determining under subsection (b)(4) whether any stock is held by a shareholder who is not a corporation, any stock held by a partnership, estate, or trust shall be treated as if it were actually held proportionately by its partners or beneficiaries."

(3) Subsection (a) of section 302 is amended by striking out "paragraph (1), (2), or (3)" and inserting in lieu thereof "paragraph (1), (2), (3), or (4)".

(4) Paragraph (5) of section 302(b) (as redesignated by paragraph (1)) is amended—

(A) by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)", and

(B) by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (4)".

(d) DEFINITION AND SPECIAL RULE.—Section 346 (defining partial liquidation) is amended to read as follows:

"SEC. 346. DEFINITION AND SPECIAL RULE.

"(a) COMPLETE LIQUIDATION.—For purposes of this subchapter, a distribution shall be treated as in complete liquidation of a corporation if the distribution is one of a series of distributions in redemption of all of the stock of the corporation pursuant to a plan.

"(b) TRANSACTIONS WHICH MIGHT REACH SAME RESULT AS PARTIAL LIQUIDATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of subsections (a) and (b) of section 222 of the Tax Equity and Fiscal Responsibility Act of 1982 (which repeal the special tax treatment for partial liquidations) may not be circumvented through the use of section 355, 351, 337, or any other provision of law or regulations (including the consolidated return regulations)."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The following provisions are each amended by striking out "partial or complete liquidation" and inserting in lieu thereof "complete liquidation":

(A) Paragraph (2) of section 306(b) (relating to exceptions).

(B) Subsection (b) of section 331 (relating to nonapplication of section 301).

(C) Subsection (a) of section 334 (relating to basis of property received in liquidations).

(D) Paragraph (1) of section 336(b) (relating to distributions of LIFO inventory).

(2) Subparagraph (B) of section 306(b)(1) (relating to exception for redemptions) is amended by striking out "section 302(b)(3)" and inserting in lieu thereof "paragraph (3) or (4) of section 302(b)".

(3) Subsection (e) of section 312 (relating to special rule for partial liquidation and certain redemptions) is amended—

(A) by striking out "in partial liquidation (whether before, on, or after June 22, 1954) or"; and

(B) by striking out "PARTIAL LIQUIDATIONS AND" in the heading thereof.

(4) Section 338 (as in effect on the day before the date of the enactment of this Act) is hereby repealed.

(5) Paragraph (2) of section 341(a) (relating to collapsible corporations) is amended to read as follows:

"(2) a distribution—

"(A) in complete liquidation of a collapsible corporation if such distribution is treated under this part as in part or full payment in exchange for stock, or

"(B) in partial liquidation (within the meaning of section 302(e)) of a collapsible corporation if such distribution is treated under section 302(b)(4) as in part or full payment in exchange for the stock, and".

(6) Paragraph (1) of section 543(a) (relating to personal holding company income) is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) dividends to which section 302(b)(4) would apply if the corporation were an individual."

(7) Paragraph (1) of section 562(b) (relating to distributions in liquidation) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), a liquidation includes a redemption of stock to which section 302 applies."

(8)(A) The heading and table of sections for subpart D of part II of subchapter C of chapter 1 are amended to read as follows:

"Subpart D—Definition and Special Rule

"Sec. 346. Definition and special rule."

(B) The item relating to subpart D in table of subparts for such part II is amended to read as follows:

"Subpart D—Definition and special rule."

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after August 31, 1982.

(2) EXCEPTIONS.—

(A) RULING REQUESTS.—The amendments made by this section shall not apply to distributions made by any corporation if—

(i)(I) on July 22, 1982, there was a ruling request by such corporation pending with the Internal Revenue Service as to whether such distributions would qualify as a partial liquidation, or

(II) within the period beginning on July 12, 1981, and ending on July 22, 1982, the Internal Revenue Service granted a ruling to such corporation that the distributions would qualify as a partial liquidation, and

(ii) such distributions are pursuant to a plan of partial liquidation adopted before October 1, 1982 (or, if later, 90 days after the date on which the Internal Revenue Service granted a ruling pursuant to the request described in clause (i)(I)).

(B) PLANS ADOPTED BEFORE JULY 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before July 23, 1982.

(C) CONTROL ACQUIRED AFTER 1981 AND BEFORE JULY 23, 1982.—The amendments made by this section shall not apply to distributions made pursuant to a plan of partial liquidation adopted before October 1, 1982, where control of the corporation making the distributions was acquired after December 31, 1981, and before July 23, 1982.

(D) TENDER OFFER OF BINDING CONTRACT OUTSTANDING ON JULY 22, 1982.—

(i) IN GENERAL.—The amendments made by this section shall not apply to distributions made by a corporation if—

(I) such distributions are pursuant to a plan of liquidation adopted before October 1, 1982, and

(II) control of such corporation was acquired after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date.

(ii) EXTENSION OF TIME FOR ADOPTING PLAN WHERE ACQUISITION SUBJECT TO FEDERAL REGULATORY APPROVAL.—If the acquisition described in clause (i)(II) is subject to approval by a Federal regulatory agency, clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on which approval by the Federal regulatory agency of such acquisition becomes final.

"(iii) SPECIAL RULE WHERE OFFER SUBJECT TO APPROVAL BY FOREIGN REGULATORY BODY.—In any case where an offer to acquire stock in a corporation was subject to intervention by a foreign regulatory body and a public announcement of such an offer resulted in the intervention by such foreign regulatory body before July 23, 1982—

(I) such public announcement shall be treated as a tender offer, and

(II) clause (i) shall be applied by substituting for "October 1, 1982" the date which is 90 days after the date on which such regulatory body approves a public offer to acquire stock in such corporation.

(iv) SPECIAL RULE WHERE ONE-THIRD OF SHARES ACQUIRED DURING MARCH AND APRIL 1982.—If—

(I) one-third or more of the shares of a corporation were acquired by another corporation during March and April 1982, and

(II) during March or April 1982, the acquiring corporation filed with the Federal Trade Commission notification of its intent to acquire control of the acquired corporation,

subclause (I) of clause (i) shall not apply with respect to distributions made by the acquired corporation.

(E) INSURANCE COMPANIES.—The amendments made by this section shall not apply to distributions made by an insurance company pursuant to a plan of partial liquidation adopted before October 1, 1982, where control was acquired by the distributee or its parent after December 31, 1980, and before July 23, 1982, and the conduct of the insurance business by the distributee is conditioned on approval by a State regulatory authority.

For purposes of this paragraph, the term "control" has the meaning given to such term by section 368(c) of the Internal Revenue Code of 1954.

(3) APPROVAL OF PLAN BY BOARD OF DIRECTORS.—For purposes of—

(A) paragraph (2), and

(B) applying section 346(a)(2) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) to distributions to which (but for paragraph (2)) the amendments made by this section would apply,

a plan of liquidation shall be treated as adopted when approved by the corporation's board of directors.

(4) COORDINATION WITH AMENDMENTS MADE BY SECTION 229.—For purposes of section 338(e)(2)(C) of the Internal Revenue Code of 1954 (as added by section 229), any property acquired in a distribution to which the amendments made by this section do not apply by reason of paragraph (2) shall be treated as acquired before September 1, 1982.

SEC. 223. DISTRIBUTION OF APPRECIATED PROPERTY IN REDEMPTION OF STOCK.

(a) AMENDMENTS TO CERTAIN EXCEPTIONS TO RECOGNITION OF GAIN.—

(1) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 311(d)(2) (relating to appreciated property used to redeem stock) are amended to read as follows:

"(A) a distribution to a corporate shareholder if the basis of the property distributed is determined under section 301(d)(2);

"(B) a distribution to which section 302(b)(4) applies and which is made with respect to qualified stock;

"(C) a distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subsection (e) are met with respect to the distribution;".

(2) DEFINITIONS AND SPECIAL RULES.—Section 311 is amended by adding at the end thereof the following new subsection:

"(e) DEFINITIONS AND SPECIAL RULES FOR SUBSECTION (d)(2).—For purposes of subsection (d)(2) and this subsection—

"(1) QUALIFIED STOCK.—

"(A) IN GENERAL.—The term 'qualified stock' means stock held by a person (other than a corporation) who at all times during the lesser of—

"(i) the 5-year period ending on the date of distribution, or

"(ii) the period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

"(B) DETERMINATION OF STOCK HELD.—Section 318 shall apply in determining ownership of stock under subparagraph (A); except that, in applying section 318(a)(1), the term 'family' includes any individual described in section 267(c)(4) and any spouse of any such individual.

"(2) DISTRIBUTIONS OF STOCK OR OBLIGATIONS OF CONTROLLED CORPORATIONS.—

"(A) REQUIREMENTS.—A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the 'controlled corporation') meets the requirements of this paragraph if—

"(i) such distribution is made with respect to qualified stock,

"(ii) substantially all of the assets of the controlled corporation consists of the assets of 1 or more qualified businesses,

"(iii) no substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which section 351 applied or as a contribution to capital, within the 5-year period ending on the date of the distribution, and

"(iv) more than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) QUALIFIED BUSINESS.—The term 'qualified business' means any trade or business which—

"(I) was actively conducted throughout the 5-year period ending on the date of the distribution, and

"(II) was not acquired by any person within such period in a transaction in which gain or loss was recognized in whole or in part.

"(ii) NONBUSINESS ASSET.—The term 'nonbusiness asset' means any asset not used in the active conduct of a trade or business."

(3) CONFORMING AMENDMENT.—Section 311(d)(2) is amended—

(A) by inserting "and " at the end of subparagraph (E),

(B) by striking out the semicolon and "and" at the end of subparagraph (F) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (G).

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after August 31, 1982.

(2) DISTRIBUTIONS PURSUANT TO RULING REQUESTS BEFORE JULY 23, 1982.—In the case of a ruling request under section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) made before July 23, 1982, the amendments made by this section shall not apply to distributions made—

(A) pursuant to a ruling granted pursuant to such request, and

(B) within 90 days after the date of such ruling.

(3) DISTRIBUTIONS PURSUANT TO FINAL JUDGMENTS OF COURT.—In the case of a final judgment described in section 311(d)(2)(C) of such Code (as in effect before the amendments made by this section) rendered before July 23, 1982, the amendments made by this section shall not apply to distributions made before January 1, 1986, pursuant to such judgment.

(4) CERTAIN DISTRIBUTIONS WITH RESPECT TO STOCK ACQUIRED BEFORE MAY 1982.—The amendments made by this section shall not apply to distributions—

(A) which meet the requirements of section 311(d)(2)(A) of such Code (as in effect on the day before the date of the enactment of this Act),

(B) which are made on or before August 31, 1983, and

(C) which are made with respect to stock acquired after 1980 and before May 1982.

(5) Distributions of timberland with respect to stock of forest products company.—If—

(A) a forest products company distributes timberland to a shareholder in redemption of the common and preferred stock in such corporation held by such shareholder,

(B) section 311(d)(2)(A) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) would have applied to such distributions, and

(C) such distributions are made pursuant to 1 of 2 options contained in a contract between such company and such shareholder which is binding on August 31, 1982, and at all times thereafter,

then such distributions of timberland having an aggregate fair market value on August 31, 1982, not in excess of $10,000,000 shall be treated as distributions to which section 311(d)(2)(A) of such Code (as in effect before the date of the enactment of this Act) applies.

Subpart B—Certain Stock Purchases Treated as Asset Purchases

SEC. 224. CERTAIN STOCK PURCHASES TREATED AS ASSET PURCHASES.

(a) GENERAL RULE.—Subpart B of part II of subchapter C of chapter 1 (relating to effects on corporation) is amended by adding at the end thereof the following new section:

"SEC. 338. CERTAIN STOCK PURCHASES TREATED AS ASSET ACQUISITIONS.

"(a) GENERAL RULE.—For purposes of this subtitle, if a purchasing corporation makes an election under this section (or is treated under subsection (e) as having made such an election), then, in the case of any qualified stock purchase, the target corporation—

"(1) shall be treated as having sold all of its assets at the close of the acquisition date in a single transaction to which section 337 applies, and

"(2) shall be treated as a new corporation which purchased all of the assets referred to in paragraph (1) as of the beginning of the day after the acquisition date.

"(b) PRICE AT WHICH DEEMED SALE MADE.—

"(1) IN GENERAL.—For purposes of subsection (a), the assets of the target corporation shall be treated as sold (and purchased) at an amount equal to—

"(A) the grossed-up basis of the purchasing corporation's stock in the target corporation on the acquisition date,

"(B) properly adjusted under regulations prescribed by the Secretary for liabilities of the target corporation and other relevant items.

"(2) GROSSED-UP BASIS.—For purposes of paragraph (1), the grossed-up basis shall be an amount equal to the basis of the purchasing corporation's stock in the target corporation on the acquisition date multiplied by a fraction—

"(A) the numerator of which is 100 percent, and

"(B) the denominator of which is the percentage of stock (by value) of the target corporation held by the purchasing corporation on the acquisition date.

"(3) ALLOCATION AMONG ASSETS.—The amount determined under paragraph (1) shall be allocated among the assets of the target corporation under regulations prescribed by the Secretary.

"(c) SPECIAL RULES.—

"(1) COORDINATION WITH SECTION 337 WHERE PURCHASING CORPORATION HOLDS LESS THAN 100 PERCENT OF STOCK.—If during the 1-year period beginning on the acquisition date the maximum percentage (by value) of stock in the target corporation held by the purchasing corporation is less than 100 percent, then in applying section 337 for purposes of subsection (a)(1), the nonrecognition of gain or loss shall be limited to an amount determined by applying such maximum percentage to such gain or loss. The preceding sentence shall not apply if the target corporation is liquidated during such 1-year period.

"(2) CERTAIN REDEMPTIONS WHERE ELECTION MADE.—If, in connection with a qualified stock purchase with respect to which an election is made under this section, the target corporation makes a distribution in complete redemption of all of the stock of a shareholder which qualifies under section 302(b)(3) (determined without regard to the application of section 302(c)(2)((A)(ii)), section 336 shall apply to such distribution as if it were a distribution in complete liquidation.

"(d) PURCHASING CORPORATION; TARGET CORPORATION; QUALIFIED STOCK PURCHASE.—For purposes of this section—

"(1) PURCHASING CORPORATION.—The term 'purchasing corporation' means any corporation which makes a qualified stock purchase of stock of another corporation.

"(2) TARGET CORPORATION.—The term 'target corporation' means any corporation the stock of which is acquired by another corporation in a qualified stock purchase.

"(3) QUALIFIED STOCK PURCHASE.—The term 'qualified stock purchase' means any transaction or series of transactions in which stock of 1 corporation possessing—

"(A) at least 80 percent of total combined voting power of all classes of stock entitled to vote, and

"(B) at least 80 percent of the total number of shares of all other classes of stock (except nonvoting stock which is limited and preferred as to dividends),

is acquired by another corporation by purchase during the 12-month acquisition period.

"(e) DEEMED ELECTION WHERE PURCHASING CORPORATION ACQUIRES ASSET OF TARGET CORPORATION.—

"(1) IN GENERAL.—A purchasing corporation shall be treated as having made an election under this section with respect to any target corporation if, at any time during the consistency period, it acquires any asset of the target corporation (or a target affiliate).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to any acquisition by the purchasing corporation if—

"(A) such acquisition is pursuant to a sale by the target corporation (or the target affiliate) in the ordinary course of its trade or business,

"(B) the basis of the property acquired is determined (in whole or in part) by reference to the adjusted basis of such property in the hands of the person from whom acquired,

"(C) such acquisition was before September 1, 1982,

"(D) to the extent provided in regulations, the property acquired is located outside the United States, or

"(E) such acquisition is described in regulations prescribed by the Secretary.

"(3) ANTI-AVOIDANCE RULE.—Whenever necessary to carry out the purpose of this subsection and subsection (f), the Secretary may treat stock acquisitions which are pursuant to a plan and which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3) as qualified stock purchases.

"(f) CONSISTENCY REQUIRED FOR ALL STOCK ACQUISITIONS FROM SAME AFFILIATED GROUP.—If a purchasing corporation makes qualified stock purchases with respect to the target corporation and 1 or more target affiliates during any consistency period, then (except as otherwise provided in subsection (e))—

"(1) any election under this section with respect to the first such purchase shall apply to each other such purchase, and

"(2) no election may be made under this section with respect to the second or subsequent such purchase if such an election was not made with respect to the first such purchase.

"(g) ELECTION.—

"(1) WHEN MADE.—Except as otherwise provided in regulations, an election under this section shall be made not later than 75 days after the acquisition date.

"(2) MANNER.—An election by the purchasing corporation under this section shall be made in such manner as the Secretary shall by regulations prescribe.

"(3) ELECTION IRREVOCABLE.—An election by a purchasing corporation under this section, once made, shall be irrevocable.

"(h) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) 12-MONTH ACQUISITION PERIOD.—The term '12-month acquisition period' means the 12-month period beginning with the date of the first acquisition by purchase of stock included in a qualified stock purchase.

"(2) ACQUISITION DATE.—The term 'acquisition date' means, with respect to any corporation, the first day on which there is a qualified stock purchase with respect to the stock of such corporation.

"(3) PURCHASE.—

"(A) IN GENERAL.—The term 'purchase' means any acquisition of stock, but only if—

"(i) the basis of the stock in the hands of the purchasing corporation is not determined (I) in whole or in part by reference to the adjusted basis of such stock in the hands of the person from whom acquired, or (II) under section 1014(a) (relating to property acquired from a decedent),

"(ii) the stock is not acquired in an exchange to which section 351 applies, and

"(iii) the stock is not acquired from a person the ownership of whose stock would, under section 318(a) (other than paragaraph (4) thereof), be attributed to the person acquiring such stock.

"(B) DEEMED PURCHASE OF STOCK OF SUBSIDIARIES.—If stock in a corporation is acquired by purchase (within the meaning of subparagraph (A)) and, as a result of such acquisition, the corporation making such purchase is treated (by reason of section 318(a)) as owning stock in a 3rd corporation, the corporation making such purchase shall be treated as having purchased such stock in such 3rd corporation. The corporation making such purchase shall be treated as purchasing stock in the 3rd corporation by reason of the preceding sentence on the first day on which the purchasing corporation is considered under section 318(a) as owning such stock.

"(4) CONSISTENCY PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'consistency period' means the period consisting of—

"(i) the 1-year period before the beginning of the 12-month acquisition period for the target corporation,

"(ii) such acquisition period (up to and including the acquisition date), and

"(iii) the 1-year period beginning on the day after the acquisition date.

"(B) EXTENSION WHERE THERE IS PLAN.—The period referred to in subparagraph (A) shall also include any period during which the Secretary determines that there was in effect a plan to make a qualified stock purchase plus 1 or more other qualified stock purchases (or asset acquisitions described in subsection (e)) with respect to the target corporation or any target affiliate.

"(5) AFFILIATED GROUP.—The term 'affiliated group' has the meaning given to such term by section 1504(a) (determined without regard to the exceptions contained in section 1504(b)).

"(6) TARGET AFFILIATE.—

"(A) IN GENERAL.—A corporation shall be treated as a target affiliate of the target corporation if each of such corporations was, at any time during so much of the consistency period as ends on the acquisition date of the target corporation, a member of an affiliated group which had the same common parent.

"(B) CERTAIN FOREIGN CORPORATIONS, ETC.—Except as otherwise provided in regulations (and subject to such conditions as may be provided in regulations)—

"(i) the term 'target affiliate' does not include a foreign corporation, a DISC, a corporation described in section 934(b), or a corporation to which an election under section 936 applies, and

"(ii) stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or described in section 1248(e) shall be excluded from the operation of this section.

"(7) ACQUISITIONS BY PURCHASING CORPORATION INCLUDE ACQUISITIONS BY CORPORATIONS AFFILIATED WITH PURCHASING CORPORATION.—Except as otherwise provided in regulations, an acquisition of stock or assets by any member of an affiliated group which includes a purchasing corporation shall be treated as made by the purchasing corporation.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that the purposes of this section to require consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates (whether by treating all of them as stock purchases or as asset purchases) may not be circumvented through the use of any provision of law or regulations (including the consolidated return regulations)."

(b) REPEAL OF SECTION 334(b)(2).—Subsection (b) of section 334 (relating to limitation of subsidiary) is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) DISTRIBUTION IN COMPLETE LIQUIDATION.—If property is received by a corporation in a distribution in a complete liquidation to which section 332(a) applies, the basis of the property in the hands of the distributee shall be the same as it would be in the hands of the transferor.

"(2) TRANSFERS TO WHICH SECTION 332(C) APPLIES.—If property is received by a corporation in a transfer to which section 332(c) applies, the basis of the property in the hands of the transferee shall be the same as it would be in the hands of the transferor.

"(3) DISTRIBUTEE DEFINED.—For purposes of this subsection, the term 'distributee' means only the corporation which meets the 80-percent stock ownership requirements specified in section 332(b)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (E) of section 168(e)(4) (relating to liquidation of subsidiary, etc.) is amended by adding at the end thereof the following new sentence: "A similar rule shall apply in the case of a deemed liquidation under section 338."

(2) Clause (i) of section 168(f)(10)(B) is amended by striking out "(other than a transaction with respect to which the basis is determined under section 334(b)(2))".

(3) Paragraph (4) of section 318(b) is amended to read as follows:

"(4) section 338(h)(3)(B) (relating to purchase of stock from subsidiaries, etc.);".

(4) Paragraph (2) of section 336(b) is amended by striking out "334(b)(1)" each place it appears and inserting in lieu thereof "334(b)".

(5) Paragraph (2) of section 337(c) (relating to liquidations to which section 332 applies) is amended to read as follows:

"(2) LIQUIDATIONS TO WHICH SECTION 332 APPLIES.—In the case of any sale or exchange following the adoption of a plan of complete liquidation, if section 332 applies with respect to such liquidation, this section shall not apply."

(6) Subsection (d) of section 337 is amended by striking out "subsection (c)(2)(A)" each place it appears and inserting in lieu thereof "subsection (c)(2)".

(7) Paragraph (1) of section 381(a) is amended by striking out ", except in a case in which the basis of the assets distributed is determined under section 334(b)(2)".

(8) Subparagraph (B) of section 617(h)(3) is amended by inserting "338," after "334(b),".

(9) The table of sections for subpart B of part II of subchapter C of chapter 1 is amended by striking out the item relating to section 338 and inserting in lieu thereof the following:

"Sec. 338. Certain stock purchases treated as asset acquisitions."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any target corporation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

(2) CERTAIN ACQUISITIONS BEFORE SEPTEMBER 1, 1982.—

(A) an acquisition date under paragraph (1) occurred after August 31, 1980, and before September 1, 1982,

(B) the target corporation (within the meaning of section 338 of such Code) is not liquidated before september 1, 1982, and

(C) the purchasing corporation (within the meaning of section 338 of such Code) makes, not later than November 15, 1982, and election under section 338 of such Code, then the amendments made by this section shall apply to the acquisition of such target corporation.

(3) CERTAIN ACQUISITIONS OF FINANCIAL INSTITUTIONS.—In any case in which—

(A) there is, on July 22, 1982, a binding contract to acquire control (within the meaning of section 368(c) of such Code) of any financial institution,

(B) the approval of one or more regulatory authorities is required in order to complete such acquisition, and

(C) within 90 days after the date of the final approval of the last such regulatory authority granting final approval, a plan of complete liquidation of such financial institution is adopted,

then the purchasing corporation may elect not to have the amendments made by this section apply to the acquisition pursuant to such contract.

Subpart C—Miscellaneous Provisions

SEC. 225. CLARIFICATION OF SECTION 368(a)(1)(F).

(a) GENERAL RULE.—Subparagraph (F) of section 368(a)(1) (defining reorganization) is amended by inserting "of one corporation" after "place of organization".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply with respect to transactions occurring after August 31, 1982.

(2) PLANS ADOPTED ON OR BEFORE AUGUST 31, 1982.—The amendment made by subsection (a) shall not apply with respect to plans of reorganization adopted on or before August 31, 1982, but only if the transaction occurs before January 1, 1983.

SEC. 226. AMENDMENTS RELATING TO BAILOUTS THROUGH USE OF HOLDING COMPANIES.

(a) AMENDMENTS TO SECTION 304.—

(1) COORDINATION OF SECTIONS 304 AND 351.—

(A) Subsection (b) of section 304 (relating to special rules for application of subsection (a)) is amended by adding at the end thereof the following new paragaph:

"(3) COORDINATION WITH SECTION 351.—

"(A) PROPERTY TREATED AS RECEIVED IN REDEMPTION.—Except as otherwise provided in this paragraph, subsection (a) (and not part III) shall apply to any property received in a distribution described in subsection (a).

"(B) CERTAIN ASSUMPTIONS OF LIABILITY, ETC.—

"(i) IN GENERAL.—Subsection (a) shall not apply to any liability—

"(I) assumed by the acquiring corporation, or

"(II) to which the stock is subject,

if such liability was incurred by the transferor to acquire the stock. For purposes of the preceding sentence, the term 'stock' means stock referred to in paragraph (1)(B) or (2)(A) of subsection (a).

"(ii) EXTENSION OF OBLIGATIONS, ETC.—For purposes of clause (i), an extension, renewal, or refinancing of a liability which meets the requirements of clause (i) shall be treated as meeting such requirements.

"(C) DISTRIBUTIONS INCIDENT TO FORMATION OF BANK HOLDING COMPANIES.—If—

"(i) pursuant to a plan, control of a bank is acquired and within 2 years after the date on which such control is acquired, stock constituting control of such bank is transferred to a BHC in connection with its formation,

"(ii) incident to the formation of the BHC there is a distribution of property described in subsection (a), and

"(iii) the shareholders of the BHC who receive distributions of such property do not have control of such BHC,

then, subsection (a) shall not apply to any securities received by a qualified minority shareholder incident to the formation of such BHC.

"(D) DEFINITIONS AND SPECIAL RULE.—For purposes of subparagraph (C) and this subparagraph—

"(i) QUALIFIED MINORITY SHAREHOLDER.—The term 'qualified minority shareholder' means any shareholder who owns less than 10 percent (in value) of the stock of the BHC. For purposes of the preceding sentence, the rules of paragraph (3) of subsection (c) shall apply.

"(ii) BHC.—The term 'BHC' means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

"(iii) SPECIAL RULE IN CASE OF BHC'S FORMED BEFORE 1985.—In the case of a BHC which is formed before 1985, clause (i) of subparagraph (C) shall not apply."

(B) Subsection (f) of section 351 (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(5) For coordination of this section with section 304, see section 304(b)(3)."

(2) APPLICATION OF SECTION 304 WHERE STOCK IS ACQUIRED IN THE TRANSACTION.—

(A) Subsection (c) of section 304 is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Stock acquired in the transaction.—For purposes of subsection (a)(1)—

"(A) GENERAL RULE.—Where 1 or more persons in control of the issuing corporation transfer stock of such corporation in exchange for stock of the acquiring corporation, the stock of the acquiring corporation received shall be taken into account in determining whether such person or persons are in control of the acquiring corporation.

"(B) DEFINITION OF CONTROL GROUP.—Where 2 or more persons in control of the issuing corporation transfer stock of such corporation to the acquiring corporation and, after the transfer, the transferors are in control of the acquiring corporation, the person or persons in control of each corporation shall include each of the persons who so transfer stock."

(B) Paragraph (3) of section 304(c) (as redesignated by paragraph (1)) is amended by striking out "paragraph (1)" and inserting in lieu thereof "this section".

(3) DETERMINATION OF EARNINGS AND PROFITS.—Subparagraph (A) of section 304(b)(2) (relating to amount constituting dividend) is amended to read as follows:

"(A) WHERE SUBSECTION (a)(1) applies.—In the case of any acquisition of stock to which paragraph (1) (and not paragraph (2)) of subsection (a) of this section applies, the determination of the amount which is a dividend shall be made as if the property were distributed by the issuing corporation to the acquiring corporation and immediately thereafter distributed by the acquiring corporation."

(b) APPLICATION OF SECTION 306 TO CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGES.—Subsection (c) of section 306 (defining section 306 stock) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN STOCK ACQUIRED IN SECTION 351 EXCHANGE.—The term 'section 306 stock' also includes any stock which is not common stock acquired in an exchange to which section 351 applied if receipt of money (in lieu of the stock) would have been treated as a dividend to any extent. In the case of such stock, rules similar to the rules of section 304(b)(2) shall apply for purposes of this section."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transfers occur-

ring after August 31, 1982, in taxable years ending after such date.

(2) APPROVAL BY FEDERAL RESERVE BOARD.—The amendments made by this section shall not apply to transfers pursuant to an application to form a BHC filed with the Federal Reserve Board before August 16, 1982, if the BHC was formed not later than the later of—

(A) the 90th day after the date of the last required approval of any regulatory authority to form such BHC, or

(B) January 1, 1983.

For purposes of this paragraph, the term "BHC" means a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956).

SEC. 227. APPLICATION OF ATTRIBUTION RULES FOR PURPOSES OF SECTIONS 306 AND 356(a)(2).

(a) APPLICATION FOR PURPOSES OF SECTION 306.—Subsection (c) of section 306 is amended by adding at the end thereof the following new paragraph:

"(4) APPLICATION OF ATTRIBUTION RULES FOR CERTAIN PURPOSES.—For purposes of paragraphs (1)(B)(ii) and (3), section 318(a) shall apply. For purposes of applying the preceding sentence to paragraph (3), sections 318(a)(2)(C) and 318(a)(3)(C) shall be applied without regard to the 50 percent limitation contained therein."

(b) APPLICATION FOR PURPOSES OF SECTION 356(a)(2).—Paragraph (2) of section 356(a) (relating to treatment as dividend) is amended by inserting "(determined with the application of section 318(a))" after "distribution of a dividend".

(c) EFFECTIVE DATES.—

(1) SECTION 306.—The amendment made by subsection (a) shall apply to stock received after August 31, 1982, in taxable years ending after such date.

(2) SECTION 356.—The amendment made by subsection (b) shall apply to distributions after August 31, 1982, in taxable years ending after such date.

SEC.228 WAIVER OF FAMILY ATTRIBUTION BY ENTITIES.

(a) GENERAL RULE.—Paragraph (2) of section 302(c) (relating to constructive ownership of stock) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR WAIVERS BY ENTITIES.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to a distribution to any entity unless—

"(I) such entity and each related person meet the requirements of clauses (i), (ii), and (iii) of subparagraph (A), and

"(II) each related person agrees to be jointly and severally liable for any deficiency (including interest and additions to tax) resulting from an acquisition described in clause (ii) of subparagraph (A).

In any case to which the preceding sentence applies, the second sentence of subparagraph (A) and subparagraph (B)(ii) shall be applied by substituting 'distributee or any related person' for 'distributee' each place it appears.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) the term 'entity' means a partnership, estate, trust, or corporation; and

"(II) the term 'related person' means any person to whom ownership of stock in the corporation is (at the time of the distribution) attributable under section 318(a)(1) if such stock is further attributable to the entity under section 318(a)(3)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to distributions after August 31, 1982, in taxable years ending after such date.

PART VI—METHODS OF ACCOUNTING

SEC. 229. MODIFICATION OF REGULATIONS ON THE COMPLETED CONTRACT METHOD OF ACCOUNTING.

(a) IN GENERAL.—The Secretary of the Treasury shall modify the income tax regulations relating to accounting for long-term contracts to—

(1) clarify the time at which a contract is to be considered completed,

(2) clarify when—

(A) one agreement will be treated as more than one contract, and

(B) two or more agreements will be treated as one contract, and

(3) properly allocate all costs which directly benefit, or are incurred by reason of, the extended period long-term contract activities of the taxpayer.

(b) EXTENDED PERIOD LONG-TERM CONTRACTS DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term "extended period long-term contract" means any long-term contract which the taxpayer estimates (at the time such contract is entered into) will not be completed within the 2-year period beginning on the contract commencement date of such contract.

(2) CERTAIN CONSTRUCTION CONTRACTS.—

(A) IN GENERAL.—The term "extended period long-term contract" does not include any construction contract entered into by a taxpayer—

(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 3-year period beginning on the contract commencement date of such contract, or

(ii) whose average annual gross receipts over the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $25 million.

(B) DETERMINATION OF TAXPAYER'S GROSS RECEIPTS.—For purposes of subparagraph (A), the gross receipts of—

(i) all trades or businesses (whether or not incorporated) which are under common control with the taxpayer (within the meaning of section 52(b)), and

(ii) all members of any controlled group of corporations of which the taxpayer is a member,

for the 3 taxable years of such persons preceding the taxable year in which the contract described in subparagraph (A) is entered into shall be included in the gross receipts of the taxpayer for the period described in subparagraph (A). The Secretary shall prescribe regulations which provide attribution rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who engage in construction contracts through partnerships, joint ventures, and corporations.

(C) CONTROLLED GROUP OF CORPORATIONS.—The term "controlled group of corporations" has the meaning given to such term by section 1563(a), except that—

(i) "more than 50 percent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

(3) CONSTRUCTION CONTRACT.—The term "construction contract" means any contract for the building, construction, reconstruction, or rehabilitation of, or the installation of any integral component to, improvements to real property.

(4) CONTRACT COMMENCEMENT DATE.—The term "contract commencement date" means, with respect to any contract, the first date on which any costs (other than costs such as bidding expenses or expenses incurred in connection with negotiating the contract) allocable to such contract are incurred.

(b) EFFECTIVE DATES; SPECIAL RULES.—

(1) IN GENERAL.—The modifications to regulations which are required to be made under paragraphs (1) and (2) of subsection (a) shall apply with respect to taxable years ending after December 31, 1982.

(2) COST ALLOCATION.—

(A) IN GENERAL.—Any modification to Income Tax Regulation 1.451-3 made under subsection (a)(3) which requires additional costs to be allocated to a contract shall apply only to the applicable percentage of such additional costs incurred in taxable years beginning after December 31, 1982, with respect to contracts entered into after such date.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

"If the taxable year begins in calendar year:	The applicable percentage is:
1983	33⅓
1984	66⅔
1985 or thereafter	100.".

"(3) SPECIAL RULES.—

"(A) TIME OF COMPLETION.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, solely by reason of any modification to regulations made under subsection (a)(1), shall be treated as having been completed on the first day of such taxable year.

"(B) AGGREGATION AND SEVERANCE.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982—

"(i) solely by reason of any modification to regulations made under subsection (a)(2), or

"(ii) solely by reason of any modifications to regulations made under both paragraphs (1) and (2) of subsection (a), shall be treated as having been completed in the first day after December 31, 1982, on which any contract which was severed from such contract (by reason of the modifications made by subsection (a)(2)) is completed (determined after the application of any modifications to regulations made under subsection (a)(1)).

SEC. 230. ANNUAL ACCRUAL METHOD OF ACCOUNTING EXTENDED CERTAIN PARTNERSHIPS.

(a) IN GENERAL.—Section 447(g) (relating to certain annual accrual accounting methods) is amended—

(1) by inserting "or qualified partnership" after "corporation" each place it appears in paragraph (1),

(2) by amendment paragraph (3) to read as follows:

"(3) CERTAIN NONRECOGNITION TRANSFERS.—For purposes of this subsection, if—

"(A) a corporation acquired substantially all the assets of a qualified farming trade or business from another corporation in a transaction in which no gain or loss was

recognized to the transferor or transferee corporation, or

"(B) a qualified partnership acquired substantially all the assets of a qualified farming trade or business from one of its partners in a transaction to which section 721 applies,

the transferee corporation or qualified partnership shall be deemed to have computed its taxable income on an annual accrual method of accounting during the period for which the transferor corporation or partnership computed its taxable income from such trade or business on an annual accrual method.", and

(3) by adding at the end thereof the following new paragraph:

"(4) QUALIFIED PARTNERSHIP DEFINED.—For purposes of this subsection—

"(A) QUALIFIED PARTNERSHIP.—The term 'qualified partnership' means a partnership which is engaged in a qualified farming trade or business and each of the partners of which is a corporation other than—

"(i) an electing small business corporation (within the meaning of section 1371(b)), or

"(ii) a personal holding company (within the meaning of section 542(a)).

"(B) QUALIFIED FARMING TRADE OR BUSINESS.—The term 'qualified farming trade or business' means the trade or business of farming sugar cane.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

PART VII—ORIGINAL ISSUE DISCOUNT

SEC. 231. ORIGINAL ISSUE DISCOUNT TAKEN INTO ACCOUNT ON BASIS OF CONSTANT INTEREST RATE.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232 the following new section:

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT.

"(a) Original Issue Discount on Bonds Issued After July 1, 1982, Included in Income on Basis of Constant Interest Rate.—

"(1) GENERAL RULE.—For purposes of this subtitle, there shall be included in the gross income of the holder of any bond having an original issue discount issued after July 1, 1982 (and which is a capital asset in the hands of the holder) an amount equal to the sum of the daily portions of the original issue discount for each day during the taxable year on which such holder held such bond.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) NATURAL PERSONS.—Any obligation issued by a natural person.

"(B) TAX-EXEMPT OBLIGATIONS.—Any obligation if—

"(i) the interest on such obligation is not includible in gross income under section 103, or

"(ii) the interest on such obligation is exempt from tax (without regard to the identity of the holder) under any other provision of law.

"(C) SHORT-TERM GOVERNMENT OBLIGATIONS.—Any short-term Government obligation (within the meaning of section 1232(a)(3)).

"(D) UNITED STATES SAVINGS BONDS.—Any United States savings bond.

"(3) DETERMINATION OF DAILY PORTIONS.—For purposes of paragraph (1), the daily portion of the original issue discount on any bond shall be determined by allocating to each day in any bond period its ratable portion of the increase during such bond period in the adjusted issue price of the bond. For purposes of the preceding sentence, the increase in the adjusted issue price for any bond period shall be an amount equal to the excess (if any) of—

"(A) the product of—

"(i) the adjusted issue price of the bond at the beginning of such bond period, and

"(ii) the yield to maturity (determined on the basis of compounding at the close of each bond period), over

"(B) the sum of the amounts payable as interest on such bond during such bond period.

"(4) ADJUSTED ISSUE PRICE.—For purposes of this subsection, the adjusted issue price of any bond at the beginning of any bond period is the sum of—

"(A) the issue price of such bond, plus

"(B) the adjustments under this subsection to such issue price for all periods before the first day of such bond period.

"(5) BOND PERIOD.—Except as otherwise provided in regulations prescribed by the Secretary, the term 'bond period' means a 1-year period (or the shorter period to maturity) beginning on the day in the calendar year which corresponds to the date of original issue of the bond.

"(6) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, in the case of any purchase of a bond to which this subsection applies after its original issue, the daily portion shall not include an amount (determined at the time of purchase) equal to the excess (if any) of—

"(A) the cost of such bond incurred by the purchaser, over

"(B) the issue price of such bond, increased by the sum of the daily portions for such bond for all days before the date of purchase (computed without regard to this paragraph),

divided by the number of days beginning on the date of such purchase and ending on the day before the stated maturity date.

"(7) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, or other circumstances, the inclusion under paragraph (1) for the taxable year does not accurately reflect the income of the holder, the proper amount of income shall be included for such taxable year (and appropriate adjustments shall be made in the amounts included for subsequent taxable years).

"(b) Ratable Inclusion Retained for Corporate Bonds Issued Before July 2, 1982.—

"(1) GENERAL RULE.—There shall be included in the gross income of the holder of any bond issued by corporation after May 27, 1969, and before July 2, 1982 (and which is a capital asset in the hands of the holder)—

"(A) the ratable monthly portion of original issue discount, multiplied by

"(B) the number of complete months (plus any fractional part of a month determined under paragraph (3)) such holder held such bond during the taxable year.

"(2) DETERMINATION OF RATABLE MONTHLY PORTION.—Except as provided in paragraph (4), the ratable monthly portion of original issue discount shall equal—

"(A) the original issue discount, divided by

"(B) the number of complete months from the date of original issue to the stated maturity date of the bond.

"(3) MONTH DEFINED.—For purposes of this subsection, a complete month commences with the date of original issue and the corresponding day of each succeeding calendar month (or the last day of a calendar month in which there is no corresponding day). In any case where a bond is acquired on any day other than a day determined under the preceding sentence, the ratable monthly portion of original issue discount for the complete month (or partial month) in which such acquisition occurs shall be allocated between the transferor and the transferee in accordance with the number of days in such complete (or partial) month each held the bond.

"(4) REDUCTION IN CASE OF CERTAIN SUBSEQUENT HOLDERS.—For purposes of this subsection, the ratable monthly portion of original issue discount shall not include an amount, determined at the time of any purchase after the original issue of the bond, equal to the excess of—

"(A) the cost of such bond incurred by the holder, over

"(B) the issue price of such bond, increased by the portion of original discount previously includible in the gross income of any holder (computed without regard to this paragraph),

divided by the number of complete months (plus any fractional part of a month) from the date of such purchase to the stated maturity date of such bond.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) BOND INCLUDES OTHER EVIDENCES OF INDEBTEDNESS.—For purposes of this section, the term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) PURCHASE DEFINED.—For purposes of this section, the term 'purchase' means any acquisition of a bond, but only if the basis of the bond is not determined in whole or in part by reference to the adjusted basis of such bond in the hands of the person from whom acquired, or under section 1014(a) (relating to property acquired from a decedent).

"(3) ORIGINAL ISSUE DISCOUNT, ETC.—For purposes of this section, the terms 'original issue discount', 'issue price', and 'date of original issue' shall have the respective meanings given to such terms by section 1232(b).

"(4) EXCEPTIONS.—This section shall not apply to any holder—

"(A) who has purchased the bond at a premium, or

"(B) which is a life insurance company to which section 818(b) applies.

"(5) BASIS ADJUSTMENTS.—The basis of any bond in the hands of the holder thereof shall be increased by the amount included in his gross income pursuant to this section."

(b) DEDUCTION DETERMINED ON BASIS OF CONSTANT INTEREST RATE.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—In the case of any bond issued after July 1, 1982, by an issuer (other than a natural person), the portion of the original issue discount with respect to such bond which is allowable as a deduction to the issuer for any taxable year shall be equal to the aggregate daily portions of the original issue discount for days during such taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(A) BOND.—The term 'bond' has the meaning given to such term by section 1232A(c)(1).

"(B) DAILY PORTIONS.—The daily portion of the original issue discount for any day shall

be determined under section 1232A(a) (without regard to paragraphs (2)(B) and (6) thereof and without regard to the second sentence of section 1232(b)(1))."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 1232(a)(2) is amended—

(A) by striking out "by a corporation after May 27, 1969" and inserting in lieu thereof "by a corporation after May 27, 1969, or by a government or political subdivision thereof after July 1, 1982",

(B) by striking out "as provided in paragraph (3)(B)" and inserting in lieu thereof "without regard to subsection (a)(6) or (b)(4) of section 1232A (or the corresponding provisions of prior law)", and

(C) by striking out the subparagraph heading and inserting in lieu thereof the following:

"(A) CORPORATE BONDS ISSUED AFTER MAY 27, 1969, AND GOVERNMENT BONDS ISSUED AFTER JULY 1, 1982.—".

(2) Subparagraph (B) of section 1232(a)(2) is amended—

(A) by striking out "by a government or political subdivision thereof after December 31, 1954" and inserting in lieu thereof "by a government or political subdivision thereof after December 31, 1954, and on or before July 1, 1982,", and

(B) by striking out "GOVERNMENT BONDS" in the subparagraph heading and inserting in lieu thereof "GOVERNMENT BONDS ISSUED ON OR BEFORE JULY 1, 1982".

(3) Subparagraph (D) of section 1232(a)(2) is amended by striking out "This section" and inserting in lieu thereof "This section and sections 1232A and 1232B".

(4) Subsection (a) of section 1232 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(d) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232 the following:

"SEC. 1232A. ORIGINAL ISSUE DISCOUNT."

(e) TRANSITIONAL RULE.—For purposes of the amendments made by this section, any evidence of indebtedness issued pursuant to a written commitment which was binding on July 1, 1982, and at all times thereafter shall be treated as issued on July 1, 1982.

SEC. 232. TAX TREATMENT OF STRIPPED BONDS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1232A the following new section:

"SEC. 1232B. TAX TREATMENT OF STRIPPED BONDS.

"(a) INCLUSION IN INCOME AS IF BOND AND COUPONS WERE ORIGINAL ISSUE DISCOUNT BONDS.—If any person purchases after July 1, 1982, a stripped bond or a stripped coupon, then such bond or coupon while held by such purchaser (or by any other person whose basis is determined by reference to the basis in the hands of such purchaser) shall be treated for purposes of section 1232A(a) as a bond originally issued by a corporation on the purchase date and having an original issue discount equal to the excess (if any) of—

"(1) the stated redemption price at maturity (or, in the case of a coupon, the amount payable on the due date of such coupon), over

"(2) such bond's or coupon's ratable share of the purchase price.

For purposes of paragraph (2), ratable shares shall be determined on the basis of their respective fair market values on the date of purchase.

"(b) TAX TREATMENT OF PERSON STRIPPING BOND.—For purposes of this subtitle, if any person strips 1 or more coupons from a bond and after July 1, 1982, disposes of the bond or such coupon—

"(1) such person shall include in gross income an amount equal to the interest accrued on such bond before the time that such coupon or bond was disposed of (to the extent such interest has not theretofore been included in such person's gross income),

"(2) the basis of the bond and coupons shall be increased by the amount of the accrued interest described in paragraph (1),

"(3) the basis of the bond and coupons immediately before the disposition (as adjusted pursuant to paragraph (2)) shall be allocated among the items retained by such person and the items disposed of by such person on the basis of their respective fair market values, and

"(4) for purposes of subsection (a), such person shall be treated as having purchased on the date of such disposition each such item which he retains for an amount equal to the basis allocated to such item under paragraph (3).

A rule similar to the rule of paragraph (4) shall apply in the case of any person whose basis in any bond or coupon is determined by reference to the basis of the person described in the preceding sentence.

"(c) RETENTION OF EXISTING LAW FOR STRIPPED BONDS PURCHASED BEFORE JULY 2, 1982.—If a bond issued at any time with interest coupons—

"(1) is purchased after August 16, 1954, and before January 1, 1958, and the purchaser does not receive all the coupons which first become payable more than 12 months after the date of the purchase, or

"(2) is purchased after December 31, 1957, and before July 2, 1982, and the purchaser does not receive all the coupons which first become payable after the date of the purchase,

then the gain on the sale or other disposition of such bond by such purchaser (or by a person whose basis is determined by reference to the basis in the hands of such purchaser) shall be considered as ordinary income to the extent that the fair market value (determined as of the time of the purchase) of the bond with coupons attached exceeds the purchase price. If this subsection and section 1232(a)(2)(A) apply with respect to gain realized on the sale or exchange of any evidence of indebtedness, then section 1232(a)(2)(A) shall apply with respect to that part of the gain to which this subsection does not apply.

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—In the case of any obligation the interest on which is not includible in gross income under section 103 or is exempt from tax (without regard to the identity of the holder) under any other provision of law—

"(1) subsections (a) and (b)(1) shall not apply,

"(2) the rules of subsection (b)(4) shall apply for purposes of subsection (c), and

"(3) subsection (c) shall be applied without regard to the requirement that the bond be purchased before July 2, 1982.

"(e) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' means a bond, debenture, note, or certificate or other evidence of indebtedness.

"(2) STRIPPED BOND.—The term 'stripped bond' means a bond issued at any time with interest coupons where there is a separation in ownership between the bond and any coupon which has not yet become payable.

"(3) STRIPPED COUPON.—The term 'stripped coupon' means any coupon relating to a stripped bond.

"(4) STATED REDEMPTION PRICE AT MATURITY.—The term 'stated redemption price at maturity' has the meaning given such term by the third sentence of section 1232(b)(1).

"(5) COUPON.—The term 'coupon' includes any right to receive interest on a bond (whether or not evidenced by a coupon). This paragraph shall apply for purposes of subsection (c) only in the case of purchases after July 1, 1982.

"(f) REGULATION AUTHORITY.—The Secretary may prescribe regulations providing that where, by reason of varying rates of interest, put or call options, extendable maturities, or other circumstances, the tax treatment under this section does not accurately reflect the income of the holder of a stripped coupon or stripped bond, or of the person disposing of such bond or coupon, as the case may be, for any period, such treatment shall be modified to require that the proper amount of income be included for such period."

(b) CONFORMING AMENDMENT.—Section 1232 is amended by striking out subsections (c) and (d).

(c) CLERICAL AMENDMENT.—The table of sections for such part IV is amended by inserting after the item relating to section 1232A the following:

"Sec. 1232B. Tax treatment of stripped bonds."

PART VIII—OTHER BUSINESS PROVISIONS

SEC. 233. TARGETED JOBS TAX CREDIT.

(a) TWO YEAR EXTENSION.—Paragraph (3) of section 51(c) (relating to termination of credit for employment of certain new employees) is amended by striking out "1982" and inserting in lieu thereof "1984".

(b) QUALIFIED SUMMER YOUTH EMPLOYEE.—Subsection (d) of section 51 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (H),

(2) by striking out the period at the end of subparagraph (I) and inserting in lieu thereof ", or",

(3) by inserting after subparagraph (I) the following new subparagraph:

"(J) a qualified summer youth employee.",

(4) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (13), (14), (15), and (16), respectively, and

(5) by inserting after paragraph (11) the following new paragraph:

"(12) QUALIFIED SUMMER YOUTH EMPLOYEE.—

"(A) IN GENERAL.—The term 'qualified summer youth employee' means an individual—

"(i) who performs services for the employer between May 1 and September 15,

"(ii) who is certified by the designated local agency as having attained age 16 but not 18 on the hiring date (as defined in paragraph (14)),

"(iii) who has not been an employee of the employer during any period prior to the 90-day period described in subparagraph (B)(iii), and

"(iv) who is certified by the designated local agency as being a member of an economically disadvantaged family (as determined under paragraph (11)).

"(B) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying this subpart to wages paid or incurred to any qualified summer youth employee—

"(i) subsection (a)(1) shall be applied by substituting '85 percent' for '50 percent',

"(ii) subsections (a)(2) and (b)(3) shall not apply,

"(iii) subsection(b)(2) shall be applied by substituting 'any 90-day period between May 1 and september 15' for 'the 1-year period beginning with the day the individual begins work for the employer', and

"(iv) subsection (b)(4) shall be applied by substituting '$3,000' for '$6,000'.

"(C) SPECIAL RULE FOR CONTINUED EMPLOYMENT FOR SAME EMPLOYER.—In the case of an individual who, with respect to the same employer, is certified as a member of another targeted group after such individual has been a qualified summer youth employee, paragraph (14) shall be applied by substituting 'certified' for 'hired by the employer'."

(c) TERMINATION REPEAL OF INVOLUNTARILY TERMINATED CETA EMPLOYEE AS MEMBER OF TARGETED GROUP.—Paragraph (10) of section 51(d) (relating to involuntarily terminated CETA employee) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to any individual who begins work for the employer after December 31, 1982."

(d) VOUCHER OR SCRIP PAYMENTS TO GENERAL RECIPIENTS IN QUALIFIED GENERAL ASSISTANCE PROGRAMS.—Subclause (II) of section 51(d)(6)(B)(i) (defining qualified general assistance programs) is amended by inserting before the comma the following: "or voucher or scrip".

(e) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS; REPORTS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended—

(1) by inserting after "for fiscal year 1982 the sum of $30,000,000" the following: ", and for fiscal years 1983 and 1984 such sums as may be necessary,"; and

(2) by inserting at the end thereof the following new sentence:

"The Secretary of Labor shall each calendar year beginning with calendar year 1983 report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate with respect to the results of the testing conducted under subparagraph (A) during the preceding cale ndar year."

(f) CERTIFICATIONS.—Effective only with respect to individuals who begin work for the taxpayer after May 11, 1982, subparagraph (A) of section 51(d)(15) (relating to special rules for certifications), as in effect before the amendments made by this Act, is amended by striking out "before the day" and inserting in lieu thereof "on or before the day".

(g) EFFECTIVE DATES.—

(1) SUBSECTION (b).—The amendments made by subsection (b) shall apply to amounts paid or incurred after April 30, 1983, to individuals beginning work for the employer after such date.

(2) SUBSECTION (d).—The amendments made by subsection (d) shall apply to amounts paid or incurred after July 1, 1982, to individuals beginning work for the employer after such date.

SEC. 234. ACCELERATED PAYMENT OF INCOME TAX BY CORPORATIONS.

(a) INCREASE IN AMOUNT OF ESTIMATED TAX REQUIRED TO BE PAID.—

(1) IN GENERAL.—Paragraph (1) of section 6655(b) (relating to amount of underpayment) is amended by striking out "80" each place it appears and inserting in lieu thereof "90."

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 6655(d) (relating to exception to imposition of additional tax) is amended by striking out "80" and inserting in lieu thereof "90".

(b) ELIMINATION OF ELECTION WITH RESPECT TO PAYMENT OF UNPAID TAXES.—

(1) IN GENERAL.—Section 6152 (relating to installment payments of tax) is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following new subsections:

"(a) PRIVILEGE TO ELECT TO MAKE FOUR INSTALLMENT PAYMENTS BY DECEDENT'S ESTATE.—A decedent's estate subject to the tax imposed by chapter 1 may elect to pay such tax in four equal installments.

"(b) DATES PRESCRIBED FOR PAYMENT OF FOUR INSTALLMENTS.—In any case (other than payment of estimated income tax) in which the tax may be paid in four installments, the first installment shall be paid on the date prescribed for the payment of the tax, the second installment shall be paid on or before 3 months, the third installment on or before 6 months, and the fourth installment on or before 9 months, after such date.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 832(e) is amended by striking out ", as if no election to make installment payments under section 6152 is made".

(B) Subsection (b) of section 6081 is amended by striking our "or the first installment thereof required under section 6152".

(C) Section 6164 is amended—

(i) by striking out the last sentence of subsection (c) and inserting in lieu thereof the following new sentence: "If an extension of time under this section relates to only a part of the tax, the time for payment of the remainder shall be the date on which payment would have been required if such remainder had been the tax."; and

(ii) by striking out paragraph (2) of subsection (g) and inserting in lieu thereof the following new paragraph:

"(2) the time for payment of such amount shall be considered to be the date on which payment would have been required if there had been no extension with respect to such amount.".

(c) AMOUNT OF ADDITION TO TAX.—Subsection (a) of section 6655 (relating to addition to tax) is amended to read as follows:

"(a) ADDITION TO TAX.—Except as provided in subsections (d) and (e), in the case of any underpayment of tax by a corporation—

"(1) IN GENERAL.—There shall be added to the tax under chapter 1 for the taxable year an amount determined at the rate established under section 6621 on the amount of the underpayment for the period of the underpayment.

"(2) SPECIAL RULE WHERE CORPORATION PAID 80 PERCENT OR MORE OF TAX.—In any case in which there would be no underpayment if subsection (b) were applied by substituting '80 percent' for '90 percent' each place it appears, the addition to tax under paragraph (1) shall be equal to 75 percent of the amount otherwise determined under paragraph (1)."

(d) ADDITIONAL EXCEPTION FROM PENALTY FOR UNDERPAYMENTS OF ESTIMATED INCOME TAX WHERE A CORPORATION HAS A RECURRING PATTERN OF SEASONAL INCOME.—

(1) IN GENERAL.—Section 6655 (relating to failure by corporation to pay estimated income tax) is amended by redesignating subsections (e), (f), (g), and (h) as subsections (f), (g), (h), and (i), respectively, and by inserting after subsection (d) the following new subsection:

"(e) ADDITIONAL EXCEPTION FOR RECURRING SEASONAL INCOME.—

"(1) IN GENERAL.—Notwithstanding the preceding subsections, the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds 90 percent of the amount determined under paragraph (2).

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any installment shall be determined in the following manner—

"(A) take the taxable income for all months during the taxable year preceding the filing month,

"(B) divide such amount by the base period percentage for all months during the taxable year preceding the filing month,

"(C) determine the tax on the amount determined under subparagraph (B), and

"(D) multiply the tax computed under subparagraph (C) by the base period percentage for the filing month and all months during the taxable year preceding the filing month.

"(3) DEFINITIONS AND SPECIAL RULES. —For purposes of this subsection—

"(A) BASE PERIOD PERCENTAGE.—The base period percentage for any period of months shall be the average percent which the taxable income for the corresponding months in each of the 3 preceding taxable years bears to the taxable income for the 3 preceding taxable years.

"(B) FILING MONTH.—The term 'filing month' means the month in which the installment is required to be paid.

"(C) LIMITATION ON APPLICATION OF SUBSECTION.—This subsection shall only apply if the base period percentage for any 6 consecutive months of the taxable year equals or exceeds 70 percent.

"(D) REORGANIZATIONS, ETC.—The Secretary may by regulations provide for the determination of the base period percentage in the case of reorganizations, new corporations, and other similar circumstances."

(2) TECHNICAL AMENDMENT.—Subsection (f) of section 6655 (as redesignated by paragraph (1)) is amended by striking out "(d), and (h)" and inserting in lieu thereof "(d), (e), and (i)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SUBTITLE C—PENSIONS

PART I—CONTRIBUTION AND LOAN LIMITS

SEC. 235. LOWER CONTRIBUTION AND BENEFIT LIMITS FOR CERTAIN ANNUITIES, ETC.

(a) LIMIT ON ANNUAL DEFINED BENEFIT LOWERED FROM $136,425 TO $90,000; LIMIT ON ANNUAL DEFINED CONTRIBUTION LOWERED FROM $45,475 TO $30,000.—

(1) DEFINED BENEFIT PLANS.—Subparagraph (A) of section 415(b)(1) (relating to limitation for defined benefit plan) is amended by striking out "$75,000" and inserting in lieu thereof "$90,000".

(2) DEFINED CONTRIBUTION PLANS.—Subparagraph (A) of section 415(c)(1) (relating to limitation for defined contribution plan) is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

(3) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 415(b)(2) is amended by striking out "$75,000" each place it appears and inserting in lieu thereof "$90,000".

(B) The last sentence of paragraph (7) of section 415(b) is amended by striking out "by substituting '37,500' for '75,000'" and inserting in lieu thereof "by substituting the

greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' ".

(b) COST-OF-LIVING ADJUSTMENTS.—

(1) ADJUSTMENT TO REFLECT ADJUSTMENTS MADE IN SOCIAL SECURITY BENEFIT PAYMENTS RATHER THAN PRIMARY INSURANCE AMOUNTS.—Paragraph (1) of section 415(d) (relating to cost-of-living adjustments) is amended by striking out "primary insurance amounts" and inserting in lieu thereof "benefit amounts".

(2) FREEZE ON COST-OF-LIVING ADJUSTMENTS BEFORE JANUARY 1, 1986.—

(A) IN GENERAL.—Subsection (d) of section 415 is amended by adding at the end thereof the following new paragraph:

"(3) FREEZE ON ADJUSTMENT TO DEFINED CONTRIBUTION AND BENEFIT LIMITS.—The Secretary shall not make any adjustment under subparagraph (A) or (B) of paragraph (1) with respect to any year beginning after December 31, 1982, and before January 1, 1986."

(B) CHANGE IN BASE PERIOD TO REFLECT CHANGE IN LIMITS AND FREEZE.—Paragraph (2) of section 415(d) (relating to base periods) is amended by striking out "1974" and inserting in lieu thereof "1984".

(3) CONFORMING AMENDMENTS TO DECREASE IN LIMITS.—Paragraph (1) of section 415(d) is amended—

(A) by striking out "$75,000" in subparagraph (A) and inserting in lieu thereof "$90,000", and

(B) by striking out "$25,000" in subparagraph (B) and inserting in lieu thereof "$30,000".

(c) LOWER LIMITS WHERE INDIVIDUAL IS COVERED BY BOTH DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN.—

(1) SUM OF DEFINED BENEFIT PLAN FRACTION AND DEFINED CONTRIBUTION PLAN FRACTION CANNOT EXCEED 1.25 FOR DOLLAR LIMITS AND 1.4 FOR PERCENTAGE LIMITS.—Paragraph (1) of section 415(e) (relating to limitation in case of defined benefit plan and defined contribution plan for same employee) is amended by striking out "1.4" and inserting in lieu thereof "1.0".

(2) DEFINED BENEFIT AND CONTRIBUTION PLAN FRACTIONS.—

(A) DEFINED BENEFIT PLAN FRACTION.—Subparagraph (B) of section 415(e)(2) (defining defined benefit plan fraction) is amended to read as follows:

"(B) the denominator of which is the lesser of—

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (b)(1)(A) for such year, or

"(ii) the product of—

"(I) 1.4, multiplied by

"(II) the amount which may be taken into account under subsection (b)(1)(B) with respect to such individual under the plan for such year."

(B) DEFINED CONTRIBUTION PLAN FRACTION.—Subparagraph (B) of section 415(e)(3) (defining defined contribution plan fraction) is amended to read as follows:

"(B) the denominator of which is the sum of the lesser of the following amounts determined for such year and for each prior year of service with the employer:

"(i) the product of 1.25, multiplied by the dollar limitation in effect under subsection (c)(1)(A) for such year (determined without regard to subsection (c)(6)), or

"(ii) the product of—

"(I) 1.4, multiplied by—

"(II) the amount which may be taken into account under subsection (c)(1)(B) (or subsection (c) (7) or (8), if applicable) with respect to such individual under such plan for such year."

(d) TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—Section 415(e) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL TRANSITION RULE FOR DEFINED CONTRIBUTION FRACTION FOR YEARS ENDING AFTER DECEMBER 31, 1982.—

"(A) IN GENERAL.—At the election of the plan administrator, in applying paragraph (3) with respect to any year ending after December 31, 1982, the amount taken into account under paragraph (3)(B) with respect to each participant for all years ending before January 1, 1983, shall be an amount equal to the product of—

"(i) the amount determined under paragraph (3)(B) (as in effect for the year ending in 1982) for the year ending in 1982, multiplied by

"(ii) the transition fraction.

"(B) TRANSITION FRACTION.—The term 'transition fraction' means a fraction—

"(i) the numerator of which is the lesser of—

"(I) $51,875, or

"(II) 1.4, multiplied by 25 percent of the compensation of the participant for the year ending in 1981, and

"(ii) the denominator of which is the lesser of—

"(I) $41,500, or

"(II) 25 percent of the compensation of the participant for the year ending in 1981."

(e) ACTUARIAL ADJUSTMENTS.—

(1) ACTUARIAL ADJUSTMENTS FOR EARLY RETIREMENT MADE BY REFERENCE TO AGE 62 (INSTEAD OF 55).—Subparagraph (C) of section 415(b)(2) (relating to adjustments where benefit begins before age 55) is amended by striking out "55" each place it appears and inserting in lieu thereof "62".

(2) $75,000 FLOOR ON ACTUARIAL ADJUSTMENT WHERE BENEFIT BEGINS BEFORE 62.—Subparagraph (C) of section 415(b)(2) is amended by adding at the end thereof the following new sentence: "The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below—

"(i) if the benefit begins at or after age 55, $75,000, or

"(ii) if the benefit begins before age 55, the amount which is the equivalent of the $75,000 limitation for age 55."

(3) ACTUARIAL ADJUSTMENTS WHERE BENEFIT BEGINS AFTER AGE 65.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(D) ADJUSTMENT TO $90,000 LIMITATION WHERE BENEFIT BEGINS AFTER AGE 65.—If the retirement income benefit under the plan begins after age 65, the determination as to whether the $90,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 65."

(4) LIMITATIONS ON ACTUARIAL ADJUSTMENTS UNDER SECTION 415(b)(2).—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(E) LIMITATION ON CERTAIN ASSUMPTIONS.—

"(i) For purposes of adjusting any benefit under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

"(ii) For purposes of adjusting any benefit under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan.

"(iii) For purposes of adjusting any benefit under subparagraph (B), (C), or (D), no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect."

(f) LIMITATIONS ON DEDUCTIBILITY OF CONTRIBUTIONS.—Section 404 (relating to contributions of an employer to an employee's trust, etc.) is amended by adding at the end thereof the following new subsection:

"(j) SPECIAL RULES RELATING TO APPLICATION WITH SECTION 415.—

"(1) NO DEDUCTION IN EXCESS OF SECTION 415 LIMITATION.—In computing the amount of any deduction allowable under paragraph (1), (2), (3), (4), (7), or (10) of subsection (a) for any year—

"(A) in the case of a defined benefit plan, there shall not be taken into account any benefits for any year in excess of any limitation on such benefits under section 415 for such year, or

"(B) in the case of a defined contribution plan, the amount of any contributions otherwise taken into account shall be reduced by any annual additions in excess of the limitation under section 415 for such year.

"(2) NO ADVANCE FUNDING OF COST-OF-LIVING ADJUSTMENTS.—For purposes of clause (i), (ii) or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, there shall not be taken into account any adjustments under section 415(d)(1) for any year before the year for which such adjustment first takes effect."

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—

(A) NEW PLANS.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section shall apply to years ending after July 1, 1982.

(B) EXISTING PLANS.—

(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section shall apply to years beginning after December 31, 1982.

(ii) PLAN REQUIREMENTS.—A plan shall not be treated as failing to meet the requirements of section 401(a)(16) of the Internal Revenue Code of 1954 for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

(2) AMENDMENTS RELATED TO COST-OF-LIVING ADJUSTMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) shall apply to adjustments for years beginning after December 31, 1982.

(B) ADJUSTMENT PROCEDURES.—The amendment made by subsection (b)(1) and (b)(2)(B) shall apply to adjustments for years beginning after December 31, 1985.

(3) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1954 for the last year beginning before January 1, 1983, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of the Internal Revenue Code of 1954 (as amended by the Tax Equity and Fiscal Responsibility

Act of 1982) does not exceed 1.0 for such year.

(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

(A) IN GENERAL.—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1954 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

(B) CURRENT ACCRUED BENEFIT DEFINED.—

(i) IN GENERAL.— For purposes of this paragraph, the term "current accrued benefit" means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act).

(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

(I) no change in the terms and conditions of the plan after July 1, 1982, and

(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account.

(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section and section 253 (relating to age 70½) shall not apply to years beginning before the earlier of—

(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(B) January 1, 1986.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section and section 253 shall not be treated as a termination of such collective bargaining agreement.

SEC. 236. LOANS TREATED AS DISTRIBUTIONS.

(a) GENERAL RULE.—Section 72 (relating to annuities and certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) LOANS TREATED AS DISTRIBUTIONS.—For purposes of this section—

"(1) TREATMENT AS DISTRIBUTIONS.—

"(A) LOANS.—If during any taxable year a participant or beneficiary receives (directly or indirectly) any amount as a loan from a qualified employer plan, such amount shall be treated as having been received by such individual as a distribution under such plan.

"(B) ASSIGNMENTS OR PLEDGES.—If during any taxable year a participant or beneficiary assigns (or agrees to assign) or pledges (or agrees to pledge) any portion of his interest in a qualified employer plan, such portion shall be treated as having been received by such individual as a loan from such plan.

"(2) EXCEPTION FOR CERTAIN LOANS.—

"(A) GENERAL RULE.—Paragraph (1) shall not apply to any loan to the extent that such loan (when added to the outstanding balance of all other loans from such plan whether made on, before, or after August 13, 1982), does not exceed the lesser of—

"(i) $50,000, or

"(ii) ½ of the present value of the nonforfeitable accrued benefit of the employee under the plan (but not less than $10,000).

"(B) REQUIREMENT THAT LOAN BE REPAYABLE WITHIN 5 YEARS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any loan unless such loan, by its terms, is required to be repaid within 5 years.

"(ii) EXCEPTION FOR HOME LOANS.—Clause (i) shall not apply to any loan used to acquire, construct, reconstruct, or substantially rehabilitate any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the participant or a member of the family (within the meaning of section 267(c)(4)) of the participant.

"(C) RELATED EMPLOYERS AND RELATED PLANS.—For purposes of this paragraph—

"(i) the rules of subsections (b), (c), and (m) of section 414 shall apply, and

"(ii) all plans of an employer (determined after the application of such subsections) shall be treated as one plan.

"(3) QUALIFIED EMPLOYER PLAN, ETC.—For purposes of this subsection, the term 'qualified employer plan' means any plan which was (or was determined to be) a qualified employer plan (as defined in section 219(e)(3) without regard to subparagraph (D) thereof). For purposes of this subsection, such term includes any government plan (as defined in section 219(e)(4)).

"(4) SPECIAL RULES FOR LOANS, ETC., FROM CERTAIN CONTRACTS.—For purposes of this subsection, any amount received as a loan under a contract purchased under a qualified employer plan (and any assignment or pledge with respect to such a contract) shall be treated as a loan under such employer plan."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (m) of section 72 is amended by striking out paragraphs (4) and (8).

(2) Subparagraph (A) of section 72(o)(3) is amended by striking out "subsection (m)(4) and (8)" and inserting in lieu thereof "subsection (p)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to loans, assignments, and pledges made after August 13, 1982. For purposes of the preceding sentence, the outstanding balance of any loan which is renegotiated, extended, renewed, or revised after such date shall be treated as an amount received as a loan on the date of such renegotiation, extension, renewal, or revision.

(2) EXCEPTION FOR CERTAIN LOANS USED TO REPAY OUTSTANDING OBLIGATIONS.—

(A) IN GENERAL.—Any qualified refunding loan shall not be treated as a distribution by reason of the amendments made by this section to the extent such loan is repaid before August 14, 1983.

(B) QUALIFIED REFUNDING LOAN.—For purposes of subparagraph (A), the term "qualified refunding loan" means any loan made after August 13, 1982, and before August 14, 1983, to the extent such loan is used to make a required principal payment.

(C) REQUIRED PRINCIPAL PAYMENT.—For purposes of subparagraph (B), the term "required principal payment" means any principal repayment on a loan made under the plan which was outstanding on August 13, 1982, if such repayment is required to be made after August 13, 1982, and before August 14, 1983.

PART II—REPEAL OF SPECIAL LIMITATIONS ON PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS OR OWNER-EMPLOYEES

SEC. 237. REPEAL OF SPECIAL QUALIFICATION REQUIREMENTS.

(a) GENERAL RULE.—Subsection (d) of section 401 (relating to additional requirements for qualifications of trusts and plans benefiting owner-employees) is amended—

(1) by striking out paragraphs (1) through (7), and

(2) by redesignating paragraphs (9), (10), and (11) as paragraphs (1), (2), and (3), respectively.

(b) REPEAL OF LIMITATIONS ON AMOUNT OF COMPENSATION TAKEN INTO ACCOUNT AND ON CERTAIN DEFINED BENEFIT PLANS.—Paragraphs (17) and (18) of section 401(a) are hereby repealed.

(c) REPEAL OF EXCISE TAX ON EXCESS CONTRIBUTIONS FOR SELF-EMPLOYED INDIVIDUALS.—

(1) Section 4972 (relating to tax on excess contributions for self-employed individuals) is hereby repealed.

(2) The table of sections for chapter 43 is amended by striking out the item relating to section 4972.

(d) PENALTY FOR PREMATURE WITHDRAWALS LIMITED TO KEY EMPLOYEES IN TOP-HEAVY PLANS.—

(1) Subparagraph (A) of section 72(m)(5) is amended—

(A) by striking out "an owner-employee" the first place it appears and inserting in lieu thereof "a key employee",

(B) by striking out "while he was an owner-employee" and inserting in lieu thereof "while he was a key employee in a top-heavy plan", and

(C) by striking out "an owner-employee" in clause (ii) and inserting in lieu thereof "a key employee".

(2) Paragraph (5) of section 72(m) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph, the terms 'key employee' and 'top-heavy plan' have the same meaning as when used in section 416."

"(3) Paragraph (6) of section 72(m) is amdend by striking out "except in applying paragraph (5),".

(e) CONFORMING AMENDMENTS.—

(1) Paragraph (10) of section 401(a) is amended to read as follows:

"(10) OTHER REQUIREMENTS.—

"(A) PLANS BENEFITING OWNER-EMPLOYEES.—In the case of any plan which provides contributions or benefits for employees some or all of whom are owner-employees (as defined in subsection (c)(3)), a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of subsection (d) are also met."

(2) Paragraph (2) of section 404(a) is amended—

(A) by striking out "(8), (11)" and inserting in lieu thereof "(8), (9), (11)", and

(B) by striking out "section 401(a)(9), (10), (17), and (18), and of section 401(d) (other than paragraph (1))" and inserting in lieu thereof "section 401(a)(10) and of section 401(d)".

(3)(A) Paragraph (2) of section 408(a) (defining individual retirement account) is amended by striking out "as defined in sec-

tion 401(d) (1)" and inserting in lieu thereof "as defined in subsection (n)".

(B) Section 408 is amended by redesignating the subsection relating to cross references as subsection (o) and by inserting immediately before such subsection the following new subsection:

"(n) BANK.—For purposes of subsection (a)(2), the term 'bank' means—

"(1) any bank (as defined in section 581),

"(2) an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act), and

"(3) a corporation which, under the laws of the State of its incorporation, is subject to supervision and examination by the Commissioner of Banking or other officer of such State in charge of the administration of the banking laws of such State.

SEC. 238. REPEAL OF SPECIAL LIMITATIONS ON DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS AND SUBCHAPTER S CORPORATIONS.

(a) REPEAL OF LIMIT OF LOWER OF $15,000 OR 15 PERCENT OF EARNED INCOME.—Subsection (e) of section 404 (relating to special limitations for self-employed individuals) is amended to read as follows:

"(e) CONTRIBUTIONS ALLOCABLE TO LIFE INSURANCE PROTECTION FOR SELF-EMPLOYED INDIVIDUALS.—In the case of a self-employed individual described in section 401(c)(1), contributions which are allocable (determined under regulations prescribed by the Secretary) to the purchase of life, accident, health, or other insurance shall not be taken into account under this section."

(b) REPEAL OF LIMITATIONS ON DEFINED BENEFIT PLANS.—Subsection (j) of section 401 (relating to defined benefit plans providing benefits for self-employed individuals and shareholder-employees) is hereby repealed.

(c) REPEAL OF LIMITATIONS APPLICABLE TO SUBCHAPTER S CORPORATIONS.—Section 1379 is amended—

(1) by striking out subsections (a) and (b), and

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 401(c)(1) (defining employee) is amended to read as follows:

"(1) SELF-EMPLOYED INDIVIDUAL TREATED AS EMPLOYEE.—

"(A) IN GENERAL.—The term 'employee' includes, for any taxable year, an individual who is a self-employed individual for such taxable year.

"(B) SELF-EMPLOYED INDIVIDUAL.—The term 'self-employed individual' means, with respect to any taxable year, an individual who has earned income (as defined in paragraph (2)) for such taxable year. To the extent provided in regulations prescribed by the Secretary, such term also includes, for any taxable year—

"(i) an individual who would be a self-employed individual within the meaning of the preceding sentence but for the fact that the trade or business carried on by such individual did not have net profits for the taxable year, and

"(ii) an individual who has been a self-employed individual within the meaning of the preceding sentence for any prior taxable year."

(2) Subparagraph (A) of section 401(c)(2) (defining earned income) is amended by striking out "and" at the end of clause (iii), by striking out the period at end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) with regard to the deductions allowed by sections 404 and 405(c) to the taxpayer."

(3) Subsection (j) of section 408 is amended to read as follows:

"(j) INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.—In the case of any simplified employee pension, subsections (a)(1) and (b)(2) of this section shall be applied by increasing the $2,000 amounts contained therein by the amount of the limitation in effect under section 415(c)(1)(A)."

(4)(A) Paragraph (6) of section 408(k) is hereby repealed.

(B) Paragraph (1) of section 408(k) is amended by striking out "(5), and (6)" and inserting in lieu thereof "and (5)".

(C) Subparagraph (C) of section 408(k)(3) is amended to read as follows:

"(C) CONTRIBUTIONS MUST BEAR UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $200,000) of each employee maintaining a simplified employee pension."

(5) Paragraph (5) of section 415(c) (relating to application with section 404(e)) is hereby repealed.

SEC. 239. ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.

Paragraph (3) of section 101(b) (relating to self-employed individual not considered as employee) is amended to read as follows:

"(3) TREATMENT OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection—

"(A) SELF-EMPLOYED INDIVIDUAL NOT CONSIDERED EMPLOYEE.—Except as provided in subparagraph (B), the term 'employee' does not include a self-employed individual described in section 401(c)(1).

"(B) SPECIAL RULE FOR CERTAIN LUMP SUM DISTRIBUTIONS.—In the case of any lump sum distribution described in the second sentence of paragraph (2)(B), the term 'employee' includes a self-employed individual described in section 401(c)(1)."

SEC. 240. SPECIAL RULES FOR TOP HEAVY PLANS.

(a) GENERAL RULE.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

"SEC. 416. SPECIAL RULES FOR TOP-HEAVY PLANS.

"(a) GENERAL RULE.—A trust shall not constitute a qualified trust under section 401(a) for any plan year if the plan of which it is a part is a top-heavy plan for such plan year unless such plan meets—

"(1) the vesting requirements of subsection (b),

"(2) the minimum benefit requirements of subsection (c), and

"(3) the limitation on compensation requirement of subsection (d).

"(b) VESTING REQUIREMENTS.—

"(1) IN GENERAL.—A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

"(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

"(B) 6-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

"Years of service	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100

"(2) CERTAIN RULES MADE APPLICABLE.—Except to the extent inconsistent with the provisions of this subsection, the rules of section 411 shall apply for purposes of this subsection.

"(c) PLAN MUST PROVIDE MINIMUM BENEFITS.—

"(1) DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—A defined benefit plan meets the requirements of this subsection if the accrued benefit derived from employer contributions of each participant who is a non-key employee, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's average compensation for years in the testing period.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the lesser of—

"(i) 2 percent multiplied by the number of years of service with the employer, or

"(ii) 20 percent.

"(C) YEARS OF SERVICE.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a).

"(ii) EXCEPTION FOR YEARS DURING WHICH PLAN WAS NOT TOP-HEAVY.—A year of service with the employer shall not be taken into account under this paragraph if—

"(I) the plan was not a top-heavy plan for any plan year ending during such year of service, or

"(II) such year of service was completed in a plan year beginning before January 1, 1984.

"(D) AVERAGE COMPENSATION FOR HIGH 5 YEARS.—For purposes of this paragraph—

"(i) IN GENERAL.—A participant's testing period shall be the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) YEAR MUST BE INCLUDED IN YEAR OF SERVICE.—The years taken into account under clause (i) shall be properly adjusted for years not included in a year of service.

"(iii) CERTAIN YEARS NOT TAKEN INTO ACCOUNT.—Except to the extent provided in the plan, a year shall not be taken into account under clause (i) if—

"(I) such year ends in a plan year beginning before January 1, 1984, or

"(II) such year begins after the close of the last year in which the plan was a top-heavy plan.

"(E) ANNUAL RETIREMENT BENEFIT.—For purposes of this paragraph, the term 'annual retirement benefit' means a benefit payable annually in the form of a single life annuity (with no ancillary benefits) beginning at the normal retirement age under the plan.

"(2) DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A defined contribution plan meets the requirements of the subsection if the employer contribution for the year for each participant who is a non-key employee is not less than 3 percent of such participant's compensation (within the meaning of section 415).

"(B) SPECIAL RULE WHERE MAXIMUM CONTRIBUTION LESS THAN 3 PERCENT.—

"(i) IN GENERAL.—The percentage referred to in subparagraph (A) for any year shall not exceed the percentage at which contributions are made (or required to be made) under the plan for the year for the key employee for whom such percentage is the highest for the year.

"(ii) DETERMINATION OF PERCENTAGE.—The determination referred to in clause (i) shall be determined for each key employee by dividing the contributions for such employee by so much of his total compensation for the year as does not exceed $200,000.

"(iii) TREATMENT OF AGGREGATION GROUPS.—

"(I) For purposes of this subparagraph, all defined contribution plans required to be included in an aggregation group under subsection (g)(2)(A)(i) shall be treated as one plan.

"(II) This subparagraph shall not apply to any plan required to be included in an aggregation group if such plan enables a defined benefit plan required to be included in such group to meet the requirements of section 401(a)(4) or 410.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, any employer contribution attributable to a salary reduction or similar arrangement shall not be taken into account.

"(d) NOT MORE THAN $200,000 IN ANNUAL COMPENSATION TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if the annual compensation of each employee taken into account under the plan does not exceed the first $200,000.

"(2) COST-OF-LIVING ADJUSTMENTS.—The Secretary shall annually adjust the $200,000 amount contained in paragraph (1) of this subsection and in clause (ii) of subsection (c)(2)(B) in the same manner as he adjusts the dollar amount contained in section 415(c)(1)(A).

"(e) PLAN MUST MEET REQUIREMENTS WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS.—A top-heavy plan shall not be treated as meeting the requirement of subsection (b) or (c) unless such plan meets such requirement without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contributions Act), title II of the Social Security Act, or any other Federal or State law.

"(f) COORDINATION WHERE EMPLOYER HAS 2 OR MORE PLANS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section where the employer has 2 or more plans including (but not limited to) regulations to prevent inappropriate omissions or require duplication of minimum benefits or contributions.

"(g) TOP-HEAVY PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—

"(A) PLANS NOT REQUIRED TO BE AGGREGATED.—Except as provided in subparagraph (B), the term 'top-heavy plan' means, with respect to any plan year—

"(i) any defined benefit plan if, as of the determination date, the present value of the cumulative accrued benefits under the plan for key employees exceeds 60 percent of the present value of the cumulative accrued benefits under the plan for all employees, and

"(ii) any defined contribution plan if, as of the determination date, the aggregate of the accounts of key employees under the plan exceeds 60 percent of the aggregate of the accounts of all employees under such plan.

"(B) AGGREGATED PLANS.—Each plan of an employer required to be included in an aggregation group shall be treated as a top-heavy plan if such group is a top-heavy group.

"(2) AGGREGATION.—For purposes of this subsection—

"(A) AGGREGATION GROUP.—

"(i) REQUIRED AGGREGATION.—The term 'aggregation group' means—

"(I) each plan of the employer in which a key employee is a participant, and

"(II) each other plan of the employer which enables any plan described in subclause (I) to meet the requirements of section 401(a)(4) or 410.

"(ii) PERMISSIVE AGGREGATION.—The employer may treat any plan not required to be included in an aggregation group under clause (i) as being part of such group if such group would continue to meet the requirements of sections 401(a)(4) and 410 with such plan being taken into account.

"(B) TOP-HEAVY GROUP.—The term 'top-heavy group' means any aggregation group if—

"(i) the sum (as of the determination date) of—

"(I) the present value of the cumulative accrued benefits for key employees under all defined benefit plans included in such group, and

"(II) the aggregate of the accounts of key employees under all defined contribution plans included in such group,

"(ii) exceeds 60 percent of a similar sum determined for all employees.

"(3) DISTRIBUTIONS DURING LAST 5 YEARS TAKEN INTO ACCOUNT.—For purposes of determining—

"(A) the present value of the cumulative accrued benefit for any employee, or

"(B) the amount of the account of any employee,

such present value or amount shall be increased by the aggregate distributions made with respect to such employee under the plan during the 5-year period ending on the determination date.

"(4) OTHER SPECIAL RULES.—For purposes of this subsection—

"(A) ROLLOVER CONTRIBUTIONS TO PLAN NOT TAKEN INTO ACCOUNT.—Except to the extent provided in regulations, any rollover contribution (or similar transfer) initiated by the employee and made after December 31, 1983, to a plan shall not be taken into account with respect to the transferee plan for purposes of determining whether such plan is a top-heavy plan (or whether any aggregation group which includes such plan is a top-heavy group).

"(B) BENEFITS NOT TAKEN INTO ACCOUNT IF EMPLOYEE CEASES TO BE KEY EMPLOYEE.—If any individual is a non-key employee with respect to any plan for any plan year, but such individual was a key employee with respect to such plan for any prior plan year, any accrued benefit for such employee (and the account of such employee) shall not be taken into account.

"(C) DETERMINATION DATE.—The term 'determination date' means, with respect to any plan year—

"(i) the last day of the preceding plan year, or

"(ii) in the case of the first plan year of any plan, the last day of such plan year.

"(D) YEARS.—To the extent provided in regulations, this section shall be applied on the basis of any year specified in such regulations in lieu of plan years.

"(h) ADJUSTMENTS IN SECTION 415 LIMITS FOR TOP-HEAVY PLANS.—

"(1) IN GENERAL.—In the case of any top-heavy plan, paragraphs (2)(B) and (3)(B) of section 415(e) shall be applied by substituting '1.0' for '1.25'.

"(2) EXCEPTION WHERE BENEFITS FOR KEY EMPLOYEES DO NOT EXCEED 90 PERCENT OF TOTAL BENEFITS AND ADDITIONAL CONTRIBUTIONS ARE MADE FOR NON-KEY EMPLOYEES.—Paragraph (1) shall not apply with respect to any top-heavy plan if the requirements of subparagraphs (A) and (B) of this paragraph are met with respect to such plan.

"(A) MINIMUM BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any top-heavy plan if such plan (and any plan required to be included in an aggregation group with such plan) meets the requirements of subsection (c) as modified by clause (ii).

"(ii) MODIFICATIONS.—For purposes of clause (i)—

"(I) paragraph (1)(B) of subsection (c) shall be applied by substituting '3 percent' for '2 percent', and by increasing (but not by more than 10 percentage points) 20 percent by 1 percentage point for each year for which such plan was taken into account under this subsection, and

"(II) paragraph (2)(A) shall be applied by substituting '4 percent' for '3 percent'.

"(B) BENEFITS FOR KEY EMPLOYEES CANNOT EXCEED 90 PERCENT OF TOTAL BENEFITS.—A plan meets the requirements of this subparagraph if such plan would not be a top-heavy plan if '90 percent' were substituted for '60 percent' each place it appears in paragraphs (1)(A) and (2)(B) of subsection (g).

"(3) TRANSITION RULE.—If, but for this paragraph, paragraph (1) would begin to apply with respect to any top-heavy plan, the application of paragraph (1) shall be suspended with respect to any individual so long as there are no—

"(A) employer contributions, forfeitures, or voluntary nondeductible contributions allocated to such individual, or

"(B) accruals for such individual under the defined benefit plan.

"(4) COORDINATION WITH TRANSITIONAL RULE UNDER SECTION 415.—In the case of any top heavy plan to which paragraph (1) applies, section 415(e)(6)(B)(i) shall be applied by substituting '$41,500' for '$51,875'.

"(i) DEFINITIONS.—For purposes of this section—

"(1) KEY EMPLOYEE.—

"(A) IN GENERAL.—The term 'key employee' means any participant in an employer plan who, at any time during the plan year or any of the 4 preceding plan years, is—

"(i) an officer of the employer,

"(ii) 1 of the 10 employees owning (or considered as owning within the meaning of section 318) the largest interests in the employer,

"(iii) a 5-percent owner of the employer, or

"(iv) a 1-percent owner of the employer having an annual compensation from the employer of more than $150,000.

For purposes of clause (i), no more than 50 employees (or, if lesser, the greater of 3 or 10 percent of the employees) shall be treated as officers.

"(B) PERCENTAGE OWNERS.—

"(i) 5-PERCENT OWNER.—For purposes of this paragraph, the term '5-percent owner' means—

"(I) if the employer is a corporation, any person who owns (or is considered as owning within the meaning of section 318) more than 5 percent of the outstanding

stock of the corporation or stock possessing more than 5 percent of the total combined voting power of all stock of the corporation, or

"(II) if the employer is not a corporation, any person who owns more than 5 percent of the capital or profits interest in the employer.

"(ii) 1-PERCENT OWNER.—For purposes of this paragraph, the term '1-percent owner' means any person who would be described in clause (i) if '1 percent' were substituted for '5 percent' each place it appears in clause (i).

"(iii) CONSTRUCTIVE OWNERSHIP RULES.—For purposes of this subparagraph and subparagraph (A)(ii)(II)—

"(I) subparagraph (C) of section 318(a)(2) shall be applied by substituting '5 percent' for '50 percent', and

"(II) in the case of any employer which is not a corporation, ownership in such employer shall be determined in accordance with regulations prescribed by the Secretary which shall be based on principles similar to the principles of section 318 (as modified by subclause (I)).

"(C) AGGREGATION RULES DO NOT APPLY FOR PURPOSES OF DETERMINING 5-PERCENT OR 1-PERCENT OWNERS.—The rules of subsections (b), (c), and (m) of section 414 shall not apply for purposes of determining ownership in the employer.

"(2) NON-KEY EMPLOYEE.—The term 'non-key employee' means any employee who is not a key employee.

"(3) SELF-EMPLOYED INDIVIDUALS.—In the case of a self-employed individual described in section 401(c)(1)—

"(A) such individual shall be treated as an employee, and

"(B) such individual's earned income (within the meaning of section 401(c)(2)) shall be treated as compensation.

"(4) TREATMENT OF EMPLOYEES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—The requirements of subsections (b), (c), and (d) shall not apply with respect to any employee included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and 1 or more employers if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(5) TREATMENT OF BENEFICIARIES.—The terms 'employee' and 'key employee' include their beneficiaries.

"(6) TREATMENT OF SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TREATMENT AS DEFINED CONTRIBUTION PLANS.—A simplified employee pension shall be treated as a defined contribution plan.

"(B) ELECTION TO HAVE DETERMINATIONS BASED ON EMPLOYER CONTRIBUTIONS.—In the case of a simplified employee pension, at the election of the employer, paragraphs (1)(A)(ii) and (2)(B) of subsection (g) shall be applied by taking into account aggregate employer contributions in lieu of the aggregate of the accounts of employees."

(b) QUALIFICATION REQUIREMENTS.—Paragraph (10) of section 401(a) (relating to other requirements) is amended by adding at the end thereof the following new subparagraph:

"(B) TOP-HEAVY PLANS.—

"(i) IN GENERAL.—In the case of any top-heavy plan, a trust forming part of such plan shall constitute a qualified trust under this section only if the requirements of section 416 are met.

"(ii) PLANS WHICH MAY BECOME TOP-HEAVY.—Except to the extent provided in regulations, a trust forming part of a plan (whether or not a top-heavy plan) shall constitute a qualified trust under this section only if such plan contains provisions—

"(I) which will take effect if such plan becomes a top-heavy plan, and

"(II) which meet the requirements of section 416."

(c) TECHNICAL AMENDMENTS.—

(1) Subsections (b) and (c) of section 414 (relating to employees of controlled groups) are each amended by striking out "and 415" and inserting in lieu thereof "415, and 416".

(2) Paragraph (4) of section 414(m) (relating to employees of an affiliated service group) is amended by striking out "and 415" in subparagraph (B), and inserting in lieu there of "415, and 416".

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end there of the following new item:

"Sec. 416. Special rules for top-heavy plans."

SEC. 241. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this part shall apply to years beginning after December 31, 1983.

(b) ALLOWANCE OF EXCLUSION OF DEATH BENEFIT FOR SELF-EMPLOYED INDIVIDUALS.—The amendment made by section 239 shall apply with respect to decedents dying after December 31, 1983.

PART III—OTHER REQUIREMENTS

SEC. 242. REQUIRED DISTRIBUTIONS FOR QUALIFIED PLANS.

(a) GENERAL RULE.—Paragraph (9) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

"(9) REQUIRED DISTRIBUTIONS.—

"(A) BEFORE DEATH.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that the entire interest of each employee—

"(i) either will be distributed to him not later than his taxable year in which he attains age 70½ or, in the case of an employee other than a key employee who is a participant in a top-heavy plan, in which he retires, whichever is the later, or

"(ii) will be distributed, commencing not later than such taxable year—

"(I) in accordance with regulations prescribed by the Secretary, over the life of such employee or over the lives of such employee and his spouse, or

"(II) in accordance with such regulations, over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and his spouse.

"(B) AFTER DEATH.—A trust forming part of a plan shall not constitute a qualified trust under this section unless the plan provides that if—

"(i) an employee dies before his entire interest has been distributed to him, or

"(ii) distribution has been commenced in accordance with subparagraph (A)(ii) to his surviving spouse and such surviving spouse dies before his entire interest has been distributed to such surviving spouse,

his entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if the distribution of the interest of the employee has commenced and such distribution is for a term certain over a period permitted under subparagraph (A)(ii)(II)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 1983.

(2) TRANSITION RULE.—A trust forming part of a plan shall not be disqualified under paragraph (9) of section 401(a) of the Internal Revenue Code of 1954, as amended by subsection (a), by reason of distributions under a designation (before January 1, 1984) by any employee of a method of distribution—

(A) which does not meet the requirements of such paragraph (9), but

(B) which would not have disqualified such trust under paragraph (9) of section 401(a) of such Code as in effect before the amendment made by subsection (a).

SEC. 243. REQUIRED DISTRIBUTIONS IN CASE OF INDIVIDUAL RETIREMENT PLANS.

(a) REQUIRED DISTRIBUTIONS AFTER DEATH.—

(1) INDIVIDUAL RETIREMENT ACCOUNTS.—Paragraph (7) of section 408(a) (defining individual retirement account) is amended to read as follows:

"(7) If—

"(A) an individual for whose benefit the trust is maintained dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (6) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of the surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the individual for whose benefit the trust was maintained and the term certain is for a period permitted under paragraph (6)."

(2) INDIVIDUAL RETIREMENT ANNUITIES.—Paragraph (4) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(4) If—

"(A) the owner dies before his entire interest has been distributed to him, or

"(B) distribution has been commenced as provided in paragraph (3) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such spouse,

the entire interest (or the remaining part of such interest if distribution thereof has commenced) will be distributed within 5 years after his death (or the death of his surviving spouse). The preceding sentence shall not apply if distributions over a term certain commenced before the death of the owner and the term certain is for a period permitted under paragraph (3)."

(b) TREATMENT OF INHERITED INDIVIDUAL RETIREMENT PLANS.—

(1) DENIAL OF ROLLOVER TREATMENT.—

(A) Paragraph (3) of section 408(d) (defining rollover contributions) is amended by adding at the end thereof the following new subparagraph:

"(C) DENIAL OF ROLLOVER TREATMENT FOR INHERITED ACCOUNTS, ETC.—

"(i) IN GENERAL.—In the case of an inherited individual retirement account or individual retirement annuity—

"(I) this paragraph shall not apply to any amount received by an individual from such an account or annuity (and no amount transferred from such account or annuity to another individual retirement account or

annuity shall be excluded from gross income by reason of such transfer), and

"(II) such inherited account or annuity shall not be treated as an individual retirement account or annuity for purposes of determining whether any other amount is a rollover contribution.

"(ii) INHERITED INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY.—An individual retirement account or individual retirement annuity shall be treated as inherited if—

"(I) the individual for whose benefit the account or annuity is maintained acquired such account by reason of the death of another individual, and

"(II) such individual was not the surviving spouse of such other individual."

(B) Subparagraph (C) of section 409(b)(3) (relating to rollover into an individual retirement account or annuity or a qualified plan) is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any retirement bond if such bond is acquired by the owner by reason of the death of another individual and the owner was not the surviving spouse of such other individual."

(2) DENIAL OF DEDUCTION FOR CONTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—Subsection (d) of section 219 (relating to other limitations and restrictions) is amended by adding at the end thereof the following new paragraph:

"(4) DENIAL OF DEDUCTION FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No deduction shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii))."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply in the case of individuals dying after December 31, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1983.

SEC. 244. LIMITATION ON EXCLUSION FOR GROUP-TERM LIFE INSURANCE PURCHASED FOR EMPLOYEES.

(a) GENERAL RULE.—Section 79 (relating to group-term life insurance purchased for employees) is amended by adding at the end thereof the following new subsection:

"(d) NONDISCRIMINATION REQUIREMENTS.—

"(1) IN GENERAL.—In the case of a discriminatory group-term life insurance plan, paragraph (1) of subsection (a) shall not apply with respect to any key employee.

"(2) DISCRIMINATORY GROUP-TERM LIFE INSURANCE PLAN.—For purposes of this subsection, the term 'discriminatory group-term life insurance plan' means any plan of an employer for providing group-term life insurance unless—

"(A) the plan does not discriminate in favor of key employees as to eligibility to participate, and

"(B) the type and amount of benefits available under the plan do not discriminate in favor of participants who are key employees.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATION.—

"(A) IN GENERAL.—A plan does not meet requirements of subparagraph (A) of paragraph (2) unless—

"(i) such plan benefits 70 percent or more of all employees of the employer,

"(ii) at least 85 percent of all employees who are participants under the plan are not key employees,

"(iii) such plan benefits such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of key employees, or

"(iv) in the case of a plan which is part of a cafeteria plan, the requirements of section 125 are met

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) part-time or seasonal employees;

"(iii) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if the benefits provided under the plan were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(iv) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(4) NONDISCRIMINATORY BENEFITS.—A plan does not meet the requirements of paragraph (2)(B) unless all benefits available to participants who are key employees are available to all other participants.

"(5) SPECIAL RULE.—A plan shall not fail to meet the requirements of paragraph (2)(B) merely because the amount of life insurance on behalf of the employees under the plan bears a uniform relationship to the total compensation or the basic or regular rate of compensation of such employees.

"(6) KEY EMPLOYEE DEFINED.—For purposes of this subsection, the term 'key employee' has the meaning given to such term by paragraph (1) of section 416(i), except that subparagraph (A)(iv) of such paragraph shall be applied by not taking into account employees described in paragraph (3)(B) who are not participants in the plan.

"(7) CERTAIN CONTROLLED GROUPS, ETC.—All employees who are treated as employed by a single employer under subsection (b), (c), or (m) of section 414 shall be treated as employed by a single employer for purposes of this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 245. LIMITATION ON ESTATE TAX EXCLUSIONS UNDER SECTION 2039.

(a) GENERAL RULE.—Section 2039 (relating to annuities) is amended by adding at the end thereof the following new subsection:

"(g) $100,000 LIMITATION ON EXCLUSIONS UNDER SUBSECTIONS (c) AND (e).—The aggregate amount excluded from the gross estate of any decedent under subsections (c) and (e) of this section shall not exceed $100,000."

(b) TECHNICAL AMENDMENTS.—Subsections (c) and (e) of section 2039 are each amended by striking out "Notwithstanding the provisions of this section" and inserting in lieu thereof "Subject to the limitation of subsection (g), notwithstanding any other provision of this section".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1982.

SEC. 246. ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.

(a) GENERAL RULE.—Subsection (m) of section 414 (relating to employees of an affiliated service group) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN ORGANIZATIONS PERFORMING MANAGEMENT FUNCTIONS.—For purposes of this subsection, the term 'affiliated service group' also includes a group consisting of—

"(A) an organization the principal business of which is performing, on a regular and continuing basis, management functions for 1 organization (or for 1 organization and other organizations related to such 1 organization), and

"(B) the organization (and related organizations) for which such functions are so performed by the organization described in subparagraph (A).

For purposes of this paragraph, the term 'related organizations' has the same meaning as the term 'related persons' when used in section 103(b)(6)(C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 247. EXISTING PERSONAL SERVICE CORPORATIONS MAY LIQUIDATE UNDER SECTION 333 DURING 1983 OR 1984.

(a) IN GENERAL.—In the case of a complete liquidation of a personal service corporation (within the meaning of section 535(c)(2)(B) of the Internal Revenue Code of 1954) during 1983 or 1984, the following rules shall apply with respect to any shareholder other than a corporation:

(1) The determination of whether section 333 of such Code applies shall be made without regard to whether the corporation is a collapsible corporation to which section 341(a) of such Code applies.

(2) No gain or loss shall be recognized by the liquidating corporation on the distribution of any unrealized receivable in such liquidation.

(3)(A) Except as provided in subparagraph (C), any disposition by a shareholder of any unrealized receivable received in the liquidation shall be treated as a sale at fair market value of such receivable and any gain or loss shall be treated as ordinary gain or loss.

(B) For purposes of subparagraph (A), the term "disposition" includes—

"(i) failing to hold the property in the trade or business which generated the receivables, and

"(ii) failing to hold a continuing interest in such trade or business.

(C) For purposes of subparagraph (A), the term "disposition" does not include transmission at death to the estate of the decedent or transfer to a person pursuant to the right of such person to receive such property by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(4) Unrealized receivables distributed in the liquidation shall be treated as having a zero basis.

(5) For purposes of computing earnings and profits, the liquidating corporation shall not treat unrealized receivables distributed in the liquidation as an item of income.

(b) UNREALIZED RECEIVABLES DEFINED.—For purposes of this section, the term "unrealized receivables" has the meaning given such term by the first sentence of section 751(c) of such Code.

SEC. 248 EMPLOYEE LEASING.

(a) GENERAL RULE.—Section 414 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(n) EMPLOYEE LEASING.—

"(1) IN GENERAL.—For purposes of the pension requirements listed in paragraph (3), except to the extent otherwise provided in regulations, with respect to any person (hereinafter in this subsection referred to as the 'recipient') for whom a leased employee performs services—

"(A) the leased employee shall be treated as an employee of the recipient, but

"(B) contributions or benefits provided by the leasing organization which are attributable to services performed for the recipient shall be treated as provided by the recipient.

"(2) LEASED EMPLOYEE.—For purposes of paragraph (1), the term 'leased employee' means any person who provides services to the recipient if—

"(A) such services are provided pursuant to an agreement between the recipient and any other person (in this subsection referred to as the 'leasing organization'),

"(B) such person has performed such services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of a least 1 year, and

"(C) such services are of a type historically performed, in the business field of the recipient, by employees.

"(3) PENSION REQUIREMENTS.—For purposes of this subsection, the pension requirements listed in this paragraph are—

"(A) paragraphs (3), (4), (7), and (16) of section 401(a), and

"(B) sections 408(k), 410, 411, 415, and 416.

"(4) TIME WHEN LEASED EMPLOYEE IS FIRST CONSIDERED AS EMPLOYEE.—In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the pension requirements listed in paragraph (3) are met for periods after the close of the 1-year period referred to in paragraph (2); except that years of service for the recipient shall be determined by taking into account the entire period for which the leased employee performed services for the recipient (or related persons).

"(5) SAFE HARBOR.—This subsection shall not apply to any leased employee if such employee is covered by a plan which is maintained by the leasing organization if, with respect to such employee, such plan—

"(A) is a money purchase pension plan with a nonintegrated employer contribution rate of at least 7½ percent, and

"(B) provides for immediate participation and for full and immediate vesting.

"(6) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the same meaning as when used in section 103(b)(6)(C)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1983.

SEC. 249. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.

(a) IN GENERAL.—Section 401 (relating to qualified pension, profit-sharing, stock bonus plans, etc.) is amended by redesignating subsection (l) as subsection (o), and by inserting after subsection (k) the following new subsection:

"(l) NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OASDI.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(5), the coordination of a defined contribution plan with OASDI meets the requirements of subsection (a)(4) only if the total contributions with respect to each participant, when increased by the OASDI contributions, bear a uniform relationship—

"(A) to the total compensation of such employee, or

"(B) to the basic or regular rate of compensation of such employee.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) OASDI CONTRIBUTIONS.—The term 'OASDI contributions' means the product of—

"(i) so much of the remuneration paid by the employer to the employee during the plan year as—

"(I) constitutes wages (within the meaning of section 3121(a) without regard to paragraph (1) thereof), and

"(II) does not exceed the contribution and benefit base applicable under OASDI at the beginning of the plan year, multiplied by

"(ii) the rate of tax applicable under section 3111(a) (relating to employer's OASDI tax) at the beginning of the plan year.

In the case of an individual who is an employee within the meaning of subsection (c)(1), the preceding sentence shall be applied by taking into account his earned income (as defined in subsection (c)(2)).

"(B) OASDI.—The term 'OASDI' means the system of old-age, survivors, and disability insurance established under title II of the Social Security Act and the Federal Insurance Contributions Act.

"(C) REMUNERATION.—The term 'remuneration' means—

"(i) total compensation, or

"(ii) basic or regular rate of compensation,

whichever is used in determining contributions or benefits under the plan.

"(3) DETERMINATION OF COMPENSATION, ETC., OF SELF-EMPLOYED INDIVIDUALS.—For purposes of this subsection, in the case of an individual who is an employee within the meaning of subsection (c)(1)—

"(A) his total compensation shall include his earned income (as defined in subsection (c)(2)), and

"(B) his basic or regular rate of compensation shall be determined (under regulations prescribed by the Secretary) with respect to that portion of his earned income which bears the same ratio to his earned income as the basic or regular compensation of the employees under the plan (other than employees within the meaning of subsection (c)(1)) bears to the total compensation of such employees."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1983.

SEC. 250. AUTHORITY OF SECRETARY TO ALLOCATE INCOME AND DEDUCTIONS IN THE CASE OF CERTAIN CORPORATIONS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding after section 269 the following new section:

"SEC. 269A. PERSONAL SERVICE CORPORATIONS FORMED OR AVAILED OF TO AVOID OR EVA DE INCOME TAX.

"(a) GENERAL RULE.—If—

"(1) substantially all of the services of a personal service corporation are performed for (or on behalf of) 1 other corporation, partnership, or other entity, and

"(2) the principal purpose for forming, or availing of, such personal service corporation is the avoidance or evasion of Federal income tax by reducing the income of, or securing the benefit of any expense, deduction, credit, exclusion, or other allowance for, any employee-owner which would not otherwise be available,

then the Secretary may allocate all income, deductions, credits, exclusions, and other allowances between such personal service corporation and its employee-owners, if such allocation is necessary to prevent avoidance or evasion of Federal income tax or clearly to reflect the income of the personal service corporation or any of its employee-owners.

"(b) DEFINITIONS.—For purposes of this section—

"(1) Personal service corporation.—The term 'personal service corporation' means a corporation the principal activity of which is the performance of personal services and such services are substantially performed by employee-owners.

"(2) EMPLOYEE-OWNER.—The term 'employee-owner' means any employee who owns, on any day during the taxable year, more than 10 percent of the outstanding stock of the personal service corporation. For purposes of the preceding sentence, section 318 shall apply, except that '5 percent' shall be substituted for '50 percent' in section 318(a)(2)(C).

"(3) RELATED PERSONS.—All related persons (within the meaning of section 106(b)(6)(C)) shall be treated as 1 entity."

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter 1 is amended by inserting after the item relating to section 269 the following new item:

"Sec. 269A. Personal service corporations formed or availed of to avoid or evade income tax."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

PART IV—MISCELLANEOUS

SEC. 251. CHURCH PLANS.

(a) EXCLUSION ALLOWANCE.—

(1) ELECTION TO HAVE SECTION 415 RULES APPLY.—Subparagraph (B) of section 403(b)(2) (relating to exclusion allowance) is amended by striking out "(under section 415)" and inserting in lieu thereof "(under section 415 without regard to section 415(c)(8))".

(2) YEARS OF SERVICE.—Section 403(b)(2) is amended by adding at the end thereof the following new subparagraphs:

"(C) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this subsection and section 415(c)(4)(A)—

"(i) all years of service by—

"(I) a duly ordained, commissioned, or licensed minister of a church, or

"(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

"(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

For purposes of the preceding sentence, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).

"(D) ALTERNATIVE EXCLUSION ALLOWANCE.—

"(i) IN GENERAL.—In the case of any individual described in subparagraph (C), the

amount determined under subparagraph (A) shall not be less than the lesser of—

"(I) $3,000, or

"(II) the includible compensation of such individual.

"(ii) SUBPARAGRAPH NOT TO APPLY TO INDIVIDUALS WITH ADJUSTED GROSS INCOME OVER $17,000.—This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to any community property laws) exceeds $17,000.

"(iii) SPECIAL RULE FOR FOREIGN MISSIONARIES.—In the case of an individual described in subparagraph (C)(i) performing services outside the United States, there shall be included as includible compensation for any year under clause (i)(II) any amount contributed during such year by a church (or convention or association of churches) for an annuity contract with respect to such individual."

(b) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—Section 403(b) is amended by adding at the end thereof the following new paragraph:

"(9) RETIREMENT INCOME ACCOUNTS PROVIDED BY CHURCHES, ETC.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title—

"(i) a retirement income account shall be treated as an annuity contract described in this subsection, and

"(ii) amounts paid by an employer described in paragraph (1)(A) to a retirement income account shall be treated as amounts contributed by the employer for an annuity contract for the employee on whose behalf such account is maintained.

"(B) RETIREMENT INCOME ACCOUNT.—For purposes of this paragraph, the term 'retirement income account' means a defined contribution program established or maintained by a church, a convention or association of churches, including an organization described in section 414(e)(3)(A), to provide benefits under section 403(b) for an employee described in paragraph (1) or his beneficiaries."

(c) CONTRIBUTION LIMITATIONS.—

(1) APPLICATION OF SECTION 415(C)(4) TO CHURCH PLANS.—Paragraph (4) of section 415(c) (relating to special election for section 403(b) contracts) is amended—

(A) by striking out "or a home health service agency" each place it appears and inserting in lieu thereof "a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)",

(B) by inserting "(as determined for purposes of section 403(b)(2))" after "service for the employer" in subparagraph (A),

(C) by adding at the end of subparagraph (D) the following new clause:

"(iv) For purposes of this paragraph, the terms 'church' and 'convention or association of churches' have the same meaning as when used in section 414(e).", and

(D) by striking out "AND HOME HEALTH SERVICE AGENCIES" in the heading and inserting in lieu thereof ", HOME HEALTH SERVICE AGENCIES, AND CERTAIN CHURCHES, ETC.".

(2) TOTAL ANNUAL ADDITIONS.—Section 415(c) (relating to limitation on defined contribution plan) is amended by adding at the end thereof the following paragraph:

"(8) CERTAIN CONTRIBUTIONS BY CHURCH PLANS NOT TREATED AS EXCEEDING LIMITS.—

"(A) ALTERNATIVE EXCLUSION ALLOWANCE.—Any contribution or addition with respect to any participant, when expressed as an annual addition, which is allocable to the application of section 403(b)(2)(D) to such participant for such year, shall be treated as not exceeding the limitations of paragraph (1).

"(B) CONTRIBUTIONS NOT IN EXCESS OF $40,000 ($10,000 PER YEAR).—

"(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

"(ii) $40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

"(iii) NO ELECTION IF PARAGRAPH (4)(A) ELECTION MADE.—No election may be made under this subparagraph for any year if an election is made under paragraph (4)(A) for such year.

"(C) ANNUAL ADDITION.—For purposes of this paragraph, the term 'annual addition' has the meaning given such term by paragraph (2)."

(3) CONFORMING AMENDMENT.—Section 403(b)(2)(B) (relating to exclusion allowance) is amended by striking out "and home health service agencies" and inserting in lieu thereof "home health service agencies, and certain churches, etc."

(d) CORRECTION PERIOD FOR CHURCH PLANS.—A church plan (within the meaning of section 414(e) of the Internal Revenue Code of 1954) shall not be treated as not meeting the requirements of section 401 or 403 of such Code if—

(1) by reason of any change in any law, regulation, ruling, or otherwise such plan is required to be amended to meet such requirements, and

(2) such plan is so amended at the next earliest church convention or such other time as the Secretary of the Treasury or his delegate may prescribe.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RETIREMENT INCOME ACCOUNTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1974.

(3) SECTION 415 AMENDMENTS.—The amendments made by subsection (c) shall apply to years beginning after December 31, 1981.

(4) CORRECTION PERIOD.—The amendment made by subsection (d) shall take effect on July 1, 1982.

(5) SPECIAL RULE FOR EXISTING DEFINED BENEFIT ARRANGEMENTS.—Any defined benefit arrangement which is established by a church or a convention or association of churches (including an organization described in section 414(e)(3)(B)(ii) of the Internal Revenue Code of 1954) and which is in effect on the date of the enactment of this Act shall not be treated as failing to meet the requirements of section 403(b)(2) of such Code merely because it is a defined benefit arrangement.

SEC. 252. DEFERRED COMPENSATION PLANS FOR STATE JUDGES.

Subsection (c) of section 131 of the Revenue Act of 1978 is amended by adding at the end thereof the following new paragraph:

"(3) DEFERRED COMPENSATION PLANS FOR STATE JUDGES.—

"(A) IN GENERAL.—The amendments made by this section shall not apply to any qualified State judicial plan.

"(B) QUALIFIED STATE JUDICIAL PLAN.—For purposes of subparagraph (A), the term 'qualified State judicial plan' means any retirement plan of a State for the exclusive benefit of judges or their beneficiaries if—

"(i) such plan has been continuously in existence since December 31, 1978,

"(ii) under such plan, all judges eligible to benefit under the plan—

"(I) are required to participate, and

"(II) are required to contribute the same fixed percentage of their basic or regular rate of compensation as judge,

"(iii) under such plan, no judge has an option as to contributions or benefits the exercise of which would affect the amount of includible compensation,

"(iv) the retirement payments of a judge under the plan are a percentage of the compensation of judges of that State holding similar positions, and

"(v) the plan during any year does not pay benefits with respect to any participant which exceed the limitations of section 415(b) of the Internal Revenue Code of 1954."

SEC. 253. PROFIT-SHARING PLAN CONTRIBUTIONS ON BEHALF OF DISABLED.

(a) IN GENERAL.—Paragraph (3) of section 415(c) (defining participant's compensation) is amended to read as follows:

"(3) PARTICIPANT'S COMPENSATION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'participant's compensation' means the compensation of the participant from the employer for the year.

"(B) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting 'the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)' for 'compensation of the participant from the employer'.

"(C) SPECIAL RULES FOR PERMANENT AND TOTAL DISABILITY.—In the case of a participant—

"(i) who is permanently and totally disabled (as defined in section 105(d)(4)),

"(ii) who is not an officer, owner, or highly compensated, and

"(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term 'participant's compensation' means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled. This subparagraph shall only apply if contributions made with respect to such participant are nonforfeitable when made."

(b) DEDUCTIBILITY.—Subparagraph (B) of section 404(a)(3) (relating to limits on deductible contributions to stock bonus and profit-sharing trusts) is amended by adding at the end thereof the following: "The term 'compensation otherwise paid or accrued during the taxable year to all employees' shall include any amount with respect to which an election under section 415(c)(3)(C) is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

SEC. 254. EXEMPTION FOR TRUSTS WHICH INCLUDE GOVERNMENTAL PLANS.

(a) IN GENERAL.—Section 401(a) (relating to requirements of qualification for qualified pension, profit-sharing, and stock bonus plans) is amended by inserting immediately after paragraph (23) the following new paragraph:

"(24) Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of the moneys of any plan or governmental unit described in section 805(d)(6)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1981.

SUBTITLE D—TAXATION OF LIFE INSURANCE COMPANIES AND ANNUITIES

PART I—COINSURANCE ARRANGEMENTS

Subpart A—Modified Coinsurance Contracts

SEC. 255. REPEAL OF OPTIONAL TREATMENT OF POLICIES REINSURED UNDER MODIFIED COINSURANCE CONTRACTS.

(a) REPEAL OF SECTION 820.—Section 820 (relating to optional treatment of policies reinsured under modified coinsurance contracts) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 811 (relating to dividends to policyholders) is amended by adding at the end thereof the following new subsection:

"(c) SPECIAL RULE FOR DIVIDENDS TO POLICYHOLDERS UNDER REINSURANCE CONTRACTS.—If, under the terms of a conventional coinsurance contract, a life insurance company (hereinafter referred to as 'the reinsurer') is obligated to reimburse another life insurance company (hereinafter referred to as 'the reinsured') for dividends to policyholders on the policies reinsured, the amount of the deduction for dividends reimbursed shall, for purposes of section 809(d)(12), be equal to the amount of dividends to policyholders—

"(1) which were paid by the reinsured, and

"(2) with respect to which the reinsurer reimbursed the reinsured under the terms of such contract.

The amount determined under the preceding sentence shall be properly adjusted to reflect the adjustments under subsection (b)(1)."

(2) The first sentence of section 809(c)(1) (relating to premiums) is amended to read as follows: "The gross amount of premiums and other consideration, including—

"(A) advance premiums,

"(B) deposits,

"(C) fees,

"(D) assessments,

"(E) consideration in respect of assuming liabilities under contracts not issued by the taxpayer, and

"(F) the amount of dividends to policyholders reimbursed to the taxpayer by a reinsurer in respect of reinsured policies,

on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded."

(3) Section 809(d)(3) (relating to dividends to policyholders) is amended by inserting ", other than the deduction provided under paragraph (12)" before the period at the end thereof.

(4) Section 809(d) (relating to deductions in computing gain and loss from operations) is amended by adding after paragraph (11) thereof the following new paragraph:

"(12) DIVIDENDS REIMBURSED.—The deduction for the amount of dividends to policyholders reimbursed by the taxpayer to another insurance company in respect of policies the taxpayer has reinsured (determined under section 811(c))."

(5) The table of sections for subpart E of part I of subchapter L of chapter 1 is amended by striking out the item relating to section 820.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) RULES APPLICABLE TO TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982—

(i) any determination as to whether any contract met the requirements of subsection (b) of section 820 of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) shall be made solely by reference to the terms of the contract, and

(ii) the treatment of such contract under subsection (c) of such section 820 shall be made in accordance with the regulations under such section which were in effect on December 31, 1981.

(B) PARAGRAPH NOT TO APPLY IF FRAUD INVOLVED.—The provisions of subparagraph (A) shall not apply with respect to any deficiency which the Secretary of the Treasury or his delegate establishes was due to fraud with intent to evade tax.

SEC. 256. SPECIAL ACCOUNTING RULES RELATING TO REPEAL OF SECTION 820.

(a) IN GENERAL.—For purposes of subchapter L of chapter 1 of the Internal Revenue Code of 1954, the provisions of this section shall apply to any contract—

(1) which was in effect on December 31, 1981, and

(2) to which section 820(a)(1) of such Code (as in effect before its repeal by section 255(a)) applied.

(b) TREATMENT OF RESERVES AND ASSETS.—Except as provided in subsections (c) and (d), the reserves on the contract described in subsection (a) and the assets in relation to such reserves shall—

(1) as of the beginning of taxable year 1982, be treated as the reserves and assets of the reinsurer (and not the reinsured), and

(2) as of the end of taxable year 1982, be treated as the reserves and assets of the reinsured (and not the reinsurer).

(c) ALLOCATION OF CERTAIN SECTION 820(c) ITEMS.—Any amount described in paragraphs (1), (2), (4), and (5) of section 820(c) of such Code (as so in effect) with respect to any contract described in subsection (a) shall, beginning with taxable year 1982, be taken into account by the reinsured and the reinsurer in the same manner as such amounts would be taken into account under a modified coinsurance contract to which section 820(a)(1) of such Code (as so in effect) does not apply.

(d) AMOUNTS TREATED AS RETURNED UNDER THE CONTRACT.—

(1) IN GENERAL.—For taxable year 1982—

(A) in the case of the reinsurer, there shall be allowed as a deduction for ordinary and necessary business expenses under section 809(d)(11) of such Code an amount equal to the termination amount (and such amount shall not otherwise be taken into account in determining gain or loss from operations under section 809 of such Code), and

(B) in the case of the reinsured, the gross amount under section 809(c)(3) of such Code shall be increased by the termination amount.

(2) ADJUSTMENT FOR RESERVES OF REINSURED.—For purposes of subsections (a) and (b) of section 810 of such Code, the amount taken into account as of the close of taxable year 1982 by the reinsured shall be reduced for such taxable year (but not for purposes of determining such amount at the beginning of the next succeeding taxable year) by the excess (if any) of—

(A) the reserves on the contract as of January 1, 1982 (determined under the reinsured's method of computing reserves for tax purposes), over

(B) the termination amount.

This paragraph shall not apply to any portion of any policies with respect to which the taxpayer is both the reinsured and the reinsurer under contracts to which this section applies.

(3) TERMINATION AMOUNT.—For purposes of this subsection, the term "termination amount" means the amount under the contract, the reinsurer would have returned to the reinsured upon termination of the contract if the contract had been terminated as of January 1, 1982.

(4) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT UNDER SECTION 809(d)(5).—Any amount treated as the reserves of the reinsured by reason of subsection (b)(2) shall not be taken into account under section 809(d)(5) of the Internal Revenue Code of 1954.

(e) 3-YEAR INSTALLMENT PAYMENT OF TAXES OWED BY REINSURER RESULTING FROM REPEAL OF SECTION 820.—

(1) IN GENERAL.—That portion of any tax imposed under chapter 1 of such Code (reduced by the sum of the credits allowable under subpart A of part IV of such chapter) on a reinsurer for taxable year 1982 which is attributable to the excess (if any) of—

(A) any decrease in reserves for such taxable year by reason of subsection (b), over

(B) the amount allowable as a deduction for such taxable year by reason of subsection (d)(1)(A),

may, at the election of the reinsurer, be paid in 3 equal annual installments.

(2) TIME FOR PAYMENTS.—

(A) IN GENERAL.—The 3 installments under paragraph (1) shall be paid on March 15 of 1983, 1984, and 1985.

(B) FIRST INSTALLMENT MAY BE MADE IN 2 PAYMENTS.—The reinsurer may elect to pay one-half of the installment due March 15, 1983, on June 15, 1983.

(3) ACCELERATION OF PAYMENTS.—If—

(A) an election is made under paragraph (1), and

(B) before the tax attributable to such excess is paid in full any installment under this section is not paid on or before the date fixed by this section for its payment,

then the extension of time for payment of tax provided in this subsection shall cease to apply, and any portion of the tax payable in installments shall be paid on notice and demand from the Secretary of the Treasury or his delegate.

(4) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under paragraph (1) and a deficiency attributable to the excess has been assessed, the deficiency shall be prorated to such installments. The part of the deficiency so prorated to any installment the date for payment of which has not arrived shall be collected at the same time as, and as part of, such installment. The part of the deficiency so prorated to any installment the date for payment of which

has arrived shall be paid on notice and demand from the Secretary of the Treasury or his delegate. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

(5) BOND MAY BE REQUIRED.—If an election is made under this section, section 6165 of the Internal Revenue Code of 1954 shall apply as though the Secretary of the Treasury or his delegate were extending the time for payment of the tax.

(6) EXTENSION OF PERIOD OF LIMITATIONS.—The running of any period of limitations for the collection of the tax with respect to which an election is made under paragraph (1) shall be suspended for the period during which there are any unpaid installments of such tax.

(7) INTEREST ON INSTALLMENTS.—Rules similar to the rules of section 6601(b)(2) of such Code (without regard to the last sentence thereof) shall apply with respect to any tax for which an election is made under paragraph (1).

(f) SPECIAL RULE ALLOWING REINSURED TO REVOKE AN ELECTION UNDER SECTION 820.—

(1) IN GENERAL.—In any case in which—

(A) a taxpayer is the reinsured under any contract—

(i) which took effect in 1980 or 1981, and

(ii) with respect to which an election under section 820 of the Internal Revenue Code of 1954 was made,

(B) the taxpayer has a loss from operations or its gain from operations (determined without regard to any deduction under paragraphs (3), (5), and (6) of section 809(d) of such Code) for the taxable year in which such contract took effect does not exceed the taxpayer's taxable investment income for such taxable year,

(C) such contract was not a contract with a person who, during the taxable year in which such contract took effect, was a member of the same affiliated group (determined under section 1504 of such Code without regard to subsection (b)) of which the taxpayer is a member, and

(D) the taxpayer makes an election under this subsection within 6 months after the date of the enactment of this Act,

then the provisions of paragraph (2) shall apply.

(2) RULES WHICH APPLY IF THIS SUBSECTION APPLIES.—In any case described in paragraph (1)—

(A) the taxpayer shall, for all taxable years, be treated as not having made an election under section 820 of such Code with respect to the contract described in paragraph (1), but

(B) all other parties to the contract shall be treated as having made such election with respect to such contract for all taxable years.

(g) TAXABLE YEAR 1982.—For purposes of this section, the term "taxable year 1982" means, with respect to any taxpayer, the first taxable year of the taxpayer beginning after December 31, 1981.

(h) REGULATIONS.—The Secretary of the Treasury or his delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

Subpart B—Other Reinsurance Agreements

SEC. 257. DENIAL OF INTEREST DEDUCTION ON INDEBTEDNESS INCURRED IN CONNECTION WITH REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Section 805(e) (relating to interest paid) is amended by adding at the end thereof the following new sentence:

"For purposes of this subpart, the interest paid for any taxable year shall not include any interest paid or accrued after December 31, 1981, by a ceding company (or its affiliates) to any person in connection with a reinsurance agreement (other than interest on account of delay in making periodic settlements of income and expense items under the terms of the agreement)."

(b) SPECIAL TRANSITIONAL RULE WHERE AT LEAST 20 PERCENT OF THE LIABILITIES REINSURED ARE PAID IN CASH, ETC.—The amendment made by subsection (a) shall not apply with respect to any interest paid or incurred by a ceding company to a person who is a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) on indebtedness evidenced by a note—

(1) which was entered into after December 31, 1981, with respect to a reinsurance contract under the terms of which an amount not less than 20 percent of the amounts reinsured was paid in cash to the reinsurer on the effective date of such contract,

(2) at least 40 percent of the principal of which had been paid by the ceding company in cash as of July 1, 1982, and

(3) the remaining balance of which is paid in cash before January 1, 1983.

SEC. 258. ALLOCATION OF INCOME, ETC. IN THE CASE OF OTHER REINSURANCE AGREEMENTS.

(a) IN GENERAL.—Section 818 (relating to accounting provisions) is amended by adding at the end thereof the following new subsection:

"(g) ALLOCATION IN CASE OF REINSURANCE AGREEMENT INVOLVING TAX AVOIDANCE OR EVASION.—In the case of 2 or more related persons (within the meaning of section 1239(b)) who are parties to a reinsurance agreement, the Secretary may—

"(1) allocate between or among such persons income (whether investment income, premium, or otherwise), deductions, assets, reserves, credits, and other items related to such agreement, or

"(2) recharacterize any such items,

if he determines that such allocation or recharacterization is necessary to reflect the proper source and character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to agreements entered into after the date of the enactment of this Act.

PART II—2-YEAR TEMPORARY PROVISIONS RELATING TO TAXATION OF LIFE INSURANCE COMPANIES

SEC. 259. INCREASE IN AMOUNT OF DIVIDEND DEDUCTION ALLOWED; PENSION PLAN RESERVES.

(a) INCREASE IN LIMITATION.—Section 809(f) (relating to limitation on certain deductions) is amended to read as follows:

"(f) LIMITATION ON CERTAIN DEDUCTIONS.—

"(1) IN GENERAL.—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed the greater of—

"(A) $1,000,000, plus the amount (if any) by which—

"(i) the gain from operations for the taxable year (computed without regard to such deductions), exceeds

"(ii) the taxable investment income for the taxable year, or

"(B) if the taxpayer elects for any taxable year, the amount determined under paragraph (2).

"(2) ALTERNATIVE LIMITATION.—The amount determined under this paragraph for any taxable year shall be equal to the sum of—

"(A) that portion of the deduction under subsection (d)(3) which is allocable to any contract described in section 805(d), and

"(B) an amount equal to the sum of—

"(i) so much of the base amount as does not exceed $1,000,000, plus

"(ii) in the case of—

"(I) a mutual life insurance company, 77.5 percent of the base amount, or

"(II) a stock life insurance company, 85 percent of the base amount.

"(3) REDUCTION IN $1,000,000 AMOUNT FOR LARGE INSURERS.—If the sum of the deductions under paragraphs (3), (5), and (6) of subsection (d) exceeds $4,000,000, then each of the $1,000,000 amounts in paragraphs (1) and (2) shall be reduced (but not below zero) by the amount which bears the same ratio to $1,000,000 as—

"(A) the amount of such excess bears to,

"(B) $4,000,000.

"(4) BASE AMOUNT.—For purposes of paragraph (2)(B), the term 'base amount' means the excess of—

"(A) the amount of the deductions under paragraphs (3) and (5) of subsection (d) for the taxable year, over

"(B) the amount determined under paragraph (2)(A) for such taxable year.

"(5) APPLICATION OF LIMITATION.—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(3), then to the amount of the deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(6)."

(b) $1,000,000 LIMITATION TO BE APPORTIONED AMONG MEMBERS OF SAME CONTROLLED GROUP.—Section 1561(a) (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) one $1,000,000 amount (adjusted as provided in section 809(f)(3)) for purposes of computing the limitation under paragraph (1) or (2) of section 809(f).", and

(4) by striking out "(2) and (3)" and inserting in lieu thereof "(2), (3), and (4)".

(c) CONFORMING AMENDMENTS.—Section 1561(b) (relating to certain short taxable years) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the amount (adjusted as provided in section 809(f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f),", and

(4) by striking out "(2), or (3)" and inserting in lieu thereof "(2), (3), or (4)".

SEC. 260. COMPUTATION OF AMOUNT OF LIFE INSURANCE RESERVES.

(a) RESERVES ON CONTRACTS ON WHICH CERTAIN INTEREST IS GUARANTEED BEYOND THE END OF THE TAXABLE YEAR.—Section 818 (relating to accounting provisions), as amended by section 259(a), is amended by adding at the end thereof the following new subsection:

"(h) METHOD OF COMPUTING RESERVES ON CONTRACT WHERE INTEREST IS GUARANTEED BEYOND END OF TAXABLE YEAR.—For purposes of this part (other than section 801), interest payable under any contract which is computed at a rate which—

"(1) is in excess of the lowest rates which are assumed under such contract for any period in calculating the reserves under section 810(c) for the contract under which such interest is payable, and

"(2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year."

(b) PROHIBITION AGAINST DEDUCTION OF INTEREST IN EXCESS OF AMOUNT CREDITED TO GROUP PENSION POLICYHOLDERS.—Section 805 (relating to the determination of policy and other contract liability requirements) is amended by adding at the end thereof the following:

"(g) SPECIAL LIMITATION FOR GROUP PENSION CONTRACTS.—The amount determined under paragraphs (2) and (3) of subsection (a) for policy and other contract liability requirements for group pension contracts shall not exceed the amount actually credited to the policyholders whether such crediting is through premium rate computations, reserve increases, excess interest, experience rate credits, policyholder dividends or otherwise. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

(c) PROHIBITION AGAINST CHANGING THE QUALIFICATION STATUS OF LIFE INSURANCE COMPANIES.—For any taxable year ending before January 1, 1984, a taxpayer shall not be treated as other than a life insurance company (as defined in section 801(a) of such Code) because of the effect of amounts held under contracts which would be described in section 805(d) of the Internal Revenue Code of 1954, except for the fact that such contracts do not contain permanent annuity purchase rate guarantees.

SEC. 261. MODIFICATION OF MENGE FORMULA.

Subparagraph (B) of section 805(c)(1) (defining adjusted life insurance reserves rate) is amended to read as follows:

"(B) 0.9 raised to the power of n where n is the number (positive or negative) determined by subtracting—

"(i) 100 times the average rate of interest assumed by the taxpayer in calculating such reserves, from

"(ii) 100 times the adjusted reserves rate."

SEC. 262. CONSOLIDATED RETURNS TO BE COMPUTED ON A BOTTOM LINE BASIS.

Subsection (f) of section 818 (relating to computation on consolidated returns of policyholders' share of investment yield) is amended to read as follows:

"(f) SPECIAL RULES FOR CONSOLIDATED RETURN COMPUTATIONS.—For purposes of this part, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the following rules shall apply:

"(1) POLICYHOLDERS' SHARE OF INVESTMENT YIELD.—The computation of the policyholders' share of investment yield under subparts B and C (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return.

"(2) LIFE INSURANCE COMPANY TAXABLE INCOME.—

"(A) IN GENERAL.—The amount of the consolidated life insurance company taxable income under paragraphs (1) and (2) of section 802(b) shall be determined by taking into account the life insurance company taxable income (including any case where deductions exceed income) of each life insurance company which is a member of the group (as computed separately under such paragraphs).

"(B) CERTAIN AMOUNTS COMPUTED SEPARATELY.—For purposes of subparagraph (A), the determination of a life insurance company's taxable investment income and gain or loss from operations (after applying the limitation provided by section 809(f)) shall be made without regard to the taxable investment income or gain or loss from operations of any other such company.

"(3) CONSOLIDATED NET CAPITAL GAIN.—If there is a consolidated net capital gain, then the partial tax referred to in section 802(a)(2)(A) shall be computed on—

"(A) the consolidated life insurance company taxable income, reduced (but not below the sum of the amounts determined under section 802(b)(3)) by

"(B) the amount of such consolidated net capital gain."

SEC. 263. EFFECTIVE DATES; SPECIAL RULES APPLICABLE TO TRANSACTIONS BEFORE EFFECTIVE DATE.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this part shall apply to taxable years beginning after December 31, 1981, and before January 1, 1984.

(2) GROUP PENSION CONTRACTS.—The amendments made by section 260(b) shall apply to taxable years beginning after December 31, 1982, and before January 1, 1984.

(3) RESERVES ON CONTRACTS WHERE INTEREST GUARANTEED FOR EXTENDED PERIODS.—

(A) IN GENERAL.—The amendment made by section 260(a) shall apply to reserves computed for taxable years beginning after December 31, 1981, and before January 1 1984, with respect to guarantees made after July 1, 1982, and before January 1, 1984.

(B) SPECIAL RULE RELATING TO RESERVES.—If, for any taxable year beginning before January 1, 1982—

(i) a taxpayer increased reserves pursuant to section 810(c)(4) of the Internal Revenue Code of 1954 to reflect interest guaranteed beyond the end of such taxable year, and

(ii) the Federal income tax liability of such taxpayer for all taxable years would be the same if such liability was computed with or without regard to such reserves,

then such reserves shall, as of the beginning of the first taxable year of the taxpayer beginning after December 31, 1981, be recomputed as if section 818(h) of such Code (as added by this Act) applied to such reserves. If this subparagraph applies to any taxpayer, subparagraph (A) shall be applied with respect to such taxpayer by striking out "after July 1, 1982, and".

(b) SPECIAL RULES FOR CERTAIN TRANSACTIONS IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1982.—

(1) CERTAIN INTEREST AND PREMIUMS.—

(A) IN GENERAL.—In the case of any taxable year beginning before January 1, 1982, if a taxpayer, on his return of tax for such taxable year, treated—

(i) any amount described in subparagraph (B) as an amount which was not a dividend to policyholders (within the meaning of section 811 of the Internal Revenue Code of 1954), or

(ii) any amount described in subparagraph (C) as not described in section 809(c)(1),

then such amounts shall be so treated for purposes of the Internal Revenue Code of 1954.

(B) CERTAIN INTEREST.—An amount is described in this subparagraph if such amount is in the nature of interest accrued for the taxable year on an insurance or annuity contract pursuant to—

(i) an interest rate guaranteed or fixed before the period of payment of such amount begins, or

(ii) any other method (fixed before such period begins) the terms of which during the period are beyond the control and are independent of the experience of the company, whether or not the interest rate or other method was guaranteed or fixed for any specified period of time.

(C) AMOUNTS NOT TREATED AS PREMIUMS.—An amount is described in this subparagraph if such amount represents the difference between—

(i) the amount of premiums received or mortality charges made under rates fixed in advance of the premium or mortality charge due date, and

(ii) the maximum premium or mortality charge which could be charged under the terms of the insurance or annuity contract.

(D) NO INFERENCE.—The provisions of this paragraph shall constitute no inference with respect to the treatment of any item in taxable years beginning after December 31, 1981.

(2) CONSOLIDATED RETURNS.—The provisions of section 818(f) of such Code, as amended by section 262, shall apply to any taxable year beginning before January 1, 1982, if the taxpayer filed a consolidated return before July 1, 1982 for such taxable year under section 1501 of such Code which, on such date (determined without regard to any amended return filed after June 30, 1982), was consistent with the provisions of section 818(f) of such Code, as so amended. In the case of a taxable year beginning in 1981, the preceding sentence shall be applied by substituting "September 16" for "July 1" and "September 15" for "June 30".

(3) TAXABLE YEARS WHERE PERIOD OF LIMITATION HAS RUN.—This subsection shall not apply to any taxable year with respect to which the statute of limitations for filing a claim for credit or refund has expired under any provision of law or by operation of law.

PART III—EXCESS INTEREST; AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS; FLEXIBLE PREMIUM CONTRACTS; COMPUTATION OF RESERVES

SEC. 264. ALLOWANCE OF DEDUCTION FOR EXCESS INTEREST.

(a) IN GENERAL.—Subsection (e) of section 805 (defining interest paid) is amended by adding at the end thereof the following new paragraph:

"(5) QUALIFIED GUARANTEED INTEREST.—Qualified guaranteed interest (within the meaning of subsection (f))".

(b) QUALIFIED GUARANTEED INTEREST DEFINED.—Section 805 (relating to policy and other contract liability requirements) is amended by adding at the end thereof the following new subsection:

"(f) QUALIFIED GUARANTEED INTEREST AND QUALIFIED CONTRACTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified guaranteed interest' means any amount in the nature of interest for the taxable year on

qualified contracts, but only if such amount is determined pursuant to—

"(A) a stated rate of interest which is guaranteed—

"(i) before the beginning of the period for which the interest accrues, and

"(ii) for a period of not less than 12 months (or for a period ending not earlier than the close of the taxable year in which the contract was issued), or

"(B) a rate or rates of interest which—

"(i) meet the requirements of clause (i) of subparagraph (A), and

"(ii) is determined under a formula or other method the terms of which—

"(I) during the period referred to in subparagraph (A)(ii) may not be changed by the taxpayer, and

"(II) are independent of the experience of the taxpayer.

"(2) QUALIFIED CONTRACT.—The term 'qualified contract' means any annuity contract (other than any contract described in subsection (d)) which—

"(A) involves (at the time the qualified interest is credited under the contract) life contingencies,

"(B) provides no right under State law for the policyholder to participate in the divisible surplus of the taxpayer, and

"(C) provides that the taxpayer may from time to time credit amounts in the nature of interest in excess of amounts computed on the basis of any rate or rates guaranteed in the contract at the time it was entered into.

"(3) SPECIAL RULE FOR PARTICIPATING CONTRACTS.—

"(A) IN GENERAL.—In the case of an annuity contract which is not a qualified contract solely because it fails to satisfy the requirements of subparagraph (B) of paragraph (2), such contract shall be treated as a qualified contract and the amount taken into account as qualified guaranteed interest with respect to such contract shall be equal to the sum of—

"(i) the amount of interest which would be assumed in calculating reserves with respect to such contract under section 810(c) if such interest were not taken into account under subsection (e), plus

"(ii) 92.5 percent of the excess of—

"(I) the amount of qualified guaranteed interest (determined without regard to this paragraph and as if such contract were a qualified contract), over

"(II) the amount determined under clause (i).

"(B) INTEREST NOT OTHERWISE TAKEN INTO ACCOUNT.—No deduction shall be allowed under any other provision of this part for the 7.5 percent of the excess described in subparagraph (A)(ii) which is not treated as qualified guaranteed interest."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 805(c)(1) (defining adjusted life insurance reserves) is amended by inserting "or reserves on any qualified contract" after "pension plan reserves".

(2) Paragraph (2) of section 809(a) (defining required interest) is amended—

(A) by inserting "the amount of qualified guaranteed interest (within the meaning of section 805(f)(1)) and" after "the sum of"; and

(B) by adding at the end thereof the following new sentence:

"For purposes of subparagraphs (A) and (B), reserves on qualified contracts (within the meaning of section 805(f)(2)) shall not be taken into account."

(3) Paragraph (1) of section 809(e) (relating to modification of interest deduction) is amended by inserting "qualified guaranteed interest (within the meaning of section 805(f)(1) or" after "allowed for".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981.

(2) GUARANTEES FOR LESS THAN 12 MONTHS.—

(A) MONEYS HELD BEFORE AUGUST 14, 1982.—The requirements of subparagraph (A)(ii) or (B)(ii)(I) of section 805(f)(1) of the Internal Revenue Code of 1954 (as added by subsection (b)) shall not apply to any moneys held under any contract on August 13, 1982 (and any interest on such moneys after such date).

(B) CONTRACTS ENTERED INTO AFTER AUGUST 13, 1982, AND BEFORE JANUARY 1, 1983.—A contract entered into after August 13, 1982, and before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A)(ii) or (B)(ii)(I) of such Code if it meets such requirements on the first contract anniversary date.

SEC. 265. TREATMENT OF AMOUNTS RECEIVED UNDER ANNUITY CONTRACTS BEFORE ANNUITY STARTING DATE.

(a) IN GENERAL.—Subsection (e) of section 72 (relating to amounts not received as annuities) is amended to read as follows:

"(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection shall apply to any amount which—

"(i) is received under an annuity, endowment, or life insurance contract, and

"(ii) is not received as an annuity,

if no provision of this subtitle (other than this subsection) applies with respect to such amount.

"(B) DIVIDENDS.—For purposes of this section, any amount received which is in the nature of a dividend or similar distribution shall be treated as an amount not received as an annuity.

"(2) GENERAL RULE.—Any amount to which this subsection applies—

"(A) if received on or after the annuity starting date, shall be included in gross income, or

"(B) if received before the annuity starting date—

"(i) shall be included in gross income to the extent allocable to income on the contract, and

"(ii) shall not be included in gross income to the extent allocable to the investment in the contract.

"(3) ALLOCATION OF AMOUNTS TO INCOME AND INVESTMENT.—For purposes of paragraph (2)(B)—

"(A) ALLOCATION TO INCOME.—Any amount to which this subsection applies shall be treated as allocable to income on the contract to the extent that such amount does not exceed the excess (if any) of—

"(i) the cash value of the contract (determined without regard to any surrender charge) immediately before the amount is received, over

"(ii) the investment in the contract at such time.

"(B) ALLOCATION TO INVESTMENT.—Any amount to which this subsection applies shall be treated as allocable to investment in the contract to the extent that such amount is not allocated to income under subparagraph (A).

"(4) SPECIAL RULES FOR APPLICATION OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B)—

"(A) LOANS TREATED AS DISTRIBUTIONS.—If, during any taxable year, an individual—

"(i) receives (directly or indirectly) any amount as a loan under any contract to which this subsection applies, or

"(ii) assigns or pledges (or agrees to assign or pledge) any portion of the value of any such contract,

such amount or portion shall be treated as received under the contract as an amount not received as an annuity.

"(B) TREATMENT OF POLICYHOLDER DIVIDENDS.—Any amount described in paragraph (1)(B) shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract.

"(5) RETENTION OF EXISTING RULES IN CERTAIN CASES.—

"(A) IN GENERAL.—In any case to which this paragraph applies—

"(i) paragraphs (2)(B) and (4)(A) shall not apply, and

"(ii) if paragraph (2)(A) does not apply,

the amount shall be included in gross income, but only to the extent it exceeds the investment in the contract.

"(B) EXISTING CONTRACTS.—This paragraph shall apply to contracts entered into before August 14, 1982. Any amount allocable to investment in the contract after August 13, 1982, shall be treated as from a contract entered into after such date.

"(C) CERTAIN LIFE INSURANCE AND ENDOWMENT CONTRACTS.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract.

"(D) CONTRACTS UNDER QUALIFIED PLANS.—This paragraph shall apply to any amount received—

"(i) from a trust described in section 401(a) which is exempt from tax under section 501(a),

"(ii) from a contract—

"(I) purchased by a trust described in clause (i),

"(II) purchased as part of a plan described in section 403(a),

"(III) described in section 403(b), or

"(IV) provided for employees of a life insurance company under a plan described in section 805(d)(3), or

"(iii) from an individual retirement account or an individual retirement annuity.

"(E) FULL REFUNDS, SURRENDERS, REDEMPTIONS, AND MATURITIES.—This paragraph shall apply to—

"(i) any amount received, whether in a single sum or otherwise, under a contract in full discharge of the obligation under the contract which is in the nature of a refund of the consideration paid for the contract, and

"(ii) any amount received under a contract on its complete surrender, redemption, or maturity.

In the case of any amount to which the preceding sentence applies, the rule of paragraph (2)(A) shall not apply.

"(6) INVESTMENT IN THE CONTRACT.—For purposes of this subsection, the investment in the contract as of any date is—

"(A) the aggregate amount of premiums or other consideration paid for the contract before such date, minus

"(B) the aggregate amount received under the contract before such date, to the extent that such amount was excludable from gross income under this subtitle or prior income tax laws."

(b) 5-PERCENT PENALTY FOR CERTAIN PREMATURE DISTRIBUTIONS.—

(1) IN GENERAL.—Section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (q) as subsection (r) and by adding after subsection (p) the following new subsection:

"(q) 5-PERCENT PENALTY FOR PREMATURE DISTRIBUTIONS FROM ANNUITY CONTRACTS.—

"(1) IMPOSITION OF PENALTY.—

"(A) IN GENERAL.—If any taxpayer receives any amount under an annuity contract, the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 5 percent of the portion of such amount includible in gross income which is properly allocable to any investment in the annuity contract made during the 10-year period ending on the date such amount was received by the taxpayer.

"(B) ALLOCATION ON FIRST-IN, FIRST-OUT BASIS.—For purposes of subparagraph (A), the amount includible in gross income shall be allocated to the earliest investment in the contract with respect to which amounts have not been previously fully allocated under this paragraph.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—This subsection shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) made to a beneficiary (or to the estate of an annuitant) on or after the death of an annuitant,

"(C) attributable to the taxpayer's becoming disabled within the meaning of subsection (m)(7),

"(D) which is one of a series of substantially equal periodic payments made for the life of a taxpayer or over a period extending for at least 60 months after the annuity starting date,

"(E) from a plan, contract, account, trust, or annuity described in subsection (e)(5)(D), or

"(F) allocable to investment in the contract before August 14, 1982."

(2) CONFORMING AMENDMENTS.—

(A) Each of the following provisions are amended by inserting "section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)," after "owner-employees)":

(i) Section 46(a)(4),

(ii) Section 50A(a)(3),

(iii) Section 53(a),

(iv) Section 901(a).

(B) Subparagraph (A) of section 1302(a)(2) is amended by inserting "or (q)(1)" after "section 72(m)(5)".

(C) Paragraph (1) of section 1304(e) is amended—

(i) by inserting "or section 72(q)(1) (relating to 5-percent tax on premature distributions under annuity contracts)" after "owner-employees)", and

(ii) by inserting "or (q)(1)" after "Section 72(m)(5)" in the heading thereof.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on August 13, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to distributions after December 31, 1982.

SEC. 266. FLEXIBLE PREMIUM CONTRACTS.

(a) IN GENERAL.—Section 101 (relating to exclusion from gross income for certain death benefits) is amended by adding at the end thereof the following new subsection:

"(f) PROCEEDS OF FLEXIBLE PREMIUM CONTRACTS PAYABLE BY REASON OF DEATH.—

"(1) IN GENERAL.—Any amount paid by reason of the death of the insured under a flexible premium life insurance contract shall be excluded from gross income only if—

"(A) under such contract—

"(i) the sum of the premiums paid under such contract does not at any time exceed the guideline premium limitation as of such time, and

"(ii) any amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) is not at any time less than the applicable percentage of the cash value of such contract at such time, or

"(B) by the terms of such contract, the cash value of such contract may not at any time exceed the net single premium with respect to the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at such time.

"(2) GUIDELINE PREMIUM LIMITATION.—For purposes of this subsection—

"(A) GUIDELINE PREMIUM LIMITATION.—The term 'guideline premium limitation' means, as of any date, the greater of—

"(i) the guideline single premium, or

"(ii) the sum of the guideline level premiums to such date.

"(B) GUIDELINE SINGLE PREMIUM.—The term 'guideline single premium' means the premium at issue with respect to future benefits under the contract (without regard to any qualified additional benefit), and with respect to any charges for qualified additional benefits, at the time of a determination under subparagraph (A) or (E) and which is based on—

"(i) the mortality and other charges guaranteed under the contract, and

"(ii) interest at the greater of an annual effective rate of 6 percent or the minimum rate or rates guaranteed upon issue of the contract.

"(C) GUIDELINE LEVEL PREMIUM.—The term 'guideline level premium' means the level annual amount, payable over the longest period permitted under the contract (but ending not less than 20 years from date of issue or not later than age 95, if earlier), computed on the same basis as the guideline single premium, except that subparagraph (B)(ii) shall be applied by substituting '4 percent' for '6 percent'.

"(D) COMPUTATIONAL RULES.—In computing the guideline single premium or guideline level premium under subparagraph (B) or (C)—

"(i) the excess of the amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) over the cash value of the contract shall be deemed to be not greater than such excess at the time the contract was issued,

"(ii) the maturity date shall be the latest maturity date permitted under the contract, but not less than 20 years after the date of issue or (if earlier) age 95, and

"(iii) the amount of any endowment benefit (or sum of endowment benefits) shall be deemed not to exceed the least amount payable by reason of the death of the insured (determined without regard to any qualified additional benefit) at any time under the contract.

"(E) ADJUSTMENTS.—The guideline single premium and guideline level premium shall be adjusted in the event of a change in the future benefits or any qualified additional benefit under the contract which was not reflected in any guideline single premiums or guideline level premium previously determined.

"(3) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) FLEXIBLE PREMIUM LIFE INSURANCE CONTRACT.—The terms 'flexible premium life insurance contract' and 'contract' mean a life insurance contract (including any qualified additional benefits) which provides for the payment of one or more premiums which are not fixed by the insurer as to both timing and amount. Such terms do not include that portion of any contract which is treated under State law as providing any annuity benefits other than as a settlement option.

"(B) PREMIUMS PAID.—The term 'premiums paid' means the premiums paid under the contract less any amounts (other than amounts includible in gross income) to which section 72(e) applies. If, in order to comply with the requirements of paragraph (1)(A), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of a contract year—

"(i) the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such year, and

"(ii) notwithstanding the provisions of section 72(e), the amount of any interest so returned shall be includible in the gross income of the recipient.

"(C) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"(i) 140 percent in the case of an insured with an attained age at the beginning of the contract year of 40 or less, and

"(ii) in the case of an insured with an attained age of more than 40 as of the beginning of the contract year, 140 percent reduced (but not below 105 percent) by one percent for each year in excess of 40.

"(D) CASH VALUE.—The cash value of any contract shall be determined without regard to any deduction for any surrender charge or policy loan.

"(E) QUALIFIED ADDITIONAL BENEFITS.—The term 'qualified additional benefits' means any—

"(i) guaranteed insurability,

"(ii) accidental death benefit,

"(iii) family term coverage, or

"(iv) waiver of premium.

"(F) PREMIUM PAYMENTS NOT DISQUALIFYING CONTRACT.—The payment of a premium which would result in the sum of the premiums paid exceeding the guideline premium limitation shall be disregarded for purposes of paragraph (1)(A)(i) if the amount of such premium does not exceed the amount necessary to prevent the termination of the contract without cash value on or before the end of the contract year.

"(G) NET SINGLE PREMIUM.—In computing the net single premium under paragraph (1)(B)—

"(i) the mortality basis shall be that guaranteed under the contract (determined by reference to the most recent mortality table allowed under all State laws on the date of issuance),

"(ii) interest shall be based on the greater of—

"(I) an annual effective rate of 4 percent (3 percent for contracts issued before July 1, 1983), or

"(II) the minimum rate or rates guaranteed upon issue of the contract, and

"(iii) the computational rules of paragraph (2)(D) shall apply, except that the maturity date referred to in clause (ii) thereof shall not be earlier than age 95.

"(H) CORRECTION OF ERRORS.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(i) the requirements described in paragraph (1) for any contract year was not satisfied due to reasonable error, and

"(ii) reasonable steps are being taken to remedy the error,

the Secretary may waive the failure to satisfy such requirements."

"(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 101(a) (relating to proceeds of life insurance contracts payable by reason of death) is amended by striking out "and in subsection (d)" and inserting in lieu thereof ", subsection (d), and subsection (f)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts entered into before January 1, 1984.

(2) SPECIAL RULE FOR CONTRACTS ENTERED INTO BEFORE JANUARY 1, 1983.—Any contract entered into before January 1, 1983, which meets the requirements of section 101(f) of the Internal Revenue Code of 1954 on the date which is 1 year after the date of the enactment of this Act shall be treated as meeting the requirements of such section for any period before the date on which such contract meets such requirements. Any death benefits paid under a flexible premium life insurance contract (within the meaning of section 101(f)(3)(A) of such Code) before the date which is 1 year after such date of enactment shall be excluded from gross income.

(3) SPECIAL RULE FOR CERTAIN CONTRACTS.—Any contract entered into before January 1, 1983, shall be treated as meeting the requirements of subparagraph (A) of section 101(f)(1) of such Code if such contract would meet such requirements if section 103(f)(2)(C) of such Code were applied by substituting "3 percent" for "4 percent".

SEC. 267. REDUCTION IN APPROXIMATE REVALUATION METHOD OF COMPUTING RESERVES.

(a) REDUCTION FROM $21 PER $1,000 TO $19 PER $1,000 IN DETERMINING APPROXIMATE REVALUATION OF CERTAIN RESERVES COMPUTED ON PRELIMINARY TERM BASIS.—

(1) IN GENERAL.—Subparagraph (A) of section 818(c)(2) (relating to approximate revaluation of reserves computed on preliminary term basis) is amended—

(A) by striking out "$21" and inserting in lieu thereof "$19", and

(B) by striking out "2.1 percent" and inserting in lieu thereof "1.9 percent".

(2) TAXPAYER ALLOWED TO ELECT OUT OF APPROXIMATE REVALUATION.—The last sentence of section 818(c) (relating to life insurance reserves computed on preliminary term basis) is amended—

(A) by inserting "or in effect for a taxable year beginning in 1981" after "1958" the first place it appears, and

(B) by inserting "or 1981, whichever is applicable" after "1958" the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1981, but only with respect to reserves established under contracts entered into after March 31, 1982.

PART IV—UNDERPAYMENTS OF ESTIMATED TAX FOR 1982

SEC. 268. UNDERPAYMENTS OF ESTIMATED TAX FOR 1982.

No addition to the tax shall be made under section 6655 of the Internal Revenue Code of 1954 (relating to failure by corporation to pay estimated income tax) for any period before December 15, 1982, with respect to any underpayment of estimated tax by a taxpayer with respect to any tax imposed by section 802(a), to the extent that such underpayment was created or increased by any provisions of this subtitle.

SUBTITLE E—EMPLOYMENT TAXES

PART I—IN GENERAL

SEC. 269. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

(a) GENERAL RULE.—Chapter 25 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new section:

"SEC. 3508. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS.

"(a) GENERAL RULE.—For purposes of this title, in the case of services performed as a qualified real estate agent or as a direct seller—

"(1) the individual performing such services shall not be treated as an employee, and

"(2) the person for whom such services are performed shall not be treated as an employer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED REAL ESTATE AGENT.—The term 'qualified real estate agent' means any individual who is a sales person if—

"(A) such individual is a licensed real estate agent,

"(B) substantially all of the remuneration (whether or not paid in cash) for the services performed by such individual as a real estate agent is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the individual are performed pursuant to a written contract between such individual and the person for whom the services are performed and such contract provides that the individual will not be treated as an employee with respect to such services for Federal tax purposes.

"(2) DIRECT SELLER.—The term 'direct seller' means any person if—

"(A) such person—

"(i) is engaged in the trade or business of selling (or soliciting the sale of) consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, or

"(ii) is engaged in the trade or business of selling (or soliciting the sale of) consumer products in the home or otherwise than in a permanent retail establishment,

"(B) substantially all the remuneration (whether or not paid in cash) for the performance of the services described in subparagraph (A) is directly related to sales or other output (including the performance of services) rather than to the number of hours worked, and

"(C) the services performed by the person are performed pursuant to a written contract between such person and the person for whom the services are performed and such contract provides that the person will not be treated as an employee with respect to such services for Federal tax purposes.

"(3) COORDINATION WITH RETIREMENT PLANS FOR SELF-EMPLOYED.—This section shall not apply for purposes of subtitle A to the extent that the individual is treated as an employee under section 401(c)(1) (relating to self-employed individuals)."

(b) AMENDMENT OF SOCIAL SECURITY ACT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Treatment of Real Estate Agents and Direct Sellers

"(p) Notwithstanding any other provision of this title, the rules of section 3508 of the Internal Revenue Code of 1954 shall apply for purposes of this title."

(c) INDEFINITE EXTENSION OF PROVISIONS RELATING TO EMPLOYMENT STATUS FOR EMPLOYMENT TAXES.—

(1) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY.—

(A) Subparagraph (A) of section 530(a)(1) of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before July 1, 1982) is amended by striking out "ending before July 1, 1982".

(B) Paragraph (3) of section 530(a) of such Act is amended by striking out "and before July 1, 1982,".

(C) The subsection heading of subsection (a) of section 530 of such Act is amended by striking out "FOR PERIODS BEFORE JULY 1, 1982".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of such Act is amended—

(A) by striking out "July 1, 1982 (or, if earlier,", and

(B) by striking out "taxes)" and inserting in lieu thereof "taxes".

(3) CERTAIN REGULATIONS, ETC., PERMITTED.—Nothing in section 530 of the Revenue Act of 1978 shall be construed to prohibit the implementation of the amendments made by this section.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 25 of such Code is amended by adding at the end thereof the following new item:

"Sec. 3508. Treatment of real estate agents and direct sellers."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to services performed after December 31, 1982.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall take effect on July 1, 1982.

SEC. 270. SIMPLIFIED PROCEDURE FOR DETERMINING AMOUNT OF EMPLOYMENT TAXES.

(a) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes), as amended by section 271, is amended by adding at the end thereof the following new section:

"SEC. 3509. DETERMINATION OF EMPLOYER'S LIABILITY FOR CERTAIN EMPLOYMENT TAXES.

"(a) IN GENERAL.—If any employer fails to deduct and withhold any tax under chapter 24 or subchapter A of chapter 21 with respect to any employee by reason of treating such employee as not being an employee for purposes of such chapter or subchapter, the amount of the employer's liability for—

"(1) WITHHOLDING TAXES.—Tax under chapter 24 for such year with respect to such employee shall be determined as if the amount required to be deducted and withheld were equal to 1.5 percent of the wages (as defined in section 3401) paid to such employee.

"(2) EMPLOYEE SOCIAL SECURITY TAX.—Taxes under subchapter A of chapter 21 with respect to such employee shall be determined as if the taxes imposed under such subchap-

ter were 20 percent of the amount imposed under such subchapter without regard to this subparagraph.

"(b) EMPLOYER'S LIABILITY INCREASED WHERE EMPLOYER DISREGARDS REPORTING REQUIREMENTS.—

"(1) IN GENERAL.—In the case of an employer who fails to meet the applicable requirements of section 6041(a), 6041A, or 6051 with respect to any employee, unless such failure is due to reasonable cause and not willful neglect, subsection (a) shall be applied with respect to such employee—

"(A) by substituting '3 percent' for '1.5 percent' in paragraph (1); and

"(B) by substituting '40 percent' for '20 percent' in paragraph (2).

"(2) APPLICABLE REQUIREMENTS.—For purposes of paragraph (1), the term 'applicable requirements' means the requirements described in paragraph (1) which would be applicable consistent with the employer's treatment of the employee as not being an employee for purposes of chapter 24 or subchapter A of chapter 21.

"(c) SECTION NOT TO APPLY IN CASES OF INTENTIONAL DISREGARD.—This section shall not apply to determination of the employer's liability for tax under chapter 24 or subchapter A of chapter 21 if such liability is due to the employer's intentional disregard of the requirement to deduct and withhold such tax.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DETERMINATION OF LIABILITY.—If the amount of any liability for tax is determined under this section—

"(A) the employee's liability for tax shall not be affected by the assessment or collection of the tax so determined,

"(B) the employer shall not be entitled to recover from the employee any tax so determined, and

"(C) sections 3402(d) and section 6521 shall not apply.

"(2) SECTION NOT TO APPLY WHERE EMPLOYER DEDUCTS WAGE BUT NOT SOCIAL SECURITY TAXES.—This section shall not apply to any employer with respect to any wages if—

"(A) the employer deducted and withheld any amount of the tax imposed by chapter 24 on such wages, but

"(B) failed to deduct and withhold the amount of the tax imposed by subchapter A of chapter 21 with respect to such wages.

"(3) SECTION NOT TO APPLY TO CERTAIN STATUTORY EMPLOYEES.—This section shall not apply to any tax under subchapter A of chapter 21 with respect to an individual described in subsection (d)(3) of section 3121 (without regard to whether such individual is described in paragraph (1) or (2) of such subsection).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3509. Determination of employer's liability for certain employment taxes.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply to any assessment made before January 1, 1983.

PART II—FEDERAL UNEMPLOYMENT TAX

Subpart A—Increase in Federal Unemployment Tax

SEC. 271. INCREASE IN FEDERAL UNEMPLOYMENT TAX WAGE BASE AND RATE.

(a) INCREASE IN WAGE BASE.—Paragraph (1) of section 3306(b) (defining wages) is amended by striking out "$6,000" each place it appears and inserting in lieu thereof "$7,000".

(b) INCREASE IN RATE.—

(1) IN GENERAL.—Paragraph (1) of section 3301 (relating to rate of unemployment tax) is amended by striking out "3.4 percent" and inserting in lieu thereof "3.5 percent".

(2) TECHNICAL AMENDMENTS.—

(A) Subparagraph (C) of section 901(c)(3) of the Social Security Act is amended to read as follows:

"(C) Each estimate of net receipts under this paragraph shall be based upon (i) a tax rate of 0.5 percent in the case of any calendar year for which the rate of tax under section 3301 of the Federal Unemployment Tax Act is 3.2 percent, and (ii) a tax rate of 0.8 percent in the case of any calendar year for which the rate of tax under such section is 3.5 percent."

(B) Paragraph (1) of section 905(b) of such Act is amended by amending the last sentence to read as follows: "In the case of any month after March 1983 and before April 1 of the first calendar year to which paragraph (2) of section 3301 of the Federal Unemployment Tax Act applies, the first sentence of this paragraph shall be applied by substituting '40 percent' for 'one-tenth'."

(C) Subsection (b) of section 6157 is amended by striking out "0.7 percent" and inserting in lieu thereof "0.8 percent".

(c) INCREASE IN RATE FOR 1985 AND THEREAFTER.—

(1) IN GENERAL.—Section 3301 (as amended by subsection (b)) is amended—

(A) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent", and

(B) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent".

(2) INCREASE IN AMOUNT OF STATE CREDIT.—

(A) Subsection (b) of section 3302 (relating to additional credit) is amended by striking out "2.7%" and inserting in lieu thereof "5.4%".

(B) Paragraph (1) of section 3302(d) (relating to rate of tax deemed to be 3 percent) is amended by striking out "3 percent" each place it appears and inserting in lieu thereof "6 percent".

(3) TECHNICAL AMENDMENTS.—

(A) Paragraph (2) of section 3302(c) is amended by striking out "10 percent" each place it appears in subparagraph (A) and inserting in lieu thereof "5 percent".

(B) Paragraph (3) of section 3302(c) is amended by striking out "15 percent" and inserting in lieu thereof "7½ percent".

(C) Subsection (b) of section 6157 is amended by striking out "0.5 percent" each place it appears and inserting in lieu thereof "0.6 percent".

(D) Subparagraph (C) of section 901(c)(3) of the Social Security Act (as amended by subsection (b)) is amended—

(i) by striking out "0.5 percent" and inserting in lieu thereof "0.6 percent";

(ii) by striking out "3.2 percent" and inserting in lieu thereof "6.0 percent"; and

(iii) by striking out "3.5 percent" and inserting in lieu thereof "6.2 percent".

(b) EFFECTIVE DATES.—

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to remuneration paid after December 31, 1982.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to remuneration paid after December 31, 1984.

(3) TRANSITIONAL RULE FOR CERTAIN EMPLOYEES.—

(A) IN GENERAL.—Notwithstanding section 3303 of the Internal Revenue Code of 1954, in the case of taxable years beginning after December 31, 1984, and before January 1, 1989, a taxpayer shall be allowed the additional credit under section 3302(b) of such Code with respect to any employee covered by a qualified specific industry provision if the requirements of subparagraph (B) are met with respect to such employee.

(B) REQUIREMENTS.—The requirements of this subparagraph are met for any taxable year with respect to any employee covered by a specific industry provision if the amount of contributions required to be paid for the taxable year to the unemployment fund of the State with respect to such employee are not less than the product of the required rate multiplied by the wages paid by the employer during the taxable year.

(C) REQUIRED RATE.—For purposes of subparagraph (B), the required rate for any taxable year is the sum of—

(i) the rate at which contributions were required to be made under the specific industry provision as in effect on August 10, 1982, and

(ii) the applicable percentage of the excess of 5.4 percent over the rate described in clause (i).

(D) APPLICABLE PERCENTAGE.—For purposes of subparagraph (C), the term "applicable percentage" means—

(i) 20 percent in the case of taxable year 1985,

(ii) 40 percent in the case of taxable year 1986,

(iii) 60 percent in the case of taxable year 1987, and

(iv) 80 percent in the case of taxable year 1988.

(E) QUALIFIED SPECIFIC INDUSTRY PROVISION.—For purposes of this paragraph, the term, "qualified specific industry provision" means a provision contained in a State unemployment compensation law (as in effect on August 10, 1982)—

(i) which applies to employees in a specific industry or to an otherwise defined type of employees, and

(ii) under which employers may elect to make contributions at a specified rate (without experience rating) which exceeds 2.7 percent.

Subpart B—Other Financing Provisions

SEC. 272. CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.

(a) GENERAL RULE.—Section 3302 (relating to credits against unemployment tax) is amended by adding at the end thereof the following new subsection:

"(g) CREDIT REDUCTION NOT TO APPLY WHEN STATE MAKES CERTAIN REPAYMENTS.—

"(1) IN GENERAL.—In the case of any State which meets requirements of paragraph (2) with respect to any taxable year, subsection (c)(2) shall not apply to such taxable year; except that such taxable year (and January 1 of such taxble year) shall (except as provided in subsection (f)(3)) be taken into account for purposes of applying subsection (c)(2) to succeeding taxable years.

"(2) REQUIREMENTS.—The requirements of this paragraph are met by any State with respect to any taxable year if the Secretary of Labor determines that—

"(A) the repayments during the 1-year period ending on November 9 of such taxable year made by such State of advances under title XII of the Social Security Act are not less than the sum of—

"(i) the potential additional taxes for such taxable year, and

(ii) any advances made to such State during such 1-year period under such title XII,

"(B) there will be sufficient amounts in the State unemployment fund to pay all compensation during the 3-month period beginning on November 1 of such taxable year without receiving any advance under title XII of the Social Security Act, and

"(C) there is a net increase in the solvency of the State unemployment compensation system for the taxable year attributable to changes made in the State law after the date on which the first advance taken into account in determining the amount of the potential additional taxes was made (or, if later, after the date of the enactment of this subsection) and such net increase equals or exceeds the potential additional taxes for such taxable year.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) POTENTIAL ADDITIONAL TAXES.—The term 'potential additional taxes' means, with respect to any State for any taxable year, the aggregate amount of the additional tax which would be payable under this chapter for such taxable year by all taxpayers subject to the unemployment compensation law of such State for such taxable year if paragraph (2) of subsection (c) had applied to such taxable year and any preceding taxable year without regard to this subsection but with regard to subsection (f).

"(B) TREATMENT OF CERTAIN REDUCTIONS.—Any reduction in the State's balance under section 901(d)(1) of the Social Security Act shall not be treated as a repayment made by such State.

"(4) REPORTS.—The Secretary of Labor may require a State to furnish such information at such time and in such manner as may be necessary for purposes of paragraph (2)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 273. LIMITATION ON FIFTH YEAR CREDIT REDUCTION.

(a) GENERAL RULE.—Paragraph (2) of section 3302(c) (relating to limit on total credits) is amended by adding at the end thereof the following new sentence: "Subparagraph (C) shall not apply with respect to any taxable year to which it would otherwise apply (but subparagraph (B) shall apply to such taxable year) if the Secretary of Labor determines (on or before November 10 of such taxable year) that the State meets the requirements of subsection (f)(2)(B) for such taxable year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 274. DEFERRAL OF INTEREST IN CASE OF CERTAIN STATES WITH HIGH UNEMPLOYMENT RATES.

(a) GENERAL RULE.—Paragraph (3) of section 1202(b) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(C)(i) In the case of any State which meets the requirements of clause (ii) for any calendar year, any interest otherwise required to be paid under this subsection during such calendar year shall be paid as follows—

"(I) 25 percent of the amount otherwise required to be paid on or before any day during such calendar year shall be paid on or before such day; and

"(II) 25 percent of the amount otherwise required to be paid on or before such day shall be paid on or before the corresponding day in each of the 3 succeeding calendar years.

Any interest the time for payment of which is deferred under this subparagraph shall bear interest in the same manner as if it were an advance made on the day on which it would have been required to be paid but for this subparagraph.

"(ii) A State meets the requirements of this clause for any calendar year if the rate of insured unemployment (as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970) under the State law of the period consisting of the first 6 months of the preceding calendar year equaled or exceeded 7.5 percent."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to interest required to be paid after December 31, 1982.

SEC. 275. REQUIRED REPAYMENTS FROM EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

Subsection (d) of section 905 of the Social Security Act is amended by inserting after the second sentence the following new sentence: "Repayments under the preceding sentence shall be made whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount then in the account exceeds the amount necessary to meet the anticipated payments from the account during the next 3 months."

SEC. 276. TREATMENT OF CERTAIN SERVICES PERFORMED BY STUDENTS.

(a) STUDENT INTERNS.—

(1) IN GENERAL.—Subparagraph (C) of section 3306(c)(10) (defining employment) is amended by striking out "under the age of 22".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to services performed after the date of the enactment of this Act.

(b) FULL TIME STUDENTS EMPLOYED BY SUMMER CAMPS.—

(1) SERVICE BY FULL TIME STUDENTS.—Subsection (c) of section 3306 (defining employment) is amended—

(A) by striking out "or" at the end of paragraph (18),

(B) by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or", and

(C) by adding at the end thereof the following new paragraph:

"(20) service performed by a full time student (as defined in subsection (q)) in the employ of an organized camp—

"(A) if such camp—

"(i) did not operate for more than 7 months in the calendar year and did not operate for more than 7 months in the preceding calendar year, or

"(ii) had average gross receipts for any 6 months in the preceding calendar year which were not more than 33⅓ percent of its average gross receipts for the other 6 months in the preceding calendar year; and

"(B) if such full time student performed services in the employ of such camp for less than 13 calendar weeks in such calendar year."

(2) FULL TIME STUDENT DEFINED.—Section 3306 is amended by adding at the end thereof the following new subsection:

"(q) FULL TIME STUDENT.—For purposes of subsection (c)(20), an individual shall be treated as a full time student for any period—

"(1) during which the individual is enrolled as a full time student at an educational institution, or

"(2) which is between academic years or terms if—

"(A) the individual was enrolled as a full time student at an educational institution for the immediately preceding academic year or term, and

"(B) there is a reasonable assurance that the individual will be so enrolled for the immediately succeeding academic year or term after the period described in subparagraph (A)."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to remuneration paid after December 31, 1982, and before January 1, 1984.

SEC. 277. TREATMENT OF CERTAIN ALIEN FARM WORKERS.

Subparagraph (B) of section 3306(c)(1) (defining employment) is amended by striking out "January 1, 1982" and inserting in lieu thereof "January 1, 1984".

PART III—MEDICARE COVERAGE

SEC. 278. MEDICARE COVERAGE OF, AND APPLICATION OF HOSPITAL INSURANCE TAX TO, FEDERAL EMPLOYMENT.

(a) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

(1) IN GENERAL.—Section 3121 (relating to definitions for purposes of the Federal Insurance Contributions Act) is amended by adding at the end thereof the following new subsection:

"(u) APPLICATION OF HOSPITAL INSURANCE TAX TO FEDERAL EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of the taxes imposed by sections 3101(b) and 3111(b)—

"(A) paragraph (6) of subsection (b) shall be applied without regard to subparagraphs (A), (B), and (C)(i), (ii), and (vi) thereof, and

"(B) paragraph (5) of subsection (b) (and the provisions of law referred to therein) shall not apply.

"(2) MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—For purposes of this chapter, the term 'medicare qualified Federal employment' means service which—

"(A) is employment (as defined in subsection (b)) with the application of paragraph (1), but

"(B) would not be employment (as so defined) without the application of paragraph (1)."

(2) CONFORMING AMENDMENT TO SELF-EMPLOYMENT TAX.—Section 1402(b) (relating to self-employment income) is amended in the second sentence by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) includes, but only with respect to the tax imposed by section 1401(b), remuneration paid for medicare qualified Federal employment (as defined in section 3121(u)(2)) which is subject to the taxes imposed by sections 3101(b) and 3111(b)".

(3) CONFORMING AMENDMENT TO FEDERAL SERVICE.—Section 3122 (relating to federal service) is amended in the first sentence by inserting "including service which is medicare qualified Federal employment (as defined in section 3121(u)(2))," after "wholly owned by the United States,".

(b) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(1) DEFINITION OF MEDICARE QUALIFIED FEDERAL EMPLOYMENT.—Section 210 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Medicare Qualified Federal Employment

"(p) For purposes of sections 226 and 226A, the term 'medicare qualified Federal employment' means any service which would constitute 'employment' as defined in subsection (a) of this section but for the application of the provisions of—

"(1) subparagraph (A), (B), or (C)(i), (ii), or (vi) of subsection (a)(6), or

"(2) subsection (a)(5).".

(2) ENTITLEMENT TO HOSPITAL INSURANCE BENEFITS.—

(A) FOR INDIVIDUALS AGE 65 OR OLDER.—Section 226(a)(2) of the the Social Security Act is amended—

(i) by inserting "(A)" after "(2)";

(ii) by striking out "or is a qualified railroad retirement beneficiary," at the end of subparagraph (A); and

(iii) by inserting after subparagraph (A) the following new subparagraphs:

"(B) is a qualified railroad retirement beneficiary, or

"(C)(i) would meet the requirements of subparagraph (A) upon filing application for the monthly insurance benefits involved if medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and (ii) files an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII,".

(B) ENTITLEMENT FOR DISABLED INDIVIDUALS.—

(i) IN GENERAL.—Section 226(b)(2) of the Social Security Act is amended by striking out "(B)" and all that follows through "1974," and adding at the end the following:

"(B) is, and has been for not less than 24 months, a disabled qualified railroad retirement beneficiary, within the meaning of section 7(d) of the Railroad Retirement Act of 1974, or

"(C)(i) has filed an application, in conformity with regulations of the Secretary, for hospital insurance benefits under part A of title XVIII pursuant to this subparagraph, and

"(ii) would meet the requirements of subparagraph (A) (as determined under the disability criteria, including reviews, applied under this title), including the requirement that he have been entitled to the specified benefits for 24 months, if—

"(I) medicare qualified Federal employment (as defined in section 210(p)) were treated as employment (as defined in section 210(a)) for purposes of this title, and

"(II) the filing of the application under clause (i) of this subparagraph were deemed to be the filing of an application for the disability-related benefits referred to in clause (i), (ii), or (iii) of subparagraph (A),".

(ii) CLARIFICATION OF PERIOD OF ENTITLEMENT.—Section 226(b) of such Act is further amended by adding after the first sentence the following new sentence: "In applying the previous sentence in the case of an an individual described in paragraph (2)(C), the 'twenty-fifth month of his entitlement' refers to the first month after the twenty-fourth month of entitlement to specified benefits referred to in paragraph (2)(C) and 'notice of termination of such entitlement' refers to a notice that the individual would no longer be determined to be entitled to such specified benefits under the conditions described in that paragraph.".

(C) ENTITLEMENT FOR INDIVIDUALS WITH END-STAGE RENAL DISEASE.—Paragraph (1) of section 226A(a) of the Social Security Act is amended to read as follows:

"(1)(A) is fully or currently insured (as such terms are defined in section 214), or would be fully or currently insured if (i) his service as an employee (as defined in the Railroad Retirement Act of 1974) after December 31, 1936, were included within the meaning of the term 'employment' for purposes of this title, and (ii) his medicare qualified Federal employment (as defined in section 210(p)) were included within the meaning of the term 'employment' for purposes of this title;

"(B)(i) is entitled to monthly insurance benefits under this title, (ii) is entitled to an annuity under the Railroad Retirement Act of 1974, or (iii) would be entitled to a monthly insurance benefit under this title if medicare qualified Federal employment (as defined in 210(p)) after December 31, 1982, were included within the meaning of the term 'employment' for purposes of this title; or

"(C) is the spouse or dependent child (as defined in regulations) of an individual described in subparagraph (A) or (B);".

(3) CONFORMING AMENDMENT.—Section 1811 of the Social Security Act is amended—

(A) by inserting "(or would be eligible for such benefits if certain Federal employment were overed employment under such title)" after "title II of this Act" in clause (1), and

(B) by inserting "(or would have been so entitled to such benefits if certain Federal employment were covered employment under such title)" after "title II of this Act" in clause (2).

(4) NOTICE TO INDIVIDUALS WHO ARE PROSPECTIVE MEDICARE BENEFICIARIES BASED ON FEDERAL EMPLOYMENT.—Section 226 of such Act is amended by redesignating subsection (g) as subsection (h) and by inerting after subsection (f) the following new subsection:

"(g) The Secretary and Director of the Office of Personnel Management shall jointly prescribe and carry out procedures designed to assure that all individuals who perform medicare qualified Federal employment are fully informed with respect to (1) their eligibility or potential eligibility for hospital insurance benefits (based on such employment) under part A of title XVIII, (2) the requirements for and conditions of such eligibility, and (3) the necessity of timely application as a condition of entitlement under subsection (b)(2)(C), giving particular attention to individuals who apply for an annuity under chapter 83 of title 5, United States Code, or under another similar Federal retirement program, and whose eligibility for such an annuity is or would be based on a disability.".

(c) EFFECTIVE DATES.—

(1) HOSPITAL INSURANCE TAXES.—The amendments made by subsection (a) shall apply to remuneration paid after December 31, 1982.

(2) MEDICARE COVERAGE.—

(A) IN GENERAL.—The amendments made by subsection (b) are effective on and after January 1, 1983, and the amendments made by paragraph (3) of that subsection apply to remuneration (for medicare qualified Federal employment) paid after December 31, 1982.

(B) TREATMENT OF CURRENT DISABILITIES.—For purposes of establishing entitlement to hospital insurance benefits under part A of title XVIII of the Social Security Act pursuant to the amendments made by subsection (b) or the provisions of subsection (d), no individual may be considered to be under a disability for any period before January 1, 1983.

(d) TRANSITIONAL PROVISIONS.—

(1) IN GENERAL.—For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual—

(A) who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act) and

(B) who would be entitled, under section 226(a)(2)(C), 226(b)(2)(C), 226A(a)(1)(A)(ii), or 226A(a)(1)(B)(iii) of such Act, to hospital insurance benefits under part A of title XVIII of such Act but for the failure to include medicare qualified Federal employment (as so defined) within the meaning of the term "employment" for purposes of title II of such Act for remuneration paid before January 1, 1983, the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be "employment" (as so defined), but only for the purpose of providing such entitlement.

(2) ELIGIBILITY OF OTHER PERSONS.—Any individual who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act by reason of the application of paragraph (1) of this subsection, shall be deemed to be entitled to an old-age benefit under section 202 of such Act, or a disability benefit under section 223 of such Act, for purposes of determining eligibility for such hospital insurance benefits for any other person. In applying this paragraph, any such other person who would be entitled to a monthly benefit under section 202 of such Act if such individual (to whom paragraph (1) applies) were entitled to such old-age or disability benefit, shall be deemed to be entitled to such monthly benefit, but only for purposes of determining such person's eligibility for hospital insurance benefits.

(3) APPROPRIATIONS.—There are authorized to be appropriated to the Federal Hospital Insurance Trust Fund from time to time such sums as the Secretary of Health and Human Services deems necessary for any fiscal year, on account of—

(A) payments made or to be made during such fiscal year from such Trust Fund with respect to individuals who are entitled to benefits under title XVIII of the Social Security Act solely by reason of paragraph (1) or (2) of this subsection,

(B) the additional administrative expenses resulting or expected to result therefrom, and

(C) any loss in interest to such Trust Fund resulting from the payment of those amounts,

in order to place such Trust Fund in the same position at the end of such fiscal year as it would have been in if this subsection had not been enacted.

SUBTITLE F—EXCISE TAXES

PART I—AIRPORT AND AIRWAY

SEC. 279. TAX ON FUEL USED IN NONCOMMERCIAL AVIATION.

(a) IMPOSITION OF TAX.—

(1) GASOLINE FUELS.—Paragraph (3) of subsection 4041(c) (relating to rate of tax) is amended by striking out "3 cents a gallon" and inserting in lieu thereof "8 cents a gallon (10½ cents a gallon in the case of any gasoline with respect to which a tax is imposed under section 4081 at the rate set forth in subsection (b) thereof)".

(2) NONGASOLINE FUELS.—Paragraph (1) of subsection 4041(c) (relating to tax on fuel used in non-commercial aviation) is amended by striking out "7 cents" and inserting in lieu thereof "14 cents".

(3) TERMINATION.—Paragraph (5) of section 4041(c) is amended to read as follows:

"(5) TERMINATION.—The taxes imposed by paragraphs (1) and (2) shall apply during the period beginning on September 1, 1982, and ending on December 31, 1987."

(b) CERTAIN HELICOPTERS.—

(1) EXEMPTION.—Section 4041 (relating to tax on special fuels) is amended by adding at the end thereof the following new subsection:

"(l) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting or transportation of, or caring for, trees (including logging operation),

but only if the helicopter does not take off from, or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway System Development Act of 1982 during such use."

(2) REFUND OF TAX.—Subsection (d) of section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by inserting "or is used in a helicopter for a purpose described in section 4041(l)," after "section 4041(h)(2)(C),"; and

(B) by inserting "or in Certain Helicopters" after "Museums" in the caption thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 1, 1982.

SEC. 280. TAX ON TRANSPORTATION BY AIR

(a) TRANSPORTATION OF PERSONS.—Section 4261 (relating to imposition of tax) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, or

"(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to the Airport and Airway System Development Act of 1982 during such use.

"(f) TERMINATION.—The taxes imposed by this section shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

(b) TRANSPORTATION OF PROPERTY.—Subsection (d) of section 4271 is amended to read as follows:

"(d) TERMINATION.—The tax imposed by subsection (a) shall apply with respect to transportation beginning after August 31, 1982, and before January 1, 1988."

(c) REPEAL OF CERTAIN TERMINATED TAXES.—

(1) IN GENERAL.—Subchapter E of chapter 36 is hereby repealed.

(2) CONFORMING AMENDMENTS.—

(A) The table of subchapters for chapter 36 is amended by striking out the item relating to subchapter E.

(B) Section 4281 (relating to small aircraft on nonestablished lines) is amended—

(i) by striking out "(as defined in section 4492(b))", and

(ii) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'maximum certificated takeoff weight' means the maximum such weight contained in the type certificate or airworthiness certificate."

(C) Subsection (a) of section 6156 is amended by striking out "or 4491".

(D) Paragraph (2) of section 6156(e) is amended by striking out "in the case of the tax imposed by section 4481".

(E) The section heading for section 6156 is amended by striking out "AND CIVIL AIRCRAFT".

(F) The table of sections for subchapter A of chapter 62 is amended by striking out "and civil aircraft" in the item relating to section 6156.

(G) Section 6426 is hereby repealed.

(H) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6426.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning after August 31, 1982; except that such amendments shall not apply to any amount paid on or before such date.

SEC. 281. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

(a) GENERAL RULE.—Subchapter A of chapter 98 (relating to Trust Fund Code) is amended by adding at the end thereof the following new section:

"SEC. 9502. AIRPORT AND AIRWAY TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Airport and Airway Trust Fund', consisting of such amounts as may be appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFER TO AIRPORT AND AIRWAY TRUST FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—There is hereby appropriated to the Airport and Airway Trust Fund—

"(1) amounts equivalent to the taxes received in the Treasury after August 31, 1982, and before January 1, 1988, under subsections (c) and (d) of section 4041 (taxes on aviation fuel) and under sections 4261 and 4271 (taxes on transportation by air);

"(2) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988, under section 4081, with respect to gasoline used in aircraft; and

"(3) amounts determined by the Secretary of the Treasury to be equivalent to the taxes received in the Treasury after August 31, 1982, January 1, 1988 under paragraphs (2) and (3) of section 4071(a), with respect to tires and tubes of the types used on aircraft.

"(c) APPROPRIATION OF ADDITIONAL SUMS.—There are hereby authorized to be appropriated to the Airport and Airway Trust Fund such additional sums as may be required to make the expenditures referred to in subsection (d) of this section.

"(d) EXPENDITURES FROM AIRPORT AND AIRWAY TRUST FUND.—

"(1) AIRPORT AND AIRWAY PROGRAM.—Amounts in the Airport and Airway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1987, to meet those obligations of the United States—

"(A) incurred under title I of the Airport and Airway Development Act of 1970 or of the Airport and Airway Development Act Amendments of 1976 or of the Aviation Safety and Noise Abatement Act of 1979 (as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act) or under the Fiscal Year 1981 Airport Development Authorization Act or the provisions of the Airport and Airway System Development Act of 1982;

"(B) heretofore or hereafter incurred under the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which are attributable to planning, research and development, construction, or operation and maintenance of—

"(i) air traffic control,

"(ii) air navigation,

"(iii) communications, or

"(iv) supporting services,

for the airway system; or

"(C) for those portions of the administrative expenses of the Department of Transportation which are attributable to activities described in subparagraph (A) or (B).

"(2) TRANSFERS FROM AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN REFUNDS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the amounts paid after August 31, 1982, in respect of fuel used in aircraft, under section 6420 (relating to amounts paid in respect of gasoline used on farms), 6421 relating to amounts paid in respect of gasoline used for certain nonhighway purposes), or 6427 (relating to fuels not used for taxable purposes).

"(3) TRANSFERS FROM THE AIRPORT AND AIRWAY TRUST FUND ON ACCOUNT OF CERTAIN SECTION 39 CREDITS.—The Secretary of the Treasury shall pay from time to time from the Airport and Airway Trust Fund into the general fund of the Treasury amounts equivalent to the credits allowed under section 39 with respect to fuel used after August 31, 1982. Such amounts shall be transferred on the basis of estimates by the Secretary of the Treasury, and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the credits allowed.".

(b) REPEAL OF SECTION 208 OF THE AIRPORT AND AIRWAY REVENUE ACT OF 1970.—Section 208 of the Airport and Airway Revenue Act of 1970 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter A of chapter 98 is amended to read as follows:

"Sec. 9501. Black Lung Disability Trust Fund.

"Sec. 9502. Airport and Airway Trust Fund.".

(2) The section heading for section 9501 (relating to establishment of Black Lung Disability Trust Fund) is amended to read as follows:

"SEC. 9501. BLACK LUNG DISABILITY TRUST FUND.".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on September 1, 1982.

(2) SAVINGS PROVISIONS.—The Airport and Airway Trust Fund established by the amendments made by this section shall be treated for all purposes of law as the continuation of the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970. Any reference in any law to the Airport and Airway Trust Fund established by such section 208 shall be deemed to include a reference to the Airport and Airway Trust Fund

established by the amendments made by this section.

PART II—COMMUNICATIONS SERVICES

SEC. 284. EXTENSION OF EXCISE TAX ON COMMUNICATIONS SERVICES.

(a) IN GENERAL.—Section 4251 (relating to imposition of tax on communications services) is amended by striking out subsections (a) and (b) and inserting the following new subsections:

"(a) TAX IMPOSED.—

"(1) IN GENERAL.—There is hereby imposed on amounts paid for communications services a tax equal to the applicable percentage of amounts so paid.

"(2) PAYMENT OF TAX.—The tax imposed by this section shall be paid by the person paying for such services.

"(b) DEFINITIONS.—"For purposes of subsection (a)—

"(1) COMMUNICATIONS SERVICES.—"The term 'communications services' means—

"(A) local telephone service;

"(B) toll telephone service; and

"(C) teletypewriter exchange service.

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means—

"With respect to amounts paid pursuant to bills first rendered—	The percentage is—
During 1983, 1984, or 1985	3
During 1986 or thereafter	0."

(b) EFFECTIVE DATE.—"The amendment made by subsection (a) shall apply with respect to amounts paid for communications services pursuant to bills first rendered after December 31, 1982.

PART III—CIGARETTES

SEC. 283. INCREASE IN TAX ON CIGARETTES.

(a) RATE OF TAX.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(1) by striking out "$4" in paragraph (1) and inserting in lieu thereof "$8; and

(2) by striking out "8.40" in paragraph (2) and inserting in lieu thereof $16.80".

(b) FLOOR STOCKS.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $4 per thousand;

(B) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand $8.40 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1983, to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5701 and shall be due and payable on January 18, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on after January 1, 1983.

((3) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(4) EXCEPTION FOR RETAILERS.—The taxes imposed by paragraph (1) shall not apply to cigarettes in retail stocks held on January 1, 1983, at the place where intended to be sold at retail.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to cigarettes removed after December 31, 1982 and before October 1, 1985.

PART IV—TAPS ADJUSTMENT ELIMINATED

SEC. 284. ELIMINATION OF THE TAPS ADJUSTMENT.

(a) IN GENERAL.—Subsection (d) of section 4996 (relating to Alaskan oil from Sadlerochit reservior) is amended to read as follows:

"(d) ALASKAN OIL FROM SADLEROCHIT RESERVOIR.—For purposes of this chapter—

"(1) REMOVAL PRICE DETERMINED ON MONTHLY BASIS.—The removal price of Sadlerochit oil removed during any calendar month shall be the average of the producer's removal prices for such month.

"(2) SADLEROCHIT OIL DEFINED.—The term 'Sadlerochit oil' means crude oil produced from the Sadlerochit reservoir in the Prudhoe Bay oilfield.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to oil removed after December 31, 1982.

SUBTITLE G—MISCELLANEOUS

SEC. 285. TWO-YEAR EXTENSION OF EXCLUSION FROM GROSS INCOME OF NATIONAL RESEARCH SERVICE AWARDS.

Paragraph (2) of section 161(b) of the Revenue Act of 1978 relating to exclusion from gross income for national research service awards) is amended by striking out "1981" and inserting in lieu thereof "1983".

SEC. 286. SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.

(a) SPECIAL RULES.—Section 501 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.—

"(1) IN GENERAL.—In the case of a qualified amateur sports organization—

"(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

"(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

"(2) QUALIFIED AMATEUR SPORTS ORGANIZATION DEFINED.—For purposes of this subsection, the term 'qualified amateur sports organization' means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop amateur athletes for national or international competition in sports."

(b) DEFINITION OF CHARITABLE CONTRIBUTION.—(1) Subsection (c) of section 170 (defining charitable contribution) is amended by adding at the end of paragraph (2) the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph".

(2) Subsection (a) of section 2055 (relating to transfers for public, charitable, and religious uses) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(3) Subsection (a) of section 2522 (relating to charitable and similar gifts) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 5, 1976.

SEC. 287. NEW JERSEY GENERAL REVENUE SHARING ALLOCATION.

(a) IN GENERAL.—Subsection (e) of section 109 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1228) (defining general tax effort factor) is amended by inserting at the end thereof the following new paragraph:

"(3) NEW JERSEY FRANCHISE AND GROSS RECEIPTS TAXES.—

"(A) The New Jersey Franchise and Gross Receipts Taxes (N.J. Rev. Stat. 54:30A–18.1) transferred to a unit of local government within the State in the years beginning January 1 of 1980, 1981, and 1982 shall be deemed to be an adjusted tax of such units for purposes of paragraph (2)(A)(i).

"(B) The provisions of subparagraph (A) shall be given effect for quarterly payments made for quarters beginning after December 31, 1982, only if the Governor of the State of New Jersey notifies the Secretary that, prior to January 1, 1983, the State amended the New Jersey Franchise and Gross Receipts Taxes statute to provide for collection and retention of such taxes by units of local government for years beginning as of January 1, 1983.

"(C) Notwithstanding the limitation in subparagraph (B), the provisions of subparagraph (A) shall be given effect with respect to the quarterly payment to be made for the quarter beginning October 1, 1982.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective after September 30, 1982.

SEC. 288. ILLEGAL PAYMENTS TO GOVERNMENT OFFICIALS OR EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 162(c) (relating to illegal payments to Government officials or employees) is amended—

(1) by striking out "would be unlawful under the laws of the United States if such laws were applicable to such payment and to such official or employee" and inserting in lieu thereof "is unlawful under the Foreign Corrupt Practices Act of 1977", and

(2) by striking out "(or would be unlawful under the laws of the United States)" and inserting in lieu thereof "(or is unlawful under the Foreign Corrupt Practices Act of 1977)".

(b) COORDINATION WITH SUBPART F—

(1) Subsection (a) of section 952 is amended by adding at the end thereof the following new sentence:

"The payments referred to in paragraph (4) are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person."

(2) Subsection (a) of section 964 is amended by adding at the end thereof the following new sentence: "The payments referred to in the preceding sentence are payments which would be unlawful under the Foreign Corrupt Practices Act of 1977 if the payor were a United States person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 289. DEPT. MANAGEMENT PROVISIONS.

(a) DETERMINATION BY SECRETARY OF INVESTMENT YIELD ON UNITED STATES SAVINGS BOND.—

(1) Subsection (b) of section 22 of the Second Liberty Bond Act (31 U.S.C. 757c) is amended—

(A) by amending paragraph (3) to read as follows:

"(3) The Secretary of the Treasury, with the approval of the President, may fix the investment yield on any United States savings bond. The Secretary of the Treasury, with the approval of the President, may provide for increases and decreases in the investment yield on any outstanding United States savings bond; except that the investment yield on any bond for the period held may not be decreased below the minimum yield for such period guaranteed at the time of its issuance.";

(B) by striking out "the Secretary of the Treasury may prescribe: Provided" and all that follows down through the end of the second sentence of paragraph (1) of such subsection and inserting in lieu thereof "the Secretary of the Treasury may prescribe.";

(C) by striking out "and shall be expressed in terms of their maturity value" in the third sentence of paragraph (1) of such subsection; and

(D) by striking out "higher rates which are consistent" and inserting in lieu thereof "rates which are consistent" in subparagraph (B) of paragraph (2) of such subsection.

(2) The second sentence of section 22A(b)(1) of such Act is amended by striking out "the Secretary of the Treasury may prescribe" and all that follows down through the end thereof and inserting in lieu thereof "the Secretary of the Treasury may prescribe.".

(b) TRANSITIONAL RULE.—In the case of any savings bond issued before the 30th day after the date of the enactment of this Act, for purposes of sections 22 and 22A of such Act, the minimum yield guaranteed for the period held shall be the scheduled investment yield for such period as in effect on such 30th day.

(c) LIMIT ON OUTSTANDING BONDS.—Effective on the date of the enactment of this Act, the last sentence of the second paragraph of the first section of the Second Liberty Bond Act (31 U.S.C. 752) is amended by striking out "$70,000,000,000" and inserting in lieu thereof "$110,000,000,000".

SEC. 290. JEFFERSON COUNTY MENTAL HEALTH CENTER.

(a) IN GENERAL.—The Secretary is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Jefferson County Mental Health Center, Incorporated, of Lakewood, Colorado, the sum of $50,000 in full settlement of all claims of the center against the United States for repayment of amounts the center erroneously refunded to its employees for social security contributions in the period after December 31, 1971, and prior to May 14, 1975, pursuant to instructions by the Internal Revenue Service.

(b) LIMITATION.—No part of the amount appropriated in subsection (a) in excess of 10 per centum shall be paid, delivered to, or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof be fined any sum not exceeding $1,000.

SEC. 291. ALASKA NATIVE CORPORATIONS.

Paragraph (2) of subsection (d) of section 4994 of subpart B of chapter 45 (relating to windfall profit tax on domestic crude oil; categories of oil) is amended by striking "under" the first time it appears and inserting in lieu thereof "pursuant to".

SEC. 292. AWARDING OF COSTS AND CERTAIN FEES.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as section 7431 and by inserting after section 7429 the following new section:

"SEC. 7430. AWARDING OF COURT COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In the case of any civil proceeding which is—

"(1) brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, and

"(2) brought in a court of the United States (including the Tax Court),

the prevailing party may be awarded a judgment for reasonable litigation costs incurred in such proceeding.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of reasonable litigation costs which may be awarded under subsection (a) with respect to any prevailing party in any civil proceeding shall not exceed $25,000.

"(2) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(3) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation costs which are allocable to the United States and not to any other party to the action or proceeding.

"(4) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(C)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(c) DEFINITIONS.—For purposes of this section—

"(1) REASONABLE LITIGATION COSTS.—

"(A) IN GENERAL.—The term 'reasonable litigation costs' includes—

"(i) reasonable court costs,

"(ii) the reasonable expenses of expert witnesses in connection with the civil proceeding,

"(iii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iv) reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding.

"(B) ATTORNEY'S FEES.—In the case of any proceeding in the Tax Court, fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court shall be treated as fees for the services of an attorney.

"(2) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party to any proceeding described in subsection (a) (other than the United States or any creditor of the taxpayer involved) which—

"(i) establishes that the position of the United States in the civil proceeding was unreasonable, and

"(ii)(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented.

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made—

"(i) by the court, or

"(ii) by agreement of the parties.

"(3) CIVIL ACTIONS.—The term 'civil proceeding' includes a civil action.

"(d) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single proceeding in the same court,

such actions or cases shall be treated as one civil proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated for purposes of this section.

"(e) RIGHT OF APPEAL.—An order granting or denying an award for reasonable litigation costs under subsection (a), in whole or in part, shall be incorporated as a part of the decision or judgment in the case and shall be subject to appeal in the same manner as the decision or judgment.

"(f) TERMINATION.—This section shall not apply to any proceeding commenced after December 31, 1985."

(b) PENALTY FOR USING TAX COURT PROCEEDINGS FOR DELAY: PENALTY FOR FRIVOLOUS OR GROUNDLESS PROCEEDING.—The first sentence of section 6673 (relating to damages assessable by instituting proceedings before the Tax Court merely for delay) is amended to read as follows: "Whenever it appears to the Tax Court that proceedings before it have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in such proceedings is frivolous or groundless, damages in an amount not in excess of $5,000 shall be awarded to the United States by the Tax Court in its decision.".

(c) APPLICATION WITH TITLE 28.—Section 2412 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall not apply to any costs, fees, and other expenses in connection with any proceeding to which section 7430 of the Internal Revenue Code of 1954 applies (determined without regard to subsections (b) and (f)). Nothing in the preceding sentence shall prevent the awarding under subsection (a) of section 2412 of title 28, United States Code, of costs enumerated in section 1920 of such title (as in effect on October 1, 1981).".

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting the following new items:

"Sec. 7430. Awarding of court costs and certain fees.

"Sec. 7431. Cross references.".

(2)(A) The section heading of section 6673 is amended by striking out "MERELY FOR DELAY." and inserting in lieu thereof "PRIMARILY FOR DELAY, ETC.".

(B) The table of sections for subchapter B of chapter 68 is amended by striking out "merely for delay." in the item relating to section 6673 and inserting in lieu thereof "primarily for delay, etc.".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to civil actions or proceedings commenced after February 28, 1983.

(2) PENALTY.—The amendments made by subsections (b) and (d)(2) shall apply to any action or proceeding in the Tax Court commenced after December 31, 1982,

SEC. 293. TREATMENT OF CERTAIN LENDING OR FINANCE BUSINESSES FOR PURPOSES OF THE TAX ON PERSONAL HOLDING COMPANIES.

(a) REMOVAL OF LIMITATION ON AMOUNT OF ORDINARY GROSS INCOME FROM LENDING OR FINANCE BUSINESS TAKEN INTO ACCOUNT.—Clause (ii) of section 542(c)(6)(C) (relating to exceptions from definition of personal holding company) is amended by striking out "but not $1,000,000".

(b) CHANGES IN DEFINITION OF LENDING OR FINANCE BUSINESS.—Clause (i) of section 542(d)(1)(B) (relating to exceptions from definition of lending or finance business) is amended to read as follows:

"(i) making loans, or purchasing or discounting accounts receivable, notes, or installment obligations, if (at the itme of the loan, purchase, or discount) the remaining maturity exceeds 144 months; unless—

"(I) the loans, notes, or installment obligations are evidenced or secured by contracts of conditional sale, chattel mortgages, or chattel lease agreements arising out of the sale of goods or services in the course of the borrower's or transferor's trade or business, or

"(II) the loans, notes, or installment obligations are made or acquired by the taxpayer and meet the requirements of subparagraph (C), or".

(c) INDEFINITE MATURITY CREDIT TRANSACTIONS.—Paragraph (1) of section 542(d) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) INDEFINITE MATURITY CREDIT TRANSACTIONS.—For purposes of subparagraph (B)(i), a loan, note, or installment obligation meets the requirements of this subparagraph if it is made under an agreement—

"(i) under which the creditor agrees to make loans or advances (not in excess of an agreed upon maximum amount) from time to time to or for the account of the debtor upon request, and

"(ii) under which the debtor may repay the loan or advance in full or in installments."

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981.

(2) SUBSECTIONS (b) and (c). The amendments made by subsections (b) and (c) shall apply to taxable years beginning after December 31, 1980.

SEC. 294. ADDITIONAL REFUNDS RELATING TO REPEAL OF EXCISE TAX ON BUSES.

(a) TIME FOR FILING CLAIM.—Subparagraph (C) of section 231(c)(2) of the Energy Tax Act of 1978 (relating to refunds with respect to certain consumer purchases) is amended by striking out "the first day of such 10th calendar month" and inserting in lieu thereof "December 31, 1982".

(b) PROCEDURE FOR PASSING THROUGH REFUND.—Subparagraph (A) of section 231(c)(2) of such Act is amended by inserting before the semicolon ", or, in lieu of evidence of reimbursement, he makes such reimbursement simultaneously with the receipt of such a refund under an arrangement satisfactory to such Secretary which assures such simultaneous reimbursement".

TITLE III—TAXPAYER COMPLIANCE

SUBTITLE A—WITHHOLDING ON INTEREST AND DIVIDENDS

SEC. 301. WITHHOLDING ON INTEREST AND DIVIDENDS.

Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new subchapter:

"Subchapter B—Withholding From Interest and Dividends

"Sec. 3451. Income tax collected at source on interest, dividends, and patronage dividends.

"Sec. 3452. Exemptions from withholding.

"Sec. 3453. Payor defined.

"Sec. 3454. Definitions of interest, dividend, and patronage dividend.

"Sec. 3455. Other definitions and special rules.

"Sec. 3456. Administrative provisions.

"SEC. 3451. INCOME TAX COLLECTED AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) REQUIREMENT OF WITHHOLDING.—Except as otherwise provided in this subchapter, the payor of any interest, dividend, or patronage dividend shall withhold a tax equal to 10 percent of the amount of the payment.

"(b) SPECIAL RULES.—

"(1) TIME OF WITHHOLDING.—Except as otherwise provided in this subchapter, for purposes of this subchapter—

"(A) any payment of interest, dividend, or patronage dividend shall be treated as made, and

"(B) the tax imposed by this section shall be withheld,

at the time such interest, dividend, or patronage dividend is paid or credited.

"(2) PAYEE UNKNOWN.—If a payor is unable to determine the person to whom any interest, dividend, or patronage dividend is payable or creditable, the tax under this section shall be withheld at the time withholding would be required under paragraph (1) if the payee were known and were an individual.

"(3) AMOUNT OF DIVIDEND, ETC., UNKNOWN.—

"(A) IN GENERAL.—If the payor is unable to determine the portion of a distribution which is a dividend, the tax under this section shall be computed on the gross amount of the distribution. To the extent provided in regulations, a similar rule shall apply in the case of interest and patronage dividends.

"(B) DISTRIBUTIONS WHICH ARE NOT DIVIDENDS.—To the extent provided in regulations, this section shall not apply to the extent that the portion of a distribution which is not a dividend may reasonably be estimated.

"(4) WITHHOLDING FROM ALTERNATIVE SOURCE.—The Secretary shall prescribe regulations setting forth the circumstances under which the tax imposed by this section may be paid from an account or source other than the payment which gives rise to the liability for tax.

"(c) LIABILITY FOR PAYMENT.—

"(1) PAYOR LIABLE.—Except as otherwise provided in this subchapter, the payor—

"(A) shall be liable for the payment of the tax imposed by this section which such payor is required to withhold under this section, and

"(B) shall not be liable to any person (other than the United States) for the amount of any such payment.

"(2) RELIANCE ON EXEMPTION CERTIFICATES.—The payor shall not be liable for the payment of tax imposed by this section which such payor is required to withhold under this section if—

"(A) such payor fails to withhold such tax, and

"(B) such failure is due to reasonable reliance on an exemption certificate delivered to such payor under section 3452(f) which is in effect with respect to the payee at the time such tax is required to be withheld under this section.

"SEC. 3452. EXEMPTIONS FROM WITHHOLDING.

"(a) IN GENERAL.—Section 3451 shall not apply with respect to—

"(1) any payment to an exempt individual,

"(2) any payment to an exempt recipient,

"(3) any minimal interest payment, or

"(4) any qualified consumer cooperative payment.

"(b) EXEMPT INDIVIDUALS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt individual' means any individual—

"(A) who is described in paragraph (2), and

"(B) with respect to whom an exemption certificate is in effect.

"(2) INDIVIDUALS DESCRIBED IN THIS PARAGRAPH.—An individual is described in this paragraph if—

"(A) such individual's income tax liability for the preceding taxable year did not exceed $600 ($1,000 in the case of a joint return under section 6013), or

"(B)(i) such individual is 65 or older, and

"(ii) such individual's income tax liability for the preceding taxable year did not exceed $1,500 ($2,500 in the case of a joint return under section 6013).

"(3) SPECIAL RULE FOR MARRIED PERSONS.—A husband and wife shall each be treated as satisfying the requirements of paragraph (2)(B)(i) if—

"(A) either spouse is 65 or older, and

"(B) such husband and wife made a joint return under section 6013 for the preceding taxable year.

"(4) SPECIAL RULE FOR CERTAIN TRUSTS DISTRIBUTING CURRENTLY.—Under regulations, a trust—

"(A) the terms of which provide that all of its income is required to be distributed currently, and

"(B) all the beneficiaries of which are individuals described in paragraph (2) or organizations described in subsection (c)(2)(B),

shall be treated as an individual described in paragraph (2).

"(5) INCOME TAX LIABILITY.—For purposes of this subsection, the term 'income tax liability' means the amount of the tax imposed by subtitle A for the taxable year, reduced by the sum of the credits allowable against such tax (other than credits allowable by sections 31, 39, and 43).

"(c) EXEMPT RECIPIENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'exempt recipient' means any person described in paragraph (2)—

"(A) with respect to whom an exemption certificate is in effect, or

"(B) who is described in regulations prescribed by the Secretary which permit exemption from withholding without cerification.

"(2) PERSONS DESCRIBED IN THIS PARAGRAPH.—A person is described in this paragraph if such person is—

"(A) a corporation,

"(B) an organization exempt from taxation under section 501(a) or an individual retirement plan,

"(C) the United States or a State,

"(D) a foreign government or international organization,

"(E) a foreign central bank of issue,

"(F) a dealer in securities or commodities required to register as such under the laws of the United States or a State,

"(G) a real estate investment trust (as defined in section 856),

"(H) an entity registered at all times during the taxable year under the Investment Company Act of 1940,

"(I) a common trust fund (as defined in section 584(a)),

"(J) a nominee or custodian (except as otherwise provided in regulations),

"(K) to the extent provided in regulations—

"(i) a financial institution,

"(ii) a broker, or

"(iii) any other person specified in such regulations, who collects any interest, dividend, or patronage dividend for the payee or otherwise acts as a middleman between the payor and payee, or

"(L) any trust which—

"(i) is exempt from tax under section 664(c), or

"(ii) is described in section 4947(a)(1).

"(3) PAYOR MAY REQUIRE CERTIFICATION.—A person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if—

"(A) an exemption certificate is not in effect with respect to such person, and

"(B) the payor does not treat such person as an exempt recipient.

"(d) MINIMAL INTEREST PAYMENTS.—

"(1) IN GENERAL.—For purposes of this section, the term 'minimal interest payment' means any payment of interest—

"(A) with respect to which an election by the payor made under paragraph (3) is in effect, and

"(B) which—

"(i) does not exceed $150, and

"(ii) if determined for a 1-year period would not exceed $150.

"(2) AGGREGATION OF PAYMENTS TO SAME PAYEE.—To the extent provided in regulations prescribed by the Secretary, payments of interest by a payor to the same payee shall be aggregated for purposes of applying paragraph (1)(B).

"(3) ELECTION.—

"(A) IN GENERAL.—Any payor may make an election under this paragraph with respect to any type of interest payments.

"(B) EFFECTIVE UNTIL REVOKED.—Except as provided in regulations prescribed by the Secretary, an election made by any person under this paragraph shall remain in effect until revoked by such person.

"(C) TIME AND MANNER.—Any election or revocation of an election made under this paragraph shall be made at such time and in such manner as the Secretary shall prescribe by regulations.

"(e) QUALIFIED CONSUMER COOPERATIVE PAYMENT.—For purposes of this section, the term 'qualified consumer cooperative payment' means any payment by a cooperative which is exempt from reporting requirements under section 6044(a) by reason of section 6044(c).

"(f) EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—

"(A) DELIVERY.—An exempt individual or exempt recipient may deliver an exemption certificate to a payor at any time. Such certificate shall be in such form and contain such information as the Secretary shall prescribe.

"(B) CHANGE OF STATUS.—Any person who ceases to be an exempt individual or exempt recipient shall, not later than the close of the 10th day after the date of such cessation, notify each payor with whom such person has an exemption certificate of such change in status. No notice shall be required under the preceding sentence with respect to any payor if it reasonably appears that the person will not thereafter receive a payment of interest, dividends, or patronage dividends from such payor.

"(2) EFFECTIVENESS OF CERTIFICATES.—

"(A) GENERAL RULE.—Except as otherwise provided in regulations prescribed by the Secretary, an exemption certificate shall be effective until—

"(i) revoked, or

"(ii) notice of change in status is provided pursuant to paragraph (1)(B).

"(B) WHEN CERTIFICATE TAKES EFFECT.—The Secretary shall prescribe regulations setting forth—

"(i) the day on which a filed exemption certificate shall be considered effective, and

"(ii) the circumstances under which a payor shall treat an exemption certificate as having ceased to be effective where the Secretary has determined that the person described therein is not an exempt individual or exempt recipient.

"SEC. 3453. PAYOR DEFINED.

"(a) GENERAL RULE.—Except as otherwise provided in this subchapter, for purposes of this subchapter, the term 'payor' means the person paying or crediting the interest, dividend, or patronage dividend.

"(b) CERTAIN MIDDLEMEN TREATED AS PAYORS.—For purposes of this subchapter—

"(1) IN GENERAL.—To the extent provided in regulations—

"(A) any custodian for, or nominee of, the payee,

"(B) any corporate trustee of a trust which is the payee, or

"(C) any person which collects the payment for the payee or otherwise acts as a middleman between the payor and the payee,

shall be treated as a payor with respect to the payment.

"(2) RECEIPT TREATED AS PAYMENT.—To the extent provided in regulations, any person treated as a payor under paragraph (1) shall be treated as having paid the interest, dividend, or patronage dividend when such person received such amount.

"(c) AGENTS, ETC.—In the case of—

"(1) a fiduciary or agent with respect to the payment or crediting of any interest, dividend, or patronage dividend, or

"(2) any other person who has the control, receipt, custody, or disposal of, or pays or credits any interest, dividend, or patronage dividend for any payor,

the Secretary, under regulations prescribed by him, may designate such fiduciary, agent, or other person as a payor with respect to such payment or crediting for purposes of this subchapter.

"(d) TREATMENT OF PERSONS TO WHOM SUBSECTION (b) OR (c) APPLIES.—Any person treated as a payor under subsection (b) or (c)—

"(1) shall perform such acts as are required of a payor (within the meaning of subsection (a)) and as may be specified by the Secretary, and

"(2) shall be treated as a payor for all provisions of law (including penalties) applicable in respect to a payor (within the meaning of subsection (a)).

"(e) RELIEF FROM DOUBLE WITHHOLDING.—The Secretary may by regulations provide that where any person is treated as a payor under subsection (b) or (c) with respect to any payment, any other person who (but for this subsection) would be treated as a payor with respect to such payment shall be relieved from the requirements of this subchapter to the extent provided in such regulations.

"(f) LIABILITY OF THIRD PARTIES PAYING OR PROVIDING INTEREST, DIVIDENDS, OR PATRONAGE DIVIDENDS.—To the extent provided in regulations prescribed by the Secretary, rules similar to the rules of section 3505 (relating to liability of third parties paying or providing for wages) shall apply for purposes of this subchapter. For purposes of the preceding sentence, the last sentence of subsection (b) of section 3505 shall be applied by substituting '10 percent' for '25 percent'.

"SEC. 3454. DEFINITIONS OF INTEREST, DIVIDEND, AND PATRONAGE DIVIDEND.

"(a) INTEREST DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'interest' means—

"(A) interest on any obligation in registered form or of a type offered to the public,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045(c)), and

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts.

"(2) EXCEPTIONS.—The term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from taxation under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) any amount paid on a depository institution tax-exempt certificate (as defined in section 128(c)(1) (as in effect for taxable years beginning before January 1, 1985)),

"(D) any amount which is subject to withholding under subchapter A of chapter 3 (relating to withholding of tax on nonresident aliens and foreign corporations) by the person paying such amount,

"(E) any amount which would be subject to withholding under subchapter A of chap-

ter 3 by the person paying such amount but for the fact that—

"(i) such amount is income from sources outside the United States,

"(ii) the payor thereof is excepted from the application of section 1441(a) by reason of section 1441(c) or a tax treaty, or

"(iii) such amount is original issue discount (within the meaning of section 1232(b)(1)),

"(F) any amount which is exempt from tax under—

"(i) section 892 (relating to income of foreign governments and of international organizations), or

"(ii) section 895 (relating to income derived by a foreign central bank of issue from obligations of the United States or from bank deposits),

"(G) except to the extent otherwise provided in regulations, any amount paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident aliens, individuals and persons described in clause (i), (ii), or (iii),

"(H) any amount on which the person making payment is required to withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions), and

"(I) except to the extent otherwise provided in regulations, any amount not described in the foregoing provisions of this paragraph which is paid outside the United States and is income from sources outside the United States.

"(3) ADJUSTMENT FOR PENALTY BECAUSE OF PREMATURE WITHDRAWAL OF FUNDS FROM TIME SAVINGS ACCOUNTS OR DEPOSITS.—To the extent provided in regulations, the amount of any interest on a time savings account, certificate of deposit, or similar class of deposits shall be appropriately reduced for purposes of this suchapter by the amount of any penalty imposed for the premature withdrawal of funds.

"(b) DIVIDEND DEFINED.—For purposes of this subchapter—

"(1) GENERAL RULE.—The term 'dividend' means—

"(A) any distribution by a corporation which is a dividend (as defined in section 316), and

"(B) any payment made by a stockbroker to any person as a substitute for a dividend (as so defined).

"(2) SUBCHAPTER S DISTRIBUTIONS AFTER CLOSE OF YEAR.—The term 'dividend' includes any distribution described in section 1375(f) (relating to distributions by electing small business corporations after the close of the taxable year).

"(3) EXCEPTIONS.—The term 'dividend' shall not include—

"(A) any amount paid as a distribution of stock described in section 305(e)(2)(A) (relating to reinvestment of dividends in stock of public utilities),

"(B) any amount which is treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), 306 (relating to disposition of certain stock), 356 (relating to receipt of additional consideration in connection with certain reorganizations), or 1081(e)(2) (relating to certain distributions pursuant to order of the Securities and Exchange Commission),

"(C) any amount described in subparagraph (D), (E), or (F) of subsection (a)(2),

"(D) to the extent provided in regulations, any amount paid by a foreign corporation not engaged in a trade or business in the United States,

"(E) any amount which is a capital gain dividend distributed by—

"(i) a regulated investment company (as defined in section 852(b)(3)(C)), or

"(ii) a real estate investment trust (as defined in section 857(b)(3)(C)),

"(F) any amount which is an exempt-interest dividend of a regulated investment company (as defined in section 852(b)(5)(A)),

"(G) any amount paid or treated as paid by a regulated investment company during a year if, under regulations prescribed by the Secretary, it is anticipated that at least 95 percent of the dividends paid or treated as paid during such year (not including capital gain distributions) will be exempt-interest dividends, and

"(H) any amount described in section 1373 (relating to undistributed taxable income of electing small business corporations).

"(c) PATRONAGE DIVIDEND.—For purposes of this subchapter—

"(1) IN GENERAL.—The term 'patronage dividend' means—

"(A) the amount of any patronage dividend (as defined in section 1388(a)) which is paid in money, qualified written notice of allocation, or other property (except a nonqualified written notice of allocation),

"(B) any amount, described in section 1382(c)(2)(A) (relating to certain nonpatronage distributions), which is paid in money, qualified written notice of allocation, or other property (except nonqualified written notice of allocation) by an organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

"(C) any amount paid in money or other property (except written notice of allocation) in redemption of a nonqualified written notice of allocation attributable to any source described in subparagraph (A) or (B).

"(2) EXCEPTIONS.—The term 'patronage dividend' shall not include any amount described in subparagraph (D), (E), or (F) of subsection (a)(2).

"(3) SPECIAL RULES.—In determining the amount of any patronage dividend—

"(A) property (other than a written notice of allocation) shall be taken into account at its fair market value,

"(B) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

"(C) a patronage dividend part of which is a qualified written notice of allocation described in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such dividend is paid in money or by a qualified check, and any such qualified written notice of allocation which is taken into account after the application of this subparagraph shall be taken into account at its stated dollar amount.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'qualified written notice of allocation' has the meaning given to such term by section 1388(c).

"(B) NONQUALIFIED WRITTEN NOTICE OF ALLOCATION.—The term 'nonqualified written notice of allocaton' has the meaning given to such term by section 1388(d).

"(C) QUALIFIED CHECK.—The term 'qualified check' has the meaning given to such term by section 1388(c)(4).

"SEC. 3455. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization.

"(2) STATE.—The term 'State' means a State, the District of Columbia, a possession of the United States, any political subdivision of any of the foregoing, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(3) UNITED STATES.—The term 'United States' means the United States and any wholly owned agency or instrumentality thereof.

"(4) FOREIGN GOVERNMENT.—The term 'foreign government' means a foreign government, a political subdivision of a foreign government, and any wholly owned agency or instrumentality of any one or more of the foregoing.

"(5) INTERNATIONAL ORGANIZATION.—The term 'international organization' means an international organization and any wholly owned agency or instrumentality thereof.

"(6) NONRESIDENT ALIEN.—The term 'nonresident alien individual' includes an alien resident of Puerto Rico.

"(7) WITHHOLD, ETC., INCLUDE DEDUCT.—The terms 'withhold', 'withholding', and 'withheld' include deduct, deducting, and deducted.

"(b) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) the tax imposed by section 3451 shall apply to the amount of original issue discount on any obligation which is includible in the gross income of the holder during the calendar year. Any such amount shall be treated as a paymend for purposes of this subchapter.

"(2) TRANSFERRED OBLIGATIONS.—

"(A) IN GENERAL.—In the case of original issue discount on any obligation which has been transferred from the original holder, the tax imposed by section 3451 shall apply to such original issue discount as if the subsequent holder were the original holder.

"(B) SPECIAL RULE FOR SHORT-TERM OBLIGATIONS.—In the case of any obligation with a fixed maturity date not exceeding 1 year from the date of issue which has been transferred from the original holder, if any subsequent purchaser establishes the date on which, and the purchase price at which, he acquired such obligation, the amount of original issue discount on such obligation shall be determined (subject to such regulations as the Secretary may prescribe) as if it were issued on the date such subsequent purchaser acquired such obligation for an issue price equal to the purchase price at which such subsequent purchaser acquired such obligation.

"(3) LIMITATION ON AMOUNT WITHHELD.—

"(A) IN GENERAL.—The amount of tax imposed by section 3451 on the original issue discount on any obligation which is required to be withheld under section 3451(a) in any calendar year shall not exceed the

amount of cash paid with respect to such obligation during such calendar year.

"(B) AUTHORITY OF SECRETARY TO ELIMINATE LIMITATION IN CERTAIN CASES.—If the Secretary determines by regulations that a type of obligation is frequently used to avoid the purposes of this subchapter, subparagraph (A) shall not apply with respect to original issue discount on any obligation of such type which is issued more than 30 days after the first date on which such regulations are published in the Federal Register.

"(C) PAYMENTS FROM WHICH WITHHOLDING IS TO BE MADE.—Except to the extent otherwise provided in regulations, the tax imposed by section 3451 with respect to original issue discount for any calendar year shall be withheld from each cash payment made with respect to such obligation during such calendar year in the proportion which the amount of such payment bears to the aggregate of such payments.

"(4) ORIGINAL ISSUE DISCOUNT DEFINED.—For purposes of this subsection, the term 'original issue discount' has the meaning given such term by section 1232(b)(1).

"SEC. 3456. ADMINISTRATIVE PROVISIONS.

"(a) RETURN AND PAYMENT BY GOVERNMENTAL UNITS.—If the payor of any payment subject to withholding under section 3451 is the United States or a State, or an agency or instrumentality thereof, the return of the tax withheld under this subchapter shall be made by the officer or employee having control of the payment of the amount subject to withholding or by any officer or employee appropriately designated to make such withholding.

"(b) ANNUAL WITHHOLDING BY FINANCIAL INSTITUTIONS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, a financial institution described in subparagraph (B) or (C) of section 3454(a)(1) may elect to defer withholding of the tax imposed by section 3451 during any calendar year on interest paid on savings accounts, interest-bearing checking accounts, and similar accounts until a date which is not later than the last day of such year.

"(2) CONDITION FOR ELECTION.—The regulations prescribed under paragraph (1) shall provide that an election under such paragraph is conditional on agreement by the person making the election—

"(A) that the balance in any account subject to such election shall at no time be less than an amount equal to the tax under section 3451 which would have been withheld as of such time if such election were not in effect, and

"(B) that if an account subject to such election is closed before the date on which the tax under section 3451 would (but for this subparagraph) be withheld as a result of such an election, the tax shall be withheld before the time of closing such account.

"(c) TAX PAID BY RECIPIENT.—If a payor, in violation of the provisions of this subchapter, fails to withhold the tax imposed under section 3451, and thereafter the tax against which such tax may be credited is paid, the tax so required to be withheld shall not be collected from the payor; but this subsection shall in no case relieve the payor from liability for any penalties or additions to the tax otherwise applicable in respect of such failure to withhold.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subchapter."

SEC. 302. CREDIT AGAINST TAX.

(a) IN GENERAL.—Section 31 (relating to tax withheld on wages) is amended to read as follows:

"SEC. 31. TAX WITHHELD ON WAGES, INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.

"(a) WAGE WITHHOLDING.—The amount withheld under section 3402 as tax on the wages of any individual shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(b) WITHHOLDING FROM INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—The amount withheld under section 3451 as tax on interest, dividends, and patronage dividends shall be allowed to the recipient of the income as a credit against the tax imposed by this subtitle.

"(c) CREDIT FOR SPECIAL REFUNDS OF SOCIAL SECURITY TAX.—The Secretary may prescribe regulations providing for the crediting against the tax imposed by this subtitle of the amount determined by the taxpayer or the Secretary to be allowable under section 6413(c) as a special refund of tax imposed on wages. The amount allowed as a credit under such regulations shall, for purposes of this subtitle, be considered an amount withheld at source as tax under section 3402.

"(d) YEAR FOR WHICH CREDIT ALLOWED.—

"(1) IN GENERAL.—Except as otherwise provided in paragraph (2), any credit allowed by this section shall be allowed for the taxable year beginning in the calendar year in which the amount was withheld (or, in the case of subsection (c), in which the wages were received). If more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

"(2) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF SUBCHAPTER S CORPORATIONS.—The amount withheld with respect to a distribution by an electing small business corporation (within the meaning of section 1371(b)) which is treated as a distribution of such corporation's undistributed taxable income for the preceding year under section 1375(f)(1) shall be allowed as a credit for the taxable year of the recipient beginning in the calendar year in which the preceding year of the corporation ends."

(b) TREATMENT OF ESTATES AND TRUSTS.—

(1) IN GENERAL.—Section 643 (relating to definitions applicable to estates and trusts) is amended by adding at the end thereof the following new subsection:

"(d) COORDINATION WITH WITHHOLDING ON INTEREST AND DIVIDENDS.—Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under subchapter B of chapter 24—

"(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(b) (on the basis of their respective shares of interest, dividends, and patronage dividends taken into account under this subchapter),

"(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit had been paid to him by the estate or trust, and

"(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries."

(2) TECHNICAL AMENDMENT.—Subsection (a) of section 661 (relating to deduction for estates and trusts accumlating income or distributing corpus) is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), the amount of distributable net income shall be computed without the deduction allowed by section 642(c)."

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 6413(c) is amended by striking out "section 31(b)" and inserting in lieu thereof "section 31(c)".

SEC. 303. RETURNS REGARDING PAYMENTS OF DIVIDENDS AND PAYMENTS OF INTEREST.

(a) DIVIDENDS.—

(1) IN GENERAL.—Paragraph (1) of subsection 6042(a) (relating to returns regarding payments of dividends) is amended—

(A) by striking out "or" at the end of subparagraph (A),

(B) by inserting "or" at the end of subparagraph (B),

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) who is required to withhold tax under section 3451 on any payment of dividends,",

(D) by striking out the period at the end thereof, and

(E) by inserting the following at the end thereof ", and, in the case of a payment upon which tax is withheld, the amount of tax withheld."

(2) STATEMENTS.—Section 6042(c) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(A) by striking out "and" at the end of paragraph (1),

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and",

(C) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(D) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (C) of subsection (a)(1), no statement".

(3) DUPLICATE FILED WITH SECRETARY.—Section 6042 is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

(b) INTEREST.—Section 6049 (relating to returns regarding payments of interest) is amended by adding at the end thereof the following new subsection:

"(e) DUPLICATE OF SUBSECTION (c) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (c) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 304. RETURNS REGARDING PAYMENTS OF PATRONAGE DIVIDENDS.

(a) IN GENERAL.—Paragraph (1) of subsection 6044(a) is amended to read as follows:

"(1) IN GENERAL.—Except as otherwise provided in this section, every cooperative to which part I of subchapter T of chapter 1 applies which—

"(A) makes payments of amounts described in subsection (b) aggregating $10 or more to any person during any calendar year, or

"(B) is required to withhold any tax under section 3451,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, the name and address of the person to whom paid, and the amount of tax withheld."

(b) AMOUNTS SUBJECT TO REPORTING.—Paragraph (1) of section 6044(b) (relating to amounts subject to reporting) is amended by striking out "under subsection (a)", and by inserting "under paragraph (1)(A) or (2) of subsection (a)".

(c) STATEMENTS.—Section 6044(e) (relating to statements to be furnished to persons with respect to whom information is furnished) is amended—

(1) by striking out "and" at the end of paragraph (1),

(2) by striking out the period at the end of paragraph (2), and inserting ", and" in lieu thereof,

(3) by inserting after paragraph (2) the following paragraph:

"(3) the amount of tax withheld under section 3451.", and

(4) by striking out "No statement" in the last sentence thereof and inserting in lieu thereof "Except in the case of a return required by reason of subparagraph (B) of subsection (a)(1), no statement".

(d) DUPLICATE FILED WITH SECRETARY.—Section 6044 is amended by adding at the end threof the following new subsection:

"(f) DUPLICATE OF SUBSECTION (e) STATEMENT MAY BE REQUIRED TO BE FILED WITH SECRETARY.—A duplicate of any statement made pursuant to subsection (e) which is required to set forth an amount withheld under section 3451 shall, when required by regulations prescribed by the Secretary, be filed with the Secretary."

SEC. 305. DENIAL OF DEDUCTION FOR CERTAIN TAXES.

(a) NO DEDUCTION FOR TAX WITHHELD AT SOURCE ON INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.—Paragraph (1) of section 275(a) (relating to denial of deduction for certain taxes) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) the tax withheld at source on interest, dividends, and patronage dividends under section 3451."

(b) NO DEDUCTION OF TAXES WITHHELD ON INTEREST AND DIVIDENDS IN DETERMINING TAXABLE INCOME.—Subsection (b) of section 3502 (relating to the nondeductibility of taxes in computing taxable income) is amended—

(1) by striking out "under chapter 24" and inserting in lieu thereof "under subchapter A of chapter 24", and

(2) by adding at the end thereof the following new subsection:

"(c) The tax withheld under subchapter B of chapter 24 shall not be allowed as a deduction in computing taxable income under subtitle A either to the person withholding the tax or to the recipient of the amounts subject to withholding."

SEC. 306. PENALTIES.

(a) CIVIL PENALTY.—Paragraph (1) of section 6682(a) (relating to false information with respect to withholding) is amended by inserting "or section 3452(f)(1)(A)" after "section 3402".

(b) CRIMINAL PENALTY.—Section 7205 (relating to fraudulent withholding exemption certificate or failure to supply information) is amended—

(1) by striking out "Any individual" and inserting in lieu thereof "(a) WITHHOLDING ON WAGES.—Any individual", and

(2) by adding at the end thereof the following new subsection:

"(b) WITHHOLDING OF INTEREST AND DIVIDENDS.—Any person who—

"(1) willfully files an exemption certificate with any payor under section 3452(f)(1)(A), which is known by him to be fraudulent or to be false as to any material matter, or

"(2) is required to furnish notice under section 3452(f)(1(B), and willfully fails to furnish such notice in the manner and at the time required pursuant to section 3452(f)(1)(B) or the regulations prescribed thereunder,

shall, in lieu of any penalty otherwise provided, upon conviction thereof, be fined not more than $500, or imprisoned not more than 1 year, or both."

SEC. 307. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 274(e) (relating to disallowance of certain entertainment, etc., expenses) is amended by inserting "subchapter A of" before "chapter 24".

(2) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter".

(3) Paragraph (4) of section 3507(d) (relating to advance payment of earned income credit) is amended by inserting "subchapter A of" before "chapter 24".

(4) Subchapter (B) of section 6013(g)(1) (relating to joint returns of income tax by husband and wife) is amended by striking out "(relating to wage withholding)" and by inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(5) Paragraph (1) of section 6013(h) is amended by striking out "(relating to wage withholding)" and inserting in lieu thereof "(relating to withholding on wages, interest, dividends, and patronage dividends)" and by striking out "of wages".

(6) Paragraph (1) of section 6015(j) (relating to declaration of estimated income tax by individuals) is amended by striking out ", as defined in section 3401(a)," and inserting in lieu thereof "(as defined in section 3401(a)) , or to the interest, dividends, and patronage dividends (as defined in section 3454),".

(7) Subparagraph (A) of section 6051(f)(1) (relating to receipts for employees) is amended by inserting "subchapter A of" before "chapter 24".

(8) Paragraph (2) of section 6365(c) (relating to definitions and special rules for purposes of the collection of State individual income taxes) is amended by inserting ", interest, dividends, and patronage dividends" before "paid on or after such date".

(9) Subsection (b) of section 6401 (relating to amounts treated as overpayments) is amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld on wages".

(10) Paragraph (1) of section 6413(a) (relating to special credit and refund rules applicable to certain employment taxes) is amended by striking out "or 3402 is paid with respect to any payment of remuneration," and inserting in lieu thereof "3402 or 3451 is paid with respect to any payment of remuneration, interest, dividends, or other amounts,".

(11) Subsection (b) of section 6413 is amended—

(A) by striking from the heading of such subsection the words "OF CERTAIN EMPLOYMENT TAXES", and

(B) by striking out "or 3402 is paid or deducted with respect to any payment of remuneration" and inserting in lieu thereof "3402 or 3451 is paid or deducted with respect to any payment of remuneration, interest, dividends, or other amount".

(12) The heading for section 6413 is amended to read as follows:

"SEC. 6413. SPECIAL RULES APPLICABLE TO CERTAIN TAXES UNDER SUBTITLE C."

(13) The table of sections for subchapter B of chapter 65 is amended by striking out the item relating to section 6413 and inserting in lieu thereof the following:

"Sec. 6413. Special rules applicable to certain taxes under subtitle C."

(14) Subsections (e)(1) and (g)(3) of section 6654 (relating to failure by individuals to pay estimated income tax) are amended by inserting ", interest, dividends, and patronage dividends" after "tax withheld at source on wages".

(15) The last sentence of section 7215(b) (relating to offenses with respect to collected taxes) is amended to read as follows: "For purposes of paragraph (2), a lack of funds existing immediately after the payment of wages or amounts subject to withholding under subchapter B of chapter 24 (whether or not created by the payment of such wages or amounts) shall not be considered to be circumstances beyond the control of a person."

(16) Subsection (d) of section 7654 (relating to coordination of United States and Guam individual income taxes) is amended by inserting "subchapter A of" before "chapter 24".

(17) Section 7701(a)(16) (defining the term "withholding agent") is amended by striking out "hr 1461" and inserting in lieu thereof "1461 or 3451".

(b) CLERICAL AMENDMENTS.—

(1) The heading of subtitle C is amended to read as follows:

"SUBTITLE C—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE".

(2) The table of subtitles for the Internal Revenue Code of 1954 is amended by striking out the item relating to subtitle C and inserting in lieu thereof the following:

"SUBTITLE C. Employment taxes and collection of income tax at source."

(3) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking out the item relating to section 31 and inserting in lieu thereof the following:

"Sec. 31. Tax withheld on wages, interest, dividends, and patronage dividends."

(4) Chapter 24 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"CHAPTER 24—COLLECTION OF INCOME TAX AT SOURCE

"SUBCHAPTER A. Withholding from wages.

"SUBCHAPTER B. Withholding from interest and dividends.

"Subchapter A—Withholding From Wages".

(5) the heading for chapter 25 is amended to read as follows:

"CHAPTER 25—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES AND COLLECTION OF INCOME TAXES AT SOURCE".

(6) The table of chapters for subtitle C is amended by striking out the items relating to chapters 24 and 25 and inserting in lieu thereof the following:

"CHAPTER 24. Collection of income tax at source.

"CHAPTER 25. General provisions relating to employment taxes and collection of income taxes at source."

SEC. 308. EFFECTIVE DATES; SPECIAL RULES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall apply to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983.

(b) DELAY IN APPLICATION TO CERTAIN PAYORS.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond December 31, 1983) the application of some or all of the provisions of subchapter B of chapter 24 of the Internal Revenue Code of 1954 to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(c) TEMPORARY RULE FOR CERTAIN WITHHOLDING EXEMPTIONS.—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient.

(d) DELAY IN MAKING DEPOSITS.—The time for making deposits under section 6302 of the Internal Revenue Code of 1954 of the tax imposed by section 3451 of such Code which is withheld by any person shall, to the extent provided in regulations, take into account the cost to such person of instituting a withholding system in order to comply with subchapter B of chapter 24 of such Code.

SUBTITLE B—IMPROVED INFORMATION REPORTING

PART I—EXPANDED REPORTING

SEC. 309. REPORTING OF INTEREST.

(a) GENERAL RULE.—Section 6049 (relating to returns regarding payments of interest) is amended to read as follows:

"SEC. 6049. RETURNS REGARDING PAYMENTS OF INTEREST.

"(a) REQUIREMENT OF REPORTING.—Every person—

"(1) who makes payments of interest (as defined in subsection (b)) aggregating $10 or more to any other person during any calendar year,

"(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating $10 or more during any calendar year to any other person with respect to the interest so received, or

"(3) who is required under subchapter B of chapter 24 to withhold tax on the payment of any interest,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments, tax deducted and withheld, and the name and address of the person to whom paid or from whom withheld.

"(b) INTEREST DEFINED.—

"(1) GENERAL RULE.—For purposes of subsection (a), the term 'interest' means—

"(A) interest on any obligation—

"(i) issued in registered form, or

"(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation,

"(B) interest on deposits with persons carrying on the banking business,

"(C) amounts (whether or not designated as interest) paid by a mutual savings bank, savings and loan association, building and loan association, cooperative bank, homestead association, credit union, industrial loan association or bank, or similar organization, in respect of deposits, investment certificates, or withdrawable or repurchasable shares,

"(D) interest on amounts held by an insurance company under an agreement to pay interest thereon,

"(E) interest on deposits with brokers (as defined in section 6045 (c)),

"(F) interest paid on amounts held by investment companies (as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3)) and on amounts invested in other pooled funds or trusts, and

"(G) to the extent provided in regulations prescribed by the Secretary, any other interest (which is not described in paragraph (2)).

"(2) EXCEPTIONS.—For purposes of subsection (a), the term 'interest' does not include—

"(A) interest on any obligation issued by a natural person,

"(B) interest on any obligation if such interest is exempt from tax under section 103(a) or if such interest is exempt from tax (without regard to the identity of the holder) under any other provision of law,

"(C) except to the extent otherwise provided in regulations—

"(i) any amount paid to any person referred to in paragraph (2) of section 3452(c) (other than subparagraphs (J) and (K) thereof), or

"(ii) any amount described in section 3454(a)(2)(D) or (E),

"(D) except to the extent otherwise provided in regulations, any amount not described in subparagraph (C) of this paragraph which is income from sources outside the United States or which is paid by—

"(i) a foreign government or international organization or any agency or instrumentality thereof,

"(ii) a foreign central bank of issue,

"(iii) a foreign corporation not engaged in a trade or business in the United States,

"(iv) a foreign corporation, the interest payments of which would be exempt from withholding under subchapter A of chapter 3 if paid to a person who is not a United States person, or

"(v) a partnership not engaged in a trade or business in the United States and composed in whole of nonresident alien individuals and persons described in clause (i), (ii), or (iii), and

"(E) any amount on which the person making payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

"(3) PAYMENTS BY UNITED STATES NOMINEES ETC., OF UNITED STATES PERSON.—If, within the United States, a United States person—

"(A) collects interest (or otherwise acts as a middleman between the payor and payee) from a foreign person described in paragraph (2)(D) or collects interest from a United States person which is income from sources outside the United States for a second person who is a United States person, or

"(B) makes payments of such interest to such second United States person,

notwithstanding paragraph (2)(D), such payment shall be subject to the requirements of subsection (a) with respect to such second United States person.

"(c) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—

"(1) IN GENERAL.—Every person making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement showing—

"(A) the name and address of the person making such return,

"(B) the aggregate amount of payments to, or the aggregate amount includible in the gross income of, the person as shown on such return, and

"(C) the aggregate amount of tax deducted and withheld with respect to such person under subchapter B of chapter 24.

"(2) STATEMENT MUST BE FURNISHED ON OR BEFORE JANUARY 31.—The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(3) NO STATEMENT REQUIRED WHERE INTEREST IS LESS THAN $10.—No statement with respect to payments of interest to any person shall be required to be furnished to any person under this subsection if the aggregate amount of payments to such person shown on the return made with respect to paragraph (1) or (2), as the case may be, of subsection (a) is less than $10.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PERSON.—The term 'person' includes any governmental unit and any agency or instrumentality thereof and any international organization and any agency or instrumentality thereof.

"(2) OBLIGATION.—The term 'obligation' includes bonds, debentures, notes, certificates, and other evidences of indebtedness.

"(3) PAYMENTS BY GOVERNMENTAL UNITS.—In the case of payments made by any governmental unit or any agency or instrumentality thereof, the officer or employee having control of the payment of interest (or the person appropriately designated for purposes of this section) shall make the returns and statements required by this section.

"(4) FINANCIAL INSTITUTIONS, BROKERS, ETC., COLLECTING INTEREST MAY BE SUBSTITUTED FOR PAYOR.—To the extent and in the manner provided by regulations, in the case of any obligation—

"(A) a financial institution, broker, or other person specified in such regulations which collects interest on such obligation for the payee (or otherwise acts as a middleman between the payor and the payee) shall comply with the requirements of subsections (a) and (c), and

"(B) no other person shall be required to comply with the requirements of subsections (a) and (c) with respect to any interest on such obligation for which reporting is required pursuant to subparagraph (A).

"(5) INTEREST ON CERTAIN OBLIGATIONS MAY BE TREATED ON A TRANSACTIONAL BASIS.—

"(A) IN GENERAL.—To the extent and in the manner provided in regulations, this section shall apply with respect to—

"(i) any person described in paragraph (4)(A), and

"(ii) in the case of any United States savings bonds, any Federal agency making payments thereon,

on any transactional basis rather than on an annual aggregation basis.

"(B) SEPARATE RETURNS AND STATEMENTS.—If subparagraph (A) applies to interest on any obligation, the return under subsection (a) and the statement furnished under subsection (c) with respect to such transaction may be made separately, but any such statement shall be furnished to the payee at such time as the Secretary may prescribe by regulations but not later than January 31 of the next calendar year.

"(C) STATEMENT TO PAYEE REQUIRED IN CASE OF TRANSACTIONS INVOLVING $10 OR MORE.—In the case of any transaction to which this paragraph applies which involves the payment of $10 or more of interest, a statement of the transaction may be provided to the payee of such interest in lieu of the statement required under subsection (c). Such statement shall be provided during January of the year following the year in which such payment is made.

"(6) TREATMENT OF ORIGINAL ISSUE DISCOUNT.—

"(A) IN GENERAL.—Original issue discount on any obligation shall be reported—

"(i) as if paid at the time it is includible in gross income under section 1232A (except that for such purpose the amount reportable with respect to any subsequent holder shall be determined as if he were the original holder), and

"(ii) if section 1232A does not apply to the obligation, at maturity (or, if earlier, on redemption).

In the case of any obligation not in registered form issued before January 1, 1983, clause (ii) and not clause (i) shall apply.

"(B) ORIGINAL ISSUE DISCOUNT.—For purposes of this paragraph, the term 'original issue discount' has the meaning given to such term by section 1232(b)(1).".

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 6041 (relating to information at source) is amended—

(A) by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)", and

(B) by striking out "6045, 6049(a)(2), or 6049(a)(3)" and inserting in lieu thereof "or 6045".

(2) Subsection (b) of section 6652 (relating to failure to file certain information returns) is amended by adding "or" at the end of paragraph (1) and by striking out paragraphs (3) and (4).

(3) Paragraph (1) of section 6678 is amended by striking out "6049(a)(1)" and inserting in lieu thereof "6049(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid (or treated as paid) after December 31, 1982.

SEC. 310. OBLIGATIONS REQUIRED TO BE REGISTERED.

(a) UNITED STATES OBLIGATIONS.—The Second Liberty Bond Act is amended by adding at the end thereof the following new section:

"SEC. 28. (a) Every registration-required obligation of the United States (or of any agency or instrumentality thereof) shall be in registered form.

"(b) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public, or

"(B) has a maturity (at issue) of not more than 1 year.

"(2) The term 'registration-required obligation' shall not include any obligation if—

"(A) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(B) in the case of an obligation not in registered form—

"(i) interest on such obligation is payable only outside the United States and its possessions, and

"(ii) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(c)(1) For purposes of subsection (a), a book entry obligation shall be treated as in registered form if the right to principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary of the Treasury.

"(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purpose of subsection (a) where there is a nominee or chain of nominees.".

(b) OTHER OBLIGATIONS.—

(1) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) OBLIGATIONS MUST BE IN REGISTERED FORM TO BE TAX-EXEMPT.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any registration-required obligation unless the obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' means any obligation other than an obligation which—

"(A) is not of a type offered to the public,

"(B) has a maturity (at issue) of not more than 1 year, or

"(C) is described in section 163(f)(2)(B).

"(3) SPECIAL RULES.—

"(A) BOOK ENTRIES PERMITTED.—For purposes of paragraph (1), a book entry obligation shall be treated as in registered form if the right to the principal of, and stated interest on, such obligation may be transferred only through a book entry consistent with regulations prescribed by the Secretary.

"(B) NOMINEES.—The Secretary shall prescribe such regulations as may be necessary to carry out the purpose of paragraph (1) where there is a nominee or chain of nominees."

(2) DENIAL OF DEDUCTION FOR INTEREST IF OBLIGATION NOT IN REGISTERED FORM.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DENIAL OF DEDUCTION FOR INTEREST ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for interest on any registration-required obligation unless such obligation is in registered form.

"(2) REGISTRATION-REQUIRED OBLIGATION.—For purposes of this section—

"(A) IN GENERAL.—The term 'registration-required obligation' means any obligation (including any obligation issued by a governmental entity) other than an obligation which—

"(i) is issued by a natural person,

"(ii) is not of a type offered to the public,

"(iii) has a maturity (at issue) of not more than 1 year, or

"(iv) is described in subparagraph (B).

"(B) CERTAIN OBLIGATIONS NOT INCLUDED.—An obligation is described in this subparagraph if—

"(i) there are arrangements reasonably designed to ensure that such obligation will be sold (or resold in connection with the original issue) only to a person who is not a United States person, and

"(ii) in the case of an obligation not in registered form—

"(I) interest on such obligation is payable only outside the United States and its possessions, and

"(II) on the face of such obligation there is a statement that any United States person who holds such obligation will be subject to limitations under the United States income tax laws.

"(C) AUTHORITY TO INCLUDE OTHER OBLIGATIONS.—Clauses (ii) and (iii) of subparagraph (A), and subparagraph (B), shall not apply to any obligation if—

"(i) such obligation is of a type which the Secretary has determined by regulations to be used frequently in avoiding Federal taxes, and

"(ii) such obligation is issued after the date on which the regulations referred to in clause (i) take effect.

"(3) BOOK ENTRIES PERMITTED, ETC.—For purposes of this subsection, rules similar to the rules of section 103(j)(3) shall apply."

(3) DENIAL OF EARNINGS AND PROFITS ADJUSTMENT FOR INTEREST ON REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—Section 312 (relating to earnings and profits) is amended by adding at the end thereof the following new subsection:

"(m) NO ADJUSTMENT FOR INTEREST PAID ON CERTAIN REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM.—The earnings and profits of any corporation shall not be decreased by any interest with respect to which a deduction is not or would not be allowable by reason of section 163(f), unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(f) or this subsection".

(4) EXCISE TAX ON ISSUERS OF REGISTRATION-REQUIRED OBLIGATIONS WHICH ARE NOT IN REGISTERED FORM.—

(A) IN GENERAL.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding after chapter 38 the following new chapter:

"CHAPTER 39—REGISTRATION-REQUIRED OBLIGATIONS

"Sec. 4701. Tax on issuer of registration-required obligation not in registered form.

"SEC. 4701. TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM.

"(a) IMPOSITION OF TAX.—In the case of any person who issues a registration-required obligation which is not in registered form, there is hereby imposed on such person on the issuance of such obligation a tax in an amount equal to the product of—

"(1) 1 percent of the principal amount of such obligation, multiplied by

"(2) the number of calendar years (or portions thereof) during the period beginning on the date of issuance of such obligation and ending on the date of maturity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the same meaning as when used in section 163(f), except that such term shall not include any obligation required to be registered under section 103(j).

"(2) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(B) CONFORMING AMENDMENT.—The table of chapters for subtitle D is amended by inserting after chapter 38 the following:

"CHAPTER 39. Registration-required obligations."

(5) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 165 (as amended by this Act) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DENIAL OF DEDUCTION FOR LOSSES ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—Nothing in subsection (a) or in any other provision of law shall be construed to provide a deduction for any loss sustained on any registration-required obligation unless such obligation is in registered form (or the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f).

"(3) EXCEPTIONS.—The Secretary may, by regulations, provide that this subsection and subsection (d) of section 1232 shall not apply with respect to obligations held by any person if—

"(A) such person holds such obligations in connection with a trade or business outside the United States,

"(B) such person holds such obligations as a broker dealer (registered under Federal or State law) for sale to customers in the ordinary course of his trade or business,

"(C) such person complies with reporting requirements with respect to ownership, transfers, and payments as the Secretary may require, or

"(D) such person promptly surrenders the obligation to the issuer for the issuance of a new obligation in registered form,

but only if such obligations are held under arrangements provided in regulations or otherwise which are designed to assure that such obligations are not delivered to any United States person other than a person described in subparagraph (A), (B), or (C)."

(6) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) DENIAL OF CAPITAL GAIN TREATMENT FOR GAINS ON CERTAIN OBLIGATIONS NOT IN REGISTERED FORM.—

"(1) IN GENERAL.—If any registration-required obligation is not in registered form, any gain on the sale or other disposition of such obligation shall be treated as ordinary income (unless the issuance of such obligation was subject to tax under section 4701).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) REGISTRATION-REQUIRED OBLIGATION.—The term 'registration-required obligation' has the meaning given to such term by section 163(f)(2) except that clause (iv) of subparagraph (A), and subparagraph (B), of such section shall not apply.

"(B) REGISTERED FORM.—The term 'registered form' has the same meaning as when used in section 163(f)."

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 103(b)(4) (relating to certain exempt activities) is amended by striking out "if each obligation issued pursuant to the issue is in registered form and".

(2)(A) Paragraph (1) of section 103(h) (relating to certain obligations must be in registered form and not guaranteed or subsidized under an energy program) is amended by striking out subparagraph (A) and by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(B) The subsection heading for subsection (h) of section 103 is amended by striking out "MUST BE IN REGISTERED FORM AND NOT" and inserting in lieu thereof "MUST NOT BE".

(3)(A) Subsection (j) of section 103A (relating to other requirements) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(B) Subparagraph (B) of section 103A(c)(2) (defining qualified mortgage issue) is amended by striking out "and (f) and paragraphs (2) and (3) of subsection (j)" and inserting in lieu thereof "(f), and (j)".

(C) Subparagraph (C) of section 103A(c)(2) is amended by striking out ", and paragraph (1) of subsection (j)".

(D) Subparagraph (C) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "subsection (j)(2)" and inserting in lieu thereof "subsection (j)(1)".

(4) Subparagraph (A) of section 103A(c)(3) (defining qualified veterans' mortgage bond) is amended by striking out "in registered form".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to obligations issued after December 31, 1982.

(2) LONG-TERM U.S. OBLIGATIONS.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act under the first section of the Second Liberty Bond Act.

(3) EXCEPTION FOR CERTAIN WARRANTS, ETC.—The amendments made by subsection (b) shall not apply to any obligations issued after December 31, 1982, on the exercise of a warrant for the conversion of a convertible obligation if such warrant or obligation was offered or sold outside the United States without registration under the Securities Act of 1933 and was issued before August 10, 1982. A rule similar to the rule of the preceding sentence shall also apply in the case of any regulations issued under section 163(f)(2)(C) of the Internal Revenue Code of 1954 (as added by this section) except that the date on which such regulations take effect shall be substituted for "August 10, 1982".

SEC. 311. RETURNS OF BROKERS.

(a) GENERAL RULE.—

(1) RETURNS.—Section 6045 (relating to returns of brokers) is amended to read as follows:

"SEC. 6045. RETURNS OF BROKERS.

"(a) GENERAL RULE.—Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

"(b) STATEMENTS TO BE FURNISHED TO CUSTOMERS.—Every person making a return under subsection (a) shall furnish to each customer whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the information shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(c) DEFINITIONS.—For purposes of this section—

"(1) BROKER.—The term 'broker' includes—

"(A) a dealer,

"(B) a barter exchange, and

"(C) any other person who (for a consideration) regularly acts as a middleman with respect to property or services.

"(2) CUSTOMER.—The term 'customer' means any person for whom the broker has transacted any business.

"(3) BARTER EXCHANGE.—The term 'barter exchange' means any organization of members providing property or services who jointly contract to trade or barter such property or services."

(2) PENALTY.—Paragraph (1) of section 6678 (relating to penalty for failure to furnish certain statements) is amended—

(A) by inserting "6045(b)," after "6044(e),", and

(B) by inserting "6045(a)," after "6044(a)(1),".

(b) BARTER EXCHANGE TREATED AS THIRD-PARTY RECORDKEEPER.—Paragraph (3) of section 7609(a) (defining third-party recordkeeper) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the end of subparagraph (F) and inserting in lieu thereof "; and", and by adding at the end thereof the following new subparagraph:

"(G) any barter exchange (as defined in section 6045(c)(3))."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, except that—

(A) regulations relating to reporting by commodities and securities brokers shall be issued under section 6045 of the Internal Revenue Code of 1954 (as amended by this Act) within 6 months after the date of the enactment of this Act, and

(B) such regulations shall not apply to transactions occurring before January 1, 1983.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to summonses served after December 31, 1982.

SEC. 312. INFORMATION REPORTING REQUIREMENTS FOR PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

(a) GENERAL RULE.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6041 the following new section:

"SEC. 6041A. RETURNS REGARDING PAYMENTS OF REMUNERATION FOR SERVICES AND DIRECT SALES.

"(a) RETURNS REGARDING REMUNERATION FOR SERVICES.—If—

"(1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and

"(2) the aggregate of such remuneration paid to such person during such calendar year is $600 or more,

then the service-recipient shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term 'service-recipient' means the person for whom the service is performed.

"(b) DIRECT SALES OF $5,000 OR MORE.—

"(1) IN GENERAL.—If—

"(A) any person engaged in a trade or business in the course of such trade or business during any calendar year sells consumer products to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary prescribes by regulations, for resale (by the buyer or any other person) in the home or otherwise than in a permanent retail establishment, and

"(B) the aggregate amount of the sales to such buyer during such calendar year is $5,000 or more,

then such person shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth the name and address of the buyer to whom such sales are made.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) BUY-SELL BASIS.—A transaction is on a buy-sell basis if the buyer performing the services is entitled to retain part or all of the difference between the price at which the buyer purchases the product and the price at which the buyer sells the product as part or all of the buyer's remuneration for the services, and

"(B) DEPOSIT-COMMISSION BASIS.—A transaction is on a deposit-commission basis if the buyer performing the services is entitled to retain part or all of a purchase deposit paid by the consumer in connection with the transaction as part or all of the buyer's remuneration for the services.

"(c) CERTAIN SERVICES NOT INCLUDED.—No return shall be required under subsection (a) or (b) if a statement with respect to the services is required to be furnished under section 6051, 6052, or 6053.

"(d) APPLICATIONS TO GOVERNMENTAL UNITS.—

"(1) TREATED AS PERSONS.—The term 'person' includes any governmental unit (and any agency or instrumentality thereof).

"(2) SPECIAL RULES.—In the case of any payment by a governmental entity or any agency or instrumentality thereof—

"(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

"(B) any return under this section shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

"(e) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED TO BE FURNISHED.—Every person required to make a return under subsection (a) or (b) shall furnish to each person whose name is required to be set forth in such return a written statement showing—

"(1) the name and address of the person required to make such return, and

"(2) in the case of subsection (a), the aggregate amount of payments to the person required to be shown on such return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.

"(f) RECIPIENT TO FURNISH NAME, ADDRESS, AND IDENTIFICATION NUMBER; INCLUSION ON RETURN.—

"(1) FURNISHING OF INFORMATION.—Any person with respect to whom a return or statement is required under this section to be made by another person shall furnish to such other person his name, address, and identification number at such time and in such manner as the Secretary may prescribe by regulations.

"(2) INCLUSION ON RETURN.—The person to whom an identification number is furnished under paragraph (1) shall include such number on any return which such person is required to file under this section and to which such identification number relates."

(b) PENALTY FOR FAILURE TO FILE STATEMENT.—Section 6678(1) (relating to failure to file statement) is amended—

(1) by inserting "6041A(e)," after "6041(d),", and

(2) by inserting "6041A(a) or (b)," after "6041(a),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and sales made after December 31, 1982.

SEC. 313. STATE AND LOCAL INCOME TAX REFUNDS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050E. STATE AND LOCAL INCOME TAX REFUNDS.

"(a) REQUIREMENT OF REPORTING.—Every person who, with respect to any individual, during any calendar year makes payments of refunds of State or local income taxes (or allows credits or offsets with respect to such taxes) aggregating $10 or more shall make a return according to forms or regulations prescribed by the Secretary setting forth the aggregate amount of such payments, credits, or offsets, and the name and address of the individual with respect to whom such payment, credit, or offset was made.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name of the State or political subdivision thereof, and

"(2) the aggregate amount shown on the return of refunds, credits, and offsets to the individual.

The written statement required under the preceding sentence shall be furnished to the individual during January of the calendar year following the calendar year for which the return under subsection (a) was made.

"(c) PERSON DEFINED.—For purposes of this section, the term 'person' means the officer or employee having control of the payment of the refunds (or the allowance of the credits or offsets) or the person appropriately designated for purposes of this section."

(b) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050E. State and local income tax refunds."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of refunds, and credits and offsets made, after December 31, 1982.

SEC. 314. EMPLOYER REPORTING WITH RESPECT TO TIPS.

(a) IN GENERAL.—Section 6053 (relating to reporting of tips) is amended by adding at the end thereof the following new subsection:

"(c) REPORTING REQUIREMENTS RELATING TO CERTAIN LARGE FOOD OR BEVERAGE ESTABLISHMENTS.—

"(1) REPORT TO SECRETARY.—In the case of a large food or beverage establishment, each employer shall report to the Secretary, at such time and manner as the Secretary may prescribe by regulation, the following information with respect to each calendar year:

"(A) The gross receipts of such establishment from the provision of food and beverages (other than nonallocable receipts).

"(B) The aggregate amount of charge receipts (other than nonallocable receipts).

"(C) The aggregate amount of charged tips shown on such charge receipts.

"(D) The sum of—

"(i) the aggregate amount reported by employees to the employer under subsection (a), plus

"(ii) the amount the employer is required to report under section 6041 with respect to service charges of less than 10 percent.

"(E) With respect to each employee, the amount allocated to such employee under paragraph (3).

"(2) FURNISHING OF STATEMENT TO EMPLOYEES.—Each employer described in paragraph (1) shall furnish, in such manner as the Secretary may prescribe by regulations, to each employee of the large food or beverage establishment a written statement for each calendar year showing the following information:

"(A) The name and address of such employer.

"(B) The name of the employee.

"(C) The amount allocated to the employee under paragraph (3) for all payroll periods ending within the calendar year.

Any statement under this paragraph shall be furnished to the employee during January of the calendar year following the calendar year for which such statement is made.

"(3) EMPLOYEE ALLOCATION OF 8 PERCENT OF GROSS RECEIPTS.—

"(A) IN GENERAL.—For purposes of paragraphs (1)(E) and (2)(C), the employer of a large food or beverage establishment shall allocate (as tips for purposes of the requirements of this subsection) among employees performing services during any payroll period who customarily receive tip income an amount equal to the excess of—

"(i) 8 percent of the gross receipts (other than nonallocable receipts) of such establishment for the payroll period, over

"(ii) the aggregate amount reported by such employees to the employer under subsection (a) for such period.

"(B) METHOD OF ALLOCATION.—The employer shall allocate the amount under subparagraph (A)—

"(i) on the basis of a good faith agreement by the employer and the employees, or

"(ii) in the absence of an agreement under clause (i), in the manner determined under regulations prescribed by the Secretary.

"(C) THE SECRETARY MAY LOWER THE PERCENTAGE REQUIRED TO BE ALLOCATED.—The Secretary may reduce (but not below 5 percent) the percentage of gross receipts required to be allocated under subparagraph (A) where he determines that the percentage of gross receipts constituting tips is less than 8 percent.

"(4) LARGE FOOD OR BEVERAGE ESTABLISHMENT.—For purposes of this subsection, the term 'large food or beverage establishment' means any trade or business (or portion thereof)—

"(A) which provides food or beverages,

"(B) with respect to which the tipping of employees serving food or beverages by customers is customary, and

"(C) which normally employed more than 10 employees on a typical business day during the preceding calendar year.

For purposes of subparagraph (C), rules similar to the rules of subsections (a) and (b) of section 52 shall apply under regulations prescribed by the Secretary.

"(5) EMPLOYER NOT TO BE LIABLE FOR WRONG ALLOCATIONS.—The employer shall not be liable to any person if any amount is improperly allocated under paragraph (3)(A)(ii) if such allocation is done in accordance with the regulations prescribed under paragraph (3)(A)(ii).

"(6) NONALLOCABLE RECEIPTS DEFINED.—For purposes of this subsection, the term 'nonallocable receipts' means receipts which are allocable to—

"(A) carryout sales, or

"(B) services with respect to which a service charge of 10 percent or more is added.

"(7) APPLICATION TO NEW BUSINESSES.—The Secretary shall prescribe regulations for the application of this subsection to new businesses."

(b) PENALTY FOR FAILURE TO FURNISH STATEMENT.—Subparagraph (D) of section 6678(3) is amended by striking out "section 6053(b)" and inserting in lieu thereof "subsection (b) or (c) of section 6053(c)."

(c) STUDY OF TIP COMPLIANCE.—The Secretary of the Treasury or his delegate shall submit before January 1, 1987, to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report with respect to tip compliance in the food and beverage service industry. Such study shall include, but not be limited to, an analysis of tipping patterns, tip-sharing arrangements, and tip compliance patterns.

(d) CONFORMING AMENDMENT.—The last sentence of section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by inserting ", records necessary to comply with section 6053(c)," after "charge receipts".

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to calendar years beginning after December 31, 1982.

(2) SPECIAL RULE FOR 1983.—For purposes of section 60543(c) of the Internal Revenue Code of 1954, in the case of payroll periods ending before April 1, 1983, an employer must only report with respect to such periods—

(A) amounts described in subparagraphs (A), (B), (C), and (D) of section 6053(c)(1) of such Code, and

(B) the name, and identification number, wages paid to, and tips reported by, each tipped employee.

PART II—PROVISIONS TO IMPROVE REPORTING GENERALLY

SEC. 315. INCREASED PENALTIES FOR FAILURE TO FILE INFORMATION RETURN OR TO FURNISH STATEMENT.

(a) IN GENERAL.—Subsection (a) of section 6652 (relating to failure to file certain information returns, etc.) is amended to read as follows:

"(a) RETURNS RELATING TO INFORMATION AT SOURCE, PAYMENTS OF DIVIDENDS, ETC., AND CERTAIN TRANSFERS OF STOCK.—

"(1) IN GENERAL.—In the case of each failure—

"(A) to file a statement of the amount of payments to another person required by—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6042(a)(1) (relating to payments of dividends),

"(iii) section 6044(a)(1) (relating to payments of patronage dividends),

"(iv) section 6049(a) (relating to payments of interest),

"(v) section 6050A(a) (relating to reporting requirements of certain fishing boat operators), or

"(vi) section 6042(e), 6044(f), 6049(e), or 6051(d) (relating to information returns with respect to income tax withheld), or

"(B) to make a return required by—

"(i) subsection (a) or (b) of section 6041A (relating to returns of direct sellers),

"(ii) section 6045 (relating to returns of brokers),

"(iii) section 6052(a) (relating to reporting payment of wages in the form of group term life insurance), or

"(iv) section 6053(c)(1) (relating to reporting with respect to certain tips),

on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax), by the person failing to file a statement referred to in subparagraph (A) or failing to make a return referred to in subparagraph (B), $50 for each such failure, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $50,000.

"(2) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which paragraph (1) applies are due to intentional disregard of the filing requirement, then with respect to such failures—

"(A) the penalty imposed under paragraph (1) shall not be less than an amount equal to—

"(i) in the case of a return not described in clauses (ii) and (iii), 10 percent of the aggregate amount of the items required to be reported,

"(ii) in the case of a return required to be filed by section 6045, 5 percent of the gross proceeds required to be reported, and

"(iii) in the case of a return required to be filed by section 6041A(b), $100 for each such failure, and

"(B) the $50,000 limitation under paragraph (1) shall not apply."

(b) INCREASE IN ADDITION TO TAX FOR FAILURE TO FILE CERTAIN RETURNS OR STATEMENTS IN CONNECTION WITH PLANS OF DEFERRED COMPENSATION.—Subsection (f) of section 6652 (relating to information required in connection with certain plans of deferred compensation) is amended—

(1) by striking out "$10" and inserting in lieu thereof "$25", and

(2) by striking out "$5,000" and inserting in lieu thereof "$15,000".

(c) INCREASE IN CIVIL PENALTY FOR FAILURE TO FURNISH CERTAIN STATEMENTS.—Section 6678 (relating to failure to furnish certain statements) is amended—

(1) by striking out "$10" and inserting in lieu thereof "$50", and

(2) by striking out "$25,000" and inserting in lieu thereof "$50,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns or statements the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 316. INCREASE IN CIVIL PENALTY ON FAILURE TO SUPPLY IDENTIFYING NUMBERS.

(a) IN GENERAL.—Subsection (a) of section 6676 (relating to failure to supply identifying numbers) is amended to read as follows:

"(a) CIVIL PENALTIES.—

"(1) IN GENERAL.—If any person who is required by regulations prescribed under section 6109—

"(A) to include his taxpayer identification number in any return, statement, or other document,

"(B) to furnish his taxpayer identification number to another person, or

"(C) to include in any return, statement, or other document made with respect to another person the taxpayer identification number of such other person,

fails to comply with such requirement at the time prescribed by such regulations, such person shall, unless it is shown that such failure is due to reasonable cause and not to willful neglect, pay a penalty of $5 for each such failure described in subparagraph (A) and $50 for each such failure described in subparagraph (B) or (C), except that the total amount imposed on such person for all such failures during any calendar year shall not exceed $50,000.

"(2) TAXPAYER IDENTIFICATION NUMBER DEFINED.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns the due date for the filing of which (without regard to extensions) is after December 31, 1982.

SEC. 317. EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.

(a) IN GENERAL.—Section 3402 (relating to withholding at source) is amended by adding at the end thereof the following new subsection:

"(s) EXTENSION OF WITHHOLDING TO CERTAIN PAYMENTS WHERE IDENTIFYING NUMBER NOT FURNISHED OR INACCURATE.—

"(1) IN GENERAL.—If, in the case of any backup withholding payment—

"(A) the payee fails to furnish his taxpayer identification number to the payor, or

"(B) the Secretary notifies the payor that the number furnished by the payee is incorrect,

then the payor shall deduct and withhold from such payment a tax equal to 15 percent of such payment.

"(2) PERIOD FOR WHICH WITHHOLDING IS IN EFFECT.—

"(A) FAILURE TO FURNISH NUMBER.—In the case of any failure described in subparagraph (A) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made during the period during which

the taxpayer identification number has not been furnished.

"(B) NOTIFICATION OF INCORRECT NUMBER.—In any case where there is a notification described in subparagraph (B) of paragraph (1), paragraph (1) shall apply to any backup withholding payment made—

"(i) after the close of the 15th day after the day on which the payor was so notified, and

"(ii) before the payee furnishes another taxpayer identification number.

"(C) 15-DAY GRACE PERIODS.—

"(i) AFTER CORRECTION.—Unless the payor otherwise elects, paragraph (1) shall also apply to any backup withholding payment made after the close of the period described in subparagraph (A) or (B) (as the case may be) and before the 16th day after the close of such period.

"(ii) AFTER NOTIFICATION.—If the payor so elects, paragraph (1) shall also apply to any backup withholding payment made during the 15-day period described in clause (i) of subparagraph (B).

"(3) BACKUP WITHHOLDING PAYMENTS.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'backup withholding payment' means any payment of a kind, and to a payee, required to be shown on a return required under—

"(i) section 6041 (a) or (b) (relating to certain information at source),

"(ii) section 6041A(a) (relating to returns regarding payments to nonemployees),

"(iii) section 6042(a) (relating to payments of dividends),

"(iv) section 6044 (relating to returns regarding patronage dividends) but only to the extent of payments of money,

"(v) section 6045 (relating to returns of brokers),

"(vi) section 6049(a) (relating to payments of interest), or

"(vii) section 6050A (relating to reporting requirements of certain fishing boat operators), but only to the extent of payments of the proceeds of the catch.

"(B) SPECIAL RULE.—For purposes of this subsection, the determination of whether any payment is of a kind required to be shown on a return described in subparagraph (A) shall be made without regard to any minimum amount which must be paid before a return is required.

"(4) PAYMENTS MUST AGGREGATE $600 BEFORE WITHHOLDING REQUIRED FROM PAYMENTS DESCRIBED IN SECTION 6041(A) OR 6041A.—In the case of any payment which is of a kind required to be shown on a return required under section 6041(a) or 6041A(a) and which is made during any calendar year, no amount shall be deducted and withheld with respect to such payment unless—

"(A) the aggregate amount of such payment and all previous such payments to the payee involved during such calendar year equals or exceeds $600,

"(B) the payor was required under section 6041(a) or 6041A(a) to file a return for the preceding calendar year with respect to payments to the payee involved, or

"(C) during the preceding calendar year the payor made backup withholding payments to the payee with respect to which amounts were required to be deducted and withheld under paragraph (1).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) OBVIOUSLY INCORRECT NUMBER.—A payee shall be treated as failing to furnish his taxpayer identification number if the number furnished does not contain the proper number of digits.

"(B) PAYEE FURNISHES 2 INCORRECT NUMBERS.—If the payee furnishes a payor 2 incorrect numbers, the payor shall, after receiving notice of the second incorrect number, treat the payee as not having furnished another taxpayer identification number under paragraph (2)(B)(ii) until the day on which the payor receives notification from the Secretary that a correct taxpayer identification number has been furnished.

"(C) EXCEPTION FOR PAYMENTS TO CERTAIN PAYEES.—Paragraph (1) shall not apply to any payment made to—

"(i) the United States (as defined in section 3455(a)(3)),

"(ii) any State (as defined in section 3455(a)(2)),

"(iii) an organization which is exempt from taxation under section 501(a),

"(iv) any foreign government (as defined in section 3455(a)(4)) or international organization (as defined in section 3455(a)(5)), or

"(v) any other person specified in regulations.

"(D) TAXPAYER IDENTIFICATION NUMBER.—The term 'taxpayer identification number' means the identifying number assigned to a person under section 6109.

"(E) AMOUNTS FOR WHICH WITHHOLDING OTHERWISE REQUIRED.—No tax shall be deducted or withheld under this subsection with respect to any amount for which withholding is otherwise required by this title.

"(F) EXEMPTION WHILE WAITING FOR NUMBER.—The Secretary shall prescribe regulations for exemptions from the tax imposed by paragraph (1) during periods during which a person is waiting for receipt of a taxpayer identification number.

"(G) NOMINEES.—In the case of a backup withholding payment described in clause (i) or (v) of paragraph (3)(A) to a nominee, in the manner provided in regulations, both the nominee and the ultimate payee shall be treated as the payee.

"(H) REQUIREMENT OF NOTICE TO PAYEE.—Whenever the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

"(I) REQUIREMENT OF NOTICE TO SECRETARY.—If the Secretary notifies a payor under paragraph (1)(B) that the taxpayer identification number furnished by any payee is incorrect and such payee subsequently furnishes another taxpayer identification number to the payor, the payor shall promptly notify the Secretary of the other taxpayer identification number so furnished.

"(J) COORDINATION WITH OTHER SECTIONS.—For purposes of section 31, this chapter (other than subsection (n) of this section), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this subsection shall be treated as if they were wages paid by an employer to an employee."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 1983.

SEC. 318. MINIMUM PENALTY FOR EXTENDED FAILURE TO FILE.

(a) IN GENERAL.—Subsection (a) of section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new sentence:

"In the case of a failure to file a return of tax imposed by chapter 1 within 60 days of the date prescribed for filing of such return (determined with regard to any extensions of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, the addition to tax under paragraph (1) shall not be less than the lesser of $100 or 100 percent of the amount required to be shown as tax on such return."

(b) CONFORMING AMENDMENTS.—Section 6651(c)(1) (relating to additions under more than one paragraph) is amended—

(1) by adding at the end of subparagraph (A) the following new sentence: "In any case described in the last sentence of subsection (a), the amount of the addition under paragraph (1) of subsection (a) shall not be reduced under the preceding sentence below the amount provided in such last sentence.", and

(2) by inserting "(determined without regard to the last sentence of such subsection)" after "paragraph (1) of subsection (a)" in subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date for filing of which (including extensions) is after December 31, 1982.

SEC. 319. INFORMATION RETURNS.

Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REGULATIONS REQUIRING RETURNS ON MAGNETIC TAPE, ETC.—The Secretary shall prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. The Secretary may not require returns of any tax imposed by subtitle A on individuals, estates, and trusts to be other than on paper forms supplied by the Secretary. In prescribing such regulations, the Secretary shall take into account (among other relevant factors) the ability of the taxpayer to comply at a reasonable cost with such a filing requirement."

SUBTITLE C—ABUSIVE TAX SHELTERS, ETC.; SUBSTANTIAL UNDERPAYMENTS; FALSE DOCUMENTS; FRIVOLOUS RETURNS

PART I—ABUSIVE TAX SHELTERS, ETC.

SEC. 320. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6700. PROMOTING ABUSIVE TAX SHELTERS, ETC.

"(a) IMPOSITION OF PENALTY.—Any person who—

"(1)(A) organizes (or assists in the organization of)—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, or

"(B) participates in the sale of any interest in an entity or plan or arrangement referred to in subparagraph (A), and

"(2) makes or furnishes (in connection with such organization or sale)—

"(A) a statement with respect to the allowability of any deduction or credit, the excludability of any income, or the securing of any other tax benefit by reason of holding an interest in the entity or participating in the plan or arrangement which the person knows or has reason to know is false or fraudulent as to any material matter, or

"(B) a gross valuation overstatement as to any material matter,

shall pay a penalty equal to the greater of $1,000 or 10 percent of the gross income derived or to be derived by such person from such activity.

"(b) RULES RELATING TO PENALTY FOR GROSS VALUATION OVERSTATEMENTS.—

"(1) GROSS VALUATION OVERSTATEMENT DEFINED.—For purposes of this section, the term 'gross valuation overstatement' means any statement as to the value of any property or services if—

"(A) the value so stated exceeds 200 percent of the amount determined to be the correct valuation, and

"(B) the value of such property or services is directly related to the amount of any deduction or credit allowable under chapter 1 to any participant.

"(2) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by subsection (a) with respect to any gross valuation overstatement on a showing that there was a reasonable basis for the valuation and that such valuation was made in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6700. Promoting abusive tax shelters, etc."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 321. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

(a) GENERAL RULE.—Subchapter A of chapter 76 (relating to civil actions by the United States) is amended by redesignating section 7408 as section 7409 and by inserting after section 7407 the following new section:

"SEC. 7408. ACTION TO ENJOIN PROMOTERS OF ABUSIVE TAX SHELTERS, ETC.

"(a) AUTHORITY TO SEEK INJUNCTION.—A civil action in the name of the United States to enjoin any person from further engaging in conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.) may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in conduct subject to penalty under section 6700. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

"(b) ADJUDICATION AND DECREE.—In any action under subsection (a), if the court finds—

"(1) that the person has engaged in any conduct subject to penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.), and

"(2) that injunctive relief is appropriate to prevent recurrence of such conduct,

the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under section 6700.

"(c) CITIZENS AND RESIDENTS OUTSIDE THE UNITED STATES.—If any citizen or resident of the United States does not reside in, and does not have his principal place of business in, any United States judicial district, such citizen or resident shall be treated for purposes of this section as residing in the District of Columbia."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 76 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 7408. Action to enjoin promoters of abusive tax shelters, etc.

"Sec. 7409. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 322. PROCEDURAL RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6703. RULES APPLICABLE TO PENALTIES UNDER SECTIONS 6700, 6701, AND 6702.

"(a) BURDEN OF PROOF.—In any proceeding involving the issue of whether or not any person is liable for a penalty under section 6700, 6701, or 6702, the burden of proof with respect to such issue shall be on the Secretary.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures) shall not apply with respect to the assessment or collection of the penalties provided by sections 6700, 6701, and 6702.

"(c) EXTENSION OF PERIOD OF COLLECTION WHERE PERSON PAYS 15 PERCENT OF PENALTY.—

"(1) IN GENERAL.—If, within 30 days after the day on which notice and demand of any penalty under section 6700, 6701, or 6702 is made against any person, such person pays an amount which is not less than 15 percent of the amount of such penalty and files a claim for refund of the amount so paid, no levy or proceeding in court for the collection of the remainder of such penalty shall be made, begun, or prosecuted until the final resolution of a proceeding begun as provided in paragraph (2). Notwithstanding the provisions of section 7421(a), the beginning of such proceeding or levy during the time such prohibition is in force may be enjoined by a proceeding in the proper court.

"(2) PERSON MUST BRING SUIT IN DISTRICT COURT TO DETERMINE HIS LIABILITY FOR PENALTY.—If, within 30 days after the day on which his claim for refund of any partial payment of any penalty under section 6700, 6701, or 6702 is denied (or, if earlier, within 30 days after the expiration of 6 months after the day on which he filed the claim for refund), the person fails to begin a proceeding in the appropriate United States district court for the determination of his liability for such penalty, paragraph (1) shall cease to apply with respect to such penalty, effective on the day following the close of the applicable 30-day period referred to in this paragraph.

"(3) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS ON COLLECTION.—The running of the period of limitations provided in section 6502 on the collection by levy or by a proceeding in court in respect of any penalty described in paragraph (1) shall be suspended for the period during which the Secretary is prohibited from collecting by levy or a proceeding in court."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6703. Rules applicable to penalties under sections 6700, 6701, and 6702."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

PART II—SUBSTANTIAL UNDERPAYMENT; FALSE DOCUMENTS; FRIVOLOUS RETURNS; ETC.

SEC. 323. PENALTY FOR SUBSTANTIAL UNDERSTATEMENT.

(a) IN GENERAL.—Subchapter A of chapter 68 (relating to additions to tax and additional amounts) is amended by redesignating section 6661 as section 6662 and by inserting after section 6660 the following new section:

"SEC. 6661. SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.

"(a) ADDITION TO TAX.—If there is a substantial understatement of income tax for any taxable year, there shall be added to the tax an amount equal to 10 percent of the amount of any underpayment attributable to such understatement.

"(b) DEFINITION AND SPECIAL RULE.—

"(1) SUBSTANTIAL UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of this section, there is a substantial understatement of income tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of—

"(i) 10 percent of the tax required to be shown on the return for the taxable year, or

"(ii) $5,000.

"(B) SPECIAL RULE FOR CORPORATIONS.—In the case of a corporation other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542), paragraph (1) shall be applied by substituting '$10,000' for '$5,000'.

"(2) UNDERSTATEMENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'understatement' means the excess of—

"(i) the amount of the tax required to be shown on the return for the taxable year, over

"(ii) the amount of the tax imposed which is shown on the return.

"(B) REDUCTION FOR UNDERSTATEMENT DUE TO POSITION OF TAXPAYER OR DISCLOSED ITEM.—The amount of the understatement under subparagraph (A) shall be reduced by that portion of the understatement which is attributable to—

"(i) the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING TAX SHELTERS.—

"(i) IN GENERAL.—In the case of any item attributable to a tax shelter—

"(I) subparagraph (B)(ii) shall not apply, and

"(II) subparagraph (B)(i) shall not apply unless (in addition to meeting the requirements of such subparagraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

"(ii) TAX SHELTER.—For purposes of clause (i), the term 'tax shelter' means—

"(I) a partnership or other entity,

"(II) any investment plan or arrangement, or

"(III) any other plan or arrangement,
if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.

"(3) COORDINATION WITH PENALTY IMPOSED BY SECTION 6659.—For purposes of determining the amount of the addition to tax assessed under subsection (a), there shall not be taken into account that portion of the substantial understatement on which a penalty is imposed under section 6659 (relating to addition to tax in the case of valuation overstatements).

"(c) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith."

(b) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 68 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6661. Substantial understatement of liability.
"Sec. 6662. Applicable rules."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns the due date (determined without regard to extension) for filing of which is after December 31, 1982.

SEC. 324. PENALTIES FOR DOCUMENTS UNDERSTATING TAX LIABILITY.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6700 the following new section:

"SEC. 6701. PENALTIES FOR AIDING AND ABETTING UNDERSTATEMENT OF TAX LIABILITY.

"(a) IMPOSITION OF PENALTY.—Any person—
"(1) who aids or assists in, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document in connection with any matter arising under the internal revenue laws,
"(2) who knows that such portion will be used in connection with any material matter arising under the internal revenue laws, and
"(3) who knows that such portion (if so used) will result in an understatement of the liability for tax of another person,
shall pay a penalty with respect to each such document in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—
"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of the penalty imposed by subsection (a) shall be $1,000.
"(2) CORPORATIONS.—If the return, affidavit, claim, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by subsection (a) shall be $10,000.
"(3) ONLY 1 PENALTY PER PERSON PER PERIOD.—If any person is subject to a penalty under subsection (a) with respect to any document relating to any taxpayer for any taxable period (or where there is no taxable period, any taxable event), such person shall not be subject to a penalty under subsection (a) with respect to any other document relating to such taxpayer for such taxable period (or event).

"(c) ACTIVITIES OF SUBORDINATES.—
"(1) IN GENERAL.—For purposes of subsection (a), the term 'procures' includes—
"(A) ordering (or otherwise causing) a subordinate to do an act, and
"(B) knowing of, and not attempting to prevent, participation by a subordinate in an act.
"(2) SUBORDINATE.—For purposes of paragraph (1), the term 'subordinate' means any other person (whether or not a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control.

"(d) TAXPAYER NOT REQUIRED TO HAVE KNOWLEDGE.—Subsection (a) shall apply whether or not the understatement is with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim, or other document.

"(e) CERTAIN ACTIONS NOT TREATED AS AID OR ASSISTANCE.—For purposes of subsection (a)(1), a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of such document by reason of such assistance.

"(f) PENALTY IN ADDITION TO OTHER PENALTIES.—
"(1) IN GENERAL.—Except as provided by paragraph (2), the penalty imposed by this section shall be in addition to any other penalty provided by law.
"(2) COORDINATION WITH RETURN PREPARER PENALTIES.—No penalty shall be assessed under subsection (a) or (b) of section 6694 on any person with respect to any document for which a penalty is assessed on such person under subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6700 the following new item:

"Sec. 6701. Penalties for aiding and abetting understatement of tax liability."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 325. FRAUD PENALTY.

(a) GENERAL RULE.—Subsection (b) of section 6653 (relating to fraud penalty) is amended to read as follows:

"(b) FRAUD.—
"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.
"(2) ADDITIONAL AMOUNT FOR PORTION ATTRIBUTABLE TO FRAUD.—There shall be added to the tax (in addition to the amount determined under paragraph (1)) an amount equal to 50 percent of the interest payable under section 6601—
"(A) with respect to the portion of the underpayment described in paragraph (1) which is attributable to fraud, and
"(B) for the period beginning on the last day prescribed by law for payment of such underpayment (determined without regard to any extension) and ending on the date of the assessment of the tax (or, if earlier, the date of the payment of the tax).
"(3) NO NEGLIGENCE ADDITION WHEN THERE IS ADDITION FOR FRAUD.—The addition to tax under this subsection shall be in lieu of any amount determined under subsection (a).
"(4) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return under section 6013, this subsection shall not apply with respect to the tax of the spouse unless some part of the underpayment is due to the fraud of such spouse."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxes the last day prescribed by law for payment of which (determined without regard to any extension) is after the date of enactment of this Act.

SEC. 326. PENALTY FOR FRIVOLOUS RETURNS.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6701 the following new section:

"SEC. 6702. FRIVOLOUS INCOME TAX RETURN.

"(a) CIVIL PENALTY.—If—
"(1) any individual files what purports to be a return of the tax imposed by subtitle A but which—
"(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or
"(B) contains information that on its face indicates that the self-assessment is substantially incorrect; and
"(2) the conduct referred to in paragraph (1) is due to—
"(A) a position which is frivolous, or
"(B) a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws,
then such individual shall pay a penalty of $500.

"(b) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by subsection (a) shall be in addition to any other penalty provided by law."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by inserting after the item relating to section 6701 the following new item:

"Sec. 6702. Frivolous income tax return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to documents filed after the date of the enactment of this Act.

(d) CROSS REFERENCE.—

For provisions relating to burden of proof and prepayment forum, see section 6703 of the Internal Revenue Code of 1954, as added by section 333 of this Act.

SEC. 327. RELIEF FROM CRIMINAL PENALTY FOR FAILURE TO FILE ESTIMATED TAX WHERE TAXPAYER FALLS WITHIN STATUTORY EXCEPTIONS.

Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by adding at the end thereof the following new sentence: "In the case of any person with respect to whom there is a failure to pay any estimated tax, this section shall not apply to such person with respect to such failure if there is no addition to tax under section 6654 or 6655 with respect to such failure."

SEC. 328. ADJUSTMENTS TO ESTIMATED TAX PROVISIONS.

(a) WAIVER OF PENALTY WHERE INDIVIDUAL DID NOT HAVE TAX LIABILITIES FOR PRECEDING TAXABLE YEAR.—

(1) Section 6654 (relating to failure by individual to pay estimated tax) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXCEPTION WHERE NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR.—No addition to tax shall be imposed under subsection (a) for any taxable year if—
"(1) the individual did not have any liability for tax for the preceding taxable year,
"(2) the preceding taxable year was a taxable year of 12 months, and

"(3) the individual was a citizen or resident of the United States throughout the preceding taxable year."

(2) Subsection (g) of section 6654 is amended by striking out "and (f)" and inserting in lieu thereof "(f), and (h)".

(b) ELIMINATION OF REQUIREMENTS TO FILE DECLARATIONS OF ESTIMATED TAX.—

(1) Section 6015 (relating to declaration of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(k) TERMINATION.—No declaration shall be required under this section for any taxable year beginning after December 31, 1982."

(2) Section 6073 (relating to time for filing declarations of estimated income tax by individuals) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1982."

(3) Section 6153 (relating to installment payments of estimated income tax by individuals) is amended by striking out subsection (g) and inserting in lieu thereof the following:

"(g) SPECIAL RULES FOR TAXABLE YEARS BEGINNING AFTER 1982.—In the case of taxable years beginning after 1982—

"(1) this section shall be applied as if the requirements of sections 6015 and 6073 remained in effect, and

"(2) the amount of the estimated tax taken into account under this section shall be determined under rules similar to the rules of subsections (b) and (d) of section 6654."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 329. INCREASES IN CERTAIN CRIMINAL FINES.

(a) ATTEMPT TO EVADE OR DEFEAT TAX.—Section 7201 (relating to attempt to evade or defeat tax) is amended by striking out "$10,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

(b) WILLFUL FAILURE TO FILE RETURN, SUPPLY INFORMATION, OR PAY TAX.—Section 7203 (relating to willful failure to file return, supply information, or pay tax) is amended by striking out "$10,000" and inserting in lieu thereof "$25,000 ($100,000 in the case of a corporation)".

(c) FRAUD AND FALSE STATEMENTS.—Section 7206 (relating to fraud and false statements) is amended by striking out "$5,000" and inserting in lieu thereof "$100,000 ($500,000 in the case of a corporation)".

(d) FRAUDULENT RETURNS, STATEMENTS, OR OTHER DOCUMENTS.—Section 7207 (relating to fraudulent returns, statements, or other documents) is amended by striking out "$1,000" each place it appears and inserting in lieu thereof "$10,000 ($50,000 in the case of a corporation)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to offenses committed after the date of the enactment of this Act.

SEC. 330. SPECIAL RULES WITH RESPECT TO CERTAIN CASH.

(a) IN GENERAL.—Subchapter A of chapter 70 (relating to jeopardy) is amended by adding at the end thereof the following new part:

"PART III—SPECIAL RULES WITH RESPECT TO CERTAIN CASH

"Sec. 6867. Presumptions where owner of large amount of cash is not identified.

"SEC. 6867. PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.

"(a) GENERAL RULE.—If the individual who is in physical possession of cash in excess of $10,000 does not claim such cash—

"(1) as his, or

"(2) as belonging to another person whose identity the Secretary can readily ascertain and who acknowledges ownership of such cash,

then, for purposes of sections 6851 and 6861, it shall be presumed that such cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

"(b) RULES FOR ASSESSING.—In the case of any assessment resulting from the application of subsection (a)—

"(1) the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs,

"(2) such income shall be treated as taxable at a 50-percent rate, and

"(3) except as provided in subsection (c), the possessor of the cash shall be treated (solely with respect to such cash) as the taxpayer for purposes of chapters 63 and 64 and section 7429(a)(1).

"(c) EFFECT OF LATER SUBSTITUTION OF TRUE OWNER.—If, after an assessment resulting from the application of subsection (a), such assessment is abated and replaced by an assessment against the owner of the cash, such later assessment shall be treated for purposes of all laws relating to lien, levy and collection as relating back to the date of the original assessment.

"(d) DEFINITIONS.—For purposes of this section—

"(1) CASH.—The term 'cash' includes any cash equivalent.

"(2) CASH EQUIVALENT.—The term 'cash equivalent' means—

"(A) foreign currency,

"(B) any bearer obligation, and

"(C) any medium of exchange which—

"(i) is of a type which has been frequently used in illegal activities, and

"(ii) is specified as a cash equivalent for purposes of this part in regulations prescribed by the Secretary.

"(3) VALUE OF CASH EQUIVALENT.—Any cash equivalent shall be taken into account—

"(A) in the case of a bearer obligation, at its face amount, and

"(B) in the case of any other cash equivalent, at its fair market value."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end thereof the following new item:

"Part III. Special rules with respect to certain cash."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE D—ADMINISTRATIVE SUMMONS

SEC. 331. SPECIAL PROCEDURES FOR THIRD-PARTY SUMMONSES.

(a) PROCEEDING TO QUASH.—Paragraph (2) of section 7609(b) (relating to right to intervene; right to stay compliance) is amended to read as follows:

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person who is entitled to notice of a summons under subsection (a) shall have the right to begin a proceeding to quash such summons not later than the 20th day after the day such notice is given in the manner provided in subsection (a)(2). In any such proceeding, the Secretary may seek to compel compliance with the summons.

"(B) REQUIREMENT OF NOTICE TO PERSON SUMMONED AND TO SECRETARY.—If any person begins a proceeding under subparagraph (A) with respect to any summons, not later than the close of the 20-day period referred to in subparagraph (A) such person shall mail by registered or certified mail a copy of the petition to the person summoned and to such office as the Secretary may direct in the notice referred to in subsection (a)(1).

"(C) INTERVENTION; ETC.—Notwithstanding any other law or rule of law, the person summoned shall have the right to intervene in any proceeding under subparagraph (A). Such person shall be bound by the decision in such proceeding (whether or not the person intervenes in such proceeding)."

(b) RESTRICTION ON EXAMINATION.—Subsection (d) of section 7609 (relating to restriction on examination of records) is amended to read as follows:

"(d) RESTRICTION ON EXAMINATION OF RECORDS.—No examination of any records required to be produced under a summons as to which notice is required under subsection (a) may be made—

"(1) before the close of the 23rd day after the day notice with respect to the summons is given in the manner provided in subsection (a)(2), or

"(2) where a proceeding under subsection (b)(2)(A) was begun within the 20-day period referred to in such subsection and the requirements of subsection (b)(2)(B) have been met, except in accordance with an order of the court having jurisdiction of such proceeding or with the consent of the person beginning the proceeding to quash."

(c) JURISDICTION.—Subsection (h) of section 7609 (relating to jurisdiction of district court) is amended to read as follows:

"(h) JURISDICTION OF DISTRICT COURT; ETC.—

"(1) JURISDICTION.—The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g). An order denying the petition shall be deemed a final order which may be appealed.

"(2) SPECIAL RULE FOR PROCEEDINGS UNDER SUBSECTIONS (f) AND (g).—The determinations required to be made under subsections (f) and (g) shall be made ex parte and shall be made solely on the petition and supporting affidavits.

"(3) PRIORITY.—Except as to cases the court considers of greater importance, a proceeding brought for the enforcement of any summons, or a proceeding under this section, and appeals, takes precedence on the docket over all other cases and shall be assigned for hearing and decided at the earliest practicable date."

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7609(a) is amended—

(A) by striking out "14th day" and inserting in lieu thereof "23rd day", and

(B) by striking out the last sentence and inserting in lieu thereof the following: "Such notice shall be accompanied by a copy of the summons which has been served and shall contain an explanation of the right under subsection (b)(2) to bring a proceeding to quash the summons."

(2) The subsection heading for subsection (b) of section 7609 is amended to read as follows:

"(b) RIGHT TO INTERVENE; RIGHT TO PROCEEDING TO QUASH.—".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to summonses served after December 31, 1982.

SEC. 332. DUTY OF THIRD-PARTY RECORDKEEPER.

(a) GENERAL RULE.—Section 7609 (relating to special procedures for third-party summonses) is amended by adding at the end thereof the following new subsection:

"(i) DUTY OF THIRD-PARTY RECORDKEEPER.—

"(1) RECORDKEEPER MUST ASSEMBLE RECORDS AND BE PREPARED TO PRODUCE RECORDS.—On receipt of a summons described in subsection (c), the third-party recordkeeper shall proceed to assemble the records requested, or such portion thereof as the Secretary may prescribe, and shall be prepared to produce the records pursuant to the summons on the day on which the records are to be examined.

"(2) SECRETARY MAY GIVE RECORDKEEPER CERTIFICATE.—The Secretary may issue a certificate to the third-party recordkeeper that the period prescribed for beginning a proceeding to quash a summons has expired and that no such proceeding began within such period, or that the taxpayer consents to the examination.

"(3) PROTECTION FOR RECORDKEEPER WHO DISCLOSES.—Any third-party recordkeeper, or agent or employee thereof, making a disclosure of records pursuant to this section in good-faith reliance on the certificate of the Secretary or an order of a court requiring production of records shall not be liable to any customer or other person for such disclosure."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to summonses served after December 31, 1982.

SEC. 333. LIMITATION ON USE OF ADMINISTRATIVE SUMMONS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses) is amended by striking out "For the purpose" and inserting in lieu thereof "(a) AUTHORITY TO SUMMON, ETC.—For the purpose" and by adding at the end thereof the following new subsections:

"(b) PURPOSE MAY INCLUDE INQUIRY INTO OFFENSE.—The purposes for which the Secretary may take any action described in paragraph (1), (2), or (3) of subsection (a) include the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws.

"(c) NO ADMINISTRATIVE SUMMONS WHEN THERE IS JUSTICE DEPARTMENT REFERRAL.—

"(1) LIMITATION OF AUTHORITY.—No summons may be issued under this title, and the Secretary may not begin any action under section 7604 to enforce any summons, with respect to any person if a Justice Department referral is in effect with respect to such person.

"(2) JUSTICE DEPARTMENT REFERRAL IN EFFECT.—For purposes of this subsection—

"(A) IN GENERAL.—A Justice Department referral is in effect with respect to any person if—

"(i) the Secretary has recommended to the Attorney General a grand jury investigation of, or the criminal prosecution of, such person for any offense connected with the administration or enforcement of the internal revenue laws, or

"(ii) any request is made under section 6103(h)(3)(B) for the disclosure of any return or return information (within the meaning of section 6103(b)) relating to such person.

"(B) TERMINATION.—A Justice Department referral shall cease to be in effect with respect to a person when—

"(i) the Attorney General notifies the Secretary, in writing, that—

"(I) he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws,

"(II) he will not authorize a grand jury investigation of such person with respect to such an offense, or

"(III) he will discontinue such a grand jury investigation,

"(ii) a final disposition has been made of any criminal proceeding pertaining to the enforcement of the internal revenue laws which was instituted by the Attorney General against such person, or

"(iii) the Attorney General notifies the Secretary, in writing, that he will not prosecute such person for any offense connected with the administration or enforcement of the internal revenue laws relating to the request described in subparagraph (A)(ii).

"(3) TAXABLE YEARS, ETC., TREATED SEPARATELY.—For purposes of this subsection, each taxable period (or, if there is no taxable period, each taxable event) and each tax imposed by a separate chapter of this title shall be treated separately."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SUBTITLE E—WITHHOLDING ON PENSIONS AND OTHER RETIREMENT INCOME

SEC. 334. WITHHOLDING ON PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

(a) IN GENERAL.—Chapter 24 (relating to collection of income tax at source on wages) is amended by adding at the end thereof the following new section:

"SEC. 3405. SPECIAL RULES FOR PENSIONS, ANNUITIES, AND CERTAIN OTHER DEFERRED INCOME.

"(a) PENSIONS, ANNUITIES, ETC.—

"(1) WITHHOLDING AS IF PAYMENT WERE WAGES.—The payor of any periodic payment (as defined in subsection (d)(2)) shall withhold from such payment the amount which would be required to be withheld from such payment if such payment were a payment of wages by an employer to an employee for the appropriate payroll period.

"(2) ELECTION OF NO WITHHOLDING.—An individual may elect to have paragraph (1) not apply with respect to periodic payments made to such individual. Such an election shall remain in effect until revoked by such individual.

"(3) WHEN ELECTION TAKES EFFECT.—Any election under this subsection (and any revocation of such an election) shall take effect as provided by subsection (f)(3) of section 3402 for withholding exemption certificates.

"(4) AMOUNT WITHHELD WHERE NO WITHHOLDING EXEMPTION CERTIFICATE IN EFFECT.—In the case of any payment with respect to which a withholding exemption certificate is not in effect, the amount withheld under paragraph (1) shall be determined by treating the payee as a married individual claiming 3 withholding exemptions.

"(b) NONPERIODIC DISTRIBUTION.—

"(1) WITHHOLDING.—The payor of any nonperiodic distribution (as defined in subsection (d)(3)) shall withhold from such distribution the amount determined under paragraph (2).

"(2) AMOUNT OF WITHHOLDING.—

"(A) DISTRIBUTIONS WHICH ARE NOT QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is not a qualified total distribution, the amount withheld under paragraph (1) shall be the amount determined by multiplying such distribution by 10 percent.

"(B) QUALIFIED TOTAL DISTRIBUTIONS.—In the case of any nonperiodic distribution which is a qualified total distribution, the amount withheld under paragraph (1) shall be determined under tables (or other computational procedures) prescribed by the Secretary which are based on the amount of tax which would be imposed on such distribution under section 402(e) if the recipient elected to treat such distribution as a lump-sum distribution (within the meaning of section 402(e)(4)(A)).

"(C) SPECIAL RULE FOR DISTRIBUTIONS BY REASONS OF DEATH.—In the case of any distribution described in subparagraph (B) from or under any plan or contract described in section 401(a), 403(a), or 403(b) which is made by reason of a participant's death, the Secretary, in prescribing tables or procedures under paragraph (1), shall take into account the exclusion from gross income provided by section 101(b) (whether or not allowable).

"(3) ELECTION OF NO WITHHOLDING.—

"(A) IN GENERAL.—An individual may elect not to have paragraph (1) apply with respect to any nonperiodic distribution.

"(B) SCOPE OF ELECTION.—An election under subparagraph (A)—

"(i) except as provided in clause (ii), shall be on a distribution-by-distribution basis, or

"(ii) to the extent provided in regulations, may apply to subsequent nonperiodic distributions made by the payor to the payee under the same arrangement.

"(c) LIABILITY FOR WITHHOLDING.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the payor of a designated distribution (as defined in subsection (d)(1)) shall withhold, and be liable for, payment of the tax required to be withheld under this section.

"(2) PLAN ADMINISTRATOR LIABLE IN CERTAIN CASES.—

"(A) IN GENERAL.—In the case of any plan to which this paragraph applies, paragraph (1) shall not apply and the plan administrator shall withhold, and be liable for, payment of the tax unless the plan administrator—

"(i) directs the payor to withhold such tax, and

"(ii) provides the payor with such information as the Secretary may require by regulations.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any plan described in, or which at any time has been determined to be described in—

"(i) section 401(a),

"(ii) section 403(a), or

"(iii) section 301(d) of the Tax Reduction Act of 1975.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DESIGNATED DISTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'designated distribution' means any distribution or payment from or under—

"(i) an employer deferred compensation plan,

"(ii) an individual retirement plan (as defined in section 7701(a)(37)), or

"(iii) a commercial annuity.

"(B) EXCEPTIONS.—The term 'designated distribution' shall not include—

"(i) any amount which is wages without regard to this section, and

"(ii) the portion of a distribution or payment which it is reasonable to believe is not includible in gross income.

"(2) PERIODIC PAYMENT.—The term 'periodic payment' means a designated distribution which is an annuity or similar periodic payment.

"(3) NONPERIODIC DISTRIBUTION.—The term 'nonperiodic distribution' means any designated distribution which is not a periodic payment.

"(4) QUALIFIED TOTAL DISTRIBUTION.—

"(A) IN GENERAL.—The term 'qualified total distribution' means any distribution which—

"(i) is a designated distribution,

"(ii) it is reasonable to believe is made within 1 taxable year of the recipient,

"(iii) is made under a plan described in section 401(a), or 403(a), and

"(iv) consists of the balance to the credit of the employee under such plan.

"(B) SPECIAL RULE FOR ACCUMULATED DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of subparagraph (A), accumulated deductible employee contributions (within the meaning of section 72(o)(5)(B)) shall be treated separately in determining if there has been a qualified total distribution.

"(5) EMPLOYER DEFERRED COMPENSATION PLAN.—The term 'employer deferred compensation plan' means any pension, annuity, profit-sharing, or stock bonus plan or other plan deferring the receipt of compensation.

"(6) COMMERCIAL ANNUITY.—The term 'commercial annuity' means an annuity, endowment, or life insurance contract issued by an insurance company licensed to do business under the laws of any State.

"(7) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given such term by section 414(g).

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than employer securities of the employer corporation (within the meaning of section 402(a)(3))) received in the distribution.

"(9) SEPARATE ARRANGEMENTS TO BE TREATED SEPARATELY.—If the payor has more than 1 arrangement under which designated distributions may be made to any individual, each such arrangement shall be treated separately.

"(10) TIME AND MANNER OF ELECTION.—

"(A) IN GENERAL.—Any election and any revocation under this section shall be made at such time and in such manner as the Secretary shall prescribe.

"(B) PAYOR REQUIRED TO NOTIFY PAYEE OF RIGHTS TO ELECT.—

"(i) PERIODIC PAYMENTS.—The payor of any periodic payment—

"(I) shall transmit to the payee notice of the right to make an election under subsection (a) not earlier than 6 months before the first of such payments and not later than when making the first of such payments,

"(II) if such a notice is not transmitted under subclause (I) when making such first payment, shall transmit such a notice when making such first payment, and

"(III) shall transmit to payees, not less frequently than once each calendar year, notice of their rights to make elections under subsection (a) and to revoke such elections.

"(ii) NONPERIODIC DISTRIBUTIONS.—The payor of any nonperiodic distribution shall transmit to the payee notice of the right to make any election provided in subsection (b) at the time of the distribution (or at such earlier time as may be provided in regulations).

"(iii) NOTICE.—Any notice transmitted pursuant to this subparagraph shall be in such form and contain such information as the Secretary shall prescribe.

"(11) WITHHOLDING INCLUDES DEDUCTION.—The terms 'withholding', 'withhold', and 'withheld' include 'deducting', 'deduct', and 'deducted'.

"(e) WITHHOLDING TO BE TREATED AS WAGE WITHHOLDING UNDER SECTION 3402 FOR OTHER PURPOSES.—For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

"(1) any designated distribution (whether or not an election under this section applies to such distribution) shall be treated as if it were wages paid by an employer to an employee with respect to which there has been withholding under section 3402, and

"(2) in the case of any designated distribution not subject to withholding under this section by reason of an election under this section, the amount withheld shall be treated as zero."

(b) FILING OF REPORTS.—Section 6047 (relating to information concerning certain trusts and annuity and bond purchase plans) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) REPORTS BY EMPLOYERS, PLAN ADMINISTRATORS, ETC.—

"(1) IN GENERAL.—The Secretary shall by forms or regulations require that—

"(A) the employer maintaining, or the plan administrator (within the meaning of section 414(g)) of, a plan from which designated distributions (as defined in section 3405(d)(1)) may be made, and

"(B) any person issuing any contract under which designated distributions (as so defined) may be made,

make returns and reports regarding such plan (or contract) to the Secretary, to the participants and beneficiaries of such plan (or contract), and to such other persons as the Secretary may by regulations prescribe.

"(2) FORM, ETC., OF REPORTS.—Such reports shall be in such form, made at such time, and contain such information as the Secretary may prescribe by forms or regulations."

(c) PENALTY FOR FAILURE TO KEEP RECORDS NECESSARY TO COMPLY WITH REPORTING REQUIREMENTS OF SECTION 6047(e).—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6704. FAILURE TO KEEP RECORDS NECESSARY TO MEET REPORTING REQUIREMENTS UNDER SECTION 6047(e).

"(a) LIABILITY FOR PENALTY.—Any person who—

"(1) has a duty to report or may have a duty to report any information under section 6047(e), and

"(2) fails to keep such records as may be required by regulations prescribed under section 6047(e) for the purpose of providing the necessary data base for either current reporting or future reporting,

shall pay a penalty for each calendar year for which there is any failure to keep such records.

"(b) AMOUNT OF PENALTY.—

"(1) IN GENERAL.—The penalty of any person for any calendar year shall be $50, multiplied by the number of individuals with respect to whom such failure occurs in such year.

"(2) MAXIMUM AMOUNT.—The penalty under this section of any person for any calendar year shall not exceed $50,000.

"(c) EXCEPTIONS.—

"(1) REASONABLE CAUSE.—No penalty shall be imposed by this section on any person for any failure which is shown to be due to reasonable cause and not to willful neglect.

"(2) INABILITY TO CORRECT PREVIOUS FAILURE.—No penalty shall be imposed by this section on any failure by a person if such failure is attributable to a prior failure which has been penalized under this section and with respect to which the person has made all reasonable efforts to correct the failure.

"(3) PRE-1983 FAILURES.—No penalty shall be imposed by this section on any person for any failure which is attributable to a failure occurring before January 1, 1983, if the person has made all reasonable efforts to correct such pre-1983 failure."

(2) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new section:

"Sec. 6704. Failure to keep records necessary to meet reporting requirements under section 6047(e)."

(d) COORDINATION WITH VOLUNTARY WITHHOLDING ON CERTAIN PAYMENTS OTHER THAN WAGES.—Subsection (o) of section 3402 (relating to extension of withholding to certain payments other than wages) is amended by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH WITHHOLDING ON DESIGNATED DISTRIBUTIONS UNDER SECTION 3405.—This subsection shall not apply to any amount which is a designated distribution (within the meaning of section 3405(d)(1))."

(e) EFFECTIVE DATES.—

(1) AMENDMENT MADE BY SUBSECTIONS (a) AND (d).—Except as provided in paragraph (4), the amendment made by subsections (a) and (d) shall apply to payments or other distributions made after December 31, 1982.

(2) AMENDMENTS MADE BY SUBSECTION (b).—Except as provided in paragraph (4), the amendments made by subsection (b) shall take effect on January 1, 1983.

(3) AMENDMENTS MADE BY SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1985.

(4) PERIODIC PAYMENTS BEGINNING BEFORE JANUARY 1, 1983.—For purposes of section 3405(a) of the Internal Revenue Code of 1954, in the case of periodic payments beginning before January 1, 1983, the first periodic payment after December 31, 1982, shall be treated as the first such periodic payment.

(5) DELAY IN APPLICATION.—The Secretary of the Treasury shall prescribe such regulations which delay (but not beyond June 30, 1983) the application of some or all of the amendments made by this section with respect to any payor until such time as such payor is able to comply without undue hardship with the requirements of such provisions.

(6) WAIVER OF PENALTY.—No penalty shall be assessed under section 6672 with respect to any failure to withhold as required by the amendments made by this section if such failure was before July 1, 1983, and if the person made a good faith effort to comply with such withholding requirements.

SEC. 335. PARTIAL ROLLOVERS OF IRA DISTRIBUTIONS PERMITTED.

(a) GENERAL RULE.—

(1) Paragraph (3) of section 408(d) is amended by adding at the end thereof the following new subparagraph:

"(C) PARTIAL ROLLOVERS PERMITTED.—

"(i) IN GENERAL.—If any amount paid or distributed out of an individual retirement account or individual retirement annuity would meet the requirements of subparagraph (A) but for the fact that the entire amount was not paid into an eligible plan as required by clause (i), (ii), or (iii) of subparagraph (A), such amount shall be treated as meeting the requirements of subparagraph (A) to the extent it is paid into an eligible plan referred to in such clause not later than the 60th day referred to in such clause.

"(ii) ELIGIBLE PLAN.—For purposes of clause (i), the term 'eligible plan' means any account, annuity, bond, contract, or plan referred to in subparagraph (A)."

(2) Paragraph (3) of section 409(b) is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL ROLLOVERS PERMITTED.—Rules similar to the rules of section 408(d)(3)(C) shall apply for purposes of subparagraph (C)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to distributions made after December 31, 1982, in taxable years ending after such date.

SUBTITLE F—TRANSACTIONS OUTSIDE THE UNITED STATES OR INVOLVING FOREIGN PERSONS

SEC. 336. JURISDICTION OF COURT AND ENFORCEMENT OF SUMMONS IN CASE OF PERSONS RESIDING OUTSIDE THE UNITED STATES.

(a) GENERAL RULE.—Subsection (a) of section 7701 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(38) PERSONS RESIDING OUTSIDE UNITED STATES.—If any citizen or resident of the United States does not reside in (and is not found in) any United States judicial district, such citizen or resident shall be treated as residing in the District of Columbia for purposes of any provision of this title relating to—

"(A) jurisdiction of courts, or

"(B) enforcement of summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the day after the date of the enactment of this Act.

SEC. 337. ADMISSIBILITY OF EVIDENCE MAINTAINED IN FOREIGN COUNTRIES.

(a) GENERAL RULE.—Part III of subchapter N of chapter 1 (relating to income from sources without the United States) is amended by adding at the end thereof the following new subpart:

"Subpart I—Admissibility of Documentation Maintained in Foreign Countries

"Sec. 982. Admissibility of documentation maintained in foreign countries.

"SEC. 982. ADMISSIBILITY OF DOCUMENTATION MAINTAINED IN FOREIGN COUNTRIES.

"(a) GENERAL RULE.—If the taxpayer fails to substantially comply with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the 'examined item') before the 90th day after the date of the mailing of such request on motion by the Secretary, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue shall prohibit the introduction by the taxpayer of any foreign-based documentation covered by such request.

"(b) REASONABLE CAUSE EXCEPTION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to any documentation if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause.

"(2) FOREIGN NONDISCLOSURE LAW NOT REASONABLE CAUSE.—For purposes of paragraph (1), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause.

"(c) FORMAL DOCUMENT REQUEST.—For purposes of this section—

"(1) FORMAL DOCUMENT REQUEST.—The term 'formal document request' means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth—

"(A) the time and place for the production of the documentation,

"(B) a statement of the reason the documentation previously produced (if any) is not sufficient,

"(C) a description of the documentation being sought, and

"(D) the consequences to the taxpayer of the failure to produce the documentation described in subparagraph (C).

"(2) PROCEEDING TO QUASH.—

"(A) IN GENERAL.—Notwithstanding any other law or rule of law, any person to whom a formal document request is mailed shall have the right to begin a proceeding to quash such request not later than the 90th day after the day such request was mailed. In any such proceeding, the Secretary may seek to compel compliance with such request.

"(B) JURISDICTION.—The United States district court for the district in which the person (to whom the formal document request is mailed) resides or is found shall have jurisdiction to hear any proceeding brought under subparagraph (A). An order denying the petition shall be deemed a final order which may be appealed.

"(C) SUSPENSION OF 90-DAY PERIOD.—The running of the 90-day period referred to in subsection (a) shall be suspended during any period during which a proceeding brought under subparagraph (A) is pending.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) FOREIGN-BASED DOCUMENTATION.—The term 'foreign-based documentation' means any documentation which is outside the United States and which may be relevend or material to the tax treatment of the examined item.

"(2) DOCUMENTATION.—The term 'documentation' includes books and records.

"(3) FOREIGN-CONNECTED.—An item shall be treated as foreign-connected if—

"(A) such item is directly or indirectly from a source outside the United States, or

"(B) such item (in whole or in part)—

"(i) purports to arise outside the United States, or

"(ii) is otherwise dependent on transactions occurring outside the United States.

"(4) AUTHORITY TO EXTEND 90-DAY PERIOD.—The Secretary, and any court having jurisdiction over a proceeding under subsection (c)(2), may extend the 90-day period referred to in subsection (a).

"(e) SUSPENSION OF STATUTE OF LIMITATIONS.—If any person takes any action as provided in subsection (c)(2), the running of any period of limitations under section 6501 (relating to the assessment and collection of tax) or under section 6531 (relating to criminal prosecutions) with respect to such person shall be suspended for the period during which the proceeding under such subsection, and appeals therein, are pending."

(b) CLERICAL AMENDMENT.—The table of subparts for part III of subchapter N of chapter 1 is amended by adding at the end thereof the following new item:

"Subpart I. Admissibility of documentation maintained in foreign countries."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to formal document requests (as defined in section 982(c)(1) of the Internal Revenue Code of 1954, as added by this section) mailed after the date of the enactment of this Act.

SEC. 338. PENALTY FOR FAILURE TO FURNISH INFORMATION WITH RESPECT TO CERTAIN FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 6038 (relating to information with respect to certain foreign corporations) is amended by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b) DOLLAR PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If any person fails to furnish, within the time prescribed under paragraph (2) of subsection (a), any information with respect to any foreign corporation required under paragraph (1) of subsection (a), such person shall pay a penalty of $1,000 for each annual accounting period with respect to which such failure exists.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the United States person, such person shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues with respect to any annual accounting period after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000."

(b) COORDINATION WITH EXISTING REDUCTION IN FOREIGN TAX CREDIT.—Subsection (c) of section 6038 (as redesignated by subsection (a)) is amended—

(1) by inserting "and subsection (b)" after "subsection" in paragraph (3)(B), and

(2) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (b).—The amount of the reduction which (but for this paragraph) would be made under paragraph (1) with respect to any annual accounting period shall be reduced by the amount of the penalty imposed by subsection (b) with respect to such period."

(c) TECHNICAL AMENDMENTS.—

(1) The subsection heading of subsection (c) of section 6038 (as redesignated by subsection (a)) is amended to read as follows:

"(c) PENALTY OF REDUCING FOREIGN TAX CREDIT.—".

(2) Paragraph (1) of section 6038(a) is amended by striking out "within the meaning of subsection (d)(1)" and inserting in

lieu thereof "within the meaning of subsection (e)(1)".

(3) The last sentence of paragraph (1) of section 6038(c) (as redesignated by subsection (a)) is amended by inserting "of such failure" after "notice".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information for annual accounting periods ending after the date of the enactment of this Act.

SEC. 339. INFORMATION REQUIREMENTS WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038 the following new section:

"SEC. 6038A. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-OWNED CORPORATIONS.

"(a) REQUIREMENT.—If, at any time during a taxable year, a corporation (hereinafter in this section referred to as the 'reporting corporation')—

"(1) is a domestic corporation or is a foreign corporation engaged in trade or business within the United States, and

"(2) is controlled by a foreign person,

such corporation shall furnish, at such time and in such manner as the Secretary shall by regulations prescribe, the information described in subsection (b).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is such information as the Secretary may prescribe by regulations relating to—

"(1) the name, principal place of business, nature of business, and country or countries in which organized or resident, of each corporation which—

"(A) is a member of the same controlled group as the reporting corporation, and

"(B) had any transaction with the reporting corporation during its taxable year,

"(2) the manner in which the reporting corporation is related to each corporation referred to in paragraph (1), and

"(3) transactions between the reporting corporation and each foreign corporation which is a member of the same controlled group as the reporting corporation.

"(c) DEFINITIONS.—For purposes of this section—

"(1) CONTROL.—The term 'control' has the meaning given to such term by section 6038(d)(1); except that 'at least 50 percent' shall be substituted for 'more than 50 percent' each place it appears in such section.

"(2) CONTROLLED GROUP.—The term 'controlled group' means any controlled group of corporations within the meaning of section 1563(a); except that—

"(A) 'at least 50 percent' shall be substituted—

"(i) for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(ii) for 'more than 50 percent' each place it appears in section 1563(a)(2)(B), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(3) FOREIGN PERSON.—The term 'foreign person' means any person who is not a United States person. For purposes of the preceding sentence, the term 'United States person' has the meaning given to such term by section 7701(a)(30); except that any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States shall not be treated as a United States person.

"(d) PENALTY FOR FAILURE TO FURNISH INFORMATION.—

"(1) IN GENERAL.—If a reporting corporation fails to furnish (within the time prescribed by regulations) any information described in subsection (b), such corporation shall pay a penalty of $1,000 for each taxable year with respect to which such failure occurs.

"(2) INCREASE IN PENALTY WHERE FAILURE CONTINUES AFTER NOTIFICATION.—If any failure described in paragraph (1) continues for more than 90 days after the day on which the Secretary mails notice of such failure to the reporting corporation, such corporation shall pay a penalty (in addition to the amount required under paragraph (1)) of $1,000 for each 30-day period (or fraction thereof) during which such failure continues after the expiration of such 90-day period. The increase in any penalty under this paragraph shall not exceed $24,000.

"(3) REASONABLE CAUSE.—For purposes of this subsection, the time prescribed by regulations to furnish information (and the beginning of the 90-day period after notice by the Secretary) shall be treated as not earlier than the last day on which (as shown to the satisfaction of the Secretary) reasonable cause existed for failure to furnish the information.

"(e) CROSS REFERENCE.—

"For provisions relating to criminal penalties for violation of this section, see section 7203."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting the following new item after the item relating to section 6038:

"Sec. 6038A. Information with respect to certain foreign-owned corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

SEC. 340. RETURNS WITH RESPECT TO FOREIGN PERSONAL HOLDING COMPANIES.

(a) GENERAL RULE.—Section 6035 (relating to returns of officers, directors, and shareholders of foreign personal holding companies) is amended to read as follows:

"SEC. 6035. RETURNS OF OFFICERS, DIRECTORS, AND SHAREHOLDERS OF FOREIGN PERSONAL HOLDING COMPANIES.

"(a) GENERAL RULE.—Each United States citizen or resident who is an officer, director, or 10-percent shareholder of a corporation which was a foreign personal holding company (as defined in section 552) for any taxable year shall file a return with respect to such taxable year setting forth—

"(1) the shareholder information required by subsection (b),

"(2) the income information required by subsection (c), and

"(3) such other information with respect to such corporation as the Secretary shall by forms or regulations prescribe as necessary for carrying out the purposes of this title.

"(b) SHAREHOLDER INFORMATION.—The shareholder information required by this subsection with respect to any taxable year shall be—

"(1) the name and address of each person who at any time during such taxable year held any share in the corporation,

"(2) a description of each class of shares and the total number of shares of such class outstanding at the close of the taxable year,

"(3) the number of shares of each class held by each person, and

"(4) any changes in the holdings of shares during the taxable year.

For purposes of paragraphs (1), (3), and (4), the term 'share' includes any security convertible into a share in the corporation and any option granted by the corporation with respect to any share in the corporation.

"(c) INCOME INFORMATION.—The income information required by this subsection for any taxable year shall be the gross income, deductions, credits, taxable income, and undistributed foreign personal holding company income of the corporation for the taxable year.

"(d) TIME AND MANNER FOR FURNISHING INFORMATION.—The information required under subsection (a) shall be furnished at such time and in such manner as the Secretary shall by forms and regulations prescribe.

"(e) DEFINITION AND SPECIAL RULES.—

"(1) 10-PERCENT SHAREHOLDER.—For purposes of this section, the term '10-percent shareholder' means any individual who owns directly or indirectly (within the meaning of section 554) 10 percent or more in value of the outstanding stock of a foreign corporation.

"(2) TIME FOR MAKING DETERMINATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the determination of whether any person is an officer, director, or 10-percent shareholder with respect to any foreign corporation shall be made as of the date on which the return is required to be filed.

"(B) SPECIAL RULE.—If after the application of subparagraph (A) no person is required to file a return under subsection (a) with respect to any foreign corporation for any taxable year, the determination of whether any person is an officer, director, or 10-percent shareholder with respect to such foreign corporation shall be made on the last day of such taxable year on which there was such a person who was a United States citizen or resident.

"(3) TWO OR MORE PERSONS REQUIRED TO FURNISH INFORMATION WITH RESPECT TO SAME FOREIGN CORPORATION.—If, but for this paragraph, 2 or more persons would be required to furnish information under subsection (a) with respect to the same foreign corporation for the same taxable year, the Secretary may by regulations provide that such information shall be required only from 1 person."

(b) APPLICATION OF PENALTY.—

(1) Subsection (a) of section 6679 is amended by striking out "section 6046" and inserting in lieu thereof "section 6035 or 6046".

(2) The section heading for section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS OR SUPPLY INFORMATION UNDER SECTION 6035 OR 6046."

(3) The item relating to section 6679 in the table of sections for subchapter B of chapter 68 is amended to read as follows:

"Sec. 6679. Failure to file returns or supply information under section 6035 or 6046."

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of foreign corporations beginning after the date of the enactment of this Act.

SEC. 341. AUTHORITY TO DELAY DATE FOR FILING CERTAIN RETURNS RELATING TO FOREIGN CORPORATIONS AND FOREIGN TRUSTS.

(a) FOREIGN CORPORATIONS.—Subsection (d) of section 6046 (relating to time for

filing returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by inserting before the period at the end thereof the following: "(or on or before such later day as the Secretary may by forms or regulations prescribe)".

(b) FOREIGN TRUSTS.—Subsection (a) of section 6048 (relating to returns as to certain foreign trusts) is amended by inserting "(or on or before such later day as the Secretary may by regulations prescribe)" after "the 90th day".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 342. WITHHOLDING OF TAX ON NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall prescribe regulations establishing certification procedures, refund procedures, or other procedures which ensure that any benefit of any treaty relating to withholding of tax under sections 1441 and 1442 of the Internal Revenue Code of 1954 is available only to persons entitled to such benefit.

SEC. 343. TECHNICAL AMENDMENT RELATING TO PENALTY UNDER SECTION 905(c).

(a) GENERAL RULE.—Subsection (c) of section 905 (relating to adjustments on payment of accrued taxes) is amended by striking out the last sentence.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall have the same effect as if the last sentence of section 905(c) had never been enacted.

SUBTITLE G—MODIFICATION OF INTEREST PROVISIONS

SEC. 344. INTEREST COMPOUNDED DAILY.

(a) IN GENERAL.—Subchapter C of chapter 67 (relating to determination of rate of interest) is amended by adding at the end thereof the following new section:

"SEC. 6622. INTEREST COMPOUNDED DAILY.

"(a) GENERAL RULE.—In computing the amount of any interest required to be paid under this title or sections 1961(c)(1) or 2411 of title 28, United States Code, by the Secretary or by the taxpayer, or any other amount determined by reference to such amount of interest, such interest and such amount shall be compounded daily.

"(b) EXCEPTION FOR PENALTY FOR FAILURE TO FILE ESTIMATED TAX.—Subsection (a) shall not apply for purposes of computing the amount of any addition to tax under section 6654 or 6655."

(b) CONFORMING AMENDMENTS.—

(1) Section 6601(e) (relating to applicable rules) is amended by striking out paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) The table of sections for subchapter C of chapter 67 is amended by inserting after section 6621 the following new item:

"Sec. 6622. Interest compounded daily."

(3)(A) The heading for subchapter C of chapter 67 is amended by inserting "; Compounding of Interest" after "Rate".

(B) The item relating to subchapter C in the table of subchapters for chapter 67 is amended by inserting "; compounding of interest" after "rate".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing after December 31, 1982.

SEC. 345. DETERMINATION OF RATE OF INTEREST TO BE MADE SEMIANNUALLY.

(a) IN GENERAL.—Subsection (b) of section 6621 (relating to determination of rate of interest) is amended to read as follows:

"(b) ADJUSTMENT OF INTEREST RATE.—

"(1) ESTABLISHMENT OF ADJUSTED RATE.—If the adjusted prime rate charged by banks (rounded to the nearest full percent)—

"(A) during the 6-month period ending on September 30 of any calendar year, or

"(B) during the 6-month period ending on March 31 of any calendar year,

differs from the interest rate in effect under this section on either such date, respectively, then the Secretary shall establish, within 15 days after the close of the applicable 6-month period, an adjusted rate of interest equal to such adjusted prime rate.

"(2) EFFECTIVE DATE OF ADJUSTMENT.—Any adjusted rate of interest established under paragraph (1) shall become effective—

"(A) on January 1 of the succeeding year in the case of an adjustment attributable to paragraph (1)(A), and

"(B) on July 1 of the same year in the case of an adjustment attributable to paragraph (1)(B)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to adjustments taking effect on January 1, 1983.

SEC. 346. RESTRICTIONS ON PAYMENT OF INTEREST FOR CERTAIN PERIODS.

(a) INTEREST WITH RESPECT TO DELINQUENT RETURNS.—Section 6611(b) (relating to period for which interest on refunds is paid) is amended by adding at the end thereof the following new paragraph:

"(3) LATE RETURNS.—Notwithstanding paragraph (1) or (2) in the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed."

(b) NO INTEREST IF RETURN NOT IN PROCESSIBLE FORM.—Section 6611 (relating to interest on overpayments) is amended by redesignating subsection (i) as subsection (j) and by adding after subsection (h) the following new subsection:

"(i) NO INTEREST UNTIL RETURN IN PROCESSIBLE FORM.—

"(1) For purposes of subsections (b)(3), (e), and (h), a return shall not be treated as filed until it is filed in processible form.

"(2) For purposes of paragraph (1), a return is in a processible form if—

"(A) such return is filed on a permitted form, and

"(B) such return contains—

"(i) the taxpayer's name, address, and identifying number and the required signature, and

"(ii) sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return."

(c) MODIFICATION OF INTEREST IN THE CASE OF CARRYBACKS.—

(1) OVERPAYMENTS.—

(A) Paragraph (1) of section 6611(f) (relating to refund of income tax caused by carryback or adjustment for unused deductions) is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6611(f)(2) is amended by striking out "the close of" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (f) of section 6611 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR PARAGRAPHS (1) AND (2).—

"(A) FILING DATE.—For purposes of this subsection, the term 'filing date' means the last date prescribed for filing the return of tax imposed by subtitle A for the taxable year (determined without regard to extensions).

"(B) COORDINATION WITH SUBSECTION (e).—

"(i) IN GENERAL.—FOR PURPOSES OF SUBSECTION (e)—

"(I) any overpayment described in paragraph (1) or (2) shall be treated as an overpayment for the loss year, and

"(II) such subsection shall be applied with respect to such overpayment by treating the return for the loss year as not filed before claim for such overpayment is filed.

"(ii) LOSS YEAR.—For purposes of this subparagraph, the term 'loss year' means—

"(I) in the case of a carryback of a net operating loss or net capital loss, the taxable year in which such loss arises, and

"(II) in the case of a credit carryback, the taxable year in which such credit carryback arises (or, with respect to any portion of a credit carryback from a taxable year attributable to a net operating loss carryback, a capital loss carryback, or other credit carryback from a subsequent taxable year, such subsequent taxable year)."

(D) Subsection (g) of section 6611 is amended by striking out "the close of the taxable year" and inserting in lieu thereof "the filing date (as defined in subsection (f)(3)) for the taxable year".

(2) UNDERPAYMENTS.—

(A) Paragraph (1) of section 6601(d) (relating to income tax reduced by carryback for adjustment for certain unused deductions) is amended by striking out "the last day of the taxable year" and inserting in lieu thereof "the filing date for the taxable year".

(B) Subparagraph (A) of section 6601(d)(2) is amended by striking out "the last day of the" each place it appears and inserting in lieu thereof "the filing date for".

(C) Subsection (d) of section 6601 is amended by adding at the end thereof the following new paragraph:

"(4) FILING DATE.—For purposes of this subsection, the term 'filing date' has the meaning given to such term by section 6611(f)(3)(A)."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to returns filed after the 30th day after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to interest accruing after the 30th day after the date of the enactment of this Act.

SUBTITLE H—TAXPAYER SAFEGUARD AMENDMENTS

SEC. 347. INCREASE IN CERTAIN EXEMPTIONS FROM LEVY.

(a) GENERAL RULE.—

(1) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) (relating to property exempt from levy) is amended by striking out "$500" and inserting in lieu thereof "$1,500".

(2) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION.—Paragraph (3) of section 6334(a) is amended by striking out "$250" and inserting in lieu thereof "$1,000".

(3) WAGES, SALARY, OR OTHER INCOME.—Paragraph (1) of section 6334(d) (relating to exempt amount of wages, salary, or other income) is amended—

(A) by striking out "$50" and inserting in lieu thereof "$75", and

(B) by striking out "$15" and inserting in lieu thereof "$25".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 348. REQUIRED RELEASE OF LIEN.

(a) GENERAL RULE.—So much of subsection (a) of section 6325 (relating to release of lien) as precedes paragraph (1) thereof is amended to read as follows:

"(a) RELEASE OF LIEN.—Subject to such regulations as the Secretary may prescribe, the Secretary shall issue a certificate of release of any lien imposed with respect to any internal revenue tax not later than 30 days after the day on which—".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to liens—

(1) which are filed after December 31, 1982,

(2) which are satisfied after December 31, 1982, or

(3) with respect to which the taxpayer after December 31, 1982, requests the Secretary of the Treasury or his delegate to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

SEC. 349. REQUIREMENT OF TIMELY NOTICE OF LEVY.

(a) GENERAL RULE.—Section 6331 (relating to levy and distraint) is amended by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) REQUIREMENT OF NOTICE BEFORE LEVY.—

"(1) IN GENERAL.—Levy may be made under subsection (a) upon the salary or wages or other property of any person with respect to any unpaid tax only after the Secretary has notified such person in writing of his intention to make such levy.

"(2) 10-DAY REQUIREMENT.—The notice required under paragraph (1) shall be—

"(A) given in person,

"(B) left at the dwelling or usual place of business of such person, or

"(C) sent by certified or registered mail to such person's last known address,

no less than 10 days before the day of the levy.

"(3) JEOPARDY.—Paragraph (1) shall not apply to a levy if the Secretary has made a finding under the last sentence of subsection (a) that the collection of tax is in jeopardy.

"(e) CONTINUING LEVY ON SALARY AND WAGES.—

"(1) EFFECT OF LEVY.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

"(2) RELEASE AND NOTICE OF RELEASE.—With respect to a levy described in paragraph (1), the Secretary shall promptly release the levy when the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time, and shall promptly notify the person upon whom such levy was made that such levy has been released."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to levies made after December 31, 1982.

SEC. 349A. EXTENSION OF PERIOD FOR REDEMPTION OF REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 6337(b) (relating to period for redemption of real estate after sale) is amended by striking out "120 days" and inserting in lieu thereof "180 days".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to property sold after the date of the enactment of this Act.

SEC. 350. AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY.

(a) GENERAL RULE.—Subparagraph (C) of section 7426(b)(2) (relating to amount of damages) is amended to read as follows:

"(C) if such property was sold, grant a judgment for an amount not exceeding the greater of—

"(i) the amount received by the United States from the sale of such property, or

"(ii) the fair market value of such property immediately before the levy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to levies made after December 31, 1982.

SUBTITLE I—OTHER PROVISIONS

SEC. 351. DISALLOWANCE OF DEDUCTIONS RELATING TO NARCOTICS TRAFFICKING.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280E. EXPENDITURES IN CONNECTION WITH THE ILLEGAL SALE OF DRUGS.

"No deduction or credit shall be allowed for any amount paid or incurred during the taxable year in carrying on any trade or business if such trade or business (or the activities which comprise such trade or business) consists of trafficking in controlled substances (within the meaning of schedule I and II of the Controlled Substances Act) which is prohibited by Federal law or the law of any State in which such trade or business is conducted."

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280E. Expenditures in connection with the illegal sale of drugs."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act in taxable years ending after such date.

SEC. 352. SENSE OF CONGRESS WITH RESPECT TO PROVIDING OF ADDITIONAL FUNDS TO INTERNAL REVENUE SERVICE.

It is the sense of the Congress that there be appropriated for the use of the Internal Revenue Service to provide additional staff—

(1) for fiscal year 1983, the amounts proposed in the President's budget for fiscal year 1983, and

(2) such amounts in excess of the amount requested for such purpose in the President's proposed budgets as may be necessary to provide sufficient improved enforcement to increase revenues by $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

SEC. 353. REPORT ON FORMS.

Not later than June 30, 1983, the Secretary of the Treasury or his delegate shall study and report to the Congress methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the returns of tax imposed by chapter 1 of the Internal Revenue Code of 1954.

SEC. 354. EXEMPTION OF VETERANS' ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (19) of section 501(c) (relating to exemption of veterans' organizations) is amended—

(1) by striking out "war veterans" the first place it appears and inserting in lieu thereof "past or present members of the Armed Forces of the United States", and

(2) by amending subparagraph (B) to read as follows:

"(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and".

(b) ASSOCIATION ORGANIZED BEFORE 1880.—Subsection (c) of section 501 (relating to exempt organizations) is amended by adding at the end thereof the following new paragraph:

"(23) any association organized before 1880 more than 25 percent of the members of which are present or past members of the Armed Forces and a principal purpose of which is to provide insurance and other benefits to veterans or their dependents."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 355. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

"VERY HIGH FREQUENCY STATIONS

"SEC. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in section 307(d) of the Communications Act of 1934.".

SEC. 356. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.— Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only

to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

"(ii) any investigation which may result in such a proceeding, or

"(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party,

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed,

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

"(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

"(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

"(ii) any investigation which may result in such a proceeding, or

"(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

"(i) the name and address of the taxpayer with respect to whom the requested return information relates;

"(ii) the taxable period or periods to which such return information relates;

"(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

"(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

"(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

"(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

"(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

"(B) EMERGENCY CIRCUMSTANCES.—

"(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

"(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

"(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

"(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (c), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

"(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

"(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 the Federal Rules of Criminal Procedure.

"(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

"(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

"(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

"(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

"(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency exclusively for use in locating such individual.

"(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

"(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

"(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

"(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), (5), or (7) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 6103 (relating to procedure and recordkeeping) is amended—

(A) by striking out "(6)(A)(ii)" in paragraph (3)(A) and inserting in lieu thereof "(7)(A)(ii)",

(B) by striking out "(d)" in paragraph (3)(C)(i) and inserting in lieu thereof "(d), (i)(3)(B)(i),",

(C) by striking out "such requests" in paragraph (3)(C)(i)(II) and inserting in lieu thereof "such requests or otherwise",

(D) by striking out "(i)(1), (2), or (5)" each place it appears in paragraph (4) and inserting in lieu thereof "(i)(1), (2), (3), or (5)",

(E) by striking out "(d)" each place it appears in paragraph (4) and inserting in lieu thereof "(d), (i)(3)(B)(i),", and

(F) by striking out "subsection (i)(6)(A)(ii)" in paragraph (6)(B)(i) and inserting in lieu thereof "subsection (i)(7)(A)(ii)".

(2) Paragraph (2) of section 7213(a) (relating to unauthorized disclosure of information) is amended by striking out "(d)" and inserting in lieu thereof "(d), (i)(3)(B)(i),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 357. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7431 as section 7432 and inserting after section 7430 the following new section:

"SEC. 7430. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) IN GENERAL.—

"(1) DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(2) DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

"(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) $1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

"(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

"(2) the costs of the action.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

"(e) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b)."

(b) CONFORMING AMENDMENTS.—

(1) Section 7217 (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7431 and inserting in lieu thereof the following:

"Sec. 7431. Civil damages for unauthorized disclosure of returns and return information.

"Sec. 7432. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to disclosures made after the date of enactment of this Act.

SEC. 358. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—Paragraph (7) of section 6103(i) (relating to disclosure to Comptroller General), as redesignated by section 396(a), is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) AUDITS OF OTHER AGENCIES.—

"(i) IN GENERAL.—Nothing in this section shall prohibit any return or return information obtained under this title by any Federal agency (other than an agency referred to in subparagraph (A)) for use in any program or activity from being open to inspection by, or disclosure to, officers and employees of the General Accounting Office if such inspection or disclosure is—

"(I) for purposes of, and to the extent necessary in, making an audit authorized by law of such program or activity, and

"(II) pursuant to a written request by the Comptroller General of the United States to the head of such Federal agency.

"(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency (other than an agency referred to in subparagraph (A)), upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by subsection (l) or (m) to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

"(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

"(I) a description of the use of the returns and return information by the Federal agency involved,

"(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

"(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

"(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph."

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (C)".

(2) Subparagraph (C) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) or (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

TITLE IV—TAX TREATMENT OF PARTNERSHIP ITEMS

SEC. 401. SHORT TITLE.

This title may be cited as the "Tax Treatment of Partnership Items Act of 1982".

SEC. 402. TAX TREATMENT OF PARTNERSHIP ITEMS.

(a) GENERAL RULE.—Chapter 63 (relating to assessment) is amended by adding at the end thereof the following new subchapter:

"Subchapter C—Tax Treatment of Partnership Items

"Sec. 6221. Tax treatment determined at partnership level.

"Sec. 6222. Partner's return must be consistent with partnership return or Secretary notified of inconsistency.

"Sec. 6223. Notice to partners of proceedings.

"Sec. 6224. Participation in administrative proceedings; waivers; agreements.

"Sec. 6225. Assessments made only after partnership level proceedings are completed.

"Sec. 6226. Judicial review of final partnership administrative adjustments.

"Sec. 6227. Administrative adjustment requests.

"Sec. 6228. Judicial review where administrative adjustment request is not allowed in full.

"Sec. 6229. Period of limitations for making assessments.

"Sec. 6230. Additional administrative provisions.

"Sec. 6231. Definitions and special rules.

"Sec. 6232. Extension of subchapter to windfall profit tax.

"SEC. 6221. TAX TREATMENT DETERMINED AT PARTNERSHIP LEVEL.

"Except as otherwise provided in this subchapter, the tax treatment of any partner-

ship item shall be determined at the partnership level.

"SEC. 6222. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.

"(a) IN GENERAL.—A partner shall, on the partner's return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(1) IN GENERAL.—In the case of any partnership item, if—

"(A)(i) the partnership has filed a return but the partner's treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

"(ii) the partnership has not filed a return, and

"(B) the partner files with the Secretary a statement identifying the inconsistency,

subsection (a) shall not apply to such item.

"(2) PARTNER RECEIVING INCORRECT INFORMATION.—A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

"(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner's return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

"(B) elects to have this paragraph apply with respect to that item.

"(c) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(1) described in paragraph (1)(A)(i) of subsection (b), and

"(2) in which the partner does not comply with paragraph (1)(B) of subsection (b),

section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a partner's intentional or negligent disregard of requirements of this section, see section 6653(a).

"SEC. 6223. NOTICE TO PARTNERS OF PROCEEDINGS.

"(a) SECRETARY MUST GIVE PARTNERS NOTICE OF BEGINNING AND COMPLETION OF ADMINISTRATIVE PROCEEDINGS.—The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

"(1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and

"(2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

"(b) SPECIAL RULES FOR PARTNERSHIP WITH MORE THAN 100 PARTNERS.—

"(1) PARTNER WITH LESS THAN 1 PERCENT INTEREST.—Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

"(A) the partnership has more than 100 partners, and

"(B) the partner has a less than 1 percent interest in the profits of the partnership.

"(2) SECRETARY MUST GIVE NOTICE TO NOTICE GROUP.—If a group of partners in the aggregate having a 5 percent or more interest in the profits of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

"(c) INFORMATION BASE FOR SECRETARY'S NOTICES, ETC.—For purposes of this subchapter—

"(1) INFORMATION ON PARTNERSHIP RETURN.—Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

"(2) USE OF ADDITIONAL INFORMATION.—The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

"(3) SPECIAL RULE WITH RESPECT TO INDIRECT PARTNERS.—If any information furnished to the Secretary under paragraph (1) or (2)—

"(A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and

"(B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

"(d) PERIOD FOR MAILING NOTICE.—

"(1) NOTICE OF BEGINNING OF PROCEEDINGS.—The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

"(2) NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

"(e) EFFECT OF SECRETARY'S FAILURE TO PROVIDE NOTICE.—

"(1) APPLICATION OF SUBSECTION.—

"(A) IN GENERAL.—This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

"(B) SPECIAL RULES FOR PARTNERSHIPS WITH MORE THAN 100 PARTNERS.—For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

"(i) except as provided in clause (ii), by mailing notice to the tax matters partner, or

"(ii) in the case of a member of a notice group which qualifies under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

"(2) PROCEEDINGS FINISHED.—In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

"(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

"(B) the decision of a court in an action begun by such a petition has become final,

the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

"(3) PROCEEDINGS STILL GOING ON.—In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

"(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

"(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

"(f) ONLY ONE NOTICE OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENT.—If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) TAX MATTERS PARTNER MUST KEEP PARTNERS INFORMED OF PROCEEDINGS.—To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

"(h) PASS-THRU PARTNER REQUIRED TO FORWARD NOTICE.—

"(1) IN GENERAL.—If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

"(2) PARTNERSHIP AS PASS-THRU PARTNER.—In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

"SEC. 6224. PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS; WAIVERS; AGREEMENTS.

"(a) PARTICIPATION IN ADMINISTRATIVE PROCEEDINGS.—Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

"(b) PARTNER MAY WAIVE RIGHTS.—

"(1) IN GENERAL.—A partner may at any time waive—

"(A) any right such partner has under this subchapter, and

"(B) any restriction under this subchapter on action by the Secretary.

"(2) FORM.—Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

"(c) SETTLEMENT AGREEMENT.—In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

"(1) BINDS ALL PARTIES.—A settlement agreement between the Secretary and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

"(2) OTHER PARTNERS HAVE RIGHT TO ENTER INTO CONSISTENT AGREEMENTS.—If the Secretary enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

"(3) TAX MATTERS PARTNER MAY BIND CERTAIN OTHER PARTNERS.—

"(A) IN GENERAL.—A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

"(i) which is entered into by the tax matters partner, and

"(ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

"SEC. 6225. ASSESSMENTS MADE ONLY AFTER PARTNERSHIP LEVEL PROCEEDINGS ARE COMPLETED.

"(a) RESTRICTION ON ASSESSMENT AND COLLECTION.—Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

"(1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and

"(2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court.

"(c) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

"SEC. 6226. JUDICIAL REVIEW OF FINAL PARTNERSHIP ADMINISTRATIVE ADJUSTMENTS.

"(a) PETITION BY TAX MATTERS PARTNER.—Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) PETITION BY PARTNER OTHER THAN TAX MATTERS PARTNER.—

"(1) IN GENERAL.—If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

"(2) PRIORITY OF THE TAX COURT ACTION.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

"(3) PRIORITY OUTSIDE THE TAX COURT.—If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.

"(4) DISMISSAL OF OTHER ACTIONS.—If an action is brought under paragraph (1) in addition to the action which goes forward under paragraph (2) or (3), such action shall be dismissed.

"(5) TAX MATTERS PARTNER MAY INTERVENE.—The tax matters partner may intervene in any action brought under this subsection.

"(c) PARTNERS TREATED AS PARTIES.—If an action is brought under subsection (a) or (b) with respect to a partnership for any partnership taxable year—

"(1) each person who was a partner in such partnership at any time during such year shall be treated as a party to such action, and

"(2) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(d) PARTNER MUST HAVE INTEREST IN OUTCOME.—

"(1) IN ORDER TO BE PARTY TO ACTION.—Subsection (c) shall not apply to a partner after the day on which—

"(A) the partnership items of such partner for the partnership taxable year became nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, or

"(B) the period within which any tax attributable to such partnership items may be assessed against that partner expired.

"(2) TO FILE PETITION.—No partner may file a readjustment petition under subsection (b) unless such partner would (after the application of paragraph (1) of this subsection) be treated as a party to the proceeding.

"(e) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partner filing the petition deposits with the Secretary, on or before the day the petition is filed, the amount by which the tax liability of the partner would be increased if the treatment of partnership items on the partner's return were made consistent with the treatment of partnership items on the partnership return, as adjusted by the final partnership administrative adjustment. In the case of a petition filed by a 5-percent group, the requirement of the preceding sentence shall apply to each member of the group. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirements and any shortfall in the amount required to be deposited is timely corrected.

"(2) REFUND ON REQUEST.—If an action brought in a district court of the United States or in the Claims Court is dismissed by reason of the priority of a Tax Court action under paragraph (2) of subsection (b), the Secretary shall, at the request of the partner who made the deposit, refund the amount deposited under paragraph (1).

"(3) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(f) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of final partnership administrative adjustment relates and the proper allocation of such items among the partners.

"(g) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this section.

"(h) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed (other than under paragraph (4) of subsection (b)), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership administrative adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6227. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) GENERAL RULE.—A partner may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the tax matters partner of a notice of final partnership administrative adjustment with respect to such taxable year.

"(b) REQUESTS BY TAX MATTERS PARTNER ON BEHALF OF PARTNERSHIP.—

"(1) SUBSTITUTED RETURN.—If the tax matters partner—

"(A) files a request for an administrative adjustment, and

"(B) asks that the treatment shown on the request be substituted for the treatment of partnership items on the partnership return to which the request relates,

the Secretary may treat the changes shown on such request as corrections of mathematical or clerical errors appearing on the partnership return.

"(2) REQUESTS NOT TREATED AS SUBSTITUTED RETURNS.—

"(A) IN GENERAL.—If the tax matters partner files an administrative adjustment request on behalf of the partnership which is not treated as a substituted return under paragraph (1), the Secretary may, with respect to all or any part of the requested adjustments—

"(i) without conducting any proceeding, allow or make to all partners the credits or refunds arising from the requested adjustments,

"(ii) conduct a partnership proceeding under this subchapter, or

"(iii) take no action on the request.

"(B) EXCEPTIONS.—Clause (i) of subparagraph (A) shall not apply with respect to a partner after the day on which the partnership items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231.

"(3) REQUEST MUST SHOW EFFECT ON DISTRIBUTIVE SHARES.—The tax matters partner shall furnish with any administrative adjustment request on behalf of the partnership revised schedules showing the effect of such request on the distributive shares of the partners and such other information as may be required under regulations.

"(c) OTHER REQUESTS.—If any partner files a request for an administrative adjustment (other than a request described in subsection (b)), the Secretary may—

"(1) process the request in the same manner as a claim for credit or refund with respect to items which are not partnership items,

"(2) assess any additional tax that would result from the requested adjustments,

"(3) mail to the partner, under subparagraph (A) of section 6231(b)(1) (relating to items becoming nonpartnership items), a notice that all partnership items of the partner for the partnership taxable year to which such request relates shall be treated as nonpartnership items, or

"(4) conduct a partnership proceeding.

"SEC. 6228. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) REQUEST ON BEHALF OF PARTNERSHIP.—

"(1) IN GENERAL.—If any part of an administrative adjustment request filed by the tax matters partner under subsection (b) of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(A) the Tax Court,

"(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(C) the Claims Court.

"(2) PERIOD FOR FILING PETITION.—

"(A) IN GENERAL.—A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

"(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(ii) before the date which is 2 years after the date of such request.

"(B) NO PETITION AFTER NOTICE OF BEGINNING OF ADMINISTRATIVE PROCEEDING.—No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

"(C) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (B) shall cease to apply with respect to such request, and the 2-year period referred to in clause (ii) of subparagraph (A) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"(D) EXTENSION OF TIME.—The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

"(3) COORDINATION WITH ADMINISTRATIVE ADJUSTMENT.—

"(A) ADMINISTRATIVE ADJUSTMENT BEFORE FILING OF PETITION.—No petition may be filed under this subsection after the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under subsection (b) of section 6227 relates.

"(B) ADMINISTRATIVE ADJUSTMENT AFTER FILING BUT BEFORE HEARING OF PETITION.—If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjustment, except that subsection (e) of section 6226 shall not apply.

"(C) NOTICE MUST BE BEFORE EXPIRATION OF STATUTE OF LIMITATIONS.—A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

"(4) PARTNERS TREATED AS PARTY TO ACTION.—

"(A) IN GENERAL.—If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

"(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

"(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

"(B) PARTNERS MUST HAVE INTEREST IN OUTCOME.—For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

"(5) SCOPE OF JUDICIAL REVIEW.—Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

"(6) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. Only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

"(b) OTHER REQUESTS.—

"(1) NOTICE PROVIDING THAT ITEMS BECOME NONPARTNERSHIP ITEMS.—If the Secretary mails to a partner, under subparagraph (A) of section 6231 (b) (1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (c) of section 6227 relates shall be treated as nonpartnership items—

"(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

"(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

"(2) OTHER CASES.—

"(A) IN GENERAL.—If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (c) of section 6227 by a partner and paragraph (1) does not apply—

"(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

"(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

"(B) PERIOD FOR FILING PETITION.—

"(i) IN GENERAL.—An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

"(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

"(II) before the date which is 2 years after the date of filing of such request.

"(ii) EXTENSION OF TIME.—The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

"(C) ACTION BARRED AFTER PARTNERSHIP PROCEEDING HAS BEGUN.—No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

"(D) FAILURE BY SECRETARY TO ISSUE TIMELY NOTICE OF ADJUSTMENT.—If the Secretary—

"(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-

year period referred to in clause (i) (II) of subparagraph (B), and

"(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i) (II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

"SEC. 6229. PERIOD OF LIMITATIONS FOR MAKING ASSESSMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—

"(1) IN GENERAL.—The period described in subsection (a) (including an extension period under this subsection) may be extended—

"(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

"(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

"(2) COORDINATION WITH SECTION 6501(c)(4).—Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

"(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

"(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting '6 years' for '3 years.'

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) NO RETURN.—In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

"(4) RETURN FILED BY SECRETARY.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) SUSPENSION WHEN SECRETARY MAKES ADMINISTRATIVE ADJUSTMENT.—If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters partner, the running of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6226 (and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and

"(2) for 1 year thereafter.

"(e) UNIDENTIFIED PARTNER.—If—

"(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

"(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

"(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year,

the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

"(f) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If, before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items.

"SEC. 6230. ADDITIONAL ADMINISTRATIVE PROVISIONS.

"(a) NORMAL DEFICIENCY PROCEEDINGS DO NOT APPLY TO COMPUTATIONAL ADJUSTMENTS.—Subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

"(b) MATHEMATICAL AND CLERICAL ERRORS APPEARING ON PARTNERSHIP RETURN.—

"(1) IN GENERAL.—Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

"(2) EXCEPTION.—Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

"(c) CLAIMS ARISING OUT OF ERRONEOUS COMPUTATIONS, ETC.—

"(1) IN GENERAL.—A partner may file a claim for refund on the grounds that—

"(A) the Secretary erroneously computed any computational adjustment necessary—

"(i) to make the partnership items on the partner's return consistent with the treatment of the partnership items on the partnership return, or

"(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a), or

"(B) the Secretary failed to allow a credit or to make a refund to the partner in the amount of the overpayment attributable to the application to the partner of a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a) (or erroneously computed the amount of any such credit or refund).

"(2) TIME FOR FILING CLAIM.—

"(A) UNDER PARAGRAPH (1)(A).—Any claim under paragraph (1)(A) shall be filed within 6 months after the day on which the Secretary mails the notice of computational adjustment to the partner.

"(B) UNDER PARAGRAPH (1)(B).—Any claim under paragraph (1)(B) shall be filed within 2 years after whichever of the following days is appropriate:

"(i) the day on which the settlement is entered into,

"(ii) the day on which the period during which an action may be brought under section 6226 with respect to the final partnership administrative adjustment expires, or

"(iii) the day on which the decision of the court becomes final.

"(3) SUIT IF CLAIM NOT ALLOWED.—If any portion of a claim under paragraph (1) is not allowed, the partner may bring suit with respect to such portion within the period specified in subsection (a) of section 6532 (relating to periods of limitations on refund suits).

"(4) NO REVIEW OF SUBSTANTIVE ISSUES.—For purposes of any claim or suit under this subsection, the treatment of partnership items on the partnership return, under the settlement, under the final partnership administrative adjustment, or under the decision of the court (whichever is appropriate) shall be conclusive.

"(d) SPECIAL RULES WITH RESPECT TO CREDITS OR REFUNDS ATTRIBUTABLE TO PARTNERSHIP ITEMS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, no credit or refund of an overpayment attributable to a partnership item (or an affected item) for a partnership taxable year shall be allowed or made to any partner after the expiration of the period of limitation prescribed in section 6229 with respect to such partner for assessment of any tax attributable to such item.

"(2) ADMINISTRATIVE ADJUSTMENT REQUEST.—If a request for an administrative adjustment under section 6227 with respect to a partnership item is timely filed, credit or refund of any overpayment attributable to such partnership item (or an affected item) may be allowed or made at any time before the expiration of the period prescribed in section 6228 for bringing suit with respect to such request.

"(3) CLAIM UNDER SUBSECTION (c).—If a timely claim is filed under subsection (c) for a credit or refund of an overpayment attributable to a partnership item (or affected item), credit or refund of such overpayment may be allowed or made at any time before the expiration of the period specified in section 6532 (relating to periods of limitations on suits) for bringing suit with respect to such claim.

"(4) TIMELY SUIT.—Paragraph (1) shall not apply to any credit or refund of any overpayment attributable to a partnership item (or an item affected by such partnership item) if a partner brings a timely suit with respect to a timely administrative adjustment request under section 6228 or a timely

claim under subsection (c) relating to such overpayment.

"(5) OVERPAYMENTS REFUNDED WITHOUT REQUIREMENT THAT PARTNER FILE CLAIM.—In the case of any overpayment by a partner which is attributable to a partnership item (or an affected item) and which may be refunded under this subchapter, to the extent practicable credit or refund of such overpayment shall be allowed or made without any requirement that the partner file a claim therefor.

"(6) SUBCHAPTER B OF CHAPTER 66 NOT APPLICABLE.—Subchapter B of chapter 66 (relating to limitations on credit or refund) shall not apply to any credit or refund of an overpayment attributable to a partnership item (or an affected item).

"(e) TAX MATTERS PARTNER REQUIRED TO FURNISH NAMES OF PARTNERS TO SECRETARY.—If the Secretary mails to any partnership the notice specified in paragraph (1) of section 6223(a) with respect to any partnership taxable year, the tax matters partner shall furnish to the Secretary the name, address, profits interest, and taxpayer identification number of each person who was a partner in such partnership at any time during such taxable year. If the tax matters partner later discovers that the information furnished to the Secretary was incorrect or incomplete, the tax matters partner shall furnish such revised or additional information as may be necessary.

"(f) FAILURE OF TAX MATTERS PARTNER, ETC., TO FULFILL RESPONSIBILITY DOES NOT AFFECT APPLICABILITY OF PROCEEDING.—The failure of the tax matters partner, a pass-thru partner, the representative of a notice group, or any other representative of a partner to provide any notice or perform any act required under this subchapter or under regulations prescribed under this subchapter on behalf of such partner does not affect the applicability of any proceeding or adjustment under this subchapter to such partner.

"(g) DATE DECISION OF COURT BECOMES FINAL.—For purposes of section 6229(d)(1) and section 6230(c)(2)(B), the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(h) EXAMINATION AUTHORITY NOT LIMITED.—Nothing in this subchapter shall be construed as limiting the authority granted to the Secretary under section 7602.

"(i) TIME AND MANNER OF FILING STATEMENTS, MAKING ELECTIONS, ETC.—Except as otherwise provided in this subchapter, each—

"(1) statement,

"(2) election,

"(3) request, and

"(4) furnishing of information,

shall be filed or made at such time, in such manner, and at such place as may be prescribed in regulations.

"(j) PARTNERSHIPS HAVING PRINCIPAL PLACE OF BUSINESS OUTSIDE THE UNITED STATES.—For purposes of sections 6226 and 6228, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter. Any reference in this subchapter to regulations is a reference to regulations prescribed by the Secretary.

"(l) COURT RULES.—Any action brought under any provision of this subchapter shall be conducted in accordance with such rules of practice and procedure as may be prescribed by the Court in which the action is brought.

"SEC. 6231. DEFINITIONS AND SPECIAL RULES.

"(a) DEFINITIONS.—For purposes of this subchapter—

"(1) PARTNERSHIP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'partnership' means any partnership required to file a return under section 6031(a).

"(B) EXCEPTION FOR SMALL PARTNERSHIPS.—

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership if—

"(I) such partnership has 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, and

"(II) each partner's share of each partnership item is the same as his share of every other item.

For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner.

"(ii) ELECTION TO HAVE SUBCHAPTER APPLY.—A partnership (within the meaning of subparagraph (A)) may for any taxable year elect to have clause (i) not apply. Such election shall apply for such taxable year and all subsequent taxable years unless revoked with the consent of the Secretary.

"(2) PARTNER.—The term 'partner' means—

"(A) a partner in the partnership, and

"(B) any other person whose income tax liability under subtitle A is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

"(3) PARTNERSHIP ITEM.—The term 'partnership item' means, with respect to a partnership, any item required to be taken into account for the partnership's taxable year under any provision of subtitle A to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(4) NONPARTNERSHIP ITEM.—The term 'nonpartnership item' means an item which is (or is treated as) not a partnership item.

"(5) AFFECTED ITEM.—The term 'affected item' means any item to the extent such item is affected by a partnership item.

"(6) COMPUTATIONAL ADJUSTMENT.—The term 'computational adjustment' means the change in the tax liability of a partner which properly reflects the treatment under this subchapter of a partnership item. All adjustments required to apply the results of a proceeding with respect to a partnership under this subchapter to an indirect partner shall be treated as computational adjustments.

"(7) TAX MATTERS PARTNER.—The tax matters partner of any partnership is—

"(A) the general partner designated as the tax matters partner as provided in regulations, or

"(B) if there is no general partner who has been so designated, the general partner having the largest profits interest in the partnership at the close of the taxable year involved (or, where there is more than 1 such partner, the 1 of such partners whose name would appear first in an alphabetical listing).

If there is no general partner designated under subparagraph (A) and the Secretary determines that it is impracticable to apply subparagraph (B), the partner selected by the Secretary shall be treated as the tax matters partner.

"(8) NOTICE PARTNER.—The term 'notice partner' means a partner who, at the time in question, would be entitled to notice under subsection (a) of section 6223 (determined without regard to subsections (b)(2) and (e)(1)(B) thereof).

"(9) PASS-THRU PARTNER.—The term 'pass-thru partner' means a partnership, estate, trust, electing small business corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which proceedings under this subchapter are conducted.

"(10) INDIRECT PARTNER.—The term 'indirect partner' means a person holding an interest in a partnership through 1 or more pass-thru partners.

"(11) 5-PERCENT GROUP.—A 5-percent group is a group of partners who for the partnership taxable year involved had profits interests which aggregated 5 percent or more.

"(12) HUSBAND AND WIFE.—Except to the extent otherwise provided in regulations, a husband and wife who have a joint interest in a partnership shall be treated as 1 person.

"(b) ITEMS CEASE TO BE PARTNERSHIP ITEMS IN CERTAIN CASES.—

"(1) IN GENERAL.—For purposes of this subchapter, the partnership items of a partner for a partnership taxable year shall become nonpartnership items as of the date—

"(A) the Secretary mails to such partner a notice that such items shall be treated as nonpartnership items,

"(B) the partner files suit under section 6228(b) after the Secretary fails to allow an administrative adjustment request with respect to any of such items,

"(C) the Secretary enters into a settlement agreement with the partner with respect to such items, or

"(D) such change occurs under subsection (e) of section 6223 (relating to effect of Secretary's failure to provide notice) or under subsection (c) of this section.

"(2) CIRCUMSTANCES IN WHICH NOTICE IS PERMITTED.—The Secretary may mail the notice referred to in subparagraph (A) of paragraph (1) to a partner with respect to partnership items for a partnership taxable year only if—

"(A) such partner—

"(i) has complied with subparagraph (B) of section 6222(b)(1) (relating to notification of inconsistent treatment) with respect to one or more of such items, and

"(ii) has not, as of the date on which the Secretary mails the notice, filed a request for administrative adjustments which would make the partner's treatment of the item or items with respect to which the partner complied with subparagraph (B) of section 6222(b)(1) consistent with the treatment of such item or items on the partnership return, or

"(B)(i) such partner has filed a request under section 6227(b) for administrative adjustment of one or more of such items, and

"(ii) the adjustments requested would not make such partner's treatment of such items consistent with the treatment of such items on the partnership return.

"(3) NOTICE MUST BE MAILED BEFORE BEGINNING OF PARTNERSHIP PROCEEDING.—Any notice to a partner under subparagraph (A) of paragraph (1) with respect to partnership items for a partnership taxable year shall be mailed before the day on which the Secretary mails to the tax matters partner a notice of the beginning of an administrative proceeding at the partnership level with respect to such items.

"(c) REGULATIONS WITH RESPECT TO CERTAIN SPECIAL ENFORCEMENT AREAS.—

"(1) APPLICABILITY OF SUBSECTION.—This subsection applies in the case of—

"(A) assessments under section 6851 (relating to termination assessments of income tax) or section 6861 (relating to jeopardy assessments of income, estate, gift, and certain excise taxes),

"(B) criminal investigations,

"(C) indirect methods of proof of income,

"(D) foreign partnerships, and

"(E) other areas that the Secretary determines by regulation to present special enforcement considerations.

"(2) ITEMS MAY BE TREATED AS NONPARTNERSHIP ITEMS.—To the extent that the Secretary determines and provides by regulations that to treat items as partnership items will interfere with the effective and efficient enforcement of this title in any case described in paragraph (1), such items shall be treated as nonpartnership items for purposes of this subchapter.

"(3) SPECIAL RULES.—The Secretary may prescribe by regulation such special rules as the Secretary determines to be necessary to achieve the purposes of this subchapter in any case described in paragraph (1).

"(d) TIME FOR DETERMINING PARTNER'S PROFITS INTEREST IN PARTNERSHIP.—

"(1) IN GENERAL.—For purposes of section 6223(b) (relating to special rules for partnerships with more than 100 partners) and paragraph (11) of subsection (a) (relating to 5-percent group), the interest of a partner in the profits of a partnership for a partnership taxable year shall be determined—

"(A) in the case of a partner whose entire interest in the partnership is liquidated, sold, or exchanged during such partnership taxable year, as of the moment immediately before such liquidation, sale, or exchange, or

"(B) in the case of any other partner, as of the close of the partnership taxable year.

"(2) INDIRECT PARTNERS.—The Secretary shall prescribe regulations consistent with the principles of paragraph (1) to be applied in the case of indirect partners.

"(e) EFFECT OF JUDICIAL DECISIONS IN CERTAIN PROCEEDINGS.—

"(1) DETERMINATIONS AT PARTNER LEVEL.—No judicial determination with respect to the income tax liability of any partner not conducted under this subchapter shall be a bar to any adjustment in such partner's income tax liability resulting from—

(A) a proceeding with respect to partnership items under this subchapter, or

(B) a proceeding with respect to items which become nonpartnership items—

(i) by reason of 1 or more of the events described in subsection (b), and

(ii) after the appropriate time for including such items in any other proceeding with respect to nonpartnership items.

"(2) PROCEEDINGS UNDER SECTION 6228(a).—No judicial determination in any proceeding under subsection (a) of section 6228 with respect to any partnership item shall be a bar to any adjustment in any other partnership item.

"(f) SPECIAL RULE FOR LOSSES AND CREDITS OF FOREIGN PARTNERSHIPS.—Except to the extent otherwise provided in regulations, in the case of any partnership the tax matters partner of which resides outside the United States or the books of which are maintained outside the United States, no loss or credit shall be allowable to any partner unless section 6031 is complied with for the partnership's taxable year in which such deduction or credit arose at such time as the Secretary prescribes by regulations.

"SEC. 6232. EXTENSION OF SUBCHAPTER TO WINDFALL PROFIT TAX.

"(a) INCLUSION AS PARTNERSHIP ITEM.—For purposes of applying this subchapter to the tax imposed by chapter 45 (relating to the windfall profit tax), the term 'partnership item' means any item relating to the determination of the tax imposed by chapter 45 to the extent regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the partnership level than at the partner level.

"(b) SEPARATE APPLICATION.—This subchapter shall be applied separately with respect to—

"(1) partnership items described in subsection (a), and

"(2) partnership items described in section 6231(a)(3).

"(c) PARTNERSHIP AUTHORIZED TO ACT FOR PARTNERS.—

"(1) IN GENERAL.—For purposes of chapter 45 and so much of this subtitle as relates to chapter 45, to the extent and in the manner provided in regulations, a partnership shall be treated as authorized to act for each partner with respect to the determination, assessment, or collection of the tax imposed by chapter 45.

"(2) PARTNERS ENTITLED TO 5 PERCENT OR MORE OF INCOME MAY ELECT OUT OF SUBSECTION.—Paragraph (1) shall not apply to any partnership if partners entitled to 5 percent or more of the income of the partnership elect (at the time and in the manner provided in regulations) not to have paragraph (1) apply to the partnership.

"(3) PARTNER'S RIGHTS PRESERVED.—Nothing in paragraph (1) shall be construed to take away from any person any right granted to such person by the foregoing sections of this subchapter."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following:

"Subchapter C. Tax treatment of partnership items."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 702 (relating to income and credits of partner) is amended by inserting at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For rules relating to procedures for determining the tax treatment of partnership items see subchapter C of chapter 63 (section 6221 and following)."

(2) Subsection (h) of section 6213 (relating to certain cross references with respect to restrictions on assessment) is amended by inserting at the end thereof the following new paragraph:

"(4) For provision that this subchapter shall not apply in the case of computational adjustments attributable to partnership items, see section 6230(a)."

(3) Section 6216 (relating to certain cross references with respect to assessments) is amended by inserting at the end thereof the following new paragraph:

"(4) For procedures relating to partnership items, see subchapter C."

(4) Section 6422 (relating to certain cross references with respect to credits and refunds) is amended by inserting at the end thereof the following new paragraph:

"(15) For special rules in the case of a credit or refund attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

(5) Subsection (o) of section 6501 (relating to limitations on assessment and collection) is amended to read as follows:

"(o) Special Rules for Partnership Items.—For extension of period in the case of partnership items (as defined in section 6231(a)(3)), see section 6229."

(6) Section 6504 (relating to certain cross references with respect to limitations on assessments) is amended by inserting at the end thereof the following new paragraph:

"(12) Assessments of tax attributable to partnership items, see section 6229."

(7) Subsection (g) of section 6511 (relating to limitations on credit or refund) is amended to read as follows:

"(g) SPECIAL RULE FOR CLAIMS WITH RESPECT TO PARTNERSHIP ITEMS.—In the case of any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (as defined in section 6231(a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter."

(8) Subsection (a) of section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by inserting at the end thereof the following new paragraph:

"(4) As to overpayments attributable to partnership items, in accordance with subchapter C of chapter 63."

(9) Paragraph (2) of section 6512(b) (relating to limit on amount of credit or refund) is amended by striking out "(c), (d), or (g)" each place it appears and inserting in lieu thereof "(c), or (d)".

(10) Section 6515 (relating to certain cross references with respect to limitations on credit or refund) is amended by inserting at the end thereof the following new paragraph:

"(7) Refunds or credits attributable to partnership items, see section 6227 and subsections (c) and (d) of section 6230."

(11) Section 7422 (relating to civil actions for refund) is amended by redesignating subsection (h) thereof as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SPECIAL RULE FOR ACTIONS WITH RESPECT TO PARTNERSHIP ITEMS.—No action may be brought for a refund attributable to partnership items (as defined in section 6131(a)(3)) except as provided in section 6228(b) or section 6230(c)."

(12) Section 7451 (relating to fee for filing petition) is amended by adding "or for judicial review under section 6226 or section 6228(a)" at the end thereof.

(13) Subsection (c) of section 7456 (relating to Tax Court Commissioners) is amended by inserting "6226, 6228(a)," before "7428".

(14) Subsection (c) of section 7459 (relating to date of decision) is amended by inserting "or in the case of an action brought under section 6226 or section 6228(a)" after "or under section 7428".

(15) Paragraph (1) of section 7482(b) (relating to venue for review of Tax Court decisions) is amended—

(A) by striking out "or" at the end of subparagraph (D),

(B) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or",

(C) by adding after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6226 or 6228(a), the principal place of business of the partnership,", and

(D) by inserting ", or the petition under section 6226 or 6228(a)," after "or 7477".

(16) Section 7485 (relating to bond to stay assessment and collection) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) BOND IN CASE OF APPEAL OF DECISION UNDER SECTION 6226 OR SECTION 6228(a).—The condition of subsection (a) shall be satisfied if a partner duly files notice of appeal from a decision under section 6226 or 6228(a) and on or before the time the notice of appeal is filed with the Tax Court, a bond in an amount fixed by the Tax Court is filed, and with surety approved by the Tax Court, conditioned upon the payment of deficiencies attributable to the partnership items to which that decision relates as finally determined, together with any interest, additional amounts, or additions to the tax provided by law. Unless otherwise stipulated by the parties, the amount fixed by the Tax Court shall be based upon its estimate of the aggregate of such deficiencies."

(17) Subsection (e) of section 1346 of title 28, United States Code (relating to jurisdiction of district courts with the United States as defendant) is amended by striking out "section 7426 or section" and inserting in lieu thereof "section 6226, 6228(a), 7426, or".

(18)(A) Chapter 91 of title 28, United States Code (relating to Claims Court), is amended by adding at the end thereof the following new section:

"§ 1508. Jurisdiction for certain partnership proceedings.

"The Claims Court shall have jurisdiction to hear and to render judgment upon any petition under section 6226 or 6228(a) of the Internal Revenue Code of 1954."

(B) The section analysis of chapter 91 of title 28, United States Code (relating to Claims Court) is amended by adding at the end thereof the following new item:

"1508. Jurisdiction for certain partnership proceedings."

SEC. 403. REQUIREMENT THAT STATEMENT BE FURNISHED TO PARTNER.

(a) GENERAL RULE.—Section 6031 (relating to return of partnership income) is amended by adding at the end thereof the following new subsection:

"(b) COPIES TO PARTNERS.—Each partnership required to file a return under subsection (a) for any partnership taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a partner at any time during such taxable year a copy of such information shown on such return as may be required by regulations."

(b) CONFORMING AMENDMENT.—Section 6031 is amended by striking out "Every partnership" and inserting in lieu thereof the following:

"(a) GENERAL RULE.—Every partnership".

SEC. 404. RETURNS REQUIRED FROM ALL PARTNERSHIPS WITH UNITED STATES PARTNERS.

Except as hereafter provided in regulations prescribed by the Secretary of the Treasury or his delegate, nothing in section 6031 of the Internal Revenue Code of 1954 shall be treated as excluding any partnership from the filing requirements of such section for any taxable year if the income tax liability under subtitle A of such Code of any United States person is determined in whole or in part by taking into account (directly or indirectly) partnership items of such partnership for such taxable year.

SEC. 405. RETURN REQUIREMENT FOR UNITED STATES PERSONS HAVING INTEREST IN FOREIGN PARTNERSHIPS.

(a) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by inserting after section 6046 the following new section:

"SEC. 6046A. RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS.

"(a) REQUIREMENT OF RETURN.—Any United States person, except to the extent otherwise provided by regulations—

"(1) who acquires any interest in a foreign partnership,

"(2) who disposes of any portion of his interest in a foreign partnership, or

"(3) whose proportional interest in a foreign partnership changes substantially,

shall file a return.

"(b) FORM AND CONTENTS OF RETURN.—Any return required by subsection (a) shall be in such form and set forth such information as the Secretary shall by regulations prescribe.

"(c) TIME FOR FILING RETURN.—Any return required by subsection (a) shall be filed on or before the 90th day (or on or before such later day as the Secretary may by regulations prescribe) after the day on which the United States person becomes liable to file such return.

"(d) CROSS REFERENCE.—

"For provisions relating to penalties for violations of this section, see sections 6679 and 7203."

(b) PENALTY.—

Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign corporations and acquisitions of their stock) is amended by striking out "section 6046" and inserting in lieu thereof "section 6046 or 6046A".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6046 the following new item:

"Sec. 6046A. Returns as to interests in foreign partnerships."

(2) The section heading of section 6679 is amended to read as follows:

"SEC. 6679. FAILURE TO FILE RETURNS WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS."

(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

"Sec. 6679. Failure to file returns with respect to foreign corporations or foreign partnerships."

SEC. 406. SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS.

Subchapter C of chapter 63 of the Internal Revenue Code of 1954 (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.

SEC. 407. EFFECTIVE DATES.

(a)(1) Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 shall apply to partnership taxable years beginning after the date of the enactment of this Act.

(2) Section 6232 of the Internal Revenue Code of 1954 shall apply to periods after December 31, 1982.

(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application.

(b) The amendments made by section 405 shall apply with respect to acquisitions or dispositions of, or substantial changes in, interests in foreign partnerships occurring after the date of the enactment of this Act.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

SECTION 501. SHORT TITLE.

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(8) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(9) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety.

(b) TRANSPORTATION PLANNING.—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

SEC. 503. DEFINITIONS.

(a) IN GENERAL.—As used in this title—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment; or

(v) equipment to measure runway surface friction; and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guiaance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(11) "Primary airport" means a commercial service airport which is determined by the Secretary to have .01 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(12) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(13) "Project costs" means any costs involved in accomplishing a project.

(14) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(15) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(16) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(17) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft,

which is used or to be used for public purposes.

(18) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(19) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(20) "Secretary" means the Secretary of Transportation.

(21) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(22) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(23) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

(24) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) AMOUNTS MADE AVAILABLE.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title.

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) FORMULATION OF AIRPORT PLAN.—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) develop-

ments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(b) FORMULATION OF AIRWAY PLAN.—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this title, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $450,000,000 for fiscal year 1982; $1,050,000,000 for the fiscal years ending before October 1, 1983; $1,843,500,000 for the fiscal years ending before October 1, 1984; $2,755,500,000 for the fiscal years ending before October 1, 1985; $3,772,500,000 for the fiscal years ending before October 1, 1986; and $4,789,700,000 for the fiscal years ending before October 1, 1987.

(b) OBLIGATIONAL AUTHORITY.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) NOISE ABATEMENT PROJECTS TO BE CONSIDERED AS AIRPORT DEVELOPMENT FOR FISCAL YEAR 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

(a) AIRWAY FACILITIES AND EQUIPMENT.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years ending before October 1, 1983; $2,379,000,000 for the fiscal years ending before October 1, 1984; $3,786,000,000 for the fiscal years ending before October 1, 1985; $5,163,000,000 for the fiscal years ending before October 1, 1986; and $6,327,000,000 for the fiscal years ending before October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(2) The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection. Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312, there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983 (of which not more than $16,800,000 is authorized to be appropriated for facilities, engineering and development); $286,000,000 for fiscal year 1984 (of which not more than $24,700,000 is authorized to be appropriated for facilities, engineering and development); $269,000,000 for fiscal year 1985 (of which not more than $23,100,000 is authorized to

be appropriated for facilities, engineering and development); $215,000,000 for fiscal year 1986 (of which not more than $22,700,000 is authorized to be appropriated for facilities, engineering and development); and $193,000,000 for fiscal year 1987 (of which not more than $22,000,000 is authorized to be appropriated for facilities, engineering and development). Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—(1) The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed $800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 2.44 in the case of fiscal year 1983; 1.57 in the case of fiscal year 1984; 1.39 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984; $30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; and $34,998,000 for fiscal year 1987.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), and (d) and the third sentence of section (c) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SEC. 507. APPORTIONMENT OF FUNDS.

(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) $6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) $4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) $2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) $0.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary shall not apportion less than $200,000 nor more than $12,500,000 under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(2) APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before October 1, 1987, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(3) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (4) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(4) Notwithstanding any other provision of this subsection, for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such

airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in paragraph (3) of this subsection.

(b) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under paragraph (1) of subsection (a) of this section, the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.

(a) DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.—Each amount apportioned under paragraph (1), (2), or (4) of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(a)(3) of this title.

(b) TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) STATES.—Funds apportioned to a State under section 507(a)(2) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(2) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) GENERAL LIMITATIONS.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 8 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year (A) for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title.

(3) Not less than 5.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under paragraph (4) of section 507(a) shall be counted as part of the 5.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than one percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) SUBMISSION.—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507(a), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(b) APPROVAL.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secre-

tary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) STATE STANDARDS.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) ACCEPTANCE OF CERTIFICATION.—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(e) REQUIREMENT OF NOTICE.—Each sponsor to which funds are apportioned under section 507(a)(1) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

(a) GENERAL PROVISION.—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) PROJECTS IN PUBLIC LAND STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970.

SEC. 511. PROJECT SPONSORSHIP.

(a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of

an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: Provided, however, That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(13) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost of acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe.

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

(c) CONSULTATION.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

SEC. 512. GRANT AGREEMENTS.

(a) OFFER AND ACCEPTANCE.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) MAXIMUM OBLIGATION OF THE UNITED STATES.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

(c) Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

SEC. 513. PROJECT COSTS.

(a) ALLOWABLE PROJECT COSTS.—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) Not more than the greater of (A) $200,000, or (B) 60 percent of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than $200,000 of the sums to be distributed at the discretion of the Secretary under section 507(a)(3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Not more than $25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

(4) Sums apportioned under section 507(a) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

(a) REGULATIONS.—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

SEC. 517. FALSE STATEMENTS.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both.

SEC. 518. ACCESS TO RECORDS.

(a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) WITHHOLDING INFORMATION.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

SEC. 519. GENERAL POWERS.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) CONSIDERATIONS.—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) REPEAL.—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701-1730) are repealed on the date of enactment of this title.

(b) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of enactment of this title.

(c) SAVING PROVISIONS.—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

(d) SEPARABILITY.—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby.

SEC. 524. MISCELLANEOUS AMENDMENTS.

(a)(1) Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.".

(2) Section 313(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(c)) is amended by inserting "the Airport and Airway Improvement Act of 1982," after "this Act," the first place it appears.

(3) Section 1109(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(e)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(b) The Aviation Safety and Noise Abatement Act of 1979 is amended as follows:

(1) Section 101(1) is amended to read as follows:

"(1) the term 'airport' means any public-use airport (as defined by section 503(17) of the Airport and Airway Improvement Act of 1982);".

(2) Section 101(2) is amended to read as follows:

"(2) the term 'airport operator' means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and".

(3) Section 103(b) is amended to read as follows:

"(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

"(2) For purposes of this Act, the term 'airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act.".

(4) Section 104(c)(1) is amended by striking out "subsection (e) of this section" in the first sentence and inserting in lieu thereof "section 505 of the Airport and Airway Improvement Act of 1982". The last sentence of section 104(c)(1) is amended to read as follows: "All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.".

(5) Section 108 is amended by striking out "(1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2)" and inserting in lieu thereof "airport noise compatibility planning and".

(c) Section 13(g)(1) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)(1)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(d) Section 24 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) There is authorized to be appropriated out of the Airport and Airway Trust Fund for amounts expended before the date specified in paragraph (2) of this subsection not to exceed $15,000,000. No such amounts shall be appropriated prior to September 30, 1981.

"(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.".

(e) Section 31 of the Airport and Airway Development Act of 1970 is amended by striking out "this title" and inserting in lieu thereof "the Airport and Airway Improvement Act of 1982", by inserting "under such Act" after "airport development project", and by inserting "(as defined by section 11(8) of the Airport and Airway Development Act of 1970, as in effect on the date of enactment of this section)" after "general aviation airport".

(f) The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof: "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

(a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)) is amended to read as follows:

"POWER TO ISSUE

"SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.".

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c)) is amended by striking out "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carriers airports" and inserting in lieu thereof "airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1)".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility.

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

(1) the Department of Transportation;
(2) the Department of Justice;
(3) States;
(4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;
(5) trunk air carriers;
(6) regional air carriers (other than commuter air carriers);
(7) charter air carriers;
(8) commuter air carriers;
(9) all-cargo air carriers;
(10) general aviation;
(11) financial institutions with an interest in the aviation industry; and
(12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section.

SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

(a) Beginning on the date of enactment of this title, the Secretary shall not close or operate on a part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this title and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than sixty existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such servtba shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than $150,000 nor less than $130,000 for each fiscal year beginning after September 30, 1981, and ending before October 1, 1987.

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(b) BROWNWOOD, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) GRAND JUNCTION, COLORADO.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) NEWPORT, ARKANSAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

SEC. 532. STATE TAXATION.

(a) Section 1113(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1513(b)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in subsection (d) of this section, nothing".

(b) Section 1113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(2) In this subsection—

"(A) 'assessment' means valuation for a property tax levied by a taxing district;

"(B) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(C) 'air carrier transportation property' means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

"(D) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

"(E) 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

"(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.".

TITLE VI—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

SUBTITLE A—EXTENSION OF BENEFITS

SHORT TITLE

SEC. 601. This subtitle may be cited as the "Federal Supplemental Compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 602. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") under this subtitle. Any State which is a party to an agreement under this subtitle may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual's period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this subtitle—

(1) the amount of the Federal supplemental compensation which shall be payable to

any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this subtitle or with the regulations of the Secretary promulgated to carry out this subtitle.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

(e)(1) Any agreement under this subtitle with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent; except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this subtitle for any week beginning after March 31, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 603. (a) There shall be paid to each State which has entered into an agreement under this subtitle an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this subtitle or chapter 85 of title 5 of the United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this subtitle in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this subtitle shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this subtitle for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 604. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this Act.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this Act. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this subtitle.

DEFINITIONS

SEC. 605. For purposes of this title—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "period of eligibility" means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

FRAUD AND OVERPAYMENTS

SEC. 606. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this subtitle to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this subtitle in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this subtitle to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this subtitle or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State un-

employment compensation law, and only in that manner and to that extent.

Subtitle B—Taxation of Unemployment Compensation

SEC. 611. TAXATION OF UNEMPLOYMENT COMPENSATION.

(a) LOWERING BASE AMOUNT FROM $20,000 TO $12,000 (FROM $25,000 TO $18,000 IN CASE OF JOINT RETURN).—Subsection (b) of section 85 (defining base amount) is amended—

(1) by striking out "$20,000" and inserting in lieu thereof "$12,000", and

(2) by striking out "$25,000" and inserting in lieu thereof "$18,000".

(b) EFFECTIVE DATES.—

(1) COMPENSATION PAID AFTER 1981.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1981, in taxable years ending after such date.

(2) NO ADDITION TO TAX FOR UNDERPAYMENT OF ESTIMATED TAX ATTRIBUTABLE TO APPLICATION OF AMENDMENTS TO COMPENSATION PAID IN 1982.—No addition to tax shall be made under section 6654 of the Internal Revenue Code of 1954 with respect to any underpayment to the extent such underpayment is attributable to unemployment compensation which is received during 1982 and which (but for the amendments made by subsection (a)) would not be includable in gross income.

(3) SPECIAL RULE FOR FISCAL YEAR TAXPAYERS.—In the case of a taxable year (other than a calendar year) which includes January 1, 1982—

(A) the amendments made by this section shall be applied by taking into account the entire amount of unemployment compensation received during such taxable year, but

(B) the increase in gross income for such taxable year as a result of such amendments shall not exceed the amount of unemployment compensation paid after December 31, 1981.

(4) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this subsection, the term "unemployment compensation" has the meaning given to such term by section 85(c) of the Internal Revenue Code of 1954.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill.

Committee on Ways and Means for the entire bill and the Senate amendment and modifications committed to conference, with the exception of subtitle B (Medicaid) of title I and title IV (Airport and Airway System Development) except for section 406(e) of that title and with the exception of section 395 of the Senate amendment and modifications committed to conference.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
BARBER B. CONABLE, Jr.,

Committee on Energy and Commerce solely for the consideration of subtitle B of title I (Medicaid), of the Senate amendment and modifications committed to conference and subtitle C of title I (Utilization and Quality Control Peer Review) of the Senate amendment and the modifications committed to conference and such parts of subtitle A (Medicare) of title I of the Senate amendment and modifications committed to conference that relate to amendments to the supplementary medical insurance program authorized under title XVIII of the Social Security Act:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JIM BROYHILL,
ED MADIGAN,

Committee on Energy and Commerce solely for consideration of section 395 of the Senate amendment and modifications committed to conference:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,

Committee on Public Works and Transportation solely for the consideration of title IV of the Senate amendment and modifications committed to conference with the exception of sections 406(e) and 407(b) of that title:

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SYNDER,
JOHN PAUL HAMMERSCHMIDT,

Solely for the consideration of section 407(b) title IV of the Senate amendment and modifications committed to conference:

DON FUQUA,
DAN GLICKMAN,
LARRY WINN, Jr.,

Managers on the Part of the House.

For the entire bill with the exception of title IV (airport and airway system development) except for section 406(e):

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL B. LONG,
LLOYD BENTSEN,

Solely for consideration of title IV (excluding section 406(e)):

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

SUBTITLE A—MEDICARE

1. One month delay in entitlement to medicare benefits

Senate amendment

The Senate amendment defers eligibility for parts A and B of medicare until the first day of the month following the month in which an individual attains age 65.

The provision would be effective with respect to individuals reaching age 65 after August 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

2. Medicare payments secondary for older workers choosing to remain covered under group health plans

Senate amendment

The Senate provision amends the Federal Age Discrimination in Employment Act (ADEA) to require employers to offer their employees age 65 through 69 and their dependents the same health benefits as are offered to their younger employees. The provision makes medicare the secondary payor for such employees (and their spouses) age 65 through 69. The provision would not apply to employers with less than 20 employees.

Medicare's payment for any item or service furnished to an employee (or his or her spouse) would be reduced where the combined payment under medicare and the employer's health benefits plan would otherwise exceed an amount equal to: (1) for items or services reimbursed on a cost or cost-related basis, their reasonable cost; or, (2) for items reimbursed on a charge basis, the higher of the reasonable charge (or other amount payable under medicare, without regard to the program deductibles or coinsurance) or the amount payable under the employer group plan (without regard to deductibles or coinsurance imposed under that plan). In no case would medicare pay more than medicare would have paid in the absence of any employer plan coverage. This provision would be effective January 1, 1983.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. It is the intent of the conferees that an employee will have the option of rejecting the plan offered by the employer, thereby, retaining medicare as primary coverage. It is the understanding of the conferees that the Secretary of Labor will promulgate regulations to prevent employers from offering a group health insurance plan or option which is designed to circumvent this provision in an attempt to induce employees to reject the employer general health benefit plan offered to other employees under the age of 65.

3. Five percent copayments for home health services

Senate amendment

The Senate amendment imposes copayments on home health services equal to 5 percent of the average reasonable cost per visit, beginning with the twentieth visit made with respect to an individual in a cal-

endar year. The provision would be effective with respect to services furnished on or after January 1, 1983.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

4. Reimbursement for inpatient radiology and pathology services

Senate amendment

The Senate amendment eliminates the 100 percent reimbursement rate currently applicable to services provided to hospital inpatients that are furnished by radiologists and pathologists who accept assignment in all cases for these services. Thus, medicare will pay for such services on the same basis as for other physicians' services, i.e. 80 percent of the reasonable charge after the part B deductible has been met. The provision is effective with respect to services furnished on or after October 1, 1982.

House committee provision

Same provision.

Conference agreement

The conference agreement includes the Senate amendment.

5. Increase in part B deductible

Senate amendment

The Senate amendment increases the Part B deductible for calendar year 1984 to $78 and for 1985 and subsequent calendar years to $80.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

6. Limitation on physician fee economic index

Senate amendment

The Senate amendment provides that (1) the increase in the physician economic index effective July 1, 1982 would not be in effect for charges for services rendered on or after October 1, 1982; (2) the increase allowed for the 12-month period beginning July 1, 1983 could not exceed five percent; and (3) the Secretary of the Department of Health and Human Services would be required to report to the Congress changes in the rate of assignment and in costs paid by beneficiaries as a result of changes made in physician reimbursement.

House committee provision

Under the House committee provision (1) the increase in the economic index for prevailing fees effective July 1, 1982 would be reduced to 4 percent effective October 1, 1982; (2) physicians who agree to accept assignment on all their bills would not be subject to this reduction; and (3) the date of the annual update in the customary and prevailing charge screens would be delayed from July 1, until October 1 of each year, starting in 1983.

Conference agreement

The conference agreement does not include either provision.

7. Elimination of inpatient routine nursing salary cost differential

Senate amendment

The Senate amendment eliminates the routine nursing salary cost differential paid to hospitals and skilled nursing facilities. The provision would be effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment.

8. Reimbursement of provider-based physicians

Senate amendment

The Senate amendment directs the Secretary to prescribe regulations, effective no later than October 1, 1982, which will distinguish between (1) professional medical services which require performance of the physician in person; which are personally rendered to individual patients; which contribute to the patients' diagnosis and treatment; and are reimbursable only under part B on a charge basis, and (2) the professional medical services of practitioners which are of benefit to patients generally and other services not discussed in (1) above which can be reimbursed only on a reasonable cost basis. The amendment provides that reasonable cost reimbursement for provider-based services cannot exceed a reasonable compensation equivalent which shall be established by the Secretary in regulations and shall be based on reasonable annual compensation levels for a full-time equivalent practice in the specialty involved, or on such other basis as the Secretary may approve.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment with minor modifications. The agreement directs the Secretary to prescribe regulations which will distinguish between (1) professional medical services which are personally rendered to an individual patient, which contribute to the patient's diagnosis or treatment, and are reimbursable only under part B on a charge basis; and (2) professional services which are of benefit to patients generally and which can be reimbursed only on a reasonable cost basis. Reasonable cost reimbursement for provider-based services could not exceed a reasonable compensation equivalent established by the Secretary in regulations. The conference agreement directs that regulations implementing this provision be published and effective by October 1, 1982. The conferees understand that such regulations are already under preparation by HHS. The publication and timely implementation of these regulations would reflect the intent of the conferees.

9. Part B premium as a constant percentage of costs

Senate amendment

The Senate amendment would suspend the current limitation on annual increases in the part B premium and instead increase the premium on October 1, 1982, on July 1, 1983, and on July 1, 1984 to a level which will result in monthly premiums which are in the aggregate equal to 25 percent of program costs for aged beneficiaries. During this period, premium increases would not be limited to the lower of the percentage by which cash social security benefits most recently increased, or the increase in the costs of the program as is required by present law. The present law limitation and method of calculating premiums would resume on July 1, 1985.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment with a modification allowing no premium increase before July 1, 1983.

10. Medicare reimbursement to hospitals

(A) EXPANSION OF SECTION 223 LIMITS TO INCLUDE ANCILLARY COSTS

Senate amendment

The Senate amendment extends the so-called Section 223 limitation of present law to ancillary service operating costs, effective with hospital cost reporting periods beginning on or after October 1, 1982. The new limitation would be applied on an average cost-per-case basis and each hospital's limit would be modified by a case-mix adjustment. In no case would payment on a cost-per-case basis be reduced below the allowable cost-per-case reimbursement for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable. The limitation would be set at 110 percent of the mean for hospitals of the same type. The Secretary would be required to provide appropriate exemptions, exceptions and adjustments including an adjustment for the special needs of hospitals that incur additional costs in treating low-income patients. Rural hospitals with less than 50 beds would be exempted from the limitations.

House committee provision

The House committee provision is similar to the Senate amendment except that the limitation would be set at 120 percent of the mean in fiscal year 1983, and the Secretary would be authorized to reduce the limitation to 115 percent in fiscal year 1984 and to 110 percent in fiscal year 1985. Provisions similar to those in the Senate amendment are included regarding exemptions, exceptions and adjustments, except that the House provision specifically requires appropriate adjustments for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Hospitals in operation with less than 50 beds, on the date of enactment, would be exempted from the limitation without regard to location.

Conference agreement

The conference agreement follows the Senate amendment, under which the current Section 223 limitation would be extended to include ancillary service operating costs, applied on an average cost-per-case basis, and adjusted for case-mix, effective with cost reporting periods beginning on or after October 1, 1982. In no case would reimbursement on a cost-per-case basis be reduced below the allowable cost-per-case reimbursement for the hospital's cost reporting period that immediately precedes the first cost reporting period to which the new limitation is applicable. Under the conference agreement, for the first reporting period it becomes effective, the new limitation would be set at 120 percent of the mean for hospitals of the same type; for the second year, the limitation would be 115 percent of the mean; and for the third and subsequent years, the limitation would be 110 percent of the mean.

Appropriate adjustments would be required for the special needs of psychiatric hospitals and hospitals serving a significantly disproportionate number of low-income or medicare patients. Non-SMSA hospitals with less than 50 beds would be excluded. Other appropriate exemptions, exceptions, and adjustments would be required as in the Senate provision including an adjustment to assure that the proposed limits would not be

significantly compromised if a hospital reduces its costs by cutting back on the kinds of services it provides directly to its patients (e.g., leasing its clinical laboratory).

The Secretary is expected to recalculate case-mix adjustments periodically. It is understood that initially the Secretary will need to rely on a currently available indicator of case-mix complexity such as the system developed at Yale University. It is expected that the Secretary will continue to evaluate possible methods for adjusting for case-mix and will adopt an improved method when it becomes available.

It is recognized that case-mix adjusted hospital cost data will not be available on a fully current basis, and must be updated to the hospital cost reporting period for which it will be used in establishing limits. It is expected that the Secretary will use estimated actual industry-wide cost increase data to update available data on hospital costs to the cost reporting period to which the limit will be applied; a further adjustment for anticipated cost increases during the year subject to limits will be based on a hospital wage and price index plus one percentage point.

(B) THREE-YEAR HOSPITAL RATE OF INCREASE PROVISION

Senate amendment

The Senate amendment places an overall limit on annual increases in a hospital's medicare reimbursement on a per case basis, effective for three hospital reporting periods beginning with hospital cost reporting periods beginning on or after October 1, 1982. For the first 2 cost reporting periods, hospitals would be paid 25 percent of their costs in excess of their limits, but none of the excess would be reimbursed in the third year.

The maximum allowable increase is the previous year's allowable costs (or, after the first year, the previous year's limitation ceiling amount) increased by the percentage increase in the hospital wage and price index plus 2 percentage points.

The Secretary is required to provide for exemptions, exceptions, and adjustments from the limits in cases where events beyond the hospital's control or extraordinary circumstances, including changes in the case mix of such hospital, distort the hospital's increase in costs.

House committee provision

The House committee provision establishes a target reimbursement system under which hospitals with operating costs (per case) below the target rate would be paid their costs plus a bonus of 50 percent of the savings (but not to exceed 5 percent of the target rate), and hospitals with costs above the target rate would be paid 50 percent of excess costs (up to 105 percent of target), 25 percent of excess costs (between 105 and 110 percent of target) and none of costs above 110 percent of target. These payments are subject to Section 223 limitations.

The target rate is the previous year's allowable costs (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus 1 percentage point.

The Secretary is authorized to provide appropriate exceptions and adjustments to the target rate, specifically including an adjustment for psychiatric hospitals.

The target system applies to reimbursement in the Federal fiscal years 1983, 1984, and 1985, regardless of the period covered by the individual hospital's fiscal year, but ceases upon implementation of a prospective payment system.

Conference agreement

Under the conference agreement, a target rate reimbursement system would be established applicable to a hospital's first three cost reporting periods beginning on or after October 1, 1982. Under the provision, the target rate would be the previous year's allowable operating costs per case (or, after the first year, the previous year's target amount) increased by the percentage increase in the hospital wage and price index plus one percentage point. A hospital with operating costs below the target rate would be paid its costs plus a bonus of 50 percent of the savings (but not to exceed 5 percent of the target rate); a hospital with costs above the target rate would be allowed 25 percent of its cost in excess of the target for the first 2 years; none of the excess would be reimbursed in the third year. Provider payments under the target reimbursement system could not exceed the amount payable under the new section 223 limitations.

The Secretary of HHS would be required to provide for appropriate exemptions, exceptions, and adjustments as in the Senate provision. The conferees note that adjustments could have the effect of either increasing or decreasing the target payment amount. The principal intention in authorizing such adjustments is to take into account factors that would distort either a hospital's base period or rate of cost increase in any of the three years to which the provisions are applicable. Examples of such factors include significant changes in a hospital's case-mix in a particular year when compared to the base year, extraordinary circumstances beyond the hospital's control, and a reduction in a hospital's costs resulting from cutting back on the kinds of services directly provided to patients—e.g., as the result of leasing out its clinical laboratory.

Because the proposed target rates of increase and the new section 223 limits would be determined on a per case basis, an incentive would be created to increase admissions or discharges. It is anticipated that the Secretary will give consideration to making an adjustment where a hospital manipulates admissions or discharges in order to maximize reimbursement.

Because both the new limitation on total inpatient operating costs (the expanded section 223 limitations) and the target reimbursement provisions begin as early as October 1, 1982 for hospitals with cost reporting periods beginning on that date, it is recognized that the Secretary will have limited time to prepare for implementation of these new reimbursement provisions. Accordingly, the conference agreement authorizes the Secretary to proceed to implementation on the basis of final regulations issued without the customary prior comment period. However, it is expected that comments on the final regulations will be solicited and that appropriate revisions will be made based on the comments received.

Similarly, time may not permit the normal process of approval of forms to take place under the provisions of the Paperwork Reduction Act of 1980 (P.L. 96-511). Accordingly, all revisions to the medicare cost reporting forms necessary to implement these new reimbursement provisions would be exempt from the Act until the end of calendar year 1983, after which it is expected that the Paperwork Reduction Act will be complied with in the normal manner.

In the case of hospitals currently under the OASDHI program which withdraw after August 15, 1982, the Secretary of HHS is required to compute a reduction in the amount of payments otherwise made to reflect the savings in costs achieved through withdrawals. This reduction can be offset by demonstrated expenditures for pension, health, and insurance benefits which are comparable to, and substituted for, the Social Security benefits.

(C) PROSPECTIVE PAYMENTS FOR HOSPITALS AND SKILLED NURSING FACILITIES

Senate amendment

The Senate amendment requires the Secretary to develop, in consultation with Senate Finance Committee and House Ways and Means Committee, medicare prospective reimbursement proposals for hospitals, skilled nursing facilities and to the extent feasible other providers, and to report to the committees on the proposals within 5 months.

House committee provision

The House committee provision requires the Secretary to develop and to submit to Congress by December 31, 1982, a medicare prospective payment plan for hospital inpatient services and extended care services designed to take effect October 1, 1983, and which, if implemented would not result in any increase in program costs. If submitted on a timely basis, the plan would take effect and replace reimbursement policy under existing law unless disapproved by concurrent resolution of Congress adopted by July 1, 1983.

Conference agreement

The conferees agreed to the Senate provision. Because of the desire of the conferees to proceed as soon as possible with a prospective payment system, it is expected that the administration recommendations, when presented to the Finance Committee and Committee on Ways and Means, will be sufficiently detailed as to be able to serve as a basis for legislation.

(D) RECOGNITION OF STATE HOSPITAL COST CONTROL SYSTEMS

Senate amendment

No provision.

House committee provision

Under the House committee provision, the Secretary would be authorized, at his discretion, to permit payment under an alternative reimbursement system if, upon application by the State, the Secretary determined that (1) the system would apply to substantially all non-Federal acute care hospitals in the State and would apply to the review of at least 75 percent of all revenues or expenses for inpatient hospital services including medicare and medicaid; (2) the Secretary has been provided satisfactory assurances regarding the equitable treatment of all entities that pay hospitals for inpatient services (including medicare and medicaid), together with assurances regarding the equitable treatment of hospital employees and patients; and (3) the Secretary has been provided satisfactory assurances that under the system, over a 36-month period, the amount of payments made under the proposed alternative reimbursement system would not be greater than the amount of payments which would otherwise have been made under medicare. In determining whether an alternative system would result in reimbursement which is less than otherwise would have been paid in a State, the Secretary would be permitted to take into account previous reductions in medicare reimbursement due to the operation of a hospital reimbusement control system if such

system has resulted in an aggregate rate of increase in operating costs of inpatient services under medicare which was less than the national aggregate rate of increase in such costs.

Conference agreement

The conference agreement included the House committee provision with a modification with respect to the termination of current medicare waivers. The conferees included the House committee provision to allow the Secretary to take advantage of effective alternative reimbursement systems which have already been implemented or those which may be implemented in the future. Although the provision provides discretion to the Secretary in approving alternative state systems, the conferees expect the Secretary to approve such systems if they meet the criteria set forth in the provision and other criteria as established by the Secretary.

The provision also permits the Secretary to take into account previous reductions in medicare rates of increase due to the operation of a state hospital reimbursement control system. The conferees included this provision because of their concern that State programs which control substantially all revenues other than medicare may have already achieved savings for the medicare program through reducing their overall rate of growth in hospital expenditures.

With respect to the authority provided to the Secretary under current law to establish and continue medicare demonstration projects, the Secretary would be prohibited from terminating a project until six months after he notifies the State of his decision to terminate.

11. Elimination of private room subsidy

Senate amendment

The Senate amendment requires the Secretary to publish regulations which would eliminate the subsidy of private hospital rooms. Medicare currently determines its payments to hospitals on the basis of the average costs of all of a hospital's rooms, including its private accommodations, even though medicare generally is intended to cover only the costs of semi-private room accommodations.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. The provision is intended to direct the Secretary to implement the provisions of current law. The conferees note that elimination of this subsidy does not alter medicare's policy of covering private rooms when medically necessary, and does not alter the options currently available to States to cover such private rooms under medicaid.

12-13. Single reimbursement limits for skilled nursing facilities and home health agencies

Senate amendment

The Senate amendment requires the Secretary to modify existing regulations which would establish single payment limits for skilled nursing facilities and home health agencies on the basis of the cost experience of free-standing facilities. Separate limits are currently established for such facilities depending on whether they are hospital-based or free-standing facilities.

The amendment would be effective with respect to home health agency cost reporting periods beginning on or after the date of enactment and for skilled nursing facility cost reporting periods beginning on or after October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment. The conferees intend that in establishing the payment limits the Secretary shall make adjustments, as appropriate, based on legitimate cost differences in hospital-based facilities resulting from such factors as a more complex case-mix or the effects of medicare cost allocation requirements.

14. Elimination of duplicate payments for outpatient services

Senate amendment

The Senate amendment requires the Secretary to issue regulations that would eliminate the duplicate payment of overhead expenses from the recognized charges of a physician who performs services in a hospital's outpatient department. The amendment would be effective with respect to charges for services rendered on or after the date of enactment.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate amendment.

15. Audit and medical claims review

Senate amendment

The Senate amendment requires that the medicare contractor budgets for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent specifically for provider cost audits and medical review activities.

House committee provision

Similar provision.

Conference agreement

The conference agreement includes the House committee provision.

16. Temporary delay in periodic interim payments

Senate amendment

The Senate amendment modifies the existing periodic interim payment (PIP) procedure for hospitals by providing for a 3 week delay in the flow of PIP payments during September 1983; a similar deferral is authorized during September 1984.

House committee provision

Similar provision.

Conference agreement

The conference agreement includes the Senate amendment.

17. Reimbursement of assistants at surgery

Senate amendment

The Senate amendment prohibits reasonable charge reimbursement for an assistant at surgery in hospitals where an approved training program exists in the specialty, except under the following exceptional circumstances: (1) the service is complex and requires performance by a team of physicians; (2) the patient has multiple conditions which require the presence of, and active care by, a physician of another specialty during an operation, or (3) in the case of exceptional medical circumstances where qualified house staff are not available to assist at surgery. The Senate provision would be effective with respect to services performed on or after October 1, 1982.

House committee provision

Same provision.

Conference agreement

The conference agreement follows the Senate amendment with a modification under which payment may be made on a reasonable charge basis if the services, as determined by the Secretary: (1) are required due to exceptional medical circumstances; (2) are performed by team physicians needed to perform complex medical procedures; (3) constitute concurrent medical care which requires the presence of, and active care by, a physician of another specialty during surgery; or (4) are required in other circumstances as determined by the Secretary.

18. Judicial review of decision by provider reimbursement review board

Senate amendment

The Senate amendment modifies existing requirements pertaining to judicial review of decisions made by the Provider Reimbursement Review Board (PRRB). Under existing law, judicial actions brought jointly by several providers of services in connection with adverse decisions of the PRRB may be taken only in the U.S. District Court for the District of Columbia. The Senate provision permits Federal judicial review of adverse decisions of the PRRB involving actions brought jointly by several providers of medicare services to be conducted by the U.S. District Court for the district where the "principal party" for the group is located. The provision would be effective on enactment.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

19. Prohibition of payment for ineffective drugs

Senate amendment

The Senate amendment provides for implementation of Section 2103 of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) effective October 1, 1982. Section 2103 prohibited the use of Federal funds under medicare part B and under medicaid to pay for certain less than effective drugs. Subsequent legislation has led to delays in the implementation of this provision.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment, with a modification to make the provision effective September 30, 1982.

20. Medicare payments to health maintenance organizations (HMO's)

Senate amendment

The Senate amendment modifies current law requirements for contracting with health maintenance organizations (HMO's) by authorizing prospective reimbursement under risk sharing contracts with competitive medical plans at a rate equal to 95 percent of the average cost of providing services to a medicare beneficiary in the fee-for-service sector (the adjusted average per capita cost--AAPCC).

The Senate amendment includes the current law definition of eligible beneficiaries except that persons medically determined to have end-stage renal disease are excluded. It defines a competitive medical plan as either a Federally-qualified HMO, a State-licensed HMO, or an organization which meets certain service requirements, receives fixed and

periodic payments on behalf of enrollees, provides physician services through staff MDs or MDs under contract, assumes financial risk on a prospective basis and meets financial viability standards.

The Senate amendment changes existing enrollment/disenrollment policies by: (a) requiring an annual open enrollment period of at least 30 days; (b) requiring acceptance of beneficiaries in order of application up to capacity with the same exception as under existing law; (c) specifying that a beneficiary may disenroll on a monthly basis with one month's notice; and (d) providing that a plan may not disenroll or refuse to reenroll a beneficiary because of health status or services required.

The Senate amendment would specify that 50 percent of enrollees must be other than medicare or medicaid beneficiaries, however, the Secretary could waive this requirement. In no case could more than 50 percent of enrollees be medicare beneficiaries. The Secretary would be required to establish minimum standards for consumer information to be supplied to eligible beneficiaries.

The Senate amendment would specify that reasonable cost reimbursement be available indefinitely. Under the risk reimbursement contract, the calculation of the Government's contribution would be based on 95 percent of the AAPCC (including certain administrative costs), reflecting such factors as age, sex, institutional status, disability and health status, and place of residence. Plans with at least 1,000 members would be eligible for risk contracts.

The Senate provision would require three new medicare members to enroll in a plan for every current medicare enrollee allowed to convert to the new reimbursement system and that current HMO enrollees turning age 65 would be included in the formula.

The Senate provision would provide that if the adjusted community rate (ACR) for a plan is less than the AAPCC, the plan must spend the difference to provide additional benefits or services; reduction in premiums, deductibles, or copayments; or to provide rebates and dividends to the enrollees. Further, a committee of medicare enrollees must approve the additional benefits.

House committee provision

The House committee provision would authorize a medicare payment option for health maintenance organizations (HMO's). The provision is similar to the Senate amendment except: State licensed HMO's are not included in the definition of an eligible HMO; the length of the annual open enrollment period is to be of "reasonable duration"; services must be accessible to enrollees within the HMO service area; rebates and dividends would not be permitted; two new medicare members must enroll in a plan for every current medicare enrollee allowed to convert under the risk contract; and additional non-optional services would have to be approved by the Secretary.

Conference agreement

The conference agreement follows the Senate amendment with modifications. The agreement authorizes both prospective reimbursement under risk-sharing contracts and cost-based reimbursement under reasonable cost reimbursement contracts for health maintenance organizations (HMO's) and other medical plans. It contains compromise language permitting the Secretary to enter into risk-sharing contracts with eligible organizations which have at least 5,000 members, although this limitation may be waived for plans in non-urbanized areas. The Secretary may enter into reasonable cost reimbursement contracts with eligible organizations which he or she determines do not have the capacity to bear the risk of potential losses under a risk-sharing contract or which so elect or which do not meet the membership size limitation.

The conference agreement defines organizations eligible to enter into contracts under section 1876 as federally qualified HMO's, or HMO's or other plans meeting a generic definition of comprehensive health plans. The Senate amendment regarding State licensed HMO's was not included. The additional requirements with respect to the provision of services to medicare members combine the similar Senate and House committee requirements and include the Senate requirement that the annual open enrollment period must be of at least 30 days duration. As provided in the Senate amendment, an HMO's or plans combined medicare and medicaid enrollment cannot exceed 50 percent except under certain circumstances where a waiver is available.

The conference agreement includes language similar to the Senate amendment describing the actuarial factors to be used in setting the amount of the prospective medicare payment under a risk-sharing contract. In making the adjustment for disability status the Secretary can use his or her discretion as to whether to take into account eligibility for cash payments under the disability insurance program or under SSI.

The conference agreement provides that, as in the House committee provisions, to the extent that the medicare payment exceeds the eligible organization's adjusted community rate under a risk-sharing contract, the organization must use the savings to provide its medicare members with additional health benefits or reduced cost sharing. The Senate amendment permitting rebates and dividends was not included. The Senate amendment requiring that a group of the organization's medicare members must select any additional benefits was also not included, and the House committee language permitting the organization to decide upon the use of the savings was included.

The conference agreement contains the House committee language requiring two new medicare enrollees to enroll for every one current medicare member who converts to the new system under a risk-sharing contract.

The conference agreement retains the identical Senate amendment and House committee language regarding the effective date.

The conferees have agreed upon this delay in implementing this new reimbursement system because of their concern that the adjustments made under the current AAPCC do not adequately reflect the relative health care needs (i.e., disability status and other characteristics) of medicare beneficiaries who enroll in the HMO as compared to beneficiaries in the fee-for-service system. The Secretary must develop additional adjustment factors to account for the resulting cost differentials before implementing the program.

Conference agreement

The conference agreement includes the Senate amendment.

22. Hospice care

Senate amendment

The Senate amendment authorizes coverage under medicare part A for hospice care for terminally ill beneficiaries with a life expectancy of six months or less. A medicare beneficiary could elect to receive hospice care in lieu of other medicare benefits except those of the attending physician. Benefits covered include nursing care, therapies, medical social services, homemaker-home health aide services, short-term inpatient care, outpatient drugs for pain relief and respite care. The provision requires that hospices be classified as a separate provider category in the medicare program. Reimbursement would be based on reasonable costs or such other test of reasonableness as the Secretary shall determine, subject to an area adjusted limit or cap set at 40 percent of the average medicare per capita expenditure during the last six months of life for medicare beneficiaries dying of cancer. The provision requires the Secretary to continue the existing Health Care Financing Administration's hospice demonstration projects until the effective date of the hospice benefit. Special exceptions are provided for certain well established hospices.

House committee provision

The House committee provision includes a similar provision.

Conference agreement

The conference agreement follows the Senate amendment with modifications: The benefit period would consist of two periods of 90 days and one period of 30 days; the reference to "speech therapy" would be changed to "speech-language pathology"; copayments would be limited to approximately (i) 5 percent of a hospices cost (as determined by the Secretary) for respite care services, but such coinsurance amount could not exceed the inpatient hospital deductible during a hospice election (as long as the hospice election is not broken by more than 14 days); (ii) in addition, copayments equal to the lesser of, approximately 5 percent of charges or $5 per prescription, for covered drugs; no reimbursement would be permitted under part B of medicare for an individual's attending physician if the attending physician is employed by the hospice; a hospice program would have to provide directly substantially all of the following core services; nursing care provided by or under the supervision of a registered professional nurse, medical social services under the direction of a physician, physicians services and counseling services; the amendment would be clarified to provide that non-core services, including physical and occupational therapy, speech-language pathology, home health aide services and homemaker services, medical supplies and inpatient services could be provided "under arrangements" with others; the written plan of care could be reviewed by the attending physician as well as the hospice physician.

The Senate amendment would be clarified to authorize the Secretary to eliminate duplication where any provider requirements under this provision are the same as requirements already met by the provider under other agreements with the Secretary. In addition the Secretary is required to coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of services of another type. Hospice would be required to file separate cost reports.

It is the intent of the conferees that hospices provide a basic and coordinated range of services while giving hospices the flexibility to provide, under arrangements, for

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some services. Hospices would not be required to provide inpatient services directly. However, it is the intention of the conferees that the hospice would be directly responsible for: providing professional supervision over care provided in the inpatient unit; for ensuring that the care provided in the inpatient unit be consistent with the hospice concept of care through the delivery of care or supervision of such care by an interdisciplinary group; and, that the treatment provided be reasonable and necessary for the palliation and management of terminal illness.

Counseling services would be required as a core service under the hospice benefit. The conferees understand that counseling services are an integral part of hospice care however, concern has been expressed regarding the potential cost impact of allowing separate billing for such services. The conferees intention is to permit reimbursement for the salaries of counselors but not to provide reimbursement for services billed as a separate service.

The conferees provided an exception for hospices which commenced operation before January 1, 1975 from; (i) the reimbursement cap; (ii) the limitation on inpatient days; and (iii) the limitation on respite care days. In allowing the above exceptions for these earliest of the Nation's hospices, the conferees intend to give them an opportunity to conform to the prevailing patterns of hospice care and to meet the requirements in the law. The conferees anticipate that no extension of the exemption would be allowed after November 1, 1986, should the basic hospice provision be extended beyond that date.

The provision would be effective for hospice care provided on or after November 1, 1983. The provision would sunset on October 1, 1986, however, an individual who has an election in effect for a period on October 1, 1986, is entitled to hospice care benefits after that date for the remainder of that period and for any subsequent consecutive period to which the individual would have been entitled before such date.

23. Coverage of extended care services without regard to 3-day prior hospitalization requirement

Senate amendment

No provision.

House committee provision

The House committee provision directs the Secretary to provide skilled nursing facility coverage without regard to the 3-day prior hospital stay requirement at such time as, through reimbursement changes or other adjustments, the Secretary determines that this will not lead to an increase in cost and will not alter the acute care nature of the benefit. For persons covered without a prior hospital stay, limitations may be provided on scope or extent of services and on categories of individuals eligible.

Conference agreement

The conference agreement includes the House committee provision.

24. Prohibiting recognition of payments under certain percentage arrangements

Senate amendment

No provision.

House committee provision

Under the House committee provision, no cost which a provider incurs under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement or claim for reimbursement for services. The provision would not apply to a percentage contract that is reasonable and where such contract is a customary commercial business practice (e.g. commissions paid to salesmen) or provides incentives for the efficient and economical operation of the provider of services.

The provision would generally apply upon enactment. However, for arrangements entered into before enactment, the provision applies one year after enactment, except where provider can unilaterally terminate the arrangement, in which case the provision applies 30 days after the first date that the provider can terminate the arrangement.

Conference agreement

The conference agreement includes the House committee provision with modifications. The prohibition would apply to contracts where the cost is determined on the basis of a percentage (or other proportion) of the provider's charges, revenues, or claim for reimbursement. The provision would be effective upon enactment with certain exceptions as in the House committee provision. The provision would not apply prior to October 1, 1982 to costs incurred under a percentage arrangement where such costs were attributable to the services of a provider-based physician (described in Item 8 of the conference agreement). Beginning October 1, 1982, the provision would not apply to such a provider-based physician where the limitation on reimbursement for the cost of such a physician's services had been implemented.

25. Interest charges on overpayments and underpayments

Senate amendment

No provision.

House committee provision

The House committee provision requires that once a final determination is made that a provider or supplier has received an overpayment or underpayment from medicare, and payment of the excess or deficit is not made within 30 days of the date of determination, interest charges would be applied to the balance due.

The rate of interest charged would equal the average of the rates of interest on obligations issued for purchase by the Federal Hospital Insurance Trust Fund for the 3-month period ending with the month before the month in which the final determination is made. The provision would be effective with respect to final determinations made on or after the date of enactment.

Conference agreement

The conference agreement follows the House committee provision with a modification providing that interest would be determined in accordance with regulations of the Secretary of the Treasury applicable to charges for late payments which are periodically published pursuant to Section 8020.20 of the Treasury Fiscal Requirements Manual.

26. Prohibiting payment for Hill-Burton free care

Senate amendment

No provision.

House committee provision

The House committee provision requires the Secretary to provide, by regulation, that the costs incurred by a hospital or skilled nursing facility in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable costs for purposes of medicare reimbursement. The provision is effective for costs incurred on or after date of enactment.

Conference agreement

The conference agreement includes the House committee provision. The provision is intended to clarify that Hill-Burton free care costs have never been, and are not, allowable for medicare reimbursement purposes. The provision, therefore, applies to all such costs that have been, or will be incurred except those recognized by the final judgment of a U.S. Court of Appeals entered into prior to enactment.

27. Prohibiting payment for anti-unionization activities

Senate provision

No provision.

House committee provision

The House committee provision prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees with respect to unionization. The provision would apply to costs incurred on or after date of enactment.

Conference agreement

The conference agreement includes the House committee provision.

28. Eliminating "lesser of cost or charges" provision

Senate amendment

No provision.

House committee provision

The House committee provision specifies that the lesser of cost or charges provision would not apply to a class of providers if the Secretary determines and certifies to the Congress that its elimination will not increase medicare payments to that class of provider. It is intent of the conferees that such a determination would take account of both past experience under the provision and possible changes in the cost accounting and charging practices of providers in the absence of the provision.

The provision would be effective on the date the Secretary specifies in his certification to Congress.

Conference agreement

The conference agreement includes the House committee provision. It is the intent of the conferees that the lesser of cost or charges provision be reestablished at such time as the Secretary determines that the non-application of the provision has increased program costs.

29. Extending medicare proficiency examination authority

Senate amendment

No provision.

House committee provision

The House committee provision extends to September 30, 1983, the period during which the Secretary shall conduct a program to determine the proficiency of health care personnel, including clinical laboratory personnel, who do not meet formal education requirements. The provision would be effective upon enactment.

Conference agreement

The conference agreement includes the House committee provision.

30. Prohibiting retroactivity of regulations regarding access to books and records

Senate amendment

No provision.

House committee provision

The House committee provision would prohibit regulations yet to be issued under the authority of section 952 of Public Law 96-499, the Omnibus Budget Reconciliation Act of 1980, from being applied retroactively.

Section 952 of Public Law 95-499 requires the Secretary of HHS or the Comptroller General to have access to the books and records of subcontractors who supply providers with goods and services valued at $10,000 or more over a 12-month period. The law directs the Secretary to prescribe in regulations the procedures and criteria to be used in obtaining access to such books and records.

The provision would become effective upon enactment.

Conference agreement.

The conference agreement includes the House committee provision, with a modification which would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1983, preceded by a comment period of no less than 60 days.

31. Health Care Financing Administration/private sector utilization review initiative

Senate amendment

No provision.

House bill

No provision.

Conference agreement

Under the conference agreement, the Secretary of HHS would be required by statute to undertake an initiative to improve medical review by intermediaries and carriers under Title XVIII of the Social Security Act and to encourage similar review efforts and utilization control activities by private insurers and other private entities. The medicare initiatives shall include the development of fiscal targets and evaluation of the performance of intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

It is the intent of the conferees that, where such review activity results in denial of payment to institutional and other providers under medicare, such providers shall be prohibited from collecting any payments from beneficiaries (in excess of those otherwise provided for under current medicare law.)

32. Special part B enrollment without penalty (Merchant Seamen)

Senate amendment

No provision.

House committee provision

The House committee provision establishes a special enrollment period for medicare part B beginning on the first day of the first month beginning at least 20 days following enactment, and ending on December 31, 1982. During that period, otherwise eligible merchant seamen and other individuals would have a one-time opportunity to enroll in part B without incurring the current law penalty of higher premium payments for delayed enrollment.

Conference agreement

The conference agreement includes the House committee provision, modified to provide the special open enrollment period for merchant seamen only.

SUBTITLE B—MEDICAID PROVISIONS

1. Copayments by medicaid recipients

Senate amendment

The Senate amendment permits States to impose nominal copayments on all beneficiaries for all services with certain exceptions. The Senate provision provides for the following limitations on copayments:

(a) Precludes States from imposing such charges with respect to inpatient hospital services and mandatory ambulatory services for categorically needy children under 18 and services related to the pregnancy of categorically needy women, and permits States similarly to exclude medically needy children and pregnant women from copayments.

(b) Precludes States from imposing copayments with respect to all services provided to categorically needy SNF/ICF patients; permits States to exempt medically needy SNF/ICF patients from copayments.

(c) Precludes States from imposing copayments on emergency services for categorically needy persons.

(d) Permits States to exempt all HMO enrollees from copayments.

The provision would be effective on enactment.

House committee provision

The House Committee provision permits States to impose nominal copayments on all beneficiaries for all services with certain exceptions. The provision specifies a $1 maximum allowable copayment amount for hospital, physician, outpatient, and clinic services for the categorically needy; copayments of up to $4 would be allowed for non-emergency services in emergency rooms.

The provision also provides for the following limitations on copayments:

(a) Precludes States from imposing charges with respect to all services for categorically needy and medically needy pregnant women and children under 21.

(b) Precludes States from imposing copayments with respect to all services provided to categorically needy SNF/ICF patients.

(c) Precludes States from imposing copayments on emergency services for categorically needy and medically needy persons.

(d) Precludes States from imposing copayments on categorically needy recipients enrolled in an HMO.

(e) Precludes States from imposing copayments on family planning services.

The House provision would be effective October 1, 1982.

Conference agreement

The conference agreement is similar to the Senate provision with modifications. The conference agreement specifies, with one exception, that all copayments must be nominal in amount. The conferees intend that the existing regulations defining "nominal" will continue to serve as the basis for determining whether proposed copayment charges meet the statutory requirements. If the Secretary determines in the future that adjustments to the current regulations are to be made, it is the intention of the conferees that the levels of cash assistance in the States should be considered. The conferees recognize that persons depending on cash assistance have little available income to make copayments, and the standards for nominality should be such that the copayments do not serve as a barrier to receipt of necesssary medical services. The conferees intend that the Secretary, in promulgating regulations implementing this provision, adhere to the requirements for notice and opportunity for comment under the Administrative Procedures Act, 5 U.S.C. 553(a)(2), including the issuance of a notice of proposed rulemaking. The Secretary may not redelegate the definition of "nominality" to the States.

The "nominal" requirement cannot be waived except for demonstration under tightly limited circumstances, with one exception. The Secretary could waive the requirement limiting copayments to nominal amounts in the case of nonemergency services in emergency rooms where the State has established to the satisfaction of the Secretary that alternative sources of nonemergency outpatient services are actually available and accessible. Where the Secretary is satisfied that such conditions have been met, and a waiver has been granted, the State may impose a charge up to twice the amount defined as nominal by the Secretary in regulations.

The conference agreement precludes States from imposing copayments on children under age 18; States may provide that no copayments would be imposed for children aged 18 to 21. The agreement also precludes States from imposing copayments on services related to pregnancy (including prenatal, delivery, and post partum services). States may at their option provide that no copayments would be imposed for any service provided to pregnant women. These limitations would apply to both categorically needy and medically needy persons.

The conference agreement bars States from imposing copayments on all services provided to inpatients in SNF's and ICF's who are required to spend all their income for medical expenses except for the amount exempted under the State standard for personal needs (which cannot be less than the SSI payment for persons in medical institutions, and which may be more). This prohibition on copayments also extends both to the categorically needy and medically needy population groups.

The conference agreement bars States from imposing copayments on categorically needy HMO enrollees. States may also exempt medically needy HMO enrollees from such charges.

With these exceptions, the conference agreement makes no changes in the comparability requirements of current law.

Additionally, the agreement provides that copayments may not be imposed on family planning services or emergency services for either categorically needy or medically needy individuals.

The conference agreement is designed to allow States to deter unnecessary utilization while not imposing an unreasonable hardship on beneficiaries. The conference agreement therefore includes a provision which specifies that no provider participating under medicaid may deny care or services to an individual because of his or her inability to pay the required cost-sharing charges. This does not excuse the beneficiary from liability for paying such charges.

2. Elimination of Federal matching for medicare part B buy-in

Senate amendment

The Senate amendment eliminates Federal matching for all medicare part B premium payments. Most State medicaid plans currently make the monthly medicare part B premium payment for their dual eligible beneficiaries under a "buy-in" agreement. Federal matching for premium payments is only available for the cash assistance groups.

The provision is effective with respect to premiums due for months after September 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate provision.

3. Modifications in Lien Provision

(A) LIENS

Senate amendment

The Senate amendment allows States to impose liens on the real property, including the home, of institutionalized medicaid recipients who fail to make a showing that they reasonably expect to be discharged from a nursing home or other long-term medical institution and return home.

The Senate amendment specifies that the lien could not be foreclosed (and States could not recover the cost of medical assistance provided) until the recipient voluntarily chooses to sell the property, or, until after the recipient's death, and the death of the surviving spouse and/or any children who are under 21, blind or disabled.

House committee provision

The House Committee provision allows States to impose liens on real property, including the home, of institutionalized medicaid recipients who the State establishes are reasonably likely to remain in a nursing home for the remainder of their lives.

The House Committee provision is similar to the Senate provision with respect to allowable foreclosure actions. However, it specifies that the State could also not execute a lien while a recipient's sibling, son, or daughter is lawfully residing in the home and was living in the home for at least one year immediately prior to the recipient's admission to the nursing home. Further, if the home is sold before the lien is executed, the proceeds would be put in trust and used to meet the support needs of the spouse and minor or disabled child.

Conference agreement

The conference agreement follows the Senate amendment with modifications. States are allowed to impose liens on real property, including the home, of institutionalized medicaid beneficiaries who the State determines, after notice and opportunity for a hearing, are reasonably likely to remain in a nursing home for the remainder of their lives. The burden of proof in this determination, which is to be conducted in accordance with procedures established by the State, is on the State. States are not authorized to impose liens on the homes of beneficiaries if the spouse, or blind, disabled or dependent child is residing in the home, or if a beneficiary's sibling is residing in the home who has equity in the home and who has lived there continuously since at least one year prior to the beneficiary's admission to the nursing home.

The agreement further specifies that while a State may impose a lien, it may not foreclose upon the property while a beneficiary's adult son or daughter is residing in the home if he or she (1) has lived in the home continuously for at least two years prior to the beneficiary's admission to the nursing home; and (2) has provided care to the beneficiary that permitted the individual to delay institutionalization; or if a sibling, even though without equity in the home, has lived there continuously since at least one year prior to the beneficiary's institutionalization.

(B) TRANSFER OF ASSETS

Senate amendment

The Senate amendment allows States to deny medicaid eligibility for 24 months and (at State option) for a longer period to persons who dispose of their homes for less than fair market value, within 24 months prior to admission to an institution even though such disposal would not make them ineligible for SSI.

States could either deny eligibility to all such individuals for periods reasonably related to the uncompensated value, or they could deny eligibility in all cases for a minimum of 24 months, with the option to provide for longer periods of ineligibility in the case of individuals who disposed of homes worth substantial amounts. The provision would not apply in the case of individuals who reasonably expected to be discharged from the medical institution and return home; individuals who demonstrated that they had intended to obtain fair market value or other valuable consideration in exchange for their homes; or individuals who transferred title to their homes to a spouse or a minor or handicapped child. The State could also make an exception in other cases where undue hardship would otherwise result.

House committee provision

The House Committee provision is similar to the Senate amendment. However, the provision applies to transfers for less than fair market value within 24 months prior to application for benefits. In addition, the provision allows States to deny medicaid coverage for a period computed in a manner such that the cost of the services that would otherwise be provided to the individual during this period bears a reasonable relationship to the amount of the uncompensated value of the home. The period of ineligibility would begin with the month in which the home was disposed of.

Conference agreement

The conference agreement follows the Senate amendment with modifications to specify that the period of ineligibility is 24 months from the date of transfer, except that States: (a) are allowed to deny eligibility for a longer period if the uncompensated value of the home is greater than the cost of 24 months of medicaid benefits; and (b) are required to set a shorter time period if the uncompensated value of the home is less than 24 months of medicaid benefits. Under either circumstance, the period of eligibility delay must be related to the uncompensated value of the home, based on the beneficiary's equity, and the cost of medicaid benefits. The provision applies to transfers for less than fair market value occurring up to 24 months prior to application for medicaid benefits.

The conference agreement also amends existing law transfer of assets policy by allowing a State to waive the delay of medicaid eligibility in cases of undue hardship. The conferees also note that the change in SSI policy which exempts burial spaces and certain policies from an individual's resources (see item No. 6 of Subtitle F) has the effect of also exempting such items from an individual's resources for purposes of determining medicaid eligibility in most States.

(C) EFFECTIVE DATE

Senate amendment

The Senate amendment is effective on enactment.

House committee provision

The House Committee provision applies to applications for assistance filed on or after October 1, 1982.

Conference agreement

The conference agreement specifies enactment as the effective date for the lien provisions and specifies that the provision applies with respect to transfers of assets occurring after the date of enactment.

4. Limitation on Federal financial participation in erroneous medical assistance expenditures

Senate amendment

The Senate amendment deletes the Medicaid error rate provisions and penalties incorporated in the 1980 Appropriations Act and substitutes language establishing a 3 percent target error rate for quarters beginning after March 30, 1983. The provision provides that prospective fiscal sanctions are to be applied beginning in the second half of FY83 for States which have error rates exceeding 3 percent. The Secretary is provided discretion in applying the fiscal penalties, in whole or in part, for a State which has made good faith efforts to meet the target. The provision is effective on enactment.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate provision with modifications. Technical errors, i.e., errors which if corrected would not have made a difference in the amount of medical assistance paid, would be excluded from the calculation. The agreement specifies that where errors are made relating to amounts of medical expenses that must be incurred to establish Medicaid eligibility (the "spend-down" requirement), only the smaller of the amount of medical assistance provided or the amount of the spend-down that was miscalculated shall be determined to be an erroneous payment. Further, errors in determination of resources are treated in a similar manner: only the smaller of the amount of medical assistance provided or the amount of miscalculation of the resource which exceeded the allowable resource level will be counted as an erroneous payment.

5. Optional medicaid coverage for individuals who would have qualified for AFDC but for amendments to the earned income disregard and related provisions

Senate amendment

The Senate amendment allows States to continue medicaid coverage for working families who are made ineligible for AFDC as a result of certain changes made by the Omnibus Budget Reconciliation Act of 1981. (Public Law 97-35). These changes, relating to the earned income disregard and work expense deductions, resulted in the loss of AFDC eligibility, and therefore automatic medicaid coverage, for certain individuals. The amendment would be effective for calendar quarters beginning after the date of enactment.

House committee provision

Similar provision.

Conference agreement

The conference agreement does not contain the Senate amendment or the House Committee provision.

6. Medicaid coverage of home care of certain disabled children

Senate amendment

No provision.

House committee provision

The House committee provision provides States with the option of covering under Medicaid certain disabled children age 18 or under who are living at home. A State could extend such protection to an individual who would be eligible for SSI, and therefore Medicaid, if he was in a medical institution. Further, the State must determine that: (a) the child requires the level of care provided in an institution; (b) it is appropriate to provide such care outside of the institution; and (c) the estimated cost of care at home is no more expensive than the estimated cost of institutional care.

Conference agreement

The conference agreement includes the House committee provision.

7. Technical corrections relating to medicaid

Senate amendment

The Senate amendment makes technical changes in Public Law 97-35.

House committee provision

The House committee provision includes identical technical changes with one additional provision specifying that the Secretary is not authorized to waive the requirements for State contracting on a risk basis with HMO's and other prepaid entities found in section 1903(m) of the Social Security Act.

Conference agreement

The conference agreement follows the Senate provision with a modification to delete the Secretary's authority to waive the section 1903(m) requirements. However, the conferees recognize that some waivers of section 1903(m) have already been granted. In order to minimize the disruption of arrangements which have already been implemented under these waivers, the conference agreement specifies that the limitation on the Secretary's waiver authority shall not apply where a waiver was granted by the Secretary and the waivered arrangements were in effect prior to August 10, 1982. This exemption extends only for the period for which the waiver was initially approved.

It is understanding of the conferees that the types of entities subject to the requirements of section 1903(m) would not include contractual arrangements between the State and an individual physician, or a group of physicians, under which (1) case management is the primary purpose; (2) hospital services are not provided directly by, or under contract for payment to, such physician or physician group; (3) the physician or physician group receives at least 25% of its gross revenues from non-Medicaid and non-Medicare patients (through fee-for-service or other reimbursement methods); (4) the Medicaid revenues that the physician or physician group would otherwise receive from the arrangement will not increase more than 20% as a result of a decrease in the use by beneficiaries under management of hospital and other covered services; and (5) primary care services are available on a 24-hour basis.

The conference agreement makes explicit current law related to coverage of the optional categorically needy, as reflected in current regulations at 42 CFR § 435.210 *et seq.* The conferees do not intend any change in current law through this recodification.

8. Medicaid funding in American Samoa

Senate amendment

No provision.

House bill

No provision.

Conference agreement

The conferees agreed to a provision providing medicaid funding to the territory of American Samoa. Federal matching of 50 percent of expenditures would be authorized, up to a maximum Federal contribution of $750,000 per year. Due to the unique circumstances in the health system in American Samoa, the Secretary is authorized to waive any provisions of title XIX except the requirements (1) of State matching, (2) of the maximum amount of Federal funds that can be spent, and (3) that expenditures be for health services covered under the title.

9. Nursing home deregulation moratorium

Senate amendment

No provision.

House committee provision

No provision.

Conference agreement

The conferees agreed to a provision which would preclude the Department of Health and Human Services from implementing certain proposed changes regarding survey and certification requirements for nursing homes for 6 months from the date of enactment of this provision. The intent of the conferees in establishing this moratorium is to provide opportunity for the further review, revision or withdrawal of the proposed regulations, published in the Federal Register on May 27, 1982. The conferees anticipate that the Secretary would consult with the Congress, the General Accounting Office, groups representing nursing home residents, state survey and certification agencies and nursing home operators prior to resubmitting the regulations. The conferees do not intend to preclude courts with proper jurisdiction from ordering changes in the current regulations prior to the end of the moratorium.

SUBTITLE C—UTILIZATION AND QUALITY CONTROL PEER REVIEW

1. Establishment of utilization and quality control peer review program

Senate amendment

The Senate amendment repeals the existing Professional Standards Review Organization (PSRO) program and requires the Secretary to enter into contracts for utilization and quality control peer review. The Secretary would also be required to consolidate geographic areas previously established for PSRO's.

The provision requires the Secretary to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannially. The organizations must be composed of, or have available to them, a substantial number of licensed doctors of medicine or osteopathy actually practicing in the area. Priority consideration must be given to physician-sponsored organizations who are representative of the physicians in the area. Payor and provider organizations would be excluded from consideration during the first 12 months that contract applications are considered.

Review organizations, which can be proprietary or nonprofit, may review the professional activities of physicians, other practitioners and institutional and noninstitutional providers in providing services to medicare beneficiaries subject to the provisions of these contracts. The review will focus on (1) the necessity and reasonableness of care, (2) quality of care, and (3) the appropriateness of the setting.

House bill

No provision.

Conference agreement

The conference agreement follows, with modifications, the Senate provision repealing the existing Professional Standards Review Organization (PSRO) program and requiring the Secretary of HHS to enter into performance contracts for utilization and quality control peer review.

The conference agreement follows the Senate amendment requiring the Secretary to consolidate existing PSRO review areas. The conferees intend that the Secretary, in consolidating review areas, shall maximize administrative and review efficiency. The conferees intend that the Secretary will not teminate small PSRO's that are operating effectively and efficiently but will instead permit such PSRO's to contract with the new review organization for that area without duplication of administrative costs.

The conference agreement follows the Senate amendment regarding the conclusiveness of determinations respecting payment. It is the understanding of the conferees that, where such review activity results in denial of payment to institutional or other providers under medicare, such providers will be, as under current law, prohibited from collecting any payments from beneficiaries in excess of those otherwise provided for under current medicare law.

The conference agreement follows the Senate amendment requiring 2-year contracts with peer review organizations composed of, or having available, a substantial number of licensed physicians with a modification which would:

(a) prohibit contracts with provider or provider-affiliated organizations (although subcontracts for delegated review purposes with such organizations would be permitted) and

(b) provide that contract termination procedures would not apply to contract nonrenewals.

The conferees intend that review organizations avoid financial conflicts of interest with providers subject to review. The conference agreement prohibits the Secretary from entering into a contract with an entity which is, or is affiliated through management, ownership, or common control with, a health care facility or association of such facilities whose services they would be responsible for reviewing. The conference agreement does not, however, bar a review organization from delegating the review function to a provider by subcontract, if the organization finds that the provider will effectively and efficiently review itself.

The conference agreement follows the Senate provision exempting review organizations from the Freedom of Information Act and establishing disclosure rules for such organizations that apply uniformly to both public and private review activities undertaken by the organizations, with a modification which would:

(a) require the review organization to disclose to the appropriate State agency information identifying a particular practitioner or provider when, in the organization's judgment, there is a reason to believe that a risk to the public health exists, and

(b) require the review organization to disclose information to a State or Federal fraud or abuse agency or an authorized

State licensure or certification agency, but only at the request of such agency on a case-by-case basis. This information could include institution or practitioner-specific data.

The conference agreement follows the Senate provision relating to the transition from the existing PSRO program with a modification which would prohibit the Secretary from terminating a PSRO in effect on the earlier of September 30, 1982 or enactment, until such time as the Secretary has entered into a contract with a review organization in that area under this provision.

The conference agreement follows the Senate provision requiring the Secretary to report to the Congress annually with a modification requiring the Secretary to provide information on the efficiency of payment methodologies used by the Secretary in contracting with review organizations.

SUBTITLE D—AID TO FAMILIES WITH DEPENDENT CHILDREN

1. Rounding of eligibility and benefit amounts

Senate amendment

The Senate amendment requires States to round both their AFDC need standard and actual monthly benefit amounts to the next lower whole dollar. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Effective date of application; proration of first month's benefit

Senate amendment

The Senate amendment prohibits States from making benefits payable for any period prior to the date an application is filed. Any payment for the first month of eligibility would be prorated based on the date of the application. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

3. Absence from home solely by reason of uniformed service

Senate amendment

Under the Senate amendment, AFDC would no longer be payable to families if the parent is absent solely because of active duty in the uniformed service. The provision is effective October 1, 1982, or later if State conforming legislation is needed.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

4. Sanction for termination or reduction of employment.

Senate amendment

The Senate amendment provides the Secretary of Health and Human Services authority to prescribe sanctions for individuals who are exempt from registration for the work incentive (WIN) program because they are employed 30 or more hours a week, or who live in an area so remote from a WIN program that their participation is precluded if they refuse a bona fide offer of employment, terminate employment, or reduce their hours of employment, without good cause.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

5. Job search

Senate amendment

The Senate amendment requires State welfare agencies to establish mandatory employment search programs for both applicants and recipients of AFDC. An individual who is required to register for WIN (or who would be required to register except for remoteness from a WIN site) would be required to participate beginning at the time of application. The individual would also be required annually to participate in a program of employment search after his application becomes effective whenever the State prescribes, but not more than a total of 8 weeks in each year. An individual who fails to comply with the employment search requirement, would be subject to sanctions in the same manner as under the WIN program. (The WIN sanctions provide that in the case of the principal earner in an unemployed parent family, the sanction is denial of benefits for the entire family. In other cases, the individual who refuses is removed from the grant and the family's benefit is reduced. The sanction period is 3 months in the case of a first refusal and 6 months in the case of any subsequent refusals.)

House committee provision

The committee provision differs from the Senate amendment as follows:

(1) It is optional with the States.

(2) It allows States to limit participation to certain groups or classes of individuals who are required to register for WIN.

(3) It allows the State to shorten the duration of the sanction period.

(4) It includes a provision which specifically requires payment to the individual of transportation and other costs necessarily incurred.

(5) It provides 50 percent Federal matching for costs of transportation and other necessary services.

(6) It prohibits States from using the job search requirement as a reason for any delay in making a determination of an individual's eligibility or in issuing a payment to an individual who is otherwise eligible.

(7) It allows an initial 8-week search period, and an additional 8-week period each year (which could add up to 16 weeks in the first year).

Conference agreement

The conference agreement follows the House committee provision, but with the Senate effective date of October 1, 1982.

6. Inclusion and exclusion of specified individuals' needs and income

(A) ELIGIBILITY OF A PARENT

Senate amendment

In determining the AFDC benefit, States are currently permitted to include the needs of a parent or caretaker relative so long as the youngest child is under age 18 (or, at State option, under 19 if the child is in school and is expected to complete his course of study before reaching his 19th birthday). The Senate amendment requires States to include the needs of a parent or caretaker relative, but only until the youngest child reaches age 16. The income and resources of the ineligible parent would be counted in determining the benefit for the child. The State would continue to include the need of a parent of an older eligible child if the parent is unemployable.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(B) INCLUDE ALL SIBLINGS IN THE AFDC UNIT

Senate amendment

Currently, an AFDC family may choose to exclude a child from the assistance unit if that child has income which would reduce the amount of the family's benefit. The Senate amendment requires States to include all children in the family unit (except disabled children receiving SSI benefits, and certain stepbrothers and stepsisters) in determining the amount of AFDC for which the family is eligible.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(C) COUNTING INCOME OF GRANDPARENTS

Senate amendment

Currently, the income of parents of a minor child, who is herself the parent of a child, is not counted in determining the eligibility and benefit of the grandchild. The Senate amendment requires States, when the AFDC parent is a minor, to count the income of the grandparents who are living in the same household as available to the grandchild, after setting aside certain amounts to cover their own needs. The AFDC payment would be made to the grandparent.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

(D) COUNTING INCOME OF UNRELATED INDIVIDUALS

Senate amendment

Under current law, the income of an unrelated adult in an AFDC household may not be presumed to be available to the household, and the welfare agency may count only actual contributions which it knows have been made by the individual to the AFDC family. The Senate amendment requires States to count the income of any person living with the child who is not related to the child or parent or to any other individual living in the household. The income of the unrelated individual would be considered available to the AFDC family, after setting aside certain amounts to cover the needs of the unrelated person and any dependents.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

7. Repeal of emergency assistance program

Senate amendment

The emergency assistance program provides 50 percent matching for emergency assistance (in the form of cash, medical care, or services) to families with children, including both AFDC and non-AFDC families. Assistance may be provided for no more than

30 days in any 12 month period. The program is optional with the States. Under the Senate amendment, this program would be repealed, effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

8. Proration of standard amount for shelter and utilities

Senate amendment

AFDC regulations generally prohibit the States from prorating or otherwise reducing the AFDC benefit solely because of the presence in the household of an individual who is not legally responsible to support the family. This general prohibition was modified in Public Law 96-272 to allow States to prorate the shelter and utilities portion of the AFDC benefit in the case of "child only" family units, i.e., when the caretaker is not eligible for assistance.

The Senate amendment allows States to prorate the portion of the AFDC grant for shelter and utilities whenever the assistance unit shares the household with other individuals. The amendment gives States flexibility in determining how the proration provision would be applied. It requires that proration be accomplished "on a reasonable basis," and in a manner and under circumstances prescribed by the State. States could not prorate in the case of a recipient of Supplemental Security Income benefits to whom the one-third reduction applies. (The one-third reduction in the SSI benefit occurs when individuals are determined to be living in the household of another and receiving in-kind income in the form of food and shelter.) The effective date is October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

9. Limitation on Federal financial participation in erroneous assistance expenditures

Senate amendment

Under current law, the "Michel amendment" requires States to reduce their AFDC payment error rate to 4 percent by September 30, 1982. Regulations require the States to achieve one-third progress toward the 4-percent payment error rate (measured from their error rate for the base period April-September 1978) by September 30, 1980, and two-thirds progress by September 30, 1981. The 4-percent goal is the standard for all assessment periods after September 30, 1982. States may be sanctioned by being required to repay the Federal Government the Federal cost of improperly paid benefits, as determined by quality control surveys. The Secretary may waive sanctions where he determines, in certain limited cases, that a State is unable to reach the required reduction in a given year despite a good faith effort.

The amendment continues the 4-percent error rate tolerance level for fiscal year 1983 and reduces it to 3 percent for fiscal year 1984 and years thereafter. Until April 1, 1983, any sanctions would continue to be applied under the existing authority of the Michel amendment. Starting on that date a new sanction authority would be established, under which Federal payments to the States for AFDC matching will be reduced each quarter on a current basis to reflect the Secretary's estimates as to the error rate prevailing in the State program during that quarter. If the Secretary's estimates are incorrect appropriate adjustments would be made in subsequent grants. The present authority of the Secretary to waive the sanctions in limited cases where he finds that States have failed to meet the target error rates despite a good faith effort to do so would be continued.

House bill

No provision.

Conference agreement

The conference agreement includes the Senate provision which continues the 4-percent error rate tolerance level for fiscal year 1983 and reduces it to 3 percent for 1984 and years thereafter. However, the conference agreement does not include the provisions which would give the Secretary of HHS the authority to reduce Federal matching each quarter on a prospective basis to reflect his estimates as to the error rate estimated in the State program during that quarter.

10. Households headed by minor parents

Senate amendment

The Senate amendment provides that, in order to qualify for AFDC benefits, a minor parent and her child would have to reside in the home of the minor parent's own parent or guardian. This requirement would not apply where: the minor parent was married at the time of (or any time prior to) application for benefits; the minor parent has no parent or legal guardian who is living and whose whereabouts are known; the State agency determines that the health and safety of the minor parent or child would be seriously jeopardized if they lived in the same residence with the parent or legal guardian; or, the minor parent lived apart from the parent or legal guardian for a period of at least one year prior to the birth of the child.

House bill

No provision.

Conference agreement

The Senate recedes.

11. Exclusion from income of certain State payments

Senate amendment

A provision in the 1981 Reconciliation Act (P.L. 97-35) required States to determine AFDC benefits on the basis of the family's income in the preceding month. Under certain circumstances, payment may be determined on the basis of income in the second preceding month. This may be necessary, for example, when the payment date is in the first week of the month and the State needs time to process the monthly report of income which must be submitted by the recipient. In either case, States may wish to supplement the AFDC payment with a non-Federally matched State payment in certain situations—for example, when a family loses employment and suffers an immediate loss of income. Under present law, however, if the State decides to assist a family during a payment adjustment lag, any supplement which it pays to the family is counted as income for the purpose of computing the following month's AFDC check.

The Senate amendment allows States to compensate for payment adjustment lags by excluding from the calculation of AFDC benefit amounts any payments which are determined to have been paid by the State in recognition of the difference between the current or anticipated needs of the family for a month based upon actual income for the month, and the needs of the family as determined under the retrospective accounting procedure. The effective date is October 1, 1982.

House committee provision

The provision is the same (with technical differences).

Conference agreement

The conference agreement follows the Senate amendment.

12. Extension of time for States to establish a work incentive demonstration program

Senate amendment

The 1981 Reconciliation Act (P.L. 97-35) included a provision authorizing States to operate 3-year demonstration programs as alternatives to the current WIN program. The demonstration is aimed at testing single-agency administration and must be operated under the direction of the State welfare agency. The legislation required States to submit an application to the Secretary of HHS specifying intent to operate a WIN demonstration program. This application had to be submitted within 60 days after enactment.

The Senate amendment allows States a period of two additional years in which to exercise their option to operate a WIN demonstration program. This would give the States until June 30, 1984 to make this decision. The authority which the Secretary now has to waive requirements for participation in WIN would be extended to the demonstration programs. The provision is effective upon enactment.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

13. Exclusion from income

Senate amendment

No provision.

House committee provision

Under current law, income received by an AFDC household is generally counted as income in determining eligibility for and amount of assistance, unless specifically excluded. The Department of Health and Human Services has not in the past required that certain State payments be considered income for purposes of determining AFDC eligibility or amount of benefits. These are payments that are financed wholly from State funds to meet the needs of children receiving AFDC which are not met by the regular payment.

The committee provision allows States to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by a State to AFDC households. To qualify for such an exclusion, the payments must have been originally authorized by State statute prior to January 1, 1979; be paid entirely from State funds by the State agency administering the AFDC program; and be provided to meet the needs of AFDC children. The effective date is October 1, 1982.

Conference agreement

The conference agreement follows the House committee provision, effective upon enactment.

14. Technical amendments to social services and foster care

Senate amendment

No provision.

House bill

(1) The 1981 Reconciliation Act (P.L. 97-35) unintentionally repealed the authority for Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to finance social services from funds received under the cash assistance titles, and provided that these territories are eligible for funds for social services only under the title XX social services block grant.

(2) The formula for allocating funds to the States and territories under the title XX social services block grant program could be interpreted in such a way that a portion of the funds are not available for allocation to any jurisdiction.

(3) There are inconsistencies between titles XI and XX of the Social Security Act as to jurisdictions eligible for title XX funds.

(4) Public Law 97-35 incorrectly referenced child day care instead of foster care standards in the requirements that States have standards for foster family home or child care institutions under their title IV-E foster care program.

The House bill makes the following technical corrections:

(1) Restores the option to Puerto Rico, Guam, the Virgin Islands, and the Northern Mariana Islands to use funds available under the cash assistance titles for social services.

(2) Insures that all the title XX funds under the ceiling are available for allotment to the States and other jurisdictions.

(3) Makes the title XI definition of the term "State," as it pertains to title XX funding, consistent with the list of jurisdictions cited in title XX as eligible for funds under the allotment formula.

(4) Incorporates into the title IV-E foster care law the same standards for foster care as were previously required. (Under prior law these standards were incorporated by reference to the standards in title XX which were in effect prior to Public Law 97-35.) The effective date is October 1, 1981.

Conference agreement

The conference agreement follows the House bill.

SUBTITLE E—CHILD SUPPORT ENFORCEMENT

1. Fee for services to non-AFDC families

Senate amendment

Prior law allowed States to provide child support enforcement services to non-AFDC families without charge or to recover costs of serving such familes by charging the custodial parent an application fee of up to $20, and by retaining a portion of any child support payments which were collected.

An amendment to the 1981 Reconciliation Act replaced this optional provision with a requirement that States impose a fee equal to 10 percent of the support owed, to be charged against the absent parent and added to the amount of the collection.

The Senate amendment repeals the Reconciliation Act amendment and restores the fee provisions of prior law under which States had an option as to whether or not to charge for the costs of non-AFDC child support. It gives States the additional option of allowing them to recover costs either from the absent parent or from the custodial parent.

If a State elects to collect from the custodial parent (by deducting the costs from the amount of child support which is collected) the State must have in effect a procedure under which the court or other entity which determines the amount of the support obligation will be notified of the amount by which any support collection will be reduced to reimburse the costs of collection. The effective date is August 13, 1981.

House bill

The House bill includes the same provision but without the requirement of notification to the court.

Conference agreement

The conference agreement follows the Senate amendment.

2. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty

Senate amendment

The Senate amendment adds a new section to title IV-D of the Social Security Act to require allotments from the pay and allowances of any member of the uniformed service (on active duty) when he fails to make child (or child and spousal) support payments. The requirement would arise when the servicemember failed to make support payments in an amount at least equal to the value of 2 months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the member's pay which could be subject to allotment would be limited. The amount of the allotment would be the amount of the support payment, as established under a legally enforceable administrative or judicial order. The provision is effective October 1, 1982.

House committee provision

The same provision is included. In addition, there is a requirement that the servicemember be given an opportunity (within a 30-day limit) to consult a judge advocate or other law specialist.

Conference agreement

The conference agreement includes the provision in both bills, modified to reflect the House committee provision.

3. Reimbursement of State agency in initial month of ineligibility for AFDC

Senate amendment

Under present law, amounts of child support collected which are sufficient to make the family ineligible for AFDC must be paid to the family beginning with the first month of ineligibility.

The Senate amendment requires that amounts collected which are sufficient to make the family ineligible will be paid to the family in months *after* the first month of ineligibility. This would allow the State to reimburse itself for AFDC that would have already been paid for that month, before the support was collected and known to have made the family ineligible. Thus, the family would not receive double payment for the same month, once in the form of AFDC, and once as a result of the child support collection. The provision is effective October 1, 1982.

House committee provision

The same provision is included, effective upon enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. Reduction in certain Federal payments to States under the child support enforcement program

Senate amendment

No provision.

House committee provision

The provision reduces the Federal matching rate for State administrative costs from 75 percent to 65 percent, and reduces the child support incentive payments from 15 to 12 percent. In addition, there would no longer be matching for the costs of court personnel who perform child support enforcement functions. The provision is effective October 1, 1982.

Conference agreement

Under the conference agreement, Federal matching for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Child support incentive payments would be reduced from 15 to 12 percent, effective October 1, 1983. Federal matching for the costs of court personnel would be repealed, effective October 1, 1983.

5. Technical amendments to child support enforcement provisions in Reconciliation Act

Senate amendment

No provision.

House bill

The House bill makes several technical corrections in the child support enforcement provisions contained in Public Law 97-35, including inaccurate references. The effective date is October 1, 1981.

Conference agreement

The conference agreement includes the technical corrections.

SUBTITLE F—SUPPLEMENTAL SECURITY INCOME

1. Effective date of application; Proration of initial SSI benefit payment

Senate amendment

SSI benefits in the month of application would be prorated from the date of application or the date of eligibility, whichever is later, instead of the requirement in present law whereby benefits begin the first of the month in which the recipient applies and meets the eligibility requirements. This amendment would also apply to the month in which an individual reapplies after a period of ineligibility. The provision is effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Rounding of SSI eligibility and benefit amounts

Senate amendment

The amendment provides for rounding SSI monthly benefit and income eligibility amounts to the next lower dollar instead of rounding to the next higher ten cents as provided in present law. Rounding would occur after the cost-of-living adjustment had been made. Cost-of-living adjustments in subsequent years would be based on the unrounded benefit and income eligibility amounts so that the provision would have no cumulative effect from year to year. The provision is effective October 1, 1982.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

3. Coordination of SSI and OASDI cost-of-living adjustments

Senate amendment

The Senate amendment continues the provisions in present law whereby SSI benefits are determined on a 2 month retrospec-

tive basis, but modifies present law to coordinate SSI and OASDI benefit increases. The amendment provides that at the time the cost-of-living adjustment is made, the recipient's SSI benefit is based on the OASDI benefit received in the same month. Also, whenever the Secretary determines that there is reliable information concerning a recipient's income in a given month, the SSI benefit would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information could be used to determine the monthly SSI benefit. The provision is effective October 1, 1982.

House bill

The House bill repeals retrospective accounting and requires that SSI benefits be determined on the basis of the income anticipated by the recipient in the current month (prospectively). Thus, a social security or other benefit increase expected to be received in a month would be taken into account in determining that month's SSI benefit.

Conference agreement

The conference agreement follows the Senate amendment.

4. Phaseout of hold harmless protection

Senate amendment

The legislation enacting the SSI program included "hold harmless" protection for the States which allowed them to supplement the Federal payment to assure that recipients would receive cash benefits equal to their January 1972 benefit levels, with no cost to the State beyond what was spent for benefits on behalf of aged, blind, and disabled persons in 1972.

Because of Federal benefit increases since that time, all except two States—Hawaii and Wisconsin—have lost their hold harmless status. These two States still receive a Federal contribution to their State supplements because of a special provision added to the law in 1976. Under this provision their hold harmless payments are no longer reduced by Federal benefit increases.

The 1982 Continuing Resolution provided a reduction in hold harmless payments for Wisconsin and Hawaii. The Senate amendment continues phasing out the hold harmless payments. Payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years. The provision is effective on enactment.

House committee provision

The House committee provision is the same as the Senate amendment but with technical differences.

Conference agreement

The conference agreement follows the House committee provision.

5. Recovery of SSI overpayments

Senate amendment

The Senate amendment would allow the recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (black lung and OASDI benefits.)

House bill.

No provision.

Conference agreement

The conference agreement does not include the Senate amendment.

6. Exclusion from resources of burial plots and certain funds set aside for burial expenses

Senate amendment

The current SSI statute specifies certain assets which an individual may retain without affecting his eligibility for benefits. Excluded are the home, household goods, personal effects, and an automobile of limited value; and liquid assets up to $1,500 in the case of an individual, or $2,250 for a couple.

Also excluded under present law are life insurance policies with cash value, but only if the face value of the policy totals less than $1,500; and burial insurance, irrevocable burial contracts and term life insurance.

The Senate amendment provides that burial spaces for the individual and his immediate family would be excluded as a resource (subject to such limits as to size or value as the Secretary prescribes).

Burial funds for the individual and spouse would also be excluded if they are specifically set aside for this purpose (subject to limits set by the Secretary). Funds set aside that are used for other purposes would reduce future SSI benefits by a like amount. The provision is effective on enactment.

House committee provision

The House committee provision would also exclude burial spaces as a resource as in the Senate amendment but with technical differences. The House committee provision regarding burial funds is the same as the Senate amendment except that it establishes a limit on the amount of funds that can be excluded equal to $1,500 each for the individual and spouse. In addition, funds set aside would reduce on a dollar-for-dollar basis the value of life insurance policies (with cash value) which may be owned by the individual before the cash value is counted. In addition, the $1,500 limit would be reduced by the total of any amounts held by the individual in an irrevocable burial contract or other arrangement made to meet the burial expenses of the individual and spouse. The provision is effective on the first day of the second month after the month of enactment.

Conference agreement

The conference agreement follows the House committee provision but with the following modification:

The Secretary is authorized to exclude as income and resources increases in the value of amounts set aside for burial expenses because of interest earned, and exclude as income and resources any appreciation in the value of specified pre-paid burial arrangements.

7. Mandatory pass-through under State supplementation provisions

Senate amendment

No provision.

House committee provision

The House committee provision modifies present law related to the requirement that States pass through Federal SSI cost-of-living increases. Under present law, a State may meet this requirement by either (1) maintaining the December 1976 level of State supplementation payment for recipients, or (2) providing no less than the total aggregate amount of State supplementation paid by the State in the previous 12-month period. The House committee provision would allow a State to meet the pass-through requirement if the State did not decrease the State supplementation payment below the level in the previous December instead of the December 1976 level required under present law. The provision would be effective for 12-month periods ending after June 1982.

Conference agreement

The conference agreement follows the House committee provision.

8. Treatment of unnegotiated checks under the supplemental security income program

Senate amendment

No provision.

House bill

Under present law, States are credited with their share (included as State supplementation) of benefit checks remaining unnegotiated for more than 180 days. The House bill clarifies the authority for the Federal Government to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks. The provision is effective October 1, 1982.

Conference agreement

The conference agreement follows the House bill.

SUBTITLE G—UNEMPLOYMENT COMPENSATION

1. Rounding of unemployment benefits to next lowest dollar

Under present law, States may determine rounding procedures to apply in the calculation of an individual's weekly unemployment benefit. Regular benefits are financed solely by State trust funds. Extended benefits are financed 50 percent from State trust funds and 50 percent from Federal unemployment insurance trust funds.

Senate amendment

The Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar. This provision is effective for benefits payable on or after October 1, 1983. States in which there is no legislative session prior to that date would, however, be given additional time before the provision would become effective.

House bill

No provision.

Conference agreement

The conference agreement follows the Senate amendment.

2. Use of amounts transferred to State unemployment funds pursuant to the Reed Act

Section 903 of the Social Security Act, commonly referred to as the Reed Act, provides for the transfer of any excess Federal Unemployment Tax Act (FUTA) receipts to the individual State accounts in the unemployment Trust Fund. Each State's share is proportionate to its share of wages subject to FUTA taxes. Excess funds have occurred only three times since the passage of the Reed Act—in 1956, 1957, and 1958. Current unobligated balances in the State Reed Act accounts total $25 million.

Reed Act funds may be used by the States either to pay unemployment benefits or for administrative purposes. However, under present law, authority to use funds credited in 1956 and 1957 for administrative purposes has expired; and authority to use funds credited in 1958 for administrative purposes will expire on July 1, 1983.

Senate amendment

No provision.

House bill

The House provision extends for 10 years the authority for States to use Reed Act funds for administrative purposes. Also, the provision permits States that have used such funds to pay unemployment benefits to reestablish a Reed Act account based on the amount of funds previously distributed to those States under the Reed Act. The provision is effective the date of enactment.

Conference agreement

The conference agreement follows the House bill.

3. Unemployment benefits paid to ex-servicemembers

Under the program for unemployment compensation payments to ex-servicemembers (UCX), benefits are limited to individuals who (1) have 365 or more days of military service; (2) were discharged or released under honorable conditions; (3) did not resign or voluntarily leave the service (i.e., they could not have been able to reenlist); and (4) were not released or discharged "for cause" as defined by the Department of Defense. These requirements apply to individuals who left Federal military service on or after July 1, 1981, but only for weeks of unemployment that began on or after August 19, 1981.

Senate amendment

No provision.

House bill

The House provision substitutes new unemployment compensation eligibility requirements for individuals separated from the military. The provision (1) limits unemployment benefits to ex-servicemembers who have served 730 or more continuous days in the military and who have been discharged under other than dishonorable conditions; (2) requires a 4-week waiting period between the week in which the individual separated and the week in which he or she first becomes entitled to compensation; and (3) limits an eligible ex-servicemember's benefit to 13 weeks. The provision is effective for those separated from the service on or after July 1, 1981, but only for benefits payable after the date of enactment.

Conference agreement

The conference agreement does not include the House provision.

4. Additional weeks of unemployment compensation benefits: Federal supplemental benefits (Title 6 of Conference Report)

Most States provide up to a maximum of 26 weeks of State unemployment compensation benefits to unemployed individuals who meet the qualifying requirements of State law. Many claimants qualify for less than the maximum 26 weeks of State benefits. State benefits are financed out of State unemployment trust funds.

Under the permanent Federal-State extended benefits program, additional weeks of unemployment compensation are payable to individuals who exhaust their State benefits during periods of high unemployment. No one may receive more than 13 weeks of extended benefits, or more than 39 weeks of State plus extended benefits. Extended benefits are financed one-half out of State unemployment trust funds and one-half out of Federal unemployment trust funds.

Until September 25, 1982, extended benefits are payable in a State when, for the most recent 13-week period, the State insured unemployment rate (IUR)[1] averages at least 5 percent and, in addition, is 20 percent higher than it was during the same 13-week period in the 2 previous years. When the "20 percent" factor is not met, a State, at its option, may provide extended benefits when the State IUR averages 5 percent. (Thirty-nine States have incorporated the optional 5-percent trigger into their State law.)

Effective September 25, 1982, the IUR at which extended benefits will be payable in any State will be raised from 4 percent (plus the 20-percent factor) to 5 percent (plus the 20-percent factor). The optional trigger rate will be increased from 5 percent to 6 percent.

(This change was made by the 1981 Budget Reconciliation Act.)

Senate amendment

No provision.

House committee provision

An individual who exhausts State and extended benefits could receive additional weeks of benefits, Federal supplemental benefits (FSB), equal to one-half of the duration of the claimant's State benefit entitlement. No one could receive more than 13 additional weeks or a combined maximum of more than 52 weeks of State benefits plus extended benefits plus the additional weeks provided by this provision. Benefit and administrative costs of the additional weeks would be financed out of general revenue.

The additional weeks of benefits (FSB) would be payable under the same triggers used to trigger on the extended benefits program. In other words, FSB would be payable wherever extended benefits were payable. FSB would be payable from date of enactment through September 30, 1983.

Conference agreement

The conference agreement provides, effective September 12, 1982 through March 31, 1983, up to 10 additional weeks of unemployment compensation benefits for unemployed workers in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate equals or exceeds 3.5 percent. Up to 6 additional weeks of unemployment benefits would be provided in all other States.

If at any time 10 additional weeks of benefits are or become payable in a State, qualified unemployed workers in the State will be able to receive up to 10 weeks of benefits throughout the duration of the program, regardless of changes in the extended benefit trigger rates in the State.

The additional weeks of benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and

(a) who have no rights to regular or other State benefits or Federal/State extended benefits;

(b) who have worked 20 or more weeks or have the equivalent in wages (i.e., 40 times the weekly benefit amount or one and one-half times high quarter wages, as specified in the extended benefits program) during the State defined base-period (generally a 12 month period prior to the time the person filed for State unemployment compensation); and,

(c) who continue to meet all other State and extended benefit requirements.

Except in States in which 10 additional weeks are or became payable, an individual's eligibility would be determined on a week by week basis according to the situation prevailing in the State. For example, an individual who initially qualifies for 6 weeks of benefits under this program (because the State extended benefit trigger rate is under 3.5 percent) may receive an additional 2 or 4 weeks of benefits if the rate subsequently increases (even if this occurs some weeks after he exhausts his 6-week entitlement). Similarly an individual who draws his first week of benefits under this program at a time when the State meets the 8-week criteria will not be eligible for a seventh or eighth week of benefits if the State extended benefit trigger rate drops below 3.5 percent before he receives the seventh and eighth week of benefits.

The determination of whether a State has a rate of 3.5 percent or more will be determined in the same manner as the extended benefit triggers: that is, on the basis of the average of the rates prevailing during a 13-week period ending 3 weeks previously. The determination for the week of September 12, 1982, the first week this program is in effect, will be based on the 13-week period ending August 28, 1982.

5. Taxation of unemployment compensation (Title 6 of Conference Report)

Under present law, the amount of State and Federal unemployment insurance benefits included in adjusted gross income for income tax purposes is equal to the lower of:

(a) the amount of unemployment benefits paid, or

(b) one-half of the excess of adjusted gross income, unemployment benefits, and excludable disability income over $20,000 for single taxpayers, $25,000 for married taxpayers filing jointly, or zero for married taxpayers filing separately.

Senate amendment

No provision.

House committee provision

The income thresholds limiting inclusion of unemployment benefits in adjusted gross income would be reduced to $12,000 for single taxpayers and $18,000 for married taxpayers filing jointly. Penalties for underpayment of estimated tax for 1982 attributed to this change would be waived. The provision is effective for benefits paid on or after January 1, 1982.

Conference agreement

The conference agreement follows the House committee provision.

6. Interest on State unemployment loans transferred to Extended Unemployment Compensation Account (EUCA).

Under current law, States must pay interest on unemployment loans (as described in item 12). The interest payments are credited to the General Fund of the U.S. Treasury.

Senate amendment

No provision.

House committee provision

The House committee provision provides that interest paid by the States on Federal unemployment loans after December 31, 1982, would be credited to the Extended Unemployment Compensation Account (EUCA), one of three accounts in the Federal Unemployment Trust fund. EUCA finances the 50 percent Federal share of the Federal-State extended benefits program.

[1] The insured unemployment rate (IUR) is the percentage of workers covered by the State unemployment compensation program who are claiming State benefits.

Conference agreement

The conference agreement does not include the House provision.

7. Treatment of certain employees of institutions of higher education

Under present law, employees of institutions of higher education and employees of elementary and secondary schools are covered by the unemployment insurance system. However, Federal law requires States to deny benefits during school recess periods to those individuals employed in an instructional, research, or principal administrative capacity under certain conditions. Benefits are denied for any week commencing during the period between two successive academic years or terms if an employee worked during the first term and has a contract or reasonable assurance of reemployment in the second year or term. This between-term denial may also be extended, at State option, to nonteaching, nonresearch, and nonprincipal administrative employees of elementary and secondary schools, but not to similar employees of colleges and universities.

Senate amendment

No provision.

House committee provision

Upon enactment, the House committee provision would allow States to deny unemployment compensation benefits to nonteaching, nonresearch, and nonadministrative employees of colleges and universities during periods between academic years or terms, if there is reasonable assurance the individual will be employed by the institution at the beginning of the forthcoming academic year or term. This would make Federal law consistent in its policy toward such employees of all educational institutions. The House committee provision also provides that retroactive benefits may be received by certain nonteaching, nonresearch, and nonadministrative educational employees who were reasonably assured of employment in the second term or in the fall, but were subsequently not offered that employment. Such retroactive benefits could be provided only for weeks during the between-term or recess period for which the person filed a timely claim for benefits and, except for the denial authority provided under this section, would have been eligible to receive benefits.

Conference agreement

The conference agreement follows the House committee provision.

8. Short-time compensation

Under current law, all States provide partial unemployment benefits for claimants who work less than regular full-time hours (as defined by State law). However, most State unemployment insurance laws do not allow partial benefits in a way that encourages "worksharing" and short-time compensation (partial, prorated unemployment benefits to workers whose work-week is reduced in lieu of total layoff of some of a firm's employees). This is because partial benefits under present law generally end when a worker earns slightly more than one-half of full-time wages.

Senate amendment

No provision.

House committee provision

The House committee provision directs the Department of Labor (DOL), upon enactment, to develop model legislation that can be used by States wishing to establish short-time compensation (or "worksharing") programs. DOL is directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Conference agreement

The conference agreement follows the House committee provision.

TABLE 1.—RECONCILIATION INSTRUCTION

[In millions of dollars]

	Fiscal Year—			Total
	1983	1984	1985	
Senate Finance	4,429	5,564	5,976	15,969
Ways and Means	3,755	4,827	5,168	13,750
Medicare[1]	3,162	4,122	4,240	11,524
Medicaid[1]	674	737	808	2,219
Public Assistance[1]	593	705	928	2,226

[1]The committees are reconciled only to the total outlay savings. The figures shown for each program represent assumptions used in arriving at the total reconciliation instructions, and are not binding.

TABLE 2.—CONFERENCE AGREEMENT[1] (PRELIMINARY ESTIMATES)

[In millions of dollars]

	Fiscal Year—			Total
	1983	1984	1985	
Total savings	3,695	5,896	7,865	17,456
Medicare	2,879	4,430	5,998	13,307
Medicaid	275	364	502	1,141
Aid to families with dependent children (AFDC)	85	95	163	343
Child support enforcement (CSE)	92	141	151	384
Supplemental security income (SSI)	116	126	144	386
Unemployment compensation (UC)	−81	49	49	17
Debt management	329	691	858	1,878

[1]This table does not reflect the additional food stamp outlays of $184 million, and additional medicaid outlays of $111 million resulting from two medicare provisions over the three-year period. Thus the total net outlays savings are $17,161 million. The table reflects the savings to each of the programs identified. The minus sign (−) for 1983 in unemployment compensation represents additional outlays.

TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT

[− means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
MEDICARE				
2. Medicare secondary for older workers	$350	$530	$600	$1,480
4. 80 percent radiologist/pathologist (medicaid cost of $50 million)	160	210	250	620
7. Elimination of nursing differential	95	110	125	330
8. Hospital-based physicians	63	73	84	220
9. Part B premium as a constant percentage of costs (medicaid cost of $61 million)	45	240	480	765
10. Compromise—hospital reimbursement (medicaid savings of $280 million)	480	1,770	3,770	6,020
11. Elimination of private room subsidy	54	75	80	209
12–13. Single reimbursement limit for skilled nursing facilities and home health agencies	18	46	46	110
14. Elimination of duplicate payments for outpatient services	160	225	270	655
15. Audit and medical claims review	130	300	300	730
16. Temporary delay in periodic interim payments	750	100	−870	−20
17. Reimbursement of assistants at surgery	55	130	150	335
19. Prohibition of payments for ineffective drugs	0	0	0	0
20. Medicare payments to HMO's	0	0	0	0

TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT—Continued

[− means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
21. Technical corrections	0	0	0	0
22. Hospice care	−3	−1	17	13
23. Coverage of extended care services	0	0	0	0
24. Percentage arrangements (not for hospital-based physicians)	15	17	20	52
25. Interest on overpayments	25	25	20	70
26. Prohibit payment for Hill-Burton care	15	17	20	52
27. Prohibiting payment for antiunionization activities	0	0	0	0
28. Lesser of cost or charges	$0	$0	$0	$0
29. Extend medicare proficiency exam	0	0	0	0
30. Access to books and records	0	0	0	0
31. Private sector utilization review	330	385	440	1,155
32. Part B enrollment	(a)	(a)	(a)	(a)
Subtitle C—Utilization and quality control peer review	15	15	20	50
HI tax for Federal employees (outlay savings)	122	163	176	461
Total medicare provisions	2,879	4,430	5,998	13,307
MEDICAID				
1. Copayments by medicaid recipients	45	50	56	151
3. Modification in lien provisions	165	180	200	545
4. Error rate sanctions	30	65	72	167
6. Coverage of disabled children at home	(a)	(a)	(a)	(a)
7. Technical corrections	0	0	0	0
8. American Samoa	−1	−1	−1	−3
9. Nursing home moratorium	0	0	0	0
Hospital reimbursement	20	80	180	280
AFDC impact on medicaid	16	20	25	61
Offset to last year's penalty	0	−30	−30	−60
Total medicaid provisions	275	364	502	1,141
Impact on medicaid of:				
80 percent radiologist/pathologist[1]	−15	−15	−20	−50
Part B premium[1]	−4	−19	−38	−61
AFDC				
1. Round AFDC benefits	9	10	10	29
2. Prorate AFDC benefits	13	14	14	41
3. Military service/AFDC	15	17	17	49
5. Optional job search	5	10	15	30
8. Prorate shelter and utilities	43	44	45	132
9. Error rate sanctions	0	0	62	62
11. Exclusion from AFDC income of certain state payments	0	0	0	0
12. Extend WIN demonstration	0	0	0	0
13. Exclude State payments to children	0	0	0	0
14. Technical amendments	0	0	0	0
Total AFDC provisions	85	95	163	343
Food stamp impact of AFDC provisions[2]	−39	−44	−46	−129
CSE				
1. Non-AFDC fees	12	16	11	39
2. Military allotments	7	9	10	26
3. Initial month of ineligibility	3	4	4	11
4. Reduce Federal CSE incentive funds and administrative costs	70	112	126	308
5. Technical amendments	0	0	0	0
Total CSE provisions	92	141	151	384
SSI				
1. Prorate SSI benefits	26	28	32	86
2. Round SSI benefits	20	25	30	75
3. SSI accounting period	45	41	43	129
4. Phase out hold harmless	30	37	45	112
6. Exclude burial plots and contracts	−5	−5	−5	−15
7. Mandatory passthrough under SSI	0	0	0	0
8. Unnegotiated SSI checks	0	0	−1	−1
Total SSI provisions	116	126	144	386
Food stamp impact of SSI provisions[2]	−17	−18	−20	−55
UC				
1. Rounding UC benefits	0	10	19	29
2. Extend Reed Act	0	0	0	0
7. Treatment of school employees	7	8	9	24
8. Short time compensation	−1	−1	0	−2

TABLE 3.—BUDGET IMPACT OF EACH PROVISION WITHIN THE CONFERENCE AGREEMENT—Continued

[— means increase in outlays; figures in millions]

	Fiscal year—			Total
	1983	1984	1985	
Deferral of interest payment on UC loans	−87	32	21	−34
Total UC provisions	−81	49	49	17
DEBT MANAGEMENT				
1. Savings bonds	329	691	858	1,878

[1]Increased medicaid outlays due to changes in medicare are scored against total savings for the House, but not the Senate.
[2]Increased food stamp outlays are scored against total savings for the House, but not the Senate.
[3]Negligible cost.
Note: The estimates for each provision of outlay savings within each program (e.g. Medicare) reflect the savings to that program and not necessarily the total budget impact. If a provision has an impact upon two programs, it is listed twice.
In addition, there is a loss in revenue from item 2 under Medicare (Medicare secondary for older workers) of $85,130 million and $150 million for fiscal years 1983 to 1985 respectively.

TABLE 4.—BUDGET IMPACT OF THE PROVISIONS TO LOWER UNEMPLOYMENT COMPENSATION TAX THRESHOLDS AND TO PROVIDE FEDERAL SUPPLEMENTAL BENEFITS

(—indicates an expenditure reduction or revenue increase; +indicates an expenditure increase; figures in millions)

	Fiscal year—				Total
	1982	1983	1984	1985	
Lower unemployment compensation tax thresholds (additional revenues)	0	−763	−734	−611	−2,108
Federal supplemental benefits (additional outlays)	175	1,919	0	0	2,094
Administrative cost (additional outlays)	0	20	0	0	20
Impact on food stamps and AFDC (reduced outlays)	0	−209	0	0	−209
Total impact on budget deficit [1]	+175	+967	−734	−611	−203

[1] + means an increase in the deficit; —means a decrease in the deficit.

TITLES II, III AND IV—REVENUE PROVISIONS

A. Individual Income Tax Provisions

1. Individual minimum tax

Present law

A 15-percent add-on minimum tax is imposed on the sum of six tax preferences in excess of the greater of one-half the regular income tax paid or $10,000. The tax preference items included in the minimum tax base are:

(1) Accelerated depreciation on real property in excess of straight-line depreciation over the useful life or recovery period;

(2) Accelerated depreciation on personal property subject to a lease;

(3) Amortization of certified pollution control facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(4) Percentage depletion in excess of the adjusted basis of the property;

(5) Amortization of child care facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(6) Intangible drilling costs on oil, gas and geothermal wells in excess of the amount amortizable with respect to these costs, and in excess of net income from production.

Individuals are also subject to an alternative minimum tax, payable to the extent it exceeds regular tax. The base of this tax is taxable income increased by:

(1) the deduction for long-term capital gains, and

(2) itemized deductions (other than for medical expenses, casualty losses and taxes) to the extent that the total amount exceeds 60 percent of adjusted gross income reduced by these 3 excluded deductions.

The alternative minimum tax base is subject to the following rates:

	Percent
$0 to $20,000	0
$20,000 to $60,000	10
Over $60,000	20

For estates, trusts, and married individuals filing separate returns the dollar amounts defining the tax brackets are one-half the above amounts. The foreign tax credit is allowed, and credits attributable to an active trade or business are allowed to the extent that tax is not attributable to net capital gains or to itemized deductions included in the minimum tax base.

For purposes of both the regular and minimum taxes, individuals may elect to expense all intangible drilling costs for oil, gas and geothermal properties. The amount expensed in excess of the amount which would be allowed if these costs were amortized, and in excess of net income from production, is an item of tax preference (item (6), above).

House bill

No provision.

Senate amendment

The add-on minimum tax is repealed for individuals.

The base of the alternative minimum tax is changed to be equal to adjusted gross income plus specified preferences, minus specified itemized deducations.

The specified preferences include:

(1) the 6 preferences presently included under the add-on minimum tax;

(2) the deduction for long-term capital gains;

(3) interest and dividend income excluded under the $100 dividend exclusion, the All-Savers exclusion, and the 15-percent net interest exclusion (which takes effect after 1984); and

(4) the excess of expensing over 120-month amortization for mining exploration and development costs, research and development costs, and magazine circulation expenditures.

Deductions are allowed for the following to the extent not deductible in arriving at adjusted gross income:

(1) charitable contributions;

(2) medical expenses (in excess of 10 percent of adjusted gross income);

(3) casualty losses (in excess of 10 percent of adjusted gross income);

(4) personal housing interest;

(5) other interest to the extent of net investment income; and

(6) estate taxes.

The net operating loss deduction is generally reduced by items of tax preference.

The rates of the alternative minimum tax are changed as follows:

Unmarried individuals	*Percent*
$0 to $30,000	0
$30,000 to $50,000	10
Over $50,000	20

Married couples filing joint returns and surviving spouses	*Percent*
$0 to $40,000	0
$40,000 to $60,000	10
Over $60,000	20

For estates, trusts, and married individuals filing separate returns, the dollar amounts defining the tax brackets are one-half the amounts applicable to married couples filing joint returns. The foreign tax credit is allowed. Other non-refundable credits are not allowed.

Individuals may elect to capitalize a portion of their intangible drilling costs, except with respect to interests in which they are limited partners. These capitalized costs are treated as 5-year ACRS property, and allowed a 10-percent investment credit. Taxpayers must reduce the ACRS deductions to take account of the half-basis adjustment. These costs are not eligible for safe-harbor leasing. The ACRS deductions are not treated as an item of tax preference.

The Senate amendment generally applies to taxable years beginning after December 31, 1982. Pre-1983 net operating loss preferences continue to be subject to the add-on tax when used, as under present law.

Conference agreement

The conference agreement generally follows the Senate amendment. The tax rate is revised so that the entire minimum taxable income in excess of the exemption amount is taxed at a 20-percent rate. In addition, the minimum tax preference for amortization of child care facilities is deleted, and a preference is added for the excess of the fair market value of stock received upon the exercise of an incentive stock option over the exercise price. It is intended that the incentive stock option preference not apply where there is an early disposition of the stock acquired through the exercise of the option. Wagering losses allowable under section 165 will be allowable as a deduction in computing the minimum tax base.

An election is provided for individuals to amortize the mining exploration and development costs, circulation expenditures, and research and experimental expenditures, for purposes of the regular tax and minimum tax, over a 10-year period beginning with the year the expenditure occurs. The preference item with respect to these costs is revised to equal the excess of expensing over 10-year, rather than 120-month amortization. Individuals thus will not have a preference from these costs to the extent that they elect 10-year amortization. With respect to intangible drilling costs, limited partners may elect 10-year amortization. For other individuals with intangible drilling costs, the conference agreement provides the same election to use ACRS treatment and the investment tax credit that is provided by the Senate amendment.

Finally, the agreement provides that net income taken into account, directly or indirectly, from a limited partnership interest or an interest in a subchapter S corporation (in the case of a person who does not participate in the management of the corporation) will be investment income for the purposes of the net investment income limitation on the interest deduction. Further, interest on indebtedness incurred to acquire or carry such an interest will be "below the

line" interest for purposes of the minimum tax and therefore subject to the net investment income limitation on the interest deduction. No inference is intended as to the proper treatment under the regular tax.

2. Deduction for medical expenses

Present law

Individuals who itemize deductions may deduct two categories of medical expenses:

(1) up to $150 for one-half of health insurance premiums.

(2) all other unreimbursed medical expenditures, including health insurance premiums not allowed in the first category, to the extent that these expenses exceed 3 percent of adjusted gross income. Drug expenditures may be included only to the extent the total of drug expenditures exceeds 1 percent of adjusted gross income.

House bill

No provision.

Senate amendment

The medical expense deduction is modified as follows:

(1) the $150 ceiling on the deduction for one-half of health insurance premiums is reduced to $100.

(2) the floor for deductible medical expenses is raised from 3 percent to 7 percent of adjusted gross income.

The provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment, with several modifications. First, the separate $150 deduction for one-half of health insurance premiums is eliminated. Second, the floor for deductible medical expenses is raised from 3 percent to 5 percent of adjusted gross income. These first two provisions are effective for taxable years beginning after December 31, 1982. Third, effective for taxable years beginning after December 31, 1983, the one-percent floor under drug expenditures is eliminated, and the only drug expenditures which will be deductible will be expenditures for drugs which legally require a prescription or for insulin.

3. Deduction for casualty losses

Present law

Individuals who itemize deductions may deduct unreimbursed losses of nonbusiness property resulting from fire, storm, shipwreck, or other casualty, or from theft. The amount of the loss is the lower of (1) the fair market value of the property immediately before the casualty, reduced by the fair market value of the property immediately after the casualty (zero in the case of a theft) or (2) the property's adjusted basis. For any one casualty, the deduction is allowed only to the extent that the amount of the loss exceeds $100.

House bill

No provision.

Senate amendment

Effective for taxable years beginning after December 31, 1982, nonbusiness casualty losses are deductible only to the extent total losses sustained during the year exceed 10 percent of adjusted gross income. As under present law, each casualty loss will be deductible only to the extent it exceeds $100.

Conference agreement

The conference agreement follows the Senate amendment, with a technical amendment. The amendment makes clear that individuals who elect to take into account a nonbusiness disaster loss for the taxable year prior to the taxable year in which the disaster occurred must use the adjusted gross income of the prior taxable year in determining the extent to which the loss is deductible.

Although the amendments made by the conference agreement generally apply to taxable years beginning after December 31, 1982, the amendments also apply to the taxpayer's last taxable year beginning before January 1, 1983, for a taxpayer who elects to take into account a disaster loss in such a taxable year. For example, if a calendar year taxpayer experiences a disaster loss in 1983 and elects to claim the loss for calendar year 1982, the loss will be deductible only to the extent it exceeds 10 percent of the taxpayer's 1982 adjusted gross income.

4. Capital gains holding period

Present law

Gains or losses on certain assets held more than 12 months are considered long-term capital gains.

For noncorporate taxpayers, 40 percent of net long-term capital gains are included in income, while 100 percent of net short-term gains are included. However, 100 percent of net short-term losses (up to $3,000) are deductible, while only 50 percent of net long-term losses (up to $3,000) are deductible.

For corporate taxpayers, net long-term gains are subject to an alternate tax rate of 28 percent, while net short-term gains are taxed at ordinary corporate rates.

House bill

No provision.

Senate amendment

The holding period distinguishing long-term from short-term capital gains and losses is reduced to 6 months, effective for assets sold or exchanged after June 30, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

5. Capital gains indexing

Present law

The adjusted basis for determining the gain or loss from the sale or other disposition of property is established in fixed dollar amounts and, thus, does not take into account changes in the value of the dollar resulting from inflation.

House bill

No provision.

Senate amendment

The basis of certain assets is adjusted for inflation in order to determine the gain or loss upon the sale or other disposition of the assets.

Assets eligible for the indexing adjustments are corporate stock and real property that are capital assets or assets used in a trade or business and are held for more than one year.

The inflation adjustment is based on the level of the GNP deflator for the quarter the asset is purchased compared with the deflator for the quarter of sale. However, if the asset was purchased before 1985, the base is the GNP deflator in the fourth quarter of 1984.

Special rules are provided for certain conduit entities to ensure that an appropriate portion of the inflation adjustments flow through to shareholders or partners.

The provision applies to sales and exchanges after December 31, 1984.

Conference agreement

The conference agreement does not include the Senate amendment.

B. Business Income Tax Provisions

1. Corporate minimum tax

Present law

Corporations must pay a minimum tax on certain tax preferences. The tax is in addition to the corporation's regular tax. The amount of the minimum tax is 15 percent of the corporation's tax preferences in excess of the greater of the regular income tax paid or $10,000.

The tax preference items included in this base of the minimum tax for corporations are:

(1) Accelerated depreciation on real property in excess of straight-line depreciation over the useful life or recovery period;

(2) Amortization of certified pollution control facilities (the excess of 60-month amortization over depreciation otherwise allowable);

(3) In the case of certain financial institutions, the excess of the bad debt deductions over the amount of that deduction computed on the basis of actual experience;

(4) Percentage depletion in excess of the adjusted basis of the property;

(5) 15/46 of the corporation's net capital gain; and

(6) Amortization of child care facilities (the excess of 60-month amortization over depreciation otherwise allowable).

House bill

No provision.

Senate amendment

The Senate amendment provides for a 15-percent cutback in certain corporate tax preferences. The changes apply to all corporations other than subchapter S corporations.

In the case of corporations, the statutory percentage depletion rates for iron ore and coal (including lignite) are reduced by 15 percent.

The bad debt reserve deduction is reduced by 15 percent of the amount by which the otherwise allowable deduction exceeds the amount which would have been allowable on the basis of actual experience.

In the case of a financial institution, 15 percent of the otherwise allowable interest deduction for debt incurred or continued to purchase tax-exempt obligations acquired after 1982 is disallowed.

The deemed dividend distribution by a domestic international sales corporation (DISC) to a corporate shareholder is increased by 15 percent, to 57½ percent of certain taxable income.

The amount treated as ordinary income on the sale of section 1250 property (real estate) by a corporation is increased by 15 precent of the additional amount which would be ordinary income if the property were subject to recapture under section 1245.

Fifteen percent of the basis of pollution control facilities to which an election under section 169 applies is treated as if the election did not apply.

In the case of an integrated oil company, 15 percent of the amount otherwise allowable as a deduction for intangible drilling costs under section 263(c) is capitalized to the oil, gas or geothermal property and treated as if it were recovery property assigned to the 5-year class. ACRS deductions and the investment tax credit are made available. The deductions and the credit are subject to recapture in accordance with the usual recapture rules. The deductions are also reduced to take account of the half-basis adjustment. Integrated oil companies

may elect on an annual basis to capitalize up to 100 percent of otherwise allowable IDCs under these new rules.

Fifteen percent of the deductions for mining exploration and development costs otherwise allowable under section 616(a) and 617 to a corporation are capitalized and treated in generally the same manner as the capitalized IDC's described above.

Only 71.6 percent of the items subject to a cutdown will be treated as items of tax preference under the add-on minimum tax for corporations.

The provisions generally apply to taxable years beginning after December 31, 1982. However, the provision relating to deductions under secs. 263(c), 616 and 617 applies to expenditures made after that date; the provision relating to pollution control facilities applies to property placed in service after that date; the provision relating to section 1250 property applies to dispositions after that date; and the provision relating to depletion applies to taxable years beginning after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment with several modifications: First, the preference for percentage depletion for coal and iron ore that is subject to the 15-percent cutback is defined as excess of percentage depletion otherwise allowable over the adjusted basis of the property. This replaces the Senate provision reducing the percentage depletion rates by 15 percent. Second, the treatment of the 15 percent of intangible drilling costs of integrated oil companies that is made ineligible for expensing is that these costs are written off over 36 months with no investment tax credit. Third, the Senate provision allowing corporations to elect not to expense more than 15 percent of intangible drilling and mining exploration and development costs is deleted. The present law election to capitalize intangible drilling costs is not changed. Fourth, the conference agreement removes rapid amortization for child care facilities as a minimum tax preference for corporations.

The conference agreement also makes a technical amendment relating to real estate investment trusts (REITs). Under present law, REITs are generally treated as conduit entities to the extent that their income (including capital gain) is distributed to its shareholders. However, a REIT is taxed like an ordinary corporation on income (including capital gain) it retains.

In order to continue this treatment with respect to the preference for section 1250 capital gain treatment, the conference agreement provides that the amount subject to the 15-percent ordinary income treatment is reduced by the amount of section 1250 capital gain which is distributed to shareholders and is designated as a capital gain dividend. For this purpose, capital gain dividends are deemed to be paid first from section 1250 capital gain. Thus, no section 1250 capital gain is treated as ordinary income where capital gain dividends for the year are more than the section 1250 capital gain. Any gain treated as ordinary income is considered as real estate investment trust taxable income.

Individual shareholders of a REIT continue to treat capital gain dividends as capital gains for purposes of the individual minimum tax. Corporate shareholders of a REIT treat the portion of the capital gain dividend attributable to gain from the sale or exchange of section 1250 property as subject to the 15-percent ordinary income rule. It is expected that the Internal Revenue Service will modify its regulations to require REITs to designate which portion of their capital gain dividends are paid from section 1250 capital gain and the amount of such gain that would be ordinary income if the property were subject to section 1245 recapture so that their corporate shareholders will know the amount of their preference for section 1250 capital gain treatment.

2. Basis adjustment for investment tax credits

Present law

Cost recovery deductions are allowed for 100 percent of the cost of a depreciable asset, including property for which the regular, energy, or historic structure rehabilitation investment tax credits are allowed. Basis is reduced by the full amount of rehabilitation credits except that no basis reduction is required for the credit for qualified rehabilitation of historic structures.

Lessors may elect to pass through investment credits to lessees, in which case lessees are treated as having purchased the asset for fair market value for purposes of computing the credit.

House bill

No provision.

Senate amendment

The Senate amendment requires a taxpayer to reduce the basis of assets by 50 percent of the amount of regular, energy and certified historic structure investment tax credits. This applies to credits claimed on qualified progress expenditures as well as on ordinary credits. A deduction also is allowed for one-half of unused credits in the year in which they expire. When a lessor elects to pass through the investment credit to a lessee, the lessor takes the basis adjustment. The basis adjustment is not taken into account in determining earnings and profits.

The amendment applies to property placed in service after December 31, 1982, other than property (which is not public utility property, property subject to a safe-harbor lease or a rehabilitated building) placed in service before July 1, 1984, for which a contract was entered into after August 13, 1981, and was binding on July 1, 1982, and at all times thereafter. For property placed in service after 1982 which is not covered by the transition rule, qualified progress expenditures and expenditures for property constructed by the taxpayer incurred before 1983 are not subject to the new rules.

Conference agreement

The conference agreement follows the Senate amendment with several modifications.

First, taxpayers are given an election with respect to the regular investment credit on recovery property to elect a 2-percentage point reduction in the credit. The election is made property by property. A taxpayer who makes this election does not have to make a basis adjustment. In the case of partnerships, the election is made at the partnership level. The election is intended to deal with the case in which a taxpayer cannot claim all the regular investment credits he earns because of the 85-percent-of-tax-liability limitation. In these cases, taxpayers could be forced to make a basis adjustment, and suffer a deferral of deductions for which they would have received a tax benefit, because they earn credits they will be able to use only after carrying them forward for several years. Under the conference agreement, these taxpayers are able to avoid this problem by electing the reduced credit.

Second, when lessors elect to pass through the investment credit to lessees under section 48(d), the lessor does not have to make a basis adjustment. Instead, the lessee includes in income ratably over the ACRS recovery period for the property an amount equal to one-half of the credit allowable. Lessees are eligible to elect the 2-percentage point reduction for the regular investment credit in which case they are not required to include this income. If the credit is recaptured, the income inclusions will be adjusted, in accordance with regulations, to take account of the amount of the credit recaptured.

Third, the conference agreement liberalizes the transition rules in the Senate amendment. The date by which property eligible for the transition rule must be placed in service in order to be exempt from the basis adjustment is extended from July 1, 1984, to January 1, 1986. Also, in the case of an integrated manufacturing facility where there were binding contracts, or where construction by the taxpayer was carried out with respect to more than 20 percent of the cost of the facility, between August 13, 1981, and July 2, 1982, and where the on-site construction began before July 1, 1982, property eligible for the credit in the facility will qualify for the transition rule if the property is placed in service before January 1, 1986.

An integrated manufacturing facility is one or more facilities located on a single site for the manufacture of one or more manufactured products from raw materials by the application of two or more integrated manufacturing processes. For example, an integrated facility for the manufacture of steel or steel products from raw materials would qualify as an integrated manufacturing facility.

Fourth, a transition rule is adopted for rehabilitation of certified historic structures. These are exempt from the basis adjustment if there is a contract to rehabilitate the property which was entered into after December 31, 1980, and was binding on July 1, 1982, and at all times thereafter or if rehabilitation began between December 31, 1980, and July 1, 1982, as long as the building is placed in service before January 1, 1986. Also, rehabilitations of certified historic structures placed in service before July 1, 1984, are exempt if Securities and Exchange Commission filings and HUD Section 8 applications with respect to those structures were made before July 1, 1982.

3. Limitation on investment tax credit

Present law

The investment tax credit earned by a taxpayer can be used to reduce tax liability up to certain limits. The limit for taxable years ending after 1981 is $25,000 plus 90 percent of the tax liability in excess of $25,000 (increased from 80 percent in 1981). Unused credits for a taxable year may be carried back to each of the 3 taxable years preceding the unused credit year and then carried forward to each of the 15 following taxable years.

House bill

No provision.

Senate amendment

The limitation on the amount of income tax liability (in excess of $25,000) that may be offset by the investment tax credit is reduced from 90 percent to 85 percent.

The lower limitation is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

4. Accelerated depreciation (ACRS)—1985 and 1986

Present law

Cost recovery schedules for equipment reflect the 150-percent declining balance method with a switch to the straight-line method, for the years 1981–84. In 1985, the schedules accelerate to reflect the 175-percent declining balance method with a switch to the sum-of-the-years-digits method. In 1986, they accelerate further to reflect the 200-percent declining balance method with a switch to the sum-of-the-years-digits method.

House bill

No provision.

Senate amendment

The Senate amendment repeals 1985 and 1986 accelerations of depreciation.

Conference agreement

The conference agreement follows the Senate amendment.

5. Construction period interest and taxes

Present law

Under section 189, individuals, personal holding companies, and subchapter S corporations are required to capitalize interest and real property taxes attributable to the construction period of real property (other than low-income housing) to be used in a trade or business or held for investment. The capitalized interest and taxes are amortized (i.e., deducted in equal portions) over certain periods, generally 10 years. The interest that must be capitalized is interest which is attributable to the construction period on any debt incurred or continued for the purpose of acquiring, constructing, or carrying real property other than low income housing. The construction period is defined as the period beginning on the date construction of the building or improvement begins and ending on the date the property is ready to be placed in service or is ready to be held for sale.

The amortization of capitalized interest and taxes begins in the year the interest or taxes was paid or accrued. However, the amortization of capitalized interest and taxes is then suspended until the year the building or improvement is ready to be placed in service or to be sold, and amortization resumes at that time.

Corporations, other than personal holding companies and subchapter S corporations, are not subject to the capitalization requirement of section 189. For these corporations, amounts paid or accrued for interest and real property taxes are allowed as deductions for the year in which paid or accrued. Certain prepaid interest, however, must be capitalized and deducted in the years to which properly applicable. In addition, under section 266, taxpayers may elect to capitalize certain taxes and interest attributable to both real and personal property and include the capitalized items in the basis of the property.

Section 189 does not apply to interest and taxes capitalized under section 266.

House bill

No provision.

Senate amendment

Section 189 generally would be extended to apply to all corporations. However, for corporations other than personal holding companies and subchapter S corporations, section 189 would not apply to construction period interest and taxes for residential real property. In addition, the Treasury Department would be required to issue regulations providing for the allocation of interest to the construction of real property, and it would be expected that these regulations would adopt rules similar to those contained in Financial Accounting Standards Board Statement Number 34, as amended. Under those rules, the amount of interest to be capitalized is the portion of the total interest expense incurred during the construction period that could have been avoided if funds had not been expended for construction. Interest expense that could have been avoided includes interest costs incurred by reason of additional borrowings to finance construction and interest costs incurred by reason of borrowings that otherwise could have been repaid with funds expended for construction.

The Senate amendment generally would apply to interest and taxes paid or incurred in taxable years beginning after December 31, 1982, for the construction of nonresidential real property begun after December 31, 1982. The Senate amendment would not apply, however, to the construction of the Alaska Natural Gas Transportation System (15 U.S.C. 719) and its related facilities (e.g., compressor stations and conditioning plants). In addition, the Senate amendment would not apply to the construction of hotels or motels described in section 48(a)(3)(B) begun before January 1, 1984, if the construction is done under a written plan of the taxpayer in existence on July 1, 1982, and if the taxpayer has requested in writing approval from a governmental unit for such hotel or motel.

Conference agreement

The conference agreement follows the Senate amendment with one amendment to the effective date. Under the amendment, the special transitional rule of the Senate bill for hotel and motel construction is extended to apply also to the construction of hospitals and nursing homes.

The conferees understand that the construction period commences with the date on which the construction of a building or other improvement begins and ends on the date that the building or improvement is ready to be placed in service or is ready to be held for sale. For this purpose, the construction period is not to be considered to have commenced solely because drilling is performed to determine soil conditions, architect's sketches or plans are prepared, or a building permit is obtained. Generally the construction period will be considered to have commenced when land preparations and improvements, such as clearing, grading, excavation, and filling, are undertaken. However, the construction period will not be considered to have commenced solely because clearing or grading work is undertaken, or drainage ditches are dug, if such work is undertaken primarily for the maintenance or preservation of raw land and existing structures and is not an integral part of a plan for the construction of new or substantially renovated buildings and improvements. In the case of the demolition of existing structures where the construction period has not otherwise commenced, the construction period is considered to commence when demolition begins if the demolition is undertaken to prepare the site for construction. The construction period will not be considered to commence solely because of the demolition of existing structures if the demolition is not undertaken as part of a plan for the construction of new or substantially renovated buildings or improvements.

The conferees also intend to clarify that the construction of property is considered to have begun before January 1, 1983, if the property is an integral part of an integrated facility and construction of part of that facility began before January 1, 1983. An integrated facility is a multi-property facility constructed as a single project on a single site and operated as a single, unitary facility as described in a written plan (evidenced by internal documents of the taxpayer such as purchasing and financing documents) existing on July 1, 1982. Property is an integral part of an integrated facility if:

(1) the property is described as part of the same project in written plans of the taxpayer in existence on July 1, 1982;

(2) the property is an integral part the planned operation of the project when the project will first be placed in service; and

(3) the property will be constructed during the same construction period as the rest of the project.

Thus, for example, three nuclear reactors are not part of one integrated facility for the production of electricity if it is planned that only one reactor will be placed in service initially. On the other hand, if a taxpayer plans to construct a facility to produce sheet steel from iron ore, then both a blast furnace and rolling mill to be constructed during the same construction period on a single site are part of the same integrated facility because both properties are necessary to produce sheet steel from iron ore as contemplated in the taxpayer's plan. However, if the blast furnace is planned to be ready to be placed in service in 1985 and construction of the rolling mill is not planned to begin until 1986, then those properties are not part of one integrated facility.

Although improvements such as parking lots, access roads, and utility hook-ups may be part of an integrated facility, the start of construction of such property (which can be used in connection with any type of facility) is not considered the start of construction of other property in the facility for purposes of the effective date of the provision.

6. Leasing Rules

a. Non-safe harbor leasing rules

Present law

General concept

Prior to the enactment of ERTA, the law contained rules to determine who owns an item of property for tax purposes when the property is subject to an agreement which the parties characterize as a lease. These rules, which evolved over the years through a series of court cases and revenue rulings and revenue procedures issued by the Internal Revenue Service, still apply to transactions that are not governed by the safe-harbor rules. Essentially outside the safe harbor provided by ERTA, the law is that the economic substance of a transaction, not its form, determines who is the owner of the property for tax purposes. Lease transactions cannot be used solely for the purpose of transferring tax benefits. In general, that means that the lessor has to have a profit or income-producing motive for the transaction independent of tax benefits. Other business motives are taken into account in determining the substance of the transaction. The fact that the lessor in a lease financing transaction can show a profit or business purpose does not automatically

result in lease treatment because a profit motive also can exist in a financing arrangement. In addition, the lessor has to bear meaningful benefits and burdens of ownership. The transaction has to be in substance a lease and not a financing arrangement or a conditional sale.

Objective guidelines (Revenue Procedure 75-21)

Revenue Procedure 75-21 and subsequent revenue procedures provide the following objective guidelines for determining non-safe harbor lease treatment of leveraged leases of equipment. These guidelines may be viewed as a type of safe harbor because if all requirements are met, a ruling generally will be issued treating the transaction as a lease.

1. *Lessor's minimum investment.*—The lessor must have a minimum 20 percent unconditional at-risk investment in the property.

2. *Lessee's investment.*—Neither the lessee nor a party related to the lessee may furnish any part of the cost of the property.

3. *Lessee loans or guarantees.*—The lessee may not lend to the lessor any of the funds necessary to purchase the property or guarantee any lessor loan.

4. *Purchase options.*—The lessee may not have an option to purchase the property at the end of the lease term unless the option can be exercised only at fair market value (determined at the time of exercise). In addition, the lessor cannot have a contractual right to require the lessee or any other party to purchase the property, even at fair market value (i.e., a put).

5. *Lessor profit and cash flow.*—The lessor must expect to receive a profit and positive cash flow from the transaction independent of tax benefits.

6. *Limited use property.*—Under Revenue Procedure 76-30, property that can be used only by the lessee (limited use property) is not eligible for lease treatment.

Motor vehicle leases

One court (*Swift Dodge* v. *Commissioner*, 76 T.C. 546 (1981)) has held that, in an operating lease of motor vehicles, lease treatment may result even though the lease contains a terminal rental adjustment clause requiring or permitting an adjustment of rent to make up any difference between the projected value of the property at the end of the lease and the actual value of the property upon lease termination. The I.R.S. has not acquiesced in this case.

House bill

No provision.

Senate amendment

Fixed price purchase options

For leases entered into after December 31, 1984, fixed price purchase options are not to be taken into account in determining whether a transaction is a lease under the non-safe harbor rules. To qualify, the option must be at least 10 percent of the original cost of the property. As under present law, the fact the lessor has a contractual right requiring the lessee to purchase the property (i.e., a put option) in a lease must be taken into account in determining whether a transaction is a lease under non-safe harbor rules.

This change permitting a fixed price purchase option applies to certain leases of farm property entered into after July 1, 1982. To be eligible, the property must be new property eligible for the investment credit and used for farming purposes as defined in section 2032A(e)(5). A lease does not qualify if the cost basis of the leased property when added to the cost basis of all other property subject to a lease that was entered into by the lessee (or a related person) during the same calendar year and that was covered by this rule exceeds $150,000. For this purpose, a related person is defined in section 168(e)(4)(D), except that an individual is not considered related to the lessee individual if the property is used in a trade or business of farming that is separate from the trade or business of farming of the lessee.

Motor vehicle leases

The Senate amendment prevents the IRS from retroactively denying lease treatment for certain motor vehicle leases, including leases of trailers, by reason of the fact that those leases contain terminal rental adjustment clauses. The provision does not address the legal effect of these clauses and does not prevent the Treasury from issuing regulations on a prospective basis addressing the legal effect of these clauses.

The Senate provision regarding terminal rental adjustment clauses applies only to leases in which the lessee uses the property for business purposes. Also, the provision does not apply to leveraged leases financed with nonrecourse debt.

Other rules unchanged

The Senate amendment does not otherwise alter Revenue Procedure 75-21 or the general principles for determining lease treatment of transactions other than safe-harbor lease transactions.

Effective date

Fixed price purchase options.—In general, the change for fixed price purchase options applies to leases entered into after December 31, 1984. However, the provision for up to $150,000 of a lessee's farm property applies to leases entered into after July 1, 1982 and before January 1, 1985.

Motor vehicle leases.—The provision governing motor vehicle leases applies to any open taxable year.

Conference agreement

Overview

The conference agreement modifies the Senate amendment in several respects. Under the conference agreement, leases that qualify under the non-safe harbor rules are allowed the same 90-day window presently allowed for safe harbor leases. Thus, property subject to a non-safe harbor lease will be considered new property if it is leased within 90 days after the property is placed in service. In addition, the conference agreement establishes a new category of leases referred to as finance leases.

These rules generally apply to leases entered into after December 31, 1983. A special rule applies for finance leases entered into after July 1, 1982 of up to $150,000 of a lessee's farm property.

The conference agreement adopts without change the provision preventing the IRS from retroactively denying lease treatment to motor vehicle leases that contain terminal rental adjustment clauses. As under the Senate amendment, that change applies only to property that is used for business purposes and that is not financed with nonrecourse debt.

Finance leases

Overview.—Under the conference agreement, lease treatment is allowed for finance leases. A finance lease is an agreement characterized by the parties as a lease with respect to eligible property that would meet the requirements of a lease under the non-safe harbor rules if the fact that the agreement contained a 10-percent fixed price purchase option or that the property was limited use property were not taken into account in determining lease treatment. To be a finance lease, the lessor must be a corporation (other than a subchapter S corporation or a personal holding company), a partnership all partners of which are those corporations, or a grantor trust with respect to which the grantor and all beneficiaries are those corporations. Finance leases (other than finance leases of up to $150,000 of a lessee's farm property per calendar year) are subject to a lessee cap, a lessor cap, and an ITC spread. Limitations on related party transactions and percentage depletion deductions of lessees apply to all finance leases.

Eligible property.—Under the conference agreement, property eligible for finance lease treatment includes only recovery property that is new section 38 property. However, eligible property does not include public utility property (as defined in section 167(1)(3)(A)) or rehabilitated buildings. The conference agreement excludes property used by former tax-exempt organizations excluded from the safe-harbor provisions under the Senate amendment, except that the exclusion does not apply to property used by farmer's cooperatives described in section 521 (whether or not they are exempt from tax) or to property used in an unrelated trade or business, the income from which is subject to tax under section 511. In addition, property does not qualify if it is used by a person other than a U.S. person and that foreign user is not subject to U.S. tax on the income generated from the property. Mass commuting vehicles are not eligible.

10-percent fixed price purchase option.—A 10-percent fixed price purchase option means an option of the lessee (i.e., a call option) to purchase the property at the end of the lease term for a price that is fixed at the beginning of the lease term at an amount that is 10 percent or more of the original cost of the property.

Limited use property.—Limited use property is property that is not readily usable by any person other than the lessee.

Other non-safe harbor lease rules apply.—Finance leases must meet the requirements for lease treatment under non-safe harbor rules, disregarding the fact that the lease contains a 10-percent fixed price option or that the property is limited use property. Thus, the transaction must have economic substance independent of tax benefits and not merely be cast in the form of a lease for purposes of utilizing the lessor's tax base. The lessor must reasonably expect to derive a profit from the transaction independent of tax benefits. In addition to a profit, the transaction must not (without regard to the fact the agreement contains a fixed price option or that the property is limited use property) in substance be a financing arrangement or conditional sale in which the lessee has an investment in the property.

Investment tax credit.—Under the conference agreement, 20 percent of any investment credit earned for finance lease property is allowable in the first taxable year and 20 percent of the credit is allowable in each of the 4 succeeding taxable years. In computing cost recovery allowances for finance lease property, the regular ACRS periods and methods apply. The basis adjustment for half of the full investment credit occurs in the first taxable year.

This spreading of an investment credit does not apply to property placed in service after September 30, 1985.

Lessor limitations.—In taxable years ending after December 31, 1983, a lessor is not allowed deductions or credits allocable to finance lease property to the extent those deductions or credits reduce its income tax liability (including any liability under the add-on minimum tax) by more than 50 percent.

Deductions or credits not allowed by operation of this limitation may be carried forward, under regulations to be prescribed by the Secretary. This lessor limitation does not apply to property placed in service after September 30, 1985, in taxable years beginning after that date.

A lessor cannot use tax benefits from property in a finance lease to generate a net operating loss carryback or investment tax credit carryback to a prior taxable year. This rule operates in the same way as the rule prohibiting carrybacks (and allowing carryforwards) of tax benefits obtained under the safe-harbor lease provisions.

Lessee limitations.—The conference agreement places a 40-percent limit on the amount of a lessee's qualified base property that may be leased during any calendar year under a finance lease. Qualified base property includes new section 38 property of the lessee, financed lease property (other than new section 38 property of the lessee), and designated leased property. Designated leased property has the same meaning as in the lessee cap of the safe harbor provisions. Property leased last during the calendar year is considered to be the first property denied lease treatment under this rule. The lessee cap does not apply after calendar year 1985.

The conference agreement requires a lessee to compute its percentage depletion deduction for property subject to a finance lease as if it owned the property. In general, rules similar to the rules for the percentage depletion computation under the safe-harbor provisions of the Senate amendment apply in making this computation. However, the lessee must use the regular ACRS deductions allowed under the law in effect at the time of the lease agreement in making this determination rather than the modified ACRS deductions required for safe-harbor leases.

Related party transactions.—The finance lease rules do not apply to transactions between related persons. For this purpose, persons are related if they are part of an affiliated group as defined in section 1504 even if the persons are not an "includible corporation" (as defined in section 1504(b)) and even though the group does not file a consolidated return.

Farm finance leases.—Leases of new section 38 property used for farming purposes entered into after July 1, 1982, may qualify for finance lease treatment if the cost basis of the leased property when added to the cost basis of all other farm property subject to a finance lease that was entered into by the lessee (or a related person) during the calendar year does not exceed $150,000. A related person has the same meaning as under the Senate amendment. These leases of farm property are not subject to the lessor cap, the lessee cap, or the spread of the investment credit. However, those limitations apply for leases entered into after December 31, 1983, of property exceeding the $150,000 amount. The limitations on related party transactions and percentage depletion of a lessee apply to farm finance leases for all years.

Other non-safe harbor leases unaffected

The conference agreement does not alter the present law treatment of leases other than finance leases or safe harbor leases.

Effective dates

The provision permitting a 90-day window applies to leases entered into after December 31, 1983. The finance lease provisions also generally apply to property placed in service after December 31, 1983. However, the rules relating to finance leases of up to $150,000 of a lessee's farm property apply to leases entered into after July 1, 1982. The motor vehicle provisions apply to any open taxable years.

b. Safe-harbor leasing rules

Present law

General concept

The safe-harbor leasing provisions of ERTA are intended to permit owners of property to transfer the tax benefits of ownership (depreciation and the investment credit) to other persons without having to meet the prior law requirements for characterizing the transaction as a lease. The safe-harbor leasing provisions operate by guaranteeing that for Federal tax purposes qualifying transactions will be treated as leases, and that the nominal lessor will be treated as the owner of the property, even though the lessee is in substance the owner of the property and the transaction otherwise would not be considered a lease.

Eligibility requirements

Maximum lease term.—The lease term may not exceed the greater of 90 percent of the useful life of the property or 150 percent of the ADR midpoint of the property.

Maximum interest rate on lessee obligations.—Under Treasury regulations, the rate may not exceed by more than 3 percentage points the rate on tax overpayments and underpayments, the prime rate, or an arms-length rate determined under section 482.

Eligible property

General rule.—Property must be "qualified leased property," which, in general, means that the property must be new equipment eligible for both ACRS and the investment credit.

90-day window.—The equipment may be leased within 3 months after the property is placed in service without violating the requirement that the equipment be new equipment (called the 90-day window).

Property used by tax-exempt organizations.—Property (other than mass commuting vehicles) used by a tax-exempt organization or a U.S. Federal, State, or local government unit generally is ineligible.

Mass commuting vehicles.—Qualified lease property includes mass commuting vehicles (which means any bus, subway car, rail car or similar equipment that is leased to a governmentally owned mass transit system and used in providing mass commuting services) that are financed in whole or in part by tax-exempt bonds.

Public utility property.—Public utility property is eligible for the safe-harbors rules.

ACRS deductions

Recovery period.—The taxpayer may elect the regular ACRS recovery period of 3 years for 3-year property, 5 years for 5-year property and 10 years for 10-year property.

Recovery method.—The taxpayer may elect accelerated percentages approximating use of the 150-percent declining balance method in early recovery years and the straight-line method in subsequent recovery years.

Investment tax credit.—100 percent of any investment tax credit is allowable when property is placed in service.

Related party transactions

The Treasury regulations governing the safe harbor rules reserved on whether transactions between related parties qualify for safe-harbor treatment.

ITC strip

The Treasury regulations reserved on whether safe-harbor lease treatment is allowed for transactions referred to as lease-leasebacks or ITC strips intended to permit the lessee to transfer only the investment credit.

Closely-held lessors

The at-risk limitations on losses (sec. 465) and credits (sec. 46(c)(8)) may apply where a closely-held corporation is either a lessor or lessee. In general, to be at-risk, the taxpayer must use cash or recourse debt to finance the property.

House bill

No provision.

Senate amendment

Eligibility requirements

Maximum lease term.—The lease term cannot exceed 100 percent of the present class life (ADR midpoint as of January 1, 1981) of the property (generally 9 years for property without an ADR life).

Interest rate.—The interest rate may not exceed the rate of overpayments and underpayments of tax reduced by 5 percentage points, but not below 8 percent.

Eligible property

General rule.—The definition of qualified leased property eligible for the safe-harbor is generally the same as under present law. However, public utility property is not qualified leased property under the Senate amendment.

Property used by tax-exempt organizations.—Qualified leased property will not include property (other than mass commuting vehicles) leased to a person that was a tax-exempt organization at any time within the 5-year period preceding the date of the lease agreement. This rule also applies where a predecessor of the lessee, within the 5-year period prior to the date the lease is entered into, was a tax-exempt organization and was engaged in activities substantially similar to the activities in which the lessee is engaged.

Mass commuting vehicles.—In general, the definition of mass commuting vehicles eligible for the safe harbor is the same as under present law. However, ferries are specifically designated as mass commuting vehicles.

ACRS deductions

Recovery period.—Recovery periods are 5 years for 3-year property, 8 years for 5-year property and 15 years for 10-year property.

Recovery method.—The recovery method is the straight-line method (with a half-year convention).

Investment tax credit.—Any investment tax credit earned on leased property is allowable over 3 years—50 percent the first year and 25 percent in each of the next 2 years. However, the half-basis adjustment takes effect the first year.

Lessee limitations

Cap on eligible property.—The lessee may apply the safe-harbor rules with respect to no more than the following percentages of the lessee's qualified base property placed in service during any calendar year:

Year	Percent
1982	45
1983	45
1984	40
1985	40

Qualified leased property not subject to this provision by virtue of the general effective date or transitional rules counts toward the lessee cap in 1982, but the rule does not operate to deny safe-harbor lease treatment for that property.

For this purpose, the lessee's qualified base property includes (1) the cost basis of all qualified leased property leased by the lessee under a lease for which a safe-harbor election has been made, (2) all other new section 38 property of the lessee that is placed in service during the taxable year, and (3) designated lease property, which is new property eligible for the investment credit that is used by the lessee under a long-term (more than 50 percent of the ADR midpoint of the property) agreement qualifying as a lease under non-safe harbor rules.

Property leased last during the calendar year is considered to be the first property denied lease treatment under this rule.

Percentage depletion.—The lessee must compute its 50-percent and 65-percent taxable income limitations on percentage depletion deductions as if it were the owner of the leased property. For this purpose, the lessee must take into account ACRS deductions for the property and must disregard lease rentals and interest on lessee financing. In computing the imputed ACRS deductions for the property, the lessee must use the recovery period and method applicable to the lessor under the new safe-harbor rules.

Foreign tax credit.—The lessee must compute its foreign tax credit as if the lessee were the owner of the property. Thus, it must take into account ACRS deductions (and disregard rentals and interest on lessee financing) computed using the periods and methods applicable to the lessor.

Lessor limitations

Current tax liability.—In taxable years ending after July 1, 1982, a lessor is not allowed deductions or credits allocable to qualified leased property to the extent those deductions or credits reduce its income tax liability (including any liability under the add-on minimum tax) by more than 50 percent. Thus, the lessor's tax liability is the greater of (1) tax computed by taking into account ACRS deductions, investment credits, rentals, and interest or lessee financing allocable to qualified leased property or (2) 50 percent of the tax computed without taking into account those items. Deductions or credits from safe-harbor leases not allowable by operation of this rule may be carried forward under regulations to be prescribed by the Secretary. No deferral of tax benefits is required with respect to deductions or credits arising from safe-harbor leases not covered by the Senate provisions, but such deductions or credits count first in determining whether the 50-percent limitation applies to safe-harbor leases covered by the Senate provisions.

Carrybacks.—A lessor cannot use tax benefits obtained as a safe-harbor lessor to generate a net operating loss carryback or investment tax credit carryback to a prior taxable year. In determining the amount of any carryback, taxable income or tax liability must be reduced first by tax benefits that are not attributable to safe-harbor leases. The Senate amendment does not prohibit a carryover of these amounts.

Related party transactions

The Senate amendment prevents the lessee from entering into a safe-harbor lease with a related person. For this purpose, persons are related if they are part of an affiliated group as defined in section 1504, even if the persons are not "includible corporations" (as defined in section 1504(b)) and even though the group does not file a consolidated return.

ITC strip

The Senate amendment allows safe-harbor lease treatment for transactions referred to as lease-leasebacks or ITC strips entered into before October 20, 1981, which is the date Treasury issued its temporary regulations dealing with the safe-harbor provisions.

Closely-held lessors

Under the Senate amendment, the at-risk limitations on losses and credits generally do not apply to lessors that are closely-held corporations with respect to qualified leased property for which a safe-harbor election has been made. If the lessee would be treated as the owner without regard to the safe-harbor rules, the at-risk rules will apply to closely-held lessors to the extent those rules would apply to the lessee. Also, the at-risk rules will continue to apply to closely-held corporations the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.

Effective dates

General rule.—The Senate amendment generally applies to leases entered into or property placed in service after July 1, 1982, except the limitation on lessees relating to percentage depletion and the limitation on related party transactions apply to leases entered into after February 19, 1982.

Transition rule.—In general, the Senate provision does not apply if (1) the property is placed in service before July 1, 1983, and (2) after June 25, 1981 (the date H.J. Res. 266, which contained the safe-harbor leasing provisions, was ordered to be reported by the Senate Finance Committee) and before February 20, 1982, (a) the property was acquired by the lessee or construction of the property was commenced by or for the lessee or (b) the lessee entered into a binding contract for the purchase or construction of the property. For this purpose, a contract is not binding unless the lessee's failure to perform would subject him to liability for damages in an amount equal to or greater than 5 percent of the cost of the property.

Aircraft qualify under the transitional rule if the property is placed in service before January 1, 1984, and construction of a subassembly commenced or the stub wing join occurred between June 25, 1981, and February 20, 1982.

The June 25, 1981, date in the transitional rule is moved back to March 31, 1981, for paper production plants. Certain automobile manufacturing property qualifies under the transitional rule if placed in service before July 1, 1982 and leased before August 15, 1982.

Mass commuting vehicles.—The Senate provisions which modify the safe-harbor rules generally do not apply to mass commuting vehicles placed in service before January 1, 1988, pursuant to a binding contract or commitment entered into before April 1, 1983.

Repeal of safe-harbor leasing.—Safe-harbor leasing is repealed for property (other than mass commuting vehicles eligible under the special rule above) placed in service after September 30, 1985.

Conference agreement

Eligibility requirements

Maximum lease term.—The maximum lease term is the recovery period (described below) applicable to property in a safe-harbor lease or, if greater, 120 percent of the present class life of the property.

Interest rate.—Under the conference agreement, the interest rate on lessee obligations under a safe-harbor lease may not exceed the rate on overpayments and underpayments of tax.

Eligible property

General rule.—The general definition of qualified leased property is the same as under the Senate amendment.

Property used by tax-exempt organizations.—In general, the conference agreement adopts the provision in the Senate amendment excluding certain former tax-exempt organizations from qualified leased property. However, the conference agreement does not exclude from eligible property any property used by a tax-exempt organization in an unrelated trade or business the income from which is subject to tax under section 511. Also, farmers cooperatives described in section 521 are eligible for safe-harbor leasing whether or not they are exempt from tax.

Property used by certain foreign persons.—Under the conference agreement, qualified lease property does not include property used by a person other than a U.S. person if the income from use of the asset by that person is not subject to U.S. tax.

Mass commuting vehicles.—The conference agreement clarifies the Senate amendment regarding ferries to insure that property other than ferries does not qualify unless it is used to provide mass commuting services. For example, mass commuting vehicles do not include school buses.

ACRS deductions

Recovery period.—The conference agreement follows the Senate amendment.

Recovery method.—Cost recovery allowances are determined by applying prescribed percentages to the unadjusted basis of the property. These percentages are based on the 150-percent declining balance method, changing to the straight-line method, and using a half-year convention in the first recovery year. The percentages are set forth in the following table:

If the recovery year is:	The applicable percentage for the class of property is:		
	3-year	5-year	10-year
1	15	9	5
2	25	17	10
3	20	14	9
4	20	12	8
5	20	12	7
6		12	7
7		12	6
8		12	6
9			6
10			6
11			6
12			6
13			6
14			6
15			6

Investment tax credit.—The conference agreement generally follows the Senate amendment, except only 20 percent of an investment tax credit is allowable in each of the first five taxable years.

Lessee limitations

Eligible property.—In general, the conference agreement follows the Senate amendment. However, because the safe-harbor provisions do not apply after 1983, the lessee cap imposed by the Senate amendment in 1984 and 1985 does not apply. In addition, the conference agreement makes clear that property not subject to the modifications of the safe-harbor rules by virtue of the general effective date or transition rules counts towards computation of the lessee cap in 1983 as well as 1982.

Percentage depletion.—The conference agreement follows the Senate amendment.

Foreign tax credit.—The conference agreement deletes the limitation on the foreign tax credit for safe-harbor lessees.

Lessor limitations

The conference agreement follows the Senate amendment.

Related party transactions

The conference agreement follows the Senate amendment.

ITC strip

The conference agreement generally follows the Senate amendment.

Closely held lessors

The conference agreement generally follows the Senate amendment excluding closely-held lessors (other than personal service companies) from the at-risk rules for qualified leased property for which a safe-harbor election is in effect. However, the conference agreement extends the application of the rule to safe harbor leased property placed in service before the effective date where the lessor first becomes a closely held corporation after the general effective date. The conference agreement makes clear that the at-risk limitations also will not apply to closely held lessors with respect to safe harbor leased property that is not covered by the modifications to the safe-harbor provisions by virtue of the general effective date or transitional rules. The rules permitting closely held lessors to avoid application of the at-risk rules do not apply with respect to finance leases or other non-safe harbor leases.

Effective dates

General rule

The modifications to the safe-harbor leasing rules generally apply to leases entered into or property placed in service after July 1, 1982, except that the limitation on lessees relating to percentage depletion and the limitation on related party transactions apply to leases entered into after February 19, 1982.

Transitional rules

General rule.—Under the conference agreement, the modifications to the safe-harbor leasing provisions do not apply for property placed in the service before January 1, 1983 if after December 31, 1980 and before July 2, 1982 either (1) the property was acquired by the lessee or construction of the property was commenced by or for the lessee, or (2) a binding contract to acquire or construct the property was entered into by the lessee. For this purpose, a contract is not binding unless the lessee's failure to perform would subject him to liability for damages in an amount equal to or greater than 5 percent of the cost of the property.

Mass commuting vehicles.—The modifications to the safe-harbor leasing provisions do not apply to a mass commuting vehicle placed in service before January 1, 1988. In addition, these modifications do not apply to a mass commuting vehicle placed in service after December 31, 1987, if (1) the property was not placed in service before January 1, 1988, solely because of conditions that are not within the control of the lessor or lessee, and (2) the property was placed in service pursuant to a binding contract or commitment entered into before April 1, 1983. The definition of a binding contract or commitment for mass commuting vehicles is the same as under the Senate amendment.

Aircraft.—Under the conference agreement, the modifications to safe-harbor leases do not apply to commercial passenger aircraft (other than helicopters) placed in service before January 1, 1984, if after June 25, 1981, and before February 20, 1982, either (1) the property was acquired by the lessee or construction or reconstruction was commenced by or for the lessee, or (2) a binding contract to acquire or construct the property was entered into by the lessee. For this purpose, construction is considered to have commerced if construction of a subassembly was commenced or the stub wing join occurred. Construction of a subassembly means the joining of two or more separate parts to form an assembly by welding, riveting, bolting, or by other standard fastening methods in airframe or engine manufacturing procedures, including, but not limited to, bonding of fiberglass or graphite composites. Subassemblies may be built singly or in lot increments. The stub wing join occurs when the center wing section of the aircraft is joined with the right- and left-hand wings.

Auto manufacturing property.—The conference agreement adopts the Senate amendments that excludes certain automobile manufacturing property placed in service before July 1, 1982 and leased before August 15, 1982 from the modifications to safe-harbor leasing. In addition, the conference agreement excludes from the modifications to safe-harbor leasing automobile manufacturing property that would meet the requirements of the general transitional rule above if October 1, 1983 were substituted for January 1, 1983.

Steel.—The modifications to the safe harbor leasing provisions do not apply to proprty used by the taxpyer directly in connection with the trade or business of the manufacture or production of steel and placed in service before January 1, 1984, if after December 31, 1980, and before July 2, 1982, (1) the proprty was acquired by the taxpayer or construction of the property was commenced by or for the taxpayer, or (a) a binding contract was entered into for the property.

Boilers and turbines of certain cooperatives.—Under the conference agreement, the modifications to the safe-harbor leasing provisions do not apply for turbines and boilers placed in service by a cooperative organization described in section 1381(a) before July 1, 1983, if after December 31, 1980 and before July 2, 1982, at least 20 percent of the cost of the turbines or boilers was paid by the taxpayer.

The conferees understand that some lessees may have acquired various components before July 2, 1982, pursuant to contracts entered into before January 1, 1981. If those components are installed by the employees of the taxpayer after July 1, 1982, the property will qualify if the property is placed in service before January 1, 1983.

Definition of construction.—For purposes of the transitional rules, construction is considered to have commenced when physical work on construction of the property commences. Physical work does not include planning, research, design, engineering studies, securing financing, test drilling, or any other activity that does not involve physical work. Clearing land constitutes commencement of physical work on construction.

Property-by-property determination.—The transitional rules are applied for each separate item of property. For example, commencement of construction of a machine that will be placed in service in a plant commences when physical work on that machine begins. Commencement of construction of the machine is not considered to be commencement of construction of any other property in the plant. Similarly, the transitional rules regarding acquisitions and binding contracts apply for each separate item of property.

Repeal

The conference agreement repeals the safe-harbor lease provisions for leases entered into after December 31, 1983.

7. Foreign Tax Provisions

a. Limitation on amount of foreign oil and gas extraction taxes allowed as foreign tax credits

Present law

The amount of foreign oil and gas extraction taxes that may be credited is limited to an amount based on the U.S. corporate tax rate. However, to determine the credit, extraction losses from one country do not offset extraction income from other countries. Carryovers and carrybacks for excess extraction taxes paid are limited to 2 percent of foreign oil extraction income. The foreign tax credit limitation is computed separately for oil related income and all other foreign income.

If a taxpayer sustains an overall foreign loss in any taxable year, the taxpayer in succeeding taxable years must treat foreign source taxable income as U.S. source income in an amount which is equal to the lesser of (1) the remaining balance of the overall foreign loss, or (2) 50% of the taxpayer's taxable income from foreign sources for the succeeding taxable year in question. (Section 904(f), added to the Code in 1976.) The overall foreign loss must be determined separately for foreign oil and non-oil related income.

House bill

No provision.

Senate amendment

The Senate amendment changes the extraction loss rule so that a net extraction loss from one country offsets extraction income from other countries for the purpose of computing the amount of creditable oil and gas extraction taxes. The 2-percent limit on carryovers and carrybacks and the separate oil related income limitation are repealed. Credits are disallowed to the extent that foreign countries impose abnormally higher taxes on oil than on other activities. Also, the Senate amendment provides transitional rules dealing with carrybacks and carryforwards of credits. Under these transitional rules, pre-1983 overall foreign non-oil

losses would cause the taxpayer to treat post-1982 overall foreign oil related income as U.S. source income. The Senate amendment applies to taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment, but adds a special rule to prevent the immediate recapture of non-oil related overall foreign losses. For this purpose, this special rule maintains the distinction between non-oil related and oil related overall foreign losses incurred in taxable years beginning before January 1, 1983, and subject to recapture in taxable years beginning after December 31, 1982. However, in order to assure that this special rule does not have an indefinite life, a provision to phase-in the recapture of any pre-1983 overall foreign non-oil related losses over a period of 8 years (generally, at a rate of 12½% a year) has been included in the Act. This special rule provides that in computing the recapture of an overall foreign non-oil related loss incurred in a taxable year beginning before 1983, the separate foreign tax credit limitation for non-oil related income as in effect under present law will generally apply. However, for purposes of applying the foreign tax credit foreign loss recapture rules with respect to taxes paid or accrued in a taxable year beginning after December 31, 1982, an additional amount of pre-1983 non-oil related income will be recaptured. This additional amount shall at least be equal to the lesser of: (1) an amount equal to 12½% of such pre-1983 overall foreign non-oil related loss multiplied by the number of taxable years that have elapsed since January 1, 1983, but less the amounts (if any) previously recaptured under the 12½% rule; or (2) the taxpayer's taxable income from sources without the United States that is not recaptured under the separate limitation rule above.

The conference agreement also changes the Senate amendment transitional rule for carryforwards of foreign tax credits from pre-enactment years.

It is the understanding of the conferees that the Department of the Treasury is to review the impact and effect of the foreign oil and gas tax credit provisions of the conference agreement on multinational oil companies and report its conclusions to the Congress by December 1, 1983.

b. Current taxation of foreign oil and gas non-extraction income

Present law

Income of a foreign corporation from foreign sources generally is not subject to U.S. taxation when earned. U.S. shareholders of a foreign corporation may be taxed on the income of a foreign corporation from certain tax haven or tax avoidance transactions under the anti-avoidance provisions of the Code (such as subpart F).

House bill

No provision.

Senate amendment

Under the Senate amendment, a new category of subpart F income would be added with respect to foreign oil and gas related income. Under this provision, U.S. shareholders of a controlled foreign corporation would be subject to tax currently on the foreign oil related income of the controlled foreign corporation from countries other than those in which the oil and gas is extracted or consumed. Foreign oil related income includes income from processing, transportation, distribution and sales, and services. Services are covered only if the provider is engaged in extraction. The other items are subject to tax currently even though neither the earner of the income nor a related party has extraction income. This provision would apply to taxable years of foreign corporations beginning after December 31, 1982, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end.

Conference agreement

The conference agreement generally follows the Senate amendment, but clarifies one point and modifies another. The conference agreement makes it clear that fuel transferred into the fuel tank of a vessel or an aircraft (e.g., bunkers with respect to a vessel) for consumption by such vessel or aircraft is considered to be consumed in the country in which that transfer occurs.

In addition, the conference agreement exempts the U.S. shareholder of a controlled foreign corporation from current tax if neither the controlled foreign corporation nor any related person (as defined in Subpart F) has foreign oil or gas extraction income. The exemption will apply if the aggregate average daily production of foreign crude oil and natural gas by the foreign corporation and related persons for any taxable year is less than 1000 barrels per day (or its equivalent in gas).

c. Possession and Virgin Islands corporations

Present law

To qualify for effective tax exemption, a U.S. corporation must derive at least 50% of its gross income from the active conduct of a trade or business within a U.S. possession. Also, 80% of its gross income must be from possessions sources.

Possessions corporations (sec. 936) and certain U.S. corporations that are inhabitants of the Virgin Islands are, in general, effectively tax exempt. This exemption applies to income from intangibles created by such a corporation or acquired from an unrelated party. Taxpayers allege that an intangible asset (a patent, trademark, etc.) created by a related party and transferred to a possessions corporation generates tax-free income of the possessions corporation. The Internal Revenue Service allocates income from such an intangible to the related party. The issue is currently being litigated in the United States Tax Court.*

House bill

No provision.

Senate amendment

The required percentage of active business income for qualification for effective tax exemption is phased up to 90% for taxable years beginning in 1985 and thereafter. The percentage for 1983 is 65%; for 1984, 80%. Failure of the qualification tests because of IRS reallocation of intangibles income to other persons may be cured by distributions of disqualifying income. These distributions do not qualify for the dividends received deduction. Income from intangibles created by related parties is generally allocated to U.S. shareholders pro rata as U.S. source income. If a shareholder is a foreign person or a tax-exempt U.S. person, the possessions corporation (or V.I. corporation) is taxable on that shareholder's pro rata amount of the income from those intangibles as U.S. source income. Income from intangibles does not include a reasonable profit (as determined by the Secretary) on direct and indirect costs.

The provisions generally apply to taxable years beginning on or after January 1, 1983. They apply to a disposition on or after July 1, 1982 to a related party of an intangible asset that had been acquired from a related party.

Conference agreement

The conference agreement follows the Senate amendment with significant modification.

The provision as modified is intended to lessen the abuse caused by taxpayers claiming tax-free income generated by intangibles developed outside of Puerto Rico. The conferees also intend that the provision be administered in a fashion so as to encourage increased Puerto Rican employment and investment in depreciable property at as low a cost to the Treasury as possible.

The conferees are concerned about Puerto Rican job creation, and there is continuing concern that the provision may not be adequately targeted towards that goal. The conferees intend that the Treasury annual reports on section 936 address this question in detail. The conferees intend that the Treasury also consider in its annual reports whether a return attributable to intangible property might better encourage additional jobs and investment in Puerto Rico if it were measured by reference to costs of labor and capital located in Puerto Rico.

The conferees understand that there is concern that certain taxpayers who have been permitted by the Internal Revenue Service to use the cost-plus method of pricing without reflecting a return from intangibles but including the cost of materials in the cost basis would be precluded from doing so under the Senate bill. (Sec. 3.02(3) Rev. Proc. 63-10, 1963-1 C.B. 490.) The conferees do not intend any change in current treatment with respect to those taxpayers appropriately applying the cost-plus method. Accordingly, the Internal Revenue Service may continue in appropriate cases to permit such taxpayers to report their income as they have been under existing procedures.

Passive income

The percentage of a corporation's gross income that must be derived from the active conduct of a trade or business in a possession is increased from 50 percent to 65 percent. This increase will be phased in over three years. For taxable years beginning after December 31, 1982, the percentage limitation will be 55 percent, for taxable years beginning after December 31, 1983, the percentage limitation will be 60 percent, and thereafter the percentage limitation will be 65 percent.

Intangible income

An election may be made to treat income attributable to certain intangible property as income of the section 936 corporation eligible for the credit (and certain domestic corporations operating in the Virgin Islands) under two options—(1) a cost sharing rule and (2) a 50/50 profit split. The two exceptions with respect to certain types of intangible property found in the Senate amendment are deleted. In addition, an exception to the Senate bill is made for intangible property which has been licensed since prior to 1948 to a U.S. corporation operating in a possession and is in use by such corporation on the date of enactment.

*No inference should be drawn from this report or from the actions taken in the conference agreement that the conferees agree or disagree with either the taxpayer involved or the Internal Revenue Service about this issue.

Cost sharing

In general

A U.S. parent or other U.S. affiliate (collectively, "mainland affiliate") will be permitted to transfer certain manufacturing intangibles to its U.S. subsidiary or affiliate operating in a U.S. possession ("island affiliate"), provided the island affiliate (1) shares, through a cost sharing payment, in the annual product area research expenditures of the mainland affiliates and other affiliates controlled within the meaning of section 482 (collectively, "affiliates"), and (2) has a significant business presence in the possession. If these conditions are satisfied, the island affiliate will be deemed to own such manufacturing intangibles and will be entitled to the full return thereon with respect to the products produced or type of services rendered by the island affiliate. The applicable pricing methods provided in the section 482 regulations will be utilized for this purpose. An island affiliate which makes the election will not be classified as a contract manufacturer with respect to the manufacturing intangibles. All other intangibles, such as marketing intangibles (including trademarks, trade names, and brand names) cannot be transferred to the island affiliate under this election, with the result that, for purposes of this election, the island affiliate cannot claim a return on such intangibles.

Manufacturing intangibles

The manufacturing intangibles covered by this election and with respect to which the island affiliate may claim a return must be related to the products produced or services rendered by the island affiliate.

Manufacturing intangibles will include patents, inventions, formulas, processes, designs, patterns, and know how. Even when marketing intangibles are closely associated with a specific manufacturing intangible, the return on the marketing intangible cannot be claimed by the island affiliate.

Cost sharing payment

The cost sharing payment will be equal in amount to a fraction of the current year's worldwide direct and indirect product area research expenditures. The fraction would generally equal the ratio of third party sales of products produced or services rendered, in whole or in part, in the possession to third party sales of all products produced or services rendered by the island affiliate and its affiliates (U.S. and foreign) in the same product area. The product area will be defined by reference to the three-digit classification of the Standard Industrial Classification ("SIC") code, or such other classification system as may be specified by the Secretary. The Secretary may provide rules for the aggregation of two or more three-digit categories in appropriate circumstances. An election of the cost sharing method is available even if no cost sharing payment is required (e.g., because of the absence of product area research expenditures).

(1) Multiplicand: product area research expenditures

Product area research expenditures, which will be defined on a three-digit SIC Code basis (or other classification system specified by the Secretary), are broadly defined and include both direct and indirect expenses (including expenses described in section 174) and a proper allowance of amounts expended for the acquisition or use of manufacturing intangibles and for the performance of research and development by another person, including qualified research expenses within the meaning of section 44F(b). They also include the costs of developing and purchasing research and development-related computer software.

Product area research expenditures will be determined on the basis of the product area for each activity in which the island affiliate conducts operations. The multiplicand will be computed on an annual basis and will include product area research expenditures in that product area which are incurred by the island affiliate and all affiliates (U.S. and foreign). Product area research expenditures incurred solely by the island affiliate in a taxable year (excluding amounts paid directly or indirectly to or on behalf of related persons and excluding amounts paid under any cost sharing agreement with related persons) will be offset against the amount of the cost sharing payment required to be made by the island affiliate for that year.

(2) Limiting Fraction: third party sales

(i) Numerator: possession sales.—The numerator of the fraction will be computed with reference to the products produced, and services rendered, in whole or in part, in the possession that are in the same product area used in the multiplicand. Sales in the numerator consist of sales of products produced in whole or in part (and services rendered) and sold by the island affiliate to third parties, and sales of products produced, and services rendered, by the island affiliate and sold by any U.S. or foreign affiliate to third parties. Thus, inter-affiliate sales are eliminated for this purpose.

(ii) Denominator: total sales.—The denominator of the fraction will also be computed with reference to the same product area used in the multiplicand. Sales in the denominator consist of all sales in the same product area to third parties by the island affiliate and all U.S. and foreign affiliates. For this purpose, inter-affiliate sales are eliminated.

Significant business presence

For an island affiliate to be eligible to elect cost sharing for a product or type of service, it must have and maintain a significant business presence in the possession with respect to that product or type of service. This test is intended to require real and significant business activity in the possessions.

The island affiliate satisfies this requirement with respect to a product or type of service if (1) more than 25 percent of the value added by the affiliated group to the product is added by the island affiliate in a possession or (2) at least 65 percent of the direct labor costs of the affiliated group for the product or service (or in connection with the purchase and sale of goods not produced by the affiliated group) are incurred by the island affiliate and are compensation for services rendered in the possession. In general, the figures to be used for these calculations will be those used by the island affiliate and its affiliates in their required inventory calculations. The Secretary may prescribe regulations providing significant business presence tests for other appropriate cases (including a value added test for services), which are consistent with the statutory tests.

The significant business presence test is not required to be satisfied for taxable years beginning before January 1, 1986 for any product produced or type of service rendered in a possession by the island affiliate on the date of enactment. The Secretary may prescribe regulations to provide a transitional (up to 3-year) significant business presence test for future start-up operations of new electing corporations and future possession products and possession services of an existing island affiliate. Regulations will provide definitions of a product or type of service and rules for dealing with components in the context of the foregoing requirements. If the significant business presence test is not satisfied for a product or type of service within the product area covered by the election, the cost sharing payment will not be reduced, and the provisions of the Senate amendment will apply to that product or type of service.

It is intended that the regulations will define the term "product" narrowly. In this manner the significant business threshold test will be more readily satisfied than if a broader definition applied, with the consequence that the income attributable to a product that satisfied the test will be computed with respect to that narrowly defined product.

Similarly, it is intended that components purchased by an island affiliate from an affiliate will be treated as materials (and the costs thereof as a cost of materials) where there is an independent resale price for such components or other factors are present such that the proper arm's length price of the components can be readily determined and such treatment is consistent with the intent of the significant business presence tests.

The Secretary will prescribe regulations providing for appropriate treatment in cases where the island affiliate purchases a component produced by an affiliate or produces a component which it sells to an affiliate for incorporation into a product sold to third parties.

Effect of cost sharing

For U.S. tax purposes, the cost sharing payment will not result in additional gross income to the mainland affiliate or affiliates, but will instead reduce the mainland affiliates' deductions for product area research expenditures and, to the extent necessary, other tax deductions. The credit for increasing research activities under section 44F will not be reduced by reason of the cost sharing.

Effect of electing to make cost sharing payments

If an election is made to use the cost sharing option, manufacturing intangibles covered by the election which are connected with the goods produced, or services rendered, in whole or in part, in the possession will, for purposes of the pricing rules discussed below, be deemed to be owned by the island affiliate, and the island affiliate will be entitled to the full return thereon.

Manufacturing intangibles developed solely by the island affiliate in a possession and owned by it, or acquired by the island affiliate from an unrelated party, will also be treated as owned by it for purposes of the pricing rules. For the purpose of determining when the island affiliate will be considered to have developed an intangible, rules (the "developer rules") similar to certain of the rules of the section 482 regulations will be provided, but an intangible developed under a cost-sharing agreement shall not qualify as developed solely by the island affiliate.

Nonmanufacturing intangibles

If the cost sharing rule is elected, all other intangibles (including those purported to have been transferred to the island affili-

ate) will not be treated as owned by the island affiliate for purposes of the intercompany pricing rules; and the island affiliate will not be entitled to any return thereon unless such intangibles are developed solely (within the meaning of the developer rules) by the island affiliate in a possession and owned by it. A further exception will apply in the case of sales made directly by the island affiliate to unrelated third parties for ultimate use or consumption in the possession, in which case the island affiliate will be entitled to the return on marketing intangibles developed by, or transferred by an affiliate to, the island affiliate.

Manufacturing intangibles and nonmanufacturing intangibles are defined according to lists of types of assets. Where an intangible is of a type which fits into two categories, e.g., a system, program, procedure or technical data (all defined as nonmanufacturing intangibles) which is also an invention, formula, process, design, pattern or know-how, it should be classified as a manufacturing or a nonmanufacturing intangible (or partly each) according to the use of the asset. For example a program (e.g. softwear) used in manufacturing which constitutes a formula, process or know-how (all manufacturing intangibles) and also is a program (a nonmanufacturing intangible) would be treated as a manufacturing intangible; but a program for a marketing campaign, even if also classified as know-how, would be treated as a program and hence as a nonmanufacturing intangible. So too, copyrights may be treated either as manufacturing intangibles or nonmanufacturing intangibles (or as partly each) depending upon the function or the use of the copyright.

Pricing

If the cost sharing payment is made, the island affiliate will be treated as the owner of, and entitled to the full return on, the manufacturing intangibles covered by this election and connected with the product produced, or type of service rendered, in whole or in part, by the island affiliate in the possession. The island affiliate will compute its intercompany price under any of the applicable pricing rules set forth in the section 482 regulations. Use of the resale price method will not be denied merely because the reseller (e.g., the mainland affiliate) added more than an insubstantial amount to the value of the property by the use of intangibles. In such a case, the value of the nonmanufacturing (e.g. marketing) intangibles and any other functions that add value (such as distribution) will be reflected in the resale margin. The use of the resale price method could be denied for other reasons, such as where the return on manufacturing intangibles is minor and no comparables can be found for determining an appropriate mark-up percentage under the resale price method. Thus, a cost plus method may be applied in appropriate cases, after applying the priority-of-application rules of the section 482 regulations, as long as an additional profit amount, representing the return on manufacturing intangibles covered by this election, is permitted the island affiliate. The Internal Revenue Service will not be precluded from applying section 482 with respect to other aspects of the intercompany relationship. The regulations under section 482 and Internal Revenue Service revenue procedures (Revenue Procedure 63-10, as amplified by Revenue Procedure 68-22) will continue to apply except to the extent modified by the election.

Timing of cost sharing payment

If the cost sharing election is made, payment of the required amount must be made by the island affiliate no later than the due date of its tax return for the year (including extensions). To the extent payment is not timely made (e.g., if a greater payment is determined on audit to have been required), the required payment is increased by an amount computed by reference to the interest rate applicable to income tax deficiences. If the failure to make timely payment is due in whole or part to fraud or willful neglect, the island affiliate's election of the cost sharing method is deemed revoked as of the year to which the payment relates.

If a foreign country or possession imposes a tax on the cost sharing payment (or the late payment amount), no foreign tax credit or deduction will be allowed for that tax.

50/50 split of combined taxable income

In general

This election will provide for a split between the island affiliate and its U.S. affiliates of the combined taxable income of the island affiliate and its U.S. affiliates with respect to products produced, in whole or in part, in the possession. 50% of such profit will be allocated to the island affiliate; 50% will be allocated to its U.S. affiliates.

Significant business presence

For an island affiliate to be eligible to apply the profit split, it must satisfy one of the significant business presence tests required for the cost sharing election for the product or type of service covered by the election. In addition, for products produced in whole or part by the island affiliate in the possession, the profit split method is available only if the island affiliate manufactures or produces the product in the possession within the meaning of the controlled foreign corporation provisions of the Code (section 954). If the significant business presence test (including the controlled foreign corporation manufacturing or production rule) is not satisfied for a product or type of service within the product area covered by the election, no intangibles income attributable to that product or type of service will be eligible for the credit.

Combined taxable income

The determination of combined taxable income will be on a product by product basis.

The combined taxable income of the island affiliate and its mainland affiliates from the sale of the product produced in whole or in part in the possession is the excess of the gross receipts from the sale of such product to third parties or foreign affiliates over the total costs relating to such product incurred by the island affiliate and its mainland affiliates. Costs which are treated as relating to a product produced in whole or in part in the possession are all direct and indirect expenses, losses, and other deductions (including marketing expenses) with respect to sales of such product, i.e., the expenses will be "fully-loaded". In this regard, the amount of product area research expenditures properly allocable or apportionable to income from sales of such product may not be less than the amount determined under the cost sharing formula described above. However, if the island affiliate would not be required to cost share under the cost sharing election (e.g. because of the absence of product area research expenditures), the profit split option may still be elected.

Effect of electing 50/50 split

If an election is made, the island affiliate will be entitled to 50 percent of the combined taxable income from the sale of products produced or services rendered in a possession by the island affiliate and sold to third parties or foreign affiliates by the island affiliate or a mainland affiliate. The remainder of the combined taxable income for a product will be allocated to the mainland affiliates. This latter amount may exceed the island affiliate's share of the income from the product if the amount of proportionate product area research expenditures, determined under cost sharing, is in excess of the amount allocable to the combined taxable income absent application of the cost sharing formula. For example, if combined taxable income is $100 without taking into account research and development expenses allocable or apportionable thereto, the amount of such expenses are $10, and the amount computed under cost-sharing (without offsets for island affiliate expenses) is $12, the island affiliate's share of combined taxable income ($100 less $12) is $44 (one-half of $88), and the mainland affiliate's share of combined taxable income is $46 ($100 less $10 of allocable and apportionable expenses and less the island affiliate's $44 share). Thus, the use of this formula is not intended to allow a deduction to any mainland affiliate which would not otherwise be allowable.

Election

An election must be made on or before the due date (including extensions) of the tax return of the electing corporation for its first taxable year beginning after December 31, 1982. An election may be revoked only with the consent of the Secretary. Once revoked, a new election may not be made without the consent of the Secretary. All section 936 affiliates, controlled within the meaning of section 482, producing products or rendering types of services in the same product area will be required to elect the same option for that product area, except that a different method may be used for bona fide export sales from that applicable to other sales.

Transfers of intangibles

Under present law, certain transfers by a U.S. person to a foreign corporation that would otherwise obtain tax-free treatment are taxable unless the Internal Revenue Service issues a ruling that they do not have as one of their principal purposes the avoidance of Federal income tax (sec. 367). The Internal Revenue Service has published guidelines stating when the Service will and will not issue rulings that transactions do not have a tax avoidance purpose. Under the guidelines certain transfers of property for the active conduct of a trade or business abroad are ordinarily not taxable (Rev. Proc. 68-23, 1968-1 C.B. 821 and other releases). However, transfers to foreign corporations of patents, trademarks, and similar intangibles for use in connection with a U.S. trade or business or with manufacturing for sale or consumption in the United States generally are subject to a toll charge under these guidelines.

By negative implication, transfers of intangibles for use purely in connection with a foreign trade or business or manufacturing for sale or consumption outside the United States generally may not be taxable. The conferees recognize that the Internal Revenue Service has authority, under the present law, to find a tax avoidance purpose

when an intangible asset is transferred to a foreign corporation. Whether or not the guideline is appropriate as a general rule, the conferees are aware that, as a result of this legislation, some taxpayers have stated that they would remove investment from Puerto Rico and transfer possession-related intangibles to foreign jurisdictions. The conferees believe that such transfers would ordinarily have as one of their principal purposes the avoidance of Federal income tax.

The conference agreement amends the provision of the Code dealing with tax-free transfers to foreign corporations to treat a transfer of a possession-related intangible to a foreign corporation as a transfer pursuant to a plan having as one of its principal purposes the avoidance of Federal income taxes. The provision applies to a transfer by a possession corporation or used as a transfer by an affiliated U.S. corporation where the intangible property was being used (or held for use) by an affiliated possessions corporation. The Secretary may, subject to such terms and conditions as he may impose, allow nonrecognition treatment with respect to such transfers, if the Secretary is satisfied that the transfer will not result in the reduction of current or future Federal income taxes.

The conference agreement also subjects to tax post-July 1, 1982, sales of intangible property to related persons. The income from such sales is U.S. source income, and the cost-sharing and 50/50 profit-split elections do not apply with respect to that income. The income from such sales will not affect the corporation's qualification (under the possessions source and active income tests) as possessions corporation.

Revocation of section 936 election

Under present law, an election of the application of section 936 may be revoked before ten years only with the consent of the Secretary. The conferees anticipate that because of the basic change in the taxation of possessions corporations the Secretary will consent to the revocation of an election by a section 936 corporation provided the election is in effect for the corporation's last taxable year beginning before January 1, 1983. The conferees intend that this liberal consent policy apply only if the consent is requested on or before December 31, 1983, and that the Secretary be permitted to impose conditions on such revocation, such as requiring that the taxpayer obtain the Secretary's consent before reelecting the application of section 936.

8. Tax-Exempt Obligations

a. Restrictions on tax-exempt bonds for private activities

Present law

General rule

Interest on State and local government obligations generally is exempt from Federal income tax; however, industrial development bonds (IDBs) are taxable except when issued for certain specified purposes.

Interest on IDBs is tax-exempt if the bonds are issued to finance the following activities: (1) projects for low-income residential rental property; (2) sports facilities; (3) convention or trade show facilities; (4) airports, docks, wharves, mass commuting facilities, and parking facilities; (5) sewage and solid waste disposal facilities, and facilities for the local furnishing of electricity or gas; (6) air or water pollution control facilities; (7) certain facilities for the furnishing of water; (8) qualified hydroelectric generating facilities; and (9) qualified mass commuting vehicles. In addition, the interest on certain IDBs issued for the purpose of acquiring or developing land as a site for an industrial park is exempt from taxation.

Present law also permits unlimited tax-exempt financing for student loans and organizations that qualify for tax-exemption under section 501(c)(3), such as private, nonprofit hospitals and private, nonprofit educational institutions.

Small-issue exception for IDBs

Present law also permits tax exemption for certain "small issue" IDBs if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property. Unlike the bonds for exempt activities, discussed above, there are no restrictions on the business activities in which land and depreciable property financed with "small issue" IDBs can be used.

This exception applies to issues of $1 million or less without regard to the total capital expenditures for the facility (i.e., the $1 million "clean limit" exception).[1] At the election of the issuer, the limitation may be increased to $10 million where certain capital expenditures are taken into account. In the case of facilities with respect to which an urban development action grant ("UDAG grant") under the Housing and Community Development Act of 1974 has been made, capital expenditures of up to $20 million are allowed.

Both the $1 million and $10 million limitations are determined by aggregating the face amount of all outstanding small issues for all facilities used by the same or related principal users which are located within the same county or same incorporated municipality. In addition, the $10 million limitation is reduced to the extent that the principal users of the facilities incur certain capital expenditures in the same county or same incorporated municipality during the six-year period beginning 3 years before, and ending 3 years after, the issuance of the bonds.

Other rules

Under present law, facilities financed with tax-exempt IDBs may be depreciated under the Accelerated Cost Recovery System (ACRS) or other available accelerated methods of cost recovery provided under the Code. IDB-financed property also may qualify for the investment tax credit.

Present law is unclear on the length of time that bonds may be outstanding in relation to the economic life of the property financed with tax-exempt financing.

Present law imposes no reporting requirements on issuers of tax-exempt bonds for private activities. Additionally, there are no Federal procedural requirements governing the manner in which such bonds are issued.

House bill

No provision.

Senate amendment

Restrictions on tax-exempt bonds for private activities

Information reporting requirement for all tax-exempt bonds for private activities

The Senate amendment provides that bonds are not tax exempt unless the issuers of all bonds used to finance private activities report certain information (including the amount of the lendable proceeds, the interest rate, term of the issue, and principal users) to the IRS on such bonds issued by them during the preceding calendar quarter. The reporting requirement applies to all IDBs, student loan bonds,[2] and tax-exempt bonds a major portion of the proceeds of which are used by charitable, etc. organizations (described in sec. 501(c)(3)). The required reporting also applies to refunding issues even if the original bonds were issued before 1983, if the refunding occurs after 1982.

This provision is effective for bonds, including refunding issues, issued after December 31, 1982.

Public approval requirements for all IDBs

The Senate amendment establishes new approval requirements for issuers of IDBs.[3] Failure to comply with these requirements will result in loss of tax exemption for the interest on the bonds. The new requirements are twofold: (1) reasonable notice must be given and a public hearing held and (2) issuance of the bonds must be approved after the hearing by an elected public official or elected legislative body. Alternatively, a voter referendum on a particular project or bond issue, held at such time and in such manner as referenda on other issues affecting government spending under applicable State and local law, may be used in place of the public hearing and elected representative approval requirements.

The public approval requirements are effective for obligations, including refunding issues, issued after December 31, 1982. The public approval requirements do not apply, however, to (1) issues solely to refund a prior issue, which was issued in compliance with the requirements, where the maturity of the bonds is not extended and (2) certain issues of a governmental unit for a facility issued within a 7-year period pursuant to a plan of financing where the proceeds from all obligations issued under that plan are used to finance the facilities of the principal users described in that plan.

Restriction on cost recovery deductions for certain property financed with IDBs

The Senate amendment provides that property that is placed in service after December 31, 1982, generally is allowed cost recovery deductions at a slower rate than those allowed under ACRS or other accelerated cost recovery provisions of the Code, to the extent that the facilities are financed by an IDB. In lieu of deductions under ACRS, the cost of property financed with IDBs must be recovered using the straight-line method over the ACRS life for the property involved. This limitation applies to both the first owner of the property and to any subsequent owners who acquire the property while the IDBs (including any refunding issues) are outstanding.

The amendment includes several exceptions permitting the cost of certain types of facilities financed in whole or in part with IDBs to continue to be recovered under ACRS: low income rental housing, municipal sewage and solid waste disposal facilities, air or water pollution control facilities

[1] Before promulgation of Rev. Rul. 81-216, 1981-36 I.R.B. 6 (September 8, 1981), discussed below, small issue IDBs could be marketed as a separate IDB issue in combination with exempt activity IDBs for a single business project.

[2] Student loan bonds include State or local government bonds used to finance, directly or indirectly, loans for educational or related expenses regardless of whether the bonds or educational loans are guaranteed by the Federal or State governments.

[3] This restriction applies only to IDBs; therefore, it generally does not apply to student loan bonds or bonds for tax-exempt organizations described in section 501(c)(3) (other than bond proceeds used in an unrelated trade or business of the organization).

used in connection with a plant or other property in operation before July 1, 1982, and facilities for which a UDAG grant equalling or exceeding 5 percent of the total capital expenditures on the facility is made.

The amendment also includes transition rules permitting the cost of certain property placed in service after 1982 to be recovered under ACRS if (1) a binding contract existed on July 1, 1982, and at all times thereafter, committing the purchaser to incur significant expenditures; (2) construction began before July 1, 1982; or (3) the bonds with which the property is financed were issued before July 1, 1982.

Restrictions on "small issue" IDBs

Sunset of small issue exception.—The Senate amendment repeals the small issue exception with respect to obligations (including refunding issues) issued after September 30, 1987.

Restriction on "clean limit" small issue exception.—The Senate amendment provides that, effective after the date of enactment, the $1 million "clean limit" small issue exception (sec. 103(b)(6)(A)) is not available for any IDBs issued as part of a single issue with any other obligations, the interest on which is tax-exempt under any provision other than the small issue exception.

Elimination of small issue exception to finance certain facilities.—The Senate amendment eliminates the small issue exception for bonds issued after December 31, 1982, if—

(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is automobile sales or service or the provision of recreation or entertainment; or

(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including handball and racquetball courts), hot tub facility, suntan facility, or racetrack.

Conference agreement

The conference agreement follows the Senate amendment with several modifications.

Public hearing and approval requirements for all IDBs

The conferees intend to clarify the application of the rule requiring a public hearing and approval by an elected official or legislative body in order to issue IDBs. Under the conference agreement, public hearings and approval by an elected official or legislative body are required by both the issuing jurisdiction and the jurisdiction where the facilities are located.

Where the facilities are located entirely within the geographic jurisdiction of the issuing governmental unit, only one public hearing and approval are required even though the facilities may be located in several different subdivisions of the issuing governmental unit.

Where facilities are not located within the geographic jurisdiction of the issuing governmental unit at least one governmental unit having geographic jurisdiction over each facility must hold a hearing and approve the bond issue. This may be either a single governmental unit or a series of smaller governmental units that may be subdivisions of the single governmental unit. For example, where a governor of a state is to approve the issuance of bonds for facilities located in that state (even though located in several counties), only the state is required to have a public hearing on that bond issue. Where, however, a facility is located in several counties and each county's elected executive officer is to approve the issuance of the bonds for facilities located in that county, each county is required to have a public hearing on that bond issue.

Where the facility is located in more than one state, then the hearing and approval requirements are applied as if there were separate facilities in each state. Thus, for example, in the case of electric transmission lines that cross state lines, the transmission lines located in each state are treated as separate facilities and each state or its counties where the separate facilities are located is required to meet the public hearing and approval requirements.

The conferees intend that the hearing may be held directly by the governmental unit or its agencies or by a person who issues bonds on behalf of that governmental unit. Generally, the conferees intend that the hearing be held at times and in places that would be convenient for persons affected by the facilities financed by the IDBs. However, where an IDB will finance more than one facility at different locations, it is not necessary that separate hearings be held for each facility. For example, where a state agency proposes to issue an IDB to finance projects throughout the state, only one hearing need be held somewhere within the state for all the facilities financed with the IDB provided adequate public notice of the hearing is given in all areas where facilities are to be located.

In addition, the conferees intend to clarify that the special rule which permits approval of a plan of financing for up to 3 years also applies to refunding obligations issued within that 3-year period. For example, the rule covering plans of financing would cover situations where IDBs are issued and then refunded one or more times within the 3-year period. The 3-year period commences on the date that obligations are first issued pursuant to the approval of the plan.

Restrictions on cost recovery deductions for certain property financed with IDBs

Under the conference agreement, the effective date for the restrictions on cost recovery deductions is clarified to provide that certain multi-family rental projects are exempt from the cost recovery provisions of the bill when the project was exempt from restrictions on the use of IDBs for multi-family housing under the Mortgage Subsidy Bond Tax Act of 1980.

With regard to the exemption from the restrictions of the bill for sewage and solid waste disposal facilities, the conferees wish to clarify that facilities will qualify for this exception regardless of whether the solid waste or sewage is collected from an area within part or all of a government unit or an area larger than one governmental unit; regardless of whether the facilities are operated by a governmental unit or a private company; and regardless of whether the facilities accept for processing all types of waste (as long as the waste accepted is collected from the general public). Solid waste need not include source separated or recyclable materials.

For this purpose, the general public includes commercial and other businesses but only if the solid waste collected from businesses is collected from them in their capacities as members of the general public and not as members of a limited group (such as groups that have special types of waste not processable by normal waste facilities serving the general public).

The effective date for the cost recovery rule provides that the new limitations do not apply to property where construction on the property began before July 1, 1982, as long as the original use of the property began with the taxpayer. The conferees intend that all property which is a part of the facilities described in the inducement resolution adopted before July 1, 1982, pursuant to which the bonds are issued, is treated as under construction where any part of those facilities is under construction before July 1, 1982. Moreover, the conferees intend that all such property is under the transitional rule even though part of the facilities are transferred by the taxpayer prior to their being placed in service and even though properties which are part of the facilities are placed in service before the completion of construction of other properties which are part of those facilities.

Sunset of small issue exception

The conference agreement modifies the Senate amendment by providing that the small issue exemption will not apply with respect to obligations issued after December 31, 1986.

Elimination of small issue exception to finance certain facilities

The conference agreement modifies the rule of the Senate amendment which restricts the use of small issue IDBs where 25 percent of the bond proceeds are used for certain purposes to include in the list of prohibited purposes the providing of retail food and beverage services. For this purpose, retail food and beverage services includes eating and drinking places, but does not include grocery stores.

Relationship of bond maturity to life of assets

The conference agreement provides a rule that limits the average length of the maturity of all industrial development bonds (IDBs). Under the rule, the weighted average maturity [4] of all obligations of an issue cannot exceed the weighted average estimated economic life [5] of the assets financed with the proceeds of the issue [6] by more than 20 percent. The economic life of an asset is to be measured from the later of the date the bonds are issued or the date the assets are reasonably expected to be placed in service. For example, if the proceeds of the bond are used to purchase assets with an average estimated economic life of 10 years, the maximum average maturity for the bonds may not exceed 12 years from the date the assets are expected to be placed in service where the bonds are issued after that date.

In general, the economic life of assets is to be determined on a case-by-case basis. However, in order to provide guidance and certainty, the conferees intend that the administrative guidelines established for the useful lives used for depreciation prior to

[4] The weighted average maturity of obligations of an issue is determined by taking into account the issue price (as defined in sec. 1232) of each obligation.

[5] The weighted average estimated useful life of assets financed with the proceeds of an issue is determined by taking into account the cost of each asset financed with the proceeds of the issue.

[6] Where the amount of the bond is less than the cost of the facilities, the assets financed with the bond shall include an allocable portion of the facilities which may be purchased by the bond proceeds under the bond indenture.

the ACRS system (i.e., the midpoint lives under the ADR system where applicable and the guideline lives under Rev. Proc. 62-21, 1962-2 C.B. 418, in the case of structures) may be used to establish the economic lives of assets. However, the taxpayer can issue bonds with maturities longer than these administrative guidelines would allow where the taxpayer can show, on the basis of the facts and circumstances, that the economic life to the principal user or users of the assets for whom the bonds are issued is longer than the lives established by the administrative guidelines.

The conference agreement provides special rules for the treatment of land in determining the weighted economic life of the assets financed by the bonds. Where less than 25 percent of the bond proceeds are used to acquire land, the economic life of the assets financed by the bonds is determined without regard to the land (i.e., the maximum maturity of the bonds is based on the economic life of the assets financed by the bonds other than land). Where 25 percent or more of the bond proceeds are used to acquire land, then the economic life of the assets acquired by the bonds will be determined by assuming that the land has a life of 50 years.

b. Other amendments affecting industrial development bonds

Present law

General rule

Interest on State and local government obligations generally is exempt from Federal income tax; however, industrial development bonds (IDBs) are taxable except when issued for certain specified purposes.

Interest on IDBs is tax-exempt if the bonds are issued to finance the following activities: (1) projects for low-income residential rental property;[1] (2) sports facilities; (3) convention or trade show facilities; (4) airports, docks, wharves, mass commuting facilities, and parking facilities; (5) sewage and solid waste disposal facilities, and facilities for the local furnishing of electricity or gas;[2] (6) air or water pollution control facilities;[3] (7) certain facilities for the furnishing of water; (8) qualified hydroelectric generating facilities; and (9) qualified mass commuting vehicles. In addition, the interest on certain IDBs issued for the purpose of acquiring or developing land as a site for an industrial park is exempt from taxation.

Small-issue exception for IDBs

Present law also permits tax exemption for certain "small issue" IDBs if the proceeds are used for the acquisition, construction, or improvement of land or depreciable property. Unlike the bonds for exempt activities, discussed above, there are no restrictions on the business activities in which land and depreciable property financed with "small issue" IDBs can be used.

This exception applies to issues of $1 million or less without regard to the total capital expenditures for the facility (i.e., the $1 million "clean limit" exception).[4] At the election of the issuer, the limitation may be increased to $10 million, where certain capital expenditures are taken into account. In the case of facilities with respect to which an urban development action grant ("UDAG grant") under the Housing and Community Development Act of 1974 has been made, capital expenditures of up to $20 million are allowed.

Both the $1 million and $10 million limitations are determined by aggregating the face amount of all outstanding small issues for all facilities used by the same or related principal users which are located within the same county or same incorporated municipality. In addition, the $10 million limitation is reduced to the extent that the principal users of the facilities incur certain capital expenditures in the same county or same incorporated municipality during the six-year period beginning 3 years before, and ending 3 years after, the issuance of the bonds.[5]

Other rules on IDBs

In Rev. Rul. 81-216,[6] the Internal Revenue Service held that lots of bonds are a single issue if the bonds are sold (1) at substantially the same time, (2) pursuant to a common plan of marketing, (3) at substantially the same interest rate, and (4) with a common or pooled security. On October 8, 1981, the IRS proposed regulations that provided essentially the same rules as Rev. Rul. 81-216 and proposed to revoke that revenue ruling.[7]

Under present law, advance refundings of industrial development bonds (IDBs) generally are prohibited. However, advance refunding is permitted for IDBs for certain convention and trade show facilities, airports, docks, wharves, and mass commuting facilities (Code sec. 103(b)(7)).

House bill

No provision.

Senate amendment

Exclusion of research and development expenditures from capital expenditure limitation

The Senate amendment excludes research wages and supplies (of a type for which a credit may be available under section 44F) from the capital expenditures that are to be taken into account under the $10 million limitation for small issue bonds. This provision is effective for research expenditures made after the date of enactment.

Local furnishing of gas

The Senate amendment provides that local furnishing of gas from a facility includes the furnishing solely within an area comprised of a city and one contiguous county. Thus, under the amendment, tax-exempt financing is made available in the case of a facility for the furnishing of gas (which otherwise meets the requirements of sec. 103) provided that the service area of the facility comprises no more than two contiguous counties or a city and one contiguous county. This provision is effective for bonds issued after the date of enactment.

Local district heating and cooling facilities

The Senate amendment exempts from tax interest on IDBs issued after the date of enactment to finance local district heating or cooling facilities. A local district heating or cooling facility includes equipment and other property used as an integral part of a local heating or cooling system, but does not include facilities which produce the hot water, chilled water, or steam, or facilities that are owned for tax purposes by the consumer. A heating or cooling system is considered local if it has a service area comprised of no more than two contiguous counties or a city and one contiguous county.

Multiple lot IDBs

The Senate amendment provides that, for bonds issued after the date of enactment, separate lots of obligations will be treated as part of the same issue only if the proceeds of the obligations are to be used to finance facilities which are located in more than one State or have the same person or related persons as its principal user or principal users. For this purpose, a principal user includes a person (other than a governmental unit) that guarantees directly or indirectly the repayment of the obligations or that aids in arranging issuance of the obligations, and that person provides property [8] or a franchise or trademark to be used in connection with the facilities financed with the obligations.

Regional pollution control authorities

The Senate amendment permits tax-exempt IDBs to be issued for use by a regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate under certain conditions. This provision applies to expenditures made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with three modifications.

Advance refunding of certain IDBs of the Port Authority of St. Paul

The conference agreement provides that certain IDBs of the Port Authority of St. Paul, Minnesota may be advance refunded as long as the refunded obligations are retired within six months after any call premium on the refunded bonds lapses.

Multiple lot IDBs

The conferees wish to clarify that lots of obligations which are not treated as a single issue pursuant to the transitional rules adopted by the Internal Revenue Service for the rule provided in Rev. Rul. 81-216 are not considered as a single issue and thus are not subject to the rules of the conference agreement on multiple lot IDBs.

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[1] IDBs used to finance low-income residential rental property are tax-exempt only if the obligations are issued in registered form and if 20 percent or more (15 percent or more in the case of targeted area projects) of the units in each project are occupied by individuals of low or moderate income. The term low or moderate income is defined by reference to the meaning of that term under section 8 of the United States Housing Act of 1937. The 20 percent requirement (15 percent in targeted areas) must be met for 20 years with respect to any obligations issued before January 1, 1984.

[2] Under present law, a facility for the local furnishing of electricity is defined as a facility whose service area does not exceed two counties or a city and one contiguous county. A facility for the local furnishing of gas is defined as a facility whose service area does not exceed two counties. Present law does not permit issuance of IDBs to finance facilities for local district heating or cooling.

[3] Present law generally prohibits the issuance of IDBs to acquire existing facilities if a substantial user of the facilities prior to the acquisition will be a substantial user after the acquisition.

[4] Before promulgation of Rev. Rul. 81-216, 1981-36 I.R.B. 6 (September 8, 1981), discussed below, small issue IDBs could be marketed as a separate IDB issue in combination with exempt activity IDBs for a single business project.

[5] Certain research and development expenditures are treated as capital expenditures for purposes of the $10 million limitation whether or not the taxpayer elects to deduct currently such expenditures under Code section 174.

[6] 1981-36 I.R.B. 6 (September 8, 1981).

[7] 46 Fed. Reg. 50014 (October 8, 1981).

[8] For this purpose, property does not include a letter of credit.

IDBs for multi-family residential rental projects

The conference agreement makes two changes in the rules for IDBs used to finance residential rental property for low and moderate income families. First, the conference agreement provides a separate definition of individuals of low and moderate income by adopting the definition of that term under the section 8 program except that the applicable percentage will be 80 percent of the area median income (regardless of the percentage used under the section 8 program).

Second, the duration of the requirement that 20 percent of the housing units in a project be occupied by individuals of low or moderate income (15 percent in targeted areas) is also changed. Under the conference agreement, that rule applies from the date the project is first occupied and continues until the later of (1) 10 years after over one-half of the project is first occupied, (2) a date ending when 50 percent of the maturity of the bonds having the longest maturity has expired, or (3) the date on which any section 8 (or comparable) assistance terminates. As under present law, all of the units of the project financed with tax-exempt IDBs must remain as rental units for the length of the targeting requirement.

The changes to the requirements for IDBs for low and moderate income residential rental property apply to obligations issued after the date of enactment other than obligations which are exempt from the restrictions of the Mortgage Subsidy Bond Tax Act of 1980.

c. Amendments to Mortgage Subsidy Bond Tax Act

Present law

The Mortgage Subsidy Bond Tax Act of 1980 established rules directing the subsidy from the use of tax-exempt bonds for housing. Under the Act, all of the mortgages financed from tax-exempt bond proceeds must be provided to mortgagors, each of whom did not have a present ownership interest in a principal residence at any time during the three prior years (i.e., the first-time home purchaser limitation). All of the mortgages (or other financing) provided from the bond proceeds, except qualified home improvement loans, must be used to purchase residences whose purchase price does not exceed 90 percent (110 percent in targeted areas) of the average area purchase price.

In order to be a qualified mortgage issue, the issue must meet certain requirements regarding arbitrage as to both mortgage loans and nonmortgage investments. First, the effective rate of interest on mortgages provided under the issue cannot exceed the yield on the issue by more than one (1.0) percentage point. Second, the reserve for future debt service established in connection with thebonds must be reduced as future annual debt service is reduced. The maximum amount that can be invested as unrestricted yield in nonmortgage investments is 150 percent of the debt service on the issue for the bond year, and arbitrage earned by the issuer on nonmortgage investments must be paid or credited to the mortgagors or paid to the Federal Government.

There are no provisions that relate specifically to the treatment of cooperative housing corporations under these rules.

House bill

No provision

Senate amendment

The Senate amendment changes four of the requirements for qualified mortgage bonds:

First-time home purchaser limitation.—The Senate amendment provides that 80 percent of the lendable proceeds of a mortgage subsidy bond must be made available to first-time home purchasers.

Purchase price limitations.—The Senate amendment increases the purchase price limitation to 110 percent (120 percent in a targeted area) of the average area purchase price.

Arbitrage limitations.—The 1.0-percentage points limit is replaced by a limit which varies with the size of the issue, beginning at 1⅛ percentage points for smaller issues and decreasing to 1$\frac{1}{16}$ percentage points for issues of $100 million or larger.

Reserve liquidations.—The rule requiring reserve liquidations does not apply to the extent it requires disposition of any nonmortgage investment resulting in a loss in excess of the amount of undistributed arbitrage profits on such investments.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications:

First-time home purchaser limitation

The first-time home purchaser rules will require that 90 percent of the lendable proceeds of a mortgage subsidy bond go to first-time home purchasers.

Arbitrage

The effective rate of interest on mortgages financed with tax-exempt bonds may not exceed the yield on the issue by more than 1⅛ (1.125) percentage points. The conference agreement clarifies that, in determining the effect of prepayments of mortgage principal on the computation of the effective rate of mortgage interest, prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

Cooperative housing

In the case of any cooperative housing corporation (as defined in Code sec. 216), each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy that unit by reason of his or her ownership in the cooperative housing corporation. In addition, any indebtedness of the corporation that is allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder who is entitled to occupy the dwelling unit.

The conference agreement provides that any issue that provides financing to a cooperative housing corporation that is not located in a targeted area may be combined with one or more other issues which in sum satisfy the present law requirement that at least 20 percent of the proceeds of the issues will be devoted to owner-financing of residences in targeted areas for a period of at least one year.

The conferees also intend that, in applying the rules of section 103A to cooperative housing corporations, the acquisition cost for a cooperative unit is to be defined to include a proportionate share of the underlying blanket mortgage plus the purchase price of the shares.

In addition, loans to cooperative housing corporations for rehabilitation may qualify for tax-exempt financing under section 103A(1)(7) to the same extent as if each shareholder receives a proportionate share of the loan. In the case of tax-exempt financing used for the construction of a residential building owned by a cooperative housing corporation, unlimited arbitrage otherwise allowed during a 3-year temporary period would be permitted for only one year.

Finally, the conferees intend to clarify that tax-exempt financing may be allowable under section 103(b)(4)(A) where a cooperative leases property from another person and the shareholders of the cooperative meet the targeting provisions of that section.

9. Mergers and Acquisitions

a. Partial liquidations

Present law

A distribution in redemption of a corporation's stock pursuant to a plan is a partial liquidation if it is one of a series of distributions in redemption of all the stock or it is not essentially equivalent to a dividend and occurs within the taxable year in which the plan is adopted or the succeeding year (sec. 346(a)).

In determining that a distribution is not essentially equivalent to a dividend in applying the tests for a partial liquidation, generally a contraction of the corporation's business is required. A distribution may constitute a partial liquidation even though it is made pro rata among the corporation's shareholders.

If the distribution consists of the assets of, or is attributable to the corporation's ceasing to conduct, a trade or business conducted for 5 years or more before the distribution and was not, within the 5-year period, acquired by the corporation in a taxable transaction and the corporation, after the distribution, continues to conduct another trade or business with a similar history, the distribution is treated as a partial liquidation (sec. 346(b)).

No gain or loss to the distributing corporation is recognized on a distribution in a partial liquidation (sec. 336(a)). Exceptions are provided for disposition of installment obligations and distributions of LIFO inventory. In addition, the various recapture rules of present law override sec. 336. If, however, the corporation, rather than distributing assets, sells the assets and distributes the proceeds to its shareholders in a partial liquidation, gain or loss is recognized to the corporation on the sale.

Shareholders receiving a distribution in partial liquidation are treated as receiving the amount distributed in exchange for their stock and, if the stock redeemed in the transaction is a capital asset to the shareholder, capital gain or loss results from the transaction. The basis of any assets received in a partial liquidation is their fair market value at the time of the distribution.

House bill

No provision.

Senate amendment

The Senate amendment modifies the treatment of partial liquidations. Only noncorporate shareholders are treated as receiving the amount distributed in exchange for their stock. Distributions to corporate shareholders are governed by the provisions of present law other than those relating to partial liquidations.

Under the Senate amendment, gain to the distributing corporation is recognized, with an exception, when appreciated property is distributed in partial liquidation to noncorporate shareholders. The exception applies to distributions made with respect to quali-

fied stock. Qualified stock is stock that has been held by certain noncorporate shareholders for the 5-year period ending on the date of distribution or (if less) for the period the corporation has been in existence. The shareholder must have held at least 10 percent in value of the distributing corporation's stock throughout such period. The constructive ownership rules of section 318 apply in determining ownership. In applying the attribution rules of section 318(a)(1), the group of persons among whom ownership is attributed is expanded to include individuals described in section 267(c)(4) and the spouses of such individuals.

Under this rule, it is not required that the stock redeemed be held by the shareholder for five-years. It is sufficient that the shareholder hold (or be treated as holding) 10 percent of the stock throughout the five year period.

The Senate amendment authorizes the Secretary of the Treasury to prescribe regulations, where necessary, to ensure that revision of the treatment of partial liquidations will not be circumvented through the use of other provisions of present law or regulations, including the consolidated return regulations. The Senate amendments apply generally to distributions after August 31, 1982. However, present law continues to apply to distributions with respect to which, on July 22, 1982, there was a ruling request pending with the Internal Revenue Service as to whether such distributions qualify as a partial liquidation (or a ruling was granted within one year prior to July 12, 1982 that the distributions qualified as a partial liquidation) and the distributions are pursuant to a plan of partial liquidation adopted by the Board of Directors before September 1, 1982 (or, if later, within 90 days after the ruling was granted). Present law applies as well to distributions pursuant to a plan of partial liquidation adopted before July 1, 1982; distributions pursuant to a plan of partial liquidation adopted before October 1, 1982, where control (as defined in sec. 368(c)) is acquired between December 31, 1980, and July 1, 1982, and conduct of the business is conditioned on approval by a State regulatory agency; distributions pursuant to a plan of partial liquidation adopted within 90 days after the acquisition is approved by a Federal regulatory agency where control is acquired after July 1, 1982, pursuant to a binding contract outstanding on December 31, 1980; and distributions pursuant to a plan of liquidation adopted by October 1, 1982, where control was acquired between December 31, 1981, and July 1, 1982.

Conference agreement

General rules

The conference agreement follows the Senate amendments with technical modifications. The conference agreement adds a new section 302(b)(4) under which distributions in redemption of a noncorporate shareholder's stock are treated as payments in exchange for the stock under section 302(a) if such distributions are in partial liquidation of the distributing corporation. For this purpose, a partial liquidation is defined in new section 302(e) which continues the definition of a partial liquidation in present law section 346(a)(2) and section 346(b) which are repealed by the bill. As under present law section 346(a)(2), the determination that a distribution is not essentially equivalent to a dividend for purposes of satisfying the partial liquidation definition is to be made with reference to the effect of the transaction on the distributing corporation and not with reference to its effect at the shareholder level. This is made an explicit statutory test under the conference agreement.

Under present law, a distribution in partial liquidation may take place without an actual surrender of stock by the shareholders *(Fowler Hosiery Co. v. Commissioner)*, 301 F.2d 394 (7th Cir. 1962). A constructive redemption of stock is deemed to occur in such transactions (Rev. Rul. 81-3, 1981-1 C.B. 125). The conferees intend that the treatment of partial liquidations under present law section 346(a)(2) and (b) is to continue for such transactions under new section 302(e). Recognition of gain to the distributing corporation under section 311(d) as amended by the bill will not require an actual surrender of stock by the shareholders, if the distribution qualifies as a partial liquidation under new section 302(e) without an actual surrender of stock.

Whether or not a redemption is treated as a distribution in partial liquidation is determined without regard to whether or not the redemption is pro rata with respect to all the shareholders of the corporation. A distribution in partial liquidation, pursuant to section 302(b)(4), will be treated as a distribution in exchange for stock under section 302(a) without regard to whether the redemption satisfies the requirements of paragraphs (1), (2), or (3) of section 302(b). A distribution in partial liquidation that also terminates a shareholder's interest in the corporation will be treated as a distribution in exchange for stock under section 302(a) without regard to section 302(c)(2).

The conference agreement modifies the definition of qualified stock by providing that the period a distributing corporation has been in existence includes the period of existence of a predecessor corporation and the 10-percent stock ownership requirement must be satisfied with respect to the period of existence of both the distributing and predecessor corporations.

For purposes of determining whether stock is held by a shareholder who is not a corporation in applying new section 302(b)(4), stock held by a partnership, estate, or trust will be treated as if it were actually held proportionately by its partners or beneficiaries.

As under present law, distributions in partial liquidation that are treated under section 302(a) as distributions in exchange for stock pursuant to new section 302(b)(4) will be subject to the collapsible corporation rules of section 341.

Distributions in partial liquidation after August 31, 1982, are subject to the new rules for such distributions provided by the conference amendment.

Effective dates

Distributions in partial liquidation after August 31, 1982, except as otherwise provided, are subject to the new rules for such distributions provided by the conference agreement. The conference agreement makes several modifications to the exceptions provided in the Senate amendment.

The exception for rulings granted by the Internal Revenue Service as to partial liquidation treatment is modified to include rulings granted within the period beginning on July 12, 1981, and ending on July 22, 1982, and the date before which the plan of partial liquidation must be adopted, for both ruling requests pending on July 22, 1982, or rulings granted, is October 1, 1982 (or 90 days after the ruling was granted, if later). A request will be treated as pending on July 23, 1982, and thereafter notwithstanding that, pursuant to negotiations with the Internal Revenue Service, a revision or modification of the request is filed or additional information is submitted.

The exception for plans of partial liquidation adopted before July 1, 1982, is extended to include plans adopted before July 23, 1982.

The exception for acquisitions of control during 1982 and before July 1, 1982, is expanded to include acquisitions of control before July 23, 1982. Control is acquired after July 22, 1982, for purposes of this rule even if an amount of stock constituting less than control was held on such date. In addition, an exception applies if, during March and April 1982, one-third or more of the shares of a corporation were acquired and the intention to acquire control is evidenced by documents filed with the Federal Trade Commission and if control is thereafter acquired. For either exception to apply, a plan of partial liquidation must be adopted by October 1, 1982.

Under the conference agreement, an exception is provided for acquisitions of control after July 22, 1982, pursuant to a tender offer or binding contract outstanding on such date. The plan of partial liquidation must be adopted before the later of October 1, 1982, or, if the acquisition is subject to approval by a Federal regulatory agency, the date which is 90 days after the date on which such approval becomes final in accordance with law. A public announcement of an intention to acquire control pursuant to a tender offer will be treated as a tender offer for purposes of this exception if the proposal is subject to intervention by a foreign regulatory body before which the proposal is pending on July 22, 1982, and the plan of partial liquidation is adopted within 90 days after the date on which the foreign regulatory body approves of the offer.

The exception applicable under the Senate amendment where control was acquired after December 31, 1980, is limited to acquisitions of insurance companies where the conduct of the insurance business by the distributee corporation is conditioned on approval by one or more State regulatory authorities. This exception applies if control was acquired either by the distributee corporation or its parent. The period within which control must be acquired is extended to cover acquisitions before July 23, 1982, and, as under the Senate amendment, a plan of partial liquidation must be adopted before October 1, 1982.

For purposes of these exceptions, a plan of partial liquidation is treated as adopted on the date on which it is approved by the corporation's Board of Directors. Such date is also to be treated as the date of adoption of a plan for purposes of determining the period within which distributions under the plan must be made in applying section 346(a)(2) (as in effect before its repeal by the amendments made by the bill).

A contract will be treated as a binding contract for purposes of applying the exceptions if it is binding on the acquiring corporation and even though it is subject to approval by a vote of the shareholders, the obtaining of financing to consummate the acquisition and other similar conditions.

Property acquired in distributions to which these exceptions apply will be treated as property acquired before September 1, 1982, in applying the rules of new section 338 requiring consistency of treatment for acquisitions of stock and assets in certain cases.

b. Certain distributions of appreciated property

Present law

When a corporation in a nonliquidating distribution distributes property, the value of which exceeds its basis, in redemption of a portion of the corporation's stock, gain is recognized as though the property were sold (sec. 311(d)(1)). Present law excepts several types of transactions from this requirement.

Exceptions are provided for (1) distributions that terminate the interest of a shareholder who has held at least 10 percent of the corporation's stock for a 12-month period; (2) distributions that consist of stock or obligations in a subsidiary conducting a trade or business that was at least 50 percent owned by the distributing corporation at any time within the preceding 9 years; (3) distributions that consist of stock or securities distributed pursuant to certain antitrust decrees; (4) distributions to which section 303(a) (relating to distributions in redemptions of stock to pay death taxes) applies; (5) certain distributions to private foundations; (6) certain distributions by regulated investment companies; and (7) certain distributions pursuant to the Bank Holding Company Act.

Notwithstanding these exceptions, present law may permit a transaction that is in form a stock redemption to be treated as a direct sale of assets where the stock ownership is transitory (see Rev. Rul. 80-221, 1980-2 C.B. p. 107).

House bill

No provision.

Senate amendment

The Senate amendment repeals the exceptions in section 311(d)(2) for distributions terminating the interest of a shareholder who has held 10 percent or more of the corporation's stock for one year, for distributions pursuant to antitrust decrees, for distributions pursuant to the Bank Holding Company Act, and modifies the exception for distributions of stock or obligations of a subsidiary.

The bill is not intended to affect the treatment under present law of distributions that are in substance the purchase of assets.

The Senate amendment revises subparagraphs (A), (B), and (C) of section 311(d)(2) to conform the treatment of the distributing corporation to the new rules applicable to partial liquidations and to provide for nonrecognition of gain when stock or obligations of a subsidiary are distributed in redemption of stock in certain transactions analogous to a partial liquidation.

New section 311(d)(2)(A) provides that gain will not be recognized to a corporation distributing property to a corporate shareholder unless section 302(a) applies to the distribution. Distributions in partial liquidation to a corporate shareholder under the Senate amendment generally will be treated similarly to distributions which are not in redemption of stock unless they are non-pro rata distributions to which section 302(b)(1), (2), or (3) applies. Such distributions generally will be treated as dividends or other distributions to which section 301 applies. Gain is not recognized to a distributing corporation on section 301 distributions that are not in redemption of stock and the revised section 311(d)(2)(A) conforms the treatment of the distributing corporation to the treatment of a corporate shareholder on partial liquidation distributions whether or not there is an actual surrender of stock in the transaction.

New section 311(d)(2)(B), relating to distributions of stock or obligations of a corporation, continues the provisions of present law section 311(d)(2)(B) with an amendment requiring at least 50 percent in value of the outstanding stock of the corporation to be distributed with respect to qualified stock (in lieu of the present law requirement that the distributing corporation must have owned at least 50 percent of the corporation's stock within the 9-year period prior to the year of distribution). The Senate amendment further limits the exception to distributions with respect to qualified stock and adds an additional limitation pursuant to which the exception applies only if the distribution would qualify as a partial liquidation under new section 302(e) if the assets, rather than stock or obligations of the corporation, were distributed in the transaction. For purposes of the latter test, such assets will be treated as having been held directly by the distributing corporation throughout the period during which the distributing corporation held at least 50 percent in value of the stock of the corporation whose stock is distributed in the transaction.

New section 311(d)(2)(C) provides the exception pursuant to which gain is not recognized to the distributing corporation on partial liquidation distributions under new section 302(e) that are made with respect to qualified stock.

The amendments relating to distributions of appreciated property in redemption of stock apply to distributions made after August 31, 1982. Of course, the present law provisions of section 336 providing for nonrecognition of gain or loss to the distributing corporation on distributions in partial liquidation will apply to distributions after August 31, 1982, to which, under the effective date provisions in section 226(f) of the bill, the present law partial liquidation provisions apply.

Conference agreement

General rules

The conference agreement generally follows the Senate amendment, with certain technical modifications.

New section 311(d)(2)(A) is redrafted to provide for nonrecognition of gain to the distributing corporation in any case where the basis of property distributed to a corporate shareholder is determined under section 301(d)(2). This rule provides substantially the same nonrecognition rule for property distributions as would the Senate amendment.

Section 311(d)(2)(B) is conformed by the conference agreement to provide for nonrecognition of gain to the distributing corporation on distributions in partial liquidation to which new section 302(b)(4) applies which are made with respect to qualified stock.

Section 311(d)(2)(C) as revised by the conference agreement provides the exception to gain recognition for distributions of stock or obligations of a corporation (hereinafter called the controlled corporation).

For the exception with respect to distributions of stock or obligations of a controlled corporation to apply, as under the Senate amendment, the distribution must be made with respect to qualified stock and more than 50 percent in value of the controlled corporation's stock must be distributed with respect to qualified stock. The conference agreement further requires that substantially all the assets of the controlled corporation consist of the assets of one or more qualified businesses and that no substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation in a transaction to which section 351 applied or as a contribution to capital within the 5 years ending on the date of distribution.

A qualified business is one that was actively conducted throughout the 5-year period ending on the date of distribution and was not acquired within such period by any person in a transaction in which gain or loss was recognized in whole or in part. Section 355, relating to distributions of stock or securities of a controlled corporation, contains a similar active business requirement.

Nonbusiness assets are defined to include any asset not used in the active conduct of a trade or business. For this purpose, cash and other items that provide working capital needs of an active business will be treated as assets used in the active conduct of the business.

Effective dates

Under the Senate amendment, the repeal of present law section 311(d)(2) exceptions is effective for distributions made after August 31, 1982. The conference agreement retains this general effective date but retains the exceptions in sections 311(d)(2)(A) and 311(d)(2)(C) of present law for certain distributions made on or after September 1, 1982. Under the conference agreement, section 311(d)(2)(A) of present law will continue to be applicable to distributions made within 90 days after a ruling is granted under a request pending before the Internal Revenue Service on July 22, 1982, with respect to the application of section 311(d)(2)(A) to a proposed distribution. Also, present law section 31(d)(2)(A) continues to apply to distributions, otherwise qualifying for such treatment, which are made on or before August 31, 1983, with respect to stock acquired after 1980 and before May 1982.

Finally, the redemption of preferred and common stock by a forest products company pursuant to a binding contract in effect on August 31, 1982, and at all times thereafter, where all distributions must be pursuant to one of the two options set forth in the contract will continue to be subject to present section 311(d)(2)(A) to the extent timberland is distributed to the shareholder (with a value of not more than $10 million on August 31, 1982).

The conference agreement makes section 311(d)(2)(C) of present law applicable to distributions before January 1, 1986, of stock or securities pursuant to a judgment entered before July 23, 1982.

c. Stock purchases treated as asset purchases

Present law

Upon the complete liquidation of a subsidiary corporation, 80 percent of the voting power and 80 percent of the total number of shares of all other classes of stock (other than nonvoting preferred stock) of which is owned by the parent corporation, generally gain or loss is not recognized and the basis of the subsidiary's assets and the other tax attributes are carried over (secs. 332, 334(b)(1), and 381(a)).

If the controlling stock interest was acquired by purchase within a 12-month period and the subsidiary is liquidated pursuant to a plan of liquidation adopted within 2 years after the qualifying stock purchase is completed, the transaction is treated as in substance a purchase of the subsidiary's assets (sec. 334(b)(2)). The acquiring corporation's basis in the "purchased" assets is the cost of the stock pur-

chased as adjusted for items such as liabilities assumed, certain cash or dividend distributions to the acquiring corporation, and postacquisition earnings and profits of the subsidiary. The liquidating distributions can be made over a 3-year period beginning with the close of the taxable year during which the first of a series of distributions occurs (sec. 332(b)(3)). Thus, this treatment applies even though the liquidation can extend over a 5-year period after control has been acquired.

In these cases, when the assets are treated as purchased by the acquiring corporation, recapture income is taxed to the liquidating corporation, the investment tax credit recapture provisions are applicable, and tax attributes, including carryovers, of the liquidated corporation are terminated.

Cases interpreting the law applicable before the rules in section 334(b)(2) were adopted treated the purchase of stock and prompt liquidation in some cases as a purchase of assets *(Kimbell-Diamond Milling Co.* v. *Commissioner* 14 T.C. 74, aff'd per curiam, 187 F.2d 718 (5th Cir.), cert. denied, 342 US 827 (1951)). It is not clear whether such treatment may still apply in some cases where the requirements of section 334(b)(2) are not met.

A stock purchase and liquidation is treated as a purchase of all the assets of the acquired corporation under present law if section 334(b)(2) applies. Revision of the special treatment of partial liquidations under the bill restricts the options of a corporate purchaser seeking to treat a purchase of a corporation as a purchase of assets in part combined with a continuation of the tax attributes of the acquired entity. Present law does not restrict a corporate purchaser from achieving such selectivity by purchasing assets directly from a corporation while concurrently purchasing the corporation's stock. Selectivity can also be achieved if an acquired corporation, prior to the acquisition, disperses its assets in tax-free transactions among several corporations which can be separately purchased. The corporate purchaser then through selective qualifying liquidations can obtain asset purchase treatment for one or more acquired corporations while preserving the tax attributes of one or more other corporations.

House bill

No provision.

Senate amendment

In general

The Senate amendment repeals the provision of present law (sec. 334(b)(2)) that treats a purchase and liquidation of a subsidiary as an asset purchase. The bill is also intended to replace any nonstatutory treatment of a stock purchase as an asset purchase under the *Kimbell-Diamond* doctrine. Instead, an acquiring corporation, within 75 days after a qualified stock purchase, except as regulations may provide for a later election, may elect to treat an acquired subsidiary (target corporation) as if it sold all its assets in a complete liquidation on the stock acquisition date. The target corporation will be treated as a new corporation that purchased the assets on such date. Gain or loss will not be recognized to the same extent gain or loss is not recognized under present law (sec. 337) when a corporation sells all its assets in the course of a complete liquidation. This provision is intended to provide nonrecognition of gain or loss to the same extent that gain or loss would not be recognized under section 336 if there were an actual liquidation of the target corporation on the acquisition date to which present law section 334(b)(2) applied.[1]

A qualified stock purchase occurs if 80 percent or more of the voting power and 80 percent of the total number of shares of other classes of stock (except nonvoting, preferred stock) is acquired by purchase during a 12-month period (the acquisition period). The acquisition date is the date within such acquisition period on which the 80-percent purchase requirement (the qualified stock purchase) is satisfied.

The election is to be made in the manner prescribed by regulations and, once made, will be irrevocable.

Treatment of target corporation as new corporation

The assets of the target corporation will be treated as sold (and purchased) for an amount equal to the basis of the acquiring corporation in the stock of the target corporation on the acquisition date or, if the basis is greater on such date, on the last day of the 12-month acquisition period. The amount is to be adjusted under regulations for liabilities of the target corporation and other relevant items. It is anticipated that recapture tax liability of the target corporation attributable to the deemed sale of its assets is an item which may result in an adjustment under the regulations.

The target corporation is treated as a 'new' corporation after the acquisition date for all purposes relating to its tax liability either as the selling or purchasing corporation. Its taxable year as the selling corporation ends on the date of acquisition and it does not become a member of the affiliated group including the acquiring corporation until the day following the date of acquisition. However, it is not intended that any minority shareholders in the target corporation shall be treated as having exchanged stock in the selling corporation for stock in the purchasing corporation. Further, additional purchases of the target corporation's stock by the acquiring corporation after the acquisition date are to be treated as purchases of the stock of the selling corporation if made on or before the close of the acquisition period.

Treatment of recapture items

Under the elective treatment provided by the bill, any recapture income of the target corporation attributable to the deemed sale of its assets is not to be included in any consolidated return of the acquiring corporation. The target corporation will not become a member of the acquiring corporation's affiliated group until the day following the date of acquisition. Recapture items of the target corporation will normally be associated with the final return of the target corporation (as the selling corporation) ending on the date of acquisition.

In some cases, recapture items may be includible in income for a period during which the target corporation is included in a consolidated return of the acquiring corporation. Where, for example, there is an adjustment to the purchase price for its stock based on post-acquisition date earnings of the target corporation, there may be additional amounts of recapture income. Such additional income is to be separately accounted for and may not be absorbed by losses or deductions of other members of the acquiring corporation's affiliated group.

Definition of purchase

The term "purchase" is defined as it is under present law (sec. 334(b)(3)) to exclude acquisitions of stock with a carryover basis or from a decedent, acquisitions in an exchange to which section 351 applies, and acquisitions from a person whose ownership is attributed to the acquiring person under section 318(a). Attribution under section 318(a)(4) relating to options will be disregarded for this purpose. However, if, as a result of a stock purchase, the purchasing corporation is treated under section 318(a) as owning stock in a third corporation, the purchasing corporation will be treated as having purchased stock in such third corporation but not until the first day on which ownership of such stock is considered as owned by the purchasing corporation under section 318(a).

A purchase of over 80 percent but less than 100 percent of the stock of a target corporation which in turn owns 80 percent of the stock of a third corporation is not a qualified stock purchase with respect to the third corporation because the purchasing corporation has not acquired by purchase the requisite 80 percent of the third corporation's stock. This is so, even though the purchasing corporation, the target corporation, and the third corporation constitute an affiliated group as defined in section 1504(a).

Consistency requirement

The rules require consistency where the purchasing corporation makes qualified stock purchases of two or more corporations that are members of the same affiliated group. For this purpose, purchases by a member of the purchasing corporation's affiliated group, except as regulations provide otherwise, are treated as purchases by the purchasing corporation.[2] The consistency requirement applies as well to a combination of a direct asset acquisition and qualified stock purchase.

The consistency requirement applies with respect to purchases over a defined "consistency period" determined by reference to the acquisition date applicable to the target corporation. The "consistency period" is the one-year period preceding the target corporation acquisition period plus the portion of the acquisition period up to and including the acquisition date, and the one-year period following the acquisition date. Thus, if all the target corporation's stock is purchased on the same day by the purchasing corporation, the one-year period immediately preceding and the one-year period immediately following such day are included in the consistency period. If, within such period, there is a direct purchase of assets from the target corporation or a target affiliate by the purchasing corporation, the rules require that the acquisition of the target corporation be treated as an asset purchase.

The consistency period may be expanded in appropriate cases by the Secretary where there is in effect a plan to make several qualified stock purchases or any such pur-

[1] To the extent that Internal Revenue Service rulings providing that gain or income is not recognized by a liquidating insurance company with respect to its insurance reserves in a section 334(b)(2) liquidation constitute a proper interpretation of present law, gain or income is not recognized to the same extent upon an election to which new section 338 applies if the target corporation is an insurance company (see letter rulings 8112052 and 8150040).

[2] This rule will prevent transfers of target corporation stock within the purchasing corporation's affiliated group from disqualifying a section 338 election *(Chrome Plate, Inc.* v. *U.S.*, 614 F.2d 990 (5th Cir. 1980).

chase and asset acquisition with respect to a target corporation and its target affiliates.

The consistency requirement is applied to an affiliated group with reference to a target corporation and any "target affiliate." A corporation is defined as a "target affiliate" of the target corporation if each was, at any time during that portion of the consistency period ending on the acquisition date of the target corporation, a member of an affiliated group that had the same common parent. An affiliated group has the same meaning given to such term by section 1504(a) (without regard to the exceptions in sec. 1504(b)). This definition also applies in determining whether a purchase is made by a member of the same affiliated group as the purchasing corporation.

An acquisition of assets from a target affiliate during the consistency period applicable to the target corporation will require the qualified stock purchase of the target corporation to be treated as a purchase of assets. In applying these rules, stock in a target affiliate is not to be treated as an asset of any other target affiliate or of the target corporation.

In applying these rules, acquisitions of assets pursuant to sales by the target corporation or a target affiliate in the ordinary course of its trade or business and acquisitions in which the basis of assets is carried over will not cause the consistency requirement to apply. The sale by a target corporation will be considered as a sale in the ordinary course of business for this purpose even though it is not customary in the course of the selling corporation's business provided it is a transaction that is a normal incident to the conduct of a trade or business, such as a sale of used machinery that was employed in the seller's trade or business.

Where there are, within a consistency period, only qualified stock purchases of the target corporation and one or more target affiliates by the purchasing corporation, an election with respect to the first purchase will apply to the later purchases. A failure to make the election for the first purchase will preclude any election for later purchases.

To prevent avoidance of the consistency requirements, the bill authorizes the Secretary to treat stock acquisitions pursuant to a plan and satisfying the 80-percent requirement to be treated as qualified stock purchases even though they are not otherwise so defined. For example, an acquiring corporation may acquire 79 percent of the stock of a target corporation and, within a year, purchase assets from such corporation or a target affiliate planning to purchase the remaining target corporation stock more than one year after the original stock purchase. The Secretary may under these circumstances treat the purchase of the target corporation's stock as a deemed sale of its assets by the target corporation. The bill also authorizes such regulations as may be necessary to ensure that the requirements of consistency of treatment of stock and asset purchases with respect to a target corporation and its target affiliates are not circumvented through the use of other provisions of the law or regulations, including the consolidated return regulations.

The Senate amendment applies to qualified stock purchases of a target corporation where the acquisition date occurs after August 31, 1982. However, in any case where the acquisition date occurs after December 31, 1981, and before September 1, 1982, the purchasing corporation may elect on or before November 15, 1982, to have section 338 apply.

Conference agreement

The conference agreement follows the Senate amendment with technical modifications. The conference agreement expressly provides that the target corporation will be treated as having sold all its assets at the close of the acquisition date in a single transaction to which section 337 applies and, as the 'new' corporation, will be treated as having purchased all the assets at the beginning of the day following the acquisition date. This amendment provides an explicit statutory rule clarifying the intent of the Senate amendment that the deemed sale is reported on the return of the 'old' corporation and that it is only the 'new' corporation that becomes a member of the purchasing corporation's affiliated group.

The conference agreement modifies the provisions of the Senate amendment which treat the amount for which the target corporation's assets are deemed to be sold (and purchased) by reference to the acquiring corporation's basis in the stock of the target corporation. Under the conference agreement, if the acquiring corporation owns less than 100 percent by value of the target corporation's stock on the acquisition date, the deemed purchase price is grossed up to equate 100-percent ownership by the acquiring corporation and the nonrecognition of gain or loss to the target corporation is limited, unless the target corporation is liquidated within one year after the acquisition date, to the highest actual percentage by value of target corporation stock held during the one-year period beginning on the acquisition date.

The conference agreement provides that if, in connection with a qualified stock purchase with respect to which an election is made, the target corporation makes a distribution in complete redemption of all the stock of a shareholder (other than the acquiring corporation), section 336 of the Code will apply to the distribution as if it were made in a complete liquidation. This will preclude gain from being recognized to the target corporation under the provisions relating to stock redemptions by a continuing corporation.

Under the conference agreement, if the acquisition date with respect to a target corporation was after August 31, 1980, and before September 1, 1982, and the target corporation was not liquidated before September 1, 1982, the purchasing corporation may make an election under new section 338(a).

At the election of the purchasing corporation, section 338 as added by the bill will not apply to any acquisition made pursuant to a contract binding on July 23, 1982, to acquire control (within the meaning of sec. 368(c)) of any financial institution where completion of the acquisition is subject to approval by one or more regulatory authorities and a plan of complete liquidation of one or more corporations acquired pursuant to such contract is adopted within 90 days after the date of final approval of the last such regulatory authority granting final approval.

Under the conference agreement, except as provided in regulations and subject to such conditions as may be provided in regulations, the term 'target affiliate' does not include a foreign corporation or a DISC ORGA corporation to which section 934(b) or section 936 applies, and the consistency rules do not apply to stock held by a target affiliate in a foreign corporation or a domestic corporation which is a DISC or which is described in section 1248(e).

Under the conference agreement, the acquisition of assets before September 1, 1982, and, to the extent provided under regulations, foreign held assets will not result in a deemed section 338 election with respect to a target corporation.

The conference agreement provides regulatory authority pursuant to which the Secretary may determine that the deemed election will not apply as the result of a *de minimis* acquisition of assets and may also preclude the application of the deemed election rule if it is determined that the taxpayer has acquired assets in order to avoid the 75-day limit on the period after the acquisition date within which the election must be made.

d. Reorganizations constituting changes in form

Present law

A reorganization includes "a mere change in identity, form, or place of organization" (an F reorganization). Generally, present law requires a transferor corporation's taxable year to be closed on the date of a reorganization transfer and precludes a post-reorganization loss from being carried back to a taxable year of the transferor. However, F reorganizations are excluded from these limitations in recognition of the intended scope of such reorganizations as embracing only formal changes in a single operating corporation.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement limits the F reorganization definition to a change in identity, form, or place of organization of a single operating corporation.

This limitation does not preclude the use of more than one entity to consummate the transaction provided only one operating company is involved. The reincorporation of an operating company in a different State, for example, is an F reorganization that requires that more than one corporation be involved.

The amendment applies to transactions occurring after August 31, 1982. Present law continues to apply to plans of reorganization adopted before August 31, 1982, provided the transaction is completed by December 31, 1982.

e. Use of holding companies to bail out earnings

Present law

Shareholders who have their stock redeemed in a corporate distribution not in partial or complete liquidation are entitled to sale or exchange treatment rather than dividend treatment generally only if the transaction results in a termination or substantial reduction in the proportionate interests of the redeeming shareholders. Where the same shareholder or a group commonly controls two or more corporations, they may attempt to avoid the dividend consequences that would result from a pro rata redemption of stock by selling the stock in one controlled corporation to another. Present law (sec. 304) deals with this effort to avoid dividend treatment by testing the tax consequences of the transaction as if the shareholders had their stock redeemed by the corporation whose stock is sold.

Shareholders have attempted to avoid the present law rules by borrowing funds se-

cured by the stock of a corporation with earnings and profits and contributing the stock to a newly formed holding company in exchange for the holding company's stock plus its assumption of the liability for the borrowed funds. Taxpayers argue that the transaction complies with present law rules governing tax-free incorporation of property. These rules overlap with those requiring stock sales to a commonly controlled corporation to be tested as stock redemptions. The courts are divided as to which provision controls. It is also unclear whether section 304 applies where the holding company is a newly formed corporation. Even if the redemption rule applies and dividend treatment results, dividend consequences would be determined by reference to the earnings of the purchasing corporation. If it is a newly formed holding company, it would have no earnings (a pre-existing corporation without earnings could also be used).

Another device to bail out earnings is to cause a corporation to issue preferred stock as a nontaxable stock dividend to its shareholders. A sale of the preferred stock at capital gain rates would not dilute the interests of the selling shareholders in future corporate growth while they would receive an amount representing corporate earnings. Preferred stock issue under these circumstances (described as section 306 stock) is tainted under present law so that its subsequent sale or redemption results in ordinary income to the shareholder. This provision does not taint stock of a newly formed corporation issued in a tax-free transaction in exchange for stock in a corporation with earnings and profits. Thus, creation of a holding company issuing both common and preferred stock offers the same bail-out opportunity as a preferred stock dividend but does not result in tainted section 306 stock.

House bill

No provision.

Senate amendment

No provision.

The conference agreement extends the anti-bailout rules of sections 304 and 306 of present law to the use of corporations, including holding companies, formed or availed of to avoid such rules. Such rules are made applicable to a transaction that, under present law, otherwise qualifies as a tax-free incorporation under section 351.

Section 351 generally will not apply to transactions described in section 304. Thus, section 351, if otherwise applicable, will generally apply only to the extent such transaction consists of an exchange of stock for stock in the acquiring corporation. However, section 304 will not apply to debt incurred to acquire the stock of an operating company and assumed by a controlled corporation acquiring the stock since assumption of such debt is an alternative to a debt-financed direct acquisition by the acquiring company. This exception for acquisition indebtedness applies to an extension, renewal, or refinancing of such indebtedness. The provisions of section 357 (other than sec. 357(b)) and section 358 apply to such acquisition indebtedness provided they would be applicable to such transaction without regard to section 304. In applying these rules, indebtedness includes debt to which the stock is subject as well as debt assumed by the acquiring company.

Under the conference agreement, section 306 is made applicable to preferred stock acquired in a section 351 exchange if, had money in lieu of stock been received, its receipt would have been a dividend to any extent. This, if the receipt of cash by the shareholder rather than stock would have caused section 304 as amended by the bill, rather than section 351, to apply to such receipt, some or all of the amount received might have been treated as a dividend. In such a case, the preferred stock acquired in the exchange will be section 306 stock.

To the extent of any amount distributed (including any liability assumed or to which the stock is subject) in an exchange for stock to which section 304(a)(1) applies, the earnings and profits of the issuing corporation, to the extent thereof, will be deemed to be distributed to the acquiring company. This rule also applies in determining whether preferred stock acquired in a section 351 exchange is section 306 stock. For this purpose, the property is deemed distributed by the issuing to the acquiring corporation and thereafter distributed to the exchanging shareholders. The deemed distribution is solely for the purpose of determining the extent to which the amount distributed is treated as a dividend to such shareholders and does not, for example, constitute a distribution of personal holding company income to the acquiring corporation.

In determining whether corporations are commonly controlled for purposes of section 304, all shareholders transferring stock to a holding company would be counted even though some of them do not receive property other than stock.

An exception would apply to the receipt of securities in a bank holding company by certain minority shareholders. Under this rule, the transfer of stock constituting control of a bank to a bank holding company in connection with the formation of such company (unless such company is formed before 1985) must be made within 2 years after control of such bank was acquired. Both acquisition of control of the bank and the transfer of its stock constituting control to the bank holding company must be pursuant to a plan. Further, distributions of property (as described in sec. 304(a)) incident to the formation of such bank holding company may be made only to shareholders who, in the aggregate, do not have stock constituting control of such company.

If the above conditions are satisfied, section 304(a) will not apply to securities received, incident to the formation of the bank holding company, by any shareholder who owns less than 10 percent in value of the stock of such company.

Control, for purposes of applying this exception, means control as defined in section 304(c)(1) and ownership is to be determined under the rules in section 304(c)(3). A bank holding company is a bank holding company within the meaning of the Bank Holding Company Act.

The amendments made by the conference agreement apply to transfers occurring after August 31, 1982, in taxable years ending after such date. However, if an application was filed with the Federal Reserve Board before August 16, 1982, to form a bank holding company, the amendments will not apply to transfers by a bank holding company formed pursuant to approval of such application if such transfers are made before January 1, 1983, or (if later) within 90 days after the last final required regulatory approval of such formation.

f. Application of attribution rules

Present law

To determine whether a shareholder is entitled to sale or exchange treatment on a stock redemption, stock held by related parties is attributed to the shareholder in determining whether the shareholder's interest in the corporation was terminated or significantly reduced. The attribution rules do not apply to some transactions that are economically equivalent to straight stock redemptions and that offer an equivalent opportunity to bail out earnings. For example, a shareholder may exchange all of his common stock in a corporation for preferred stock. Such an exchange results in tainted, section 306 stock only if, had cash been distributed in lieu of preferred stock, there would have been a dividend. Unless stock held by another family member or controlled entity is attributed to the shareholder, cash in lieu of preferred stock would have terminated the shareholder's interest and not result in a dividend. Also, a shareholder exchanging stock in a reorganization for property other than stock or securities may have dividend consequences if the transaction has the effect of the distribution of a dividend. For this purpose, attribution rules do not apply.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement extends the ownership attribution rules to a determination of whether, for section 306, the effect of the receipt of preferred stock pursuant to a reorganization or a transaction described in section 355 or section 351 is substantially the same as a dividend and in determining whether the receipt of property in a reorganization has the effect of a dividend. Attribution between shareholders and corporations shall be applied without regard to the 50-percent limit in section 318(a)(2)(C) and 318(a)(3)(C) in applying such rules to the receipt of preferred stock in a section 351 exchange.

The application of constructive ownership rules to section 306 determinations applies to stock received after August 31, 1982, in taxable years ending after such date. Application of such rules to the determination of whether the receipt of property pursuant to a reorganization has the effect of a dividend applies to distributions after August 31, 1982, in taxable years ending after such date.

g. Waiver of family attribution rules

Present law

In determining whether a shareholder has completely terminated his interest in a corporation on a stock redemption so as to achieve sale or exchange treatment, present law allows the shareholder to waive attribution of ownership from other family members. The waiving shareholder in general may hold no interest in the corporation (except as a creditor), may not acquire any interest for a 10-year period, and must agree to notify the Internal Revenue Service of any such acquisition. The statute of limitations for the year of redemption remains open in the event of such an acquisition.

Stock may be attributed from one member of a family to another by family attribution and reattributed to an entity such as an estate or trust in which the constructive owner has a beneficial interest. The Internal Revenue Service takes the position that only an individual may waive family attribution. Several decided cases have held that a trust or an estate terminating its interest by a stock redemption can waive family attribution from a family member to the benefi-

ciary. These cases do not preclude the beneficiary from acquiring an interest in the corporation, do not require an agreement from the beneficiary, and do not reopen the statute of limitations in the event of an acquisition by the beneficiary. One case has also held that an entity may waive attribution from a beneficiary to the entity.

House bill

No provision.

Senate amendment

No provision

Conference agreement

The conference agreement permits an entity to waive the family attribution rules if those through whom ownership is attributed to the entity join in the waiver. Thus, a trust and its beneficiaries may waive family attribution to the beneficiaries if, after the redemption, neither the trust nor the beneficiaries hold an interest in the corporation, do not acquire such an interest within the 10-year period, and join in the agreement to notify the IRS of any acquisition. The entity and beneficiaries would be jointly and severally liable in the event of an acquisition by any of them within the 10-year period and the statute of limitations would be open to assess any deficiency. The tax increase would be a deficiency in the entity's tax but would be asserted as a deficiency against any beneficiary liable under the rules. The conferees intend that the tax will be collected from a beneficiary only when it cannot be assesed against or collected from the entity, such as when the entity no longer exists or has insufficient funds. Further, it is intended that the tax will be assessed and collected from the beneficiary whose acquisition causes the deficiency before it is asserted against any other beneficiary.

Under the bill, only family attribution under section 318(a)(1) may be waived by an entity and its beneficiaries. The waiver rules would not be extended to waivers of attribution to and from entities and their beneficiaries (secs. 318(a)(2) and 318(a)(3)). The bill thus is intended to overrule *Rickey* v. *United States* 592 F.2d 1251 (5th Cir. 1979). The conferees intend that the bill should not be construed to provide any inference as to whether the *Rickey* decision adopts a proper construction of present law. Nor is any inference intended as to whether the other cases extending the waiver rules for family attribution to entities adopt a proper construction of present law.

Certain anti-avoidance rules of present law applicable where a related party at the time of the redemption owns stock acquired from the distributee would be extended to the entity and affected beneficiaries.

These amendments apply with respect to distributions after August 31, 1982, in taxable years ending after such date.

10. Accounting for completed contracts

Present law

Overview

A taxpayer who enters into long-term contracts may elect to use one of four accounting methods to account for the income and expenses attributable to such contracts. Long-term contracts generally are building, installation, construction, or manufacturing contracts that are not completed by the end of the taxable year in which they were entered into. A manufacturing contract is not a long-term contract unless it involves the manufacture of either (1) unique items of a type not normally carried in the finished goods inventory of the taxpayer or (2) items that normally require more than 12 months to complete.

The four methods used to account for long-term contracts are the cash method, the accrual method, the percentage of completion method and the completed contract method. The cash and accrual methods are methods applicable to all types of income of all taxpayers generally. The percentage of completion method and the completed contract method apply only to long-term contracts.

Cash method

Under the cash method, income is reported for the year in which it is actually or constructively received. Deductions generally are taken for the year in which actually paid.

Accrual method

Under the accrual method, income is generally reported when all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy, regardless of when it is received. Taxpayers are not required, however, to report income at the time advance payments are received under long-term contracts, but generally may report such income when the subject matter of the contract is shipped, delivered, or accepted.

Deductions generally are allowed for the year in which all events have occurred which determine the fact of liability and the amount thereof can be determined with reasonable accuracy. However, any expenditure which results in the creation of an asset having a useful life which extends substantially beyond the close of the taxable year may not be deductible, or may be deductible only in part, for the taxable year in which incurred. If the taxpayer uses inventories, costs allocable to inventory are accumulated until the inventory is shipped, delivered, or accepted.

Percentage of completion method

Under the percentage of completion method (which is used only for long-term contracts), income is recognized according to the percentage of the contract that is completed during each taxable year. Deductions generally are allowed in the year in which they are incurred.

Completed contract method

Recognition of income and deductions.—Under the completed contract method (which is used only for long-term contracts), income and costs from the contract generally are reported for the year in which the contract is completed.

Completion of contract.—Present Treasury regulations (sec. 1.451-3) provide that a contract will not be considered completed until final completion and acceptance have occurred. Nevertheless, a taxpayer may not delay completion of a contract for the principal purpose of deferring Federal income tax.

Severance and aggregation of contracts.—Present Treasury regulations also provide that it may be necessary to treat one agreement as several contracts or several agreements as one contract in order to clearly reflect the income of the taxpayer. Whether one agreement is severed or several agreements are aggregated depends on all the facts and circumstances.

Allocation of costs.—Under the completed contract method, costs allocable to the contract (commonly referred to as "contract costs") are deductible for the year in which the contract is completed. Expenses that are not allocated to the contract (commonly referred to as "period costs") are deductible for the year in which they are paid or incurred.

Under existing regulations, contract costs include all direct expenses and indirect expenses that are incident and necessary to the performance of the contract, with the following exceptions (which are currently deductible as period costs):

(a) Marketing and selling expenses, including bidding expenses;

(b) Advertising expenses;

(c) Other distribution expenses;

(d) General and administrative expenses which benefit the taxpayer's business as a whole;

(e) Interest;

(f) Research and development expenses;

(g) Losses, under section 165 and the regulations thereunder;

(h) Percentage depletion in excess of cost depletion;

(i) Depreciation on idle equipment and, for other equipment, tax depreciation in excess of book depreciation;

(j) Income taxes;

(k) Pension and profit-sharing contributions and other employee benefits;

(l) Costs attributable to strikes, rework, scrap, and spoilage; and

(m) Officer compensation which benefits the taxpayer's activities as a whole.

House bill

No provision.

Senate amendment

Completion of contract

The Treasury Department would amend its regulations to prevent unreasonable deferral of recognition of income by reason of contract provisions that are merely incidental to contract obligations for construction, installation, or manufacturing.

The revised rules apply to taxable years ending after December 31, 1982. Contracts that would be treated as completed in an earlier taxable year solely by reason of the revised termination rule would be treated as completed in the first taxable year ending after December 31, 1982.

Severing and aggregating contracts

The Treasury Department would amend its regulations to prevent the unreasonable deferral of recognition of income by reason of the taxpayer's treating several contracts as a single contract (for example, where the items to be constructed, installed, or manufactured under the contracts are independently priced and will be separately delivered or accepted).

The revised severance and aggregation rules apply to taxable years ending after December 31, 1982. A contract that would have been completed in an earlier taxable year if it had been severed from a group of contracts under the revised rules will be considered completed when the first contract of the same group is completed after December 31, 1982.

Allocation of costs

For long-term contracts expected to be completed within 2 years and certain other construction contracts, present law cost allocation rules will continue to apply. Construction contracts eligible for continued use of present law costing rules are contracts for the construction of real property improvements (or installation of integral components thereof) if either—

(1) the contract is expected to be completed within 3 years, or

(2) the taxpayer has average annual gross receipts of $25 million or less for the prior 3 years.

In the case of a contract for the manufacture and installation of an improvement to real property, the special cost allocation rules for construction contracts apply to only the costs related to the installation of the real property improvements. For purposes of determining whether such a contract is expected to be completed within 3 years, the time expected to complete both the manufacture and installation of the property will be taken into account.

For all other contracts (extended period long-term contracts), costs that arise from or directly benefit such contract activities of the taxpayer are to be treated as contract costs. For extended period long-term contracts, the following costs will *no longer* be period costs:

(1) Bidding expenses on contracts awarded to the taxpayer;

(2) Distribution expenses, such as shipping costs;

(3) General and administrative expenses properly allocable to long-term contracts under regulations to be prescribed by the Secretary;

(4) Research and development expenses that either are directly attributable to particular long-term contracts existing when the expenses are incurred or are incurred under an agreement to perform research and development;

(5) Depreciation, capital cost recovery, and amortization for equipment and facilities currently being used, to the extent it exceeds depreciation reported by the taxpayer for financial accounting purposes;

(6) Pension and profit-sharing contributions representing current service costs and other employee benefits;

(7) Rework labor, scrap, and spoilage; and

(8) Percentage depletion in excess of cost depletion.

The revised cost allocation rules apply to contracts entered into after December 31, 1982, for taxable years beginning after December 31, 1982, with a phase-in.

Under the phase-in, a percentage of the additional costs allocable to the contract under the revised rules would be currently deductible. The percentages are:

For taxable year beginning in—	*The currently deductible percentage is*
1983	66⅔
1984	33⅓
1985 and thereafter	0

Conference agreement

The conference agreement follows the Senate amendment.

11. Accelerated corporate tax payments

Present law

Corporations generally must pay 80 percent of their current year's tax liability in quarterly estimated tax payments during the taxable year.

A penalty for underpayment of estimated taxes is imposed unless the corporation meets certain exceptions based on prior year's tax liability, prior year's income or annualized income. At each installment date, annualized income is projected from the actual taxable income earned by the end of the previous month (or quarter). Under present annualization rules, corporations with seasonal income earned primarily at the beginning of the year may upon occasion overpay estimated taxes due when they rely on the annualized income exception.

Generally, a corporation must pay its final tax payment 2½ months after the end of the taxable year, but it may elect to pay only half of the unpaid tax on this date and the remaining half three months later.

House bill

No provision.

Senate amendment

The amount of estimated tax payments required for all corporations is increased from 80 percent to 90 percent of current year's tax liability. A corresponding change will be made in the exception based on annualized income.

The penalty on underpayments of estimated tax that are between 80 percent and 90 percent of the actual tax due is imposed at one-half the full rate for underpayments.

The full amount of the unpaid tax is due 2½ months after the end of a taxable year.

Conference agreement

The conference agreement generally follows the Senate amendment, with three changes.

First, the penalty for underpayment of estimated taxes is imposed at three quarters of the full rate on underpayments between 80 and 90 percent of the tax due, but only if the taxpayer makes estimated tax payments of at least 80 percent of the tax due.

Second, a new rule for annualizing income is provided for corporations with seasonal income. Taxpayers could rely on the new rule if, in the preceding three taxable years, taxable income for any period of 6 successive months averaged 70 percent or more of total income for the taxable year. Income would be annualized by assuming that the income is earned, in the current year, in the same pattern as in the three preceding taxable years. This rule would require that the tax be paid on the annualized income in the same seasonal pattern in which it is earned.

Third, for the annualized income exceptions, the Treasury is directed to amend its regulations regarding the computation of taxable income for the period before the installment due date. Taxpayers could rely on these regulations in computing taxable income for a period of less than a full taxable year under the annualization and seasonal pattern of income exceptions to the underpayment penalty. Many items which substantially impact taxable income cannot be determined accurately by the installment due date. Examples of these items include (but are not limited to) the LIFO index for taxpayers using the dollar-value LIFO inventory method, the deferred gross profit for taxpayers with revolving charge accounts, intercompany adjustments for taxpayers who file consolidated returns, and a temporary liquidation of a LIFO layer at the installment date.

To alleviate these problems for taxpayers who rely on the annualized income exception, the conferees expect the Secretary to issue regulations which provide that estimates of certain items could be used where reasonable estimates could be made from existing data. For example, taxpayers using the dollar-value LIFO method of accounting might be allowed to interpolate from an available inflation index for a previous period in calculating the cost of goods sold in a period of less than a full taxable year if no reliable inflation index is available for the period for which taxable income must be calculated. The conferees also understand that the Secretary will issue regulations clarifying the meaning of taxable income in regard to net operating loss carrybacks and carryforwards for purposes of defining a large corporation (under sec. 6655 (h) (2)).

12. Amortization of original issue discount on bonds

Present law

Original issue discount on corporate bonds is included in income by holders in whose hands such bonds are capital assets, and is allowed as a deduction to the issuer, on a linear basis over the life of the bond. The discount is treated as accruing in equal monthly installments over the life of the bond. The OID provisions of the Internal Revenue Code do not provide for ratable inclusion of discount income by holders of noncorporate bonds. A portion of gain from the sale or disposition of government bonds is treated as ordinary income to the extent of accrued original issue discount.

House bill

No provision.

Senate amendment

The Senate amendment provides new rules under which the inclusion and deduction of original issue discount correspond to the actual economic accrual of interest. These rules are extended to bonds issued by noncorporate issuers other than natural persons.

The Senate amendment applies to corporate obligations issued after May 3, 1982 (other than obligations issued pursuant to a written commitment which was binding on such date). The extension of the rules to obligations of noncorporate issuers applies to obligations issued after June 9, 1982 (other than obligations issued pursuant to a written commitment which was binding on such date).

Conference agreement

Under the conference agreement, the new rules applicable under the Senate amendment to original issue discount on corporate obligations and the extension of such rules to noncorporate obligations are effective for obligations issued after July 1, 1982, unless issued pursuant to a written commitment binding on July 1, 1982, and at all times thereafter. Such a commitment would have to involve a commitment by the issuer to issue the bonds at a particular price. Thus, for example, the new rules would not apply in cases where bonds are issued pursuant to the exercise of warrants which were outstanding on July 1, 1982.

A technical amendment makes explicit that tax-exempt obligations are excepted from the rules even if the exemption is provided by a provision of law other than section 103.

Certain tax-exempt industrial development bonds generate interest deductions for a taxable issuer. An amendment makes clear that the deduction of original issue discount on such obligations will be subject to the new rules.

13. Tax treatment of stripped bonds

Present law

If a taxpayer disposes of a bond and retains the unmatured interest coupons or disposes of the bond and the coupons in separate transactions, it is arguable that the taxpayer's basis is entirely allocable to the corpus (bond principal). Any loss from disposing of the corpus, if allowable, is an ordinary loss to a dealer in such obligations, or

to a bank, and a capital loss to other taxpayers.

Gain to the purchaser of a stripped bond is deferred until the bond is sold or redeemed and is ordinary income to the extent of the difference between the value of the bond with and without the coupons attached at the time of purchase. The purchaser of stripped coupons allocates his cost to the coupons in accordance with their relative values at the time of purchase. Capital gain may result if coupons are sold rather than redeemed.

House bill

No provision.

Senate amendment

Stripped bonds and stripped coupons in the hands of a purchaser are treated as bonds issued at a discount. The discount is the excess of the redemption price of the bond, or amount payable on maturity of the coupon, over the purchase price allocable to the bond or coupon. The purchaser must include the discount in income under the original issue discount rules.

The seller of a stripped bond or stripped coupons must, immediately before the disposition, allocate the basis of the bond (with coupons) among the bond and coupons in accordance with their values. This will prevent artificial losses from the sale of stripped bonds. The same original issue discount treatment applicable to a buyer of a stripped bond or stripped coupons applies to the retained portions after a seller strips and disposes of either the corpus or coupons.

The treatment of stripped bonds applies with respect to the purchase and sale of a stripped bond or stripped coupons after June 9, 1982.

Conference agreement

The conference agreement follows the Senate amendment with a different effective date. Under the conference agreement, the new treatment applicable to coupon stripping under the Senate amendment applies only where there is a sale after July 1, 1982, of either a stripped bond or stripped coupons.

The conference agreement provides that accrued interest required by the new rules to be included in income upon the disposition of a stripped bond or stripped coupons does not include any interest theretofore included in income by the taxpayer (e.g., by an accrual basis taxpayer).

The rule of present law that requires ordinary income treatment on the sale or other disposition of a stripped bond to the extent of the difference in fair market value of the bond with and without coupons attached at the time of purchase is continued for bonds purchased at any time before July 2, 1982. As under the Senate amendment, this rule is applicable to tax-exempt obligations without regard to the date of purchase. In applying this rule, a technical amendment clarifies that a person who retains a tax-exempt bond after disposition of the coupons will be treated as a purchaser of a stripped tax-exempt bond.

Another technical amendment provides that the definition of 'coupon' as any right to receive interest on a bond whether or not evidenced by a coupon will apply only where a purchase occurs after July 1, 1982. This amendment is not intended to provide any inference as to the interpretation of the term 'coupon' in present law section 1232(c).

The conference agreement also provides the Secretary of the Treasury with the authority to issue regulations to provide the appropriate basis allocation and income inclusion rules in cases where the general rules in the statute do not provide a proper determination of income by reason of call provisions, extendable maturities, etc. For example, in the case of callable bonds with coupons redeemable after the call date, these regulations could provide that no basis need be allocated to post-call coupons as long as they remain attached to the corpus and that there be no periodic inclusion of discount income with respect to post-call coupons where this is appropriate.

14. Treatment of business meal expenses and tip income

Present law

Business meals

In general, expenditures for business meals are deductible to the extent that they are ordinary and necessary, not extravagant or lavish, and are paid or incurred in connection with the taxpayer's trade or business or income-producing activities.

Tip income

Tipped employees must generally report all tips received in the course of their employment to their employer.

In general, withholding for purposes of the Federal Insurance Contributions Act (FICA) tax and the income tax is required only to the extent tips are reported to the employer and only to the extent collection of the tax can be made by the employer from wages paid to the employee (excluding tips, but including funds turned over by the employee to the employer or under the control of the employer).

In general, employees whether or not they receive tips, are required to keep records to establish the amount of gross income and deductions. Because tips are includible in income, employees must keep records of all tips received and of all deductible tips paid to other employees. Employers are expressly required to retain only charge tip receipts and statements of tips received by employees furnished by such employees. Failure to maintain such records may subject employees or employers to penalties (sec. 6653).

House bill

No provision.

Senate amendment

Any deduction otherwise allowable for business meals and beverages (unless connected with business-related travel away from home) is limited to 50 percent of expenses. This provision is effective for taxable years beginning after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment relating to business meals expense deduction.

Under the conference agreement, the rules of present law relating to reporting of tips to employers by their employees and to the resulting withholding of FICA and income taxes is retained. However, to assist the Internal Revenue Service in its examinations of returns filed by tipped employees, the bill provides a new set of information reporting requirements for large food and beverage establishments and, under certain circumstances, a tip allocation requirement.

Each large food and beverage establishment will be required to report annually to the Internal Revenue Service (1) the gross receipts of the establishment from food and beverage sales (other than receipts from carryout sales and mandatory 10-percent or more service charge sales), (2) the amount of aggregate charge receipts (other than receipts from carryout sales and 10-percent service charge sales), (3) the aggregate amount of tips shown on such charge receipts and (4) reported tip income and mandatory service charges of less than 10 percent. Tips on meals charged for house charges of restaurants will be reported. Tips on meals charged to a room in a hotel, however, will be reported as gross receipts only.

If the employees voluntarily report tips aggregating 8 percent or more of gross receipts (defined as gross receipts less carryout sales, less 10-percent service charge sales), then no tip allocations, will need to be made. However, if this 8-percent reporting threshold is not met, then the employer must allocate an amount equal to the difference between 8 percent of gross receipts and the amounts reported by employees for the year to all tipped employees pursuant to either an agreement between the employer and employees or in the absence of such an agreement according to regulations issued by the Secretary. The conferees intend that the regulations under this provision will provide procedures under which a particluar establishment, or type of establishment, can show that its tipped employee's average tip rate is less than 8 percent (but not less than 5 percent) and, therefore, allocate based on that lower amount in the future. The employer will have no liability in connection with any dispute regarding tip allocations.

The allocation of the 8-percent amount to employees for reporting purposes will have no effect on the FICA or income tax withholding responsibilities of the employer or on his FUTA obligations. Thus, employers will continue to withhold only on amounts reported to them by their tipped employees. Of course, the allocation also has no effect on the actual entitlement of the employer or employee to gross receipts or tip income. Similarly, this purely informational report to the Internal Revenue Service will not affect the requirements of the Fair Labor Standards Act or any collective bargaining agreement.

The 8-percent figure reflects the conferees' judgment that the tip rate in establishments subject to this reporting requirement will rarely be below the 8-percent level. Thus, an employee who reports less than his allocated amount of tips must be able to substantiate his reporting position with adequate books and records (as he must under present law). The Internal Revenue Service could prove that tipped employees received a larger amount of tip income. For example, as under present law, the Internal Revenue Service could show from charge tip rates that a particular establishment had a higher tip rate than 8 percent.

A large food or beverage establishment is any establishment (public or private) the activity of which is the provision of food or beverages for consumption on the premises, other than of a "carry-out" nature such as "fast food restaurants," with respect to which tipping is customary, and which normally employed more than 10 employees on a typical business day during the preceding calendar year. The Secretary will prescribe regulations for the application of this 10-employee rule in the case of new businesses. Thus "fast-food" restaurants would not generally be subject to the new reporting requirement. Restaurants that provide table or counter service for seated customers, and cocktail lounges with similar service, are large food or beverage establishments if they employ 10 or more persons. An estab-

lishment may be part of a larger operation such as a hotel.

It is anticipated that the information statement concerning allocated tips could be integrated into Form W-2 now supplied by employers with respect to wages. If the employer furnishes an employee with a W-2 within 30 days after the employee leaves, the employer must furnish the employee and the IRS in January with an amended Form W-2 that includes tip allocations.

The conference agreement requires the Secretary of the Treasury to submit, prior to January 1, 1987, to the tax writing committees of the Congress a report together with the background study on the operation of the present reporting system as applied to tips received as wages or compensation. This report should be based upon a study conducted by the IRS designed to statistical accuracy with an error of plus or minus of 15 percent. The study should be representative of the foodservice industry in terms of sales size and types of establishments. This study should also specifically describe the following: (1) the amount of tips actually received; (2) the amount of tips voluntarily reported to the employer by the employee; (3) the amount of tips reported to the IRS on the individual's federal tax return; and (4) a computation of the minimum wage payments to these individuals and what portion of those wages constituted tip income.

This study should further describe tipped individuals by job category, and should distingush between part-time and full-time employment. The study should also describe the extent of arrangements for tip sharing and tip pooling that exist among tip earners. Recommendations made by the Internal Revenue Service as a result of this study should contain a cost-benefit analysis of any recommendations. This analysis should include a comparison of the cost of the existing system of enforcement of tip earner compliance through examination and any cost increase or decrease to the government if any recommendation is adopted.

The amendments made by this section apply to calendar years beginning after December 31, 1982, but the allocation rules will first apply to payroll periods ending after March 31, 1983. For the first quarter of calendar year 1983 only, large food and beverage establishments for which aggregate tip income reported by employees is less than 8 percent of such gross food and beverage sales, will be required to file information returns for that quarter for Internal Revenue Service audit purposes. These returns shall include a list of all tipped employees including their taxpayer identification numbers, wages paid and reported tip income during the period. Employees would be put on notice that their returns would be identified for audit unless this 8 percent tip reporting is satisfied.

15. Investment credit for soil or water conservation expenditures

Present law

Soil or water conservation expenditures equal to up to 25 percent of gross income from farming may be deducted during the year incurred instead of being charged to capital account, at the election of the taxpayer. A taxpayer may not elect to treat as deductible expenditures those items for which depreciation deductions may be claimed.

Present law includes no special investment credit for soil and water conservation expenditures.

House bill

No provision.

Senate amendment

The Senate amendment permits farmers to elect a 10-percent investment credit for those soil and water conservation expenditures that are not expensed. The provision applies to periods after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

16. Public utility dividend reinvestment plans

Present law

Under present law, public utility corporations may set up dividend reinvestment plans under which shareholders electing to receive distributions in the form of common stock, rather than money or other property, may exclude up to $750 per year ($1,500 in the case of a joint return) of the stock distribution from income. These amounts generally are taxed as capital gains when the stock is sold, if the stock has been held for at least 12 months.

The provision applies to distributions made after 1981 and before 1986.

House bill

No provision.

Senate amendment

Under the Senate amendment, the provision is repealed for distributions made after December 31, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

C. Compliance Provisions

1. Withholding on interest and dividends

Present law

Under present law, no income tax withholding is required on payments of interest, dividends, or patronage dividends to U.S. persons.

Senate amendment

The Senate amendment provides for withholding on payments of dividends, interest, and certain patronage dividends paid to individuals (and certain others) at a rate of 10 percent. Exceptions are provided for:

(1) individuals with prior year income tax of $600 or less ($1,000 on a joint return);

(2) elderly individuals with prior year income tax of $1,500 or less ($2,500 on a joint return);

(3) interest payments by electing payors of $100 or less on an annualized basis;

(4) small savings bond payments;

(5) payments by consumer cooperatives; and

(6) payments to corporations, governments, securities dealers, money market funds, exempt organizations, nominees, and certain other recipients.

Interest subject to withholding generally includes interest (including original issue discount), other than (1) interest paid by individuals, or State and local governments on tax-exempt obligations, and, (2) interest paid to nonresident alien individuals, foreign corporations and certain other foreign entities.

Dividends subject to withholding generally are distributions out of earnings and profits other than payments to nonresident alien individuals and foreign corporations.

Patronage dividends subject to withholding do not include per-unit retain allocations or patronage dividends which include consent-type qualified written notices of allocations unless 50 percent or more of such patronage dividend is paid in money or by qualified check.

In general, these provisions apply to interest and dividends paid or credited after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment with clarifying and technical changes except that the effective date is July 1, 1983, instead of January 1, 1983. The conference agreement permits the Secretary to exempt certain payors from the withholding obligations for up to a 6-month period. This authority may be exercised on a case-by-case basis when the payor has attempted in good faith to comply with the withholding obligations but cannot do so without undue hardship. Under the conference agreement, this waiver of compliance with withholding obligations may apply to payments by any payor of interest, dividends, or patronage dividends.

The conferees realize that, although many elderly and low-income persons will qualify for exemption, they will need to file exemption certificates to enjoy the benefit of their exemptions. In addition, the withholding rules will affect the financial planning of many nonexempt individuals. Therefore, the Conferees anticipates that the Secretary will endeavor to inform the public about the operation of the withholding rules and the requirement that exempt individuals file exemption certificates. In this regard, the Internal Revenue Service should notify and counsel affected individuals through new or existing taxpayer-assistance mechanisms and should create forms that are as simple to understand as possible.

The conferees wish to make clear that the exemption from withholding with respect to tax-exempt obligations generally will be available if the obligation is regular on its face (e.g., in registered form if issued after December 31, 1982) and indicates that it is an obligation of a State or local government. Thus, financial institutions acting as trustee with respect to industrial development bonds would not be required to inquire whether any event has occurred that would cause the interest on the obligation to be taxable.

The exception for minimal interest payments of $100 or less on an annualized basis is modified to provide that interest payments which would not exceed $150 on an annualized basis may be exempt from withholding at the election of the payor. The conference agreement permits the Secretary to require the aggregation of payments from the same payor to the same payee.

The definition of interest is clarified, consistent with the information reporting requirements, to provide that payments by certain foreign entities and payments outside the United States by U.S. corporations whose interest payments are foreign source are not subject to withholding, except to the extent otherwise provided by regulations.

The list of exempt recipients is expanded to include simple trusts all the income beneficiaries of which are otherwise exempt individuals. Finally, the withholding credit allocation in the trust and estate context is clarified.

The conferees anticipate that the Secretary will provide for rules on the time for making deposits of withheld taxes that take into account the costs of implementing this withholding system. Specifically, the conferees anticipate that all payors of interest, dividends and patronage dividends will be permitted up to 30 calender days in which

to deposit withheld amounts. This extended deposit period should apply for payments withheld during the period of July 1, 1983 to June 30, 1984. A similar extended period could apply through June 1985 for small and medium financial institutions with respect to amounts withheld on interest paid on deposits with those institutions and through June 1986 for small institutions.

2. Other compliance provisions

a. Reporting of interest

Present law

Present law contains an information reporting requirement with respect to payments of interest aggregating $10 or more to any other person during the calendar year. Any corporation that has an obligation outstanding in registered form with respect to which $10 or more of original issue discount is includable in the gross income of any holder during any calendar year must also file an information return with the Secretary. Payors of interest and persons who are required to file information returns with respect to original issue discount must also furnish information statements to recipients.

For reporting purposes, present law defines interest as including, for example, interest on any evidence of indebtedness issued by a corporation in registered form, and interest on bank deposits. In addition, the Secretary has regulatory authority to provide that interest includes interest on evidences of indebtedness issued in other than registered form by a corporation of a type offered by corporations to the public. The existing regulations do not require withholding on such obligations.

House bill

No provision.

Senate amendment

Under the Senate amendment, as under present law, every person who makes payments of interest aggregating $10 or more to any other person during the calendar year, must file an information return. In addition, any person who withholds tax from a payment of interest must file an information return with the Secretary. Under the Senate amendment, original issue discount is generally treated as paid at the time includible in income. In the case of original issue discount on a bearer obligation issued before January 1, 1983, and original issue discount which is not includible in the income of a holder periodically (including discount on short-term government obligations), the original issue discount is treated as paid on the earlier of redemption or maturity of the obligation.

Under the Senate amendment, interest subject to the information reporting requirement is defined to include interest on any obligation which is issued in registered form, or which is of a type offered to the public (other than any obligation with a maturity, at issue, of not more than 1 year which is held by a corporation); interest on bank deposits, and to the extent provided in regulations prescribed by the Secretary, any other interest (which is not specifically excluded from the definition of interest). These are generally the same categories of interest that are subject to reporting under present law except interest on all obligations in registered form or of a type offered to the public is subject to reporting rather than only interest on corporate obligations as under present law.

This provision is effective for amounts paid after December 31, 1982.

Conference agreement

The conference agreement clarifies the Senate amendment in several respects. First, the definition of interest for information reporting purposes is conformed with, and integrated into, the definition of interest for interest withholding purposes. This will simplify and conform the information reporting and withholding rules. Second, the Senate amendment is clarified by specifically providing that interest on U.S. savings obligations may (to the extent provided in regulations) be required to be reported by middlemen. Third, the definition of interest is amended to provide that interest on an obligation which is exempt from tax is not "interest" within the meaning of this provision regardless of when issued. In this connection, the conferees note that in determining whether an obligation is exempt from tax, middlemen such as financial institutions have no duty to inquire beyond the face of the obligation. Fourth, industrial loan associations are added to the list of exempt recipients for both interest reporting and withholding purposes.

As under existing law, interest on bearer obligations that is paid outside the United States by a United States person (e.g., a foreign branch of a U.S. bank) acting as a paying agent for a foreign corporate issuer (or for a U.S. corporate issuer whose interest payments are foreign-source) is exempt from the information reporting requirements, except to the extent otherwise provided by regulations. The conferees do not intend that the Secretary change his existing regulations to require reporting on such payments; however, as under present law applicable to information reporting, the Secretary continues to be empowered to require information reporting on such payments.

In contrast to present law, interest paid on bearer obligations to a United States person by a person acting as a nominee, paying agent, or other middleman is subject to the information reporting requirements if the payment is made within the United States, even if the issuer is a foreign corporation.

Finally, various technical and conforming changes are made.

b. Obligations required to be registered

Present law

Under present law, except for certain housing or energy bonds, the tax status of debt obligations is generally the same regardless of whether the obligation is issued in registered form or in bearer form.

House bill

No provision.

Senate amendment

Under the Senate amendment, the issuance of most bearer obligations by the U.S. or its agencies or instrumentalities is prohibited and certain tax benefits are denied to issuers and holders of other bearer obligations. In additon, an excise tax is imposed on bearer obligations that were required to be issued in registered form. Certain exceptions to the registration requirements are provided.

If a registration-required obligation is not issued in registered form, no interest deduction is allowable to the issuer with respect to interest (including original issue discount) paid or accrued on the obligation. In addition, the earnings and profits of a corporation issuing a registration-required obligation in bearer form will not be reduced by the amount of any interest paid or accrued on the obligation. Moreover, interest on an unregistered registration-required obligation is not exempt from tax. The Senate amendment imposes an excise tax on the issuer of a "registration-required obligation" that is not issued in registered form, equal to one percent of the principal amount of the obligation multiplied by the number of years in the term of the obligation. An exception is provided from the issuer sanctions for certain issues of bonds not intended for distribution (or redistribution in connection with the original issue) to U.S. persons.

These new registration requirements, and the associated sanctions for issuance of registration-required obligations in bearer form, will apply to obligations issued after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment except that holder sanctions are imposed on U.S. persons who own bonds issued after 1982, and that were not subject to the excise tax, that should have been issued in registered form but were instead issued in bearer form. Specifically, these sanctions are the loss of capital gains treatment and the denial of loss deductions when such obligations are sold, exchanged or become worthless. The holder sanctions apply to bonds intended to be distributed outside the United States and which are excepted from the issuer sanctions, except to the extent such bonds are owned in registered form. Exceptions from the holder sanctions are provided for persons who promptly surrender bearer obligations for reissuance in registered form, for persons who hold certain bearer obligations in connection with their active conduct of a trade or business outside the United States, for securities dealers holding bearer bonds in inventory, and for persons complying with reporting requirements that may be promulgated by the Secretary, if certain conditions are satisfied in order to ensure that the bearer bonds will not be delivered to U.S. persons other than those qualifying under the exceptions.

The conference agreement also provides that the holder and issuer sanctions applicable to registration-required obligations issued in bearer form after 1982 do not apply to obligations issued in bearer form pursuant to warrants or convertible bonds issued before August 10, 1982, provided the obligations are issued under arrangements reasonably designed to ensure that they will be sold or resold only to foreign persons.

c. Returns of brokers

Present law

Under present law, every person doing business as a broker must make returns reporting on profits and losses of its customers when required under regulations issued by the Secretary. There are, currently, no regulations under this section.

House bill

No provision.

Senate amendment

The Senate amendment (1) permits the Secretary to require gross proceeds reporting, (2) requires brokers to furnish statements to their customers, and (3) clarifies the definition of broker to explicitly include persons such as dealers, barter exchanges, and other middlemen.

The bill also extends the definition of third-party recordkeepers (for administrative summons purposes) to include barter exchanges which are subject to the informa-

tion reporting requirements imposed on brokers.

Generally, this provision will take effect on the day of enactment. Further, regulations must be issued under this provision within 6 months after the date of enactment; however, any such regulations may not apply to transactions occurring before January 1, 1983. The provision defining barter exchanges as third-party recordkeepers is effective for summonses served after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

d. Information reporting requirements for payments of remuneration for services and direct sales

Present law

Payments of remuneration

Generally, a person engaged in a trade or business must file an information return with respect to payments to another person aggregating $600 or more in the calendar year. This obligation applies to payments of wages, salaries, commissions, fees, other forms of compensation for services, and other fixed or determinable gains, profits, or income.

Direct sales

There is no reporting requirement under present law with respect to sales of consumer products for resale.

Penalties

For most types of information returns, the penalty for failure to file, or to provide statements to recipients, is $10 per failure, with a maximum aggregate penalty for each type of failure of $25,000 for any one calendar year.

House bill

No provision.

Senate amendment

Payments of remuneration

The Senate amendment adds a Code provision specifically dealing with payments of remuneration for services, effective for payments made after 1982.

Under this provision, a service-recipient (a person for whom services are performed) engaged in a trade or business who makes payments of remuneration for services performed must file an information return reporting such payments (and the name, address, and identification number of the recipient) if the remuneration paid to the person during the calendar year is $600 or more. Also, the service-recipient must furnish to the payee a statement setting forth the name, address, and identification number of the service-recipient, and the aggregate amount of payments made to the payee during the year.

Direct sales

General rule.—Unless electing the reporting rule described below, a direct seller is required to report gross purchases of consumer products for resale by any buyer purchasing $5,000 or more of such products in a calendar year (in addition to reporting commissions, etc., under the remuneration reporting requirements).

Elective requirement.—Instead of reporting gross purchases of products for resale, a direct seller may elect to report commissions and otOr remuneration aggregating $50 or more in the calendar year. If this election is made, the direct seller also must file a return identifying all buyers to whom aggregate sales of $600 or more are made during the calendar year.

Effective date.—The reporting requirements for direct sales apply to sales after December 31, 1983.

Penalties

Basic penalty.—A new penalty is imposed on a person who (1) fails to file a required return regarding payments for services or regarding direct sales, (2) fails to furnish a statement to the person named on the return, or (3) fails to include the entire amount required to be included on any return or statement.

The penalty is one percent for each month while the failure continues (but not to exceed five percent) of the amount required to be included on the return or statement but not so included. For failures with respect to direct sales reporting, the penalty is one-fifth of one percent per month, but not to exceed one percent of the amount not included.

Double penalty.—The penalty is doubled if failure to comply with the reporting requirements is due to intentional or reckless disregard of the law.

Minimum penalty.—The minimum penalty is $50 per failure.

Statute of limitations exception.—The Internal Revenue Service generally is prohibited from assessing this new penalty unless it is assessed, or a proceeding to collect it has begun, within six years after the last date for filing the return or statement.

Effective date.—The penalty generally applies to payments after December 31, 1982. Penalties imposed on direct sellers apply to sales made after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment, except for deletion of the new penalty provisions and modification of the direct sales reporting requirements. Direct sellers will be required only to file information returns identifying all buyers to whom aggregate sales of $5,000 or more are made during the calendar year. No elective reporting rules are provided. The reporting requirements for direct sales will apply to sales after December 31, 1982. Penalties for failure to report remuneration paid to independent contractors or information concerning direct sales are subject to the general penalties for failure to report information. Until new regulations are issued under section 6041A, the existing regulatory exceptions under section 6041 will continue to apply. Moreover, the conferees believe that businesses should be given an adequate period of time to comply with any new requirements in such regulations.

e. Reporting of State and local income tax refunds

Present law

Under present law, the refund, credit or offset of State or local income taxes that were deducted (with a resulting tax benefit) in a prior year is includable in a taxpayer's gross income. There is no requirement that information returns with respect to such refunds be filed with the United States or that a statement regarding the refund be furnished to the recipient.

House bill

No provision.

Senate amendment

The amendment provides that an information return must be filed with the Secretary with respect to any State or local income tax refunds, credits, or offsets aggregating $10 or more paid or credited to an individual during the calendar year. In addition, a statement must be furnished to the recipient before the close of January of the calendar year following the year of refund, credit or offset.

This new requirement will apply to refunds paid, and credits or offsets allowed, after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that the information statements must be furnished to the individual recipients during January of the year following the year of refund, credit or offset (instead of at any time before the close of January).

f. Increased penalties for failure to file information returns and statements

Present law

Present law imposes a penalty on any person who fails to file timely information returns relating to various forms of compensation, interest, and dividends. The penalty is $10 for each such failure, but the total amount of the penalties imposed for all such failures during a calendar year cannot exceed $25,000. Persons with respect to whom information returns are filed generally are entitled to a statement of the information shown on the return. The penalty for failure to provide these statements is also $10 per failure up to $25,000 per year. Employers and plan administrators must file information returns with respect to certain deferred compensation plans. The penalty for failure to provide these returns is $10 for each day the failure continues up to $5,000. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

The category of information returns subject to the general penalty for failure to timely file information returns is expanded to include broker returns and direct seller returns. The bill also increases the penalty for failure to file most information returns to $50 per failure, not to exceed $50,000 in any calendar year. When the failure to file information returns is due to intentional desregard of the filing requirements, the penalty will not be less than 10 percent of the aggregate amount of the amounts not properly reported (5 percent in the case of returns to be filed by brokers and $100 in the case of direct sellers) and the $50,000 limitation will not apply.

The provision applies to returns the due date of which (without extensions) is after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that (1) the penalty for failure to file information returns or statements with respect to certain deferred compensation plans (sec. 6058), and certain term, annuity and bond purchase plans (sec. 6047) is increased to $25 per day during which the failure continues, but not more than $15,000, and (2) the penalty for failure to provide information statements to taxpayers (sec. 6678) is increased from $10 per statement to $50 per statement up to $50,000 per calendar year (from $25,000). These amendments are effective for returns and statements, the due date of which (without regard to extensions) after December 31, 1982.

The conference agreement also makes certain technical and conforming amendments.

g. Increase in civil penalty on failure to supply identifying numbers

Present law

Present law imposes a penalty of $5 per failure on any person who is required by regulations (1) to include his taxpayer identification number (TIN) in any return, statement or document, (2) to furnish his TIN to another person, or (3) to include in any return or statement made with respect to another person the TIN of such other person, and who fails to comply with such requirement at the time prescribed. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

The penalty for failure to supply identifying numbers is increased from $5 per failure to $50 per failure, but not to exceed $50,000 for all such failures in any calendar year. In addition, the bill provides that if any failure to include the TIN of another person in any return or statement made with respect to that other person is due to the intentional disregard of the requirements to include such other person's TIN in the return, the penalty will be $100 per failure and the $50,000 limitation will not apply.

The provision will be effective for returns the due date of which (without extensions) is after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment except that (1) the penalty for failure to include the taxpayer's own TIN in any return, statement, or document is not increased, but is kept at $5 for each such failure (instead of $50) and (2) there is no additional penalty for intentional disregard of the requirement to include another person's TIN in a return.

h. Extension of withholding to certain payments where identifying number not furnished or inaccurate

Present law

Present law imposes a penalty of $5 per failure on any person who is required by regulations (1) to include his taxpayer identification number (TIN) in any return, statement, or document, (2) to furnish his TIN to another person, or (3) to include in any return or statement made with respect to another person the TIN of such other person, and who fails to comply with such requirement at the time prescribed. The penalty is not imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

Withholding at source at a tax rate of 15 percent would be required if a taxpayer fails to supply a TIN or supplies an incorrect TIN to another person who must file certain types of information returns with respect to payments to the taxpayer. If a taxpayer fails to supply a TIN to the payor of a backup withholding payment or supplies an obviously incorrect number, then the withholding obligation rules would apply immediately. Otherwise, a 7-day grace period would apply during which the payor would not be liable if it failed to withhold, or withholds where he had an obligation to do so. The types of payments subject to this withholding requirement (back-up withholding payments) generally would include the types of payments subject to the information reporting requirements. This withholding generally would not apply to payments made to the United States or any agency or instrumentality thereof, to any State or political subdivision thereof, to any tax-exempt organization, or to any foreign government or international organization.

Except in the case of payments of compensation, etc. for which information reporting is required under section 6041 (relating to information at the source generally) or section 6041A (relating to payments to independent contractors), this requirement for withholding would apply without regard to the reporting thresholds provided for the information returns.

Generally, payment of amounts subject to this new withholding provision would be treated as wages paid by an employer to an employee and subject to the various provisions applying to collection of income tax at the source on wages.

This provision would apply to payments made after December 31, 1983.

Conference agreement

The conference agreement follows the Senate amendment except for four modifications. First, the 7-day grace period is expanded to 15 days. Second, the definition of "backup withholding payment" is clarified by defining such payment as any payment of a kind "and, to a payee" subject to information reporting. This change will assure that amounts paid to persons exempt from the information reporting requirements (and who are, therefore, also persons generally not liable to supply a TIN) are not subject to the backup withholding requirement. Third, the definition of "obviously incorrect number" is amended to apply only to numbers that contain an incorrect number of digits. Finally, the list of persons to whom backup withholding cannot apply is clarified. Thus, no backup withholding is required as to any organization exempt from taxation under section 501(a); an individual retirement plan; the United States or a State; a foreign government or international organization; a foreign central bank of issue; or to any other persons described in regulations issued by the Secretary.

i. Minimum penalty for extended failure to file

Present law

Under present law, if a taxpayer fails to file a tax return on the date prescribed therefor (including extensions) and if there is an underpayment of the tax required to be shown on such return, then he is subject to a penalty of 5 percent of the underpayment per month (or fraction thereof) while the failure continues, but not more than 25 percent. Thus, no civil penalty is imposed on the taxpayer if there is no underpayment for the year or if a refund is due. In addition, no penalty is imposed if the failure is due to reasonable cause and not due to willful neglect.

House bill

No provision.

Senate amendment

A new minimum penalty for the extended failure to file an income tax return would be imposed. If an income tax return were not filed within 60 days of the date prescribed therefor (with extensions), the penalty for failure to file would be not less than $100 even if no tax were owed. This minimum penalty would not be imposed if the failure to file the return were due to reasonable cause.

The penalty would apply to returns due after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment with the modification that the minimum penalty could not be imposed unless there was an underpayment of tax, and could not exceed the lesser of the underpayment or $100.

j. Forms of returns

Present law

In general, returns required by the tax law must be made according to the forms and regulations prescribed by the Secretary. There is no statutory or regulatory requirement that returns be filed on magnetic tape or in other machine-readable form.

House bill

No provision.

Senate amendment

The Secretary would be required to prescribe regulations providing standards for determining which returns must be filed on magnetic media or in other machine-readable form. In providing these standards, the Secretary would be directed to take into account, among all other relevant factors, the ability to the taxpayer to comply, at a reasonable cost, with such a filing requirement. In no event could the Secretary require returns of the tax imposed under subtitle A (i.e., the income tax) by individuals, estates, and trusts, to be other than on paper forms.

Conference agreement

The conference agreement follows the Senate amendment.

k. Penalty for promoting abusive tax shelters, etc.

Present law

Present law contains no penalty provision specifically directed toward promoters of abusive tax shelters and other abusive tax avoidance schemes.

House bill

No provision.

Senate amendment

A new civil penalty would be imposed on persons who organize or sell any interest in a partnership or other entity or investment, when, in connection with such organization or sale, the person makes or furnishes either (1) a statement, which the person knows is false or fraudulent as to any material matter with respect to the availability of any tax benefit said to be available by reason of participating in the investment, or (2) a gross valuation overstatement as to a matter material to the entity which is more than 400 percent of the correct value.

The penalty for promoting an abusive tax shelter is an assessable penalty equal to the greater of $1,000 or 10 percent of the gross income derived, or to be derived, from the activity.

The Secretary is given authority to waive all or part of any penalty resulting from a gross valuation overstatement upon a showing that there was a reasonable basis for the valuation and the valuation was made in good faith. This penalty is in addition to all other penalties provided for by law.

This section will take effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment except that, (1) when a person makes or furnishes, in connection with the organization or sale of an interest in any entity or investment, a statement with respect to the availability of a tax benefit with respect to the investment, he will be liable for the penalty if he knew or had

reason to know the statement was false or fraudulent as to any material matter. The addition of "has reason to know," clarifies that the Secretary may rely on objective evidence of the knowledge of a promoter or salesperson (for example) to prove that he deliberately furnished a false or fraudulent statement. For example, a salesman would ordinarily be deemed to have knowledge of the facts revealed in the sales materials which are furnished to him by the promoter. The "reason to know standard" is not, however, intended by the conferees to be used to impute knowledge to a person beyond the level of comprehension requird by his role in the transaction. Thus, this standard does not carry with it a duty of inquiry concerning the transaction.

Secondly, the term "gross valuation overstatement" is redefined to be a statement of the value of property or services which exceeds 200 percent of the correct value (instead of 400 percent).

l. Action to enjoin promoters of abusive tax shelters, etc.

Present law

Present law provides that a civil action may be brought by the United States to enjoin any person who is an income tax return preparer who engages in certain proscribed acts. Venue for such an action lies in the district in which the income tax return preparer resides or has his principal place or residence, or the taxpayer with respect to whose income tax return the action is brought resides.

House bill

No provision.

Senate amendment

The Senate amendment would permit the United States to seek injunctive relief against any person engaging in conduct subject to the penalty for organizing or selling abusive tax shelters (sec. 331 of the bill and new Code sec. 6700). Venue for these actions generally would be the district in which the promoter resides, has his principal place of business, or has engaged in the conduct subject to penalty under section 6700.

The amendment would take effect on the day after the day of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

m. Procedural rules applicable to penalties under sections 6700, 6701, and 6702

Present law

Under present law, the burden of prooof is on the Secretary in any proceeding in which the issue is whether an income tax return preparer has willfully attempted to understate the liability for tax of any person. Similarly, the burden of proof is generally on the Secretary to prove fraud. Under present law, the deficiency procedures generally apply to the collection of additions to tax, additional amounts, and nonassessable penalties.

House bill

No provision.

Senate amendment

The Senate amendment would provide for district court review of the Secretary's assessment and notice and demand of (1) the abusive tax shelters promoter penalty, (2) the civil aiding and abetting penalty, and (3) the frivolous return penalty, before the full amount of such penalties could be collected if certain procedural requirements are met.

In any proceeding involving the issue of whether any taxpayer is liable for such penalties, the burden would be on the Secretary.

The provision would take effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

n. Penalty for substantial understatement

Present law

Under present law, penalties may be imposed on the failure to pay certain taxes shown on a return or required to be shown on a return, unless such failure is due to reasonable cause and not willful neglect. If the failure is due to negligence or fraud, additional penalties may apply.

Under present law, if a taxpayer makes a substantial property valuation overstatement which results in an underpayment of tax, then a penalty measured as a percentage of the underpayment resulting from the valuation overstatement generally is imposed without regard to fault.

House bill

No provision.

Senate amendment

A penalty of 10 percent would be imposed on any substantial understatement of income tax. For this purpose, an understatement would be the excess of the amount of income tax imposed on the taxpayer for the taxable year, over the amount of tax shown on the return. A substantial understatement of income tax would exist if the understatement for the taxable year exceeded the greater of 10 percent of the tax required to be shown on the return for the taxable year, and $5,000 ($10,000 for corporations other than subchapter S corporations and personal holding companies).

The amount of the understatement would be reduced by the portion of the understatement that is attributable to (1) the treatment of any item for which the taxpayer believed there was substantial authority, or (2) any item for which there was adequate disclosure of the relevant facts on the return. In the case of a tax shelter, the reduction would apply to the portion which the taxpayer believed was more likely than not to be the correct treatment.

A tax shelter would be defined as a transaction for which evasion or avoidance of income tax is the principal purpose.

The Secretary could waive all or a part of the penalty on a showing by the taxpayer that there was a reasonable basis for the understatement and the taxpayer acted in good faith.

The penalty would be effective with respect to returns which have a due date after 1982.

Conference agreement

The conference agreement generally follows the Senate amendment except that the application of the exceptions to the substantial understatement penalty is clarified. Under the bill, there are exceptions to the penalty based on (1) the merits of the taxpayer's filing, (2) disclosure by the taxpayer of relevant facts, or (3) waiver by the Secretary.

In a case of an item other than a tax shelter item, a taxpayer may avoid application of the substantial understatement penalty with respect to any item if (1) the treatment of the item on the return is or was supported by substantial authority or (2) all of the facts relevant to the tax treatment of the item were disclosed on the return or a statement attached to the return. Whether the taxpayer's filing position is or was supported by substantial authority will depend on the circumstances of the particular case. It will be necessary to weigh court opinions, Treasury regulations and official administrative pronouncements (such as revenue rulings and revenue procedures) that involve the same or similar circumstances and are otherwise pertinent, as well as the Congressional intent reflected in the committee reports, to determine whether the position is supported by present law and may be taken with the good faith expectation that it reflects the proper treatment of the item. The conferees did not adopt an absolute standard that a taxpayer may take a position on a return only if, in fact, the position reflects the correct treatment of the item because, in some circumstances, tax advisors may be unable to reach so definitive a conclusion. Rather, the conferees adopted a more flexible standard under which the courts may assure that taxpayers who take highly aggressive filing positions are penalized while those who endeavor in good faith to fairly self-assess are not penalized.

The standard of substantial authority was adopted, in part, because it is a new standard. The conferees are unaware of any judicial or administrative decision interpreting the phrase "substantial authority." Thus, the courts will be free to look at the purpose of this new provision in determining whether substantial authority existed for a position taken in any particular case. The conferees believe such a standard should be less stringent than a "more likely than not" standard and more stringent than a "reasonable basis" standard. Thus, it is anticipated that this new standard will require that a taxpayer have stronger support for a position than a mere "reasonable basis" (a "reasonable basis" being one that is arguable, but fairly unlikely to prevail in court upon a complete review of the relevant facts and authorities). Rather, when the relevant facts and authorities are analyzed with respect to the taxpayer's case, the weight of the authorities that support the taxpayer's position should be substantial when compared with those supporting other positions. In determining whether a position is supported by substantial authority, the courts will not be bound by the conclusions reached in law review articles, opinion letters, or private ruling on determination letters and technical advice memoranda of the Internal Revenue Service issued to or concerning a third party, but will instead examine the authorities that underlie such expressions of opinion.

The substantial understatement penalty in non-tax shelter cases also may be avoided with respect to any item if the relevent facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. Under generally applicable regulatory authority, the Commissioner may prescribe the form of such disclosure.

With respect to tax shelter items, the penalty may be avoided only if the taxpayer establishes that, in addition to having substantial authority for his position, he reasonably believed that the treatment claimed was more likely than not the proper treatment of the item. For this purpose, a tax shelter item is one that arises from a partnership or other entity, plan or arrangement the principal purpose of which is the avoidance or evasion of Federal income tax. The conferees believe that if the principal purpose of a transaction is the reduction of tax, it is not unreasonable to hold partici-

pants to a higher standard than ordinary taxpayers.

The conference agreement follows the Senate amendment in permitting the Secretary to waive the penalty with respect to any item if the taxpayer establishes reasonable cause for his treatment of the item and that he acted in good faith.

Finally, the coordination with the substantial property overvaluation penalty provision is modified so that this penalty applies only to that portion of the substantial understatement attributable to items on which the overvaluation penalty under section 6659 is not imposed.

o. Penalty for aiding and abetting the understatement of tax liability

Present law

Present law provides a criminal penalty for willfully aiding in the preparation or presentation of a false or fraudulent return, or other document under the internal revenue laws. The penalty is a fine of up to $5,000 or 3 years imprisonment, or both, together with costs. There is no comparable civil penalty on persons who aid in the preparation of false or fraudulent documents. Income tax return preparers who willfully attempt to understate the liability for tax of any person are subject to a penalty of $500 per return.

House bill

No provision.

Senate amendment

The Senate amendment would provide for a new civil penalty on any person who aids in the preparation or presentation of any portion of a return or other document under the internal revenue laws which the person knows will be used in connection with any material matter arising under the tax laws, and which the person knows will (if used) result in any understatement of the tax liability of another person.

This penalty would be $1,000 for each return or other document ($5,000 in the case of returns and documents relating to the tax of a corporation).

In general, under the Senate amendment, this penalty would be in addition to all other penalties provided by law. However, if the return preparer penalties for negligence or intentional disregard of rules or regulations, or for willful attempt to understate the tax liability of any person, could apply with respect to any document, this new penalty would not apply with respect to such document.

This provision would be effective on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with two modifications. First, the amount of the penalty with respect to documents relating to corporate tax liability is increased to $10,000 (from $5,000). Second the coordination between this penalty and the return preparer penalty is altered by allowing the Internal Revenue Service to choose which penalty it will assert if both may apply to a particular set of facts. Thus, this penalty will not apply if a return preparer penalty is actually assessed with respect to a document otherwise subject to this penalty.

p. Fraud penalty

Present law

Under present law, if any portion of an underpayment of tax is due to fraud, a civil penalty is imposed (as an addition to tax) equal to 50 percent of the entire underpayment. If part of an underpayment is attributable to negligence or intentional disregard of rules and regulations, the penalty under present law is equal to 5 percent of the entire underpayment plus 50 percent of interest payable on the portion of the underpayment attributable to negligence or disregard of rules and regulations for the period beginning on the last date prescribed for payment of the tax and ending on the date of assessment of the tax.

In the case of the windfall profit tax, both the negligence and the fraud penalty may apply to the same underpayment.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement conforms the civil fraud penalty to the negligence penalty by providing that in addition to the 50 percent fraud penalty on the entire underpayment, there is a penalty equal to 50 percent of the interest payable on the portion of the underpayment attributable to fraud for the period beginning on the last date prescribed for payment of the tax (without regard to any extension), and ending on the earlier of the date of assessment or the date of payment of the tax. Under the conference agreement, the negligence penalty does not apply in any case in which the fraud penalty has been assessed.

Finally, the conference agreement provides that when a joint return is filed, the interest addition does not apply with respect to the spouse's tax unless some part of the underpayment was due to the spouse's fraud.

The amendment applies to taxes the last day for payment of which (without regard to any extension) is after the date of enactment.

q. Frivolous returns

Present law

Under present law, a taxpayer who files a protest return, is subject to a penalty only if he or she also underpays his or her tax. Thus, if a taxpayer has paid at least the correct amount of tax through estimated tax or wage withholding, there is no penalty for filing a protest return.

House bill

No provision.

Senate amendment

The amendment would provide for an immediately assessable penalty of $500 on any individual who files a frivolous return. The penalty would apply only on documents purporting to be returns that are patently improper and not in cases involving valid disputes with the Secretary, or in cases involving purely inadvertent mathematical or clerical errors.

The deficiency procedures, under which the taxpayer would receive advance notice before the assessment, would not apply to this penalty. There would be, however, a provision allowing district court review of the assessment on payment of 15 percent of the amount assessed and the filing of a claim for refund of the amount paid.

This penalty would apply to documents filed after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, except that the exclusion for inadvertent mathematical or clerical errors is deleted as unnecessary.

r. Criminal fines

Present law

(1) Under present law, any person and willfully attempts to evade or defeat any tax or the payment thereof is guilty of a felony and, if convicted, may be fined not more than $10,000 or imprisoned for not less than 5 years, or both.

(2) Any person who is required to pay any tax or estimated tax or keep records or report information and willfully fails to do so is guilty of a misdemeanor and is punishable by a fine of not more than $10,000 or imprisonment for not more than 1 year, or both.

(3) Any person who willfully files a false declaration under penalty of perjury, aids or assists in the preparation of a false or fraudulent document; falsely executes any document under the internal revenue laws; conceals goods, etc., to evade or defeat any tax; or does certain other acts, is guilty of a felony and upon conviction may be fined not more than $5,000 or imprisoned for not more than 3 years, or both.

(4) Any person who willfully delivers any false or fraudulent document to the Secretary, or does certain other acts, is guilty of a misdemeanor and may be fined not more than $1,000 or imprisoned for one year, or both.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference adopted certain increases in the maximum amount of fines under the above provisions as recommended by the Department of Justice. In many cases, the maximum fine amounts had not been increased for many years and, due to inflation, no longer represented the same deterrent as was originally intended. Thus, in (1) above, the maximum penalty is increased from $10,000 to $100,000 ($500,000 for corporations); the maximum penalty amount in (2) above is increased from $10,000 to $25,000 ($100,000 for corporations); the maximum fine in (3) above is increased from $5,000 to $100,000 ($500,000 for corporations); and the maximum fines in (4) above are increased from $1,000 to $10,000 ($50,000 for corporations). The Conferees intend that, as under present law, these increased fines should continue to be treated as supplements to, and not substitutes for, imprisonment.

These increases are effective with respect to offenses committed after the date of enactment.

s. Adjustments to estimated tax provision

Present law

Under present law, an individual required to pay estimated taxes is subject to a penalty for underpayment of such taxes if he fails to pay at least 80 percent of the total amount of each installment when due. The penalty does not apply, however, if the taxpayer pays at least, (1) the tax shown on the preceding year's return (if such return was for a taxable year of 12 months); (2) pays 80 percent of the tax due by placing his income on an annualized basis; (3) pays an amount equal to 90 percent of the tax due using current year's tax rates applied to the actual income prior to the month in which the installment is paid; or (4) pays an amount equal to the tax computed using current year's rates applied to the facts and law applicable to the preceding year's

return. A criminal penalty may also apply. There are no expressed exceptions to the criminal penalty.

In addition to paying estimated taxes when required, individuals are required to file declarations of estimated taxes. There is, however, no penalty for failure to file a declaration.

House bill

No provision.

Senate amendment

Under the Senate amendment, any individual or corporation that fails to make any estimated tax payment would not be subject to the criminal penalty for such failure if the civil penalty for such failure is not applicable because an exception to the civil penalty applies.

The provision would be effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. In addition, the conference agreement provides that no civil estimated tax penalty may be imposed on an individual if the individual had no tax liability for the preceding taxable year, such taxable year was a taxable year of 12 months, and the individual was a U.S. citizen or resident for the entire year.

The requirement for filing a declaration of estimated tax is terminated after 1982. Other provisions of law will, however, continue to function as if such declaration were filed. In addition, the requirement of present law that a taxpayer must pay 100 percent of each installment when due is modified to require payment only of an amount computed by taking into account the penalty provisions.

These provisions are effective for taxable years beginning after 1982.

t. Special rules with respect to certain cash

Present law

Overview

In the usual case, the Secretary may not assess and may not make notice and demand for payment of any tax unless he follows certain procedures designed to allow the taxpayer to first contest the existence and amount of the alleged deficiency. These procedures include written notice of deficiency followed by a 90-day period (150 days in the case of notices to persons outside the United States) during which the taxpayer may petition the Tax Court for review of the Secretary's determination. No assessment may be made until after this 90-day period has expired or until after a decision of the Tax Court is final. This deficiency procedure need not be followed when the Secretary reasonably believes that collection of an alleged deficiency will be jeopardized by delay. In such a case, the Secretary may declare jeopardy and immediately assess the tax, or may (in an appropriate case) terminate the taxpayer's taxable year and assess the tax due for that taxable period. The jeopardy and termination assessment procedures permit immediate assessment of an alleged tax deficiency without a preassessment notice of deficiency.

Both the jeopardy and termination assessment procedures require the Secretary to determine that there is a deficiency in tax and that the collection of this deficiency is in jeopardy. These procedures are not, therefore, well suited to cases in which the Secretary has reason to believe that a tax is owing with respect to an amount of property (for example, cash), but cannot determine the proper owner of such property.

Jeopardy assessment

If the district director believes that the assessment and collection of a deficiency in income, estate, gift or certain excise taxes will be jeopardized by delay, he may assess such deficiency and demand its immediate payment together with any interest, additional amounts and additions to tax provided for by law. The Secretary may reasonably believe that a collection of a tax is in jeopardy where, for example, the taxpayer designs to quickly depart from the United States or to conceal himself, to quickly place his property beyond the reach of the United States, or the taxpayer's financial solvency is imperiled. If after assessment, notice, and demand the taxpayer fails to pay the assessed amount, the Secretary may immediately enforce collection, subject to the right (described below) of the taxpayer to stay the enforcement proceedings by posting a bond.

Collection of the amount assessed, or any portion thereof, may be stayed by the taxpayer by filing a bond with the Secretary equal to the amount with respect to which the stay is desired. In such a case the bond must be conditioned upon the payment of the amount finally determined to be owing when due. Generally, if assessment is made and property seized for collection of the assessed amount, the property may not be sold until after the taxpayer has an opportunity for District Court review of the reasonableness of the assessment and the amount thereof, and (if applicable) the date on which a Tax Court decision is final.

Termination assessment

When the Secretary finds that the collection of income tax for the current or immediately preceding taxable year is in jeopardy because the taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property, or to do any other act tending to prejudice proceedings to collect such tax, he may immediately terminate such taxable year, and assess and demand any deficiency he reasonably believes owing with respect to the taxable period terminated. A termination assessment is appropriate with respect to the income tax for the current taxable year or the preceding taxable year, but not after the due date (with extensions) of the return for the preceding taxable year. In all other situations, the jeopardy assessment provisions apply and the termination provision does not.

In the case of the current taxable year, which is terminated under the termination provision, the portion of the current taxable year starting on the first day of the current taxable year and ending on the determination date, is treated as a separate taxable year. The taxpayer's tax for the period (less any prior termination assessments) is then computed and assessed and notice and demand therefore made. Any tax collected is treated as a payment of tax for the applicable taxable year.

Judicial review of assessment

In both the jeopardy and termination assessment cases, the taxpayer is entitled to an expedited review by the Secretary, through the district director, of whether the determination of jeopardy was reasonable under the circumstances and whether the amount assessed and demanded was appropriate under the circumstances.

After review by the district director the taxpayer is also entitled to a review by the appropriate United States District Court. In the District Court, the Secretary has the burden of proving that the determination of jeopardy was reasonable under the circumstances, while the taxpayer has the burden of proof with respect to the amount assessed. This review procedure is directed only at the reasonableness of the jeopardy assessment and the amount assessed. The District Court's opinion is nonappealable, and is not a determination of the actual existence or amount of any deficiency due from the taxpayer.

In making their respective determinations, the district director and District Court may both refer to information which became available after the assessment is made.

The taxpayer is also entitled to a separate review by the District Court or Tax Court of the actual existence of any tax deficiency on which the jeopardy assessment was based.

To facilitate this review, the Commissioner must mail a notice of deficiency to the taxpayer within 60 days of the later of the due date of the taxpayer's return for the taxable year in which or for which the termination assessment was made (with extensions), or the date the taxpayer files such return. While the Secretary may terminate a taxable year more than once, he need not send out the notice of deficiency until after the close of the taxable year.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement adds a new provision designed to expedite jeopardy or termination assessments in cases when there is no known owner of large amounts of cash.

The current termination and jeopardy procedures are designed to address the case in which the Secretary reasonably believes, from all the circumstances, that a deficiency in tax is owing from a particular taxpayer and that the collection of such deficiency is in jeopardy. It is unclear under present law whether the jeopardy and termination procedures are available to the Secretary when cash or its equivalent cannot be associated with any particular person and the Secretary cannot, therefore, determine a deficiency in tax or its amount for an identifiable person.

The bill provides that the Secretary can presume that the collection of an amount of income tax is in jeopardy, where an individual in physical possession of more than $10,000 of cash or its equivalent denies ownership of the cash and does not claim that such cash belongs to another person the identity of whom is readily ascertainable by the Secretary (and who acknowledges ownership). In such a case, the Secretary may presume, for purposes of the jeopardy or termination assessment provisions (1) that such cash represents gross income to a single individual for the taxable year of possession taxable at 50 percent rate, and (2) that the collection of the tax on such cash would be jeopardized by delay. The Internal Revenue Service cannot assess on the same cash twice.

Notice with respect to the assessment is given to, and the right to contest the assessment is vested in, the person found in possession of the cash. However, the true owner can come forward and challenge the assessment and will be retroactively substituted for the possessor for all purposes (including

establishing lien priorities) as of the date of the original assessment. In addition, the true owner will continue to have the same rights as exist under present law to recover his cash.

The terms "cash" and "cash equivalent" include cash, foreign currency, any bearer obligation and any other medium of exchange which is a type used frequently in illegal activities and specified as a cash equivalent by the Secretary in regulations. In the usual case, a cash equivalent will be valued at its fair market value, except that a bearer obligation will be deemed to have a value equal to its face amount.

This provision is effective the day after the date of enactment.

u. Special procedures for third-party summonses and third-party recordkeepers

Present law

Under present law, if an administrative summons is served on a third-party recordkeeper, then notice of the summons must also be given to the person whose records have been summoned (i.e., the taxpayer). The taxpayer can stay compliance with a third-party summons by notifying the recordkeeper in writing not to comply with the summons. To enforce the summons, the Secretary must then seek an order of a United States District Court compelling compliance.

House bill

No provision.

Senate amendment

Under the amendment, a taxpayer whose records are summoned and who wishes to prevent compliance with the summons by the recordkeeper, would be required to begin a civil action in court to quash the summons not later than the 20th day after the day notice of the summons is given. No examination of the summoned records would be allowed before the close of the 23rd day after notice were given, or, if the proceeding to quash were begun, until the court so orders. As under current law, the ultimate burden of persuasion with respect to his right to enforce the summons would remain on the Secretary.

The bill would require third-party recordkeepers to proceed to assemble summoned records upon receipt of the summons and to be prepared to produce the records on the date specified for their examination. Such recordkeepers would be entitled to reimbursement for their costs under section 7610 regardless of whether the summons is enforced.

The provisions would apply with respect to summonses initially served after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment with the clarification that when a proceeding to quash the summons is begun, the Secretary may also examine the summoned records if the taxpayer whose records are summoned consents.

v. Limitation on use of administrative summonses

Present law

Under present law, the Secretary may issue summonses for the purpose of determining liability for taxes due under the internal revenue laws unless the Internal Revenue Service has institutionally abandoned its civil tax case.

House bill

No provision.

Senate amendment

Under the amendment, the Secretary could not issue any summons or commence any action to enforce a summons if a Justice Department referral were in effect with respect to the person whose tax liability is in issue. The amendment would provide that the purposes for which an administrative summons may be issued include the right to inquire into any offense connected with the administration or enforcement of the Internal Revenue laws.

This provision would be effective the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

w. Withholding on pensions, annuities, and certain deferred income

Present law

Under present law, income tax generally is not required to be withheld on pension or annuity payments. However, a recipient may elect to have tax withheld on annuity payments.

House bill

No provision.

Senate amendment

The Senate amendment provides that payors generally will be required to withhold tax from all designated distributions (the taxable part of payments made from or under a pension, profit-sharing, stock bonus, or annuity plan, a deferred compensation plan where the payments are not otherwise considered wages, an IRA, or a commercial annuity contract (whether or not the contract was purchased under an employer's plan for employees)). A partial surrender of an annuity contract and certain loans from employee plans and IRAs will also be considered a distribution subject to withholding. The withholding rate is determined by the nature of the distribution. Tax will be withheld on periodic payments in excess of $5,400, under the wage withholding tables. Tax on certain total distributions will be withheld under a schedule designed to reflect the special tax treatment accorded to lump sum distributions, and tax on other non-periodic distributions will be withheld at a flat 10-percent rate. Withholding will be required with respect to payments made after December 31, 1982, unless the recipient elects not to have tax withheld.

In general, a recipient may elect (for any reason) not to have tax withheld, except that a recipient of a total distribution may elect out only to the extent that the distribution is rolled over to another eligible retirement plan. An election is generally effective for the distribution for which the election is made, except that an election with respect to periodic payments is generally effective for a calendar year. Thus, an election not to have tax withheld from periodic payments must be renewed annually.

In addition, the amendment generally requires that payors notify recipients of the withholding rules and their rights to elect out. With respect to periodic payments, notice must be provided (1) no earlier than 6 months and not later than 2 months before making the first payment, and (2) annually, within the third quarter of the calendar year. With respect to other payments, notice must be provided no later than the time of distribution.

Conference agreement

The conference agreement generally follows the Senate amendment except that (1) a recipient may elect (for any reason) not to have tax withheld from any distribution (including total distributions which are not rolled over to another eligible retirement plan); (2) an election with respect to a periodic payment is effective until revoked, although a payor would still be required to provide annual notice of a participant's right to make, renew, or revoke an election, and (3) a payor of a periodic payment is required to provide initial notice of a recipient's right to make, renew, or revoke an election no earlier than six months before and no later than the date of the first payment. It is expected that the notice will also advise recipients that penalties may be incurred under the estimated tax payment rules if the payments of estimated tax are not adequate and sufficient tax is not withheld from any designated distributions.

As under the Senate amendment, tax would generally be withheld on periodic payments pursuant to the recipient's withholding certificate. For example, a married recipient whose spouse is not a wage earner would not be subject to tax on periodic distributions payable at an annual rate of up to $7,400 if both the wage earner and his spouse were at least age 65 and a withholding certificate were filed. If no certificate is filed, the amount withheld will be determined by treating the payee as a married individual claiming three withholding exemptions. Thus, in effect, there would be no withholding on pensions payable at an annual rate of $5,400 or less.

Annuity payments and other distributions under the Civil Service Retirement System are subject to the income tax withholding rules. The conferees intend that the cost of administering the withholding rules will be borne by the Civil Service Retirement System.

The conferees recognize the difficulty some payors may have in immediately complying with the new withholding requirements for annuity payments. Accordingly, the civil and criminal penalties for failure to withhold tax will not apply to any failure before July 1, 1983, if the payor made a good faith effort to withhold, and actually withholds from any subsequent 1983 payments sufficient amounts to satisfy the pre-July 1983 requirements. No relief is provided for any failure to timely pay over any amounts that are in fact withheld. Also, the Secretary is authorized, on a case-by-case basis, to exempt payors from any obligation to withhold with respect to pre-July 1983 payments if the payor has attempted to comply in good faith, has a plan to assure its ability to comply by July 1, 1983, and cannot comply on January 1, 1983, without undue hardship. If such a waiver of the withholding obligations is granted, the payor will not be required to make up the withholding obligation out of post-June 1983 payments.

x. Pension reporting requirements

Present law

Under present law, distributions under a tax-qualified plan or annuity contract are required to be reported only if the amount includable in income totals $600 or more for the calendar year. Distributions from an IRA are required to be reported without regard to the amount of the distributions. Penalties generally apply to any person failing to file a required report.

House bill

No provision.

Senate amendment

The Senate amendment provides for reporting of necessary information by employers and plan administrators of plans from which designated distributions can be made and issuers of insurance or annuity contracts from which designated distributions can be made. The form and manner of reporting will be determined under forms or regulations prescribed by the Secretary of the Treasury. These reports are to be made to the Secretary, to the participants and beneficiaries, and to such other persons as the Secretary may prescribe. As under present law, penalties apply to any person failing to file any required report.

The provision is effective for calendar years beginning after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment. In addition, the conference agreement makes it clear that an exchange of insurance contracts under which any designated distribution may be made (including a section 1035 tax-free exchange) is intended to be a reportable event even though no designated distribution occurs in the particular transaction. Thus, to insure proper reporting of any designated distributions under the new contract, it is anticipated that, under regulations to be issued by the Secretary, the issuer of the contract to be exchanged will be required to provide information to the policyholder, the issuer of the new contract, and such other persons as the Secretary may require.

y. Pension recordkeeping requirements

Present law

Under present law, no separate penalty is imposed for failure to maintain a data base sufficient to provide required reports.

House bill

No provision.

Senate amendment

The Senate amendment imposes a new penalty if the data base needed for reports is not maintained whether or not reports are due for the period during which the recordkeeping failure occurs. No penalty is imposed for a failure to meet the recordkeeping rules when the failure is due to reasonable cause and not willful neglect. Also, no penalty is imposed for a recordkeeping failure that is due to a prior failure with respect to which the penalty has already been imposed, or which occurred before 1983, if all reasonable efforts have been made to correct the prior failure. The recordkeeping penalties are effective on January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment.

z. Partial rollovers of IRAs

Present law

Under present law, distributions from qualified pension, etc., plans and IRAs are eligible for tax-free rollover treatment. However, inconsistent rules apply. For example, distributions from an IRA are eligible for tax-free rollover treatment only if the entire amount of the distribution is rolled over to another eligible retirement plan, while distributions from qualified plans are eligible for tax-free rollover treatment to the extent of any amount so transferred.

House bill

No provision.

Senate amendment

Under the Senate amendment, distributions from IRAs are eligible for tax-free rollover treatment to the extent that the distribution is rolled over to another eligible retirement plan. The provision applies to IRA distributions made after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

aa. Foreign investment in U.S. real property

Present law

Under legislation enacted in December of 1980, foreign investors in certain U.S. real property interests are taxable by the U.S. on the gain realized when they dispose of the interest. The provisions are enforced through complex information reporting. The legislation overrides certain nonrecognition provisions of the Code to insure U.S. taxation of the gain.

House bill

No provision.

Senate amendment

Taxation of foreign investors on disposition of U.S. real property interests would be enforced through withholding. Purchasers of U.S. real property interests from foreign owners, and certain of their agents, would be required to withhold a portion of the purchase price. Protections against liability are provided so that withholding would apply only if the purchaser or his agent had actual knowledge or had received formal notice that the seller was foreign. Agents for the transferor would have to withhold if they had knowledge, reason to believe, or notice, and failed to notify the transferee. Withholding would not apply to a purchaser buying a principal residence for $200,000 or less, or to sale of stock on an established U.S. market. The Secretary could reduce or eliminate withholding on request in certain other cases. The Secretary is authorized to remove current reporting obligations that are not needed because of withholding.

The provision would impose withholding for amounts paid on or after 30 days after enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

bb. Returns with respect to foreign personal holding companies

Present law

Certain information returns are required of officers, directors, and 50-percent U.S. shareholders of companies that are FPHC's at year's end. Some return requirements overlap. Moreover, staggered filing dates may cause repetitive paperwork. There is no civil penalty for failure to file.

House bill

No provision.

Senate amendment

The Commissioner would be given flexibility in setting due dates and waiving duplicate filings for foreign personal holding company reports and returns. The amendment also makes changes in reporting requirements.

A $1,000 civil penalty for failure to file a proper return would be imposed.

The provision would apply to taxable years of foreign corporations beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

cc. Penalty for failure to furnish information returns with respect to certain foreign corporations; reporting requirement for corporations controlled by foreign persons

Present law

When a taxpayer fails to furnish adequate information about a foreign corporation he controls, he is subject to a penalty reducing the relevant foreign tax credit by 10 percent. Additional penalties of five percent of the credit accrue quarterly on continuing failure. There is no specific statutory reporting requirement for a U.S. corporation (or a foreign corporation operating in the United States) that is controlled by a foreign person and that enters into transactions with related parties.

House bill

No provision.

Senate amendment

The Senate amendment supplements the existing penalty by adding an alternative flat penalty of $1,000 per tax year for which failure exists. Ninety days after notification of failure, additional $1,000 penalties accrue every 30 days, up to a $24,000 maximum. Amounts paid under the flat $1,000 penalty reduce amounts due under the existing penalty reducing the foreign tax credit. This provision applies to annual accounting periods ending after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, but adds a new reporting requirement for certain foreign-controlled corporations. In general, these requirements apply both to U.S. corporations and to foreign corporations engaged in trade or business in the United States ("reporting corporations"), but only if they are controlled by a foreign person (defined to include certain possessions residents). This control test requires reporting if at any time during a taxable year a foreign person owns 50 percent or more of the stock of the reporting corporation (either by value or by voting power).

The reporting corporation must furnish certain information about any corporation that (1) is a member of the same "controlled group" as the reporting corporation (a group that generally includes brother-sister corporations as well as the reporting corporation's parent and subsidiaries), and that (2) has any transaction with the reporting corporation during the taxable year. The information that the reporting company is to report is such information as the Secretary may require that relates to the related company's name, its principal place of business, the nature of its business, the country in which it is organized and in which it is resident, its relationship with the reporting corporation, and its transactions with the reporting corporation during the year.

The conference agreement imposes penalties for violation of this new reporting requirement that are similar to the Senate amendment's new supplemental penalties for failure to supply information under the existing reporting requirement (relating to controlled foreign corporations). Reasonable cause, as shown to the satisfaction of the Secretary, precludes imposition of this penalty.

This new reporting requirement applies to taxable years beginning after December 31, 1982.

dd. Access to records and persons not found in the United States

Present law

Documents held abroad.—The Code specifically confers jurisdiction to enforce an administrative summons only when a U.S. citizen or resident resides or is found in a U.S. judicial district. There is generally no procedure to require timely production of documents held abroad. The Commissioner may issue summonses to examine any books, papers, records, or other data that may be relevant or material to a tax inquiry. To enforce an administrative summons, the Commissioner must show that (1) the investigation will be conducted pursuant to a legitimate purpose, (2) the inquiry may be relevant to that purpose, (3) the information sought is not already within his possession, and (4) the administrative steps required by the Code have been followed. To the extent that a summons is overbroad it is invalid, because to that extent, the inquiry is irrelevant to a legitimate purpose. In addition, the Secretary must at all times use the summons authority in good faith.

Treaty benefits.—The Internal Revenue Code generally imposes a 30 percent tax on the gross amount of certain passive income which arises from U.S. sources and is paid to foreign persons. The 30 percent tax on such gross amounts is collected by withholding at the source. The person required to withhold the tax (the "withholding agent") may be the actual payor of the income or certain agents of the payor, such as banks or other financial intermediaries, which have control over, or custody of, such income.

Tax treaties between the United States and other countries commonly provide, on a reciprocal basis, for reduced rates or elimination of U.S. tax on various categories of passive income paid to residents of such other countries. Generally, under current regulations, a foreign recipient of U.S. source passive income may obtain a reduction or elimination of U.S. tax on such income under an applicable treaty if the recipient provides the payor or other person having control of such income with a completed Internal Revenue Service Form 1001. The Form 1001 identifies the owner of the income, states the character of the income, and contains a statement that the recipient qualifies for the relevant treaty benefits. Regulations prescribe a different method, the "address method," for obtaining reduced rates of withholding tax for U.S. source dividends paid to foreign persons which is different from the Form 1001 procedure that applies to other types of passive income. Under the address method, a recipient of U.S. source dividends who has an address in a country with which the United States has a tax treaty will, with limited exceptions, be presumed to be a resident of such country for purposes of obtaining reduced rates of tax on dividends under the treaty. The pertinent regulations provide that the withholding agent may withhold on dividends at the reduced treaty rates in reliance upon the foreign address of the recipient unless the agent has knowledge that the recipient is not a resident of the country under whose treaty the reduced rates are claimed.

House bill

No provision.

Senate amendment

The Senate amendment extends the jurisdiction and the summons power of the United States District Court of the District of Columbia to reach U.S. citizens and residents not present in the United States.

Conference agreement

Documents held abroad.—The Conference agreement generally follows the Senate amendment, but adds certain provisions. The agreement adds a formal document request procedure that is intended to discourage taxpayers from delaying or refusing disclosure of certain foreign based information to the Internal Revenue Service.

The Conference agreement provides that if a taxpayer fails to "substantially comply" with a "formal document request" arising out of the tax treatment of any item, upon motion of the Secretary, any court having jurisdiction over a civil proceeding in which the tax treatment of the examined item is at issue shall prohibit the introduction into evidence by the taxpayer of any "foreign-based documentation" covered by such request, unless such documentation was provided to the Secretary within 90 days, or a later date to be set by the Secretary, of the mailing of the request.

Whether a taxpayer has substantially complied with a formal document request will depend on all the facts and circumstances. For instance, if the Internal Revenue Service presents a taxpayer with a formal document request for 10 items and the taxpayer produces 9 of them but fails (without reasonable cause) to produce the one requested document that appears to a court to be the most significant item, a court may decide that there has not been substantial compliance and exclude all of the items. However, when the Service issues multiple requests in the course of an audit, and when, for example, the taxpayer fails to comply with one particular request for only one document, the taxpayer's timely satisfaction of other requests is one factor (but not the only factor) to be considered in determining whether his overall compliance has been substantial. If overall compliance in such a situation has been substantial, the document requested but not supplied could be admissible.

The term "foreign-based documentation" means any documentation which is outside the United States and which may be relevant or material to the tax treatment of an examined item. It includes documents held by a foreign entity whether or not controlled by the taxpayer. The term "documentation" includes, but is not limited to, books and records.

The term "formal document request" means any request (made in the course of an audit and after the normal request procedures have failed to produce the requested documentation) for the production of foreign-based documentation which is mailed by registered or certified mail to the taxpayer at his last known address and which sets forth the time and place for the production of the documentation, a statement of the reason the documentation previously produced (if any) is not sufficient, a description of the documentation being sought, and the consequences to the taxpayer of the failure to produce the documentation. The normal request procedures that a formal document request must follow include an information document request. The conferees do not intend that the formal document request procedure will be used as the routine beginning of an examination. The conferees intend that the Commissioner establish procedures for administrative review of proposed formal document requests before issuance. The Service can require in its request that foreign documents be translated into English.

The sanction of nonadmissibility does not arise if the taxpayer establishes that the failure to provide the documentation as requested by the Secretary is due to reasonable cause. In determining whether there was reasonable cause for failure to produce, a court may take into account whether the request is reasonable in scope, whether the requested documents or copies thereof are available within the United States, and the reasonableness of the requested place of production within the United States.

The fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause. Frequently, taxpayers choose to operate through a particular country because of its restrictive nondisclosure laws. Even so, the amendment's preclusion of the use of foreign nondisclosure law as a defense is narrow in scope. The only effect of the preclusion is that the taxpayer cannot introduce at trial records that he allegedly could not earlier produce on audit.

The conferees recognize that minority status can prevent a taxpayer from being able to produce certain records held by a foreign entity. However, the conferees also recognize that taxpayers may seek to hide behind minority status to avoid production of records. Accordingly, a determination of whether minority status is reasonable cause will be determined by the facts and circumstances of the case.

Reasonable cause may excuse delay in production. For example, a requirement of translation of documents into English may not be reasonably possible in 90 days.

The conference agreement provides for judicial review of a formal document request at the time served. Any person to whom a formal document request is mailed has the right to begin a proceeding to quash that request not later than the 90th day after the day such request was mailed. In this proceeding, the taxpayer may contend, for example, that all or part of the documentation requested is not relevant to the tax issue, that the place of requested production within the United States is unreasonable, that the requested documents or copies thereof are available within the United States, or that there is reasonable cause for failure to produce or delay in production.

The reasonableness of a demand for the production of the originals of foreign documents rather than copies may be resolved in judicial proceedings to quash the request. If the foreign country makes it impossible to remove the original documents requested, not because of secrecy laws but, for example, because of foreign tax laws or laws as to the rights of creditors, true copies may be sufficient.

In any proceeding to quash, the Secretary may seek to compel compliance with the request. Jurisdiction over a proceeding to quash is retained in the United States District Court for the district in which the person to whom the formal document request is mailed resides or is found. If that person resides and is found outside the United States, the United States District Court for the District of Columbia has jurisdiction.

In a proceeding to quash, as under the current rules for administrative summonses, the Commissioner has the burden of showing relevance and materiality of the requested records. In addition, the Commissioner must show that the investigation will be

conducted pursuant to a legitimate purpose, that the information sought is not already within his possession, and that the administrative steps required by the Code have been followed. During the proceeding, the running of the 90-day period for compliance with a formal document request is suspended. If the district court rules against the taxpayer, the taxpayer may appeal the court's order immediately.

The taxpayer generally has 90 days from the day of mailing to comply with a formal document request. However, the Secretary or a court having jurisdiction over a motion to quash the request may extend the period. The court may extend the period in response to a motion to quash or in response to a motion to extend the period that is not part of a motion to quash. For example, a court could find that a taxpayer had reasonable cause for failure to produce an item within 90 days and set a later date for production.

Treaty benefits.—In addition, the conference agreement would require the Secretary to establish procedures to limit treaty benefits to those persons who are justifiably entitled to such benefits. The problem is particularly acute because of the large number of income tax treaties with low tax bank secrecy jurisdictions. Congress has repeatedly shown its concern about the vulnerability of the treaty system to manipulation. In June of this year, the Subcommittee on Commerce, Consumer, and Monetary Affairs of the House Government Operations Committee held a hearing on the use of foreign addresses by U.S. individuals to evade tax by posing as non-resident aliens. The Subcommittee on Oversight of the House Committee on Ways and Means held hearings in April 1980 about abuses of income tax treaties and in April 1979 about the abuse of offshore tax havens. These hearings have demonstrated that substantial amounts of passive income, which would be tax-free in the hands of foreigners, finds its way into the hands of U.S. persons and residents of nontreaty countries who should be paying tax on it. They have also shown concern about the use of treaties by those not justifiably entitled to their benefits (so-called "treaty shopping").

The Internal Revenue Service and Treasury believe that the current procedures are insufficient for insuring that U.S. persons do not pose as foreigners entitled to tax treaty benefits and that foreigners do not take advantage of treaties of countries of which they are not resident. The conferees share the concerns regarding the improper obtaining of treaty benefits and agree that the current procedures are insufficient. The address system of withholding of tax on U.S. source dividends is particularly vulnerable to abuse. The Form 1001 filing procedure which applies to income other than dividends is similarly subject to abuse in that it requires a person claiming treaty benefits only to submit an unverified, self-serving statement to a withholding agent, who is entitled to rely on such statement for purposes of reducing the amount of tax withheld.

A number of alternatives to the present enforcement system exist, including the adoption of a refund system of withholding tax on passive income. A refund system would require withholding agents to withhold U.S. tax at the statutory 30 percent rate on all U.S. source passive income paid to foreign persons, regardless of the potential application of a treaty provision reducing the 30 percent rate or eliminating the tax altogether. The foreign recipient who claims treaty benefits would then be required to file a claim for a refund on an annual tax return. Supportive documentation would be required.

Another approach, the "certification system," would require the foreign recipient to file a certificate of residence from the competent authority of the country whose treaty benefits are being sought.

The conference agreement requires the Secretary to consider the refund system and the certification system as methods of limiting treaty benefits to those persons entitled to them. The Secretary is not limited to consideration of these methods; he should consider other methods as well. In developing such procedures to prevent abuse the Secretary should consider the extent to which any procedures would prevent abuse, the administrability of such procedures (including the ability of U.S. treaty partners to provide cooperation), any negative effect on investment in the U.S. by foreign persons which could be caused by increased costs of complying with the procedures, and the effect on U.S. investment abroad should U.S. treaty partners apply a similar method to that utilized by the United States.

The provisions would require the Secretary to establish procedures, as described above, within two years of the date of enactment.

ee. Authority to delay date for filing certain returns relating to foreign corporations and trusts

Present Law

Acquisition of a 5-percent interest (or an additional 5-percent interest) in a foreign corporation or the creation of or transfer of property to a foreign trust causes a U.S. person to have to file an information return. Beginning service as an officer or director of a foreign corporation creates a similar requirement. The returns are due 90 days after the triggering events.

House bill

No provision.

Senate amendment

The Commissioner would be given flexibility to delay the date for reporting of certain transactions relating to foreign corporations and foreign trusts beyond the current due date.

The provision would apply to returns filed after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

ff. Technical amendment to section 905(c)

Present law

The last sentence of section 905(c) appears to provide that interest on a U.S. tax underpayment triggered by a refund of foreign taxes begins to run before receipt of the refund. Other Code provisions begin the running of interest on receipt of the refund and provide a penalty for failure to report a refund.

House bill

No provision.

Senate amendment

The last sentence of section 905(c) would be eliminated. This provision would be effective for all years.

Conference agreement

The conference agreement follows the Senate amendment.

gg. Daily compounding of interest

Present law

Under present law, interest payable to or by the United States under the internal revenue laws is not compounded.

House bill

No provision.

Senate amendment

All interest payable under the internal revenue laws would be compounded daily. The change would also affect any other amounts computed by reference to the interest rate provided for in the Code.

This compounding requirement would apply to interest accruing after December 31, 1982, on amounts (including interest) remaining unpaid after that date.

Conference agreement

The Conference agreement follows the Senate amendment except that daily compounding is not required for purposes of the penalties on failure to pay estimated taxes. In a case in which the principal portion of an obligation is satisfied, and interest remains outstanding, such interest will, of course, be compounded.

hh. Semi-annual determination of rate of interest

Present law

Under present law, the rate of interest paid on underpayments, overpayments, and for certain other purposes under the internal revenue laws is determined once a year based on September's average predominant prime rate.

House bill

No provision.

Senate amendment

Under the amendment, interest rates would be redetermined twice a year on the basis of the average adjusted prime rate charged by commercial banks during the six-month period ending September 30 (effective January 1 of the succeeding calendar year), and March 31 (effective July 1 of the same calendar year).

The amendment would be effective for adjustments taking effect after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

ii. Restrictions on payment of interest for certain periods

Present law

In general, under present law, interest on refunds, credits, and offsets runs from the date of overpayment or (in the case of a credit) to the due date of the amount against which the credit is taken. An overpayment resulting from a net operating loss carryback, net capital loss carryback, or credit carryback is treated as having occurred at the close of the year in which the carryback arose.

In the case of an underpayment of tax, interest runs from the last date prescribed for payment of the tax without regard to extensions, to the date the tax is paid. If there is an underpayment of tax for any taxable year, and the amount of the underpayment is reduced by reason of the carryback of a net operating loss, net capital loss, or because of the increase in any credit for the taxable year because of a credit carryback from another taxable year, such reduction is not effective for any period prior to the last day of the taxable year in which the net operating loss, the net capital loss, or credit carryback arises.

House bill

No provision.

Senate amendment

Under the Senate amendment, the general rule with respect to the payment of interest on overpayments is unchanged when the credit or refund is claimed in a timely filed returd. However, when the return is late because it is filed after the due date (determined with regard to extensions) no interest is payable on the overpayment for any period prior to the date on which the return is filed. For this purpose, and for purposes of determining whether a refund has been made within 45 days after the return is filed, no return is treated as filed until filed in processible form.

Under the Senate amendment, an overpayment due to a net operating loss or a net capital loss carryback, or a credit carryback is deemed not to arise before the application for tentative carryback adjustment is made, or the claim for credit or refund is filed with respect to such overpayment.

Conference agreement

Due to considerations relating to the treatment of offsets (for example, in audit situations) the conferees decided to revise the provisions of the Senate amendment dealing with restrictions on payments of interest on certain refunds. Under the agreement an overpayment resulting from a net operating loss carryback, a net capital loss carryback, or credit carryback would be treated as having occurred on the due date (without extensions) of the return for the year in which the carryback arose. In the case of a refund, the return for the loss year would be treated as not filed prior to the time the claim for refund therefor is filed. Under the conference agreement, no interest would be paid on a refund claimed on a late return if the refund is made within 90 days after the return is filed.

Conforming amendments would be made in the rules relating to interest on underpayments.

Under the bill, for purposes of the payment of interest on overpayments, a return would not be treated as filed until it is filed in processible form.

The provisions regarding late returns and processible returns would be effective for returns filed after the 30th day after the date of enactment. The provision regarding interest overpayments due to carrybacks would be applicable to interest accruing 30 days after enactment.

jj. Disallowing deductions for drug dealing

Present law

Ordinary and necessary trade or business expenses are generally deductible in computing taxable income. The Code makes certain otherwise ordinary and necessary expenses incurred in a trade or business nondeductible in computing taxable income. These nondeductible expenses include fines, illegal bribes and kickbacks, and certain other illegal payments.

House bill

No provision.

Senate amendment

All deductions and credits for amounts paid or incurred in the illegal trafficking in drugs listed in the Controlled Substances Act would be disallowed.

This provision would be effective for amounts paid or incurred after the date of enactment in taxable years ending after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

kk. Internal Revenue Service staff increases

Present law

Public Law 97-92 enables the Internal Revenue Service to maintain an average of 85,363 positions during fiscal year 1982. The Administration's budget request for fiscal year 1983 includes a net increase in Internal Revenue Service manpower of 3,310 average positions.

House bill

No provision.

Senate amendment

The Senate amendment contains a sense of the Congress resolution that additional funds be appropriated to the Internal Revenue Service pursuant to the Administration's request for fiscal year 1983 and that additional funds be provided in future years for the Internal Revenue Service sufficient to collect additional tax revenues of at least $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985.

Conference agreement

The conference agreement follows the Senate amendment.

ll. Reports on forms

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary is required to study and report to Congress, no later than June 30, 1983, on methods of modifying the design of the forms used by the Internal Revenue Service to achieve greater accuracy in the reporting of income and the matching of information reports and returns with the actual income tax returns.

Conference agreement

The conference agreement follows the Senate amendment.

3. Tax treatment of partnership items

Present law

For income tax purposes, partnerships are not taxable entities. Instead, a partnership is a conduit, in which the items of partnership income, deduction, and credit are allocated among the partners for inclusion in their respective income tax returns.

Partnerships are required to file an annual information return setting forth the partnership income, deductions, and credits, names and addresses of the partners, each partner's distributive share of these items, and certain other information required by the regulations. A penalty is imposed on the partnership for each month (not to exceed 5 months), that a partnership return is late or incomplete. The amount of penalty for each month is $50 multiplied by the total number of partners in the partnership during the partnership's taxable year.

Since a partnership is a conduit rather than a taxable entity, adjustments in tax liability may not be made at the partnership level. Rather, adjustments are made to each partner's income tax return at the time that return is audited. A settlement agreed to by one partner with the Internal Revenue Service is not binding on any other partner or on the Service in dealing with other partners. Similarly, a judicial determination of an issue relating to a partnership item generally is conclusive only as to those partners who are parties to the proceeding.

The Code provides a period of limitations during which the IRS can assess a tax or a taxpayer may file a claim for refund. Generally, the period is 3 years from the date the tax return is filed (if filed before the due date, the due date is treated as the date filed). If more than 25 percent of the gross income is omitted from a return, the statutory period for assessment is 6 years. In the case of a partnership, the income tax return of each of the partners begins that individual partner's period of limitations. Except in the case of Federally registered partnerships, the date of filing of the partnership return does not affect the individual partner's period of limitations. In order to extend the period of limitations with respect to partnership items, the IRS is required to obtain a consent for extension of the statute of limitations from each of the partners—not the partnership. Generally, an agreement to extend the period of limitations relates to all items on the return of the partner who consented to the extension.

The application of the partnership return filing requirement to certain foreign based partnerships with U.S. partners is unclear. There is no express requirement that a U.S. person report the acquisition or disposition of an interest in a foreign partnership.

Windfall profit tax.—Under present law, taxable crude oil which would otherwise be treated as produced by a partnership, is allocated among the partners of the partnership according to their income interest. Each partner to whom crude oil is allocated under this rule is treated as the producer of such crude oil. Since each partner is treated as the producer of an allocable share of the partnership's production of crude oil, the partnership must report sufficient details to permit their partners to compute their allocable share of the windfall profit tax on partnership's crude oil production. In addition, each partner generally will certify his status to the partnership when such status is relevant to any special tax treatment, such as lower rates for independent producers or an exemption based upon the identity of the producer, so that first purchasers can compute the proper withholding of windfall profit taxes.

House bill

No provision.

Senate amendment

The Senate amendment contains a number of provisions designed to promote increased compliance and more efficient administration of the tax laws.

Conference agreement

a. In general

Under the conference agreement, the tax treatment of items of partnership income, loss, deductions, and credits will be determined at the partnership level in a unified partnership proceeding rather than in separate proceedings with the partners.

Except as otherwise provided in subchapter C of Chapter 63 as added by the conference agreement, the tax treatment of any partnership item is to be determined at the partnership level. New rules are adopted which govern the determination of the treatment of partnership items and resulting adjustments, both at the administrative and judicial levels.

b. Administrative proceedings

Consistency requirement

Under the conference agreement, each partner is required to treat partnership items on his return consistently with the

treatment on the partnership return. Where treatment is, or may be, inconsistent (or no partnership return is filed), the consistency requirement is waived if a statement is filed by the partner identifying the inconsistency. Similarly, the consistency requirement may be waived at the partner's election if the partner establishes to the satisfaction of the Secretary that the return treatment of an item was consistent with an incorrect schedule furnished the partner by the partnership.

Failure to satisfy the consistency requirement, if not waived, will result in an adjustment to conform the treatment of the item by the partner with its treatment on the partnership return. Any additional tax resulting from such computational adjustment will be assessed without either the commencement of a partnership proceeding or notification to the partner that the inconsistent item will be treated as a nonpartnership item.

Notice requirements

Each partner whose name and address is furnished to the Secretary will receive notice of the commencement of a partnership level audit as well as notice of the final partnership administrative adjustment (FPAA), provided sufficient information is furnished to the Secretary (at least 30 days before any such notice is mailed to the tax matters partner) to enable the Secretary to determine that the partner is entitled to the notice. An exception to the notice requirement is made for anyone with a less than one-percent interest in the profits of a partnership with more than 100 partners. However, a group having an interest in the aggregate of 5 percent or more in partnership profits may designate a member of the group as a notice partner to receive notice on behalf of the group. Otherwise, the notice furnished the tax matters partner (TMP) is treated as notice to these small partners.

In providing notices, the Secretary may use the names, addresses, and profits interests shown on the partnership return or may use other information furnished by the TMP or other person pursuant to regulations.

The TMP is the general partner so designated pursuant to regulations or, in the absence of such designation, the partner with the largest profits interest in the partnership at the end of the year involved (in the event there are several partners so qualifying, the one whose name would appear first in an alphabetical listing is selected). Otherwise, the TMP will be selected by the Secretary. Since the identity of the TMP may not be known to the Secretary, mailing of any notice in care of the tax matters partner at the address where the partnership business is carried on will constitute mailing of the notice for purposes of determining whether other requirements imposed on the Secretary are complied with or whether any action, such as mailing notices to other partners, is timely taken.

If the information furnished the Secretary is sufficient, the names, addresses, and profits interests of persons with profits interests in the partnership through one or more pass-through partners will be used with respect to such profits interests in lieu of the names, addresses, and profits interests of the pass-through partners.

Notice partners are entitled to have notice of the partnership proceeding mailed to them at least 120 days before the notice of the FPAA is mailed to the TMP and to have the notice of the FPAA mailed to them not later than 60 days after such notice is mailed to the TMP. Notice partners for this purpose include partners with a less than one-percent interest in profits (in partnerships with over 100 partners), and the notice requirement as to such partners is satisfied by notice to the TMP, or if such partner is a member of a 5-percent or greater group, by notice to the designated member of such group.

Late notification

If, when notice of the proceeding is mailed to any partner, the period within which to commence a judicial proceeding to redetermine the FPAA has expired without commencement of such a proceeding, or if any court decision has became final, the partner may elect to have such determination, such court decision, or a settlement agreement entered into with another partner with respect to the same partnership year apply. If the partner does not so elect, all partnership items will be treated as nonpartnership items in determining his liability. If administrative or judicial proceedings have not terminated but the notice of the proceeding is untimely, the partner will be a party to the proceedings unless he elects to have the terms of a settlement with any other partner applied to him or to have all partnership items treated as nonpartnership items.

Other notice requirements

Only one notice of FPAA may be mailed to a partner for any one year of a partnership in the absence of fraud, malfeasance, or a misrepresentation of a material fact.

To the extent provided in regulations, the TMP will be required to keep partners informed of all administrative and judicial proceedings. Notices received by pass-through partners must be forwarded within 30 days to persons holding an interest in partnership profits or losses through the pass-through partner. The responsibility for forwarding such notices is on the TMP of any pass-through partner which is itself a partnership. It is intended that no obligation will be imposed on the TMP with respect to partners wishing to be informed about routine or minor events.

All partners have a right to participate in the partnership proceeding but may waive such rights and any restrictions, such as a restriction on assessment, on the Secretary. The place and time of meetings and other events involving the Internal Revenue Service will be determined by Service representatives and the TMP.

Settlements

Settlement agreements in the absence of fraud, are binding on the Secretary and partners participating in the settlement, except as the settlement may otherwise provide. Indirect partners, unless properly identified as required by the statute, will be bound by settlements entered into by the pass-through partner. The Secretary must offer to any partner who so requests settlement terms that are consistent with the settlement with any other partner. Except where notice to a partner of the proceeding was not timely, a request for such settlement terms must be made, with respect to any settlement entered into before mailing a notice of FPAA to the TMP, before the expiration of 150 days after such mailing.

The TMP may enter into a settlement on behalf of, and binding upon, less than one-percent profits partners, in partnerships with over 100 partners, who are not members of a notice group. However, any such partner may file a statement within the time prescribed by the Secretary providing that the TMP does not have authority to settle on behalf of such partner. No partner other than the TMP (and other than a pass-through partner with respect to indirect partners) may bind any other partner with respect to a settlement agreement.

Assessment of tax

Any deficiency resulting from an administrative determination generally may not be assessed until 150 days after mailing the notice of FPAA to the TMP, or if within the 150-day period a Tax Court proceeding is commenced, until the decision in such proceeding has become final. Any action to assess or collect the tax in violation of this restriction may be enjoined in the proper court.

If a timely court proceeding is not commenced, the deficiency assessed against any partner with respect to partnership items affected by a FPAA may not exceed the amount determined in accordance with such adjustment.

c. Judicial review of FPAA

Commencement of action

The TMP, within 90 days after the mailing of the notice of FPAA, may file a petition for readjustment of partnership items in the Tax Court, the district court of the United States for the district in which the partnership's principal place of business is located, or the Claims Court. During such 90-day period, no other partner may file a petition for judicial review.

If the TMP does not file a petition, any notice partner or 5-percent group with an interest in the outcome may within 60 days following such 90-day period, file a petition with any of the courts in which the TMP may file a petition. Only one proceeding may go forward. The first action filed in the Tax Courts will establish jurisdiction or, if no petition is filed with the Tax Court, the first action filed in either of the other courts will go forward. Other actions will be dismissed. The TMP may intervene in an action brought by another partner.

Right to participate

Each partner with an interest in the outcome shall be treated as a party to the action and will be allowed by the court to participate in the action. A partner does not have an interest in the outcome after partnership items as to such partner become nonpartnership items (under sec. 6231(b)), or the period for assessment with respect to partnership items of such partner has expired.

Deposit requirement where action in district court or Claims Court

As a condition to filing a petition in either the appropriate district court or the Claims Court, the partner filing the petition (including each member of a 5-percent group which files a petition) must deposit with the Secretary the amount by which such partner's tax liability would be increased if treatment of partnership items on the partner's return were made consistent with the partnership return as adjusted by the FPAA. The court may by order determine that this jurisdictional requirement is satisfied if a good faith effort to comply was made and any shortfall in the amount required to be deposited is timely corrected.

The amount required to be deposited will be refunded upon request of the depositing partner if jurisdiction to proceed is established in the Tax Court. "However, if, upon expiration of the 150 day filing period, no Tax Court petition is filed, the Secretary

may assess any deficiency of the depositing partner resulting from the FPAA and apply such deficiency against the deposited amount. Likewise, the Secretary may assess and collect any deficiencies of other partners resulting for the FPAA if jurisdiction is established in the District Court or Claims Court pending a decision on the merits."

Any amount required to be deposited shall, while deposited, be treated as a payment of tax only for purposes of Chapter 67, relating to interest.

Scope of judicial review

The court acquiring jurisdiction of a partnership proceeding shall have jurisdiction to determine all partnership items of the partnership taxable year to which the FPAA relates and the proper allocation of such items among the partners. The court's decision has the effect of a final decision of the Tax Court or a final judgment or decree and will be reviewable if review is sought by the TMP, a notice partner, or a 5-percent group.

Dismissal of an action other than a dismissal for lack of jurisdiction, shall be considered a decision that the FPAA is correct.

d. Request for administrative adjustment

General rule

A partner may file a request for administrative adjustment (RAA) of partnership items for a partnership taxable year within 3 years after the partnership return was filed (or, if later, the last day for filing such return, determined without extension) and before the mailing of a notice of FPAA to the TMP for such taxable year.

Request by TMP on behalf of the partnership

An RAA, filed by the TMP, may serve as an amended return correcting the treatment of items on the original partnership return, in which case the Secretary may treat the changes made as corrections of clerical or mathematical errors on the original return.

In other cases, an RAA generally serves as a claim for refund. In such cases, when the RAA is filed by the TMP, the Secretary may (i) make all refunds and credits to all partners resulting from the requested adjustments provided the adjusted items continue to be partnership items with respect to any partner, or (ii) commence a partnership proceeding.

The RAA filed by the TMP must show the effect of the requested adjustments on the distributive shares of the partners and other information as required by regulations.

Other requests

Each partner may file an RAA on his own behalf. In such case, the Secretary may (i) process the request in the same manner as a claim for refund relating to nonpartnership items, (ii) assess any tax resulting from the requested adjustments, (iii) notify the partner that all items to which the request relates will be treated as nonpartnership items, or (iv) commence a partnership proceeding.

Judicial review by TMP on behalf of the partnership

The TMP may file a petition for review in the Tax Court, the appropriate district court, or the Claims Court after the expiration of 6 months from the date of filing the RAA and within 2 years of such filing, with respect to any part of the requested adjustment not allowed. Such a petition may not be filed after a notice of the commencement of a partnership proceeding is mailed to the partnership. If, when such notice is mailed, the 2-year period within which a petition could have been filed has not expired and the Secretary fails to mail timely notice of a FPAA, the TMP shall have 6 months after the expiration of the period in section 6229(a) within which to file a petition. The TMP and the Secretary may agree to extend the 2-year period for filing a petition.

In any event, no petition for review with respect to an RAA may be filed after a timely notice of FPAA has been mailed by the Secretary. If the petition has been filed when a timely notice of FPAA is mailed, the proceeding will be treated as a proceeding with respect to the FPAA, except that no deposit will be required to establish jurisdiction in the appropriate district court or the Claims Court.

Other partners are to be treated as parties to any action brought by the TMP with respect to unallowed adjustments requested in an RAA under rules similar to those applicable when a petition is filed to review a FPAA.

Judicial review of an RAA filed by the TMP is limited to unallowed items to which the request relates and items with respect to which the Secretary asserts an offset to requested adjustments. The court's decision has the same effect as, and is reviewable in the same manner as, a court decision reviewing a FPAA.

Suits by individual partners

With respect to other RAAs filed by partners, if the Secretary notifies a partner that the items to which a timely request relates are to be treated as nonpartnership items, the request will be considered as a claim for refund and the partner may bring an action under section 7422 within 2 years after mailing of such notice.

Otherwise, if any part of the RAA is not allowed, the partner may, after 6 months and before 2 years from the date the request was filed, commence a suit for refund under section 7422 and the disallowed items to which the request related will be treated as nonpartnership items.

The 2-year period for filing suit may be extended by agreement between the partner and the Secretary.

An action based on unallowed items in an RAA may not be commenced after the Secretary mails notice of the commencement of a partnership proceeding to the partnership. If the 2-year period for filing suit has not expired when such notice is mailed, the rules applicable to a suit by the TMP are also applicable to other partners in the event there is no timely FPAA.

e. Statute of limitations on assessments

General rules

The period for assessment with respect to partnership items (or affected items) for any partnership taxable year shall not expire before 3 years from the date of filing the partnership return or, if later, the last date prescribed for filing such return determined without extensions. The period may be extended by agreement with any partner or, for all partners, by agreement with the TMP (or other person authorized in writing by the partnership). The agreement must be entered into before the expiration of the period to be extended. An agreement under section 6501(c)(4) (relating to agreements to extend the period for assessment) will apply to partnership items only if it expressly so provides.

Assessments may be made at any time against partners signing or actively participating in a fraudulent return. Against other partners affected by such return, the period for assessment is extended from 3 to 6 years.

The period of assessment is 6 rather than 3 years in any case where there is an omission from gross income of an amount properly includible which exceeds 25 percent of the amount of the gross income stated in the return.

Assessments may be made at any time where no partnership return is filed. For this purpose, a return filed by the Secretary on behalf of the partnership under section 6020(b) shall not be treated as a return filed by the partnership.

Suspension of limitations

The period for assessment is suspended upon mailing of a notice of FPAA until the expiration of the period during which a petition for judicial review may be filed by any partner (or, if an action is brought during such period, until the decision of the court has become final) and for one year thereafter.

Unidentified partners, inconsistency

Where a partner was not properly identified on the partnership return and a timely notice of FPAA was mailed to the TMP, or a partner's treatment of partnership items on his return did not comply with the consistency requirement in section 6222 and the inconsistency was not identified as required by that section, the assessment period will not expire until one year after the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

Items becoming nonpartnership items

Where, before the expiration of the period for assessment, an item becomes a nonpartnership item by reason of an event described in section 6231(b), the period of assessment of any tax attributable to such item (or an affected item) shall not expire until one year after the date on which the item becomes a nonpartnership item.

f. Computational adjustments

Computational adjustments, generally

The procedure applicable to assessment of a deficiency will not apply to computational adjustments. Computational adjustments are changes in tax liability of a partner properly reflecting the treatment, under the rules adopted in the bill, of partnership items. The term includes all adjustments necessary to apply the results of a partnership proceeding to an indirect partner.

Adjustments necessary to correct mathematical or clerical errors (as defined in sec. 6213(g)(2)) appearing on the partnership return may be made without a partnership proceeding and opportunity for judicial review, except as to any partner who requests that such correction not be made within 60 days after notice of the correction is mailed to such partner.

Claim by partner

A claim may be filed on the ground that there was an erroneous computation of the adjustment necessary (i) to make the partnership items on the partner's return consistent with the treatment of such items on the partnership return, or (ii) to apply to the partner a settlement, a FPAA, or a final court decision relating to the treatment of partnership items. A claim may also be based on a failure to allow a refund or credit in the proper amount. A claim based on an alleged erroneous computation must be filed within 6 months after the date of mailing the notice of computational adjustment to

the partner. A claim based on a failure to allow a credit or make a refund in the proper amount must be filed within 2 years after, as appropriate, (i) the date the settlement was entered into, (ii) the date on which the period for bringing an action to review a FPAA expires, or (iii) the date a court decision becomes final.

Right to file suit

To the extent a claim based on failure to properly apply computational adjustments to the partner is not allowed, suit may be filed within the period prescribed in section 6532(a). In any claim or suit involving the application of computational adjustments to the partner, the treatment of partnership items on the partnership return, under the settlement, under the FPAA, or under the court decision (as appropriate) shall be conclusive.

g. Limitations applicable to credits and refunds

Generally, the period of limitations prescribed for assessment with respect to partnership items will also apply to allowance of any credit or refund with respect to partnership items.

Credit or refund based on a timely filed RAA may be made at any time before the expiration of the period for filing suit with respect to such request.

Credit or refund based on a claim with respect to the application to the partner of a computational adjustment may be made before the expiration of the period specified in section 6532 for bringing suit on such claim.

The limitation on the period for making a credit or refund to a partner will not apply if a timely suit is brought by the partner based on an RAA or an unallowed claim with respect to a computational adjustment.

Credits or refunds attributable to partnership items, to the extent practicable, will be made without requiring that the partner file a claim.

The limitations generally applicable to the allowance of credits or refunds (subchapter B of Chapter 66) will not apply to credits or refunds of overpayments attributable to partnership items.

h. Certain other rules

When a notice of the commencement of a partnership proceeding is mailed to the TMP with respect to a partnership taxable year, the TMP is to furnish to the Secretary the names, addresses, and taxpayer identification numbers of each person who was a partner at any time during such taxable year. Revised or additional information is to be furnished at a later date by the TMP when the TMP discovers the information furnished was inaccurate or incomplete. Failure by the TMP, a pass-through partner, the representative of a 5-percent notice group, or other representative of a partner to provide any notice or take any action required under the rules or under regulations on behalf of any partner will not affect the applicability of any partnership proceeding or adjustment under the rules to such partner.

The principles of section 7481(a) shall govern in determining the date on which a court decision becomes final.

The authority granted to the Secretary by section 7602 (relating to the examination of books and witnesses) is not limited by the rules adopted by the conference agreement.

All statements, elections, requests, and furnishing of information are to be made or filed in such manner, and at such time and place, as prescribed by regulations.

The principal place of business of a partnership, if outside the United States, shall be treated as located in the District of Columbia for purposes of filing a petition in the appropriate district court under section 6226 or section 6228.

The statute grants explicit authority to adopt regulations as necessary to carry out the purpose of the statutory rules.

Judicial actions brought under the rules are to be conducted in accordance with such rules of practice and procedure as the court may prescribe.

i. Small partnerships

Generally, partnerships covered by the rules include any partnership required to file a return under section 6031(a).

However, the rules do not apply to partnerships consisting of 10 or fewer partners each of whom is a natural person (other than a nonresident alien) or an estate, provided that each partner's share of any partnership item is the same as his distributive share of every other partnership item. A husband and wife (and their estates) shall be treated as one partner for purposes of this exception. A partnership eligible to be excluded under this provision may elect to be covered by the rules. The election is binding for the year for which it is made and subsequent years unless revoked with the Secretary's consent.

j. Certain definitional and other rules

Certain definitions

The term partner, for purposes of the rules, is a direct partner in the partnership and any other person whose income tax liability is determined in whole or in part by taking into account directly or indirectly partnership items of the partnership.

The term 'partnership item' means any item required to be taken into account for the partnership's taxable year to the extent regulations provide that such item is more appropriately determined at the partnership level than the partner level. The term 'affected item' means any item to the extent it is affected by a partnership item.

A 'pass-through partner' means a partnership, estate, trust, subchapter S corporation, nominee, or other similar person through whom other persons hold an interest in a partnership with respect to which there is a partnership proceeding. The term 'indirect partner' is any person holding an interest through one or more pass-through partners.

Except as regulations may provide otherwise, a husband and wife with a joint interest in a partnership shall be treated as one person, e.g., for determining whether a partnership has more than 100 partners.

Nonpartnership items

Partnership items will become nonpartnership items as of the date that (i) the Secretary mails a notice to the partner that such items will be treated as nonpartnership items, (ii) the partner files suit under section 6228(b) !'ter failure to allow an RAA with respect to such items, (iii) the Secretary enters into a settlement agreement with the partner with respect to such items, (iv) the items become nonpartnership items under section 6223(e) (relating to failure by the Secretary to provide timely notice to the partner of a partnership proceeding) or (v) under the Secretary's regulatory authority to treat items as nonpartnership items, such items become nonpartnership items.

The Secretary may notify a partner that a partnership item will be treated as a nonpartnership item where either (i) the partner has treated the item inconsistently with its treatment on the partnership return and properly identified the inconsistency under section 6222(b)(1)(B) (and has not subsequently field an RAA which would eliminate the inconsistency) or (ii) the partner has filed an RAA and requested adjustments would make the partner's treatment of adjusted items inconsistent with their treatment on the partnership return. Any such notification based on inconsistency on the partner's return must be mailed before the Secretary mails a notice to the TMP of the commencement of a partnership proceeding with respect to the inconsistently treated items.

Special enforcement provisions

The bill provides regulatory authority to treat items as nonpartnership items to the extent the Secretary determines their treatment as partnership items will interfere with the effective and efficient enforcement of the Internal Revenue laws. This authority extends to (i) termination assessments under section 6851 and jeopardy assessments under section 6861, (ii) criminal investigations, (iii) indirect methods of proof of income (iv) foreign partnerships, and (v) other areas to the extent determined by regulations to present special enforcement considerations.

Authority is granted to prescribe special rules by regulation determined by the Secretary to be necessary to achieve the purpose of the bill for the tax treatment of partnership items, in these cases presenting special enforcement considerations.

Determination of profits interest

The profits interst of any partner shall be determined as of the close of the partnership taxable year, except that it shall be determined immediately before the liquidation, sale, or exchange of the entire interest of a person who is not a partner at the end of such year. This determination is significant in determining whether a partner's interest is one percent or more (in partnerships with over 100 partners) and in determining whether a notice group qualifies under the 5-percent requirement applicable to such groups. This determination shall be made pursuant to regulations in the case of indirect partners.

Appeal bond to stay assessment

Section 7485, relating to bond to stay assessment and collection on the appeal of a Tax Court decision, is amended to provide for such a bond on filing a notice of appeal of a decision under section 6226 or section 6228(a). The amount of such bond fixed by the Tax Court, in the absence of a stipulation by the parties, will be based on the Tax Court's estimate of the aggregate amount of deficiencies involved.

k. Nonpartnership litigation

Other tax litigation not a bar to adjustment

A judicial determination of a partner's income tax liability not resulting from a partnership proceeding will not bar any adjustment to such liability attributable to the treatment of partnership items pursuant to a proceeding under these rules. Further, such a determination will not bar an adjustment resulting from a proceeding with respect to items that become nonpartnership items under the rules if, when they become nonpartnership items, it is no longer appropriate to include them in a separate proceeding involving other nonpartnership items. A judicial determination in a suit filed under section 6228(a) with respect to items not allowed in an RAA filed by the

TMP will not bar adjustments with respect to other partnership items.

Continuation of existing rules for nonpartnership items

Existing rules relating to administrative and judicial proceedings, statutes of limitations, settlements, etc., will continue to govern the determination of a partner's tax liability attributable to nonpartnership income, loss, deductions, and credits. Neither the Secretary nor the taxpayer will be permitted to raise nonpartnership items in the course of a partnership proceeding nor may partnership items, except to the extent they become nonpartnership items under the rules, be raised in proceedings relating to nonpartnership items of a partner.

The separate statute of limitations applicable to nonpartnership items of a partner may have expired when the computational adjustment of a partner's tax liability attributable to a FPAA or final court decision is made. In such case neither the Secretary (to reduce a refund) nor a partner (to reduce an assessment) may raise nonpartnership items in determining the partner's tax liability resulting from such computational adjustment. However, if the partner has in fact overpaid his income tax liability for the taxable year with respect to which the computational adjustment was made, he may obtain credit or refund of such overpayment by filing a claim within 2 years following such overpayment, as prescribed by sections 6511 (a) and (b)(2)(B). If such claim is not allowed, suit may be filed pursuant to section 7422(a). Any overpayment which may be refunded pursuant to such a claim or suit for refund would be attributable only to nonpartnership items.

l. Foreign-based partnerships

The bill explicitly applies the partnership return filing requirement under section 6031 to any partnership which has U.S. partners (direct or indirect). Where the TMP resides outside the United States or the partnership books and records are kept outside the United States, failure to comply with the partnership return requirement or provide the return information upon request will result in disallowance of partnership losses and credits to the partners. The Secretary may by regulation waive the reporting requirement in appropriate cases. The bill also requires a return by a U.S. person who acquires or disposes of an interest in a foreign partnership except to the extent regulations provide otherwise. This requirement extends to substantial changes in the proportionate interest of a U.S. person in a foreign partnership. The return is to be in such form and provide such information as regulations require and must be filed within 90 days after the date the U.S. person becomes liable to file such return unless the Secretary, by regulation, prescribes a later date.

The tax treatment for partnership items under subchapter C of chapter 63, as added by the bill, the partnership return filing requirement under section 6031, and the return requirement relating to changes in interest in a foreign partnership are all expressly inapplicable, under the bill, to the International Telecommunications Satellite Organization and the International Maritime Satellite Organization, and any organization which is a successor to either of such organizations. Both such organizations are public international organizations established by international agreements to which the United States is a party.

m. Partnership must provide information to partners

Section 6031 is amended by the bill to require expressly that every partnership required to file a return shall furnish to every person who was a partner at any time during the partnership's taxable year a copy of such information shown on the return as may be required by regulation. The fact that the bill expressly imposes this requirement is not intended to imply that the Internal Revenue Service is without authority to impose a similar requirement under present law.

n. Effective date

The amendments relating to acquisitions, dispositions, and substantial changes in the interest of a U.S. person in foreign partnerships apply in the case of such changes after the date of enactment. All other amendments apply to partnership taxable years beginning after the date of enactment. However, pursuant to regulations, a partnership with the consent of all partners may elect to have such amendments apply to the first partnership taxable year ending after the date of enactment if the Secretary also consents.

o. Windfall profit tax audits

Under the conference agreement, windfall profit tax items are included as partnership audit items under regulations to be issued by the Treasury. Thus, the tax treatment of any partnership windfall profit tax item will be determined at the partnership level rather than the partner level. A partnership windfall profit tax item is any item relating to the computation of the windfall profit tax on crude oil produced by the partnership which the Treasury determines by regulation to be more appropriately determined at the partnership rather than the partner level. Examples of such items are (1) the removal price of crude oil, (2) the adjusted base price of the crude oil, (3) the category of the crude oil, (4) the appropriate severance tax adjustments, and (5) the net income limitation. Under regulations, the partnership will be authorized to act on behalf of its partners for purposes of the determination, examination, and collection of windfall profit tax. Thus, the partnership can be made responsible for certifying necessary withholding tax information to first purchasers and for filing quarterly and annual returns with respect to the partnership's production of domestic crude oil. When necessary, the partnership will be able to rely on certifications by its partners of their status under the windfall profit tax. On the election of one or more partners owning an interest in at least 5 percent of partnership income, this authorization will cease to apply for the entire partnership.

Under the conference agreement, each partner will remain primarily liable for the windfall profit tax on his allocable share of taxable crude oil produced by the partnership. The partner's liability will be abated to the extent of any payment of windfall profit tax by the partnership. In determining the liability of any partner for windfall profit tax purposes, each partner would be required to treat any partnership windfall profit tax item in a manner consistent with the treatment of that item on the partnership return unless the partner notifies the Secretary of an inconsistent position. Each partner will be required to certify to the partnership that partner's correct treatment under the exemption of independent stripper wells, the special rates on independent producers, the royalty owners exemption and other producer-related provisions. The partnership will compute and pay the windfall profit tax on the assumption that the certifications given by the partners are correct.

The examination and collection of tax relating to independent producer or exempt status, etc., will be conducted at the partner level. All other items are determined at the partnership level. Thus, a partner's treatment of partnership windfall profit tax items will, under regulations, be determined by reference to the treatment of such items in the hands of the partnership. Thus, for example, a partner can sue for a refund on the basis of that partner's claim of the independent producer lower rates, but can not seek a refund on the theory that oil classified as tier 2 oil by the partnership should have instead been classified as tier 3 oil.

Present law provides the Secretary with broad authority to require the keeping of records, the making of returns, and the furnishing of information relating to the windfall profit tax. It is anticipated that the Secretary will use this authority to reduce the amount of information which must be delivered to partners by the partnership in the normal course of business and to provide for a consolidated partnership return reflecting the taxes of the individual partners. In addition, the Secretary should require under this authority that partners be given access to any and all windfall profit tax information necessary for the verification of the tax computed by the partnership or to the determination of their entitlement to independent producer lower rates or royalty owner exemptions.

The bill would apply to determination, examination, and collection of windfall profit tax with respect to oil removed in taxable periods beginning after December 31, 1982, unless the partnership, each partner, each indirect partner and the Secretary consent to earlier application of the provisions.

4. Taxpayer safeguard provisions

Present law

Property exempt from levy

Present law exempts certain property from levy. Among other items, this exemption covers (1) fuel, provisions, furniture, and personal effects; (2) books and tools of a trade, business or profession; and (3) wages, salary, or other income.

For a taxpayer who is the head of a family, there is a $500 exemption for fuel, provisons, furniture, and personal effects in his household, and for arms for personal use, livestock, and poultry.

Books and tools necessary for the trade, business, or profession of the taxpayer are exempt from levy to the extent that they do not exceed $250 in aggregate value.

The exemption for wages, salary, and other income is $50 per week plus $15 per week with respect to each individual over half of whose support is received from the taxpayer, who is the spouse of the taxpayer, who is a dependent of the taxpayer, and who is not a minor child of the taxpayer with respect to whom amounts are exempt from levy pursuant to a support judgment entered prior to the date of levy.

Release of lien

Under present law, a lien may be released if the tax liability has been fully satisfied or has become legally unenforceable; or upon acceptance of a bond that is conditioned upon the payment of the amount assessed, together with all interest. There is no statutory time limit for the release of a lien.

Notice before levy

Levy upon property may be made if the taxpayer neglects or refuses to pay tax within 10 days after notice and demand. In the case of a levy upon property, other than salary or wages, there is no statutory provision that requires additional notice before levy.

Levy may be made upon the salary or wages of a taxpayer only after the Secretary has notified the taxpayer in writing of his intention to make such levy, unless there has been a finding that the collection of tax is in jeopardy. This notice must be given in person, left at the taxpayer's dwelling or usual place of business, or sent by mail to the taxpayer's last known address, no less than 10 days before the day of levy.

A levy on salary or wages is continuous from the date it is made until the taxpayer's liability is satisfied or becomes unenforceable due to lapse of time. Once the tax liability is satisfied or becomes unenforceable, the Secretary is required to promptly release the levy and notify the taxpayer of such action.

Redemption of property

The owners of real property that is sold after a seizure, their heirs, executors, or administrators, or any person having an interest therein, or a lien thereon, or any person in their behalf, may redeem the property at any time within 120 days after the sale.

Amount of damages in case of wrongful levy

In the case of an alleged wrongful levy, a person (other than the person against whom is assessed the tax out of which such levy arose) who claims an interest in, or lien on, the property levied upon may bring a civil action against the United States in a U.S. district court. If the court determines there was a wrongful levy, then the court may (1) order the return of the property if the United States is in possession thereof; (2) grant a judgment for the amount of money levied upon; or (3) grant a judgment for an amount not exceeding the amount received by the United States from the sale of property.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

a. Property exempt from levy

The conference agreement increases the exemption from levy for (1) fuel, provisions, furniture, and personal effects, etc.; (2) books and tools of a trade, business, or profession; and (3) wages, salary, or other income.

The exemption for fuel, provisions, furniture, and personal effects, etc., is increased from $500 to $1,500.

The exemption for books and tools of a trade, business, or profession is increased from $250 to $1,000.

The exemption for wages, salary, and other income is increased to $75 per week plus $25 per week for the taxpayer's spouse and each dependent.

This provision applies to levies made after December 31, 1982.

b. Release of lien

The conference agreement requires a lien to be released no later than 30 days after the day on which: (1) the tax liability has been fully satisfied or has become legally unenforceable, or (2) a bond has been accepted.

This provision is effective with respect to liens (1) which are filed after December 31, 1982, (2) which are satisfied after December 31, 1982, or (3) with respect to which the taxpayer after December 31, 1982, requests the Secretary to issue a certificate of release on the grounds that the liability was satisfied or legally unenforceable.

c. Notice before levy

The conference agreement provides that levy may be made upon the salary, wages, or other property of any person with respect to any unpaid tax only after the Secretary has notified the person in writing of his intention to make such levy. This notice must be given in person, left at the dwelling or usual place of business of such person, or sent by certified or registered mail to such person's last known address, no less than 10 days before the day of levy. As under present law, a single notice wil be sufficient to cover all property of the taxpayer subject to levy.

As under present law, the notice requirement will not apply to a levy if the Secretary has made a finding that the collection of tax is in jeopardy. Moreover, the conference agreement makes no change with respect to the continuous nature of a levy upon salary or wages, or the requirements with respect to release of the levy and notice of release.

This provision applies to levies made after December 31, 1982.

d. Redemption of property

The conference agreement extends the period of time during which property that has been sold after a seizure may be redeemed from 120 days to 180 days.

This provision applies to property sold after the date of enactment.

e. Amount of damages in case of wrongful levy

The conference agreement provides that if there has been a wrongful levy and sale of property (belonging to a person other than the person against whom the tax was assessed), then the court may grant a judgment for an amount not exceeding the greater of (1) the amount received by the United States from the sale of such property, or (2) the fair market value of the property immediately before the levy.

This provision applies to levies made after December 31, 1982.

f. Notice of procedural safeguards

The conferees are concerned that in certain cases taxpayers may not be aware of the existing statutory or administrative rights and procedural safeguards that are available to them. The conferees believe that distribution of information concerning taxpayer rights at the time of the I.R.S. initial contact with the taxpayer regarding an audit and at appropriate stages during examination and collection proceedings will assure that more taxpayers are adequately apprised of their rights and the procedures available to them. Thus, the conferees request that the Internal Revenue Service consider the sufficiency and timeliness of information sent to taxpayers regarding their rights during examination, appeals, and collection. The results of this study are to be reported to the House Committee on Ways and Means and the Senate Committee on Finance.

D. Pension Provisions

1. Overall limits on contributions, benefits, and exclusions

Present law

Present law limits 1982 contributions on behalf of an employee to a qualified profit-sharing or other defined contribution plan to the lesser of 25 percent of compensation or $45,475. Annual benefits payable under a qualified defined benefit pension plan are limited to the lesser of 100 percent of compensation or $136,425 for life, beginning at age 55. The limits (set at $25,000 and $75,000 in 1974) are automatically adjusted for cost-of-living increases.

If an employee participates in a defined contribution plan and a defined benefit plan maintained by the same employer, the fraction of the separate limits used by each plan is computed and the sum of the fractions is subject to an overall limit of 1.4 (i.e., 140 percent of the otherwise applicable separate limits).

House bill

No provision.

Senate amendment

The Senate amendment makes several changes to the overall limits on contributions and benefits for an employee under a tax-qualified pension, etc., plan. The amendment (1) reduces the dollar limit for annual additions to profit-sharing plans and other defined contribution plans from $45,475 to $30,000; (2) reduces the dollar limit for annual benefits under defined benefit pension plans from $136,425 to $90,000, and requires that an interest rate assumption of at least 5 percent be used to determine whether alternative benefit forms (e.g., lump sum distributions) are within the annual benefit limit; (3) suspends cost-of-living adjustments to the dollar limits until 1986, at which time the limits will be adjusted for post-1984 cost-of-living increases (as measured by the social security benefit index), and provides that employers cannot deduct contributions to fund anticipated cost-of-living increases, (4) requires that the dollar limit ($90,000 for 1983) be actuarially reduced (using an interest rate assumption of at least 5 percent) if benefits commence before age 62 (increased from age 55); and (5) reduces the aggregate limit for an individual who participates in a defined contribution plan and a defined benefit plan of the same employer from 1.4 (140 percent of the otherwise applicable separate dollar or percentage limit) to the lesser of 1.25, as applied only to the dollar limits, or 1.4, as applied under present law.

In general, these provisions will apply to plan years beginning after December 31, 1982, except that plan amendments are required with respect to plan years beginning after December 31, 1983.

Conference agreement

The conference agreement generally follows the Senate amendment except that the dollar limit for benefits under a defined benefit plan commencing before age 62 is to be actuarially reduced (using an interest rate of not less than the greater of 5 percent or the rate specified in the plan)[1] to the equivalent of the dollar limit for benefits commencing at age 62 (age 55 where the $75,000 minimum applies). Thus, the dollar limit is not less than $75,000 at age 55 or later. For ages below 55 the limit is not less than the actual equivalent of a $75,000 annual benefit commencing at age 55. Also, for benefits commencing after age 65 the dollar limit is increased (using an interest rate not exceeding the lesser of 5 percent or the rate specified in the plan) to the equiva-

[1] Rev. Rul. 79-90 1979-1CB 156, requires that a plan specify the actuarial assumptions used by the plan to determine benefit equivalence.

lent of the benefit limit as applied to benefits commencing at age 65. In no event, however, could future cost-of-living increases in the dollar limit be assumed in determining actuarial equivalence.

The conference agreement revises the transition rule relating to cases where the sum of the defined benefit plan and defined contribution plan fractions exceeds 1.25 (as applied to the dollar limits). Under the provision, the Secretary of the Treasury is to prescribe regulations under which the defined contribution plan fraction (as determined for the last year ending before January 1, 1983) is reduced, so that the sum of the fractions does not exceed the aggregate limit under the conference agreement.

The conference agreement clarifies present law by providing that the employer's deduction limit for the year under a defined benefit plan may not be based on benefits in excess of the dollar limit applicable for the year (without regard to anticipated cost-of-living increases). Deductions may be based on benefits which take into account anticipated salary increases, subject to limitation described in the preceding sentence.

The conference agreement also places a $100,000 aggregate limit on the estate tax exclusion for certain retirement benefits under qualified pension, etc., plan, tax-sheltered annuities, individual retirement accounts (IRA's) and certain military retirement plans. The limit applies with respect to decedents dying after December 31, 1982.

2. Loans from retirement plans

Present law

A qualified pension, etc., plan or a tax-sheltered annuity program generally is permitted to make reasonable loans to participants other than owner-employees under an H.R. 10 plan or shareholder-employees under a subchapter S corporation plan. If a self-employed individual borrows from an H.R. 10 plan or if an individual borrows from an IRA, the loan is treated as a distribution, subject to the usual income tax rules.

House bill

No provision.

Senate amendment

The Senate amendment generally provides that a loan received by a participant under a qualified plan or a tax-sheltered annuity program is treated as a distribution to the extent that the participant's outstanding loan balance under all plans in which the participant participates exceeds $10,000. A higher limit (not to exceed $50,000) is permitted if the loan proceeds are applied towards the purchase, reconstruction, etc., of a personal residence. Loan amounts treated as distributions generally are subject to the usual income tax and withholding rules for plan distributions.

The amendment applies to loans made after July 1, 1982. Loans made before that date are not affected except to the extent that the loan is renegotiated, revised, or extended. A loan is treated as received if the proceeds are paid to or on behalf of a participant or beneficiary or if the loan is extended, etc. The amendment changes the tax treatment of loans but does not change the rules of the Employee Retirement Income Security Act of 1974 limiting the availability of loans.

Conference agreement

In general

The conference agreement follows the Senate amendment except that a loan from a tax-qualified plan, or, government plan, or tax sheltered annuity which is to be repaid within 5 years is treated as a distribution only to the extent that the amount of the loan, when added to the outstanding loan balance with respect to the employee under all plans of the employer, exceeds the lesser of (1) $50,000, or (2) one-half of the present value of the employee's nonforfeitable accrued benefit under such plans, but not less than $10,000. For this purpose, plans of separate employers which generally are treated as a single employer under the pension, etc., plan rules (sec. 414) are treated as plans of a single employer.

A loan made with respect to an employee under a qualified plan, etc., which is not required to be repaid within 5 years, is treated as a distribution. For this purpose, the period within which a loan is required to be repaid is determined at the time the loan is made. If a repayment period of less than 5 years is subsequently extended beyond 5 years, it is intended that the balance payable under the loan at the time of the extension is to be treated as distributed at the time of the extension. In addition, if payments under a loan with a repayment period of less than 5 years are not in fact made, so that an amount remains payable at the end of 5 years, the amount remaining payable is treated as if distributed at the end of the 5-year period. A loan which is treated as a distribution on account of a repayment period of more than 5 years will not be treated as other than a distribution merely because it is repaid within 5 years (whether by reason of a renegotiation of the payment period or otherwise). Of course, a loan to a beneficiary which is treated as a distribution is included in the income of the participant, if the participant is alive at the time the loan is treated as a distribution.

The conference agreement provides an exception to the 5-year repayment rule to the extent that a loan made with respect to a plan participant is applied toward acquiring, constructing, or substantially rehabilitating any house, apartment, condominium, or mobile home (not used on a transient basis) which is used or is to be used within a reasonable time as the principal residence of the participant or a member of the participant's family. The determination as to whether a dwelling is to be used as a principal residence of the participant or dependent is to be determined at the time the loan is entered into.

Certain mortgage loans

Under the conference agreement, investments (including investments in residential mortgages) which are made in the ordinary course of an investment program will not be considered as loans, if the amount of the mortgage loan does not exceed the fair market value of the property purchased with the loan proceeds. An investment program exists, for example, when trustees determine that a specific percentage or amount of plan assets will be invested in residential mortgages under specified conditions. However, mortgage loans made as a result of the direction of investments of an individual account will not be considered as made under an investment program and no loan which benefits an officer, director, or owner or his beneficiaries will be treated as an investment. In addition, the agreement makes no changes to the present-law prohibited transaction rules and fiduciary standards for qualified pension, etc., plans and does not restrict the rules of present law under which certain loans are treated as distributions.

Effective dates

The conference agreement applies to loans made after August 13, 1982.

Amounts outstanding on August 13, 1982, under a loan which is renegotiated, extended, revised, or renewed after such date will not be treated as made on the date of the renegotiation, etc., to the extent such amounts are required to be, and are repaid on or before August 13, 1983. Thus, such amounts will continue to be treated as amounts outstanding with respect to the participant on August 13, 1982.

The conferees intend that a scheduled change in the interest rate charged on a loan balance (e.g., a variable rate contract) will not be treated as a revision or renegotiation of the loan.

3. Parity under the qualified plan rules for corporate and noncorporate employers; group-term life insurance

Present law

Under present law, plans which benefit self-employed individuals, owner-employees, or shareholder-employees of subchapter S corporations are subject to additional, more restrictive, qualification requirements designed to limit benefits for such individuals and provide additional protections for rank-and-file employees.

House bill

No provision.

Senate amendment

The Senate amendment increases the dollar limits applicable to defined contribution H.R. 10 plans, plans of subchapter S corporations, and SEPs, from $15,000 in 1982 to $20,000 in 1983, $25,000 in 1984, and $30,000 in 1985. The 15-percent of earned income limit is not changed. To provide a similar increase in the level of benefits permitted under a defined benefit H.R. 10 plan or subchapter S corporation plan, the compensation taken into account in determining permitted annual benefit accruals is increased from $100,000 to $133,000 in 1983, $167,000 in 1984 and $200,000 in 1985.

Beginning in 1986, the bill adjusts the limits for post-1984 cost-of-living increases.

Conference agreement

In general

The conference agreement generally eliminates distinctions in the tax law between qualified pension, etc., plans of corporations and those of self-employed individuals (H.R. 10 plans). The agreement (1) repeals certain of the special rules, for H.R. 10 plans, (2) extends other of the special rules to all qualified plans, including those maintained by corporate employers, and (3) generally applies the remainder of the special rules, with appropriate modifications, only to those plans (whether maintained by a corporate or noncorporate employer) which primarily benefit the employer's key employees (top-heavy plans). The top-heavy plan rules are provided in addition to the usual rules for plan qualification.

The special rules for H.R. 10 plans which are repealed include those which (1) set lower limits on contributions and benefits for self-employed individuals, (2) prevent certain H.R. 10 plans from limiting coverage to a fair cross section of employees, and (3) prohibit integration with social security.

The special rules for H.R. 10 plans which are extended to all qualified plans are certain of those rules relating to (1) distributions made to the employee or to the employee's beneficiaries after the employee's

death, and (2) integration of a defined contribution plan with social security.

The special rules for H.R. 10 plans which generally are extended (with modifications) to plans of corporate and noncorporate employers which primarily benefit key employees (top-heavy plans) include those rules relating to (1) includible compensation, (2) vesting (alternative schedules are provided) and (3) distributions. The rules for a top-heavy plan also require that such a plan provide a non-key employee a nonintegrated minimum benefit or a nonintegrated minimum contribution, and in some cases reduce the aggregate limit on contributions and benefits for a key employee who is covered by more than one plan of an employer.

These provisions apply for years beginning after December 31, 1983.

Repeal of rules for H.R. 10 plans

Deductible contributions and permitted benefit accruals

The conference agreement generally repeals the special deduction limits (sec. 404(e) (1), (2), and (4)) for contributions on behalf of a self-employed individual under an H.R. 10 plan. Conforming amendments are made with respect to simplified employee pensions and plans of subchapter S corporations.

In addition, the conference agreement repeals the special qualification rules for a defined benefit plan which covers a self-employed individual or a shareholder-employee of a subchapter S corporation (sec. 401(j)). Thus, defined benefit plans which cover a self-employed individual or a shareholder-employee of a subchapter S corporation will be subject to the rules applicable to other defined benefit plans.

Earned income

For purposes of the pension rules, the conference agreement revises the definition of earned income of a self-employed individual so that the amount of earned income corresponds to the amount of compensation of a common-law employee. Under the agreement, earned income is computed after taking into account amounts contributed by the employer to a qualified plan to the extent a deduction is allowed for the contributions. Also, in this regard, no change is made to the present-law rule (sec. 401(d)(11)) for owner-employees which has the effect of limiting the earned income which may be taken into account under the pension rules to that derived from the trade or business with respect to which the plan is established.

In addition, no change is made to the present-law rules under which no deduction is allowed for contributions to an H.R. 10 plan on behalf of a self-employed individual to the extent that the contributions are allocable to the purchase of incidental life, health, or accident insurance (sec. 404(e)(3)), and under which a self-employed individual generally is denied a basis in amounts applied under an H.R. 10 plan to purchase life insurance protection for the individual (sec. 72(m)(2)).

Coverage

The agreement repeals the additional qualification requirement under which an H.R. 10 plan benefiting an owner-employee generally is required to benefit all employees who have completed at least three years of service with the employer (sec. 401(d)(3)(A)).

The agreement retains the special rules for H.R. 10 plans under which all employees of all unincorporated trades or businesses controlled by an owner-employee (or owner-employees) are treated as if employed by a single trade or business for purposes of the nondiscrimination rules (sec. 401(a)(9) and (10)).

Employee contributions

The agreement repeals the special rules precluding employer contributions on behalf of an owner-employee under an H.R. 10 plan in excess of the deduction limit (sec. 401(d)(5)), and those rules limiting or precluding mandatory or voluntary employee contributions by an owner-employee (sec. 4972). The agreement also repeals the six-percent excise tax on excess contributions made on behalf of an owner-employee.

Miscellaneous restrictions

The following special H.R. 10 plan rules are also repealed:

(1) the requirement that a profit-sharing plan provide a definite contribution formula for employees who are not owner-employees (sec. 401(d)(2)(B));

(2) the requirement that an owner-employee must consent to participate (sec. 401(d)(4)(A));

(3) the requirement that the plan trustee be a bank or other approved financial institution (sec. 401(d)(1));

(4) the prohibition against contributions on behalf of an owner-employee for the five taxable years following an early withdrawal by the owner-employee (sec. 401(d)(5)(C)): and

(5) the denial of the $5,000 income exclusion for death benefits paid with respect to a self-employed individual under the plan (sec. 101(b)).

Nothing in the agreement requires that an H.R. 10 plan delete these provisions. For example, an employer may prefer that an H.R. 10 plan continue to provide that an owner-employee must consent to participate, thereby permitting an owner-employee to elect against plan participation.

Extension of certain H.R. 10 rules to all plans

Required distributions

The agreement extends to all qualified plans the requirement that payment of a participant's benefits must commence not later than (1) the taxable year in which the participant attains age 70½, or (2) if later, the year in which the participant retires (sec. 401(a)(9)).

In addition, if a participant dies before the entire interest is distributed, the entire remaining interest generally must be distributed to the participant's beneficiary or beneficiaries within 5 years. However, this rule does not apply if the distribution has commenced to the participant and is payable over a period which does not exceed the joint life expectancy of the participant and the participant's spouse. A conforming change is made to the IRA distribution rules.

Integration with social security

The bill extends to all qualified defined contribution plans a rule under which the tax rate applicable to employers for old age, survivors, and disability insurance (OASDI) under social security is the maximum rate at which employer contributions can be reduced under plans that are integrated with social security. This provision is designed to decrease the extent of integration in defined contribution plans without increasing the extent of integration in any plan.

For 1982, the employer's tax rate with respect to OASDI benefits under social security is 5.4 percent, and the taxable wage base is the first $32,400 of an employee's pay. Thus, if the provisions were applicable for 1982, a profit-sharing plan could provide contributions of 5.4 percent of 1982 pay in excess of $32,400 and no contributions for 1982 with respect to the first $32,400 of pay. Similarly, in a plan provided for 1982 contributions of 10 percent of pay in excess of $32,400, it would integrate only if it provided for 1982 contributions of at least 4.6 percent (10% minus 5.4%) with respect to the first $32,400 of pay. The same rules apply to a self-employed individual.

The wage base and tax rates which apply for any plan year are the wage base and tax rates in effect on the first day of the plan year.

The remaining present-law rules which restrict integration with social security under an H.R. 10 defined contribution which benefits an owner-employer are repealed.

Additional qualification requirements for top-heavy plans

In general

Under the agreement, additional qualification requirements are provided for plans which primarily benefit an employer's key employees (top-heavy plans). These additional requirements (1) limit the amount of a participant's compensation which may be taken into account, (2) provide greater portability of benefits for plan participants who are non-key employees, (3) provide minimum nonintegrated contributions or benefits for plan participants who are non-key employees, and (4) reduce the aggregate limit on contributions and benefits for certain key employees. Further, additional restrictions are placed on distributions to key employees.

Top-heavy plans

Under the agreement, a defined benefit plan is a top-heavy plan for a plan year if, as of the determination date, (1) the present value of the accumulated accrued benefits for participants who are key employees for the plan year exceeds sixty percent of the present value of the accumulated accrued benefits for all employees under the plan, or (2) the plan is part of a top-heavy group. A defined contribution plan is a top-heavy plan for a plan year if, as of the determination date, (1) the sum of the account balances of participants who are key employees for the plan year exceeds sixty percent of the sum of the account balances of all employees under the plan, or (2) the plan is a part of a top-heavy group. Under these rules, a simplified employee pension is considered a defined contribution plan, and at the election of the employer, the account balance of any employee covered by a simplified employee pension is deemed to be the sum of the employer contributions made on the employee's behalf.

The determination date for any plan year generally is the last day of the preceding plan year. However, in the case of the first plan year, the determination date is the last day of that year. Further, to the extent provided in regulations, the determination date may be determined on the basis of a year other than a plan year.

Top-heavy groups

The agreement also provides rules under which two or more plans of a single employer are aggregated to determine whether the plans, as a group, are top-heavy. The aggregation group must include (1) any plan which covers a key employee, and (2) any plan upon which a plan covering a key employee depends for qualification under the Code's coverage or antidiscrimination rules

(secs. 401(a)(4) and 410). In addition, in testing for top-heaviness, an employer may elect to expand the aggregation group to take into account any other plan maintained by the employer, if such expanded aggregation group continues to satisfy the coverage and antidiscrimination rules.

An aggregation group is a top-heavy group if, as of the determination date, the sum of (1) the present values of the accumulated accrued benefits for key employees under any defined benefit plans included in the group, and (2) the sum of the account balances of key employees under any defined contribution plans included in the group, exceeds 60 percent of the same amount determined for all participants under all plans included in the group. If an aggregation group is a top-heavy group, each plan required to be included in the group is a top-heavy plan. Of course, no plan included in the aggregation group at the election of the employer is subject to the top-heavy plan rules on account of such election.

The top-heavy group rules apply to all plans of related employers which are treated as a single employer (sec. 414).

Additional rules

For purposes of determining the present value of accumulated accrued benefits under a defined benefit plan and the sum of the account balances under a defined contribution plan, benefits derived from both employer contributions and employee contributions generally are taken into account. However, accumulated deductible employee contributions under a plan are to be disregarded. In addition, to insure relative stability and to preclude distortions under the top-heavy plan computation, the present value of the accrued benefit of a participant in a defined benefit plan or the account balance of a participant in a defined contribution plan generally includes any amount distributed with respect to the participant under the plan within the five-year period ending on the determination date.

A rollover contribution (or similar transfer) made after December 31, 1983, generally is not taken into account under the transferee plan for purposes of the top-heavy plan computation. The conferees intend that this rule will not apply if the contribution (or transfer) is made incident to a merger or consolidation of two or more plans or the division of a single plan into two or more plans. In addition, the conferees intend that this rule will not apply to rollover contributions (or transfers) between plans of the same employer, including plans of related employers which are treated as a single employer (sec. 414). Of course, in any case in which a rollover contribution (or transfer) is required to be taken into account under the transferee plan, the amount distributed by the transferor plan is not also taken into account under the transferor plan.

If an employee ceases to be treated as a key employee, the employee's accrued benefit under a defined benefit plan or the employee's account balance under a defined contribution plan is disregarded under the top-heavy plan computation for any plan year following the last plan year for which the employee was treated as a key employee.

Key employees

Key employees generally include employees who (1) are officers (but in no event will officers of any employer include more than 50 employees or, if lesser, the greater of 3 employees or 10 percent of all employees),[1] (2) are one of the 10 employees owning the largest interests in the employer (there are not 10 employees owning greater interests than the employee), (3) own more than a five-percent interest in the employer, or (4) own more than a one-percent interest in the employer and have annual compensation from the employer in excess of $150,000. An employee is considered an officer, or as owning an interest in the employer, if the employee was an officer, or owned such an interest, at any time during the plan year or the four preceding plan years. In the case of an employer which has more officers than are required to be counted as key employees, the officers to be taken into account are the officers with the highest compensation.

Under the agreement, an employee is considered as owning more than a five-percent interest in a corporate employer if the employee owns more than five percent of the employer's outstanding stock or stock possessing five percent of the total combined voting power of all stock of the employer. An employee is also treated as owning stock owned by certain members of the employee's family or, in certain cases, by partnerships, estates, trusts, or corporations in which the employee has an interest (sec. 318). The same rules apply to determine whether an individual owner is a one-percent owner.

In the case of an employer which is not a corporation, ownership will be determined in accordance with regulations prescribed by the Secretary. The conferees intend that these regulations be based on principles similar to the principles of section 318. In addition, to determine whether a self-employed individual who is a one-percent owner, is a key employee, compensation means earned income from the trade or business with respect to which the plan is maintained.

Qualification rules

These additional rules for top-heavy plans are tax-qualification requirements. Thus, a top-heavy plan is a qualified plan, and a trust forming part of a top-heavy plan is a qualified trust only if the additional requirements are met. Except as the Secretary of the Treasury may provide by regulations, a plan (whether or not top-heavy in fact) will constitute a qualified plan only if the plan includes provisions which will automatically take effect if the plan becomes a top-heavy plan and which meet the additional qualification requirements for top-heavy plans.

Includible compensation

For any plan year for which a plan is a top-heavy plan, only the first $200,000 of an employee's compensation may be taken into account in determining contributions or benefits under the plan. Beginning in 1986, this $200,000 limit will be adjusted under the same rules used to adjust the overall limits on contributions and benefits. For a self-employed individual, compensation means earned income as redefined by the conference agreement.

Vesting

For any plan year for which a plan is a top-heavy plan, an employee's right to the accrued benefit derived from employer contributions must become nonforfeitable (sec. 411(a)) under a vesting schedule which satisfies one of two alternative schedules provided by the agreement. These vesting schedules apply to all accrued benefits, whether or not the accrued benefits are required by the top-heavy plan rules.

A plan will satisfy the first alternative vesting schedule (three-year full vesting) if an employee who has at least three years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions. As under present law, a plan which provides three-year, 100 percent vesting will satisfy the participation requirements if the plan provides that an employee who is at least 25 years old, with three years of service, is eligible to participate.

A plan will satisfy the second alternative vesting schedule (six-year graded vesting) if an employee has a nonforfeitable right to at least 20 percent of the accrued benefit derived from employer contributions at the end of two years of service, 40 percent at the end of three years of service, 60 percent at the end of four years of service, 80 percent at the end of five years of service with the employer, and 100 percent at the end of six years of service with the employer.

For purposes of determining service under these vesting schedules, the present-law rules (sec. 411) relating to years of service, breaks in service, and certain permitted forfeitures etc., apply. Accordingly, all years of service with the employer generally are to be taken into account, including years of service completed prior to enactment and service during periods for which a plan is not a top-heavy plan.

Minimum nonintegrated benefit for non-key employees

In addition, a qualified pension, etc., plan which is a top-heavy plan must provide a minimum benefit or contribution for each non-key employee who is a participant in the plan.

Under the conference agreement, any individual excluded from coverage under a defined benefit or defined contribution plan because of compensation below a specified amount, or any individual considered to be a participant for purposes of the coverage requirements (sec. 410) must be provided the applicable minimum contribution or benefit.

For a plan year for which a defined benefit plan is a top-heavy plan, each plan participant who is not a key employee for the year generally must accrue a benefit which, when expressed as an annual retirement benefit, is not less than two percent of the employee's average annual compensation from the employer during the employee's testing period, multiplied by the employee's years of service with the employer. However, an employee's minimum benefit is not required to exceed 20 percent of such average annual compensation. All years of an employee's service otherwise required to be taken into account under the plan generally are required to be taken into account under the minimum benefit rules, except a year of service (1) ending before the date of enact-

[1] As under present law, the determination as to whether an employee is an officer is to be determined upon the basis of all the facts and circumstances, including, for example, the source of the employee's authority, the term for which elected or appointed, and the nature and extent of the employee's duties. As generally accepted in connection with corporations, the term "officer" means an administrative executive who is in regular and continued service. It implies continuity of service and excludes those employed for a special and single transaction, or those with only nominal administrative duties. Thus, for example, all the employees of a bank who have the title of vice president or assistant vice president would not automatically be considered to be officers. See, for example, Rev. Rul. 80-314, 1980-2 C.B. 152.

ment, or (2) within which ends a plan year for which the plan is not a top-heavy plan.

For purposes of the minimum benefit rules, only benefits derived from employer contributions (other than amounts employees have elected to defer (e.g. under a salary reduction cash or deferred arrangement)) to the plan are taken into account, and an employee's social security benefits are disregarded. Thus, the required minimum benefit for an employee may not be eliminated or reduced on account of the employee's social security benefits attributable to contributions by the employer (i.e., the minimum benefit is a "nonintegrated" benefit).

The term annual retirement benefit is defined as a benefit payable annually in the form of a life annuity (with no ancillary benefits) beginning at the normal retirement age. An employee's testing period is the period of the employee's consecutive years of service (not exceeding five) during which the employee had the greatest aggregate compensation from the employer. However, a year of service (and compensation paid to the employee during such year) need not be included in the employee's testing period if it ends before the date of enactment or begins within or after the last plan year for which the plan is a top-heavy plan.

Minimum nonintegrated contribution for non-key employees

For a plan year for which a defined contribution plan is a top-heavy plan, the employer generally must contribute on behalf of each plan participant who is not a key employee for the year an amount not less than three percent of the participant's compensation. However, if the employer's contribution rate for each participant who is a key employee for the plan year is less than three percent, the required minimum contribution rate for each non-key employee generally is limited to not more than the highest contribution rate for any key employee. For example, if, under a profit-sharing plan, no amount is contributed by the employer for any key employee, then under this limitation no contribution is required under the minimum contribution rules for any non-key employee. Under the minimum contribution rules, reallocated forfeitures are taken into account as employer contributions.

However, the limitation to the rate of contributions for key employees does not apply with respect to a defined contribution plan upon which a defined benefit plan depends for qualification under the Code's coverage or antidiscrimination rules, if the defined benefit plan benefits a key employee (or if a plan which benefits a key employee also depends upon the defined benefit plan). Under such circumstances, the required minimum contribution rate for a non-key employee is in every case three percent even if the contribution rate on behalf of a key employee is less than 3 percent. For purposes of the limitation, as well as for purposes of the minimum contribution rules generally, all defined contribution plans of the employer are considered a single plan.

To determine the contribution rate for an employee (including a key employee), the employer contributions and reallocated forfeitures on behalf of the employee for the year are divided by the employee's total compensation (or, with respect to a self-employed individual, the individual's earned income) from the employer for the year, not to exceed $200,000. Amounts paid by the employer for the year to provide social security benefits for the employer are disregarded. Thus, the required minimum contribution for a non-key employee may not be eliminated or reduced on account of benefits attributable to taxes paid by the employer under social security (i.e., the minimum contribution is a "nonintegrated" contribution). Similarly, the employer contribution rate for a key employee is determined without regard to employer contributions under social security. For example, if a plan is integrated with social security by providing key employees with employer contributions equal to 5 percent of compensation in excess of $32,400, the contribution rate for an employee whose total compensation is $50,000 is 1.76 percent ((0.5×$17,000)÷$50,000).

No duplication of minimum benefits for non-key employees under a top-heavy group

If a non-key employee participates in both a defined benefit plan and a defined contribution plan maintained by an employer, the employer is not required by this section to provide the non-key employee with both the minimum benefit and the minimum contribution.

Rules are also provided to preclude inappropriate omissions or required duplication of minimum benefits or contributions. It is anticipated that these rules would preclude an employee who is covered under more than one plan from receiving lower benefits or contributions than that employee would receive if covered under one plan. Similarly, larger total benefits should not be required merely because an employee is covered under more than one plan (except as required where the limit of 1.0 is exceeded by a top-heavy plan). For example, if an employee participates in a top-heavy money purchase pension plan that provides an annual nonintegrated contribution rate of 5 percent of compensation and a defined benefit plan that provides an annual benefit of 1 percent of pay, the employer would not be required to provide an additional 1-percent benefit for non-key employees participating in the defined benefit plan.

Of course, contributions to either plan on behalf of the non-key employee may otherwise be required (for example, by reason of the nondiscrimination rules). In any case in which separate plans are required to be considered together for purposes of the coverage or nondiscrimination rules, the required minimum benefit or minimum contribution may of course be taken into account. However, two plans are not necessarily comparable merely because one plan provides the required minimum benefit while the other provides the required minimum contribution. Similarly, the fact that two plans both provide the required minimum benefit, or that two plans both provide the required minimum contribution, does not insure that the two plans, as a whole, are comparable.

Aggregate limit on contributions and benefits for key employees

The agreement includes additional rules with respect to the aggregate limit on benefits and contributions (sec. 415(e)) for a key employee who participates in both a defined benefit plan and a defined contribution plan which are included in a top-heavy group. Unless certain requirements are met, for any year for which the plans are included in the top-heavy group, the aggregate limit for the key employee is the lesser of 1.0 (as applied only to the dollar limits) or 1.4 (as determined under present law). However, the aggregate limit is increased to the lesser of 1.25 (as applied only to the dollar limits) or 1.4 (as under present law) if the plans of the employer in which the key employee participates (1) meet the requirements of the concentration test, and (2) provide either an extra minimum benefit (in the case of the defined benefit plan) or an extra minimum contribution (in the case of the defined contribution plan) for non-key employees participating in the plans. The extra contribution or benefit is in addition to the minimum contribution or benefit required for all top-heavy plans.

The concentration test is generally satisfied with respect to a key employee for a year if, as of the last determination date before the first day of such year, the sum of (1) the present value of the accumulated accrued benefits for key employees under the defined benefit plans of the employer in which the key employee participates, and (2) the sum of the account balances of key employees under the defined contribution plans of the employer in which the key employee participates is not greater than 90 percent of the same amount determined for all participants under the plans. For purposes of this computation, the rules for determining whether two or more plans constitute a top-heavy group apply.

The requirement for an extra minimum benefit for non-key employees is satisfied for a year if, for the plan year ending with or within such year, each non-key employee who is a participant in a defined benefit plan of the employer in which the key employee is a participant accrues an extra benefit which, when expressed as an annual retirement benefit, is not less than the lesser of (1) one percent of the employee's average annual compensation, multiplied by the employee's years of service with the employer, or (2) 10 percent of such average annual compensation. This extra minimum benefit generally is determined in the same manner as the minimum benefit required under the rules for a top-heavy defined benefit plan. However, for purposes of the extra minimum benefit, a year of service is required to be taken into account only if (1) such year of service includes the last day of a plan year for which the plan is a top-heavy plan (or included in a top-heavy group), and (2) such plan year ends with or within a year for which the aggregate limit of the key employee exceeds 1.0 (as applied to the dollar limits).

The requirement for an extra minimum contribution is satisfied with respect to a key employee for a year if, for the plan year ending with or within such year, the employer contributes on behalf of each non-key employee who is a participant in a defined contribution plan in which the key employee is a participant an extra amount not less than the amount equal to one percent of the employee's compensation for the year. Accordingly, the extra minimum contribution generally is determined under the rules for top-heavy defined contribution plans.

In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate

limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

Distributions to key employees

The agreement also provides new rules for distributions from top-heavy plans to key employees. If a distribution is made to a key employee before he attains age 59½, an additional income tax is imposed equal to 10 percent of the amount includible in income, unless the distribution is made on account of death or disability.

In addition, a top-heavy plan must provide that distributions to a key employee will commence no later than the taxable year in which the key employee attains age 70½, whether or not he separates from service in that year. As under present law, the required distributions must be made in such a manner that more than 50 percent of the total benefits for the employee are payable to the employee over the employee's life expectancy (or the joint life expectancy of the employee and the employee's spouse).

Organizations performing management functions

The conference agreement expands the class of employers which, under the present-law rules for affiliated service groups (sec. 414(m)), are to be treated as a single employer for purposes of certain of the tax-law rules for qualified pension, etc., plans (including the rules for top-heavy plans), cafeteria or medical reimbursement plans, or simplified employer pensions (SEPs). Under the provision, if an organization's principal business is performing, on a regular and continuing basis, management functions for another organization, the person performing the functions and the organization for whom the functions are performed are treated as a single employer.

Under the provision, any person related to the organization performing the management functions is also included in the group which is treated as a single employer. An organization related to the organization for whom the functions are performed is included in the group under the management function rules, if the management functions are also performed, on a regular and continuing basis, for such related organization. However, the provision does not change present law under which aggregation of employers is otherwise required.

For purposes of the provision, the term "organization" includes an individual, corporation, partnership, etc. Whether organizations are related is determined under present law (sec. 103(b)(6)(C)).

The conferees intend that the provision is to apply only where the management functions performed by one person for another are functions historically performed by employees, including partners or sole proprietors in the case of an unincorporated trades and businesses. For this purpose, the present-law rules relating to affiliated service organizations and to services historically performed by employees in the case of an affiliated service organization are to apply.

Employee leasing

The conference agreement also provides that, for purposes of certain of the tax-law rules for qualified pension, etc., plans (including the rules for top-heavy plans) and SEPs, an individual (a leased employee) who performs services for another person (the recipient) may be treated as the recipient's employee where the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer. Under the provision, the individual is to be treated as the recipient's employee only if the individual has performed services for the recipient (or for the recipient and persons related to the recipient) on a substantially full-time basis for a period of at least 12 months, and the services are of a type historically performed by employees in the recipient's business field. For this purpose, the present-law rules relating to services historically performed by employees in the case of an affiliated service organization are to apply.

The employee leasing rules do not apply where services in a particular business field historically have been performed by one person for another. For example, some prepaid health care service programs organized on a group practice basis involve two or three components: the health plan, a separate medical group that provides or arranges physicians' services to the health plan members, and often a related hospital. The hospital and the medical group each may employ its own staff (nurses, technicians, etc.), but both sets of employees may be jointly managed. Alternatively, the staff that supports the medical group may be employed by the health plan. These forms of operation are well established in the group practice prepaid health care field. The conferees intend that the "historically performed" exception is to apply in these cases (whether the form of operation is currently in effect or put into effect for existing components of an established group practice prepaid health care service program or for the components of a new program) if the health plan, the hospital, and the medical group provide substantially similar, though not necessarily exactly equivilent retirement benefits through tax qualifed plans to salaried non-union employees and partners.

For purposes of determining whether a pension, etc., plan or a SEP maintained by the recipient satisfies the applicable tax-law requirements, the leased employee is treated as the recipient's employee for periods after the close of the 12-month period described in the preceding paragraph. However, the leased employee's years of service for the recipient are determined by taking into account the entire period for which the leased employee performed services for the recipient (or for a related person).

Under the provision, contributions or benefits for the leased employee which are provided by the leasing organization under a qualified plan or a SEP maintained by the leasing organization are to be treated as if provided by the recipient to the extent such contributions or benefits are attributable to services performed by the leased employee for the recipient.

Under the provision, an individual who otherwise would be treated as a recipient's employee will not be treated as such an employee, if certain requirements are met with respect to contributions and benefits provided for the individual under a qualified money purchase pension plan maintained by the leasing organization. Such a plan qualifies if it provides that (1) an individual is a plan participant on the first day on which the individual becomes an employee of an employer maintaining the plan, (2) each employee's rights to or derived from employer contributions under the plan are nonforfeitable (sec. 411(a)) at the time the contributions are made, and (3) amounts are to be contributed by the employer on behalf of an employee at a rate not less than 7½ percent of the employee's compensation for the year (the 7½ percent contribution is not to be reduced by integration with social security).

For purposes of the provision, the term person includes individuals and organizations (corporations, partnerships, etc.). Whether persons are related persons is determined under present law (sec. 103(b)(6)(C)).

The provision authorizes the Secretary of the Treasury to prescribe regulations under which a leased employee will not be treated as the recipient's employee, notwithstanding that the provision may otherwise apply. Under the conference agreement, the Secretary is to prescribe such regulations where it is determined that to treat a leased employee as the recipient's employee is not appropriate, taking into account the purposes underlying those qualified plan rules with respect to which the provision applies.

Certain corporations performing personal services

Under the conference agreement, if a corporation, the principal activity of which is the performance of personal services substantially all of which are performed by employee-owners for or on behalf of another corporation, partnership, or entity (including related parties), is availed of for the principal purpose of evasion or avoidance of Federal income tax by securing for any employee-owner significant tax benefits which would not otherwise be available, then the Secretary may allocate all income, as well as such deductions, credits, exclusions, etc., as may be allowable, between or among the corporation and employee-owners involved. For this purpose, an employee-owner is defined as any employee who owns (after application of the attribution rules under section 318) more than 10 percent of the outstanding stock of the corporation. The conferees intend that the provisions overturn the results reached in cases like *Keller* v. *Commissioner*, 77 TC 1014 (1981), where the corporation served no meaningful business purpose other than to secure tax benefits which would not otherwise be available.

The provision applies to taxable years beginning after December 31, 1982.

Disincorporation relief

The conferees understand that a number of personal service corporations may wish to liquidate when the parity provisions of the conference agreement take effect. Therefore, a transitional rule is provided under which personal service corporations may, during 1983 or 1984, complete a one-month liquidation under section 333 of the Code without the risk that the corporation would incur tax on its unrealized receivables. Of course, the income represented by unrealized receivables will retain its character as ordinary income and will be fully recognized by the distributee shareholder upon subsequent collection or other disposition.

Group-term life insurance

The conference agreement also provides that the income exclusion for employer-provided group term life insurance (sec. 79) will apply with respect to a key employee only if the life insurance is provided under a program of the employer which does not discriminate in favor of key employees as to (1) eligibility to participate, or (2) the life insurance benefits provided under the plan.

A program of an employer providing group-term life insurance for employees generally will not be considered to discriminate in favor of key employees as to eligibility to participate if (1) the program benefits at least 70 percent of all employees, (2) at least 85 percent of all participating employees are not key employees, or (3) the program benefits employees who qualify under a classification set up by the employer and found by the Secretary of the Treasury not to discriminate in favor or key employees. Alternatively, a program of an employer providing group-term life insurance which is provided under a cafeteria plan (sec. 125) will not be considered to discriminate in favor of key employee as to eligibility to participate if the eligibility rules for cafeteria plans are satisfied. For purposes of the provision's rules relating to eligibility to participate, employees of certain related employers would generally be treated as if employed by a single employer. However, the following employees could be excluded from consideration: (1) those who have not completed 3 years of service with the employer, (2) part-time and seasonal employees, and (3) nonresident aliens who receive no U.S. source income from the employer. For this purpose, part-time employees are those whose customary employment is for not more than 20 hours in any one week, and seasonal employees are those whose customary employment is for not more than 5 months in any calendar year. In addition, employees not covered by the program but covered by a collective bargaining agreement need not be taken into account if group-term life insurance was the subject of good faith bargaining between the employer and employee representatives.

A program of an employer providing group-term life insurance for employees will not be considered to discriminate in favor of key employees as to the benefits provided, if the program does not discriminate in favor of such employees with regard to the type and amount of the benefits. For this purpose, group-term life insurance benefits will not be considered to discriminate merely because the amount of life insurance provided employees bears a uniform relationship to compensation. Of course, the requirement that group-term life insurance benefits be nondiscriminatory can be satisfied where, under the facts and circumstances, no discrimination in favor of key employees occurs. For example, the requirement would be satisfied when the life insurance benefits are a level dollar amount which is the same for all covered employees.

The conferees intend that the Secretary of the Treasury is to revise the tables for computing the amount includible in an employee's gross income on account of employer-provided group-term life insurance. The conferees further intend that the tables be periodically revised to reflect current group-term life insurance costs.

Effective dates

The agreement's provisions relating to parity between corporate and noncorporate employers, top-heavy plans, organizations performing management functions, employee leasing, and group-term life insurance apply to years beginning after December 31, 1983.

The provisions relating to certain corporations performing personal services applies to taxable years beginning after December 31, 1982.

4. Retirement savings for church employees

Present law

Under present law, public schools and certain tax-exempt organizations (including churches) may contribute to a tax-sheltered annuity contract for an employee. Annual contributions excluded from an employee's income are limited to 20 percent of the employee's compensation multiplied by the number of the employee's years of service with the employer, reduced by amounts already contributed by the employer. Employer contributions to a tax-sheltered annuity are also subject to the overall limit on annual additions to tax-favored retirement savings arrangements. Special one-time elections increase the overall limit for a year to allow contributions in that year that are permitted under the exclusion allowance on account of prior years of service. The elections are not available to most church employees.

House bill

No provision.

Senate amendment

The Senate amendment revises the present-law tax-sheltered annuity rules as they apply to church employees by (1) providing a minimum exclusion allowance equal to the lesser of $3,000 or 100 percent of compensation for employees with adjusted gross income of $17,000 or less; (2) providing that all years of service with organizations that are part of a particular church are treated as years with one employer; (3) extending to all church employees the special catchup elections to increase the annual contribution limit; (4) providing an additional election for church employees which increases the contribution limit by up to $10,000 for any year, subject to a $40,000 lifetime cap; (5) permitting churches to maintain segregated defined contribution retirement savings programs pursuant to the tax-sheltered annuity rules; and (6) providing a special retroactive correction period for church plans.

These changes apply to taxable years beginning after December 31, 1981, except that the provision permitting retroactive amendments applies after July 1, 1982.

Conference agreement

The conference agreement follows the Senate amendment with regard to permitted contributions for church employees under the exclusion allowance and annual contribution limit for tax-sheltered annuities.

The conference agreement also follows the Senate amendment by allowing a church which maintains a tax-sheltered annuity, retirement income account, or pension plan, a retroactive amendment period if the annuity, account or plan, is required to be amended by reason of any law, or any regulation, ruling or other action under the tax laws. During the correction period, the annuity, account, or plan would be treated as satisfying the applicable tax-law requirement. To qualify for this treatment, the required amendment or other modification generally must be made not later than at the next earliest church convention. However, the Secretary of the Treasury may prescribe an alternative time period within which the required amendment is to be made. In this regard, the Secretary is to take into account that church governing bodies typically meet at lengthy intervals. Of course, in no event is the permitted correction period for a church to be less than that allowed under present law (sec. 401(b)).

The conference agreement also follows the Senate amendment by providing that the tax rules for tax-sheltered annuities are to apply to church-maintained retirement income accounts that are defined contribution plans (sec. 414(i)). However, the conference agreement further provides that a church-maintained retirement income program in existence on August 13, 1982 will not be considered as failing to satisfy the requirements for a tax-sheltered annuity (sec. 403(b)) merely because the program is a defined benefit plan (sec. 414(j)). For this purpose, a church-maintained retirement income program is considered to be in existence on August 13, 1982, notwithstanding that after that date the program is amended, otherwise modified, or extended to benefit other employees. In addition, if a church-maintained retirement income program which is otherwise a defined benefit plan provides a benefit which is based, in part, on the balance of a separate account of an employee, the conferees intend that the separate account can qualify as a defined contribution plan for purposes of the rules relating to retirement income accounts.

The conferees intend that the assets of a retirement income account for the benefit of an employee or his beneficiaries may be commingled in a common fund made up of such accounts. However, that part of the common fund which equitably belongs to any account must be separately accounted for (i.e., it must be possible at all times to determine the account's interest in the fund), and cannot be used for, or diverted to, any purposes other than the exclusive benefit of such employee and beneficiaries. Provided those requirements are met, the assets of a retirement income account also may be commingled with the assets of a tax-qualified plan without adversely affecting the status of the account or the qualification of the plan.

The conferees also intend that the assets of a church plan (sec. 414(e)) may be commingled in a common fund with other amounts devoted exclusively to church purposes (for example, a fund maintained by a church pension board) if that part of the fund which equitably belongs to the plan is separately accounted for and cannot be used for or diverted to purposes other than for the exclusive benefit of employees and their beneficiaries. Of course, the reasonable costs of administering a retirement income account (including an account which is a part of a common fund) may be charged against the account. Such costs include the reasonable costs of administering a retirement income program of which the account is a part, including costs associated with informing employees and employers of the availability of the program.

5. State judicial retirement plans

Present law

Under present law, State or local government employees may defer compensation under an eligible State deferred compensation plan, subject to prescribed annual limits. If a plan of a State or local government is not an eligible plan, amounts under the plan are includible in an employee's income when there is no substantial risk of forfeiture.

House bill

No provision.

Senate amendment

The Senate amendment provides that participants in a qualified State judicial plan are not required to include benefits in gross

income merely because there is no substantial risk that the benefits will be forfeited. The plan must be a mandatory retirement plan for State judges under which each contributes the same percentage of income and receives a retirement benefit based upon compensation paid to judges holding similar positions. The plan must have been continuously in existence since December 31, 1978, and must meet certain additional requirements. The provision applies to taxable years beginning after December 31, 1978.

Conference agreement

The conference agreement follows the Senate amendment.

6. Contribution for disabled employees

Present law

Under present law, contributions to a tax-qualified profit-sharing or other defined contributions to a tax-qualified profit-sharing or other defined contribution plan generally may not be made for an employee after the employee separates from the service of the employer.

House bill

No provision.

Senate amendment

The Senate amendment permits an employer to continue deductible contributions to a profit-sharing or other defined contribution plan for an employee (other than an officer, owner, or highly compensated individual) who is permanently and totally disabled provided that the contributions are nonforfeitable when made. For this purpose, a disabled employee's compensation is deemed equal to his annualized compensation prior to his becoming disabled. The provision applies to years beginning after December 31, 1981.

Conference agreement

The conference agreement follows the Senate amendment.

7. Participation in group trusts by governmental plans

Present law

Under present law, a group trust is exempt from tax only if each of the participating trusts is a qualified trust forming a part of a qualified pension, etc., plan or an IRA.

House bill

No provision.

Senate amendment

The Senate amendment provides that the tax-exempt status of a group trust will not be adversely affected merely because a participating trust is part of a governmental plan without regard to whether the governmental trust is a qualified trust or the governmental plan is a qualified plan. The provision applies to taxable years beginning after December 31, 1981.

Conference agreement

The conference agreement modifies the Senate amendment generally to permit all governmental retirement plans to participate in a tax-exempt group trust. Under the conference agreement, the tax-exempt status of a group trust will not be adversely affected merely because the trust accepts monies from (a) a retirement plan of a State or local government, whether or not the plan is a qualified plan and whether or not the assets are held in trust, or (b) any State or local governmental monies intended for use in satisfying an obligation of such State or local government to provide a retirement benefit under a governmental plan. Of course, any group trust in which a plan of a private employer participates will remain subject to the present-law rules relating to unrelated business taxable income (sec. 511 et seq.), notwithstanding that the trust includes a governmental plan.

E. Insurance Provisions

1. Reinsurance arrangements

Present law

Under present law, a ceding company and the reinsurer may elect to report a modified coinsurance transaction for tax purposes as if the assets relating to the risks reinsured were transferred to the reinsurer, as if the premium income for the reinsured policies and the investment income on the assets were received directly by the reinsurer, and also as if reserves to reflect liability for future claims were maintained by the reinsurer. However, no transfer of assets actually occurs. Through the use of modified coinsurance agreements and the payment of experience refunds by the reinsurer, some life insurance companies have used modified coinsurance to avoid or substantially reduce income taxes.

Under present law, a reinsurer (under either a modified coinsurance or a conventional coinsurance agreement between life insurance companies) is treated as having paid policyholder dividends to the extent it reimburses the ceding company for payment of such dividends.

House bill

No provision.

Senate amendment

The Senate amendment repeals the special elective provisions for modified coinsurance arrangements. Existing arrangements will be treated as terminated on January 1, 1982, and reinsurers will be permitted to pay any tax attributable to termination treatment in installments over a 3-year period. With respect to the reimbursement of policyholder dividends, the present law rule will continue for conventional coinsurance arrangements. With respect to other reinsurance arrangements, the Senate amendment denies any deduction (in computing taxable investment income) for interest paid on debt obligations issued by a ceding company in connection with such arrangements.[1] Also, the Secretary is granted authority to recharacterize items in connection with a reinsurance arrangement between related taxpayers in order to reflect the proper source and character of taxable income. Finally, pre-1982 modified coinsurance transactions are grandfathered except in the event of fraud.

These provisions are effective as of January 1, 1982, except the special allocation authority for related party reinsurance contracts applies to contracts entered into after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with certain modifications. One change makes it clear that increases in reserves attributable to the restoration of reserves to a ceding company under the modified coinsurance termination accounting rules do not qualify for the special deduction for 10 percent of the increases in reserves for nonparticipating contracts. A special election is provided under which certain ceding companies may revoke a section 820 election for modified coinsurance contracts entered into during 1980 or 1981 with an unrelated reinsurer. Only a company that had a loss from operations or was a "phase II negative" company for the year of the transaction is eligible to revoke the section 820 election. If revoked, the contract is treated as a modified coinsurance contract to which a section 820 election did not apply with respect to the reinsured company for all taxable years for which the contract is in force. A special transition rule is also provided to except interest paid in connection with a corporate restructuring transaction from the limitation imposed on interest incurred on debt issued for a coinsurance arrangement entered into early in 1982. The exception applies only if substantial cash principal payments were made prior to July 1, 1982, and the note is fully paid in cash before January 1, 1983.

The provisions relating to reimbursements are also revised so that policyholder dividends paid in connection with reinsured policies are treated as paid by the reinsured company rather than the reinsurer.

2. Policyholder dividends

Present law

Under present law, the deduction for policyholder dividends (and certain other special deductions) is limited to $250,000 plus the amount by which gain from operations (computed without regard to these deductions) exceeds taxable investment income.

House bill

No provision.

Senate amendment

The Senate amendment increases the $250,000 limit to $1 million. The limit must be allocated among members of an affiliated group of corporations. The limit is also phased out for larger companies (between $4 million and $8 million in dividends paid). Alternatively, at the annual election of the taxpayer, the amount of special deductions is limited to the sum of 100 percent of the policyholder dividends credited to qualified pension plans, the statutory amount of $1 million (subject to the affiliated group and phaseout rules), and 77½ percent of the policyholder dividends paid by mutual companies on other than pension business or 85 percent of policyholder dividends and the special deduction for nonparticipating contracts for stock companies.

These provisions apply for a 3-year period beginning with 1982 and ending with 1984.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

3. Life insurance reserves and contract liabilities

Present law

Present law permits taxpayers to revalue life insurance reserves computed on a preliminary term basis to a net level premium basis. Under an approximate revaluation method, reserves for other than term insurance are generally increased by $21 per $1,000 insurance in force, less 2.1 percent of reserves under such contracts. Also, in computing reserves for certain contracts, taxpayers may reflect the future liability for interest (which may be guaranteed for more

[1] It is the intention of the conferees that no inference is to be drawn from the inclusion of the limited specific rules (and exceptions) for debt-financed conventional coinsurance arrangements but not for other arrangements. In appropriate circumstances, the Internal Revenue Service may challenge other conventional coinsurance contracts on other grounds, e.g., the lack of economic substance of a transaction, the lack of a bona fide business purpose, or the fact that the principal purpose of the transaction is evasion of Federal income tax.

than one year) in excess of the assumed rate for such contracts.

Under present law, life insurance companies are deemed to allocate investment yield to pension contracts on the basis of the current earnings rate whether or not that rate exceeds the rate guaranteed under the contract. However, if the guaranteed rate of interest exceeds the current earnings rate, a taxpayer can allocate investment yield at the actual rate rather than the current earnings rate by removing life contingencies from the contracts.

For purposes of qualifying as a life insurance company for tax purposes, present law requires that more than 50 percent of a company's total reserves must consist of life insurance reserves. The Internal Revenue Service has several pending ruling requests concerning the reserve treatment of funds held under certain pension contracts that do not involve life contingencies (i.e., that do not contain permanent annuity purchase rate guarantees).

House bill

No provision.

Senate amendment

The Senate amendment revises the approximate revaluation formula for preliminary term reserves by reducing the revaluation from $21 to $19 per $1,000 of other than term insurance in force, for business written after March 31, 1982. In addition, no reserve deductions will be allowed for excess interest guaranteed beyond the close of a taxable year.

The Senate amendment provides that, beginning July 1, 1983, the policy or contract liability for group pension contracts, for purposes of determining the excludable policyholder share of investment yield, is limited to the amount of interest actually credited to the contracts. The intention is to eliminate the so-called "double-dip" available under present law with respect to these contracts.

Finally, the Senate amendment provides that, for any taxable year ending before January 1, 1985, life insurance company status for a company will not be changed by treating reserves for group pension contracts without permanent annuity purchase rate guarantees as not being insurance reserves.

The reduction for revaluing preliminary term reserves is effective for taxable years beginning after 1981 and before January 1, 1985, but only for business written after March 31, 1982. The limitation on computing reserves for guaranteed interest is effective for guarantees made after July 1, 1982, and before January 1, 1985. The limitation on interest credited to group pension contracts applies to periods beginning after July 1, 1983 and before January 1, 1985. The provision dealing with the status of a company as a life insurance company applies to taxable years ending before January 1, 1985.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the reduction in the approximate revaluation formula for preliminary term reserves is made permanent rather than applying only for the 2-year period.

A transitional rule is provided for the rules disallowing excess interest guaranteed beyond the close of a taxable year for certain situations when the establishment of such reserves for taxable years beginning before January 1, 1982, did not result in any Federal income tax benefits. In these cases, the amount of such reserves may be recomputed by a taxpayer as of the beginning of the first taxable year beginning after December 31, 1981, to reflect the amount that would have been determined as of the close of the previous taxable year if the new limitation had been in effect. This recomputation would be taken into account for purposes of determining any increase or decrease in reserves for taxable years beginning after December 31, 1981. However, taxpayers taking advantage of this transition rule must compute such reserves in accordance with the new rule notwithstanding the fact that the interest rate guarantees were made prior to July 1, 1982.

Except for the permanent change relating to the revaluation of preliminary term reserves, the other provisions relating to life insurance reserves and contract liabilities will apply only during a period (1982-1983) rather than a 3-year period. The provisions relating to the allocation of investment yield to group pension contracts will apply as of January 1, 1983 (rather than July 1, 1983) during the 2-year period.

4. Menge formula

Present law

Under present law, a formula, commonly called the "Menge" formula, is used to compute the amount of adjusted life insurance reserves. Simply stated, the formula is a mechanical arithmetic adjustment used to compute adjusted life insurance reserves. The amount computed is then used in determining the policyholders' share of investment yield and accordingly affects the computation of a life insurance company's taxable investment income.

House bill

No provision.

Senate amendment

The Senate amendment provides a "geometric" Menge formula to compute adjusted life insurance reserves for purposes of allocating investment yield to policyholders. The provision applies to taxable years beginning after December 31, 1981, and before January 1, 1985.

Conference agreement

The conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

5. Consolidated returns

Present law

Under present law, two or more affiliated domestic life insurance companies may elect to file a consolidated return. For reporting purposes, some taxpayers have taken the position that taxable income first is determined for each component member of the affiliated group and then consolidated by adding those separate company taxable incomes. This approach is sometimes referred to as the "bottom-line" method of consolidation. The ruling position of the Internal Revenue Service is that the taxable investment bases and the gain from operations bases first must be aggregated to arrive at consolidated group amounts and then these aggregate tax bases apply for the consolidated group. This approach is sometimes referred to as a "phase-by-phase" method of consolidation.

House bill

No provision.

Senate amendment

The Senate amendment provides that a "bottom-line" method of consolidation is allowed for determining consolidated life insurance company taxable income. Further, the Internal Revenue Service cannot disturb a bottom-line reporting position taken in a consolidated return filed for taxable years ending before 1982.

The provision applies to taxable years beginning after December 31, 1981, and before January 1, 1985. The grandfather protection applies to taxable years beginning before 1981 for returns (including amended returns) filed before July 1, 1982, and to taxable years beginning in 1981 for returns filed before September 16, 1982.

Conference agreement

Generally, the conference agreement follows the Senate amendment. However, the provisions apply for a 2-year period (1982-1983) rather than a 3-year period.

6. Allowance of deduction for excess interest

Present law

The Internal Revenue Service has ruled that excess interest credited by an insurance company with respect to certain deferred annuity contracts is a policyholder dividend subject to the statutory deduction limitation. Taxpayers have taken the position that excess interest is fully deductible as an increase in reserves for guaranteed contractual benefits.

House bill

No provision.

Senate amendment

The Senate amendment allows a deduction for 100 percent of the interest credited to qualified annuities if it is guaranteed in advance, at a fixed rate or in accordance with a formula, for a period of not less than 12 months. For purposes of this deduction an annuity contract is "qualified" if it is not a pension plan contract, involves life contingencies, is nonparticipating under State law, and provides for the payment of excess interest. A participating contract, meeting all other requirements, may also be treated as a qualified contract at the election of the taxpayer, but the interest deduction is limited to 92½ percent of total interest credited (i.e., assumed interest plus excess interest).

These provisions apply to taxable years beginning after December 31, 1981. Contracts with interest guarantees for less than 12 months and issued before January 1, 1983, are grandfathered if they are in compliance with the new provisions on January 1, 1983.

Conference agreement

The conference agreement generally follows the Senate amendment with certain technical and clarifying amendments. First, the interest guaranteed from a contract's original date of issue until the end of the taxable year qualifies for the 100 percent deduction even though it is guaranteed for less than 12 months. Second, with respect to participating contracts, 100 percent deduction is allowed for the permanently guaranteed rate of interest and 92½ percent for any interest credited in excess of the guaranteed rate. Third, contracts with interest guarantees for less than 12 months will be grandfathered with respect to moneys held on August 13, 1982, and any interest earned thereafter; contracts issued after August 13, 1982, and before January 1, 1983, must conform to the new provisions by the first contract anniversary date after January 1, 1983.

7. Amounts received under annuity contracts

Present law

Under present law, taxation of interest or other current earnings on a policyholder's

investment in an annuity contract generally is deferred until annuity payments are received or amounts characterized as income are withdrawn. Amounts paid out before the annuity starting date are first a return of capital and are taxable (as ordinary income) only after investment in the contract is recovered. There is no tax penalty for withdrawals or surrenders before the annuity starting date or before a certain age.

House bill

No provision.

Senate amendment

The Senate amendment provides that amounts received before the annuity starting date will be treated first as withdrawals of income earned on investments to the extent of such income, the remainder being treated as a return of capital. Likewise, loans under the contract, or amounts received upon assignment or pledging of the contract, will be treated as amounts received under the contract. These provisions apply as of July 1, 1982, but do not apply to income amounts allocable to investments made before July 2, 1982, to endowment or life insurance contracts (except to the extent prescribed in regulations), or to contracts purchased under qualified pension plans.

In addition, the Senate amendment imposes a penalty on certain distributions from an annuity contract. The penalty will be equal to 10 percent of the amount includible in income, to the extent the amount is allocable to an investment made within 10 years of the receipt. However, the penalty will not apply to a distribution that is (1) made on or after the policyholder reaches age 59½; (2) made to a beneficiary on or after death of the policyholder; (3) attributable to the policyholder becoming disabled; (4) a payment under an annuity for life or at least 5 years; (5) from a qualified pension plan; or (6) allocable to an investment before July 2, 1982.

The penalty only applies to distributions made after December 31, 1982.

Conference agreement

The conference agreement generally follows the Senate amendment, but reduces the amount of the penalty to 5 percent and changes the effective date for the provisions to August 13, 1982 (except that the penalty still applies to distributions made after December 31, 1982).

Also, under the conference agreement, a replacement contract obtained in a tax-free exchange of contracts succeeds to the status of the surrendered contract for purposes of the new provisions. Such exchanges are subject to the new provisions in this Act for information reporting on pension plans and commercial annuity contracts.

8. Flexible premium contracts

Present law

Under present law, gross income does not include proceeds of a life insurance contract paid by reason of the death of the insured. In a private letter ruling, the Internal Revenue Service concluded that the entire amount paid upon death under a universal life insurance contract is excluded from gross income even though the death benefit may reflect a large cash fund and a relatively small amount of pure insurance protection. However, the Service is reconsidering this position.

House bill

No provision.

Senate amendment

The Senate amendment provides mandatory guidelines for determining whether a death benefit paid under a life insurance contract that provides for payment of one or more premiums not fixed by the insurer as to both timing and amount (a flexible premium life insurance contract) should be excluded from gross income. In addition to providing a life insurance benefit, such contracts can also provide benefits for guaranteed insurability, accidental death, family term coverage, or waiver of premium; they cannot provide any annuity benefits other than as settlement options.

The guidelines contain two tests which the contract must meet at all times in order to be considered life insurance thereunder. First, under a premium test, the sum of the premiums paid cannot exceed the single premium at issue (or sum of the level premiums) necessary to fund the death benefit of the contract and the charges for any qualified additional benefits. Second, under a death benefit test, the death benefit (without regard to any additional benefits) must never be less than specified percentages of the cash value of the contract. The amendment gives the Secretary discretion to allow corrections of excessive premium payments. It also allows 30 days after the close of the contract year to return excessive premium payments with interest to the policyholder and allows otherwise disqualifying premium payments if necessary to prevent terminations of the contract.

The amendment provisions apply to contracts issued before January 1, 1985. However, any contract issued before October 1, 1982, that complies with the new guidelines within one year after enactment shall be treated as being in compliance for all prior periods.

Conference agreement

The conference agreement generally follows the Senate amendment, but adds an alternative cash value test for purposes of meeting the flexible premium life insurance guidelines. Under this test, a flexible premium contract will provide life insurance for purposes of Code section 101 if, by the terms of the contract, the cash value will not at any time exceed the net single premium for the death benefit (without regard to any additional benefits) at such time. For purposes of this alternative test, the net single premium must be computed using the most recent mortality table, an assumed interest rate that is the greater of 4 percent or the minimum rate or rates guaranteed in the contract, and a maturity date of not earlier than age 95.

Because of difficulties in conforming certain existing contracts to the guidelines, the conference agreement modifies the transition rules concerning the assumed interest rates used in the guideline premium computations. In computing the net single premium for the alternative cash value test, the required assumed interest rate will be the greater of 3 percent or the minimum rate or rates guaranteed in the contract for contracts issued before July 1, 1983; a similar transition rule is adopted for purposes of the premium test and computing the guideline level premium, for contracts issued before January 1, 1983. Also, the conference agreement modifies the general transition rule to the Senate amendment and allows compliance within one year after enactment for any flexible premium contracts issued before January 1, 1983 (rather than October 1, 1982).

Also, the conference agreement clarifies that any flexible premium contract that is treated under State law as a single integrated life insurance contract and that satisfies these guidelines will be treated for Federal tax purposes as a single contract of life insurance and not as a contract that provides separable life insurance and annuity benefits.

Finally, the conferees agree to allow 60 days (rather than 30 days) to return excessive premium payments.

9. Indeterminate premium policies

Present law

In a private letter ruling, issued in June, 1982, the Internal Revenue Service held, among other things, that the excess of the maximum premium chargeable over the premium actually collected should be treated as a distribution of policyholder dividends which is paid back as a premium to the company.

House bill

No provision.

Senate amendment

The Senate amendment provides that, for taxable years beginning before 1982, amounts that could have been charged as a premium or mortality charge, but were not, will not be included in premium income.

Conference agreement

The conference agreement follows the Senate amendment.

10. Underpayments of 1982 estimated taxes

Present law

Under present law, a nondeductible penalty is imposed on underpayments of estimated taxes.

House bill

No provision.

Senate amendment

The Senate amendment provides that the underpayment penalty will not apply to underpayment periods ending before December 15, 1982, to the extent an underpayment is created or increased by the provisons of the bill affecting life insurance companies.

Conference agreement

The conference agreement follows the Senate amendment.

F. Employment Tax Provisions

1. Independent Cotractors

a. Alternative standards for determining classification of workers for employment tax purposes and extension of certain interim provisions

Present law

In general

Common law (i.e., nonstatutory) rules generally apply in determining whether particular workers are treated as employees or as independent contractors (self-employed persons) for Federal employment tax purposes. However, certain individuals are classified by the tax statute as employees for FICA (social security) tax purposes. These statutory FICA employees are certain agent-drivers or commission-drivers, full-time life insurance sales persons, home workers performing services on goods or materials, and full-time traveling or city sales persons.

Interim provisions relating to classification controversies

Section 530 of the Revenue Act of 1978 provided that taxpayers who had a reasonable basis for not treating workers as employ-

ees in the past could continue such treatment without incurring employment tax liabilities. This relief was available only if the taxpayer filed all Federal tax returns (including information returns) that are required to be filed with respect to workers whose status is at issue on a basis consistent with the taxpayer's treatment of the workers as independent contractors. Also, the 1978 Act prohibited the Treasury Department from issuing any regulation or revenue ruling that classifies individuals for purposes of employment taxes under interpretations of the common law.

The interim provisions of Section 530 of the Revenue Act of 1978 were extended, by subsequent legislation, through June 30, 1982.

Senate amendment

In general

The satisfaction of a safe-harbor test results in classification of a worker as an independent contractor for Federal employment tax purposes other than under the Railroad Retirement Tax Act. (A statutory FICA tax employee could be classified under the safe-harbor for income tax purposes.) The safe-harbor requirements, generally applicable to post-1982 services, relate to (1) control of hours worked, (2) place of business, (3) investment or income fluctuation, (4) written contract and notice of tax responsibilities, and (5) the filing of required returns. A special rule applies with respect to certain home-health care workers.

Interim provisions relating to classification controversies

The interim provisions (Section 530 of the Revenue Act of 1978) are extended through December 31, 1982.

Conference agreement

Statutory nonemployees.—The conference agreement does not include any safe-harbor test (or any special rule with respect to home-health care workers). The conference agreement establishes two categories of statutory nonemployees. Under this provision, sales persons who are licensed real estate agents, and individuals who are direct sellers, are treated for Federal income and employment tax purposes as self-employed persons where substantially all the remuneration paid for their services as real estate agents or direct sellers is directly related to sales or other output and where such services are performed pursuant to a written contract providing that they will not be treated as employees for Federal tax purposes. In defining direct sellers, the bill's reference to individuals engaged in the trade or business of selling or soliciting the sale of consumer products includes the activities of individuals who attempt to increase direct sales activities of their direct sellers and who realize remuneration dependent on the productivity of those direct sellers. These activities include providing motivation or encouragement, imparting skills, knowledge, or experience, or recruiting activities. Also, in defining qualified real estate agents, the bill's reference to sales persons who are licensed real estate agents includes the appraisal activities of licensed real estate agents in connection with real estate sales activities if such individuals realize remuneration dependent on sales or other output. This provision applies to services performed after 1982.

Interim provisions.—The conference agreement indefinitely extends the interim provisions (section 530 of the Revenue Act of 1978) from July 1, 1982, until such time as the Congress enacts legislation as to the classification of workers as independent contractors or employees. This provision does not prohibit implementation (e.g., through issuance of regulations or rulings) of the provision in the conference agreement relating to statutory nonemployees.

b. Reduction of certain employment tax liabilities where workers are reclassified as employees

Present law

If a worker reclassification occurs, the employer generally is responsible for all employment tax liabilities (income tax withholding, both the employer's and the employee's share of FICA taxes, and FUTA taxes) with respect to the reclassified workers. Federal income tax withholding assessments may be adjusted if the reclassified worker pays (or has paid) the proper amount of income tax. A FICA-SECA offset is authorized only if the reclassified worker is prevented from filing for a refund of the SECA tax paid in error.

House bill

No provision.

Senate amendment

The Senate amendment provides for reduced employment tax liability in certain reclassification cases.

Generally, an employer will be liable for 1.5 percent of wages (3.0 percent if no information returns were filed) if the employer erroneously treated the worker as a nonemployee for income tax purposes. If the employer erroneously treated the worker as a nonemployee for social security tax purposes, the employer will be liable for 20 percent of the worker's share of FICA tax that should have been withheld (40 percent if no information returns were filed). These reduced liabilities do not apply if the employer treats a worker as a nonemployee with intentional disregard of the law.

The Senate amendment is effective on enactment, but does not apply to assessments made before January 1, 1983.

Conference agreement

The conference agreement follows the Senate amendment.

c. Tax Court jurisdiction over certain employment tax issues

Present law

The U.S. Tax Court does not have jurisdiction over disputes involving Federal employment taxes.

House bill

No provision.

Senate amendment

The jurisdiction of the U.S. Tax Court is extended to include employment tax reclassification liabilities arising out of services performed after 1982.

Conference agreement

The conference agreement does not include the Senate amendment. The conferees understand that a taxpayer generally may challenge an employment tax assessment merely by paying the tax for one worker for one quarter, and then suing for a refund of that tax. Furthermore, the conferees understand that the Internal Revenue Service generally will forbear from active collection efforts while refund litigation is pending, if the government's interests are not jeopardized thereby.

2. Federal Unemployment Tax (FUTA) Provisions

a. FUTA tax rate

Present law

The Federal-State unemployment compensation system is financed by separate Federal and State payroll taxes on employers. Administrative funds are derived from the Federal payroll tax and benefits are paid mainly from State payroll taxes.

Under the Federal Unemployment Tax Act (FUTA), a payroll tax of 3.4 percent on the first $6,000 of wages is levied on employers who, in the current or last year, employed at least one person for 20 different weeks or had a quarterly payroll of at least $1,500. If a State's unemployment compensation program meets the requirements of Federal law, employers in the State receive a 2.7 percent credit against the 3.4 percent Federal tax. Thus, under current law, the standard net Federal tax rate in all States is 0.7 percent. (The tax rate is higher in certain States that have outstanding Federal unemployment loans.)

States also levy unemployment taxes on all covered employers in the State. These taxes finance regular State benefits and one-half the costs of extended benefits. The method and level of taxation varies considerably among the States. All States (except Puerto Rico) provide a system of experience rating under which State tax rates vary among employers according to the total amount of unemployment benefits that have recently been paid to former employees of each employer. In 1981, the estimated average State tax rate was 2.4 percent of taxable wages, ranging from 0.5 percent in Texas to 4.0 percent in Michigan. All States have a wage base of at least $6,000. Twenty-five States have a higher wage base, ranging from $6,600 to $14,000. In Puerto Rico, taxes are paid on total wages.

Sixty-five percent of the revenue raised by the Federal unemployment tax is allocated to the Employment Security Administration Account (ESAA) and 35 percent is allocated to the Extended Benefits Account (EUCA). Upon repayment of the Federal general revenue advances to EUCA, the 0.2 percent temporary tax will be eliminated and the allocation to EUCA will be reduced to 10 percent of the revenue raised by the Federal unemployment tax.

A State that has depleted its own unemployment funds may receive Federal loans as necessary to pay regular State benefits. States that borrow funds have 2 to 3 years to repay the loan, depending on the month the loan is received. If a State does not fully repay all loans within the 2 to 3 year period, employers in the State become subject to an annual reduction in the offset credit against the gross Federal unemployment tax rate of at least 0.3 percent. This means the net Federal tax rate, currently 0.7 percent, becomes subject to annual increases of at least 0.3 percent, up to a maximum of 3.4 percent, until sufficient revenue has been raised through such increases to repay the State's entire outstanding loan balance.

There are two potential credit reductions that are in addition to the annual 0.3 percent reduction. In the fourth year, in addition to another 0.3 percent reduction, employers in the State face a reduction equal to the amount that 2.7 percent exceeds the State's average tax rate on taxable wages in the calendar year to which the reduction applies. In the fifth year and thereafter, employers face a reduction, in addition to another 0.3 percent, equal to the higher of the amount of the additional fourth year reduction or the amount that the State's 5-year benefit cost rate exceeds the State's average tax rate on taxable wages in the calendar year to which the reduction applies. (The benefit-cost rate is benefits divided by taxable wages.)

Effective April 1, 1982, through December 31, 1987, States must pay interest on new Federal unemployment loans that are not repaid by the end of the fiscal year in which they are obtained. The interest rate is the same rate paid by the Federal Government on State reserves in the unemployment trust fund for the quarter ending December 31 of the preceding year, but not higher than 10 percent per annum. Interest payments are credited to the General Fund of the U.S. Treasury.

House bill

No provision.

Senate amendment

Effective January 1, 1983, the Senate amendment would increase the Federal unemployment tax wage base from $6,000 to $7,000. (This will require States, in order for employers to qualify for the 2.7 credit against the gross Federal tax rate, to have a State unemployment tax wage base of at least $7,000.)

The gross Federal unemployment tax rate would be increased from 3.4 to 3.5. Employers in States with approved State programs will continue to receive the 2.7 offset credit, so the standard net Federal tax would be 0.8 percent. This provision also is effective January 1, 1983.

Effective January 1, 1985, the Senate amendment would increase the gross Federal tax rate to 6.2 percent. This includes a permanent tax of 6.0 percent plus a temporary 0.2 percent that would remain in effect until all outstanding general revenue loans to the Federal Extended Unemployment Compensation Account (EUCA) have been repaid. The offset credit would increase to 5.4, so the net Federal tax rate would remain at 0.8 percent until the EUCA account has paid off all general revenue loans, when it would drop to 0.6 percent. The wage base remains at $7,000.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications. States that, under State law in effect as of August 10, 1982, allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent could provide for such industries to reach gradually the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the rate paid by an employer as of August 10, 1982 and 5.4 percent.

The allocation of Federal unemployment tax revenues among accounts in the Federal trust fund is modified to provide that 60 percent of the revenue raised by the 0.8 tax rate (or 0.48 percentage points) will be allocated to the Employment Security Administration Account (ESAA) and 40 percent (or 0.32 percentage points) to the Extended Benefits Account (EUCA). The Secretary will be required to make repayments to the General Fund of the Treasury from the EUCA account whenever he determines that the amount in the account exceeds the amount required to meet Federal extended benefit costs for the next 3 months. The conference agreement also provides, upon repayment of the Federal general revenue advances to EUCA (and elimination of the 0.2 percent tax), 90 percent of FUTA revenues will be allocated to ESSA and 10 percent of EUCA, as under current law.

The conference agreement allows States to make Federal unemployment loan repayments from State trust fund accounts in lieu of further reductions in the credit against the gross Federal unemployment tax rate, provided several requirements are met. First, the State account must have sufficient funds or sufficient income to enable it to repay an amount equal to at least the sum that the credit reduction would have generated plus any advances made to the State during the year. Second, after making this repayment, the State must retain enough funds in its account to pay all State benefits for the next 3 months (from November 1). Finally, the State must have made a change in its law, after the date of enactment of this bill, and after receiving the first advance, that has resulted in an increase in the solvency of its unemployment compensation system.

The conference agreement drops the additional credit reduction based on the State's previous 5-year benefit cost rate that begins in the fifth year a State is subject to annual reductions in the credit against the gross FUTA because of outstanding Federal unemployment loans. This amendment applies to a debtor State in any tax year, beginning after December 31, 1982, in which the State has taken no action during the 12-month period ending on September 30 which has reduced the solvency of the State unemployment trust fund.

Effective for interest due after December 31, 1982, the conference agreement permits States with high unemployment to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a 4-year period. (Interest would be charged on any deferred amount.) A State would be able to extend payment of interest due in any calendar year in which the State insured unemployment rate equaled or exceeded 7.5 percent during the first 6 months of the preceding calendar year.

b. Exclusion from FUTA of wages paid to certain students

Present law

Under current law, wages paid to a student under age 22 who is enrolled full-time in a work study or internship program are exempted from the Federal unemployment tax (FUTA) if the work performed is an integral part of the student's academic program.

House bill

The House provision exempts from FUTA tax any wages paid to a student enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program, effective for services performed after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision. In addition, for tax year 1983 only, the conferees agreed to exempt from FUTA, wages paid by certain summer camps to employees who are full-time students.

c. Extension of exclusion from FUTA of wages paid to certain alien farmworkers

Present law

Under the Immigration and Nationality Act, residents of foreign countries who do not intend to abandon such residency may be admitted to the United States to work for a temporary period of time during the peak agricultural crop seasons. Prior to 1982, wages paid to such alien farmworkers were excluded from Federal unemployment (FUTA) taxes.

House bill

The House provision extends for 2 years—from January 1, 1982, to January 1, 1984—the provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes. The provision is effective upon date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House provision.

3. Extension of Social Security hospital insurance taxes and Medicare coverage to Federal employees

Present law

Federal employees generally are not subject to social security hospital insurance taxes nor does their employment qualify them for Medicare coverage.

House bill

No provision.

Senate amendment

Federal employment would become subject to the hospital insurance portion of the FICA tax, effective January 1, 1983, and the newly covered Federal employment would be used in determining eligibility for protection under medicare part A (hospital insurance). A transitional provision would provide credit for additional hospital insurance quarters of coverage for certain Federal employees who have attained age 57 by 1983, and who otherwise would not qualify for medicare protection even though they have made hospital insurance tax contributions based on their Federal employment.

Conference agreement

The conference agreement follows the Senate amendment, with several clarifying and other changes, as follows: All Federal employment currently excluded from FICA taxes would be covered, except for certain services performed by penal inmates, medical interns and student nurses, and temporary emergency employment; hospital insurance quarters of coverage would be earned and credited in the same way as for other covered employment (i.e., specified amounts of covered earnings in a year would result in specified numbers of quarters of coverage); and the transitional provision, which would apply to Federal employees who perform service during and before January 1983, would give such employees credit toward medicare eligibility (up to the minimum amount required) for past Federal employment. Employees of States and localities, including the District of Columbia, would continue to be exempt from FICA taxes.

The conference agreement permits individuals who have worked for the Federal Government to obtain medicare benefits if they file and meet the insured status and other disability eligibility requirements of the social security disability cash benefits program, even though no such cash benefits would otherwise be payable. The medicare application would be treated as an application for disability benefits (for purposes of determining eligibility to medicare).

The Secretary of Health and Human Services and the Director of the Office of Personnel Management are required fully to inform Federal employees (particularly those who might be or become eligible for medicare benefits because of a disability) of

the terms and conditions of medicare eligibility.

G. Excise Tax Provisions

1. Airport and airway taxes

Present law

There is a 5-percent tax on domestic air passenger tickets, the revenues from which go into the general fund. In addition, there is a 4-cents-per-gallon tax on gasoline used by noncommercial aviation and there are taxes on aircraft tires and tubes; the revenues from these taxes currently go into the Highway Trust Fund.

House bill

No provision.

However, H.R. 4800 as reported by the Committee on Ways and Means would have provided the following aviation excise tax rates for the period July 1, 1982–December 31, 1983: (1) 5-percent air passenger ticket tax; (2) 5-percent air freight waybill tax; (3) $5 per person international departure tax; (4) 12-cents-per-gallon tax on gasoline and nongasoline fuels used by noncommercial aviation; and (5) extension of the present taxes on aircraft tires and tubes. Revenues from these aviation excise taxes would have been transferred to the Airport and Airway Trust Fund for the period July 1, 1982–December 31, 1983, and the Airport and Airway Trust Fund statute would have been transferred to the Internal Revenue Code, effective July 1, 1982.

H.R. 4800 also would have made three other modifications to the application of the air passenger ticket tax:

(1) Effective July 1, 1982, the 6-hour layover rule would have been increased to 12 hours for purposes of determining whether the flight is treated as uninterrupted international travel subject only to the departure tax (i.e., not subject to the domestic ticket tax).

(2) The Secretary of the Treasury would have been granted the authority to waive the 225-mile zone rule if Canada or Mexico entered into a "qualified agreement" regarding the tax to be applied to persons traveling by air between the United States and that country with the objective of eliminating double taxation of travel between the countries or within the 225-mile zone.

(3) The requirement that the ticket fare and tax be shown by trip segments would have been repealed, effective from the date of enactment of the bill. The requirement for separately showing the total airfare and total ticket tax was retained.

In addition, H.R. 4800 would have repealed the present prohibition against charging aviation users for overtime costs associated with services provided by the U.S. Customs Service personnel during regularly scheduled hours on Sundays and holidays.

Senate amendment

Tax provisions

The Senate amendment makes the following permanent changes in aviation excise taxes: (1) increases the domestic air passenger ticket tax to 8 percent; (2) reimposes the prior 5-percent tax on air freight waybills; (3) reimposes the prior $3 per person international departure tax; (4) increases the tax on noncommercial aviation gasoline to 12 cents per gallon; (5) imposes a 14-cents-per-gallon tax on other noncommercial aviation fuels; (6) continues the tax on aircraft tires and tubes at present rates; and (7) provides an exemption from the fuels and air passenger ticket taxes for helicopters not utilizing Federal-aid airports or Federal airway facilities where used in (a) timber operations or (b) natural resource exploration or development. The tax changes are effective for tickets, waybills, and fuels purchased after August 31, 1982.

Trust fund provisions

Revenues from these aviation excise taxes are appropriated to the Airport and Airway Trust Fund, effective September 1, 1982. The Senate amendment also transfers the Airport and Airway Trust Fund statute to the Internal Revenue Code, effective September 1, 1982, and extends the trust fund expenditure authority on a permanent basis. The trust fund expenditure purposes are updated to include the Airport and Airway System Development Act of 1982 (as added by title IV of the Senate amendment).[1]

Tax termination provision

Title IV (sec. 406(e)) of the Senate amendment contains a provision which would terminate the aviation excise taxes going into the Trust Fund and the authority to make trust fund expenditures for airway improvement program costs (under sec. 407—airway facilities and equipment, research, engineering and development, and operations and maintenance expenses), if amounts obligated in any fiscal year for airport development are less than 85 percent of the amounts authorized. The termination of tax and trust fund spending provisions could be overridden by a joint resolution of the Congress.

Conference agreement

The conference agreement follows the Senate amendment with certain changes. The exemptions for helicopters from the fuels and air passenger ticket taxes are retained but only for those helicopters involved in timber operations and in hard mineral resource exploration and development.

The conference agreement does not include the provision of the Senate amendment for the automatic termination of the excise taxes that go into the trust fund and of the authorizations for the airway improvement program. Instead, the authority to make expenditures from the trust fund will expire after September 30, 1987, and the aviation excise taxes (and the transfer of tax revenues to the Airport and Airway Trust Fund) will terminate after December 31, 1987.

In addition, the conference agreement includes the three modifications from H.R. 4800 relating to the air passenger ticket tax, these modifications also being effective September 1, 1982.

2. Increase in cigarette excise taxes

Present law

A manufacturers excise tax equal to $4 per thousand (8 cents per pack) is imposed on small cigarettes (i.e., cigarettes weighing no more than three pounds per thousand). Generally, a tax equal to $8.40 per thousand is imposed on large cigarettes, except that higher rates apply to large cigarettes that exceed 6.5 inches in length.

House bill

No provision.

Senate amendment

The manufacturers excise taxes on small and large cigarettes are doubled effective for cigarettes removed after December 31, 1982, and before October 1, 1985. A floor stocks tax equal to the excess of the new tax rates over the pre-1983 rates is imposed on cigarettes held for sale on January 1, 1983, by any person other than a retailer. The floor stocks tax must be paid on or before January 18, 1983.

Conference agreement

The conference agreement follows the Senate amendment; however, the conferees desire to clarify their intent regarding the interpretation of two rules of the floor stocks tax applicable to cigarettes removed before January 1, 1983, and held for sale on that date.

The conferees intend that the exemption from the floor stocks tax for cigarettes held for sale by retailers apply only to cigarettes held at the location where they are normally sold to consumers. For example, cigarettes held for sale on the shelves of a retail store will be exempt as held by a retailer, but cigarettes held in warehouses or other similar facilities where retail consumers do not have regular access to them are not to be treated as held by a retailer.

The conferees further understand that financial hardship could result in some circumstances if payment of the entire floor stocks tax were required on or before January 18, 1983. It is the intent of the conferees that the Treasury Department exercise its present authority over establishment of the time and method for paying cigarette excise taxes to permit extensions of time of up to 30 days for payment of the floor stocks tax in circumstances where the taxpayer demonstrates that financial hardship would result from payment of the tax on the date otherwise prescribed.

3. Increase in telephone excise tax

Present law

The excise tax on local and long-distance telephone services and teletypewriter exchange service is 1 percent in calendar years 1982, 1983, and 1984. The tax is scheduled to terminate for bills rendered on or after January 1, 1985.

House bill

No provision.

Senate amendment

Under the Senate amendment, the tax rate is increased to 2 percent in calendar year 1983, 3 percent in 1984 and 1985, and 2 percent in years after 1985.

Conference agreement

The conference agreement increases the telephone excise tax to 3 percent for calendar years 1983–1985, and terminates the tax after 1985.

4. Windfall profit tax provisions

a. Windfall profit tax TAPS adjustment repeal

Present law

The windfall profit tax base price of Sadlerochit oil is adjusted upward by the amount by which the Trans-Alaska Pipeline System (TAPS) tariff falls below $6.26.

House bill

No provision.

Senate amendment

The TAPS adjustment is repealed effective for oil removed after December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

[1] Title IV of the Senate amendment and title V of the conference agreement provides trust fund authorizations for fiscal years 1982–1987.

b. Windfall profit tax on Alaska Native Corporations

Present law

Under present law, certain domestic crude oil the producer of which is a native corporation "organized under" the Alaska Native Claims Settlement Act (as in effect on January 21, 1980) is exempt from the windfall profit tax.

House bill

No provision.

Senate amendment

The Senate amendment clarifies this exemption by providing that certain domestic crude oil, the producer of which is a corporation "organized pursuant to" the Alaska Native Claims Settlement Act (including a wholly owned subsidiary) is exempt Indian oil within the meaning of the windfall profit tax.

Conference agreement

The conference agreement follows the Senate amendment.

5. Expansion of Dingell-Johnson Fund taxes

Present law

A 10-percent manufacturers excise tax is imposed on the sale of fishing rods, creels and reels, and on artificial lures, baits, and flies by a manufacturer, producer, or importer. Revenues from the tax are appropriated for the Dingell-Johnson Fund program for transfer to the States to support fish restoration and management projects.

House bill

No provision.

Senate amendment

The Senate amendment expands the items of fishing equipment subject to the 10-percent tax and imposes a new 3-percent tax on certain recreational boats and boating accessories. Revenues from these taxes are appropriated to the Dingell-Johnson Fund.

The amendment also changes the time for paying the manufacturers excise taxes on fishing equipment and boats and boating equipment from monthly or semi-monthly to quarterly. Further, an amount equal to revenues from the tariffs on fishing equipment and on yachts and pleasure craft is appropriated for the Dingell-Johnson Fund program.

The Senate amendment is generally effective on October 1, 1982.

Conference agreement

The conference agreement does not include the Senate amendment.

H. Other Provisions

1. Exclusion from income of National Research Service Awards

Present law

National Research Service Awards made through 1981 are treated as excludable scholarships or fellowship grants.

House bill

No provision.

Senate amendment

The Senate amendment extends the Federal income tax exclusion for National Research Service Awards for two additional years. Thus, the exclusion applies to awards made in 1982 and in 1983.

Conference agreement

The conference agreement follows the Senate amendment.

2. Annual accrual accounting method for certain joint ventures

Present law

The taxable income from farming of a corporation (or a partnership of which a corporation is a partner) generally must be computed using the accrual method of accounting with the capitalization of preproductive period expenses (sec.447(a)). Preproductive period expenses are expenses (other than interest, taxes, or losses from casualty, drought, or disease) attributable to property having a crop of a yield that are incurred during the preproductive period of such property. The preproductive period for property is generally the period before the disposition of the property or the disposition of the first marketable crop or yield from the property.

This requirement, however, does not apply to subchapter S corporations, certain family corporations, or small corporations that meet a gross receipts test. Such corporations, and partnerships which have no other type of corporation as a partner, may use the cash method of accounting and may deduct preproductive period expenses when they are paid. The requirement to use the accrual method with the capitalization of preproductive period expenses also does not apply to the business of operating a nursery or a sod farm or the business of forestry or the growing of timber.

A special rule provides that certain corporations may use the "annual" accrual method of accounting (sec. 447(g)). Under the annual accrual method of accounting, preproductive period expenses are not capitalized, but are deducted currently. Corporations that qualify for this special rule are corporations that raise crops (such as sugar cane) which are harvested at least 12 months after planting. In addition, the corporation must have used the annual accrual method for the 10-year period ending with its first taxable year beginning after 1975, and must have continued to use such method for each taxable year after its first taxable year begininning after 1975.

In the case of a corporation that acquired substantially all the assets of a farming trade or business from another corporation in a transaction in which neither corporation recognized any gain or loss, the acquiring corporation is treated as having used the annual accural method for the period such method was used by the predecessor corporation to compute the taxable income from the acquired farming business.

House bill

No provision.

Senate amendment

A "qualified partnership" generally is treated the same as a corporation for purposes of the annual accrual accounting rules of secton 447(g). A qualified partnership is a partnership engaged in the trade or business of growing sugarcane, each of the partners of which is a corporation other than a subchapter S corporation or a personal holding company. The Senate amendment applies to taxable years beginning after December 31, 1981.

Conference agreement

The conference agreement generally follows the Senate amendment with certain clarifications. Under the conference agreement, a qualified partnership must be engaged in the trade or business of growing sugarcane and substantially all of the partnership activities must involve the growing of sugarcane. Growing sugarcane, however, does not have to be the principal activity of each of the partners.

3. Extension and revision of targeted jobs credit

Present law

The targeted jobs credit is available, on an elective basis, for hiring individuals from one or more of nine target groups. The credit is equal to 50 percent of the first $6,000 of wages paid for the first year of employment and 25 percent of the first $6,000 of wages paid for the second year of employment to a target group individual.

The credit is available for wages paid to eligible individuals who begin work for the employer before January 1, 1983.

An authorization of $30 million of appropriations is provided for fiscal year 1982 for the expenses of administering the certification system (including the performance of quality control reviews) and of providing publicity to employers.

An individual is a member of a targeted group if the individual is:

(1) an economically disadvantaged youth aged 16 through 19 participating in a cooperative education program,

(2) a recipient of money payments under a State or local general assistance program,

(3) an economically disadvantaged youth aged 18 through 24,

(4) a handicapped individual undergoing vocational rehabilitation,

(5) an economically disadvantaged Vietnam-era vetern,

(6) an SSI recipient,

(7) an economically disadvantaged ex-convict,

(8) an AFDC recipient or work incentive employee; or

(9) an involuntarily terminated CETA employee.

An individual may not be treated as a member of a targeted group unless the employer requests or receives a certification from the designated local agency before the day on which the individual begins work for the employer.

House bill

No provision.

Senate amendment

Extension of credit and authorization.—The credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1985.

The $30 million authorization is extended to each of fiscal years 1983, 1984, and 1985.

Cooperative education students.—The requirement that cooperative education students must be economically disadvantged to be members of a targeted group is eliminated. The credit for cooperative education students is 30 percent of the first $3,000 of wages paid for the first year of employment and 15 percent of the first $3,000 of wages paid for the second year of employment.

General assistance recipients.—Recipents of non-cash, as well as cash, general assistance payments are members of a targeted group.

Summer youth.—A new targeted group is added, consisting of economically disadvantaged youths who are 16 or 17 years of age on the hiring date and who have not worked for the employer before the period for which the employer claims the credit. The credit for this group is 85 percent of up to $3,000 of wages paid for services attributable to any 90-day period between May 1 and September 15, effective for individuals beginning work for the employer after July 1, 1982.

Conference agreement

The conference agreement follows the Senate provision, with several modifications.

First, the credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1984.

Second, the conference agreement does not contain the changes relating to cooperative education students. Under present law, for cooperative education students, the certification that an individual is a member of a targeted group is issued by the participating school. The determination of whether the student is a member of an economically disadvantaged family is made by the State employment security agency (SESA). However, the conferees intend that, whenever feasible, the SESA's exercise the authority they have under present law to contract with the schools to perform the initial eligibility determination as to whether the cooperative education students are economically disadvantaged. (The SESA's would continue to be responsible for the final determination of economically disadvantaged status, however.)

Third, the addition of summer youth group is made effective for individuals who begin work for the employer after April 30, 1983. A technical amendment is added to make clear that if an individual continues to work for an employer after having been a qualified summer youth employee, the certification of the individual as a member of another targeted group is to be determined on the basis of facts on the date on which the individual is certified as a member of the second targeted group rather than on the basis of the facts on the day the individual is hired by the employer.

Fourth, the target group consisting of individuals involuntarily terminated from CETA jobs will be terminated for individuals who begin work for the employer after December 31, 1982.

Fifth, the $30 million ceiling on the authorization of administrative funds will be eliminated, so that appropriations will be authorized for such sums as may be necessary in fiscal years 1983 and 1984. The conferees intend that some of these funds should be used to evaluate the effectiveness of the credit in improving the employment situation of the target groups.

Sixth, the Secretary of Labor will be required to submit annual quality control reports to the Congress reviewing the accuracy of the process by which the eligibility of individuals as members of targeted groups is determined.

Seventh, certifications will be valid if requested or received on or before the day the individual begins work for the employer.

4. Certain payments to foreign government officials or employees

Present law

Taxpayers cannot deduct payments to foreign government officials or employees if those payments would be illegal under U.S. law (if U.S. law applied).

House bill

No provision.

Senate amendment

Payments to foreign government officials or employees which are otherwise deductible would not be disallowed on grounds of illegality under U.S. law except payments made illegal by the Foreign Corrupt Practices Act. The provision would apply to payments made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment but adds a technical amendment.

5. Debt management provisions

Present law

a. Rate of interest on U.S. savings bonds

The Secretary of the Treasury, with the approval of the President, may increase the investment yield on any U.S. savings bond above the current rate in any 6-month period by no more than 1 percentage point (annual rate, compounded semiannually).

b. Long-term U.S. bonds

Bonds are defined as obligations of the United States which have a maturity when issued that is longer than 10 years. The rate of interest that may be paid on a bond may not exceed 4¼ percent, except that up to $70 billion in outstanding bonds with rates of interest above 4¼ percent may be held by the public.

House bill

No provision.

Senate amendment

a. Rate of interest on U.S. savings bonds

The Secretary of the Treasury, with the approval of the President, is allowed to fix the investment yield on any U.S. savings bond. The Secretary also is authorized to provide for increases and decreases in the yield on any outstanding U.S. savings bond. With this authority, however, the Secretary may not decrease the yield on any bond below the minimum yield guaranteed at the time of its issuance for the period the bond is held.

This provision is effective on enactment.

b. Long-term U.S. bonds

The Senate amendment provides an additional $40 billion increase in the exception from the interest rate ceiling. This action raises the exception to $110 billion.

This provision is effective on enactment.

Conference agreement

a. Rate of interest on U.S. savings bonds

The conference agreement follows the Senate amendment.

b. Long-term U.S. bonds

The conference agreement follows the Senate amendment, with a modification requiring that all bonds issued under the additional exception must be issued in registered form.

6. Disclosure of Tax Returns

a. Disclosure of tax return information for nontax criminal investigation purposes

Present law

Overview

Tax returns and taxpayer return information (i.e., return information submitted to the Internal Revenue Service (IRS) by the taxpayer or his representative) may be disclosed for Federal nontax criminal investigation purposes only on the grant of an ex parte order by a Federal district court judge. Return information that is submitted to the IRS by someone other than the taxpayer or his representative may be secured on written request by certain officers and employees of the Federal government. The IRS, in certain circumstances, may disclose return information on its own initiative.

Disclosure pursuant to court order

Returns and taxpayer return information may be disclosed by the IRS to personnel of other Federal agencies for nontax criminal investigation purposes only on the grant of an ex parte order by a Federal district court judge.

Personnel to whom tax information may be disclosed

Tax information may be disclosed only to officers and employees of a Federal agency who are personally and directly engaged in the preparation for any administrative or judicial proceeding (or any investigation that may result in such a proceeding) pertaining to the enforcement of a Federal nontax criminal statute.

Individuals who may authorize an application for court-ordered disclosure

The following individuals may authorize the application for a court order: the head of a Federal agency, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General.

Court order standards

A Federal district court judge may grant an order for disclosure if the judge determines that:

(1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

(2) There is reason to believe that the return or return information is probative evidence of a matter in issue related to the commission of such criminal act; and

(3) The information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

Application for disclosure of return information other than taxpayer return information

The head of any Federal agency, the Attorney General, the Deputy Attorney General, or an Assistant Attorney General may obtain return information (other than taxpayer return information) by written request to the IRS. (This category of information is tax information that the IRS has received from someone other than the taxpayer under investigation or his representative.)

Contents of application

A request for return information (other than taxpayer return information) must set forth, among other information, the specific reason or reasons why the disclosure is or may be material to the proceeding or investigation.

Taxpayer identifying information

The name and address of a taxpayer may be disclosed, pursuant to written request, for use in a nontax criminal investigation.

Disclosure of return information (other than taxpayer return information) to apprise appropriate officials of possible criminal activities

Return information (other than taxpayer return information) that may constitute evidence of a violation of Federal criminal laws may be disclosed by the IRS to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcement of such laws.

Under this provision, the taxpayer's identity may be disclosed if there is return information (other than taxpayer return information) that may constitute evidence of a violation of Federal criminal laws.

Use of tax information in administrative or judicial proceedings

In general, returns or return information disclosed by the IRS to a Federal agency may be entered into evidence in any administrative or judicial proceeding pertaining to enforcement of a nontax Federal criminal statute. A return or return information that was disclosed pursuant to a court order may be entered into evidence only if the court finds that it is probative of a matter in issue relevant in establishing the commission of a crime or the guilt of a party.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) is identical to the Senate amendment.

Senate amendment

Overview

The primary changes made by the Senate amendment include: (1) the modification of the standards for the granting of an ex parte order for the disclosure of tax returns and return information and allowing Federal district court magistrates to issue those orders; (2) an expansion in the number of personnel who would be permitted to request disclosure; (3) new authority allowing court-ordered disclosure of return information for purposes of locating Federal fugitives from justice; and (4) new authority for the IRS to disclose return information, on its own initiative, in emergency circumstances.

The provisions take effect on the day after the date of enactment.

Disclosure pursuant to court order

The Senate amendment allows a Federal district court magistrate, as well as a Federal district court judge, to grant an ex parte order for the disclosure of returns or return information.

Personnel to whom tax information may be disclosed

The Senate amendment expands the category of personnel to whom disclosure can be made to include officers and employees of a Federal agency who are personally and directly engaged in any Federal grand jury proceeding pertaining to enforcement of a Federal nontax criminal statute.

Individuals who may authorize an application for court-ordered disclosure

The Senate amendment eliminates the authority of Federal agency heads (other than the Attorney General) to authorize disclosure applications. However, the number of individuals within the Department of Justice who can authorize applications is expanded to include: the Associate Attorney General, any United States Attorney, any special prosecutor, and any attorney in charge of a criminal division organized crime strike force.

Court order standards

Under the Senate amendment, a Federal district court judge or magistrate may grant an order for disclosure of tax returns or return information if the judge or magistrate determines that:

(1) There is reasonable cause to believe, based upon information believed to be reliable, that a specific criminal act has been committed;

(2) There is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act; and

(3) The return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

With respect to the third standard, it would not be reasonable to obtain tax information from another source if, for example, the information cannot be obtained in an expeditious manner in a case where time is an essential factor, or if an attempt to obtain the information elsewhere would seriously impair a criminal investigation or proceeding.

Disclosure to locate Federal fugitives from justice

Persons who may authorize an application for court-ordered disclosure will be permitted also to authorize an application for the disclosure of returns and return information solely for the purpose of locating fugitives.

A Federal district court judge or magistrate may authorize a disclosure order if the judge or magistrate determines that:

(1) A Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice;

(2) The return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual; and

(3) There is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

It is intended that this provision will be used to locate fugitives who are considered to be violent or dangerous or who pose a substantial threat to society.

Application for disclosure of return information other than taxpayer return information

The Senate amendment expands the number of individuals who can authorize a written request for disclosure to include the Inspector General of any Federal agency, the Associate Attorney General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States Attorney, any special prosecutor, and any attorney in charge of a criminal division organized crime strike force.

Contents of application

A request for return information (other than taxpayer return information) must set forth, among other information, a showing of the specific reason or reasons why the disclosure is or may be relevant to (rather than material to) the proceeding or investigation.

Taxpayer identifying information

A taxpayer's social security number, as well as the taxpayer's name and address, may be disclosed, pursuant to written request, for use in a nontax criminal investigation.

It is intended that taxpayer identity information be treated as taxpayer return information unless return information (other than taxpayer identity information) is requested and disclosed pursuant to such written request.

Disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances

The IRS is provided with additional authority to disclose return information (including taxpayer return information) in certain emergency circumstances.

Specifically, under circumstances involving an imminent danger of death or physical injury to any individual, the IRS is permitted to disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances. Furthermore, under circumstances involving the imminent flight of any individual from Federal prosecution, the IRS may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

Such disclosures will be subject to the safeguard and annual reporting requirements of section 6103(p). Moreover, it is intended the the IRS utilize its disclosure authority in an efficient and effective manner. The provision relating to imminent flight from Federal prosecution is intended to cover individuals who could be prosecuted for flight from prosecution, as a separate Federal offense, and circumstances where an individual has attempted to change identity or intends to flee from the country.

Use of tax information in judicial or administrative proceedings

The use of returns and return information in judicial or administrative proceedings not involving tax administration is expanded.

Specifically, this information may also be disclosed in any judicial or administrative proceeding pertaining to the enforcement of a civil forfeiture that is related to a nontax Federal criminal statute or to the extent required by court order pursuant to 18 U.S.C. sec. 3500 or rule 16 of the Federal Rules of Criminal Procedure.

Conference agreement

The conference agreement follows the Senate amendment. The purpose of these modifications to the disclosure law is to facilitate the disclosure of tax information for legitimate law enforcement needs while, at the same time, preserving the basic principle that a taxpayer's return should generally be treated as confidential and should be disclosed, in only a limited number of circumstances, where those law enforcement needs outweigh the need to preserve taxpayer confidentiality. In agreeing to these provisions, the conferees have fulfilled a commitment made by the conferees on the Economic Recovery Tax Act of 1981 to take appropriate legislative action in this area.

b. Civil damages for unauthorized disclosure of returns and return information

Present law

A person who knowingly or negligently discloses a return or return information with respect to a taxpayer, in violation of the disclosure restrictions, may be sued in a civil action for damages in a district court of the United States.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) contains a provision that is identical to the Senate amendment.

Senate amendment

If a U.S. officer or employee knowingly or negligently discloses return information in violation of the disclosure restrictions, the wronged party will be permitted to bring a civil action for damages against the U.S. (rather than against the officer or employee). Of course, an officer or employee who makes a wrongful disclosure still will be subject to all administrative disciplinary actions as well as potential criminal sanctions.

The provision applies to disclosures made after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

c. Disclosure of returns and return information for use in certain audits by the General Accounting Office

Present law

The General Accounting Office currently has access to tax returns and return information for the purpose of conducting an audit of the Internal Revenue Service or the Bureau of Alcohol, Tobacco, and Firearms, and for the purpose of auditing the safeguards used by other agencies to safeguard returns and return information. However, before the GAO receives tax returns or return information in connection with an audit, it must notify the Joint Committee on Taxation of the audit. The Joint Committee may disapprove an audit by a vote of at least two-thirds of its members within 30 days of receipt of notice of the proposed audit.

In addition, the GAO is permitted access to returns and return information when it is acting as an agent for the Committee on Ways and Means, Committee on Finance, or Joint Committee on Taxation.

House bill

No provision. However, H.R. 6475 (as ordered reported by the Committee on Ways and Means) contains a provision that is identical to the Senate amendment.

Senate amendment

GAO access to tax returns and return information is expanded to include any returns or return information obtained by a Federal agency for use in any agency program or activity. This information will be open (upon written request) to officers and employees of the GAO, and only to the extent necessary in, auditing such program or activity. Furthermore, the GAO is permitted access to returns and return information that have not been obtained by a Federal agency in certain circumstances, provided that the agency is authorized to obtain the information for use in the program or activity that is the subject of the GAO audit. This "second-tier" access is limited to return information that may be disclosed under Code secs. 6103(l) or (m). The Internal Revenue Service may refuse to disclose tax information to the GAO if such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

The pre-audit notification procedures and Joint Committee veto authority of present law are retained. This notification should include (1) a description of the audit to be undertaken, including its scope and purpose; (2) an explanation of the use that will be made of tax information; and (3) assurance that in using tax information, and in formulating its recommendations which will result from the audit of programs that involve the use of tax information, the GAO will consider any potential impact on tax administration and taxpayer confidentiality.

In addition, within 90 days after the completion of any audit with respect to which the GAO had access to tax returns or return information, the GAO is required to notify the Joint Committee on Taxation of the completion. Such written notification will include (1) a description of the use of the returns and return information by the Federal agency involved; (2) such recommendations with respect to the use of returns and return information by the Federal agency as the Comptroller General deems appropriate; and (3) a statement of the impact of any such recommendations on the confidentiality of returns and return information and on tax administration. The GAO also is expected to notify the Joint Committee of any recommendations that will affect tax administration, directly or indirectly.

The present law authority for the GAO to gain access to tax information when it is acting as an agent for the Committee on Ways and Means, the Committee on Finance, or the Joint Committee on Taxation is retained. Moreover, the GAO may continue audit activity, which involves access to tax information, pursuant to any current agency designation, which is in process as of the date of enactment.

The provision takes effect on the day after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees expect that before the GAO requests "second-tier" access (that is, access to return information that may be disclosed under Code secs. 6103 (l) or (m) but which has not been so disclosed), it will take into account the burdens that such access might impose upon the Internal Revenue Service.

7. Veterans organizations

Present law

A domestic post or organization of war veterans (or an auxiliary unit or society of, or a trust or foundation for such post or organization) is tax exempt if at least 75 percent of its members are "war veterans" and substantially all the other members are veterans or cadets, or are spouses, widows, or widowers of such individuals, and if no part of its net earnings inures to the benefit of any private individual.

House bill

No provision.

Senate amendment

The Senate amendment modifies the membership requirement to allow tax exemption for a veterans organization (which satisfies the other requirements of present law), if 75 percent of its members are past or present members of the U.S. Armed Forces (whether or not war veterans) and its remaining membership consists substantially of cadets or spouses, widows, or widowers of past or present members of the U.S. Armed Forces or of cadets.

The provision is effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment, but with an additional amendment which also allows exemption for any veterans association founded before 1880, 75 percent of the members of which are past or present members of the U.S. Armed Forces, and the primary purpose of which is to provide insurance and other benefits to veterans and their dependents.

8. Amateur athletic organizations

Present law

Athletic organizations that teach youth or are affiliated with charitable organizations may qualify for tax exemption and eligibility to receive tax-deductible contributions if they meet the general requirements for charitable or educational organizations. Also, present law expressly provides that certain other athletic organizations may qualify for tax exemption and tax-deductible contributions if organized and operated exclusively to foster national or international amateur sports competition, but only if no part of the organization's activities involve the provision of athletic facilities or equipment and only if no part of the net earnings of the organization inure to the benefit of any private individual.

House bill

No provision.

Senate amendment

The Senate amendment allows tax-exempt status to amateur athletic organizations that conduct national or international competition in Olympic sports, or support and develop amateur athletes for such competition, whether or not the organization provides facilities or equipment to its members. The provision is effective as of October 5, 1976.

Conference agreement

The conference agreement generally follows the Senate amendment, with a modification to delete the restriction of the Senate bill that limits its application to sports listed on the program of the Olympic games or Pan-American games. Also, the conferees are concerned that some taxpayers may claim deductions for transfers to or for the use of amateur athletic organizations in cases where there is a direct benefit from the transfer to the taxpayer or other persons. The conferees intend that this provision does not modify the rules of existing tax law that a deduction is not allowed when there is a substantial, direct, personal benefit to the taxpayer or to any other person other than the amateur athletic organization.

9. Applicability of private foundation rules

Present law

Restrictions on business holdings

The Tax Reform Act of 1969 provided that private foundations generally may not own more than 20 percent of a business. Under transitional rules in the 1969 Act, foundations which, alone or in combination with related persons, owned more than 75 percent or alone owned more than 95 percent of businesses on May 26, 1969 have 15 or 20 years, respectively, to reduce their ownership interests to specified levels.

Charitable trusts

Under provisions enacted in the 1969 Act, trusts with solely charitable interests are generally subject to the private foundation rules, including the business holdings restrictions and the charitable distribution requirements.

House bill

No provision.

Senate amendment

Restrictions on business holdings

The Senate amendment provides that the Otto Bremer Foundation, the El Pamor Foundation, the Houston Endowment, the Public Welfare Foundation, and the Sand Springs Home may indefinitely retain certain business interests held on May 26, 1969, if the foundation meets certain conditions. Also, the Senate amendment provides that the Ahmanson Foundation will have an additional five years to meet the divestiture requirements with respect to certain stock held on May 26, 1969.

Charitable trusts

The Senate amendment provides that the New London Day Trust is not subject to the private foundation rules applicable to charitable trusts, effective for taxable years beginning after November 20, 1978.

Conference agreement

The conference agreement does not include the Senate amendment.

10. Clarification of tax status of certain members of religious orders

Present law

Present law exempts from the term "employment", for FICA tax purposes, service performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of the ministry or by a member of a religious order in the exercise of duties required by such order. Likewise, "wages", for purposes of income tax withholding, does not include remuneration paid for similar services.

The Internal Revenue Service generally takes the position that a member of a religious order who is instructed by the order's superiors to obtain employment with a third party is an employee of the third party, not of the religious order, and must include the remuneration remitted to the order in gross income whether or not the member has taken a vow of poverty. Under this position, the remuneration is subject to FICA and income tax withholding.

House bill

No provision.

Senate amendment

Income derived from services of certain members of religious orders from salaries from the Public Health Service in a leprosarium is income of the religious organization, rather than income of the members. The provision, which benefits the Daughters of Charity, applies to services performed after September 30, 1977.

Conference agreement

The conference agreement does not include the Senate amendment.

11. Study of alternative tax systems

Present law

No specific provision.

House bill

No provision.

Senate amendment

The Secretary of the Treasury is instructed to conduct a study, to be submitted to the tax-writing committees within 6 months after the date of enactment, of the advisability of replacing only the Federal individual income tax, or both the Federal individual income tax and the Federal corporate income tax, with an alternative tax system, such as a simplified tax based on gross income, a consumption tax, and the current income tax system with a broadened base and lower rates.

Conference agreement

The conference agreement does not include the Senate amendment.

12. Study of monetary policy

Present law

No specific provision.

House bill

No provision.

Senate amendment

The Secretary of the Treasury is instructed to submit to the tax-writing committees, no later than 6 months after the date of enactment, a study of the effects on capital markets of using the growth of debt as the long-term target of monetary policy, and using total liquid assets as the interim target of monetary policy.

Conference agreement

The conference agreement does not include the Senate amendment.

13. New Jersey general revenue sharing allocation

Present law

Only taxes assessed and collected by a qualifying unit of government are counted toward the jurisdiction's tax effort under the general revenue sharing allocation.

House bill

No provision.

Senate amendment

The New Jersey Franchise and Gross Receipts Taxes shall be deemed an adjusted tax of units of local government for the purpose of allocating revenue sharing funds for the quarterly period beginning on October 1, 1982. This change will remain in effect for future quarterly payment periods only if New Jersey amends its Franchise and Gross Receipts Taxes statute to provide for local retention and collection.

This provision is effective for revenue sharing payments made with respect to the quarterly payment period in the quarter beginning October 1, 1982, and ending December 31, 1982.

Conference agreement

The conference agreement follows the Senate amendment.

14. Relief for the Jefferson County Mental Health Center, Lakewood, Colorado

Present law

Employees of a nonprofit organization are excluded from social security coverage unless the organization files with the Internal Revenue Service a certificate waiving its exemption from taxation.

House bill

No provision. However, H.R. 1635, as reported by the House Committee on the Judiciary on September 22, 1981, and passed by the House on October 6, 1981, is identical to the Senate amendment.

Senate amendment

The Senate amendment authorizes the payment of $50,000 to the Jefferson County Mental Health Center, Lakewood, Colorado, in full settlement of its claims against the United States for repayment of the $74,128 the Center refunded to its employees for individual social security contributions after the Internal Revenue Service erroneously advised the Center that the contributions had been incorrectly withheld. The provision is effective on enactment.

Conference agreement

The conference agreement follows the Senate amendment.

15. Award of reasonable litigation costs where taxpayer prevails and government position was unreasonable

Present law

a. Attorneys fees

A taxpayer who prevails in civil tax litigation in the Federal courts (other than the U.S. Tax Court) may be awarded reasonable attorneys fees and other litigation costs, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

b. Damages for delay in Tax Court

If a Tax Court proceeding has been instituted by the taxpayer merely for delay, the Court may award damages to the United States in an amount not to exceed $500.

House bill

a. Attorneys fees

General rule.—A taxpayer who prevails in civil tax litigation in the Federal courts, including the U.S Tax Court, may be awarded reasonable attorney fees and other litigation costs. The taxpayer may recover litigation costs only if the position of the United States in the case was unreasonable.

Dollar limitation on awards.—The maximum award is $50,000.

Third-party costs.—In litigation where the deductibility of contributions by a taxpayer to a charitable organization is the most significant issue, the organization (as well as the taxpayer) may recover costs incurred by it in the litigation if the taxpayer prevails, even though the charity is not a party to the action.

Effective date.—The attorneys fees provision applies to U.S. Tax Court cases begun after 1982, and to other Federal tax cases pending on, or begun after, October 1, 1981. The provision does not apply to cases begun after September 30, 1984.

b. Damages for delay in Tax Court

If U.S. Tax Court proceedings have been brought by a taxpayer primarily for delay, or if the taxpayer's position in a case is frivolous or groundless, the Court may award damages to the United States of up to $5,000, effective for Tax Court cases begun after 1981.

Senate amendment

No provision. However, a similar provision is included in H.R. 4717 as passed by the Senate.

a. Attorneys fees

General rule.—Generally the same as the House bill, except that the Senate provision provides explicitly that the taxpayer has the burden of establishing that the government's position was unreasonable.

Dollar limitation on awards.—The maximum award is $25,000. There is a special rule generally requiring the joinder or consolidation of multiple actions or actions involving the same taxpayer for the purpose of awarding attorney fees.

Third-party costs.—A taxpayer may recover costs for a third party incurred by that party on behalf of the taxpayer.

Effective date.—The attorneys fees provision applies to civil tax litigation, including U.S. Tax Court cases, begun after May 31, 1982. The provision does not apply to cases begun after May 31, 1987.

b. Damages for delay in Tax Court

Similar to the House bill, except that the maximum damages that may be awarded to the United States are $2,500 and the provision is effective for Tax Court cases begun after May 31, 1982.

Conference agreement

a. Attorneys fees

The conference agreement follows the Senate provision, except for effective dates. The provision applies to civil tax litigation, including U.S. Tax Court cases, begun on or after March 1, 1983. The provision does not apply to cases begun after December 31, 1985.

b. Damages for delay in Tax Court

The conference agreement follows the House bill (maximum $5,000 award), except for the effective date. The provision applies to Tax Court cases begun on or after January 1, 1983.

16. Personal holding companies

Present law

A corporation actively engaged in a lending or finance business is excluded from the personal holding company tax provisions if the corporation has qualifying business expenses equal to at least 15 percent of the first $500,000 of ordinary gross income from its lending or finance business, plus 5 percent of such ordinary gross income from $500,000 to $1 million.

The term "lending or finance business" is defined to include the business of making loans with maturities of not more than 60 months.

House bill

Effective for taxable years beginning after December 31, 1981, the House bill modifies the business expense test to require a lending or finance company to have qualifying business expenses equal to at least 15 percent of the first $500,000 of ordinary income from the lending or finance business, plus 5 percent of such ordinary gross income in excess of $500,000. Thus, 5 percent of ordinary gross income in excess of $1 million will be added to the qualifying business expense test of present law.

In addition, effective for taxable years beginning after December 31, 1980, the House bill increases the 60-month loan maturity limitation to 144 months, and the definition of a lending or finance business is amended to include the business of making loans in indefinite maturity credit transactions.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

17. Additional refunds relating to repeal of the excise tax on buses

Present law

The Energy Tax Act of 1978 repealed the prior law 10-percent manufacturers excise tax on buses effective after November 9, 1978. The Act also contained provisions effectively repealing the tax for buses sold after April 19, 1977 and before November 10, 1978, if a claim for refund was filed with the IRS and if the tax collected from ultimate purchasers was reimbursed before September 5, 1979.

House bill

The House bill extends the last date for reimbursing ultimate purchasers of buses to December 31, 1982, and permits the reimbursement to occur at the same time a refund from IRS is received. The provision applies only to taxpayers that filed a claim for refund before September 5, 1979.

Senate amendment

No provision. However, an identical provision is included in H.R. 4717 as passed by the Senate.

Conference agreement

The conference agreement follows the House bill.

18. Modification of rules as to acceleration of accrual of taxes

Present law

Under the accrual method of accounting, an expense generally is deductible for the taxable year in which all the events which determine the fact of the liability have occurred and the amount of the deduction can be determined with reasonable accuracy.

However, present law also provides that, if a taxing jurisdiction changes the date for imposing a deductible tax so that the tax would be deductible for an earlier period under the general rule, an accrual-basis taxpayer may not deduct the tax in the earlier period. Instead, the taxpayer may deduct the tax for the period that the tax otherwise would have been deductible as if the taxing jurisdiction had not accelerated the date for imposing the tax.

House bill

Under the House bill, an accrual-basis taxpayer may accrue a deduction for taxes on the liability date of the tax, even if that date has been accelerated by the taxing jurisdiction. However, the taxpayer is not allowed to take two deductions for taxes for a taxable year, and must account for the disallowed deduction by establishing a suspense account (which preserves the deduction until the level of tax is reduced or the taxpayer terminates its existence).

The provision applies to changes in tax liability dates that occur after the date of enactment. However, in the case of a State franchise tax based on income the assessment date of which has been changed, a taxpayer which first accrued such tax after the date of the change and which has consistently accrued the deduction for the tax on the new liability date could continue to accrue the deduction on the date used, without complying with the suspense account requirements under the provision.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

19. Reassigning VHF television licenses

Present law

Present law does not contain any provisions on reassigning VHF licenses.

House bill

No provision.

Senate amendment

The Senate amendment adds a new section 331 to Title III of the Communications Act of 1934. New Jersey and Delaware are the only two States that do not have a commercial VHF television station. The amendment affirms the congressional intent that it is in the public interest for every State to have at least one VHF television station. In order to implement that intent, the amendment provides that, upon notice by any licensee in another State that it agrees to the reallocation of its channel to a community in a State in which there is no such channel, the Federal Communications Commission shall order the reallocation and issue a license to the licensee for such purpose.

This provision will remove impediments which currently discourage a licensee in a State which has more than one VHF television station from voluntarily moving to a State which has none. It is the intention of Congress that any current licensee which exercises the option of seeking the transfer of its license to an unserved State under the terms of this section will move its studio and offices, to and operate for the public benefit of the unserved State.

Conference agreement

The conference agreement follows the Senate amendment.

REVENUE EFFECTS OF TAX PROVISIONS OF H.R. 4961 AS AGREED TO BY THE CONFERENCE COMMITTEE

Table 1.—Summary of Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Individual income tax provisons	272	3,113	3,106	3,336	3,556
Business tax provisions	5,422	13,292	16,497	28,042	40,116
Compliance provisions	3,365	8,869	8,660	10,174	11,217
Pension provisions	194	780	870	970	1,058
Life insurance and annuities	1,942	2,155	2,920	3,138	3,370
Employment tax provisions	1,904	3,083	3,577	2,853	2,572
Excise tax provisions	2,798	4,009	4,702	2,054	1,472
Miscellaneous provisons	−38	−37	−34	−32	−30
Total, tax provisions	15,859	35,264	40,298	50,535	63,331
Revenue gain resulting from additional IRS enforcement personnel	2,100	2,400	2,400	1,300	600
Grand total, all provisions	17,959	37,664	42,698	51,835	63,931

Table 2.—Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Individual Income Tax provisions:					
Alternative minimum tax	(1)	659	701	741	729
Medical deduction	272	1,788	1,671	1,795	1,947
Ten percent casualty deduction floor		666	734	800	880
Total, individual tax provisions	272	3,113	3,106	3,336	3,556

Table 2.—Estimated Revenue Effects of Tax Provisions of H.R. 4961 as Agreed to by the Conference Committee, Fiscal Years 1983–1987—Continued

[In millions of dollars]

Provision	1983	1984	1985	1986	1987
Business Tax Provisions:					
Reduction in corporate preference items	515	936	948	918	995
Investment tax credit basis adjustment	362	1,374	2,658	4,109	5,579
Limit ITC to 85 percent of tax liability	152	259	213	178	164
1985–1986 ACRS changes			1,541	9,907	18,442
Construction period interest and taxes	555	1,179	1,206	1,084	819
Modifications to pre-ERTA and safe harbor leasing rules	1,036	2,649	4,252	5,496	7,000
Changes in taxation of foreign oil extraction income	200	438	508	569	621
Limit on possessions credit	201	428	473	516	559
Private purpose tax-exempt bonds	63	261	539	748	1,076
Mergers and acquisitions	427	749	959	1,014	1,064
Accounting for completed contracts	882	2,235	2,535	2,390	2,559
Original issue discount and coupon stripping provisions	163	310	465	629	808
Targeted jobs credit	−182	−551	−591	−271	−54
Accelerate corporate tax payments	1,048	3,025	791	755	484
Total, business tax provisions	5,422	13,292	16,497	28,042	40,116
Compliance Provisions:					
Withholding on interest and dividends	1,344	5,246	3,975	4,605	5,181
Other compliance provisions, including partnership audits and taxpayer safeguards[3]	2,021	3,623	4,685	5,569	6,036
Total, compliance provisions	3,365	8,869	8,660	10,174	11,217
Pension Provisions	194	780	870	970	1,058
Life Insurance and Annuities	1,942	2,155	2,920	3,138	3,370
Employment Tax Provisions:					
Independent contractors	−117	−107	−79	−85	−92
FUTA tax	1,404	2,353	2,729	1,872	1,501
Federal employees medicare tax	617	837	927	1,066	1,163
Total, employment tax provisions	1,904	3,083	3,577	2,853	2,572
Excise Tax Provisions:					
Airport and airway taxes[4]	817	962	1,089	1,216	1,357
Telephone tax[5]	616	1,073	1,600	730	
Cigarette tax[6]	1,275	1,829	1,859	−34	−13
Repeal of Trans Alaska Pipeline System adjustment[7]	90	145	154	142	128
Alaska Native Claims Settlement Corp					
Total, excise tax provisions	2,798	4,009	4,702	2,054	1,472
Miscellaneous Provisions:					
National Research Service Awards	−8	−7	−4	−2	(1)
Annual accounting for certain joint ventures					
Foreign Corrupt Practices Act provisions	−30	−30	−30	−30	−30
Disclosure of tax returns					
Veterans organizations	(2)	(2)	(2)	(2)	(2)
Amateur athletic organizations	(2)	(2)	(2)	(2)	(2)
Relief for the Jefferson County Mental Health Center	(8)				
Award of certain litigation costs	(9)	(9)	(9)	(9)	(9)
Treatment of certain lending or finance businesses for purposes of the tax on personal holding companies	(2)	(2)	(2)	(2)	(2)
Additional refunds relating to repeal of the excise tax on buses	(1)	(1)	(1)	(1)	(1)
Total, miscellaneous provisions	−38	−37	−34	−32	−30
Total, tax provisions	15,859	35,264	40,298	50,535	63,331
Revenue gain resulting from additional IRS enforcement personnel	2,100	2,400	2,400	1,300	600
Grand total, all tax provisions	17,959	37,664	42,698	51,835	63,931

[1] Negligible.
[2] Loss of less than $5 million.
[3] Additional gains in budget receipts are expected from the Administration's proposal to increase IRS personnel in taxpayer compliance enforcement activities: $2.1 billion in fiscal year 1983, $2.4 billion in 1984, $2.4 billion in 1985, $1.3 billion in 1986, and $0.6 billion in 1987.
[4] The figures represent net increases, after accounting for lower income tax receipts. Additional revenues from aviation excise taxes, resulting from this bill before taking account of the income tax offset are estimated at $1,089 million in 1983, $1,283 million in 1984, $1,452 million in 1985, $1,621 million in 1986, and $1,809 million in 1987.
[5] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $821 million in fiscal year 1983, $1,431 million in 1984, $2,133 million in 1985, and $973 million in 1986.
[6] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $1,700 million in fiscal year 1983, $2,439 million in 1984, $2,479 million in 1985.
[7] The figures represent net increases, after accounting for lower income tax receipts. Increases in general fund receipts from this tax before taking account of the income tax offset are estimated at $139 million in fiscal year 1983, $260 million in 1984, $285 million in 1985, $267 million in 1986, and $241 million in 1987.
[8] Increases outlays by $50,000.

AIRPORT AND AIRWAY IMPROVEMENT

Title IV of the Senate amendment to H.R. 4961 consisted of the Airport and Airway System Development Act of 1982. The House bill contained no comparable provisions. The joint explanatory statement that follows contains a description of the Senate provisions and the conference substitute for each provision.

1. SHORT TITLE

Senate amendment:

Provides that the act may be cited as the "Airport and Airway System Development Act of 1982".

Conference substitute:

Provides that the Act may be cited as the "Airport and Airway Improvement Act of 1982".

2. DECLARATION OF POLICY

Senate amendment:

Sets forth as policies and findings: that the safe operation of the airport and airway system will continue to be the highest aviation priority; that the continuation of airport and airway improvement programs, including both development and planning activities, and more effective management and utilization of the Nation's airport and airway system are required to meet current and projected growth in aviation; that this Act should be administered so as to provide adequate navigation aids and airport facilities, including special emphasis on the development of reliever airports, for points where scheduled commercial air service is provided; that aviation facilities should be built and operated with due regard to providing substantial relief from current and projected noise impacts on nearby communities; that airports which have the ability to finance their capital and operating needs without Federal assistance should be encouraged to voluntarily withdraw from eligibility for such assistance; and that the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of single project

applications to cover all airport improvement projects.

Conference substitute:

Same as the Senate except for deletion of the provision encouraging airports to finance their needs without Federal assistance and the addition of the following: a statement regarding the providing of reliever heliports; a qualification of the goal of installing precision approach systems by reference to available funds and other safety needs; and a statement that it is in the national interest to develop in metropolitan areas an integrated system of airports. In addition, the conference substitute includes a more detailed statement to encourage and promote multimodal transportation planning.

3. DEFINITIONS

Senate amendment:

The Senate amendment contains many of the definitions contained in the Airport and Airway Development Act of 1970 with some technical changes to conform to the present bill. The following are new or modified definitions:

(1) "airport development": in addition to items covered in the existing law, this definition would make the preparation of plans and specifications, including field investigations incidental thereto, eligible; broaden the definition of airport development for environmental, safety or security reasons; make newly eligible the acquisition or installation of safety or security equipment which the Secretary approves for use, even if the use of such equipment is not required by the Secretary; make the acquisition or installation of aviation-related weather reporting equipment eligible; and set forth items eligible as airport development which are related to improving noise compatibility at public-use airports (these items are eligible under the present act; however, this provision would newly provide that the elements of airport noise compatibility programs approved by the Secretary are eligible as airport development).

(2) "airport noise compatibility planning" and "airport noise compatibility program": these terms are taken from the Aviation Safety and Noise Abatement Act of 1979 and are defined here for inclusion in the definition of a)pport development in this bill.

(3) "airport planning" would be defined as such planning as the Secretary may prescribe by regulation, and specifically includes airport system planning and airport noise compatibility planning.

(4) "airport system planning" in the present Act would be modified to make explicit several concepts inherent in the present definition. The words "initial as well as continuing" have been inserted to clarify that airport system planning is a continuous process. The definition would also make eligible for funding as airport system planning a State's development of certain airport construction and development standards.

(5) "block grant", "block grant supplement", "applicant State", "participating State", and "State development report" are defined for purposes of the block grant program in the Senate amendment.

(6) "commercial service airport": any airport which the Secretary determines to either: (A) enplane 2,500 or more passengers annually and receive scheduled passenger service of aircraft; or (B) enplane 10,000 or more passengers annually, is a commercial service airport.

(7) "eligible airport" is defined with reference to the provision of the Senate amendment relating to voluntary withdrawal from the program.

(8) "passengers enplaned" means revenue passengers enplaned in the United States who are flying between domestic, territorial, or international points via aircraft, whether scheduled or nonscheduled.

(9) "primary airport" is a new term meaning any "commercial service airport" determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually, both scheduled and nonscheduled, at all commercial service airports.

(10) "project" means a project or separate projects submitted together for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(11) "public-use" airport is a new term meaning any public airport or any reliever airport whether publicly or privately owned, which is or is to be available for use by the public. This bill would provide that airport development and planning funds may be distributed for use at public-use airports.

(12) "reliever airport" is defined as an airport designated by the Secretary as having the function of relieving congestion at a "primary airport".

(13) "sponsor" is any public agency which individually or jointly with other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance for a public airport. A "sponsor" can also be any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for a public-use reliever airport. A sponsor can also be a participating State.

(14) "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Conference substitute

Same as the Senate amendments, except as follows:

(1) Airport Development: The conference substitute includes within this definition the acquisition of equipment to measure runway surface friction.

(2) Definitions and references relating to noise abatement are deleted, as the noise compatibility programs are to be eligible for fiscal year 1983 and thereafter only under the Aviation Safety and Noise Abatement Act of 1979 (although the funding will continue to be provided under the airport improvement program in this bill). For fiscal year 1982, a special provision is added to include the noise related programs from the Senate amendment within the definitions of airport development, so that applicants can apply for noise projects under this bill as well as under ASNA for fiscal year 1982.

(3) The definitions relating to block grants and eligible airports are deleted because of the deletion of the substantive provisions to which these terms refer.

(4) "commercial service airport" is modified to delete the alternative test of 10,000 enplanements.

(5) "public-use airport" is modified to add privately-owned airports whih annually enplane 2,500 passengers and receive scheduled service.

(6) "reliever airport" is modified to add the condition that to be a reliever an airport must provide more general aviation access.

(7) "State" is modified to include all the insular areas.

4. NATIONAL PLAN OF INTEGRATED AIRPORT SYSTEMS

Senate amendment:

Provides that the Secretary shall review and revise as necessary the existing national airport system plan.

Provides that in revising the National Airport System Plan, the Secretary shall consult to the extent feasible with other Federal and public agencies and with the aviation community.

Provides that the Department of Defense shall make domestic military airports available for civil use to the maximum extent feasible. The Comptroller General is to report to Congress within 180 days on the feasibility of joint civil and military use of military airports, including cost estimates. Within one year the Secretaries of Defense and Transportation are to submit a plan for joint civil and military use.

Conference substitute:

Same as the Senate amendment with respect to the issue of joint use of military airports.

The Conference substitute continues the requirement of a system plan for the national air transportation system. The plan shall include the type and estimated cost of eligible airport development necessary to provide a safe, efficient and integrated system of public use airports to meet the needs of civil aeronautics, the national defense, and the postal service. Airport development identified by the plan shall not be limited to the requirements of any classes or categories of public use airports and in reviewing and revising the plan the Secretary shall consider the needs of and consult with all segments of civil aviation.

The Conference substitute also clarifies that the plan should provide for the development of an integrated system of public use airports. To emphasize the importance of this concept, the plan is designated as the National Plan of Integrated Airport Systems.

The concept of Integrated Airport Systems has special application to the metropolitan areas of the country. The basic objective of the Integrated Airport System is to develop a master plan for airport site selection based on the airspace capacity of a given area.

The cornerstone of the Integrated Airport System concept is its emphasis on the development and improvement of reliever airports. These airports not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide badly needed access to these areas for general aviation. Implementation of a viable reliever system is therefore critically needed to increase the safety and capacity of our national airport system while giving full recognition to the importance of general aviation for the economic development of these areas.

Because the conferees recognize the importance of improving our reliever system without further delay, the Conference Report sets aside a substantial portion of ADAP funds to accomplish these objectives. Accordingly, the Conference Report would fund reliever airports at a minimum of 10 percent of the total funds made available under the ADAP program—an amount which could result in reliever funding at an average of approximately $80 million per year over the 6-year period covered by the legislation.

It is critical that we implement the Integrated Airport System in metropolitan areas at the earliest possible date. The same concepts can be applied to rural areas throughout the U.S. where a number of communities in need of air transportation and airport services could establish an airport authority or by joint powers agreement adopt and implement the integrated airports concept.

The Conference Report includes a number of provisions to ensure that high priority is given to the integrated airport concept. As has been discussed, the National Airport System Plan will now focus on the integrated airport concept, and there will be guaranteed minimum funding for integrated airport system planning. In addition, the policy statements of the Act have been amended to emphasize the importance of this concept and to provide that in establishing priorities for the distribution of funds, the Secretary may give priority to projects that are consistent with integrated airport system plans.[1]

5. NAVIGATION AIDS

Senate amendment:

Under the bill, the Secretary may require a sponsor, as a condition to receiving the grant, to perform certain site preparation work associated with the acquisition, establishment, or improvement of air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)). This section clarifies that the cost of any such work is to be paid for from appropriated funds made available to the Secretary for airway facilities and equipment.

Conference substitute:

Same as Senate amendment.

6. AIRPORT IMPROVEMENT PROGRAM

Senate amendment:

Authorizes the Secretary to make grants for airport development and planning in aggregate amounts of $450 million for fiscal year 1982; $1,050 million for fiscal years prior to October 1, 1983; $1,843.5 million for the fiscal years prior to October 1, 1984; $2,755.5 million for the fiscal years prior to October 1, 1985; $3,772.5 million for the fiscal years prior to October 1, 1986; and $4,789.7 million for the fiscal years prior to October 1, 1987. This insures that authorizations which are not appropriated from the Trust Fund in any given fiscal year are carried forward.

The Secretary is precluded from incurring obligations for airport development after September 30, 1987, except for apportioned funds which remain available after such date.

The amendment precludes obligation for airport development at any airport that has elected not to receive such Federal assistance under the bill. It also spells out the guidelines for obligations incurred by the Secretary for airport development at privately owned reliever airports.

Finally, the Senate amendment provides for a termination of aviation taxes and the authority of the Secretary to carry out certain programs if the amount made available for airport development grants is less than 85 percent of authorized levels.

Conference substitute:

Same as the Senate except that there is no provision for airports electing not to receive Federal assistance. Also the provision that the Secretary receive assurances that a privately owned reliever or commercial service airport receiving funds continue to function as a public-use airport during the economic life of the project is modified to require a minimum of ten years for that assurance. The provision relating to termination of taxes was referred to the conferees on the tax portion of the bill.

7. AIRWAY IMPROVEMENT PROGRAM

Senate amendment:

Authorizes appropriations from the Trust Fund for the procurement of air navigational facilities; research, engineering and development activities; payment of a portion of the operation and maintenance costs of the national airspace system; and other activities related to airway improvement.

The authorization for each fiscal year for the acquisition, establishment, and improvement of air navigation facilities remain available in future fiscal years to the extent that appropriations for that fiscal year are less than the authorization. The amounts authorized are $261,000,000 for fiscal year 1982; $725,000,000 for fiscal year 1983 (an aggregate amount of $986,000,000 for fiscal years 1982 and 1983); $1,393,000,000 for fiscal year 1984 (an aggregate amount of $2,379,000,000 for fiscal years 1982 through 1984); $1,407,000,000 for fiscal year 1985 (an aggregate amount of $3,786,000,000 for fiscal years 1982 through 1985); $1,377,000,000 for fiscal year 1986 (an aggregate amount of $5,163,000,000 for fiscal years 1982 through 1986); and $1,164,000,000 for fiscal year 1987 (an aggregate amount of $6,327,000,000 for fiscal years 1982 through 1987).

For research, engineering and development, and demonstration projects the authorizations are $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983; $286,000,000 for fiscal year 1984; $269,000,000 for fiscal year 1985; $215,000,000 for fiscal year 1986; and $193,000,000 for fiscal year 1987. The amounts appropriated are to remain available until expended.

The Senate amendment provides that all FAA operating expenses may be funded from the Trust Fund, and the authorizations from the Trust Fund for operations and maintenance are as follows: $800,000,000 for fiscal year 1982; $1,559,000,000 for fiscal year 1983; $1,355,000,000 for fiscal year 1984; $1,363,000,000 for fiscal year 1985; $1,388,000,000 for fiscal year 1986; and $1,444,000,000 for fiscal year 1987. These funds are mandatorily reduced by a like amount in the succeeding fiscal year to any reductions made in the minimum authorized levels for ADAP or F&E in any fiscal year covered by the bill. From these funds, the Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration for the cost of providing the FAA with weather reporting services. These amounts are limited to the following: $26,700,000 for fiscal year 1983, $28,569,000 for fiscal year 1984, $30,569,000 for fiscal year 1985, $32,709,000 for fiscal year 1986, and $34,998,000 for fiscal year 1987.

In addition the Senate amendment contains provisions similar to those in existing law establishing the priority of the Trust Fund for airport and airway programs, preserving sufficient amounts in the Trust Fund for such programs, and prohibiting the use of the Trust Fund for administrative expenses, except as otherwise provided in the bill.

Finally the Senate amendment places a cap on the total amount of Trust Fund moneys which may be expended in a fiscal year of 75 percent of the FAA's total expenditures for that year.

Conference substitute:

Same as Senate, with the following exceptions:

Of the amounts authorized for research, engineering and development, and demonstration projects, a specified maximum amount is authorized for facilities, engineering and development.

Only direct costs to flight check, operate, and maintain air navigation facilities are included as eligible operating expenses. The amount authorized from the Trust Fund for operations and maintenance is $800,000,000 for fiscal year 1982 and for later years is a multiple of the amount actually made available for airport development, airport planning, and noise abatement. The multiple is 2.44 for fiscal year 1983, 1.57 for fiscal year 1984, 1.39 for fiscal year 1985, 1.28 for fiscal year 1986, and 1.34 for fiscal year 1987.

The amount authorized from the Trust Fund for operations and maintenance for any fiscal year is reduced by twice the amount that authorizations exceed the appropriations for facilities and equipment for that fiscal year.

The 75 percent overall cap in the Senate amendment is not included in the bill.

The Conference Substitute's authorization levels for Facilities and Equipment reflect the funding levels requested by the Administration for funding the first five years of the National Airspace System Plan for modernization of the airways system. Committees in both the House and the Senate have held extensive hearings on the National Airspace System Plan, and the conferees are generally supportive of the Plan. However, many aspects of the Plan cannot be developed or analyzed in detail until implementation begins, and in view of the magnitude and complexity of the Plan it is likely that there will have to be adjustments as the Plan is carried out. Clearly, there will be a need for vigorous oversight and monitoring during the implementation of the Plan.

The conferees believe that the requirements imposed by section 504(b) of the Conference Substitute for the formulation and an annual updating of a National Airways System Plan will be especially useful in facilitating Congressional oversight. Section 504(b) requires an annual review, revision, and republication of the Plan at the beginning of each fiscal year. Each Plan must set forth, for a 10-year period, the research, engineering, and development and the facilities and equipment necessary for an airspace system that provides the highest degree of safety in air commerce.

In implementing the National Airspace System Plan, the Conferees expect that the Secretary will ensure that the rules and regulations issued pursuant to Public Law 89-306 (Brooks Act) are strictly adhered to. This Act is founded upon two basic objectives: (1) ADP resources should be procured as economically and efficiently as possible, using full and open competition; and (2) only those resources should be procured which are needed and which can improve the operation of government programs and activities. The Conferees believe these principles to be sound and if followed will greatly increase the likelihood of success of the plan.

The first two years of each Plan will contain detailed annual estimates of the

[1] For a further discussion of these important concepts, see the remarks of Cong. Don Clausen as printed in the August 9, 1967 Congressional Record, beginning on p. 10234.

number, type, location, and costs of required facilities and services, costs of R.E.&D. and manpower levels required. The third, fourth, and fifth years of each Plan will contain the estimates of the total cost of each major program for the three-year period and any additional major research program, acquisitions, and manpower changes required to meet the long-range objectives. Finally, each Plan will contain 10-year investment Plan which addressed the long-range objectives for the airway system.

Beyond this comprehensive annual Plan, the Secretary is required to provide the Congress a detailed annual report on the operation of the national airway system during the previous fiscal year and a review of the year's programs intended to improve safety and efficiency of the system. The annual report must include discussions of any significant problems encountered in the program, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs. The conferees expect these annual reports to address the problems raised by the General Accounting Office in its report, AFMD-82-66, "Examination of the Federal Aviation Administration's Plan for the National Airspace System."

With active and continued oversight by the House and Senate Committees with jurisdiction in this area, supported by the requirements imposed by section 504(b) modernization of the airway system can proceed with a full understanding and justification of the choices and decisions made.

Funds authorized for research, engineering, and development shall be distributed in accordance with:

FAA—5-YEAR FUNDING PROFILE

[In millions of dollars]

	Fiscal year—				
	1983	1984	1985	1986	1987
RE&D/FE&D	133.5	286.0	269.0	215.0	193.0
RE&D	116.7	261.3	245.9	192.3	171.0
ATC	55.1	77.5	79.3	72.5	94.0
Adv Computer	47.0	156.6	134.5	86.0	46.2
Navigation	5.3	10.5	11.3	10.8	6.4
Weather	8.1	15.4	19.9	22.2	23.6
Medicine	1.2	1.3	.9	.8	.8
FE&D	16.8	24.7	23.1	22.7	22.0
Aircraft safety	13.0	18.4	17.2	17.4	16.5
Medicine	1.8	3.9	3.3	2.7	2.8
Environment	2.0	2.4	2.6	2.6	2.7

Those line items under Facilities Engineering and Development (FE&D) were previously funded from general revenues and are to remain separately identified from Research Engineering and Development (RE&D) which is primarily aimed at accomplishing the National Airspace System (NAS) Plan to modernize the ATC System.

Notwithstanding the purposes for which funds are authorized in the above table, these funds may be used for any other research, development, and demonstration program or project including related or supporting facilities and equipment under section 312(c) of the Federal Aviation Act of 1958 if notice of such program or project has been given to the Speaker of the U.S. House of Representatives; the Committees on Science and Technology, and Appropriations of the U.S. House of Representatives; the President of the Senate; and the Committees on Commerce, Science and Transportation, and Appropriations of the Senate, in a manner containing a full and complete statement of the proposed program or project and the facts and circumstances relied on in support of such program or project, and (1) a period of thirty days has passed after the date such notice was received, or (2) each such Committee has transmitted to the Secretary of Transportation before the expiration of such period written notice that such Committee has no objection to the proposed action.

The Conferees support the intent of the FAA to modernize the Air Traffic Control System through the implementation of the National Airspace System Plan which was produced as directed by the Committee on Science and Technology in H. Res. 202 approved by the House October 19, 1981. Because of the significant technological complexities and costs involved, the Conferees believe it is extremely important that continued oversight be sustained.

In this regard, the Administrator of the Federal Aviation Administration is requested to submit to the House Committee on Science and Technology and the Senate Committee on Commerce, Science and Transportation, not later than April 1, 1983, and annually thereafter, a report that summarizes activities under the NAS program. This should include, but not be limited to, historical data that compares achievements versus plans in terms of productivity, safety, costs, schedules, and milestones. Modifications of the Plan for subsequent year should also be identified.

8. APPORTIONMENT OF FUNDS

Senate amendment:

Provides an apportionment to primary airports based on an enplanement formula that is the same as in existing law. The amount of ADAP funds made available to primary airports is 55 percent in fiscal year 1982 and 50 percent thereafter. The amount apportioned to each primary airport will be increased by 10 percent in fiscal 1984, 20 percent in fiscal 1985, 25 percent in fiscal 1986, and 30 percent in fiscal 1987. The maximum apportionment to a primary airport is $12,500,000. Passenger enplanements are determined for the preceding calendar year.

The second apportionment is to States for airports other than reliever airports, primary airports, and airports that withdraw from the program. Ten percent of ADAP funds are apportioned to States, with one-half of one percent going to insular areas and the remaining 99.5 percent going to the States (including Puerto Rico) according to a population and area formula. Each State is apportioned an additional amount for each of fiscal years 1984 through 1987, increasing from $150,000 to $240,000 per fiscal year.

Amounts remaining in the Trust Fund shall constitute a discretionary fund.

In addition, the Secretary may apportion amounts to airports in the State of Alaska in the same manner as amounts were apportioned for fiscal year 1980.

Conference substitute:

Same as the Senate, except:

(1) There is a cap on apportionments to primary airports of 50 percent.

(2) In addition to the maximum apportionment to a primary airport, there is a minimum apportionment of $200,000 per fiscal year.

(3) The apportionment to States is 12 percent of ADAP funds and is for general aviation and reliever airports. One percent is set aside for insular areas, which may also use the money for nonprimary commercial service airports, and 99 percent for States (including Puerto Rico). The additional apportionment to States under the Senate amendment is not included in the conference substitute.

(4) The provision allowing apportionments to airports in Alaska under the 1970 Act is qualified so that not more than 110 percent of the amount so apportioned to a commercial service airport in Alaska is obligated at that airport during the fiscal year from these apportioned funds. In no event shall any primary airport be apportioned less under this paragraph than it would be apportioned under the section governing primary airport apportionments.

The Conferees are concerned about the effect on the discretionary fund of the naming of specific ADAP or Facilities and Equipment projects in legislation or report language. The ADAP program contemplates that a large proportion of funding be available on a discretionary basis. This is the only way that we will be able to build and implement an integrated system of public use airports while addressing project needs which are too large to fit annual enplanement funds or which are urgently needed for safety. It is also the only way that new airports can normally be funded. Similarly, the F&E program must be administered so that funds will go where the safety needs are greatest.

In recent years, the tendency to name specific projects in committee reports has grown more widespread. These named projects threaten to use up discretionary funds so that there will be no real discretion left. For example, in fiscal year 1981, a total of 38 specific ADAP projects were named in DOT Appropriations legislation. Grants to these airports totaled $43.5 million in fiscal year 1981. This practice has the potential of using up a significant portion of the discretionary fund.

The problem becomes particularly acute with the limited availability of funds for the ADAP and F&E programs. It will not be possible to fund all projects seeking ADAP and F&E grants and it will be necessary for the Secretary to establish priorities to determine which projects should be funded. The Conferees expect the Secretary to establish these priorities solely on the basis of the criteria set forth in the authorizing legislation. Projects which qualify for funding and have a high priority under the statutory criteria should not be denied funding in favor of projects which have a lower priority under the statutory criteria but are mentioned in legislative history. The criteria established by the authorizing legislation should not be construed as being overruled or amended during the life of that authorization by other subsequently enacted legislation or legislative history, unless such legislation specifically and expressly amends the authorizing law to establish new criteria or priorities.

9. MINIMUM FUNDING

Senate amendment:

Establishes minimum levels of funding for the following categories of airports:

(1) reliever airports: 10 percent of ADAP funds during the 6-year period of the bill;

(2) each nonprimary commercial service airport that received Federal assistance for fiscal year 1980, for high priority projects: the amount the airport would have been apportioned under the primary apportionment formula for fiscal years 1983-1987, or five

times the airport's 1980 apportionment, whichever is greater; and

(3) airports other than relievers or commercial service airports: $300,000,000 for the 6-year period of the bill.

Conference substitute:

Provides the following minimum levels of funding for each fiscal year of the bill:

(1) reliever airports: 10 percent of ADAP funds made available for obligation;

(2) for noise compatibility planning and carrying out noise compatibility programs: 8 percent of ADAP funds made available for obligation;

(3) nonprimary commercial service airports and certain noncommercial service airports that received Federal assistance during fiscal year 1981: 5.5 percent of ADAP funds made available for obligation, an amount which does not include apportionments to airports in Alaska; and

(4) for integrated airport system planning: one percent of ADAP funds made available for obligation.

The Secretary is not required to meet these requirements if there are not enough applications to enable the Secretary to obligate the minimum amount required.

With regard to noise compatibility grants, the Conferees recognize the value of public building soundproofing especially where this type of grant aids in the efficiency of certain essential functions such as education.

Of major concern to the conferees is the financial threat to privately-owned relievers in major metropolitan areas. Large hub areas in particular need such aviation facilities to separate commercial and general aviation traffic, but the land is often more valuable if converted to other commercial uses. In such instances it is important that the Federal Government assist local governments in preserving these essential reliever airports. As a result, for the first time, this bill proposes to fund projects at privately-owned public use airports, which may prove sufficient in some instances. In other instances, these reliever funds could be used to assist in the outright purchase of privately owned relievers. For example, such purchase plans have been discussed for airports in the Chicago area, North Las Vegas, Southern California, and other major metropolitan areas. The conferees expect the Administrator to make every effort to accommodate such needs where they are essential to the maintenance of reliever airports.

10. USE OF APPORTIONED FUNDS

Senate amendment:

Provides the "form of obligation" which the Secretary shall use to obligate apportioned funds, either by project grant or block grant.

Amounts apportioned are available for obligation by grant agreement during the fiscal year for which they were first authorized to be obligated and the 2 fiscal years immediately following.

A sponsor of a primary airport is permitted to use funds apportioned to it at any public airport of the sponsor which is in the NASP. A sponsor of a primary airport may also waive receipt of all or a portion of its funds on condition that the funds be used at another public-use airport in the State or geographical area.

Conference substitute:

Same as Senate, except for deletion of references to block grants. Funds apportioned to a State are made available to general aviation and reliever airports in that State.

11. PROJECT GRANTS: APPLICATION; APPROVAL

Senate amendment:

This section provides some of the requirements which must be set forth in an application for a project grant for airport development or airport planning and requirements which must be met by the Secretary of Transportation before approving such project grant applications.

The provision sets forth who is eligible to apply to the Secretary for a project grant for airport development or airport planning with the proviso that no public agency may submit an application if such submission is prohibited by State law.

This section also provides that within 180 days of enactment a sponsor may submit a project-grant application for any project for which either an application had been filed before September 30, 1980, or if the project was carried out after September 30, 1980, and before enactment of this Act.

Each primary airport is to notify the Secretary of the fiscal year in which it intends to apply for apportioned funds.

The section provides conditions which must be met by the Secretary before project applications for airport planning or development may be approved.

Conference substitute:

Essentially the same as the Senate amendment, except that a condition in the Senate amendment that the Secretary not approve a project unless he is satisfied that the project is consistent with the purposes of the title is not included, and two additional provisions are added: (1) a provision that no environmental impact statement is required for a project if it would allow nonstage 2 aircraft to be replaced with stage 2 aircraft at the airport; and (2) a provision that priority may be given to projects that are consistent with integrated airport system plans.

12. U.S. SHARE OF PROJECT COSTS

Senate amendment:

Provides that, generally, the U.S. share of allowable project costs payable on account of any project funded under this Act shall not exceed 90 percent of allowable project costs.

For primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the U.S. share of allowable cost payable shall not exceed 75 percent of allowable project costs. As in existing law, an increased Federal share is provided for projects in those States in which certain public land acreage exceeds 5 percent of the States total area.

Conference substitute:

Same as the Senate amendment, except that instead of stating that the U.S. share shall not exceed a certain percentage, the substitute states that the U.S. share shall be that percentage.

13. SPONSORSHIP REQUIREMENTS FOR PROJECT GRANTS

Senate amendment:

Sets forth requirements which must be met by sponsors before project grant applications may be approved. These continue many of the requirements and provisions of section 16 of existing law for certain nondiscrimination, safety and other reporting requirements for airport sponsors which accept Federal funds. Two new provisions were added. One is that airports receiving assistance under this program must dedicate all revenues generated by the airport for the capital operating costs of that airport, the local airport system, or other local facilities which are owned by the owner or operator of the airport and used for the transportation of passengers or property. This provision is designed to ensure that airport systems which are receiving Federal assistance are utilizing all locally generated revenue for the systems which they operate. Airports that are part of a unified ports authority are exempt from this requirement if covenants or assurances in previously issued debt obligations or controlling statutes require that these funds are available for use at other port facilities.

However, airports users should not be burdened with "hidden taxation" for unrelated municipal services.

This provision is not intended to apply to revenue generated by facilities which are located on airport property but are unrelated to air operations or services which support or facilitate air transportation. It would accordingly not apply to revenue generated by such facilities as a water reservoir or a convention center which happen to be located on airport property, but which serve neither the airport nor any air transportation purpose. It would apply to such facilities as terminal concessions and parking lots serving the terminal or other air transportation purposes.

The language regarding "local facilities which are owned or operated by the owner or operator of the airport and used for the transportation of passengers or property" was included to make clear the intent that the requirement would not prohibit the use of revenues for the purpose of retiring indebtedness on consolidated bonds which have been used in some jurisdictions to finance multimodal transportation facilities which are owned or operated by the owner or operator of an airport and used for transportation of passengers or property but which are not themselves airport facilities.

The second new provision relates to land acquired for noise compatability purposes. It requires that when such land is acquired, the sponsor must, at the earliest possible time, and subject to the retention or reservation of the interest or right necessary to ensure that the land is used only for purposes which are compatible with noise levels of the operation of the airport, use it best efforts to dispose of such land. When such land is disposed of the provision requires that the proceeds of the disposition shall be refunded to the United States for the Trust Fund on a basis proportionate to the U.S. share of the cost of acquisition of the land.

The Senate amendment continues existing provisions of law relating to compliance with sponsorship requirements.

Conference substitute:

Same as the Senate with the following additions:

(1) an assurance that each air carrier using an airport will have the right to service itself or use a fixed-based operator;

(2) an assurance that there will be no exclusive right for the use of an airport by providers of aeronautical services; use of an airport by a single FBO is not to be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one FBO to provide the service, and if allowing more than one FBO would require reduction of the existing FBO's leased space;

This provision shall not be construed to allow an airport operator to enter into a lease agreement with a fixed base operator (FBO) which guarantees such FBO an ex-

clusive right to provide aeronautical services on the airport. In addition, it shall not preclude a new FBO from leasing airport property which is not then subject to an existing lease between an airport operator and another FBO.

(3) proceeds from the disposition of land previously acquired for noise compatibility may be reinvested in an approved project.

14. BLOCK GRANTS TO STATES

Senate amendment:

Permits States to apply to the Secretary to distribute the funds apportioned to that State for airport development.

Conference substitute:

No comparable provision.

15. ACCEPTANCE OF CERTIFICATION; CONSULTATION

Senate amendment:

Requires that the Secretary put a maximum reliance on sponsor certification as a means of administering grants, under the bill.

This section also continues the requirement in existing law that airport operators receiving funds consult with parties using the airport prior to undertaking an airport development project.

Conference substitute:

The substitute continues the requirement that in making a decision to undertake airport development under the Act, a sponsor shall undertake reasonable consultations with affected parties using the airport at which the project is proposed. The FAA has implemented this requirement by publishing in the Airport Development Aid Program Handbook an extensive description of such matters as the time at which consultations should take place, and the scope of consultation required to be meaningful. The FAA's description establishes the type of consultation contemplated by the reported bill and should be continued.

With respect to certification, the Secretary is authorized to require a certification from a sponsor that the sponsor will comply with all requirements imposed by the Act. The substitute provides that nothing in the certification provision affects the Secretary's responsibilities under specified Federal laws.

16. GRANT AGREEMENTS

Senate amendment:

This section outlines the duties of the Secretary and the sponsor of a project when grants are approved. The section provides that unless and until an agreement has been executed, the United States may not pay, or be obligated to pay any portion of the costs which have been or may be incurred in connection with a project. Further, the provision requires that the total obligation of the Federal Government may not exceed the amount specified as the maximum Federal obligation in the grant agreement, except in the case of airport development in which case such amount may be increased by 10 percent and by an additional amount equal to 50 percent of any increase in project cost attributable to land acquisition.

Also provides that increases in the maximum obligation of the United States in the case of grants under the 1970 Act may be paid only from funds recovered by the United States under that Act.

Conference substitute:

Same as the Senate with the clarification that in the case of increased costs attributable to land acquisition, the increase allowed shall be based upon current credible appraisals.

17. PROJECT COSTS

Senate amendment:

Eligible project costs are those associated with carrying out the project, and which are directly connected to the costs of the project. Indirect costs, such as administrative and salary costs, are not permitted to be paid for as a part of the project costs. Costs are eligible if they were incurred after the contract grant agreement was signed and are consistent with the terms of the contract. The act permits funding for the cost of field surveys, preparation of plans and specifications, acquisition of land and other direct costs associated with an airport development or planning project. The Secretary may agree to pay for only those reasonable costs associated with the project. However, the Secretary cannot pay for costs which are in excess of the amount previously agreed to in the contract as the Secretary's share. In the event the Secretary wishes to audit project costs, he is permitted to establish whatever regulations considered necessary to that task.

Terminal development costs are eligible, up to 50 percent of project costs. In the case of a primary airport, not more than 60 percent of the airports apportionment may be used for this purpose, and in the case of a non-primary commercial service airport not more than $200,000 may be used in a fiscal year. These funds can only be approved after all necessary safety, security, passenger enplaning/deplaning facilities, and equipment have been provided at the airport.

Conference substitute:

Same as the Senate except that a primary airport can use the greater of $200,000 or 60 percent of its apportionment for terminal development. In addition a $25,000,000 cap is placed upon terminal development at commercial service airports which were not eligible for terminal development assistance in fiscal year 1980. Third, the prohibition on funding indirect costs is not included. Finally, the substitute includes a provision continuing the eligibility of costs incurred for the retirement of the principal of bonds issued for terminal development work performed between 1970 and 1976.

18. PAYMENTS UNDER GRANT AGREEMENTS

Senate amendment:

Defines the terms under which advance payments may be made to airport sponsors by the Secretary. This closely follows existing law. The time and amount are to be determined by the Secretary with the total amount committed not to exceed 90 percent of the project cost. The sponsor must certify that advance payments will not exceed allowable project costs. If they do, the sponsor must return the excess to the Secretary. If work for the project is not completed within a reasonable time, the Secretary is entitled to reclaim any part of the advance payment.

Conference substitute:

Same as the Senate amendment.

19. PERFORMANCE OF CONSTRUCTION WORK

Senate amendment:

Entitles the Secretary to inspect and approve any construction work accomplished with funds obligated under project grants.

The amendment provides that contracts in excess of $2,000 for work under project grants for airport development approved under the bill which involve labor shall comply with the Davis-Bacon Act. The section further provides that Vietnam era and disabled veterans are to be given preference in hiring (with the exception of executive, administrative and supervisory positions). These priority hiring requirements are only enforceable when such individuals are available and qualified to perform the work to which the employment relates.

Conference substitute:

Same as the Senate amendment.

20. USE OF GOVERNMENT-OWNED LANDS

Senate amendment:

This section closely follows current law. The Secretary is empowered to seek authority from the head of a department or agency having control over certain nonexempted public lands, to turn over to an airport sponsor for the purpose of meeting future airport development needs. The Secretary can reach agreement to transfer the title to, interest in, or an easement of such property or airspace to the airport sponsor. The head of the department or agency must respond to the Secretary's request within 4 months with a decision. If a determination is made that the title to or use of the land by the airport is not inconsistent with the needs of the department or agency, the land can be turned over, with the approval of the U.S. Attorney General, and without cost to the United States.

As in the existing Act, these lands may not include any U.S. owned or controlled national park, forest, monument, recreation area, or other area administered by the National Park Service, the National Wildlife Refuge System, or the Bureau of Sport Fisheries and Wildlife. This exemption also includes Indian reservations.

Conference substitute:

Same as the Senate amendment.

21. FALSE STATEMENTS

Senate amendment:

This section duplicates section 25 of the present law. It allows for the imprisonment of up to 5 years, or a fine of up to $10,000, or both, for any person who attempts to willfully defraud the United States, by making false statements or representations with respect to the cost, quality, or quantity of material provided in connection with an airport project constructed with Federal funds.

Conference substitute:

Same as the Senate.

22. ACCESS TO RECORDS

Senate amendment:

This section imposes the same requirements as section 26 of the existing law. Grant recipients are required to keep detailed and complete accounts of all costs and work performed in connection with an airport project in order to facilitate an effective audit.

The Secretary may establish recordkeeping requirements which are considered necessary to ensure an effective audit, and these requirements must be reviewed annually. The Secretary and the Comptroller General of the United States are given authority to examine and audit any records or papers pertinent to grants under the bill.

In the case where an independent audit is performed in association with a Federal project, a certified copy of the audit must be filed with the Comptroller General of the United States within 6 months after the close of the fiscal year in which the audit was made. The Comptroller must make

annual reports to Congress on or before April 15 each year with the results of these audits.

Congress is to have access to all information made available to the Secretary and the Comptroller General.

Conference substitute:

Same as the Senate amendment.

23. GENERAL POWERS

Senate amendment:

This section gives the Secretary General authority to conduct public hearings, investigations and institute those regulations and procedures which he considers necessary to perform his duties under the bill. This duplicates section 27 of existing law.

Conference substitute:

Same as the Senate amendment.

24. CIVIL RIGHTS

Senate amendment:

This section gives the Secretary authority to promulgate regulations to ensure that no person is discriminated against on the basis of race, creed, color, national origin, or sex in connection with the work on a project supported by Federal funds released pursuant to the bill. This language tracks that of section 30 in the present law and is a responsibility in addition to those obligations set out in title VI of the Civil Rights Act of 1964.

Conference substitute:

Same as Senate amendment.

25. JUDICIAL ENFORCEMENT

Senate amendment:

This section is new and would make clear that the Secretary, acting through the Attorney General, has the right to obtain judicial enforcement against persons who violate the provisions of the bill or the rules, regulations, requirements, or orders issued pursuant thereto.

Conference substitute:

No comparable provision.

This action in no way affects any rights which the Department of Transportation may have to judicial enforcement.

26. VOLUNTARY WITHDRAWAL FROM PROGRAM

Senate amendment:

This section permits any airport to elect not to receive airport development funds. If an airport chooses to defederalize, it remains eligible for Federal assistance for land acquisition and noise abatement.

The provision requires the Secretary of Transportation to conduct a study on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should remain eligible for airport development funds. The report must be submitted to Congress no later than one year from enactment of this bill. The study must review how a defederalization program might work and how a passenger facility charge might be imposed.

Conference substitute:

The conference substitute retains only the study and report requirements.

27. WAIVER OF OBLIGATIONS

Senate amendment:

This section directs the Secretary to issue procedures pursuant to which airports which no longer receive airport development funds may exercise the airport's option to terminate existing assurances, requirements or contractual obligations that are tied to the acceptance of these funds.

Conference substitute:

No comparable provision.

28. REPEALS; EFFECTIVE DATE; SAVINGS PROVISIONS; SEPARABILITY

Senate amendment:

This section specifies that the effective date of the bill is its date of enactment and that on that date sections 1 through 31 of the Airport and Airway Development Act of 1970 are repealed. It also includes a savings provision to permit certain sections of the 1970 Act to continue in effect under the new bill, including one directed to keeping amounts apportioned before October 1, 1980, available for obligation.

Conference substitute:

Same as the Senate amendment, except that sections 1 through 30 of the 1970 Act are repealed.

29. REPORT TO CONGRESS ON TRUST FUND

Senate amendment:

This section modifies a provision in the existing law which requires an annual report to Congress on operations under the Airport and Airway Development Act of 1970 to require only a simple financial statement itemizing the income, obligations, expenditures, and uncommitted balance in the Airport and Airway Trust Fund.

Conference substitute:

Continues the existing annual report.

30. STANDARDS FOR RUNWAY FRICTION

Senate amendment:

This section amends section 612 of the Federal Aviation Act of 1958 regarding airport operating certificates. In section 612 the Administrator of the Federal Aviation Administration is directed to impose on certificated airports such conditions and limitations as are determined to be necessary to insure safety in air transportation. This amendment would add grooving and other friction treatment of primary and secondary runways as an item to be considered by the Secretary in making this determination.

Conference substitute:

Same as the Senate amendment.

31. EQUAL AERONAUTICAL ACCESS

Senate amendment:

This section of the bill amends section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349) to continue the same standard of access at any federally assisted airport that exists in current law. The language of the provision is modeled after that which is contained in existing sponsorship agreements now used by Secretary of Transportation in awarding grants-in-aid to federally assisted airports.

Conference substitute:

Deletes Senate provision but adds another provision relating to the exclusive right of use issue, to say that the providing of services at an airport by a single fixed-based operator (FBO) shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one FBO to provide the services and if it would require a reduction in the existing FBO's leased space.

32. CONFORMING AMENDMENTS

Senate amendment:

This section provides clarification of definitions for the Aviation Safety and Noise Abatement Act of 1979.

Conference substitute:

Contains additional conforming amendments to the Aviation Safety and Noise Abatement Act of 1979 and technical amendments to other laws.

33. SECURITY SCREENING IN FOREIGN AIR COMMERCE

Senate amendment:

This section extends through fiscal year 1982 existing law that authorizes an appropriation for unreimbursed security costs in international air transportation. Any appropriation made under this section is limited to not more than $9.75 million. The Secretary of Transportation is required to submit a recommendation to the Congress on amounts due specific air carriers under this section.

Conference substitute:

The conference substitute authorizes appropriations of $15 million for reimbursement of security costs. Compensation is to be provided only with respect to amounts expended on or before the 180th day after the date of enactment of the International Air Transportation Competition Act of 1979.

34. SAFETY CERTIFICATION OF AIRPORTS

Senate amendment:

Under current law, the authority of the Administrator of the Federal Aviation Administration to issue airport operating certificates is limited to airports that are served by air carriers certificated by the Civil Aeronautics Board (CAB). This section substitutes a new standard for airport certification based upon the number of revenue passengers enplaned (2,500 per year) or the size of air carrier aircraft using the facility (more than 30 passenger seats).

Conference substitute:

Same as the Senate amendment except that the only standard for airport certification is the one based on size of aircraft (more than 30 passenger seats).

35. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS

Senate amendment:

The purpose of this provision is to limit the number of Flight Service Stations which may be part-timed or closed from the date of enactment until September 30, 1983, and to provide certain standards for their closure or part-timing thereafter.

Conference substitute:

Essentially the same as the Senate amendment.

36. CONGRESSIONAL COMMITTEES

Senate amendment:

This section provides that nothing in the Act shall be construed as altering the jurisdiction of the Senate Commerce Committee or the House Public Works Committee over the Airport and Airway Development Program.

Conference substitute:

No comparable provision.

37. CONTRACTING AUTHORITY

Senate amendment:

No provision

Conference substitute:

This section provides that in contracting out for the operation of any airport facility by any State or political subdivision thereof, the Secretary of Transportation is to assure that any contract, lease, or other agreement by which the State or political subdivision would undertake the responsibility for operating an airport facility must contain a provision holding the United States Government harmless from liability for acts or

omissions of an employee or agent of the State or subdivision. Thus, for example, the U.S. Government could not be held liable for the action of an employee or agent of a State or political subdivision who has negligently provided air traffic control services which result in an aircraft accident or incident. On the other hand, to the extent an employee or agent of such State or political subdivision was strictly following F.A.A. procedures and the procedures were determined to be at fault rather than their application, the provisions of established tort law applicable to liability of the United States would be undisturbed by this section.

The Farmington, New Mexico, control tower is illustrative of the application of this provision. The control tower is now staffed and operated by private air traffic controllers at approximately half the costs associated with F.A.A. personnel. On October 1, 1982, the F.A.A. plans to staff the tower with F.A.A. controllers for 16 hours a day, 7 days a week, which are the hours of operation under existing contracted services. This provision provides the authority for the City of Farmington to continue the operations of the control tower by private controllers and maintain overall continuity. With the use of F.A.A. funds to pay the costs associated with contracted air traffic control services, the heavy burden of financially supporting the control tower is removed from the City of Farmington.

The Conferees expect that before contracting out for the operation of airport facilities by any State or political subdivision, the F.A.A. will assure that such locality will fully comply with all applicable safety regulations in their operation of such facilities.

38. STUDY OF AIRPORT ACCESS

Senate amendment:

No provision.

Conference substitute:

Provides that the Secretary shall appoint a Task Force of specified government agencies and aviation groups to study the problem of allocating the use of airport facilities and airspace. The Chairman of the Task Force shall be the Chairman of the Civil Aeronautics Board. The Task Force shall begin meeting not later than 90 days after enactment and shall complete its study not later than 120 days after the Task Force first meets.

39. K-9 TEAMS

Senate amendment:

No provision.

Conference substitute:

Authorizes the Secretary of Transportation to continue the Explosive Detection K-9 Team Training Program for fiscal years 1981-1987 at an authorized level from the Trust Fund of $130,000 to $150,000 per fiscal year.

40. RELEASE OF CERTAIN DEED RESTRICTIONS

Senate amendment:

No provision.

Conference substitute:

Contains standard provisions giving the Secretary of Transportation authority to grant releases from deed restrictions to four airports: Crystal City, Texas; Brownwood, Texas; Grand Junction, Colorado; and Newport, Arkansas.

41. CONTINUATION OF CERTAIN CERTIFICATES

Senate amendment:

No provision.

Conference substitute:

Extends for 2 years beyond the date of expiration any certificate issued under section 401(d)(8) of the Federal Aviation Act of 1958, pursuant to the Trans-Atlantic Route Proceeding, or in the California/Southwest-Mexico Route Proceeding.

42. STATE TAXATION

Senate amendment:

No provision.

Conference substitute:

This section provides that States may not tax at a level which unreasonably burdens or discriminates against interstate commerce. The provision makes current law which prohibits the assessment, levying, or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property, applicable to air carriers.

Committee on Ways and Means for the entire bill and the Senate amendment and modifications committed to conference, with the exception of subtitle B (Medicaid) of title I and title IV (Airport and Airway System Development) except for section 406(e) of that title and with the exception of section 395 of the Senate amendment and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM GIBBONS,
J. J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
BARBER B. CONABLE, Jr.,

Committee on Energy and Commerce solely for the consideration of subtitle B of title I (Medicaid), of the Senate amendment and modifications committed to conference and subtitle C of title I (Utilization and Quality Control Peer Review) of the Senate amendment and the modifications committed to conference and such parts of subtitle A (Medicare) of title I of the Senate Amendment and modifications committed to conference that relate to amendments to the supplementary medical insurance program authorized under title XVIII of the Social Security Act:

JOHN D. DINGELL,
HENRY A. WAXMAN,
JAMES H. SCHEUER,
JIM BROYHILL,
ED MADIGAN,

Committee on Energy and Commerce solely for consideration of section 395 of the Senate amendment and modifications committed to conference:

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,

Committee on Public Works and Transportation solely for the consideration of title IV of the Senate amendment and modifications committed to conference with the exception of sections 406(e) and 407(b) of that title:

NORMAN Y. MINETA,
GLENN M. ANDERSON,
ELLIOTT H. LEVITAS,
JAMES L. OBERSTAR,
DON CLAUSEN,
GENE SNYDER,
JOHN PAUL HAMMERSCHMIT,

Solely for the consideration of section 407(b) of title IV of the Senate amendment and modifications committed to conference:

DON FUQUA,
DAN GLICKMAN,
LARRY WINN, Jr.,

Managers on the Part of the House.

For the entire bill with the exception of title IV (airport and airway system development) except for section 406(e)):

BOB DOLE,
BOB PACKWOOD,
BILL ROTH,
JOHN C. DANFORTH,
RUSSELL B. LONG,
LLOYD BENTSEN,

Solely for consideration of title IV (excluding section 406(e)):

BOB PACKWOOD,
NANCY LANDON KASSEBAUM,
HOWARD W. CANNON,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. FOLEY), on account of illness in the family.

Mr. BROYHILL (at the request of Mr. MICHEL), for today, on account of a death in the family.

Mr. D'AMOURS (at the request of Mr. WRIGHT), for today, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GINGRICH) to revise and extend their remarks and include extraneous material:)

Mr. BETHUNE, for 60 minutes, today.

Mr. MARTIN of North Carolina, for 30 minutes, today.

Mr. DENARDIS, for 30 minutes, today.

Mr. COLLINS of Texas, for 30 minutes, today.

Mr. BETHUNE, for 60 minutes, on August 18.

Mr. WALKER, for 60 minutes, on August 18.

Mr. EDWARDS of Oklahoma, for 60 minutes, on August 18.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. PHILLIP BURTON, for 5 minutes, today.

Mr. O'NEILL, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Ms. OAKAR, for 15 minutes, today.

Mr. LEVITAS, for 5 minutes, today.

Mr. BONKER, for 5 minutes, today.

Mr. RAHALL, for 60 minutes, on August 18.

Mr. PEYSER, for 60 minutes, on August 18.

Mr. PICKLE, for 15 minutes, on August 18.
Mr. GONZALEZ, for 60 minutes, on August 19.
Mr. PERKINS, for 60 minutes, on August 19.
Mr. PICKLE, for 15 minutes, on August 19.
Mr. GONZALEZ, for 60 minutes, on August 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ECKART, to revise and extend his remarks on H.R. 6324 at the conclusion of general debate.

(The following Members (at the request of Mr. GINGRICH) and to include extraneous matter:)

Mr. MICHEL.
Mr. MADIGAN in two instances.
Mr. COUGHLIN.
Mr. COURTER.
Mr. COATS in two instances.
Mr. FINDLEY in two instances.
Mr. LEBOUTILLIER in two instances.
Mr. COLLINS of Texas in three instances.
Mr. WOLF.
Mr. FIELDS in three instances.
Mr. MCKINNEY.
Mr. HARTNETT.
Mr. GUNDERSON.
Mr. DORNAN of California.
Mr. RITTER.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. DORGAN of North Dakota.
Mr. LAFALCE.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. MONTGOMERY.
Mr. PEYSER.
Mr. HOWARD.
Mr. FOLEY.
Mr. BOWEN.
Mr. MAZZOLI in two instances.
Mr. EDWARDS of California.
Mr. HOYER in four instances.
Mr. BONKER in two instances.
Mr. SANTINI in two instances.
Mr. MURTHA.
Mr. BAILEY of Pennsylvania.
Mr. FRANK.
Mr. MCDONALD.
Mr. ROSENTHAL.
Mr. HAMILTON.
Mr. DELLUMS.
Mr. STARK.
Mr. BEILENSON in two instances.
Mr. CROCKETT.
Mr. TRAXLER.
Mr. OTTINGER.
Mr. MOFFETT.
Mr. SAM B. HALL.
Mr. SWIFT.
Mr. KOGOVSEK.
Mr. AUCOIN.
Ms. MIKULSKI.
Mr. PERKINS.
Mr. DYSON.
Mr. ROE.
Mr. DWYER.
Mr. RICHMOND.
Mr. GORE in two instances.
Mr. OBEY.
Ms. OAKAR.
Mr. SHANNON.
Mr. CORRADA.

SENATE BILL REFERRED

A bill of the Senate of the following titles was taken from the Speaker's table and, under the rule, referred as follows:

S. 2625. An act to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes; to the Committee on Government Operations and the Committee on Armed Services.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2160. An act to amend the Potato Research and Promotion Act;

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States;

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

ADJOURNMENT

Mr. ANDREWS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 9 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 18, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4593. A communication from the President of the United States, transmitting proposed requests for transfer authority and appropriation language for fiscal year 1982, amended appropriation requests, and amended appropriation language for fiscal year 1983 (H. Doc. No. 97-228); to the Committee on Appropriations and ordered to be printed.

4594. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of $4.8 million in the Navy stock fund for war reserve stocks, pursuant to section 734, Public Law 97-114; to the Committee on Appropriations.

4595. A letter from the Director for Facility Requirements and Resources, Department of Defense, transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Naval and Marine Corps Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4596. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the proposed conversion to contractor performance of the administrative telephone services function at the Naval Coastal Systems Center, Panama City, pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4597. A letter from the President and Chairman of the Export-Import Bank of the United States, transmitting, a report on loan, guarantee, and insurance transactions supported by Eximbank during June 1982 to Communist countries; to the Committee on Banking, Finance and Urban Affairs.

4598. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting a report on targeting of multilateral assistance programs to needy people, pursuant to section 1103 of Public Law 95-118; to the Committee on Banking, Finance and Urban Affairs.

4599. A letter from the District of Columbia Auditor, transmitting the annual report on the District's projected obligations as of June 1982, pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

4600. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1981 of the Department's administration of health services research, health statistics, and health care technology, pursuant to section 308(a)(1) of the Public Health Service Act; to the Committee on Energy and Commerce.

4601. A letter from the Secretary of the Interstate Commerce Commission, transmitting notice of the Commission's inability to render a final decision in Docket No. 38805, *Railroad Cost Recovery Increase on Recyclables (other than iron and steel)* within the initially specified 5-month period, pursuant to 49 U.S.C. 10707(b)(1); to the Committee on Energy and Commerce.

4602. A letter from the Chairman, National Arthritis Advisory Board, transmitting the annual report of the Board's activities, pursuant to section 437(j) of the Public Health Service Act; to the Committee on Energy and Commerce.

4603. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements other than treaties, en-

tered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

4604. A letter from the Director, Minerals Management Service, Department of the Interior, transmitting notice of the proposed refund of $41,342.81 to the Koch Exploration Co. for an excess royalty payment, pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

4605. A letter from the Executive Director, National Advisory Committee on Oceans and Atmosphere, transmitting a special report, "The Future of the Nation's Weather Services," pursuant to Public Law 95-63; to the Committee on Merchant Marines and Fisheries.

4606. A letter from the Deputy Administrator, General Services Administration, transmitting numerous lease prospectus amendments, pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4607. A letter from the Chairman of the Board of Trustees, John F. Kennedy Center for the Performing Arts, transmitting the annual report for fiscal year 1981, pursuant to section 6(c) of Public Law 85-874; to the Committee on Public Works and Transportation.

4608. A letter from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to authorize the transfer of certain naval vessels; jointly, to the Committees on Armed Services and Foreign Affairs.

4609. A letter from the Secretary of Health and Human Services, transmitting the annual report for calendar year 1981 on the activities of the Maternal and Child Health Services Research Grants Review Committee, pursuant to section 1114(f) of the Social Security Act; jointly, to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5008. A bill to amend the Communications Act of 1934 to make certain technical revisions regarding the administration of such act, and for other purposes; with an amendment (Rept. No. 97-751). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. S. 2582. A bill to amend the act to establish a Permanent Committee for the Oliver Wendell Holmes Devise, and for other purposes. (Rept. No. 97-752). Referred to the Committee of the Whole House on the State of the Union.

Mr. HAWKINS: Committee on House Administration. Senate Joint Resolution 194. Joint resolution to provide for the appointment of Nancy Hanks as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 97-753). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 565. Resolution providing for the consideration of H.R. 6156, a bill to clarify the jurisdiction of the Securities and Exchange Commission and the definition of security, and for other purposes (Rept. No. 97-754). Referred to the House Calendar.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 566. Resolution providing for the consideration of H.R. 5447, a bill to extend the Commodity Exchange Act, and for other purposes (Rept. No. 97-755). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 567. Resolution providing for the consideration of H.R. 6329, a bill to authorize appropriations for the Department of Energy for national security programs for fiscal year 1983, and for other purposes (Rept. No. 97-756). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 6877. A bill to amend title XIX and part B of title XVIII of the Social Security Act to provide for budget reconciliation for fiscal years 1983, 1984, and 1985; with amendments (Rept. No. 97-757, Pt. I). Ordered to be printed.

Mr. FUQUA: Committee on Science and Technology. House Resolution 514. Resolution commemorating July 1, 1982, which is the 25th anniversary of the beginning of the International Geophysical Year and reaffirming the commitment of the House of Representatives to international cooperation in the sciences (Rept. No. 97-758, Pt. I). Ordered to be printed.

Mr. JONES of Oklahoma: Committee of conference. Conference report on H.R. 6955 (Rept. No. 97-759). Ordered to be printed.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 4961 (Rept. No. 97-760). Order to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 or rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FLORIO (for himself, Mr. DINGELL, Mr. BROYHILL, and Mr. LENT):

H.R. 6995. A bill to amend the Federal Trade Commission Act to extend the authorization of appropriations contained in such act, and for other purposes; jointly, to the Committees on Energy and Commerce and Rules.

By Mr. BONKER (for himself, Mr. DICKS, Mr. SWIFT, Mr. YOUNG of Alaska, and Mr. CLAUSEN):

H.R. 6996. A bill to provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. MONTGOMERY:

H.R. 6997. A bill to transfer control of Pershing Hall to the Pershing Hall Memorial Building Foundation; to the Committee on Veterans' Affairs.

By Mr. PEYSER:

H.R. 6998. A bill to require the Nuclear Regulatory Commission to suspend the operating licenses of units 2 and 3 of the Indian Point Nuclear Station, and to establish an Indian Point Nuclear Power Safety Review Panel to evaluate and make recommendations with respect to the safety of such units; to the Committee on Interior and Insular Affairs.

By Mr. SEIBERLING:

H.R. 6999. A bill to prohibit the furnishing of cluster bomb to any foreign country; to the Committee on Foreign Affairs.

By Mr. MARTIN of North Carolina (for himself and Mr. JONES of Oklahoma):

H.R. 7000. A bill to provide for the protection of individuals against catastrophic medical expenses by providing for a catastrophic automatic protection plan and certification of qualified health plans offered by employers, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. BREAUX (for himself and Mr. FORSYTHE):

H.J. Res. 580. Joint resolution to disapprove the governing international fishery agreement between the United States and Spain; to the Committee on Merchant Marine and Fisheries.

By Mr. TAUZIN (for himself, Mr. BREAUX, Mrs. BOGGS, Mr. LIVINGSTON, Mr. ROEMER, Mr. HUCKABY, Mr. MOORE, Mr. LONG of Louisiana, Mr. SUNIA, Mr. MURPHY, Mr. BARNES, Mr. FAZIO, and Mr. HUGHES):

H.J. Res. 581. Joint resolution to authorize and request the President to designate the week beginning October 11, 1982, as "National Get High on Life Week"; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Alaska:

H.J. Res. 582. Joint resolution to authorize and request the President to designate August 15, 1982 as "Will Rogers and Wiley Post Day"; to the Committee on Post Office and Civil Service.

By Mr. LONG of Maryland:

H. Con. Res. 395. Concurrent resolution expressing the sense of the Congress that the States should enact statutes encouraging the courts to consider joint custody of minor children in marital divorce settlements before all other possible alternatives; to the Committee on the Judiciary.

By Mr. STOKES:

H. Res. 568. Resolution providing amounts from the contingent fund of the House for further expenses of investigations and studies by the Committee on Standards of Official Conduct in the 2d session of the 97th Congress; to the Committee on House Administration.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. MARTIN of North Carolina.

H.R. 2936: Mr. FOWLER.

H.R. 4147: Ms. FERRARO and Mr. HOWARD.

H.R. 4657: Mr. MCHUGH.

H.R. 4784: Mr. MINETA.

H.R. 4882: Mr. MITCHELL of Maryland, Mr. VENTO, Mr. PEPPER, Mr. CROCKETT, Mr. BINGHAM, Mr. HAMILTON, Mr. JEFFORDS, Mr. OBERSTAR, Mr. LUNDINE, Mr. SHAMANSKY, Mr. GORE, and Mr. HARKIN.

H.R. 5214: Mr. LEE.

H.R. 5362: Mr. LEACH of Iowa.

H.R. 5918: Mr. MARTIN of New York.

H.R. 6003: Mr. DINGELL and Mr. MCGRATH.

H.R. 6092: Mr. MINETA.

H.R. 6129: Mr. PEASE.

H.R. 6262: Mr. FAZIO, Mr. LAFALCE, Mr. MCCLORY, Mr. RANGEL, Mr. ROSENTHAL, and Mr. SEIBERLING.

H.R. 6318: Mr. BEILENSON, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. EDGAR, Mr. SEIBERLING, Mr. EDWARDS of California, Mr. FAUNTROY, Mr. MARKEY, Mr. MINETA, Mr. MOAKLEY, Mr. OBERSTAR, Mr. RICHMOND, Mr. SIMON, Mr. VENTO, Mr. WAXMAN, Mr. WEISS,

Mr. GRAY, Ms. FERRARO, Mr. JEFFORDS, Mr. COURTER, and Mr. WASHINGTON.

H.R. 6433: Mr. FRENZEL.

H.R. 6593: Mr. SCHUMER, Mr. BONIOR of Michigan, Mr. KASTENMEIER, Mr. JEFFORDS, Mr. ROE, Mr. COURTER, Mrs. CHISHOLM, Mr. BARNES, Mr. FAUNTROY, Mr. RAHALL, Mr. DELLUMS, Mr. VENTO, Mr. STOKES, Mr. ALBOSTA, Ms. FERRARO, Mr. SUNIA, Mr. WON PAT, Mr. SMITH of Pennsylvania, Mr. CONYERS, Mr. FISH, Mr. FROST, Mr. MINETA, Mr. FARY, Mr. FRANK, Mr. OTTINGER, Mrs. BOUQUARD, Mr. BINGHAM, Mr. DIXON, Mr. YATRON, Mr. PANETTA, Mr. PEPPER, Mr. CHAPPELL, Mr. ZEFERETTI, Mr. WASHINGTON, Mr. NEAL, Mr. RATCHFORD, Mr. WALGREN, Mr. FAZIO, and Mr. MCHUGH.

H.R. 6594: Mr. OBERSTAR, Mr. SCHUMER, Mr. BONIOR of Michigan, Mr. KASTENMEIER, Mr. JEFFORDS, Mr. ROE, Mr. COURTER, Mrs. CHISHOLM, Mr. BARNES, Mr. RAHALL, Mr. FAUNTROY, Mr. DELLUMS, Mr. VENTO, Mr. STOKES, Mr. ALBOSTA, Ms. FERRARO, Mr. SUNIA, Mr. SMITH of Pennsylvania, Mr. CONYERS, Mr. FISH, Mr. FROST, Mr. WEAVER, Mr. MINETA, Mr. FRANK, Mr. OTTINGER, Mrs. BOUQUARD, Mr. DWYER, Mr. ZEFERETTI, Mr. BINGHAM, Mr. DIXON, Mr. PEPPER, Mr. WASHINGTON, Mr. NEAL, Mr. RATCHFORD, Mr. WALGREN, Mr. YATRON, and Mr. FAZIO.

H.R. 6654: Mr. JAMES K. COYNE.

H.R. 6919: Mr. GUNDERSON, Mr. MAVROULES, Mr. HAMILTON, Mr. OTTINGER, and Mr. HUGHES.

H.R. 6944: Mr. COELHO.

H.J. Res. 469: Mr. RANGEL, Mr. FISH, Mr. RICHMOND, Mr. DOWNEY, Mr. MOAKLEY, Mr. FOGLIETTA, Mr. FAUNTROY, Mr. ROSENTHAL, Mr. PATTERSON, Mr. ALBOSTA, Mrs. SCHROEDER, Mr. EDGAR, Mr. BEDELL, Mr. EDWARDS of California, Mr. WEAVER, Mr. WEISS, Mr. MARKEY, Mr. WAXMAN, Mr. JOHN L. BURTON, Mr. DELLUMS, Mr. OBERSTAR, Mr. GRAY, and Mr. WASHINGTON.

H.J. Res. 487: Mr. FORSYTHE, Mr. MINETA, Mr. MCCLOSKEY, Mr. MILLER of California, Mr. HAWKINS, Mr. BAFALIS, Mr. ROBERT W. DANIEL, Jr., Mr. PEPPER, Mrs. ASHBROOK, Mr. NICHOLS, Mr. DAUB, Mr. LIVINGSTON, Mr. CARNEY, Mr. EDWARDS of Oklahoma, Mr. MCCOLLUM, Mr. DICKINSON, Mr. BROWN of Colorado, Mr. HUTTO, Mr. DYSON, Mr. BREAUX, Mr. STUMP, Mr. LEE, Mr. CHAPPIE, Mr. MATSUI, Mr. PASHAYAN, Mr. THOMAS, Mr. ROUSSELOT, Mr. GRISHAM, Mr. LUNGREN, Mr. LEWIS, Mr. EVANS of Delaware, Mr. HANSEN of Idaho, Mr. DANIEL B. CRANE, Mr. PHILIP M. CRANE, Mr. O'BRIEN, Mr. CORCORAN, Mr. MYERS, Mr. NATCHER, Mr. LOTT, Mr. KEMP, Mr. BROYHILL, Mr. SHUSTER, Mr. WALKER, Mr. GOODLING, Mr. SPENCE, Mr. SAM B. HALL, Jr., Mr. COLLINS of Texas, Mr. RALPH M. HALL, Mr. TRIBLE, Mr. WHITEHURST, Mr. ROBINSON, Mr. PARRIS, Mr. RUDD, Mr. FLIPPO, Mr. SHELBY, Mr. RHODES, Mr. ALEXANDER, Mr. BETHUNE, Mr. HAMMERSCHMIDT, Ms. FIEDLER, Mr. ROYBAL, Mr. ANDERSON, Mr. DREIER, Mr. HUNTER, Mr. FUQUA, Mr. PORTER, Mr. MADIGAN, Mr. SIMON, Mr. HILLIS, Mr. LEACH of Iowa, Mr. TAUKE, Mr. MAZZOLI, Mr. SNYDER, Mr. ROGERS, Mr. MOORE, Mrs. SNOWE, Mr. LONG of Maryland, Mr. BROOMFIELD, Mr. HAGEDORN, Mr. TAYLOR, Mrs. SMITH of Nebraska, Mr. D'AMOURS, Mr. HUGHES, Mr. SMITH of New Jersey, Mr. LUJAN, Mr. SKEEN, Mr. LENT, Mr. CONABLE, Mr. HEFNER, Mr. MARTIN of North Carolina, Mr. LATTA, Mr. MCEWEN, Mr. KINDNESS, Mr. MILLER of Ohio, Mr. WYLIE, Mr. SYNAR, Mr. RITTER, Mrs. SCHNEIDER, Mr. ROBERTS of South Dakota, Mr. BEARD, Mr. GRAMM, Mr. WRIGHT, Mr. LELAND, Mr. GONZALEZ, Mr. LOEFFLER, Mr. PAUL, Mr. BLILEY, Mr. ZABLOCKI, Mr. WAMPLER, Mr. MCDADE, Mr. WILSON, Mr. MICHEL, and Mr. UDALL.

H.J. Res. 492: Mr. ROBINSON, Mr. BROOMFIELD, Mr. HANCE, Mr. SHUMWAY, and Mr. ANNUNZIO.

H.J. Res. 496: Mr. KEMP, Mr. HEFNER, Mr. OTTINGER, Mr. MOLINARI, Mr. DE LA GARZA, Mr. CHAPPIE, Mr. CLAUSEN, Mr. THOMAS, Mr. PICKLE, Mr. SMITH of Iowa, Mr. RICHMOND, Mr. CLAY, Mr. WYDEN, Mr. BONER of Tennessee, Mr. LEWIS, Mr. UDALL, Mr. EVANS of Iowa, Mr. WOLPE, Mr. HORTON, Mr. BEILENSON, Mr. YATES, Mr. EDWARDS of California, Mr. EMERY, Mr. MARKEY, Mr. ST GERMAIN, Mr. FAUNTROY, Mr. HAMMERSCHMIDT, Mr. LAFALCE, Mr. SHELBY, Mr. BROWN of Ohio, Mr. LUNDINE, Mr. WILLIAMS of Ohio, Mr. MCGRATH, Mr. FRANK, Mr. SANTINI, Mr. OBERSTAR, Mr. MATSUI, Mr. JOHN L. BURTON, Mr. ZEFERETTI, Mr. DASCHLE, Mr. MCDADE, Mr. BEARD, Mr. SHANNON, Mr. SHUMWAY, Mr. SCHUMER, Mr. WYLIE, Mr. FAZIO, Mr. MCKINNEY, Mr. PRITCHARD, Mr. WOLF, Mr. BROOMFIELD, Mr. GREGG, Mr. D'AMOURS, Ms. FERRARO, Mr. WEBER of Ohio, Mr. DOWNEY, Mr. SAWYER, Mr. GEJDENSON, Mr. FROST, Mr. VANDER JAGT, Mr. DINGELL, Mr. DENARDIS, Mr. CHAPPELL, Mr. HUGHES, Mr. SHAMANSKY, and Mr. FASCELL.

H.J. Res. 545: Mr. MILLER of California, Mr. CROCKETT, Mr. HARKIN, Mr. DYMALLY, Mr. BONKER, Mr. LOWRY of Washington, Mr. CONYERS, Mr. MATSUI, Mr. BARNES, Mr. ROE, Mr. BONIOR of Michigan, Mr. OBERSTAR, Mr. GEJDENSON, Mr. DWYER, Mr. WEISS, and Mrs. HECKLER.

H.J. Res. 549: Mr. WHITLEY.

H.J. Res. 571: Mr. PHILLIP BURTON, Mr. MILLER of California, Mr. FAZIO, Mr. SYNAR, Mr. ZEFERETTI, and Mr. DOWNEY.

H. Con. Res. 356: Mr. SMITH of Pennsylvania and Mr. JAMES K. COYNE.

H. Con. Res. 369: Mr. WAMPLER.

H. Res. 234: Mr. FISH and Mr. ROGERS.

H. Res. 421: Mr. ASPIN, Mr. EARLY, Mr. HARKIN, Mr. PEYSER, and Mr. UDALL.

H. Res. 505: Mr. ROSENTHAL.

H. Res. 554: Mr. PATMAN.

H. Res. 558: Mr. HUGHES and Mr. MINETA.

PETITIONS, ETC.

Under clause 1 of rule XXII,

568. The SPEAKER presented a petition of the board of aldermen, New Haven, Conn., relative to Secretary of the Interior James G. Watt; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

By Mr. EDGAR:

—Page 13, strike out line 3 and all that follows through line 10 on page 22, and insert in lieu thereof the following:

"§ 10953. Common carrier obligation

"(a) Transportation of coal by coal pipeline for which a certificate is issued under section 10952 shall be subject to the jurisdiction of the Commission under subchapter I of chapter 105 of subtitle IV of title 49, United States Code, as a pipeline carrier and the coal pipeline shall be constructed, operated, maintained, and extended as a common carrier, in fact, fully subject to rate and charge regulation by the Commission under such subtitle.

"(b) Any person holding a certificate issued under this section must provide service, on reasonable request, to persons who—

"(1) seek service during the planning phase of such coal pipeline; or

"(2) seek unutilized capacity of such coal pipeline whenever such capacity is available.

The person holding such certificate must provide reasonable public notice of the availability of unutilized capacity.".

Redesignate the subsequent sections accordingly and conform the analysis for subchapter III of chapter 109 of title 49, United States Code, beginning on page 24, after line 23, accordingly.

—Page 22, after line 10, insert the following new section:

"§ 10956. Prohibition of transportation of certain coal

"(a) A person holding a certificate under section 10952 of this title may not transport in the coal pipeline, or extension of a coal pipeline, for which the certificate is issued any coal which is to be used—

"(1) by the holder of such certificate, or

"(2) by a person which controls, is controlled by, or under common control with, the holder of such certificate.

"(b) A person holding a certificate under section 10952 of this title may not transport in the coal pipeline, or extension of a coal pipeline, for which the certificate is issued any coal which is owned, mined, or supplied by the holder of such certificate or by a person which controls, is controlled by, or under common control with, the holder of such certificate.".

Renumber subsequent sections accordingly and conform the analysis for subchapter III of chapter 109 of title 49, United States Code, beginning on page 24, after line 23, accordingly.

—Page 30, line 25, after "use," insert "export,".

Page 31, line 8, after "use," insert "export,".

—Page 31, after line 9, insert the following:

(d) It is the express intent and policy of Congress that, to the extent any State law is applicable to the use of groundwater in such State for transporting coal by pipeline, such law shall not be held to violate the commerce clause in article I, section 8, of the United States Constitution.

—Page 48, after line 20, insert the following:

"(d) No State or person shall sell or otherwise transfer outside of any state water for use in a coal pipeline which is taken from any river or other body of surface water which is located in or which passes through or which borders more than one state or any aquifer or other body of ground water which underlies more than one state unless the Secretary of the Interior determines that there is in effect an interstate compact—

"(1) between the states in the drainage basin of such river or other body of surface water, or

"(2) between the affected states, in the case of such an aquifer or other body of ground water, which governs the sale or transfer of water for coal pipeline use.".

H.R. 5540,

By Mr. FRENZEL:

—Page 51, after line 9, insert the following:

(g) The Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.) is amended by adding at the end thereof the following:

"SEC. 721. Notwithstanding any other provision of law, for fiscal year 1983, new direct loan obligations entered into under this Act

shall not exceed $50,000,000 and new loan guarantee commitments shall not exceed $50,000,000.".

By Mr. McCOLLUM:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of the Treasury determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to increase interest rates in the credit markets and will not adversely affect the thrift industry.

Redesignate the following subsections accordingly.

By Mr. REGULA:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Secretary of Education determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to students.

Redesignate the following subsections accordingly.

By Mr. SKELTON:

—At the end of the bill add the following new section:

NATIONAL COMMISSION ON SCIENCE, ENGINEERING, AND TECHNOLOGY EDUCATION

SEC. 4. (a) The Congress makes the following findings:

(1) The United States must meet the continuing need for technological advances in science and engineering if it is to maintain economic security and a strong national defense.

(2) Approximately 1,400,000 scientists and engineers will be needed to fill anticipated growth and replacement demands by 1990, but projections estimate personnel shortfalls in these areas over the next ten years.

(3) Shortages of trained technical personnel will have particularly serious implications for the national defense posture of the United States since modern military operations and equipment have become increasingly more sophisticated and reliant on high technology.

(4) Science, engineering, and technology education in the United States is threatened by a shortage of academic personnel and by inadequate and aging laboratory facilities.

(5) The Soviet Union graduates more than twice as many scientists and engineers as the United States and almost five times as many engineering students. The United States ranks third behind the Soviet Union and Japan in a comparison of the total number of engineering graduates and in the number of engineering graduates relative to the size of the total population. A continuation of this situation threatens to compromise the technological edge which ensures the economic well-being and national security of the United States.

(6) While the educational community, the private sector, and the Government have demonstrated interest in the emerging crisis in science and engineering education, there has been no coordinated national effort to study the status of such education in the United States and the impact of anticipated deficiencies on national defense needs and the economy and to recommend remedial actions.

(7) The scope and complexity of the problem of meeting the demand for qualified technically-trained personnel in the private sector, government, the Armed Forces, and academia require that a national commission be formed to combine the efforts and resources of these groups in seeking a solution to the problem.

(b) The President, in conjunction with the Majority Leader of the Senate and the Speaker of the House of Representatives, shall within 120 days after the effective date of this section establish a National Commission on Science, Engineering, and Technology Education (hereinafter in this section referred to as the "Commission").

(c) The Commission shall—

(1) bring together representatives of the private sector, the Government, and the educational community for the purpose of taking testimony and receiving evidence about the problems confronting science, engineering, and technology education in the United States;

(2) define the scope of science, engineering, and technology education problems in the United States;

(3) evaluate the impact of these problems on national defense, industry, research, and academia;

(4) formulate remedial actions which can be taken by or among the private sector, the Government, and the educational community to resolve those problems; and

(5) evaluate the impact of those problems on military manpower needs in the areas of science and engineering.

(d)(1) The Commission shall be composed of nine members appointed as follows:

(A) Three members appointed by the Secretary of Commerce from among individuals who are qualified to serve on such a commission by virtue of their education, experience, or training.

(B) Three members appointed by the Secretary of Defense from among individuals who are qualified to serve on such a commission by virtue of their training, education, or experience.

(C) Three members appointed by the Secretary of Education from among individuals who are qualified to serve on such a commission by virtue of their training, education, or experience.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) Members shall be appointed for the life of the Commission.

(3) Members of the Commission shall serve without pay, but shall receive per diem and travel expenses (subject to the provisions of chapter 57 of title 5, United States Code) for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(4) Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Chairman of the Commission shall be elected by the members of the Commission.

(6)(A) The Commission shall meet at the call of the Chairman or a majority of its members.

(B) Meetings of the Commission shall be conducted according to Roberts Rules of Order.

(e)(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(2) Subject to such rules as may be prescribed by the Commission, without regard to section 5311(b) of title 5, United States Code, the Director may appoint and fix the pay of such personnel as the Commission considers appropriate.

(3) The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(f)(1) The Commission may, for the purpose of carrying out this section, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(4) The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) The Commission may transmit to the President and to each House of Congress such interim reports as it considers appropriate and shall transmit to the President and to each House of Congress a final report not later than 30 months after the date the Commission is duly organized. The final report shall contain a detailed statement of the findings and conclusions of the Commission and its recommendations for such legislation and such administrative actions as it considers appropriate.

(h) The Commission shall cease to exist six months after the submission of its final report.

(i) This section shall take effect on October 1, 1982.

By Mr. Veto:

—Page 47, after line 6, insert the following:

(b) Section 101 of the Defense Production Act of 1950 (50 U.S.C. App. 2071) is amended by adding at the end thereof the following:

"(d)(1) The Secretary of Defense may not enter into any contract of more than $1,000,000 for any item of defense production from any manufacturer located outside of the United States unless—

"(A) the Secretary of Defense has determined in writing that such contract will not result in the United States' becoming primarily dependent on manufacturers located outside of the United States for the supply of such item of defense production; or

"(B) the President has certified in writing to the Congress that entering into such contract is essential to the national defense.

"(2) The requirements of paragraph (1) shall not apply—

"(A) during any period in which there is in effect—

"(i) a declaration of national emergency which is issued by the President; or

"(ii) a declaration of war which is adopted by the Congress; and

"(B) with respect to contracts which are entered into under the terms of any treaty which is ratified by the Senate.

"(3) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

And redesignate the following subsection accordingly.

H.R. 6755

By Mr. PEYSER:

—Page 4, after line 12, insert the following new subsection:

(g) None of the funds appropriated under this Act may be used for El Salvador unless the President reports to the Congress—

(1) that he has determined that the Government of El Salvador has conducted a complete and thorough investigation into the murders in El Salvador of the four United States missionaries and two United States agrarian reform workers in December 1980 and January 1981, and into the disappearance in El Salvador of the United States journalist in January 1981; and

(2) that he is satisfied that the responsible parties were or will be prosecuted to the fullest extent of Salvadoran law.

H.R. 6956

By Mr. WALGREN:

—Page 42, immediately after line 18, insert the following new section:

SEC. 416. None of the funds appropriated by this Act may be obligated or expended to promulgate, issue, prescribe, implement, administer, or enforce any rule, order, or sanction under the Clean Air Act on any State or political subdivision thereof for failure to adopt, implement, conduct, or enforce a vehicle emission control inspection and maintenance program. Nothing in this section shall be construed to preclude the use of funds for the purpose of providing technical assistance under such Act to any State or political subdivision thereof.

SENATE—*Tuesday, August 17, 1982*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Sovereign Lord of history and the nations, this promises to be a rough season in the Senate. I pray for the leadership a special measure of Godly grace, wisdom, energy, and patience. Help the Senators that emotion will not conquer reason. Protect them against hot heads and cold hearts. Enable them to possess cool heads and warm hearts.

Gracious Heavenly Father, as they struggle with issues which do not and cannot yield to simplistic resolution, help them to hear one another, to respect each other's convictions, and to seek together what is true and just. Help them to take seriously Thy gracious offer of divine wisdom to any who ask; and may Your name be hallowed, Your kingdom come, and Your will be done in the Senate as in Heaven. For the sake of Thy kingdom and Thy righteousness. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, under the order entered on last evening, the Senate stood in adjournment until this morning. Hence, today is a new legislative day. According to the order entered on yesterday, the reading of the Journal was dispensed with, provision was made that no resolutions should come over under the rule, and the call of the calendar was dispensed with.

Mr. President, after the recognition of the two leaders under the standing order, two Senators will be recognized on special orders of not to exceed 15 minutes each, Senator CHILES of Florida, and Senator TOWER of Texas.

After the execution of the special orders, Mr. President, there will be a period for the transaction of routine morning business in any time remaining but not past the hour of 10 a.m., in which Senators may speak for not more than 2 minutes each.

At 10 a.m., Mr. President, according to the order entered on Friday last, a series of votes will occur on S. 2222, the so-called immigration bill, as follows:

Hayakawa amendment No. 1907; Hayakawa amendment No. 1908; Hayakawa amendment No. 2019; a Simpson motion to table a Helms amendment No. 2024. If the tabling motion fails, then a vote will occur on the Helms amendment No. 2024.

Another Hayakawa amendment No. 2025; a Tower amendment No. 2026; a Tower amendment No. 2027, and a Boschwitz amendment No. 2028.

Each of those are rollcall votes, as previously ordered. The first vote will be 15 minutes in length. The other votes occurring back-to-back will be 10 minutes in length each. Senators, therefore, are urged to consider that the time between 10 o'clock and 12 o'clock, approximately, will be virtually constant rollcall voting. I would strongly suggest that Members remain on the floor so that we can confine the time for the rollcall votes to that prescribed by the precedents and orders of the Senate.

After the disposition of these amendments, and no other amendments will be in order under the order previously entered, the Senate will proceed immediately to third reading and final passage of the immigration bill.

Following the disposition of the immigration bill, S. 2222, the Senate will resume consideration of House Joint Resolution 520, which is the debt limit, on which the Helms amendment No. 2031 is pending. Under the order previously entered, when we resume consideration of that matter, the Senator from Oregon (Mr. PACKWOOD) will be recognized.

At 2 p.m., Mr. President, according to the order entered on last evening, the Senate will vote on or in relation to a Baker amendment No. 2029 to House Joint Resolution 520 dealing with gymnasiums.

Mr. President, at 12 noon today it is anticipated the Senate will recess so that Members on both sides of the aisle can attend party caucuses as is our custom on Tuesdays. The recess is expected to extend from approximately 12 noon until 2 p.m., when a vote will occur on the Baker amendment, as previously announced.

Mr. President, after the disposition of the Baker amendment, it is anticipated the Senate will be asked to proceed to the consideration of a privileged matter, the Department of Defense authorizations conference report, on which there is a time limitation agreement in process. Over the weekend we tried to obtain an agreement to limit debate on that conference report to 1 hour.

After the disposition of the Department of Defense authorizations conference report, the Senate will resume consideration of House Joint Resolution 520.

Mr. President, it is anticipated that the Senate may remain in somewhat later than the usual adjournment hour tonight, but not excessively late. I do not expect, absent extraordinary circumstances, to ask us to stay through the dinner hour. Senators should be reminded, however, that we are coming down the home stretch, so to speak, and that if we have any hope at all of finishing the must list, including those privileged matters such as the two reconciliation conference reports, by the 20th of August in order to make our recess conform to that of the House of Representatives, it may be necessary on any evening this week to remain late, perhaps even very late.

What I am about to say next, Mr. President, I do not welcome, but I owe it to Members to point out that our adjournment date is still August 27. I am thinking of the possibility of asking the Senate to remain in, if necessary, over the weekend in order to avoid encroaching on next week, if that would permit us to finish our schedule. That decision has not yet been made. I will consult with the minority leader and other Senators during the course of the day, evaluate the situation as best I can, and try to have a further announcement on the schedule of the Senate as I see it later today or at this hour tomorrow.

JOINT UNITED STATES-CHINA COMMUNIQUE

Mr. BAKER. Mr. President, in June of this year I traveled to the People's Republic of China and engaged in a series of meetings with the leadership there on the state of United States-Chinese relations. It was a sensitive time in the relationship and it was clear that significant problems remained in the development of a strong and enduring relationship. I returned from China, however, convinced that the Chinese share our desire to strengthen the relationship and that it is for them, as it is for us, a vitally important element of national policy.

With that in mind, I was pleased with today's announcement by President Reagan on the United States-China joint communique concerning the question of arms sales to Taiwan. The negotiations on this communique were in progress while I was in Peking and I know first hand how deeply and strongly the Chinese leadership feels on this issue.

I also know how deeply and strongly the President feels about our historic relationship with the people in Taiwan. I know that he believes that the commitments of the United States must be kept, in this case in the full implementation of the Taiwan Relations Act, and I advised the Chinese leadership that they should harbor no illusions on that subject. I also expressed my belief that the requirements of the act were consistent with the expectations of the parties at the time of normalization.

I believe the communique issued today is fully consistent with the act and obviously consistent with our determination that the Taiwan question be resolved peacefully and without coersion. The communique, moreover, is a demonstration of Chinese intent, not only to strengthen the relationship with the United States, but to seek a solution to the question of Taiwan in a peaceful manner.

Mr. President, we should not believe that this communique will remove the issue of Taiwan as an issue of contention between Peking and Washington. It is, however, a clear indication of the ability of our two great countries to resolve differences on even the most intractable of problems in a way consistent with the interests of both parties and without compromising the principles of either. In my view, that is a good omen for the future of our relationship with China and I commend the President for achieving it.

Mr. President, I ask unanimous consent that President Reagan's statement and the joint communique be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL STATEMENT ON ISSUANCE OF COMMUNIQUE

The U.S.-China Joint Communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides, and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My long-standing personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper, and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waver from this fundamental position.

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past three decades, and of the American contribution to that process. I have full faith in the continuation of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well being of the people of Taiwan.

UNITED STATES-CHINA JOINT COMMUNIQUE OF AUGUST 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972 and reaffirmed in the Joint Communique on the Establishment of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point Proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have no need for the remainder of my time under the standing order.

I ask unanimous consent that any time I have remaining, together with any time the minority leader has under the standing order, may be reserved to my use or to his use during the remainder of this day.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

Mr. PROXMIRE. Will the leader yield me 1 minute?

Mr. BAKER. I yield to the Senator from Wisconsin.

RECALLING A LESSON OF THE BIAFRAN CIVIL WAR

Mr. PROXMIRE. Mr. President, on February 13, Pope Paul II recited Mass for throngs of Ibo Catholics in Onitsha, Nigeria. The crowd chanted, danced, and waved papal flags upon the pontiff's arrival. When he spoke they listened attentively without fear of government reprisal.

The Ibo tribesmen are once again able to practice their religion freely. But just over one decade ago this was not the case. During the late 1960's and early 1970's the Ibo, due to differences along national, religious, and ethnic grounds with other Nigerians, were victims of relentless indiscriminate attacks.

In 1967, the inhabitants of the eastern portion of the country, primarily Ibos, attempted to secede and reconstitute their region Biafra. They met fierce opposition from the forces of General Gowan who ruled Nigeria at that time. Gowan successfully rebuffed the Biafran independence efforts but refused to limit his troops' sallies to reunification goals. Under his direction the army continued on, wiping out substantial segments of the easterners.

In 1971, the Department of State admitted that American leverage in the situation was seriously hindered because the United States had not ratified the Genocide Convention.

Although the problem of persecution no longer exists in eastern Nigeria, the United States is still paralyzed in similar situations. Not until we join some 85 countries and ratify the Genocide Convention will our hands finally be untied so that we may exert ample American influence. It is time that we give this Nation the additional clout in international matters.

WHY THE FEDERAL GOVERNMENT WASTES ITS TIME AND MONEY IN PLANNING FOR A LONG NUCLEAR WAR

Mr. PROXMIRE. Mr. President, a long nuclear war might very well end the existence of mankind on this planet. It would almost certainly destroy the heart of the American system of democratic government, our broad and deep guarantees of freedom for all our citizens. In the view of many, it would end the ability of the United States to continue as an organized society. Forget about delivering the mail. Consider the black and white fact that in a long nuclear war, as the months and years of nuclear destruction continue, increasing millions of Americans would die. Millions more would suffer hideous, agonizing burns that would drag out a living death, and millions more would slowly lose their strength and will to live under the ravages of radioactive-induced cancer.

Most of our doctors and nurses, being urban dwellers, would perish quickly. Most of our hospitals would crumble in rubble. We would even lack painkilling drugs—let alone the prospect of healing and recovery.

Faced with this appalling prospect, can we find anything instructive in the Federal Government's plan for a long nuclear war? Yes, indeed. The Government is absolutely right in facing the fact that a nuclear war probably would not end in a few hours or a few days. In fact, it could and probably would go on and on and on. It would not start and end in a blinding flash, as the nuclear attack on Japan ended World War II. In World War II, we alone—the United States—had the power to wage nuclear war. The Japanese had no ability to strike back. They had no alternative to surrender.

Now consider a nuclear war between the United States and the U.S.S.R. today. Both countries have almost endless nuclear power. Between the United States and the U.S.S.R., we have more than 1.6 million times the nuclear power that was dropped on Hiroshima. We now have the equivalent of 4 tons of TNT for every man, woman, and child on Earth.

Both nuclear superpowers have virtually invulnerable nuclear weapons. Both have thousands of land-based missile launchers. No attack could wipe out every one of these launchers. Both also have even less vulnerable nuclear-equipped airborne bomber fleets, some of which are always in the air, and both have the clearly invulnerable submarine fleets, constantly moving beneath the surface of the ocean—fast, quiet, and so deadly that each U.S. sub could wipe out every major city in the U.S.S.R. And we have 41 of them. Both superpowers steadily increase and perfect these fleets.

So, how would we end a nuclear war? With this kind of massive, invulnerable nuclear power, militant elements on each side could continue the hideous nightmare of devastating destruction literally for years, to inflict devastation literally beyond imagination on the other, until every last vestige of civilization disappeared from the surface of the Earth in both countries.

Meanwhile, this kind of global nuclear war would probably catch up the other nuclear powers—as allies or enemies. The thousand nuclear weapons the French possess and the 1,500 the British have would eventually respond as the holocaust pulled in allies and foes, as world wars have done in the past.

At this moment, 6 countries have a nuclear warmaking capacity, and within a few years, unless we act decisively to stop it, that will double to 12. By the year 2000, it will double again, to 25 or more. Then we will have a far bigger, more massive, and far less stable worldwide nuclear capacity, with far more countries able to start and even join in the terrible holocaust.

Yes, indeed, we should expect that a nuclear war, once started, would go on and on and on. Can anyone suggest how we could turn it off?

Consider a country, any country, that has suffered agonizing, devastating, destruction, with its dead outnumbering the living, but still possessing hundreds of thousands of nuclear weapons. Would they passively accept their terrible fate, or would they continue to use the destructive power they all possess to avenge their dead by killing millions of the hated enemy? On the basis of the past conduct of wounded nations that still possessed the power to destroy, they could find a way to continue producing these weapons of infinite death and then continue using them as long as they had any hope of destroying the enemy.

One way or another, the result would almost certainly destroy both superpowers and possibly all life on Earth.

Mr. BAKER. Mr. President, before we proceed further, I reclaim one more moment of my time and yield the floor so the distinguished President pro tempore may call the attention of the Senate to the pendency of a matter.

The PRESIDING OFFICER. The Senator from South Carolina.

CRIMINAL JUDGMENTS IMPROVEMENTS ACT

Mr. THURMOND. Mr. President, I have a bill at the desk that has been

read one time. I ask that it be called up and given second reading.

The PRESIDING OFFICER. The bill will be read the second time.

The legislative clerk read as follows:

A bill (S. 2838) to reform procedures for collateral review of criminal judgments, and for other purposes.

Mr. BAKER. Mr. President, on behalf of the Senator from South Carolina, I object to further proceeding under the bill.

The PRESIDING OFFICER. Under rule XIV, the bill will be placed on the calendar.

Mr. THURMOND. Mr. President, I understand now that the bill goes on the calendar.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I see the distinguished Senator from Florida is here. I yield the floor so he may claim his time under the special order.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

CRIMINAL JUSTICE REFORM

Mr. CHILES. Mr. President, this Thursday marks the beginning of the fourth month that Senator NUNN and I have been coming to the floor of the Senate to speak out on the need for Congress to move quickly to pass crime-fighting legislation. We have cited examples of specific cases which might have turned out differently had the reforms we have proposed been passed into law. We have brought to the attention of our colleagues the calls for reform of our criminal justice system, calls that have come from a broad range of groups involved in law enforcement and from concerned citizens groups. By doing this, by coming here to speak out on crime every day, we hope to reemphasize our strongly held belief that action to reform our criminal justice system and to fight crime is a priority second to none in the days remaining in this session of Congress.

There are presently two bills pending on the Senate Calendar that would help fight crime. All that we need to do is call either one of them from the calendar, debate it, and send it to the House. The first bill, S. 2543, was introduced by Senator NUNN and myself. Some 18 other Senators have joined us in cosponsoring it. The second bill, S. 2572, was introduced by Senators THURMOND and BIDEN, and Senator NUNN and I were original cosponsors of that bill. Presently, over 50 Senators have signed on as cosponsors of S. 2572, and the Senate has entered into a time agreement for the consideration of S. 2572.

One essential part of any fight against crime must be a reform of our criminal justice system, to assure that those criminals who are arrested are unable to rely on legal loopholes to escape justice. And a key component of any criminal court reform has to be doing something to cut down on the seemingly endless number of appeals which convicted prisoners are able to file.

Today, prisoners who were convicted in full and fair State court trials are able to challenge their convictions time and time again, for years or even decades after their original trial took place. They rely on the Federal habeas corpus statute to file these appeals. We have an opportunity to cut down on these abuses in our criminal justice system, and to restore the writ of habeas corpus to its original purpose, by acting on the habeas corpus reforms proposals now before the Congress. Title 4 of S. 2543 contains a habeas reform proposal which is patterned after a bill, S. 653, that Senator THURMOND and I introduced last year. Another habeas corpus reform proposal, S. 2216, was introduced by the administration this year, and it has my full support. Either proposal, if passed, would do much to eliminate the problems in today's system, and I believe that Congress must act promptly on either or both of these two proposals.

As I mentioned earlier, the shortcomings of today's habeas system with its almost unlimited availability to anyone in prison, have been pointed out by many of those involved in the criminal justice system. One of the first persons to point out the shortcomings in the current habeas corpus statutes was U.S. circuit court of appeals Judge Henry Friendly, one of the most prominent and well-respected judges in the United States.

Back in 1970, Judge Friendly published an article in the University of Chicago Law Review. The article focused on how the habeas corpus was working, and contained suggestions for reform. Judge Friendly's main point was set forth in the title of the article. It was called "Is Innocence Irrelevant?" It is that issue—the notion that in collateral appeals of State court criminal convictions, guilt or innocence is the last thing to be considered—which is at the root of the calls for reforms in the current habeas laws. Trying to focus more on guilt or innocence, as well as timeliness, is the central feature of the habeas reform bills now before the Congress.

Mr. President, I would like to share some of the points Judge Friendly made about the habeas system with my colleagues. The opening passage of his article sets out the basic problem with today's system, and identifies what should be the basic roadmap for reform. He said:

> Legal history has many instances where a remedy initially serving a felt need has expanded, bit by bit, without much thought being given to any single step, until it has assumed an aspect so different from its origin as to demand reapprisal—agonizing or not. That, in my view, is what has happened with respect to collateral attack on criminal convictions. After trial, conviction, sentence, appeal, affirmance, and denial of certiorari by the Supreme Court, in proceedings where the defendant had the assistance of counsel at every step. The criminal process, in Winston Churchill's phrase, has not reached the end, or even the beginnings of the end, but only the end of the beginning. My thesis is that, with a few important exceptions, convictions should be subject to collateral attack only when the prisoner supplements his constitutional plea with a colorable claim of innocence.

I share Justice Friendly's feeling that, over the years, we have strayed away from the original purpose of the writ of habeas corpus. I also agree with his belief that, with a few important exceptions, such as serious abuse by the prosecution, convictions should be subject to collateral attack only when the prisoner supplements his constitutional plea with a colorable claim of innocence.

Mr. President, I call the attention of my colleagues to this important article by Judge Friendly. It sets forth some of the most compelling reasons for reform. It is something which I hope to discuss further in the days ahead. Hopefully, in days ahead, we in the Senate will have an opportunity to respond to some of the concerns raised by Judge Friendly, by other judges and scholars, by those involved in the criminal justice system, and by the public. We can respond if we act promptly to pass habeas corpus reform legislation. We can do that, but only if we act soon. As few as 24 legislative days remain in this session of Congress, and time is running out. We can act to put more finality into our system, and to restore the writ of habeas corpus to its original purpose, but only if we act promptly.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR TOWER

The PRESIDING OFFICER. Under the previous order, the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

EMPLOYER SANCTIONS—AMENDMENT NO. 2027

Mr. TOWER. Mr. President, I should like to address myself to an amendment that I have pending to S. 2222 which will be voted on later in the morning. It is the employer sanctions amendment numbered 2027.

Mr. President, this amendment is compliance oriented. No one disputes the fact that the majority of American businessmen are honest and will comply with an employer sanctions provision, and it is for this very reason that the demands of time and expense which S. 2222 inflicts on our employers and taxpayers are so unreasonable. I do not want to see unscrupulous organizations simply factor in the costs of noncompliance with a verification procedure or of a system of fines payments, as a matter of doing business. I would much rather see real compliance with the provisions of the law.

This amendment does not gut employer sanctions, as some contend. It merely insures that those individuals who have full knowledge that they are breaking the law will be forced to comply with the law.

This amendment helps to accomplish our overall goal in the most efficient and equitable fashion without the imposition of the bureaucratic quagmire which I could easily foresee occurring were the Federal Government to start trying to monitor successfully the 70 million job transactions occurring in this country every year.

I know that this amendment is not the perfect solution to all our immigration and discrimination problems. As I have repeatedly stated, I am opposed to the concept of employer sanctions generally, on the premise that they cause unreasonable burdens on our employers while discriminating against American citizens of alien heritage. I believe this amendment is the most workable solution, however, and can make substantial inroads into stopping illegal immigration.

My very real fear with the current provisions in S. 2222 is the devastating effect I feel enactment of these provisions would have upon the future ability of Hispanics in my State and other border States to obtain employment. It would indeed be a tragedy if the upward-bound mobility of this sector of the population was suddenly set back several decades because employers would simply refuse to hire anyone with an alien surname or a foreign appearance. What employer would want to bear the burden of proof that he reasonably believed an applicant's documents were genuine? What employer feels qualified to reach this type of judgment as to the legal validity of papers presented? Finally, what about an employer who does not want to hire minorities for reasons of bigotry or prejudice, and accomplishes his goal through legal means by asserting that he did not believe the potential employee's papers were authentic? I firmly believe that the net result of this type of employer sanctions bill may be that Hispanics will never even get a foot in the door.

There have been various comments received from individuals who share my concern about the current employer sanctions provision.

I quote Willie Bonilla, past national president of LULAC:

> As a past National President of LULAC, and as a person interested in the rights of all human beings, I am of the opinion that this amendment is the best route to take and I wholeheartedly support the amendment which is being offered by Senator TOWER to the employer sanctions portion of this bill.

I should also like to quote Henry Cisneros, mayor of San Antonio, Tex.:

> I think that this is a positive step—a step in the right direction—and is preferable to the provisions currently in the bill. I understand the legislative process, and I know that such improvements must be done step by step.

In addition, I have received enthusiastic endorsements from Oscar Moran, Texas State president of LULAC, and Jose Cano, president of National American GI Forum.

I am aware, Mr. President, there has been some confusion about the position of the national leadership of LULAC. I think that there was some concern that the willful standard might be used by an employer to defend himself against the charge of discrimination. That is not my intent, and let me make the intent very, very clear.

The willful standard applies only to the offense of hiring an individual unauthorized to work in the United States. This standard in no way—and let me repeat—in no way can be construed to apply to a standard for determining discrimination in hiring an individual, nor does it affect in any manner EEOC guidelines or statutory law of discrimination on the basis of national origin.

It is the intent of this Senator in offering the amendment to do everything he can to prevent discrimination and not to make it easier for any employer to defend himself against a charge of discrimination.

Now, having made that bit of legislative history, having expressed now the full intent of the offered amendment, I have discussed this matter with Mr. Tony Bonilla, who is the national president of LULAC, and he informs me that with this legislative history and with this clear intent expressed, he is prepared to support my amendment in preference to the provision now in the bill.

Let me make it clear that LULAC continues to oppose any employer sanctions legislation, but if indeed such legislation must pass, the national president of LULAC feels that the position that I advocate here is preferable to the one currently in the bill.

I urge my colleagues who believe in justice for our Hispanic Americans, who believe in fair play, to support this amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I merely rise to congratulate the Senator from Texas who represents, as I represent, a State on the Mexican border that finds, as we find in my State, that many, many wonderful people come across our border every year from Mexico, some authorized, some not. I think the Senator's amendment will be an added blessing to this bill because I do not think the bill took the right step in helping us to accommodate and helping us to do away with the abuses that occur. While the Senator's amendment does all of those things, I am very happy to support him in this effort.

Mr. TOWER. I thank my distinguished colleague from Arizona.

EDUCATION ASSISTANCE FOR ALIEN CHILDREN—AMENDMENT NO. 2026

Mr. TOWER. Mr. President, in the matter of another amendment, my amendment No. 2026, to provide education assistance for alien children, a rollcall vote has been ordered on that amendment, but I have had a discussion with Mr. HATCH, the distinguished chairman of the Labor and Human Resources Committee. He has promised me that his committee will hold hearings, and Mr. STAFFORD, the chairman of the appropriate subcommittee, has joined in that assurance that hearings will be held on this issue.

I think it is felt by some members of that committee, although they might be in fundamental sympathy with the objective of this amendment, it should be a matter considered by that committee and hearings should be held on it and that it is inappropriate to include it on this bill.

I did include it because I thought this was an appropriate vehicle. However, it is my understanding that if it could go through the hearing process there would be much better prospect of support, that some Senators are reluctant to vote for it on this bill to which it is not absolutely germane without first having had some hearings.

YEAS AND NAYS VITIATED ON AMENDMENT NO. 2026

Therefore, given the assurances of Senators HATCH and STAFFORD, I ask unanimous consent that the yeas and nays on my amendment No. 2026 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I withdraw my amendment No. 2026.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. TOWER. Mr. President, I shall enter in the RECORD at some point today, to be included in the RECORD at the appropriate place, a colloquy between Senator HATCH and/or Senator STAFFORD and myself.

Mr. President, I am prepared to yield back the remainder of my time and I do yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m., with statements therein limited to 2 minutes each.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. KENNEDY at this point are printed later in today's RECORD prior to passage of S. 2222.)

AN APPEAL FOR ACTION: THE U.S. ECONOMY NEEDS FINANCIAL SECTOR DEREGULATION

Mr. ABDNOR. Mr. President, we legislators have a nightmare on our hands. The finance industry has outgrown the rules and regulations that govern it and little has been done to rectify this despairing situation. Instead of providing this industry with a legal foundation that fosters growth, innovation, and efficiency, the rulemakers have produced a lackluster list of accomplishments. Failing to address major changes in banking rules has resulted in public dissatisfaction, prolonged ill effects of a distorted market setting and a bitter rivalry among the various financial institutions that are fighting for survival.

True to the American spirit, the decisionmakers in banks, thrifts, and other establishments are not going to sit back idly and watch the chaos deteriorate their operations further. After suffering years of dashed hopes of accomplishing regulatory reform, their patience has worn thin. No longer will they tolerate inaction that has cost them dearly. The unresponsive leaders in government are going to face strong protest until this unjust setting is resolved.

A classic and courageous standoff is now taking place in the State of South Dakota. To many of my colleagues, South Dakota may appear to be an illogical and unseemly location for a challenge to the status quo of banking regulation. However, in South Dakota the bankers are close to the people and are eager to provide the best services available to small businesses and individuals. The banks and thrifts want a healthy and competitive environment. They unfortunately have been no match for money market mutual funds (MMMF's), which have a market advantage created by escaping Federal regulation.

Dissatisfied with the lack of action by the Congress and the Depository Institutions Deregulation Committee (DIDC), the South Dakota Banking Commission authorized the use of a financial instrument that could compete effectively with MMMF's. To be issued, such an instrument also must receive the approval of the DIDC. Instead of giving public hearing and consideration of this innovative approach to making our financial system more competitive, the DIDC flatly refused any open discussion of the proposal and denied its use in the market. It is contrary to the principle of public participation in government affairs to have such disregard for a reasonable request.

In defense of their denial, the DIDC pointed to the problems of permitting an instrument available in only a specified region, even though the South Dakota Bankers' position acknowleged that this instrument should be issued nationwide.

Two South Dakota banks offered an instrument known as a super NOW account, which featured checkwriting services and paid market rates of interest. Since those super NOW's violated regulation Q, the Federal Reserve quickly stepped in to enforce the law. The rule-abiding banks relented and dissolved the use of super NOW's. Their fight has not ended, however.

The South Dakota attorney general has filed suit against the DIDC for having neglected its congressionally assigned duty. This committee has failed to execute its task of deregulating and reregulating the financial sector. This failure has caused the American public to suffer the costs and problems of dealing with a less-than-optimal banking structure. Stifled competition, imposed by artificial requirements affecting different institutions unequally, has limited the choices available to consumers.

I commend the action taken by my fellow South Dakotans. They are crusaders fighting for a cause they feel is just. They certainly will get their day in court, but they also deserve the attention of legislators and regulators.

Money market funds have enjoyed their competitive edge by escaping Federal banking regulation. Clearly their very existence points to the inadequacy of our current banking law. Five years ago MMMF's were unknown; today they are a household word. Over $200 billion has been funneled away from the smaller banks and thrifts which are bound by regulatory restriction. Money that otherwise would stay in the neighborhood and city has become far removed from its source.

It must be recognized that our complex and technical economy needs the free flow of resources into the most productive uses. Our whole Nation depends on a money network that services both large, multinational corporations and small enterprises. To facilitate the needs of all individuals and businesses, all financial institutions should be allowed to compete for the savings held by the public. The super NOW account would be an effective alternative for everyone and offers deregulators the opportunity for a smooth transition.

I call on the DIDC to implement new rules governing the financial sector. Our economy can ill afford the distortions created by the current regulatory environment. Decades-old rules must be replaced by new ones that promote innovation and productivity increases.

A cloud of dissatisfaction hangs over the Congress and the DIDC. This cloud could be dispelled if the shackles of unfair competition were removed. I urge the DIDC to give swift consideration for allowing an instrument such as the super NOW account. Public hearings would reveal the merits of this innovation and would serve the public interest. The eyes of millions of Americans are watching with extreme concern and hopeful expectations. Let us not disappoint them.

JACK McFARLAND: A QUIET CHAMPION WHO MADE THINGS HAPPEN

Mr. SASSER. Mr. President, it was Ralph Waldo Emerson who once said:

> Every institution is but the lengthened shadow of some man. A movement is but the projection of a monumental personality. Service more than any other activity of man is the reason for grateful remembrance which ripens into fame.

When I read those words, I think of Jack McFarland of Murfreesboro, Tenn., publisher, business leader, civic leader, builder of education, promoter of industrial development, and jobs for his community.

Jack died last April 8 at the age of 70. He had been a resident of Murfreesboro for more than two score years. During that time he left his mark on that fine city in a remarkable way.

He was an unselfish, caring person who shunned publicity and who went his way quietly, seeing to it that funds

were available for expansion of Middle Tennessee State University, working successfully to expand the industrial base in Murfreesboro and Rutherford County and generally becoming involved in important activities when success was critical to the future growth and progress of the area.

When the undefeated football team at Middle Tennessee State wanted an invitation to appear in a post season bowl, Jack McFarland paved the way.

When an important community objective had to be reached, you could rest assured that Jack would be involved in his modest, unpretentious way, effectively making things happen.

Jack McFarland's personality reflected his wholesome outlook on life. He was easy to talk to and always had a wry comment and a chuckle about some current event. He was pleasant, personable, and accommodating. He loved life as he saw it and enjoyed life as he lived it.

On September 7, ceremonies will be held in Murfreesboro to pay tribute to the memory of this fine man. It can be said with certainty—and in truth—that the world is a better place because Jack McFarland lived. There can be no greater tribute.

ON THE PRESIDENT'S TAX BILL

Mr. KENNEDY. Mr President, I have decided to vote for President Reagan's tax proposal.

The bill has been improved somewhat in the conference committee by eliminating some medicare cuts and by providing more help for the unemployed. The improvements do not go nearly as far as I would like. But the national interest matters more than our specific preferences about every detail of this tax legislation. And it is time for all of us in the Congress to put our country ahead of any other consideration. We have only one economy—and we face a deepening danger of economic collapse. The failure of this bill could almost certainly compound the disaster we are now enduring. The President's economic policy of 1981 was wrong; at long last, he has sought to reverse a part of that policy.

The tax reforms in this legislation include many that I have favored and fought for over a long period and reverses some of the most serious mistakes of the 1981 Reagan program. These reforms represent an essential measure to reduce Federal deficits now near the incredible level of $200 billion. But we must recognize that the tax bill by itself is not the solution; its passage offers only the hope that a bad situation will not become even worse. We dare not throw that hope away. And we must move beyond this bill to establish a new Federal Reserve policy and to bring down the staggering interest rates which have ravaged our economy for many months. We must mount a new effort to invest in America, to reindustrialize our economy, and to make it more competitive in the world. Only in this way can we respond to the appalling tragedy of unemployment.

We have moved far in the wrong direction in economic policy. This tax bill is only a small step back. But failure to pass it could be a large mistake, which might do major damage to the financial markets, to our economy, and to the hope that we all share as Americans for a restoration of prosperity.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. GOLDWATER, Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

AMENDMENT NO. 2025 WITHDRAWN

Mr. GOLDWATER. Mr. President, I ask unanimous consent, on behalf of Senator HAYAKAWA, of California, that his amendment No. 2025 be withdrawn.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2222, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate resumed the consideration of the bill.

VOTE ON AMENDMENT NO 1907

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Hayakawa amendment No. 1907. The yeas and nays have been ordered and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. D'AMATO). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 16, nays 83, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—16

Armstrong	Hatch	Pressler
Boren	Hatfield	Schmitt
Boschwitz	Hayakawa	Symms
East	Helms	Tower
Garn	Laxalt	
Goldwater	McClure	

NAYS—83

Abdnor	Eagleton	Mitchell
Andrews	Exon	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Bradley	Hawkins	Pell
Brady	Heflin	Percy
Bumpers	Heinz	Proxmire
Burdick	Hollings	Pryor
Byrd, Harry F., Jr.	Huddleston	Quayle
	Humphrey	Randolph
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Roth
Chafee	Jepsen	Rudman
Chiles	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Simpson
Cranston	Kennedy	Specter
D'Amato	Leahy	Stafford
Danforth	Levin	Stennis
DeConcini	Long	Stevens
Denton	Lugar	Thurmond
Dixon	Mathias	Tsongas
Dodd	Matsunaga	Wallop
Dole	Mattingly	Warner
Domenici	Melcher	Weicker
Durenberger	Metzenbaum	Zorinsky

NOT VOTING—1

Ford

So the amendment (No. 1907) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1908

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the Hayakawa amendment (No. 1908).

This will be a 10-minute vote. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator, Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—46

Armstrong	Dodd	Metzenbaum
Bentsen	Domenici	Nickles
Biden	Exon	Pressler
Boren	Garn	Pryor
Boschwitz	Hart	Riegle
Bradley	Hatch	Roth
Bumpers	Hatfield	Sarbanes
Byrd, Harry F., Jr.	Hawkins	Schmitt
	Hayakawa	Stennis
Cannon	Helms	Symms
Chafee	Hollings	Tower
Chiles	Jackson	Tsongas
Cranston	Jepsen	Wallop
D'Amato	Kennedy	Warner
DeConcini	Laxalt	Zorinsky
Dixon	McClure	

NAYS—53

Abdnor	Grassley	Moynihan
Andrews	Heflin	Murkowski
Baker	Heinz	Nunn
Baucus	Huddleston	Packwood
Brady	Humphrey	Pell
Burdick	Inouye	Percy
Byrd, Robert C.	Johnston	Proxmire
Cochran	Kassebaum	Quayle
Cohen	Kasten	Randolph
Danforth	Leahy	Rudman
Denton	Levin	Sasser
Dole	Long	Simpson
Durenberger	Lugar	Specter
Eagleton	Mathias	Stafford
East	Matsunaga	Stevens
Glenn	Mattingly	Thurmond
Goldwater	Melcher	Weicker
Gorton	Mitchell	

NOT VOTING—1

Ford

So Mr. HAYAKAWA's amendment (No. 1908) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2019

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California, amendment No. 2019. This will be a 10-minute vote. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any Senators in the Chamber wishing to vote?

The result was announced—yeas 78, nays 21, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—78

Abdnor	Biden	Burdick
Andrews	Boren	Byrd, Harry F., Jr.
Armstrong	Boschwitz	
Baucus	Bradley	Byrd, Robert C.
Bentsen	Bumpers	Cannon
Chiles	Hollings	Nunn
Cohen	Huddleston	Packwood
D'Amato	Humphrey	Pell
Danforth	Inouye	Pressler
DeConcini	Jackson	Proxmire
Denton	Jepsen	Pryor
Dixon	Johnston	Quayle
Dodd	Kassebaum	Randolph
Dole	Kasten	Riegle
Eagleton	Laxalt	Roth
East	Leahy	Rudman
Exon	Levin	Sarbanes
Garn	Long	Sasser
Glenn	Lugar	Stafford
Gorton	Matsunaga	Stennis
Hatch	Mattingly	Symms
Hatfield	McClure	Thurmond
Hawkins	Melcher	Wallop
Hayakawa	Metzenbaum	Warner
Heflin	Mitchell	Zorinsky
Heinz	Moynihan	
Helms	Nickles	

NAYS—21

Baker	Goldwater	Schmitt
Brady	Grassley	Simpson
Chafee	Hart	Specter
Cochran	Kennedy	Stevens
Cranston	Mathias	Tower
Domenici	Murkowski	Tsongas
Durenberger	Percy	Weicker

NOT VOTING—1

Ford

So Mr. HAYAKAWA's amendment (No. 2019) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2024

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming (Mr. SIMPSON) to table the amendment of the Senator from North Carolina (Mr. HELMS). This is a 10-minute vote. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 64, nays 35, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—64

Abdnor	Gorton	Mitchell
Andrews	Hart	Moynihan
Baucus	Hatch	Murkowski
Biden	Hatfield	Packwood
Boren	Hayakawa	Pell
Boschwitz	Heflin	Percy
Bradley	Heinz	Proxmire
Brady	Hollings	Pryor
Bumpers	Huddleston	Quayle
Burdick	Inouye	Riegle
Chafee	Jackson	Roth
Cranston	Kassebaum	Sarbanes
D'Amato	Kennedy	Schmitt
Danforth	Laxalt	Simpson
Dixon	Leahy	Specter
Dodd	Levin	Stafford
Dole	Lugar	Stevens
Domenici	Mathias	Tower
Durenberger	Matsunaga	Tsongas
Eagleton	Mattingly	Weicker
Garn	Melcher	
Glenn	Metzenbaum	

NAYS—35

Armstrong	East	Nickles
Baker	Exon	Nunn
Bentsen	Goldwater	Pressler
Byrd, Harry F., Jr.	Grassley	Randolph
	Hawkins	Rudman
Byrd, Robert C.	Helms	Sasser
Cannon	Humphrey	Stennis
Chiles	Jepsen	Symms
Cochran	Johnston	Thurmond
Cohen	Kasten	Wallop
DeConcini	Long	Warner
Denton	McClure	Zorinsky

NOT VOTING—1

Ford

So the motion to lay on the table amendment No. 2024 was agreed to.

Mr. SIMPSON. I move to reconsider the vote by which the motion was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NOS. 2025 AND 2026 WITHDRAWN

The PRESIDING OFFICER. The amendment by the Senator from California (Mr. HAYAKAWA), No. 2025, was withdrawn earlier this morning by unanimous consent. The amendment of the Senator from Texas (Mr. TOWER), No. 2026 was also withdrawn by unanimous consent earlier today.

VOTE ON AMENDMENT NO. 2027

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Texas (Mr. TOWER), No. 2027.

The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD), is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 14, nays 85, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—14

Byrd, Harry F., Jr.	Hayakawa	Schmitt
	Heflin	Stevens
Dole	Helms	Symms
Domenici	Jepsen	Thurmond
Goldwater	McClure	Tower

NAYS—85

Abdnor	Danforth	Inouye
Andrews	DeConcini	Jackson
Armstrong	Denton	Johnston
Baker	Dixon	Kassebaum
Baucus	Dodd	Kasten
Bentsen	Durenberger	Kennedy
Biden	Eagleton	Laxalt
Boren	East	Leahy
Boschwitz	Exon	Levin
Bradley	Garn	Long
Brady	Glenn	Lugar
Bumpers	Gorton	Mathias
Burdick	Grassley	Matsunaga
Byrd, Robert C.	Hart	Mattingly
Cannon	Hatch	Melcher
Chafee	Hatfield	Metzenbaum
Chiles	Hawkins	Mitchell
Cochran	Heinz	Moynihan
Cohen	Hollings	Murkowski
Cranston	Huddleston	Nickles
D'Amato	Humphrey	Nunn

Packwood	Riegle	Stennis
Pell	Roth	Tsongas
Percy	Rudman	Wallop
Pressler	Sarbanes	Warner
Proxmire	Sasser	Weicker
Pryor	Simpson	Zorinsky
Quayle	Specter	
Randolph	Stafford	

NOT VOTING—1

Ford

So Mr. TOWER's amendment (No. 2027) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2028

The PRESIDING OFFICER. The question is on agreeing to the Boschwitz amendment (No. 2028). The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) was absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 61, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—38

Abdnor	Denton	Long
Armstrong	East	Metzenbaum
Boschwitz	Goldwater	Moynihan
Bradley	Gorton	Nickles
Bumpers	Hayakawa	Pressler
Burdick	Heflin	Pryor
Byrd, Harry F., Jr.	Helms	Rudman
	Hollings	Sasser
Byrd, Robert C.	Huddleston	Specter
Cannon	Humphrey	Stennis
Cochran	Jackson	Thurmond
Cohen	Johnston	Weicker
D'Amato	Kasten	Zorinsky

NAYS—61

Andrews	Grassley	Nunn
Baker	Hart	Packwood
Baucus	Hatch	Pell
Bentsen	Hatfield	Percy
Biden	Hawkins	Proxmire
Boren	Heinz	Quayle
Brady	Inouye	Randolph
Chafee	Jepsen	Riegle
Chiles	Kassebaum	Roth
Cranston	Kennedy	Sarbanes
Danforth	Laxalt	Schmitt
DeConcini	Leahy	Simpson
Dixon	Levin	Stafford
Dodd	Lugar	Stevens
Dole	Mathias	Symms
Domenici	Matsunaga	Tower
Durenberger	Mattingly	Tsongas
Eagleton	McClure	Wallop
Exon	Melcher	Warner
Garn	Mitchell	
Glenn	Murkowski	

NOT VOTING—1

Ford

So Mr. BOSCHWITZ' amendment (No. 2028) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN UP AMENDMENT NO. 1245

Mr. SIMPSON. Mr. President, it has come to my attention that several errors and omissions are contained in unprinted amendment No. 1245 as adopted last Friday. This amendment concerns the first independent preference category and the adjustment of status of certain high-technology foreign students.

I have checked with my colleague for the minority, and I ask unanimous consent that the corrections be made.

The PRESIDING OFFICER. Will the Senator send the corrections to the desk? Without objection, so ordered.

Mr. SIMPSON. Yes; the corrections are being forwarded to the desk.

The corrections are as follows:

UP AMENDMENT NO. 1245

(Proposed by Mr. KENNEDY (for himself), Mr. TSONGAS, Mr. BRADLEY, and Mr. BRADY.)

On page 127 beginning with the quotation marks on line 11, strike out all through "United States" on line 24 and insert in lieu thereof the following:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

Page 147, after line 6, insert the following new paragraph:

(4) by inserting before the period at the end the following:

": *And provided further,* That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States, who is applying for a visa as an immigrant described in section 202(b)(1), and (i) who has been offered a position on the faculty of such an institution teaching in the field in which he obtained such degree, up to a limit of 1,500 such waivers per year, or (ii) who has been offered a research or technical position by a U.S. employer in the field in which he obtained such degree, up to a limit of 4,500 such waivers per year, or

(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and who will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or least residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof."

Page 147, line 3, strike out "and".

Page 147, line 6, strike out the period and insert in lieu thereof, ", and".

Page 147, line 10, "section 201(b)" insert:

"or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him.".

Page 166, after line 10, add the following new subsection to Section 401:

(f) Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs (1) and (2) of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States. Another such report shall be submitted in five years.

Mr. BUMPERS. I have just a few brief questions for the distinguished manager of the bill about the preference for investors in section 202(a)(1) of the bill. It is my understanding that the bill amends section 203(b)(3) of the Immigration Act to provide a statutory preference for immigrants who invest at least $250,000 in this country in an enterprise that will provide at least four full-time jobs. The immigrants must also be a principal manager of the enterprise. What are the policy reasons behind this kind of a preference? Do you think that it is sound policy to provide a preference for which only wealthy individuals can qualify?

Mr. SIMPSON. The investor preference is intended to enable the admission of aliens who would benefit the U.S. economy by bringing into this country substantial capital and managerial expertise which would create employment for Americans.

This preference is below the preference for aliens with exceptional ability and the preference for aliens with needed skills. Surely, the admission of someone who will create jobs for unemployed Americans should be preferred to someone who not only will not create jobs but does not have skills needed in this country. In other words, such a preference is in the national interest.

Mr. BUMPERS. I noticed that the Mazzoli bill in the House also contains such a preference, but it requires that the enterprise create at least 10 full-time jobs in an area of high unemployment. These conditions would make it less likely, in my view, that this preference would be abused. Did your subcommittee consider such additional conditions? Why did you settle on the conditions in S. 2222?

Mr. SIMPSON. We believe it to be unlikely that many foreign investors would satisfy the House criteria. In any case, if an investor can create four jobs anywhere in the United States, we believe this would be in the national interest.

Mr. BUMPERS. Is the Senator from Wyoming confident that this preference will accomplish its desired goal and will not be abused? Will the Senator give me his assurance that his subcommittee will monitor this preference carefully should it become law?

Mr. SIMPSON. As long as I am a member of the Immigration Subcommittee, I will do my best to insure that no provision of S. 2222 is abused, including the investor preference.

Mr. BUMPERS. I thank the distinguished floor manager.

Mr. SPECTER. Mr. President, I rise to clarify what seems to me to be an ambiguous provision of the Immigration Reform and Control Act of 1982. The part I am unsure of is contained in title 1, section 101(d) (1) and (2). These sections make it a crime for a person to engage in a pattern or practice of hiring persons not eligible to work in the United States. As introduced, the bill provided that criminal penalties may be assessed against a person who had illegally hired an unqualified worker three or more times.

I understand the reasons for making this change but I am concerned that restricting prosecutions to persons engaged in a "pattern or practice" of illegal conduct does not provide specific enough guidance to the Attorney General.

Criminal statutes should clearly describe the conduct which is outlawed. Persons should have sufficient notice as to what constitutes illegal conduct so that they may conform their actions to the requirements of law.

The language of the bill's earlier version did serve these functions. I am concerned about how the current version of S. 2222 will be interpreted. A prosecutor, of course, has considerable discretion in selecting cases for prosecution.

I would strongly urge that the Department of Justice not wait to bring a case against a person until he has committed many violations.

The "pattern or practice" definition of criminal activity falls short of the more exact language contained in the original version of the Immigration Reform and Control Act of 1982. It is our responsibility to add meaning to the phrase "pattern and practice."

In my view, a pattern or practice could be established after three offenses. Much will depend on factors such as: the percentage of illegal workers employed by a particular company; the time span in which the multiple violations occurred; the geographical proximity of the multiple violations; the extent a particular business or industry has relied on illegal workers in the past; and the historic use of illegal workers in the particular region of the United States in which the violation occurred. Certainly, in my view, by the time of a third offense, absent distinguishing circumstances, any employer should expect to feel the full impact of the law, including its criminal penalties.

Prosecutorial discretion should not be exercised in an arbitrary or discriminatory manner. The Attorney General should develop internal guidelines that will be followed when making a determination whether to bring a criminal action against an employer. It is important that our laws are strictly and fairly enforced.

Mr. SIMPSON. I thank Senator SPECTER for his remarks.

I too think it important that the criminal provisions in this bill be enforced fairly and not arbitrarily. It is sound advice that the Attorney General develop guidelines for the prosecution of persons illegally hiring unqualified persons. The considerations and circumstances outlined by Senator SPECTER are illustrative of the different factors the Attorney General could consider in determining whether to prosecute.

Mr. SIMPSON. Mr. President, before the final votes on S. 2222 I would like to make a few very brief concluding remarks.

First, I want to say to my colleagues that I am very proud of this bill. This bill does indeed impress upon me that a subject which is so difficult in its moral implications and so complex in the interaction of its numerous aspects can be dealt with fairly and openly—allowing all points of view full access to the public forum of the hearing process as well as public consultations and private contact with principals and staff—and also be dealt with in a way which balances the very real needs of many interest groups in this country—business, labor, heavily impacted State and local governments, persons with relatives abroad, and many others—keeping paramount the fundamental obligation of all Members of Congress, to serve the best interests of the American people as a whole and their descendants, and taking due account of the desire of the American people to be charitable to the less fortunate in other lands. So I am proud and I believe all Senators and staff who have participated in drafting and improving this bill should also be proud.

Let me now briefly review the goals of this legislation—without repeating any of the details of its provisions.

The bill has as its singular intent the function of increasing control over both illegal and legal immigration.

Most importantly, S. 2222 contains provisions intended to reduce the problem of illegal immigration. I say "most importantly" since the potential benefits and protections of even the most carefully designed statutory standards for determining who may enter the United States, as well as for how long and under what conditions they may remain, will not be available in practice if those statutory standards cannot be enforced.

In order to reduce the primary incentive for illegal immigration, the availability of U.S. employment, the bill, first, makes unlawful the knowing employment, or the recruitment or referral for a fee, of illegal aliens, second, provides for a system to verify work eligibility, and third, establishes reasonable civil and criminal penalties for violations.

In addition, the bill creates new crimes for certain activities involving fraudulent documents and for bringing illegal aliens to the United States; states the sense of Congress that resources for conventional enforcement techniques should be increased; and requires the imposition of fees for use of INS border and other facilities.

In order to further deter the violation of U.S. immigration law and to reduce the harmful impact of such violations when they do occur, through reducing the time illegal aliens are able to remain in the country after apprehension, S. 2222 provides for improvements in exclusion, deportation, and asylum procedures—improvements which will make those procedures more efficient while preserving fundamental fairness.

Mr. President, the bill is intended not only to reduce illegal immigration, but also to reform legal immigration so that it will better serve the national interest. The current system of numerical limitations is revised in order to reduce the growth in the number of immigrants to the United States, to reserve limited family reunification visas for the closest of family members—those with the greatest need to live together, to increase the immigration opportunity of aliens who have no close relatives in the United States but who do have needed skills, and to preserve diversity in immigration flows.

The labor certification requirement for certain preference categories is modified to permit certification based on general labor market information, rather than only on an analysis of the impact of specific aliens in specific

jobs, and to require a reasonable training effort by employers.

The bill also amends certain provisions of the law relating to nonimmigrants. The H-2 temporary worker program is revised in order to assist agricultural employers in adjusting to the reduced availability of illegal foreign workers. Except for those in certain high-technology fields, foreign students are prohibited from adjusting their status to permanent resident until they have returned home for 2 years.

In order to help reduce a serious practical problem the bill provides a generous but reasonable legalization or amnesty program—for the sake only of reducing a serious problem for this country, not in order to reward lawbreakers.

Mr. President, I will conclude by reminding my colleagues that the American people want reform. Poll after poll discloses that the American people overwhelmingly wish to see both illegal and legal immigration brought under control. In these past several years I have wanted to discover the significance of this fact and I have learned that their concern is well founded. In my supplemental statement to the final report of the Select Commission on Immigration and Refugee Policy, in my statements to this body when the bill was introduced on March 17 and when debate began last week, I have attempted to discuss the problems which must be solved. S. 2222 is the proposed solution. It is the product of so many, many persons over the past 3 years.

Mr. President, I wish to say to my colleagues that S. 2222 deserves their support—not just because of the work expended to reach this point. I ask them to support this bill if they agree with me that it is a very balanced, finely tuned, proposal which, if enacted into law, will substantially promote the best interests of the United States of America. In this connection I submit that no other basis for the decision can be legitimate. America is "its people." A bill which will play such a large role in determining who will become a part of that "people" should be judged on whether it will advance the interest of the American people as they are and their descendants—in short the constituency of all of us in Congress. It should not be based on the particular special interest of any smaller group. I am proud to present it for your support.

Mr. PERCY. Mr. President, I will vote for final passage of S. 2222, the Immigration Reform and Control Act of 1982. This bill represents a compassionate and reasonable approach to the serious problems of illegal immigration and the need to set some limit on legal immigration. S. 2222 is the product of a bipartisan effect with a solid foundation laid by the findings of the Select Commission on Immigration and Refugee Policy, weeks of congressional hearings and the efforts of the administration's task force.

Most important, S. 2222 takes the first major step in providing a solution to the problem of illegal immigration. The number of illegal immigrants residing in the United States is estimated at 3.5 to 6 million. Some experts have estimated a net growth of 500,000 new undocumented aliens per year. Existing law has not been adequate to deal with this flow. The major reason aliens come to this country illegally is the prospect of employment. It is not now against the law for an employer to hire knowingly an alien who is here illegally. S. 2222 puts this prohibition into the law and requires employers to verify the identify and eligibility of all potential employees.

S. 2222 requires the President to develop a secure worker verification system that cannot be easily counterfeited. The system is necessary to make the prohibitions against employing illegal aliens enforceable. It will protect employers from inadvertently hiring an illegal alien. At the same time, it will provide a method for identifying an employer who intentionally violates the law.

The verification system will also protect American workers from discriminatory hiring practices by placing the same documentary requirements on everyone. Prohibitions against hiring illegal aliens, together with an effective worker verification system, will go to the source of our illegal immigration problem and for the first time give us a method for controlling it.

I opposed two amendments which, in my judgment, would have rendered ineffective the key reform measure of this bill: employer penalties for those who knowingly hire undocumented aliens. All independent, comprehensive studies of the problem of illegal immigration, including those by the previous two administrations, the present administration and the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of our immigration laws cannot be achieved by direct enforcement alone. S. 2222 takes the very necessary step of prohibiting the knowing employment of undocumented aliens and imposes penalties for violation of the law. I am convinced that this provision is key to the solution of stemming illegal immigration.

For this reason, I could not support an amendment to sunset employer sanctions after 3 years nor can I support an amendment to remove the verification system requirement from the bill, a measure which would gut the enforcement of the law.

At the same time, we must do everything in our power to insure that this measure does not create employment discrimination. The bill contains provisions to prevent such discrimination. An amendment was also adopted on the floor of the Senate to provide for an employment discrimination report every 18 months.

It also authorizes the Equal Employment Opportunity Commission to investigate allegations of discrimination if they develop during the implementation of the employer sanctions program.

Another important component of S. 2222 is the legalization of many undocumented aliens. S. 2222, as amended on the Senate floor, will give permanent resident status to aliens who arrived here before January 1, 1977, and temporary resident status to those who arrived after that date, but before January 1, 1980. Temporary residents may adjust status to permanent residency after 3 years. Temporary residents are ineligible for all Federal assistance programs, such as Aid to Families with Dependent Children, food stamps and medicaid. Permanent residents are ineligible for food stamps for the first 3 years of their permanent residence.

I support the legalization provisions of S. 2222 as part of this reform measure. Legalization has three major goals. The first is to avoid the wasteful use of the Immigration and Naturalization Service's (INS) limited enforcement resources by attempting to locate and deport those who have come to this country illegally. The second is to allow currently economically dependent employers to continue lawfully hiring from this pool of labor. And the third, and most important, is to eliminate the illegal "subclass" of persons now present in our society. The costs to society of permitting a large group of persons to live in illegal, second-class status are enormous. And mass deportations are not reasonable or realistic both for legal and humanitarian reasons.

I opposed an amendment to strike the legalization program from the bill for these reasons. I did, however, after careful study vote for the Grassley amendment to amend the program, both to minimize its costs and to give legal status to those undocumented aliens with the greatest attachment and investment in this country. The Grassley amendment also authorized a program of block grants to impacted States who will most likely have to bear some excess costs attributable to this population.

The third major component of the bill addresses reform of our legal immigration system by setting an overall ceiling, including immediate relatives of U.S. citizens, of 425,000 per year, although immediate relatives continue to be exempt from numerical limitations. The number available for other family reunification preference categories would be determined by sub-

tracting the number of immediate relatives admitted in the prior year from the cap of 350,000, the total for family reunification. A cap of 75,000 is placed on independent preference categories, for a total of 425,000.

S. 2222 also makes several changes in the current criteria for allocating numerically limited immigrant visas. Some of those changes I did not support and voted for amendments to retain current law. Unfortunately, both of these amendments—one to reinstate the fifth-preference category for unmarried brothers and sisters of adult citizens and another to retain second-preference status for adult unmarried sons and daughters of permanent residents—were defeated.

I also opposed an amendment that would have put under a single numerical ceiling both refugee and immigration admissions. I support the separate refugee admissions system authorized by the Refugee Act of 1980 for several reasons.

Present law provides for a "normal flow" of 50,000 refugees a year. It allows the President to increase this number after appropriate consultation with the Congress if it is justified by humanitarian concern or is otherwise in the national interest. This system recognizes that immigration and refugee admissions serve different purposes. Immigration policy in large part reflects family reunification. Refugee admission levels are generally set in response to critical humanitarian situations or foreign policy considerations. The Huddleston amendment, to place refugees under the single numerical ceiling, did not take this difference into account and would have considerably reduced the ability of the United States to respond to refugee emergencies. The loss of this flexibility could have the unfortunate effect of undermining various foreign policy objectives.

On balance, Mr. President, this S. 2222 is a major accomplishment in reform of our immigration laws. It attempts to address very difficult and complex problems, problems that will not be solved just by its passage. But it is a very giant step in the right direction and I urge my colleagues to support it.

Mr. THURMOND. Mr. President, the Senate, in approving S. 2222, is taking a needed and positive step toward gaining control over U.S. immigration policy. This legislation, although far from perfect in the view of many, does address the central problem of illegal immigration which has become a major social, economic, and political burden in many areas of our Nation.

Mr. President, the various provisions of this measure, including employer sanctions, legalization, increased border enforcement, and limitations on legal immigration, will provide, in my judgment, the tools for the Immigration and Naturalization Service to crack down on illegal immigration to this country.

This legislation is the product of several years of consideration by the Select Commission on Immigration and Refugee Policy, the Attorney General's Task Force on Immigration and Refugee Laws, and the Subcommittee on Immigration and Refugee Policy of the Senate Committee on the Judiciary. In the forefront of this effort has been the Senator from Wyoming, Mr. SIMPSON, who has devoted countless hours to this subject. He has been in the middle on every issue, trying to balance the interests of every special-interest group affected by this legislation. It has not been easy, but Senator SIMPSON has survived and has now emerged victorious. I applaud his victory.

Mr. President, other Senators who serve with me on the Subcommittee on Immigration and Refugee Policy, Senator KENNEDY, Senator GRASSLEY, and Senator DECONCINI, deserve special recognition for their dedicated work in bringing S. 2222 to its successful adoption by the Senate. As chairman of the full Committee on the Judiciary, I want to extend my personal appreciation to these members of the committee for their diligence and action on S. 2222.

Particular recognition should also be paid to the excellent staff of the Subcommittee on Immigration and Refugee Policy. Dick Day, the able and competent chief counsel of the subcommittee, has been instrumental in keeping this legislation on track and moving through subcommittee and full committee. He has been assisted in this effort by Donna Alvarado, Charles Wood, and Arnold Leibowitz, counsels to the subcommittee. They have done a tremendous job on this bill.

Other staff members who deserve the appreciation of the Senate are Jerry Tinker, minority counsel to the subcommittee; Ally Milder, counsel to Senator GRASSLEY; Ed Baxter, counsel to Senator DECONCINI; and Eric Hultman, general counsel of the full Committee on the Judiciary and my adviser on immigration matters.

Mr. President, we should not overlook the support and efforts of the Reagan administration on S. 2222. Attorney General Smith took a personal interest in this subject in the early days of the administration. He formed a task force to study the present immigration and refugee laws which has made a number of recommendations that are included in this legislation. The Attorney General, and all members of the administration who have been involved in this legislation, should be given credit for their contribution to the passage of S. 2222.

Mr. President, all Senators and their staff members who have been involved in the debate on the floor should also be acknowledged for their fine work.

Mr. President, with the passage of this legislation, we look to the House Judiciary Committee, which I understand may consider a companion measure in the House this week, and especially to the leadership of Congressman MAZZOLI, chairman of the Subcommittee on Immigration, Refugees, and International Law and its ranking Republican, HAMILTON FISH. They have worked hard to perfect and fashion similar legislation to S. 2222 in the House. Their efforts have not gone unnoticed in the Senate. I hope the House Judiciary Committee will act promptly and report legislation to the House floor so we can gain enactment of immigration reform and control legislation in this Congress.

Mr. KENNEDY. Mr. President, I oppose Senate passage of the Immigration Reform and Control Act.

What started out to be immigration reform has become, in too many provisions, immigration restriction—restrictions that are unnecessary and that will inevitably be harmful to our country's historic commitment to a fair and reasonable immigration policy.

Instead of promoting family reunification as one of the basic goals of our immigration laws, this bill has eroded that principle; for many persons seeking only to be reunited with their families in the United States, the dream has ended forever.

Instead of launching an effective immigration enforcement program, we have created a dubious system of employer sanctions which is seriously flawed and which is likely to result in additional discrimination against Hispanic Americans and other minorities in our society.

In the name of controlling the flow of illegal migrants into our country, we have cut back on legal immigration. In response to false fears created by the Cuban refugees and other recent migration problems, we are closing our doors to many who should be welcomed.

Regrettably, this bill has strayed too far from the goals of immigration reform upon which it was launched following the landmark recommendations of the Select Commission on Immigration and Refugee Policy. It sets a course that needlessly divides some families and that threatens new discrimination against those who have already suffered too much discrimination.

Mr. President, America's immigrant tradition is a precious national asset and one of the greatest strengths of the American character. The Senate must not turn its back on that heritage and history.

Mr. DOMENICI. Mr. President, for some time now it has been clear that the American people want immigration reform. According to a recent Roper Poll, 91 percent of all Americans want an all-out effort to stop illegal immigration and 80 percent want legal immigration reduced. We all agree that something needs to be done. T. H. White aptly described America's immigration situation:

> One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our nation, its culture, and its ethnic heritage could become one of the central debates of the politics of the 1980's.

While there is a consensus that the 1952 immigration law needs reform, history and emotion add a complicating dimension. We are all descendents of immigrants. Americans have always been of two minds about immigration, the desire to close the golden door or at least hire a doorkeeper contradicts the Statute of Liberty's proud exhortation, "give me your tired, your poor. . . ." The immigration problem is a dilemma because it involves a number of very complex social, economic, and practical issues. There are competing interests, all of them worthy. I want to compliment the Senator from Wyoming. His assignment was tough. He has been extremely conscientious in discharging that responsibility. The bill before us is the product of extensive study by the President's Select Commission on Immigration and Refugee Policy, the Immigration Subcommittee, and the Judiciary Committee. The bill is also the product of substantial compromise.

I recognize that the legislative process is an exercise in compromise. The more competing interests involved regarding a piece of legislation the more compromises result. Language is changed, provisions are deleted. In the case of the immigration bill, the compromises have left us with a bill that I do not think can work.

The bill calls for choking off further illegal immigration. It depends on employer sanctions and a "secure system of worker eligibility." I honestly do not see how the understaffed and beleaguered INS can enforce employer sanctions in addition to its other duties. S. 2222 is another mandate without providing the necessary enforcing manpower.

I do not know whether we can devise a satisfactory worker eligibility system that does not result in discrimination against Hispanics and other minorities. The existing identification documents are not adequate. The stories about "immigration kits" consisting of forged identification documents are true. You can buy a social security card for less than $5. The present system is not secure. The bill relies on a secure system of worker identification but does not set forth the particulars. I do not feel comfortable voting for an unknown system to be devised later. I am very concerned that this bill not result in discrimination. I want to make that very clear.

I do not think INS can properly screen millions of applicants for amnesty. From a practical administrative standpoint I think this bill is unworkable.

I am not sure the H-2 program, even as streamlined in the bill, will work for the short harvest seasons in my State and throughout the West. Our employment patterns and farming practices are different from the East. Perhaps the streamlined H-2 program is an adequate, temporary labor program on the east coast, but it will not work for the New Mexico farmers. The system they have now works well for their needs yet the bill ignores this existing underground stream of migrant workers. It is hard to change employment habits; therefore, I feel we must propose a temporary worker program that acknowledges and meets the farmer's needs.

Properly drafted and implemented, the guest worker program has the potential to be a valuable foreign policy tool as well as necessary immigration policy. I do not feel that any unilateral guest worker program is sufficient. Both Mexico and the United States must work in tandem to make the program mutually beneficial to both countries. I believe that for such a program to be effective it must be more than a tacit understanding with Mexico. I could support a guest worker program that includes a formal agreement with the Republic of Mexico. That agreement must recognize the U.S. guest worker program as making a significant contribution to Mexico's economy. The agreement would also formalize Mexico's commitment and obligation to help control the flow of illegal aliens into the United States. Both countries would be receiving a valuable benefit. I think that such a guest worker program would be good foreign policy as well as good immigration policy.

Another matter that we must face with realism is that we are not going to keep the illegal aliens from coming. The issue is economic. As long as we have poverty in high proportions in the world the illegal aliens are going to come. They will come in spite of employer sanctions. They will come regardless of employee identification systems. A job in the United States means surviving or not surviving economically. To put the problem in perspective, consider these facts. The population of the world will pass the 6 billion mark by the year 2000, 90 percent of the babies will be born in poor, underdeveloped countries.

The issue is geographic. The United States has a 200-mile United States-Mexico border with only 350 border patrol officers on duty at any one time. Our neighbor, Mexico, has one of the highest birth rates in the world. Today, Mexico has 70 million people and based on the U.N.'s 1980 medium variant projection, its population will grow to 116 million by the year 2000 and 174 million by 2025. Its unemployment rate fluctuates around 50 percent. The incentive to come to the United States is obvious. The tide of job-seeking Mexicans is estimated at 1 million annually and shows no sign of ebbing. Illegal immigration is not going to disappear because of this bill. Clearly, the problem promises to get worse in the future. Any control of the Mexican border will depend on some kind of cooperation with Mexico. This is missing element in S. 2222, but I feel it is an essential element in our immigration policy.

Hardly anything tugs at the conscience more severely than the relentless problem of illegal immigrants. The dilemma is whether this country can protect the resources of its own citizens while exercising humanity toward such a crowd of less fortunate neighbors. It is a very serious problem; however, I am highly skeptical that this bill offers an acceptable answer. For the above reasons I am voting against the bill.

Mr. HAYAKAWA. Mr. President, this bill, S. 2222, is so completely insensitive to the needs of California and southwestern agriculture that I am not able to vote for it in its present form.

The more than 200 crops in California alone, with different harvest seasons, the labor-intensive nature of the work involved in caring for these crops and gathering them, the need for workers to work in large numbers over short periods of time and then move on—all these unique characteristics of California agriculture make the H-2 program contained in S. 2222 totally unsuitable for most of our labor needs.

On top of this there is the inhumane and ruthless treatment by INS officers of agricultural workers of Mexican descent, whether American citizens, aliens, or illegal aliens, who are swept up with total disregard for their civil liberties and total disregard of the property rights of farmers and orchardists.

All of these abuses of our citizens and aliens alike are deeply abhorrent to me. I predict that our immigration problems will be aggravated, not alleviated, by the present legislation.

I earnestly hope, Mr. President, that I am wrong, because I know that Senator SIMPSON has worked long and hard and conscientiously on these problems. But I cannot vote for final passage

without recording my very serious misgivings about the bill as a whole.

H-2 PROVISIONS OF S. 2222

Mr. MITCHELL. I would like to take this opportunity to clarify the committee's intent with respect to section 211 of S. 2222.

Section 211(b)(1) of S. 2222 states that an alien may not be admitted to the United States for more than 8 months in any calendar year. My understanding of the rationale for this provision is to maintain the temporary nature of the H-2 program.

Mr. SIMPSON. That is correct.

Mr. MITCHELL. An exception is made, however, for those "agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period." I understand from the Department of Labor that the sheep-raising industry and the logging industry are two such industries which the Secretary of Labor has recognized, in testimony presented to the Immigration Subcommittee by Malcolm Lovell, Under Secretary of Labor, require a longer period. Is it the committee's intent that the logging industry be granted an exemption from the 8-month requirement?

Mr. SIMPSON. Yes, that is the committee's intent.

Mr. MITCHELL. One final question. Section 211(b)(1) further states that in the case of those agricultural labor or services which the Secretary of Labor has recognized require a longer period, such period may exceed 1 year. My understanding from the committee's report (Report No. 97-485) is that this exception is to accommodate the sheep-raising industry in which alien workers have been allowed to remain in the country for up to 3 years.

With respect to other H-2 workers, including those in the logging industry, however, temporary certifications have been for limited durations and do not exceed 11 months. Is it the committee's intent that temporary labor certifications for H-2 workers within the logging industry not exceed 11 months in any calendar year as is consistent with historic practice?

Mr. SIMPSON. The Senator is again correct. That is the committee's intent.

Mr. MITCHELL. I thank the Senator from Wyoming.

Mr. MOYNIHAN. Mr. President, I will vote for S. 2222, "The Immigration Reform and Control Act of 1982." But I do so with certain reservations.

Immigration reform is long overdue. The 3 to 6 million illegal aliens in the country today demonstrate that our immigration laws are clearly inadequate. However, there can be no denying the contributions that immigrants have made to our Nation, and as a Senator from New York I can particularly appreciate these contributions.

Nathan Glazer and I wrote in "Beyond the Melting Pot" that New York, after all, is a merchant metropolis with an extraordinarily heterogeneous population, composed of immigrants and their descendants. The first shipload of settlers sent out by the Dutch was made up largely of French-speaking Protestants. British, Germans, Finns, Jews, Swedes, Africans, Italians, and Irish among others followed, beginning a stream that has never yet stopped. These immigrant groups have made, and continue to make, New York a cultural and financial center. So, too, with America as a whole.

Surely, we must never back down from our commitment to legal immigration. Our goal should be immigration reform, not immigration curtailment.

After an extensive study, the Select Commission on Immigration and Refugee Policy identified two elements that are essential to immigration reform. The Commission found that, given their extraordinary numbers, it would be impossible to find and prosecute those illegal aliens who are already here. As a result, the Commission proposed to legalize these aliens. Since the promise of a job is the primary motivation for most illegal immigration, the Commission also proposed to deter future illegal immigration by making it a crime to hire an undocumented alien.

Today I will vote for S. 2222 because it goes a long way toward implementing these two proposals and contains several other provisions that I support as well. The bill maintains the crucial distinction between refugees and immigrants.

Moreover, I support the provision calling for the creation of a State block grant program to help reimburse State and local governments for the costs associated with legalization. Matters dealing with immigration and naturalization are a Federal responsibility under the Constitution, and States and locales should not be required to pay for what is clearly a Federal responsibility.

Unfortunately, the bill also contains several provisions that, I believe, are contrary to the goal of immigration reform. By failing to legalize those aliens who have continuously resided here since January 1, 1980, we have acted to maintain a large number of persons—perhaps numbering as high as 1 million—who will continue to reside in this country, but who shall still be illegal aliens. I trust that it is clear that the chances that these persons will be identified and deported are slim. And the existence of such a large subclass of persons will make the employer sanctions provisions even harder to enforce.

I am disturbed as well by the provisions of S. 2222 that deny newly legalized persons the benefit of various Federal programs, including but not limited to medicaid under title XIX of the Social Security Act.

Equal protection under law is a basic principle embodied in both the 5th and 14th amendments to our Constitution. Yet, by denying such benefits, we endorse here the principles of disparate treatment. I have no quarrel with denying certain benefits when it is necessary to deter persons from entering this country illegally. But it seems to me that we violate the spirit of equal protection when we act to legalize a large number of persons—in effect welcoming them to the country—and at the same time deny them the benefits afforded others who reside here. Newly legalized aliens will, like other residents, pay taxes—taxes that help finance the very programs to which we would bar them access.

Finally, I fear that the temporary worker provisions of S. 2222 will, in effect, make it easier for certain employers to bypass American workers and hire foreign laborers. I believe that such a loosening of the H-2 temporary worker requirements is especially unwise given the current rate of unemployment, and would have preferred that we simply keep the current laws and regulations, which appear to be working well.

In all, I shall vote for S. 2222 as it is a step, although a flawed one, in the direction of much-needed immigration reform. And I include these comments in the hope that they will prompt my colleagues to join with me to amend the objectionable portions of the bill in the House or in conference. A nation of immigrants deserves an immigration policy that is both just and effective.

Mr. BENTSEN. Mr. President, for centuries the promise of employment and the opportunity to live in freedom have drawn immigrants by the millions to our shores. Much of the vitality and energy that characterize the American experience is attributable to the fact that we are a nation rich in diversity but united by a commitment to freedom and opportunity for all.

Any consideration of the complex issue of immigration policy is hindered by a lack of specific information and a heavy reliance on myths and stereotypes. There is a tendency, for example, to regard Hispanics as an alien influence in this country despite the fact that Hispanic Americans were living in my State—in large numbers—long before the Pilgrims landed at Plymouth Rock. Their influence is evident in the architecture, the music, the food, the art, and the customs of the Southwest.

If we are going to break through the stereotypes and go beyond the tired

cliches I think it is important to understand that the United States is unique in at least two respects that apply directly to immigration.

We share a border—for all intents an open border—of almost 2,000 miles with Mexico, a nation where the growth in unemployment is matched only by the growth in population.

Mr. President, there is no other place on the globe where an advanced, developed, industrialized democracy comes face to face with a member of the developing world.

The other point I would make is that America is also unique in that we are the only nation that has virtually abdicated control of our borders and is unable to account for millions of aliens—legal and illegal—living, studying, and working in this country. There are millions of aliens in this country today who are unaccounted for and accountable to no one. That is a shocking and potentially dangerous statistic. It is a situation that would not be tolerated anywhere else in the world.

Mr. President, when we really have no idea of how many aliens are living and working illegally in this country, when we appear to lack the will and the resources to police our borders, when the problem of influx has simply become too large and complex to handle, there is a tendency to look for shortcuts to a bona fide immigration policy.

The logic of the situation suggests that aliens enter this country in the time-honored search for work and opportunity. If we cannot control the borders, perhaps we can at least control the employment office. If we can deny work to people here in violation of our laws, perhaps there will no longer be an incentive for their coming.

I have long been an opponent of dumping the burden of immigration policy into the lap of the American business community. The potential for honest mistakes in hiring practices is enormous, and the additional cost in complying with various regulations and procedures could be substantial.

That is why I concluded several years ago, Mr. President, that a counterfeitproof national identifier is a prerequisite for any effective program of employer sanctions. I am also well aware that many people will have honest civil liberties problems with a national identifier. I also appreciate that it could cost billions of dollars to design, distribute, and maintain an effective instrument able to resist tampering and fraud. Finally, I believe that if we are going to go to a foolproof, counterfeitproof social security card, then all Americans must be included in the program. Otherwise it would be discriminatory and unfair.

Without a national identifier it is simply unfair and unreasonable to ask the employer to determine who is entitled to work in America. In attempting to dampen the economic incentives for illegal immigration we must also avoid casual harassment of the employer who accidentally hires an illegal alien. I think a pattern of practice and willful violation of the law should be prerequisites for prosecution.

Finally, Mr. President, we come to the question of what to do about the millions of aliens who are currently in this country illegally. Everyone seems to have a program of legalization or amnesty with various cutoff dates for various categories. It has been claimed that four out of every five illegals will come forward to take advantage of this program.

There is much more smoke than substance to this debate. No one knows the answer to any of the questions. In fact, the whole issue of amnesty raises more questions than it answers. For example, what happens to the illegals who do not come forward? Under even the most optimistic projections there could be 1 million people in this category. Do we hunt them down, house to house, factory to factory, round them up and ship them out? I doubt it.

Can you imagine the new cottage industries that will spring up in urban areas like Los Angeles and San Antonio producing rent receipts, paycheck stubs, and tax receipts to establish a presence before the magic cutoff date?

What happens to the worker who accepts legalization and then brings his family in illegally?

Finally and most important, Mr. President, what is there in the process of legalization or amnesty that would prevent or even inhibit millions of additional aliens from entering this country illegally? What reason is there to believe that the whole process will not start over again, the only difference being that employers hiring illegals would be accepting real risks?

Obviously, Mr. President, I have some very substantial reservations about this legislation.

However, I also believe that the time is long past when the United States of America can accept every refugee and every immigrant who wants to come here. There are 12 million Americans unemployed. There is full-scale depression in vital sectors of our economy like automobiles, small business, and farming. We are confronting record budget dificits and sharp reductions in Government spending.

This country can no longer afford de facto open borders with Mexico and the Caribbean and the rest of the world. We have no choice but to begin the very difficult and contentious process of regaining control of our borders. We have to determine who is and who is not eligible to work in America. This legislation—for all its flaws and shortcomings—is the place to make a beginning and I intend to support it.

IMMIGRATION REFORM CONTROL ACT OF 1982

Mr. DODD. Mr. President, the Immigration Reform and Control Act of 1982 is far from being a perfect piece of legislation. No instrument so constructed ever was. In addition, this legislation seeks to reconcile two fundamental national values—a fidelity to our heritage of generously welcoming those from other lands who wish to seek a better life here and the need to impose some rational, orderly control over our own national borders—which are vitally important, but which are often in tension, if not outright conflict. The balance struck by S. 2222 is not the one which I would have drawn myself. But I believe it makes far better sense than the current, chaotic situation. I intend to vote for the bill and I hope a majority of the Senate will do so as well.

One essential underlying premise of the Immigration Reform and Control Act is its reaffirmation of America's willingness to share her opportunities and resources with newcomers from around the globe. We are, it is a historian's commonplace, "A Nation of Immigrants." Nonetheless, there have been periods in our national past when the national attitude toward immigrants turned, temporarily, to one of ugly exclusionism. Frankly, pressures to do the same today are very much in evidence.

This bill, however, does not succumb to those pressures. Under its terms, the United States will welcome more legal immigrants—425,000 annually—to its shores than the rest of the world combined. In addition, we will continue to provide new hope for political refugees fleeing repression in their former homelands.

The bill wisely recognizes that "immigrant" and "refugee" are two very different concepts. To have forced a competition between those escaping repression and those hoping to unite with their families would have been a tragic error. That is why I opposed the amendment offered by the Senator from Kentucky (Mr. HUDDLESTON); I am pleased that the Senate rejected it.

One of the hallmarks of immigration policy in the past has been the priority we have accorded reuniting families in making individual visa determinations. This legislation maintains that tradition although not to the degree that I believe it should. I voted for the amendments introduced by the Senator from Massachusetts (Mr. KENNEDY) to strengthen that feature of the bill, by reestablishing the so-called fifth preference for unmarried brothers and sisters of U.S. citizens, and for freeing immediate family members from the numerical ceilings in the legislation. I regret that these proposed modifications were not accepted.

Obviously the most difficult section of S. 2222 was that dealing with control of illegal immigration. I am concerned by charges that the approach envisioned by the legislation—making employers who hire illegal aliens subject to monetary penalties—may be burdensome for business operators and may mean discrimination against citizens or legal aliens whose appearance or accent seems foreign to prospective employers. I think it is crucial that Congress attend closely to the actual carrying out of the law in this respect. Close and careful oversight is essential in this regard.

Nonetheless, it is my strong feeling that we simply had no alternative but to pass these provisions in the bill.

Illegal immigration is simply too extensive and too serious a problem to ignore. Anywhere from 3 to 6 million illegal aliens already live within our borders. Each year, according to some experts, more immigrants enter the United States by flouting or evading the law than by acting according to its requirements. No matter how you look at it, that is unfair. It is unfair to American workers who must compete for jobs in an economy scarred by unemployment inching toward 10 percent. It is unfair to taxpayers who must bear the costs of providing public services. It is unfair to the citizens of other lands who, too, wish to share in the American dream but who wait patiently to pursue that goal through legal channels.

Whatever shortcomings may flaw the employer sanctions approach, it remained the only serious option for stemming the hemorrhaging of the system in a workable manner. Nevertheless, we must insure via thorough congressional oversight that such sanctions do not result in discrimination against legal aliens.

At the same time, I believe that it makes sense to treat illegal aliens already in the United States with understanding and generosity. The amnesty and legalization provisions in S. 2222 as reported by the Judiciary Committee met that test. By providing permanent legal resident status to those who have resided here since January 1978 and temporary resident status for those in residence as of January 1982, the bill offered an incentive to aliens to operate within the system. The Senate wisely rejected amendments proposed by the Senator from North Carolina (Mr. HELMS) to delete the amnesty provisions altogether and to allow States to deny welfare benefits or public services to aliens as they saw fit. Such measures are to my mind, harsh and vindictive. In addition, they create the risk of institutionalizing a new American underclass, with no stake in society, and whose survival itself would ultimately depend on a life of successful circumvention of the law. From purely a practical point of view, with the cost of a single apprehension and deportation averaging several thousand dollars, such a policy would be prohibitively expensive and largely unenforceable. Though less draconian in degree, the amendment of the Senator from Iowa, which I opposed but the Senate adopted, runs those same risks by moving the effective dates for permanent and temporary resident status back, respectively, to January 1, 1977 and January 1, 1980. I hope that the original S. 2222 provisions will ultimately be enacted into law.

In conclusion, Mr. President, this legislation, may not find the optimal balance that the competing national interests call for. But on the whole it is a sensible and fair measure, one whose virtues exceed its flaws, and one worthy of receiving the support of the majority of Senators.

Mr. President, I would like to express my genuine admiration for our two colleagues who have managed this legislation.

All of us in the Senate who listened to or participated in the debate have learned how complex and difficult a subject immigration and refugee law can be. But we saw only the tip of the iceberg. The months of hearings, study, analysis, negotiation, and drafting that went into this legislation have required incredible dedication and energy. I want to commend the Senator from Wyoming (Mr. SIMPSON) who led what must have often seemed a thankless and numbing task.

And I want to pay particular tribute to my colleague from Massachusetts (Mr. KENNEDY). As has so often been the case, he has fought effectively for those who are least able to defend themselves. He has been the force for the vital principle that, while it may be necessary to more rationally control immigration to this Nation, it is equally essential that we act in a spirit of generosity, fairness, and humanity. I know that he is not satisfied with the final version of the bill. I hope he also knows that his colleagues believe that this is a far more decent and equitable product because of his efforts.

● Mr. TOWER. On August 13, I introduced an amendment to the Immigration Reform and Control Act of 1982 to provide Federal educational assistance to those school districts most affected by large concentrations of alien and refugee students. The impact of the recent Supreme Court decision mandating free public education for all children, regardless of those individual's legal status in the United States is a matter which concerns me greatly, I believe that this ruling will place severe financial burdens on many of our Nation's school districts and may well limit the overall educational opportunities which a district can provide to its students.

For these reasons, I intend to continue my efforts to ameliorate this impact through every appropriate legislative channel.

However, my discussions of this matter with my esteemed colleagues, Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, and Senator ROBERT STAFFORD, chairman of that committee's Subcommittee on Education, have led me to the conclusion that this critical issue should not be hastily considered.

Therefore, in order that this matter, which is of such great concern to many in Texas and across the country, may not be foreclosed from more careful review by this body, I have agreed to withdraw my amendment from consideration, upon the assurance that this matter will be considered as expeditiously as possible by the Labor and Human Resources Committee.

In addition, I would like to offer whatever resources I have available in order to expedite the Senate's focus on this issue.

Mr. HATCH. I share the concerns expressed by the Senator from Texas over the financial burden educating alien students may cause in many school districts. Accordingly, I am pleased to offer my firm commitment that full and complete hearings on this matter will be conducted by the Labor and Human Resources Committee in the near future, in order that this important issues may be afforded the attention which it clearly merits.

Mr. TOWER. I would like to take this opportunity to thank my distinguished colleague for his leadership in agreeing to work for a fair and thorough inquiry into this situation.

I would further like to commend my colleague, chairman of the Labor and Human Resources Committee, on the diligence with which he has pursued those matters before the committee and to say that I look forward to his advice on the matter before us. In addition, let me extend my thanks to my distinguished colleague, Mr. STAFFORD, before whom these hearings will be conducted. I know that his attention to the dilemma facing the States most affected under the Plyler decision will result in an equitable resolution of this question.●

Mr. MITCHELL. Mr. President, I rise in opposition to S. 2222, the Immigration Reform and Control Act of 1982. Although I believe that immigration is a serious problem, I cannot support this bill.

Before I state why I am opposed to this bill, I would like to express my sincere admiration for the Senator from Wyoming, Senator SIMPSON, for his hard work and dedication. I want it to be clear that my opposition to this bill should not be viewed as a reflection on his efforts.

I am opposed to S. 2222 primarily for two reasons.

First, I am opposed to the changes S. 2222 would make in the H-2 program. As introduced, S. 2222 would have codified existing regulations governing the H-2 program. Unfortunately, the bill which emerged from committee goes well beyond mere codification and makes wholesale changes in the law. I am concerned that these changes will make it easier for employers to bring foreign workers into the country. And this at a time when nearly 11 million Americans are out of work.

The H-2 program is designed to allow employers to bring workers into the country on a temporary basis if: First, American workers are not available to do the job; and second, hiring the foreign worker will not have an adverse affect on prevailing wage rates. I am afraid that the changes in the law governing the H-2 program will result in the program more closely resembling a guest worker program than the temporary source of foreign labor, which was the original congressional intent.

We hear a lot of talk these days about protecting U.S. interests from unfair competition overseas. I believe we should be equally concerned about protecting U.S. workers from unfair foreign competition.

In Maine, H-2 workers from Canada work in the logging industry. In recent years, Maine woodsmen have found themselves competing more and more with these Canadian woodsmen for scarce jobs. This competition is made even more intense today due to the current recession which has reduced the demand for all types of wood products.

During debate on the bill, I strongly supported an amendment to strike the H-2 provisions of this bill. Unfortunately, that amendment failed.

I am concerned that the changes made in the H-2 program will make it easier for Canadian woodworkers to obtain jobs in the United States at the expense of Maine woodworkers. Because of this possibility, I intend to vote against S. 2222.

Second, I am not confident enough that this bill will do what its proponents claim it will—to control and reform immigration.

I have heard the arguments in support of legalizing the status of the estimated 4 to 6 million illegal aliens already in the United States. But I am concerned that legalization will encourage others to attempt to enter the United States illegally with the hope that someday, perhaps 5 or 10 years down the road, the U.S. Government will once again grant amnesty for illegal aliens. There is no persuasive argument that legislation will not act as an incentive for people to come to the United States either.

For these reasons, I must vote against S. 2222. While I appreciate and share the need to get U.S. immigration under control, I cannot support this legislation.

Mr. SIMPSON. Third reading.

The PRESIDING OFFICER. Under the previous order, no further amendments are in order, and the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 80, nays 19, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—80

Abdnor	Exon	Metzenbaum
Andrews	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Goldwater	Nickles
Bentsen	Gorton	Nunn
Biden	Grassley	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Heinz	Proxmire
Bumpers	Hollings	Pryor
Burdick	Huddleston	Quayle
Byrd, Harry F., Jr.	Inouye	Randolph
	Jackson	Roth
Byrd, Robert C.	Jepsen	Rudman
Cannon	Johnston	Sarbanes
Chafee	Kassebaum	Sasser
Chiles	Kasten	Simpson
Cochran	Laxalt	Specter
D'Amato	Leahy	Stafford
Danforth	Levin	Stennis
Denton	Long	Stevens
Dixon	Lugar	Thurmond
Dodd	Mathias	Tsongas
Dole	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	Melcher	Weicker

NAYS—19

Armstrong	Hayakawa	Riegle
Cohen	Heflin	Schmitt
Cranston	Helms	Symms
DeConcini	Humphrey	Tower
Domenici	Kennedy	Zorinsky
East	McClure	
Hart	Mitchell	

NOT VOTING—1

Ford

So the bill (S. 2222), as amended, was passed, as follows:

S. 2222

An act to revise and reform the Immigration and Nationality Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1982".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

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TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

Sec. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

"(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an un-

authorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (b) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or United States birth certificate, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identify of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the latter of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine.

"(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

"(2) Such system shall be designated in a manner so that—

"(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eligible to work, and that the employee or prospective employee is not claiming the identity of another individual;

"(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering;

"(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

"(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

"(E) a verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld for any reason other than that the employee or prospective employee is an unauthorized alien;

"(F) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code); and

"(G) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person.

"(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

"(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of $2,000 for each unauthorized alien with respect to which the violation occurred.

In counting the number of previous determinations of violations for purposes of determining whether clause (i) or (iii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

"(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than $1,000, imprisoned not more than six months, or both, for each violation.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty or $500 for each individual with respect to which such violation occurred.

"(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General.

"(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or

criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

"(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status. For the purpose of conducting such monitoring and beginning development of the system described in subsection (c), there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B)(i) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(ii) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of sucy a violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(C) During the year beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated $10,000,000 for fiscal year 1983.

(b) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens.".

(c) The Farm Labor Contractor Registration Act of 1963 is amended—

(1) by amending paragraph (6) of section 5(b) (7 U.S.C. 2044(b)) to read as follows:

"(6) has been found to have violated paragraph (1)(A) or (2) of section 274A(a) of the Immigration and Nationality Act;";

(2) by striking out paragraph (f) of section 6 (7 U.S.C. 2045); and

(3) by striking out subsection (c) of section 9 (7 U.S.C. 2048).

(d) Nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 2000e-5 of title 42 of the United States Code, or any other authority provided therein.

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States",

(4) by striking out "$2,000" and inserting in lieu thereof "$5,000",

(5) by striking "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsection:

"(b) Whoever without authority of the issuing agency and with unlawful intent—

"(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

"(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

"(B) any document presented to obtain a required document described in subparagraph (A);

"(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) or (B) of paragraph (1);

"(3) alters any document described in subparagraph (A) or (B) of paragraph (1) relating to another person; or

"(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) or (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed $5,000 or imprisoned not more than five years, or both.".

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents.".

PART B—ENFORCEMENT AND FEES

IMMIGRATION AND NATURALIZATION SERVICE ENFORCEMENT ACTIVITIES

SEC. 111. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out ": *Provided, however*" and all that follows up to the period at the end of subsection (a), and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined an amount equal to $2,500, the imposition of which may not be suspended by the court, plus, in the court's descretion, an additional amount not to exceed $2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed one year, or both, or

"(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined $2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed $7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both.".

FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the title to read as follows:

"NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES";

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of border facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services.".

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and border facility fees.".

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Section 235(b) (8 U.S.C. 1225(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing.

"(2) If an examining immigration officer at the port of arrival determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of alien to be held before an immigration judge.",

(2) by designating the sentence beginning "The decision" as paragraph (3), and

(3) by adding at the end the following new paragraphs:

"(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States.

"(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application.".

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF IMMIGRATION JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF IMMIGRATION JUDGES

"SEC. 107. (a)(1) There is established in the Department of Justice a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and eight other members appointed by the Attorney General in accordance with regulations respecting appointments in the competitive service.

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, three shall be appointed for a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until his successor has taken office.

"(3) Members of the Board (other than the Chairman) are entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled to receive compensation at the rate now or hereafter provided for grade GS-18 of the General Schedule, under section 5332 of title, 5, United States Code.

"(4) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board and shall promulgate rules of practice and procedure for the Board and immigration judges.

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of immigration judges under this Act, other than a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (1) or (2) of section 203(b) or petitions on behalf of a child described in section 101(b)(1)(F), and (ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions.

"(3) The Board shall act in panels of three or more members (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board.

"(4) The Board shall review the decision of an immigration judge based solely upon the administrative record upon which the decision is based and the findings of fact in the judge's order, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(5)(A) A final decision of the Board shall be binding on all immigration judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by the Attorney General under subparagraph (B) or by a court of the United States.

"(B) If the Attorney General determines that it is necessary for the national interest of the United States, the Attorney General may, within thirty days after the date of a final decision of the Board on a case, provide that the case be certified to him for his review, and the Attorney General shall render a decision on the case within thirty days. The determination of the Attorney General on such case shall be considered for other purposes of this Act to be the final decision of the Board on that case. If the Attorney General shall not have rendered a decision within thirty days, the final decision of the Board shall be considered final and not subject to further review by the Attorney General.".

"(c)(1) The Attorney General shall, in accordance with procedures and regulations governing appointment and, except as provided in this paragraph, compensation in the competitive service—

"(A) appoint immigration judges, except that not more than seventy judges may be appointed and hold office under this section at any time;

"(B) set the rate of compensation for such judges at a rate not to exceed the rate now or hereafter prescribed for grade GS-16 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) designate one such judge to serve as chief immigration judge, who shall be entitled to compensation at the rate now or hereafter prescribed for grade GS-17 of such General Schedule.

"(2) In accordance with the rules established by the Board, the chief immigration judge—

"(A) shall have responsibility for the administrative activities affecting immigration judges, and

"(B) may designate any immigration judge in active service to hear and decide any cases described in paragraph (3).

"(3) Immigration judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208, and

"(E) such other cases as the Attorney General may provide by regulation.

An immigration judge may not hear or decide the case of an alien excluded from entry under section 235(b)(1).

"(4) In considering and deciding cases coming before them, immigration judges may administer oaths and receive evidence, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges.".

(2) The table of contents in amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of immigration judges.".

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'immigration judge' means such a judge appointed under section 107.".

(4) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 236(b) (8 U.S.C. 1226(b)) is amended by striking out "From a decision" and all that follows through "Attorney General" and inserting in lieu thereof the following: "Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board".

(c) Section 242(b)(4) (8 U.S.C. 1252(b)(4)) is amended by striking out "reasonable, substantial, and probative" and inserting in lieu thereof "substantial".

(d) Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

(i) Except as otherwise provided in section 291, in any deportation proceeding under

this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence.".

JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof ", EXCLUSION, AND ASYLUM";

(2) by striking out "six months" in paragraph (1) and inserting in lieu thereof "forty-five days."

(3) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order",

(4) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in",

(5) by striking out "reasonable, substantial, and probative" in paragraph (4) and inserting in lieu thereof "substantial",

(6) by adding at the end of paragraph (4) the following new subparagraph:

"(B) the court shall not review the order to the extent that the order relates to an application for asylum;",

(7) by adding "and" at the end of paragraph (7),

(8) by striking out "; and" at the end of paragraph (8) and inserting in lieu thereof a period, and

(9) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law (except as provided under subparagraph (B)), there shall be no judicial review of a final order of exclusion or a final order respecting an application for asylum.

"(B) Where the Attorney General has reviewed and either reversed or modified a determination of the United States Immigration Board under section 107(b)(5)(B), judicial review of such determination shall be available in the same manner, and to the same extend, as a final order of deportation may be reviewed under subsection (a).

"(2) Nothing in this section shall be construed as limiting the right of habeas corpus under the Constitution.

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of immigration judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the reopening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or the exclusion of an alien from the United States under section 235(b)(1).".

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an immigration judge."

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts."

(e) In the case of a final order of deportation entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) thirty days after the date of the enactment of this Act, or (2) of the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

(f) Section 279 (8 U.S.C. 1329) is amended by inserting "(a)" after "SEC. 279.", and by adding at the end the following new subsection:

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the date of the final administrative action or from the effective date of this section, whichever is later.".

ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows;

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United states or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) An alien against whom exclusion or deportation proceedings have been instituted may not file a notice of intention to apply for asylum more than fourteen days, nor perfect such application for asylum more than thirty-five days, after the date of the service of the notice instituting such proceedings unless the alien can make a clear showing, to the satisfaction of the immigration judge conducting the proceeding, that changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), between the date of notice instituting the proceeding and the date of application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances in the country of the alien's nationality (or, in the case of the alien having no nationality, the country of the alien's last habitual residence), between the date of the previous denial of asylum and the date of the subsequent application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(2) Applications for asylum shall be considered before immigration judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1982 may not be designated to hear applications under this section.

"(3)(A) A hearing on the asylum application shall be closed to the public, unless the applicant requests that it be open to the public. To the extent practicable, the hearing shall be conducted in a nonadversarial, informal manner, except that the application is entitled to be assisted by counsel (in accordance with section 292), to present evidence, and to examine and cross-examine witnesses. A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B)(i) The Secretary of State shall on a continuing basis make available to the Attorney General and to immigration judges who hear applications under the section information on human rights in all countries. The immigration judges shall use such information, if available without delay to the proceedings, as general guidelines in making the asylum determination.

"(ii) The Attorney General shall provide notice to the Secretary of State whenever an application for asylum is filed under this section. The Secretary of State may submit comments to the immigration judge on such application, but the immigration judge shall not delay the proceeding in order to receive such comments.

"(4) The Attorney General may, in his discretion, grant an alien asylum only if the immigration judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(6) After making a determination shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an immigration judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence) have resulted in a change in the alien's eligibility for asylum.".

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: ", or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum.".

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application in accordance with the procedures set forth in that section.".

(c) Section 222(f) (8 U.S.C. 1202(f)) is redesignated as "SEC. 222. (f)(1)."

(d) Section 222(f) (8 U.S.C. 1202(f)) is amended by adding a new subsection (f)(2) to read as follows:

"(2) The records or any document of the Department of Justice, the Department of State, or any other Government agency, or foreign government, pertaining to the issuance or denial of any application for asylum, refugee status, withholding of deportation under sections 207, 208, and 243(h) of this Act, or any other application arising under a claim of persecution on account of race, religion, political opinion, nationality, or membership in a particular social group, shall be confidential and exempt from disclosure and shall be used only for the formulation, amendment, administration, or enforcement of the immigration, nationality and other laws of the United States. In the discretion of the Attorney General, or the Secretary of State as the case may be, certified copies of such records may be made available to a court which certifies that the information contained in such records is needed by the court in the interests of the ends of justice in a case pending before the court.".

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121(a), 123(a)(2), 123(a)(5), 123(a)(9), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or adminstrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that immigration judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as immigration judges.

(B) Paragraphs (1)(B), (3), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than fourteen days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in the last sentence of paragraph (3) and in paragraph (6) of such section to an immigration judge shall be deemed (before the asylum transition date) to be a reference to a special inquiry officer conducting the asylum hearing.

(3) The amendments made by section 121(b) shall apply to deportation proceedings pending on or commenced after the date of the enactment of this Act.

(b)(1) The Attorney General shall appoint the Chairman and other members of the United States Immigration board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date to the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Chairman shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and immigration judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Attorney General shall appoint at least ten immigration judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these immigration judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing special inquiry system to the immigration judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of immigration judges under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an immigration judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) assume the duties of an acting immigration judge after such transition date during the period ending two years after the date of the enactment of this Act. If such individuals remain in such capacity through the end of such period and have not been appointed to the United States Immigration Board or as immigration judges, then they shall be deemed, for purposes of continuing employment in the Department of Justice, to have been employed by the Department as special inquiry officers during such period.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the Chairman of the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and immigration judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) The Attorney General shall provide that in the case of members of the Board of Immigration Appeals who—

(1) have served for a period of at least three years,

(2) are not appointed as members of the United States Immigration Board or as immigration judges, and

(3) continue to be employed by the Attorney General after the date the functions of the Board of Immigration Appeals are assumed by the United States Immigration Board,

there shall be no reduction in grade or compensation for one year after the date of termination of the individual's membership on the Board of Immigration Appeals.

(g) In order to implement the amendments made by this part, there are authorized to be appropriated $20,000,000 for fiscal year 1983.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(b)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "immigration judges",

(B) by striking out ", including special inquiry officers," in the fourth sentence and inserting in lieu thereof "and any immigration judge",

(C) by striking out ", including special inquiry officers," in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and immigration judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "immigration judge".

(2) Subsection (b) of such section is amended by striking out "a special inquiry officer for further inquiry" in the second sentence and inserting in lieu thereof "an immigration judge for an exclusion hearing".

(3) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an immigration judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an immigration judge".

(c)(1) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(d)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1226) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "immigration judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1226) is amended—

(A) by amending the first sentence to read as follows: "An immigration judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the Chairman of the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board" and by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(e) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, fifth, sixth, and seventh sentences and inserting in lieu thereof "immigration judge",

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "Chairman of the United States Immigration Board shall establish",

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the Chairman of the United States Immigration Board",

(7) by striking out "Such regulations" in the eight sentence and inserting in lieu thereof "Such rules", and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "immigration judge shall be final unless reversed on appeal".

(f) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(g) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an immigration judge and in any appeal before the United States Immigration Board from any such proceeding", and

(2) by inserting "and at no unreasonable delay" after "Government".

(h) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after the word "proceedings", and

(2) by striking out the second sentence.

(i) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an immigration judge under section 101(a)(43) of such Act.

PART D—ADJUSTMENT OF STATUS

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY VISA ABUSERS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking out "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" and inserting in lieu thereof "has failed to maintain continuously a legal status since entry into the United States".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

TITLE II—REFORM OF LEGAL IMMIGRATION

PART A—IMMIGRANTS

NUMERICAL LIMITATIONS

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) three hundred and fifty thousand, minus (B) the sum of (i) the number of immediate relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, (ii) the number of immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, (iii) the number of immigrants born to permanent resident aliens during a temporary visit abroad, and (iv) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) seventy-five thousand, minus (B) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during the prior fiscal year and the number of visas issued under that paragrpah during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year.".

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person",

(2) by striking out ", except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the total number of natives of any single foreign state who are issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted for permanent residence under subsections (a) and (b) of section 203 or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under subsection (a) or (b) of section 203 shall not exceed in any fiscal year—

"(i) twenty thousand, in the case of any foreign state other than a foreign state contiguous to the United States, or

"(ii) forty thousand (or the number determined under subparagraph (C)), in the case of any foreign state contiguous to the United States.

"(B) If in a fiscal year the total number of immediate relatives specified in section 201(b), immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens provided records of permanent residence under section 214(d), and special immigrants defined in section 101(a)(27) (other than those described in subparagraph (a) thereof) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence who are natives of a particular foreign state exceeded twenty thousand, then the numerical limitation applicable to that state in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess.

"(C) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence is less than forty thousand, then in the following fiscal year the number to be used in clause (ii) of subparagraph (A) for the other contiguous foreign state shall be forty thousand plus the amount of the difference.".

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 15 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who (A) as of May 27, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) PREVIOUS FIFTH PREFERENCE.—Qualified immigrants who (A) as of May 27, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (a)(5) as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) PREFERENCE AND NONPREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING DOCTORAL DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—Qualified immigrants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a licence to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) SKILLED WORKERS.—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated any visas not required for the classes specified in paragraph (1).

"(3) INVESTORS.—Qualified immigrants who have invested, or established to the Attorney General their intention to invest, substantial capital (in an amount set by the Attorney General and not less than $250,000) in an enterprise in the United States of which the alien will be a principal manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, shall be allocated any visas nor required for the classes specified in paragraph (1) and (2), but in a number not to exceed 10 per centum of such numerical limitation.

"(4) NONPREFERENCE ALIENS.—Visas authorized in any fiscal year under section 201(a)(2), less those required for issuance to the classes specified in paragraphs (1) through (3), shall be made available to other qualified immigrants in the chronological order in which they qualify. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (B) the child has been irrevocably released for immigration and adoption: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of section 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immediate relatives specified in section 201(b), immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, is equal to 4.65 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State.".

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(a)",

(ii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by inserting ", or" after "such status", and

(3) by adding before the semicolon the following new subparagraph:

"(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such an investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later".

LABOR CERTIFICATION

SEC. 203. (a) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers available in the United States in the occupations in which the aliens will be employed; (B) sufficient workers in the United States could not within a reasonable period of time be trained for such occupations by (or through funds provided by) potential employers; and (C) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b) (1) and (2) and to nonpreference immigrants described in section 203(b)(4). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;".

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) the requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest.".

G-4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of any such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least twenty years prior to the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph (i) on or before December 31, 1992 and (ii) no later than six months after the date of such retirement or six months after date this subparagraph is enacted, whichever is later, or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family.".

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv).".

EFFECTIVE DATES AND TRANSITION

SEC. 205. (a) The amendments made by sections 201, 202, and 203 shall apply to the admission of aliens to the United States on and after October 1, 1983. The amendments made by section 204 shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in both paragraphs (1) and (2) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(4), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on September 30, 1983), the preference statuses described in both paragraphs (3) and (4) of section 203(b) of such Act (as in effect after such date) in the case of investors or the nonpreference described in section 203(b)(4) of such Act (as in effect after such date) in the case of noninvestors.

(c) When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

PART B—NONIMMIGRANTS

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a)(8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year. An alien who was admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii) during the last five-year period may not be admitted under that provision if the alien violated the terms of any such previous admission. The Attorney General shall provide for such procedures for the entry and exit of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section.",

(2) by inserting "(1)" and "(c)" in subsection (c),

(3) by adding at the end of subsection (c) the following new paragraphs:

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, qualified, and who will be available at the time and at the place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in the United States who are similarly employed.

The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A) if—

"(i) there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification; or

"(ii) the employer, during the previous two years, employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer during that period substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or has not paid a penalty (or penalties) for such violations which may be assessed by the Secretary of Labor: *Provided further,* That no employer may be denied certification for more than one year for any such violation.

"(3)(A) In the case of an application for a labor certification under section 101(a)(15)(H)(ii)(a)—

"(i) The Secretary of Labor may not require that such an application for labor certification be filed more than eighty days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall make, not less than twenty days before the date such labor or services are first required to be performed, the certification described in paragraphs (2)(A) (i) and (ii) if an employer has complied with the criteria for certification, including the recruitment of eligible individuals as prescribed by the Secretary, and the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available: Provided, That the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

"(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

"(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

"(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and The Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, $10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate junctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.", and

(4) by adding at the end the following new subsection:

"(e) The provisions of subsections (a) and (c) of this section preempt any State and local law regulating admissibility of nonimmigrant workers.".

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(d) The Attorney General in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall be issued, on an interim or other basis not later than the first day of the sixth month beginning after the date of the enactment of this Act.

STUDENTS

SEC. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting "(1)" after "No person",

(2) by inserting after "training," the following: "or (2) admitted under section 101(a)(15) (F) or (M) or acquiring such status after admission,", and

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (1)(iii) or clause (2)", and

(4) by inserting before the period at the end the following: ": *And provided further,* That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—

"(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States, who is applying for a visa as an immigrant described in section 202(b)(1), and (i) who has been offered a position on the faculty of such an institution teaching in the field in which he obtained such degree, up to a limit of one thousand five hundred such waivers per year, or (ii) who has been offered a research or technical position by a United States employer in the field in which he obtained such degree, up to a limit of four thousand five hundred such waivers per year, or

"(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and who will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section 201(b) or an alien who has received a waiver of the two-year foreign residence requirement of section 212(e) or, with respect to aliens admitted under section 101(a)(15)(F) before enactment of this Act, who has satisfied the degree and other requirements as would be necessary before such alien would be qualified to apply for such a waiver if the two-year foreign residence requirement were in effect for him) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l)".

(c)(1) The amendments made by subsection (a) apply to aliens admitted to the United States after the date of the enactment of this Act.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsection:

"(l)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State,

acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, nontransferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced; except that in no event may the program be put into operation later than October 1, 1983.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to eight countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless the sum of the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country—

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such fiscal year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2.0 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless the sum of—

"(I) the total number of refusals during the previous fiscal year of nonimmigrant visitor visas for nationals of that country, and

"(II) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such previous fiscal year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with respect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i), and

"(B) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 212(l) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission.".

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l).".

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1980, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien applies for such adjustment during the eighteen-month period beginning on the date of the enactment of this section,

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status since January 1, 1977, or

"(B) The alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1977, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status since January 1, 1977, and

(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien applies for such adjustment during the eighteen-month period beginning on the date of the enactment of this section;

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuous-

ly in the United States in an unlawful status since January 1, 1980; or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status since January 1, 1980; and

"(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

"(ii) the alien is—

"(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

"(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

"(III) a national of Haiti who was paroled into the United States under section 212(b)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

"(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service; and

"(C) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3), and

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the thirty-seventh month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States, or

"(B) at the end of the forty-second month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

"(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies which have been designated for such purpose by the Attorney General, as well as to the Attorney General.

"(2) The provisions of paragraph (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such pragraph as relates to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified voluntary agencies designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(d)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantees, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and

"(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B)(ii) (relating to certain Cuban and Haitian entrants).

"(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(f) In order to carry out this section (including the making of arrangements with qualified voluntary agencies under subsection (c)(1) and the dissemination of information under subsection (c)(13)) there are authorized to be appropriated $10,000,000 for fiscal year 1983.".

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1980, to that of person admitted for temporary or permanent resident.".

(c)(1) Public Law 89-732 (approved November 2, 1966) is repealed.

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

SEC. 302. (a) there are authorized to be appropriated for grants (and related Federal administrative costs) to carry out this section such sums as may be necessary for fiscal year 1983 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for federal administrative costs), the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (g)(1)) meeting the requirements of subsection (d) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (g)(2)) residing in the State in that fiscal year and

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year, and

(iii) the amount of net expenditures the State is likely to incur in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (g)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and

remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsection (e).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted the State under this section. Such report (for fiscal years after fiscal year 1983), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e) The provisions of sections 506, 507 (other than subsection (b) thereof), 508 of the Social Security Act (relating to reports and audits, criminal penalties, and nondiscrimination, respectively, under the maternal and child health service block grant) shall apply to activities, funds made available, and allotments under this section in the same manner as those provisions apply to activities, funds made available, and allotments under title V of such Act; and for this purpose—

(1) any reference to that title in any of those sections shall be deemed a reference to this section, and

(2) a reference to section 502(a) or 502(b) or to section 505 in any of those sections shall be deemed to be a reference to subsection (b) or to subsection (d), respectively, of this section.

(f) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(g) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(2) of such Act, until the end of the three-year period beginning on the date such permanent resident status was granted,

whichever is later.

(3) The term "program of public assistance" means State or local programs which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

TITLE IV—GENERAL PROVISIONS

REPORTS TO CONGRESS

SEC. 401. The President shall submit the following reports to the Committees on the Judiciary of the Senate and of the House of Representatives:

(a) Reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens), which shall include—

(1) an analysis of the adequacy of the verification procedure set forth in subsection (b) of that section;

(2) the status of the development and implementation of a more secure verification system as provided in subsection (c) of that section; and

(3) the impact of that section on—

(A) the employment, wages, and working conditions of United States workers,

(B) the number of aliens entering the United States illegally,

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors,

(D) discrimination against citizen and permanent resident alien members of minority groups, and

(E) the paperwork and recordkeeping burden on United States employers.

Reports concerning the matters described in paragraphs (1), (2), and subparagraphs (A), (B), and (C) of paragraph (3) shall be submitted every six months from the date of the enactment of this Act. Reports concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted three times: the first not later than eighteen months after the date of enactment of this Act, the second not later than thirty-six months after the date of enactment of this Act, and the third not later than fifty-four months after the date of enactment of this Act.

(b) A report on the general legal admissions under the Immigration and Nationality Act, which shall include—

(1) the number of aliens admitted during the forty-two months after the date of the enactment of this Act as immediate relatives and other permanent residents, refugees, asylees, and parolees, and

(2) the impact of the admission or parole of such aliens on the economy of the United States and the employment of citizens and aliens in the United States.

This report shall be submitted not later than four years after the date of the enactment of this Act.

(c) A report on the implementation of the temporary worker program (popularly known as the "H-2" program), which shall include—

(1) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers,

(2) the development of regulations with respect to the program,

(3) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested, and

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(d) A report on the pilot program established under section 212(l) of the Immigration and Nationality Act, added by section 213(a) of this Act, (popularly known as the "visa waiver program"), which shall include—

(1) an evaluation of the program including its impact on the control of alien visitors to the United States, consular operations in the countries designated under section 212(l)(3)(A) of the Immigration and Nationality Act, and the impact of the program on the United States tourism industry, and

(2) recommendations on the extension of the program and the expansion of the number of countries which may be designated under such section.

The report shall be submitted not later than two years after the commencement of the program.

(e) A report of the population whose status is legalized under the legalization program established under section 301 of this Act, which shall include—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics,

(3) their patterns of employment,

(4) their participation in social service programs, and

(5) a general profile and characteristics of the population legalized under the program.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(f) Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs (1) and (2) of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States. Another such report shall be submitted in five years.

ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

SEC. 402. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of United States citizens and aliens.

REPORT BY THE COMPTROLLER GENERAL

SEC. 403. (a) Eighteen months after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding eighteen month period, for the purpose of determing if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of unlawful discrimination has resulted against United States citizens or aliens, other than unauthorized aliens as defined in section 274A(a)(4), seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

Two more such reports shall be prepared and transmitted, one thirty-six months after the date of the enactment of this Act and one fifty-four months after the date of the enactment of this Act.

TITLE V—SENSE OF THE CONGRESS

OFFICIAL LANGUAGE

SEC. 501. It is the sense of the Congress that—

(1) the English language is the official language of the United States, and

(2) no language other than the English language is recognized as the official language of the United States.

Passed the Senate August 17, 1982.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF POSITION ON VOTE

(Later the following occurred:)

Mr. ZORINSKY. Mr. President, I ask unanimous consent that I be permitted to change my vote from yea to nay on the Immigration Reform and Control Act, S. 2222, inasmuch as it will not change the final outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, the Senator spoke to me about that. As I indicated previously, I had thought that the precedent was that there must be two requirements to support the request to change a vote; first, that it would not change the result and, second, the Member alleges that his vote was recorded in error. I have since been advised that that is not the precedent of the Senate. Perhaps it should be, but it is not now. I shall therefore not object to the request of the distinguished Senator. I hope other Members will not.

I might say, while I am reserving at this point, I indicated previously I would submit to our conference the question of whether we ought to change that procedure in the future. Our conference has appointed a committee of three Senators to consider that. No report will be forthcoming for 3 days. Therefore, I urge Senators not to object at this point until we have an opportunity to examine this fully on both sides of the aisle.

Mr. ZORINSKY. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing vote has been changed to reflect the above order.)

Mr. BAKER. Mr. President, may I have the attention of the Senate for a moment?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. I will be brief, Mr. President, I want to do two things.

First, I commend the distinguished Senator from Wyoming (Mr. SIMPSON) and the distinguished Senator from Massachusetts for the extraordinary job of managing this bill. Senator SIMPSON and Senator KENNEDY worked well and long and brought us a completed result on a piece of legislation that I did not think we could finish this session—certainly not before this recess. But it was done, and it was done after 20 hours of debate, according to the notation given me by the journal clerk. We had 17 rollcall votes. We had 31 amendments considered—14 agreed to, 13 rejected, 3 withdrawn, and 1 tabled.

Mr. President, this is a major piece of legislation. Were it not for the persistence of the Senator from Wyoming on last Friday evening in staying here and working through to the point where we could get a unanimous-consent agreement that no other amendment would be in order and that we would proceed immediately to third reading and final passage, I think my earlier concern about this bill would have proved true—that we could not finish it. But we did finish, and it is a tribute to the Senator from Wyoming and the Senator from Massachusetts for their good work; and I must say that they have produced a remarkable legislative product.

In a moment, I intend to recess the Senate until 2 p.m.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. KENNEDY. Mr. President, I thank the majority leader for his kind comments.

I think all of us in this body want to underscore what the majority leader has said about the act of statesmanship which has been exhibited by the Senator from Wyoming (Mr. SIMPSON). I had differences with him on this piece of legislation. I have had them since very early in the consideration of the legislation in the subcommittee and full committee. I regret that I was unable to convince my good friend and colleague and able legislator from Wyoming. But in the consideration of one of the most complex and difficult public policy questions that is going to have profound implications on the type of society we are, and on our relations with countries around the world, I think the Senator from Wyoming has acted in conscience and has been absolutely open and willing to consider every point of view on this issue.

It is my hope that the action which has been taken here will be followed by action in the House of Representatives. We will have an opportunity to continue to review these subject matters. As my good friend, the Senator from Wyoming, knows, I will continue to try to persuade him, and he will attempt to persuade me. However, as the majority leader has stated, it is essential and necessary that some action be taken in this field.

I also want to acknowledge the work of the subcommittee staff; Dick Day, who has been of great help to Senator SIMPSON, and Jerry Tinker, who has been on my staff for a number of years and whose assistance has been invaluable.

Mr. BAKER. Mr. President, I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, my remarks will be very brief.

I am very proud to be part of the legislation. It has been a great privilege to work with TED KENNEDY. We do scrap a little, obviously, but I have great regard for him and what he has done on this issue for the past 17 years in this body.

Certainly, we would never have been able to process the bill without the dogged help of the majority leader. I extend to HOWARD BAKER my deep personal appreciation and sincere thanks for having faith in the ragged admonition of, "Just give me 2 days; that's all I need," never dreaming that I would miss nearly all of Friday in the process.

I thank Senator THURMOND, who could not have been a more supportive chairman. He gave me every assistance and support.

I also thank the fine minority staff, including Jerry Tinker, and, of course my own staff: Dick Day, Chip Wood, Donna Alvarado, Arnold Liebowitz, Frankie DeGooyer, Tina Jones, Avelina Sabangan, and Ellen Hughes, marvelous people. I appreciate their work.

I hope that my colleague in the House, Representative RON MAZZOLI, is

ready as the ball comes down that end of the court. He is prepared to receive it. Representative RODINO has been one of the most extraordinary persons involved in immigration reform for many years.

I have every confidence that Congressman RODINO in the House will process this measure and we will go to conference and deal with some of the things which have caused people concern. Mr. President, I assure you of that.

I feel very humble about the fine vote. We will keep scrapping. I have learned one thing in legislative activities: everything hangs by a thread.

Mr. President, it has been a great privilege to have been associated with my colleagues on this legislation.

Mr. BAKER. Mr. President, I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, I commend the two Senators who have managed this bill, the distinguished Senator from Wyoming and the distinguished Senator from Massachusetts, for their very skillful handling of this legislation, and for their success in keeping the debate focused throughout on the issues and at a very high level, defusing what might have been a highly emotionally charged consideration of a very important issue.

Both Senators have dealt with this matter with great skill and great sensitivity. I believe it to be a tribute to Senators SIMPSON and KENNEDY that the debate in the Senate has been reasoned and thoughtful over the last few days.

As the distinguished chairman of the subcommittee knows, I differed with him on some of the amendments which were proposed. I remain concerned about some of those features of the bill that particularly concern the question of family reunification.

I am hopeful that in the end these will be worked out in a way that will be responsive to some of the concerns expressed by me and others in the course of the debate on those amendments.

Again, I do want to join with others in recognizing the enormous skill, sensitivity, and depth of concern and understanding reflected by the two Senators who managed this legislation so well over the course of these last few days.

Mr. SCHMITT. Mr. President, I may have ended up on the opposite side of this issue from the distinguished managers of the bill. I do want to join with those who are complimenting them for their extraordinary effort. They at least have brought out into public debate and addressed some fundamental issues related to the historical traditions of this country, one which is a melting pot of minorities who traversed the oceans in order to find freedom and a better opportunity in this land.

I hope that we will never roll back those traditions, even though some limitations obviously are necessary.

Mr. President, my basic concern about the legislation is that it will not solve the basic problems of migrant labor from Mexico, principally, and from Latin America in general. That is a problem that will continue to be with us. Some of us would think of it as an opportunity instead of a problem. We have not addressed that in a significant way or in an adequate way in this measure.

Aside from that fundamental disagreement, I think there are severe restrictions on the business community and the workers who would come into that business community, unnecessary restrictions, that indeed are unfortunate.

Mr. President, I do want to compliment the managers of the bill for the work they did to expand and streamline the H-2 program. That will be a significant benefit.

In addition, there are those provisions which would make counterfeiting or altering documents a felony; extremely important provisions.

On balance, I am afraid that we will revisit this issue within a few years, if not sooner, because we have not solved the basic problem or opportunity that lies between us and Mexico.

Mr. HART. Mr. President, I join in the commendation of our colleagues from Massachusetts and Wyoming. The way in which this difficult legislation has been handled is, in my judgment, a model on how the Senate should operate on the difficult issues of the 1980's in trying to work out the complicated issues underlying legislation.

I think the way the Senator from Wyoming and the Senator from Massachusetts have approached these problems is the way we should go about it. Despite the fact that some of us could not support the bill in its final form, the model which they have offered to us would be a wise one to follow in the future.

Mr. President, it has become almost routine during the past few days of debate to commend the distinguished Senator from Wyoming on the outstanding work he and his colleagues have done to develop a responsible and positive approach to our Nation's immigration problems. I hope that those who hear and read our remarks as this debate has progressed will not assume that the gratitude which has been expressed to Senator SIMPSON has been perfunctory. On the contrary, our praise for his efforts reflects the respect and gratitude we all feel, regardless of the side of the aisle on which we sit, for the highly responsible way in which he has approached the issues involved, and for the way in which he has conducted this debate.

We owe no less respect and gratitude to the distinguished senior Senator from Massachusetts for his efforts to address basic issues of human rights and civil liberties, issues with which he has so long and so proudly been associated—and to the staff members of the Immigration Subcommittee who are, as Senator GRASSLEY rightly pointed out last Thursday, among the most knowledgeable and hard-working staffs in the Senate, and who have helped those of us who do not sit on the Judiciary Committee to follow and better understand many of the complicated aspects of the issues involved in immigration reform.

Mr. President, there are a number of controversial proposals in this bill: Employer sanctions, worker verification procedures, and a guest-worker program that could bring 300,000 temporary workers to the United States.

There are a number of positive reforms in this bill as well. The legalization program does not go as far as some of us would have preferred, and has emerged from this body as a less comprehensive and less efficient program than it had emerged from committee—but it is at least a step in the right direction, and will enable millions of people who have been contributing to our economy without benefits, but with daily fears and uncertainties, to step out from the shadows. Visa waivers for foreign tourists from selected countries will not only cut overseas visa operating costs, but will boost tourism and reduce redtape for visitors from countries which have long since eliminated visa redtape for Americans. Finally, the immigration ceilings in this bill not only reflect geographic realities but traditional American generosity.

I wish I could say the same for the employer sanctions provisions which are the key to this bill, Mr. President, but I cannot. I wanted very much to vote for this bill, but I cannot—because, in the end, I cannot support a measure which does not provide adequate safeguards against the infringement of the rights of American citizens. This body had an opportunity to close the civil liberties gap in the employer sanctions provisions—to guard against discrimination in hiring, discrimination which could adversely affect the employment prospects of Hispanic and other minority group citizens—but our efforts to codify that opportunity were defeated. Senator KENNEDY rightly asked how we could insist on certification reports to insure progress in securing human rights for the citizens of El Salvador, and refuse to certify to our own citizens that their civil rights gains would not become losses.

Finally, Mr. President, the immigration debate has focused almost entirely on domestic issues. But immigration

is as much a foreign policy problem as a domestic one. So even the strictest enforcement of the various provisions contained in this bill may have little long-term positive effect. Quite simply, these proposals do nothing to address the root causes of migration and refugee flow—population growth, economic underdevelopment, social injustice, and human rights violations. Until our immigration debate addresses these serious international issues, we will never develop an adequate immigration policy.

The Haitian refugees detained in U.S. camps, which are little more than prisons, illustrate this point vividly. These refugees cannot possibly think they have entered the "golden door" of economic and social opportunity. Yet they continue to come—causing great suffering to themselves, and draining the financial resources of the States which must care for them. Still, life in the camps, with all its hardships, seems preferable to a life where social and economic opportunity are systematically denied.

The dismal economic picture in Haiti is compounded by a long history of human rights violations. Repression has been a fact of life in Haiti since 1957, when Francois "Papa Doc" Duvalier began his brutal regime. "Papa Doc" attacked the upper and middle classes—who made up the first wave of Haitian immigrants in the 1960's and 1970's. His successor and son, "Baby Doc" Duvalier, has shifted the focus of repression from cities to countryside, and from the upper classes to the poor. The result has been a flood of poor, uneducated "boat people" to the United States.

Haiti may be unique in its combination and degree of economic underdevelopment, repressive government, and proximity to the United States. But it is by no means alone in contributing immigrants. From March 1979 to March 1981, the number of Central or South Americans in the United States increased from roughly 840,000 to 1,022,000. In the last 18 months alone, 200,000 Salvadorans have fled to the United States.

It is unrealistic to pretend that these trends will not continue. Unprecedented population growth has contributed to tension, not only in Mexico, the Caribbean Basin and Central America, but the Mideast and Far East as well. Migration from rural areas to already overburdened cities is on the increase. Add continuing civil and regional wars, famine and repression—and migration flow will become migration flood.

Limiting our immigration policy changes to domestic measures will thus have little impact on migration pressures from troubled areas of the world. Ultimately, our immigration problems must be managed with the cooperation—and participation—of other governments. For example, we need to recognize that our tacit support of the repressive Duvalier regime will be paid for in an influx of "boat people" to this country. In Central America, we must reject policies which favor confrontation and military solutions, since they add to emigration pressures. Trade and investment incentives for Mexico and the Caribbean Basin should take into account their impact on job creation and other domographic movements. As I mentioned earlier in this debate, proposals to provide incentives to United States and Mexican firms willing to locate in northern Mexico, if the Mexican Government is willing to assist in blocking illegal immigration, warrant serious consideration.

Some of us have spent many months, and all of us have spent the past few days, discussing good-faith legislative efforts to reform domestic immigration procedures. But the problems represented by immigration in the 1980's and 1990's will not be solved without a more democratic, imaginative and farsighted foreign policy.

Mr. President, at this point I would like to introduce into the RECORD a letter written to me by Mr. Arnoldo Torres, national executive director of the League of United Latin American Citizens. I have had the pleasure of working with this fine organization, which is this country's oldest and largest Hispanic organization, on S. 2222. I believe their letter effectively represents the opinions of the Hispanic community regarding their disappointment and concern with S. 2222 and its impact on the fastest growing population group in this country.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LEAGUE OF UNITED
LATIN AMERICAN CITIZENS,
August 17, 1982.

Hon. GARY HART,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HART: On behalf of the League of United Latin American Citizens (LULAC), this country's oldest and largest Hispanic organization, we would like to express our gratitude for your tireless efforts to raise the concerns of the Hispanic community and others. To the problems and shortcomings of S. 2222, Immigration Control and Reform Act of 1982. We would like to take this opportunity to convey to you our extreme dissappointment with the direction and tone of the debate on S. 2222.

One of the major issues which the League has emphasized and attempted to have incorporated in the debate on immigration has been the international factors which contribute to refugee and undocumented flows to the U.S. The economic and political instabilities of underdeveloped and developing countries have become "push factors" which often times force people from these countries to flee for survival. Throughout the debate in the Senate, various members alluded to this reality however there was no effort to address these factors in the legislation. If these instabilities continue it is inconceivable that any provisions contained in S. 2222 can or will deal with them. This legislation attempts to deal with legal immigration and refugees once they are at our borders or shores, or after they have entered the country. A much more logical and effective approach is to deal with the origin of the problem which is in the sending countries. Surely employer sanctions and other provisions of the bill will not stop the flows of people fleeing for their lives from El Salvador. However, a foreign policy by this country which is aimed at decreasing the level of conflict as opposed to escalating it, would go much further in having Salvadorans remain in their country. The same is true for the conditions which confront the people of Haiti fleeing to this country. We must work through our foreign policy to alleviate the problems in the sending countries for there is no other way to rationally address this complex issue of population movements.

With regards to employer sanctions, we have always maintained that this idea really never left the conceptual stage and should be opposed. Throughout the Congressional hearings and even during the Select Commission on Immigration and Refugee Policy deliberations, there was never one piece of substantive analysis presented indicating that sanctions, as contained in S. 2222, would effectively control the flow of the undocumented. However, there was analysis presented that such approach could result in employment discrimination by unscrupulous employers of Hispanics and other minority groups. Efforts were made to address this problem on the floor of the Senate and defeated. Surely, if the proponents of employer sanctions contended that discrimination would not take place then there should have been no problem in having approved legislative language guarding against any possibilities. Unfortunately, this was not the case and the bill was approved with no protections against employment discrimination but save for language recommending reports on this subject. This was done at a time when employment discrimination is on the increase against Hispanics, as evidenced by the number of discrimination charges received by the Equal Employment Opportunity Commisson (EEOC), and this Administration's systematic dismantling of the civil rights apparatus of the Federal Government.

Support for employer sanctions came from many quarters of American society for they were led to believe that employment was the key element underlying the flows of the undocumented. However, the public was provided an extremely narrow explanation for people coming to this country to flee the problems in their sending countries as well as to be re-united with their family residing in the U.S. Sanctions will not address these major stimulants nor will they effectively decrease the employment of undocumented workers, but they will present major problem to Hispanics and other minorities. It appears that our community is being sacrificed to suffer these additional problems for a program concept that has been unproven and does not effectively address the issue.

Another issue of concern to us was the legalization program which under Senator Grassley's amendment was altered not for the purposes of improving the program but for political expediency. While we would agree that there is a need to provide assistance to state and local governments we

maintain that this need could have been addressed without the changes the Grassley amendment makes. The provision which disallows individuals to receive any federal benefits amount to taxation without representation and perhaps even unconstitutional. What should be done in view of this action is to grant those individuals a tax rebate for the three years they have paid federal taxes and received no benefits.

The Bureau of the Census in its 1977 report to the Select Commission on Immigration and Refugee Policy, estimated that approximately three to six million persons live and work in this country without the benefit of documents which would identify them as "legally admitted aliens." Their presence and continued entry are due to several factors, not the least of which has been an immigration policy that has conveniently fluctuated to satisfy the needs of industrial and agricultural development in this country. During times of economic prosperity when the demand for minimally skilled and unskilled labor has been significant, that need has been reflected by the absence of any reference to the so called negative impact of illegal immigration. Conversely, during times of economic hardship, as now, and a restrictionist immigration policy has prompted both the rounding up of "perceived illegals" and mass deportations. These perceived illegals may in fact be legal residents. At minimum, they are persons entitled to share the benefits of a national development they have contributed to by coming here when needed and working where needed.

Political expediencies serve the supporters of restrictionist views, but they seldom address the real problems of disgruntled and unemployed constituencies. Restrictionist arguments are as convenient as political expediencies. Currently, restrictionists argue that each undocumented worker displaces an American in need of work. The Washington Post in its August 11th editorial "Law and the Illegal" reiterates that restrictionist view and cites as well an estimate that 4 to 9 million undocumented workers are in this country. Assuming these contentions were acted on and apprehension and deportation of all illegals were possible, 9 million of this country's unemployed would then have job opportunities.

Curiously, the Administration in its version of the restrictionist view, argues that to legalize the undocumented workers, will give the very people whom other restrictionists and government agencies identify as taking jobs from unemployed Americans, the signal that they can now quit their jobs and go on welfare. It is absurd to argue that people who are working full time on one hand, are also robbing the nation's welfare coffers on the other.

Conveniently forgotten are the numerous contributions made by these persons towards the national interest. Their contribution stimulates employment as well as tax revenues. To date, the Administration Congressional Budget Office and restrictionist supporters have been silent on the issue of revenue impact to the federal budget. This silence too is convenient.

This revenue assessment does not support to assess the total impact but rather supplies one aspect which heretofore has been absent.

The following tax contribution and/or payment profile per income dollar is based on an undocumented worker. We assume the following:

That there is a total of 6 million undocumented persons within this country's borders.

That of those 6 million, 80 percent are earning $4.81 per hour and 20 percent are earning $9.00 per hour.

That these persons are working.

That these persons are single and claim only one exemption.

That their employers are making the required deductions.

That these persons, who file yearly income taxes, do not itemize.

That FICA deduction is 6.7 percent of their salary.

That withholding (Federal) is based on 1982 tax schedules.

Based on an hourly wage of $4.81, 250 work days per year, and FICA contributions at the rate of 6.7 percent an undocumented worker pays a total of $644.54 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $1,130.00 per year in withholding taxes. Eighty percent of the undocumented worker pool contributes by working a total of $8,517,792,000.00 in FICA and withholding taxes.

Based on an hourly wage of $9.00, 250 work days per year, and FICA contributions at the rate of 6.7 percent an undocumented worker pays a total of $1,206.00 FICA per year. Further, the same undocumented worker pays, according to 1982 tax schedules, a total of $3,105.00 per year in withholding taxes.

Twenty percent of the undocumented worker pool contributes by working a total of $5,173,000,000.00 in FICA and withholding taxes.

The above tax contributions and/or payments do not include the money that is paid for goods and services in the forms of exercise taxes which include but are not limited to tobacco, services, gasoline, transportation fares, etc. In addition, state and local taxes are not included.

Perhaps more upsetting than any other aspect of this debate was the tenor in which discussion on the H-2 program and its association to the legalization program took place. Various Senators rose to state their interest and concern that whatever be done on this bill must allow for foreign workers to continue to enter and work in the U.S. While many Senators were discussing the need to keep these immigrants and foreigners out they were fairly adamant in their concern and comments to let them in if they were going to work. In most cases they would be working for cheap wages and substandard working conditions. It was here in the debate where several Senators perhaps reflected their major interest with regard to immigration, and demonstrated to our community their insensitivity. It is difficult to understand that throughout the debate on S. 2222, the Senators' major interest was to control and stop the flow of people to this country, however, when the issue of cheap labor was raised there was every effort made to ensure that foreign workers were allowed to enter but not remain as citizens.

In addition, we were extremely perturbed by the continued allegations that refugees and the undocumented were to blame for this country's economic ills. Various Senators rose to emphatically emphasize that their states and this country was suffering due to the significant flows of refugees and undocumented. While we must agree that some of this criticism has merit we would present it in the manner done so. For it appeared that the refugee and undocumented person was to blame for every economic and social ill suffered by this country today. Recognizing that unemployment has increased to over 10 million people should not and cannot be blamed on immigration and refugee flows but must be put in the proper perspective. It has been this Administration's economic policies with Congressional support which has led to make economic hard times not the undocumented and refugees. The Senate by taking the action it has, is trying to make the public forget that their pockets are empty, that they have no job and that their cupboards are bare and that jobs will become plentiful and the economy will flourish when the Hispanic immigrants are eliminated from our midst. In closing, we are extremely concerned with the far reaching implications of the Senators action on S. 2222. The Senate has in effect ignored the Hispanic community's concerns on immigration reform and has done a disservice to the American public. A disservice for it has presented S. 2222 as effectively dealing with immigration and refugee policy when in fact the problems will persist and most probably worsen. We are hopeful that with your leadership and that of Senator Edward Kennedy and others, we will be able to alter the direction and attitude the Senate has established.

Respectfully submitted,

ARNOLDO S. TORRES,

LULAC National Executive Director.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I simply add my applause to that applause given to the distinguished floor managers of the bill who have demonstrated dedication and determination in resolving what has been a real mishmash for all of us.

I will also say that there is one provision in the bill which I think must be monitored in the future. I did not offer an amendment to strike that provision in the interest of time, but I was very much concerned about it.

The Senator from Wyoming and I have entered a colloquy into the RECORD, but I want to say further that about 1 year from now I hope the committee will have GAO or some similar agency to study what is called the investor preferred status under the bill under which anybody who offers to invest $250,000 in the United States and create four jobs or more gets preferred status.

That is not new. That has been a part of the old law, where it was only required that you put up $40,000 in investments in this country.

But there is something repugnant—frankly, there is just something repugnant—to me about a provision in an immigration bill that says if you have $250,000, you can get into the United States.

In my opinion, wealthy people may be able to bring their whole family over simply because of that provision whereas other people who are equally deserving might not be able to come to this country.

As I say, I resisted the temptation to offer an amendment to strike that, not

only in the interest of time but also out of deference to the two floor managers who have worked so hard on the bill. I do want to make the record clear now that I, and I hope the committee, will continue to monitor that provision to make sure it is not abused.

● Mr. LEVIN. Mr. President, I voted for final passage of S. 2222, a bill reforming the Immigration and Nationality Act. I would like to briefly describe why I decided to support final passage despite several reservations I have about this bill.

The present immigration system of the United States does not work adequately. Hundreds of thousands of people enter the United States illegally; because there are no legal restrictions against hiring such entrants, some employers take advantage of the illegal aliens they hire, knowing that such workers cannot complain about unsafe working conditions for fear of being deported. Many employers would prefer to hire only those legally in this country, but find it difficult to do so because of the rampant availability of counterfeit documents. Maintaining the present system serves those who want to exploit alien workers and lessens respect for our legal system.

I have great admiration for the chairman of the Immigration Committee, ALAN SIMPSON, and for the ranking member, EDWARD KENNEDY. They have both worked long and hard to try to resolve the many issues surrounding immigration law reform. I believe the level of debate on this bill—as well as the outpouring of praise for these two men—is an appropriate reflection of the diligence they showed while analyzing all the conflicting factors they considered before presenting S. 2222 to the Senate.

It is important to have employer sanctions to assure that employers only hire those legally in this country. This protects citizens and residents of the United States who want jobs; it protects workers from abuse from unscrupulous employers; and it protects employers who want to hire those legally in this country but who are now thwarted by the availability of fraudulent identification papers.

I also believe that any reform of the immigration laws should include provisions to legalize those who have resided in the United States for several years. Although we refer to such people as "illegal aliens," it might be more precise to refer to them as "nonlegal." Given that their only crime is that they wanted to come to the United States to better themselves and to provide for their families, they certainly should not be considered criminals. Most of us are here today because we or our parents or grandparents were able to come to the United States.

I am concerned, however, that the Senate decided to move the date of legalization back from 1982 to 1980. Under the bill as passed by the Senate, those who have lived here since 1980 would have no legal right to stay and we will, therefore, still have a large population living under the shadow of law. I hope that when the House of Representatives considers immigration law reforms that they settle on a later date.

Before I voted for this bill I received assurances by Congressman MAZZOLI that the House of Representatives will protest several of the preference categories—particularly the second and fifth preferences—which are vital to protecting one of the major goals of immigration law, reunification of families and will provide more adequate judicial review provisions on rejected applications for political asylum.●

● Mr. GRASSLEY. Mr. President, today the Senate has taken what I consider a courageous step in passing this comprehensive immigration reform package.

Being closely involved in this process, I am well aware that most of the issues addressed by the bill do not directly translate into favorable votes back home. In fact, the opposite is more likely the case.

Many of the revisions contained in the bill displease one group or another. I congratulate the Senate on following this necessary step and allowing the overall interest of the American people to override special interest group pressure which I know has been extensive.

I am especially pleased that attempts to weaken the bill were waylaid and the result has been a fair product which will go far in eliminating our immigration related problems including contributing to slashing the ever-growing unemployment rate.

I again extend my congratulations to Senator SIMPSON. Without his tireless leadership I seriously doubt that we would have seen the result we did today. He has every right to be proud of this legislation. It involves some of the most complex issues I have ever been concerned with and he has done a masterful job of addressing those issues. Employer sanctions, legalization, and increased enforcement will truly provide the necessary solutions to problems caused by the uncontrolled flood of people into our country. This bill is essential for the well-being of America and I hope the House acts quickly so that we may see this legislation signed into law prior to the end of the Congress.●

● Mr. HATFIELD. Mr. President, I would be terribly remiss if this opportunity were not seized to express my admiration for the role my distinguished colleague from Wyoming (Mr. SIMPSON) and the whole Immigration Subcommittee, has played in bringing S. 2222 to the point of final passage. In light of the competing interests and emotions involved, I had serious reservations as to whether the Senate would ever be able to dispose of this needed immigration reform legislation. But those fears of mine were quickly allayed by the sensible leadership of my good friend, AL SIMPSON. He was able to avoid the high drama that so often accompanies highly controversial bills and, in the process, allowed the consideration of S. 2222 to be on the merits and not on the emotions.

I am pleased with the result. The Immigration Reform and Control Act of 1982 is a well-balanced approach to dealing with the serious inadequacies characterizing this country's policies on legal and illegal immigration. This bill is long overdue and it will fill a void created by the conflicting foreign and domestic policies on immigration of past years. The key to the bill, the employer sanctions section, is a tough initiative that none of us in the Senate embraced without reservation. The added paperwork and the added presence of the Federal Government in the private sector is an anathema to most of the Members of this body.

However, the overwhelming consensus reached by the various committees and commissions that have studied the problems associated with illegal immigration was that the United States could no longer overlook the option of making it unlawful for an employer to hire an illegal alien. There is no such prohibition under current law, and I am persuaded that the time has come for such a provision.

No one questions why America has a problem with illegal immigrants. We are the most prosperous and promising Nation in the world—the golden land of opportunity. But while throughout our history we have been able to assimilate an unregulated flow of immigrants to this country, we have reached a point in history where our resources and infrastructures are no longer capabile of bearing the weight of such an unrestrained flow of admissions.

America must still lead the free world and must still adhere to its commitment to the principles beautifully represented on the Statue of Liberty. The permitted admission of 425,000 persons per year for family reunification and for special immigration purposes, as well as our country's current refugee policy which permits this country to accept with open arms those fleeing from political or religious persecution, will allow this country to continue to honor this commitment to freedom and human rights. I was especially pleased to see the Senate reject the two amendments which would have jeopardized our country's ability to respond to international crises involving refugee issues.

Our immigration and refugee policies must be coordinated, and in a short time, this body will have the opportunity to assess the direction in which our country's refugee policy should head when it takes up the reauthorization of the Refugee Act of 1980.

While I voted in favor of final passage of S. 2222, I have grave concerns over some of the provisions agreed to in the bill. First, this bill does not address the real needs of agricultural businesses who, historically, have relied on foreign labor during their harvesting season. It has been proven over and over again that there is not a willing American labor pool available to go into the fields and gather the harvest. The H-2 program has not worked for these farmers, and I am not convinced that the changes made in the H-2 program will be of significant help to the farmers. Senator HAYAKAWA offered an amendment which expanded the guest worker program to cover the needs of agriculture, but that amendment was not successful.

Another amendment offered by my distinguished colleague from California which I supported and which was defeated provided that INS officers would have to have a search warrant before they could search fields and farms for aliens. This amendment would have remedied the situation that frequently occurs when INS officers descend on a farm and round up both legal and illegal residents. The protection of a warrant seems in order to avoid the intrusion into the legitimate rights of the legal residents who must suffer the ignominy of random searches and detentions.

Despite those aforementioned shortcomings, S. 2222 is a good bill. Any controversial bill will contain language that is vigorously debated, and this bill was no exception. Senator SIMPSON and the members of the Immigration Subcommittee saw that a spirit of compromise was absolutely essential to getting this bill to the point it is at today. The best example of this spirit of understanding can be found in the legalization or amnesty provisions agreed to by the Senate. There was considerable disagreement as to how to treat the 4.5 to 7 million illegal aliens presently residing in this country. The compromise struck between Senators SIMPSON, GRASSLEY, and others grants permanent resident status to aliens living here since 1977, and temporary resident status for those here since 1980.

Further, no public assistance benefits are available to either class granted amnesty, with the exception of emergency assistance which would be funded by Federal block grants. It must be understood that without this compromise on amnesty, our immigration laws would have continued to allow an underground residency of illegal aliens.

Mr. President, before S. 2222 came to the Senate Calendar for action, I heard the bill termed a "delicately balanced house of cards." In the past week, the Senate has carefully dismantled this "house," piece by piece, so that each part of the bill could be thoroughly examined. Today, by final passage, we have put this house back together, and I am confident that it can and will stand. I heartily commend Senator SIMPSON for preventing the winds of division from leveling the Immigration Reform and Control Act of 1982. There were 31 amendments and almost 20 rollcall votes on this bill over the 3 full days S. 2222 was before the Senate, which puts the efforts of Senator SIMPSON as floor manager, and Senator KENNEDY as the ranking minority member of the Immigration Subcommittee, as perhaps the finest this session. I am hopeful the House will recognize the urgent need to act on this legislation, and in the process, to bring under control the raging immigration problems confronting our society and economy.●

● Mr. RIEGLE. I voted against Senate passage of the Immigration Reform and Control Act (S. 2222) because I do not believe this bill offers an acceptable response to our Nation's immigration problems.

This legislation fails to adequately deal with the increasing number of illegally employed aliens. Also, since we have inaccurate and highly speculative estimates regarding the number of undocumented aliens already in the United States, the conflicting policies in this bill with respect to various immigration preference categories are difficult to assess for reasonableness.

As the bill stands, the immediate relatives of U.S. citizens are included under the annual numerical ceilings, but the families of permanent resident aliens are weakened by the disqualification for relative preference of adult unmarried sons and daughters, and no provision is made for brothers and sisters of U.S. citizens.

S. 2222 in its present form does not adequately address the very difficult questions of how to control the flow of immigrants—both legal and illegal—into this country in a manner which is both fair and effective, and which protects the principle of family reunification in our immigration law.●

RECESS UNTIL 2 P.M. TODAY

Mr. BAKER. Mr. President, as I indicated earlier today, as is our custom on Tuesdays, I now ask unanimous consent that the Senate stand in recess until the hour of 2 p.m. today.

There being no objection, the Senate, at 12:09 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will state the unfinished business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed the consideration of the joint resolution.

(The names of the following Senators were added as cosponsors of amendment No. 2029: Mr. WARNER, Mr. DECONCINI, Mr. SYMMS, Mr. SCHMITT, Mr. JEPSEN, Mr. NICKLES, Mr. HATFIELD.)

Mr. HEINZ. Mr. President, one gymnasium for the exclusive use of 100 Senators is a luxury. Two gymnasiums for the exclusive use of 100 Senators is a self-indulging extravagance. Three gymnasiums for the exclusive use of 100 Senators is, Mr. President, as anyone with any commonsense can see, an inexcusable slap in the face of the American public.

When the Russell and Dirksen Senate Office Buildings were constructed, I was not privileged to serve in the Senate. I shall not pass judgment upon the decisions of those Members serving at that time in the construction of the first two gymnasiums. However, today I am compelled to speak against this Senate, of which I am a Member, condoning yet a third gymnasium.

I have consistently opposed the contruction of the Hart Building. Now, at a time when we ask sacrifices of the American people—those we serve—we simply cannot ignore the extravagance of the Hart Building.

At a time of sacrifice, it is our most serious responsibility to save every possible dollar of the taxpayers' money. I cannot support the building of yet a third gymnasium, and I urge the support of the amendment of my good friend from Tennessee, the honorable majority leader, Senator BAKER.

(By request of Mr. ROBERT C. BYRD, the following statement was ordered to be printed in the Record:)

● Mr. FORD. Mr. President, I am pleased to cosponsor the amendment of the Senate majority leader, Senator BAKER, and the minority leader, Senator BYRD to prohibit the construction of the proposed physical fitness facility in the Hart Senate Office Building.

Last week, I wrote Senator STAFFORD, chairman of the Senate Office Building Commission, to second the majority leader's call for a halt to construction of this facility.

As I told Senator STAFFORD, the idea of spending $736,400 for this purpose is not only ill-advised, but unjustified in these times of fiscal restraint.

I might add that the only reason I voted last week to sustain the ruling of

the chairman that Senator PROXMIRE's amendment to the supplemental appropriations bill was nongermane is because I have consistently opposed the idea of legislating through appropriations.

I hope that the Senate will approve the Baker-Byrd amendment and I submit my letter to Senator STAFFORD for the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., August 13, 1982.

Hon. ROBERT T. STAFFORD,
Chairman, Senate Office Building Commission, Dirksen Building, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to second Majority Leader Baker's call of yesterday to stop construction of the proposed new physical fitness facility in the Hart Senate Office Building.

The idea of spending $736,400 for this purpose is not only ill-advised, but totally unjustified. It flies directly in the face of the major budget cuts in federal programs that we are asking the public to accept in the interest of reducing government spending. This is certainly one means by which the Senate can exercise restraint and good judgment. It would also send a signal to the American public that this body is willing to practice what it preaches.

Like many other Senators on Tuesday, I voted for tabling the Proxmire Amendment to eliminate funds of the new facility solely to sustain the proper ruling of the chair that this particular amendment was not germane to the pending supplemental appropriations bill. I have consistently opposed the idea of legislating through appropriations. I believe this practice can only create a dangerous and troublesome precedent for the Senate.

In no way did this vote reflect my true sentiments about the need for another physical fitness facility for Members of the Senate. I hope that a meeting of the Senate Office Building Commission can be arranged at the earliest possible opportunity for the express purpose of delaying any expenditure of funds for this facility.

Sincerely,

WENDELL.●

VOTE ON AMENDMENT NO. 2029

The PRESIDING OFFICER. The question is on agreeing to the pending amendment offered by the Senator from Tennessee and the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. SIMPSON) is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) is absent to attend the funeral of former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 330 Leg.]

YEAS—98

Abdnor	Exon	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Goldwater	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Grassley	Nickles
Biden	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Percy
Brady	Hayakawa	Pressler
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Helms	Quayle
	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Humphrey	Roth
Chafee	Inouye	Rudman
Chiles	Jackson	Sarbanes
Cochran	Jepsen	Sasser
Cohen	Johnston	Schmitt
Cranston	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stennis
DeConcini	Laxalt	Stevens
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Weicker
East	McClure	Zorinsky

NOT VOTING—2

Ford	Simpson

So the amendment (No. 2029) was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Let us have order in the Senate.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I announced earlier that it was our hope that this afternoon we could do the Department of Defense authorizations conference report. I would like to proceed to that item now but with all expectation that we will come back to the debt limit later in the afternoon today. There will be further debate on the debt limit and on the pending amendment today.

DEPARTMENT OF DEFENSE AUTHORIZATION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now proceed to the Defense authorizations conference report on S. 2248.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Is it the majority leader's intention to hopefully finish today, if we can?

Mr. BAKER. Yes, Mr. President, it is my intention to do that, and I think that we can do it.

Mr. PACKWOOD. May I ask for the yeas and nays?

Mr. BAKER. On?

Mr. PACKWOOD. On the conference report.

Mr. BAKER. Mr. President, after the Chair grants the request, there will be a request for the yeas and nays.

The PRESIDING OFFICER. The report will be stated.

Mr. STENNIS. Mr. President, may we have order? There is no reason why we should not have order so we can at least hear.

The PRESIDING OFFICER. The point of the Senator from Mississippi is well taken.

Will Senators clear the aisles so that Senators may hear?

The clerk will now report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian personnel of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 16, 1982, page H5953.)

Mr. PACKWOOD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my military aide, Mr. Dennis Sharon, may be with me on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, on behalf of the Senate conferees, I am pleased to report the results of a joint conference on S. 2248, the Defense authorization bill for fiscal year 1983.

The conferees have agreed to authorizations in titles I, II, III, and VIII for procurement, research, development, test, and evaluation, operation, and maintenance, and civil defense that total $177.9 billion. This figure is $5.6 billion below the President's budget request, comparable to the figures recommended in the Senate bill, and $0.8 billion above the comparable figures in the House amendment. Both the Senate bill and House amendment contained general provisions—the Jackson amendment in the Senate and the Glickman amendment in the House—that would have had the effect of altering the above figures, but these provisions were not agreed to by the conferees.

Because the first budget resolution provides for target levels of budget authority and outlays, there is not a direct relation between the Defense authorization bill and budget resolution. Nevertheless, the conferees were mindful that the Congress has adopted a budget resolution that targets a $9.8 billion reduction in budget authority to the President's budget for national defense. The conference agreement would make a reduction of $5.6 billion.

This reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Between the DOD authorization bill, MILCON, and DOE, the authorizing committees have responsibility for 93.5 percent of the 050 function.

Reductions in civilian pay and COLA's from the level assumed in the President's budget will result in reductions of approximately $2 billion.

Further adjustments in Department of Defense programs are usually made during the appropriation process. If the appropriations committees reduce their bills by $635 million—which is their fair share (6.5 percent), then this conference bill will remain consistent with our continuing efforts to meet the requirements of the first concurrent resolution for BA reductions of $9.8 billion.

I should point out to my colleagues that when we entered conference there were some 400 items of disagreement between the Senate and the House, involving several billion dollars. Yet, the difference between our two bills was only $300 million. The Senate actually faced a potential conference outcome that could have been over $1.5 billion above the Senate bill. We worked very hard to reduce this increase to only $500 million above the Senate bill, an amount equal to the $177.9 billion bill reported by the Armed Services Committee.

Even while the conference bill includes additions above the Senate for the MX, AH-64, and C-5B, the record will show that most of the savings generated in this bill came from procurement ($3.2 B), R. & D. ($1.2 B), and O. & M. ($1.1 B) in that order.

To the extent possible, the conferees protected the strategic and conventional force modernization programs so essential to rebuilding our defense capability.

The conferees also tried to protect the near term readiness of our forces. Over 70 percent of the operation and maintenance reductions were related to pricing changes in fuel and currency, and accounting transfers. The requests for flying hours and steaming days were approved intact.

I will reiterate my enormous displeasure and discomfort at being compelled to make reductions in many programs for which there are validated military requirements; and I must caution my colleagues who might think that reductions of $5.6 billion can be made easily. I can assure them the budget reduction process in the area of national defense is just as difficult as that experienced in domestic programs.

I am generally pleased with the outcome of conference, and I thank the Senate and House conferees for their hard work and their commitment to finish this bill before the recess.

Mr. President, the Armed Services Committees have made a solid contribution toward helping the appropriation committees meet the requirements of the first concurrent budget resolution. On this basis, I urge the Senate to adopt the conference report now before us.

Mr. STENNIS. Mr. President, I shall not take more than a few minutes of the Senate's time now, but I will be prepared to comment later on some of the items in this bill.

Mr. President, no bill before the Senate, for a long time, has had any more thorough consideration of most of its items than this, and few have had as many important items and decisions to be made on major weaponry.

The President is entering into arrangements for negotiation on limitation talks, as we all know; and I have said to him that there is nothing more important to deal with during his 4 years in office than the problem of some kind of acceptable, effective arms limitation agreement with the Soviets that, to a practical extent, can be given surveillance with something in the realm of scientific ability for us to tell whether or not it is being lived up to.

The MX missile was one of the things at issue, and it is important, and I wish it did not cost so much and did not take so long. The President of the United States going off to attend negotiations, to take leave—not physically going now—but to take leave in such negotiations without a firm, positive, definite committal by Congress as to the availability of the MX missile, which is the third leg of our famed Triad, which I think makes all the difference in our favor—without that in its modern form, looking to completion—it puts him at an extreme disadvantage, which I do not want him to have, and I do not believe anyone else does who realizes what the disadvantage would be.

I am ready for this debate to proceed, and I am not going to take a great deal of time. I will be present during the entire debate and expect to seek the floor in future exchanges.

For the time being, I yield the floor.

Mr. EXON. Mr. President, as my record shows, I have always been and remain thoroughly dedicated to the proposition that the national security of the United States must be further strengthened. However, it is also my belief that such a conviction does not lock me into essentially giving a "blank check" for the purchase of almost anything that "pops."

It is not customary for a member of the Armed Services Committee to speak in anything but glowing terms of military authorizations. Notwithstanding what is commonplace, I regretfully urge my colleagues to study carefully the conference report before "rubber-stamping" it and, instead, send the authorization back to conference for additional reworking in at least three critical areas—namely the MX missile and related antiballistic missile development; the Titan missile; and the Trident submarine. There are undoubtedly others that require more critical review. However, Senate judgments in these three areas mentioned were overturned in conference and, in my opinion, if permitted to stand, will result in a serious and possibly long-range detriment—not only to our deterrence and strength but to the chances of peace through negotiations.

It is time, Mr. President, that we pause for at least a moment to see who is driving our military machine and to where.

It is this Senator's view that the people of America are more deeply divided today on the ways and means of best assuring peace than any of the other serious challenges facing us.

This Senator from Nebraska has not endorsed the present "nuclear freeze" concept because, while I enthusiastically endorse its worthy goals, it appears to me—and I avidly hope I am wrong—that it appeals to the idealistic panacea concept and not the hard reality of the situation that confronts us. I am sufficiently exposed to and impressed by the continued Soviet adventurism and expansionism around the world. I am very much concerned, but not mesmerized by, their past activities as well as their present and future plans.

My faultfinding with this conference report is that it perpetuates and reinforces the highly questionable presumption that throwing gobs of taxpayers' money at almost anything for sale or on the drawing board that transports explosives, or explodes, is sound defense policy.

The House Armed Services Committee conferees were reminded of the House of Representatives' only two-vote majority against the nuclear freeze amendment and that they were needlessly flying in the face of "freeze" supporters by their determination to procure or begin procurement of almost everything imaginable.

Mr. President, there are many well considered and necessary decisions in the conference report which I enthusiastically support. yet, Mr. President, there are others being pursued seemingly for the sake of pursuit itself. There appears ample evidence that we have not sufficiently addressed needed priorities. It is almost as if we can disregard priorities in military spending because there are none.

I take this action reluctantly and would not do so unless I felt it to be absolutely necessary. Before explaining further the reasons behind my opposition, I tell my colleagues that the Armed Services Committee has just finished a long, tortuous conference with our House counterparts. Many positions on highly important national security issues were in diametrical opposition and the negotiating was very tough. I am certain that every conference participant will agree with what I have just stated. Our chairman and ranking minority member were placed in a most difficult position and we knew from the beginning that some undesirable compromises would have to be made.

Nevertheless, I shall review the results of this conference in comparison to the positions which the Senate took on the three key issues previously mentioned.

First is the issue of the MX missile. The Senate Armed Services Committee decided unanimously against the administration's plans to begin production of the MX without knowing what the basing mode would be for the missile. We did provide additional research and development funds to accelerate the basing mode determination and mandated a basing decision by December 1 of this year. The Senate also prohibited the interim basing of MX missiles in existing Minuteman missile silos. We simply concluded that it made no sense to place a new, 10-warhead missile in vulnerable silos.

The fact that the Armed Services Committee took this position and brought it to the Senate floor contributed in large part to the overwhelming approval this bill received last May.

The House of Representatives, on the other hand, voted to go ahead with production of the first nine MX missiles, as requested by the administration, although a considerable portion of the funds could not be expended until after a Presidential decision on MX basing was made.

The conference agreement provided for in the report on which we are being asked to vote today allows procurement of the first five MX missiles along with provisions to encourage an accelerated basing mode decision. At this point, I ask, "How many of my colleagues have read or even heard of the Air Force's report of 'July 20, 1982, on MX Closely Spaced Basing'?" This is a most important point for several reasons.

Closely spaced basing, formerly known as dense pack, is described as the most promising candidate for MX basing. The President is supposed to make a decision on whether or not this will be the MX basing mode this fall. However, it is important to note that closely spaced basing is the only long-term basing mode which can be ready by 1986; 1986 also represents the earliest initial operational capability for the MX missile itself. If closely spaced basing is not approved, but if we begin producing MX missiles in 1983, the only other alternative is to place these missiles in existing silos or in a warehouse. The first option has already been rejected by the Senate and the second option makes even less sense.

So here we stand, Mr. President. This conference agreement calls for production of the MX missile so that it will be ready by 1986—the year it was always expected to be available for development. However, because of the many false starts on MX basing, the only long-term basing mode which can be ready when the missile is ready is closely spaced basing.

Unfortunately, having reviewed the available information on closely spaced basing gives this Senator no comfort. In the Air Force study, the key to MX survivability in closely spaced basing is that an enemy attack against the missiles in superhardened capsules, one-third of a mile apart, would fail because of the fratricide effect. Fratricide includes the radiation, air blast, fireball, and debris which would be caused by a large-scale Soviet attack on our 100 MX missiles based in a small area of 15 square miles. This fratricide effect would supposedly cause the attacking Soviet warheads to destruct each other because an unprotected Soviet warhead cannot presently stand up to these effects.

The study goes on to say that one countermeasure to a Soviet effort to defeat this system would be to "extra-superharden" these MX capsules to as much as 50,000 to 100,000 pounds per square inch of overpressure. I am quite puzzled by this claim—especially in light of the Air Force's inability to prove to the Senate only months ago that they could harden Minuteman silos to a mere 5,000 pounds per square inch.

Without taking the time of the Senate to summarize the entire Air Force study—which comprises the only information we have on closely spaced basing—let me simply say that it lists a number of potential Soviet countermeasures which could be taken to defeat this system. It also lists a number of potential U.S. counter-countermeasures which we could devise to block their moves. Much evidence is available to suggest that it is probably within Soviet technical capability to defeat closely spaced basing as soon as, or shortly after, it becomes operational—that is, unless the United States deploys an antiballistic missile system to defend the MX.

Therefore, we are being asked to approve MX production money for fiscal year 1983 when we are fairly certain that the "most promising" basing candidate will require an ABM system to defend it right at the start. One never hears about this basing mode without hearing the letters ABM in the very next breath. Closely spaced basing could lead directly to the abrogation of the ABM Treaty by the United States—not the Soviet Union. It may violate SALT II as well, which the President has said he will not violate if the Soviets do not, until we get a new arms-reduction agreement. There is considerable concern that these MX capsules could be considered the equivalent of new land-based silos which the treaty prohibits.

Make no mistake about it—closely spaced basing, with all of its potential drawbacks, is the only permanent basing scheme which could be in place by 1986. And 1986 is the only reason to authorize MX missile production money in this bill. We have had no hearings and very little information on this deployment mode except for the July 20 Air Force paper I have referred to.

How can we possibly give the green light and rush headlong into this proposition at this stage? Mr. President, I am not against the MX missile. But I am against deploying a $20 to $30 billion weapon system without an acceptable basing mode.

The proposed retirement of our existing 52 Titan missiles is the next subject area where I take issue with the conference agreement. Last October, the President proposed that we begin dismantling our Titan missiles at the average rate of one per month beginning in October of this year. On March 31 of this year, the President stated that, "The truth of the matter is that on balance, the Soviet Union does have a definite margin of superi-

ority, enough so that there is risk and there is what I have called, as you all know, several times a window of vulnerability."

What sense does it make, Mr. President, to unilaterally disarm the Titan missiles—which constitute approximately one-third of our overall land-based ICBM megatonnage—if we are inferior and face a window of vulnerability? It is nonsense. Why should we take this step at the same time we are beginning START negotiations with the Soviet Union and in the absence of a corresponding nuclear arms reduction on their part? I keep hearing the story about how the United States "gave up" the B-1 bomber in 1977 and that the decision at that time represented a form of "philanthropy" which the Soviet Union does not respect or reciprocate. It is certainly the height of philanthropy to give up the Titan missiles in this situation.

Mr. President, each Titan missile has a single warhead of approximately 9 megatons. Everyone understands that these are not accurate missiles and therefore cannot put at risk hardened Soviet missile silos and command posts. However, I need not remind my colleagues to the kind of devastation which 9 megatons can cause. The only rationale offered for dismantling these missiles is the need to save about $100 million per year. So, at an equivalent cost of about four Navy F-14 fighters or six new Army attack helicopters per year, we could have retained one-third of our total land-based ICBM megatonnage until the MX becomes operational in an acceptable basing mode. And I remind my colleagues that the Titans were always supposed to remain in our inventory until a replacement came on line unless an arms-reduction agreement allowed their early decommissioning.

The Armed Services Committee held a special hearing on this subject at my request. The result was that we funded retention of the Titans for at least 1 more year. The Senate even voted down an attempt to delete Titan funding on the floor just 3 months ago. Unfortunately, this conference agreement does not provide enough money to retain all of the Titans and instead approves the beginning of their decommissioning.

The third issue I wish to address is the subject of Trident submarines. Mr. President, if there is one area of stability in the entire strategic modernization program, it is the Trident submarine and missile system. Last year, because of fiscal constraints and shipyard problems, Congress did not fund the 1982 Trident submarine. However, at the same time, we agreed that two submarines would be funded in 1983. The Senate kept its end of the bargain; however, the House of Representatives did not. The conference agreement before the Senate today only funds one Trident submarine. With all of the uncertainty surrounding the future of the land-based portion of our strategic Triad and with the potential of the Trident II missile, why should the United States "short-change" the most promising part of any future nuclear deterrent?

Mr. President, I understand the need to compromise in any House-Senate conference and the well-intentioned differing views of each side. However, on these three issues of great importance—the MX, Titan, and Trident—the Senate position was not upheld and the decisions reached in this conference agreement have far-reaching, adverse implications for our defense policy.

For whatever reason, we are being forced to give up Titan missiles to fund tactical aircraft which were not even requested in the President's budget. Because of our desire to send a signal to the Soviet Union, we are being asked to actually procure MX missiles when we do not have an approved basing mode. We are funding two aircraft carriers and a refurbished World War II battleship but only one Trident submarine.

In my view, this is an example of misplaced priorities and the triumph once again of parochial interests over that of the Nation as a whole. Is this the way to take maximum advantage of the renewed national consensus to enhance our defense posture? I think not.

Mr. President, I am not opposed to this conference report because I do not favor taking the steps necessary to improve our defense—exactly the opposite is the case. I oppose this legislation precisely because I am greatly concerned over the threat posed by the Soviet Union and over the need to take prudent steps to protect our national security. Throwing money at the problem—which is what we are being asked to do today—is not the answer. I believe that we can do a much better job for our defense for the same number of dollars spent.

Mr. President, it is time that we began tackling the problems of our national defense and nuclear deterrent in a rational manner. I fear the consequences if we do not and the Nation demands no less an effort.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I rise in support of the conference report on the fiscal year 1983 DOD authorization bill. The Senate and House conferees worked diligently to achieve a proper allocation of the moneys available within the budget constraints with which even the defense budget must conform. The members of the conference were faced with hard choices based upon substantial differences between the Senate and House positions but, all things considered, I believe a proper balance was struck.

I am pleased to report that the conferees did not ignore the vote of the Senate with regard to procurement of commercial widebody aircraft for our military airlift requirements. The conferees decided on a number of elements of a program to enhance our airlift capabilities. In addition to approving the administration's proposed restart of production for the C-5 and the purchase of KC-10 tanker/cargo aircraft, the conferees recognized other important elements of our airlift program. In particular, we authorized the purchase of three surplus commercial widebody freighters for military airlift purposes.

There are a number of these commercial freighters for sale from companies which currently do not have sufficient business to justify retaining these aircraft. These freighters have both a nose door and a side door for loading of oversized and bulk cargo and are available for nominally $36 million per aircraft. The planes have to undergo some minor changes to make them optimal for military airlift purposes with an estimated cost of $3.5 million per aircraft for this conversion. For example, military avionics systems need to be installed and aerial refueling capability might be installed to further increase the already enormous range of the 747 freighters. With an initial spares requirement of approximately $3.5 million per aircraft, the cost for these surplus 747 freighters is approximately $43 million in fiscal year 1982 dollars which compares to a price of about $145 million per copy for the new C-5's in fiscal year 1982 dollars. Obviously, these surplus planes represent a real bargain to augment our airlift capabilities and the opportunity should not be lost to purchase them before they are sold abroad to nations which could use them for their own military purposes.

I believe that these 747 freighters can be used by the Military Airlift Command for training purposes to teach Air Force personnel in the active duty units, Reserve units and Air National Guard how to load oversized equipment onto a 747 so that in the event of an activation of the CRAF, the military personnel will be totally familiar with the loading methods and load composition for maximum efficient use of the CRAF in an RDF mission. Moreover, if the Air Force gains experience with the 747 in a "hands-on" way, I believe that it is quite likely they will overcome whatever reluctance they currently have toward this superb aircraft and will consider buying additional 747 freighters in future years to further augment our airlift capabilities.

The conferees also maintained the C-17 as a longer range option for meeting our airlift requirements and encouraged the Air Force to explore new contracting procedures to make the CRAF enhancement program, which has been totally unsuccessful to date, more likely to succeed in the future.

I am also exceedingly pleased that the conferees agreed to provide for a settlement of a military personnel claim for Col. Thomas E. Schaefer who suffered a loss of property in excess of the statutory limits during the period of the Iranian takeover of the American Embassy. Colonel Schaefer served his country nobly during his time in Iran, including nearly 2 years of captivity as a hostage in the American Embassy, and it is only fair that his personal loss be compensated in keeping with his service to us. I hope that others who have been similarly affected by this statutory limit can be properly compensated in some future legislation.

There are many important actions that the conferees took. Some of them are more notable than others because of their international impact, especially with regard to our ability to successfully negotiate treaties with the Soviet Union. The conferees approved initial production of the MX missile whereas the Senate had specifically denied funding for this purpose. The Senate Armed Services Committee's objective in part was to force the President to come to grips with a survivable basing mode for the MX missile. The administration is now actively working on a new proposal for a basing scheme which will be submitted to the Congress for its review in December. The conferees recommend the fencing of production funds statutorily until that report has been submitted to the Congress and thoroughly analyzed. Our actions in the conference leave the door ajar for going forward with MX deployment and thus send an important signal to the Soviet Union that we will deploy new strategic systems unless meaningful negotiations on arms reductions are forthcoming. At the same time, we have taken a step to reduce some of our strategic arms by not providing funds for the continued operation of our Titan missiles. These missiles will be phased out over the next few years. I believe this partially answers the critics' concerns that we are building weapons without bound because we are trying instead to achieve safer and more credible deterrence for our national defense.

With regard to the ballistic missile defense program, the conferees cut the level of activities to about 50 percent of the President's proposed budget. Whether or not the ballistic missile defense concept will be deployed is yet to be determined and is currently under a high-level review in the administration because of the existing treaty with the Soviet Union. Because the Soviets are working actively on a ballistic missile defense program, we must maintain a technology base not only for our own considerations but in order to understand what the Soviet's program may be able to achieve. Whether or not ballistic missile deployment will occur in conjunction with the MX is an open question at this time.

The conferees also decided to support the House position of not initiating production of binary shells at the present time. The Soviet efforts in chemical agents are intense and present a serious concern for our forces in places such as the NATO countries. A question which has yet to be answered is whether we can achieve a verifiable treaty on chemical weapons with the Soviet Union without the specter of production of our own weapons. Multilateral discussions on chemical weapons are taking place under the auspices of the United Nations and perhaps the outcome of those talks will give us clear guidance on this question in time for next year's authorization bill.

I am pleased that the conferees decided to approve funding to move forward with the ECX program for strategic communications for the Navy. I believe that the existing capabilities are not compatible with the efforts to improve the C³I capabilities in conjunction with our Poseidon and Trident submarines. While I concur with the conferees' statement that we must not limit production of tactical aircraft so that the costs of such aircraft do not become unacceptably high, I believe that it is also important to terminate production lines when a sufficient inventory of a tactical aircraft is in hand or when a new generation plan supersedes an existing production model. The ECX in not in fact a tactical aircraft, and it is likely to be derived from an existing production line and should not have in fact been included in the litany of new tactical aircraft discussed in the statement of managers.

I urge my colleagues to support adoption of this conference report.

Mr. GORTON. Mr. President, I second the thoughts expressed by my senior colleague from the State of Washington, Senator JACKSON, who is supporting this proposal. I congratulate the chairman of the Senate Armed Services Committee for this bill and for his thoughtfulness in working out appropriate compromises with the House. I express my support for the bill and for the position taken by my senior colleague.

Mr. PROXMIRE. Will the Senator from Colorado yield 30 seconds?

Mr. HART. I yield.

Mr. PROXMIRE. Mr. President, I shall cast my vote against the conference report on the fiscal year 1983 Department of Defense authorization bill for several reasons, but the primary one is budgetary. This bill is about $2.6 billion over the amount allocated for national defense in the first budget resolution.

While it is technically accurate to argue that this is an authorization and thus not subject to the strict limitation—there being an appropriations bill to follow—clearly the budgetary pressures created by this overspending are inappropriate and unacceptable.

What we are seeing is a double standard applied to legislation before the Senate. Some bills, some issues, do not receive the same budgetary scrutiny as others. The two classic items are foreign aid, where we have been subjected to huge increases in requests from the administration, and in defense where similar trends are evident.

We are reducing funding for school lunch programs, for handicapped Americans, for the elderly, the sick, and impaired, for students, for retirees. And Mr. President, most of these reductions are necessary to get our economy back on a healthy track, to reduce inflation and interest rates and restore confidence. But while we are making these painful reductions, touching the lives of millions of Americans, we are applying a double standard for defense spending and foreign aid. Here the pressures are all upward, the spending higher, the quest for efficiency less energetic.

No one who has served in any capacity in the military would argue that the solution to our defense problems rests automatically with tens of billions in increased expenditures. Some increase is inevitable if we want the All-Volunteer Force to work; if we are to pay our military personnel a fair compensation; and if we are to produce the quantity of weapon systems necessary to meet the threat.

But there are limits to the powers of dollars to cure. More spending, at the rates recommended in this bill, do not address the issues of competition, of reliability, of oversophistication, and vulnerability.

This bill could have been reduced without any significant negative effect on our national security.

The MX should have been postponed until a basing decision is reached. The two aircraft carriers are an extravagance we cannot afford. The B-1B production should have been eliminated in favor of the Stealth bomber.

There are some positive elements in this bill. It prohibits the opening of the binary munitions production facility. There are certain provisions in the bill that benefit the National Guard and Reserves.

But by and large this bill is of unacceptable size given our economic situation. The growth rate in defense

spending should have been trimmed to about a 3-percent real growth level.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, there is no subject or set of subjects as complex as the defense authorization bill, with the possible exception of tax and revenue measures.

I want to begin my remarks by saying that the distinguished floor manager of the bill, the Senator from Texas, deserves the special appreciation of all of us on the respective committees and the conference for his judicious handling of this extremely complicated and difficult conference.

He has, in his management of the Senate Armed Services Committee, and I think in his handling of this extremely long and complicated conference, distinguished himself for his fairness and judicious nature and his genuine effort to accommodate the views of all of those who agreed to disagree with him. I think he deserves the appreciation of the entire Senate.

Second, Mr. President, I cannot think of a bill that calls into question the priorities in our society more than this bill. It represents increased spending at a time when almost all other priorities of this country are being cut, when reductions are being made in almost all other areas of Federal spending.

The President of the United States, on television last night, I think for the first time pointed out to the American people that when he talks about Government spending, he is not including defense spending. Up to this time, one would have thought that all Government spending was evil and it all ought to be cut back. Last night, he pointed out that there was a major area of Government spending that he in fact advocated increases for, and that was defense.

Defense spending is Government spending. It is Government spending just like all other Government spending. It represents a quarter, perhaps as much as a third of all Federal spending, and it may be even more than that by the end of this administration. It cannot, when we are discussing the issue of spending and cost of running the Government, be exempted from that discussion.

About 2 weeks ago this body went on record by a vote of 65 to 31 in favor of an amendment to the Constitution of the United States to balance the Federal budget. I voted against that measure. I think it is incumbent on all those who voted for it to point out to their constituents that one of the effects of that amendment, if it ever does go into effect, is probably to cap—very, very severely—spending for defense. It can, in the short term, accommodate decreases in domestic spending and increases in defense, but in the long term I think all of us who are honest with ourselves and with the citizens we represent have to understand that a constitutional amendment to balance the Federal budget is going to cause serious and severe cutbacks in defense spending.

Third, Mr. President, an issue that did not come up at this conference, but which I think sooner or later we are going to have to face as a Congress, is the issue of opening this conference up. Periodically in the past efforts have been made to have the bulk of this conference open to the American people and to the press. The issue was not raised by the Senator from Colorado this year, but I do intend, in next year's bill and in years thereafter, so long as I am in the Senate, to make an issue of the openness of this conference.

In the past we have deferred that issue or beaten it back on the grounds that these are matters of national security. There may be and there are matters of national security taken up in the defense authorization conference. But all of us who participated in that conference, if we are honest with ourselves, would admit that the areas of national security are a small fraction of all the issues on which we deliberate, and there is no justifiable constitutional reason or national security reason for having the bulk of this conference behind closed doors.

It facilitates our deliberations, it facilitates the horse trading that goes on, but I do not think it is fair to the American people. I think the American people ought to understand the tradeoffs involved in accommodating the House and Senate. I think it would make our deliberations better, and in the long term it would help educate the American people as to what the real defense issues are.

Mr. President, at a time when every other part of the Federal budget is being forced to cut back, the administration has yet to reconcile defense spending with austerity in other domestic programs. Rather than compromise between the levels of funding adopted by both Houses, the conference did each House one better and adopted a higher figure than either bill. This kind of excess is unnecessary and appalling in the face of a stagnated economy, soaring deficits, and an unraveling safety net.

Mr. President, I must oppose this conference report for those reasons and, further, because it reverses a very serious Senate decision to delay procurement for the MX missile until an acceptable basing mode has been proposed.

The House proposed spending a billion or so dollars for nine MX missiles. The conference adopted a so-called compromise proposal to purchase five MX missiles at a cost almost of what the House authorized for nine, a discrepancy which the Senator from Colorado is still at a loss to understand.

The argument in favor of that compromise for procuring missiles is that they offer a bargaining chip to our negotiators in Geneva, who are supposedly negotiating an arms control agreement. Mr President, I do not think the Soviet Union is going to be very impressed, let alone intimidated, by missiles that cannot be launched, whether there are 5, 9, or 100.

Missiles in a warehouse represent no threat to the Soviet Union or anyone else. The billion dollars that they cost does represent a threat to a balanced budget in this country and to economic survival.

Going ahead with the procurement of these five missiles, or any number of missiles, before we know how or where or even if the administration has a plan to base them is simply and flatly a waste of money. It is my intention to continue to oppose further procurement of this missile until this administration or some future administration identifies and endorses a survivable MX basing plan. To date, the only proposal that, apparently, through rumors, is being considered for interim basing is either existing silos or the so-called dense pack plan, both of which are clearly inadequate and unacceptable.

My opposition to this report on the MX missile extends to its probable counterpart, the so-called BMD, ballistic missile defense, program. The conference reduced the Senate figure in this account, but added $100 million for the revival of the Spartan exo-atmospheric interceptor missile. This action, designed to provide for a quick option to defend the dense pack basing mode for MX, is premature to say the least, until we know what that basing mode is.

Mr. President, this Senator strongly opposes scrapping or modifying the ABM Treaty. The treaty has served U.S. interests well during the past decade, and it can continue to do so if we and the Soviets are prudent in the development of BMD technologies. Our pursuit of a basing mode that is questionable at best should not preempt our understanding of the value of this treaty.

The root of my opposition to this bill goes even deeper. Quite simply, I am opposed to the conference report, as I earlier opposed the bill, because, in my judgment, it will make us weaker militarily, not stronger. It contains too little funding for ships, planes, or weapons that will work in combat. It contains a great deal of funds for ships, planes, and weapons that probably will not work. In short, it is almost purely a traditionalist defense bill, and as a military reformer, I believe military traditionalism is more likely to result in defeat than defense.

I must, at this point, commend the distinguished chairman of the committee (Mr. TOWER), and the distinguished minority leader of the committee (Mr. STENNIS), for their hard work in the conference and for their support for some of the small number of items in this bill which may actually strengthen us militarily. I refer, in particular, to the AV-8B, the AV-8B+, the Arapaho program, Seamod, and the Military Reform Caucus amendments, which have been incorporated into the conference report as reporting requirements.

Some of the other spending authorized here, especially that for operations and maintenance, may also help strengthen our defenses.

On the whole, however, this conference bill funds a conceptually flawed defense policy, a policy that puts weapons before people, strategy and tactics; that defines "quality" in those weapons in terms of fragile, overly complex technology; and that pays for that quality, not only with a tremendous outpouring of tax money, but also by buying so few weapons that our forces will fight heavily outnumbered.

The Navy provides perhaps the most painfully clear example. This bill authorizes two more nuclear aircraft carriers, at a cost of almost $7 billion for the two ships, plus an implied commitment of at least another $20 billion for aircraft, escorts, and support ships. What difference will this massive expenditure make in the United States-Soviet naval balance? Very little, if any.

The bill authorizes just two attack submarines. The Soviet Union is launching seven each year. Why do we build so few? In part, because we have let our submarines become so complex and expensive we cannot afford very many. And, in part, neglect of the submarine force is a price of our fixation with the big aircraft carrier. Yet few independent naval experts would be surprised if, in the next naval war, submarines turn out to be far more important than carriers.

The bill continues the Aegis cruiser program, a program for carrier escorts that cost $1 billion each, provide a powerful radar beacon on which the Soviets can home to attack our carriers, and can neither see nor shoot down sea-skimming antiship missiles like the Exocet that sank H.M.S. *Sheffield* in the Falkland Islands naval conflict.

The story with the other services is largely the same: The Air Force's love affair with the F-15 is allowed to go forward, even though the F-16 has repeatedly been shown in mock air combat to be the better fighter at half the cost. The Army's fragile M-1 tank and disastrous Bradley fighting vehicle programs get their funds.

In its totality, this bill rewards the Pentagon for precisely the wrong kind of behavior. It provides the reward valued most—money—for tremendous overemphasis on procurement and R. & D., at the expense of actually preparing to fight if necessary, and to win. It rewards addiction to fragile equipment more suited the laboratory than the battlefield. It rewards bureaucratic behavior, which always prefers what is familiar—even it if does not work—to innovation and imagination.

In its effects, this bill represents defense business as usual. As one who supports a truly strong, modern defense, I cannot support it.

I know some traditionalists here and in the Pentagon are congratulating themselves on how "pure" a bill this is, on how little reform it contains and how greatly it rewards business as usual. I will only say, as I have said for years, that military reform will come. If we are fortunate, it will come before the policies funded here are tested in combat. If not, it will most surely come afterward.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Michigan.

Mr. LEVIN. First, Mr. President, let me add my commendation to those of others for the Senator from Texas (Mr. TOWER), who did such a superb job in chairing this conference. I have been in many conferences and I know of none that moved so strongly and so quickly to resolve many, many difficult issues. I commend our chairman for the masterful way in which he chaired the conference. I am a member of that committee. I am constrained to oppose the conference report for many reasons, which I shall enumerate in a moment, but even those of us who oppose it all are very much supportive of the way in which our chairman fairly and strongly manages these conferences.

I hope the Senate rejects the conference report, Mr. President. I do so for many, many reasons, which I shall enumerate in a moment. This conference report embodies one of the largest military budgets, if not the largest, since the height of the Korean war, in real spending. That war took place 30 years ago. This conference report distorts the defense spending priorities of this Nation and it fails to address adequately our true defense needs.

No doubt, the completion of this conference report and its passage by Congress will be hailed by the executive branch and its proponents on Capitol Hill as a significant milestone in the effort to rearm America. Instead, the final version of the 1983 Defense Authorization Act represents for national security policy what supply-side economics has meant for fiscal policy—an ineffective solution to the real problem of maintaining and improving our military capabilities.

Rather than promoting the rearming of America, Mr. President, this conference report represents bad economic and bad defense policy. This conference report is a serious reversal for those who truly want to maintain and improve America's deterrent and defense capabilities. Furthermore, it does violence to the congressional budget process intended to restrain overall Federal spending and thereby reduce the crushing deficits now throttling national economic recovery.

This conference report is a deeply flawed product for which we are being asked to pay an exorbitant price in scarce Federal tax dollars. There are many reasons for the Senate to reject it and to return the conference report to conference for substantial revision.

First and foremost, this bill is a budget buster. Based on staff calculations and CBO calculations, the conference report is about half a billion dollars in budget authority and about $3 billion in outlays above the defense spending targets set in the first concurrent budget resolution.

This calculation is based on assessments of this bill and a recognition that it is extremely unlikely that the remaining spending measures which comprise the national defense budget function—military construction, nuclear weapons and pay—can be reduced sufficiently and without danger to our security to meet those targets. I shall insert into the RECORD at the conclusion of my remarks a detailed analyisis of these budget calculations.

By breaching these targets, this conference report violates the spirit of the congressional budget process and threatens to add $3 billion to the Federal deficit.

If this excess is countenanced, the spending limits imposed on other congressional committees—limits so far being met—will be threatened. The fragile budget compromises between domestic and defense spending in the budget resolution are likely to come apart amidst charges of a double standard for the defense budget.

As the deficit grows even larger and recriminations mount about this double standard, even further erosion is assured in the public consensus for needed defense spending increases.

So, first, this conference report is a budget-busting conference report, a half a billion dollars in budget authority, $3 billion approximately in outlays.

Second, this conference report sets the wrong defense spending priorities for the present and the future. It sacrifices needed conventional and strategic capabilities to fund unjustifiable weapons systems whose contributions to our overall strength will be illusory or marginal.

Here are but a few of the more disturbing examples of this in the conference report:

This conference report spends $989 million to buy and base five MX intercontinental ballistic missiles, yet we do not even know how and where to base them. To help fund the MX, the conferees eliminated funding for one highly survivable Trident missile submarine and agreed to phase out the Titan II missiles which contain one-third of our existing land-based megatonnage.

It makes no fiscal and military sense to procure any MX missiles until we know whether we will be able to deploy them in a reasonably survivable basing mode. It makes no sense to engage in unilateral disarmament and give up Titan missiles which both the past and present Commanders of the Air Force's Strategic Air Command have testified are useful weapons which have a role in our overall nuclear war plans.

It makes no sense to delay by 1 year the deployment of 24 advanced Trident II missiles carrying more than 200, prompt, hard-target-kill warheads aboard our most survivable deterrent—our quiet and advanced Trident submarines.

Yet that is what this conference report does.

Five MX missiles in a deployment never-never land will scare the Soviets—either at the START bargaining table or in deterrence terms—a lot less than a fully armed Trident II missile submarine and even our older, blockbuster Titan missiles.

There has been much discussion lately about the increasing prospects that the currently popular basing mode—dense pack or closely spaced basing—will be selected in December as the answer to all our concerns and questions about what to do with MX.

Mr. President, if that decision is made in December, our questions will begin. Despite Air Force optimism and glossy propaganda pamphlets about dense pack, all the answers needed to make a responsible production decision about MX and a survivable basing mode will not be available to Congress by the end of the year.

Even if the Air Force and the President think they will have sufficient information in December to justify dense pack, Congress will have had no opportunity to properly review this recommendation until the fiscal 1984 defense budget hearings in February and March of next year.

No hearings have been held on the many complex issues and contentions surrounding dense pack. Congress cannot justify to our constitutents in this tight budget year spending almost $1 billion for five MX missiles which nobody knows how to base or which are to be deployed in a basing mode about which we never held hearings.

After 15 years and more than 30 discredited basing modes, the Air Force and three administrations have failed to develop a basing mode which is militarily, politically, and financially acceptable. If we approve this conference report, we are approving production of missiles based on some optimistic and unproven assumptions about a basing mode that was developed less than a year ago after some miraculous study results about hardening and fratricide first surfaced in mid-1981.

We also have failed to examine the arms control implications of this new basing mode, which, at the very least, the American public and our European allies would expect us to do before we rush headlong into building missiles for it.

Serious questions have been raised about whether dense pack would violate SALT prohibitions by which even the present administration has said it would abide, assuming equal Soviet compliance. In today's Washington Post, we can read that the distinguished chairman of the Armed Services Committee has decided, even before the administration has, that MX in dense pack will require an antiballistic missile (ABM) defense system for survivability.

The prospects of violating, abrogating, or amending the ABM Treaty must not be taken lightly, especially since our citizens and our allies would not do so. Yet we have not held any hearings about either the SALT or ABM implications of this basing mode.

Congress own credibility is at stake in the MX missile production decision—to say nothing about the credibility of the Air Force and the administration. There are so many unanswered questions about dense pack and its underlying principles that we simply should not authorize $1 billion to produce MX missiles until we have examined dense pack much more thoroughly.

In the conventional forces area, this conference report authorizes $1.24 billion for 39 F-15 interceptors, 18 of which are intended to support the low-priority air defense mission. To help fund these aircraft, the conference report could lead to dismantlement of one of our existing, tactical fighter wings and its almost 72 combat aircraft.

Not only does this action further delay Air Force plans to expand to 40 tactical wings by fiscal 1986, it degrades our capabilities to fight a conventional war in Europe or the Far East now and in the future while diverting precious resources for procurement even the Air Force considers low on its priority list.

If we want to make a meaningful improvement to our air defense capabilities, we should upgrade our homeland early warning capabilities first instead of buying fancy new aircraft, Mr. President. Yet this conference report eliminates funding for one component of this program—the distant early warning (DEW) line upgrade, instead.

Funding 18 F-15's for air defense while we give up 72 combat capable aircraft and the DEW line upgrade—thus hobbling our conventional warfighting capabilities and blinding ourselves to attacking Soviet bombers—is a trade-off which makes little military or fiscal sense.

Our Navy's present capabilities also are sacrificed in this conference report on the altar of future, questionable additions to the force structure. This bill authorizes $6.8 billion for two nuclear aircraft carriers, whose survivability has been questioned by many naval experts. These carriers will not be ready for sea until about 1990, if then.

To help fund these carriers, the conferees agreed to prematurely retire 17 still useful surface ships well before the end of their service lives. The Navy informs me that these ships are being retired an average of 4 years ahead of schedule, and that some of them are being mothballed as much as 7 years ahead of schedule.

We hear a lot of rhetoric about the need to build a 600-ship navy, Mr. President. This administration has been banging that gong since before it was elected.

This conference report action reduces our deployable battle fleet today to below the 500-ship level.

The third major flaw in this conference report is that it makes down payments on so many big-ticket procurement items—the MX, the B-1 bomber, the nuclear carriers, the F-15's—that it thus obligates much larger sums for these items in the future and insures that budget flexibility to meet inevitable funding constraints will be limited or nonexistent.

When the budget crunch we all know will come in the outyears actually arrives, the only accounts from which we will be able to make outlay reductions to reduce the deficits will be the operational readiness and combat sustainability funds.

Talk about "robbing Peter to pay Paul". This conference report insures that all we will have for our soldiers and sailors and pilots will be the shiny new weapons that can be displayed on Armed Forces Day before the shooting begins. But, down the road, because of obligated expenditures on these big-ticket items, we will be denying our soldiers and sailors and pilots the bullets, the spare parts, the fuel, and the training necessary to actually fight any war.

The fourth flaw in this conference report is rejection of some symbolically important, but practically unconstraining language which would have underscored congressional support for the President's policy not to take any

actions to contravene existing arms control agreements—regardless of ratification—if the Soviets do the same.

This language would not have interfered with ongoing weapons production programs in this conference report. But it would have demonstrated to a questioning and skeptical world that the United States is serious about arms control. It also would have denied the Soviet Union the current propaganda victories from its campaign to discredit America's arms control intentions.

A final flaw in this conference report is its undermining of the congressional authorization process. By failing to meet budget targets, the conferees have left the hard defense policy and resource allocation choices to the Appropriations Committees.

This challenges the relevance of any authorizing committee—especially the House and Senate Armed Services Committees—to the budgetmaking process. If the ultimate defense spending levels—and the policy decisions they subsume—will be set by the Appropriations Committees, why bother having authorizing committees at all?

I think we need authorizing committees, Mr. President, because they have the expertise and the time to fully consider policy and program directions contained in any budget proposal. Congress established these committees to obtain the benefits of this type of two-tiered budget examination. We should do nothing to undermine this system, yet this conference report does so in a major way.

Under all these circumstances, and for all these reasons, Mr. President, the proper course of action for the Senate today would be to reject this conference report. Such a move is hardly unprecedented, since the Senate did so 6 years ago because a defense conference report exceeded budget targets in both authority and outlays.

If the Senate does not reject this conference report, the end result of this fiscal 1983 Defense Authorization Act will be an America which is weaker, not stronger, and a nation which is less capable, not more, to successfully deter or defeat the military and foreign policy challenges we can expect now and in the years ahead.

The conference report contends:

> The conference agreement would make a reduction of $5.6 billion. The conferees believe that this reduction is consistent with the target of the first budget resolution in light of the additional reductions that have been or will be made in items under the jurisdiction of the Armed Services Committee. Included are reductions in military pay, both active and retired, military construction and Department of Energy Military Application programs. Reductions in civilian pay from the levels assumed in the President's budget will result in further reductions.

However, upon closer examination we found that:

The President's request for the national defense function was $263.3 billion in BA and $221.3 billion in outlays.

The first concurrent resolution for national defense provided $253.6 billion in BA and $214.0 billion in outlays.

This means we have to cut $9.8 billion in BA and $7.4 billion in outlays from the President's budget to meet the resolution target.

If we assume that $1.9 billion in BA and outlays will be saved by the 4-percent pay raise cap and the cap on military retired pay COLA, then we have left to cut $7.9 billion in BA and $5.5 billion in outlays.

The three major bills that make up the defense function are the Defense authorization bill, the military construction authorization bill and the Department of Energy authorization bill.

MILCON and DOE only make up 5 percent of the national defense function in BA so that leaves the defense authorization bill as the primary place where we have to achieve the reductions other than the pay raise savings mandated by the first concurrent resolution.

Yet the MILCON bills passed by both Houses fail to make sufficient savings. The Senate version cuts only $178 million in outlays; the House version only $35 million.

The DOE nuclear weapons bill reported out by SASC cuts only $55 million; HASC reported bill cuts only $1 million in outlays.

We all know we would have to gut both the MILCON and DOE bills to make sufficient savings. We cannot do that without harming our security.

The DOD conference report before us cuts only $2.6 billion in outlays—far less than that needed, combined with these other bills, to meet the budget targets. It cuts only $5.7 billion in authority. Thus, it is $501 million in authority and at least $2.6 billion in outlays over targets.

There is also another reduction in the budget resolution which is going to end up as a reduction to defense programs if it is carried out: this is the assumption in the resolution that DOD would absorb 50 percent—$1.2 billion—of the fiscal year 1983 pay raise. DOD has not achieved anything like 50 percent absorption of its military pay raise for the last 10 years. When asking us to make this savings in DOD, the inevitable result is going to be cuts in programs to achieve these savings.

To say we will meet the BA target in the resolution and ignore the fact that we are $2.6–$4.3 billion shy of the target in outlays is to abdicate our responsibility as an authorizing committee and leave to the Appropriations Committee the task of reordering defense priorities to live within the budget resolution.

I ask unanimous consent to have printed in the RECORD, a table relating to this matter.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1983 NATIONAL DEFENSE FUNCTION

[Dollars in millions]

	Senate		House	
	BA	O	BA	O
President's budget request	263,340	221,324	263,340	221,324
First concurrent resolution (FCR)	253,566	213,966	253,566	213,966
Difference	−9,774	−7,358	−9,774	−7,358
Reductions to date:				
4 percent pay and COLA cap	−1,972	−1,921	−1,972	−1,921
Fiscal year 1983 DOD authorization bill (Conference agreement)	−5,743	−2,602	−5,743	−2,602
Fiscal year 1983 MilCon authorization bill—passed Senate and House	−1,376	−178	−303	−35
Fiscal year 1983 DOE authorization bill—reported out by SASC/HASC	−182	−55	−8	−1
Total	−9,273	−4,756	−8,026	−4,559
Subtotal, further reductions needed	−501	−2,602	−1,748	−2,799
Potential future reductions:				
Offset assumed fiscal year 1983 pay raise absorption—FCR assumes 50 percent pay raise absorption in DOD	−1,200	−1,200	−1,200	−1,200
Offset assumed savings for retired pay legis and stockpile sales that may not be achieved	−491	−491	−491	−491
Subtotal, potential future reductions	−1,691	−1,691	−1,691	−1,691
Total additional reductions required to comply with FCR	−2,192	−4,293	−3,439	−4,490

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in support of the conference report for the defense authorization bill. I would like to commend my distinguished colleague from Texas, Senator JOHN TOWER, for his outstanding management of the House-Senate conference.

In my 28 years as a U.S. Senator, I have rarely seen such skill and leadership as he displayed. Through his diligent efforts, we have reported to the Senate a conference report that is fair, equitable, and serves the interests of our national security.

In the area of strategic weapons, the conferees agreed to the purchase of five MX missiles at a cost of $989 million. Although the Senate had authorized funds for two Trident ballistic missile submarines, the conferees agreed to fund one in fiscal year 1983. This submarine will be equipped with the advanced Trident II missiles and will greatly strengthen our sea-based nuclear deterrent.

The Senate authorized funding for the production of binary weapons, but because of sharp divisions over this issue, the conferees deferred the request for funds without prejudice.

Mr. President, the conferees also took some significant actions in the area of tactical programs. Funding was agreed to in order to increase the procurement of various tactical aircraft. This measure allows the Government to procure aircraft at more economical rates. Such action will have several very positive effects. It will save money, allow for rapid modernization of the Active Air Force consistent to the capabilities of our enemies and it will allow for modern aircraft to enter service with our Guard and Reserve Forces.

To enhance our readiness and sustainability, the conferees agreed to increased funding for operations and maintenance accounts, including an add-on of $89 million for Guard and Reserve O. & M. accounts. This add-on for the Guard and Reserve will reduce shortages in individual equipment items such as cold weather gear and chemical protective clothing.

The conferees took some other important steps to enhance the readiness of the Guard and Reserve. Eight C-130's will go to the Guard and Reserve, $200 million for unit equipment and $49 million to equip one Guard A-7 Squadron with a forward looking infrared radar. This system will enhance the squadron's night attack capability since this squadron has been assigned a night attack role as a part of the Rapid Deployment Force.

Mr. President, these measures will help to provide us with a strong national defense and sustain us on our return to a position of military strength. I urge all of my colleagues to support this conference report.

I yield the floor.

Mr. GOLDWATER. Mr. President, will the Senator from Texas yield me 2 minutes?

Mr. TOWER. We are not under controlled time. So the Senator may seek time on his own.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. GOLDWATER. Mr. President, a lot has been said about this conference report. I only wish to add to the congratulations received by the distinguished Senator from Texas my own. He did an outstanding job.

I personally thank every member of the staff who performed diligently and really deserve more of the credit than we usually give them for the solution to these problems we run into in conference.

I see my old friend, the Senator from Mississippi, under whom I served for many, many years, without whose guidance we would not get any place, and also my longtime friend and tactical warfare colleague, the Senator from Nevada (Mr. CANNON) who also contributed great work to the armed services.

Mr. President, we have done a wonderful job. I heard the same old abuses and exceptions to this that I have been listening to for nearly 30 years, and I think of old Mark Twain. He used to swear a lot, and his wife decided one day to get even with him. So as he was shaving himself sure enough he cut himself, and she proceeded to use all the profanity that he always used. He turned around and said: "Honey, you've got the words but you don't have the music."

And that is about the way it goes with all of those who oppose this conference report.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, the Senator from Arizona has said he has been listening to the same music around here for 30 years. I have the greatest respect for him, and I understand how tiresome it must get to listen to all the same songs.

I have only been here 7½ years, and I have been listening to some songs that grow tiresome to me also.

So far as this conference report is concerned, I suppose that there will not be a motion to recommit. If there were one I would vote for it. It would not get very many votes, but it would get mine. I am not going to vote for the conference report on final passage anyway.

We have one more opportunity to affect the defense budget, and that is during the appropriations process. Of course, among other things that have broken down here in the Congress is the appropriations process. We no longer have 13 separate appropriations bills. Rather, we have a continuing resolution. This will be the third consecutive year in which the Senate has not faced its responsibility to appropriate money under committee authorizations as the rules of the Senate dictate.

What we will do about 5 days before we adjourn is to come in here with a monumental continuing resolution bill, and everyone will put everything under the shining sun on it trying to add or take away money from it—in one last gasp effort to cut or to expand the programs they are interested in.

I have only been in the Senate 7 years, but I have been listening for just about as long as the Senator from Arizona about how militarily superior the Soviet Union is. I have a good healthy respect for the military might of the Soviet Union. I also have a very healthy respect for the ability of the United States and the Soviet Union to end life in this civilization and blow this planet out of orbit.

The prospect of nuclear war matters not so much to me as it does to the light of my life; namely, my three children. I suppose if all of us were honest, at least those of us here who are parents, we would say in one of our more noble moments that what we do here, insofar as it affects us, is really not all that relevant. However, what our decisions do to our children and our yet unborn grandchildren are highly relevant.

We have had 10 days debate on an amendment to the Constitution of the United States to balance the budget, and 69 Senators voted for that amendment.

I heard all the moaning and wailing, much of it legitimate, about how we were out of control and the only thing that would control us would be to chisel into the organic laws of this country a prohibition against an unbalanced budget.

I said at the time and I say again that any time we want a balanced budget we can have one. Certainly any time 69 Senators in this body want to balance the budget they can have one. They do not even have to have 69. Fifty-one will do quite well.

Here we have a defense budget being submitted to us today which CBO says is between $2 billion and $3 billion in outlays over the budget resolution, and no one will bat an eye at that.

I dare say if this were student loans, or immunization of the children of this country, or medicare benefits, we would hear a hue and cry right off the dome of this Capital. There would be a motion to recommit this thing with all the wailing and the gnashing of teeth that we heard here so many times here in the last 18 months.

But because everyone here, particularly those who are up for reelection, is scared to death that when he or she goes back this fall to run someone is going to say that he is soft on communism, we will pass this report overwhelmingly.

Voting against this conference report is not being antidefense. That plays no role in this. The issue is now and has always been, How much is enough and how do you get the biggest bang for the buck?

The Senator from Nebraska said, and I thought it was a pretty good comment, that we have gotten to the point where we will let the Pentagon buy anything it wants as long as it makes a noise; just as long as it pops.

The defense budget in fiscal year 1984, if the President has his way, will be bigger than the total U.S. budget was when I came to the Senate 7½ years ago. That is not exactly what I call shrinking away from the Soviet threat.

But look at what is in the budget, and ask what are we trying to accomplish? I will say one thing, there are what I consider some very destabilizing items in the budget, and the Soviet Union has a right to be frightened,

and the American people have a right to be frightened.

I have told the story here before, but it is always worth repeating, about the little commanding officer who went up to Wellington as he reviewed his little old rag-tag band of troops, and he asked Wellington, "Do you think they will scare the enemy?" And Wellington said, "I don't know about the enemy, but they scare hell out of me."

There are some things in the budget that do that to me. Why? Why do we insist on putting $988 million, for easy figuring $1 billion, in here to buy five MX missiles, a very powerful missile? And why do we then put an additional amount of money in here, to determine how we are going to base it when nobody has the foggiest notion of how to proceed?

You will recall, when President Reagan was running for office, all the names that he called the MX basing system out West, the so-called shelter system. He thought is was crazy, and the first thing he did after he became President was to scrap that system for basing the MX.

Then somebody said, "Well, let us drop them out of an airplane," and somebody else said, "No"—I believe it was the chairman of the Armed Services Committee who said that was a cockamany idea.

Then somebody said, "We will put them in the old Minuteman silos," and somebody else said, "That is terribly destabilizing and you do not solve the problem of the window of vulnerability by putting them in Minuteman silos."

So somebody else said, "Well, why don't we put them in a dense pack, put them all within a 10-square-mile area, so that when the Soviet missiles are coming in they will commit fratricide and we will have enough missiles left to destroy the Soviet Union."

Most people think that is a crazy idea so what are we going to do? We are spending $1 billion to buy five missiles and we still have no idea of where or how we are going to deploy them.

Then you have $4 billion in here for the B-1 bomber, $4 billion. That buys seven B-1 bombers. As I have said before, and everybody here knows, there is only one problem with the B-1 program, and that is that the penetrating bomber will not penetrate. So we are building seven B-1 bombers on our way to procuring 100, at what will almost certainly be a cost of $400 million each, and the Secretary of Defense testified before the Senate Armed Services Committee that he would not send any mother's son into the Soviet Union in a B-1 after 1990 because to do so would be suicidal.

You will recall that when he got back to the Pentagon that afternoon some of the generals said, "Mr. Secretary, we hate to tell you this, but you just killed the B-1 bomber." So he quickly issued a press release and said, "I didn't really mean it." But whether he meant it or not it is the truth.

The B-1 bomber will start coming off the assembly line in 1986 and in 1987 and will be obsolete by 1990. The last ones will come off the assembly line I believe in 1989, and they will only have a 1-year life. But we are proceeding apace on the biggest weapons procurement system in the history of the world; $40 billion for an airplane that will not do what it is designed to do or what it is reputed to be able to do.

Then you have got two *Nimitz* class aircraft carriers in here for the paltry sum of $6.8 billion. That is $3.5 billion each. Bear in mind that is just for the ship. That does not include the complement of planes. That is for the two carriers.

I remember in 1977 when the argument was made that if we could just have one more nuclear *Nimitz* class carrier, it would be all we would ever need. Some of you will recall that during this year's debate the Senator from Colorado and I stood here and talked until our tongues hung out, and particularly in light of the Falklands war, to make a point over and over again that what happened to the British in the Falklands ought to be conclusive, irrevocable, unequivocal proof that to spend that much money on one platform was the height of military folly. But they are in here.

I assume we will make that same argument when the appropriations bill comes through. But you will remember the *Hermes* and the *Invincible*, two little old outdated, obsolete aircraft carriers that the British had which carried 12 planes each. You could procure two aircraft carriers for the cost of one *Nimitz*, and each one would still carry twice as many planes as both the *Invincible* and the *Hermes* carried in the Falklands war.

The lesson to be learned is very simple: If the British had to go to the Falklands with one aircraft carrier—I do not care how big, but just assume it was as big as the *Nimitz*—and that aircraft carrier had been knocked out of commission, that operation would have ended at least for the time being, and if we were down there with one *Nimitz* class carrier which carried eight times as many planes as the *Hermes* or the *Invincible* carried, and it got knocked out, that operation would have been over until we brought that ship back to Newport News and had it repaired.

What have we learned from the next to the most recent military conflagration in the world? Nothing, absolutely nothing. Both aircraft carriers are still ensconced in this bill.

Finally I come to my favorite subject, the 40-year-old battleship. Not only do we have the *New Jersey*, now almost completed, but we have the final $323 million in here for the *Iowa*. I will tell you the most significant thing you can say about the battleship *Iowa* is that that is the ship Franklin Roosevelt sailed to Tehran in 1943.

I went over to Philadelphia to look at it one day, and the most important part of my tour was to see the bathtub that had been installed on that ship so Roosevelt could take a bath. If they had wanted to spend this money to make a shrine out of it, it would have more sense to me.

But what had happened to the battleship program? What happened to all of the questions that were raised here 2 and 3 years ago about the folly of bringing 40-year-old battleships out of mothballs and refurbishing them? The Navy had an answer for everything. The Navy had an answer for every single question raised.

But now what do we have? We have the proposition that there may be a little problem with those gigantic 16-inch guns which will shoot a shell 26 miles. The little problem is that those guns vibrate the ship to such an extent that the whole command and control system, which is a highly complex computerized system, goes out of kilter.

And now they are trying to figure out some way to cushion the command and control center to absorb the blast of the 16-inch guns.

So, No. 1, either harden the command and control system or do not shoot the 16-inch guns.

No. 2, each one is going to carry a minimum of two helicopters for antisubmarine purposes. The Navy now has a little problem with the helicopters. If you are going to shoot the 16-inch guns you have to get the helicopters to take off first because the avionic system on the helicopters is also thrown out of kilter from the blast of the 16-inch guns. So you have to tell the helicopters to take off for a few minutes while you fire the 16-inch guns and then they can come back.

These are just some of the problems we are running into in trying to remodel 40-year-old ships to adapt to the kind of sophisticated electronics systems that you have to have in the Navy in the 1980's.

Then they said, "We are going to use the Sea Sparrow, which is an antimissile missile. Nobody can shoot at us or we will fire our Sea Sparrow back at them and we will destroy their missiles with the Sea Sparrow."

Well, that now presents a little bit of a problem. The Navy is feverishly looking for another missile because the Sea Sparrow is a very, very complicated missile and it, too, gets all shaken up and rattled when the 16-inch guns are fired. So they cannot use it.

The greatest thing about the battleship is that great 16 inches of armored steel on the sides, which everybody says is impenetrable. It may be; I do not know. But did you know that that French Exocet missile which destroyed the British *Sheffield* in the Falklands was not designed, as our Harpoon missile is not designed, to penetrate the side of a ship. The Harpoon missile and the Exocet missile both go along the top of the water, just a few feet above the water, until just before it gets to its target, at which point it goes up, comes down, and homes in on the command and control system of the ship.

So you can put 36 inches of armor on that battleship, if you want to, and it still will not save it. More World War II mentality.

I think the biggest claim that anybody made for the battleship was that we were not only going to put 16 Harpoon missiles on the deck of that ship, but also 32 Tomahawk cruise missiles, 16 on one end of the ship, 16 on the other, all brightly colored and displayed and open to the world.

Well, we now find out that one well-placed handgrenade could knock out each 16-missile Tomahawk battery.

Now, these are my final points on the battleships. They have a 15-year life expectancy, not a 35-year life expectancy as all of our new ships have, and the battleship requires between 1,500 and 1,550 men, about three times as much as any ship in our Navy, with the exception of the aircraft carrier.

Do you know what I would like to do? I would like to debate the battleship issue before a jury of 12 of my peers. I would like for any Senator to pick out 12 people at random and put them on a jury and debate whether or not it is wise to spend this much money on 40-year-old technology. I would like to debate each one of the issues I have raised here before a jury of my peers to judge whether or not what we are doing is in the best interest of curbing the arms race and trying to keep this planet from being blown out of orbit.

I would like to debate the issue of whether or not this is the best way to spend this much money?

I will accept the verdict. I practiced law for 18 years. I have accepted a lot of verdicts.

Mr. President, the nuclear freeze resolution which has been presented here by Senators HATFIELD and KENNEDY may not be, in the strictest military terms, the best thing that has ever been offered here, but I will tell you what that freeze is, more than anything else: It is a manifestation of the frustration of the American people. Every poll I have seen shows overwhelming support for a reduction of the nuclear arms race because people are frightened. No, indeed, people are terrified. The nuclear freeze proposal is, in a sense, being presented as a reflection of the American people's frustration with our callousness, with our indifference to their concerns, and our business as usual attitude that we are going to continue to spend as much as we can possibly dream up, for every weapons system we can dream up, with no thought as to whether we are going to make it to the year 2000 or not.

I will close out, Mr. President, by repeating the views of George Kiastiakowsky—certainly no dove—one of the finest, sensible gentlemen I have ever known in my life, who was Dwight Eisenhower's science adviser. I have been with him on a number of occasions since I have been in the Senate. George Kiastiakowsky is a man who believes very firmly that not only is the genie out of the bottle but that it probably is already too late. A year and a half ago he said, "If we do not have a nuclear explosion in anger between now and the turn of the century, it will be the miracle of the century." He went on to say, "An even greater miracle will be if it does not set off a nuclear holocaust."

A great man, George Kiastiakowsky. That is not DALE BUMPERS speaking. He is one of the great scientists this country has produced. Who fears these things the most? The people who produced them. Who seems to be the least concerned about the concerns of the American people, about whether we are going to survive as a planet, as a civilization, or not? The U.S. Senate.

The PRESIDING OFFICER (Mr. NICKLES). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I intend to vote in favor of the Department of Defense authorization conference report, but I would like to express the reservations that I have about some of the expenditures in light of what has been reported in the last few days in the press.

There is in today's edition of the Philadelphia Inquirer an article by Robert Scheer, Los Angeles Times service, which starts off as follows:

> On the orders of the Reagan Administration, the Pentagon completed a strategic master plan last week to give the United States the capability of winning a protracted nuclear war with the Soviet Union, the Los Angeles Times has learned.

I have taken steps to determine whether this news account is correct. If it is, and it joins a number of other news accounts in the course of the past several weeks, then I am very much concerned that any such plan to win a nuclear war will, in itself, sow the seeds for such a war.

Last Friday's New York Times, page A26, contained a story, headlined "Postal Service Plan Covers Snow, Sleet and Atom War," with the story following that headline specifying the plans of the Postal Service to deliver the mail in the event of a nuclear war. My own sense is that a nuclear war is not winnable, and therefore that the purpose of the very substantial expenditures which are in the Department of Defense Authorization Act is to serve as a deterrent for nuclear war.

I believe it is essential that our Government proceed on two tracks simultaneously. One is the furtherance of the strategic arms reduction talks and a summit meeting between President Reagan and President Brezhnev. It is my judgment that if we are to be successful at arms reduction, we must demonstrate to the Soviets that we are determined to be strong. It is for that reason that I have supported the President's request in the Department of Defense authorization bill in 1981, voted in favor of the bill earlier in 1982, and intend, as I say, to support this conference report.

In gaining information about the specific expenditures, I have taken the time to visit quite a number of our installations: Grand Forks, N. Dak., where we have a Minuteman missile installation; Omaha, Nebr., the headquarters of the Strategic Air Command; Charleston, S.C., where we have our nuclear missile submarines; Edwards Air Force Base, where we are developing the B-1 bomber; and West Germany, to observe our forces to defend NATO. In visiting these installations, I was most struck by the comments of the commanding officer at Grand Forks, N. Dak. He said, in essence, during the course of my visit there last February, that their mission was deterrence and if they do not deter but had to fire their missiles, then they have failed.

I believe that establishes the guiding principle for the strength that we are building up. It is to deter the Soviet Union, because if we have to use strategic nuclear forces, then we are all losers. Simply stated, there is no way to "win" a nuclear war.

In making plans to win a nuclear war, it is my view that we are setting the stage to make it acceptable to have such a nuclear war and we are developing the psychology, both at home and abroad, that such a nuclear war is inevitable. Once such a psychology has been developed, then nuclear war may well be inevitable.

I had the opportunity to visit the Soviet Union during July 1982, just last month. As I said in my report on that trip, my view is that the Soviets are now ready to talk realistically about arms reduction and feel enormous concern about the potential deployment of the Pershing II missiles and other missiles. After I returned from my trip to the Soviet Union on July 13, I noted a report the following week by the Soviet Minister of Defense announcing a possible change of

Soviet policy to "launch on warning" instead of "launching on attack." That change in policy is an indication of the Soviet concern about the Pershing II and other U.S. missiles. So the Soviets were of the view that if they were to defend themselves, they could no longer await an attack but would have to launch on warning.

It seems to me inevitable that, in the face of mounting reports about U.S. planning assumptions on what will occur in the nuclear war and the thought of winning a nuclear war, the Soviets must respond to this kind of psychology. That necessarily moves us closer to the possibility of such a nuclear war.

Mr. President, in the course of the next several weeks, I intend to develop my thinking on this subject further and perhaps offer a sense-of-the-Senate resolution and to confer with the appropriate officials in the executive branch. As to casting my vote later today, if a vote is called later today, in favor of this Department of Defense authorization conference report, I did not want to do so without expressing, albeit briefly, my concern about these reported incipient plans about how to win a nuclear war.

At this time, Mr. President, I ask unanimous consent that the relatively brief article referred to in today's edition of the Philadelphia Inquirer and in last Friday's edition of the New York Times be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Aug. 17, 1982]

THE PLAN IS COMPLETE: U.S. GOAL IS TO WIN A PROLONGED NUCLEAR WAR

(By Robert Scheer)

WASHINGTON.—On the orders of the Reagan administration, the Pentagon completed a strategic master plan last week to give the United States the capability of winning a protracted nuclear war with the Soviet Union, the Los Angeles Times has learned.

The document was delivered to the National Security Council and is awaiting final presidential approval.

The directive is part of a top-secret national security document that was drawn up in the fall of 1981 to supersede Presidential Directive 59, which was approved in the last six months of President Jimmy Carter's administration.

Sources familiar with both highly classified documents report that President Reagan's strategic doctrine goes further toward putting the United States in a fighting stance than Carter's in that it specifically states the goal of winning a "protracted" nuclear war.

According to one member of the Reagan administration, the plan would contemplate nuclear warfare that went on for as long as six months. One consequence of this planning has been a commitment of $18 billion to provide a communications system that could endure a drawn-out nuclear war.

The idea that nuclear war between the superpowers can be kept limited or stretched out over several months—let alone won—is controversial in both military and political circles.

Air Force Gen. David C. Jones, who was chairman of the Joint Chiefs of Staff under both Carter and Reagan, has warned that preparations for fighting a limited or protracted nuclear war would be throwing money into a "bottomless pit."

In his parting statement upon retiring in June, Jones said, "I don't see much of a chance of nuclear war being limited or protracted."

Carter's secretary of defense, Harold Brown, said Presidential Directive 59 was intended to deter any expectations that the Soviets might have of winning a nuclear war, but he did not endorse the idea that nuclear war could be kept limited or that a real victory was possible.

Carter's directive also did not contain any specific means of implementation. But Reagan's directive, the sources said, specifically requires the Pentagon to draw up a plan for turning the policy declaration into military reality.

The Pentagon's strategic master plan was to have been sent to the National Security Council for approval in June. However, it was delayed because of public disclosure of another secret Defense Department document, the annual defense guidance statement.

Parts of that statement, which the Pentagon draws up each year projecting its needs for the next five years, were leaked to the New York Times and caused considerable embarrassment for the administration.

The newspaper reported that the annual guidance plan assumed that "protracted nuclear war is possible" and that "American nuclear forces must prevail and be able to force the Soviet Union to seek earliest determination of hostilities on terms favorable to the United States."

Administration insiders report that the new strategic master plan is more detailed and more controversial in its advocacy of nuclear warfare than the annual Defense Department guideline. More significantly, it would carry the imprimatur of the President and his National Security Council, while the annual guidance plan is an internal Pentagon document.

The new strategic master plan concentrates exclusively on the possibilities of strategic nuclear war and reportedly aims at providing more of a "how-to" treatment of the subject. For example, the new plan devotes considerable space to the matter of destroying enemy political centers and command centers while preserving similar U.S. centers.

The Reagan administration has budgeted $18 billion for the purpose of securing U.S. military command, control and communication, or C-3 as it is known to planners. C-3 refers to the ability of a nation's leaders to maintain communications with the troops in control of the nuclear arsenal.

Critics of nuclear-war strategies remain skeptical that C-3 can be protected because antennas, telephone lines, satellites and other links in the communication system between a nation's leaders and the nuclear arsenal remain far more vulnerable than any other components of the military system.

One observer on the Reagan staff observed sarcastically: "We've been working on this C-3 problem for five years now and can report that the system might survive 15 minutes of nuclear war."

But the Pentagon's master plan aims at finding means for hardening U.S. communications to the point that they could survive for a longer time—as much as six months, one administration member noted.

The notion that nuclear war can be fought on a limited and survivable basis has had growing support in the last decade. Increasingly accurate missile technology has produced the confidence in some quarters that nuclear war need not be fought as one cataclysmic episode with little but radioactive rubble to show for the effort.

The result has been a push for rejecting a nuclear strategy based on the idea of a nuclear war as one spasmodic event, requiring as a deterrent only enough power on each side to ensure the destruction of the other. The emerging strategy calls for even more advanced nuclear arsenals and systems of defense ranging from anti-missile systems to civil defense.

In the nuclear war-fighters' view, which Reagan's National Security Council appears to accept, a nuclear war might be fought over a period of several months with selective strikes at primarily military targets. At the end, they believe, one side could emerge victorious, with enough of its resources and population intact to begin over.

One leading advocate of this viewpoint, Colin Gray, recently has been appointed by Reagan to the advisory board for the Arms Control and Disarmament Agency and as an adviser to the State Department.

In a 1980 article in the magazine Foreign Affairs, Gray and co-author Keith Payne complained that "many commentators and senior U.S. government officials consider it [nuclear war] a non-survivable event."

Instead, Gray and Payne argued, "the United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values."

They specified that 20 million U.S. fatalities would represent a compatible level.

[From the New York Times, Aug. 13, 1982]

POSTAL SERVICE PLAN COVERS SNOW, SLEET AND ATOM WAR

(By Judith Miller)

WASHINGTON, August 12.—Neither snow nor rain nor heat nor gloom of night used to prevent the postal couriers from delivering the mail, and now the Postal Service says it will not be deterred on its appointed rounds by a nuclear war either.

But a 300-page plan for continued mail deliveries after an atomic war or other national emergency was ridiculed today by members of a House Subcommittee on Postal Personnel and Modernization and by others who called the plans "idiotic," "deceitful" and "futile."

Under skeptical questioning from committee members, Ralph H. Jusell, civil defense coordinator for the Postal Service, conceded that the plans would not work in the event of an "all-out, preemptive" nuclear exchange between the United States and the Soviet Union. But he said the plans would probably be effective in a limited nuclear conflict.

According to Mr. Jusell and James K. Jones, general manager of the Postal Service's Prevention and Planning Division, the goals of the contingency plans are to deliver mail in an emergency "to the extent possible under the circumstances" and to protect postal employees as much as possible.

HEADQUARTERS TRANSFER PLANNED

The officials described an elaborate chain of command under which one of the five regional postmasters general would assume control if Washington was destroyed. The headquarters would shift first to Memphis and then, if Memphis was devastated, to San Bruno, Calif.

The official said that they did not know how much money the Postal Service had spent on the plans. Mr. Jusell said about $18,000 to $20,000 worth of food and medical supplies had been purchased for the five centers where emergency postal personnel would stay.

The officials also said about 2,000 emergency change-of-address forms had been stocked in each post office except very small ones.

"What good will that do?" said Representative Edward J. Markey, Democrat of Massachusetts. "There will be no addresses, no streets, no blocks, no houses."

Mr. Markey, who called the postal plans "long on wishful thinking and short on reality," said a nuclear war would probably destroy all road, rail and air transportation. "How in the world would you deliver the mail?"

"I don't know sir," Mr. Jones replied. "Our plans have to assume there would be something available for us. If there is not, there is nothing we can do."

Gene LaRoucque, a retired Navy rear admiral and director of the Center for Defense Information, which is critical of many military policies, testified that plans to deliver mail after a nuclear war were "fraudulent and deceitful," a waste of money and likely to make such a war more possible.

"Planning for life after a nuclear war is like planning to live in hell," Mr. LaRocque said. "No one has the foggiest notion of what it will be like."

Mr. Markey also questioned the plan's goal of continuing to deliver first-class letters. "There won't be a lot of people left to read and write those letters," he said.

"But those that are will get their mail," Mr. Jusell replied.

Mr. SPECTER. Mr. President, I yield the floor.

THE MX MISSILE: PRESCRIPTION FOR VULNERABILITY

Mr. GLENN. Mr. President, I plan to vote for the conference report, but with some hesitancy in certain areas. I want to address just one of those today and restate the battle I lost on the Senate floor not too long ago. I want to bring this up again before we vote on this bill.

Mr. President, I will take second place to no one in supporting a strong national defense program. I did not hesitate to urge President Carter to strengthen our military forces, and I generally supported President Reagan's increased funding for certain defense programs. But I stand today on the Senate floor to warn about a mistake we are making in deciding to produce the MX missile.

Because of the growing accuracy of Soviet missiles, many believe that our fixed-point ICBM silos—which shelter 23 percent of out total strategic nuclear forces—are becoming dangerously vulnerable. This vulnerability, the argument runs, could tempt the Kremlin to launch a first strike in the hope of destroying our land-based missiles or to intimidate the United States in some future eyeball-to-eyeball confrontation to think that if they made a first strike, we would be so hesitant about the number of missiles they have left for a second strike, we would not dare reply. That is a situation I cannot imagine a U.S. President deciding upon. But so goes the theory.

To offset this potentially destabilizing Soviet move, we have searched for a way to regain some measure of the assurances of strategic weapons survival that our Minuteman system provided for so many years. All of us are aware of the results of this search for strategic stability. We have had a parade of "experts" come up to the Hill, each touting their solutions. We have been told that the answers lie in deep holes—and I mean deep holes, down many hundreds of feet, not just the silos we have now. Or perhaps small submarines out off the Continental Shelf, ones that could even sit on the bottom until launch time. Or shelters across Utah and Nevada, which were objected to very, very strongly. Now we are told that the latest solution lies in something maladroitly called dense pack.

I can guarantee there are a number of puns we could make on that particular title today. But dense pack is the latest one, we are told, where fratricidal missiles coming in would be the ones we would have to depend upon for our secure-force missiles to reply to the Soviet Union.

I support the search for a new ICBM with a basing mode that would stabilize and offset the dangerous Soviet developments in missile accuracies. They are getting better; we know that. But by deciding to produce the MX, we are handicapping ourselves and we will thereby run the very real risk of perpetuating and extending the perceptions of vulnerability rather than diminishing those perceptions.

We are not going to fool the Soviet Union by putting the MX into the same old Titan holes that they have had targeted for 12- or 16-figure coordinate figures for the last 20 years, put the same brand new, expensive MX in those holes and think we have suddenly gained a new measure of security in this country when they already have them targeted. Mr. President, perceptions are the stuff of which deterrence is made.

The key elements of a survivable ICBM system include, one, the missile itself, of course, but, two, it has to include the basing mode for that missile, and that is where we went awry on the MX, not planning what the basing mode was going to be right along with the design of the missile.

We face vulnerability today because we are fixing one variable in that equation and not the other. We are attempting to find a basing mode now for a large 192,000-pound MX missile, a leftover from the failed Multiple Protective Shelter scheme. We would be better off by funding a research program wherein the size of the missile is not set beforehand and thus will not limit the basing modes we can use.

Why do we not learn something from Soviet percentions as they look at what is going on in Europe? Why are we so concerned about the SS-20 in the Soviet Union? We are concerned about it because it is mobile. We do not know for sure where it is going to be when war starts and so we cannot possibly target everywhere that it may be.

One of the unfortunate aspects of it is that it has the capability to become the SS-16, which cannot only be fired to Europe, it can be fired to our shores as an ICBM, and so we watch that very closely and monitor it very closely because it gives us concern. It is mobile. It is not in a fixed target point when war starts.

Say you are in the Kremlin today. Why are you concerned about the Pershing II in Europe? Because it, too, is mobile, and because it can be taken out. They do not know where it is going to be when war starts, and so they cannot possibly target all the places where that Pershing may be.

Mr. President, we could be building in this country today something like a 60,000 or 75,000 pound missile, one about one-third the size of the one that we are embarked upon building now, with three to four warheads, much more reliable as a deterrent to the Soviet Union toward letting them know that they cannot possibly target us and expect to have a "no response" from this country; that they cannot possibly target everywhere that a mobile missile would be. I would back that kind of missile.

I have talked about this for the last 3 or 3½ years with the experts in the Pentagon, and never, in the last administration or this administration, have I had anyone tell me that this idea of a smaller and a more mobile missile is not better and cheaper and gives greater deterrence. The only thing against it always has been the social interface; that Americans somehow could not possibly stand the sight of a missile or a truck that they knew had a missile on it out on the road, the very thing that we asked our European allies to accept and which they do accept and do on a regular basis, and the same think that the Soviets do on a regular basis.

But somehow, even though we in America can sell each other everything from underarm deodorant to Lincoln Continental automobiles on TV, we cannot have the President go on TV and explain that this would give us better deterrence at a cheaper

cost, and so we proceed with this 192,000 pound monster that is undoubtedly going to have to go into the same old silo holes the Soviets have had targeted for so many years.

What the legislation before us today does is to firmly establish America's next generation ICBM as a large missile. It is a missile so large that hiding or moving it is a near impossible task, and deception and mobility are the basic requirements for a survivable basing mode.

If we continue on the path as defined by the legislation on the floor today, we will be closing the door on a full range of options for a truly survivable ICBM system.

We are not fooling the Soviets. They will know where the ICBM's are. They have the accuracy with which they will probably be able to knock them out, which is what caused the development of the MX to begin with.

We have a perceived vulnerability to a first-strike because our present ICBM's are at readily targetable, fixed geographic points. It makes little sense to me to perpetuate this kind of thinking by building huge missiles that will require that we put them into vulnerable silos, whether hardened or densely packed.

I have looked at all of the proposed basing systems that are being considered in the Pentagon at the moment. I suggested to my colleagues across the river in the Pentagon that if they want to save some money, perhaps they could convince some contractor with one of these new basing schemes to give us the missiles for free. That way they would not cost us anything, and they would be able to live off the money they are going to make from these basing modes because they are so exotic and so far-fetched that we have not even begun to see the cost of these missiles. The money that we are talking about right now for the development of the MX is going to be very small potatoes compared to the basing mode we are going to get into once they settle on it late this year. We are not fooling anyone except ourselves with this.

The basing mode of the new ICBM, as I see it, should and must create the uncertainty that Soviet missiles can successfully destroy our land-based strategic missiles. This kind of deterrence can only be achieved by deception and by mobility or by some combination of both. The MX offers none of these. It offers us the same old problem we started out trying to correct—fixed-point vulnerability.

In spite of all this, Mr. President, I will vote in favor of the conference report because it does contain the programs that are so necessary for our future security. Our defense programs would be dangerously delayed should the Senate vote this report down. But I do not believe we should delude ourselves that this measure takes any positive step toward coming to grips with the problems of basing for our ICBM's.

I want to compliment my colleagues on the Senate Armed Services Committee who cut out the funding for production and kept research money—that is fine; let us work out the problems—but did not go along with production money which was put in by the House. The Senate conference participants, unfortunately, felt it was necessary to accede to the House. I am sorry that occurred. I can only trust that this body will work harder next year to come up with alternatives to this modernized version of the maginot line—the MX missile.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I rise to support the fiscal year 1983 Department of Defense authorization bill as reported by the Senate-House Conference Committee. I also wish to commend the distinguished chairman of the Armed Services Committee (Mr. TOWER) for his leadership and guidance in shepherding this critical legislation through conference. There were substantial differences between the Senate and House authorizations, and Senator TOWER is in large part responsible for forging a bill that reflects a commitment to funding levels necessary to effect a start toward offsetting, over a period of years, the defense imbalance that resulted from the fiscal neglect of our security requirements over the past decade.

The conference has authorized $178 billion in Defense spending for fiscal year 1983. This amount is $5.4 billion below the administration's request. The authorization levels contained in this measure are necessary to our security, based on both near and long-term analyses. We must, however, be cognizant of the fact that neither this Defense budget, not the 5-year Defense plan of which it is part, will provide the United States with military superiority to which my friend from Pennsylvania referred, nor will it provide the level of security this Nation has enjoyed for the last century. What the fiscal year 1983 defense authorization bill provides for, and what this body must insure, at the minimum, is a level of security that has been tenuously termed an "acceptable risk."

We must recognize clearly that efforts to reduce the defense budget below the levels authorized by the Senate-House conference will affect directly and adversely even this level of security of our Nation. Those are the hard facts, Mr. President.

I would say in response to the junior Senator from Pennsylvania that winning a nuclear war is not the aim of our President or of our military, contrary to accounts he has read. Our aim is the preservation of our freedoms, the survival of this Nation, which has contributed so much to the welfare of not only its own citizens, but, the citizens of the world. That is our aim.

Mr. President, I urge my colleagues on both sides of the aisle to join with me, with the chairman of the Armed Services Committee, and with others who have spent so much time analyzing the data and testimony provided by our professional military experts, in supporting this fiscal year 1983 conference action on defense authorization.

The PRESIDING OFFICER. Who seeks recognition?

Mr. STENNIS. Mr. President, I understand that the Senator from Nevada wishes to speak,

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I join my colleagues in the accolades to the distinguished chairman of the committee, Senator TOWER, and the ranking minority member, Senator STENNIS, and to Senator GOLDWATER for handling the matter of tactical air power so well in the course of this conference and during the past few years.

I am going to support the conference report. While it did not do everything I had hoped it would, I am generally pleased with it.

I am pleased that the AH-64 was reinstated, because I think it is a fine helicopter program to add to our tactical air power force structure. I believe the action that Senator GOLDWATER took last year and earlier this year insured that the prices were negotiated downward and that we would be able to get more for our money, under his watchful guidance.

I am delighted that the A-6E's were added back into the program. The Navy representative testified that this is one of the key aircraft on the carrier decks, and it is very important for our force structure there.

I am disappointed that the A-10 was not approved. The A-10 was an airplane designed specifically for a precise mission. It has done that mission very well, and now we talk about it not having as much speed as was desired. It was specifically designed to remain close to the battlefield, and I think it has performed its mission very well. I had an opportunity to see it in operation at the Red Flag exercises in Nevada, and it acquitted itself very well under those conditions.

I am also pleased that the conferees were able to agree to a reduction in

the overall request of the administration of about $5.6 billion. I have said, since the request for the military budget came up earlier from the White House, that I felt that we could reduce that budget from $12 billion to $14 billion without it being disadvantageous to the military force structure. It would still permit growth in real terms on the order of 5 percent. While the $5.6 billion reduction is not as much as I had hoped for, it is still a substantial reduction under the President's request, and it does permit us to go ahead very strongly to beef up our Military Establishment, which we have neglected over a number of years.

I am also very pleased that the House conferees agreed to recede to the Senate on a program I consider to be very important, and that is the lithium battery funding for the Minuteman program, which will upgrade the batteries in the Minuteman and will provide the battery sources for the MX when the MX is produced. It so happens that that is an ongoing program, but the House neglected to include it in the House bill this year, even though the Senate included it. I am delighted that the House did accede to our request and that the funding is included, and that program should be able to go ahead as planned.

I am also very pleased that the agreement with the House was achieved within the very limited time which was available to consider these most important programs. The distinguished chairman of the conference, the chairman of our committee, Senator TOWER, kept our feet to the fire, so to speak, and kept everybody working almost around the clock, in some instances. The conference was concluded in what I consider record time, compared to some of the past conferences we have had which went on for weeks and weeks, in trying to resolve the issues.

Although I say that I am not completely satisfied with everything as it came out of this conference, conferences result in some give and take, and it is the means of accomplishing the best solution possible. I will support the conference report.

Mrs. KASSEBAUM. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield.

Mrs. KASSEBAUM. Mr. President, I should like to explain briefly why I will vote against the conference report.

I admire the work that the Armed Services Committee has done in conference, under the determined leadership of the Senator from Texas and the Senator from Mississippi, to bring back a strong conference report. But as a member of the Budget Committee, I am still concerned about the spending priorities of defense as it relates to the rest of the budget.

While it is assumed that the defense authorization can be brought into compliance with the budget resolution through the appropriations process, I believe that the conference report for the defense appropriation is about $600 million in budget authority above our budget resolution. I am an advocate of strong, sound defense spending, but my concern is that if we are to maintain a consensus of support for the needed authorizations and appropriations for a sound defense system, we must keep it under the same control and the same scrutiny that we are bringing to the rest of the budget.

Just last night, the President spoke strongly and forcefully of the need for the tax increases. We have seen every effort made to address a budget resolution that would reduce our spending in other areas in order to reduce our deficit; and I believe that, for the sake of our defense program, we need to regard it with the same scrutiny.

Therefore, it is with some reluctance, and with a determination to support a strong and sound defense system, that I will be voting against this conference report.

Mr. STENNIS. Mr. President, I understand that the leadership wants to move along with this bill, and I will take only 3 or 4 minutes. I believe a few points should be brought to the attention of the Senate.

Not only is this the largest bill that has ever been before the Senate for the military program, but also, it includes a number of items that are so essential and so new that I am glad to see them emphasized again in debate.

I want to call special attention now to the very thorough work that a great number of our committee members have done. We have quite a bit of talent in this field, as does the House of Representatives.

The people of this Nation may be assured that these billions of dollars are not tossed around carelessly. This bill is the result of more than a year of hearings and study and investigation by highly competent staff members and a great deal of work by highly competent members of our committees, in the Senate and in the House of Representatives.

The leadership of the Senator from Texas has been splendid and thorough and exhaustive, and there has been a fine response from the Members.

I wish to mention rather hurriedly the innovation in this bill of an Inspector General which is not entirely under the direct control of the Secretary of Defense. These many billions of dollars, which grow larger and larger every year, have brought on this requirement, and I sincerely hope that it works out well. It must be made to work out well. If it calls for amendment to the law in this field next year it should be done because the need is there.

Mr. BENTSEN. Mr. President, will the Senator yield at that point?

Mr. STENNIS. I yield gladly to the Senator from Texas.

Mr. BENTSEN. Mr. President, I had such an amendment on the floor which lost by a very small vote. I understand now that the conference has adopted something that in effect gives us an independent Inspector General except in those instances which involve questions of secrecy and national security.

I congratulate the conference. I think it made a step forward.

Mr. STENNIS. Mr. President, we give the Senator a word of special thanks. He started the ball rolling in this bill in such an effective way that it could not be stopped. There turned out, I think, to be a very fine sentiment for it.

It was a close vote here in the Chamber, and I commend the Senator highly for his persistence and his sagacity. In fact, the bill coming out of conference includes the essential principle embodied in the Bentsen amendment which was the subject of that close vote.

Mr. President, this bill has had more interest this year I believe than it has had since the war in Vietnam was waged, which I think is a wholesome sign indeed not only for our military security but for the care in which these dollars are spent.

So again I commend the Senator from Texas and the membership. The Senator from Arizona (Mr. GOLDWATER) I know was outstanding in his contribution at the conference as he always is. The chairmen of these subcommittees and the members also deserve a great deal of credit. I emphasize that so that the Senate will know how much they do.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I commend members of the conference committee on the Defense authorization bill for 1983 for their diligent efforts to balance the imperatives of strengthening our national defense against the realities of our economy and record budget deficits. The committee has recommended authorizing $178 billion in defense spending for weapons procurement, research and development, operations and maintenance, and civil defense. This amount is nearly $5.5 billion below the administration's request of $183.4 billion for defense spending, and will enable us to continue the process of steady, controlled growth in defense spending without destroying the fundamental strength of our economy.

Notwithstanding the committee's efforts, I believe we must also redouble our efforts to eliminate wasteful and unnecessary spending in all Federal programs, including defense, which is

the one area we can least afford waste or inefficiency.

The demand for economy and efficiency in Government is an indispensable element in our search for an appropriate response to the difficult economic challenges that face America. At a time of emerging differences as to how this country should invest its resources and manage its economy, America cannot tolerate waste, fraud, or mismanagement in an area so vital to our national security.

To this end, I offered an amendment to the Defense authorization bill during consideration by the Senate, to establish within the Department of Defense an independent, objective Inspector General, with authority to conduct audits and investigations in defense spending and programs. However, recognizing the need for the Secretary of Defense to maintain control over activities related to intelligence matters and sensitive to our national security, my amendment included language giving the Secretary authority, direction and control over the I.G. in these areas. My amendment was rejected by the Senate in favor of language giving the Secretary control over all activities of the Inspector General. The House adopted language favoring a completely independent Inspector General for the Department of Defense, with no exceptions for intelligence or security matters.

Therefore, I am especially pleased that the conference committee has recommended language creating an Inspector General for the Department of Defense equivalent to that proposed in my amendment. Under the compromise provision, the Defense Inspector General will have independent authority to conduct audits and investigation in programs and operations, but will be subject to the authority and control of the Secretary in matters related to intelligence, counterintelligence, sensitive to national security, and ongoing criminal investigations.

This provides a proper balance of the needs for Congress and the American taxpayer to have a credible, independent means of monitoring the hundreds of billions of dollars we appropriate for our national defense, and the need for the Secretary to have control over activities vital to our national security.

Mr. President, there is absolutely no doubt in my mind that the establishment of a tough-independent Inspector General for the Defense Department is one of the most responsible and cost efficient steps Congress can take to eliminate wasteful and unnecessary spending in defense programs without jeopardizing those vital to our national security.

I commend my fellow Texans, the distinguished chairman of the Senate Armed Services Committee (Mr. TOWER) and chairman of the House Committee on Governmental Operations (Mr. BROOKS) for their work in reaching this compromise. I also want to commend and thank for his support of this important legislation the Senator from Missouri (Mr. EAGLETON), who authored the Inspector Generals Act of 1978, which is now recognized as one of the most significant pieces of legislation passed with respect to eliminating waste, fraud, and abuse in Federal programs and spending.

Mr. President, I believe every Member of the Senate has an obligation to use every means available to combat waste, fraud, and abuse in Government. The committee's recommendation for the establishment of an Inspector General for the Department of Defense is a good place to start and I respectfully urge my colleagues' support of this significant legislation.

Mr. EAGLETON. Mr. President, while independence has been an issue of understandable importance to many Members, I have also been especially concerned about the question of resources for the Defense Inspector General.

I have always recognized that it would not be appropriate to centralize all the audit, investigative, and inspection resources of DOD under the Inspector General, although Congress did take that approach in the domestic agencies. Given the current autonomy of each of the several services in our system, it is probably necessary for each to have its own audit and investigative resources. Moreover, the military inspector general system is a time-honored tradition, not to be confused with its more recent civilian counterpart. The military inspectors general constitute the eyes and ears of the commander at every level in the services: they are vital to the functioning of the services. The service audit and investigative units and the service inspectors general make up a large part of the 18,000 people performing audit, investigation, and inspection tasks in the Defense Department, and I am comfortable with our decision not to bring them into the new Inspector General's Office. But at the same time, in an enterprise as massive as the Defense Department, the new Inspector General's Office must have the resources and the expertise to discharge its responsibilities effectively. Could I ask Senator ROTH, who chairs the Governmental Affairs Committee and was instrumental in producing the compromise which came out of conference, to comment on this resources question?

Mr. ROTH. As my colleague knows, based on my comments in conference, I share his view that the question of resources is absolutely crucial. In my view, the relationship of the Inspector General to the Secretary is important, but no more important than whether the Inspector General has the troops to do the job. We can set up the most independent Inspector General in the world, but if we fail to give him the necessary resources, his operation will never make a dent in the fraud, waste, and mismanagement at DOD.

For that reason, my amendment to the authorization bill, which was adopted by the Senate, mandated the transfer of about half the auditors in the Defense Contract Audit Agency (DCAA)—those engaged in "postaward" work—not less than 1,400 bodies. I believed—and I continue to believe—that the transfer of part or all of DCAA would greatly enhance the Inspector General's effectiveness, and I regret that our House colleagues did not agree.

Mr. EAGLETON. I completely concur with the Senator's view. Although the full House voted overwhelmingly to transfer all of DCAA to the new Inspector General, and the Senate mandated the transfer of about 1,400, when the House again considered the Inspector General issue on this authorization, the amendment adopted did not transfer any part of DCAA, and that position prevailed in conference. Does the Senator regard the decision of the conference as a final resolution of the DCAA question?

Mr. ROTH. Not at all. I believe the conference agreement reflected a desire to have the Inspector General's Office begin operations without DCAA, but the conference certainly did not foreclose the issue of whether DCAA would be transferred in the future. I note that when representatives of the Defense Department first testified before our committee on this issue on June 18, 1981, DOD General Counsel Taft described the thinking which went into creation of Mr. Sherick's office, the administrative precursor to this statutory Inspector General. Mr. Taft commented:

> The thought was that possibly later on, if we would find that the resources we had allocated . . . were not what he required, we would give additional resources, and the DCAA would be a logical place for those resources to come from . . .
>
> It seemed to us there was a risk in splitting DCAA up, and . . . that it would be best to start with 500 people, and see how that worked . . .
>
> If it didn't work, we would look at it again . . . I think Congress could legislate on the same basis.

Given the votes in both Houses in favor of transferring some or all of DCAA, it is certainly an issue warranting further consideration after the Inspector General's operation gets into gear.

At the same time, an Inspector General without the resources and technical expertise for contracting auditing would be rendered ineffective on some of the most vital—and costly—issues and problems facing DOD. Conse-

quently, when the conference decided against transferring DCAA, it recognized the needs to give the new Inspector General an independent contract audit capability. The conference report requires that, in addition to the other units making up the Inspector General Office, the Secretary must transfer not less than 100 additional audit positions, to be filled by the Inspector General, with people trained to perform contract audits.

Mr. EAGLETON. In my view, this is an important provision which will insure the Inspector General's effectiveness and credibility. As the managers' statement notes, it is essential for the new Inspector General's Office to have a significant capability in the critical area of contract audit. With these resources, the Inspector General can carry out, among other things, his statutory responsibility to oversee and review DCAA's performance. Without these resources, that oversight would simply not be meaningful. Moreover, I think that an Inspector General who is vigorous and imaginative could have great impact by teaming contract auditors and internal auditors to look at entire procurements, the performance of the defense contractors as well as the performance of DOD officials. At present, DOD approaches these problems in fragmented fashion, with DCAA handling the contract audit area, while the Defense Audit Service provides the internal audit coverage. The results in the past have not always been impressive, because the two agencies have been reluctant to share information. The Inspector General's willingness to experiment with a team effort would point the way to a new, effective approach.

Let me ask one question. GAO reports have suggested in the past that the Defense Audit Service (DAS) has had difficulty obtaining access to needed information, particularly contractor records. Would the new Inspector General, in your view, find himself in a similar position?

Mr. ROTH. Not under the law as I read it. Section 6(a)(1) of the Inspector General Act of 1978 is crystal clear:

> The Inspector General is authorized to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which the Inspector General has responsibilities under this Act.

"The programs and operations" for which Inspector General has responsibility clearly include audits and investigations to assess the effectiveness of, and to combat fraud and waste in, defense contracting and the overall procurement process—as the managers' statement notes—"the performance of defense contracting as well as the performance of defense personnel." The Inspector General's responsibilities also include: One, investigating fraud, waste and abuse uncovered as a result of other contract and internal audits; two, monitoring and evaluating the adherence of Department auditors to internal audit, contract audit and internal review principles, policies and procedures; and to serve generally as "the principal adviser to the Secretary of Defense for matters relating to the prevention and detection of fraud, waste and abuse in the programs and operations of the Department. Therefore, in all these areas, the Inspector General would have access to any information which the Secretary or the DCAA had access, including contractor's records, under applicable statutes or DOD regulations or directives.

Mr. EAGLETON. I agree with the Senator's analysis, and I believe that this access to information is critical to the Inspector General's success.

Mr. ROTH. Mr. President, I am very pleased that we are today considering the conference report on S. 2248, the Department of Defense Authorization Act for 1983. The legislation contains a very important amendment to the bill which I offered to authorize the creation of an Inspector General for the Department of Defense. I strongly support the creation of such an office in the Department of Defense because it will provide the focus necessary to insure that the taxpayer's defense dollars are not frittered away through wasteful or fraudulent spending and bad management practices.

I would like to commend the chairman of the Armed Services Committee, Senator TOWER, for his support in the conference as this issue was being considered and I would also like to express my appreciation to Senator EAGLETON who worked in the conference to make the new Inspector General's Office as strong and effective as possible. I would also like to commend my House counterparts on the Government Operations Committee, JACK BROOKS, L. H. FOUNTAIN, and FRANK HORTON, for their diligence and cooperation in resolving the differences between our Houses on this issue as effectively as we have.

Mr. President, current projections are that over the next 5 years our Nation will spend $1.65 trillion on defense programs. In the coming fiscal year, our defense budget will be larger, in constant dollar terms, than in any year since 1952, the height of the Korean war. Nearly one-half of this year's budget for the Defense Department would be used to purchase new weapons systems, up almost 40 percent from last year's level.

Clearly, we are embarking on a major effort to rebuild the defense capabilities of this Nation. A strong national defense is crucial to our security in these uncertain times and few would argue with the fact that resources devoted to defense programs have declined in real terms during the last decade. The American people have been supportive of the effort to improve our Nation's defense and most would agree that our military programs have suffered from neglect in recent years.

Yet, the unfortunate fact is that many of the dollars meant to improve our defensive capability never reach their intended goal. For example, the most recent figures available indicate that major weapons programs in the Defense Department experience an average cost overrun of nearly 132 percent per program. Some 70 percent of all Department of Defense contracts are awarded without competition despite the fact that some studies show effective competition saves up to 25 percent of the cost of a weapon. If these trends continue, our defense dollars will not be buying more and better defense. More will mean less as greater and greater chunks of the defense budget go to pay for cost overruns and ineffective management.

We need to create a strong advocate for efficient spending in the Defense Department to counter the ponderous, wasteful, and overlapping Pentagon bureaucracy which often seems more intent on pushing programs and winning the budget game than on improving our Nation's defense readiness. The House-Senate conference committee approved the amendment I offered to create just such an advocate, the Office of Inspector General. The new Inspector General, I believe, will prove to be a major step in the effort to insure greater efficiency and reduce fraud and waste in defense programs while preserving the integrity of defense programs sensitive to our national security.

The Inspector General approved by the conference will have full authority to audit and investigate all defense programs, everywhere in the Defense Department. Unlike the 18,000 auditors and investigators already in the Department, the new Inspector General will be independent of the Secretary of Defense except in certain areas affecting national security matters. Even in those areas, the Secretary of Defense could only stop an investigation by informing Congresss and the public of his reasons for doing so and the Inspector General himself would have similar authority to express his views to Congress.

The potential of the new Inspector General to stimulate efficient spending and reduced levels of fraud in the Pentagon is promising. He will have complete authority to set audit policy for all of the 18,000 auditors and investigators now in the Defense Department and he will coordinate, for the first time, all of the thousands of audits done on defense programs each year. He will have the necessary au-

thority to examine programs even in the three services and he could be removed from office only by the President. Aside from the increased savings which result from improved audit and investigation programs, the existence of an Inspector General with substantial independence and authority in the Defense Department will provide a strong deterrent in the future to wasteful or fraudulent spending.

Mr. Predsident, there are two matters concerning the Inspector General we are authorizing under this bill which I believe require particular attention on the part of the Defense Department, as they implement the new Office of Inspector General.

First, the compromise Inspector General amendment explicitly authorizes the Inspector General to set all audit policy for the Department with respect to "audits and investigations relating to waste, fraud, and abuse and program effectiveness." This provision is contained in subsection (c)(3) of the amendment and is intended to clearly designate the Inspector General as the only official responsible for establishing policy for all audits and investigations relating to waste, fraud, and abuse in defense programs. His authority to establish policy extends to the services as well as to the Defense Contract Audit Agency. I would also note that subsection (c)(5) represents the other half of the equation with respect to audit policy because it authorizes the Inspector General to "monitor and evaluate" the adherence of all Department of Defense auditors to the audit policies developed by the Inspector General with respect to the prevention of waste, fraud, and abuse. In this regard, internal audit and contract audit functions directed toward the fulfillment of the Inspector General-established audit policies as provided under subsection (c)(3) would be covered.

The second point I wish to address concerns the role of the Defense Contract Audit Agency with respect to the new Inspector General. DCAA has over 3,400 employees most of whom are located in contractor's plants across the country. These auditors perform two basic audit functions by first, validating contractor cost estimates and related documentation submitted in support of a potential contract and second, assessing contractor claims and calculations submitted for payment as the contract proceeds.

These two basic functions are known by the shorthand names of preaward and postaward audits. Generally, DCAA has operated in an advisory capacity to program managers who use their advice in dealing with their contractors. However, DCAA does audit and monitor contractor operations and last year referred over 50 allegations of fraud to other Department of Defense agencies for review.

Mr. President, the Senate version of the Inspector General amendment would have transferred some 1,400 DCAA personnel to the new Inspector General's Office. In part, this was done to enhance the resources available to the Inspector General. It also was done, however, to express our belief that the DCAA's functions are an important part of the fraud and waste prevention efforts of the Inspector General.

These transfer provisions are not in the compromise version of the Inspector General provision. It is important to reiterate, however, that the DCAA will be required to comply with audit policies established by the Inspector General and that the agency is required under the compromise to work cooperatively with the Inspector General in his efforts to fulfill responsibilities assigned to him.

Mr. President, I strongly support this compromise Inspector General provision and recommend its approval to my colleagues.

Mr. EAGLETON. Mr. President, I want to express my enthusiastic support for that part of the conference report establishing a statutory Inspector General in the Department of Defense, comparable to the 16 IG's now serving in other major departments and agencies. In my view, Congress and the public can take satisfaction from knowing that a significant step has been taken to insure that vigilant oversight will accompany the spending of defense dollars in the future.

As the chief Senate sponsor of the 1978 Inspector General Act, I have long supported creating a statutory Inspector General at the Defense Department. The enormous projected increase in the defense budget which the Reagan administration seeks intensifies the need for such an Inspector General. The consensus which has emerged in favor of such a statutory office reflects the awareness that we need to deal seriously with waste, fraud, and mismanagement at the Pentagon, as well as in the civilian departments. Indeed, the need is greater at the Defense Department, not only because of the size of the Department and the amounts of money involved, but because we are talking about more than money lost in cases of fraud, waste, and mismanagement. We are talking about our preparedness—whether our weapons work or not—and whether a national consensus behind increased defense spending can possibly be continued. In my view, public support for even needed defense spending may well evaporate unless the Congress and the Defense Department make a visible, concerted effort to maximize the chances that the $1.65 trillion sought by the Reagan administration for defense in the next 5 years will be well managed and well spent.

Congress owes it to the people to take our "best shot" at minimizing fraud, waste, and mismanagement in the Defense Department. In other departments of Government, Congress best effort to combat fraud, waste, and mismanagement has involved the creation of statutory Inspectors General. Since 1976, we have created statutory IG's in 16 major executive departments after finding in department after department that audit and investigative units lacked the independence to provide a meaningful check on departmental waste and fraud; that audit and investigative unit were scattered haphazardly throughout the department without coordination, leadership, or focus; and that inadequate cooperation existed between the departments and the Justice Department in investigating and prosecuting criminal fraud.

In response to those findings, the Inspector General legislation consolidated audit and investigative responsibilities in a single high-level official reporting to the head of the department, not to program officials whose programs were being audited. Moreover, in order to assure that independent, hard-nosed auditing and investigating will take place, the legislation guaranteed the independence of the Inspectors General, insuring that even the agency heads could not interfere with the Inspectors General's audit and investigative activities or their reports to Congress. The success of the IG concept to date has earned the enthusiastic support of Congress and the Reagan administration.

Unlike many of the departments covered by the 1978 Inspector General legislation, DOD has always committed substantial resources to audit, investigative, and inspection work. DOD and the Armed Services currently employ more than 18,000 auditors, investigators, and inspectors. But they are scattered throughout numerous units, and there has been no single individual in the Department of Defense with clear, statutory responsibility for coordinating these efforts. Few, if any, serious observers would argue that the Defense Department has derived the maximum possible return from this huge contingent of auditors, investigators, and inspectors.

Since 1978, I have been working to apply the Inspector General concept to the Defense Department. At that time, at my urging, the Governmental Affairs Committee included DOD in the original IG legislation which they reported. In response to concerns voiced by the Defense Department and the Armed Services Committee, DOD was dropped from the legislation which eventually became the 1978 Inspector General Act. Congress accepted the argument that because the Defense Department was different—in

terms of structure, mission, chain of command, and resources devoted to audit, inspection, and investigation—careful study should be done before extending the legislation to the Defense Department.

In the intervening 4 years, we had the opportunity for experience with the Inspector General legislation and the chance to carefully assess the Defense Department's approach to audit, investigation, and inspection, aided by a 1-year study of the task force appointed by Defense Secretary Harold Brown pursuant to section 8 of the Inspector General Act. That experience, coupled with rising concern about the toll taken by waste and fraud at DOD, made it clear that the time had come to legislate a statutory office of Inspector General at the Defense Department. Momentum in favor of such legislation was aided by the willingness of the Reagan administration, unlike its predecessor, to endorse the concept of a statutory Inspector General, although with some reservations.

In recent months, the question has not been whether a statutory Inspector General would be created at Defense; rather, the question has been: Would Congress act to create an Office of Inspector General with enough independence and resources to do the job properly?

For reasons which I would like to detail, I believe the conference agreement gives this new Inspector General the requisite independence to do the job credibly and effectively, while at the same time accommodating the legitimate concerns of the Department of Defense about national security. I also believe that the new office will have enough resources to begin its important work athough I am hopeful that as time goes on, Congress or the Secretary of Defense will see fit to strengthen those resources further.

On the independence question: The House, by an overwhelming vote of 344-65 in May 1981, endorsed creating a statutory Inspector General at the Defense Department virtually indentical, in terms of independence and powers, to all the other inspectors general in the civilian departments. That independence derives from the fact that the Inspector General is under the "general supervision" of the departmental secretary, but even the head of the department could not prevent or prohibit the Inspector General from carrying out whatever audits or investigations he deemed appropriate or from initiating such subpoenas as he sees fit. Moreover, independence is strengthened by establishing the Inspector General's special reporting relationship to the Congress by which the Secretary could comment on his semiannual reports or other required reports, but could not change them or prevent them from going to Congress in a timely fashion.

A year later, on this Defense authorization bill, the Senate voted to establish an Inspector General with a far different relationship to the Secretary of Defense. Like other officials in the Department of Defense, the new Inspector General, in the Senate version, would be under the authority, direction, and control of Secretary. The language of the Inspector General Act which stops the Secretary from preventing the IG from going forward with audits and investigations as he deems appropriate would not have applied under the Senate version. Before endorsing the concept of Inspector General under the Secretary's authority, direction, and control, the Senate narrowly rejected an amendment by Senator BENTSEN which would have given the Inspector General far greater independence and latitude.

Mr. President, independence is the hallmark of the Inspector General concept. To the extent that the Secretary of a department can prevent or prohibit the Inspector General from conducting an audit or investigation which the Inspector General deems appropriate, the effectiveness of the whole concept is seriously eroded. By definition, an Inspector General operating under the authority, direction, and control of the Secretary of Defense has no independence. The Secretary of Defense could call him up and tell him to discontinue an audit or investigation because it was embarrassing the Department or it was getting too close to pay dirt, and the Inspector General would have no recourse. The Secretary of Defense would call him up and tell him that he could not hire 10 good auditors that he planned to bring on board because the Secretary had other candidates in mind, and he would have no recourse. Under such circumstances, an Inspector General could never have the confidence of the public and the Congress.

However, while I believe in the concept of an independent Inspector General, I do not believe that it is appropriate to treat the Defense Department as absolutely identical to the 16 other departments of government which have IG's. The Defense Department has the unique national security mission which must be accommodated. When Deputy Secretary Carlucci testified before our committee in March 1982, he outlined situations in which it was vital for the Secretary of Defense to be able to prohibit the Inspector General from carrying out audits and investigations.

As one example, he mentioned planning for the Iranian rescue mission: Certainly a case in which the Secretary should have the authority to "turn off" an audit or investigation by the IG which could undermine or compromise the mission.

In my view, the conference has struck the approprate balance between the need for independence and the demands of national security. Under the conference report, the Inspector General would be under the "general supervision" of the Secretary of Defense. The normal standard by which the Secretary would not prohibit or prevent the IG from going ahead with audits or investigations would apply. However, in narrow, specified categories—intelligence, counterintelligence, sensitive operations planning, on-going criminal investigations conducted by other units, or other situations where disclosure of information could jeopardize the national security—the IG would be under the "authority, direction and control" of the Secretary. To insure that the exceptions would remain narrow and tied to legitimate national security situations, the conference version would require the Inspector General, and then the Secretary, to notify the appropriate committees of Congress, including the Armed Services Committees and the Governmental Affairs Committees of any situation when he has exercised his authority, direction, and control over the Inspector General. The need to report to Congress any use of the veto should act to limit the instances in which the veto is used, as well as to expose any misuse of authority. The compromise which the conference produced serves all interests admirably.

I began addressing the question of resources in colloquy with Senator ROTH, but I want to elaborate on that important issue now. I have long maintained that a statutory Inspector General whose resources were limited essentially to the Defense Audit Service and the Defense Investigative Service—roughly 3 percent of the audit, investigation, and inspection resources in DOD—could be a step in the right direction, but a very modest one. To me, the issue has been whether we would take this opportunity to set up an Inspector General with the resources to effectively do the job or settle for a very small step, ignoring evidence at hand that more is needed.

In that regard, whether to transfer the Defense Contract Audit Agency, which numbers 3,400 strong, became a critical issue for the Congress and the conference. DCAA, as it is known, has responsibility for contract auditing in the Defense Department. It is the entity which goes into contractors' books, gauges the validity of their estimated costs and later reviews their incurred costs. In the Defense Department, contract auditing is where the big dollars are. If we talk about cost overruns or a weapon system that has encountered problems, we are talking for the most part about a contract audit question. My concern has been that if we created a Defense Inspector General without the capability to do contract auditing, it would occur to

the public—quite rightfully—that we were creating an Inspector General who was looking at only a part of the problems at the Department of Defense.

When the House passed the Inspector General bill in May 1981, by an overwhelming vote, they opted to transfer the entire DCAA to the new IG. When the Senate amended the DOD authorization bill by a 94-0 vote, we voted to transfer roughly half of DCAA, not less than 1,400 people, those involved in what is called post-award auditing.

Despite the consensus reflected by these votes, the transfer of DCAA has remained a controversial issue. It has been controversial in part because transferring DCAA would represent a major change in "business as usual." It has also been controversial, however, because of the nature of DCAA's function. As the General Accounting Office stated in a report entitled, "Who Is Watching the Defense Dollars," dated February 5, 1982, "DCAA is a unique audit agency because contract auditing in Defense is an advisory function with contract auditors regularly participating in procurement management decisions. DCAA does not have the internal oversight responsibilities like those of Defense internal audit agencies. Its auditors are regarded as one of a group of advisers, including engineers and price analysts who assist the contracting officer, the principal decision maker for managing a Government contract." For this reason, Defense officials have argued that it would not be appropriate to transfer DCAA. DCAA auditors are not supposed to be independent outside auditors of the kind used by the Inspector General's office, and to transfer them would deprive the contracting officers of the advice which they need and rely upon in negotiating defense contracts.

These arguments were apparently persuasive enough that when the House reconsidered the Inspector General in the context of the Defense authorization bill, it decided not to transfer any of DCAA, choosing instead to require that the new Inspector General make a recommendation within 1 year, to the Secretary and the Congress, as to whether DCAA should be moved to his office.

I do not quarrel with the fact that giving audit advice to the contracting officers is a vital function, but occasionally does raise some serious questions. If the DCAA is essentially a contract adviser and not an independent auditor, who exactly does provide independent auditing of the performance of DOD contracts? Who gets to look at the entire procurement process, which consists of two basic parts—the performance of the Defense contractor and the performance of the Defense Department's contracting officers?

DCAA acknowledges that it does not attempt to review the performance of contracting officers. That is an internal audit function. But can a unit that works so closely and continuously with contractors while helping the Defense Department reach a good contract, then turn around and effectively and independently audit the contractor's performance?

In my view, the answers to these questions and others have not been encouraging. The evidence shows to my satisfaction that there is no serious, independent, capable contract audit capacity in the Defense Department. For example, GAO reports have made it unmistakably clear that the Defense Contract Audit Agency does not regularly share information with the Defense Audit Service if it discovers that a contractor is pursuing a course of action which amounts to fraud against the Department of Defense. For that reason, I have been concerned that if we simply transformed the Defense Audit Service into the new Inspector General's office, we might be perpetuating the same problem of no effective linkage between internal auditing and contract auditing. Beyond that, GAO has found that from time to time DCAA has entered into agreements which restricted the Government and its own access to contractor books and records. Such agreements are not consistent with good auditing procedures and with the role of the agency as the accounting and financial adviser to the Department of Defense on procurement matters.

Because of the unique nature of DCAA's work, the importance of contract auditing in the Department of Defense, and the record of weaknesses in DCAA's performance, I have been worried that an Office of Inspector General, without adequate resources and without a substantial mandate in the area of defense contract and procurement oversight, would be an ineffectual office.

The conference chose not to transfer any of the resources of the DCAA. However, the conference accepted a proposal endorsed by myself, Congressman BROOKS and Senator ROTH, giving the new IG 100 additional positions to be filled with persons trained to perform contract audits. Senator ROTH and I have already discussed the benefits of such a provision, so I will not belabor the point. I do believe, however, that such a provision became essential once the conference decided to leave DCAA's resources and expertise intact. With contract audit capability, the new IG should be able to combine contract auditors and internal auditors in teams that can look at defense contracts and the whole procurement process in a searching, independent way. When we encounter future cost overruns in a Trident, or an Apache, or an M-1 tank, the IG will have the flexibility and resources to attack the problem in its totality to give the Congress and the public reasonable assurances that a hardnosed assessment is being done. Without contract audit capability, the new office would have been seriously flawed at its creation. With such capability, we are creating something which could be very valuable.

Mr. President, I have continued at some length, both because the issues are important and to fill in some necessary background, since the Senate originally acted without the benefit of a committee report by adding an IG amendment to the authorization bill. However, the concerns I raise should in no way detract from the accomplishment of establishing a statutory Inspector General for the Defense Department. While it is impossible to rid the Defense Department, or any other Government agency, of fraud, waste and mismanagement overnight, I am reminded of the Chinese proverb which says that "a journey of a thousand miles begins with a single step." With the creation of the statutory IG for the Pentagon, today we have taken a major step.

Mr. SASSER. Mr. President, today the Senate is considering the conference report on S. 2248, the fiscal year 1983 Department of Defense authorization bill. I want to extend my congratulations to the conferees for reporting legislation which will assist our Nation in meeting the challenge of an adequate defense system.

I am especially pleased by the conference decision to support an outsize strategic airlift capability centered around the C-5B aircraft. The total recommended authorization of $847.5 million for C-5B aircraft procurement in fiscal year 1983 will make a significant contribution in making the U.S. airlift capability second to none.

Earlier this year, I commented on the relative benefits of the C-5B aircraft. The C-5 was designed, from the outset, as a military airlifter. It is uniquely suited to bringing the greatest and most effective payloads to the world's trouble spots. It is the equipment we need to insure that the RDF—the rapid deployment force—can fulfill its mission.

There is still work to be done to insure our airlift capability is sufficient in any situation. The conference report points out that the C-5B is "the cornerstone of a comprehensive and balanced airlift program that includes the KC-10A aircraft, the Civil Reserve air fleet (CRAF) enhancement program or another program to improve the military utility of commercial aircraft, and C-17 type technology development." Therefore, Mr. President, we

must undertake to build the C-5B now.

Let us look at what the C-5B can do, Mr. President. The C-5 has the ability to carry heavy equipment—the M-1 tank, the M-60 tank, the artillery pieces, the new CH-47 attack helicopters, 12-ton supply trucks, and other rolling stock. It has an accessible off-ramp capability—the alternative, I note, would require the development of new loading equipment to get the hardware to the flight deck, some 16 to 20 feet above ground. It is flexible enough to transport the material we need to respond to a conventional crisis.

Most importantly, the C-5 provides our Armed Forces with combat-ready material delivery. Forty-one percent of the Army's mechanized equipment is outsized. Only the C-5 can load, deliver and unload the tonnage necessary to reinforce our military forces. For example, over 1.5 million pounds of military equipment were off-loaded in 1972 at Da Nang Air Base in Vietnam in 10 mission with an average ground time of 32 minutes. And in addition to its outsize capability, the C-5 can refuel during flight and airdrop needed material. Simply, it is a unique plane suited to our unique defense challenges.

Avco Industries, located in Nashville, Tenn., will be building the wings for the C-5B. Avco built the original C-5 wings, as well as the wings for the Lockheed C-130 and the Rockwell B-1. Avco has participated in the Space Shuttle project, and expects to employ an additional 1,000 Tennesseans on the C-5B alone over the next 4 years. Tennessee's continuing contributions to our National defense are evident in the work Avco, and its dedicated employees, are doing.

I want to reiterate my support for the conference report on S. 2248, Mr. President. It is legislation which will insure that our Armed Forces have the manpower, the equipment, and the training necessary to protect ourselves. It is legislation which will help us deter foreign aggression through a strong national defense. And it is legislation which will help the United States preserve world peace.

I urge my colleagues to support the conference report on S. 2248, it is vitally important that we begin work on our critical defense problems. S. 2248 will help us accomplish our goal.

● Mr. WEICKER. Mr. President, I wish to congratulate the distinguished chairman of the Senate Armed Services Committee and indeed all the conferees for their thoroughly professional accomplishment of a most difficult and complex task in regard to our Nation's defense.

It is my intention to support passage of this bill. There is, however, at least one provision of this bill that concerns me. This is the deletion of one of the Trident submarines which had been authorized by S. 2248 and was subsequently deleted in conference. I believe it to be essential that full funding is restored for the 10th and 11th Trident submarines and that long-lead funding be maintained for the 12th and 13th Tridents. Nowhere is the justification for this action stated more clearly than in the reports of the Armed Services Committees of the both the Senate and the House. I quote from each. The Senate Armed Services Committee said:

> The OHIO-Class Trident Submarine has begun to enter the fleet as a replacement for the older Polaris and Poseidon SSBNs which have comprised the Nation's sea-based strategic deterrent force for much of the past two decades.
>
> The committee is pleased to note that the initial results of the sea trials and shakedown cruise of U.S.S. *Ohio* (SSBN 726) have met or exceeded expectations. The problems that prompted the committee to defer without prejudice funding requested for the tenth Trident submarine in its action on the fiscal year 1982 Defense authorizing act appear to have abated somewhat as a result of concerted management efforts on the part of the contractor and the Navy.
>
> While the committee believes that the authorization of two Trident submarines in fiscal year 1982 is necessary and advisable in light of our strategic requirements, the committee believes that continued improvement in ship delivery schedules and cost and quality control management is essential to maintaining the necessary congressional support for the *Ohio*-Class construction program.
>
> The committee also believes options for further enhancing the sea-based leg of the U.S. strategic deterrent should be developed so that they would be available should such augmentation be deemed desirable or necessary in the future. Toward this end, the committee requests the Secretary of Defense to undertake a comprehensive study of options available to expand the capabilities, survivability and, deterrent effectiveness of the U.S. seabased nuclear force. This study should include consideration of accelerating existing programs, such as the Trident II as well as an analysis of other methods of obtaining additional capabilities at sea.

The House report was in general agreement saying:

> During consideration of the fiscal year 1982 Defense authorization bill, the committee deleted most of the authorization request for the procurement of the tenth Trident submarine. The committee took that action because of delays in the Trident submarine construction program and the uncertain state of negotiations for the ninth Trident for which authorization and appropriations were provided in fiscal year 1981. In recommending that the tenth Trident not be funded last year, the committee emphasized its continuing support of the Trident program and its desire to see the tenth Trident authorized and funded when the Navy was able to give the Congress assurance that the program was in a position to use the funding.
>
> Since committee action last year, substantial progress has been made in the Trident submarine program and the related construction of SSN-688 Los Angeles class submarines at Electric Boat Division of the General Dynamics Corporation. During 1981 six SSN-288's and one Trident were delivered. Pending contractual matters, including potential insurance reimbursement requests and unadjudicated change orders, were resolved. On January 7, 1982 the contract for the ninth Trident submarine was awarded. The Navy testified that contract delivery dates for the second and third Trident submarine can be met.

Mr. President, I urge my colleagues seriously to consider the need for sustaining and accelerating production of the most survivable arm of our strategic triad.

I intend to pursue this issue throughout the appropriations process to insure that this essential system is maintained on time and on track.●

● Mr. QUAYLE. Mr. President, on May 6, 1982, the Senate voted 59 to 38 to adopt my amendment to the DOD authorization bill preventing the transfer of the Department of Defense overseas dependent schools to the Department of Education. As the law now stands, the transfer is scheduled to take place on June 1, 1983.

The House-passed version of the DOD authorization bill did not contain any provision dealing with this issue. Thus, it was a matter which the House-Senate conference committee considered during its meeting last week. What is in the version of S. 2248, as approved by the conferees, is not my amendment which was adopted last May but a compromise 1-year extension of the date of the transfer-from June 1983 to June 1984. I think some explanation of how that compromise was arrived at should be made a matter of record.

When this issue was discussed during the conference, there was near unanimity among the conferees in wanting to keep my amendment intact in the conference version of the bill. Discussion of this issue on its merits reflected strong support for keeping the DOD overseas schools under DOD's jurisdiction permanently. Factual information regarding the excellence of the schools, high test scores of students, and satisfaction of the parents was uncontradicted. Why, then, only a 1-year extension?

The House conferees were concerned that if a point of order were raised regarding the germaneness of my amendment, the House Parliamentarian would rule it to be nongermane. This was an analysis made not on substance, but solely on procedural, tactical grounds. Although I argued hard for keeping my amendment in the bill and settling the issue of this transfer once and for all, it was the sense of the conferees that a 1-year extension would be accepted by the House, even in the face of a challenge on germaneness, while my permanent language might fail and force the whole bill back to conference.

While I accept that judgment on tactics, I want to make very clear that

this will not be the end of this issue. It is very interesting that all the arguments against my amendment are always on grounds other than the merits of the issue. No one can look at this issue and look at the facts and come to any conclusion other than that these schools are operating as well as any in our country and ought to be kept under the same supervision and administration as they have been for years. I certainly will not stand by and watch these schools be transferred just so the Department of Education can conjure up a reason for its existence.

I will soon ask Senator JEPSEN to schedule hearings on this issue for the Armed Services Subcommittee on Manpower and Personnel. Once we have brought up to date the facts regarding the operation of these schools, the Senate will be in a position to again consider legislation to permanently stop the transfer of these schools to DOE.●

● Mr. KENNEDY. Mr. President, I voted for the fiscal year 1983 defense authorization bill, S. 2248, when it passed the Senate on May 14. On the recommendation of the Senate Armed Services Committee, the earlier version contained no funding for the production and deployment of MX missiles. The Reagan administration has yet to propose a permanent basing system for the MX missile, which was the reason the Armed Services Committee deleted the funding for fiscal year 1983. Inexplicably, the Senate-House conferees added $1.696 billion for the MX program. For this reason, I oppose the conference report on this bill.●

● Mr. SCHMITT. Mr. President, it is with great reluctance that I vote against the defense authorization conference report. The administration proposed a well-balanced bill that addressed both the short- and long-term national security needs of this Nation. The Senate Armed Services Committee and the Senate retained that balance in its deliberations and amendments to the administration's request. That balance was not, however, retained in the House-Senate conference.

The result is that the bill before us fails to effectively provide for the short- and long-term defense needs of this Nation in an economic and reasonable fashion. Instead, this bill funds programs which are costly and do not provide substantial benefits to national security at the price of programs, many relatively cheap in comparison, which do offer opportunities for great improvements in our defense capabilities. The conference report is still $6 billion over budget.

In the area of procurement, the conference provided for $847 million for 1 C-5B aircraft while denying $15 million for deployment of 50 Minuteman III ICBM's as replacements for Minuteman II's. Not only would this program which the Senate has strongly supported over the years increased our ICBM capability but it is vital for a continued test program of Minuteman II's.

The area of the bill which is most disturbing is Title II: Research, Development, Test, and Evaluation. Not only was the request reduced, but it was reduced in the wrong programs. Basic research in all the services was reduced by $34 million. It is this research which provides us with the answers to problems of the future; it provides us with the technological lead that has kept the peace for almost 40 years.

Two programs of major importance are the high-energy laser program and the ballistic missile defense program. In the high energy laser program, Army funds for a proof of concept test were deleted as well as Air Force funds necessary to determine the answers to integration, battle management, and vulnerabilities of a space-based laser weapon system. This administration has proposed a well-organized program for high energy lasers but the conference has seriously damaged that program. It also deleted the Senate language directing that an on-orbit laser weapon system be developed as quickly as technology permits. This is being done in the face of a major Soviet effort in this truly revolutionary technology.

The Senate, unfortunately, deleted $200 million from the BMD program and the conference deleted another $150 million. This reduction of almost 50 percent from the administration's request will seriously hamper efforts to develop a BMD capability at the same time that the Soviets have pursued this technology to the limits, and possibly beyond the limits, of the ABM Treaty. It is this technology that may, someday, be able to protect our civilian population from nuclear attack.

Civil defense, intended solely to protect our civilian population, was reduced by $100 million or 40 percent of the administration's request. It sometimes appears that we lose sight of the purpose of national defense; that is, defense of our people and our interests.

Last, Mr. President, this conference report, if enacted into law, will codify an inequity and a budgetary dishonesty. Over the next 6 years, NASA, with an annual budget of about $6.6 billion, will subsidize DOD by about $3 billion or almost one-half of NASA's annual budget. Efforts are underway to rectify this situation. The conference, however, is attempting to legislate this budgetary dishonesty into law. The result will be a decline in the very technology that DOD will need in the future to provide for a solid national defense.

Mr. President, this Senator has always supported the national security needs of this Nation. I supported this bill when it was before the Senate because it was a balanced bill, even though I did not agree with everything in it. The conference report before us now, however, does not provide for the national security needs of this Nation in a balanced and economical manner and I am forced to vote against it.●

● Mr. GRASSLEY. Mr. President, I intend to vote for the conference report for the Department of Defense authorizations for fiscal year 1983. The top priority of Congress is to put the national economy back on the road to recovery by establishing appropriate balances in expenditures, creating more stringent controls for the Federal budget. While I do not believe that the defense portions of the budget should be immune from critical budgetary analysis, I think defense must be viewed with a clear sense of history.

For more than two decades the Soviet Union has pursued the steady expansion and modernization of its military forces. Prior to 1970, U.S. defense expenditures exceeded those of the Soviets. During the period 1971–81, the cumulative dollar cost of Soviet defense activities has exceeded that of the United States by 40 percent. Responding to the sentiment for stronger defense in the midseventies, the Ford administration succeeded in increasing the defense budget from a low of $134 billion, 1981 dollars, in 1975 to $147 billion in 1977. The advances, thought to be necessary in strengthening our defense posture, were then reversed under the administration of President Carter with reductions exceeding $38 billion. In order to reach those reduction levels, development of several significant defense systems was either undermined completely or delayed excessively, I am convinced that those actions by the previous administration have driven us into a budget trap which could have been avoided by careful, well founded, steady increases in the defense budget. Instead, the defense budget process has been erratic at best. The lack of budget cohesion results in an adverse affect on coordinated, long-range planning while also creating inefficiency and waste.

The defense authorizations for fiscal year 1983 should help to reverse the decline in our military posture vis-a-vis the Soviet Union by: Securing maritime superiority required for deployment of U.S. Forces to vital regions overseas, for the support of our allies, and for assuring continued access to vital resources; modernizing all components of U.S. strategic forces; and improving the endurance and combat

readiness of conventional forces with new equipment. Military power is an integral part of international politics. If the United States expects to play even an effective peace-keeping role in the international arena, it must maintain a credible military force. This level of funding should certainly afford the Defense Department an opportunity to redress the failures of the previous administration's defense planning.

As a member of the Budget Committee and chairman of the Agency Administration Subcommittee of the Judiciary Committee, I am intricately involved in attempting to bring the Federal budget under control. Thus, I would strongly urge the Congress and the administration to conduct in the year to come a thorough and exhaustive review of all service programs and, only then, make specific, selective, and carefully targeted reductions. Such a complete overview would undoubtedly involve detailed examination of the following: Degree of integration and coordination of new programs, both inter- and intra-service; elimination of marginally beneficial programs; identification of operations and support costs for new equipment to determine if resources will be available in the outyears; the problems involved with buy-ins, cost overruns, and misestimates involved in the procurement process. Thus, the Department of Defense should now be able to assist the United States in stabilizing its leadership role, keeping clearly in mind that economic discipline is more essential than ever.●

● Mr. PELL. Mr. President, I have decided to oppose the conference report on S. 2248, the defense authorization bill. This conference report contains essentially the same level of new defense procurement as the Senate-passed bill, and is $2.6 billion larger than the House-passed bill. Coming on the heels of this year's mammoth $200 billion defense appropriations bill, this very substantial increase in military spending cannot, in my judgment, be justified in terms of our real military needs or the requirements of a sound national economic policy.

Militarily, the bill commits our Nation to several multibillion, long-term weapons programs, such as the MX missile project and the B-1 bomber. These programs are of highly questionable military value, especially in light of their staggering price tags. The $7 billion contained in this bill for B-1 and MX is just the beginning of what will be required over a number of years if these programs are fully implemented. The heavy emphasis on new weapons programs comes at the expense of urgently needed improvements in the readiness capability of our conventional forces.

Similarly, the bill commits the Navy to the construction of two additional *Nimitz*-class nuclear aircraft carriers, expensive multibillion-dollar additions to the fleet that will come at the expense of smaller and more easily defended surface ships.

In terms of economic policy, we cannot move toward a balanced budget without restraining the huge proposed increase in the defense budget. The Federal deficit will never be brought under control as long as the Congress commits our Nation to the kind of costly, long-term weapons programs such as those contained in this bill. At a time when every American is dedicated to lowering the Federal deficit, the weapons procurement figure contained in this bill is unacceptable and should be rejected by the Congress.●

Mr. DOMENICI. Mr. President, I rise to support Senate passage of the conference report on S. 2248, the Department of Defense Authorization Act for fiscal year 1983.

Chairman TOWER has returned a conference report that cuts about $5.5 billion from the authorization request of the administration in this area. In addition, savings of more than $1.5 billion are expected in the Department of Energy national security authorization and in the Military Construction Authorization Act. If all of these savings materialize, and I have strong reasons to believe they will, then the Armed Services Committee will have made about seven-eighths of the savings in budget authority mandated by the first budget resolution for programs authorized by these three bills.

Frankly, I wish that all of the savings could have been achieved. However, as I have discovered on many occasions in recent months, conferences between the Senate and the House are difficult, and in the bargaining that occurs, it is simply impossible sometimes to satisfy all points of view. This bill, especially, faced two opposite forces. First, it is clear and unequivocal that this Nation's national defense structure needs improvement.

Chairman TOWER has been one of the foremost voices in the effort to improve our national security posture. Second, extraordinary deficits and historically high interest rates have made economic recovery slow in coming. Chairman TOWER, as a member of the Senate Budget Committee, has been one of the staunchest supporters of slowing the rate of Federal growth.

I know that this bill authorizes less than Chairman TOWER would like, in an ideal world. It may even authorize less than I would like in such an ideal world. But, in this real world of ours, it is the best product that could be forged.

Finally, I remind the Senate that the final word on the size of Defense budget authority and outlays will be made by the Appropriations Committees of the House and Senate. I believe they will review these programs closely and, if additional economies can be found, they will not hesitate to institute them. Ultimately, the appropriators will have to come in within their budget mark.

When all is said and done this year, I have every reason to believe that Congress will impose on defense growth the same restraint, consistent with prudence, that we have tried to impose in other areas of Federal spending.

Mr. President, I wish to just engage in a couple minutes of discussion about the history of the treatment of authorization bills under the Budget Act.

Actually, other than restrictions on the timeliness of the filing of authorizing bills out of committee, the Budget Act makes little or no reference to authorization bills. The May 15 on deadline is an effort to expedite authorizing bills, obviously for the purpose of conforming and regularizing the appropriations process.

So we have a law that says we have to have bills reported to the Senate by May 15th or a committee has to get a Budget Act waiver. That waiver is a timeliness waiver. It has nothing to do with substance.

Mr. President, what the Armed Services Committee has done last year and this year under the leadership of Senator TOWER as chairman and JOHN STENNIS as the ranking minority member is something that should add to their reputation here in the Chamber.

Let me see if I can explain that. Literally for years, in this Senator's opinion, many authorizing committees of the Senate have basically abdicated policy-making to the appropriators where funding levels are involved. Why do I say that? Because one can look historically at major legislation, whether it is in the field of education, labor training, or water projects, and conclude that most authorizers never really looked at budget targets. There is little evidence that the authorizers decided, "We want to be significantly a part of the ultimate policy, that is, How do we allocate the limited amount of money?

In fact, until the last few years many authorizing bills did not even set a dollar amount. Many bills authorized whatever was needed in fancy legal language that made it valid to appropriate as much as was needed to carry out the purposes of the bill.

Other programs, including many in this conference report, were not even subject to authorization when Senators THURMOND and STENNIS came to the Senate.

An authorization bill may approve programs under 20 subtitles, and then we find that the appropriators fund 10 subtitles and not the other 10. In order to meet budget targets, the appropriators must pick and choose, ba-

sically because they pay the bills, that is determine the policy, as to what do we build, what do we buy? Some authorizing committees have authorized far more than we could fund.

Now what did the Armed Services Committee do last year? Let me provide some background. They attempted to reverse a trend. For years many authorizing committees were not really determining policy. As a matter of fact, I think some Federal agencies were without authorizing legislation in other areas for some period of time. In fact, for several years the Department of Energy operated its civilian programs without authorizing legislation in effect, which meant that the appropriators made their decisions without direction.

So this committee, starting with the chairmanship of Senator TOWER and Senator STENNIS, attempted to fit the authorizing bill as neatly and closely as possible to the budget target. And let us do not forget the national defense budget is a target under a first concurrent resolution. It is not a reconciled item. It is not mandatory. It is not an entitlement, except for retired pay. It is mostly discretionary appropriators programs. In the final analysis, the appropriations then have to meet their target for all of those programs under their jurisdiction.

At least from this Senator's standpoint every authorizing committee should attempt to determine the policy by drawing its bills tightly and relating them as closely as possible to the budget targets.

The Armed Services Committee did that. They did that last year. Therefore, the appropriators, more or less, are left with attempting to carry out our military preparedness as directed by the authorizing legislation. The appropriators still have some latitude, but for the most part Chairman TOWER and Senator STENNIS have attempted to do what I have described with this committee. I laud them for it.

I wonder why we have authorizing committees if they are not going to remain an important factor in funding and policy decisions. I wonder why we expect authorizing committee members to be sincerely interested in hard work and hearings necessary to determine this, that, and the other detail of policy if they are not going to draw a piece of legislation that they believe can be funded.

If that is the test, then, point No. 1. We will know whether we meet the budget allocation for national defense when the defense appropriation bill hits this floor. This Senate is committed to the budget resolution targets for functions 050 national defense for 1983. The President is committed to those targets for 1983. This Armed Services Committee is committed to them, and the appropriators are committed to the same numbers.

In light of this history that I have just discussed about authorizing legislation, the Armed Services Committee has come as close as they could at this time in an authorizing bill to the budget target that is ultimately going to be reached. If the appropriators were to fund everything here and everthing, item by item, that is contemplated in the two other military authorization bills, as chairman TOWER indicated, seven-eights of the budget authority savings comtemplated in programs authorized by the Armed Services Committee will be achieved without the appropriators doing a thing.

Point No. 2. There will be a lot less discretion for the appropriators to exercise on the Defense bill than on some other bills. They will be able to fund 100 percent of many of the items authorized by this conference and still make the savings required for function 050 in 1983. I think that is the test.

Those who want to vote against this conference obviously have various reasons. Some may not like some of the programs that are authorized. That is everyone's prerogative. Certainly if Senators do not like programs that are authorized and feel compelled to vote against it, after all the work that has gone into it, that is their privilege, and I would expect them to do that.

On the other hand, to make it sound like this type of authorization bill must come precisely within budget targets really is assuming more than the system expects and demanding more of this authorizing committee than is really necessary. This authorizing bill—this year—does not force the appropriators to fully fund it. Meeting budget targets is not the sole responsibility of this authorizing bill. The final choice and responsibility for funding this type of discretionary program is exercised by the appropriators.

After all that has gone into this conference, I urge that we pass it, and we hold the appropriators and the President to the fiscal 1983 budget resolution levels.

Mr. TOWER. Mr. President, I want to thank the Senator from New Mexico for his statement and his supporting words. They are a great reassurance to me, and I want to reassure him that I will continue to cooperate with him in trying to meet our budget responsibilities.

Mr. President, I believe all has been said that is going to be said this afternoon on this matter, and I think we should take it to a vote.

If I might proceed for about another 30 seconds, I want to thank all of those who have made those kind remarks about me this afternoon. I appreciate that very much.

I might note that the expeditious manner of disposing of this bill in conference could not have been done were it not for the subcommittee chairmen and the ranking members of the subcommittee and, indeed, all of the members of the committee but, most especially, my distinguished friend, the Senator from Mississippi (Mr. STENNIS) who has served so well and so long in this body and has been extremely cooperative, wise, and helpful in guiding this bill through the conference.

Mr. DOMENICI. Mr. President, will the Senator yield to me for a moment?

Mr. TOWER. Yes.

Mr. DOMENICI. Mr. President, in my summary of efforts by the defense authorization committee to remain as close to budget targets as possible. My remarks reflect the fact that I worked closely with this problem only since I have been chairman. I correctly praised the distinguished Senator from Texas. I understand the distinguished former chairman of the Armed Services Committee, who is now the ranking minority member, the Senator from Mississippi (Mr. STENNIS) started the process I have described at least 2 years before I became chairman of the budget committee. I thank him for those efforts.

Mr. TOWER. That is true. He certainly did, and has been very cooperative in trying to help us meet our budget requirements.

Mr. DOMENICI. I thank the Senator.

Mr. BAKER. Mr. President, are the yeas and nays ordered?

The PRESIDING OFFICER. They have been ordered. The question is on agreeing to the conference report. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. SIMPSON) is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Kentucky (Mr. FORD) is absent to attend the funeral of the former Senator Thruston B. Morton of Kentucky.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 331 Leg.]

YEAS—77

Abdnor	Byrd, Robert C.	Domenici
Andrews	Cannon	Eagleton
Armstrong	Chafee	East
Baker	Chiles	Garn
Bentsen	Cochran	Glenn
Biden	Cohen	Goldwater
Boren	D'Amato	Gorton
Boschwitz	Danforth	Grassley
Bradley	DeConcini	Hatch
Brady	Denton	Hawkins
Burdick	Dixon	Hayakawa
Byrd, Harry F., Jr.	Dodd	Heflin
	Dole	Heinz

Helms	McClure	Sarbanes
Hollings	Metzenbaum	Sasser
Huddleston	Mitchell	Specter
Humphrey	Moynihan	Stafford
Jackson	Murkowski	Stennis
Jepsen	Nickles	Stevens
Johnston	Nunn	Symms
Kasten	Packwood	Thurmond
Laxalt	Percy	Tower
Leahy	Quayle	Wallop
Long	Randolph	Warner
Lugar	Roth	Weicker
Mattingly	Rudman	Zorinsky

NAYS—21

Baucus	Inouye	Pell
Bumpers	Kassebaum	Pressler
Cranston	Kennedy	Proxmire
Durenberger	Levin	Pryor
Exon	Mathias	Riegle
Hart	Matsunaga	Schmitt
Hatfield	Melcher	Tsongas

NOT VOTING—2

Ford	Simpson

So the conference report was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JUSTICE GOLDBERG'S ARTICLE ON LEBANON

Mr. KENNEDY. Mr. President, recently my very good friend and a great American, Justice Arthur J. Goldberg, wrote an important and insightful article on the problems we face in Lebanon and the Middle East, which appeared in leading newspapers in the United States and Israel.

Arthur Goldberg has occupied important posts in the service of our Nation—as Justice of the Supreme Court, Ambassador to the United Nations, Ambassador at Large, and Secretary of Labor, among many others. He has been dauntless and tireless in the cause of international order and of social justice.

Justice Goldberg's past experience, and his continuing commitment to a just and lasting peace in the Middle East, make his commentary particularly noteworthy and important. He reminds us of the great damage inflicted by the PLO and Syrian military occupation of Lebanon—and by the PLO's continued terrorism against Israeli settlements.

Tragically, the innocent people of Lebanon—like the innocent people of Israel before them—have been caught in the crossfire of the current conflict. For this we mourn. As Justice Goldberg states: "Every life is precious and all killing is fratricide because we are all members of the human family." Already too much blood has been shed, and we must all hope for the successful conclusion of Ambassador Habib's negotiations, the withdrawal of the PLO and all foreign forces from Lebanon, and the restoration of the freedom, security, and sovereignty of Lebanon.

Finally, I join with Justice Goldberg in calling on the Reagan administration to put its full influence behind the Camp David accords by appointing a high level special negotiator.

Mr. President, I ask unanimous consent that Justice Goldberg's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE LEBANON CRISIS

(By Arthur J. Goldberg [1])

Israeli troops encircle Beirut. The PLO and the media, by and large, characterize this as an invasion. Many Lebanese, Christian and Moslem alike, hail Israel's actions as liberation.

This Lebanese reaction is understandable. For more than a decade, Lebanon has been an occupied country. The PLO and Syria took over the country in 1970 at the cost of thousands of civilian casualties.

The resultant displacement of the legitimate Lebanese Government contributed to the bloody internecine conflicts between Moslems and Christians, also with staggering casualties. And armed bands, Palestinians, and others without ideological convictions, contributed to this anarchy by indiscriminate killing of Lebanese civilians, looting and other depredations of life and property.

The PLO has used Lebanon, by nature a peaceful country and people, as a base for their operations against Israel. These operations included terrorist infiltration of Israel directed against civilians and periodic bombing and shelling of Israel's northern settlements. The PLO further, acting as an occupying power, requisitioned Lebanese homes and businesses, exacted monetary tribute, converted Palestinian refugee camps and even ordinary dwellings and office buildings into military installations, and stockpiled an inordinate amount of Soviet heavy weapons, ammunition and other sophisticated hardware throughout Lebanon.

The Syrians, under the guise of the leading member of a "so-called" Arab peace keeping force, followed a similar course. After first attacking PLO militants and installation, without sparing Palestinian or Lebanese civilians, the Syrians later joined forces with the PLO. This unholy alliance would seem to have only one purpose—attacks against Israel. The installation of Soviet supplied Sam 6 missile systems in the Bekaa valley (part of Lebanon occupied by Syria) seemed designed to give both Syrian and PLO concentrations sophisticated weapons against Israel.

All of this, although obviously threatening to Israel's security, in all probability, did not trigger Israel's response. It was the heavy shelling and rocketing of Israeli northern settlements on June 4 which undoubtedly caused Israeli troop movements into Lebanon.

At the outset "Operation Peace for Galilee" (Israel's name for this operation) was to create a 25 mile terrorist free corridor in the north freeing Israel's settlements from the danger of PLO shelling and bombardment.

By design or by sheer momentum of a successful army on the march, Israel's movement into Lebanon was enlarged into an operation to destroy the PLO's military viability and eliminate the missiles in the Bekaa valley. Parenthetically, Beirut is only 33 miles from Israel's northern frontier. The media have never made this clear, in discussing the enlargement of the war.

In their objectives, the Israelis have been largely successful.

The PLO has been driven out of artillery and rocket range of Israel's northern settlements. Soviet supplied missiles in the Bekaa valley have been wiped out and Syria accepted a cease fire long before the PLO did.

There are about 6000, more or less, PLO militants holed up in West Beirut. No one doubts that the Israeli army has the capability to wipe them out.

The PLO is lacking in the means successfully to resist such an onslaught. Their only bargaining chips are: the civilians in West Beirut (estimates vary from 200,000 to 600,000) whom the PLO are using virtually as hostages to deter Israel from a ground assault; Israeli concern about their own casualties now numbering 281—seemingly a small but a proportionately large number in a country as small as Israel, and most importantly unremitting pressure by the United States which, for some inexplicable reason, seems determined to preserve the illusion that the shattered PLO must be dealt with to resolve the Palestinian issue.

The Arab countries are more realistic than we are. They recognize that the PLO has proved to be a paper tiger. They not only have refrained from giving the PLO military support; they, including Syria, have refused to grant sanctuary to PLO forces, now surrounded in West Beirut. And, for good reason. The Arab states realistically fear that a substantial PLO military force, including as it does, mercenary terrorists from all parts of the world, may well destabilize their regimes. Also, it would seem that whatever the rhetoric, they seem relieved to be free of PLO threats and blackmail.

But with all PLO stonewalling, it seems evident that the PLO will have to depart Lebanon, better sooner than later. And with their ignominious exit, the concept that the PLO will have to be dealt with seems a sheer fantasy.

The PLO is finished, unless by inept diplomacy, the United States and other Western powers revive it from certain oblivion. This is not to say that the Palestinian question will go away, as some Israelis hope.

Instead of welcoming the demise of the PLO as a military and diplomatic force, our media seems determined to give the PLO false hopes of both a military and political resuscitation, thereby prolonging the war, without any conceptual analysis of the realities of the situation.

The media is doing this by exaggerating (from several hundred to 10,000) civilian casualties as a result of Israeli military action. Understandable revulsion by the American public against the loss of life of innocent men, women, and children, by a perverse logic of the media, is converted into advocacy of dealing with a PLO which is for all purposes virtually eliminated.

And the wayward press and television reporting, never too friendly to Israel, suddenly have become concerned about Israel's alleged immorality in their movement into Lebanon. This concern is linked to the number of undetermined civilian casualties resulting from the fighting, with almost total disregard of their source, and the his-

[1] Former Justice of the Supreme Court, former Ambassador at Large and U.S. Ambassador to the United Nations.

tory of the recent past where civilian casualties of much greater numbers were caused by Jordan, the PLO and Syrian forces, let alone the civil war in Lebanon.

The media has been focusing, as I have said, particularly television, on civilian casualties caused by the fighting, without discrimination as to those responsible for the killing and destruction. There is substantial evidence that the Israeli army, at great risk, has sought, as best it could, to minimize such casualties.

But be that as it may, the death and wounding of civilians, as well as military personnel, is sad, beyond words. Every life is precious and all killing is fratricide because we are all members of the human family.

"War is hell." And Winston Churchill added, "It is sordid."

Churchill, nevertheless, ordered in World War II, the bombing of Dresden, a non-military target and countless civilians were killed and wounded. Why? Sir Winston was a valiant warrior, but no one has accused him of being a sadist. He bombed Dresden because the Nazis bombed London, Manchester, Liverpool, Coventry and other non-military targets, causing a great loss of human lives. But Churchill, a consummate politician, knew that it would be impossible to sustain British morale had he not struck back in kind. And when allied forces sought to liberate France, even friendly French civilians paid a terrible price, as a result of our bombing and shelling, in our effort to liberate France from Nazi occupation.

Is not the government of Israel faced with the same terrible dilemma in view of repeated PLO acts of terrorism against Israeli civilians and the bombing of its northern settlements?

All democratic governments, like our own, must provide, as our Constitution says, "for the common defense." And as our Declaration of Independence states, governments must exercise their powers in such a way, "as to them shall seem most likely to effect their safety . . ."

Is Israel to be held to a higher standard than these great documents of liberty?

Did we and our allies act immorally, in the most just of wars against the demented barbarian who sought to enslave the world, despite the civilian casualties of enormous dimensions which—with great heartbreak—occurred? I think not.

The considerations which led Israel to move into Lebanon, despite herculean efforts in the fighting to spare civilians, can scarcely be termed immoral, when we and our allies in World War II, on a much larger scale, caused, in the interest of freedom, suffering on innocent people.

When I was on the Supreme Court of the United States, I wrote an opinion saying that our Constitution is not a suicide pact.

Israel almost committed suicide in 1973, when it refrained from a preemptive strike and full mobilization of its largely civilian army, under pressure from our government and other Western powers, even when it became known that Egypt was about to launch a full scale attack.

It is a simple fact that when King Hussein and the Arab Legion made war on the PLO in 1970 and drove them out of Jordan, there were far greater casualties, military and civilian, than the casualties in Lebanon. No charge of immorality was levelled by the media against Hussein for this action to prevent the take over of his kingdom. And when Syria and the PLO invaded and occupied Lebanon later that year, the killing, maiming and destruction was so wanton and the occupation so pervasive that Lebanon virtually ceased tc exist as an independent country. Again, this was not labeled immoral by our press which continues to describe the Syrian occupiers as a "peace keeping force."

It is also strange that there was no action then from Western governments, including our own, even though a majority of the victims were Christians.

It is said Israel should have been content to clear PLO terrorists out of an area 25 miles north of the Lebanese border where PLO guns could reach Israeli settlements.

Perhaps they should have, although, in hot pursuit, it is seeking to rid its country and people and indeed the world of a conglomerate of discrete guerrilla groups, providing training and arms to international terrorists, and without a common program, other than to drive Israelis into the sea. But with a long history of terrorism and deception by the PLO, the Israelis cannot be overly criticized for pressing on to eliminate the PLO once and for all as a menace to their security, their people and the world community.

Both the PLO and Syria assert that they are at war with Israel and seek its destruction. Is it immoral to strike at your enemies who dishonorably emplace their heavy guns and rockets in civilian camps and neighborhoods? This is the primary cause of the civilian casualties which sadly have occurred. The hijacking of West Beirut inhabitants is a most horrendous immorality committed not by Israel but by the PLO.

What of the West Bank and Gaza?

It seems to me the answer is self evident and must be addressed when Lebanese sovereignty is restored and all foreign troops depart from Lebanon. The Camp David Accords and the Egypt-Israel Treaty of Peace should be implemented. The Camp David agreements acknowledge that Palestinians (not the PLO) have legitimate rights and provide a trial period of five years of appropriate autonomy for Palestinian inhabitants of the area.

Free from the illusion, now demonstrated to be without foundation, that the PLO has the coherence, strength and support to act as the "sole representative of the Palestinian people" and liberated from its terroristic acts and blackmail against Palestinian leaders, inhabitants of the West Bank, and other Arab countries, it should be possible to conclude an autonomy agreement with all deliberate speed.

The inordinate delay in the autonomy talks relating to the West Bank is primarily due to the PLO which has villified the Camp David Accords. It is also as much our fault as it is the Israelis and Egyptians. We have downgraded these talks by dispatching representatives to the deliberations not of the highest rank and authority.

An autonomy agreement commands for resolution the personal involvement of President Reagan and Secretary Shultz.

Egypt, Israel and Palestinians need the American presidential umbrella for the autonomy talks to succeed, if only to satisfy their domestic constituencies.

There are, of course, risks in personal presidential mediation efforts. But Camp David succeeded, despite the misgivings of many in and out of our government and other powers of the West and Middle East.

In international affairs, as in life in general, nothing ventured, nothing gained.

Sadat and Begin, to their great credit, understood this. President Carter came to the same realization and, as a result, Camp David and the Egyptian-Israeli Peace Treaty is rightly recognized to be the outstanding achievement of his presidency.

The same can be true of President Reagan's presidency. It would be a great mistake to crack down on Israel for its justified invasion of Lebanon by imposition of American sanctions (the suspension of cluster bombs is unfortunately the wrong signal).

Jews, the Bible tells us, are a stiff necked people. Israel predictably will react to sanctions with a spirit of defiance rather than compromise. And, it must always be remembered that Israel is an ally and not a vassal state.

If it is treated as an ally, I have every confidence that Israel will display the same flexibility it manifested in yielding the Sinai, in the interest of an enduring peace between Egypt and Israel.

Autonomy of the West Bank and Gaza is of lesser dimension than withdrawal from the Sinai. But the overriding principle is the same.

THE FEDERAL RETIREMENT SYSTEM

Mr. STEVENS. Mr. President, the Federal retirement system continues to come under attack. Federal workers must begin to realize that their system is in great jeopardy. Next month I will be introducing a reform of the Federal retirement program which establishes a new system for new employees. If something like this is not adopted, the current system will likely be emasculated beyond recognition. I strongly urge my friends in the Federal service to seriously consider my proposal because I believe it can be a very acceptable alternative to what is likely to happen to the current system.

Mr. President, I ask unanimous consent that an issue brief written by the Employee Benefit Research Institute be inserted in the RECORD after my remarks. I do not necessarily agree with every point made in the paper, but it is an indication of the current thinking on the Federal retirement systems.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL PENSIONS: AN ISLAND OF PRIVILEGE IN A SEA OF BUDGET AUSTERITY

The battle of the budget has become more focused in recent weeks. It is virtually certain that there will be some scaling back of the tax perquisites private pensions now have. This is a move to enhance revenues, i.e., raise taxes. Congress is also scrutinizing federal pension programs in an effort to reduce expenditures.

The recent budget resolution for fiscal 1983 anticipated that federal pension beneficiaries would have their cost-of-living allowances (COLA's) capped at 4 percent per year over the next three years. The Senate Governmental Affairs Committee approved the COLA cap on July 20. The measure would save an estimated $5 billion by the end of fiscal 1985.

The House Post Office and Civil Service Committee, however, has rejected the COLA ceiling for recipients of federal civilian annuities. (They do not have jurisdiction over the military retirement program.)

Instead they approved two measures that would reduce federal pension costs by $113 million over the next three years. The first measure would round down monthly pension benefits to the next lowest dollar instead of the current rounding to the nearest whole dollar. The second measure would start payments at the beginning of the first month after retirement. Now benefits start the day after retirement.

The budget reconciliation process requires the various Congressional committees to provide $27.2 billion in savings to comply with three-year budget targets. Some feel that taking $5 billion of this out of the hide of federal annuitants is too extreme. The reason capping the COLA would provide such significant savings lies in the basic structure of federal retirement programs.

THE MAJOR PROGRAMS

There are two retirement systems that account for most of federal retirement costs. These are the Civil Service Retirement System (CSRS) and the Military Retirement System (MRS). These two programs account for more than 90 percent of all active participants in federal retirement programs and a comparable percentage of annuitants. For example, in 1980, CSRS had 2.7 million active participants and MRS had 2.9 million, including reservists. In comparison, all of the remaining federal retirement programs has less than one-quarter million active participants at that time. In 1980, there were 1.8 million CSRS annuitants and survivors while the MRS had 1.3 million beneficiaries.

The CSRS bases benefits on the highest three consecutive years of average salary. The benefit formula replaces 7.5 percent of the high three years salary for the first five years of credited service, 8.75 percent for the next five years and 2 percent replacement for each year of service beyond ten years. The program provides normal retirement benefits for individuals at age fifty-five with thirty years of service, at age sixty with twenty years and at age sixty-two or above with five years of service. An annuitant retiring after thirty years receives 56.25 percent of his or her high three years of average salary. The program's maximum earnings replacement is 80 percent; this is accrued after slightly less than forty-two years of service.

The MRS bases benefits on final pay. The benefit formula replaces 2.5 percent of pay for each year of service. The program provides normal retirement after twenty years of service, replacing 50 percent of final pay under those circumstances. The maximum replacement rate is 75 percent; this is achieved after thirty years of service.

CSRS, MRS and most federal retirement programs provide full benefit adjustment based on the CPI. One notable exception is the Tennessee Valley Authority (TVA) retirement program. This program is integrated with Social Security and limits its COLA increases.

THE COST OF FEDERAL RETIREMENT PROGRAMS

The cost of federal retirement programs can be considered from different perspectives. One common way to estimate the cost of a retirement program is to use what actuaries call the "entry age normal cost method." This method estimates the percentage of a worker's salary that would have to be set aside each year to fully fund benefit entitlements before retirement. Aggregating the normal cost of all workers provides an estimate of the employer's total normal cost. Public Law 95-595, passed in 1978, requires that all federal pension plans submit an annual report to Congress on their actuarial status. These reports provide normal cost estimates based on a consistent set of economic assumptions.

Table 1 shows what the estimated costs of the two largest federal retirement programs would have been in 1980, if these programs had been funded on the normal cost basis. Neither program is actually funded in this manner, however. The CSRS is partially funded, while the MRS is strictly pay-as-you-go. At the end of fiscal 1980, the accrued unfunded liabilities were $469.5 billion for CSRS and $431.1 billion for MRS.

TABLE 1.—ENTRY AGE NORMAL COST OF CSRS AND MRS AS PERCENT OF PAYROLL

Program	Employee contribution	Employer cost	Total normal cost
Civil service	7.0	29.7	36.7
Military retirement	0	49.3	49.3

Source: Public Law 95-595 reports filed with the U.S. Congress for fiscal 1980.

Private, tax-qualified, defined benefit pension plans are required to amortize their unfunded liabilities in compliance with the 1974 Employee Retirement Income Security Act (ERISA). Table 2 shows the cost that taxpayers would bear if CSRS and MRS were required to comply with the federal standards that are imposed on private plans. Such requirements would have raised the cost of CSRS to United States taxpayers to 87.1 percent of payroll in 1981; while the MRS cost would have been raised to 171.2 percent of military payroll. Under both programs, actual contributions were significantly less than half the level that was legally required of private plans. In fiscal 1980, CSRS and MRS paid out $26.7 billion in benefits. Employee contributions to CSRS were $3.6 billion; MRS is noncontributory. The direct budget outlay was $23.1 billion.

TABLE 2.—TAXPAYER LIABILITIES AS PERCENT OF PAYROLL FOR CSRS AND MRS COMPLIANCE WITH ERISA IN 1980

Program	Taxpayers liabilities		Total cost	Actual contributions
	Employer normal cost	Amortization of unfunded liabilities		
Civil service	29.7	57.4	87.1	37.7
Military retirement	49.3	121.9	171.2	61.2

Source: Public Law 95-595 reports filed with the U.S. Congress for fiscal 1980.

While this cost is significant, it does not adequately represent the implications of these programs from a taxpayer's perspective.

The underfunding of federal pensions will have poignant ramifications for future taxpayers. Unfunded federal pension promises are obligations that taxpayers will ultimately have to pay. While they are not reflected in the federal debt, they are claims on future government revenues which are defined by federal pension statutes. Table 3 shows that by the end of fiscal 1980, the unfunded benefit promises in these two programs were more than $900 billion. Even more spectacular was the growth in unfunded liabilities—over $141 billion in a single year. While the financial markets and Congress now fuss over the prospect of a $100-billion deficit, there is ample evidence to suggest that the real deficits accumulating in federal retirement programs have exceeded that amount for some time.

TABLE 3.—UNFUNDED LIABILITIES OF CSRS AND MRS FOR 1979 AND 1980

Programs	Unfunded liabilities		Growth in unfunded liabilities for fiscal 1980	
	1979 (billions)	1980 (billions)	(Billions)	(Percent)
Civil Service	$403.1	$469.5	$66.4	16.5
Military retirement	355.8	431.1	75.3	21.2
Total	758.9	900.6	141.7	18.7

Sources: Public Law 95-595 reports filed with the U.S. Congress for fiscal years 1979 and 1980.

WHY FEDERAL PENSIONS ARE EXPENSIVE

Comparison of federal pension costs with private sector retirement costs gives some perspective on the relative cost of these programs. The average cost of retirement programs in Fortune 500 firms ranges from 7 to 10 percent of payroll. In addition, the employer contributes to Social Security on the basis of employees' salaries. A generous private sector retirement program including Social Security contributions would cost the employer less than 20 percent of payroll. While CSRS participants are not covered by Social Security, the federal government—i.e., the taxpayers—would have to contribute nearly 30 percent of payroll throughout a worker's lifetime to fund his or her benefit. In the military, the cost would be nearly 50 percent; additionally, the government provides Social Security coverage. There are three basic reasons that federal pensions are relatively expensive. First, federal programs provide early retirement with unreduced benefits. Second, they provide high initial benefits. Third, they provide a fully indexed benefit.

The median retirement age under CSRS is below fifty-eight. Under the MRS, the median retirement age is thirty-nine. For most private retirement programs, the normal retirement age is sixty-five.

The second reason is actually related to the first. Private pensions often aim to provide income replacement rates which, when combined with Social Security for full career workers, are comparable to the maximum rates attainable under CSRS or MRS. However, the later normal retirement ages under private plans generally result in shorter benefit payment periods. While most private plans allow early retirement, benefits are often actuarially reduced, especially for workers retiring before age sixty. Such actuarial reductions are rare in federal retirement programs.

Finally, private plans rarely maintain full CPI indexation of benefits. Most private pension beneficiaries do receive periodic benefit increases, but virtually none receive the kinds of protection afforded federal annuitants. A military retiree who retired at age forty-five with twenty-five years of service in 1965 will receive a 1982 pension that is more than three times his final military pay. He will be age, sixty-two this year and eligible for Social Security.

RELATIVE BENEFIT LEVELS

During 1979, federal retirement programs paid more in benefits than all private pension programs combined. Median federal pension benefit levels are about three times the benefit levels of private beneficiaries. Considering that active and retired federal pension participants make up less than 5 percent of the total United States population, there are basic equity questions that

should be considered. These questions arise because of the nature of taxpayer support and the relative generosity of federal pensions.

TABLE 4.—PENSION RECEIPT AND BENEFITS—1979

Type of pension	Number of families receiving benefits (thousands)	Total benefits (billions)	Median benefit
Private	5,773.4	$18.77	$2,199
State or local	1,898.8	8.14	3,171
Federal civilian	1,210.2	10.08	6,728
Military	1,221.5	9.57	6,496

Source: EBRI tabulations of March 1980 Current Population Survey.

CONGRESSIONAL CONSIDERATIONS

Congress is now faced with the unpleasant choice of deciding whether to cap federal pension COLA's at 4 percent per year for the next three years. Some might argue that this measure does not go far enough. Tabulations of the March 1980 Current Population Survey show that 71.4 percent of military pension recipients are under age sixty-two and that more than two-thirds of this group continue to work. While only 34.5 percent of federal civilian pensioners are under age sixty-two, more than half of them continue to work.

Private sector workers, including the overwhelming majority of taxpayers, are not eligible for indexed Social Security benefits until age sixty-two. Is it fair that they pay for the indexation of annuities for federal program beneficiaries who are below sixty-two and who are able to work? Freezing federal annuities for those who are below age sixty-two and able to work and providing a full catch up at age sixty-two would, in the long run, save far more than the proposed three-year cap. Such a policy may be consistent with other budget cuts that have reduced welfare, food stamps, Medicaid, school lunch and other benefits for the needy.

At some point, the Administration and Congress should step back and broadly assess their own retirement programs and goals. Indeed, Senator Ted Stevens of Alaska, Chairman of the Senate Government Operations Committee has begun this process for the CSRS. Given the rethinking of federal priorities, military pension policy may also deserve serious review.

During this period of budget austerity, a basic policy issue facing the Congress is whether federal pensioners should be granted an island of privilege against the cuts affecting most other segments of society.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:09 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 2144) the "Appalachian Regional Development Act Amendments of 1982", with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. OBERSTAR, Mr. ROE, Mr. EDGAR, Mr. RAHALL, Mrs. BOUQUARD, Mr. CLAUSEN, Mr. CLINGER, Mr. HAMMERSCHMIDT, and Mr. MCEWEN as managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, with an amendment; it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. PRICE, Mr. BRINKLEY, Mr. MONTGOMERY, Mr. KAZEN, Mr. WON PAT, Mr. DICKINSON, Mr. TRIBLE, Mr. WHITEHURST, and Mr. MITCHELL of New York as managers of the conference on the part of the House.

The message further announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2457. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6308. An act to ensure rail safety, provide for the preservation of rail service, ensure the completion of the Northeast corridor improvement project, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week".

The enrolled bill and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

At 3:33 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 167. An act for the relief of Juan Esteban Ramirez.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1489. An act to permit the transportation of passengers between Puerto Rico and other United States ports on foreign-flag vessels when United States-flag service for such transportation is not available;

H.R. 5288. An act granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste;

H.R. 5536. An act to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.;

H.R. 5627. An act to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes;

H.R. 6029. An act to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana;

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Street Service, and for other purposes;

H.R. 6188. An act to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes;

H.R. 6204. An act to provide for appointment and authority of the Supereme Court Police, and for other purposes;

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University;

H.R. 6732. An act to amend the International Safe Container Act; and

H.R. 6954. An act to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense.

ENROLLED BILLS SIGNED

At 5:14 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled bills:

H.R. 2160. An act to amend the Potato Research and Promotion Act;

H.R. 6033. An act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States; and

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1489. An act to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign flag vessels when U.S. flag service for such transportation is not available; to the Committee on Commerce, Science, and Transportation.

H.R. 5627. An act to provide for the release of certain restrictions on the conveyance of certain lands conveyed to the State of Florida, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 6029. An act to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana; to the Committee on Energy and Natural Resources.

H.R. 6188. An act to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 6419. An act to direct the Secretary of the Interior to release certain conditions contained in a patent concerning land conveyed by the United States to Eastern Washington University; to the committee on Energy and Natural Resources.

H.R. 6954. An act to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense; to the Committee on Armed Services.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5536. An act to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4082. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, notice of intent to obligate $4.8 million in the Navy stock fund for war reserve stocks; to the Committee on Appropriations.

EC-4083. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Review of Use of Appropriated Funds for Defense Commissary Operations"; to the Committee on Appropriations.

EC-4084. A communication from the Assistant Secretary of Defense transmitting, pursuant to law, a secret report on 39 selected aquisition reports on increased costs; to the Committee on Armed Services.

EC-4085. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the administrative telephone services function at the Naval Coastal Systems Center, Panama City to performance under contract; to the Committee on Armed Services.

EC-4086. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to improve the quality and efficiency of the military judicial system; to the Committee on Armed Services.

EC-4087. A communication from the Director, Facility Requirements and Resources, Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, notice of intent to proceed with three military construction projects for the Naval and Marine Corps Reserve; to the Committee on Armed Services.

EC-4088. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the maintenance and repair of canvas, tents, tarps, furniture, upholstery, and other equipment at Fort Ord, California to performance under contract; to the Committee on Armed Services.

EC-4089. A communication from the Assistant Secretary of the Army for Installation, Logistics, and Financial Management transmitting, pursuant to law, notice of a decision made to convert the bus service and motor vehicle operation activity at Fort Ord, Calif. to performance under contract; to the Committee on Armed Services.

EC-4090. A communication from the Acting Secretary of the Navy transmitting a draft of proposed legislation to authorize the transfer of certain U.S. Naval vessels to foreign governments; to the Committee on Armed Services.

EC-4091. A communication from the President and Chairman of the Export-Import Bank transmitting, pursuant to law, a report on a transaction involving U.S. exports to Indonesia; to the Committee on Banking, Housing, and Urban Affairs.

EC-4092. A communication from the President and Chairman of the Export-Import Bank transmitting, pursuant to law, a report on transactions with Communist countries for June 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-4093. A communication from the Vice President of Amtrak (for Governmental Affairs) transmitting, pursuant to law, a report for April 1982 on itemized revenues and expenses; to the Committee on Commerce, Science, and Transportation.

EC-4094. A communication from the Executive Director of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report entitled "Fisheries for the Future"; to the Committee on Commerce, Science, and Transportation.

EC-4095. A communication from the Executive Director of the National Advisory Committee on Oceans and Atmosphere transmitting, pursuant to law, a report entitled "The Future of the Nation's Weather Services"; to the Committee on Commerce, Science, and Transportation.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1114. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Agriculture, Nutrition, and Forestry:

"RESOLUTION

"Whereas, The Dixon Springs Agricultural Center (DSAC) was established in Pope County, Illinois, through the cooperation of the United States Department of Agriculture and the University of Illinois in 1934; and

"Whereas, Work at the Center during the early years focused on the control of erosion and improvement of soil fertility; and to that end, research was conducted on grasses, legumes, fertilizers and ruminant livestock; and

"Whereas, The present emphasis at DSAC continues to be on soil erosion control, studying grass and legume covercrops and no-till methods for row crops and production of meat animals; and horticulture, veterinary medicine and forestry research have also been included; and

"Whereas, The Center's focus in the future will continue to be on soil erosion, but will also emphasize the possible uses of technology in aiding the economic development of the region; and this added emphasis will concentrate on marketing, new enterprise development and the influence of governmental policies on economic change; and

"Whereas, The Dixon Springs Agricultural Center has been and will continue to be a very important site for the University of Illinois College of Agriculture's research in Southern Illinois; and

"Whereas, Unfortunately, the University of Illinois owns only an extremely small portion of the land being used by DSAC—only .6 acres; and the future of the research program at DSAC depends heavily on the University's acquisition and ownership of the federally-owned land currently used by DSAC; and

"Whereas, University ownership of the land being used by DSAC will place the University of Illinois in a much stronger position to assist in the growth and expansion of the economy of Southern Illinois; therefore, be it

"Resolved, by the House of Representatives of the eighty-second general assembly of the State of Illinois, That we request that the United States Congress provide for the acquisition by the University of Illinois of the federally-owned land currently being used by the Dixon Springs Agricultural Center so as to further the growth and development of the economy of the region; and, be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the President of the United States, the Vice-President of the United States, the Speaker of the House of Representatives, the Secretary of Agriculture and to each member of the Illinois Congressional delegation."

POM-1115. A resolution adopted by the National Society of the Sons of the American Revolution supporting the strategy of peace through strength and the efforts of President Reagan and the Congress to increase our military effectiveness; to the Committee on Armed Services.

POM-1116. A resolution adopted by the Board of Administration of the State of California Public Employees' Retirement System urging Congress to enact legislation requiring bank holding companies to be subject to cumulative voting requirements as are their federally chartered subsidary

banks; to the Committee on Banking, Housing, and Urban Affairs.

POM-1117. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to authorize the Treasury Department to mint and distribute a gold coin bearing the likeness of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

POM-1118. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs.

"ASSEMBLY JOINT RESOLUTION No. 109

"Whereas, California has a greater number of savings and loan associations than any other state, including savings and loan associations which are owned or controlled by ethnic minorities; and

"Whereas, Such minority owned or controlled savings and loan associations were formed to meet the financial needs of their communities and have made significant contributions to the economic health and development of the communities they serve by promoting thrift and homeownership by minority persons; and

"Whereas, Minority owned or controlled savings and loan associations historically have often been the sole financial resource for minority communities and have served as important role models which boost the morale of members of the minority business community; and

"Whereas, Persistently high interest rates and inflation have eroded the net worth of the savings and loan industry and have resulted in an increasing number of mergers and acquisitions of savings and loan associations; and

"Whereas, The current state of the economy and the effect on the savings and loan industry have resulted in the merger of minority owned or controlled savings and loan associations with larger nonminority institutions at a loss to the ethnic identity of these associations; and

"Whereas, The preservation of the ethnic identity of minority owned or controlled savings and loan associations serves a significant social and economic purpose, and is essential in order to inspire the confidence of the members of the communities they serve; and

"Whereas, The federal National Housing Act provides for special assistance where a financial institution is deemed to be necessary to its community; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature memorializes the President and Congress of the United States to enact legislation which would require the Federal Home Loan Bank Board to devise and adopt measures to assure the survival and viability of minority owned or controlled savings and loan associations through merger or special financial assistance under the National Housing Act; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Federal Home Loan Bank Board, and to each Senator and Representative from California in the Congress of the United States."

POM-1119. A resolution adopted by the House of Representatives of the Third Northern Marianas Commonwealth Legislature; to the Committee on Energy and Natural Resources:

"H. RES. No. 83"

"Whereas, the Commonwealth of the Northern Mariana Islands has been administered by the United States of America pursuant to Chapter XII of the Charter of the United Nations and the Trusteeship Agreement for the Former Japanese Mandated Islands since July 18, 1947; and

"Whereas, Article 73(b) of the Charter of the United Nations imposes upon the administering authority as a sacred trust the obligation to take due account of the political aspirations of the people of the Northern Mariana Islands and assist them in the progressive development of their free political institutions; and

"Whereas, Article 76(b) of the Charter of the United Nations provides that the basic objective of a Trusteeship Agreement is to promote the political, economic, social and educational advancement of the subject people respecting their freely expressed wishes of progressive development towards self-government; and

"Whereas, Article 87(b) of the Charter of the United Nations authorizes the General Assembly and the Trusteeship Council to accept petitions and examine them in consultation with the administering authority; and

"Whereas, the freely expressed wishes of the people of the Northern Mariana Islands regarding self-government was evidenced by a seventy-eight percent affirmative vote in a plebiscite held on June 17, 1975, which ratified the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America; and

"Whereas, the Trusteeship Agreement for the Former Japanese Mandated Islands is the longest and the last remaining United Nations Trusteeship, and President Jimmy Carter had proposed a termination date of 1981; and

"Whereas, it is the sense of the House of Representatives of the Third Northern Marianas Commonwealth Legislature that the political, economic, social and educational advancement of the people of the Northern Mariana Islands requires the prompt termination of the Trusteeship Agreement for the Former Japanese Mandated Islands, by the United Nations Security Council, either wholly or partially, as it relates to the Commonwealth of the Northern Mariana Islands; now, therefore,

"Be it resolved that the Petition of the House of Representatives to obtain a prompt termination of the Trusteeship Agreement for the Former Japanese Mandated Islands be presented to the visiting mission of the Trusteeship Council of the United Nations and duly transmitted to the United Nations Security Council; and

"Be it further resolved that the Trusteeship Council is hereby requested to report favorably on such Petition in its report and take all appropriate actions to assist the people of the Northern Mariana Islands in obtaining a prompt termination of such Trusteeship Agreement, no later than December 31, 1983, by the Administering Authority and the Security Council of the United Nations; and

"Be it further resolved that the Speaker of the House of Representatives shall certify and the House Clerk attest to the adoption of this resolution and thereafter transmit certified copies to the visiting mission of the United Nations Trusteeship Council for transmittal to the Security Council; to the President of the United States of America; to the President of the Senate of the United States Congress; to the Speaker of the House of the United States Congress; to the Secretary of State of the United States; to the Secretary of the Department of Interior of the United States; to the Governor of the Commonwealth of the Northern Mariana Islands; to the President of the Senate of the Northern Marianas Commonwealth Legislature; and to the Representative to the United States for the Commonwealth of the Northern Mariana Islands."

POM-1120. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to conduct hearings to review all environmental legislation for the purpose of transferring the responsibility for enacting and enforcing environmental legislation to state and local governments; to the Committee on Environment and Public Works.

POM-1121. A resolution adopted by the City Council of the City of Houston, Texas opposing section 121 of H.R. 6211, the Federal "Surface Transportation Assistance Act of 1982"; to the Committee on Environment and Public Works.

POM-1122. A resolution adopted by the Houston Municipal Art Commission opposing section 121 of proposed HR. 6211, the Federal "Surface Transportation Assistance Act of 1982; to the Committee on Environment and Public Works.

POM-1123. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to authorize the establishment of a "User's Fee" equal to the cost of furnishing census microfilms to local libraries and genealogical societies; to the Committee on Finance.

POM-1124. A resolution adopted by the City Council of East Chicago, Indiana urging Congress to impose steel import limitations under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-1125. A resolution adopted by the Southern Governors' Association opposing Federal preemption of state revenue sources; to the Committee on Finance.

POM-1126. A resolution adopted by the State Board of Education of the State of Michigan urging Congress to safeguard recipients of and applicants for Social Security benefits; to the Committee on Finance.

POM-1127. A resolution adopted by the Board of Commissioners of the City of Dothan, Alabama opposing H.R. 4928 and H.R. 4929, the "Public Employee Pension Plan Reporting and Accountability Act"; to the Committee on Finance.

POM-1128. A resolution adopted by the City Council of the City of Grand Terrace, California urging the California Congressional Delegation to persist in an effort to obtain approval for locating U.S. Customs and Immigraton at Ontario International Airport; to the Committee on Finance.

POM-1129. A resolution adopted by the University of Wisconsin-Stout Faculty Senate urging Congress to enter into a mutual nuclear weapons moratorium with the Soviet Union and other nations; to the Committee on Foreign Relations.

POM-1130. A resolution adopted by the Islamic Center of Connecticut recognizing the inalienable and legitimate right of self-determination of the Palestinian people, supporting their just and lawful cause, and condemning the Israeli acts of aggression and inhumanity; to the Committee on Foreign Relations.

POM-1131. A resolution adopted by the County Council of Baltimore County, Maryland urging Congress to enter into agree-

ment with the Union of Soviet Socialist Republics in order to immediately halt the nuclear arms race; to the Committee on Foreign Relations.

POM-1132. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to reform severely our immigration laws; to the Committee on the Judiciary.

POM-1133. A resolution adopted by the National Society of the Sons of the American Revolution supporting the amendment to the Constitution proposed by Senator Hayakawa of California to make English the official language of the United States; to the Committee on the Judiciary.

POM-1134. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to adopt an amendment to the Constitution permitting individual and/or group prayer in public schools and other public places and institutions; to the Committee on the Judiciary.

POM-1135. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary:

"Whereas, The House acknowledges the controversy surrounding the insanity defense in criminal prosecutions; and

"Whereas, This defense has been utilized by criminal defendants to the detriment of the victims of crime and the general public; and

"Whereas, As a result of this controversy the members and committees of the Illinois General Assembly have undertaken a study of the insanity defense; and

"Whereas, This study has led to the enactment in Illinois of a guilty but mentally ill verdict; and

"Whereas, Public outrage at the not guilty by reason of insanity verdict in the John Hinckley, Jr. case suggests the need for review of the insanity defense in federal criminal prosecutions; and

"Whereas, Congress should follow the lead of Illinois in enacting a guilty but mentally ill verdict for federal offenses; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Second General Assembly of the State of Illinois, That we urge the Congress of the United States to enact a guilty but mentally ill verdict for federal offenses; and, be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Honorable George Bush, President of the United States Senate, the Honorable Thomas P. O'Neill, Speaker of the United States House of Representatives and to the members of the Illinois Congressional Delegation."

POM-1136. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 999

"Whereas, The House of Representatives of the State of Illinois wishes to express its distress at the sorry plight of the Haitian refugees who are seeking asylum in the United States from the persecution and poverty of life in Haiti under the authorization government of Jean Claude Duvalier, President for life; and

"Whereas, The mass emigrations from Haiti, one of the poorest countries in the world were spurred not only by the extreme poverty there, but also by President Duvalier's use of torture and arbitrary incarceration for a variety of political and non-political offenses; and

"Whereas, When the Bahamas limited the number of Haitians allowed to legally reside in their country in 1980 by deporting some Haitians and encouraging others to leave, many Haitians, believing in the goodness and compassion of Americans, fled in small boats to the nearby coast of Florida which, coupled with the recent influx of Cuban boat people, led the residents of South Florida communities to demand strong federal restrictions on the steady stream of undocumented aliens; and

"Whereas, In response to these pleas, President Reagan issued an Executive Order calling for the interception of vessels transporting Haitian refugees; Coast Guard cutters now intercept any vessel within United States territorial limits thought to be carrying Haitian refugees; and

"Whereas, Article 14(1) of the Universal Declaration of Human Rights, unanimously adopted by the United Nations General Assembly of 1948 states, "Everyone has the right to seek and to enjoy in other countries asylum from persecution", although each country retains the right to refuse to grant asylum to an individual; and

"Whereas, United States refugee admissions and asylum policy is governed by the Immigration and Nationality Act of 1952 under which an alien is eligible for asylum if he or she is a "refugee" under the Act; however, even a "refugee" may be denied asylum if the President forbids entry of the class of aliens to which he or she belongs because that class is determined to be detrimental to United States interests; and

"Whereas, Alternatively, the United States may deport the aliens to another country which will not persecute them, or it may allow the aliens to remain on United States territory until the situation in their country improves; however, in the case of the Haitians, no other country will grant them asylum, and once they are permitted to stay here, they often disappear into the Haitian community thereby permanently avoiding deportation; and

"Whereas, There are presently 1,974 Haitians interned in camps in Florida; and the Immigration and Nationalization Service, which administers the internee program and has jurisdiction over all asylum hearings, is currently enjoined from proceeding with asylum hearings until the Haitians are represented by legal counsel; therefore, the Immigration and Naturalization Service is pursuing pro bono representation agreements with the local bar associations; and

"Whereas, The United States, with its long-standing reputation in the world as a haven for those seeking freedom, economic opportunity and refuge from persecution, must adhere strictly to spirit of the law in according Haitian refugees their rights despite their alien status and must unmistakably convey to the world its support of and compassion for these sorry people in search of political and economic freedom; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Second General Assembly of the State of Illinois, That in light of the United States tradition of readily offering refuge from persecution, of standing as a beacon to the world and as an example of justice and fairness to all, especially the politically oppressed, and of having and displaying faith in the integrity and dignity of all people, we express our fervent hope and desire that the President and the Congress treat the Haitian refugees fairly and impartially and give them all due consideration in accord with the 1952 Immigration and Nationality Act, as amended, especially those provisions regarding due process; and that we express our view that the American government and business community should reconsider their activities in Haiti and withdraw their support from that country until such time as the conditions which have caused the mass exodus from that country are rectified; and, be it further

"Resolved, That a suitable copy of this preamble and resolution be forwarded to the President of the United States, to the Commissioner of the Immigration and Naturalization Service, to the presiding officers of the Senate and House of Representatives of Congress and to the members of the Congressional Delegation from the State of Illinois."

POM-1137. A resolution adopted by the National Society of the Sons of the American Revolution urging Congress to recognize the services of Haym Salomon by a Congressional Medal struck and a Resolution by Congress recognizing his services; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with amendments:

S. 2675. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia (Rept. No. 97-526).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2297. A bill to amend title 11, United States Code, to improve the protections for shopping centers and their tenants under the Bankruptcy Code (Rept. No. 97-527).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 450. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1844; referred to the Committee on the Budget.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1844. A bill to facilitate the national distribution and utilization of coal (with additional and minority views) (Rept. No. 97-528).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

Tom H. Carothers, of Texas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988;

Leonard R. Fouts, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988; and

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture.

(The above nominations were reported from the Committee on Agriculture, Nutrition, and Forestry, with the

recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development;

James Malone Rentschler, of Pennsylvania, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Malta:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee, James Malone Rentschler; Post, Valletta, Malta.

Contributions, amount, date, donee.

1. Self, James M. Rentschler, none.

2. Spouse, Mary B. Rentschler, none.

3. Children and spouses, James Felix Rentschler; Jeffrey William Rentschler, none.

4. Parents names, deceased.

5. Grandparents names, deceased.

6. Brothers and spouses names, Larry M. Rentschler, none.

7. Sisters and spouses names, not applicable.

Theodore George Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination. Nominee Theodore G. Kronmiller, Post Ambassador of the United States for Oceans and Fisheries Affairs.

Contributions, amount, date, donee.

1. Self, $20, October 1980, American Security Council.

2. Spouse, None.

3. Children and spouses names, none.

4. Parents, names, George H. Kronmiller, $500/per year 1978-82, United Technologies PAC; local Republican fund-raisers.

5. Grandparents names, Mr. and Mrs. Theodore F. Freed.

Political contributions:

1977—$285—Republican National Committee.

1978—$840—Jessie Helms, Governor Thornburg, Bill Goodling.

1979—$415—George Bloom for Republic Party of Pennsylvania; Republican National Committee; Republican Party of Pennsylvania; American Security Council; Republican Association National Club.

1980—$405—American Security Council; Zimmerman, Attorney General for Pennsylvania; Republican State Committee; Republican Leadership in 1980; Republican National Committee; GOP Victory Fund.

1981—$215—Senatorial Leadership Committee, John Hines; John T. Miller, local judge; GOP Victory Fund; Republican National Committee.

1982—$675—19th Congressional District, James Baker; Governor Thornburg; Senatorial Leadership Committee, John Hines; Guy Vanderjack; Republican Campaign Committee; Republicans of Pennsylvania; William Scranton, Lieutenant Governor; Drew Lewis, Republican Party of Pennsylvania; GOP Victory Fund.

6. Brothers and spouses names, none.

7. Sisters and spouses names, none.

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs; and

Robert John Hughes, of Massachusetts, to be an Assistance Secretary of State.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

William M. Acker, Jr., of Alabama, to be U.S. District Judge for the Northern District of Alabama;

Bruce M. Selya, of Rhode Island, to be U.S. District Judge for the District of Rhode Island; and

Charles L. Dunahue, of Colorado, to be U.S. Marshal for the District of Colorado for the term of 4 years; and

Clinton T. Peoples, of Texas, to be U.S. Marshal for the Northern District of Texas for the term of 4 years.

BILL S. 2838 READ THE SECOND TIME AND PLACED ON THE CALENDAR

The following bill; which was introduced and read the first time on yesterday, was read the second time and placed on the calendar:

S. 2838. A bill to reform procedures for collateral review of criminal judgements, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2845. A bill to amend Section 202(7)(c) of Title III, United States Code; to the Committee on Environment and Public Works.

By Mr. WEICKER:

S. 2846. A bill directing the President to prepare and submit an annual report on the state of the insular areas to Congress, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COCHRAN (for himself, Mr. DOMENICI, Mr. ANDREWS, and Mr. NICKLES):

S. 2847. A bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. COCHRAN:

S. 2848. A bill to amend the Congressional Budget and Impoundment Control Act of 1974, to provide for budgetary planning every two years; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977 with instructions that if one Committee reports, the other Committee has thirty days of continuous session to report or be discharged.

By Mr. BOSCHWITZ (for himself and Mr. RANDOLPH):

S. 2849. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; to the Committee on Labor and Human Resources.

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2850. A bill to authorize the transfer of the St. Louis Airport Storage Site from the City of St. Louis, Missouri to the Department of Energy; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself and Mr. LONG):

S.J. Res. 231. A joint resolution to authorize and request the President to designate the week of October 11, 1982, through October 17, 1982, as "National Get High on Life Week."; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ARMSTRONG:

S. Res. 449. A resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline; to the Committee on Foreign Relations.

By Mr. McCLURE:

S. Res. 450. An original resolution waiving section 402(a) of the Congressional budget Act of 1974 with respect to the consideration of S. 1844; from the Committee on Energy and Natural Resources; to the Committee on the Budget.

By Mr. RANDOLPH:

S. Con. Res. 116. A concurrent resolution expressing the sense of Congress that a national coal export policy is necessary to coordinate federal activities with respect to increasing coal exports, to provide for a statement of intent regarding coal port improvements, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER:

S. 2846. A bill directing the President to prepare and submit an annual report on the state of the insular areas to Congress, and for other purposes; to the Committee on Environment and Public Works.

STATE OF THE INSULAR AREAS REPORT ACT

Mr. WEICKER. Mr. President, I am sending to the desk for appropriate reference legislation covering several issues affecting the territories and insular areas of the United States. These issues have been or are under active consideration by the House Committee on Interior and Insular Affairs and I am introducing them today so that the Senate Committee on Energy and Natural Resources will have the opportunity to receive testimony on them at

the same time as hearings are held on other measures affecting the territories later this session. I am not at this time endorsing any of the specific provisions of this legislation, although I would note that, especially with respect to the authorizations for water and power and juvenile detention facilities in the Virgin Islands, the measure does address areas which demand immediate attention by the Congress.

Mr. President, I ask unanimous consent that the text of the measure be printed in full in the RECORD at the close of my remarks.

There being no objections, the bill was ordered to be printed in the RECORD, as follows:

S. 2846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. This title may be cited as the "State of the Insular Areas Report Act".

SEC. 102. The President is authorized and directed to prepare and transmit a state of the insular areas report to the Speaker of the United States House of Representatives and the President of the United States Senate on the first day of each session of the Congress. The report shall indicate the social, economic, and political conditions of the insular areas of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands through the preceding fiscal year. It shall detail changes in those conditions which occurred during the fiscal year as well as foreseeable future developments and recommended actions.

SEC. 103. Matters on which the report shall provide information for each insular area shall include, but not be limited to, improvements in the insular area's relationship with the United States; progress toward full self-government; the applicability or inapplicability of Federal statutory and administrative actions and their impacts; the effectiveness and delivery of Federal programs; discrimination in the treatment of the insular area or its residents under any Federal policy or program relative to the treatment of the States or their citizens; the activities and accomplishments of agencies pertaining to the insular area; the adequacy of essential public infrastructure; general economic conditions; private sector activities and development and investment potential; existing employment and job opportunities and training; the fiscal position of the insular area; amounts and uses of Federal direct and indirect assistance; international obligations regarding the insular area; and compliance with legislative mandates.

SEC. 104. The report shall clearly state the program of the President with regard to the matterrs specified in section 3, together with specific proposals to accomplish said program.

SEC. 105. Funds appropriated for the expenses of the Office of the President and the Office of Territorial and International Affairs of the Department of the Interior are authorized to be used for the purposes of this Act.

TITLE II

SEC. 201. Section 205 of Public Law 95-134 (91 Stat. 1159, 1162), as amended by subsection 1(d) of Public Law 95-348 (92 Stat. 487, 488), is further amended by deleting "Medical Center of the Marianas:" and inserting in lieu thereof "Medical Center of the Marianas, to renovate, maintain, and operate the Guam Memorial Hospital, and to construct, maintain, and operate a health care facility in the northern part of Guam:".

SEC. 202. There are hereby authorized to be appropriated to the Secretary of the Interior not to exceed $40,000,000 for grants to the government of the Virgin Islands for improvements in the generation and distribution of water and power.

SEC. 203. There are hereby authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for grants to the government of the Virgin Islands for construction of two juvenile pretrial detention facilities, one on the island of St. Thomas, and one on the island of St. Croix.

SEC. 204. Section 202 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this Act, the amount of any grant for treatment works in Puerto Rico made under this Act shall be 95 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1982, 90 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1983, and 75 per centum of the cost of construction thereof (as approved by the Administrator) in the case of a grant from funds authorized for the fiscal year ending September 30, 1985.".

By Mr. COCHRAN (for himself, Mr. DOMENICI, Mr. ANDREWS, and Mr. NICKLES):

S. 2847. A bill to provide for an Indian housing program for construction and financing of housing for Indians, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN HOUSING ACT OF 1982

● Mr. COCHRAN. Mr. President, I am pleased that Senators DOMENICI, ANDREWS, and NICKLES are joining me today in introducing a bill to establish a comprehensive Indian housing program in the Bureau of Indian Affairs. This program will assist Indians in obtaining decent, safe, and sanitary housing by providing necessary grants, financing, and loan guarantees.

Despite past efforts by the Federal Government to provide housing on Indian reservations, American Indians suffer from the worst housing conditions of any U.S. citizens. While approximately 12 percent of all Americans live in substandard houses, over 43 percent of all Indians live under these conditions. Many of these houses are not safe and do not have electricity or sanitation facilities. Twenty-seven percent of Indian houses are overcrowded, and the latest figures from the Bureau of Indian Affairs show that 28,600 families on reservations have no housing at all. Many live in cars and tents. Water is not always available and has to be brought in from miles away. Health statistics are grim.

Chief Phillip Martin and the other leaders of the Choctaw Indian Tribe in my State of Mississippi are very concerned about the housing needs of their people. Private market funds are not available for reservation housing and it is very difficult to find any rental property off the reservation.

At least one third of the existing housing on the Choctaw Reservation is substandard and an equal number has been listed by the Indian Health Service as being overcrowded. There has never been enough housing to meet the needs of the population or keep up with the deterioration. Five hundred and fifty units are needed this year. Choctaw officials had expected 200 units from the HUD program, but they have been advised that they will receive an allocation of only 75 units. Since the administration has proposed termination of the HUD Indian housing program, it is uncertain if any additional units will be planned for fiscal year 1983.

The United States has a special responsibility for Indian tribes and their members and should establish a flexible housing program that can meet the unique needs of our various Native American communities.

The bill my colleagues and I are introducing is very similar to legislation recently reported by the House Committee on Interior and Insular Affairs and has three basic elements.

Title I would provide a statutory basis for the existing Indian housing improvement program administered by the Bureau of Indian Affairs. This program provides grants to Indian families who are at the very lowest income levels or in the most isolated or other extreme circumstances.

Title II would provide Federal financing for low- and moderate-income Indian families who would be required to make some payment for their housing assistance based upon their ability to pay. This program is an Indian housing program which would provide needed flexibility which is lacking in the existing HUD program and would provide sanctions for nonpayment. The program does not lock the United States into a long-term, extremely large monetary commitment like the existing HUD program. For instance, the fiscal year 1982 HUD appropriation for 4,000 units of Indian housing will lock the United States into a $703 million obligation over a 30-year period. Title II of this bill would require a larger up-front appropriation, but would not lock the Federal Government into long term, exorbitant obligations.

Title III of the bill authorizes a mortgage loan guarantee for Indian families who can afford housing, but who cannot obtain housing credit because of the trust nature of their land.

The need for decent Indian housing is immediate, and if we do not make the effort now to establish a program to meet this need, conditions for American Indians will continue to decline. This bill provides authority for appropriating the necessary funds for the Bureau of Indian Affairs to develop the program in fiscal year 1983, and authorizes the funds to undertake the full program in fiscal year 1984. Until such time as this new program is in place to provide proper housing, I hope that the Congress will fund the existing program in the Department of Housing and Urban Deveopment in an amount commensurate with the magnitude of the problem.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Housing Act of 1982."

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds, based upon the Federal Government's historical and special legal relationship with, and resulting responsibility to, American Indian people that—

(1) the goal of decent, safe, and sanitary housing has not been realized for many Indian families and elderly residing on Indian reservations and in Indian communities;

(2) nearly 40 per centum of all Indian housing is in substandard condition as compared with a national figure of 12 per centum;

(3) this situation is of grave concern; and

(4) special efforts are needed to mobilize public and private resources for the realization of this goal.

(b) It is declared to be the policy of the United States to provide grants, financing, and loan guarantees to assist Indians in obtaining decent, safe, and sanitary housing.

DEFINITION

SEC. 3. For the purpose of this Act, the term—

(1) "adjusted family income" means gross family income less $1,000 for each member of the household, plus a further deduction of $3,400 or the amount of itemized deductions from the family's most recent Federal income tax return, whichever is higher;

(2) "amortization payment" means that payment which would be the equivalent of the level monthly amount needed to amortize the capital cost of a house over the term of a housing assistance contract for twenty-five years at the Federal Housing Administration mortgage rate in effect on the date of the execution of a project agreement;

(3) "family" means one or more persons maintaining a household. The tribal housing agency shall determine which adult members of a family will be required to execute a housing assistance contract;

(4) "housing assistance contract" means the executed agreement between the tribal housing agency and an eligible family which specifies the terms, conditions, rights, and responsibilities of the parties;

(5) "Indian" means a person who is a member of an Indian tribe or who is an Indian as defined is section 19 of the act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479);

(6) "mortgage" means a mortgage, deed of trust, or any other instrument establishing a lien on real property;

(7) "project" means the entire undertaking to provide housing under a project agreement, including the minimum number of housing units to be developed or rehabilitated with funds allocated under such agreement;

(8) "Secretary" means the Secretary of the Interior; and

(9) "standard housing" means a dwelling in a condition which is decent, safe, and sanitary so that it at least meets the following minimums—

(i) general construction conforms to applicable standards for the region;

(ii) the heating system has the capacity to maintain a minimum temperature of sixty degrees Fahrenheit in the dwelling during the coldest weather in the region. It must be safe to operate and maintain and deliver a uniform distribution of heat. Applicable local heating codes are to be followed or, if there are no applicable local codes, county and State codes are to be used as a guide;

(iii) the plumbing system includes a properly installed system of piping. Fixtures consist of a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower. The water supply, plumbing, and sewage disposal systems meet minimum standards of the Indian Health Service, tribe, county, or State, whichever is applicable;

(iv) the electrical system includes wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances. The tribal, county, or State electrical code, whichever is applicable, must be used as an alternative standard. If no codes exist, a minimum of two circuits per dwelling must be installed with provision for at least one additional circuit for future use; and

(v) family size per dwelling is not less than—

(I) five hundred and seventy square feet for a family of up to four members;

(II) eight hundred and fifty square feet for a family of five to seven members; and

(III) one thousand and twenty square feet for a family of eight or more members;

except that the Secretary, upon the request of a tribe or tribal housing agency, may, in appropriate circumstances, waive the minimum size standards established by this subparagraph;

(10) "tribal housing agency" means that entity or administrative unit of the tribal government which has been designated or established by the tribe to administer housing programs under this Act;

(11) "tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined or established pursuant to the Alaska Native Claims Settlement Act (86 Stat. 688) which is recognized as eligible for the special programs and services provided by the Bureau of Indian Affairs to Indians because of their status as Indians; and

(12) "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian or Indian tribe subject to a restriction against alienation imposed by the United States.

TITLE I—INDIAN HOUSING IMPROVEMENT PROGRAM

BASIC AUTHORITY

SEC. 101. (a) There is hereby established an Indian housing improvement program for the purpose of making grants or providing assistance to preserve existing housing, make repairs, and construct or acquire standard housing for Indians.

(b) The Secretary is authorized, upon application of an Indian tribe or individual, to make grants or provide assistance to assist Indian families who are not eligible for housing assistance under titles II and III of this Act because of low income or extremely isolated circumstances.

(c) The Secretary shall assure that grants or assistance provided under this title shall be consistent with plans and priorities established by tribes and shall, upon the request of the appropriate tribe or tribal housing agency, make such grants or assistance available through agreements with the tribe or tribal housing agency. In the absence of such an agreement, the Secretary may—

(1) make, with appropriate safeguards, direct grants to individual Indians;

(2) contract with private construction firms pursuant to standard Federal contracting procedures, except that the Act of April 30, 1908 (35 Stat. 71; 25 U.S.C. 47), as amended, shall apply unless the concerned tribe requests, through formal action, that the applicability of the Act be waived on a specific procurement action; or

(3) have repairs or new construction performed directly by the Bureau of Indian Affairs.

(d) With respect to assistance provided under agreements entered into pursuant to subsection (c) of this section, a tribe or tribal housing agency, in its discretion, may require an assisted family to make a monthly payment not to exceed the administrative charge established for such tribe or tribal housing agency pursuant to section 210 of this Act or, if no such amount has been approved, an amount satisfactory to the Secretary. Receipts from such payments shall be used solely for housing-related activities of such tribe.

ELIGIBLE ACTIVITIES

SEC. 102. (a) Grants or assistance may be provided under this title to—

(1) finance minor repairs and additions to existing substandard housing to improve safety and sanitary conditions until such time as standard housing assistance can be made available to such family;

(2) finance major repair, renovations, or enlargement of existing dwellings that are structurally sound, but deteriorated, and which can be economically placed in standard condition; and

(3) finance the construction or acquisition of new standard housing where severe need is demonstrated and it is established that there is no reasonable prospect that standard housing can be financed from other sources.

(b) Appropriate insurance shall be required on housing constructed, acquired, or improved under subsection (a) (2) or (3) of this section, unless waived by the Secretary.

RESERVATION OF INTEREST

SEC. 103. (a) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on trust land, the Secretary shall not approve the sale or lease of such land, unless the

provisions of section 104 of this title have been met.

(b) Where a house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title is located on fee land, the Secretary shall insure that a lien upon such land is recorded under appropriate State law, noting the encumbrance imposed by section 104 of this title.

SALE OF PROPERTY

SEC. 104. Any house constructed, acquired, or repaired pursuant to section 102(a) (2) or (3) of this title may be sold, except that the sale price shall not be less than the value of the assistance provided pursuant to section 102 reduced five per centum per year for twenty years. The amount of the minimum sale price shall be reimbursed to the United States and shall be credited to the appropriation authorized by section 105 of this title. Any amount in excess of such minimum sale price shall be the property of the assisted Indian family. Where such house is located on tribal trust land, the tribe shall have the right of first refusal on the sale of such house.

AUTHORIZATION

SEC. 105. There are authorized to be appropriated for the purpose of this title, such sums as may be necessary in fiscal year 1983, not to exceed $30,000,000 in fiscal year 1984, not to exceed $40,000,000 in fiscal years 1985 and 1986, and not to exceed $50,000,000 in fiscal year 1987.

TITLE II—INDIAN HOUSING FINANCE FUND

ESTABLISHMENT

SEC. 201. There is established an Indian housing finance fund (hereinafter referred to as the "fund") for the purpose of providing financing to Indian tribes for the construction, acquisition, or rehabilitation of standard housing for Indian families who are unable to obtain financing from other sources on reasonable terms and conditions and who are not eligible for assistance under title III of this Act, but who can meet the minimum monthly payment required by this title.

TRIBAL HOUSING PLAN

SEC. 202. As a prerequisite for eligibility for financing from the fund, a tribe must prepare and submit to the Secretary for approval a tribal housing plan. Such plan, at a minimum, shall include an inventory of existing housing; an assessment of housing needs; a proposed tribal administrative structure to implement a housing program; an assessment of the tribe's capacity to administer such program; and a projection of how the tribe intends to meet its housing needs over a multiyear period.

APPLICATIONS

SEC. 203. (a) Applications for financing from the fund shall be submitted to the Secretary and shall specify the number of housing units to be developed and methods of production and development; shall include preliminary drawings and specifications; and shall otherwise be consistent with the approved tribal housing plan.

(b) Applications for funding shall be evaluated and approved, subject to the availability of appropriations, based upon, but not limited to, the following criteria—

(1) a priority for those tribes which have not received financing from the fund in prior fiscal years;

(2) a determination of the administrative, management, and accounting capability of the tribe to implement the proposed housing project;

(3) a determination of the percentage of tribal housing units in a substandard condition;

(4) the housing needs of such tribes as contained in the biannual housing inventory required by section 405 of this Act; and

(5) a determination by the Secretary that there is a reasonable prospect of repayment.

(c) The application shall include a tribal ordinance or other evidence of action of the governing body of the tribe designating or establishing a tribal housing agency (hereinafter referred to as the "agency") which shall be responsible for implementing the project agreement.

(d) Nothing herein shall preclude the submission and approval of multitribal applications and the Secretary shall encourage, but shall not require, multitribal applications to achieve economy of scale in housing projects.

PROJECT AGREEMENT

SEC. 204. Upon approval of an application, the Secretary and the agency shall enter into a project agreement which shall specify the amount of funds to be made available, the minimum number of housing units to be developed with such funds, the production method, and such other terms and conditions as may be reasonable and consistent with the provisions of this title.

ADMINISTRATIVE AND FUNDING PROVISIONS

SEC. 205. (a) The project agreement shall set forth the administrative and judicial authorities, forums, procedures, remedies, and sanctions that the tribe or tribal housing agency will employ to insure collections of monthly payments and the deposit of residual receipts as required by section 211 of this title. It shall also contain a provision that the tribe specifically agree that—

(1) it shall require any Indian family executing a housing assistance contract to authorize the Secretary, on his own motion or at the request of the agency, to attach unobligated trust funds of the adult members of such family for a failure to meet the obligations incurred in such contract; and

(2) its unobligated tribal trust funds may be subject to attachment for failure to meet the requirements of section 211 only as provided in subsection (b) of this section.

Notwithstanding any other provision of law, Indian trust funds shall be subject to attachment as provided in this section. Funds attached under this section shall be paid into the fund as residual receipts.

(b) Tribal trust funds shall be subject to attachment only when (1) its tribal housing agency has failed to meet the financial obligations imposed under section 211 of this title; (2) the Secretary has reasonably exhausted all other available remedies to satisfy the default; and (3) the Secretary has made a specific finding that the tribe has not acted in good faith in carrying out the undertaking as required in subsection (a) of this section.

(c) Prior to the attachment of any trust funds as provided in this section, the Secretary shall provide the tribe or Indian family, as the case may be, with written notice of his intent. Within sixty days of such notice, the tribe or Indian family shall be entitled to (1) pay the amount in default; (2) negotiate a repayment schedule satisfactory to the Secretary; or (3) institute such administrative appeals or judicial actions as may otherwise be authorized.

(d) The Secretary may not refuse assistance under this title on the basis that a tribe or Indian family has no trust funds to their credit.

DISBURSEMENTS

SEC. 206. (a) An initial disbursement may be made from the fund, under a project agreement, to cover costs incurred by the agency for preliminary planning and administration. The initial disbursement shall not exceed $50,000 or 3 per centum of the total funding of the project, which ever is greater. Further disbursements under the project agreement shall be made based upon the percentage of completion of the project as specified in the project agreement and as determined pursuant to the plans and specifications approved under section 207 of this title. Percentage of completion of a project shall be certified jointly by the agency and a person designated by the Secretary who shall have no financial or tribal interest in the project.

(b) A jointly conducted final inspection and certification of completion of the project shall be made be the designee of the Secretary, the agency, the contractor, or developer, and, where appropriate, the Indian Health Service.

(c) All moneys disbursed from the fund shall be maintained by the agency in an account separate from all other funds of the tribe or the agency and shall be accounted for as provided in the project agreement.

(d) All housing units provided for in the project agreement shall be placed under construction or acquistion contracts within one year of the execution of the project agreement, except that, where the Secretary determines that the inability of the agency to place units under contract is due to circumstances beyond the control of the agency, he may extend the period for an additional ninety days. Funds for units not placed under contract within such time shall be returned to the fund or such amount shall be deducted from approved allocations from the fund for such tribe in subsequent years.

SUBMISSION OF FINAL PLANS AND SPECIFICATIONS

SEC. 207. Within one hundred and twenty days of the initial disbursement of funds as provided in section 206, the agency shall submit to the Secretary the final plans and specifications for housing units to be developed under the project agreement. Such plans and specifications shall include a phased construction schedule necessary to facilitate periodic disbursements from the fund as provided in section 206. The Secretary shall approve such plans and specifications if they meet the standard housing criteria as defined in section 3(9) of this Act and are otherwise consistent with the project agreement. The Secretary shall encourage the development of plans and specifications that reasonably promote the conservation and efficient use of energy in housing constructed under the project agreement.

SITE ACQUISITION

SEC. 208. (a) Prior to the construction of acquisition of any housing units under a project agreement, the agency shall secure either a fee title to, or a lease of, such lands as may be necessary for the construction or acquisition of such units.

(b) Where the housing site is upon tribal or individual trust land, the agency shall secure, without cost to itself, a twenty-five year lease with option to renew for not to exceed an additional twenty-five years. Where the housing site is on fee land, the agency shall require, without cost to itself, the transfer of the fee title to such lands.

(c) Where the Secretary determines that no suitable lands are available to the tribe for construction of housing, he may authorize the use of project funds for land purchase. Such land purchase cost shall be a part of the total project cost.

HOUSING ASSISTANCE CONTRACT PROVISIONS

SEC. 209. (a) An eligible Indian family shall make application for housing assistance to the agency. Upon approval of the application by the agency, the family and the agency shall enter into a housing assistance contract (hereinafter referred to as the "contract") in which the agency shall agree to construct or acquire a standard housing unit or rehabilitate an existing house to standard condition for such family upon lands to be provided by the family or the tribe.

(b) The family shall agree in such contract that it shall—

(1) at no cost to the agency, lease or transfer its trust or fee lands on which such housing is to be built, if required by the agency;

(2) make monthly payments to the agency in the amount of 20 per centum of the adjusted family income, except that (A) the adjusted family income shall be reviewed annually during the twenty-five year period of the contract and the monthly payment shall be adjusted upward or downward as indicated, and (B) such monthly payment shall be not more than the amortization payment and not less than the minimum payment established in section 210 of this title;

(3) accept responsibility for all utilities and maintenance; and

(4) subject the trust funds of its adult members to attachment as provided in section 205 of this title.

(c) Where the housing site is located on the trust or fee lands of the family which has fully met its obligations under the housing assistance contract, at the end of twenty-five years, the land will revert to its former status and the agency will transfer full ownership of the house to the family. Where the housing site is located on tribal lands and the family has fully met its obligations under the housing assistance contract, the lands will revert to their former status and the agency will transfer ownership of the house to the family, except that the tribe may not deny the family the continued use of the land site unless the Secretary, the tribe, and the family negotiate for the tribal purchase of the house for an amount not less than the fair market value of such house.

MINIMUM PAYMENT

SEC. 210. The project agreement shall provide for a minimum monthly payment to be made by families receiving assistance under this title. Such minimum monthly payment shall be composed of—

(1) an administrative charge which shall be in an amount deemed sufficient by the Secretary to enable the agency to perform the administrative functions required by this Act;

(2) a premium for insurance; and

(3) an amount deemed reasonable by the Secretary as a contingency reserve for maintenance. Such amounts shall be deposited by the agency into an interest-bearing account as a reserve for maintenance which may be used, principal and interest, as provided in section 214 of this title.

The minimum payment shall be reviewed annually and may, subject to the approval of the Secretary, be adjusted upward or downward as warranted.

RESIDUAL RECEIPTS

SEC. 211. (a) The project agreement shall require the agency to establish an account for residual receipts. Residual receipts shall be the amount of the monthly payments collected by the agency less the minimum payment to be retained by the agency as provided in section 209.

(b) Residual receipts shall be deposited by the agency in the fund quarterly on a fiscal year basis. The agency shall, on a quarterly basis, certify to the Secretary the collection and deposit of the required monthly payments in the agency's residual receipt account. Initial residual receipts due the fund are those that are the result of monthly payments established by the agency and which have been certified by an independent audit or agreed to by the Secretary in the project agreement. Thereafter, residual receipts due to the fund shall be in accordance with amounts established by an annual independent audit of the adjusted family incomes of the participating families.

(c) Residual receipts due the fund from an agency shall not fall below 90 per centum of the amount due based upon an amount established by the annual independent audit as required by subsection (b). Within ten days after a determination of a default by an agency in its quarterly payment of residual receipts to the fund, the Secretary shall notify the tribe and the agency in writing of such determination. The tribe or the agency shall have thirty days within which to satisfy the default. Upon a failure of the tribe or agency to do so, the Secretary may—

(1) declare such tribe to be ineligible for further housing assistance from the fund;

(2) take any other action to satisfy the default as may be otherwise authorized by law; or

(3) attach tribal or appropriate individual trust funds as provided and authorized in section 205 of this title, except that the Secretary may exercise this authority only after all other reasonable action has been exhausted.

MONITORING AND INSPECTION

SEC. 212. (a) The agency shall be responsible for the implementation of monitoring and construction inspection procedures necessary to assure the Secretary of satisfactory quality control and fund utilization, including compliance with the minimum housing standards and the approved drawings and specifications of a project. When the Secretary determines that the monitoring and inspection procedures are not adequate, he shall initiate action to assure implementation of such procedures by the agency as a requirement for continuation of the project.

(b) The technical staff of the Indian Health Service within the Department of Health and Human Services shall, in the course of fulfilling its existing responsibilities in providing sanitation facilities to Indian housing, be responsible for the surveillance of the construction, inspection, and monitoring procedures of the agency. The Indian Health Service shall provide recommendations to the agency and the Secretary as to the adequacy of the construction inspection procedures of the agency to assure compliance with the minimum housing standards and the approved plans and specifications.

BONDING REQUIREMENTS

SEC. 213. (a) Tribal and agency officials and employees who are responsible for the receipt and disbursement of funds under this title shall be bonded in amounts satisfactory to the Secretary. No such disbursement shall be made until a bond satisfactory to the Secretary is obtained.

(b) The agency shall require performance bonds from its contractors except for those projects where settlement is on the basis of turnkey construction.

(c) The agency shall also require irrevocable letters of credit, machanics' and workmen's lien bonds and warranty maintenance bonds or cash equivalents from its contractors in amounts satisfactory to the Secretary.

MAINTENANCE AND UTILITIES

SEC. 214. Maintenance and cost of utilities for the house shall be the responsibility of the participating family. Upon the failure of a family to perform adequate maintenance to the extent necessary to prevent health hazards or preserve the capital value of the unit, the agency shall use the reserve for maintenance established by section 210 of this title to correct any deficiencies. At the end of the contract period, the amount remaining in the maintenance reserve account to the credit of the family, excluding any accrued interest, shall become the property of the family.

AWARD OF CONTRACTS

SEC. 215. All contracts under this title shall be awarded in accordance with procedures satisfactory to the Secretary and shall result in the judicious use of Federal funds. Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) shall apply to all contracts, subcontracts, and employment opportunities supported by funding under this title, except that a tribe may, by formal action of its governing body, waive the applicability of section 7(b) in specific cases.

SALE OF HOUSING

SEC. 216. A family may, subject to the approval of the Secretary and the agency, sell or purchase a house constructed, acquired, or rehabilitated with funds under a project agreement. The minimum sale or purchase price of the house shall be the amount of the principal remaining on the amortization schedule for such house, except that, where a family has a deficit in its reserve for maintenance account, such minimum sale or purchase price shall be increased by that amount. The minimum sale or purchase price shall be reimbursed to the fund and any amount in excess of the minimum sale price shall be the property of the family.

ASSIGNMENTS

SEC. 217. (a) The contractual interest of a family in housing constructed, acquired, or rehabilitated with moneys provided from the fund may be inherited or assigned if the heirs, devisees, or assignees agree to assume the responsibilities and obligations under the original contract, and if any assignee of such interest is otherwise eligible for assistance under this title.

(b) Abandoned houses shall revert to the agency and shall be available to another eligible family under a new housing assistance contract.

(c) No Indian may be part to more than one housing assistance contract providing for a new standard house under titles I and II of this Act, except that the Secretary may waive this limitation in appropriate circumstances.

DOWNPAYMENT ASSISTANCE

SEC. 218. Tribal housing agencies may use funds made available under a project agreement, if the agreement so provides, to assist Indian families in making a downpayment,

including closing costs, on standard housing to be financed through other sources of credit. The family shall be obligated to repay such amount, with or without interest, over a period of not to exceed ten years. Exclusive of closing costs, assistance provided under this section shall not be in excess of 10 per centum of the purchase price of the house.

CREDIT ELSEWHERE

SEC. 219. If an agency, in establishing the adjusted family income of an applicant family, determines that the income of such family is sufficient to support the payment of a reasonable economic rent, the agency shall acquire such family to provide evidence that at least two lending institutions in the area making home mortgage loans have rejected loan applications submitted by such family before the family is eligible for housing assistance under this title.

RENTAL HOUSING

SEC. 220. Funds made available under this title may, as provided in a project agreement, be used to construct rental housing, except that—

(1) the tribe shall require monthly rental payments from eligible Indian families as determined by section 209 except that the maximum monthy payment shall be an amount agreed upon by the Secretary and the agency;

(2) a minimum monthly rental payment shall be established as provided in section 210 and the tribe shall be responsible for the payment of residual receipts as provided in section 211;

(3) the tribe shall be responsible for the payment of utilities and maintenance costs; and

(4) all other appropriate provisions of this title shall be applicable to such rental housing projects.

AUTHORIZATION

SEC. 221. There are authorized to be appropriated for the purpose of carrying out the provisions of this title, such sums as may be necessary in fiscal year 1983; $100,000,000 in fiscal year 1984; $200,000,000 in fiscal year 1985; and such sums as may be necessary for fiscal years 1986 and 1987, which, when added to the total residual receipts and other deposits paid into the fund during the preceding fiscal year, will restore the balance in the fund to $250,000,000 at the beginning of each fiscal year.

TITLE III—INDIAN HOUSING LOAN GUARANTEE FUND

ESTABLISHMENT OF FUND

SEC. 301. In order to provide access to sources of private financing for Indian families who otherwise would not be eligible for housing credit because of Federal laws restricting mortgage or other encumbrance of trust land, there is established an Indian housing loan guarantee fund (hereinafter referred to as the "guarantee fund") which shall be available as provided in section 311 of this title.

GUARANTEE AUTHORITY

SEC. 302. The Secretary is authorized to guarantee not to exceed 100 per centum of the unpaid principal and interest due on any loan made to an Indian for the acquisition or construction of a standard house on trust land which may be secured by any appropriate means.

INTEREST RATE

SEC. 303. Loans guaranteed pursuant to this title shall bear interest (exclusive of premium charges for guarantee and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but which is not more than that being charged in the area by lenders for home mortgage loans without a guarantee or insurance by a Federal agency or instrumentality.

PREMIUM CHARGES

SEC. 304. The Secretary shall fix such premium charges for the guarantee of loans as are in his judgment adequate to cover expenses and probable losses, and shall deposit receipts for such charges in the guarantee fund.

APPLICATION

SEC. 305. The application for a loan to be guaranteed hereunder shall be submitted to the Secretary for prior approval. Upon approval, the Secretary shall issue a certificate as evidence of the guarantee. Such certificate shall be issued only when the Secretary determines there is a reasonable prospect of repayment.

SALE OR ASSIGNMENT OF LOANS

SEC. 306. Any loan guaranteed hereunder, including the security given therefore, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the United States or of any State or the District of Columbia.

LIMITATIONS ON LOANS

SEC. 307. Any loans guaranteed hereunder shall be made by a financial institution subject to examination and supervision by an agency of the United States, a State, or the District of Columbia and shall meet the following requirements:

(1) the maturity of any loan guaranteed hereunder shall not exceed thirty-three years"

(2) loans guaranteed hereunder may be made by any lender satisfactory to the Secretary except loans insured or guaranteed by an agency or instrumentality of the Federal Government or made by an organization of Indians from funds borrowed from the United States shall not be eligible for guarantee hereunder;

(3) the liability under the guarantee shall decrease or increase pro rata with any decrease or increase in the unpaid portion of the obligation pursuant to the provisions of the loan agreement; and

(4) any loan made by any national bank or Federal savings and loan association, or by an bank, trust company, building and loan association or insurance company, authorized to do business in the District of Columbia, at least 20 per centum of which is guaranteed hereunder, may be made without regard to the limitations and restrictions of any other Federal statute with respect to (A) ratio of amount of loan to value of property, (B) requirement of mortgage or other security, (C) maturity of loans; (D) priority of lien; or (E) percentage of assets which may be invested in real estate loans.

REGULATORY AUTHORITY

SEC. 308. Whenever the Secretary finds that any lender or holder of a guarantee certificate fails to maintain adequate accounting records or to demonstrate proper ability to service adequately loans guaranteed or to excercise proper credit judgment, or has willfully or negligently engaged in practices otherwise detrimental to the interests of a borrower or the United States, the Secretary may refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder, and may bar such lender or holder from acquiring additional loans guaranteed hereunder, The Secretary shall not refuse to pay a valid guarantee on loans previously made in good faith.

DEFAULT PROCEEDINGS

SEC. 309. (a) In the event of a default on a loan guaranteed hereunder, the lender holding the guarantee certificate must notify the Secretary of the default in writing and may thereupon proceed under either of the following methods of obtaining payment under the guarantee—

(1) the lender may initiate foreclosure proceedings in a court of competent jurisdiction after providing prior written notice of such action to the Secretary and upon a final order authorizing foreclosure by such a court and upon submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to such holder the full pro rata portion of the amount guaranteed plus reasonable fees and expenses as approved by the Secretary and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security; or

(2) without seeking a judicial foreclosure or in the event that a foreclosure proceeding initiated by or on behalf of the lender as authorized under paragraph (1) above continues for a period in excess of one year, the lender may submit a claim for payment under the guarantee, except that the Secretary shall only pay to such holder for a loss on any one loan an amount equal to 95 per centum of the pro rata portion of the amount guaranteed, and the Secretary shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(b) Upon receipt from the lender of a notice of default, the Secretary may, in his sole discretion, accept assignment of such loan if such action is determined by the Secretary to be in the best interest of the United States and shall thereupon pay to the holder the pro rata portion of the amount guaranteed and shall be subrogated to the rights of the holder of the guarantee and receive an assignment of the obligation and security.

(c) Before any reimbursement is made under subsection (a), all reasonable collection efforts shall have been exhausted by the lender. Upon reimbursement, in whole or in part, to the lender, the note or judgment evidencing the debt shall be assigned to the United States and the lender shall have no further claim against the borrower or the United States. The Secretary shall then take such further collection actions as may be warranted.

CONCLUSIVENESS

SEC. 310. Any evidence of guarantee issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this title and the amount of such guarantee. Such evidence shall be in contestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation or bar him from establishing by regulations in force on the date of such issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

USE OF GUARANTEE FUND

SEC. 311. (a) The guarantee fund established by section 301 shall be available to the Secretary as a revolving fund without fiscal year limitation for carrying out the provisions of this title. The guaranteed loan program under this title shall be operated separately from the Indian housing finance fund established under title II of this Act and no funds designated for one program may be transferred to the other program. There are authorized to be appropriated such sums as may be necessary in fiscal year 1983; $2,500,000 in fiscal year 1984; $3,000,000 in fiscal year 1985, and $3,500,000 in fiscal years 1986 and 1987.

(b) The Secretary may use the guarantee fund for the purpose of fulfilling the obligations with respect to loans guaranteed under this title, but the aggregate outstanding principal amount guaranteed by the Secretary shall be limited to $400,000,000 or such lesser amount as may be provided in appropriations Acts.

(c) All funds, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and all collections and proceeds therefrom, shall constitute assets of the guarantee fund. All liabilities and obligations of such assets shall be liabilities and obligations of the guarantee fund. The Secretary is authorized to make agreements with respect to servicing loans acquired or guaranteed under this title and to purchase such guaranteed loans on such terms and conditions as the Secretary may prescribe.

(d) The Secretary may utilize the guarantee fund to pay taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this title or held by the Secretary, to acquire such security property at foreclosure sales or otherwise, and to pay administrative expenses.

TITLE IV—MISCELLANEOUS PROVISIONS

OFFICE OF INDIAN HOUSING PROGRAMS

SEC. 401. (a) The Secretary shall establish in the Bureau of Indian Affairs an Office of Indian Housing Programs which shall be vested with the primary responsibility for administering the programs established by this Act. The Office of Indian Housing Programs shall be under the supervision of a Director of Indian Housing Programs who shall be under the immediate supervision of the Assistant Secretary of the Interior for Indian Affairs.

(b) The authority to approve applications as provided in section 203, execute project agreements as provided in section 204, approve loan guarantees under title III, and to allocate and assign personnel of the Office of Indian Housing Programs within the administrative structure of the Bureau of Indian Affairs shall not be delegated below the Office of the Director of Indian Housing Programs.

(c) Funds appropriated under authorization of this Act shall include employee costs and other administrative expenses of the Office of Indian Housing Programs. Annual appropriation requests for the Office of Indian Housing shall specify the number of employees by location, employee costs, and related administrative expenses. Funds made available for such purposes shall not be available for any other purposes.

TECHNICAL ASSISTANCE

SEC. 402. (a) The Secretary is authorized to provide technical assistance to Indian tribes to assist them in developing tribal housing plans, preparing and submitting applications for financing, and implementing housing programs funded under this Act.

(b) The Secretary shall provide for the establishment of a training program to develop an understanding by the participating families of the respective roles and responsibilities of the tribal housing agency, the Federal Government, and the participants under titles I and II. Such program shall include basic home maintenance training for participating families.

(c) Not to exceed 1 per centum of the funds appropriated under the authority of titles I and II may be used to provide the technical assistance and training authorized by this section.

INDIAN HEALTH SERVICE

SEC. 403. The Indian Health Service in the Department of Health and Human Services shall be responsible for the provision of water and sanitation facilities for houses constructed, acquired, or rehabilitated with assistance provided under this Act. The Secretary shall coordinate with the Secretary of Health and Human services with respect to such responsibilities and activities and shall ensure that planning and budgeting for necessary roads and sanitation facilities shall be done in conjunction with planning and budgeting for new housing to be constructed with funds appropriated pursuant to this Act.

SITE IMPROVEMENTS

SEC. 404. (a) Funds appropriated under titles I and II may be used to provide site improvements, streets and driveways within multiunit housing projects. Such streets shall be built to the usual standards of the Bureau of Indian Affairs and, where appropriate, shall thereafter be maintained by the Bureau of Indian Affairs under existing road programs and authorities.

(b) All-weather access roads to multiunit projects constructed under this act shall continue to be provided by the Secretary through existing road programs and authorizations.

HOUSING INVENTORY

SEC. 405. The Secretary shall conduct a biennial housing inventory of current Indian housing needs and conditions to be used as a basis for determining housing assistance needs for the purposes of sections 202 and 203 of this Act. The Secretary shall submit a copy of such inventory to the Congress.

STUDY

SEC. 406. The Secretary of the Interior shall, within two years after enactment of this Act, conduct and submit to the Congress a study of the potential uses of trust funds of Indian tribes and individuals to support, directly or indirectly, the provision of housing for Indians and Alaska Natives. Any recommendations of the Secretary must provide that the use of such funds shall be subject to the consent of the beneficial owner and that the United States will continue to ensure the integrity of such funds.

RULEMAKING

SEC. 407. The Secretary shall promulgate such rules and regulations as are necessary to carry out the provisions of this Act. The Chairman of the Committee on Interior and Insular Affairs of the House of Representatives and the Chairman of the Select Committee on Indian Affairs of the United States Senate, in consultation with the respective ranking minority members, shall each select two persons of Indian descent knowledgeable in the field of Indian affairs and housing assistance programs. The Secretary shall assure that these persons are actively involved in the initial drafting and formulation of regulations developed to implement the provisions of this Act. While engaged in such activity, such persons shall be entitled to travel expenses, per diem, and a reasonable consultation fee. Funds for such expenses and fees shall be provided by the Secretary from any available funds. The responsibility of such persons shall cease with the promulgation of final rules and regulations by the Secretary.

RELATION TO OTHER PROGRAMS

SEC. 408. Housing assistance provided under this Act shall not exclude Indians from being eligible for other federally assisted housing programs.●

By Mr. COCHRAN:

S. 2848. A bill to amend the Congressional Budget and Impoundment Control Act of 1974, to provide for budgetary planning every 2 years; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

TWO-YEAR BUDGETARY PLANNING ACT OF 1982

● Mr. COCHRAN. Mr. President, the budget process through which we now plod each year was devised in 1974. There was much hope when the Budget Act of 1974 was approved—hope that the Congress would effectively and efficiently set budget priorities and control runaway spending. After 7 years of operating under that law, we now have experience enough to make needed reform in the budget process. It is time to discard those sections of the 1974 act that are not working.

Therefore, today I am introducing a bill to amend the Budget Act. I propose the Congress establish a streamlined 2-year budget process with planning at the beginning of a Congress and execution of that plan through the annual appropriations measures. Under my bill, there would be only one budget resolution, adopted at the beginning of the odd numbered years, using the timetable now used for the first concurrent budget resolution. The resolution would have totals for each year of the 2-year fiscal period, starting in October of that odd-numbered year. The bill would permit, but not require, a revision of that budget resolution during the 2-year fiscal period, but only after approval by a three-fifths vote of each House. Thus, for any 2-year period, we would have only one budget resolution adopted at the start of the process.

Mr. President, both major features of this bill, the 2-year cycle and having just one budget resolution at the start of the process have been endorsed by the Director of the Congressional Budget Office, Dr. Alice Rivlin. Dr.

Rivlin said, "The major budgetary issues facing the Congress each year must be hammered out in the first resolution. By the time the second concurrent resolution is considered, the Congress is much too close to—if indeed not past—the start of the fiscal year to decide any important questions. Thus reconciliation must be part of the first resolution."

In additional remarks supporting changes in the current budget process, Dr. Rivlin maintains that by making reconciliations a permanent part of a binding first resolution, the Congress could eliminate the requirement for a second concurrent resolution each year. Later this week Dr. Rivlin will testify in detail in support of a 2-year budget cycle, as a procedure that will help hold down Federal spending.

Mr. President, I urge my colleagues to consider this legislation as a way to go about adopting the Federal budget. I believe it is a worthy alternative to the time-consuming and confusing process we have now. I believe a 2-year budget cycle, with one budget resolution is a workable procedure which should be adopted. I ask unanimous consent that the bill and a copy of the budget act as it would be amended if my bill were adopted be printed in the CONGRESSIONAL RECORD, immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Two Year Budgetary Planning Act of 1982".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act—

(1) to provide for one concurrent resolution on the budget for a two year period;

(2) to streamline the budget process so that the process will be an effective mechanism for the planning of major budget priorities; and

(3) to improve the legislative and budgetary processes by providing additional time for congressional oversight and other vital legislative activities.

AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974

SEC. 3. (a) (1) Secton 2(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "each year" and inserting in lieu thereof "every two years".

(b) Section 3(4) of such Act is amended to read as follows:

"(4) The term 'concurrent resolution on the budget' means—

"(A) a concurrent resolution setting forth the congressional budget for the United States Government for a two-fiscal-year period as provided in section 301; or

"(B) a concurrent resolution on the budget revising the congressional budget for the United States Government pursuant to section 304.".

(2) Section 3 of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) The term 'two-fiscal-year period' means a period of two consecutive fiscal years beginning on October 1 of any odd-numbered year.".

(c) Section 202(f)(1) of the Congressional Budget Act of 1974 is amended—

(1) by inserting "odd numbered" before "year" the first place it appears in the first sentence;

(2) by striking out "the fiscal year" in such sentence and inserting in lieu thereof "each fiscal year in the two-fiscal-year period";

(3) by striking out "such fiscal year" in such sentence and inserting in lieu thereof "such two-fiscal-year period"; and

(4) by striking out "such fiscal year" in the second sentence and inserting in lieu thereof "each fiscal year in such two-fiscal-year period".

(d) Section 300 of such Act is amended to read as follows:

"TIMETABLE

"SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

"First Session

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 15.....	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report concurrent resolution on the budget to their Houses.
May 15.....	Committees report bills and resolutions authorizing new budget authority for the first fiscal year of the two-fiscal-year period.
May 15.....	Congress completes action on concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority for the first fiscal year of the two-fiscal-year period.
October 1.....	Two-fiscal-year period begins.

"Second Session

On or before:	Action to be completed:
15th day after Congress meets.	President submits proposed revisions in the Budget for the two-fiscal-year period in progress.
May 15.....	Committees report bills and resolutions authorizing new budget authority for the second fiscal year of the two-fiscal-year period.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority for the second fiscal year of the two-fiscal-year period.".

(e)(1) Section 301(a) of such Act is amended—

(A) by inserting "Of Each Odd-Numbered Year" after "May 15th" in the subsection heading; and

(B) by inserting "odd-numbered" before "year" the first place it appears in the first sentence of the matter preceding paragraph (1);

(C) by striking out "the fiscal year" in such sentence and inserting in lieu thereof "the two-fiscal-year-period"; and

(D) by inserting a comma and "for each fiscal year in such period" after "set forth" in the second sentence of such matter.

(2) Section 301(b) of such Act is amended—

(A) by striking out "first" in the matter preceding paragraph (1);

(B) by inserting "referred to in subsection (a)" before "may also" in such matter;

(C) by striking out "require" in such matter;

(D) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) contain the specifications and directions described in section 310(a); and";

(E) by inserting "require" before "any other procedure" in paragraph (2); and

(F) by striking out the last sentence.

(3) Section 301(c) of such Act is amended—

(A) by inserting "odd-numbered" before "year" in the matter preceding paragraph (1);

(B) by striking out "the" second place it appears and inserting in lieu thereof "an"; and

(C) by striking out "the fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the two-fiscal-year period".

(4) Section 301(d) of such Act is amended—

(A) by striking out "first" before "concurrent resolution" in the first sentence;

(B) by striking out "fiscal year" in such sentence and inserting in lieu thereof "two-fiscal-year period";

(C) by inserting "odd-numbered" before "year" the first place it appears in the third sentence;

(D) by striking out "first" before "concurrent resolution" in such sentence;

(E) by striking out "fiscal year" in such sentence and inserting in lieu thereof "two-fiscal-year period";

(F) by inserting "for each fiscal year in such two-fiscal-year period" after "the committee" in paragraph (1);

(G) by inserting "for each fiscal year" after "those estimated" in such paragraph;

(H) by inserting "for each fiscal year in such two-fiscal-year period" after "total new budget authority" the first place it appears in paragraph (2);

(I) by inserting "for each such fiscal year" after "total new budget authority requested" in such paragraph;

(J) by inserting "for each fiscal year in such two-fiscal-year period," after "new budget authority" in paragraph (3);

(K) by inserting "for each fiscal year in such two-fiscal-year period" after "concurrent resolution" in paragraph (4);

(L) by striking out "five" in paragraph (6) and inserting in lieu thereof "six";

(M) by striking out "such fiscal year" in such paragraph and inserting in lieu thereof "the first fiscal year of such two-fiscal-year period,";

(N) by striking out "such period" in such paragraph and inserting in lieu thereof "such six-fiscal-year period"; and

(O) by inserting "for each fiscal year in such two-fiscal-year period" before the semicolon in paragraph (7).

(5) Section 301(e) of such Act is amended—

(A) by striking out "set for" in paragraph (1) and inserting in lieu thereof "set forth";

(B) by striking out "first" each place it appears before "concurrent resolution on the budget";

(C) by inserting "referred to in subsection (a)" after "concurrent resolution on the budget" in paragraph (1); and

(D) by striking out "for the fiscal year" after "concurrent resolution of the budget" in such paragraph and inserting in lieu thereof "referred to in subsection (a) for the two-fiscal-year period".

(6)(A) The section heading for section 301 of such Act is amended by striking out "FIRST".

(B) The item relating to section 301 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "first".

(f)(1) Section 302(a) of the Congressional Budget Act of 1974 is amended—

(A) by inserting "for a two-fiscal-year period" after "concurrent resolution on the budget"; and

(B) by inserting "for each fiscal year in such period" after "estimated allocation".

(2) Section 302(c) of such Act is amended by striking out "or 310".

(g)(1) Section 303(a) of such Act is amended—

(A) by striking out "first";

(B) by striking out "for such year" and inserting in lieu thereof "referred to in section 301(a) for the two-fiscal-year period in which such fiscal year occurs"; and

(C) by striking out "pursuant to section 301".

(2) Section 303(b) of such Act is amended by striking out "fiscal year" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "two-fiscal-year period".

(3)(A) The section heading for section 303 of such Act is amended by striking out "FIRST".

(B) The item relating to section 303 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "First concurrent" and inserting in lieu thereof "concurrent".

(h)(1) Section 304 of the Congressional Budget Act of 1974 is amended—

(A) by striking out "first" before "concurrent resolution on the budget";

(B) by striking out "for a fiscal year" before "has been agreed to" and inserting in lieu thereof "referred to in section 301(a) for two-fiscal-year period";

(C) by striking out "pursuant to section 301";

(D) by striking out "such fiscal year" the first place it appears and inserting in lieu therof "such two-fiscal-year period";

(E) by striking out "for such fiscal year" the second place it appears; and

(F) by inserting before the period "for such two-fiscal-year period if the concurrent resolution on the budget making such revisions and any conference report thereon, is agreed to by a roll call vote of three-fifths of the Members of each House of Congress, duly chosen and sworn.

(2) The section heading for section 304 of such Act is amended by striking out "OF" the second place it appears and inserting in lieu thereof "ON".

(i)(1) Section 305(a)(3) of such Act is amended—

(A) by striking out "first" before "concurrent resolution on the budget"; and

(B) by striking out "for a fiscal year" and inserting in lieu thereof "referred to in section 301(a) for a two-fiscal-year period".

(2) Section 305(b) of such Act is amended—

(A) by striking out ", except that, with respect to the second required concurrent resolution referred to in section 310 (a), all such debate shall be limited to not more than 15 hours" in paragraph (1);

(B) by striking out "first" before "concurrent resolution on the budget" in paragraph (3); and

(C) by striking out "for a fiscal year" in such paragraph and inserting in lieu thereof "referred to in section 301 (a) for a two-fiscal-year period".

(j) Section 307 of such Act is amended—

(1) by striking out "as" before "set forth";

(2) by inserting "for such fiscal year" before "in the most recently agreed"; and

(3) by striking out "that year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(k) (1) Section 308 (a) of such Act is amended—

(A) by striking out "such fiscal year" in paragraph (1) (A) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(B) by inserting "for such fiscal year" after "new budget authority" in such paragraph;

(C) by inserting a comma after "a projection" in paragraph (1) (B);

(D) by striking out "5" in such paragraph and inserting in lieu thereof "6";

(E) by inserting a comma after "such fiscal year" in such paragraph;

(F) by striking out "as" after "existing law" in paragraph (2) (A);

(G) by striking out "for such fiscal year" in such paragraph and inserting in lieu thereof "referred to in section 301 (a) for the two-fiscal-year period in which such fiscal year occurs";

(H) by inserting "for such fiscal year" after "set forth" in such paragraph;

(I) by striking out "year" the last place it appears in such paragraph and inserting in lieu thereof "two-fiscal-year period";

(J) by inserting a comma after "a projection" in paragraph (2)(B);

(K) by striking out "5" in such paragraph and inserting in lieu thereof "6"; and

(L) by inserting a comma after "such fiscal year" in such paragraph.

(2) Section 308 (b) of such Act is amended—

(A) by inserting a comma after "during such fiscal year" in paragraph (1);

(B) by striking out "such fiscal year" in such paragraph and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(C) by inserting "for such fiscal year" after "estimated outlays" the second place it appears in such paragraph;

(D) by striking out "such fiscal year" in paragraph (3) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(E) by inserting "for such fiscal year" after "revenues" the first place it appears in such paragraph;

(F) by inserting "fiscal" before "year" the last two places it appears in such paragraph;

(G) by striking out "such fiscal year" in paragraph (4) and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(H) by inserting "for such fiscal year" after "the public debt" in such paragraph.

(3) Section 308 (c) of such Act is amended—

(A) by striking out "Five" in the subsection heading and inserting in lieu thereof "Six"; and

(B) by striking out "5" and inserting in lieu thereof "6".

(l) Section 309(1) of such Act is amended—

(1) by striking out "such year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs"; and

(2) by striking out "section 310(c)" and inserting in lieu thereof "section 310(b)".

(m)(1) Section 310(a) of such Act is amended—

(A) by striking out the matter preceding paragraph (1) and inserting in lieu thereof the following:

"SEC. 310. (a) SPECIFICATIONS AND DIRECTIONS.—A concurrent resolution on the budget for a two-fiscal-year period shall, to the extent necessary—";

(B) by striking out "such fiscal year" each place it appears in subparagraphs (A) and (C) of paragraph (1) and inserting in lieu thereof "each fiscal year in such two-fiscal-year period";

(C) by inserting "for each fiscal year in such two-fiscal-year period" after "revenues" in paragraph (2);

(D) by striking out "that" before "the committees" in such paragraph;

(E) by inserting "for each fiscal year in such two-fiscal-year period" after "public debt" in paragraph (3); and

(F) by striking out the last sentence.

(2) Section 310 of such Act is amended by striking out subsection (b) and by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively.

(3) section 310 (b) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "is agreed to in accordance with subsection (a)" and inserting in lieu thereof "on the budget is agreed to".

(4) Section 310(c) of such Act (as redesignated by paragraph (2) of this subsection) is amended—

(A) by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)"; and

(B) by striking out "September 25 of each year" and inserting in lieu thereof "sixty days after the date on which the concurrent resolution on the budget containing the specifications and directions for such reconciliation bill or reconciliation resolution is agreed to".

(5) Section 310(d) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "subsection (c)" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "subsection (b)".

(6) Section 310(e) of such Act (as redesignated by paragraph (2) of this subsection) is amended—

(A) by striking out "the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and if a" and inserting in lieu thereof "any";

(B) by striking out "is" before "required to be reported"; and

(C) by striking out "subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both" and inserting in lieu thereof "subsection (b) for a two-fiscal-year period".

(7)(A) The section heading for section 310 of such Act is amended by striking out "SECOND REQUIRED CONCURRENT RESOLUTION AND".

(B) The item relating to section 310 in the table of contents in section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking out "Second required concurrent resolution and reconciliation" and inserting in lieu thereof "Reconciliation".

(n) Section 311(a) of the Congressional Budget Act of 1974 is amended—

(1) by striking out "section 310(a) for fiscal year" after "reported under" in the matter preceding paragraph (1) and inserting in lieu thereof "section 301(a) for a two-fiscal-year period";

(2) by striking out "such fiscal year" the first place it appears in such matter and inserting in lieu thereof "such two-fiscal-year period";

(3) by striking out "section 310(c)" in such matter and inserting in lieu thereof "section 312(b)";

(4) by striking out "such fiscal year" the second, third, and fourth places it appears in such matter and inserting in lieu thereof "any fiscal year in such two-fiscal-year period";

(5) by inserting "for such fiscal year" after "total budget outlays" in the matter following paragraph (3);

(6) by striking out "such fiscal year" after "concurrent resolution on the budget for" in such matter and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs";

(7) by inserting "for any such fiscal year" after "revenues" the first place it appears in such matter and

(8) by inserting "for such fiscal year" after "revenues" the second place it appears in such matter.

(o) Section 401(b)(2) of such Act is amended by striking out "such fiscal year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fisc..l year occurs".

(p) Section 403(a) of such Act is amended—

(1) by striking out "4" in paragraph (1) and inserting in lieu thereof "five"; and

(2) by striking out "four" in paragraph (2) and inserting in lieu thereof "five".

(q) (1) Section 605(a) of such Act is amended—

(A) by striking out "each year (beginning with 1975)" and inserting in lieu thereof "each even-numbered year (beginning with 1982)";

(B) by striking out "the ensuing fiscal year" and inserting in lieu thereof "each fiscal year in the two-fiscal-year period beginning in the following odd-numbered year"; and

(C) by striking out "such ensuing fiscal year" and inserting in lieu thereof "each such fiscal year".

(2) Section 605(b) of such Act is amended by inserting "even-numbered" before "year".

(r) Section 904(b) of such Act is amended by striking out "title III or IV" and inserting in lieu thereof "title III (except section 304) or title IV".

AMENDMENTS TO RULES OF THE HOUSE OF REPRESENTATIVES

SEC. 4. (a)(1) Clause 1(b)(4) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(b) Clause 4(a)(1)(A) of rule X of the Rules of the House of Representatives is amended by inserting "odd-numbered" after "each".

(c) Clause 4(a)(2) of rule X of the Rules of the House of Representatives is amended by striking out "s.ch fiscal year" and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(d) Clause 4(b)(2) of rule X of the Rules of the House of Representatives is amended—

(1) by striking out "first"; and

(2) by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(e) Clause 4(g) of rule X of the Rules of the House of Representatives is amended—

(1) by inserting "odd-numbered" after "each";

(2) by striking out "fiscal year" the first place it appears and inserting in lieu thereof "two-year fiscal period"; and

(3) by striking out "that fiscal year" and inserting in lieu thereof "each fiscal year of such two-fiscal-year period".

(f) Clause 4(h) of rule X of the Rules of the House of Representatives is amended by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period".

(g) Clause 2(1)(1)(C) of rules XI of the Rules of the House of Representatives is amended—

(1) by striking out "as" before "set forth";

(2) by inserting "for such fiscal year" before "in the most recently agreed"; and

(3) by striking out "that year" the second place it appears and inserting in lieu thereof "the two-fiscal-year period in which such fiscal year occurs".

(h) Clause 1 of rule XLIX of the Rules of the House of Representatives is amended—

(1) by striking out the comma after "301" and inserting in lieu thereof "or"; and

(2) by striking out ", or 310".

AMENDMENTS TO THE BUDGET AND ACCOUNTING ACT, 1921

SEC. 5. (a) Section 2 of the Budget and Accounting Act, 1921 is amended by adding at the end thereof the following new item:

"The term 'two-fiscal-year period' shall have the same meaning as in section 3(6) of the Congressional Budget and Impoundment Control Act of 1974.".

(b)(1) The matter preceding paragraph (1) of section 201(a) of the Budget and Accounting Act, 1921, is amended to read as follows:

"SEC. 201. (a) The President shall transmit to Congress during the first fifteen days of the first regular session of each Congress the Budget for the two-fiscal-year period beginning on October 1 of the year in which such session occurs. The Budget shall set forth the President's Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—".

(2) Section 201(a) of such Act is further amended—

(A) by striking out "the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year" in paragraph (5) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year and the ensuing two-fiscal-year period";

(B) by inserting "even-numbered" before "year" the last place it appears in such paragraph;

(C) by striking out "the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year" in paragraph (6) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period";

(D) by striking out "the ensuing fiscal year" in paragraph (9) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(E) by striking out "the ensuing fiscal year" in paragraph (12) (A) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(F) by striking out "each of the four fiscal years, immediately following that ensuing fiscal year" in paragraph (12)(B) and inserting in lieu thereof "each of the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period";

(G) by striking out "the ensuing fiscal year" each place it appears in paragraph (13) and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period"; and

(H) by adding at the end thereof the following new sentence:

"During the first fifteen days of the second regular session of each Congress, the President shall transmit to the Congress any revisions the President considers appropriate in the Budget transmitted in the first regular session of that Congress.".

(c) Section 201(b) of such Act is amended—

(1) by inserting "odd-numbered" before "year" the first place it appears in the matter preceding paragraph (1);

(2) by striking out "fiscal year" in such matter and inserting in lieu thereof "two-fiscal-year period"; and

(3) by striking out "that ensuing fiscal year" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "each fiscal year in that ensuing two-fiscal-year period".

(d) Section 201(c) of such Act is amended—

(1) by striking out "the first four fiscal years following the ensuing fiscal year" in paragraph (1) and inserting in lieu thereof "each fiscal year in the first two of the two-fiscal-year periods following the ensuing two-fiscal-year period";

(2) by striking out "fiscal years following such ensuing fiscal year" in paragraph (2) and inserting in lieu thereof "each fiscal year in the first two of the two-fiscal-year periods following such ensuing two-fiscal-year period"; and

(3) by striking out "ensuing fiscal year" and inserting in lieu thereof "ensuing two-fiscal-year period".

(e) Section 201(d) of such Act is amended—

(1) by striking out "fiscal year" and inserting in lieu thereof "two-fiscal-year period"; and

(2) by inserting a comma and "for each fiscal year in such two-fiscal-year period," after "separately".

(f) Section 201(e) of such Act is amended—

(1) by striking out "each fiscal year" and inserting in lieu thereof "each two-fiscal-year period"; and

(2) by striking out "such fiscal year" and inserting in lieu thereof "each fiscal year in such two-fiscal-year period".

(g) Section 201(f) of such Act is amended—

(1) by striking out "fiscal year" in the matter preceding paragraph (1) and inserting in lieu thereof "two-fiscal-year period";

(2) by striking out "completed fiscal year" in paragraph (1) and inserting in lieu thereof "two completed fiscal years";

(3) by inserting "each" before "such fiscal year;" in such paragraph;

(4) by striking out "completed fiscal year" in paragraph (2) and inserting in lieu thereof "two completed fiscal years";

(5) by inserting "each" before "such year" each place it appears in such paragraph; and

(6) by inserting "each" before "such fiscal year" each place it appears in paragraph (3).

(h) Section 201(g) of such Act is amended—

(1) by inserting "odd-numbered" before "year" the first place it appears in the first sentence;

(2) by striking out "the ensuing fiscal year" in such sentence and inserting in lieu thereof "each fiscal year in the ensuing two-fiscal-year period";

(3) by inserting "odd-numbered" before "year" the first place it appears in the third sentence; and

(4) by striking out "fiscal year" each place it appears in the last sentence and inserting in lieu thereof "two-fiscal-year period".

(i) Section 201(h) of such Act is amended—

(1) by striking out "fiscal year" the first and second places it appears and inserting in lieu thereof "two-fiscal-year period";

(2) by inserting "each fiscal year in" after "appropriations for"; and

(3) by striking out "such succeeding" and inserting in lieu thereof "each such".

(j) Section 201(i) of such Act is amended—

(1) by striking out "each fiscal year, beginning with the fiscal year ending September 30, 1979" and inserting in lieu thereof "each two-fiscal-year period, beginning with the two-fiscal-year period beginning October 1, 1983"; and

(2) by inserting a comma and "for each fiscal year in such two-fiscal-year period," after "a presentation".

(k) Section 202 of such Act (31 U.S.C. 13) is amended—

(1) by striking out "ensuing fiscal year" each place it appears and inserting in lieu thereof "ensuing two-fiscal-year period"; and

(2) by inserting "or the two-fiscal-year period in progress, as the case may be," after "progress,".

(l) Section 304 of the Department of Commerce Appropriation Act, 1963 (31 U.S.C. 25) is amended by striking out "fiscal year 1964 and each succeeding year" and inserting in lieu thereof "the two-fiscal-year period beginning on October 1, 1983, and each succeeding two-fiscal-year period".

(m) Section 3670 of the Revised Statutes (31 U.S.C. 624) is amended—

(1) by striking out "annual";

(2) by inserting "for a two-fiscal-year period" after "service" the first place it appears; and

(3) by striking out "year" and inserting in lieu thereof "period".

EFFECTIVE DATE

SEC. 6. The provisions of this Act and the amendments made by this Act shall take effect on October 1, 1982.

FISCAL YEAR 1983

SEC. 7. Notwithstanding the provisions of sections 3, 4, 5, and 6 of this Act and the amendments made by such sections—

(1) the provisions of the Congressional Budget and Impoundment Control Act of 1974 (as such provisions were in effect on the day before the effective date of this Act) shall apply with respect to concurrent resolutions on the budget for such fiscal year, bills and resolutions providing new budget authority or new spending authority for such fiscal year, bills and resolutions authorizing the enactment of new budget authority for such fiscal year, the rescission and deferral of budget authority for such fiscal year, and the responsibilities of the Director of the Congressional Budget Office for such fiscal year; and

(2) the provisions of the Budget and Accounting Act, 1921, shall apply with respect to any amendments or revisions made by the President in the Budget submitted for such fiscal year pursuant to section 201 of such Act.

BUDGET ACT AS AMENDED BY COCHRAN—2-YEAR BUDGET CYCLE LEGISLATION

(New material in italic, stricken matter enclosed in brackets.)

SHORT TITLES; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLES.—This Act may be cited as the "Congressional Budget and Impoundment Control Act of 1974". Titles I through IX may be cited as the "Congressional Budget Act of 1974", and title X may be cited as the "Impoundment Control Act of 1974".

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.
Sec. 2. Declaration of purposes.
Sec. 3. Definitions.

TITLE I—ESTABLISHMENT OF HOUSE AND SENATE BUDGET COMMITTEES

Sec. 101. Budget Committee of the House of Representatives.
Sec. 102. Budget Committee of the Senate.

TITLE II—CONGRESSIONAL BUDGET OFFICE

Sec. 201. Establishment of Office.
Sec. 202. Duties and functions.
Sec. 203. Public access to budget data.

TITLE III—CONGRESSIONAL BUDGET PROCESS

Sec. 300. Timetable.
Sec. 301. Adoption of [first] concurrent resolution.
Sec. 302. Matters to be included in joint statement of managers; reports by committees.
Sec. 303. [First concurrent] *Concurrent* resolution on the budget must be adopted before legislation providing new budget authority, new spending authority, or changes in revenues or public debt limit is considered.
Sec. 304. Permissible revisions of concurrent resolutions on the budget.
Sec. 305. Provisions relating to the consideration of concurrent resolutions on the budget.
Sec. 306. Legislation dealing with congressional budget must be handled by budget committees.
Sec. 307. House committee action on all appropriation bills to be completed before first appropriation bill is reported.
Sec. 308. Reports, summaries, and projections of congressional budget actions.
Sec. 309. Completion of action on bills providing new budget authority and certain new spending authority.
Sec. 310. [Second required concurrent resolution and reconciliation] *Reconciliation* process.
Sec. 311. New budget authority, new spending authority, and revenue legislation must be within appropriate levels.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

Sec. 401. Bills providing new spending authority.
Sec. 402. Reporting of authorizing legislation.
Sec. 403. Analysis by Congressional Budget Office.
Sec. 404. Jurisdiction of Appropriations Committees.

TITLE V—CHANGE OF FISCAL YEAR

Sec. 501. Fiscal year to begin October 1.
Sec. 502. Transition to new fiscal year.
Sec. 503. Accounting procedures.
Sec. 504. Conversion of authorizations of appropriations.
Sec. 505. Repeals.
Sec. 506. Technical amendment.

TITLE VI—AMENDMENTS TO BUDGET AND ACCOUNTING ACT, 1921

Sec. 601. Matters to be included in President's budget.
Sec. 602. Midyear review.
Sec. 603. Five-year budget projections.
Sec. 604. Allowances for supplemental budget authority and uncontrollable outlays.
Sec. 605. Budget data based on continuation of existing level of services.
Sec. 606. Study of off-budget agencies.
Sec. 607. Year-ahead requests for authorization of new budget authority.

TITLE VII—PROGRAM REVIEW AND EVALUATION

Sec. 701. Review and evaluation by standing committees.
Sec. 702. Review and evaluation by the Comptroller General.
Sec. 703. Continuing study of additional budget reform proposals.

TITLE VIII—FISCAL AND BUDGETARY INFORMATION AND CONTROLS

Sec. 801. Amendment to Legislative Reorganization Act of 1970.
Sec. 802. Changes in functional categories.

TITLE IX—MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Sec. 901. Amendments to rules of the House.
Sec. 902. Conforming amendments to standing rules of the Senate.
Sec. 903. Amendments to Legislative Reorganization Act of 1946.
Sec. 904. Exercise of rulemaking powers.
Sec. 905. Effective dates.
Sec. 906. Application of congressional budget process to fiscal year 1976.

TITLE X—IMPOUNDMENT CONTROL

PART A—GENERAL PROVISIONS

Sec. 1001. Disclaimer.
Sec. 1002. Amendment to Antideficiency Act.

Sec. 1003. Repeal of existing impoundment reporting provision.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESCISSIONS, RESERVATIONS, AND DEFERRALS OF BUDGET AUTHORITY

Sec. 1011. Definitions.
Sec. 1012. Rescission of budget authority.
Sec. 1013. Disapproval of proposed deferrals of budget authority.
Sec. 1014. Transmission of messages; publication.
Sec. 1015. Reports by Comptroller General.
Sec. 1016. Suits by Comptroller General.
Sec. 1017. Procedure in House and Senate.

DECLARATION OF PURPOSES

SEC. 2. The Congress declares that it is essential—

(1) to assure effective congressional control over the budgetary process;

(2) to provide for the congressional determination [each year] *every two years* of the appropriate level of Federal revenues and expenditures;

(3) to provide a system of impoundment control;

(4) to establish national budget priorities; and

(5) to provide for the furnishing of information by the executive branch in a manner that will assist the Congress in discharging its duties.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The terms "budget outlays" and "outlays" mean, with respect to any fiscal year, expenditures and net lending of funds under budget authority during such year.

(2) The term "budget authority" means authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds, except that such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(3) The term "tax expenditures" means those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability; and the term "tax expenditures budget" means an enumeration of such tax expenditures.

[(4) The term "concurrent resolution on the budget" means—

[(A) a concurrent resolution setting forth the congressional budget for the United States Government for a fiscal year as provided in section 301;

[(B) a concurrent resolution reaffirming or revising the congressional budget for the United States Government for a fiscal year as provided in section 310; and

[(C) any other concurrent resolution revising the congressional budget for the United States Government for a fiscal year as described in section 304.]

(4) The term "concurrent resolution on the budget" means—

(A) a concurrent resolution setting forth the congressional budget for the United States Government for a two-fiscal-year period as provided in section 301; or

(B) a concurrent resolution on the budget revising the congressional budget for the United States Government pursuant to section 304.

(5) The term "Appropriation Act" means an Act referred to in section 105 of title 1, United States Code.

(6) The term "two-fiscal-year period" means the period of 2 consecutive fiscal years beginning on October 1 of any odd-numbered year.

DUTIES AND FUNCTIONS

SEC. 202. (a) ASSISTANCE TO BUDGET COMMITTEES.—It shall be the duty and function of the Office to provide to the Committees on the Budget of both Houses information which will assist such committees in the discharge of all matters within their jurisdictions, including (1) information with respect to the budget, appropriation bills, and other bills authorizing or providing budget authority or tax expenditures, (2) information with respect to revenues, receipts, estimated future revenues and receipts, and changing revenue conditions, and (3) such related information as such Committees may request.

(f) REPORTS TO BUDGET COMMITTEES.—

(1) On or before April 1 of each *odd-numbered* year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for [the fiscal year] *each fiscal year in the two-fiscal-year period* commencing on October 1 of that year, with respect to fiscal policy, including (A) alternative levels of total revenues, total new budget authority, and total outlays (including related surpluses and deficits), and (B) the levels of tax expenditures under existing law, taking into account projected economic factors and any changes in such levels based on proposals in the budget submitted by the President for [such fiscal year] *such two-fiscal-year period.* Such report shall also include a discussion of national budget priorities, including alternative ways of allocating budget authority and budget outlays for [such fiscal year] *each fiscal year in such two-fiscal-year period* among major programs or functional categories, taking into account how such alternative allocations will meet major national needs and affect balanced growth and development of the United States.

(2) The Director shall from time to time submit to the Committees on the Budget of the House of Representatives and the Senate such further reports (including reports revising the report required by paragraph (1)) as may be necessary or appropriate to provide such Committees with information, data, and analyses for the performance of their duties and functions.

TITLE III—CONGRESSIONAL BUDGET PROCESS

TIMETABLE

SEC. 300. The timetable with respect to the congressional budget process for any fiscal year is as follows:

First Session

On or before:	Action to be completed:
November 10	President submits current services budget.
15th day after Congress meets.	President submits his budget.
March 15	Committees and joint committees submit reports to Budget Committees.
April 1	Congressional Budget Office submits report to Budget Committees.
April 15	Budget Committees report [first] concurrent resolution on the budget to their Houses.
May 15	Committees report bills and resolutions authorizing new budget authority *for the first fiscal year of the two-fiscal-year period.*
May 15	Congress completes action on [first] concurrent resolution on the budget.
7th day after Labor Day.	Congress completes action on bills and resolutions providing new budget authority and new spending authority *for the first fiscal year of the two-fiscal-year period.*
[September 15.	Congress completes action on second required concurrent resolution on the budget.
[September 25.	Congress action on reconciliation bill or resolution, or both, implementing second required concurrent resolution.]
October 1	[Fiscal year begins.] *Two-fiscal-year period begins.*

First Session—Continued

On or before:	Action to be completed:
15th day after Congress meets.	*President submits proposed revisions in the Budget for the two-fiscal-year period in progress.*
May 15	*Committees report bills and resolutions authorizing new budget authority for the second fiscal year of the two-fiscal-year period.*
7th day after Labor Day.	*Congress completes action on bills and resolutions providing new budget authority and new spending authority for the second fiscal year of the two-fiscal-year period.*

ADOPTION OF [FIRST] CONCURRENT RESOLUTION

SEC. 301. (a) ACTION TO BE COMPLETED BY MAY 15 *OF EACH ODD-NUMBERED YEAR.*—On or before May 15 of each *odd-numbered* year, the Congress shall complete action on the [first] concurrent resolution on the budget for [the fiscal year] *the two-fiscal year period* beginning on October 1 of such year. The concurrent resolution shall set forth, *for each fiscal year in such period*—

(1) the appropriate level of total budget outlays and of total new budget authority;

(2) an estimate of budget outlays and an appropriate level of new budget authority for each major functional category, for contingencies, and for undistributed intragovernmental transactions, based on allocations of the appropriate level of total budget outlays and of total new budget authority;

(3) the amount, if any, of the surplus or the deficit in the budget which is appropriate in light of economic conditions and all other relevant factors;

(4) the recommended level of Federal revenues and the amount, if any, by which the aggregate level of Federal revenues should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(5) the appropriate level of the public debt, and the amount, if any, by which the

statutory limit on the public debt should be increased or decreased by bills and resolutions to be reported by the appropriate committees;

(6) if required by subsection (e), the calendar year in which, in the opinion of the Congress, the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946 should be achieved; and

(7) such other matters relating to the budget as may be appropriate to carry out the purposes of this Act.

(b) Additional Matters in Concurrent Resolution.—The [first] concurrent resolution on the budget *referred to in subsection (a)* may also [require]—

[(1) a procedure under which all or certain bills and resolutions providing new budget authority or providing new spending authority described in section 401(c)(2)(C) for such fiscal year shall not be enrolled until the concurrent resolution required to be reported under section 310(a) has been agreed to, and, if a reconciliation bill or reconciliation resolution, or both, are required to be reported under section 310(c), until Congress has completed action on that bill or resolution, or both; and]

(1) contain the specifications and directions described in section 310(a); and

(2) *require* any other procedure which is considered appropriate to carry out the purposes of this Act.

[Not later than the close of the Ninety-fifth Congress, the Committee on the Budget of each House shall report to its House on the implementation of procedures described in this subsection.]

(c) VIEWS AND ESTIMATES OF OTHER COMMITTEES.—On or before March 15 of each *odd-numbered year*, each standing committee of the House of Representatives shall submit to the Committee on the Budget of the House, each standing committee of the Senate shall submit to the Committee on the Budget of the Senate, and the Joint Economic Committee and Joint Committee on Internal Revenue Taxation shall submit to the Committees on the Budget of both Houses—

(1) its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within the respective jurisdiction or functions of such committee or joint committee; and

(2) except in the case of such joint committee, [the] *an* estimate of the total amounts of new budget authority, and budget outlays resulting therefrom, to be provided or authorized in all bills and resolutions within the jurisdiction of such committee which such committee intends to be effective during [the fiscal year] *each fiscal year in the two-fiscal-year period* beginning on October 1 of such year.

The Joint Economic Committee shall also submit to the Committees on the Budget of both Houses, its recommendations as to the fiscal policy appropriate to the goals of the Employment Act of 1946. Any other committee of the House or Senate may submit to the Committee on the Budget of its House, and any other joint committee of the Congress may submit to the Committees on the Budget of both Houses, its views and estimates with respect to all matters set forth in subsection (a) which relate to matters within its jurisdiction or functions.

(d) HEARINGS AND REPORT.—In developing the [first] concurrent resolution on the budget referred to in subsection (a) for each [fiscal-year] *two-fiscal-year period*, the Committee on the Budget of each House shall hold hearings and shall receive testimony from Members of Congress and such appropriate representatives of Federal departments and agencies, the general public, and national organizations as the committee deems desirable. Each of the recommendations as to short-term and medium-term goals set forth in the report submitted by the members of the Joint Economic Committee under subsection (c) may be considered by the Committee on the Budget of each House as part of its consideration of such concurrent resolution, and its report may reflect its views thereon, and on how the estimates of revenues and levels of budget authority and outlays set forth in such concurrent resolution are designed to achieve any goals it is recommending. On or before April 15 of each *odd-numbered* year, the Committee on the Budget of each House shall report to its House the [first] concurrent resolution on the budget referred to in subsection (a) for the [fiscal year] *two-fiscal-year period* beginning on October 1 of such year. The report accompanying such concurrent resolution shall also include, but not be limited to—

(1) a comparison of revenues estimated by the committee *for each fiscal year in such two-fiscal-year period* with those estimated *for each such fiscal year* in the budget submitted by the President;

(2) a comparison of the appropriate levels of total budget outlays and total new budget authority *for each fiscal year in such two-fiscal-year period*, as set forth in such concurrent resolution, with total budget outlays estimated and total new budget authority requested *for each such fiscal year* in the budget submitted by the President;

(3) with respect to each major functional category, an estimate of budget outlays and an appropriate level of new budget authority *for each fiscal year in such two-fiscal-year period*, for all proposed programs and for all existing programs (including renewals thereof), with the estimate and level for existing programs being divided between permanent authority and funds provided in appropriation Acts, and each such division being subdivided between controllable amounts and all other amounts;

(4) an allocation of the level of Federal revenues recommended in the concurrent resolution *for each fiscal year in such two-fiscal-year period* among the major sources of such revenues;

(5) the economic assumptions and objectives which underlie each of the matters set forth in such concurrent resolution and alternative economic assumptions and objectives which the committee considered;

(6) projections, not limited to the following, for the period of [five] *six* fiscal years beginning with [such fiscal year] *the first fiscal year of such two-fiscal-year period*, of the estimated levels of total budget outlays, total new budget outlays, total new budget authority, the estimated revenues to be received, and the estimated surplus or deficit, if any, for each fiscal year in [such period] *such six-fiscal-year period*, and the estimated levels of tax expenditures (the tax expenditures budget) by major functional categories;

(7) a statement of any significant changes in the proposed levels of Federal assistance to State and local governments *for each fiscal year in such two-fiscal-year period;* and

(8) information, data, and comparisons indicating the manner in which, and the basis on which, the committee determined each of the matters set forth in the concurrent resolution, and the relationship of such matters to other budget categories.

(e) ACHIEVEMENT OF GOALS FOR REDUCING UNEMPLOYMENT.—

(1) If, pursuant to section 4(c) of the Employment Act of 1946, as amended, the President recommends in the Economic Report that the goals for reducing unemployment [set for] *set forth* in section 4(b) of such Act be achieved in a year after the close of the five-year period prescribed by such subsection, the [first] concurrent resolution on the budget *referred to in subsection (3)* for the fiscal year beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(2) After the Congress has expressed its opinion pursuant to paragraph (1) as to the year in which the goals for reducing unemployment set forth in section 4(b) of the Employment Act of 1946, as amended, can be achieved, if, pursuant to section 4(e) of such Act, the President recommends in the Economic Report that such goals be achieved in a year which is different from the year in which the Congress has expressed its opinion that such goals should be achieved, either in its action pursuant to paragraph (1) or its most recent action pursuant to this paragraph, the [first] concurrent resolution on the budget [for the fiscal year] *referred to in subsection (a) for the two-fiscal-year period* beginning after the date on which such Economic Report is received by the Congress may set forth the year in which, in the opinion of the Congress, such goals can be achieved.

(3) It shall be in order to amend the provision of such resolution setting forth such year only if the amendment thereto also proposes to alter the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution in germane fashion in order to be consistent with the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946) which such amendment proposes can be achieved by the year specified in such amendment.

MATTERS TO BE INCLUDED IN JOINT STATEMENT OF MANAGERS; REPORTS BY COMMITTEES

SEC. 302. (a) ALLOCATION OF TOTALS.—The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget *for a two-fiscal-year period* shall include an estimated allocation *for each fiscal* year in such period, based upon such concurrent resolution as recommended in such conference report, of the appropriate levels of total budget outlays and total new budget authority among each committee of the House of Representatives and the Senate which has jurisdiction over bills and resolutions providing such new budget authority.

(b) REPORT BY COMMITTEES.—As soon as practicable after a concurrent resolution on the budget is agreed to—

(1) the Committee on Appropriations of each House shall, after consulting with the Committee on Appropriations of the other House, (A) subdivide among its subcommittees the allocation of budget outlays and new budget authority allocation to it in the joint explanatory statement accompanying the conference report on such concurrent resolution, and (B) further subdivide the amount with respect to each such subcommittee between controllable amounts and all other amounts; and

(2) every other committee of the House and Senate to which an allocation was made

in such joint explanatory statement shall, after consulting with the committee or committees of the other House to which all or part of its allocation was made, (A) subdivide such allocation among its subcommittees or among programs over which it has jurisdiction, and (B) further subdivide the amount with respect to each subcommittee or program between controllable amounts and all other amounts.

Each such committee shall promptly report to its House the subdivisions made by it pursuant to this subsection.

(c) SUBSEQUENT CONCURRENT RESOLUTIONS.—In the case of a concurrent resolution on the budget referred to in section 304 [or 310,] the allocation under subsection (a) and the subdivisions under subsection (b) shall be required only to the extent necessary to take into account revisions made in the most recently agreed to concurrent resolution on the budget.

[FIRST] CONCURRENT RESOLUTION ON THE BUDGET MUST BE ADOPTED BEFORE LEGISLATION PROVIDING NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, OR CHANGES IN REVENUES OR PUBLIC DEBT LIMIT IS CONSIDERED

SEC. 303. (a) IN GENERAL.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides—

(1) new budget authority for a fiscal year;

(2) an increase or decrease in revenues to become effective during a fiscal year;

(3) an increase or decrease in the public debt limit to become effective during a fiscal year; or

(4) new spending authority described in section 401

(c) (2) (C) to become effective during a fiscal year; until the [first] concurrent resolution on the budget [for such year] *referred to in section 301 (a) for the two-fiscal-year period in which such fiscal year occurs* has been agreed to [pursuant to section 301].

(b) EXCEPTIONS.—Subsection (a) does not apply to any bill or resolution—

(1) providing new budget authority which first becomes available in a [fiscal year] *two-fiscal-year period* following the [fiscal year] *two-fiscal-year period* to which the concurrent resolution applies; or

(2) increasing or decreasing revenues which first become effective in a [fiscal year] *two-fiscal-year period* following the [fiscal year] *two-fiscal-year period* to which the concurrent resolution applies.

(c) WAIVER IN THE SENATE.—

(1) The committee of the Senate which reports any bill or resolution to which subsection (a) applies may at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. The resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred, accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and minority leader or their designees, and the time on any debatable motion or appeal shall be limited to twenty minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to the bill or resolution to which the resolution so agreed to applies.

PERMISSIBLE REVISIONS OF CONCURRENT RESOLUTIONS [OF] *ON* THE BUDGET

SEC. 304. At any time after the first concurrent resolution on the budget [for a fiscal year] *referred to in section 301 (a) for a two fiscal-year period* has been agreed to [pursuant to section 301], and before the end of [such fiscal year] *such two fiscal year period*, the two Houses may adopt a concurrent resolution on the budget which revises the concurrent resolution on the budget [for such fiscal year] most recently agreed to *for such two-fiscal-year period if the concurrent resolution on the budget making such revisions, and any conference report thereon, is agreed to by a rollcall vote of three-fifths of the Members of each House of Congress, duly chosen and sworn.*

PROVISIONS RELATING TO THE CONSIDERATION OF CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 305. (a) PROCEDURE IN HOUSE OF REPRESENTATIVES AFTER REPORT OF COMMITTEE; DEBATE.—

(1) When the Committee on the Budget of the House has reported any concurrent resolution on the budget, it is in order at any time after the tenth day (excluding Saturdays, Sundays, and legal holidays) following the day on which the report such resolution has been available to Members of the House (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) General debate on any concurrent resolution on the budget in the House of Representatives shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority parties, plus such additional hours of debate as are consumed pursuant to paragraph (3). A motion further to limit debate is not debatable. A motion to recommit the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(3) Following the presentation of opening statements on the [first] concurrent resolution on the budget [for a fiscal year] *referred to in section 301 (a) for a two-fiscal-year period* by the chairman and ranking minority member of the Committee on the Budget of the House, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Commitee on the Budget of the House sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Full Employment Act of 1946) which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) Consideration of any concurrent resolution on the budget by the House of Representatives shall be in the Committee of the Whole, and the resolution shall be read for amendment under the five-minute rule in accordance with the applicable provisions of rule XXIII of the Rules of the House of Representatives. After the Committee rises and reports the resolution back to the House, the previous question shall be considered as ordered on the resolution and any amendments thereto to final passage without intervening motion; except that it shall be in order at any time prior to final passage (notwithstanding any other rule or provision of law) to adopt an amendment (or a series of amendments) changing any figure or figures in the resolution as so reported to the extent necessary to achieve mathematical consistency.

(7) Debate in the House of Representatives on the conference report or any concurrent resolution on the budget shall be limited to not more than 5 hours, which shall be divided equally between the majority and minority parties. A motion further to limit debate is not debatable. A motion to recommit the conference report is not in order, and it is not in order to move to reconsider the vote by which the conference report is agreed to or disagreed to.

(8) Motions to postpone, made with respect to the consideration of any concurrent resolution on the budget, and motions to proceed to the consideration of other business, shall be decided without debate.

(9) Appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any concurrent resolution on the budget shall be decided without debate.

(b) PROCEDURE IN SENATE AFTER REPORT OF COMMITTEE; DEBATE; AMENDMENTS.—

(1) Debate in the Senate on any concurrent resolution on the budget, and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 50 hours, except that, with respect to the second required concurrent resolution referred to in section 310(a), all such debate shall be limited to not more than 15 hours]. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(2) Debate in the Senate on any amendment to a concurrent resolution on the budget shall be limited to 2 hours, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution, and debate on any amendment to an amendment, debatable motion, or appeal shall be limited to 1 hour, to be equally divided between, and controlled by,

the mover and the manager of the concurrent resolution, except that in the event the manager of the concurrent resolution is in favor of any such amendment, motion, or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. No amendment that is not germane to the provisions of such concurrent resolution shall be received. Such leaders, or either of them, may, from the time under their control on the passage of the concurrent resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(3) Following the presentation of opening statements on the [first] concurrent resolution on the budget [for a fiscal year] *referred to in section 301(a) for a two-fiscal-year period* by the chairman and ranking minority member of the Committee on the Budget of the Senate, there shall be a period of up to four hours for debate on economic goals and policies.

(4) Only if a concurrent resolution on the budget reported by the Committee on the Budget of the Senate sets forth the economic goals (as described in sections 3(a)(2) and 4(b) of the Employment Act of 1946), which the estimates, amounts, and levels (as described in section 301(a)) set forth in such resolution are designed to achieve, shall it be in order to offer to such resolution an amendment relating to such goals, and such amendment shall be in order only if it also proposes to alter such estimates, amounts, and levels in germane fashion in order to be consistent with the goals proposed in such amendment.

(6) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 3, not counting any day on which the Senate is not in session) is not in order. Debate on any such motion to recommit shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the concurrent resolution.

(7) Notwithstanding any other rule, an amendment, or series of amendments, to a concurrent resolution on the budget proposed in the Senate shall always be in order if such amendment or series of amendments proposes to change any figure or figures then contained in such concurrent resolution so as to make such concurrent resolution mathematically consistent or so as to maintain such consistency.

(c) ACTION ON CONFERENCE REPORTS IN THE SENATE.—

(1) The conference report on any concurrent resolution on the budget shall be in order in the Senate at any time after the third day (excluding Saturdays, Sundays, and legal holidays) following the day on which such a conference report is reported and is available to Members of the Senate. A motion to proceed to the consideration of the conference report may be made even though a previous motion to the same effect has been disagreed to.

(2) During the consideration in the Senate of the conference report on any concurrent resolution on the budget, debate shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

(3) Should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to 1 hour, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee, and should any motion be made to instruct the conferees before the conferees are named, debate on such motion shall be limited to one-half hour, to be equally divided between, and controlled by, the mover and the manager of the conference report. Debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided between and controlled by the mover and the manager of the conference report. In all cases when the manager of the conference report is in favor of any motion, appeal, or amendment, the time in opposition shall be under the control of the minority leader or his designee.

(4) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment that is not germane to the provisions of such amendments shall be received.

(d) REQUIRED ACTION BY CONFERENCE COMMITTEE.—If, at the end of 7 days (excluding Saturdays, Sundays, and legal holidays) after the conferees of both Houses have been appointed to a committee of conference on a concurrent resolution on the budget, the conferees are unable to reach agreement with respect to all matters in disagreement between the two Houses, then the conferees shall submit to their respective Houses, on the first day thereafter on which their House is in session—

(1) a conference report recommending those matters on which they have agreed and reporting in disagreement those matters on which they have not agreed; or

(2) a conference report in disagreement, if the matter in disagreement is an amendment which strikes out the entire text of the concurrent resolution and inserts a substitute text.

(e) CONCURRENT RESOLUTION MUST BE CONSISTENT IN THE SENATE.—It shall not be in order in the Senate to vote on the question of agreeing to—

(1) a concurrent resolution on the budget unless the figures then contained in such resolution are mathematically consistent; or

(2) a conference report on a concurrent resolution on the budget unless the figures contained in such resolution, as recommended in such conference report, are mathematically consistent.

LEGISLATION DEALING WITH CONGRESSIONAL BUDGET MUST BE HANDLED BY BUDGET COMMITTEES

SEC. 306. No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

HOUSE COMMITTEE ACTION ON ALL APPROPRIATION BILLS TO BE COMPLETED BEFORE FIRST APPROPRIATION BILL IS REPORTED

SEC. 307. Prior to reporting the first regular appropriation bill for each fiscal year, the Committee on Appropriations of the House of Representatives shall, to the extent practicable, complete subcommittee markup and full committee action on all regular appropriation bills for that year and submit to the House a summary report comparing the committee's recommendations with the appropriate levels of budget outlays and new budget authority as set forth *for such fiscal year* in the most recently agreed to concurrent resolution on the budget for [that year] *the two-fiscal-year period in which such fiscal year occurs.*

REPORTS, SUMMARIES, AND PROJECTIONS OF CONGRESSIONAL BUDGET ACTIONS

SEC. 308. (a) REPORTS ON LEGISLATION PROVIDING NEW BUDGET AUTHORITY OR TAX EXPENDITURES. Whenever a committee of either House reports a bill or resolution to its House providing new budget authority (other than continuing appropriations) or new or increased tax expenditures for a fiscal year, the report accompanying that bill or resolution shall contain a statement, prepared after consultation with the Director of the Congressional Budget Office, detailing—

(1) in the case of a bill or resolution providing new budget authority—

(A) how the new budget authority provided in that bill or resolution compares with the new budget authority *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* and the reports submitted under section 302;

(B) *a projection*, for the period of [5] *6* fiscal years beginning with such fiscal year, of budget outlays, associated with the budget authority provided in that bill or resolution, in each fiscal year in such period; and

(C) the new budget authority, and budget outlays resulting therefrom, provided by that bill or resolution for financial assistance to State and local governments; and

(2) in the case of a bill or resolution providing new or increased tax expenditures—

(A) how the new or increased tax expenditures provided in that bill or resolution will affect the levels of tax expenditures under existing law as set forth *for such fiscal year* in the report accompanying the concurrent resolution on the budget [for such fiscal year] *referred to in section 301(a) for the two-fiscal-year period in which such fiscal year occurs*, or, if a report accompanying a subsequently agreed to concurrent resolution for such [year] *two-fiscal-year period* sets forth such levels, then as set forth in that report; and

(B) a projection, for the period of [5] *6* fiscal years beginning with such fiscal year, of the tax expenditures which will result from that bill or resolution in each fiscal year in such period.

No projection shall be required for a fiscal year under paragraph (1)(B) or (2)(B) if the committee determines that a projection for that fiscal year is impracticable and states in its report the reason for such impracticability.

(b) UP-TO-DATE TABULATION OF CONGRESSIONAL BUDGET ACTIONS.—The Director of the Congressional Budget Office shall issue periodic reports detailing and tabulating the progress of congressional action on bills and resolutions providing new budget authority and changing revenues and the public debt limit for a fiscal year. Such reports shall include, but are not limited to—

(1) an up-to-date tabulation comparing the new budget authority for such fiscal year in bills and resolutions on which Con-

gress has completed action and estimated outlays, associated with such new budget authority during such fiscal yea[r,] to the new budget authority and estimated outlays *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* and the reports submitted under section 302;

(2) an up-to-date status report on all bills and resolutions providing new budget authority and changing revenues and the public debt limit for such fiscal year in both Houses;

(3) an up-to-date comparison of the appropriate level of revenues *for such fiscal year* contained in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* with the latest estimate of revenues for such *fiscal* year (including new revenues anticipated during such *fiscal* year under bills and resolutions on which the Congress has completed action); and

(4) an up-to-date comparison of the appropriate level of the public debt *for such fiscal year* contained in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs* with the latest estimate of the public debt during such fiscal year.

(c) [Five] *Six*-Year Projection of Congressional Budget Action.—As soon as practicable after the beginning of each fiscal year, the Director of the Congressional Budget Office shall issue a report projecting for the period of [5] *6* fiscal years beginning with such fiscal year—

(1) total new budget authority and total budget outlays for each fiscal year in such period;

(2) revenues to be received and the major sources thereof, and the surplus or deficit, if any, for each fiscal year in such period; and

(3) tax expenditures for each fiscal year in such period.

COMPLETION OF ACTION ON BILLS PROVIDING NEW BUDGET AUTHORITY AND CERTAIN NEW SPENDING AUTHORITY

SEC. 309. Except as otherwise provided pursuant to this title, not later than the seventh day after Labor Day of each year, the Congress shall complete action on all bills and resolutions—

(1) providing new budget authority for the fiscal year beginning on October 1 of such year, other than supplemental, deficiency, and continuing appropriation bills and resolutions, and other than the reconciliation bill for [such year] *the two-fiscal-year period in which such fiscal year occurs,* if required to be reported under [section 310(c)] *section 310(b)*; and

(2) providing new spending authority described in section 401(c)(2)(C) which is to become effective during such fiscal year.

Paragraph (1) shall not apply to any bill or resoluton if legislation authorizing the enactment of new budget authority to be provided in such bill or resolution has not been timely enacted.

[SECOND REQUIRED CONCURRENT RESOLUTION AND] RECONCILIATION PROCESS

[SEC. 310. (a) REPORTING OF CONCURRENT RESOLUTION.—The Committee on the Budget of each House shall report to its House a concurrent resolution on the budget which reaffirms or revises the concurrent resolution on the budget most recently agreed to with respect to the fiscal year beginning on October 1 of such year. Any such concurrent resolution on the budget shall also, to the extent necessary—]

SEC. 310. (a) SPECIFICATIONS AND DIRECTIONS.—A concurrent resolution on the budget for a two-fiscal-year period shall, to the extent necessary—

(1) specify the total amount by which—

(A) new budget authority for [such fiscal year] *each fiscal year in such two-fiscal-year period*;

(B) budget authority initially provided for prior fiscal years; and

(C) new spending authority described in section 401(c)(2)(C) which is to become effective during [such fiscal year] *each fiscal year in such two-fiscal-year period,*

contained in laws, bills, and resolutions within the jurisdiction of a committee, is to be changed and direct that committee to determine and recommend changes to accomplish a change of such total amount;

(2) specify the total amount by which revenues *for each fiscal year in such two-fiscal-year period* are to be changed and direct [that] the committees having jurisdiction to determine and recommend changes in the revenue laws, bills, and resolutions to accomplish a change of such total amount;

(3) specify the amount by which the statutory limit on the public debt *for each fiscal year in such two fiscal-year period* is to be changed and direct the committees having jurisdiction to recommend such change; or

(4) specify and direct any combination of the matters described in paragraphs (1), (2), and (3).

[Any such concurrent resolution may be reported, and the report accompanying it may be filed, in either House notwithstanding that that House is not in session on the day on which such concurrent resolution is reported.

[(b) COMPLETION OF ACTION ON CONCURRENT RESOLUTION. Not later than September 15 of each year, the Congress shall complete action on the concurrent resolution on the budget referred to in subsection (a).]

[(c)]*(b)* RECONCILIATION PROCESS.—If a concurrent resolution [is agreed to in accordance with subsection (a)] *on the budget is agreed to* containing directions to one or more committees to determine and recommend changes in laws, bills, or resolutions, and—

(1) only one committee of the House or the Senate is directed to determine and recommend changes, that committee shall promptly make such determination and recommendations and report to its House a reconciliation bill or reconciliation resolution, or both, containing such recommendations; or

(2) more than one committee of the House or the Senate is directed to determine and recommend changes, each such committee so directed shall promptly make such determination and recommendations, whether such changes are to be contained in a reconciliation bill or reconciliation resolution, and submit such recommendations to the Committee on the Budget of its House, which upon receiving all such recommendations shall report to its House a reconciliation bill or reconciliation resolution, or both, carryhing out all such recommendations without any substantive revision.

For purposes of this subsection, a reconciliation resolution is a concurrent resolution directing the Clerk of the House of Representatives or the Secretary of the Senate, as the case may be, to make specific changes in bills and resolutions which have not been enrolled.

[(d)] *(c)* COMPLETION OF RECONCILIATION PROCESS.—Congress shall complete action on any reconciliation bill or reconciliation resolution reported under [subsection (c)] *subsection b* not later than [September 25 of each year] *60 days after the date on which concurrent resolution on the budget containing the specifications and directions for such reconciliation bill or reconciliation resolution is agreed to.*

[(e)] *(d)* PROCEDURE IN THE SENATE.—

(1) Except as provided in paragraph (2), the provisions of section 305 for the consideration in the Senate of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration in the Senate of reconciliation bills and reconciliation resolutions reported under [subsection (c)] *subsection (b)* and conference reports thereon.

(2) Debate in the Senate on any reconciliation bill or resolution reported under [subsection (c)] *subsection (b),* and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours.

[(f)] *(e)* CONGRESS MAY NOT ADJOURN UNTIL ACTION IS COMPLETED.—It shall not be in order in either the House of Representatives or the Senate to consider any resolution providing for the adjournment sine die of either House unless action has been completed on [the concurrent resolution on the budget required to be reported under subsection (a) for the fiscal year beginning on October 1 of such year, and, if a] *any* reconciliation bill or resolution, or both, [is] required to be reported under [subsection (c) for such fiscal year, unless the Congress has completed action on that bill or resolution, or both] *subsection (b) for a two-fiscal-year period.*

NEW BUDGET AUTHORITY, NEW SPENDING AUTHORITY, AND REVENUE LEGISLATION MUST BE WITHIN APPROPRIATE LEVELS

SEC. 311. (a) LEGISLATION SUBJECT TO POINT OF ORDER.—After the Congress has completed action on the concurrent resolution on the budget required to be reported under [section 310(a) for a fiscal year] *section 301(a) for a two-fiscal-year period,* and, if a reconciliation bill, or resolution, or both, for [such fiscal year] *such two-fiscal-year period* are required to be reported under [section 310(c)] *section 310(b),* after that bill has been enacted into law or that resolution has been agreed to, it shall not be in order in either the House of Representatives of the Senate to consider any bill, resolution, or amendment providing additional new budget authority for [such fiscal year] *any fiscal year in such two-fiscal-year period,* providing new spending authority described in section 401(c)(2)(C) to become effective during [such fiscal year] *any fiscal year in such two-fiscal-year period,* or reducing revenues for [such fiscal year] *any fiscal year in such two-fiscal-year period,* or any conference report on any such bill or resolution, if—

(1) the enactment of such bill or resolution as reported;

(2) the adoption and enactment of such amendment; or

(3) the enactment of such bill or resolution in the form recommended in such conference report;

would cause the appropriate level of total new budget authority or total budget outlays *for such fiscal year* set forth in the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal*

year occurs to be exceeded, or would cause revenues *for any such fiscal year* to be less than the appropriate level of revenues *for such fiscal year* set forth in such concurrent resolution.

(b) DETERMINATION OF OUTLAYS AND REVENUES.—For purposes of subsection (a), the budget outlays to be made during a fiscal year and revenues to be received during a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

TITLE IV—ADDITIONAL PROVISIONS TO IMPROVE FISCAL PROCEDURES

BILLS PROVIDING NEW SPENDING AUTHORITY

SEC. 401. (a) LEGISLATION PROVIDING CONTRACT OR BORROWING AUTHORITY.—It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(A) or (B) (or any amendment which provides such new spending authority), unless that bill, resolution, or amendment also provides that such new spending authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(b) LEGISLATION PROVIDING ENTITLEMENT AUTHORITY.—

(1) It shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which provides new spending authority described in subsection (c)(2)(C) (or any amendment which provides such new spending authority) which is to become effective before the first day of the fiscal year which begins during the calendar year in which such bill or resolution is reported.

(2) If any committee of the House of Representatives or the Senate reports any bill or resolution which provides new spending authority described in subsection (c)(2)(C) which is to become effective during a fiscal year and the amount of new budget authority which will be required for such fiscal year if such bill or resolution is enacted as so reported exceeds the appropriate allocation of new budget authority reported under section 302(b) in connection with the most recently agreed to concurrent resolution on the budget for [such fiscal year] *the two-fiscal-year period in which such fiscal year occurs,* such bill or resolution shall then be referred to the Committee on Appropriations of that House with instructions to report it, with the committee's recommendations, within 15 calendar days (not counting any day on which that House is not in session) beginning with the day following the day on which it is so referred. If the Committee on Appropriations of either House fails to report a bill or resolution referred to it under this paragraph within such 15-day period, the committee shall automatically be discharged from further consideration of such bill or resolution and such bill or resolution shall be placed on the appropriate calendar.

(3) The Committee on Appropriations of each House shall have jurisdiction to report any bill or resolution referred to it under paragraph (2) with an amendment which limits the total amount of new spending authority provided in such bill or resolution.

(c) DEFINITIONS.—

(1) For purposes of this section, the term "new spending authority" means spending authority not provided by law on the effective date of this section, including any increase in or addition to spending authority provided by law on such date.

(2) For purposes of paragraph (1), the term "spending authority" means authority (whether temporary or permanent)—

(A) to enter into contracts under which the United States is obligated to make outlays, the budget authority for which is not provided in advance by appropriation Acts;

(B) to incur indebtedness (other than indebtedness incurred under the Second Liberty Bond Act) for the repayment of which the United States is liable, the budget authority for which is not provided in advance by appropriation Acts; and

(C) to make payments (including loans and grants), the budget authority for which is not provided for in advance by appropriation Acts, to any person or government if, under the provisions of the law containing such authority, the United States is obligated to make such payments to persons or governments who meet the requirements established by such law.

Such term does not include authority to insure or guarantee the repayment of indebtedness incurred by another person or government.

(d) EXCEPTIONS.—

(1) Subsections (a) and (b) shall not apply to new spending authority if the budget authority for outlays which will result from such new spending authority is derived—

(A) from a trust fund established by the Social Security Act (as in effect on the date of the enactment of this Act); or

(B) from any other trust fund, 90 percent or more of the receipts of which consist or will consist of amounts (transferred from the general fund of the Treasury) equivalent to amounts of taxes (related to the purposes for which such outlays are or will be made) received in the Treasury under specified provisions of the Internal Revenue Code of 1954.

(2) Subsections (a) and (b) shall not apply to new spending authority which is an amendment to or extension of the State and Local Fiscal Assistance Act of 1972, or a continuation of the program of fiscal assistance to State and local governments provided by that Act, to the extent so provided in the bill or resolution providing such authority.

(3) Subsections (a) and (b) shall not apply to new spending authority to the extent that—

(A) the outlays resulting therefrom are made by an organization which is (i) a mixed-ownership Government corporation (as defined in section 201 of the Government Corporation Control Act), or (ii) a wholly owned Government corporation (as defined in section 101 of such Act) which is specifically exempted by law from compliance with any or all of the provisions of that Act; or

(B) the outlays resulting therefrom consist exclusively of the proceeds of gifts or bequests made to the United States for a specific purpose.

REPORTING OF AUTHORIZING LEGISLATION

SEC. 402. (a) REQUIRED REPORTING DATE.—Except as otherwise provided in this section, it shall not be in order in either the House of Representatives or the Senate to consider any bill or resolution which, directly or indirectly, authorizes the enactment of new budget authority for a fiscal year, unless that bill or resolution is reported in the House or the Senate, as the case may be, on or before May 15 preceding the beginning of such fiscal year.

(b) EMERGENCY WAIVER IN THE HOUSE.—If the Committee on Rules of the House of Representatives determines that emergency conditions require a waiver of subsection (a) with respect to any bill or resolution, such committee may report, and the House may consider and adopt, a resolution waiving the application of subsection (a) in the case of such bill or resolution.

(c) WAIVER IN THE SENATE.—

(1) The Committee of the Senate which reports any bill or resolution may, at or after the time it reports such bill or resolution, report a resolution to the Senate (A) providing for the waiver of subsection (a) with respect to such bill or resolution, and (B) stating the reasons why the waiver is necessary. the resolution shall then be referred to the Committee on the Budget of the Senate. That committee shall report the resolution to the Senate, within 10 days after the resolution is referred to it (not counting any day on which the Senate is not in session) beginning with the day following the day on which it is so referred accompanied by that committee's recommendations and reasons for such recommendations with respect to the resolution. If the committee does not report the resolution within such 10-day period, it shall automatically be discharged from further consideration of the resolution and the resolution shall be placed on the calendar.

(2) During the consideration of any such resolution, debate shall be limited to one hour, to be equally divided between, and controlled by, the majority leader and the minority leader of their designees, and the time on any debatable motion or appeal shall be limited to 20 minutes, to be equally divided between, and controlled by, the mover and the manager of the resolution. In the event the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of such resolution, allot additional time to any Senator during the consideration of any debatable motion or appeal. No amendment to the resolution is in order.

(3) If, after the Committee on the Budget has reported (or been discharged from further consideration of) the resolution, the Senate agrees to the resolution, then subsection (a) of this section shall not apply with respect to that bill or resolution referred to in the resolution.

(d) CERTAIN BILLS AND RESOLUTIONS RECEIVED FROM OTHER HOUSE.—Notwithstanding the provisions of subsection (a), if under that subsection it is in order in the House of Representatives to consider a bill or resolution of the House, then it shall be in order to consider a companion or similar bill or resolution to the Senate; and if under that subsection it is in order in the Senate to consider a bill or resolution of the Senate, then it shall be in order to consider a companion or similar bill of the House of Representatives.

(e) EXCEPTIONS.—

(1) Subsection (a) shall not apply with respect to new spending authority described in section 401(c)(2)(C).

(2) Subsection (a) shall not apply with respect to new budget authority authorized in a bill or resolution for any provision of the Social Security Act if such bill or resolution also provides new spending authority described in section 401(c)(2)(C) which, under section 401(d)(2)(A), is excluded from the application of section 401(b).

(f) STUDY OF EXISTING SPENDING AUTHORITY AND PERMANENT APPROPRIATIONS.—The Committees on Appropriations of the House of Representatives and the Senate shall

study on a continuing basis those provisions of law, in effect on the effective date of this section, which provide spending authority or permanent budget authority. Each committee shall, from time to time, report to its House its recommendations for terminating or modifying such provisions.

ANALYSIS BY CONGRESSIONAL BUDGET OFFICE

SEC. 403. (a) The Director of the Congressional Budget Office shall, to the extent practicable, prepare for each bill or resolution of a public character reported by any committee of the House of Representatives or the Senate (except the Committee on Appropriations of each House), and submit to such committee—

(1) an estimate of the costs which would be incurred in carrying out such bill or resolution in the fiscal year in which it is to become effective and in each of the [4] *five* fiscal years following such fiscal year, together with the basis for each such estimate;

(2) an estimate of the cost which would be incurred by State and local governments in carrying out or complying with any significant bill or resolution in the fiscal year in which it is to become effective and in each of the [four] *five* fiscal years following such fiscal year, together with the basis for each such estimate; and

(3) a comparison of the estimate of costs described in paragraph (1) and (2) with any available estimate of costs made by such committee or by any Federal agency.

The estimate and comparison so submitted shall be included in the report accompanying such bill or resolution if timely submitted to such committee before such report is filed.

(b) For purposes of subsection (a)(2), the term "local government" has the same meaning as in section 103 of the Intergovernmental Cooperation Act of 1968.

(c) For purposes of subsection (a)(2), the term "significant bill or resolution" is defined as any bill or resolution which in the judgment of the Director of the Congressional Budget Office is likely to result in an annual cost to State and local governments of $200,000,000 or more, or is likely to have exceptional fiscal consequences for a geographic region or a particular level of government.

* * * * *

BUDGET DATA BASED ON CONTINUATION OF EXISTING LEVEL OF SERVICES

SEC. 605. (a) On or before November 10 of [each year (beginning with 1975)] *each even-numbered year (beginning with 1982)*, the President shall submit to the Senate and the House of Representatives the estimated outlays and proposed budget authority which would be included in the Budget to be submitted pursuant to section 201 of the Budget and Accounting Act, 1921, for [the ensuing fiscal year] *each fiscal year in the two-fiscal-year period beginning in the following odd-numbered year* if all programs and activities were carried on during [such ensuing fiscal year] *each such fiscal year* at the same level as the fiscal year in progress and without policy changes in such programs and activities. The estimated outlays and proposed budget authority submitted pursuant to this section shall be shown by function and subfunctions (in accordance with the classifications in the budget summary table entitled "Budget Authority and Outlays by Function and Agency"), by major programs within each such function, and by agency. Accompanying these estimates shall be the economic and programmatic assumptions underlying the estimated outlays and proposed budget authority, such as the rate of inflation, the rate of real economic growth, the unemployment rate, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated outlays and proposed budget authority so submitted, and shall submit to the Committees on the Budget of both Houses an economic evaluation thereof on or before December 31 of each *even-numbered* year.

* * * * *

YEAR-AHEAD REQUESTS FOR AUTHORIZATION OF NEW BUDGET AUTHORITY

SEC. 607. Notwithstanding any other provision of law, any request for the enactment of legislation authorizing the enactment of new budget authority to continue a program or activity for a fiscal year (beginning with the fiscal year commencing October 1, 1976) shall be submitted to the Congress not later than May 15 of the year preceding the year in which such fiscal year begins. In the case of a request for the enactment of legislation authorizing the enactment of new budget authority for a new program or activity which is to continue for more than one fiscal year, such request shall be submitted for at least the first 2 fiscal years.

* * * * *

EXERCISE OF RULEMAKING POWERS

SEC. 904. (a) The Provisons of this title (except section 905) and of titles I, III, and IV and the provisions of sections 606, 701, 703, and 1017 are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extend as in the case of any other rule of such House.

(b) Any provision [title III or IV] *title III (except section 304) or title IV* may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by the unanimous consent of the Senate.

(c) Appeals in the Senate from the decisions of the Chair relating to any provision of title III or IV or section 1017 shall, except as otherwise provided therein, be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the resolution, concurrent resolution, reconcilliation bill, or rescission bill, as the case may be.

* * * * *

BUDGET AND ACCOUNTING ACT, 1921

* * * * *

PRESIDENT TO TRANSMIT BUDGET TO CONGRESS

[SEC. 201. (a) The President shall transmit to Congress during the first fifteen days of each regular session, the Budget, which shall set forth his Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—]

SEC. *201. (a) The President shall transmit to Congress during the first fifteen days of the first regular session of each Congress the Budget for the two-fiscal-year period beginning on October 1 of the year in which such session occurs. The Budget shall set forth the President's Budget message, summary data and text, and supporting detail. The Budget shall set forth in such form and detail as the President may determine—*

(1) functions and activities of the Government;

(2) at such times as may be practicable, information on program costs and accomplishments;

(3) Any other desirable classifications of data;

(4) a reconciliation of the summary data on expenditures with proposed appropriations;

(5) estimated expenditures and proposed appropriatons necessary in his judgment for the support of the Government for [the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period,* except that estimated expenditures and proposed appropriations for such years for the legislative branch of the Government and the Supreme Court of the United States shall be transmitted to the President on before October 15 of each *even-numbered* year, and shall be included by him in the Budget without revision;

(6) estimated receipts of the Government during [the ensuing fiscal year and projections for the four fiscal years immediately following the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period and projections for the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period,* under (1) laws existing at the time the Budget is transmitted and also (2) under the revenue proposals, if any, contained in the Budget;

(7) actual appropriations, expenditures, and receipts of the Government during the last completed fiscal year;

(8) estimated expenditures and receipts, and actual or proposed appropriations of the Government during the fiscal year in progress;

(9) balanced statements of (1) the condition of the Treasury at the end of the last completed fiscal year, (2) the estimated condition of the Treasury at the end of the fiscal year in progress, and (3) the estimated condition of the Treasury at the end of [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* if the financial proposals contained in the Budget are adopted;

(10) all essential facts regarding the bonded and other indebtedness of the Government;

(11) such other financial statements and data as in his opinion are necessary or desirable in order to make known in all practicable detail the financial condition of the Government;

(12) with respect to each proposal in the Budget for new or additional legislation which would create or expand any function, activity, or authority, in addition to those functions, activities, and authorities then existing or as then being administered and operated, a tabulation showing—

(A) the amount proposed in the Budget for appropriation and for expenditure in [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* on account of such proposal; and

(B) the estimated appropriation required on account of such proposal in [each of the

four fiscal years, immediately following that ensuing fiscal year] *each of the four fiscal years immediately following the second fiscal year in the ensuing two-fiscal-year period,* during which such proposal is to be in effect; and

(13) an allowance for additional estimated expenditures and proposed appropriations for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period,* and an allowance for unanticipated uncontrollable expenditures for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period.*

During the first fifteen days of the second regular session of each Congress, the President shall transmit to the Congress any revisions the President considers appropriate in the Budget transmitted in the first regular session of that Congress.

(b) The President shall transmit to the Congress, on or before July 15 of each *odd-numbered* year, a supplemental summary of the Budget for the ensuing [fiscal year] *two-fiscal-year period* transmitted to the Congress by the President under subsection (a) of this section. Such supplemental summary—

(1) shall reflect with respect to [that ensuing fiscal year] *each fiscal year in that ensuing two-fiscal-year period*—

(A) all substantial alterations in or reappraisals of estimates of expenditures and receipts, and

(B) all substantial obligations imposed on that budget after its transmission to the Congress;

(2) shall contain current information with respect to those matters covered by subparagraph (8) and clauses (2) and (3) of subparagraph (9) of subsection (a) of this section; and

(3) shall contain such additional information, in summary form, as the President considers necessary or advisable to provide the Congress with a complete and current summary of information with respect to that Budget and the then currently estimated functions, obligations, requirements, and financial condition of the Government for [that ensuing fiscal year] *each fiscal year in that ensuing two-fiscal-year period.*

(c) The President shall transmit to the Congress, on or before July 15 of each year, in such form and detail as he may determine—

(1) summaries of estimated expenditures, for [the first four fiscal years following the ensuing fiscal year] *each fiscal year in the first two of the two-fiscal-year periods following the ensuing two-fiscal-year period* for which the Budget was transmitted to the Congress by the President under subsection (a) of this section, which will be required under continuing programs which have a legal commitment for future years or are considered mandatory under existing law; and

(2) summaries of estimated expenditures, in [fiscal years following such ensuing fiscal year] *each fiscal year in the first two of the two-fiscal-year periods following such ensuing two-fiscal-year period,* of balances carried over from such [ensuing-fiscal-year] *ensuing two-fiscal-year period.*

(d) The Budget transmitted pursuant to subsection (a) of this section for [fiscal-year] *two-fiscal-year period* shall set forth separately, *for each fiscal year in such two-fiscal-year period,* the items enumerated in section 301(a)(1)–(5) of the Congressional Budget and Impoundment Control Act of 1974.

(e) The Budget transmitted pursuant to subsection (a) of this section for [each-fiscal-year] *each two-fiscal-year period* shall set forth the levels of tax expenditures under existing law for [such-fiscal-year] *each fiscal year in such two-fiscal-year period* (the tax expenditure budget), taking into account projected economic factors, and any changes in such existing levels based on proposals contained in such Budget. For purposes of this subsection, the terms "tax expenditures" and "tax expenditures budget" have the meanings given to them by section 3(3) of the Congressional Budget and Impoundment Control Act of 1974.

(f) The Budget transmitted pursuant to subsection (a) of this section for each [fiscal-year] *two-fiscal-year period* shall contain—

(1) a comparison, for the last [completed-fiscal-year] *two completed fiscal years,* of the total amount of outlays estimated in the Budget transmitted pursuant to subsection (a) of this section for each major program involving uncontrollable or relatively uncontrollable outlays and the total amount of outlays made under each such major program during *each* such fiscal year;

(2) a comparison, for the last [completed fiscal year] *two completed fiscal years,* of the total amount of revenues estimated in the Budget transmitted pursuant to subsection (a) of this section and the total amount of revenues received during *each* such year, and, with respect to each major revenue source, the amount of revenues estimated in the Budget transmitted pursuant to subsection (a) of this section and the amount of revenues received during *each* such year; and

(3) an analysis and explanation of the difference between each amount set forth pursuant to paragraphs (1) and (2) as the amount of outlays or revenues estimated in the Budget submitted under subsection (a) of this section for *each* such fiscal year and the corresponding amount set forth as the amount of outlays made or revenues received during *each* such fiscal year.

(g) The President shall transmit to the Congress, on or before April 10 and July 15 of each *odd-numbered* year, a statement of all amendments to or revisions in the budget authority requested, the estimated outlays, and the estimated receipts for [the ensuing fiscal year] *each fiscal year in the ensuing two-fiscal-year period* set forth in the Budget transmitted pursuant to subsection (a) of this section (including any previous amendments or revisions proposed on behalf of the executive branch) that he deems necessary and appropriate based on the most current information available. Such statement shall contain the effect of such amendments and revisions on the summary data submitted under subsection (a) of this section and shall include such supporting detail as is practicable. the statement transmitted on or before July 15 of any *odd-numbered* year may be included in the supplemental summary required to be transmitted under subsection (b) of this section during such year. The Budget transmitted to the Congress pursuant to subsection (a) of this section for any [fiscal year] *two-fiscal-year period,* or the supporting detail transmitted in connection therewith, shall include a statement of all such amendments and revisions with respect to the [fiscal-year] *two-fiscal-year period* in process made before the date of transmission of such budget.

(h) The Budget transmitted pursuant to subsection (a) of this section for each [fiscal year] *two-fiscal-year period* shall include information with respect to estimates of appropriations for *each fiscal year in* the next succeeding [fiscal year] *two-fiscal-year period* for grants, contracts, or other payments under any program for which there is an authorization of appropriations for [such succeeding] *each such* fiscal year and such appropriations are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

(i) The Budget transmitted pursuant to subsection (a) of this section for [each fiscal year, beginning with the fiscal year ending September 30, 1979] *each two-fiscal-year period, beginning with the two-fiscal-year period beginning October 1, 1983,* shall contain a presentation, *for each fiscal year in such two-fiscal-year period,* of budget authority, proposed budget authority, outlays, proposed outlays, and descriptive information in terms of—

(1) a detailed structure of national needs which shall be used to reference all agency missions and programs;

(2) agency missions; and

(3) basic programs.

To the extent practicable, each agency shall furnish information in support of its budget requests in accordance with its assigned missions in terms of Federal functions and subfunctions, including mission responsibilities of component organizations, and shall relate its programs to agency missions.

(j) Whenever the Interstate Commerce Commission submits any budget estimate or request, other budget information (including manpower needs), legislative recommendations, prepared testimony for congressional hearings, or comments on legislation, to the President or to the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress. No officer or agency of the United States shall have any authority to prohibit, impose conditions on, or in any way impair the free communication by such Commission with the Congress, its committees, or any of the Members of the Congress with respect to any budget estimate or request of the Commission.●

By Mr. BOSCHWITZ (for himself and Mr. RANDOLPH):

S. 2849. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; to the Committee on Labor and Human Resources.

HANDICAPPED INDIVIDUALS SERVICES AND TRAINING ACT

● Mr. BOSCHWITZ. Mr. President, I am introducing legislation designed to provide independent statutory authority for four programs that serve handicapped people. The Handicapped Individuals Services and Training Act has four titles.

TITLE I

Establishing independent permanent authorization for the Helen Keller National Center for Deaf Blind Youth and Adults. The center was founded in 1969 in Sands Point, N.Y., to provide intensive, specialized rehabilitative services and training to people who are both deaf and blind. This bill authorizes $3.5 million to be appropriated in fiscal year 1984 for the center. The Federal Government has already invested $10 million in capital, equipment, and operating funds.

TITLE II

Establishes a 5-year authorization for the Vinland National Center for Physical Fitness and Healthsports for Handicapped Individuals. The Kingdom of Norway gave the U.S. Government $200,000 as a bicentennial gift for the purpose of establishing the Vinland National Center in Minnesota. The Minnesota State Legislature matched the Norwegian gift in 1977. Vinland Center has also received Federal grants from the Department of Health and Human Services and the Department of Education.

The Vinland National Center is dedicated to the concept that healthsports and physical fitness can enhance the lifestyle of most disabled people and offer the opportunity to improve health and job productivity. This bill authorizes $2.65 million in appropriations for Vinland in fiscal year 1984, $2 million of this is to be used for construction.

TITLE III

Establishes a 5-year authorization for the regional postsecondary education programs for the deaf operated at St. Paul Technical Vocational Institute in St. Paul, Minn., California State University at Northridge, the Central Community College of Seattle, Wash., and the Delgado College in New Orleans, La. These programs have been providing postsecondary education for deaf students since the late 1960's. This program allows deaf students to participate in existing postsecondary programs with the help of support services provided with funding from the regional education program.

St. Paul TVI will be serving 150 deaf students this fall, and they have served over 1,400 deaf students since the late 1960's. Students have come to St. Paul TVI from 39 States, the District of Columbia, and Canada. They provide interpreting, counseling, notetaking, and tutoring as support services for their deaf students. In addition, the deaf students may attend a 6-week "prep" course designed to teach them independent living skills and to help them choose the course of study they want to pursue.

This bill authorizes appropriations of $4 million for the regional postsecondary education programs. This is the same as the current authorization although it is appropriated at $2.95 million.

TITLE IV

Establishes independent authorization for the captioned film services for the deaf. These services have been funded by Congress since 1959. The authorized appropriations for this are $17.5 million.

This legislation seeks to insure that three programs that serve handicapped people that have been classified as "discretionary programs" are preserved. In these times of fiscal restraint the funding for many of the discretionary programs has been greatly reduced without carefully studying the impact on individual programs. I am a supporter of the President's efforts to get Federal spending under control. However, I feel it is incumbent on those of us who do support controlling Federal spending and the reconciliation process to find ways to insure that programs that are particularly effective are preserved.

This will insure four different programs that provide effective services for the handicapped continue to receive Federal support.●

By Mr. EAGLETON (for himself and Mr. DANFORTH):

S. 2850. A bill to authorize the transfer of the St. Louis Airport storage site from the city of St. Louis, Mo., to the Department of Energy; to the Committee on Energy and Natural Resources.

TRANSFER OF CERTAIN PROPERTY

Mr. EAGLETON. Mr. President, today I am introducing a bill to transfer the title of a 21-acre tract of land, commonly referred to as the St. Louis Airport storage site, from the city of St. Louis to the Department of Energy's radioactive remedial program.

It is the first step in resolving the complex issue of St. Louis, Mo.'s, remedial waste problem. I have been concerned for years over the potential hazards to public health and safety posed by the various radioactive waste sites scattered around St. Louis. These areas contain residue left from the development and use of atomic energy under the Manhattan project of World War II. Unfortunately, the Government's emphasis at that time was on development of technology and production of nuclear materials for the Nation's defense and security. Little, if any, though was given to the long-term problem of the waste the project left behind. When the project was over, the Government cleaned up the sites according to the few health and safety guidelines around, and moved on.

Since then, the guidelines have become more restrictive in regard to radioactive waste. The Department of Energy in 1972 began a new program to identify and clean up these old sites. For St. Louis, it meant the beginning of endless negotiations and efforts to consolidate the six sites for temporary storage, and the quest for an answer to the question of what to do permanently with the material.

Of course, no one wants the waste to be stored in their community. No one wants it laying in open ditches and mounds in their community, either. Two years ago, the Department of Energy suggested consolidating two of the more open sites onto the 21-acre site, formerly owned by the Atomic Energy Commission, at the St. Louis Airport. The city of St. Louis had taken ownership of the site in March 1972, hoping to use the acreage for expansion of the airport. The airport authority has now decided that the land is unnecessary for its expansion plans, and is willing to return the site to the Department of Energy. The Department has been interested in the site, but under its current authority cannot accept the land without congressional authority.

So, the Department of Energy went back to the drawing board, and a few months ago announced that it had a new plan of action. Rather than wait for Congress to pass legislation to transfer the title, DOE would ship the material from the two sites out to another radioactive waste site in Weldon Springs, about 30 miles from St. Louis. DOE thought there would be little opposition to this plan. Weldon Springs had a raffinate pit nearly empty. The plan seemed so good that the Department began to think bigger and bigger. By the time Department of Energy officials met with Missouri congressional offices, DOE had plans not only to move Missouri's waste to Weldon Springs, but waste from other Midwest States as well.

To make a long story short, 2,000 residents of St. Charles County turned out last Tuesday night to protest the Department of Energy's plan to make Weldon Springs a radioactive dump site. There are many problems associated with the Department of Energy plan, including new geological data questioning the soundness of pit No. 4 at Weldon Springs to hold radioactive waste. In a two-page letter to the Department of Energy's Director of Technical Services Division at Oak Ridge, the Missouri State geologist noted that the raffinate pits are "in a geological setting that would allow contamination to ground water recharge if leakage were to take place."

Clearly, Weldon Springs is not the answer to St. Louis radioactive waste problem. Much more study must be done at the site to determine its viability. It appears that St. Louis is back to square 1 in its attempt to consolidate its waste.

My bill is an attempt to give the Department of Energy the opportunity to explore every feasible alternative,

and to make its decision based on the best possible site, not the most expedient plan.

My bill in no way advocates that the St. Louis Airport storage site become the dump site for all Midwest States. I would fight against any effort of the Department of Energy to move other States' waste into Missouri, either at Weldon Springs or at the airport. I also am not saying that the airport site is the best place to move the Latty Avenue, West Lake, or Mallinckrodt waste. There are not enough studies available at this time to make such a decision. As the Missouri Department of Natural Resources Director, Fred Lasfer, points out in his letter to DOE:

This site (SLAPSS) may have potential for development as extended temporary storage of on-site material and possibly material from other sites. This alternative should be thoroughly explored and evaluated as part of the overall remedial action program for Missouri sites. We do not believe this has been done yet.

This bill will open up new choices for St. Louis radioactive waste. It may be the solution to one of the problems of the six sites: Providing for temporary storage of the St. Louis Airport ditch material, which now lays in open ditches along one of St. Louis most heavily traveled commuter roads. It may or may not be the solution for other Missouri local sites. Study and time will give us those answers.

Facing up to radioactive waste is difficult. It is an emotional subject. It is a scary one. It would be easy to say, let us gather it up and ship it to another State, but that is not a realistic answer. I am asking Congress to give Missouri one more option in its efforts to face up to this complex 20th-century problem.

Mr. President, I ask that the text of my bill be printed in full, along with the Missouri State letter to Mr. E. L. Keller of the Department of Energy.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2850

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Energy is authorized to accept the transfer of lands comprising the St. Louis Airport Storage Site, comprising 21.7 acres north of the St. Louis Airport in St. Louis, Missouri, from the City of St. Louis, Missouri to be utilized by the Department of Energy under its Remedial Action Program.

MISSOURI DEPARTMENT OF
NATURAL RESOURCES,
Jefferson City, Mo., August 2, 1982.

Mr. E. L. KELLER,
Director, Technical Services Division, Department of Energy, Oak Ridge Operations, Oak Ridge, Tenn.

DEAR LEA: The State of Missouri has long been concerned about the potential hazards to public health and the environment posed by the various sites containing radioactive wastes in St. Louis City and County and St. Charles County. We are encouraged that the Department of Energy appears to be moving forward with its remedial action program in Missouri. However, we must emphasize the following points regarding possible remedial actions.

1. We recognize the merits of consolidating the radio active waste material now located at six different sites in St. Louis City, St. Louis County and St. Charles County. This must be accomplished with acceptably low environmental risk, both during the transfer operation and in the long-term.

2. I have conferred with the Missouri State Geologist and his staff on the geologic suitability of the Weldon Spring property owned by the U.S. Government. It has been brought out that the Weldon Spring property probably has certain inherent geological limitations for solid waste facility siting and would require extensive examination before its suitability for that purpose could be determined. We believe that radioactive waste management would necessarily require close attention to geologic factors along with engineering procedures in the construction, operation, and maintenance of such a facility.

3. The contaminated quarry adjoining the Missouri River floodplain has been shown to be the source of radioactive contaminants in alluvial groundwater. This condition has not been remedied to date.

4. The raffinate pits, including the largest (No. 4) are in a geologic setting that would allow contamination to groundwater recharge if leakage were to take place. Soil materials at the pit site (as determined from existing drilling records) are such that leakage problems could be anticipated. Observation of pit No. 4 suggests that leakage may already be occurring, because the drainage ratio is approximately 2:1, yet the water level in the pit seems to remain stable.

5. If the Department of Energy wishes to develop a more permanent storage facility at the Weldon Spring property for the radioactive wastes there or at other locations, the State requests the following:

(a) A site investigation and evaluation thoroughly exploring both geologic limitations and engineering feasibility carried out in the general manner and detail specified in Missouri Hazardous Waste Regulations (10 CSR 25) so as to provide both DOE and its consultants and the Department of Natural Resources with a common reference document. We believe this to be a reasonable and fair request notwithstanding the questions that may exist as to the legal applicability of Missouri statutes and regulations.

(b) A thorough exploration and evaluation of all reasonable alternatives to such action.

6. We feel that a combination of natural materials at the Weldon Spring site plus proper engineering may provide for adequate stabilization of the radioactive wastes at the site and waste material that may be added.

7. The SLAPSS (St. Louis Airport Storage Site) location has been investigated by consultants (Weston-1981) and by Oak Ridge National Laboratory (1979) for DOE. This site may have potential for development as extended temporary storage of on-site material and possibly material from other sites. This alternative should be thoroughly explored and evaluated as part of the overall remedial action program for Missouri sites. We do not believe this has been done yet.

8. We are extremely reluctant to add to Missouri's radioactive waste problems with the importation of wastes from Texas, Iowa, Illinois and Ohio no matter how small the quantities or activity levels may be. We will vigorously oppose any importation of wastes unless site characterization studies and engineering planning for the solution to Missouri's existing problems proceed in a manner consistent with a high level of public health protection.

Sincerely,

FRED A. LAFSER,
Director.

Mr. DANFORTH. Mr. President, work done at the Mallinckrodt plant in St. Louis, Mo., was critical to the development of the atomic bomb in World War II and to this Nation's nuclear energy program generally. Radioactive materials were processed there from 1942 to 1957.

Some of the contaminated scrap and radioactive residues were taken to a 22-acre site at the St. Louis Airport for disposal. The airport property subsequently was turned over to the city of St. Louis.

A radiological survey in 1978 found surface radiation levels above Federal guidelines at 10 locations on the airport site, and 2 spots away from the site where contaminated soil had eroded into ditches.

The Department of Energy wants to clean up those ditches, but it lacks the authority to use the airport site, the most logical repository, because the site belongs to the city of St. Louis. Instead, DOE has proposed to use a site at Weldon Spring in nearby St. Charles County. The suitability of the Weldon Spring site for this purpose has been called into question by State officials, however, and it seems clear that additional geological work is needed there.

In the meantime, there is the problem of the airport site. DOE and State officials agree that it is the best place to put the contaminated soil from the adjacent ditches, as long as the legal barriers can be surmounted.

Mr. President, this bill would do just that. I would convey the property back to the Department of Energy, and the Department then would be able to go forward under its remedial action program and consolidate the radioactive materials at the airport. Such an approach is a commonsense solution that will be more efficient and effective, and will save the taxpayers money. My colleague from Missouri and I hope to achieve quick enactment of this modest and straightforward legislation, and clear away this impediment to cleanup of the airport site.

By Mr. JOHNSTON (for himself and Mr. LONG):

S.J. Res. 231. Joint resolution to authorize and request the President to designate the week of October 11, 1982, through October 17, 1982, as "National Get High on Life Week"; to the Committee on the Judiciary.

NATIONAL GET HIGH ON LIFE WEEK

● Mr. JOHNSTON. Mr. President, Justice Oliver Wendell Holmes once said that life is action: "The joy of life is to put out one's power in some natural and useful or harmless way. There is no other. And the real misery is not to do this." What he was saying is what we are saying here today to our young people: Live your life, don't drug it away. Your Nation, your family, your friends, and neighbors cannot afford to waste your joy, your strength, and your conscious participation in society.

Drug and alcohol abuse damages both individuals and society as a whole. Even if we are aware of the statistics, that, for instance in 1980, there were 650,000 alcohol-related traffic injuries and 25,000 deaths, what may escape us is the cost in human terms.

Each of those 675,000 people suffered fear, pain, and economic loss. Their friends, families, and fellow workers were frightened and inconvenienced. Their insurance companies paid the bills for vehicle damage, personal injury, and medical expenses. Society—the taxpayers—was forced to assume the burden of caring for those left disabled, handicapped, or jobless as a result of an alcohol-related accident, an avoidable, unnecessary accident.

The human and economic costs of drug abuse are even more appalling. Drug use, particularly by adolescents and young adults, increased 10- to 30-fold during the 1960's and 1970's. One study indicates that an individual using narcotics 3 days a week or more is involved in criminal activity 246 out of 365 days a year. A gigantic criminal empire is built on untaxed profits from the traffic in illegal drugs. These criminals have every incentive to recruit new and even younger users. The crime, fear, and violence generaged by illegal drugs has grayed the fabric of urban life.

Prevention of these abuses must be a national priority and we must address this problem on all levels, Federal, State, and local. Medical science is making progress in the areas of alcohol and drug research, and the treatment and prevention of alcoholism and addiction. A "National Get High on Life Week" will focus attention on the magnitude of the problem, and inspire our citizens to work in concert toward solutions.

For the United States, 1982 is a year of economic awakening. We have lived beyond our means, and massive budget deficits threaten to swamp us unless we relearn frugality. No society can afford the senseless, wasteful squandering of its resources. The citizens of America, particularly its young men and women, are our principal resource. We must encourage them to get high on life and use their powers joyfully as Justice Holmes urged, "to use them to their height . . . it is the one end that justifies itself." Otherwise, uncontrolled drug and alcohol abuse could rob the Nation of its future.●

ADDITIONAL COSPONSORS

S. 1698

At the request of Mr. DENTON, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2149

At the request of Mr. DECONCINI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2300

At the request of Mr. BURDICK, his name was withdrawn as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2784

At the request of Mr. DECONCINI, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from South Dakota (Mr. PRESSLER), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2788

At the request of Mr. GRASSLEY, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 2788, a bill to restrict the distribution of material involving the sexual exploitation of minors.

S. 2837

At the request of Mr. GARN, the names of the Senator from Nevada (Mr. LAXALT) and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of S. 2837, a bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 200

At the request of Mr. GLENN, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

SENATE JOINT RESOLUTION 205

At the request of Mr. EAST, the names of the Senator from Alabama (Mr. DENTON), the Senator from Washington (Mr. GORTON), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Joint Resolution 205, a joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 209

At the request of Mr. LEVIN, the names of the Senator from Washington (Mr. GORTON), the Senator from Utah (Mr. HATCH), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Illinois (Mr. DIXON) were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week."

SENATE JOINT RESOLUTION 226

At the request of Mr. COCHRAN, the names of the Senator from Georgia (Mr. NUNN), the Senator from Kentucky (Mr. FORD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Georgia (Mr. MATTINGLY), the Senator from Colorado (Mr. ARMSTRONG), the Senator from Montana (Mr. BAUCUS), the Senator from Alaska (Mr. STEVENS), the Senator from New York (Mr. D'AMATO), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'AMATO, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Ohio (Mr. GLENN), and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 411

At the request of Mr. PRYOR, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of Senate Resolution 411, a resolu-

tion expressing the sense of the Senate that the Secretary of Health and Human Services should not adopt as final rules proposed rules issued on May 24, 1982, relating to survey and certification procedures for nursing homes and other health care facilities and suppliers participating in medicare and medicaid programs.

AMENDMENT NO. 2006

At the request of Mr. GRASSLEY, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of amendment No. 2006 intended to be proposed to S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

AMENDMENT NO. 2029

At the request of Mr. BAKER, the names of the Senator from Virginia (Mr. WARNER), the Senator from Arizona (Mr. DECONCINI), the Senator from Idaho (Mr. SYMMS), the Senator from New Mexico (Mr. SCHMITT), the Senator from Iowa (Mr. JEPSEN), the Senator from Oklahoma (Mr. NICKLES), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of amendment No. 2029 proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

At the request of Mr. QUAYLE, his name was added as a cosponsor of amendment No. 2029 proposed to House Joint Resolution 520, supra.

AMENDMENT NO. 2032

At the request of Mr. GRASSLEY, the name of the Senator from Iowa (Mr. JEPSEN) was added as a cosponsor of amendment No. 2032 intended to be proposed to H.R. 5427, a bill to authorize support to Radio Broadcasting to Cuba, Incorporated.

SENATE CONCURRENT RESOLUTION 116—CONCURRENT RESOLUTION RELATING TO A NATIONAL COAL EXPORT POLICY

Mr. RANDOLPH submitted the following concurrent resolution; which was referred to the Committee on Banking, Housing, and Urban Affairs:

S. CON. RES. 116

Whereas the International Energy Agency concluded that an expanded coal trade is in part dependent on Government policies to facilitate coal development and usage;

Whereas the Heads of State of France, Italy, Japan, the Federal Republic of Germany, the United Kingdom, Canada, and the United States concluded at the 1979 economic summit meeting in Tokyo that their nations intend to double coal production and utilization by 1990, encourage long-term commitments by coal producers and consumers and improve infrastructures in both exporting and importing nations, and that these policies were reinforced during the 1980 economic summit meeting in Venice;

Whereas the Reagan Administration has followed the initiative taken by the previous Administration's interagency coal export task force by creating a coal interagency working group comprised of policy level representatives from twelve departments and agencies within the Federal Government concerned with the production, transportation, and exportation of coal and that the Administration has issued a coal export policy based on the belief that America's coal reserves can provide economic benefit to this Nation while providing coal consuming nations with a reliable and affordable source of energy;

Whereas the Department of Commerce has begun to engage in coal export promotion activities through information and counseling services, formulation of a United States coal contact list, publication of a foreign buyers worldwide trade list, and notification to foreign buyers worldwide trade list, and notification to foreign commercial service officers to assist in coal export promotion; Now therefore, be it *Resolved*, It is the sense of Congress that increased coal exports make an important contribution to this Nation's balance of trade, employment, and provide other coal consuming Nations with energy security, and that labor, industry, Government, and coal importers cooperate to increase world coal trade through precise efforts such as the recent Coal Trade Mission for the purpose of promoting United States coal exports, and that Congress must move forthwith in considering legislative measures to enhance the coal capability of ports and determines that such legislation should not reduce the competitiveness of coal exports through the imposition of user charges to recover 100 per centum of Federal expenditures at such ports, and that such legislation shall seek to expedite authorizations for port improvements, and assert that United States coal exports should not be subject to embargoes, and so requests the President to further strengthen and define a national coal export policy and to take only action which shall increase the markets for United States coal exports and to initiate bilateral conferences with potential coal trading partners to further the spirit of this resolution.

● Mr. RANDOLPH. Mr. President today I am submitting a concurrent resolution which expresses the sense of Congress that a national coal export policy is necessary to coordinate Federal activities with respect to increasing coal exports and to provide for a statement of intent regarding legislation seeking to stimulate coal port improvements.

One of the most ignored items in the area of international economic policy and trade involves the export of U.S. coal. Coal ranks 10th among all commodities exported by this Nation, and last year contributed $5.5 billion toward a favorable balance of trade. Strong international markets for coal will also have positive impact in terms of employment and economic rejuvenation.

I cannot stress enough the importance of U.S. coal exports in alleviating unemployment in the Appalachian mining industry, in improving our balance of trade, and in strengthening our ties with the world coal consuming community by providing nations with a source of potential energy security.

In 1981, the United States exported 110 million tons of coal, 28 percent of which was steam coal used for electrical generation. Approximately 50 percent of this tonnage was exported to Europe. West Virginia contributed half this tonnage, worth some $2.2 billion and creating 20,000 jobs in the mining industry.

Yet, there are underlying problems which must be addressed before this Nation realizes its full coal export potential. Our ports, cannot accommodate the large coal carrying vessels which are now being used. These "super colliers" of over 100,000 deadweight tons provide an alternative which competitors of U.S. coal trade are beginning to offer European customers. For this Nation to remain a viable force in the world coal market, our ports must be dredged to depths of at least 55 feet. If this is accomplished, the United States can retain its present market share, and continue to increase its export levels.

Legislation to accomplish this task must be expeditiously reported by the Congress. There is national benefit to increasing coal exports. I urge the administration to refrain from any actions which would jeopardize this potential, including the requirement of 100 percent recovery of Federal expenditures, for port improvements, operation, and maintenance.

Mr. President, in May a coal export mission under the direction of the Department of Commerce undertook a 9-day tour of Spain, Italy, France, and Belgium. The purpose of this mission was to demonstrate the U.S. commitment to European buyers of coal. I commend this along with other coal export promotional activities in the Department of Commerce. Hopefully, other such missions can stimulate additional interest in other regions of the world for U.S. coal. Because of a leveling off of domestic coal demand, increased exports are our best bet to put idle coal miners back on the job.

While this mission was an excellent beginning, I believe we should continue to counsel in bilateral conferences with potential coal trading partners and encourage the President to give further attention to national coal export policy.●

SENATE RESOLUTION 449—RESOLUTION RELATING TO HUMAN RIGHTS VIOLATIONS IN CONNECTION WITH THE TRANS-SIBERIAN PIPELINE

Mr. ARMSTRONG submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 449

Whereas the Soviet Union is proceeding with its plan to build the trans-Siberian pipeline, known as the Yamal Pipeline;

Whereas there is Senate testimony that massive use of forced labor may be used by

the Soviet Union to complete its construction;

Whereas there are first-hand dissident reports that there are four to seventeen million Soviet citizens now being held in some 2,000 work camps in the Soviet Union and that there are persistent published reports of agreements to deport forcibly up to a half-million laborers from Vietnam to Soviet Union concentration camps in direct violation of international agreements;

Whereas the Vietnamese Government under the 1973 Paris Peace Agreements which were signed by former Secretary of State Rogers and North Vietnamese Foreign Minister Nguyen Duy Trinh guaranteed freedom of residence and freedom of work;

Whereas there is concern that political prisoners from Poland and other Soviet satellite countries may also be forced to work on the Yamal Pipeline;

Whereas there have been estimates by Soviet dissidents of enormous loss of lives of workers forced to do the heavy, dirty, dangerous work in Soviet labor camps under sub-human conditions;

Whereas if allegations of forced labor prove to be true, the participation of the West in furnishing either technology or financing to make the construction of the pipeline possible is tantamount to unwitting collaboration by the West in one of the most massive abuses of human rights in history;

Whereas the United States stands, as it has always stood, in the forefront of the struggle for freedom and dignity of every human being: Now, therefore, be it

Resolved, it is the sense of the Senate that—

(1) the Secretary of State should—

(A) investigate the extent to which forced labor will be employed and human rights violated in the construction of the trans-Siberian pipeline and to cooperate with other Western nations which also seek to investigate such violations; and

(B) report back to the Congress within 30 days with his preliminary findings and with a final report by January 1, 1983;

(2) the heads of the appropriate Federal agencies should take the steps necessary to assure that the United States is abiding by existing treaties respecting the importation of goods produced with slave labor.

Mr. ARMSTRONG. Mr. President, today I am submitting a resolution calling upon the State Department to investigate charges that forced laborers and many political prisoners are being kept in some 2,000 camps across the Soviet Union to work on the trans-Siberian Yamal gas pipeline, and similar projects. The resolution also calls for investigation of charges that 500,000 Vietnamese workers are being forced to relocate, over the next 5 years, to the Soviet Union

This Senate resolution and the profound questions it raises is an appeal to the conscience of America.

Reports have persisted over the past year that workers living in subzero temperatures and under unclean, inhumane conditions are and will be providing much of the unskilled labor—land clearing, equipment moving, et cetera—needed to build projects similar to the 3,600-mile, $10-$14 billion Siberia-to-West Germany pipeline.

Any Western nation considering, or willing to, participate in such a Soviet trade venture should favor a thorough investigation of these unnerving charges. If true, they turn short-term economic benefit from such a deal into complicity with a pipeline holocaust, and make such nations coconspirators in a massive human rights abuse.

On June 18 the Senate Banking Committee's Subcommittee on International Finance held special oversight hearings on the proposed trans-Siberian natural gas pipeline.

The hearings were the first official response by any government body within the Western alliance to the grave charges that the pipeline is being built with what can only be described as slave labor.

The subcommittee heard testimony from four witnesses:

Mikhail Makarenko, who served more than 11 years in Soviet labor camps, mostly between 1970 and 1978, and who testified on conditions in the camps today. He presented oral, written, and documentary film testimony that 4 to 17 million men, women, and children—arrested mostly for political offenses—are now engaged in forced labor in the Soviet Union. Mr. Makarenko testified that between 500,000–600,000 prisoners die every year in projects like the Yamal pipeline from starvation, severe cold, disease, and hazardous working conditions. Mr. Makarenko said the nutrition provided for these hard labor prisoners is often lower than half the amount received by prisoners in the Nazi death camps of Auschwitz and Buchenwald.

Ms. Le Thi Ahn of the Vietnamese Information Bureau and Mr. Doan Van Toai, author of the "Vietnamese Gulag," told the subcommittee that an estimated 500,000 Vietnamese are being sent from so-called reeducation camps in Vietnam to do forced labor in the Soviet Union under agreements between the Soviet and Vietnamese regimes. Mr. Toai, a former official of the National Liberation Front, was imprisoned by the North Vietnamese when he refused to go along with their Stalinist policies after the fall of South Vietnam. Following his release from prison, he wrote his book outlining the result of an arrangement of sending forced labor to the Soviet Union in payment for Vietnam's war debt to the Soviets. Ms. Ahn presented letters from relatives of Vietnamese now held in Soviet labor camps. She brings with her today an actual letter from one of the internees, which she obtained through Vietnamese sources in a third country. According to Ms. Ahn and Mr. Toai, many of these prisoners are political refugees—the tragic "boat people" of Vietnam who were picked up at sea by Soviet naval and merchant ships and routinely interned in the Soviet Union. We will have more to say on this subject later this morning.

Mr. Zdislaw Rurarz, the former Polish Ambassador to Japan. He is an internationally known economist—holder of a Ph. D. and two post doctoral degrees from the Central School for Planning and Statistics in Warsaw. Prior to assuming his ambassadorial post, he served as economic advisor to the chief of the Polish Communist Party, as Poland's permanent representative to the general agreement on tariff and trade negotiations, and as the economic attaché to the Polish Embassy here in Washington.

Dr. Rurarz testified as an economist and as a former high Communist official that the Yamal pipeline must—like all major construction projects undertaken in the Soviet Union—necessarily be built with conscript labor. Dr. Rurarz cited economic evidence strongly suggesting that without the additional billions of dollars in hard currency which the Soviets expect to earn from the pipeline deal, the entire Soviet system—including its network of concentration camps—could be paralyzed.

Since the June 18 hearings a number of significant developments have occurred: Just a few hours after the Senate hearings President Reagan announced imposition of his long-considered sanctions against the Yamal pipeline project. In the weeks following that announcement, a number of European leaders criticized the Reagan sanctions and announced their intention to go forward regardless with the pipeline construction and the 7½ percent low interest credits designed to insure its completion. And 2 weeks ago, the International Sakharov Committee appealed to French and German leaders—according to a UPI wire report—to investigate the use of forced labor on the Yamal pipeline. The committee stated that a number of well-known Soviet dissidents have been arrested and sent to Siberia for forced labor on the pipeline.

I note with consternation the response of members of the European Common Market. It is ironic that the very countries so persecuted and enslaved in World Wars I and II look the other way from similar human rights abuse aspects of an otherwise lucrative business deal. Surely the atrocities of the 1930's and 1940's will not be forgotten in a moment of financial temptation.

It is to this mounting evidence of continuing and widespread disregard for the Helsinki human rights accords by the Soviet authorities that we address ourselves today, and I fervently hope that finally, overdue attention and support will come also from officials of Western European governments.

I have obtained, through the assistance of the Vietnamese Information Bureau, a letter written by a Vietnam-

ese prisoner now working in the Soviet Union. To protect the author of this account of a day in the life of modern Soviet political prisoners from certain reprisal or execution, the name of the individual and the location of the forced labor battalion has been withheld.

I would, however, like to read an excerpt of the letter which I believe will give an accurate picture of what a project like this pipeline will cost in human terms in the Soviet Union:

"* * * It is already two months since I last heard from my family in Vietnam—I do not know what the future has in store for me in this place * * *. Here I speak a "pidgin" Russian, because I learn it in the workplace, moreover, I am being tightly controlled, all around me are the bo dor, the North Vietnamese soldiers. The unit is composed mostly of northerners, there are not much contacts. Everything has to go through the cadres. That's the rule * * *. I am resigned to this fate for a few years (three to five years) * * *. The pay is very low, and living conditions in this infamous area are very cruel, very harsh. I can summarize it in one sentence: my life here is several times poorer and harsher than in Vietnam. Add to this, homesickness, cut off from friends * * *. I take it for granted that my life is finished * * *. The life of exiles like you and me, what does the future have in store for us, and for our country? The more I think about it, the more I see it clouded in uncertainty and difficulties * * *. I sure think about some way to get out of here * * *. I have considered a lot of routes, running from one place to another * * *. I feel even more that our life is like that of wandering animals, drifting in sadness, despair and worries * * *. I am extremely disillusioned by the word socialism! * * * Can you spare some money? Can you send me a few clothes? I tell you truly, I have just two sets of clothes and two pairs of shoes and one woolen sweater and one nylon coat and one fur hat. Just that to get me through winter * * *."

Given the evidence thus far presented and the charges of mass terror and forced labor, it is the feeling of many here in the Senate that the Soviets should be prepared to cooperate in a full and complete investigation by the Red Cross or some other independent international commission. Western nations, too, should be willing—in fact, anxious—to have these grave allegations thoroughly aired.

That is why I am asking the Senate to direct the State Department to investigate the extent to which forced labor is or will be employed in construction of the Yamal pipline, and report back to the Senate within 30 days on preliminary findings, with a final report due January 1, 1983. My resolution will also remind Federal agencies to abide by existing U.S. law and treaties respecting importations of goods produced with slave labor. I also note that the Governments of the U.S.S.R., the United Kingdom, France, Germany, and Italy are parties to the treaties to which I refer.

I also have written to President Reagan this morning advising him of this proposal to be considered by the Senate.

Some months ago we began looking into this question of Soviet forced labor camps involved in the Yamal pipeline, which has been called the largest East-West trade measure in history. Evidence we have encountered clearly points to a modern-day slave trade which rivals in scale, scope, and suffering the Nazi concentration camps of 40 years ago.

There are many today—both in Europe and in our own country—who would rather not discuss or even think about the character of the regime with which they so earnestly wish to trade.

But I for one feel—and I'm sure that the representatives of the Polish, Vietnamese, and Russian people, with us in this room right now would agree—that we, the free peoples of the West, must consider the moral consequences of our own actions.

In pressing the claims of these silent millions before the court of world opinion, I believe we can find a worthy model in the great American abolitionist William Loyd Garrison who—in answer to critics of his outspoken campaign against human enslavement said: "I am in earnest—I will not equivocate—I will not excuse—I will not retreat a single inch; and I will be heard."

SENATE RESOLUTION 450—BUDGET WAIVER WITH RESPECT TO CONSIDERATION OF S. 1844

Mr. McCLURE, from the Committee on Energy and Natural Resources, updated the following original resolution, which was referred to the Committee on the Budget:

S. RES. 450

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1844. Such waiver is necessary because S. 1844, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit Congressional consideration of S. 1844, a bill to facilitate the development of interstate coal pipeline distribution systems. The likelihood that the Committee on Energy and Natural Resources would report such a legislative initiative was reflected in its March 8, 1982, report to the Committee on the Budget pursuant to section 301(c) of the Congressional Budget and Impoundment Control Act of 1974. Therefore, the Appropriations Committee of the Senate has had adequate notice of this authorization; enactment of S. 1844 is not expected to interfere with or delay the appropriations process.

Any costs to the Federal Government, which are not expected to be significant, could be offset by payments to the Federal Government for (a) the fair market value of coal precluded from being recovered or (b) any reduction of the fair market value of Federal coal which would be more costly to recover because of the pipeline system.

AMENDMENTS SUBMITTED FOR PRINTING

DEBT LIMIT EXTENSION

AMENDMENTS NOS. 2033 AND 2034

(Ordered to be printed and lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2035

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. DIXON, Mr. HEINZ, Mr. LEVIN, Mr. RIEGLE, and Mr. EAGLETON) submitted an amendment intended to be proposed by them to the joint resolution House Joint Resolution 520, supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

Mr. THURMOND. Mr. President, there will be a full committee field hearing on rural crime on Monday, August 23, 1982, at 9:30 a.m. in Contois Auditorium in City Hall in Burlington, Vt. Senator LEAHY will preside.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a hearing on S. 2629, Budget Reform Act of 1982 on Thursday, August 19, 1982, at 10 a.m. in room 3302 of the Dirksen Senate Office Building. For further information, please contact Mary Lewis at 224-4751.

ADDITIONAL STATEMENTS

STONE WALLS AND STONE WALLS

● Mr. SYMMS. Mr. President, for some time there has been a controversy raging over the modern-day news feature known as the documentary. These are the network specials, usually at least an hour in length, where the TV newsmen take an indepth look at some particular controversy or program.

This type of feature has not been without its critics. There are those who have charged from the beginning that these documentaries document nothing as much as their producers' prejudices and biases. Thus there was terrific controversy over such major productions as "Hunger in America," "The Selling of the Pentagon," and

"Hearts and Minds," which was not, I believe a network production, but done independently by a former network producer.

The most recent controversy has surrounded a CBS documentary broadcast last January. Entitled "The Uncounted Enemy: A Vietnam Deception," the central thesis of this broadcast was that military officials in Vietnam understated to President Johnson the strength of the Vietcong and the North Vietnamese enemy, thus leading him to continue a war that would otherwise have been given up as unwinnable.

My own judgment is that, however reluctant the military, primarily Gen. William Westmoreland, might have been to make intelligence figures public, Lyndon Johnson certainly knew what was going on, since he read raw intelligence figures being reported from the field. Furthermore, although the public might not have been prepared for the Tet offensive, the military was prepared, and won the battle of Tet. It is the failure of the news media to report that story accurately that led to the failure of support for the war on the homefront. The events in the field proved that the war was indeed winnable.

But whatever the truth of that argument, the interesting thing going on right now is the reaction to the documentary, the charges and countercharges surrounding it, and CBS' reaction to all this.

As soon as "The Uncounted Enemy" was broadcast, there were criticisms voiced that facts and figures were distorted, the story was simplified to a point that it was fatally distorted, and that important rebuttal points were ignored. Much of this criticism came from "Accuracy in Media," the best of the media watchdog groups.

In terms of public impact, however, a highly critical article in TV Guide was probably more important. TV Guide has enormous circulation, among precisely the people who would have seen the original broadcast. So when TV Guide charged that the documentary was biased and unfair, CBS had to listen. It did so by undertaking its own investigation of the program.

The results of the CBS investigation are now in—though not made public—and it is the reaction to this investigation which is what primarily interests me today. CBS found that the documentary was basically accurate, but admitted that it should not have used the word "conspiracy" to describe the coverup in troop strength figures, and that the documentary violated five of CBS' principles of news coverage.

Fair enough. It would be too much to hope for that CBS might say, "yes, it was a hatchet job on Westmoreland, and we are firing all those responsible." An admission of some culpability is about the most that can reasonably be expected in a world where backsides must always be firmly covered.

But even this limited admission is too much for some. There are those who apparently feel that the media should be responsible to no one, and that it is a mistake ever to admit any possibility of error.

One such is the television critic of the Washington Post, Mr. Tom Shales, who produced a really incredible story on the CBS announcement of the results of its investigation. I am going to ask unanimous consent that this entire article be placed in the RECORD following my remarks, but before I do, I would like to call the attention of my colleagues to some of the statements made by Mr. Shales, and the attitudes they illuminate.

Mr. Shales likens this report to the messenger of bad news "bopping himself over the head," and complains that "instead of dispelling the cloud that had formed over the program, CBS News all but seeded it for rain." The possibility that that cloud contained some legitimate precipitation apparently does not occur to Mr. Shales.

"In terms of journalistic authority and reputation, CBS News is a giant and TV Guide a ridiculously tiny gnat. Why, then, should CBS News have bent over so far backward to entertain the accusations—in public yet—and risk imperiling the morale and reputation of its own staff in the process?" In other words, why not just stonewall the whole thing. After all, General Motors prestige and reputation are much greater than Ralph Nader's. Why should GM deign to answer Nader's charges? Is that what Mr. Shales is saying? It seems to be. Is there a possibility that the story really contained some inaccuracies, or slighted some important aspects of the story? Of course not. After all, CBS has enormous prestige and reputation.

Mr. Shales goes on to say, "If they're going to be this sheepish and equivocating about investigative reporting, maybe CBS News should also start apologizing for 'Harvest of Shame,' 'The Selling of the Pentagon,' 'The CIA's Secret Army * * *,' 'The Defense of the United States' and other landmark documentaries that have made CBS News unquestionably the most respected organization in broadcast journalism."

Well, maybe they should. After all, there have been many criticisms of these programs, some of them very well taken. In my view it is commendable that CBS is now, after several years of intense pressure, willing to entertain the thought that its news reporting might occasionally slight the truth. Those earlier documentaries were not subject to this kind of scrutiny, but I am confident that, if they were, they would reveal the same kind of errors that were made in "The Uncounted Enemy." Perhaps if the scrutiny had occurred on these earlier programs, "The Uncounted Enemy" would have been a better, more accurate program.

Most incredible of all, to me, is Mr. Shales attack on those who leaked to TV Guide internal CBS memos prepared at the time of the production of the documentary. He said, "One has to wonder about the attitude of whoever thought they were blowing a whistle * * * by leaking internal CBS memos, and gossip, to TV Guide."

This incredible sentence comes right after Shales bemoans the fate of the whistle-blower in our society. "He often gets the whistle shoved down his throat." Apparently he is unaware that that is exactly what he is trying to do to the CBS whistle-blower. The irony, the self-centered blindness of it all is too delicious.

The bottom line, for Shales, is "jeopardizing, in the public's mind, the reputation of an entire news organization." In other words, nothing should be allowed to raise questions for the public about the nature of the news business. This is unaccountability carried to extremes. I wonder if Mr. Shales is as critical of that "whistle-blower," Deep Throat, whose actions raised questions in the mind of the public about the reputation of the office of the Presidency.

Are not there cases where reputations ought to fall? Is it not true that sometimes the emperor is naked as a new-born? Might, just might, it be possible that CBS News is not infallible? Not for Shales. It just could not happen. After all, this is the organization of the great Edward R. Murrow, of Fred Friendly, both quoted approvingly in the Shales article. This is the organization of the legendary Bill Leonard and Frank Stanton, who would never have apologized. Shales recalls those days with longing.

The fact is, Mr. President, that the news media wield enormous power in our society. They are not elected, they are not accountable. The feeble attempts that have been made to impose some minimal restraints on the broadcast media have been ineffectual. In the case at hand, it is hard to escape the conclusion that General Westmoreland was, as Reed Irvine of "Accuracy in Media" said, tried in the press, without benefit of counsel. He was brought up for trial, interrogated, cross-examined, calumniated, and those who carried out the trial decided what part of his defense, if any, would be provided to the jury.

General Westmoreland has no means of communicating with the public except through the media of those who tried him in such a kangaroo fashion. That CBS has admitted some flaws in its performance is commendable, but it does not settle the

problem, does not dispose of the generic difficulty. It is seriously distressing to read such a defense of an irresponsible media as that written by Mr. Shales.

At this point I would like to ask that the entire article be printed in the RECORD, so that my colleagues can see the lengths to which some people will go to defend the indefensible.

The article follows:

[From the Washington Post, July 19, 1982]

CBS' LAVISH APOLOGIA AND THE CHILL AFTER THE VIETNAM INQUEST

(By Tom Shales)

CBS has done more apologizing for an outstanding documentary on Vietnam than Richard Nixon ever did for Watergate.

Something is rotten in the state of Paleyville.

CBS News insiders and interested parties at other networks are privately expressing alarm and disbelief about the way CBS News handled an attack by TV Guide on a Jan. 23 documentary called "The Uncounted Enemy: A Vietnam Deception," which documented the manipulation of enemy troop strength by U.S. military intelligence during the Vietnam war. On Thursday, CBS News president Van Gordon Sauter issued an eight-page memo, the result of a six-week investigation, that stood by the documentary but found it guilty of five violations of CBS News "standards" and had other quibbles over such details as use of the word "conspiracy" in describing the scandal being exposed.

Killing, or at least impugning, the messenger who arrives with bad news is an old tradition, but you don't often find the messenger bopping himself over the head. Instead of dispelling the cloud that had formed over the program, CBS News all but seeded it for rain.

And this despite the facts that the central thesis of the program has never been disproven (it wasn't even seriously called into question by the TV Guide article): that those who made accusations of deliberate deception by military intelligence under Gen. William C. Westmoreland included military intelligence officers from Westmoreland's own command; and that none of these witnesses has since recanted his story, disavowed the documentary or been proved incorrect.

Indeed, some of those who appeared on the program—and others familiar with the research that led to the broadcast—wrote Sauter during the investigation to express their overhelming endorsement of the documentary and faith in its conclusions. George Allen, a former senior CIA officer who still does training work on contract with the agency, told Sauter in his letter that "a videotape of the show has been used in a professional development course for senior officers as a case study in ethics and intelligence, illustrating as it does the difficulty of maintaining the independence and objectivity—not to say integrity—of intelligence in a highly politicized situation."

In terms of journalistic authority and reputation, CBS News is a giant and TV Guide a ridiculously tiny gnat. Why, then, should CBS News have bent over so far backward to entertain the accusations—in public yet—and risk imperiling the morale and reputation of its own staff in the process? Because, extremely knowledgeable insiders say, Black Rock—CBS corporate headquarters in New York—applied immense pressure on Sauter to do so, for reasons that remain dark and mysterious and, to some within CBS, frightening.

Sauter has denied there was such pressure, but a key source says "It is a matter of fact" that there was; that Black Rock wanted someone—probably the documentary's producer, George Crile—fired over the controversy and that Sauter spent day upon day hammering out the compromise memo that was released last week. Among those with whom Sauter negotiated are Thomas Wyman, president of CBS Inc., Gene F. Jankowski, president of the CBS Broadcast Group, and, insiders believe, "The Chairman," William S. Paley himself, even though Paley was vacationing in Europe while the investigation went on.

No one knows at this point how wide the ramifications of this unsavory incident will be. One insider has noted that there is "a sea of piranha who would love to find a wound in broadcast journalism at the moment and rip it open," largely because network news is *perceived* to be anti-administration and any disparagement of the military-industrial establishment right now is deemed hostile.

The implications for investigative journalism in television—the most difficult kind to do—are not healthy. The CBS statement says the producers of "Uncounted Enemy" should have "sought out and interviewed more persons who disagreed with the broadcast premise" even though the statement affirms that the broadcast proved its premise correct. If they're going to be this sheepish and equivocating about investigative reporting, maybe CBS News should also start apologizing for "Harvest of Shame," "The Selling of the Pentagon," "The CIA's Secret Army" (produced by Crile), "The Defense of the United States" and the other landmark documentaries that have made CBS News unquestionably the most respected organization in broadcast journalism.

Maybe Ed Murrow should have found a few more folks who didn't think it was so tragic that migrant workers were being abused and exploited and hanging onto life by their fingernails.

Fred W. Friendly, the former CBS News president who now functions as a kind of guru and conscience for broadcast journalism, said Friday, "What worries me, and what I hope is addressed soon, is that the kind of tough, hard-hitting, fire-in-the-belly journalism that built CBS News will be chilled by this . . . The other two networks have never really done work in a class with CBS. CBS has done the tough ones. I'm not talking about my day, I mean in the last 10 years or so. This kind of thing could send a chill through there."

The fate of the documentary is another illustration of the sad lot of the whistleblower in our society; he often gets the whistle shoved down his throat. On the other hand, one has to wonder about the attitude of whoever thought they were blowing a whistle on Crile by leaking internal CBS memos, and gossip, to TV Guide. This source (or sources, as the authors of the TV Guide piece keep insisting) had to have observed the alleged offenses during the production of the documentary. Why didn't they bring them to the attention of CBS News executives then? Why wait until later and leak them to TV Guide, thus jeopardizing, in the public's mind, the reputation of an entire news organization?

Says Friendly, from his home in New York: "Something is wrong in the esprit de corps of a news organization where this kind of thing is happening."

Friendly also said that although he is "sad" to think about what could cause such disloyalty among the personnel of CBS Reports, "A news organization, like an athletic organization, is measured by its character when things aren't going so well. You judge news organizations by the way they act in adversity, and I'm very proud of the way CBS News has acted."

CBS News officials were pressured not only by the money-men at Black Rock but also by the CBS affiliates, and the story of "Uncounted Enemy" is also a case study in the changing relationship between a television network and its stations. Ten or 15 years ago, one broadcasting expert says, affiliates earned 30 to 40 percent of their revenues from their relationship with the network, but today that figure has plummeted to only 5, 6 or 7 percent. The networks must cower before affiliates they once could dictate to. This new affiliate clout—partly a result of the ongoing revolution in telecommunications technologies—is the principal reason no network has dared to mount a one-hour nightly news show, despite the news divisions' lust to do so, and probably won't attempt it for at least the next five years.

Everything changes, of course—even CBS News. The "Uncounted Enemy" mess is a baptism by fire for news president Sauter, who took over earlier this year. Naturally, there is in-house speculation about the way the matter would have been handled by the former news president, the distinguished William Leonard, who is vacationing in Europe and could not be reached for comment. Unlike Leonard and other predecessors, Sauter does not come from a strict news background. His other jobs at CBS have included chief censor and president of CBS Sports.

Another hallowed name that pops up in relation to this affair is that of Frank Stanton, the former CBS Inc. president who stood up to Congress and refused to turn over unused film from "Selling of the Pentagon" in 1971. There are no Frank Stantons at CBS any more. "Neither we nor anybody else is going to have a Frank Stanton again," one insider glumly notes. But there is a less attractive side even to this tale of seeming heroics. According to one veteran of that skirmish, despite the outward sign of solidarity, Peter Davis, producer of "Pentagon," was out of CBS about six months later (Davis is also in Europe, and also unreachable). He went on to produce, on his own, such documentaries as "Hearts and Minds" and, earlier this year, the "Middletown" series on public TV.

There are those within CBS who think that, after a few months of cooling off, Crile will quietly disappear from CBS as well. Another name mentioned as a possible sacrifice is Roger D. Colloff, the news vice president who was chiefly responsible for signing off on "Uncounted Enemy." Colloff, questioned late last week, said, "There are lots of rumors floating around" but did not want to comment on any of them. "Roger is nervous," one source said.

Reed Irvine, chairman of Accuracy in Media (AIM)—a big fish in that "sea of piranha"—said Friday, contentedly, "If I were Mr. Crile, I wouldn't make any long-term plans to be there for a long time." Irvine said he was "disappointed" in the CBS statement, thinks the network should be "pressured" to release the entire 68-page report on the investigation, and called the network's announcement of a new vice president to serve as an ombudsman "a vin-

dication of what we have been urging for a long time."

By coincidence, Irvine said, he visited CBS the day the statement was released, meeting with Wyman, Jankowski and Sauter. The visit was arranged at an April CBS shareholder's meeting at which Irvine reportedly referred to Walter Cronkite as a "Communist dupe." Irvine said Friday that he did not call Cronkite a Communist "in so many words" but had charged that the former anchorman "has consistently, over the years, done a number of peculiar things. After the Tet offensive he came on the air and said it was a defeat for our side even though he'd been over there and knew that not to be true."

Irvine also recalled having said of Cronkite that "anyone who'd served in Moscow as a correspondent and not come back making anti-communist statements had to be under some suspicion."

This is the kind of mentality to which CBS News is catering with its lavish apologia.

All the brouhaha over "Uncounted Enemy," and all the arguing about whether the Vietnam deceptions constitute in the strictest literal sense a "conspiracy," obscure the deeper and more profound implications of the documentary and the reason it was made in the first place. Retired Col. George Hampshire said in his letter to Sauter that although it was painful for him to do so, he appeared on the documentary "in the hope that, for once, history won't be repeated."

Retired Lt. Richard G. McArthur, a principal analyst for Westmoreland's intelligence operation, said in his letter to Sauter, "My motive for appearing was to help inform the American people of how they were lied to during the war, with the sincere hope that such actions could be prevented in the future."

As principal investigator for the House Intelligence Committee in 1975, Greg Rushford looked into charges of intelligence manipulation in Vietnam brought by Sam Adams, who was a consultant to Crile for the documentary. In his letter to Sauter, Rushford wrote, "What a tragedy it will be for journalism is your internal investigation—like the shallow ones the CIA ran against Sam Adams—forces the George Criles out of the business. From my point of view, journalism needs more George Criles just as our government agencies need more Sam Adams."

A CBS correspondent responding to Sauter's statement last week tried to look on the bright side. He said something even worse had been expected and added, "At least it's not another bad day at Black Rock." But it was. It may have been a bad day for all of broadcast journalism.

NICHOLAS BERTRAM CELEBRATES 100TH BIRTHDAY

● Mr. LEVIN. Mr. President, I rise to pay tribute today to one of my constituents, Mr. Nicholas Bertram of Dearborn, Mich. This September 25, Nick will celebrate his 100th birthday.

Often such events are marked with a sense of awe and a sense of sadness: awe that one has enjoyed such a long life and sadness that this milestone is celebrated—all too often—alone. In the case of Nick Bertram, we can certainly feel the awe, but the sadness is replaced by envy. Nick will not be celebrating alone: his friends and fellow members of the Knights of St. John will be celebrating this event with a birthday celebration. A mass in Nick's honor will be conducted at St. Luke's Catholic Church after which there will be a reception hosted by the commanderies of the Detroit Regiment of the Knights of St. John, the Ladies Auxiliary and the Ladies Drill Team of the First District of Michigan.

Nick has had the pleasure of living almost all of his life on Bertram Street in Dearborn—a street named after his family. And given Nick's achievements in his 100 years, it is easy to understand why people would like to honor his family name. In addition to his employment history—at Michigan Central Railroad, Leland Falconer Motor Co., and the Cadillac Co. of General Motors—Nick has been an active member of his community. As well as being a member of the Knights of St. John, he is a loyal supporter of the union movement and he is always willing to help others no matter what their needs may be.

Mr. President, I join with all of Nick's friends in wishing him a happy birthday.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Laura Hudson of the staff of Senator J. BENNETT JOHNSTON, to participate in a program sponsored by a foreign educational organization, Soochow University in Taipei, Taiwan, from August 25 to September 3, 1982.

The committee has determined that participation by Ms. Hudson in the program in Taiwan, at the expense of Soochow University, to discuss trade and policy issues at the university, is in the interest of the Senate and the United States.●

SUPPLY-SIDE REBUTTAL

● Mr. GRASSLEY. Mr. President, most critics of supply-side economics have a poor understanding of its origin, its history, and its operation. Many have called it trickle-down economics, claiming that it helps the rich at the expense of the poor.

In most cases, those who would challenge the credibility of supply-side economics either refuse to admit to empirical evidence or simply lack a broad understanding of the history of economics. Most especially, those who claim that supply-side economics has been tried and has failed deal in the worst form of political demagoguery, be they politicans, commentators, or economists.

Mr. President, I would like, at this point, to have reprinted in the RECORD an article by Dr. Paul Craig Roberts from a recent issue of the New York Times. In the article, Dr. Roberts rebuts an onslaught against supply-side economics by conservative political analyst Kevin Phillips. Phillips, in his book "Post-Conservative America," says that supply-side economics is an attempt by Republicans to look back nostalgically, rather than forward, for answers to economic problems.

This rebuttal by Roberts gives a good, general insight into supply-side economics and its recent history. I ask that the article be printed in the RECORD for the benefit of my colleagues, lest they be tempted to abandon our policy of the sound dollar and lower taxes.

I also offer this in a continuing series of articles on tax history and tax reform. This on-going series is being offered in conjunction with a bill I have introduced, S. 2376, to study the feasibility of broad-based, low-rate alternative tax systems. This fall, the Senate Finance Committee will hold hearings on the subject of alternative tax systems.

The article follows:

[From the New York Times, July 4, 1982]

A THEORY UNTRIED

(By Paul Craig Roberts)

Kevin P. Phillips has some interesting things to say about Watergate and Vietnam in "Post-Conservative America." The true story of Watergate, he suggests, is the destruction of President Nixon—an American Dreyfus—by a threatened Washington establishment that pulled off a coup d'état. As for Vietnam, the sellout of the troops by the media, the universities and the liberal politicians has the makings of "a post World War I German-style recrimination."

I predict that these provocative themes will receive less attention than his denunciation of supply-side economics as a combination of "inadequacy, confusion and revolutionary restorationism-archaism." Supply-side economics, he says, is a "Rube Goldberg machine" that "went beyond conservatism to adventurism" in a "dubious political attempt to restore golden yesterday."

Kevin Phillips is reacting to the picture of supply-side economics painted by Jude Wannisky, an early popularizer of the doctrine. But Mr. Phillips' problem is that he takes Mr. Wannisky too seriously. Mr. Wannisky did sensationalize the case for supply-side economics, but that is no excuse for Mr. Phillips to sensationalize against it.

Kevin Phillips, a conservative, is so upset by Mr. Wannisky that, employing gratuitous rhetoric and quoting a host of liberals, he launches a Marxist attack on supply-side economics. He charges that supply-side eco-

nomics not only "favors the rich," but caused the Great Depression, when Andrew Mellon applied it to the economy 60 years ago. Mellon "carried matters from the proper to the extreme." As a result, "too few of the people had too much of the money," and the economy collapsed from a lack of buying power.

The lag between cutting taxes and the onset of a depression must be getting longer. President Kennedy cut taxes 20 years ago—a fact not mentioned by Mr. Phillips—and so far no depression has resulted. Then again, perhaps Mr. Phillips thinks that depressions only occur when Republicans cut taxes. That, at least, would explain why depressions are so rare.

Actually, Mellon carried matters from the extreme to the proper. There was not any income tax at all until a few years before Mellon came into office. When he became Treasury Secretary in 1921, the top tax rate was 73 percent, having risen from zero in eigth years. Over the next eight years Mellon got it down to 24 percent. A return to normalcy would have required abolishing the income tax. Mr. Phillips overlooks that there was not income tax for most of our history, and that it was a history of growth and development, no depression.

Like many people who are not economists (and some who are), Mr. Phillips views taxation as a zero-sum game: if a rich man's taxes are cut, he is handed back money, and the poor lose. Supply-side economists have a different view of the process: he is handed back incentives, and the poor gain from higher investment in productivity and better job opportunity.

When the top rates are cut the rich are not handed back any money, because they are not using their capital to earn taxable income. Instead it is in tax shelters where it produces tax savings. High tax rates mean that the rich can do better by using their capital in ways that minimize their taxes instead of in ways that maximize their incomes. Lower tax rates cause capital to be redeployed from tax shelters to productive investments.

As a result the taxable incomes of the rich rise, and they pay more in taxes. Internal Revenue Service statistics show that upper-income tax payers paid a larger percentage of the tax revenues after the Mellon and Kennedy tax cuts than before.

Mr. Phillips also discounts supply-side economics on political grounds. He mistakenly believes that its political base is narrow, consisting of a President captured by a few zealots. He obviously knows nothing of the movement's history.

In the House of Representatives, supply-side economics has been Republican Party policy since February 1977. At the end of 1978, Senate Democrats passed their own version of the Kemp-Roth Bill. In 1979 and 1980, the Joint Economic Committee of Congress endorsed supply-side economics in its annual reports. By the summer of 1981 supply-side economics was everyone's policy—so much so that the Democrats started a "bidding war" with the Reagan Administration in a fight over who would get credit for the tax cuts.

Mr. Phillips believes that supply-side economics is a failure. But we have not yet had any in practice. The Reagan Administration put the tax cuts on the back burner, and then proposed tax increases before the tax cuts ever went into effect. It is hard to say for certain that the Administration has a supply-side policy. If the policy does unravel as a result of policy flip-flops, then it is the political process that has failed and not the policy. Mr. Phillips is so anti-supply-side that he won't be able to tell the difference.●

OVERDUE HELP FOR CONGRESSIONAL CEMETERY

● Mr. EAGLETON. Mr. President, I am very gratified that the Senate took action last Friday to respond to the plight of Congressional Cemetery, one of Washington's and the Nation's most historic sites. The Senate's expeditious passage of H.R. 6033 recognizes both the tremendous toll which years of neglect and vandalism have taken on the historic cemetery and the particular congressional interest in seeing that this national treasure is restored to its previous luster.

Senate passage of H.R. 6033 culminates long and persistent efforts by many persons both within and without the Congress. Congresswoman LINDY BOGGS was instrumental in securing an attentive and approving reception for H.R. 6033 in the House Interior and Insular Affairs Committee and in the full House of Representatives. Here in the Senate, my efforts on behalf of remedial legislation were helped immeasurably by Senator MATHIAS, the chairman of the Rules Committee and a participant in previous efforts to assist the cemetery, and Senator FORD, the committee's ranking minority member. The concerned and cooperative attitude of the Senators and their staffs permitted H.R. 6033 to be presented to the full Senate without undue delay. Senate passage of H.R. 6033 was secured by the able majority and minority leaders with the personal involvement of the majority whip, Mr. STEVENS, whose characterization of H.R. 6033 as "a very worthwhile bill" I very much share.

My interest in the cemetery began in the fall of 1981, after I saw a television report on WDVM-TV, Channel 9 in Washington. The television report focused on random vandalism that had destroyed an estimated $30,000 of the Congressional Cemetery's statuary and grounds. More than 120 tombstones and monuments in the 33-acre cemetery had been toppled and smashed, including benches on the path leading to John Philip Sousa's grave. The life-sized marble replica of 10-year-old Marion Kahlert, Washington's first traffic fatality in 1904, was completely ruined.

Following the television report, I investigated the history of the cemetery and documented congressional interest in and congressional responsibility for the cemetery.

Both go back a long way. From 1807, when it was established, until the Civil War, Congressional Cemetery served as the first national cemetery. At one time, the cemetery held the remains of William Henry Harrison, Zachary Taylor, John Quincy Adams, Dolly Madison, and a total of 56 Senators and 75 Congressmen, many of whom were later moved to home States when modern burial methods allowed. Today, 14 former Senators, 43 former Representatives, Elbridge Gerry (signer of the Declaration of Independence), two Vice Presidents of the United States, photographer Matthew Brady, John Philip Sousa, and J. Edgar Hoover are among the 75,000 persons buried on the grounds.

Throughout the 19th century, Congress provided funds to improve and enlarge the cemetery, and while the last major congressional funds for improvement were appropriated in the late 1800's, even today there are minimal funds appropriated annually to the Veterans' Administration for care of veterans buried at the site.

Despite this illustrious history, a visit to the cemetery showed decades of neglect. While last fall's vandalism was the most notable, it was obvious that the cemetery over the years has neither been protected, maintained, nor restored. I felt strongly that it was time that Congress, as an institution, rectify this situation.

Happily, I also found during my research that I was not alone in advocating a congressional obligation to the cemetery. In fact, I was coming late to the cause. In 1972, for example, Congressman Saylor of Pennsylvania and Senator Hartke of Indiana proposed legislation which would have had the Department of Interior acquire the cemetery and incorporate it as part of the park system of the National Capital. Although introduced, there was no legislative action on that proposal.

Then, in 1976, as part of the bicentennial celebration, Congresswoman LINDY BOGGS of Louisiana spearheaded a drive to appropriate funds to the Architect of the Capitol for maintenance and restoration of the Cemetery. Senators Hugh Scott of Pennsylvania and Mike Mansfield of Montana introduced companion legislation in the Senate. The Senate and House authorization committees approved this legislation, but funds were not appropriated. Finally, in 1979, Congress appropriated funds to the Veterans' Administration for maintenance of the cemetery, but the Comptroller General of the United States ruled that such funds could be used only to maintain the government-owned portions of the cemetery. The Comptroller ruled that without express legislative authority, which the Veterans' appropriation did not have, the funds could not be used for general cemetery improvements.

Meanwhile, during the time all this legislation was pending in Congress, private citizens interested in the cemetery organized the Association for the Preservation of Historic Congressional Cemetery in June, 1976. The tax-exempt organization commenced an active fund-raising campaign, and to

date the 500-member organization has raised about $350,000 through donations, bequests and proceeds from its annual fall gala, held on Halloween in the cemetery. The organization also established two trust funds, which together with the fund-raising events, provide an annual income to the association of between $35,000 and $40,000. Unfortunately, since it costs about $4,000 simply to cut the grass in the cemetery, a job which must be done four or five times a year, the association's funds are not adequate for major restorations and renovations.

Thus, last fall I attempted to follow-up the efforts of Mrs. BOGGS and others on behalf of the cemetery and again seek Federal funding for this most worthy cause. At the same time, Mayor Marion Barry of the District of Columbia increased the security around the cemetery so that vandalism could be better controlled. My colleagues generously supported me, and in late October, the Senate by voice vote approved an amendment to the Interior appropriations bill which directed the Architect of the Capitol to spend $250,000 on maintenance and restoration of the cemetery. The amendment, however, stalled in conference for lack of a clear authorization.

H.R. 6033 seeks that clear authorization. Specifically, the bill authorizes the Architect of the Capitol to enter into a cooperative agreement with the Association for the Preservation of Historic Congressional Cemetery for the protection and restoration of the cemetery. The authorization is a one-time allocation of $300,000, to be used for major renovation and improvement projects. By approving this one-time authorization, Congress has authorized the Architect of the Capitol to fulfill congressional obligations to the cemetery without involving the redtape of a Government organization.

Of course, before the sad story of Congressional Cemetery can have a happy ending, the Congress must appropriate the funds that will be authorized when H.R. 6033 is signed into law. The House Appropriations Committee is already at work on this and the Senate Appropriations Committee will be soon. I know that Congresswoman BOGGS and others will be monitoring closely the appropriations process in the House.

I will be joining other Senate colleagues in seeing to it that the overdue restoration of Congressional Cemetery can begin in earnest.●

ANALYSIS OF S. 2837—THE OFFICE OF STRATEGIC TRADE ACT OF 1982

● Mr. GARN. Mr. President, on Friday, August 13, eight of my colleagues and I introduced S. 2837, the Office of Strategic Trade Act of 1982. In order to assist in the consideration of this legislation I ask that a section-by-section analysis of the bill, along with a brief outline of the bill's highlights, be included in the RECORD at this point.

The material follows:

SECTION-BY-SECTION ANALYSIS

TITLE

Section 1 of the bill would provide that the bill may be cited as the "Office of Strategic Trade Act of 1982."

FINDINGS

Section 2(1) would state a finding by Congress that the ability of U.S. citizens to engage in international commerce is a fundamental concern of U.S. policy.

Section 2(2) would state a finding by Congress that it is important for the U.S. national interest that both the private sector and the Federal Government place a high priority on exports, which emphasis would strengthen the U.S. economy.

Section 2(3) would state a finding by Congress that uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the U.S. trade balance.

Section 2(4) would state a finding by Congress that the failure to restrict the transfer of national security-sensitive technology and goods to the Soviet Union and other unfriendly nations has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, it allies and other friendly nations, and increasing the U.S. defense budget.

Section 2(5) would state a finding by Congress that the failure to restrict the export of national security-sensitive technology is attributable in large part to the diffusion of decisionmaking responsibilities regarding strategic trade matters among several Federal agencies, and the lack of adequately trained and disciplined personnel.

Section 2(6) would state a finding by Congress that because of the overlapping and frequently confusing responsibilities of the many Federal agencies that administer controls over strategic trade, the U.S. export control system has not served national security, foreign policy, or export interests effectively.

Section 2(7) would state a finding by Congress that it is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology (and goods which contribute significantly to the transfer of such technology) that could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to U.S. national security interests.

Section 2(8) would state a finding by Congress that the availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of U.S. foreign policy.

Section 2(9) would state a finding by Congress that minimization of restrictions for reasons of national security and/or foreign policy on exports of agricultural commodities and products is of critical importance to the maintenance of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to U.S. cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

Section 3(1) would declare U.S. policy to be to minimize uncertainties in export control policy and encourage trade except with countries with which the President has determined trade to be against the national interest.

Section 3(2) would declare U.S. policy to be to restrict exports only after full consideration of the impact on the U.S. economy and only to the extent necessary: (A) to prevent the export or re-export of goods and technology which would make a significant contribution to the military potential of foreign nations which would prove detrimental to U.S. national security; (B) to further significantly U.S. foreign policy or fulfill its declared international obligations; and (C) to protect the domestic economy from the excessive drain of scarce materials.

Section 3(3) would declare U.S. policy to be (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the U.S. has defense treaties or common strategic objectives.

Section 3(4) would declare U.S. policy to be to use its economic resources and trade potential to further sound growth and economic stability as well as its national security and foreign policy objectives.

Section 3(5) would declare U.S. policy to be to (A) oppose boycotts against countries friendly to the U.S.: (B) encourage and require U.S. exporters to refuse to take actions, including furnishing information, which further or support such boycotts; and (C) foster international cooperation, rules and institutions to ensure reasonable access to world supplies.

Section 3(6) would declare U.S. policy to be that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to U.S. export controls should be subjected to review by and consultation with representatives of appropriate U.S. government agencies.

Section 3(7) would declare U.S. policy to be to use export controls, including license fees, to secure removal of foreign restrictions on access to supplies under certain circumstances, and require the President to make reasonable prompt efforts to secure access through international cooperation before imposing controls; and exempt medicine or medical supplies from controls.

Section 3(8) would declare U.S. policy to be to use export controls to counter international terrorism and require the President to make reasonable and prompt efforts to counter terrorism through international cooperation before imposing controls.

Section 3(9) would declare U.S. policy to be to cooperate with nations with which the U.S. has defense treaties or common strategic objectives to restrict exports which would make a significant contribution to the military potential of any country which would prove detrimental to U.S. security and the security of countries with which the U.S. has defense treaties or common strategic objectives.

Section 3(10) would declare U.S. policy to be to minimize restrictions on the export of agricultural commodities and products.

Section 3(11) would declare U.S. policy to be to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

DEFINITIONS

Section 4(1) would define "person", as currently provided for in the Export Administration Act, so as to include singular and plural, and any individual, partnership, corporation, or other form of association, including any government or agency thereof.

Section 4(2) would define "United States person" as currently provided for in the Export Administration Act of 1979.

Section 4(3) would modify the definition of "good", as provided for in the Export Administration Act of 1979, so as to include specifically both natural and manmade substances.

Section 4(4) would provide an expanded definition of the term "technology", so as to include every aspect of technology and information, including its use, and information and knowhow that is important to that use, whether that technology were transmitted in a tangible form (such as published material) or an intangible form (such as training and instruction). "Technology" is so defined as to also apply to such goods, regardless of the end-use classification of the goods.

Section 4(5) would define "export of goods" so as to include actual transmission or shipment of goods out of the United States, including diversion or reshipment of goods to a destination other than that indicated to the appropriate United States authority.

Section 4(6) would define "export of technology" as an actual shipment or transmission of technology out of the United States or any release of technology of U.S. origin in a foreign country.

Section 4(7) would define "Director" as the Director of the Office of Strategic Trade.

Section 4(8) would define "Office" as the Office of Strategic Trade.

Section 4(9) would define "United States" as to include the States of the Union, its commonwealths, territories (whether leased or owned), its dependencies, and the District of Columbia.

ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND STRUCTURE OF OFFICE OF STRATEGIC TRADE

Section 5(a)(1) would establish as an independent executive agency an Office of Strategic Trade (OST), to be headed by a Director of Strategic Trade, who would be appointed by the President with the advice and consent of the Senate, and who would serve for a term of four years, and who would be assisted by Deputy Director of Strategic Trade. The Office would be administered under the supervision and direction of the Director, who would exercise all of the executive and administrative functions and authorities conferred in the Office by the Act. The Director or his designee would act as Chairman of the Inter-agency Advisory Committee for Export Policy (ACEP), which would consist of representatives from the Department of Commerce, the Department of State, the Department of Defense, the Department of Energy, the Department of the Treasury, the CIA, and NASA.

Section 5(a)(2) would establish in the Office of the Director of the OST an Exporter Services Facility to act as liaison to the business community and to the public.

Section 5(b)(1) would establish in the Office an Operations Division headed by an Assistant Director for Operations. The Assistant Director for Operations would be responsible for the processing of export licenses, monitoring conformity of export licenses to applicable terms and conditions, and such other functions as the Director may determine to be appropriate.

Section 5(b)(2) would establish in the Office a Compliance Division, headed by an Assistant Director for Compliance, which would carry out functions performed prior to the effective date of the Act by the Deputy Assistant Secretary of Commerce for Export Enforcement. The Compliance Division would also have power to conduct physical inspection of controlled items, although the intention is that enforcement arrangements with the U.S. Customs Service with regard to enforcement of export controls would be continued, and expanded as needed.

Section 5(b)(3) would establish in the Office a CoCom Division headed by an Assistant Director for CoCom Affairs which would carry out functions relating to the representation of technical positions (including those of military and strategic significance) in connection with the coordinating committee for Multilateral Export Controls (CoCom) and provide representatives to the Department of State to assist in CoCom negotiations.

Section 5(b)(4) would establish in the Office a Licensing Division, headed by an Assistant Director for Licensing, which would be responsible for the evaluation of criteria and establishment of policy relating to the commodity control list, munitions control list, foreign policy controls, and short supply controls. The Licensing Division would prepare draft documents and license criteria for license applications and submit such documents to the ACEP for review. Also within the Licensing Division would be: (A) an Office of the Operating Committee which would conduct and monitor the interagency flow of license documents; (B) an Office of Computer Licensing, which would prepare draft documents analyzing criteria for licensing with respect to computers; (C) an Office of Capital Goods Licensing which would prepare draft documents analyzing criteria for licensing with respect to capital goods; (D) an Office of Electronics, which would prepare draft documents analyzing criteria for licensing with respect to electronics; (E) an Office of Short Supply Licensing which would prepare draft documents analyzing criteria for licensing with respect to the field of short supplies; (F) an Office of Munitions Control which would carry out the functions formerly carried out by the Department of State's Office of Munitions Control in maintaining the munitions control list; (G) an Office of Technological Data which would monitor and review the transfer of unembodied technology and knowledge through cultural exchange, educational, or other programs or means; (H) an Office of Evaluation which would evaluate commodity control lists, make recommendations for additions or deletions thereto, and assess foreign availability; (I) an Office of Foreign Policy Controls which would formulate and maintain the list of foreign policy controls, in consultation with the Export Administration Review Board.

Section 5(b)(5) would establish in the Office a General Counsel.

GENERAL PROVISIONS

Section 6(a) would enable the Director to require any of the following types of export licenses: (1) a validated license, authorizing a specific export issued pursuant to an application by the exporter; (2) a qualified general license, authorizing multiple exports issued pursuant to an application by the exporter; (3) a general license, authorizing exports without application by the exporter; and (4) such other licenses as may assist in the effective and efficient implementation of the Act.

Section 6(b) would instruct the Director to establish and maintain a "commodity control list" consisting of any goods or technology subject to export controls under the Act.

Section 6(c) would prevent the imposition of export controls for foreign policy or national security reasons when the President determines adequate evidence has been presented that the goods or technology are available without restriction from sources outside of the U.S. in comparable quantities and comparable in quality to those produced in the U.S., and that adequate evidence has been presented demonstrating that the absence of such controls would not prove detrimental to U.S. foreign policy or national security.

Section 6(d) would provide that no authority or permission to export may be required under the Act except to carry out the policies set forth in Section 3.

Section 6(e) would authorize the President to delegate his authority under the Act to such Government departments, agencies or officials as he chooses, but not to any official of any department or agency the head of which is not appointed by the President with the advice and consent of the Senate. He would also not be allowed to delegate his authority to overrule or modify any recommendation or decision made by the Director, Secretary of Defense, or the Secretary of State pursuant to the Act.

Section 6(f) would require the Director to keep the public fully apprised of any changes in export control policy and procedure under the Act and to establish procedures for consultation with business, labor, and private citizens.

NATIONAL SECURITY CONTROLS

Section 7(a) would authorize the President to control exports under U.S. jurisdiction for national security purposes. The authorities and duties contained in this subsection would be exercised by the Director, in consultation with the Secretary of Defense, and other departments or agencies the Director considers appropriate, implemented by means of licenses as described in section 6(a). In accordance with section 12, the Secretary of Defense would have the right to review any export application under this section.

Section 7(a)(2)(A) would require that the Director publish in the Federal Register any revision in export controls.

Section 7(a)(2)(B) would require the Director to notify an applicant in the event a license is denied under this section, and include in such notice what, if any, modifications in the goods or technology would make such export possible or give the names of officials who could advise the applicant about such modifications.

Section 7(a)(3) would require the Director, in issuing regulations to carry out this section, to give particular attention to the devising of effective safeguards to prevent a country that poses a threat to U.S. security from diverting covered goods and technologies to military use and to the need to take effective measures to prevent the reexport

of such items from other countries to countries that pose a threat to U.S. security.

Section 7(b) would require U.S. export policy toward individual countries not to be based exclusively on whether or not a country is communist, but to take into account whether its politics are adverse to U.S. national security interests, the country's present and potential relationship to the U.S. and to countries friendly or hostile to the U.S., its ability and willingness to control retransfers of U.S. exports, and such other factors as the President considers appropriate. Such policy would be required to be reviewed every three years in the case of multilateral controls and annually in the case of all other controls.

Section 7(c)(1) would require the Director to establish and maintain, as a part of the commodity control list, a national security control list containing all items subject to control under this section.

Section 7(c)(2) would require the Secretary of Defense and other appropriate departments and agencies to identify items for inclusion on the national security control portion of the commodity control list. Those items that the Director and the Secretary of Defense concur on would comprise the list. Disagreements would be referred by the Director to the President for resolution.

Section 7(c)(3) would require the Director to issue regulations providing for review of the national security control list, every 3 years in the case of multilateral controls and annually in the case of all other controls. Such a review would be conducted with input from concerned government and private entities and take into account foreign availability. The Director and any agency rendering advice would be required to keep a record of decisions made with regard to list revision, and factors affecting such decision making.

Section 7(d)(1) would require the Secretary of Defense, in consultation with the Director, to review the national security control list to insure that controls are limited to military critical items and the mechanisms through which these may be transferred.

Section 7(d)(2) would give the Secretary of Defense primary responsibility for the inclusion in the national security control list of militarily critical technologies, giving primary emphasis to: (A) arrays of design and manufacturing, know-how, (B) keystone manufacturing, inspection, and test equipment, (C) goods accompanied by sophisticated operation, application, or maintenance know-how, and (D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would give insight into a U.S. military system and would thereby facilitate either the duplication of that system or the development of counter measures against it, which, according to the Secretary of Defense are not available to countries to which exports are controlled and which, if exported, would permit a significant advance in a military system of any such country.

Section 7(d)(3) would require that the description of military critical technologies referred to in paragraph (2) be sufficiently specific to guide licensing officials.

Section 7(e) would create, within the Office of the Under Secretary for Defense Policy, a National Security Control Agency to assist the Secretary of Defense in carrying out his responsibilities under the Act. The intention is to formalize current export control operations at the Department of Defense and thereby task certain individuals specifically with those responsibilities. No additional funding, beyond that provided in other statutes, would be authorized by this provision. It is intended that this office would be provided with sufficient resources to enable the Secretary of Defense to fulfill adequately and expeditiously his responsibilities under the Act.

Section 7(f) would require the Secretary of Defense to report annually to the Congress on actions taken to carry out this section.

Section 7(g)(1) would state a finding by Congress that licensing efficiency is hampered by large volume of validated export license applications. Accordingly, the Congress would encourage in this subsection the use of a qualified general license.

Section 7(g)(2) would advise the Director, to require a qualified general license in lieu of a validated license for the export of goods or technology to the maximum extent practicable, consistent with U.S. national security, except where (A) the U.S. is party to multilateral controls requiring specific approval for export; or (B) the U.S. is seeking to apply multilateral controls and, in the judgement of the Director, U.S. controls through the use of the validated license are necessary prior to the conclusion of such an agreement.

Section 7(g)(3) would authorize the Director to require a qualified general license in lieu of a validated license in the case of multilateral controls not requiring specific approval for export.

Section 7(h) would require the Director, in consultation with the Secretary of Defense and other appropriate government agencies as well as with appropriate technical advisory committees established pursuant to subsection (i), to review, on a continuing basis, the foreign availability of items requiring a validated license. In any case in which the Director determines that any such items are available in comparable quantity and of comparable quality so that the requirement of a validated license would have no effect in achieving national security control puposes, the Director would not be permitted to require a validated license for such exports, unless the President determines that the absence of such controls would prove detrimental to U.S. national security, in which case the Director would be required to publish the President's determination, a statement of its basis, and an estimation of its economic impact.

Section 7(h)(2) would require the Director to approve, subject to paragraph (4), any application for a validated license when foreign availability of the items involved, in comparable quantity and of comparable quality, has been determined.

Section 7(h)(3) would require that any determination of foreign availability which is the basis of a decision to grant a license for, or remove a control on, the export of an item, be made in writing and supported by reliable evidence.

Section 7(h)(4) would declare a finding of foreign availability to be applicable only after the Secretary of State verifies that negotiations with the appropriate foreign governments have been undertaken. Assessment of comparable quantity or quality would include the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technological data packages, back-up packages, long-term durability, scale of production, ease with which machinery will be integrated in the mode of production, and spoilages and tolerance factors for end products produced by the machinery. When controls are imposed despite foreign availability the President would be required to initiate negotiations to eliminate such availability. Whenever the President believes that controlled items may become available from foreign sources to controlled countries and that such availability can be prevented or eliminated by negotiations, the President would be required to initiate such negotiations.

Section 7(h)(5) would require the Director to establish within the Office a capability to monitor and gather information concerning foreign availability of items subject to export controls.

Section 7(h)(6) would require each department or agency with export control responsibilities to furnish information to the Office concerning foreign availability of goods and technology subject to export controls, and require the Office to furnish the information it gathers on foreign availability to such departments and agencies upon request.

Section 7(i)(1) would require the Director, upon written request from a substantial segment of any industry involved, to appoint a technical advisory committee for any item subject to export controls or being considered for export controls which the Director determines are difficult to evaluate because of questions, concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee would consist of representatives of U.S. Industry and Government, including the Departments of Defense, State, and Commerce, the intelligence community, and, at the discretion of the Director, other government departments or agencies. No industry representative would serve for more than four years consecutively.

Section 7(i)(2) would give the responsibility to the Technical Advisory Committees to advise and assist the Director, the Secretary of Defense and other relevant officials with respect to export controls for national security purposes. Nothing in this subsection would prevent the Director or the Secretary of Defense from consulting with persons outside of such committees. Members of the public would be given reasonable opportunity to present relevant material to such committees.

Section 7(i)(3)(4)(5) would state provisions covering reimbursement of committee members for expenses, committee procedures, and the termination or extension of such committees.

Section 7(i)(6) would require the Director, in the case of a finding of foreign availability of export items by a technical advisory committee, to remove the requirement for a validated license for such items—after investigating and verifying the committee's finding—unless the President determines that the absence of export controls would prove detrimental to U.S. national security. In the case of such an action by the President, the Director would be required to publish the determination together with a statement of its basis and its estimated economic impact.

Section 7(j) would require the President to negotiate with the Governments participating in the Coordinating Committee (CoCom) for the purpose of reaching agreements to: (1) publish a CoCom list of controlled exports; (2) hold periodic high-level meetings; and (3) establish more effective

procedures for enforcing CoCom export controls.

Section 7(k)(1) would require any U.S. firm that enters into an arrangement with a country to which exports are restricted for national security purposes to report the agreement to the Director if it calls for the encouragement of technical cooperation and is intended to result in the export of unpublished technical data.

Section 7(k)(2) would exempt colleges, universities and other educational institutions from the requirement of paragraph (1), except where the unpublished data involve a technology identified by the Secretary of Defense as a militarily critical technology.

Section 7(l) would give the Secretary of State, in consultation with the Secretary of Defense, the Director, and the heads of other appropriate departments and agencies, the responsibility for conducting negotiations to obtain international cooperation on national security controls.

Section 7(m)(1) would provide that, whenever exports subject to national security controls have been diverted to an unauthorized use or consignee in violation of the export license, the Director, for as long as that diversion continues, (A) deny all further exports to or by the party responsible for that diversion of exports, regardless of foreign availability; and (B) may take such additional steps with respect to the party referred to as he determines are appropriate in the circumstances to deter the further unauthorized diversion of exports.

Section 7(m)(2) would define "diversion to an unauthorized use or consignee" to means the use of U.S. goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the U.S. Munitions List, or the transfer of U.S. goods or technology to any consignee or end user engaged in or contributing to such design, production, or maintenance.

Section 7(n) would require the Director, Secretary of Defense, and other departments or agencies consulted in connection with a license application or a revision of a list of controlled items to keep records of their advice, recommendations, or decisions.

FOREIGN POLICY CONTROLS

Section 8(a)(1) would authorize the President to control the export of any items subject to U.S. jurisdiction or exported by any person subject to U.S. jurisdiction to the extent necessary to significantly further U.S. foreign policy. This authority would be exercised by the Director, in consultation with the Secretary of State and such other departments or agencies as the Director considers appropriate, and would be implemented by means of export licenses.

Section 8(a)(2) would provide for the expiration of foreign policy controls after one year unless such controls are extended by the President.

Section 8(a)(3) would require the Director, whenever he denies any export license for foreign policy reasons, to specify in the notice to the applicant the reason for denial and any modifications in or restrictions on the item for which the license was sought that would make it compatible with controls

Section 8(a)(4) would authorize the Secretary of State to review any export license application under this section at his request.

Section 8(b) would require the President to consider, when imposing, expanding, or extending export controls: (1) the probability that such controls will achieve the intended purpose; (2) the compatibility of the proposed controls with U.S. foreign policy objectives, including the effort to combat international terrorism; (3) the reaction of other countries to the imposition or expansion of controls; (4) the likely effects of controls on U.S. export performance, on the competitive position of the U.S., on the reputation of the U.S. as a supplier of goods and technology, and on individual U.S. companies; (5) the enforceability of the proposed controls; and (6) the foreign policy consequences of not imposing controls.

Section 8(c) would require the Director, before imposing export controls for foreign policy reasons, to consult with affected U.S. industries with respect to the effectiveness of proposed controls, their effects on U.S. industry, and such other matters as the Director deems appropriate.

Section 8(d) would require the President, before resorting to foreign policy controls, to determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or alternative means.

Section 8(e) would require the President to consult with Congress before imposing foreign policy controls and to notify Congress immediately whenever such controls are imposed, expanded, or extended. The report submitted with that notification would include: (1) the President's conclusions with respect to each of the criteria set forth in subsection (b); and (2) the nature and results of any alternative means attempted, or the reasons for imposing controls without attempting any such alternative means. The report would also indicate how controls would further significantly U.S. foreign policy.

Section 8(f) would prohibit the imposition of foreign policy controls on medicine or medical supplies, and in the case of controls on food exports, would require the Director to notify the Secretary of State, when developed countries are affected, and the Director of the U.S. International Development Cooperation Agency (IDCA), when developing countries are affected, before such controls are imposed. Those two officials would be required to determine whether the proposed controls would cause malnutrition and to inform the Director of that determination. If the Director is informed that malnutrition would result, the imposition of controls would be prohibited, unless the President determines that those controls are necessary for U.S. national security, or unless the President determines that arrangements are insufficient to ensure that the food will reach those most in need. Each such determination by the Secretary of State or the Director of the IDCA, and any such determination by the President, would be reported to the Congress, together with a statement of the reasons for that determination. The intent of Congress would be declared to be that the President not impose foreign policy controls on any item if he determines that the principal effect of the export of such item would be to help meet basic human needs. The power of the President to impose restrictions on medical supplies or food under the International Emergency Economic Powers Act woud not be affected.

Section 8(g) would require the President to negotiate with appropriate foreign governments to restrict foreign availability of items controlled under this section.

Section 8(h) would stipulate that the provisions of subsections (b), (c) (d), (f), and (g) would not apply in any case in which the President imposes foreign policy controls in fulfillment of U.S. obligations under treaties or other international agreements.

Section 8(i) would require the Director and the Secretary of State to notify the House Foreign Affairs Committee and the Senate Banking, Housing, and Urban Affairs Committee before any license is approved for the export of any items valued at more than $7,000,000 to any country concerning which the Secretary of State has made the following determinations: (1) such country has repeatedly provided support for international terrorism; (2) such exports would make a significant contribution to the military potential of such country or would enhance the ability of such country to support acts of international terrorism.

Section 8(j)(1) would require that crime control and detection instruments be approved for export by the Director only pursuant to a validated export license.

Section 8(j)(2) would exempt members of NATO, Japan, Australia, New Zealand and other countries designated by the President from the provisions of this subsection.

Section 8(k) would require the Director to maintain, as a part of the commodity control list, a list of goods subject to export controls for foreign policy reasons. The list would be compiled by the Secretary of State with the concurrence of the Director, with disagreements being referred to the President. The list would be reviewed every three years in the case of multilateral controls and annually in the case of all others, for the purpose of making necessary revisions. An assessment of foreign availability would be included in any such review.

SHORT SUPPLY CONTROLS

Section 9(a)(1) would authorize the President to control exports subject to U.S. jurisdiction or by any person subject to U.S. jurisdiction, and the financing, transporting, and services thereof, to the extent necessary to carry out the policies set forth in Section 3. When controlling exports for short supply reasons the President is authorized to allocate some licenses on the basis of factors other than prior exporting history.

Section 9(a)(2) would require the Director to publish a notice in the Federal Register inviting all interested parties to submit written comments concerning export restrictions.

Section 9(a)(3) would authorize the President to impose export license fees when imposing controls pursuant to section 9(a)(1) of the act.

Section 9(b)(1) would require the Secretary of Commerce to monitor exports and export contracts of any non-agricultural goods when the volume in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious impact on the economy, any sector thereof, or any industry or substantial segment thereof. Monitoring would be required to commence early enough to provide sufficient data for the purposes of the Act.

Section 9(b)(2) Weekly monitoring reports would be required unless the Secretary of Commerce determines information is only sufficient for monthly reports.

Section 9(b)(3) would require the Director in consultation with the Secretary of Energy to determine whether monitoring or export controls are warranted with respect to non-nuclear energy-related goods.

Section 9(c)(1)(A) would enable any entity, representing an industry which processes metallic materials capable of being re-

cycled with respect to which increased exports (and the attendant increase in domestic prices or a domestic shortage) have or may have a significant adverse effect on the national economy or any sector thereof, to petition the Director requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(c) of this Act.

Section 9(c)(1)(B) would require that each petition be in a form as prescribed by the Director and contain information in support of the action requested. The petition would include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

Section 9(c)(2) would require that within 15 days after receipt of any petition described in paragraph (1), the Director shall publish a notice in the Federal Register. The notice would (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Director written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Director shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended for 45 days.

Section 9(c)(3) would require that within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Director, in consultation with the Secretary of Commerce, shall: (A) determine to impose monitoring or controls, or both, on the export of such material; and (B) publish in the Federal Register a detailed statement of the reasons for such determination.

Section 9(c)(4) would require that within 15 days after making a determination to impose monitoring or controls on the export of a material, the Director shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Director would publish and implement final regulations with respect to such monitoring or controls.

Section 9(c)(5) would enable the Director, for purposes of publishing notices in the Federal Register and scheduling public hearings, to consolidate petitions and responses which involve the same or related materials.

Section 9(c)(6) would provide that if a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Director may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after consideration of the prior petition has been completed does not merit complete consideration.

Section 9(c)(7) would provide that the procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Director with respect to the same subject as that of the petition.

Section 9(c)(8) would allow the Director to impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Director makes a determination under paragraph (3) if the Director considers such action to be necessary to carry out the policy set forth in section 3(2)(C).

Section 9(c)(9) would provide that the authority under this subsection shall not be construed to affect the authority of the Director under any other provision of the Act.

Section 9(c)(10) would stipulate that nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Director of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Director in reaching decisions required under this subsection. The provisions of this paragraph would not be construed to affect the applicability of section 552(b) or title 5, United States Code.

Section 9(d)(1) would provide that notwithstanding any other provision of the Act and notwithstanding subsection (u) of Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the time quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and reenters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

Section 9(d)(2) would allow the crude oil subject to the prohibition contained in paragraph (1) to be exported only if (A) the President makes and publishes an express finding that such exports: (i) will not diminish U.S. refined petroleum supplies; (ii) will result within 3 months in lower acquisition costs to refiners for imported crude and reduced wholesale and retail prices of products refined from such imported crude; (iii) will be made only pursuant to contracts which may be terminated if U.S. crude supplies are interrupted, threatened, or diminished; (iv) are clearly necessary to protect the national interst; and (v) are in accordance with the provisions of the Act. (B) The President reports such findings to the Congress and the Congress, within 50 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

Section 9(d)(3) would require that notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the international Emergency Oil Sharing Plan of the International Energy Agency.

Section 9(e)(1) would provide that no refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than 5 days after an application for a license to export any refined petroleum product or residual fuel oil is received, the director shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the House Committee on Foreign Affairs and the chairman fo the Senate Committee on Banking, Housing, and Urban Affairs.

Section 9(e)(2) would prohibit the Director from granting such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

Section 9(e)(3) would not apply to (A) any export license application for exports to a country with respect to which historical export quotas established on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

Section 9(e)(4) would define "refined petroleum product" for the purposes of this subsection.

Section 9(e)(5) would allow the Director to extend any time period prescribed in section 12 to the extent necessary to take into account delays in action by the Director on a license application on account of the provisions of this subsection.

Section 9(f) would exclude petroleum products refined in U.S. Foreign Trade Zones or Guam from export controls imposed pursuant to this section, unless the Director finds a product to be in short supply.

Section 9(g)(1) would prohibit export controls pursuant to this Act on any agricultural commodity, including fats, oils, animal hides and skins, unless the Secretary of Agriculture approves such controls. The Secretary of Agriculture would not be authorized to approve such controls during any period in which he determined the supply of such commodity to be in excess of the requirements of the domestic economy, unless the President determines controls are needed for national security or foreign policy reasons. The Secretary would also collect data with respect to export sales of animal hides and skins.

Section 9(g)(2) would, upon approval of the Director in consultation with the Secretary of Agriculture, require that agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export. The Director may not grant such approval unless the Director receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (d) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Director would issue such regulations as may be necessary to implement this paragraph.

Section 9(g)(3) would, if the authority conferred by this section or section 8 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of the Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefore in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution.

Section 9(h)(1) would provide that the exportation pursuant to a barter agreement of any goods which may lawfully be exported for any goods which may lawfully be imported may be exempted from quantitative limitations (other than reporting requirements).

Section 9(h)(2) would require the Director to grant an exemption under paragraph (1) if he finds, after consultation with the appropriate department or agency, that: (A) for the period during which the barter agreement is to be performed—(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and (ii) the average annual quantity of goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and (B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

Section 9(i) would instruct the Director to require a validated license for the export of unprocessed red cedar harvested from State or Federal lands. It would also contain the quantitative limits imposed on such export under the Export Administration Act of 1979 for the three years beginning on the effective date of that Act, and would instruct the Director to allocate export licenses on the basis of appropriate factors to minimize any hardship to producers of western red cedar and to further U.S. foreign policy.

Section 9(j) would prohibit the export of horses by sea for slaughter unless the Director, in consultation with the Secretary of Agriculture, determined that no horse in a particular consignment was being exported for purposes of slaughter.

FOREIGN BOYCOTTS

Sections 10(a) and 10(b) contain anti-boycott provisions adopted in the Export Administration Amendment of 1977, P.L. 95-52, and which appear as sections 4A (a) and (b) of the Export Administration Act of 1969, as amended, and as sections 5(a) and 5(b) of the Export Administration Act of 1979, as amended.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

Section 11 would enable persons suffering unique hardship due to export controls to petition the Director for relief from such controls. The Director would be required to grant or deny relief within 30 days, having considered a list of factors set forth in the Act.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

Section 12(a)(1) would provide that all export license applications be submitted to, and determinations of them made by, the Director.

Section 12(a)(2) would provide that determinations with respect to any export license application be made to the maximum extent possible solely by the Director.

Section 12(a)(3) would provide that the Director solicit any information and recommendations deemed necessary from other concerned departments or agencies.

Section 12(b) would prescribe a ten day period after the submission of an application within which the Director would be required to:

(1) return to the applicant an acknowledgement of receipt of the application;

(2) submit to the applicant a description of the application procession procedures and his rights thereunder;

(3) return the application if it is incomplete;

(4) determine if it will be necessary to submit the application to other departments or agencies and, if so, inform the applicant of such;

(5) determine if it will be necessary to submit the application to a multilateral review process and, if so, inform the applicant of such.

Section 12(c) would prescribe a ninety day period after the submission of a proper application within which the Director would be required to either issue or deny the license, unless the application is to be referred to another department or agency.

Section 12(d) would prescribe a thirty day period after the submission of a proper application within which the Director, if necessary, would be required to:

(1) refer the application to all concerned departments or agencies, and

(2) provide the applicant with an opportunity to review for accuracy any documentation accompanying the application in the event of such a referral.

Section 12(e)(1) would prescribe a thirty day period after the referral of a proper application to another department or agency within which the department or agency would be required to provide information and recommendations requested.

Section 12(e)(2) would provide a second thirty day period upon request of the department or agency for an extension within the first thirty days. Failure to respond within these periods would be deemed to be assent by the department or agency to approval of the application.

Section 12(f)(1) would prescribe a ninety day period after the receipt of all information and recommendations from other departments or agencies within which the Director would be required to make a final determination on an export license application.

Section 12(f)(2) would provide that the Director should inform the applicant of questions or negative responses received from these departments and agencies, and should accord the applicant an opportunity to respond to these before a final determination is made.

Section 12(f)(3) would prescribe a five day period within which the Director would be required to notify an applicant after a license has been denied, or after a determination has been deferred inconsistent with the provisions of this section.

Section 12(f)(4) would provide the Director with the authority to extend any deadline of this section in conjunction with notification of Congress and the applicant of such an extension.

Section 12(g)(1) would provide that the Secretary of Defense may review any proposed export to controlled countries to determine the effects of such exports on U.S. national security.

Section 12(g)(2) would provide that the Secretary of Defense, in consultation with the Director, be required to determine the types of transactions to be reviewed by the Secretary of Defense pursuant to paragraph 1 above; that the Director be required to notify the Secretary to Defense of all applications of that nature and should not make a determination before the end of the period within which the President may disapprove the license; that within thirty days after receiving notification, the Secretary of Defense be required to either recommend to the President disapproval of the license, or recommend to the Director approval of the license, or conditions for approval of the license; and that the President, should he choose to disapprove the license, be required to notify the Director within thirty days of the receipt of a recommendation from the Secretary of Defense.

Section 12(g)(3) would require the Director to issue or deny licenses in accordance with this subsection, and within the time periods and procedures of this section.

Section 12(g)(4) would require the President to transmit to Congress both his decision and the recommendation of the Secretary of Defense in any instance in which the President has altered or overruled that recommendation.

Section 12(h) would provide that should an application be finally approved but still require multilateral review, that the applicant be notified of the approval pending review, and that the license be issued upon approval under such review, or sixty days after submission to review should no action have been taken and should the Director determine that no detriment to U.S. national security would occur.

Section 12(i) would require the Director to keep accurate records of all applications and recommendations considered by the Director.

Section 12(j)(1) would require the Director to establish procedures of an applicant to appeal the denial of an application to the Director.

Section 12(j)(2) would, in the event of any delay in consideration of an application beyond time periods established under this section, permit an applicant to file a petition with the Director requesting compli-

ance with the requirements of this section, and require the Director to comply with such requests and notify the applicant of such compliance.

Section 12(j)(3) would, in the event that the Director fails to comply completely with a petition in regard to delays, permit an applicant to bring an action in an appropriate U.S. district court requiring compliance with the provisions of this section.

VIOLATIONS

Section 13 of the Act would provide maximum fines of five times the value of the exports involved or $50,000, whichever is greater, or imprisonment of up to five years, or both for any individual knowingly violating any provision of this Act or regulation issued thereunder. Willful exports contrary to the Act or regulations, with knowledge such exports will benefit a country to which exports are restricted for national security or foreign policy purposes, in the case of an individual, are punishable by fines up to $250,000, or up to ten years imprisonment, or both, or in all other cases punishable by fine not more than five times the value of exports involved or $1,000,000, whichever is greater. Failure by a licensed exporter to report use of licensed exports by such controlled countries for military or intelligence gathering purposes contrary to the conditions under which the license was issued is punishable, except in the case of an individual, by fine not more than five times the value of the exports involved or $1,000,000, whichever is greater. In the case of an individual such failure to report diversion of exports is punishable by fine not more than $250,000, or not more than five years imprisonment, or both. Civil penalties up to $10,000 for each violation of this Act would be authorized, except that civil penalties for each violation of national security controls or controls on the export of defense articles and services pursuant to section 38 of the Arms Export Control Act may be up to but not exceeding $100,000. Suspension or revocation of authority to export is authorized for violations of anti-boycott provisions of the Act. Procedures would be established for imposing administrative sanctions, collecting fines, and bringing civil actions for payment of fines.

ENFORCEMENT

Section 14(a) would authorize investigations, inspections and subpoenas of records as necessary to enforce this Act.

Section 14(b) would provide that no person be excused from complying with any requirements of section 14 because of his privilege against self-incrimination, however the immunity provisions of the Compulsory Testimony Act (49 U.S.C. 46) would apply if specifically claimed.

Section 14(c)(1) would provide that information obtained on or before enactment of this Act would be exempt from disclosure under section 552 of Title 5 U.S. Code and would not be published unless the Director at his sole discretion determines withholding it to be contrary to the national interest. Information obtained under the Act or the Export Administration Act of 1979 after June 30, 1980, may be withheld only to the extent allowed by the law unless the Director at his sole discretion considers the release of this information to be in the national interest. Enacting of the Act would not affect certain judicial proceedings.

Section 14(c)(2) would stipulate that nothing in the Act would authorize withholding of information obtained under the Act or previous export control Acts from the Congress or from the General Accounting Office (GAO). It would be forbidden for the Congress to disclose confidential information obtained under the Act unless the appropriate Congressional committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information obtained under the Act or previous export control Acts would, consistent with intelligence and law enforcement considerations as determined by the agency that originally obtained the information, and with section 313 of the Budget and Accounting Act, 1921, be made available only, upon request, to the U.S. Comptroller General or to any employee of the GAO authorized by the Comptroller General to have access to such information. No GAO employee would be permitted to disclose such confidential information, except to the Congress in accordance with this paragraph.

Section 14(c)(3) would require departments or agencies which obtain information which is relevant to the enforcement of the Act to furnish such information to the department or agency with enforcement responsibilities under the Act to the extent consistent with intelligence and law enforcement considerations, except that: (A) the provisions of this paragraph would not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and (B) return information, as defined in subsection (b) of section 6103 or the Internal Revenue Code of 1954, may be disclosed only as authorized by such section.

Section 14(d) would require that reporting requirements under the bill be designed so as to minimize cost and inconvenience, and be periodically reviewed and revised, to the extent feasible, consistent with effective enforcement and compilation of useful trade statistics.

Section 14(e) would provide that the Director be required to review the regulations issued under the Act and the commodity control list to determine how they might be simplified or clarified in order to facilitate compliance with the provisions of the Act.

EXEMPTIONS

Section 15(a) would exempt functions exercised under this Act, except administrative proceedings under section 13(c)(2) concerning administrative sanctions, from the operation of the Administrative Procedure Act, sections 551, 553 through 559, and 701 through 706 of Title 5, U.S.C.

Section 15(b) would express the intent of Congress that regulations be issued in proposed form for public comment whenever practicable, and that where regulations are issued with immediate effect, a public comment period be provided and the regulations re-issued thereafter in final form.

ANNUAL REPORT

Section 16 would require the Director to make annual reports to Congress, would specify the content of such reports, and would require other departments and agencies to cooperate fully with the preparation of such reports.

REGULATORY AUTHORITY

Section 17 would enable the President and the Director to issue regulations necessary to carry out the provisions of the Act.

TRANSFER OF FUNCTIONS

Section 18(a) would transfer to the Office of Strategic Trade (1) the functions and authorities over the munitions list now handled by the Office of East-West Trade and the Office of Munitions Control of the Department of State; and (2), other functions and authorities deemed appropriate in consultation with the Director of the Office of Management and Budget (OMB).

Section 18(b) would direct the Director of the OMB, in consultation with the Director, to determine the resources necessary to accomplish the purposes of the Act.

EFFECT ON OTHER ACTS

Section 19(a) would prohibit anything in this Act from affecting the provisions of any other laws concerning commodity export controls.

Section 19(b) would provide that the authority granted to the President under this Act would be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

Section 19(c) would provide that any product which is standard equipment in civil aircraft shall be subject to export controls exclusively under this Act, and not under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

Section 19(d)(1) would provide that nothing in sections 7 or 8 of this Act should supersede the procedures pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

Section 19(d)(2) would provide that section 12 of this Act should apply with respect to export license applications only to the extent that they are consistent with the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978. However, if these applications are delayed more than 180 days, the applicant would have the right of appeal and court action as provided in section 12(j) of this Act.

Section 19(e) would provide that the Mutual Defense Assistance Control Act of 1951 (US U.S.C. 1611-1613d) be superseded as of October 1, 1979.

AUTHORIZATION OF APPROPRIATIONS

Section 20(a) would prohibit any appropriation to the Commerce department for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

Section 20(b) would authorize appropriations to the Commerce Department of (1) $9,659,000 for fiscal years 1982 and 1983; and (2), necessary additional amounts for increases in salary, pay, retirement, other benefits authorized by law, and other nondiscretionary costs for each such fiscal year.

EFFECTIVE DATE

Section 21 would provide that this Act take effect upon the expiration of the Export Administration Act of 1979.

TERMINATION DATE

Section 23(a) would provide that all administrative actions effective under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, should continue in effect to their terms until affected by this Act.

Section 23(b) the Act would not apply to any administrative proceedings or license applications under the Export Administration Act of 1979, which is pending at the time the Act takes effect.

TECHNICAL AMENDMENTS

Section 24 would amend the following acts to conform: (a) the Arms Export Control

Act (22 U.S.C. 2778(e)), (b) the Energy Policy and Conservation Act (42 U.S.C. 6212 (c)), and (c) the International Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)).

AMENDMENTS TO THE NATIONAL SECURITY ACT OF 1947

Section 25 would amend the National Security Act of 1947 (50 U.S.C. 402 (a)) to make the Director a member of the National Security Council.

HIGHLIGHTS

1. In general, the bill amends the Export Administration Act of 1979, replacing the functions in the Act given to the Commerce Department with similar functions given to an independent Federal Agency named the Office of Strategic Trade. The 1979 Act is also affected in the following ways.

2. There would be transferred to the OST the functions of the Offices of East-West Trade and Munitions Control of the State Department with respect to the munitions list pursuant to the Arms Export Control Act.

3. The findings strike a better balance between the concern for U.S. trade and the need to control exports, than does the language found in the 1979 Act.

4. The statement of purpose for export controls remains essentially unchanged, eliminating one redundant paragraph that reiterates the need to improve controls only when necessary.

5. The 1980 OST bill (S. 2606) has been modified in two significant points:

a. The position of a Deputy Director is added, who reports directly to and assists the Director in the fulfilling of his responsibilities. Correspondingly, the "Deputy Directors" originally provided for are retitled "Assistant Directors."

b. The 1980 draft of the OST would transfer the responsibility for the physical inspection of exports from the Customs Service to the OST. This has been deleted in the current draft, beefing up the current Customs Service activities being considered preferable to establishing a whole new operation.

6. The Director of Strategic Trade is made a member of the National Security Council.

7. The OST Director, or his designee, is made Chairman of an "Interagency Advisory Committee for Export Policy" (ACEP), which consists of representatives from the Departments of Commerce, State, Defense, Energy, and Treasury, as well as from the CIA and NASA.

8. The bill gives *primary* responsibility to the *Secretary of Defense*, in consultation with the Director of OST, for review and revision of the list of Militarily Critical Technologies. The 1979 Act gives *primary* responsibility to the *Commerce Secretary*, in consultation with the Defense Secretary.

9. A National Security Control Agency, within the Office of the Under Secretary of Defense for Policy, is established to assist the Secretary of Defense in carrying out his responsibilities under the Act.

10. The bill also expands the considerations to be weighed in compiling a critical technologies list to include goods that complete process lines, fill in gaps in production, technology, and other factors which would give insight into U.S. military systems and assist the development of countermeasures thereto.

11. Consideration of foreign availability in the National Security Controls section would be amended by providing that there can be no finding of foreign availability made until the Secretary of State verifies that negotiations to end such foreign availability have been undertaken. Standards for measuring "comparable quantity and quality" are also given.

12. The paragraph providing for indexing of items controlled for national security purposes, included in the 1979 Act, is deleted.

13. The exemption in the 1979 Act from national security controls, given to colleges and universities, is continued unless the unpublished technological data involves a technology identified by the Secretary of Defense as a military critical technology.

14. A paragraph requiring record keeping of advice, decisions made, processing of applications, etc. under the national security provisions is added.

15. Foreign Policy Controls language is left basically unaltered.

16. Short Supply Controls language is left basically unaltered.

17. The Foreign Boycotts provisions are left unaltered.

18. The applications processing procedure is left unaltered, with the exception that the primary agency would be the OST rather than the Commerce Department.

19. Provisions governing violations and enforcement of the Act would be left unchanged.

20. The definition of "technology" is expanded to include forms of computer software particularly. A new definition of "export of technology" is added so as to be able to control a broader range of technology transfer.

21. A definition of "export of goods" is added so as to cover reshipment/resale of controlled items to controlled countries.●

DRUG ABUSE IN EUROPE

● Mrs. HAWKINS. Mr. President, the United States must make executive level efforts to enlist increased involvement in combating world drug abuse. It is vital that our major European allies and Japan join us in coordinated efforts to address drug trafficking, abuse, and production.

The frightening rise in the drug-related death rate of young Europeans and Japanese makes clear that drug abuse is not only an American problem. The United States must not continue to be the only Nation actively working for drug control. Contributions to the United Nations Fund for Drug Abuse (UNFAC) illustrate the lonely efforts of the United States to address world drug abuse. Contributions to UNFAC total $9,527,025. Of this amount, the United States contributed $2,150,000 (22.57 percent), West Germany $2,197,674 (23.07 percent), Britain $92,750 (0.97 percent), Belgium $24,988 (0.26 percent), France $188,496 (1.98 percent), Italy $248,259 (2.52 percent), Austria $123,563 (1.38 percent), and Belgium $24,988 (0.26 percent).

Other nations, particularly our European allies, which have been victimized by drug abuse must join the United States in coordinated efforts and contributions to address international drug production, trafficking, and abuse. As chairman of the Senate Drug Enforcement Caucus, I am convinced that we must persuade our allies to join us in vigorously attacking the problem at its source.

I ask that the following article from the August 17, 1982, Washington Times be printed in the RECORD.

The article follows:

[From the Washington Times, Aug. 17, 1982]

DRUG ABUSE IN EUROPE

(By Thomas Land)

STRASBOURG.—Drug abuse is now evident in every layer of Western society. The Council of Europe has decided to treat it as a symptom of wider problems exacerbated by the recession and the second industrial revolution sweeping the globe.

"Unemployment, particularly that affecting young people and women, will be the paramount problem of Europe and North America in the 1980s," concludes a study placed before a group of distinguished educationalists from Canada and the United States as well as the 21 member countries of the council. Franz Karasek, the council's secretary-general, earlier declared: "Let's give work to our young people . . . and drugs will lose their attraction."

The council decided in 1971 to seek a common remedy to the growing waves of drink and drug abuse eroding the social stability of the region. Its members have observed a dismal deterioration of their defenses during the past decade.

Their agreement, recently announced by the council's health ministers, to recognize the confusion of European youth in the turmoil of destructive social change as a potent cause of drug abuse, is an important new departure.

European specialists once dismissed drug addiction as a sad but peculiarly North American phenomenon irrelevant to this continent. A frightening rise in the drug-related death rate of young Europeans—many of them women and representing the entire social spectrum, particularly in Britain, France, Holland, West Germany and Italy—has proved them wrong.

In the long term, the council's changing emphasis could lead to greater investment in medical, social and education services as well as youth employment programs. In the short term, the council advocates restrictions in the production, distribution and sale of alcoholic drinks and advises parents, doctors, teachers and employers to seek out and treat drug addiction as a manifestation of society under stress rather than as an individual deviation from the norm. It cautions against "treatment which medicates the problem without solving it."

The new approach is due in part to a penetrating study prepared for the council, whose conclusions appear to have been confirmed by a series of riots of angry young people in many European cities during the last year or so. The study explores a wide range of social evolution shaping the pattern of acceptable behavior. Following are some of the trends identified by the study has having particular relevance to drug abuse.

Medication: The emergence of the "pill-popping" society in which a sense of well-being and health appears to be dependent on pharmaceuticals and drinks to help people to adjust to their environment by suppressing anxiety and depression and to which, therefore, "magical" powers are attributed. As a result, children are presented

with forceful parental models of evasion and abdication of responsibility.

Conflict: The contradictory messages generated by a civilization in crisis. Traditional values previously safeguarded by the family, church and schools are in decline, while increased and undue importance is attributed to material prosperity.

Frustration: The failure of the inappropriate and impersonal education systems to impart knowledge relevant to the changing world, while denying individual's scope to develop their personalities and a valid choice of life style. The rapid growth of youth unemployment tends to discredit the education system in its role of preparing young people for the world of work.

In their study intended to shape government policy, the authors emphasized that drug abuse was merely one manifestation of deep-rooted problems which also find expression in other destructive phenomena, such as suicide and street violence.

NATIONAL HOSIERY WEEK

● Mr. HELMS. Mr. President, the week of August 15–21 marks the 12th annual observance of National Hosiery Week. In a nation in which the free enterprise system has played such a vital role in our progress, it is well that we take note of the significant contribution of this important industry.

The more than 300 companies in the Nation operate more than 425 plants across America. In keeping with the best American traditions, the bulk of these concerns are family-owned, independent businesses.

And yet, while the industry consists primarily of small- to medium-size enterprises, it provides jobs for over 63,000 Americans, pumping in nearly $6 billion not the national economy each year in retail sales.

Mr. President, because we are accustomed to hearing such large figures in Congress, but rarely in such a positive setting, allow me to repeat that statistic. The national hosiery industry's annual retail sales is a little below $6 billion. In addition to the benefits provided consumers, the hosiery industry has made significant contributions to the productivity and efficiency of the U.S. businesses as well.

National Hosiery Week has a special significance the State of North Carolina, which leads the Nation in the textile industry. Mr. President, I am proud to report that the nearly 2 billion pairs of hosiery manufactured in North Carolina in a single year constitute 51.8 percent of the hosiery produced in America.

North Carolina is the home of over 150 companies, operating more than 220 plants across the State. The more than 41,000 jobs provided by the North Carolina hosiery industry constitute a vital aspect of textile employment, which in turn comprises 29 percent of North Carolina manufacturing jobs and contributes an annual payroll approaching the $2 billion mark.

North Carolina is proud indeed of its distinctive leadership in the national hosiery industry and of the many positive contributions that this industry has rendered the Nation and the State. On behalf of all North Carolinians, I salute the hosiery industry on this auspicious occasion.●

THE JUSTICE ASSISTANCE ACT OF 1982

● Mr. MATHIAS. Mr. President, I am pleased to join as a cosponsor of S. 2411, the Justice Assistance Act of 1982. This legislation, which was introduced by Senator SPECTER on April 21, 1982, and which is pending in the Judiciary Committee, is an essential part of our effort to assist States and local communities in the fight against crime.

There has been a great deal of discussion recently about what we in the Senate can do to fight crime. All of us know that the problem is serious and real. Violent crime is in the forefront of national consciousness. Statistics tell the tale. Violent crime climbed 59 percent in the last 10 years. In 1980 alone violent crime increased by 13 percent, the biggest jump in more than a decade. We live in a society where a murder is committed every 24 minutes, where a burglary occurs every 10 seconds, and where a woman is raped every 7 minutes.

We must all recognize the frustrating reality that, under our federal system, the ability of the Federal Government to attack the crime problem is somewhat limited. This is particularly true with respect to the violent street crime which haunts the inhabitants of our inner cities and which forces our elderly to withdraw into isolation rather than risk assault on the streets. Such crimes must be combated primarily at the local level by local law enforcement agencies, State courts and correctional systems, and, most of all, by concerned private citizens.

The Federal Government cannot solve the crime problem by itself, but it has an important role to play in assisting States and local communities in their anticrime efforts. Our responsibility as Members of the U.S. Senate is to define the appropriate Federal role in fighting crime, and then to fashion concrete and constructive means for translating into action our commitment to help combat violent crime.

To its credit, the Judiciary Committee has taken up these tasks and is considering a variety of significant anticrime legislation. We are examining measures which will permit more effective prosecution of armed career criminals, and which will aid the victims of crime. Perhaps most important of all, we have before us a bill which authorizes the Federal Government to give essential crime-fighting assistance to the States and localities in a way that is efficient, fair, and appropriate to the task of mobilizing our citizenry to help stop the growth of violent crime. That bill is the Justice Assistance Act.

S. 2411 would establish the Office of Justice Assistance (OJA) in the Department of Justice, to administer a modest program of grants to State and local law enforcement and community agencies. Some of these grants would be specifically targeted for the replication of programs which have been proven effective in other communities around the country. Other grants would underwrite educational and training programs for criminal and juvenile justice personnel. The Justice Assistance Act also provides for small grants for the implementation of innovative crime-fighting programs which are likely to prove successful. Finally, S. 2411 authorizes grants to help States and localities deal with specific criminal justice emergencies. Through all of these programs, the Federal Government would assume a proper role in the fight against violent crime: To provide assistance, coordination, and expertise to the people in communities across the country who are in the best position to decide how to tackle the crime problem.

In previous legislation, the Congress has considered how this assistance can best be provided. The administrative provisions of the Justice Assistance Act build upon our past experience with federally-funded crime-fighting efforts. The result is a structure within the Department of Justice which can efficiently and economically run this important program. S. 2411 provides safeguards to protect the independence and impartiality of the new Office of Justice Assistance. The bill creates a Presidentially appointed advisory board to help set OJA policy, while at the same time coordination is insured through interlocking boards with the Bureau of Justice Statistics, the National Institute of Justice, and the Office of Juvenile Justice and Delinquency Prevention. S. 2411 dispenses with some of the cumbersome grant application and review procedures which at times have ensnarled anticrime efforts in redtape. And throughout the bill, the OJA is directed to set priorities in the fight against crime and to encourage participation by nonprofit organizations and neighborhood and community groups. I believe that these provisions go far toward insuring that the programs created by this bill will deliver assistance which our communities need and can really use.

Senator SPECTER is to be commended for his sponsorship of S. 2411, the Justice Assistance Act of 1982. I urge my colleagues on the Judiciary Committee and in the Senate as a whole, to lend their support to this most important initiative. In the brief time remaining in this session, let us enact a measure

which will authorize the Federal Government to provide our cities, towns, and rural areas with resources—not just with rhetoric—in the fight against crime which engages us all.●

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution (H.J. Res. 520).

Mr. BAKER. Mr. President, may I have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BAKER. Mr. President, if I may have the attention of the Senate, it is my hope that we can now go back to the debt limit bill, which I believe will occur automatically, and that, at that time, we can take up the Dole-Byrd amendment dealing with a holding period on capital gains. I am trying to clear a unanimous-consent agreement to a time limitation of 30 minutes for the opponents and 10 minutes for the proponents of that amendment, which is certainly not a measure of the relative merit of the amendment. Nevertheless, I hope that we might be able to do that.

I am prepared to clear that request on this side. I do not mean to press the issue, but I wonder if it would be possible to enter into an agreement of that sort at this time?

Mr. BUMPERS. Mr. President, in light of the deprecations of the majority leader, maybe I ought to take 3 minutes, if time is supposed to determine the merit of the position.

Mr. BAKER. Then I put that request.

Mr. BUMPERS. Mr. President, let me say to the majority leader that I shall be prepared in 3 or 4 minutes to go with that amendment. Unaccustomed as I am to long-winded speeches, I can cut it, probably, to 10 minutes, but let us make it 30 minutes equally divided.

Mr. BAKER. Mr. President, I shall not now put that request in view of the statement just made by the Senator from Arkansas. In a few moments, I shall put the request for 30 minutes equally divided.

Mr. President, I now ask unanimous consent that if we proceed next to the consideration of the Dole amendment, after the disposition of the Dole amendment, the Senator from Oregon (Mr. PACKWOOD) will once again be recognized in the same manner as provided for in the order of last evening.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I would like to put a unanimous-consent request now in regard to the Dole-Harry F. Byrd, Jr., amendment.

I ask unanimous consent, Mr. President, that on the Dole-Harry F. Byrd, Jr., amendment to the debt limit there be a time limitation of 30 minutes equally divided to be under the control of the distinguished Senator from Kansas, the chairman of the committee, and the Senator from Arkansas to control the time in opposition.

I further ask unanimous consent, Mr. President, that no amendment to the Dole amendment be in order.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, why is it that no amendment will be allowed?

Mr. BAKER. It seemed like a good idea at the time. [Laughter.]

Mr. JOHNSTON. That was not in the original request.

Mr. BAKER. The original request was that no nongermane amendment would be in order. Would the Senator prefer that formulation?

Mr. JOHNSTON. No. I thought there was no statement in there with regard to amendments at all. Did the Parliamentarian tell the Senator this?

Mr. BAKER. No. Mr. President, I had requested that the clearance be attempted on the basis of no nongermane amendment would be in order. I had been encouraged to think that perhaps I might improve on that by one step.

Mr. JOHNSTON. May I ask, still reserving the right to object, why are we giving special treatment to this particular amendment?

Mr. BAKER. I think, Mr. President, that it would be perhaps better if I yielded to the distinguished chairman of the Finance Committee to speak on that subject.

I will say to my friend from Louisiana that the Senator from Virginia and the Senator from Kansas came to me and suggested, as I remember, that as a result of certain conversations held during the tax conference the suggestion was made that they would offer this amendment at the first opportunity on the debt limit.

Now, with that may I yield to the Senator from Kansas for any further explanation he wishes to make.

Mr. DOLE. I have no quarrel with a time limit on the amendment because I may have a second-degree amendment myself. There is one technical thing we could handle in conference, but I am prepared to offer a second-degree amendment to take care of that. But it was passed last year by the House to reduce the holding period from 12 months to 6 months. It was passed this year by the Senate. Very honestly, we had a problem in the weekend conference, but I was informed by the chairman of the House Ways and Means Committee if it came back to the House on a different vehicle it would be seriously considered. I think it should be seriously considered. Therefore, I am offering it on the debt ceiling along with any other amendments that may be offered to the debt ceiling, and it may be so heavy it will not be able to leave this Chamber.

Mr. JOHNSTON. Mr. President, my opposition is not so much to the 6-month holding period, although I am willing to listen to that, but I have some amendments which I think are of very high priority and which I would like to have considered. We have had a special place carved out for the debt limit bill, and I wonder if we could get a special place for some of my amendments.

For example, there is the coal slurry pipeline matter, which has been passed by the committee overwhelmingly, and busing, which has passed the Senate overwhelmingly. If we are going to have consideration of any amendments, it seems to me that those should be considered.

Can we put those items in the request?

Mr. BAKER. Mr. President, I withdraw the request.

I must say that I had hoped we could do this in a minimum of time. My first commitment is to have a week of debate on the social issues—abortion, particularly.

I was reluctant to do this, in any event, because we will have to keep the Senate here until 8 o'clock in order to get in any meaningful and significant debate on the Helms amendment, as it is.

I would do this only if we could get a reasonably short time limitation. I will not try to call up the Dole amendment at this time.

Mr. JOHNSTON. Mr. President, I will not object to the Dole amendment. I do not object to the substance of it, subject to hearing the debate, but I think we should be told what our purpose is.

Will there be other special orders in effect where we try to carve out time for other amendments? I should like to get on that list.

Mr. BAKER. I would expect that. I do not have a list, though. What I intend to do is to try to get the abortion debate out of the way, up front. That may be a vain hope. We may not do that until our next incarnation. [Laughter.]

I will certainly cooperate with the Senator from Louisiana. I have no desire whatever to keep him from offering an amendment to this bill on

the coal slurry pipeline. Indeed, I will help him try to offer such an amendment on this measure.

Mr. JOHNSTON. I do not object.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. BUMPERS. Mr. President, inasmuch as we are engaging in a little colloquy about where we are going, has a cloture motion been filed on the abortion amendment?

Mr. BAKER. No, it has not. I indicated yesterday when we began this matter that I am not inclined to offer a cloture motion at this time. The only reason—I suppose the reason—is that for a year and a half now, we have been talking about setting aside a period of time to devote to the debate of these issues—that is, abortion and other issues. After a fairly complicated process, it was decided that the debt limit would be the vehicle to carry that.

I am reluctant to file a cloture motion the first, second, or third day and give the impression that I set up a period for debate and then try to shut it down in a short period of time.

Mr. BUMPERS. We have about 18 legislative days remaining for the scheduled adjournment, and we really have a plateful that we are going to have to dispose of before we can consider going out, unless we are willing to come back after the election.

It occurs to me that the abortion amendment might go on if we do not get cloture on it. How long would the majority leader want to continue trying to obtain cloture?

Mr. BAKER. That depends on a lot of things—for example, how much progress we make on privileged matters, such as conference reports, that may be submitted to the Senate from time to time. I certainly would plan to file a cloture motion at some point, but I do not plan to do so at this moment.

Mr. BUMPERS. Is it the majority leader's thought that we will still be on the debt limit bill when we return?

Mr. BAKER. We may be. I hope we can finish the debt limit, including the abortion debate, before we go out on Friday. If the parties will make one more try for a unanimous-consent agreement on the abortion amendment, we can do that easily and even have time to take up another bill. My hope is not totally forlorn. I think there is some movement in that direction, and there may be some reason to think that progress is being made toward a unanimous-consent agreement to limit time on that debate.

All we can do now is bow our heads and see how we get along.

Mr. President, I ask the distinguished Senator from Louisiana if I may renew my request for 30 minutes, equally divided, and I modify my request so that no nongermane amendments to the Dole amendment would be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 2030

(Purpose: To decrease the holding period required for long-term capital gain or less treatment)

Mr. BAKER. Mr. President, pursuant to the unanimous-consent order previously entered, which provided, that on the suggestion of the majority leader, after consulting with the minority leader, we might resume consideration of the Dole amendment, I report to the Senate that I have consulted with the minority leader, and I believe he feels that that consultation is sufficient for me to proceed at this point.

Therefore, I ask the Chair to lay before the Senate the Dole amendment to the debt limit bill.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. HARRY F. BYRD, JR., proposed an amendment numbered 2030.

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234(b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income curently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d)(1) Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of propety held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Mr. President, before I proceed, I want to note what probably everybody has noted. We had a rather sharp reaction in the stock market today, the greatest rise in the history of the stock market, and indications are that maybe things are getting better.

I had an opportunity to visit with at least one person from Wall Street who is fairly knowledgeable; and he believes that, in part, it is because Congress is on the verge of doing the right thing in passing the spending reduction and revenue increase proposal

that will be before the Senate later this week, if it passes the House.

Mr. President, there is every indication that interest rates are on a fairly steady decline, and with the stock market jumping 39 points today, the largest jump in history, we could be on the verge of at least some good news in the economy, if we continue to act responsibly on spending reductions and revenue increases where necessary, which are included in the bill to come before the Senate later this week.

Mr. President, this Senator is encouraged by what happened today. Maybe it will change tomorrow, but at least for the time being, it is an indication that the financial markets are listening, that they are convinced that what is happening in the budget process and in the revenue side are steps in the right direction.

Mr. President, I send to the desk an amendment in the second degree, and I will explain precisely what it does. It is a technical change in the original amendment.

The PRESIDING OFFICER. Until the time is yielded back, the amendment is not in order.

Mr. DOLE. Mr. President, yesterday I offered an amendment to House Joint Resolution 520 to deal with an important tax change included in the Senate version of H.R. 4961. I offered that amendment for myself and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), and I will be offering an amendment in the second degree, when the time expires, which merely makes one technical change, which I will explain.

I ask unanimous consent that the names of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) the Senator from Texas (Mr. BENTSEN), and the name of the Senator from Iowa (Mr. JEPSEN) be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I am offering an amendment in the form of a substitute to amendment No. 2030, an amendment I have offered to the debt limit bill dealing with the 6-month holding period for long term capital gains. My revised version of the amendment makes a relatively minor but important change regarding stock options that are part of a straddle.

Everything else stays the same. There is no other change. I am not trying to change the substance of the amendment offered yesterday.

This revised version of my amendment on the 6-month holding period is identical to amendment No. 2030, which I have already offered, with the exception of the addition of an additional section dealing with the tax straddle question. When I first introduced my 6-month holding period amendment, I indicated that the amendment as then drafted did not deal with the possible impact of the change in holding period on the treatment of certain stock options under the tax straddle rules enacted in the Economic Recovery Tax Act. I also indicated my belief that, where there is no possiblity of the conversion of ordinary income or short term capital gain into long term capital gain through offsetting stock option positions, the complex tax straddle rules should not apply. The substitute amendment I will offer deals with this problem with an amendment to section 1092(d)(2)(B)(ii). This change, I believe, will serve to cover this issue, and I hope my amendment will be considered and adopted in this form.

Mr. President, this revised amendment concerning the 6-month holding period is designed to make clear three matters concerning stock options that are part of a straddle.

First, any stock option that is part of a straddle of any position of which could give rise to long-term capital gain or loss is a "position" and, therefore, the straddle is subject to the rules of section 1092;

Second, any stock option that is part of a straddle all of the positions of which could give rise only to short-term capital gain or loss is not a position and, therefore, the straddle is not subject to the rules of section 1092; and

Third, any stock option that is part of a straddle held by a taxpayer other than a syndicate, all of the positions of which could give rise only to ordinary income or loss, is not a "position" and, therefore, the straddle is not subject to the rules of section 1092.

Mr. President, I would be the first to confess this is a technical amendment. I am not certain the Senator from Kansas totally understands the implication, but I am advised by those who do that this technical amendment is necessary to avoid possible problems later on. It is also my understanding it could be handled properly in conference, but it appeared to me that this might be the place to raise that question.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. I do object to this. I just wish we all understand this.

The perfecting amendment of the Senator from Kansas is not yet in order. Is that correct?

The PRESIDING OFFICER. It is not in order.

Mr. BUMPERS. I shall not object if the Senator offers it as soon as we finish the debate and go ahead and vote.

Mr. DOLE. I thank my colleague.

Mr. BUMPERS. Mr. President, I seriously considered raising this issue at the time we were debating the tax bill in the Senate. I was shocked and surprised when we debated the measure here to find that the Finance Committee had again liberalized the rules for capital gains, this time liberalizing them to this extent.

Since 1978 an investor had to hold an asset for 1 year before he got the capital gains rate, and the Finance Committee shortened that to 6 months. As I say, I started to raise that at the time because I objected to that, but I got so carried away in resisting the efforts of the Senator from Colorado in trying to index capital gains, which I thought was even more debilitating to the tax code, and in the interest of time did not raise the objection.

I had been agonizing about how I am going to vote on this tax bill because I had felt that the Senator from Kansas has correctly received the plaudits of a lot of people in this country for his leadership on that and in the conference and in really taking some fairly unpopular stands, probably but hopefully not to his political detriment, but the things we normally perceive to be politically damaging. The Senator from Kansas has bit the bullet on some of those things, and I applaud him for that.

But when they took the Senate bill over to the conference, the House of Representatives refused to recede to the Senate position on both of those things, both indexing and capital gains and the shortening of the period for which an asset had to be held before one could get the capital gains treatment.

Mr. President, let me just catalog for anyone who might be listening the history of capital gains during the 7½ years I have been in the Senate. I think capital gains started back in the 1930's, but I am just talking about since 1975 when yours truly came to the Senate what has happened. When I came to the Senate the maximum rate on capital gains was 49 percent. If an investor sold a piece of property or if he sold stock or whatever he sold and he made a gain and he had held that piece of property for 6 months, he got preferential treatment and the tax was 49 percent. It was in about 1978 that the Senator from Wyoming, Mr. Cliff Hansen, whom all of us remember favorably, got an amendment through here over my objection, I might say, to reduce the capital gains rate to 28 percent.

We have to bear in mind that at that time the top rate on ordinary income was as high as 70 percent, particularly for earned income. So the difference between 70 percent on unearned income and 28 percent on capital gains

seemed to me like a very good incentive for people to invest.

In order to get the Senate to go along with that, Senator Hansen said, "I am willing to increase the holding period from 6 months to a year," and so we did that. Twelve months. We said since we are going to reduce the rate from 49 percent to 28 percent, the least we can do is to try to make the capital gains accomplish what it is supposed to; namely, caused people to make true investments as opposed to speculate investments, and so that was the law in 1978.

Then last year, under the Economic Recovery Act—that is a little euphemism for a tax cut—last year under the Economic Tax Recovery Act we went further and when we reduced the top income from 70 percent to 50 percent that had the effect, and I am not going to belabor the formula, of reducing capital gains rate from 28 percent to 20 percent.

So bear in mind in the first 6 years I am in the Senate we have now reduced the capital gains rate from 49 percent to 20 percent, but we still had a provision that one had to hold an asset for at least a year in order to get that treatment.

So what do we have now pending before us? We have another effort to shorten the period for holding an asset from 12 months to 6 months and at the rate we have been going we can probably anticipate next year we will cut it down to 3 months.

I wish to ask, and I ask this rhetorically—I am not even asking for the attention of the Senator from Kansas on this—what sense does it make for the conference to come back here with a tax bill which the Senator from Kansas says has caused the stock market to jump 39 points today because of that bill and because the business people of this country know that we have to do something about the revenue? We cannot have the kind of deficits we are looking at and as deplorable as taxes are even to the business community they know it has to be done.

Within 36 hours of the time of the conference report, the report on the conference bill, the Senator from Kansas introduced this amendment on this floor to dilute what the conference had just gotten through doing.

I see in the papers this only will cost $100 million the first year, $250 million the next year, $500 million the next year, and so on. I do not believe that, incidentally; I think it is a much more costly provision than that. But why in the name of heaven are we telling the American people, with the President taking 30 minutes of prime time television last night to tell the American people how Congress has got to bite the bullet, we have got to have this tax bill, in order to reduce the deficit, and then within 36 hours come back and say, "We are only kidding. We are going to start whittling away at it again and we are going to continue to give the favors to the people who need it the least."

Well, we are back to square one. We are back to where we were with that economic tax recovery bill last year under which about 45 percent of the tax cuts went to the richest 4 percent of the people in the country.

Why are we liberalizing capital gains? Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes and 30 seconds.

Mr. BUMPERS. Mr. President, what is the genesis of capital gains? Why do we have it? Why do we separate it from just ordinary income? The poor guy standing out here assembling an automobile does not get a capital gains rate. He is lucky to pay his utility bills. He is not down at the stockbrokers trying to buy stock and speculating and trying to get the capital gains. He bellies up and pays up to 58 percent of his income because that is all he has got.

Well, the idea of capital gains was to say to people, "If you are willing to make an investment and you make it for a period of a year in order to try to stimulate the economy of this country we will give you favorable tax treatment. We would say you have earned your money over a long period of time, and you should not have to pay the same rate because it came over a long period of time. In addition to that there is some inflation mixed in with this and we are going to give you a tax break because in all probability inflation has gone up."

When you shorten the time to 6 months, who knows what the inflation rate is for 6 months? I see no reason at all to have favorable tax treatment for capital gains if you are going to reduce the time period to 6 months. It will help me. I buy and sell a little stock. I have got a farm, I have had it well over a year, so it will not make any difference. I have been thinking about selling it, and I will get that 20-percent rate.

Whom are we trying to help with this amendment? Here are the statistics of whom we are trying to help. Five percent of the people in this country make over $50,000 a year, 5 percent. They get 42.60 percent of the benefit of capital gains.

Some of us stood here and wailed and talked and gnashed our teeth for 2 weeks last summer during the debate on the Economic Tax Recovery Act, and said, "Let us cut taxes for 1 year and see what the economy does," and we could not get that done. So we said, "Let us cut taxes for 2 years and see what the economy does," and nobody wanted to do that. We went ahead and passed it for 3 years, and I never understood why we chose to do that, and I still do not understand.

But the thing we were gnashing our teeth about was who was going to get the major benefit of it. A fellow makes $100,000 a year, and he got a $7,000 tax break. People in my State making $16,000 a year got $242, and they are the ones who cannot keep their cars running because they cannot afford gasoline, cannot keep their homes cooled because they cannot afford air-conditioning and heating.

The fairness issue is the one thing the President is vulnerable on. Most of the people of this country, even those who like him very much, feel he is not sensitive to the plight of the working people of this country, and that the tax recovery act last year really was beneficial to the wealthiest people in the country who needed it the least.

So not only are we flying right in the face of the tax bill we are going to debate here Friday, 3 days from today when we are going to vote on the tax bill that the conference has reported out, which says, "You must hold an asset for a year before you can get this 20-percent rate," but here we are 3 days before that getting ready to start diluting the benefit of that, and we are saying to the American people and to the businessman, whose confidence has been raised just ever so slightly, "Don't take it too seriously because we are going to start chipping away at it right now."

So, Mr. President, I hope my colleagues would at least wait for a while, wait until we get a chance to vote on the conference report which absolutely refused this provision. I do not understand why the chairman of the Ways and Means Committee would tell the chairman of the Finance Committee that "I cannot accept it in conference. If you can get it passed again over here I will take it." I do not understand the mechanics, the politics of that, but I am sure the Senator from Kansas speaks truthfully about that. I hope the Senate will at least show the discretion to wait until after we pass the bill Friday before we start trying to chip away at it, and not do it 3 days before we even have a chance to pass that bill.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mr. DOLE. Mr. President, I certainly appreciate the comments of the Senator from Arkansas. I would just say at the outset we believe that the bill the conferees concluded Sunday morning, which will be voted on by the House, I understand, on Thursday and perhaps here Friday or Saturday, is not a perfect bill, but we think in many cases it is a step in the right direction. That bill contained two provisions, as correctly noted by the Senator from Ar-

kansas. One was indexing capital gains, and the other was reducing the holding period.

I guess if we reduce it to zero we would be in step with Belgium, Canada, France, Italy, Japan, the Netherlands, and the United Kingdom, but we do not go that far. We go down to 6 months, and I know there are arguments to be made, as were made by the Senator from Arkansas.

As far as why are we back after it being rejected by the conference to attach it to the debt ceiling, I think it is fair to say that the chairman of the Ways and Means Committee—it was in the tax bill last year, and without going into all the politics of that, not partisan politics but all the politics of that, in the conference last year the chairman of the Ways and Means committee—told me that even though it was in the House bill, this provision, that we would stay in conference forever if the Senate insisted on keeping that provision, not because of the merits of the provision but because of the author of the provision. It was a "bollweevil," as the Senator from Kansas recalls—I am not certain which "bollweevil" it was—and it became a matter of very great, well, personal concern to the chairman of the Ways and Means Committee, who was chairman of the conference.

This year it was included in the Senate Finance Committee bill and in the bill passed by the Senate. Maybe not for the same reason, but still not totally divorced from that reason, the chairman of the Ways and Means Committee persuaded the Senator from Kansas that he would very much like not to have this provision in the conference report, again not because of its merits or demerits, but for other reasons that the Senator from Kansas is not totally certain he can explain.

So the Senate conferees, even though we had, I think, solid support on the Senate side, backed away from the provision, and we were, I will not say, assured, but we were led to believe if it came back to the House on another vehicle it would be seriously considered.

I cannot stand here and say the chairman of the Ways and Means Committee is on board or supports the proposal this minute, but I am prepared to say that I think it will be carefully considered and, hopefully, favorably considered.

It is supported by, and has been for a long time by, Members on both sides of the aisle, and it would be my hope that we could try one more time.

I know the Senator from Arkansas felt strongly about the Senator from Colorado's provision, and I would like to yield—I might say the Senator from Colorado, when I was told they could not take this provision in conference, this reducing of the holding period, I said, "Well, I have got a better idea or compromise. What about taking indexing capital gains?"

That met with even less receptivity, I guess, so the Senator from Colorado is here, and I would be happy to yield the time to the Senator from Colorado, whatever time I have remaining.

Mr. ARMSTRONG. Mr. President, I appreciate the Senator's yielding. I understand that the amendment which he brings to us today reduces the holding period of 6 months. I am very much in support of that idea. I supported it in committee and I supported it when considered as part of the tax bill, and I support it now.

I think it is an important provision and, in fact, it may have a significance that even goes beyond its literal dollar impact on the economy because of what it says to investors and people who are subject to the capital gains tax.

I also want to express my appreciation to the chairman of the Finance Committee for his efforts to get the House to agree to the indexing provision. I know that a number of the Senate conferees did so. I spoke to the Senator from Virginia about it, the Senator from Louisiana, the Senator from Missouri, and the Senator from Kansas and I know that in one way or another each of them tried to prevail on the Members of the House in this matter.

I must say that I am very much disappointed that Members of the House were intransigent in their unwillingness to consider the indexing amendment. I just wanted to express my hope and belief that on another occasion if the Senate sends them the indexing provision that the House conferees will be disposed to accept it. I believe that if they have a chance to study it at greater length, that they will do so.

In fact, the full House, you will recall, did adopt the indexing provision a couple of years ago. Perhaps the gentleman from Texas, Mr. ARCHER, who sponsored that amendment initially in the House, will be disposed to offer it on an appropriate vehicle over there. At the right time, I will probably offer it here again in the Senate.

In the meantime, I do want to express my appreciation to the Senate conferees for their interest in the indexing issue and add my own words of support for the amendment of the Senator from Kansas, because reducing the withholding period is a very constructive and worthwhile idea for which investors of the Nation will thank him and, more important, which will have, I think, a very significant and worthwhile effect on capital formation in this country.

Mr. DOLE. Mr. President, I thank my colleague from Colorado. I certainly support his indexing provision and believe that is a step in the right direction also. I think at the appropriate time we can persuade our House colleagues and I appreciate his comments.

I ask unanimous consent that an article written by Steven A. Seiden which appeared in Barron's on March 23, 1981, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A BETTER SHOT AT PROFITS: HOUSE BILL WOULD WIPE OUT CAPITAL GAINS HOLDING PERIOD

(By Steven A. Seiden)

If the Administration's tax program is enacted in anything like its proposed form, investors can look forward to sharp reduction in the levy on long-term capital gains. Uncle Sam last lowered the capital-gains tax rate in 1978, and the action has been widely heralded as a boon to venture financing, new issues and the stock market generally. Whether the current plan—which calls for the maximum effective rate to drop over three years to 20 percent from 28 percent—would exert a comparable impact remains to be seen. But what it would not do is improve the opportunities for investors to turn a long-term profit so that they can benefit from a lower capital-gains rate.

A shorter holding period—preferably none at all—is what is needed, for 12 months is an unreasonably long time to make someone wait to cash in on an investment: By the time a year has rolled by, it's not uncommon for a potential profit, or at least a good chunk of it, to have disappeared. Meanwhile, in the hopes of picking up a long-term gain, investors frequently will avoid taking short-term profits on which they pay tax at high, ordinary rates.

Rep. L. A. "Skip" Bafalis (R., Fla.), a member of the House Ways and Means Committee, recently introduced H.R. 2083, which would eliminate completely the present 12-month holding period required to qualify investment profits for long-term gains treatment. Were his proposal to be adopted, the U.S. would join Belgium, Canada, France, Italy, Japan, the Netherlands and the United Kingdom among countries that do not mandate a holding period for capital gains.

There are several reasons the idea merits serious consideration; not the least is that a reduced long-term capital-gains holding period would put more money in the pockets of both individuals and the government. It would boost capital-gains tax revenues because profit-taking would not be artificially delayed. It also would enhance stock market liquidity, thereby aiding the capital formation process. And it would provide investors with a better shot at realizing profits.

The last is not unimportant, since, as a study of the market in the two years since 1979 suggests, there have been relatively few opportunities for individuals to realize long-term gains in stocks of large-capitalization companies. During this stretch, of course, there've been chances aplenty for long-term gains in growth stocks. But among more mature concerns, which still account for a vast slice of the shareholder population, the opposite has been true.

To underscore the point, we examined the recent stock price history of several such companies. Take American Telephone & Telegraph, with nearly three million shareholders. Since January 1979, there has not been opportunity for an investor to realize a long-term profit until recently.

SAME STORY

AT&T sold down in a nearly steady trend from that date, when it traded at around 60, until March 1980, when it dipped to 45. Then, the stock rose a bit, hitting 56 by mid-1980, before retreating to 45 by year-end. It recently has moved into the low 50s. Had an investor been astute enough to purchase AT&T at its previous March 1980 low, he would have enjoyed a possible 11-point profit between March and September only to see it vanish before year's end.

The story is petty much the same with General Motors. There were several opportunities for short-term profit swings, but none for a long-term capital gain. Thus, the stock ran up 13 points between January 1979 (when the shares sold at 53) and September of that year (when they hit 66). Had an investor held for the 12-month capital-gains period he would have lost money. In the mean-time, if an investor had been savvy enough to buy GM at the two-year low of 39½ set in April 1980, he would have seen a 25 percent move in the stock come and go while waiting out the long-term holding period.

There's another point to consider. With a shorter holding period, an investor could have taken his profit and switched into another stock. Conceivably, he might also have been able to turn an additional gain on his new purchase. Moreover, even if an investor loses money, the IRS, because of the $3,000 limitation on short-term loss deductions against ordinary income, won't wind up footing anywhere near the entire bill.

The point that long-term capital-gains profits aren't so easy to come by is demonstrated by IBM, the third most widely held stock and the largest in terms of market value. Again, IBM's two-year price pattern reveals not a single opportunity for chalking up long-term gains.

Exxon is an interesting example of a company that enjoyed a general price upswing over the past two years but also one where patience and superb timing were required to reap meaningful long-term profits. Through 1979, the shares traded in a narrow range in the 50s. The relative lack of price action could easily have prompted an impatient investor to sell out. Of course, had he waited, the stock in March 1980 hit 69. But he had to act quickly, for barely a month later, Exxon was back in the mid-50s.

TIME IS RUNNING OUT

Turning a 12-month profit was obviously difficult in the stocks of such companies as General Telephone, Ford, Sears Roebuck and Pan Am, all of which have been in a general downtrend. But among those on the rise—Texaco, Kodak, RCA, DuPont, Union Carbide, Occidental Petroleum and Bethlehem Steel—there has been scant opportunity for long-term gains over the past two years. Several big oil concerns have run counter to this general trend—issues like Gulf, Atlantic Richfield, Mobil and Standard Oil of Indiana—but their recent price action suggests that here, too, time for taking profits may be growing short.

When a capital-gains tax was first instituted, in 1921, the holding period was set at two years. There were some changes over the years, and then, in 1942 the period was sliced dramatically to six months (it was stretched to the present 12 months in the so-called Tax Reform Act of 1969). At the time, the Senate Finance Committee, as an article in the National Tax Journal points out, "stated that the realization of capital gain is entirely a matter within the discretion of the taxpayer, and shortening of the holding periods would have the effect of encouraging the realization of capital gains and thereby result in added revenue to the Treasury."

Congressman Bafalis, in introducing his proposed measure, observed that "the 12-month holding period is but another disincentive to capital formation. It's difficult enough for companies to raise equity capital without placing hurdles like that in the way of potential investors pursuing a profit."

Mr. DOLE. It does explain why we should reduce the holding period if not to zero to at least 6 months.

I yield back the remainder of my time.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask that the Senator from Kansas reserve his time and not yield it back because he may want to respond to what I am about to say.

Mr. DOLE. I reserve the remainder of my time.

Mr. BUMPERS. Mr. President, No. 1, we are being asked to vote here on an amendment, bearing in mind that the conference rejected it and the chairman of the Ways and Means Committee said that he could not accept it but if we passed it and sent it back to him, they would accept it, but for reasons which the Senator from Kansas said he did not understand.

Mr. DOLE. He said he would consider it. He did not say he would accept it.

Mr. BUMPERS. OK, that he would consider it. I do not think this is a very good reason to pass bills because the chairman of the Finance Committee says if we send it back to him one more time, even though he will not take it on the tax bill, he would consider it if we put it on something else. There are 99 Senators, and I think the Senator from Kansas would like to be included, who would like to know whatever the rationale was by the chairman of the Ways and Means Committee in saying he would accept it on something else but he would not on this.

I think you ought to bear in mind that the question is, what do we get out of this? What does the United States get out of it? What do the people get out of it? There has not been one single thing said here today on what we get out of it.

What we get out of it is a $250 million annual revenue loss. The first year is a little over $100 million, then it goes up to where it is around $250 to $265 million a year that we lose. And for what? To encourage more people to speculate, not make true investments, which was the real original purpose for giving people about 40 percent of the regular tax rate. You only pay 40 percent of the top tax rate if you have a capital gains and you happen to be a wealthy person.

We gave them that incentive so they would invest and make true investments and hold it for some period of time. Now what we are saying is we are going to take another $250 million and add to the deficit. We are trying to get the deficit down. That is the whole purpose that we are being asked to vote for the tax bill. That is what the President went on prime time television and told 220 million Americans last night.

And here we are, less than 24 hours after the President spoke, saying we may vote for the tax bill but we are going to start raising the deficit again already. Not one single substantive, meritorious argument has been made on why we ought to do this.

Mr. President, finally let me say that the effective rate that people pay on capital gains is not even 20 percent. If you happen to be a wealthy wage earner and you are in the 50-percent category, then you do pay 20 percent. But if you do not, just to give you an example, in 1976, the average capital gains rate paid in this country was 15.9 percent. In 1980, it was 11 percent.

But bear in mind that in 1980, when we reduced it to 11 percent effective rate, that was before last summer's big tax cut in which we reduced the rate from 28 percent to 20 percent. When the statistics are in for 1981 and 1982, I promise you that figure will be well below 10 percent.

So what we are saying is that for the 5 percent of the people in this country who make over $50,000 a year and who are getting 42.6 percent of the benefit of the capital gains in this country, the very wealthiest of the wealthy, here we are lining their pockets again and they do not even pay the 20 percent effective rate.

I strongly urge my colleagues to show a sense of responsibility and reject this amendment.

Mr. President, I ask unanimous consent that appendix I of a study done by Ingalls and Snyder be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX I.—TOTAL CAPITAL GAIN AND THE EFFECTIVE TAX RATE ON CAPITAL GAINS FOR RETURNS WITH NEW CAPTIAL GAINS ONLY: INDIVIDUAL ONLY: 1955–80

[Dollars in billions]

Year	Total gains[1]	Taxes paid on capital gain income	Effective tax rate (percent)
1955	$9.9	$1.2	12.0
1956	9.7	1.1	11.8
1957	8.1	0.9	11.1
1958	9.4	1.1	11.1
1959	13.1	1.6	11.8
1960	11.7	1.4	11.6
1961	16.3	2.0	12.4
1962	13.5	1.6	11.8
1963	14.6	1.7	11.9
1964	17.4	2.2	12.7
1965	21.5	2.8	13.1

APPENDIX I.—TOTAL CAPITAL GAIN AND THE EFFECTIVE TAX RATE ON CAPITAL GAINS FOR RETURNS WITH NEW CAPTIAL GAINS ONLY: INDIVIDUAL ONLY: 1955–80—Continued

[Dollars in billions]

Year	Total gains[1]	Taxes paid on capital gain income	Effective tax rate (percent)
1966	21.3	2.7	12.8
1967	27.5	3.9	14.0
1968	35.6	5.2	14.5
1969	31.4	4.4	14.1
1970	20.8	3.0	14.6
1971	28.3	4.3	15.2
1972	35.9	5.6	15.7
1973	35.8	5.3	14.9
1974	30.2	4.3	14.3
1975	30.9	4.5	14.4
1976	39.0	6.2	15.9
1977	45.9	7.3	15.8
1978[2]	48.0	7.4	15.4
1979[2]	59.3	6.4	10.8
1980[2]	63.9	7.0	11.0

[1] Net long-term gain in excess of short-term loss plus short-term capital gain.
[2] Estimates.

The PRESIDING OFFICER (Mr. QUAYLE). All of the Senator's time has expired. The Senator from Kansas has 4 minutes and 46 seconds remaining.

Mr. DOLE. Mr. President, I would like to say a word or two and yield back my time and then offer the amendment that I mentioned.

I guess it depends on one's point of view. It seems to me if we are trying to encourage investment, create jobs—and there are indications that this would help in that way—then, in my view, it is something that should be done. It has merit.

I do not want to get into all the conference politics, but the Senator from Arkansas has been in conference and he knows things happen from time to time in conferences and personalities get involved.

But it just seems to me that, since this matter has passed the House on one occasion and passed the Senate on one occasion, maybe we ought to properly see if it will pass the Senate one more time and then go to conference. We will find out whether or not it might be acceptable on this measure or some other measure.

I might say that if this fails for some reason, the Senator from Kansas is going to offer it again and hopefully it will pass.

Mr. HARRY F. BYRD, JR. Will the Senator from Kansas yield?

Mr. DOLE. I yield the remainder of my time to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I will just take a moment. I just wanted to say that I think the Senator from Kansas has made a case for the amendment. I want to join with him in support of the amendment.

I might point out that the 6 months holding period had been the required holding period for many, many years, for decades, I suppose, until it was changed in 1976. So this is nothing new. It is really what had been done over the years and it was just recently that it was changed.

Mr. BUMPERS. If the Senator will yield on that point, I would like to say at the time the limit was 6 months the rate was 49 percent.

Mr. HARRY F. BYRD, JR. During most of that period, the rate was not 49 percent. The rate was 28 percent. The 49-percent rate came into being as a result of so-called reform legislation in 1969. The Congress overwhelmingly reached a conclusion that 49 percent was just a ridiculous rate for capital gains and the Finance Committee, as I recall, was virtually unanimous—I think it was unanimous—in changing that 49-percent rate. Prior to that time, it had been a 28-percent rate and a 6-month holding period. So the 49-percent rate was only in existence for a very short time.

UP AMENDMENT NO. 1249

(Purpose: To decrease the holding period required for long-term capital gain or loss treatment)

Mr. DOLE. Mr. President, I yield back the remainder of my time and submit the amendment in the nature of a substitute which does contain that one technical change, I might say to my friend from Arkansas.

The PRESIDING OFFICER. The clerk will report.

The Assistant Legislative Clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself, Mr. HARRY F. BYRD, JR., Mr. BENTSEN, Mr. D'AMATO, Mr. JEPSEN, and Mr. ARMSTRONG, proposes an unprinted amendment numbered 1249 in the nature of a substitute to amendment No. 2030.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. . (a)(1) Paragraphs (1), (3), and (4) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Paragraph (2) of section 1222 of such Code is amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of Section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 422A(a) (relating to incentive stock options).

(6) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(7) Paragraph (1) of subsection (a) and paragraphs (1) and (2) of subsection (c) of section 424 (relating to restricted stock options).

(8) Paragraph (2) of section 582(c) (relating to capital gains of banks).

(9) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

(10) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).

(11) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).

(12) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).

(13) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).

(14) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).

(15) Subparagraph (B) of paragraph (3), and paragraph (7), of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(16) Paragraph (11) of section 1223 (relating to holding period of property).

(17) Section 1231 (relating to property used in the trade or business and involuntary conversions).

(18) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).

(19) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).

(20) Paragraph (1) of section 1234(b) (relating to special rule for gain or lapse of an option granted as part of a straddle).

(21) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(22) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(23) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(24) Subsection (b), and subparagraph (C) of subsection (g)(3), of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(25) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "1 year" in subsection (a) and inserting in lieu thereof "6 months before the beginning of such year", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".

(d) Sections 1092(d)(2)(B)(ii) of such Code (defining position with respect to stock options for purposes of recognition of loss in case of straddles) is amended to read as follows:

"(ii) is part of a straddle consisting of offsetting positions none of which would (without regard to the short-sale rules of subsection (b) of this section) result in the recognition of long-term capital gain or loss (or ordinary income or loss, if held by a syndicate, as defined in Section 1256(e)(3)(B) if sold by the taxpayer on the last day on which such option could be exercised."

(e)(1) Except as otherwise provided by this subsection, the amendments made by

this section shall apply to sales and exchanges made after June 30, 1982.

(2) The amendment made by subsection (a)(2) shall not apply with respect to the sale or exchange of property held by the taxpayer on June 30, 1982.

(3) The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1982.

Mr. DOLE. Mr. President, I ask unanimous consent to add Senator D'AMATO and Senator JEPSEN as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that Senator ARMSTRONG be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the second-degree amendment.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the second-degree amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from California (Mr. HAYAKAWA) the Senator from Delaware (Mr. ROTH) and the Senator from Wyoming (Mr. SIMPSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming (Mr. SIMPSON) would vote "yea".

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), and the Senator from Tennessee (Mr. SASSER), are necessarily absent.

I also announce that the Senator from Kentucky (Mr. FORD), is absent attending the funeral of former Senator Thruston B. Morton of Kentucky.

I further announce that, if present and voting, the Senator from Tennessee (Mr. SASSER), would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 77, nays 17, as follows:

[Rollcall Vote No. 332 Leg.]

YEAS—77

Abdnor	Chiles	Gorton
Andrews	Cochran	Grassley
Armstrong	Cranston	Hatch
Baker	D'Amato	Hatfield
Bentsen	Danforth	Hawkins
Boren	DeConcini	Heflin
Boschwitz	Denton	Heinz
Bradley	Dole	Helms
Brady	Domenici	Humphrey
Burdick	Durenberger	Jepsen
Byrd, Harry F., Jr.	Eagleton	Johnston
	East	Kassebaum
Byrd, Robert C.	Exon	Kasten
Cannon	Garn	Laxalt
Chafee	Goldwater	Leahy
Long	Percy	Stafford
Lugar	Pressler	Stennis
Mathias	Proxmire	Stevens
Mattingly	Pryor	Symms
Melcher	Quayle	Thurmond
Moynihan	Randolph	Tower
Murkowski	Riegle	Tsongas
Nickles	Rudman	Wallop
Nunn	Sarbanes	Warner
Packwood	Schmitt	Weicker
Pell	Specter	Zorinsky

NAYS—17

Baucus	Hart	Levin
Biden	Hollings	Matsunaga
Bumpers	Huddleston	McClure
Cohen	Inouye	Metzenbaum
Dodd	Jackson	Mitchell
Glenn	Kennedy	

NOT VOTING—6

Dixon	Hayakawa	Sasser
Ford	Roth	Simpson

So the amendment (UP No. 1249) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the first-degree amendment, as amended.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the yeas and nays be vacated on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question now recurs on agreeing to the first-degree amendment.

The amendment (No. 2030) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, parliamentary inquiry. What is the pending question?

The PRESIDING OFFICER. The pending question is an amendment by the Senator from North Carolina (Mr. HELMS).

Mr. BAKER. Mr. President, is there an agreement for the recognition of the Senator from Oregon at this point?

The PRESIDING OFFICER. There is such an agreement.

Mr. BAKER. I yield the floor, Mr. President.

Mr. BUMPERS. Before the majority leader yields the floor, could he tell us about how long he plans to go on this amendment this evening?

Mr. BAKER. Yes. I thank the Senator from Arkansas. I should have done that.

Mr. President, I expect that the debate on this amendment will perhaps take not less than an hour and a half. I think we can finish the business of the Senate tonight and at about 8 o'clock this evening go over until tomorrow.

Mr. BUMPERS. I thank the Senator.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 10 A.M. WEDNESDAY, AUGUST 18, 1982

Mr. BAKER. Mr. President, while I have the floor, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

THE PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR NUNN

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the distinguished Senator from Georgia (Mr. NUNN) be recognized on special order of not to exceed 15 minutes.

THE PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS, FOLLOWED BY CONSIDERATION OF TEMPORARY DEBT LIMIT INCREASE

Mr. BAKER. Mr. President, I ask unanimous consent that any time after the execution of the special order be devoted to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each and the period for such will extend not past 10:45 a.m., and that at 10:45 a.m. the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I yield the floor.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution (H.J. Res. 520).

AMENDMENT NO. 2031

(Previously numbered U.P. Amendment No. 1248)

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, the majority leader has worked very hard trying to get a unanimous-consent agreement on an abortion amendment, or on the subject of abortion, including the Hatch constitutional amendment that we could all vote on. As he is well aware, we thought we had the agreement last Thursday night, we came within a hair of this Chamber agreeing to it, and then the agreement fell apart because one of the parties involved among the five of us that had been discussing it thought that what we had agreed to was not

what he had agreed to. It was an honest mistake.

I make no criticism of that. At the time, the distinguished Senator from North Carolina (Mr. HELMS) then said that he wanted to amend his amendment which was at the desk, which we thought we were going to vote on, and remove the issue of personhood.

I am not going to dwell on the question of personhood. It is a technical issue we would debate at length. It was in the amendment when it was proposed. It goes to the 14th amendment of the Constitution on whether or not a fetus is a person. But if it is going to be removed from the bill, that is another matter.

Then, during the weekend, I did not have an opportunity to see what amendment the Senator from North Carolina might propose. Late yesterday afternoon I asked if he had a copy of the amendment he was going to put in and, if he did have, if I could see a copy. He gave me a copy.

Some of the findings are similar, and in some cases identical, to the findings in his human life bill, which was at the desk. The issue of personhood had been taken out; but in lieu of that, two new findings or sections had been added to the bill, one of which reads:

The Supreme Court of the United States in the case of *Roe* v. *Wade* erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth.

The second finding reads:

The Supreme Court of the United States in the case of *Roe* v. *Wade* erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

Mr. President, those are new findings. I am not quite sure what they mean. If they are going to be in the amendment when it is offered, I want to discuss them at length, because I think they are an oblique way to attempt to do what the findings in the human life bill do, and that is to reverse the Supreme Court's decision with a statute. I think that is what they mean.

There are some other changes in the bill that I will want to discuss at some length, if they happen to be in the bill when it is introduced.

Then, to my surprise, when I went to the press gallery, the press had a copy of the amendment that the Senator from North Carolina was going to offer, and there was added to it a provision about prayer and taking the jurisdiction of the courts away in total—in Federal courts, in the U.S. Supreme Court, involving prayer. It was part of the abortion amendment.

So I asked the Senator from North Carolina this noon, at our policy meeting, if he planned to offer an amendment that had prayer in it, in addition to abortion, and he indicated at that moment that that was his present intention.

If that is the case, I am not in a position to agree to any unanimous-consent request, because I know there are many other people who have an interest in the prayer amendment who will object. They would object if it were just the prayer amendment.

So, at this stage, I am kind of in a position of shooting at a moving target, and I do not know what the target is. I do not as yet know exactly what the amendment will have that I can focus on, although perhaps before we are done this evening, I may know. Clearly, in all the different forms of the amendment I have seen to date, it has some form of direct or at least oblique reference to the erroneous Supreme Court decisions and some findings, which would lead you to believe that we would try by statute to overturn them. I say that if those are in the amendment when it is offered, we can debate them at some length.

Mr. HELMS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. PACKWOOD. I yield.

Mr. HELMS. Let me respond to an observation about the unanimous-consent agreement, which I should like to be a part of the RECORD.

As the Senator knows, for the past year, the distinguished majority leader has been giving assurances that there would be a free standing debate on the abortion question, on busing, and on prayer in the schools. I have done the utmost to cooperate with the majority leader because we do have an economic problem in this country, and from time to time we have moved back the schedule that the majority leader had in mind for discussion of these issues.

The specific unanimous-consent agreement to which my friend from Oregon referred was drafted by a member of Senator BAKER's staff. In good faith, that staff member assumed that the Helms abortion bill, then on the calendar—and now on the calendar, for that matter—would be the amendment. He made that assumption but did not check with me. At no time have I implied, let alone stated, that this was the case.

Every Senator reserves the right to modify any piece of legislation he intends to offer, as in the case of the distinguished colleague of the Senator from Oregon.

Mr. PACKWOOD. Unless he gives up that right by unanimous consent.

Mr. HELMS. That is correct; of course.

Mr. HATFIELD has modified his twice in the last couple of weeks, for reasons good and sufficient to him.

The Senator from Oregon understands what the Senator from North Carolina is trying to do, and the Senator from North Carolina understands what the Senator from Oregon wants to do. We are looking at the arithmetic of votes in the Senate. I know that the Senator from Oregon (Mr. PACKWOOD) was elated when he got approximately the same head count I did on the matter of personhood. That is the reason why I made the judgment, in concert with those who have worked in the trenches across this country on behalf of pro-life, that we should drop personhood.

The delay in offering the precise amendment on yesterday involved Senator PACKWOOD's colleague. Senator HATFIELD has a version which is very similar to the modified version I propose. Frankly, I want the two together, and the Senator from Oregon will understand that. But at no time was there any effort to mislead, let alone deceive, the Senator from Oregon or anybody else.

The Senator referred to members of the press having a copy of the amendment. We did, upon their request, give them copies of what we had at that time, and we have made them available to any Senator who has asked for them. But at no time, even to this moment, have I said that there will not be further modification, because I am trying to reach Senator HATFIELD by telephone right now to discuss this very matter.

So this is a very sensitive issue on both sides. It is a polarizing issue on both sides. I say to my friend from Oregon that inasmuch as this is the only shot we will have at it—both the Senator from Oregon and the Senator from North Carolina—we had better take our best shot at it. That is precisely what I am doing.

I am counting heads and I am counting votes, just as the Senator from Oregon is, and that is all there is to it. I am not trying to engage in any subterfuge. I will discuss with him now, in the cloakroom, at any time, in any place, what we have in mind; because I do not want him to be left in the dark about it, and I do not intend to try to keep him in the dark.

As to tying in the prayer amendment, I did that in the hope that we might save a little time, inasmuch as the prayer question is coming up on this same piece of legislation. Senator HATFIELD expressed the hope that I would not persist in that, and I readily agreed to peel that off and let that stand on its own footing.

So that is all there is to it, about the confusion on the unanimous-consent agreement. I say again that the able assistant to the distinguished majority leader assumed in good faith that we intended to call up the abortion legislation on the calendar, when at no time have I implied, let alone stated, that that would be it. Certainly, I was not going to be locked into that version without knowing what I was doing.

Mr. PACKWOOD. I understand there was a genuine misunderstanding among the five of us who were negotiating.

Mr. HELMS. Yes.

Mr. PACKWOOD. That is water over the dam. But let us put down the issues that separate us. One is clearly the issue of choice of an abortion. Should a woman have the right herself to make a choice whether she wants an abortion or not? That is one issue in this debate.

The second issue in this debate is regardless of how one feels about that issue should we try to overturn constitutional decisions of the Supreme Court with a statute. That is an issue separate from whether or not a woman should have a right to make a choice.

There are a good many people who might vote for a constitutional amendment to reverese the Supreme Court that will not vote for a bill to reverse the Supreme Court.

Mr. HELMS. Or vice versa.

Mr. PACKWOOD. Or vice versa.

But I find that there is genuine deep serious objection even from people who do not agree with Roe against Wade about attempting to reverse it by other than a constitutional amendment.

That is an institutional objection, not that they favor or oppose the notion, just an institutional objection.

As the Senator from North Carolina knows, we have had illustrious testimony from Professor Von Olstein, Professor Tripp, former Professor Boark, extraordinary testimony from the six former Attorneys General, Herbert Brownell, Jr., Nicholas Katzenbach, Ramsey Clark, Elliot L. Richardson, William B. Saxbe, and Benjamin R. Civiletti all saying do not reverse the Supreme Court with a statute.

The 12 well-known constitutional scholars, many of whom do not agree with Roe against Wade in terms of its decision, all say "Do not try to reverse it by statute." They are Laurence H. Tribe, professor of law, Harvard Law School; Paul Brest, professor of law, Stanford Law School; Paul A. Freund, Carl M. Loeb University professor emeritus, Harvard Law School; Erwin N. Griswold, former Solicitor General of the United States, dean emeritus, Harvard Law School; John Hart Ely, professor of law, Harvard Law School; Telfor Taylor, professor of law, Benjamin N. Cardozo School of Yeshiva University, professor of law emeritus, Columbia University School of Law, former U.S Chief Prosecutor, Nuremberg war crimes trials; William Van Alstyne, William R. Perkins Professor of Law, Duke University School of Law; Louis Henkin, professor of law, Columbia University School of Law; Philip B. Kurland, William R. Kenan Distinguished Service Professor, University of Chicago Law School; Louis B. Schwartz, Benjamin Franklin Professor of Law, University of Pennsylvania Law School; Harry H. Wellington, dean and Edward J. Phelps Professor of Law, Yale Law School; and Charles Alan Wright, William B. Bates Professor of Law, University of Texas Law School.

Mr. HELMS. Mr. President, if the Senator will yield, again retaining his right to the floor, I also can present a long list of constitutional scholars who say exactly the opposite, that Congress not only has the right but has the duty to limit the jurisdiction of the courts.

Mr. PACKWOOD. Limiting the jurisdiction is a different issue than trying to reverse a court decision by statute.

Mr. HELMS. Humpty-Dumpty said, "When I use a word it means just what I intend it to mean, nothing more nor less."

But I will say to the Senator that he stated, and he is still yielding with the understanding he does not lose the floor, the usual catechism about a woman's right to choice. How about the unborn child's right to be born, to live? How about the 1½ million children whose lives are being deliberately terminated each year in this country? Is there no one to speak for them?

Mr. PACKWOOD. That is very clearly, when one gets down to the basics, the bottom line in this debate, and the Supreme Court has made a decision that between the two, the right of the woman to make a choice is superior. That is Roe against Wade. That decision has not yet been reversed.

Mr. HELMS. Let me ask the Senator this: Suppose 5 minutes after the baby is born the Supreme Court holds that that woman had the right of choice to terminate or to have someone terminate the life of the child. Would the Senator not try to overturn the court?

Mr. PACKWOOD. I wonder if I might do this: I wish to finish the comments I have. We are going to get into that debate at length before we are done with this.

Mr. HELMS. I agree with that, and I will not interrupt the Senator, and I thank him most respectfully and sincerely for yielding to me, but I do hope that we can get to the bottom line, and I am willing to do that, and I will say to the Senator that I am willing to enter into any kind of time agreement on my amendment, and I will take 30 seconds and then we can go to a vote.

But I thank the Senator for yielding.

Mr. PACKWOOD. I may or may not be willing to, but I do want to see the amendment and have some time to digest it before I will make that kind of an agreement.

The conference of chief justices of the States have come out in opposition to any effort to overturn the Supreme Court, a constitutional decision by statute. There is no way, Mr. President, to justify statutory repeal of Supreme Court constitutional decisions.

With all of the testimony that we had, I thought it was best stated by Robert Bourke, the former Solicitor General, a renown legal scholar and teacher, now a judge on the Court of Appeals of the United States, when he said in his testimony on this issue before the Supreme Court that reversal of Supreme Court decisions by statute is wrong. I thought his testimony most interesting because he does not agree with the Supreme Court decision legalizing abortion. This is his statement:

> This places me in a somewhat uncomfortable position. I am convinced as I think almost all constitutional scholars are, that *Roe* v. *Wade* is an unconstitutional decision, a serious and wholly unjustifiable judicial usurpation of State legislative authority. I also think that *Roe* v. *Wade* is by no means the only example of such unconstitutional behavior by the Supreme Court.
>
> The fact is that S. 158 proposes a change in our constitutional arrangements no more drastic than that which the judiciary has accomplished over twenty-five years. Without any warrant in the Constitution, the courts have required so many basic and unsettling changes in American life and government that a political response was inevitable. Though I do not think it desirable that the political response should succeed in the form this bill takes, the fact of expressed political outrage at such judicial usurpation is in many ways a healthy development in our constitutional democracy.
>
> The judiciary have a right, indeed a duty, to require basic and unsettling changes, and to do so, despite any political clamor, when the Constitution fairly interpreted demands it. The trouble is that nobody believes the Constitution allows, much less demands, the decision in *Roe* v. *Wade* or in dozens of other cases of recent years. Not even those most in sympathy with the results believe that as demonstrated by a growing body of literature attempting to justify the courts' performance on grounds of moral philosophy rather than of legal interpretation. Such jutifications will not wash. The judiciary's legitimate power to set aside the decisions and actions of elected representatives and politically responsible officials comes from the Constitution alone and is limited to a fair interpretation of the Constitution.

Mr. President, that is Judge Bourk's view about Roe against Wade. He does not like it. He thinks it is unconstitutional. He thinks it is a wrongheaded decision.

What does he say, however, about attempting to reverse it in the manner that all of the amendments that have been offered so far deal with which is to reverse it by statute? This is what he said:

> The question to be answered is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformations. Only if we are prepared to say that the Court has

become intolerable in a fundamentally democratic society and that there is no prospect whatever for getting it to behave properly, should we adopt a principle which contains within it the seeds of the destruction of the Court's entire constitutional role. I do not think we are at that stage. But if others think we are, then we should be debating not the technicalities of S. 158 and cases such as *Katzenbach* v. *Morgan*, but the question of whether we should retain, abandon, or modify the constitutional function of the courts as we have known it since *Marbury* v. *Madison*, 1 Cranch 137 (1803). That is a legitimate subject for inquiry, but we ought not arrive at the answer without fully realizing what we are really discussing.

Mr. President, there are only two legitimate ways to reverse the Supreme Court on a constitutional decision. One is the Court reverses itself, and it has done that from time to time. It overruled its old Plessy against Fergusen doctrine that separate but equal was equal.

The other way to reverse the Supreme Court is a constitutional amendment, and we have done that from time to time in our history.

We passed the 11th amendment, and that amendment prohibited a citizen from one State suing another—from suing a State, and that decision, that constitutional amendment, was to overturn the case of Chisholm against Georgia in which the Supreme Court had said a citizen of one State could sue another State.

We overturned it in the 14th amendment which was to reverse the Supreme Court's decision in the Dred Scott case. We did it in the 16th amendment when the Supreme Court had said that we could not levy a progressive income tax in Pollaock against the Farmers Loan & Trust, and we passed the 16th amendment to say we could, and just recently we have done it in the 26th amendment in which we overruled the Supreme Court's decision which said that Congress did not have the power to lower the voting age in States, State elections as opposed to Federal elections.

Now, the majority leader, Senator BAKER, promised that we will have a vote on a constitutional amendment in September as to whether or not we want to reverse the Supreme Court and its decision on abortion in Roe against Wade. But it will be a constitutional amendment. I do not want to mislead anybody. I do not support that amendment, I will fight against it, but at least it is the proper way to address a subject on the proper way the Supreme Court should be reversed on a constitutional issue if it is going to be reversed.

Mr. President, I think it is important to understand why we are so wary of making the basic liberties in this country subject to the passions of a passing majority. We take most of our legal history from Great Britain, and in the latter part of the 18th century, as we were fighting our War of Independence, winning it and creating our Government, men came to believe that there are fundamental human rights that should be beyond the reach of any government, not just a royal government in London, but any government, and not beyond the reach of just the King or President, but certain liberties that are beyond the reach of any government, parliamentary, congressional, or otherwise.

Initially we were at a loss to figure how to protect those liberties that we thought were so dear. Finally we reached it. First we let the fundamental human rights to be put beyond the reach of any government, be written in a constitution.

Second, we treat the Constitution as law to be interpreted and applied by courts in the same fashion as any other law, but also make it supreme so that in the case of a conflict between the Constitution and any other law the Constitution shall prevail.

Third, we make the judiciary independent and impartial. James Madison put it as well as anybody when he said:

Independent tribunals of justice will consider themselves in a peculiar manner the guardians of those rights. They will be an inpenetrable bulwark against every assumption of power in the legislative or the executive branches of government.

Mr. President, what experience did we draw from Great Britain? They, of course, do not have a written constitution in our sense. Most of their liberties that we have taken and written into our constitution are nothing but either decisions of courts or act of Parliament. They can be overruled by a majority at any time.

England has an extraordinary history of protecting those liberties, but it is tradition not a written constitution that protects them.

Many, many of the rights that we put in our Constitution we put in because England, roughly from their Magna Carta in 1215 to their Bill of Rights in 1689, labored through long periods of repression and unhappy experience with overzealous kings or in the case of Crommwell, an overzealous Republican ruler, where they passed statutes. Example: The English Petition of Rights, 1628, as far as it related to the quartering of soliders and sailors:

• • • and that your majesty will be pleased to remove the said soldiers and marines, and that your people may not be so burdened in time to come. • • •

Translated, that is changed just slightly, and put in our Bill of Rights:

No solider shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Due process: the Magna Carta says:

"No free man shall be seized or imprisoned or stripped of his rights of possessions, or outlawed or exiled, or deprived of his standing in any other way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land."

What did we say in article or amendment V of the Bill of Rights:

"No person shall • • • be deprived of life, liberty or property, without due process of law • • •"

Bail: the English Magna Carta says:

Excessive bail ought not to be required nor excessive fines imposed nor cruel or unusual punishments inflicted.

Bail in America, in our Bill of Rights:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Trials, the Magna Carta:

"To no one will we • • •
Delay right or justice."

Our Bill of Rights:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.

Double jeopardy. This was a common law decision, imagine that, a decision of the courts creating law:

The pleas of autrefois acquit and autrefois convict

A man shall not be brought into danger • • • for one and the same offense more than once.

What did we say in the fifth amendment?

No person shall • • • be subject for the same offense to be twice put in jeopardy of life or limb; • • •

Self-incrimination, Magna Carta—

In future, no official shall place a man on trial upon his own unsupported statement.

Our Bill of Rights, 600 years later:

No person shall be compelled in any criminal case to be a witness against himself.

And then we did one additional thing that England did not do and to this day has not done to the extent that we have. We passed one amendment because we had labored under a foreign king who had attempted to establish a religion in this country, who had attempted to muzzle our speech and our press and our right to assemble, so we passed the first amendment to the Bill of Rights that says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Probably the most important single sentence in the history of human liberty and, Mr. President, we wrote them all into a constitution that could not be easily changed, only with a vote of two-thirds of the House and the Senate and ratification by three-quarters of the States. Our founders knew exactly what they were doing and why they were doing it, because they did not want popular passing prejudice to overcome fundamental liberties.

At the time of the adoption of our Constitution the liberties guaranteed by that document were, by and large, limited to white adult males who owned real property. As a matter of fact, a relatively limited class they were, and with a few exceptions, the expansion of liberty in this country has not been by the adoption of new amendments but by the judicial expansion of the liberties guaranteed by the Constitution to ever-widening classes of people. I emphasize that again, by judicial expansion of those liberties to ever-widening classes of people.

Let us look at the last 30 years alone. Take the case of Brown against the Board of Education in which the Supreme Court said:

You can no longer segregate your races black and white, send the blacks to one school and the whites to another.

As a matter of fact, that was the Supreme Court reversing itself on its separate but equal doctrine in Plessy against Ferguson. There was Miranda and Gideon, two landmark cases in the rights of criminal defendants, new rights extended to criminal defendants that did not previously exist for indigent criminal defendants.

In Baker against Carr, the Supreme Court in the mid-1960's finally reversed its decisions and said henceforth we are not going to allow State legislatures and congressional seats to be determined on a basis of other than one man, one vote, and extended thereby equally the franchise in this country to everyone.

And then Roe against Wade, a decision in 1973 extending to all women in this country the right to make a decision whether they wanted to have an abortion—not forced to have one, not required to have one. The Supreme Court simply said that we could not prohibit women from having one if they wanted it.

And people attacked that decision as a Court gone mad. It is not a Court gone mad. People attack the decision because they do not like the decision. They like decisions of the Supreme Court when they come down on their side and they do not like them when they come down on the other side. That is basically what it amounts to.

The fundamental thing to be remembered is that whether you like the Supreme Court decisions or not, the way to change them is not to pass a statute attempting to overturn the protection of a constitutional liberty. If we are going to do it, let us face it up and out. Let us have a constitutional amendment on this floor. Let us debate it. Let us see if the proponents have two-thirds to pass it. If they do, let us send it over to the House and see if they have two-thirds to pass it and send it to the States. To make it clear, I would fight that amendment. I think a woman should have that choice. But let us not do it in a backhanded method that can so easily start to wean away liberty after liberty after liberty.

Mr. President, I ask for the yeas and the nays on the pending amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there a sufficient second? There is not a sufficient second.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PACKWOOD. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. I object, Mr. President.

The PRESIDING OFFICER. The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow morning.

The motion was agreed to; and at 7:50 p.m. the Senate recessed until tomorrow, Wednesday, August 18, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 17, 1982:

DEPARTMENT OF STATE

Richard R. Burt, of the District of Columbia, to be as Assistant Secretary of State, vice Lawrence S. Eagleburger, resigned.

NATIONAL COUNCIL ON THE HANDICAPPED

The following-named persons to be Members of the National Council on the Handicapped for the terms indicated:

For the remainder of the term expiring September 17, 1982:

Robert V. Bush, of New Mexico, vice Elizabeth Monroe Boggs.

Joseph Dusenbury, of South Carolina, vice Mary P. Chambers.

Hunt Hamill, of Illinois, vice Jack Genair Duncan.

Henry Viscardi, Jr., of New York, vice Thomas Joe.

For the remainder of the term expiring September 17, 1983:

H. Latham Breunig, of Virginia. vice J. David Webb.

Michael Marge, of New York, vice Howard A. Rusk.

Sandra Swift Parrino, of New York, vice Judith E. Heumann.

Alvia Kent Waldrep, Jr., of Texas, vice Donald E. Galvin.

For a term expiring September 23, 1984:

Marian North Koonce, of California, vice Odessa Komer, resigned.

For a term expiring September 17, 1984:

Justin W. Dart, Jr., of Texas, vice Edwin O. Opheim.

John S. Erthein, of California, vice Nelba R. Chavez.

Roxanne S. Vierra, of Colorado, vice John P. Hourihan.

For a term expiring September 17, 1985:

Robert V. Bush, of New Mexico (reappointment).

Joseph Dusenbury, of South Carolina (reappointment).

Hunt Hamill, of Illinois (reappointment).

Henry Viscardi, Jr., of New York (reappointment).

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Hillman Dickinson, [redacted], age 56, U.S. Army.

IN THE NAVY

The following-named temporary commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of commander in the line and various staff corps, as indicated, subject to qualifications therefor as provided by law:

LINE

Dyer, Bruce P.
Lutz, Larry G.
McNeely, Larry

MEDICAL CORPS

Binard, Joseph E.
Carolla, Anthony F.
Gillette, Shelby L., Jr.
Lark, Michael A.
Maneclang, L. Winnie
Moriarty, Richard A.
Tartalia, Clifford L.
Tuason, Olivia, A.

DENTAL CORPS

Rippert, Eric T.

The following-named temporary lieutenant commanders of the U.S. Navy and Naval Reserve for permanent promotion to the grade of lieutenant commander in the line and various staff corps, as indicated, subject to qualifications therefor as provided by law:

LINE

Howard, John L.

MEDICAL CORPS

Hahn, George A., Jr. McMahon, Merri M.
Malick, Jewell E.

DENTAL CORPS

Lewis, Eric

The following-named officer of the line of the U.S. Navy, for appointment in the Supply Corps, as permanent lieutenant (junior grade), subject to qualifications therefor as provided by law:

Defillipo, Richard T.

The following-named officer of the line of the U.S. Navy, for appointment in the Civil Engineer Corps, as permanent ensign, subject to qualifications therefor as provided by law:

Wiley, Joseph C.

EXTENSIONS OF REMARKS

THE CONGRESS AND FOREIGN POLICY

HON. DAVID R. BOWEN
OF MISSISSIPPI
IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BOWEN. Mr. Speaker, last month, at the invitation of the State Department, I attended a seminar of American foreign policy in Santiago, Chile, jointly sponsored by the U.S. Department of State and the Chilean National Security Academy. The latter is approximately their equivalent of our War College and Senior Seminar combined. The conference was organized for several hundred civilian and military leaders of Chile in government, business, journalism, and other walks of life.

The seminar, July 19 through 22, included presentations by the State Department and the National Security Council, in addition to my own, on behalf of the Congress. The following is my paper:

THE CONGRESS AND FOREIGN POLICY
(By Hon. David R. Bowen)

Throughout American history, Congress and the President have shared a joint responsibility for the crafting and implementation of United States foreign policy. Our Constitution, the statutory evolution of our government, changing congressional institutions and practices, political pressures, and party politics have all determined that there would be recurring changes in the balance of power between the executive and legislative branches.

The struggle for dominance in formulating policy has significantly altered the course of America's international relations. One often hears of "the traditional balance between Congress and the President," referring to the executive dominance which is presumed to be the standard. More years of our history have, however, been characterized by congressional assertiveness than by the presidential dominance which strong-willed Presidents and major crises, both domestic and international, have produced.

The more aggressive congressional role which we have seen during the last decade is only the latest period of an historic cycle in which a resurgent Congress has in reponse to executive ascendancy demanded a stronger voice in the conduct of foreign affairs. I believe we now see a leveling off of this congressional response, but I foresee no retreat into a passive and quiescent role in foreign policy for the U.S. Congress.

The historical antecedents of our Constitution—the Continental Congress and the Articles of Confederation—established a legislative state without an effective executive, and our Constitution, a response in part to the executive weakness experienced under the Articles, sought to assign sufficient powers to the chief executive to conduct effectively a designated range of foreign and domestic policy responsibilities while preserving a strong legislative role. As one of our famous Supreme Court Justices stated on the relationship among the branches of our government: "The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but, by means of the inevitable friction incident to the distribution of governmental powers among the three Departments, to save people from autocracy" (Justice Brandeis in the 1926 *Myers* case).

Accordingly, the Constitution expressly divides the responsibility for foreign policy, thereby creating the tension between the two branches that has marked our dealings with foreign governments. This constitutional framework has, in turn, produced the statutory and institutional arrangements which now shape the role of Congress in the conduct of American foreign policy.

Article II, Section 2, for instance, proclaims that the President is the commander in chief of the nation's military forces, while Article 1, Section 8 grants to Congress the sole power to "declare war," "raise and support armies," and "provide and maintain a navy." Congress and the President thus bear a joint obligation for ensuring American security. This constitutional division of authority forms the basis for recent congressional restrictions, preeminently the War Powers Resolution of 1973, on the President's ability to commit American military forces into combat situations.

A second division of responsibility for foreign policy in Article II, Section 2 empowers the President to make treaties "by and with the advice and consent of the Senate . . ., provided two-thirds of the senators present concur." Although it is highly unusual for the Senate to fail to approve a treaty submitted by the President, the President may be forced to make major concessions in order to win Senate approval. Occasionally the Senate does indeed reject the product of the executive's extensive negotiations. At the conclusion of World War I, the Senate, reflecting general American dissatisfaction with the internationalism of President Woodrow Wilson, rejected the treaty making the United States a party to the League of Nations. More recently, President Jimmy Carter encountered vigorous opposition to the Strategic Arms Limitation Treaty (SALT II), and the Treaty was ultimately withdrawn. He met objections to the Panama Canal Treaties of 1978 by making substantial modifications in order to win ratification by one vote.

A third constitutional constraint on the President's ability to conduct foreign policy lies in the mandate that executive appointments receive Senate confirmation (by simple majority). Although most appointments are routinely confirmed, there are enough rejections to keep any President from assuming a completely free hand in the selection of people to carry out his foreign policy. Since 1970, for example, the nominations of sixty-six State Department personnel have encountered sufficient Senate opposition to result in their withdrawal or outright rejection. More frequently, the Senate's careful focus upon the nominee becomes the vehicle for a full-scale examination of the particular foreign policy the nominee is expected to carry out. Just last week the Senate Foreign Relations Committee held extensive hearings on the nomination of George Shultz to be Secretary of State. Through two days of vigorous questioning by Committee members, the Senate explored in detail the kind of foreign policy Shultz would implement, while offering their own suggestions as to what the nature of that policy should be.

Another source of congressional power over foreign affairs lies in the constitutional grant of authority to Congress to "regulate commerce with foreign nations." As international trade has increased in importance, so has the role of Congress in shaping the terms and conditions of America's participation in international commerce. The House Ways and Means Committee and Senate Finance Committee, for example, must act on all measures involving tariffs and duties. Accordingly, President Reagan's Caribbean Basin Initiative, which relies heavily upon changes in tariffs, duties, and import restrictions, must win the approval of six committees: the foreign affairs, tax, and appropriations committees of both Houses of Congress—not an easy task.

While the Constitution grants Congress sole power over international commerce, the Congress has nevertheless sought an active partnership with the President in this area. In 1962 Congress insisted in the Trade Expansion Act that the President establish a "special representative for trade negotiations" in the Executive Office. The Trade Act of 1974 strengthened the mandate of what is now the U.S. Trade Representative, and USTR, with congressional acquiescence, has moved increasingly into the role of overall U.S. trade policy broker. In addition, Congress gave the President extensive authority in this Act for retaliatory action against nations which discriminate against our products.

Perhaps the most important constitutional power granted to Congress is its control over money, the power of the purse. Article I, Section 9 provides that "no money shall be drawn from the treasury, but in consequence of appropriations made by law." CoNsequently, neither the President nor any department of the government can obligate funds unless the Congress has appropriated the money, and it is customary that all appropriations measures originate in the House (as, under the Constitution, revenue measures do). The Congress thus holds a commanding position in funding those programs which carry out American foreign policy, ranging from the administration of the State Department to military and economic assistance. In 1982, America will spend $6.1 billion in all forms of foreign assistance, the largest amount spent by any nation, apart from the Soviet role, which is difficult to assess. Because of its control over spending, therefore, Congress has the authority, if it wishes to exercise it, to determine the purposes, manner, and countries for which this money will be spent.

It is against this apportionment of power that Congress has moved to reassert its voice in shaping American foreign policy. Much of this new assertiveness resulted

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

from popular dissatisfaction with the Vietnam War and institutional concern over the growth of an "Imperial Presidency," a development begun under Franklin D. Roosevelt but accelerated appreciably under Presidents Johnson and Nixon.

As President Nixon's conduct of the Vietnam War became more unpopular, Congress took steps to reshape the war effort and bring it to a prompt conclusion, on its own terms. The Cooper-Church amendment to the Foreign Military Sales Act of 1971 prohibited the use of funds to finance U.S. ground combat troops in Cambodia and established the precedent for Congress to use its money power to restrict the President's authority to conduct military operations and provide security assistance. Congress followed this in 1973 with the passage, over the President's veto, of the War Powers Resolution. Premised upon the belief that the "collective judgment of both the Congress and the President" should apply to the introduction of U.S. forces into hostilities, or situations where hostilities seem imminent, the Resolution prevents the President from committing U.S. forces unless both Houses of Congress either expressly authorize combat in advance or ratify it within sixty days after combat begins (with notification of Congress no later than forty-eight hours after entering combat). The Resolution likewise calls for close consultation with Congress whenever the President is considering the introduction of armed forces into hostilities.

In 1974 Congress passed the Nelson-Bingham amendment to what is now the Arms Export Control Act, which established a legislative veto by concurrent resolution of both Houses. This is still one of the most significant features of legislative power in foreign policy, even though no weapons sale has yet been rejected.

These exercises of congressional muscle in the early 1970s focused upon our military involvement in Southeast Asia and sought to reaffirm the war-making powers of Congress. They laid the foundation, however, for a congressional resurgence in foreign policy that went beyond the question of the use of American forces and far more extensively into the general conduct of foreign policy. In 1975 Congress rebuffed President Ford and cut off aid to Turkey. This was followed in 1976 by the Clark amendment to the Arms Export Control Act, which prohibited covert aid for military action in Angola.

The 1974 and 1976 limitations on assistance to Chile demonstrate this broader thrust of foreign policy intervention by Congress. Military assistance was terminated and restrictions were placed on economic assistance because of Chilean domestic policies. The International Security and Development Cooperation Act of 1981 repealed the flat prohibition of military aid to Chile but added requirements for certification by the President regarding Chilean respect for "internationally recognized human rights" and action on the Letelier-Moffit case, which has so far blocked further assistance to Chile.

Congressional restrictions, however, have not been Chile's only problem. The Carter Administration reduced our embassy staff, cut off delivery of arms purchased prior to 1976, eliminated the military section of the embassy, and cut off new export-import bank loans and OPIC (Overseas Private Investment Corporation) programs to Chile. The Reagan Administration has lifted all but two of the restrictions: arms shipments and the embassy's military section.

Although most restrictions in the last decade, such as the Clark amendment and prohibitions on aid to Chile and other countries based on human rights issues, are usually seen as efforts by liberals in Congress to temper a conservative foreign policy, not all of the congressional activity has been in pursuit of liberal goals. Congressional assertiveness, in short, is more an affirmation of institutional prerogatives than an expression of ideological philosophy alone. In the 1979 and 1980 foreign aid appropriations bills, for example, Congress prohibited aid to Vietnam, Cambodia, Laos, Mozambique, and Ethiopia because of the nature of their internal and external policies.

Because of the new strength that Congress now has in determining foreign policy, it is important to look at the institution itself for a better understanding of how the Congress makes decisions on foreign policy. The rise of single-issue politics, the breakdown of party discipline and House and Senate leadership (or followership), the deterioration of the seniority system, the multiplication of subcommittees, staff, and hearings, and the inevitably fragmented constitutencies of 435 House and 100 Senate members, have all made the development of a coherent, unified body of foreign policy initiatives by Congress more difficult at the time the Congress has been asserting its role more vigorously.

The difficulties presented by these and other factors can be seen in the recent history of foreign assistance legislation, the basic vehicle for congressional action. Over the past two decades Congress has approved a foreign assistance appropriations bill prior to the beginning of the fiscal year only once. Six times in the past twenty years the program has operated under a continuing appropriations resolution (a temporary funding measure enacted in the absence of normal appropriations legislation) for over half of the year and on three occasions for the entire year. Congress has also consistently slashed the amount of foreign aid money requested by the administration, reducing the recommended levels by an average of 18.8 percent annually over this twenty-year period. Other legislative areas have had these problems too, but foreign aid has been the most difficult of all.

The lack of any effective national constituency for foreign policy makes the passage of foreign assistance legislation quite difficult. Americans have historically been more concerned with domestic matters than with international affairs. Most Members of Congress, whose efforts at re-election focus very heavily upon what we have done for the immediate needs of our constitutents, see little justification for spending the time and effort necessary to master the intricate and often remote issues of foreign policy, and our constitutents seldom appreciate it when we do (especially if we have to travel abroad to do so).

In times such as the present, when economic conditions are difficult, there is more than an absence of a foreign assistance constituency; there is, in fact, a general hostility toward the use of American tax dollars to aid foreign governments. The United States is currently facing a budget deficit of over $100 billion. and this deficit is helping to produce high interest rates, which, in turn, have been a major factor in our nation's economic recession. To many Americans, the simplest solution to lowering the deficit is to eliminate any foreign assistance whatsoever, even though it constitutes less than one percent of our federal budget.

Single-issue and narrow policy groups have moved actively and effectively to fill the power vacuum in the Congress. Unfortunately, such narrow-focus politics—whether human rights, aid to specific nations, or opposition to specific nations—make the creation of a comprehensive congressional foreign policy scheme next to impossible.

Recent congressional action in the human rights field, for example, shows the power of small but vigorously active religious and secular organizations to shape congressional action. Responding to the pressure these groups can marshal, Congress has imposed restrictions on U.S. aid to countries such as Chile, Argentina, Nicaragua, and El Salvador because of their human rights policies.

Crucial to the success of the human rights lobby is the active interest of the U.S. press in human rights violations. The nation's major newspapers and television networks have run frequent and lurid accounts of alleged (and often real) violations in these countries. Repression is, as they see it, worse under right-wing governments than those of the left. Indeed, the media has converted the interest in the human rights issue into an important strand of contemporary American culture. It is the only foreign policy perspective which many Americans have. Commendable as that may be as a moral impulse, it does not meet most standards for a comprehensive foreign policy, which must include as a major consideration our own national interest.

Because of the influence of these relatively small, "policy-oriented" groups, particularly when their efforts are reinforced by the media, Congress is not likely to make changes easily in the programs they have achieved. A change in Presidents, even a change in party control of Congress, may not be enough to offset the strength of these organizations, most of whose efforts transcend the lines of political parties.

The rise in single-issue and slightly broader "policy-oriented" politics has accompanied the breakdown in party discipline of our two major political parties. Even in the days when party discipline was stronger than it now is, American policy has never enjoyed the coherence of that produced under a parliamentary system. Party members have always been able to abandon the party's position whenever it was in their own political best interest to do so. This lack of party unity and discipline, combined with the decline of official House and Senate leadership, means that there is considerable difficulty in ensuring congressional support for the initiatives of the President, even though he may be a member of the same political party as the majority of the House and/or the Senate.

Institutional factors within the Congress also work to fragment policy formulation. Throughout the 1950s and 1960s, Congress was tightly controlled by its committee chairmen, whose positions were secured by their seniority. In the early 1970s, under public pressure, this stable system encountered major challenges from newer, younger members who forced upon the older members a substantial dispersion of power and responsibility. As a result of this insurgency, the number of committees with jurisdiction over a given subject has proliferated, replacing a system where committees had limited, well-defined jurisdiction, and major pieces of legislation were referred to only one committee. Subcommittee chairmen now hold hearings on subjects for which they have

only minor responsibility. The result has been to increase greatly the number of members who handle any piece of legislation and to limit the ability of full committee chairmen to shape the outcome of the final bill.

The dispersion of legislative responsibility can be seen clearly in the foreign affairs area, where sixteen of the twenty-two standing House Committees have jurisdiction over significant portions of our foreign policy operations. The Foreign Affairs Committee, of course, has the primary jurisdiction for developing the basic foreign assistance bill each year, but other committees also play an important role in foreign affairs legislation. The Agriculture Committee, for instance, also considers those sections that involve the Food for Peace (P.L. 480) program, the Judiciary Committee handles provisions affecting immigration and refugee assistance, and the Merchant Marine and Fisheries Committee also has jurisdiction over Law of the Sea and Panama Canal matters. No less than six committees share responsibility for devising our foreign economic policy while three committees have jurisdiction over war powers, collective security, and related matters. Such a fragmentation of responsibility inevitably impedes the efforts of any administration—or committee chairman—to secure enactment of a foreign policy package.

Not closely tied to House and Senate leadership or formal party positions and armed with legislative vetoes, Members of Congress find it much easier to embrace the positions of outside issue groups which can promise publicity, votes, and money for increasingly costly re-election campaigns. The ultimate victim is a cohesive, comprehensive foreign policy.

I might note at this point, in the interest of balance, that the esteemed foreign policy virtues of a "unified national foreign policy strategy," "speaking with one voice in negotiations with foreign powers," and "formulating strategy with necessary confidentiality" have not in recent years been achieved by the Presidents of either party any more than they have by the Congress, though the job of unifying a foreign policy team is usually easier in the executive branch.

As the congressional role in foreign policy has grown, the problems plaguing the congressional process have become more evident, even inside Congress. Partly as a result of these difficulties, Congress is now trying to refine its existing authority, rather than seeking to extend it. This effort is not likely to produce a passive Congress, but it is likely to result in a congressional attitude more willing to negotiate and compromise with the executive branch.

Two examples illustrate this tendency. In 1974 Congress adopted the Hughes-Ryan Amendment as a means of securing congressional oversight over America's foreign intelligence activities. Hughes-Ryan prohibited Central Intelligence Agency activities abroad that were not directly related to intelligence gathering "unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operations to the appropriate committees of Congress." Before long this reporting requirement extended to eight congressional committees and over 200 Members of Congress.

In 1980 Congress brought some balance to the situation through an amendment to the National Security Act, which substantially reduced the extent of reporting necessary. Now the President must submit information on covert operations to only two congressional committees, the House and Senate Select Committees on Intelligence. This legislation thus preserved the legitimate interest of Congress in overseeing our intelligence program while substantially reducing the national security dangers of Hughes-Ryan.

The creation of a "special requirements fund" over which the President would have unfettered control also represents growing congressional willingness to achieve a new accommodation with the executive in the struggle over control of foreign assistance. We now have a $25 million "contingency fund" for economic development, less than requested by the President but welcome nonetheless. This fund is designed to give the President a modest reservoir of discretionary money to meet a variety of unanticipated international developments without having to go to Congress with a time-consuming special request for an appropriation.

The revision of Hughes-Ryan and the creation of a special contingency fund cannot be regarded as a major retreat from congressional assertiveness. Congress is neither going to give up the power it has recently acquired nor abdicate the responsibility it has assumed. Inevitably, because of the predominant role that economic and military assistance now play in foreign policy, Congress will be integrally involved in shaping U.S. foreign policy. It is difficult for Congress to give positive instructions either to the executive branch or to foreign governments in the conduct of international relations, so our role will continue to be one of imposing restrictions and limitations on actions of the executive.

It is my hope that Congress in working to refine and perfect the existing balance of power with the executive branch will compromise with the President and establish stable avenues for the joint determination of foreign policy. It is also my hope that a part of this process of refinement will be a rejection of unnecessarily narrow and rigid statutory restrictions, such as "country-specific" legislation, and greater reliance upon the articulation of broad policy objectives, with the detailed implementation of those objectives left to the President. I believe it is this effort to fine-tune the existing executive-legislative balance of power that will characterize the congressional role in foreign affairs over the next several years.

For those nations who want a more effective voice in determining the outcome of U.S. foreign policy legislation, it is necessary to communicate, to influence, to persuade in the same way that all the battles of Congress are waged. This is the nature of the system, and diplomatic deference to the executive branch will not change it. Neither now nor at any time in the foreseeable future will we turn the clock back to the kind of executive dominance we once knew.

Good communications, however, though essential, are not enough. A reasonable response to congressional concerns, coupled with more effective communications with Congress, will pay substantial dividends in terms of enhanced mutual security and prosperity.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, I am placing in the RECORD an article by Mr. D. R. Denman which was printed by AIMS OF INDUSTRY, a free enterprise organization located in London, England. This article gives the views of Mr. Denman on the subject of the Law of the Sea Treaty. I commend it to my colleagues, and also to those who persist in pressing for U.S. signature to the treaty.

The material follows:

THE LAW OF THE SEA CONVENTION—NEED TO THINK AGAIN BEFORE WE SIGN

1. Member nations of the UN Third Law of the Sea Conference were last year about to sign the text of a world Convention when the USA Government called a halt and asked for time to review the draft text. That review has now taken place and the Law of the Sea Conference is due to meet again next month. The American caution stands on solid grounds. Constructive proposals have been made to amend the draft Convention in the light of the review. Britain's attitude is of the utmost importance to America, ourselves and our allies. The case to support the Americans is a strong one and carries with it the need for a better informed public opinion.

2. There are two main aspects of the proposed Law of the Sea Convention—one covers the navigation of the seas and the other the exploitation of the resources of the sea and the seabed. Both are of equal importance in the long run to the United States and to Britain. Concentration on the navigation aspects of the Convention had in the past overshadowed the strategic importance to the industrial nations of access to the deep sea minerals. Hence the urgent case to review the current proposals and the draft Convention that embodies them.

3. The proposed policy for exploiting the vast minerals resources of the deep oceans also has two broad divisions. One recognises the sovereign right of coastal states over the resources of contiguous coastal waters and their sea bed (i.e. territorial seas, exclusive economic zones, continental shelves and so forth) and the other covers the vast wealth of mineral resources of the deep oceans which lie beyond the national jurisdictions. America's concern, which should also be Britain's, arises from what is proposed in the latter aspect of the draft Convention and for the following more specific reasons.

4. (a) There is to be set up the International Seabed Authority governed by an Assembly and an executive organ called the Council and assisted by a number of ad hoc Commissions.

(b) The Authority shall have absolute and exclusive control over the resources of the seabed of the deep oceans (to be called the Area) and shall be engaged in mining and other activities itself through an operative organ—the Enterprise.

(c) Access to the deep sea resources will therefore be barred to industrialists of the world and to all national institutions, except through the portals of the Authority. Its administration will be entirely bureaucratic and, inevitably, politicised; a policy which

could not possibly be in accord with sound economic development and private enterprise.

(d) The draft Convention gives sanction to the Authority in the most ambiguous terms; to act, for example, "on behalf of mankind as a whole"; for "the benefit of the international community"; for "the healthy development of the world economy"; and to administer the area as the "common heritance of mankind".

(e) The draft Convention is inherently contradictory. It requires the Authority to avoid discrimination and yet, time and time again for various reasons, the Authority is given a mandate to discriminate in favour of developing countries, the land-locked and the geographically disadvantaged. To take one example, compensation must be paid to developing countries which suffer adversity from activities in the Area; but no provision is made for similar compensation to other countries which are likewise affected.

(f) The terms on which mining contracts can be granted would not be tolerable in any free market and fair economy. For every potential mining area found contractors will be expected to offer a second area to the Enterprise or to a developing country and to private data, scientific knowledge and a full ranging technology and training of personnel to go with it. The industrialist will be required therefore to give his secrets away to his competitors and to train the competitors in the use of them against him. The transfer of technology, apart from giving competitors an unjust advantage, could mean the free international distribution of patents with all that that entails for loss of rights. Moreover by such disclosure international security could be threatened.

(g) A contractor is faced not only with the uncertainty of what those onerous demands might lead to, but should he prolong negotiations beyond what the Authority judges to be a reasonable time, he is likely to face an arbitration procedure and have terms dictated to him or suffer heavy penalties if he refuses to comply.

(h) The Enterprise would come to exercise an absolute monopoly over at least one half of the deep seabed resources of the world and with the privileges accorded to it would hold a most unjust advantage over all other operators, especially private concerns.

(i) The construction and voting arrangements for the Assembly, the Council and the other organs of the Authority would put those nations whose technical knowledge, economies and industrial structures have the most to give to development of the deep seabed resources of the world at a most serious disadvantage. The voting powers of America in the Assembly for example would be the same as that of the Gambia or of Malta. Voting for the 36 members of the Council is deliberately pre-conditioned in favour of the developing countries and the Eastern (Socialist) European Region. The voting formula refers to "an equitable geographical distribution of seats" and defines this as meaning that each region shall have at least one member and that the regions shall be by name, Africa, Asia, Eastern Europe (Socialist), Latin America and Western Europe. Where is the USA, Australia, Canada and Britain? Other facets of the formula require, for example, four members from major importers of minerals, one of which must be from the Eastern (Socialist) European Region.

(j) After 20 years, the Assembly shall call a review conference. The review conference will have power to amend the articles of the Convention by a voting system, similar to that used at the Third United Nations Conference of the Law of the Sea—that is upon a two thirds vote of the members of the Conference. The decision would be binding upon the dissenting members who would already be committed as members of the Assembly. Thus the future could be taken wholly out of the hands of one-third of all participating nations.

(k) Pending the signing of the Convention, leading industrial nations including Britain have taken steps to regulate by law the lifting of mineral resources from the deep seas. Parliament, in Britain, for example has recently passed the Deep Sea Mining (Temporary Provisions) Act 1981. The present draft Convention fails to secure to private and national interests who will have committed vast sums and effort to the deep sea floor as sanctioned by these recent laws, a proprietary right to the workings so established.

(l) There is a movement to include among the voting members of the world Convention liberation groups and other such bodies devoid of proper national status and this movement should be countered.

5. There should be no question of either America or Britain quitting the Law of the Sea Conference and its negotiations for a world Convention. But a just stand supported, it is hoped, by the other industrial nations should ensure a better balanced outome by providing a revised text that:

(i) will facilitate rather than deter the development of deep seabed mineral resources to meet both specific national needs and world demand;

(ii) avoid the monopolisation of the deep sea resources by the Enterprise or such other organ of an international authority;

(iii) will ensure a decision-making process over the deep sea bed that is balanced and fair and reflects and protects the political and economic interests and financial commitments of all participating states;

(iv) will preclude all amendments to an established Convention without the approval of all participating states;

(v) prevent the mandatory transfer of patents, scientific knowledge and technology possessed by private firms and institutions to others likely to compete against them;

(vi) duly recognise and secure the proprietary rights of operators over installations for mining the deep sea floor prior to the signing of the Convention.●

THE TRADITION OF THE AMERICAN FAMILY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MURTHA. Mr. Speaker, we hear a great deal these days about the need for strong families in our society. I am fortunate to represent an area where family strength is a tradition. Please let me share one such story with you.

On September 24, 1895, Rose Patchen was born in Hazelton. She would marry Joseph Moraca and they would settle in Johnstown. Together, they began a family and became its mainstays. In the years since, Rose Moraca has enjoyed the family companionship of 13 children, 40 grandchildren, 50 great-grandchildren, and 2 great-great-grandchildren.

The members of that family under the leadership of my good friend, Virgil Moraca, will be gathering on August 21, to celebrate Rose's upcoming 87th birthday.

These types of gathering are reminders to us all of the strength of the American family, and that the best way to secure the family's role in the United States is by following the example of families such as that headed by Rose Moraca.●

BUKOVSKY ON SOVIET BEHAVIOR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. McDONALD. Mr. Speaker, in the concluding section of Vladimir Bukovsky's article on "The Peace Movement and the Soviet Union," which appeared in Commentary magazine for May 1982, he continues his discussion of the realities of Soviet behavior versus the illusions of the peace movement's ideologists. His poignant presentation ends with a warning not to fall into the trap of making broad alliances "just for the sake of power," especially if this involves identification with the ruling elites of Eastern Europe. "This mistake," concludes Mr. Bukovsky, "must be corrected if we are to live in peace and freedom. We should know who are our friends and who are our enemies. The fate of Solidarity should open our eyes."

Mr. Bukovsky's conclusion follows:

[From the Commentary Magazine, May 1982]

"THE PEACE MOVEMENT AND THE SOVIET UNION," CONCLUDING ARTICLE BY VLADIMIR BUKOVSKY

Are we then to assume that the Soviet leadership consists of fanatics aiming at global control? Even such a model, crazy as it might sound, still imputes too much "normality" to the Soviet leaders. Or, more precisely, it is too big a simplification. This theory, too—fortunately for us—does not fit a number of the facts. Paradoxically, none of the present Communist leaders believes any longer in Communist doctrine. Fortunately, because no real fanatic would ever tolerate the destruction of the object of his obsession. He would rather witness the destruction of the entire world.

The Soviet rulers are a totally cynical lot, much more preoccupied with their own privileges and pleasures than with Marxist ideas. They probably hate Communist dogma more than any Western capitalist. Moreover, the majority of the Soviet people are as cynical as their leaders. There are many more sincere Communists to be found in the West than in the USSR.

But this fact has also created false hopes among Western politicians and the public. The same false hopes encouraged by the

theory of encirclement—that it will be possible to treat the Soviets as normal partners at last, that it will be possible to negotiate, to cooperate, and to relax. Both theories lead equally to the same mistaken policy.

So what is the truth about the damned soviet system?

Certainly, there was a period when the Soviet leaders were Communist fanatics, ready to sacrifice the whole world to their faith. There was a period, too, when at least some part of the population was prepared to grant this new idea with considerable enthusiasm. The people of my country, I suppose, could be excused for their delusion, because Communism was indeed a new idea and one that might be thought by the inexperienced to appeal to the best qualities in human nature. Is it after all not a worthy purpose, to secure unalloyed happiness for all future generations, to liberate and unite the whole of mankind? Naturally, such a thing will not be easy, but it is worth a great deal of sacrifice to achieve. Just as naturally there will be many selfish people to oppose it and we should learn to be ruthless with them. Only millions of individual wills fused into a single invincible "we," united by the iron fist of a Leader, can achieve so difficult an end.

This period of ecstasy, however, was very short-lived. One by one, the various elements of the Soviet population cooled down, sobered up, and then could not believe in their own former enthusiasm. The besieged minority reacted to this desertion of the public by becoming even more ruthless and single-minded: "We will make them happy against their will; their children will be grateful to us." I will not describe the mass slaughter that resulted from this great determination. It has been described many times. A terrorized majority obeyed with sham enthusiasm, because it was a crime to look gloomy. But underneath there was a silent, passive resistance. The minority of "believers" over time became simply a ruling clique which had lost its ideals in the constant fight for survival, in corruption, and in its abuses of power and its privileges. The ensuing political situation can best be described as a latent civil war in which a kind of balance has been maintained by political terror.

In this way the Soviet Union reached a condition in which absolute power was exercised by absolutely cynical people over absolutely cynical people, each side vociferously assuring the other that they were all still sincerely building an ideal future society. But the ideology exists now almost as in a work of science fiction: It has separated itself from its substratum and has petrified in the structure of the society. It has become an institution in which nobody (not even the top executive) is allowed verbally to deviate from the dead dogma. The will of millions is still being taken from them and welded into the iron fist of abstraction.

There is practically no free human being inside the entire country. The state—the only employer—will not allow anyone to be financially independent—as indeed no independence of any kind will be tolerated. Everybody must be carrying out a useful task, performing a needed function. Several nationwide networks of security and secret police spy first on each other and then together on everybody else. Such a system has created a new type of a man, who thinks one thing, publicly expresses another, and does a third.

The enormous inertia of this system is not surprising. There is no internal "class enemy" any more; there is no need to terrorize so many millions. Still, there are huge concentration camps, because they have become an integral part of the country's economic, political, and spiritual life. Nobody believes now in the ultimate victory of Communism in the world, but the policy of external subversion and the promotion of "socialist forces" everywhere has become an integral part of the state machinery. The system rules the people.

Beyond inertia, there is something else, something even more decisive: the instinct of self-preservation of the ruling clique. Once you are riding a tiger, it is difficult to jump off. Any attempt at internal liberalization might prove fatal. If the central power were to weaken, the sheer amount of hatred accumulated within the population for these sixty-five years of the socialist experiment would be so dangerous, the results of any reform so unpredictable—and, above all, the power, the fabulous privileges, the very physical survival of the ruling clique would become so tenuous—that one would be mad to expect the Soviet leaders to play with liberal ideas. Only the imminent threat of total collapse might force them to introduce internal reforms.

The two sides of the Soviet regime—internal oppression and external aggression—are inseparably interlocked, creating a sort of vicious circle. The more the regime becomes rotten inside, the more pains are taken by its leaders to present a formidable facade to the outside world. They need international tension as a thief needs the darkness of the night. In the political climate of latent civil war, given the enormous and senseless sacrifices of the last fifty years, the constant economic difficulties, and the lack of basic rights—not to mention, again, the extraordinary privileges enjoyed by the ruling clique—the only hope for stability lies in the need to cope with an external threat: "hostile encirclement" and the subversive activity of "world imperialism." In this artificially created state of war, the worker's demand for a better deal, or a captive nation's demand for its independence, can then be treated as an act of subversion, "playing into the hands of the enemy."

Nor is it enough to create a devil in order to maintain one's religious zeal. This imaginary enemy must be defeated over and over again or there will be the risk that he will seduce you. American "imperialism" must be defeated at any cost, and the liberation of proletarians in the capitalist countries must be promoted by all means. The failure to support a "friendly government," to establish Communist rule in a new country, will immediately be perceived as a weakening of Soviet power, and therefore an encouragement to the sullen and embittered population at home. Any failure of the Soviet international adventure may thus trigger a chain reaction leading to the ultimate collapse of the Soviet rulers. This is why they cannot allow a popular uprising in Hungary, a "Prague Spring" in Czechoslovakia, an anti-Communist "Holy War" in Afghanistan, or an independent alternative center of power in Poland. Immediate repercussions would be felt in all the other countries of the Socialist camp as well as in the Ukraine, the Baltic states, Central Asia, and other occupied territories. The scenario of aggression is depressingly uniform. First, the Soviets undermine a democratic state, helping the friendly "progressive forces" come to power. Next, they have to save their bankrupt "progressive" friends, when the resistance of the population threatens to overthrow them.

Are they frightened to the point of aggressiveness? Yes, but not by your piles of hardware, not by your clumsy attempts at defense. They are frightened by their own people, because they know the end is inevitable. That is why they must score victory after victory over the "hostile encirclement." Behind every victory is a very simple message addressed to their own enslaved population: "Look, we are still very strong and nobody dares to challenge our might."

If they are afraid of you, it is because they are afraid of your freedom and your prosperity. They cannot tolerate a democratic state close to their borders (and then, close to the borders of their buffer-states), because a bad example of thriving democracy so close at hand might prove to be too provocative.

Knowing all this, let us ask ourselves a question: what would happen if the West were to disarm unilaterally? Could the Soviets follow suit? Certainly not. It would mean the rapid disintegration of their empire and a general collapse of their power. Does this mean they will simply roll over the now defenseless Western countries? Again, the answer is: no. They don't need your territory, which would be difficult to hold anyway. Above all, where would they acquire goods, technology, credits, grain, etc., if they were to impose on you their inefficient economic system? They need you in the way China needs Hong Kong. But from that very moment you will gradually begin to lose your freedom, being exposed to constant and unrestrained Soviet blackmail.

You may like or dislike your trade unions, but would you like them to have to consider a possibility of foreign invasion every time they wanted to declare a strike—as Solidarity had to do in Poland for eighteen months? You may like or dislike your mass media, but would you like to see the self-censorship of your press in order to avoid an angry reaction by a powerful neighbor—as in Finland? You may like or dislike your system of representation, but at least you are free to elect those whom you choose without considering the desires of a foreign power. Nobody threatens to come into your country and impose a government of its choosing—as in Afghanistan. The nature of the Soviet system is such that it can never be satisfied until you are similar to them and are totally under their control.

So, we come to a very important conclusion: the issue now is not "peace versus war," but rather "freedom versus slavery." Peace and freedom appear to be inseparable, and the old formula "Better red than dead" is simply fatuous. Those who live by it will be both red and dead. Whether we like it or not, there will be no peace in our world, no relaxation of international tension, no fruitful cooperation between East and West, until the Soviet internal system changes drastically.

Has this simple and self-evident truth ever been understood by Western decision-makers? I doubt it. In a way, I can share some of the concern of the peace movement. Because for the West to react stereotypically by increasing military spending and stockpiling new hardware every time the Soviet instability-aggression complex manifests itself is simply to miss the target. At any rate, it is not enough. It is not going to change the Soviet system. It is not going to prevent Soviet expansion, especially in the Third World. Soviet ideological warfare is far shrewder than a big nuclear bludgeon. Would we, for instance, consider a nuclear bombardment if tomorrow there were to be

a revolt of various tribes in Pakistan, instigated by Moscow? Or a Communist takeover in Iran?

There are plenty of "natural" troubles in the world, brought on by local conditions. But the influence of Moscow immediately turns them into major strategic problems. It would be senseless to try to solve all such problems by military means all over the globe. Simple logic suggests that we must deal first of all with the *source* of the world's major trouble—i.e., the Soviet system. We must find an effective way to help the Soviet population in its struggle for change. After all, they are our biggest ally.

Unfortunately, this has so far been appreciated by the West, which has instead been continuously strengthening the Soviet system by credits, trade, technology. Why should the Soviets bother to introduce any internal reforms if their inefficient economy is periodically saved by the West? The West is still rich enough to help them out, and Siberia is also rich enough in turn to sell natural gas, gold, diamonds.

We may shake with indignation whenever we hear about the Soviet invasion of yet another country. We hate these little obedient soldiers, ever ready to do whatever they are told. Are they robots? But what do we propose that they should do? Do we honestly expect them to rebel and face a firing squad, while the entire world continues to provide their executioners with goods, credits, and modern technology? Don't we demand of them much more than we demand of ourselves? Somewhere, somehow, this vicious circle must be broken, if we are to survive as human beings. Why not start where it is easier?

There are 90,000 of these "robots" trapped in Afghanistan at this very moment. They cannot rebel because they will be shot down. Even so, there are occasional rebellions (and executions). They cannot desert, because they will either be killed in the process or, if they are lucky and manage to reach Pakistan, the Pakistani authorities will return them to the Soviet command (that is, again, to the firing squad). Does any government try to help them? No. Instead several European governments have decided to buy Soviet natural gas, perhaps the very same gas that is being pumped out of Afghanistan by the Soviet occupation authorities as compensation for "liberating" Afghanistan.

There is a lot of noise about Poland right now. A lot of noise, and a lot of smoke screens. But does any government sacrifice anything? After issuing thunderous condemnations, the European governments decided not to apply economic sanctions against the Eastern bloc, because sanctions would "harm us, probably, more than them." Why should you establish the kind of relations that only make you more vulnerable than the enemy? Why do you continue to sign new agreements of the same type (natural gas, for example)? The American banks recently decided to cover the huge Polish deficit because the "bankruptcy of Poland would undermine the world financial system." What would happen, I wonder, if tomorrow the Soviet-bloc countries were to refuse to pay their debts and to suspend all trade?

This is what the struggle for peace and freedom boils down to: the people in the East should sacrifice their lives, but you should not sacrifice your profits. Small wonder that the Polish army does not rebel.

In fact, the imposition of economic sanctions on the Polish military junta and on their Soviet masters is not just a possible step; it is the actual *obligation* of the Western countries under the terms of the Helsinki agreement. A direct link among security, economic cooperation, and the observance of human rights is the very essence of this agreement. If that is forgotten now, of what point is all the noise lately heard from Madrid?

To tell the truth, I do not believe that any of it has been forgotten. Neither do I believe that the Western banks, industrialists, and governments are so "stupid" as to tie themselves to the Eastern chariot wheels by mistake. It is their deliberate policy, overtly articulated in the time of détente, and covertly now. Moreover, it is their philosophy. They love stablity, these bankers and businessmen. And they are much against any resistance movement in the Communist countries, very much against any prospect of liberation for the enslaved nations of the East. They are the greatest peace-lovers of all, far more powerful than all those crowds on the streets of the European capitals. Thanks to them, we descend slowly into the Age of Darkness.

This article is not addressed to the bankers, or to the governments. I do not expect any help from them. In spite of all the harsh words used in it, I wish it to be read by sincere people who are seriously concerned with the problems of peace and freedom. They will probably dislike many of the things I have said here. I hope, however, that they will understand its main point: that peace has never been preserved by a hysterical desire to survive at any price. Nor has it ever been promoted by catchy phrases and cheap slogans. There are 400 million people in the East whose freedom was stolen from them and whose existence is miserable. It so happens that peace is impossible while they remain enslaved, and only with them (not with their executioners) should you work to secure real peace in our world.

Your recent mass demonstrations were disastrous, because in them you identified yourselves, willingly or unwillingly, with the rulers of the Eastern countries. To make broad alliances with any public (or governmental) forces just for the sake of power is a tremendous mistake. This mistake must be corrected if we are to live in peace and freedom. We should know who are our friends and who are our enemies. The fate of Solidarity should open our eyes.●

T. C. LINDSEY & CO., GENERAL STORE AND POST OFFICE

HON. SAM B. HALL, JR.

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SAM B. HALL, JR. Mr. Speaker, there is a nostalgia fad sweeping the country these days. People, as never before, are saving and buying everything from baseball trading cards to old medicine bottles.

However, there is an old country store located in my congressional district that is truly the authentic grandfather of all this nostalgia and antique collecting. It is called T. C. Lindsey & Co., and if you cannot indulge your fondness for America's past at the Lindsey store, then you better find another hobby.

As anyone familiar with America's rural development knows, the country store is something of the past. From Maine to Florida, from Virginia to California, few of the authentic country stores have survived urban sprawl, interstate highways and massive shipping centers.

But, T. C. Lindsey's has survived. In fact, it has been in continuous operation since 1847 in Jonesville, Tex., and from all indications it is going strong as ever.

Two of the most energetic, finest businessmen you would ever meet—Sam and Tom Vaughan, who are personal friends of mine, run the store, and more than likely you will be waited on by one of these gentlemen; that is, unless one of them is busy acting in some Hollywood production. You see, the store has figured prominently in four motion pictures, including the incredibly popular, "Secret of the Pond," a Walt Disney film seen all over the world.

In addition, the television series "60 Minutes," has done a segment on the Jonesville Post Office, which is located in the store. The Jonesville postmistress is Miss Emma—Sam Vaughan's wife—and she is known far and wide for maintaining total efficiency in this postal operation. In fact, Harry Reasoner described the post office as "the kind of post office everybody wishes they had."

The Lindsey store is the kind you want to visit again and again. There is no parking problem, conversation is friendly and informative, and the service, courtesy, and manners are the product of a bygone era when people thrived on being good neighbors and just plain being nice to each other. That is why if you were ever waited on at the store by Syble Elliott, you would never go to another shopping center. Syble has been helping folks in the store for the past 25 years.

It would take an extensive bibliography to list the magazines and newspaper stories about T. C. Lindsey & Co. Just last month the store was featured in Texas Monthly magazine. I will include a representative sample of these articles at the conclusion of my remarks.

Mr. Speaker, the country store is part of America's heritage, an important aspect of our historical development. American free enterprise was born and nurtured in these privately owned establishments that kept commerce and people moving. Some of America's greatest heroes started their careers clerking in a country store.

It lives on, this wonderful tradition, this bringing of people together, at T. C. Lindsey & Co. If my colleagues ever happen to be traveling east on Interstate 20 just outside of Shreveport,

La., I hope they will exit at Waskom, Tex., and take Farm to Market Road 134 to the store. I wish every schoolchild in America could spend some time there. They would learn about the goodness and decency of America. They would meet the finest people to be found anywhere on this Earth, and while doing so, they might enjoy some old-fashioned peppermint stick candy.

Mr. Speaker, as part of my remarks I commend the following articles about T. C. Lindsey & Co. General Store and Post Office to the attention of my colleagues and the Nation as follows:

[From the Longview Morning Journal, Aug. 15, 1982]

IT'S BEEN 135 YEARS, BUT STORE IN JONESVILLE'S CHANGED LITTLE

(By Roy Linson)

JONESVILLE.—After 135 years of selling everything from overalls to plows to cow feed, the T.C. Lindsey Country Store is still going strong.

So strong, in fact, that Texas Monthly magazine recently called it the "grandaddy of Texas country stores and currently the best in the state."

Not a lot has changed since the store opened in 1847 as the William Jones Trading Post to supply groceries, feed and dry goods to nearby cotton farmers and their families.

T. C. Lindsey then took over the business and in 1922 hired a contractor by the name of G. E. Cargill, the father of Longview's Robert Cargill, to build the present white frame building beside FM 134.

A few years later, in February 1928, Lindsey's nephew Sam Vaughan, tired of the daily trip to his Shreveport job over icy roads, hired out as a clerk,

"I knew I was not gonna work but a week or ten days until I found another job," Sam said.

Now, 54 years later, he's still there behind the same counter reaching up to the same shelves for a plug of chewing tobacco, a can of tomatoes or a stick of striped candy.

Customers who've been trading at the store for years have noticed more major differences as the years passed.

First the name was changed to T. C. Lindsey and Co., Sam represented the "and Co."

Then Sam's brother, Tom Vaughan, joined the staff to handle the books and buying.

In 1965 the store began taking on a whole new look when Sam took up collecting. He's been collecting for years, but was running out of space and began filling the store with his treasures. According to Marshall Office of Tourist and Convention Development Director LaVerta Lovell, his collection "would put many museums to shame."

Among the items is a copy of Sam's grandfather's personal pocket map—an 1853 edition which shows the Comanche Indian trails.

There's also a 1930 Texas license plate with three numbers, a 1920 boll weevil duster, a Thomas Edison cylinder and light bulbs, three styles of side saddles, old glass bottles, tools and thousands of other items.

Visitors can spend hours browsing among the display cases, looking at items covering the walls and peering into corners. But even after numerous visits, most discover some treasure they missed before.

When customers ask about prices, Sam is quick to tell them, "I don't sell my pretties." But if it's not a busy day, he'll take the time to tell them the item's history or spin one of his yarns of days gone by.

Although the antiques aren't for sale, replicas of some old items—such as churn jars and tea jars made by Marshall Potteries, sunbonnets and cans of ribbon cane syrup—can be purchased.

Tourists come from all over the world—more than 10,000 signed the visitor's book last year—to view this forerunner of one-stop shopping.

The store's not hard to find if you know where it is, although "many people tell us 'we just like to have never found you, you're so far back,'" said Syble Elliott, who's been clerking in the store for 25 years.

From I-20, going east, take the first Waskom exit and turn left onto FM 134. Go north on FM 134 for about two miles. The I-20 exit is about two miles west of the Louisiana state line. The store is open from 8 a.m. to 5 p.m. Monday through Saturday.

Two Walt Disney productions and two Charles Pierce movies have been shot on location at the Jonesville store. Sam appeared as the store proprietor in "The Secret of the Pond" in 1974.

Television shows such as "Eyes of Texas," "Four Country" and "PM Magazine" also have brought their cameras to record the treasures lining the walls of the store.

"60 Minutes" crews have even been to the store to interview Miss Emma, Sam's wife, who served as the Jonesville postmistress for more than 30 years. The coverage has drawn thousands of tourists to what Harry Reasoner described as "the kind of post office everybody wishes they had."

Miss Emma says she still can't believe that a town of about 180 inhabitants draws visitors from around the world.

But it does, and most of them take home what Sam calls the "best Yankee souvenir there ever was"—a Texas bull scraper.

[From the Marshall News Messenger, Apr. 8, 1981]

OLD SOUTH STYLE CONTINUES WITH JONESVILLE STORE

(By Jana Meyers)

Nostalgia literally clings to the walls. Remnants of history are packed on shelves and pushed onto tables, barely leaving room for aisles. At T.C. Lindsey and Co., except for a few boxes of Tide and bottles of Heinz ketchup, time has stood still.

Welcome to the era when cotton was king and the country store was a way of life.

T. C. Lindsey and Co., better known as the Jonesville Country Store, has been a part of the now almost non-existent Jonesville community since 1847 when Sam Jones established it as a trading post.

It is the only original store in the town to survive the heyday of cotton and possibly the only thing nearby to withstand the demise of the Old South.

It is surrounded by a broken cotton gin and warehouses of rusting, antique farm equipment, symbols of a broken civilization.

Tom Vaughan, one of the two brothers who own and run the store, will tell you that although cotton went out of business in 1873 and the town of Jonesville went with it, T. C. Lindsey and Co. is here to stay.

Actually, the day cotton lost its prestige as a chief crop and moneymaker was the day the store began its trek to fame.

Through the skillful handling of early owners and T. C. Lindsey, the Vaughan's uncle, the store held together as a showplace of the past decade. Later, it became the showplace of a bygone century.

After Sam Vaughan began work in 1928, business soon slacked off because of the depression. To counteract sliding business trends, Sam brought in a new gadget every day for more than a year as a promotion.

The gimmick apparently worked. Sam said the more relics he brought, the more people came to see—and the tradition lives on.

Although the store, located on FM 134, two miles west of Louisiana, is isolated from any large towns, Tom Vaughan said that "On Saturday, we have so many people, we can hardly tend to our business—visitors, you know."

And a glance at the great register discloses that T. C. Lindsey is more than a mere local trade name. Addresses from Oklahoma City, Pasadena, Calif., Carson City, Colo., and Taylorville, Ill., represent four of the fifty states Tom said have visited the store.

The attention does not stop with your run-of-the-mill visitor either. Walt Disney and Charles Pierce Productions have paid their respects to the store as well.

The Jonesville Post Office, adjacent to the store, was the setting for Bayou Boy, a 1970 motion picture, and Secret of the Pond, a 1971 TV movie, both by Walt Disney.

Disney found the general store in Jonesville ideally suited to the movie themes of another epoch, Sam said. The set makers rearranged and added a bit here and there for authenticity, he said, but for the most part, "most everything was already perfect."

"In 1970, they (Disney) wanted to buy everything," Tom added. "But no—if we sold them (the antiques), there wouldn't be anything here for you to come and see."

As if that were a problem. From Toledo Scales to the antique dentistry equipment, to collections of family branding irons and Coca-Cola bottles, to family portraits dating back to tintypes, to a 100 year old cheese cutter—the heritage in the store is almost as thick as the pride that accompanies it.

Part of that heritage and pride is in the cheese cutter, filled with Wisconsin "rat" cheese.

It's the kind of cheese that beckons one to partake and partake until an immense pair of "Tuf Nut" overalls, covering the width of the stairway from which they hang from ceiling to floor, would probably fit.

The overalls, Sam said, were once a part of a gimmick selling "Tuf Nut" jeans. Not as perennial as Sam's antiques, but nevertheless, unique in its own time.

Overalls, cheese—T. C. Lindsey and Co. has anything you care to buy. It even carries whiskey kegs as a reminder of the time when it was the last place in the county to sell whiskey legally.

"It's the Jonesville Mall. We sell everything." Tom said. "If you don't see it ask for it."

And if the Vaughan brothers don't by chance have it, you probably don't need it anyway.

[From the Texas Highways Magazine, Jan. 1976]

COUNTRY STORE

(By Bob Parvin)

Backwoods merchants Sam and Tom Vaughan don't figure there's much need in advertising their place. Folks around eastern Harrison County have been trading there for better than a hundred years. That's plenty of time to establish a business.

So competition isn't something that causes the proprietors to fret, at least where

the reputation of their enterprise is concerned. The old T. C. Lindsey & Company general store is pretty well known. It's also getting sort of famous lately.

Seems it's about the only honest-to-goodness country store left in the piney woods country. Before folks drifted off to the cities and bad times settled on the farmer, crossroads stores like this old clapboard barn of a place were about as common as cotton patches across Texas. Now there're just a few left around the state and they say the Vaughan brothers are holding on to one of the best.

Why, you can walk in there and find just about anything—knee pads for cotton pickers to pork 'n beans. What they don't have you probably don't need, anyway.

Shell out two bits for a slice of aged Wisconsin cheese and a handful of saltines, pull a soda pop out of the cooler and settle back by the counter to breathe in some of that mellow atmosphere. Farmers drop by around noontime to cool off and jaw about the weather. The milkman stacks his delivery in the icebox and mixes company with an overalled chicken rancher come in to pay on his grocery bill. Country women drift in to pick up the mail and check up on the gossip. The squeaky front door opens and in saunter a couple of strangers, city folks out traveling the back roads and stumbling on a prize they thought had vanished from the countryside.

"Oh, man, just look at this place!"

The Vaughans' throwback store squats beside a crink in Farm Road 134 about five miles north of Interstate 20 which runs through nearby Waskom and to the Texas-Louisiana border. The curve effectively slows down traffic through the remnants of Jonesville, a once-booming cotton ginning town and railroad stop of which only the store; the locked-up building of its defunct competitor across the road, a few houses and a broken-down cotton gin remain.

In other buildings now long gone, Jonesville has had its country store for almost 130 years. The pioneer-times forerunner to the present structure was a cabin store owned by partners named Jones and Estes. Dr. Samuel Floyd Vaughan, Sam and Tom's granddad, purchased a half interest in the Jones-Estes Store in 1870. Around the turn of the century T. C. Lindsey took over. In 1922 the present store was constructed.

Sam hired on as a $50-a-month bookkeeper in 1928, buying in 10 years later, and his brother dropped out of the oil business in 1947 to become the third partner. When Lindsey died in 1948, the brothers divided the ownership.

"Back in those days I couldn't find another job so I took this one thinking I'd not stay with it too long," says Sam. "Well, guess the old place sorta grew on me. Longest I've ever been away is 23 days and I wouldn't have been off that long if it weren't 'cause I was visitin' relatives.

"Never seen a place I like any better than here," he asserts. "Gonna keep on runnin' this ole place' til I die. If I had to quit, I'd just go nuts, or something."

When cotton was king around Jonesville back in the 1930s and 40s, business at T. C. Lindsey Store was as diversified and prosperous as it is on Houston's Main Street today. Aside from serving as a place to buy staples and wares, the store was a home-style bank and loan agency for farmers, the main office and weigh station for the cotton gin, a polling place, a meeting hall and a hangout for everybody with time on his hands. In 1937 a record 2,976 bales of cotton were ginned in Jonesville.

"Back then this was a growin' goin' town," remembers Tom. "Used to be bodies in this store so thick you couldn't hardly move. When the gin'd break down, there'd be crap games in the back room and people milling around thick as flies.

"When we'd pay'em off for cotton, they'd plumb buy us out," he adds.

In 1973 the gin processed four bales of cotton and closed down for good.

In the meantime, Sam, a packrat at heart, had begun to assemble his lifetime's worth of collected bits of nostalgia in a backroom of the store. A huge collection of rusty old things crowds the room and now spills out into every available space left in the already jampacked store. Everything imaginable that served the labors, pleasures, pains and pursuits of our forebears has been gathered by Sam to show amazed visitors.

"It's helping our trade," he admits. "This place is full of thousands of things you just can't find anymore. Used to be just people from 'round these parts were trading here. Now we're gettin' folks from all over the country."

This notoriety was abetted by the publicity generated by two Walt Disney movies which were partly filmed inside the store. "Bayou Boy" and "Mystery of the Pond" (recently aired on television), in which the plots unfold mostly around the swampy environs of nearby Caddo Lake, include the store and its owners in bit parts.

"Yessir, can't find many old stores like that'n anymore," claimed a longtime customer. "Hear tell those Disney people didn't even have to change things around much to take movie pictures. The old place hasn't changed a bit o'er the years."●

NEW URBAN PARKS FACE A FIGHT TO SURVIVE

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BEILENSON. Mr. Speaker, the Christian Science Monitor's series "Islands in a Storm: Our National Parks" received deserved acclaim when it appeared in June. The author, Robert Cahn, spoke knowledgeably about the successes and problems of the entire national park system and of how important the system is to almost every American.

Mr. Cahn dedicated one article in his series to urban parks, the newest concept under the national park system—and also the most controversial. One of these parks, the Santa Monica Mountains National Recreation Area, located partially in the 23d Congressional District I represent in Los Angeles County, is discussed at some length by Mr. Cahn. I authored the legislation that created this national recreation area, and I strongly advocate the preservation of natural areas in urban settings. As this article notes, however, urban parks have been the subject of a great deal of criticism recently and are under direct attack by the Department of the Interior.

If my colleagues read this article, I know they will understand the national significance of the Santa Monica Mountains and of other urban parks. As Mr. Cahn wrote:

Each of the national recreation areas I visited * * * is protecting valuable pieces of natural landscape and important historic sites, while providing recreation for people unable to travel to the larger, more famous national parks.

I commend the article to my colleagues' attention.

NEW URBAN PARKS FACE A FIGHT TO SURVIVE

(By Robert Cahn)

(A decade ago, the Park Service embraced a new idea: national recreation areas in urban settings. Despite sharp criticism, these parks, like Santa Monica Mountains near Los Angeles, have endured.)

A year ago things were looking bleak for superintendent Bob Chandler. The 150,000 acres of beaches, mountains, hills, and canyons he was trying to preserve for the recreation of 10 million nearby Americans were in jeopardy.

In 1978 Congress had directed that this natural area, not yet swallowed up by southern California's urban sprawl, somehow be welded into the national park system. A combination of land purchases and protection agreements would be the means. The hoped-for result: a new park, the Santa Monica Mountains National Recreation Area, embracing both publicly and privately owned lands.

But in 1981 the effort was suddenly cast into limbo. The newly appointed secretary of the interior, James G. Watt, clamped a freeze on all National Park Service land acquisition funds. The new secretary also stated publicly: "I do not believe the national park system should run urban parks."

For superintendent Chandler, the freezing of acquisition funds put a roadblock in the way of purchasing several key parcels of land needed to hold the new park together. His public defense of the park and criticism of Watt's action as short-sighted brought a verbal reprimand from Washington. Meanwhile, morale at the park reached rock bottom. Staffers felt they had little communication from regional and national offices. "It's like we don't exist," said one.

Today the gloom has lifted. Chandler is optimistic that Santa Monica Mountains will not only survive but will come to be regarded as one of the outstanding units of the national park system. Santa Monica received $6 million when Congress overruled Watt's total moratorium on land acquisition and restored part of the 1981 appropriation Watt had cut off. By spring of 1982, Santa Monica Mountains National Recreation Area was a viable, though far from complete part of the national park system. It had an expert staff working to protect its resources, and rangers helping to provide recreational opportunities for increasing numbers of visitors. The small portion of the area now owned by the Park Service recorded more than 395,000 visits last year, not counting the 7 million people who pass through the area or the 29 million who use the state beaches and other public areas of the new park. Even Secretary Watt appeared to have changed his tune. When asked by a reporter if he supported funding to complete the acquisition of lands for the Santa Monica area, Watt replied, "Yes, but not now."

Over the past 20 years, developers and real estate interests have relentlessly promoted unlimited urbanization of this area. But conservation groups and public-spirited

citizens have worked to protect, within the national park system, what was left of the Santa Monica Mountains' natural value. The result is a tenuous, albeit effective, series of working arrangements between the Park Service and the other public and private owners of the land. These give a measure of protection to the nation's largest, relatively undisturbed example of a coastal Mediterranean ecosystem.

On a map, the Santa Monica Mountains National Recreation Area looks like a heavily gerrymandered political district. Its borders abound with bulges and narrow strips that exclude populated areas. From Point Mugu State Park on the west, running east along the entire mountain range for 47 miles, to the Hollywood Freeway, the park includes rugged 3,000-foot ridgetops, steep hillsides swathed in chaparral, manzanita, sage, and wildflowers, 44 miles of beaches, canyons of dry, golden grasses dotted with 400-year-old California live oaks and valley oaks, and streams lined with willows and sycamores. Bobcats, deer, coyotes, and a few mountain lions are among the 60 species of mammals in the area. Some 240 kinds of birds populate the park, and one area, Cheeseboro Canyon, is reported to have the largest number of nesting sites for birds of prey, per acre, in the country.

MANY LOCAL RESIDENTS FAVOR PRESERVATION

The existence of so much natural land in the midst of 10.5 million people is due partly to action taken by local voters. Over a number of years they set aside many state, county, and city parks and water district lands. Other key factors in preserving the natural quality of the land: the large numbers of private camps and recreational facilities in the area; an ownership pattern in western Los Angeles County dominated by large private ranches; the topography, with its steep, slide-prone slopes and extreme fire danger in some areas. And, fortunately, most of the people who have purchased tracts in the area have maintained the land's natural features, and have become advocates of preservation.

Establishing the new park has required all the negotiating and planning skills that Chandler, a 23-year Park Service veteran, could muster. Starting from scratch 3½ years ago, he first had to acquire enough land to form a nucleus of Park Service ownership. At the same time, he had to work out cooperative arrangements for managing private lands in ways compatible with the purposes of the national recreation area. Natural resources had to be protected from the threats within and adjacent to the park. Recreation opportunities had to be developed. And all of this in a period of budget austerity throughout the National Park Service.

Chandler has been able to purchase only 6,000 acres of the 43,000 sought in the original plan. The land cost $37 million, and the figure would have been even higher had not several tracts been donated. In one case, the nonprofit Trust for Public Land saved the park more than $2 million by taking an option on 1,800 acres in Cheeseboro Canyon and holding it until the park had the money to buy it at a bargain price.

With land prices escalating, the Park Service estimates it may now cost four times the orginally authorized $155 million to make all of the planned acquisitions. "When some people question whether we can have a viable recreation area for $155 million, my response is that we can, by relying more heavily on less-than-fee acquisition, and by depending on donations and good land-use planning by local agencies to preserve a lot of what we have," says Chandler. "But we still need to acquire some of the most sensitive resource areas and some sites needed for recreation activities. The principal thing is to preserve the character of the mountains without acquiring everything," he adds.

REPORT SPECIFIED OVER 50 THREATS TO THE PARK

No matter how much land can ultimately be purchased, Chandler faces an ongoing challenge: how to protect the park's natural values. With Greater Los Angeles pressing in and 40,000 people living within park borders, it is little wonder that the staff identified 53 distinct threats in the Park Service's 1980 State of the Parks Report. That was the fifth highest total among the 333 Park Service units. Air and water pollution, toxic chemicals, noise, threats to wildlife, destruction of habitat, livestock grazing, wildland fires, land development, roads, vandalism, and erosion lead the list. Projected oil leasing could also harm the park.

With an eye to these threats, Chandler has put more permanent resource managers on his staff than rangers. He recruited Dave Ochsner, formerly chief resource manager of Grand Canyon, to head the staff. Paul Rose, an expert hydrologist from Everglades National Park, directs the monitoring and gathering of basic data about the park's natural resources. Bob Plantrich, a forester and controlled-burning expert from Sequoia, and Kheryn Klubniken, a marine biologist specializing in environmental pollution compliance, are also on the staff.

In its first three years the park has already developed a more complete inventory of plants and wildlife, including data on their condition, than Yellowstone has gathered in its 110 years. This information is being computerized to make it easier for park officials to detect dangers to resources. With the help of the U.S. Geological Survey, the park has launched a program to monitor water quality and quantity in the 10 watersheds of the Santa Monica range.

Brush fires are a recurrent threat. So Chandler and his resource managers have had to sell local citizens on the need for controlled burning of hillside chaparral. Two such burns have been completed successfully and more are planned.

Building an appreciation of the park's recreational potential is another task Chandler had tackled. Last year, the park staff helped schools and community groups conduct environmental education field trips in the recreation area. Some 40,000 children participated, most of them from inner-city neighborhoods. A recent "Springtime in the Santa Monicas" program brought 26,000 visitors to the area to take part in cross-country runs, wildflower walks, bird watching, and astronomy programs.

THE PARK SERVICE'S NEW INVOLVEMENT IN URBAN AMERICA

The Santa Monica Mountains park is part of a recent phenomenon that has been a subject of controversy both within the National Park Service and outside of it. Over the space of six years (1972-78), the service was pushed to extend itself to cover a whole new involvement in urban America.

The Nixon administration's "Parks for the People" campaign—turning surplus federal properties into local parks—provided the basic concept. And with help from New York and San Francisco-area members of Congress, the Gateway and Golden Gate National Recreation Areas were authorized in 1972. In both cases, a number of federally owned natural and cultural sites, not significant enough by themselves to be in the national park system, were lumped together. The Park Service, which had formed a National Capital and Urban Park Affairs Division in 1970, liberalized its interpretation of "national significance" to include providing recreation for city residents unable to get to distant national parks.

NEW YORK CITY HAPPY TO DONATE RIIS BEACH

New York Mayor John V. Lindsay donated the popular city-owned Jacob Riis Beach, a financial albatross the city was only too pleased to unload. Environmental leaders in California, who had long sought national park status for the Marin County headlands and other areas near San Francisco, advocated the Golden Gate park. Some national park purists objected to what they considered a compromise of standards. But the conservation movement as a whole was interested in meeting some of the needs of inner-city dwellers and joined in support for Gateway and Golden Gate.

Many congressmen and senators soon wanted national recreation areas in their bailiwicks, and at one point the Park Service had some 40 areas under consideration because of congressional requests. Only four more were approved by Congress, however: Cuyahoga National Recreation Area (between Cleveland and Akron, Ohio) in 1974, Chattahoochee River National Recreation Area (Atlanta), Jean LaFitte National Historical Park and Preserve (New Orleans), and Santa Monica in 1978. The National Park System Advisory Board, which advises the secretary of the interior, opposed all four.

After Gateway and Golden Gate, the Park Service, which had never really wanted the urban areas, opposed Cuyahoga, Chattahoochee River, Jean LaFitte, and Santa Monica Mountains. These and some of the other units added to the system in the last 10 years were anathema to some Park Service veterans loyal to the Yosemite-Yellowstone-Grand Canyon tradition of great scenic national parks. They felt the new units were not of national significance and compromised the high standards of the service. And they saw staffs being plucked from the old-line units and sent off to the new areas. Many rangers, eager to work in wilderness surroundings, chafed at being sent to an urban park.

Congress, quick to authorize the new parks, was not so quick to appropriate adequate funds for operating them. Nor did cost-conscious interior secretaries, beset by other priorities, press for the needed appropriations. Since staffing levels are determined for the most part by number of visitors rather than size of the park, the urban parks put a new strain on Park Service manpower. For example, Gateway, with only 26,000 acres, now has 53 percent more permanent employees than Yellowstone with its 2.2 million acres, since Gateway records four times as many visits.

Each of the national recreation areas I visited, however, is protecting valuable pieces of natural landscape and important historic sites, while providing recreation for people unable to travel to the larger, more famous national parks. And for many of the visitors—the experience may serve as an introduction to the national park system, whetting their interest in someday getting to the large, distant national parks such as Yellowstone or Grand Canyon.

BIRD WATCHING, FISHING, HISTORICAL LANDMARKS

Gateway National Recreation Area, for instance, is far more than a tangled mass of humanity on Riis Beach, as critics sometimes portray it. The Sandy Hook unit in New Jersey is a small national park in itself, with rugged beaches, havens for many species of birds, the unique 200-acre Holly Forest, historic Fort Hancock, and well-used fishing beaches. The Breezy Point unit, which includes Jacob Riis Beach and Park, also has Fort Tilden, another historical landmark, plus a popular fishing area at that point. The Jamaica Bay unit is highlighted by the 9,100-acre wildlife refuge with seven miles of trails, two large ponds, and marshlands and bay for sighting some of the 318 species of birds known to use the area.

And other features of the park serve great numbers of people: Canarsie Pier, for example, where senior citizens gather daily, and Floyd Bennett Field with its Ecology Village set amid a grove of young pine trees. For many inner-city teachers and schoolchildren, an overnight camping experience here provides a first encounter with the outdoors. A major failure of Gateway is the lack of easy public transportation to any of the units, and, particularly, the absence of the ferry system contemplated in original plans for the park.

Across the continent, the other "gateway," Golden Gate National Recreation Area, is also a collection of distinct natural and historic sites. It claims to be "the largest urban park in the world," with 68 square miles of land and water and 28 miles of coastline. Golden Gate has the highest visitation—19 million in 1981—of all 333 national park system units. Some visits, however, man only last long enough to take in the view at such popular spots as Lands End or Cliff House.

No place in the park is more than an hour's drive from downtown San Francisco or Oakland. The area offers breathtaking scenery and a variety or recreation—hiking in redwood groves, boating, fishing, swimming, camping, or visiting historic areas such as Alcatraz Island.

Without the national recreation area, much of the land would by now probably be lost to housing and commercial development. More than 17,000 acres have been purchased since 1972 through the Land and Water Conservation Fund at a cost of $52 million.

The Cuyahoga Valley National Recreation Area in Ohio, like Santa Monica Mountains, protects a large, still undeveloped chunk of land. It is parklike, pastoral land squeezed between the urban centers of Cleveland and Akron. The strip following the Cuyahoga River for 20 miles offers many kinds of recreation. It has ecological significance, too, as an outstanding example of a merger of eastern and northern forest plant species with those of the western plains.

THERE ARE 6,000 ACRES STILL NEEDED TO COMPLETE PLAN FOR PARK

Cuyahoga's historical and archaeological treasures include some 250 historic buildings and 45 prehistoric mounds of the Adena and Hopewell cultures (300 B.C. to A.D. 600) waiting to be excavated. And the old Ohio and Erie Canal, with hiking and cycling along the towpath trail, has historic, scenic, and recreational values. The 32,000 acres of the national recreation area take in seven already established local parks; the National Park Service has purchased, or has protective easements for, 12,000 acres. But 6,000 more acres still need protection.

Until Cuyahoga was established in 1974, a regional federation of 87 groups had been trying in vain to save the area from urban encroachment.

As successful as these urban parks may be, at least in the minds of people living in surrounding metropolitan areas, critics still hold that they lack national significance, drain off Park Service staff and funding, and should be managed by states or municipalities. When the latter idea was floated during the early days of the Reagan administration, the governors of Ohio and California and New York members of Congress expressed anger at even the suggestion.

Watt told a reporter last year that deauthorization of some national recreation areas "needs to be done." But he added: "I don't know if we have the political leadership to do it, the courage to do it now." However, leaked confidential memos from Watt's assistant secretary for fish and wildlife and parks, G. Ray Arnett, to National Park Service director Russell Dickenson showed that this move was being seriously considered. One memo asked for research on areas created by Congress over the objection of the Park Service, with first attention given to Santa Monica. The other asked Dickenson for research "on the procedure for divestiture of the Santa Monica Mountains NRA" and for similar research on Cuyahoga.

Ohio Rep. John Seiberling, who led the 1974 legislative campaign to pass the Cuyahoga bill, argues that protecting only the great natural parks is elitist.

"We need to take care of the people who can't afford to go the long distances and give them a high-quality park experience," he says. "Also, having parks near the people saves energy. No other part of government except the National Park Service has the capability of providing this high type of recreation on the needed scale, and of doing it well."

Most Americans have accepted the concept of an evolving national park system that allows for parks in urban areas—as well as historic sites, lakeshores, seashores, wild rivers, trails, military parks, and cultural parks—as a people's need expands.

Freeman Tilden, author of many books on national parks and a consultant to four Park Service directors, believed that every one of the areas could justly be called a national park. "The naming is several," he wrote, "but the purpose and effect is that of a full representation of the American story—of the earth we live upon, of the races who lived here before the white man came, of the great struggle for posssession of the continent, of the winning of the Republic, and finally of our own political and social life."●

JONATHAN BINGHAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. UDALL. Mr. Speaker, I have had the privilege of working in this House with perhaps 2,000 men and women. Few of them have impressed me more than JONATHAN BINGHAM of New York.

All the old adjectives somehow do not do the job.

JONATHAN BINGHAM is decent, blessed with commonsense and personal integrity. and he is immensly effective. His quiet arguments are always based on careful study of the facts, and that made him one member of the Interior Committee who was always listened to. He could usually find a way out of a deadlock, and get on with the work at hand.

I always looked forward to being with JONATHAN and his wife, June, who is an exceptional and distinguished individual in her own right.

When JONATHAN retires at the end of this year, he will leave a huge gap in our membership. I wish him and June the happiness of their family, and the time for a less hectic life. He has richly earned the gratitude of his colleagues and his country.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, the October 1981 issue of IPO News, published by the Intellectual Property Owners, Inc., carried a special report on the UNCLOS Treaty by our friend and colleague, JOHN BREAUX. I enter that report into the RECORD for the benefit of those interested in this subject.

[From the IPO News, October 1981]

THE LAW OF THE SEA TREATY IS DANGEROUS TO FUTURE OF WESTERN TECHNOLOGY

(By Congressman John Breaux (D.-La.))

(The United States Government's "review of the Draft Convention has revealed that Part XI of the text would, in its present form, be a stumbling block to treaty ratification . . . The questions and doubts that have emerged during this review relate to issues of principle. These principles follow from widely-shared American attitudes toward the creation of global regulatory institutions, the availability of resources for an industrial economy, the financial and economic burdens of an unbalanced budget, and the role which the United States should play in decisions affecting its vital interests.")

It is with a great sense of relief that we in the Congress who have been so vitally concerned with the past U.S. position at the Third U.N. Conference on Law of the Sea (UNCLOS III), heard these words spoken by Ambassador James L. Malone, head of the United States Delegation, before an Informal Plenary of the Conference on August 5, 1981. I, for one, have been speaking out for a number of years about the dangerous precedents that were being set at UNCLOS III and the damage we are doing to our national security, foreign policy and domestic economic interests.

My concerns over the shape of the emerging UNCLOS treaty text have been far ranging: from ambiguities in various navigation and pollution control provisions, to the lessening of existing legal protections for

important U.S. fishery resources, to the fundamentaly unacceptable international regime which will enable States Parties, on the basis of "the sovereign equality of all," to "organize and control activities in the Area." I say fundamentally unacceptable to underscore the point made by Ambassador Malone. While a good UNCLOS treaty remains, in my view, preferable to no treaty, the United States cannot, must not and will not accept a treaty containing the number of defective provisions that now exist in the "Draft Convention/Informal Text". If the existing treaty text cannot be substantially improved, the United States should not be afraid to abandon the effort and pursue alternative courses of action necessary to protect our interests. Among the more onerous features in the existing text are:

A series of articles that place general policy making powers in a one-nation, one-vote "supreme" assembly. The lack of a clear delineation between the powers held by this Assembly and those granted the nominally "executive" Council will lead to a governmental system that is paralyzed at best and dedicated to actions adverse to U.S. and other developed nations' interests at worst. Council election provisions do not even guarantee the United States a seat on the Council, although eastern European socialist regimes are guaranteed three seat. Even if represented on the Council, however, no effective decision-making mechanism exists to force positive action deemed in our national interest;

An array of seabed production restrictions. These restrictions take the form of both general production policy objectives and specific limitations on not only the overall level of seabed mineral output, but on the production level of individual operators. These restrictions on private enterprise production, and provisions enabling the International Seabed Authority to participate in international commodity agreements on behalf of all seabed mineral production, would tent ot artificially inflate prices, distort markets and encourage inefficient production;

Provisions that create a highly privileged, supra-national mining enterprise. The Enterprise is granted a series of financial and other benefits, including an almost absolute priority for mine sites when the production ceiling is in effect;

A built-in system for the review and amendment of the treaty seabed minerals regime after only 20 years of commercial production. This review system contains standards against which the existing regime is to be measured that prejudice the outcome of the review. What is worse is the ability of only two-thirds of the State Parties to agree to, and ratify, amendments to the finally negotiated treaty regime that would become binding on all States Parties, whether or not they had consented to such changes. The legal right of denunciation offers a dubious political response as well as draw into question other U.S. treaty interests and the continued viability of a domestic seabed mining industry; and

Provisions that would obligate private citizen ocean miners to transfer their technology to their competitors, the enterprise and developing countries, on an essentially forced sale basis. The primary mining contractor would be unable to use technology developed by a third party unless the contractor obtained written assurances from such third party owner that the technology would also be made available to the Enterprise. In addition, States Parties having access to mining and processing technologies would, under certain circumstances, be required to make such available to the Enterprise. It cannot be over-emphasized that these obligations extend to certain defense-related technologies that would form an integral part of seabed mining operations.

It should not be inferred from this rather short, but extraordinary list of treaty deficiencies that the Congress has no other concerns with the developing UNCLOS package. Some of our other concerns were noted in earlier exchanges. A more complete explanation of the pitfalls we see in the current treaty text were set forth in a letter I sponsored on December 10, 1980 to then President-elect Reagan, and which was endorsed by a bi-partisan group of thirteen House colleagues. The concerns are now being fully explored by an interagency policy review.

Given the interest and perspective of IPO, it would seem useful to more fully explore the ramifications of technology transfer as set forth by the latest UNCLOS III text. I have become convinced that the continued development and growth of the technology that is necessary to move our domestic seabed mining industry from its current stage of infancy into maturity will not occur under the existing treaty provisions. That the United States would put itself in danger of losing its current technological lead in yet another industry is, to me, intolerable. The long-range implications, for our technological growth, of acquiescence, to Third World demands in this negotiation are the real cause of my concern.

Indeed, in my judgment, in no other international fora has the political caucus of the developing nations, known as the Group of 77 (G-77), been able to advance so far the concept that the transfer of technology from the developed nations of the North to the developing nations of the South is an international legal obligation.

This is not to say that technology transfer has not, for quite some time, been a central tenet of the South's drive for a New International Economic Order (NIEO). The role of technology transfer in the NIEO arises from three documents adopted by the United Nations General Assembly at its Sixth Special Session in 1974: The "Declaration on the Establishment of the New International Economic Order" (Declaration), the "Program of Action on the Establishment of the New International Economic Order" (Program of Action), and the "Charter of Economic Rights and Duties of States" (Charter). One of the principles enunciated in the Declaration is the need for:

"Giving to the developing countries access to the achievements of modern science and technology, and promoting the transfer of technology and the creation of indigenous technology for the benefit of the developing countries in forums and in accordance with procedures which are suited to their economies."

The Program of Action, which purports to set forth the specific measures that need to be pursued to ensure the establishment of the NIEO, states in relevant part:

All efforts should be made:

(a) To formulate an international code of conduct for the transfer of technology corresponding to needs and conditions prevalent in developing countries;

(b) To give access on improved terms to modern technology and to adapt that technology, as appropriate, to specific economic, social and ecological conditions and varying stages of development in developing countries;

(c) To expand significantly the assistance from developed to developing countries in research and development programs and in the creation of suitable indigenous technology;

(d) To adapt commercial practices governing transfer of technology to the requirements of the developing countries and to prevent abuse of the rights of sellers;

(e) To promote international cooperation in research and development in exploration and exploitation, conservation and the legitimate utilization of natural resources and all sources of energy.

Finally, the Charter sets forth specific detailed rights and duties of all States relative to the establishment of the NIEO. Again, the central role of technology transfer surfaces. In relevant part, the Charter states:

"Every state has the right to benefit from the advances and developments in science and technology for the acceleration of its economic and social development . . . all states should facilitate the access of developing countries to the achievements of modern science and technology, the transfer of technology and the creation of indigenous technology for the benefit of developing countries in forums and in accordance with procedures which are suited to their economies and needs."

The point of this recitation is to demonstrate the clear importance which the South places on technology transfer. It has become the *sine qua non* in every major international economic conference for access to those natural resources over which the developing nations individually claim "permanent sovereignty" and which, in global commons, is viewed as the "common heritage of mankind."

The success of the G-77 in using the UNCLOS negotiations to implement this trade of access to the "common heritage" resource for the "universal heritage" of technology is evidenced by the textual provisions outlined earlier. That the developing nations are after concrete gains, rather than hortatory language, is reflected by the broad definition of technology contained in the UNCLOS text, to wit:

". . . the specialized equipment and technical know-how, including manuals, designs, operating instructions, training and technical advice and assistance, necessary to assemble, maintain and operate a viable system and the legal right to use these items for that purpose on a nonexclusive basis."

The breadth of this technology "grab" and its legal implications as to warranties should be of utmost concern to all.

As previously noted, UNCLOS III has represented the one international conference where the G-77 have been able to dominate the negotiating process and achieve solid advances in their drive to turn NIEO political rhetoric into legal reality. This is not to imply that other international fora, such as the renegotiation of the Paris Convention and negotiations under the U.S. Conference on Trade and Development (UNCTAD) for an international code of conduct on the transfer of technology or within the United Nations Conference on Science and Technology for Development (UNCSTD), have produced texts that fully protect U.S. interests. However, the U.S. and its industrialized allies have always held firm in these other fora; never were we in the clear danger of agreeing to a text so fundamentally inimical

to the free enterprise principles upon which our economic and social wealth rest.

Fortunately, the momentum towards an extremely damaging result has been broken. We have finally alerted the developing nations at UNCLOS that we will not, even in this forum, capitulate to their unilateral demands. In large part, the credit for this "fresh start" can be laid to professional organizations, such as IPO, and their membership. It took the concerted efforts of all of us to alert the Administration to the dangers of the existing LOS treaty text. It is now up to us to continue to support the domestic review process and keep our policymakers and negotiators advised as to the type of treaty we need in order to continue the development of the new technology necessary for a fully operational U.S. ocean mining industry. I urge you in IPO to make your views known to the President, the State Department and the Congress.●

A FRESH APPROACH TO CRIME PREVENTION

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BEILENSON. Mr. Speaker, the New York Times recently published two columns by Tom Wicker which focus on an alternative approach to the traditional responses—both liberal and conservative—to increases in crime.

The growing fear of crime among all Americans is a problem we are trying to confront constructively—though, admittedly, the Federal Government's role is limited. Mr. Wicker summarizes the views of criminologist Elliott Currie who points out the inadequacy of only relying on either the Reagan administration's "get tough" crime control policy or the conventional liberal crime prevention effort based on social programs.

Everyone agrees that we must apprehend and punish those who commit crimes; but, according to Mr. Currie, proposals for mandatory sentences, increased prisons, and changes in constitutional rulings on bail, parole, and evidence may not, in fact, reduce crime. Instead, he suggests that we fully fund the criminal justice system—the police, judges, and prosecutors—so it can fulfill its function and, at the same time, provide support systems—such as employment opportunities and limited transitional stipends—to increase the benefits of "keeping straight" and avoiding crime.

I recommend Mr. Wicker's columns to my colleagues for their consideration in confronting the complex and important issue of crime prevention.

[From the New York Times, July 19, 1982]

MAKING THINGS WORSE

(By Tom Wicker)

"I don't care whose poll you look at," Representative William J. Hughes of New Jersey recently told Steve Roberts of The New York Times. "Some of them show that crime is more important than national defense."

To support that view, here are some findings culled from various studies and recently presented by the ABC Social Research Group to a conference of the network's programming executives:

While 37 percent of Americans have a "formless" fear of crime in general, 41 percent have a specific fear of being mugged, raped, robbed, etc.

Thirty-one percent keep guns for protection and 65 percent favor encouraging people to carry weapons such as Mace.

Forty-eight percent would allow the police to "stop and search" anyone they suspect, 56 percent favor changing the rule excluding illegally obtained evidence from the courtroom, and 70 percent approve of the death penalty.

That's a picture of a nation in fear—understandably so. But a climate of fear is not one in which to make sensible policy; it tends to produce demagoguery, such irrelevant actions as restoring the death penalty and programs that actually make things worse.

Californians, for example, have just approved a referendum proposition for a "victim's bill of rights" that not only appears largely unconstitutional but would clog courts and overcrowd prisons more than they already are—while running up tax bills for both—without significantly reducing crime.

In two enlightening articles in the May-June and July-August issues of the magazine Working Papers, the criminologist Elliott Currie takes a critical look at such "get-tough" crime-fighting proposals and particularly at what he calls the "stock themes" of neo-conservatives and the Reagan right—"that social programs can't help reduce crime; that 'nothing works' in dealing with offenders except locking them up in traditional prisons; that the causes of crime are obscure or unapproachable through public action."

President Reagan, for example, repeated last year the neo-conservative view that the "nature of man" is at the root of crime: "Some men are prone to evil, and society has a right to be protected from them." But, Mr. Currie points out, this pessimistic view of man can't explain why the United States has so much more crime and violence than others—why, for example, in 1977 10 American men died by violence for every Japanese, Austrian, West German or Swedish male.

Are Americans just more wicked? If so, the "nature of man" varies by national boundaries.

As for the usefulness of imprisonment, Mr. Currie cites a study of one year's murder, robbery, rape and aggravated assault in Columbus, Ohio. It showed that had the law required a five-year mandatory prison sentence for any and every felony, such a major increase in imprisonment would have prevented only 4 percent of all such crimes during the study year.

The same study also cast doubt on the fashionable view that a few repeat offenders commit most crimes; over two-thirds of those convicted of serious violent crimes were first offenders and only 11 percent had a previous conviction for a violent felony.

But the really significant finding was that only 40 to 50 percent of Columbus's serious violent crimes were "cleared" by an arrest—much less a conviction. What good does incarceration do when the cops can't catch the crooks?

A separate National Academy of Sciences study concluded that to achieve a 10 percent reduction in serious crimes by imprisoning people, California would have to increase its prison population by 157 percent, New York by 263 percent and Massachusetts by 310 percent, at appalling cost to taxpayers.

Mr. Currie postulates the possibility of a 20 percent reduction in serious crime by tripling the state and Federal prison population. By the cost estimates of President Reagan's Task Force on Crime, such a program would cost $40 billion for construction of new prisons and add $8 billion annually to state and Federal operating costs—and still leave us with 80 percent of the crime we have now.

Besides, if prison is the answer, why did crime keep rising from 1975 to 1981, while the rate at which people were being locked up rose by over a third? Why do we have the highest rates of serious, violent crime in the industrialized world—while imprisoning more people for longer periods than any industrialized society save the Soviet Union and South Africa?

Nevertheless, the central thesis of many neo-conservative thinkers on crime is that the "cost" to the criminal—the prison term—has to be increased. Mr. Currie counters with the question: Why not raise, instead, the benefits of going straight? His answer is well worth another article.

[From the New York Times, July 13, 1982]

MAKING THINGS BETTER

(By Tom Wicker)

Among its other postwar "miracles," Japan manages to have a strikingly lower crime rate than the United States. In 1977, for example, 10 American men died by violence for every Japanese male who did.

This achievement is often explained by the strong controls of family, neighborhood, workplace and tradition that are accepted in Japan. But the criminologist Elliott Currie points out that Japan has not only a controlling but—equally or more important for the crime rate—a supportive society.

Its supports include a calculated and effective full-employment policy (the current 2.2 percent unemployment rate is considered high), conscious efforts to improve life in the workplace, and a narrow spread of income inequality. Mostly as a result, Japan has nothing like the urban "underclass" in America that has little to do but rip people off on the streets.

In two illuminating articles in the magazine Working Papers, Mr. Currie first disputed the neo-conservative thesis that crime can be controlled only by raising its "cost" to the criminal through more and longer prison terms; then advanced the opposing view that the better approach—if not a complete answer—would be to raise the benefits of going straight.

At the heart of this thesis is employment. As Mr. Currie observes, "it's hardly accidental that every advanced society with a lower level of violent crime than ours has also historically had a much more effective and humane employment policy"—cushioning people against callous market forces either through public programs, as in Scandinavia, or private planning, as in Japan.

Mr. Currie concedes that "full employment" is not in itself the answer, particularly for people working in low-wage, menial jobs, many of whom may be moonlighting in crime. What matters most, several studies suggest, is "good jobs with decent wages." A Rand survey of repeat offenders in California showed, for example, that the "better employed" (defined modestly as working three-fourths of the time for at least $100 a week) had committed only a fourth as many crimes, and less serious ones, than those not employed so well or at all.

At least three important suggestions are implicit. One is that a general economic expansion will not have much effect on crime unless it includes "well-targeted employment and training programs for the kinds of people typically left behind." Another is that job-training programs will have little effect if the trainee finds upon completion of the course that no job, or only a dead-end job, awaits him in the same social and economic backwater he or she came from.

The third, and most important, is that therefore some degree of public planning, training and employment is necessary. "It's hard to do much about youth unemployment," says Mr. Currie in an understatement, "as long as youth's chances for serious work are determined almost wholly by the private market."

Is this impractical liberal dreamstuff, compared to hardheaded, immediate steps like building more prisions? The fact is that it takes years to plan and build a prison, at enormous cost, for little reduction in crime; but "a public employment program can be put in place in a few months" with far more cost-effectiveness and impact on street life.

Mr. Currie, formerly on the faculty at Yale and the University of California and now with the California Task Force on Civil Rights, also advocates more forms of support for people who need help—particularly assistance for early child development in poor and dependent homes.

He also sees useful possibilities in some programs already successfully tested. They include "supported work," which encourages self-support for young offenders and ex-addicts by gradually increasing rewards and responsibilities in an intensive work program. A Labor Department test program of small stipends to support ex-inmates through the difficult period of readjustment to the community and the job markets reduced re-arrests by up to 30 percent.

If such programs only kept the prisons free of many who would otherwise be property-crime offenders, that would make much prison space available, without new construction, for the incarceration of more dangerous violent criminals.

But Mr. Currie keeps coming back to employment as the central problem: "if there is a way to cope with violent inner-city youth crime while the official jobless rate for black youth hovers around 40 percent, we have yet to hear what it is." Why? Because "as long as we continue to trap many young people in a low wage, unstable and generally unrewarding sector of the economy, increasing their stake in 'straight' life" will be impossible.

That's the only ground on which to make a realistic fight for greatly reduced crime in America; and those who merely want to 'get tough' instead are the impractical dreamers with their heads in the sand.●

A TRIBUTE TO ROSEANNE TRAVAGLIA

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COURTER. Mr. Speaker, it is a special pleasure to rise in recognition of the contribution Mrs. RoseAnne Travaglia has made to the Morris County Board of Elections. Since 1969, when RoseAnne first became involved in this area of government service, she has worked tirelessly to help maintain and improve the orderly operation and supervision of countywide elections.

Thus, it is especially fitting that New Jersey's Gov. Thomas Kean has chosen RoseAnne to be the first Morris County Superintendent of Elections.

I cannot think of anyone better able to assume this important post.

As a result of her work for the past 13 years, RoseAnne Travaglia brings to the job a demonstrated commitment to public service and experience in the administration of election procedures.

The Morris County area and the entire State of New Jersey is indeed fortunate to continue to enjoy her service and benefit from her leadership.

I join with RoseAnne's family and a great many friends who will be celebrating the high point of her career when she is sworn in on August 18, 1982, as the Morris County Superintendent of Elections.●

ALL-OUT CAMPAIGN TO CUT ENTITLEMENTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. AuCOIN. Mr. Speaker, a front page news story in the Washington Post shows the administration admitting that it intends to cut entitlement programs to support its runaway defense buildup and irresponsible tax cuts. According to the news story, a senior administration official promises "an all-out campaign to cut entitlement," next year.

The President is faced with a budget deficit the likes of which has never been seen before in this country. Yet, a 3-year tax cut is on the schedule, as are massive weapons expenditures. With all this money pouring out of the Treasury, new money has to be brought in. The administration is saying social security cuts are the way to do it.

But, Mr. Speaker, our Government has a longstanding commitment to workers who paid and are paying social security taxes. The Government promised them they would receive certain benefits, and now the administration's budget experts want to break that promise—a promise that was made by Mr. Reagan in his campaign for the Presidency.

There are other entitlement programs which have been cut—food stamps, housing assistance, medicare, and medicaid. But even this has not done the job of balancing our troubled budget. The Congressional Budget Office projects a $160 billion deficit in 1983.

Social security cuts to both current and future recipients have been proposed by administration officials, not just this year, but even before they took office in 1981. And the White House has reaffirmed its determination to build up the defense budget, so there really is only one way to go for those now holding the purse strings of this Nation.

Well, Mr. Speaker, I want to say that I think this is wrong. There are ways to shore up the social security system without affecting current beneficiaries or those almost set for retirement. I intend to fight to see that the social security system is saved in a way that keeps our promises to the senior citizens of this Nation, to whom we owe so much.

All this from the man who promised to cut taxes, who promised to balance the budget, who promised not to touch the incomes of social security beneficiaries. According to candidate Reagan, all this was possible and there would still be enough left over to double defense spending.

Well, as so many of us feared, the President's economic package has hurt our country. Our Nation is more than $100 billion deeper in debt, our people are out of work, and our families cannot afford housing. Now, instead of trimming the fat on defense spending, the administration chooses to assault our senior citizens, our disabled workers, our "truly needy."

This is not how America wants to balance the budget. It is in everyone's interest to preserve social security. It is in everyone's interest to be able to look forward to secure senior years. The social security system needs help, no one can deny it. But, it is unfair to punish those who depend on social security. We should not break the promise made by our Government to all those who contributed a portion of each paycheck to the social security system with the notion that if they

were disabled or retired, they would receive the insurance they paid for.●

SINAI SUPPORT MISSION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HAMILTON. Mr. Speaker, Ambassador Frank E. Maestrone, Director of the U.S. Sinai Support Mission, recently sent his semiannual report to the President on the activities of the Support and Field Missions. It will be one of the final reports submitted in the work of the mission.

In his letter to the President, Ambassador Maestrone spoke of the fine efforts of the men and women who worked on the 6-year peacekeeping role—a job that ended officially on April 25, 1982, when the new multinational force and observers took up their positions pursuant to an agreement and the full implementation of the Egyptian-Israeli Peace Treaty of 1979. Ambassador Maestrone writes:

Those at the Field Mission endured both sandstorms and tedium in the remote reaches of the Sinai to carry out their mission in a professional and impartial manner that earned the respect of both Treaty Parties.

President Reagan also lauded the work of the men and women of the mission. Both in a letter to the Congress and in a separate letter of July 14, 1982, the President mentioned the professionalism of the mission personnel. His letter of July commends the mission staff for their expertise and impartiality and writes:

You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

Mr. Speaker, I would like to add my words of thanks and commendation for a job well done. The assignment to the companies with which the Government contracted to provide material, staff, and technical advice for the Sinia Mission's work could not have been met without special attention to the delicate nature of the job and to the critical role this peacekeeping venture played in building the forces for peace in the Middle East.

The American contractor responsible for setting up and operating an early warning system and later for managing the verification role called for in the peace treaty was E-Systems of Dallas, Tex. Ambassador Maestron's 13th report mentioned the E-Systems contract and the fact that the contract was brought in under the projected budget and several weeks before the deadline.

We can all be grateful to the American companies, men, and women who have earned the praise of President Reagan and of the Director of the Sinai Support Mission. They have indeed made an important contribution on behalf of their country to bringing peace to the Middle East. It would be the hope of all of us that the new peacekeeping force in the Sinai, the MFO, will perform its vastly expanded mandate with the same dedication and success as the Sinai Mission did.

The President's July 14, 1982, letter to the Sinai Support and Field Mission's personnel follows:

THE WHITE HOUSE,
Washington, July 14, 1982.

A unique American peacekeeping operation in the harsh and isolated desert environment of the Sinai Peninsula ended on April 25, 1982, when Israel completed its withdrawal from the Sinai in accordance with the terms of the 1979 Egyptian-Israeli Peace Treaty. On that day, the Sinai Support Mission and its overseas arm, the Sinai Field Mission, concluded six years of keeping the peace between Egypt and Israel. As the Sinai Support Mission closes out this operation, I want to pay tribute to the many dedicated men and women who, during this critical period, served with distinction either with SSM here in Washington or with SFM in the Sinai.

"The orange men and women," as the Sinai Field Mission staff were called because of the international orange color of their clothing and their helicopters, played a crucial role in maintaining the peace in that area, first under the Second Sinai Disengagement Agreement of 1975 and then under the 1979 Peace Treaty. Initially, they operated an electronic early warning system guarding the approaches to the strategic Giddi and Mitla Passes. When the Israeli troops withdrew further east of these passes under the terms of the Peace Treaty, SFM was assigned a new role, the verification of Egyptian and Israeli compliance with the force and armament limitations specified in the Treaty for controlled areas in the western Sinai. The verifications involved onsite inspections of units and facilities scattered over a 15,000 square mile area of the Sinai. During this period, SFM personnel earned the respect and confidence of both the Egyptians and the Israelis because of their expertise, professionalism, and impartiality.

In addition to these most important contributions to keeping the peace, the Sinai Support Mission rendered noteworthy assistance in the creation of its successor organization, the Multinational Force and Observers, which assumed Sinai peacekeeping responsibilities on April 25, 1982. The speed with which the MFO was created and made operational would have been hard to achieve without the expertise and cooperation of the Sinai Support Mission.

To all those who served in the Sinai Support and Field Missions, let me say, congratulations for a job well done. You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

RONALD REAGAN.[1]

POSTHUMOUS PROMOTION FOR COL. CHARLES A. YOUNG, VICTIM OF WORLD WAR I DISCRIMINATION

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DELLUMS. Mr. Speaker, I have introduced H.R. 6770, special legislation which is designed to correct, posthumously, a gross injustice against a man of honor and integrity—a man who was denied promotion to brigadier general in the U.S. Army during World War I, not because of any lack of merit or defect of character, but solely because of the color of his skin.

Charles A. Young was born in 1864, the son of slave parents. His father, upon being freed, enlisted in the Union Army in 1865, so that his children might have more opportunities in later life than he had had during his early years.

Because of his father's industry and encouragement, Charles Young was able, against great odds, to secure an appointment to the U.S. Military Academy at West Point, from which he was graduated a second lieutenant in the Class of 1889, the third black man in American history to achieve that honor.

He was initially assigned to the Ninth Cavalry Regiment at Fort Robinson, Nebr. Then followed a succession of assignments to other units at regular intervals, coupled with a series of promotions based on merit and outstanding service. During the Spanish-American War, he was awarded a temporary commission of major in the Ohio National Guard, for the purpose of recruiting and training troops for the unholy war.

In 1901, he was promoted to captain in the Regular Army, and subsequently posted to diplomatic assignments in Haiti and Liberia. By 1916, during the undeclared invasion of Mexico, he was promoted to lieutenant colonel, the highest rank ever achieved by a black officer at that time.

After the United States officially declared war against Germany on April 6, 1917, many field grade officers were promoted to brigadier rank, as the U.S. Army expanded its ranks to join the Allies on the Western Front. However, it soon came to the attention of the Secretary of War, Newton D. Baker, and ultimately the President, Woodrow Wilson, that a number of junior white officers were more than reluctant to serve under a senior black commander, even if he were in command of an all-black fighting unit.

The historical record clearly demonstrates that both the President and the Secretary of War were more than anxious to appease these racist senti-

ments. It must be remembered that it was Woodrow Wilson who had written a laudatory preface to the despicable racist novel, "The Klansman," by Thomas Dixon. It was this same Woodrow Wilson who, as President, had publicly praised its movie version, "The Birth of a Nation," and even had it previewed in a special White House screening.

Thus, it was no accident that, on May 23, 1917, shortly after the declaration of war, Lieutenant Colonel Young was ordered to Letterman General Hospital in California for "observation and treatment," even though a recent physical examination had declared him to be in excellent physical condition. It was no mere coincidence that in July 1917, he was retired from active duty "for physical disability." Colonel Young challenged this finding of physical disability by riding his horse from his home in Ohio to the War Department (a distance of 497 miles) to personally protest the executive edict. It was even less of a coincidence that, with the war's end in sight, he was mysteriously returned to the active duty roster in late 1918.

Of course, by that time, the senior promotions had already been handed out to his white contemporaries, many of whom were his junior, in rank, age, and experience. Colonel Young did return to active duty, and served his country faithfully until his death from nephritis in Lagos, Nigeria, on January 8, 1922.

Mr. Speaker, the legislation which I have introduced and which has been referred to the House Armed Services Committee for consideration, is a belated attempt to provide posthumous justice for a man of courage, character, and integrity—a man who served his country with dedication and distinction in both war and peace. Let us honor him in memory as he should have been honored in his life—as the first black American to have merited, and been promoted to, the rank of brigadier general in the U.S. Army.●

LAW OF THE SEA

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FIELDS. Mr. Speaker, for the benefit of my colleagues, I wish to place in the RECORD a letter recently received from a fellow Houstonian. This letter lends some historical perspective to the current rush by some to force the United States into the Law of the Sea Treaty. I use the word "force" advisedly. Even now, after the President's decision not to sign the treaty, there are those hard at work in the NSC and the State Department to undermine the President. Their game is to go behind the President's back and undermine any change for bringing our allies into an alternative seabed mining regime. By so doing, they design that these allies will then have no choice but to sign the treaty later this year, effectively isolating the United States, and thereby opening the door for a future, more sympathetic administration to sign the treaty.

Mr. Speaker, the letter of Mr. Hale follows.

Hon. JACK FIELDS,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. FIELDS: I would like to express my support for your skepticism regarding the Law of the Sea Treaty. I was able to view, on cable TV, the exchange between you and Mr. Leigh Ratiner at the recent subcommittee hearings. I would like to share with you my experience on this subject.

During the early 1970's, I worked in the Executive Office of the President on the now-defunct Council on International Economic Policy. In my capacity there, I spent a good deal of time on inter-agency committees reviewing our law of the sea negotiating strategy. Mr. Ratiner, among others, had been present at the creation of this interntional negotiation (about 1969 or so).

A number of us, at that time, believed the Law of the Sea Treaty to be a foreign policy mistake. Even then, it was apparent that underdeveloped nations—knowing the United States wanted international recognition of a 12-mile territorial sea—were out to extract as many concessions as possible in return for their recognition of the principle of free oceanic navigation. The Department of Defense was willing to compromise most other U.S. interests—commercial, scientific, technological, fishing—to get agreement on a limited territorial sea. The State Department was willing to do the same, but in its case in order to avoid offending underdeveloped nations. I, among others, did not understand the urgency in getting official international sanction for oceanic freedoms that we could readily exercise, nor did I understand why all other U.S. interest should be subordinated to this one goal.

I was struck, at the time, with the makeup of our negotiating/strategy group. Predominate in the group were international lawyers, and men who had become emotionally and professionally committed to achieving a Law of the Sea Treaty. I did not believe that these individuals were capable of a dispassionate analysis of our need for a treaty; nor were they capable of jeopardizing the treaty to preserve other U.S. interests.

Mr. Ratiner was and remains one of those individuals. His (paraphrased) comments made to you in 1982—"an acceptable agreement is just around the corner"—are in substance no different than those he made in 1972. No acceptable agreement was obtainable then, nor, in my view, now. Moreover, I believe that much of the advice proferred by Mr. Ratiner is, understandably, colored by an emotional need to validate the work of his adult life.

In summary, your apparent skepticism of the Law of the Sea Treaty is, in my view, warranted. A treaty fifteen years in the making, proselytized by jealots, and contrary to important U.S. interests, should not be adopted by the United States.

I should add, by way of anti-climax, that I am in no way associated with any company or group which has a direct interest in the treaty.

Very truly yours,

WILLIAM E. HALE.

H.R. 3300

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. KOGOVSEK. Mr. Speaker, I rise today in support of H.R. 3300, the Firearms Owners Protection Act of 1982, and ask that my colleagues join me in working to see this legislation enacted without amendment.

I am a cosponsor of this legislation because its provisions are important to the people of the Third Congressional District in Colorado. It is important because it provides assurance that the rights of poeple will not be infringed upon by the Federal Government. Yet, more important, its enactment by Congress will be a declaration that the mere ownership of a firearm will not be viewed as a "criminal offense" and a "disgrace" to the country. There is not a Member of Congress here today that can truthfully say the mere ownership of firearms in this country is an "epidemic" that needs to be controlled.

If I may, I would like to quote section 1 of the bill, Congressional Findings:

The Congress finds that the rights of citizens to keep and bear arms under the second amendment of the United States Constitution; their rights to security against illegal and unreasonable searches and seizures under the fourth amendment; their protections against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and their rights against unconstitutional exercise of authority under the ninth and tenth amendments; have been infringed under, and in enforcement of, existing firearms statutes.

The Congress finds that the agencies charged with enforcement of these laws have divulged information concerning private citizens to local administrators, and to the public, for the purpose of causing harassment and embarrassment of these citizens, in violation of the rights of those citizens under the Privacy Act, as enacted by Congress.

The Congress further finds that its intent, as expressed in the preamble to the Gun Control Act, that it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms. . . .' has been thwarted by these enforcement practices which are aimed at harrassing, burdening, and harming those law-abiding citizens who choose to own and use firearms for legitimate purposes.

Mr. Speaker, this clearly states the need for enactment of this bill. It is the whole basis for our argument, as well as congressional recognition of

the activities that have been occurring across the Nation, in violation of the U.S. Constitution. We simply cannot allow these instances of consitutional violation to continue.

As an elected Representative of the people of Colorado, I have sworn to uphold the U.S. Constitution in its entirely, not just those provisions I feel most comfortable with, but the entire Constitution. More important, I am not the only Member of Congress that agreed to take this oath of office—we all did. Yet now that we are being asked to uphold the Constitution, some of us are saying, "Wait a minute. Someone else can do it." To continue in this manner is clearly a failure in our responsibilities as elected officials.

More than 200 years ago, our forefathers fought against the British because the people were being taxed without representation. A similar situation occurs today, in which the people's plea for relief from unconstitutional practices is being ignored by Congress. If other Members of this body have received as many constituent letters as I have on this legislation, then the message is clear—the people want action. But for Congress to sit back and do nothing is a blatant failure in its responsibility to represent the people. That failure is no different than "taxation without representation." In fact, it is "regulation without representation."

Mr. Speaker, I strongly urge my colleagues to join me and the other 178 cosponsors in working to see that this legislation is enacted. I ask that the legislation be brought to the floor of the House and acted upon. It is unacceptable that any constituent should have to beg for relief from undue hardship caused by the Federal Government, but it is appalling that anyone should have to beg for relief from unconstitutional practices of that same Government.

Thank you.●

PACIFIC NORTHWEST HIT BY DEPRESSION

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SWIFT. Mr. Speaker, the Pacific Northwest has been severely hit by the depression. The unemployment figures in the region are double and in some counties triple the national average. These economies have one thing in common—they are passed on the forest products industries. The economies of entire towns depend on this vital commodity.

No particular portion of the industry has remained unscathed—from mill closures, to layoffs, to shutdowns, each is hurting for some assistance. We must make an effort to help by spurring the wood products industries and putting life back into our communities.

Today, along with my other colleagues from the West, I am introducing a bill that will provide a vehicle for this effort. It may not be the complete answer but it is a start toward that important revitalization this industry—and the economy of the Northwest—so badly needs.

This bill allows the Secretaries of Interior and Agriculture, upon proven economic hardship to modify, extend, or cancel timber sale contracts. This bill would also create an industry task force which would provide input into the process and report on the effectiveness of the program.

Mr. Speaker, hearings have already been scheduled on this issue and I would like to thank the chairman of the Subcommittee on Forests for recognizing this problem and for his quick action to seek a solution.●

HARDSHIPS FACING SOVIET JEWS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. ROSENTHAL. Mr. Speaker, on July 29, the House Subcommittee on Human Rights and International Organizations, of which I am a member, heard testimony on the crisis facing Soviet Jewry.

While "crisis" has become synonymous with the condition of Soviet Jewry, the term was given new meaning by the testimony of concerned human rights groups and by the first-hand account of former refusenik Aleksandr Goldfarb.

The current situation is the worst its been in the last decade. Emigration has been choked off and the conditions under which Jews are forced to remain in the Soviet Union are deplorable.

Not only is it fitting that the Human Rights Subcommittee be made aware of these violations of religious freedoms, but that all Members of Congress and the American people should be informed.

I would like to include in the RECORD a brief statement which I presented at the subcommittee hearing addressing the hardships facing Soviet Jews today:

STATEMENT BY THE HONORABLE BENJAMIN S. ROSENTHAL BEFORE THE SUBCOMMITTEE ON HUMAN RIGHTS AND INTERNATIONAL ORGANIZATIONS

Mr. Chairman, we are here today to review the state of Soviet Jewry; to hear first-hand witnesses and dedicated human rights activists testify to the persecution being perpetrated in that country.

From all reports, this situation in the Soviet Union has reached new lows. Emigration has dried up beyond any points in the last decade and conditions for those Jews still trapped in Russia continue to deteriorate.

In the first six months of this year, 1,537 Soviet Jews were allowed to emigrate; in the first half of this month only 111 have been let go. These numbers become more disturbing when compared with the 52,000 who were allowed to leave in 1979 or as compared with the 500,000 Jews still in the Soviet Union who have already begun the long emigration application process.

Of these 500,000—15,000 are already "refuseniks"—they have been denied permission to leave—and some have waited 5, 10 or even 14 years for a reprieve.

These numbers represent real people; such as Ida Nudel, the 51-year-old refusenik who has just been released from a four-year exile in Siberia. Dubbed the "Guardian Angel of the Soviet Prisoners of Conscience" for her humanitarian efforts, her only crime was hanging a banner outside her Moscow flat that read "KGB, give me my visa."

It has been 11 years since she began petitioning for a visa, and even now, after four years in exile, it still eludes her. The Soviets are denying her an emigration application in Moscow because, they say, it is only available to residents and she is now considered a "non-resident". So she has now left Moscow and is reported to be wandering from city to city in search of "residence".

As many Soviet Jews have already discovered, the very act of applying for a visa opens them to persecution: they lose their jobs, their professional status, their academic credentials, even their social contacts. As I'm sure we will hear from our distinguished witness, Aleksandr Goldfarb, himself a refusenik, they become pariahs. They are arrested on trumped up charges of malicious hooliganism (for holding up protest signs), of parasitism (after being forced from jobs), of illegal religious gatherings (when participating in Hebrew study groups). When they refuse to be drafted so they won't be privy to any "state secrets" they are accused of draft evasion.

And religious persecution does not just begin for Jews when they apply to leave. In this country with the third largest Jewish community in the world (there are 2.5 million Jews in the Soviet Union), there are no Jewish schools; what few synagogues there are, are made inaccessible by geography or intimidation; Jews are forbidden to study or teach Hebrew or to communally celebrate holidays.

When I first began working for the cause of Soviet Jewry 20 years ago, the outlook was bleak; since then more than a quarter of a million Soviet Jews have been given their freedom. Congressional and executive pressure can and has made a difference. The 1975 Jackson-Vanik amendment preceded the record number of emigrees in the late 1970s. And I personally have seen my involvement in the cases of Prisoners of Conscience such as Boris Penson, Izrail Zalmanson and Iosif Mendelevich contribute to their early release. Furthermore, public pressure does make an impression on the Soviets as I witnessed in August 1976, when Congressman Drinan and I personally presented a petition to Soviet embassy personnel.

The Administration holds an important trump card. Were it to link trade, technology and exchange agreements with Russia to the human rights of Soviet Jews, the stran-

glehold on emigration would undoubtedly ease.

It is incumbent upon the human rights groups who are here to bear witness today, the National Conference and the Greater New York Conference on Soviet Jewry, the B'nai B'rith and the Union Council of Soviet Jews, to continue their vigilence and their actions on behalf of Soviet Jewry. Their work in this area to date does not go unnoticed and we are privileged to have them here today.●

UNITED HELLENIC AMERICAN CONGRESS CONDEMNS REPRESSION OF HUMAN RIGHTS

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, in light of the recent observance of Captive Nations Week, I would like to insert into the CONGRESSIONAL RECORD a dramatic resolution adopted by the steering committee of the United Hellenic American Congress recognizing the basic human rights of the captive peoples, and condemning the violations of their liberties and subjugation of individual rights by military, oppressive, and totalitarian governments.

This resolution is as follows:

RESOLUTION

Whereas, The Orthodox Church teaches that humanity possesses a grant of divine love that derives from the supreme sacrifice of Our Lord Jesus Christ and also believes that the right and love that God has granted unto us, we cannot deny unto our fellow man and woman; and

Whereas, The United States of America has achieved its preeminent position among nations of the world through its respect for certain fundamental and divinely inherent human rights as exemplified by the Declaration of Independence and the Bill of Rights of our Constitution; and

Whereas, The United Nations Charter, the United Nations Declaration of Human Rights, the European Commission on Human Rights, the Helsinki Accord and other internationally accepted documents recognize the basic human rights of all people; and

Whereas, It is a shame and a stigma for 20th century civilization that there are today certain governments which, whether through hypocritically subtle means or overt systematic acts violate basic human rights; and

Whereas, Amnesty International, the World Council of Churches, the Council of Europe, the United Nations, the Helsinki Accord monitoring committees and other respected world bodies have documented violations of human rights in Albania, Afghanistan, Lebanon, The Holy Land, Africa, Poland, and the other captive nations of Eastern Europe, Turkish occupied Cyprus, the Soviet Union, nations in Southeast Asia, Turkey, and Iran, and by totalitarian regimes in Central and South America and throughout the world; now, therefore, be it

Resolved by the Steering Committee of the United Hellenic American Congress, That the denial of human rights, liberties, and the subjugation of individual dignity by military, oppressive, and totalitarian governments is condemned, and all governments are called upon to comply with the principles enunciated in the Charter of the United Nations and the Helsinki Agreements, both within their own territorial limits and with respect to other nations; and, be it further

Resolved, That a suitable copy of the resolution be presented to the Secretary General of the United Nations, to the President and Secretary of State of the United States of America, to the Chairmen of the appropriate committees of the United States Congress, to Amnesty International, the Helsinki Monitoring Committees, the National Council of Churches, and to the World Council of Churches.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

PRESERVING SOCIAL SECURITY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LANTOS. Mr. Speaker, social security is one of our Nation's great success stories. For 47 years it has provided much-needed supplemental income to millions of Americans. Social security is, and should remain, an irrevocable commitment by the Federal Government to the lives and security of its people.

The administration wielded its budgetary ax and attempted to hack away at social security's most vital aspects. It sought to delay cost-of-living adjustments and had the audacity recently to take credit for protecting them. It sought to eliminate the minimum benefit and backed off only due to strong pressure from the Congress. It has sought to slash programs upon which millions depend, and it did so without compassion, during a period of high unemployment and inflation.

In the face of these actions, I question whether the administration is truly dedicated to the preservation of the social security system. I question whether the administration is interested in the well-being of the American people, or whether it is merely interested in pursing its own political fortune and ideology. It is in the long-term interest of no one to pursue a course of action at the expense of the trust of the people. If the government's word lasts only as long as the dictates of convenience, then that government has no right to call itself a government of the people.

As a member of the House Select Committee on Aging, I have consistently supported legislation which strengthens the social security system. The system is not without its problems, yet legislation now before the Congress, introduced by Congressman CLAUDE PEPPER and by myself, would go a long way toward solving some of the immediate financing difficulties in the system. The bill (H.R. 3393) provides a more flexible financing base for the costly but important medicare program, and vastly improves the fiscal integrity of the social security system. This legislation is designed to keep our commitment sound, and to insure that commitment in the future.●

OUR COMMITMENT TO ISRAEL

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. MIKULSKI. Mr. Speaker, as we work toward a negotiated peace in the Middle East, we must reaffirm our commitment to Israel. While any use of military force is a tragic and regrettable occurence, I believe that Israeli actions in Lebanon are understandable, given the circumstances. The Israeli neutralization of PLO strong holds in Lebanon is an act of self-defense designed to insure the continued, secure existence of the State of Israel from terrorist incursions of the PLO.

We all want the war to end for there can be no such thing as a humane war. But the United States must not retreat from what I believe must be the basic principles behind our actions. First, Israel has a right to exist and the United States has a responsibility to insure that existence. Second, there must be a secure Middle East. To accomplish that goal, the PLO must be removed from Israel's borders; the United States must stop selling arms to Israel's enemies; and, the United States must do everything we can to work to meet the goals of the Camp David accords.

In terms of specific peace proposals which may emerge in the next few days, and the extent to which U.S. involvement is required, I believe that we must look at the specific peace plan and assess whether the principles I have outlined underly the actions of that plan. If our involvement will truly further the safe and secure existence of the State of Israel, then we must move forward.

I make this statement today because I know that many of those in Israel and many of Israel's friends in America are worried that once again Israel will be abandoned. Finalizing an evacuation plan is an important step, but it is only one step. It is not a substitute for a peace policy.

I urge my colleagues to state their support for Israel and whatever their differences regarding any specific actions, to unequivocally maintain Israel's right to exist in a safe and secure Middle East, and our responsibility to

help insure that existence through a lasting peace.●

FINANCIAL STATEMENT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year that I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial statements in May of each year, I continue to file this more detailed family financial report. In this way, my constitutents are kept fully informed concerning my financial status.

The statement follows:

Romano L. and Helen D. Mazzoli Statement of financial worth as of Dec. 31, 1981

Cash on Deposit:	
Liberty National Bank & Trust Co., account No. 09013390	$562.81
Lincoln Federal Savings & Loan, account No. 10373390	4,223.47
Northern Virginia Savings & Loan, account No. 05-23-00192	1,141.40
Northern Virginia Savings & Loan, account No. 80507	1,645.37
Northern Virginia Savings & Loan, account No. 00241	596.64
Government Services Saving & Loan, account No. 01-112091-0	4,331.31
First Federal of Arlington account No. 05-018470-4	56.11
Securities, stocks and bonds:	
U.S. Government Bonds, Series E	1,330.12
All Savers Certificate (Lincoln Federal Savings & Loan) account No. 1013010840	10,000.00
U.S. Treasury Bill, account No. AX2-2-2400-40-3938-01	10,000.00
Real property (residential):	
939 Ardmore Drive, Louisville, Ky., assessed value	42,000.00
Less: Mortgage, Portland Federal Savings & Loan	8,887.01
Net value	33,112.99
1030 Anderson Street, Alexandria, Va., assessed value	93,000.00
Less: Mortgage, Cowger & Miller	48,011.05
Net value	44,988.95
Household and miscellaneous personal property (estimate.)	7,500.00
Cash surrender value of life insurance policy: American United Life Insurance Co., Policy No. 1011729	4,472.99
Federal employees retirement system: Contribution to fund	43,583.93
Automobiles:	
1965 Rambler: Fair market value	100.00
1973 Chevrolet: Fair market value	1,292.00
Net assets	168,938.15

Romano L. and Helen D. Mazzoli, recapitulation of income and expenses for calendar year 1981

INCOME

Interest and dividends:	
American United Life Insurance Co., policy No. 1116312	$12.88
American United Life Insurance Co., policy No. 1011729	27.50
Liberty National Bank and Trust Co., account No. 09013390	21.82
Lincoln Federal Savings & Loan, account No. 37339-5	1,547.36
Northern Virginia Savings & Loan, account No. 5-99-76	38.16
Northern Virginia Savings & Loan, account No. L-6084	13.45
Northern Virginia Savings & Loan, account No. 5-18-241	61.58
Northern Virginia Savings & Loan, account No. 80507	104.92
Northern Virginia Savings & Loan, account No. 80688	66.79
Government Services Savings & Loan, account No. 01-112091-0	265.20
First Federal Savings Associatetion of Arlington account No. 05-018470-4	21.48
Honorariums:	
Brookings Institution	500.00
Pfizer Co.	750.00
Distilled Spirits Council of U.S.	1,000.00
Newman Catholic Students Center	600.00
Northern Kentucky Chamber of Commerce	228.00
DuPont Co.	200.00
St. Mary's Academy	100.00
Catholic school office	10.00
Salary:	
U.S. House of Representatives (R. L. Mazzoli)	60,662.50
Slender Lady Figure Salon (Helen Mazzoli)	214.32
V.V.K.R., INC. Architects (Helen Mazzoli)	10,681.91
Slender Lady Figure Salon (Helen Mazzoli)	945.25
Gross income	78,073.12
Expenses, deductions, exemptions, Federal and Kentucky taxes:	
Gross income	79,544.00
Adjustments to income	19,650.00
Adjusted gross income	59,894.00
Deductions and exemptions	9,825.00
Taxable income	50,069.00
Federal income tax:	
Tax withheld	19,453.00
Tax due	14,942.00
Refund	4,511.00
Kentucky income tax:	
Tax withheld	2,334.00
Tax due	1,777.00
Refund	557.00

●

A TRIBUTE TO RUTH W. LOVE ON HER 79TH BIRTHDAY

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, it has been my great pleasure to know and work with a special lady—Ruth W. Love, an exceptional journalist with my hometown newspaper the Greensburg Tribune-Review. August 23 marks the 79th birthday of this outstanding woman and good friend, and I take this opportunity to wish Ruth the happiest of birthdays, with, I am sure, many more to come.

Mrs. Love is, today, the oldest working news reporter in all of Pennsylvania. Her work is characterized by a level of fairness and objectivity which more of our print and electronic news media personnel would do well to emulate. In addition, Ruth has utilized her fine writing and journalistic skills to promote love of country and love of community. We, in the 21st Congressional District of Pennsylvania, are indebted to Mrs. Love for her tireless efforts on behalf of the public's "right to know."

Journalism has been Ruth Love's life. As they say in the newspaper business, she was "born with printers ink in her veins." Her journalistic career began at the incredible age of 12 when she began writing for the old Morning Review as a correspondent. She then went to the Greensburg Daily Record as a court reporter and, then, to the newly merged Greensburg Tribune-Review. In subsequent years Mrs. Love worked for several other prominent Pennsylvania newspapers too numerous to mention here. I might add that Ruth was one of the first all-news female reporters in Pennsylvania and was the only woman to cover the bituminous coal strikes of the 1930's and 1940's. She covered the coal strikes for the Associated Press, United Press, International News Service, Philadelphia Record, Boston Globe, and Chicago Tribune. In addition, Mrs. Love also covered the strikes for early radio news programs of that era. Over the years she was also a columnist for the National Fraternal Order of Police Journal and the Pennsylvania Railroad News. Her two current columns "Love Lines" and "Courthouse Chronicle" appear regularly in the Greensburg Tribune-Review. Mrs. Love has also authored several crime stories which have appeared in various magazines and journals.

Despite her amazing career in journalism, Ruth Love took time to serve in the public sector. She was the first woman hired by the State of Pennsylvania as an auditor. Ruth served under Pennsylvania Auditor-General Charles Smith auditing State grants to scool districts. She also served as an investigator and probation officer with the Westmoreland County Juvenile Court. She is currently the only woman in Pennsylvania serving on a sewage authority, having been appointed in 1963 to the Greater Greensburg Sewage Authority.

In 1924, Ruth married James T. Love, now deceased. Their son James, now living in Cincinnati, is a retired special agent of the FBI who served with the Bureau for 35 years.

All of us who know Ruth Love and admire her work are keenly aware of the contributions she has made during her long and fruitful career. She rose from humble origins as the daughter of a railroad roundhouse gang foreman to become one of the most respected journalists in Pennsylvania. She is a remarkable woman and we look forward to celebrating many more birthdays with her.●

NUCLEAR FREEZE DEBATE

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. EDWARDS of California. Mr. Speaker, I was saddened last week when this body did not vote favorably for the Zablocki nuclear freeze bill and instead accepted the Broomfield substitute. I have included the August 8 editorial from the Sunday Mercury News. This editorial clearly and eloquently discusses the major points of that debate.

FREEZE: AN IDEA THAT WON'T DIE

A nuclear freeze is not a radical idea. It is an idea that Washington is beginning to take seriously, as demonstrated by Thursday's narrow two-vote defeat of a freeze resolution in the House of Representatives.

Technically, the vote came on a substitute resolution strongly supported by the Reagan White House. The substitute, which passed 204–202, contained nothing anyone could disagree with. It expressed support for the arms talks under way in Geneva, and urged the Soviet Union to join in an agreement ultimately to reduce strategic nuclear forces.

The difference was that the freeze would go further. That resolution expressed the sentiment that the United States and the Soviet Union should immediately begin talks "deciding when and how to achieve a mutual, verifiable freeze on the testing, production and further deployment of nuclear warheads, missiles, and other nuclear weapons," and "pursuing reductions . . . through verifiable means."

The vote thus represented a victory, although a very narrow one, for the Reagan philosophy on arms control agreements. That philosophy maintains that we can somehow conclude an agreement with the Soviets that will allow this nation to keep on expanding our own nuclear arsenal, while constraining the Soviet Union from doing the same. And that just isn't very realistic.

The Reagan view also holds that the Soviets are ahead, and that this country can be secure only by catching up. There is a strong and informed body of scientific opinion which disagrees. Like the freeze advocates, many American scientists, and some military men, maintain that the two sides are roughly equal—and that more than enough nuclear weapons already exist.

And so the argument really comes down to a disagreement about security. Are we safer by building more weapons? Or by striving to stop the proliferation of missiles and warheads by both sides? The latter makes more sense to us, and to the wide and growing grass-roots movement backing a nuclear freeze.

Certainly a freeze would have to be negotiated, rather than just declared. Probably any agreement would have to be arrived at in stages, covering certain kinds of weapons first, and others later. Advocates of a freeze have been careful to include the point that to mean anything, a freeze would have to be verifiable.

The president is right when he says a freeze by itself doesn't go far enough, and that we ought to seek actual reductions in numbers of nuclear weapons. That's not really a reason to oppose a freeze, however. The resolution before Congress last week included a goal of seeking reductions.

Apparently more than a few congressmen voted for Reagan's $175 billion military spending bill, which passed July 29 by a vote of 290–73, and then voted for the freeze resolution. That's hardly consistent, since the spending bill included such new strategic weapons programs as the B–1 bomber and the MX. But apparently these representatives wanted to be able to tell voters this fall that they voted for a nuclear freeze.

Our guess is that the voters will be smart enough to sort out those politicians who genuinely support a freeze from those who don't, and that those who don't may not be around the next time Congress votes on the idea.

The notion of a nuclear freeze has attracted wide support among the public because it is a simple idea. Sometimes, simple ideas can be profoundly valid. And when that's the case, as we think it is here, they don't just go away.●

PERSONAL EXPLANATION

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COATS. Mr. Speaker, on Friday, August 13, 1982, I was necessarily absent from the floor of the House for rollcall vote No. 279, a motion to order the previous question on the motion to refer House Resolution 560 to the Committee on Rules.

Had I been present, I would have voted "nay."●

UNDERUTILIZATION OF BLACK SENIOR FOREIGN SERVICE OFFICERS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DYMALLY. Mr. Speaker, I invite the Members' attention to the Department of State's Senior Foreign Service. These 700 career diplomats are the most direct links between the United States of America and the governments of our sister nations all over the world. These links consist of 46 black nations and 420 million black people around the globe.

Those embassies, and that population, represent excellent opportunities for American blacks to serve this nation and to relate to other blacks in highly influential positions throughout the company of nations. Yet only 10 of the 700 U.S. Senior Foreign Service officers are black. Moreover, only three of those have been appointed by this administration to the position of Ambassador. Four other blacks who have previously served as Ambassadors are not now so assigned, and three have no permanent or regular assignment at all.

I believe that this underrepresentation of America's population, and this underutilization of the State Department's trained and experienced talent provide the Secretary of State an excellent opportunity to improve our posture and appearance in the world. The Department's record in the very recent past regarding an increase of blacks and other minorities, and women, in the junior ranks of the Foreign Service is commendable, and an important step in the right direction. However, while we can see some promise for the distant future, it is vital right now that we make the best use of the black Senior Foreign Service officers who are qualified and ready for assignment.

I have written to the Secretary of State twice in the past 2 months, and to both inquiries I have received courteous and informative replies. That correspondence will be inserted into the RECORD for the Members to review. And I urge them to study those letters and to join with me in calling this issue to the Secretary's attention again. We absolutely must assign these black Ambassadors to Embassies, and we must show the Secretary that we completely agree with his efforts to bring more minorities and women into the Foreign Service ranks.

Thank you, Mr. Speaker.

MAY 24, 1982.

Hon. ALEXANDER HAIG,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: It has come to my attention that, of seven-hundred career Senior Foreign Service Officers, only ten are Black, a mere 1.4 percent. Such a small representation of Blacks among those very senior officers appears to me to be a serious problem in itself. However, what is even more distressing is that, of those ten highly skilled and experienced individuals, only three have been appointed as Ambassadors. Of the four Black officers who have proviously served as Ambassador, and therefore carry that title, (but are not now assigned as Ambassadors) three have no State Department assignment at all.

I will appreciate your early response and explanation of both the underrepresentation of Blacks in the Senior Foreign Service Officer ranks, and the even more serious

failure to fully utilize those Blacks who currently carry the title of Ambassador.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

Enclosure.

Hon. MERVYN M. DYMALLY,
House of Representatives.

DEAR MR. DYMALLY: The Secretary has asked me to reply to your letter of May 24 concerning the Senior Foreign Service.

We share your concern about the small percentage of Blacks in the Senior Foreign Service. It was partly with this in mind that in 1975 Secretary Kissinger authorized an affirmative action hiring program for the mid-levels of the Foreign Service. This program, together with the larger numbers of women and minorities moving up the career ladder from the junior levels, has resulted in an increase since 1975 of 80 percent in the number of women and an increase of 82 percent in the number of minorities at the mid-levels. We expect that in time a significant proportion of these mid-level officers will move into the senior ranks and so increase the number of women and minorities who are Senior Foreign Service Officers. This will also provide adequate time for the training and experience required to develop competent senior officers.

The second point you raised, that of utilization of talented senior officers, is not unique to Black officers. At the present time there are about 35 senior officers who are "overcomplement," which means that they have completed their regular assignments and are awaiting new assignments. However, even though these officers have no current permanent assignment, they have been gainfully employed with a wide variety of short-term projects which the Department's bureaus have been unable to accomplish with their regular personnel. In some cases they have undertaken tasks arising out of urgent needs for which permanent positions have not been established. Our expectation has been that these senior officers will work on these short-term projects for an interim period, and then move on to regular assignments. We are well aware of the valuable skills which every senior officer can contribute, and we believe it is imperative that all are fully utilized.

You may be assured that neither Black officers nor any other group of senior officers have been singled out for disparate treatment. It is a problem faced by our personnel system and it is one we expect to work through in the coming months.

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 13, 1982.

Hon. GEORGE P. SHULTZ,
Secretary of State (Designate), U.S. Department of State, Washington, D.C.

DEAR MR. SHULTZ: I want to commend you on your assignment as our new Secretary of State and wish you the greatest success.

As you are just entering duty, I want to take the liberty of calling to your attention what some Members believe is the serious under-utilization of Black Senior Career Foreign Service Officers. I have previously written to your predecessor and received a response, which I felt was inadequate.

There are only ten Blacks in the Senior Foreign Service out of some 700 officers (1.4 percent). Six are at the two highest levels. Career Minister Counselor; and all six have served with great distinction as Ambassadors. However, of the top six Black career officers, only three have real assignments. Fifty percent are not being utilized. This contrast to only 5 percent of the overall total of senior career officers according to the response I received to my previous letter.

Only two Black career officers have been named to new posts as Ambassadors under this administration. There are fewer Black Ambassadors now serving than at anytime in the last twenty years and most of these are in small, unimportant posts. There have been two Black political Ambassadors, making a ratio of fifty percent political versus 50 percent career for Black Ambassadors named by this administration. This is considerably below the overall career, non career percentage. Since so many career Black Ambassadors are either unassigned or underassigned it cannot be that trained, experienced persons are not available.

Also, there is only one Black career officer in the two top levels presently serving in a post in the Department of State. There are no Blacks serving as Deputy Assistant Secretary or above in any of the policy making bureaus—Africa, Europe, Latin America, Asia, Near East, International Organizations, Economics, Science and Oceans or Intelligence and Research; even though 50% of the top Black career officers are either without assignment or underassigned outside of the Department to academic post.

Finally, under the provisions of the new Foreign Service Act five of the six top Black career Ambassadors at Career Minister and Minister Counselor level will come up for mandatory retirement in 1983 because of their long service at the most senior level. This clearly attest to their many years of experience. Hence, the ranks of Blacks in the Senior Foreign Service will be decimated, even below the 1.4%. It will take eight to ten years for present mid-level career officers to be promoted up to the two top grades.

As the previous reply from the State Department was so inadequate, I would very much appreciate your views on the utilization of experienced Black Senior Foreign Service Officers, particularly those who have served as Ambassadors.

Again, let me wish you the greatest success in your new, most difficult and sensitive post, which so directly affects the lives of all Americans.

Sincerely,

MERVYN M. DYMALLY,
Member of Congress.

DEPARTMENT OF STATE,
Washington, D.C., July 26, 1982.

Hon. MERVYN M. DYMALLY,
House of Representatives.

DEAR MR. DYMALLY: Thank you for your letter of July 13 to Secretary Shultz concerning assignments of the Black officers in the Senior Foreign Service (a copy of which you handed the Secretary at breakfast on July 20). The Secretary is out of town, however, he has asked that I forward to you the following information.

The fact that all six of the Black officers at the ranks of Career Minister and Minister Counselor have served with distinction in Ambassadorial positions testifies to the contribution which Blacks at the senior ranks have been able to make. Most of these officers have served two or more times at the Ambassadorial level, two of the six are currently serving as Ambassadors, as well as another Black officer at the Counselor level. In addition, there is a Black officer from ICA, who is serving as Ambassador and another senior State Department domestic service officer who is an Ambassador, for a total of five Black Ambassadors from the ranks of the State Department and ICA. As you noted, there are also two Black non-career Ambassadors. Since the total number of Ambassadorial posts is relatively small, consecutive Embassies for career officers are the exception rather than the rule. An intervening period in a Departmental assignment, or as a Diplomat-in-Residence, a Political Advisor with a military command, or a Faculty Advisor position with a military school, is a common occurrence.

Turning from the question of Ambassadorial assignments for senior Black officers, to the broader issue of minority representation in the Foreign Service as a whole, I think you will find interesting the following excerpt from the statement Under Secretary for Management Richard T. Kennedy made to the Subcommittee on International Operations of the House Committee on Foreign Affairs on June 3:

"Today, minorities represent 10.7 percent of the Foreign Service officer and officer candidate corps. A breakdown by rank reveals that 3.6 percent of Foreign Service Officers at the senior levels are women and 3.7 percent are minorities; at the mid-levels, 14.7 percent are women and 9.1 percent are minorities; while at the junior officer levels, 26.8 percent are women and 19.3 percent are minorities. Compared with similar statistics some 10 years ago, these figures represent significant increases in the numbers of minorities and women. The junior officer figures are particularly impressive, and reflect the determination of our strong recruiting efforts and a firm commitment to affirmative action goals. As minority group members and women move upward with their peers, we expect similar improvements at senior levels of the Service. I hope you will agree with me that, today, the Foreign Service is beginning to achieve the representation levels for minorities that make it truly reflective of American society."

These words reflect the commitment of the Department on this issue.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relations.●

THE HOUSING CRISIS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LANTOS. Mr. Speaker, with housing starts cut almost in half from last year, and with mortgage loan activity down 65 percent, it is clearly time to take convincing and effective action. Far too many families in America—from the peninsula to every other part of the Nation—are being forced to give up their dream of homeownership. The ripple effect of this slump has been disastrous. Housing and related industries are at a standstill. Unemployment in the housing industry is at near depression levels. Something must be done, and done quickly.

Unfortunately, President Reagan vetoed our bill that would have made homeownership more affordable to qualified homebuyers by reducing mortgage interest rates by up to 6 percent below the market rate. This bill, which I cosponsored, the Single Family Housing Production Act of 1982, would have provided a tremendous boost to the housing industry and to the overall economy in terms of employment and income. The lack of wisdom and foresight in President Reagan's veto is as clear as the need to solve the problem.

What, then, can be done? To help families afford to buy a house, I have authored a bill (H.R. 3221) that would permit prospective homebuyers to take a sizable tax credit or tax deduction for amounts contributed to a special "nest egg" account. Passage of my Homeownership Opportunity Act would go a long way toward lifting the Nation out of the current slump, and would bring the American dream of homeownership a step closer to reality once again.

We need to take this first step to assist in rebuilding the housing industry. As a member of the congressional housing caucus, I call upon the President and my colleagues in the Congress to pass this important legislation.●

PROPOSED CHANGES FOR PUBLIC LAW 94-142 TROUBLE ME

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BONKER. Mr. Speaker, the recently proposed changes in regulations for Public Law 94-142, Education for All Handicapped Children Act, and section 504 of the Rehabilitation Act of 1973, have me deeply troubled. My concern is aroused because these changes promise nothing but devastation to the existing regulations and their successes over the past 5 years. These changes, if they are allowed to go into effect, would serve to wipe out the recent gains in basic civil rights for the handicapped, particularly in the area of education. Throughout its tenure, the Regan administration has said one thing and done another. The issue of basic education for the handicapped is one such inconsistency.

In the most high and lofty terms, indicating his support for the rights of the handicapped individual, President Reagan opened the International Year of Disabled Persons with the following declaration:

Today there are 35 million disabled Americans who represent one of our most underutilized national resources. Their will, their spirit, and their hearts are not impaired, despite their limitations. All of us stand to gain when those who are disabled share in America's opportunities.

I agree with this statement wholeheartedly. However, I must ask how the disabled stand to gain when their funds, and the regulations protecting their basic rights, are being curtailed at every opportunity by this administration.

The list of protections being curtailed is quite extensive, negatively affecting virtually all of the key tenets of the law. A key clause, providing for parental participation in their child's evaluation, has been eliminated in the proposed regulations. In addition, the burden of proof—to justify an independent evaluation of their child at public expense—has been shifted to the parent's shoulders. At a time when they most need Government support and encouragement, in their efforts to right past negligence in our educational system, the administration is asking that the parent's load be increased.

Proposed changes in the Individualized Education Program (IEP) create loopholes which would deny a student's opportunity for a full evaluation. For a financially strapped local school jurisdiction which is not receiving the necessary Federal funding for its handicapped education program, these loopholes in the regulations would be too tempting to pass up. The regulations would also be weakened by changes that would permit limitations in necessary health services for handicapped children, the removal of the school district's obligation to provide a "least restrictive environment," and the deletion of the rights of parents to be involved with the decisions that are made about their child's educational program. In short, these proposed changes in the regulations do not coincide with the administration's statements.

As I see it, the implementation of these proposed regulations would serve to break the will and hearts of many disabled Americans. Those of us who have worked long and hard for the workable and equitable regulations that we have now will not sit by and let this happen. The administration's substitute of a set of watered-down and inequitable guidelines is simply unacceptable.

I should also note that the President's own Committee on Employment of the Handicapped has recognized and applauded the positive effects of these regulations, in their present form. Not only is previous success noted, but the commission also points out that the administration proposals may be "regulatory changes which threaten to halt the progress that has been made through legislation." This same group reached the conclusion that the proposed changes will have an irreparably harmful effect on potentially productive Americans, should they be allowed to go into effect.●

OAKLAND RED CROSS HONORS INDIVIDUALS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. STARK. Mr. Speaker, on August 26, 1982, the Oakland Branch of the American Red Cross will honor individuals who have volunteered their services to the community through the American Red Cross. These citizens have given freely of their time and effort to help wherever and whenever needed. Without the volunteer services of these individuals, the American Red Cross could not have provided the public service and the general benefits to the communities the American Red Cross serves.

I salute the following volunteers who are being honored:

LIST OF VOLUNTEERS

Gregory Adams, Gary Anderson, Phyllis Anderson, Weveline Aragon, Pete Bostwick, Jr., Janet Daniels, Benjamin Frager, Kenny Fung, Jeffrey Gile, Charles Croce, William Hassenzahl, Nelson Holmes, Benny Lo, Oscar V. Lopp.

Adeline Adams, Lee Allegretti, Elbert S. Alston, Honorable Gordon Baranco, Ann Baxter, Dee Blackman, Nancy Blackman, Frankie Bonner, James Bottler, Roland Buchanan, Deborah Campbell, Jennie Chan, Dolly Chung, Eric DeReynier.

Robert E. Hunnicutt, Beatrice Hutson, Betty Lippincott, Edwin Meese, Jr., Georgia Megue, Peter McDonough, Nina Mahler, Agnes Miller, Marta Millsap, Ethel Murray, Darryl Newton, Gordon Parsons, Martha Rindler, Bertha Sharp.●

A TRIBUTE TO MAJ. GEN. ALLEN HERBERT LIGHT

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COURTER. Mr. Speaker, I would like to rise on this occasion to say a few words of appreciation for a highly respected and greatly admired individual, Maj. Gen. Allen Herbert Light, Jr.

On August 20, General Light's family, friends, and colleagues will honor him with a dinner dance celebrating his 26 years of distinguished work in the military services.

General Light's long and outstanding career in the armed services began when he was commissioned upon graduation from Officer's Candidate School in 1952. Following company assignments and tours of duty in Korea and Germany, Major General Light attended the Command and General Staff College, Ft. Leavenworth, Kans., in 1964. After graduation, he served with the U.S. Military Assistance Com-

mand in Vietnam, and upon return in 1966, served consecutive tours as Commander of the 1st Chemical Battalion, the 2d Chemical Battalion, and the 548th Supply and Service Battalion at Ft. McClellan, Ala.

Among his principal staff assignments, General Light has served in the Organization of the Joint Chiefs of Staff and on the Army Staff as a Division chief. Senior command assignments include command of Seneca Army Depot in New York, command of the 60th Ordinance Group and command of the 3d Support Command with headquarters in Frankfort, Germany.

As a member of the Armed Services Committee and as Representative for the Morris County area, I have had the pleasure of working with General Light on some key projects during his current position as Commander of the U.S. Army Armament Research and Development Command (ARRADCOM) at Picatinny Arsenal in Dover, N.J. During those years since July 1979 when General Light assumed the post at ARRADCOM, I have come to recognize and appreciate the quality of leadership and polished professionalism that has marked his distinguished career in the armed services.

Furthermore, I would also like to mention the notable decorations and awards granted to General Light which include the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal, and the Army Commendation Medal with two oak leaf clusters.

And so, Mr. Speaker, on behalf of his family and friends, and all those who have served along side him, I would like to congratulate Maj. Gen. Allen Light on his 26 years of remarkable service to the U.S. Armed Forces and to his country. I wish him the best of health and happiness in the years ahead.●

WORKFARE: BREAKING THE POVERTY CYCLE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FINDLEY. Mr. Speaker, the Heritage Foundation gives the following view on Workfare:

Expenditures on welfare programs have been rising at an alarming rate over the last two decades. A principal cause of this enormous expansion is the work disincentive created by continual benefit liberalizations. Rather than paving the way for a higher standard of living, however, many of these government programs have tended to foster permanent dependency on welfare by providing benefits of greater value than the income an individual could earn by working. In effect, the American welfare system allows an able-bodied individual to ask himself: "Will I be better off if I work or if I allow myself and my family to become dependent upon the work of other individuals?" A system permitting this question to be posed is a system desperately in need of review and reform.

Encouraging welfare recipients to become self-supporting is supposed to be a major objective of many government programs. Most of these programs provide recipients cash incentives to work their way off the dole. In many cases, however, the result has been that individuals with relatively high incomes continue to receive welfare benefits. Office of Management and Budget Director David Stockman has voiced skepticism concerning such a system: "I just don't accept the assumption that the federal government has a responsibility to supplement the income of the working poor through a whole series of transfer payments. We believe that the guy who takes two jobs and makes $26,000 a year shouldn't be obligated to transfer part of his income and taxes to the guy who's making $10,000." Moreover, although these programs may be designed to aid the poor, in the long run they actually may lower their living standard by discouraging them from entering the labor market where they could acquire the job skills that eventually could lift many from poverty's depths.

There is an alternative to the self-defeating, degrading system of the dole which long has characterized the U.S. welfare system. This alternative is widely known as Community Work Experience Programs (CWEP), or more commonly as "workfare," in which employable recipients of public assistance—primarily able-bodied males and mothers of school age children—must perform some public service without pay in return for their welfare benefits. Robert Carleson, who was Governor Reagan's welfare director in California, and who as Special Assistant to the President for Policy Development helped draft the Administration's current workfare proposals, maintains: "Anyone who is capable of working should expect to earn their own welfare benefit." As such, workfare reflects the American work ethic. Its objective is to promote financial independence by giving people greater incentives to seek out unsubsidized employment. This work requirement is crucial for successful welfare reform because it is the most effective way to offset the work disincentives now created by the welfare system.

As part of an overall welfare reform package, the Reagan Administration is proposing "workfare" for beneficiaries of the Aid to Families with Dependent Children program (AFDC). This would replace the Work Incentive Program (WIN), which was established in 1967 to provide eligible recipients with training and job placement services. While the Omnibus Reconciliation Act of 1981 gave states the option of requiring AFDC recipients to work in exchange for their benefits, the Administration's new proposals would make this mandatory.●

BAN THE EXPORT OF CLUSTER BOMBS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SEIBERLING. Mr. Speaker, I am today introducing legislation to prohibit the sale, credit sale, or grant transfer cluster bombs and cluster artillery shells to any country by the United States.

Cluster bombs are basically large canisters filled with submunitions, known as BLU's (for Bomb, Live Unit). When a fuse in the nose of the canister detonates, the canister opens, spewing the "bomblets" over a wide area. Each of the bomblets, slightly larger than a golf ball, explodes on contact with the ground. Some may hit the ground and bounce into the air before exploding. Others may have delayed action fuses, making the area where they lie extremely hazardous to anyone who passes through it.

While most cluster bombs are designed to be used against hardened military positions, or against lightly armored vehicles, there is nothing to prevent the bombs from being used against personnel or, accidentally, against civilians in the battle area. It does not take much imagination to figure out what happens to a human body that gets in the way of weapon detonating with sufficient force to penetrate light armor.

It appears difficult to use cluster weapons in a precise fashion. As a recent publication by the Stockholm International Peace Research Institute (SIPRI) notes, "A cluster bomb . . . can be used only as an area weapon—and even in areas far to the rear of the battle zone where civilians are more likely to be affected. Added to this is the fact that the bomblets of a cluster bomb are in many cases fitted with unreliable delayed-action fuses and may thus remain a long-term hazard."

For some time, I have been deeply concerned by the emphasis on weapons sales as a means of promoting U.S. national security interests. I am not sure what benefits U.S. weapons bring to a subsistence farmer in Africa or Latin America. Nor can the massive export of U.S. weapons perpetuate repressive regimes that have lost the support of a majority of their people. It is ironic that Khomeini's Iran has been using U.S.-made tanks and F-4's and F-14's to attack Iraq. These weapons did not keep the Shah in power, and are now being used, in part, to help export the Ayatollah's revolution.

I am not at this time suggesting a wholesale cutoff of U.S. military sales. However, I think the time has come for the United States to stop exporting weapons like cluster bombs, which have such devastating effect on innocent civilians who have the misfortune of being in a battle area. This has been forcefully brought to our attention by the current tragic events in Lebanon. While the elimination of cluster bombs would not have prevented the majority of civilian casualties, it would have resulted in a significantly fewer

number. Accordingly, my bill would expressly prohibit the United States from selling, or guaranteeing the sale of, cluster bombs and cluster artillery shells. The bill would also suspend the delivery of any such weapons which may be "in the pipeline," and would also prohibit the export of any data or information relating to the design or manufacture of cluster bombs or any components of cluster bombs. The sole exception to the prohibition is for components, such as fuses, which are not designed primarily for use in cluster bombs. However, the power of the President to waive the restrictions in specific cases, as provided in existing law, will not be impaired by this bill.

The Washington Post asked, in its July 21 editorial, "if a particular weapon is so liable to misuse, why ship it in the first place?" The cluster bomb invites serious abuses and accidental deployments. Thus, I am convinced that it is time for the United States to stand up and say that we will no longer provide these weapons to the armies of the world.●

EDUCATIONAL BENEFITS FOR VETERANS

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SANTINI. Mr. Speaker, in June, I had the privilege of appearing before the Subcommittee on Education, Training, and Employment to speak about job training and small business loan programs for our veterans. What came out of that hearing was this: That veterans, today more than ever, need education, job training, and the chance to succeed. With the expiration of the GI bill and its educational benefits, many veterans, especially Vietnam veterans, will not have that chance.

Our colleague, HAROLD FORD, has a bill that would give our veterans the boost they need to travel the road to a secure life and future. His bill, H.R. 5762, would extend educational benefits under the GI bill. Under this legislation, Vietnam-era veterans would have 20 years to use their educational benefits rather than the more limiting 10 years.

In support of this legislation, I would like to share with the Members a letter I received from the Las Vegas chapter of Vietnam Veterans of America on this subject. The letter will impart to you, better than I ever could, what extension of educational benefits could easily mean to some very deserving people.

VIETNAM VETERANS OF AMERICA,
Las Vegas, Nev., July 21, 1982.

Congressman JAMES SANTINI,
300 Las Vegas Boulevard South,
Las Vegas, Nev.

DEAR CONGRESSMAN SANTINI: The Southern Nevada Chapter of Vietnam Veterans of America strongly supports the Harold Ford Bill (HR 5762) to extend GI educational benefits. With this bill the time period that Vietnam era veterans have to use their educational benefits would change from 10 years to 20 years. We feel the change is justified for the following reasons:

1. Rather than a new program to help veterans, with the accompanying bureaucratic growth, the proposed bill simply changes the existing law to read 20 years instead of 10 years. The already existing program has proven its worth over the past 20 years. The mechanism and regulations are already in place and operating.

2. Veterans are not being given any more educational benefits than they have already earned. They would simply be given a longer time period in which to use these educational benefits.

As requested by Congressman Santini the following are scenarios of various veterans who could benefit from the Ford bill:

a. Veteran "A" returned home from Vietnam in 1969. He started attending a Junior College hoping to become an architect. Anti-war activity on campus made him uncomfortable. He had a hard time concentrating on studies. He found himself thinking a great deal about his friends who were still in Vietnam. He dropped out of school and went to work, in construction, got married and forgot about school.

He continued to dream and dwell on Vietnam in ensuring years. It was not until recently did he identify that he suffered from symptoms of post-traumatic stress disorder. The guilt that he felt about his Vietnam experience had fostered self-destructive behaviors. He had been through two marriages and numerous jobs. After over a year of counseling at the local Vet Center he feels ready to make a new start. He knows he has the ability to become an architect. He has almost all of his educational benefits left-but time has run out and the door is closed due to the delimiting date.

b. Veteran "B" returned from Vietnam in 1971. He went to school under the GI bill while working part-time to support his family.

He completed two years of college in 1975. In that same year he began working full-time in a manufacturing plant due to financial need. He gave up his dream of an electrical engineering degree.

In the fall of 1981, he was laid off due to economic conditions, and a lack of seniority. Other employees who had worked there when he was in Vietnam retained their position.

He is presently working in an auto parts store. He has approximately 2½ years of educational benefits left but again the ten year time limit was in 1981.

An extension would give him the opportunity to return to school on a part-time basis to pursue his educational goal.

c. Veteran "C" is a 33 year old black combat veteran. He has had many readjustment difficulties. He has an erratic job history, two failed marriages including three children, and difficulties with substance abuse. He has much anger regarding his place in American society.

After many months of intensive counseling and hard work on his part, he has begun to set some realistic goals for his life. One of these include becoming a draftsman. He has shown talent in this area since childhood.

Although he has never used any of his educational benefits, he is ineligible due to the ten year delimiting date.

d. Veteran "D" is a 35 year old Marine combat veteran who came to Las Vegas from Detroit about two years ago. He was a victim of the auto manufacturing layoffs and came to Nevada to seek a new career in gaming. He presently works as a waiter and due to family commitments has been unable to afford the cost of tuition to a local gaming school. Although he has used but one semester of his GI bill he again is ineligible due to the ten year delimiting date.

e. Veteran "E" is a 34 year old Vietnam in-country veteran with a mild service-connected disabilty. He has had difficulties since Vietnam. These difficulties have manifested themselves in chronic unemployment, social isolation and corresponding family difficulties. In the past two years, he has become an integral of Vietnam Veterans of America. This has facilitated his feelings of worth and strengthened his pride in being a Vietnam veteran. He has received counseling at the local Vet Center. He finally feels ready to begin a career and has interests in refrigeration and air conditioning repair. If he were eligible, he would like to use his GI bill to go to this school.

We hope these short histories will give you a better picture of the many thousands of Vietnam veterans who could benefit from a change in this law. We feel that HR 5762, if passed, will have major impact on the readjustment efforts of Vietnam veterans.

We appreciate your interest in this bill and would be happy to assist you in any way in promoting its passage.

Sincerely,

CHESTER NEVILLE,
President, Southern Nevada Chapter,
Vietnam Veterans of America.●

IN MEMORY OF GEORGE STROUBE

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. WOLF. Mr. Speaker, on May 10, 1982, Thomas W. Pauken, Director of ACTION, addressd a general meeting of my 11 citizen advisory councils. During the course of the question and answer period following Mr. Pauken's address, Mr. George Stroube shared with us his personal story of his recovery from a stroke and his stumbling blocks which became stepping stones to helping others. His story touched the hearts of all who heard him that evening.

Tom Pauken was so impressed by George's message that he included his remarks in ACTION's Good News Report No. 24. I include his report at this point in the RECORD.

We were saddened to learn of George Stroube's death this past Wednesday. We will miss him. His wife, Ruth, said it best, "He was not just an example, but an inspiration."

The report follows:

TRIBUTE TO GEORGE STROUBE

(By Thomas W. Pauken)

Congressman Frank Wolf of Virginia has a Voluntary Advisory Council of 130 members, organized to keep him informed on all aspects of social and economic activity in his district. Recently, in reporting to him and the Council on ACTION's endeavors in the area of voluntarism, I concluded my remarks with a story about a woman I had met in Fredericksburg, Va., who organized a stroke victims club for wives and husbands who had either suffered a stroke or were the spouses of a husband or wife who had. I explained how these clubs were organized without officers, dues, or business meetings and were based on the concept of mutual help and encouragement, all voluntary, offering therapy of a kind not usually found in the medical books.

Mrs. Gloria Land, along with Mrs. Natalie Elder and Mrs. Eleanor Pettit, had been responsible for the formation of the Fredericksburg club, which has received national recognition for its volunteer work in a program sponsored jointly by the General Federation of Women's Clubs and Sears Roebuck. Gloria told us how, after her husband had suffered a stroke, the doctor believed the patient was going to be a vegetable, and that she should put him away in a nursing home. Gloria was not impressed. "That was my roommate he was talking about," she said, and so she moved in with her roommate and began working with him toward the day they would leave the hospital together. In time and with therapy, they did so. And now Gloria helps others.

It was then that one of the members of Congressman Wolf's Advisory Council rose and asked if he could come forward and add a thing or two because he had been laid low by a stroke several years ago. His name is George Stroube, and before January 1979 he had enjoyed a busy career in the field of Virginia politics and was very active in voluntarism with the accent on young people. His stroke left him paralyzed on his right side, and he had lost the power of speech. Worse, he had lost the will to live. Physically helpless, he believed his life had become meaningless.

Stroube told the Council that after hospitalization in Virginia, it was necessary for his wife, Ruth, to travel long distances several times a week to visit him while he received therapy at Baltimore's Johns Hopkins Hospital. And how, suddenly, through her faith and love and his desire to go home, he decided not to quit but to fight back, to somehow get on his feet again. In doing so, he planned his own therapy which he admitted was often opposite of what the hospital prescribed. In time he learned to speak again, making a remarkable recovery that surprised his doctors. For a considerable period he needed a cane to support his walking; he needs it no longer.

It was while he was at his local health club continuing therapy that he and Ruth became charter members of a stroke club. What he had in mind, he said, was to find a way to help others who were going through the trauma of paralysis and slow recovery; to encourage them and pull them up from the pit of dispair; to share with them the adjustments of a new kind of life and to act as a example of one who made it.

"Not just an example," says Ruth, "but an inspiration." Between them the Stroubes offer their own kind of therapy to the club's nine members, getting together once a week, traveling to various places of interest, keeping spirits up, sharing experiences. And, oh yes, George also bowls and plays golf. He's about to celebrate his 60th birthday and, as he told Congressman Wolf and the Council, he's looking forward to his sixties . . . which all goes to prove you can't keep a good man down.●

SOVIET REPRESSION CONTINUES

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FRANK. Mr. Speaker, many of us in the House have taken this floor on a number of occasions to deplore the outrageous persecution of Jews which is now taking place in the Soviet Union. Recently, an article in the Boston Globe put this matter in historical perspective. Lewis H. Weinstein, one of the leaders of the American Jewish community and one of Greater Bostons' most distinguished citizens, published an article in which he points out that the persecution which Jews are now facing in the Soviet Union has unfortunately deep roots in the history of the Soviet-Communist regime. Mr. Weinstein published his article on the 30th anniversary of the murder of 24 leading Jewish cultural figures as the climax of Stalin's campaign to eradicate a Jewish culture in the Soviet Union.

Tragically, the current leaders of the Soviet Union who have so often proclaimed their desire to turn away from the terrible practices of the Stalin regime, have continued Stalin's mistreatment of the large Soviet Jewish population.

Few people in the United States have better credentials to speak out on the question of the survival of Jewish culture in the Soviet Union that Lewis Weinstein who has devoted so much of his time, selflessly, to protecting Jews in the Soviet Union, in Israel, and elsewhere against persecution and oppression.

I am pleased to be able to share with my colleagues, Mr. Weinstein's eloquent statement.

THIRTY YEARS LATER, THE REPRESSION GOES ON

(By Lewis H. Weinstein)

In the dark cellars of Moscow's notorious Lubyianka Prison, 30 years ago, on Aug. 12, 1952, after months of torture and interrogation, 24 leading Jewish poets, writers, artists and poets were murdered. This was the climax of Stalin's campaign to destroy Jewish culture in the Soviet Union.

Soviet repressive measures against Jewish expression have continued.

The Soviet Union, with the third largest Jewish community in the world, is the only country with a large Jewish population without a single Jewish school for children. Even private teaching of Hebrew is a violation of KGB "rules". Recently, Jewish activists teaching Hebrew in their homes, in small groups of three to six people, have come under severe pressure. For these people, the dream of a Jewish Life in the USSR or elsewhere is still alive, but under daily fire.

The newest tactic is that of stripping academic degrees earned by Jewish scientists who request permission to go to Israel. How can one erase acquired knowledge? In the USSR, the answer seems to be, "If you want to go to Israel, we take it away: your knowledge ceases to exist".

Other "refuseniks," as Ida Nudel, who recently completed a four-year term for hanging a banner outside her apartment, saying, "KGB, give me my visa," are being pushed to the very brink. After returning from Siberian exile, she was not permitted to live in Moscow and was denied residence in Riga. Now she is in an isolated town, without family and with her sister waiting in Israel. Her first application to lease was made in 1971.

After several years of a partial opening of the doors, emigration is down to a virtual trickle. In August of 1979, 4000 Soviet Jews were allowed to leave. If the trend of the past year continues, no more than 180 will leave in August 1982. Jews are not free to learn about their past and are unable to carve out a future. Is it any wonder so many want to leave?

The reverberations of that infamous August night of 1952 are still being felt among Jews everywhere. Many still remember the last words of David Bergelson, the last of the poets murdered: "Earth, oh earth, do not cover my blood!"

In his moving "Elegy For the Soviet Yiddish Writers," Chaim Grade, the greatest Yiddish poet and novelist (who died six weeks ago), began and concluded with these lines, translated by Cynthia Ozick:

"I weep for you with all the letters of the alphabet that made your hopeful songs. I saw how reason spent itself in vain for hope, how you strove against regret—and all the while your hearts were rent to bits, like ragged prayer books . . .

". . . But your darkly murdered tongue, silenced by the hangman's noose, is no longer heard, though the muse again sings in the land. You left me your language, lifted with joy. But, oh, I am bereft—I wear your Yiddish like a drowned man's shirt, wearing out the hurt".●

WINNING THE NUCLEAR WAR—MORE ON REAGAN'S PLANS

HON. GEORGE E BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BROWN of California. Mr. Speaker, in recent months we have all been forced to consider the increased threat of nuclear war. Rather than move us away from the brink of nuclear holocaust, the Reagan administration has been preparing to "win the big one." Fortunately, there have been statements about the unwinnable nature of nuclear wars, but, as was said in a previous Republican administration, it is more important to watch what they do than watch what they say.

The Reagan administration is preparing for a nuclear war. They are preparing evacuation plans for our major

cities. They are planning for a long-term nuclear war. And they are scuttling nuclear arms control treaties already negotiated and signed.

Some Members of Congress do not believe this. I confess, it is hard to believe that those who control our nuclear weapons see nuclear war as inevitable. But it is true.

The following article from last Sunday's Los Angeles Times describes a recommendation on nuclear war fighting which is now pending before the National Security Council. I commend this article, with its alarming contents, to my colleagues.

[From the Los Angeles Times, Aug. 15, 1982]

PENTAGON PLAN AIMS AT VICTORY IN NUCLEAR WAR

(By Robert Scheer)

WASHINGTON.—On the orders of the Reagan Administration, the Pentagon last week completed a strategic master plan to give the United States the capability of winning a protracted nuclear war with the Soviet Union, The Times has learned.

The document was delivered to the National Security Council and is awaiting final presidential approval.

The Pentagon plan was drawn up in response to a presidential directive, which represents the first reported time the U.S. government has declared that nuclear war with the Soviets can be won.

The directive is part of a top secret national security decision document that was drawn up in the fall of 1981 to supersede Presidential Directive 59, which was approved in the last six months of the Carter Administration.

IDEA IS CONTROVERSIAL

Sources familiar with both highly classified documents report that President Reagan's strategic doctrine goes further toward a nuclear war fighting stance than former President Jimmy Carter's in that it specifically states the goal of winning a protracted nuclear war.

According to one member of the Reagan Administration, the plan would contemplate nuclear warfare that went on for as long as six months. One consequence of this planning has been a commitment of $18 billion to provide a communications systems that could endure such protracted nuclear warfare.

The idea that nuclear war between the superpowers can be kept limited or stretched out over several months—let alone won—is controversial in both military and political circles.

Air Force Gen. David C. Jones, who was chairman of the Joint Chiefs of Staff under both Carter and Reagan, has warned that preparations for fighting a limited or protracted nuclear war would be throwing money into a "bottomless pit." In his parting statement on retiring in June, Jones said, "I don't see much of a chance of nuclear war being limited or protracted." He added, "I see great difficulty in keeping any kind of nuclear exchange between the Soviet Union and the U.S. from escalating."

During the 1980 presidential primary campaign, Carter's Presidential Directive 59 was criticized by Sen. Edward M. Kennedy (D-Mass.) and others for assuming that nuclear wars can be fought and survived in a manner akin to conventional wars of the past.

Carter's secretary of defense, Harold Brown, asserted that Presidential Directive 59 was intended to deter any expectations that the Soviets might have of winning a nuclear war but did not endorse the idea that nuclear war could be kept limited or that meaningful victory was possible.

Carter's directive did not contain any specific means of implementation. But Reagan's directive, the sources said, specifically requires the Pentagon to draw up a plan for turning the policy declaration into military reality.

The Pentagon's strategic master plan was to have been sent to the National Security Council for approval in June. However, it was delayed because of the public disclosure of another secret Defense Department document, the annual defense guidance statement.

Parts of that statement, which the Pentagon draws up each year to project its needs for the next five years, were leaked to the New York Times and caused considerable embarrassment for the Administration.

The newspaper reported that the annual guidance plan assumed that "protracted nuclear war is possible" and that "American nuclear forces must prevail and be able to force the Soviet Union to seek earliest determination of hostilities on terms favorable to the United States."

The annual guidance statement contained a general policy of confrontation with the Soviets ranging from conventional wars to battles in space, with the nuclear component being only one part.

CONTAINS MORE DETAILS

Administration insiders report that the new strategic master plan is more detailed and more controversial in its advocacy of nuclear warfare than the annual Defense Department guideline. More significantly, it would carry the imprimatur of the President and his National Security Council, while the annual guidance plan is an internal Pentagon document.

The new strategic master plan concentrates exclusively on the possibilities of strategic nuclear war and reportedly aims at providing more of a "how-to" treatment of the subject. For example, the new plan devotes considerable space to the matter of destroying enemy political centers and command centers while preserving similar U.S. centers.

The Reagan Administration has budgeted $18 billion for the purpose of securing U.S. military command, control and communication, or C3, as it is known to planners. C3 refers to the abilility of a nation's leaders to maintain communication with the troops in control of the nuclear arsenal.

The implications of the shift in strategic thinking about nuclear war were spelled out by Gen. James W. Stansberry, commander of the Air Force Electronics Systems Division, who told an Air Force conference:

"In previous years the concept for C3 was that it only had to be able to get off a launch of U.S. strategic weapons in response to a first strike before damage was unacceptable. The idea that there was no way to win a nuclear war exchange sort of invalidated the need for any anything survivable. There is a shift now in nuclear weapons planning, and a proper element in nuclear deterrence is that we be able to keep on fighting."

LINKS ARE VULNERABLE

But critics of nuclear war-fighting strategies remain skeptical that C3 can be protected, because the antennas, telephone lines, satellites and other links in the communication system between a nation's leaders and the nuclear arsenal remain far more vulnerable than any other components of the defense system.

One observer on the Reagan staff said sarcastically, "We've been working on this C3 problem for five years now and can report that the system might survive 15 minutes of nuclear war."

But the Pentagon's master plan aims at finding means of hardening U.S. communications to the point that they could survive longer—"as much as six months," one Administration member noted.

The notion that nuclear wars can be fought on a limited and survivable basis toward other than cataclysmic ends has had growing support in the last decade. Increasingly accurate missile technology and sophisticated means of communications have produced the confidence in some quarters that nuclear war need not be fought as one spasmodic episode with little but radioactive rubble to show for the effort.

The result has been a push for rejecting a nuclear strategy based on the idea of a nuclear war as one spasmodic event, requiring as a deterrent only enough power on each side to assure the destruction of the other. This past policy has been challenged by strategies that require even more plentiful and advanced nuclear arsenals and systems of defense ranging from anti-missile systems to civil defense.

In the nuclear war-fighters' view, which Reagan's National Security Council appears to accept, a nuclear war might be fought over a period of several months with selective strikes at primarily military targets. At the end, they believe, one side could emerge victorious, with enough of its resources and population intact to begin over.

One leading advocate of this viewpoint, Colin Gray, has recently been appointed by Reagan to the advisory board for the Arms Control and Disarmament Agency and as an adviser to the State Department.

In a 1980 article in the magazine Foreign Affairs, Gray and co-author Keith Payne complained that "many commentators and senior U.S. government officials consider it (nuclear war) a non-survivable event."

Instead, Gray and Payne argued, "the United States should plan to defeat the Soviet Union and to do so at a cost that would not prohibit U.S. recovery. Washington should identify war aims that in the last resort would contemplate the destruction of Soviet political authority and the emergence of a postwar world order compatible with Western values."

They specified that 20 million U.S. fatalities would represent an acceptable cost.

Others may have a less optimistic view of the likely casualties but still believe it is possible to emerge on top in an all-out nuclear war. Last week, Energy Secretary James B. Edwards defended the Reagan Administration's commitment to testing and building more and better nuclear weapons. He said:

"I hope we never have to get into another war; if we do, I want to come out No. 1, not No. 2."

On the other hand, there is former Secretary of State Cyrus R. Vance, who left the Carter Administration before it formulated Presidential Directive 59. Vance, in an interview with The Times, stated:

"I happen to be one of those who believe it is madness to talk about trying to fight a continuing nuclear war as though it were like fighting a conventional war situation,

and that one could control the outcome with the kinds of precision that is sometimes possible in a conventional war situation.

"It is a totally different world, a world that is hard for any of us to conceive, because none of us knows what a nuclear war is like. But, by extrapolation, we can have some idea of the incredible devastation that would come from it and the almost unimaginable consequences that would flow from it."●

GRUMMAN HAWKEYE E-2C AIRCRAFT STEMS FLOW OF ILLEGAL DRUGS INTO THE UNITED STATES

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, last October, the U.S. Customs Service began using the Navy E-2C Hawkeye aircraft to help stop the flow of illegal drugs brought into this country.

This effort was, and continues to be, highly successful.

During the first 72 days of this effort, two Hawkeye aircraft were responsible for the arrest of 62 individuals involved in drug smuggling and the seizure of 25 aircraft, 26,000 pounds of marijuana, 1,000 pounds of cocaine, and 250 pounds of hashish oil.

I am proud to say that these highly capable planes are built by Grumman Corp. of Long Island and that many of their employees reside in my congressional district.

On June 28, 1982, the Assembly of the State of New York, recognizing the invaluable service provided by these planes, passed a resolution calling upon the President and Members of Congress to authorize the continued use of these aircraft as part of a national effort to curtail the drug smuggling operation.

I call to the attention of my colleagues this resolution, which is printed below, and urge them to support all efforts to continue use of the Hawkeye E-2C.

STATE OF NEW YORK LEGISLATIVE RESOLUTION

Whereas, The illegal sale of marijuana, cocaine, and hashish has reached staggering proportions throughout the United States; and

Whereas, The vast majority of these drugs are smuggled by air and by sea into the United States by way of the waters south of Florida; and

Whereas, The Grumman Corporation, headquartered in Bethpage, New York, manufactures the E-2C Hawkeye early warning aircraft; and

Whereas, The Hawkeye can automatically detect, identify, and track aircraft over both land and water at ranges in excess of two hundred fifty miles and, with its sophisticated electronic equipment, the Hawkeye can monitor three million cubic miles of airspace; and

Whereas, During a seventy-two day trial period, two Hawkeye aircraft proved to be extremely effective anti-drug-smuggling weapons for the Customs Service and the Treasury Department when these two aircraft, manned by Navy personnel working with Customs Service officials, were directly instrumental in the arrest of sixty-two individuals involved in drug smuggling, and responsible for the seizure of twenty-five aircraft, twenty-six thousand pounds of marijuana, one thousand pounds of cocaine and two hundred fifty pounds of hashish oil; and

Whereas, A proposal for the regular use of Hawkeyes in anti-drug-smuggling missions is now being studied by Congress; now, therefore, be it

Resolved, That this Legislative Body memorialize the Honorable Ronald W. Reagan, President of the United States, and each member of the House Select Committee on Narcotics Control, in order to stem the flow of drugs illegally brought into this country, to authorize the regular use of Grumman/Navy E-2C Hawkeye aircraft by the Customs Service; and be it further

Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the Honorable Ronald W. Reagan, President of the United States, and to each Member of the Congress of these United States from the State of New York.

ECONOMY—HIGH INTEREST RATES, EMPLOYMENT—AND CRIME GREATEST CONCERN OF THE PEOPLE OF THE EIGHTH CONGRESSIONAL DISTRICT OF NEW JERSEY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. ROE. Mr. Speaker, our Nation's current troubled economic situation is a matter of great concern to all Americans. The highest unemployment statistics since the Great Depression, increasing food and energy costs and lingering high interest rates have had a devastating effect on us all.

The residents of the Eighth Congressional District of New Jersey are no exception. Some 57 percent of the respondents to my congressional questionnaire said they had postponed buying a house, car, or other major purchase in the past year because of high interest rates.

The questionnaire, also shows that the administration's economic policies have the eighth district in a quandary. While 51 percent feel the President is moving in the right direction with his economic policies, and 53 percent support his New Federalism proposal to transfer many existing Federal programs to the States, an overwhelming 66 percent of the respondents are firmly opposed to the White House's $757 billion 1983 Federal budget which included a deficit of well over $100 billion.

Mr. Speaker, I have been a long-time proponent of strengthening the military defense of the United States. At the same time though I, like 56 percent of the questionnaire respondents believe there should be reductions in the administration's request for $263 billion in defense spending during fiscal 1983. I have voted for legislation on the House floor to accomplish that reduction.

There is also very deep concern in the eighth congressional district of New Jersey over the future of the social security system. The administration's social security proposals would cut promised benefits by $82 billion over the next 5 years. While it must be conceded that those reductions would help to lower the Federal budget deficit, I do not believe that reducing earned social security benefits is the proper method of achieving that goal. No benefit cuts would be needed to make the system sound over the next 75 years if 12 percent of the program were funded through the use of general Treasury funds. I have introduced legislation to accomplish that goal and I am pleased to note that 56 percent of those answering my questionnaire support the use of general Treasury funds to bolster the social security system.

Mr. Speaker, the issue of crime continues to be of major importance. Recent statistics show that crime in our Nation's is reaching record levels. One step to reduce crime, supported by an overwhelming 71 percent of my questionnaire's respondents, would be legislation, to restrict the sale and manufacture of handguns.

In the area of foreign affairs, the residents of my congressional district believe it is time for the United States to take a hard stand against Soviet aggression in Europe and a limited role in the El Salvador conflict.

Soviet interference in Poland prompted 51 percent of the respondents to my questionnaire to favor economic sanctions against the present Polish Government. Concerning El Salvador, 69 percent were opposed to supplying military aid to that troubled nation, and only 45 percent supported continued economic aid there.

Mr. Speaker, the eighth district of New Jersey are deeply concerned that not enough is being accomplished to once again make America an energy independent nation. In spite of administration efforts to curtail Federal involvement in new energy programs, 88 percent of the respondents, the largest majority of any question on my questionnaire, gave their support to the United States making a major commitment to developing domestic energy supplies.

It is my belief that the congressional legislative questionnaire is a key tool in determining the beliefs, attitudes, and desires of the people of our great Nation. I would like to offer my deepest thanks to the people of our Eighth

Congressional District of New Jersey for their excellent response to my questionnaire. A tabulation of the response I received to my questionnaire follows:

EIGHTH DISTRICT OF NEW JERSEY LEGISLATIVE QUESTIONNAIRE VOTING RESULTS

[In percent]

	Yes	No
1. Is the President moving in the right direction with his economic policies?	51	43
2. Do you support the President's "Federalism" proposal to transfer many existing federal programs to the states?	53	42
3. The President has proposed a $757 billion federal budget for fiscal year 1983 with an estimated $91.5 billion deficit. From what you have read and heard, do you support the President's budget proposal?	27	66
4. If you do not support the President's budget, which of the following options would you prefer:		
a. Reduce the $44.2 billion increase in defense funding?	56	14
b. Curtail spending for federal social programs?	34	29
c. Reduce cost-of-living increases under the various federal entitlement programs such as Social Security, veterans' benefits and the federal employee retirement system?	22	41
d. Repeal the 10 percent tax rate deduction for individuals scheduled for July 1?	32	31
5. Should the U.S. Department of Education be abolished?	45	46
6. Should the U.S. Department of Energy be dismantled?	42	48
7. Have you postponed buying a house, car or other major purchase in the past year because of high interest rates?	57	36
8. Should we use General Treasury funds to bolster the Social Security system?	56	36
9. Should the U.S. restrict imports from nations which impose trade barriers on our agricultural products?	83	10
10. Because of the military dictatorship imposed by the Soviet Union on Poland, should the United States respond with sanctions against the present Polish Government?	51	38
11. Should the U.S. provide economic aid to El Salvador?	45	47
12. Should the U.S. supply military aid to El Salvador?	23	69
13. Do you favor an increase in nuclear power development as a major source of energy?	50	46
14. Should the United States make a major commitment to developing such new sources of energy as solar, wind and fusion as well as conservation?	88	8
15. Would you favor legislation to further restrict the sale and manufacture of handguns?	71	27
16. Do you support a Constitutional amendment to ban abortion?	27	68

Important note.—Many district voters did not vote on all items in the questionnaire and also those who voted "undecided" are not included in the percentiles of the above answer.●

TAX BILL NOT IN BEST INTEREST OF WORKING PEOPLE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BONKER. Mr. Speaker, despite the President's speech on behalf of his $99 billion tax increase package, I cannot in good conscience support a tax bill that continues to shift the tax burden onto the backs of the middle-class and working men and women.

I would feel duty-bound to support this bill if I had voted for the ill-advised Kemp-Roth tax plan last year. For we are in this deficit mess largely because of last year's tax package, which is costing the Government $93 billion in fiscal year 1983 alone.

About half the current deficit is attributable to the Kemp-Roth plan, which was so heavily supported by the President.

If there had been no tax reduction program in 1981, the budget would show a surplus in 1985—because in addition to higher revenues, interest costs on the debt would drop as deficits and interest rates declined.

Second, this legislation represents a major step backward from the gains Congress has made in increasing the incentives to save. The United States has had the lowest savings rate of any of the industrialized nations. As a result, I have consistently supported and sponsored legislation to increase the tax deduction for interest and dividends. Now, however, the President wants to backtrack on the progress we have made.

Some $12 billion over the next 3 years is expected to be raised from a proposal in the President's tax package calling for 10 percent withholding on interest and dividends beginning July 1, 1982. The loss to savers alone under such a scheme would be between $1.2 and $2 billion a year, according to an analysis by New York's Citibank, because interest withheld early in the year would not be available for compounding.

This scheme is an intolerable burden on the financial institutions in our country, many of which are already experiencing severe difficulties. It will force more than 50,000 financial institutions to spend $1 billion or more to implement the system and $1 billion or more annually to maintain it. The costs and inconvenience of extra paperwork and new regulations under the plan would more than offset the advantages of increased tax collections.

Finally, despite all the talk about closing loopholes in this bill, there is much in it that falls squarely on the back of the average American. This is not surprising, given the fact that Kemp-Roth was a monument to trickle-down economics. It reserved the lion's share of the tax cuts for the wealthy. The nonpartisan Congressional Budget Office has confirmed that the less wealthy have suffered from the overall administration program, including the budget cuts, while the wealthy have benefited.

Taxes in 1983 were lowered by only $120 for a family earning less than $10,000 but by $15,250 for a family earning over $80,000. While the incomes differ by a factor of 10, the tax reductions differ by a factor of 100. If we include spending cuts, the differences become even greater.

The fact is that direct aid cuts, combined with tax cuts, have reduced the income of America's poorest families by 1.7 percent and have raised the richest families' incomes by 6.7 percent on the average. This simply is not fair.

Now in this proposal, we see taxes on smoking, an increase in the threshold for medical expense deductions, a requirement that Federal workers pay medicare taxes, increased taxes on airline fuel, which will increase the cost of transportation. All these will increase the burden on average Americans.

Mr. Speaker, I am enclosing two articles which have run recently in Washington State newspapers. One is an editorial in the Seattle Times urging Congress to "keep its hands off our interest, dividends." The other is a letter to the editor in the Longview Daily News from a constituent, Vince Penta who also objects to the tax bill. I urge my colleagues to read these articles:

[From the Seattle Times]

KEEP HANDS OFF OUR INTEREST, DIVIDENDS

Darning socks is a dying art, but Congress and the Reagan administration ought to take it up. First they encourage us to help the economy by socking our money away in savings accounts and other investments, then they start cutting holes in our socks.

We're talking about the 10 percent withholding plan for interest and dividend income that a Senate-House conference committee approved with White house blessings.

Starting next Jan. 1, almost every financial institution and corporation in the country would be required to withhold one-tenth of the income taxes on interest and dividends before investors ever saw their earnings. Part of the $99 billion tax-increase plan written mainly by Senate Republicans and backed by President Reagan, the withholding plan would raise an estimated $11.7 billion over the next three years.

(It would exempt any account earning $100 or less annually, people with a tax liability of $600 or less, and those over 65 who paid $1,500 or less in taxes last year—or $2,500 for an elderly couple.)

Banks, savings and loans, credit unions, and many corporations are irate about the withholding scheme. Every American saver and investor should be, too.

The loss to savers alone would be between $1.5 billion and $2 billion a year, according to an analysis by New York's Citibank, the nation's second-largest bank, because interest withheld early in the year would not be available for compounding.

The costs and inconvenience of extra paperwork and new regulations under the plan would more than offset the advantages of increased tax collections. The U.S. League of Savings Associations has estimated that start-up and administrative costs would be more than double the additional tax revenues.

"Why should honest taxpayers have to pay withholding and give the government what is in effect an interest-free loan?" Asked Alan Wade, spokesman for the savings league. Why indeed?

Congress and the administration have stubbed their—and our—toes on this plan and should step back and start off on a new foot. Otherwise, voters may want to do some withholding of their own at the ballot box.

[From the Longview Daily News]

ABSURD TAX GRAB

To the Editor:

How can our administration possibly condone the withholding of income tax on interest income? Has not President Reagan himself indicated that an important element of our economic recovery is the encouragement of Americans to save? To save instead of spend; to save so that there is money to lend for people to build homes; to save so that there is money to lend to industries for capital growth. How ever could the president support this absurd tax grab pro-

posed in the Senate of the United States whereby income tax would be withheld on a regular basis from interest income?

Under the guise of saving the government money and avoiding underpayment of tax, the administration is going to remind nearly every American every month just how greedy Big Government is. Every month people will be reminded of the foolishness of saving. It's bad enough now that we must report interest income at the end of the year. It is outrageous to contemplate that every month we're going to have less money accrued to us because of our thrift.

Many people supported Mr. Reagan's candidacy because of his interest in dismantling big government. What does he think this new withholding does for government? It helps it grow! He is now condoning an increase in federal regulation of our lives—an increase in the federal bureaucracy, with absolutely no incentive to cut back.

Congress should not be misled by treasury officials who insist this is the way to get at tax cheats or who insist that the only adversaries of this legislaiton are banks. The effect of this tax bill will be to discourage Americans from saving money. Americans who have earned enough money to save are going to be penalized for interest income on that savings. That tax is wrong to begin with, and to institute a withholding process which is going to affect that meager income on a per capita basis is simply outrageous.

All Americans should immediately contact their congressional delegation and insist that they resist approving such a measure.

VINCE PENTA, *Longview.*●

CURRENT RAILROAD INDUSTRY PROBLEMS

HON. THOMAS F. HARTNETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HARTNETT. Mr. Speaker, I would like to share with my colleagues a recent commentary entitled "Bringing Back The Railroads" by Edward J. Walsh. The article appeared in "Point of View" of the USIC Writers Group. It sheds some light on the current problems of the railroad industry which I believe will be of interest to my colleagues.

President Reagan moved to avert a nationwide rail strike on July 8, two days before it was to begin. His executive order declared a 60-day cooling off period, and appointed a special panel to look into the dispute between the Brotherhood of Locomotive Engineers and the rail management negotiating arm.

If the strike had occurred, it would have affected 90 percent of U.S. railroad trackage, according to the White House. It would have added some 620,000 people to the nation's unemployment rolls in two weeks, and 1.1 million after a month. Such is the power of the Brotherhood of Locomotive Engineers.

Although the dictatorship of organized labor in the rail industry has not gotten the same public attention as labor clout in the auto or steel industries, it is even more serious. America's railroads have been on a productivity slide for years, thanks to incomprehensible union work rules and overgenerous wages and benefits. The current recession has caused a sharp downturn in rail traffic, exacerbating further the crisis the industy is facing. According to *Railway Age*, orders for new rail cars in May dropped to 487 from 539 in April, and from 2,291 in May 1981—a decline of 79 percent for the year.

Historically, collective bargaining in the rail industry has been on a nationwide basis. The two major rail unions, the Locomotive Engineers and the United Transport Union, have bargained with the single management group, the National Carriers Committee of the National Railway Labor Conference. As in other heavy industires, the system has created a monster of nationwide monopoly union power.

The principal drag on railroad productivity is archaic work rules. For example, the "hundred mile" rule requires trainmen be paid a full day's wage for traveling 100 miles—a trip that today takes only a few hours. Professor John F. Due of the University of Illinois, in a study of railroad productivity analyzed in the Spring issue of *Transportation Journal*, declared that "The rail industry could earn a reasonable rate of return with drastic revisions in labor union contracts to increase labor productivity." Among the changes he urges are: reductions in crew size; payment for an 8-hour day regardless of distance traveled, and flexibility in the kinds of work individuals are allowed to do. He adds further that "Much of the blame rests with the federal government, which has consistently supported labor's position."

The idiocies of rail union work rules are highlighted by the exceptions to them. The vast majority of U.S. trains are forced to operate with a four-man crew: an engineer, conductor, and two brakemen. For years, however, European trains have been run with only one or even no brakemen. Only one American rail line, Florida East Coast Railways, has broken the union stranglehold on crew size. Throughout a thirteen year strike which ended in 1976, it operated with two-man crews, and continues to do so.

There is, thus, some light at the end of this tunnel. Amtrak, the government-owned passenger rail line, recently forced six of its non-operating unions to scale back their wage demands from a 30 percent pay hike over 30 months to 18.7 percent. Amtrak also won concessions on work rules, and will now be able to require employees to perform work formerly done by those in different job classifications.

Another salutary development is the intention of Pullman Standard, long America's premier rail car manufacturer, to get back into the business it left several years ago. Pullman president Jack Kruizerga says he expects to be producing cars at the company's Bessemer, Ala., plant by early 1983—"if Pullman can reach agreement with a productivity-minded union." Pullman had shut down its Butler, Pa., plant due to a nightmarish relationship with the United Steelworkers.

At Butler, Pullman paid USW members $11 per hour plus $7 per hour in benefits. There were 160 job classifications at the Butler plant. Incredibly, the USW classification system was less rigid than the rail unions'.

Labor costs and work rules are at the heart of the railroad industry's decline in the United States. This must change. Rail executives must stand up to the unions' demands, and the federal government must curtail the privileges of monopoly union power. Otherwise, the next rail strike could well be the last.●

KEEPING ARMS TALKS HONEST

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GORE. Mr. Speaker, the vote 2 weeks ago on the nuclear freeze resolution was a powerful statement of the widespread concern about the President's position on nuclear arms control. The defeat was narrow, but the message was clear—the President must move decisively and quickly to end the arms race and to reach a meaningful arms control agreement with the Soviet Union. The American people will settle for no less.

The Boston Globe editorial on Wednesday, August 11, entitled, "Keeping Arms Talks Honest," was an eloquent and unusually incisive description of this close vote. I urge my colleagues to read it carefully.

The editorial follows:

[From the Boston Globe, Aug. 11, 1982]

KEEPING ARMS TALKS HONEST

Only in the narrowest sense could last week's rejection of the nuclear freeze petition by the US House of Representatives be seen as defeat for the arms control movement.

In the larger context, the preceding debate and the razor-thin margin show what remarkable progress has been made by freeze organizers in the past six months.

The House voted 204-202 for a substitute resolution, backing the Reagan Administration's START approach to strategic-arms talks in Geneva with the Soviet Union. But the central message is that three months before Election Day 1982 there is enormous nationwide interest in arms control—and widespread skepticism about the Administration's sincerity and effectiveness in pursuing that aim through START.

It would be a mistake to view support for the freeze as an endorsement of any particular tactical strategy in the arms talks. What it is, in the view of many freeze proponents, is a vehicle to keep the Administration honest on arms control.

At a New Hampshire town meeting last winter, one supporter summed the freeze mesage in simple terms that still apply: "I support our government and I hate communism as much as anyone," he said. "I just want the government to work on this. I'm not able to sit down with the Russian leaders. All this vote is, is to ask our leaders to sit down with them and talk hard."

The freeze campaign began in a limited way two years ago, but as late as this past February its organizers were counting on a slow-and-steady effort that might take several years to reach national political prominence. Then suddenly the idea caught on.

Under normal circumstances, the fact that Geneva talks are under way could have been expected to deflate the movement, but that has not happened. Instead it is gaining force.

The Republicans paid a great compliment to the freeze movement last week. They sliced their victory as thin as they could, mustering an accordion-like majority so as to expose the minimum number of Republi-

cans to the possibility of voter retribution in the fall.

The only New England legislator to vote against the freeze was David Emery (R-Maine), who will challenge Sen. George Mitchell for his seat this fall.

By placing arms control on the election agenda, the freeze is sending a message from the grass roots to two audiences.

It is telling the Administration it had better be serious in its pursuit of an arms control agreement. And it is telling legislators they had better do their homework on national security or else face a grilling on the campaign trail by an aroused electorate.

As, Harry Truman once explained about mules, before they'll do what you want, you first have to get their attention.

However Congress voted last week, the freeze is doing that.●

THE FRENCH VISION OF THE ROLE OF SCIENCE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. BROWN of California. Mr. Speaker, it has become commonplace to hear U.S. political and industrial leaders talk in defeatist or injured tones about the technological advances of our economic competitors, most particularly Japan. In many ways, Japan is doing what Avis claimed to be doing in its car rental advertising, "We Try Harder." In other important ways, the Governments of Japan and West Germany and France decided, in concert with their leading industries, to win certain markets. This they have done.

Last Sunday's New York Times carried a fascinating article which, while described by others elsewhere, in a nutshell shows how a government can influence social and industrial progress. Ironically, the current policies of Socialist President Francois Mitterrand in support of science and technology are most similar to the policies of former President Charles de Gaulle, who was a political rival of President Mitterrand. This irony only underlines the foolishness of political labels when it comes to commonsense policies that affect the national security, including the economic security of a nation.

Mr. Speaker, if the Government of France pursues the policy of large-scale financial increases in selected areas of research and development, I have no doubt that they will achieve their goal of becoming second to only the United States and Japan in developing new technologies. If they do, it should go without saying that France will be the world leader in certain areas, and the United States will continue to fall behind.

I urge my colleagues to read the following article, and reflect on why the Government of the United States does not have a similar vision and policy.

The article follows:

[From the New York Times, Aug. 15, 1982]

SEEKING TECHNOLOGICAL GAINS, THE FRENCH SOCIALIZE SCIENCE

(By Walter Sullivan)

PARIS.—In a bid to make France Europe's technological leader and cope with a deep crisis that the country's socialist leaders believe must inevitably affect all industrialized nations, the Government has mapped an ambitious program of reform and large-scale increases in research funding. It has recently announced that it will be spending the equivalent of hundreds of millions of dollars annually by mid-decade to develop biotechnologies and electronics. Other areas slated for special attention include robotics, renewable energy sources, energy conservation, improved employment and working conditions. Supporters and skeptics alike believe the goals can be achieved only by radical changes in research practices and the educational system.

The plan, according to Jean-Pierre Chevènement, the man responsible for its execution, is to raise France during the next decade "to the rank of third scientific power in the world"—outranked only by the United States and Japan. Mr. Chevènement is the Minister of Science, Technology and Industry. His already extensive lordship was recently expanded to include France's industrial establishment.

A law spelling out the goals was passed by the National Assembly on June 30. Funding of non-military research and development over the next five years is to increase annually at 17.8 percent in constant francs (taking inflation into account). Recruitment is to enlarge the research work force by 4.5 percent yearly. In the United States, Federal support of non-military R & D is currently decreasing in constant dollars.

Support for basic research would rise 13 percent annually, avoiding sudden fluctuations in funding such as those that have left some research projects in the United States high and dry. By 1985 total public and private support for all research and development would increase from 1.8 to 2.5 percent of the gross national product. Such a leap would bring France up from behind. In recent years comparable percentages in other countries have been 2.4 for the United States, 2.2 for Britain and West Germany, 2.0 for Japan and 0.8 for Italy. The American percentage has dropped considerably from 3.1 in 1964.

ROLE FOR SOCIAL SCIENCES

In contrast to the United States, where Government support for the social and behavioral sciences is shrinking, the French program produces new emphasis. The Assembly called for the humanities and social sciences to play a role "in restoring the dialogue between science and society." In the view of Jacques Attali, special adviser to President Francois Mitterrand, industrial countries such as Japan and the United States will face intense economic and sociological problems as new technologies, such as those based on computers, robots and satellite communications, come into general use. Urban life, he says, will have to be reorganized.

According to Jacques Robin, who heads the Center for Studies of Systems and Advanced Technologies set up by the Government this year to conduct technologies forecasting, the use of robots and other forms of automation will lead to unemployment far greater than that of today, resulting in deep social unrest. He hopes France can devise the technological, educational and socio-political means to minimize the impact of such a crisis.

All agree that fulfillment of the Socialist program will be difficult. The plan calls for 10 percent annual rises in funding of research and development by nationalized industry as well as 8 percent rises in the private sector. The Government, however, can only promote the latter with ecomomic incentives.

As pointed out by Pierre Aigrain, minister of science under the previous Government, a number of large, Government-controlled industries are already making big investments in research. He is director of research at Thomson CSF, a conglomerate that controls enterprises as diverse as those of the Hughes Aircraft Company in the United States. The Government owns a small percentage of Thomson stock and many more shares are held by banks that have now been nationalized. Thomson, he says, yearly invests more than 4.5 billion francs in research and development. That is close to a billion dollars and almost double the figure for American Telephone and Telegraph.

A striking feature of the new government policy is its resemblance to that of Charles de Gaulle, whose political viewpoint was near the opposite end of the spectrum. In his wish to restore the "glory" of France, de Gaulle was relatively generous toward science—particularly regarding "show" projects such as the world's most powerful electron microscope in Toulouse and a giant solar furnace at Odeille. Between 1958 and his resignation in 1969, allocations for research and development leaped from 2.5 to 6.2 percent of the national budget.

After Georges Pompidou succeeded de Gaulle the research budget sagged. When Valéry Giscard d'Estaing became president in 1974, it rose slightly. Finally, in the 1980's, Mr. Aigrain persuaded the Government that France's future economic development depended on high technology. That, in turn, required intensive research.

DEMOCRATIZATION OF SCIENCE

Of Mr. Chevènement's extension of this policy, Mr. Aigrain says: "To some extent he was my student." But he concedes—as do others—that Mr. Chevènement has a better chance of success: "He carries much more political weight than I do. I belong to no political party." Mr. Chevènement leads the left wing of the Socialist Party and, before his present assignment, was rapporteur of the parliamentary committee concerned with science and technology. Aged 43, he is considered a potential prime minister or president. His domain includes virtually all agencies dealing with science and technology, such as atomic energy, medicine, space and oceanography.

Despite resemblances of his program to that of de Gaulle there are basic differences. For example, it emphasizes "democratization" of scientific enterprises, with representatives of various elements of society, including labor, to be added to their administrative councils. It seeks "regionalization"—dispersal of research efforts now heavily concentrated in the Paris area.

At present, research in France tends to be compartmentalized in specialized institutes. An effort is being made to move closer to American practice, where researchers shuttle more freely between academic, industrial and government laboratories and innovative enterprises spring up more readily.

Another feature of the program is its demand that scientists return to the use of

French. This led, in part, to the resignation of Charles Thiebault as director of the National Center for Scientific Research. The center, with a staff of 23,000, conducts 80 percent of France's basic research. A century ago French and German were largely the languages of science, but they have been replaced by English. Mr. Chevènement believes that in France this creates a barrier between science and the populace whereas Mr. Thiebault fears that a return to French would increase isolation from the mainstream of science.

France's educational system is a major impediment, it is widely agreed. At about the age of 14 students begin training for one of the baccalaureate exams that will determine their academic careers. Those admitted to the mathematics-science curriculum may try for admission to one of the "grandes écoles" that produce France's scientific and technological elite. Others may enter universities, where emphasis is on the humanities. Since the output of better-trained specialists from the grandes écoles is meager, the result is a sever shortage of high quality researchers.

The oft-stated goal of President Mitterrand is "To put science at the heart of democracy, to use change to invent the future." Before his Government's goals can be achieved, a number of deeply entrenched ways of doing things will have to be altered.●

AMERICAN HOLOCAUST

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DORNAN of California. Mr. Speaker, the distinguished Senator from North Carolina, Mr. HELMS, today (August 16) brought before the Senate a bill which would protect human life from the moment of conception. This is the first serious attempt on the part of the 97th Congress to come to terms with the stark and brutal reality of "the American Holocaust"—the annual destruction of 1.5 million innocent unborn babies in their mothers' womb—over 10 million since the infamous Supreme Court decision in 1973.

Mr. Speaker, the index of the level of any civilization is the solicitude it shows for those who are its most helpless and defenseless citizens. And who is more helpless or defenseless than the innocent baby in the womb? Let us not forget that it was not so very long ago that mothers who were pregnant were said to be "with child." The Sacred Scriptures underscore this when it describes the Virgin Mary's visit to her cousin Elizabeth. At the sound of Mary's greeting, the baby in Elizabeth's womb "leapt for joy." That infant of course was St. John, the Baptist.

Mr. Speaker, this modern Herodian slaughter of the innocents, this unprecedented bloodletting in peacetime, must come to an immediate halt. Senator HELMS' bill is deserving of the utmost support as a first constructive step to achieve this noble goal. If the HELMS' bill is not favorably acted upon, I can only echo with trepidation the haunting words of Thomas Jefferson: "Indeed, I tremble for my country when I reflect that God is just."

I would at this time like to submit for the RECORD a timely letter by the California Pro-Life Medical Association.

CALIFORNIA PRO LIFE
MEDICAL ASSOCIATION,
Palm Springs, Calif.

To United States Congress, Washington, D.C.

Until the late 1960's the medical profession in America still upheld the Hippocratic Oath, and our collective attitude regarding abortion was proffered by eminent physicians such as Nicholas J. Eastman, professor emeritus of obstetrics in Johns Hopkins University:

"Unless the mother's health is at stake, no reputable member of the profession would undertake such a procedure (abortion), for it would constitute murder." Expectant Motherhood, 1963.

The truth has not changed. Individual human life still begins at fertilization. A pregnant woman is still an expectant mother who carries another individual within her body. Erase the euphemistic language of the abortion perpetrators and abortion is still the brutal killing of an innocent individual human being. Once again for the second time in the course of modern history, the physician has become the doctor of death, an agency of the state who decides death selection and death control among the "unwanted."

Physicians, legislators, and judges have perpetuated a lie, a devastating lie which has endorsed the slaughter of more than 9 million human lives in America and untold tens of millions of lives in the Third World where we have spread the malignant message of abortion as population control and "planned parenthood."

We will all be held accountable for this heinous crime against humanity. Whether you accept or reject the truth, you, as a representative of a nation once dedicated to justice for all, will be held responsible.

We, as physicians committed to the life-protective ethics of medicine, demand that you restore constitutional protection of the right to life for all human beings including the most innocent, most defenseless member of the human family—the human being in the womb.

There can be nothing, nothing more urgent that the cessation of these millions of legalized murders.

Directors: Nancy T. Mullan, M.D., Albert Lorincz, M.D., Sheila Beirne, M.D., Frank Hyatt, M.D., Philip B. Dreisbach, M.D.

Sincerely,

NANCY T. MULLAN, M.D.
(In behalf of our membership).●

EDWIN B. "PAT" PATTERSON

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MONTGOMERY. Mr. Speaker, I am saddened today to call to the attention of my colleagues the death of Edwin B. "Pat" Patterson, former chief counsel of the Committee on Veterans' Affairs. Pat was laid to rest yesterday at Arlington National Cemetery.

Pat served our committee for 23 years, retiring from his position as chief counsel in 1971.

Born in Lexington, Ky., on December 19, 1912, Pat was educated in the public schools of that city and graduated from the University of Kentucky with an A.B. degree in 1934. He received his LL.B. degree from Catholic University in 1938; and was a member of the bar of the District of Columbia, the Supreme Court of the United States, and the Supreme Court of Korea.

Following his discharge from military service in World War II, he was appointed to the professional staff of the House Committee on Veterans' Affairs by the late Edith Nourse Rogers on January 1, 1948.

Pat served as chief counsel under three chairmen, the Honorable Edith Nourse Rogers, the Honorable John E. Rankin, and the Honorable Olin E. Teague.

His service spanned the period from World War II to Vietnam. During his 23 years of service on the committee staff, he participated in the formulation of most of the veterans' programs as they exist today.

During his long period of service as counsel to the committee, he had the responsibility for codification of veterans' laws into what is now known as title 38, United States Code; and he participated in the legislative drafting and planning of most of the major pieces of veterans' legislation.

In the early years of Pat's service, committee staffs were small, and staff members were required to develop expertise in many fields. Pat had an effective working knowledge of all the major veterans programs, such as compensation, pension, education, housing, insurance, and medical benefits.

His special interest was hospital and medical benefits, and in this area he made many special contributions. He played a key role in the development of the program for the care of elderly veterans. He developed a concept of extra pension payments for housebound and aid and attendance cases. He worked to strengthen the State soldiers home program. He helped develop the legislative basis for the nursing care program in VA hospitals and worked to add thousands of nursing beds to the VA system. He developed the home drug program that now benefits thousands of chronically ill veterans.

The physicians and nurses of the Veterans' Administration will remember Pat's service to them because he played a major part in the development of incentive pay for physicians

and special pay benefits for nurses working extra hours, weekends, nights, and holidays.

Few are aware of it, but Pat personally reviewed all the malpractice cases in the VA medical system. He checked these cases in an effort to provide added protection for VA patients. Pat's service had a profound impact on the VA medical system. He worked consistently for its improvement and was one of its major defenders.

Pat made two major contributions in the field of insurance. He guided the development of the servicemen's group life insurance program which insures every member of the U.S. Armed Forces and is the largest group insurance program in the world. This program has been remarkably proficient and effective. He led the investigation that increased the yield of the VA insurance trust fund that has benefited millions of veteran policyholders.

Long before congressional committee staffs became large and committees began the publication of information sheets on their activities, Pat developed an information system for Members of Congress on the activities of the Veterans' Affairs Committee and the purposes of its legislation. His "blue sheets" became the model for other committees and these publications are common practice in the Congress today.

Mr. Speaker, Pat really never retired. The members of the committee would not let him. After officially leaving the committee as a permanent employee, he continued to serve as a consultant until he was disabled approximately 3½ years ago.

In addition, Mr. Speaker, few people realize that Pat served numerous charities and was especially active in the Meals on Wheels Program. He was an active member of Trinity Lutheran Church in Rockville, Md.

Pat had the satisfaction of a long, productive career of service to his fellow veteran. His family, his friends and those fortunate enough to serve with him in the Congress can take pride in his impeccable career and accomplishments. Mr. Patterson was a kind and gentle person, loyal to his friends and a devoted family man.

Mr. Speaker, I know all of my colleagues join me in extending our deepest sympathy to his lovely wife, Fritzi, to his beautiful daughter Anna, his three delightful grandchildren and other members of the family.●

"PEOPLE LIKE US" REBUTTAL

HON. EDWARD R. MADIGAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. MADIGAN. Mr. Speaker, recently the Kankakee Daily Journal published an editoral about a rebuttal prepared by the Department of Health and Human Services to the CBS documentary "People Like Us," aired in April, 1982.

The editorial, prepared by the Enterprise News Service, deserves broad attention. Its text follows:

ANSWERING BILL MOYERS

In late April, CBS television broadcast a Bill Moyers' documentary, "People Like Us," which sought to show that budget cutbacks by the Reagan administration were inflicting hardship on the needy.

The documentary consisted of three case studies of people who had supposedly fallen through the "safety net" of social welfare spending:

(1) Larry Ham, a man in Ohio who had been receiving medical disability payments that had been terminated;

(2) Carrie Dixon, a 13-year-old girl in Wisconsin who had previously been cared for at home under Medicaid but who had been transferred to an institution; and

(3) Mrs. Frances Dorta, a woman in New Jersey who lost her AFDC and Medicaid eligibility by taking a job at $600 a month.

The point of the show was that the Reagan administration, through its budget cutbacks was responsible for hardships to these people. A rebuttal prepared by the Department of Health and Human Services—which has received relatively little publicity—suggests a different picture. Here are some of the facts as presented by the HHS:

(1) In the Ohio case, the individual in question had his disability status reviewed by the state government in response to a law passed in Congress in 1980—before the Reagan administration ever took office. On the basis of this review, it was determined that his disability had ended, and that payments should be stopped.

The HHS backgrounder on the subject observes that "no Reagan administration policy changes caused Mr. Ham's disability review. In addition, Mr. Ham still has four levels of appeal left to him."

(2) In the Wisconsin case, the change in care for Carrie Dixon apparently occurred because her mother feared future aid cutbacks by the state. The only policy change that might have been operative in this case was a state limit on non-prescription drugs—not mandated by the federal government.

The budget act of 1981, notes HHS, "provides waiver authority to the Secretary of Health and Human Services under Medicaid for home and community-based services in lieu of more costly institutional care . . . There is no Reagan administration policy or requirement preventing Carrie Dixon from being cared for at home."

(3) In the New Jersey case, Mrs. Dorta ran afoul of a 1981 requirement in federal law that a family making more than 150 percent of the state established standard of need ($590 for a family of four in New Jersey) is not eligible for AFDC assistance. This amendment was adopted to correct a situation in which people making up to $15,000 a year were eligible for such aid.

In this instance, the individual in question was affected by a formula voted in Congress (the 150 percent limit) and an eligibility level established by the state (the New Jersey standard of need), not an administrative crackdown by the Reagan administration.

That background puts a rather different light on the cases recited by CBS. In presenting this information, Dr. Robert Rubin of HHS provided these additional data:

"Safety net spending under President Reagan is not going down, but is going up—both in actual dollars and as a percentage of the federal budget. Spending on safety net programs was 37 percent of the total budget in 1981 and will climb to 39 percent in 1984.

"At the Department of Health and Human Services alone, our proposed fiscal year 1983 budget contains an increase of $20 billion, or eight percent—from $253.9 billion to $274.2 billion.

"The proposed 1983 Reagan budget for Health and Human Services is $56 billion higher than the Defense Department budget."

Bill Moyers didn't tell you that.●

IN SUPPORT OF THE SMITH AMENDMENT

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GUNDERSON. Mr. Speaker, as a cosponsor of the gentlelady from Nebraska's original bill, H.R. 6753, I rise in strong support of her amendment to the National Oceanic and Atmospheric Administration authorizations bill today.

This very important amendment would require the Secretary of Commerce to provide adequate public notice of any administrative intention to close or consolidate a Weather Service Office at least 60 days before the scheduled action.

In addition, the Secretary would be instructed to consider any views expressed with the following factors in mind: First, effect of such closing on the community served; second, effect of closing on employees of the National Weather Service; third, economic savings to the National Weather Service; and fourth, other factors deemed necessary by the National Weather Service.

The Secretary may hold hearings on such a proposal and the decision to close or consoldiate may be appealed by any person served to the Federal Committee for Meteorological Services and Supporting Research within 30 days of the final decision.

This amendment would have a profound impact on western Wisconsin since many local farmers depend on weather reports from our part-time Weather Service Office located in La Crosse.

The administration has slated this and 37 other part-time weather stations for closure in its fiscal year 1982 and 1983 budgets. Through several congressional appeals, under the fine leadership of the gentlelady from Nebraska, we have been able to prevent such action.

But conflicting reports of threatened closure or consolidation have plagued my district and left the fate of

the La Crosse Weather Station in constant question.

Since January 1964, the La Crosse Weather Station has faced possible closure on six separate occasions, without adequate prior notification or any request for local input. Fortunately, service has continued uninterrupted, but our local communities should not be regularly subject to such capricious, inconsistent treatment.

I believe this amendment will promote adequate, systematic procedures for weather station closings which allow for proper notification and public comment period. In addition, such decisions would be subject to further consideration under an appeals process.

I submit, for the record, a copy of a letter forwarded to me by Mr. Bill Hoel, of WLCX La Crosse Radio, Inc. This correspondence, written by Mr. John F. Borgia of the La Crosse Weather Service Office, describes the vital information the station continues to provide communities in western Wisconsin. I sincerely hope that our support for this amendment will help maintain this invaluable service.

NATIONAL OCEANIC AND
ATMOSPHERIC ADMINISTRATION,
NATIONAL WEATHER SERVICE,
La Crosse, Wis.

DEAR BILL: In regard to your request, I went back over the program accomplishment reports for the past year, since I have been OIC at the La Crosse Weather Service Office. The following is a break down of some of our services.

The total number of Tornado/Severe thunderstorm/Flash Flood warnings issued by this office during the past year, thirty six (36). These included warnings for Flash Flooding in June 1980 for the Counties of Dunn, Eau Claire, and Chippewa. The warning for the severe thunderstorm that struck the La Crosse area. The massive storm that went through Dunn, Eau Claire, Chippewa and Clark counties although I should mention that the initial warnings were issued by WSFO MKE, for that one storm. Our office has not missed one Severe Weather Watch during the past year. Warnings also were for the flooding that took place in September of 80. Our office was fortunate in that almost all warnings were issued before the storms struck.

In addition our office issued 16 Hydrological statements to keep the people informed as storms were occuring or as a wrap up, because information to the people and communities during and after a storm is almost as important as the initial warning. Also a total of 129 Severe weather statements were issued for the same reason, be it Severe Thunderstorm, Tornado, Flash Flooding, Flooding, Fog, Snow or whatever unusual weather might affect the local community.

This year we started up a rainfall reporting network not just of the Kickapoo River but throughout the 14 counties we are responsible for. Reports from these people are relayed on to the River Office at MSP and WSFO MKE. Initial reports such as these enable myself and my staff to make good judgement decisions on the need for Flash Flooding, or enable the River Office at MSP to decide on river stages for the Mississippi. We also established a workable Flash Flood warning system for the Kickapoo River using Presidents or town clerks to not only relay information to these villages but also to receive vital information back such as initial river stages so that we may be able to forecast a flood stage for those people along the river.

Our office received 1557 phone calls last year, based on the number of contacts on the fifth, fifteenth and twenty fifth, when they are logged. This averages 43 phone calls per day. Our office does not maintain a Ring Through, all calls are answered in person by the Specialist on duty. In this light it must be remembered our office was only operating for 8 hours a day for about 6 months.

I speak at a large number of schools and some hospitals, usually prior to the storm seasons, so that they may refresh their local operations and plans in the event of Severe weather. I also keep contact with the Emergency Government personnel throughout the 14 counties and aid is establishing storm spotters "the eyes of the weather service."

This is in no way a cry from myself, as I feel the job I and my staff did during the past year will enable us to find positions within the National Weather Service, however for the sake of the communities we serve in providing warnings to aid in their safety, and deep weather related deaths to an absolute minimum, I write this letter.

Respectfully,

JOHN F. BORGIA.
Officer in Charge.●

PRICE FIXING

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. GORE. Mr. Speaker, outrage is perhaps an overused word in this town, but I can think of no more appropriate term to describe my reaction to the article in the Washington Post on Friday, August 13 entitled "Antitrust Chief Sees No Evil—Justice Allows Illegal Pricing." The article, an interview with Assistant Attorney General William F. Baxter, explained that the chief of the Justice Department's Antitrust Division does not intend to enforce the law against price fixing when it involves vertical agreements between manufacturers and retailers. Mr. Baxter comments that price fixing between different firms in the chain of sale is fundamentally different than horizontal price fixing between competitors. Although both the Congress and the Supreme Court have said repeatedly that this type of price fixing is illegal, Mr. Baxter had made a unilateral decision not to enforce the Nation's antitrust laws. Such defiance is not new to Mr. Baxter. He has expressed such arrogance on this subject before, but this is his strongest statement to date, and leaves no room for compromise. Not only is he wrong on the substance, but he is dangerously wrong in attempting to run roughshod over two branches of Government. I believe it is time for Mr. Baxter to step down.

VERTICAL PRICE FIXING

At issue is whether it should be legal to allow manufacturers to dictate the price at which retailers must sell a manufacturer's product. The law in this area has been clear since 1911, and was reinforced by the Supreme Court again in 1977. An agreement between a seller and its buyer fixing the price at which the buyer may resell the product is a per se violation of the Sherman Antitrust Act. The courts have said that a seller has no interest sufficient to warrant such a restraint. Vertical price fixing forecloses price competition, it is an unreasonable restraint on a retailer's business, and it unnecessarily harms consumer interests. In 1975, Congress reaffirmed the view enunciated by the Supreme Court by repealing the Miller-Tydings and McGuire acts, thus making it illegal for manufacturers to dictate prices that stores can charge to customers.

The Supreme Court's view is settled law, the congressional intent is clear. Yet, Mr. Baxter has invoked an overriding view, one that annoints him to disregard the policy of the judicial and legislative branches of Government.

THE BAXTER PHILOSOPHY

Mr. Baxter claims that vertical price fixing, like other types of vertical restraints, are beneficial to consumers. He states that manufacturers will not engage in such a practice to restrict the output of this product—a result no one wants—but only to create efficiency—which we should all want. The efficiency he expects is the enhanced effort by the dealer in sales, service, or promotion. Mr. Baxter justifies his position with concern about the free rider problem—that is, where a consumer can learn about a product from a full-service dealer and then can go out and actually buy the product from a discount dealer. The consumer uses the information from the full-service dealer, but does not pay for it—thus, he is a free rider. Mr. Baxter argues that the result is to make it unprofitable for the full service dealer to offer extra services, thus hurting the manufacturer and, ultimately, the consumer. Mr. Baxter appears especially concerned with technologically complex products where he contends the free rider problem is especially pernicious.

WHY BAXTER IS WRONG ON SUBSTANCE

I believe Mr. Baxter is wrong not only from the viewpoint of the consumer and the retailer, but also from the manufacturer's position.

The free rider phenomenon is a market imperfection, but not one that should permit illegal price fixing. Once information is disseminated on a product, a consumer can use this information without having to pay for it. That is, once a consumer is subjected to a sophisticated promotion for a particular product, he can use this knowl-

edge to buy the product from a dealer offering the lowest cost. Unless the manufacturer can force the retailer to offer such services by keeping the price uniform, Mr. Baxter claims that the manufacturer will suffer. But manufacturers have tools to counteract the free rider problem without resorting to price fixing.

Mr. Baxter has chosen to ignore consumer benefits, as well. As Sanford Litvack, Baxter's predecessor at Justice, said, "The cure will result in higher prices and it is worse than the problem."

Baxter, himself, admits that his policy will force consumers to pay higher prices for products. He appears to assume that consumers are ignorant, and he wants to force them to pay additional, possibly unwanted services, such as high-powered promotion campaigns. Consumers can, and should, take care of themselves—if they want a low price from a discounter, they know full well they are not getting such extras from the purchase except a low price. Some consumers want the extra protection the service dealers offer, and they are willing to pay for it.

Despite Mr. Baxter's claim of enhanced manufacturer efficiency from vertical price fixing, I believe this practice is inefficient from a broader view of the economy. Retailers are in a much better position to make decisions about prices. They interact daily with consumers, they know what promotion works, and what does not, and they know the right level of sales training to make a profit. Manufacturers, one step removed, cannot be expected to know changing customer preferences. Any single price dictated by manufacturers will distort market variations between dealers. It also ignores the fact that dealers have different costs and, therefore, must charge different prices. The consumer and the retailer should make choices between price and service based on their experiences and their preferences.

The justifications for the per se rule are ample. The disputed loss to manufacturers is minimal when compared to the consumer benefits. There are much less restrictive ways for manufacturers to successfully market their products without having to set prices. We ought to stimulate dealer competition, not suppress it. We ought to encourage consumers to make choices on the types of products and the prices they want. It is ironic to note that conservative economic policy is founded on the presumption that prices respond immediately to market changes. Yet, in this case, Mr. Baxter wants to prevent markets from working by allowing price-fixing by manufacturers.

MR. BAXTER IS DANGEROUSLY WRONG IN PRINCIPLE

Even if one were to agree with Mr. Baxter's view of economics, he is absolutely wrong to disregard the law. His first mistake is to ignore the fundamental goals of antitrust policy.

Mr. Baxter contends that the goal of our antitrust laws is strictly economic. Or, in the words of Mr. Baxter's colleague, Robert Bork, the goal is "productive efficiency." Yet, while economics may be marvelously efficient, it is not always fair. This is why Senator Sherman, the father of antitrust, said, in 1890:

> If we will not endure a king as a political power, we should not endure a king over the production, transportation, and sale of any of necessaries of life. If we would not submit to an emperor, we should not submit to an autocrat of trade, with power to prevent competition and to fix the price of any commodity.

The goal of antitrust law is more than simply economic efficiency. It has a strong political component. The antitrust laws were enacted because there was a fear of excessive concentration of economic power and a desire to enhance individual business freedom. Even granting that some of the antitrust rules do not make perfect economic sense, to ignore them is to ignore the will of the people who wanted these protections enacted into law.

Mr. Baxter evidently believes, as Mr. Bork does, that "Congress . . . is institutionally incapable of the sustained, rigorous, and consistent thought that the fashioning of a rational antitrust policy requires." Mr. Baxter appears equally unsatisfied with the performance of the Supreme Court. His solution is as radical as it is arrogant—he will decide which laws he should enforce and which ones he should not. This is much more than prosecutorial discretion.

The notion that a bureaucrat should make our laws in contravention to the policy of Congress and the Supreme Court offends anyone who cares deeply about the Constitution. Mr. Baxter's approach stands the Constitution on its head—worse, still, it makes a mockery of it. If he does not like the law, he ought to come before Congress and suggest changes. If he does not like what the Supreme Court has done, he can file amicus briefs and/or appeal to the bar through legal journals. But he is sworn to enforce the law of the land.

When President Reagan assumed office, he made an oath to faithfully execute the laws of the United States. Mr. Baxter's actions constitute a failure to fulfill that pledge. This defiance is similar to the unwillingness to prosecute violations of the oil pricing regulations and EPA's recalcitrance in enforcing our environmental laws are two other glaring examples of the failure of President Reagan's promise to the American people to uphold the Constitution.

That Mr. Baxter is a top official in the Department of Justice makes his actions particularly troublesome. We cannot allow our delegated officials to flaunt the laws of this land. If our Constitution is to mean anything, it must mean that the executive branch cannot unilaterally impose its will on the American people. Mr. Baxter, with his strident rhetoric, has breached his promise to the American people and the oath of the President. Mr. Baxter should either faithfully execute the law or resign immediately.●

NATION'S FIRST BALLOON ASCENT

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, the Prince Georges' Jaycees is an active business-oriented group in my own Fifth Congressional District in Maryland. Recently, the Jaycees launched a campaign to recognize, through the issuance of a postal stamp, the first balloon flight in this country. The flight took place almost 200 years ago in Bladensburg, an historical Maryland city located just northeast of the District of Columbia.

At the time, Bladensburg was a thriving tobacco port and a man named Peter Carnes was the innkeeper of the Indian Queen Tavern, located beside the Anacostia River. Mr. Carnes was an inventor, aside from many other endeavors, and it was his experiments with hot air ballooning that led to the first flight on June 17, 1784. He sent aloft a multicolored balloon that was 35 feet in diameter and 30 feet high, made of silk with a cylindrical stove of iron suspended at the bottom. The first ascent was unmanned; a few days later, in Baltimore, a 13-year-old volunteer ascended in the basket.

These first balloon ascents were significant achievements in the ultimate evolution of manned space flight. Yet the event has been overlooked by most historians. The Prince Georges' Jaycees want to make sure that Peter Carnes and the balloon flights become known by all Americans.

Bill Aleshire, chairman of the Jaycees committee, and Alice Plaster of the Prince Georges' County Library Art Department, have already designed artwork appropriate for a commemorative stamp. The Jaycees have asked the Citizens' Stamp Advisory Committee to consider their suggestion and the accompanying design. Although the committee has thousands of proposals to consider, I feel the 200th commemorative stamp would be most appropriate and provide, not only information about the historical aspects of ballooning in this country, but inspiration to all the would-be

Peter Carneses, who have enabled the United States of America to be the leaders in the aerospace industry today.●

THE PLIGHT OF PROF. MARKO VESELICA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. OAKAR. Mr. Speaker, Americans have traditionally defended the cause of human rights. It is important that people of goodwill speak out when they become aware of the plight of an individual who is being persecuted for his beliefs. I would like to bring to the attention of my colleagues and the American people the plight of Prof. Marko Veselica. His wife, Prof. Bozena Veselica and his two daughters, Snjezana and Ives, recently wrote an appeal to the people of conscience throughout the world to help Prof. Marko Veselica in his struggle for truth. The number of people in Yugoslavia prosecuted and sentenced for political reasons have, according to the Amnesty International report on that country, dramatically increased over the past 3 years.

These include a high proportion of Croatian prisoners of conscience, some of whom have been previously sentenced during the purge of 1972, and brought to trial again in 1981. Among these is the ex-Communist and Christian convert Dr. Marko Veselica, whose crime was in permitting himself to be interviewed by the West German publication "Der Spiegel", in which he explained the circumstances of his previous imprisonment, the unresolved national problems and inequities still existing in that multinational country, and the disadvantaged political and economic position of his native Croatia within the Yugoslav federation.

For this Dr. Veselica was sentenced to 11 years' imprisonment and a 4-year ban on public expression of any kind. According to Amnesty International, the majority of Yugoslavia prison buildings are antiquated, and complaints of "filth, desolation, hunger" in addition to "severe overcrowding and inadequate sanitary installations" are frequently heard from prisoners.

Dr. Veselica's health has already been seriously affected by his previous imprisonment under such harsh, subhuman conditions. Because he is a seeker of justice for all elements of Yugoslavia's society, and has committed no crime, his wife and family have addressed the following letter in the form of an "appeal" to the people of the free world with conscience.

This letter previously appeared in the March 1982 issue of Hrvatski Glas—Croatian Voice, published in Canada, and also in the June 1982 issue of "That's Yugoslavia"; information and facts, published by Ost-Dienst in West Germany.

A reprint copy together with this background introduction have been provided to me by the executive officers of the American Croatian Academic Society of Cleveland, who have asked me to lay this information before the Congress, so that its Members professing a sincere commitment to human rights may have a chance to speak out in behalf of Dr. Veselica and the many others like him that have been unjustly tried and are suffering in Yugoslavia's prisons.

I urge my colleagues to read the appeal printed below and to take appropriate action in behalf of this imprisoned Croatian intellectual.

Mrs. BOZENA VESELICA,
Professor, Zagreb, Ilica 117a

As the wife of Dr. Marko Veselica, the State prisoner in Yugoslavia. I have decided to address myself to you and ask for help. On September 9th, 1981, my husband was sentenced to 11 years imprisonment, although his only sin was that he declared his opinion. this is his second punishment, because he had been sentenced for the first time in 1972, to seven years of severe imprisonment and he had served six years of his sentence in the prison Stara Gradiska. (This prison has been on the list for abolishment for years because it doesn't meet the minimal living conditions).

After he had completed his studies at the Faculty Economics in Zagreb (Croatia) in 1960, my husband became an assistant lecturer at the Department of Political economy. In 1967, he obtained the degree of Doctor of Economics (Ph D) and was elected at the university until 1972, when he was arrested.

My husband was not only engaged in scientific research but he was also prominent in social and political life of the country. He became the member of the League of Communists when he was eighteen and at the Faculty of Economics he was a prominent leader of the Student Union and the member of the Central Committee of the Socialist Youth League in Croatia. In 1968, he became the secretary of the Faculty League of Communists, and in 1969 was elected delegate to Social and Political Chamber of the Federal Assembly of SFRY in Belgrade. He was concerned with the problems of economic and social development in SFRY and participated in conferences and discussions on the basic social and economic problems.

In 1964, he became a member of the Confederation of Trade Unions Commission for education and culture, and after a period of time he was elected president of the Commission for social and economic relations.

As the result of his work in the Trade Union he was elected delegate to II Congress of the self-managing workers.

In 1971, he was excluded from the highest body of the Trade Unions and it was done without any democratic dialogue, suspended at the Faculty and in spite of his immunity as a people's deputy he was arrested on January, 11th 1972, because all the work that my husband has been legally performing in various political bodies was said to be nationalism and contrarevolutionary activity.

After he had served his sentence under horrible conditions in prison Stara Gradiška, my husband was employed in a small firm GOI in Zagreb, and worked as a traveler with a minimal salary. Although he has never been speaking in public for the three years, some politicians kept talking about him as if he were a people's enemy No. 1. Because of that we have been living under the constant pressure. In September 1980, my husband was interviewed by a journalist from Der Spiegel, in order to say the truth about himself, and to testify about prosecution and events of 1971. This interview caused many troubles and on April, 24th 1981, my husband has been arrested again. Because of horrible conditions in the prison and inadequate medical help he had to undergo an operation.

He was tried from August 31–September, 9th 1981. My husband is a prisoner of conscious because he is charged with declaring his belief and opinion which in no way can be any form of violence. He has been fighting all his life for development, democracy and equality of all the nations as well as against violence and injustice but how he is himself their victim.

The sentence which has been past on him is absurd, unbelievable and is equal to killing of my husband, because he has already served the sentence of six years. This horrible punishment has made me write to you because I still believe that something can be done to help my husband.

I appeal to all the people of good will and ask them for help to influence the Government in Yugoslavia and to make them to reexamine and to quash or at least, to mitigate radically the sentence which is a violation of the rights that the same Government guarantees to all their citizens. I think that the best thing will be if individuals, groups and institutions address themselves to the Government of Yugoslavia and to Government of SR Croatia and if the full truth about the whole case will be presented openly.

Originally my intention was not to appeal across the borders of my country, but I was forced to do so because in my country nobody has will and strength to help. I have addressed myself to all the leading politicians in Yugoslavia (there are 30 of them) while my husband was seriously ill in a hospital, but only answer was the eleven years imprisonment.

Our belief is that you will support us in our efforts.

Sincerely yours

TNES VESELICA, *(daughter).*
PROF. BOSEUS VESELICA, *(wife).*
SYERANA VESELICA, *(daughter).*●

BALANCED BUDGET FLIMFLAM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. OBEY. Mr. Speaker, recently we have witnessed the spectacle of an administration which has asked the Congress to pass the largest deficit in history engaging in a diversionary operation to take peoples' attention away from the ludicrous nature of these deficits by posing as the champions of a constitutional amendment to balance the budget.

The budget should be balanced in years of full employment in order to pay back Treasury borrowing that occurs at other times. But the constitutional amendment sham being enticingly dangled in front of the American public today is a prescription for making recessions deeper and longer and more painful and it is a prescription for minority rule—the very antithesis of the constitutional principle of majority rule built into our system by our Founding Fathers.

I am inserting in the RECORD at this time two newspaper editorials from my home State—one from a traditionally Republican newspaper, and the other from a usually Democratic newspaper. I am also inserting three excellent articles by Tom Wicker, David Broder, and James Kilpatrick which put into perspective the sham game being played by this administration and many people in this Congress as well.

I also invite Members who are interested in a balanced budget to quit posing about actions they will take 6 years from now to balance the budget and start addressing the need to get today's budget deficits under control now.

The articles follow:

[From the Milwaukee Sentinel, July 14, 1982]

UPSTREAM POLLUTION BOOSTS CITY'S COSTS

All the talk these days about Milwaukee's massive sewer modernization project can leave a person numb.

But amid all that rhetoric, two legitimate points were raised last week and both bear more looking into by all the officials concerned. Since both have a direct effect on taxpayers, they also should be of concern to the public.

One of the points was made by Mayor Maier and it's a good one. What sense will it make, Maier says, to have the Milwaukee Metropolitan Sewerage District spend $1.6 billion to clean up the pollution in the district if outlying communities continue to pollute the rivers that flow through the district?

That pollution, called runoff or non-point pollution, much of it from farmlands outside the district, has the potential, Maier said, "to negate much of the improvement" in water quality which the district will achieve at such great cost.

It is obvious that the district must proceed with plans to abate the pollution it generates—and those who live in the district must be prepared to share in the cost—but, as Maier noted, what will be accomplished if the non-point pollution is allowed to continue uncurbed?

Maier has asked a task force he appointed to further study pollution from outside the district and review the district's construction schedule. Carroll Besadny, secretary of the State Department of Natural Resources, responded in a letter to Maier that control of upstream pollution depended "on the voluntary participation of landowners and the interest and cooperation of local units of government."

The problem of non-point pollution is just one more reason why the state should not force the district to proceed too rapidly with its construction schedule.

On another front, a New York investment banker recommended last week that the district should finance the huge cleanup through a combination of borrowing and "pay-as-you-go." The idea, he said, would be to maintain a level tax rate, without significant fluctuation, over the years it takes to finance the project.

While the idea obviously requires more study, it appears to be sound. If he has a better idea of what the annual cost will be, it certainly should make it easier for the taxpayer to shoulder the burden of paying for the cleanup.

[From the Milwaukee Journal, Aug. 7, 1982]

DECEPTIVE "APPLE PIE" AMENDMENT

"It's quite hard to explain why you are not for motherhood, or low interest rates or a balanced budget."—Senator JOHN CHAFEE OF RHODE ISLAND.

Chafee's wry comment probably explains why many senators voted for the "budget balancing" constitutional amendment in spite of the serious damage that it could do to the orderly processes of government.

Commendably, Chafee chose not to join the stampede. We regret that Wisconsin's Sens. William Proxmire and Robert Kasten didn't show comparable courage.

On the surface, a vote for the amendment was like a vote for apple pie and the Fourth of July; while a vote against it—even for the soundest of reasons—might look too much like a vote for big spending.

Actually, the amendment has no bearing whatever on the mind-numbing deficits that loom over the next few years. If the House quickly follows the Senate's lead and adopts the measure, it still will have to go through a long ratification and implementation process before being put into effect.

Even for the long run, the measure's impact on deficits is somewhat debatable. The amendment apparently would make it harder for Congress to adopt an unbalanced budget and harder to raise the federal debt ceiling. Three-fifths of the membership of both houses would have to approve, except in wartime. But the measure would not prevent economic recessions, which are one of the main causes of deficits. On the contrary, by limiting the government's policy options, the amendment might make recessions more likely.

Some advocates of the amendment argue that it is a necessary goad to the lawmakers. "We don't have the appetite to limit ourselves," says Sen. John East (R-N.C.). That problem can be remedied at the ballot box. Tying the hands of future Congresses isn't the answer.

Although today's record deficits are cause for genuine concern and appropriate action, deficits are not always bad. Economic depressions or other emergencies can make it temporarily necessary to spend money more than taxpayers can afford to.

The constitutional amendment presents two other serious problems. First, it would clutter the Constitution with what is at best a legislative rule. That's like drawing whiskers on the Mona Lisa. The Constitution is an elegantly simple document that should not be altered except for compelling reasons. Second, the amendment would install minority rule, allowing 41 of the 100 senators or 175 of the 435 representatives to dictate the terms of the federal budget. That is intolerable in a country committed to democratic government.

THE BIGGEST HOAX

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes," The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year $750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from $140 billion to $160 billion, even after approval of the proposed $99 billion tax increase for the same years. Without a shred of evidence other than voodoo throbbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of $214 billion for 1983, $243 billion for 1984 and $279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.

[From the Milwaukee Journal, Aug. 10, 1982]

COWARDS IN CONGRESS

(By David S. Broder)

After summarizing the copious arguments for the ratification of the Constitution in the last of the Federalist papers, Alexander Hamilton gave vent, briefly, to the emotions he felt as he contemplated the choice before the infant republic:

"The establishment of a Constitution, in a time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."

Last week, the Senate of the United States voted for an amendment to the Constitution to require a balanced budget, except in time of war or by vote of 60 percent of both houses of Congress.

This is what a U.S. Sen. John G. Tower of Texas offered as a rationale for his vote:

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States. We are unable to discipline ourselves to do what we should do and, therefore, we feel constrained to try to institutionalize that discipline in the Constitution.

"This is a matter that should not really be in the fundamental law of this land. * * * Because I think it should be submitted to * * * a referendum and because I think there should be a great national debate on this issue, I intend to vote to report the amendment. However * * * I would be deeply delighted to testify against its ratification."

What a commentary on the condition of public life and leadership in this republic.

When but recently liberated from colonial status, men of influence were prepared to risk "their lives, their fortunes and their sacred honor" for the ratification of the charter of this nation's being.

Today, this rich and powerful nation is governed by people who are prepared—against their better judgment—to forward, for inclusion in that charter any kind of simpleminded scheme they think commands a popular majority.

The point is not to condemn Tower. His own words do that. The rationalization he offered was, in fact, adopted by the leaders of the Senate. Majority Leader Howard H. Baker, Jr., of Tennessee used it to solicit votes. Minority Leader Robert C. Byrd of West Virginia employed it in explanation of his own tortured vote.

Not to worry, they said. It's just a harmless little old constitutional amendment, which happens to shackle the national government and prevents it from conducting a national economic policy, which transfers to a minority of 40 percent the power to set fiscal policy, meaning, among other things, the capacity of this country to defend itself and to secure the general welfare—the fundamental purposes of creating the national government.

But, they said, the House may not pass it. Legislatures may not ratify it.

Don't you believe it. Cowardice is contagious. Already, one hears House leaders saying it might be smart to let the members vote for the amendment, in a slightly different form, to "protect themselves" for election purposes, and then hope that it dies in a House-Senate conference committee.

But the conferees will not withstand the heat—nor will state legislators—unless someone decides to stop the buck-passing and vote on conviction. In the Federalist papers Hamilton explained that the procedure for amending the Constitution was made difficult so that "the judgments of many must unite in the work (and) experience must guide their labor."

Hamilton did not reckon with the kind of leaders we have today, who are all too eager to suspend judgment, ignore experience and avoid responsibility.

It is a different kind of "trembling anxiety" one feels when the Constitution falls into the hands of such people.

[From the St. Paul Pioneer Press, Aug. 16, 1982]

WRONG WAY TO BALANCE FEDERAL BUDGET

(By James Kilpatrick)

WASHINGTON.—The proposed constitutional amendment to compel a balanced federal budget offers a regrettable but familiar combination often seen on Capitol Hill. The resolution is a mishmash of good intentions and bad law.

Since the days of John Randolph of Roanoke, who defined pay-as-you-go as "the philosopher's stone" of wise government, almost everyone has proclaimed the virtues of a balanced budget. This is the ideal. There is nothing wrong with the ideal. The problem lies only with members of Congress who have despoiled it and with the people who have voted these members into office. Barring periods of true national emergency, of course our government should spend no more than it takes in.

There is much to be said, also, for the argument that the only way to restrain our irresponsible lawmakers, who have spent us into a trillion-dollar debt, is to deny them the money in the first place. The theory is that they can't spend what they don't have. It is supposed that the constitutional amendment would provide precisely such a restraint. At the very least, the amendment would raise a symbol that honorable men could repair to.

But for the past 10 years, we have heard some of these same arguments about the ill-fated ERA amendment. It would have provided that "equality of rights under the law" shall not be abridged on account of sex. The ERA never would have accomplished what its proponents believed it would have accomplished; and the notion that constitutional amendments are "symbols" is a notion that ought to be abandoned.

The resolution adopted by the Senate on Aug. 4 is flawed in a dozen ways. It undertakes to write statutory law into the Constitution, and this always is a bad business. In Section 2 of the amendment, it is proposed to limit the rate of increase in annual receipts, but the formula by which this would be fixed is a formula composed of algebra and moonbeams.

The Congress and the president, says this amendment, shall ensure that actual outlays do not exceed a statement of proposed outlays, but there is no way under moon or sun that this provision could be enforced. It is generally forgotten, but we already have a law to this identical effect. Under Section 7 of Public Law 95-435, adopted in October 1978, it is specifically provided that, "Beginning with Fiscal Year 1981, the total budget outlays of the federal government shall not exceed its receipts." This already is part of the supreme law of the land, and no one has paid a particle of attention to it.

Extended analysis would be a profitless exercise. The political and parliamentary situation in the House suggests that the amendment is dead for this session. Like T. S. Eliot's famous patient, the Senate's amendment now lies etherized upon a table. It is sleeping in the House subcommittee on monopolies and commercial law. This is Chairman Peter Rodino's personal operating room, and Dr. Rodino is a skilled operator.

It is conceivable, though barley conceivable, that the chairman could set aside his own opposition to the amendment and in the name of democracy let the resolution move toward floor consideration. The alternative is for the resolution to be bombed out of its unlikely abode by a petition for discharge. Such a petition requires 218 signatures, and these will be hard to come by.

Suppose the 218 signatures were obtained. Seven legislative days must then elapse. A resolution thus press-ganged then may be called up on the floor, but only on the second or fourth Mondays of each month. Aug. 16 is out; the House will be in recess on Aug. 30; Sept. 13 is a possibility, but only if the seven-day requirement has been met; Sept. 27 is Yom Kippur, when nobody's home; the Congress is expected to adjourn well before Oct. 11, which happens also to be Columbus Day.

If we want balanced budgets, the answer lies not in the straw fetters of this amendment, but in the election of responsible representatives. The whole House and a third of the Senate will be up for election in November. If the deficits get worse, let us blame them—but let us blame ourselves too.●

THE 97TH CONGRESSIONAL CLASS FOR SOVIET JEWRY

HON. DAN COATS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. COATS. Mr. Speaker, I rise today to bring to the attention of my colleagues the dilemma of Mikhail and Luibov Gart, Soviet refuseniks who are seeking exit visas permitting emigration to Israel.

Mr. Gart was a surgeon at a local hospital, and his wife was employed as a teacher of Russian, when Mr. Gart applied for an exit visa in October 1979. After making their application, they were dismissed from their respective jobs. One month later, they were informed that they and their two young children were being denied permission to emigrate to Israel, where they wished to join an aunt. The Soviet authorities based their refusal on insufficient kinship.

The Garts reapplied for an exit visa in March 1980. This request was also denied.

The Gart case is only one of many similarly flagrant violations of the human rights of Soviet Jews. The 9,447 exit visas granted in 1981 represent the lowest number granted in a decade. It represents an 82 percent drop from the total of 51,320 exit visas granted in 1979. This reduction seems to indicate a deliberate policy on the part of Soviet authorities, and has caused great concern among Soviet Jews, who had come to believe that emigration, at least that based on repatriation to Israel to reunite families, would continue at some respectable level.

Additionally, the drastic decrease in the number of visas granted coincided with a wave of harassments and imprisonments among refuseniks. Arrests of Soviet Jews and sentencing them to extremely harsh prison terms continued at an unprecedented rate. The KGB issued threats of exile to Hebrew teachers, confiscated Jewish books, and harassed those assembled at Jewish meetings. Refusenik scientists were denied the rights to employment, to publish, and to lecture. In some cases, their educational certificates were rescinded. Soviet authorities have propagated a deluge of anti-Semitic propaganda via the state-controlled press and media. All of these blatantly anti-Jewish actions have made life for Soviet Jews increasingly oppressive and bleak.

Mr. Speaker, I commend those of my colleagues who exercise continuing efforts in behalf of Soviet Jewry. However, much remains to be done before these individuals can enjoy the level of freedom and respect which they rightly deserve.

Mr. Speaker, I hope we will continue to work actively to end this abhorrent oppression of Soviet Jews. Only after all people are accorded the proper degree of human rights and dignity can any of us fully enjoy the great blessings of liberty.●

YOUNG PEOPLE AT WORK: AN EXEMPLARY PROGRAM

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. DWYER. Mr. Speaker, I had the great honor to visit a very special project in my district earlier this month that truly exemplifies what can be done when Federal and local resources are combined effectively for the betterment of our communities.

One hundred and twenty young people spent the past month rehabilitating the Lord Stirling School in New Brunswick, N.J., which first opened in 1910.

The average age of these youths is 14, and thanks to their dedication, talents, and energy, the school's 37 classrooms have a new look. They had not been painted in 16 years.

The project was organized under a special comprehensive employment training Act summer program, where youths are afforded their first job experience. This is the eighth school finished by students under the program in our area.

Former program participants serve as counselors for the youths, who work from 8:30 to 2 and are paid the minimum wage. Under a private contractor, the job would have cost approximately $60,000.

After visiting with the youths and seeing their fine work, I left with a deep feeling of respect for them and pride in the fact that a partnership with the Federal Government helped make it possible.

These young people are the hope for our future, and worthwhile programs like this one help them prepare for that future. This program saves money and helps people. Its success—buoyed by enthusiastic participants and a dedicated staff—signals the great promise of our youth when positive growth opportunities are made available to them.●

THE NUCLEAR FREEZE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. RITTER. Mr. Speaker, the nuclear freeze debate promises to remain on the public agenda for some time. Recently, a group of Scandinavian freeze advocates tried to take the debate into the Soviet Union; they met with little success. As recounted in the following articles from the New York Times, their efforts did not reach the Soviet people; instead, they were exploited by the KGB, serving the cause of Soviet propaganda. These articles should give some of my colleagues insight into the cynicism of the Kremlin, and make them think twice about the practicalities of negotiating a freeze with the Russians. The following account from the Wall Street Journal of the incarceration and torture in a Soviet mental "hospital" of Sergei Batovrin, the leader of the independent Soviet peace movement, should give further pause to the freeze proponents, who should ask themselves whether, like the Scandinavian peace marchers, their noble aspirations are also being exploited by the Kremlin in the cause, not of peace, but of Soviet propaganda.

[From the New York Times, July 22, 1982]

"PEACE MARCH" MEETS SOVIET BARRIERS

Moscow, July 21.—A group of 200 Scandinavians arrived here today at the midpoint of a series of carefully regulated rallies that have generated strains between the group and its hosts, the Soviet Committee for the Defense of Peace.

The venture has been presented in the Soviet press as the counterpart of marches staged by antiwar groups in the West. But from the moment the Scandinavians crossed the border from Finland last week, their undertaking, labeled "Peace March 82," took on an unmistakably Soviet character.

It is highly unusual for Westerners to be allowed to mount any kind of demonstration in the Soviet Union. An unauthorized group of Western Europeans learned this when they tried to unfold a peace banner in Red Square in May. They were promptly seized and interrogated and left the Soviet Union the next day.

ORGANIZATION OF MARCH IS COMPLEX

In allowing the present march, the Soviet Union apparently had purposes of its own to serve. It has backed antiwar sentiment in the West in the hope of forestalling the introduction of new American nuclear missiles into Western Europe and the buildup of the United States' strategic arsenal.

Since much of the Western protest has been directed at the United States, with little attention to Soviet weaponry, the stance has been relatively riskless.

Holding Western-style rallies in the Soviet Union, however, has not been so simple. When the Scandinavians proposed the undertaking last year, they became embroiled in detailed negotiations with the Soviet Peace Committee. Meetings here and in Denmark produced an agreement that the march would be dedicated to nuclear disarmament in general and would not become a forum for political contention.

The wording on banners was worked out in advance, with agreement on three formulations: "No to nuclear arms in Europe, East or West," "No to nuclear weapons everywhere" and "Yes to disarmament and peace." A six-city itinerary was drawn up, including Leningrad and Moscow and ending in Minsk. The number of Scandinavian participants was limited to 300.

Tensions began to build at the first stop, the town of Vyborg near the Finnish border. The Scandinavians were upset to find Soviet participants in a rally hoisting placards denouncing the plan to place new American missiles in Western Europe. One placard depicted President Reagan astride a *neutron* bomb.

Protests were made to Grigory M. Lokshin, a Soviet Peace Committee secretary, but similar placards appeared in Leningrad. Soviet officials said they were unable to prevent people they called spontaneous demonstrators from introducing their own themes.

Later, when the marchers walked to a World War II memorial in Leningrad, members of the Young Communist League followed at a discreet distance with anti-American placards. Officials said this was a separate undertaking.

STREET CLEARED FOR MOSCOW MARCH

Marching has been cut to a minimum, with officials saying that the long distances involved do not permit parades. Where marches have been permitted, they have been tightly constrained. On arrival here, the marchers walked a mile along Prospekt Mira, a major thoroughfare, which had been closed to traffic. Sidewalks were dotted with plainclothesmen of the security police carrying umbrellas for identification on this clear summer's evening.

Soviet speakers have ignored the agreement to avoid political themes, advocating acceptance of Soviet proposals for disarmament. Scandinavian speakers have been more restrained, but a Swedish woman showed her impatience at one Leningrad gathering by asking why the Soviet Union did not move beyond speech-making and begin disarming while challenging the United States to do likewise.

The visitors have dealt with one potentially difficult issue by ignoring it. An independent peace group sprang up here last month, and its members have been harassed by the security police. A few days ago two members were sentenced to 15 days' detention in what relatives said was a move to keep them away from the Scandinavians.

The Scandinavians have said that they have no intention of meeting with the group, and a Danish reporter who discussed the matter with them was later told by a Soviet official that he was engaging in provocative activities.

One of the marchers, Janne Houman, who is chairman of Women for Peace in Denmark, said "it would not be fair" to Soviet officials to meet with people who were in official disfavor.

[From the New York Times, July 26, 1982]

300 Nordic Protesters March in Soviet

(By John F. Burns)

Moscow, July 25.—A group of 300 antinuclear demonstrators from four Nordic countries left Moscow today for rallies in Smolensk and Minsk, some convinced that their tightly organized meetings and marches had advanced their cause and others exasperated with what they regard as manipulation by their Soviet hosts.

A high point of the two-week tour, called "Peace March '82," was reached yesterday with a parade along Gorky Street in the heart of Moscow. It was the first time in memory that Westerners had been allowed to stage such a demonstration in the Soviet capital, but the results were disappointing for the visitors.

The parade, half a mile along a thoroughfare that was closed for traffic, began nearly two hours late. There was a steady drizzle and the thin line of people watching from the sidewalks offered almost no response. Many appeared baffled and uncertain how to react when participants approached them with embraces and cries of "Mir!" meaning peace in Russian.

The event summed up the difficulties confronting the Swedes, Finns, Danes, and Norwegians particpating in the tour. Mainly women, they hoped to mount a counterpart of the marches that have drawn widespread support in Western Europe in the past year. But they have been trammelled by agreements reached beforehand to remain within official channels and by Soviet officials' insistence on treating them, as one disaffected participant put it,"like peace tourists." In the parade on Gorky Street, the visitors held to their pledge to remain politically neutral. They were led by a group of women in flowing pink caftans, carrying a banner mounted with a styrofoam dove. They sang protest songs, some of them borrowed from the American struggles for civil rights and against the Vietnam war, and their placards were restricted to prearranged slogans, such as "no to nuclear weapons in the whole world."

When an unidentified interloper, speaking fluent Russian, attempted to prompt the visitors into a chant against President Reagan, those at the head of the line vigorously waved him away.

But there were many who felt that Soviet officials had broken their side of the pact. The parade was rescheduled for late morning without notice, perhaps to foil potential demonstrations by Soviet dissidents. The route ran from below Red Square and moved away from the city center, not towards the Kremlin as the visitors had previously been told.

There were more serious objections which culminated in an inconclusive meeting at which the visitors' leaders sought explanations from the Soviet Committee for the Defense of Peace, the official body that was host for the tour. A major criticism was that Soviet speakers throughout the visit here, and previously in Leningrad, made polemical speeches calling for acceptance of Leonid I. Brezhnev's recent series of disarmament proposals, in breach of a mutual pledge to keep the meetings broadly for disarmament and not politically edged.

The issue was broached early in the visit, when Soviet demonstrators bused in for rallies hoisted placards lampooning President Reagan and accusing the West of fomenting an arms race. These disappeared, but Soviet speakers lost no occasion subsequently to demand a response from the United States to Mr. Brezhnev's pledge that the Soviet Union would not be the first to use nuclear weapons, and to other Soviet initiatives.

Another frustration was the Soviet effort to keep the visitors away from spontaneous contacts with ordinary Russians. A phalanx of K.G.B. security policeman were in evidence wherever the marchers went and access to most of the meetings and parades was by permit only. Much time was spent on tourist visits, and Soviet press reports reworded several of the visitors' speeches to make it seem that they were directing their appeals only at Western governments, not at Soviet and Western authorities equally.

The visitors agreed from the outset that it would be inappropriate for them to have contacts with an independent group that has been harassed by the K.G.B. since it was established last month. In any event, officials saw to it that contacts were inhibited by cutting off the telephones of the group's leaders just before the marchers arrived, and by placing two of the leaders under 15-day detention orders.

[From the Wall Street Journal, Aug. 13, 1982)

THE SOVIETS FREEZE A PEACE WORKER

(By David Satter)

The news that Sergei Batovrin, the 25-year-old leader of the independent Soviet peace movement, was seized last week in Moscow and put in a mental hospital should be of particular concern to people in the nuclear freeze movement.

Mr. Batovrin's goals were much the same as theirs. He wanted meaningful disarmament based on mutual trust. And he understood that this was possible only if both governments involved displayed at least a minimum of honesty.

I knew Mr. Batovrin well in Moscow and I was struck by how much he resembled an American, the effect, no doubt, of growing up as the son of a high-ranking Soviet diplomat in Washington and at the United Nations in New York.

In a country where suspicion is all pervasive, he was notable for his openness and lack of suspicion. Facing an almost intolerable conflict of values within his family and with his government, he had an endless capacity for optimism. His life in the Soviet Union has taught him the nature of political evil—a lesson which Americans, with our favored history, seem unable to learn. Otherwise, Mr. Batovrin, with his decency and sincerity, is the type of person who might easily have grown up in New York or Washington to become a leader of the U.S. peace movement.

I learned the details of Mr. Batovrin's life story in Moscow long before the independent Soviet peace movement existed, even as a possibility. They are worth retelling now that he has been put in a mental hospital, because his experience illustrates the nature of the Soviet state.

Mr. Batovrin is the son of Yuri Batovrin, who was attached to the Soviet U.N. mission from 1965 to 1970. The younger Batovrin grew up in New York believing that his distant Soviet homeland was the freest country in the world.

Sergei's youthful view of the world was uncomplicated by doubt except for one incident in 1968. He remembers, as a child of 11, looking out the windows of the Soviet U.N. mission at a demonstration against the invasion of Czechoslovakia and being troubled by the sign-waving demonstrators.

It occurred to him: What if everything that he had been told about the Soviet Union was a lie? He tried to drive the question out of his mind but could not free himself of the nagging thought.

HE TOOK FREEDOM FOR GRANTED

When Sergei returned in 1970 to the Soviet Union, it was to a country that he hardly knew. Like anyone who has grown up in the U.S., he had taken freedom for granted. So when he found himself suddenly deprived of it and forced to participate in collective Communist rituals, which were described to him as examples of "genuine" freedom instead of the "merely formal" freedom he had had in the U.S., he concluded that not only was his elite Soviet school based exclusively on lies but so was the entire country.

Sergei Batovrin found himself adrift in a world without signposts where the only rule seemed to the necessity to lie and where the

lies had their own weird consistency. The Soviet Union had a parliament but it always voted "yes." There were newspapers but they contained no information. There was a party that expressed the will of the people yet shunned all contact with the people. Amid the constant talk of "peace" were disturbing signs everywhere of a country preparing for war.

In school, young Batovrin became adamant on the subject of Czechoslovakia. He asked, in his history class, what right the Soviet Union had to invade a neighboring country in peacetime to determine its internal policies. Typically, the teacher would begin to scream, "How dare you speak about Czechoslovakia when 200,000 Soviet soldiers died there?" As the result of these dialogues, the boy was expelled from high school.

In the early 1970s, alienated and with time on his hands, Mr. Batovrin became a hippie. There were 3,000 to 4,000 hippies in the Soviet Union at the time, almost all of them children of successful figures in society. The hippies wore their hair long, painted their clothes and hitchhiked all over the country. They didn't want to reform Soviet society. They wanted to avoid it.

The authorities took the hippies seriously as a threat to youth. They were arrested on sight and beaten with brass knuckles or placed in mental hospitals where they were given injections of insulin which caused convulsions, excruciating pain and wild variations in body temperature. At one time there were believed to have been 1,500 hippies in Moscow who had been forcibly treated in mental hospitals. Most were teenagers.

Mr. Batovrin grew disillusioned with the hippies though he hadn't been beaten or put in a mental hospital. He had begun to paint and, living in Soviet society, he sought a positive alternative.

He wanted to know whether it was possible to create channels of truthfulness in Soviet society that could be the basis of a subculture in which it would be possible to live honestly. His subsequent experiences convinced him it wasn't possible.

He was discouraged first in the aftermath of an attempt by his father to rehabilitate him as a Soviet citizen. Young Batovrin had graduated from high school by taking courses at night and his father had succeeded in getting him a place at the Institute of International Relations and the World Economy (IMEMO). In a compromise with his father, Sergei agreed to enter.

IMEMO is the most privileged training ground for the Soviet political elite. Yet what struck Mr. Batovrin about his fellow students was their total lack of interest in politics, much less in communism. In fact, the institute proved a hub of commercial activity. Almost all of the students were children of Soviet officials posted abroad and as packages were received from New York, London and Paris, each student weighed deals and contacted potential buyers. It began to seem to Sergei that IMEMO was less an institution of higher learning than an extension of the black market.

After leaving IMEMO in 1975, Mr. Batovrin took a step which anticipated the formation of the independent Soviet peace group seven years later. With other young artists, he tried to organize an independent exhibition of their work. The KGB learned of their plans and warned Mr. Batovrin not to hold the exhibit. He persisted and was put in a mental hospital for two-and-a-half months where he was treated with Aminazin and other debilitating drugs.

PREVENTED FROM EMIGRATING

In the aftermath of his forcible hospitalization, he gave up hope of creating a degree of freedom for himself within Soviet society or of reconciling his Western outlook with the dictates of a totalitarian regime. He applied to emigrate with his wife but for five years was prevented from leaving by the resistance of his father. By the time Yuri Batovrin relented, in 1981, emigration was no longer a realistic possibility. Only a handful were being allowed to leave.

When he organized the "Group to Establish Trust Between the U.S.A. and the U.S.S.R.," Batovrin faced the prospect of remaining in the Soviet Union for the rest of his life, and he responded by mounting a direct challenge to the Soviet authorities on the issue that had alienated him from them in the first place, the issue of truthfulness.

All military information, no matter how insignificant, is tightly guarded in the Soviet Union. The authorities need not have feared that the independent peace group would have revealed the scope of the Soviet military buildup, which can only be guessed at by ordinary citizens in Moscow.

The danger presented by people like Mr. Batovrin was that they could give Western peace compaigners some idea about the nature of Soviet society and the extent to which anyone who takes Soviet statements at face value is doing so at his own risk.

The current incarceration of Sergei Batovrin in a mental hospital, where he may be given drugs that have severe side-effects, reflects Soviet confidence that the American peace movement won't understand that it has lost its one channel for learning from brave people on the inside what it needs to know about the nature of the Soviet Union's global intentions.

The Soviet authorities can be counted on to continue to encourage the American peace movement publicly but there is no better indication than the seizure of Mr. Batovrin of their underlying lack of respect.●

A TRIBUTE TO HENRY FONDA

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. RICHMOND. Mr. Speaker, the American stage and screen will sorely miss the remarkable talents of a man whose contributions touched millions of people across the world. Through his skillful characterizations, America's history was brought to life. He has shown us joy, sorrow, tragedy, and hope.

Mr. Speaker, I join with my colleagues in honoring Henry Jaynes Fonda, one of America's most distinguished actors, who passed away August 12. Henry Fonda will be missed, but we will still feel his strength and sensitivity in such classic American films as "Young Mr. Lincoln," "The Grapes of Wrath," and "My Darling Clementine." This strength and sensitivity were combined in his Academy Award-winning role of Norman Thayer in the film "On Golden Pond," which portrayed the fear and anguish of old age with the expectations and vitality of youth. My good friend Henry Fonda exemplified this youthful enthusiasm for life as he continued to bring vitality to his work as a lifelong artist.

Henry Fonda directly experienced the significance of the arts and supported their continued growth. He pursued this belief passionately by actively working with local theater groups from his home State of Nebraska. I experienced this driving conviction through my close association with Mr. Fonda when he assisted me with Federal legislative efforts which would enable individuals to contribute a portion of their tax refunds for the arts. As chairman of the National Council for Arts and Education, a nonprofit organization formed to educate the public regarding these legislative proposals, he served as an eloquent spokesman in support of the arts. His dedication and untiring efforts will be missed by persons across America.

Mr. Speaker, it is with great honor and respect that we mark the passing of Henry Fonda. Certainly he will not be forgotten—his many films serve as a tribute to the man whose life in many ways paraileled the great Americans he portrayed.●

SCHOLARSHIP FUND SPONSORED BY BUSINESS GROUP

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, it is with great pride that I bring to the attention of my colleagues the recent initiation of a scholarship fund sponsored by the Prince Georges County Chamber of Commerce Foundation. This fund will undoubtedly benefit the young people of Prince Georges County, Md., and serve as a model for other business organizations.

The Prince Georges Chamber of Commerce has long been a leader in providing outstanding community service. The group annually sponsors an awards ceremony for our police and firefighters, and promotes a trade fair to bring new industry to the county. Their support has been invaluable to the continued economic growth of our area.

The scholarship fund will enable eight young Prince Georges residents to receive $1,250 each toward their education at Bowie State College. The fund was endowed by the sale of land owned by the Chamber of Commerce Foundation, and it is anticipated that in the future the scholarship program will include other institutions of higher learning.

An exciting feature of the scholarship fund is one that ties grants to a student work/study program. Wherev-

er possible the recipients will work in part-time jobs in fields related to their career interest. I find this aspect of the program most intriguing, for it permits a student to familiarize himself or herself with a career choice while adding even more to the total scholarship award.

The awards will be made based on criteria developed by chamber representatives in conjunction with Bowie State College President Dr. Rufus Barfield. Residents of the county are eligible if they are willing to live offcampus and work during the school year for up to 20 hours a week. Nominees must be enrolled full time in the school of economics, the school of communications and media or the school of performing arts.

During the past year, the Government has reduced funding for both student loan programs and for job training programs. Because of this cutback, it becomes even more crucial for the business community to support programs such as that initiated by the Chamber of Commerce Foundation.

Mr. Speaker, I hope that more businesses and organizations follow the lead of the Prince Georges County Chamber of Commerce Foundation. Their investment in the education of our youth will certainly translate directly into an investment in the economic future of our country.●

PRAISE FOR DR. E. T. YORK

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. FINDLEY. Mr. Speaker, recognition is extended all too seldom to Americans who quietly serve their country, but whose contributions are nonetheless of far-reaching importance. It is therefore with particular pleasure that I provide for the CONGRESSIONAL RECORD a letter sent to President Reagan by the American Ambassador to Egypt, Alfred L. Atherton, Jr., on the Presidential mission to Egypt led by Dr. E. T. York.

Dr. York, chancellor emeritus of the University of Florida and vice chairman of the board for International Agricultural Development (BIFAD), and his distinguished team have completed an important study on strategies for accelerating agricultural development in Egypt. If the mission's recommendations are carried out, the benefits will be substantial not only for the farmers and the people of Egypt, but also for the area generally and for U.S. interests there. The outlook for the mission's recommendations is especially promising because of Dr. York's ability to communicate with the Egyptian leadership as well as applying his expertise to agricultural problems in that country.

The Subcommittee on Europe and the Middle East, of which I have the honor to be the ranking member, has scheduled a hearing for Tuesday, August 17 at 2 p.m. in room 2255 of the Rayburn Building at which Dr. York is to give us a report on his mission. All interested persons are invited to attend.

Following is the letter to the President from Ambassador Atherton:

EMBASSY OF THE
UNITED STATES OF AMERICA,
Cairo, Egypt, June 22, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Your recently-delegated Mission to Egypt to assess prospects in the important agricultural sector has completed its work and presented its draft report to the Government of Egypt. By any standard, it was an important contribution to our policy objectives in Egypt.

Commissioned by AID Administrator Peter McPherson, and led by Dr. E. T. York, retired Chancellor of the University of Florida system, the Mission outlined the promising potential of modernizing agriculture in the development of this nation and suggested the main lines of development to be followed. The quality of the team was outstanding, and its analysis comes at a time when Egypt is looking for new ways to address its development problems.

Based on the work of the Mission, and of the Agency for International Development, I believe we may have an important opportunity to be responsive to Egyptian development concerns in the agricultural and other sectors in a way that can enhance the country's future and serve our interests in the region.

I have written because of your recognition of the importance of our development activities here and because of the success which the Presidential Mission has had. Thank you for your personal and continuing interest in this important aspect of our work.

Sincerely,

ALFRED L. ATHERTON, Jr.,
American Ambassador.●

THE ALLIANCE OF POLES OF AMERICA

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Ms. OAKAR. Mr. Speaker, I would like to acknowledge the Alliance of Poles of America for their continued services to the State of Ohio. With its headquarters in Cleveland, this group has promoted community involvement for the past 87 years. Helping to keep the Polish culture alive, the alliance sponsors projects from folk dances to scholarships.

To celebrate their remarkable accomplishments and develop new plans for the future, a convention will be held September 6 to 8 in Cleveland.

I am proud of this alliance, for they are a credit to the community and have set standards for others to follow.

The "Alliance of Poles in the State of Ohio" was founded on September 22, 1895 by a group of Polish people in Cleveland. Using the philosphy "Strength through Progress," this organization has expanded its services to an area which now encompasses the States of Ohio, Michigan, and Pennsylvania. The society assumed its present name of "The Alliance of Poles of America" in 1914.

Realizing the necessity to communicate with its members, the founders began to print a weekly newspaper, "The Alliancer" or "Zwiazkowiec." Today, this publication under the direction of the editor, Roman Trepczyk, is now mailed directly to the homes of the members biweekly.

The primary function of this organization is providing life insurance for its members at minimum rates. The different types of insurance policies available are: Juvenile 16-year endowment, 20-year endowment, 20-year pay life, paid up at age 65, and paid up at age 85. As a conscientious organization striving to further help their members, the maximum amount of coverage has recently been increased to $25,000. As an added service, mortgage loans are granted at low rates of interest.

The present headquarters, located at 6966 Broadway Avenue in Cleveland, Ohio, were built in 1925. This facility houses the executive offices, the Federal Credit Union, the editor's office, and a library containing books in both Polish and English languages. It also contains a beautiful ballroom, several meeting rooms, and a private clubroom.

The governing body of this organization consists of the following: President, Bernard Michalski; vice president, William Tanski; lady vice president, Genevieve Sandej; secretary, Marie Kroll; treasurer, Stella Reklinski; and directors, George Jankowski, Henry Banaszak, John Wetula, Michael Jankowski, Ray Fronczak, Estelle Kar, Edward Oszust, Stella Czarnecki, Walter Tucholski, Anthony Karpinski, and C. A. Bentley. Other officials include: Joseph Malkowski, chief organizer; Dr. Kenneth Klak, chief medical examiner; Raymond Grabow, chief legal conselor; Charles Jarvis, public relations; Roman Trepczyk, editor; and attorneys Ferdinand Peters, Gerald Trepinski, Thomas Kovalchik.

The Preconvention Committee has been making arrangements for the upcoming 35th quadrennial convention in Cleveland. Joseph Lecznar, president of group 9, is serving as chairman and Gail Yurasko, auditor of group 35,

is serving as vice chairman. While Andrea Stolarczyk, auditor of group 8, is serving as secretary and Joseph Lecznar, Jr., of group 9 is serving as treasurer. Other committee members include: Klemens Bylicki, Leo Bojko, Emily Czech, Chester Helinski, Elaine Jankowski, Michael Jankowski, Mildred Rybacki, Genevieve Sandej, Beatrice Sucharski, and Tadeusz Szczesniak.

The committee is making preparations for a convention banquet which will be held Sunday, September 5, in the Alliance of Poles Ballroom. The convention will open on Monday morning, September 6, with a parade to and from the solemn Mass to be held at St. Stanislaus Church. During this 3-day convention the delegates will acknowledge past accomplishments, elect new officers and begin to develop plans for the future.●

SUPPORT FOR THE AGRICULTURE RECONCILIATION BILL

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. TRAXLER. Mr. Speaker, I was unable to be present for the vote on the final passage of H.R. 6892, Food and Agriculture Reconciliation Act for fiscal 1983.

Had I been present, I would like the RECORD to show that I would have voted "yes" on final passage of this legislation.

The Agriculture Committee is to be commended for its responsible legislative initiative with this bill, and is to be complimented in particular for its excellent work on reaching a reasonable agreement with respect to the dairy provisions of H.R. 6892, which are significantly similar to the provisions of H.R. 6313, the Dairy Stabilization Act of 1982. I am a cosponsor of H.R. 6313, and I am very pleased to see that the legislation has been given consideration within the provisions of this reconciliation bill.

Our current budget constraints require us to make efforts to hold down the cost of Government whenever we can. Concern for the plight of the millions of unemployed Americans and farmers who are unable to obtain a fair price for their products require us to try to make budget reductions in as humane a fashion as might be possible. I believe the Agriculture Committee has met this test with H.R. 6892, and it is for these reasons that I would have voted in support of the legislation.●

SMALL BUSINESS SUPPORTS H.R. 5540

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. McKINNEY. Mr. Speaker, as the many small businessmen in Connecticut who have come to me for support in the past can attest, their interests are my interests because small business makes this country go.

Recently, information was circulated which charged incorrectly that H.R. 5540 which I co-authored was against the interests of small businessmen. The factual errors in that material not withstanding, the conclusion is wrong.

For the information of my colleagues, I would like to insert in the RECORD a letter sent to me by Mr. Herbert Liebenson, president of the National Association of Small Business, which cites the importance of this legislation to the small business community.

Also, the Members may enjoy reading an article from the August issue of The Voice of Small Business, entitled "Defense Industrial Bill Will Build Small Business." I am sure that these two pieces will give a better perspective on the small business position.

Mr. Speaker, I insert these pieces at this point:

Washington, D.C., July 16, 1982.

Re H.R. 5540—Defense Industrial Base Revitalization Act.

DEAR CONGRESSMAN: A bill of great importance to the national security and to small business in the U.S. is scheduled for a floor vote in the House in the next several days. The national Small Business Association, a multi-industry trade association representing 50,000 small business nationwide, urges your support of this bill which will bring up to date our lagging defense capabilities.

The bill is H.R. 5540, which is known as the Defense Industrial Base Revitalization Act. The bill has some 70 cosponsors from both sides of the aisle, and was reported by an affirmative vote of the vast majority of both the House Banking Committee and the House Committee on Education and Labor.

The bill is designed to alleviate the threat to national security caused by the country's increasing reliance on foreign producers of strategic and other defense-related materials.

The key provisions of the bill are the investment incentive it provides for small and medium-sized businesses which make up the heart and muscle of the defense industrial base. The incentive used would be those contained in Title III of the Defense Production Act of 1950—loan guarantees, direct loans and purchase commitments.

The programs of the Defense Production Act have been proved cost effective, generating $10 in economic activity for every $1 provided through the DPA.

H.R. 5540 is not a "bail-out" bill. The question for the Congress is whether the U.S. defense industrial base can respond to our national security needs. Clearly, there is a critical problem in our defense capabilities. We, and virtually every congressional witness who has testified on the subject in the last three years, believe that we must face our obligations now if our national security is to be preserved.

For these reasons, we urgently request your support of H.R. 5540.

Sincerely,

HERBERT LIEBENSON.

[From The Voice of Small Business, August 1982]

DEFENSE INDUSTRIAL BILL WILL BUILD SMALL BUSINESS

NSB is supporting a legislative effort to improve the quality and productivity of domestic defense subcontractors and suppliers, which is moving through Congress with prospects of a major impact on small business.

The Defense Industrial Base Revitalization Act, H.R. 5540, addresses the key areas of industrial modernization, skills training, and strategic and critical materials from the perspective of small and medium-sized businesses. The bill will provide incentives and assistance to American firms to insure that defense preparedness will not be compromised by the trend toward subcontracting and buying supplies from foreign firms.

The report on the bill from the House Committee on Banking, Finance and Urban Affairs states: "We are dangerously dependent on foreign imports for vital materials to fuel our industries. Skilled workers are aging while qualified replacements are not emerging in sufficient numbers. There is a shortage of manpower, in both the trades and the professions, with the necessary skills to design, build, operate and maintain modern machinery.

"That this state of affairs exists at a time when unemployment is at its highest level since World War II, and when bankruptcies of businessses are occurring at an alarming rate, is both a challenge and an opportunity."

MODERNIZATION

The Committee report also notes: "H.R. 5540 clearly recognizes that the defense industrial base is made up not only of those companies currently holding defense contracts but it also includes specifically those industrial firms which would likely be called upon to manufacture or supply defense materials in time of emergency or war.

"Estimates of the number of these companies vary but the figure 50,000 is most commonly cited. And for the most part, these are small and medium-sized businesses making essential "nuts-and-bolts" components without which our warplanes, tanks, missiles, warships and other weapons systems would not work. This bill directs much of its concern to this vital group of subcontractors and suppliers of goods and services."

The Committee recognized that the Economic Recovery Tax Act of 1981, designed to revitalize industrial sectors, has done little to strengthen the small businesses among the defense industrial base. Thus, H.R. 5540 would make it possible for smaller firms to modernize through the purchase and installation of new plant and equipment, using loan guarantees, direct loans, price guarantees and purchase agreements including advance payments.

The association costs could be considered an investment, the Committee report notes. Over 30 years, the Defense Production Act has generated $9 billion in economic activity, at a cost of some $900 million. However, this cost does not include federal, state and

local taxes on that business, nor does it include revenues generated from income taxes collected from the many thousands of new jobs created.

Under the proposed legislation a list of industries requiring priority assistance would be drawn up by the Administration, and a review of priority needs, both in terms of industrial supplies and assistance, would take place every six months.

As a result of the modernization program, the Committee expects to reduce the overall cost of defense procurement through improved productivity and superior quality. The effort would bring the "nuts-and-bolts" business back to domestic firms, which would benefit the nation in terms of employment, revenues, balance of payments, and a stronger, healthier small business community in this country.

SKILLS TRAINING

The legislation also provides a five-year program to match improved quality and quantity of skilled labor with the enhanced productive capacity. Even today, skilled machinists, tool and die makers, computer specialists and other highly skilled workers are in short supply, and more are leaving the labor force than are entering it each year.

H.R. 5540 would provide $250 million in grants annually over the next five years for job training, on a cost-sharing basis with the states, with state agencies administering the training programs. Money will be allocated to states depending on the concentration of priority industries and the skills shortages.

CRUCIAL LEGISLATION

The Defense Industrial Revitalization Act will certainly benefit a great many small businesses, providing the opportunity to improve plant and equipment, and fund new growth. Equally important, the bill provides for renewed strength in national defense, employment, trade balances and fiscal strength. Every NSB member should support this important initiative.●

OUR AGING AND DECAYING INFRASTRUCTURE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. HOYER. Mr. Speaker, recently a major news magazine spotlighted the problems of our aging and decaying infrastucture. Our highways, sewage systems, dams, and Government buildings, built in the 1950's and early 1960's to last 20 to 30 years, have reached their points of no return, and major rehabilitation efforts must begin or our towns and cities will face major hazards.

As we begin to rebuild our structures, it becomes extremely importance to recognize how they can be better engineered. To this end, I am pleased to announce that what is believed to be the world's first repository for data on collapsed or damaged structures is being established at the University of Maryland at College Park, with the help of a $73,839 grant from the National Science Foundation (NSF).

By 1984, architects and engineers will be able to find information on collapsed or damaged buildings, bridges, roads, and dams at the new facility, named the Architecture and Engineering Performance Information Center (AEPIC).

A joint project of the College of Engineering and the School of Architecture, the center will be codirected by Dr. Donald W. Vannoy, associate professor of civil engineering, and Prof. John Loss, associate dean of the School of Architecture.

Previous attempts to document and analyze structural deficiencies have been tied to isolated incidents or handicapped by poor recordkeeping. The chief advantage of the new center is that soon architects and engineers can benefit from a comprehensive collection of data on many types of failures—from the collapse of the Teton Dam in June 1976 to the collapse of Kansas City's Memorial Arena 3 years later.

All structural failures—from something as catastrophic as the collapse of the balconies in the Kansas City Hyatt Regency to something as relatively minor as the premature wear and tear of a rural bridge—have at least one very important point in common from which valuable information can be gathered, analyzed, and reported, according to Dr. Vannoy. The objective at AEPIC is to learn from these common points so that structural design can be improved to prevent future disasters.

Too often it is only the dramatic cases of total building collapse which receive attention. One of the primary goals of the AEPIC Center will be to investigate secondary design flaws—flaws found in exterior walls, for example, and in roof decks. This is critical, as these are the flaws responsible for a majority of building failures.

More than 2,000 examples of reported building failures are already stored in the center's data bases, and many more thousands of citations should be available to researchers and Government agencies by 1984.

In addition to establishing its own data bank and reference library, the center will serve as a prototype for repositories in universities and institutions, worldwide. Dr. Vannoy and Professor Loss already have corresponded with interested representatives from more than 14 American, British, Canadian, Swiss, and Italian professional organizations.

Initial support of AEPIC has been expressed by the American Institute of Architects, the American Society of Civil Engineers, the Federal Highway Administration, and Victor O. Schinnerer and Co. of Washington, D.C.

Mr. Speaker, I think that the center will prove to be a valuable tool in constructing the America of tomorrow. It will undoubtedly be an asset to our community and to our county.●

AMENDMENT OFFERED BY MR. EVANS OF IOWA TO H.R. 6323, ENVIRONMENTAL PROTECTION AGENCY RESEARCH AUTHORIZATIONS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. OTTINGER. Mr. Speaker, it was my pleasure today to vote in support of the amendment offered by my colleague, COOPER EVANS of Iowa, to the Environmental Protection Agency Research Authorization bill—H.R. 6323. I am glad that the amendment passed, and that the final authorization passed the House.

Mr. EVANS' amendment directs the Environmental Protection Agency to formally establish a senior environmental assistance program. Such a program has been successfully demonstrated for the last 5 years and that is why I was an original cosponsor of H.R. 5760 introduced by the gentleman from Iowa. This amendment substantially supports the purposes stated in that bill and is an efficient means to accomplish the formalization of this valuable program.

The senior environmental assistance program has employed hundreds of older Americans in special environmentally-related projects supervised through State and local environmental agencies. In this time of high unemployment and tight budgets, this program offers two major benefits to the American people. First, it provides meaningful employment to older Americans while not supplanting existing environmental jobs. Second, it gets talented members of our society involved in protecting the Nation's environment.

This amendment was supported by the Natural Resources Defense Council, the Sierra Club, and Friends of the Earth. It will be a reasonable approach to establishing a proven program resulting in multiple benefit to the Nation, and I am glad in its success today.●

STATEHOOD FOR PUERTO RICO

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. CORRADA. Mr. Speaker, last week my distinguished colleague from Illinois, Mr. SIMON, sent a letter to his constituents entitled "Statehood for Puerto Rico."

In his column, Mr. SIMON noted how important and necessary it is for Puerto Rico to become the 51st State of our Nation in order to overcome the

natural consequences of being a territory without the necessary political power especially at times like this in which Congress has faced the need to make substantial budget reductions.

I want to commend Mr. SIMON for his very perceptive and accurate views on this important issue and for his continued interest in the well-being of Puerto Ricans whether they reside on the island, in his own State of Illinois, or anywhere in the United States.

Since this column correctly portrays the actual Puerto Rican dilemma under the current political status I would like to have it included in the RECORD.

The column follows:

STATEHOOD FOR PUERTO RICO

A bill which the Senate recently approved proposes to increase taxes in a number of ways, but Puerto Rico was hit harder in that outcome than the 50 states. And a few months ago, when food stamps were cut, Puerto Rico was cut more than the 50 states.

Why?

The answer is fairly simple: American citizens who live in Puerto Rico do not cast a vote for the presidency, and in the U.S. Senate and in the U.S. House there are no votes cast by representatives of Puerto Rico. That island has one non-voting member in Congress, a fine public servant, Baltasar Corrada, who gets a vote in committee, but nothing more. And no one speaks for the island's citizens in the Senate.

Puerto Rico is a commonwealth, and commonwealth status for Puerto Rico means second-class citizenship, just as it did some years ago for citizens of Hawaii and Alaska.

Eventually second-class citizenship will go.

The day will come when Puerto Rico will either be the 51st state or an independent nation.

Faced with that choice, public opinion polls show that the residents of Puerto Rico overwhelmingly prefer statehood.

President Reagan has declared that if that is their choice, he supports statehood. I join him in that.

Creating an independent nation would make Puerto Rico a tempting target for the less stable elements of the Caribbean, Cuba particularly. That would not be good for Puerto Rico, nor for the United States.

If one of these years Puerto Rico voted to become a state and she was accepted as a state, the net result would be good for the economy of both Puerto Rico as an island unit and for the United States as a whole; it would provide a door to Latin America for the United States, both politically and economically; and it would result in an enriched culture for the other 50 states.

But when Congress and the Administration take actions which penalize the people of Puerto Rico more than the people of the 50 states, the result has to be resentment and ill will. That is precisely what we do not need.

On Independence Day, Governor Carlos Romero-Barcelo said: "While we can sincerely rejoice in what the Fourth of July means to us . . . there nevertheless remains a void, a hollowness, in terms of what true equality and civic dignity symbolize to a people as profoundly democratic as are the people of Puerto Rico."

I hope that within the next 10 years Puerto Rico will be fully participating in our democracy as a state within our Union. That makes sense all the way around.

In the meantime we should be treating our Puerto Rican citizens as the good friends and neighbors and the loyal Americans they are, not second-class citizens whom we can kick around because they have no meaningful voice under the present political arrangement.●

BALANCED BUDGET AMENDMENT

HON. JAMES M. SHANNON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 17, 1982

● Mr. SHANNON. Mr. Speaker, there has been a lot of talk lately about the balanced budget amendment. We have been told that Congress will never be able to resist the urge to spend more money than we take in unless we impose fiscal discipline through a constitutional amendment requiring a balanced budget. Many of us, however, question the wisdom of writing one particular economic theory into the Constitution and worry about the possible harsh effects of such an inflexible mandate. We share our constituents' concern over the need for greater fiscal responsibility but wonder whether this is the way to attain it.

When we voted on the budget resolution back in June, Congressman GEORGE MILLER of California introduced a proposal that would have provided an alternative to the artificial constraints of a balanced budget amendment: The "pay as you go" budget process. Although 80 percent of the Democrats in the House voted for this proposal, it was ultimately defeated by the large numbers of Republicans who preferred the Reagan budget. In an article in the Contra Costa Independent, Congressman MILLER describes the "pay as you go" budget process and how it could provide a workable alternative to the proposed constitutional amendment. I urge my colleagues to give this article their careful consideration.

The article follows:

THERE IS NO QUICK FIX

(By GEORGE MILLER, Jr.)

The constitutional amendment proposed by the Reagan administration to require a balanced federal budget will have no serious effect on our current march to a fiscal Armageddon. The proposed amendment is a politically motivated and deceptive response to a legitimate public demand for constraint in government spending and an end to the crushing deficit.

But we are in need of far more than a symbolic quick fix. The proposed amendment tells us where we want to go, but provides no instruction on how to reach that destination. Indeed, by severely limiting the taxing power of the federal government, the amendment makes attainment of a balanced budget practically impossible without further slashing current spending at more than four times the rate proposed by the most zealous budget cutters in the Congress.

Woeful as the public's confidence in our ability to reduce the deficit is at present, it will become significantly worse if Congress and the administration attempt to trick the American people into believing that mandating a balanced budget is the same as achieving one. What the public really wants is not so much a balanced budget amendment as a balanced budget, a goal which is attainable without taking the dubious step of including economic proposals in the Constitution of the United States which challenges the wisdom of the Founding Fathers.

There is a practical and equitable way to achieve a balanced budget in three years without the complexity and delays associated with a constitutional amendment. The alternative is my "pay as you go" budget process, which NBC's John Chancellor praises as "ingenious and practical" and which columnist Mark Shields describes as "something the Democrats have been frantically in search of . . . a new idea." In truth, my "pay as you go" proposal is not only "practical" and "new", but non-partisan and easily understood by the public.

According to the Congressional Budget Office, "pay as you go" would rapidly reduce the deficit, save $110 billion in interest payments on the debts, and result in a $27.5 billion surplus—yes, surplus—by 1985. When I introduced this plan to the House in May, 80 percent of the Democrats voted for it. Unfortunately, more than 98 percent of the Republicans voted against "pay as you go," choosing instead the Reagan budget which will add as much as $500 billion to the national debt in just three years and still result in a $60 billion deficit in 1985.

"Pay as you go" is similar to the budgeting process required by 39 states. Any new spending over the 1982 ceiling for any program would have to be offset simultaneously either by raising new revenues or by finding savings. in some other area. There would be no exceptions to this procedure, not education, public works, food stamps, defense or Social Security. Supporters of any spending increase would have to find the courage to vote to pay for that additional outlay: no more adding the increase to the deficit. Failure to enact the offset by the beginning of the fiscal year would mandate that the level of spending remain at the prior year's level.

Under "pay as you go," if Congress decided to provide a full cost-of-living adjustment to Social Security beneficiaries, we would have to find the money to pay for that additional spending at the same time. By the same token, Congress would be precluded from adding nearly $20 billion to the debt to finance new military spending. If the expenditure is that crucial to the national interest, the Congress must have the courage to vote to pay for it.

Absent this sound and comprehensible process, the budget amendment is a joke, and a dangerous one at that. It would be irresponsible of Congress to hold out the promise of a balanced budget to the public through passage of a constitutional amendment when we all know full well that an amendment without a process for fulfilling its intent is a hollow promise. Of course, were Congress to adopt the "pay as you go" balanced budget process, there would be no need whatsoever to tinker with the Constitution.

Supporters of the constitutional amendment would have the public believe that balancing the budget requires merely a single action of the Congress. In fact, balancing the budget requires the will of the Congress to subject every new spending decision to

the scrutiny mandated by the "pay as you go" process.

As Majority Leader Jim Wright, D-Texas, noted during the budget debate this spring, "Either now or at some future time the Congress needs to adopt" the "pay as you go" budget process. The National Democratic Party, at its mid-term conference, unanimously adopted a proposal offered by Sen. Christopher Dodd and me endorsing a "pay as you go" balanced budget plan.

When the House takes up the proposed constitutional amendment, I will offer the "pay as you go" balanced budget procedure as a statutory alternative. The choice for the Congress will then be between a symbolic, cynical and unenforceable political amendment, and a manageable and understandable process.

If we are really serious about cutting the deficit and balancing the budget—and any responsible legislator must be—"pay as you go" is surely the more rational way to go.●

SENATE—*Wednesday, August 18, 1982*

(Legislative day of Tuesday, August 17, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The opening prayer today will be offered by the Reverend Father George A. Paulin, Church of the Assumption of the Blessed Mother Mary, Canaan, Vt. He is sponsored by Senator ROBERT T. STAFFORD, the senior Senator from Vermont.

PRAYER

The Reverend Father George A. Paulin offered the following prayer:

Holy God, we pause to praise You at the beginning of this day filled with challenge for the Senate of this free Nation. Bind their hearts, minds, spirits and emotions to You. Bless the conscience of this body, and its ability to know, understand and respond to the people whom they serve. Bless the people of every State and let them grow in knowledge, cooperation, collaboration, interests, and support so that their citizenship may be an admirable expression of the intent of our Founding Fathers.

May we be an inspiration to the poor, forever expressing a thirst for justice and peace. May we effect in law the expression of Your mercy. May our capacity for sorrow show abundantly filled hearts creative with joy, and may we be blessed in our ability to sustain affliction for the cause of justice as we continue to create one nation with liberty and impartiality for all. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the recognition of the two leaders under the standing order the Senator from Georgia (Mr. NUNN) will be recognized on special order for not to exceed 5 minutes.

After the execution of the special order, there will be a period for the transaction of routine morning business in which Senators may speak for not more than 2 minutes each, said period to extend not past 10:45 a.m., at which time the Chair will lay before the Senate the pending business, which is the debt limit on which the pending question will be a Helms amendment.

Mr. President, it is hoped that today, tomorrow, and Friday we can finish the supplemental and the two reconciliation conference reports. There are other matters that we may be able to deal with. I hope to be able to finish the abortion debate and the debt limit before we go out on Friday. But it is urgently necessary that we finish those three items, the two reconciliation conference reports, and the supplemental.

Mr. President, I ask unanimous consent to reserve the remainder of my time under the standing order for use at any time.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

Mr. BAKER. Madam President, I have no further need for my time under the standing order and I yield so that the minority leader may seek recognition.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Madam President, I thank the majority leader.

SENATOR BOREN'S RESPONSE TO PRESIDENT REAGAN'S SPEECH

Mr. ROBERT C. BYRD. Madam President, Senator DAVID BOREN did an excellent job of representing Senate Democrats on Monday evening in responding to the President's speech on his tax increase bill. Senator BOREN was articulate and persuasive about the need to change our country's current economic policies.

On behalf of all my Democratic colleagues, I personally commend Senator BOREN and ask unanimous consent to have printed in the RECORD his statement.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

RESPONSE DELIVERED ON BEHALF OF SENATE DEMOCRATS TO PRESIDENT REAGAN'S TELEVISED SPEECH THIS EVENING, GIVEN BY U.S. SENATOR DAVID BOREN

Thank you, Congressman Foley. We have all just heard the President discuss the serious economic problems facing us as Americans. He has outlined his support for a $99 billion package of tax increases which he feels are necessary.

It is not my purpose tonight to spend our time together trying to cast blame on the President or the other party for our economic trouble.

This weekend, I was visiting in Duncan, Oklahoma, with a group of my constituents. Their message to me was "We want you people in Washington to quit wasting your time blaming each other and start working together to solve our problems."

I agree with their advice 100 percent. Blaming each other will not put 10 million people back to work or save countless farmers and small businessmen from bankruptcy.

The late Sam Rayburn used to say, "To be a good Democrat, you must first be a good American." The Democratic response tonight is offered in that spirit.

Let's be frank with each other. We all know that our economy is in trouble. Many Democrats in the Congress, including myself, voted to give the President's program a chance. For the sake of America, I wish that it had been a resounding success.

But we must live in the real world and the fact is that the Administration's program is not working. As this chart indicates, unemployment has soared since the program became law. Three million more Americans are out of work than when it was passed. Unemployment is the highest since the depression of the 1930's. Small business failures and home and farm foreclosures are at the highest level in 50 years.

The problem is real. It is serious. Many people in our nation are truly suffering.

That doesn't mean we should give up. We Americans have faced far greater problems in the past; for example, in the 1930's with the depression and after our fleet was destroyed at Pearl Harbor. Each time we have met the challenge. We will again.

What should we do?

First, let's look at the tax increase program outlined by the President tonight.

It is absolutely true that deficits must be reduced. But it is estimated that even with the Reagan tax increase proposal, deficits may still run as high as $450 billion over this three-year period, more than triple the rate of increase in any other three-year period in our nation's history.

It is true that the tax bill now before Congress has some good features. It does close some tax loopholes that need closing. The average working American certainly pays his or her share of taxes. Everyone else should, too.

Democrats in the Senate worked hard to make it a fairer bill. We tried to take out the provision raising telephone taxes. We offered an amendment to retain the present

level of medical expense deductions. We attempted to take out the section of the bill which imposes withholding taxes on savings accounts. Senate Democrats also tried to knock out the $6.6 billion increase in unemployment taxes.

Unfortunately, the Democratic amendments lost. Now we are faced with a tax bill that has both good and bad provisions. Regrettably, at this point, members of Congress cannot vote for some provisions and against others. They have to vote for or against it as one package.

One thing is clear. Whatever the outcome on this tax package, it certainly is not going to end the recession and put people back to work. We can't simply keep saying prosperity is just around the corner. To ask the millions of unemployed to wait for some distant recovery is like a fireman telling the people in a burning building not to worry, it may rain next week.

In this time of economic crisis, all of us in Congress have a responsibility to work for positive solutions.

We Democrats are offering a positive plan to help end the recession.

It is aimed at bringing down the unfair, unworkable interest rates which are strangling our economy.

Let's look at what high interest rates are doing to all of us.

Five years ago, the average monthly payment on a $65,000 house was $500. Today, the payment on that same house would be $875 per month, just because of higher interest rates. Eighty-six percent of the people in the country can't even qualify to buy that house. Is it any wonder that there are hundreds of thousands of carpenters, electricians and brick layers out of work?

Is it any wonder that farmers are going broke when they cannot afford to borrow the money to plant their crops?

High interest rates are a major cause of the big government deficits. Everytime the interest rate goes up 1 per cent, the cost of government borrowing goes up $7 billion.

High interest rates also increase unemployment. If the 3 million people who lost their jobs in the last year could be put back to work, it would reduce the deficit by $90 billion.

For many years interest rates were rather stable. Usually interest rates ranged between one and three percentage points above inflation.

People who wanted to expand their farms and businesses and put people to work could get stable and reliable credit at reasonable rates.

In the last three years all of that changed. Interest rates have skyrocketed. Instead of being 2 or 3 points above inflation, they jumped to about 10 points above inflation.

Interest rates have not only been too high, they have been unstable and erratic. No one knew where they would go next. Investment decisions became impossible to make.

It is important for every American to understand why this has happened. In October of 1979, the Federal Reserve Board decided to embark on a controversial experiment with tight money and high interest rates. They decided to no longer use their powers to maintain reasonable and stable interest rates.

This dangerous experiment has obviously had tragic results—lost jobs, lost farms, lost homes.

Faced with this economic emergency, we have hoped that the Administration would act, but instead, they have continued to support this dangerous experiment with high interest rates and tight money. As Mr. Stockman said recently, "We endorsed it; we urged it; we have supported it."

The time has come to reverse this policy. Senate Democratic leader Robert Byrd and House Majority Leader Jim Wright, with a large number of Democrats from both Houses, have introduced a bill to require the Federal Reserve Board to bring down interest rates and maintain them at stable levels.

If interest rates today were at their historic level, in relation to inflation, they would range between 7 and 10 percent, instead of the 14 to 21 percent range of the past two years.

This proposal is a sound and reasonable one based on solid experience under both Democratic and Republican administrations.

I hope that the President will join us in this effort.

Interest rates should not be a partisan issue. We're all Americans. We are all in the same boat. Let's pull together to put people back to work.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, will the minority leader yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Madam President, last evening when we had what appeared to be an impasse for the moment on a parlimentary subject, I recessed the Senate over until 10 a.m. this morning. There were a number of routine matters that would have been dealt with last evening.

I wonder if the minority leader will be prepared to deal with those now or shortly after the recognition of some Senator seeking recognition.

Mr. ROBERT C. BYRD. Yes. I will be prepared to do that, and I will be glad to do that.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. ROBERT C. BYRD. How much time does the Senator from Wisconsin require?

Mr. PROXMIRE. One minute.

Mr. ROBERT C. BYRD. Madam President, I yield 1 minute to the Senator from Wisconsin, and I yield the remaining time to Mr. BOREN and ask unanimous consent that it be reserved for him.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I understand he is on his way to the floor shortly.

Mr. BAKER. Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The majority leader has 8 minutes remaining.

Mr. BAKER. Madam President, will the minority leader be willing to utilize my 5 minutes after the Senator from Wisconsin speaks to do the wrap-up or does he prefer to do that later?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. All right.

PHYSICIANS SPEAK OUT ON NUCLEAR WAR

Mr. PROXMIRE. Madam President, perhaps no other group of individuals in our society can speak with as much authority on the effects of nuclear war as America's physicians. They are not theoreticians who calmly calculate millions of deaths on a chart and make assumptions as to how many years it will take before economic recovery can take place. They do not deal with the complex nuclear strategies of how many warheads of what types should be laid over how many targets.

Instead they deal with the most immediate and practical consequences of the aftermath of a nuclear war—treating the casualties.

They have recognized that there is absolutely no way for the American medical profession to provide the needed care to tens of millions of casualties in a nuclear war. The nature of medical assistance following a nuclear exchange would change fundamentally from that which is known today. Postattack conditions involving radiation, burying of the dead, sanitation, food supply, and the risk of epidemics are only a few of the critical medical situations that will face a devastated nation.

Many physicians conclude that nuclear war would be the final epidemic. It would be useful if those who have spent their lives planning for nuclear attacks in both the United States and the U.S.S.R. would spend some time with the physicians of their countries so that they would have an understanding of the consequences of the failure of arms control. The planning table is often too far from reality.

Madam President, I ask unanimous consent that an article from the New York Times on the role of physicians in a nuclear war be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 11, 1982]

DOCTORS: NO RX'S IN A-WAR

(By Arnold S. Relman and Alexander Leaf)

BOSTON—Physicians are as diverse in their political and social views as any other large group of citizens and rarely speak in unison on matter of public policy. But today they are virtually united in their effort to convey a simple, urgent message about nuclear war to the American public and the Administration.

The message is this: Nuclear war—any kind of nuclear war—would cause death and suffering on a scale never seen before in all of history, and modern medicine with all its skills could do little or nothing to help.

The public is by now accustomed to hearing dry statistics about the immense destructiveness of nuclear war, but many

people probably assume that afterward the uninjured survivors would pick up the pieces, and the wounded would be tended as they have been after every other war.

What the physicians are saying is that such an assumption is simply not consonent with the medical facts and what we know about the effects of nuclear explosions.

By any reasonable estimate, American casualties in a nuclear war would number at least in the tens of millions regardless of any civil defense efforts. Those killed instantly would be the luckiest of the casualties, because most of the wounded would lie untended, and those with serious blast, burn or radiation injuries would die sooner or later, their agony unrelieved by medication or any medical attention.

To understand why such an apocalyptic vision is no figment of the imagination, one need only consider a few basic facts about just one form of major injury: burns. Immediately after a thermonuclear attack on our cities, the number of survivors with serious burns would be at least several hundred thousand, perhaps several million. To have a chance for recovery, such victims would need prompt, sustained medical attention and an array of resources that would be in short supply: surgical and nursing specialists, complex hospital facilities, intravenous fluids and nutrients, and much more.

In the entire country, our hospitals are equipped to provide this kind of care for fewer than 2,000 patients at any one time. Even if all our medical resources remained miraculously intact after a nuclear attack, we could not begin to take care of the huge number of serious burns that would have been instantaneously produced. But of course hospitals, medical personnel, supplies, transportation and electrical power would not remain intact; they would be largely destroyed, and medical care would be almost nonexistent. Similarly, the medical response to all the other millions of victims with serious blast injuries and radiation sickness would also be totally inadequate.

There can be no comparison with the successful medical responses to previous modern wars in which the United States had participated. In World War II, in Korea and in Vietnam, most of the seriously injured survived because casualties occurred at a manageable rate, the wounded could be rapidly evacuated and medical services were largely intact. But after a nuclear attack, most of the millions of injured would die, without medical care, of hemorrhage and shock, radiation sickness, infection, thirst, starvation or exposure—because none of the conditions necessary for an adequate medical response would exist.

The physicians' warning does not end there. People who survived the initial attack without injury would still be at major risk. In the fallout shelters and in the ruined countryside and burned-out cities, the delayed effects of radiation would take a terrible toll, as would infection, dehydration and malnutrition.

One recent medical study suggests that after a large-scale nuclear attack, as many as one-third of those who survived the first few months might succumb to epidemic diseases caused by overcrowding, poor sanitation, malnutrition, proliferation of insects and vermin and the long-term effects of radiation. To this horror would be added the incalculable damage wrought by the psychological stresses and social trauma that such a terrible experience would cause.

Most physicians are convinced that nuclear war is the greatest threat to health and survival that society has has ever faced. It would indeed be the "final epidemic," for which medicine has no treatment. When there exists no cure for a disease, the only course is to take preventive measures. That is why physicians believe it is their professional responsibility to urge their fellow citizens and their Government to make certain that nuclear weapons are never used. Unlike natural catastrophes, over which man has no control, nuclear war would be a disaster of man's making. It should be preventable.

SAVE THE ENDANGERED PEOPLES

Mr. PROXMIRE. Madam President, the International Whaling Commission recently voted to impose a ban on all commercial hunting of whales starting in 1986. This firm action was taken to save a family of great and beautiful animals. The extinction of these species would be a tragic and irrevocable loss to the Earth and to countless generations of our descendants. It would be sad indeed if our children had to live in a world so scarred by mankind's thoughtless slaughter of peaceful creatures, if they could only view whales as works of taxidermy on display next to dinosaurs and other zoological relics.

The international regulation of the destruction of endangered species is a noble and necessary action. The United States has ratified treaties dealing with seals in 1957 and with polar bears in 1976, as well as with whales in 1935. And yet we do not see fit to extend similar protection to the species most dear to us: humanity itself. Why have we not ratified the Genocide Convention, which aims to ban the extinction of national, ethnical, racial, or religious groups? Are not endangered peoples entitled to the same vigorous exertions devoted to endangered animals? Is not diversity in nationality, ethnicity, race, and religion just as precious as the diversity of the animal kingdom? Would not it be tragic if some existing cultures would be recalled only in museums or by silent gravesites, at least as tragic as the loss of a magnificent life form?

Of course the world's peoples deserve our utmost efforts, for the murder of a person is far more atrocious than the killing of a wild beast. But some of my colleagues insist that murder is already handled by domestic legislation, that genocide is not a fit topic for treatymaking. Yet the conservationist treaties I have cited prove that many problems that would otherwise fall under national jurisdiction must be dealt with in the international arena.

The elimination of one human life is indeed a crime; the elimination of a whole group, however, is a crime of an entirely different order. The malicious and hateful purpose behind genocide makes for a crime so monstrous, so vile, that it surely warrants far more condemnation than we have been willing to support. If the annihilation of peoples is so ghastly, why cannot we outlaw this despicable offense just as we outlaw the annihilation of endangered species, or as we may outlaw the murder of a single human being?

Madam President, genocide is an outrage of international proportions; it calls for international censure. Let us affirm our commitment to life in all its forms everywhere, and let those of my colleagues who disagree with me end their senseless opposition to the Genocide Convention.

I thank the minority leader and yield the floor.

MARKET REACTION TO TAX REFORM AND SPENDING CUT BILLS

Mr. DOMENICI. Madam President, the financial markets have given dramatic evidence in recent days of the importance of passage of the tax reform and spending cut bills now awaiting congressional action. And, for those who contend that these bills will not do what we claim, this market reaction is the best refutation.

Yesterday, the stock market rocketed almost 39 points. Three-month Treasury bills are trading lower than at any time since July of 1980. Six-month Treasury bills are trading lower now than at any time since August of 1980. Not surprisingly, housing starts jumped more than 30 percent last month. And, short-term T-bill rates peaked at 16 percent in May of 1981 and have declined by 7 points—almost a 50-percent drop. In addition, long-term treasuries exceeded 15 percent last month, as well as early last year, and this very day, I have learned from my staff, are trading at a little over 12 percent—a 20-percent drop in a month.

The market's message is clear. If Congress will act, if we pass the two critical bills now pending before the House, we have a chance to get and keep interest rates down and to get and keep the economy going. I say to all of my colleagues that the next 3 days may be as critical to the health of our economy, and to the jobs we must have for the 10 million Americans now out of work, as any days in the past 20 months.

As a point of important information, I must point out the enormous impact of lower interest rates on the deficit we may face in the years ahead. For each point of lower interest that the Government must pay on its debt, we save about $3.7 billion in gross terms.

Madam President, I repeat that: For each point of lower interest rate that the Government must pay on its debt, we save about $3.7 billion in gross terms. So the more than 6-point drop we have seen in both 3-month and 6-month Treasury instruments means a

savings to the Government, and to the taxpayer, of about $25 billion. And, if these rates continue to decline below our projections—which, incidentally, in the budget resolution are projected at 10.7 percent for the 1983 fiscal year, we will save additional billions from the deficit.

So, the choices are stark, Madam President. We can vote for tax reform and spending cuts and for lower interest rates. Or, we can vote against tax reform, against spending cuts, and for higher interest rates and continuing misery for tens of millions of American workers and businesses.

In short, I believe we have no choice. We must act with courage and with dispatch and pass both H.R. 6955 and H.R. 4961.

THE NEED FOR A PERMANENT CHANGE IN FEDERAL RESERVE POLICY

Mr. BOREN. Madam President, the remarks just made by the Senator from New Mexico bear directly on what I am getting ready to say. As he has pointed out, the recent declines in interest rates have been the fundamental factor spurring the recovery of the stock market yesterday. They also have a very positive impact on reducing the size of the deficits because, as interest rates decline, Government borrowing costs decline, unemployment tends to decline, people are put back to work, and revenue collections increase with the growth of the economy.

I could not agree more with that part of this remarks dealing with the positive impact of declining interest rates. What happened yesterday is indeed good news. I am very pleased that Mr. Kaufman has made a prediction of declining interest rates, but we should not fool ourselves into thinking that the problems are over or that all necessary action has been taken or that tax increases, standing by themselves, are going to solve our economic problems.

I quote from the same article in the New York Times of today, which began by being so optimistic about the stock market rally. One paragraph of that article says:

> The slowdown in the growth of the money supply, which precipitated an easing of the Federal Reserve's monetary policy, will probably reverse and begin to increase as the economy begins to recover, the economists said.

In other words, if we are still stuck with the same policy of the Federal Reserve that we have now, it is very likely that if we have an economic recovery, the Federal Reserve will react by again returning to high interest rates, choking off that recovery. It is for that reason there is a need for a permanent policy change and a return to the tried and true policy methods of the Federal Reserve of the past.

The Senator from Michigan, DON RIEGLE, ranking member of the Economic Policy Subcommittee and the chairman of the Democratic Task Force on High Interest Rates, and I have written a letter to the President of the United States this morning. I want to read the text of our letter to the President so that it may appear in the RECORD. I think that the subject of our letter to the President is the issue of paramount concern facing us in our economy today. I now read that letter from Senator RIEGLE and myself to the President:

U.S. SENATE,
Washington, D.C., August 18, 1982.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: The stock market rally yesterday is certainly good news. The reason for it is clear, there are signs that interest rates may be coming down.

The Washington Post report said today, "Much of Wall Street's excitement yesterday was generated by the continued signs of falling interest rates with the optimistic forecast by Wall Street analyst Henry Kaufman leading the way."

If a prediction of lower interest rates by a Wall Street analyst could spur the largest one day jump in history in the stock market, just think what it would do for the economy if the Chairman of the Federal Reserve Board, Mr. Volcker, would announce that the Board was going back to its tried and true pre-1979 policy of maintaining the stability of interest rates at reasonable levels.

Mr. Kaufman's prediction that interest rates are likely in the near term to keep falling should not lead us into a false sense of euphoria. First, he thinks they are falling largely because the economy is slowing down. Second, we not only need reduced rates now, we need to have a policy change to assure that they remain stable at more reasonable levels so that people can make investment decisions.

When interest rates are unstable and erratic and no one knows where they will go next, it is impossible to make investment decisions. We need the announcement of a long term policy by the Federal Reserve Board so that we can have long term credit once again and long term investments. Investors need to know that if the economy begins to recover, the Federal Reserve will not allow that recovery to be choked off by high and wildly fluctuating interest rates.

Mr. President, the plea made to you Monday evening to join Senator Byrd, Congressman Wright and many other Democrats who have introduced a bill aimed at getting the Federal Reserve Board to abandon its dangerous experiment with free floating interest rates was completely sincere. The high interest rates more than anything else have frustrated your own economic goals.

If you as President could prevail upon Mr. Volcker and the Federal Reserve Board to abandon this experiment and return to methods which have worked in the past, further legislative action would not be necessary. If the Board failed to respond to your plea, many of us in the Congress would back you up in taking action to require them to change.

For the sake of a true economic recovery, join us in our efforts. Please pick up the phone and call Mr. Volcker.

Sincerely,

DONALD W. RIEGLE, JR.,
U.S. Senator.

DAVID L. BOREN,
U.S. Senator.

The letter is signed by myself and by the Senator from Michigan (Mr. RIEGLE).

Madam President, I only hope that the President of the United States will urgently respond to the letter which Senator RIEGLE and I have sent to him today so that the good news of yesterday in the stock market can be just the beginning of a prolonged, sustained recovery in our economy.

Mr. ROBERT C. BYRD. Madam President, will the Senator yield?

Mr. BOREN. I am happy to yield to the minority leader.

Mr. ROBERT C. BYRD. Madam President, as I understand Mr. Kaufman, he has indicated that one of the reasons the rates have fallen is that the economic recovery is not materializing as expected and that there is not the demand for loans that there would otherwise be. So the very slack demand for loans was cited as a major cause for the fall in the interest rate.

I join the Senator in hoping that recovery will come, but if that recovery comes, then I think the legislation we have joined in introducing would be very necessary in order to keep those interest rates from soaring again into outer space. They would be kept within the historic range of inflation, the historic range being 2 to 4 points for prime, 1 to 3 points for the Federal fund rate.

I think it is very necessary that that legislation be supported and be enacted. I join the distinguished Senator in hoping the President will join the Senate Democrats and the House Democrats—and, hopefully, Senate and House Republicans whom we hope to enlist in support of this legislation—in expressing his support for the legislation so that we may prevent another stratospheric rise in interest rates in the event recovery comes, which we are hopeful will be the case.

I congratulate the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the statements issued yesterday by Henry Kaufman and Albert M. Wojnilower.

There being no objection, the excepts were ordered to be printed in the RECORD, as follows:

KAUFMAN, WOJNILOWER STATEMENT EXCERPTS

Following are excerpts from the statements on interest rates issued yesterday by Henry Kaufman, chief enconomist at Salamon Brothers, and on Monday by Albert M. Wojnilower, chief economist of the First Boston Corporation:

KAUFMAN

Recent events in the economy and financial markets necessitate a fresh look at the prospects for U.S. interest rates. These events suggest that the present decline in interest rates will continue, although irregularly, with perhaps some dramatic interruptions.

The decline in interest rates and the length of time such a decline will take will largely be determined by both the extent to which the U.S. credit market has been impaired and the level of interest rates that will rejuvenate sustained economic activity. In this context, conventional cyclical benchmarks are no guide. On balance, however, such benchmarks may be the following: long-term U.S. Government bonds now yielding 12¾ percent falling into the 9 percent to 10 percent range within the next 12 months; the Federal funds rate now at 10 percent declining to a low of 6 percent to 7 percent.

A smart recovery in economic activity in the second half of this year is not likely to materialize. This removes the immediate threat to long-term interest rates. Consumer spending, although holding at a high plateau, has failed to respond to tax initiatives, while the rest of the economy is straitjacketed by financial blockages and fear of international competition. Generally poor economic prospects also make businessmen less confident that the economy is able to support substantially higher prices. Thus, [while] inflation expectations are generally eroding, significant economic expansion will require further declines in interest rates and considerable time to unwind major financial impediments.

WOJNILOWER

The business outlook has deteriorated. The risks of a flareup in interest rates have therefore diminished, and the prospect of later and lasting declines has been enhanced. Industry sources report, and substantially adverse revisions in June statistical data confirm, that the economic climate turned gloomier toward mid-year after having improved during the spring. Capital spending plans were slashed again, and consumption fell, with the result that inventories, particularly of autos but also of materials, resumed piling up at wholesale and retail.

Thus the July 1 tax cut—its immediate cash aspect reduced substantially by niggardly adjustments in withholding schedules—has been more like a life preserver thrown to a struggling swimmer than additional stimulus to an economy already at the point of lift-off.

July performance was little better than June, and gentle improvement will probably be sustained and become more visible in subsequent months. Nevertheless, both the immediate and longer-range outlooks have sobered, and this appears to be recognized by the public as well as governmental authorities.

All this reinforces the view that both short- and long-term interest rates on top-quality obligations will be noticeably lower next year.

Mr. BOREN. I thank the distinguished minority leader for his remarks. He is absolutely right. Mr. Kaufman has said that the current downturn in interest rates is due to the downturn in the economy, due to the slack demand. We must have a fundamental policy change that is called for in this Democratic policy, one we have urged the President to get behind, so that we do not have those interest rates going right back up again the minute there is a hint of a recovery, choking it all off again and putting us back on a downhill slide.

I thank the distinguished leader for his remarks.

I yield to the Senator from Michigan who has joined with me in sending this letter to the President today.

Mr. RIEGLE. Madam President, I thank the Senator. I think this is an important initiative, both the effort to reach the President on this issue and to persuade the President, but as well to see if we cannot move this legislative initiative forward in one form or another.

I want to say, too, with respect to the interest rates, when Paul Volcker was before the Banking Committee recently to give their midyear assessment as to monetary policy in the future, it was obvious that while interest rates would likely drop down through the period of the election, as we go into next year the Fed's own plan calls for the money supply to actually give us higher interest rates. So these interest rates now are on a spring, and the spring is being pulled down, but the great concern is that very shortly somebody is likely to let that spring go and again these rates will go right back up.

I commend the Senator and I thank him for yielding.

Mr. BOREN. I thank the Senator. He is absolutely right. I think the interest rates, as he has said, are unlikely to stay down after the election, unlikely to stay down after the hint of any recovery, but also we have such instability in the rates. I just checked. We have had 78 changes in the prime interest rate since the Fed embarked on this wild experiment with monetary policy less than 3 years ago—78 changes. How could anyone make policy like that?

SUPPORT FOR CONFERENCE REPORT ON H.R. 4961

Mr. DODD. Madam President, I commend the Senator from Oklahoma and the Senator from Michigan for initiating that letter this morning. I could not agree more with them.

In fact, it is in light of the comments of the Senator from Oklahoma as well as the letter that is being sent to the President, which highlights the overall economic condition we find ourselves in, that I have decided to support the adoption of the conference report on H.R. 4961, the tax package.

I have disagreed strongly and forthrightly with many of the economic measures advocated by the current administration over the past 1½ years.

But, quite candidly, the President's position on this particular issue makes sense. We certainly cannot tolerate the budget deficits which will total almost a half trillion dollars over the next 3 years. It is imperative that we raise revenues to reduce that incredible prospect.

I regret to see the debate on this issue degenerate into definitional sparring. Whether you call the provisions of H.R. 4961 tax hikes, tax reform, or better collection of taxes already owed, the bottom line is that the bill raises $99 billion in revenues.

The old cliche is if it walks like a duck and talks like a duck and looks like a duck, there is a good chance it is a duck. That is what we have with this particular tax package.

American taxpayers will be paying $99 billion that they would not pay in the absence of this legislation.

The important point I think is that the necessity for raising revenue has been a matter of elementary arithmetic for some time. If a lopsided across-the-board tax cut of $282 billion over 3 years is accompanied by massive increases in the defense budget, the deficit is going to soar, and that is just what has happened.

In other words, Mr. President, it is right I think to pass this tax increase because we were wrong to cut taxes as deeply as we did last year. The economic program lacks balance. This action that we will decide on in the next several days is a belated acknowledgment that last year's policy was at the very least excessive. In a very real sense the conference report on H.R. 4961 represents the counterattack of commonsense economics to voodoo economics.

Obviously, the sensible thing to do would be to repeal the third year of the tax cut as well. It would have made more sense not to have adopted the lengths of the cuts in the first place.

But it is a fact of life that the deep cuts are in place. It is a political reality that they will not be altered, and the deficit that those realities breed is something we will have to deal with.

The tax provisions of H.R. 4961 are not the final answer. But they represent a reasonable start, a signal to the business operators, workers and citizens of this country that we will not allow ballooning deficits to choke off credit, inflate interest rates and preclude any hopes for economic recovery.

Finally, Madam President, I should note that the snide and inaccurate comments of OMB Director Stockman reported in today's Washington Post serve neither the President nor the national interest well.

For the good of the economy and those who are suffering from high interest rates, it is important that we move toward a consensus on how to deal effectively with deficits. The

President's televised appeal the other evening was a tacit acknowledgment that his economic program must be moderated. Mr. Stockman's attempt to shift the blame hinders that effort and diminishes even further his own eroding personal credibility.

EXECUTIVE CALENDAR

Mr. BAKER. Madam President, I believe we are prepared now to go forward with routine matters that have been cleared, I trust, on both sides.

Madam President, the Executive Calendar on this side indicates that certain items are cleared for action by unanimous consent. I refer specifically to the nominations appearing on page 3, beginning under Legal Services Corporation, Calendar Order No. 845, and continuing through page 4 to Department of Energy and then beginning on page 5 with the U.S. International Development Cooperation Agency, with the exception of item No. 906, and page 6, all the remaining items.

I wonder if the minority leader is prepared to consider all or any part of those nominations?

Mr. ROBERT C. BYRD. Madam President, the following nominations to which the distinguished majority leader has referred have been cleared on this side of the aisle. Beginning with the Department of Energy on page 4, going through page 5, and going through all of the nominations on page 6.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Madam President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering certain nominations.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Madam President, before the Chair lays before the Senate the nomination under the U.S. International Development Cooperation Agency, I may say to the distinguished minority leader that the item under Department of Energy is also cleared on this side. However, I have a request from another Senator for a rollcall vote, and I postpone that for the time being.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

The assistant legislative clerk read the nomination of Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The assistant legislative clerk read the nomination of James Malone Rentschler, of Pennsylvania, to be Ambassador to the Republic of Malta.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Theodore George Kronmiller, of Virginia, to be Deputy Assistant Secretary of State for Oceans and Fisheries Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Madam President, I now ask unanimous consent that beginning with Calendar Order No. 907, Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, and continuing for the remainder of those nominations on page 5 and all the nominations on page 6 that those nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the nominations so identified are considered and confirmed en bloc.

The nominations considered and confirmed en bloc follow:

DEPARTMENT OF STATE

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, vice Dean E. Fischer, resigned.

FARM CREDIT ADMINISTRATION

Tom H. Carothers, of Texas, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice William Dale Nix, Sr., term expired.

Leonard R. Fouts, of Indiana, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988, vice M. R. Bradley, term expired.

DEPARTMENT OF AGRICULTURE

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture, vice James C. Webster, resigned.

THE JUDICIARY

William M. Acker, Jr., of Alabama, to be U.S. district judge for the Northern District of Alabama, vice Frank H. McFadden, resigned.

Bruce M. Selya, of Rhode Island, to be U.S. district judge for the District of Rhode Island, vice Raymond J. Pettie, retired.

DEPARTMENT OF JUSTICE

Charles L. Dunahue, of Colorado, to be U.S. marshal for the District of Colorado for the term of four years, vice Rafael E. Juarez, resigned.

Clinton T. Peoples, of Texas, to be U.S. marshal for the Northern District of Texas for the term of four years. (Reappointment)

Mr. BAKER. Madam President, I ask unanimous consent that it may be in order to move to reconsider the vote by which all the nominations were just approved by the Senate en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, I move to reconsider the votes by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF WILLIAM ACKER TO BE U.S. DISTRICT COURT JUDGE FOR THE NORTHERN DISTRICT OF ALABAMA

Mr. HEFLIN. Madam President, it is my distinct honor and pleasure to recommend to the U.S. Senate William M. Acker of Birmingham, Ala., for the position of U.S. district court judge for the northern district of Alabama.

As a former judge, I believe that one of the most crucial functions of those of us who serve on the Senate Judiciary Committee is the examination of fitness of judicial nominees for service on the Federal bench. Fitness to serve as a U.S. district judge should be carefully examined.

It is this entry level trial court of the Federal judiciary to which aggrieved parties look for equity and justice. The vast majority of the numerous cases filed in Federal court never reach the Supreme Court, not because they are not meritorious, but because they have been disposed of, and the parties have been given redress, at the district court level. Recognizing the importance of the district court in our system of jurisprudence, it is apparent that the nomination with which we are now dealing is certainly not insignificant.

I commend Senator DENTON and President Reagan on this nomination. Mr. Acker has had a long and distinguished career as an outstanding attorney, and I am fully confident that he will serve with distinction upon confirmation.

No less should be expected from an alumnus of Birmingham-Southern College, even if Mr. Acker did graduate from that fine institution a few years after I did.

After graduating from Birmingham-Southern with memberships in Phi Beta Kappa and Omicron Delta Kappa, Bill Acker went on to study with distinction at Yale Law School. He was graduated from that internationally esteemed law school in 1952.

Since graduation from law school, Mr. Acker has practiced continuously in Birmingham. Since 1972, he has been a senior partner in the distinguished firm of Dominick, Fletcher, Yelding, Acker, Wood & Lloyd. Earlier in his career he practiced with a firm of which the Honorable Shuford Smyer was the senior partner. Mr. Smyer was Alabama's finest real

estate lawyer. Mr. Smyer's tutorship continues as one of Mr. Acker's finest assets. His present senior partner Frank Dominick is likewise one of Alabama's finest attorneys. Mr. Acker is admitted to practice in all of the courts of the State of Alabama, the U.S. District Court for the Northern District of Alabama, the U.S. Circuit Court of appeals for the 5th and 11th Circuits, and the U.S. Supreme Court. He is a member of the Birmingham, Ala., and American Bar Associations. He has practiced across a broad spectrum of the law, and has gained a reputation as being an excellent advocate.

In addition to all his other qualifications, Bill Acker is also painstakingly precise in his attention to detail, to such a degree that he personally folds and stuffs into the envelope every piece of mail he sends out. It seems that, early in his legal career, in the course of handling a particularly difficult case, Bill dictated a letter to his client. In this letter, he detailed all the weaknesses in his case and explained how it would be quite difficult for them to win.

At the same time, Bill dictated another letter to his adversary in the case, setting out all the various copelling legal arguments as to why it would be wise for the adversary to settle while he had a chance. Unfortunately, for Bill and his client, his secretary stuffed the letters into the wrong envelopes. Nobody knows, or will say, how Bill straightened the mess out—but ever since, he has personally stuffed every piece of mail that leaves his office. I am confident that his regard for detail will be an asset in performing his judicial responsibilities.

Madam President, it is my belief that justice is the guardian of all liberty. I believe that we best insure justice when we insure a quality judiciary, composed of individuals of the highest integrity.

Madam President, William Acker is an example of what is known as a lawyer's lawyer. I have known him for many years. While I served on the Supreme Court of Alabama, he appeared before the court, and I had the opportunity to witness his ability on a firsthand basis. Mr. Acker wrote excellent and scholarly briefs, and made well-organized, cogent, and articulate oral arguments. From my personal observations, I can say he is exceptionally well qualified.

Based upon these observations, together with the nominee's eminent reputation within the legal community of Alabama, I am confident that he will serve with great distinction on the Federal bench, and with each case he tries, provide proof of the wisdom of this nomination. It is with a great deal of pleasure that I recommend and wholeheartedly support, the nomination of William Acker for this most important position.

NOMINATION OF THEODORE GEORGE KRONMILLER TO BE AMBASSADOR

Mr. STEVENS. Mr. President, yesterday, the Senate Foreign Relations Committee met to consider the nomination of Mr. Theodore Kronmiller to have ambassador status at the Department of State.

For the last 18 months, Ted has been Deputy Assistant Secretary for Oceans and Fishery Affairs at the Department of State. During his brief tenure he has shown exemplary leadership and ability in dealing with a number of very complex international fishery matters. Many of those issues have directly affected the fishing industry in my home State. I know this from personal experience for my office has been directly involved in working with Mr. Kronmiller in solving a number of problems.

Ted has shown great responsiveness to the concerns voiced by Members of Congress and industry. To his credit he has been remarkably successful in gaining cooperation from our trading and fishing partners in areas of development and fishery trade matters. Ted has successfully negotiated the European reference price on Pacific salmon. Currently, he is completing new negotiations on governing international fishery agreements with our most important fishing partners. Recently he has concluded work on an Atlantic Salmon Treaty, and has been a great leader in resolving disputes affecting U.S. tuna fleets worldwide.

Ted's leadership has been especially demonstrated by the work he completed on the reference price that was suggested by the European Economic Community last year, which would have effectively barred our access to a $100 million European food market. He came in at a time after EEC had announced that it would impose such a price floor, and he successfully turned around the European Economic Community just prior to their vote on the matter.

He is exceptionally qualified to fill this job as the top U.S. negotiator in the matters of fishery and trade policy. The background he has makes him particularly qualified for this position. Ted worked for several years as a valuable assistant to my good friend Congressman JOHN BREAUX on the staff of the House Subcommittee on Fisheries and Wildlife Conservation and the Environment. Time and time again he has demonstrated a strong understanding of the concerns and intent of Congress in these matters.

My interests in assuring that Mr. Kronmiller be given this ambassadorial status is based upon the extraordinary interest that my State of Alaska has in U.S. domestic and international fishery policies. Many of you are aware that Alaska has over one-half of the exploitable fishery resource in the U.S. fishery conservation zone. In addition, over 95 percent of all foreign directed fishing in U.S. waters occurs in the waters off of Alaska. We face a major challenge in the next few years in the Pacific to an exploited food resource that can provide a major contribution to food supplies around the world. Ted Kronmiller understands the vast complexity of this task, and he has been instrumental during the last year to enforce that the U.S. fishing industry has the opportunity to develop jointly with our foreign fishing partners, a strategy that will insure that this food resource be exploited to its maximum potential. I ask unanimous consent to include following my statement, comments of the Honorable DON YOUNG of Alaska.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 16, 1982.

Hon. CHARLES PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that your Committee will shortly be meeting to consider the nomination of Mr. Theodore Kronmiller to the rank of Ambassador. Because I will be unable to testify at the Committee hearing, I am writing to express my strong support for Mr. Kronmiller's appointment.

As you know, Mr. Kronmiller currently serves as Deputy Assistant Secretary of State for Oceans and Fisheries Affairs. Incumbents in that position have traditionally held the rank of Ambassador due to the nature of their duties. The Deputy Assistant Secretary is responsible for representing the United States in a variety of areas dealing with fisheries and other oceans matters. Frequently, his foreign counterparts hold ambassadorial rank or its equivalent. At the very least, to demonstrate the importance which our nation places on oceans and fisheries matters, the U.S. official in the Department of State who is responsible for these matters should hold an appropriate rank.

Of greater importance is the commitment and professionalism which Mr. Kronmiller has shown while performing his duties as Deputy Assistant Secretary. To provide but a few examples, Mr. Kronmiller has successfully negotiated a number of Governing International Fishery Agreements with European and Asian nations. He has upheld the U.S. position on a number of discussions involving tuna fisheries. He has actively supported the development of the U.S. fishing industry through his decisions involving foreign fishing allocations in our 200 mile zone. He has worked successfully to lower tariff barriers affecting the importation of U.S. fisheries products. In sum, Mr. Kronmiller has consistently demonstrated his strong and active support for U.S. fisheries and oceans policies.

As the only Representative from the State of Alaska, a State with 35 percent of the nation's coastline, 75 percent of the nation's outer continental shelf, and a State adjacent to U.S.-controlled waters containing 14 percent of the world's marine protein

supply, I have always been reluctant to support any individual in the Department of State because of that Department's bad habit of trading away fishing privileges for insignificant benefits in other foreign policy areas. I am therefore pleased finally to be able to support an individual who recognizes the importance of maintaining a strong domestic fishing industry. Further, this support of Mr. Kronmiller is reflected in comments I have received from representatives of the U.S. fishing industry in Alaska and in other areas of the country.

Mr. Chairman, I urge you and the Committee to vote quickly and favorably on Mr. Kronmiller's nomination.

Sincerely,

DON YOUNG,
Ranking Republican, House Subcommittee on Coast Guard and Navigation.

LEGISLATIVE SESSION

Mr. BAKER. Madam President, I move that the Senate now turn to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BAKER. Madam President, there are certain items on the calendar of business of a legislative nature that are cleared for action on this side, and I will inquire of the minority leader if he might be in position to consider Calendar Order 755, House Concurrent Resolution 385, a concurrent resolution expressing the sense of Congress in respect to the Government of the Soviet Union to allow Yuri Balovlenkov to emigrate.

Mr. ROBERT C. BYRD. Madam President, I am ready to proceed.

EMIGRATION OF YURI BALOVLENKO

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 385) expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

The Senate proceeded to consider the concurrent resolution.

Mr. MATHIAS. Madam President, it was in November 1978 that Elena Kuzmenko first visited my Baltimore office. She had fallen in love with a Soviet citizen, and she sought my help to clear the impediments to their marriage. Happily, the Soviet authorities cooperated. Elena and Yuri Balovlenkov were married in Moscow in December 1978. Permission for the wedding was the first and last flicker of cooperation the couple had seen from the Soviet authorities.

Elena Balovlenkov returned home to the United States, and subsequently, their daughter was born. Since the Balovlenkovs' marriage, 4 years have passed, years filled with false hope, frustration, and heartache for this young family. Repeatedly denied permission to leave the Soviet Union and desperate to join his family in Baltimore, Yuri Balovlenkov began a hunger strike on May 10, 1982, and though he is now being force-fed, still lies near death in Moscow.

Elena Balovlenkov has been unable to persuade the Soviet officials to let her husband leave the country. It rests with the U.S. Government and the American people to persuade the Soviet authorities that the case of Yuri Balovlenkov is important to them—that they care about the fate of a single human being.

In numerous letters and meetings with Soviet and American officials spanning several years, I have pointed to the provisions of the Helsinki accords as they relate to this case. The provisions state that governments will "deal in a positive and humanitarian spirit" toward family reunification. There has been little positive about the way Yuri Balovlenkov has been treated. While other members of the "divided families group" have been allowed to reunite, the decision on Balovlenkov's case has been endlessly delayed. Denying a family the right to live together violates not only the spirit of the Helsinki accords and the United Nations Declaration on Human Rights, but our sense of decency as well. In these critical days, our efforts to see the Balovlenkovs reunited must intensify. Time is running out.

I ask that my colleagues join me in supporting this concurrent resolution, so that we may present a unanimous Senate voice in this matter to the Soviet Government.

Mr. SARBANES. Madam President, the purpose of this resolution is simple and direct: to express to the Soviet Government the sense of the Congress that Yuri Balovlenkov be allowed to emigrate.

Yuri Balovlenkov is a Soviet citizen married to an American citizen, the former Elena Kuzmenko of Baltimore. Although they were married in 1978, they have lived most of their married life apart. Unitl last month, when Elena Balovlenkov made an emergency trip to see her husband, he had never seen his daughter, Katya, who is now 2 years old.

Since his marriage 4 years ago, Mr. Balovlenkov has sought to persuade the Soviet Government to issue the exit permit that would permit him to be reunited with his family. All his efforts have been unavailing, although the Soviet argument that his access 8 years ago to computer technology information is unconvincing. Faced with the refusal of Soviet authorities to heed reasonable requests or to honor its commitment, as a signatory to the Helsinki Final Act, to the principle of family reunification, Mr. Balovlenkov undertook the first of a series of hunger strikes earlier this year. On June 21, after 43 days without food, he was informed that the exit visa requisite for his departure would be issued within 3 days. Contrary to that pledge the visa was not forthcoming, and on July 6 Mr. Balovlenkov resumed his fast. There was no official response when Mrs. Balovlenkov traveled to the Soviet Union to be with her husband and talk once more with Soviet authorities. Mr. Balovlenkov is now very ill and his wife is once again at his side.

Mr. Balovlenkov asks only to be permitted to live with his wife and daughter outside the U.S.S.R. Important human rights principles are at stake here and, in view of the grave deterioration in Mr. Balovlenkov's health, it is no exaggeration to say that his life may now hang in the balance. The House of Representatives has approved House Concurrent Resolution 385, and the Senate should also take prompt positive action. I urge passage of the resolution to impress upon the Soviet Government the importance and the urgency which the House of Congress attach to the Balovlenkov case. Mrs. Balovlenkov is with her husband in Moscow. Let us hope that our action will convince the Soviet Government, to permit Yuri Balovlenkov's departure at the earliest practicable date.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 385) was agreed to.

The preamble was agreed to.

Mr. BAKER. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 6308 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. BAKER. Madam President, I ask unanimous consent that H.R. 6308 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

H.R. 6204 HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. BAKER. Madam President, I ask unanimous consent that H.R. 6204 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRETRIAL SERVICES ACT OF 1982

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 923.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 923) entitled "An Act to amend chapter 207 of title 18, United States Code, relating to pretrial services", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. RODINO, Mr. HUGHES, Mr. CONYERS, Mr. KASTENMEIER, Mr. GLICKMAN, Mr. MCCLORY, Mr. SAWYER, and Mr. FISH be the managers of the conference on the part of the House.

Mr. BAKER. Madam President, I move that the Senate disagree to the amendment of the House and agree to the conference requested by the House and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mrs. KASSEBAUM) appointed Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. BIDEN, and Mr. LEAHY conferees on the part of the Senate.

MILITARY CONSTRUCTION AUTHORIZATION, 1983

Mr. BAKER. Madam President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2586.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

(The amendment of the House is printed in the RECORD of August 11, 1982, beginning at page 20596.)

Mr. BAKER. Madam President, I move that the Senate disagree to the amendment of the House and agree to the request of the House for a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mrs. KASSEBAUM) appointed Mr. TOWER, Mr. THURMOND, Mr. WARNER, Mr. HUMPHREY, Mr. DENTON, Mr. BRADY, Mr. STENNIS, Mr. HART, Mr. JACKSON, Mr. CANNON, and Mr. EXON conferees on the part of the Senate.

ACCESS TO TELEPHONE SERVICE FOR THE HEARING IMPAIRED

The Senate proceeded to consider the bill (S. 2355) to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service, which had been reported from the Committee on Commerce, Science, and Transportation with an amendment to strike out all after the enacting clause, and insert the following:

That the Congress hereby finds that—

(1) all persons subscribing to or otherwise receiving telephone service in the Nation should receive the best service which is technologically and economically feasible;

(2) currently available technology is capable of providing telephone service to some of those individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best service which is technologically and economically feasible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

SEC. 2. Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"TELEPHONE SERVICE TO PERSONS WITH IMPAIRED HEARING

"SEC. 225. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

"(b) In ensuring such access, the Commission shall require that coin-operated public telephones be designed, manufactured, and operated so as to provide internal means for coupling with hearing aids. The Commission may also require that other telephones frequently used by the public or provided for emergency use by similarly designed, manufactured, and operated.

"(c) The Commission may establish such technical standards as are required in order to ensure compatibility between telephones and hearing aids.

"(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of new technology.

"(f) The Commission shall complete rulemaking actions required by this section and issue such rules and regulations resulting therefrom within one year after the date of enactment of this section of the Act. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated public telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section."

Mr. GOLDWATER. Madam President, I am pleased to be a cosponsor of S. 2355, a bill designed to insure that the hearing-impaired have reasonable access to telephone service. This bill will accomplish its worthwhile goals with minimal fiscal and regulatory impact.

The Senate Committee on Commerce, Science and Transportation report which accompanies this bill estimates that the legislation will cost the Federal Communications Commission $200,000 for staff time and overhead. The committee intends that this sum is to be paid out of the FCC's already available funds. Furthermore, while the regulations that this bill will require will include the monitoring of manufacturers and telephone companies, we expect that this monitoring will not place significant paperwork burdens on these parties.

Mr. MATHIAS. Madam President, we are a nation with an advanced case of telephonitis. We Americans use 180 million telephones to go about our daily work, arrange our family lives and cope with unexpected events. Most of us could not carry on in our homes, at our jobs or anywhere else for as much as 1 day without using a telephone.

For Americans with hearing aids, however, one out of five of those telephone does not work. And every day more telephones are installed in homes, businesses, hospitals and public accommodations with receivers that are useless to hearing aid users.

The problem is serious because using the telephone has become an essential part of modern life. It is essential to find a job and keep a job; it is essential to maintain normal contact with other people; it is essential for emergency protection; and it is essential for mobility.

The bill before us does not offer much hope for correcting this problem.

The prospect of establishing telephone compatibility through the Federal Communications Commission and through the courts points to years of unnecessary confusion, delay, frustration and expense—both for telephone users and for the industry. Issues of compatibility between telephones and hearing aids have been on the docket before the Federal Communications Commission for several years, but the Commission has been moving at a snail's pace.

The bill before us calls for "reasonable" access to telephones for people with hearing aids. But this issue would not be before the Senate tonight if people could agree on what is reasonable. Universal access is what hearing impaired people want.

This bill directs the Federal Communications Commission to require compatibility for coin-operated public telephones only. Thus this measure would assure compatibility only where indus-

try has already provided compatibility and insists that it has no plans to change that compatibility. The bill does nothing about compatibility for the telephones most frequently used by everyone, the telephones at home and at work.

It is well known that the telephone is a byproduct of Alexander Graham Bell's search for a device to help the hearing-impaired. It is long past time to bring full and assured access to telephones into the lives of people who rely on hearing aids.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. CANNON. Madam President, I am very pleased that the Senate has approved S. 2355, which I introduced along with Senators GOLDWATER and RIEGLE. It addresses problems in using telephones experienced by persons with hearing impairments while avoiding the possibility that the legislation will impair the development of new technology. Most importantly, this legislation directs the FCC to insure reasonable access to telephone service by persons with hearing impairments. This legislation is the first specific congressional guidance for the FCC to concern itself with the needs of the hearing impaired. Further, the bill:

First, directs the FCC to require the use of magnetic field/induction coils (or similar internal coupling systems) on coin-operated public phones;

Second, permits the FCC to impose similar requirements on phones frequently used by members of the public or provided for emergency use;

Third, permits the FCC to establish technical standards to insure compatibility between hearing aids and telephones;

Fourth, permits the FCC to require consumer information on the compatibility between hearing aids and telephones; and

Fifth, directs the FCC to consider the cost and benefits to both hearing impaired persons and nonhearing impaired persons in any rulemaking, to insure that their rules do not block the development of new technology, and to complete their initial rulemaking within 1 year.

This is excellent proconsumer legislation which addresses serious concerns of the hearing impaired and does so in a manner that does not impose unnecessary burdens on the industries affected. I appreciate the help of all concerned in making possible the unanimous approval of this legislation. I hope that our colleagues in the House of Representatives will act rapidly on this legislation.

FEDERAL COMMUNICATIONS ACT AMENDMENTS

Mr. BAKER. Madam President, I ask the Chair to lay before the Senate H.R. 3239, Calendar Order No. 166.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

Mr. ROBERT C. BYRD. Madam President, there is no objection on this side to proceeding to the consideration of this measure.

The Senate proceeded to consider the bill.

Mr. PACKWOOD. Madam President, I ask unanimous consent to have printed in the RECORD a statement that sets forth what is contained in H.R. 3239.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

WHAT H.R. 3239 CONTAINS

A. S. 929/H.R. 5008

1. S. 929—Senator Goldwater's Amateur Radio and Land Mobile bill—a bill that passed the Senate in September, 1981.

2. H.R. 5008—A bill to amend the 1934 Communications Act to make technical, non-controversial changes. It also contains amateur radio and land mobile provisions which are virtually the same as those in S. 929. H.R. 5008 is awaiting House floor action. There is no disagreement between the two Houses on passing this legislation.

B. S. 2181/H.R. 6162

1. S. 2181 authorizes the National Telecommunications and Information Administration (NTIA) for 1 year (FY 1983) at a level of $12.4 million. S. 2181 passed the Senate on June 9, 1982.

2. H.R. 6162 authorizes NTIA for 2 years (FY 1983 and FY 1984) at $13.4 million and $12.3 million, respectively. H.R. 6162 awaits floor action in the House.

3. The House has proposed that the conference authorize NTIA for 2 years (FY 1983 and FY 1984) at $12.9 million and $11.8 million, respectively.

UP AMENDMENT NO. 1250

Mr. BAKER. Madam President, I send an amendment to the desk in the nature of a substitute on behalf of the distinguished Senator from Oregon (Mr. PACKWOOD).

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. PACKWOOD, proposes an unprinted amendment numbered 1250.

Mr. BAKER. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. (a) There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $12,917,000 for fiscal year 1983, and $11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

(b)(1) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range telecommunications and information goals of the United States, the specific telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(2) In any study or review conducted pursuant to this subsection, the Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which affect such policies.

TITLE I—COMMUNICATIONS ACT AMENDMENTS

SHORT TITLE

SECTION 101. This Act may be cited as the "Communications Technical Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SECTION 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a

person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

"(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

"(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

"(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

"(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

"(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

"(D) the perceptions held by the public regarding the business activities of such company or other entity.

"(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

"(5) Not more than three members of the Commission may be members of the same political party.".

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out "The";

(2) by striking out "first appointed" and all that follows through "but their successors"; and

(3) by striking out "qualified" and inserting in lieu thereof "been confirmed and taken the oath of office".

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

"(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.".

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out "a legal assistant, an engineering assistant," and inserting in lieu thereof "three professional assistants".

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2)(A) If—

"(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling Commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

"(ii) such attendance and participation are in furtherance of the functions of the Commission; and

"(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

"(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

"(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

"(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985.".

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out ": *Provided*, That the" and all that follows through "by such reports".

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

"(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this paragraph.

"(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

"(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

"(II) accept and employ the voluntary and uncompensated services of such individual.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper amateur radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

"(I) recruit and train any citizens band radio operator; and

"(II) accept and employ the voluntary and uncompensated services of such operator.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper citizens band radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed

by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.".

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "thereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

JURISDICTION OF COMMISSION

SEC. 106. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out "interstate and foreign";

(2) by inserting "State," after "any" the third place it appears therein;

(3) by inserting a comma after "Territory" the first place it appears therein; and

(4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 107. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices,".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(5) The heading for section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended to read as follows:

"INTERFERENCE WITH RADIO COMMUNICATIONS AND ELECTRONIC EQUIPMENT"

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

SEC. 108. Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;".

GROUNDS FOR SUSPENSION OF LICENSES

SEC. 109. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or caused, aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

SEC. 110. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(t) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.".

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(t))" after "United States".

REVISION OF LICENSE TERMS

SEC. 111. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station.".

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

SEC. 112. (a) Section 307 of the Communications Act of 1934, as amended in section 11(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule.".

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorized to operate without a license under section 307(e)(1),".

AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 113. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

(1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";

(2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and

(3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

SEC. 114. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of

such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).".

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out ", groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.".

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.".

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 115. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.".

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station,".

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 116. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.".

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 117. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect,".

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 118. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission determines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

PRIVATE LAND MOBILE SERVICES

SEC. 119. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES

"SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.".

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.".

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services.".

NOTICES OF APPEAL

SEC. 120. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 121. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of.".

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

SEC. 122. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order.".

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

SEC. 123. The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting ", or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

SEC. 124. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES

"SEC. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States.".

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

SEC. 125. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting ", aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: ", or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

SEC. 126. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code.".

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it appears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

SEC. 127. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,".

SEC. 128. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsections (d) and (e).

Amend the title so as to read: "An Act to amend the Communications Act of 1934, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (UP No. 1250) was agreed to.

The PRESIDING OFFICER. There being no further amendments, the question is on engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. BAKER. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Madam President, that completes the routine matters that are cleared on this side and I am prepared to yield the floor.

Mr. ROBERT C. BYRD. I yield the floor.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

HABEAS CORPUS REFORM

Mr. NUNN. Madam President, today marks the beginning of the fourth month during which Senator CHILES and I have been daily speaking on the Senate floor in support of strong anti-crime legislation. Many of our comments have been directed to the urgent need for habeas corpus reform. This morning I am particularly pleased to rise as cosponsor and in strong support of legislation, introduced by Senator THURMOND and placed on the Senate Calendar yesterday morning, addressing that same area of criminal law reform, one which is, by all reports, essential to the continued viability of our judicial system. Both Senator CHILES and I know only too well the extent to which our career criminals have learned to manipulate current habeas corpus procedure to their benefit.

In introducing S. 2543, the Crime Control Act of 1982, on May 19, 1982, Senator CHILES and I took care to include proposals for habeas corpus reform similar to those which Senator THURMOND has now offered. In speaking in support of S. 2543, we have, over the past 3 months, cited numerous specific examples of the dire need for reform of habeas corpus procedures. The cases which we have described in great detail to the Senate clearly establish that the writ of habeas corpus has been, and continues to be, gravely distorted by serious abuse in the hands of our criminal offenders. I am encouraged that the bill which Senator THURMOND has now introduced speaks to precisely the same problems which have caused us such great concern for some time now.

The writ of habeas corpus, as originally conceived in medieval English law, provided a means of reviewing the detention of an individual held under executive, and not judicial, authority. It was never intended to be used to review in any manner, detention as a

result of a judicial decision. It was executive, and not judicial, abuse of power that the Founding Fathers had in mind when they specifically prohibited the "suspension" of the writ of habeas corpus in article 1, section 9 of the Constitution. In fact, State prisoners were not specifically granted any right to Federal habeas corpus relief until the enactment of the Habeas Corpus Act of 1867 by Congress, despite the earlier constitutional provision.

Since 1867, experience has shown that the use of the writ now bears little resemblance to the purpose for which it was originally intended. Rather than act as a bulwark of freedom for out citizens, it has been misused as a seemingly endless "appeal" device by convicted felons. Frequently, prisoners wait many years and, after witnesses have died, file a habeas corpus action seeking to set aside the original judgment and sentence. In such cases, the issue raised was often not raised and answered in the original record, and the Government is simply incapable of refuting the prisoner's testimony.

In other cases, prisoners file a series of seemingly endless petitions, wasting precious judicial resources on the needless relitigation of issues clearly and fairly decided years before. In the absence of clear legislative directives, the Federal courts often rehear and reconsider questions properly answered in the State court systems.

A system which encourages these types of abuse can hardly be said to contribute to public confidence in our criminal laws. Most of us agree with those criminal justice experts who tell us that the greatest single deterrent to crime is swift and sure punishment for the guilty. Yet our system too often fails to deliver.

One reason, as Chief Justice Burger pointed out in his recent speech to the American Bar Association, is our inability to reach—at some point—finality of judgment. Judge Coleman of the Fifth Circuit Court of Appeals has stated:

> The (court) decisions say that the writ may not be used as a second appeal, but from experience the outlaws know better. Instead of being a bulwark of freedom for the citizen, it has been allowed to become a last, and too often a sure, refuge for those who have respected neither the law nor the Constitution.

It is a sad comment, indeed, on our criminal justice system that blatant abuse of the writ of habeas corpus has resulted in two of the most serious shortcomings within that system: Needless delay and a lack of certainty and finality in punishment. We have come to the point where the writ, rather than serving to protect innocent individuals from baseless or unknown charges, is being routinely manipulated to insulate the guilty from their just and deserving punishment.

The proposal which Senator THURMOND has offered makes several important and needed revisions to those statutes governing current habeas corpus procedure. It provides for a 1-year statute of limitations for Federal habeas corpus proceedings filed by State prisoners. This 1-year period would not, however, begin until the final exhaustion of all State remedies by the State prisoner. The 1-year period is clearly a reasonable and fair requirement for the filing of such petitions. This is particularly true when one considers the great length of time which is often consumed within the State process via both direct and collateral proceedings.

Similarly, the bill provides for a 2-year statute of limitations in habeas corpus proceedings brought by Federal prisoners. That period will begin to run from the latest of specifically listed events: First, final conviction; second, removal of some Government obstacle to filing; third, creation of a newly recognized right; or fourth, discovery of necessary facts by reasonable diligence. Such limitations are clearly valid given the Supreme Court's decision unholding similar timeliness requirements for the exercise of rights, including those of constitutional origin, within both our criminal and civil judicial system. These periods of limitations are no more than a needed and reasonable requirement that habeas corpus proceedings, as other proceedings, be brought in a timely manner.

The proposal also speaks to the problem of the needless adjudication and readjudication of facts and issues which have already been fairly decided elsewhere in the legal system. We would require Federal courts to defer to State courts findings on factual and legal matters where those findings were the result of a "full and fair determination" by the State court. The Supreme Court has already made clear that there is no need for the Federal courts to rehash and rehash again issues which have already been fully and fairly determined in a State court.

This provision will prevent the needless overburdening of the Federal courts with facts and legal issues already clearly and justly decided. In doing so, it will continue to protect petitioners from unjust State court determinations, leaving Federal courts free to review issues which do not meet the specific statutory standard. This was explicitly recognized by the Justic Department in their support of this provision before the Senate Judiciary Committee on April 1, 1982:

> In order to be full and fair in the intended sense the state adjudication must reflect a reasonable determination of the facts based on the evidence presented to the state courts, a reasonable view of federal law, and a reasonable application of the law to the facts. It must also be conducted in a manner consistent with the procedural requirements of federal law, including the requirement of due process.

In that context, it is obvious that, under these provisions, Federal courts will still be free to fully employ the writ of habeas corpus in cases where State courts have failed to accord a petitioner a full hearing or where they have failed to act in accord with his Federal rights. It is also clear, however, that Federal courts will no longer be required to burden their already overcrowded dockets with the needless relitigation of issues already clearly, fully and fairly decided by State courts. In these days of scarce judicial resources and mounting criminal caseloads, this type of approach is essential if we are to maintain any semblance of judicial efficiency.

In sum, all of these provisions are designed to restore some measure of credibility to the writ of habeas corpus as it has evolved in our criminal justice system. They speak to those career criminals who routinely file habeas corpus petitions, mostly frivolous and most seeking review of issues already decided time and time again. Those kinds of petitions have, for all practical purposes, transformed our courts into a system of overburdened and overcrowded judicial lotteries.

We must act now if we are to ever generate any sense of certainly and finality within our criminal justice system. I urge the Senate to act responsibly and fairly on habeas corpus reform by the adoption of these proposals. Neither our judicial system nor the American public can afford further congressional delay on this most critical issue.

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. There will now be a period for the transaction of routine morning business.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the transaction of routine morning business be extended until 11 a.m. and that the time for the Senate to resume consideration of the pending business be extended to 11 a.m. without any change in the status of the parties with respect thereto.

The PRESIDENT pro tempore. Without objection, it is so ordered.

IN MEMORY OF CAREY CRONIN

Mr. DODD. Mr. President, recently Connecticut lost one of its foremost columnists and political journalists. His name and reputation is undoubtedly familiar to many of you here: Carey Cronin, who passed away last weekend, had served as the Washing-

ton correspondent for the Bridgeport Post & Telegram for more than 30 years.

Those of us lucky enough to know Carey will remember him with respect and affection. During the past several decades he had become a familiar presence in the Capitol halls, the press galleries, and the National Press Club. Life on Capitol Hill will not be the same without Carey and his ambling gait, his broad grin, his ready story.

In losing Carey Cronin, we have lost more than a talented man committed to journalistic excellence. We have also lost a part of history. How rare it is to find someone whose career has touched upon so many significant events. During his 35 years in Washington, Carey's coverage spanned Watergate and the landing on the moon; McCarthy and Vietnam. He had seen more administrations come and go than any of us. As a result, he helped give those he knew in Washington a historical sense of why we were here—and our role in American politics.

It was Carey's talent at making the history he witnessed come alive that made him much more than reporter. He was a bard, a narrator, a chronicler. His reflections on history and politics have helped shape the perspectives of all of us in the Connecticut delegation. There was nothing he loved more than reflecting upon and sharing his memories: His time spent as a correspondent during World War II, his memories of his school years at Georgetown Prep and at Holy Cross College in Worcester. His political anecdotes were instructive, humorous, and frequent.

I had the rare opportunity of growing up with Carey. He was a part of my childhood, my youth, and my adult life. As a child I can remember his frequent conversations with another Senator Dodd—my father. When I returned to Washington as Congressman, Carey was on hand as an adviser and as a friend. When I became a Senator he was there too—carefully jotting down details in his reporter's notebook. He has been a part of my life, serving as a friend, critic, mentor, adviser and observer.

But Carey's ability to act as friend and story-swapper never stood in the way of his being an outstanding journalist. The Washington press corps will remember his continuing, outstanding, coverage of Connecticut politicians since he opened his news bureau here in 1947. Carey's coverage was hard but fair: he criticized us when we seemed to stray from the State's interests, applauded us when we stayed with them. His strength was his accurate and fast reporting—tempered with a sense of humor. His columns, editorials, and articles have helped shape a generation of Connnecticut readers' visions of Washington politics.

I hope that all of you will join me in mourning the loss of Carey Cronin, and in sharing the grief of his wife and family. I know I will feel his absence deeply. But we should not grieve for too long; Carey would want it otherwise. He would want to become part of that rich fabric of historical anecdotes of which he himself was so proud. He would want me to turn to you and say: "Did I tell you about the time in 1978 when Carey * * *."

THE SITUATION IN LEBANON

Mr. HATFIELD. Mr. President, there is hope today that the long summer of suffering in West Beirut is ending. The parties who chose an international capital for their battleground have reached an agreement in principle that, at long last, may silence the guns. Those Palestine Liberation Organization fighters encircled in West Beirut have agreed to leave Lebanon for an uncertain, fragmented future. The Israeli Government tentatively has approved a PLO exodus, but the PLO must depart in the shadow of Israel's guns and subject to Israel's judgment. Both the Syrian and the Israeli Governments have said their forces will withdraw from Lebanon. Syria's regular and irregular forces, trapped with the PLO in West Beirut, will leave with the PLO, a commitment made without alternative. But neither the Syrian nor the Israeli Government has pledged a date on which they will leave Lebanon to the Lebanese, and the Syrian and Israeli armies remain poised and anxious.

The people of West Beirut have said nothing. No one has asked for their agreement. The PLO did not ask their permission to bring its politics and its weapons into their neighborhoods. The Syrian Government failed to consult them about their need for an Arab deterrent force. The Israeli defense force never stopped bombing and shelling long enough to ask them why they did not flee. Their own Government spoke about them and for them but never really to them. Yet their faces—caught in fear, bewilderment, suffering, death and, sometimes, an inexplicable hopefulness—have spoken eloquently to the world of the tragedy of Lebanon.

Today's Lebanese tragedy grew, most immediately, out of the PLO leadership's refusal to foreswear their traditional paramilitary, terrorist role and out of the Israeli Government's stubborn adherence to a policy of meeting force with overwhelming force. Both sides clearly were willing to sacrifice the civilian population and, possibly, even the sovereignty of Lebanon to their own interests. Both the leaders of the PLO and of Israel were locked into a common selfishness of hate that had bred death and destruction in sharp, staccato bursts for decades, until, on June 6, that hatred unleashed a fiery wave of suffering that swept north from Isreal and converged on Beirut.

In the long weeks since, the peoples of the world have sat, unwilling witnesses to the agony of West Beirut. They have stared into the anguished faces of men and women whose families have disappeared forever beneath the rubble of their homes. They have looked into the bewildered faces of children whose childhood has become the stuff of nightmares. They have peered into the mute, fly-tracked faces of the victims, young and old alike, made armless, legless, mindless, by this little, vicious war. And as they have watched this drama of destruction unfold, the peoples of the world have become outraged. Whatever their original predisposition—pro-Israel, pro-Palestinian, apolitical—they see no logic strong enough on either side to justify what has happened to the people of West Beirut. And so, from throughout the community of nations there have come growing expressions of outrage. I am certain that every one of my colleagues has received numerous letters, telephone calls, and visits, as I have, from people throughout the United States who want the fighting in Beirut stopped. These people who write and who telephone and who even make first trips here to the halls of the Congress are outraged by what is happening in Lebanon—and they are afraid.

They are afraid because the nations supporting both sides in this conflict, including the two superpowers, stood powerless to stop the suffering of the civilians of West Beirut or the virtual destruction of the western city—powerless, for more than 2 months, to stop a conventionally fought conflict without themselves resorting to the so-called military option. True, there were ongoing negotiations which, hopefully, at last may have brought the fighting to an end, but each broken cease-fire seriously hindered those negotiations. Even now, the margin for success is dangerously narrow, and that success, if it comes, will apply only to West Beirut. It will not apply to the 7,000 Palestinians imprisoned by the Israelis since June 6. It will not apply to the 14,000 PLO fighters thought to be in the Bekaa Valley. It will not apply to the approximately 2,000 PLO members guarding a Palestinian refugee camp near Tripoli, Lebanon. It will not apply to the armies of Syria and Israel or to Lebanon's own free lance militias should their leaders' perceived interests dictate that the Bekaa or Tripoli become the next Beirut. And it will not apply to those shadowy individuals who carry the pestilence of violence in the bombs and machineguns already being heard in Paris.

I pray, as we all do, for an end to the fighting in Beirut. But, at the same time, I say that we must look beyond Beirut. We must look beyond Special Envoy Habib's hard won agreement. We must look beyond the evacuation of the PLO from West Beirut. We must look at the realities of this conflict. We must look squarely and without flinching, at the Palestinian issue, at the congenital weaknesses of the Lebanese state, and at the relationship which has evolved between Israel and the United States. We must look at our own Nation and its policy and its interests. And then, Mr. President, we must make the hard decisions that we were elected to make and which we have deferred too long.

Ariel Sharon, in the first bluster and swell of success after Israel invaded Lebanon, said that Israel had handed the United States a unique opportunity in the Middle East, if we would but seize that opportunity. While I disagree vehemently with General Sharon's goals and methods—and I suspect also with the twisted logic that led him to make that statement—I am convinced that what he said is true.

I have said before, and I say again, we stand at a unique moment in history—one precious golden moment in which we can utilize the strength and ideals of our people and the power and prestige of our Nation to lead the world away from war into a peaceful, productive future. But we must act. Neither we, nor the community of nations, can allow America's leaders the continued luxury of reacting to events.

The Palestinian issue will not go away. We cannot continue to sweep it under the rug to be resurrected for the testing of each new generation of American and Soviet weaponry. And we cannot afford to address this complex and potentially catastrophic problem through third parties. The United States must begin a dialog with the Palestinians—and, at least initially, that dialog must be open to all Palestinians, including the PLO.

I am aware that the PLO charter calls for Israel's destruction and I will be very clear in stating that, if at least some of the PLO leadership cannot admit, even now, the necessity for coexistence with a Jewish state and the futility of terrorism in place of negotiation, they can play no role in the dialog I have in mind. At the same time, it seems very clear to me that Israel's tragically misnamed "Peace for Galilee" operation was an equally rigid statement of Israel's intention to destroy the PLO. It remains to be seen what Israel's intentions are toward those Palestinians who have lived as refugees in Lebanon since the creation of the State of Israel in 1948. Whatever those intentions, it is not for Israel's Government to decide the fate of those people. Israel has every right to exercise sovereignty over the people who choose to live within Israel's borders, but those borders do not legitimately include Gaza, the West Bank, or Southern Lebanon.

It is because Gaza and the West Bank have proved so divisive for Israel and its Arab neighbors, and even for some of Israel's own citizens, that it is in Israel's interest and in the interest of all of the states of the region that Syria and Israel withdraw their armies as soon as possible after the end of the siege of West Beirut. The Israeli Government has rightfully pointed out that both the PLO and Syria have long been unwelcome guests in Lebanon. It would be a tragic mistake for Israel to apply a different yardstick to the presence of its own troops. Already the Lebanese of the south are looking at the smooth-running Israeli administrative apparatus in southern Lebanon, at the road signs printed in Hebrew, and at the $4 million Israel received in a single month from exports to Lebanon and those Lebanese see cause to mistrust Israel's avowed willingness to leave. The Lebanese hiding in the cellars of West Beirut see yet another, more tangible cause to suspect the Israelis. The Lebanese know that theirs is a seductive land that has charmed centuries of conquerors into occupation, and they know, also, that their Government is too weak to resist occupation.

Philip Geyelin of the Washington Post has correctly observed that "even with all the outsiders gone, what will remain behind [in Lebanon] is a congenitally unstable society." It is a society whose government is structured along sectarian lines, based on a French census taken in 1932. It is a society which, lacking a functional military or security apparatus, has spawned a deadly array of armed militias and sectarian, blood feuds. It is a society that has ignored some 400,000 Palestinian refugees in its midst. It is a society with little tradition of stability that must be stabilized.

Part of the answer lies in addressing the humanitarian needs of the people in Lebanon who have suffered a bitter civil war and two invasions in less than a decade. The United States, many other nations, international and private relief organizations already have committed money and supplies to this end, although these efforts have been hindered seriously by the continued fighting and by Israel's unwillingness to allow free access to certain areas. The same governments and organizations stand ready to assist with the rebuilding of Lebanon's economy and its infrastructure. But disaster relief, economic assistance and even self-help are insufficient to cure Lebanon's near fatal weakness unless Lebanon's people—all of them—can devise a government that can accept, support and secure the cooperation of the various factions that exist today within Lebanese society. For the United States, Israel or any other outside power to impose a solution on the people of Lebanon would be to encourage future factionalization and foreign adventurism. It would be equally counterproductive for the United States to seek to insure a strong, stable Lebanon by helping to create yet another modern arsenal of U.S. weaponry within the region.

The United States has for too long sought to promote stability in the various regions of the world through arms sales and military loans and credits. I contend, Mr. President, that the overemphasis on military assistance in our foreign aid program has had just the opposite effect. It has promoted instability, encouraged military action at the expense of diplomacy, and won this country more enemies than friends. This is perhaps nowhere more evident than in the so-called special relationship that exists between the United States and Israel.

The State of Israel was created by force of arms in the midst of the openly hostile climate that was Palestine. In those early days perhaps there was no choice but to maintain Israel's fragile existence by continued resort to force of arms. But, Mr. President, since 1948, the United States has given Israel $14.9 billion in military aid—more than we have allowed any other country. The United States consistently has provided Israel with the most modern, and the most lethal, of conventional weapons systems—often equipping the Israeli forces before fully equipping our own troops. We have done so for Israel's defense, with the agreement of consecutive Israeli Governments that the new, modern generation of weaponry will be used only if Israel is attacked.

Mr. President, we have been careless in our relationship with Israel and in our entire Middle East policy. The people of Nabatiyah and Sidon and West Beirut know just how careless we have been. The heads of the moderate Arab States, whose friendship we have sought, know. The nonalined nations know. Indeed, all of the member states of the United Nations have made very plain that they believe the United States has misjudged the needs and the realities of the Middle East as it exists today. The ruin of West Beirut and the suffering of its civilian population beg for a reassessment of the relationship between the United States and Israel.

The military realities are that today the Israeli defense force is indisputably overwhelmingly superior to any other military force in the region. Further, the IDF is so well equipped that it is capable of mounting prolonged military operations, on a single front, without resupply. Finally, all of the prohibitions in the world are ineffec-

tive once a weapons system has passed from a U.S. assembly line into Israel's arsenal. Once delivered, we cannot call back the cluster bombs, the F-16's, and the M-60 tanks, but make no mistake, the people of Lebanon know that the Israeli bombs that rained down on them were made in the United States.

The United States, in the aftermath of the siege of West Beirut, must face some disquieting political realities too. Israel and the United States have certain national interests which conflict. Those areas of conflict are likely to increase as the United States shifts to a more evenhanded policy in the Middle East. Such a shift is, in my view, vital to out Nation's interests and, ultimately, to the interests of the region. Unfortunately, many of Israel's present leaders do not share that view.

The United States and Israel disagree also about the best way to achieve peace in the region. Israel's leaders say that they will accept peace when it is offered but that they will meet force with force. I would point out two problems with this approach. First, Israel's pursuit of an overall settlement based on the Camp David accords has failed to exhibit the same forcefulness evident in Israel's policy of retaliation. Second, Israel's leadership, so far, appears unwilling to make any first moves toward peace. The Israeli people accepted Anwar Sadat's dramatic offer of peace with thanksgiving and welcomed their old enemy to Jerusalem in a spirit of hope for the future. If that hope lies tarnished today, it is because Israel's own leaders have not shown themselves capable of the same vision and courage.

Anwar Sadat's vision of peace is obscured by the smoke hanging over Beirut. It is threatened by Israel's rigid adherence to a policy of security through force of arms and by a U.S. aid program that reenforces that policy. U.S. military aid to Israel for fiscal year 1982 will total $1.4 billion. Economic aid for the same period will total $785 million, much of which will be used by Israel to repay the United States for previous military loans. For fiscal year 1983, the administration is asking that we continue economic aid at $785 million and increase military aid to $1.7 billion.

Mr. President, this simply is not acceptable. It is not acceptable to me, it is not acceptable to the American people, and it should not be acceptable to a single Member of this body. We have seen the proof of Israel's military strength. Can anyone here possibly believe that Israel is in need of $1.7 billion of military assistance? Can anyone possibly tell me that in a time of severe economic hardship here at home, we should consider sending $1.7 billion in weapons and military grants and loans to Israel? Can the administration expect us to look at the destruction our aid dollars have brought to Lebanon and then ask us to authorize only $65 million in disaster relief for Lebanon, while sending Israel $1.7 billion—$1.7 billion to further enhance Israel's arsenal or, perhaps, to fund the occupation of southern Lebanon? I hope not, Mr. President. I hope that President Reagan will reconsider his request for fiscal year 1983. I urge him to do so and pledge him my support in the belief that he will act with courage and with vision and reduce that request. I pray that he will seize this opportunity for leadership. The world is waiting, but only for one precious, golden moment.

INTENTION TO VOTE AGAINST TAX INCREASE

Mr. GOLDWATER. Mr. President, the President of the United States has been traveling across the broad reaches of our West and saying on TV that we need a vast increase in taxes. In Washington, his lieutenants, captains, and generals are pleading, begging, and now, downright threatening, members of the Republican Party that unless they vote for this tax increase, they will no longer receive favors from the President. In fact, one can read into the words that those who oppose the tax increase could even be voted out of the party or considered no longer to be Republicans.

I have been a Republican all of my adult life; much longer, in fact, than the President of the United States has been a Republican. But I do not hold that against him or against anyone who changes from Democrat to Republican or the other way.

I have a set of values that were instilled in me even before I became a Republican and it consists of a conservative approach to most of our problems. I have never believed in unbalanced budgets. I have been speaking out against unbalanced budgets as long as I can remember. I voted for the constitutional amendment to require balanced budgets with the full knowledge that, just because the Senate passed that resolution, it meant nothing. It is now up to the House and the people living in our country, not up to the columnists, economists, and others who feel differently about this, to determine if it becomes part of our Constitution.

I am a Republican who firmly believes that, until the Congress shows the courage to attack the exorbitantly expanded part of our budget, namely, the welfare state, we are never going to balance the budget.

I have just mentioned the welfare state. I think it is high time that this country realize that we are a welfare state. I think we should further realize that no country has ever entered into the welfare state and made it back out of it. Now, this might imply that I am opposed to helping anyone who needs help. That is not true, but I think we have to recognize that this Government is now dedicated, not only to helping those unable to help themselves, but many millions of people who can do without that help. So, let me insert a suggestion here relative to this tax increase and to the job problem.

If we are to enable more people to obtain jobs—and we now have over 100 million working—we have to greatly expand the industrial capacity of our Nation, and this is not going to be done by higher taxes; it is going to be done by lower taxes with incentives to invest this money into the expansion of our economy.

Mr. President, as I say, I live with Republican principles, not instilled into me, but drilled into me, living in me, and one of those principles is fiscal soundness. I do not believe we are ever going to put people back to work, to get the interest rates down, and decrease the deficit until we vastly expand the productive capability and capacity of our country. We cannot do this on borrowed money. We have tried it for 40 years and we have failed dismally. If we continue it for a few more years, only the Lord knows what will happen to this country.

It is time—no, it is past time—that we, as Members of Congress, that the President, as the leader of the country and, more importantly, the people of the country realize that we are going to reduce expenditures in only one way and that is when the Congress, as I have said many times before, demonstrates the courage to vote against expenditures that are not needed. It is my purpose only to remind my colleagues that our main purpose in being here is to protect and defend our Constitution, and our freedom.

I intend to vote against the tax increase proposed by the Finance Committee of the Senate. I intend to vote against it because I have been living under a concept of fiscal stability for a long, long time, and I am not going to change at this late date.

I once had the great honor of running for President of this country on the Republican ticket. Just because I was defeated did not mean that I dumped all of my principles down the drain. My principles remain with me whether defeated or not. So, when I cast my vote against the proposed increase, it is merely to reiterate my longstanding belief in one of the basic principles of the Republican Party: This country cannot maintain or even acquire an economic period of growth with high taxes. That is my position. It is not a new one and it is not a bad one.

TIME LIMITATION AGREEMENT—BUDGET RECONCILIATION CONFERENCE REPORT (H.R. 6955)

(The following proceedings occurred later in the day and are printed at this point by unanimous consent:)

Mr. BAKER. Mr. President, I wish to state a unanimous-consent agreement that I believe has been cleared all around. I will put it now for the consideration of the minority leader and all Senators.

Mr. President, I ask unanimous consent that during the consideration of the budget reconciliation conference report on H.R. 6955, it be considered under the following time agreement: 2 hours on the conference report to be equally divided between the chairman of the Budget Committee and the ranking minority member or their designees.

I further ask unanimous consent that at 3:30 p.m. the Senate temporarily lay aside the pending business and turn to the consideration of the conference report.

I ask unanimous consent, Mr. President, that when the Senate has disposed of the conference report, the Senator that had the floor at the time the Senate turned to the consideration of the conference report be re-recognized.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, may I ask the distinguished majority leader, does this division of time assure any opponents of the conference report that they may have equal time?

Mr. BAKER. I assume so, Mr. President. Our arrangement was——

Mr. ROBERT C. BYRD. I understand. Senator HOLLINGS is opposed. That satisfies me. I have no objection.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. I thank the minority leader, and I thank all Senators.

(Conclusion of earlier proceedings.)

ORDER TO PRINT CONFERENCE REPORT AS SENATE REPORT—H.R. 4961

Mr. BAKER. Mr. President, I ask unanimous consent that the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, be printed as a Senate report.

Mr. LONG. Reserving the right to object, Mr. President, and I shall not object I would appreciate it if the Senator would let me know when he gets ready to make these requests. I have no objection.

Mr. BAKER. I had understood this had been cleared on both sides. I apologize to the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, in a moment I am going to ask the Chair to state whether or not there is further morning business. That will be followed by a request from me for the Chair to state the pending business. At that point I will yield the floor. The principals are here and on deck, and I will sit down and observe the proceedings with some interest.

Now, Mr. President, I inquire of the Chair if there is further morning business.

The PRESIDENT pro tempore. Before closing morning business, the Chair's attention has been called to page 883 of the Senate Procedure. It reads this way:

Under the traditions and practices of the Senate, the leadership is given preferential recognition when they seek the floor simultaneously with other Senators. Leaders and managers of a bill are given preferential recognition as compared to other Senators generally.

That is simultaneous, of course. Otherwise, if a Senator applies for the floor first, he will be recognized. But if it is simultaneous, then the majority leader has to be recognized or the manager of the bill has to be recognized.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. Is there further morning business?

If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, will the Chair please state to the Senate the pending business?

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed the consideration of the joint resolution.

Mr. BAKER. Mr. President, I yield the floor.

Mr. HELMS and Mr. PACKWOOD addressed the Chair.

AMENDMENT NO. 2031

The PRESIDENT pro tempore. The clerk will report the pending amendment.

The legislative clerk read as follows:

Amendment No. 2031, by the Senator from North Carolina (Mr. HELMS).

Mr. HELMS and Mr. PACKWOOD addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

AMENDMENT NO. 2031, AS MODIFIED

Mr. HELMS. I send a modification to the desk, and I ask for the yeas and nays.

The PRESIDENT pro tempore. The amendment is so modified.

The modified amendment is as follows:

Strike "October 1, 1982" and insert the following: "October 1, 1982."

SEC. . This section may be cited as the "Voluntary School Prayer Act of 1982" and

Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings."; *Provided further,* That the section analysis at the beginning of Chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations."

; Provided further, That Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."; *Provided further,* That the section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction."

; *And provided further,* That the amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There does not appear to be a sufficient second.

The yeas and nays were not ordered.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Is there objection?

Mr. WEICKER. I object.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk continued the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WEICKER. I object.

The PRESIDENT pro tempore. Objection is heard.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 44 Leg.]

Baker	Gorton	Metzenbaum
Baucus	Hart	Packwood
Boren	Helms	Riegle
Byrd, Robert C.	Humphrey	Thurmond
Chafee	Kassebaum	Tsongas
Denton	Kasten	Weicker
Dodd	Kennedy	Zorinsky

The PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), and the Senator from Wyoming (Mr. SIMPSON) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 88, nays 7, as follows:

[Rollcall Vote No. 333 Leg.]

YEAS—88

Abdnor	East	McClure
Andrews	Exon	Melcher
Baker	Ford	Metzenbaum
Baucus	Garn	Mitchell
Bentsen	Glenn	Moynihan
Biden	Gorton	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hart	Nunn
Bradley	Hatch	Packwood
Brady	Hatfield	Pell
Bumpers	Hawkins	Percy
Burdick	Hayakawa	Pressler
Byrd, Harry F., Jr.	Heflin	Pryor
	Heinz	Randolph
Byrd, Robert C.	Helms	Riegle
Cannon	Hollings	Rudman
Chafee	Huddleston	Sarbanes
Chiles	Humphrey	Schmitt
Cochran	Inouye	Specter
Cohen	Jackson	Stafford
Cranston	Jepsen	Stennis
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
DeConcini	Kennedy	Thurmond
Denton	Laxalt	Tower
Dodd	Leahy	Tsongas
Dole	Levin	Wallop
Domenici	Lugar	Warner
Durenberger	Mathias	Zorinsky
Eagleton	Mattingly	

NAYS—7

Goldwater	Proxmire	Weicker
Johnston	Quayle	
Long	Roth	

NOT VOTING—5

Armstrong	Matsunaga	Simpson
Dixon	Sasser	

So the motion was agreed to.

Several Senators addressed the Chair.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President.

Mr. PACKWOOD. Mr. President.

Mr. HELMS. Mr. President.

Mr. WEICKER. Mr. President.

Mr. HELMS. Mr. President, I sought recognition first.

Mr. PACKWOOD. Mr. President, whom do you recognize?

Mr. WEICKER. Mr. President.

The PRESIDENT pro tempore. The Senator from North Carolina.

UP AMENDMENT NO. 1251

(Purpose: To protect unborn human beings.)

Mr. HELMS. Mr. President, I send to the desk an amendment in the second degree and ask for it to be stated.

The PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina proposes an unprinted amendment numbered 1251.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. CANNON. I object.

The PRESIDENT pro tempore. The clerk will read the amendment.

The bill clerk read as follows:

At the end of the modified Helms amendment strike out the last two words in the last line, to wit: "United States" and insert in lieu thereof the following:

"United States of America".

TITLE II

SEC. 201. The Congress finds that—

(a) the American Convention on Human Rights of the Organization of American States in 1969 affirmed that every person has the right to have his life protected by law from the moment of conception and that no one shall be arbitrarily deprived of life;

(b) the Declaration of the Rights of the Child of the United Nations in 1959 affirmed that every child needs appropriate legal protection before as well as after birth;

(c) at the Nuremburg International Military tribunal for the trial of war criminals the promotion of abortion among minority populations, especially the denial of the protection of the law to the unborn children of Russian and Polish women, was considered a crime against humanity.

(d) the Federal Constitutional Court of the Federal Republic of Germany in 1975 ruled that the life which is developing itself in the womb of the mother is an independent legal value which enjoys the protection of the constitution and the state's duty to protect human life before birth forbids not only direct state attacks, but also requires the state to protect this life from other persons;

(e) the Declaration of Independence affirmed that all human beings are endowed by their Creator with certain unalienable rights among which is the right to life;

(f) as early as 1859 the American medical profession affirmed the independent and actual existence of the child before birth as a living being and condemned the practice of abortion at every period of gestation as the destruction of human life;

(g) before 1973, each of the serveral States had enacted laws to restrict the performance of abortion;

(h) agencies of the United States continue to protect human life before birth from workingplace hazards, the effects of dangerous pharmaceuticals, and other hazardous substances;

(i) it is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life;

(j) scientific evidence demonstrates the life of each human being begins at conception;

(k) the Supreme Court of the United States in the case of *Roe* v. *Wade* erred in not recognizing the humanity of the unborn child and the compelling interest of the several States in protecting the life of each person before birth; and

(l) the Supreme Court of the United States in the case of *Roe* v. *Wade* erred in excluding unborn children from the safeguards afforded by the equal protection and due process provisions of the Constitution of the United States.

SEC. 202. No agency of the United States shall perform abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. 203. No funds appropriated by Congress shall be used directly or indirectly to perform abortions, to reimburse or pay for abortions, or to refer for abortions, except when the life of the mother would be endangered if the child were carried to term.

SEC. 204. No funds appropriated by Congress shall be used to give training in the techniques for performing abortions, to finance research related to abortion, or to finance experimentation on aborted children.

SEC. 205. The United States shall not enter into any contract for insurance that provides, directly or indirectly, for payment or reimbursement for abortions other than when the life of the mother would be endangered if the child were carried to term.

SEC. 206. No institution that receives Federal financial assistance shall discriminate against any employee, applicant for employment, student, or applicant for admission as a student, on the basis of that person's opposition to abortion or refusal to counsel or assist in the performance of abortions.

SEC. 207. Any party may appeal to the Supreme Court of the United States from an interlocutory or final judgment, decree, or order of any court of the United States regarding the enforcement of this Title, or of any State law or municipal ordinance based on this Title, or any judgment, decree, or order which adjudicates the constitutionality of this Title, or of any such law or ordinance. Any party to such case shall have a right of direct appeal to the Supreme Court of the United States on the same terms as

govern appeals pursuant to section 1252 of title 28, United States Code, notwithstanding the absence of the United States as a party to such case. Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action involving, directly or indirectly, the provisions of this Title.

SEC. 208. If any provision of this Title or the application thereof to any person or circumstance is judicially determined to be invalid, the validity of the reminder of this Title and the application of such provision to other persons and circumstances shall not be affected by such determination.".

Mr. HELMS. Mr. President, the purpose of the amendment I have sent to the desk is to bring some of the Federal Government's legislative power to bear on the abortion problem. We, in Congress, have extensive constitutional authority to provide legal protection for unborn human beings, and this bill takes advantage of part of that authority.

The first section contains findings involving treaties, international bodies, foreign tribunals, American history, Senate hearings, and Supreme Court decisions relating to unborn human beings and the right to life. These findings will put Congress on record as clearly recognizing and affirming the right to life and rejecting the tragedy of abortion on demand.

The next four sections restrict the use of Federal funds for abortion. The traditional Hyde amendment formulation is employed, which last passed the Senate on May 21, 1981, by a vote of 52 to 43. Further funding limitations are included with the objective of getting the Federal Government totally out of the business of supporting abortion with tax money.

The sixth section is a freedom-of-conscience provision for medical personnel who work in institutions receiving Federal financial assistance and who object to taking part in providing abortions. Discrimination against such medical personnel on account of their prolife convictions is prohibited.

The seventh section provides for expedited Supreme Court review of cases arising out of State antiabortion statutes. This provision will insure that the Supreme Court gets an early opportunity to review its decision in Roe versus Wade. In addition, award of attorneys' fees is specifically prohibited in cases involving this bill in order to carry out the purpose of the bill in ending Federal financial support for abortion. The last section is a severability clause.

TRADITION AGAINST ABORTION

Mr. President, there has been a long-standing tradition in Anglo-American jurisprudence and in Western civilization generally that the protection of innocent human life is a preeminent value. On January 22, 1973, the Supreme Court made a radical break with that tradition. It decided the case of *Roe* v. *Wade,* 410 U.S. 113 (1973), and in the process, announced a newly discovered rule that the Constitution sanctions abortion on demand. The effects of Roe converted abortion from a felony into a constitutional right—overnight.

Swift was the change in centuries of law, and swift were the results in American culture. Since January 22, 1973, there have been more than 10 million abortions. A handful of babies survived the procedures and are alive today. The rest perished. Whatever the fate of the dead in the economy of God's merciful providence, we, on Earth, are without 10 million American children. Let us pause for a moment and think about that fact.

TRUE NATURE OF ABORTION

Mr. President, the United States has been given many great gifts. We have land rich in beauty and natural resources. We have a climate conducive to the most productive agriculture in the world. We have a heritage which includes the best of European and other cultures. We have a tradition of political freedom and economic opportunity which draws immigrants year after year. We have religious liberty and strong families. We have all this and much more.

But beyond these many things, I believe that we all would admit that our most precious gift in America is something else. We see it all around us, especially in the Capitol at this time of year. This gift carries us away from the daily grind into a world of hope and wonder. It is the gift—and mystery—of children. Can we ever overestimate the immense value of American children?

I say no, Mr. President, and everything in our heritage and culture says no, as well. The English poet, John Masefield, has stated the great truth about children in these lines:

And he who gives a child a treat
Makes joy-bells ring in Heaven's street,
And he who gives a child a home
Builds palaces in Kingdom come,
And she who gives a baby brith
Brings Saviour Christ again to Earth.
—The Everlasting Mercy.

Abortion is, tragically, not really about freedom of choice or reproductive rights. I wish it were. It is, instead, about children. It is about which children will live and which will not.

TRAGEDY OF LEGALIZED ABORTION

Mr. President, the fact of 10 million abortions since 1973 has created an unmistakable void in our land. We are missing our own children. Where there would have been laughter, there is silence. Where there would have been tears, there are no eyes to cry. Where there would have been love for the now living, there is nothing.

The plague of legalized abortion has inflicted, I am afraid, a mortal wound to the American ceremony of innocence. The most common surgical operation in the United States used to be tonsilectomy. A sort of all-American rite of youth, it ended with the patient's enjoying mounds of ice cream as therapy. Today, the most common operation is abortion. It ends with a dead baby, a childless mother, and a legacy of guilt.

Abortion, whether we, in Congress, like it or not, has become a national nightmare. Nearly one out of every three pregnancies is now deliberately ended through abortion. In some of our leading cities, there are more abortions than births. A huge amount of medical resources is devoted, not to preserving human life, but to destroying it at its earliest stages. No one can persuasively argue to me that these facts are evidence of health in a society enjoying "freedom of choice." On the contrary, they reflect a society whose very foundation is being torn up.

The destructiveness of legalized abortion is evident in the serious damage which it has inflicted on the American family. Fathers are now rendered powerless to protect the lives of their own offspring. Mothers are lured into abortion by a seductive doublespeak that ignores the reality of the unborn child and proclaims a false liberation. Siblings are denied the advantage of brothers and sisters. Teenagers are counseled, often by Government proxies, to have abortions without the knowledge of their parents. As a result of these and other factors, the family has been atomized, and the bulwark of a well-ordered society has thus been undermined.

NATURAL REVULSION TO ABORTION

Those who advance the cause of legalized abortion often say, "I am personally opposed to abortion, and I would never have one myself." Then they go on to make certain arguments in favor of abortion. I think it is profitable to consider the first part of their argument in which they say they have a personal feeling against abortion. If abortion is some sort of legitimate "reproductive right," why should there be, even among proponents, a repugnance toward the act of abortion itself? Why do the proponents abhor it "personally" and yet encourage others to have abortions?

The answer to this contradiction lies, I think, in the human heart. None of us—not even the proabortionists—can understand the facts of prenatal development, understand motherhood and the value of children, understand abortion techniques, and understand our own humanity and say, at the same time, that abortion is a good thing. Abortion makes us all a little weak-kneed. Even when it is called "termination of pregnancy," we naturally recoil from the thought of a mother and an abortionist destroying an unborn child.

In her book, "In Necessity and Sorrow" (Basic Books 1976), Magna Denes described the staff at an abortion hospital as "dedicated and full of doubt, committed but uneasy." (p. 17.) Where does this doubt come from? What makes health professionals uneasy about their work? It is, I am convinced, the inescapable truth engraved on every heart that human life is a special gift deserving our utmost respect. Beyond all the arguments on both sides of the abortion issue, it is ultimately true, as Pascal put it, that "the heart has its reasons which reason does not know." The human heart simply cannot conform to abortion.

BELIEVERS AND NONBELIEVERS IN AGREEMENT

Believers know this rule of the heart as God's law. They have it confirmed by revealed truth, reason, and tradition and articulated by the ancient command, "Thou shalt not kill." Nonbelievers reach the same conclusion by studying closely the facts of prenatal development and conceding that abortion is simply wrong.

Dr. Bernard N. Nathanson is a former abortionist who now argues against legalized abortion. He is a self-professed nonbeliever. In his book, "Aborting America," Dr. Nathanson discusses the Golden Rule in connection with abortion. He asserts that even apart from religion, the Golden Rule is "simply a statement of innate human wisdom." He says,

> Unless this principle is cherished by a society and widely honored by its individual members, the end result is anarchy and the violent dissolution of the society. This is why life is always an overriding value in the great ethical systems of world history. If we do not protect innocent, nonaggressive elements in the human community, the alternative is too horrible to contemplate. Looked at this way, the sanctity of life is not a theological but a secular concept, which should be perfectly acceptable to my fellow atheists." (p. 227.)

As a Christian, I have a different approach from Dr. Nathanson, although on the abortion issue, we reach a similar result. To my mind, every single abortion is an incalculable blow to the moral order ordained by Almighty God. It is God who creates individual human beings in His image and likeness, and we humans take part only as procreators. For this reason, human life, in the deepest sense, belongs to God.

GOD'S AUTHORITY AS BASIS FOR LAW VERSUS LEGAL POSITIVISM

Although many in public life may shrink from mentioning God, I do not fear to invoke His name and His authority as the ultimate basis for human law. As a body, we, in the Senate, invoke God's authority before beginning each session. This practice of an opening prayer goes back to the early days of the Republic and has its genesis in the traditional notion that man's law is subject to God's. We thus daily affirm in our institutional practice here in the Senate that our work as lawmakers is under the authority of a higher law.

The traditional invocation of God as a substantive basis for legislation does not, however, go down easily with most contemporary legal scholars. They have become caught up in the spirit of an intellectual age whose first article of faith is that man, not God, is the measure of all things. The wisdom of the "Laws of Nature and of Nature's God," as Thomas Jefferson put it, is lost on these legal scholars and their disciples in government. In the world of jurisprudence, this modern theory of law is generally known as legal positivism. Much to the detriment of our country, it has become ascendant in Congress, the executive departments, and most clearly in the Supreme Court. Legal positivism holds that the validity of a law derives from its being promulgated through regular procedures and rules, irrespective of its substantive content. In other words, no matter what the law says, it is valid as long as it complies with ordinary lawmaking procedures. Legal positivism admits of no higher law or check on manmade law. Hence, the concept of justice has no place in the positivist legal system.

According to Hans Kelsen, a leading positivist of the 20th century, law cannot be criticized as unjust. For Kelsen, justice "is not ascertainable of rational knowledge at all." He says, "Rather, from the standpoint of rational knowledge there are only interests and conflicts of interests . . . Justice is an irrational ideal." Hans Kelsen, "The Pure Theory of Law," 50 Law Quart. Rev. 474 (1934). At bottom, legal positivism denies outright traditional notions of a higher law given by God. The ideal of justice based on immutable principles of right and wrong is dispensed with.

Consistant with legal positivism, the idea has become accepted in certain circles in the United States that God has nothing to do with law and public policy. In debating issues in Congress, we, in 1982, are not, supposedly, to mention God or have recourse to religious authority. God is something exclusively for private life and is irrelevant to human law.

Mr. President, I stand here today to reject legal positivism root and branch. Justice is the legitimate object of all law, and God's guidance in attaining that end is indispensable. In failing to recognize these ancient understandings, human societies subject themselves to the destructive ways of men unimpeded by God's law. Men thus cut off from God have only themselves for authority, a fearful prospect which has always produced fearful consequences.

A CROSSROAD FOR AMERICA AND THE WEST

Legal positivism and its rejection of God's authority are alien to traditional Anglo-American jurisprudence, and they are destructive of American society. I say that it is time to return to our heritage and return to God and His law as the basis for our own.

According to Malcolm Muggeridge, the well-known British journalist, Western civilization is at a critical point, and the abortion controversy, he asserts, is syptomatic of the decision that confronts us. He says:

> Our Western way of life has come to a parting of the ways; time's takeover bid for eternity has reached the point at which irrevocable decisions have to be taken. Either we go on with the process of shaping our own destiny without reference to any higher being than Man, deciding ourselves how many children shall be born, when and in what varieties, which lives are worth continuing and which should be put out, from whom spare-parts—kidneys, hearts, genitals, brainboxes even—shall be taken and to whom allotted.
>
> Or we draw back, seeking to understand and fall within our Creator's purpose for us rather than to pursue our own; in true humility praying, as the founder of our religion and our civilization taught us: Thy will be done.—Muggeridge, "What the Abortion Argument is About," 1 Human Life Review 4, 5 (1975).

NATURAL LAW BASIS OF THE CONSTITUTION

Let me hasten to add at this point, Mr. President, before the positivists denounce me as destroying the Constitution, that what I am advocating today, although rarely heard in recent times, is solidly based in American tradition and does no violence whatsoever to the Constitution. In fact, the establishment of the United States grew out of the colonists' rejection of a British parliamentary positivism which claimed absolute prerogatives over colonial life. Let us not forget those powerful words of the Declaration of Independence, "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." The founding document of our country acknowledges God as the source of legal rights and as the authority for human law.

Some critics undoubtedly will argue that resort to God's authority as a guide to legislation violates the establishment clause of the first amendment. The purpose of the establishment clause was not, however, to outlaw religious principles as a basis for law, but it was to prohibit congressional establishment of a national church. It is no violation of the first amendment to base our laws on religious principles. To do otherwise—to ignore God's revelation in human history—would be to reject the only sure foundation we have on Earth.

Writing in the March 19, 1982 issue of Christianity Today, Richard John Neuhaus, editor of Lutheran Forum, said, quite accurately,

> Today, talk of a "Christian America" is portrayed as rightwing extremism. But that America was as Christian as it was a republic was self-evident throughout most of our history. If we wonder why some people react so aggressively to the course of American society, we need to be reminded that some of the fundamental changes in our national life are very recent. . . [T]alk about our being a secular society and state began to gain currency only in the 1940's. From the Mayflower Compact in the 17th century through the social-gospel movement that ended in this century, it was assumed that in some significant sense this is a Christian nation. Opponents of that notion have failed in recent decades to eradicate that belief from American life.

American history is full of examples substantiating what Mr. Neuhaus says. In the context of the debate over court-imposed abortion on demand, it will suffice to note two assertions by the Supreme Court itself. In 1892, the Court agreed, "[W]e are a Christian people, and the morality of the country is deeply ingrafted upon Christianity . . . "*Church of the Holy Trinity* v. *United States*, 143 U.S. 457, 471 (1892). In 1931, the Court said, "We are a Christian people, according to one another the equal right of religious freedom, and acknowledging with reverence the duty of obedience to the will of God." *United States* v. *MacIntosh*, 283 U.S. 605, 625 (1931).

To protect innocent human life is the first purpose of any government which claims to be just. In this regard, we, in the United States, have failed over the past 9 years. The travesty of 10 million deaths from abortion is abundant evidence that Congress needs to act for the protection of unborn human beings.

THE CANCER OF ROE VERSUS WADE

In *Roe* v. *Wade*, 410 U.S. 113 (1973), the Supreme Court purported to interpret the Constitution to strip the States of virtually any power to protect unborn human beings. Beyond the fact that such a construction of the Constitution was clearly erroneous, having support in neither text nor history, the Supreme Court rendered its decision in a moral vacuum. In keeping with the theory and practice of legal positivism, the Court tried to develop the Constitution as something sui generis. The Court was without vision—the moral vision—that the Constitution can only be properly construed as informed by the subtle but unmistakable light of natural law.

Such natural law has as a fundamental tenet that human beings are created by God and that accordingly they all have the right to life. They have the right to be free from the aggression of others. To the extent that any manmade rule violates this principle, it cannot properly be called law but is instead a corruption of law. Although clothed with the power of law by virtue of the position of seven of the nine men on the Supreme Court in January 1973, Roe against Wade is nonetheless not law in an ultimate sense. It is a corruption of law, a corruption of the Constitution, and a corruption of American society.

Let us turn away from the corruption of Roe against Wade, but let us do so in a spirit of forgiveness and reconciliation. The abortion matter in the United States has caused much acrimony and hard feelings over these last 9 years. It is indeed an emotional subject. Many fine people with the best of intentions have been deceived by the rhetoric of "freedom of choice." But let us all, both as individuals and as Americans, make a resolute commitment to forgive each other for the errors which have been made. "To err is human, to forgive divine," according to the familiar counsel of Alexander Pope. The Divine in this case will lead us out of the abortion tragedy, and He will surely provide the means for national healing as well.

A CONGRESSIONAL REMEDY

Mr. President, Congress has the moral duty and the constitutional authority to ameliorate the continuing effects of Roe. The bill I am sponsoring today goes part of the way toward providing the appropriate legislative remedy. In essence, it does three things:

First, employing the unquestioned congressional power of the purse, the bill seeks to stop all Federal financial support for abortion. Even the Supreme Court did not venture so far from American tradition and the Constitution as to deny Congress its appropriation power. Although a determined positivist minority dissented, the majority of the Court held that the Hyde amendment, cutting off abortion funding, was constitutional in *Harris* v. *McRae*, 448 U.S. 297 (1980). The current bill seeks a permanent defunding of abortion insofar as that can be done by any one Congress.

Second, the bill contains a freedom-of-conscience provision for medical personnel who object to participation in performing abortion. This provision prohibits discrimination against prolife medical personnel in any institution receiving Federal financial assistance.

Third, the bill establishes an expedited Supreme Court review for cases arising from enforcement of traditional State antiabortion laws which may occur in light of the bill's findings on the beginning of human life and the errors of Roe against Wade. These findings constitute, at a minimum, a congressional repudiation of the construction of the Constitution put forth by the majority in Roe against Wade. After the loss of 10 million unborn American children through legalized abortion, the time is overdue for such a repudiation.

SEPARATION OF POWERS

Some have engaged in the sophistry that Congress may not overturn a Supreme Court decision by enactment of a statute. In a strict sense, this statement is true: Congress may not reverse the binding decision between litigants of the highest Federal appellate court. But Congress may indeed interpret the Constitution differently from the Supreme Court and exercise its powers consistent with such interpretation. In so doing, Congress does not overturn a case. The order entered by the Court affecting the litigants in Roe stands. The litigants are bound. What does not stand—what cannot stand under the moral law and the Constitution itself—is a general political rule that the American Constitution renders unborn human beings mere things to be disposed of at will and that Congress is powerless to act.

In this connection, it should be recalled that the primary function of courts in our system of government is to decide cases at law and suits in equity. For appellate courts, including the Supreme Court, their job is to correct errors of law made in the courts below. In doing this, they must sometimes interpret the Constitution and declare a statute invalid. Their interpretation of the Constitution, however, is for the purpose of deciding the particular case before them. It is not for the purpose, nor have the courts been given the power, of acting as the exclusive arbiter of the meaning of the Constitution. Within Congress jurisdiction—that is, legislative power granted under the Constitution—Congress itself must interpret the Constitution pursuant to the oath of office of its Members.

This analysis of constitutional separation of powers is not new. It is supported by many precedents in American history. See, for example, Thomas Jefferson, Letter to Abigail Adams, September 11, 1804 (VIII The Writings of Thomas Jefferson 310 (Ford ed. 1897)); Thomas Jefferson, Letter to William C. Jarvis, September 28, 1820 (X The Writings of Thomas Jefferson 160 (Ford ed. 1899)); Andrew Jackson, Veto Message on Bill to Recharter the Bank of the United States, July 10, 1832 (II Messages and Papers of the President 576, 581-83 (Richardson ed. 1896)); and Abraham Lincoln, Speeches during the Lincoln-Douglas Senatorial Campaign, July, October 1858 (II The Collected Works of Abraham Lincoln 494, 516 (Basler ed. 1953); III id, 255). What would be new is to accept the argument that the Supreme Court is not only the supreme judicial organ but occupies a position of political supremacy over the whole Federal Government.

Let us briefly review statements of three Presidents on this point. First, Thomas Jefferson wrote:

[T]he opinion which gives to the judges the right to decide what laws are constitutional, and what not, not only for themselves in their own sphere of action, *but for the Legislature and Executive also, in their spheres, would make the judiciary a despotic branch.*" Letter to Abagail Adams, supra (emphasis added).

Second, President Andrew Jackson said, in his message of 1832 vetoing the act to recharter the Bank of the United States:

The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve." II Messages and Papers of the Presidents, supra.

A third notable antecedent in American history, relevant to separation of powers in abortion and Roe against Wade, involves slavery and the Dred Scott decision. President Lincoln, in his first inaugural address, March 4, 1861, articulated the proper role of the Supreme court:

I do not forget the position assumed by some, that constitutional questions are to be decided by the Supreme Court; nor do I deny that such decisions must be binding, in any case, upon the parties to a suit, as to the object of that suit, while they are also entitled to a very high respect and consideration in all parallel cases by all other departments of the government. And, while it is obviously possible that such decision may be erroneous in any given case, still the evil effect following it, being limited to that particular case, with the chance that it may be overruled and never become a precedent for other cases, can better be borne than could the evils of a different practice. At the same time, the candid citizen must confess that if the policy of the government, upon vital questions affecting the whole people, is to be irrevocably fixed by decisions of the Supreme Court, the instant they are made, in ordinary litigation between parties in personal actions, the people will have ceased to be their own rulers, having to that extent practically resigned the government into the hands of that eminent tribunal. *The Writings of Abraham Lincoln* 262 (A. Lapsley ed. 1906).

President Lincoln's statement is as appropriate today as it was in 1861 and should be recalled whenever the argument is made that the Supreme Court is somehow the supreme branch of the entire Federal Government.

The doctrine of separation of powers under our Constitution is not always simple in its application, and I do not intend to lay down today a single rule of thumb that applies under all circumstances. In the abortion matter, however, it is clear that the Supreme Court misconstrued the Constitution and that Congress has certain power to ameliorate the continuing effects of that error. Let us proceed with dispatch to recognize the right to life under American law.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. A parliamentary inquiry is not in order after the request for the yeas and nays until there is a determination of whether there is a sufficient number. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator from Arkansas will state it.

Mr. BUMPERS. Is the amendment of the Senator from North Carolina divisible?

The PRESIDENT pro tempore. The amendment of the Senator from North Carolina is an amendment to strike and insert and, under the rules, an amendment to strike and insert is not divisible.

Mr. WEICKER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Connecticut.

UP AMENDMENT NO. 1252

Mr. WEICKER. Mr. President, I send to the desk a perfecting amendment of the bill proposed to be stricken out and ask it be read.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1252 as a perfecting amendment to unprinted amendment No. 1251.

Mr. WEICKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. HELMS. I think it should be read.

The PRESIDENT pro tempore. Is there objection?

Mr. HELMS. I object.

The PRESIDENT pro tempore. Objection is heard.

The legislative clerk read as follows:

At the end of the language proposed to be stricken by the committee substitute add the following:

SEC. . Nothing in this act shall be interpreted to limit in any manner the Department of Justice in enforcing the Constitution of the United States nor shall anything in this act be interpreted to modify or diminish the authority of the courts of the United States to enforce fully the Constitution of the United States.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

SEVERAL SENATORS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana.

UP AMENDMENT NO. 1253

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes an unprinted amendment numbered 1253.

At the end of the pending amendment, add the following: It is the sense of the Congress that the federal courts must remain open to litigants whose claims arise out of the federal Constitution. Furthermore, it is emphatically the province and duty of the judicial department to say what the law is and Article 5 of the Constitution specifically provides a mechanism to respond to the Constitutional decisions of the Supreme Court.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, I move to table the underlying amendment and I ask for the yeas and nays.

The PRESIDENT pro tempore. Which amendment is the Senator moving to table?

Mr. HELMS. The Weicker amendment in the first degree, the underlying amendment.

The PRESIDENT pro tempore. The yeas and nays have been called for. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from North Carolina (Mr. HELMS) to table the amendment of the Senator from Connecticut (Mr. WEICKER).

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. SIMPSON) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

The PRESIDENT pro tempore. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 334 Leg.]

YEAS—38

Abdnor	Grassley	Murkowski
Armstrong	Hatch	Nickles
Byrd, Harry F., Jr.	Hawkins	Percy
D'Amato	Helms	Pressler
DeConcini	Humphrey	Proxmire
Denton	Jepsen	Quayle
Dole	Johnston	Randolph
Domenici	Kasten	Roth
East	Laxalt	Stennis
Exon	Long	Symms
Ford	Lugar	Thurmond
Garn	Mattingly	Warner
	McClure	Zorinsky

NAYS—59

Andrews	Dodd	Melcher
Baker	Durenberger	Metzenbaum
Baucus	Eagleton	Mitchell
Bentsen	Glenn	Moynihan
Biden	Goldwater	Nunn
Boren	Gorton	Packwood
Boschwitz	Hart	Pell
Bradley	Hatfield	Pryor
Brady	Hayakawa	Riegle
Bumpers	Heflin	Rudman
Burdick	Heinz	Sarbanes
Byrd, Robert C.	Hollings	Schmitt
Cannon	Huddleston	Specter
Chafee	Inouye	Stafford
Chiles	Jackson	Stevens
Cochran	Kassebaum	Tower
Cohen	Kennedy	Tsongas
Cranston	Leahy	Wallop
Danforth	Levin	Weicker
Dixon	Mathias	

NOT VOTING—3

Matsunaga	Sasser	Simpson

So the motion to lay on the table Mr. Weicker's amendment (UP No. 1252) was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER addressed the Chair.

The PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I first want to thank my colleagues for the courtesy that they have extended to me to speak on matters before this Chamber. I thought that the tabling motion, although in order, was a little premature, considering that I had not had an opportunity to address myself to the subject matter which has occupied the Chamber for the last several days, or the new matter introduced by the distinguished Senator from North Carolina, or the amendment of the Senator from Connecticut, or the amendment of the Senator from Montana.

Now, Mr. President, in essence, what we have before us is another court-stripping amendment by the distinguished Senator from North Carolina. Maybe the distinguished Senator from North Carolina would be pleased to present a constitutional amendment that eliminated the third separate-but-equal branch of Government and just have the President and Congress. Then we would not have to go through this great series of events whereupon every time we disagree with something in this country we make certain that there shall be no judicial review.

I find it ironic that anyone claiming to be of a conservative bent would try to decimate the Constitution of the United States and, de facto, eliminate the protection which all of us as Americans are provided through the judicial system.

Mr. HELMS. Will the Senator yield for a question?

Mr. WEICKER. I wonder if my good friend from North Carolina, who tried to foreclose me from saying anything, would now allow me to say a few words.

Mr. HELMS. Delighted. I just wanted to ask one question of the Senator.

Mr. WEICKER. On that subject I reiterate that no one is confronting here the substance of prayer in school—that will be discussed—or the substance of abortion. Rather, we are confronted very baldly with the issue of whether or not the Congress of the United States by statute can overrule the courts of this Nation—the issue of court stripping. I pointed out to my colleagues, when we were on the subject of busing, that the problem there happened to be a problem that related to the opportunities of black schoolchildren. I said then that if you pursue this principle then nothing is safe, none of us; the next thing you know it will be Senators of the United States who are not afforded the protection of the Constitution, and then maybe businessmen and right on down the list. And now we are seeing this come to pass. I think the time has come to say no, to vigorously pursue that which is entrusted to our branch of the Government, to try to devise positive solutions to problems that do exist in this Nation, but not to try to eliminate one of the other separate-but-equal branches of Government.

That certainly is not a conservative's approach toward our Constitution; rather, it is the most radical approach that anyone could think of.

I have in my hand a letter of August 5, 1982, from the American Bar Association. I should like to read it to my colleagues because I think that it very well articulates the problem that confronts us here this afternoon. It is from the American Bar Association, office of the president, David Brink:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., August 4, 1982.

DEAR SENATOR: On behalf of the American Bar Association, I am writing in opposition to S. 1742, the Voluntary School Prayer Act, S. 158 and S. 1741, the Human Life bills, and S. 2148, to protect unborn human beings. Senator Jesse Helms, the chief sponsor of these measures, has obtained a commitment from the Majority Leader to bring these issues up for Senate consideration either as free standing issues, or as amendments to some other piece of legislation, perhaps the debt ceiling bill. The ABA strongly urges that these proposals be rejected by the Senate.

The ABA takes no position on the issues of school prayer and abortion addressed by these bills. We are emphatically opposed to these bills, not because of their subject matter, but because of the means by which they seek to change constitutional law. If enacted, any one of these measures would constitute an unprecedented attack on the constitutional function of the federal courts and establish unwise policy.

Although different in subject matter and approach, all four measures share a common impermissible goal. They all pose a dangerous threat to the independence of the federal judiciary and undermine the fundamental principle of judicial review. S. 1742 would remove the jurisdiction over all school prayer cases from the Supreme Court as well as the lower federal courts. S. 158 and S. 1741 would withdraw the jurisdiction to hear abortion cases from the lower federal courts. And S. 2148 redefines the constitutional term "person" in Section 5 of the Fourteenth Amendment.

I appreciate the fact that Senator Helms has very strongly-held views on abortion and prayer in schools. I respect his right to hold those views and do not question the sincerity which prompts his actions. However, we of the ABA believe that his proposals go far beyond the sensitive moral and social issues which are the subject matter of these bills. As a matter of both law and policy, our Association believes that efforts to change constitutional law by means other than the amendment of the Constitution should not be attempted. In this we share the views of the preponderance of legal scholars, former Attorneys General, Solicitors General, jurists, and leaders of other national legal organizations. All of us believe that these proposals to limit the jurisdiction of federal courts to hear or grant remedies represent dangerous policy and are unconstitutional. We are deeply concerned that the basic tripartite structure of our government, with its delicate system of checks and balances, be preserved.

The constitutional issues raised by these proposals are complex and require thorough consideration. The fact is that the Senate Judiciary Committee has been actively reviewing these issues throughout this session, and has yet to complete action on them. This clearly demonstrates that there are no simple answers to the substantial constitutional and policy questions they raise. These bills are currently at various stages in the legislative process: S. 158 was reported to the full Judiciary Committee on July 9, 1981 and as amended is now identical to S. 1741; and although S. 1742 was not referred to the Committee, it is identical to S. 481 which has been pending in the Separation of Powers Subcommittee since February 27, 1981. The issue of prayer in public schools is currently the subject of full Judiciary Committee hearings on S.J. Res. 199, a proposed constitutional amendment providing for voluntary prayer in public schools. These hearings will no doubt deal with many of the procedural, constitutional and policy questions raised by S. 1742.

I would also point out that the current Attorney General's letter opinion of May 6 on S. 1742 raises fundamental and difficult questions concerning congressional power over Supreme Court jurisdiction. He cautions Congress to consider S. 1742 in light of the principles articulated in his letter and to avoid testing the limits of its authority. Both as a matter of constitutional law and as a matter of national policy, his analysis clearly leads to the conclusion that the withdrawal of jurisdiction from the Supreme Court proposed in S. 1742 is unconstitutional, despite his final statement that he will be willing to argue for its constitutionality. In our view, a correct analysis of basic constitutional principles would make any bill which similarly removes jurisdiction in constitutional cases unconstitutional as applied to any and all levels of the federal judiciary.

S. 2148, like S. 158, S. 1741, and S. 1742, is constitutionally objectionable because it also attempts to change settled constitutional law by ordinary legislation. This bill de-

serves a great deal more scrutiny than it has been given. It was immediately placed on the Senate calendar after introduction, and no comparable legislation has ever been referred to Committee. Very serious constitutional questions have been raised about its approach, questions which in all fairness are too complex to be considered on first impression during the heat of what is likely to be another highly emotionally-charged debate on abortion. We therefore respectfully urge that S. 2148, or any similar proposal, not be acted upon by the Senate at this time.

The Association believes that the effort to add any of these measures as amendments to essential legislation, or to circumvent the ongoing committee consideration of the constitutional and policy issues involved, would be wholly inappropriate and should be strenuously resisted. We urge that the legislative process be permitted to work as intended.

Sincerely,

DAVID R. BRINK.

He has an enclosure, a very brief statement, signed by the following: Benjamin R. Civiletti, Attorney General 1979-81; Elliot L. Richardson, Attorney General 1973; Ramsey Clark, Attorney General 1967-69; Nicholas Katzenbach, Attorney General 1965-66; Wade McCree, Solicitor General 1977-81; Erwin N. Griswold, Solicitor General 1967-73; Archibald Cox, Solicitor General 1961-64; J. Lee Rankin, Solicitor General 1956-61; David R. Brink, president, American Bar Association; Arnette R. Hubbard, president, National Bar Association; W. Edwin Youngblood, president, Federal Bar Association; E. N. Carpenter, president, American Judicature Society; Alston Jennings, president, American College of Trial Lawyers; Justice Arthur J. Goldberg; Judge Shirley Hufstedler.

The statement, which is the enclosure, reads as follows:

MESSAGE TO CONGRESS

JUDICIAL INDEPENDENCE AND COURT STRIPPING LEGISLATION

We are opposed to the pending legislative restrictions on the jurisdiction of federal courts to hear or grant remedies in constitutional cases involving such controversial issues as school desegregation and busing, prayers in public schools and abortion. We urge that Congress, in resolving these issues, not respond to dissatisfaction with particular court decisions by attempting statutorily to rewrite constitutional law. Although the pending bills deal with different subject matters, and present varying constitutional and policy questions, they share a common impermissible purpose. All are attempts by Congress to do legislatively what should be done by constitutional amendment. We believe that such efforts pose a dangerous threat to the integrity and independence of the federal judiciary in our constitutional system of government.

As individuals, we hold varying views on the substantive policy issues which are the subjects of these proposals, and as a group we take no position on them. But we are united in the belief that these proposals threaten our fundamental constitutional principles: the independence and supremacy in constitutional questions of the federal judiciary, the separation of powers, and the system of checks and balances. The enactment of any one of these proposals curbing the authority of the courts to hear cases or grant remedies for constitutional violations would establish an unworthy precedent.

Because the policy considerations are so substantial, and because the constitutional propriety of these bills is open to serious reservations, we urge the Congress to reject all efforts to remove federal court jurisdiction over constitutional rights and remedies, in whatever form they are presented.

Mr. President, that is exactly what we have before this Chamber at the present time.

I know that most of my colleagues probably feel a certain uneasiness about my good friend, the Senator from North Carolina, and I sharing the floor, that maybe matters might slow down a bit. Such is going to be the case. But I also point out that it was just recently that the Senate of the United States passed upon a constitutional amendment, and I believe this Senator spoke for, at most, 5 to 7 minutes on that matter.

That was the way to handle it. I was very much against the balance-the-budget amendment to the Constitution, and I so stated, and I so voted. But that was the way to do it. That is the proper procedure.

If we follow the procedures—never mind the substance—advocated by the distinguished Senator from North Carolina, then, believe me, the Constitution becomes a worthless document.

This generation has used up the capital that has been acquired by generations throughout hundreds of years. The last thing that is left out there untouched, at least in terms of what it stands for, is the Constitution of the United States.

Are we going to turn that into a scrap of paper, also, so as to give vent to our particular feelings at this moment in history, or are we going to at least leave that unsullied and untouched, both as to substance and procedure, for our children?

Mr. President, I do not intend to talk at length at this particular moment, because I think other Senators wish to make comments on this matter. Indeed, I am quite prepared to respond to any question, and I am prepared to get into a lengthy discussion on school prayer before we are through.

I think the majority leader was quite correct in giving a period of time for an airing of these matters, but I assure Senators that so long as they take the form they are presently in, which is to circumvent the amendment process of the Constitution of the United States, we are going to do very little business on the floor of the U.S. Senate insofar as this week is concerned, or whatever weeks we are required to be here.

I am willing to take my licks and accept my defeats—and I did on the balanced budget amendment—when they are done according to the constitutional procedures of this country. But when in passion, however well meaning that passion, we try to circumvent those constitutional procedures, then I assure my good friend from North Carolina that recesses and holidays and all the rest of it will mean very little. I am prepared to stay here just as long as he would like to stay here. Maybe we should grant a vacation to all our colleagues and the two of us could hold the floor together and enjoy each other's company in the next couple of weeks.

In any event, it is for that reason, principally, without getting into the substance of these other matters, which I am sure will come later, that I present myself as I do in terms of this amendment.

(Mr. GOLDWATER assumed the Chair.)

Mr. HELMS. Mr. President, will the Senator yield, without losing his right to the floor?

Mr. WEICKER. I yield. I do not intend to hold the floor.

Mr. HELMS. I say to my friend, as I have said on many occasions, that we happen to differ on this issue and we differ on the approach.

I suppose there may be as many as 10 Senators who understood the significance of the last vote. If they had, many more no doubt would have voted the other way. But that is beside the point.

Let me ask the Senator this: Did he vote for the voting rights extension?

Mr. WEICKER. Yes; indeed, I did.

Mr. HELMS. Did the voting rights extension limit the jurisdiction of the court?

Mr. WEICKER. I say again that there they carefully crafted a way to give additional rights—additional rights. What we cannot do is to restrict the rights guaranteed by the Constitution. We always try to expand rights legislatively. But to eliminate one of the branches of Government, I say that moves into the realm—if it is going to be done—of a constitutional amendment.

We cannot legislatively reduce the rights of our fellow Americans. That, in essence, is what the Senator from North Carolina is trying to do.

Mr. HELMS. That, in essence, is what the Senator did when he voted for the voting rights extension. You cannot have one set of standards on one occasion and a different set of standards on another.

Also, there is article III of the Constitution, which pretty clearly defines the right—and I think the duty—of Congress to limit the jurisdiction of the Court when Congress decides that the Court is intruding into matters too far, in which they should not be involved.

I thank the Senator.

Mr. BAUCUS. Mr. President, will the Senator from Connecticut yield for a question?

Mr. WEICKER. I yield the floor.

Mr. BAUCUS. Mr. President, I applaud the Senator from Connecticut and others here who are correctly pointing out to the Senate and to the country that the issue before us is not a school prayer bill. It is not an abortion bill. Rather, the issue before us is whether or not this Congress is going to limit the jurisdiction of the U.S. Supreme Court.

These are court-stripping bills. It is not a school prayer bill. It is not an abortion bill.

When the school prayer issue came before this body not too long ago, I daresay that at that time most Members—indeed, 80 or 90 percent of the Members—of this body saw that issue as a school prayer issue and not a court-stripping issue because of the way that issue was framed.

I think it is very important and it is critical that we today, before deciding how to vote on the underlying amendment of the Senator from North Carolina, that is, the school prayer amendment, and the second-degree amendment offered by the Senator from North Carolina as an abortion amendment, realize what we are doing if we vote for those amendments.

There are various ways to accomplish goals. We all know that when we disagree with the decision of the U.S. Supreme Court the way our Founding Fathers set out for us to change those decisions we disagree with is to offer and pass amendments to the Constitution. That in the wisdom of our Founding Fathers is the course that they saw as the primary way to overturn decisions of the U.S. Supreme Court.

In these days sometimes we are a little impatient. Sometimes we disagree with the decisions of the Supreme Court. In my judgment it is that impatience which has led to the efforts here today by statute to either overturn the Supreme Court decision or limit the jurisdiction of the Supreme Court, that is, preclude the Supreme Court from hearing any cases, any litigation on that particular issue.

I suggest that it is a double-edge sword that those who today do not like certain "liberal" decisions of the U.S. Supreme Court and who by statute are trying to either overturn those decisions or by limiting jurisdiction of the Supreme Court trying to preclude the Supreme Court from making those decisions, are going to not too many days from today, maybe a few days, maybe a few weeks, a few months, a few years, find that that very same vehicle is going to come back and haunt them; that is, a more liberal Congress might limit the Supreme Court review over right to bear arms or other provisions of the Constitution which are so near and dear to the hearts of some more conservative elements of American society.

We do have a pluralistic society. There is a divergence, a variety in American society we have to maintain and respect, and we should not so easily try to amend or overturn the Supreme Court decisions by statute by simple majority. That is a whimsical way to approach fundamental questions.

Rather I think we should respect the more thoughtful way to overturn decisions of the Court and that is by constitutional amendment.

Mr. President, I also do not intend to unnecessarily prolong this discussion. I think it important for this body to vote on these amendments. But I also think it is absolutely critical and essential for us, this body, and the country to realize what is happening here with these amendments; that is, they are court-stripping amendments.

Certainly the school prayer amendment is a court-stripping amendment. The abortion amendment is not really a court-stripping amendment. It is in the nature of an effort by statute to overturn the court's decision. So it is in the same kind of problem.

It is important, I think, to realize that is what is happening here today and realize that if we want to overturn the U.S. Supreme Court we should overturn it by constitutional amendment, get new Justices on the court, whatever the standard traditional institutional way that our Founding Fathers had in mind.

Mr. President, I wish now in slightly more detail explain to the Senate again why I very much believe that it is important to get this view up before this body.

PROCEDURAL CONCERNS

In the 96th Congress, as I stated earlier, the Senate voted favorably on an amendment offered by the Senator from North Carolina as an amendment to S. 450, a bill affecting the mandatory jurisdiction of the Supreme Court.

It is important to note that when the full Senate voted on the Helms amendment in April 1979, the vote was perceived as a vote for school prayer. There was little awareness of the implications of the removal of Supreme Court jurisdiction over a constitutional issue that was in that bill. The votes on the issue took place without serious discussion and consideration of the role of the Federal courts in the American system of government. The offering of the amendment came as a surprise to most Members of the Senate and took place without committee hearings, without any committee consideration, and without any input from constitutional scholars, the legal community, or interested organizations.

The amendment being offered by Senator HELMS today is identical to the language of the Helms amendment and is similar to S. 481, which was introduced at the beginning of this Congress by Senator HELMS. That bill is currently pending before the Separation of Powers Subcommittee, of which I am the ranking minority member.

Hearings on the bill were scheduled for last September and October but were canceled. They have never been rescheduled.

There have never been Senate hearings on the Helms proposal, and no subcommittee or committee of the Senate has ever considered the underlying legislation.

I think it is important for the record to show that the Helms legislation is being brought directly to the Senate floor as an amendment to the debt limit bill—without committee consideration. What is more, it is the proponents of the proposal who have failed to schedule hearings or request committee consideration.

THE REAL SUBSTANTIVE ISSUE

Apart form these procedural concerns, there are serious constitutional and public policy questions raised by the Helms amendment.

In the final analysis, the issue presented by his amendment is not the controversy surrounding the Supreme Court's school prayer decisions, Engel against Vitale or Abbington against Schempp. Rather, the issue is how should American citizens and Congress respond to controversial decisions of the Supreme Court.

Until recently, the constituencies opposed to socially controversial Supreme Court decisions have sought the adoption of constitutional amendments to overturn them. This alternative set out in article V of the Constitution requires a resolution adopted by a two-thirds majority of Congress or a simple majority of two-thirds of the State legislatures followed in either case by ratification of three-fourths of the States.

In the face of these rigorous requirements, these constituencies have failed to mobilize sufficient support for enacting constitutional amendments. Therefore, their focus has shifted to a set of bills which, although requiring only a majority of Congress and a Presidential signature, may conceivably accomplish the same end as a constitutional amendment.

Specifically, they seek the enactment of legislation which would remove Federal court jurisdiction over particular controversial issues. If these bills are enacted, the Federal courts will no longer be able to hear cases or enforce previous decisions in subject areas where a majority of Congress believed the courts should be precluded from functioning.

The Helms amendment before us today is one of these attempts. It

would strip the Supreme Court and the lower Federal courts of their authority to hear school prayer cases.

Before we cast our votes on his amendment, I believe we should focus our attention on how his amendment would really impact on the Constitution, the courts, and on Congress itself.

Mr. President, I have, frankly, a bit more to say on this subject. I see the Senator from Colorado is on the floor and he wishes to address this issue as well.

Before yielding to the Senator from Colorado, I wish to make it crystal clear that I have my own views on school prayer. I have some questions about the Supreme Court decision, but my point in speaking here today has nothing to do with the merits of that decision. Rather it is the process by which we attempt to change the Supreme Court decisions. I think that process is so fundamentally important that it does not make much difference to me what the merits of the Supreme Court decisions are so long as we do not try to overturn those decisions by statute, and so long as we do not try to limit and preclude Supreme Court jurisdiction by statute because I think that is fundamentally a wrong and improper way of going about changing our Government.

Mr. HART. Mr. President, I wonder if the Senator from Montana will yield?

Mr. BAUCUS. I yield to the Senator from Colorado without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HART. Mr. President, I thank the Senator from Montana. I wish to very much support the thrust of and the direction of his remarks because he and I and, the Senator from Connecticut and others, share absolutely the fundamental premise of this argument before the Senate today, and that is that this latest attempt to divest the Supreme Court and inferior Federal courts of their jurisdiction to hear cases arising out of the school prayer laws should be seen for what it is, a brazen attempt to overturn the court decisions in those school prayer areas by damaging the integrity of the Federal courts as well as the historic independence of the judicial branch of our Government.

The amendment, particularly the school prayer amendment before the Senate today, is not only ill-considered and unwise, it is unconstitutional according to some of the most preeminent constitutional scholars in our country. If it and similar pieces of legislation are passed, our system of constitutional government will be shaken to its very foundation.

We all hold different views on these extremely controversial matters. Our differences on the right of abortion or the best way to achieve high-quality education should not blind us from clearly discerning that this amendment represents an unconstitutional infringement on the authority of the judicial branch and, as such, could well impair the ability of the Federal courts to protect the rights of all Americans.

Concern about passage of the so-called court-stripping bills is found among both Democrats and Republicans, Liberals, and Conservatives, and it is not a partisan issue nor is it an ideological issue. It is at its very essence and at its foundation a constitutional issue. For the Constitution—our national charter—is at stake, and the Constitution belongs to all of us.

From the earliest of days of the Republic, numerous efforts have been undertaken to curb the integrity and independence of the courts. In the early years of this century, at a time when the courts were striking down social welfare legislation, legislation was introduced to strip the Supreme Court of its power to judge the constitutionality of statutes. In 1937, President Roosevelt, stymied by the actions of what he viewed as a reactionary Court, tried to create a majority on the Court by packing its membership. And again in the 1950's—efforts were made to deprive Federal courts of their jurisdiction over cases arising from antisubversive laws. These measures failed, and with good reason. Attempts to obstruct the independence and integrity of the judicial branch were not wise then, and, they are not wise today. The Attorney General, William French Smith, has written: "History counsels against depriving the Court of its general appellate jurisdiction over Federal questions."

Proponents of the court-stripping measure we are considering today argue that constitutional authorization for such action exists in the exceptions clause of article III of our Constitution. But neither a close examination of the events at the Constitutional Convention nor a serious study of the theories of government which undergird our system provide support for such an expansive interpretation of the exceptions clause. In fact, earlier this year Attorney General Smith wrote Chairman THURMOND regarding the meaning of the exceptions clause:

> (The) constitution of the exceptions clause that is most consistent both with the plain language of the clause and with other evidence of its meaning is that Congress can limit the Court's appellate jurisdiction only up to the point where it impairs the Court's core functions in our constitutional scheme.

It should not take a legal scholar to see that, by impairing the ability of our courts to rule on school prayer cases arising under the religious freedom standards of the first amendment, it affects the Court's core function.

This amendment is unconstitutional because it fundamentally obstructs the principles at the heart of our constitutional scheme.

The framers of our Constitution, deeply steeped in the shortcomings of human nature and endowed with a superb knowledge of politics and government, designed a governmental structure based on separation of powers. The three branches of Government—executive, legislative, and judicial—would be largely independent of each other, and this separation would be enforced through the mechanism of checks and balances. If no one branch could dominate the other, they reasoned, this would lessen the opportunity for one group or individual to dominate the Government. As any school child knows, the system was designed to check tyranny.

Not only were the framers concerned about a general concentration of power, but they were especially on guard against domination of the other branches by the legislation. Popular majorities, working through their elected representatives in the legislature, could pass laws harmful to individual rights and liberties. In the Notes on Virginia, Jefferson writes:

> An elective despotism was not the government we fought for, but one which should not only be founded on free principles, but in which the powers of government should be so divided and balanced among several bodies of a majesty, as that no one could transcend the legal limits without being effectively checked and restrained by the others.

Echoing Jefferson, Madison wrote in the Federalist:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of a one, a few, or a many, and whether hereditary, self-appointed, or elected, may justly be pronounced the very definition of tyranny.

In Federalist No. 78, Alexander Hamilton stated that it is the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void." Without this, he said, "all reservations of particular rights or privileges would amount to nothing." This idea received classic articulation in 1803 in the preeminent case of Marbury against Madison when Chief Justice Marshall declared that "it is the province and the duty of the judicial department to say what the law is." Since that time, the role of the Supreme Court as constitutional arbiter has not been seriously questioned.

Since the Judiciary was given the power of neither the pen nor the sword, it was immediately viewed by the framers as the weakest of the three branches. The power of judicial review by an independent judiciary, not beholden to the people or their elected representatives for either con-

tinued maintenance in office or compensation, was viewed as the secret to preventing the executive or legislative branches from invading fundamental rights and liberties. That justification is still relevant. In recent years, it has been Federal judges who have been most active in protecting individual rights and filling in basic constitutional guarantees. And yet this Chamber is seriously considering taking away their powers to do just that.

If this amendment is passed by the Congress, the legislature would be free to amend the agenda of the Court at will. If Congress has the power to determine what rights may be reviewed, it can determine what rights exist. This amendment would delete a crucial aspect of our constitutional scheme of checks and balances—for the Judiciary would act at the whim of Congress. The Federal courts would be free to enforce constitutional guarantees only if 51 percent of both houses of Congress agreed with their interpretation. That is not the way our Constitution is supposed to work. Moreover, passage of this amendment will create a dangerous precedent. The pressure to respond in a similar manner will increase in the years ahead. Future areas of controversy could be removed from the jurisdiction of the Court. Today, we are considering school prayer. In the future it could be due process or trial by jury or freedom of the press.

This amendment is unconstitutional because it represents a wholesale assault on the historic role of the Judiciary in our constitutional framework. Congress does not possess unlimited power over the jurisdiction of the Federal courts. As Attorney General Smith has said:

> Congress may not, however, consistent with the Constitution, make exceptions to the Supreme Court's jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

A free society—to remain free—must depend on a judiciary strong enough to protect the rights of all of its people.

Not only is this amendment unconstitutional, it is also unwise, ill-considered, and will lead to more problems in the years ahead than it could possibly solve.

Passage of court-stripping legislation could shift the battle ground on constitutional issues from Federal to State courts. This would introduce a hazardous experiment with the vulnerable fabric of our judicial system. The integrity of our Federal Judicial system requires a court of last resort having the last word on controversial cases. But without a Supreme Court to resolve the differences, what would prevent the different State courts from arriving at a multitude of desperate conclusions on controversial issues? Equal protection might mean one thing in Colorado and another in New York or North Carolina. Federal law would vary in its impact among the inferior courts. In addition, no guarantee is provided by the sponsors of court-stripping legislation that the State courts would continue to observe the supremacy of Federal law should it conflict with State statutes.

The danger inherent in all this was well expressed by Alexander Hamilton when he said:

> Thirteen independent courts of final jurisdiction over the same causes arising upon the same laws is a Hydra in government, from which nothing but contradiction and confusion can proceed.

The essence of the Constitution as a national document—uniting all Americans in a national charter of equal rights and responsibilities—would be undone.

Of course, it is also possible, contrary to the expectations of the sponsors of the amendment, that State courts would give full force and effect to the controlling precedents in constitutional law; the very precedents which have given rise to today's debate. In fact, in a resolution passed by the Conference of State Court Chief Justices at their annual conference earlier this year, the State jurists argued that it is condescending to imagine that they would not follow the precedents in these controversial areas. Thus, the sponsors of this amendment have left us a cruel choice: If this court-stripping works as intended we will be risking the gravest constitutional crisis in our history; if not—we will have sacrificed and risked a great deal for very little.

This amendment is also unwise because it bypasses the timetested method for amending the Constitution. A procedure already exists in our Constitution for, overturning unpopular Supreme Court decisions—that is, the amendment process. The framers precisely made the amendment process difficult in order that only the most carefully considered proposals, with the broadest public support, would become part of the law of the land. The amendment process is designed to insure that transient majorities can not easily change the Constitution. The amendment we are debating would circumvent that detailed procedure by allowing a simple majority of Congress to change our national charter. This is a radical notion.

Mr. President, throughout this debate it should become very clear to the people of this country that without access to the Federal courts, citizens will be without the protections necessary to secure and insure their freedoms. This is certainly true of the freedoms mandated by the first amendment. The subject of school prayer—at issue today—illustrates the importance of a Supreme Court, and inferior Federal courts, constitutionally powerful enough to protect liberty. And as the Supreme Court held in its school prayer cases in the early 1960's—organized school prayer undermines the religious liberty of all Americans.

For nearly 200 years, our Nation's heritage of diversity in religion has grown under a constitutional scheme which recognizes that religion is essentially a private matter, not a public matter. The founders of our Nation recognized that the right of all people to believe as they wish is best protected when the Government avoids interference in religion.

Almost 20 years ago, the Supreme Court stated that a "union of government and religion tends to destroy government and degrade religion." Any organized prayer in school demeans prayer by foisting upon it the mantle of governmental interference. Officially sanctioned prayer sessions, officiated at by school authorities, mock that voluntary initiative which is the essence of religion.

Having a teacher choose a prayer from among the many beliefs and denominations represented in the public schools destroys the neutrality between government and religion. This practice would undercut our tradition of religious freedom and diversity. It is highly ironic that those who frequently argue that government is incapable of touching something without ruining it should want government to play such a big part in the most private and personal of human activity.

One wonders how we would go about selecting the government officials to write the prayer. One wonders what government officials elected or appointed are more holy than others, or what would qualify some government officials, at whatever level, to design a prayer appropriate to all schoolchildern, let alone all Americans.

What criteria would we use to select the public officials to write our official prayers to be used in public schools? What standards would we use for selecting the most holy public officials to designate the prayers which our schoolchildren should recite? What committee would set itself up to select the official to write the prayer, or what committee itself would go about writing prayers?

Is that the appropriate function of school officials or public officials or county boards of supervisors or school boards or school superintendents or teachers or sheriffs or any other public official? Who decides who will write the prayer? And then, once decided upon, what standards will that public official use for deciding what prayer is best for our schoolchildren?

One has only to ask and pose these questions to understand the implica-

tions of what this amendment would do.

No prayer conducted in the classroom can be said to be truly voluntary. There is nothing voluntary about a 7-year-old deciding to recite a prayer with his teacher standing over him. Students who opt out will be subjected to peer pressure, stigma, and scorn. Whenever the Government supports a particular religious belief, to use justice Black's words: "the indirect coercive pressure upon religious minorities to conform to the prevailing officially approved religion is plain." It is precisely to prevent a minority from being coerced into a belief that the first amendment is a fundamental part of our Constitution.

Allowing official prayer in the public schools would undermine the role of the parents and family in religious education. It is fundamental in our tradition that every family has the right to reach each new generation its own distinctive traditions and beliefs free from Government interference. Official school prayer, by forcing students to be inculcated with the religion of their peers, or some abitrary beliefs of some yet unidentified set of public officials or individual public official, could well interfere with the right of parents to affect the religious education of their children. Why should the Government promote familial tension in this regard?

Finally, official school prayer would undercut the special place of our public schools in American life. From the earliest days of our Republic, public schools have taught children the importance of religious tolerance and the need to respect people with different backgrounds. As Justice Brennan has written, the public schools serve a uniquely public function: "The training of American citizens in an atmosphere free of parochial, divisive, or separatist influences of any sort—an atmosphere in which children may assimilate a heritage common to all American groups and religions."

Official school prayer would interfere with the teaching of tolerance by expressing the Government's commitment to particular religious tradition and one that might be arbitrary or even whimsically arrived at by an individual or collective set of unknown public officials.

I therefore strongly oppose both this amendment—divesting the Supreme Court, and the lower Federal courts, of their jurisdiction to hear school prayer cases—and the rationale behind it—the reintroduction of organized school prayer—as serious threats to not only our tradition of religions diversity and pluralism, but also our entire constitutional scheme based on separation of powers, checks and balances, and the independence of the judicial branch sufficient to protect individual rights. The Founders' concerns about tyranny are no less relevant in 1982 than they were in 1787. I strongly urge my colleagues to refrain from damaging the Constitution—"the most wonderful work ever struck off at a given time by the brain and purpose of man."

Mr. President, I think the testimony before various committees of Congress is particularly important for us to consider, given the qualifications, the backgrounds, the experience, and expertise of those who have testified on this issue. I cite, for example, particularly, the statements of Prof. Telford Taylor on behalf of the American Civil Liberties Union before the Subcommittee on the Constitution of the Judiciary Committee of the U.S. Senate on S. 158. That testimony was delivered a year ago, on May 20, 1981, but it is no less relevant today.

In considering that testimony, we should take into consideration the background of the individual who delivered it.

Professor Taylor is a lawyer admitted to practice in the District of Columbia and before the New York State Bar and various Federal courts, including the Supreme Court. He has been a practitioner at the bar of this country for 47 years, first as a Federal Government attorney and since 1952 as a private practitioner. He has been principally occupied with law school instruction and has conducted classes and seminars at Yale, Columbia, Harvard, the University of Colorado, and the Benjamin Cardozo Law School. He is presently Nash professor emeritus at Columbia Law School and Kaiser professor of constitutional law at the Cardozo Law School.

Throughout the years of his expertise in teaching and practice he has been primarily concerned with Federal law including Federal constitutional law, and he has conducted classes in constitutional law at all of the above named institutions, and in every year since 1963.

That record includes, I am proud to say, having taught a course which it was my privilege to take in 1964 at the Yale Law School.

Professor Taylor testifies, and I think cogently so, in the following manner:

My opposition to the jurisdictional provisions of "the court stripping proposal" is not based upon a narrow view of congressioanl power in this field. The Supreme Court has explicitly recognized that Congress has plenary control over the jurisdiction of the Federal courts.

Mr. President, I would like to include the testimony of Professor Taylor at this point in its entirety in the RECORD because I think it is an excellent statement of the constitutional law underlying the principle at issue in this amendment. I ask unanimous consent to do so.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF TELFORD TAYLOR ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION

My name is Telford Taylor. I am a lawyer, admitted to practice in the District of Columbia, New York State, and various federal courts including the Supreme Court of the United States. I have been at the bar for 47 years, first as a federal government attorney (1933-42), and since 1952 as a private practitioner. In recent years I have been principally occupied with law school instruction, and have conducted classes and seminars at the Yale, Columbia, Harvard, University of Colorado, and Benjamin Cardozo Law Schools. I am presently Nash Professor Emeritus at the Columbia Law School and Kaiser Professor of Constitutional Law at the Cardozo Law School.

Throughout these years I have been primarily concerned with federal, including federal constitutional, law, and I have conducted classes in constitutional law at all of the above-named institutions, and in every year since 1963.

I am appearing here on behalf of the American Civil Liberties Union, in order to discuss the extent of congressional power over federal court jurisdiction. I am aware that there are a number of pending bills which withdraw court jurisdiction in a variety of ways. But I believe it would be most helpful if I focus my testimony on one of the most narrowly drawn bills, since what I have to say about it will apply a fortiori to bills which will withdraw even more jurisdiction. So I will direct my remarks to S. 158, introduced by Senator Helms, which undertakes to withdraw from the lower federal courts jurisdiction to issue injunctions and declaratory judgments in cases involving state laws which prohibit or limit the performance of abortions. I share with the ACLU the view that this provision, if enacted into law, would be unconstitutional. But I am not a member of or bound by the views of the ACLU, and the particular contents of this statement do not necessarily reflect their opinions.

1. Congress and the Inferior Federal Courts:

My opposition to the jurisdictional provisions of S. 158 is not based upon a narrow view of Congressional power in this field. The Supreme Court has explicitly recognized that Congress has "plenary control over the jurisdiction of the federal courts." *Bro. of R. Trainmen* v. *Toledo, P. & W. R. Co.*, 321 U.S. 50, 63-64 (1944). This is in accord with the history and language of Article III of the Constitution, Section 1 of which vests the judicial power in the Supreme Court "and in such inferior Courts as the Congress may from time to time ordain and establish." It is generally understood that this wording embodied a compromise between those among the framers who favored and those who opposed establishment of a federal court system. Thus the decision between the two alternatives was not mandated by the Constitution itself, and it was left up to Congress to handle by statute.

It thus appears that it would have been entirely constitutional for Congress to establish no "inferior" federal courts at all. And although the First Congress did in fact establish the district and circuit courts, the First Judiciary Act gave them a range of jurisdiction which, by today's standards, was very narrow.

Accordingly, if we were to look to the intentions of the framers, Congress could constitutionally conclude and legislate extensive curtailment, or even abolition, of inferior federal court jurisdiction. Of course, from a practical standpoint, a decision not to make inferior federal courts in 1791 would have been quite different from a decision to abolish them in 1981, after we have had federal courts for nearly two centuries, and after more than a century during which they have become a major part of the nation's judicial machinery. These practical consideration have led one commentator to conclude that: "Abolition of the lower federal courts is no longer constitutionally permissible . . . the jurisdiction of these courts is not a matter solely within the discretion of Congress." Eisenberg, *Congressional Authority to Restrict Lower Federal Court Jurisdiction*, 83 Yale L.J. 498 (1974).

While I think all would agree that today the abolition of the lower federal courts, or deep inroads into their jurisdiction, would be extremely unwise, and indeed destructively revolutionary, of course S. 158 is, quantitatively, a very limited withdrawal. My opposition to it, and my conclusion that it is unconstitutional, does not rest upon the proposition that there are quantitative constitutional limits on Congressional power over inferior federal court jurisdiction. That power is, as stated by the Supreme Court, "plenary," like, for example, Congressional power to regulate interstate commerce.

2. Constitutional Limitations on Congressional Power:

But to say that Congressional power over lower federal court jurisdiction is "plenary" does not mean that it is immune from the general limitations on Congressional power found elsewhere in the Constitution, including the several amendments. Congress specifies the jurisdiction by enacting statutes, and those statutes are no more immune from constitutional scrutiny than any others.

The Congressional power over interstate commerce is so ample that, despite the enormous proliferation of federal legislation, not since 1936 has a federal regulation of commerce been held unconstitutional. Yet nothing is better settled than that this power is subject to constitutional limitations such as the First Amendment and the due process clause of the Fifth Amendment. Were Congress to enact statutes forbidding interstate carriers to transport literature reflectig a particular political persuasion, or goods owned by members of a particular race or adherents of a religion, these statutes would undeniably be regulations of interstate commerce, but they would be constitutionally invalid under the First or Fifth Amendments.

The same principle applies to the exercise of Congressional power under Article III. A statute withdrawing from the federal courts jurisdiction to issue injunctions at the suit of individuals identified with particular political, racial, or religious groups would be manifestly unconstitutional under those same amendments.

These conclusions, I believe, follow inevitably from the language and structure of the Constitution. See *Louisville Joint Stock Land Bank* v. *Radford*, 295 U.S. 555, 589 (1935): "the bankruptcy power, like the other great substantive powers, is subject to the Fifth Amendment." That there are few precedents in the jurisdictional field is, therefore, hardly surprising. But sufficient precedent is not lacking, for the foregoing conclusions are amply and explicitly supported by the decision and opinion in *United States* v. *Klein*, 13 Wall. 128 (1872). In that case, the Court of Claims has been given jurisdiction to determine, subject to Supreme Court review, claims to recover property taken by military action during the War Between the States. Some such claimants had been adherents of the Confederacy, but had subsequently taken amnesty oaths pursuant to President Lincoln's pardon proclamation. With the purpose of barring such claimants from recovery, Congress in 1870 passed a statute which provided that, if in any such case the claimant relied upon a presidential pardon as proof of eligibility, the Court of Claims or the Supreme Court (as the case might be) should have no further jurisdiction, and should dismiss the claim for want of jurisdiction.

In the *Klein* case, involving such a claim, the Supreme Court held the 1870 statute unconstitutional, saying that it was not "an exercise of the acknowledged power of Congress" over the Supreme Court's appellate jurisdiction. Two reasons were given of which one, directly relevant here, was that the statute impaired the effect of a pardon, and thus infringed the President's constitutional power under Article II, Section 2 to "grant Reprieves and Pardons for Offenses against the United States." The fact that the 1870 statute was phrased in jurisdictional terms made no difference, since its effect was beyond the power of Congress and violated Section 2 of Article II.

Accordingly, the requirement that statutes enacted by Congress under its Article III powers conform to general constitutional limitations is clearly established, both under the language and structure of the Constitution, and as a matter of decisional precedent. The immediate question is whether Section 2 of S. 158 can survive constitutional scrutiny under those principles. For the reasons given hereinafter, I believe that question must be answered in the negative.

3. The purpose of Section 2 of S. 158 is constitutionally impermissible:

Section 2 of S. 158, like the statute of 1870 involved in the *Klein* case, is a limitation on federal court jurisdiction. But just as the purpose and effect of the 1870 statute was substantive—i.e., to nullify the effect of a presidential pardon on war property claims—so the purpose and effect of Section 2 of S. 158 is substantive—i.e., to make it more difficult than theretofore for individuals to secure their constitutional rights recognized in *Roe* v. *Wade*. In neither case is the purpose constitutionally permissible.

Now, of course, I am aware of the many cases in which the Supreme Court has declared and applied the rule that the constitutionality of a statute must be determined on its face, and without inquiry into motives or purposes that underlie the enactment. See, e.g., *McCray* v. *United States*, 195 U.S. 27, 56 (1904); *Arizona* v. *California*, 283 U.S. 423, 455 (1931); *United States* v. *Darby*, 312 U.S. 100, 113–14 (1941); *Flemming* v. *Nestor*, 363 U.S. 603, 617 (1960); *United States* v. *O'Brien*, 391 U.S. 362, 382–86 (1968). For example, a law prohibiting anyone other than a lawyer from engaging in debt-adjusting will be upheld if a rational and legitimate purpose can be conceived, without going behind the face of the statute to determine whether or not the actual legislative motive was to confer financial benefits on lawyers—a motive by which legislators, many of whom are lawyers, might be governed. *Ferguson* v. *Skrupa*, 372 U.S. 726 (1963).

But there are well-recognized exceptions to that principle. *United States* v. *O'Brien*, *supra* at 383 note 30; Ely, *Legislative and Administrative Motivation in Constitutional Law*, 79 Yale L.J. 1205 (1970). Perhaps the most important one involves the equal protection clause of the Fourteenth Amendment. For many years the Supreme Court has declared the rule that the unequal impact of a statute is not enough to establish a violation of the equal protection clause; there must be a governmental purpose to discriminate. *Snowden* v. *Hughes*, 321 U.S. 1 (1944); *Keyes* v. *School District*, 413 U.S. 189 (1973); *Washington* v. *Davis*, 426 U.S. 229 (1976); *Arlington Heights* v. *Metropolitan Housing Corp.*, 429 U.S. 252 (1977); *Mobile* v. *Bolden*, 446 U.S. 55 (1980). And it is equally well settled that, in equal protection cases, the courts are not limited to an examination of the statute on its face. *Loving* v. *Virginia*, 388 U.S. 1 (1967); *Green* v. *County School Board*, 398 U.S. 430 (1968); *Columbus Board of Education* v. *Penick*, 443 U.S. 229 (1979). Indeed, the inequality of impact may be so great that a purpose to discriminate may be inferred from that circumstance alone. *Yick Wo* v. *Hopkins*, 118 U.S. 356 (1886); *Washington* v. *Davis*, *supra* at 253–54 (Justice Stevens, concurring).

Finally, and perhaps most important for present purposes, the Court has held that a statute which does not on its face articulate an unlawful purpose, may, because of its language and the context in which it is enacted, disclose on its face an unlawful purpose and an inevitable unlawful effect. *Grosjean* v. *American Press Co.*, 297 U.S. 233 (1936); *Gomillion* v. *Lightfoot*, 364 U.S. 339 (1960).

The *Gomillion* case involved an Alabama statute enacted in 1957 which changed the boundaries of the City of Tuskegee from a square to what the Supreme Court described as "a strangely irregular twenty-eight-sided figure" (364 U.S. at 341). The complainants, black citizens resident within the square boundaries, sought in the federal courts a declaratory judgment that the statute was unconstitutional, alleging that its "essential inevitable effect" would be "to remove from the city all save only four or five of its 400 Negro voters while not removing a single white voter or resident."

The lower federal courts dismissed the action on the ground that they had no power to review the Alabama legislature's action. The Supreme Court unanimously reversed the judgment below, holding that, upon the facts alleged, the statute violated the Fifteenth Amendment, since upon those facts ". . . the conclusion would be irresistible, tantamount for all practical purposes to a mathematical demonstration, that the legislation is soley concerned with segregating white and colored voters by fencing Negro citizens out of town so as to deprive them of their pre-existing municipal vote."

I believe that the relevance of the *Gomillion* case to the issue at hand here is obvious. The power of the Alabama legislature over municipal districting was recognized by the Supreme Court as having "breadth and importance" (364 U.S. at 342), just as Congressional power under Section 1 of Article III should be so recognized. The Alabama statute did not explicitly disfavor black residents of Tuskegee, but the boundaries drawn made clear its unconstitutional purpose and effect. Section 2 of S. 158 does not explicitly avow an unconstitutional purpose, but such a purpose is nonetheless manifest, from both its text and its context.

To be sure, the constitutional rights involved are not the same. The *Gomillion* case involved the voting rights protected by

the Fifteenth Amendment or, as Justice Whittaker thought (356 U.S. at 349), the equal protection clause of the Fourteenth Amendment. That clause is not irrelevant to the scrutiny of S. 158, but the constitutional rights recognized in *Roe* v. *Wade* are, under the Court's opinion, based on the concept of personal liberty embodied in the due process clause. These rights, the Court declared to be "fundamental," and "broad enough to encompass a woman's decision whether or not to terminate her pregnancy" (410 U.S. at 153). Certainly they are constitutionally entitled to as much protection as those involved in the *Gomillion* and *Grosjean* cases.

Plainly S. 158, including Section 2, is intended to prevent if possible, and at least to obstruct, fulfillment of the rights recognized in *Roe* v. *Wade*. Indeed, the sponsors of this and similar bills have been commendably frank in acknowledging that purpose, and have no effort to mask it. I am taking the liberty of attaching to my statement the letter to me from the ranking minority member of this Subcommittee, requesting my views on the constitutionality of Section 1 of S. 158, together with my reply. The Senator's letter states that the purpose of S. 158 "is to overturn the effect of the Supreme Court decision in *Roe* v. *Wade*." That, of course, is not a jurisdictional but a substantive purpose, and indicates that Section 2 is not, despite its form, intended as a jurisdictional enactment.

But it is quite unnecessary to rely on such statements by the bill's sponsors, and my conclusion that Section 2 is unconstitutional is based squarely on the text of the bill itself. For it is impossible to conceive of any jurisdictional considerations to which the bill is relevant. There are, to be sure, a number of litigations involving the performance of abortions pending in the federal courts, but they constitute but an infinitesmal part of the total volume of federal court litigation. Thus the bill cannot reasonably be regarded as intended to reduce the burdens on the federal courts.

Cases involving the federal constitutionality of state laws are, to be sure, very numerous in both state and federal courts. A view could be advanced that since state laws are involved, their validity should be first passed upon in the state courts. Of course, that would throw on the Supreme Court the entire burden of ensuring uniformity among the states of the standards of constitutional validity, and I do not think such a course would commend itself as a matter of policy. But recognizing that such a decision is within the ambit of Congressional power, S. 158 accomplishes this only with respect to injunction and declaratory judgment actions involving the particular rights recognized in *Roe* v. *Wade*. It cannot reasonably be contended that so singular a change is reasonably related to a general jurisdictional purpose. Nor do abortion litigations present any features that explain singling them out from other rights similarly derived from the Fifth or Fourteenth Amendments, for exclusion from the federal courts.

The conclusion is inescapable, on the face of the bill, that its only purpose and its inevitable effect are to obstruct the judicial protection of the constitutional rights recognized in *Roe* v. *Wade*. Such purpose and effect, in the absence of a compelling state interest, are unconstitutional: "It is well settled that, quite apart from the guarantee of equal protection, if a law 'impinges upon a fundamental right secured by the Constitution [it] is presumptively unconstitutional.'" *Harris* v. *McRae*, 480 U.S. —, 65 L.Ed. 2d 784, 801 (1980); *Mobile* v. *Bolden*, 446 U.S. 55, 76 (1980); *San Antonio School District* v. *Rodriguez*, 411 U.S. 1, 17, 31 (1973); *Shapiro* v. *Thompson* 394 U.S. 618, 634 (1969).

I should add, though it may be unnecessary, that Section 2 of S. 158 also violates the principle of equal protection of the laws, which has been held to be embodied in the due process clause of the Fifth Amendment, and is therefore binding on the federal government as well as the states. *Bolling* v. *Sharpe*, 347 U.S. 492 (1954). For the jurisdictional withdrawal in Section 2 singles out pregnant women, whose rights are protected by *Roe* v. *Wade*, as a group subjected to a denial of access to the federal courts. There is no conceivable state interest which warrants subjecting them to this deprivation of access to the federal courts equal to that enjoyed by those seeking to protect comparable constitutional rights.

4. There is no valid precedent for the jurisdictional withdrawal attempted in Section 2 of S. 158:

There remains to be considered the question whether there are precedents, legislative or judicial, which might be effectively invoked to justify the jurisdictional withdrawal attempted by Section 2 of S. 158. Its acknowledged purpose is not novel. The Supreme Court must, in the nature of things, deal with issues which arouse strong political, social, and religious feelings. Some of its decisions are bound to antagonize individuals and even large groups of people who believe with deep sincerity that what the Court has done is very wrong, but who also realize that the prospect of undoing its work by the method prescribed in the Constitution—i.e., by amendment pursuant to Article V—is remote. The device of accomplishing a nullification, complete or partial, of a Court decision by withdrawing from the courts jurisdiction to enforce it, has been used in many bills introduced in Congress on many previous occasions.

Constitutional scholars tell us that between 1953 and 1968 over sixty bills were introduced in Congress to eliminate the jurisdiction of the federal courts over a variety of particular subjects. Hart and Wechsler, The Federal Courts and the Federal System (2nd edit. 1973) 360. That is not surprising, since those years witnessed a number of Supreme Court decisions which were sharply denounced, both within and without Congress. What is perhaps surprising, in view of the heat generated, is that not one of those bills was enacted into law. Congress as a whole has exhibited a most commendable restraint in this regard, realizing no doubt that this is a dangerous game which can be played at both ends of the spectrum, and that if such devices begin to take hold as statutes, the ultimate result will not be to ensure the dominance of a particular point of view, but to alter radically the long-established relation and balance among the legislative, executive, and judicial departments.

In consequence of this enduring Congressional restraint, the statutory and judicial examples which are somewhat comparable to S. 158 are very few, and there are only three which I think warrant comment.

The Norris-LaGuardia Act (1932):

I deal with this statute (now 29 U.S.C. Secs. 101-115) first, not only because it is the earliest chronologically, but also because some of the language of Section 2 of S. 158 appears to be derived from it.

The Norris-LaGuardia Act arose out of the belief, shared by leaders of both the Republican and Democratic parties, that there had been abuses in the issuance of injunctions in labor disputes. S. Rep. No. 163, H.R. Rep. No. 669, 72d Cong., 1st Sess.; Frankfurter and Greene, *The Labor Injunction* (1930) *passim*. Section 1 of the Act provides:

"No court of the United States . . . shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in strict conformity with the provisions of this chapter; nor shall any such restraining order or temporary injunction be issued contrary to the public policy declared in this chapter."

It will be noted that, unlike Section 2 of S. 158, the Norris-LaGuardia Act does not wholly withdraw the jurisdiction to issue the specified injunctions. Section 2 declares a public policy of freedom for workers to associate and organize for collective bargining and other labor ends; Sections 4 and 5 specify certain conduct which is excluded from injunctive jurisdiction; Sections 7 and 9 specify certain findings which the courts must make and procedures they must follow before issuing injunctions.

None of these provisions involved infringement of constitutional rights, and Congress' power to regulate and limit the remedies (including injunctions) available to litigants in the lower federal courts (in the absence of such infringements) had never been seriously questioned. When a case arose wherein a lower federal court had issued an injunction on the basis that the case did not involve a "labor dispute" as defined in the Act, the Supreme Court, in reversing that decision, gave general approval to the Act's jurisdictional limitations: "There can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior court of the United States." *Lauf* v. *E.G. Shinner & Co.*, 303 U.S. 323, 330 (1938).

But the *Lauf* case did not concern other provisions of the Norris-LaGuardia Act which (Section 3) declare "yellow dog contracts" (i.e. employment agreements conditioned on the employee's undertaking not to join a union) to be "contrary to the public policy of the United States" and "not . . . enforceable in any court of the United States," and (Section 4(b)) withdraw from the federal courts jurisdiction to enforce such contracts. Many years earlier the Supreme Court had invalidated, as violations of due process, both federal and state statutes outlawing "yellow dog" contracts. *Adiar* v. *United States*, 208 U.S. 161 (1908); *Coppage* v. *Kansas*, 236 U.S. 1 (1915). Thereafter the Supreme Court also held state legislation, limiting employers' rights to state court injunctions against striking employees, to be invalid under the due process and equal protection clauses. *Truax* v. *Corrigan*, 257 U.S. 312 (1921).

None of these decisions had been formally overruled at the time the Norris-LaGuardia Act was adopted, and it was certainly arguable that Sections 3 and 4(b) were unconstitutional, insofar as they rendered "yellow dog" contracts unenforceable in, and outside the jurisdiction of, the federal courts. In all probability it was such doubts that led Congress to provide for the withdrawal of injunctive jurisdiction, guided by a memorandum from (then) Professor Felix Frankfurter stressing the scope of Congressional power over federal court jurisdiction (H. Rep. No. 669, *supra* pp. 12-16); see also Frankfurter and Greene, *supra* pp. 210-20.

The constitutional validity of Sections 3 and 4(b) of the Norris-LaGuardia Act was never judicially tested, no doubt because the Act's importance was greatly diminished by

passage of the National Labor Relations Act in 1936. The *Adair* and *Coppage* cases were not explicitly over-ruled until 1941. *Phelps Dodge Corporation* v. *Labor Board*, 313 U.S. 177, 187 (1941). But they were in poor constitutional health as early as 1930, when the Court unanimously upheld the Railway Labor Act of 1926, in an opinion by Chief Justice Hughes (who had dissented in the *Coppage* case) which distinguished the *Adair* and *Coppage* cases in casual and unconvincing fashion. *Texas & N.O.R. Co.* v. *Ry. Clerks*, 281 U.S. 548, 570 (1930). And of course, if those cases were no longer governing in 1932, the constitutional rights they declared had likewise withered, and the jurisdictional withdrawal in Section 4(b) of the Norris-La Guardia Act impaired no such rights.

For all these reasons, I do not believe that the Norris-La Guardia example offers any substantial support to the constitutionality of Section 2 of S. 158.

The Emergency Price Control Act of 1942:

This statute, enacted under the pressures of wartime, contained provisions narrowly channeling federal court jurisdiction to review orders and regulations of the Price Administrator, in order to secure rapid and uniform enforcement of wartime price controls. An "Emergency Court of Appeals," composed of three federal district or circuit judges, was established to hear and determine such cases, subject to review by certiorari in the Supreme Court. All other courts, both federal and state, were denied jurisdiction to pass on the validity of the Administrator's acts, with certain specified exceptions.

Whether the prohibitions running to the state courts were ever judicially reviewed, I do not know; state court obligation to entertain damage suits for violation of price ceilings was confirmed in *Testa* v. *Katt*, 330 U.S. 386 (1947). The withdrawals of jurisdiction from the federal district and circuit courts were sustained. *Lockerty* v. *Phillips*, 319 U.S. 182 (1943); *Yakus* v. *United States*, 321 U.S. 414 (1944).

The statutory feature most susceptible to constitutional challenge was the denial of the Emergency Court of any power to grant interim relief, by temporary restraining order or injunction. This provision was upheld in the *Yakus* case not as a general proposition but only "in the circumstances of this case," meaning the war emergency (321 U.S. at 437, 439): "If the alternatives, as Congress concluded, were wartime inflation of the imposition on individuals of the burden of complying with a price regulation while its validity is being determined, Congress could constitutionally make the choice in favor of the protection of the public interest from the dangers of inflation."

There is no such emergent and compelling public interest to be invoked in support of the denial of federal injunctive relief in abortion litigation. Abortion cases, on the contrary, are of a nature that especially requires the availability of interim protection; the pregnant woman can hardly be required to comply with an anti-abortion statute while its constitutional validity is being determined.

The price control statutes and decisions, born as they were of the urgent necessities of wartime, thus offer no support to the jurisdictional withdrawal attempted by S. 158.

The Portal-to-Portal Act of 1947: In decisions rendered between 1944 and 1946, the Supreme Court construed the "work week" clause of the Fair Labor Standards Act of 1938 as including underground travel time in mines. Time so spent had not theretofore been generally treated as compensable, and these decisions precipitated a flood of litigation embracing claims for back pay totalling over 5 billion dollars, including claims against the United States totalling over 1½ billion dollars. Congress then enacted the Portal-to-Portal Act of 1947 (29 U.S.C. 251-62), in which Congress found that such unexpected retroactive liabilities threatened financial ruin to many employers and serious consequences to the federal Treasury. To avoid these hazards, the Act not only wiped out the liabilities, but also withdrew jurisdiction to adjudicate such claims from all federal and state courts without exception.

In the numerous litigations which ensued, it was contended that Congressional nullification of these claims destroyed vested rights in violation of the Fifth Amendment. The courts uniformly rejected this contention, but most of them took jurisdiction and decided the cases on the substantive merits, despite the attempted withdrawal of jurisdiction. Thus a distinguished panel of judges in the Court of Appeals for the Second Circuit wrote in *Battaglia* v. *General Motors Corp.*, 169 F.2d 254, 257 (C.C.A.2d, 1948):

"A few of the district court decisions sustaining . . . the Portal-to-Portal Act have done so on the ground that since jurisdiction of federal courts other than the Supreme Court is conferred by Congress, it may at the will of Congress be taken away in whole or in part . . . We think however, that the exercise by Congress of its control over jurisdiction is subject to compliance with at least the requirements of the Fifth Amendment. That is to say, while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of courts other than the Supreme Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law, or to take private property without just compensation [citing cases] . . ."

That decision and the passage quoted squarely support the position I am taking here today. Just as in the Portal-to-Portal Act, Section 2 has been included in S. 158 for the sole purpose of blocking judicial review of Section 1 thereof. And since Section 1 seeks to achieve ends which are unconstitutional under the Fifth Amendment, as was established in *Roe* v. *Wade*, Section 2 is itself in violation of the Fifth Amendment.

I should deal with one further matter. The Portal-to-Portal Act sought to close off access to all courts, state and federal alike, while both the Norris-LaGuardia Act and Section 2 of S. 158 leave access to the state courts untouched. Although the *Battaglia* court did not rest its decision on that circumstance, it is the view of some constitutional scholars that this difference is crucial, and that would-be litigants barred by Congress from access to the federal courts have no basis for complaint if the state courts remain open to them.

It is hard for me to take this argument seriously. The fact that a statutory withdrawal of jurisdiction is limited to the federal courts certainly does not immunize that statute from constitutional scrutiny. It cannot be seriously contended that a statute limiting federal court access to white litigants could be sustained on the ground that the suits of black litigants could be determined in the state courts.

This does not mean that continued access to the state courts may not in some circumstances be a relevant constitutional factor. If a substantial state interest is asserted as the basis for denying federal jurisdiction, and that interest must be weighed against the disadvantage to litigants, the fact that the state courts remain available may well tip the scales in favor of the withdrawal. In all three of the instances of withdrawal discussed above, such interests were credibly asserted. But no such interests are or can be credibly invoked in support of Section 2 of S. 158, which shows on its face that its only purpose is to chill and obstruct the vindication of constitutional rights.

In theory, if not in practice, Congress has power to repeal the 1875 legislation which gave the federal courts general jurisdiction in cases arising under the Constitution and laws of the United States. But having conferred such general jurisdiction, Congress must have a constitutional basis for making exceptions to it, and the fact that the state courts may be available is but one factor for consideration. With regard to Section 2 of S. 158, I believe it is of no weight, since no valid purpose of the withdrawal is invoked.

CONCLUSION

For all the reasons given, it is my opinion that Section 2 of S. 158, or any comparable bills that would selectively withdraw federal court jurisdiction over particular constitutional claims, if enacted, would be unconstitutional. I thank the Subcommittee for affording me this opportunity to present my views.

U.S. SENATE,
Washington. D.C., April 29, 1981.

Prof. TELFORD TAYLOR,
Department Law, Columbia University, New York, N.Y.

DEAR PROFESSOR TAYLOR: I am currently serving as the ranking minority member of the United States Senate Judiciary Committee, Subcommittee on Separation of Powers. On April 23 and 24, the Subcommittee is beginning a series of hearings on S. 158. This legislation is designed to define human personhood as beginning at conception. The purpose of the legislation is to overturn the effect of the Supreme Court decision in *Roe* v. *Wade*. I am enclosing a copy of the bill for your review.

I am writing to you in your capacity as a leading expert on American constitutional law. I am interested in your assessment of whether or not the Congress has the authority under the Constitution and particularly under Section 5 of the 14th Amendment to enact Section 1 of S. 158. Does the Congress have the authority to define legal/constitutional personhood in the face of the Supreme Court decisions on abortion? For legal analysis by the sponsor of the bill, see Volume 127 *Con. Rec.* S.288-S.294 (Daily Ed. January 19, 1981).

The Subcommittee will be considering these matters in the near future and so a timely response would be most helpful.

I appreciate your assistance in this matter and look forward to hearing from you as soon as possible.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

Enclosure.

MAY 7, 1981.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: This will acknowledge your letter of April 29, 1981, requesting my opinion on the constitutionality of bills

such as S. 158 and H.R. 900, which undertake to define "person" as used in the Fourteenth Amendment to the Constitution as including the human fetus from the moment of conception. It is understood that the purpose of these bills is to override the Supreme Court's rulings in *Roe v. Wade*, 410 U.S. 113 (1973) and subsequent decisions based on the principles of that case. Since those decisions are based on the Constitution itself, it appears that the purpose of these bills is to bring about a change in the scope and effect of the relevant Constitutional provisions by statutory means, rather than by amendment of the Constitution in accordance with the procedures prescribed in Article V.

The bills in question rely explicitly on the power of Congress under Section 5 of the Fourteenth Amendment as the constitutional basis of their provisions. The scope of this power, during the last fifteen years, has been the subject of at least four significant Supreme Court decisions. *South Carolina v. Katzenbach*, 383 U.S. 301 (1966); *Katzenbach v. Morgan*, 384 U.S. 641 (1966); *Oregon v. Mitchell*, 400 U.S. 112 (1970); *Rome v. United States*, 446 U.S. 156 (1980); see also *Fullilove v. Klutznick*, 448 U.S. (1980). In all these cases except the first, the Court was divided in opinion on the governing principles, and professional comment on the problem has reflected its controversial nature.

Despite this division of opinion, I believe it to be clear that the bills in question are unconstitutional. The majority opinion in the *Morgan* case goes further than any other in giving scope to Congressional power under Section 5 of the Fourteenth Amendment, but in that opinion it was categorically stated that Section 5 gives Congress no power "to restrict, abrogate, or dilute" constitutional guarantees. *Katzenbach v. Morgan*, 384 U.S. at 651 n. 10. There can be no doubt that the purpose and purport of the bills in question is to "restrict, abrogate, or dilute" the constitutional rights of pregnant women as established in *Roe v. Wade*.

As for the members of the Court who do not share the expansive views of Congressional power under Section 5 articulated by the majority in the *Morgan* case, it is my belief that, regardless of their agreement or disagreement with *Roe v. Wade*, they would conclude that the constitutional principles it established cannot be nullified by statutory action.

For the foregoing reasons, stated above in summary form, it is my opinion that the bills you have called to my attention are unconstitutional.

Sincerely yours,

TELFORD TAYLOR,
Nash Professor of Law, Emer.

Mr. HART. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. TSONGAS. I thank the Senator from Colorado.

Mr. President, those of my colleagues whose children are still young, or whose children are older, will remember Alice in Wonderland and the ironic situation in that tale where everything is topsy turvy, where what is said is the opposite of what is meant, and what is meant is the opposite of what is said.

I find it ironic to sit here and watch someone who has an American flag in his lapel engaged in an activity that would eviscerate the Constitution.

It seems to me that, if you wear a flag on your lapel, it suggests a reverence for the Nation, a reverence for the Constitution.

The Founding Fathers were limited in their capacity. They did not have Gallup polls. They did not have PAC committees. They did not have media consultants.

They were naive enough to believe that you could have Government by balance of powers. In our very sophisticated world of today, some would replace this precept with Government by direct mail operations.

What difference does it make if you hurt the Constitution, as long as you generate direct mail contributions?

If there is no reverence for the Constitution, if it is simply an inconvenient document, why not just say so? Maybe coming from Massachusetts, I have been overly sensitized to the works of the Founding Fathers. Many of my predecessors, if not ethnically at least geographically, were involved in that process. It seems to me that what they had to say was true not only for their time but for our time as well.

Although I have been in politics for 13 years, I have never managed to develop the capacity to tolerate those who make a great display of their patriotism and yet involve themselves in an effort to denigrate the process that has made this country as great as it is.

What I would like to do now is to read from a document that I suspect most Members do not read at night, the Federalist Papers, Federalist No. 78 and Federalist No. 81.

They refer to the judiciary. I will not read all of both papers, but I will read the most relevant parts.

The issue that we are dealing with here today of court stripping is not dissimilar to the issues that were argued some 200-plus years ago by our Founding Fathers. The difference between then and now is: they were less skittish. Can you imagine Alexander Hamilton or Thomas Jefferson arguing with his colleagues what his mail count was?

Can you imagine an Adams going to his staff and arguing that a poll should be done on how the people felt about a particular issue?

If that is all they were capable of, which is what most of us are apparently capable of, they would have come up with a document that would have gotten them past the next election but would have long since been destroyed.

Rather, they came up with the Constitution. They thought that if they did it right, the people of this country would elect Senators and Congressmen who would have the same reverence for the document. If one is prepared to undermine or eviscerate the Constitution, then what is likely to be the point at which one stops? Today, the Constitution; tomorrow, whatever.

Mr. President, however one feels about the issue of school prayer or whatever, and we may differ, I hope that we, as the Senate of the United States, would, at a minimum, consider the Constitution to be inviolate. When we got sworn in, if you remember that, we were sworn to uphold and protect the Constitution of the United States. I assume we took that seriously. We did not swear that we would uphold the direct mail operations or we would uphold the wishes of special interests or we would uphold the concerns of our PAC committees or we would uphold what the Gallup poll is telling us. We said we would uphold the Constitution.

So, 200 years-plus later, we have gone from the Federalist Papers and the Founding Fathers to this Alice in Wonderland scenario. I am going to read from Federalist No. 78 by Alexander Hamilton, May 28, 1788:

> Whoever attentively considers the different departments of power must perceive, that in a government in which they are separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution whatever. It may truly be said to have neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm even for the efficacy of its judgments.
>
> This simple view of the matter suggests several important consequences. It proves incontestibly that the judiciary is beyond comparison the weakest of the three departments of power; that it can never attack with success either of the other two; and that all possible care is requisite to enable it to defend itself against their attacks.

(Mr. HUMPHREY assumed the chair.)

Mr. TSONGAS. That was in 1788. One would think we would have learned by now. Let me read that again:

> . . . and that all possible care is requisite to enable it to defend itself against their attacks.

To continue:

> It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter: I mean, so long as the judiciary remains truly distinct from both the legislative and executive. For I agree that "there is no liberty, if the power of judging be not separated from the legislative and executive powers." And it proves, in the last place, that as liberty can have nothing to

fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments; that as all the effects of such an union must ensue from a dependence of the former on the latter, notwithstanding a nominal and apparent separation; that as from the natural feebleness of the judiciary, it is in continual jeopardy of being overpowered, awed or influenced by its coordinate branches; and that as nothing can contribute so much to its firmness and independence, as permanency in office, this quality may therefore be justly regarded as an indispensable ingredient in its constitution; and in a great measure as the citadel of the public justice and the public security.

The complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited constitution I understand one which contains certain specified exceptions to the legislative authority; such for instance as that it shall pass no bills of attainder, no *ex post facto* laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice; whose duty it must be to declare all acts contrary to the manifest tenor of the constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Some perplexity respecting the right of the courts to pronounce legislative acts void, because contrary to the constitution, has arisen from an imagination that the doctrine would imply a superiority of the judiciary to the legislative power. It is urged that the authority which can declare the acts of another void, must necessarily be superior to the one whose acts may be declared void. As this doctrine is of great importance in all the American constitutions, a brief discussion of the grounds on which it rests cannot be unacceptable.

There is no position which depends on clearer principles, than that every act of a delegated authority, contrary to the tenor of the commission under which it is exercised, is void. No legislative act therefore contrary to the constitution can be valid. To deny this would be to affirm that the deputy is greater than his principal; that the servant is above his master; that the representatives of the people are superior to the people themselves; that men acting by virtue of powers may do not only what their powers do not authorize, but what they forbid.

If it be said that the legislative body are themselves the constitutional judges of their own powers, and that the construction they put upon them is conclusive upon the other departments, it may be answered, that this cannot be the natural presumption, where it is not to be collected from any particular provisions in the constitution. It is not otherwise to be supposed that the constitution could intend to enable the representatives of the people to substitute their *will* to that of their constituents.

Mr. President, for those who just tuned in and are wondering where the sentiments are coming from that I am reading, they are from the Federalist Papers No. 78, Alexander Hamilton, May 28, 1788.

Since this is the foundation of our society, constitutionally and politically, I urge anyone who finds what I am saying to be contrary to their own views, it is time to do some soul-searching.

Continuing:

It is far more rational to suppose that the courts were designed to be an intermediate body between the people and the legislature, in order, among other things, to keep the latter within the limits assigned to their authority.

That is us, the latter.

The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body. If there should happen to be an irreconcileable variance between the two, that which has the superior obligation and validity ought of course to be preferred; or in other words, the constitution ought to be preferred to the statute, the intention of the people to the intention of their agents.

Nor does this conclusion by any means suppose a superiority of the judicial to the legislative power. It only supposes that the power of the people is superior to both; and that where the will of the legislature declared in its statutes, stands in opposition to that of the people declared in the constitution, the judges ought to be governed by the latter, rather than the former. They ought to regulate their decisions by the fundamental laws, rather than by those which are not fundamental.

This exercise of judicial discretion in determining between two contradictory laws, is exemplified in a familiar instance. It not uncommonly happens, that there are two statutes existing at one time, clashing in whole or in part with each other, and neither of them containing any repealing clause or expression. In such case, it is the province of the courts to liquidate and fix their meaning and operation: So far as they can by any fair construction be reconciled to each other; reason and law conspire to dictate that this should be done. Where this is impracticable, it becomes a matter of necessity to give effect to one, in exclusion of the other. The rule which has obtained in the courts for determining their relative validity is that the last in order of time shall be preferred to the first. But this is a mere rule of construction, not derived from any positive law, but from the nature and reason of the thing. It is a rule not enjoined upon the courts by legislative provision, but adopted by themselves, as consonant to truth and propriety, for the direction of their conduct as interpreters of the law. They thought it reasonable, that between the interfering acts of an equal authority, that which was the last indication of its will, should have the preference.

But in regard to the interfering acts of a superior and subordinate authority, of an original and derivative power, the nature and reason of the thing indicate the converse of that rule as proper to be followed. They teach us that the prior act of a superior ought to be preferred to the subsequent act of an inferior and subordinate authority; and that, accordingly, whenever a particular statute contravenes the constitution, it will be the duty of the judicial tribunals to adhere to the latter, and disregard the former.

It can be of no weight to say, that the courts on the pretense of a repugnancy, may substitute their own pleasure to the constitutional intentions of the legislature. This might as well happen in the case of two contradictory statutes; or it might as well happen in every adjudication upon any single statute. The courts must declare the sense of the law; and if they should be disposed to exercise will instead of judgment, the consequence would equally be the substitution of their pleasure to that of the legislative body. The observation, if it proved any thing, would prove that there ought to be no judges distinct from that body.

If then the courts of justice are to be considered as the bulwarks of a limited constitution against legislative encroachments, this consideration will afford a strong argument——

(Disturbance in the Visitors' Galleries.)

The PRESIDING OFFICER. Will the Senator suspend?

The Sergeant at Arms will restore order in the gallery, please.

The Senator will resume.

Mr. TSONGAS. Mr. President, I am sometimes accused by my supporters of not giving flag-waving speeches, and I think the incident just now will set that straight once and for all.

Back to the Constitution (continuing):

for the permanent tenure of judicial offices, since nothing will contribute so much as this to that independent spirit in the judges, which must be essential to the faithful performance of so arduous a duty.

This independence of the judges is equally requisite to guard the constitution and the rights of individuals from the effects of those ill humours which the arts of designing men, or the influence of particular conjunctures, sometimes disseminate among the people themselves, and which, though they speedily give place to better information and more deliberate reflection, have a tendency in the mean time to occasion dangerous innovations in the government, and serious oppressions of the minor party in the community. Though I trust the friends of the proposed constitution will never concur with its enemies in questioning that fundamental principle of republican government, which admits the right of the people to alter or abolish the established constitution whenever they find it inconsistent with their happiness; yet it is not to be inferred from this principle, that the representatives of the people, whenever a momentary inclination happens to lay hold of a majority of their constitutents incompatible with the provisions in the existing constitution, would on that account be justifiable in a violation of those provisions; or that the courts would be under a greater obligation to connive at infractions in this shape, than when they had proceeded wholly from the cabals of the representative body.

To put it in modern terminology, what Alexander Hamilton is saying is that there is a Constitution which is paramount and that the Constitution is there to protect the country from those in legislative bodies such as our own who bend to a sentiment that may be politically popular but happens to violate the Constitution.

Mr. DENTON. Mr. President, will the distinguished Senator from Massachusetts yield?

Mr. TSONGAS. I do not yield. If the Senator will simply have the staff——

Mr. DENTON. It is not for a question. I was simply inquiring, in connection with the goodwill policy which the Senator from Connecticut outlined, if some time be afforded equitably to both sides. I thought perhaps the Senator had finished for the moment.

Mr. TSONGAS. I just have a few more sentences from Federalist 78, and then I indicated that I would yield to the Senator from Montana.

I will attempt to work out the interests of the Senator from Alabama.

The PRESIDING OFFICER. The Chair advises the Senator that he cannot yield the floor to the Senator from Alabama.

Mr. TSONGAS. I take it that the only one who could yield would be the Senator from Connecticut. Is that correct?

The PRESIDING OFFICER. The time is not under control. Under the Senate rules, no Senator can yield the floor to another Senator.

Mr. TSONGAS. I thank the Chair.

I continue to read:

Until the people have by some solemn and authoritative act annulled or changed the established form, it is binding upon themselves colectively, as well as individually; and no presumption, or even knowledge of their sentiments, can warrant their representatives in a departure from it, prior to such an act. But it is easy to see that it would require an uncommon portion of fortitude in the judges to do their duty as faithful guardians of the constitution, where legislative invasions of it had been instigated by the major voice of the community.

But it is not with a view to infractions of the constitution only that the independence of the judges may be an essential safeguard against the effects of occasional ill humours in the society. These sometimes extend no farther than to the injury of the private rights of particular classes of citizens, by unjust and partial laws. Here also the firmness of the judicial magistracy is of vast importance in mitigating the severity, and confining the operation of such laws. It not only serves to moderate the immediate mischiefs of those which may have been passed, but it operates as a check upon the legislative body in passing them; who, perceiving that obstacles to the success of an iniquitous intention are to be expected from the scruples of the courts, are in a manner compelled by the very motives of the injustice they mediate, to qualify their attempts. This is a circumstance calculated to have more influence upon the character of our governments, than but few may be aware of. The benefits of the integrity and moderation of the judiciary have already been felt in more states than one; and though they may have displeased those whose sinister expectations they may have disappointed, they must have commanded the esteem and applause of all the virtuous and disinterested. Considerate men of every description ought to prize whatever will tend to beget or fortify that temper in the courts; as no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today. And every man must now feel that the inevitable tendency of such a spirit is to sap the foundations of public and private confidence, and to introduce in its stead, universal distrust and distress.

That inflexibile and uniform adherence to the rights of the constitution and of individuals, which we perceive to be indispensable in the courts of justice, can certainly not be expected from judges who hold their offices by a temporary commission. Periodical appointments, however regulated, or by whomsoever made, would in some way or other be fatal to their necessary independence. If the power of making them was committed either to the executive or legislature, there would be danger of an improper complaisance to the branch which possessed it; if to both, there would be an unwillingness to hazard the displeasure of either; if to the people, or to persons chosen by them for the special purpose, there would be too great a disposition to consult popularity, to justify a reliance that nothing would be consulted but the constitution and the laws.

There is yet a further and a weighty reason for the permanency of the judicial offices; which is deducible from the nature of the qualifications they require. It has been frequently remarked with great propriety, that a voluminous code of laws is one of the inconveniences necessarily connected with the advantages of a free government. To avoid an arbitrary discretion in the courts, it is indispensable that they should be bound down by strict rules and precedents, which serve to define and point out their duty in every particular case that comes before them; and it will readily be conceived from the variety of controversies which grow out of the folly and wickedness of mankind, that the records of those precedents must unavoidaby swell to a very considerable bulk, and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society, who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge. These considerations apprise us, that the government can have no great option between fit characters; and that a temporary duration in office, which would naturally discourage such characters from quitting a lucrative line of practice to accept a seat on the bench, would have a tendency to throw the administration of justice into hands less able, and less well qualified to conduct it with utility and dignity. In the present circumstances of this country, and in those in which it is likey to be for a long time to come, the disadvantages on this score would be greater than they may at first sight appear; but it must be confessed that they are far inferior to those which present themselves under the other aspects of the subject.

Upon the whole there can be no room to doubt that the convention acted wisely in copying from the models of those constitutions which have established good behaviour as the tenure of their judicial offices in point of duration; and that so far from being blameable on this account, their plan would have been inexcuseably defective if it had wanted this important feature of good government. The experience of Great Britain affords an illustrious comment on the excellence of the institution.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary and an analysis of Federalist 78 by Benjamin Fletcher Wright of the University of Texas, Harvard University Press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Federalist 78 is important, then, not for its discussion of judicial tenure during good behavior, but for the conception of judicial supremacy expressed by the man whose constitutional and economic philosophy was followed in case after case by the greatest of American judges. Madison's Notes on the debates in the Federal Convention were not published until 1840, five years after Marshall's death. Nor could the Chief Justice have found there the doctrine of the judicial power that he was to state for the Court in 1803. For in Number 78 Hamilton declares that the Constitution is not only fundamental law, it is the will of the people, and the courts are its only true guardians. The Constitution is the highest man-made law; any legislative act contrary to it must be held void by the courts, since "the interpretation of the laws is the proper and peculiar province of the courts." The law "which has the superior obligation and validity ought, of course, to be preferred; or, in other words, the Constitution ought to be preferred to the statute, the intention of the people to the intention of their agents." Moreover, the courts of justice are obligated not merely to hold void acts in clear conflict with the Constitution. They are also "to declare all acts contrary to the manifest tenor of the Constitution void." He denies that this makes the courts superior to the legislature. In fact it "only supposes that the power of the people is superior to both; and that where the will of the legislature, declared in its statutes, stands in opposition to that of the people, declared in the Constitution, the judges ought to be governed by the latter rather than the former."

In this philosophy of constitutional law as it was developed by Hamilton, presumably during the spring of 1788, the judges emerge as the only branch of government that can give a final interpretation to the meaning of the Constitution, the only branch that can express the will of the people as it is embodied in that document. He goes so far as to say that the independence of the judges is equally necessary to guard the people against "the effects of those ill humors which the arts of designing men or the influence of particular conjunctures sometimes disseminate among the people themselves. . . ." Where Madison saw in bicameralism, and especially in the stabilizing influence of the Senate, a means of checking momentary violations of the true will of the people of rights of minorities, Hamilton finally arrives at a conception of the judiciary as the branch of government that can be trusted to maintain constitutional order and thus preserve the will of the people.

Mr. TSONGAS. Mr. President, there are a number of Federalist Papers that deal with the issue of the judiciary, and No. 78 deals with the independence of the judiciary in order to maintain a capacity to withstand the onslaught of the legislative branch.

Now I deal with Federalist No. 81, also by Alexander Hamilton, on May 21, 1788.

Let us now return to the partition of the judiciary authority between different courts, and their relations to each other.

"The judicial power of the United States is" (by the plan of the convention) "to be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." [1]

That there ought to be one court of supreme and final jurisdiction, is a proposition which is not likely to be contested. The reasons for it have been assigned in another place, and are too obvious to need repetition. The only question that seems to have been raised concerning it, is, whether it ought to be a distinct body or a branch of the legislature. The same contradiction is observable in regard to this matter which has been remarked in several other cases. The very men who object to the Senate as a court of impeachments, on the ground of an improper intermixture of powers, advocate, by implication at least, the propriety of vesting the ultimate decision of all causes, in the whole or in a part of the legislative body.

The arguments, or rather suggestions, upon which this charge is founded, are to this effect: "The authority of the proposed Supreme Court of the United States, which is to be a separate and independent body, will be superior to that of the legislature. The power of construing the laws according to the spirit of the Constitution, will enable that court to mold them into whatever shape it may think proper; especially as its decisions will not be in any manner subject to the revision or correction of the legislative body. This is as unprecedented as it is dangerous. In Britain, the judicial power, in the last resort, resides in the House of Lords, which is a branch of the legislature; and this part of the British government has been imitated in the State constitutions in general. The Parliament of Great Britain, and the legislatures of the several States, can at any time rectify, by law, the exceptionable decisions of their respective courts. But the errors and unsurpations of the Supreme Court of the United States will be uncontrollable and remediless." This, upon examination, will be found to be made up altogether of false reasoning upon misconceived fact.

In the first place, there is not a syllable in the plan under consideration which directly empowers the national courts to construe the laws according to the spirit of the Constitution, or which gives them any greater latitude in this respect than may be claimed by the courts of every State. I admit, however, that the Constitution ought to be the standard of construction for the laws, and that wherever there is an evident opposition, the laws ought to give place to the Constitution. But this doctrine is not deducible from any circumstance peculiar to the plan of the convention, but from the general theory of a limited Constitution; and as far as it is true, is equally applicable to most, if not to all the State governments. There can be no objection, therefore, on this account, to the federal judicature which will not lie against the local judicatures in general, and which will not serve to condemn every constitution that attempts to set bounds to legislative discretion.

But perhaps the force of the objection may be thought to consist in the particular organization of the Supreme Court; in its being composed of a distinct body of magistrates, instead of being one of the branches of the legislature, as in the government of Great Britain and that of this State. To insist upon this point, the authors of the objection must renounce the meaning they have labored to annex to the celebrated maxim, requiring a separation of the departments of power. It shall, nevertheless, be conceded to them, agreeably to the interpretation given to that maxim in the course of these papers, that it is not violated by vesting the ultimate power of judging in a part of the legislative body. But though this be not an absolute violation of that excellent rule, yet it verges so nearly upon it, as on this account alone to be less eligible than the mode prefered by the convention. From a body which had even a partial agency in passing bad laws, we could rarely expect a disposition to temper and moderate them in the application. The same spirit which had operated in making them, would be too apt in interpreting them; still less could it be expected that men who had infringed the Constitution in the character of legislators, would be disposed to repair the breach in the character of judges. Nor is this all. Every reason which recommends the tenure of good behavior for judicial offices, militates against placing the judiciary power, in the last resort, in a body composed of men chosen for a limited period. There is an absurdity in referring the determination of causes, in the first instance, to judges of permanent standing; in the last, to those of a temporary and mutable constitution. And there is a still greater absurdity in subjecting the decisions of men, selected for their knowledge of the laws, acquired by long and laborious study, to the revision and control of men who, for want of the same advantage, cannot but be deficient in that knowledge. The members of the legislature will rarely be chosen with a view to those qualifications which fit men for the stations of judges; and as, on this account, there will be great reason to apprehend all the ill consequences of defective information, so, on account of the natural propensity of such bodies to party divisions, there will be no less reason to fear that the pestilential breath of faction may poison the fountains of justice. The habit of being continually marshalled on opposite sides will be too apt to stifle the voice both of law and of equity.

These consideration teach us to applaud the wisdom of those States who have committed the judicial power, in the last resort, not to a part of the legislature, but to distinct and independent bodies of men. Contrary to the supposition of those who have represented the plan of the convention, in this respect, as novel and unprecedented, it is but a copy of the constitutions of New Hampshire, Massachusetts, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia; and the preference which has been given to those models is highly to be commended.

Mr. DENTON. Mr. President, will the Senator yield for a question?

Mr. TSONGAS. I yield.

Mr. DENTON. The Senator from Massachusetts said he was going to read a few more lines. Can he interpret the timeframe he has in mind, please?

Mr. TSONGAS. It is my intent to speak until 1:45. I am not exactly clear where we are in terms of parliamentary procedure. Perhaps the Senator from Oregon will be in a position to speak about that.

Mr. PACKWOOD. Mr. President, I believe I can answer the question of the Senator from Alabama. He does not have to worry in this case about time disproportionately used by one side or the other. We are not under a time agreement. Nobody has control of the time, as a matter of fact. So long as a Senator has the floor, he can speak, but he cannot pass control of the floor from person to person, and there is no time limit.

Mr. DENTON. I understand that. In accordance with the courteous policy which the Senator from Connecticut mentioned, I was simply trying to inquire, for the purpose of my own convenience, when it might be possible to speak. I have been waiting for about an hour-and-a-half.

Mr. PACKWOOD. So far as I am concerned—and I think I speak for the Senator from Connecticut—when the Senator from Massachusetts is done, I will be perfectly happy to have the Senator from Alabama recognized to speak.

Mr. TSONGAS. If it would accommodate the Senator from Alabama, I would be pleased to yield at this point.

Does the Senator have any idea how long he will be?

Mr. DENTON. Perhaps 15 or 20 minutes would be my guess.

I thank the Senator from Oregon and the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. Mr. President, I just want to enter some points on the other side of this question. I shall endeavor to remain impersonal and polite.

Many facets of this issue can be presented and have been presented. Many more will be. Many arguments will be offered. I do want to reduce smokescreens which have been laid to obscure visibility in this Chamber. Proponents of the school prayer and abortion amendments are not really arguing for some unspeakable effort to vitiate the Constitution. I am not wearing an American flag. I would not criticize those who do and, whoever was being referred to might not be here at the moment.

There is no effort by anyone who favors voluntary school prayer in our public schools to vitiate the Constitution. Nor do I think that anyone who wants to end Federal support for abortion and abortion-related activities is interested in vitiating the Constitution.

I am amused by the reference to Alice in Wonderland. I think a good point was made that we are in an Alice in Wonderland condition.

However, I would not characterize it in the same way as my friend from Massachusetts who suggested that we are departing from our Founding Fathers' ideals and vision, and that not enough of us have read the Federalist Papers or Alice in Wonderland.

[1] Art. 3, sec. 1.—Publius.

The Alice in Wonderland which I see and which I believe would have the Founding Fathers spinning in their graves is that we have arrived at a point in the history of this "One Nation Under God" at which no prayer is permitted in our public schools. In one lower court action, a few kindergarten children who tried to say grace together were ordered to desist. I think that this sort of holding is the real Alice in Wonderland story.

Moreover, I believe another "wrong" is "right" world is that created by the Supreme Court with regard to abortion. For hundreds of years, civilized society was appalled by the practice of abortion; it was relegated to a crime. Now, however, we have no restrictions on the practice and indeed Federal money is spent to support and encourage it.

I do not believe that those who favor school prayer and oppose abortion, which are indeed the issues before us, are using improper means or methods.

We are interpreting and trying to apply article III, section 2, of the Constitution. We are not outside the Constitution. We are within it. While that effort is debatable, it is no more objectionable than reversing a Supreme Court ruling as was done during consideration of the Voting Rights Act.

I believe that congressional reversal of the Supreme Court in that instance was misguided and that is why I voted against the voting rights bill, not because I am opposed to equal rights for all. I think it was constitutionally suspect. Incidentally, I believe it also weakens the motivation of those States which are in good faith trying to improve their record regarding voting rights, and eliminates any hope that they would escape from the act's discriminatory restrictions.

The exception provision, like the commerce clause, is a plenary power to be exercised at the discretion of the Congress. To construe language of the Constitution to reach another conclusion is a tortured effort. I and others are working in good faith.

I do not want to be personal, and I do not relish the thought that others will be personal, as we work into the night tonight or tomorrow night on these measures. I hope we can debate as gentlemen this extremely important set of issues.

The method which we who oppose abortion on demand are utilizing is simply a flat prohibition against the use of Federal taxpayer dollars to either support or encourage abortion of unborn children.

I do not think these are "Mad Hatter" methods. I do not think the aim of permitting prayer in our public school is a meaningless gesture or that stopping Federal Government support for the abortion of unborn childern is a meaningless gesture.

In harkening back to the words of our Founding Fathers, it might be worthwhile to remember the words of William Penn who said that "nations which do not choose to be governed by God condemn themselves to be ruled by tyrants."

We have heard talk about embarrassing children, persecuting children, being uncompassionate, imposing faiths, and official prayers. There is no such intent on the part of this Senator. I chaired a hearing on this subject, in what I believe was an impartial manner, and I learned much. I simply believe that it is better not to prohibit prayer in schools than to prohibit it. I do not wish to come to any conclusions about what the wording of any prayer might be. There is no suggestion in the motion before us by the Senator from North Carolina that we draft official prayers. The issue is whether we are going to continue to prohibit prayer in our public schools.

I do not think our fellow-citizens are going to be distracted by the arguments of those who contend otherwise, although I agree with the Senator from North Carolina that not many Senators understood the significance of the vote they took on whether to table the motion by the Senator from Connecticut.

As a Christian, I believe the Jewish faith, the Moslem faith, and a multitude of others together produce a commonality of understanding that draws this Nation and many of our allies together.

I lived in a society which is the opposite of ours, which denies the existence of God and which does not claim to be one nation under God. That society does not recognize the family as the essential social unit because it says officially that the commune is the social unit. We, on the other hand, say the family remains the central social unit and, I believe every responsible historian will have to admit that no society has ever succeeded without recognizing that the family is indeed the basic social unit of society.

Our concepts of both the family and the free enterprise system are derived from the belief in God. The compassion which would prevent us from being unfair to children in devising school prayers comes from that belief in God. Moreover, our national foreign policy is relatively benign and compassionate compared to that of totalitarian atheistic communistic nations because of that enduring belief in God and in the human rights he bestows upon each of us.

Our citizens' rights vis-a-vis the State and the State's perception of its rights vis-a-vis the citizenry is derived from that belief in God and in the God-derived principles which we share as Christians, those of us who are, with Jews, Moslems, and others who possess a concept of God. One such principle is "love thy neighbor as thyself." That precept is the source of human compassion. Such compassion must be the twin to free enterprise. We must apply compassion to one of another color as evidenced by the Biblical story, which demonstrates what is meant by the word neighbor and love thy neighbor as thyself, of the Good Samaritan. The man aided by the Samaritan was a man of another country, a man of another color, a man of another religion and he is like our neighbor whom we must love as we love ourselves.

I believe that is the germ of greatness of this country. I believe it is the germ of greatness which permits us to enjoy the heritage passed on to us by those who have practiced as well as they can, and as we ourselves try to do in our private lives, some behavior which permits one to live in accordance with the dictates of conscience. St. Paul mentioned the proof of our faith. I think this can apply to any faith which believes in the existence of the Diety, and I believe that the societies which have faith have prospered much more than those which have not, proving that a good tree bringeth forth good fruit.

I believe we must continue to emphasize our national belief in God. St. Paul said, "The proof of our faith"—he did not say a good reason to believe that your faith is true, he said, "The proof of our faith is the voice within us which cries out 'Abba'" meaning "father."

I believe most Members of this body and most members of the citizenry of this country have been through experiences in which pain, some kind of extremity in life's experience, have caused them to feel that voice "Abba," "father," and they have cried out either silently or vocally to that father.

Not to remind ourselves, at least occasionally, in school of that while we learn reading and writing and arithmetic would be something which the man who was the father of the public school system would consider unthinkable. Horace Mann would not have believed that we would come to the point of forbidding nonsectarian prayer in schools.

To provide a personal opinion to those who oppose the idea of prayer in schools for what I consider to be in all cases sincere reservations, let me say that I believe that we could trust the children themselves. Each child might care to offer a prayer, reflecting the religious diversity in that classroom. Others who may choose to leave voluntarily or to stay would show respect for that person's faith. I think that such an exchange inculcates something that is not altogether bad. That is but one way to approach this subject.

I do not want any person's feelings to be hurt. I do not want any particular religious faith to be imposed upon the schools because that would truly be the establishment of a religion.

The question, however, is did the Supreme Court, fallible as it is, rule correctly when it said, "It is the establishment of religion to permit voluntary prayer in schools?"

I think that a referendum in this Nation would show that the overwhelming majority wish to stop the prohibition against prayer in schools and that few wish the Government to support through tax dollars unrestricted abortion.

I believe the bill which the Senator from North Carolina presented is relatively moderate, quite moderate. It, in fact, does not meet my own personal standards, but that is no problem as far as I am concerned.

I hope we can be kind to one another in the way in which we debate this because I love each Member of this body. I do not feel self-justified. I do not feel that I have any more patriotism than anyone else in this body, and I do not intend to attack their goodness or their patriotism, and I hope we do not stoop to that.

I know the Senator from Massachusetts did not strike heavily when he made that remark concerning the American flag in the lapel of a Senator. I just hope if I start talking that way someone will warn me because I, too, am pretty committed to the twin measures proposed by the Senator from North Carolina.

I thank the Chair.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I rise to speak on the issue of limiting the jurisdiction of the Supreme Court of the United States.

The procedural posture of the matters pending before the Senate is very complex indeed. There was substantial discussion before this week on an effort to arrange a time limitation so that the issue of abortion could be fully debated by this body as a part of the debt limit bill.

Last week there had been concerted efforts, by the majority leader and others, to have a time agreement with 8 hours devoted to the proposal expected by Senator HELMS, and 8 hours devoted to the constitutional amendment expected to be submitted by Senator HATCH.

That time agreement never came to fruition because, as I understand it, Senator HELMS modified the proposal that he was about to make. Senator HELMS did introduce a so-called amendment whose entire text was "title II." After "title II" was introduced, Senator PACKWOOD began what has been widely described as a filibuster.

I personally did not see the wisdom of speaking at length on a pending matter denominated solely "title II," and declined to commit myself to participate in a discussion of any sort, whether extended or not, whether labeled a filibuster or not, if it related only to "title II."

There is much media speculation about the way that lines are drawn in this body on these issues. Again, speaking only for myself, I have made no prejudgments on many of the matters which are being discussed. I have inclinations and have stated positions on a variety of issues. But I resist being categorized. I resist making commitments in a vacuum. And I resist joining any side until the issues have been defined and we know what it is we are debating.

When my name has appeared in newspapers saying that I am committed to one position or another, I have contacted those responsible for the statement and reminded them that they have no such authorization. I have consistently said that I will examine the issue pending and speak out at an appropriate time and in a constructive manner.

In my judgment, a protracted debate on the proposition "title II" advances no cause. Once we have a fully stated proposition it will be appropriate for Members of this body to express themselves as they see fit.

The majority leader has taken the position in his leadership role that he will honor his commitment to allow free-standing debate on the abortion issue. Therefore this body is going to consider these issues, and I, for one, am prepared to debate, consider, and ultimately vote on the propositions to be submitted by Senator HELMS. and the constitutional amendment to be submitted by Senator HATCH.

As the issue have actually evolved, however, the proposition submitted by Senator HELMS is significantly different from what had been expected. Senator HELMS now submits an amendment which provides, in part, that "the Supreme Court shall not have jurisdiction to review by appeal, writ of certiorari, or otherwise any case arising out of any State statute, ordinance, rule, or regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings." So that the issue that had been expected to be introduced by Senator HELMS on the proposition that life begins at conception has taken a decidedly different turn.

There are two distinct aspects embodied in Senator HELMS' proposal on school prayer. One aspect relates to the substance of school prayer itself, another to the jurisdiction of the Supreme Court of the United States.

Regarding the substance of school prayer, I said earlier today at a hearing before the Committee on the Judiciary that I have an open mind on the constitutional amendment that has been proposed. Deputy Attorney General Edward Schmults testified at length this morning before the committee. I raised a number of questions with Mr. Schmults concerning the current status of the law which allows meditation, according to the concurring opinion by Mr. Justice Brennan in the 1962 decision and according to a holding by a three-judge court sitting in Massachusetts. I raised the question of whether the subject of voluntary school prayer might not better be decided by an adjudication of the Supreme Court of the United States or whether the law in its current posture does not, in fact, allow voluntary school prayer.

That issue is proceeding through hearings in the Committee on the Judiciary and it will ultimately be decided by that committee. If submitted to the floor it will be voted upon by each Member of this body in the form of a constitutional amendment.

It is a complex subject, one that requires substantial analysis and thought before a judgment is reached. And, to repeat, my mind is open on that subject and I will address it in due course as the matter moves through the Judiciary Committee and to the floor of the U.S. Senate.

However, when the issue is raised in terms of the jurisdiction of the Supreme Court of the United States and any effort to limit its jurisdiction, I have a fixed opinion that has evolved from substantial experience both in the law and in dealing with decisions of the Supreme Court of the United States on constitutional issues.

In my judgment it is unconstitutional to limit the jurisdiction of the Supreme Court of the United States because, as our constitutional doctrine has developed, the Supreme Court is, as stated, supreme. And given a form of government with three coordinate branches, one unit must have the power to break the tie and decide what is the law of the land.

Since Marbury against Madison, our Government has functioned with the Supreme Court of the United States having that ultimate power. I suggest that our national Government has functioned very well indeed; that we have evolved into a powerful Nation that cherishes worthy values and guarantees maximum freedom and maximum opportunity for every citizen. It is not a perfect system but it is the best one yet devised.

When I have disagreed with the Supreme Court of the United States on matters affecting my professional responsibilities, and I have done so vehemently, I have nonetheless accepted

its judgments. My acceptance of its judgments has led me to oppose seeking amendments to the U.S. Constitution to overrule the Court's decisions.

The case of Miranda against Arizona is a case in point. Decided on June 13, 1966, its judgment tied the hands of law enforcement officials by prescribing a series of warnings and waivers that all law enforcement officers had to obtain before a defendant's statements could be used in a criminal case.

The Miranda decision was especially difficult for law enforcement officials because it was held to apply retroactively. Any incriminating statement produced by an investigation conducted prior to June 13, 1966, could not be introduced into evidence if the trial started after June 13, 1966.

A simple case is illustrative, one which occurred in the Philadelphia district attorney's office while I served as district attorney.

In mid-May, a man named Hickey was charged with a robbery of a taxicab. He was arrested as a suspect and questioned in what was then a constitutionally permissible manner. He was not subjected to physical abuse. He was not subjected to psychological coercion. He confessed. He told the police the location of the weapon and of the proceeds of the robbery. The police found the money and the weapon and Hickey was indicted for first-degree murder, felony murder.

It was, of course, impossible to bring Hickey to trial between the middle of May and June 13, the day the Miranda decision was issued. When the U.S. Supreme Court said that the Miranda case applied to any matter which had not been tried before the date of the decision, it was required, as a matter of constitutional law, that Hickey's confession be suppressed and that the prosecutor not be permitted to use the weapon or robbery proceeds as evidence. Hickey walked out of court a free man. It was, I thought, an outrageous result.

But once the Supreme Court of the United States had decided Miranda, I disagreed with any efforts to reverse the decision by amending the U.S. Constitution. Instead, I participated in efforts to reargue the Miranda case and, in fact, found such a case in Commonwealth against Ware, where the Supreme Court of the United States granted certiorari to hear the issues raised in the Miranda decision.

Ware had been charged with four robbery-murders involving pushing elderly people down staircases. In 1963, when so charged, he was committed to a mental institution and was not released until 1968.

In the meantime, Miranda had been decided. When Ware's trial came up we were again confronted with a situation where we could not use the confession. But it was obviously impossible to have tried Ware before the Miranda decision because he was not competent to stand trial. So an appeal was taken from the lower court judge's suppression of Ware's confession. The Supreme Court of Pennsylvania upheld that decision saying we could not use Ware's confession, and application was made to the U.S. Supreme Court for certiorari, which was granted. It is a rare occurrence when the Supreme Court grants certiorari in any case.

When that occurred, the Supreme Court of Pennsylvania took the case back and decided that Ware's confession could not be used consistently with the Pennsylvania constitution, which rendered the controversy before the Supreme Court of the United States moot and certiorari was rescinded. Miranda stood as good law.

I refer at some length to that decision to illustrate my personal conviction on the ultimate desirability of vesting in the U.S. Supreme Court the authority to make these final judicial decisions. In the long history of this country, the pronouncements of the Supreme Court of the United States have served us well and the jurisdiction of the Supreme Court of the United States ought to be retained.

I see enormous peril in the course which is being pursued in recent efforts to limit the jurisdiction of the U.S. Supreme Court.

When this body earlier this year, by a 57-to-37 vote, limited the jurisdiction of the Supreme Court of the United States on the busing issue, I predicted serious problems down the road.

Most would agree that busing has been a colossal failure. Neither blacks nor whites like the result of busing. But the substantive issue, the quality of busing, is not the real question. The real question is whether this country continues the jursidiction of the U.S. Supreme Court.

The effort in this amendment by Senator HELMS to limit the jurisdiction of the Supreme Court on voluntary prayer in school again raises that very serious problem.

What I anticipate as the ultimate problem will be an enactment by the Congress that the Supreme Court does not have jurisdiction on a given subject. Congress will then declare that the Supreme Court does not have jurisdiction to decide whether its earlier enactment is constitutional. To amplify, the Congress would say that the Supreme Court does not have jurisdiction on subject A. Then in a second bill, the Congress will say the Supreme Court does not have jurisdiction to decide whether it has jurisdiction over subject A.

The Court will take these two congressional enactments and almost, certainly, rule that both are unconstitutional; that it was a nullity for Congress to declare that the Court did not have jurisdiction over subject A and it was a nullity for the Congress to say that the Court did not have jurisdiction over the subject matter of A.

Congress will then respond by declaring the action of the Court a nullity in deciding that both acts were unconstitutional because the Court did not have jurisdiction. That would create a constitutional deadlock, with the Congress saying the Court's action is a nullity and the Court saying the congressional action is a nullity.

If that unhappy situation occurred, the marshal would have to decide what order to enforce because under our system of government the Court's orders can only be enforced by the executive branch, through the marshal. If it were necessary to enforce court orders in this country, our entire judicial system would break down.

The reason we are able to function under our judicial system is that no one challenges a court order. When a litigant has exhausted his judicial remedies, no matter how disappointed he may be, he abides by the ruling of the Court.

But on the course that we are headed, with a congressional effort to limit the jurisdiction of the Supreme Court, we face a constitutional deadlock and, I submit, anarchy.

So when this discussion reaches the point where the jurisdiction of the Supreme Court of the United States is at issue, then I certainly want to join with the voices of opposition as loudly or perhaps as cogently or as persuasively as possible in order to stop any such stripping of the jurisdiction of the Supreme Court of the United States.

Mr. President, I now yield the floor without this being construed as the end of my speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORE GOOD NEWS FROM WALL STREET

Mr. BAKER. Mr. President, I might say I have just been handed a note that at 2 p.m. today, the Dow Jones was up 17 points on a volume of 100 million shares, which is the highest turnover in the history of the New York Stock Exchange.

I yield the floor.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The Senate continued with the consideration of the joint resolution.

Mr. BAUCUS. Mr. President, I yield to the Senator from Alabama without losing my right to the floor.

Mr. HEFLIN. Mr. President, this amendment, which says it may be recited as the Voluntary School Prayer Act of 1982 has been called a court

stripping bill, meaning that it strips the Supreme Court and the Federal courts of jurisdiction dealing with prayer in public schools and public buildings. I have read very carefully every word in this amendment. This amendment in no way strips the Supreme Court and other Federal courts of jurisdiction relating to involuntary prayers in public schools and public buildings.

The language of the amendment is directed toward voluntary prayers in public schools and public buildings. In my judgment, there will be few court cases or court actions dealing with voluntary prayer. The use of the courts will be related to involuntary prayer.

This amendment my bring about the decision at the entry stage of whether or not the case, statute, ordinance, rule, or regulation involves involuntary prayer. I doubt seriously that if prayer in voluntary, there will be many court cases. The court cases that will arise will involve involuntary prayer. In reviewing this, it seems to me that the language of the amendment accomplishes very little but is, rather, an exercise in symbolism.

I support prayer in public schools if the prayers are voluntary. The key issue is voluntariness.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. SYMMS). The Senator from Montana.

Mr. BAUCUS. Mr. President, the issue here today is very simple. Some would call this a school prayer amendment, the amendment offered by the Senator from North Carolina as the school prayer amendment, and someone else would say that the second amendment offered by the Senator from North Carolina is an abortion amendment. Mr. President, those who look at those two amendments closely will find that is not the case. These are court-stripping amendments. These are amendments which would limit the Supreme Court's jurisdiction over Federal constitutional issues. That certainly is the school prayer amendment. That amendment boldly, expressly, in black and white, definitely states the Supreme Court shall not have jurisdiction over school prayer, and, similarly, the Federal courts will not have jurisdiction.

The abortion amendment is not strictly a court-stripping amendment at all, but, rather, an attempt by statute to overturn Supreme Court decisions. But, nevertheless, the effect is the same.

Mr. President, let me say a few words about the arguments in behalf of the proponents of the amendment; that is, their arguments why the Congress does have the authority to, by statute, limit Supreme Court review.

In my view, the Congress does not have that authority. It would be a travesty of Congress to try to exercise that authority. If the Congress can limit Supreme Court jurisdiction over this issue here today, we could preclude Supreme Court jurisdiction over any other constitutional provision, regardless of what it is, which includes free speech, freedom of religion. It includes the right to bear arms. It includes the right against self-incrimination. Any particular constitutional provision could be rendered useless if we adopt this today, by statute overturning the Supreme Court decisions.

Proponents of this amendment rely both on specific provisions in the Constitution and on language in Supreme Court decisions.

With regard to Supreme Court jurisdiction, they cite article III, section 2—the exceptions clause—which gives the Supreme Court appellate jurisdiction "with such exceptions and under such regulations as the Congress shall make." It is argued that the exceptions clause gives Congress power to withdraw specific categories of cases from the Court's review.

Furthermore, the argument is buttressed by the Supreme Court's holding in ex parte McCardle which recognized that the exceptions clause gives Congress some meaningful power to control the Supreme Court's jurisdiction. In McCardle, the Court upheld the constitutionality of a congressional statute which withdrew the Supreme Court's jurisdiction to hear cases arising under an 1867 habeas corpus statute.

Congressional power to remove the jurisdiction of lower Federal courts presents less complications. Article III, section 2 gave Congress the power to create the lower Federal courts. Arguably, this power to create these courts carries with it the lesser power to reduce or eliminate lower court jurisdiction.

These arguments ignore the fact that these bills represent legislative encroachment on the judicial function and therefore violate the doctrine of separation of powers and the principle of judicial independence as articulated in Marbury against Madison.

Additionally, the Court's holding in McCardle is limited by its holding in United States against Klein. In Klein, the Court overturned a Federal statute stating that congressional authority to control jurisdiction did not include the power to tell the court how to determine cases within its jurisdiction.

However, I would concede that reliance on Supreme Court precedence alone is not satisfactory because the cases are over 100 years old and none of them directly address the legal issues presented by this amendment. Although McCardle and Klein have some relevance, they are clearly not dispositive.

In order really to understand whether the exceptions clause was intended to be utilized in the manner contemplated by this amendment, it is helpful to focus on the circumstances surrounding the inclusion of the clause in the Constitution.

Article VI, clause 2 of the Constitution, the supremacy clause, established the Constitution and Federal laws as the "supreme law of the land." However, the supremacy clause standing alone would have little, if any, meaning if there were no enforcement mechanism for its provisions.

The Articles of Confederation also contained a supremacy clause similar to the one contained in the Constitution. However, the articles provided no enforcement mechanism.

Recognizing this deficiency of the articles, the Framers of the Constitution intended that the Supreme Court enforce the supremacy clause.

Alexander Hamilton wrote in the Federalist Papers:

> A circumstance which shows the defects of the confederation remains to be mentioned—the want of a judiciary power. Laws are a dead letter without courts to expound and define their true meaning and operation. * * * If there is in each state a court of final jurisdiction, there may be as many different final determinations on the same point as there are courts. * * * To avoid the confusion which would unavoidably result from the contradictory decisions of a number of independent judicature, all nations have found it necessary to establish one tribunal paramount to the rest, possessing a general superintendence and authorized to settle and declare in the last report a uniform rule of civil justice.

The proceedings of the constitutional convention give additional support to the premise that the Framers intended to design a judicial branch with one Supreme Court capable of enforcing the supremacy clause. Prof. Lawrence Sager has recently written an important article on Congress power to restrict Federal court jurisdiction which includes an analysis of the convention's proceedings.

Professor Sager notes that the convention adopted the supremacy clause in close to its final form on August 23, 1787.

Then, on August 27, the convention spent the day addressing article III. In discussing the purpose of the clause, Professor Sager writes:

> The exceptions and regulations language was also approved on August 27th, under circumstances that favor a limited view of its scope. . . . It was adopted by the convention on August 27th without a ripple of recorded debate, concern or explication. In light of this quiesence, it is hard to imagine that the framers were consciously adopting a provision that could completely unravel one of the most basic aspects of the constitutional scheme to which they had committed themselves.
>
> Thus, as the delegates to the Constitutional Convention made their peace on issue after issue, the Supreme Court's superintendence of state compliance with national law emerged as the fulcrum of the nation's government.

In a recent letter to STROM THURMOND, chairman of the Senate Judiciary Committee, Attorney General William French Smith expanded on Professor Sager's analysis of the historical purpose of the exceptions clause. Like Sager, the Attorney General finds the absence of debate surrounding the constitutional convention's adoption of the clause proof that the framers did not intend for the clause to give Congress the power to interfere with core functions of the Court.

The Attorney General presents three arguments for this interpretation of the exceptions clause.

Mr. President, let me call special attention to those three arguments that the Attorney General presented in his conclusion that the Founding Fathers did not intend to give Congress such power and scope under the exemptions clause as is argued by the proponents of the underlying amendments.

Argument No. 1: The framers agreed without dissent on the necessity of a Supreme Court to secure national rights and national uniformity of judgments. Yet, there was no debate whatsoever concerning the meaning of the exception clause. The Attorney General argues that if the framers intended Congress to have plenary power under the clause, the obvious inconsistency between the presumed inviolate functions of the Supreme Court and plenary congressional power to control the Court, would have aroused debate.

Second, the creation and function of the lower Federal courts were vigorously debated at the Convention. Ultimately, it was resolved that lower Federal courts would not be created by the Constitution but that Congress would have the power to create such courts, should Congress deem them necessary.

Given the intensity of the debate regarding the lower Federal courts, and the unanimity of the Convention with regard to the role of the Supreme Court, it is unlikely that the Convention would have adopted without comment the exceptions clause, which for practical purposes would place the Supreme Court and the lower Federal courts in the same position vis-a-vis Congress.

Third, the framers were extremely concerned with the concentration of power in one branch of the Government. One of the basic principles of the Constitution was that each branch of Government must be given the means of defense against encroachments by the other branches of Government.

Congressional power under the exception clause would render the Supreme Court virtually defenseless. In view of the carefully structured doctrine of separation of powers, the Attorney General argues that it is inconceivable that the framers would have contemplated an expansive interpretation of the clause.

In addition to these historical views, one must consider how Congress power under the exceptions clause serves as a check on the judicial branch. The framers did not intend to give the legislative branch a direct means of responding to court decisions. If they had, they would have clearly included such a provision in the Constitution.

Instead, the framers authorized the appellate jurisdiction of the Supreme Court "with such Exceptions, and under such Regulations as the Congress shall make." Alexander Hamilton explained in "The Federalist Papers" that the language was intended "to obviate and remove" the "inconveniences" likely to arise within the judicial system.

A clause designed to address "inconveniences" is a far cry from a clause intended to keep the Court from engaging in "unconstitutional" conduct.

More importantly, the exceptions clause does not provide Congress with a direct check on the judicial branch. A direct check would permit Congress to directly veto or directly amend the substantive result of the Court's decision.

By withdrawing the jurisdiction of the Supreme Court over particular issues through congressional legislation, the issue remains unaddressed by Congress.

The result of the divestiture of Federal court jurisdiction is that 50 State supreme courts are free to decide the issue without ultimate resolution by the Supreme Court. However, it is important to note that Congress would be powerless to affect the outcome of the issue in the State courts.

Thus, the exceptions clause would be an odd creation—a legislative check on the judicial branch that does not return power to Congress. Rather, it would be a check on the Federal judiciary that would merely give power to another set of courts. Not only would they be Federal courts but they would be State courts.

In addition, because State courts would become the ultimate decisionmakers, there could not be a monolithic response to fundamental constitutional questions, and there are many such questions which require a monolithic response. The framers would not have designed a check on the judicial branch which would be difficult for Congress to control and inappropriate in many critical situations.

These points were recently made most cogently by now Circuit Judge Robert Bork of the District of Columbia Court of Appeals. Mr. Bork is a distinguished conservative constitutional scholar. He commented on these aspects of the jurisdiction bills at this confirmation hearings before the Senate Judiciary Committee just a short while ago. Part of the dialog went as follows:

Senator BAUCUS. Could you also indicate to this committee why, in your view, it would be unconstitutional for Congress to pass a statute that would limit Supreme Court jurisdiction say, in a Federal constitutional question?

Mr. BORK. Well, the attempt to eliminate Supreme Court jurisdiction as opposed to lower court jurisdiction would have to rest upon the exceptions clause of Article III of the Constitution, which allows Congress to make such exceptions and regulations of the Supreme Court's appellate jurisdiction as it desires. Literally, that language would seem to allow this result. However, I think it does not allow this result because it was not intended as a means of blocking a Supreme Court that had, in Congress' view, done things it should not. The reason I think it was not intended is that clearly in the most serious kinds of cases, where the Supreme Court might do something that the Congress regarded as quite improper, the exceptions clause would provide no remedy. For example, if the Supreme Court should undertake to rule upon the constitutionality or the unconstitutionality of a war, and the Congress was quite upset, thinking that is not the Supreme Court's business, as indeed I agree it is not, to use the exceptions clause to remove Supreme Court jurisdiction would have the result not of returning power to the Congress but of turning the question over to each of the State court systems. We could not tolerate a situation in which 50 states were deciding through their own judges the constitutionality of a war.

Senator BAUCUS. Well, as I hear you, I hear you address the question more on a policy ground. Apart from the policy ground——

Mr. BORK. No, I do not think that is a policy ground, Senator. I think that is a constitutional argument. One of the ways of construing the Constitution, as Chief Justice Marshall showed us so well in *McCulloch* v. *Maryland*, is to argue from its structure: What is the necessity of government? Would the framers have done something that led to results like this? I think the answer is that the framers would not have devised a check upon the judiciary which does not return power to the Congress but returns power to the state judiciary systems, from which it probably cannot be removed. When one perceives that that is the result, then I think one has to say the framers did not intend this as that kind of a check upon the Court. I do not know any way to apply the Constitution that I regard as legitimate other than in terms of the intent of the framer, as best as that can be determined.

This perspective on the exceptions clause is most instructive. The glaring deficiencies of the exceptions clause are an effective retort to the argument that it was intended to be used as a significant check on the judicial branch.

In the final analysis, the deficiencies of the exceptions clause as a check on the judicial branch are much less troubling that its potential to undo the protections of the Constitution. While the Framers of the Constitution designed a judicial branch which could protect the supremacy of the Federal Government, they also designed the

judiciary to assure that individual liberties would not be abridged.

Alexander Hamilton stated in the 78th "Federalist" that the courts have a duty "to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all reservations of particular rights or privileges would amount to nothing."

If Congress authority to remove subject matter jurisdiction over school prayer were upheld as constitutional, there is no "right" or "privilege" in the Constitution that could not be removed from Supreme Court review. Proponents of this amendment have argued that this is an alarmist view. The exceptions clause would still be subject to other constraints contained in the Constitution, they argue.

Yet, under the analysis offered by the proponents of these bills, Congress authority under the exceptions clause is virtually without limits.

Theoretically, Congress could dismantle any constitutional provision it wished, and paralyze the courts from reviewing such an act. It is this theoretical opening which makes the premise underlying the court-stripping bills most distressing.

Under this analysis, the Supreme Court is only free to enforce a constitional guarantee if 51 percent of Congress does not preclude it from doing so.

IMPACT ON THE COURTS

Notwithstanding these legitimate and seemingly overwhelming constitutional concerns, this amendment is still being offered. Why?

In large part this is because some Members of Congress believe something drastic must be done to rein in an "activist Court."

Therefore, their objective is to overturn or minimize the impact of previous "activist" decisions.

However, it is clear that this amendment does not have the effect of overturning previous Court decisons.

In fact, these bills could have precisely the opposite effect they are intended to have.

Withdrawing court jurisdiction over school prayer would not return prayer to the schools.

Instead of promoting school prayer, these bills could elevate the last Supreme Court decision on the subject to a "permanent" status of the law. Engle against Vitale and Abbington School District against Schempp would still be the controlling Supreme Court decisions on the school prayer issue.

Any assessment of whether the bills would minimize the effect of previous decisions would amount to speculation. No one really knows precisely what impact they would have on a specific body of law.

The proponents of this amendment say they are attempting to restore more traditional and stable judicial decisionmaking to the courts.

However, it is difficult to imagine any set of proposals more inconsistent with the goals of certainty or stability than the court-stripping bills.

The simple fact is that the court-stripping proposals remove Federal court jurisdiction while offering State court judges no real indication of what judicial standard they should follow.

It is ironic that those who are complaining about judicial usurpation of the legislative function are promoting legislative solutions devoid of any substantive direction and inviting further and potentially more disparate pronouncements. Such a vacuum of substantive standards is an open invitation to judicial activism in its purest form. The more helpful solutions would be ones that actually set a new substantive standard for the courts to follow.

Not only do the court-stripping bills fail to provide a substantive legal standard, but they preclude the Supreme Court from enforcing its previous decisions.

The sponsors of these bills realize that they cannot directly reverse a constitutional decision of the Supreme Court. Instead, the sponsors are actually promoting an open invitation to State court judges to alter or reverse the controlling Supreme Court decisions.

They want to withdraw the Supreme Court's jurisdiction and give the State courts a knowing wink and say, "Go-ahead—they can't touch us now." This congressional wink is not responsible legislation.

It is an open invitation to the State courts to overrule decisions of the Supreme Court. Likewise, it is an open invitation for the general disrespect of the rule of law.

In fact, the jurisdiction bills are more than an invitation to such disrespect—their success depends on it. The court-stripping bills would have no substantive impact unless State court judges were willing to seize advantage of this opportunity.

This aspect of the court-stripping bills has been criticized by the Conference of State Court Chief Justices. By a resolution adopted at their midyear meeting in Williamsburg, Va., the chief justices raised serious concerns about the impact of these bills on State courts.

Their resolution observed in part:

These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents.

It is difficult to see how such proposals restore more traditional and stable decisionmaking to our judicial system. A court-stripping bill would throw a given body of law into total disarray. In the name of restoring "constitutional" decisionmaking to the courts, the proposals in fact leave open the possibility of 50 unconstitutional decisions being pronounced by the State courts.

Should Congress engage in continued court-stripping, we would be left with a crazy quilt of rights and recourses. In the real world of litigation, it is also likely that an individual will not be pursuing a single constitutional issue at a time.

Would it make sense to tell a citizen that the "due process" portion of his case can be brought in Federal court but the "equal protection" part can only be brought in State court?

Further, would it make sense to tell that same individual that the "due process" portion of the case can be appealed to the U.S. Supreme Court, but the "equal protection" portion cannot?

This amendment is being offered without sufficient consideration of the ultimate impact on our judicial system. The proponents have failed to adequately explain why we should abandon the current constitutional scheme for vindicating rights. It is a burden which they must be forced to assume before we begin to dismantle a carefully constructed judicial system.

IMPACT ON CONGRESS

The impact of these jurisdiction-limiting bills on the judicial system has been underestimated. The same is true of the impact of these bills on the Congress itself.

If Congress decided to enter this arena, the pressure to respond to a wider range of constitutional issues will increase. Every constituency that feels victimized by an adverse constitutional ruling will come running to Congress for a jurisdiction-removal bill.

Proponents of this amendment suggest that fears of congressional abuse of the jurisdiction removal power are exaggerated. They argue that this amendment represents a narrow "surgical" removal of a limited area of jurisdiction.

However, a review of the proposals being considered by the 97th Congress is illuminating as to how the Congress might actually utilize this power to remove court jurisdiction.

One bill, H.R. 114, underscores the unlikelihood of a narrow and "surgical" approach. It would remove court jurisdiction over "any order of a State if such order is, or was, subject to review by the highest court of such State."

This bill hardly represents a carefully circumscribed removal of Federal jurisdiction. It would preclude any lower Federal court challenge to any State court decision. For example, it would totally preclude Federal court review of any habeas corpus case.

Another bill, the Women's Draft Exemption Act, H.R. 2791, is equally instructive. It would remove Supreme Court and lower Federal court jurisdiction over cases involving equal protection and the draft. The sponsor of the bill was attempting to maintain an all-male draft. However, the solution being offered is to leave the decision as to the composition of the armed services up to 50 separate State courts.

The result is that women from Pennsylvania might be constitutionally required to be drafted while women from Arizona might be immune from induction.

In fact, if the proposed statute had been enacted, the all-male draft would have been in more disarray and more discriminatory than if the Supreme Court had determined that an all-male draft violated the equal protection clause.

It is also interesting to note that the bill was introduced on March 24, 1981. At that time, the question of the constitutionality of the all-male draft was pending before the Supreme Court. The Court announced its decision in the case on June 25, 1981.

Although the proponents of this amendment argue that Congress will only use its power to correct flagrant cases of judicial excesses, in the case of H.R. 2791, the jurisdiction removal was being proposed before the Supreme Court had rendered its decision. It is difficult to see what constitutional authority the court had abused.

The author of H.R. 2791 feared the Court's ruling on an all-male draft and the bill was written in anticipation of an adverse decision. His worst fears were not realized as the Court upheld the constitutionality of the all-male draft.

One assumes that after June 25, 1981, the bill became moot and that the subject matter suddenly became appropriate for on-going Supreme Court review. Thus, once the Court made the "correct" decision on the issue—that is, what one Congressman saw as "correct"—there was no need to remove the subject from the Court's jurisdiction.

This highly questionable use of the power to remove Court jurisdiction is only one step removed from the most cynical use of that power.

After reviewing all the bills introduced in this Congress, the prediction that jurisdictional removal language will become a boiler-plate provision of much legislation is not wholly implausible. Any time a Member of Congress is unsure whether the Supreme Court would uphold legislation, he or she could tack on a section denying the Court jurisdiction over that issue.

This could apply to taxation and personal property as well as to social issues.

Let us keep in mind that jurisdiction-limiting legislation is a politically two-edged sword. Although associated with conservatives in the 97th Congress, such legislation could very well be used in ways which would be anathema to traditional conservative values.

If Congress can remove Supreme Court jurisdiction over the issue of school prayer, why can it not pass stringent gun-control legislation and include a provision to prevent Supreme Court review of any case involving the "right to bear arms?"

Why could Congress not impose onerous and discriminatory taxes and include a provision to prevent Supreme Court review of the constitutionality of all Federal taxation cases?

Why could Congress not attempt to totally preempt the States from engaging in conduct traditionally within their power and remove Supreme Court jurisdiction over cases arising under the 10th amendment?

These hypotheticals are the reasonable extension of the strategy being put forward in this amendment. If one supports removal of Supreme Court jurisdiction over school prayer, one necessarily supports the possibility of Congress precluding review of any legislation that might run afoul of any constitutional principle, including those held most dear by the proponents of this amendment.

After reviewing the jurisdictional proposals pending in the 97th Congress, the potential for abuse is apparent. While the simple introduction of a bill is not evidence of what 51 percent of the Congress would agree upon, it is instructive as to the possibilities should Congress continue in its attempt to respond to individual Supreme Court decisions by utilizing the jurisdiction removal device.

Mr. President, I see the Senator from New York in the Chamber. He has very deeply held views on this matter, and I now yield the floor, without it being construed as the end of the speech, for the purpose of the two-speech rule.

Mr. MOYNIHAN. Mr. President, I thank my distinguished and learned friend from Montana for yielding me this time to speak to a matter which he and I and others in this body consider the single most serious constitutional challenge the U.S. Congress has faced in this generation.

In 1981, not long after the 97th Congress convened, representatives of the American Bar Association testified before the Judiciary Committees of Congress that legislation then beginning to be introduced which would strip Federal courts, including the Supreme Court, of jurisdiction over various subject matters, was both unwise as to policy and profoundly questionable as to constitutional validity.

The then-president of the American Bar Association, Mr. David R. Brink, wrote the committees and I quote:

> We confront at this very moment the greatest constitutional crisis since the Civil War.

Mr. President, this is not a casual utterance by one of the many members of the bar or merely a concerned citizen. On behalf of the American Bar Association its president wrote the Judiciary Committees of the Congress and said:

> We confront at this very moment the greatest constitutional crisis since the Civil War.

And we are going to decide on the floor of this Chamber in this session of Congress whether that crisis will be surmounted or whether we will succumb to it and fail in the most fundamental of all commitments we have made to American society, the commitment we made in our oath of office to uphold and protect the Constitution of the United States.

More than 1 year has gone by since the ABA testified and in that year this body has passed a measure to strip lower Federal courts of part of their jurisdiction. It has happened. And we now find ourselves confronted with an amendment that would strike at the heart of the jurisdiction of the Supreme Court.

Mr. President, the Attorney General of the United States has addressed himself to this matter in a letter of May 6, 1982, addressed to the Honorable STROM THURMOND, the chairman of the Senate Committee on the Judiciary.

I ask leave of the Senate to read an extensive passage from the Attorney General's letter to see if there can be any doubt in this body as to its import and its consequence.

The Attorney General wrote to the chairman of the Committee on the Judiciary:

> There is no doubt that Congress possesses some power to regulate jurisdiction of the Supreme Court.

And, Mr. President, no one doubts that. The Constitution is clear in its language on that point; the question is the extent of that power.

To resume my quote:

> There is no doubt that Congress possesses some power to regulate the appellate jurisdiction of the Supreme Court. The language of the Constitution authorizes Supreme Court appellate jurisdiction over enumerated types of cases "with such Exceptions, and under such Regulations as the Congress shall make." The Supreme Court has upheld the congressional exercise of power under this clause, even beyond widely accepted "housekeeping" matters such as time limits on the filing of appeals and minimum jurisdictional amounts in controversy. See Ex parte *McCardle*, 74 U.S. (7 Wall.) 506 (1869).

I will devote some attention to this case later in my remarks, Mr. President, but I should say at this point while the cases holding is clear, its

present meaning is clouded. To continue!

Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

Mr. President, it appears to me that this paragraph, this single sentence should be reread and pondered.

Attorney General Smith states, and I quote:

Congress may not, however, consistent with the Constitution, make "exceptions" to Supreme Court jurisdiction which would intrude upon the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers.

The Attorney General continues:

In determining whether a given exception would intrude upon the core functions of the Supreme Court, it is necessary to consider a number of factors, such as whether the exception covers constitutional or nonconstitutional questions, the extent to which the subject is one which by its nature requires uniformity or permits diversity among the different states and different parts of the country, the extent to which Supreme Court review is necessary to ensure the supremacy of federal law, and whether other forums or remedies have been left in place so that the intrusion can properly be characterized as an exception.

Concluding that Congress may not intrude upon the core functions of the Supreme Court is not to suggest that the Supreme Court and the inferior federal courts have not occasionally exceeded the properly restrained judicial role envisaged by the Framers of our Constitution. Nor does such a conclusion imply an endorsement of the soundness of some of the judicial decisions which have given rise to various of the legislative proposals now before Congress. The Department of Justice will continue, through its litigating efforts, to urge the courts not to intrude into areas that properly belong to the State legislatures and to Congress. The remedy for judicial overreaching, however, is not to restrict the Supreme Court's jurisdiction over those cases which are central to the core functions of the Court in our system of government. This remedy would in many ways create problems equally or more severe than those which the measure seeks to rectify.

May I suggest, Mr. President, that the latter is an understatement of some considerable degree.

Scholars of the court have recorded a long sequence of decisions in which the court has overruled itself, has stated that an earlier reading of the Constitution was wrong and it no longer was sustained.

One of the more notorious of these cases was Lochner against New York, a decision by the Supreme Court in 1905, in which the Court held that the 14th amendment made invalid an act of the New York State Legislature which regulated the hours of work in bakeries.

Mr. Justice Holmes, in that wonderfully caustic observation of the kind he was capable of at such moments, said:

The 14th amendment does not enact Mr. Herbert Spencer's social statics.

Yet it was a full generation before the Court accepted that fact and gradually acknowledged that legislatures did indeed have the right to regulate hours and working conditions, and openly acknowledged that what was once held simply was no longer held.

That is a vital process, part of the living Constitution whose meaning changes from generation to generation.

The fidelity of the American people to the Court's decisions has only been equaled by its fidelity to the Constitution. The judiciary "the least dangerous branch" as James Madison had it in his well-known comment in the Federalist Papers.

Is silent in its obedience to custom and its constitutional role.

It asks only that its integrity be preserved by the other two branches of the Government on which it must in this regard depend.

The Congress until now has been faithful to this arrangement.

We know of no more assertive statement of the necessary dependence of the Court on the other two branches than the famous observation of President Andrew Jackson, who, to paraphrase, said with respect to a ruling of the Court having to do with an Indian treaty:

John Marshall made the decision. Let him enforce it.

One can hope that was a mere deviation from President Jackson's normal constitutional faithfulness and, indeed, in the end the Court rulings were observed. The executive branch did, in effect, enforce them, and we have never in point of fact, until this time, come to the situation where one of the other branches of the Government proposed directly to assault the independence of the judiciary.

President Jackson made his remarks, he did nothing about it. Any President is entitled to a certain amount of frustration from time to time, but when it came down to the decision of whether he would abide by the Court or not, he abided by the Court, and every President has, and until now every Congress has. We are the first Congress to break that faith. In the long history of the Republic we alone have failed in the constitutional duty we inherit from the founders to preserve the integrity of the Court.

We have endured under our Constitution, we have prevailed under our Constitution, and only now, as we approach two centuries of incomparable stability, marred only by one great falling out of the States, only now do we assault the balance of powers built into the Constitution and the integrity of the least dangerous branch.

Do not suppose we shall be forgotten by history if we fail in the effort now underway to stop this. Do not think that history will not record the names of those who rose and defended the fidality of our oath and the integrity of law. And equally record the names of those who failed in their duty, broke their oath—a strong term but not too strong, Mr. President, for a situation in which the president of the American Bar Association has called the greatest constitutional crisis since the Civil War.

I speak, if you will, as someone who has been much interested in the history of the Court's reversing itself and very much involved in some of the issues at the present age in which it seems to me the Court ought to do and which I dare to think it will do.

Put plain, the Supreme Court is often wrong. Not in the sense that one of us might think it wrong, but in the specific sense that the Court, having decided an issue, subsequently declares that its decision was incorrect and either modifies or, in some cases, quite reverses its earlier decision.

As I noted earlier, in the largest matters, these changes occur over a generation; more often over two generations. If we use the somewhat dim convention that a generation is to be measured as 30 years, it was one generation before the Court reversed itself in Lochner, two generations before it reversed itself in Plessy.

On the other hand, as I have said earlier, the Court can reverse itself within a space of a year as it did this past June 1 in United States against Ross.

In the fall of 1979, I published an article in The Public Interest, entitled "What Do You Do When the Supreme Court is Wrong?" I argued that at various points in American history, and sometimes for extended periods, the Court had been wrong about one of another of the principal constitutional issues of that day, and that the Court had subsequently reversed itself, saying, in effect, that it had been in error.

My purpose in that paper was to examine the process by which earlier Court reversals had come about and could do so from the controversies of this time. I described a simple hierarchy of responses to the question, "What do you do when the Supreme Court is wrong?"—responses that in one combination or another had led the Court to change its position. My argument, deriving as much from Finley Peter Dunne as from any more contemporary political scientist was that the Court does respond to positions reasonably propounded. I suggested a hierarchy, if you will, of advocacy. One was to Debate, to Legislate, to Litigate.

Briefly, issues upon which the Court had ruled would remain vital in public forums. Debate would continue on the same question. Variations of the originally contested law would be enacted by legislators who thought the Court had been wrong. The laws would be challenged in the lower Courts and indeed in the Supreme Court, which might already have changed its position. If it was not already convinced, if it ruled again that legislators had written an unconstitutional law, I wrote, the solution was to draft yet another law to the same effect. Changed social circumstances, a differently, or better, argued case, or a new justice might lead to a favorable ruling.

I hoped that those who disagreed with one or another of the Court's decisions, as I had done with respect to opinions on aid to nonpublic schools and public access to pretrial judicial proceedings, would remember that the Court can change its mind and that there is a legitimate and time-tested way to get it to do so.

But I fear that something else has happened; has intervened. In the 3 years since I wrote that paper some people—indeed, a great many people—have decided that they do not agree with the Supreme Court and that they are not satisfied to debate, legislate, litigate.

They have embarked upon an altogether new, and I believe quite dangerous, course of action. A new triumvirate hierarchy has emerged. Convene, meaning the calling of a constitutional convention, overrule, the passage of legislation designed to overrule a particular Court ruling, when the Court's ruling was based on an interpretation of the Constitution and restrict, to restrict the jurisdiction of certain courts to decide particular kinds of cases.

Surely the most pernicious of these is the attempt to restrict the Court's jurisdiction. For it is both colorably constitutional, at least in the case of the inferior courts, as the Attorney General acknowledged in his letter to the chairman of the Committee on the Judiciary, and yet profoundly at odds with our Nation's customs and political philosophy.

It is commonplace that our democracy is characterized by majority rule and minority rights. Our Constitution vests majority rule in the Congress and the President, while the courts protect the rights of the minority.

And there is no more solemn truth than that our democracy or any democracy's quality is measured by the degree to which the rights of the minority are protected. It is no great feat in Government to see that the majority rules. The feat is to see that the majority does not misrule. That the minority is protected.

While the legislature makes the laws, and the Executive enforces them, it is the courts that tell us what the laws say and whether they conform to the Constitution. A court that tells us that, when the meaning of a law is disputed by citizens.

This notion of judicial review has been part of our heritage for nearly 200 years. There is not a more famous case in American jurisprudence than Marbury against Madison and few more famous dicta than that of Chief Justice Marshall who said:

(i)t is emphatically the province and the duty of the judicial department to say what the law is.

The law to which he had the primary reference was, of course, the fundamental law—the Constitution itself.

It is not for the Congress of the United States to say that the Court shall not say what the law is. And in order for the Court to interpret the law, it must decide cases. If it cannot hear certain cases, then it cannot protect certain rights and the rights are accordingly abridged. The rights, for practical purposes, are extinguished, a nation characterized by majority rule and minority rights disappears and the ancient tyrannies reappear.

As cases produce winners and losers, so the ideas and principles on which the cases rely produce supporters and enemies. So I suppose it is only natural that those who see the courts ruling against them should seek to prevent these rulings by denying certain kinds of relief.

The Senate, on February 4 of this year, by a vote of 58 to 38, substantially limited the authority of lower Federal courts to require busing as a remedy for unconstitutional segregation of schoolchildren.

One, could hold the widest range of views on busing or no views on busing or no views whatever and still see our act as an abomination, still see that we blotted the Constitution with that decision. A decision which we seem bent upon escalating in the measure before us.

Mr. President, as the Attorney General has written, the exceptions clause of the Constitution cannot extend to the core functions of the Supreme Court as an independent and equal branch in our system of separation of powers. If the Court is to be but a subordinate branch of the U.S. Congress, then we are no longer the Republic founded at Philadelphia in 1787. We shall have changed, we shall be a different body politic. The claim which those of us who have served our Nation abroad have been able to make around the world, that unique among the peoples of the Earth the Americans have lived two centuries under a written Constitution, a Constitution of majority rule and minority right, that claim will no longer be possible. It will no longer silently be understood and and acknowledged even by those who would wish this Republic worse.

The apparent meaning of the exceptions clause, as the Attorney General referred to it, is that the Congress may, by statute, set boundaries for the Supreme Court's appellate jurisdiction. In McCardle, the Court seemingly bowed. But although McCardle is frequently cited as the leading case in the area by those who would have the Congress restrict the jurisdiction of the Court few seem to have read the case.

The Court said:

We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution and the power to make exceptions to the appellate jurisdiction of this Court as given by express words. What, then, is the effect of the repealing act upon the case before us? We cannot doubt as to this. Without jurisdiction the Court cannot proceed at all in any case. Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause.

But McCardle is, not the end of the matter, for the Constitution has other sections, including article VI, which states, in part:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the Supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution of Laws of any State to the contrary notwithstanding.

Must we not presume from this, the "supremacy clause," that the Constitution's framers intended that there should be but a single arbiter of this supreme law, rather than the anarchy of a separate interpretation by each State? Why write a "supremacy clause" if there were not to be a single supreme tribunal authorized to interpret and pronounce the meaning of the Constitution? Indeed, in the case of Martin against Hunter's Lessee a case decided in 1816, Mr. Justice Story said as much:

A motive of another kind, perfectly compatible with the most sincere respect for state tribunals, might induce the grant of appellate power over their decisions. That motive is the importance, and even necessity, of uniformity of decisions throughout the whole United States, upon all subjects within the purview of the constitution. Judges of equal learning and integrity, in different states, might differently interpret a statute, or a treaty of the United States, or even the constitution itself: If there were no revising authority to control these jarring and discordant judgments, and harmonize them into uniformity, the laws, the treaties, and the constitution of the United States would be different in different states, and might, perhaps, never have precisely the same construction, obligation, or efficacy, in any two states. The public mischiefs that would attend such a state of things would be truly deplorable; and it cannot be believed that they could have escaped the enlightened convention which formed the

constitution . . . (T)he appellate jurisdiction must continue to be the only adequate remedy for such evils.

This from Mr. Justice Story, a mere 28 years from the time of the adoption of the Constitution, the time when the meaning and intent of the people involved were still very much alive, very much a part of American contemporary life.

Mr. President, I rush to the elemental fact. We have before us the greatest constitutional crisis since the Civil War. It is a crisis which has already forced the Senate into extended debate, and none should doubt that this debate will continue until New Year's Eve and the expiration of this Congress, if it must be. I repeat, history will not fail to record which of us, at its moment of greatest peril, stood to defend the Constitution and the Court, and those who chose to attack it.

As it says on the pediment of the Court opposite "Equal justice under law."

Equal justice under law, for whomsoever appeals and whatsoever the issue. Not merely such matters as we who make the laws deem it agreeable to allow the Court to interpret.

The very fact that Congress makes the laws is the fact that requires an independent body to judge whether those laws transgress the basic tenets of the Constitution.

A government of majority rule and minority right. That right of the minority is protected by the Court. When we take that right away, we take away that power of the Court to protect the rights of the minority. We have changed America. We have failed in our oath. The oath we take in this Chamber to protect and preserve the Constitution of the United States.

Mr. President, liberty has not always prevailed. Indeed, liberty has not often prevailed. We count its epochs in years, months, days even, generations rarely. The American Republic, has for two centuries lived under law—under institutions established by a Constitution—and proved durable and stable and productive beyond the experience of mankind. And here we are, Mr. President, assaulting these very institutions in the very center of these institutions' life the Senate of the United States.

It would have been beyond my comprehension that such a moment should come to us. Historians will write of this period and ask, how did it come about? And they will record who prevailed against the mood.

I point with my right hand, meaning to neither one side of the aisle nor the other, because the abhorrence of this measure is felt with intensity on both sides, with the greatest intensity, perhaps, of all by our distinguished manager of this legislation, the Senator from Oregon (Mr. PACKWOOD) who is on the floor.

Mr. President, I now ask unanimous consent to yield the floor, without this being construed as the end of a speech for purposes of the two-speech rule. I observe that the Senator from Oregon (Mr. PACKWOOD) has risen. I now turn my attention to his word.

The PRESIDING OFFICER (Mr. TOWER). Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, may I ask what the order is when we reach 3:30 p.m.?

The PRESIDING OFFICER. At the hour of 3:30, the Senate, under a previous order, will proceed to the consideration of the conference report on H.R. 6955. There is a time limit of 2 hours equally divided between the Senator from New Mexico (Mr. DOMENICI) and the Senator from South Carolina (Mr. HOLLINGS).

Mr. PACKWOOD. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. PACKWOOD. Is my understanding correct that in the order, when we dispose of that business, whoever had the floor at 3:30 will have the floor when we again take up this matter?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I thank the Chair.

Mr. President, let me compliment my colleague from New York on one of the most eloquent addresses we have heard in this Chamber, not just on this subject, but on any subject we have considered in my memory in the 13 years I have been here, on perhaps the most important topic that has been addressed since I have been here.

My friend and colleague from New York and I have been involved in many, many battles together—tuition tax credits, aid to urban areas, a whole panoply. But those issues pale by comparison in relation to the issue of who will be the final determinant of the fundamental constitutional liberties of this country.

My distinguished colleague was absolutely right when he said that it is imperative that those rights be determined by a body as insulated from the passions of the moment as possible. Even supreme courts are not totally insulated, but they are surely more insulated than Presidents; surely more insulated than the Congress; and surely more insulated than State legislatures, to whom many would like to turn over the fundamental liberties of this country and prohibit any appeal except to State judges, who have to suffer the buffets of elections.

Mr. MOYNIHAN. I thank my friend from Oregon for his more than generous words. I just point out once again that the point he just made was made by Mr. Justice Story in 1816.

Mr. PACKWOOD. The battle we are facing here is not—I suppose to outsiders in every generation, they think they are facing the battles of the liberties of Americans. Indeed, it is not the liberties of Americans whose battles we face. Great Britain has faced them for years; in the entire history of Jewish tradition, these are battles they have faced.

These battles that they have faced—

The PRESIDING OFFICER. The Senator will suspend.

OMNIBUS BUDGET RECONCILIATION ACT OF 1982—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 3:30 p.m. having arrived, under the previous order the Senate will now proceed to the consideration of the conference report on H.R. 6955. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong. having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Aug. 17, 1982, p. H6137.)

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and that it be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRADY). Without objection, it is so ordered.

Mr. DOMENICI. I yield myself 10 minutes.

Mr. President, as we begin our consideration of the conference report on the Omnibus Reconciliation Act of 1982 (H.R. 6955), I thank the conferees and, in particular, the subconferees for their hard work.

The provisions of this act are the culmination of the work of seven Senate committees in complying with their reconciliation instructions. I

think their efforts have produced an important and workable piece of legislation that is a substantial step in reestablishing congressional control over Federal expenditures.

This act contains savings that are more than $2 billion above those mandated in the reconciliation instructions included in the first budget resolution for fiscal year 1983. In fiscal year 1983, the savings amount to $3.3 billion. In fiscal year 1984, the savings are $4.8 billion, and in fiscal year 1985, they are $5.2 billion. The total 3-year savings are $13.3 billion.

These savings by themselves will make a substantial dent in our deficits, but—more than that—they are a crucial step in implementing the budget plan agreed to in Congress earlier this year. This reconciliation bill complements the Tax Equity and Fiscal Responsibility Act (H.R. 4961), the other reconciliation bill. Together, these two bills provide a very substantial downpayment on the $280 billion in spending restraint provided for in the budget resolution. These actions will reduce our National Government's need to borrow and that will lower interest rates and help put our Nation's unemployed back to work.

There have been some very encouraging signs recently that the economic outlook may at long last be changing. The improvements this week in the stock market and interest rates are undoubtedly the result of many influences. It is not unreasonable to conclude, however, that the movement of the two reconciliation bills toward final passage had an impact. Congressional approval of these bills in an election year will be a clear demonstration of congressional willingness to bite the bullet on spending restraint and deficit reductions.

Spending restraint is necessary for a more efficient Government. It is good for the economy, not in any abstract sense but in the very real sense that the economy touches all our lives—through our jobs, our earnings, our taxes, the prices of things we want to buy.

I have some tables that show the savings provided in this bill and some brief explanations of the bill's main provisions. I ask unanimous consent that they be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DOMENICI. Mr. President, now let me move from my broad overview of this bill to a more detailed look at its provisions. Because a title-by-title breakdown of the savings in this bill is included in the tables I have submitted, I will cover only a few highlights of the bill at this time.

TITLE I—AGRICULTURE

I might say at this point that the House and Senate, by mutual understanding handle the conference negotiations on a reconciliation bill through a series of subconferences. The members of the substantive authorizing committees are the ones who do the work, the ones who arrive at the conclusions. The Budget Committees are charged with assembling the bill, presenting it to the two Houses, and costing it out. As general conferees, members of the Senate Budget Committee are available, if needed, to go to the meetings and lend our assistance, and as a last resort to vote if that is necessary in order to achieve agreement.

I can report that the Budget Committee conferees did not have to vote in the subconferences on this bill. The authorizing committees did the work; they made the decisions.

In title I of the bill, the conference substitute makes major changes in agricultural programs and reauthorizes and reforms the food stamp program.

It achieves substantial savings in the dairy price support program. It limits the milk price support level to $13.10 per hundredweight for the 2-year period beginning October 1, 1982. Dependent on the levels of Government milk purchases under the price support program, the bill provides for the Secretary of Agriculture to collect either 50 cents or $1 per hundredweight from the proceeds of milk sales. These collections will be used by the Commodity Credit Corporation to offset part of the cost of the price support program. These and other changes in the milk price support program will produce savings estimated at $4.2 billion during the fiscal year 1983–85 period.

Title I also provides for a program of "advanced deficiency payments" for the next 3 years for wheat, feed grains, upland cotton, and rice, whenever an acreage limitation or set-aside policy is implemented by the Secretary of Agriculture. The Congressional Budget Office projects that this program would save money over the 3-year period because it would encourage more farmers to participate in the acreage limitation programs and reduce further price support payments.

The conference agreement also provides for revised loan rate for wheat and feed grains and authorizes the Secretary of Agriculture to use up to $190 million in Commodity Credit Corporation funds to promote export of American agriculture products.

Subtitle E of title I deals with the food stamp program. It reauthorizes the program for 3 years. The bill also revises aspects of the program such as eligibility rules, the manner in which benefit levels are calculated, inflation adjustments, and work requirements, and it tightens administration to reduce fraud and abuse. The CBO estimates that the food stamp provisions will save $1.9 billion over the next 3 years.

Mr. President, I think the Senate should take special note of the fact that the Senate Agriculture Committee and its counterparts in the House produced budget savings which substantially exceeded the reconciliation instructions. The Agriculture Committee was instructed to achieve savings of $3.290 billion during the next 3 years. The conference agreement will save $6.555 billion during this period.

The Senate should understand that these savings are derived by using a uniform estimating practice, which is the practice that the Congressional Budget Office uses, and that is what we used on all of the estimates. I am not here saying that they are in every respect absolutely and totally right, but for consistency, they are the best we have; and certainly in the past, on these kinds of pricing issues, the CBO estimates have been closer and more consistent than most.

TITLE II—FHA INSURANCE PREMIUMS

Title II of the bill changes the way in which the FHA mortgage insurance premium is collected from home purchasers. Up to now, the insurance premium has been collected through fees collected throughout the life of mortgage. The new law will provide for "up-front" collection of the fees at the time of settlement. CBO estimates that the offsetting receipts collected because of this law will amount to $2 billion during the next 3 years.

TITLE III—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

Title III of the reconciliation bill recognizes that an essential element in controlling growth of Government spending is controlling automatically indexed programs. This is a historic change. In the past, automatic cost-of-living adjustments (COLA's) have led to spending growth of as much as $26 billion in a single year. Increases in a single year not the whole story, of course, because increases in 1 year are compounded by increases in subsequent years.

This bill restrains COLA's in Federal military and civil service retirement programs in what I believe is a fair and responsible way when we consider that the Senate bill would have limited COLA's for all military and civilian retirees to 4 percent a year for 3 years and the House of Representatives had voted not to put any COLA's restraint in its bill at all. So we went to conference, Mr. President, with our 4-percent cap and literally zero limitations on the House side. Let me repeat: Despite that wide difference between the two Houses, the conference agreement restrains COLA's in Federal military and civil service retirement in a fair and responsible way.

All retirees aged 62 and over, disabled retirees, and survivors of retirees

will receive a full cost-of-living adjustment. There will be a 1-month delay each year. Those 62 and over are still to receive the full COLA but there will be 13 months instead of 12 between increases in their pension checks.

COLA's will be restrained, however, for relatively young retirees—those 61 years old or younger. Many of these people are still working, even though they receive Federal retirement benefits. Under this bill, these younger retirees will receive a cost-of-living adjustment equal to at least one-half of the increase in the Consumer Price Index. However, if inflation exceeds the rate assumed in the budget resolution for any of the 3 years, this group will receive a full percentage point cost-of-living increase for every percentage point the CPI exceeds the assumptions. They are, in other words, protected if inflation turns out to be significantly higher than predicted.

Despite this restraint, benefits for the retirees who are affected would continue to grow over the fiscal 1982–85 period. For instance, civil service retirees now on the rolls receive an average of $12,441 per year. Under this bill, their benefits would grow to at least $13,876 per year by 1985. Likewise, military retirees, on average, would see their benefits increase from $11,596 to at least $12,819 during the same period.

This new arrangement for COLA's is, so to speak, a diet-COLA plan. It is appropriate for a Government that is trying to get rid of some of its excesses but it is not a starvation diet. Even with this restraint on COLA's for young retirees, the Federal civilian and military retirement system will still require $107 billion of taxpayers' money in fiscal years 1983 through 1985.

TITLE IV—VETERANS' PROGRAMS

The bill makes a variety of changes in veterans' pension, compensation, and housing loan programs. The net effect will be to reduce Federal costs by $552 million during the next 3 years. These savings are achieved through minor adjustments in the compensation and pension programs and through enactment of a housing loan origination fee.

I think the Senate is totally familiar with those. We had them before the Senate in nearly the same form when we passed the original Senate version of this reconciliation bill.

TITLE V—REGULATORY AGENCIES

Title V of the bill reduces the size of the Federal Communications Commission from seven to five members and reduces the Interstate Commerce Commission from 11 to 5 members. This is estimated to save approximately $1 million during the next 3 years.

CONCLUSION

The Omnibus Reconciliation Act, as I see it, less than 90 days before a general election in this country, having passed the House of Representatives today by a vote of 243 ayes, 176 nays, if passed here in the Senate, as I hope it will be within an hour or so, is an indication to me that we are willing to tackle some very hard issues and move steadily toward strengthening fiscal control. I believe it deserves the Senate's endorsement.

Also I think it is fair to say that, with the passage of this bill, and hopefully the passage of the tax reform and equity bill tomorrow, implementation of the budget resolution is well on its way.

Many in the country did not think Congress would do what is necessary to implement that resolution. If we do what I have just described there will remain only three things that have to happen before we leave for elections this year. The total appropriation package will have to shave about $6 billion off current policy for discretionary, nondefense programs—something akin to a freeze. And then the military budget appropriated accounts will have to be reduced by about $8 billion below what the President originally requested. Finally, Congress will have to support the President in holding Federal pay raises to 4 percent. Just three additional actions and we will have made for this year all of the spending reductions and tax reform, revenue increases that the budget resolution contemplates.

I think when we are finished it will be a testimonial to the desire, the willpower, the courage of Congress, especially when you consider the difficulty of many of the issues and the fact that this is an election year.

CONFERENCE AGREEMENT: H.R. 6955—OMNIBUS BUDGET RECONCILIATION ACT OF 1982

The following tables summarize the savings in H.R. 6955, the Omnibus Budget Reconciliation Act of 1982, as agreed to by the Conference Committee on August 16, 1982. These tables have been prepared by the staff of the Senate Budget Committee and are based on Senate scorekeeping methodology.

All of the dollar amounts in the tables have been estimated by the Congressional Budget Office based on the materials provided by the Conference Committee.

SUMMARY OF SAVINGS

[In millions of dollars]

	Fiscal years—			Total fiscal years 1983–85
	1983	1984	1985	
Savings in bill:				
Reduction in budget authority	−2,405	−3,575	−3,910	−9,888
Reduction in outlays	−3,274	−4,671	−5,170	−13,113
Increase in revenues		+94	+55	+149
Reduction in deficit	−3,274	−4,765	−5,225	−13,262
Reconciliation instructions to committees:				
Reduction in budget authority	−1,073	−2,188	−3,379	−6,640
Reduction in outlays	−2,144	−3,704	−5,336	−11,184
Increase in revenues				
Reduction in deficit	−2,144	−3,704	−5,336	−11,184

Note: Details may not add to totals due to rounding.

SUMMARY BY TITLE

[In millions of dollars]

	Fiscal years—			Total fiscal years 1983–85
	1983	1984	1985	
Title I: Agriculture, forestry and related programs:				
Budget authority	−1,954	−2,427	−2,174	−6,555
Outlays	−1,954	−2,427	−2,174	−6,555
Title II: Banking:				
Budget authority				
Outlays	−690	−679	−649	−2,018
Title III: Civil service programs and government operations:				
Budget authority	−282	−957	−1,539	−2,778
Outlays	−462	−1,375	−2,150	−3,987
Revised		+94	+55	+149
Title IV: Veterans' benefits:				
Budget authority	−169	−190	−196	−554
Outlays	−168	−189	−196	−552
Title V: Commerce, science, and transportation:				
Budget authority	−(1)	−1	−1	−1
Outlays	−(1)	−1	−1	−1
Total bill:				
Budget authority	−2,405	−3,575	−3,910	−9,888
Outlays	−3,274	−4,671	−5,170	−13,113
Revised		+94	+55	+149

[1] Less than $500,000.

Note: Details may not add to totals due to rounding.

TITLE I.—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

[In millions of dollars]

	Fiscal years—			Total fiscal year 1983–85
	1983	1984	1985	
Dairy price supports:				
Budget authority	−1,482	−1,361	−1,311	−4,154
Outlays	−1,482	−1,361	−1,311	−4,154
Crop adjustment programs:				
Budget authority	+192	−367	−99	−274
Outlays	+192	−367	−99	−274
Export promotion:				
Budget authority	−116	−64	−8	−188
Outlays	−116	−64	−8	−188
Food stamps:				
Budget authority	−548	−635	−756	−1,939
Outlays	−548	−635	−756	−1,939
Total, title I:				
Budget authority	−1,954	−2,427	−2,174	−6,555
Outlays	−1,954	−2,427	−2,174	−6,555

TITLE II.—BANKING

[In millions of dollars]

	Fiscal years—			Total fiscal year 1983–85
	1983	1984	1985	
FHA mortgage insurance premiums (total, title II):				
Budget authority				
Outlays	−690	−679	−649	−2,018

TITLE III.—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS

[In millions of dollars]

		Fiscal years—			Total 1983–85
		1983	1984	1985	
Spending reduction:					
Cost-of-living adjustments in retirement programs:					
Civil Service	BA		−34	−76	−110
	O	−150	−385	−580	−1,115

TITLE III.—CIVIL SERVICE PROGRAMS AND GOVERNMENT OPERATIONS—Continued

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Military	BA	−260	−732	−1,223	−2,215
	O	−260	−732	−1,223	−2,215
Public Health Service commissioned officers.	BA	.....	−1	−3	−4
	O	.....	−1	−3	−4
Foreign service	BA	.....	−1	−2	−3
	O	−1	−3	−6	−10
Coast Guard	BA	−5	−14	−24	−43
	O	−5	−14	−24	−43
Subtotal, cost-of-living adjustments.	BA	−265	−782	−1,328	−2,375
	O	−416	−1,135	−1,836	−3,387
Other civil service retirement changes.	BA	(1)	(1)	(1)	(1)
	O	−30	−65	−98	−193
Federal pay and travel changes.	BA	−17	−175	−211	−403
	O	−16	−175	−216	−407
Total spending reduction, Title III.	BA	−282	−957	−1,539	−2,778
	O	−462	−1,375	−2,150	−3,987
Revenue increase: Civil service retirement (total revenue increase title III).		.....	+94	+55	−+149
Total deficit reduction in title III.		−462	−1,469	−2,205	−4,136

[1] Excludes budget authority effect of proposed revenue increase.

TITLE IV.—VETERANS' BENEFITS

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Compensation	BA	−42	−44	−45	−130
	O	−42	−44	−45	−130
Pensions	BA	−38	−46	−47	−130
	O	−36	−45	−47	−128
Home loan user fee	BA	−90	−100	−104	−294
	O	−90	−100	−104	−294
Total, title IV	BA	−169	−190	−196	−554
	O	−168	−189	−196	−552

Note.—Details may not add to totals due to rounding.

TITLE V.—COMMERCE, SCIENCE AND TRANSPORTATION

[In millions of dollars]

		Fiscal years—			
		1983	1984	1985	Total 1983–85
Reductions in size of FCC and ICC (total title V) [1].	BA	(2)	−1	−1	−1
	O	(2)	−1	−1	−1

[1] Reduction in authorizations.
[2] Less than $500 thousands.

Note.—Details may not add to totals due to rounding.

TITLE I: AGRICULTURE AND FOOD ASSISTANCE

The Reconciliation bill saves $6.6 billion over the next three years in Title I.

FOOD STAMPS

Reauthorizes the program for three years, with a total of $40 billion in spending authority (the 1982 level is $11.3 billion; the 1985 authorization cap is $13.9 billion).

Saves almost $2 billion over the next three years.

Allows a $1.8 billion "cushion" of standby spending authority for use in the event program costs should exceed current estimates.

Attacks fraud and abuse by vendors and recipients with stronger fines and penalties.

Requires stricter accounting of available client income and assets.

Sets forth incentives and penalties for states to reduce error rates to 5 percent. They now run 12–14 percent according to GAO.

Increases the maximum monthly benefit for a family of four by $20 to $253 on October 1, 1982, and by $60 to $293 by 1985. Yet the bill saves $510 million by restraining projected indexation of the Thrifty Food Plan formula.

Cuts red tape to let states simplify and coordinate program procedures.

Strengthens employment and workfare provisions to spur recipient efforts to become more self-sufficient.

Increases benefits for disabled senior citizens, veterans and veterans' dependents by creating special income eligibility standards.

DAIRY PRICE SUPPORTS

Trims this subsidy by $4.2 billion during the next three years.

Maintains the current $13.10 per hundredweight formula for the next two years, but: assesses dairy producers a 50 cent per hundredweight penalty if federal purchases for price support purposes exceed 5 billion pounds, and a possible additional 50 cents per hundredweight penalty if these purchases exceed 7.5 billion pounds.

Provides for special payments to reimburse dairy farmers who reduce production.

THE 1983 ADJUSTMENT PROGRAM FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

Authorizes advance deficiency payments for these crops at 70 percent of the projected 1982 final payment and 50 percent for 1983–85.

Sets the loan rate for 1983 wheat at $3.65 per bushel; for corn, at $2.65 per bushel.

Requires wheat and rice acreage limits of 15 percent of base and a diversion program for 5 percent of base acreage. The Secretary can increase these limits in tandem; provides a $3 per bushel diversion payment.

Sets feed grain acreage limitations at 10 percent and a diversion of 5 percent of base. Corn diversion payments are $1.50 per bushel.

Contains no reduction program for upland cotton.

EXPORT PROMOTION

Provides $175–$190 million in annual spending authority (from the Commodity Credit Corporation) for the Secretary to engage in promotion and export aid programs designed to improve the competitive position of American agriculture.

TITLE II: BANKING

HIGHLIGHTS

Excludes Federal Housing Administration (FHA) mortgage insurance premiums from the maximum mortgage and down payment requirements imposed on single-family homebuyers whose mortgages are insured by FHA. This enables the Department of Housing and Urban Development (HUD), by regulation, to increase FHA mortgage insurance premium collections by requiring the FHA-insured homebuyer to pay the value in current dollars of 13.5 years of FHA mortgage insurance premiums when the mortgage loan is closed rather than over the 30-year life of the loan. The exclusions provided in this title will be effective only if HUD determines that the proposed new premium structure is actuarially sound.

Requires HUD to rebate to each homebuyer who pays off his mortgage before 13.5 years the "unearned" portion of the premium paid when the loan is closed.

TITLE III

The 1982 Reconciliation Bill saves $4.1 billion over the next three years in Title III. It:

Allows full cost-of-living adjustments (COLAs) for federal civilian and military retirees who are age 62 or older, disabled, or survivors of retirees. Retirees who have not yet reached age 62 will receive one-half of the COLA increase. Retirees under age 62 will also receive the full amount of actual inflation adjustments which exceed the levels assumed in the First Concurrent Resolution on the Budget:

All adjustments would be delayed by one month each year.

The provisions are effective for FY 1983–85.

Provides that individuals with military service subsequent to 1956 who retire under the civil service system receive retirement credit for years in the military only if they make payments to the civilian retirement system for those years. These retirees may then receive both civil service retirement and social security benefits.

Closes a loophole in current law that allows disability recipients to adjust their earnings levels to stay on the disability rolls.

Sets forth additional civil service retirement and pay reforms that:

Alter the basis for computing general schedule pay to reflect the actual number of hours worked per year;

Reduce federal civilian pay by the amount of military retirement COLA increases;

Round annuities to the next lowest dollar; and

Provide that annuities commence on the first day of the month following separation from employment.

Terminate certain travel benefits that now exist for Federal employees assigned to duty stations in Hawaii and Alaska.

TITLE IV: VETERANS' BENEFITS

The Senate and House Veterans' Affairs conferees have achieved savings of $554.0 million in budget authority and $552.1 million in outlays for the period FY 1983 through FY 1985 and exceed their reconciliation instructions under the First Budget Resolution.

The conference report provides FY 1983 reconciliation savings of $77 million in budget authority and outlays entirely in the veterans compensation and pension programs as assumed in the budget resolution. These proposals will also achieve significant reconciliation savings in FY 1984 and FY 1985. The conference agreement would:

Delay the payment of compensation and pension benefits, and certain increases in those benefits, until the first day of the first full month of entitlement;

Institute changes in dependency status under the compensation and pension programs at the end of the month in which the change occurs instead of at the end of the calendar year as is current practice.

Round the amount of compensation and pension benefit checks to the nearest lower dollar as is done for social security; and realign the dependent children's allowance under the compensation program.

Provide for enactment of the President's proposed one-half of one percent VA hous-

ing loan origination fee with an exemption for service-connected disabled veterans and surviving spouses.

Maintain current student benefits under the veterans pension program.

This title reduces the size of two regulatory agencies, the Federal Communications Commission (FCC) and the Interstate Commerce Commission (ICC) to five members each, resulting in savings of approximately $1 million over the three year period FY 1983-85. Currently, the FCC has a statutory limit of seven members and all seven commissioners have been appointed. At present, the ICC has a statutory limit of eleven members, but only six commissioners have been appointed.

Many other Federal regulatory agencies, such as the Securities and Exchange Commission (SEC), the Federal Maritime Commission (FMC), the Nuclear Regulatory Commission (NRC) and the Civil Aeronautics Board (CAB), function efficiently with five members or less.

Mr. DOMENICI. Mr. President, I have significant additional time, but at this point I yield to the distinguished minority leader of the Budget Committee.

Mr. HOLLINGS. Mr. President, before I yield to my distinguished colleague from Wisconsin I shall take but a moment.

Mr. President, on August 5, the Senate passed the omnibus budget reconciliation bill. I supported the bill then because it contained many spending reductions that must occur if we are ever to restore the fiscal credibility of our Government and give the American people confidence that their Government cares and can act responsibly.

It is no secret where I stand on the issue of the mangled economy caused by the Reagan-Kemp-Roth tax hemorrhage policies. We must lower the deficits, and we must lower them now. Each day we wait—we lose. There is but one realistic way of reducing the deficits, lowering the interest rates, and creating more jobs.

I have presented that plan time and again to move us on a path to recovery. So far, the Senate has yet to approve it. I intend to give the Senate another chance and will soon offer my proposal again. The plan consists of three major elements: First, a freeze and cap on the growth in Federal pay and all retirement programs; second, a cap at 3 percent real growth in defense spending; and third, a delay in the July 1983, 10 percent tax cut passed last year by Congress.

This approach is fair. It means that Government as well as the private sector and all elements of society would share in the sacrifice necessary to turn the economy around. The essential ingredient in the matter must be fairness. If we abandon that principle, we will not be able to prevail. And that brings us to where we are today on this reconciliation conference report. Mr. President, when we started out an honest attempt was made to bring spending down and to create discipline in the process—in an even-handed manner—but now that has been renounced. Fairness no longer matters. Discipline is not important.

The reconciliation conference agreement before us tells some of our citizens that the job of fixing the economy is not their responsibility. And it tells a small group that they have to bear the full burden.

The reconciliation instructions required a 4-percent cap on Federal pension COLA's. That was the reconciliation instruction that we had in the Senate and in the House. But this particular instruction has been frittered away. If you are a Federal retiree and 62 years of age or over there is no need to sacrifice. That is what the agreement says. But if you are 61, or 60, or under you must pay.

Let me give you a simple fact: Over 80 percent of the Federal retirees under 62 years of age are military retirees, so instead of making all Federal retirees share in this task we are pointing to one group. We are telling the military retiree that he, and virtually he alone among Federal retirees, must sacrifice again for his country.

I voted to change Federal COLA's from twice to once a year because that was fair in comparison to the once-a-year COLA for social security and other retirement programs. I have proposed comprehensive retirement reform proposals that provide similar and equitable treatment to all retirees because that is fair.

The solution found, however, in the conference agreement simply closes its eyes to equity.

To compound the unfairness of this approach, less than 70 percent of the savings assumed by the COLA cap is provided in the reconciliation agreement. It gives us only $3.4 billion of the $5 billion assumed in the original Senate provision. How can we stand here and act as if we are heroes and that we have accomplished something good, when all we have done is miss the mark on savings by over 30 percent and have at the same time surrendered the principle of fairness?

The distinguished chairman of the Budget Committee has said the COLA provision in the agreement is an excellent compromise.

I would like to quote from yesterday's New York Times:

"Considering where we started," said Senator Pete V. Domenici, the New Mexico Republican who heads the Budget Committee. "I think it's an excellent compromise."

Reading further though:

The resolution was also something of a victory for House Democrats. "There will be no cap, and that was the one principle we had," said Representative William D. Ford, the Michigan Democrat who heads the House Post Office and Civil Service Committee. "Once you give into that, you're sending a signal: If you do it for these retirees, then why not for Social Security? People are edgy about all this talk."

Well, now, Mr. President, I am edgy about the economy; I am edgy about the deficit; I am edgy about the interest rates; and, Mr. President, I am edgy about the highest unemployment figure that we have in history since the Depression. So that is what this is all about.

We need to send a signal about the cost-of-living adjustments. We need that discipline, and this so-called compromise gives in on that score and loses the particular discipline necessary in this process.

I emphasize that I am particularly keen about our military retirees. I carried that ball in an election year, in August of 1982, for candidates, which is no more pleasant than the August 1980 atmosphere. At that particular time, trying to save money, the Congress was eliminating the doubled COLA provision which applied to military and civilian retirees. Since some 35,000 military retirees live in the First Congressional District in my hometown, my campaign was a constant confrontational situation.

Well, one of the candidates for Congress on one side equated retirees with welfare recipients, constantly caterwauling that, after all, the military had given their lives, had sacrificed, they were the ones who had built the country, and the welfare people were getting a lot of welfare.

It seems as if you can always provide for welfare but you cannot provide for retirees.

Well, I had to try to calm the atmosphere and to explain that no retirement plan other than the Government's contemplated a double cost-of-living adjustment, and only 9 percent of the private plans even had a cost of living adjustment. I emphasized that in order to produce a balanced budget, we had to cut somewhere. But in so doing we were doing it in an equitable fashion.

Now this particular compromise in the conference report abandons that principle of fairness and, in essence, off-loads the burden totally on the military retirees with the rationale that they are younger. I can give an equally balancing rationale that those who are 62 or older have it made. Their expenses are not nearly as big, their children are grown and they can get help. But, those who have not reached it are now dependent on a good retirement.

I can also give you the labor argument that as long as you give a good cost-of-living adjustment to the military retirees there is less of an inducement for them to enter the labor force and take away much-needed jobs.

So there are good, equal rationales to be given to not disparaging and discriminating against the military retirees.

So we have failed the Senate, in my opinion, and I am sorry that I cannot support the conference report. I understand and know that our distinguished chairman, Senator DOMENICI, has done once again an outstanding job. He carried on the liaison work necessary between the regular authorizing committees. He tried to hold their feet to the fire as much as he possibly could. This has always been a sore point over on the House side politically. But for the military, who are not in the conference, who performed military duty, they are quickly forgotten by this particular agreement. I think it is improper and, therefore, I cannot vote for the passage or the adoption of the conference report.

I now yield such time as is necessary to my distinguished colleague from Wisconsin.

The PRESIDING OFFICER (Mr. DANFORTH). The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from South Carolina.

Mr. President, I shall vote against the conference report on H.R. 6955, the budget reconciliation bill, because its dairy provisions amount to an absolute, total, unmitigated disaster for dairy farmers in Wisconsin and throughout the Nation.

I shall cast this "no" vote reluctantly because I favor budget cuts, and this budget reconciliation conference report provides for some important and necessary cuts.

Chairman DOMENICI and ranking member HOLLINGS did some tough, hard, unpopular work. But by any standard of fairness and equity, this conference report is unacceptable when it comes to dairy farmers.

Why do I say that? Mr. President, the dairy price support level has been frozen at $13.10 per hundredweight since October 1, 1980. What that means, of course, is the price the farmer receives was frozen for nearly 2 years. Meanwhile the cost of everything they buy has gone up because they suffer from inflation. Now the conferees have come forward with a dairy provision that calls for continuing this freeze at $13.10 per hundredweight for another 2 years and then—for the year beginning October 1, 1984—the support level would be set at the percent of parity that $13.10 per hundredweight represents as of October 1, 1983.

That may be bad enough on its face. But it gets much worse. In fact, dairy farmers will be getting only $12.60, not $13.10, per hundredweight because of a 50-cent-hundredweight production adjustment assessment. So we know the prices dairy farmers will pay will go up, and what this says is the price they receive will go down, and down sharply. That 50-cent-per-hundredweight assessment would be lifted when projected Commodity Credit purchases fall below 5 billion pounds milk equivalent in any fiscal year. But that is not going to happen, in all likelihood, in all reality, probably for years to come.

There is worse to come. Just listen to this:

But if projected surpluses for a fiscal year should exceed 7.5 billion pounds milk equivalent, the Secretary of Agriculture could impose yet another assessment of 50 cents per hundredweight, thereby cutting the price support level to $12.10 per hundredweight. We voted in this body on this very issue about 2 weeks ago and overwhelmingly, two to one, rejected that position.

The Secretary could not levy this second fee until April 1, 1983. And dairy farmers who cut their production to levels specified in the conference report would receive a rebate of this second assessment.

Mr. President, the effects of these provisions will be devastating on dairy farmers in Wisconsin and the rest of the Nation.

A recent study indicates that the cost of production for the average dairy farmer in Wisconsin—and we think we have the lowest cost anywhere in the country—the cost in Wisconsin is $12.97 per hundredweight. That means the dairy farmers get nothing—get nothing—at $12.60 and certainly nothing at $12.10.

But now, under the terms of the conference report, dairy farmers face the prospect of a price support level that falls below the cost of their production—well below their cost of production. And, of course, their cost of production will continue to increase every day. The result will be cruel and absolute and sure.

This can lead to only one result: Many more dairy farmers in Wisconsin and elsewhere will be driven out of business. Because of the harsh dairy provisions agreed to by the conferees, we will be seeing depression-level dairy farm foreclosure sales across this country. Farms that have been in the same family for years will be auctioned off and yet another series of cruel blows will be inflicted on the family farm structure in America.

The land will not disappear. The herds will not disappear. The equipment will not disappear. They will be auctioned off, and that production will be done by larger units, some corporations that have the capital to suffer for a few years and then survive, and the family farm structure will have gone.

Mr. President, I must say, finally, there were other ways to solve this problem. The self-help program that the dairy co-ops suggested that would reduce production, reduce the cost of the Federal Government and permit the dairy farmer to survive, was reasonable.

For these reasons, I must vote against the conference report on H.R. 6955. I urge my colleagues to do the same.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, I yield myself 5 minutes, then I am going to yield to my good friend, the distinguished chairman of the Finance Committee, the Senator from Kansas. From what I understand on our side, the only other Senator who desires to be heard is the distinguished Senator from Washington, Senator GORTON. I say that so Senators who are listening will know that if we can, the distinguished minority manager and myself want to complete this measure without using the full 2 hours and vote as close to 5 as possible. We only need about another 10 or 15 minutes on the majority side, as far as I know.

Mr. HOLLINGS. We will put that out on our hotline.

Mr. DOMENICI. Mr. President, I am sorry the distinguished Senator from Wisconsin left the floor. But I really cannot believe what I heard. I just cannot believe that the distinguished Senator from Wisconsin, who is always willing to cut somebody else's program, when he comes to this floor talking about fiscal responsibility, that he would have the tunnel vision to vote against a $13.3 billion deficit reduction on the basis that the milk pricing subsidy in this bill is devastatingly low.

I am convinced that the American people will not think this bill is devastating when they consider what it is costing the American taxpayer for the overproduction of milk that is occurring so that we can buy it and store it, have some of it spoiled and give away some more of it. We have continued to do this year after year after year.

So while I have the greatest respect for anyone that opposes this bill I really think to oppose it on the ground that a program that is so costly to the American taxpayer, that has grown like Topsy, that has become an incredible program from the standpoint of its results, would be here used as the basis to vote against significant deficit reductions.

Mr. HART. Will the Senator yield for a question?

Mr. DOMENICI. I am pleased to yield.

Mr. HART. The Senator from Colorado does not recall accurately, but I believe the Senator from Wisconsin was one of those who voted to amend the Constitution of the United States to balance the Federal budget, was he not?

Mr. DOMENICI. I do not think there is any doubt. You can check the record.

Mr. HART. I thank the Senator from New Mexico.

Mr. DOLE. He also voted to close the gym.

Mr. DOMENICI. The distinguished Senator from Kansas says he also voted to close the gym.

Mr. HOLLINGS. He has gone to the gym. [Laughter.]

Mr. DOMENICI. Mr. President, I yield myself 5 additional minutes, and then I will yield as stated.

Today I wrote a letter to the Chairman of the Federal Reserve System, Chairman of the Board of Governors, Paul Volcker. I asked him in my letter for his views about the expenditure and revenue legislation before the Congress.

Mr. President, I ask unanimous consent that the letter I wrote to Chairman Volcker asking him for his views be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C. August 18, 1982.

Hon. PAUL A. VOLCKER,
Chairman, Board of Governors of the Federal Reserve System, Washington, D.C.

DEAR CHAIRMAN VOLCKER: As you know, Congress is considering what many people regard as historic legislation, the Tax Equity and Fiscal Responsibility Act of 1982 and the Omnibus Reconciliation Act of 1982, which implement the fiscal decisions in the first Concurrent Budget Resolution for FY 1983. Taken together, this legislation reduces the federal deficit by about $130 billion over the next three years.

Since you are a leading figure in the implementation of economic policy, I would appreciate your views on the effect of this legislation on financial markets and the long term growth potential of our country.

Sincerely,

PETE V. DOMENICI,
Chairman.

Mr. DOMENICI. Mr. President, I would like to read his response.

DEAR SENATOR DOMENICI: I have your letter of today inquiring of my views about the expenditure and revenue legislation before the Congress, which, as I understand it, essentially implements major portions of the First Budget Resolution adopted earlier.

As you know, I do not feel it appropriate to comment on the specific spending and revenue actions contained in the bills before you. But I would emphasize the larger questions at stake.

I testified before your Committee recently that, while the particular actions proposed may not represent "perfection," I strongly welcomed the effort of the Congress to achieve greater fiscal restraint, and that indeed I—and the markets—would be looking toward "converting the intentions expressed in the First Budget Resolution into concrete legislative action."

Our prospective deficits are simply too large. We must recognize that monetary policy is only one instrument of economic policy, and our common objective of a strong and prosperous economy depends on appropriate and complementary fiscal policy. If we are to achieve and sustain lower interest rates and avoid preempting funds needed for housing, business investment, agriculture, and small businesses in the years ahead—greater fiscal discipline is needed. The bills before you represent important steps in that direction. Controversy about particular provisions should not obscure that fact.

My earlier testimony suggested failure to carry through now on the overall intentions of the Budget Resolution would, in my judgment, carry the implication to a skeptical audience in the markets and elsewhere that Congress will be unable to deal effectively with the large budget deficits looming ahead. Those effects on expectations would, in turn, have an adverse impact on credit markets and the prospects for sustaining declines in interest rates. I continue to believe that it is of critical importance to the budgetary outlook and confidence in the markets that the conclusion of Congressional deliberations be the realization of the improvement in the fiscal position contemplated by the Budget Resolution,

Sincerely,

PAUL A. VOLCKER.

Mr. DOMENICI. Mr. President, I note again that the House agreed to this conference report by a vote of 243 to 176 just a few months before an election in which all House seats are up for reelection.

The distinguished minority manager has been a leader in trying to restrain indexation. But this bill is a major break with the practice of automatic indexation. There is a 1-month delay in COLA's for all Federal retirees. And there is a half rather than a full COLA for all Federal retirees under 62 years of age. There are also some other reforms in the Federal retirement system. The sum total of the savings is about $4.1 billion in reduced expenditures. When you start with zero restraint, I think the compromise is a good one.

When you start with zero, with the Senate at a full 4-percent cap, I think the compromise is a good one. We should make this start this year in the very vital area of automatic indexation.

How much time does the distinguished Senator wish?

Mr. DOLE. Five minutes.

Mr. DOMENICI. I yield 5 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I wish to commend the distinguished Senator from New Mexico. It appears that through his efforts and the efforts of the other members of the Budget Committee, we are about to help preserve the budget process, which I think we really need in this Congress. I know we have differences on specific spending reductions. But it would seem to me that passage of this measure will indicate to the American people and to the financial markets—which are going in the right direction for a change—that we mean business. To some extent, this is because of the leadership of the Senator from New Mexico. This is not business as usual. Things are changing. We are going to continue to put pressure on Federal spending. We are going to do what is necessary tomorrow and Friday, hopefully, on the revenue side through tax reform, closing loopholes, and having more tax compliance.

I am pleased to note the the distinguished minority whip, Senator CRANSTON, has indicated he will support the tax bill. I understand my colleague from Montana on the Finance Committee, Senator BAUCUS, will support the tax bill. There is no doubt in my mind it is going to be a good bipartisan package. I am still hopeful the good Senator from South Carolina will come on board. Last year, the tax cut was too big, and this year the increase is too small. Somewhere down the line they may get together.

Before I make a comment on the reconciliation, I want to put into the RECORD a list of the deficit reduction action group coalition members. I think it would be helpful to the Members if they will look over this list. It goes from the American Business Conference, the Business Round Table, the National Association of Manufacturers, Westinghouse, General Electric, National Beer Wholesalers, and on, and on, page after page, of people who understand the importance of bringing down deficits and bringing down interests rates. The list also includes the Federation of American Hospitals, American Express, Associated Builders and Contractors, Federation of American Hospitals, and the Potato Chip and Snack Food Association.

Everyone is climbing on board. I hope that message is not lost on my Republican colleagues in the House as they prepare to make a tough vote tomorrow.

In addition, Mr. Robert Georgine, president of the AFL building and construction trades department, and a number of unions are supporting the bill. The American Association of Retired People sent a mailgram to every Member of the House today supporting the revenue and spending reduction bill because they know how necessary it is to bring down spending and keep interest rates going in the right direction.

It would seem to me that this growing support is an indication that we can work together and that we are on the right track. I hope this list might be helpful to Members tomorrow.

I ask unanimous consent that the list and other attached documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEFICIT REDUCTION ACTION GROUP
COALITION MEMBERS

American Business Conference—Chairman.

American Automobile Association.
American Council of Life Insurance.
American Electronics Association.
American Retail Federation.
Owen Corning.
Direct Selling Association.
General Aviation Manufacturers Association.
General Mills.
General Motors.
B. F. Goodrich.
Goodyear.
Independent Business Association of Wisconsin.
Johnson & Johnson.
Latin American Manufacturers Association.
3 M.
Motorola.
National Apartment Association.
National Association of Brick Distributors.
National Association of Furniture Manufacturers.
National Association of Home Builders.
National Association of Life Underwriters.
National Association of Manufacturers.
National Association of Small Business Investment Company.
National Association of Realtors.
National Association of Retail Druggists.
National Association of Women Business Owners.
National Lumber and Building Material Dealers Association.
National Oil Jobbers Council.
National Retail Merchants Association.
National Small Business Association.
National Tire Dealers & Retreaders Association.
National Tooling & Machining Association.
Prudential Insurance.
Semiconductor Industry Association.
Small Business Association of New England.
Southern Furniture Manufacturers Association.
Specialty Advertising Association.
Sun Companies.
Uniroyal.
Westinghouse.
General Electric.
National Beer Wholesalers Association.
National Leased Housing Association.
Computer Sciences Corporation.
National Mass Retailing Institute.
Massachusetts High Tech Council.
Independent Bakers Association.
FMC.
International Association of Trade Exchanges.
Trans America Occidental Life Insurance.
New England Council, Inc.
Council for Rural Housing & Development.
Distilled Spirits Council.
Business Roundtable.
National Corn Growers Association.
Edison Electric Institute.
Chrysler Corporation.
Dresser Industries, Incorporated.
Manufacturers Agents National Association.
Small Business Legislative Council.
Dravo Corporation.
Detroit Edison.
American Trucking Association, Inc.
American Hospital Supply Corporation.
National Forest Products Association.
Texaco.
Independent Business Association of Furniture Manufacturers.
Sears Roebuck.
Miller-Schroeder Municipals.
American Pulpwood Association.
Aetna.
New York Life Insurance Company.
Independent Insurance Agents of America.
American Gas Association.
Committee for Responsible Federal Budget.
Charter Company.
Federation of American Hospitals.
American Express.
Burlington Industries.
Celeron Corporation.
Anheuser Busch Company, Inc.
American Association of Equipment Lessors.
Corning Glass.
Hanna Mining.
Kaiser Aluminum.
Bristol-Myers.
Associated Builders and Contractors.
American Retail Druggists Association.
Securities Industry Association.
Rockwell.
Federation of American Hospitals.
U.S. Steel.
Potato Chip & Snack Food Association.
John Deere & Company.
Exxon.
Bendix.
Iron & Steel Institute.

TEXT OF TELEGRAM SENT BY 20 LABOR LEADERS, AUGUST 17, 1982

DEAR MR. PRESIDENT: We, the undersigned, believe, as you do, that the tax bill reported by the Congressional Conference Committee must pass both houses of Congress in order to reduce federal deficits, continue the reduction of interest rates, and stimulate business activity which will provide more jobs for our members.

We also strongly believe that the extension of unemployment compensation benefits for approximately 2 million workers is an important component of this bill.

We further believe that failure to pass this tax measure will significantly weaken the Congressional budget process.

As responsible representatives of organized labor, we are joining with you in urging the Congress to pass the Tax Equity and Fiscal Responsibility Act of 1982.

Respectfully,

Mr. Robert Georgine, President, AFL-CIO Building & Construction Trades Department; Mr. Teddy Gleason, President, International Longshoremen's Association; Mr. John F. Sytsma, President, Brotherhood of Locomotive Engineers; Mr. Henry Schickling, President, International Union of Tool, Die & Mold Makers; Mr. Shannon Wall, President, National Maritime Union; Mr. Jesse Calhoon, President, Marine Engineers Beneficial Association; Mrs. Linda Puchala, President, Association of Flight Attendants; Mr. Frank Chiappardi, President, National Federation of Independent Unions.

Mr. Victor Herbert, President, Air Line Employees Association; Mr. Tom Martinez, Secretary-Treasurer, National Maritime Union; Mr. Joe Maloney, Secretary-Treasurer, AFL-CIO Building & Construction Trades Department; Mrs. Mary Acker, President, National Federation of Licensed Practical Nurses; Mr. Duane Millar, Vice President, International Union of Tool, Die & Mold Makers; Mr. Fred Tittle, Secretary-Treasurer, National Federation of Independent Unions; Mr. Truman Davis, President, Congress of Independent Unions; Mr. W. S. Wanke, Vice President, Brotherhood of Locomotive Engineers; Mr. Clark Libhart, Vice President, Congress of Independent Unions; Mrs. Iveas Pruitt, Secretary, National Federation of Licensed Practical Nurses; Mr. William A. Schneider, Vice President, Air Line Employees Association; Mr. Gene DeFries, Secretary-Treasurer, Marine Engineers Beneficial Association.

CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA,
Washington, D.C., August 17, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the over two million members of the Internatioal Brotherhood of Teamsters, I share the same beliefs as you that the Tax Equity and Fiscal Responsibility Act of 1982 must pass both houses of Congress. This legislation will serve to reduce federal deficits, continue the reduction of interest rates, and stimulate business activity which will provide more jobs for members of our Union.

The Teamster's Union also strongly believes that the provisions to extend compensation benefits for approximately 2 million workers is a vital component of this legislation.

The Tax Equity and Fiscal Responsibility Act is a piece of legislation that is unprecedented in nature and represents the serious economic dilemma that our nation is currently facing. The Congress is faced with a bill that can provide the real foundation to rebuild our great nation. If Congress fails to pass H.R. 4961, is will not only significantly weaken the Congressional budget process but serve to show all of America that there is no solution to our nation's economic plight.

As a representative of organized labor, I join with you in urging Congress to pass the Tax Equity and Fiscal Responsibility Act of 1982.

Respectfully,

ROY L. WILLIAMS,
General President.

OPERATION INDUSTRY COOPERATION,
NATIONAL GOVERNMENT RELATIONS SERVICE,
Washington, D.C., August 16, 1982.

DEAR FRIEND: I am writing you to urge your cooperation in securing the passage of the Dole Tax Bill currently awaiting final congressional action. As you know Senator Dole has shaped legislation which tries to balance and reform the current tax laws so that there is more fairness taxing the truly greedy and helping the truly needy.

This bill as a result of the cooperation of the ranking Democrat on the Finance Committee Senator Russel Long has passed the Senate with bi-partisan support. With the help of Barber Conable and Dan Rostenkowski on the House side a bi-partisan combination is pushing to get the bill accepted. Those of us who know Senator Dole are aware of his sensitivity to the issues and concerns of the Black community as well as to those of the white community.

Thus, the equity and fairness in this tax bill is better than most and certainly the best that is possible in the 97th Congress.

As you know politics is the art of the possible and I urge you to support the President and the leaders of both parties who are supporting this bill.

Please write your Congressman when you receive this and tell him to use his influence and his vote to get this bill passed.

I am sincerely yours,

Dr. MAURICE A. DAWKINS.

MAILGRAM TO ALL MEMBERS OF HOUSE AND SENATE

Hon.————————

U.S. Senate/U.S. House of Representatives, Washington, D.C.

DEAR————————: On behalf of the more than 18 million members of the American Association of Retired Persons, I want to express our support for the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

Needless to say, the bill does include provisions with which we take exception. However, we believe that the package agreed to by the conferees is a balanced one under the circumstances. Failure to pass the conference report will add substantially to the deficit, further aggravate our economic problems, and undermine the well-being of all Americans, including the elderly.

Thank you for your attention.

Sincerely,

CYRIL F. BRICKFIELD,
Executive Director.

NATIONAL COUNCIL OF LA RAZA,
Washington, D.C. August 18, 1982.

Hon. RONALD REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: After careful consideration of the merits of the new tax legislation (H.R. 4961) passed by the Senate/House conferees and supported by you on national television, the National Council of La Raza believes that it is in the best interests of the nation and the Hispanic community to pass this legislation.

The aforementioned legislation brings a measure of equity and fairness to our tax system and provides much needed additional revenue which will reduce Federal deficits and hopefully bring down interests rates. As with any legislation, the proposed bill has elements that some of us would have wanted otherwise. But overall it represents a compromise that we can enthusiastically support.

Sincerely,

RAUL YZAGUIRRE,
President.

[Telegram]

August 17, 1982.

The PRESIDENT,
The White House
Washington, D.C.

DEAR MR. PRESIDENT: We the undersigned, businessmen and directors of the Chamber of Commerce of the United States—and as a body making up a majority of the Chamber's Board—wish to reaffirm our support of your economic recovery program and the tax bill just reported out of conference. We feel the tax bill is necessary to help reduce the deficit, bring interest rates down and to insure further spending cuts.

Respectfully yours,

Paul Thayer, Chairman, Chamber of Commerce of the United States, and Chairman and Chief Executive Officer, the LTV Corporation; V. J. Adduci, President & Chief Executive Officer, Motor Vehicle Manufacturers Association, Washington, D.C.; Roy L. Ash, Los Angeles, California; F. Caleb Blodgett, Vice Chairman of the Board, General Mills, Inc., Minneapolis, Minnesota; Andrew F. Brimmer, President, Brimmer & Company, Inc., Washington, D.C.; Theodore D. Brown, Chairman of the Board, First National Bancorporation, Inc., Denver, Colorado; John F. Burlingame, Vice Chairman of the Board & Executive Officer, General Electric Company, Fairfield, Connecticut; August A. Busch III, Chairman of the Board and President, Anheuser-Busch Companies, Inc., St. Louis, Missouri; Louis W. Cabot, Chairman of the Board, Cabot Corporation, Boston, Massachusetts; James B. Campbell, President, Mississippi School Supply Company, Jackson, Mississippi; Robert T. Campion, Chairman and President, Lear Siegler, Inc., Santa Monica, California; Frank W. Considine, President & Chief Executive Officer, National Can Corporation, Chicago, Illinois; William C. Douce, Chairman of the Board & Chief Executive Officer, Bartlesville, Oklahoma; Charles W. Durham, Chairman of the Board and Chief Executive Officer, Henningson, Durham & Richardson, Inc., Omaha, Nebraska; Virgil R. Eihusen, Chairman of the Board and Chief Executive Officer, Chief Industries, Inc., Grand Island, Nebraska; Robert F. Erburu, President and Chief Executive Officer, The Times Mirror Company, Los Angeles, California; William H. Genge, Chairman and President, Ketchum Communications, Inc., Pittsburgh, Pennsylvania; Howard H. Kehrl, Vice Chairman, General Motors Corporation, Detroit, Michigan; Breene M. Kerr, Chairman and President, Kerr Consolidated, Inc., Oklahoma City, Oklahoma; Robert D. Kilpatrick, President, CIGNA Corporation, New York, New York; Lewis W. Lehr, Chairman and Chief Executive Officer, 3M Company, St. Paul, Minnesota; Donald S. MacNaughton, Chairman of the Board and Chief Executive Officer, Hospital Corporation of America, Nashville, Tennessee; Peter A. Magowan, Chairman and Chief Executive Officer, Safeway Stores, Inc., Oakland, California; Richard J. Mahoney, President & Chief Operating Officer, Monsanto Company, St. Louis, Missouri; Robert H. Malott, Chairman of the Board and Chief Executive Officer, FMC Corporation, Chicago, Illinois; Donald C. Miller, Vice Chairman and Director, Continental Illinois Corporation, Chicago, Illinois; William G. Phillips, Chairman of the Board and Chief Executive Officer, International Multifoods Corporation, Minneapolis, Minnesota; Dean P. Phypers, Senior Vice President, IBM Corporation, Armonk, New York; Robert H. Quenon, President & Chief Executive Officer, Peabody Coal Company, St. Louis, Missouri; Gerald H. Trautman, Chairman of the Board, The Greyhound Corporation, Phoenix, Arizona; C. William Verity, Jr., Chairman of the Board, Armco Inc., Middletown, Ohio.

Mr. DOLE. Earlier, the Senator from New Mexico mentioned the dairy program. We do reduce the cost of the dairy program. We should reduce the cost of the dairy program. We have a dairy industry in the State of Kansas and in other States represented here. But I think most people in the dairy industry are saying, "If we want to stay in the program, we had better take a look at it." We will save about $1.5 billion in fiscal 1983, $1.4 billion in fiscal 1984, and about $1.3 billion in fiscal 1985.

I did not hear the distinguished Senator from Wisconsin, but I am certain he made a glowing statement on why we should not cut spending in this area. I assume Wisconsin is a fairly substantial dairy-producing State. It was, has been, and will continue to be. It is a great industry. But we cannot exempt people in our own States and just attack our own colleagues and balance the budget. Some make a career out of that. The rest of us fortunately, do not.

I suggest that we are moving in the right direction and that we are making the necessary sacrifices. I would like to join my colleagues in supporting approval of the conference report.

I have a statement as it affects paid acreage diversion and advance deficiency payments, the export financing programs, and the reduction in the cost of the dairy program. Again, I want to indicate that the National Milk Producers Federation has indicated its support for this program.

CONFERENCE REPORT ON RECONCILIATION

Mr. President, I would like to join my colleagues on both sides of the aisle in strongly supporting approval of the conference report on the omnibus reconciliation bill.

I have prepared separate remarks on the major changes in the food stamp program that accomplished $1.9 billion in savings over the 3-year reauthorization. I would like at this time to comment on the other reforms in the agriculture budget that have resulted in improved, more cost-effective programs for American farmers, taxpayers, and consumers.

PAID DIVERSION AND ADVANCE DEFICIENCY PAYMENTS

Mr. President, the conference report includes a mandatory 5-percent paid acreage diversion for wheat, feedgrain, and rice producers who participate in acreage reduction programs for 1983 crops. The conferees also agreed that one-half of this payment will be made at the time farmers sign up for the total program, a requirement that will provide up-front financing in advance of planting expenditures for many producers.

While both original House and Senate bills contained a mandate for a 10-percent paid diversion program, it was agreed that many farmers would not be able to participate if the base acreage reduction were set at 15 percent. We did specify, however, that any increase in the unpaid program would be matched by proportionate increases in the paid diversion in order to maintain the attractiveness of the plan while providing the Secretary of

Agriculture sufficient discretion to modify the percentages later this year or next.

Finally, Mr. President, I would congratulate the distinguished chairman of the Senate Committee on Agriculture, Nutrition, and Forestry for his leadership in providing for advance payments of both the 1982 and 1983 crops of all grains and cotton in case deficiency payments are indicated. This measure will provide participating farmers with additional cash to finance planting operations at moderate interest rates.

According to CBO, I understand that the paid acreage diversion program is expected to save $274 million over the next 3 fiscal years. The initial cost of $192 million in payments in fiscal year 1983 will be more than compensated for by reduced deficiency payments and other outlays of $367 million in fiscal year 1984 and $99 million in fiscal year 1985.

EXPORT FINANCING PROGRAMS

A second initiative proposed by the distinguished Senator from North Carolina and approved in conference was the establishment of a fund for facilitating the increased export of U.S. agricultural commodities.

The size of the fund—$175 to $190 million for each of the next 3 years—is small compared to the financing used by other exporting countries to move their farm production into world trade.

At the same time, any expenditure of funds must be carefully weighed against the equally important needs of other sectors of the economy which are also suffering from the lingering effects of the recession.

According to CBO, the enhancement of our agricultural export program through judicious use of this fund would contribute to an increase in commodity prices sufficient to actually reduce Federal expenditures by $188 million over the next 3 years.

While not usually sanguine about cost-benefit projections, Mr. President, the particularly gloomy outlook for farm prices at this time gives me some hope that, even if this program does not actually save money, it will offset the initial expenditure.

I was gratified that differences between the Senate bill and the Office of the U.S. Trade Representative were resolved in a mutually satisfactory way by allowing the fund to be expended in any or all programs available to the Secretary of Agriculture.

This provision will provide sufficient flexibility for the administration to conduct foreign trade policy over the next several months without recourse to programs that might be interpreted as subsidies by our trading partners and competitors. I would assume, however, that the administration may be prepared to adopt any trade practices that may be accorded formal approval under the general agreement on tariffs and trade.

REDUCTION IN THE COST OF THE DAIRY PROGRAM

Of particular importance from the taxpayer's perspective, Mr. President, is the significant reduction in the cost of the dairy program approved by House and Senate conferees.

After 2 years at over $2 billion, controversy over the alarming expense of milk production and storage of dairy products was beginning to become a rallying point for critics of farm programs in general, threatening the longstanding benefit and supply assurance which they provide.

It is to the credit of the dairy industry that a sincere effort was made to correct the growing cost of the program. The plan advanced by the Milk Producers Federation, while difficult to administer, would have brought down Government outlays significantly while giving industry a greater degree of control over the program.

The compromise worked out in conference is closer to the Senate bill in its relative simplicity, and closer to the House bill in terms of savings. The Secretary of Agriculture is given the authority to reduce the effective support level from the current $13.10 per hundredweight to $12.60 on October 1, 1982, and to $12.10 per hundredweight on April 1, 1983. These reductions are projected by CBO to save a total of over $4.1 billion during the next 3 years.

At the same time, provisions are included for returning the support price to $13.10 per hundredweight when net purchases of dairy products by the CCC fall below the equivalent of 5 billion pounds. While some additional rungs could have been put in the ladder to allow a more gradual recovery to the present support level, this approach will enable the dairy industry to make the needed transition back to comparative equilibrium in supply and demand.

The compromise dairy plan would require the Secretary to administer an incentive to reduce the production program if the second 50-cent reduction is required. While some details of such a program are mandated, there is sufficient flexibility for the USDA to design an effective program without needless complexity in its administration.

The only feature of the dairy reform that has raised the possibility of yet another effort to redesign the program is the requirement that the support price in fiscal year 1985 be fixed at a specific level of parity.

The USDA has indicated that this element may result in the decision by milk producers to remain in the industry at the same level of production rather that scaling back their herds as the support price is reduced.

We must now wait to see how the individual farmer will respond to the reform. Hopefully, we can help dairy producers by getting feedgrain and livestock prices back up so that an economic incentive to cut production can be fostered.

CONCLUSION

In closing, Mr. President, I believe that the conferees on agriculture have done a fine job in bringing together the different elements of the two bills into a sensible, coherent package.

Considering the months that have been expended on the budget process this year, the equanimity and reasonableness of both the House and Senate conferees was commendable.

I fully endorse the conference report under deliberation today, and urge my colleagues to give it their support.

Mr. President, I want to address our reductions in the food stamp program. It is a program that I know is of interest to the distinguished Senator from South Carolina. He was one of the pioneers in the efforts on the original nutrition committee. We had a number of hearings in his State. He has been a great help in that area.

We did not cut the food stamp program as much as the administration wanted. I do not think there was any way we could have or should have. But we did end up in the next 3 years with cuts totaling about $1.9 billion. Hopefully, they were carefully crafted.

What we are trying to do is to lower the error rates in States where the error rates go as high as 10 percent or more. We believe by an error rate reduction program we can save a lot of money in the program without impacting on low-income people.

We also adopt some work requirements. Nobody on the committee, Republican or Democrat, believes that we ought to spend taxpayers' money if, in fact, people are able to work and provide for themselves. So we have strengthened the work requirements. I want to thank all my colleagues in the conference committee, particularly the chairman of the conference, and the chairman of our committee, Senator HELMS, and also Congressman TOM FOLEY, who provided a great deal of support to our chairman and Congressman DE LA GARZA in their efforts to bring the Agriculture Committee's responsibilities to a successful conclusion.

FOOD STAMP PROVISIONS OF RECONCILIATION CONFERENCE REPORT

Mr. President, last week, the Senator from Kansas was privileged to participate in two budget conferences—one deliberating on the Finance Committee package on taxes and spending reductions and the agriculture reconciliation conference, which included food stamp program reauthorization and reconciliation. Although one was a marathon event, the other resolved

itself with relative ease and to the satisfaction of most members of the House and Senate Committees.

The product which has emerged from the conference largely reflects the approach to food stamp program reauthorization and reconciliation that was represented by the Food Stamp Reform Act of 1982. Most of the provisions of this legislation, S. 2493, were retained in the Senate bill. I thank Senators COCHRAN, ANDREWS, JEPSEN, BOSCHWITZ, and DANFORTH for their cosponsorship and initial support of my efforts; we were later joined by Senators COHEN, WALLOP, and BOREN.

BUDGET REDUCTIONS

Although substantial savings had been achieved in the food stamp program during the 1981 reconciliation process, the state of the national economy demanded that further savings be made in the Federal budget. The Senator from Kansas thinks this legislation represents a reasonable and responsible approach to further limiting food stamp program expenditures. Over the 3-year life of the authorization, this conference report contains about $1.9 billion in spending reductions: $548 million for fiscal year 1983, $635 million for fiscal year 1984, and $756 million for fiscal year 1985. Throughout this process, members of both the Senate and House Committees were careful to avoid the implementation of provisions that would have reduced benefits across the board or actually eliminated people from the program.

Most of the savings come from a provision to require better State performance in administration of the program. This mandate for States to reduce their error rates, in overissuances of benefits and issuances to ineligible participants, was carefully designed in consultation with State administrators and Governors, as well as the Department of Agriculture and the Congressional Budget Office. The provision that emerged from the conference was retained from the original food stamp legislation which I introduced.

Mr. President, I believe the enactment of sanctions based on tough, but realistic error rate goals will bring about better State performance and achieve significant savings without necessitating any benefit reductions in order to slow the growth of program expenditures. The error rate proposal incorporated in the conference report sets the sanctions at a level sufficient to generate State activity in the direction of improving program administration without depleting the resources needed to adequately perform the job. The major savings anticipated from this provision would come from lower error rates—not sanctions. Under this provision, program expenditures are expected to decrease by $90 million in fiscal year 1983, $200 million in fiscal year 1984, and $325 million in fiscal year 1985.

The other primary method of achieving savings is based on a modification of the Senate thrifty food plan provision, adopted by the conference committee. Instead of moving the base period in the thrifty food plan from its current month of June, October 1 increases in benefits would be based on the thrifty food plan in June minus 1 percent in each year, resulting in savings of $180 million for fiscal year 1983, $170 million for fiscal year 1984, and $160 million for fiscal year 1985.

WORK REQUIREMENTS

Mr. President, while the Congress avoided endorsing proposals that would create work disincentives in this vital social program, members of the conference committee reasserted their firm view that no able-bodied person should receive food stamp benefits unless he or she is willing to work.

While recognizing that, in times of high unemployment, increasing numbers of people become unemployed through no fault of their own and turn to the program for interim assistance, the conference report fulfills a responsibility to unemployed persons, as well as to the American taxpayer by emphasizing the importance of having strict measures enforced to limit participation in the food stamp program to those who have no alternative source of income.

PROGRAM EXTENSION AND CAP

Mr. President, perhaps the most constructive thing the Congress has done for this much-maligned food stamp program is to extend the program authorization for 3 years—to reestablish its traditional coordination with the farm bill authorization. The layer upon layer of change enacted in the laws affecting this program since 1977 require that we now give the program a period of relative stability.

As a counterpart to this effort, the conference committee adopted realistic spending ceilings, which hopefully will permit full program funding without necessitating new legislation each year. The caps endorsed by the conference include a 5-percent built-in cushion in order to accommodate unpredictable economic factors that may arise. This is particularly important in the outyears, when estimates this far in advance cannot be projected with any great amount of certainty. The caps adopted by the conference, which include funding for Puerto Rico, are as follows: $12.874 billion for fiscal year 1983, $13.145 for fiscal year 1984, and $13.933 for fiscal year 1985.

STATE BLOCK GRANT

Although a Senate provision to allow a State block grant option for this program was dropped in conference, there was an understanding that hearings in both the Senate and House committees will be in order next year to explore the merits of this block grant approach, which was contained in the chairman's bill.

CONCLUDING REMARKS

Mr. President, as chairman of the Subcommittee on Nutrition, the Senator from Kansas would like to thank my colleagues for their support of the basic approach to food stamp program reauthorization and reconciliation which was represented by S. 2493. I commend the distinguished chairmen of the House and Senate committees for their leadership during this conference, and especially thank the distinguished gentleman from the State of Washington (Mr. FOLEY) for his skillful negotiating during the conference. Although this Senator was not able to be present for all of the discussion in conference, due to tax conference responsibilities, I am pleased with the outcome of the negotiations and congratulate all those who participated in this process for their constructive efforts in addressing the food stamp program once again.

This year's legislative changes in the program seek to build upon the foundation laid during the last 5 years to strengthen the program and target benefits more effectively to needy low-income Americans. Perhaps more than any other Federal social program, this one suffers from a negative public image. We owe it to those who truly depend upon these benefits for survival to restore this program to a level of dignity. The Senator from Kansas believes that the most important changes needed to combat the many problems of the food stamp program were enacted last year in both the reconciliation and the farm bill. Just about every complaint that has been brought to our attention by witnesses during extensive hearings, as well as others familiar with program administration and enforcement, has been addressed through legislation.

Whatever changes we now make in this program should be directed toward simplifying administration and providing greater flexibility at the State and local level. At a time when we are demanding that States reduce their error rates, we should assist them in their efforts by avoiding the addition of complex, new program requirements, if at all possible.

Mr. President, the food stamp program is a very worthwhile and effective nutrition program, serving the needs of low-income Americans and significantly reducing the incidence of domestic hunger and malnutrition. We should continue to monitor the funding needs of the food stamp program from year to year in order to make certain that benefits are being targeted effectively. At the same time, we should continue to evaluate the impact of the changes we make which affect the daily lives of over 20 million

low-income Americans who participate in the program.

Finally, to return to a discussion of the economy, with reference to the letter from Mr. Volcker, I think that is good news in itself. It is an indication that we may be on the right track. I would guess that interest rates are falling in part because the economy is very weak. I would guess they are going to fall some more for that reason. But we may be on the verge of recovery. There is some hope.

I think passage of this reconciliation package, followed by passage tomorrow, or Friday, of the revenue package and the spending reduction package from the Finance and Ways and Means Conference will indicate once and for all to everyone who wants to listen that, while we may disagree on specifics, as a Congress we have demonstrated we are on the right track. For his part, we are grateful to the distinguished Senator from New Mexico, the distinguished Senator from South Carolina, and the other members of the Budget Committee.

Mr. DOMENICI. Mr. President, before the distinguished Senator from Kansas leaves the floor, I would like to indicate to him my great esteem and appreciation for what he has been able to do as chairman of a very, very important committee of the Senate, the Finance Committee.

When you are chairman of the Budget Committee and you get enough votes to report out a budget resolution, and then you have reconciliation achieving some spending reductions, you feel pretty good. But this year we had a major reconciliation instruction on taxes. We even did ourselves one better. We had revenue instructions for 3 years instead of just 1, on the Senate side.

When you have that type of reconciliation instruction, developed in consultation with the distinguished chairman of the Finance Committee, you can go home feeling comfortable that he is going to do his job, that his committee is going to work with him and they will bring back something that is fair and equitable to the American people and that accomplishes the mandated deficit reductions.

Whether it is cutting uncontrollable expenditures or reforming the tax code or raising revenue, as this instruction required of the distinguished chairman from Kansas and his committee, he can be counted on to deliver results. I want the distinguished chairman to know it has been my privilege to work with him. I believe tomorrow we will have a great victory on the tax bill. I think the country is going to respond with a continuation of lower interest rates and unemployment. I think we will have made an enormous start when we finish the two bills. I commend the chairman for his work.

Mr. HELMS. Will the Senator yield 1 minute?

Mr. DOMENICI. I yield.

Mr. HELMS. I want to thank the Senator from Kansas for his kind remarks. I want to say he has done such a masterful job under the most incredible pressures. I do not think we would have completed our section in the reconciliation had it not been for the fine efforts of the Senator from New Mexico and the Senator from Kansas. I express my appreciation to them.

AGRICULTURE COMMITTEE'S CONTRIBUTION TO RECONCILIATION

Mr. President, if the Senator will yield further I commend to the Senate the reconciliation section of the bill for which the Committee on Agriculture, Nutrition, and Forestry has responsibility. The House and Senate conferees made some progress in arriving at a reasonable compromise in the areas of disagreement—not as much as I would have liked, but some progress was made in terms of saving the taxpayer's money.

The level of savings recommended in our committee's jurisdiction exceeds the level of savings required by the first concurrent budget resolution by $3.3 billion over the 3 fiscal years covered by the bill.

The committee recommendations achieve savings of $1.95 billion in fiscal year 1983, $2.43 billion in fiscal year 1984 and $2.17 billion in fiscal year 1985, for a 3-year total of $6.55 billion as noted in the accompanying table.

These savings are achieved in four major areas—the dairy program, $4.15 billion; the food stamp program, $1.939 billion; through an export promotion proposal, $188 million; and through various changes in farm commodity programs, $274 million.

Indeed, I point out that the programs under the Agriculture Committee's jurisdiction account for almost 50 percent of the total savings contained in this bill.

While expression support for these measures, a word of caution is in order. Congressional failure to achieve larger reductions in the food stamp program will contribute to the need for the administration to propose further savings next year. A word of clarification is in order. The cost of the food stamp program has not been reduced. Rather, the rate of increase has merely been slowed. The program, as authorized in this legislation, will reach unprecedented costs of $12.874 billion in fiscal year 1983, $13.145 billion in fiscal year 1984, and $13.933 billion in fiscal year 1985. The savings represented in this legislation represent less than 5 percent of the total cost of the program. The final savings represent only 21.8 percent of the administration's recommended reductions. Clearly, more could have been done, as the administration recommended, and more will have to be done in the future.

Additionally, the dairy program recommendations, while appearing to make significant savings, will have to be monitored closely to insure that the enormous cost of this program will, in fact, be brought under control. We have been forced to deal with the dairy program on several occasions because of greater than expected costs to the Commodity Credit Corporation. If this legislation fails to redirect this program, the administration will again be forced to offer recommendations that will reduce the cost of this program.

As chairman of the Committee on Agriculture, Nutrition, and Forestry, I assure Members that we are greatly concerned about certain trade practices of the European Community which have adversely affected our commodities. We have authorized increased programs to deal effectively with these problems. Again, further action may prove necessary.

The conference actions represent a balanced approach to the problems in the farm economy. We are dealing with oversupplies of grain on both the demand side and the supply side.

As mentioned earlier, agricultural exports should be enhanced by the increased funding for export activities which the conferees adopted. I am pleased that the dollar amount for exports which I proposed in committee and which the conferees adopted will ultimately produce substantial savings to the taxpayer.

On the supply side, overproduction should be restrained by the paid diversion which the conferees approved. We agreed to a 5 percent paid diversion, which was the amendment I offered on the Senate floor.

The conferees also agreed in total to the advance deficiency payment provision which I proposed in committee. This provision will provide needed cashflow assistance to economically pressed farmers. It will not create new costs to the taxpayer, but in a case where the Government is going to make payments anyway, it will allow farmers to put the capital to more productive use.

In addition to achieving the reconciliation savings mentioned above, the conference bill reauthorizes the food stamp program for 3 fiscal years, and includes a number of provisions to reduce the food stamp program's susceptibility to fraud and abuse.

Also included in the bill are provisions to simplify the administration of the program and to provide more State flexibility in the administration of the program.

I call special attention to two items which are included in the conference report language. Both Agriculture Committees of the House and Senate

have pledged to have early and thorough hearings on the State option bloc grant concept which I introduced and which was included in the earlier, Senate-passed bill. I believe this proposal for a voluntary bloc grant holds great promise to provide States with needed flexibility in the administration of nutritional assistance to low income citizens.

Also, while retaining the Federal requirement that bilingual personnel and material be required of States, the conferees adopted language to grant the Secretary the flexibility to eliminate burdensome bilingual regulations about which many States have complained.

The provisions and their justification are more thoroughly described in the Senate report which accompanied the earlier, Senate-passed reconciliation bill and in the conference report accompanying this final version of the bill.

Mr. President, I ask unanimous consent that a summary of all provisions recommended by the conference relating to matters under the jurisdiction of the Committee on Agriculture, Nutrition, and Forestry and the related budget impact as estimated by the Congressional Budget Office, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CBO ESTIMATE OF AGRICULTURAL RECONCILIATION SAVINGS

[In million dollars]

Commodity savings	Fiscal year—			
	1983	1984	1985	3 years
Dairy assessment	−428	−707	−665	−1,800
Incentive fee	−1,073	−667	−659	−2,399
(On-farm use)	+19	+13	+13	(+45)
Wheat	+4	−191	−33	−220
Feed grains	+178	−142	−66	−30
Rice	+10	−34		−24
Export savings	−116	−64	−8	−188
Food stamps	−548	−635	−756	−1,939
Total	−1,954	−2,427	−2,174	−6,555
Reconciliation target	779	1,083	1,428	3,290
Savings in excess of target	1,175	1,344	746	3,265

DAIRY

The price support level for milk containing 3.67 percent milkfat would be continued at the current level of $13.10 per hundred pounds for the 1983 and 1984 fiscal years. For fiscal year 1985, beginning October 1, 1984, the support would be set at the percentage of parity which $13.10 represented on October 1, 1983.

In order to further encourage reduction of the dairy surplus for the period from October 1, 1982, through September 30, 1985, the Secretary of Agriculture would be authorized to provide for a deduction of 50 cents per hundred pounds from the proceeds of all milk marketed commercially by farmers, with the funds paid to the Commodity Credit Corporation to offset the cost of the milk price support program. Authority for the deduction would not apply, however, for any fiscal year for which projected annual Government price support purchases for the fiscal year fall below 5 billion pounds milk equivalent.

Further the Secretary would be authorized to provide for an additional 50 cent deduction for the period from April 1, 1983, through September 30, 1985, if the projected Government price support purchases are above 7.5 billion pounds. This second deduction would end whenever projected purchases fall below 7.5 billion pounds. If this second deduction is implemented, however, the Secretary must also provide a system under which individual farmers may obtain refunds if they reduce their milk production. In removing either of the deductions, the Secretary could act at any time during a fiscal year that projections of purchases fall below the trigger levels.

SAVINGS BY FISCAL YEARS

[In millions of dollars]

	1983	1984	1985
Dairy assessment	−428	−707	−665
Incentive fee	−1,073	−667	−659
(On-farm use)	+19	+13	+13
Net savings	−1,482	−1,361	−1,311

ADJUSTMENT PROGRAMS FOR WHEAT, FEED GRAINS, AND RICE

Advance deficiency payments

The Secretary would be required to provide an advance portion of any estimated deficiency payments for the 1982 and 1983 crops of wheat, feed grains, upland cotton and rice. Those farmers who are participating in USDA's voluntary acreage reduction program would be eligible. These farmers would receive 70 percent of estimated 1982 deficiency payments as soon as possible after October 1, 1982. Farmers would be able to receive up to 50 percent of the estimated 1983 deficiency payments at the time they sign up for an acreage reduction and paid land diversion program. The Secretary of Agriculture would be authorized to provide such advance payments for the 1984 and 1985 crops of these commodities.

Loans for wheat and feed grains

The minimum loan level for the 1983 crop of wheat would be raised to $3.65 from $3.55 per bushel, and the minimum loan for the 1983 crop corn would be raised from $2.55 to $2.65 per bushel.

Acreage reduction and paid diversion programs

For 1983, the Secretary would be required to provide for a wheat acreage reduction of 15 percent from the acreage base and a paid land diversion program of an additional 5 percent. Producers must reduce acreage by the total 20 percent to be eligible for program benefits (loan rates, target prices, and the farmer-owned reserve).

For the 1983 crop of corn and other feed grains, the Secretary would provide for an acreage reduction of 10 percent and a paid land diversion program of an additional 5 percent. Growers must reduce acreage by the total 15 percent to be eligible for program benefits.

On the 1983 crop of rice, the Secretary would be required to provide for a rice acreage reduction of 15 percent and a paid land diversion program of 5 percent, with a total 20 percent reduction as a condition of eligibility for program benefits.

For the 1983 crop of cotton, there would be no change in existing law. However, the conferees encourage the Secretary to consider a paid diversion in connection with any acreage reduction that he may implement using current authority.

Payments to producers who participate in the diversion program would be based on the farm program payment yields for the crops on the reduced acreage which is eligible for these payments. The minimum diversion payment rates would be $3.00 per bushel for wheat, $1.50 per bushel for corn, and $3.00 per hundredweight of rice, except that the rates may be reduced by as much as 10 percent if the Secretary determines that the lower rates would achieve the same program goals. All farmers eligible for wheat, feed grain, and rice acreage diversion payments would get half of these payments at the time they enroll in the program.

Acreage bases

For purposes of making an acreage reduction, the acreage base on a farm for the 1983 crop of wheat, feed grains, and rice would be the same as the acreage base for the 1982 crop, as may be adjusted by the Secretary. The conferees, however, expect the Secretary to consider the special problems of farmers who normally "summer fallow" part of their land each year.

SAVINGS OR COST

[By fiscal years, in millions of dollars]

	1983	1984	1985
Wheat	+4	−191	−33
Feed grains	+178	−142	−66
Rice	+10	−34	

AGRICULTURAL EXPORTS

In each of the three fiscal years beginning October 1, 1982, the Secretary of Agriculture would be required to use between $175 million and $190 million in Community Credit Corporation funds for export activities authorized by existing law. This authority would be in addition to, not in place of, authorities under any other laws. These authorities, under current law, could be used for such devices as export credit "buydown" plans to reduce interest rates on export credit, export subsidies, and direct export credit.

Savings: Fiscal year:	*Millions*
1983	−$116
1984	−64
1985	−8

FOOD STAMP ACT AMENDMENTS OF 1982

Definition of household

The bill requires that all parents and children or siblings who live together be treated as a single household, unless one of the parents or siblings is elderly or disabled.

The bill also specifies that an individual who lives with others, but who is 60 years of age or older and who is unable to purchase food and prepare meals because of a permanent disability recognized by the Social Security disability program or a nondisease-related disabling physical or mental infirmity shall be treated as a separate household, together with his or her spouse, without regard to the purchase of food and preparation of meals, if the gross income of the other individuals with whom the person lives does not exceed 165 percent of the nonfarm income poverty guidelines.

Savings: Fiscal year:	*Millions*
1983	−$38
1984	−40
1985	−42

Rounding of computations for the thrifty food plan and deductions

The bill revises the rounding rules for annual adjustments to the cost of the thrifty food plan to provide that rounding would occur only after the thrifty food plan amounts had been calculated for all household sizes and the amounts would then be rounded down to the nearest whole dollar.

Also, after adjustment for inflation, the result in both the standard deduction and the excess shelter/dependent care deduction would be rounded down to the nearest whole dollar increment.

Savings: Fiscal year:	Millions
1983	−$68
1984	−93
1985	−93

Thrifty food plan adjustments

The bill provides that the October 1, 1982, adjustment of the cost of the thrifty food plan would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 21-month period ending June 30, 1982, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment to the thrifty food plan scheduled for October 1, 1983, and October 1, 1984, would be calculated by (i) adjusting the plan to reflect changes in the cost of food covered by the plan during the 12-month period ending the preceding June 30, (ii) reducing the cost of the plan by 1 percent, and (iii) rounding the resulting figure. The cost adjustment scheduled for October 1, 1985, and each October 1 thereafter would be calculated by (i) adjusting the plan during the 12-month period ending the preceding June 30 and (ii) rounding the resulting figure.

Savings: Fiscal year:	Millions
1983	−$180
1984	−170
1985	−160

Disabled veterans

The bill treats disabled veterans and disabled survivors of veterans in the same manner as disabled persons who receive supplemental security income benefits or who receive disability or blindness benefits under the Social Security Act.

Cost: Fiscal year:	Millions
1983	+$5
1984	+5
1985	+5

Income standards of eligibility

The bill revises the income eligibility test for households without an elderly or disabled member to require that these households have net monthly incomes (after the various expense disregards and deductions) below 100 percent of the Federal poverty level, in addition to meeting the 130 percent of poverty gross income test, in order to be eligible for food stamps.

Savings: Fiscal year:	Millions
1983	−$5
1984	−5
1985	−5

Cost-of-living adjustments to Federal benefits

The bill requires that the July cost-of-living increases in Social Security, SSI, Veterans, and Railroad Retirement benefits not be counted as income for food stamp purposes until October of the same year, when the indexing of food stamp allotment, levels occur.

Cost: Fiscal year:	Millions
1983	+$19
1984	+21
1985	+23

Adjustment of deductions

The bill delays the July 1, 1983, adjustment of the standard deduction and the excess shelter/dependent care deduction until October 1, 1983.

Savings: Fiscal year:	Millions
1983	−$42
1984	.....
1985	.....

Standard utility allowance

The bill specifically permits a State agency to use a standard utility allowance in computing a household's excess shelter expense deduction. An allowance that does not fluctuate within a year to reflect seasonal variations would be permitted but an allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense and for households in public housing units with central utility meters. Prorating of the allowance would be required in the case of households sharing a residential unit.

Savings: Fiscal year:	Millions
1983	−$90
1984	−93
1985	−97

Migrant farmworkers

The bill precludes the Secretary of Agriculture from waiving, in the case of migrant farmworkers, the calculation of household income on a prospective basis as required by current law.

Financial resources

The bill precludes the Secretary, with some exceptions, from altering the food stamp financial resources limitations which were in effect as of June 1, 1982. The bill also requires accessible savings or retirement accounts to be counted in determining whether the financial resources limitation has been exceeded.

Studies

The bill deletes three studies that have been completed and deletes a requirement for an annual report to Congress on the effect of elimination of the purchase requirement.

Categorical eligibility

The bill permits States to consider households in which all members receive Aid to Families with Dependent Children benefits and whose gross income does not exceed 130 percent of the nonfarm poverty guidelines as having satisfied the resource limitation requirements under the food stamp program.

Waiver of reporting requirements; cost effectiveness of monthly reporting systems

The bill provides that a State agency may, with the approval of the Secretary and if it can show that monthly reporting would result in unwarranted administrative expense, select categories of households which may report at less frequent intervals.

The bill permits the Secretary of Agriculture, upon the request of a State, to waive any food stamp periodic reporting rules (other than those exempting certain categories of recipients from periodic reports) to the extend necessary to allow the State to establish periodic reporting rules for the food stamp program that are similar to those for the Aid to Families with Dependent Children program.

The bill also excludes from monthly reporting requirements households without earned income in which all adult members are elderly or disabled.

Approval of periodic reporting forms

The bill removes the requirement that the Secretary of Agriculture design or approve the forms used by the States for non-periodic reporting of changes in household circumstances.

Employment and job search requirements; voluntary quit

The bill provides that, at the option of the State, job search requirements could be imposed on applicants, as well as recipients.

Savings by fiscal year, in millions of dollars

1983	−5
1984	−6
1985	−7

The bill permits the Secretary to fix the starting point of the disqualification period for participants when a participant has voluntarily quit a job, and increases the disqualification period for voluntarily quitting a job from 60 to 90 days.

The bill also extends the definition of a voluntary quit without good cause (and the attendant period of ineligibility) to include Federal, State, or local Government employees who have been dismissed from their jobs because of participation in a strike against the Government entity involved.

Parents and caretakers of children

The bill eliminates the exemption from work registration for parents or caretakers of children when the parent or caretaker is part of a household in which there is another able-bodied parent or caretaker subject to food stamp work requirements. The effect of this provision is to require a second parent or caretaker in a household to register for work when the youngest child in the household reaches age 6.

Joint employment regulations

The bill removes the requirement for joint issuance of regulations on work registration by the Secretary of Agriculture and the Secretary of Labor and removes the requirement that these regulations be patterned after those for the Work Incentive program.

College students

The bill revises food stamp eligibility requirements for post secondary students by limiting participation by students with dependents to those with dependent children under age 6 and students who are receiving aid to families with dependent children unless the college student is the parent of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available.

Savings by fiscal years, in millions of dollars

1983	−10
1984	−10
1985	−11

Issuance procedures

The bill authorizes the Secretary to require State agencies to use alternative issuance systems or to issue, in lieu of food stamps, a reusable document to be used as part of an automatic data processing system, if the Secretary, in consultation with the Inspector General, determines that use of such system or document is necessary to improve the integrity of the food stamp program. Retail food stores could not be required to bear the cost of any system or document.

Initial allotments

The bill eliminates any prorated benefits of less than $10.

Savings by fiscal years, in millions of dollars

1983	−15
1984	−15
1985	−15

The bill also requires food stamp benefits to be prorated to the day of application for recertification if the application for recertification occurs after the end of the last month for which benefits were received.

Savings by fiscal years, in millions of dollars

1983	−2
1984	−2
1985	−2

Effect of noncompliance with other programs

The bill prohibits any increase in food stamp benefits to households on which a penalty resulting in a decrease in income has been imposed for intentional failure to comply with a Federal, State, or local welfare law.

Savings by fiscal years, in millions of dollars

1983	−2
1984	−2
1985	−2

House-to-house trade routes

The bill authorizes the Secretary of Agriculture to limit the operation of house-to-house trade routes to those that are reasonably necessary to provide adequate access to households if the Secretary finds, in consultation with the Department's Inspector General, that operation of house-to-house trade routes damages the integrity of the food stamp program.

Approval of State agency materials

The bill prohibits the Secretary of Agriculture from requiring that the States submit, for prior approval, State agency instructions, interpretations of policy, methods of administration, forms, or other materials, unless the State determines that they alter or amend its plan of operation for the food stamp program or conflict with the rights and levels of benefits to which households are entitled.

Points and hours of certification and issuance

The bill eliminates the requirement that State agencies comply with Federal standards with regard to points and hours of certification and issuance.

Authorized representatives

The bill permits the Secretary of Agriculture (i) to restrict the number of households for which one individual may serve as an authorized representative and (ii) to establish criteria and verification standards for representatives and for households that may be represented.

Disclosure of information

The Committee recommendations allow the disclosure of information obtained from food stamp households to persons connected with the administration or enforcement of other Federal assistance programs and federally assisted State programs.

Expedited service

The bill requires that expedited 5-day service be provided to households (i) having gross incomes lower than $150 per month or that are destitute migrant or seasonal farm worker households in accordance with the regulations governing such households in effect July 1, 1982, and (ii) having liquid resources that do not exceed $100. The State agency would also be required, to the extent practicable, to verify the income and liquid resources of the household prior to issuance of coupons to the household.

Savings by fiscal years, in millions of dollars

1983	−15
1984	−15
1985	−15

Notice of benefit reduction or termination

The Committee recommendations would permit the States to immediately reduce benefits or terminate a household from the food stamp program when a written notice is received from the household that clearly requires such a reduction or termination.

Savings by fiscal years, in millions of dollars

1983	−10
1984	−10
1985	−10

Duplicate receipt of food stamps

The bill requires State food stamp agencies to establish a system and take periodic action to verify that no individual is receiving food stamps in more than one jurisdiction in the State.

Certification systems

The bill permits each State to choose whether (i) AFDC and general assistance households must have their food stamp application included in their AFDC or general assistance application, and (ii) food stamp applications must be certified eligible based on information in their AFDC or general assistance case file, to the extent reasonably verified information is available in the file.

Assurance of nonduplication with "cashed out" benefits

The bill mandates that the Secretary of Agriculture require State food stamp agencies to conduct at least annual verification or other measures to ensure that individuals who have been "cashed out" of the food stamp program are not also receiving food stamps.

Disqualification and penalties for food stores

The bill raises the maximum civil money penalty from $5,000 to $10,000 for each violation of the Food Stamp Act or regulations committed by a retail food store or wholesale food concern. The Senate amendment also sets, by statute, the periods of disqualification applicable to such entities. The disqualification period for the first violation shall be for a reasonable period of time between 6 months and 5 years. The disqualification period for a second violation shall be for a reasonable period of time between 12 months and 10 years. A retail food store or wholesale food concern would be permanently disqualified for a third violation or for trafficking in food stamps or authorization documents.

Bonding for food stores

The bill permits the Secretary to require retail food stores and wholesale food concerns that have previously been disqualified or subjected to a civil penalty to furnish a bond to cover the value of food stamps they may subsequently redeem in violation of the Act. The Secretary shall prescribe the amount and other terms and conditions of such bond by regulation.

Alternative means for collection of overissuances and States' share of recovered moneys

The bill permits States to use other means of collection for fraud and nonfraud overissuances besides cash repayment and benefit offset.

The bill specifies that States may retain 50 percent of recovered overissuances arising from fraud and 25 percent of recovered nonfraud overissuances, except in the case of State error, in which case the State may retain none of the recovered overissuances.

Fraud claims collection procedure

The bill allows the household of a disqualified person 30 days after a demand for an election ot choose between a reduced allotment or repayment in cash to reimburse the Government for any overissuance of food stamp benefits.

State liability for errors

The Committee recommendations would revise the provisions of the Food Stamp Act governing State liability for errors. The Federal share of a State's administrative costs would be reduced for States with payment error rates exceeding nine percent in fiscal year 1983, seven percent in fiscal year 1984, and five percent in fiscal year 1985. States would not be sanctioned for fiscal year 1983 if their payment error rates were reduced by a third of the difference between a base period rate and five percent and would not be sanctioned for fiscal year 1984 if their payment error rates were reduced by two thirds of the difference between the base rate and five percent. Each State would lose five percent of the Federal portion of its program administrative costs for each percentage point (or portion thereof) by which the State fell short of its error reduction goal. States would also continue to be liable to the Secretary for certification losses due to negligence or fraud.

Savings by fiscal years, in millions of dollars

1983	−90
1984	−200
1985	−325

Employment requirement pilot project

The bill authorizes the Secretary to conduct 4 pilot projects to determine the effects of making nonexempt individuals ineligible to participate in the food stamp program if they do not, with certain exceptions, work at least 20 hours per week or participate in a workfare program.

Benefit impact study

The bill requires the Secretary to study and report to the House and Senate agriculture committees by February 1, 1984, on the effect of reductions in food stamp benefits provided under the Omnibus Budget Reconciliation Act of 1981, the Agriculture and Food Act of 1981, and any other laws enacted by the 97th Congress that affect the food stamp program.

Appropriation authorization

The bill extends the authorization of appropriations for all programs under the Food Stamp Act, including the Puerto Rican block grant, as follows: $12.874 billion for fiscal year 1983, $13.145 billion for fiscal year 1984, and $13.933 billion for fiscal year 1985.

Puerto Rico block grant

The House bill requires that, after fiscal year 1983, food assistance under the block grant to the Commonwealth of Puerto Rico shall be made available in forms other than cash.

The bill also requires the Secretary of Agriculture to conduct a study of the cash food assistance program in Puerto Rico, including the impact of the program on the

nutritional status of residents of Puerto Rico and the economy of Puerto Rico, and report the findings of the study to the House and Senate Agriculture Committees no later than six months after the effective date of the bill.

Similar workfare programs

The bill requires the Secretary to promulgate guidelines for food stamp workfare programs that would enable political subdivisions to operate such programs in a manner consistent with similar workfare programs operated by the subdivision. A political subdivision could comply with food stamp workfare requirements by operating (i) a workfare program under the Aid to Families with Dependent Children program or (ii) any other workfare program which the Secretary determines meets the provisions and protections contained in the food stamp program.

Exemption of WIN participants from workfare

The bill deletes the current exemption from the workfare requirements for food stamp participants who are involved at least 20 hours a week in a work incentive program and provides that a State may, at its option, exempt such participants from the workfare requirements.

Hours of workfare

The bill revises the maximum number of hours that an agency operating a workfare program could require of a participating member. Under the revision, a workfare participant cannot be required to work more hours than those equal to the value of the allotment to which the household is entitled divided by the applicable minimum wage or more than 30 hours a week when added to any other hours worked during a week for compensation (in cash or in kind) in any other capacity.

Reimbursement for workfare administrative expenses

The bill directs the Secretary to reimburse agencies operating workfare projects, for administrative expenses not otherwise reimbursable, from one half of the funds saved from employment related to workfare programs. Such savings means an amount equal to three times the dollar value of the decrease in food stamp allotments resulting from wages received for the first month of employment which commences while the member is participating in a workfare program for the first time or in the 30 day period immediately following the termination of the member's first participation in the workfare program. Payments to agencies cannot exceed their share of workfare administrative costs.

Distribution of surplus commodities

The bill states the sense of the Congress that the Federal Government should take steps to distribute surplus food or food that would otherwise be discarded to hungry people of the United States, that State and local governments should enact donor liability laws to encourage private cooperative efforts to provide food for hungry people, and that food distribution and shipping entities should work with organizations to make food that is wasted or discarded available for distribution to the hungry.

Effective dates

The bill provides that all the food stamp provisions will be effective on the date of enactment of the bill, except for those provisions dealing with error rate reduction and Federal reimbursement of workfare administrative expenses, which will be effective October 1, 1982.

The bill also makes the food stamp provisions of the Omnibus Budget Reconciliation Act of 1981 (except for amendments concerning retrospective accounting and periodic reporting) and the provisions of the 1981 Farm Bill effective on the date of enactment of the bill unless already effective.

[Total food stamp savings, by fiscal years, in millions of dollars]

Fiscal year 1983	−548
Fiscal year 1984	−635
Fiscal year 1985	−756

Mr. DOMENICI. Mr. President, I yield 8 minutes to the distinguished Senator from Washington.

Mr. GORTON. Mr. President, last October, the thoughtful and farseeing Senator from New Mexico, the chairman of the Senate Committee on the Budget (Mr. DOMENICI), recognized that, in order to restore a time and a period of economic growth, it would be necessary to make difficult and courageous budget decisions during the course of 1982. He proposed a combination of budget cuts and revenue increases which were balanced, which included reforms in entitlement programs and military programs as well as in discretionary spending, and set possible revenue increases which would lower deficits and encourage economic recovery. We are now on the verge of voting on two just such proposals at a time at which we have encouraging news on the economic front.

Our goals are all the same, Mr. President. Every Member of this body, with the House of Representatives, recognizes the overriding necessity for deficits far lower than those programed simply from a continuation of spending and taxing policies without change. All of us recognize that the secret to lower interest rates is a reduction in those deficit figures and all of us recognize that economic recovery and a strong and sustained growth will depend upon predictability, upon a responsible congressional fiscal policy, and on lower interest rates. Nevertheless, the road to the position in which we find ourselves today has been very long and has been very difficult. We have constantly been faced with the proposition that, while overall spending restraint was important, it could not touch specific programs, whatever the specific favored program of an individual speaker happened to be at any specific time.

Those who have consistently voted for spending restraint have been criticized for indifference to all kinds of constituencies in the United States. We have constantly been faced with the proposition that we should reach this goal but in some other, usually mythical, and less painful fashion. We have been subject constantly to the request that we do it to someone else's constituents and not to the constituents of an individual who found something unpleasant in a specific proposal before us.

Yet, as all of us know deep within out own hearts, it is not possible to reach the very real and very significant goals of lower deficits, lower interest rates, and stronger economic growth without causing changes in programs which relate to a large number of the constituents of every single Member of this body. Yet not to take such a course of action would be entirely wrong.

The very distinguished Senator from Kansas, the chairman of the Committee on Finance, has faced this problem to an even greater degree. Almost everyone has recognized the necessity for additional revenues, but again, always it should be revenues raised at the expense of someone else's constituents.

Led by the foresighted policies of the Senate Committee on the Budget, a committee proposal on reconciliation was brought to this floor some 2 months ago. A majority of the Members of both parties eventually reached the point at which they were willing to take courageous votes to anger a number of strong interest groups in this country to develop a rational and more effective fiscal policy. Now that we have a report of the conference committee before us on reconciliation and another to come before us within the next 48 hours on a tax and spending cut bill, we are very, very close to our goal.

What do we see in the economy of the country as a whole? We have, for the first time in many months, good news, a strong recovery in the stock market, a consistently lower set of interest rates, and responsible predictions from outside the Congress of the United States that shows interest rates will become even lower—the very bases for strong economic recovery which all of us have sought over so many months. There is no question in my mind, Mr. President, that a major contributing factor to this good news is the likelihood that the Congress of the United States will, indeed, pass these two bills.

There has been other good news as well, Mr. President. For the first time, we now see a strong bipartisan majority in both Houses of Congress for the kind of steps which are necessary to cause this economic recovery. This spending bill is by no means perfect, Mr. President. The Senator from South Carolina, most specifically, has illustrated to us and will propose again during the course of the debate over the debt limit, proposals for the next 2 or 3 years which will not simply begin to reduce deficits but will see to it that, in fact, we have a balanced budget within the foreseeable future. That will require even more courage than has been shown in this body to this point, because we will no longer be able to defer the necessity to deal

across the board with a great degree of fairness with a multitude of entitlement programs and, no doubt, expenditures for military and the national defense as well.

Nevertheless, it seem to me vital that we get a strong vote of approval for this bill here today, not because it is perfect, not because it is not subject to criticism, but simply because it is a necessary first step toward economic sanity and toward a balanced budget. I regret that my good friend, the Senator from South Carolina, feels constrained to vote against this proposal because it does not deal fairly or appropriately with cost-of-living adjustments. In fact, the proposals which he made, which I had made, and which the chairman of the Senate Budget Committee made in this respect, were much better than what we have before us here, at this time. This was simply the best that could be gotten out of the Senate and out of the conference committee with the House to this point.

Mr. President the fact that there are one or two or three things wrong with this proposal is not a sufficient ground on which to vote no. I plead with my friend from South Carolina and with others of his persuasion not to burn down the forest because there is a handful of defective trees in that forest at this point. It is necessary that we work to the final goal.

I found particularly discouraging the position of the senior Senator from Wisconsin, who is quite willing to cut almost any expenditure by the United States of America which falls as a burden on the constituents of other Members of the U.S. Senate, but not those that fall on dairy. I, too, represent a State which has an extremely strong dairy industry. I find myself saddened to have to vote for a bill which may place considerable burdens on dairy farmers in my State. Yet I could not possibly justify voting against the bill which is in the overall best interests of the people of the United States and which is a step toward economic sanity and economic recovery because of its impact on one group of constituents.

It is not proper to look at this bill on an individual basis and to say it is wrong in this respect or wrong in that respect and, therefore, I shall vote against it, when this bill—and the promise that it and the tax bill coming up in the next couple of days will be passed—has been in part responsible for at least the beginning of good news on the economic front, the be beginning of changes on the economic front which will benefit not just one group of Americans or a dozen groups of Americans, but all Americans.

The chairman of the Senate Budget Committee deserves not only congratulations for a job well done, for a job much more successful than many of us even hoped for a few months ago, he deserves our support for the job which he has done in the passage of this proposal for the good of all Americans.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. Mr. President, may I have 2 minutes to ask a question?

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I have a question directed to the front page of the conference report near the bottom. Will the Senator from South Carolina let me ask him this question? Item No. 2 near the bottom of the first page says:

> Civil service retirees under age 62 would receive one-half of the projected COLA adjustment over the next 3-year period and retirees subject to this limitation would receive an additional adjustment if the COLA exceeds the current projections (the full adjustments are projected at 6.6 percent, 7.2 percent, and 6.6 percent for FY 1983-85, respectively.)

Will the Senator explain just what that means? I really do not know how to calculate the total meaning of it.

Mr. HOLLINGS. The total meaning—and I would allow the distinguished chairman to give perhaps a more general answer to it—is that under the age of 62, as concerns the Senator from Mississippi and this distinguished Senator, 80 percent of those under that age are military retirees. I pointed out that what you have really done there is provided the cost-of-living adjustment for the civilian civil service retirees but for the military retirees in general you have not, and that is how they arrive at that particular mathematical formula to save the moneys that they have projected. The reconciliation instruction was for $5 billion, but mathematically this projects out to save some $3.4 billion. We are about $1½ billion shy.

That is how that formula works. They receive one-half of it over the next 3-year period, subject to that particular additional COLA ajustment limitation. If the COLA exceeds the current CPI projections, that is, the full adjustment of 6.6 percent for 1983, 7.2 percent for 1984, and 6.6 percent for 1985, then they would receive one-half of that. And knowing what the limitation is for each of the particular years involved, the 6.6, 7.2, and 6.6 percent, then mathematically they have saved $3.5 billion. But the thrust of it is that the civil service retirees, which encompass the major group over 62 years of age, will get their full COLA adjustment. Those under 62 will not. Eighty percent of those under 62 are military retirees.

Mr. DOMENICI. Will the Senator yield?

Mr. HOLLINGS. They would only get half. I yield for further explanation by the chairman.

Mr. DOMENICI. Let me say to my good friend from Mississippi retirees of the Federal Government, military and civilian, under 62, for the years 1983, 1984, and 1985 will receive a cost-of-living adjustment of 50 percent of the CPI as assumed in the budget resolution.

In 1983 we estimate it at 6.6 percent. Retirees will get 50 percent of that. But if inflation as measured by the CPI turns out to be more than 6.6, they will get an addition to their COLA of any amount which exceeds 6.6. The same for 1984. The CPI estimate for that year is 7.2 percent. Retirees get half of that. But if inflation turns out to be 9.2 percent, they get half of the 7.2 and an additional 2 percentage points because the inflation exceeded the amount stated.

Mr. STENNIS. So they pick up an additional amount if inflation brought it up that high?

Mr. DOMENICI. That is correct.

Mr. STENNIS. I thank the Senator. I do not want to ask for more time now. I might want one further explanation. I thank each of the Senators very much.

Mr. HOLLINGS. Mr. President, before I yield to my distinguished colleague from Nebraska, I think it only appropriate to clear the air somewhat. I do not want to detract from anything that is happening on the stock exchange and the wonderful news that the people are hearing. And I certainly would not want to detract from the outstanding jobs that are being done by the chairman of our Budget Committee and the chairman of the Finance Committee. But our distinguished colleague from Kansas, the chairman of the Finance Committee, commented that "last year we had a tax cut that was too big and this year the tax increase is too small and somewhere we will come out in between maybe to satisfy the Senator from South Carolina."

Inferentially, of course, you have the Senator from South Carolina as a sorehead—tax cuts too big one year, not big enough the next year. If somehow we can satisfy the political nuances of this sorehead, then we can move on and get a majority of the Senate and do these magnificent jobs of courage in changing tax policy.

Mr. President, the distinguished Senator from Kansas is one-half right. Last year the tax cut was too large. This year the tax is unnecessary. That was my position before we enacted the tax cut of last year, and since then I have made proposal after proposal to forego its second-year and third-year installments. You must understand that we are not really cutting taxes. We do not have the tax revenues to

cut. Somehow I cannot get that thought through the minds of the best of my colleagues here in the Senate and my friends in the Chamber of Commerce. They are constantly assaulting you and saying, "You act like you have got the money in the Government and are only giving back the money that you want us to have."

The fact is that this July we did not have that money in the Government to give a tax cut. We did not have that money. We are going out and borrowing $50 billion this quarter and we are going out and borrowing another $50 billion next quarter. Those borrowings are the high deficit borrowings which bring about the high interest rates which bring about the high unemployment. That is the most difficult thing to get through to my colleagues.

Now, if we had quit fooling people, next year we could pick up $74 billion. If we forestall the third year installment next July—that has not even taken place—we would save $74 billion. People are now worried about economic survival, now how their taxes are going to look in 1984 when they make their 1983 returns.

Since the distinguished Presiding Officer is on the Finance Committee and an outstanding leader in that group and others on the Finance Committee are now getting the good Government award, I would have given them even another good Government award if they had faced up to the fundamental problem of social security.

We have never asked anybody to cut social security. But if they wanted to show the courage, they could have just not given the increases that they coupled with other COLA's. We are all talking about how wonderful we are doing and all these other nice goodies for retired Senators and retired civil service workers over the land. But we freeze military retired pay.

The United Auto Workers, the airline workers, the rubber workers, and the municipal employees in the city of Detroit all worked out pay freezes. I talked to Mayor Coleman Young of Detroit. The municipal workers there will forestall their agreed to benefit increases because the city is in economic trouble, and it is trying to balance its budget. Many cities across the land are trying to balance their budgets. They are holding up and freezing. Many State legislatures are increasing taxes. They are freezing spending. But the entire discourse and dialog on the floor of the Senate—I guess we should have been talking about it more often, because somehow it seems to be slipping by. The entire dialog and everything else to raise taxes—to do what? To pay for increases. They do not even come near the deficit.

Why do they not get that letter from the Federal Reserve? I know what is happening now, I say to my friends.

I asked a certain distinguished Senator, whose name I shall not include in the RECORD at this point. He was talking to the Chairman of the Federal Reserve, in his distinguished, high, elevated position at one time on the Finance Committee, and the Chairman of the Federal Reserve said, "How long can I hold out?"

The answer was, "As long as the President of the United States allows you to hold out."

The President of the United States is not allowing the Chairman of the Federal Reserve to hold out any further, and yesterday you had a wonderful rally in the stock market. I wish it could continue. Of course, today—it starts to unwind. I hope I am dead wrong. I hope we refurbish America's industrial plant. I hope we get unemployment down. But I am very fearful, Mr. President, that what we are seeing is the same, typical political shenanigans that go on, and that is why there is no confidence in this Government.

We are coming to the end of August. Labor Day is coming. The speakers have lined up their political rhetoric. We have to save—not the Republic, not the economy. We have to save the party.

The interest rates go down, they have a big rally, and now we have a letter from the Federal Reserve.

We can hardly get that fellow to commit to anything, and he does not commit. He says, "We testified very strongly that we have to get these high deficits down," that the budget resolution was aimed in that direction, and he hoped it would be implemented. But you are being told, really, with the use of this particular letter at this time, that this bill has the stamp of approval of the Federal Reserve System. That is what you are being told. Fine business. Let him put his approval on. I am glad we woke him up and got him into the activity, whereby now he is approving budgets and bills before Congress, and we might have a clearer eye about where we are heading.

The truth of the matter is, Mr. President, that we have not faced up to social security. I think that is what we are obscuring, the entitlements. We have been obscuring it all along. The Federal Reserve stated that even with this great courage award of a tax bill that we are going to pass tomorrow—the Fed is predicting a $163 billion deficit for next year, $184 billion for 1984, and $187 billion for 1985, and the deficits go up, up and away.

On that basis, I do not find any basis in economic fact for the great rally we are supposed to be having in the stock market. I hope it continues and that President Reagan is right and that his program is taking effect. I hope that those who oppose the program are all wrong, that, as he stated, he only needed time, and that the time has now arrived. We can all get rich. But I warn you, my friends, that you are going to be facing the facts that are in another letter from the Federal Reserve, to the point that the deficits are increasing, even with passage of this conference report, and that there is no basis in economic fact for this particular rally, and it cannot be sustained.

If you read correctly the statement of Henry Kaufman, you know that his projection of further declines in interest rates is based on the deepest pessimism. In essence, he is saying that the economy has become so weak that only the Government will be borrowing. Some of my colleagues can get a letter from the Federal Reserve, but most of us cannot really find out what is going on. But temporary rallies and temporary profits are being made. Let us hope they are not temporary. Let us hope they continue and that America gets going again. That is the bottom-line.

As for the tax increase equity bill, if I went down the elements of that bill, I could cite many provisions which will seriously hurt the savings incentive.

The distinguished Presiding Officer (Mr. DANFORTH) worked to help the country increase its savings rates. But the tax bill is going to paralyze savings.

Here was an administration that was going to come to town and do away with regulations. But there are $500 million worth of additional regulations and bureaucracy in that bill—$500 million.

On the other hand, if they had faced up to social security, the cost-of-living adjustments in particular—not cut anybody, but had done exactly as the rest of America has done all year long, and held up on those increases—if the Finance Committee had only done that, it could have saved us so much.

If the administration had only said, "Look, last year we put $37 billion more in defense. We increased this year's defense budget another $37 billion." That is a $74 billion increase. Rather than another $35 billion increase, we can just taper it off a little, provide 3 percent real growth and add another $21 billion. And we can do that for another 2 years, and still save $45 billion off the deficits. We could have increased defense, not cut it, and still have saved $45 billion.

So as for all this courage and wonderful feeling about how we are now getting the country moving again, I hope they are right. Unfortunately, however, we have not really addressed the cancer in the fiscal policy of this Government, and we are not doing it in this bill, but we just keep dancing around and praising each other, and telling each other what a wonderful thing we have done.

I have had an opportunity to visit many places in the country this year.

It is a sobering influence to come back to this elegant blue rug and mahogany desk, and hear how great we are, how much courage we have. Well, the people cannot print money. They are freezing their spending. They are holding themselves together. But where they can print money, they are printing it faster than ever. They are increasing it faster than ever.

This Government—the Senator from New Jersey was listening a minute ago—this Government is bigger today, on August 18, or whatever it is, than it was on August 18 last year or August 18, 2 years ago.

When Jimmy Carter left, spending was 23.1 percent of the GNP. It is now up to 24.1 percent. The Government is bigger. We are increasing the spending. We are increasing it unmercifully, in my opinion. We are talking about all the cuts and where we are going to cut the dairy farmer and where we are going to cut the schoolchild and what we had to do about food stamps. But we are not denying the retired Senators. We are not denying the retired civil service workers. But we are denying the people back home in America, who wonder what in the world is happening here. Can they not understand and follow what they are saying, themselves?

I appreciate the kindness of the Senator from Washington. He is right; he has described my position on the bill. I am speaking in general of the charade involved here in this bill. You are going to get this bill; tomorrow you get the other one. So you can go back home and make your Labor Day talk about all the great work you have done. But I can tell you right now, you have fouled your nest. You have not done your job—none of us. Do not burn the forest to get rid of a few rotten trees.

I will yield now to the distinguished Senator from Nebraska such time as is necessary.

Mr. EXON. I thank my friend from South Carolina, and I recognize the hard work that the chairman of the Budget Committee, on which I serve, has always done.

Mr. President, I am trying to bring myself to vote for the reconciliation report. But I wish to make come comments that I think are appropriate in addition to the ones that have already been made and maybe ask a question or two of the distinguished chairman of the Budget Committee on some things that I am particularly interested in. I am talking about things that I am particularly interested in.

I have been very much impressed with what I have heard on the floor today and I think for the record I should first correct what has been said on numerous occasions on the floor today with regard to the stock market.

The stock market did not go up today. It went down. It was up 18 and went down over 2 points. I suspect that the President of the United States will take credit for that as he did for the rise of yesterday. I suspect also that the Federal Reserve Chairman will take credit for that.

We are going through so many aberrations in our economy today with the crazy quilt pattern of everything going fine according to some people and yet other people are in a desperate depression. Every time there is a rise in the stock market that is good news supposedly.

Yet when we have the largest daily increase in the Dow in history and yesterday was the second largest volume in history, today we exceeded that with the largest number of transactions in the history of the New York Stock Exchange but at the end it is down 2 points after being up 18.

Mr. LONG. Mr. President, will the Senator yield for a question at this point?

Mr. EXON. I am happy to yield.

Mr. LONG. Let me see if I understand it. Did the Senator say the stock market is down 2 points? Does he mean it lost 2 points out of the 18 that it gained or it lost the 18 back and then 2?

Mr. EXON. It dropped 2 points for the day after being ahead 18 for the day.

Mr. LONG. Then, in other words, is it fair to say it went up 18 points and then went back down 20?

Mr. EXON. The Senator is correct.

Mr. LONG. For a 2-point net loss.

Mr. EXON No. For a 2-point net loss for the day.

Mr. HOLLINGS. I will call my broker and sell.

Mr. LONG. I am dismayed to hear that. We had one of our outstanding Senators take the floor to give us the good news announcement that it had gone up 17 points at that point and then traded 100 million shares. I am dismayed to hear it is back down to where it is now a net loss.

Mr. EXON. Has the Senator from Louisiana ever heard the old phrase that what goes up must come down?

Mr. LONG. It proves that it is a mistake to assume you have won the ball game just because you are ahead at halftime.

Mr. EXON. I appreciate the timely comments by my friend and colleague from Louisiana.

Mr. President, I have been listening to some of the other rhetoric here today about special interest groups and how we are standing up to them with this $13 billion reconciliation cut in expenditures that is over a 3-year period.

I am trying to bring myself to vote for this because I recognize and realize that we have to begin to reduce the level of Government expenditures.

There has been a great deal of patting on the back here today about the eminent success of cutting $13 billion over a 3-year period and we have done just a bang-up, bully good job.

So I thought it very interesting, Mr. President, that this Senator stood at this desk yesterday and lost after advising the Senate that they were going too far in the military expenditures. And how far did we go? In round figures, Mr. President, yesterday on a vote of I believe 78 to 21 the Members of this body rejected the caution that this Senator and others brought forth with regard to the fact that we authorized $178 billion for 1 year as opposed to about $138 billion for the same category of military expenditures for this fiscal year, a $48 billion increase in 1 year.

My, we are doing a splendid job, just a splendid job patting ourselves on the back for the sacrifices that we are making. I will be interested to compare the vote after it is cast on this reconciliation measure with those who were equally as concerned about reducing some unnecessary expenditures in that vote of yesterday.

Mr. President, I am concerned about many things in this reconciliation package, but I emphasize once again that it seems consistent to me, and I think consistency is important once in awhile even in the Senate, that if I were here yesterday trying to bring what I thought was some reason into the military expenditure appropriations because I thought that deficits, the national debt, and everything else was going too far, I guess it would be a little bit inconsistent, Mr. President, for this Senator to vote the other way on this bill even though I have some serious reservations on many parts of it.

I have some reservations, Mr. President, on a whole series of matters. I will just mention a few. The dairy price support programs. The set-aside program for farmers who today are reaching into the depression level era because of the failure of this Congress and this administration to recognize the need for our family-sized grain producers.

When we talk about the percentage of the national budget, I will say again as I have said before that the percentage of the total Federal budget in the support of agricultural programs is going dramatically down and not up compared with what it was even a few years ago. Myself and others introduced legislation that was designed to save some money, to save taxpayers money, if you will, by making adjustments in the grain program that would have encouraged less production, therefore, strengthening prices.

Basically, that program was gutted in the conference report even after both the Senate and the House of Representatives voted for basically the crisis farm legislation set-aside amend-

ment that was strongly supported in both Houses. We get together in rooms and we do things that we do not do on the floor of the House of Representatives and in the Senate.

I am also concerned, Mr. President, about what appears to be on the face of it unfair treatment, as has been brought out by my friend from South Carolina, with regard to military retirees in particular.

But I shall wind up my portion of this by asking one or two questions to the chairman of the committee. To my understanding one of the things that was done and agreed to in conference between the conferees on the Senate Agriculture Committee and the House Agriculture Committee, they agreed to increase the loan program for both corn and wheat by 10 cents a bushel for next year; is that accurate?

Mr. DOMENICI. The Senator is correct.

Mr. EXON. I thank my friend.

It is rather interesting, Mr. President, that this Senator stood at this desk in December of last year when we passed the 1981 Farm Act and told my colleagues and pleaded with them at that time to raise corn and wheat by 10 cents a bushel because they were too low, that those were basically the figures that had been agreed to in the deliberations of the Senate Agriculture Committee.

One last question: I also understand that while drastic changes were made in the set-aside program for corn and wheat, I also understand the conferees agreed that the Secretary of Agriculture would have the option, if he saw fit, to raise the set-aside program by whatever he thought was appropriate; is that correct?

Mr. DOMENICI. The Senator is correct. The bill sets mandatory limits, but the Secretary has discretion to go beyond those.

Mr. EXON. At his discretion.

Mr. DOMENICI. At his discretion, that is correct, Senator.

Mr. EXON. I thank my friend.

As I am about to yield the floor, I say with hesitation and reservation and in an attempt to be consistent, I will reluctantly cast my vote for the reconciliation report.

I yield the floor.

The VICE PRESIDENT. Who yields time?

Mr. DOMENICI. I just want to thank the distinguished Senator from Nebraska for his comments. I am most appreciative of his support, and for the support he gives me in our committee, in our efforts to reduce the deficits. I think he clearly understands we have a long way to go, and this is the best we can do at this time.

I started working on these issues last year and I did propose we do much more, but I think when we consider, Senator, where we are this year, it is a pretty start, coupled with some other good things we have done. I think the budget process, with not the strongest tools in the world, has come a long way and I thank the Senator for his help.

The VICE PRESIDENT. Does the Senator from Oklahoma seek recognition?

Mr. BOREN. I ask unanimous consent to speak on the time of the Senator from South Carolina. May I ask how much time remains?

The VICE PRESIDENT. Ten minutes and thirteen seconds remain on Senator HOLLINGS' time.

Mr. BOREN. I ask unanimous consent to speak on the time of the Senator from South Carolina.

Mr. DOMENICI. Mr. President, can we first get the yeas and nays? I ask for the yeas and nays on final passage.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The Senator from Oklahoma has the floor.

Mr. BOREN. Mr. President, I share in many ways the feelings just voiced by my colleague from Nebraska. I have mixed feelings about this final conference report we are asked to vote for.

I have been struggling today about how to vote on this report, and I have come to the same conclusion as the Senator from Nebraska that I should vote for it. With the deficits we are facing in this country, I think we have no other choice than to vote at every opportunity to try to bring spending into line and to try to bring the deficits down.

But I will say, Mr. President, that this is far from a perfect conference report, and there are many elements in it that I simply cannot support if I could have the opportunity to vote on them individually.

I have to agree with the comments made earlier by the Senator from South Carolina. There are those in this body who have tried, and tried hard, to do more to bring the deficits down, and we have not had the kind of support we should have had either out of the White House or from some of those in the other House of Congress in order to get the job done.

No one has worked harder than the Senator from New Mexico, the chairman of the Budget Committee. He made proposal after proposal and could not get the support himself from the administration necessary to bring the deficits down as they should have been brought down.

The Senator from South Carolina in a very courageous proposal earlier this year proposed a general freeze across the board, a freeze in revenue changes, a freeze in cost-of-living increases, a freeze in discretionary spending across the board. Did he get the kind of help he should have had from an administration that has been telling the public that it is dedicated to bringing the budget into balance? No; the Secretary of the Treasury ridiculed the Senator from South Carolina for his very courageous and responsible suggestion.

Here we are now faced with much less than we should have done, faced with a package that does far less than we should be doing on the spending side to get the deficit under control.

But it is, as has been said by the Senator from Nebraska, perhaps the only opportunity we have and, therefore, I feel obliged to support it.

I want to call the attention of my colleagues in the Senate to one particular aspect of this conference report—we can talk about several, there are areas affecting the veterans of the country, and others that I would not support on an individual basis—but I particularly want to call my colleagues' attention to the provision dealing with the paid diversion program in agriculture.

The Senate went on record by an overwhelming vote that we wanted to do something about the crisis facing the farmers in this country. By a 2-to-1 margin we passed a bill to establish an additional 10 percent paid diversion program for corn, wheat, and feed grains. That modest proposal would have helped at least to some degree some of our farmers in this country to stay afloat who otherwise are going to go under this year.

The very same proposal was passed in the House of Representatives, a 10-percent set-aside.

In spite of the fact that the Secretary of Agriculture himself came and sat in the Vice President's office here in the lobby and twisted the arms of Members of this body, we passed that program 2 to 1—I might mention with the vote of the chairman of the Budget Committee and the ranking minority member, and others.

What was the compromise in the conference committee between a 10-percent diversion passed by the House and a 10-percent diversion passed by the Senate? The compromise was 5 percent.

How do you average 10 and 10 and strike the difference between the two Houses and come up with a 5-percent paid diversion program? It may not be a violation of the letter of the rules—I am sorry to say it is not, because I checked that—but it is a violation of the spirit of the rules. It is a violation of the democratic process in both Houses to allow people behind closed doors to betray agriculture at a time when it is on the ropes.

If there were another opportunity to get total spending down, and if there were a way to get a separate vote on that particular issue, you can be sure, Mr. President, I would be trying to force that vote. Why was it done? It

certainly could not be said to be done in the name of economy. Every time we can do something to raise the market price we cut the Government costs of the program. The conference committee did not adopt a proposal that is going to save the taxpayers money. In fact, under current market prices—and that is really what we ought to deal with rather than some false figure—the proposal passed by the Senate and the House would have saved almost $1 billion as compared with the proposal that came out of the conference committee which is estimated to save only about $374 million.

Not only does it have the merit of providing savings, it is going to provide less savings to the taxpayers than the proposal passed by both Houses.

Mr. President, mark my words, we are going to regret the day we missed the opportunity to do what we could to save the farmers of this country. I hope every Member of this Senate will listen to me for 1 minute because I want to recite a figure for you that perhaps you have not heard.

In 1932, the worst year in the history of American agriculture, net farm income in real-dollar terms was $5.1 billion, $5,154,000,000. Do you know what it is this year? $5,060 million in real dollars, almost $100 million lower than the worst year in the history of this country.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

Mr. BOREN. Yes.

Mr. HOLLINGS. I have 3 minutes left, and I would like to yield to the distinguished Senator from Montana.

Mr. BOREN. I will be happy to yield to him. I just want to complete one thought.

We are at a point now where we have record numbers of farm foreclosures. We have, perhaps, a third of the Farmers Home Administration loans in this country in arrears because of this tragic situation.

Land values have begun to decline. We have farmers heavily in debt, and now they have shrinking equity. The handwriting is on the wall. Anybody who cannot see what is going to happen in agriculture, anyone who cannot see the impending collapse must have failed or refused to have opened his eyes to the facts. Why, I ask, Mr. President, in that circumstance, why, why were the farmers sold out behind closed doors? I would only say we are going to regret the day that we allowed it to happen.

I would be happy at this time to yield to the Senator from Montana who wishes to address this same point.

Mr. HOLLINGS Mr. President, I thank my distinguished colleague for his complimentary remarks. I yield the remaining time to Senator from Montana

The VICE PRESIDENT. The Senator from Montana.

Mr. MELCHER. I thank my distinguished colleague. I wish to say a few words on my objections to the conference report.

I do understand that the distinguished chairman and members of the Budget Committee have worked diligently and sincerely on this package to cut the total amount of spending for the coming year. But I have to compare two points. There are many points to look at, but I would like to look at just two of them.

The first is the sacred cow of foreign aid expenditures. We continue to go down that path of sending money abroad in huge amounts—$12 billion this year and another $12 billion the next year and another $12 billion that would be contemplated the year after that, if we follow the guidelines that have been set in place, money that we have to borrow currently, money that costs us very dearly. And yet, at the same time, we ignore the plight of agriculture.

American agriculture is the very basic, the most relevant part of our entire economy. When we talk about the little 10-cent increase in loan rate for American grain and a top on diversion payments, it relegates to the dustbin, to the trash barrel, the plight of American agriculture.

What agriculture producers want in this country is to get a fair price at the marketplace. They are not necessarily asking to be in the trough of the U.S. Treasury. The fair market price in the marketplace is available in this country to our agriculture producers if we will just have some enlightened policy in this country, led by a Congress that understands how important and how basic to our entire economy American agriculture is.

We have grain embargoes, we have timid foreign sales of American agriculture products. This country sells its grain and other agricultural products very cheaply while, at the same time, allowing our markets, our U.S. markets, to be open to any country and any manufactured goods. We do not need to do this. At the same time, we seem, to be bent and seem to be in love with sending American tax dollars abroad for foreign aid. I am against the conference report.

The VICE PRESIDENT. The time of the minority has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the conferees on the Committee on Agriculture from both sides made significant compromises.

A 5-percent paid diversion, as adopted by the conference committee, is clearly a reasonable compromise.

The House and Senate conferees were faced with resolving significant differences on the grain programs. The House proposed a sizable increase in loan rates, while the Agriculture Committee in the Senate rejected any such increase. In conference, however, the Senate agreed to a 10-cent increase in wheat and corn loan rates as part of a package which established a minimum paid diversion of 5 percent.

In other words, the final compromise involved concessions by both Houses from positions previously taken.

In addition, the House bill required a total 25-percent acreage reduction to qualify from program benefits. The Senate bill would have allowed farmers to qualify for program benefits with a 15-percent acreage reduction. The final compromise of 20 percent, including the 5-percent paid diversion, split the difference right down the middle.

A 5-percent paid diversion is a fair compromise, especially in light of other concessions in the package. It is not as costly as 10 percent in 1983 and is more appropriate in terms of trade policy.

Admittedly, it is a product of give-and-take by the conferees yet it is a fair compromise which the Senate should strongly support.

Mr. President, this conference concluded its business late in the day. Due to the lateness of the hour and the need to file the report as quickly as possible, we were unable to get the signature of one Senator. I ask unanimous consent that the permanent RECORD reflect the fact that the distinguished Senator from Mississippi, Mr. COCHRAN, would have signed the conference report as a conferee for the Agriculture portions of the bill if he had been given the opportunity to do so.

Indeed, he was there and did much of the negotiating. He would have signed that portion of the omnibus bill within the jurisdiction of the Agriculture Committee.

The VICE PRESIDENT. Without objection, it is so ordered.

● Mr. PACKWOOD. Mr. President, it gives me great pleasure to advise you and my colleagues that the members of the budget reconciliation conference committee were able to agree on a provision reducing the size of the membership of the Interstate Commerce Commission (ICC) to five members. I believe this provision will clearly further Congress goals of reducing Government spending, decreasing regulation, and increasing the efficiency with which the ICC operates. Further, the provision, as drafted, will insure that a political balance is maintained at the ICC and that no Commissioner's term of office is terminated or abbreviated.

The provision provides that effective January 1, 1983, the ICC is reduced from 11 members to 7 members. This is accomplished by eliminating 4 of the 5 existing vacant terms of office. Further, the provision provides that

upon the expiration of Commissioner Gilliam's term of office and Chairman Taylor's term of office on December 31, 1982, and December 31, 1983, respectively, anyone appointed to fill these terms, including the Commissioners themselves, will be appointed to terms of office expiring on December 31, 1985. Effective January 1, 1986, the ICC is reduced from seven members to five members. This is accomplished by eliminating the terms of offices now held by Gilliam and Taylor when they expire on December 31, 1985. The provision also provides, with one exception noted below, that effective January 1, 1984, all appointments to terms of offices expiring after that date will be for terms of 5 years. The current law provides for 7-year terms. Finally, the provision provides that upon the expiration of Commissioners Sterrett's and Andre's terms of office on December 31, 1987, anyone appointed to fill one of these terms of office after that date, including the Commissioners themselves, will be appointed to a term of office expiring on December 31, 1991. The purpose for providing in this single instance for one 4-year term of office commencing after December 31, 1987, is to bring all of the Commissioners' terms into sequence so that thereafter one term of office expires each year.●

● Mr. LEVIN. Mr. President, I support the Omnibus Reconciliation Act of 1982, which will reduce the deficit for fiscal year 1983 through fiscal year 1985 by $13.3 billion. The conference agreement on this bill represents a sustantial improvement from the version which passed the Senate earlier this month and which I opposed.

At that time, I took issue with the arbitrary 4 percent cap on the pensions for Federal retirees for fiscal year 1983 through fiscal year 1985. I stated that such a cap did not afford adequate protection to retirees who were on fixed incomes and who would be particularly vulnerable to inflation if the actual inflation rates exceeded those which are now being projected for the next 3 years. I agreed that the budgetary situation dictated that some entitlement savings were necessary, but thought that a more equitable approach would have been to limit cost-of-living adjustments to 2 percentage points below the Consumer Price Index.

The conferees have arrived at an alternate formula which, although different from my recommendation, meets my overall concerns, and which I can support. According to the conference report, Federal retirees age 62 and over would be eligible for the full COLA. Therefore, those retirees who are potentially the most vulnerable to a new burst of inflation would have their purchasing power fully protected. For Federal retirees under age 62, the conferees call for granting them 50 percent of the COLA and the full amount of the difference between the projected inflation adjustment for individuals age 62 and over and the actual inflation adjustment. For example, if the full COLA in 1983 for individuals age 62 and over is 7.6 percent rather than the currently projected 6.6 percent, retirees under age 62 would receive a COLA of 4.3 percent, which represents one-half of the projected COLA plus an additional 1 percent reflecting the difference between the actual COLA of 7.6 percent and the projected COLA of 6.6 percent. This is a reasonable formulation which instills flexibility for retirees under age 62 into the arbitrary limit of one-half of the COLA, which I would otherwise find unacceptable.

I also note the conference agreement's steps relative to double dipping by military retirees who are employed in civil service positions. Currently, these individuals receive both an annual pay increase and a cost-of-living adjustment in their retired pay. The conference agreement strikes a more appropriate balance in a time of fiscal austerity by providing that when such an individual receives a retirement COLA, the individual's civil service pay will be reduced by the dollar amount of that adjustment.

I do regret the conference decision, however, that all Federal retirees will have the initial payment of their COLA increase delayed by 1 month in each of the next 3 years. Adjustments currently are payable on April 1 of each year. Under the conference agreement, adjustments will be initially payable on May 1, 1983, June 1, 1984, and July 1, 1985. However, the importance of passing this overall deficit reduction package outweighs my objection to this individual provision.

When the Senate passed its version of this omnibus reconciliation bill, I also objected to some of the cuts in the food stamp program. I was particularly concerned that the Senate version once again delayed the adjustment for inflation in the amount of a household's income which is disregarded for the purposes of determining eligibility for food stamps. Last year's reconciliation bill delayed the adjustment for 2½ years, and the Senate version would have delayed it for an additional 15 months, until October 1, 1984. The conference agreement delays the adjustment only until October 1, 1983, thereby speeding up by a full year the inflation adjustment. Overall, I was pleased to see that the conferees restored $600 million in the total amount cut from the food stamp program over the 3-year period in the Senate version.

Mr. President, the conference agreement we have before us today is the product of good faith compromise and is an important element in bringing the deficit in this year and in future years under control. On balance it deserves the support of the Senate.●

● Mr. GRASSLEY. Mr. President, the House of Representatives acted responsibly today by passing a spend-slashing measure amounting to over $13 billion. Now it is the Senate's turn to pass the measure, and I trust that it will.

I wish to emphasize, Mr. President, the need to lower spending as a precondition for economic recovery. This is no new remedy. We have known this all along, but have failed to really take the tiger by the tail.

In this time of recession, we have seen businesses, family households, and even government bureaucracies cut back on nonessentials to a remarkable degree. It is a matter of survival for them.

But Congress, in many ways, seems unphased by these difficult times. We go on in spite of hard times as if there were no crisis. Oh, the rhetoric has been appropriate—we all have pointed out the need to be "fiscally responsible" and reduce deficits.

But rhetoric without action yields nothing.

There is a crisis, Mr. President. There is an economic crisis marked by a Federal budget crisis. Although we are in bad need of tax reform, we cannot depend on higher taxes to correct a problem that is budgetary in nature.

We have many built-in structural problems which have caused the current problems and have prevented a reversal toward recovery. the Tax Code is biased against savings and productivity, in favor of debt and overconsumption. Budget increases are based on built-in mechanisms which distort the rise in real wealth. Budget increases are not based on our ability to pay for them. They are based on the rise in inflation. Similarly, wages are not based on the increase in real wealth through increased productivity, but rather on the rise in inflation. These structural problems and attitude problems must be addressed and reversed if we are to ever get a handle on what is currently a real live crisis.

We have, here, Mr. President, in H.R. 6955, only the first of many necessary spending reduction measures. It is only a start. Later this week we will vote on another spending reduction measure as part of the tax reform package. That is another small step. It is small simply because this Congress has still not reversed its propensity toward spending and taxing. It has not gotten a handle on the uncontrollability of the Federal budget. In short, it has yet to tackle the real problems of the budget: the structural biases and the perverse spend-tax attitude.

Mr. President, I intend to support this bill. But I must warn against any complacency that might set in among

my colleagues that the job is finished. This is just the first step of a 1,000-mile-long journey toward spending reform. Unless this point is realized, then what we have accomplished here in this bill becomes meaningless. Let us look toward making the real adjustments necessary for meaningful reform.●

● Mr. LEAHY. Mr. President, as ranking minority member of the Nutrition Subcommittee, I would like to comment on the food stamp portions of the 1982 budget reconciliation bill.

As I stated when this bill originally came to the floor of the Senate, I do not believe that any additional food stamp benefit cutbacks are warranted this year. The massive benefit reductions enacted last year in food stamps and other low-income programs have had a severe effect. Reports are rampant that hunger is again on the rise in the United States and that churches and other private charities are being pushed beyond capacity to meet the swelling demand. I ask that articles on this subject in the August 12, 1982 Washington Post and the August 16, 1982 U.S. News & World Report be included in the RECORD at the close of my remarks.

There is no question in my mind about the direct relationship between cutbacks in programs like food stamps and the increase in suffering across the country. This is not the time to be reducing the level of assistance provided to needy Americans. With an unemployment rate of nearly 10 percent, even the most hardened critics of public assistance should recognize that the myth that these programs serve only loafers and malingerers surely does not apply today.

Mr. President, I strongly favor reducing food stamp costs through better program management and accountability. I am pleased that nearly one-third of the $2 billion in food stamp savings that this bill will achieve in the next 3 years will come from reducing errors in program administration. This is clearly a step in the right direction that I have supported from the outset. I am concerned, however, about the additional $1.3 billion in benefit reductions.

Several of the changes mandated in the conference report involve very technical changes in benefit calculations. I would like to spell out my understanding of how these changes would be implemented since any change in methodology could involve millions of dollars in benefits for needy people. I understand that the Congressional Budget Office developed its savings estimates using these assumptions.

THRIFTY FOOD PLAN AND ROUNDING

A large portion of these savings would come from scaling back scheduled cost-of-living increases and rounding benefit allotments down to the next lower dollar. In the next 3 years, the October adjustment of the thrifty food plan would be based on the cost of that plan through the preceding June, minus 1 percent. Allotments would be computed by taking the unrounded cost of the thrifty food plan for June, reducing this number by 1 percent, making the appropriate household size adjustments, and then rounding the resulting unrounded figure for each household size down to the nearest lower dollar.

STANDARD AND SHELTER DEDUCTION

The conference adopted the House provision to delay the next update of the standard and shelter deductions from July 1, 1983, to October 1, 1983. At that time, adjustments of these deductions will begin again, using $85 as the base for the standard deduction and $115 as the base for the shelter deduction. Adjustments after 1983 would be based on the unrounded numbers from the previous year's adjustment.

FOOD STAMP CAP

The conferees agreed upon new spending ceilings for the next 3 years. While these ceilings include a theoretical cushion of 5 percent beyond CBO's current estimate of program costs, the adequacy of these ceilings will depend upon the performance of the economy. CBO's estimates assume a significant decline in the unemployment rate. If unemployment stays at current levels, the cushion would be pretty much used up.

If the "caps" in this bill prove to be too low, it will be because the economy is performing far worse than anyone expected. Under these circumstances, I do not believe Congress would expect the Secretary to cut benefits across the board in order to keep expenditures within the ceilings. If there is a prolonged recession or depression, the Secretary should actively consult with Congress about program funding and consider requesting additional funding to maintain program benefits.

CONCLUSION

Despite my concern about food stamp benefit reductions, this conference report does require far less savings than the President and others in Congress recommended. It also deletes a Senate-passed provision for voluntary block grants that, in my view, represented the single most serious threat to the continued effectiveness of the food stamp program. considering the political realities facing this program, the final result from this year's deliberations was far better than I expected.

The material follows:

[From the Washington Post, Aug. 12, 1982]

AGENCIES WATER THE "CHARITY SOUP"

(By Marjorie Hyer)

At Sacred Heart Parish, 16th and Park Road NW, the number of families receiving church emergency food packages jumped from 70 last July to 230 in May of this year, according to the Rev. Joaquin Bazan, pastor.

SOME (So Others May Eat), a church-operated soup kitchen half a mile north of the Capitol, has watched its daily line grow from 200 persons a few years ago to 600 today.

In affluent Montgomery County, $30 emergency aid grants given by the interdenominational Community Ministry jumped from 16 a month three years ago to over 100 in June of this year.

"I don't know where it's going to end." says Marita Dean of Catholic Charities' crisis intervention service. "Last summer we were seeing 40 people a month. Now, it's close to 100. And this is summer, when it should be down. God knows what it will be in November and December."

"The churches I know are overwhelmed by the tide of need," says the Rev. Jack Woodard of St. Stephen and the Incarnation, a Northwest Washington parish where he reports the number coming for emergency groceries has tripled since last year.

Nearly a score of other Washington area agencies, the heart and soul of President Reagan's hopes for voluntarism, report they are being strained beyond their capacity to cope.

They have watered the charity soup, giving less help to more people, to stretch their resources. They have redoubled efforts to raise additional funds and supplies, in some cases scavenging food from supermarket dumpsters—but they say the same problems of inflation and unemployment that multiply the appeals for help are cutting deeply into contributions and operating revenues.

And so, increasingly, they have had to steel themselves to sending people away empty-handed.

"We tend to run out," says Noreen Buckley who runs the food pantry at St. Stephen's.

"We help what we can and after that we have to say, 'Sorry.' We have to turn people away."

At the same time, they are also turning to political pressure in their effort to cope, taking every opportunity—through testimony at legislative hearings, through pronouncements, through lobbying—to demand a reversal of cuts in government welfare programs.

"We do not need to be reminded of our responsibilities to the poor," said Roman Catholic Archbishop James A. Hickey earlier this year, responding to Reagan's suggestion that the churches take over more of the welfare burden from government. ". . . Our efforts cannot and should not substitute for a national commitment to build a just society . . ."

The Rev. Tom Nees, Church of the Nazarene minister, who heads a congregation along the 14th Street corridor, says, ". . . The first responsibility of the churches is to create that moral climate in which it is politically unthinkable to do what is going on in this town. . . ."

Officials say church involvement in charity work is already so extensive that it is impossible to estimate the total amount of aid provided by area religious groups.

In Washington alone, religious institutions operate nearly 60 food pantries or soup kitchens and 14 shelters for the homeless, where some food also is available.

SOME by itself estimates that its food and volunteer labor are worth more than $1 million annually.

In addition, religious institutions provide some free or limited-cost care at affiliated hospitals, aid for utility and mortgage or rental payments, counseling—the list of their services touches all the needs of man.

Church aid programs traditionally have been an emergency backup system for government-funded assistance programs. In recent months, the federal welfare cutbacks plus the effects of inflation and rising unemployment have produced more emergencies than the churches can deal with.

"Anybody who is single and who does not have family support is just one RIF away from disaster," says the Rev. Jennie Bull, minister of outreach for the Metropolitan Community Church.

The result is that church charities now are getting pleas for the kind of help that is far beyond their resources.

There are, for instance, what Tina Sturdevant of Catholic Charities of Prince George's County calls "a new class of poor." They are the couples with young children, a house and a mortgage based on two incomes. They are proud of their achievements. Then one of them loses a job. The family still has an income, but it's not sufficient to pay the high mortgage payments and utilities.

"These people put every cent into the mortgage—money that should have gone into medicine for children, into shoes for the children. So these people are losing their home when they come to us."

She recalls the anguish of the young mother who had to give away her children's dog because they could no longer feed it, and she adds softly, "I have seen men cry in my office because they lost their job and can't pay the mortgage."

There is little Catholic Charities can do to help. Sometimes, she says, "we help them" with a food package or used clothing "so every cent can go toward that mortgage, so maybe the one who lost the job can find another. But if the amount is way too large, there's not much we can do."

Others come with huge, long-overdue utility and rent bills. "We've had families who have had to make a choice." says Catholic Charities' Dean.

"They can't pay the oil bill" during the cold weather, "so they use electricity to heat. Then comes spring and their electricity is turned off" for non-payment.

"We negotiate with the utilities . . . Maybe they owe $200-$300. We call and send in whatever they'll accept to keep the service continued. For some . . . once it's cut off they'll never be able to get it re-installed" because of the backlog of unpaid bills.

Unpaid rent is a similar problem. "Somebody who is back in the rent two months—you're talking about $800-$900," Dean says. "There's no way we can pay that amount."

In such situations, says Delores Farrow of the Righteous Branch Commandment Church of God, church charities "bag around," searching out other religious groups, local churches, possible government sources and family or friends who might chip in so that together the total amount is raised.

This tends to be a one-time-only solution, Dean says. "If there isn't any money coming in, what are they going to do next month?"

In such cases, she says in a troubled voice, the appeal has to be turned down. "It's a hard thing to do, 'cause what is there but the shelters? It's not an easy thing to. . . ." She does not finish the sentence.

In the inner city, where the need is most acute and the resources most limited, religious groups rely on a variety of devices. Most have developed support systems linked to churches and synagogues in the suburbs or more affluent sections of the city for contributions of foodstuffs, volunteers, and cash.

SOME, for example, has a network of 70 churches and synagogues that take turns providing and serving 600 breakfasts and lunches, from the exotic spiced and fruited oatmeal of the Sikh Dharmas to the monthly soul food lunch from Shiloh Baptist.

Most food pantries and soup kitchens get some food from the Capital Area Community Food Bank, where commercial food processers and handlers can recieve tax benefits for donating food that is still edible but outdated damaged or otherwise unsalable.

The problem with the Food Bank, charity workers agree, is that by its very nature, its inventory sometimes tends toward the exotic and lacks the essentials.

"It's not the choice [of foods] you can keep a family going on, even for a day or two, and that's all we're trying to do," says Sister Julia McMurrough of Assumption Church in Anacostia.

Like most emergency food program operators, she must buy supplementary food supplies, especially protein items, to supplement the Food Bank's stale English muffins and packets of holiday colored M&Ms.

Conversations with church social service workers reflect a scrabbling for resources, wherever they can be found.

Some groups scavenge still-edible food from dumpsters outside shipping terminals and supermarkets and make regular rounds of restaurants and hotels to pick up leftovers.

"We get buckets of beautiful food—not off people's plates but food that hasn't been served—from dinners at the Organization of American States," says the Rev. Dr. John Steinbruck of Luther Place Church in the District of Columbia.

Church welfare workers, trying to raise funds, spend a lot of evenings telling church and community groups about the problems they wrestle with during the day, in an effort to raise funds. "The personal touch helps," says Sturdevant.

While excess zucchini from summer gardens in Potomac often nourishes soup kitchen patrons in Columbia Heights, contributions of cold cash are harder to raise.

The Community Ministry of Montgomery County, which has watched its Grant Assistance Program expenditures rise from $6,872 in 1979 to $15,115 last year, is pressing the more than a score of church groups that support it for $20,000 to meet this year's needs.

Given the current economic situation, fundraising is not an easy task. "We're just about holding our head above water," says the Rev. T. J. Baltimore of the People's Community Bapist Church in Wheaton. His congregation of black middleclass professionals and government workers falls in the $25,000-a-year class, he said.

"My counseling load has doubled," he says. "I get 20, 30 calls a day . . . all hours of the day and night," as both members and people from the community turn to him for help.

"Poor folks are looking to us" for help, he says, "but I'm having real trouble finding the money, finding clothes" and other items they need.

In Alexandria, Rabbi Sheldon Elster of Agudas Achim Congregation, reports similar problems.

"There are a lot of people" within the relatively comfortable congregation "who really need assistance," he says, adding that the treasurer of Agudas Achim has had "a constant load of people who need adjustments" in their membership fees as family incomes fluctuate.

Throughout the area, charity workers say they are fearful for what the future holds. At St. Stephen's, as at other soup kitchens in the area, the tensions among people waiting to be fed "are much higher," says pastor Woodard.

Recently the church's security guard, a burly ex-Marine, took three knives from men waiting to get into the dining room, Woodard says, adding, "It's getting real hairy, let me tell you."

[From U.S. News & World Report, Aug. 16, 1982]

POVERTY TRAP: NO WAY OUT?

(The words "hopeless" and "frustrated" are being heard more often now, as thousands of laid-off workers join families who have been poor for many generations.)

The U.S., after gaining steady ground in a nearly two-decades-old war on poverty, now appears headed down the path of retreat.

Sharp budget cuts, set in motion by a White House alarmed by enormous deficits, have produced the first significant decline in social spending in 30 years. Meanwhile, a crippling recession—the third since 1970—has caused the numbers of poor to swell to nearly 32 million, or 14 percent of the population, the highest percentage since 1967.

Included in these ranks are many who never before tasted real want—the so-called new poor—such as auto workers and lumbermill employes who have lost jobs and benefits as a result of an epidemic of plant closings.

Poverty agencies, both government and private, are deluged with requests for help. Makeshift soup kitchens and shelters that once catered to "bag ladies" and other drifters serve more families and displaced workers.

Yet, in the face of this misery, there is a curious quiet. Gone are the riots of the late 1960s, which came, ironically, during a time when many antipoverty programs were started. Nor is there any great groundswell of support among the more fortunate for new programs. Most citizens, experts say, believe that the basic needs of the poor are being met and that the country cannot afford to do more.

Says Princeton University economist Alan Blinder: "The war has dragged on longer than most people had expected and cost far more than had been imagined. Progress has come grudgingly, and there is a feeling that we have sacrificed too much economic efficiency at the altar of poverty fighting." Reflecting that thinking, the Reagan administration has scaled down President Johnson's Great Society programs, which caused social spending to shoot up from 118 billion dollars in 1960 to more than 430 billion today. Instead, the White House is counting on an economic rebound and a resurgence of voluntarism and self-help programs to take the place of government spending.

But those developments have yet to materialize. The result, some experts say, is that the country is without a workable policy to help the needy. Poor people, who may be better off than their counterparts of 20 years ago because of government housing, food and health programs, may face a more hopeless future because of an economy that demands greater skills to insure success.

SWELLING RANKS OF THE POOR

The last four years, riddled by two economic slumps and budget cuts, have stalled antipoverty efforts. From 1960, when 22 percent of the population was officially classified as poor, the percentage of needy people dropped steadily to a low of 11.4 in 1978. But the percentage of those living below the poverty line—$9,287 for a nonfarm family of four—rose to 14 percent in 1981. Many authorities expect it to climb higher.

Reports from around the nation give evidence of the spreading misery—

In Washington, D.C., authorities estimate that more than 660 families will have sought emergency housing at its temporary shelter in the 12 months ending in September, compared with 406 for the same period the year before.

The Garden Valley Neighborhood House in Cleveland, one of countless "hunger centers" sprouting up around the country, is serving more than 300 families—about double last year's figure. "I've got regulars now—people who come back every other month for food because they can't make it without the extra help," says Jennette Raum, food-program supervisor at the center. "Also, we're starting to get a lot of fathers whose unemployment has run out, and they haven't started getting public assistance yet. Some of these men have been working 25 to 30 years, and it seems very demeaning to them to have to do this."

In Pittsburgh, the problem for many of the poor is soaring utility bills. The number applying for hardship applications to get breaks on bills is up about 30 percent, reports Stephen Hutter of the Stephen Foster Community Center, who adds: "People are getting more termination notices because their bills are getting out of hand."

Oregon's 77 general hospitals absorbed 151 million dollars in "uncollectable" care in 1981, an increase of 40 million dollars from the year before.

Even in booming Houston, the signs of spreading poverty are obvious. Officials of the Christian Community Service Center, which represents 12 churches, say they can't help everybody who calls. Among the needy: "Immigrants" from other regions who came to Houston seeking jobs.

WIELDING THE BUDGET AX

Meanwhile, as the demand for help soars, local-government agencies complain that they have to reduce services because of budget cuts. Researchers at the Urban Institute in Washington estimate that about 10 billion dollars of the 35 billion trimmed this year from Federal spending are in programs affecting the poor. Among the major cutbacks:

Some 400,000 families have been lopped off foodstamp rolls as a result of a decision to limit eligibility to families of four earning no more than about $11,000.

The federal share of spending for medicaid, the health program for the poor, has been reduced with further cuts expected in 1983. Some states have been forced to end benefits for eyeglasses, drugs and dental checkups.

Some 340,000 public-service jobs have been eliminated, causing many people to resort to the dole.

In reducing spending for the Aid to Families With Dependent Children program by 1.2 billion dollars, children over the age of 18 are excluded, as are families of strikers. The income of a child's stepparent is being counted, and limits are being placed on work-related expenses.

Still other trims have come in school lunches, nutrition programs for needy women and infants, housing subsidies, energy assistance, legal services and college grants for disadvantaged students.

The list of local programs affected by this retrenching is endless. Denver has eliminated a homemaker's program to help the low-income elderly with housekeeping chores. North Carolina has had to cut about 9,000 families from the AFDC rolls and reduce benefits for 4,700 more. In Louisville, health services for the disadvantaged will be cut by nearly 40 percent in some parts of the city. Boston's program for feeding needy mothers and infants has been slashed in half. A St. Louis program to train unemployed women has been terminated, putting many back on welfare.

In the face of these and countless other reports, the Reagan administration insists that the budget cuts do not affect the "truly needy" and that trimming federal deficits is an essential step toward curbing inflation and spurring economic growth that will create jobs for all Americans, the poor included.

Noting that there are as many poor people now as there were before all the massive social programs, Budget Director David Stockman says that the White House's antipoverty program is to increase income, jobs and capital spending. Presidential Counselor Edwin Meese III adds that President Johnson's Great Society programs primarily helped middle-class bureaucrats. "It was really a program designed by middle and upper-class technocrats, which resulted in more government and more taxes," contends Meese. Reagan's critics see it another way. Says Senator Edward M. Kennedy (D-Mass.):

"The administration claims to have a social-safety net, but the only social-safety net now in place is the one that protects the special privileges of the very wealthy."

THE VICTIM LIST

While the debate rages over whether the "truly needy" are receiving enough protection, most authorities agree that the working poor are worse off under the budget cuts. These are the families with incomes in the upper range of poor families or perhaps slightly above the poverty line.

"The lower-level people didn't get hurt that badly," says Lawrence Ingram, secretary of the New Mexico Department of Human Services. "But the guy just above the poverty level is really suffering, because he got squeezed out of government programs."

Typical is Mary Jane Hatch of North Jay, Me., who recently lost $151 in monthly AFDC benefits because of new rules imposed by the administration. She must now support her three children on the $3.46 an hour she makes as a secretary for an antipoverty agency. "A lot of people right there on the poverty level like me feel they might as well stay at home instead of working," she says. "I could probably make a few dollars a week more sitting at home, but I'm not like that."

Beyond the federal budget cuts, however, is the fallout from an economy that has been locked in a deep slump for months. Here, the victims are not longtime welfare recipients but laid-off factory workers. "The stereotype of the poor person is changing in this country," says Marjorie Hall Ellis, director of the Cuyahoga County, Ohio, Welfare Department. "We're finding now that the poor person is no longer just from the inner city and no longer asset-free."

In Stevenson, Wash., Rick Fabian, a laid off truck driver whose unemployment benefits ran out in February, has had to sell some of his possessions, move into low-income housing and borrow money from parents to keep afloat. "All these years we paid into taxes; we paid into welfare," says his wife Judy. "We are middle-class working people, but when we're down and out, there's no place to turn."

Similarly, in Washington, D.C., a 42-year-old public-affairs specialist with two master's degrees is a victim of the widespread reductions in the federal work force. His unemployment check doesn't even pay for the rent on his apartment, and he and his wife are dipping into savings.

Such stories, repeated thousands of times by displaced factory workers and government employes whose jobless benefits have expired, are creating a whole class of needy people popularly referred to as the "new poor." Most are shocked at suddenly finding themselves in the same predicament as those who have been on welfare for years.

HOW MUCH REAL SUFFERING?

The plight of the new poor reflects an often overlooked fact about poverty: It is very changeable. James Morgan, professor of economic behavior at the University of Michigan, estimates that only one tenth of those in need are persistently poor. "They are people who are disabled, uneducated or very old." The remainder tend to be in want only temporarily because of divorce, family illness or job loss. Many bounce in and out of poverty.

Statistics show that about 29 percent of the poor are black and 12 percent of Spanish origin. About one half of all families below the poverty level are headed by women with no husband present, and more than a third of the poor are children below the age of 16.

Life for these people, while often exceedingly bleak, does not carry with it the material deprivation it did before the Great Society programs came on line, according to many experts. "Those who are poor today are not as poor as the poor used to be," says economist Sar Levitan of George Washington University, "but some of their basic needs are still not being met despite the benefits."

The Census Bureau, looking at the year 1979, estimates that if various "in kind" benefits—food stamps, housing subsidies, medicaid and the like—were counted as income, only about 6.4 percent of the population, instead of 11.6, would have been in poverty that year. However, about 40 percent of the poor receive none of this noncash aid.

Others point out that portions of the population commonly described as struggling are faring quite well. Stanford University economist Alvin Rabushka notes that more than 70 percent of senior citizens own their homes—often free and clear. Not only could that asset be converted to cash, if need be, but, says Rabushka: "The elderly have had a rate of improvement greater than the under-65 population due in part to Social Security payments." Only 15.3 percent of the elderly were poor last year, compared with 35.2 percent in 1959.

All this is not to minimize the suffering that does exist for many of the poor. Allan Steinberg, an alderman in Louisville, speaks for many around the country when he says: "We have people who don't know how they're going to make the choice in the

coming winter between paying their utility bills and buying food."

QUIET IN THE FACE OF WANT

Despite such instances of suffering, the nation has been remarkably free of protests. In June, members of the Southern Christian Leadership Conference, the civil-rights organization, came to Washington to demonstrate the needs of the poor, but drew only a small crowd—nothing to rival the huge throng that gathered in 1968 at Resurrection City.

A group called ACORN—the Association of Community Organizations for Reform Now—has sought to obtain housing for the needy in a dozen cities, sometimes encouraging families to squat in vacant properties owned by communities or the federal government. Some black leaders also have called for the use of economic boycotts against firms that fail to offer enough jobs to minorities.

But beyond these steps, the reaction to the swelling ranks of the disadvantaged has been a strange quiet. There have been no riots, such as those that racked the country in the 1960s. Economist Michael Borus of Ohio State University's Center for Human Resources attributes part of the calm to the "cushion" provided by unemployment compensation and the fact that there are so many two-income households.

Even so, a forecast by BERI S.A., a Swiss group that advises firms on business risks, assigned a "high probability" for riots in the U.S. in 1983. "The unemployable will be frustrated by their exclusion from the economy and by the cutbacks in social programs, reinforcing their sense of hopelessness," the report said.

For now, the fallout from poverty seems to be limited to such developments as spreading illiteracy, higher crime rates, rising child abuse and a jump in illegitimate births—all influenced by people's failure to find opportunity in the America of the 1980s. That is particularly true when it comes to one major group—young black males. "So many of our youth are unemployed, no longer have training programs, are not in school and have so much hopelessness," observed a Chicago delegate to a recent convention of the National Association for the Advancement of Colored People. "The only thing left to them, they think, is crime. Any little spark could set them off and create a nightmare for the rest of us."

THE SEARCH FOR SOLUTIONS

In the face of such threats, Washington has no special program to tackle the sources of poverty. Rather, most proposals involve cutting welfare costs. The administration, for example, is urging states to start "workfare," a program in which able-bodied welfare recipients are required to work at some job. But presently, the federal government provides no financial incentive to states that adopt workfare—some 25 have either started such programs or plan to do so. What's more, studies show that workfare rarely provides the training needed to get decent jobs in the private sector.

Similarly, to control costs, the administration is proposing a swap in which the federal government would take over the entire funding of medicaid, while states assume the full costs for Aid to Families With Dependent Children. Many experts believe the scheme would lead to an even greater variation in welfare benefits throughout the nation, with some states spending the bare minimum for the needy.

In Congress, there is strong support for continuing tax credits for employers who hire the poor, the handicapped and other disadvantaged workers. But few lawmakers see any chance for a major overhaul of the welfare system, such as doing away with food stamps, housing subsidies and other benefits in favor of a system of cash grants that could cut administrative costs and give the poor more leeway in the way they spend their money. Charles Murray, a Washington consultant who favors such a plan, argues that the present system of benefits encourages dependency.

Instead of vast new programs or revolutionary approaches, the President and his supporters in Congress are depending on the generosity of Americans and an improvement in the economy. On the first count, there are signs of progress. Giving to United Way campaigns nationwide rose 10.3 percent in 1981 to nearly 1.7 billion dollars. Businesses last year contributed 3 billion dollars to various charities—an 11 percent jump from the 1980 total—and surveys show that the increase in corporate giving this year could be as much as 15 percent. Still, the business community freely admits that it cannot—and in many cases should not—make up for the funding cuts in social programs voted by Congress.

The essential ingredient for improving the lot of the poor, most authorities agree, is a healthy economy. Tracing the progress in curbing poverty, political scientist Murry of Washington notes that increases in the country's gross national product—not special antipoverty programs—have accounted for most of the gains made in reducing want.

Yet an improved economy may not be enough. Because of the changes in the country's industrial mix, the number of jobs suitable for unskilled labor has shrunk. Thus, for the poor to have any hope of getting out of poverty, many experts argue the new education and training programs are needed. "We desperately need not only training, but retraining," says economist Vernon Briggs of Cornell University. "Many workers in the steel and auto industries are never going back even if the economy turns around. Many of their jobs will be taken over by machines."

Both the Senate and House have passed job-training bills, considered to be only modest when compared with the Comprehensive Employment and Training Act, which in 1978 saw 9.4 billion dollars spent on jobs and training.

Clearly, the momentum seems to be in favor of further cuts in poverty programs. The government recently put in new rules requiring residents of public housing to pay more rent, and new cuts are being considered for medicare. Observers also say that key proposals to help the needy won't go anywhere this year, including the President's plan to set up enterprise zones in depressed areas, where firms could get tax breaks and other advantages for hiring the poor.

Barring a quick and vibrant upturn in the economy—a development considered unlikely—the upshot of all this is that the poor face perhaps their bleakest outlook in years. The only question is whether they will bear their burden quietly—or lash out in protest.

● Mr. MATHIAS. Mr. President, I oppose the report of the conference committee on H.R. 6955, the Omnibus Reconciliation Act of 1982. I simply cannot support the manner in which Federal employees and retirees have been singled out in this reconciliation legislation to shoulder an unreasonable amount of the contemplated cutbacks.

Federal workers, and former Federal workers, are willing to take their fair share of budget cuts. Last year, Congress eliminated one of the two annual cost-of-living adjustments that Federal retirees had been promised. Before that, the Congress eliminated the retiree's 1 percent kicker that was automatically added to their cost-of-living adjustments. Last year, the Congress put a cap of 5 percent on the comparability increase for Federal employees. And the budget saving from these moves was substantial; the loss in real income to Federal employees and retirees was substantial as well.

Now, again this year, the Congress tells Federal retirees and military retirees that, once again, they must bear substantial cuts. The Senate instructed the Governmental Affairs Committee to make such substantial cuts in the Federal retirement program that the committee had no recourse but to approve a 4 percent cap on the cost-of-living adjustments for fiscal years 1983, 1984 and 1985. This 4 percent was to remain constant, despite what happened to the economy—and thus to the purchasing power of retirees. I did not like this approach, but it is far better than what the Senate has before it today.

What has emerged from the conference committee would produce comparable savings, but only by drawing arbitrary distinctions among Federal and military retirees based only on age.

Take my constituent John Abrahams, for example. He is from Rockville, and he called my office just this afternoon to explain how the conference proposal would affect him.

Early retirement is not always a boon to the Federal employee. Last week, Mr. Abrahams was involuntarily retired—forced out of the Federal Government in a RIF, as a result of Federal spending cutbacks. He is 59 years old, and his age works against him in two ways. It is difficult enough to find a job when unemployment is approaching 10 percent, and many employers are reluctant to hire older workers like Mr. Abrahams. At the same time, Mr. Abrahams' COLA will be reduced because he is not old enough.

If this conference report passes, for the next 3 years Mr. Abrahams will receive only one-half of the cost-of-living adjustment that retirees over the age of 62 will receive. Mr. Abrahams' cost of living certainly is not lower just because he is under 62. He has already lost his job because of Federal spending cuts, and I do not think the Congress should take away half of his

cost-of-living adjustment on top of that.

The Senate will make a very shortsighted budget cut today if it votes to approve the conference report to accompany the Omnibus Reconciliation Act of 1982. Admittedly it will save some money. But in the long run, the ultimate result could be disastrous. This action will send a message across this country that the civil service and the armed services are no longer viable places in which to make a career. It says that the Federal Government does not keep faith with its employees and its former employees.

And, in the long run, that will cost us much more than any small savings we might make today. It will cost us in terms of the Government of the future—a Government that will not be able to attract the best and the brightest minds that this country has to offer. It will be a sad day when the young people of this country are no longer willing to enter Government service. But that day is coming.

I urge my colleagues to think about the ultimate effect that this vote today will have. We cannot afford to make these cuts. I hope my colleagues will join with me in voting against them.

Mr. ZORINSKY. Mr. President, going into conference on this Reconciliation Act with the House Agriculture Committee conferees, the paid provisions in both the Senate and the House agricultural provisions were virtually identical. Both the Senate and the House had approved a 15-percent voluntary set-aside for wheat with an additional 10 percent to be diverted with a payment made for this additional diversion for participating producers. Both the Senate and the House had approved a 10-percent voluntary set-aside for corn with an additional 10-percent diversion for pay. Thus producers of wheat could divert 25 percent of their base acres and producers of corn could divert 20 percent of their corn and feed grains base. The House provision increased price support loan rates for both wheat and feed grains in addition to the paid diversion provision, a provision which had my support.

The Senate acted August 5 to defeat an amendment to lower the paid diversion to 5 percent after Senator BOREN offered, with my strong endorsement, an amendment to give producers of wheat and feed grains an additional paid diversion of 10 percent. The weakening amendment was defeated 60 to 38, with subsequent action of the Senate approval of the 10 percent paid diversion of a voice vote.

Mr. President, without prior consultation with Democratic conferees, a move was led by the majority conference leadership to reduce the paid diversion program back to 5 percent. I do not believe such a decision was justified under the circumstances. I presume that, as in the past conferences of agricultural matters last year, the administration again voiced its objection, and the threat of another veto effected the change.

I do not think I need to go into a great amount of detail about the dire straits our wheat and corn farmers are in today. Record crop levels, low prices, and high interest rates have combined to produce the worst conditions in our agricultural economy since the early 1930's.

The day before the action in the Senate, the Crop Production Report of USDA projected a second consecutive record corn crop which the Wall Street Journal said would "yield a harvest of political problems for the administration."

The price of corn in several western Nebraska locations dropped to $1.75 per bushel this week, 35 percent of parity.

What is really needed to turn this situation around is enactment of one of the so-called farm crisis bills like that introduced earlier this year by Senators ANDREWS, BOREN and myself. Unfortunately, that does not seem likely in the current political climate in the Congress.

If the Senate so-called wheat 15-10 provision and the corn 10-10 provision had prevailed in conference, several beneficial effects would have resulted. First the paid diversion would provide an infusion of dollars into the pockets of our cash-starved farmers. More importantly, that paid diversion will cause much greater participation in the Government acreage reduction program that will reduce crop yields and drive up prices.

Let us look for a moment at the expected wheat and corn production this year. For wheat, 2.77 billion bushels are expected to be produced in 1982, down only sightly from last year. Year-end stocks are expected to be a tremendous 1,314 million bushels.

For corn, the projected yield for 1982 is 8.32 billion bushels, with year-end stocks at 1,976 million bushels. These carryovers are estimated to be the highest in two decades. They not only tend to depress prices, they are also expensive to store. As a result, the Congressional Budget Office estimates a combination paid/diversion acreage reduction program would cut Govenment outlays $400 million more than the wheat program announced by the Agriculture Department last month.

Mr. President, it is difficult to understand why the administration will not act to put an effective acreage diversion program into effect. As a matter of fact, they already have such authority. I do not intend to be a part of the action of this body which ignores the economic problems inflicted on grain producers by failure to provide an effective means to strengthen market prices through reducing surpluses.

With farm exports falling for the first time in over a decade on top of mounting carryovers and with net farm income near an all-time low, the means to strengthening market prices is not just desirable, it is absolutely essential. I therefore intend to vote to table the Reconciliation Act as a means of expressing my concern over the inadequacy of the grain provisions.

Mr. President, I have written today to President Reagan expressing my dismay over the deteriorating farm economy. I ask unanimous consent to include this letter at this point in my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
Washington, D.C.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: There's a depression in agricultural mid-America. And it's getting worse. According to estimates from your own Agricultural Department, net farm income this year could equal the worst years of the 1930s. Farm debt is expected to be up 43 percent in 1981 compared to 1979. And, for the first time in more than 25 years, the value of a farmer's land is lower today than it was a year ago. Exports from America's farms are declining for the first time in more than 10 years.

Mr. President, the causes of this depression are many. But they all have the same effect: critically low farm prices. In my own state of Nebraska, wheat prices this week were down to 42 percent of the July 15 national parity price. Corn in some cases was as low as 35 percent of the national parity price.

The outlook for the future is even more bleak. Record corn crops are forecast this year, leading to record (and costly) carryovers and even lower prices. Wheat and feed grain crops also will be up this year over last, according to forecasts. The results will be bankruptcies of farmers throughout the United States. The farm sale already has returned to America's countryside with jarring force. Unless something is done, farm sales, too, will soon be setting records.

Mr. President, you can stop this slide and you can do it today. You have it within your power to administratively boost price support loan rates for wheat, corn and other feed grains. That would immediately increase farm income, since loan rates tend to provide a price floor. The increases would quickly put cash in hard-pressed farmers' pockets and could mean the difference between bankruptcy and solvency for many.

Please consider seriously the consequences of failing to act in the current crisis. Consider both the human consequences and the implications for our entire national economy. It's no secret that the growing lines of unemployment in Detroit started in the corn and wheat fields of the Midwest. Don't let today's agricultural depression precipitate a "farm led and farm fed" depression throughout the rest of the American economy.

Respectfully,

EDWARD ZORINSKY,
U.S. Senator.

CHANGES IN THE PAID DIVERSION PROGRAM

Mr. BAUCUS. Mr. President, I am very disturbed over one particular change that the conferees made in the reconciliation bill. I believe there was a substantial change in the paid diversion program provided for wheat and feed grains by an amendment I cosponsored with Senator BOREN.

The amendment passed by the Senate, provided for a 10 percent, voluntary paid diversion program for wheat in addition to the 15 percent acreage reduction program required for producers to qualify for Federal assistance. The Senate specifically voted on an alternative paid diversion program offered by the Senator from North Carolina (Mr. HELMS). Senator HELMS' amendment which was defeated, would have lowered the paid diversion program to 5 percent in addition to the 15 percent acreage reduction program.

Yet, when the conferees met on the reconciliation bill, the Senate offered a compromise program that instituted the 5 percent paid diverson specifically voted against in the Senate.

In other words, Mr. President, we now have a wheat and feed grain program that is essentially the same as the one originally proposed by the Department of Agriculture. There is a total of 20 percent of acreage that must be diverted from production in order to qualify for Federal farm programs. There is a 10 cent increase in the loan rate, which I heartly support—although it is far too little to address the critical fate of our farm economy.

Mr. President, we argued the merits of a 10-percent paid diversion program a few weeks ago. The significant budget savings and the additional incentive this program would have provided for producers to participate is why I supported the program. The changes made by the conference—reducing the paid diversion to 5 percent and making it mandatory—once again bring into question the amount of budget savings and the attractiveness of the program for producers. The original Boren amendment—a 10-percent voluntary paid diversion—was supported by the American Farm Bureau Federation, the National Farmers Union, the National Grange, the National Association of Wheat Growers, the National Corn Growers Association, the Independent Bankers of America, the National Farmers Organization, the American Agriculture Movement, the National Milk Producers Federation and the Grain Sorghum Producers Association.

Mr. President, I can appreciate and I support the budget savings represented by this reconciliation bill. However, I cannot understand or support a substitute change in this provision of the bill that goes directly against the expressed wishes of the Senate. I think everyone knows that the administration opposed the 10-percent paid diversion program. However, to have the Senator from Kansas (Mr. DOLE) offer their program in conference against the wishes of the Senate of the body goes too far.

I hope that U.S. wheat and feed grain producers realize that the weakening of the paid diversion program that they supported was done by the administration and not by the Members of the House and Senate that realize how critical the situation is in our farm economy. Low farm prices will not go away without meaningful action by Congress. It is unfortunate that we could not retain the paid diversion program adopted by the Senate—or for that matter by the House—and still reduce Federal spending by over $25 billion.

Mr. President, I associate myself with the comments made by the Senator from Nebraska (Mr. EXON) and the Senator from Oklahoma (Mr. BOREN). Their leadership in looking for remedies for the crisis in agriculture have not gone unnoticed by this Senator.

Mr. THURMOND. Mr. President, I am pleased to lend my support to this important spending reduction legislation.

This bill is one of several key legislative measures which will put into practice the specific changes necessary to reduce Federal budget deficits by almost $380 billion over the next 3 years. While the bill does not restrain the growth rate in entitlement programs as much as some of us would like, the $13.5 billion in savings through fiscal year 1985—as calculated by the Congressional Budget Office—which is contained in this bill is definitely a step in the right direction.

Mr. President, with the record surge in the stock markets recorded yesterday and other positive signs, especially the recent decline in interest rates, the prospects for a strong, sustained economic recovery are good. However, in order to insure a return to prosperity, with lower interest rates, lower inflation, and sufficient employment opportunities, we must steadily whittle down Federal spending.

We have not done the entire job in this bill; indeed, we have not done as well as we should. Moreover, we will not completely meet the desired objective in the other revenue-raising and outlay-reduction bills slated to come before Congress prior to adjournment. Much will remain to be done next year and in future years if we are to achieve the ultimate goal of enduring fiscal responsibility and a balanced Federal budget. Nevertheless, this bill moves us closer toward a healthy economy and fiscal stability, and I hope the Senate will approve it for the President's signature.

Mr. HUDDLESTON. Mr. President, the agriculture and food stamp program provisions of the conference report will cut Federal spending by about $7 billion over the next 3 years and help to slow the growth in the size of Federal deficits. I am hopeful that, by acting to limit the size of these deficits, which lead to higher interest rates, we will overcome one of the most serious obstacles to achieving economic recovery.

The agriculture and food stamp program provisions have been structured to insure that Federal outlays are made in a cost effective manner. As a result, we will be able to achieve significant spending cuts in the programs beyond the $3.29 billion required under the congressional budget resolution.

The farm and food stamp program provisions of the conference report represent a compromise between Senate and House positions on where spending reductions should occur. The conference report will authorize the Secretary of Agriculture to use a production adjustment assessment to encourage reduction of the milk surpluses while maintaining the current level of price support. It includes revisions in the food stamp program—to tighten work requirements, enhance program management, and reduce the Federal cost of the program—from both bills. It includes a paid land diversion for grain and rice producers to reduce the price-depressing buildup of inventories. It requires the Secretary of Agriculture to use between $175 million and $190 million of Commodity Credit Corporation funds for export promotion activities.

These actions will give the taxpayers the maximum return for every dollar spent and achieve solid savings without hardship to farmers or excessive harm to the food stamp program.

MILK PRICE SUPPORT PROGRAM

Overproduction of milk is a serious budget problem, and the milk program must be more effective in dealing with this problem. The changes made to the dairy program by the conference report should improve its operation.

The approach adopted by the conference report will maintain the minimum level at which the price of milk is to be supported at the current level of $13.10 per hundredweight during the 1983 and 1984 fiscal years.

The support price in fiscal year 1985 will be set at not less than whatever percentage of parity that $13.10 represents as of October 1, 1983.

A production adjustment assessment will be used to offset a portion of the cost of the price support program to the Government. The Secretary of Agriculture will have the authority to require a deduction of 50 cents per hundredweight beginning October 1, 1982, from the proceeds of sales of all milk marketed. This deducted amount will

be remitted to the Commodity Credit Corporation.

An additional deduction could be required by the Secretary beginning April 1, 1983, if projected annual purchases by the Commodity Credit Corporation exceed 7.5 billion pounds—milk equivalent. The provision for a second deduction could only be implemented if the Secretary establishes a program to refund the assessment to farmers who reduce their production from a base period. The base period would be fiscal year 1982—the current year—or, at the option of the Secretary, the average of fiscal years 1981 and 1982.

This approach differs from the provision passed by the Senate that would have maintained, for another 3 years, the milk support price at the same level it has been since October 1980.

For dairy farmers, this program will provide a strong incentive to bring production back into line with demand. I am hopeful that no further dairy program modifications will be required. This program should be allowed to operate for a sufficient time to judge its influence on milk marketings and Government outlays.

PAID LAND DIVERSION

The conference report includes a provision to require the Secretary of Agriculture to offer a paid land diversion program for the 1983 crops of wheat, feed grains, and rice. Mr. President, I supported Senator BOREN'S efforts to add this provision during consideration of the reconciliation bill by the Senate; I cosponsored the amendment. As long ago as last winter, several of my colleagues and I urged the Secretary to implement a paid land diversion for the 1982 crops. Had a paid land diversion program been in place this year, more farmers would have reduced grain production.

The most recent crop report by the Department of Agriculture removes any doubt that crop supplies are excessive today and that the provisions of the announced acreage limitation programs for the 1982 crops were not sufficiently attractive to encourage sufficient numbers of farmers to participate. Financially hard-pressed farmers could not afford to comply with the Secretary's announced acreage reduction programs.

The 1982 corn crop is estimated to be in excess of 8.3 billion bushels—up from last year's record of 8.2 billion bushels—and the wheat crop is estimated to be nearly as large as last year's 2.8 billion bushel crop.

Mr. President, none of us likes the idea of having to restrict the planting of commodities. But, at this time, decisive and effective action must be taken by the Secretary to reduce the stocks of grain to a level more consistent with demand. The paid land diversion provisions in 1983 will help achieve this needed reduction.

With a paid land diversion program in effect, more farmers will reduce plantings and we should get the needed adjustment to production of our major commodities. Prices would be enhanced and farmers would be assured of greater income.

Also, with a paid land diversion program, farmers will be able to obtain sufficient credit to continue production. Many farmers cannot, today, show their bankers that a profit is possible. I think this is a very grave situation.

For wheat farmers who participate, the program will consist of a 15-percent acreage limitation program and a 5-percent paid land diversion program. For participating producers of corn and other feed grains, the program will consist of a 10-percent acreage limitation program and a 5-percent paid land diversion. For rice farmers who participate, the program will consist of a 15-percent acreage limitation program and a 5-percent paid land diversion program.

A paid land diversion program will reduce Federal spending by over $360 million according to Congressional Budget Office estimates, lessen farmers' dependence on the Government, and decrease the largest carryover of wheat and corn in over 20 years.

With a paid land diversion program, I believe that farmers, farm lenders, and merchants who sell to farmers will have more confidence in the future. We must restore that confidence before we can expect much improvement in the rural economy.

EXPORT PROMOTION

The bill contains a provision designed to promote agricultural exports. This provision requires the Secretary of Agriculture to use at least $175 million, but not more than $190 million, in each of the fiscal years 1983 through 1985, to stimulate sales of U.S. agricultural products in foreign markets.

However, these new expenditures will result in net savings to the Government. This result will occur because, with improved prices, farmers will receive more from the market for their production and less from the Government under the agricultural price stabilization and related programs.

This provision is patterned after a bill—S. 2661—that Senator COCHRAN and I introduced in June of this year.

Upgrading the export development program can do more to strengthen the agricultural economy than simply cutting the budget for this program. Increasing export volume is an essential part of any program to lead American agriculture out of its current depression.

ADVANCE DEFICIENCY PAYMENTS

The conference report requires that the Secretary of Agriculture make advance deficiency payments, covering 70 percent of projected payments, under the programs for the 1982 crops of wheat, feed grains upland cotton, and rice. The payments will be made as soon as practicable after October 1, 1982.

For the 1983 crops, if there are acreage limitation or set-aside programs, the Secretary will be required to make not more than 50 percent of any projected deficiency payment in advance, as soon as practicable after producers sign up for the program involved.

I strongly support the adoption of the provisions for advance deficiency payments to farmers. This provision is also patterned after S. 2661.

These provisions will enable hard-pressed farmers to receive hundreds of millions of dollars this October and, again early in the 1983 crop year—in time to help with payment of production and harvesting costs. These payments are not additional outlays—they are partial payment of funds which farmers would otherwise receive later in the crop year. Such early payment will likely provide an additional incentive for farmers to participate in the acreage reduction programs for these commodities.

FOOD STAMPS

The conference report makes revisions that will reduce the cost of the food stamp program, tighten work requirements, and enhance program management. This is the fifth time in 5 years that Congress has acted on legislation making major changes to the food stamp program.

Food stamp program costs will be reduced by nearly $2 billion over the next 3 years, with nearly one-third of the savings coming from a reduction in errors in administration.

CONCLUSION

Mr. President, budget-cutting is extremely difficult at a time when farmers and other citizens are suffering from the effects of the economic recession. However, we must act responsibly to reduce the huge Federal deficits. I believe the provisions in the conference report are a step in the right direction. Many of these provisions will be beneficial to farmers and, because there is a strong relationship between the state of the agricultural economy and the national economy, they can help to eliminate many barriers to economic recovery.

All of the conferees are to be commended for their efforts in reaching an agreement on the farm and food stamp provisions. Three of the conferees are deserving of particular praise for their leadership and hard work. I refer, of course, to Chairman DE LA GARZA, Chairman HELMS, and Representative WAMPLER.

Mr. ROBERT C. BYRD. Mr. President, I must cast my vote against the conference report because I believe it practices unwise, unfair, and false

economy in several areas, particularly the cutbacks and delays in cost-of-living adjustments to several groups of our citizens.

Under this report, all civil service and military retirees, regardless of age, will face a 1-month delay in receiving their COLA's. In addition, those same two groups of citizens if age 62 or under, will receive only one-half the cost-of-living adjustments that others will receive in fiscal 1983-85.

I am told that the average civil service retiree would lose about $66 a year because of the 1-month delays in COLA's, and that the retiree under age 62 would lose an additional $230, for a total loss of about $300 a year. The loss for military retirees would be similar but slightly less.

Mr. President, the loss of $300 a year is a very serious blow to many older Americans. We are asked, in the name of economy, to make arbitrary cutbacks that will harm the standard of living of a great many older Americans who are already hard pressed by the inflation and recession that grip our Nation.

I believe that this singling out of older Americans to bear the burden of our Nation's economic troubles sets a dangerous precedent. I fear there are those who will soon come to us with proposals, based on the same sort of reasoning, to make drastic cuts in social security, medicare, and other programs for older Americans.

I believe the Senate can and should find better, more equitable ways to practice the economy that we all agree is necessary. For that reason, I must cast my vote against this conference report.

Also Mr. President, this conference report still has the origination fee on Veterans' home loans. A provision which I opposed in the Senate version of this bill. With the housing market as depressed as it is, this provision along with the "upfront" collection of the FHA mortgage insurance premium can only aid in making a deplorable situation in the housing industry even worse.

Mr. DOMENICI. Mr. President, I want to conclude by just saying, having heard the speeches this afternoon, that one thing I hope we will all retain and that is a good sense of humor. To some extent, it was a rather hilarious afternoon.

In addition, I would just like to say to my wonderful friend who gave the speech today of a mixture of optimism and gloom that I hope the stock market, if it went down, went down before he made his speech.

Mr. HOLLINGS. I do, too.

Mr. DOMENICI. And I would think he would want that, too. I hope that occurred.

I yield back the remainder of my time.

Mr. BAKER. Have the yeas and nays been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES) is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 67, nays 32, as follows:

[Rollcall Vote No. 335 Leg.]

YEAS—67

Abdnor	East	McClure
Andrews	Exon	Murkowski
Armstrong	Garn	Nickles
Baker	Glenn	Nunn
Baucus	Gorton	Packwood
Bentsen	Grassley	Pell
Biden	Hatch	Percy
Boren	Hatfield	Pressler
Boschwitz	Hayakawa	Quayle
Bradley	Heflin	Roth
Brady	Heinz	Rudman
Byrd, Harry F., Jr.	Helms	Schmitt
	Huddleston	Simpson
Chafee	Humphrey	Specter
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
D'Amato	Kasten	Stevens
Danforth	Laxalt	Symms
DeConcini	Leahy	Thurmond
Denton	Levin	Tower
Dixon	Long	Wallop
Dole	Lugar	Warner
Domenici	Mattingly	

NAYS—32

Bumpers	Hawkins	Moynihan
Burdick	Hollings	Proxmire
Byrd, Robert C.	Inouye	Pryor
Cannon	Jackson	Randolph
Cranston	Jepsen	Riegle
Dodd	Kennedy	Sarbanes
Durenberger	Mathias	Sasser
Eagleton	Matsunaga	Tsongas
Ford	Melcher	Weicker
Goldwater	Metzenbaum	Zorinsky
Hart	Mitchell	

NOT VOTING—1

Chiles

So the conference report on H.R. 6955 was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, the Senate's vote which was just concluded sends this bill to the President. I am confident he will sign it into law. Today's vote is the culmination of almost 2 months of intensive work by the members and staffs of the seven Senate committees which received reconciliation instructions. I would remind the Senate that the first budget resolution for fiscal year 1983 was approved by both Houses on June 22, the committees which received reconciliation instructions have produced legislation complying fully with those instructions. Those committees then helped sell the legislation to the full Senate, and successfully concluded the very delicate negotiations with the House which produced the conference agreement just approved by the Senate.

I also want to take note of similar work in the other body. Despite a lot of misgivings on the part of many of the House Members, and despite substantive differences between the House and Senate bills, the House Members nevertheless demonstrated repeatedly their responsibility and their concern about the fiscal conditions of the National Government. Both sides of the conference engaged in the kind of give and take that is essential when a bill of this importance is approved.

As I said before, it is noteworthy that the House Members, most of whom are facing the voters this fall, were willing to approve this bill by a substantial margin earlier today.

Finally, Mr. President, I want to take note of the fine work of the members and staffs of the Senate and House Budget Committees. It is truly a privilege to work with the type of people who serve on the Senate Budget Committee and with the staff members who work very hard in support of the committee members. Chairman JONES and the other members of the House Budget Committee are also supported by a fine staff.

Mr. President, I ask unanimous consent that the Senate express its appreciation for the effective work done by the members and staffs of the various Senate committees in developing S. 2774, the original Senate omnibus reconciliation bill, and in negotiating the agreements with the House which produced the final version of H.R. 6955.

The VICE PRESIDING. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is my understanding that the distinguished manager of the bill for the majority will shortly ask the Senate to proceed to the consideration of House Concurrent Resolution 396, making technical and clerical corrections. A parliamentary inquiry: Does that fall within the scope of the previous order providing that this matter would be dealt with and the Senate would then return to the consideration of the debt limit?

Further, does that action in no way jeopardize the right of the party who had the floor to be recognized under the previous order?

The PRESIDING OFFICER (Mr. HAYAKAWA). The Senator is correct.

Mr. BAKER. I thank the Chair.

I yield the floor.

TECHNICAL AND CLERICAL CORRECTIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of

the House Concurrent Resolution 396, which makes technical and clerical corrections to the Omnibus Reconciliation Act of 1982.

The PRESIDING OFFICER. The clerk will state the resolution.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 396) to correct technical errors in the enrollment of the bill H.R. 6955.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (H. Con. Res. 396) was considered and agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the resolution was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, at this point, we return to the consideration of the debt limit.

I inquire of the Chair, what is the pending question?

The PRESIDING OFFICER. The clerk will state the unfinished business by title.

The legislative clerk read as follows:

A House joint resolution (H.J. Res. 520), to provide for a temporary increase in the public debt limit.

The Senate continued with consideration of the joint resolution.

UP AMENDMENT NO. 1253

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Montana (Mr. BAUCUS).

Mr. BAKER. Mr. President, could I inquire, under the order——

Mr. BUMPERS. Mr. President, may we have order so we can hear the majority leader, please.

The PRESIDING OFFICER. The Senate will please be in order. Senators will please conduct their conversations in the cloakroom.

The majority leader is recognized.

Mr. BAKER. Mr. President, under the order, who will the Chair recognize pursuant to the previous arrangement?

The PRESIDING OFFICER. The Senator from Oregon (Mr. PACKWOOD).

Mr. BAKER. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. BAKER. Mr. President, will the Senator from Oregon yield to me without losing his right?

Mr. PACKWOOD. Without losing my right.

Mr. BAKER. Mr. President, I meant to say this earlier. We will continue on this debate for as long as it appears productive to do so. I do not anticipate asking the Senate to remain past approximately 8 p.m. this evening.

Now, Mr. President, I yield the floor.

Mr. BUMPERS. Mr. President, will the majority leader yield for a question?

Mr. BAKER. Yes, I yield.

Mr. BUMPERS. Does the majority leader want to assure the Senate that we will or will not have votes?

Mr. BAKER. Mr. President, I would like to do that, but I cannot, I am afraid. I do not anticipate votes, but I must say that there is always the possibility of a vote in a situation such as this. There are a number of things that might be done as a matter of right of the Senators which will require a vote. I cannot assure that there will not be. I hope that there are not, and I do not anticipate any.

Mr. PACKWOOD. I might add to the majority leader's statement that it would be my intention to talk at some length tonight, and I do not expect votes. I do not intend to ask for any votes, and I would expect to talk to close to the time the majority leader is ready to go out.

Mr. BUMPERS. Maybe the Senator from North Carolina would like to say the same thing the Senator from Oregon just said.

Mr. HELMS. Gladly.

Mr. BAKER. Now, Mr. President, under the same conditions and terms will the Senator yield to me one more time?

Mr. PACKWOOD. I yield.

Mr. BAKER. Mr. President, I make that a unanimous-consent request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I do not know, it may be a forlorn——

Mr. PELL. Order, Mr. President.

Mr. BAKER. Order, Mr. President, for one more moment.

Mr. STENNIS. Mr. President, I ask for order. We like to hear what the majority leader says. We cannot hear.

Mr. BAKER. Mr. President, it may be a forlorn hope, but I still hope that we can arrive at a unanimous-consent agreement on a vote on one of these amendments. I hope that we could get one of the significant and basic amendments such as the Helms amendment as now modified, and I will not now make a request, but I urge my friend from Oregon and my friend from North Carolina to once again explore that possibility and see if we cannot get a time limitation on one of these principal amendments to this bill.

Mr. HELMS. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. HELMS. I will agree with anything the majority leader recommends.

Mr. PACKWOOD. Could I ask the majority leader this, and the Senator from North Carolina. Is the Senator talking about a vote on his amendment, one vote including both prayer and the abortion segments of the amendment?

Mr. BAKER. Mr. President, I can hardly wait.

Mr. HELMS. If the Senator will yield, I think that the order is established by Senate Rules. The first vote will be on the Baucus amendment, the second on the Wiecker amendment.

Mr. PACKWOOD. I think the majority leader is asking on the Senator's amendment. I do not think he was referring to the Baucus or the Weicker amendment in that request that the Senator and I try to work something out.

Mr. HELMS. Why do we not ask the Chair what is the order of votes?

Mr. BAKER. Mr. President, a parliamentary inquiry. What is the sequence of voting in the series of amendments that have been offered to this point?

The PRESIDING OFFICER. If no further amendments are offered, the first vote will be on the amendment offered by the Senator from Montana (Mr. BAUCUS), unprinted amendment No. 1253, followed by a vote on the amendment offered by the Senator from Connecticut (Mr. WEICKER), unprinted amendment No. 1252, followed by a vote on the amendment offered by the Senator from North Carolina (Mr. HELMS), unprinted amendment No. 1251, followed by a vote on the amendment offered by the Senator from North Carolina (Mr. HELMS), No. 2031, as modified, followed by a vote on the committee substitute and final passage.

Mr. PACKWOOD. Could I inquire further of the Chair, obviously anything that we can work out on a vote would be dependent on unanimous consent because there would have to be some time constraints put on it. I realized what the order of the vote was, but I am trying to find out from the Senator from North Carolina, when we get to his amendment, what it is he wants a vote on. Is it on just the abortion part, the prayer part or a vote on—because a motion to table would be in order on the overhanging amendment. What is it the Senator wants to vote on?

Mr. HELMS. Of course, I would follow the rules of the Senate and go to the Baucus and Weicker and two Helms amendments in the order stipulated by the Chair.

Mr. PACKWOOD. Do I understand that the Senator from North Carolina would or would not agree to a unanimous-consent to vote on his amendment as amended so that we would be voting on both prayer and abortion in one vote?

Mr. BAKER. As modified.

Mr. PACKWOOD. As modified, yes, but it would be one vote on the whole amendment.

Mr. HELMS. I will have to think about that, in all seriousness.

Mr. BAKER. Will the Senator from Oregon, who has the floor, yield without losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor.

Mr. BAKER. Mr. President, let me plant another seed in the minds of the principals. I think we are not yet ready to consummate a unanimous-consent agreement on this subject, but I think we are making headway. I hope that tomorrow, shortly after we get back on this bill, the Senate would be in a position to consider a unanimous-consent request by me or by any other Senator, but the one that I would propose would be perhaps to vote on the Helms amendment in some formulation, perhaps including both prayer and abortion or some other formulation, and the remaining part of the original request, that is, if we get a time limitation on something we can agree to, that is, the vote on abortion, that no other bill or amendment dealing with abortion would be in order this session of the Senate, with the exception of the Hatch amendment to the Constitution, which I have pledged to bring up.

That is what I hope we can arrange. As I say, that is a pretty big pill to swallow for some people in one sitting, so I will not make the request at this time. I hope Members will think about that and see if we can arrange a time certain to vote on an abortion amendment, and provided then that we will also vote on a Hatch constitutional amendment, and that no other bills or amendments dealing with abortion would be in order for the remainder of this session. That is what I hope for, Mr. President.

Mr. President, I thank all Senators for yielding to me and listening to my prayer for an early Christmas.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I reiterate what I said earlier that as far as I am concerned I plan to ask for no votes tonight, and I think the Senator from North Carolina probably has the same feeling. I cannot assure Senators that they are safe in going home, but I have no intention of asking for any votes and will be talking for several hours.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Will the majority leader please restate what he just said?

Mr. BAKER. Yes. I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair and I thank the Senator from Oregon.

Mr. PACKWOOD. Mr President, as we move into the discussion of the issue of denying to the Federal courts jurisdiction over certain cases, the argument is going to be raised on both sides as to whether or not we have the constitutional right to do so. Those who want to alter the Federal court's decision will cite a variety of cases, including that of ex parte McCardle, to indicate that this Congress has the right to deny to the district court or the court of appeals, or on occasion, for that matter, the U.S. Supreme Court, jurisdiction over issues we want to take away from them.

Others will cite the contrary. They will distinguish the McCardle case as an unusual case that does not hold what its proponents say it holds.

It is fair to say, however, that whatever we pass in Congress, if anything, limiting the jurisdiction of courts will be tested in the courts, as to whether or not it is constitutional. I think, therefore, we should ask not whether what we are attempting to pass is constitutional. That begs the question, and that is going to be tested, in any case, in court.

I think we would be wiser to ask, Is what we are attempting to pass good policy? Should this Congress be involved in taking away the jurisdiction of the Federal courts in general and the Supreme Court specifically, jurisdiction over issues, because we do not like the decisions that the courts have made? That is what the nub of this controversy is.

I should like to think that, at bottom, this Congress, as a matter of policy, before we ever got to the issue of constitutionality, would say, for the sake of all our liberties, that if we do not like Supreme Court decisions, we will try to change them in a way that our founders intended, which was a constitutional amendment, rather than attempting to take away the jurisdiction by statute, which requires only a majority vote.

I know the arguments that are made. Busing was never an issue at the time of the Constitution. School prayer was never an issue at the time of the Constitution. Abortion was never an issue at the time of the Constitution. Therefore, as our founders had no thoughts about these issues, or at least a thought that rose to the dignity of being mentioned in the Constitutional Convention and written into the Constitution, we are privileged, at a later time, to decide what they might have thought and attempt to interpret what they might have thought for us; or, we are entitled, because they said nothing about it, to attempt to overturn Supreme Court decisions interpreting the Constitution they wrote.

They will also say that the public, for example, is overwhelmingly opposed to busing, and therefore take the jurisdiction of the Federal courts over the issue of busing away from them; the public does not support busing. Or, they will come to the issue of prayer and will cite polls to show that, by a margin of 2 to 1, the public wants to reinstitute prayer in the public schools.

So those who were opposed to the court jurisdiction would say, "Take away the jurisdiction of the Supreme Court; the public supports school prayer." But then when we come to the issue of abortion, the same polls that show a majority for reinstituting school prayer show a majority who say that a woman should have a right to make a choice as to whether or not she wants an abortion, and we should not take that away from the courts. Those who will cite polls in their favor or busing or on prayer will then dismiss the polls on abortion.

Mr. President, you cannot have it both ways. You cannot say, "We will vote to take away from the court all those rights that the public, by a majority vote, decide they do not like the court's decision on, unless we do not agree with the majority of the public, in which case we will try to take away their rights, no matter what the public thinks about them."

Regardless of what public opinion may be, Mr. President, I should like to think that when it comes to the fundamental liberties of this country, we will not be passionately slipped off our feet, whether or not what we do is constitutional, that we will not be passionately swept off our feet because the popular majority under a certain circumstance happens to like or not like something.

Our founders, Mr. President, when they created the Constitution understood full well that on occasion passion and prejudice can obscure judgment. They understood very well that Presidents, legislators, and Members of Congress can easily be swept off their feet by popular movements, can bend to transitory pressures. Therefore, they created a Supreme Court and very clearly indicated, as you read the Federalist Papers and the debates of the Constitutional Convention, that they intended that Supreme Court to be the final arbitrator of what the Constitution meant and said. It is very clear that they thought if there be a conflict between laws and the Constitution, that the Constitution would govern.

Mr. President, I know the argument will be made that the Constitution says that Congress creates the inferior courts, the courts of appeals and the

Federal district courts, and determines their jurisdiction, and as we have the right to create the court as we want and to determine their jurisdiction we can if we want decide to take away part of their jurisdiction.

The statute most often cited for that proposition is the Norris-LaGuardia Act where Congress said that Federal courts could no longer issue injunctions in labor disputes.

Whether or not we have the right to do that went to the courts. The Supreme Court held that we had the right to do it. But it is important to understand that that related to just one remedy, injunctions in labor disputes.

It is important to remember that never, never in the history of this country save with the possible exception of that McCurdle case, have we ever in Congress tried to take away the fundamental liberties set forth in the Constitution and the Bill of Rights principally in the 13th, 14th, and 15th amendments that guarantee the liberties of all of our citizens.

We have never even seriously thought we had the right to do it. But thank God wisdom has been such that we have not tried to do it, whether or not we have the right to do it, because picture the situation if we can do that: We have the right to create the Federal district courts. We have the right to determine their jurisdiction. Do we have the right, therefore, to demean certain constitutional rights because we have the right to determine their jurisdiction? I will put you a situation, a particularly heinous kidnaping and murder case, Lindbergh situation, a Patty Hearst situation. Assume a suspect is caught and in the process of being taken to the police station and interrogated makes several statements to the police officers, perhaps even signs a confession that may or may not have been extorted out of him, and goes to trial. The defendant's attorneys decide not to put the defendant on the stand, as they have the right to do. Despite that the trial judge allows the admission of the quasi-confession or the statements that the defendant made to the police officers, and the jury convicts the defendant. The case is appealed through the courts and gets to the U.S. Supreme Court, and the U.S. Supreme Court reverses the conviction and sets the man free, saying that the statements made to the police officers should not have been admitted, that it violated the defendant's right against self-incrimination and because of double jeopardy the defendant cannot be tried again.

Imagine the outcry you would have in this country if the defendant were involved in a Lindbergh or a Patty Hearst kind of case. What you would have, Mr. President, is some people in Congress urging legislation to take away from the Federal courts the right to pass on cases involving self-incrimination.

Or I will put you another case, and I will wager in this Congress today there are people who wish they could do it: The press—no, let us take a better one—speech, the inflammatory statements, the barn burners of the country make and they are often not made by people who we choose to socially associate with. On occasion they defame elected officials. On occasion they say worse. On occasion they frighten us, they make statements about our forms of government. We regard them as dangerous, we say, to our liberties and so we introduce legislation to say that in certain types of cases involving speech the Federal courts shall have no jurisdiction to hear the cases.

Mr. President, I think it is unconstitutional to do that. I do not think we have the power to say that certain kinds of cases involving fundamental constitutional liberties may be taken away from the courts, but if we have the power, and again I will emphasize if any legislation like this is passed it is clearly going to court. But if we have the power it is not wise policy because the only ultimate protector any of us have, you, Mr. President, or me, or any other citizen in this country, is a court that is willing, because of its long tenure of lifetime appointment and a long tradition of reverence for the Constitution and the Bill of Rights, to stand up for the unpopular person and the unpopular opinion.

Mr. President, it is said that if the court makes wrong decisions, we should right them.

Mr. President, the history of Congress and the Presidency has had some glorious moments, moments of great tradition, great excitement, and great leadership.

But we have also had some moments of disrepute and sham, both Congress and the President.

The Alien and Sedition Acts passed in the late 1700's ironically shortly after this country was founded, prohibiting publication of material bringing the Government or the President into disrepute—clearly were unconstitutional. Fortunately, the acts had a sunset provision and they ran out before they were declared unconstitutional but they clearly would have been declared unconstitutional and Congress was so ridiculed that they did not have the gall to repass them.

Andrew Jackson in the early 1830's trying to hold together what was already starting to be a divided Nation on the issue of slavery, by Executive fiat issuing an order barring abolitionist materials from the mails so that information unsympathetic to the slave owners in the South would not be sent through the mails—clearly unconstitutional but undertaken by a great President, Andrew Jackson, in an effort he thought to prevent the Nation from rendering itself asunder and if that required a slight violation of the Constitution, so be it.

In our era, the McCarthy era of the 1950's, we were swept off our feet by the fear of communism, at a time when Congress came close to violating the constitutional rights of many citizens in this country, and did violate the constitutional rights of a few; the Watergate era, clearly an effort by the Presidency to violate the constitutional rights of our citizens with acts of search and seizure that certainly bordered on unconstitutionality, taken by an administration because, of course, they knew they were right, and when you know you are right, when God speaks to you and says, "I know you are right, I am going to tell you what to do," then, of course, it is clear that those who disagree must be wrong, and if the Constitution stands in the way of correcting the actions or the thoughts of those who are wrong, forget the Constitution a little bit.

Perhaps the worst violation, however, at least in our era, was the internment of the native-born Americans of Japanese ancestry during World War II. Interestingly, these were not immigrants. These were not aliens. There were native-born American citizens of Japanese ancestry.

Many in this body will remember the passion following Pearl Harbor, the fear of the Japanese invasion of the coast of California, Oregon, and Washington, the absolute paranoia which seized us after Pearl Harbor. Our Navy had been destroyed, although fortunately not our planes, but it was a few months after Pearl Harbor, before the battle of Midway and, indeed, we turned the tide of the war in the Pacific, but that fear, following Pearl Harbor, led us to put into camps located hundreds of miles from the Pacific coast, native-born Americans were we kept them for the duration of the war.

Interestingly, we did not put into camps native-born Americans of German or Italian ancestry on the Atlantic coast, only native-born Americans of Japanese ancestry on the Pacific coast.

Apart from the ignominius act of interning any native-born Americans, I thought it was an interesting distinction that we selected only those of Japanese ancestry, with whom we were at war, as a danger to this country.

Interestingly, because of their physical characteristics, we were worried about the terrorism or about the saboteurs, people who were clearly more physically identifiable to the police and the citizenry, if they attempted to engage in acts of sabotage, clearly

more identifiable than were those of Italian or Germany ancestry.

Mr. President, the case involving the internment of those Americans of Japanese ancestry went to the Supreme Court. Even to prove that the Supreme Court in moments of extraordinary fear can be swept off its feet, a divided Court in a close vote upheld the constitutionality of the internment. The internment was based upon the executive order of an American President celebrated by most people for his feelings toward the underdog, for this feelings toward human liberties and civil rights. The President was Franklin Roosevelt who issued the order to imprison our citizens.

Equally interesting, although it was not a case in which he was directly involved, the district attorney of Alameda County, Calif., at that time spoke in favor of the internment, and his office argued in favor of the internment, and he clearly was on record in favor of the internment. That district attorney in Alameda County, Calif., in the Oakland area, at that time was Earl Warren, the man later to become the Chief Justice of the Supreme Court of the United States, and to this day a person revered for his defense of civil liberties.

In Justice Warren's defense it can be said that in his memoirs he looks back upon the internment as a terrible mistake, one of which he was ashamed in his participation and in his views, and he recanted as best as was possible.

But he attempted to explain, not to excuse, the passions of the times, and how even he could be swept off his feet in a moment of fear at a time when, in retrospect, it was very clear that the Japanese Empire was in no position to invade the Continental United States.

So, Mr. President, we want to be wary about reactions to Supreme Court decisions. As I have indicated, once we start down the road of saying the Court may not hear cases involving, and then put in dot, dot, dot, prayer, abortion, busing, what else, whatever 51 of us in the Senate can think up and get the votes to pass, because we are mad at something or somebody or afraid of something we do not know or put out because a dissident minority does not march to the same drummer we do, let us be wary about starting in that direction.

Mr. President, the history of liberty in this country is not furthered by a compelled conformity to a particular view. Liberty is best protected by diversity, by 100 voices arguing 100 viewpoints, all with a mutual tolerance for each other's differences of opinion.

Nowhere is it more important than in the area of religion, because when the matter involves religion it somehow in all of our minds occupies a higher priority.

We can disagree whether or not radio stations ought to have 5- or 7-year licenses, and whichever way you come down on that issue does not rise to the level of a moral issue. We can disagree in good conscience about wage and price controls. We can disagree on whether or not block grants for education are good or bad things. But when it comes to the issue of religion, when we believe that God speaks to us, then we somehow feel compelled to enforce our views on others because not to do so would be immoral for us because we would be crossing our God.

We had that era in America once, very strict religious colonies, most heavily emphasized by the Puritans, who came from England to escape religious persecution in that country, because their views were different from the then established religion, the Church of England.

They were harrassed, their properties taken, the right to attend the church of their choice limited. They came to this country and imposed, in the areas where they settled, the very same doctrinaire, intolerant religion that they had left—not the same religion, different religion, but the same intolerance.

Unfortunately for them, they left England only about 20 years too soon, because at this time in the early 1600's, there was a growing dispute in England between the Catholic dynasty, the Stuarts, and the Church of England and the so-called independents or dissenters. They had a variety of different names—Presbyterians in Scotland, dissenters in England. But they are all what we would regard now to be significant religions in many areas. They were regarded then by the establishment much in the same way we might regard many of the cults, or minor, or newer religions in our country today.

The irony was that the Puritan faction gradually began to gain a certain control in Parliament. And the King, King Charles I, was having more difficulty with Parliament. And Parliament by that time had gained a quasi-control of the purse, not a full control of paying for the cost of government, but a quasi-control of the purse.

Roughly, you had this situation: The King, if there was no war and if he was frugal, could probably pay for the bulk of the civil costs of government from the crown revenues. He did not have to levy taxes to do it. The King had great land, the incomes from them would pay for the civil cost of government. The problem was the King could not levy war because his lands would not produce enough revenue.

In 1628, Parliament adjourned and it was not called again for 12 years. King Charles I attempted to govern in those 12 years without calling Parliament. And he did not want to call Parliament because it was fractious and disputing and did not like him and was being controlled more and more by the dissidents and the independents rather than the Church of England. Especially was this true in the House of Commons.

But finally, in 1640, the King had no choice, becaue the Scots were at war with the English and were beating them badly. And this, of course, was before the union that joined together the countries of Scotland and England. Beating them badly, they moved into significant positions in northern England. They were allied with the Welsh. The French, of course, forever making trouble with the English, were encouraging them, partially arming them, and England was in a desperate situation.

So the King called Parliament. Parliament, of course, while not liking the King was not enthusiastic about the Scots coming down into their country. But before they would appropriate money for the war, they wrung from the King certain concessions about the rights of Parliament and the rights of the English citizenry. The King set forth a petition saying he would grant those. The money was appropriated and the war was not won by England but a temporary armistice was arranged.

Whereupon, the King reneged on his promises. But at this stage, it was too late. The Parliament had a heavy taste of independence.

Oliver Cromwell, surely one of the most extraordinary natural leaders in history—I do not say that in the sense of a naturally good leader. The man had extraordinary elements of evil in him. But natural leader, nonetheless.

A man of middle income, certainly not born to the gentry in the sense of the lords but not born to poverty, a man who had had some slight training as a youth in the riding of horses, but no military training—none—and certainly not the kind of military training and the training in the handling of arms that the gentry and nobles had in that day.

Cromwell became the parliamentary leader in the Parliament in the early 1640's. It became very clear that there was going to be a division at last and perhaps war between the Parliament on the one hand, allied with the city of London, allied with some of the merchants against the King and the landed gentry and the nobles.

And there was a standoff for a while. As the war went on, it became clear that Cromwell, if it was going to be successfully prosecuted, could not only continue to be the leader of the Parliament but he was going to have to be the leader of the army, the Army of the Round Heads, as his group was called, because they shaved their heads. He had to be their leader be-

cause it was a fanatic religious army. Anyone could not join. Officers were elected. They prayed daily. They would pray in the middle of battle. They had that incredible zeal that comes to you when you know that God is on your side and God is against your enemies.

The King retreated to the country, set up his standards of forces a good distance from London. Cromwell became the very effective leader of the Parliament now deserted of the King forces. Only the difficulty was he was now having some difficulty with other religious groups in the Parliament who were not the Independents, not the Puritans, not the Church of England. And he was having difficulty getting the Parliament to appropriate money for his army which was called the New Model Army. Indeed, an extraordinary army it was. They used horses half the size of the great warrior horses the nobles used. They learned to charge in formation and reform and charge again and reform and charge again, which was at that time new in cavalry warfare.

So, at the same time that Cromwell was trying to train and retrain his army, he was also trying to keep his hands on the Parliament. Finally, it became clear that Parliament was simply too fractious to control.

So one day, Colonel Pride, one of Cromwell's aides, simply stood at the door of Parliament in what has become known in history as "Pride's Purge." He simply turned away all who disagreed with Cromwell and the Puritans. And, of a Parliament that at that time numbered in excess of 500 people, only 57 were left.

Cromwell finally could not entreat with the 57, and on one famous day in history he went in the Parliament and, in essence, said to them, "Be gone. You are a disgrace to God and the country." And he dismissed the Parliament and attempted to rule alone, with only the army at his side and as his strength, in a country that did not have a history of a standing army, in a country that has, as we do, a tradition of civilian control of the military. And at this stage Cromwell found himself alone. All of his former allies left him.

(Mr. MURKOWSKI assumed the chair.)

Mr. PACKWOOD. The King, who was never to be at the peak of his strength, was at the peak of his strength, and there then ensued what is known as the second civil war, the first one having been basically the fight between Parliament and the King, the second one now being the fight between Cromwell and everyone.

Winston Churchill describes it as well as it can be described in his "History of the English Speaking Peoples" when he said as follows:

The story of the second civil war is short and simple. The King, the Lords and Commons, landlords and merchants, the city and the countryside, the church, the Scottish army, the Welsh people, and the English fleet all now turned against the new model army. The army beat the lot. And at their head was Cromwell. It was the triumph of some 20,000 resolute, ruthless, disciplined, military fanatics over all that England ever wished or ever willed.

Twenty thousand in a country of 3 million. Twenty thousand zealous Puritans, a country of 3 million in which the Puritans probably never numbered over 75,000 to 100,000, imposing their will on a country with a tradition of a love of liberty as great as ours, because of their absolute conviction and willing to act on it, and they did.

Mr. President, as I have just indicated, both from the acts of this country, the Alien and Sedition Acts through Watergate, and the history of the Cromwell period, it is very clear that under certain circumstances a country can be swept off its feet. It is perfectly natural, it is perfectly understandable, and for any one of us in or out of elective office to say, "I have never lost my better judgment of the past"—if we can say this I think we are fooling ourselves or fooling others.

It is imperative that we realize that the carrying out of the will of the majority does not take great courage. It is the protection of the rights of the minority against the wishes of the majority that takes great courage.

Unfortunately for those in the vanguard of the defense of civil liberties, it is often not a defense of some properly suited, short-haired, attractive defendant. It is often the defense of a wild-eyed, woolly haired, radical-looking defendant who runs against the grain of America and we defend his rights because if his rights can be taken away procedurally, ours can, too.

I well remember speech after speech of the Senator who was my immediate predecessor in the Senate, Wayne Morse, who was dean at the University of Oregon Law School prior to this election to the Senate, and a teacher and well-known constitutional law scholar. If I heard him say once I heard him say 10 times:

Give me control of the procedures of democracy, and I will control the substance of democracy.

It is interesting to note that the effort to take away court jurisdiction in terms of whole great classes of jurisdiction over entire subjects is relatively new to this Republic.

I want to quote a memorandum from the Library of Congress by Leland Beck, one of their staffers who has done excellent work in this subject.

The memorandum is entitled: "Historical Proposals To Except Particular Cases From the Appellate Jurisdiction of the Supreme Court of the United States."

This report reviews the major historical proposals to except particular cases from the Supreme Court's appellate jurisdiction. The Constitutional premise for these bills is the Exceptions and Regulations Clause of Article III, § 2, of the Constitution. After enumerating the types of jurisdiction contemplated in the Constitution and specifying when that jurisdiction is to be trial in nature, the Constitution provides: "In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make."

Prior to 1956 there do not appear to have been any substantial proposals to except particular classes of cases from the Court's jurisdiction. The authority exercised by Congress was limited to the regulation of processes of review by the Court. Numerous calls were made in the early days of the Republic for the abolition of the Court's jurisdiction to review decisions of the State courts of last resort, but none of these proposals succeeded; on the contrary, there was a steady increase in the scope of both the Supreme and inferior federal courts' jurisdiction.

Beginning in 1956, numerous proposals have been introduced to except a particular specie of cases from the Court's jurisdiction. The purpose of these proposals has been to stop the Court from further elaborating particular areas of constitutional law. The proposals have included both generic rights and particular types of prospective legislative review, including: due process in subversive activities regulation, contempt of Congress, desegregation of schools, reapportionment of State legislative bodies, regulation of obscenity, prayer in public schools, abortion, gender discrimination in military conscription, and others. We will here review the proposals which have received serious Congressional attention.

The first bill to receive formidable consideration was introduced by Senator Jenner in 1957. S. 2646 proposed to except from the Court's jurisdiction "any case where there is drawn into question the validity of" five different areas of governmental regulation or activity. At the time of hearings, the bill provided:

Notwithstanding the provisions of sections 1253, 1254, 1257 of this chapter, the Supreme Court shall have no jurisdiction to review, either by appeal, writ of certiorari, or otherwise, any case where there is drawn into question the validity of—

(1) any function or practice of, or the jurisdiction of, any committee or subcommittee of the United States Congress, or any action or proceeding against a witness charged with contempt of Congress;

(2) any action, function, or practice of, or the jurisdiction of, any officer or agency of the executive branch of the Federal Government in the Administration of any program established pursuant to an Act of Congress or otherwise for the elimination from service as employees in the executive branch of individuals whose retention may impair the security of the United States Government;

(3) any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State;

(4) any rule, bylaw, or regulation adopted by a school board, board of education, board of trustees, or similar body, concerning subversive activities in its teaching body; and

(5) any law, regulations of any State, or of any board of bar examiners or similar body, of any action or proceeding taken pursuant

to any such law, rule, or regulation pertaining to the admission of persons to the practice of law within such State.

Mr. President, it is very clear what fear was expressed by Senator Jenner: Communist infiltration, people working in our Government whose loyalty was suspect; funny-looking people in school who, because they did not dress the way the other teachers did or perhaps belonged to the Socialist Party instead of the Democratic or Republican Party, were suspect.

Let me reread just one of these things that Senator Jenner wanted to remove from the Court's jurisdiction.

Any statute or executive regulation of any State the general purpose of which is to control subversive activities within such State.

Subversive activities defined by whom? The State. You cannot appeal it if you are thrown out of a job, or denied your veterans benefits, because you are subversive according to the State.

Let me emphasize again, according to the State, any statute or executive regulation.

Mr. President, I hope I do not have to call to the attention of the Senate not just the kind of mischief that kind of limitation can cause or call to the attention of the Senate the kind of fundamental rights and liberties guaranteed by the Constitution that can abrogate because you will not be allowed to go to Court to test what the State wants to do.

To go on with the memorandum:

By way of correlation, the first exception was founded on the authority of a Congressional Committee regarding witnesses and the power of contempt of Congress, and was in response to the Court's decision in *Watkins* v. *United States.* Second, the bill would have removed jurisdiction to review any program to assure the loyalty of government employees, in response to the Court's decisions in *Service* v. *Dulles* and *Cole* v. *Young.* The third excision of jurisdiction centered on state "subversive activities" controls in response to, among other cases, *Pennsylvania* v. *Nelson.* A still more particular jurisdictional removal centered on rules or regulations of Boards of Education and like bodies concerning "subversive activities" by members of their teaching staff in response to the Court's decision in *Slochower* v. *Board of Higher Education.* Finally, the Jenner bill would have removed jurisdiction to review bar admissions practices and policies, a response to *Schware* v. *Board of Bar Examiners* and *Konigsberg* v. *State Bar of California.* All of these decisions were handed down during 1956 and 1957 and limited the Cold War loyalty and security programs. The bill was thus a major political response tuned to the perceived crisis of its time. The style of the bill, however, appears to be the first attempt to utilize in the strict linguistic sense the power of Congress to make "exceptions" to the Court's appellate jurisdiction.

Hearings were held on the bill and a substantially revised and more limited version was reported to the floor of the Senate. After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the federal courts. Both the new parent bill and the amendment, however, were laid on the table and were extinguished at adjournment sine die. Less problematic responses to another court decision were more successful.

It is interesting to see the procedure. After it became apparent that the leadership would not call up the Jenner bill, proponents of the measure moved to attach it to another bill dealing with the Federal courts. At least the Jenner bill was on the calendar. It had gotten out of committee. The amendments that we are dealing with here now are amendments that have never gotten out of committee. They have been in the Judiciary Committee. The Judiciary Committee will not send out a bill limiting—or has not—the jurisdiction of the courts to review school prayer. To date, they have found it unwise. To date, the Judiciary Committee has not sent out a bill on abortion limiting the right of courts to review that question.

The Judiciary Committee has sent out a constitutional amendment on the subject of abortion and it is on this calendar. And the majority leader (Mr. BAKER) had indicated we will have a debate on that. That, at least, is the fair way to go about amending the Constitution.

I do not want to give anybody any misimpressions. I am not going to support that constitutional amendment. But we will debate it.

(Mr. MATTINGLY assumed the chair.)

If we are going to reverse a constitutional decision of the Supreme Court, that is the way to reverse it. It is the way to reverse it as we did with the 11th amendment because prior to that amendment the Supreme Court had held that a citizen of one State could sue another State. The States did not like that. So an amendment was passed through the proper procedures, two-thirds of the House and Senate, ratified by the States, that a citizen of one State cannot sue another State.

Then we did it again with the Civil War amendments, to reverse the Dred Scott decision in the mid-1850's which said that blacks were not citizens. We did not try to overturn that by a statute. Even at the height of the passion of the Civil War, still the greatest, most devisive war that this Nation has ever been involved in, a war that left a scar on this country that is still visible today, we did not try to reverse the Dred Scott decision by legislative action in a Congress that at that time was barren of southerners.

You could have passed a bill through that Congress easily. People in that Congress realized that you do not tamper with the Constitution in moments of passion by passing a bill to overturn a Supreme Court decision, and so they did it by constitutional amendment.

We did it with the 16th amendment. The Supreme Court said we could not levy an income tax, and over the years there was some thought in Congress of trying to reverse the Supreme Court on that decision by statute, but we did not. We passed the 16th amendment which said that Congress has a right to levy an income tax.

We did it just a few years ago with the 26th amendment. Congress had passed a law lowering the voting age to 18 for Federal and State elections. The Supreme Court said that we did not have the right to lower the voting age to 18 for State elections. We could do it for Federal elections. So an amendment was proposed granting 18-year-olds the right to vote in State elections. It passed by two-thirds of the House and Senate, went to the States and was ratified by the States.

That is the constitutional way that we change decisions of the Supreme Court that we do not like.

Our founders intended very deliberately that those rights written into the Constitution would not be easily abrogated. Before we changed them, they wanted to make sure we thought about it for a long time. We debated it extensively, and we finally sent it out to the States in the form of a constitutional amendment because the rights in that Constitution were so precious that they were not to be abrogated quickly and passionately.

Let me return to the Jenner bill.

A second major attempt to remove a particular subject matter from the court's appellate jurisdiction was in response to the reapportionment decisions: Baker v. Carr and Reynolds v. Simms. H.R. 11926 was introduced in 1964 by Congressman Tuck to remove the court's appellate jurisdiction and to deprive the inferior Federal courts of trial jurisdiction in all cases relating to the apportionment of representation in State legislative bodies.

My fellow Senators, this is within the last 20 years, and it is no wonder the Court finally got into it. Earlier today I was talking to the majority leader because this case of Baker against Carr comes out of his State of Tennessee. He told me that there were two districts—Tennessee has a historic division depending upon whether you are in east or west Tennessee as to whether it has Republican or Democratic tendencies that date back to the history of the Civil War—having a population of about 1½ million people. One of the districts in the other end of the State had 57,000 people.

The Republican Party thought it was being treated unfairly in Tennessee and brought the case to court. The case went up to the Supreme Court, and the Supreme Court for the first time said, "You are right; no more are we going to have people disproportionately represented. Henceforth, it is going to be one-man, one-vote"—a principle today so accepted on its fair-

ness that we would not think of trying to overturn it, but in the heat of the moment at that time there was an effort.

Congressman Tuck's bill was referred to the House Committee on the Judiciary, but the committee gave no evidence of intention to act on the bill.

Very similar to the prayer and abortion bills we face today.

Therefore, proponents of the measure introduced a procedural resolution, which was referred to the Rules Committee and reported out, to discharge the Judiciary Committee from consideration of the bill and calendar the bill for immediate action by the full House. After an acrimonious debate, the resolution was passed and the bill was called for consideration.

Mr. BAKER. Mr. President, will the Senator yield to me without losing his right to the floor?

Mr. PACKWOOD. Without losing my right to the floor and without giving up my right to continue any speeches.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor and without the interruption counted as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am prepared now to put us in morning business briefly and to resume consideration of this matter tomorrow.

(The following statements were made or submitted earlier today and are printed at this point for purposes of germaneness:)

Mr. PERCY. Mr. President, the amendments offered by the Senator from North Carolina not only address the sensitive and controversial issues of prayer in our public schools and abortion but seek through restriction of court jurisdiction to overturn decisions of the Supreme Court. These amendments raise a very serious question: Should the Congress attempt to accomplish a change in constitutional law by altering the jurisdiction of our Federal courts? I have grave reservations about such a step being within the constitutionally established powers of the Congress, and I am convinced that taking such a step would be poor public policy indeed.

In the first place, under our system of separation of powers, governmental functions are carefully allocated among the three branches. Article III states specifically that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish." It is the judiciary which the founders entrusted with the responsibility to interpret the Constitution and laws passed by the Congress and to hear the cases and controversies arising under them. The Federal courts have long been a vital instrument for the vindication of constitutional rights. At times, they have provided the only bulwark of protection available from the intrusive demands of the Federal Government itself. I believe for several reasons that the attempt to strip Federal courts of jurisdiction over a class of cases offends the underlying structure of the Constitution.

First, this move is an effort by the legislative branch to remove from the judiciary a portion of that "judicial power" vested in it by article III of the Constitution. It is a direct attack on the independence of the courts, and threatens the balance and stability of the separation of powers ordained in the Constitution. Second, I believe it is an attempt to overcome the orderly amendment process set forth in article V by the founders. Third, I believe that any measure which attempts to deny prospective claimants a forum for the vindication of certain constitutional rights must be set against the portion of the Constitution which confers those rights. The provisions of the Constitution are, clearly, far more basic and fundamental than a statute which attempts, however indirectly, to deny enforcement of the rights they provide.

Advocates who have a strong desire to overturn constitutional decisions of the Supreme Court should think long and hard before adopting this approach. While there may be some temporary advantage in passing such an amendment, it would be gained at a deep cost to our system of government. The checks and balances system on which we have relied for almost two centuries would be deeply disturbed. If the Congress began to pass statutes and remove cases arising under them from Federal court jurisdiction, the existing forces of cohesion and unity in our legal system would be sorely tested; fragmentation and disintegration would surely result.

I am not the only Senator who views these court-stripping proposals with alarm. Many able and informed scholars have voiced similar warnings. I would commend to my colleagues some language from a resolution of the Board of Governors of the Illinois State Bar Association, adopted earlier this year. It quotes Mr. Robert Landis, President of the Pennsylvania Bar Association, on the same point:

Tampering with this fundamental responsibility (of the federal courts) as a political expedient to satisfy popular opposition to Supreme Court decisions is a treacherous legislative experiment. It challenges the spirit of the Constitution. Its legitimacy is suspect. Its invitation to vagrant, disparate constitutional interpretations among the high courts of the fifty states could fragment the integrity of the Constitution that has bound this nation for nearly two hundred years into a coherent legal establishment.

For these reasons, I intend to support the amendment offered by Senators BAUCUS and WEICKER to reaffirm the independence of our Nation's courts.

POSITION ON VOTE

Mr. PERCY. Mr. President, on the motion to table the Weicker amendment, I intended to vote in the negative but inadvertently voted in the affirmative not realizing it was a motion to table.

I support the Weicker amendment. My record in opposition to legislation stripping courts of their review of certain issues is clear and longstanding.

The PRESIDING OFFICER. Is the Senator from Illinois attempting to change his vote?

Mr. PERCY. No, I have not sought to change my vote.

Mr. GARN. Mr. President, I would like to take the opportunity to comment on some of the hysteria that invariably accompanies any discussion in this or the other Chamber on the subject of abortion.

To hear the proponents of abortion tell it, by voting for this amendment or for any others like it, we will be putting women in jail for having miscarriages, requiring the decision to have a baby to be between you, your husband, and your Senator, forcing somebody's religion on everyone, subverting a woman's right to control her own body; we even hear extreme references to coerced maternity. I think it's important to reassure people on these points.

The American Center for Bioethics recently completed a study of case law under the abortion statutes which were in effect for 150 years or so until 1973 to see if claims that prohibitions on abortion would result in murder charges or prison sentences had any basis in fact. It was felt that past experience would be a reliable guide, given the dependence of our legal system on precedent. This was the center's conclusion:

No evidence was found to support the proposition that women were prosecuted for undergoing or soliciting abortions. The charge that spontaneous miscarriages could result in criminal prosecutions is similarly unsupportable. *There are no documented instances of prosecution of such women for murder or any other species of homicide;* nor is there evidence that states that had provisions enabling them to prosecute women for procuring abortions ever applied those laws. . . . *In short, women were not prosecuted for abortion. Abortionists were. . . .* It is unlikely that enforcement of future criminal sanctions on abortion would deviate substantially from past performance patterns. (emphasis added).

The enactment of a statute such as the one before us would no more coerce maternity than current laws against murdering one's mother-in-law coerce son-in-lawhood. None of the measures now pending in Congress

presume to force a woman to become pregnant, to prohibit the use of contraceptives, or to otherwise regulate the kind of behavior which results in pregnancy. We all agree that these are areas in which husbands and wives should properly be in control. The fact that is so conveniently overlooked, though, is that once a woman becomes pregnant, another separate living human being is then involved which ought to have some sort of protection.

The Supreme Court entirely disregarded this fact, but that does not justify our doing so. Medical and biological science teaches unequivocally that a new life begins at conception, not at birth. After all, the remarkable thing about Louise Brown was not the circumstances of her birth, so much as the circumstances of her conception. Her beginning was most definitely not at birth, and the same is true of all of us. By no stretch of the imagination is it possible to say that the nonviable fetus at 7 or 8 months' gestation—who is eligible for abortion under Roe against Wade—is not human or alive by comparison with the newborn at 9 months' gestation.

As for the claim in the newspaper ad this week that "the decision to have a baby could be between you, your husband and your Senator"—I can see how that might apply to my wife and her Senator, but I am hard pressed to see its relevance anywhere else, especially given the strange nature of privacy as defined by the Supreme Court in the abortion situation. Privacy, according to the Court, exists between a woman and her doctor—not to mention the additional medical, administrative, and welfare personnel who may be involved. The husband or natural father is excluded from that privacy; he is, in the words of a later decision, Planned Parenthood against Danforth, 1976, only a third party. Apparently the recently discovered abortion right has become so precious that all other values must be sacrificed to preserve it, including the marital relationship, a father's right to have children and to protect them, and a parent's right to be informed about the acts of his minor children, for which he is held legally responsible anyway.

There is also the argument that any law prohibiting abortion would amount to an unconstitutional establishment of religion. Many appear to believe that the only possible reasons for opposing abortion on demand are religious, and thus invalid. It is obviously misguided to assert that the Government establishes a religion simply because it holds to a particular value which is endorsed by a religion. For example, both the right of individuals to own private property and the right of governments to collect taxes are explicitly affirmed in scriptural texts of some churches, but no one contends that for this reason laws protecting private property or providing for the collection of taxes represent an establishment of those churches. There are secular reasons, of course, for governments to do these things, and there are also definite secular arguments in favor of protecting developing human life, provided one assumes that any human life has value.

Even in Harris against McRae, in which the Court upheld the right of Congress to make decisions on public funding for abortions, the Court refused to overturn a duly enacted statute simply because it might be in or out of harmony with a particular school of thought, even when that statute represents a value judgment the Court had earlier rejected in Roe against Wade. Also relevant to the amendment at hand is the fact that the Court in that case acknowledged that the legislature is the only branch of Government able to respond to taxpayers' objections on how their tax dollars are used. "* * * (W)hen an issue involves policy choices as sensitive as those implicated (here)," the Court said, "* * * the proper forum for their resolution in a democracy is the legislature." (*Harris* v. *McRae,* 100 S.Ct. 2693 (1980)).

There are those among us who insist that the right to choose is paramount, even over a right to life. Aside from the obvious fact that the right to choose is meaningless until the right to life has been guaranteed, there must be some sort of limit on the type of behavior that can be justified by some all-encompassing right to choose. Those same prochoice advocates do not defend the right to choose the killing of seals, whales, rabbits, or puppy dogs, nor do I. Laws against this sort of behavior are not based on JAKE GARN's whims, but upon what our civilization has generally understood to be humane, civilized bulwarks against barbarism. Certainly human beings, at whatever stage of their biological development, deserve at least the same kind of protection.

One vigorous proabortionist, a Leo Pfeffer, has been quite frank about sizing up the Court's action in Roe against Wade and other cases. He said:

> The nine judges on the Supreme Court, being immune to political reprisal, since they serve for life, may be performing a significant though quite controversial function; they may be compelling the people to accept what the judges think is good for them but which they would not accept from elected legislators.

Certainly our responsibility to uphold the Constitution is no less than that of the Supreme Court. As Professor John Hart Ely has said, Roe against Wade was not constitutional law, "and gives almost no sense of an obligation to try to be." In my readings of the Constitution I have never found an all-encompassing right to abortion, nor any reference to what may or may not be done during each trimester of a pregnancy. I have always understood that it was the function of the Constitution to protect what Jefferson called those inalienable rights, first and foremost of which is life. I do not see how it can at the same time be construed to sanction the wholesale destruction of human life that is taking place in our society today at the rate of about 1.5 million lives per year. I believe it is our responsibility in Congress to respond. Abraham Lincoln said once that "If I were in Congress, and a vote should come up on a question of whether slavery should be prohibited in a new territory, in spite of that Dred Scott decision, I would vote that it should." Our response to the similar denial of basic human rights which we are now facing should be no less, and I urge the support of my colleagues for this amendment.

PERSONAL EXPLANATION OF A VOTE

Mr. SASSER. Mr. President, I was necessarily absent earlier this morning and was unable to vote on rollcall vote No. 334. Had I been present and voting, I would have voted yes on the Helms motion to table the amendment of the Senator from Connecticut (Mr. WEICKER).

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent there now be a brief period for the transaction of routine morning business.

I further ask unanimous consent that when we resume consideration of the pending measure, the present holder of the floor, the Senator from Oregon, be recognized without charging it as a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Now, Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past 7:15 in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOSEPH MATLUK CELEBRATES 87TH BIRTHDAY

Mr. SPECTER. Mr. President, I am pleased to rise today to congratulate Joseph Matluk, a resident of Pennsylvania, who will be celebrating his 87th birthday on August 22. This occasion will be used to honor Mr. Matluk as the oldest veteran member of the Ukrainian American Veterans.

Mr. Matluk was born on August 22, 1895, in western Ukraine and emigrated to the United States at the age of 18. He enlisted in the U.S. Army in 1917 and was assigned to Company B, 306th Sanitary Unit Ambulance Field Hospital in Columbia, S.C. He served until 1918 and received an honorable discharge.

Mr. Matluk is distinguished not only as the oldest member of the UAV, but also as one of the founders of the organization the Ukrainian American Veterans was founded in Philadelphia in 1948. The group is composed of men

and women of Ukrainian descent who have served in the Armed Forces of the United States. Although the UAV was not organized until after World War II, its membership includes veterans from World War I, World War II, the Korean conflict, and the Vietnam era. Mr. Matluk continues to be active in the UAV at Post No. 4 in Philadelphia.

The United States owes a great debt to all our veterans, but it is particularly heartening to learn of immigrants who, having spent only a few short years in this country, willingly enlisted in our Armed Forces when we needed them. My father was one of these people who after arriving from Russia in 1911, fought in World War I as a member of the U.S. Army. I have always been proud of my father's act of patriotism and Mr. Matluk and his family can be justifiably proud of his role in World War I and in the founding of the Ukrainian American Veterans.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BALANCED MONETARY POLICY ACT

Mr. MITCHELL. Mr. President, our economic problem has two parts: One is the size of current and predicted Federal deficits. The other is the recession, which keeps deficits high.

Unemployment has risen 2.7 percent since July 1981. Every percentage point increase in unemployment costs the Federal Government an estimated $30 billion in lower tax revenues and higher unemployment compensation payments. That 2.7 percent unemployment increase, alone, would account for $81 billion of the 1983 deficit if it remains unchanged for a year.

The administration is pursing an expansionary fiscal policy of higher defense spending and lowered tax revenues. But the expansion is colliding with the tight money policy the Federal Reserve is using to stifle demand and control inflation. The clash between monetary and fiscal policy has helped create the incredible rates of real, after-inflation interest which are now strangling our economy.

A more moderate fiscal policy might have accommodated a tight monetary policy without forcing interest rates to damaging levels. But the counsels of prudence did not prevail on the fiscal side.

I proposed an alternative budget which would have frozen Federal spending and delayed the third year of the tax cut as a more prudent approach to economic recovery. It would have placed us on the road to a balanced budget by 1986, with lower deficits in the meantime. Other Members of Congress offered alternatives that would also have taken a less radical, less experimental approach to the economy. No alternatives were seriously considered.

The current debate over spending and taxes focuses on half the economic picture. The half it ignores is the monetary policy underlying out spending and taxing decisions. But unless we focus on that half as well, we will continue to have an unbalanced economy.

Whether we use the Congressional Budget Office prediction of a $140 billion budget deficit in 1983, the White House prediction of $115 billion, or the New York Federal Reserve's prediction of $163 billion, all economists agree that we cannot have a strong, sustained recovery at current interest rates. And unless the economy recovers, the deficits will remain largely unaffected, no matter what we do on spending programs or tax law.

The 1981 Nobel Prize winner for economics, James Tobin, declares, "The monetary policy is the main barrier to sustained recovery." He is right.

The policy the Federal Reserve abruptly adopted in October 1979 is a major factor keeping real interest rates astronomically high. From 1946 until October 1979, the Federal Reserve moderated interest rates to allow for economic growth. Its focus on money supply targets, in effect since October 1979, allows the market to set interest rates; it has sent after-inflation interest rates soaring, gravely damaging our economy.

Real, after-inflation interest rates have averaged 6.5 percent since October 1979. In the first quarter of this year, the after-inflation, real rate of interest was running at 12 percent. In that same first quarter, businesses were going bankrupt at the rate of 35 in every working hour. We had 13,000 business failures in the first 7 months of this year.

The business community cannot stand several more years of such interest rates.

The alternative to tight money and ruinous interest rates is not a retreat from a stable, predictable monetary policy, as the administration implies. The sensible alternative is a middle ground between a policy that disregards money targets and a policy that disregards interest costs.

Such a middle ground exists in the Balanced Monetary Policy Act. This bill would direct the Federal Reserve to broaden its policy to target both interest rates and money supply. Its components are straightforward:

It would instruct the Fed to target both money supply and interest rates and to keep rates within historic norms. Historically, real, after-inflation rates have been between 1 and 4 percentage points higher than inflation.

The Fed would maintain positive real rates. If inflationary pressures resumed, the Fed would allow interest rates to rise. That would protect savers against negative interest rates—interest lower than the rate of inflation—and dampen inflationary demand.

The Fed would emphasize annual targets for both interest and money aggregates. An emphasis on annual targets woud give the Fed flexibility to respond to changing economic conditions without triggering panic when a given weekly target is not reached. Businesses and economies do not function week to week—they operate on a longer calendar, and there is no rational reason why the credit on which business is dependent should be held hostage to exaggerated reliance on the weekly ups and downs of the Fed's targets.

The Fed would be required to make progress reports twice a year to Congress on its success in reaching both money-supply and interest-rate targets.

To protect its ability to respond to rapid changes in the economy, the Fed would be required only to report to Congress in 10 days if economic conditions demanded a drastic change in policy. That would let the Fed act without restraints on its independent judgment, while retaining the important component of public notification, so those affected by a changed policy would have timely notice of the change.

The Fed's recent cuts in the Federal Funds rate it charges banks, and its efforts to increase bank reserves and make more credit available have helped ease the prime rate downward. But the real, after-inflation rate remains high.

"Real" interest is the interest earned after discounting for the effects of inflation. Real interest rates have shown much more stability over the years than actual rates or inflation rates.

High real interest rates are a restrictive factor in the economy. If inflation is running at 10 percent and interest rates are 12 percent, the cost of credit is substantially less than when inflation is running at 6 percent and interest is running at 12 percent.

We have seen the unusual phenomenon of rising real interest rates over the last 18 months. That is why, despite declines in some rates in recent weeks, the economy has not responded. Both the prime rate and the Treasury bill rate have declined since 1981, but real rates have risen, and are more of a drag on the economy now than they were at the beginning of 1981.

The basis for controlling the money supply is to restrain demand. The theory is that tight money is reflected in lower prices. But tight money does not discriminate between reducing inflationary demand and reducing output. In its practical application to our economy, it has reduced output.

And lowered output means jobs lost and businesses bankrupt.

The advocates of tight money claim that business bankruptcies today represent a weeding-out process, whereby badly managed firms and those which were overextended are failing because they deserve to, and the end result will be a so-called lean, healthy business sector. That is pernicious nonsense.

Today 50 cents of every dollar in corporate cash flow is going for debt obligations. No company can plan for future growth or make long-term capital investments in such conditions.

And as long as interest rates price houses, autos, and other major purchases out of the reach of most consumers, there will not be the demand to create a rational investment incentive either.

The 1981 tax cuts to encourage capital investment affect only half the incentives for investment. Business investments are not made just to take advantage of tax cuts. They are made to take advantage of customer demand. Our manufacturing facilities today are operating at 70 percent of capacity because of a lack of demand. Supply-side economic theory focuses on one-half of the equation without looking at the other half. Supply responds to demand, and in today's weak economy, there is little sustained demand.

When well-managed firms such as Caterpillar and Boeing face serious financial difficulties, it is evident that their problems stem from sources beyond their managements' control. A recent New York Times article examined this entire question of the "survival of the fittest," and I ask unanimous consent that the text of that article be reproduced following my remarks.

It is foolish to continue to peg our economy to a money measure which is neither fixed nor determinable. The president of the Reserve Bank of Boston, Frank Morris, recently admitted, "I have * * * concluded, most reluctantly, that we can no longer measure the money supply with any kind of precision."

A broadened focus on both money-supply targets and the cost of credit would be more in line with the realities of our economy, which uses credit interchangeably with money.

Just as supply-side theory focuses too narrowly on one economic policy factor, an obsession with fiscal policy to the exclusion of monetary policy focuses on just one-half of the national economic picture.

Tight money and high interest rates alone might, ultimately, bring down the underlying inflation rate. But tight money is a blunt policy instrument. It can correct inflation only by dealing a knockout blow to our economy.

The current rate of business bankruptcies and the numbers of unemployed workers are both evidence that these interest rates are destroying the basis for economic growth and prosperity.

Our entire economic system depends on a growing economy. Without growth, the money earned on any investment can only come at the expense of someone else in the economy. That is the fixed-size pie model of the economy. It is a model and a conception which I reject. Yet, because of the interest rates to which our economy has been subjected, for the past year and more our economy has virtually been a fixed-size pie. The larger slices that some earn in higher interest rates are coming at the expense of others whose jobs in the housing industry, the auto industry, and our other manufacturing sectors have disappeared.

We have tried the experiment of supply-side theory. It has not worked. It is time we stopped experimenting with a monetarist theory whose own most ardent advocates cannot agree on what it should be controlling.

The most responsible way to cope with the uncertainties in our economy today is to deal with those factors whose effects we can predict with some certainty. It is not difficult to predict what another 2 years of 14-percent and 15-percent interest rates will mean to our economy. We should move to moderate those rates now, rather than waiting for another untried, unproven economic theory to work its will on our only economy.

[From the New York Times, Aug. 14, 1982]

THE EROSION OF AMERICAN INDUSTRY

By Karen W. Arenson

American industry has spent the past year in a crucible, and in the process it has been purged of many wasteful practices. In fact, some management experts predict that the economy will emerge from this recession leaner, tougher and more ready to take on foreign competition.

"The whole system was getting fat and lazy and not paying attention to detail," said Chester Devenow, chairman and chief executive of the Sheller-Globe Corporation, a Toledo, Ohio, auto parts manufacturer. "Recession has been a great catharsis."

Though there is some truth in this optimistic view of the country's economic problems, it is far from the whole story. For every Chrysler that is forced to restructure its operations, becoming more efficient as a result, there are many other companies that simply will not survive at all, or will survive but in greatly weakened condition.

"All this talk of catharsis is really just twaddle," said A. J. Steigmann, an economist at the Ford Motor Company. "It's the old story of cod liver oil being good for you, when all it really does is to give you a stomach ache. All we are doing is putting a permanent crimp in the economy."

Indeed, while most economists agree that there may be some improvement in the economic efficiency of certain industries, they warn that the recession has had an insidious effect that is likely to overwhelm any potential improvement. In fact, many believe that the economic downturn, which has already driven Braniff, AM International and other big companies into bankruptcy and pushed the unemployment rate up to a staggering 9.8 percent last month, could ultimately lead to a shrunken economy and a severely strained business sector.

Recessions have certainly battered the economy before, but this one is expected to leave deeper scars because it has been both sharper and longer-lasting than most; many industries—automobiles, steel, housing and countless others—have been depressed for three years now. Moreover, the recession has come at the end of a troublesome decade that has forced business to cope with spiraling inflation, sharply higher energy prices, sky-high interest rates and devastating competition from abroad. No recession has ended with the economy facing such tough adjustment problems as the ones that now exist.

Perhaps the most worrisome consequence of the current recession is that business is scaling back spending on capital investment and research and development, both of which are the underpinnings of tomorrow's growth. Metals companies, auto makers, railroads, airlines, utilities and electrical machinery concerns have all been reining in plant and equipment outlays for some time and are expected to continue to do so. A survey by McGraw-Hill shows that business will spend only 3.9 percent more on investment projects in 1982 than last year. Adjusting for inflation, that represents a 4.5 percent decline.

Similarly, the annual percentage increase in spending on research and development has shriveled from 7.2 percent in 1980 to an estimated 3.8 percent this year, a disturbing figure for a nation that has prided itself on innovation.

"By cutting into capital investment now, we are bending our country's long-term growth trend down," said Albert T. Sommers, chief executive at the Conference Board. "A very prolonged deferral of investment will cost the country hundreds of billions of dollars in lost output, compared to what we would have had under conditions of reasonably normal growth. It will take a long time to make this up."

Corporate America is also trying to cut costs in the area of worker training, a development that Lester C. Thurow, a professor at the Massachusetts Institute of Technology, says will further hamper the economy when it emerges from recession.

"The problem with a financial crunch is that you do make cuts, but you make them wherever you can," Mr. Thurow said. "All new training stops, so we are building a very unskilled labor force, which will tend to make the economy less efficient. And it is not only technical skills that atrophy, it is also work behavior.

While an endless number of companies are cutting back on investment, others are closing their doors altogether. Dun & Bradstreet, which tracks business failures, says that bankruptcies are now at a 50-year high, with an average of 452 businesses filing for protection from their creditors each week. And the weeding-out process does not always strike at the companies that would be deemed the most marginal, an indication that the shakeout will continue for some time.

"Some fairly healthy enterprises are going bankrupt, largely because of punitive interest rates," said Robert Lekachman, a professor of economics at the Herbert H. Lehman College and Graduate Center of the City

University of New York. "The economy is not just getting lean, it is suffering from pernicious anemia."

"I'm really very amazed at the staying power of some of the more inefficient companies," said Daniel Carroll, a management consultant with offices in Chicago and Ann Arbor, Mich. Citing such examples as Allis Chalmers, International Harvester, Pullman and American Motors, he added. "So I wouldn't place too much reliance on the recession's having shaken out all the inefficiencies. Some of the less effective companies did fade away, some of those that have remained are here because they are sheltered in some way or other."

Other companies may find, through no fault of their own, that the recession has made their customers less well off, and that they therefore are buying fewer goods.

"A lot of good firms, like Boeing and Caterpillar, are taking a pounding, and will be worse off competitively after the recession than before," Mr. Thurow said, noting that these are not examples of sloppy management, but of companies that have simply watched orders dry up. Just last week, the Boeing Company reported a 49.3 percent drop in second-quarter earnings because of sharply lower deliveries to the struggling commercial airlines.

And Peter Solomon, a partner at Lehman Brothers Kuhn Loeb, is concerned that the companies that do survive the recession may find their production capabilities reduced because other companies have failed. "The fact that all the small suppliers are going out of business is the greatest threat to American business," he said. "Who are the big companies going to subcontract to when business comes back?"

How each company copes with recession, and whether the changes it makes put it in a stronger position for the future, depends in large part on the industry it is in, its financial shape, and the creativity of its management.

But even if individual companies are strengthened by cutting "fat" and "waste," the implications for the overall economy of such shrinkage—in employment, in production, in operating capacity—could be devastating. Even if the plants and people who do remain employed are more efficient, there will be vast unused resources, both plant and equipment and skilled people. Previously, they were producing something. Now they will be idle and wasted, a drag on the economy.

"If the recession comes to an end, it is not clear that there will be much recovery in terms of overall employment in the United States," warns Barry Bluestone, an economics professor at Boston College. "Companies will have moved more of their production out of this country, and will have begun to automate more rapidly. And those who do find jobs will move disproportionately into lower wage industries, leading to a lower average standard of living and a significant loss in productivity."

"All we are doing is reducing the amount of capital, when what we need is more capital and more equipment," adds Mr. Steigmann of Ford. "If the recession caused the consumer to cut spending, liberating vast amounts of saving which were used for investment, then maybe there would be a case for suggesting that the process would create something useful. But the tendency is for the volume of savings to decline," he said.

Of course, this is not the first time that the economy has experienced cutbacks in the face of a downturn. Business typically lays off workers, closes plants and reduces production to offset plunging sales and profits. And each time, when a recession ends, companies show at least a temporary surge in productivity, because sales tend to pick up faster than the number of workers.

But the productivity gains often tend to be temporary, eroding as production picks up and workers are rehired. The seriousness of this recession has led some executives, like Mr. Devenow, to vow that fat will never again be allowed to creep into their operations. But others, like Richard DeVos, a coowner of the Amway Corporation, predict that the improvements "will last until good times come again, and then business will get fat and sloppy again."

In the past, companies could look forward to an upsurge in business when recession ended, to a period of good times. But in this cycle there will be no let-up in the pressure on many businesses. For when recovery begins, American companies will still be up against tough foreign competition, companies that, in many cases, are more efficient and more technologically up-to-date than the American companies.

It is thus more critical than ever that companies be in good shape when the recession ends. But many experts are pessimistic about the prospects for American steel, automobiles and other basic industries in the next few years, despite their present efforts to cut back and become more efficient. They say the changes the recession is inducing simply have not gone deep enough, or been extensive enough, to make up for the competive disadvantages the companies already suffered before the recession started.

"It is easy enough to say that companies are sweating out all their excesses and getting down to good hard muscle," said Bela Gold, director of the research program in industrial economics at Case Western Reserve University in Cleveland. "But it catches our industry at a time when it has neglected international competition. And in a number of cases, such as automobiles and steel, the recession has not provided them with the capital input necessary to modernize."

Mr. Gold acknowledges, for example, that the auto companies have received some labor concessions, and that they have taken some steps to reduce their overhead and to improve operations. But, he says, "I'm not convinced that the industry is over the hump, because technologically their costs are still not competitive with the Japanese. Whether you compare costs per car or output per man-hour, there is still a big gap.

"There is a lot of talk of robotizing the American auto industry, but when you get the numbers, they are not very impressive," Mr. Gold contends. And he calls talk of quality improvement "a lot of chatter." "The auto industry is a very complex production machine, and there is no way you can turn that machine over inside a year," he concludes.

Mr. Gold is even more negative about the prospects for the steel industry, where capacity utilization has been running below 50 percent. "Most of our plants are not technologically competitive," he said. "And to replace those plants takes incredible amounts of money—$4 billion to $5 billion just to rebuild a mill. That takes a lot of capital these companies don't have and can't get because of their low profitability."

"The recession has emphasized the need for more far-reaching and fast adjustment," Mr. Gold said. "But it has also created an environment that makes it very difficult to move constructively."

In other industries, experts are also unwilling to predict any great improvement following the recession. Firoze Katrak, director of the natural resources group at Charles River Associates, an economic consulting firm, says the mineral industries in general, including not only steel, but also copper, aluminum, mining and refining, need more investment. But, he said, "You cannot really improve capital productivity during a recession, because you have equipment and capacity lying idle." What makes him most optimistic, he said, is labor concesions, which he believes should help productivity.

Even if recession has pushed companies to become leaner and tougher, helping individual companies, there may be negative effects for the economy as a whole.

"As a nation, we will be getting out of some businesses," said John M. Stewart, a director at McKinsey & Company, the consulting firm. "That will be particularly difficult for some individuals and for certain cities, such as Pittsburgh, Detroit, Cleveland."

It is likely that such a shift in economic activity would have occurred anyway. But speeding up the transition makes it more painful, in many ways, than if it had occurred more gradually.

"If 2,500 auto workers were to be laid off, the effect of laying off 100 a year over 25 years is very different from laying off all 2,500 at once," Mr. Stewart said. "Over 25 years," he said, "perhaps half of them would retire, leaving only 1,200 to be laid off. And if they are laid off in smaller numbers each year, there is a better chance that they will be absorbed more quickly into other industries. New industries tend to grow very slowly."

On the other hand, companies that have laid off many employees could find themselves with problems as the economy grows. "If maintaining a skilled labor force is critical to a firm's long-term performance, then wide swings in employment are likely to involve penalties," observed John Dutton, a professor of management at New York University.

There is also the issue of whether companies, whatever shape they emerge in, will have the incentive, or the imagination, to grow.

"I'm sure that Chrysler and General Motors and Ford will all come out of this period with far lower break-even points," said Mr. Carroll, the Mid-Western management consultant. "But that may not mean they will be in a better position to make money and to sustain market share and grow. They may have pared expenses, but they may not be capable of creativity and innovation, of bringing out new designs that people want."

"Another element," Mr. Carroll added, "is that some companies that have really been through the mill probably will become more risk averse, and that may mean they won't take any gambles. Growing a business does require taking some risk."

With all these negatives, economists and management experts generally are fairly pessimistic about the shape of the economy when the recession is over.

"So many people take the Dale Carnegie approach of think positive and things will be positive," said Donald Ratajczak, director of the economic forecasting project at Georgia State University. "But for Heaven's sake, they should see reality first. We will get a better-managed corporate structure, and we will see productivity improve. But

the costs are very high. It would be much better to get better management without bloodletting."

NATIONAL DEFENSE

Mr. THURMOND. Mr. President, for many years I have spoken here on the Senate floor and in many other forums in favor of our country adopting a strong defense posture so that we may deter any potential aggressor. Also, for many years I have seen the Soviet Union move toward a position of superiority in some areas of the defense arena. Unfortunately, the Soviets have been unwittingly helped, by some of our policymakers and others who adopted the philosophy of mutual assured destruction, popularly known as MAD.

Simply stated, this philosophy means that although we continue to deploy our nuclear weapons, we deliberately leave ourselves with no defense against a potential enemy nuclear attack except hitting back after being hit first. Supposedly, by remaining without defense against incoming missiles, we assure the Russians that we are not bent on a warpath. This presumably will lead the Russians to emulate us. The sheer fear of nuclear destruction on both sides, the theory implies, would prevent either side from striking first. This philosophy was the official strategy of several administrations for some time. I have spoken against it on numerous occasions, and I will continue to do so in the future.

Furthermore, this strategy has failed miserably; for although we dramatically slowed our arms and defense buildup for more than a decade, the Soviet Union has never stopped. In the early 1960's, following the Cuban missile crisis, the Russians began the biggest arms buildup known to man, and they are continuing on that course to this very day. Their attitude never softened as the proponents of MAD would have us believe will happen. Instead, the Russians proceeded to improve the accuracy of their missiles to approach a first-strike capability. Additionally, they are also moving ahead with their missile defense, air defense, and civil defense systems.

Mr. President, I am delighted to see that the current administration, under the leadership of President Reagan, is moving on a steady course to redress the dangerous imbalance with the Soviet Union. I support the President in his efforts, and I commend him. Furthermore, I urge the administration to move diligently to rebuild our strategic air defense systems, to revamp our civil defense system, and to accelerate the research and development effort of the ballistic missile defense. Defense remains an essential part of any credible deterrence not only against the Soviets, but also against any other potential aggressor.

Mr. President, a recent article on this subject by Mr. Stanton Evans in the Washington Times of August 3, 1982, briefly addressed this subject. In order to share this article with my colleagues, I ask unanimous consent that it be printed in the RECORD following my remarks.

[From the Washington Times, Aug. 3, 1982]

PURLOINED DEFENSES

(By M. Stanton Evans)

A familiar item in the annals of the obvious is Edgar Allan Poe's short story about the "Purloined Letter"—which no one noticed because it was in plain sight.

A true-life adaptation of that fable might be called "Purloined Defenses." For upward of a decade, in full view of everyone, the strategic arsenal of the United States has been progressively dismantled. This demolition has been accomplished by our own deep-thinking planners in obedience to a bizarre, incomprehensible doctrine called "mutual assured destruction"—MAD, for short.

The basic idea behind MAD is that it is a good thing not to have any strategic defenses against nuclear attack. The best way to assure the Russians that we aren't plotting a war against them, supposedly, is to leave our civilian population wide open to obliteration. This will so ease the Communists' anxieties that they will follow suit. With both sides naked to destruction, a "balance of terror" will prevail, and war will be impossible.

Although this theory has guided U.S. military policy since the 1960s, most Americans don't have any idea of its existence, or else can't bring themselves to accept its reality. As I well know from long hammering on the subject, reasonably intelligent people can't believe that something so inherently nutty could possibly be the official strategy of the United States, although it is staring them in the face.

It has been official strategy, however, and it has played a crucial role in the enfeeblement of the nation. And even though the Reagan administration has been sidestepping away from it, we are still de facto wedded to its precepts. Thanks to MAD, for instance, we have no anti-missile defenses, have phased down our air interceptor defenses and early warning system, and have no effective program of civil defense. We are devoid of protection on all these fronts because our planners have wanted to keep our cities vulnerable to enemy attack.

Unfortunately, while we have been following this masochistic policy, the Soviet Union has not done the same. It has shown no interest in MAD theory, and even took a while to catch on enough to encourage our obsession with it. There is plenty of evidence that the Russians have pushed ahead with anti-missile defenses, built up their air interceptor strength and deployed a massive array of SAM missiles, while we have been assiduously cutting back our defenses.

All of this has apparently dawned on Reagan's strategic planners, who would like to redress the huge imbalance of forces resulting from it. To date, however, repudiation of MAD had been mostly verbal, with no clear move afoot to restore our pitifully inadequate defenses. Whether such moves will actually be taken is the issue currently before the House of Representatives.

By far the most encouraging development on this front was a recent statement by Secretary of Defense Caspar Weinberger, indicating official interest in a space-based anti-missile system. Weinberger told a group of reporters the administration is actively considering the notion of deploying space defenses that could knock out Soviet ICBM's before they re-enter the earth's atmosphere and start descending toward their targets.

Weinberger's comments and other administration statements on the subject sound a great deal like the "high frontier" concept spelled out by Lt. Gen. Daniel O. Graham, former chief of the Defense Intelligence Agency. Graham has laid out a program for a multi-tiered defensive system, including non-nuclear space-based anti-missile weapons and ground-based ABM defenses of our deterrents, among other elements.

Any movement of administration policy toward Graham's position is devoutly to be wished. He has been among the most active and articulate opponents of MAD in our public debate, and his book—"Shall America Be Defended"—should be required reading for anyone remotely interested in national survival.

MESSAGES FROM THE HOUSE

At 1:09 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 396. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 6955.

At 6:54 p.m., a message from the House of Representatives delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WIRTH, and Mr. BROYHILL as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 684. An act for the relief of Ok-Boon Kang;

H.R. 1481. An act for the relief of George Herbert Weston;

H.R. 4828. An act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; and

H.R. 6732. An act to amend the International Safe Container Act.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 684. An act for the relief of Ok-Boon Kang; to the Committee on the Judiciary.

H.R. 1481. An act for the relief of George Herbert Weston; to the Committee on the Judiciary.

H.R. 4828. An act to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; to the Committee on Commerce, Science, and Transportation.

H.R. 6732. An act to amend the International Safe Container Act; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment.

H.R. 3517. An act to authorize the granting of permanent residence status to certain nonimmigrant aliens residing in the Virgin Islands of the United States, and for other purposes. (Rept. No. 97-529.)

By Mr. DOLE, from the Committee of Conference:

Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes. (Rept. No. 97-530.)

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 2569. A bill to declare certain lands in the Cumberland Island National Seashore, as wilderness, and for other purposes (with additional views). (Rept. No. 97-531.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services:

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: Maj. Gen. Max B. Bralliar, U.S. Air Force, to be Surgeon General of the Air Force; Maj. Gen. John L. Piotrowski, U.S. Air Force, to be lieutenant general; Maj. Gen. Emmett H. Walker, U.S. Army National Guard, to be Chief of the National Guard Bureau and lieutenant general; Brig. Gen. Herbert R. Temple, Jr., U.S. Army National Guard, to be major general; Lt. Gen. Roscoe Robinson, Jr., U.S. Army, to be general; Lt. Gen. Philip C. Gast, U.S. Air Force, to be reassigned in the grade of lieutenant general; Maj. Gen. Alexander M. Weyand, U.S. Army, to be reassigned to the grade of lieutenant general; Lt. Gen. LaVern E. Weber, U.S. Army, to be reassigned to the grade of lieutenant general; Vice Adm. Wesley L. McDonald, U.S. Navy, to be reassigned to the grade of admiral; and Lt. Gen. Hillman Dickinson, U.S. Army (age 56), for appointment to the grade of lieutenant general on the retired list. I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, in addition, in the Navy and Naval Reserve there are 44 permanent appointments to the grade of captain and below (list begins with Michael L. Arture), in the Air National Guard there are 29 promotions to the grade of lieutenant colonel in the Reserves (list begins with Clayton B. Anderson), in the Army there are 8 appointments to the grade of colonel and below (list begins with Robert O. Porter), in the Naval Reserve there are 465 permanent promotions to the grade of captain and below (list begins with Javier A. Arzola); Capt. Truman W. Crawford, U.S. Marine Corps, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps; in the Air Force there are 579 promotions to the grade of lieutenant colonel (list begins with John S. Adams, Jr.), in the Air Force Reserve and National Guard there are 114 appointments to the grade of colonel and below (list begins with Enrique Del Campo), in the Marine Corps and Marine Corps Reserve there are 630 permanent appointments to the grade of colonel and below (list begins with Robert L. Peterson), and in the Navy and Naval Reserve there are 19 permanent promotions/appointments to the grade of commander and below (list begins with Bruce P. Dyer). Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of August 4, August 10, August 12, and August 17, 1982, at the end of the Senate proceedings.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

James C. Treadway, Jr., of the District of Columbia, to be a member of the Securities and Exchange Commission for the term expiring June 5, 1987.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON (for himself, Mr. BOSCHWITZ, and Mr. RUDMAN):

S. 2851. A bill relating to compelling governmental interests; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. STAFFORD, Mr. PELL, and Mr. RANDOLPH):

S. 2852. A bill to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PERCY:

S. 2853. A bill to provide for the temporary duty-free treatment of imported hatters' fur, and for other purposes; to the Committee on Finance.

S. 2854. A bill for the relief of the Centralia Carillon Committee; to the Committee on Finance.

By Mr. HAYAKAWA:

S. 2855. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. ABDNOR, Mr. BAUCUS, Mr. BURDICK, Mr. COCHRAN, Mr. CRANSTON, Mr. DANFORTH, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HOLLINGS, Mr. JACKSON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MATHIAS, Mr. McCLURE, Mr. METZENBAUM, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. QUAYLE, Mr. SARBANES, Mr. WEICKER, and Mr. ZORINSKY):

S.J. Res. 232. A joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HAYAKAWA (for himself and Mr. MOYNIHAN):

S. Res. 451. A resolution regarding asylum for Hu Na; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON (for himself, Mr. BOSCHWITZ and Mr. RUDMAN):

S. 2851. A bill relating to compelling governmental interests; to the Committee on the Judiciary.

COMPELLING GOVERNMENTAL INTERESTS IN RELATION TO SEXUAL DISCRIMINATION

Mr. GORTON. Madam President, like many of my colleagues and a majority of Americans, I am disappointed that the equal rights amendment is not now a part of the Constitution of

the United States; and I pledge my full support to a renewed ERA effort.

The notion that equality of rights under law, regardless of sex, however, is not merely a fundamental principle which ought to be in the Constitution, it is a matter of grave economic and social consequence for millions of Americans. I am not prepared, therefore, to forego consideration of other means by which to achieve the substance of the equal rights amendment simply because we have not yet succeeded in reaching our final goal of guaranteeing that substance through a constitutional amendment. To forego such alternatives during our quest for that goal would seem to me to admit that the attainment of the substance of the equal rights amendment was something less than imperative. That is a proposition which I cannot accept.

The statutory proposal which I am introducing today, therefore, requires that classifications based on sex, both de jure and de facto, created by the United States or by any State, be subjected to the same level of judicial scrutiny as classifications based on race. At the present time, the Supreme Court will uphold a racial classification only if it is necessary to achieve a compelling governmental interest. A classification based on sex, however, will be upheld if it serves an important governmental interest and is substantially related to the achievement of that interest, a less difficult standard to meet.

I must stress that this proposal does not involve any question of court jurisdiction nor does it seek to substitute Congress view of what the equal protection clause requires for that of the Court. It is intended to be remedial only, making certain actions of the States and the Federal Government illegal, even though they are not unconstitutional. Congress can prohibit such actions by the States if it determines that such actions, while not unconstitutional, nonetheless tend to perpetuate the effects of past sex discrimination. I am convinced that the facts will support such a finding.

I have heard much discussion among my colleagues of possible statutory approaches toward providing greater rights for all persons regardless of sex. Such proposals, as far as I can determine, have all dealt with specific subjects, such as insurance and pension reform. The bill I am introducing today paints with a broader brush than these other measures in that it can be the basis for invalidating existing discriminatory statutes and preventing legislatures from enacting additional discriminatory statutes in the future. It may well be, however, that it will still be necessary for Congress to consider subject-specific legislation to complement this bill.

Due to the limited time remaining in this session, it is obvious that I am not introducing this bill with the intention of actively pursuing its passage in this Congress. Moreover, because of the somewhat unique approach taken in the bill, I cannot and do not expect an immediate response to it from those groups which have worked so diligently for the ratification of the equal rights amendment. I appreciate the fact that in the next several months these groups, as well as the Congress, must give due consideration to a variety of approaches and remedies. I hope, however, that by introducing the bill at this time it will be included in any such discussion and that I will receive sufficient feedback on it in the coming months to be able to urge its consideration by the Senate early in the 98th Congress.

I trust that those reviewing this proposal will do so with open minds and give serious thought to the utility of such a measure as a method of dealing promptly with the current denial of economic and social rights to so many Americans.

Madam President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

PURPOSE AND FINDINGS

SEC. 1. (a) Congress finds and declares that—

(1) classifications based on sex have often resulted in individuals being relegated to an inferior legal status without regard to individual capability, worth or need; and,

(2) classifications based on sex which are not necessary to achieve a compelling governmental interest tend to perpetuate the effects of past sex discrimination; and,

(3) classifications based on sex are inherently invidious and suspect.

(b) In light of the findings contained in this section and in order to secure the equal protection of the laws for all persons regardless of sex, Congress, pursuant to the necessary and proper clause of article I of the Constitution of the United States, and pursuant to section 5 of the fourteenth amendment to the Constitution of the United States, enacts this Act.

CLASSIFICATIONS BASED ON SEX

SEC. 2. (a) Each person has the right to be free from any classification based on sex and made by the United States unless such classification is necessary to achieve a compelling interest of the United States.

(b) No State shall make a classification based on sex unless such classification is necessary to achieve a compelling interest of the State.

(c) Every person who, under color of any Federal or State law, subjects, or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to a classification based on sex which is not necessary to achieve a compelling governmental interest shall be liable to the person injured in an action at law, suit in equity, or other proper proceedings for redress.

RELIEF

SEC. 3. (a) Any person aggrieved by a violation of this Act may bring a civil action in the appropriate district court of the United States for such legal and equitable relief as may be appropriate: *Provided*, That, no cause of action for damagers may arise under this Act until one year after the date of enactment of this Act.

(b) The Attorney General may bring an action for declaratory or injunctive relief in any appropriate case in which the Attorney General determines that the rights of persons aggrieved under this Act will be served by bringing such action.

DEFINITIONS

SEC. 4. (a) The term "State" as used in this Act includes each of the several States, any Commonwealth or territory of the United States, and any political subdivision thereof.

(b) The term "law" as used in this Act includes any statute, ordinance, rule, regulation or the administration thereof, or any custom or usage.

(c) The term "classification based on sex" as used in this Act includes any de jure, gender-based classification and any law of the United States or of any State which has a disparate impact on individuals of different gender who are otherwise similarly situated

APPLICATION

SEC. 5. (a) If any provisions of this Act or the application of this Act to any person or circumstance is judicially determined to be invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such determination.

(b) This Act shall supersede any inconsistent provision of Federal law.

By Mr. HATCH (for himself, Mr. STAFFORD, Mr. PELL, and Mr. RANDOLPH):

S. 2852. A bill to amend section 439 of the Higher Education Act of 1965 to make a technical amendment relating to priority of indebtedness, to provide for the family contribution schedule for student financial assistance for academic years 1983-84, and 1984-85, and for other purposes; to the Committee on Labor and Human Resources.

SALLIE MAE TECHNICAL AMENDMENTS ACT OF 1982

Mr. HATCH. Mr. President, I am pleased today to introduce a set of amendments designed to fine-tune the delivery of our Federal student grants and loans to the millions of students who benefit from them. These amendments to the Higher Education Act of 1965 have been developed through consultation with interested members of the Committee on Labor and Human Resources from both sides of the aisle, and the bill enjoys bipartisan support, as well as the cosponsorship of my distinguished colleagues, Senators STAFFORD, PELL, and RANDOLPH, whose expertise has been of great benefit in its development.

Among the most pressing issues dealt with by the bill, whose short title is the Sallie Mae Technical Amendments Act of 1982, are those involving the Student Loan Marketing Association (Sallie Mae). Last year Sallie Mae, which provides essential secondary market functions in the purchase and warehousing of guaranteed student loans, was faced with the prospect of shifting its source of funding from the Federal financing bank to the private bond market, under an agreement negotiated with the administration. In order for Sallie Mae to sell its bonds at feasible rates, it was required to obtain a clarification of the application of Federal bankruptcy law. Specifically, it was necessary for Congress to clearly give the Federal Government the status of a normal creditor, waiving any Federal priority in the event of a Sallie Mae bankruptcy or reorganization. Sallie Mae requested this measure from Congress and an appropriate provision was enacted last year as part of the Older Americans Act Amendments of 1981. This action was limited to 1 year in duration and will expire September 30, 1982.

This past January, Sallie Mae terminated its borrowings from the Federal financing bank, and it has since proceeded to raise several hundred million dollars in the private market by selling its bonds. However, unless the bankruptcy provision is extended, Sallie Mae's access to private capital which it can then plow into the student loan market will also expire at the end of September, disrupting the secondary market for student loans. This bill grants the extension for an additional 2 years.

Further, this legislation would empower the State guaranty agencies and lenders to consolidate loans on the same terms as Sallie Mae. Sallie Mae at present, under the 1980 higher education amendments, has exclusive authority for loan consolidations, but State agencies have become much more active in the interim, and there is no good reason why they should be kept out of the market in favor of a monopoly by Sallie Mae.

This bill also writes into the authorizing law, for the academic years 1983-84 and 1984-85, several provisions which have in the past been addressed on an annual basis as attachments to continuing resolutions or Supplemental Appropriations Acts. These are: The new State allocation reduction formula for campus-based aid programs sponsored by Senator RUDMAN and enacted as part of the urgent supplemental this spring; the maintenance of the maximum Pell grant award at $1,800; the decoupling of the campus-based and State student incentive grant programs from the Pell grant needs analysis; and the carryover into the current year of the preceding year's Pell grant family contribution schedule, the latter three provisions having been attached to the fiscal year 1982 continuing resolution. The Pell grant carryover provision would be extended for the 1984-85 academic year as follows: If the administration has not sent up to Congress for its approval a Pell grant family contribution schedule by April 1 of a given year to take effect for the following year as now required by law, then the current family contribution schedule, adjusted for inflation, would automatically carryover and apply during that following year as well.

This last provision would furnish a measure of stability and continuity to a process more often characterized by confusion and uncertainty. During every administration since the Pell grant program was established, the adherence to the deadline has been a problem. Often the family contribution schedule would not be issued until late summer (as this year), would prove unsatisfactory to Congress, and the resulting maneuvering and the statutory elapsing of time before the regulations took effect would cloud the picture into midwinter. Not long thereafter the administration would then propose program changes or rescissions in program funding which would again cast a pall of uncertainty over the status of the grants and would unduly hinder student aid officers from advising students about aid availability. Passage of this bill would provide automatically for the carryover of already established and agreed-upon schedules unless the administration and Congress arrive at a replacement for them. Further, under my proposal the current schedule for the guaranteed student loan program would also be carried forward for the 1983-84 academic year.

This bill contains a section replacing the current ratable reduction formula for Pell grant awards with a linear reduction. At present, if insufficient funds are appropriated to fully fund Pell grants for those who are eligible, a ratable reduction procedure completely extinguishes aid for those at the lower end of the need scale, though in the context of all college students their needs may be great. The new linear reduction procedure would replace this skewed, discontinuous formula with a more equitable one in which all students would share part of the burden, but those with larger entitlements and thus greater need, would have a smaller percentage cut than those with smaller entitlements and thus relatively lesser need, on a clear, inversely proportional basis.

Also included in these amendments is a section providing for a simplified, clear, concise disclosure to borrowers of the costs and terms of their educational loans. When applied in the unusual context of student loans (mandating the treatment of the new 5 percent guaranteed student loan origination fee as interest, for example) the Federal truth-in-lending laws greatly complicate the issuance of student loans—making them less attractive to many lenders—while providing the student with complex disclosures difficult to digest. Also, we understand that Senator HEINZ is pressing forward with a bill to exempt the student loan programs from the truth-in-lending laws. In the event he is successful, the disclosure provisions of the bill at hand will operate as a clear, useful substitute protection for borrowers.

Mr. President, it is not often that we have the opportunity to do a great good with a few brief strokes, but this is such an occasion. We commend these amendments to the Senate for its most expeditious consideration.

I ask unanimous consent that a section-by-section analysis of the bill, as well as the text of the bill itself, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sallie Mae Technical Amendments Act of 1982".

STUDENT LOAN MARKETING ASSOCIATION

SEC. 2. The last sentence of section 439(1) of the Higher Education Act of 1965 is amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1984".

MAXIMUM PELL GRANT

SEC. 3. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983-1984 and for academic year 1984-1985 under such Act shall not exceed $1,800 or 50 percent of the cost of attendance (as defined under section 482(d) for academic year 1982-1983) at the institution at which the student is in attendance.

DECOUPLING PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

SEC. 4. The Secretary of Education may establish or approve separate systems of need analysis for academic year 1983-1984 and for academic year 1984-1985 for the programs authorized under subpart 2 of part A, part C, and Part E of title IV of the Higher Education Act of 1965.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1983-1984

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1982-1983 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such Grants for the academic year 1983-1984.

(b) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1983-1984 shall be computed by increasing the comparable amount (for the same family size) in the family contribution schedule for aca-

demic year 1982-1983 by 7.3 percent, and rounding the result to the nearest $100.

(c) For purposes of subsection (a), the family contribution schedule for academic year 1982-1983 shall be modified by the Secretary of Education for use for academic year 1983-1984—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be submitted not later than 15 days after the date of enactment of this Act.

PELL GRANT FAMILY CONTRIBUTION SCHEDULE FOR ACADEMIC YEAR 1984-1985

SEC. 6. (a)(1) The family contribution schedule for academic year 1984-1985 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be established by the Secretary of Education, if the Secretary publishes a proposed schedule in the Federal Register by April 1, 1983, and submits it to the President of the Senate and the Speaker of the House of Representatives not later than the time such schedule is so published.

(2) The proposed schedule shall be subject to public comment for 30 days. The Secretary shall publish and submit to the President of the Senate and the Speaker of the House of Representatives a final family contribution schedule not later than May 15, 1983, for the academic year 1984-1985.

(3) If the Secretary does not so publish and submit such schedule as required by paragraphs (1) and (2), the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(b) If the Secretary publishes and submits the final family contribution schedule as required by subsection (a) such schedule shall take effect unless, on or before July 1, 1983, either House of Congress adopts a resolution of disapproval of such schedule. In such event, the Secretary shall publish a new proposed family contribution schedule in the Federal Register and submit it to the President of the Senate and the Speaker of the House of Representatives not later than 15 days after the date of the adoption of such resolution of disapproval. Such new schedule shall take into consideration such recommendations as may be made in either House of Congress in connection with such resolution. Such new schedule shall be effective (for academic year 1984-1985) on July 1, 1983, unless, prior to that date, either House of Congress adopts a resolution of disapproval of such new schedule. If the new schedule is also disapproved, the family contribution schedule in effect for academic year 1983-1984 shall be the family contribution for academic year 1984-1985, except as provided in subsections (c) and (d) of this section.

(c)(1) Each of the amounts allowed as an offset for family size in the family contribution schedule for academic year 1984-1985 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for academic year 1983-1984 (as set by section 5(b) of this Act) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index is the change, expressed as a percent, between the arithmetic mean of the Consumer Price Index for April, May, and June of 1982 and the arithmetic mean of such Index for April, May, and June of 1983.

(d) For purposes of subsection (b), the family contribution schedule for academic year 1983-1984 shall be modified by the Secretary of Education for use for academic year 1984-1985 to reflect the most recent and relevant data.

(e) The modified family contribution schedule under this section shall be submitted not later than July 15, 1983, and shall otherwise be subject to the provisions of section 482 (a) of the Higher Education Act of 1965.

COST OF ATTENDANCE

SEC. 7. Notwithstanding any other provision of law, the cost of attendance criteria used for calcuating eligibility for and the amount of Pell Grants for academic years 1983-1984 and 1984-1985 shall be the same as those criteria in effect for academic year 1982-1983.

INFORMATION CONCERNING FAMILY SIZE OFFSET

SEC. 8. The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of section 6 (c) of this Act immediately after publication by the Secretary of Labor of the Consumer Price Index for June 1983.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983 THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c) the family contribution schedule for the period of instruction from July 1, 1983 through June 30, 1984 for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982 through June 30, 1983.

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982 through June 30, 1983 shall be modified by the Secretary of Education for use for the period of instruction from July 1, 1983 through June 30, 1984 to reflect the most recent and relevent data.

(c) The modified family contribution schedule under this section shall be submitted not later than March 1, 1983, and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 10. (a) Notwithstanding section 413D of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(b) The Secretary shall allocate sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984 to institutions in each State without regard to section 413D(b)(1)(B)(ii)(I) of that Act.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983 AND 1984

SEC. 11. Notwithstanding section 462 of the Higher Education Act of 1965, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for each of the fiscal years 1983 and 1984, among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

LOAN REPAYMENT DISCLOSURE

SEC. 12. (a)(1) Section 433A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each eligible lender shall enter into an agreement with the Secretary under which the eligible lender will, prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

(b)(1) Section 463A of the Higher Education Act of 1965 is amended by inserting "(a)" after the section designation and by adding at the end thereof the following new subsection:

"(b) Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower, clearly and conspicuously in writing, and in a form that the student may keep, the information required under this subsection. The disclosures required by this subsection shall include—

"(1) the itemization of and the total of amounts financed, calculated by adding all amounts borrowed by the student borrower under this part, and subtracting all charges, including any origination fee or insurance premium, paid by the student borrower;

"(2) the dollar cost to the student borrower of the amount borrowed;

"(3) the dollar amount of total scheduled payments, calculated by adding the amounts in clauses (1) and (2); and

"(4) the repayment schedule of the student borrower, including the number, amounts, and frequency of payments.".

(2)(A) The first sentence of such section is amended by striking out "section 463(a)(7)" and inserting in lieu thereof "section 463(a)(8)".

(B) The second sentence of such section is amended by striking out "section" and inserting in lieu thereof "subsection".

CONSOLIDATION OF LOANS BY STATE GUARANTY AGENCIES

SEC. 13. Section 428 of the Higher Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(j) (1) Each—

"(A) State agency and nonprofit private institution or organization with which the Secretary has an agreement under subsection (b) of this section, and

"(B) eligible lender in a State described in section 435 (g) (1) (D) or (F) of this Act.

or its designated agent may, upon the request of a borrower who has received loans under this title from two or more programs or lenders, or has received any other federally insured or guaranteed student loan, and where the borrower's aggregate outstanding indebtedness is in excess of $5,000, or where the borrower's aggregate outstanding indebtedness is in excess of $7,500 from a single lender under this part, make, notwithstanding any other provision of this part limiting the maximum insured principal amount for all insured loans made to a borrower, a new loan to the borrower in an amount equal to the unpaid principal and accrued unpaid interest in the old loans. The proceeds of the new loan shall be used to discharge the liability on such old loans.

"(2) Loans made pursuant to this subsection shall be insurable by the State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b). The terms of loans made under this subsection shall be such terms as may be agreed upon by the borrower and the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g) (1) (D) or (F), and meet the requirements of section 427, except that (A) the ten-year maximum period referred to in section 427 (a) (2) (B) may be extended to no more than twenty years, and (B) clause (ii) of section 427 (a) (2) (B) shall not be applicable.

"(3)(A) Notwithstanding any other provision of this part, the State agency and nonprofit private institution or organization, or eligible lender in a State described in section 435(g) (1) (D) or (F), with the agreement of the borrower, may establish such repayment terms as it determines will promote the objectives of this subsection including, but not limited to, the establishment of graduated, income sensitive repayment schedules.

"(B) For any borrower who has received two or more loans under this part bearing interest at the rate of 9 per centum per annum on the unpaid principal balance of the loan and who requests a new loan under this subsection for the purpose of consolidation on a date after the date on which the Secretary has made a determination under section 427A(b), the rate of interest on such new loan shall not exceed 8 per centum per annum on the unpaid principal balance of such new loan.

"(4) The State agency and nonprofit private institution or organization, and eligible lender in a State described in section 435(g)(1)(D) or (F), shall develop a program to ensure the dissemination of information to students, lenders, and institutions of higher education regarding the loans authorized by this subsection.".

LINEAR REDUCTION OF PELL GRANTS

SEC. 14. Section 411(b)(3)(B) of the Higher Education Act of 1965 is amended to read as follows:

"(B)(i) If, for any period of any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (a)(2)(B)(i), the amount paid with respect to each entitlement shall be—

"(I) the full amount for any student whose expected family contribution is $200 or less, or

"(II) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

"(ii) Any schedule established by the Secretary for the purpose of division (i) of this subparagraph shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.".

HIGHER EDUCATION SURVEY DATA

SEC. 15. The National Center for Education Statistics shall collect and publish for academic years 1982 through 1985, tuition and fees data, and room and board charges for institutions of higher education included in the Higher Education General Information Survey. The surveys required by this section shall be consistent with prior surveys of data described in this section.

SECTION-BY-SECTION ANALYSIS OF S. 2852

Sec. 2. Extends the existing federal priority in bankruptcy waiver for Sallie Mae for another two years;

Sec. 3. Maintains the Pell Grant award ceiling at $1800, for the 1983-84 and 1984-85 school years;

Sec. 4. Continues for an additional two years the decoupling of the campus based aid programs from the Pell Grant needs analysis;

Sec. 5. Carries over the 1982-83 Pell Grant family contribution schedule, adjusted for inflation, into 1983-84;

Sec. 6. Provides that the 1983-84 Pell Grant family contribution schedule (adjusted for inflation) shall also apply for 1984-85 unless the Department of Education by the existing April 1 deadline submits a new schedule which passes a prescribed review process;

Sec. 7. Carries over for academic years 1983-84 and 1984-85 the Pell Grant cost-of-attendance criteria in effect for 1982-83;

Sec. 8. Provides for the updating of Pell Grant needs analysis information immediately after the publication of the Consumer Price Index figure for June 1983;

Sec. 9. Carries over for the July 1, 1983-June 30, 1984 year the Guaranteed Student Loan family contribution schedule for the preceding year;

Sec. 10. Extends the current proportional reduction formula for Supplemental Education Opportunity Grant allocations to fiscal years 1983 and 1984;

Sec. 11. Extends the current proportional reduction formula for National Direct Student Loan allocations to fiscal years 1983 and 1984;

Sec. 12. Provides for simplified, clarified disclosure to borrowers of the cost and terms of their educational loans;

Sec. 13. Empowers state guaranty agencies and eligible lenders to consolidate federally insured student loans on the same basis as Sallie Mae;

Sec. 14. Substitutes for the old ratable reduction formula for Pell Grant awards a new linearly proportional reduction;

Sec. 15. Directs the National Center for Education Statistics to continue the collection and publication of certain data on higher education tuition and expenses for academic years 1982 through 1985.

Mr. STAFFORD. Mr. President, I am introducing today, with my colleagues Senators HATCH, PELL, and RANDOLPH, emergency legislation which will remove a serious impediment to the availability of student loans.

This legislation would extend, for 2 years, a provision of law enacted last year which would give all creditors an equal claim on the assets of the Student Loan Marketing Association (Sallie Mae) if Sallie Mae were to enter into an involuntary liquidation or reorganization under the Bankruptcy Act. Prior to the adoption of this provision, which expires on September 30 of this year, the Federal Government had first priority access to Sallie Mae's assets in the event of an involuntary liquidation or reorganization. This provision establishes that the Federal Government would have equal access as a creditor to Sallie Mae's assets in this event.

In 1974 to 1981, Sallie Mae, which is a federally established private warehouse facility and secondary market for guaranteed student loans and which holds approximately $6 billion in student loan assets, was able to finance its operations through borrowing from the Federal Financing Bank (FFB), an arm of the U.S. Treasury. In 1981, as part of a general policy to limit off-budget borrowing by Government-sponsored private corporations such as Sallie Mae, the Treasury and Sallie Mae reached an agreement that Sallie Mae's draw on the FFB would end on September 30, 1982, or after Sallie Mae has borrowed $5 billion, whichever came first. Sallie Mae reached the $5 billion limit in January of this year, and must now borrow on the open market to finance its operations and provide liquidity to lenders in the GSL program.

If the equal priority provision, which expires on September 30, is not extended, it is highly doubtful that Sallie Mae will be able to market its bond issues, as prospective bond holders would stand behind the Federal Government in the unlikely event of a Sallie Mae bankruptcy, and would thus not buy Sallie Mae issues. The inability of Sallie Mae to finance its activities in the public capital markets would have serious repercussions for the student loan programs. The legislation which we are introducing today would allow Sallie Mae to enter these markets for the next 2 years while the Congress continues to provide oversight of its activities.

Mr. President, this bill will also provide certain technical corrections in the higher education programs, consistent with policies adopted in the

continuing resolution of appropriations for fiscal year 1982. Principally, it would provide that if the Secretary of Education does not comply with the procedures in the Higher Education Act requiring him to submit a family contribution schedule for Pell grants to Congress by April 1, the previous year's schedule would remain in place. This year, the administration failed to conform with the law in submitting on time to Congress a family contribution schedule for the 1983-84 academic year, and this has resulted in extreme disruption and uncertainty for families trying to plan the financing of higher education for their children. It is therefore necessary to fix the terms and content of the family contribution schedule for the 1983-84 academic year, and if the Department of Education again fails to prescribe a schedule in a timely and lawful manner, for academic year 1984-85.

Mr. President, I hope that we can act on this legislation at the earliest possible moment, so that the student aid programs can proceed smoothly, and so that students and their families—and those who provide student aid—can plan their financing for the coming academic years.

Mr. PELL. Mr. President, I am pleased to join the chairman of the Subcommittee on Education, Arts, and Humanities and Senators HATCH and RANDOLPH in cosponsoring this important piece of legislation. Passage of this bill would result in significant improvements in two areas involving Federal student aid.

First, passage of the bill would give the Student Loan Marketing Association (Sallie Mae) a 2-year extension of its exemption under the Bankruptcy Act. This extension is vitally important if Sallie Mae is to continue to be able to market its bonds in the private sector.

In addition, we seek, in this legislation, to give State loan guarantee agencies the ability to consolidate different types of student loans. At present, this authority extends only to Sallie Mae. We believe it important that the State agencies also have this authority, which we hope they will use to assist individuals who may have several Federal loans, as well as several different types of Federal loans. Those people may currently be making several loan payments, which we believe might best be consolidated into a single loan and a single loan payment.

Second, this legislation would also put an end to the delays, uncertainty, and confusion that has marked the issuing of a family contribution schedule for the Pell grant program in both this and the past administration.

This year the administration was more than 4 months late in submitting a proposed family contribution schedule to the Congress. When one was finally proposed, it was based on an appropriation of only $1.4 billion for Pell grants. That figure assumes a 40-percent reduction in Pell grant funds, and the removal of more than 700,000 students from participation in this important program.

Even worse, however, is the fact that the proposed schedule was based on an appropriation figure that the Congress had rejected when it passed the fiscal 1983 budget resolution. That resolution actually contained a $110 million increase in Pell grants, from $2.279 billion for fiscal 1982 to $2.4 billion for fiscal 1983.

In essence, the legislation we are submitting today would negate the family contribution schedule submitted by the administration and lock in the one that is currently in effect for the 1982-83 academic year, updated.

For the 1984-85 academic year, the Secretary of Education would be required to submit a proposed family contribution schedule by April 1 of next year. If the Secretary failed to do so, then the 1983-84 schedule, updated, would become the 1984-85 schedule.

If the Secretary submits a proposed schedule by the April 1 deadline and it is disapproved by either House of Congress, the Secretary would have 15 days in which to submit a revised schedule. If that schedule is disapproved, then the schedule in effect for 1983-84, updated, would become the schedule for 1984-85.

Mr. President, these changes make a great deal of sense and would immeasurably improve the smooth and timely functioning of important Federal student aid programs. I ask my colleagues to give this legislation very serious consideration, and urge them to join us in supporting this bill.

By Mr. PERCY:

S. 2853. A bill to provide for the temporary duty-free treatment of imported hatters' fur, and for other purposes; to the Committee on Finance.

HATTERS' FUR TARIFF ACT OF 1982

Mr. PERCY. Mr. President, I am today introducing legislation that would relieve an inequity in our tariff laws.

The legislation I am introducing would temporarily suspend—through 1985—the 15-percent rate of duty on imported hatters' fur. Hatters' fur is imported under tariff item 186.20. The anomaly in this case is that there are virtually no domestic sources of this material and our American hatters must pay a high tariff on their raw material, thereby making the final product more expensive.

On the other side of the ledger, however, are imported hats, which use the same raw materials but do not have to pay the additional 15-percent duty charge. More finished products using the same furs come into the country at a duty not exceeding 5.3 percent ad valorem. Other hat shells come into the country duty-free, in cases where they are manufactured in GSP/designated countries.

Mr. President, this is a classic case of how our tariff laws can lead to the export of jobs. The 15-percent tariff on raw material discriminates against manufacture of hatters' fur in this country. At a time when there is a great deal of support in Congress for stimulating value-added manufacturing, this tariff runs just in the opposite direction, counter to our goals.

An identical bill has been introduced in the House by my good friend from Illinois, Representative ED DERWINSKI. This unfair tariff was brought to our attention by Stratton Hats, Inc. of Bellwood, Ill. The company is one of the few hat manufacturers left in the United States, with a major manufacturing facility also located in Winchester, Tenn.

I commend this legislation to the Finance Committee and hope they will act expeditiously on it. The administration has already recorded their views on the House legislation—H.R. 5386—and have no objection to passage of the proposal.

By Mr. PERCY:

S. 2854. A bill for the relief of the Centralia Carillon Committee; to the Committee on Finance.

RELIEF OF THE CENTRALIA CARILLON COMMITTEE

Mr. PERCY. Mr. President, I am today introducing legislation that would allow for the duty-free entry of carillon bells from France.

No U.S. foundries make these particular carillon bells and I understand that nonprofit groups that purchase these beautiful musical instruments are traditionally relieved of the duty through legislation such as I am introducing today.

Mr. President, suspension of duty on these carillon bells would be a tremendous help to the nonprofit Centralia Carillon Committee of Centralia, Ill. I would like to ask unanimous consent that excerpts from the letter sent me by Karel Keldermans, carillonneur for the Centralia carillon, be included in the RECORD at the close of my remarks. Mr. Keldermans' letter amply describes the community's wishes in this regard. I urge my colleagues on the Finance Committee to act quickly on this legislation so that the bells can enter the United States as planned this fall.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

June 29, 1982.

Hon. CHARLES H. PERCY,
East Monroe,
Springfield, Ill.

DEAR SENATOR PERCY: As the carillon consultant for the Centralia Carillon Committee of Centralia, Illinois I have been requested to write to you, on behalf of this

non-profit committee, because we have recently purchased a carillon in France. This carillon will be imported to this country sometime in the autumn of 1982. Because this is a large four-octave instrument, the import duties could be quite expensive. The total weight involved—including all support beams and mechanism—might be as high as 100,000 pounds. The value of this instrument is at least 1¾ million dollars.

The reason for this correspondence is to request that you sponsor a resolution to waive the import duties for this musical instrument. There are two reasons for waiving the import duties:

(1) The carillon is a musical instrument capable of being played with as much expression as a piano; Therefore, it should not be imported as metal;

(2) There are no large bellfounders in the United States capable of producing a carillon. Hence, no U.S. jobs are lost due to importation. The United States imports at least two carillons a year from either England, The Netherlands, or France.

It is customary for states which are to receive carillons to have their senators sponsor a resolution and arrange with the Department of the Treasury to have import duties waived. For example, St. Thomas Church at Whitemarsh, Pennsylvania purchased a carillon in 1974; through its Congressional representative, import duties were waived. Covington, Kentucky did the same in 1978. Over the past 10 years, every carillon imported to this country has had import duties waived. The Centralia Carillon Committee would be most appreciative if you were able to assist us in doing the same.

I have been in contact with the French bellfoundry of Pierre Paccard (Paccard Fonderie de Cloches in Annecy) and have been informed that they will ship from Le Harve to Chicago via St. Lawrence Seaway. Because this will be a large undertaking, coordination of all aspects of this project is crucial.

By Mr. HAYAKAWA:

S. 2855. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MODERNIZING THE FEDERAL SEED ACT

Mr. HAYAKAWA. Mr. President, the bill I am introducing today has two purposes. First, it will assist the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, in carrying out its new responsibilities in administering title III of the Federal Seed Act (FSA). Second, it repeals certain sections of the Federal Seed Act having to do with the labeling of lawn seed which has become obsolete because of advances in seed technology and marketing.

Mr. President, the proposed budget of the U.S. Department of Agriculture for fiscal year 1983 calls for closing four regional seed laboratories which are now under the supervision of the Agricultural Marketing Service (AMS). One of the primary functions of these laboratories is to provide technical backup in regulating the import of seed. Seed imported into the United States is governed by title III of the Federal Seed Act.

The regional labs interact with the Federal Seed Standardization Laboratory, located at Beltsville, Md., to provide technical support for the Federal regulation of the sale of seed in interstate commerce. These activities will be consolidated at Beltsville. It is anticipated that cooperative agreements or other arrangements will be made with a number of State seed laboratories to assist in carrying out the activities formerly provided by the regional laboratories in administering these provisions of the Federal Seed Act.

Concurrent with the closing of the laboratories, the responsibility for administration of title III of the act will be transferred to the USDA Animal and Plant Health Inspection Service (APHIS). This is a logical move, because APHIS is now responsible, under separate legislation, for administration of the Federal Noxious Weed Act and the phytosanitary regulations governing imported seed. In order to carry out its new responsibilities, APHIS will use the facilities of the regional seed laboratory at North Brunswick, N.J.

In light of the transfer of responsibilities to a different agency and a reduction in personnel and facilities, it would be appropriate to review requirements of the act to see if the new workload placed on APHIS could be reduced. This should be done without sacrificing the necessary safeguards to agriculture as a whole, the seed industry, and the consumer of seed.

The requirements to inspect imported seed for noxious weed seeds and the staining of alfalfa and red clover seed would continue. That section of the act which pertains to the pure live seed and weed seeds would be repealed. The pure live seed requirement places the heaviest load on the laboratories and there is currently no domonstrated need for carrying out the work. The purity and germination qualities of the seed are established prior to the shipment and the problem of seed falling below mutually agreed standards can be settled between the parties. Once the seed enters interstate commerce, it must meet all standards required for the sale of domestic seeds established under the Federal Seed Act and appropriate State seed laws.

The requirement to determine if the seed contains more than 2 per centum by weight of weed seed is no longer valid. These seeds, as opposed to noxious weeds, are common in most parts of the world. In many cases, they are used as agriculture or vegetable seeds or are recognized as seeds of ornamentals. During fiscal year 1980, 61 million pounds of agricultural and vegetable seeds, valued at $40 million, were imported—about 1 percent of the seed used in the United States. Of 9,000 lots offered for importation, 257 were refused admission based on preliminary tests and 195 of these were subsequently admitted after being brought into compliance with the act. Only two of these were refused because they failed to meet the weed seed requirements.

Mr. President, the second purpose in amending the Federal Seed Act will eliminate conflicts between Federal and State seed laws and will provide flexibility to the Secretary of Agriculture in administering the act.

The act specifies that certain grasses be classified as "fine textured" or "coarse kinds" and a list of the two categories is provided in the regulations. The development of new improved varieties of grass seed has blurred the distinction between the two lists. It has come to a point where it is impossible, from a legal standpoint, to differentiate between the two kinds. It is a very slow and difficult process to change the lists in the regulations as new varieties are developed and even more difficult to classify a new variety of grass into one of the categories.

The Association of American Seed Control Officials, made up of State representatives, has recommended elimination of the requirement to label according to these distinctions and has made the change in the "Recommended Uniform State Seed Laws." Several States have adopted this labeling change in their seed laws; others are only waiting for the Federal Seed Act to be changed in order to change their laws.

In an attempt to conform to two different sets of laws, a seedsman selling seeds in one of these States could be in violation of either the State or Federal law or both. A member of the seed industry selling seeds on a national level finds it difficult, if not impossible, as well as expensive to attempt to label his seeds in a different manner in the 50 States.

The second immediate need for changes in the FSA pertaining to lawn seed mixtures is to correct the labeling requirement to allow that only the month and year of the oldest germination test be required. Since the test must be completed within a 5-month period of the date of sale, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on a small package of seed and, since this is a control measure and does not afford the consumer additional protection, it would save time and money in printing the label and make it easier for the

consumer to understand the information that is helpful.

There is also a need to provide the Secretary of Agriculture with authority to extend the 5-month period between the test date and date of sale when he finds that, under ordinary conditions of handling, that certain kinds of seed will maintain its germination qualities over a longer period of time.

Therefore, I hope the Senate will adopt this bill, which, while maintaining the high standards of excellence of seeds planted in the United States, makes needed changes to respond to budget reductions and removes the conflict between State and Federal seed laws.

By Mr. DURENBERGER (for himself, Mr. ABDNOR, Mr. BAUCUS, Mr. BURDICK, Mr. COCHRAN, Mr. CRANSTON, Mr. DANFORTH, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HOLLINGS, Mr. JACKSON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. METZENBAUM, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. QUAYLE, Mr. SARBANES, Mr. WEICKER, and Mr. ZORINSKY):

S.J. Res. 232. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL SUDDEN INFANT DEATH SYNDROME AWARENESS WEEK

● Mr. DURENBERGER. Mr. President, each day, some 20 infants in the United States succumb while asleep to the sudden infant death syndrome (SIDS), which is commonly known as "crib death." There is no warning, and no reason to expect that any particular baby will die. But 7,000 of them do die each year in this country—7,000 apparently normal and healthy infants between the ages of 1 week and 1 year.

Little is known about this mysterious syndrome. It appears to be as old as recorded history, and it strikes every ethnic group, every social class, every economic stratum, every region of the world.

The death of any child is a senseless tragedy which can totally disrupt the lives of parents and siblings. But a SIDS death often results in unique and particularly traumatic problems for the families of victims. Because SIDS is not well understood, and because it is not well known among the general public, the families of SIDS victims can often find themselves suspected of child abuse or neglect. Even when an autopsy results in a formal finding of SIDS as the cause of death, friends, neighbors, and relatives often remain confused and parents often suffer from feelings of guilt. This added anguish can be helped with counseling where needed, but it can be avoided if more people are aware of SIDS in the first place. It was for this reason that Congress passed legislation in 1974 to provide for counseling projects and medical protocols in SIDS cases.

But SIDS cuts a wider swath. Because it is not well understood, it can cause panic among parents of any young children. Recently, for example, a brief news item concerning a possible link between SIDS and certain innoculations—a link which was disproved—caused many parents to insist that their children not be innoculated. More horrifying, a number of unscrupulous people have been known to capitalize on the ignorance about SIDS to peddle quackery.

Substantial progress has been made in the investigation of SIDS in the past few years. It is possible that we may soon be able to identify infants who appear particularly susceptible to this pernicious killer. Once identified, they can be closely monitored so that resuscitation is undertaken as soon as needed. But diagnosis and prevention remain only distant goals, and research must be supported with contributions.

In other words, there is a clear need for more awareness of the sudden infant death syndrome. A greater awareness by the public can help the parents of victims to avoid added anguish. Just as important, it can prevent panic among other parents. Finally, it can stimulate the contributions needed for further research.

That is why I have introduced this resolution designating the first week of October as "National SIDS Awareness Week." It is why so many other Senators have cosponsored this resolution. And it is why I hope for its speedy passage and its implementation.●

● Mr. QUAYLE. Mr. President, I rise to join my colleague, Mr. DURENBERGER, as he introduces this joint resolution to declare the week of October 1, 1982, as "National Sudden Infant Death Awareness Week."

Twenty times a day in this country a lifeless infant is found. These babies are normal, healthy infants that are found dead in their cribs by their families. One cannot imagine the grief and heartache these crib deaths bring into a family, nor the guilt or the prosecution.

Because these crib deaths are not well known, many families of sudden infant death victims are suspected of child abuse. In one case, three siblings were removed from the grieving parents by child protection authorities within hours of the death of the new baby. With more public awareness, these needless tragedies can be avoided.

I support this joint resolution because it will bring public attention not only to the problem, but to the progress that is being made, particularly in the development of monitoring for susceptible children. Infants who have had near-misses can be monitored through their first year of life, when the danger of another episode appears to subside.

I commend the Senator from Minnesota for his interest in this problem, and join him in support of this joint resolution.●

ADDITIONAL COSPONSORS

S. 1650

At the request of Mr. HELMS, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of S. 1650, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to extend coverage under provisions of that act relating to benefits to survivors of certain public safety officers who died in the performance of duty.

S. 1969

At the request of Mr. PRYOR, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1969, a bill to prohibit the use of appropriations for the payment of certain lobbying costs.

S. 2247

At the request of Mr. RIEGLE, his name was added as a cosponsor of S. 2247, a bill to amend the tariff schedules of the United States to permit the duty-free entry of certain footwear for use in the Special Olympics program.

S. 2300

At the request of Mr. FORD, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 2300, a bill to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

S. 2419

At the request of Mr. DECONCINI, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 2419, a bill to amend title 28, United States Code, regarding venue, and for other purposes.

S. 2617

At the request of Mr. HEINZ, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate mandatory retirement and other forms of age discrimination in employment.

S. 2619

At the request of Mr. TSONGAS, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. WEICKER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from California (Mr.

CRANSTON) were added as cosponsors of S. 2619, a bill to amend the Energy Security Act to extend the financing authority of the Synthetic Fuels Corporation to include projects for district heating and cooling and for municipal waste energy recovery, and for other purposes.

S. 2776

At the request of Mr. RIEGLE, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 2776, a bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative judge.

S. 2784

At the request of Mr. DECONCINI, the names of the Senator from Illinois (Mr. PERCY), the Senator from Indiana (Mr. LUGAR), and the Senator from Wisconsin (Mr. KASTEN) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. PRYOR, the names of the Senator from Pennsylvania (Mr. HEINZ), the Senator from Texas (Mr. TOWER), the Senator from Idaho (Mr. SYMMS), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 220, a joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Rhode Island (Mr. PELL), the Senator from Arkansas (Mr. BUMPERS), the Senator from South Dakota (Mr. ABDNOR), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. MATTINGLY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of Senate Concurrent Resolution 61, a concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Resources to conduct a study on steps which might be taken to correct the social security benefit disparity known as the notch problems.

SENATE RESOLUTION 367

At the request of Mrs. HAWKINS, the names of the Senator from Illinois (Mr. PERCY), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 367, a resolution expressing the sense of the Senate with respect to recognition of the Red Shield of David of the Magen David Adom by the International Committee on the Red Cross.

SENATE RESOLUTION 451—RESOLUTION RELATING TO ASYLUM FOR HU NA

Mr. HAYAKAWA submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 451

Resolved, The Senate reaffirms its commitment to the historical role of the United States as a place of sanctuary, and

The Senate urges the Administration to carefully consider this historical role as it deliberates the case of Hu Na, a citizen of the People's Republic of China who has requested asylum in the United States.

ASYLUM FOR HU NA

Mr. HAYAKAWA. Mr. President, I am sending to the desk a resolution urging the administration to consider carefully the historical role of the United States as it deliberates the case of Hu Na, a citizen of the Peoples' Republic of China who has requested asylum in the United States.

Miss Hu, one of the Republic of China's most gifted tennis players, defected last month during an international tennis tournament in California. Her country has asked that she be returned and suggested that cultural exchange programs will suffer if the United States does not accede.

While I recognize the importance of preserving and improving our relations with the Peoples' Republic of China, I am deeply concerned that the United States not succumb to political pressure by compromising one of its most cherished practices, that of granting sanctuary to the deserving.

Whether Miss Hu is deserving is a question to be answered by the Immigration and Naturalization Service in consultation with the Department of State. The resolution that Senator MOYNIHAN and I offer today will not inerfere with that decisionmaking process, but it will emphasize that it should be made free of outside pressures. Miss Hu should be granted the same concern that was given Martina Navratilova, Wimbledon champion and native of Czechoslovakia, who was granted asylum in 1975.

I urge my colleagues to express their support for the historical role of the United States a place of sanctuary to the deserving by cosponsoring this resolution.

Thank you, Mr. President.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

AMENDMENT NO. 2036

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

SENSE OF THE SENATE RELATIVE TO TREATIES

Mr. GOLDWATER. Mr. President, the amendment is noncontroversial. It reaffirms the constitutional role of the Senate in making formal treaties or statutes and in changing or repealing those laws.

It states the sense of the Senate only and does not require House or Presidential action.

The provision does not enter into the controversy over whether two-thirds of the Senate or a simple majority is required to terminate a treaty. It does not address the issue of whether the House has any role in treaty termination. It avoids any argument about executive agreements and only applies to formal treaties. The above questions are left open for interpretation by each individual Senator as he or she sees fit.

An immediate reason for the provision is to remind Peking and the State Department that a joint communique does not amend or replace the Taiwan Relations Act. President Reagan cannot object to this purpose since he publicly insists he has not changed the Taiwan Relations Act in any way and will faithfully comply with it.

Passage of the amendment will be a needed boost for morale in Taiwan.

AMENDMENT NO. 2037

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 520), supra.

EXTENDING UNEMPLOYMENT BENEFITS

● Mr. SCHMITT. Mr. President, I intend to offer an amendment to the debt limit bill which would extend unemployment compensation for up to 10 weeks for workers who have exhausted regular benefits.

This amendment is identical to the provisions contained in the conference report on the tax bill recently agreed

to by the House and Senate conferees. The amendment offers Members an opportunity to extend needed unemployment benefits independent of the tax bill conference report that will soon come before this body.

The reasons for extending unemployment benefits for an additional 10 weeks are well known; the issue has already been debated and agreed to by the Senate. Unemployment is at 9.8 percent, a postwar high. Pockets of unemployment exist in various areas of the country where the number of workers seeking jobs is as much as 30 to 40 percent of the work force. Many of these workers are close to exhausting their unemployment benefits. While it now appears that the economy is "turning around," the extension of these benefits will give unemployed workers and their families additional time as new jobs are created.

There is no certainty that the tax bill agreed to by the House-Senate conferees will be enacted into law. The debt limit bill on the other hand will be signed by the President in the very near future. There is no reason why we should hold hostage the extension of unemployment benefits to the passage of the tax bill. This amendment will insure that these extended benefits become available to unemployed workers at the earliest opportunity.

I ask unanimous consent that the text of the amendment be reprinted in full in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the Joint Resolution add the following new title:

TITLE II—FEDERAL SUPPLEMENTAL COMPENSATION PROGRAM

SHORT TITLE

SEC. 201. This title may be cited as the "Federal Supplemental compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 202. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this title referred to as the "Secretary") under this title. Any State which is a party to an agreement under this title may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A) have exhausted all rights to regular compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law (and is not paid or entitled to be paid any additional compensation under any such State or Federal law); and

(c) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in the individual's period of eligibility.

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c) For purposes of subsection (b)(1)(A), an individual shall be deemed to have exhaused his rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(2) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) For purposes of any agreement under this title—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployement shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him during his benefit year under the State law for a week of total unemployment; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof; except where inconsistent with the provisions of this title or with the regulations of the Secretary promulgated to carry out this title.

Solely for purposes of paragraph (2), the amendment made by section 2404(a) of the Omnibus Budget Reconciliation Act of 1981 shall be deemed to be in effect for all weeks beginning on or after September 12, 1982.

(e)(1) Any agreement under this title with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individuals's benefit year.

(2)(A) Except as otherwise provided in this paragraph, the amount established in such account for any individual shall be equal to the lesser of—

(i) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(ii) 6 times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(B) If an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 in a State for any week which begins on or after June 1, 1982, and before the week for which the compensation is paid, subparagraph (A) shall be applied with respect to such State by substituting "10" for "6" in clause (ii) thereof.

(C)(i) In the case of any State not described in subparagraph (B), subparagraph (A) shall be applied, only with respect to weeks during a high unemployment period, by substituting "8" for "6" in clause (ii) thereof.

(ii) For purposes of clause (i), the term "high unemployment period" means, with respect to any State, the period—

(I) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, and

(II) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent;

except that no high unemployment period shall last for a period of less than 4 weeks.

(iii) For purposes of clause (ii), the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

(f) (1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this title for any week beginning before whichever of the following is the later:

(A) the week following the week in which such agreement is entered into; or

(B) September 12, 1982.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this title for any week beginning after March 31, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 203. (a) There shall be paid to each State which has entered into an agreement under this title an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by such State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) Sums payable to any State by reason of such State's having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 204. (a)(1) Funds in the extended unemployment compensation account (as established by section 905 of the Social Security Act) of the Unemployment Trust Fund shall be used for the making of payments to States having agreements entered into under this title.

(2) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as established by section 905 of the Social Security Act) to the account of such state in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated, without fiscal year limitation, to the extended unemployment compensation account, such sums as may be necessary to carry out the purposes of this title. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

(c) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, to the employment security administration account in the Unemployment Trust Fund such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act) in meeting the costs of administration of agreements under this title.

DEFINITIONS

SEC. 205. For purposes of this title—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meanings assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970; and

(2) the term "period of eligibility" means, with respect to any individual, any week which begins on or after September 12, 1982, and begins before April 1, 1983; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after June 1, 1982, or

(B) such individual was entitled to extended compensation for a week which begins on or after June 1, 1982.

FRAUD AND OVERPAYMENTS

SEC. 206. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this title to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this title to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(c) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.●

AMENDMENT NO. 2038

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AMENDMENT NO. 2039

(Ordered to be printed.)

Mr. WEICKER proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AMENDMENT NO. 2040

(Ordered to be printed.)

Mr. BAUCUS proposed an amendment to the joint resolution (H.J. Res. 520) supra.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON LABOR

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Labor, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Wednesday, August 18, at 9:30 a.m., to hold a hearing on S. 2617, Prohibition of Mandatory Retirement and Employment Rights Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, August 17, at 10 a.m., to consider the nominations of Wilmer Mizell to be Assistant Secretary of Government Affairs for the USDA, and Leonard Fouts and Tom Carothers to be members of the Farm Credit Board of the Farm Credit Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to mark up S. 2245, S. 2620, and S. 2621, bills relating to the reauthorization of the Federal Insecticide, Fungicide, and Rodenticide Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, August 17, at 2 p.m., to hold an oversight hearing on the United States policy toward China and Taiwan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Federal Expenditures, Research, and Rules, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, August 18, at 9:30 a.m., to consider S. 1782, the Small Business Contract Payment and Procedures Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, August 17, 1982, in order to consider and act on the following committee business:

UNITED STATES CIRCUIT COURT JUDGE

Judge Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the Sixth Circuit Court of Appeals.

UNITED STATES DISTRICT COURT JUDGES

Mr. William M. Acker, Jr., of Alabama, to be U.S. district judge for the northern district of Alabama.

Mr. Bruce Selya, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

COMMISSION ON CIVIL RIGHTS

Prof. Robert A. Destro, of Wisconsin, to be a member of the Commission on Civil Rights.

Rev. Constantine N. Dombalis, of Virginia, to be a member of the Commission on Civil Rights.

Dr. Guadalupe Quintanilla, of Texas, to be a member of the Commission on Civil Rights.

UNITED STATES MARSHALS

Mr. Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas.

Mr. Charles L. Dunahue, of Colorado, to be U.S. marshal for the district of Colorado.

BILLS

An amendment in the nature of a substitute for S. 2420—the Omnibus Victims Protection Act of 1983.

H.R. 4476—The reauthorization for the Administrative Conference of the United States.

(Note. Any of the above nominations or bills which are successfully processed as a result of the poll being presently circulated, will be stricken from the agenda.)

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Wednesday, August 18, to hold a hearing on Social Security Disability Insurance.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 18, 1982, in order to receive testimony concerning Senate Joint Resolution 199, a proposed constitutional amendment relating to voluntary school prayer and to consider the following nominations:

WITNESS LIST

Congressman Stephen L. Neal,
5th District,
State of North Carolina.
Hon. Edward C. Schmults,
Deputy Attorney General,
U.S. Department of Justice,
Washington, D.C.
Dr. M. G. Robertson,
President,
Christian Broadcast Network, Inc.,
Virginia Beach, Va.
Mr. Willard H. McGuire,
President,
National Education Association,
Washington, D.C.

PANELISTS

Hon. James Corman,
Representing Americans United for Separation of Church and State,
Silver Spring, Md.
George Bushnell, Esq.,
Representing the General Assembly of the United Presbyterian Church,
New York, N.Y.
Hon. John Buchanan,
Representing People for the American Way,
Washington, D.C.
Mr. George Ogle,
Program Director,
General Board of Church and Society of the United Methodist Church,
Washington, D.C.

U.S. DISTRICT COURT JUDGES

Mr. Thomas F. Hogan, of Maryland, to be U.S. District Judge for the District of Columbia.

Mr. Ross T. Roberts, of Missouri, to be U.S. District Judge for the western district of Missouri.

U.S. COURT OF CLAIMS

Alex Kozinski, of the District of Columbia, to be a Judge of the U.S. Court of Claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, August 19, at 10 a.m. to hold a hearing to consider S. 2629, Budget Reform Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Transportation of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, August 18, at 10 a.m., to hold a hearing on highway cost allocation and revenue issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, August 18, at 2 p.m., to consider S. 2118, a bill to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IMMIGRATION REFORM

● Mr. KENNEDY. Mr. President, following yesterday's vote by the Senate on S. 2222, "The Immigration Reform and Control Act," the U.S. Catholic Conference issued a statement expressing its deep reservations over the bill and opposition to key provisions in it.

As Senators know, I share many of those concerns—which I stated when I voted in opposition to the bill.

Had the Senate accepted my amendments to restore the existing second preference immigration category, the fifth preference for unmarried brothers and sisters of U.S. citizens, and taken immediate relatives out of the annual ceiling—we would not be hearing widespread concerns over the erosion of the family reunification goals of our Nation's immigration laws contained in the bill.

The U.S. Catholic Conference states the issue well: "We view with utter dismay the erosion of the family reunification foundation of our system of selecting immigrants."

I also commend the Conference for pointing out that the limitations on the legalization program contained in the bill are simply "putting off to another day the time when the problem will ultimately be resolved even for those who may now qualify" for amnesty. As the Conference statement concludes, "Surely the head and heart of America can do more."

Mr. President, I ask that the text of the statement issued by the U.S. Catholic Conference be printed in the RECORD.

The statement follows:

STATEMENT ISSUED BY THE U.S. CATHOLIC CONFERENCE

The United States Catholic Conference has been following closely the debate in the Senate on the Immigration Reform and Control Bill, S. 2222. We are heartened by the Senate's action in defeating by a substantial margin Senator Huddleston's amendment designed to subtract the number of refugees admitted to the U.S. from the total authorized number of regular immigrants admitted the following year. This would result in every refugee and asylee admitted blocking the admission of a regular immigrant the following year.

However, we view other Senate changes in the bill with grave concern. We deplore adoption of the Grassley amendment on undocumented aliens which sets the residency date for acquisition of permanent resident status back to 1977 and the date for temporary resident status back to 1980. Congress has a unique opportunity to act forthrightly and effectively in putting the issue of undocumented aliens behind us. By prolonging the periods of adjustment and permanent residence we are only putting off to another day the time when the problem will ultimately be resolved even for those who may qualify. As for those disqualified simply by date of residence—and their number may indeed be large—the government is still saddled with the insurmountable burden of apprehending and expelling them, while the undocumented themselves face continued exploitation by unscrupulous employers. Surely the head and heart of America can do more.

We view with utter dismay the erosion of the family reunification foundation of our system of selecting immigrants. As the bill stands, the immediate relatives of U.S. citizens are included under the annual numerical ceilings; the families of permanent resident aliens are weakened by the disqualification for relative preference of audit unmarried sons and daughters; no provision is made for brothers and sisters of U.S. citizens; and many family units are divided by the imposition of the 1980 cutoff date for temporary residence. It is essential that the principle of family reunification be retained in our immigration laws.

We now look forward to the deliberations in the House of Representatives. We encourage Congress to continue to give conscientious consideration to these very complex issues. It is our continued hope that they will be resolved in a manner which reflects justice, compassion, and humanitarian concern.—Msgr. Daniel C. Hoye, General Secretary, United States Catholic Conference.●

ARMS CONTROL

● Mr. HART. Mr. President, on April 18, Congressman MORRIS UDALL spoke to the people of Tuscon, Ariz., on an issue of transcendent importance; war and peace in the nuclear age. He did so from a highly personal perspective, as the grandson of a Mormon pioneer who settled in the Arizona wilderness of the 1870's. He underscored for his audience the dramatic nature of the changes that have taken place in American society and throughout the world in the 100 years since his grandfather's migration. He reviews, with special insight, the scope of the scientific and technological revolution that has touched us all and brought both unparalled material well-being and the capacity to destroy ourselves through nuclear annihilation.

In the second half of his address, Congressman UDALL outlines a straightforward and achievable program to arrest the ruinious nuclear arms competition between the United States and the Soviet Union. With clarity, conviction, and precision, he first describes the dimensions of the task confronting us and then offers a number of practical steps that would enable us to reassert control over our own destinies. It is a powerful and moving address. I highly commend it to my Senate colleagues.

I submit for the RECORD Congressman UDALL's April 18 address to the citizens of Tuscon, "The View From Ground Zero."

The address follows:

ADDRESS OF CONGRESSMAN MORRIS K. UDALL

In the 1870s, more than a hundred years ago, my grandfather, a Mormon pioneer, came south from Utah to build a small town where I was born. I was in high school before he died and got to know him. In those simpler times, the U.S. government or people in other countries had little impact on how Americans lived. Government delivered the mail, gave you a patent to your farm, maybe got into a war now and then, but didn't touch you or your family. And families in Northern Arizona those days didn't really have to worry about any kind of attack or death at the hands of outside forces. The biggest guns ever built were mounted on ships and had a range of maybe 12 miles.

Protected by two oceans and some mountain ranges, my grandfather's generation, and mine, were safe. But times have drastically changed and mankind now faces threats to its very existence that were unthinkable even 40 years ago.

It took us 150 years in this country to go from an agrarian society with 90 percent of our people on farms, to the world's first and greatest technological power. We have worshiped technology and science in our country and we have developed, over those decades, a basic reliance on technology and science and at least one basic attitude: if the scientists can do something, we are wise to build it and adopt it. There might be flaws or side effects here, or some errors there, but they would be worked out.

Basically, we were well off to deploy whatever technology the scientists could build. This was, then, a good policy which enabled us to build the railroads, the steam engines, the automobile, the electric light, the chemicals that made life better and our farms more productive and our manufactured goods the standard of excellence.

But in the last 40 years, all that has changed. Chemicals cause cancer and nuclear tests produce deadly waste, toxic chemical wastes brought birth defects at Love Canal and other places. In Virginia, the James River was poisoned for years from discharging Kepone, an exceedingly dangerous chemical, into its waters. Fish died and lakes are rendered lifeless by acid rain. We hear talk from our scientists about the ozone layer and other problems about which not enough is known.

So we are beginning to learn that sometimes we ought to go a little bit slow, take another look at a new technology or process. Things we can technically do, we maybe won't do for awhile until we're a little more sure. Cancer is an epidemic in this country. We need more testing of new chemicals used in our food. We decided, wisely, not to build a supersonic transport.

About 35 years ago, we suddenly saw the great promise of nuclear fission and fusion, the power of the sun. This great gift would not only give us weapons of immense destructiveness that could bring an American peace to the world, but it promised "power for the people," cheap electricity for the whole world, and progress and economic growth and technology for all the nations of the world.

And now the bright promise of nuclear is in trouble on both fronts. Serious questions now are posed whether nuclear electricity is cheap, safe or whether we can dispose of the wastes that last for thousands of years.

The other arm if the dilemma—the nuclear arms race, which for the first time in the history of this planet seriously threatens the capacity to eliminate, not just some "enemies," but the entire human race.

And so the issue here is life itself. If we have arrived at the point where we can conceive of destroying our species, can we break out and talk about the human race and conceive a plan to save it?

We must.

If we do not, most surely we could see the day in our lifetime when the living shall envy the dead.

As Albert Einstein once said, "The unleashed power of the atom has changed everything save our modes of thinking. And we thus drift toward unparalleled catastrophe . . . a new type of thinking is essential if mankind is to survive. . . ."

In the last year or so, there has burst out a wave of concern here in America. Our people know the way we are heading. They recognize the dangers threatening this country and the whole planet. They know that by the end of this century, unless we act, six nations having nuclear weapons will be replaced with maybe 20 na' ıs. I'm not going to sleep very comfortably knowing that nuclear war is a telephone call away from people like Idi Amin, the Ayatollah, Qadhafi, or another Hitler. We must begin to talk seriously and immediately about proliferation and join with the Soviets and other major powers to slow it down and stop it in its tracks. Unstable rulers and terrorist groups simply must not get their hands on nuclear bombs.

Today, unlike my grandfather's time, someone you never heard of, sitting in a building 8,000 miles away, can set in motion events that could destroy this city and all the hopes and dreams for all civilization. And it could be over in less than a couple of hours.

The world has changed drastically. As Albert Einstein said the week he died, we must "appeal, as human beings, to human beings." He was right. We got ourselves into this dilemma and maybe we can get ourselves out. But there is no perfect choice, for all the options have dangers. There is no foolproof course. We run risks if we go for a mutual freeze and risks if we do not. But let us be willing to be strong and forceful and to find the road where the risks are least. I propose that we proceed now on several levels, all at once.

First, we should get our President and our leaders back to the bargaining table with the Soviets. This Administration shot down SALT II, negotiated earlier by President Ford and Henry Kissinger, and later by President Carter, meeting with Secretary Brezhnev. We are still observing, and the Soviets are still observing, the warhead and launcher limits in the SALT II agreement.

It makes no sense to talk about putting off negotiations with the Soviets until we have built more weapons and produced more systems, and raced ahead with the nuclear arms buildup which will give us even more of a lead in categories than we have now. The old idea of bargaining chips for strategic arms limitation talks has never worked and it won't work today. No country will build a multi-billion dollar missile for the purpose of dismantling it.

I propose we stop kidding ourselves and our allies and the world with this careless talk about "limited nuclear war." There can be no limits. It simply won't happen that the Soviets will take our Omaha, and at 9 o'clock, we'll strike back and destroy Leningrad, and at 10, they'll drop a couple on Detroit, and then we'll all go to lunch at the Doubletree and talk about what we'll do next. We will not find the answer in another year, or just the right moment, or just the right buildup, or just the right deployment of some new weapon, or even just one more bargaining chip. The time to negotiate is now, and the Administration has let us all down.

Secondly, we must move at once to limit the risks of an accidental war. We've come too close too many times these last 30 years. On one famous occasion, our radar mistook the rising moon for missiles coming in from the Soviet Union. We must improve the Hot Line and immediate communications systems. And we should adopt right now the plan first advanced by Senator Henry Jackson, calling for the establishment of a joint U.S.-Soviet military command post. Two such posts ought to be set up, one in Moscow and one in Washington, with Soviet and American military personnel operating from both. The Presidential Hot Line is just not reliable enough anymore. Instant communication between military leaders could avert a nuclear mistake.

And I would call right now for an end to this dangerous nonsense of our government specifically refusing to rule out a first strike. It may have made sense in the early days of NATO. But not now. Yes, there are risks, and yes, the Soviets cannot always be trusted.

But we ought to call their bluff on this offer and join them now in a mutual pledge that neither side will use nuclear weapons first. We don't fool anybody with this—not our own people, not our NATO allies, and certainly not the Soviets. This ancient doctrine may have been right when first adopted, on the theory that the Soviets had

NATO badly outmatched in conventional arms, and that the only way the U.S. could protect our European allies would be to promise, in the event of a conventional Soviet attack, to use our nuclear weapons against invading Soviet forces. But what we now are saying to the Soviets is, we want you to believe that we will rain down American nuclear missiles on the Soviet cities in order to protect the West Germans and the other NATO countries from a conventional Russian attack. But we're saying to the American people at the same time, "Look, we don't really mean it, and you shouldn't worry about it because it won't happen." It's just cheap deterrence, we say. This is a tremendously destabilizing posture to take and I join with the four leaders from various recent Administrations who said the other day, that this is a dangerous and outmoded policy.

A recent poll showed that 72% of the American people want a freeze on more nuclear weapons, and they want it right now. Not the unilateral freeze or unilateral disarmament, but a negotiated, verifiable freeze with the Soviets against deploying or building any new intercontinental missile systems. I agree.

In the meantime, I would call for and support the strongest emphasis on an armed forces equipped with the very best conventional arms, and my voting record reflects that support.

I think the American people are coming to an understanding that times really have changed and that we must change.

And perhaps it is coming to pass, as President Eisenhower once put it, that someday the American people will stand up and demand peace.

If this is coming to pass, I suspect that American women are showing us the way. We had no Gold Star Fathers during World War II, but Gold Star Mothers. Women bear a special pain in wartime. Women have always been the special custodians of the family values, the children, of peace and the gentler aspects of civilization, and the bank of genes that keeps us going. If it were left to mothers in the world, I suspect we would have no wars.

Women and men rarely have different levels of support for politicians. Ronald Reagan ought to be worried about a 12-point gap between the support he gets from men and the support he gets from women. I think the difference relates to war, to nuclear questions, and to doubts and concerns about his Administration.

Yes, I'm concerned about the Russian buildup. I do not condone it. It is real, dangerous, alarming and I'm critical of it. We must not ignore it and we must be concerned by it.

But I also believe it has been exaggerated. The Joint Chiefs of Staff were asked last year, one by one, if they would trade across the board for what the Russians have. Would the Chief of Staff of the Air Force trade ours for theirs? His answer was no. Would the Chief of Staff of our army trade for theirs? His answer was no. Would the Chief of Naval Operations trade our navy for theirs? His answer was no.

We must remember that when we see the estimates of Soviet strength, that a good bit of their buildup is deployed along the 3,500 mile border with China.

In 1945, we had two nuclear bombs.

Today, we have 12,000 nuclear warheads.

How much is enough?

The recent Israeli assault on the Iraqi nuclear facility reminds me of a conversation I had not long ago. The Chinese, if you talk to their leaders, are paranoid in their fear of the Soviets, and vice-versa. This mutual fear dominates any dialogue. After the big breakup between China and the Russians, the Soviets began to worry about eventual nuclear capacity on the part of the Chinese. The Chinese were building a huge new complex in a remote part of Western China. As the Soviet skyplanes and intelligence operators told the Soviets, the Chinese were beginning to get enriched uranium and plutonium and soon, they would be ready to make nuclear weapons. An old CIA agent who isn't around anymore told me that we had echoes of a great debate that took place in the Kremlin over several years. He said the Russians came close—very close—to an attack on the Chinese nuclear facilities, to take them out early, like Israel and Iraq. My informant told me that by the end of three or four years the Russian intelligence service showed that the Chinese had, or were about to build, something in the range of 300 to 400 nuclear weapons. Not very sophisticated, but nuclear weapons all the same. And the Chinese had the planes and the rockets, also of a primitive design, probably capable of hitting Soviet targets, including Moscow.

At that point, and after more debate, the Soviets decided against an attack.

I read into that story, a lesson: you don't need 9,000 or 40,000 or 68,000 nuclear warheads to deter a country, even a superpower. A credible arsenal of a few hundred will deter and beyond that, you're not getting much additional security and you may even be getting less.

The Russians already have enough of a stockpile to put 140 nuclear warheads each in every one of our 50 states. In Arizona, we can portion it out even more. Consider that every county could have 14 nuclear bombs arriving. Fourteen Hiroshimas in Pima County alone—only these devices are several hundred times the power of the bombs dropped on Japan.

And so I think the American people have to ask this Administration why we're not talking to the Soviets now. I'm not a fan of Richard Nixon, as some might suspect, nor do I think Henry Kissinger is one of the world's most humble people, but I say to both of these men that at least you knew you had to go to the Russians and start talking about nuclear arms. And they did, and on that matter, I think history will treat them kindly.

Candidate Ronald Reagan said that he would begin to negotiate soon. Shortly before his election, Reagan said in a televised address, "As President, I will make immediate preparation for negotiations on a SALT III treaty." Despite that pledge, those preparations continue to drag on and nothing significant has been done.

Today, we ought to ask our President: how long does it take? When will we go to the bargaining table? And when will our government not be so busy with the arms race that we can talk about ending it?

Last November, as this amazing outpouring of concern arose in our land, the President made a good start on missile talks when he proposed so-called "Zero Option" in which the Soviet Union would remove their land-based intermediate range missiles from Europe in exchange for cancellation of NATO's planned deployment of Pershing II missiles. The President's November speech was a good speech and a good start, but it was only a beginning, and a single speech will not even begin to do this job.

Let me make one other serious and important suggestion. We ought to stop treating the citizens of the Soviet Union as some kind of subhuman species, that is, people who don't care about wiping out 100 million of their people if they can get 105 million of ours. If, in your view, a particular group of people are really subhuman, then you would really needn't treat them in human terms. And I find too often that people involved in this nuclear debate talk about the Soviets in those stereotyped and dangerous terms—the mad Russian general who can't wait to blow up San Francisco, even though he and his family and his country may be vaporized in the next exchange.

I've had the interesting experience of knowing one of the best Russian diplomats over the years. His wife is a lovely, remarkable woman. I was swapping political stories with some guests one night and started to tell a mother-in-law joke. And I said, to the lady, "Are there mother-in-law jokes in the Soviet Union?"

She replied with a smile, "It is universal."

And so it is all universal.

Lyndon Johnson found the way to get through to Kosygin at the Glassboro summit—it was talking about his children. And Kosygin talked about his children, and his grandchildren. Jimmy Carter's efforts to Camp David with Begin and Sadat kept flying apart on crucial points. But President Carter kept talking about the children and the grandchildren and about their families. Somehow, the talks kept going.

We're all sharing this planet together and we have to work together. And we have to treat each other as people. Neither side can give ultimatums to the other. We have American leaders who talk as though we could say to the Soviets, "We're going to be number one, and you are going to be inferior in all of this arms race, and if you don't accept this, we'll simply build nuclear warheads until you do accept it." We wouldn't accept that kind of ultimatum and I don't think we can ask our adversaries to accept it.

Nixon and Kissinger used to talk of the importance of a "web of relationships," and they were right. We need all kinds of commercial and cultural relationships between the Soviet Union and the United States. We ought to explore proposals on all levels and on people-to-people basis, where we can. On the commercial front, surely we can sell grain and non-sensitive technology that they'll get from other countries anyway. I don't oppose grain sales. And I'd love to see the Soviets begin to get accustomed to good old American steaks and Colonel Sanders fried chicken. A Pepsi Generation is better than no generation at all.

Until the Afghanistan invasion, we cooperated with the Soviets in athletics. We've had joint space missions, exchanges of ballet and drama companies and a whole lot of other things. We need to build more bridges of understanding. And I want to propose one more such step today. It is a small step, but an important one that might harness the idealism and enthusiasm of the young people in the Soviet Union and in the United States.

In my time, I think one of the most exciting programs was the Peace Corps, launched by President Kennedy. The idea that people, largely young people, could break through the barriers of culture and poverty and really help people in other parts of this planet was, and still is, a noble idea.

I propose a Sense of Congress Resolution, which I intend to draft and introduce,

launching a new U.S.-Soviet Youth Exchange for Peace program. It could be patterned partly on the very successful Friends Program that brings hundreds of young people, potential future leaders of high school age, from foreign countries here for a year to live with American families and attend our schools. I propose that our government be authorized to establish an exchange of 2,000 young Russian and American citizens between the ages of 15 and 19, each year, who would visit each other's country to study, work and live and get to know each other as people. I would require that each country attempt to have at least half of these students be relatives of the political, cultural, commercial and civic leadership of each nation.

Would this program prevent World War III? It might at least be a factor that could lead to a better understanding of each other.

Eventually, I think we'd build up in a generation from now, leaders on both sides of the Iron Curtain who would understand each other as people.

We would have Russians and Americans who literally could speak the other's language, who might de-escalate the crazy rhetoric and dangerous situation that exists today.

In President Kennedy's time, a young Peace Corps volunteer named David Crozier, who died overseas, had written a note to his parents. By the time they received it, he was killed in an airplane crash. But he wrote, "Should it come to it, I had rather give my life trying to help someone than to have to give my life looking down a gun barrel at them."

Finally, I want to offer some advice to our President Reagan.

Mr. President, you stand before history with an opportunity that few human beings have had. You can really go down in history as the peacemaker of your time. It takes courage. It took an Anwar Sadat breaking through decades of hostility and terrorism to go to Jerusalem and talk peace. It took Prime Minister Begin and President Carter to make a breakthrough at Camp David.

You will pay a price. You will be criticized. But you have the credentials of a veteran conservative and a Cold Warrior. But you can do for your country what perhaps another leader might not. I urge you to make this your number one order of business. I think the American people are ready to tell the Soviets, we want to talk now. Not next year or a year from now, but right now in the year 1982. I think they're saying that we're going to find ways to stop this mad stockpiling of numbers of new inhumane weapons which helps bring on talk of chemical and bacteriological warfare.

Take the lead, Mr. President. I think the American people will support you.

John Kennedy, in his campaign of 1960, said something worth remembering on this day. "Mankind," he said, "now holds in its hands the power to eliminate all forms of human poverty or to eliminate all forms of human life."●

FIFTY YEARS OF SERVING NEW MEXICO'S VETERANS

● Mr. SCHMITT. Mr. President, I rise today to pay tribute to the 50th anniversary of the Albuquerque Veterans' Administration Medical Center.

The doors of the new VA hospital opened August 22, 1932, with 262 beds and 250 employees, including 8 physicians. Built to harmonize with the New Mexico scene, the facility followed the native American design of Taos Pueblo, with tile-paved patios and walks, deep porches, and huge vigas—logs—protruding from exterior walls. Because of the dry, sunny climate, the hospital was planned primarily for care of tuberculosis patients, many of whom had moved to New Mexico for treatment.

Support for a veterans' facility in Albuquerque came from the American Legion auxiliary, the Veterans of Foreign Wars, other veterans' groups, and especially from the War Memorial Mothers Association, which donated the land. The facility was built and equipped on 515 acres of mesa at a cost of $1,250,000. The surgical suits and its equipment were comparable with the best in any big-city general hospital in the Nation.

In World War II over 400 acres of grounds were leased to the War Department. Later this land was donated to the Air Force, the highway department, and the city. Rattlesnakes were a problem during construction of a 267-bed TB wing in 1949, and in the harvesting of one cucumber crop planted by resident nurses. From 1948 to 1966 the hospital was affiliated with the University of Colorado Medical School.

By the late 1950's the use of chemotherapeutic agents to treat TB allowed these patients to recover faster and become outpatients. By 1970, only one TB ward of 12 beds remained.

Since 1966, a mutually beneficial affiliation of the medical center with the University of New Mexico School of Medicine, now under the direction of Dean Leonard M. Napolitano, has resulted in expanded specialty services to veterans and the attraction to the VA staff of physicians of national stature.

A new ambulatory care building was added in 1976. In 1980 the education building was dedicated, coinciding with the celebration of the 50th anniversary of the Veterans' Administration.

Today the Albuquerque VA Medical Center serves the entire State of New Mexico with a veteran population of 214,000 and six counties in southwest Texas, with referrals for hospitalization from Arizona and Texas. The center provides care for almost 9,000 inpatients and over 111,000 outpatients annually. The average length of stay has been reduced from 35 days in 1965 to 14 days at present. Employees now number 1,131, including 74 physicians—one-half of whom are part time, and 330 members of nursing service. The annual operating cost has grown from $850,000 in 1932 to $40 million in 1982. Hospital beds number 404, with an additional 47 in the nursing home care unit.

Specialized services now offered include the following:

Cardiology, geriatrics, hematology, oncology, pulmonary diseases, hemodialysis, rheumatology, neurology, neurophthalmology, nuclear medicine, audiology, speech pathology, thoracic, and cardiovascular surgery, urology, orthopedic surgery, neurosurgery, ophthalmology and plastic surgery; 24-hour, 365-day X-ray services; every possible form of prosthetics assistance for disabled veterans, and rehabilitation medicine under a physiatrist's direction; laboratory using automated testing systems and computers; hospital based home care; critical care units; a 40-bed inpatient psychiatry program, a 25-bed inpatient alcoholism program, a mental hygiene clinic, and a psychiatric day treatment center; a behavioral medicine program, neuropsychological assessment and counseling, consultation services by psychologists, family therapy; a sophisticated medical equipment repair section.

Over 550 regularly scheduled volunteers contribute significant time and services to patient care.

The medical research program, begun in 1956, coordinates about 100 separate research projects totaling $1 million. Research results have been published in thousands of articles in leading scientific journals. Some discoveries made at the Albuquerque center have been widely adopted in other VA medical centers and elsewhere.

The Cooperative Studies Program Central Research Pharmacy Coordinating Center, an extension of the VA Central Office in Washington, coordinates pharmaceutical research studies involving many VA medical centers.

The combination of research of national and international recognition, continuing improvement of the facilities and equipment necessary for sophisticated primary through tertiary care, and the ability of the educational program to attract outstanding physicians in training have all combined to attract a group of physicians to the Albuquerque VA Medical Center who are able to provide the highest quality of care.

The center is identified as one of the 10 VA medical centers in greatest need of replacement or major modernization. A new clinical services/bed building, now being planned for completion by 1986, will correct most of the critical deficiencies. The spacious grounds on a raise overlooking the 10,000-foot Sandia Mountains, with landscaped lawns, pine groves, and rose gardens beside covered walkways, continue to create a peaceful healing setting enjoyed by patients and their families.

The center's professional competence and high quality of care are well known throughout the VA system. The services provided have established

the center as a major health resource in New Mexico. The 50th anniversary of the Albuquerque VA Medical Center is therefore a commemoration of a half-century of steadfast and devoted care given by qualified, concerned, forward-looking staff whose primary interest is the highest level of patient care achievable; of service rendered by volunteers and service organizations; and of productive affiliations with the schools of medicine and the surrounding health care organizations.

Special recognition should be given to the past directors, R. R. Gibson, D. K. Dalager, Paul Eisele, C. M. Kurtz, and P. N. Schmoll; and to the present director, Joseph E. Birmingham, who has served in various VA medical centers during the past 36 years, and as director of the Albuquerque VA Medical Center since 1975.

In the words of Mr. Birmingham, "This is also a time to renew our commitment to provide the best possible care and treatment to those who have given so much of themselves to insure the freedom we enjoy today."

Mr. President, New Mexico is proud of its veterans and their service to the country's defense. We are equally proud of the institution which provides primary medical care to New Mexico's veterans.●

RALPH L. MATTHEWS

● Mr. PRYOR. Mr. President, recently a distinguished Arkansan named Ralph Matthews died in his hometown, Jonesboro. Ark. All of us who grew up during the distinguished leadership of Senator John L. McClellan knew Ralph Matthews as a dedicated, responsible, and sensible administrative assistant. He served Senator McClellan for many years. In fact, he was a model of the kind of administrative assistant any office on Capitol Hill would be fortunate to have—as both an administrator and a friend to all. I personally remember many occasions when I called upon Senator McClellan and Ralph Matthews, and I was always greeted as a friend.

Ralph Matthews served as president of the Association of Administrative Assistants in the Senate. He was a leader in his own right. And when I describe him as sensible, I mean that he knew how to get things done in a bewildering Federal Government. He could get them done efficiently and well. And he never took himself so seriously that a sense of self-importance would get in his way.

Mr. President, I want the many friends and colleagues of Ralph Matthews to read a eulogy delivered by the Reverend Emil Williams, pastor of First Baptist Church in Jonesboro. I ask that it be printed in the RECORD at this point.

RALPH L. MATTHEWS

(A Eulogy delivered by Emil Williams, Pastor, First Baptist Church Jonesboro, Ark.)

Your loved one, my friend, and a part of this community, a part of our lives, a part of our experience together in so many ways: Ralph Matthews. We have come to this time to mark his passing and to share with you in the experience of loss, as well as the experience of worship-and claim together that God is for us in this hour.

"Bless the Lord, O my soul; and with all my being, Praise his holy name. Praise the Lord, O my soul, and do not forget how kind he is. He forgives all my sins; and heals all my diseases. He saves me from destruction; he blesses me with love and mercy; he fills my life with good things; so that my youth is renewed like the eagles.

"The Lord is merciful and loving, slow to become angry and full of constant love. He does not keep on rebuking; he is not angry forever; he does not punish us as we deserve or repay us for our sins and wrongs. As high the sky is above the earth, so great is his love for those who have reverence for him.

"As far as the east is from the west, so far does he remove our sins from us. As kind as a father is to his children, so kind is the Lord to those who honor him. He knows what we are made of, he remembers that we are dust. As for us, our life is like grass, we grow and flourish like a wild flower, then the wind blows on it and it is gone and no one sees it again, but for those who honor the Lord, his love lasts forever, and his goodness endures for all generations. And so, bless the Lord, O my soul; and all that is within me, bless his holy name."

Join us as we pray: Our Father, we are met together today to join hands and hearts, for we have all lost one who is dear to us in friendship, love, and family. We know that he has been taken unto thyself. We know that he belonged and belongs to thee, and we thank thee for the God who loves him and loves him now. Bless our time together here in reflection and memory and affirmation and praise—that a man's memory might be honored and that God himself might be lifted up and blessed and praised. In the name of Jesus our Lord, we pray. Amen.

To be sure, no man's life can be summed up in a few brief moments, and that is not our purpose to try to sum up a man's life. Nor can we in any sense do justice to the feeling that you have, for as varied numbers of persons as this congregation is, just as surely are there your own unique and deeply personal feelings at this time. I would only try to reflect with you about memories and about affirmation of faith.

Share memories with me for a moment. Some of them I cannot share with you because, quite honestly, they go back beyond my time and understanding and knowing of Ralph Matthews. But in a real sense, I can share even those, too, because I know you—and I know his family, and I know his friends. And I have known them for a number of years. Out of that experience, I believe I can share even those memories where I was not personally involved.

Memories of service, yes, even to country. Service to Country—Ralph knew his job and worked at it. He did it well. He was an expert at what he did. He often joked about that. He often joked that he never enjoyed work of any kind, but that was his way of laughing at himself.

I believe he enjoyed it very much, for it was his service, and he did it well. He rendered service through an important time and life of our country. His public service should be marked—we should remember it.

Memory of Friendship. There are some of you here today, who for a number of years had almost daily conversation with him. So I do not need to tell you of friendship. You know that. He cherished his friends as you cherished his friendship. There had been many years spent away from this place he loved so much, but homefolk were dear to him and I shared that friendship with him, too, as you did.

I think there was no more interesting and stimulating conversation I ever enjoyed with anyone, never any more than with Ralph Matthews. I found him to be a person of deep concern. It was not just shallow friendship, but friendship moved at a deep level with him.

We will remember his gentle humor. And I say both terms because both of them are important. There are many who are gentle who lack his particular insight to life that gave it a note of humor, even in the midst of somber occasions. It is very difficult even now for us not to remember the twinkling in his eye and the hearty laughter at the foibles of mankind. But it was always gentle humor. He had learned to laugh at almost every experience of life, but what I remember most is this: his humor was always gentle. It was never cruel and was just as often directed at himself as it was at others. He learned to laugh, even about the disabilities of his sickness over these last years, and particularly through these last few months. The ability not to take oneself too serious is one of the great gifts of life. It's a transforming experience in the midst of those things that can overwhelm us. Ralph had that gift, and we will remember that with fondness; and I share that memory with you, because there is a sense of confidence that must be in the life of a person who is able to do this. The confident person can laugh at himself, laugh at others, laugh at the weaknesses of mankind.

A memory of these last years. He told me a little more than a week ago that he loved these sixteen years, here in this community, the time of his retirement more than any period in his life. Members of his family and you who are his dear friends should remember that, with some gratitude, with some fondness: the fact that you were part of a very, very important and cherished period of a man's life, that he loved this more than any other time. That you are part of that should be something very special to you. That meant time to be with you, time to be at home, time to be with friends and again in the community that he cherished.

I believe that we could write the summary of his life in terms of great loves. Love for his family—everyone of you. Your own welfare and well being were his constant concern. Love for his family and for the church. In many ways, because of his years away, it was the church here of his childhood. Not many days ago he told me, as renovation was taking place in our building, that he was in one of the first groups to be baptised in the building when it was finished. He joked about the baptistry where he was baptised, now being lost. But he came to love his church of the present day, too. No man was more interested in what the church was doing about the building. I never had more questions asked about remodeling, renovation, the choir, the program, and what we were doing. Never had anyone shown more interest in where we are now and where we are about to go in the

years ahead than he did. But the church was more than a building. It was the people, and he loved them. And for this town, this community, this place of his childhood, this place where he came back.

But, I'd also mention a love that we should not pass by lightly: A love for his country. He believed in the system. He was part of the experience of many who were great and near great as well as seeing the lives of the despot, the criminal during that particular period of our nation's history when he was part of the Senate Committee. He came in close contact with many of these. Some of the most interesting conversations that I had with him relate to this time. He never lost faith in the democratic system, in our country, in this government.

He never became cynical as some have done about the whole process. He was positive and he would always tell of the good men that he knew who were in politics, who were in government, where he interpreted this public service as a way of service in the country that he loved. He believed in it.

But now of faith. Some of that he shared with me about his faith is so personal and so sacred, that even now it is not the time to share. But it was so good. It had to do in part with the way he faced his illness, that he knew where the circumstances of life were going. He knew that well. He was always honest with himself about that. He did not ask for those circumstances to be changed. He rather asked for courage to face the circumstances, and that over and over. Beneath it all, you see, was a personal relationship, not just some vague notion about some vaguely defined God. But what he confessed was a personal faith in the Lord Jesus Christ. From his own heart, from his own mouth was the confession made over and over that the Lord Jesus Christ, God's own Son, was his Savior and his Lord. More and more that became the most important reality of his life.

I think then that we could say with Paul, "I know whom I have believed, and I am persuaded that He is able to keep that which I have committed unto Him against that day."

I think the words are appropriate in this last moment from Paul's Second Letter to Timothy: "As for me, the hour is come for me to be offered up. The time is here for me to leave this life. I have done my best in the race. I have run the full distance. I have kept the faith and now there is waiting for me the prize of victory awarded for a righteous life. The prize which the Lord, the righteous judge will give me on that day. And not only to me, but to all those who wait with love for Him to appear."

"Bless the Lord, O my soul and all that is within me, bless his holy name."

Dear Father, we thank thee that we have had the privilege of friendship with this man. And of sharing life's experiences with him. We thank thee that he is part of the family of faith, the household of faith. We thank thee that he is your child. For all that he has meant to us, we give you thanks. And now we hold before you for your personal care and keeping the inner circle of this family who have lost one who is so precious to them. Give them your strength and help even as they remember one whom they love. Will you steady and strengthen their lives for the days ahead. Through Jesus Christ our Lord we pray. Amen.●

WHY CONSERVATIVES SHOULD OPPOSE CLINCH RIVER

● Mr. HUMPHREY. Mr. President, I call my colleagues' attention to a recent article by Milton Copulos of the Heritage Foundation concerning the Clinch River breeder reactor. While I happen to take exception to Mr. Copulos' characterization of our majority leader, Senator BAKER, I nevertheless think the article is instructive for its economic analysis of this "technological turkey."

If Members of this body ever ask themselves why the financial markets and the general public remain unconvinced of Congress ability to control Federal spending, I would urge them to read Mr. Copulos' article very carefully.

I ask that the full text of the article be inserted in the RECORD.

The article referred to follows:

BREEDER BOONDOGGLE MOVES AHEAD

(By Milton Copulos)

George Washington Plunkett, the legendary political boss of New York's Tammany Hall, once justifed his participation in a number of pork-barrel public-works projects by saying "I seen my opportunities and I took 'em." While the nature of pork-barrel politics has changed somewhat since Plunkett's day—politicians do not tend to frown on their colleagues' enriching themselves at the public's expense—the projects remain a fixture of the political arena. The only difference today is that it is the politician's constituents, rather than the politician himself, who reap the benefits. Although many of these boondoggles are being trimmed as Congress struggles to come to grips with a budget deficit that has soared past the $100-billion mark, at least one has managed to withstand the budget slashing onslaught: the Clinch River breeder reactor.

The continued funding of Clinch River is a testimony to the arm-twisting log-rolling, and plain old political horse-trading skills of Senate Majority Leader Howard Baker (R.-Tenn.). His effort that would make Plunkett proud. Clinch River's price tag has ballooned from $669 million to over $3.3 billion, with more cost overruns in sight.

Originally scheduled to go into service in 1979, it has yet to see a spadeful of earth turned. Worst yet, many nuclear experts believe the technology it represents will be out of date by the time the reactor is finished. Still, Baker has managed to keep the project alive. An article in the August Reader's Digest, "Senator Baker's Costly Technological Turkey," outlines just how Baker has managed to pull off this bit of pork-barrel legerdemain.

Characterizing the episode as ". . . a graphic reminder that raw political power and a vocal constituency are more important to a project's survival than economic merit is," Ernie Beazely chronicles the history of the U.S. breeder reactor program, and the way Clinch River grew out of proportion to its actual worth. When first proposed, the author notes, America thought it would face a uranium shortage by the end of this century. At the time, there were expectations that more than 1,000 conventional light water reactors would be in operation by the year 2000, and that natural reserves of uranium would quickly be exhausted. Under such circumstances, the appeal of the breeder reactor, which produces more nuclear fuel than it consumes, is obvious. With this kind of technology, scientists believed, the world would at last have a virtually limitless source of energy. As a result, in 1969, the Atomic Energy Commission decided that it would be a good idea to try to demonstrate the feasibility of the breeder reactor through building an actual operating unit; and Clinch River was born.

Congress approved the Clinch River breeder in 1970. Under the original scheme, the electric utility industry would put up $257 million of its estimated $699 million cost, and the federal government would contribute the balance. It was just about that time, however, that a budding anti-nuclear movement began to cast a shadow over the future of the entire nuclear industry.

Because the fuel the breeder reactor produces, plutonium, is essentially the same material used to make nuclear weapons, anti-nukes quickly tied the breeder to the issue of nuclear proliferation. Although this is actually nonsense—the plutonium used in making bombs must be very nearly pure, and plutonium from a breeder would have to undergo further processing in a highly sophisticated reprocessing plant in order to be upgraded to weapons-grade material—it became part of the conventional wisdom.

At about the same time, slowing growth in the demand for electricity lessened the need for new power plants of all types, and regulatory delays in nuclear power plant construction in particular pushed their cost beyond the financial capabilities of many utility companies. The net result was to cause a series of downward revisions in the number of nuclear power plants planned over the next two decades, and along with it a corresponding decline in the amount of nuclear fuel that would be needed. Now, only about 170 reactors are expected to be in operation by the end of the century, and domestic uranium supplies are more than adequate to provide for their fuel needs for the intermediate term.

While the decline in demand for electricity was undermining the need for a breeder, and opposition from anti-nukes was delaying its completion, other nations were moving rapidly ahead to develop their own breeder reactor technology.

Even they, however, are finding that the cost is considerably above what had been expected, and, as a result, the technology is not quite as attractive as they once believed. To a large degree the breeder has become something of a technological status symbol. Though $3.3 billion seems a bit much to spend for status.

All these facts are known to Congress, so one might ask why Clinch River is still around. The answer lies in another fact, a political one: Howard Baker is the majority leader. Few legislators are willing to jeopardize their pet legislation by opposing his. Too bad; because as Beazley says, "This is not the United States of Tennessee."●

ARNOLD BERNER: THE FRIEND OF THE FARMER

● Mr. PRYOR. Mr. President, in every society, there are those who follow a crowd and those who lead it. The leaders are the ones who make things happen for other people. While such people receive widespread recognition on a national basis, their local contributions often go unnoticed.

Fortunately, this is not the case with Arnold A. Berner of Little Rock, Ark. Arnold Berner has given 30 years to numerous and tireless efforts on behalf of his State, the Arkansas farmer, and agricultural development. He is my friend and a friend of all Arkansans.

A native of Benton County, Mr. Berner was reared on a poultry and dairy farm and graduated from the University of Arkansas with a degree in agriculture. His leadership was first evident when he served 4 years as a World War II Navy pilot. After the war, he began his long and distinguished career in agriculture as an assistant county agent with the Agricultural Extension Service.

It was in 1953 that Arnold Berner joined the Arkansas Farm Bureau, where he became its executive vice president and witnessed its phenomenal growth. Under his leadership, the organization grew from fewer than 35,000 family members to more than 100,000. At the same time, it became one of the State's most influential lobbying groups. Today the Farm Bureau in Arkansas reflects Arnold Berner's character, his sense of fair play, his professional dedication, and his honest straightforwardness.

On August 27 of this year, the friends of Arnold Berner are gathering to express their thanks for the service he has given over the years. It is with great respect to him and to his wife Lois, as well as his family, that I mark the date of his retirement. I know that he will continue to give his time, experience, and enthusiasm to those he has helped so much in the past.

Arnold Berner, Mr. President, has been a credit to all the people, organizations, and activities he has touched. I wish him the best during his retirement. And on behalf of all Arkansans I am proud to stand before the Senate and say that he has truly given more than he has taken.●

PHONY BILLBOARD REFORM

● Mr. STAFFORD. Mr. President, I would like to bring to the attention of my colleagues several articles that have recently appeared in newspapers around the Nation dealing with the subject of highway beautification.

During the first session of this Congress, I, with several of my colleagues, introduced S. 1548, which is designed to repeal the Federal Highway Beautification Act and to return responsibility for billboard control to the several States.

I took this action reluctantly, because I supported the original purposes of the Highway Beautification Act of 1965, and I continue to support those purposes. However, I have come to the conclusion that the act has been completely subverted by amendments in recent years—amendments advocated by the billboard lobby.

The result is that the Federal law can more appropriately be called the Billboard Compensation and Protection Act these days. It is probably beyond repair and it is better that we return the program to the States rather than to continue the current Federal program.

My proposal would return to the States the ability to use their local police powers and zoning laws to control billboards by providing for amortization. This form of just compensation previously available to State and local governments in certain cases was prohibited by 1978 amendments to the Federal Highway Beautification Act, at the request of the billboard lobby.

That billboard lobby threatens to strike again.

Legislation to reauthorize the Federal-aid highway program, reported originally as H.R. 6211 by the House Public Works and Transportation Committee and more recently as H.R. 6965, contains a provision that would further amend the Highway Beautification Act.

This amendment purports to return the program to the States.

It does no such thing, however. All it returns to the States is the responsibility to pay 100 percent of the cost of any sign removed. Under existing law, the Federal Government pays 75 percent of the cost when—and, if—a sign is removed.

The House provision does not provide any Federal funds, but it would require the States to pay cash compensation for any sign removed, even if the sign is removed for reasons other than the Highway Beautification Act.

And, not only does the House provision intend to protect billboards from traditional State and local laws, it also seeks to provide loopholes so that new signs can be erected.

In addition, if trees or shrubs should impair the viewing of the billboard, the House provision seeks to have the trees or shrubs removed—or else cash payment would have to be made for the sign.

That is not returning the program to the States.

That is the billboard lobby's dream come true.

I ask that the newspaper articles on highway beautification be printed in the RECORD at this time.

The articles follow:

[From the Atlanta Constitution, July 26, 1982]

"BILLBOARD BIGGIES" HEAD TO D.C.

(By Bob Ingle)

A little-noticed portion of the federal Surface Transportation Act of 1982 not only guts the Highway Beautification Act, but perverts the law to the extent that its purpose becomes protection of the powerful billboard industry it was designed to control.

Georgia has three representatives on the House Committee on Public Works that reported the bill out: Billy Lee Evans of the 8th District, Newt Gingrich of the 6th and Elliott Levitas of the 4th.

Evans declined to return several phone calls. Levitas said he couldn't remember anything about it, and Gingrich showed an amazing ignorance of the bill's contents.

He said its aim was to get the federal government out of billboard regulation. When asked why the committee didn't discuss a new law to accomplish that rather than changing the existing law in ways to please and protect the billboard biggies, the congressman from Carrollton was short on answers.

The proposed legislation—called Section 121—changes the wording of the purpose of the 1965 beautification act in a significant way. The original says billboards on interstates and primary roads should be controlled "to protect the public investment in such highways, to promote the safety and recreational value of public travel and to preserve natural beauty."

Compare that to the new version, which aims to "protect the public investment in highways, to preserve communications through the outdoor medium and to promote natural beauty in scenic areas."

Out goes safety and recreational value, in goes protection of billboards.

Instead of preserving natural beauty all over the country, this act would "promote natural beauty 'in scenic areas.'" How about those areas that have not been designated scenic by the states but have intrinsic scenic value? We all know of nice little places like that.

The proposed changes further require payment of cash compensation for "the substantial impairment of the customary use or maintenance of signs." That means if trees block the view of billboards, the trees must be cut or the state has to pay for the signs, no matter how old the signs are, which is significant since billboards pay for themselves and turn profits after a very few years.

Unfortunately, however, the bill provides no funds to pay the compensation it requires, so the financial burdens on the states increase. Incidentally, federal funding for all parts of the beautification act expire Sept. 30.

That could end the program to purchase and remove non-conforming signs—billboards that don't meet current sign requirements but were legal when erected. It would be tough to find a state that could afford to pay for the removal of non-conforming signs without federal aid. That's exactly what the billboard interests are banking on.

The $11 billion bill, which deals with a great many other items, such as mass transportation, was based on the hope that the Reagan administration was going to support a 5-cent gasoline tax. It didn't, so the bill never made it to the House floor.

However, there must be a 1982 transportation bill. In Washington, they say no matter what else is included, the billboard lobby's baby, Section 121, will be a part of any skeleton bill passed.

You folks might let Gingrich, Levitas and Evans know how you feel about changing the purpose of the beautification act. You ought to tell Georgia's senators and other representatives, too. Remember, they're all up for re-election.

Don't make the mistake of thinking it will go away by itself. Billboard people think they should be above regulation. They

fought the Georgia Department of Transportation for the right to cut trees in front of their signs, and lost, because citizens told the DOT "no."

Billboard interests then called on friends in the state Senate and House to rush through proposed legislation to make an end run around the DOT and the public—and got by with it in the Senate. Luckily, the Georgia House had the good sense to kill it.

Now the fight to give billboard blight special privileges has gone to Washington, where special interests will win unless enough people who'd rather see countryside than cigarette ads speak up.

[From the Washington Post, Aug. 10, 1982]

LOBBY THREATENS U.S. ROLE IN HIGHWAY BILLBOARD ACT

(By Howie Kurtz)

Last January, Vernon Clark, chief lobbyist for the nation's largest billboard companies, produced a proposal to repeal most of the Highway Beautification Act, which has forced the removal of more than 100,000 roadway signs.

For years, the $650 million-a-year billboard industry has been nibbling away at the edges of the act, reducing its impact one chunk at a time. Clark's proposal would devour it in a final gulp by having Congress return federal control of the billboards to the states. Clark's idea is that the act's goal should be "to preserve communications through the outdoor medium."

As Clark made his rounds on Capitol Hill, he gave copies of the industry's proposed three-page amendment to several legislative supporters, including a staff member who works for Rep. James J. Howard (D-N.J.), chairman of the House Public Works and Transportation Committee.

In May, when Howard's committee took up a $16 billion transportation bill, the New Jersey congressman inserted Clark's billboard amendment with only a few minor changes. Howard's panel approved the amendment by voice vote without a word of debate.

The committee is scheduled to reconsider the bill today for additional spending cuts, but the billboard provision is expected to reach the House floor by September. So far, it has been a lobbyist's dream: a bill that is passing through the congressional maze almost exactly as it was written by an industry group.

Under Clark's leadership, the billboard industry has mounted a sophisticated lobbying campaign that includes drafting legislation, hours of personal discussions with committee members, and a steady flow of campaign contributions and speaking invitations to conventions in pleasant locales.

Over the past four years, Clark's group, the Outdoor Advertising Association of America (OAAA), has paid $20,500 in speaking fees to 10 members of the House Public Works and Transportation Committee.

The group also has paid $19,000 in honoraria to eight members of the Senate Environment and Public Works Committee during that period, while handing out $20,780 in campaign contributions to five members of the Senate committee and 34 members of the House committee.

Unlike other special interest groups with broad agendas, the OAAA has just one major goal, getting rid of a law that has plagued its members since the days of the Great Society.

The Highway Beautification Act was adopted in 1965 after Lady Bird Johnson mounted a nationwide campaign to clean up the countryside. The law banned new billboards within 660 feet of interstate and other major federal aid highways in noncommercial areas, and it provided money to compensate billboard owners for the removal of existing signs near these roadways. The industry's amendment would require the states to keep making the compensation payments.

"Vern Clark basically drafted the language and gave it to the [committee] staff," said one House committee staff worker. "We just made a minor technical change. They knew what they could get away with."

A Republican congressional aide added that "Clark hound-dogged Jim Howard for many months on this one."

Howard declined to be interviewed, but his press secretary, Nancy Blades, said that "the billboard issue was not viewed as a life-and-death issue. This is one area where the federal government simply can't afford the money. The feeling was the states could handle it better."

Howard's aide on the committee said the staff made several important revisions in the proposal, with the help of a lawyer for the OAAA. An examination of the industry draft shows that it is nearly identical to the House committee amendment, except for a handful of minor changes.

The industry version says: "The Congress hereby finds and declares that it is in the public interest to deregulate federal controls over the location of outdoor advertising signs . . ." The House committee version says: "The Congress hereby finds and declares that it is in the public interest to deregulate *to the maximum extent practicable* federal controls over outdoor advertising signs . . ."

When billboards are removed, Clark's amendment requires "the payment of just compensation . . . for any such sign, display or device lawfully erected under state law. . . ." The Public Works Committee bill calls for "the payment of just compensation . . . for any outdoor advertising sign, display or device lawfully erected under state law. . . ." The House committee version adds only that such payments also are required for "the substantial impairment" of signs, meaning that the state must cut down any trees that block the sign's view or compensate the owner.

Clark's proposal makes an exception for signs "advertising the distribution by nonprofit organizations of free coffee to individuals traveling on the Interstate system." The Public Works Committee bill is identical, right to the definition of "free coffee."

Clark and the billboard group refuse to discuss the measure. "We've got a firm corporate policy of not talking to the press," said Richard R. Roberts, OAAA's vice president. "That's all I want to say."

Sen. Robert T. Stafford (R-Vt.), chairman of the Senate Public Works Committee, said he was "not very happy" at suggestions that the billboard industry had drafted the House committee provision. Without any federal funds, he said, "the practical reality is the states aren't going to take the signs down."

Stafford added: "The billboard lobby has been very successful in supporting a number of people running for reelection and providing them with honoraria for speeches. I think it's probably helped them some."

Shortly after Clark distributed his amendment in January, for example, the outdoor advertisers paid for several members of Congress—including Howard and his staff aide, Clyde Woodle—to fly to their annual convention in Palm Springs, Calif.

This gave the industry a chance to discuss the issue with legislators in the relaxed atmosphere of the Canyon Hotel Racquet and Golf Resort. It is legal under congressional rules for business groups to pay for such trips.

The OAAA also paid honoraria or expenses for House Ways and Means Chairman Dan Rostenkowski (D-Ill.); Sen. Steven Symms (R-Idaho), chairman of the Senate Public Works subcommittee on transportation, and the counsel for Sen. Jennings Randolph (W.Va.). . . .

Since 1979, Clark's group has given $4,000 in honoraria to Howard (along with $3,400 in compaign contributions); $4,000 to Rep. John Breaux (D-La.), and $4,000 to Rep. Bud Shuster of Pennsylvania, the ranking Republican on the transportation subcommittee. On the Senate committee, Senate Majority Leader Howard H. Baker Jr. (R-Tenn.) has received $7,000 and Randolph $3,500.

Howard said through a spokesman that the amendment has nothing to do with these speaking invitations. At the Palm Springs convention, he said, "we listened to the concerns of businessmen, but we did not sit down and draft bills. There's very little lobbying that goes on."

Some House committee members, such as Shuster, said the amendment would eliminate needless federal regulations. Others, such as Breaux, said they knew little about the measure. A spokesman for Breaux said: "I don't think he has any knowledge of this. His involvement with public transportation is almost nil."

The original law provided $160 million a year to compensate owners whose signs were removed by the states. In 1978, however, Clark's group pushed through an amendment that extended these payments to every sign taken down, including those not covered by the federal law. This nearly doubled the government's liability to $1 billion for about 200,000 billboards.

But Congress voted only $500,000 for sign removal this year, and most states simply have stopped taking down signs. Clark' proposed amendment requires that states still make these fixed payments for removing billboards, but cuts out the federal money. It also says that any state that doesn't mount a billboard program could lose 10 percent of its federal transportation funds, but each governor has only to certify that his state is in compliance.

Clark has been asking more reluctant members of the Senate committee to accept the measure in a House-Senate conference, but opponents say that Congress should not dectate the terms of compensation if the issue is left to the states.

Frank Shafroth, counsel of the National League of Cities, said Clark and two aides had pressured his members at a recent convention to drop their opposition to the measure.

"I've never seen lobbying like that," he said. "We were kind of stunned. We aren't used to that kind of pressure. Vern has done a hell of a job."

[From the Des Moines (Iowa) Sunday Register, July 25, 1982]

WHY ALL THOSE BILLBOARDS STILL LINE THE HIGHWAYS

(By Daniel R. Mandelker)

In 1965, Congress adopted a Highway Beautification Act intended to control bill-

boards along major federal highways. Billboards are not allowed within 660 feet of the highway and may not be visible from the highway in rural areas. The act has a number of exceptions, including for certain directional signs. It is not a total ban on billboards, but a fair attempt to unclutter the roadsides.

Anyone who has traveled knows that the act hasn't worked as well as was expected. Highway billboards are everywhere in most states. Many are non-conforming. The billboards are located in places where the act does not allow them, but were there when the act was adopted. Congress expected those signs to be removed, but large numbers still remain. Now an amendment to the act being considered by Congress will make the non-conformity problem worse.

Congress legislated that compensation should be paid for removing non-conforming billboards, with 75 percent of the cost to be paid by the federal government. Appropriations for this purpose have been erratic and insufficient, however, Meanwhile, the signs that remain enjoy a monopoly. They do not comply with the law, but the law prevents any competing signs from being erected.

Many municipalities and counties found another way to remove non-conforming billboards. They adopted amortization programs under which non-conforming billboards can remain until their value had been amortized over a period of years. No compensation is paid, because the billboard company has suffered no loss. Practically all state courts have upheld amortization as a constitutional use of the police power. This technique is no different from the amortization of capital assets by taxpayers which is allowed under the income-tax laws.

Municipalities and counties were at first allowed to remove non-conforming billboards along federal highways through the amortization technique. Congress prohibited them from using amortization in a 1978 amendment to the act that slipped through without hearings. The amendment was an improper federal interference with state and local legislative authority.

Since 1978, Congress has not appropriated enough money to meet the federal share of removal cost, and counties and municipalities have not had the resources to pay compensation. By some estimates, the 1978 amendment raised the cost of removing nonconforming billboards to possible $1 billion, depending on how long their removal takes.

In 1980, the U.S. Department of Transportation appointed a National Advisory Committee on Outdoor Advertising to study the non-conforming billboard and other problems with the Highway Beautification Act. The committee recommended that the billboard-control program be turned back to the states and their local governments except for Interstate highways. A user tax would be levied on signs on these highways, the proceeds to be used to remove nonconforming billboards. No commercial billboards would then be allowed along Interstates. To provide motorists with necessary information, the states would develop alternative information systems, including information signs at interchanges and off-highway information centers. Some states already have these sytems.

The committee's recommendations would concentrate federal attention on the federal Interstate highways used by interstate travelers. Highways carrying state and local traffic would be deregulated and placed under state and local control. Local governments could once more use the amortization technique, where it is constitutional, to remove non-conforming billboards. A majority of the committee believed that these recommendations would lead to an effective billboard-control program.

Members of the billboard industry who served on the advisory committee opposed these recommendations. They knew that compensation would not be available to remove non-conforming billboards. They opposed amortization because they knew that it would be an effective alternative.

Now the billboard industry has sponsored amendments to the Highway Beautification Act that distort the committee's majority recommendations. The amendments provide for passing billboard control to the states but keep the compensation requirement. The amortization technique may not be used. These amendments, if adopted, are likely to preserve indefinitely the monopoly position of non-conforming billboards now on the highways. Federal controls are removed on all highways, but the states and their local governments may not use the only effective technique available to them to eliminate non-conforming billboards.

Anyone who cares about the scenic beauty of America's highways should urge congressmen and senators to oppose the 1982 amendments. States and their local governments should be free to use any constitutionally acceptable technique, including amortization, to clear highways of the non-conforming billboards that do not belong there. Congress should be urged to adopt the committee's majority recommendations.

SIGN SITUATION IN IOWA

Daniel Mandelker's article on this page shows how Congress has gutted the federal Highway Beautification Act. The evidence is all to visible in Iowa.

According to a "ballpark" estimate by the Iowa Department of Transportation, the federal act, as implemented by a 1972 state law, has accounted for the removal of 30,000 to 35,000 non-conforming billboards and other advertising signs from Interstate and U.S. primary highways in Iowa, but another approximately 12,000 signs that don't meet the federal standards remain.

Along Interstates, 480 large billboards that are at or beyond the 660-foot minimum-setback distance are non-conforming because they are in rural areas. Yet, because they existed before the effective date of the state law, special permits were issued letting them stay up until Iowa gets the federal and state money needed to acquire them and take them down.

Along federal primary roads, according to a count reported in September 1981, 678 non-conforming signs, mostly billboards, are being allowed to stand under permits until federal acquisition money is available. Congress has required these signs' removal, but has not given Iowa enough money to do it. An estimated 11,000 non-conforming billboards and smaller signs along primary roads for which permits were not obtained are being inventoried by DOT, and the agency eventually will seek their removal.

Mandelker points out that pending amendments in Congress would transfer billboard regulation to the states, but would prevent them from using the amortization technique for removal, in which sign owners are given years to take them down without compensation. Such amendments would make a bad situation worse and sound the death knell for billboard control.

SELECTIVE SERVICE AMENDMENT AND EDUCATIONAL BENEFITS

● Mr. HAYAKAWA. Mr. President, yesterday we passed the conference report on the Defense authorization bill. Included in the conference report is an amendment I offered which insures that Federal tax dollars provided under title IV of the Higher Education Act of 1965 will only be utilized by individuals willing to comply with the law and register with the Selective Service System.

The compromise reached between the Senate and House versions is a good one. Every student applying for financial aid under title IV will file a statement of compliance with the Selective Service registration requirement. If this requirement is not met, students will be notified and given ample time to comply before being denied financial aid. I am eminently pleased with the compromise and believe it will be a very workable law.

The rights and privileges of citizenship must be accompanied by the responsibilities of citizenship. Along with the freedoms that we all enjoy in this society goes the responsibility of protecting and contributing to the Nation which makes these freedoms possible. Students who will not accept their obligations to their country have no right to ask the Government to finance their education. Young men refusing to register do not seem to realize that the benefits we enjoy as Americans come with some obligations to our country—one of the obligations is registering with the Selective Service System.

Federally funded education aid is not a right, it is a privilege that comes with living in an opulent and generous country. Anyone who is unwilling to accept his obligations to his country has no right to ask the Government to finance his education.●

EXPERT SUPPORT FOR SENATE JOINT RESOLUTION 224

● Mr. KENNEDY. Mr. President, on July 30, Senator MATHIAS and I, along with 30 other Senators, introduced Senate Joint Resolution 224, a joint resolution to prevent nuclear testing. An identical resolution was introduced in the House of Representatives by Congressmen MARKEY, BEDELL, and LEACH. The joint resolution was a response to the unfortunate and ill-advised decision by the Reagan administration to abandon the comprehensive test ban negotiations and defer ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties. The Kennedy-Mathias resolution calls upon the Reagan administration to resume the comprehensive test ban negotiations and to submit the other two

treaties for Senate consent to ratification.

At the time we introduced it, several distinguished leaders in the field of national security endorsed the resolution. I am pleased to announce that former Secretary of Defense Harold Brown has recently added his endorsement and conveyed his strong support for the resolution:

A verifiable, comprehensive nuclear test ban has, until now, been a goal of every U.S. President beginning with President Eisenhower, because it would improve U.S. national security. We should ratify the agreements already made on the Threshold Test Ban and on Peaceful Nuclear Explosions, and we should negotiate for as comprehensive a ban as can be adequately verified. I support the joint resolution.

Mr. President, those who have endorsed the Kennedy-Mathias resolution have served as high-level advisers on defense and arms control to Presidents over the last two decades. To them, the Reagan administration's decision to abandon the comprehensive test ban negotiations represents a reversal of the policy followed by the past six administrations, both Republican and Democratic, and is contrary to our best national interests. Several of the endorsers are former Directors of the Arms Control and Disarmament Agency (ACDA) and chief arms control negotiators, and now serve on the Committee for National Security, a nonpartisan national leadership group formed in 1980 to promote debate on the nature of national security and how best to strengthen it. Under the auspices of the committee and the leadership of its Chairman, Paul C. Warnke, they have issued a joint statement that:

We cannot support President Reagan's decision on the comprehensive test ban treaty.

Those signing the statement include:

Ralphe Earle II, 1979-80 ACDA Director.

Adrian S. Fisher, 1967-68 Chief, Negotiator, Nuclear Non-Proliferation Treaty.

William C. Foster, 1962-69 ACDA Director.

Gerard C. Smith, 1969-72 Director.

Paul C. Warnke, 1977-78 ACDA Director.

Herbert F. York, 1979-80 Negotiator, Comprehensive Test Ban Treaty.

Mr. President. I hope that the Senate will give serious consideration to this statement, which reflects the strong national support that a comprehensive test ban has received for the past two decades. I request that it be printed in full in the RECORD.

The statement follows:

WE CANNOT SUPPORT PRESIDENT REAGAN'S DECISION ON THE COMPREHENSIVE NUCLEAR TEST BAN TREATY—A STATEMENT FROM FORMER ACDA DIRECTORS AND CHIEF NEGOTIATORS

WASHINGTON, D.C.—As former Directors of the United States Arms Control and Disarmament Agency (ACDA) and Chief Negotiators, we cannot support President Reagan's decision to defer negotiations on the Comprehensive Nuclear Test Ban Treaty. A draft treaty, which would prohibit all nuclear explosive testing for military or other purposes, has already been largely negotiated and awaits only the political will in the three negotiating states (the U.S., U.S.S.R., and Great Britain) for completion.

The President's decision undercuts a national security objective set by President Eisenhower and pursued by every Administration since—namely, to seek an end to all nuclear test explosions. Achieving that goal would moderate the superpower arms race, set an example to nations aspiring to join the weapons club, and make it harder for them to develop nuclear weapons. On the other hand, this Administration's departure from an established policy serving the best interests of the United States and the world community:

Diminishes substantially the prospects for ending the arms race with its risks of nuclear war, a proclaimed objective of the President's Agenda for Peace;

Increases the risk of the proliferation of nuclear weapons and is flatly inconsistent with provisions of the Limited Test Ban Treaty and with Article VI of the Non-Proliferation Treaty;

Casts doubt upon the sincerity of the United States in the Strategic Arms Reduction Talks (START) and in other arms control negotiations; and

Perpetuates the possibility of health and environmental hazards arising from the accidental venting of underground nuclear tests.

The Administration has chosen to mask its determination to continue weapons testing by alleging that renegotiation of the verification provisions of the unratified US-Soviet Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty must precede a comprehensive test ban agreement.

The draft Comprehensive Test Ban Treaty contains agreement on the basic means of effectively verifying treaty compliance, including untamperable seismic stations and on-site inspection procedures. Thus, there is no longer a substantial problem of adequate verification.

The Administration's deferral of CTB negotiations confirms the impression that it is seeking nuclear advantage by developing destabilizing, war-fighting weapons rather than seeking to end the arms race with its drift toward nuclear war. This decision can only foster the technological drive that fuels the arms race.●

A WARNING IN THE WIND

● Mr. ABDNOR. Mr. President, with much pride, I would like to share the following remarks with my colleagues in the Senate. They were written by one of South Dakota's great citizens and attorneys, Horace R. Jackson. Mr. Jackson has had a career full of accomplishments and this month he begins his 50th year of law practice in South Dakota.

I commend Horace and his wife, Dorothy, for the contributions they have made to their fellow citizens. Through their exemplary lifestyles, the lives of those around them have been made richer and fuller.

Mr. Jackson's remarks were an introduction to the 1982 "Agriculture Symposium," volume 27 of the South Dakota Law Review. He provides for all of us food for thought in regard to the increasing amount of government intervention in our lives.

Many of my rural State colleagues share my love for the land and the fine stewards who till that land. All of us can learn a lesson by reading this article, which I ask to have printed in the RECORD.

The article follows:

INTRODUCTION: HORACE R. JACKSON

"And therefore, never send to know for whom the bell tolls. It tolls for thee."

In these words, John Donne, near 400 years ago, told his parishioners that the church funeral bell signaled not alone the death of one individual, but that all are mortal and in one death we are all diminished.

The content of this introduction is to warn the agriculturalist that the avalanche of environmental legislation and regulations which has inundated the manufacturer, other business concerns, cities and other public entities, is designed and purposed eventually to reach and impose vast effects upon agricultural operations.

Environmentalist pressures will apply not only to the "big corporations", the manufacturers, the miners, the processors, but as well to the agriculturalist who will be subjected to steadily increasing compulsory regulation in the use of his land, and will suffer steady and substantial erosion of his property rights. The ends sought may be praiseworthy, but his is the burden of bearing the cost in time, effort, money and the diminution of his ownership of the land. The bell of bureaucratic regulation also tolls for the agriculturalist.

The initial difficulty in writing an introduction to this issue of the review, devoted as it is to agriculture, is what to call the person concerned. "Farmer" is probably suitable east of the 100th Meridian, while "rancher" comfortably fits the western two-thirds of our country. The resulting "farmer/rancher", however, is awkward on the tongue. "Producer of food and fiber" is the outrageous bureaucratic product of those who for the most part have never produced either. I settle, for want of a better, on "agriculturalist", a slightly elitist term, but at least inclusive of those involved.

Geographical identification is not easier. South Dakota extends from an annual 30 inch rainfall belt at the southeast, with a consequent corn, soybean, hog and cattle feeding economy, to a 14 inch belt northwest, where cow-calf and sheep operations are the primary concern.

THE THREAT TO LAND OWNERSHIP

This introductory article for the Law Review is concerned with the looming threat to the independence of agriculture as a way of life and as a basic source of our national economic and social well-being.

The triggering incident lay in a disturbing article not long since by Tom Wicker, usually writing as a political pundit, from the New York Times News Service, that great newspaper which seems too often to believe the rest of the United States exists for the benefit of the eastern seaboard and the people of New York specifically. The article draws attention to the fact more and more farmland is being converted from pasture to crop, particularly marginal land, because cereals are more profitable. Wicker states his

thesis: "The resulting increase in row crops that produce good profit but bad soil effects is a major cause of severe and increasing land erosion . . . it's a case of plant now, pay later."

Wicker's particular conclusion is to urge no tillage farming. Although a well-known and widely used farming method for a generation or more, to Wicker it seems to come as a new gospel of preservation: "In one test (in Mississippi) . . . erosion was cut from 17.5 metric tons per hectare to about 1.8 tons". Then comes the real thrust of the article: "To push farmers into acceptance of no tillage and other soil conserving practices, the states need tough compliance laws . . ."

This equating of the farmer with other claimed rapists of our land—the home builder, the miner, the spreading of manufacturing plants in the rural areas, raises some disturbing recollections of other reading I have encountered that accepts the thesis everyone must be forced into a pattern of action for the supposed good of the rest of us, whoever is left as the rest of us if everyone in economic pursuits is to be straitjacketed.

Most surely, the enforcement of economic conduct by law means the usual horde of bureaucratic enforcers and the final result of regulation for regulation's sake.

This introduction by no means opposes conservation. I know of no sensible person today who opposes conservation and few who fail conscientiously to practice it in their several pursuits.

The absolute beauty of the spreading and endless fields of corn and soybeans is forever captured by Grant Wood; the love of a host of painters for the far flung prairies of the west; the tidy farm and ranch steads; all attest the devotion of the agriculturalist to his environment.

I am, however, deeply concerned with the overwhelming itch, pressed most strongly by elitist individuals and organizations among us, to compel, to force, regimentation as a way of life.

This campaign, and I call it that deliberately, was not perceived as a great threat so long as the target was treated as that abstraction, the "big corporation".

But concomitantly and silently, the ground work in publicity and legislation alike, was laid for the assault on the agriculturalist. It has to be remembered, agriculturalists own and operate most of our land, but the people who compose that group are an increasingly small minority of our population and, like most minorities, however vocal and well organized, lack clout when the chips are down.

II. THE STATUTORY BASIS

The initial statutory basis for the compulsion of the agriculturalist has long since been made a part of Federal Law by the 1972 amendments to the Federal Water Pollution Control Act (33 USC §§ 1251-1376). The mid 1980's was set as the target date for the "total elimination of pollutant discharges to water".

". . . the discharge of any pollutant by any person shall be unlawful . . ." 33 USC § 1251. (Except as in compliance with certain provisions of the Act.)

This sweeping prohibition made any pollution unlawful; relief required some positive relaxation under other sections of the law. The accused polluter stood guilty unless he could bring himself within an exception. The law thus neatly shifted the burden of proof from the regulator to the regulated.

". . . the term 'pollutant' means . . . an agricultural waste discharged into water . . ." 33 USC § 1362(6).

Location away from a running stream does not necessarily confer immunity. "Navigable waters" are defined as "waters of the United States"—a broad enough term certainly. Decisional law has held that "waters of the United States" is to be extended to the ultimate reach of the Constitution. Regulations have extended the term further to include "wetlands" which are:

"Those areas that are inundated or saturated by surface or ground waters at a frequency and duration sufficient to support and, that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas." 33 CFR 323.2C

It has been held by at least one Federal Court that wetlands are included within the definition of navigable waters. *U.S.* v. *Weisman*, 49 F.Supp. 1331.

Given the definition of "pollutant" as "agricultural waste" and the creeping but apparently limitless extension of "water" to the furtheest reaches of a dry draw, it seems a fair conclusion that the long reach of the bureaucracy is substantially without limit so far as the agriculturalist is concerned. So far, it has been contained only by available resources of men and money.

Lack of attention to the agriculturalist's operations has not been for lack of pressure from the environmentalists.

Professor N. William Hines in Volume 19, Number 3, Summer 1974 of the South Dakota Law Review authored the article, "Farmers, Feedlots and Federalism: The Impact of the 1972 Federal Water Pollution and Control Act Amendments on Agriculture".

Professor Hines has cast his lot with extreme environmentalists. He has castigated the environmental enforcement agencies for the failure to force the same rigid controls on small feedlots as are presently imposed by regulation on feedlots large enough to handle at least a thousand cattle and corresponding unit numbers of other meat animals. Further castigation was visited for failing to structure and enforce compulsory controls on "non-point", or field wide "pollution", including the absolute control of natural erosion (pages 564-565).

The ultimate goal could only be to compel the agriculturalist to find a cure for the unfortunate fact that all animals vent waste.

The agriculturalist should not delude himself that the failure so far to compel prevention of any erosion or pollution from his pastures and fields stems from any tenderness of the bureaucracy. When an agency of the United States can seriously propose to a Court that a daily fine amounting to nearly $3.50 for every man, woman and child in a small South Dakota city should be imposed on that city for failing to preserve inviolate a minute noisome swamp, tenderness for the citizen is not really apparent.

III. THE EFFORT TO ALTER BASIC ATTITUDE

Not alone has the total elimination of animal waste been a steadily pursued goal of the environmentalists over the past decade. Concomitant has been a well planned program for compulsory controls of the farmer's operation and the diminution of his ownership of his property.

The erosion of the concept of private property has been an ongoing, if somewhat stealthy, process for most of a generation, particularly popular when it is someone else's property right, in this case the agriculturalist, through the compulsion of the agriculturalist to bear the entire burden of creating an antiseptic and aesthetical rural aspect for the pleasure of the urban majority.

Professor Hines' philosophy is summed up:

"Until some kind of compulsory soil erosion controls are instituted, little hope can be offered for significant reduction in these (non-point source) pollutant (pages 564-565).

". . . the current national concern for improving land use management, may eventually alter basic attitudes toward the sanctity of private land and create a political environment favorable to requiring needed soil conservation methods . . ." (pages 565-566).

The "alternation of basic attitudes toward the sanctity of private land" has been the subject of a steady campaign, albeit without total success yet, on the part of what bears every indication of constituting an environmentalist elite.

The Environmental Law Institute in its January, 1980 Report. The First Decade, sums up the campaign to date:

"The concept of comprehensive federal and state land use regulation failed to gain strong public support during the 1970's, and most efforts to enact enabling legislation were blocked by vocal opposition."

The identification of its publication as the First Decade, gives adequate notice the campaign is not abandoned.

Chairman of the Board of the Institute is David Sive, credited with substantial leadership in the twenty-year legal battle that prevented Commonwealth Edison's development of the Storm King Stored Energy Plan on the Hudson River above New York City. Lack of that development was a substantial cause of the extreme blackout suffered by New York City July 13, 1977. It is also clear the eastern seaboard is not done with energy shortages as a result of the relentless environmentalist resistance to all energy construction. William Tucker: Environmentalists and the Leisure Class. Harper's Magazine, Volume 255, #1531, December, 1977.

The Harper's article is beside a detailed analysis of the environmentalist methodology in creating "alteration of basic attitudes . . ."

Not only is the environmentalist waging of this unceasing campaign to "alter basic attitudes" on the part of the environmentalists. The bureaucracy supposedly most interested in the welfare of the agriculturalist seems also to have abandoned his cause.

The United States Department of Agriculture, which most of us think of as devoted to the protection and advancement of agricultural interests, has, in its most public aspect, apparently turned away from agriculture and toward the metropolitan consumer.

The Department almost seems now to lead the hue and cry to dragoon the agriculturalist willy-nilly into the service of the urban majority and on that majority's own terms. Not enough is it for the agriculturalist to feed the country and to place in world commerce enough surplus to furnish the only sizable offset to our catastrophically adverse balance of trade; the agriculturalist is now to be coerced into the service of the urban dweller's concept of aesthetically pleasing countryside. Consider the record of the Yearbook of Agriculture, the showcase of the Department over the past 30 years.

For a decade and a half after 1950, the Yearbooks obviously are oriented to improving the capability and efficiency of agricultural operations; 1951—Crops In Peace and

War; 1952—Insects; 1953—Plant Diseases; 1954—Marketing; 1955—Water (Irrigation); 1956—Animal Diseases; 1957—Soils; 1958—Land; 1959—Food; 1961—Seeds; 1962—After A Hundred Years; 1963—A Place To Live; 1964—The Farmer And His World.

The last 15 years tell a totally different story; 1965—Consumers All; 1966—Protecting Our Food; 1967—Outdoors USA; 1968—Science For Better Living; 1969—Food For Us All; 1970—Contours Of Change; 1971—A Good Life For More People; 1972—Landscape For Living; 1973—Handbook For The Home; 1974—Shoppers Guide; 1975—That We May Eat; 1976—The Face Of Rural America (a picture book); 1977—Gardening For Food And Fun; 1978—Living On A Few Acres; 1979—Children.

The titles reflect the right angle turn in orientation. It is inconceivable that technological advances in increasing the capability of the agriculturalist or the benefits to him of collating useful information in those respects was exhausted by 1965, and the Department thenceforth was occupying itself with "made" work in the absence of topics of legitimate concern to agriculturalists. The Department simply moved to the city where the votes are and the winds of change swirl more fiercely.

Not in the vast bureaucracy of the Department of Agriculture will the agriculturalist find assistance in the preservation of his status.

That the American agriculturalist feeds the world is testified to in every newspaper and magazine.

The unceasing assault on his capability to do this continues, however, unabated.

"People in modern societies usually assume that their own kind of mechanized agriculture is the most efficient known. But if the question is asked whether mechanized producers are really extracting from the soil a greater number of calories of food in proportion to the calories of energy they expand, the answer is no . . . In short, present day agriculture is much less efficient than traditional irrigation methods among others, in this century . . . The primary advantage of mechanized agriculture is that it requires the participation of fewer farmers, but for that, the price paid in machines, fossil fuels, and other expenditures of energy is enormous . . . The boast of industrialized society that they have decreased the workload is valid only in comparison with the exploitation of labor that existed in the early decades of the industrial revolution . . ." Natural History, Volume 89, #9, September, 1980, "The Web of Hunger", Peter Farb and George Armelagos.

". . . In considering the findings of our survey, it is necessary to keep in mind that those who filled in the questionnaire are highly educated and relatively affluent and that the largest percentage of them are in professional, educational, or social service occupations . . . We found that greater percentages of young people . . . and women of all ages working in professional, educational, and social service jobs and earning modest incomes tended to take positions that challenged the status quo . . . Both samples strongly disagreed with the idea that plants and animals exist primarily for human use and enjoyment, and both were fairly evenly divided on whether our ecological problems can be solved by existing American political and economic systems . . . Of all the activist movements described in the 1980 forms, the environmental movement claimed the most followers . . ." The survey referred to in the text showed that 75% in 1970 and almost 50% in 1980 disagreed with the proposition that private property owners should be able to use their property according to current laws. Natural History, Volume 90, No. 1, January, 1981, "The Ecology Movement After Ten Years", Betty Radcliffe and Luther P. Gerlach.

". . . our river banks stand literally at the cutting edge of our nation's consumptive economy. This, I think, is true of many 'marginal' places—is true, in fact, of many places that are not marginal. In its conscientiousness, ours is an upland society; the ruin of watersheds and what that involves is little considered. And so the land is heavily taxed to subsidize an 'affluence' that consists, in reality, of health and goods stolen from the unborn . . ." Smithsonian, Volume 11, No. 5, August, 1980, Wendell Berry, "Abundant Reward of Reclaiming a 'Marginal' Farm".

Examples could be multiplied almost without end; it would, however, extend an Introduction unduly to persist in this documentation of the continued deprecatory attitudinizing toward the agriculturalist, beset as he is with the problem of producing enough food to support this country and to furnish the surplus that has saved and continues to save a good share of the world from rank starvation.●

ACID RAIN CONTROL PROGRAM

● Mr. HUDDLESTON. Mr. President, I am deeply concerned by the acid rain control program approved by the Senate Environment and Public Works Committee, and urge my colleagues to give long and careful consideration to the impacts it would have on consumers of electricity, employment in coal mining communities, and this country's efforts to end our dependence on imported oil.

The committee has approved acid rain provisions requiring an 8-million ton reduction in sulfur emissions in a 12-year period in a 31-State region, and requiring that new powerplants offset new emissions with further reductions at existing plants. This offset provision could bring the required reduction to over 12 million tons.

By some estimates, Kentucky alone would have to absorb 7 percent of the total reductions being called for. Ironically, by these same estimates, New York and all of the New England States, the States with the acid rain problem, would have to bear only about 3 percent of the total reduction.

The Kentucky Department of Energy has examined the impact this would have in our State, and has reached devastating conclusions. While their analysis is based on earlier versions of the acid rain control program, it is their view that the impacts of the final provisions will not vary significantly.

It is their estimate that our utilities in Kentucky would largely comply with the reduction requirements by retrofitting existing plants for flue gas desulfurization. The capital costs for Kentucky for this compliance strategy would be $1.2 to $1.6 billion, with annual costs of nearly $1 billion. These costs would have to be paid by our utility ratepayers.

Other States, particularly those with little or no coal industry, are likely to comply by lowest cost alternatives. Massive fuel switching to very low sulfur coals, fuel oil, and gas could lead to large market losses for Kentucky coals. The Kentucky Department of Energy estimates that of the 150 million tons produced by Kentucky in 1980, 27 to 94 million tons of out-of-State markets could be lost as utilities comply with the emission reductions proposed.

The bottom line for my State is devastating. The department found that these market losses could result in the loss of up to 33,000 mining jobs; 33,000 additional jobs from mining-induced employment; $1.3 billion in annual personal income; and $2.8 billion in annual coal sales.

New coal markets would be extremely limited, with the possible consequence that we would see no new coal-fired electric generating plants; no synthetic fuels industry and very limited prospects for future industrial growth in Kentucky and similarly affected States.

I expect there are those who would quarrel with those figures—some, in fact, would argue that they will turn out to be higher. But, even by the most conservative estimates, the impacts of this acid rain control program would be enormous.

These kinds of burdens should not be imposed on coal or any other industry—on Kentucky or any other State—unless it can be shown beyond a reasonable doubt that they will yield beneficial results worth their price.

Mr. President, there is considerably more than a reasonable doubt. The pace of research on acid rain has increased, and appropriately so. With that increased attention on the problem, we are seeing more and more major new findings that raise serious questions about current and past theories about the causes and effects of acid rain.

The fact is that the causes of acid rain have not been established.

The debate over long range transport versus local sources has not been resolved.

And, a multitude of other questions surround the appropriateness and effectiveness of the proposed control strategy.

Until we have some more answers, we run the risk of implementing a multibillion-dollar program that will not achieve the desired result of significantly reducing the acidity in rainfall.

I will have a lot more to say on this subject as action on the committee's proposal progresses. I intend to do everything I possibly can to insure that this acid rain provision approved by

the Senate Environment and Public Works Committee does not become law.

Acid rain is not something we can just ignore, and I do not propose that we ignore it. I fully support the legislation introduced by Senator ROBERT BYRD to accelerate the existing Federal acid rain research, and will be looking at the possibilities for establishing an acid rain mitigation program. I will, however, continue to resist efforts to impose expensive acid rain control programs until we know more about what we are doing.●

ADDITIONAL UNEMPLOYMENT COMPENSATION RELIEF

● Mr. DOLE. Mr. President, in the view of the Senator from Kansas, the addition of Federal supplemental unemployment compensation benefit program to the conference report of H.R. 4961 was a needed and compassionate change to the legislation. The program agreed to by the conferees will provide, beginning on September 12, additional unemployment benefits to a estimated 2 million workers who have exhausted their benefits under existing unemployment compensation programs. Under the program, either 10, 8, or 6 weeks of additional benefits will be provided to each worker depending of the severity of the unemployment in the State. Every State in the United States will be eligible to participate in the supplemental benefit program.

Mr. President, this is a good program that will provide welcome relief to millions of persons who are suffering from long-term unemployment. It was designed to be implemented quickly and to reach unemployed workers all across the country. Frankly, this program is not the only way to provide additional unemployment relief. We explored a number of other proposals for relief over an extended period of discussion with the House conferees, with representatives of organized labor, and the Department of Labor. On balance, all parties concerned felt the program agreed upon would be the most effective and equitable.

The program agreed to by the conferees will cost about $2 billion in fiscal year 1983 for 6½ months of additional benefits. This is obviously an expensive program. It will take 3 years for the change in the threshold level for taxing unemployment benefits to pay for the additional unemployment benefits. We have to realize there are fiscal restraints on any good program and this Senator believes we reached those limits with this very substantial supplemental benefit program. As far as the Senator from Kansas is concerned, this is the only major change in unemployment compensation this year. We will, of course, want to review the effectiveness of and continued need for the program next spring.●

BESSIE BEATS THE BUREAUCRATS

● Mr. SYMMS. Mr. President, several weeks ago, the Idaho Press-Tribune published an incredible story concerning the difficulties an elderly constituent was having with the Social Security Administration and my efforts to help her. I was able to help her because the editor of that paper, Rick Coffman, originally called her plight to the attention of my office in Boise.

Because the news media so often focuses on the negative, emphasizing problems without offering solutions, it has many critics. And I have been among them. But there are times—and this is one of them—when the media deserves credit for helping to find a constructive solution.

Rick Coffman could have written a good "bad news" story in his paper the first time he heard about it. But instead, he helped us solve the problem and, as a result, produced a better story with a "good news" ending.

I commend Mr. Coffman for this example of enterprising and constructive journalism, and I ask unanimous consent that this fascinating article in his paper about Bessie's successful battle with the bureaucrats be inserted in the RECORD.

The article follows:

BESSIE BATTLES BUREAUCRACY—NAMPA WOMAN SEES LUCKY RAFFLE TICKET WIND UP AS THREAT TO LIVELIHOOD

(By J. E. Vail)

Bessie Dewey, a Nampa senior citizen who makes do on a small monthly Supplemental Security Income check from the Federal Government, thought she was lucky to win $100 worth of groceries in a recent school carnival raffle.

She doesn't think so now—not after becoming entangeled in a bureaucratic snafu that threatened to deduct $160 from her income in repayment for an "overpayment."

Dewey's problems began when she reported her "winnings"—a $100 gift certificate redeemable for groceries—to the Social Security Administration as required by law.

I'm honest, so I reported the $100 to the Social Security office," Dewey said. "Then I got a letter from the Caldwell office saying I had been overpaid and that I would have $160 deducted from my checks.

"Now, I thought they might take out the $100, but not $160." she said. "There's nothing fair about that."

U.S. Sen. STEVE SYMMS, whose Boise office staff has been working with Dewey on the case, agreed.

"This doesn't make sense," SYMMS said. "There should be no problem at all.

"I think a wrong button got punched on a computer somewhere," he said. "I don't know that that's what happened, but it could have.

"In defense of the Social Security Administration, most cases don't have this kind of problem and the case worker could have misunderstood what was going on," he said.

According to Craig Thomas, a Caldwell SEA claims representative what did happen was that the Nampa woman had the bad luck of being "caught" in a transition period.

When Dewey reported the raffle winnings, the SSA was in the process of changing the way it computes overpayments, a change ordered by Congress, Thomas said.

Under the new regulations, checks are adjusted for overpayments monthly, based on the income received two months prior.

In other words, if a person receiving SSI checks earns extra income and reports it in July, an adjustment will be made in the September check, Thomas said.

Under the old regulations, that adjustment would have been made on a quarterly basis.

But when Dewey reported her raffle winnings, the SSA was in a transition period between the old and the new computation methods. During this three-month period—April, May and June—check amounts were based on April income.

When Dewey told the SSA she had received extra income in April, the transition period rules, in effect, turned that, one-time, $100 bonus into a three-month, $300 increase in income.

That, in turn, translated into a $160 "overpayment" in April and May and a monthly check reduction of $80 beginning in July. That reduction presumably would have lasted until September when July's income would have been used to recalculate her monthly check amount.

All told, her $100 gain could have turned into a $320 loss—the $160 "overpayment" and another $160 in July and August montly reductions.

No wonder Dewey said she'd been under "a lot of pressure."

"I bought five raffle tickets for one dollar and look what I got in return," she said.

Dewey didn't sit idly by and watch almost a third of her monthly income disappear in this bureacratic SNAFU, though. Instead, she wrote to the SSA in Baltimore.

"I wrote them directly and told them there's nothing right about this and that I couldn't understand why I would have to pay $160," she said. "I wanted an explantion and I haven't heard from them yet."

Even though she hasn't heard from the SSA directly, Dewey's problem has been resolved—no money has been deducted from her checks and the repayment of her overpayment has been waived. She even received her July cost of living increase right on time.

Why? Because by writing to the SSA, she put another set of the agency's rules to work for her this time—her letter activated the agency's appeals process. And that resulted in a favorable ruling.

If Dewey did anything wrong, Thomas said it was writing to Baltimore rather than going to the local SSA office. Her letter was forwarded from Baltimore to Caldwell where the decision to waive her "overpayment" repayment and leave the amount of her monthly checks was made by another claims representative.●

WORLD PEACE

Mr. ARMSTRONG. Mr. President, Walter Berns, resident scholar at the American Enterprise Institute, has raised some very thoughtful and interesting questions about proposals to establish a national peace academy. What interests me most about his

recent article (published in the Wall Street Journal, August 2, 1982) is not the peace academy alone, but to the larger issue of how to foster the cause of world peace. I ask unanimous consent that this interesting essay be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CONGRESS IS SAYING, GIVE PEACE A GRANT

(By Walter Berns)

The fears of a nuclear holocaust, so long suppressed because the event is too horrible to contemplate, have finally become a prominent element in our political discourse, official and unofficial. Politicians now speak openly of the prospect that our children will be incinerated. At a public meeting earlier this year, for instance, Sen. Paul Tsongas (D. Mass.), pointing to his eight-year old daughter whom he had brought along as a kind of prop, added a nasty note by accusing President Reagan of being indifferent to this awful prospect.

First in the New Yorker (surrounded by the wry cartoons and the ads offering deluxe hotel accommodations), and then in a best-selling book, Jonathan Schell calls upon "the people of the earth to do whatever (is) necessary to save humanity from extinction by nuclear arms." As Congressman Paul Simon (D. Ill.) said the other day, "for the past few months, the people have been telling us, 'let's do something for peace.'"

What has largely escaped attention is that Congress is about to respond to this concern by establishing a U.S. Academy of Peace and Conflict Resolution. The academy would have an international student body and faculty, peace seminars, peace conferences, peace symposia, peace prizes disarmament talks (or talk), even a graduate program leading to a Master of Arts in Peace or a Master of Arts in Conflict Resolution. More to the point, there will be federal grants, lots of grants: research grants, conference grants, travel grants and graduate as well as post-doctoral fellowships. It is this grant-making authority especially that has lips smacking in certain academic circles.

LESS THAN COST OF BOMBER

The House and Senate bills (identical in an esssential respect) call for initial funding of $21 million, which, as many supporters are eager to point out, is much less than the cost of a single B-1 bomber. It may be relevent to point out, however, that the initial funding for the National Endowment for the Arts was $2.5 million; within 15 years it was receiving—and giving away the larger part of—$155 million annually.

The idea of a peace academy has been around for many years, but it began to bear fruit only in 1976 with the founding of the National Peace Academy Campaign, a private organization claiming some 30,000 members, including Ed Asner, Paul Newman, Archbishop Hunthausen (Seattle's Catholic "Peace" bishop) and politicians and professors.

With the support of some 40 national organizations (including the American Psychological Association, the American Sociological Association, the American Association of Retired Persons, the U.S. Catholic Conference, the House of Bishops of the Episcopal Church and the Women's International League for Peace and Freedom), the campaign succeeded in getting Congress to fund a presidential commission to study proposals for a peace academy. Chaired by Sen. Spark Matsunaga (D. Hawaii), the commission delivered its initial report to President Carter in September 1980. The bills pending in Congress derive from its final report delivered last November.

The stated purpose of the academy is to promote peace through "peace learning." It is said that peace and conflict resolutions are subjects that can be taught, rather like the science of labor-management relations. The only differences are that, instead of negotiating wages and fringe benefits, the peace negotiator may find himself at a table where the issue is the life or death of nations, and instead of having to contend with the likes of Lee Iacocca and Douglas Fraser, he will be faced with the Ayatollah Khomeini and Saddam Hussein, or Yasser Arafat and Menachem Begin. But science is science and as such knows no national or other kinds of boundaries.

According to the National Peace Academy Campaign, "there is now a science tested and proved in actual practice—that can help make war obsolete [and] this science can be taught, learned and applied—anywhere in the world." Indeed, one professor of conflict resolution testified in the Senate hearings that had the Peace Academy been in place, "things might have been different" in the Falkland Islands dispute. The academicians would have brought the British and Argentinians together in the "kind of forum . . . developed [to deal with] places like Cyprus or Northern Ireland." Not very convincing examples, Cyprus and Northern Ireland, but the Senate bill, with 54 cosponsors, was reported favorably by the Labor and Human Resources Committee in June, and on July 20 committee hearings were begun in the House. Since peace is popular and because all 435 House members and 20 of those 54 cosponsoring Senators are up for reelection this year, early passage of this legislation seems almost certain.

What Congress would be getting for its money is likely to prove very similar to what it is already getting from the United Nations, except this time it will have to pay 100 percent, rather than a mere 25 percent, of the cost. Leaving aside the studies commissioned to resolve domestic conflicts, we can expect the graduates and fellows of the Federal Peace Academy to begin immediately to churn out disarmament and peace proposals.

Among other things, we shall probably be told that peace requires disarmament and disarmament requires the abolition of sovereign states. As Jonathan Schell puts it (and his name surfaces frequently in the testimony favoring the academy), weapons are needed for wars, and wars are fought by sovereign states (never mind the PLO, the Polisarios, the various Red Brigades); therefore, without sovereign states, there would be no need for weapons, no wars, and—voila!—peace. Peace, Mr. Schell tells us, and we are likely to hear it from the U.S. Peace Academy, depends on the establishment of a world government, for only a world government can dispense with armaments.

What is disheartening in this business is that our legislators seem unaware of the fact that they hold office under a Constitution that was inspired by a handful of political philosophers who, beginning some 300 years ago, succeeded in discovering precisely what the peace academicians will now be paid to rediscover (but won't), namely, how to achieve peace. (When Jefferson was designing the curriculum of the University of Virginia's law school, he put some of their books on the required reading list.)

This search for the conditions of peace began with Thomas Hobbes, the need for peace being as evident in his day as it is in ours. As he wrote in his most famous book, during war the life of man is "solitary, poor, nasty, brutish and short." What he accomplished (with the help of the other philosophers of natural rights, such as John Locke, "America's philosopher") was a radical change in the acknowledged purpose or goal of political society. No longer would the "city" attempt to satisfy the desires of the soul, for it is the pursuit of such desires—glory or salvation, for example—that promotes conflict and war, both foreign and civil; it would confine itself to satisfying the desires of the body, or providing the conditions under which they might be satisfied.

PROMOTE LIBERAL DEMOCRACIES

This is what Madison had in mind when, in Federalist 10, he said that "the first object of government (is) the protection of different and unequal facilities of acquiring property." If these desires are pursued vigorously and freely, there would be a vast increase in the ability to provide material goods, which Adam Smith called "The Wealth of Nations." That increased wealth could be widely shared, and those who shared it would be inclined to subordinate their other desires. During the 1960s, some of them would unknowingly echo Hobbes and Locke by saying, make love (thereby satisfying the body's needs) not war.

On these principles, and with institutional refinement contributed by Montesquieu and our own Founding Fathers, we in the U.S. built the first liberal democracy. The connection between liberal democracy and peace is suggested by the following facts: The United States has never fought a war against another liberal democracy; not one of the many wars now raging in the world is a war between two liberal democracies; indeed, there has never been a war between two liberal democracies.

The conclusion seems obvious: Instead of wasting our money on a Peace Academy, Congress ought to do what it can to advance the cause of liberal democracy around the world.

MENACING JUDICIAL ACTIVISM

Mr. ARMSTRONG. Mr. President, during the next several weeks, the Senate will be considering various proposals designed to restrict the jurisdiction of the Federal Judiciary. Like most Senators, I will approach this task with great caution.

At the same time, however, I regret that courts themselves have been much less than cautious about extending their jurisdiction, assuming prerogatives not intended by Congress or the Constitution and, in general, acting more and more like political bodies and legislative tribunals rather than courts in the old-fashioned tradition. The Wall Street Journal (Friday, Aug. 6, 1982) contained the most interesting article by Mr. Alexander Troy. Mr. Troy illuminates one particular aspect of the menace of excessive judicial activism. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal]

LEARNING THE LAW AT HARVARD

(By Alexander Troy)

The proper role of the judiciary in creating and directing social policy has been a contentious issue in American politics. At various periods courts have challenged the constitutional limits placed on their powers, either by abusing judicial review or, more recently, by adjudicating political problems they have traditionally avoided. For example courts have in recent years undertaken the management of school systems, hospitals and prison facilities. Judicial management of our society is now so extensive that Congress is considering legislation to remove jurisdiction over certain issues from the federal courts. But whatever Congress does, legal education, particularly at Harvard Law School, will continue to contribute to the problem of an overweening judiciary.

Harvard Law School's reputation for producing lawyers belies the school's current educational environment. Among the Harvard commuity, visions of remaking society are now much preferred to expressions of interest in a corporate career. The law school faculty, which to a large degree shares the antipathies and aspirations of its students, encourages these visions with its instruction. The first year Harvard student is taught today that a lawyer need not be an attorney for a corporation or an individual client, but rather an advocate for society at large. The student is informed that the lawyer's principal activity, litigation, is often less a means of resolving a dispute between two adversaries than a device for implementing social change. In short, Harvard's legal education now seems aimed at developing social engineers rather than lawyers as traditionally envisioned.

A EUPHEMISM FOR CONTROVERSY

Civil procedure, the course that focuses on the nature of litigation, emphatically proclaims at Harvard the decline of the traditional notions of the lawyer and the lawsuit. Traditionally, the lawsuit was regarded as the battle for retrospective redress, and the impact of the contest was generally limited ot its participants. This notion of litigation has been replaced, one Harvard professor explains, by a new model called "public-law litigation."

Public-law litigation is a euphemism for all the controversial activities that judges have undertaken: creating remedies unrelated to the lawsuit's principals or even to the issues before the court administering the remedies over years, and even delegating the responsibility for creating these solutions to experts and masters. Public law litigation, as conceived of and taught by Harvard professors, is a very powerful mechanism for achieving specific notions of social reform.

Obviously, the relegation of the traditional lawsuit to a less significant status signals a corresponding change in the roles of lawyer and judge. The lawyer, formerly an advocate for a client, is now the initiator of a bureaucratic process that supplements or overides legislative efforts. He may choose to represent people who do not know him and have not consented to his representation, and he seeks redress for conditions that he believes require sweeping social change.

The judge becomes a broker of remedies, often actively participating in a continuous bargaining process between the adversaries in an effort to negotiate a solution to a problem often more political than legal. Judge Arthur Garrity is an example of the new type of jurist. His management of Boston's public-school system for the past 10 years, a complete failure, is exactly the sort of activity envisioned by proponents of public law litigation.

Notably, only the clients have diminished in importance in public law litigation. In the typical public-law case, clients merely fulfill the requirement that the lawyer represent someone. The presence of clients gets the case into court, so that judges can wrestle with the larger social issues that lawyers seek to address.

To older law school graduates, the idea of introducing broad social themes in as mechanical a course as civil procedure must be astonishing. However, the transformation of the conception of the lawyer at Harvard has brought about a significant change in courses once thought to be scholastic and apolitical.

Only those recently graduated from Harvard could correctly identify the course given to part of the first-year class as Torts. The course was a desultory survey of economics, spistemology and social psychology, but the professor also found time to address the issue of the limits of a court's power in a democratic society. The professor's conclusion was a simple one: Judicial decisions are substantively indistinguishable from legislative ones. Judges, like legislators, cater to competing interests by compromise rather than by the application of a neutral calculus. therefore, the view that courts are less suited for legislative decision-making because of their institutional nature is unsound. The inference left for students to draw is that there is little that a court cannot do.

JUDICIAL RESTRAINT NEEDED

Since the Harvard faculty is granting a carte blanche to its students to remake society, it must teach the methods that are commonly used in the legislative process. Courses in economics, statistics and public policy are offered by Harvard's law school, as well as its business and government schools. This preparation is not necessarily undesirable, as an exposure to policy techniques can just as easily underscore the difficulties of using the judicial method to solve social problems as encourage its application.

It's unlikely, however, that students who accept the public-law perspective will infer any need for judicial restraint from their policy-preparation courses. Many students enter Harvard Law School with firm convictions about the need for swift change in American society. For them, the message of public-law litigation is a welcome one, delivered by professors who sympathize with the causes these students support. On the other hand, students who enter Harvard unfamiliar with the law and uncertain about their reasons for studying it are being molded into social engineers, a disparaging phrase invented by the late dean of Harvard Law, Roscoe Pound.

Whatever the merits to Harvard's legal training, its presentation and conclusions capture an attitude that permeates the law school. That attitude, explicitly stated in a New York Times editorial by Harvard Law School Professor Lloyd Weinreb, is an impatience with the workings of a democratic society: "One might accept the call for judicial restraint with more equanimity if it were accompanied by as loud a call for greater activism elsewhere."

In short, if the pace or the direction of government is not to the liking of Harvard's Mr. Weinreb, the court system should provide a speedier alternative to the goals that he and some legal elite support. At root, the attitude is anti-democratic, and, if it is accepted by the students it is offered to, the nation can anticipate destructive conflict between its legislative and judicial institutions.

PORTRAIT OF THE MILITARY

Mr. ARMSTRONG. Mr. President, over the last few years, the impression has grown that the men and women in uniform, who have committed their lives to the defense of this country, are morons, malcontents, drug addicts, or worse. So I was extremely pleased to read Fred Reed's recent commentary which decisively refutes this notion. I commend this thought-provoking article to the attention of all my colleagues, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESS PORTRAYS MILITARY AS INCOMPETENT—IS IT?

(By Fred Reed)

Among the more curious aberrations of the press is its habitual portrayal of the military as fools, clowns, madmen, children and incompetents. Whether editors and reporters engage in this deliberately can be debated. My view, based on a good many years of watching, is that they do it more from reflex than from policy. They inarguably do it. They have been doing it so long, so energetically, in so many places, that it has become part of the unnoticed mental luggage of the educated.

If you doubt the existence of the bias, think a moment. When was the last time you saw in a newspaper in Washington, or for that matter on television, a story implying the military had done anything right? Unless you are a confirmed conservative, my asking the question probably strikes you as in bad taste . . . doesn't it? Such is the power of repetition.

When did you last see a story about the military that didn't say or imply strongly that (1) some weapon isn't working, isn't needed or can't work; (2) some weapon is having cost overruns; (3) the military is preparing to do something hideous; (4) the military's strategy and tactics are wrong; (5) the military is bellicose, dangerous and really our principal enemy; (6) the military is racist, sexist or full of Klansmen and druggies; (7) the generals are preparing to fight the last war, or; (8) the generals are concentrating too much on Buck Rogers weaponry? (The last two are mutually exclusive, which doesn't in the least prevent people from believing both.)

Military men are not infallible, or even close to it, but they know a surprising amount about warfare. If you assume that the military is always wrong, however, then questions about a particular policy are answered before they are asked. If you assume that officers are fools, then there is no point in consulting them. The result is mili-

tary coverage uninformed by military knowledge, preordained in its conclusions and useless as grounds for thought. This we have.

Are officers stupid? The average score on the SATs of midshipmen at the Naval Academy is about 1,237. That's on a level with Georgetown (1,225); 147 points above George Washington, a poor second, (figured for 1978) and 48 points below John Hopkins. Maryland at 950 is comparatively a joke. I asked the academy what proportion of its students had the 1,300 combined boards needed to join Mensa, the club for those with IQs in the top 2 percent. Answer: a shade fewer than one-third.

Are officers incompetent? At what? There is a sense in which any bureaucracy is incompetent—the left hand has only a sporadic acquaintance with the right hand, five tons of paper clips are mysteriously delivered to an office that doesn't use paper clips, and nobody is sure exactly how the budget gets spent. It is true that an error at the Pentagon can have consequences, whereas it doesn't matter what HUD does. As far as individual competence is concerned, the officer corps is impressive.

Spend a few days at sea with a naval vessel. The things run like clocks. Warships are not easy to operate, being stuffed to the overheads with sophisticated electronics and semi-literate sailors, but the fact is that crews operate them almost flawlessly. Running flight operations at night from a carrier in choppy seas is not remotely a job for the incompetent, but it gets done regularly.

Are they competent as strategists? How can you tell? It is easy to detect the fairly common aptitudes needed to be, say, a helicopter pilot, and easy to tell whether a man can fly. No one knows just what rare talents make for strategic ability, much less how to recognize them.

One may wonder whether a huge managerial bureaucracy like the Pentagon is likely to produce them. Probably not—but what would? The traditional way to find strategists is to have a war and see who wins. Trying to find strategic talent in peacetime is like trying to find musical talent without an audition.

It remains that the jejune denunciations of strategy, so beloved of Washington's cocktail Napoleons, are nothing short of fatuous. You know the kind of thing—the A-bomb makes tanks obsolete, so we should disband NATO, or Russian submarines go underwater, so we should scrap the surface fleet. If you look into these questions at greater length than a paragraph, you find perplexing subtleties, unsuspected complications and technical considerations that never make the newspapers (they will make this one). The realization comes: What do you know, this stuff isn't as simple as it looks.

Lieutenants can talk in articulate detail about such things. You will never hear them do so, thanks to the presumption that military men are uniquely ignorant of things military.

CONCLUSION OF MORNING BUSINESS

Mr. BAKER. Mr. President, will the Chair inquire if there is further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATORS NUNN AND SPECTER

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the Senator from Georgia (Mr. NUNN) be recognized on special order for 15 minutes, to be followed by a special order of a similar length in favor of the Senator from Pennsylvania (Mr. SPECTER).

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that the time available after the execution of the special orders and prior to 11 a.m. be dedicated to the transaction of routine morning business in which Senators may speak for not more than 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMING CONSIDERATION OF THE TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

Mr. BAKER. Mr. President, I ask unanimous consent that at 11 a.m. tomorrow the Senate resume consideration of the debt ceiling bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PROCEDURE TOMORROW

Mr. BAKER. Mr. President, tomorrow we will convene at 10, and at 11 a.m. we will resume consideration of the debt limit bill, at which time the pending question will be——

The PRESIDING OFFICER. The Baucus amendment.

Mr. BAKER. The Baucus amendment. The Senator from Oregon (Mr. PACKWOOD), according to the order previously entered, will be recognized at that time to resume his presentation without interruption without it counting as a second speech under the rule.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to, and at 7:10 p.m. the Senate recessed until tomorrow, Thursday, August 19, 1982, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 18, 1982:

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.

DEPARTMENT OF STATE

James Malone Rentschler, of Pennsylvania, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malta.

Theodore George Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State.

FARM CREDIT ADMINISTRATION

Tom H. Carothers, of Texas, to be a Member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988.

Leonard R. Fouts, of Indiana, to be a Member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1988.

DEPARTMENT OF AGRICULTURE

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture.

THE JUDICIARY

William M. Acker, Jr., of Alabama, to be U.S. district judge for the northern district of Alabama.

Bruce M. Selya, of Rhode Island, to be U.S. district judge for the district of Rhode Island.

DEPARTMENT OF JUSTICE

Charles L. Dunahue, of Colorado, to be U.S. Marshal for the district of Colorado for the term of 4 years.

Clinton T. Peoples, of Texas, to be U.S. Marshal for the northern district of Texas for the term of 4 years.

HOUSE OF REPRESENTATIONS—*Wednesday, August 18, 1982*

Wednesday, August 18, 1982

The House met at 10 a.m.

The Reverend William S. Hill, rector, St. Paul's Episcopal Church, Lansing, Mich., offered the following prayer:

Almighty God, who hast given us this good land for our heritage, and in whose name the founders of this Nation won liberty for themselves and for us; we ask Thy special blessing upon the Representatives of the people, in Congress here assembled, that in their deliberations and in their endeavors they may always regard a public office as a public trust, and that they may ordain for our governance such things as will contribute to the welfare of the whole of mankind and maintain our own freedom in righteousness and peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WAXMAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 353, nays 37, answered "present" 1, not voting 43, as follows:

[Roll No. 289]

YEAS—353

Addabbo	Bailey (MO)	Bingham
Akaka	Bailey (PA)	Blanchard
Albosta	Barnard	Bliley
Alexander	Beard	Boggs
Anderson	Bedell	Boland
Andrews	Beilenson	Boner
Annunzio	Benedict	Bonior
Anthony	Benjamin	Bonker
Archer	Bennett	Bouquard
Ashbrook	Bereuter	Bowen
Atkinson	Bethune	Breaux
AuCoin	Bevill	Brinkley
Badham	Biaggi	Brodhead
Broomfield	Gaydos	Martinez
Brown (CA)	Gephardt	Matsui
Broyhill	Gibbons	Mattox
Burgener	Gilman	Mavroules
Burton, Phillip	Gingrich	Mazzoli
Campbell	Glickman	McClory
Carman	Gonzalez	McCloskey
Carney	Gradison	McCollum
Chappie	Gramm	McCurdy
Cheney	Gray	McDade
Clinger	Green	McDonald
Coats	Gregg	McEwen
Coelho	Grisham	McGrath
Collins (IL)	Guarini	McHugh
Collins (TX)	Gunderson	McKinney
Conable	Hagedorn	Mica
Conte	Hall (OH)	Michel
Conyers	Hall, Ralph	Mikulski
Corcoran	Hall, Sam	Miller (CA)
Courter	Hamilton	Mineta
Coyne, James	Hammerschmidt	Minish
Coyne, William	Hance	Mitchell (NY)
Craig	Hansen (ID)	Moakley
Crane, Daniel	Hansen (UT)	Molinari
Crane, Philip	Hartnett	Montgomery
Crockett	Hatcher	Moore
D'Amours	Hawkins	Moorhead
Daniel, R. W.	Heckler	Morrison
Dannemeyer	Hefner	Mottl
Daschle	Hendon	Murphy
Daub	Hertel	Murtha
Davis	Hightower	Myers
de la Garza	Hiler	Napier
Deckard	Hillis	Natcher
Dellums	Holland	Nelligan
DeNardis	Hopkins	Nelson
Derrick	Horton	Nichols
Dicks	Howard	Nowak
Dingell	Hoyer	O'Brien
Dixon	Huckaby	Oakar
Donnelly	Hughes	Obey
Dorgan	Hunter	Oxley
Dornan	Hutto	Panetta
Dowdy	Hyde	Parris
Downey	Jeffords	Pashayan
Duncan	Jeffries	Patman
Dunn	Jenkins	Paul
Dwyer	Jones (NC)	Pease
Dymally	Jones (OK)	Perkins
Dyson	Kastenmeier	Petri
Early	Kazen	Peyser
Eckart	Kemp	Pickle
Edgar	Kennelly	Porter
Edwards (AL)	Kildee	Price
Edwards (CA)	Kindness	Pritchard
Edwards (OK)	Kogovsek	Pursell
Emery	Kramer	Quillen
English	LaFalce	Rahall
Erdahl	Lagomarsino	Railsback
Erlenborn	Lantos	Rangel
Ertel	Latta	Ratchford
Evans (DE)	Leath	Regula
Evans (IN)	Lee	Reuss
Fary	Lehman	Rhodes
Fascell	Lent	Rinaldo
Fazio	Levitas	Ritter
Fenwick	Lewis	Roberts (SD)
Ferraro	Livingston	Robinson
Fiedler	Loeffler	Rodino
Findley	Long (LA)	Roe
Fish	Long (MD)	Rose
Fithian	Lott	Rostenkowski
Flippo	Lowery (CA)	Roth
Florio	Lowry (WA)	Roukema
Foglietta	Lujan	Rousselot
Foley	Lundine	Roybal
Ford (MI)	Lungren	Rudd
Fowler	Marlenee	Russo
Frank	Marriott	Sawyer
Frenzel	Martin (IL)	Scheuer
Frost	Martin (NC)	Schneider
Fuqua	Martin (NY)	Schumer
Seiberling	Stangeland	Weaver
Sensenbrenner	Stanton	Weber (MN)
Shamansky	Stark	Weber (OH)
Shannon	Staton	Weiss
Sharp	Stenholm	White
Shaw	Stokes	Whitehurst
Shelby	Stratton	Whitley
Shumway	Studds	Whittaker
Shuster	Stump	Williams (MT)
Siljander	Swift	Williams (OH)
Simon	Synar	Wilson
Skeen	Tauke	Winn
Skelton	Tauzin	Wirth
Smith (AL)	Taylor	Wolf
Smith (IA)	Thomas	Wortley
Smith (NE)	Traxler	Wright
Smith (NJ)	Vander Jagt	Wyden
Smith (OR)	Vento	Wylie
Snowe	Volkmer	Yatron
Snyder	Walgren	Young (MO)
Solarz	Wampler	Zablocki
Solomon	Watkins	Zeferetti
Spence	Waxman	

NAYS—37

Barnes	Fountain	Patterson
Brown (CO)	Gejdenson	Roberts (KS)
Butler	Goodling	Roemer
Clay	Gore	Rogers
Coleman	Harkin	Sabo
Coughlin	Jacobs	Schroeder
Derwinski	Johnston	Udall
Dickinson	Jones (TN)	Walker
Dreier	Luken	Washington
Emerson	Madigan	Wolpe
Evans (IA)	Markey	Yates
Fields	Miller (OH)	
Forsythe	Mitchell (MD)	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—43

Applegate	Garcia	Oberstar
Aspin	Ginn	Pepper
Bafalis	Goldwater	Richmond
Bolling	Heftel	Rosenthal
Brooks	Hollenbeck	Santini
Brown (OH)	Holt	Savage
Burton, John	Hubbard	Schulze
Byron	Ireland	Smith (PA)
Chappell	Leach	St Germain
Chisholm	LeBoutillier	Trible
Clausen	Leland	Whitten
Daniel, Dan	Marks	Young (AK)
Dougherty	Moffett	Young (FL)
Evans (GA)	Mollohan	
Ford (TN)	Neal	

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement. Other than recognition of the gentleman from Michigan (Mr. DUNN), we will suspend the 1-minute speeches. We will then recognize the gentleman from Florida (Mr. GIBBONS), and then we will proceed to consideration of the conference report on reconciliation.

The Chair recognizes the gentleman from Michigan (Mr. DUNN).

REV. WILLIAM S. HILL

(Mr. DUNN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNN. Mr. Speaker, it is a great privilege for me to welcome as our guest chaplain, the Reverend William S. Hill.

Reverend Hill has been the rector of St. Paul's Church in Lansing, Mich., since 1959. He is my family pastor so it is a great personal honor for me to have him offer the opening prayer here in the House of Representatives.

The congregation of St. Paul's Church raised the funds in order that Reverend Hill could travel to Washington and be with us this morning. I know they are very proud of the pastor and the many years of service that he has given to the people of Lansing.

Born on October 19, 1911, in Valentignay, Reverend Hill received his early education in the public schools of Highland Park, Mich. He graduated from the University of Michigan with an A.B. in 1933.

Pursuing his theological studies at Cambridge, Mass., and at Alexandria, Va., he received the B.D. degree from the Virginia Theological Seminary in 1936.

Upon his ordination, he became curate of St. John's Church, Detroit, and in 1938 he accepted the call as rector of Grace Church, Hopkinsville, Ky., a post he occupied until he became assistant minister of Christ Church, Cranbrook, and a member of the faculty of Kingswood School, Bloomfield Hills, Mich., in the fall of 1944. In 1948, he became rector of St. Peter's Church, Uniontown, Pa. He came to Lansing from Wilkinsburg, Pa., where he has served since 1953 as rector of St. Stephen's Church.

A former student of social work in the Graduate School of Applied Religion, Cincinnati, Ohio, and the author of numerous magazine articles, he had been for 10 years editor of the Diocesan Church News, a monthly publication of the Diocese of Pittsburgh.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE TO CONSIDER THE CLEAN AIR ACT

Mr. DINGELL. Mr. Speaker, I have a unanimous-consent request.

The SPEAKER. The gentleman will state his unanimous-consent request.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may be permitted to sit today and for the balance of the week during the time that the House is considering legislation under the 5-minute rule for the purpose of considering the Clean Air Act.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I inquire of the gentleman whether this is to consider the Clean Air Act?

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the gentleman is correct. I intend to try to see to it that that bill is passed by the Congress during this session.

Mr. WAXMAN. Mr. Speaker, I do object.

The SPEAKER. Objection is heard.

(Mr. SHANNON, Mrs. SCHROEDER, Messrs. FRANK, RATCHFORD, MILLER of California, and DWYER, Ms. MIKULSKI, Mr. MATSUI, Mrs. KENNELLY, and Messrs. STUDDS, STARK, GEJDENSON, FOGLIETTA, EDGAR, GIBBONS, MARTINEZ, and DELLUMS also objected.)

The SPEAKER. More than 10 Members having objected, objection is heard.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE TO CONSIDER DOMESTIC CONTENT LEGISLATION

Mr. DINGELL. Mr. Speaker, I have a further unanimous-consent request.

The SPEAKER. The gentleman will state his unanimous-consent request.

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may be permitted to sit today and for the balance of the week for the purpose of considering the domestic content legislation during the time that the House is sitting under the 5-minute rule.

The SPEAKER. Is there object to the request of the gentleman from Michigan?

Mr. GRAMM. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

(Mr. FRENZEL, Mr. CONABLE, Mrs. SCHNEIDER, Mr. GIBBONS, Mrs. ROUKEMA, and Messrs. JOHNSTON, JEFFORDS, WYLIE, and DORNAN of California also objected.)

The SPEAKER. The required number of Members having risen, objection is heard.

EXPLANATION OF PROCEDURE ON DISAPPROVAL RESOLUTION RELATING TO ROMANIA

(Mr. GIBBONS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, before I yield the floor, I will ask to be recognized on a privileged resolution. First, I want to take this time to explain to the House what we are about to do.

Under the Trade Act of 1974, this is a procedure that we must follow each year. The President has recommended that we extend nondiscriminatory tariff treatment to certain countries, one of which is Romania. There is no objection to the other countries. There was an objection to Romania, and a resolution to disapprove the President's decision was filed with the House and referred to the Committee on Ways and Means.

We have had many, many hours and days of hearings on this subject. We have listened to all the Members who wanted to discuss the matter. We finally concluded that we should uphold the President's position, and the Committee on Ways and Means has reported almost unanimously a resolution disapproving the resolution of disapproval of nondiscriminatory tariff treatment for Romania.

Mr. Speaker, this is a very highly privileged resolution I am about to offer. I hope the matter will be indefinitely postponed, because if it is not, it will tie the House up for 20 hours of debate. As the Members know, with 20 hours of debate, it could last 2 or 3 days.

If any Members are concerned about this matter and want to talk in detail about it, the offices of the Subcommittee on Trade are open, and the chairman and all the members of the subcommittee and the members of the Committee on Ways and Means are available.

● Mr. FRENZEL. Mr. Speaker, I oppose House Resolution 521, a resolution disapproving the President's recommendation that the waiver of emigration requirements under the Trade Act of 1974 be extended for 1 more year with respect to Romania. Failure to renew the waiver would mean that Romania will lose its most-favored-nation status with the United States and will again be subject to the very high rates of duty applied to the Soviet Union and other column-2 countries.

The trade agreement extending MFN status to Romania has been in effect since the fall of 1975 and has served as the basis for a growing commercial and political relationship between our two countries. Last year, the volume of trade between the United States and Romania reached a new high of just over $1 billion, more than doubling the value of trade which existed in 1978. In 1980 Romania became the largest purchaser of U.S. exports in Eastern Europe. Although imports from the United States have dropped off somewhat because of the worldwide recession and debt problems, Romania remains a valuable source for U.S. exports—espe-

cially agriculture products, coal, and hides. Our principal imports from Romania include naphthas, iron, and steel plates, and light industrial products.

An important condition of this favorable trading relationship is that Romania make continued progress in assuring free emigration, although the committee reviews the status of Romanian emigration each year under the Jackson-Vanik provisions of the Trade Act of 1974, Romania's emigration procedures remain slow and restrictive. The numbers of persons emigrating from Romania to Israel and to the United States have remained consistent since 1976, yet it is apparent that many who wish to leave still find great difficulties in doing so. In addition, the number of exit visas issued by the Romanian Government has fluctuated during each year, with some departures being negotiated during the waiver renewal period.

The committee has been concerned that Romania's emigration procedures overall have not been improved in a manner that is permanently established. This has led to an annual head count and pressure from individual Members of Congress to let this individual or that family out before the waiver is renewed each year.

This year, under the leadership of the distinguished chairman of the Trade Subcommittee, the committee has sought assurances from the Romanian Government that substantial improvements will be made in their emigration performance on an overall basis, that is, both numbers and procedures. Of principal concern to us are preclearance procedures that are often viewed as a technique for harassment and discrimination; excessively long processing time for applications; and possible obstruction of actual departure once an exit visa is granted.

Also of concern to us has been discrimination or forced assimilation of Hungarian minorities living in Romania and harassment—even imprisonment—of members of evangelical groups seeking to worship as they choose. Recently the Romanian Government released several individuals who allegedly had been jailed for selling Bibles. The subcommittee will continue to press for the elimination of such practices so that violations of human rights will never have to be a cause of strained relations between our two countries.

Romanian officials have responded positively to these concerns and have agreed to enter into serious negotiations with the United States this September in an effort to reach an understanding on emigration issues. Concrete improvements in emigration procedures will weigh heavily in our consideration of the waiver renewal in 1983. However, this year, it was the consensus of the committee that the waiver be renewed and that we work with the Romanians to resolve existing problems.

Failure to extend the waiver this year would mean that MFN would terminate immediately. This would severely limit our ability to make further progress on emigration issues and other areas of mutual concern. Without the valuable leverage of MFN, the United States will have lost an extremely important area of common interest; Romania, and Romanian citizens wishing to emigrate, would move farther and farther from our influence.

Mr. Speaker, it is my belief that the waiver should be renewed for 1 more year. Under the renewal, we expect and look forward to improvements in emigration policies and procedures in the near term. With such assurances, I urge my colleagues to vote no on the resolution of disapproval.●

● Mr. DERWINSKI. Mr. Speaker, I urge the House not to approve this resolution and thus permit the extension of most-favored-nation trading privileges for Romania.

Although Romania, like all communist countries, has a repressive government, I believe there are sound reasons for us to continue MFN treatment for Romanian products.

Romania has exhibited more independence in its foreign policy than any other Eastern European country and has continued to do so despite growing Soviet belligerance in Poland and continued oppression of Afghanistan by the U.S.S.R.

Romania does not take part in Warsaw Pact maneuvers and, in fact, refuses to permit them to take place within its borders. There are no Soviet troops stationed in Romania.

Closer economic relations with the West have been established by Romania than by any other Eastern European country. It is the sole Warsaw Pact nation which is a member of the World Bank and the International Monetary Fund. It is the leader of the COMECON countries in its trade with the West. The United States has a favorable balance of trade with Romania, and our trade relations are improving steadily.

Our granting MFN treatment has given us leverage with Romania in bringing about some progress in permitting emigrants to come to the United States. Romania's emigration policies, while certainly subject to criticism, are, however, better than those of other Eastern European countries such as Czechoslovakia and Bulgaria.

There are some hopeful signs that the Communist bloc may have begun disintegrating from within, and the steps toward independence from total Soviet control which Romania has taken in its foreign and trade policies should be encouraged. We can do this by extending MFN treatment.●

MOTION TO PROVIDE FOR CONSIDERATION OF H. RES. 521, DISAPPROVING EXTENSION OF PRESIDENTIAL AUTHORITY WITH RESPECT TO ROMANIA

Mr. GIBBONS. Mr. Speaker, pursuant to section 152(d)(1) of the Trade Act of 1974, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for immediate consideration of the resolution (H. Res. 521), disapproving extension of Presidential authority to waive freedom of emigration requirements with respect to the Socialist Republic of Romania.

The Clerk read the title of the resolution.

MOTION OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Speaker, pursuant to section 152(d)(3) of the Trade Act of 1974, I move that consideration of House Resolution 521 be postponed indefinitely.

The SPEAKER. The question is on the motion offered by the gentleman from Minnesota (Mr. FRENZEL).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The matter is postponed.

REPORT OF SPEAKER'S COMMISSION ON PAGES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, as chairman of the Speaker's Commission on Pages, I announce that the Speaker's Commission is herewith submitting its report on pages to the Speaker.

The volume contains the recommendations of the Commission regarding the continuation of the page program, the ages and terms of service of pages, the management of the page program, the supervision of the page program, the centralization of housing recommended under the report, the eating and recreational facilities for the pages, the health care of the pages, and standardization of the page selection process.

The Commission recommends that steps should be taken immediately to begin the process of providing a much-improved page system for the Congress, the pages, and the Nation.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make the following announcement.

Last evening the Chair received many complaints from Members that too many staff people were on the floor, and that Members of the House would bring their personal staff

people on the floor although they had no prerogative to do that.

So the Chair cautions and warns the Members not to bring their personal staff members on the floor. The rules prohibit it, and the Chair's announced policy requires committee staff who are permitted to be on the floor when business from their committees is under consideration to remain by the committee tables unobtrusively.

CONFERENCE REPORT ON H.R. 6955, OMNIBUS RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, pursuant to the previous order of the House, I call up the conference report on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 17, 1982, at page H6137.)

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The SPEAKER. The gentleman from Oklahoma (Mr. JONES) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. LATTA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the conference report on H.R. 6955 presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

□ 1030

Mr. JONES of Oklahoma. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the reconciliation bill which we discussed and debated yesterday. This pertains to the spending cuts voted by seven different committees: the Agriculture Committee; Post Office and Civil Service Committee; Armed Services Committee; Foreign Affairs Committee; Banking, Finance and Urban Affairs Committee; Merchant Marine and Fisheries Committee; and Veterans' Committee.

As was pointed out yesterday, these committees were asked to cut spending over the next 3 years by $11,138,000,000. They, in fact, did much better than that. They cut spending $13,725,000,000 or $2,587,000,000 more than they were asked to do.

So I think these committees are to be congratulated for exceeding the requirements that the House placed upon them to cut spending.

I would also point out that there are no more excuses to vote against this bill. Those who felt that there might be some Rube Goldberg attempt to give a congressional pay raise in the conference report that was up yesterday can rest assured that that section has been excised and section 310 is no longer in the conference report.

So I would hope that those Members who have been signing discharged petitions, cosponsoring balanced budget amendments, sending out newsletters as to how fiscally conservative they are, will be witnessed by their local media as to how they vote on this conference report because this is a test of their courage to actually cut spending.

I urge that this conference report be adopted.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to pursue for a moment the gentleman's point with regard to the section that dealt with the Executive and Legislative Pay Commission.

As I understand it, section 310C has been totally stricken from the bill; is that correct?

Mr. JONES of Oklahoma. The gentleman is correct.

Mr. WALKER. There are no comparable provisions in the new bill that would deal with the organization of a pay commission; is that correct?

Mr. JONES of Oklahoma. I suppose if someone was involved in the conspiracy theory that he could probably find a Rube Goldberg mechanism in some of the words thrown together in some fashion that perhaps they could reach the conclusion that maybe someday we will deal with that question.

But I have looked at it. I can find no way that any Member of Congress could ever get a pay raise as a result of this particular conference report.

Mr. WALKER. If the gentleman would yield further, the problem was that we were told yesterday that to some extent we were throwing together a Rube Goldberg contraption, too, to come up with our contention based upon the language yesterday. I think most people, having taken a look at it, understand now what our concerns were.

What I am seeking is an assurance that there is no such mechanism within the bill at this point that would in any way permit Congress to go forward after election with an effort that would result in the Members' pay raise.

Is there any language to that effect in the bill?

Mr. JONES of Oklahoma. I am certain that not even the ingenious ability of the gentleman from Pennsylvania could find anything in the bill that would possibly give him a pay raise.

Mr. WALKER. I thank the gentleman.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. I would just like to say that the section of the reconciliation the gentleman from Pennsylvania was just referring to was a Senate amendment which we accepted in the conference.

Unfortunately, yesterday the amendment was not read by very many people. It was terribly distorted in "Dear Colleague" letters that went out before the action on the floor yesterday.

I intend in my extension of remarks to explain the history of that provision and simply say that there was no way that the inclusion of that provision could in any way be construed as an automatic pay raise for anyone.

For those who still believe that there was some trick involved in that language that would automatically increase the pay of Congress, the Federal judiciary, and the top executive positions in the Government, I hasten to tell you it is not true.

Just let me say this: I stood in this well in 1981 when we considered the President's recommendation with respect to the Quadrennial Commission and explained to the House that we were withdrawing our recommendations because in the President's budget message in 1981 he indicated he would like to consider the adjustment of pay for the judiciary, the top executive services, and to the Congress but not until he had a chance to see where we are going.

I have reason to believe that he meant it when he said in that budget message, "I will be back to work with the Congress on these three areas of problems."

I assume from what the Senators told us when we accepted the amendment that they had some indication that the Office of Management and

Budget and the President wanted us to give them the authority to proceed to work with the Congress in solving those problems.

There is nothing in the provision which has now been stricken from the conference report that would have done anything absent the initiation of action by the President of the United States.

Now I feel compelled to correct some misconceptions concerning the provision adopted by the conferees which would have authorized the convening of the Commission on Executive, Legislative, and Judicial Salaries this fall.

As I mentioned a very misleading "Dear Colleague" letter was circulated on this matter yesterday. Across the top of the letter, in capital letters and underlined, was the statement "a vote for reconciliation is a vote to increase your own pay." The letter went on to say "we find it deplorable that this pay raise is included in the very same legislation which makes cuts in programs which serve the truly needy." These statements were serious distortions of what the conferees had agreed to.

The conferees did not agree to any congressional pay raise. That is a fact. They did agree that it was time for a review of executive pay levels, and that is what the conference report authorized. Specifically, it authorized the convening of the Commission this fall. Under existing law, the Commission would not be convened until 1984—too late to help us deal with the serious "brain drain" now occurring in the executive ranks of the Federal Government.

The conference report further directed the Commission to make recommendations and report to the President not later than November 15 of this year. The decision on what to do at that point and when to do it was left to the President. Contrary to some representations, the conference report did not insure that pay recommendations would be sent to the Congress when it was not in session, or even that they would be sent during a lame-duck session. The decision on what to recommend and when to recommend it was the President's. Finally, the conference report provided a mechanism whereby the Congress could disapprove any pay recommendations if and when they are transmitted.

In accepting the Senate's proposal for an executive pay review, I was, and still am, convinced we were acting in sympathy with the desires of the administration. I previously mentioned Director Stockman's letter of last year, in which he emphasized that while the administration could not support the Commission's recommedations last year, "we should develop other ways to address this issue before the next Quadrennial Commission report due in 1984." Well, that is what we tried to do in conference, and that is what the House yesterday rejected in voting to recommit the report. The text of the Director's letter is set forth below:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, D.C.

Hon. WILLIAM FORD,
U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR BILL: While the Administration understands and sympathizes with the extent of the problem of inadequate and compressed executive salaries, it is inappropriate, with other planned budget initiatives, to endorse the full recommendations of the Quadrennial Commission. Those would call for increases of around 40%.

President Carter's 1981 budget proposals on Federal executive, legislative, and judicial pay called for an increase of 16.8% over the 1977 pay cap. That proposal would simply bring payable salaries for Federal executives in line with their legal salary rates as established under P.L. 94-82.

The status of the economy requires that we concentrate our resources on achieving substantial budget reductions. Federal executives, the Congress and the Judiciary should forego salary increases at this time. Thus, the President has determined that we should not now seek an increase in Federal Executive salaries.

The President has expressed a deep concern with the dismantling ability of the Federal Government to attract and retain high caliber executives; therefore, we should develop other ways to address this issue before the next Quadrennial Commission Report due in 1984. We will be glad to work with the Congress in this endeavor.

Sincerely,

DAVID A. STOCKMAN,
Director.

I thank the gentleman for yielding.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. JONES of Oklahoma. I am pleased to yield to the gentleman.

Mr. GONZALEZ. Because of this tendency to misread and misinterpret, the distinguished chairman awhile ago referred to this being excised. Certainly he does not mean an excise tax?

Mr. JONES of Oklahoma. No; as a matter of fact, as far as I can tell there is nothing in there that places an excise tax on Members of Congress for the privilege of serving here.

What I had reference to has been taken out, been stricken from the conference report.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I think there is unanimous agreement that the Government will not close its doors tomorrow, next month, or next year if there is no pay adjustment for top Government officials and executives. That is really not the point. The Commission on Executive, Legislative and Judicial Salaries has a long history, going back to 1968. Its recommendations were rejected in 1981. Therefore, the language to reactivate the Commission this year was timely.

We already are paying a price for our indecision. More and more of our experienced, talented executives are leaving Government service at the earliest possible date. It is a logical move. They have seen their income eroded by artificially imposed pay caps, while people with equal responsibility in private industry and professional occupations are better compensated.

There are other dimensions to this issue. When potential future leaders see the frustration of present-day Government executives, they are not likely to opt for Government service. Likewise, midlevel Government employees see no benefit in moving up to accept more responsibility if their promotions are not balanced in terms of compensation.

Whether we like to admit it or not, we all know that Federal executive salaries are falling behind the rest of the economy and that the acceptance of a top Government job really represents a significant sacrifice for most individuals.

These problems must be dealt with if we are genuinely concerned about improving or even maintaining the quality of management in the Federal Government. To ignore the problem is to create a crisis in the management of the Government.

For Members to complain about sloppy bureaucratic work and not to do anything about the caliber of leadership is an obvious contradiction.

As far as Members of Congress are concerned, they deserve a pay raise too. I am not aware of anyone running for Congress because of the salary involved. Instead, Members of Congress and those seeking the office are motivated by the opportunity to demonstrate leadership and to deal with the awesome challenges and responsibilities of the job.

In addition I would like to point out that the explanation given by the gentleman from Michigan (Mr. FORD) is fundamentally correct.

I would also like to point out for those Members who are economy conscious that there is a runaway pay scale for the Federal judiciary. If you want to impose some discipline where it is needed you should have gone along with the amendment that the Senate placed in the resolution.

Furthermore, the point made about the need for the executive branch to review their top level position salaries is accurate. There is a brain drain going on in Washington.

When you grumble about the inefficiency of Government, the inefficiency of the bureaucracy, you have to recognize that the Federal Government at

the top level pays far less than private industry, in fact, it is almost miserly. If you do not attract people with talent, the Government is not run correctly or efficiently.

Frankly, the excessive rumors and inferences of yesterday may have been clever short-term politics but bad long-term Government.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentleman for yielding.

I would like to point out that I voted against the resolution yesterday and I did so primarily because of the dairy provisions.

I would just like to alert those people who do have significant dairy in their districts that the provisions of this particular conference report are quite different from those that left the House.

Any hope of anybody getting a refund in the money that they will have to pay as an additional penalty under this bill, up to $1 per hundredweight are about zero. Even if you do cut your production back—and the chances of doing that are very, very limited—what you are entitled to is vague, at best.

I think anyone that has a significant dairy ought to be aware of those provisions. Let me elaborate.

First of all, since this is a budget-cutting proposal, it is important to note that there are other more workable proposals which would have saved as much or more money than the one that is being voted on today. I will briefly run through those.

First was the so-called Jeffords/Gunderson proposal. This proposal received nearly enough votes to pass in subcommittee but lost on a 7-to-5 vote. This proposal would have provided an increased payment per hundredweight for those farmers who decreased their production relative to a certain base period. On the other hand, those that increased production would receive a substantially smaller amount for the increased production.

First, this proposal would have resulted in savings of approximately $1.3 billion. Second, it would have quickly and effectively reduced the surplus. Third, it would have benefited the concept of family farming. Fourth, it would have prevented regional dislocations of dairy farming due to the very cheap grain situation now existing in the Midwest and Far West.

This would have been important for consumers in the future, for if this temporary grain condition wipes out dairy farms east of the Mississippi when that situation rectifies, milk or milk products will have to be brought in from distant locations to eastern locations. Also, from a national security perspective, it is wise and advantageous to have food production distributed throughout the country and not localized on the west coast. This is also true because of the reliance of agriculture in the West on precarious water supplies.

Another proposal which unfortunately only received minimal support on the subcommittee was the so-called Barber/Dunsmore proposal. This was named after the Commissioners of Agriculture in the States of New York and Vermont, respectively. This proposal would have kept stable the price paid farmers for fluid milk, the milk which we drink at home, at the present price, but put the burden of reduced pricing onto the so-called class 2 or manufactured milk which goes into cheese and other products.

The theory is that the problem is in this second class of milk and, therefore, that is where the decreased payments for production ought to go. This proposal had broad support in the Northeast and Southeast but obviously other regions of the country were less favoraly inclined. On an average, however, it would have been a better program than the one being voted on today.

The House-passed proposal, which had the reluctant backing of most of the producer co-ops around the country, provided a possibly significant incentive for producers to cut back their production. It contained about an 8-percent cutback in the money going to farmers for their milk production and provided that if a farmer did cut back his production 10 percent, he could get a refund. The bill was structured so that a farmer could cut back significantly, obtain a refund, and not have any reduced income. He would have the option of reducing his expenses due to the 10-percent cutback and thus enhance his income. This is somewhat of an approximation and made upon certain assumptions as to the size of the refund, but is generally correct.

Now as to the provisions in the conference report: In summary, the bill now provides for an immediate cut on October 1 from $13.10 per hundredweight to $12.60 per hundredweight, or 4-percent decrease. The bill provides that in the event the projected purchase by CCC will exceed 7.5 billion pounds of milk equivalent that the Secretary may impose an additional 50-cent reduction in the price farmers receive for each hundredweight of milk on April 1, 1983. However, this can only be imposed if a refund system is also made available.

The procedure for the refund is extremely vague and difficult to understand. With gross oversimplification, it provides that the Secretary may establish either a 1- or 2-year base period. The refund provision starts out by stating that—

> The Secretary may not require as a condition for making a refund of the entire amount collected from a producer that the producer reduce marketings in excess of a reduction equivalent to the ratio that the total amount of surplus milk production, as estimated by the Secretary for the fiscal year, bears to the total milk production estimated for such period.

This would seem to mean that if a farmer reduced his production by the amount of anticipated surplus, say 5 percent, he would be entitled to an entire refund. It is unclear whether this is the whole $1 or the 50 cents. Press comments indicate it is only the 50 cents per hundredweight. The provision, however, goes on to state the following:

> The Secretary may provide for funds to be made of amounts collected from producers on a pro-rata basis taking into consideration the reduction in commercial marketings by the producer from the commercial marketings during the base period.

I tried to ascertain from members of the committee or staff just what this means. In any event, it would seem to allow more flexibility than the previous statement. Further, if you are only talking about refunds of the 50 cents per hundredweight, the incentive will be minimal.

It is important to point out the difference here between the House bill and the conference bill. Under the House bill, the farmer knows immediately what he has to do in order to entitle himself to the refund. He thus may take the action immediately and obtain his reward. The conference bill, however, sets up an incredible situation for a farmer. He does not know as to whether the second 50-cent cut will come, and further, he is at this point unsure of what the refund will be. Also, the refund would be so small as probably not to give him any incentive anyway. The most problematical aspect is that in order to maintain his cash flow for the 6 months from October 1 to April 1, he is going to have to increase his production. This is especially true for Northeast farmers that are at best breaking even now.

If the second 50 cents comes in and he wants to take advantage of the refund, he will find that the base period goes back from October 1, 1982. This means that he will have to severely decrease his production for a very small refund and thus there would be little or no incentive to take advantage of the small refund provision.

One of the arguments being used as a reason to support the bill for dairy farmers is that this refund provision and condition is so complicated, confusing, and vague that it is highly unlikely that the Secretary would want to implement it. However, my concern is the opposite. Since it would appear that no farmer would get any singificant benefit from the refund and

would find himself in an intolerable situation in attempting to get the small refund, the Secretary may find that, in perfunctorily setting up the machinery, there would be no risk of anybody asking for a refund. Therefore he may well gamble on implementing it.

It should be noted here that the savings indicated for the House bill are precarious at best. First, the savings are made on an assumpton that both cuts go into effect. Thus, it is obviously the expectation and intent of the conference committee that there is to be a dollar drop in the price paid farmers for each hundredweight of milk. Further, the savings are based on January production figures. Since there has been a significant decrease already in the rate of milk production increase, these assumptions would seem to exaggerate these savings by at least $300 million. There is a further presumption made in arriving at this large savings which will be of no comfort to farmers. It is that the dollar cut will cause such a severe curtailment in production that the savings will be reached. This presumption, if accurate, is of special significance to farmers east of the Mississippi River.

The increase in milk production has been caused primarily by the fact that inexpensive grain is available in the Midwest and Far West. Thus, farmers have found it more advantageous to put on cows and sell the milk to the Government than to sell the grain on the open market. This benefit does not exist east of the Mississippi. Thus, milk production in many, if not most areas east of Mississippi has been declining and in many cases below last year's production. Thus, those farms that lie east of the Mississippi, although they are not part of the problem, will most likely be the biggest part of the solution.

This fact is borne out by my discussions today with an official at the Springfield Federal Farm Credit Bank and Production Credit Agency in Massachusetts. They service the Northeast. In their view, even the 50-cent cut will have a serious impact upon the ability of farms in the Northeast to sustain an adequate cash flow next year and will be in a serious risk situation.

As to the grain situation—and also to a smaller extent the dairy surplus—it is important to point out the serious impact our foreign policy has had. Because of our embargoes, our percentage of the foreign markets has dwindled from around 70 percent to as low as 30 percent by some estimates. Thus, all our farmers are being asked to carry the substantial cost burden of our foreign policy decisions. Foreign purchasers are not about to rely upon us if we keep concealing sales. I personally believe in Hubert Humphrey's statement that we ought to sell the Soviets anything they cannot shoot back.

In summation, although it can be pointed out that the conference bill is somewhat better than the original administration proposal of a dollar drop next year, this will only be so if the April 1 cut is not made. If it is made, it will be worse, as the first cut will be this year, not next year, and at a bad time as we enter the high cost winter season. I'm voting no.

Mr. LATTA. Mr. Speaker, let me say, as I stated yesterday, I am not happy with this reconciliation report. But we have more savings than we had when we started this year.

The budget resolution contained instructions to come up with $11.2 billion in savings. The budget resolution assumed savings of $13.4 billion, a total of $2.2 billion beyond the reconciliation instructions. The CBO says that this reconciliation bill will save $13.6 billion, but the administration says it will save $10.4 billion.

Thus, while there is a lot of variation in the differing estimates of savings, at least the lowest figure is $10.4 billion in savings. Down our way that is not chicken feed. We are happy to save as much as we can.

But let me also say that in the conference report which was brought to the floor yesterday there was a provision establishing a commission for the review of the pay for executive level officials. As we all know, the pay of Members of Congress is tied to the pay scale established for the executive level officials. Furthermore, there were additional provisions which could have resulted eventually in the actual granting of a pay raise to Members of Congress, should the following three events occur: First, if the commission had recommended such raises; second, if the President had concurred on such a recommendation and forwarded it to the Congress; and third, if the Congress did not act to deny that recommendation within 30 days of its submission. This provision on pay review had been inserted into the conference report without my knowledge. In fact, I was unaware of the presence of this provision in the report until the matter was brought up on the House floor yesterday. Having become aware of its presence, I voted for recommittal of the conference bill so that we might have a chance to delete that provision. The conference report now before us has deleted any reference to that pay review commission and eliminated any chance that this bill could result in the passage of a pay raise for Members of Congress. Having been taken by surprise by the insertion of those undesirable provisions in the conference report, I am delighted that they have been properly excised from this reconciliation report.

I yield back the balance of my time.

● Mr. HAMMERSCHMIDT. Mr. Speaker, in July the House considered and passed H.R. 6782 which was primarily a 7.4 percent cost-of-living increase bill for service connected veterans, their dependents, and survivors. That bill also contained a number of cost-savings provisions that brought our Veterans' Affairs Committee into complete compliance with reconciliation instructions. Those cost savings were constructed in such a way as to have minimal impact on veterans programs and have been generally well accepted by the public we serve.

The reconciliation conference agreement now being considered contains almost all of the provisions of H.R. 6782. They, too, more than bring us into compliance with our instructions and I am pleased to support them.

Mr. Speaker, I need not repeat what has already been stated except to note that by almost any measure this agreement as it relates to veterans' programs is reasonable and I urge its support by my colleagues.

Thank you, Mr. Speaker.●

● Mr. WOLF. Mr. Speaker, I support most of the provisions in H.R. 6955, the omnibus reconciliation package. I believe controlling Federal spending is critical to restore productivity and prosperity to our country. I have been a consistent supporter of the economic recovery policies of this administration and I remain committed to the basic principles of these fiscal policies.

However, I believe this budget issue is a matter of fairness and equity. My opposition to H.R. 6955 is, in essence, a protest that this bill does not treat all citizens equally. I believe the language in H.R. 6955 pertaining to Federal personnel, active and retired, is an example of how one group of Americans has been singled out over other groups and this is simply not fair. I do not believe that this is how our system is supposed to work.

Because of these reservations, I cannot vote for H.R. 6955. I believe that in trying to provide equity for Federal retirees compared with their social security and railroad retiree counterparts, we have solved one problem by creating another problem of age discrimination. My opposition is based on the discrimination which exists in this bill against those who have retired prior to the age of 62. Are we granting cost-of-living adjustments based on age or on allowing these individuals a means to keep up with inflation? I believe annuities and COLA's are a part of a contract entered into by employees with their employer and that the Government has a responsibility to honor this agreement whether or not the individual is age 60, 65, or 98.

Again, I reiterate my general support for these budget provisions. However, until we can be fair and equal

with all groups of annuitants, I cannot support a measure which does not provide equity. Federal retirees, social security and railroad retirees, should be treated the same.●

● Mr. HUTTO. Mr. Speaker, the Omnibus Budget Reconciliation Act of 1982 contains provisions that discriminate against civil service and military retired personnel by placing the major share of the saving burden on the shoulders. Military retirees are especially affected.

By restricting the annual COLA for retired pay to 50 percent of the Consumer Price Index for those under 62, this provision penalizes four out of five military retirees and only one of five civil service retirees. In actual numbers, there are 186,000 nondisability military retirees over 62 and 834,000 under age 62.

Another provision would cause military retirees who are currently civil service employees to receive no military retirement COLA. There civil service pay will be decreased by the amount of their military retirement COLA. This would unfairly affect 143,000 military retirees.

I object strongly to this unfair treatment of our military personnel, both active duty and retired. Ultimately, the entire country loses—these provisions will, on the one hand, have an adverse impact on our career force retention programs and, on the other, discourage military retirees from serving in a civil service capacity for which they are highly qualified and trained.

For these reasons I voted against H.R. 6955, Omnibus Budget Reconciliation Act of 1982.●

● Mr. MICHEL. Mr. Speaker, last spring it was doubtful we would ever reach the point of having spending cuts—entitlement cuts—before this House for final action.

There were a good many in this House who did not want a budget resolution at all, on both sides of the aisle.

But we are here on the final leg of the journey. We have come a long way and no one, but no one in this House has relished the task or relished the responsibility.

We have had only two choices before us all of this time. To finish what we began at the outset of this Congress, or turn tail and run for the hills, and hope, just hope, that other forces in the economy would move the country in the right direction.

For me, there has never been a choice. We cannot depend upon anyone but ourselves to resolve the fiscal crises we face. We cannot depend on anyone but ourselves to face up to the deficits we have. We cannot depend on anyone but ourselves to stop the floodtide of Federal spending that got us here.

There are those who say these cuts are woefully inadequate. There are those who would kick and scream because these cuts are too severe.

Both sides have been heard. Both sides have had the opportunity to influence the legislative process and work their will. But no one in this House has had the free rein to fashion these pieces of legislation the way they would like.

The legislative process has worked, the way it was designed to work, and this is the outcome.

There are some disagreements over the exact amount of savings in this conference report, but at the minimum it includes 3-year outlay savings of $10.4 billion. This represents 93 percent of the reconciliation instructions to the committees covered in this bill.

In combination with the $15.2 billion in hard-core reconciliation savings contained in the tax bill, we have a total savings of $25.6 billion, or about 94 percent of the $27.2 billion called for in the reconciliation instructions.

If several additional changes are counted as savings, the total savings overall could run as high as $31.2 billion over a 3-year period, which would exceed the target by $4 billion.

In the bill before us, the primary difference in totaling the savings involves how the dairy price support changes are counted. The result is a range in savings for the Agriculture Committee of between $3.6 and $7 billion over 3 years.

The $4.1 billion in COLA savings contained in the conference report falls short of the instruction by $1 billion, but still represents nearly $4 billion more than what we passed in the House.

The COLA savings are achieved through the following:

First. COLA's would be limited to 50 percent of the Consumer Price Index for retirees under age 62;

Second. All COLA increases would be delayed 1 month in each of the next 3 years; and

Third. For military retirees employed in the Federal civil service (the so-called double dippers), the COLA increases would be offset by salary reductions.

These are reasonable changes that get at some of the excesses in the program without impacting in any way on those truly relying on these retirement benefits for their existence. Frankly, at some point we are really going to have to take a hard look at this program, because we currently have too many people retiring at too early of an age. It is costing us billions that we simply cannot afford.

A total of $1.9 billion in food stamps savings is achieved, through the following steps:

First. A reduction in program error rates;

Second. A 1-percent reduction in the scheduled thrifty food plan increase; and

Third. Changes in rules for rounding benefit amounts.

In conclusion, Mr. Speaker, this is a reasonable conference report that achieves essentially what we called for in the first budget resolution. It is worthy of support, and I urge its adoption.●

Mr. JONES of Oklahoma. Mr. Speaker, upon adoption of the conference report I plan to request unanimous consent for the House to consider a concurrent resolution to make technical corrections in the conference report.

Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MINISH). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JEFFORDS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 243, nays 176, not voting 15, as follows:

[Roll No. 290]

YEAS—243

Alexander	Coyne, William	Gingrich
Anderson	Craig	Glickman
Andrews	Crane, Daniel	Goodling
Annunzio	Crane, Philip	Gradison
Anthony	D'Amours	Gramm
Archer	Daniel, Dan	Gregg
Aspin	Daniel, R. W.	Grisham
AuCoin	Daschle	Hagedorn
Badham	Daub	Hall (OH)
Bailey (MO)	de la Garza	Hamilton
Barnard	Deckard	Hammerschmidt
Beard	DeNardis	Hansen (ID)
Benedict	Derrick	Hansen (UT)
Benjamin	Derwinski	Hatcher
Bennett	Dickinson	Hawkins
Bereuter	Dingell	Hefner
Bethune	Dixon	Hendon
Bingham	Donnelly	Hightower
Bliley	Dornan	Hiler
Boland	Dreier	Hillis
Bolling	Duncan	Holland
Bonker	Dunn	Hopkins
Bowen	Early	Huckaby
Breaux	Edwards (AL)	Hunter
Brooks	Edwards (OK)	Hyde
Broomfield	Emerson	Ireland
Brown (CO)	Emery	Jacobs
Broyhill	Erdahl	Jeffries
Burgener	Erlenborn	Jenkins
Butler	Evans (DE)	Johnston
Campbell	Evans (IN)	Jones (NC)
Carman	Fary	Jones (OK)
Carney	Fascell	Jones (TN)
Chappie	Fenwick	Kemp
Cheney	Fiedler	Kindness
Clausen	Fields	Kramer
Clinger	Findley	Lagomarsino
Coats	Foley	Latta
Coelho	Forsythe	Leach
Coleman	Fountain	LeBoutillier
Collins (TX)	Fowler	Lee
Conable	Frenzel	Lehman
Corcoran	Fuqua	Levitas
Coughlin	Gephardt	Lewis
Courter	Gibbons	Livingston

Loeffler	Pashayan	Skelton
Long (LA)	Patterson	Smith (AL)
Long (MD)	Paul	Smith (NE)
Lott	Perkins	Smith (OR)
Lowery (CA)	Pickle	Smith (PA)
Lujan	Porter	Snowe
Lundine	Price	Snyder
Lungren	Pritchard	Solomon
Madigan	Pursell	Spence
Marks	Quillen	Stangeland
Marlenee	Railsback	Staton
Marriott	Regula	Stenholm
Martin (IL)	Reuss	Stratton
Martin (NC)	Rhodes	Stump
Martin (NY)	Ritter	Swift
Mazzoli	Roberts (KS)	Tauzin
McClory	Roberts (SD)	Taylor
McCloskey	Robinson	Thomas
McCollum	Roemer	Trible
McEwen	Rogers	Udall
McKinney	Rostenkowski	Vander Jagt
Mica	Roukema	Volkmer
Michel	Rousselot	Walgren
Miller (OH)	Rudd	Walker
Moakley	Russo	Wampler
Molinari	Sabo	Weber (MN)
Montgomery	Sawyer	Weber (OH)
Moore	Schulze	Whitehurst
Moorhead	Sharp	Whitley
Morrison	Shaw	Whittaker
Murtha	Shelby	Williams (OH)
Natcher	Shumway	Wilson
Nelson	Shuster	Winn
O'Brien	Siljander	Wortley
Oxley	Simon	Wylie
Panetta	Skeen	Young (MO)

NAYS—176

Addabbo	Gaydos	Oakar
Akaka	Gejdenson	Oberstar
Albosta	Gilman	Obey
Applegate	Gonzalez	Ottinger
Ashbrook	Gore	Parris
Atkinson	Gray	Patman
Bailey (PA)	Green	Pease
Barnes	Guarini	Pepper
Bedell	Gunderson	Petri
Beilenson	Hall, Ralph	Peyser
Bevill	Hall, Sam	Rahall
Biaggi	Hance	Rangel
Blanchard	Harkin	Ratchford
Boggs	Hartnett	Richmond
Boner	Heckler	Rinaldo
Bonior	Hertel	Rodino
Bouquard	Hollenbeck	Roe
Brinkley	Horton	Rose
Brodhead	Howard	Roth
Brown (CA)	Hoyer	Roybal
Burton, Phillip	Hubbard	Santini
Byron	Hughes	Savage
Chisholm	Hutto	Scheuer
Clay	Jeffords	Schneider
Collins (IL)	Kastenmeier	Schroeder
Conte	Kazen	Schumer
Conyers	Kennelly	Seiberling
Coyne, James	Kildee	Sensenbrenner
Crockett	Kogovsek	Shamansky
Dannemeyer	LaFalce	Shannon
Davis	Lantos	Smith (IA)
Dellums	Leath	Smith (NJ)
Dicks	Leland	Solarz
Dorgan	Lent	St Germain
Dougherty	Lowry (WA)	Stark
Dowdy	Luken	Stokes
Downey	Markey	Studds
Dwyer	Martinez	Synar
Dymally	Matsui	Tauke
Dyson	Mattox	Traxler
Eckart	Mavroules	Vento
Edgar	McCurdy	Washington
Edwards (CA)	McDade	Watkins
English	McDonald	Waxman
Ertel	McGrath	Weaver
Evans (GA)	McHugh	Weiss
Evans (IA)	Mikulski	White
Fazio	Miller (CA)	Williams (MT)
Ferraro	Mineta	Wirth
Fish	Minish	Wolf
Fithian	Mitchell (MD)	Wolpe
Flippo	Mitchell (NY)	Wright
Florio	Mottl	Wyden
Foglietta	Murphy	Yates
Ford (MI)	Myers	Yatron
Ford (TN)	Napier	Young (AK)
Frank	Nelligan	Zablocki
Frost	Nichols	Zeferetti
Garcia	Nowak	

NOT VOTING—15

Bafalis	Goldwater	Neal
Brown (OH)	Heftel	Rosenthal
Burton, John	Holt	Stanton
Chappell	Moffett	Whitten
Ginn	Mollohan	Young (FL)

□ 1045

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Moffett against.

Mr. Stanton of Ohio for, with Mrs. Holt against.

Mr. Goldwater for, with Mr. Rosenthal against.

Ms. MIKULSKI, Messrs. RICHMOND, MATSUI, BEILENSON, MINETA, FLIPPO, TAUKE, MARKEY, SHAMANSKY, YOUNG of Alaska, Mrs. BYRON, Mrs. BOGGS, Mr. DELLUMS, and Mr. FISH changed their votes from "yea" to "nay."

Mr. LONG of Maryland changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1100

CORRECTING TECHNICAL ERRORS IN ENROLLMENT OF H.R. 6955, OMNIBUS BUDGET RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of the concurrent resolution (H. Con Res. 396) to correct technical errors in the enrollment of the bill H.R. 6955.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 396

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress), the Clerk of the House of Representatives shall make the following corrections:

(1) In section 301(a)(1), strike out "during" and insert "taking effect in each of".

(2) In section 301(a)(3), after "Management" insert "on the basis of the calendar year ending in such year".

(3) In section 301(a)(3), strike out "paragraph (1) for" and insert "paragraph (1) taking effect in".

(4) In section 302(b)(1), strike out "and inserting a semicolon in lieu thereof".

(5) In the second sentence of section 303(d)(1), strike out "such date" and insert "September 30, 1982".

(6) In section 306(a), strike out "8331 (8)(B)" and insert "8331(8)(B)".

(7) In section 8334(j)(2), of title 5, United States Code, (as contained in section 306(d) of the bill) strike out "two year period" and insert "two-year period".

Mr. JONES of Oklahoma (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3239. An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2586) entitled "An act to authorize certain construction at military installations for fiscal year 1983, and for other purposes," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TOWER, Mr. THURMOND, Mr. WARNER, Mr. HUMPHREY, Mr. DENTON, Mr. BRADY, Mr. STENNIS, Mr. HART, Mr. JACKSON, Mr. CANNON, and Mr. EXON to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 923) entitled "An act to amend chapter 207 of title 18, United States Code, relating to pretrial services," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. MATHIAS, Mr. LAXALT, Mr. BIDEN, and Mr. LEAHY to be the conferees on the part of the Senate.

REMOVAL OF NAME OF MEMBER AS SPONSOR OF H.R. 3496

Mr. GARCIA. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of the bill, H.R. 3496.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GOOD NEWS AND BAD NEWS ON HOUSING STARTS

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, today I have some good news and some bad news. The good news is that housing starts in July were up 33.7 percent. That is good news for people who need housing. It is good news for people who build housing. It is good news for people who supply housing materials.

The bad news is that the bulk of the increase came from federally assisted housing, and that is a program that this administration wants to dismantle. That is bad news for people who need housing. That is bad news for people who build housing. That is bad news for people who supply materials for housing in this country.

I only wish that this administration would come to its senses and continue a decent housing policy that has been built over the decades by both Democrats and Republicans.

PASSAGE OF TAX BILL MAY PREVENT SOCIAL SECURITY CUTS

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, today we vote on the largest defense bill in history, over $178 billion in taxpayer moneys. While this Congress has made significant cuts in other programs and should continue to do so, it seems that we must approve the pending tax bill in order to further reduce the deficit and pay for this massive defense increase.

As one who voted for last year's tax bill, I cannot for the life of me see how this bill violates the basic individual rate reductions we passed last year.

While I have mixed feelings about some of the provisions, I fear that without its passage, the pressure for further cuts in a variety of entitlement programs, particularly social security and veterans' pensions, will be so great that these programs will definitely be the subject for major cuts in the future.

The choices before the Members are not all that enticing, but there really appears to be no choice.

Churchill once said, "It is not enough that we do our best, sometimes we have to do what is required."

I hope my colleagues will follow Mr. Churchill's advice and support the President.

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to announce to my colleagues in the House that yesterday the other body adopted by a resounding vote of 80 to 19 the Immigration Reform and Control Act of 1982.

This is the first major reform in the Nation's immigration and nationality laws in 30 years. This great passage is a tribute to my colleague in the other body, the junior Senator from Wyoming. He showed remarkable acumen and legislative ability in floor managing that bill. I am very proud to be the coauthor of the Immigration Reform and Control Act with the junior Senator from Wyoming.

That great vote yesterday is also a resounding tribute to the chairman of our full Committee on the Judiciary in the House, the gentleman from New Jersey, Mr. PETER RODINO, who has waged for many long and lonely years a battle to reform the Nation's immigration laws. Particularly he has pushed for employers' sanctions which is the centerpiece of our legislation and the one element that will gain control of our borders.

The gentleman from New Jersey (Mr. RODINO) has scheduled markups in our full committee on the Immigration Reform and Control Act for September 14.

I hope and I would ask all of the Members in the House who have any questions about the bill to contact me. We have a bill which in the words of the junior Senator from Wyoming is sensible and fair and humane. I urge its passage.

THE CRIME CONTROL AND VICTIMS' COMPENSATION ACT

(Mr. ALBOSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALBOSTA. Mr. Speaker, today I am introducing the Crime Control and Victims' Compensation Act of 1982.

This legislation addresses several basic problems in the criminal justice system by providing a sure sentence for certain types of serious offenders; by providing that these offenders work to pay for their keep and to compensate their victims for the harm they have suffered; and by helping States to care for victims of crime not specifically covered in this bill.

We hear over and over about crimes committeed by repeat offenders who are out on parole or released after light sentences. We hear that this is due in part to a lack of prison space and in part to a lack of clear and direct guidance from those who write the laws.

We also know that the poor and the elderly, those who can least afford to be victims of crime, are its most frequent victims. The impact of crime is not just local and not just personal. Crime raises insurance rates and the prices of goods for all of us.

H.R. 6967—A BILL TO CHANGE THE INTEREST RATE POLICY OF THE FEDERAL RESERVE

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, H.R. 6967 has been introduced by the gentleman from Texas (Mr. WRIGHT). It is an attempt to do something about the policy the Federal Reserve has been on since October of 1979. I would encourage the Members to join with us in sponsoring this piece of legislation.

If the Members look back to what has happened since October of 1979, the policy of the Federal Reserve has caused President Carter a recession, caused President Reagan a recession, and it is not going to help the economy until we get away from the policy of trying to set interest rates on money supply. No one knows exactly what money is when you look at the definitions the Federal Reserve Board is using.

I would encourage the Members to cosign this bill to attempt to get the Federal Reserve policy under control and to change from the policy that the Fed adopted in October 1979. To go along with the Fed is to be for high interest rates, high unemployment, and a continuing recession. I am asking other Members to sponsor H.R. 6967 which will stop the Fed from this devastating policy.

H.R. 6976, THE MISSING CHILDREN'S ACT

(Mr. NELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NELSON. Mr. Speaker, today the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary is marking up the Missing Children's Act, H.R. 6976. This bill would require the Attorney General to set up a nationwide network to acquire and exchange information to assist Federal, State, and local officials in the identification of deceased individ-

uals and the location of missing children.

We have had a couple of dramatic cases in the State of Florida where if this kind of network had been set up nationwide, we would have been able to help parents find their missing children.

I urge the Members to support this legislation.

LAWSUIT FILED CHALLENGING CONSTITUTIONALITY OF TAX BILL CONFERENCE REPORT

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, this morning, I and 17 of my colleagues, an equal number from each side of the aisle, filed suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment that the tax bill conference report we are to vote on tomorrow is unconstitutional. We strongly believe that the extraordinary and unusual procedure this bill has followed clearly violates article I, section 7, clause 1 of the Constitution which provides, "all bills for raising revenue shall originate in the House * * *"

The bill, H.R. 4961, when it left the House did not raise revenue. As a matter of fact, all six of its minor provisions lost revenue. The other body in violation of the Constitution struck all of these provisions and replaced them with a massive revenue-raising bill. This has never happened before and there is no Federal case where this issue has ever been tested.

We feel that this provision of the basic law of the land should not be so casually cast aside, as with it goes the people's protection that the House of Congress closest to them originate taxes placed upon them.

LEGISLATION IMPOSING MANDATORY MINIMUM SENTENCES IN CRIMES AGAINST SENIOR CITIZENS

(Mrs. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ASHBROOK. Mr. Speaker, today I am introducing legislation that would impose mandatory minimum sentences for committing violent Federal felonies against an individual of age 65 or older. The minimum term or imprisonment is one-half of the maximum for the offense, unless the defendant has been previously convicted of a violent crime against the elderly. In this case the defendant would be sentenced to a minimum of three-fourths of the maximum penalty.

This bill contains several provisions that would insure the sentences are mandatory and would be served. It prohibits suspended sentences, probationary sentences, concurrent sentences, parole, and plea bargaining agreements which would result in the defendant serving less than the minimum. If the court would impose a less severe sentence than the mandatory sentence, the Government is authorized to appeal the sentence.

This bill will act as deterrent to violent crimes committed against senior citizens and permit the courts to deal more severely with criminals that prey on our senior citizens.

LEGISLATION AUTHORIZING FEDERAL PARTICIPATION IN CONNECTICUT RIVER ATLANTIC SALMON COMMISSION

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, I am pleased to introduce today legislation on behalf of myself and members of the congressional delegations from Connecticut, New Hampshire, Vermont, and Massachusetts to authorize Federal participation in a Connecticut River Atlantic Salmon Commission.

At one time the Atlantic salmon, a prized food and game fish, could be found in the Connecticut River in abundant numbers. Over the years, pollution, lack of proper management and cooperation among the States, and the construction of numerous dams in the river for power generation virtually wiped out the salmon.

Since 1967 the four States of Connecticut, New Hampshire, Vermont, and Massachusetts have been working cooperatively with each other and with officials of the Fish and Wildlife Service and the National Marine Fisheries Service to develop and administer a program to restore the Atlantic salmon to the Connecticut River. I am very proud to say that I have had an active role in this effort. With the use of Federal funds, a hatchery in Bethel, Vt., capable of producing 400,000 smolts annually, has already been constructed and work is due to begin shortly on a needed holding facility further down the river. Additionally, efforts by the States and the Federal Government to work with local industries have resulted in the construction of fish ladders at power generating facilities on the river necessary to allow returning salmon free access to their historic spawning and nursery habitat.

In 1974 only one adult salmon returned to the Connecticut River but it was the first one in over 100 years. In 1981, however, 530 fish returned. While this is very encouraging, continued success in this effort will depend on continuing cooperation among the States involved and the Federal Government. For this reason, a joint interstate program of Atlantic salmon management and research has been proposed, Indeed, each of the four States has already signed into law legislation which allows them to engage in a compact establishing a Connecticut River Salmon Commission to conduct appropriate stocking, management, protection, and research activities. Similar legislation is now needed by the Congress to make the Federal agencies a part of the Commission and to put the agreement into effect. The legislation I am introducing today will accomplish this purpose. An indentical bill is also being introduced in the Senate. It is my fondest hope that prompt action may be taken on this noncontroversial but significant legislation.

FINANCIAL IRREGULARITIES IN ELECTIONS IN DISTRICT OF COLUMBIA

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKINSON. Mr. Speaker, there was a very interesting article in this morning's Washington Post dealing with the local elections in the District of Columbia, insinuating or inferring there has been hanky panky going on in this election, concerning financing and relating in particular to the AFGE—the American Federation of Government Employees.

Although they are not under the Federal Elections Commission, the Hatch Act restrictions apply fully to District of Columbia employees and to all elections, not simply those involving Federal offices. In particular, they prohibit activity in partisan elections, which means elections in which any candidates are affiliated with major political parties. Under law, the Office of Special Counsel of the Federal Merit Systems Protection Board has the jurisdiction to investigate any violation of the Hatch Act.

If in fact these allegations are true, I think the matter should be looked into.

□ 1115

TAX PROPOSAL IS WRONG MEDICINE AT WRONG TIME

(Mr. PARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PARRIS. Mr. Speaker, I have great respect for the President of the United States. I believe he is a man of destiny, chosen to lead our Nation at this particular time in history because of his determination to make America great again, his courage, and his unique powers of persuasion.

In the past few days, like many of my colleagues, I have been touched by the President's arguments on behalf of the tax package that the House of Representatives will soon consider. I believe the President is sincerely trying to do what is right for America.

But when there is a difference of viewpoint about which path is the right path, I also believe that every man and woman in this body has responsibility to their constituents and to themselves to follow their own conscience and exercise their individual judgment.

I have spent a number of hours, reviewing all of the data available to me concerning the tax proposal that is coming before us. As late as last night, I talked to representatives of the White House and to various economists about whether on not this particular tax package at this particular time will hurt or help the economy.

I have come to the conclusion today that this tax proposal is the wrong medicine at the wrong time. Enactment of the tax increase we are being asked to consider may very well choke off the economic recovery we are just beginning to realize.

For that reason, it is my intention to vote against the tax package when it comes to the floor of the House of Representatives for a vote tomorrow.

IS THIS REVENUE PACKAGE RIGHT FOR THE COUNTRY?

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I rise this morning to announce my support for the revenue package which was reported out of conference this past weekend.

I have decided to support this bill, not because it is perfect, clearly it is not; and not because it will be politically popular, for it is never popular to deal with taxes this close to an election. And certainly not just because the President has asked for its passage, for Congress has a clear obligation to work its own will on such matters.

Instead, I will support this bill because I believe it represents the type of bipartisan compromise which is necessary to reduce Federal deficits, lower interest rates, and thereby assure that the private sector has access to the capital needed for job creation and economic growth.

Mr. Speaker, we all know that this is a very tough vote. Some of my colleagues would like to make it a test of ideological purity. Others say it should be a test of loyalty to the President. The fact is, it should be neither.

There is only one question that should apply to this vote: "Is it right for the country?"

On balance, and despite its flaws, I believe that it is. For this reason I intend to support it.

CONSTITUTION REQUIRES ALL REVENUE MEASURES TO ORIGINATE IN THE HOUSE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PAUL. Mr. Speaker, 3 weeks ago I held a press conference pointing out the unconstitutionality of the Senate-passed tax bill. Last week I wrote to the President and the leadership of both the House and the Senate again expressing my belief that the bill is unconstitutional and enclosing a copy of a complaint that I intend to file in Federal district court if the conference report passes the House and the Senate—the most appropriate time to test this issue in court. Today I am circulating copies of my letter to the President to all Members of the House.

While I am opposed to any tax increases, the specific taxes are not the primary issue. The American people are sick and tired of the way the system works here in Washington. That is the major issue. Congress votes itself tax breaks, backdoor pay raises, and violates the Constitution routinely. This utter disregard for equality before the law and the Constitution is what disturbs the American people most. As a Member of Congress sworn to uphold the Constitution, I am convinced that this is a substantive, not a procedural matter. The Constitution is very clear; all revenue measures shall originate in the House of Representatives. Nothing less is acceptable. It is not House rules that have been violated, but the supreme law of the land, and the people are disgusted. They have lost confidence in the system, and it is that confidence that must be restored.

WASHINGTON D.C., *August 12, 1982.*

Hon. RONALD WILSON REAGAN,
The President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: I am distressed by the manner in which the Tax Equity and Fiscal Responsibility Act of 1982 (H.R. 4961) has been acted upon in the Congress, for the Constitution clearly provides that "All Bills for raising Revenue shall originate in the House of Representatives. . . ."

As you know, all the provisions of this bill, save the number and the standard enacting clause, originated in the Senate, contravening Article I, Section 7, Clause 1 of the Constitution.

At the appropriate time I intend to file the attached complaint in District Court here in the District of Columbia, and to pursue this action with whatever further litigation seems both appropriate and necessary. I believe that there are Constitutional principles involved in this matter that must not be ignored, no matter how noble the purpose.

I take this action reluctantly and with deep regret. The overriding issue is one of principle, a principle embodied in a Constitution which I have sworn to uphold. I can see no other course should this bill be favorably acted upon by the House of Representatives and the Senate.

I urge you to reconsider your support for this bill in the light of its obvious, Constitutional defects. Thank you for your consideration of this matter.

Sincerely,

RON PAUL,
Member of Congress.

TAX EQUITY AND REALINEMENT

(Mr. DENARDIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENARDIS. Mr. Speaker, I applaud President Reagan on his masterful address to the Nation this week. It was the most comprehensive and cogent discussion, not only of the tax bill, but also of the program and outlook of the economic recovery program which he has shaped and guided.

Mr. Speaker, I believe that the Tax Equity and Fiscal Responsibility Act of 1982 is essential to trim deficits, bring about economic recovery and preserve next year's personal income tax cuts.

The bottom line according to the President is this:

Would you rather reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or would you rather accept larger budget deficits, higher interest rates and higher unemployment?

Critics are concerned that the tax enhancement takes place in the context of a deep recession. However, by phasing in the tax measures gradually, the bill will not exacerbate the slump, and may help persuade the Fed to provide more leeway for growth because the bill will ultimately make a signficant dent in the expected deficit. There is evidence already in the reduction of the prime rate interest rate again this week and yesterday's record breaking day on Wall Street that signals a positive response to our anticipated responsible action this week.

For those purists who are complaining the bill is bad because it raises taxes—any taxes, they cannot be appeased. But for others who do not take this simplistic view, the rise in tax burden is closer to a tax realinement that equalizes effective tax rates on different sources of income, and thus removes incentives to invest in less productive areas. Such a realinement will not have an adverse effect on investment generally—but rather, introduces more balanced incentives.

The most noteworthy feature of the bill, however, is that it takes a substantial step toward greater fairness by reforming the Tax Code to induce higher compliance. The bill has, nu-

merous provisions for compliance, amounting to about one-fourth of the total revenue gains.

In addition, there was a number of steps that will strengthen the fairness of the Tax Code. Among the useful provisions are the strengthening of the minimum tax for individuals; a 15-percent across-the-board reduction in a number of corporate tax preferences, and removal of some of the abuses in the safe-harbor leasing section.

If the bill passes, the country will have a sounder tax system, and President Reagan will have asserted unquestioned leadership during the "Decade of Decision" by shaping economic policies that will lead to controlled spending and tax equity.

THE FUN OF SPENDING

(Mr. JOHNSTON asked and was given permission to revise and extend his remarks and to include extraneous material.)

Mr. JOHNSTON. Mr. Speaker, I have been up here for about 18 months and I have not had much fun because I have not voted for all the spending bills. On the contrary, I have tried to get this Government on sort of a weight watcher's program but the spending bills keep coming in.

Many of my colleagues on both sides of the aisle continue to promote the idea of big fat government, feeding on filet mignon and caviar and living well.

Now they want those of us who have tried to control the size of this Government to come in and vote for a tax bill so we can continue to live high. I do not think it is fair.

I think the fellows that have had the fun spending ought to be the ones that vote for the tax increase, and that should be on both sides of the aisle.

IT IS THE PRESIDENT'S TAX BILL

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, the gentleman who previously spoke should have addressed himself to the Republican President of the United States, Ronald Reagan. It is his tax bill.

THE SIMPLISTIC VIEW

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, one of the previous speakers talked about the simplistic view possessed by those of us who do not support this bill. I suppose some might consider it to be simplistic to insist upon following the Constitution.

I really was not so worried about our attitude toward the Constitution until I saw them bringing out the railroad tracks and placing them across the Constitution before the train came down the line.

I think we ought to be truly concerned about this. Our Founding Fathers thought so much of the fact that the power of taxation is an extreme power that they gave that right primarily to the House of Representatives. They decided that it was not the President of the United States or the U.S. Senate, but it was the people's House, those of us who are elected every 2 years and must go back and talk to the people and presumably are closest to the people, that have the primary responsibility for raising taxes. If we give that away, we might as well give away the House of Representatives, because we are then not upholding our oath to the Constitution.

BELLYACHING OVER TAX BILL

(Without objection, Mr. GIBBONS was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, I have been here about 20 years and that is long enough to hear about every bellyaching story you can hear by Members who do not want to vote for a tough bill, and I have heard them all.

Let me say, though, you can vote against this tax bill and spending cut bill, because there is 17 billion dollars' worth of spending cuts. You can vote against it if you think this country can endure 115 billion dollars' worth of additional deficits in the next 3 years. That is the bottom line.

You can have all kinds of excuses you want to, but can you add 115 billion dollars' worth of deficits to this burden that the country is already carrying?

AN EXTREMELY COMPLEX TAX BILL

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, I think the point about the tax bill that has to be made is that it is not a matter of dealing with simplistics. This is an extremely complex bill that we are dealing with, a bill that has many, many sections, most of which none of the people in this House of Representatives know or understand. The bill is not really in print yet. We are being treated to a series of explanations as to what the bill is all about, but nobody really knows the extent of all the complexities.

We are being asked to vote on something of which we have no knowledge, because it was never debated in this House of Representatives. It was shoved through here in a manner that I think exceeds the constitutional mandate.

I think we also ought to speak to the deficit argument, because there is no way that you can reduce deficits in this country if you do not start economic growth, and exactly what this tax bill is going to do is stop economic growth. It is going to choke it off. At a time when economic growth is just beginning to rear its head, we are going to choke it off with a tax bill.

I think that is wrong and I think the people that say you can bring about reduced deficits by raising taxes just have not studied economic history.

A TAX PROGRAM THAT DID NOT WORK

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, it has been very interesting to listen to the many 1-minute speeches on the tax bill; but the real focus for that goes back to the budget, in which the Republicans, with some conservative Democrats, carried and proclaimed that they wanted to increase taxes this year by $21 billion as designated in their budget.

Now, frankly, I did not think that that was adequate. Many of us favored tax increases that would have been higher because we feel that the current program of hemorrhaging tax decreases, tremendous increases in wartime-like defense spending and high interest rates was not working.

Well, the Republicans won. They got the budget that they wanted; but unfortunately, apparently the Republicans do not have the ability or the willingness to actually invoke and to enforce that tax increase provision of the Republican budget.

Clearly no one wants to increase taxes and indeed the tax measure that will be before us tomorrow raises taxes by $99 billion.

The Economic Recovery Tax Act of 1981 went way overboard in granting tax reductions which in turn required a meat-ax approach to some Federal programs. Ironically the greatest increase in spending for defense is still not addressed today and the President expressed his view not to be limited by the big increases in spending but reserves the right to go beyond.

It would seem that the coalition of Republicans and Democrats who created the economic policy disaster which has led to recession, continued high interest rate policy and wartime-like defense spending and $150 billion deficits—the highest in history—would be eager to temper some of their mis-

takes especially in light of the failure of these economic policies. Ironically this tax measure bends over backward to protect some of the 1981 ERTA programs, and imports new taxes, some of which are justified, but importantly closes some of the outrageous tax errors of the 1981 Tax Act. Therefore, Mr. Speaker, I find the attitude expressed on this floor astonishing considering the problems and an unwillingness to deny the reality of failure and worst of all an unwillingness to do anything to correct the error of Reaganomics.

READ THE FINE PRINT IN THE TAX BILL

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker, I want to agree with the gentleman from Pennsylvania (Mr. WALKER) who just spoke. You know, we got this tax bill coming at us and we have not seen the fine print.

We hear all about the big ticket items that are in the tax bill, but you and I both know that when you look at a tax bill, it is not the big items you want to look at. You want to look at the fine print that is down at the bottom, and so here we are facing this big tax bill coming at us and we do not have it. Where is it?

I ask the people who were managing the tax bill, give us the tax bill so we can read the fine print, because that is where you are going to get tripped up in tax legislation.

NO TRIP TO THE WHITE HOUSE OR CAMP DAVID

(Without objection, Mr. DUNN was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNN. Mr. Speaker, I take the well of the floor of the House today to state publicly that I have not been to the White House. I have not been to Camp David. Instead I have spent the last few days studying the proposals that go into making up this $99 billion tax bill, who it touches and who it does not touch, how it benefits the industries and the people that they employ, the people I represent in Michigan, and have decided to throw my support to the tax bill and urge the rest of my Michigan colleagues, Democrats and Republicans alike, to do the same. I have spent the last few days talking with Michigan government people of both parties, with representatives of both labor and management, and the average person on the street and have decided that the benefits to Michigan are stronger than the disadvantages.

DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

Mr. BLANCHARD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. BLANCHARD).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BETHUNE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 8, answered "present" 1, not voting 68, as follows:

[Roll No. 291]

YEAS—357

Addabbo	Clay	Fazio
Akaka	Clinger	Fenwick
Albosta	Coats	Ferraro
Alexander	Coelho	Findley
Anderson	Coleman	Fish
Andrews	Collins (IL)	Fithian
Annunzio	Collins (TX)	Flippo
Anthony	Conable	Florio
Ashbrook	Conyers	Foglietta
Aspin	Coughlin	Foley
Atkinson	Courter	Ford (MI)
AuCoin	Coyne, James	Ford (TN)
Badham	Coyne, William	Fountain
Bailey (MO)	Crane, Daniel	Fowler
Bailey (PA)	Crane, Philip	Frank
Barnard	D'Amours	Frost
Barnes	Daniel, Dan	Fuqua
Beard	Daniel, R. W.	Garcia
Bedell	Dannemeyer	Gaydos
Beilenson	Daschle	Gejdenson
Benedict	Davis	Gephardt
Benjamin	de la Garza	Gibbons
Bennett	Deckard	Gilman
Bereuter	DeNardis	Gingrich
Bethune	Derrick	Glickman
Bevill	Derwinski	Gonzalez
Biaggi	Dickinson	Goodling
Bingham	Dicks	Gore
Blanchard	Dingell	Gradison
Bliley	Dixon	Gramm
Boggs	Dorgan	Gray
Bolling	Dougherty	Green
Boner	Dowdy	Grisham
Bonior	Downey	Guarini
Bonker	Duncan	Gunderson
Bouquard	Dunn	Hall (OH)
Bowen	Dwyer	Hall, Ralph
Breaux	Dymally	Hall, Sam
Brinkley	Dyson	Hamilton
Brodhead	Eckart	Hammerschmidt
Brooks	Edgar	Hance
Broomfield	Edwards (CA)	Hansen (UT)
Brown (CA)	Emerson	Harkin
Brown (CO)	Emery	Hatcher
Broyhill	English	Hawkins
Burton, John	Erdahl	Heckler
Burton, Phillip	Erlenborn	Hefner
Butler	Ertel	Hendon
Byron	Evans (GA)	Hertel
Campbell	Evans (IA)	Hightower
Carman	Evans (IN)	Hillis
Chappie	Fary	Hollenbeck
Clausen	Fascell	Hopkins
Horton	Murtha	Shuster
Howard	Myers	Simon
Hubbard	Napier	Skeen
Huckaby	Natcher	Skelton
Hughes	Neal	Smith (AL)
Hunter	Nelligan	Smith (IA)
Hutto	Nelson	Smith (NE)
Jacobs	Nichols	Smith (NJ)
Jeffords	Nowak	Smith (OR)
Jeffries	O'Brien	Smith (PA)
Jenkins	Oakar	Snowe
Jones (NC)	Obey	Snyder
Jones (OK)	Oxley	Solarz
Jones (TN)	Panetta	Solomon
Kastenmeier	Parris	Spence
Kazen	Pashayan	St Germain
Kennelly	Patman	Stangeland
Kildee	Paul	Stanton
Kogovsek	Pease	Stark
Lagomarsino	Pepper	Staton
Lantos	Perkins	Stenholm
Latta	Petri	Stokes
Leach	Peyser	Stratton
Leath	Pickle	Studds
Lee	Porter	Stump
Leland	Price	Swift
Levitas	Pritchard	Synar
Lewis	Pursell	Tauke
Livingston	Quillen	Tauzin
Long (LA)	Rahall	Taylor
Long (MD)	Railsback	Thomas
Lowry (WA)	Rangel	Traxler
Lujan	Ratchford	Trible
Luken	Regula	Udall
Lundine	Reuss	Vento
Lungren	Rhodes	Volkmer
Markey	Richmond	Walgren
Marriott	Rinaldo	Walker
Martin (IL)	Ritter	Washington
Martinez	Roberts (SD)	Watkins
Matsui	Rodino	Waxman
Mattox	Roe	Weaver
Mavroules	Roemer	Weber (OH)
Mazzoli	Rogers	Weiss
McCurdy	Rostenkowski	White
McDade	Roth	Whitehurst
McDonald	Rousselot	Whitley
McEwen	Roybal	Whittaker
McGrath	Rudd	Williams (MT)
McHugh	Russo	Williams (OH)
McKinney	Sabo	Wilson
Mica	Santini	Winn
Mikulski	Sawyer	Wirth
Miller (CA)	Scheuer	Wolf
Miller (OH)	Schneider	Wolpe
Mineta	Schroeder	Wortley
Minish	Schulze	Wright
Mitchell (NY)	Schumer	Wyden
Moakley	Seiberling	Wylie
Molinari	Sensenbrenner	Yates
Mollohan	Shamansky	Yatron
Montgomery	Shannon	Young (AK)
Moore	Sharp	Young (FL)
Morrison	Shaw	Young (MO)
Mottl	Shelby	Zablocki
Murphy	Shumway	Zeferetti

NAYS—8

Donnelly	Johnston	Mitchell (MD)
Dreier	Madigan	Patterson
Frenzel	McClory	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—68

Applegate	Edwards (OK)	Kindness
Archer	Evans (DE)	Kramer
Bafalis	Fiedler	LaFalce
Boland	Fields	LeBoutillier
Brown (OH)	Forsythe	Lehman
Burgener	Ginn	Lent
Carney	Goldwater	Loeffler
Chappell	Gregg	Lott
Cheney	Hagedorn	Lowery (CA)
Chisholm	Hansen (ID)	Marks
Conte	Hartnett	Marlenee
Corcoran	Heftel	Martin (NC)
Craig	Hiler	Martin (NY)
Crockett	Holland	McCloskey
Daub	Holt	McCollum
Dellums	Hoyer	Michel
Dornan	Hyde	Moffett
Early	Ireland	Moorhead
Edwards (AL)	Kemp	Oberstar

Roberts (KS)	Roukema	Wampler
Robinson	Savage	Weber (MN)
Rose	Siljander	Whitten
Rosenthal	Vander Jagt	

□ 1130

So the motion was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair designates the gentleman from Georgia (Mr. FOWLER) as Chairman of the Committee of the Whole and requests the gentleman from Pennsylvania (Mr. SMITH) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5540, with Mr. SMITH of Pennsylvania (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Michigan (Mr. BLANCHARD) will be recognized for 45 minutes, and the gentleman from Connecticut (Mr. MCKINNEY) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Michigan (Mr. BLANCHARD).

□ 1145

Mr. BLANCHARD. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, today the House has the opportunity to help strike a strong blow for strengthening our national security and, at the same time, the economic health of America.

This opportunity is contained in the bill now before you, H.R. 5540, the Defense Industrial Base Revitalization Act. It is a series of major amendments to the Defense Production Act of 1950.

Our 22-member Subcommittee on Economic Stabilization approved this bill by an overwhelming and fully bipartisan vote of 19 to 3 on March 24. The full Banking Committee reported the bill on May 6. It also was approved by the House Education and Labor Committee in virtually the same form with only a few issues to be resolved.

The problems of our industrial base have been clearly identified over the last 2 years by voluminous testimony before the House Committees on Banking, Armed Services, Energy and Commerce, and Small Business, and the Joint Economic Committee.

Thousands of words of expert testimony add up to one conclusion: American industry is in serious trouble with devastating impacts on employment and our ability to compete with foreign-made products.

H.R. 5540 is designed to deal with major aspects of those problems which include:

Aging factories with equipment typically 20 years old at the subcontractor and supplier level;

The lack of skilled workers to carry out new and even traditional technologies;

The great dependence on foreign sources for critical and strategic materials; and

The outdated equipment and instruments at our colleges and universities used to train professional, scientific, and technical personnel.

H.R. 5540 is a mighty pyramid in a sense. That is the way it was designed to hold together and help solve the problems I just described. Let me explain.

It has three major facets. The first provides for the modernization of plant and equipment in high-priority small and medium-sized businesses. There are some 50,000 of these subcontractors and suppliers which are considered the heart and muscle of our defense industrial base. The priorities would be set by the executive branch and updated every 6 months.

In any case, these industries would almost certainly include the machine shops, foundries, casting plants, machine tool companies, small high-technology companies, and a myriad of other industrial activities which provide the so-called nuts and bolts of our aircraft, ships, tanks, missiles, and other defense systems.

But, they also manufacture the primary components of the major products found in our civilian economy. In most cases, defense business utilizes less than 10 percent of a company's total productive capacity.

What I am saying is simply this. Our defense industrial base and our civilian industrial base are virtually one and the same. These are also the same industries which provide most of the jobs in the United States. Yes, I said jobs, of which there are all too few today.

That brings us to the second side of this pyramid. H.R. 5540 provides a major job-training program on a cost-sharing basis with the States to train, retrain, and upgrade skills that are in short supply in the high-priority industries of our defense industrial base.

Yes, these are the very job skills you see help wanted ads for in our daily newspapers. Unfortunately, there are not enough people trained in these skills to fill present or anticipated job vacancies.

Over the next 5 years, these job skill needs are expected to run in the hundreds of thousands—machinists, computer technicians, tool and die makers, electricians, mechanics—the list goes on and on.

These job skills all have civilian applications as well and are needed throughout our economy.

These are jobs where there are existing and anticipated vacancies. Can you believe it? Jobs going begging at a time when we have in many areas the highest unemployment rates since the Great Depression.

What we say in this bill is: "Let's start filling these high-priority jobs as quickly as we can."

The subcommittee also recognizes the serious shortage of professional, scientific, and technical personnel needed in the high-priority sectors of our defense industrial base. We propose a grant program to assist colleges, universities, and other institutions of higher education in obtaining and installing modern equipment to be used in training personnel of this type.

Today, this equipment is typically 15 years behind the times. How can we ever expect to maintain our position of world technological leadership unless we do something about this?

The third side of our pyramid deals with the need to strengthen America's domestic capability and capacity to produce critical and strategic materials.

Our dependence on overseas sources is absolute in some cases and extremely high in others. Minerals such as cobalt, chromium, titanium, manganese, bauxite, and others are absolutely vital to national defense and our civilian industrial sector.

The goal here is not total self-sufficiency but certainly a greater measure of independence from possible shortages, cutoffs, cartel-like arrangements, and unreasonable price demands.

Wisely, I think, from an environmental and energy-saving viewpoint, our committee considered the contribution that conservation, substitution, and recycling can make to this effort and we want some serious attention given to these activities.

We simply must face up to this entire problem. Our industrial base is deteriorating and, in many cases, obsolete. If we are going to carry out a record defense buildup—and do it economically and efficiently—we must help to modernize industry.

The tax bill helped most of the major corporations, including prime contractors. They had the ability to take advantage of the tax credits, accelerated depreciation, and leasing provisions.

Unfortunately, small- and medium-sized businesses were not helped sufficiently by the tax bill. They lack the necessary cash flow and expertise. They need the types of incentives contained in title III of the DPA. Those include purchase agreements, price guarantees, loan guarantees, and direct loans, if necessary.

In each case, we are either repaid or supplied with needed materials so this is no giveaway. And special preference is given to those companies with plans to improve productivity, quality and

lessen U.S. dependence on foreign imports.

At the same time, we cannot have a major defense buildup without an adequate supply of trained labor to do the job. Our pyramid also needs the necessary raw materials. Without them, our technology is of little use.

I want you to know how serious this situation is. Earlier, I spoke about the "nuts and bolts" needed for our defense systems and civilian products. Well, unhappily, foreigners now literally make 8 out of every 10 nuts we use in this country and the bolts are not far behind. This really shocked me. We do not even make the nuts and bolts anymore.

Our subcontractors and suppliers are disappearing with the following four results:

Little or no real competition for defense business,

Greater and dangerous dependence on foreign imports,

Higher costs for defense, and

Consequently, more Government borrowing in the credit market, driving up interest rates.

The enactment of H.R. 5540 will help to prevent the four negative results I have cited.

Mr. Chairman, H.R. 5540 also extends the Defense Production Act for 5 years as urged by the administration and updates several provisions of the Defense Production Act to conform it with an admittedly ambitious but absolutely vital program.

For every Federal dollar actually spent on those activities in the past, as much as $9 of new economic activity has been created, generating thousands of new jobs as well. The cost is paid back many times through new Federal, State, and local tax revenues and savings in unemployment welfare benefits. In short, H.R. 5540 is an investment in the future of America.

During the 26 days of hearings we conducted and from the testimony of more than 125 witnesses, the facts became self evident in a single conclusion:

America cannot be a first-rate world power with a second-rate industrial base.

Mr. ST GERMAIN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the committee chairman.

Mr. ST GERMAIN. Mr. Chairman, today the House is scheduled to consider, among other legislative matters, passage of H.R. 5540, a bill offering a series of amendments to the Defense Production Act of 1950 specifically aimed at upgrading the national defense industrial base.

Throughout earlier Banking Committee consideration of these amendments, the question uppermost in our minds has been: If the United States has to expand its productive capacities rapidly in order to accelerate national defense buildup, can our industrial system deliver for us—in quantity, in quality, and most important, in time.

Considerable time and effort was devoted by your committee to seeking answers to these questions. Our findings are contained in the report accompanying this measure, but can be summed up in a very few words:

Our safety net of defense-related production is old, somewhat threadbare, and definitely in need of rehabilitation.

We face very serious prospective shortages of skilled manpower in certain key sectors of our economy, and unless we begin now to refurbish this segment of our population, we could end up in the very embarrassing position of having mountains of new equipment, but lacking properly trained and skilled manpower for its operation.

Instead of stockpiling certain very critical minerals and materials, we have been selling them off to the point that any disruption of their supply (much of which comes from not necessarily friendly regions of the world) could bring America's industrial effort dangerously close to a shutdown situation.

Mr. Chairman, I would call attention to the fact that your committee was required to file a supplemental report on this legislation because important administration comment on the legislation's essential purposes was not revealed until after the committee's formal report had been made and was adopted. By memorandum dated March 6, Deputy Secretary of DOD Frank Carlucci directed the DOD, the Chief of the Joint Chiefs of Staff, the Service Departments of the Army, Navy, and Air Force and other DOD personnel to work with the Congress on the matter of providing a realistic statutory basis for the revitalization of the Nation's defense industrial base. That is what H.R. 5540 is intended to do and that is what it can do, if enacted.

By the same token, Mr. Chairman, I must also note for you and my fellow Members, that Mr. Carlucci repudiates his March 6 stance, by unsolicited letter to me, under date of July 20, in which he felt compelled to restate the administration's opposition to this legislation, due to projected budgetary effects.

It is in this special regard that I want to commend my colleague from Michigan, JIM BLANCHARD, and the ranking minority member of his Subcommittee on Economic Stabilization, STU MCKINNEY, for acting in a positive and courageous manner in preparing this legislation for House consideration today. The legislation proposes a $5 billion investment program in America's industrial future. Here, the key word is investment, for the historical record of the use of the Defense Production Act for such purposes is replete with example; but, and I stress this point very clearly, the return on investment has been one of its most exciting rewards. In the context of past experience, the multiplier effect has been extraordinary, and in this instance we are debating today, the anticipated return on investment conceivably can be 9-1. That means that for every $1 invested, America stands to receive a return of $9.

Beyond this most immediate benefit, the amounts to be allocated to manpower training ($250 million per year) and to our universities and colleges for modernization and upgrading of training equipment and material ($100 million), can hardly be dismissed as nonbeneficial in effect. The truth of the matter is—we are, quite literally, "eating up our seed corn" through the recruitment of faculty and staff from our universities by industry. This has left many of our higher learning institutions in a precarious state not of their making. By providing for access to more modern equipment and for better campus-based working conditions, we hope to persuade many of those talented people to remain in their university positions—thus to halt their unfortunate migration from campus to corporate research and development.

The DPA, as we refer to it, has been used from time to time to attack all manner of national problems. More recently, it was used to get the Alaska pipeline underway—cutting at least 1 year from the pipeline's schedule at a saving of hundreds of millions of dollars to the American taxpayer. These new amendments would empower the President to get the modernization of our defense industrial base underway, mainly through the offering of financial incentives to industry, but with the target of the more than 50,000 defense-related contractors and suppliers—by and large, small- and medium-sized businesses, uppermost in mind.

Mr. Chairman, the Reagan recession, which is now in its 13th month, gives every sign of being one of the most serious and most dangerous in postwar history.

Unemployment has exceeded the 40-year record of 9 percent and there are few who doubt that it will not go even higher.

In excess of 30 percent of our industrial capacity stands idle. You can almost hear the grass grow in unused factory parking lots.

Our auto—our housing—our savings and loan industries are on their knees, if not on their backs. The empty pockets of millions of our people, turned inside out, have become a new national flag and sign of distress.

Farm income is the lowest it has been since the Great Depression of the 1930's, and bankruptcies continue

to set new records on month-to-month basis.

The DPA amendments offered today through H.R. 5540 cannot halt this decline completely, but if adopted, they could effectively begin its reversal; for in truth, Mr. Speaker, the United States cannot regain its status as a first-rate industrial power with a second-rate industrial base, nor can it be expected to accomplish any meaningful degree of economic recovery without the long postponed modernization of that base. For these reasons alone, the probable effect of the legislation now before the House cannot be overlooked.

The current status of America's industrial base is a matter of national debate and national doubt. Its revitalization, however, is absolutely imperative if the process of general revival for the Nation is to occur.

I urge my fellow Members to support the purposes of this legislation and send a message to those who would doubt our determination, or question our ability, to again perform as a major industrial power.

Mr. MINISH. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the distinguished gentleman from New Jersey.

Mr. MINISH. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. As a cosponsor of this legislation, I urge my colleagues to vote for passage of the act.

The bill offers a comprehensive approach to dealing with the complex and varied problems of the defense industrial base.

During more than a year of hearings and study widespread troubles within the defense industrial base were documented. Some of the problems that surfaced were the serious escalating costs for defense goods and at the same time we had shortages of skilled workers to produce the needed items. Presently, we have an insufficency of small- and medium-sized suppliers and we are too dependent on the foreign market for the needed supplies of defense goods.

H.R. 5540 will provide the financial help necessary to begin modernizing the defense industrial base. It will provide credit incentives for firms which are inclined to update and modernize their operations. It will allow States to train employees to upgrade the skills necessary for the production of strategic materials in a domestic market. It will also provide grants to our institutions of higher learning for the installation of new equipment to be used for training personnel in critical industries.

I urge my colleagues to vote favorably for the passage of H.R. 5540.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me congratulate the distinguished gentleman from Michigan (Mr. BLANCHARD) for his leadership in this area. This program is very much needed, and I support the program wholeheartedly.

Mr. Chairman, today I appear in support of H.R. 5540, a bill to revitalize our Nation's defense industrial base.

The need for this legislation is critical and immediate. Defense-related support industries are shrinking, and in some cases disappearing. We are becoming more dependent on foreign suppliers of vital materials.

Many industries suffer shortages of skilled workers, in both the trades and professions, to design, build, and operate modern equipment.

Higher education institutions lack the financial resources to purchase the modern equipment needed for quality programs in scientific and technical disciplines.

H.R. 5540 directly responds to these problems by providing financial incentives to defense-related, high-priority industries to stimulate this modernization and expansion. Other key provisions authorize a major training program to supply the work force needed by the defense industrial base and a program of grants to institutions of higher education to update equipment used in scientific and technical programs.

I would like to commend my distinguished colleague from Michigan, Congressman BLANCHARD, for assuming a leadership role in developing this legislation. I also commend Chairman ST GERMAIN, Chairman BLANCHARD and the other members of the Banking Committee for their cooperation and attentiveness to the view of the Education and Labor Committee as we jointly worked on this bill.

In considering this legislation, the Education and Labor Committee devoted a great deal of attention to the vocational training program and the higher education equipment grants.

I feel we have emerged with a bill that will stimulate new economic activity, generate new jobs, and train unemployed and young workers to fill those jobs. The cost of the bill will be paid back many times over through taxes from productive citizens and through saving in welfare and unemployment benefits.

I would like to briefly describe the education and training portions of this measure.

H.R. 5540 authorizes $250 million per year for each of the next 5 years for programs to train workers in the specialized skills needed for defense-related industries and to retrain workers who are unemployed or whose skills have become obsolete due to technological change.

These funds would be distributed through the State boards of vocational education or any other agency designed by the State's Governor. The amount a State receives depends on the number of priority industries in the State, what the skill shortages are for those industries, and whether the State has submitted an acceptable plan. The allocation formula would be based on the President's determination.

The grants would be provided to States on a cost-sharing basis. The State contribution, consisting of both public and private resources and in-kind contributions, would begin with 10 percent of the cost in the first year and increase an additional 10 percent each of the following years up to 50 percent in the fifth year.

I want to assure my colleagues that all who worked on this legislation took care to insure that the training programs in this bill would be coordinated with other on-going training efforts, such as vocational education and CETA programs, and would not be duplicative of any Federal training and apprenticeship programs. In addition, the bill includes provisions designed to greatly involve the private sector in the authorized programs.

H.R. 5540 also authorizes $100 million per year for 5 fiscal years for programs to help institutions of higher education purchase equipment used to train the scientific, technical, and professional personnel needed in priority industries. These institutions could be required to match up to 50 percent of the cost. The bill also requires any equipment purchased with the grants to be accessible to all students and faculty at the institution, according to the school's practices.

Finally, I want to explain a provision of the bill that was adopted by the Education and Labor Committee and relates to the budget issue. Although this provision is not in the bill before us because we are using the version reported by the Banking Committee, I will be offering this amendment during consideration of the bill. My amendment would make clear that funds for the training programs or higher education equipment program authorized by this bill are not to be attributed to any budget function or budget allocation relating to education or labor, the Departments of Education and Labor, the House Committee on Education and Labor, the Senate Committee on Labor and Human Resources, or any Senate or House Appropriations Committee, subcommittee primarily responsible for education or labor appropriations. The Education and Labor Committee adopted this amendment out of concern that funds appropriated for this legislation

could result in funds being shifted away from existing education and labor programs, which have already been the target of large budget cuts.

I would like to make a last point with regard to the need for the programs in this bill. This year we are spending about $225 billion for national defense. Yet, these billions will not improve our defense posture one iota unless we have the support industries and skilled people to back it up. The training provided by this bill will have long-term usefulness for the worker, the industries, and our defense system.

I urge my colleagues to join with me in supporting H.R. 5540.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to my colleague, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I would like to compliment the gentleman in the well, Chairman BLANCHARD. It has been many years since the Education and Labor Committee has reported from that committee important legislation not sponsored primarily by a member of the committee, and I was pleased to join in supporting Mr. BLANCHARD's bill when it came before the Committee on Education and Labor.

I think the House should know that before reaching the floor the bill was fully debated in the Banking, Finance and Urban Affairs Committee, and subsequently referred to and favorably reported upon by the Education and Labor Committee.

Not only is this much needed in States like Michigan, it is needed to maintain a strong national defense. But more importantly, from the perspective of our committee, it is very strongly supported by everyone who has a genuine concern in strengthening vocational education in this country, and is supported by many organizations concerned with vocational education in our public school system.

Mr. Chairman, Congressman JAMES J. BLANCHARD, chairman of the Subcommittee on Economic Stabilization, as I mentioned before should be complimented for his foresight and innovation in drafting H.R. 5540, the Defense Industrial Base Revitalization Act, which is before us today. This bill reflects a number of cooperative efforts. First, as I said previously, H.R. 5540 was debated by both the Committee on Banking, Finance and Urban Affairs and the House Education and Labor Committee, on which I am honored to serve.

Second, it represents a new trend in writing legislation—one which combines the joint efforts of the business, education, and labor communities. I applaud Congressman BLANCHARD for bringing this coalition together to tackle what has become a significant problem for the Nation's work force and for its defense capability. His efforts have been rewarded with the endorsements of the National Society of Professional Engineers, AFL-CIO, UAW, National Small Business Association, Wayne State University, Communication Workers of America, American Vocational Association, National Machine Tool Builders Association, American Association of Community and Junior Colleges, and the Conference of Mayors.

My home State of Michigan desperately needs legislation of this nature to help retrain its work force to compete for the jobs in the defense industries which previously have not been available for our workers. With my State's strong industrial base and know-how, we could play a critical role in strengthening the Nation's ability to produce strategic and critical materials for defense needs. In many cases, our workers may simply need a minimum of retraining services to become skilled in these new areas. In other States where the defense industry has a base, there only may be a need to bring workers skills up to date or to train more workers to supplement the State's work force.

Not only does this legislation assist industry in updating its ability to provide defense-related products and services, it provides local school districts and colleges and universities with access to modernized techniques and the most current skills needed by employers. And, it also gives them funding to purchase modern equipment, which has been a special problem for education programs.

In my mind, a particularly positive aspect of the bill is its goal of lessening the U.S. dependence on foreign sources for defense-related products. The United States has the capability and resources to become more self-reliant in this area, both in the small and big business sectors. This bill is a positive signal that we are interested in remaining strong industrially and more independent in the defense production area.

Because defense and the industries which support it are so critical to the welfare of the United States, and because the United States must retain its technological excellence, it is imperative that the House accept this package of amendments to the Defense Production Act.

Mr. BLANCHARD. I thank the gentleman from Michigan, and I thank him for his help.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield for a question?

Mr. BLANCHARD. I will be happy to yield.

Mrs. FENWICK. I thank my colleague for yielding. As I understand it, this will not cost the taxpayers any additional expense since it will be taken out of defense funds already authorized. Is that correct?

Mr. BLANCHARD. That is the understanding. It would come out of category 050, which in the budget is the subfunction for defense.

□ 1200

Mr. McKINNEY. Mr. Chairman, I yield myself such time as I may use.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, with the onset of the Arab oil embargo in late 1973, the United States and many other nations of the world should have learned an important lesson—dependence on foreign suppliers for resources essential to economic activity can result in massive economic dislocations. A shortage of critical materials, combined with a resulting dependence on foreign countries that are very unstable is eroding the very foundation of U.S. defense capabilities.

There is a requirement for an updating of our strategic and critical minerals in accordance with the changing needs of our national security. There is no question that today our economy is now and will remain far more dependent on foreign producers for supplies of nonfuel minerals than for supplies of oil. Further, the potential for supply disruption of critical minerals is substantial because of the increased use of cartels, embargoes, and cutoffs as a diplomatic weapon.

To fully understand the magnitude and importance of the economic consequences involved if the cutoff of a supply of critical minerals is effected, one need only examine our dependence on a number of critical materials. For example, in 1978, the United States relied on imports for 92 percent of its chromium, 98 percent of its manganese, 97 percent of its cobalt, and 91 percent of its platinum-group metals. The United States imports 76 percent of its cobalt from the two countries of Zaire and Zambia, and there is currently no cobalt production in the United States.

H.R. 5540, of which I am a cosponsor, responds to the expressed concerns of the administration witnesses who have appeared before the Committee on Banking, Finance and Urban Affairs. Deputy Secretary of Defense Frank Carlucci, in his policy statement made the following points which I would like to reiterate for the record:

(1) Without the support of a responsive industrial base, both our weapons systems' capabilities and our flexibility to respond are impaired. The industrial base is an integral part of our national security posture; a strong base is, therefore, an important deterrent to conflict.

The capability of the industrial base also determines, in large measure, our ability to acquire in peacetime programed quantities of defense items efficiently. Failure to improve industrial responsiveness will not simply maintain the status quo—it will

result in further deterioration of industrial capability and, ultimately, higher defense costs, longer lead times, and diminished defense readiness.

We must weave industrial base considerations into the acquisition process, revitalize industrial preparedness planning, and show industry, through both planning and actions, that industrial preparedness is an integral part of acquisition.

(2) We must also work with other agencies, the Congress and industry, to improve our ability to identify and resolve resource and capacity bottlenecks and to enhance our mobilization capability. We must improve internal DoD policies that inhibit industrial preparedness. We must work with Congress to provide a realistic statutory basis for our action.

(3) I want to emphasize, in the strongest possible terms, that I view revitalizing the capability of the defense industrial base as one of the Department of Defense's principal initiatives, which fits into the Administration's Economic Recovery Program.

I concur with these policy statements and firmly believe that this legislation fits in with the basic thrust of the economic recovery program because of the stimulus which this bill has the potential of providing to thousands of small businesses across the Nation and by its job-creating impact. For these reasons, I believe that we must move this legislation forward.

While there may be some minor difficulties with the legislation, I believe that these can be addressed in the near future. This revitalization effort is directed toward meeting both a domestic economic problem as well as our national security policy requirements. I fully agree with the statement made by Secretary Weinberger with respect to providing the necessary incentives for expansion and revitalization of our domestic industrial base. Secretary Weinberger expressed his support for the funding of title III programs in the following statement:

It is clearly recognized that the Administration's initiatives for economic recovery will eventually foster conditions under which revitalization of the industrial sectors will occur. This will take several years and may not provide sufficient incentives for expansion of the industries which are subject to predatory pricing from unstable foreign sources and are critical to the production of national security systems. Our need for reducing our dependence on foreign industrial capabilities is urgent and will not allow us to wait.

Through Title III of the Defense Production Act, the Government can provide incentives for increasing our domestic capabilities by encouraging private sector investment. I am concerned with the impasse we are experiencing in developing an acceptable funding mechanism for this critical industrial preparedness authority. Therefore, I propose funding Title III programs from the DoD budget.

I have, as a matter of fact, been working with the administration to incorporate their setting of priorities to coincide with the economic recovery effort. I genuinely believe, that to the maximum extent possible, the administration should give special consideration to providing incentives to those areas of the Nation which have been identifed as economically depressed and have higher unemployment than the national average. They should look to such areas for the placement of manufacturing and processing industries to create jobs and at the same time make a greater contribution to the production of strategic and critical materials.

This concept has worked very well in the past in my own congressional district and one must recognize that the quality of life in these more sparsely populated areas has the potential of attracting and providing the skilled manpower and the trained technical, scientific, and professional personnel which is so important to the productivity component of a manufacturing and processing facility. I would strongly urge that this criteria become an integral part of administration policy.

Mr. Chairman, I now want to refer to the report itself. It says in the report that—

The Administration is currently developing a priority ranking of industries most important to defense, including the most problem-ridden in terms of capability and capacity.

I assume the gentleman is referring to assistance to establish that priority.

Further in the report, it says:

Within those priority categories, Congress mandates special preference to those companies that come up with plans showing unusual promise is boosting productivity, improving quality, and reducing our reliance on foreign imports.

Now, does that consider and address the overdependence and the overreliance on cobalt from such areas as Zambia and Zaire, and would that, in fact, permit an operating company in this country to take advantage of legislation to bring online in this country a reliable source of cobalt?

Mr. McKINNEY. Mr. Chairman, the gentleman is absolutely correct. The increase in productivity, production, and in fact the finding and building up of cobalt, titanium sponge, and all of these items are at the very top of the Defense Department's troubled list, because as the gentleman probably knows, the Soviet Union is about 90 percent self-sufficient and we are far less than 30 percent self-sufficient. That is a vital part of this entire program.

Mr. CLAUSEN. Mr. Chairman, I thank the gentleman from Connecticut (Mr. McKINNEY).

Mr. BLANCHARD. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in strong support of H.R. 5540. I do so because I am convinced that an aggressive program to address the severe problems present in our weakened industrial base must be pursued if we are to accommodate the rapid defense buildup projected and reflected in recent actions by Congress. Jacques Gansler, author of the authoritative and best selling book "The Defense Industry," began his book with the following sentence:

The free-market system is not operating to achieve economically efficient or strategically responsive behavior in the area frequently referred to as the military-industrial complex.

Gansler utilizes his 25 years of experience in the defense industry and in the Defense Department to explore for the next 300 pages the serious problems of our defense industrial base and Government approach to contracting. I find myself quoting Gansler quite frequently when I speak about defense issues, because what he confirms in his book is exactly the confirmations which lead the House Banking Committee under the capable leadership of Subcommittee Chairman BLANCHARD to put forth the legislation before us today.

Twenty-six days of hearings before the Economic Stabilization Subcommittee of the Banking Committee and countless witnesses pointed to the fact again and again that critical industries that are central to our defense production are disappearing, particularly at the subcontractor level. This is causing the United States to become increasingly dependent, and vulnerable I might add, to foreign producers. We also found an alarming shortage of skilled labor to sustain production in our defense industrial base, and even more alarming forecasts of future shortages.

While the unemployment level in our country has not been as high at any time since the Great Depression as it is now, the challenge we face is designing a training program to enable these unemployed to reenter the labor market. We need engineers, technicians, machinists, electricians, and tool and die makers for defense production. In the computer sciences alone, the national demand is already greatly exceeding available trained personnel. Finally, we found critical shortages in strategic materials and minerals needed for defense production. Here again, without a concerted Federal effort, we will be forced into an increasing and dangerous reliance on foreign sources.

To address these problems, this bill contains provisions to modernize our industrial capacity at the subcontractor level of providing direct loans, loan guarantees, price guarantees, and purchase agreements to preserve and enhance our industrial base. The money spent on this program will be returned to the Federal Treasury several times over through lower costs for procurement of defense items. A shortage of industrial capacity at the subcontrac-

tor level, in particular, has the potential to greatly escalate defense costs.

The bill also authorizes a skills training program to train workers in skills which are needed to sustain defense production. This program will not only insure that adequate manpower is available for defense production, but it also will help to lower unemployment and thereby contribute to our overall national economic performance. This program is not a public service jobs program. While this program is not as flexible as I would like, it will be conducted in cooperation with the States and State boards of vocational education and will be targeted to skills that are in short supply.

In conjunction with the skills training provisions, the bill provides a program to modernize instrumentation in our colleges and universities. Repeated testimony I have heard as both a member of the Banking and Science and Technology Committees confirms the need for this effort. We cannot expect to adequately train scientists and engineers to contribute to an increasingly high technological defense need with laboratories equipped with 20-year-old equipment. This provision is an extremely important part of an effort to modernize and equip a defense capability in this country.

In addition to these critically important provisions, I will be offering an amendment at the appropriate time on a subject which was discussed, but not resolved by the Banking Committee during their deliberations. My amendment will address the need to establish the function for the promulgation and administering of defense cost accounting standards in the executive branch in the Office of Management and Budget. I feel this aspect of defense procurement is an integral part to an effective national defense production capability, and I urge your support of my effort later in this debate.

This legislation is badly needed if we are to effectively increase defense production in this country. If the provisions in this legislation are adopted, the dependence of defense firms on continued high domestic and foreign military expenditures would be reduced. Improved stability and growth in labor needed to sustain defense production would raise productivity and contribute to the development of a national industrial strategy as well as overall economic growth. I urge your support of this measure.

□ 1215

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. LUNDINE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentleman in the well for his articulate comments on this piece of legislation.

I think there are five things that this bill will do. I think it will stengthen our national defense; it will lower the cost for that defense; it will create and preserve jobs; it will decrease the dependence on foreign supplies; and, finally, I think it will stengthen our national economy.

I think the gentleman has made a good point in talking about the technical skills that need to be improved, the industrial skills, particularly in small- and medium-sized businesses that need to be improved.

I thank the gentleman for his strong support.

Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. This bill represents a major initiative to reverse the severe deterioration of our defense industrial base. H.R. 5540 will:

First, strengthen national defense. The Nation cannot quickly or efficiently tool up for wartime production when thousands of factories are plagued by old equipment, lack of materials, and shortages of skilled workers. The Nation's military forces cannot be rebuilt upon a deteriorating defense industrial base.

Second, lower costs for defense. Inadequate numbers of suppliers, shortages of critical materials, and high costs for scarce, skilled labor have continually driven up the price of defense items. By expanding industrial capacity and training greater numbers of skilled workers, H.R. 5540 will help to drive down the costs of defense procurement. Bringing more firms into the bidding process will create more competition, again driving down costs.

Third, create and preserve jobs. New employment will be created in industries vitally needed for national security. These new jobs have wide application in the civilian economy.

Fourth, decrease dependence on foreign suppliers. Currently both American industries and American workers are losing a greater share of the military and civilian markets to foreign suppliers. This increasing dependence on foreign suppliers greatly damages the U.S. mobilization capability and slows down needed revitalization. H.R. 5540 will help lessen this dependence while building up the industrial base as a whole.

Fifth, strengthen the national economy. The weaknesses in the defense industrial base are symptomatic of greater problems in the national economy. H.R. 5540 not only will revitalize the defense sector, but it will create a mini-industrial policy with far greater implications for the economy in general. H.R. 5540 will strengthen and expand small and medium-sized businesses, which hold the greatest promise for the employment expansion needed so desperately in the Nation.

H.R. 5540 presents an excellent opportunity to respond in a comprehensive way to the growing problems of the defense industrial base. It also should make a significant contribution to the revitalizaiton of the national economy as a whole. I urge my colleagues to join me in supporting H.R. 5540.

Mr. LUNDINE. Mr. Chairman, the gentleman has just said in 30 seconds what I took 5½ minutes to say. I thank the gentleman.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitilization Act, and I would like to commend my colleagues on both the Banking Committee and the Education and Labor Committee for their efforts in producing this legislation.

I share their concerns about the deterioration that has taken place within the defense industrial base and the effect this has had on our national security. If left unchecked, this situation could have a disastrous impact on all aspects of our economy.

I applaud the goals which this bill addresses. I think it will help provide a broad base to enable us to produce critical materials for both our defense and civilian requirements while at the same time insuring that small business will have a chance to participate in defense contracts. If we can encourage more competition among suppliers and our defense contractors, the result will be a more competitive economic base, lower prices for defense systems, and a stronger national security.

The programs proposed under H.R. 5540 could help, I believe, to provide the mechanism to rebuild the structure needed to allow for a rapid but orderly change from commercial to military production in a time of national emergency.

In addition to production this legislation also addresses manpower needs which are often critical in these priority industries. I am pleased that the bill includes a provision calling for the nationwide coordination of information about skills training plans to avoid costly duplication of effort in developing and implementing these manpower programs. May I suggest that the National Center for Research in Vocational Education at Ohio State University, is ideally suited to be in the forefront of that effort and I am sure it will be.

H.R. 5540 is badly needed to help our Nation meet its immediate as well as future security needs. I urge its passage today.

Mr. McKINNEY. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, I hate to disturb the euphora that surrounds the debate up to this point but

that is exactly what I hope to do at this moment.

I am reminded of the television show that was on a few years ago that was called That Was the Week That Was.

I think in a few more years people will look back at this and say this was the week that determined whether a Member of this House is for more taxes and more spending or whether a Member of this House is for less spending and less tax on the American people.

This bill will call for an authorization of $5 billion over the next 5 years and it is not in the budget. It exceeds the regular budget. It exceeds the credit budget. It exceeds anything that anybody has had on their mind around this place for some time.

What is it for? It is to fund various credit assistance programs, loan guarantees, purchase agreements, and all of that sort of thing to help those hard-pressed defense-related industries who have just managed to squeeze out of this Congress some $175 billion in spending in the last authorization bill that was here on the floor.

Remember that this very day we all voted on a reconciliation conference report which cut out of the budget some $10 to $13 billion, depending upon whose numbers you use. We worked very hard to get that $10 to $13 billion.

This bill alone will stick back into the budget $5 billion over the next 5 years.

This comes also the day before we are going to vote on a massive tax increase for the country. If you vote for that you will be increasing the cost to the taxpayer by $100 billion.

Is it going to come out of the defense budget? The gentleman from Kentucky said that he is going to offer an amendment later. I do not think this House is going to pass such an amendment as that because we had 7 days' debate on the defense authorization bill here and they warded off each and every amendment except for one dinky little amendment that I offered on nerve gas which did succeed. They are not going to permit that to be done.

So you are talking about a budget-busting bill here.

This is not a contribution to national defense. It is just a thinly disguised industrial subsidy program which will provide massive subsidies to firms in which over 90 percent of the goods and services are produced for nonmilitary purposes.

This is your classic case of corporate welfare. If that is what you want to do, subsidize the businesses in this country, particularly those that are getting the biggest subsidy that they have ever gotten through the defense bill that has already passed this Congress, then this bill is the thing that you want to vote for.

You want to be sure then and vote for this bill. This is your big spenders' bill right here. This is your bill that is going to screw up the credit market by encroachment of up to $50 billion each and every year. So this is the one you want to be sure to vote for.

And then, of course, you would want to vote for the tax bill tomorrow to pay for this so that you can go home and indicate to your fans and supporters that you indeed are a big spender and a big taxer.

On the other hand, if you want to try to do something about the deficit in this country then you had better vote no on this bill.

Let me say this further: The administration opposes this bill. I have a stack of letters. I have limited time here. It is awfully hard to get time because of the steamroller that is connected with this bill. But in any case, I have letters here from the administration. In case anyone wonders what their position is, the Secretary of Defense, Caspar Weinberger's strong letter winds up saying, "In summary, the administration opposes H.R. 5540 in its entirety."

They will support the substitute that I will be offering later in the day.

Furthermore, David Stockman signed this very same letter.

In case anybody is wondering whether or not this is going to help small business, they need to ask the question of why the National Federation of Independent Businesses, who represent the largest number of small businesses in the country, have come out against the bill and have caused messages to be sent to every Member's office.

This bill is ill conceived. It will do nothing for the economy.

Those who are worried about monetary policy in the country and the effect that that might be having on interest rates ought to ask themselves whether or not we are helping the situation by encroaching further into the credit market with more and more Federal lending programs or whether we ought to be trying to back out of the credit market.

Mr. PAUL. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Texas.

Mr. PAUL. Did I hear the gentleman say that there was a guarantee in here of $50 billion? If that is the case, is that something that will turn up on our budget or is that likely to appear as an off-budget item?

Mr. BETHUNE. There is about $20 billion off-budget deficit that is funded in mysterious ways, principally through the Federal financing bank.

We do not know at this time how they are going to leverage this money. We do not know the leverage figure that will be used. Some people say it is 4 to 1. Some people say it is 8 to 1.

But the $5 billion cost is a net cost. It is not the gross amount of credit that will be generated. It could take $50 billion in credit out of the credit market each year. That crowds out other borrowers and runs up their interest rates.

Mr. BLANCHARD. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I am truly surprised at the previous speaker. There is a central point concerning our own defense which he neglected. Did you know that a substantial number of American defense contracts go to foreign countries? Did you know that a substantial number of parts that relate to defense equipment is manufactured in other countries? How does this contribute to our national security? How does this contribute to our own attempt to halt the growing unemployment in this country? I will show later in my remarks what has happened to our needed industrial base.

Today the House is considering one of the most important pieces of legislation in the 97th session of Congress. The Defense Industrial Base Revitalization Act (H.R. 5540) represents the first phase of a coherent national security policy that is at the same time a national industrial policy.

We live in a world where brushfires are in constant danger of erupting into multination conflagrations, a world in which armed aggression as well as economic warfare has become a constant threat. If we are to survive as a leader in the free world, we must forge a defense-industrial base that can provide readiness in times of strategic crisis as well as a competitive edge that will withstand the onslaughts of rising protectionism.

The role of government will necessarily change, because the world has changed. Laissez faire policies will simply not be adequate to the challenge of the future. The absence of a coherent, substantive industrial policy will ultimately threaten our capacity to revitalize our own economy as well as the social fabric that is dependent on the industrial sector.

The Defense Industrial Base Revitalization Act, which is now before the House, amends the Defense Production Act of 1950 and addresses the three most critical areas of revitalization: modernization, supply of skilled labor, and access to critical materials.

The immediate issues that face us today are unemployment, capital investment, and a decaying infrastructure. Unless we can solve these problems, our defense capability will be inadequate because our industrial base will have eroded. Modernization, more specifically, industrial conversion, is

the key to the kind of healthy local economy that solves these problems and thus creates a sustained defense readiness.

I represent a district in northern Ohio which has seen in recent months, years, an epidemic of plant closings, layoffs, and shutdowns. Foundries, assembly plants, and small businesses are closing in my State, jobs are being lost, not because of contract expirations or because there are no markets, but because many of these manufacturers cannot afford the cost of converting to a kind of production that will keep them competitive and allow them to develop new product lines and apply new technologies. The potential regional impact of continued industrial disintegration should be obvious from the recent reports that by the year 2000 one out of every five workers in the United States will live in Texas, California, or Florida, and that these States will absorb over one-third of the new jobs.

If we were to make an inventory of the industries that seem headed for trouble in the near future we would include the automotive industry, machine tools, steel. If we also made a list of the areas that most need developing today we would have to mention public infrastructure, mass transportation, energy, and biomass conversion. It should be obvious that the challenges in the latter areas represent opportunities for solutions in the former areas. Good old-fashioned American horsesense and ingenuity can meet these challenges, but not without incentives to modernization—or, what I like to call industrial conversion.

What is the state of our defense-industrial base? A few facts will demonstrate the timeliness of this legislation:

Thirty-four percent of U.S. machine tools are over 20 years old—the highest percentage in the seven most industrialized nations—35 percent are 10 to 20 years old, compared to Japan, where 61 percent of machine tools are under 10 years old. In the Midwest, the average age of 40 percent of machine tools is over 20 years.

The rate of capacity utilization in manufacturing is declining steadily: the December 1981 rate is the lowest recorded since surveys began in 1965—72 percent.

During the 1970's, while the United States was spending about 7 percent of its GNP on plant and equipment, Germany was spending about 10 percent and Japan 15 to 20 percent.

Foundry closings in key States are threatening to cripple our industrial base: in New Jersey, 48 percent closed between 1957 and 1980; 42 percent in New York; 40 percent in Connecticut; 38 percent in Illinois; 33 percent in Pennsylvania; 26 percent in Michigan; 23 percent in Ohio.

Imports of bolts, nuts, and large screws during 1981 jumped from 49 to 56 percent of the U.S. market.

In Japan at Nissan Motors the production rate is 72 cars per employee per year; in the United States General Motors produces 10 cars per year per person.

Machine tool orders for the first 4 months of 1982 were 47 percent less than the orders for the same period in 1981.

Some 25 percent of Navy subcontractor suppliers have dropped out of military work in recent years; another estimate shows that 3,500 aerospace suppliers have been lost from a high of 6,000 in 1967. According to a U.S. News & World Report of August 17, 1981, there is only one producer of precision ball bearings for military airframes and a single manufacturer of castings for turrets and hulls of the M60 tank. Only five companies are available to produce certain digital microcircuits used in military guidance systems. Three suppliers make large forgings for landing gear, engine parts, airframes.

The losses represented by these statistics cannot be measured only in terms of unemployment, declining capital investments, urban deterioration, and rising levels of foreign imports. Plant closings also mean a serious loss of revenue and resources for our local communities. For example, when the Ford plant of Brook Park, Ohio, laid off several thousand workers a couple of years ago, it represented a total loss of $140 million in taxable income, or a $2,100,000 annual loss in tax revenues to the small city of Brook Park.

Moreover, the "feast or famine," "boom or bust" tempo of defense production more often than not causes regional economic dislocations which are unpredictable and insurmountable. Suppliers and subcontractors are also discouraged by the inherent instability of defense contracts and require other incentives and escape hatches if they are to risk this kind of investment.

The proposed 1982 legislation has two unique features which address these issues:

First, it gives priority to modernization and industrial conversion as the key to a revitalized productivity and defense capacity, by providing loan guarantees, purchase agreements, and price guarantees for specified priority manufacturing processes.

Second, it targets medium- and small-sized businesses who are the critical suppliers and subcontractors in the industrial base, regardless of whether they currently hold defense contracts.

We have many companies in Greater Cleveland that are obvious candidates for industrial conversion and innovation—whether it is robotics or waste disposal—but they require financial guarantees and loans for capital reinvestment and retraining programs. H.R. 5540 will cost U.S. taxpayers an estimated $6.75 billion over a 5-year period. Compared to the cost of one aircraft carrier and its supporting task force—more than $15 billion—this is a small price to pay to insure the vitality of the industries that we depend on to produce not only aircraft carriers but automobiles and appliances. If we cannot afford to assist these small manufacturing companies, then we cannot afford the cost of our own national security.

H.R. 5540 is an investment, not an expense. During its 30-year life, the Defense Production Act has generated nearly $9 billion in economic activity through more than 1,000 industrial projects. The actual net outlay totaled approximately $900 million. Even this figure, however, does not take into account the various Federal, State, and local tax revenues offsetting that cost, or the thousands of new jobs and incomes generated.

I believe this successful experience can be repeated without aggravating the deficit or inflation. Modernization will be translated into major savings in the defense budget, especially when such spending is at a record high. With improved productivity, higher quality items will increase competition at lower cost to our industrial base and thus help to insure economic recovery.

Restoring our Nation to economic vitality and our industries to competitive productivity will do more to strengthen our national security and our international influence than another set of multibillion-dollar missiles. H.R. 5540 represents the first significant opportunity to inject an aging industrial base with new life and an antiquated defense policy with a new readiness.

Mr. McKINNEY. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Chairman, today I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. This bill, which seeks to accelerate the training of skilled workers through grants to State boards of vocational education, is absolutely essential to our Nation's economic future. The revitalization program set forth in this legislation would improve American productivity, lessen dependence on foreign imports and provide thousands of job opportunities that are vital to both our civilian economy and to our national security.

I am particularly pleased with the job training portion of the legislation which is designed to complement our existing and anticipated job training programs. As you know, in the next few years thousands of high-skill jobs will be created in skill shortage occupations such as computer technology,

tool making, and so forth; jobs that have application to both our defense and our civilian economies. The Defense Industrial Revitalization Act, then, is designed to allow States the opportunity to upgrade the skills of our workers while encouraging the education of professional, technical, and scientific personnel through grants to the universities for the purchase of more modern equipment. I see this as particularly vital to the New England economy, where 75 percent of new jobs are created by small firms and where a large number of higher education research institutes are located. Additionally, our vocational education institutions would stand to benefit greatly from the measures incorporated into the bill.

Mr. Chairman, I believe it is becoming increasingly evident to Members of this Congress, as well as to the American people, that despite our high level defense spending, we are receiving lower quality goods and less reliability in services. We can no longer sit back and allow our defense base to deteriorate. The time to act is now. H.R. 5540 provides the means by which States could most efficiently modernize equipment and train a sufficient supply of professionals in our critical, priority industries.

I urge my colleagues to use their foresight and support H.R. 5540. It is a wise investment in assuring American military and economic security.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in opposition to this piece of legislation. I think it is a very dangerous piece of legislation. I do not think it will do the things that are intended, even though I am quite confident that those who propose this legislation are well intended in trying to revive our industrial base.

But it just happens that it is more of the same, more of the same nonsense, more big spending, and more Government intervention; all of the things that have failed for 50 years.

We are just asking for trouble to pass something like this.

This bill is proposed under the Defense Production Act. Ironically it has nothing to do with defense. That is a red herring. It will not help defense.

By hurting the economy it will hurt defense.

It is nothing more than a corporate welfare bill.

But if you believe in corporate welfare, this is a good "yes" vote.

But I do not believe for 1 minute that this will help to rebuild the industrial base which we are all very concerned about. If anything, you could call this a military CETA program. If you want busy jobs building things and doing things you think are important, then this bill might be appropriate.

I believe this bill represents a basic philosophic difference between those who believe in the marketplace and in individual freedom. It just happens all factions in Congress all believe in freedom and all believe in individual liberty. But to some it means you should have the right to do with your property and do with your life as you please, and you should make those decisions.

Others believe that liberty is something that is determined by the Government and the Congress deciding what people should and should not do according to the arbitrary notions of politicians.

□ 1230

This is a typical example of Congress assuming they know what is best for the economy. I would venture to say that the Government, and the Congress in particular, knows nothing about what the economy should be doing. I think that it is very appropriate to quote Hayek, who said that what prompts people to intervene so much in the marketplace is a "pretense of knowledge."

We here in the Congress so often pretend that we know what is best for the people, we pretend that we know what is best for the marketplace.

I would like to strengthen that a little bit and not only say it is a pretense of knowledge, but it is an arrogance of knowledge. It is an assumption that you reject the marketplace entirely, that the market can handle these decisions.

This is an inflationary bill. You are assuming that we will have guaranteed loans of $50 billion, appropriate $6.75 billion and it is going to help things. It will cause more inflation. That is the problem. The problem is the monetary system. We have a monetary system on the verge of collapse, and you are going to compound the errors by guaranteeing more loans.

We now have more than $800 billion of guaranteed loans in this country, and it is the single most important event that causes inflation. It puts the pressure on the Fed to create new money. This will do the same thing. If you want to rebuild the industrial base, you are going to have to look at the fundamentals. You have to decide whether you believe in the marketplace or you do not. If you do not, you move in the direction that this bill is moving. Intervention in the economy for the benefit of business if carried to an extreme is dangerous for it can lead to a fascist state. None of us want that.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I was interested in the gentleman's comment that this bill does not have anything to do with defense.

Mr. PAUL. I do not believe that it has anything to do with defense, even though they use that superficially as justification for the bill.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. I wish to commend the chairman of the subcommittee (Mr. BLANCHARD) and the ranking minority member (Mr. MCKINNEY) for holding complete and exhaustive hearings on the state of our defense industrial base.

The committee has reported legislation which addresses the most critical needs on our defense and our nondefense industrial base. H.R. 5540 provides the Nation with the tools to:

First, increase the strength and modernization of our industrial and manufacturing sector;

Second, increase the training and skills of American workers for use in defense and civilian industries;

Third, reduce the outflow of U.S. dollars for foreign imports;

Fourth, reduce the cost and the production time of defense purchases; and

Fifth, provide a stable market for these goods which will increase investment in new plant equipment and jobs.

Mr. Chairman, this is important, well balanced, and critically needed legislation. This Congress and the administration have decided to embark on the largest peacetime military buildup in the history of this Nation. Many Members of this body have been critical of either the size of the increased defense budget or the nature and direction of this defense budget. However, whether we agree or disagree with the direction and size of our defense budget, we have a responsibility to insure that our economy can indeed produce the products demanded by this defense buildup and accomplish this task at a reasonable cost and in a reasonable amount of time.

Congressional concern regarding the ability of our economy to meet the demands of our defense needs and the increases in the defense budget is not new. Neither is the method we have chosen to meet those demands a new method or a radical departure from past practices. The Defense Production Act, which the Defense Industrial Base Revitalization Act amends, was first passed to insure we could satisfy the defense industrial demands of the Korean war. The act has proven its success during its 30 years. More than $9 billion of economic activity has resulted from the $900 million of actual Federal outlays. This success is most evident in the aluminum, nickel, titanium, and tungsten industries, all of

which are critical to our defense needs.

H.R. 5540 uses the same process of selectivity to identify those critical industries which need to be modernized and strengthened. Primarily these will be small- and medium-sized companies who produce the specialized products needed by our military. Within the most critical category, those companies that demonstrate the greatest promise for increasing productivity and quality or reducing dependence on foreign products will be given special preference. This legislation demonstrates the targeted, well-balanced approach to increasing productivity which may not be achieved by a shotgun-type approach. The committee has done an excellent job in identifying critical needs and establishing the mechanism to meet those needs.

H.R. 5540 also addresses the important problem of training the American work force in the skills needed by defense and civilian sectors of our economy. It provides $350 million per year for State-administered vocational education programs and the purchase of equipment used in colleges and universities for specialized training. In contrast to the opponents of the legislation who claim it merely copies existing programs, the committee received testimony from the chairman of the Defense Science Board Task Force (Robert Fuhrman) who stated:

> We do not have an overall government program aimed at solving this problem, and the individual company training efforts were only touching the tip of the iceberg. In spite of the recession and its attendant unemployment, there remains a shortage of the skills needed by the defense industry.

The shortage of skilled manpower is one of the primary causes of increasingly long leadtimes. There are few actions more important to our defense industrial base and to American workers than to provide the training needed to produce more engineers, computer specialists, and machinists.

This shortage of skills mentioned by Dr. Fuhrman will be exacerbated in future years. In his March Defense Guidance, Secretary Weinberger identifies a need to develop our industrial base capability so that by 1987 we will be able to triple its capacity and responsiveness within 1 year of a decision to do so. If this development is decided upon, our most vital long lead item will be the training of a skilled work force. Thus, H.R. 5540 is an essential precondition of the planning of the Department of Defense.

Secretary Weinberger's guidance mandates a large annual percentage increase in industrial preparedness: 10 percent per annum for the Army; 50 percent per annum for the Navy; 35 percent per annum for the Air Force; and 25 percent per annum for the Defense Logistics Agency.

Without the easing of the critical skill shortages made possible by this bill, this expenditure increase will be useless.

Secretary Weinberger had directed his Department to isolate critical industrial bottlenecks and complaints and to identify actions to eliminate them. This is precisely what the committee has been doing in its hearings over the past year. H.R. 5540 is the result. It has been argued that the Pentagon is against the bill. Nevertheless, I maintain that it is in accord with Secretary Weinberger's instructions.

Mr. Chairman, H.R. 5540 is critical legislation if we are going to meet the demands placed on our defense industrial base and on the civilian work force. The committee has done an excellent job in balancing the competing needs of the civilian and defense industrial base. In addition, it provides a targeted approach to these problems of aging industrial plants, reliance on foreign imported material, and shortages of skilled manpower. It accomplishes these goals in a cost-effective manner. This is excellent legislation and deserves the support of Members of this body.

Mr. Chairman, I listened to some of the critics of this measure H.R. 5540 and some of their concerns. I think it has been amply demonstrated that this bill does deal directly with defense. In the next 5 years this Congress and the administration, at least in the present posture of policy, have decided to spend between what is estimated to be $1.6 trillion to $2.2 trillion to $2.3 trillion on defense.

Now, the question I think that we have before us, of course, is one of what the magnitude of that increase should be, and I guess that we have decided for this year, and some Members agree with that and some Members do not.

But I think an analogy could be made of pouring this money in, to a farmer taking the seeds and throwing them out on the ground without any preparation, without any hoeing of the soil, without putting any water on them, without putting any fertilizer on those particular seeds, and then expecting to get a good crop at the end of the year. That is the difference in approach. Last year and this year again we are throwing this money out on the ground, letting it fall where it may, letting the water rise to the level that it may, and then we expect to get a crop of defense industries growing and supporting an adequate defense base.

This bill I think is a rational approach. It says we have to support the small businesses, the middle-size industries that make up the infrastructure of defense industries. We have to build and educate to get those who have the skills necessary to perform the task.

We have to give the universities and the institutes of technology the ability to have the modern equipment so that they can train and we can better utilize the trillions of dollars that we are going to spend. And that is what we are trying to do with this particular legislation.

We cannot drive our total policy through a tax code. We found that out. A lot of money goes in a lot of ways. If you want to look at corporate welfare, look at the report in yesterday's Washington Post, in which many corporations are paying a negative tax based on the 1981 Tax Act. But I submit to you that they may not be the corporations that we need in this country for productive reinvestment, for jobs, to be able to provide the products that we need. We have many bottlenecks in terms of skills, in terms of the industries that we need. We are trying to smooth the path to provide some ability so that those seeds are not sitting out in the raw soil without any type of protection or intelligent utilization.

This bill gives us intelligent utilization, enhanced utilization of these substantial tax resources that we spend in this Congress.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. WORTLEY).

Mr. WORTLEY. Mr. Chairman, I would like to take the few moments allotted me to speak to my conservative colleagues about why we need H.R. 5540, the Defense Industrial Base Revitalization Act.

Simply put, the United States cannot meet its national security needs with an inadequate defense industrial infrastructure. All the money in the world earmarked for defense is worthless unless we have stable access to critical materials, adequate capital investment in plants and equipment, and skilled personnel. When Gen. Alton Slay, former Commander of the U.S. Air Force Systems Command, appeared before the Banking Committee in 1981, I asked him about the long leadtime to bring critical defense items on line. Specifically, I asked him if he could pinpoint why it takes so long. Was it strictly because of deficient supplies of raw materials? Was it a lack of skilled manpower? Or was it inadequate capitalization?

General Slay responded by saying all of the above. Every one of those things has a part to play. We could use 60,000 extra machinists, skilled machinists, today if we had them. But basically the big problem is the leadtimes it takes to get the raw materials into a useful form of ingot or sponge, or sheet, or plate, then into forgings and castings, and then and only then does capacity of the prime contractor come into play.

Mr. Chairman, if that is not a stunning indictment of the status quo, I do not know what is.

Now the House of Representatives has the opportunity to do something about our ability to surge if we have to. We have the chance to revitalize the ailing defense industrial base in a way that does not smack of corporate welfare; that is not fraught with overregulation and endless redtape; and that is not a direct intrusion of the Federal Government into the lives of small businessmen.

We can take this opportunity and plan sensibly our future course of action or we can sit back and wait until it may be too late. The choice is obvious. I commend this bill to my colleagues and I urge its adoption.

Mr. KcKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Chairman, this is an example before us of the legislative process gone awry. We have a bill which no doubt had some very good, very sound beginnings. It was a bill which was first enacted in 1950 in an attempt to meet a variety of defense-related shortcomings which were highlighted by our involvement in the Korean conflict.

But I think now it has grown to the point where it contains loan guarantees, direct loans, purchase agreements, price guarantees, price supports, and obviously it has gone way beyond the original context. And with all of that growth, of course, has come a great deal of attendant regulation.

I think it is ironic that we have created the very problem that this bill purports to solve by our punitive Tax Code, by antipollution laws, by countless regulations. We have hampered America's business and industry, and now we are trying to create a solution which, in my view, simply compounds the problem—a solution which will burden the capital market which we all know is already overburdened.

Now, we try to dress this bill up by calling it defense related. But I suggest to you that it is much of the same old "saw": Federal programs which interfere in the marketplace, Federal programs which imbalance those influences of supply and demand and, therefore, take us in the wrong direction.

What is wrong with the free enterprise system? Why can we not have faith in the law of supply and demand to fulfill our needs as they may arise in this country? I suggest, Mr. Chairman, that this bill is opposed by the administration, it is opposed by the National Chamber of Commerce, it is opposed by the National Federation of Independent Business and, even though we might try to improve it by various amendments during the 5-minute rule which will follow, it is a bad bill and it deserves to be rejected by Members of the House.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Chairman, I rise in support of H.R. 5540.

I am reminded of a corporation in my district which used to be called the National Forge & Ordnance Co. until about 5 years ago. It is now called the National Forge Co. And, quite simply, the reason for that is because they got out of the defense contracting business. They found it was too difficult. No. 1, there was less business all the time; but, No. 2, the quixotic policies of the Defense Department and the overwhelming amount of paperwork that was involved in getting involved in defense contracting discouraged them from participating in this area.

This is not a unique situation, but I think it is a symbolic situation because this is replicated throughout the country. We have seen a tremendous diminution of businesses large and small that are willing and able to participate in defense contracting. I think we desperately need to encourage increased competition in defense contracting. The alternative is that we are going to be paying an enormous premium for the weapons and other material that we are going to be buying in the next 5 years. Obviously, if you only have one supplier of a particular item, they can charge whatever price they want. So I think that there is a real need here to encourage and provide incentives for small businesses and medium-size businesses to get back into the defense contracting business.

I think that this bill does provide that kind of incentive.

I think the severity of the problem was brought home to me at a conference that the House Wednesday Group held 2 years ago, in which we had testimony by Frank Carlucci, John Morgan of the Bureau of Mines, and Gen. Alton Slay, all of whom made the significant point that as long as we allow the defense base to continue to deteriorate, we are going to be paying increasingly higher prices for what the Department of Defense buys.

A number of the suggestions that were made at that conference were incorporated into this bill. I think that they made a significant addition to the bill, and I just urge support of this bill as a first step toward expanding the industrial base and getting more cost-effective purchases in the Defense Department.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Chairman, I rise in support of H.R. 5540.

Almost every time I return to my district, I hear of factories in the Pittsburgh area that are closing or reducing their operations. The loss of skilled workers who operate these factories is critical. When these workers join the ranks of the unemployed or are siphoned off into other occupations, America loses a vital resource—the experience and knowledge built up over many generations of industrial labor.

We need to enact H.R. 5540, the Defense Industrial Base Revitalization Act, to help make American industry more competitive.

If we would find ourselves in a crisis, it will be too late to remedy the decline in industrial plants and their cadre of skilled workers. This is why it is imperative that we enact H.R. 5540 so we can begin the job of restoring the productive capacity needed to sustain our defense posture.

This bill has several related thrusts. It offers financial assistance to modernize aging and industrial plants and equipment. It offers training and retraining programs to provide workers with necessary skills. It offers means to reduce U.S. dependence on other nations for strategic materials. It provides assistance to institutions of higher learning for obtaining or modernizing equipment needed to train professional and technical personnel. And it calls for the development of a national infrastructure strategy so the Nation's highways, rails, bridges, waterways, and other public facilities can speed production and transport defense materiel promptly to our Armed Forces.

Financial assistance to small- and medium-size businesses may be in the form of loan guarantees, direct loans, purchase agreements, or price guarantees. Aid would go to firms defined as critical to the defense effort—current or future—by the Secretary of Defense.

This is conceived as a 5-year program and would be funded at $1.35 billion a year. States would share the costs of the skills training programs, starting at 10 percent the first year and up to 50 percent in the fifth year.

H.R. 5540 emerged from hearings of the Economic Stabilization Subcommittee of the House Committee on Banking, Finance and Urban Affairs. These hearings, held in Washington and many areas of the country, including Pittsburgh, revealed the depressed state of the industrial economy and the dangers this posed to our national security.

As a representative of a heavily industrialized area, I must tell you that small- and medium-size firms are in particularly serious trouble. They are struggling to keep from going under. Without properly targeted help, their situation will remain bleak.

Some are saying we should do nothing about this now because the recession is about to bottom out. We have

heard these same rosy forecasts for well over a year and should view them with suspicion. Eager as we all are for an economic turnaround, we should face up to facts that dramatize the need for the remedies in this bill.

The findings of a recent survey of over 300 small manufacturers in the Pittsburgh area were made available to me by Leo R. McDonough, executive vice president of the Smaller Manufacturers Council of Western Pennsylvania. The implications about interest rates, profits, backlog orders, and employment struck me as pertinent to this legislation.

About interest rates, I think many people forget that the prime rate is only part of the story. At the time of this survey, the prime was 16 percent. Of 224 firms responding about their current debts, 38 of them are borrowing at interest rates between 16 and 17 percent; 66 are borrowing at 17 to 18 percent; 73 are borrowing at 18 to 19 percent; 21 are borrowing at 19 to 20 percent; 8 are borrowing at 20 to 21 percent; and 5 are borrowing at over 21 percent interest.

I do not have to tell you that these are crippling interest rates. To complete the picture, 17 firms reported interest rates of 15 percent or lower. These more-favorable rates are not really available in the financial market. I am told they represent cases where families and friends came to the rescue of small companies that could not afford to raise capital at those typical rates I just cited.

Here is what the survey shows about profits. Of firms queried, 31 percent showed profits up this year; 13 percent showed no change; and 36 percent showed a drop from last year. Those who reported gains showed modest increases while those who registered losses showed steep declines. Moreover, if the majority of the 20 percent who did not respond were in the loss column, the situation is even worse than these data indicate.

Statistics on backlog orders are particularly significant because they foreshadow the future with a fair degree of certainty. The future, based on this reading, does not look favorable. Of the firms responding, 67 percent report backlog orders down from a year ago. Only 32 percent report their orders are up.

I noted earlier that small manufacturers are fighting hard to stay alive. The survey bears this out when you look at layoffs and hirings. These companies had to lay off 1,444 workers during the past year. Yet they managed to hire back a good proportion, or 1,024 workers.

A point to emphasize here is that small business is responsible for the employment of over 80 percent of the workers in this country. This is not to downgrade the importance of the large industries; in fact, many of the small firms are subcontractors of large firms. However, if this measure beefs up the small- and medium-size industries, as I believe it will, the impact on employment should be substantial.

Throughout the northeastern industrial belt of this country, these twin problems of joblessness and declining small businesses is especially severe.

Surveys cannot show everything. From talking to the owners and managers of the plants in my area, I can report that they are trying valiantly to modernize, to keep in the forefront of their technology, to remain competitive in home and world markets. But they feel the cards are stacked against them.

These small business leaders constantly remind me that the recently enacted tax incentives do not help them overcome the horrendous costs of borrowing so that they can make a profit and thus enjoy the tax benefits. That is why the loans, loan guarantees, and purchase agreements, or price guarantees provided in the bill are needed.

As the author of a section of this bill that deals with infrastructure, I should conclude with a word about that.

My district, like many other urban areas of the Nation, has not been able to keep pace with the maintenance of its bridges, highways, streets, locks and dams, and other public facilities.

Many of these are joint city, county, State, and Federal responsibilities. I am not trying to point a finger of blame at anybody. The evident fact is that deteriorating public facilities are impeding our economy. Heavy trucks have to circumvent many bridges that are now unsafe. In times of national emergency, this loss of time could be critical for defense purposes.

Transportation, no less than manufacturing, is essential for getting material to the right places in the fastest possible time.

For these reasons, we have called for an inventory of the Nation's infrastructure needs as a first step in developing a comprehensive and orderly strategy for bringing them up to par. An immediate result of launching infrastructure upgrading will be to stimulate employment and the construction sectors of the economy.

In conclusion, this bill is needed for our defense posture, and it should have the important side effects of reviving our economy and putting Americans back to work.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act, which will not only help our national security standing but will give America an economic boost.

This legislation, a series of major amendments to the Defense Production Act of 1950, was favorably reported from the Banking Committee on May 6 by an overwhelming bipartisan vote. Unfortunately, the administration does not support this bill and views it as inflationary. I, therefore, seriously question whether or not the administration wants real economic recovery or a smokescreen of increasing taxes and cutting spending.

We now have before this body a bill with some real meat in it. H.R. 5540 provides for the modernization of plant and equipment in high-priority small- and medium-sized businesses. There are some 50,000 of these subcontractors and suppliers which are considered the heart and muscle of our defense industrial base. These industries are found in our civilian economy, which most certainly means jobs. Under this bill, these firms would be eligible for assistance in the production of defense-related items or the possibility of doing defense work.

The second aspect of H.R. 5540 provides a major job training program to train, retrain, and upgrade skills that are in short supply in the high-priority industries of our industrial base. Again, we are talking about jobs and a program of cost-sharing assistance with States to provide training and retraining for workers who will be needed.

The third aspect of this major proposal will strengthen America's domestic capability and capacity to produce critical and strategic materials. From an environmental and energy-saving viewpoint, we need self-sufficiency and a greater independence from possible shortages, cutoffs, and cartel-like arrangements which could threaten our defense industrial base.

Simply put, this bill, H.R. 5540, addresses these problems. Our defense industrial base is deteriorating. We must, therefore, modernize our industry.

Mr. Chairman. I wholeheartedly urge my colleagues to support H.R. 5540. In the final analysis, America cannot be a first-rate world power with a second-rate industrial base.

Mr. BLANCHARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

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Mr. WEISS. Mr. Chairman, at the outset I want to commend the gentleman from Michigan (Mr. BLANCHARD) for the concept that is incorporated in this legislation and for the gentleman's driving force in bringing it through the committees and to the House for adoption.

The fact is that America's industrial base and industrial plant has deteriorated to a very dangerous extent. As a member of the Subcommittee on Em-

ployment Opportunities, chaired by the distinguished gentleman from California (Mr. HAWKINS), I participated in hearings across the country where, for example, we had the national association of tool-and-die makers representatives testifying that right now there is a shortage of 90,000 tool-and-die makers. By 1985, the shortage will reach 250,000 people.

It seems to me that at a time of extraordinarily high unemployment something ought to be done to remedy that situation. This legislation will take us in that direction.

This legislation is only one side of the coin. The other side, it seems to me, ought to be to prepare for economic conversion from defense-related industries to civilian industries. The fact is that over the course of the next 5 years, we are going to be spending a tremendous amount of money on defense; but at the same time, we hope that that expenditure is going to be reduced. Communities and individuals in those industries where cutbacks take place ought to be given preparation and help in transforming and converting to civilian operations. People who work in those plants ought to be given the chance to be retrained for civilian-type occupations. People in communities with facilities that are defense related ought to have the chance to have those converted to civilian operations.

It seems to me we ought to be looking at all sectors of our economy in the kind of wise forward planning way that this legislation provides.

On June 16 of this year I introduced H.R. 6618, a bill "to facilitate the economic adjustment of communities, industries, and workers to reductions or realinements in defense or aerospace contracts, military facilities, and arms export, and for other purposes." I urge my colleagues to join me in cosponsoring H.R. 6618.

I thank the gentleman and express my gratitude to him for starting the process toward this kind of overall planning which ultimately will serve America well.

Mr. McKINNEY. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN), the ranking member of the Education and Labor Committee.

Mr. ERLENBORN. Mr. Chairman, H.R. 5540 authorizes $6.75 billion in price supports, loan guarantees, and other subsidies for domestic production of defense-related materials. It includes a new manpower training program and an equipment assistance program for higher education institutions.

Overall spending authority aside, I object to the bill because it would establish another categorical training program that would be similar to other Federal programs. The well-known problems of duplication, overlapping jurisdiction, and State and local planning procedures with accompanying layers of bureaucracy are inherent in such an approach. We have recently completed consideration of a multibillion-dollar job training program which includes skill training for the defense sector. The General Accounting Office, in raising concerns over H.R. 5540, has noted that it has issued a number of reports documenting that the existence of closely related categorical programs can cause duplication, overlap, and excessive administrative costs for grantees, impeding the coordination of services to clients.

The GAO further stated that "we, therefore, believe that creating another categorical grant program would not be the best way to achieve the bill's objective." I agree with the GAO, that, if Congress and the President decide that it is in the national interest to invest additional Federal dollars, such funds ought to be folded into an existing Federal training assistance program such as vocational education, that could be earmarked for accomplishing defense-oriented objectives. It is ludicrous on its face to create a new separate categorical program and then design and elaborate mechanism and process to insure that the new funds would be coordinated with those of other similar federally assisted employment and training programs.

In addition, subsection 303A(i) establishes a grant program to assist in updating equipment in colleges and universities in order to serve the needs of the defense industrial base. This provision was expanded in the Banking Committee markup by an amendment which states that all students and faculty studying, teaching, or conducting research at such an institution shall have access to such equipment. GAO feels that this section raises many questions regarding who decides which disciplines would be qualified and on what basis. Probably every field could demonstrate some link to defense needs. The bill sets no standards against which requests for equipment assistance can be judged. Without such standards, sophisticated equipment could be provided to requesting institutions that have neither the faculty nor students required to utilize them. Also, there is no provision in the legislation to allow the Federal Government to recoup its investment in such equipment if a higher education institution fails to live up to its agreement on the use of the equipment once the equipment is installed.

It is significant that the other Chamber of the Congress has not embarked on such a major new spending program. Keeping more in line with the fiscal realities, the other body apparently finds it unrealistic to propose a bill that would authorize a new $6.75 billion program. The Senate bill would merely extend the existing Defense Production Act for 1 year.

Another negative feature in H.R. 5540 is the extension of the Davis-Bacon Act to these new federally financed programs and beyond the scope of traditional Davis-Bacon coverage. I plan to offer an amendment at the proper time to delete this extension and to assure the status quo.

I shall go into detail on my amendment and the problem it is intended to solve during the amending process.

It should be noted that the administration strongly opposes H.R. 5540. The Director of the Office of Management and Budget has recently written that the "administration is strongly opposed to a proposal to expand the Defense Production Act by providing subsidies or manpower training for selected industries."

The current Defense Production Act provides the authorities necessary to meet defense materiel requirements during peacetime and mobilization. The administration believes that the existing Defense Production Act has met the Nation's needs in this important area and should be extended without change.

Mr. Chairman, we cannot go on with business as usual. This legislation reminds me of the wornout nostrums of the past—create a new categorical spending program for, and involve the Federal Government in, every potential problem. Since we have just completed action on a multibillion-dollar job training program, we have to be realistic.

A mechanism already exists to handle most of the retraining needs associated with the defense industrial base. Right now, if a private firm feels that its labor force needs to be upgraded and workers need to acquire new technical skills, the firm may enter into a contract with local vocational schools or training centers. Such arrangements make sense and the programs can be designed according to the specific needs of a particular contract. There is absolutely no reason for additional involvement by the Federal Government. If the private sector is unable to reach out to the existing vocational education system for specific training programs in an environment of increased defense spending and weapons procurement, then a $350 million Federal job training and equipment assistance program is not going to matter anyway. Let us save the taxpayers of the Nation from another needless boondoggle by defeating this legislation.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. GOODLING).

Mr. GOODLING. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Illinois (Mr. ERLENBORN), the distin-

guished ranking minority member of the Education and Labor Committee. In my role as the ranking minority member of the Subcommittee on Elementary, Secondary, and Vocational Education, I have become acutely aware of the duplication, overlapping jurisdiction, and inherent inefficiency associated with the existence of closely related categorical programs about which the gentleman from Illinois spoke. That is one major reason why I oppose H.R. 5540, and specifically sections H and I dealing with job training and equipment assistance.

In addition, I would like to point out that the legislation before us does not provide any real mechanism for insuring that the private sector has a financial commitment to the program. Without that kind of involvement, the linkages between business and training programs would be tenuous at best.

I am convinced that the most effective way to deal with this issue is in the context of the reauthorization of the Vocational Education Act. Our subcommittee has held nearly 30 hearings on this subject and related topics and more are planned. Certainly a comprehensive approach which seeks to link all Federal job training programs is preferable to an uncoordinated proliferation of categorical grant programs. This is one more reason why I must oppose H.R. 5540.

It is also interesting to note that the American Society for Training and Development does not support passage of H.R. 5540 as reported from committee. In a letter to me dated August 16, 1982, they urge that rather than pass H.R. 5540 as reported, it would be better for the House to "pass a simple extension of the Defense Production Act." This will bring the bill in line with the Senate version and give Congress time to develop a better strategy for defense training capabilities.

I would also like to point out that the chamber of commerce opposes H.R. 5540. In an August 13, 1982 letter, the chamber stated:

> The price guarantees, purchase agreements, grants, loans and loan guarantees that would be provided under H.R. 5540 represent an expensive and inefficient way to improve our defense-related industries. At a time when Federal spending is still increasing at a rapid rate and contributing to record level deficits, we can ill afford the additional $6.75 billion in spending that this bill would entail. Moreover, the $11.3 billion in additional Federal loan guarantees would increase the already burdensome level of Federal credit intrusion in our beleaguered financial markets.

The defense buildup will strengthen the defense industrial base. Increased funding levels for weapons, along with procurement reforms providing longer term awards, will enable firms to increase their capabilities. Coupled with the significant unused production capacity, this should be ample to meet future defense needs without the massive Federal subsidies contained in this bill.

For all of these reasons I urge my colleagues to oppose H.R. 5540, but particularly because sections I and H will become another expansive Federal failure.

Mr. BLANCHARD. Mr. Chairman, how much time do the majority and minority have remaining?

The CHAIRMAN. The gentleman from Connecticut (Mr. McKINNEY) has 14 minutes remaining, and the gentleman from Michigan (Mr. BLANCHARD) has 13 minutes remaining.

Mr. BLANCHARD. Mr. Chairman, I yield 1 minute to the distinguished Resident Commissioner from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Revitalization Act, which would address the very real shortages of skilled workers and support industries in the defense sector. We cannot continue to funnel money into defense without considering the productive capability, or lack of it, of plants which manufacture defense systems and the level of expertise of the personnel which man them.

In order to retain our reputation as a first-rate world power, we must insure that we have the capability to produce the systems needed to defend our Nation and to enforce positions taken in world affairs. Without the contributions of small and middle-sized businesses which provide critical components of these systems, our missiles, tanks, warships, and warplanes could be neither built nor maintained. Yet these are the very industries which have been hardest hit by high interest rates and slowing sales—they have not been able to invest in new capital and new technologies. They cannot afford to hire the specialized, highly trained personnel they need. And more and more they are becoming statistics as bankruptcies increase in our stagnating economy. Clearly, unless this trend is stopped we will soon find it impossible to procure components for our defense system from within the United States.

H.R. 5540 would provide incentives to high-priority industries to purchase new plant and equipment and financial incentives to expand the domestic processsing capability for strategic and critical minerals, metals, and materials.

Just as physical plant has deteriorated over the years, so has the availability of sufficiently trained human capital. Despite the high unemployment levels we are experiencing today, the Department of Labor reports a current shortage of skilled workers such as engineers, technicians, machinists, electricians, and mechanics. Obviously, the skills of our labor force are not matched to the needs of the business sector.

H.R. 5540 would create a skills training program to address this very problem. By training workers in skills for needed jobs, by upgrading the skills possessed by workers to enable them to fill existing job openings, and by retraining workers in skills where there is a demand, we provide personnel for defense-related industries and make significant gains in reducing unemployment.

Let me point out that the training system under H.R. 5540 is not a giveaway—it provides $250 million a year for each of the next 5 fiscal years on a cost-sharing basis to State boards of vocational education or other Governor-designated State agencies. Each State would receive awards based on the number of priority industries located there and skill shortages for those industries. But based on past experience with financial incentives used under the Defense Production Act we know that benefits to the Federal Government in reduced welfare costs and increased revenues will far outweigh expenditures.

Mr. Chairman, I firmly believe in a strong national defense, but unless we support those industries which supply items for our defense systems we cannot maintain the level of quality and superiority our country is known for. I urge my colleagues to seriously consider this bill as a vehicle for strengthening our defense industrial base, and to join me in supporting H.R. 5540.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Indiana (Mr. EVANS).

Mr. EVANS of Indiana. Mr. Chairman, 30 years ago, the United States was the greatest industrial nation in the world. England, France, Germany, and Japan were using our technology, our manpower and our money to rebuild their war-damaged industries. Today, industrially, they rank ahead of us. What was the industrial heartland of this country has become an area of mass layoffs and plant closings.

As a country, we have become shortsighted. We continue to provide for the defense of overseas countries while our own national defense preparedness has fallen. We have become increasingly dependent on foreign sources for our mineral consumption. The net reliance for bauxite and aluminum is 94 percent and 91 percent for cobalt. It is urgent that we reduce our dependency on unstable foreign sources before we are faced with critical national emergency conditions.

In a country where there are 10 million people unemployed, we face a serious problem in meeting demands for highly skilled workers. To meet current requirements, the Department of Labor estimates that nearly 9,000 tool and die workers and 22,000 new ma-

chinists will be needed each year through 1985. The number of journeymen for both trades combined totals only 5,000. Because of the shortage of skilled labor, the leadtime for the production of one aircraft engine has gone from 19 months to 41 months.

Our problems in the work force goes beyond the need for skilled workers. Japan with half of our population, graduates more engineers that we do and 1½ times as many electrical engineers. Fifty percent of the technical students at the Ph. D. level in this country are foreign nationals who eventually leave this country.

The quality of research instrumentation in major university laboratories has seriously eroded. Not all, but many researchers in the Nation's best funded universities are struggling to work effectively with obsolete tools. The equipment being used in the top-ranked universities has a median age twice that of the instrumentation available to leading industrial laboratories. For abut 15 years, Federal support for basic research has gradually declined; now support levels are being further strained by rapid inflation.

As a nation we need to put together a program that will revitalize our sagging industries, reduce our dependence on the foreign supply of strategic materials, and assure adequate domestic production of energy supplies for defense needs.

H.R. 5540 will provide a sound beginning for rebuilding our Nation's industrial base. As a member of the Subcommittee on Economic Stabilization, I urge my colleagues to support this measure.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, it has long been common knowledge that the strength and security of our Nation relies, in no small measure, on a strong and viable industrial base. This industrial base, in turn, requires a well-trained and skilled work force to operate effectively.

These needs are addressed in H.R. 5540, the Defense Industrial Base Revitalization Act, which was introduced by my colleague from Michigan, Mr. BLANCHARD. This bill has received the consideration and scrutiny of both the House Banking Committee and the House Education and Labor Committee. Both committees have reported the bill favorably.

Passage of this bill will allow for planning and creation of manpower training programs that will alleviate what is developing into a critical manpower shortage in various skilled areas. It will also benefit many of our unemployed citizens by allowing them to receive the training that will foster increased employment in the future.

The unemployment rate in my home city of Flint, Mich., is now over 20 percent. Testimony from educators at a field hearing of the House Elementary, Secondary, and Vocational Education Subcommittee recently conducted in Flint leaves no doubt that while unemployed workers are seeking training in skilled areas where employment openings exist, the training programs in local facilities are already filled to capacity in those areas.

Mr. Chairman, passage of H.R. 5540 would simultaneously meet several critical needs. It would help alleviate manpower shortages in critical industries while insuring that unemployed workers receive the training they need to fill jobs now vacant. Mr. Chairman, I submit that H.R. 5530 is needed legislation which would stengthen our industrial base and national security by meeting employment and training needs of our Nation's work force and the manpower needs of our defense industries.

Mr. BLANCHARD. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. HERTEL), who is also a member of the Committee on Armed Services.

Mr. HERTEL. Mr. Chairman, even as a 9-year-old boy, I still vividly did note how our Nation readily responded to the challenge generated by the Soviet Union's successful launching of Sputnik, the first space shot, where seemingly overnight the U.S. Congress expanded its Federal policy of funding education to assure America's superiority in technology for defense, space, and industry.

As a member of the House Armed Services Committee today, I am acutely aware of the administration's efforts to increase defense spending from 25 to 33 percent of our national budget.

Between 1981 and 1986, we are expected under their plans to spend $1.6 trillion on defense with much of this amount used for the production and advancement of more modern technological weapons.

As the technology increases, though, we will need more qualified people to build these weapons. The billions of dollars spent on expensive advance weapons mean nothing if our people cannot execute and repair and continue to build and improve the equipment involved. If they cannot do it because of inadequate education and training, then all of that money is wasted.

The problem is compounded by the fact that the Soviet Union at this time has been having higher test scores for their personnel. They have been making great improvements in the area of construction and in the area of training.

□ 1300

We need more and better educated people if we are to keep pace with the world's advancing technologies. Right now, the United States is far short of the trained engineers it needs. In 1979, the United States had 53,000 engineering graduates—17,000 fewer than the Department of Labor estimated that were needed just to keep pace with attrition alone.

In Japan, 40 percent of the recent college graduates have been engineers; the engineers graduating in the United States, however, amount to a mere 5 percent. More importantly, in the Soviet Union, they are producing six times as many engineers as the United States, with more than 60 percent going into defense work, another figure that we are lacking in.

At the very time we need to make every effort to reindustrialize the portions of our economy severely hurt by the recession, we have this bill brought to us. Our greatest problem in this country is unemployment. Our greatest investment for the future is education. That is why this bill aims directly at it.

H.R. 5540 provides the mechanism to deal with these skill shortages through a 5 year, $250 million annual program to train, retrain, and upgrade the skills of workers needed by defense-related firms. It will be operated, most importantly, at the State and local levels to carry out State plans to meet skill shortage needs. The plans would be developed with the cooperation of defense contractors and subcontractors, labor, the vocational education community and other public education communities, private training operations, and the States' Governors themselves.

Mr. Chairman, the skill training program established in H.R. 5540 is patterned after the highly successful training programs conducted by State agencies during World War II that trained at that time some 7.5 million workers for defense jobs during a 4-year period. It does not, most importantly, replace any currently operating training programs, apprenticeship programs, or privately operated skill training programs. It does not duplicate such training programs, but instead supplements and expands upon present inadequate efforts. It is not at all related to existing CETA-type job creation programs.

We are talking about something that has worked before in the Second World War when we had our greatest threat as a nation to our national security and to our future; this bill is patterned exactly after that.

There have been questions brought up regarding the funding of this legislation. If we look at the House Education and Labor report dated May 17, we see on page 16 a letter from Chairman JONES which states very clearly the regular procedure of the House. That the Defense Appropriations Subcommittee would take care of this in section 302(b), in that subdivision; so it

would be the same as in any other case, the money would come out of appropriations for the defense budget.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. HERTEL. For a brief question, yes.

Mrs. ROUKEMA. Mr. Chairman, I would like to concur with the gentleman's statement, particularly on the gentleman's observations on how well crafted this legislation is in addressing the manpower training needs and particularly the gentleman's emphasis on the coordination at the State level to avoid duplication of training programs and inefficient operations.

Mr. Chairman, as the only Member sitting on both committees which reported H.R. 5540 I have tried to serve as a liaison between the Education and Labor Committee and the Banking Committee. Although the original bill was drafted in the Banking Committee, there was always an understanding that the interests of the other committee would have to be considered. It was in this atmosphere of bipartisan cooperation that H.R. 5540, as it is today, has evolved.

Of particular importance to myself and the other members of the Education and Labor Committee has been the assurance that the funds appropriated under this bill would not be competing with the existing education and job training programs. This assurance has been essential to my own support of the bill. I am confident that the committees have accommodated this concern. I do understand that there will be an amendment offered on the floor to leave no room for doubt on this question and I urge the adoption of that amendment.

The legislation is designed to address some serious weaknesses in our defense industrial base. H.R. 5540 is not expected to solve the entire problem, but the assistance it will provide to priority industries can have a major impact in modernizing and revitalizing those production facilities. By strengthening our American defense industrial base and by ultimately reducing our dependence upon foreign-made parts and equipment, we will be ultimately lowering defense costs by improving efficiency. We will also be acting to reduce an overdependence upon imported parts and equipment which could, in a time of crisis, create a serious problem for the United States.

But as important as increasing our productive capacity is, it is vital that there be skilled Americans to work in those industries. H.R. 5540 provides for a manpower training program to train and upgrade the skills of people for the priority industries essential to the defense industrial base. Because I consider this element of the program so important I offered a series of amendments which both committees accepted to insure efficient and coordinated implementation of this program and to avoid costly duplication with other training efforts.

As these State training plans are developed, it is important for all concerned to remember that Federal funding is contingent on a State contribution from public or private resources. That is not meant to be exclusively one or the other party. In the strongest terms possible we want the administrators of this program to look to the private sector—both management and labor—to share with the States this burden.

H.R. 5540 will do much to help this Nation through a transition to a stable industrial capacity and manpower requirements. It has been carefully crafted and deserves the support of my colleagues.

Mr. HERTEL. Mr. Chairman, let me just thank the gentlewoman. She has called attention, I think, to the main points. It is a new way of expanding job training.

Let me commend the sponsor of the bill and let me point out briefly that as the chairman of the subcommittee, since the gentleman is not seeking reelection, this might be his last major bill on this House floor, and I think many of us in Michigan have a great deal to be grateful for and in our Nation to the chairman of this committee, the gentleman from Michigan (Mr. BLANCHARD).

Mr. MCKINNEY. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act, although I will at the appropriate time endorse all the nasty things that will be said about its Davis-Bacon provisions.

Under the leadership of President Reagan we are undertaking to restore our Nation's defense capabilities. While Congress has demonstrated its support for this effort, I believe the success of this program will be jeopardized if we fail to address the structural problems of our Nation's defense industrial base.

In a report prepared for the House Wednesday Group, former Deputy Assistant Secretary of Defense, Dr. Jacques Gansler, outlined the following scenario: First, world tensions heat up; second, SALT negotiations break down; third, U.S. military deficiencies are recognized; fourth, the defense budget is dramatically increased; and fifth, the defense industry is unable to respond rapidly to needed increase in military equipment production.

Regrettably, Dr. Gansler has been nearly prophetic. Today, the defense industrial base is characterized by increasing leadtimes, shortages of subcontractor capacity, shortages of skilled manpower, aging and inefficient plants, inadequate competition, and—as a consequence of these—rapidly increasing unit costs. Left untouched, there are serious doubts that the defense industrial base will be able to utilize efficiently increased defense dollars or, more importantly, to have the capacity to surge; that is, to increase production rates rapidly to meet emergency needs.

As in the past, the Federal Government has an important and necessary role in restoring the health and vitality of our Nation's defense industrial base. The need is too urgent, the problems are too deep, and the stakes are too high to risk deferring actions. H.R. 5540 outlines a comprehensive response to the problems of the defense industrial base which, I believe, merit support.

The primary concerns addressed by H.R. 5540 are modernization of priority segments of the industrial base, and the rebuilding of a healthy, competitive subcontractor segment. Inadequate and inconsistent funding of defense programs, under previous administrations and the economic woes of recent years have had a telling effect on the subcontractor tier of the defense industrial base. Consider for example, that it is estimated that the number of subcontractors in the aerospace industry dropped by 33 percent between 1968 and 1976; that nearly 1,500 foundries closed between 1957 and 1982; and that there are only 2 subcontractors for aluminum plate and tubing in the United States. The implication of such facts for competitive procurement are particularly disturbing when you consider that procurement programs now underway total some $250 billion.

H.R. 5540 amends title III of the Defense Production Act which authorizes the use of a variety of incentives for expanding production capacity and supply. These incentives, which include guaranteed purchase levels, price supports, below-market-rate loans, and loan guarantees are targeted to small- and medium-sized companies which heretofore have been the heart of the defense industrial base.

The effectiveness of such incentives has been demonstrated in the past. Consider these accomplishments under the Defense Production Act during the Korean war period: Doubling of U.S. aluminum production; quadrupling of U.S. tungsten production; launching of the naval nuclear reactor program; and creating the U.S. titanium industry.

H.R. 5540 authorizes $1 billion for each fiscal year from 1983 to 1987 for use under title III, creating an "ultimate net cost" to the Government of $5 billion. The mix of indirect and direct assistance provided will limit exposure to credit obligations, assuring that the credit budget will not be sig-

nificantly affected, while at the same time, providing the stimulus necessary to remedy the problems afflicting the defense industrial base, particularly the subcontractor level. However, it should be emphasized that the type of assistance utilized will determine how much economic activity will be generated under this proposal and in no event can the Federal Government's outlay exceed the amount authorized and appropriated.

In the end, I believe that the cost of this program will be more than offset by the benefits derived from modernizing the subcontractor tier. The successful modernization will improve the productivity of the defense industrial base, increase competitiveness, and improve the quality of goods produced, therefore resulting in major savings in the defense budget. Moreover, the economic activity generated will provide tax revenues for all levels of government and will create thousands of new jobs.

Although I have chosen to focus on modernization of priority industries, the bill addresses other important areas including training skilled manpower, expanding strategic minerals and materials, and providing modern equipment for training professionals, these provisions also warrant your support.

My only criticism of this legislation is that Davis-Bacon requirements have been imposed on some of its provisions; I intend to support efforts to strike these requirements.

Nonetheless, I am committed to the purpose of the act and believe that it is necessary that we act now. Further delay in dealing with the shortcomings of the defense industrial base will only exacerbate what are already well-documented problems. These problems are at the heart of inflated procurement costs and our failure to address them immediately will insure that we get even less for our defense dollars in the future.

I urge my colleagues to consider the wisdom of this legislation and to vote in favor of this bill.

Mr. McKINNEY. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I appear before the Committee today to support H.R. 5540, the Defense Industrial Base Revitalization Act. As the ranking Republican on the Employment Opportunities Subcommittee, which has jurisdiction over job training programs, I would like to express my support for the skills training aspect of the bill.

As we all know there is a large unmet need for employment skills training. Current funding levels for the existing employment and training programs have been dramatically reduced over the past 2 years. Prospects for any increased funding in this area appear to be bleak. H.R. 5540 would require coordination of skills training program with any CETA or successor program through provisions for participation in the plan's development by the State employment and training council or a successor entity, and opportunity for prior review and subsequent comment by that entity. To maximize effective coordination, additional requirements of the plan prohibit duplication of other Federal, State, or local programs unless necessary to achieve the objectives of the skills training program, make provision for joint agreements with CETA, or successor, programs; and require consultation and coordination with certified apprenticeship plans where they are in effect.

Finally, given the fact that basic programs have been reduced significantly, and that there is a definite need for skills training under this act, we should not be forced to strain our current resources even further thereby diverting funds that serve low-income, disadvantaged individuals. It seems logical and appropriate to fund skill-training programs designed for national security interest out of the defense budget rather than the already overburdened education and job training function. H.R. 5540 as amended, by the Committee on Education and Labor would accomplish this objective.

Therefore, for these reasons I support H.R. 5540 and feel that its advantages outweigh the concerns raised by some Republican Members.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Chairman, I rise in strong support of H.R. 5540, the Defense Industrial Base Revitalization Act. This legislation introduced by my colleague, JIM BLANCHARD, is a major step toward revitalizing the defense industrial base of this country.

This legislation will set up a program to train workers with skills needed to fill the manpower shortages now existing in high-priority industries related to our national defense. The bill will also help small- and medium-size businesses modernize their facilities through loan guarantees and purchase agreements, so that materials important to our national defense will be produced in this country.

Right now because of old or inadequate factories, we cannot manufacture many of the basic components needed for our major industries. The U.S. dependence on foreign sources for such items as fasteners, castings, forgings, optical parts, and other basic parts does not enhance our national security.

We have to be able to manufacture the parts for our basic industries so that we can both take care of our defense needs as well as our industrial needs. This legislation will enable us to do just that by retraining workers with skills that are needed and by assisting smaller firms to modernize their facilities.

With almost 10 percent unemployment now, this country cannot afford to export any more jobs abroad. This legislation is a straightforward, sensible solution to this problem.

No country can continue as a superpower for a very long while being dependent on foreign sources of production for its basic industries and national defense. It makes no sense to spend record levels of funds on defense without making sure we can produce these goods in the United States and put our people back to work.

America has let her industrial base dwindle for far too long. The Defense Industrial Base Revitalization Act will put us on the right road to correct this problem in the 1980's. In a State like Michigan, with 14 percent unemployment, the training programs will benefit workers who have seen their jobs exported to foreign countries or disappear during the recession. The Midwest needs a program like this to help our small- and medium-size businesses rebuild and retool their older plants.

The Defense Department has already developed a list of 73 skill areas related to high-priority industries necessary for our national defense. This legislation will help fill the skills needed in these high-priority industries while putting people back to work. Under this program, companies who want to qualify for loan guarantees will have to come up with specific plans and proposals so that the funds will be used productively.

I strongly urge my colleagues to approve H.R. 5540 as reported out of the committee. We need this type of legislation to get on with the job of rebuilding American industry and reducing our outrageous unemployment problem.

Mr. BLANCHARD. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Before I start, I would just like to say, Mr. Chairman, that we are all very grateful to the gentleman from Michigan (Mr. BLANCHARD) for the great job he has done on H.R. 5540. I believe the bill is timely and absolutely essential in these times we are presently living in.

Mr. Chairman, I rise in strong support of H.R. 5540, the Defense Industrial Base Revitalization Act.

This bill is of great significance not only to our defense base but also for small business, distressed America and the unemployed.

If you favor a more prepared Defense Department, then you should be supporting H.R. 5540.

If you favor assisting the Nation's industrial regions in recovering from this most damaging recession, then you should be supporting H.R. 5540.

If you favor putting our untrained youth in new jobs and with new skills, then you should be supporting H.R. 5540.

If you have a large population of blue-collar workers passed by because of changes in American industry, then you should be supporting H.R. 5540.

If you believe that our universities and colleges as well as our vocational education facilities need some improvement to once again move America forward and to maintain a competitive position with the rest of the world in technology and the sciences, then by all means, get behind H.R. 5540.

This bill is not just another spending bill. Far from it. The authors have had the upmost regard for our budget situation and for that they are to be commended. Its provisions have been carefully crafted to address a myriad of economic and defense related problems.

We need to provide for the development of preparedness programs and the expansion of industrial productivity capacity and supply beyond the demand the civilian economy places on it. We must also reduce our dependence on the foreign supply of strategic and critical materials and to assure adequate domestic production of the necessary supplies for our defense needs.

This is also an urban development initiative. As Chairman BLANCHARD stated earlier this year—

Cities today are facing some of the toughest challenges of the decade. Our industries have long been the backbone of many of our cities. But today those industries are deteriorated and production is seriously hampered by a shortage of skilled labor despite the record high unemployment we now confront.

There should be little question in our minds that our industrial base is in trouble. Just travel through the Northeast and Midwest and increasingly in the South during this most drastic recession.

If we are to continue on our course of increase defense expenditures, as seems likely with the $178 billion defense budget, then we need to prepare American industry to meet the challenge. To fail to do so would be more than a failure of the Congress, it will be a failure of our determination to prepare for an adequate defense.

As a corollary, if we are to pursue this course of increased defense buildup, then let us attempt to achieve some domestic goals as well—revitalize our economy, provide assistance to distressed America, new training for our unemployed labor force and our youth population.

I urge my colleagues to support H.R. 5540, the Defense Industrial Base Revitalization Act.

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Again, as I close, Mr. Chairman, I would like to say to my colleague from Michigan: If this is your last piece of legislation on this floor, thank God you were here, because, God knows, this is a critical time in America's history and this bill is absolutely essential.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Chairman, I thank the gentleman for yielding this time to me.

As I mentioned in earlier remarks, this bill is not a contribution to national defense but is a thinly disguised industrial subsidy program—subsidies, subsidies, subsidies; corporate welfare, corporate welfare, corporate welfare. That is what this bill is, pure and simple.

I direct Members' attention to pages 10 and 11 of the committee report wherein it is announced expressly that the estimate of the number of companies that would benefit by this is 50,000, and that they are small- and medium-sized businesses making the nuts and bolts which support our defense effort.

They go on to say that the defense businesses utilize less than 10 percent of the total productive capacity of the companies.

What we are doing here today is giving ths administration, although it is not likely to use it so much, but other administrations in the future, carte blanche power to simply hand out credit assistance, subsidies, and corporate welfare to those companies that they decide are deserving.

That is why, as I mentioned earlier, the administration is so strongly opposed to this, particularly the Defense Department, which knows that this is simply going to further encroach into the credit market and provide subsidies for those who manage to have the political clout to get to the head of the line.

I remember well when we were dealing with the Chrysler bailout, and other Members will remember, all of the lobbyists all over this Hill. That bill would not have passed if we had not had the auto workers, the big banks, the little banks, the corporate stockholders of Chrysler and the dealers, all here on the Hill going from door to door, lobbying for the bill.

It is political clout that will get you credit and get one a loan after we pass this type of legislation, rather than the merits of one's business which would qualify one under the market system.

I urge Members to vote no on this bill.

Mr. McKINNEY. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I commend the gentleman from Connecticut (Mr. MCKINNEY) and the gentleman from Michigan (Mr. BLANCHARD) for their leadership on H.R. 5540, the Defense Industrial Base Revitalization Act, which I have cosponsored.

Extensive research by the Congress has revealed that the condition of the defense industrial base has deteriorated to an extent that threatens our national security. The defense industrial base consists of approximately 50,000 small- and medium-sized companies who supply the "nuts and bolts" to the defense contractors, from industrial fasteners to aircraft landing gear. A vital element as well is the continued availability of the critical materials and metals needed to manufacture these components.

H.R. 5540 provides financial assistance to companies who qualify on a priority basis as determined by the Defense and Commerce Departments. When assistance is given, it will be only to companies essential to our defense that need it and ask for it. If anybody is being bailed out by this program, it is the American people and our national security.

In addition to the deterioration in the physical condition of the defense industrial base, there is also a severe shortage of skilled manpower to operate those industries. H.R. 5540 contains a manpower training program to provide skills training only for the priority industries designated as essential for national defense. This is not a jobs program; it is a logical step to improve the productivity of the defense industrial base.

All of the funds authorized and appropriated will come from the defense function of the budget. The possible cost of H.R. 5540 is $6.75 billion over 5 years or $1.35 billion each year. Over the same 5-year period it is expected that more than $1,000 billion—a trillion dollars—will be authorized for defense. H.R. 5540 designates less than seven-tenths of 1 percent of that amount to be used to strengthen domestic industries needed for national defense and if financial assistance is given in the form of price guarantees or purchase commitments, the actual cost could be much less.

Economic preparedness is an important element in today's military arsenal. Strengthening the defense industrial base will help reduce the threat to our Nation of armed aggression.

For these reasons, I strongly support the bill and urge its adoption.

Mr. McKINNEY. Mr. Chairman, there has been a great deal of discussion today about this bill. There have been charges that it is an industrial bailout, charges that it is forced credit. It does, in fact, force credit. But where

does its force credit? It forces credit by helping small, secondary manufacturing elements of the defense process which are failing right and left, as I mentioned earlier. In the foundry business, almost 50 percent of our foundries have closed down over the last 10 years.

Only four 35-ton or above presses are left in the United States dating from World War II, which are well over 40 years old. That is where it assembles credit.

Right now we are sending our fighter planes off the end of our assembly lines with essentially not one American fastner in them.

I would suggest to you that if we are ever in trouble, we would have to travel across the entire Pacific or over to Europe to get fasteners to build an airplane. We do not make a binocular for a field commander; we do not make a telescope in this country for ground use. It all has to be bought overseas.

We are about to start buying all our small diesel generators overseas because these companies simply are going out of business because Government procurement from the Defense Department has been so sporadic, so up and down, that they cannot count on the business.

How can this House say it is going to build a trillion dollars' worth of military equipment and not have the heart nor the strength to realize that we cannot do it unless we buy it overseas, or we turn around and build up our industrial base?

Mr. Stockman sits downtown and says the free enterprise system will do it. I hope to God it will. But the free enterprise system can only compete with another free enterprise system. What Mr. Stockman does not tell you is that we are competing with governments. There is no relationship between real cost for a Rolls Royce engine coming from England and the engine itself; the cost is set because the British Government has made a decision that x number of Englishmen will make x number of jet engines and work x number of hours.

We are not competing with a company in the free marketplace of this world; we are competing with a government.

Everyone wanders around and says, "Woe, woe, woe. The steel industry." Well, look at the steel business, a disaster in anyone's book. Why? Because the Germans have lost over $700 million in their steel business. But they receive Government assistance, Government subsidy. The British, the same.

What we are talking about is that we want to be the leader of the world when we are, first, not energy independent; and second, we cannot build the material we need.

I would suggest if anyone votes against this bill who still voted for that absurd, obscene defense budget we passed in this House, they simply are not doing their duty to their constituents and they are being hypocritical beyond the edge of belief.

I yield back the balance of my time.

Mr. BLANCHARD. Mr. Chairman, I yield 30 seconds to the gentleman from New York (Mr. SCHUMER).

Mr. SCHUMER. Mr. Chairman, the gentleman from Michigan has done an outstanding job on this legislation.

The one point I would like to make is that this legislation does something that President Eisenhower and the Congress did back in the late 1950's during the sputnik fear. Then we were beset by a similar feeling that the Soviet Union was gaining on us, producing more weapons, more technology, better missiles. One of our responses was to put money into education, to educate the minds of our young people.

Up until this bill, what this Congress and President have done, in response to a similar crisis is take money away from education. We cannot have fancy weapons systems without fancy minds to operate them.

Mr. Chairman, I yield back the balance of my time.

Mr. BLANCHARD. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, at the outset let me indicate the tremendous respect that many of us from the Northeast and Midwest have for the gentleman from Michigan (Mr. BLANCHARD), and the gentleman from Connecticut (Mr. MCKINNEY), who just spoke so eloquently about the importance of not only preparing ourselves to meet the industrial challenges that are before us, but relating those industrial and economic challenges to our question of military preparedness and adequate and efficient use of our taxpayers' dollars.

Mr. Chairman, as a cosponsor and strong supporter of this important legislation, I urge my colleagues to vote for the Defense Industrial Base Revitalization Act, H.R. 5540, because it offers a creative and comprehensive program for rebuilding our seriously debilitated defense industrial base.

The erosion of our Nation's industrial base has been well documented. In a thorough series of hearings by the House Armed Services Committee in 1980, problems ranging from acute shortages of skilled workers to a paucity of small- or medium-sized defense suppliers were identified. Instead of allowing our defense industrial base to languish further, our colleagues, Mr. BLANCHARD and Mr. MCKINNEY, took action by introducing the bill before us today.

The Defense Industrial Base Revitalization Act is not only good for our Nation as a whole, but is particularly valuable to the troubled economies of the Northeastern and Midwestern States, such as my home State of Ohio. It goes to the heart of many of the problems which are currently plaguing the economies of the industrial Northeast by training skilled workers who can become productive members of the community and by strengthening small businesses engaged in defense-related activities.

In addition to making it possible for small- and medium-sized firms to purchase and install new plants and equipment through direct loans and loan guarantees, it establishes credit assistance incentives to businesses involved in expanding the Nation's capacity to process and produce materials essential to the national defense. The critical shortage of strategic materials could seriously hamper our country's ability to respond in times of crisis. Without the materials to build airplane engines on short notice, our national security is jeopardized.

The Defense Industrial Base Revitalization Act also provides grants to our colleges and universities that will train professionals for industries central to our national defense. In this way, we can help to offset the severe cutbacks in many education programs.

The bill enjoys the support of both business and labor. By working together, business, labor, and the Congress can help to upgrade and modernize our defense industrial base and provide jobs for the thousands of workers displaced in this stagnant economy.

Let us help put our people back to work. This legislation is an important part of rebuilding our Nation's economy.

● Mr. SANTINI. Mr. Chairman, I rise in support of H.R. 5540, the Defense Industrial Base Revitalization Act. For years defense experts have testified that we are taking unacceptable risks by continuing our reliance on unstable foreign sources for many of our strategic and critical minerals and materials. Yet, little has been accomplished. We remain import dependent for over 80 percent of 13 of the most critical minerals which are vital to our defense industrial base. These include cobalt, bauxite, chromium, manganese, the platinum metals, tantalum, columbium, and rutile—the basic raw material in the production of titanium.

As chairman of the Interior Subcommittee on Mines and Mining, I have been concerned over the availability of critical and strategic minerals. Our economic well-being and security of our Nation hinge on a strong and stable industrial base. In order to have this base, we as policymakers, must look for a means to revitalize our domestic capabilities.

I commend the chairman of the Banking Committee and of the Education and Labor Committee for their excellent work in bringing before this Congress a legislative product that will help America. H.R. 5540 is the first concrete proposal that has come to the House floor in decades that would directly attack this problem. It would do so by creating within the Defense Production Act of 1950 a specific program authority for contingent purchase contracts and other cost-effective incentives for domestic production of minerals and other materials on which we are import dependent.

These are not untested programs. During the 1950's their use doubled U.S. aluminum production; initiated U.S. nickel mining; created the U.S. titanium industry; and more than quadrupled U.S. tungsten mining. And, they did so at a cost of less than 10 percent of the face amount of the contracts. The cost-effectiveness of Defense Production Act programs has recently been confirmed by a study conducted by the Federal Emergency Management Agency.

It is clearly time to act. In a recent report to Congress, the President stated that it is the policy of his administration to "decrease America's minerals vulnerability by taking positive action that will promote our national security, help insure a healthy and vigorous economy, create American jobs, and protect America's natural resources and environment." I and many other Members of this body believe that H.R. 5540 would do just that, and therefore I urge my colleagues to cast their vote in support of H.R. 5540.●

● Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 5540, the Defense Industrial Base Revitalization Act. The bill contains provisions that not only are unnecessarily costly, but also subsidize domestic production in a way that violates our international agreements under GATT.

The purpose of the bill is to strengthen the capability of the U.S. defense industrial base through programs of Federal loans, loan guarantees, purchase agreements and grants. Another goal is to promote modernization in order to provide materials which will reduce the Nation's reliance on imports.

In addition to the anticompetitive nature of these financial subsidies which other domestic firms will not receive, the programs would be subject to trade complaints under the GATT because they amount to domestic subsidies designed to displace or impede imports. We could not defend against those complaints because displacing imports is a stated objective of the bill.

Discipline over the use of domestic and export subsidies has been a longstanding goal of the United States in the GATT. This bill, as reported, could seriously hamper those efforts. In addition, we make ourselves vulnerable to retaliation from our trading partners who are adversely affected by U.S. subsidy practices.

The U.S. trade representative, in a letter to the chairman of the Trade Subcommittee dated July 9, said that section 2(J)5 "could have a serious negative impact on U.S. trade interests."

Another objectionable aspect of the bill is the requirement that all plant and equipment financed by the Government under this bill be of U.S. origin. Only if U.S. equipment is not available or is not practicable to obtain can imports be substituted. This provision totally ignores the value of imports to our economy and to the competitiveness of our industrial base. Such blanket protection will weaken rather than improve the health of our basic industries. Even in the case of national defense purchases, only a 50-percent domestic preference is given.

Continual efforts to enact restrictive Buy American provisions are becoming a serious threat to our own exports and to the ability of U.S. firms to bid successfully on foreign contracts. Protectionism in the area of Government purchases also has made efforts by the U.S. trade representative to expand the coverage of the Government Procurement Code extremely difficult, even though the benefits to U.S. firms could be substantial.

Mr. Chairman, this bill is bad policy from the point of view of domestic competition as well as foreign competition. Its Buy American provisions are extreme. Overall the bill is costly and, I believe, detrimental to U.S. economic and trade interests. The administration, especially the Department of Defense and the U.S. trade representative, strongly oppose enactment.

I urge my colleagues to reject H.R. 5540.●

● Mr. UDALL. Mr. Chairman, one of the key issues addressed in H.R. 5540 is the dependence of the U.S. industrial and defense base on uncertain, and potentially undependable sources of supply of a whole list of strategic and critical minerals.

The Committee on the Interior has been concerned about this issue for a number of years. Our concern was prompted in no small part by the interruption of cobalt supplies during a 1978 civil disruption in Zaire. That traumatic event drove the prices of cobalt from $6 to $50 a pound in a period of months while chaos reigned in the world metal markets. It also taught us a lesson: That this country's almost total dependence of foreign sources of supply for essential minerals has endangered our economy in fundamental ways.

H.R. 5540 addresses this concern by providing incentives that will turn the mining industry's attention toward the recovery of strategic minerals where such production makes sense from an economic and environmental standpoint. These incentives are in the form of purchase agreements, loans, and loan guarantees—essentially a re-creation of the Korean war minerals program, which was so successful. That program doubled domestic aluminum production, initiated U.S. nickel mining, quadrupled U.S. tungsten production, and created our titanium industry. All of this investment was accomplished at minimal cost to the taxpayer because of the new economic activity generated by the program.

I am a cosponsor of H.R. 5540, and I support passage of the bill. The essential mining envisioned by this bill would create a much-needed minerals safety net under the U.S. economy. Importantly, the mining that is envisioned would be conducted under existing environmental restrictions at the State and Federal level.

Mr. Chairman, I congratulate Congressman BLANCHARD and MCKINNEY on their determined 2-year effort which led to today's floor action. They have done the country a service.●

● Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 5540, the reauthorization of the Defense Production Act.

I commend the committees involved for the insight they have shown in the reauthorization of the Defense Production Act and congratulate them in particular for their initiatives in the area of industrial modernization, including manpower training, and instrumentation modernization for institutions of higher education.

While we spend hundreds of billions of dollars on defense programs aimed specifically at military preparedness, I am happy to support a $1 billion per year program addressing fundamental issues directly affecting the strength of our Nation. Many of our industries are in trouble, unable to compete in foreign markets, and we do not have the skilled work force needed by new or revitalized industries.

I have long contended that the national security of the United States depends on much more than weapons development or stockpiles. Industrial production, a skilled and appropriately trained work force, and an ability to respond with flexibility to shortages in materials are all factors affecting our national security. Most of these factors are reflected in the health of the economy. Anyone who doubts this need only recall the 1973 oil embargo. "Dependence on foreign oil" has become a dirty word raising the specter of armed conflict.

The bill before us provides for a new major training program aimed specifically at job vacancies that exist now or that will exist in new industries. Most

of the skills would be applicable to the civilian sector with an important example being in the computer field. The hearing record indicates that the demand for skilled workers in the computer field is estimated at 20 to 40 percent above the supply. The Japanese threaten to overtake us in this field, and in some instances are already ahead. We cannot hope to compete without the adequate work force.

Retraining is a vital component of the training program of this legislation. For example, the steel industry has laid off many workers who may never be employed in the steel industry again. These workers need retraining for new skilled jobs, a need which this bill addresses. The training language in this bill is a focused effort to fill the gap created by recent major cuts made in existing job training programs. It emphasizes those skills which this country requires for its economic and national security. At the same time, workers are trained in skills which will remain in demand for years to come, guaranteeing their economic security. Representing a district where many steel workers are currently on layoff and an area which will be experiencing substantial expansion in coming years, I enthusiastically endorse this provision.

Also critical to revitalization of U.S. industries is a strong research and development base. As a member of the Science and Technology Committee, I have had the opportunity to examine this need in some detail. I have been distressed at reports of industry needing to retrain graduates from colleges and universities because they cannot use the equipment that industries use daily. Our colleges and universities often do not have this modern equipment because they cannot afford it. This bill provides $100 million per year over the 5-year reauthorization period specifically aimed at the instrumentation needs of colleges and universities for training professional, scientific, and technical personnel. This is an important component of any program aimed at arming our work force with usable skills.

I might also add that the strong emphasis on strategic materials contained in this bill is one with which I am pleased. As some of my colleagues know, I have been pushing for some time for increased emphasis to be placed on a number of domestic, agricultural sources of strategic materials. In particular, I have been pushing for the last 15 years to encourage the development of the guayule plant, a semiarid shrub which produces natural rubber. It was developed to some extent during World War II when our supplies of imported rubber were cut off. This potential danger exists today as well, and a major natural rubber shortfall is expected in the coming decade.

We import 100 percent of our natural rubber, which is used in airplane tires, tank treads, and numerous other strategic applications. Synthetic rubber cannot substitute for the natural rubber used in many of these applications. I am encouraged by the recent proposal by the Defense Department to contract to build a guayule processing plant and hope that the purchase guarantees contained in this bill will be used to speed that program along. Growing natural rubber at home makes sense from a national security standpoint, as well as an economic standpoint. I hope that with the passage of this bill we will be able to speed the development of guayule and a host of other needed approaches to increased independence in this critical area.

Mr. Chairman, I urge adoption of this bill.●

● Mr. FAZIO. Mr. Chairman, I rise in support of this bill, and I shall vote for it. However, I do want to point out a problem that I believe needs to be looked into. The bill contains a legislative mandate for the General Accounting Office to conduct audits and issue annual reports and for the Office of Technology Assessment to conduct studies and issue reports to Congress. I take no issue with the objectives of these audits, studies, and reports. I only wish to point out that the policy of a legislative mandate to agencies of the legislative branch is more restrictive than it needs to be to accomplish the same purpose. Both agencies have the authority under their basic statutes to conduct these studies, audits, and to issue reports. They can do so at the specific request of the committees of interest. This is the way they normally do business. However, when we make this a legislative requirement, we absolutely foreclose any adjustments due to changing circumstances. I believe that is bad policy, Mr. Chairman, as the attached letter explains.

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., May 14, 1982.

Hon. JAMES BLANCHARD,
Chairman, Subcommittee on Economic Stabilization, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We understand that your Subcommittee has been considering H.R. 5540, the Defense Industrial Base Revitalization Act. Among its provisions is a requirement for monitoring, auditing and annual reporting by the General Accounting Office. In our capacities as Chairman and Ranking Minority Member of the Legislative Branch Appropriations Subcommittee, we would like to share our thoughts with you about that provision.

By way of background, we have done our best over the past several years to limit the incidence of specific audits and studies being mandated in legislation governing the activities of Legislative Branch study agencies. Legislative mandates weaken managerial controls at the agencies and lessen the ability of Congress to control agency funding levels. The study agencies—GAO, Office of Technology Assessment, Congressional Budget Office, and Congressional Research Service—generally have charters which are broad enough, as is apparently true in this case, to accomplish congressional objectives while providing a little more flexibility for both Committee or Member and agency.

In this current instance, we have been informed that Comptroller General Bowsher has indicated by letter of April 22, 1982, that the General Accounting Office already has sufficient statutory authority under its organic legislation to conduct the activities which would be authorized by the bill. Furthermore, the Legislative Reorganization Act of 1970 directs the Comptroller General to respond to requests from committees of jurisdiction for reviews of Government programs and activities. Therefore, it appears the General Accounting Office would be able to tailor whatever assistance is needed to meet the specific needs of the Committee. The unfortunate part of the present proposal is that it limits this ability of the General Accounting Office to respond in the most appropriate manner and mandates what may turn out to be an expensive, recurring reporting requirement, and one which will remain in the law perhaps long after it has served its usefulness.

We hope, Mr. Chairman, you will consider these views as you move to report H.R. 5540. Thank you for your continued cooperation.

Sincerely,

VIC FAZIO,
Chairman, Legislative Branch Subcommittee.

CLAIR BURGENER,
Ranking Minority Member, Legislative Branch Subcommittee.

I hope this matter can be taken care of as the bill is considered in the other body, and I hope the Chairman of the Committee will give this matter due consideration.●

●Mr. RAHALL, Mr. Speaker, I rise in support of H.R. 5540, the Defense Industrial Base Act, of which I am a consponsor. My primary interest in this legislation deals with the provisions which seeks to stimulate efforts to increase the number of trained workers with skills necessary to meet the national defense needs.

This legislation authorizes $250 million in each of fiscal years 1983 through 1987 which would be provided in the form of grants to state boards of vocational education. Vocational education will upgrade the skills of workers, retraining, apprenticeship programs, and training in the workplace to give this Nation the labor force necessary to meet pressing defense requirements.

Despite today's high unemployment levels, it is irnoic that there is a critical shortage of skilled workers in the areas of engineering, mechanics, technicians, machinists, laboratory assistants, and machine repairmen. According to the Department of Labor, 9,000 tool and die makers and 22,000 new machinists will be needed annually through 1985. However, it is estimated that the number of journeymen for both trades combined totals only 5,000 per year.

Vocational education can meet the needs of the Nation for these skilled workers. Yet, with drastic cuts in these programs, the necessary funds are simply not available to accomplish this task. The bill before use today is a prudent and badly needed response to the lack of trained workers in this country, and, to high levels of unemployment.●

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the reported bill as an original bill for the purpose of amendment in lieu of the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor.

The Clerk read as follows:

H.R. 5540

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Defense Industrial Base Revitalization Act".

STRENGTHENING OF DOMESTIC CAPABILITY

SEC. 2. Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) is amended by inserting after section 303 the following:

"SEC. 303A. (a) It is the purpose of this section to strengthen the domestic capability and capacity of the Nation's defense industrial base. The actions specified in this section are intended to facilitate the carrying out of such purpose.

"(b)(1) The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries in the United States which are necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war.

"(2) Such assistance shall be provided only to small- and medium-size businesses, as defined by the Secretary of Commerce, unless the President transmits to the Congress a formal notification that the interests of national defense require an exception to this limitation.

"(c) The Secretary of Defense, in consultation with the Secretary of Commerce, shall—

"(1) determine immediately, and semiannually thereafter, those industries which should be given priority in the awarding of financial assistance under subsection (b);

"(2) determine the type and extent of financial assistance which should be made available to each such industry; and

"(3) with respect to the industries specified pursuant to paragraph (1), indicate those proposals, received under subsection (e), which should be given preference in the awarding of financial assistance under subsection (b) based on a determination that such proposals offer the greatest prospect for improving productivity and quality, and for providing materials which will reduce the Nation's reliance on imports.

"(d)(1) The President shall extend assistance under sections 301, 302, and 303, and any other authority contained in this Act, to persons engaged in the expansion of the domestic capability and capacity to produce or process critical and strategic metals, minerals, and materials, including—

"(A) the conservation, substitution, and recycling of such metals, minerals, and materials; and

"(B) the development of processes which lessen or obviate the need for such critical and strategic metals, minerals, and materials.

"(2) The President shall exercise the authority granted under this subsection in consultation with the Secretary of Defense, the Secretary of the Interior, the Secretary of Commerce, and the Director of the Federal Emergency Management Agency.

"(e) The President, in extending assistance under subsections (b) and (d), shall extend such assistance on the basis of proposals submitted in response to a series of public solicitations, the first of which shall be issued by the President within ninety calendar days following the date of the enactment of this section.

"(f)(1) Any contract for financial assistance which is awarded under subsection (b) or (d) and which utilizes financial assistance through purchase agreements specified in section 303 shall provide that the President has the right to refuse delivery of the items specified in such contract and to pay the person involved an amount equal to the amount by which the price for such items, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Commerce, for such items on the delivery date specified in such contract.

"(2) Financial assistance under subsection (b) or (d) shall not be extended to assist establishments relocating from one area to another or to assist persons whose purposes is to divest, or whose economic success is dependent upon divesting, other persons of contracts theretofore customarily performed by them, except that such limitation shall not be construed to prohibit such financial assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such business entity if the President finds that the establishment of such branch, affiliate, or subsidiary will not result in an increase in unemployment of the area of original location or in any other area where such entity conducts business operations, unless the President has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

"(g)(1) There are authorized to be appropriated to carry out the provisions of subsections (b), (c), and (d) not to exceed $1,000,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(2)(A) In the use of loan guarantees, price guarantees, and direct loans as Federal financial incentives to accomplish the objectives of this section, the President may utilize the borrowing authority of the Treasury to the extent that the estimated ultimate net cost of such incentives to the Government does not exceed the total of appropriations made by the Congress to carry out the provisions of subsections (b), (c), and (d). Such estimates shall be based upon the past experience of the actual costs of Federal financial incentives under this Act and related expenses.

"(B) The use of loan guarantees, price guarantees, and direct loans under this section and the use of the borrowing authority of the Treasury under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

"(h)(1) The President shall take immediate action to develop and implement a national program to train workers in skills—

"(A) which the President determines are necessary in the industries identified under subsection (b), (c), or (d); and

"(B) which the President determines are in short supply or are anticipated to be in short supply.

"(2)(A) Assistance under this program shall be in the form of a grant to a State board of vocational education or other agency or agencies designated by the Governor of the State involved. Such grants may be extended only if a State plan for a five-year program of skills training has been submitted to the President and approved by the President.

"(B) The President may, to the extent possible—

"(i) provide assistance in coordinating the State plans developed under this subsection; and

"(ii) provide technical assistance and support services in the implementation and conduct of programs of skills training which are carried out under this subsection.

"(3) The President shall not approve any State plan unless—

"(A) the State plan has been developed with the management and workers of the industries involved and with public and private educational institutions of the State;

"(B) the State plan includes workplace training and registered apprenticeship training programs;

"(C) the State plan is designed to insure meaningful opportunities for participation by minorities and women;

"(D) the Governor of the State has certified in writing that the State plan will be carried out and that it meets the requirements of this subsection;

"(E) the State plan includes—

"(i) training;

"(ii) upgrading skills; and

"(iii) retraining of workers, in depressed industries, in surplus labor areas, or with occupational skills which might become obsolete because of industrial modernization of technological advancement, in skills which the President determines under paragraph (1) are necessary in the industries identified under subsection (b), (c) or (d) as necessary to the manufacture or supply of national defense materials which are required for the national security or are likely to be required in a time of emergency or war;

"(F) any bona fide public or private training program engaged in training workers in skills described in paragraph (1) is considered eligible to deliver such training services upon written application to the State board of vocational education or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A);

"(G) the State employment and training council under Public Law 95-524 (or a comparable entity under a successor statute) has been given the opportunity—

"(i) to participate in the development of the plan;

"(ii) to review the plan for thirty days prior to its submission to the President; and

"(iii) to submit written comments along with the submission of the plan to the President;

"(H) the activities funded under this subsection will not duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless the plan provides evidence that alternative services or facilities would be more effective or more likely to achieve the objectives in paragraph (1) of this subsecton;

"(I) the plan contains assurances that the activities funded under this subsection will be coordinated to the maximum extent feasible with other employment-related programs in the State, through joint agreements, where practicable, with programs funded under the Comprehensive Employment and Training Act (or a successor statute) to assure maximum participation of eligible participants under that Act (or statute) in training programs funded under this subsection, and through consultation and coordination with certified apprenticeship plans, where such plans are in effect, to ensure that the plan does not duplicate or undermine existing certified apprenticeship programs; and

"(J) a certification is included which assures the following labor training standards and requirements will be met:

"(i) Conditions of training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(ii) Appropriate health, safety, and other standards for training shall be established and maintained.

"(iii) Appropriate workers' compensation or equipment protection shall be provided to all participants.

"(iv) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(v) No program shall impair existing contracts of employment.

"(vi) No person shall be trained for a job (I) when any other employee in the same workplace or plant is on layoff from the same or any substantially equivalent job, or (II) when the employer has terminated the employment of any regular employee or otherwise reduced its work force with the intention of filling the vacancy so created by hiring a participant whose training is assisted under this subsection.

"(vii) No individual may be required to join a union as a condition of enrolling in a program assisted under this subsection in which only institutional training is provided, unless such institutional training involves individuals employed under a collective-bargaining agreement which contains a union security provision.

"(viii) No funds available under this subsection may be used to assist, promote, or deter union organizing.

"(4) Any grant to a State board of vocational education, or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A), under this subsection shall be extended in any year only after the State involved has provided a contribution, from public or private resources, to carry out the State plan in an amount—

"(A) in the first year of the State plan, equal to 10 per centum of the cost of the State plan for such year;

"(B) in the second year of the State plan, equal to 20 per centum of the cost of the State plan for such year;

"(C) in the third year of the State plan, equal to 30 per centum of the cost of the State plan for such year;

"(D) in the fourth year of the State plan, equal to 40 per centum of the cost of the State plan for such year; and

"(E) in the fifth year of the State plan, equal to 50 per centum of the cost of the State plan for such year.

"(5) A State's contribution may include 'in kind' contributions of equipment, facilities, personnel, or services to the extent that such 'in kind' contribution is utilized in carrying out the State's plan. No such 'in kind' contribution may include equipment acquired under subsection (i).

"(6) The President shall act upon each State plan not later than ninety days after the date on which such State plan is received. Such action shall be based upon the recommendations of the Secretary of Defense, the Secretary of Labor, and the Secretary of Education.

"(7) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied training in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(8) Not more than 5 per centum of the amount of any grant made under this subsection may be used by a State board of vocational education, or other agency or agencies designated by the Governor of the State involved under paragraph (2)(A), for administrative expenses incurred in carrying out a State plan.

"(9) Assistance under this subsection may be used to purchase and install equipment for training purposes. The purchase of any such equipment shall be done by means of competitive bidding.

"(10) For purposes of installing government-owned equipment pursuant to section 303(e), the term 'industrial facilities', as used in such section, shall include vocational schools, other schools offering technical and vocational training programs, and any other location in which workers are trained pursuant to this subsection.

"(11) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $250,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(i)(1)(A) The President shall take immediate action to develop and implement a grant program to assist colleges, universities, and other institutions of higher education in obtaining and installing modern equipment which shall be used to train professional, scientific, and technical personnel who are needed in the industries identified under subsection (b), (c), or (d).

"(B) All students and faculty studying, teaching, or conducting research at such an institution of higher education shall have access to such equipment for use in accordance with regulations and practices of such institution of higher education.

"(2) Any college, university, or other institution of higher education which desires to receive a grant under this subsection may submit an application to such Federal department or agency as the President shall designate. Each such application shall—

"(A) certify the cost of purchasing and installing the equipment involved; and

"(B) contain such other information as the President deems necessary.

"(3)(A) Each college, university, or other institution of higher education whose application is approved under this subsection may be required to provide a matching share of up to 50 per centum of the cost of purchasing and installing the equipment involved.

"(B) The purchase of any such equipment shall be done by means of competitive bidding.

"(4) At the discretion of the President, equipment may be provided under section 303(e) to colleges, universities, and other institutions of higher education. For the purpose of such section, the term 'industrial facilities' shall include colleges, universities, and other institutions of higher education.

"(5) There are authorized to be appropriated to carry out the provisions of this subsection not to exceed $100,000,000 for each fiscal year beginning with fiscal year 1983 and continuing through fiscal year 1987. Such sums shall remain available until expended.

"(j) Any equipment or plant financed through Federal assistance authorized by this section shall be of United States origin. No exception shall be made to this limitation unless the Secretary of Commerce makes a written determination that such equipment or plant of United States origin is not available and is not practicable to obtain.

"(k) The Comptroller General of the United States shall monitor the implementation of this section, conduct such audits as he determines to be necessary, and submit an annual report of his findings to the Congress at the beginning of each session of the Congress. The first such annual report shall be submitted in the year following the enactment of the Defense Industrial Base Revitalization Act.

"(l) In order to carry out the purposes of this section, the Office of Technology Assessment is directed to conduct a study of the public facilities or infrastructure essential to the defense industrial base, and, at the beginning of each Congress, to report to the Congress with appropriate recommendations for measures to avoid serious impediments to the production and distribution of materiel.

"(m)(1) All laborers and mechanics employed for the construction, repair, or alteration of any project, or the installation of equipment, funded, in whole or in part, by a guarantee, loan, or grant entered into pursuant to this section shall be paid wages at rates not less than those prevailing on projects of similar character in the locality as determined by the Secretary of Labor in accordance with the Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (40 U.S.C. 276a et seq.), and commonly known as the Davis-Bacon Act.

"(2) Guaranteeing agencies shall not extend guarantees and the President shall not make loans or grants for the construction, repair, or alteration of any project, or the installation of equipment, unless a certification is provided to the agency or the President, as the case may be, prior to the commencement of construction or at the time of filing an application for loan, guarantee, or grant, if construction has already commenced, that these labor standards will be maintained at the project.

"(3) With respect to the labor standards specified in this subsection, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 276(c) of title 40, United States Code.

"(n) On October 1, 1982, and on the first business day of every second month beginning after such date, the President shall transmit a report to both Houses of the Congress listing all loans, loan guarantees, and commitments for loan guarantees which were issued under this section during the two calendar months preceding the transmittal date of the report involved.

"(o) For purposes of this section—

"(1) the term 'apprenticeship plan' means a plan approved by the Secretary of Labor pursuant to the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(2) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

"(3) the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

Mr. BLANCHARD (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. JOHNSTON. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk continued to read section 2.

□ 1330

Mr. McKINNEY (during the reading). Mr. Chairman, I ask unanimous consent that the section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2?

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. PERKINS: Page 43, line 11, strike out "(o)" and insert in lieu thereof "(p)" and insert before such line the following new subsection:

"(o) Notwithstanding any other provision of this section, no funds are authorized to be appropriated to carry put this section, unless all of such funds are attributed to a budget function or budget allocation other than one affecting or relating to education or labor, the Department of Education or the Department of Labor, the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, or any subcommittee of the Committee on Appropriations of either House primarily responsible for appropriations for education or labor.

Mr. PERKINS. Mr. Chairman, this amendment, adopted by the Committee on Education and Labor, assures that funds to support these new defense-related vocational education and higher education equipment programs will not come from ongoing Federal education and training programs. First, let me make it clear that the authorization for vocational training is $250 million, and for higher education equipment, $100 million, altogether totaling $350 million a year.

Now, this amendment does not affect the main part of the bill which deals with loan guarantees for companies, which the gentleman from Arkansas talked about here today. I am sure that everybody in this Chamber recognizes that we have many youngsters in this country and many adults that need skill training. In this bill we leave it up to the President to make a decision about those areas where the skill training is needed. A large part of this training may be done by the vocational schools. I believe this will be money well expended. In a bill this size we ought to have training provided for people who need defense jobs and are capable, but in many instances companies are not able to provide these opportunities.

Now, we have testimony like that before the committees every day; and the vocational education programs, the regular Federal programs, were cut 16 percent for the past 2 fiscal years. It is good judgment to place this new vocational education program in the bill, but this amendment I am offering is more or less a clarifying amendment to make sure that funds for this new training do not come out of the regular vocational education funds that are allocated to all the States in the country.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I appreciate the amendment and I heartily support it. What the gentleman is suggesting, as I understand it, is that we want to make sure that this does not squeeze money from the already squeezed vocational and higher education programs, is that correct?

Mr. PERKINS. That is correct, the sole purpose of the amendment.

Mr. SIMON. I can follow through with two other questions. Is it not also correct that the chairman of the Budget Committee, our colleague from Oklahoma, wrote to us and said that the funds for this purpose would not come out of function 500, the education function?

Mr. PERKINS. That is correct.

Mr. SIMON. And if the gentleman would yield further, is it not true that Secretary Weinberger has indicated to OMB Director Stockman, and stated, "I propose funding title 3 programs from the Department of Defense budget."

Is that correct?

Mr. PERKINS. That is likewise correct, so I do not see any objection to this amendment from any source.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to commend the chairman on the amendment. I think it clarifies a situation that has bothered a great many people, and clarified the issue as to where the money is going to come from. It is coming from new authority, but no new outlays, and will be appropriated within the function of the Defense Department.

Mr. PERKINS. I thank the gentleman.

Mr. BLANCHARD. Mr. Chairman, will the gentlman yield?

Mr. PERKINS. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, I would like to reiterate what the distinguished ranking Member indicated. We support this amendment. We think it is a helpful, clarifying amendment. It is our understanding, because of our communications with the Budget Committee and others, that the money for this program would indeed come from national defense and not from the categories the gentleman is concerned about.

I commend the committee chairman and want to express our deep appreciation for the help of the Education and Labor Committee in crafting this legislation.

Mr. PERKINS. Let me thank the gentleman from Michigan.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess this act might well be called "The Saber Rattler CETA." It is intriguing to me to find all these people up here now dedicated to a strong national defense when I have been privileged on occasion to take a look at their American Security Council ratings.

It appears to me that what we have got here is an attempt to make palatable to the conservatives in the House one more raid on the Defense Department. The bad part about this, Mr. Chairman, is that this is not our money. This is our childrens' money, because it is going to be financed by the deficits that we are running up at a rate of more than $100 billion a year.

Now, anybody who wants to tell me this is not a bailout bill is kidding themselves. I refer specifically to page

26 of the final print of the bill, specifically the amendments from the Committee on Education and Labor where it stipulates that the Secretary can, in lieu of taking delivery of products which it had committed to purchase under this bill, can simply pay the purveyor of those products the difference between what the contract would otherwise cost and what it could buy the products for at a lower price. In other words, if you can go in the open market and buy the product for a dollar, but the Department of Defense has contracted to pay $2 you just write a check to the guy providing the products at $2 for the difference. If that is not a bailout, I do not know what you could possibly call a bailout.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON. I yield.

Mr. BETHUNE. Is the gentleman making the point that if this bill passes, that we are either going to have to come up with new money to fund this program, or we are going to have to take it out of the defense money that has already been set aside by the defense authorization bill that came through last week?

Mr. JOHNSTON. That is precisely the point. Here is the Secretary of Defense writing checks for products that are not going to be delivered. That is a novel way to spend this $175 billion that all these strong national security proponents in here pushing this CETA bill this afternoon are suggesting. We simply write a check for products not delivered.

Take a good hard look at section (f)(1) of the education and labor amendments.

But, it is intriguing to me that when we are attempting to once again sell the American people that we can balance the budget by raising taxes, we are the evening before proceeding to come up with a new way to spend $5 or $6 billion. It just does not make any sense, but the same people that will vote for the balanced budget amendment will come in here this afternoon and promote and develop and advocate this new $5 or $6 billion giveaway.

Now, there is no one more dedicated to a strong national defense than I am, but I do not believe any bankrupt nation is ever going to have the national defense it could otherwise have, and it is obvious that if we pass bills like this we are going to have a bankrupt country, or a burden imposed on our children and grandchildren to pay an interest burden for deficits run up in bailout bills such as this for years and years to come.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that it is important that we get something straightened out, and I would enjoy a colloquy with the chairman of the subcommittee to the end that we would establish where the money is going to come from if this bill passes. I think there have been some cloudy statements made, and I think we ought to lay that to rest. We do have a budget, and this is not in the budget save and except we take it out of something else, is the way I understand it.

It appears to be the hope of the proponents of this legislation to take the money out of the defense function, and so I wonder, if we take this $5 billion over the next 5 years out of the defense function, would the chairman please state what sort of things we are going to have to delete from the authorization we worked so hard to pass here just about a week or 10 days ago for defense function?

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield.

Mr. BLANCHARD. I think the gentleman knows that back on April 30 the chairman of the Budget Committee indicated in a letter to us that any money appropriated for this legislation would come from category 050, which is national defense. How much is appropriated and a number of questions, including leverage, which the gentleman has alluded to as a foregone conclusion although it is not, will be decided by the Appropriations Committee. As a matter of fact, we were delighted that the ranking member and the chairman of the Subcommittee on Defense Appropriation supports this legislation. We see it as a way, quite honestly, and I am surprised that the gentleman does not, of economically and spending all these billions of dollars on defense.

□ 1345

I, for the life of me, have a difficult time following the logic I have been listening to during the last few minutes because we seek to get more bang for the buck and more efficient spending of defense dollars in a way that over time has proven very successful, both in World War II and the Korean war.

Mr. BETHUNE. Mr. Chairman, would the gentleman agree with me that we are either going to have to come up with new money or we are going to have to take this out of the defense function, or we are going to bust the budget?

Mr. BLANCHARD. Clearly, it is going to come out of the defense function. It is not either/or, it will come out of the defense function.

Mr. BETHUNE. Mr. Chairman, I think that the Members should be clear on the subject. After some 7 days of debate on the defense authorization bill and after the House has stood fast after an onslaught of some 100 amendments, and has passed a bill which has gone out to conference, Members should know that this is really no different than if this proposal had been offered as an amendment during the course of the defense authorization bill, because this will reduce the amount of money that is set aside for defense spending. Is that correct?

Mr. BLANCHARD. Yes. Mr. Chairman, if the gentleman will yield further, I would like to elaborate on that.

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, the Congressional Budget Office has estimated that the actual outlays in fiscal year 1983 would be approximately $189 million. That will have to be decided by the Appropriations Committee, but it certainly is not approaching the wild numbers I heard cited earlier. I am not sure that that was by the gentleman, but from some others who were speaking against the bill.

Mr. BETHUNE. Mr. Chairman, may I ask this: The bill will cost $5 billion at least, maybe $6.67 billion?

Mr. BLANCHARD. It might cost a mere fraction of that. Then again, depending on what crisis might develop, it could cost that much.

Mr. BETHUNE. Mr. Chairman, the bill says that the President shall make these expenditures, these net expenditures, so we are talking about some $6 billion over the next 5 years. The only thing that would constrain that would be that this Congress would decline to take the money out of the defense function.

Mr. JOHNSTON. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from North Carolina.

Mr. JOHNSTON. Mr. Chairman, I asked the gentleman to yield so that I might pose a question to the distinguished subcommittee chairman to get an explanation of this section of the act, if I may read from page 28 of the printed bill.

Mr. BLANCHARD. Excuse me. Mr. Chairman, if the gentleman will yield, what section is the gentleman talking about?

Mr. JOHNSTON. This is section (f)(1) on page 28 in section 2.

Mr. BLANCHARD. We will have to get that out and refer to it.

Mr. JOHNSTON. If I may read that, it says:

> Any contract for financial assistance which is awarded under subsection (b) or (d) and which utilizes financial assistance through purchase agreements specified in section 303 shall provide that the President has the right to refuse delivery of the items specified in such contract and to pay the person involved an amount equal to the amount by which the price for such items, as specified in the contract involved, exceeds the market price, as determined by the Secretary of Commerce, for such items on the delivery date specified in such contract.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the chairman of the subcommittee.

Mr. BLANCHARD. Mr. Chairman, this type of provision, which is called a take-or-pay provision, has worked quite successfully over the years. In fact, down through the years since World War II, it has saved the taxpayers hundreds of millions of dollars and allowed us to double U.S. aluminum production, allowed us to initiate the U.S. nickel industry, helped to create the titanium industry, and quadrupled U.S. tungsten production. It has saved the taxpayers hundreds of millions of dollars.

Mr. BETHUNE. Mr. Chairman, I will reclaim my time because I only have a minute left and other Members can get their own time.

When the gentleman says that previous credit assistance programs have done certain things, first of all, without debating that point, which I would enjoy debating, I would observe that those were the days when the Federal Government was not sopping up 70 percent of the available credit in the country. Federal lending programs had not become a problem in this country until about 4 years ago when we started clamping down on spending and the creative applicants for Federal assistance just moved over to the lending window.

Now we have a first-class problem. We have got about $600 billion in outstanding Federal loans out there of one description of another, and we have a problem. It is out of control, and what it does is it crowds people out of the credit market and runs their interest rates up. The little guy cannot come in and get up to the trough to get these subsidies or one of these nice political handouts. He is going to be left to his own devices. He is going to pay more if he can get to the head of the line to even get credit.

So these days are different than they were. The gentleman cites all of those instances when it worked in the past, but this is a new day, and all of this is confounding the ability of our Federal Reserve to establish any sort of sensible monetary policy, because this is not really fiscal policy we are fooling with here. When we encroach on the credit market and allocate credit, as we are doing here, we are practicing the mystical art of monetary policy, and we have got this thing so confused already that we do not need any more of it.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I yield to the distinguished gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Chairman, I am still a little uncertain as to how this country is going to get ahead economically by having the Secretary of Defense or the President pay a price which is greater than the market price or how it is going to come out ahead economically by having the President or the Secretary of Defense pay a subsidy to the high-priced producer so that he can compete with the low-priced producer. I just do not quite understand that economic system. And I would like to address one other question to the gentleman.

Mr. BLANCHARD. Mr. Chairman, if the gentleman will yield, let me respond.

The difference is that we pay a domestic producer rather than a Soviet producer. It has a little something to do with national security.

Mr. JOHNSTON. Mr. Chairman, I submit to the gentleman that I am unaware of any major defense procurement programs that are coming from the Soviet Union. If perhaps the gentleman would enlighten me as to what items of defense come from the Soviet Union, I would be glad to listen.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the subcommittee chairman.

Mr. BLANCHARD. Mr. Chairman, the legislation covers critical minerals and materials, and I could pull out a list and read them to the gentleman. We are very much dependent on foreign sources for those items, and oftentimes, as I think the gentleman knows, or should know, many of those items do come from the Soviet Union or from South Africa, and we have a very, very thin thread of security here. I think that is probably why everyone who understands our overdependence upon foreign producers of minerals is supporting this legislation.

Mr. JOHNSTON. Mr. Chairman, I fail to see how a job training program for people to each them to upgrade their technical skills is going to do anything about the fact that most of the strategic minerals in the world are located in Africa or the Soviet Union.

The gentleman is not suggesting, is he, that we are going over and train Africans with this money?

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to put to rest a couple of points here.

Purchase agreements are an item, I suppose, that may certainly force the credit market up. I have to agree with my friend, the gentleman from Arkansas (Mr. BETHUNE), on that. However, the fact of the matter is that in the past, during the Korean war, we found out that there were many items that private investment was not going to invest in or build unless they were given a purchase agreement.

The bill allows the President, the Pentagon, and the Department of Commerce to set that purchase price. Should the price of the product go above and beyond that, the fact is that then he has a right to sell it in the open market free and clear or to the Government. As I stated earlier in my statement, we authorized $2.1 billion and commitments against that totaled over $8.3 billion, we only put out an outlay of about $900 million after the end of the Korean war borrowing.

I would, then, suggest to the gentleman on the manpower training program that what he heard is the Pentagon talking. This has nothing to do with economic stabilization. The Pentagon lists 73 trades in this Nation which are vital to the Defense Establishment and which are very clearly falling off into oblivion and will not be available in this country. I would suggest that this is something we should be concerned about. Representing Sikorsky, Avco, and Norden, as I do, I would say that the gentleman should be and would be appalled at the average age of the working teams in those plants.

The last fact of the matter is, though, that maybe we have not bought anything from Russia, but I would suggest that we get quite a few minerals through other countries from Russia. We are, for instance, putting our planes together with European fasteners. Our soldiers in the NATO countries are looking across fields with Japanese binoculars. We are in a major problem in this country; we are lacking a tremendous number of basic technical industries that are totally necessary for our defense.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Connecticut (Mr. McKINNEY) for his contribution.

Mr. Chairman, I wonder if I might ask the distinguished gentleman from Arkansas (Mr. BETHUNE) a question. He earlier referred to the amount of drain on available domestic credit that would be caused by this bill.

The subcommittee chairman tells us that it will require an outlay of only about $180 million next year. May I ask the gentleman from Arkansas what this is going to do in terms of our credit budget over the 5 years of the act. I yield to the gentleman for a response.

Mr. BETHUNE. Mr. Chairman, I am glad the gentleman from Minnesota (Mr. FRENZEL) raised this point because the outlays of which we speak here in this bill are net cost to the Government for the credit assistance

program. Therefore, the amount of actual credit, the gross amount of credit, that should be leveraged against the net cost is yet undetermined.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 3 additional minutes.)

Mr. FRENZEL. Mr. Chairman, I yield further to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, some people argue that the leverage would be 4 to 1, others say it would be 8 to 1, and others say it would be more, we are not certain. It would depend on actually how it would be done, and the bill is not specific in this regard, so we are unsure at this point.

But let us just assume that we take $1 million and we are able to leverage that into 7 million dollars' worth of loans or Federal lending programs of one description or another. That $7 million is the actual amount that is drawn out of the credit market and is, therefore, unavailable to those poor applicants who do not have some sort of Federal subsidy, who do not have the privilege to move to the head of the line.

So that is pure credit allocation. If that is what the Congress wants to go to, that is great, but the fact is that we have a credit budget.

Mr. FRENZEL. Mr. Chairman, can the gentleman inform me as to whether the loan guarantee or direct loan authority is limited in this act in any way other than the authorization total?

Mr. BETHUNE. I cannot find specific limitations. In fact, it is very flexible, and it would depend upon the imagination of the bureaucrats who would be administering it. They could go to purchase agreements, loans, loan guarantees, direct loans, interest subsidies, or whatever, but I would say this to the gentleman: That we do have finally a credit budget at least in the embryonic stage in this Government now, and in this year's budget we have decided to make the targets for credit enforecable when we get to the second budget resolution.

We put in there a very small amount for the defense function because we decided, looking at the macroeconomic picture, that we did not want to allocate any more for the defense function at this particular time.

Now, that is the way that we should make decisions. We have got the cart before the horse here in that we continue to pass credit assistance programs and lending programs spasmodically with no direction or overall control. If we want to allocate credit, let us do it in a sensible, logical way. I do not want to allocate credit. I think the marketplace is a better place to allocate credit. But if we are going to do it, we should do in in a reasonable, sensible way.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Arkansas (Mr. BETHUNE), and I think he makes an excellent point.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. Mr. Chairman, I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Chairman, I would like to say that on the authorization for the outlays, the authorization is obviously subject to the authorization committee. The outlays are subject to the Appropriations Committee, and the bureaucrat in charge is the President of the United States, and he does not have to use the program.

According to the Congressional Budget Office, which the gentleman and I have had our questions about once in a while concerning some of their statements, they say in this report to our committee on this bill:

> However, the addition of section 303(a) under the Defense Industrial Base Authorization Act would extend the authorization—

And then it goes on to say:

> Outlay will depend on how the President chooses to use the authority or if he chooses to use it at all.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. FRENZEL) has again expired.

(By unanimous consent, Mr. FRENZEL was allowed to proceed for 1 additional minute.)

Mr. FRENZEL. Mr. Chairman, this has been an interesting discussion, and I hope that it makes the effect of the bill more obvious, and the potential effect on the credit market more obvious.

I must admit that I have some sympathy for the motivations of the authors of the bill, and I think I see what they are driving at. On the other hand, service on the Budget Committee forces me to take a certain point of view against spending, deficits, and added Federal loans. I must concur in the opinion of the gentleman from Arkansas (Mr. BETHUNE).

□ 1400

At this time one of our biggest problems is the claims the Federal Government makes on the credit market. The Government gets the first shot at available credit at any price. That is what causes interest rates to go up. That is what causes small companies not to be able to borrow money.

Yes; this bill calls for a rather small outlay in the following year, fiscal year 1983. But the large amount of credit which will be drained out of our economy and the higher interest rates which will result in my judgment, are far too great a risk.

In fact the CBO estimates that this bill will result in loan guarantees of $11.3 billion, and it could, I am told, actually be as high as $50 billion.

The risk is not commensurate with the advantages that the bill provides.

I yield back the balance of my time.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am hoping the House will reject this piece of legislation. I think it is a very bad piece of legislation and many reasons have already been given for this.

I would like to discuss a little bit the context in which this discussion is occurring. It seems that we accept the notion that we must be in a state of perpetual war.

When you think about when the Second World War ended we had drastic and dramatic reductions in spending. We got off the war machine.

After Korea we did the same thing. We had drastic reductions.

But when you look back and see what has happened since the 1960's, since Vietnam, we have accepted the notion that we must be perpetually prepared for massive war.

I think this is a bad habit to get into and it has nothing to do with defense. We can be prepared for defense but we do not necessarily have to prepare in the way we are today and the way we discuss this bill, it is as if we are in the midst of a great war.

There has never been any of this type of legislation ever passed in peacetime. So why do we accept the basic premise that we are in the midst of a great war.

It has been said by the administration that we must prepare, indicating that programs like this could be beneficial because there may come a time in the near future when 50 percent of our gross national product would be used in wartime activity.

I think these are concepts unworthy of discussion because I just cannot foresee these kinds of conditions occurring.

Yet in the long run I believe if we pursue bills of this sort what we do is we weaken our national defense and in no way do we strengthen our national defense. We cannot possibly be strong if we destroy our economy and that is precisely what programs like this do, destroy our economy.

The real issue today, the real debate today, is "Why is the industrial base eroded?" I do not know of one Member on either side of the aisle, whether you are for or against the bill, who does not recognize the fact that the industrial base is eroded.

I think that is conceded by everyone.

I think it is also conceded by everyone that we must do something about it. We must do something to revive the economy in this country.

The question that we do not even ask, we do not even discuss, is: "Why is the industrial base eroded?" Who destroyed it and how was it destroyed?

There are precise answers for this and yet this bill compounds all of the errors we have made and will contribute to the further destruction of the industrial base.

I would like to suggest that there are precise reasons for the erosion of the industrial base. We have an economy operating right now with no incentives to save. I think to rebuild industry and to rebuild new industries you must have savings.

The notion that capital formation can come out of the printing press is absolutely false. It has been tried for centuries and it always fails. All that does is devalue your money and distorts the economy and promotes malinvestment and misdirects capital flow.

All industrial growth must come from savings and yet we have no incentive to save money because of taxation on savings as well as the destructive process of the inflation that persists by Government printing up money.

Under those circumstances where the people will not save, you can not have true investment.

Taxes are bad in general. Yet we are here talking about raising taxes in the Congress this very week.

If you want to do something about rebuilding an industrial base we should be talking about reducing taxes by hundreds of billions of dollars more, but also reducing spending to the same tune.

So if you want to rebuild the industrial base you must reduce taxes, certainly not raise them.

Another subject that I am sure people from some of the Northern industrial States will not want to talk about, but the plain truth is that the destruction of the industrial base has something to do with the wage rates.

I know that is taboo, you cannot talk about a wage rate that is triple the wage rate of some of the Southern States and say it has anything to do with the health of our industries. But it does. It bankrupts companies and it happens to be the reason there is a migration of unemployed workers from the industrialized States in the North to the ununionized and noncoercive-labor States in the South where the wage is set more by the marketplace.

The wages are triple in the Northern industrial States what they are in the South and unemployment is triple, and it is not accidental. It is precisely because of the wage rate which causes unemployment and destroys profits, destroys the incentive to build, and it destroys the industrial base that we are trying to save.

PARLIAMENTARY INQUIRY

Mr. SIMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. SIMON. Is the question pending before the body the Perkins amendment?

The CHAIRMAN. The gentleman is correct.

Mr. SIMON. I thank the Chairman.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some degree of embarrassment because I am really not prepared to go into the merits of this. As the ranking member of the Armed Services Committee I was not apprised as to the effect of this bill nor the subsequent amendments being offered.

To say I am appalled is an understatement.

I have in my hand a letter signed by David Stockman and Cap Weinberger in opposition to this bill. My understanding is that, there is over $6 billion that will be allocated to the defense portion of the budget even though the funds do not have any direct relationship to defense.

I will yield to the chairman of the committee and, as a matter of fact, I would like to ask the chairman some questions but not at this time.

I will be glad to yield to have a colloquy and ask the gentleman a question, but not now.

We just finished several days of intensive conference with the other body. To guide us in this conference we had parameters set by the Budget Committee and the action on the floor.

Then toward the end of the authorization bill debate we had another constraint of a $1.7 billion across-the-board cut. So we were really bumping up against a ceiling to get the defense that the administration feels we need and that I feel that we need.

I am talking about the basic things like housing, which will come up in another bill, and aircraft, ships, planes, the payment of people.

We had a real constraint. For 5 or 6 days we met until 10 or 11 at night with the other body trying to find money within those constraints to buy what we thought this country needed.

It was not easy. Some people felt very strongly we should fund the A-10, particularly people from New York.

Some people felt we should fund binary chemicals.

Some people thought we should fund another Trident submarine in the bill.

All of these things were precluded because of monetary constraints that were imposed by the House. That is just the way our system works and we could not fund everything we would like to buy.

So we scaled down what we thought we should buy and we made the best of what we had to work with.

Now with no notice, so far as I know, to the committee and certainly no notice to this Member, we are asked to act on this matter. I notice that our chairman, Chairman PRICE, has not spoken on this, and I am not even sure that he is apprised of this. If I understand correctly what is envisioned here, a little over $6 billion will be labeled "Defense" and subsequently used for some other process or purpose. It will be used for vocational education, and to create new programs of vocational education which is good. It will broaden the application of the Davis-Bacon Act which artificially increases construction costs by mandating minimum union wages in nonunion areas. This is not so good. This runs up the cost of military construction about 10 percent. The bill under consideration will also require the equipment, plant and equipment financed under the DPA not be of foreign origin.

Now if the funds are to be taken out of Education and Labor Committee accounts then fine, we will debate that. If the funds are to be taken out of the Banking, Finance and Urban Affairs accounts, that is fine.

But this bill mandates that they will be charged to the Defense account. This is difficult because—as I described—we are already up against a ceiling. I will be glad to yield to the chairman of the Education and Labor Committee, to determine if, in fact, this $6 billion is going to come out of defense procurement, operation, and maintenance, and so forth.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. These are not legitimate defense functions. As I said, both David Stockman and the Secretary of Defense, Weinberger, strenuously object to this attempt to transfer this and label it defense related.

This is because in the last year or the year before defense efforts were popular. If you remember, there was a time when defense was popular. This was in the early 1960's. Sputnik came along and if efforts were labeled space related they just sailed through the House.

Then in the latter part of the 1960's anything that was labeled civil rights whistled through the House.

Then environmentalists' concerns were paramount. If you wanted something to pass the House you just put an ecology label on it.

So now the defense label is to be misused in the same way.

I will be happy to yield to the chairman of the Education and Labor Committee.

I would like to ask him a question if he would respond.

Are you seriously proposing to take these functions which have nothing to do directly with defense, and fund them from the 050 function—defense—instead of paying for it out of funds within your committee's oversight?

What is it you are trying to do?

Mr. PERKINS. Will the gentleman yield?

Mr. DICKINSON. I yield to the chairman of the Education and Labor Committee.

Mr. PERKINS. Let me say to the gentleman from Alabama that this is only a clarifying amendment. The amendment that I offered was an amendment adopted unanimously in the committee.

Mr. DICKINSON. This is the gentleman's committee?

Mr. PERKINS. The Education and Labor Committee. That amendment has nothing to do with loan guarantees or purchase agreements. It has nothing to do with what the gentleman has been talking about here.

The amendment that I offered for the Committee on Education and Labor was a clarifying amendment and provides that the funds shall come out of the defense appropriation instead of out of the regular vocational education funds that go to the State of Alabama and the other States of the Union.

To my way of thinking if you are going to have legislation of this type it is money well spent to have a training program with everything that is involved in this particular bill.

Be that as it may, this amendment has nothing to do with loan guarantees or purchasing or anything of that type.

Mr. DICKINSON. Under the vocational education part of it, and this does come out of the gentleman's committee, right?

Mr. PERKINS. We clarify it so that it does not come out of the regular funds for vocational education or for any other education or training program. We have already been cut 16 percent in the Federal vocational education program in the last 2 years.

Mr. DICKINSON. The amendment in that portion of the bill comes out of funds within your committee's oversight rather than the Committee on Banking, Finance and Urban Affairs; is that correct?

Mr. PERKINS. It comes out of the funds that will be appropriated for this bill. If the amendment is adopted the only condition will be that whatever funds are appropriated cannot be deducted from any currently funded education or training program. These funds could not be attributed to any budget category or account dealing with Federal education or training programs.

□ 1415

Mr. DICKINSON. Out of the defense funds?

Mr. PERKINS. It could be out of the defense funds.

Mr. DICKINSON. So what you are saying is that portion of your amendment that would cover vocational education ultimately would be charged against the Defense Department's budget.

Mr. PERKINS. To the extent of $350 million only.

Mr. DICKINSON. I thank the Chairman.

I will yield to the gentleman from Michigan. Maybe he can help me, because this is a case of a first impression for me. We were not briefed on this. We were not alerted. And if we are talking about taking $6 billion out of the defense budget and farming it out to other functions, we cannot live with that.

Mr. BLANCHARD. If the gentleman will yield, I am glad the gentleman asked, because we are not talking about taking $6 billion. The program over a period of 5 years, at maximum, could be up to $7 billion. It is highly unlikely that it will. Most of that will be loan guarantees, which will not come out of your budget.

The critical thing to mention is that whatever fraction of that amount is spent, and the CBO estimates $189 million in fiscal year 1983, would indeed come out of the defense section of the budget.

Mr. Weinberger, Secretary Weinberger, indicated in a letter recently the following to OMB Director Stockman:

"Through Title III of the Defense Production Act, the Government can provide incentives for increasing our domestic capabilities by encouraging private sector investment. I am concerned with the impasse we are experiencing in developing an acceptable funding mechanism for this critical industial preparedness authority. Therefore, I propose funding Title III"—that is this program—"from the DOD budget."

That is the understanding we also have in a letter from the distinguished chairman of the Budget Committee, and it is something that your committee and the Appropriations Committee is going to have to decide.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Let me ask the gentleman this: Did the gentleman vote for the Glickman amendment on the defense authorization bill, that 1-percent cut across the board?

Mr. BLANCHARD. No. I was not here for that.

Mr. DICKINSON. You were not here at the time.

Mr. BLANCHARD. I might have, had I been here.

Mr. DICKINSON. Let me tell you what that did. That took $1.7 billion out of our authorization bill.

And when we tried to find $1.7 billion someplace in the bill for things to drop out, it got to be a real sweat, so to speak. We had a real problem.

Now we are talking about buying hardware. We are talking about paying people. If you want to take $118 million, if that is the figure, out of the defense budget, I do not know how that impacts on what we authorized, nor do I know how that would impact on the appropriations process.

But I am surprised, I really am, that this bill hit the floor and that we were not alerted—I cannot speak for the chairman because he is not here, but I was not aware of it. I am surprised that it was not at least sequentially referred since it will reduce our purchasing level in authorization or in appropriations.

I believe we are in accord now that we agree that it could have that impact.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield on that very important point?

Mr. DICKINSON. I will yield in a minute. The gentleman from Michigan asked to be recognized first, and then I will be glad to come back to the gentleman from Connecticut.

Mr. BLANCHARD. Indeed it could come out.

Mr. DICKINSON. Sure.

Mr. BLANCHARD. Absolutely. Yes. I am surprised you were not aware of it. But I also believe that if you look at this legislation, it is something you are truly going to support because I know you are committed to a strong national defense.

Mr. DICKINSON. Wait a minute. The concept I support. Our committee was briefed initially by Gen. Al Slay, with a tremendous presentation. Our Subcommittee on Research and Development was briefed. We were so impressed that we asked the full committee be briefed. He did this. They were so impressed, we asked the Speaker and the leadership on both sides be briefed, and he did this. And one of the main thrusts of his briefing was the conclusion that the defense industrial base is eroding and needs attention.

I am in sympathy. What I am saying is, we are being blind sided if you are going to decrement our procurement funds for this purpose. We have not even dipped an oar from our boat in this little race.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

I think this type of legislation is important to our defense effort. That is the reason I am supporting it. If we do not have the trained personnel to work in those defense plants, to build those submarines, to build those aircraft carriers, or to build all of the other component parts that goes with any military establishment, then how in the world are we going to get a budget factor involved in the cost of that particular equipment? If we have to go to some other country perhaps to the Japanese, for technology or we might even have to look to the Soviet Union in some way, because they are graduating 3 to 4, maybe 5, times more engineers and more skilled people than we are.

Mr. DICKINSON. I cannot argue, I cannot differ with you one iota. I agree with what you say. And in speeches throughout the United States, in my district, and in speaking to national groups, the VFW, what have you, I have tried to emphasize this point. This is what we need to do. But what I am saying is that what you are trying to do is not within the defense authorization budget. If I understand it correctly, this bill will have the effect of subtracting authorization from our budget when we have already had a ceiling imposed. Where is the money coming from? From which pocket?

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I understand the gentleman's concern. I would understand the gentleman's concern, say, over the $250 million each year, which is the technical education part. The other obligation, I would suggest to the gentleman, is procurement. It is just giving you the ability, the Pentagon the ability, to get a purchase contract and make an agreement.

Mr. DICKINSON. Are you going to raise our budget by that amount?

Mr. McKINNEY. No, no.

Mr. DICKINSON. No. You take it out of defense.

Mr. McKINNEY. I think the gentleman misunderstands.

Mr. DICKINSON. I hope I do.

Mr. McKINNEY. You are already spending that money. What we are simply doing is giving you an ability to spend it here and to give out purchase guarantees, and it is going to come right within what you are already spending.

Mr. DICKINSON. We are already up to the ceiling. Where is it coming from?

Mr. McKINNEY. Let me suggest to the gentleman that I know you are up to the ceiling.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. McKINNEY and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. McKINNEY. I can give you examples right now. In other words, I would suggest that the purchase commitment part of it is part of the very procurement policy which will make it easier, much easier, for you to spend that money efficiently and to leverage more and to get some competition.

Mr. DICKINSON. We do not need it.

Mr. McKINNEY. Let me say something. Right in my district the Defense Department is about to put 400 people out of work and go totally to a foreign source supplier. To the only sole surviving manufacturer of diesel 200 kWh generating plant in the entire country the Defense Department says, "Oh, you cannot bid, you are not a small business, so, zip, you are canceled." Four hundred people are out of work, and the company is going to close down. Where are we going to go? We are going to go to Europe.

This kind of a commitment, though, we have put in so that we can do it by saying to a company, "If you make your product at a competitive price over a period of 5 years, we guarantee to purchase so many at such a price," and it will foster competition and bring your prices down and allow your procurement to be efficient.

Mr. DICKINSON. Let me ask you, without this legislation could this training and the other efforts take place?

Mr. McKINNEY. In one way I would suggest not, sir, because one of the problems we have with many of these basic industries, we are not competing with another company. We are competing with the Government.

Mr. DICKINSON. You are not answering my question. You say you are not competing. Can it happen without charging it against the defense authorization or appropriation?

Mr. McKINNEY. But defense procurement is an authorization item.

Mr. DICKINSON. You do not need this. You do not have to charge this against the defense authorization bill, against our ceiling, is what I am trying to say. By labeling it defense related you are just trying to find an easy way out. Consequently, it does not have to come out of education or banking. That does not make sense.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman for yielding.

Let me just correct some of the statements that have been made.

Mr. DICKINSON. Mine or someone else's?

Mr. ERLENBORN. The gentleman from Michigan said that this could be as much as $7 billion, I think it is $6¾ billion, over 5 years. But part of that would be loan guarantees. Actually there is an additional $11.3 billion in the credit budget for loan guarantees.

Let me also suggest to the gentleman that in your conference you had reconciliation instructions under the budget resolution that constrained what you could do. And I might suggest to the gentleman that our Education and Labor Committee does not suffer under those restraints. We have no reconciliation instructions. So I sympathize with the gentleman in trying to manage your budget with instructions from the House when the gentleman from Kentucky, who offered this amendment, has no instructions to conform to.

Mr. DICKINSON. If I might, let me yield to the gentleman from Georgia. I will come back to the gentleman, if time permits. This is the darndest thing I have ever heard in a while.

Mr. LEVITAS. I thank my colleague for yielding.

I have been sitting here for quite a while listening to this debate, and I appreciate the gentleman from Alabama raising the question.

What really bothers me about this, as I understand it, is that I do not think the American people understand or give a tinker's darn about this bookkeeping debate that we are engaged in right now.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. The fact of the matter is that, when we educate our children, when we build highways, when we improve our airway system, when we provide nutrition for our young people, all of these things ultimately contribute to the national defense of this country by having a good transportation system, by having a good education system. Why do we not just put it all in the defense budget? Why just take this part and put it in the defense budget?

Just to say that it will help our national defense in and of itself is not an adequate justification for dealing with the budget process. The question that has not been answered—and I think the gentleman has tried to get an answer to this question, for those of us who need a little understanding—does this authorization increase the defense authorization? Are you adding to the defense authorization?

Mr. DICKINSON. Or budget.

Mr. LEVITAS. Or budget. If the answer to that is yes, then you have busted your budget because you are right up against it, as I understand it.

Mr. DICKINSON. That is right.

Mr. LEVITAS. Is there someone who can answer that question?

Mr. BLANCHARD. If the gentleman will yield, this is a separate authorization. This is not a part of the defense or the Armed Services Committee authorization. And the fact is that the Banking Committee has jurisdiction over the Defense Production Act. We have had that since time immemorial. That act is the economic war powers of the President. The fact is, this is fully within our jurisdiction.

Mr. DICKINSON. I am not arguing your jurisdiction.

Mr. BLANCHARD. The fact is, not everything that is under national defense category 050 falls within the jurisdiction of the Armed Services Committee. If it were you would have jurisdiction over the Defense Production Act, which the Banking Committee has.

Mr. DICKINSON. I understand that. If I might reclaim my time to respond, I will then be glad to enter into any colloquy that you like. I am not questioning your jurisdiction in this initial matter. What I am asking you is, If by earmarking the money as defense as I understood you are trying to do is it automatically included under the ceiling that has been given our committee? That is what I want to know. Answer that.

Mr. BLANCHARD. I do not think it fits within your committee's ceiling. I think the Appropriations Committee is going to make a decision as to what degree this program is funded.

Mr. DICKINSON. Help me with this: We went back to the drawing board; the Budget Committee came in and they put a budget ceiling on the defense authorization bill. The gentleman understands that, does he not?

Mr. BLANCHARD. This does not affect the defense authorization bill.

Mr. DICKINSON. That is all I need to know, if this is in fact true and everybody agrees to it.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Arkansas.

Mr. BETHUNE. The gentleman has made some very important points, and the question that the gentleman from Georgia raises is, Where are you going to get the money?

Mr. DICKINSON. Yes.

Mr. BETHUNE. That is what we are talking about here, because you are passing a brand new authorization bill.

Now, you asked a moment ago another important question, which really got them in a hard place. And the question was answered: Well, we are just granting the authority, and they may or may not use it, and that would give you an additional authority and powers that you might want to use under the Defense Department, in lieu of spending the money on something else.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. BETHUNE and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. BETHUNE. It is very useful in times like this to look at the language of the bill. In section 303A(b)(1), it says:

> The President, utilizing the types of financial assistance specified in sections 301, 302, and 303, and any other authority contained in this Act, shall take immediate action to assist in the modernization of industries. . . .

Later on, in section (d)(1), it says: "The President shall extend assistance * * *."

So the fact of the matter is this mandates the President to go forward with this type of assistance, and then you are going to have the question the gentleman is worried about, Where are you going to get the money?

□ 1430

They are going to take it out of something else. This idea that loan guarantees do not cost anything is refuted in the report, I would say to the committee chairman, where in an attempt to determine what leveraging factor would go here, the gentleman uses the present average default rate on SBA guaranteed loans which is 21.8 percent.

If one puts out a bunch of loan guarantees and has defaults of that magnitude, we are going to have a drain on the budget. It will come out of function 050, and there is no room in that function is the point the gentleman in the well is trying to make.

Second, I would make the point loan guarantees being made usually by this Government are made in connection with some specific interest rate which is submarket and then it is laundered through the FFB and we have to pick up the difference in an off-budget deficit or in an on-budget deficit. This is nonsense. What is happening here is they are trying to pass off this program, get it through here, crow about getting it passed. It is nothing more than corporate welfare that will not help defense. It will come out of the defense function. It is going to be political favoritism to all those people out there who can manage to get up the political strength to come in here and get some sort of lending assistance from this government.

Times are tough. Credit is hard to get. Interest rates are high. The squeeze is on. People are here asking for help.

This is an attempt to give those people help. I understand that. But this is not the way to be doing business in this economy.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. I thank the gentleman for yielding.

The gentleman from Arkansas (Mr. BETHUNE) is strongly opposed to this legislation. I do not want the gentleman's characterization to go unanswered. I reject the gentleman's analysis of this matter.

The gentleman in the well (Mr. DICKINSON), has raised a good point. I think it is fair to say that this program which does not come under the Defense Department authorization will, indeed, compete with the authorization from the gentleman's committee before the Committees on Appropriations.

Mr. DICKINSON. And before the Budget Committee next year?

Mr. BLANCHARD. Yes, it will.

Mr. DICKINSON. Yes.

Mr. BLANCHARD. Certainly before the Appropriations Committee. I suspect in looking at it, the gentleman is going to think it should not. The gentleman likes the idea. The gentleman thinks perhaps we are trying to do an end run. I do not intend to do an end run on the gentleman's committee or anything the gentleman has done.

Mr. DICKINSON. Look, I do not ascribe any ulterior motives or anything unworthy to the gentleman. I am in favor of the ultimate effect of what we are trying to do, I think, as I understand it. We have not had a chance to look at it.

This is the first impression here, as I said before.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. DICKINSON. Mr. Chairman, the point is that if this is going to draw down our authorization authority in the next year or this year or if it is going to impact on our budget ceiling this year or next year, or if it is to impact on the appropriations process, then we should be a part of it so that we can help set the priorities.

The gentleman, through this process, comes sailing in from left field. We do not know where it is coming from. We wrestled with the problem and finally came up with a conference report that should hit the floor today. We worked with the Senate and did the best we could within the parameters that the House set, and now we find there may be an additional requirement for $6 billion in the next 3 years that was a part of our deliberations.

Mr. BLANCHARD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Michigan.

Mr. BLANCHARD. Mr. Chairman, the point is that this program, which is a separate authorization, will indeed compete with other defense-related programs before the Appropriations Committee for the expenditure of funds.

I sincerely believe the committee, as well as the members of the Armed Services Committee, will probably support the triggering of this program. I hope I have made that clear.

Mr. DICKINSON. I assume the gentleman would certainly be willing to vote to increase the budget by the amount that this impacts it.

Mr. BLANCHARD. I will vote for this.

Mr. McKINNEY. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Chairman, I suggest the impact of the budget authorization the gentleman is talking about is going to be next to negligible because the bill requires the Appropriations Committee to appropriate.

Yes, it should compete. Who is going to run it? The Pentagon. The Pentagon is the one that will run the outlays and the entire program.

Mr. DICKINSON. But the authorization and the budget go over to the Pentagon from us. We give them the size of the piece of pie they are going to eat.

Mr. McKINNEY. Mr. Chairman, I have never been able to win against the gentleman from Alabama (Mr. DICKINSON) on his knowledge of Defense Department appropriations anyway. I would answer the direct question the gentleman asked me earlier.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(At the request of Mr. McKINNEY and by unanimous consent, Mr. DICKINSON was allowed to proceed for 1 additional minute.)

Mr. McKINNEY. If the gentleman will continue to yield, the gentleman said would this all happen anyway, as far as the industrial base coming up. I was going to read the testimony from General Slay, but he has probably seen it. Instead I will read the gentleman a comment from the Secretary of Defense in a letter to Mr. Stockman:

It is clearly recognized that the Administration's initiatives for economic recovery will eventually foster conditions under which revitalization of industrial sectors will occur. This will take several years and may not provide sufficient incentives. . . .

Through title III of the Defense Production Act, the government can provide incentives for increasing our domestic capabilities by encouraging private sector investment.

Therefore I propose funding title III programs from the DOD budget.

Mr. DICKINSON. Mr. Chairman, let me reclaim my time.

Normally under other circumstances, I think I would be supportive of this. Coming in the back door, impacting on us without our being able to have anything to do with the prioritizing of the various things, I would have to oppose it. I certainly hope the Members of the House will do the same.

Mr. WEBER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, earlier in the debate we had a great deal of discussion about the strategic minerals, metals, and materials and the fact that we do have to place a great reliance at the present time on foreign countries for our sources of supply.

There is not a person in the House of Representatives, I am sure, who wants us ever to be in a situation where we run out of strategic metals, minerals, or materials; but I would like to call the attention of my colleagues to the studies that have been made and reported by the Office of Management and Budget pointing out that if we are talking about getting the most "bang for our buck," it is much more efficient to utilize the strategic metals stockpile than to subsidize domestic mines.

Subsidies, loan guarantees, and price guarantees are much less cost effective than stockpile purchases.

For example, it is estimated that guarantees of $17 to $28 per pound would be necessary in the case of cobalt in order to acquire this production from U.S. cobalt sources. To acquire 2 million pounds, if cobalt prices remain at present levels, would require a Government subsidy of $120 to $360 million over 10 years.

The equivalent amount of cobalt purchased for the stockpile would cost only $60 million, a difference of anywhere from $80 million to $240 million.

If we are talking about cost effectiveness, there is a much more cost effective way to proceed by building up the purchases of the strategic stockpile.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. WEBER of Ohio. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I appreciate what the gentleman is saying. I have been an advocate of using our surplus grain commodities in this country to barter with other nations to build up our strategic reserves of metals, in oil, or whatever.

I think it is very important that we start in a system here in this country of bartering with those nations that do not have the money to pay us immediately for their needs for grain and give them a long-term agreement to be able to deliver that particular strategic material.

I think the gentleman's point is very well taken, for me at least. I believe we ought to deal with our strategic materials much differently than we have in the past.

Mr. WEBER of Ohio. Mr. Chairman, I thank the gentleman for his remarks. I certainly think that the gentleman has called a very, very important point to our attention.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

Mr. CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

□ 1445

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have responded. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from North Carolina (Mr. JOHNSTON) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 242, noes 180, not voting 12, as follows:

[Roll No. 292]

AYES—242

Addabbo	Boner	D'Amours
Albosta	Bonior	Daschle
Alexander	Bonker	Davis
Anderson	Brodhead	de la Garza
Andrews	Brooks	Deckard
Annunzio	Brown (CA)	Dellums
Anthony	Brown (CO)	DeNardis
Aspin	Burton, John	Dicks
AuCoin	Burton, Phillip	Dingell
Bailey (PA)	Chisholm	Dixon
Barnes	Clausen	Donnelly
Bedell	Clay	Dorgan
Beilenson	Coelho	Dowdy
Benjamin	Coleman	Downey
Biaggi	Collins (IL)	Dunn
Bingham	Conte	Dwyer
Blanchard	Conyers	Dymally
Boggs	Coughlin	Early
Boland	Coyne, William	Eckart
Bolling	Crockett	Edwards (CA)

English	Jones (TN)	Richmond
Erdahl	Kastenmeier	Rinaldo
Erlenborn	Kazen	Rodino
Ertel	Kennelly	Roe
Evans (DE)	Kildee	Rogers
Evans (GA)	Kogovsek	Rose
Evans (IA)	LaFalce	Rosenthal
Evans (IN)	Lantos	Rostenkowski
Fary	Leach	Roukema
Fascell	Lehman	Roybal
Fazio	Leland	Russo
Fenwick	Long (LA)	Sabo
Ferraro	Long (MD)	Santini
Findley	Lowry (WA)	Savage
Fithian	Luken	Scheuer
Florio	Lundine	Schneider
Foglietta	Markey	Schroeder
Foley	Marks	Schumer
Ford (MI)	Martin (IL)	Seiberling
Ford (TN)	Martinez	Shamansky
Forsythe	Matsui	Shannon
Fowler	Mattox	Sharp
Frank	Mazzoli	Simon
Frost	McCloskey	Smith (IA)
Fuqua	McDade	Smith (NJ)
Garcia	McHugh	Smith (PA)
Gaydos	McKinney	Snowe
Gejdenson	Mica	Snyder
Gephardt	Mikulski	Solarz
Gibbons	Miller (CA)	St Germain
Gilman	Miller (OH)	Stangeland
Glickman	Mineta	Stokes
Gonzalez	Minish	Studds
Goodling	Mitchell (MD)	Swift
Gore	Moakley	Synar
Gradison	Mottl	Tauke
Gray	Murphy	Traxler
Green	Murtha	Udall
Guarini	Natcher	Vento
Gunderson	Nowak	Volkmer
Hall (OH)	O'Brien	Walgren
Hamilton	Oakar	Washington
Hammerschmidt	Oberstar	Watkins
Harkin	Obey	Waxman
Hatcher	Ottinger	Weaver
Hawkins	Panetta	Weiss
Heckler	Patterson	Whitten
Hefner	Pease	Williams (MT)
Hertel	Pepper	Williams (OH)
Hightower	Perkins	Wirth
Holland	Petri	Wolpe
Hollenbeck	Peyser	Wortley
Hopkins	Pickle	Wright
Horton	Porter	Wyden
Howard	Pritchard	Wylie
Hoyer	Pursell	Yates
Hubbard	Rahall	Yatron
Hughes	Railsback	Young (MO)
Jacobs	Rangel	Zablocki
Jeffords	Ratchford	Zeferetti
Jones (OK)	Reuss	

NOES—180

Akaka	Conable	Grisham
Applegate	Corcoran	Hagedorn
Archer	Courter	Hall, Ralph
Ashbrook	Coyne, James	Hall, Sam
Atkinson	Craig	Hance
Badham	Crane, Daniel	Hansen (ID)
Bailey (MO)	Crane, Philip	Hansen (UT)
Barnard	Daniel, Dan	Hartnett
Beard	Daniel, R. W.	Hendon
Benedict	Dannemeyer	Hiler
Bennett	Daub	Huckaby
Bereuter	Derrick	Hunter
Bethune	Derwinski	Hutto
Bevill	Dickinson	Hyde
Bliley	Dornan	Ireland
Bouquard	Dougherty	Jeffries
Bowen	Dreier	Jenkins
Breaux	Duncan	Johnston
Brinkley	Dyson	Jones (NC)
Broomfield	Edwards (AL)	Kemp
Broyhill	Edwards (OK)	Kindness
Burgener	Emerson	Kramer
Butler	Emery	Lagomarsino
Byron	Fiedler	Latta
Campbell	Fields	Leath
Carman	Flippo	LeBoutillier
Carney	Fountain	Lee
Chappie	Frenzel	Lent
Cheney	Gingrich	Levitas
Clinger	Goldwater	Lewis
Coats	Gramm	Livingston
Collins (TX)	Gregg	Loeffler
Lott	Nelson	Skelton
Lowery (CA)	Nichols	Smith (AL)
Lujan	Oxley	Smith (NE)
Lungren	Parris	Smith (OR)
Madigan	Pashayan	Solomon
Marlenee	Patman	Spence
Marriott	Paul	Staton
Martin (NC)	Price	Stenholm
Martin (NY)	Quillen	Stratton
Mavroules	Regula	Stump
McClory	Rhodes	Tauzin
McCollum	Ritter	Taylor
McCurdy	Roberts (KS)	Thomas
McDonald	Roberts (SD)	Trible
McEwen	Robinson	Vander Jagt
McGrath	Roemer	Walker
Michel	Roth	Wampler
Mitchell (NY)	Rousselot	Weber (MN)
Molinari	Rudd	Weber (OH)
Mollohan	Sawyer	White
Montgomery	Schulze	Whitehurst
Moore	Sensenbrenner	Whitley
Moorhead	Shaw	Whittaker
Morrison	Shelby	Wilson
Myers	Shumway	Winn
Napier	Shuster	Wolf
Neal	Siljander	Young (AK)
Nelligan	Skeen	Young (FL)

NOT VOTING—12

Bafalis	Fish	Holt
Brown (OH)	Ginn	Moffett
Chappell	Heftel	Stanton
Edgar	Hillis	Stark

□ 1500

Mr. DYSON and Mr. BEVILL changed their votes from "aye" to "no."

Messrs. EVANS of Georgia, HEFNER, ROGERS, and LAFALCE changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1510

Mr. BLANCHARD. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the Chair, Mr. FOWLER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5540) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS ACT, 1982

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Aug. 13, 1982.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 6863, and that I may include extraneous tabular material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, we bring to you today the conference report on the supplemental appropriations bill in which 12 of the 13 subcommittees on appropriations had items in conference. In those instances when items arise in the particular jurisdiction of a subcommittee I would hope that those who are in charge of the particular subcommittee would handle them from the desk here.

May I point out to my colleagues that the controversial items, that is the items that I understand are controversial, having to do with the Salary Commission, the various foreign aid items, and the copper amendment—are outside the conference and will be handled separately, since they are subject to a separate motion and a separate vote. If necessary, I personally intend to move to eliminate or prevent the acceptance of the Pay Commission amendment which was added by the Senate, and I understand that others will take action on other items. But I want to say again, we first will have the vote on the conference report, and those items that are believed to be controversial, are outside the conference report. I urge the Members to support the conference report.

I repeat, Mr. Speaker, the controversial items are outside the conference, so I hope that Members will go along with the conference, and the item on the Pay Commission, the foreign aid items, and the copper purchase item at GSA, will be treated separately and will be subject to such action as the House may take.

May I turn then to what is within the conference agreement. Approximately 85 percent of the conference agreement is classified as mandatory. This includes supplemental pay costs of $6.2 billion; Commodity Credit Corporation, $5 billion; and retirement and health benefits, $607 million. There are approximately $5 billion to fund pay increases for the uniformed

personnel in the Department of Defense. The conference report does not contain any provision for a report of the Commission on Legislative Salaries. That will be separate. A vote for the conference report cannot and should not be construed in any way to affect Members' pay, because it would not.

The amendment No. 115, on the special commission, in that respect we will propose to strike out that provision, but at any rate is not in the conference report.

May I say that in the conference report we bring before you we are approximately $1.8 billion below the administration's request and approximately $400 million over the House figure, this is according to our figures. I understand that others may have picked out all the increases but neglected to take into account the subtractions. We nevertheless have preserved in the committee and thereby in the Congress the right to deal with items. In the overall conference agreement we bring the Members a bill that is under the budget and is absolutely required, because the pay schedule, especially military pay, is such that we have to have this bill passed soon in order to meet our commitments.

I repeat again that we are late in bringing this to the Members, but as I have said many times this year, due to the lateness of getting authorizations and getting budget figures agreed to.

I want to repeat, we are under the budget. We have preserved for the Congress as the peoples' branch the right to determine the amount of money for programs and items, but in the overall we are well below the overall budget.

Mr. Speaker, I have nothing further to say at the moment.

□ 1520

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the conference agreement on H.R. 6863, the general supplemental for the 1982 fiscal year.

The conference agreement totals $14.6 billion in new budget authority, and $400.8 million in rescissions of previously enacted budget authority.

The conferees were faced with 183 Senate amendments, which included such diverse issues as:

The President's Caribbean Basin Initiative;

Funding for the Commission on Executive, Legislative, and Judicial Salaries;

Mandatory employment levels for the Department of Energy;

Funds for the purchase of copper for the material stockpile;

Funds and trust agreements for resettlement of the people of Bikini;

Distribution of funds for Community Service Employment for Older Americans;

Exemption from excise taxes for the manufacturers of custom-made firearms; and

Restriction of loans and credits to Poland.

In a moment, I will describe the conference agreement on these and other specific issues.

As a whole, I support the conference agreement, and for the same reasons I supported the bill in the House.

The conference agreement on new budget authority and rescissions is $1.9 billion under the President's requests, which consist of a reduction of almost $2 million in defense supplementals, and a new addition of about $100 million in other programs.

The program supplementals proposed for defense totaled $2.4 billion, of which an estimated $2 billion was to restore funds previously denied by the Congress, or to start new programs which should and could have been proposed for consideration in the defense appropriations bill for fiscal 1983.

These proposals were not proper supplementals, and funds were denied on that basis, not "to finance other programs."

Supplementals should be used to fund pay costs under existing law, and to provide funds for emergencies or other critical and unanticipated requirements. Supplementals should not be proposed where Congress has previously denied the request, unless the circumstances and justification have changed sufficiently to constitute a new proposal.

We cannot presume to impose these standards on the President, but we can and do apply these standards in the evaluation of proposed supplementals.

In my judgment, the conference agreement is a sound compromise between the priorities of the administration and the priorities of the Congress.

I will vote for it, and I urge the President to sign it.

Mr. Speaker, let me now tell the Members why their trip home may be delayed.

I have a letter here from David Stockman saying that he is going to recommend to the President a veto on this bill, primarily because of $210 million in here for title V under the Older Americans Act. This House several weeks ago passed a resolution supporting title V of the Older American Act, and there were only four dissenters in the whole House.

So that is the main objection, the $210 million for the Older Americans Act. There is also $29 million that he objects to for handicapped education. Then he objects to a $217 million add-on for student financial assistance, about $140 for Pell grants, and about $77 million for SEOG grants.

Those are the main things he objected to, and the Members should know about them, if the President vetos the bill.

Now, here is another letter that is important. It is dated August 17, 1982, from David A. Stockman, and it reads as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 17, 1982.

Hon. SILVIO CONTE,
U.S. House of Representatives, Washington, D.C.

DEAR SIR: Howard Baker had requested from us a report on the consequences of failure to enact a fiscal year 1982 pay and program supplemental before Congress adjourns for the August recess. This letter is to inform you as well of the response we provided to Senator Baker. It is our view that it is essential for the Congress to enact a pay and program supplemental for fiscal year 1982 before adjournment. If Congress fails to act, the first, and probably most serious problem we will encounter is that it will be impossible to disburse the military payroll on August 31, 1982 from existing appropriations. I'm sure that you regard, as I do, this as a serious problem that we must endeavor to avoid. I look forward to working with you in the days ahead to enact a supplemental appropriations that is satisfactory to both the Congress and the Administration.

Sincerely,

DAVID A. STOCKMAN,
Director.●

There it is, Mr. Speaker, right in a nutshell. If we do not pass a supplemental with the money in here for military pay, the Treasury will not be able to pay the military out of existing funds on August 31. So, therefore, I think it is very, very important that the Members know what is in this bill, so that they can make their decisions here today and be ready for the veto that will be coming forth and decide whether they will want to vote to override or to sustain the veto.

Mr. PURSELL. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Michigan.

Mr. PURSELL. Mr. Speaker, I thank the distinguished ranking minority member for yielding, and I rise in support of this conference report on the supplemental.

I did not serve on the conference committee, but let me ask this question: Is it my understanding that in the aggregate total, on the bottom line, you came within the budget resolution and the authorization levels?

Mr. CONTE. Mr. Speaker, we are below it. We are below the budget resolution.

However, I want to be very fair about this and say that the cuts came from the defense supplemental. The Defense Subcommittee, including the ranking minority member, the gentleman from Alabama (Mr. EDWARDS), felt that that was a proper cut. I might add one other thing, and that is that all Republican conferees signed the conference report.

Mr. PURSELL. Mr. Speaker, I thank the gentleman.

Mr. WAMPLER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend, the gentleman from Virginia.

Mr. WAMPLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman from Massachusetts (Mr. CONTE), and others, for retaining in the conference report the $210 million appropriation to fund title V of the Older Americans Act. I know that the gentleman from Massachusetts has had a longstanding interest in this. It seems to me that this is extremely appropriate, and I intend to support it.

Mr. CONTE. Mr. Speaker, I appreciate the remarks of the gentleman from Virginia (Mr. WAMPLER). He has been a great help, and I recall, as we moved through the process, the many times that he has stopped me here on the floor and asked me how we were progressing on title V.

I might add also that, under the able leadership of the gentleman from Kentucky, Mr. BILL NATCHER, we added the $210 million in committee. The gentleman from Kentucky will bear me out. We were in conference on the urgent supplemental.

□ 1530

We had put the $210 million in the urgent supplemental for the older Americans. Then the Senate knocked it out.

So we made a promise in that conference, BILL NATCHER and I, that when we marked up this general supplemental bill, we would put the $210 million in it, and we did that in committee.

Mr. NATCHER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I am glad to yield to my good friend.

Mr. NATCHER. Mr. Speaker, I would like to say to the Members of the House that the statement my friend from Massachusetts has just made is absolutely correct. In the previous conference on the urgent supplemental bill we all agreed to put the $210 million into the regular supplemental bill.

As my friend further knows, the $210,572,000 added to the current appropriation of $66,528,000 brings the total to $277,100,000 for fiscal year 1982.

The gentleman is absolutely correct.

Mr. CONTE. I thank the gentleman. We worked very hard on that.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. I have a question in connection with the gentleman's statement and the reading of the letter.

That letter was from Mr. Stockman.

What has me puzzled is on the one hand it seems to me that they are mandating that we approve in order to avoid a crisis with respect to the military pay. On the other hand they are saying we are going to veto it if you approve it as it is contained now.

So this to me seems as if the administration is trying to do one thing and that is dictate policy by the threat of a veto.

Mr. CONTE. Let me say this: We are caught in a very difficult dilemma here. The $210 million they oppose was put in in the House and the other body accepted it, so it was not a matter of conference. The money for the Pell grants was put in in the House and accepted and also put in in the other body, so it was not a matter of conference.

So when they write to me now today saying they are going to recommend a veto because of these items, these are all the items that were passed by the House, and passed by the other body, and were not part of the conference at all.

So how would you take these items out of the bill, even if you wanted to take them out?

Plus let me say this: There is $350 million in here for the Caribbean Basin. The President wants that Caribbean Basin money in the worst way for Central America.

I said to the President when I went down to the White House for a meeting that the only way he was ever going to get that $350 million is to have it right in this supplemental.

Can you imagine me coming on the floor of the House to ask my colleagues to vote for $350 million in foreign aid? I would get my head beat in. Nobody would vote for it at a time when you are cutting all of the domestic programs.

That is another good reason why this bill ought to be signed, to get this program through.

Mr. GONZALEZ. The significant point, as I see it, is that the gentleman reported that this bill is under the budget, or at least conforms to a nonbudget-busting aspect or impact so that then the issue is a matter of policy.

Mr. CONTE. Yes. It is a question of where we put the money. It is a question of where money has been shifted.

As far as the bottom line is concerned, the bill is below the President's supplemental request.

Mr. ROGERS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. ROGERS. Mr. Speaker, I rise in support of the conference report on H.R. 6863. In particular, I would like to voice my strong support for the provision requiring the construction of flood protection along the Upper Cumberland River.

And I would like to commend the gentlemen from Mississippi, Massachusetts, Alabama, and Indiana for their effective efforts in bringing this bill through conference.

The Upper Cumberland provision is of vital importance both to the physical safety of entire communities in my district as well as to my district's economic development.

I would like to describe the flooding problems we have faced and why it is that the provisions in this bill are so important.

Southeastern Kentucky has been plagued by severe flooding from time immemorial. We have steep mountains, which cause rapid runoffs. These runoffs are made especially treacherous by the fact that we have very narrow valleys, valleys which constrict the flow of the water. And we have next to no warning of these floods since the mountains prevent the accurate forecasting and warning systems which are possible in other parts of the country.

And the hazards of this flooding are greatly magnified by the fact that many families live right along the river banks. With the severe lack of level land, most families and businesses have no choice but to build along the rivers. And this places them right in the track of the rushing waters.

In 1977, all of these threats and all of these geologic and hydrologic factors turned into cold reality, with the worst flood on record along many portions of the Upper Cumberland, Tug Fork, and Levisa Rivers.

Barbourville, Ky., was the scene of heroism which is rare in this day and age. Despite the rapidly rising waters, and despite the personal danger they faced, many couragious citizens stayed behind to pile sandbags on top of the levees. Their heroic efforts succeeded in keeping the torrential waters from flooding through the streets of Barbourville.

Pineville, Ky., was not so fortunate. All the protection they had simply was not good enough. As the townspeople looked on, the waters came rushing over the floodwalls, into the town, into their homes, and into their businesses. Over the next tense hours, volunteers rescued stranded men and women, including many senior citizens, from rooftops and car tops. Families found shelter in the local hospital. And in the coming days and weeks, they returned to their homes and businesses to start the backbreaking work of cleaning up the sediment, which averaged about half a foot deep, and which covered most of the town.

The damage was staggering. Immediate estimates were at least $27 million in damages. Nine hundred homes were destroyed or severely damaged. Property owners were forced into long-term debt—debt which continues to burden

these communities. Property values plummeted. And tax bases were depleted.

And perhaps worst of all, the flood added yet another burden to the backs of these communities which are trying so hard to help themselves. In an area which has long suffered from chronic underdevelopment, they have been striving to attract more businesses and jobs to the area. This newest flood dashed many of those hopes.

In view of this record documenting the clearcut need for flood protection along the Upper Cumberland, the Congress specifically appropriated funds for the construction of flood protection. But despite the black and white instructions in the law, we have faced roadblock after roadblock in the construction of our flood protection. First, bureaucratic delays prevented any construction during fiscal year 1982—despite the fact that funds had been appropriated specifically for that purpose. And second, the corps decided not to build the normal standard project flood protection (protection to cover the worst flood that could reasonably be expected in an area), but to build protection only just high enough to cover a flood of the magnitude of the flood of 1977.

Mr. Speaker, these proposals were altogether unacceptable and I am delighted that language has been included in the bill to correct them.

First, the bill requires the fiscal year 1982 funds, included in the Energy and Water Appropriations Act for fiscal year 1982, to be obligated still during this fiscal year.

I wholeheartedly applaud this clear, unequivocable, and unmistakeable instruction requiring the corps to proceed with construction without any further delay.

If we are going to build flood protection, let us get on and build it. Every indication is that flooding is going to continue—and will probably occur even more frequently in years to come. And when those flood waters come rushing down the mountains and are ebbing toward the top of the floodwalls, the men and women in my district are going to need more than studies, more than promises, and more than good will to save them—they are going to need full-fledged flood protection. And nothing less will do them any good.

A second important provision in this bill requires the corps to construct the flood protection at the standard project flood level. This is exactly the blunt message we have needed to set the record straight; it is the intention of the Congress to give the communities along the Upper Cumberland River full and complete flood protection. And protection just to the flood of 1977 level is simply not good enough.

As the corps has stated in its own documents, flooding in this region is sure to continue—and it may even worsen as the region is developed. While I respect the need to reduce Federal spending, any marginal savings in this case would be more than wiped out by even one major overtopping flood. And where human health and life is concerned, as is the case here, there can be no excuse for pinching pennies.

In addition, protection to the level of the flood of 1977 is absolutely inadequate to allow the economic development of this area. It would not free local communities from the flood insurance requirements. It would prevent these communities from ever building on their few acres of level land, most of which are located along the river banks, thereby condemning them to continued economic stagnation. And it would deny these communities any opportunity to attract businesses to the area, a step which is essential if these communities are ever to help themselves.

The provisions in this bill give my district the life lease it desperately needs. It will give us a foundation for the economic development of this whole region along the Upper Cumberland. It will give hundreds of families the assurance that they can sleep without fear, even when they hear a forecast for rain.

Mr. Speaker, if a man were standing beneath a rushing tidal wave, we would not suggest a study of his plight; if a man were drowning, we would not saw his lifeboat in half. But Mr. Speaker, this has been exactly the plight of these communities in my district, when each day they wondered what new roadblock had been placed ahead of their flood protection. The provisions in this bill give us the relief we need.

I commend my distinguished colleagues from Alabama and Indiana for their efforts in working with the other body to secure this effective and badly needed provision and I urge the support of my colleagues.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my friend from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I just want to try to clarify if I can where we stand on the bill. The gentleman said the bill as reported back by the conference is within the budget recommendations; is that correct?

Mr. CONTE. Below the supplemental request sent up here by the President, yes.

Mr. WALKER. Then the gentleman has also said that the difference between the two bills is the fact that the administration has found money in this bill that they do not particularly like spending, that they do not like, and what they want to do is spend it in the defense area and in which the Appropriations Committee has decided could be cut; is that correct?

Mr. CONTE. That is right. I can give you the exact programs if you want them.

Mr. WALKER. I think you reiterated there were things such as the Older Americans Act and several items.

Mr. CONTE. The community services employment for older Americans, $210 million; student financial assistance, $217 million; compensatory education for the disadvantaged, $148 million.

Those are the three main ones.

Mr. WALKER. So if the gentleman would yield further, what we have is the administration saying that even though this comes in within the budget or within their recommendation they are going to veto the bill.

So that Members who would feel that the President is vetoing a bill that he calls a budget buster do put themselves in some jeopardy if they feel they would have to support that kind of a veto coming up in support of this bill.

I mean, is that fair analysis, based on the letter the gentleman has from OMB?

Mr. CONTE. All I can give you are the facts. The facts are that the committee cut defense, which the administration did not want, and added some of that money into the programs that I have mentioned here in the well of the House.

The bill comes below the President's supplemental request.

Mr. WALKER. Will the gentleman yield further?

Mr. CONTE. I cannot explain it any plainer than that.

You come in with all of these labels, budget busters, and so forth, and I am giving you the plain facts.

What more do you want?

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. Yes.

Mr. WALKER. What I am concerned about is the President, as a part of the fight over the tax bill, has said rather plainly to many Members of the Congress, in order to get them to vote for the tax bill, that he is going to veto any bill that he regards as a budget buster. We are going to have that particular debate with the American people. He has made that very clear.

So the first bill that he vetoes after the tax fight is likely to be this one. So that Members will be faced with a decision that they have been guaranteed something about budget-busting bills, that the President is going to veto, of sustaining him on that side of this debate now going on over the tax bill.

That is what I am getting at, is we have a tie-in here with the tax bill and the promises that the President is making with Members with regard to the tax bill.

I just want to point that out to the people.

Mr. CONTE. I do not know what you are talking about. I really do not know what you are talking about. You have me utterly confused.

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. This is below the budget. This is below the President's budget. What else can I say?

Mr. WALKER. Will the gentleman yield?

Mr. CONTE. Yes.

Mr. WALKER. I am simply trying to point out that the administration is vehemently opposed to this bill. They say they are going to veto it.

Mr. CONTE. I do not know what the President is going to do on this bill. I am saying that Dave wrote me a letter and Dave says he is going to recommend a veto on this bill.

The President may not veto it because it is below his request.

There has been a shifting here and I do not know how you feel about the older Americans and the handicapped kids. But there has been a shifting.

But the bottom line is a minus, you see.

Mr. WALKER. Will the gentleman yield further?

Mr. CONTE. Sure.

Mr. WALKER. The point that I am trying to make, the point I am trying to make is just this one, and I am sorry that I am not explaining it in a way that the gentleman has an understanding——

Mr. CONTE. That is all right.

Mr. WALKER. I will try to do better.

But the fact is that the President, having made that assurance to many Members of Congress, if he does veto this bill we are likely to find ourselves in a situation where Members will be voting to override a Presidential veto that would be a Presidential veto that he will frame as a budget-busting fight.

Mr. CONTE. That could be possible.

Mr. WALKER. That to me could be serious when we think about the fact that the President is saying that the overall tax fight is about reducing this deficit. If he says this is a deficit increase many Members are going to find themselves in a very difficult position. That is the point I am trying to make.

Mr. CONTE. Is the gentleman trying to tell me that he is going to vote for the tax bill and vote to sustain the President? Is that what you are telling me?

Mr. WALKER. No. I will tell the gentleman flatly that I am not going to vote for the tax bill.

Mr. CONTE. Oh, I see.

How did the gentleman vote when the Gramm-Latta bill had a cap of 4 percent on Federal pensions? How did the gentleman vote on that?

Mr. WALKER. I voted to sustain the gentleman from Illinois, Mr. DERWINSKI, when he tried——

Mr. CONTE. I am not talking about Mr. DERWINSKI. I am talking about Gramm-Latta. Were you one of those 94 guys that tried to save $5 billion on a 4-percent cap? Give me a yes or no answer.

Mr. WALKER. I voted to have a freeze across the board on all Federal pensions.

Mr. CONTE. I am talking about the Downey amendment.

Mr. WALKER. Would the gentleman be willing to vote for a freeze to save $8 billion instead of $5 billion?

Mr. NELLIGAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from Pennsylvania.

□ 1540

Mr. NELLIGAN. I thank the gentleman for yielding.

I want to compliment the gentleman from Massachusetts on this legislation, as well as the chairman of the committee. I would like to associate myself with the gentleman's remarks. This is one Member who does have a strong feeling for older Americans and handicapped kids.

Mr. Speaker, I firmly believe that the $211 million included in H.R. 6863 for the senior community service employment program is a prudent use of taxpayers' dollars. This program, authorized by title V of the Older Americans Act, has long been recognized as one of the most effective programs operated by the Federal Government. It is for this reason that the program enjoys such strong support from Members of Congress.

I receive numerous letters from my older constituents expressing fear that the jobs they are able to perform through this program will be lost. These jobs are too important to senior citizens and the people they are serving to lose. Not only does this program provide employment to thousands of older Americans who would rather work than accept welfare payments; the program is also designed to provide worthwhile community service through such programs as Head Start and public libraries.

I am firmly convinced that this program should continue to be funded, and for that reason have consistently voted in favor of legislation which will provide for full funding for title V programs.

Disadvantaged and handicapped children are another precious resource to which this country must maintain its commitment, despite concurrent efforts to reduce the Federal deficit. I have consistently supported programs for the handicapped, and I support the supplemental appropriation for compensatory education for disadvantaged children, as well as the funds included in the bill for handicapped education. These programs enable schools to provide specialized educational services to children in need, and have allowed these children to learn and develop to their fullest potential. It is critical to any economic recovery program that we maintain our commitment to our Nation's young, who do, in fact, represent the future of our country. We cannot shortchange these youth by cutting out necessary funding for programs that have demonstrated success.

I would also note that this appropriation measure includes language to restrict the authority of the Department of Defense to purchase foreign coal or coke for use at its military installations in Europe.

This is a provision which I have strongly supported in the past, and which I will continue to support in the future.

Last year, the Department of Defense was required, for the first time, to solicit foreign bids for its European coal requirements under certain trade agreements approved by Congress in 1979. As a result, the Department purchased over 55 percent of its total coal requirements from foreign suppliers—and U.S. anthracite producers lost over 117,000 metric tons in defense orders.

I believe this practice must be stopped.

The purchase of foreign coal and coke has a serious impact on the anthracite industry and on the railroads and U.S. shippers which transport the coal to Europe. Figures I have examined indicate that the total economic loss to U.S. firms from this foreign coal purchase totals over $38 million.

In addition, the present purchase of foreign coal and coke increases our reliance on non-U.S. source fuel for military operations. I believe the most secure military logistical system is one which depends on American products and American citizens to support our Armed Forces.

I am therefore pleased that the House has agreed to this conference report with the language regarding DOD coal purchases. I am hopeful that further legislative and administrative actions will result in a final termination of foreign coal and coke purchases by the Department of Defense.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from South Carolina.

Mr. HARTNETT. I would like to ask the gentleman if he would explain to me, as one who would like to support this bill, because I think the gentle-

man has done a fairly good job, how the gentleman, as a leading member of this conference committee, could not have taken exception to Senate Amendment 177, which set a floor on the number of employees that the Department of Energy could have. It actually legislates.

Mr. CONTE. I am glad the gentleman asked that question. It should not be in here. I hope we can have a vote on it. I am with the gentleman 100 percent.

Mr. HARTNETT. I am going to have an amendment. I appreciate the gentleman's help. Generally what you are for everybody else is for.

Mr. CONTE. You are foursquare right, believe me.

Mr. HARTNETT. I thank the gentleman.

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from North Carolina.

Mr. JOHNSTON. In response to the various components of this legislation, are all of the items in this bill below budget authority for their respective functions?

Mr. CONTE. Now, let me get this straight. Below budget authority?

Mr. JOHNSTON. Yes. Or below the budget figures for each function. In other words, if an item is within, say, function 050, is it in fact below budget?

Mr. CONTE. No, we cannot say that. No.

Mr. JOHNSTON. So in fact all components of the thing are not below budget?

Mr. CONTE. No.

Mr. JOHNSTON. Some of them are above budget, some are below budget?

Mr. CONTE. Sure.

Mr. JOHNSTON. But collectively they are below budget?

Mr. CONTE. Absolutely.

Mr. RATCHFORD. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Connecticut.

Mr. RATCHFORD. I thank the gentleman for yielding, and anyone who would wear pinstriped pants cannot be all bad, that is for sure.

I would like the gentleman to highlight something positive. I continue to hear from a number of parents who are concerned that they do not have answers yet on student assistance for this fall, even though it is the middle of August.

Do I understand the gentleman correctly that under "student financial assistance," if we pass this and the Senate does, and if it becomes the law of the land, many of those issues will be finally resolved, at least for this fall?

Mr. CONTE. Definitely so. We have already taken care in the urgent supplemental of appropriating the additional needed funds for the guaranteed student loan program totaling $1.3 billion, and in this general supplemental bill we are adding money for Pell grants, and for the SEOG grants. If my calculations are right, everyone who was eligible for Pell grants last year would get them this year, with a possibility of slight reduction of maybe $50.

Mr. RATCHFORD. I thank the gentleman, because there are still parents and students with the uncertainty of whether or not they will qualify for this fall and what the level of funding would be. Certainly the least we could do, this late in the year, is to support the gentleman who is trying to say to the college students of America, "We think you are important."

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

I, too, want to compliment the gentleman for clarifying the situation, and I found the exchange, the dialog he had with the gentleman from Pennsylvania, very enlightening.

I know that the President and his spokespeople have been saying that he wants his tax bill passed and if it is not passed, there are going to be very heavy social cuts. This Member is persuaded by that argument and is inclined to vote for the President's tax bill. However, unless there is a very clear statement from the White House that this supplemental is not going to be vetoed, then what is the sense of voting for the President's tax bill? I hope perhaps that David Stockman and some of the others around the President will understand that very, very clearly.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New Mexico.

Mr. LUJAN. The gentleman alluded to one of the items in disagreement with the Senate, and that is on the purchasing of copper from the sales of strategic materials.

Can the gentleman tell me why the House would not go along with that, when we feel that the copper industry is in such bad straits and, really, there is no money that is being appropriated? It is just money that comes from the sale of other items within the stockpile. Could the gentleman give me the reasons for the House not agreeing with the Senate on that?

Mr. CONTE. I think that when we debate that particular issue later on today, the gentleman will hear the arguments. But in capsule form I will say that the Armed Services Committee, both on the appropriation and on the authorizing committees, were very, very much opposed to that amendment. They felt that the stockpile should not be used as an employment program to put people to work and buy metals because people are unemployed. I am going to vote with the gentleman, incidentally. But they felt that they have a subcommittee on the Armed Services Committee headed up by the gentleman from Florida (Mr. BENNETT) on the House side, and the one over in the Senate, and they know about some of these precious metals, they know the metals that they need, and it should go through the authorization process rather than through the appropriation process.

Mr. LUJAN. Just one point: The gentleman characterizes it as some kind of an employment program. It is really a strategic metal, copper, and we need it, and those kinds of remarks are really not warranted in this particular case.

Mr. CONTE. Sure. As I said, I will vote with the gentleman.

Mr. COUGHLIN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Pennsylvania.

Mr. COUGHLIN. I want to associate myself with the remarks of the distinguished ranking minority member and I would just simply say that I do not think we have to be embarrassed to be appropriating money for Pell grants, I do not think we have to be embarrassed about appropriating money for older people and community service, I do not think we have to be embarrassed about appropriating money for compensatory education for children. And particularly I think it is important that we did put the money in for the Caribbean Basin Initiative that the President needs and wants. It is an important initiative that I think can help save that part of the world that is so important to the United States from potential disaster. I certainly support the gentleman.

Mr. AUCOIN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Oregon.

Mr. AUCOIN. Mr. Speaker, I rise in support of H.R. 6863, the supplemental appropriations bill for 1982, which includes critical additional appropriations for federally supported education programs. As reported by the House-Senate conference committee, the bill shifts funds from unnecessary military spending programs to maintain key educational programs.

David Stockman, the President's Budget Director, is threatening to recommend a veto of this bill on grounds that it exceeds the President's budget request. The fact of the matter is the bill is $1.8 billion less than the President's budget request. What Mr. Stockman really objects to is the House Appropriations Committee exercising its responsibility, as it is required to do, in determining how funds shall be apportioned among de-

partments and programs. In this case, the committee cut $2.1 billion from defense, military construction, and foreign aid, and increased appropriations for other functions—notably education.

As a member of the Appropriations Committee, I wholly endorse these committee actions and urge adoption of the bill. While staying under the budget request, the bill represents a wiser use of the budget dollars available by investing a larger share in our Nation's greatest resource—our youth, our Nation's future. In virtually every field, from medical research to manufacturing, from communications to chemistry, we are being challenged as never before. Every one of us has a stake in seeing to it that this generation of children growing up today is the best educated generation in the Nation's history.

To cut back on education programs, as this administration has sought to do at every opportunity, makes as much sense as a farmer cutting back on his seed corn. The bill before us today assures a prudent supply of seed for education. It recognizes that our future security as a nation depends not only upon a strengthened defense capability, but also upon strengthened human capabilities. Specifically, it provides:

One hundred and forty-eight million dollars for grants to local school districts for the education of disadvantaged children under title I of the Elementary and Secondary Education Act. To resolve a controversy arising from the Secretary of Education's decision to apportion supplemental title I funds on the basis of 1970 census data rather than 1980 data, the committee has included an amount necessary to give school districts their allocation under the 1970 census or 1980 census, whichever is higher.

Twenty-six and one-half million dollars for programs for education of handicapped children, which were reduced between 20 and 50 percent below the 1981 fiscal year level in the continuing resolution, to restore those programs to their previous year's level.

Two and one-half million dollars for vocational education. No supplemental funds were requested by the administration.

Two hundred seventeen million dollars to provide assistance to qualified undergraduate students with demonstrated financial need under the Pell grant program, and $77 million for supplemental education opportunity grants.

Ten million dollars for aid to developing institutions under title III of the Higher Education Act.

Mr. Speaker because of the delay in passing a budget resolution, this bill comes to the floor for final passage 2 months behind schedule. Further delay will only exacerbate the serious problems with which local school boards and educational institutions are wrestling in budgeting their resources.

Mr. Stockman can say he does not like it, he can say it is not what he wants, but he cannot truthfully say this bill is a budget buster, because it demonstrably is not.

Mr. NATCHER. Mr. Speaker. will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, I would like to add a comment to the statement of the gentleman in the well with regard to Pell grants. The gentleman is exactly correct. The amount in this bill of $140 million when added to the amount that is in the continuing resolution brings the total up to $2,419,040,000 for the fiscal year 1982.

In total, this supplemental bill is under the budget resolution. We did not exceed the overall ceiling:

I just want to point that out to the Members of the House at this time.

Mr. CONTE. Mr. Speaker, chapter II of the bill, as reported by the conference committee, contains $149,951,000 in new budget authority for the Departments of Commerce, Justice, and State, for the judiciary and for related agencies for program supplementals. This total represents and increase of $18.6 million over the budget requests which were officially submitted to the Congress. However, the administration has expressed no opposition to the provision of new budget authority for increased security activities within the Department of State in the amount of $40 million, rather than adhering to the administration's original proposal to transfer such funding from existing resources available in the migration and refugee assistance account. Instead, those funds are transferred in the foreign operations chapter of the bill for relief and rehabilitation activities in Lebanon. Since those funds are thus not available for transfer to this chapter for security enhancement at overseas posts, new budget authority was needed.

This chapter includes a number of appropriations and language provisions which are important to many of your constituents and which may very well not be provided if this bill is not enacted.

For example, language is needed and is included authorizing the Economic Development Administration to issue $30 million in direct loans and $150 million in loan guarantees during the remainder of fiscal 1982 from the economic development revolving fund. This is in accord with the clear intent of Congress in the continuing resolution, but the language is necessary if these loans are to be made available.

The bill, as reported from the conference, includes funding for the coastal zone management program for the State of New York. Whaling research and activities are funded for Alaska. Ten million dollars is included for the 1984 Louisiana World's Fair. Law enforcement assistance funding is provided through the FBI, the Drug Enforcement Administration, U.S. attorney's and marshals, and the Federal Prison System for the expenses of the South Florida Task Force Against Drug Traffic and Organized Crime. Money is in here for the long-delayed alien detention center to be located in either Louisiana or Oklahoma, both of which are lobbying to get it. A few Federal prison to house 4,000 inmates is included for Arizona, as well as a minimum security prison camp for California. And $1.6 million is included to conduct the U.S. case in the Gulf of Maine boundary dispute, which is critical to New England and to the entire country in terms of future resources.

As I mentioned earlier, funding is provided in this chapter in the amount of $49 million for additional security requirements at overseas posts in Western Europe and other highly threatened areas. The appropriation of this money is timely and important if we are to do all we can to avoid future attacks and kidnapings against our personnel serving in these countries.

And finally, $3.4 million is provided in the bill for the Iran-United States claims tribunal, an activity which must be funded regardless of our individual feelings about that whole ugly episode.

The defense supplementals total $435.3 million, a reduction of about $2 billion from the request. This is $67.8 million over the House, and $57.4 million below the Senate.

The major change from the House bill approves the funding for two new or an appropriate number of used DC-10 or KC-10 aircraft for the Air Force.

In the main, funding is denied for program elements because the requests did not meet the committee criteria for inclusion in a supplemental or because they are not authorized.

Pay items are funded at appropriate levels, but it is essential that action be taken on pay before August 31. The military has no money to meet the end of the month payroll for the uniformed personnel, and will have no money to make the mid-September civilian payroll. This bill must be enacted now or our military simply will not be paid.

DOD has no transfer authority left, and, because it has been paying the higher pay rates enacted last October, it is now out of money without a supplemental. We are at the end of the road on the military pay without this bill.

CHAPTER V—ENERGY AND WATER DEVELOPMENT

The conference report provides a total of $64,300,000 in new budget authority and $16,000,000 by transfer for the energy and water development chapter. It also provides $35,000,000 in pay supplementals for the Army Corps of Engineers. This compares with a House-passed level of $92,700,000 and a Senate-passed level of $56,200,000 in new budget authority. Both the House and Senate versions provided for $35,000,000 in new funding for the Corps of Engineers.

Without this pay supplemental for the corps, many corps flood control projects will lay idle as a result of insufficient funding. As winter approaches with its heavy snowfalls, the critical need for immediate construction as well as maintenance of the dams and dikes is obvious.

For atomic energy defense activities, the conference report funds the operating expenses account at the House-passed level of $57,000,000 and the plant and capital equipment account at the Senate-passed level of $7,300,000.

Chapter VI of the bill, as reported by the conference committee, contains $406,543,000 in new budget authority and $50 million in transfers for foreign assistance activities. This represents a net reduction of $60 million below the budget requests. The bill also denies the administration's request of $186 million in foreign military sales guarantees, and provides only $125 million of the $300 million in obligational authority requested for the special Defense acquisition fund.

Most important, this chapter provides $350 million in economic assistance for the President's Caribbean Basin Initiative. This is the aid portion of the total CBI package of trade and aid initiative proposed last February.

In my view, if this money is not included in this bill, and if this bill is not enacted, the Caribbean Basin aid package will not be funded. And that would send the wrong signal to our neighbors to the south, a very damaging signal that we do not care and that we do not follow through on our promises.

If we do not come through with this money after it has been so well publicized, we cut the legs out from under those in the Caribbean and Central America who would be friendly with the United States. Those friends are in Costa Rica, Jamaica, the eastern Caribbean, the Dominican Republic, the new, democratically elected Government in Honduras, the new and hopefully less repressive Government in Guatemala, and yes, the new constituent assembly in El Salvador.

The bill reduces the administration's request for economic aid to El Salvador from $128 million to $75 million, and we have eliminated the $20 million request for military assistance to that country entirely. Our House conferees compromised with the Senate Members, who wanted to include all of the requests for El Salvador. I believe it is a reasonable compromise.

The conference agreement also includes $3.5 million, as requested, for international military education and training. These funds represent the best investment we can make with foreign assistance money—for a very small amount of funding, we expose the rising military leaders in many countries to the U.S. system of a civilian-controlled and restrained military and to our way of domestic life.

The compromise also includes $50 million in forgiven military credits for Sudan, as requested. Sudan has proven itself a good and loyal friend to the United States and to our friends in the Middle East region, and that country is now directly threatened by Soviet and Cuban-inspired forces from Libya and Ethiopia. We must continue our support.

Both the House and Senate bills included a transfer of $50 million for relief and rehabilitation in Lebanon, and the conferees agreed to Senate language which earmarked $10 million of this for the American University of Beirut and its hospital. The Senate also included report language, which our conferees have no difficulty in accepting, proposing that up to $1.9 million of the total $50 million be made available for Beirut University College. These are American institutions of longstanding which are located right in the heart of some of the most severe fighting and damage. We intend to continue our support for them during this very difficult period, just as we intend to support our Lebanese friends.

In terms of language provisions, the conferees agreed to Senate language stating the U.S. determination to rid the Caribbean and the United States of any threat from Cuba, along with language making clear that this provision in no way overrides the requirements of the War Powers Act.

We also agreed to extend existing language through fiscal 1983 which prohibits the payment of guaranteed loans in respect to transactions with Poland until that country has been declared in default, unless the President declares it to be in our national interest to do so. I, personally, would prefer no language in this regard, but again this was a compromise with the Senate.

I also would personally have preferred, and offered a proposal in conference to do so, to provide $75 million in off-budget foreign military credits to four countries: Portugal, Spain, Morocco, and Tunisia. Although this proposal was not accepted, I remain convinced that these countries are important to our own interest and that they have shown their reliability in the past when we and our allies have needed them.

In any event, the items I have mentioned that we did bring back in this conference report, especially the Caribbean Basin Initiative money, represent more than adequate justification to vote for this report.

CHAPTER VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND INDEPENDENT AGENCIES

Chapter VII contains the conference agreement on supplemental funding in the amount of $3,775,000 and authorizes transfer of $12.7 million for programs, activities and pay cost needs of the Department of Housing and Urban Development and independent agencies.

The conference agreement includes language clarifying action taken earlier in the urgent supplemental appropriation bill directing the use of sufficient recaptured or deobligated funds by the Department of Housing and Urban Development for FAF and cost amendments to allow the 70,000 units estimated to be in the section 8 pipeline to go to construction.

Also included in the conference agreement is language requiring the Selective Service System to establish at the time of mobilization civilian review boards for alternative service worker job assignments; $150,000 is provided for the program development and training costs of these civilian review boards.

The conference agreement also approves the transfer of $4,198,000 within the Veterans' Administration for agent orange studies.

CHAPTER VIII—DEPARTMENT OF THE INTERIOR

Chapter VIII contains the conference agreement on supplemental funding in the amount of $258.9 million for programs and activities, and $31.3 million in pay cost needs, for the Department of Interior and related agencies. The agreement also provides $3 million in reappropriations and $38 million rescissions.

Items in the conference agreement which were not in the House-passed bill include $700,000 to allow the BLM to complete acquisition of the Yaquina Head Outstanding Natural Area in Oregon, $1 million for continued NPS land acquisition at the Cumberland Island National Seashore in Georgia; $11.1 million for the transfer of 17 BIA schools to the State of Alaska and $3 million to the Forest Service for partial settlement of land claims of the Chugach Natives.

Notable decreases to the House recommended items include $11.2 million, rather than $17 million, for Indian Health Service construction of water and waste facilities for Indian housing and $2 million, rather than $9 million, for Wolf Trap. This $2 million, to be made available subject to authorization, is for the development of plans

and specifications for the reconstruction of the Filene Center at the Wolf Trap Farm Park.

The conference agreement also recommends the disapproval of the administration's recently submitted rescission of funds appropriated for the SRC-1 project and recommends instead that $28.1 million be used for the post/baseline activities previously negotiated between the contractor and DOE, $22 million be reserved for project termination costs and $5 million be available for the Department's administrative expenses. The remaining $64 million in previously appropriated funds for this project would be deferred.

Finally, while the conferees deleted House bill language specifically prohibiting any reduction in employment in DOE's fossil energy programs below the level of July 1, 1982, language is included under the general provisions establishing minimal levels of full-time permanent employment in certain DOE program areas including conservation, fossil energy, ERA and EIA.

CHAPTER IX—LABOR/HHS/EDUCATION

The Labor, Health and Human Services, and Education chapter of this supplemental appropriations, as approved by the conferees, looks very similar to the bill the House passed on July 29. In fact, most of the major items were included in the Senate's bill and so did not need to be addressed in conference. That unanimity between the two Houses is a good indication of the importance and need for the items in this chapter.

The House and the Senate both included $210 million for the community services employment program of which the conferees agreed to allocate 78 percent to the national sponsors and 22 percent to States. They both included $6 million for childhood immunization, $1 million for tuberculosis control, $10 million for mental health and alcohol and drug abuse research, $123 million for acquisition of new computers for the social security system, $148 million for title I elementary and secondary compensatory education, $26.5 million for handicapped education, $140 million for Pell grants, $5.8 million for Howard University, $11 million for Railroad Retirement dual benefits payments in August and September, and $160 million in requested pay supplementals.

As a result of the general agreement on these and other supplementals, the conference was limited to a fairly small number of issues.

The Senate did add a provision, modified in conference, that is important to know about. This conference report will make up to $1.6 billion in unobligated funds automatically available upon enactment of the Federal supplemental unemployment benefits proposal currently pending as part of the tax package. It is conceivable, if both this supplemental bill and the tax bill are passed and signed into law, that we could take home an extended unemployment benefits program over the upcoming district work period.

In addition, the conferees agreed to a Senate amendment adding $48 million to the supplemental equal opportunity grant program, bringing the total amount for SEOG's in this bill to $77 million. This was offset by cuts and rescissions totaling $78 million beyond what was in the House bill. The conferees also agreed to a level of $40 million in the college housing program.

All in all, the Labor/HHS/Education chapter, as agreed to by the conferees, totals $791 million in new budget authority; $9 million less than what the House originally approved. This is in comparison with the administration's request of $561 million, a considerable difference, but acceptable, I believe, in the context of the total bill, which is $1.9 billion under the request.

I would just add a note on the urgency of the items. In the education programs, the school year is upon us. Local educational agencies will be starting the school year without knowing how much title I money is available to them. University students will be starting school without knowing what level of financial assistance they will be receiving. In the Department of Health and Human Services, the immunization money is also connected with the start of school. And in the Department of Labor, unless the title V money is forthcoming, a disruptive gap in funding is likely in the community services employment program, which is exactly why this program has been forward funded in the past, and why we are trying to restore forward funding in this supplemental. With regard to the pay supplementals, the agencies may have to provide furlough notices, if not funding is forthcoming within the next week or so, in anticipation of potential agencywide shutdowns in September.

Chapter X of the bill, as reported by the conference committee, contains $8,757,325 in new budget authority for program supplementals. This is $26.9 million below budget requests. Major reductions include $4.5 million for the purchase of additional property south of the House office buildings, $11.5 for furnishings for the Hart Senate Office Building, $8.5 million for claims arising from the Madison Library, and $2.2 million for the General Accounting Office. All of these reductions were included in both the House and Senate bills.

For other requests, the Senate receded to the House items, and the House receded to the Senate for Senate items.

The Senate refused to recede to the House on the issue of a limitation on outside income for House and Senate Members of 30 percent of congressional salary, and that provision has been dropped, regrettably. I will continue to press for this provision on any vehicle going through until Members of both Houses are treated equally in terms of pay and benefits.

Senate language is included which provides $160,000 for reconvening the Commission on Executive, Legislative and Judicial Salaries, requires a report by that Commission to the President by November 15, 1982, and requires the President to submit his recommendations to Congress as soon as practicable. The Congress has an opportunity to disapprove the President's recommendations by concurrent resolution within 30 days of receiving them.

CHAPTER XII—TRANSPORTATION AND RELATED AGENCIES

The conference report provides program supplementals in the amount of $340,020,000 in new budget authority, $19,000,000 by transfer and a $37,500,000 deferral disapproval. It also provides a pay supplemental of $153,150,000 for the Department of Transportation and related agencies. This compares with the House-passed level of $383,645,000 in new budget authority, $32,400,000 by transfer, and a $37,500,000 deferral disapproval, and the Senate-passed level of $187,520,000 in new budget authority, $19,000,000 by transfer and a $37,500,000 deferral disapproval.

For the beleaguered Coast Guard, the conference report makes available $30,500,000 for its operating expenses. I realize that the Appropriations Committee, as well as the entire House of Representatives, has been working diligently to provide sufficient funding for our forgotten branch of the military services. Without this minimal amount of money, many of the responsibilities the Congress has thrust upon the Coast Guard, such as the drug interdiction program and the search and rescue missions, will be jeopardized. In addition, this report allocates a total of $78,100,000 in supplemental pay for these dedicated men and women. Of that amount, $64,100,000 is in new budget authority and $14,000,000 by transfer. For the Coast Guard's acquisition, construction, and improvement account, the conferees direct that $16,000,000 in unobligated funds be reprogramed for the purchase of an aircraft to replace a C-130 aircraft which recently crashed and had been based at Kodiak, Alaska. The conferees also direct that the Coast Guard make every effort to deploy an existing aircraft to Kodiak during the interim period.

For the Federal Aviation Administration, the conference report makes available a total of $119,145,000 in program supplementals and $84,250,000 in pay supplementals. Failure to enact this legislation into law will mean that

the $48,000,000 for additional overtime for air traffic control centers and tower personnel, requested by the administration, will not be made available to these hard-working and loyal men and women.

As regards the Federal Highway Administration, the report provides $119,375,000 in new budget authority for program supplementals. Of this amount, $112,500,000 is allocated to the interstate transfer grants—highways account. Seventeen different States will receive funding which is critical to the construction of highways in this country.

INTERSTATE TRANSFER GRANTS—HIGHWAYS

Amendment No. 122: Appropriates $112,500,000 instead of $197,000,000 as proposed by the House. The conference agreement includes the following amounts:

Albany	$8,000,000
New York	1,000,000
Iowa	1,000,000
Twin Cities, Minn	1,400,000
Omaha	4,000,000
New Jersey	7,500,000
Washington, D.C	5,000,000
Philadelphia	5,000,000
Hartford-New Britain	10,000,000
Minneapolis	2,200,000
Northeast Illinois	20,000,000
Tucson	3,000,000
Denver	5,000,000
Oregon	10,000,000
Baltimore	1,500,000
Duluth	2,400,000
Indianapolis	8,000,000
Cleveland	12,500,000
Memphis	5,000,000
Total	112,500,000

The Federal Railroad Administration is funded in the amount of $30,000,000 for various program supplementals. In addition, there is a disapproval of a $37,500,000 deferral request for the commuter rail service.

For the Urban Mass Transportation Administration, there is provided a total of $37,000,000 in program supplementals. Of the total, $15,000,000 is for the urban discretionary grants account and $22,000,000 is allocated to the interstate transfer grants—transit account. Boston's red line extension project will receive $10,000,000 of this $22,000,000 in supplemental funding.

Mr. CONTE. Mr. Speaker, I rise in support of the motion to recede and concur in Senate amendment No. 58 with an amendment.

This amendment provides $350 million for the Caribbean Basin Initiative, along with language providing that none of these funds shall be made available until enactment of authorizing legislation or September 15, 1982, whichever occurs first. The amendment also includes language prohibiting the use of any of the CBI funds for any country not cooperating with the United States in controlling the flow of drugs into the United States. Finally, language is included in this amendment expressing U.S. determination to rid the Caribbean and our country of any threat from Cuba. Language in the next amendment, No. 59, provides that this latter anti-Cuba language, including the implied use of force, shall not override the restrictions on the executive branch contained in the War Powers Act.

The key to amendment 58 is, of course, the $350 million in economic support funds for friendly and increasingly democratic nations in the Caribbean and in Central America. This is the aid portion of the aid and trade package proposed by the President in February.

In all likelihood, this is the last general supplemental appropriations bill we will bring to the floor during the remainder of fiscal 1982. Look at the calendar; there is just not time after the Labor Day break to run another bill through the gauntlet it must go through to be enacted.

I want to make this very clear: Clear to my colleagues in the House, clear to the Senate, and above all, clear to those at the other end of Pennsylvania Avenue: If the Caribbean Basin Initiative economic assistance program is going to be funded this year, it will have to be in this bill.

If we are to begin to correct years of offical neglect toward our neighbors in Central America and the Caribbean, as promised in the President's proposal last February, it will be in this bill.

I hope this message is getting through downtown. I certainly have made my own position clear on this in meetings down there over the past couple of weeks.

I recall that when this bill was first considered in the House on July 29, it did not contain the Caribbean Basin Initiative. In response to that fact, I received a letter from the Director of the Office of Management and Budget stating:

The administration is opposed . . . to the failure of H.R. 6863 to provide necessary funding for foreign assistance programs. In particular, no funding is included for the President's Caribbean Basin Inititative.

That letter concludes:

The administration will strongly support amendments on the House floor to remedy these defects, including funding for the Caribbean Basin Initiative.

Well, we were not able to offer the CBI on the floor because of a point of order. But the administration's position was clear. And now we have that CBI amendment in here. I trust the administration will continue its strong support.

Before closing, I want to point out one other thing. The trade portion of the Caribbean Basin Inititative is being considered by the Ways and Means Committee. Trade is not the responsibility of the Appropriations Committee, and the CBI trade provisions proposed by the President are not in this bill. This bill deals only with economic support funds to provide desperately needed foreign exchange so that these countries in Central America and the Caribbean can import more commodities and materials, not export more. Imports into these countries mean exports from the United States, and exports mean U.S. jobs. This aid package of $350 million can generate up to 10,000 U.S. jobs, based on the generally accepted estimate of the Census Bureau on the relationship of exports to jobs.

The input of fresh foreign exchange is needed by these countries because they have been suffering far more than we have from high petroleum prices, lower world prices for their mineral and agricultural exports, high unemployment and sizable balance-of-payments deficits. Tourism is down dramatically due to unsettled political situations, including armed conflicts. Private lending has dried up for all of these reasons, and this CBI aid package is intended to alleviate that situation.

I strongly urge your support for the chairman's motion, just as I will continue to strongly urge the President to sign this bill.

FOREIGN ASSISTANCE COMPROMISE IN H.R. 6863

	Amount
AMENDMENT NO. 58	
I. Caribbean Basin Initiative, economic support funds—Allocated as follows:	
Eastern Caribbean	[1] 20,000,000
Dominican Republic	[1] 41,000,000
Haiti	[1] 10,000,000
Jamaica	[1] 50,000,000
Belize	[1] 10,000,000
Costa Rica	[1] 70,000,000
Honduras	[1] 35,000,000
AIFLD (regional)	[1] 2,000,000
Inter-American Foundation	[1] 2,000,000
Guatemala	[2] 10,000,000
El Salvador	[2] 75,000,000
Unallocated	[2] 25,000,000
Total	350,000,000
AMENDMENT NO. 61	
II. International military education and training	3,512,000
AMENDMENT NO. 60	
III. Military assistance program—Allocated as follows, including a reprograming:	
Honduras	10,000,000
Somalia	5,000,000
Costa Rica	2,000,000
Portugal	10,000,000
Sudan	−25,000,000
Total	2,000,000
AMENDMENT NO. 62	
IV. Foreign military credit sales—Allocated as follows: Sudan	50,000,000
Total	405,512,000

[1] Not less than.
[2] Not more than.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. I thank the chairman for yielding.

Mr. Speaker, I take this opportunity to rise in support of the supplemental appropriations bill for 1982 and, more specifically, chapter XII of that bill dealing with transportation and related agencies.

The final figure arrived at by the conference is about $57 million less in program and pay supplementals than the figure adopted by the House in the original passage of the bill. I think it is an excellent compromise that affects all modes of transportation and represents a good step forward in the support of the transportation program of the United States.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentleman from New Jersey.

Mr. HOWARD. On August 13, 1982, the Acting Executive Director of the Federal Highway Administration, Mr. R. D. Morgan, wrote to Senator MARK ANDREWS to offer his assessment of the language in the bill which would prohibit the use of funds for implementing the Federal Highway Administration's final rule on geometric design standards for resurfacing, restoration, and rehabilitation of streets and highways other than freeways.

First, Mr. Morgan contends they would not be able to authorize any more 3R projects after the date of enactment of the Supplemental Appropriations Act and, second, that the provision would not automatically expire on September 30, 1982. Mr. Morgan states that the 3R program would have to be shut down and that there is serious doubt whether the Federal Highway Administration could provide reimbursement for 3R projects authorized after July 12, 1982.

I call this to your attention, Mr. Chairman, because the Federal Highway Administration letter seems to be in direct conflict with the language in the Appropriations Committee report and with our understanding of the effect of this provision—specifically, that resurfacing, restoration, and rehabilitation work could continue to be carried out without disruption and delay using the standards and procedures in effect and being utilized by the States immediately prior to July 12, 1982.

Does the chairman agree that the legal effect of this provision is accurately stated in the committee report accompanying this legislation?

Mr. BENJAMIN. The chairman is absolutely correct. It is our intent that the 3R program continue and reimbursements for projects authorized after July 12, 1982, be made.

Mr. HOWARD. Does the chairman of the subcommittee also agree that a failure on the part of the Federal Highway Administration to approve 3R projects after the date of the enactment of this act would constitute a violation of the law and an illegal impoundment of funds pursuant to title X of the Congressional Budget and Impoundment Act of 1974?

Mr. BENJAMIN. Again, the chairman has stated the situation correctly.

Mr. HOWARD. I thank the gentleman for yielding.

□ 1550

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. BENJAMIN. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I want to thank the gentleman for his leadership on this section of the bill, and I certainly want to support his efforts. The people of Ohio are very grateful to the gentleman and to all Members who supported our efforts. The Tower City project is extremely valuable and means so much to our community.

Mr. BENJAMIN. I thank the gentlewoman.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I just wanted to have a conversation with the gentleman because there are so many things in the supplemental that I care about and I compliment the gentleman for the fine work the gentleman has done on the supplemental, whether it is students, whether it is the elderly, whether it is transportation or urban development, he has done a wonderful job. The supplemental is very important.

We are in a unique parlimentary position where we vote for the conference report first and then go through the items in disagreement with the Senate.

One of the items in disagreement with the Senate in the conference report is, of course, the pay commission that was resoundingly rejected by this body yesterday. I know the gentleman from Mississippi said in his opening statement he would move to remove the pay commission item, but I would like once again for him to tell the Members how the gentleman is going to get that out of the bill so we will feel free to vote for the conference report, and it will not be viewed as a turnaround of the House position voted yesterday.

Mr. WHITTEN. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Not only is that issue outside the conference report, but the other controversial items of which I know—such as foreign aid and the copper amendment—are also outside this conference report. We hope you will all vote for the conference report. Then those matters will come up separately. A motion will be made to eliminate that section regarding the pay commission which the Senate added. When the time comes either myself or the gentleman from California (Mr. FAZIO) who is the chairman of the subcommittee, will offer such a motion to insist on the House position. That is, there will be no provision for a salary review commission.

I state again, this issue is outside the conference, so the thing for the Members to do is adopt the conference report and then proceed to dispose of those other controversial points.

Mrs. SCHROEDER. I appreciate the assurance of the gentleman from Mississippi that either he or the gentleman from California (Mr. FAZIO) will make that motion to remove the pay commission/pay raise item so we will have a vote on it.

Mr. WHITTEN. I can say to the gentlewoman, it will be done.

Mrs. SCHROEDER. I thank the gentleman very much.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALGREN).

Mr. WALGREN. Mr. Speaker, I wish to compliment the committee on its work.

Mr. Speaker, obviously the right thing for the House to do is to reject the provision proposed by the Senate which would set in motion a commission to report on legislative salaries whose recommendation, as modified by the President, would take effect unless voted down by both the Senate and the House.

Under the Senate proposal, the Commission would be required to recommend changes in congressional pay to the President before November 15 of this year. The President must then submit his recommendation based on the Commissions report to the Congress as soon as practicable. These recommendations would become effective 30 calendar days later unless disapproved by both the House and the Senate.

Some have taken exception to our description of this amendment as providing an "automatic pay raise." All would agree, however, that this amendment could very well result in a substantial increase in congressional salaries taking effect without any opportunity for the House of Representatives to vote on its merits, one way or another.

This is because the pay recommendations of the President would take effect automatically unless they are actually disapproved by both Houses of Congress. There is no reason to believe that any resolution of disapproval would ever reach the House floor for a vote in view of the ability of a few to bottle up any such effort in committee.

And this is the central point. Salaries for Members of Congress ought to be changed only by a separate, individual vote by the only real representatives the people have—the Congress of the United States. Any other system risks a break in the tie between the

people of our country and their Government. We come close to becoming "Noble Lords" in the eyes of the public with the infamous $75 per-day tax break for Members of Congress slipped through without a separate vote in the rush to adjourn last December. Requiring a separate record vote on my measure changing the pay of Members of Congress is the only safeguard we have against the gradual widening of the jobs in income level between the public and Government officials.

I know the leadership is frustrated by the repeated rejection of proposed pay increases by the House when the pay question has been put to a record vote. The Founding Fathers almost solved this problem when they proposed the 11th amendment to the Constitution when our original Bill of Rights was adopted. Although it was not included in the group of 10 amendments that make up the Bill of Rights, the Founding Fathers proposed that the 11th state that the compensation for Members of Congress shall not be changed during their term of office.

If we returned to that principle, the public would have greater confidence in our judgment on this issue.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to my good friend, the gentleman from New York (Mr. KEMP).

Mr. KEMP. Mr. Speaker, I just briefly want to say how much I appreciate the work of the conference, particularly that of my friend from Massachusetts (Mr. CONTE) and the gentleman from Mississippi (Mr. WHITTEN) and others who worked out the compromise to help the President provide this essential foreign assistance program. This foreign aid—I am not ashamed to say it—will go to an important initiative that this country needs to take on behalf of our neighbors in Central America and the Caribbean.

The President's Caribbean/Central American Initiative is an extremely important new undertaking for this country. It involves not only trade and tax policy incentives, but also economic support funds that will help some of our Central American neighbors with their foreign exchange problems, and to make the type of reforms in their economy needed to bring about economic prosperity, which is the best answer to Marxist-Leninism that the world has ever known.

I want to thank again my friend the gentleman from Massachusetts (Mr. CONTE) and the members of the conference for their good work.

Mr. CONTE. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BURGENER).

Mr. BURGENER. Mr. Speaker, I wonder if the gentleman from Pennsylvania (Mr. WALKER) would be kind enough to engage in a very brief colloquy.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. BURGENER. I would be happy to.

Mr. WALKER. I would be glad to engage in a colloquy with the gentleman from California.

Mr. BURGENER. The gentleman expressed concerns about a possible veto. All Members are concerned about that. I have no idea whether the President will veto the bill or not.

I really do not think this is the time to consider that. I would think regardless of how one votes on this bill, we have to take a look at the matter when and if the President vetoes, what the veto message contains. What are his reasons? Are they sound in our opinion? Do we agree with them?

I have on a number of occasions voted for legislation, and when a veto message came along, have changed my position and voted to sustain the veto when new facts came to light. There is no hard and fast rule about what one should do about that; but to consider in advance what the President's position is is not that important to this Member.

Mr. WALKER. I thank the gentleman.

If the gentleman would yield further, my only point was that we are proceeding toward a confrontation, perhaps with the President. We have a confrontation right now over the tax bill. Some Members are going to support him on the tax bill with the idea they are also going to support him when he cuts spending.

If he decides to veto this bill on the basis that what he is doing is cutting spending, that could produce another confrontation for Members who vote for this bill today.

Mr. BURGENER. We may or may not be heading toward a confrontation, but we are doing our business here now. If and when the President decides he may veto the bill, it would seem to me we ought to read the veto message, make up our own minds and act on that, not try to avoid the confrontation in advance.

Mr. WALKER. I thank the gentleman.

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. I thank the chairman of the Committee on Appropriations.

I have a question. I do not know whether the gentleman from New York (Mr. KEMP) wants to respond or the gentleman from Maryland (Mr. LONG). It deals with foreign affairs and the Caribbean Basin.

As I understand it, the money for El Salvador—$75 million—that is authorized in this bill is subject to—at least until September 15—the action of the authorizing committee because if the authorizing committee comes to the floor with any restrictions or if it is amended on the floor with restrictions for El Salvador as I intend to do then that could conceivably prevent this money from going to El Salvador. I just want to know if that is correct.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, it is my understanding that the $75 million for El Salvador, which we incidentally cut basically in half from what was originally requested, is subject to the authorization until September 15, 1982, and any restrictions thereon.

Mr. PEYSER. In other words, it would have to be covered by the authorization bill in order to be enacted?

Mr. LONG of Maryland, Yes, until September 15.

Mr. WHITTEN. Mr. Speaker, I yield myself 2 minutes.

I would like to repeat again that we have before us a conference report which does not include the controversial items, the Commission on Salaries, foreign aid items that have been mentioned, and the copper purchase for the defense stockpile. They are outside the conference and will be dealt with separately.

I hope we can go ahead and adopt the conference report, vote yes on the conference report, and then proceed to these items which would be handled separately.

Mr. Speaker, at this point in the RECORD I will insert a table which shows, by appropriation account, the administration request, House action, Senate action and the conference agreement:

(Pursuant to the provisions of Title 44, section 904 of the United States Code, the Joint Committee on Printing approves the insertion of the following material into the CONGRESSIONAL RECORD.)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)

H. Doc.		Supplemental Request	House	Senate	Conference
	TITLE I				
	CHAPTER I				
	DEPARTMENT OF AGRICULTURE				
	COMMODITY CREDIT CORPORATION				
97-168	Authority to borrow	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
	Total, Chapter I:				
	New budget (obligational) authority	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
	(Authority to borrow)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
	CHAPTER II				
	DEPARTMENT OF COMMERCE				
	Bureau of the Census				
97-140	Periodic censuses and programs (effect of deferral disapproval)	---	---	(100,000)	(100,000)
	Economic Development Administration				
97-125	Economic development revolving fund (limitation on direct loans)	(30,000,000)	---	(30,000,000)	(30,000,000)
97-125	(Limitation on guaranteed loans)	(45,000,000)	---	(150,000,000)	(150,000,000)
	International Trade Administration				
	Operations and administration:				
97-125	(Limitation on direct loans)	(12,484,000)	(12,484,000)	(12,484,000)	(12,484,000)
97-125	(Limitation on guaranteed loans)	(28,250,000)	(28,250,000)	(28,250,000)	(28,250,000)
97-219	Participation in Unites States expositions	10,000,000	10,000,000	10,000,000	10,000,000
	Minority Business Development Agency				
---	Minority business development (effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
	National Oceanic and Atmospheric Administration				
---	Operations, research and facilities	---	---	2,163,000	2,163,000
---	(By transfer)	---	---	(5,250,000)	---
---	Coastal zone management (by transfer)	---	(3,000,000)	(3,600,000)	(3,000,000)
97-125	Foreign fishing observer fund	3,250,000	1,000,000	1,000,000	1,000,000
	Patent and Trademark Office				
97-125	Salaries and expenses	2,500,000	2,500,000	2,500,000	2,500,000
	Total, Department of Commerce	15,750,000	13,500,000	15,663,000	15,663,000
	RELATED AGENCIES				
	DEPARTMENT OF TRANSPORTATION				
	Maritime Administration				
	Federal Ship Financing Fund				
97-125	(Limitation on guaranteed loans)	(675,000,000)	---	(675,000,000)	(675,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF THE TREASURY				
	Bureau of Government Financial Operations				
97-168	Fishermen's Protective Fund	2,000,000	2,000,000	2,000,000	2,000,000
	Securities and Exchange Commission				
---	Salaries and expenses	---	400,000	200,000	400,000
	Small Business Administration				
	Business loan and investment fund:				
97-125	(Limitation on guaranteed loans)	(2,735,000,000)	---	(3,000,000,000)	(3,000,000,000)
97-140	(Effect of deferral disapproval)	---	---	(2,500,000)	(2,500,000)
97-140	Surety bond guarantees revolving fund (effect of deferral disapproval)	---	---	(3,000,000)	(3,000,000)
97-125	Pollution control equipment contract guarantee revolving fund (limitation on guaranteed loans)	(150,000,000)	---	(250,000,000)	(250,000,000)
	Total, Department of Commerce and related agencies	17,750,000	15,900,000	17,863,000	18,063,000
	DEPARTMENT OF JUSTICE				
	Legal Activities				
97-185	Salaries and expenses, general legal activities	2,183,000	383,000	383,000	383,000
---	(By transfer)	---	(1,800,000)	(1,800,000)	(1,800,000)
97-125	Salaries and expenses, United States attorneys and				
97-185	marshals	18,205,000	9,015,000	10,000,000	9,015,000
97-168					
97-185	Support of United States prisoners	7,423,000	7,423,000	7,423,000	7,423,000
97-168	Fees and expenses of witnesses	4,750,000	4,750,000	4,750,000	4,750,000
	Federal Bureau of Investigation				
97-185	Salaries and expenses	4,000,000	4,000,000	4,750,000	4,400,000
	Drug Enforcement Administration				
97-185	Salaries and expenses	4,860,000	4,860,000	4,860,000	4,860,000
	Federal Prison System				
97-185	Salaries and expenses	285,000	130,000	130,000	130,000
97-185					
97-219	Buildings and facilities	37,750,000	1,500,000	40,750,000	40,750,000
---	(By transfer)	---	---	(1,000,000)	(1,000,000)
	Federal Prison Industries, Incorporated: (Limitation on administrative and vocational training expenses)				
97-185	(increase in limitation)	(5,579,000)	(5,579,000)	(5,400,000)	(5,400,000)
	Office of Justice Assistance				
---	Research and Statistics (By transfer)	---	---	(900,000)	(450,000)
	Total, Department of Justice	79,456,000	32,061,000	73,046,000	71,711,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF STATE				
	Administration of Foreign Affairs				
97-125	Salaries and expenses	7,996,000	37,378,000	37,978,000	37,978,000
97-168	(By transfer)	(31,228,000)	---	---	---
97-168	Acquisition, operation, and maintenance of buildings abroad	8,883,000	17,655,000	17,655,000	17,655,000
97-168	(By transfer)	(8,772,000)	---	---	---
97-168	Payment to the American Institute in Taiwan	244,000	244,000	244,000	244,000
97-125	Payment to the Foreign Service Retirement and Disability Fund	4,615,000	4,615,000	4,615,000	4,615,000
	International Commissions				
---	American Sections, International Commissions (reappropriation - FY 1983)	---	95,000	95,000	95,000
	Total, Department of State	21,738,000	59,987,000	60,587,000	60,587,000
	RELATED AGENCIES				
	Board for International Broadcasting				
97-102	Grants and expenses (effect of deferral disapproval)	---	(915,000)	(915,000)	(915,000)
---	Rescission	---	-2,000,000	-2,000,000	-2,000,000
	Commission on Wartime Relocation and Internment of Civilians				
97-185	Salaries and expenses (reappropriation FY 1983)	90,000	90,000	90,000	90,000
	Funds Appropriated to the President				
97-107	Radio Broadcasting to Cuba	10,000,000	---	---	---
	Total, Department of State and related agencies	31,828,000	58,077,000	58,677,000	58,677,000
	THE JUDICIARY				
	Courts of Appeals, District Courts, and Other Judicial Services				
97-125	Defender services	2,350,000	1,500,000	1,500,000	1,500,000
	Total, Chapter II:				
	New budget (obligational) authority	131,384,000	107,538,000	151,086,000	149,951,000
	Appropriations	(131,294,000)	(109,353,000)	(152,901,000)	(151,766,000)
	Reappropriation FY 1983	(90,000)	(185,000)	(185,000)	(185,000)
	Rescission	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
	(By transfer)	(40,000,000)	(4,800,000)	(12,550,000)	(6,250,000)
	(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
	(Limitaiton on guaranteed loans)	(3,633,250,000)	(28,250,000)	(4,103,250,000)	(4,103,250,000)
	(Effect of deferral disapproval)	---	(915,000)	(6,515,000)	(6,515,000)
	(Effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
CHAPTER III				
DEPARTMENT OF DEFENSE - MILITARY				
MILITARY PERSONNEL				
97-125 Military personnel, Army	105,400,000	61,900,000	14,400,000	53,700,000
97-125 Military personnel, Navy	154,200,000	55,656,000	57,474,000	57,474,000
97-125 Military personnel, Marine Corps	50,700,000	31,945,000	40,645,000	37,145,000
97-125 Military personnel, Air Force	28,300,000	4,500,000	4,500,000	4,500,000
97-125 Reserve personnel, Army	9,400,000	4,200,000	9,000,000	9,000,000
97-168 Reserve personnel, Navy (liquidation of obligations)	(300,000)	(300,000)	(300,000)	(300,000)
97-125 Reserve personnel, Marine Corps	2,800,000	2,000,000	800,000	2,000,000
97-125 Reserve personnel, Air Force	4,000,000	4,000,000	3,650,000	3,650,000
97-125 National Guard personnel, Army	9,700,000	9,600,000	9,600,000	9,600,000
97-125 National Guard personnel, Air Force	2,200,000	2,000,000	2,000,000	2,000,000
Total, Military Personnel	366,700,000	175,801,000	142,069,000	179,069,000
RETIRED MILITARY PERSONNEL				
97-125 Retired pay, Defense	97,685,000	47,685,000	47,685,000	47,685,000
OPERATION AND MAINTENANCE				
97-125 Operation and maintenance, Army	362,900,000	27,300,000	4,300,000	4,300,000
--- (Transfer from other accounts)	---	(23,500,000)	(23,500,000)	(23,500,000)
97-125 Operation and maintenance, Navy	191,874,000	40,974,000	---	---
97-125 (Transfer from other accounts)	(37,226,000)	(76,426,000)	(117,400,000)	(117,400,000)
97-125 (Liquidation of contract authority)	(43,641,000)	(43,641,000)	(43,641,000)	(43,641,000)
97-125 Operation and maintenance, Marine Corps	25,300,000	4,800,000	4,800,000	4,800,000
--- (Transfer from other accounts)	---	(2,000,000)	(2,000,000)	(2,000,000)
97-125 Operation and maintenance, Air Force	103,300,000	23,000,000	18,000,000	23,000,000
97-125 Operation and maintenance, Defense Agencies	61,200,000	25,800,000	25,800,000	25,800,000
97-125 Defense stock fund	109,200,000	---	---	---
97-125 Operation and maintenance, Army Reserve	800,000	800,000	800,000	800,000
97-125 Operation and maintenance, Navy Reserve	200,000	200,000	200,000	200,000
97-125 Operation and maintenance, Air Force Reserve	600,000	600,000	600,000	600,000
97-125 Operation and maintenance, Army National Guard	1,500,000	1,500,000	1,500,000	1,500,000
97-125 Operation and maintenance, Air National Guard	1,400,000	1,400,000	1,400,000	1,400,000
Total, Operation and Maintenance	858,274,000	126,374,000	57,400,000	62,400,000
(Transfer from other accounts)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
PROCUREMENT				
Procurement of weapons and tracked combat vehicles,				
97-125 Army	126,000,000	---	---	---
97-125 Other procurement, Army	20,000,000	---	20,000,000	---
97-125 Shipbuilding and conversion, Navy	263,400,000	---	57,000,000	---
97-125 Reappropriation FY 1983	343,721,000	---	---	---
97-125 Procurement, Marine Corps	20,000,000	---	---	---
97-125 Aircraft procurement, Air Force	219,100,000	---	70,000,000	120,000,000
97-125 Other procurement, Air Force	40,470,000	17,700,000	88,600,000	19,700,000
97-125 Procurement, Defense agencies	10,000,000	---	10,000,000	6,500,000
Total, Procurement	1,042,691,000	17,700,000	245,600,000	146,200,000
RESEARCH, DEVELOPMENT, TEST, AND EVALUATION				
97-125 Research, development, test, and evaluation, Air Force	57,000,000	---	---	---
Total, Chapter III:				
New budget (obligational) authority	2,422,350,000	367,560,000	492,754,000	435,354,000
Appropriations	(2,078,629,000)	(367,560,000)	(492,754,000)	(435,354,000)
Reappropriation FY 1983	(343,721,000)	---	---	---
(By transfer)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
(Appropriation to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER IV				
	DISTRICT OF COLUMBIA				
	DISTRICT OF COLUMBIA FUNDS				
97-192	Governmental direction and support	(2,982,400)	(2,982,400)	(2,982,400)	(2,982,400)
97-192	Economic development and regulation	(4,603,800)	(4,603,800)	(4,603,800)	(4,603,800)
97-192	Public safety and justice	(2,601,500)	(2,601,500)	(2,601,500)	(2,601,500)
97-192	(Rescission)	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
---	(By transfer)	---	---	(800,000)	(800,000)
97-192	Public education system	(7,768,900)	(7,768,900)	(7,768,900)	(7,768,900)
97-192	Human support services	(38,144,400)	(38,144,400)	(38,144,400)	(38,144,400)
97-192	(Trust fund rescission) 1/	(-227,400)	(-227,400)	(-227,400)	(-227,400)
---	(By transfer)	---	---	(1,900,000)	(1,900,000)
97-192	Environmental services and supply	(368,900)	(368,900)	(368,900)	(368,900)
97-192	Personal services	(7,401,500)	(7,401,500)	(7,401,500)	(7,401,500)
	Total, operating expenses (net)	(49,171,400)	(49,171,400)	(49,171,400)	(49,171,400)
	Appropriations	(63,871,400)	(63,871,400)	(63,871,400)	(63,871,400)
	Rescission	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
	(By transfer)	---	---	(2,700,000)	(2,700,000)
97-192	Capital outlay	(10,555,000)	(10,555,000)	(10,555,000)	(10,555,000)
97-192	Washington Convention Center Enterprise Fund	(774,000)	(774,000)	(774,000)	(774,000)
	Total, Chapter IV:				
	District of Columbia funds (net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
	Appropriations	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
	Rescission	(-14,700,000)	(-14,700,000)	(-14,700,000)	(-14,700,000)
	(By transfer)	---	---	(2,700,000)	(2,700,000)
	CHAPTER V				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Reclamation				
97-206	Operation and Maintenance (by transfer)	(2,000,000)	---	(2,000,000)	(2,000,000)
	DEPARTMENT OF ENERGY				
	Operating Expenses				
97-162	Atomic Energy Defense Activities	59,400,000	57,000,000	48,900,000	57,000,000
	Plant and Capital Equipment				
	Energy Supply, Research and Development Activities				
---	(by transfer)	---	(14,000,000)	---	(14,000,000)
97-162	Atomic Energy Defense Activities	38,000,000	35,700,000	7,300,000	7,300,000
	Total, Chapter V:				
	New budget (obligational) authority	97,400,000	92,700,000	56,200,000	64,300,000
	(By transfer)	(2,000,000)	(14,000,000)	(2,000,000)	(16,000,000)

1/ Not reflected in totals.

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER VI				
	BILATERAL ECONOMIC ASSISTANCE				
	Funds Appropriated to the President				
	Agency for International Development				
	Payment to the Foreign Service Retirement and				
97-125	Disability Fund	1,031,000	1,031,000	1,031,000	1,031,000
97-125	Overseas training (foreign currency program)	(920,000)	(920,000)	(920,000)	(920,000)
97-198					
97-211	International disaster assistance	50,000,000	---	---	---
---	Lebanon emergency relief (by transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
97-161	Economic support fund, Caribbean basin initiative	350,000,000	---	355,000,000	350,000,000
	Total, Agency for International Development	401,031,000	1,031,000	356,031,000	351,031,000
	MILITARY ASSISTANCE				
	Funds Appropriated to the President				
97-168	Military assistance	61,988,000	---	16,988,000	2,000,000
97-168	International military education and training	3,512,000	---	3,512,000	3,512,000
	Foreign military credit sales:				
97-168	Direct credits and forgiven loans	50,000,000	---	50,000,000	50,000,000
97-168	(Loan guarantees)	(186,000,000)	---	(186,000,000)	---
	Special Defense Acquisition Fund:				
97-125	(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
	Total, Military Assistance	115,500,000	---	70,500,000	55,512,000
	Total, Chapter VI:				
	New budget (obligational) authority	516,531,000	1,031,000	426,531,000	406,543,000
	(By transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
	(Limitation on guaranteed loans)	(186,000,000)	---	(186,000,000)	---
	(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
	CHAPTER VII				
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT				
	Government National Mortgage Association				
	Guarantees of mortgage-backed securities (limitation				
97-125	on guaranteed loans)	(-20,250,000,000)	---	---	---
	COMMUNITY PLANNING AND DEVELOPMENT				
	Community development grants (limitation on				
97-125	guaranteed loans)	(-100,000,000)	---	---	---
	INDEPENDENT AGENCIES				
	FEDERAL EMERGENCY MANAGEMENT AGENCY				
97-125	Salaries and expenses	1,000,000	---	---	---
97-125	State and local assistance	1,408,000	---	---	---
	Total, Federal Emergency Management Agency	2,408,000	---	--	---
	SELECTIVE SERVICE SYSTEM				
97-125	Salaries and expenses	1,367,000	---	304,000	150,000
	VETERANS ADMINISTRATION				
---	Medical and prosthetic research (by transfer)	---	---	(4,198,000)	(4,198,000)
	Medical administration and miscellaneous operating				
---	expenses (by transfer)	---	(8,000,000)	(8,000,000)	(8,000,000)
97-206	Grants to the Republic of the Philippines(by transfer)	(500,000)	(500,000)	(500,000)	(500,000)
	Total, Chapter VII:				
	New budget (obligational) authority	3,775,000	---	304,000	150,000
	(By transfer)	(500,000)	(8,500,000)	(12,698,000)	(12,698,000)
	(Limitation on guaranteed loans)	(-20,350,000,000)	---	---	---

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER VIII				
	DEPARTMENT OF THE INTERIOR				
	Bureau of Land Management				
97-125	Management of lands and resources	60,000,000	60,000,000	55,000,000	55,000,000
---	Land acquisition	---	---	700,000	700,000
	FISH AND WILDLIFE AND PARKS				
	United States Fish and Wildlife Service				
97-125	Resource management	1,800,000	2,000,000	1,800,000	1,800,000
---	Construction and anadromous fish	---	8,000,000	---	4,000,000
	National Park Service				
97-125	Operation of the national park system	2,200,000	2,200,000	2,200,000	2,200,000
97-206	Construction	9,000,000	17,680,000	6,000,000	10,680,000
---	Land and Water Conservation Fund (rescission of contract authority)	---	-30,000,000	-30,000,000	-30,000,000
---	Land acquisition and State assistance	---	30,000,000	29,000,000	30,000,000
	Total, Fish and Wildlife and Parks	13,000,000	29,880,000	9,000,000	18,680,000
	Geological Survey				
97-206	Surveys, investigations, and research	6,200,000	6,200,000	6,200,000	6,200,000
97-210	Exploration of national petroleum reserve in Alaska (rescission)	-16,200,000	-16,200,000	---	---
	Bureau of Mines				
97-125	Mines and minerals	4,073,000	4,073,000	4,198,000	4,073,000
97-125	(By transfer)	(991,000)	(991,000)	(991,000)	(991,000)
	Office of Surface Mining Reclamation and Enforcement				
---	Abandoned mine reclamation fund	---	13,251,000	---	13,251,000
	Bureau of Indian Affairs				
97-222					
97-125	Operation of Indian programs	12,450,000	7,000,000	22,900,000	18,100,000
---	Construction	---	1,000,000	1,000,000	1,000,000
	Office of Territorial Affairs				
97-125	Administration of territories	3,402,000	3,402,000	3,402,000	3,402,000
97-125	Trust Territory of the Pacific Islands	21,000,000	21,400,000	26,457,500	24,957,000
	Total, Territorial Affairs	24,402,000	24,802,000	29,859,500	28,359,000
	Office of the Secretary				
97-206	Inspector General	3,150,000	3,150,000	3,150,000	3,150,000
	RELATED AGENCIES				
	DEPARTMENT OF AGRICULTURE				
	Forest Service				
97-125	National forest system	76,600,000	69,400,000	64,900,000	64,900,000
---	Construction and land acquisition	---	---	3,000,000	3,000,000
	DEPARTMENT OF ENERGY				
97-125	Economic regulation (reappropriation FY 1983)	2,300,000	3,000,000	3,000,000	3,000,000
---	Fossil energy research and development	---	2,580,000	---	1,080,000
---	Fossil Energy Construction (effect of new deferral)	---	---	---	(-64,000,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF HEALTH AND HUMAN SERVICES				
	Health Services Administration				
---	Indian health facilities	---	17,000,000	4,400,000	11,200,000
	NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES				
	National Endowment for the Arts				
---	Salaries and expenses	---	246,000	246,000	246,000
97-219	(By transfer)	(246,000)	---	---	---
	FEDERAL INSPECTOR FOR THE ALASKA GAS PIPELINE				
97-203	Permitting and enforcement (rescission)	-8,000,000	-8,000,000	-8,000,000	-8,000,000
	NATIVE HAWAIIANS STUDY COMMISSION				
97-125	Salaries and expenses	175,000	---	---	---
	Total, Chapter VIII:				
	New budget (obligational) authority	178,150,000	217,382,000	199,553,500	223,939,000
	Appropriations	(200,050,000)	(268,582,000)	(234,553,500)	(258,939,000)
	Reappropriation FY 1983	(2,300,000)	(3,000,000)	(3,000,000)	(3,000,000)
	Rescissions	(-24,200,000)	(-54,200,000)	(-38,000,000)	(-38,000,000)
	(By transfer)	(1,237,000)	(991,000)	(991,000)	(991,000)
	(Effect of new deferral)	---	---	---	(-64,000,000)
	CHAPTER IX				
	DEPARTMENT OF LABOR				
	EMPLOYMENT AND TRAINING ADMINISTRATION				
---	Employment and training assistance	---	8,500,000	---	4,000,000
97-210	(Rescission)	-47,429,000	---	-48,186,000	-48,186,000
---	Community service employment for older Americans	---	210,572,000	210,572,000	210,572,000
---	Grants to States for unemployment insurance and employment services	---	---	20,000,000	20,000,000
	LABOR-MANAGEMENT SERVICES ADMINISTRATION				
97-125	Salaries and expenses (by transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)
	Total, Department of Labor	-47,429,000	219,072,000	182,386,000	186,386,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES				
	CENTERS FOR DISEASE CONTROL				
---	Preventive health services	---	11,000,000	11,500,000	11,500,000
	ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION				
---	Alcohol, drug abuse, and mental health	---	10,000,000	10,000,000	10,000,000
	HEALTH RESOURCES ADMINISTRATION				
---	Health resources	---	7,000,000	---	7,000,000
	ASSISTANT SECRETARY FOR HEALTH				
97-125	Salaries and expenses	10,313,000	10,313,000	10,313,000	10,313,000
97-168	Health maintenance organization loan and loan guarantee fund	17,500,000	17,500,000	17,500,000	17,500,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	HEALTH CARE FINANCING ADMINISTRATION				
97-125	Grants to States for Medicaid	552,757,000	142,000,000	112,000,000	112,000,000
97-125	Program management	5,941,000	---	---	---
	Total, Health Care Financing Administration	558,698,000	142,000,000	112,000,000	112,000,000
	SOCIAL SECURITY ADMINISTRATION				
97-125	Limitation on administrative expenses	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
	Total, Department of HHS	586,511,000	197,813,000	161,313,000	168,313,000
	DEPARTMENT OF EDUCATION				
	OFFICE OF ELEMENTARY AND SECONDARY EDUCATION				
---	Compensatory education for the disadvantaged	---	148,000,000	148,000,000	148,000,000
---	School assistance in Federally affected areas disaster assistance (Wayday School District)	---	---	200,000	200,000
	OFFICE OF SPECIAL EDUCATION AND REHABILITATION SERVICES				
---	Education for the handicapped	---	26,500,000	26,500,000	26,500,000
	OFFICE OF VOCATIONAL AND ADULT EDUCATION				
---	Vocational and adult education	---	2,520,000	---	2,520,000
	OFFICE OF POSTSECONDARY EDUCATION				
---	Student financial assistance	---	169,000,000	217,000,000	217,000,000
97-125	Higher and continuing education	5,184,000	5,184,000	5,184,000	10,000,000
97-125	Higher education facilities loan and insurance	9,746,000	9,746,000	9,746,000	9,746,000
	Total, Office of Postsecondary Education	14,930,000	183,930,000	231,930,000	236,746,000
	SPECIAL INSTITUTIONS				
---	American Printing House for the Blind	---	200,000	200,000	200,000
---	National Technical Institute for the Deaf	---	1,052,000	1,052,000	1,052,000
---	Gallaudet College	---	2,080,000	2,080,000	2,080,000
97-125	Howard University	5,808,000	5,808,000	5,808,000	5,808,000
	DEPARTMENTAL MANAGEMENT				
97-206	Office of the Inspector General, salaries and expenses	430,000	430,000	430,000	430,000
	Total, Department of Education	21,168,000	370,520,000	416,200,000	423,536,000
	RELATED AGENCIES				
	Railroad Retirement Board:				
---	Dual benefits payments account	---	11,000,000	11,000,000	11,000,000
	Soldiers' and Airmen's Home:				
97-125	Operation and maintenance (trust funds)	796,000	796,000	796,000	796,000
---	Capital outlay (trust funds)	---	953,000	953,000	953,000
	Total, Related Agencies	796,000	12,749,000	12,749,000	12,749,000
	Total, Chapter IX:				
	New budget (obligational) authority	561,046,000	800,154,000	772,648,000	790,984,000
	Appropriations	608,475,000	800,154,000	820,834,000	839,170,000
	Rescission	(-47,429,000)	---	(-48,186,000)	(-48,186,000)
	(Increase in limitations)	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
	(By transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER X				
	LEGISLATIVE BRANCH				
	SENATE				
	Salaries, Officers and Employees				
97-219	Offices of the Majority and Minority Leaders	120,000	---	120,000	120,000
97-185	Administrative, clerical, and legislative assistance to Senators	80,000	---	80,000	80,000
97-219	Offices of the secretaries for the Majority and Minority	100,000	---	100,000	100,000
	Total, Salaries, Officers and Employees	300,000	---	300,000	300,000
	Contingent Expenses of the Senate				
97-125 97-219	Miscellaneous items	938,000	---	938,000	938,000
	COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES				
---	Salaries and expenses	---	---	160,000	160,000
	HOUSE OF REPRESENTATIVES				
	Payments to Widows and Heirs of Deceased Members of Congress				
---	Gratuities, deceased Members	---	121,325	121,325	121,325
	Contingent Expenses of the House				
	Allowances and Expenses				
97-125	Official expenses of Members	5,987,000	5,987,000	---	5,987,000
	JOINT ITEMS				
	Contingent Expenses of the House				
97-125	Joint Committee on Taxation	84,000	---	---	---
	ARCHITECT OF THE CAPITOL				
	Capitol Buildings and Grounds				
97-125	Acquisition of property as an addition to the Capitol grounds	4,500,000	---	---	---
97-125	Senate office buildings	11,500,000	---	---	---
97-125	Capitol Power Plant (operation)	1,500,000	1,200,000	1,200,000	1,200,000
	Total, Capitol buildings and grounds	17,500,000	1,200,000	1,200,000	1,200,000
	Library of Congress				
97-185	James Madison Memorial Building	8,525,000	---	---	---
	COPYRIGHT ROYALTY TRIBUNAL				
97-125 97-206	Salaries and expenses	84,000	51,000	51,000	51,000
	GENERAL ACCOUNTING OFFICE				
97-125	Salaries and expenses	2,211,000	---	---	---
	Total, Chapter X: New budget (obligational) authority	35,629,000	7,359,325	2,770,325	8,757,325

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER XI				
	MILITARY CONSTRUCTION				
97-125	Military construction, Army	34,000,000	---	---	---
97-125	Military construction, Air Force	84,400,000	12,700,000	12,700,000	12,700,000
	Total, military construction	118,400,000	12,700,000	12,700,000	12,700,000
97-125	Family housing, Defense	80,300,000	32,300,000	32,300,000	32,300,000
	Total, Chapter XI: New budget (obligational) authority	198,700,000	45,000,000	45,000,000	45,000,000
	CHAPTER XII				
	DEPARTMENT OF TRANSPORTATION				
	Coast Guard				
97-125	Operating expenses	30,500,000	30,500,000	30,500,000	30,500,000
---	Alteration of bridges	---	3,000,000	---	3,000,000
	Total, Coast Guard	30,500,000	33,500,000	30,500,000	33,500,000
	Federal Aviation Administration				
97-125					
97-185	Operations	130,145,000	55,645,000	113,145,000	103,145,000
---	(By transfer)	---	(10,000,000)	(10,000,000)	(10,000,000)
97-125	Research, engineering and development (Airport and Airway Trust Fund)	16,000,000	16,000,000	16,000,000	16,000,000
97-125	Aircraft purchase loan guarantee program (Decrease in limitation on new loan guarantees)	(-50,000,000)	---	---	---
	Total, Federal Aviation Administration	146,145,000	71,645,000	129,145,000	119,145,000
	Federal Highway Administration				
---	Interstate transfer grants - highways	---	197,000,000	---	112,500,000
---	Access Highways to Public Recreation Areas on certain lakes	---	---	6,875,000	6,875,000
	Total, Federal Highway Administration	---	197,000,000	6,875,000	119,375,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF TRANSPORTATION—Continued				
	Federal Railroad Administration				
97-125	Rail service assistance	11,948,000	1,355,000	1,355,000	1,355,000
97-125	Appropriation for debt reduction	-11,948,000	-1,355,000	-1,355,000	-1,355,000
---	Rescission	---	---	-5,000,000	-5,000,000
---	Appropriation	---	---	5,000,000	5,000,000
	Grants to the National Railroad Passenger Corporation (by transfer)	---	(8,400,000)	---	---
---	Redeemable preference shares	---	20,000,000	20,000,000	20,000,000
97-219	(By transfer)	(5,000,000)	(5,000,000)	---	---
---	Rescission	---	---	-99,000,000	-99,000,000
---	Appropriation	---	---	99,000,000	99,000,000
97-125	Settlements of railroad litigation	816,000,000	639,424,275	639,424,275	639,424,275
97-125	Appropriation for debt reduction	-816,000,000	-639,424,275	-639,424,275	-639,424,275
	Commuter rail service:				
97-171	(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)
---	Appropriation	---	10,000,000	---	10,000,000
	Railroad rehabilitation and improvement financing funds:				
97-125	Appropriation	28,566,000	24,766,000	24,766,000	24,766,000
97-125	Appropriation for debt reduction	-28,566,000	-24,766,000	-24,766,000	-24,766,000
97-125	(Decrease in limitations on new loan guarantees)	(-135,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
---	Rail labor assistance (by transfer)	---	(9,000,000)	(9,000,000)	(9,000,000)
	Total, Federal Railroad Administration	---	30,000,000	20,000,000	30,000,000
	Urban Mass Transportation Administration				
---	Urban discretionary grants	---	29,500,000	---	15,000,000
---	Interstate transfer grants - transit	---	22,000,000	---	22,000,000
	Total, Urban Mass Transportation Administration	---	51,500,000	---	37,000,000
	RELATED AGENCIES				
	National Transporatation Safety Board				
---	Emergency Fund	---	---	1,000,000	1,000,000
	Department of the Treasury				
	Office of the Secretary				
---	Investment in Fund Anticipation Notes	---	(20,000,000)	(20,000,000)	(20,000,000)
---	(By transfer)	---	(5,000,000)	---	---
---	Rescission	---	---	(-99,000,000)	(-99,000,000)
---	Appropriation	---	---	(99,000,000)	(99,000,000)
	Total, Chapter XII:				
	New budget (obligational) authority	176,645,000	383,645,000	187,520,000	340,020,000
	Appropriations	(1,033,159,000)	(1,049,190,275)	(957,065,275)	(1,109,565,275)
	Rescissions	---	---	(-104,000,000)	(-104,000,000)
	(By transfer)	(5,000,000)	(32,400,000)	(19,000,000)	(19,000,000)
	(Limitation on guaranteed loans)	(-185,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
	(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	CHAPTER XIII				
	DEPARTMENT OF THE TREASURY				
	Bureau of Government Financial Operations:				
97-125	Postal savings system liquidation	200,000	200,000	200,000	200,000
---	Payment to the city of Fairfax, Virginia	---	41,959	41,959	41,959
	Internal Revenue Service:				
97-125	Salaries and expenses	8,084,000	8,084,000	8,084,000	8,084,000
97-125	Taxpayer service and returns processing	78,232,000	77,232,000	72,354,000	72,354,000
97-125	Examinations and appeals	15,563,000	15,563,000	14,563,000	15,563,000
97-125	Investigations and collections	21,604,000	19,121,000	16,604,000	19,121,000
	Total, Internal Revenue Service	123,483,000	120,000,000	111,605,000	115,122,000
97-201	United States Secret Service: Salaries and expenses	12,772,000	7,080,000	11,272,000	8,998,000
97-201	Reappropriation FY 1982	1,400,000	1,400,000	1,400,000	1,400,000
	UNITED STATES POSTAL SERVICE				
---	Payment to the Postal Service Fund	---	20,000,000	20,000,000	39,000,000
---	(By transfer)	---	---	(19,000,000)	---
97-155	Rescission	-215,230,000	-208,660,000	-189,660,000	-208,660,000
	INDEPENDENT AGENCIES				
	General Services Administration:				
	Federal Buildings Fund:				
	Limitations on availability of revenue (increase in limitation):				
97-125	Construction and acquisition of facilities	(857,000)	(857,000)	(857,000)	(857,000)
	National Archives and Records Service:				
---	Operating expenses	---	---	6,500,000	4,100,000
	Office of Personnel Management:				
	Payment to Civil Service Retirement and Disability Fund	303,257,000	303,257,000	303,257,000	303,257,000
97-125	Government payment for annuitants, employees health benefits	303,806,000	303,806,000	303,806,000	303,806,000
	Total, Office of Personnel Management	607,063,000	607,063,000	607,063,000	607,063,000
	Total, Chapter XIII:				
	New budget (obligational) authority	529,688,000	547,124,959	568,421,959	567,264,959
	Appropriations	(743,518,000)	(754,384,959)	(756,681,959)	(774,524,959)
	Rescissions	(-215,230,000)	(-208,660,000)	(-189,660,000)	(-208,660,000)
	Reappropriation FY 1982	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
	(By transfer)	---	---	(19,000,000)	---
	(Increase in limitations)	(857,000)	(857,000)	(857,000)	(857,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
TITLE II				
INCREASED PAY COSTS				
LEGISLATIVE BRANCH				
SENATE				
97-125 Salaries, officers and employees	8,771,000	---	8,771,000	8,771,000
97-125 Office of the Legislative Counsel of the Senate	66,000	---	66,000	66,000
97-125 Office of Senate Legal Counsel	13,000	---	13,000	13,000
97-125 Senate policy committees	110,000	---	110,000	110,000
97-125 Inquiries and investigations	1,975,000	---	1,975,000	1,975,000
97-125 Folding documents	6,000	---	6,000	6,000
Total, Senate	10,941,000	---	10,941,000	10,941,000
HOUSE OF REPRESENTATIVES				
97-125 House leadership offices	141,000	141,000	---	141,000
97-125 Salaries, officers and employees	1,651,000	1,651,000	---	1,651,000
97-125 Committee employees	1,955,000	1,955,000	---	1,955,000
97-125 Committee on Appropriations (studies and investigations)	16,000	16,000	---	16,000
97-125 Office of the Legislative Counsel	137,000	137,000	---	137,000
97-125 Office of the Law Revision Counsel	29,000	29,000	---	29,000
97-125 Members' clerk hire	4,902,000	4,902,000	---	4,902,000
97-125 Allowances and expenses	1,279,000	1,279,000	---	1,279,000
97-125 Special and select committees	374,000	374,000	---	374,000
Total, House of Representatives	10,484,000	10,484,000	---	10,484,000
JOINT ITEMS				
97-125 Joint Economic Committee	55,000	55,000	55,000	55,000
97-125 Joint Committee on Taxation	169,000	169,000	169,000	169,000
97-125 Education of pages	11,000	11,000	11,000	11,000
Total, Joint Items	235,000	235,000	235,000	235,000
OFFICE OF TECHNOLOGY ASSESSMENT				
97-125 Salaries and expenses	250,000	150,000	150,000	150,000
CONGRESSIONAL BUDGET OFFICE				
97-125 Salaries and expenses	408,000	358,000	358,000	358,000
ARCHITECT OF THE CAPITOL				
97-125 Office of the Architect of the Capitol: Salaries	187,000	137,000	137,000	137,000
97-125 Capitol buildings	230,000	230,000	230,000	230,000
97-125 Capitol grounds	74,000	50,000	50,000	50,000
97-125 Senate office buildings	374,000	---	200,000	200,000
97-125 Senate garage	3,000	---	---	---
97-125 House office buildings	568,000	200,000	---	200,000
97-125 Capitol power plant	106,000	106,000	106,000	106,000
97-125 Library buildings and grounds: structural and mechanical care	138,000	70,000	70,000	70,000
Total, Architect of the Capitol	1,680,000	793,000	793,000	993,000
BOTANIC GARDEN				
97-125 Salaries and expenses	56,000	40,000	40,000	40,000
LIBRARY OF CONGRESS				
97-125 Salaries and expenses	4,224,000	3,187,000	3,187,000	3,187,000
97-125 Copyright Office: Salaries and expenses	630,000	504,000	504,000	504,000
97-125 Congressional Research Service: Salaries and expenses	1,605,000	1,605,000	1,605,000	1,605,000
97-125 Books for the blind and physically handicapped: Salaries and expenses	163,000	---	---	---
97-125 Collection and distribution of library materials (special foreign currency program)	16,000	---	---	---
Total, Library of Congress	6,638,000	5,296,000	5,296,000	5,296,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	COPYRIGHT ROYALTY TRIBUNAL				
97-125	Salaries and expenses	36,000	36,000	36,000	36,000
	GENERAL ACCOUNTING OFFICE				
97-125	Salaries and expenses	9,225,000	6,700,000	6,700,000	6,700,000
	GOVERNMENT PRINTING OFFICE				
97-125	Office of Superintendent of Documents: Salaries and expenses	303,000	---	---	---
	Total, Legislative Branch	40,256,000	24,092,000	24,549,000	35,233,000
	THE JUDICIARY				
	SUPREME COURT OF THE UNITED STATES				
97-125	Salaries and expenses	427,000	427,000	427,000	427,000
97-125	Care of the buildins and grounds	32,000	---	---	---
	Total, Supreme Court of the United States	459,000	427,000	427,000	427,000
	COURT OF CUSTOMS AND PATENT APPEALS				
97-125	Salaries and expenses	58,000	58,000	58,000	58,000
	UNITED STATES COURT OF INTERNATIONAL TRADE				
97-125	Salaries and expenses	166,000	86,000	86,000	86,000
	COURT OF CLAIMS				
97-125	Salaries and expenses	270,000	270,000	270,000	270,000
	COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES				
97-125	Salaries of Judges	2,850,000	2,850,000	2,850,000	2,850,000
---	(By transfer)	---	(50,000)	(50,000)	(50,000)
97-125	Salaries of supportins personnel	12,900,000	2,400,000	2,400,000	2,400,000
---	(By transfer)	---	(10,500,000)	(10,500,000)	(10,500,000)
97-125	Defender services	670,000	670,000	670,000	670,000
97-125	Bankruptcy courts, salaries and expenses	3,500,000	3,500,000	3,500,000	3,500,000
	Total, Courts of Appeals, District Courts, and other Judicial Services	19,920,000	9,420,000	9,420,000	9,420,000
	ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS				
97-125	Salaries and expenses	750,000	750,000	750,000	750,000
	FEDERAL JUDICIAL CENTER				
97-125	Salaries and expenses	170,000	170,000	170,000	170,000
	Total, The Judiciary	21,793,000	11,181,000	11,181,000	11,181,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	EXECUTIVE OFFICE OF THE PRESIDENT				
	White House Office:				
97-168	Salaries and expenses	775,000	775,000	775,000	775,000
	Executive Residence at the White House:				
97-168	Operating expenses	143,000	122,980	122,980	122,980
	Special Assistance to the President:				
97-168	Salaries and expenses	56,000	48,160	48,160	48,160
	Council of Economic Advisers:				
97-168	Salaries and expenses	37,000	31,820	31,820	31,820
	Council on Environmental Quality and Office of Environmental Quality:				
	Council on Environmental Quality and Office of				
97-168	Environmental Quality	17,000	17,000	17,000	17,000
	Office of Policy Development:				
97-168	Salaries and expenses	121,000	104,060	104,060	104,060
	National Security Council:				
97-168	Salaries and expenses	233,000	200,380	200,380	200,380
	Office of Administration:				
97-168	Salaries and expenses	221,000	190,060	190,060	190,060
	Office of Management and Budget:				
97-168	Salaries and expenses	1,677,000	1,442,220	1,442,220	1,442,220
	Office of Federal Procurement Policy: Salaries				
97-168	and expenses	86,000	73,960	73,960	73,960
	Total, Office of Management and Budget	1,763,000	1,516,180	1,516,180	1,516,180
	Office of Science and Technology Policy:				
97-168	Salaries and expenses	647000	---	---	---
	Office of the United States Trade Representative:				
97-168	Salaries and expenses	188,000	188,000	188,000	188,000
	Total, Executive Office of the President	3,618,000	3,193,640	3,193,640	3,193,640
	DEPARTMENT OF AGRICULTURE				
97-168	Office of the Secretary	284,000	284,000	284,000	284,000
97-168	Departmental administration	550,000	550,000	550,000	550,000
97-168	Office of the Inspector General	693,000	693,000	693,000	693,000
97-168	(Transfer from food stamp program)	(385,000)	(385,000)	(385,000)	(385,000)
97-168	Office of the General Counsel	441,000	441,000	441,000	441,000
97-168	World Agricultural Outlook Board	69,000	69,000	69,000	69,000
97-168	Foreign Agricultural Service	542,000	542,000	542,000	542,000
	Agricultural Stabilization and Conservation Service:				
97-168	Salaries and expenses	1,077,000	1,077,000	1,077,000	1,077,000
97-168	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
	Rural Electrification Administration:				
97-168	Salaries and expenses	600,000	600,000	600,000	600,000
	Farmers Home Administration:				
97-168	Salaries and expenses	5,092,000	5,092,000	5,092,000	5,092,000
	Soil Conservation Service:				
97-168	Conservation operations (by transfer)	(7,849,000)	(7,849,000)	(7,849,000)	(7,849,000)
	River basin surveys and investigations (by				
97-168	transfer)	(618,000)	(618,000)	(618,000)	(618,000)
97-168	Watershed planning (by transfer)	(355,000)	(355,000)	(355,000)	(355,000)
---	Watershed and flood prevention operations	---	2,000,000	2,000,000	2,000,000
---	Resource conservation and development	---	500,000	500,000	500,000
97-168	Animal and Plant Health Inspection Service	4,585,000	4,585,000	4,585,000	4,585,000
	Agricultural Marketing Service:				
97-168	Marketing services	800,000	800,000	800,000	800,000
	Funds for strengthening markets, income and supply				
97-168	(sec. 32) (increase in limitation)	(190,000)	(190,000)	(190,000)	(190,000)
	Food Safety and Inspection Service:				
97-168	Salaries and expenses	10,022,000	10,022,000	10,022,000	10,022,000
	Packers and Stockyards Administration:				
97-168	Salaries and expenses	377,000	377,000	377,000	377,000
	Forest Service:				
97-168	Forest research	1,753,000	1,753,000	1,753,000	1,753,000
97-168	State and private forestry	486,000	486,000	486,000	486,000
97-168	National forest system	16,813,000	18,813,000	16,813,000	18,813,000
97-168	Construction and land acquisition	3,598,000	3,598,000	3,598,000	3,598,000
	Total, Forest Service	22,650,000	24,650,000	22,650,000	24,650,000
	Total, Department of Agriculture	47,782,000	52,282,000	50,282,000	52,282,000
	(By transfer)	(9,207,000)	(9,207,000)	(9,207,000)	(9,207,000)
	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
	(Increase in limitation)	(190,000)	(190,000)	(190,000)	(190,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	DEPARTMENT OF COMMERCE				
	General Administration:				
97-168	Salaries and expenses (by transfer)	(1,467,000)	(1,467,000)	(1,467,000)	(1,467,000)
	Bureau of the Census:				
97-168	Salaries and expenses (by transfer)	(2,200,000)	(2,200,000)	(2,200,000)	(2,200,000)
	Economic and Statistical Analysis:				
97-168	Salaries and expenses (by transfer)	(1,295,000)	(1,295,000)	(1,295,000)	(1,295,000)
	National Oceanic and Atmospheric Administration:				
---	Operations, research, and facilities	---	20,000,000	21,294,000	21,294,000
	Patent and Trademark Office:				
97-168	Salaries and expenses	3,874,000	3,874,000	3,874,000	3,874,000
	Total, Department of Commerce	3,874,000	23,874,000	25,168,000	25,168,000
	(By transfer)	(4,962,000)	(4,962,000)	(4,962,000)	(4,962,000)
	DEPARTMENT OF DEFENSE--MILITARY				
	MILITARY PERSONNEL				
97-168	Military personnel, Army	1,476,573,000	1,476,573,000	1,476,573,000	1,476,573,000
97-168	Military personnel, Navy	1,073,144,000	1,073,144,000	1,073,144,000	1,073,144,000
97-168	Military personnel, Marine Corps	316,634,000	316,634,000	316,634,000	316,634,000
97-168	Military personnel, Air Force	1,244,286,000	1,202,558,000	1,198,858,000	1,198,858,000
97-168	Reserve personnel, Army	104,800,000	104,800,000	104,800,000	104,800,000
97-168	Reserve personnel, Navy	28,230,000	28,230,000	28,230,000	28,230,000
97-168	Reserve personnel, Marine Corps	12,880,000	12,880,000	12,880,000	12,880,000
97-168	Reserve personnel, Air Force	32,403,000	32,403,000	32,403,000	32,403,000
97-168	National Guard personnel, Army	162,300,000	162,300,000	162,300,000	162,300,000
97-168	National Guard personnel, Air Force	54,033,000	54,033,000	54,033,000	54,033,000
	Total, Military Personnel	4,505,283,000	4,463,555,000	4,459,855,000	4,459,855,000
	OPERATION AND MAINTENANCE				
97-168	Operation and maintenance, Army	245,000,000	234,500,000	125,500,000	180,000,000
97-168	Operation and maintenance, Navy	238,400,000	238,400,000	238,400,000	238,400,000
97-168	Operation and maintenance, Marine Corps	12,700,000	12,700,000	12,700,000	12,700,000
97-168	Operation and maintenance, Air Force	162,500,000	67,300,000	126,400,000	86,774,000
---	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
97-168	Operation and maintenance, Defense agencies	145,800,000	144,800,000	144,800,000	144,800,000
97-168	Operation and maintenance, Army Reserve	11,611,000	11,211,000	11,211,000	11,211,000
97-168	Operation and maintenance, Navy Reserve	3,247,000	3,247,000	3,247,000	3,247,000
97-168	Operation and maintenance, Marine Corps Reserve	145,000	145,000	145,000	145,000
97-168	Operation and maintenance, Air Force Reserve	9,500,000	9,500,000	9,500,000	9,500,000
97-168	Operation and maintenance, Army National Guard	20,947,000	20,247,000	20,247,000	20,247,000
97-168	Operation and maintenance, Air National Guard	23,400,000	23,400,000	23,400,000	23,400,000
	National Board for the Promotion of Rifle Practice:				
97-168	Army	16,000	16,000	16,000	16,000
97-168	Court of Military Appeals, Defense	93,000	93,000	93,000	93,000
	Total, Operation and Maintenance	873,359,000	765,559,000	715,659,000	730,533,000
	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
	FAMILY HOUSING, DEFENSE				
97-168	Family housing, Defense	15,743,000	9,800,000	9,800,000	9,800,000
	Total, Department of Defense--Military	5,394,385,000	5,238,914,000	5,185,314,000	5,200,188,000
	(Transfer from other accounts)	---	(95,200,000)	(36,100,000)	(75,726,000)
	DEPARTMENT OF DEFENSE--CIVIL				
	DEPARTMENT OF THE ARMY				
	CORPS OF ENGINEERS - CIVIL				
---	Construction, general	---	13,000,000	13,000,000	13,000,000
---	Operation and maintenance, general	---	17,000,000	17,000,000	17,000,000
97-168	(By transfer)	(17,000,000)	---	---	---
---	General expenses	---	5,000,000	5,000,000	5,000,000
97-168	(By transfer)	(5,000,000)	---	---	---
	Total, Corps of Engineers, Civil	---	35,000,000	35,000,000	35,000,000
	(By transfer)	(22,000,000)	---	---	---

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
CEMETERIAL EXPENSES, ARMY				
97-168 Salaries and expenses	79,000	79,000	79,000	79,000
SOLDIERS' AND AIRMEN'S HOME				
97-168 Operation and maintenance	753,000	753,000	753,000	753,000
Total, Department of Defense--Civil	832,000	35,832,000	35,832,000	35,832,000
DEPARTMENT OF EDUCATION				
Departmental Management:				
97-168 Salaries and expenses	4,676,000	4,676,000	4,676,000	4,676,000
Office of the Inspector General:				
97-168 Salaries and expenses	559,000	559,000	559,000	559,000
Total, Department of Education	5,235,000	5,235,000	5,235,000	5,235,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES				
FOOD AND DRUG ADMINISTRATION				
97-168 Salaries and expenses	10,300,000	10,300,000	10,300,000	10,300,000
HEALTH SERVICES ADMINISTRATION				
97-168 Indian health services	6,600,000	18,160,000	16,250,000	18,160,000
97-185 (By transfer)	(11,560,000)	---	---	---
CENTERS FOR DISEASE CONTROL				
97-168 Preventive health services	4,832,000	4,832,000	4,832,000	4,832,000
97-168 (By transfer)	(2,300,000)	(2,300,000)	(2,300,000)	(2,300,000)
NATIONAL INSTITUTES OF HEALTH				
97-168 National Library of Medicine	633,000	633,000	633,000	633,000
97-168 Office of the Director	1,056,000	1,056,000	1,056,000	1,056,000
Total, National Institutes of Health	1,689,000	1,689,000	1,689,000	1,689,000
ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION				
97-168 Saint Elizabeths Hospital	1,000,000	1,000,000	1,000,000	1,000,000
97-168 (By transfer)	(3,454,000)	(3,454,000)	(3,454,000)	(3,454,000)
ASSISTANT SECRETARY FOR HEALTH				
97-168 Salaries and expenses	2,858,000	2,858,000	2,858,000	2,858,000
HEALTH CARE FINANCING ADMINISTRATION				
97-168 Program management	3,260,000	3,260,000	3,260,000	3,260,000
97-168 (Limitation on trust fund transfer)	(4,800,000)	(4,800,000)	(4,800,000)	(4,800,000)
SOCIAL SECURITY ADMINISTRATION				
97-168 Assistance payments program	1,600,000	1,600,000	1,600,000	1,600,000
97-168 Special benefits for disabled coal miners	300,000	300,000	300,000	300,000
97-168 Supplemental security income program	20,711,000	20,711,000	20,711,000	20,711,000
97-168 Refugee assistance	123,000	123,000	123,000	123,000
97-168 Limitation on administrative expenses	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
Total, Social Security Administration	22,734,000	22,734,000	22,734,000	22,734,000
(Increase in limitation)	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES				
97-168 Human development services	2,497,000	2,497,000	2,497,000	2,497,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
DEPARTMENTAL MANAGEMENT				
97-168 General Departmental management	6,473,000	6,473,000	6,473,000	6,473,000
97-168 Office of the Inspector General	1,559,000	1,559,000	1,559,000	1,559,000
97-168 Office for Civil Rights	397,000	397,000	397,000	397,000
97-168 Office of Consumer Affairs	88,000	88,000	88,000	88,000
Total, Departmental Management	8,517,000	8,517,000	8,517,000	8,517,000
Total, Department of Health and Human Services	64,287,000	75,847,000	73,937,000	75,847,000
(Increase in limitation)	(71,100,000)	(71,100,000)	(71,100,000)	(71,100,000)
DEPARTMENT OF THE INTERIOR				
BUREAU OF LAND MANAGEMENT				
97-168 Management of lands and resources	3,728,000	3,728,000	3,728,000	3,728,000
UNITED STATES FISH AND WILDLIFE SERVICE				
97-168 Resource management	2,400,000	4,572,000	3,400,000	4,572,000
97-168 (By transfer)	(1,000,000)	---	---	---
NATIONAL PARK SERVICE				
97-168 Operation of the national park system	6,446,000	6,446,000	6,446,000	6,446,000
97-168 National recreation and preservation	235,000	235,000	235,000	235,000
97-168 John F. Kennedy Center for the Performing Arts	70,000	70,000	70,000	70,000
Total, National Park Service	6,751,000	6,751,000	6,751,000	6,751,000
GEOLOGICAL SURVEY				
97-168 Surveys, investigations, and research	7,042,000	7,042,000	7,042,000	7,042,000
BUREAU OF INDIAN AFFAIRS				
97-168 Operation of Indian programs	8,252,000	8,252,000	8,252,000	8,252,000
OFFICE OF THE SOLICITOR AND OFFICE OF THE SECRETARY				
97-168 Office of the Solicitor: Salaries and expenses	150,000	150,000	150,000	150,000
97-168 Office of the Secretary: Departmental Management	775,000	775,000	775,000	775,000
Total, Office of the Solicitor and Office of the Secretary	925,000	925,000	925,000	925,000
Total, Department of the Interior	29,098,000	31,270,000	30,098,000	31,270,000
(By transfer)	(1,000,000)	---	---	---
DEPARTMENT OF JUSTICE				
GENERAL ADMINISTRATION				
97-168 Salaries and expenses	1,041,000	1,041,000	1,041,000	1,041,000
UNITED STATES PAROLE COMMISSION				
97-168 Salaries and expenses	206,000	206,000	206,000	206,000
LEGAL ACTIVITIES				
97-168 Salaries and expenses, general legal activities	5,022,000	5,022,000	5,022,000	5,022,000
97-168 Salaries and expenses, Foreign Claims Settlement Commission	29,000	29,000	29,000	29,000
97-168 Salaries and expenses, Antitrust Division	1,020,000	---	---	---
97-168 Salaries and expenses, United States attorneys and marshals	12,167,000	12,167,000	12,167,000	12,167,000
97-168 Salaries and expenses, Community Relations Service	227,000	227,000	227,000	227,000
Total, Legal Activities	18,465,000	17,445,000	17,445,000	17,445,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
FEDERAL BUREAU OF INVESTIGATION				
97-168 Salaries and expenses	23,000,000	23,000,000	23,000,000	23,000,000
IMMIGRATION AND NATURALIZATION SERVICE				
97-168 Salaries and expenses	12,000,000	12,000,000	12,000,000	12,000,000
DRUG ENFORCEMENT ADMINISTRATION				
97-168 Salaries and expenses	6,000,000	6,000,000	6,000,000	6,000,000
FEDERAL PRISON SYSTEM				
97-168 Salaries and expenses	9,000,000	6,700,000	6,700,000	6,700,000
OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS				
97-168 Research and statistics (by transfer)	(232,000)	(232,000)	(232,000)	(232,000)
Total, Department of Justice	69,712,000	66,392,000	66,392,000	66,392,000
(By transfer)	(232,000)	(232,000)	(232,000)	(232,000)
DEPARTMENT OF LABOR				
EMPLOYMENT AND TRAINING ADMINISTRATION				
97-168 Program administration (by transfer)	(4,847,000)	(4,847,000)	(4,847,000)	(4,847,000)
LABOR-MANAGEMENT SERVICES ADMINISTRATION				
97-168 Salaries and expenses (by transfer)	(1,710,000)	(1,710,000)	(1,710,000)	(1,710,000)
EMPLOYMENT STANDARDS ADMINISTRATION				
97-168 Salaries and expenses (by transfer)	(4,974,000)	(4,974,000)	(4,974,000)	(4,974,000)
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION				
97-168 Salaries and expenses (by transfer)	(2,927,000)	(2,927,000)	(2,927,000)	(2,927,000)
BUREAU OF LABOR STATISTICS				
97-168 Salaries and expenses (by transfer)	(3,498,000)	(3,498,000)	(3,498,000)	(3,498,000)
DEPARTMENTAL MANAGEMENT				
97-168 Salaries and expenses (by transfer)	(3,377,000)	(3,377,000)	(3,377,000)	(3,377,000)
Total, Department of Labor (by transfer)	(21,333,000)	(21,333,000)	(21,333,000)	(21,333,000)
DEPARTMENT OF STATE				
ADMINISTRATION OF FOREIGN AFFAIRS				
97-168 Salaries and expenses	22,078,000	22,078,000	22,078,000	22,078,000
DEPARTMENT OF TRANSPORTATION				
FEDERAL HIGHWAY ADMINISTRATION				
97-168 Limitation on general operating expenses (increase in limitation)	(2,829,000)	(2,500,000)	(2,500,000)	(2,500,000)
FEDERAL RAILROAD ADMINISTRATION				
97-168 Office of the administrator	240,000	200,000	200,000	200,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	URBAN MASS TRANSPORTATION ADMINISTRATION				
97-168	Administrative expenses	500,000	500,000	500,000	500,000
	FEDERAL AVIATION ADMINISTRATION				
97-168	Operations	83,794,000	83,794,000	83,794,000	83,794,000
97-168	Operation and maintenance, Metropolitan Washington airports	456,000	456,000	456,000	456,000
	Total, Federal Aviation Administration	84,250,000	84,250,000	84,250,000	84,250,000
	COAST GUARD				
97-168	Operating expenses	78,100,000	78,100,000	64,100,000	64,100,000
---	(By transfer)	---	(14,000,000)	(14,000,000)	(14,000,000)
97-168	Reserve training	1,500,000	2,000,000	2,000,000	2,000,000
---	(By transfer)	---	(868,000)	(868,000)	(868,000)
	Total, Coast Guard	79,600,000	80,100,000	66,100,000	66,100,000
	SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION				
97-168	Limitation on administrative expenses (increase in limitation)	(38,000)	(38,000)	(38,000)	(38,000)
	OFFICE OF THE INSPECTOR GENERAL				
97-168	Salaries and expenses	500,000	445,000	445,000	445,000
97-168	(By transfer)	(155,000)	(155,000)	(155,000)	(155,000)
	RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION				
97-168	Research and special programs (by transfer)	(218,000)	---	---	---
	OFFICE OF THE SECRETARY				
97-168	Salaries and expenses	1,385,000	700,000	700,000	700,000
	Total, Department of Transportation	166,475,000	166,195,000	152,195,000	152,195,000
	(By transfer)	(373,000)	(15,023,000)	(15,023,000)	(15,023,000)
	(Increase in limitations)	(2,867,000)	(2,538,000)	(2,538,000)	(2,538,000)
	DEPARTMENT OF THE TREASURY				
	Office of the Secretary:				
97-168	Salaries and expenses	1,766,000	1,766,000	1,766,000	1,766,000
97-168	International affairs	992,000	992,000	992,000	992,000
	Office of Revenue Sharing:				
97-168	Salaries and expenses	181,000	61,000	61,000	61,000
	Federal Law Enforcement Training Center:				
97-168	Salaries and expenses	255,000	255,000	255,000	255,000
	Bureau of Government Financial Operations:				
97-168	Salaries and expenses	2,588,000	2,588,000	2,588,000	2,588,000
97-168	Chrysler Corporation Loan Guarantee Program	9,000	---	---	---
	Bureau of Alcohol, Tobacco and Firearms:				
97-168	Salaries and expenses	2,685,000	2,685,000	2,685,000	2,685,000
	United States Customs Service:				
97-168	Salaries and expenses	18,565,000	18,565,000	18,565,000	18,565,000
	Bureau of the Mint:				
97-168	Salaries and expenses	3,386,000	3,386,000	3,386,000	3,386,000
	Bureau of the Public Debt:				
97-168	Administering the public debt	1,594,000	1,594,000	1,594,000	1,594,000
	Internal Revenue Service:				
97-168	Salaries and expenses	8,068,000	8,068,000	8,068,000	8,068,000
97-168	Taxpayer service and returns processing	25,222,000	25,222,000	25,222,000	25,222,000
97-168	Examination and appeals	34,846,000	34,846,000	34,846,000	34,846,000
97-168	Investigation and collections	23,117,000	23,117,000	23,117,000	23,117,000
	Total, Internal Revenue Service	91,253,000	91,253,000	91,253,000	91,253,000
	United States Secret Service:				
97-168	Salaries and expenses	5,855,000	5,855,000	5,855,000	5,855,000
	Total, Department of the Treasury	129,129,000	129,000,000	129,000,000	129,000,000
	NATIONAL AERONAUTICS AND SPACE ADMINISTRATION				
97-168	Research and program management	31,050,000	80,000,000	80,000,000	80,000,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	VETERANS ADMINISTRATION				
97-168	Medical care	97,308,000	147,308,000	147,308,000	147,308,000
97-168	(By transfer)	(50,000,000)	---	---	---
97-168	Medical and prosthetic research	4,244,000	4,244,000	4,244,000	4,244,000
97-168	Medical administration and miscellaneous operating expenses	1,078,000	1,078,000	---	---
97-168	General operating expenses	21,925,000	21,925,000	21,925,000	21,925,000
97-168	Construction, minor projects	579,000	---	---	---
	Total, Veterans Administration	125,134,000	174,555,000	173,477,000	173,477,000
	(By transfer)	(50,000,000)	---	---	---
	OTHER INDEPENDENT AGENCIES				
	ACTION:				
97-168	Operating expenses, domestic programs	952,000	952,000	952,000	952,000
	Administrative Conference of the United States:				
97-168	Salaries and expenses	52,000	52,000	52,000	52,000
	Advisory Council on Historic Preservation:				
---	Salaries and expenses	---	25,000	---	---
	Civil Aeronautics Board:				
97-168	Salaries and expenses	766,000	700,000	---	375,000
	Commission of Fine Arts:				
97-168	Salaries and expenses	8,000	12,000	12,000	12,000
	Committee for Purchase from the Blind and other Severely Handicapped:				
97-168	Salaries and expenses	19,000	19,000	19,000	19,000
97-168	Commodity Futures Trading Commission	888,000	788,000	788,000	788,000
	Consumer Product Safety Commission:				
97-168	Salaries and expenses	675,000	500,000	500,000	500,000
	Equal Employment Opportunity Commission:				
97-168	Salaries and expenses	4,850,000	4,850,000	4,850,000	4,850,000
	Farm Credit Administration:				
97-206	Limitation on administrative expenses (increase in limitation)	(259,000)	(259,000)	(259,000)	(259,000)
	Federal Communications Commission:				
97-168	Salaries and expenses	3,124,000	3,124,000	3,000,000	3,000,000
	Federal Election Commission:				
97-168	Salaries and expenses	184,000	184,000	184,000	184,000
	Federal Emergency Management Agency:				
97-168	Salaries and expenses (by transfer)	(2,084,000)	(2,084,000)	(2,084,000)	(2,584,000)
	Federal Home Loan Bank Board:				
	Federal Home Loan Bank Board:				
97-168	(Increase in limitation on administrative expenses)	(630,000)	(400,000)	(400,000)	(400,000)
97-168	(Increase in limitation on nonadministrative expenses)	(800,000)	(300,000)	(300,000)	(300,000)
	Federal Savings and Loan Insurance Corporation				
97-168	(Increase in limitation on administrative expenses)	(30,000)	(30,000)	(30,000)	(30,000)
	Federal Labor Relations Authority:				
97-168	Salaries and expenses	645,000	645,000	645,000	645,000
	Federal Maritime Commission:				
97-168	Salaries and expenses	273,000	273,000	273,000	273,000
	Federal Mine Safety and Health Review Commission:				
97-168	Salaries and expenses	225,000	225,000	225,000	225,000
	General Services Administration:				
	Federal Buildings Fund:				
	Limitations on availability of revenue (increase in limitations):				
97-168	Program direction	(3,022,000)	(3,022,000)	(3,022,000)	(3,022,000)
97-168	Federal Supply Service: operating expenses	4,088,000	4,088,000	4,088,000	4,088,000
	Transportation and Public Utilities Service:				
97-168	Operating expenses	611,000	611,000	611,000	611,000
	National Archives and Records Service: Operating				
97-168	expenses	1,681,000	1,681,000	1,681,000	1,681,000
	Automated Data and Telecommunications Service:				
97-168	Operating expenses	488,000	488,000	488,000	488,000
	Federal property resources service:				
97-168	Operating expenses	578,000	578,000	578,000	578,000
97-168	(By transfer)	(501,000)	(501,000)	(501,000)	(501,000)
	General management and administration: Salaries				
97-168	and expenses	4,994,000	4,994,000	4,994,000	4,994,000
97-168	Office of Inspector General	677,000	677,000	677,000	677,000
97-168	Consumer Information Center	29,000	---	---	---
	Holocaust Memorial Council:				
---	Salaries and expenses	---	17,000	17,000	17,000
	Intelligence Community Staff:				
97-168	Intelligence community staff	632,000	632,000	632,000	632,000

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.		Supplemental Request	House	Senate	Conference
	OTHER INDEPENDENT AGENCIES—Continued				
	Intergovernmental Agencies				
	Advisory Commission on Intergovernmental Relations:				
97-168	Salaries and expenses	82,000	82,000	82,000	82,000
	International Communication Agency:				
97-168	Salaries and expenses	7,115,000	7,115,000	---	7,115,000
---	(By transfer)	---	---	(7,115,000)	---
	International Trade Commission:				
97-125	Salaries and expenses	603,000	603,000	603,000	603,000
	Merit Systems Protection Board:				
97-168	Salaries and expenses	326,000	326,000	326,000	326,000
97-168	Office of the Special Counsel	104,000	104,000	104,000	104,000
	Total, Merit Systems Protection Board	430,000	430,000	430,000	430,000
	National Capital Planning Commission:				
97-168	Salaries and expenses	106,000	106,000	106,000	106,000
	National Foundation on the Arts and the Humanities:				
97-168	National endowment for the arts: Salaries and expenses	170,000	250,000	170,000	170,000
	National Labor Relations Board:				
97-168	Salaries and expenses	2,400,000	2,400,000	2,400,000	2,400,000
	National Science Foundation:				
97-168	Research and related activities	1,900,000	1,900,000	1,900,000	1,900,000
	National Transportation Safety Board:				
97-168	Salaries and expenses	580,000	580,000	580,000	580,000
	Nuclear Regulatory Commission:				
97-168	Salaries and expenses	3,344,000	---	---	---
	Office of Personnel Management:				
97-168	Salaries and expenses	3,312,000	3,312,000	3,312,000	3,312,000
97-168	Salaries and expenses (by transfer from trust funds)	(803,000)	(803,000)	(803,000)	(803,000)
	Pennsylvania Avenue Development Corporation:				
97-168	Salaries and expenses	48,000	48,000	48,000	48,000
	Railroad Retirement Board:				
97-168	Limitation on administration (increase in administration)	(661,000)	(661,000)	(661,000)	(661,000)
	Selective Service System:				
97-168	Salaries and expenses	938,000	938,000	938,000	938,000
	Smithsonian Institution:				
97-168	Salaries and expenses	2,300,000	2,700,000	2,700,000	2,700,000
	National Gallery of Art:				
---	Salaries and expenses	---	300,000	---	---
	Woodrow Wilson International Center for Scholars:				
---	Salaries and expenses	---	25,000	25,000	25,000
	UNITED STATES TAX COURT				
97-125	Salaries and expenses	381,000	381,000	381,000	381,000
	TITLE II - INCREASED PAY COSTS				
	TOTAL - New budget (obligational) authority	6,204,886,000	6,187,225,640	6,106,872,640	6,145,002,640
	(By transfer)	(129,006,000)	(164,846,000)	(112,861,000)	(145,872,000)
	(Increase in limitations)	(79,559,000)	(78,500,000)	(78,500,000)	(78,500,000)
	(Trust fund transfer)	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
	(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
TITLE I - GENERAL SUPPLEMENTALS				
Chapter I				
Agriculture:				
New budget (obligational) authority	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
Authority to borrow	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Chapter II				
Commerce, Justice, State and the Judiciary:				
New budget (obligational) authority	131,384,000	107,538,000	151,086,000	149,951,000
Appropriations	(131,294,000)	(109,353,000)	(152,901,000)	(151,766,000)
Reappropriation FY 1983	(90,000)	(185,000)	(185,000)	(185,000)
Rescission	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
(By transfer)	(40,000,000)	(4,800,000)	(12,550,000)	(6,250,000)
(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitaiton on guaranteed loans)	(3,633,250,000)	(28,250,000)	(4,103,250,000)	(4,103,250,000)
(Effect of deferral disapproval)	---	(915,000)	(6,515,000)	(6,515,000)
(Effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-2,000,000)
Chapter III				
Defense:				
New budget (obligational) authority	2,422,350,000	367,560,000	492,754,000	435,354,000
Appropriations	(2,078,629,000)	(367,560,000)	(492,754,000)	(435,354,000)
Reappropriation FY 1983	(343,721,000)	---	---	---
(By transfer)	(37,226,000)	(101,926,000)	(142,900,000)	(142,900,000)
(Appropriations to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
Chapter IV				
District of Columbia:				
District of Columbia funds (net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
(By transfer)	---	---	(2,700,000)	(2,700,000)
Chapter V				
Energy and Water Development:				
New budget (obligational) authority	97,400,000	92,700,000	56,200,000	64,300,000
(By transfer)	(2,000,000)	(14,000,000)	(2,000,000)	(16,000,000)
Chapter VI				
Foreign Operations:				
New budget (obligational) authority	516,531,000	1,031,000	426,531,000	406,543,000
(By transfer)	---	(50,000,000)	(50,000,000)	(50,000,000)
(Limitation on guaranteed loans)	(186,000,000)	---	(186,000,000)	---
(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
Chapter VII				
Housing & Urban Development-Independent Agencies:				
New budget (obligational) authority	3,775,000	---	304,000	150,000
(By transfer)	(500,000)	(8,500,000)	(12,698,000)	(12,698,000)
(Limitation on guaranteed loans)	(-20,350,000,000)	---	---	---
Chapter VIII				
Interior and Related Agencies:				
New budget (obligational) authority	178,150,000	217,382,000	199,553,500	223,939,000
Appropriations	(200,050,000)	(268,582,000)	(234,553,500)	(258,939,000)
Reappropriation FY 1983	(2,300,000)	(3,000,000)	(3,000,000)	(3,000,000)
Rescissions	(-24,200,000)	(-54,200,000)	(-38,000,000)	(-38,000,000)
(By transfer)	(1,237,000)	(991,000)	(991,000)	(991,000)
(Effect of new deferral)	---	---	---	(-64,000,000)
Chapter IX				
Labor, Health and Human Services, and Education:				
New budget (obligational) authority	561,046,000	800,154,000	772,648,000	790,984,000
Appropriations	(608,475,000)	(800,154,000)	(820,834,000)	(839,170,000)
Rescissions	(-47,429,000)	---	(-48,186,000)	(-48,186,000)
(Increase in limitations)	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
(By transfer)	(1,157,000)	(1,157,000)	(400,000)	(400,000)
Chapter X				
Legislative Branch:				
New budget (obligational) authority	35,629,000	7,359,325	2,770,325	8,757,325
Chapter XI				
Military Construction:				
New budget (obligational) authority	198,700,000	45,000,000	45,000,000	45,000,000
Chapter XII				
Transportation:				
New budget (obligational) authority	176,645,000	383,645,000	187,520,000	340,020,000
Appropriations	(1,033,159,000)	(1,049,190,275)	(957,065,275)	(1,109,565,275)
Rescissions	---	--	(-104,000,000)	(-104,000,000)
(By transfer)	(5,000,000)	(32,400,000)	(19,000,000)	(19,000,000)
(Limitation on guaranteed loans)	(-185,000,000)	(-170,000,000)	(-170,000,000)	(-170,000,000)
(Effect of deferral disapproval)	---	(37,500,000)	(37,500,000)	(37,500,000)

SUPPLEMENTAL APPROPRIATIONS BILL, 1982 (H.R. 97-673)—Continued

H. Doc.	Supplemental Request	House	Senate	Conference
TITLE I - GENERAL SUPPLEMENTALS—Continued				
Chapter XIII				
Treasury, Postal Service & General Government:				
New budget (obligational) authority	529,688,000	547,124,959	568,421,959	567,264,959
Appropriations	(743,518,000)	(754,384,959)	(756,681,959)	(774,524,959)
Rescissions	(-215,230,000)	(-208,660,000)	(-189,660,000)	(-208,660,000)
Reappropriation FY 1982	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
(By transfer)	---	---	(19,000,000)	---
(Increase in limitations)	(857,000)	(857,000)	(857,000)	(857,000)
Total, title I - General Supplementals:				
New budget (obligational) authority	9,851,298,000	7,569,494,284	7,902,788,784	8,032,263,284
Appropriations	(5,647,160,000)	(3,495,314,559)	(3,945,595,059)	(4,094,069,559)
Rescissions	(-286,859,000)	(-264,860,000)	(-381,846,000)	(-400,846,000)
Reappropriation FY 1982	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
Authority to borrow	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Appropriation for debt reduction	(-856,514,000)	(-665,545,275)	(-665,545,275)	(-665,545,275)
Subtotal, fiscal year 1982	(9,505,187,000)	(7,566,309,284)	(7,899,603,784)	(8,029,078,284)
Reappropriation FY 1983	(346,111,000)	(3,185,000)	(3,185,000)	(3,185,000)
(Appropriation to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
(By transfer)	(87,120,000)	(213,774,000)	(262,239,000)	(250,939,000)
(Limitation on administrative expenses)	(42,900,000)	(42,900,000)	(42,900,000)	(42,900,000)
(Increase in limitations)	(6,436,000)	(6,436,000)	(6,257,000)	(6,257,000)
(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitation on guaranteed loans)	(-16,715,750,000)	(-141,750,000)	(4,119,250,000)	(3,933,250,000)
(Limitation on obligations)	(300,000,000)	---	(250,000,000)	(125,000,000)
(Effect of deferral disapproval)	---	(38,415,000)	(44,015,000)	(44,015,000)
(Effect of new deferral)	---	(-2,000,000)	(-2,000,000)	(-66,000,000)
(District of Columbia funds - net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)
Total, title II - Increased Pay Costs:				
New budget (obligational) authority	6,204,886,000	6,187,225,640	6,106,872,640	6,145,002,640
(By transfer)	(129,006,000)	(164,846,000)	(112,861,000)	(145,872,000)
(Increase in limitations)	(79,559,000)	(78,500,000)	(78,500,000)	(78,500,000)
(Trust fund transfer)	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
Grand total - titles I and II:				
New budget (obligational) authority	16,056,184,000	13,756,719,924	14,009,661,424	14,177,265,924
Appropriations	(11,852,046,000)	(9,682,540,199)	(10,052,467,699)	(10,239,072,199)
Rescissions	(-286,859,000)	(-264,860,000)	(-381,846,000)	(-400,846,000)
Reappropriation FY 1982	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)
Authority to borrow	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)	(5,000,000,000)
Appropriation for debt reduction	(-856,514,000)	(-665,545,275)	(-665,545,275)	(-665,545,275)
Subtotal, fiscal year 1982	(15,710,073,000)	(13,753,534,924)	(14,006,476,424)	(14,174,080,924)
Reappropriation FY 1983	(346,111,000)	(3,185,000)	(3,185,000)	(3,185,000)
(Appropriation to liquidate contract authority and obligations)	(43,941,000)	(43,941,000)	(43,941,000)	(43,941,000)
(By transfer)	(216,126,000)	(378,620,000)	(375,100,000)	(396,811,000)
(Limitation on administrative expenses)	(122,459,000)	(121,400,000)	(121,400,000)	(121,400,000)
(Increase in limitations)	(6,436,000)	(6,436,000)	(6,257,000)	(6,257,000)
(Trust fund transfer)	(5,603,000)	(5,603,000)	(5,603,000)	(5,603,000)
(Transfer from Commodity Credit Corporation)	(5,681,000)	(5,681,000)	(5,681,000)	(5,681,000)
(Limitation on direct loans)	(42,484,000)	(12,484,000)	(42,484,000)	(42,484,000)
(Limitation on guaranteed loans)	(-16,715,750,000)	(-141,750,000)	(4,119,250,000)	(3,933,250,000)
(Limitation on obligations)	(300,000,000)	--	(250,000,000)	(125,000,000)
(Effect of deferral disapproval)	---	(38,415,000)	(44,015,000)	(44,015,000)
(Effect of new deferral)	--	(-2,000,000)	(-2,000,000)	(-66,000,000)
(District of Columbia funds - net)	(60,500,400)	(60,500,400)	(60,500,400)	(60,500,400)

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Speaker, I seek clarification of language contained in the committee report to accompany H.R. 6863 on pages 104 and 105 in the section concerning the Bureau of Mines.

I would like to enter into a brief colloquy with the chairman of the subcommiittee, the gentleman from Illinois (Mr. YATES), if the gentleman is available.

Mr. Speaker, the language concerns the implementation of Public Law 96-543 which authorizes the Secretary of the Interior to enter into a contract with Carnegie-Mellon University of Pittsburgh. The committee report reads as follows:

The committee understand that suitable appraisals of the fair market value as of September 1, 1982, of the Forbes Avenue property have recently been obtained. Therefore, the committee expects the Secretary to now establish a fixed price for the property based on its fair market value as of September 1, 1982, so that a contract of sale with Carnegie-Mellon University can be entered into without delay.

Mr. Speaker, it is my understanding that this transaction will not cost the Federal Government any money. With that in mind, Mr. Speaker, was it the committee's intent that the price in question be the fair market value as of the date of the contract which is September 1, 1982.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. WILLIAM J. COYNE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Speaker, the statement of the gentleman is correct. That was the committee's intent.

Mr. WILLIAM J. COYNE. I thank the chairman of the subcommittee.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. MYERS).

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Mr. MYERS. Mr. Speaker, I signed the conference report with a couple exceptions and I think the number of exceptions that we have in the conference report by the signers indicates that there certainly were problems with this supplemental. The bill has a lot of money in it that is very important to the functions of our Government; but also at this late date in this fiscal year it is very obvious by the size of this supplemental that there is going to be money that cannot be spent wisely; so I am afraid this supplemental is facing a certain veto. Particularly, one item that I object to, there are some weapons requests that I think it would have been wise for us to have continued the purchase and construction of these weapons.

The other amendment, No. 177, requires the President, or the executive, to hire some people in some agencies that might not be needed. I think this is unwise for us at this time. At the proper time I am going to ask that we withhold our support for these two amendments.

Mr. CONTE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, chapter VII is not controversial. The major difference between the House passed bill and the conference agreement is the language in the annual contributions for assisted housing paragraph.

The language amends the Urgent Supplemental Appropriations Act by mandating that $1,750,000,000 provided in such act shall be available to assist in "buying out" the section 8 pipeline. The Urgent Supplemental Appropriations Act provides that the $1,750,000,000 could be used to buy out the section 8 pipeline. OMB is insisting that the $1,750,000,000 be deferred until fiscal year 1983. The language agreed upon will insure that the existing pipeline of section 8 and public housing units will have sufficient funds to go to construction.

Chapter VII also includes $150,000 and bill language requiring that the Director of the Selective Service establish, at the time of mobilization, civilian review boards to review appeals made by conscientious objectors to their job assignments.

In addition to agreements reached on various pay cost requirements, chapter VII includes language permitting the transfer of $4,198,000 from the Veterans' Administration's medical care account to the medical and prosthetic research account for the purpose of three agent orange studies. The conferees believe that such medical research should be managed within the medical and prosthetic research account.

The conference report contains two other items which I consider especially important. By making an additional $26.5 million available for three discretionary programs for educating handicapped children, this legislation will restore the programs to about the level of funding they received in fiscal year 1981. These programs had been reduced between 20 percent and 50 percent by the continuing resolution adopted by Congress late last year, and those reductions were altogether too severe. The money we spend on providing a quality education to those of our children who are handicapped pays extraordinary dividends by helping them become fully productive members of society. I am pleased that this conference report gives us an opportunity to insure the continued effective operation of these vital education programs.

When the supplemental appropriations bill was before the House several weeks ago, I indicated to my colleagues that it would insure that the problem created by the decision of Secretary of Education Bell to use 1970 rather than 1980 census data in allocating title I compensatory education for the disadvantaged funds was resolved. By making available an additional $148 million in title I funds, the bill will allow allocations for the coming school year to be made on the basis of either the 1970 or 1980 census data, whichever yields the higher allocation. The conference report further clarifies the expected use of this appropriation by directing that it be used only in those counties that would experience a gain or loss in their allocation depending upon the selection of census data. It is important that title I funds go to those areas most in need of them, and this legislation will insure that that result is achieved.

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding.

There has been some talk here about a veto. I want to point out that with regard to the $148 million in this bill for the disadvantaged, title I; if this bill is vetoed, there is going to be a great deal of difficulty in a number of school districts. There will not be any congressional district in the United States that will escape this problem.

The problem comes in the allocation of the funds and whether the Department uses the 1970 census or the 1980 census as a basis for distributing the funds to local districts and there has been a dispute about that. The Census Bureau has not been able to finalize their census data, because they had some problems in Puerto Rico and a couple other places, and under the technical wording of the law the Education Department says that if they do not have the final data even down to the last precinct, that then they will distribute on the basis of the number of disadvantaged children in each district according to the 1970 census instead of the 1980 census.

This $148 million would provide enough money so that a district will receive whatever they would under whichever census would provide the most for that district. That is just for this year only; but if this bill is vetoed and it is sustained, there will be a lot of problems in a lot of school districts. The time to distribute the money is now and the districts with the increased population of disadvantaged will not receive the additional funds they need unless this bill will provide the $148 million in extra funds. There

is no congressional district in the United States that will escape this problem.

Mr. WHITTEN. Mr. Speaker. I yield such time as he may consume to the gentleman from Illinois (Mr. YATES).

Mr. YATES. Mr. Speaker, the conference agreement on the Interior chapter includes supplemental appropriations of $258,939,000, rescissions of $38,000,000, a reappropriation of $3,000,000, and transfer of $991,000, for a net increase over the budget estimates of $115,489,000. More than half of this amount is offset by a deferral of $64,000,000.

The conference agreement includes $130,900,000 for fire supplementals, $21,000,000 for the resettlement and relocation of the people of Bikini Atoll, and $6,200,000 for improvement of the royalty management program in the Department of the Interior. The conference agreement provides $2,000,000 for planning and design for the reconstruction of the Wolf Trap Farm Park for the Performing Arts, and $2,000,000 to restore the F.D.R. Home National Historic Site at Hyde Park, N.Y., both of which were destroyed or damaged by fire.

The conference agreement provides $11,200,000 for construction of sanitation facilities for Indian housing units which are under construction by BIA and HUD in fiscal year 1982, but without the necessary central sanitation facilities to make them habitable.

There is included in the conference agreement a plan to terminate the Federal Government's direct involvement in the SRC-I project. The agreement includes $28,100,000 for postbaseline work, including toxicological studies, $22,000,000 for termination costs, and $5,000,000 for the Department of Energy to manage these activities. The balance of the amount previously appropriated for the SRC-I project, $64,000,000, has been deferred. It will receive further consideration in the regular appropriations bill, for the Department of the Interior for fiscal year 1983.

A rescission of $8,000,000 for the Federal Inspector for the Alaska gas pipeline as proposed by the administration is included in the conference agreement. In addition to this rescission, the agreement also provides for rescission of $30,000,000 in annual contract authority under the land and water conservation fund. The agreement provides that this amount be appropriated for land acquisition, to be used for payment of anticipated deficiencies for land condemnation cases on which court action has been completed or is pending.

The conferees have developed a sound, balanced proposal. I recommend its adoption as presented.

● Mr. KASTENMEIER. Mr. Speaker, the conference report (H. Rept. No. 97-747) on H.R. 6863 contains $41,750,000 for buildings and facilities for the Federal prison system. The House had originally approved $1.5 million of this amount to improve security at the Metropolitan Correctional Center in Miami, Fla. The Senate added $22 million for the construction of a new Federal prison in Phoenix, Ariz.; $1,250,000 to acquire and renovate a surplus U.S. Air Force facility at Mount Laguna, Calif., for a minimum security camp; and $17 million for a detention facility for the detention of aliens. The conference report indicates that the detention facility may be located in either El Reno, Okla. (colocated with a Federal prison which is there), or in Oakdale, La., and that before alternate sites are approved, reprograming procedures must be followed. I have particular concerns about the $17 million detention facility. On May 25, 1982, the administration requested $35 million in this supplemental bill for the construction of two 1,000-bed detention facilities for aliens—each to be colocated with a Federal prison—one in Petersburg, Va., and the other in El Reno, Okla. On June 23, the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice held hearings on this proposal.

I have subsequently expressed my views to the gentleman from Iowa (Mr. SMITH) on the many problems with the proposal to build such facilities, and I appreciate the attention which he has given to my views.

First, I question whether there is a need for such facilities. Within the past year the administration has tightened its standards for the release of aliens pending determination of their immigration status and asylum claims. The new policy has resulted in the detention of 2,000 Haitians in INS camps and BOP facilities. Recently Judge Eugene Spellman ordered the release of most of these Haitians. One of the Haitians who was a plaintiff in the case committed suicide last week. Many other Haitians in detention have attempted suicide. I regret this rigid detention policy and the slowness in effectuating release to appropriate relatives and community sponsors. Community release offers a less expensive, more humane alternative to undocumented aliens, many of whom are seeking asylum.

Second, assuming that there may be a need to increase the number of detention spaces for undocumented aliens, I question the fact that the administration has idicated its intent to build 1,000-bed facilities. If the bureau of Prisons (BOP) was constructing a new prison for convicted criminals, as opposed to undocumented aliens, it would not build any facility larger than 500 beds, in order to be consistent with current correctional standards.

In addition to questions about the size of these facilities, I question the remote location of these facilities—distant from the places of apprehension and from families and legal representatives of these aliens. Therefore, smaller facilities located closer to major metropolitan areas might be more suitable. The gentleman from Kentucky (Mr. MAZZOLI) has indicated that this would be a preferable alternative.

My final question is whether the BOP is the appropriate caretaker of undocumented aliens. Traditionally the INS has been given this responsibility. In conclusion, I believe there are too many unanswered questions and variables; for example, immigration reform legislation, to justify the expenditure of $17 million on such a facility at this time.●

● Mr. MOFFETT. Mr. Speaker, the conference report on the supplemental appropriations bill, H.R. 6863, contains essential funding for vitally important programs, particularly the title I compensatory education program and title V, the senior community service employment program. Without the additional funding earmarked in the supplemental bill, the well-being of disadvantaged children and low-income elders—the most vulnerable members of our communities—will be seriously jeopardized.

H.R. 6863 contains an additional $148 million for title I. This sum represents the amount of title I dollars necessary to overcome the potential loss of funds based on either 1970 or 1980 census data. In my home State of Connecticut, the issue of using the outdated census figures on the number of children living below the poverty level could result in a significant loss of title I services. Since 1970, there has been an increase of 27 percent in the number of such poverty level children in Connecticut. The Connecticut State Department of Education has supplied me with figures that detail the extent of the damage done by computing allotments with 1970 census data. $3 million would be lost in title I funds; 4,100 children would be cut from the program; and, 200 staff positions would have to be terminated. Taken in conjunction with funding reductions casued by Federal budget cuts in education, the hardship imposed by the antiquated census data would be considerable—and entirely unfair. The $148 million for title I contained in the supplemental bill will insure that our State will not suffer from the use of outdated census data.

The senior community service employment program, title V, is facing shutdown if we do not appropriate the additional $211 million contained in H.R. 6863. I have heard from hundreds of title V participants, and those they serve, on the tremendous value

and benefits they have derived from the senior employment program. Nationwide, 54,200 low-income elders are taking part in the job training, job fairs, and referrals to permanent private sector employment provided by title V. In addition to the inherent sense of belonging and dignity which community service brings to elders, title V is a very wise investment for our Nation. A 1976-78 study by the National Retired Persons Association and the American Association of Retired Persons revealed that for every title V $1 invested, $1.15 is saved. The placement of retirees in permanent jobs yields a total rate of return of approximately 16 percent per year to the American taxpayer.

Allowing this program to shut down would simply be unconscionable. The $211 million contained in the supplemental bill will insure that this forward-funded employment initiative will continue to serve senior citizens through next summer. I must make note of an aspect of the conference agreement on title V about which I have grave reservations, at this point. The Older Americans Act clearly stipulates an allocation formula for title V which requires that 55 percent of new moneys be earmarked for State sponsors and 45 percent for national contractors. H.R. 6863, however, changes the statutory formula so that State sponsors will receive a reduced percentage of new title V dollars and national contractors an increase. The Connecticut State Commissioner on Aging has informed me that the loss of State title V funds will cause both job loss and dislocation for elders participating in the State-sponsored program. The State program currently provides employment for 158 economically disadvantaged elders, who may be adversely affected by job dislocation and changeover, due to the loss of State funds. It should also be noted that the State program insures an equitable distribution of services across the State, reaching seniors who are not assisted by private contractors.

In closing, I sincerely hope that President Reagan does not follow through on his threat to veto today's supplemental appropriations bill. Essential services for this Nation's disadvantaged citizens would be seriously undermined. Let us show our commitment to insuring the future well-being of the most vulnerable persons in this Nation, low-income elders and children, by approving H.R. 6863 overwhelmingly.●

Mr. RINALDO. Mr. Speaker, I rise in support of the conference report on H.R. 6863, the supplemental appropriations bill for fiscal year 1982.

As a strong supporter of employment rights and opportunities for older workers, I am particularly pleased to note the inclusion of $210 millon for the senior community service employment program under title V of the Older Americans Act. This amount, plus the $66.5 million appropriated in the continuing resolution, together provide a total of $277.1 million for fiscal year 1982—the same amount authorized in the older Americans act amendments of 1981, signed by the President last December. Because the program is forward funded, money in this bill will continue this program beyond September 30, 1982, through June 30, 1983, at its current national level of 54,200 jobs.

I have been a consistent supporter of the cost-effective older workers program because it provides the opportunity for low-income persons aged 55 and over the chance to remain active and vital members of the work force. The program helps workers to lead independent, productive, and satisfying lives, while performing critical community services in such settings as clinics, hospitals, schools, libraries, and senior citizens' nutrition sites. In my own State of New Jersey, over 1,680 individuals depend on title V for employment.

It is critical that we maintain the existing partnership between the States and the national contractors in sponsoring these jobs. Moreover, any disruption in funding caused by the failure to timely implement this appropriations bill will create untold hardship among the thousands of title V job holders and those who depend on them for vital services. The Congress owes it to our Nation's elderly to provide continued funding for older workers' jobs now.●

● Mr. RAHALL. Mr. Speaker, today I rise to express my support to amendment No. 55 to the conference report on H.R. 6863, making supplemental appropriations for fiscal year 1982. This amendment makes it clear that Congress intended for work authorized under section 202 of the Energy and Water Development Act of 1981, the Tug Fork flood protection project, to be carried out especially with regard to the Williamson, W. Va., and Pineville and Barbourville, Ky., project components.

Earlier this year the administration turned its back on the taxpayers of this region by ordering a halt to all construction on the Tug Fork project. Their decision was based on false assumptions. This amendment, hopefully, will clarify the intent of Congress with regard to this flood protection project. Several years ago, this project was passed after undergoing close Congressional scrutiny. Once again, we must make clear to an administration that this is a worthwhile project, that is needed and has many benefits.

I wish to commend the conferees on both sides of the aisle and in both Houses for including this language in the supplemental appropriations bill. This should send a clear signal to the administration that Congress supports the construction of flood protection measures on the Levisa and Tug Forks of the Big Sandy River.●

● Mr. TRAXLER. Mr. Speaker, I want to take this opportunity to compliment the chairman of the Appropriations Committee, Mr. WHITTEN, for his skillful leadership of the House conferees on this supplemental appropriations bill. I know that budget limitations make any appropriations bill a difficult task, and it is only through the diligence of efforts like those of the gentleman from Mississippi that we will be able to be sure that proper attention is given to all of our diverse spending needs.

I am particularly interested in the section of the conference report which accompanies this legislation dealing with certain pilot school lunch projects. The House had originally taken the position that the Department of Agriculture could not give bonus assistance in any form but commodities, whereas the Senate had taken the position that the bonus assistance could be given either in cash, letter of credit, or commodities.

This issue is particularly critical because the bonus commodities that USDA provides to the school lunch program are out of surplus stocks held by USDA as a result of price support operations.

The Department had claimed that it could only conduct the pilot study which had been authorized in the fiscal 1981 Agricultural Appropriations Act if it was able to give out bonus assistance in mulitiple forms. If bonus assistance was available only in the form of commodities, the Department claimed that some of the schools participating in the study would drop out. I have yet to see any documentation beyond the assertions of the Department regarding this matter.

But the conferees recognized the essential element: The bonus commodity assistance provided to schools participating in the school lunch program is a program separate and distinct from the national school lunch program. When this study was authorized, and even now, we had no intention whatsoever of changing this bonus commodity program. Bonus commodity assistance, the report points out, will remain available so long as there are commodity surpluses to distribute.

For this very reason, the report clearly states that the Department shall not include in its evaluation phase any of the impacts of bonus assistance. The study is geared solely toward the basic school lunch program, not the bonus assistance program. Because the Department has given the committee assurances that it can "net out" the effects of bonus assistance, we feel confident that we can have a credible study of the basic

school lunch program without jeopardizing the bonus commodity program.

But the Department must be aware that it is directed to separate out the impact of bonus assistance in its evaluation of these projects. It is being allowed to give bonus cash and bonus letters of credit only so that it can continue to run the pilot project without interruption. We are taking the Department at its word that schools would not participate in the absence of multiple forms of bonus assistance, and that its study methodology will allow for it to separate out the impact of bonus assistance. If the Department cannot meet these conditions, we expect the Department to tell the House Appropriations Committee immediately.

The bulk of the problems associated with this program have been of the Department's own making. It failed to secure total agreement in its study design from the Appropriations Committee, which authorized and funded this study. This point cannot be made too clearly. An examination of our hearing record with the Food and Nutrition Service on its fiscal 1983 request shows that the Department did not provide the same level of detail in response to questions about this program as it had in a recent meeting with committee staff regarding these pilot projects. I cannot explain why such detail was not provided earlier, and I appreciate the fact that the technicians working on this project at USDA have made every effort to be as honest as they can with respect to this project. Perhaps their recognition of a detailed response was not appreciated by the people holding policy positions at USDA. I am hopeful that such problems will not occur in the future.

The point, Mr. Speaker, is a simple one: USDA can give bonus assistance in the form it claims is necessary, but it may not evaluate bonus assistance in the study because the Appropriations Committee did not authorize such a study, and we fully expect the bonus program to continue to operate in its present form so long as surplus commodities remain.

The report also maintains the original House position regarding the third year of operation of these pilot projects: The Department should not make any plans for a third year without further authorization from Congress. We will review the operation of the project as it is underway, and make a determination with respect to the third year at a future date.

Again, Mr. Speaker, I want to thank the chairman, Mr. WHITTEN, and the staff of the Agricultural Appropriations Subcommittee, Mr. Bob Foster, and Mr. Hank Moore, for their assistance in this matter. It is one of great concern to me, and one which I will continue to pursue.●

● Mr. BIAGGI. Mr. Speaker, I rise to address myself to the pending amendment reported in technical disagreement to which a motion for the House to recede and concur will be offered. The program involved here is title V of the Older Americans Act—the Community Service Employment for Older Americans program.

The net effect of the upcoming motion will be to legislate on an appropriations bill which is violative of clause 2, rule 21. In fact—I had raised a point or order during House consideration of H.R. 6863 on this very point and it was sustained. Immediately afterward an amendment was offered which was ultimately accepted by the House which in effect was equivalent to language ruled to be out of order. One of the reasons this amendment was adopted was because its content was clearly misrepresented by its sponsor.

What is at issue here is the formula for distribution of the $277 million reserved for the title V program. Under the 1978 amendments to the Older Americans Act—a revision was made in the formula to try and provide more funds for the various State administered programs. As a result—during fiscal year 1981 and thus far in fiscal year 1982—76 percent of the funds have been given to eight national contractors and the remaining 24 percent to the various State programs.

The House version of H.R. 6863 proposed to give national contractors 80 percent of the funds while reducing State programs to 20 percent. Despite this being against the letter of the law it was pursued with great vigor for adoption by the House. The House language, had it prevailed, would have produced the loss of jobs for some 2,000 low-income elderly around this Nation.

When the House and Senate met in conference—a compromise agreement was achieved whereby 78 percent of funds will be reserved for national contractors and the remaining 22 percent for States. At this juncture let me pay tribute to my two colleagues from New York, Senators D'AMATO and Mr. ADDABBO for their herculean efforts which averted the full brunt of problems which would have occurred if the amendment agreed to by the House were upheld.

There are several issues involved here—the first of course relates to the program. The State administered programs are doing a find job of providing employment opportunities for eligible elderly. Estimates indicate that on the average State programs spend at least 5 percent less than they are allowed to under law for administrative costs meaning they spend more funds for the intended purpose providing employment. The record among some of the national contractors is nowhere as good and this should be remembered by those who would seek to give them more of the share of the funds under title V. It should also be noted that in a letter prepared by five of the eight national contractors they urged support for retaining the existing statutory formula for distribution of these funds.

The second main issue involved in this matter relates to the relationship between authorizing and appropriations committees in this House. The House Education and Labor Committee under the distinguished leadership of CARL PERKINS has been the author and primary advocate for the various programs of the Older Americans Act since its creation in 1965. In 1981 the House and Senate overwhelmingly approved and the President readily signed into law the Older Americans Act amendments of 1981 which reauthorized for 3 years all of the programs under the act including title V. This same bill called for retaining the existing formula for distribution of the funds—namely 76 percent for national contractors and 24 percent for States. It did so and in the conference report which accompanied the legislation it stated clearly relative to the retention of the formula "efforts to distort this formula through other legislative vehicles clearly violate the letter and spirit of this act."

Certain members of the Appropriations Committee felt fit to ignore the existing law and seek to alter this formula. Unfortunately in this endeavor they have succeeded and the impact which this will have on the program remains to be seen. However one clearly recognizes the fact that it represents an unfortunate usurption of power from the Committee on Education and Labor and if the President should veto the legislation I will work to insure the formula is restored to present ratios.

What is not in dispute here today is the value and importance of title V for the 54,200 elderly it now serves. What is not in dispute is the millions of hours of community service provided by title V workers.

I am fully supportive of the fact that $210 million has been offered for retaining title V. Failure for us to complete the appropriation of this program today could result in the sending of traumatizing lay off notices for most title V workers. This is something we do not want.

I will support this conference report but wanted to make sure for the record that I convey my total opposition to the tampering with the title V formula and my resentment for the methods used to accomplish this change.●

Mr. CONTE. Mr. Speaker, I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 67, not voting 19, as follows:

[Roll No. 293]

YEAS—348

Addabbo	Daschle	Goldwater
Akaka	Daub	Gonzalez
Albosta	Davis	Goodling
Alexander	de la Garza	Gore
Anderson	Deckard	Gradison
Andrews	Dellums	Gray
Annunzio	DeNardis	Green
Anthony	Derrick	Guarini
Applegate	Dickinson	Gunderson
Aspin	Dicks	Hamilton
AuCoin	Dingell	Hammerschmidt
Bailey (MO)	Dixon	Harkin
Bailey (PA)	Donnelly	Hatcher
Barnes	Dorgan	Hawkins
Beard	Dornan	Heckler
Bedell	Dougherty	Hefner
Beilenson	Dowdy	Hendon
Benedict	Downey	Hertel
Benjamin	Duncan	Hightower
Bereuter	Dunn	Hiler
Bethune	Dwyer	Hillis
Bevill	Dymally	Holland
Biaggi	Dyson	Hollenbeck
Bingham	Early	Hopkins
Blanchard	Eckart	Horton
Bliley	Edgar	Howard
Boggs	Edwards (AL)	Hoyer
Boland	Edwards (CA)	Huckaby
Bolling	Emerson	Hutto
Boner	Emery	Hyde
Bonior	English	Ireland
Bonker	Erdahl	Jacobs
Bowen	Erlenborn	Jeffords
Breaux	Ertel	Jeffries
Brinkley	Evans (DE)	Jenkins
Brodhead	Evans (GA)	Jones (NC)
Brooks	Evans (IA)	Jones (OK)
Broomfield	Evans (IN)	Kastenmeier
Brown (CA)	Fary	Kazen
Burgener	Fascell	Kemp
Burton, Phillip	Fazio	Kennelly
Butler	Fenwick	Kildee
Byron	Ferraro	Kogovsek
Campbell	Fiedler	Kramer
Carman	Findley	LaFalce
Carney	Fithian	Lagomarsino
Chappie	Flippo	Lantos
Chisholm	Florio	Leach
Clausen	Foglietta	LeBoutillier
Clay	Foley	Lee
Clinger	Ford (MI)	Lehman
Coats	Ford (TN)	Leland
Coelho	Forsythe	Lent
Coleman	Fountain	Levitas
Collins (IL)	Fowler	Livingston
Conable	Frank	Long (LA)
Conte	Frost	Long (MD)
Conyers	Fuqua	Lowry (WA)
Coughlin	Garcia	Lujan
Coyne, James	Gaydos	Luken
Coyne, William	Gejdenson	Lundine
Crockett	Gephardt	Lungren
D'Amours	Gibbons	Markey
Daniel, Dan	Gilman	Marriott
Daniel, R. W.	Glickman	Martin (NC)
Martin (NY)	Porter	Smith (PA)
Martinez	Price	Snowe
Matsui	Pritchard	Solarz
Mattox	Pursell	Solomon
Mavroules	Quillen	St Germain
Mazzoli	Rahall	Stangeland
McClory	Railsback	Stark
McCloskey	Rangel	Staton
McCollum	Ratchford	Stokes
McCurdy	Regula	Stratton
McDade	Reuss	Studds
McEwen	Rhodes	Swift
McGrath	Richmond	Synar
McHugh	Rinaldo	Tauke
McKinney	Ritter	Tauzin
Mica	Roberts (KS)	Traxler
Mikulski	Roberts (SD)	Trible
Miller (CA)	Robinson	Udall
Miller (OH)	Rodino	Vander Jagt
Mineta	Roe	Vento
Minish	Rogers	Walgren
Mitchell (MD)	Rose	Wampler
Moakley	Rosenthal	Washington
Molinari	Rostenkowski	Watkins
Mollohan	Roth	Waxman
Morrison	Roukema	Weaver
Motti	Roybal	Weber (MN)
Murphy	Rudd	Weiss
Murtha	Russo	White
Myers	Sabo	Whitehurst
Napier	Santini	Whitley
Natcher	Savage	Whittaker
Neal	Sawyer	Whitten
Nelligan	Scheuer	Williams (MT)
Nelson	Schneider	Williams (OH)
Nichols	Schroeder	Wilson
Nowak	Schulze	Winn
Oakar	Schumer	Wirth
Oberstar	Seiberling	Wolf
Obey	Shamansky	Wolpe
Ottinger	Shannon	Wortley
Oxley	Sharp	Wright
Panetta	Shaw	Wyden
Parris	Shelby	Wylie
Patterson	Siljander	Yates
Pease	Simon	Yatron
Pepper	Skeen	Young (AK)
Perkins	Skelton	Young (FL)
Petri	Smith (IA)	Young (MO)
Peyser	Smith (NE)	Zablocki
Pickle	Smith (NJ)	Zeferetti

NAYS—67

Archer	Grisham	McDonald
Ashbrook	Hagedorn	Michel
Atkinson	Hall (OH)	Montgomery
Badham	Hall, Ralph	Moore
Barnard	Hall, Sam	Moorhead
Bennett	Hance	Patman
Bouquard	Hansen (ID)	Paul
Broyhill	Hansen (UT)	Roemer
Cheney	Hartnett	Rousselot
Collins (TX)	Hubbard	Sensenbrer.ner
Corcoran	Hughes	Shumway
Craig	Hunter	Shuster
Crane, Daniel	Johnston	Smith (AL)
Crane, Philip	Jones (TN)	Smith (OR)
Dannemeyer	Kindness	Snyder
Derwinski	Latta	Spence
Dreier	Leath	Stenholm
Edwards (OK)	Lewis	Stump
Fields	Loeffler	Taylor
Frenzel	Lott	Thomas
Gingrich	Lowery (CA)	Walker
Gramm	Marlenee	
Gregg	Martin (IL)	

NOT VOTING—19

Bafalis	Ginn	O'Brien
Brown (CO)	Heftel	Pashayan
Brown (OH)	Holt	Stanton
Burton, John	Madigan	Volkmer
Chappell	Marks	Weber (OH)
Courter	Mitchell (NY)	
Fish	Moffett	

□ 1610

The Clerk announced the following pairs:

On this note:

Mr. Courter for, with Mr. Brown of Colorado against.

Mr. TAYLOR, Mr. ATKINSON, Mrs. MARTIN of Illinois, and Messrs. GINGRICH, HERTEL, SAM B. HALL, JR., JONES of Tennessee, and BADHAM changed their votes from "yea" to "nay."

Messrs. JEFFORDS, SKELTON, EMERSON, SOLOMON, and HERTEL changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. KAZEN). Is there objection to the request of the gentleman from Colorado? The Chair hears none, and, without objection, appoints the following conferees: Messrs. DINGELL, WIRTH, and BROYHILL.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT AND MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the conference report on the bill, H.R. 3239, may be filed with the House by midnight tonight, and that it be in order to consider the conference report on the bill, H.R. 3239, at any time after it is filed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

GENERAL LEAVE

Mr. FRENZEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Resolution 521, the consideration of which has been postponed indefinitely.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT THURSDAY, AUGUST 19, 1982, DURING 5-MINUTE RULE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may be permitted to sit tomorrow, August 19, 1982, for the purpose of considering legislation during the time that the House is sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS ACT, 1982

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Senate amendments numbered 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178 be considered en bloc and printed in the RECORD.

This does not include the controversial items we discussed earlier. I have conferred with my colleague on the Republican side, the gentleman from Massachusetts (Mr. CONTE) and I ask that these be considered en bloc.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. The Clerk will designate the amendments in disagreement.

The Senate amendments offered en bloc are as follows:

Senate amendment No. 1: Page 2, after line 13, insert:

CONSERVATION

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

Funds appropriated for fiscal year 1982 under this account may be used under the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f), for the acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100.

Senate amendment No. 3: Page 2, after line 15, insert:

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $100,000 of the proposed deferral D82-225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs" as set forth in the message of February 5, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 4: Page 2, after line 15, insert:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

During fiscal year 1982, and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $30,000,000. During fiscal year 1982, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal. The unobligated balances in the Economic Development Revolving Fund shall be available for necessary expenses of protecting the Government's liability in federally guaranteed loans made prior to October 1, 1981, under the authority of title II of the Trade Act of 1974, as amended, including defaults of loan guarantees and care and protection of collateral and such other costs as may be necessary to protect the Government's investments.

Senate amendment No. 5: Page 3, strike out lines 2, 3, and 4, and insert:

For necessary expenses for designing, fabricating, installing and dismantling exhibits, and operating a Federal Pavilion in the Louisiana World Exposition, $10,000,000, to remain available through September 30, 1985, including not to exceed $65,000 for official entertainment of officials of other countries when specifically authorized by the Commissioner General: Provided, That no additional Federal funds shall be made available for this purpose: Provided further, That these funds shall be available only upon enactment into law of authorizing legislation.

Senate amendment No. 8: Page 4, after line 7, insert:

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

During 1982, total commitments to guarantee loans shall not exceed $675,000,000 of contingent liability for loan principal.

Senate amendment No. 10: Page 4, after line 24, insert:

BUSINESS LOAN AND INVESTMENT FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed $3,000,000,000 of contingent liability for loan principal.

Senate amendment No. 11: Page 4, after line 24, insert:

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves $2,500,000 of the proposed deferral D82-233A relating to the Small Business Administration, "Business Loan and Investment Fund" as set forth in the message of May 18, 1982, which was transmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 12: Page 4, after line 24, insert:

SURETY BOND GUARANTEES REVOLVING FUND

(DISAPPROVAL OF DEFERRAL)

The Congress disapproves the proposed deferral D82-234 relating to the Small Business Administration, "Surety Bond Guarantees Revolving Fund" as set forth in the message of February 5, 1982, which was tansmitted to the Congress by the President. This disapproval shall be effective upon enactment into law of this bill and the amount of the proposed deferral disapproved herein shall be made available for obligation.

Senate amendment No. 13: Page 4, after line 24, insert:

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE

REVOLVING FUND

During fiscal year 1982, within resources and authority available, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

Senate amendment No. 15: Page 6, after line 5, insert:

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Of the funds provided under the above heading for fiscal year 1982, not to exceed $80,290 shall be available to satisfy a settlement pursuant to the Back Pay Act (5 U.S.C. 5596 and 29 CFR 1613,217(a), 271 (a), (b), and (c)) for back wages from prior fiscal years.

Senate amendment No. 18: Page 6, line 21, strike out "such amounts" and insert "funds appropriated under this head for fiscal year 1982".

Senate amendment No. 19: page 7, line 9, strike out "such amounts" and insert "funds appropriated under this head for fiscal year 1982".

Senate amendment No. 21: Page 7, line 21, after "$1,500,000," insert "of which $1,000,000 shall be derived by transfer from "Salaries and expenses, Antitrust Division",".

Senate amendment No. 22: Page 7, line 21, after "expended" insert ": *Provided*, That sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned: And provided futher, That the building to house aliens be constructed in a separate building from an existing Bureau of Prisons building housing Federal prisoners".

Senate amendment No. 37: Page 13, line 20, after "1982/1984"," insert "$7,500,000 shall be derived by transfer from "Weapons procurement, Navy, 1982/1984",".

Senate amendment No. 44: Page 16, line 5, after "Europe" insert "when coal from the United States is available".

Senate amendment No. 47: Page 16, line 20, strike out "$2,601,500" and insert "$3,401,500, of which $800,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council".

Senate amendment No. 49: Page 17, line 11, strike out "$38,144,400" and insert "$40,044,400 of which $1,900,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council".

Senate amendment No. 50: Page 18, after line 11, insert:

ADMINISTRATIVE PROVISIONS

Title 11 of the District of Columbia Code is amended by adding the following new section:

"§ 11-1732. Hearing commissioners

"(a) The chief judge of the superior court may appoint and may remove hearing commissioners who shall serve in the superior court and shall, in addition to the perform-

ance of the duties enumerated in subsection (c) of this section, perform such other duties as are not inconsistent with the Constitution and laws of the United States and of the District of Columbia, or as may be assigned by rule of the superior court.

"(b) No individual may be appointed or serve as a hearing commissioner under this section unless he or she has been a member of the bar of the District of Columbia for at least three years.

"(C) A hearing commissioner, when specifically disignated by the chief judge of the superior court, may perform the following functions:

"(1) administer oaths and affirmations and take acknowledgments.

"(2) with the consent of the parties, determine conditions of release and pretrial detention pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedures).

"(3) with the consent of the parties, conduct preliminary examinations in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

"(4) with the consent of the parties involved make findings and recommendations in uncontested proceedings, and in contested hearings in the civil, criminal and family divisions of the superior court. A rehearing of the case, or a review of the hearing commissioner's findings and recommendations, may be made by a judge of the appropriate division sua sponte. The findings and recommendations of the hearing commissioner shall when approved by a judge of the appropriate division constitute a final order of the Superior Court.

"(5) with the consent of the respondent make findings and recommendations in any nonjury traffic infraction matters in the superior court. A rehearing of the case, or a review of the hearing commissioner's findings and recommendations, may be made by a judge of the superior court sua sponte. The findings and recommendations of the hearing commissioner when approved by a judge of the superior court shall constitute a final order of the superior court.

"(d) The provisions contained in this section shall remain in effect until September 30, 1983.".

Senate amendment No. 51: Page 18, after line 12, insert:

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance", $2,000,000, to remain available until expended, to be derived by transfer of unobligated balances in the construction program.

Senate amendment No. 55: Page 19, after line 20, insert:

Appropriations for the execution of work pursuant to section 202 of the 1981 Energy and Water Development Appropriations Act shall be made available for obligation in the amount designated for that purpose with emphasis on the Pineville and Barbourville, Kentucky and Williamson, West Virginia project components and without regard to any other designation in the joint explanatory statement of the committee of conference (Report No. 97-345) pursuant to title I of the Energy and Water Development Appropriations Act, 1982. Flood control measures authorized by section 202 of the 1981 Energy and Water Development Appropriations Act involving high levees and floodwalls in urban areas should provide for a standard project flood level of protection where the consequences from overtopping caused by large floods would be catastrophic.

Senate amendment No. 67: page 22, after line 5, insert:

MEDICAL AND PROSTHETIC RESEARCH

(TRANSFER OF FUNDS)

For an additional amount for "Medical and prosthetic research", $4,198,000, to remain available until September 30, 1983, and which shall be derived by transfer from "Medical care".

Senate amendment No. 74: Page 25, line 2, after "legislation" insert ": *Provided further,* That the Park Service shall obligate by November 1, 1982, out of funds available, no more than $160,000 for the rehabilitation of the mounted police training barn at Rock Creek Park Horse Center for use by the National Center for Therapeutic Riding, as directed by the managers of the Committee of Conference on the bill making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1981 (Public Law 96-514).".

Senate amendment No. 83: Page 26, line 18, after "$7,000,000" insert ": *Provided,* That $11,100,000 of such amount shall be immediately available for transfer to the State of Alaska to assist in the basic operation and maintanance during the period ending September 30, 1984, of formerly Bureau-owned schools which have been transferred to the State, such sum to be in addition to assistance otherwise available under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.) or any other Act to such schools on the same basis as other public schools".

Senate amendment No. 88: Page 28, after line 11, insert:

For an additional amount for "Construction and land acquisition", $3,000,000, to remain available until expended, for partial payment, subject to the execution of a memorandum of understanding by September 30, 1982 between the Secretary of the Interior, the Secretary of Agriculture, and the Chugach Natives, Incorporated, for the settlement of land claims of the Chugach Natives, Incorporated as authorized by Section 1302(h) and Section 1430 of the Alaska National Interest Lands Conservation Act (Public Law 96-487) and Section 22(f) of the Alaska Native Claims Settlement Act, as amended (Public Law 94-204): Provided, That in the memorandum of understanding, Chugach Natives, Incorporated shall generally describe the lands to be conveyed to it in satisfaction of all its entitlements.

Senate amendment No. 89: Page 28, after line 15, insert:

ADMINISTRATIVE PROVISION

Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Forest Service, U.S. Department of Agriculture shall not exceed $400 annually.

Senate amendment No. 93: Page 30, after line 19, insert:

INSTITUTE OF MUSEUM SERVICES

Of the funds made available under this heading in Public Law 97-100, $720,000 shall remain available for obligation until September 30, 1983.

Senate amendment No. 96: Page 32, after line 2, insert:

(RESCISSION)

Of the amounts available for obligation in fiscal year 1982 for "Employment and training assistance", $48,146,000 are rescinded.

Senate amendment No. 100: Page 32, line 23, after "expenses" insert ": *Provided,* That none of the funds made available under this head for fiscal year 1982 may be obligated or expended to enforce or prescribe as a condition for initial, continuing, or final approval of State plans under section 18 of the Occupational Safety and Health Act of 1970, State administrative or enforcement staffing levels which are greater than levels which are determined by the Secretary to be equivalent to Federal staffing levels".

Senate amendment No. 103: Page 33, after line 17, insert:

Funds appropriated for fiscal year 1982 pursuant to section 1537 of the Public Health Service Act shall not be denied to a health systems agency solely because it fails to meet the numerical criteria for staffing under section 1512(b)(2)(B) of the Act if the minimum size of its professional staff is three, or, if the quotient of the population (rounded to the nearest three hundred thousand) of the health service area which the agency serves divided by three hundred thousand is greater than three, the minimum size of the professional staff is the lesser of (i) such quotient, or (ii) twenty-five.

Senate amendment No. 107: Page 35, line 7, after "reduced" insert ": *Provided further,* That in the case of Puerto Rico, poverty data gathered by the Bureau of the Census in the 1975 Survey of Income and Education shall be used if 1980 Census data are not available".

Senate amendment No. 108: Page 35, after line 19, insert:

For an additional amount under section 7 of Public Law 874, Eighty-first Congress, to be made available to the Waubay School District, Waubay, South Dakota, $200,000.

Senate amendment No. 114: Page 39, after line 2, insert:

SENATE

SALARIES, OFFICERS AND EMPLOYEES

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For an additional amount for "Offices of the Majority and Minority Leaders", $120,000.

ADMINISTRATIVE, CLERICAL, AND LEGISLATIVE ASSISTANCE TO SENATORS

For an additional amount for "Administrative, clerical, and legislative assistance to Senators", $80,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For an additional amount for "Offices of the Secretaries for the Majority and Minority", $100,000.

CONTINGENT EXPENSES OF THE SENATE

MISCELLANEOUS ITEMS

For an additional amount for "Miscellaneous Items", $938,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective October 1, 1981, the allowance for administrative and clerical assistance of each Senator from the State of Florida is increased to that allowed Senators from States having a population of ten million but less than eleven million, the population of said State having exceeded ten million inhabitants.

SEC. 102. The third sentence of section 105(b) of the Legislative Branch Appropria-

tion Act, 1957 (2 U.S.C. 123b (b)) is amended by striking out "and committees of the Senate" and inserting in lieu thereof "committees of the Senate, the Secretary of the Senate, and the Sergeant at Arms of the Senate".

SEC. 103. Clause (1) of section 117 of Public Law 97-51 (2 U.S.C. 61f-8) is amended to read as follows:

"(1) the procurement of the services, on a temporary basis, of individual consultants, or organizations thereof, with the prior consent of the Committee on Rules and Administration; such services may be procured by contract with the providers acting as independent contractors, or in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate; and any such contract shall not be subject to the provisions of section 5 of title 41, United States Code, or any other provision of law requiring advertising; and".

SEC. 104. (a) Paragraph (2) of subsection (b) of section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended to read as follows:

"(2) In the event that the term of office of a Senator begins after the first month of any such calendar year or ends (except by reason of death, resignation, or expulsion) before the last month of any such calendar year, the aggregate amount available to such Senator for such year shall be the aggregate amount computed under paragraph (1) of this subsection, divided by 12, and multiplied by the number of months in such year which are included in the Senator's term of office, counting any fraction of a month as a full month.".

(b) The amendment made by subsection (a) of this section shall be effective on and after January 1, 1982.

SEC. 105. (a) The first sentence of the first section of the joint resolution relating to the payment of salaries of employees of the Senate, approved April 20, 1960 (Public Law 86-426; 2 U.S.C. 60c-1), is amended by striking out "Senators and officers and employees" and inserting in lieu thereof "the Vice President, Senators, and officers and employees".

(b) The third sentence of section 104 of title 3, United States Code, is repealed.

(c) Amendments and repeals made by the preceding provisions of this section shall be effective in the case of compensation payable for months after December 1981.

SEC. 106. If at the close of any fiscal year there is an unexpended balance of funds which were appropriated for such year (or for prior fiscal years) and which are subject to disbursement by the Secretary of the Senate for any purpose, then, if such unexpended balance is by law rescinded, any unpaid obligations chargeable to the balance so rescinded (or to appropriations for such purpose for prior years) shall be liquidated from any appropriations for the same general purpose, which, at the time of payment, are available for disbursement.

SEC. 107. For the fiscal year ending September 30, 1982, and for each of the next three succeeding fiscal years, the Secretary of the Senate is authorized to pay to the General Services Administration such amounts as may be necessary to reimburse the Archivist of the United States for expenditures made to conduct a project to provide for the proper preservation of the Senate's records of continuing valve, which expenditures cannot be defrayed from funds otherwise available for such purpose. The aggregate of the sums paid to the General Services Administration under this section shall not exceed $300,000. Amounts paid under this section shall be paid from the contingent fund of the Senate on vouchers approved by the Secretary of the Senate.

Senate amendment No. 120: Page 41, line 8, after "$9,945,000" insert "to remain available until expended and".

Senate amendment No. 121: Page 41, line 12, after "$10,000,000" insert "to continue to remain available until expended and".

Senate amendment No. 123: Page 42, after line 7, insert:

For an additional amount for "Access highways to public recreation areas on certain lakes," $6,875,000, to remain available until expended.

Senate amendment No. 124: Page 42, after line 16, insert:

Unobligated balances of appropriations under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982, (Public Law 97-102; 95 Stat. 1442) are hereby rescinded, and an amount equal to such balances is appropriated, to remain unavailable until expended.

Senate amendment No. 126: Page 43, after line 3, insert:

Notwithstanding any other provision of law, the National Railroad Passenger Corporation (the "Corporation") shall be exempt from any taxes or other fees imposed by any State, political subdivision of a State, or local taxing authority which are levied on the Corporation, or any railroad subsidiary thereof, from and after October 1, 1981, including such taxes and fees levied after September 30, 1982: *Provided, however,* That notwithstanding any provision of law, the Corporation shall not be exempt from any taxes or other fees which it is authorized to pay as the date of enactment of this provision. Taxes and fees levied on the Corporation or any railroad subsidiary thereof by States, political subdivisions of States, or local taxing authorities with respect to periods beginning prior to October 1, 1981, shall be payable in proportion to the part of the relevant tax period which elapsed prior to such date. Notwithstanding the provision of 28 U.S.C. § 1341, the United States district courts shall have original jurisdiction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.

Senate amendment No. 128: Page 43, line 14, strike out all after "exceed" down to and including "development" in line 16 and insert

"$20,000,000 to remain available until expended. Notwithstanding any other provision of law, the authority granted under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior Acts shall continue during the period in which appropriations remain available for this purpose under the heading: 'Department of the Treasury, Office of the Secretary, Investment in Fund Anticipation Notes'.".

Senate amendment No. 135: Page 46, after line 1, insert:

NATIONAL TRANSPORTATION SAFETY BOARD

EMERGENCY FUND

For necessary expenses, not otherwise provided for, of the National Transportation Safety Board for accident investigations, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); $1,000,000, to remain available until expended.

Senate amendment No. 137: Page 46, line 9, strike out all after "notes," down to and including "development" in line 11 and insert

"$20,000,000 to remain available until expended. Unexpended balances under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior Acts are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended".

Senate amendment No. 140: Page 47, line 7, after "$77,232,000" insert ", of which $340,000 shall be used for the tax counseling for the elderly program (TCE) to retroactively reimburse volunteer tax counselors for personal and administrative expenses incurred during the past 1981 filing season.".

Senate amendment No. 143: Page 47, after line 13, insert:

ADMINISTRATIVE PROVISION

None of the funds provided in this Act or Public Law 97-161 shall be used for the redecoration, refurbishment, or remodeling of the office of the Commissioner of the Internal Revenue Service or the office of the Chief Counsel of the Internal Revenue Service.

Senate amendment No. 145: Page 47, line 20, after "expended" insert ": *Provided further,* That $1,518,000 appropriated herein for expansion of the Beltsville, Maryland, training facility shall remain available until expended".

Senate amendment No. 146: Page 48, line 2, after "1982" insert ": *Provided further,* That none of the funds made available by this or any other Act may be used to place the United States Secret Service, the United States Customs Services, and the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury".

Senate amendment No. 151: Page 50, after line 10, insert:

SENATE

"Salaries, officers and employees", $8,771,000;

"Office of the Legislative Counsel of the Senate, $66,000;

"Office of Senate Legal Counsel", $13,000;

"Senate Policy Committees", $110,000;

"Inquiries and investigations", $1,975,000;

"Folding documents", $6,000;

Senate amendment No. 153: Page 51, after line 9, insert:

"Senate Office Buildings," $200,000;

Senate amendment No. 166: Page 68, line 10, after "$80,000,000" insert ", of which $50,000,000 shall remain available until September 30, 1983".

Senate amendment No. 178: Page 77, after line 14, insert:

SEC. 304. Funds appropriated by chapter VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of $18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the

State of Washington as a result of a serious threat of catastrophic flooding.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendments of the Senate numbered: 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178 and concur therein.

Mr. CONTE. Mr. Speaker, the motion does not include amendments 150 or 177?

Mr. WHITTEN. That is correct.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No.: Page 2, after line 13, insert:

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

If the funds available under this Act or any other Act, heretofore or hereafter enacted, for Nurtrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minumum grant for each State shall be $50,000 to the extent that the funds are available.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

If the funds available for Nutrition Education and training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be $50,000.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 6: Page 3, after line 11, insert:

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operations, research, and facilities", $7,413,000, of which $5,250,000 shall be derived by transfer from "Coastal energy impact fund": *Provided*, That of the funds appropriated under this head, $200,000 shall remain available until expended for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall remain available until expended for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OPERATIONS, RESEARCH AND FACILITIES

For an additional amount for "Operations, research, and facilities", $2,163,000, to remain available until expended: *Provided*, That of the funds appropriated under this head, $200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed $50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission as amended in July 1982.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 17: Page 6, line 15, after "1983" insert ": *Provided further*, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That notwithstanding the provisions of title 31, United States Code 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further*, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation acts.".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 24: Page 8, after line 8, insert:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(TRANSFER OF FUNDS)

For an amendment amount for "Research and statistics", $900,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 24 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(TRANSFER OF FUNDS)

For an additional amount for "Research and statistics", $450,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 1630

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 41: page 15, after line 4, insert:

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for "Aircraft procurement, Air Force", $70,000,000, to remain available until September 30, 1984, only for purchase of KC-10 aircraft under a multi-year contract.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following:

"AIRCRAFT PROCUREMENT, AIR FORCE

"For an additional amount for "Aircraft procurement, Air Force", $120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or for fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 42: Page 15, line 7, strike out "$17,700,000" and insert "$88,600,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "$19,700,000".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 43: Page 15, after line 8, insert:

PROCUREMENT, DEFENSE AGENCIES

For an additional amount for "Procurement defense agencies", $10,000,000, to remain available until September 30, 1984.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$6,500,000."

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 16, after line 5, insert:

The transfer authority limitation contained in section 733 of Public Law 97-114 is increased to $900,000,000.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert "$800,000,000".

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 57: Page 21, line 7, after "expended" insert ": *Provided*, That of such amount not less than $10,000,000 shall be available only for the American University of Beirut".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 57, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment Number 58: Page 21, after line 7, insert:

ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $355,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That of such amount $10,000,000 shall be available only for Belize, $70,000,000 shall be available only for Costa Rica, $10,000,000 shall be available only for countries and territories of the Eastern Caribbean, $40,000,000 shall be available only for the Dominican Republic, $128,000,000 shall be available only for El Salvador, $5,000,000 shall be available only for Haiti, $40,000,000 shall be available only for Honduras, and $50,000,000 shall be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 58 concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, $350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: *Provided*, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than $20,000,000 for the Eastern Caribbean; not less than $41,000,000 for the Dominican Republic; not less than $10,000,000 for Haiti; not less than $50,000,000 for Jamaica; not less than $10,000,000 for Belize; not less than $70,000,000 for Costa Rica; not more than $10,000,000 for Guatemala; not less than $35,000,000 for Honduras; not more than $75,000,000 for El Salvador; not less than $2,000,000 for the American Institute for Free Labor Development; not less than $2,000,000 for the Inter-American Foundation; and $25,000,000 unallocated: *Provided further*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: *Provided further*, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent nar-

cotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extracontinental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination.".

Mr. CONTE (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Massachusetts will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this amendment provides for the Caribbean Basin initiative. It contains $350 million in economic support funds, the amount requested by the President.

The amendment will provide $20 million for the Eastern Caribbean, $41 million for the Dominican Republic, $10 million for Haiti, $50 million for Jamaica, $10 million for Belize, $70 million for Costa Rica, $35 million for Honduras, $2 million for AIFLD (Regional), $2 million for the Inter-American Foundation, $10 million for Guatemala, $75 million for El Salvador, and $25 million allocated.

While the amendment before us contains the funds for the Caribbean Basin Initiative, it should be viewed in the context of the package of foreign assistance items that this bill contains.

Along with the $350 million requested for the CBI, the administration had also requested $301 million in total funds for various military assistance programs.

When this bill first came to the floor, I offered, on behalf of myself and Mr. KEMP, the ranking minority member of the Subcommittee on Foreign Operations, an amendment which represented a very carefully worked out compromise to these requests.

The compromise, which was supported by the administration, contained the $350 million for the CBI, but with only $75 million for El Salvador rather than the $128 million requested. It also contained $52 million out of the $301 million requested for the various foreign military assistance programs.

This compromise amendment was struck on a point of order and thus was never voted on by the House.

It is exactly this compromise amendment which we are bringing back to the House today. The only change at all is that we did agree to add $3.5 million for international military education and training. These funds are in the conference report which has already been adopted.

It is important to note that only $75 million in ecomomic aid is being provided for El Salvador, some $53 million less than the amount requested by the administration. Not a penny is provided anywhere in this legislation for military aid for El Salvador.

To me this represents a great victory for those of us who believe it is wrong to continue to provide military assistance to El Salvador. And let me say to my colleagues, it was not an easily won victory. Only at the last minute of the conference, after every other item had been completed, did the Senate finally yield.

Mr. Speaker, the amendment before us on the Caribbean Basin Initiative has wide-ranging bipartisan support. I would urge its adoption.

Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on H.R. 6863, making supplemental appropriations for fiscal year 1982.

While I support the adoption of the appropriations contained in this conference report, specifically the appropriation for the Caribbean and Central American countries, I must strenuously protest the inclusion of a number of legislative provisions written into the issues brought back in technical disagreement. Although the rules of the House do not allow points of order against otherwise inappropriate provisions reported in technical disagreement, such provisions nonetheless violate the spirit of clause 2 of rule XXI which prohibits legislation in appropriations measures.

Prior to the conference on this supplemental appropriations bill, I wrote the distingushed chairman of the Appropriations Committee the gentleman from Mississippi (Mr. WHITTEN) requesting that the House conferees reject the various legislative measures under the jurisdiction of the Committee on Foreign Affairs contained in the Senate amendment which would be in violation of House rules. Mr. Speaker, I will insert the letter with my remarks. Despite my request that the letter and spirit of the rules of the House be respected, the conference committee agreed to include all of these extraneous legislative provisions and policy statements among the matters brought back in technical disagreement.

None of the provisions or policy statements in amendment No. 58, which appropriates funds for Caribbean and Central American countries would be germane or otherwise in order under regular procedure. Such actions in appropriations measures clearly violate and erode the integrity of the authorization/appropriation process.

I might say to my friend, the gentleman from Mississippi and distinguished chairman of the Appropriations Committee, that, when the Foreign Affairs Committee is in conference with the other body on authorizing legislation, we insist that any provisions violating the rule on appropriations in legislation be deleted because such provisions violate the House rules. We would only hope that the Appropriations Committee would do likewise.

Because these funds are so urgently needed, I will, reluctantly, not oppose the amendment.

In the future, however, I would strongly urge our appropriations conferees to defend the authorization/appropriation process and reject provisions which violate the rules of the House. Otherwise, I will find it necessary to vote against these motions and encourage others to do the same.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., August 12, 1982.

Hon. JAMIE L. WHITTEN,
Chairman, Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to request that the House conferees on H.R. 6863, making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, insist on the House position and reject the following Senate provisions which constitute legislation pursuant to clause 2 of Rule XXI:

1. In Senate amendment 58, under the Caribbean Basin Initiative, the third proviso which deals with narcotics;

2. Also in Senate amendment 58, under the Caribbean Basin Initiative, those provisions relating to S.J. Res. 230.

3. In Senate amendment 60, the portions of the amendment that will earmark funds for specified countries.

4. Senate amendment 182 in its entirety.

With respect to the allocation of the funds under the Caribbean Basin Initiative, particularly in light of the fact that members of the Subcommittee on Foreign Operations, agreed to an allocation of the funds almost identical to that provided for in H.R. 6755, as reported by the Committee on Foreign Affairs, I would hope that the House conferees would reject the Senate allocations and make those funds subject to the availability of an authorization without time limitation.

Thank you for your cooperation and with kindest regards, I am

Sincerely yours,

CLEMENT J. ZABLOCKI,
Chairman.

Mr. WHITTEN. If the gentleman will yield. Mr. Speaker, the gentleman is very fluent and very eloquent. I voted against this provision in this bill and I so noted in the conference report.

Mr. ZABLOCKI. But you were overruled.

Mr. WHITTEN. I was outvoted. But may I say to my good friend, the gentleman from Wisconsin—and I have none better—that the problem is that we do not have enacted authorizing legislation in time. I do not speak critically of the gentleman's committee. It is a chronic problem we all face in Congress. The problem is not new but is seems to get worse. Committees report bills but they do not get enacted in time. We have not passed an appropriations bill all the way through the Congress yet this year because the authorizing legislation has not become law. That has contributed to the situation where we do not have any appropriations bill for the forthcoming fiscal year. There is a general breakdown in the Congress.

Mr. ZABLOCKI. If I may retrieve my time, Mr. Speaker, I believe that the Committee on Foreign Affairs has the finest record of any authorizing committee in reporting out legislation within its jurisdiction.

Mr. WHITTEN. It may be reported out but it does not get to the floor and it does not become law. That is the problem I refer to. We are going to have to do something, you and I and everyone else together. I said earlier—and I certainly mean it—the gentleman is a very distinguished Member and one of my good friends. But we have a mutual problem and somehow we are going to have to have deadlines for authorization and budget resolution if we are going to have appropriations timely so that the Government can operate.

Mr. ZABLOCKI. I can assure the chairman of the Appropriations Committee (Mr. WHITTEN), who knows, I am sure, the record of the Foreign Affairs Committee—that we had all of our authorizing legislation for fiscal year 1983 reported out of committee by the May 15 deadline. The authorization for economic assistance to the Caribbean and Central American countries for fiscal year 1982 was expeditiously reported out after it became clear that the Ways and Means Committee could not act on its part of the omnibus legislative package in time. We are ready to come on the floor as soon as we can get scheduled. I am not criticizing the gentleman from Mississippi. I am sure he has in mind, perhaps, other authorizing committees, but not the Foreign Affairs Committee.

Mr. WHITTEN. If the gentleman will yield, I suggest that it is also a matter for the attention of the Rules Committee. I understand they are studying the whole matter. I would be pleased if they would straighten this thing out.

Mr. ZABLOCKI. I am sure the gentleman from Mississippi is sincere in that suggestion, and maybe we ought to consider it. But I do want to say that I appreciate the cooperation we have had with the chairman and with the subcommittee chairmen of the Appropriations Committee, and I can assure you, Mr. Chairman, that we will continue to cooperate with you in the future on a reciprocal basis.

Mr. CONTE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. KEMP).

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I compliment the gentleman from Massachusetts and the gentleman from Maryland (Dr. LONG) and, of course, our distinguished chairman of the Appropriations Committee, the gentleman from Mississippi (Mr. WHITTEN), and all of those members of the committee who participated in this attempt to help bring to the attention of this body a very important initiative that I mentioned a little bit earlier. At this critical moment, at this critical juncture in the economy and the foreign policy of Central America and the Caribbean, it seems to me important, Mr. Speaker, and absolutely critical to the future of our relations with our neighbors to the South, that this Nation have the type of initiative that President Reagan has endorsed and pushed which would provide not only for assistance to help those countries to our South with their foreign exchange problems, but also in terms of trade and investment incentives.

As the gentleman from Maryland, our chairman, pointed out, this is the result of a compromise. It is the same coalition that was put together which helped pass the fiscal year 1982 foreign aid appropriation, the first foreign aid appropriation that passed in 3 years, and I want to give a lot of the credit to not only Dr. LONG but MATT MCHUGH and my friend Mr. DIXON from California and to MICKEY EDWARDS, BOB LIVINGSTON, JOHN PORTER, and JERRY LEWIS on our side, others on the committee, including DAVE OBEY, and SILVIO CONTE who made a very valiant attempt to see this bill passed a few weeks ago when there was a point of order raised on it on the floor. But that is water over the dam.

This amendment provides funding for President Reagan's program to promote economic revitalization in the Caribbean/Central American region. The full $350 million requested by the President for immediate development and balance of payments support is appropriated.

Additionally, in the supplemental $50 million is made available for immediate disaster relief for Lebanon, including $10 million for the American University of Beirut.

Further, the supplemental makes available $52 million for military assistance to five of our key allies who are in desperate need of our support and $3.5 million for Military Education and Training. These funds will go for Honduras ($10 million), Portugal ($10 million), Somalia ($5 million) and Costa Rica ($2 million).

The balance of economic and military assistance in this bill and the distribution to the nations receiving assistance maintains the delicate coalition of interests which combined as I said earlier last year to pass the first foreign assistance bill in 3 years.

The coalition we have put together, from all political persuasians, is strongly supporting an American foreign policy which takes a balanced approach to the economic and security interests of the United States and our allies among developing nations.

In the votes we will have today, I think we will again demonstrate that the Congress is a willing partner with the President in reshaping American foreign policy to deal with the economic and military crises which we face throughout the world.

THE CARIBBEAN INITIATIVE

This amendment will bring about only the first phase of the President's total Caribbean Initiative. The other

phases, now under consideration by the Ways and Means Committee are:

TRADE

Designated nations of the Caribbean/Central American region will be granted duty-free status for selected exports to the United States for a period of 12 years. While there are significant exclusions, notably sugar, textiles, rum and leather, the new open trading arrangement will be beneficial to creation of new industries.

TAX INCENTIVES

Designated nations may participate in a program of tax incentives and investment insurance which will encourage U.S. businessmen to invest in the region. The basic incentive is extension of the investment tax credit to direct investors and allowing pass-through of the credit to U.S. investors who own 5 percent or more of businesses incorporated in the participating nations.

Additionally, U.S. investors will receive increased protection under the Overseas Private Investment Corporation.

ALLOCATION OF ASSISTANCE

Funds appropriated under this amendment would be allocated almost identically to the distribution recommended by the House Committee on Foreign Affairs:

[Dollars in millions]

Nation	President's request	HFAC earmark	Supplemental earmark
Belize	$10	$10	$10
Costa Rica	70	70	70
Dominican Republic	40	40	41
Eastern Caribbean	10	20	20
El Salvador	128	100	75
Guatemala	0	11	10
Haiti	5	10	10
Honduras	35	35	35
Jamaica	50	50	50
Regional AFILD	2	2	2
Inter-American Foundation	0	2	2
Unallocated	0	0	25
Total	350	350	350

This three-pronged program of investment incentives and provision of foreign exchange is offered in recognition of the unique relationship between the United States and nations of the Caribbean/Central American region. For too long we have ignored the economic plight of our neighbors, ignoring such important signals as increased immigration, both legal and illegal, and increased capital flight in the face of declining business and security conditions.

While we offered the Marshall plan for Europe and other substantial economic assistance for Japan following World War II, we have never in our history proposed and carried through on a comprehensive program to assist our closest neighbors to join in the prosperity of democratic capitalism.

The program which the President sent to the Congress was a clear offering to our neighbors that the people of the United States would support them in their struggle to establish and preserve democratic institutions.

Mr. Chairman, this Caribbean Initiative would provide support to countries desperate for democracy. Many of these nations have recently held free elections, often at great personal risk to individual safety. The desire for freedom and liberty has never been more clearly demonstrated.

DOMINICAN REPUBLIC

The largest democracy in the Caribbean has just held its fifth free election spanning a period of 16 years. This period included two changes in government, in 1966 with the election of Joaquin Balaguer and again in 1978 with the election of Antonio Guzman. A third transition is now occuring. The election this May of the moderate Jorge Blanco is an indication of Dominican determination to emphasize economic, social and political freedoms. Support for continued economic and political progress of this nation—which our own Marines prevented from falling victim to Communist takeover—should not be denied.

EL SALVADOR

The election in El Salvador was held during a period of extreme adversity. Despite threats by Communist forces and the daily dangers of travel in the outlying areas, over 90 percent of all eligible voters turned out. The election was generally regarded as honest and accurate.

HONDURAS

Living under threat of armed aggression, the Honduran people have just elected Roberto Suazo Cordova. President Suazo, on his recent visit to the United States appealed to President Reagan to support democratic forces in Central America in their fight against Communist insurgents.

JAMAICA

The best known political story in the Caribbean is Jamaica. Following the economic destruction of Michael Manley's socialist policies, the Jamaican people threw out the socialists in 1980, sending to their Parliament the largest majority in history. Prime Minister Seaga has moved quickly to alter incentive destroying. Jamaica has, perhaps, the best chance for rapid economic success, given its relatively well-developed financial institutions and industrial base. Also, it has been the recipient already of substantial interest throughout the international community.

All the nations of the region are making efforts to restore prosperity. Belize, struck by seven severe hurricanes since 1955, is making efforts to reform its agricultural prices to spur production. It is also applying for membership in the IMF and making structural adjustments to make that application successful. Costa Rica, an economy once the pride of Central America is working hard to comeback from an economic collapse which required if to suspend payment on its debt last year. Our assistance will enable it to meet the exchange requirements needed to restructure its debt and begin recovery.

In Guatemala, President Efrain Rios Montt, a Christian fighting communism, has disbanded all secret military operations, he has made the military and civilian security forces totally responsible for their actions and established a system of military justice. President Montt has even created a militia not unlike the militia that answered our own call for liberty to combat insurgents who would destroy the fabric of society in his nation. Can we not support this effort? Can we not provide a bare $10 million of economic support for a nation which is valiantly trying to bring excesses under control and to establish a system of law and justice?

Mr. Chairman, these are the countries we wished to assist. We come to the House with a clear offering to these neighbors that the people of the United States would support them in their struggle to adopt our institutions. The very terms under which the trade and investment incentives contained in the President's program are themselves incentives to adopt the system in which we believe.

The portion of the Caribbean initiative which we are considering today is designed to provide much needed foreign exchange for participating nations. In many of these countries there are industries producing well below capacity due to a lack of foreign exchange with which to purchase raw materials and spare parts. This situation has developed largely as a reaction to the increase in oil prices over the past decade since all nations of the regions import almost all of their energy. The following table provides some indication of the immediate need:

BALANCE OF PAYMENTS

[In millions]

Nation	1982 BoP	Unfinanced	ESF	Percent BoP unfinanced deficit
Belize	−31.0	25.0	10.0	40
Costa Rica	212.0	140.0	70.0	50
Dominican Republic	187.0	95.0	41.0	42
Eastern Caribbean	−35.0	32.0	20.0	63
El Salvador	−53.0	151.8	75.0	50
Guatemala			10.0	
Haiti	−28.4	5.0	10.0	200
Honduras	−121.0	94.0	35.0	37
Jamaica	273.0	109.0	50.0	46

Source: AID briefing documents.

As the table shows, the assistance being proposed leaves unfinanced a substantial amount of projected foreign exchange deficits. But we are not

dealing with static economies. With our assistance, confidence will be restored both to local entrepreneurs and to international banking houses. As factories begin to reopen and jobs are regained, we can look forward to an end to capital flight and a resurgence of private industrial and agricultural financing.

In proposing this assistance we do not imply that U.S. assistance alone will restore confidence. It is critically important that these nations adopt the type of domestic economic policies which give incentives to individual initiative and entrepreneurial activity. In many nations that will mean a substantial reduction in business and personal tax rates, including export taxes, and a reevaluation of the role of the public sector.

We recognize these realities. Two large recipients of assistance, Costa Rica and Jamaica, continue to have marginal tax rates of 50 percent. Tariff barriers also retard investment throughout the region. In 1978 taxes on either exports or imports accounted for 34 percent of revenue in Honduras, 37 percent in Guatemala and 50 percent in El Salvador. But we also recognize that these policies reflect in part the same mistaken economic philosophy which has plagued our own Nation. Now, together, we will work to bring prosperity to all Americans.

As AID points out most of these nations have erred by increasing domestic transfer payments at a rate in excess of economic growth, thus creating major budget problems, problems which rapidly are manifest in an inability to finance the foreign exchange requirements of the nation. Costa Rica, second largest recipient of assistance, allowed its social security and welfare payments to grow by 35 percent per year when its economy was growing at only 6 percent. In economies with a small base of economic activity such disparities cannot continue without stifling economic activity.

Mr. Chairman, this amendment will not solve completely the problems of economic and social instability in the Caribbean. It is only a start. But I believe that it is the right policy for the United States to give this initial support.

Later this session, we will take up the authorizing legislation for this Caribbean/Central American assistance. After the recess, hopefully before we adjourn for the year, we will have before us the trade and investment legislation from the Ways and Means Committee. I hope that each of you will work with the committees and with the admiration to fashion a program which will combine the democratic capitalist ideals which we hold with the strong desire for freedom and democracy which our neighbors have clearly demonstrated.

The legislation currently before us also contains a significant affirmation of longstanding U.S. security policy in the Western Hemisphere. Recent years have witnessed an expansion of Soviet military presence in our hemisphere unprecedented since the Cuban missile crisis of 1962, and a concomittant growth in Cuban assertiveness which has as its objective the destabilization of governments friendly to the United States.

Gen. Warren Nutting, Commander in Chief of the Southern Command, recently detailed the Soviet presence in Cuba at hearings before the House Subcommittee on Foreign Operations, which I called in order to examine U.S. security interests in the Western Hemisphere. A 3,000 man Soviet brigade has been stationed near Havana since 1979, which General Nutting speculated may be there to guard and control electronic warfare facilities; whether or not nuclear weapons may also be under their control is not known. Additionally, there are some 10,000 Soviet "advisers" stationed in Cuba. Soviet nuclear submarines operate out of Cienfuegos along Cuba's southern coast, despite a November 1970 Soviet agreement that no nuclear submarines would be serviced in or from Cuban ports. The Soviets are operating heavy, TU-95 "Bear" bombers out of Havana; and in February of this year it was reported that two of these Bear bombers penetrated 42 miles into the U.S. air defense zone off the coast of Virginia, to within one mile of the new U.S.S. *Carl Vinson* nuclear aircraft carrier.

The Soviet Union provides $3 billion in aid to Cuba each year, or one quarter of Cuba's total GNP. This aid clearly supports Cuba's military establishment and its foreign adventures. Last year alone, Cuba received 63,000 tons of Soviet arms shipments, three times more than in the previous year and more than in any year since 1962; and the rate thus far for 1982 is even higher. Cuba already has an air force second only to that of the United States in the Western Hemisphere: indeed, a military force second only to the United States. The arrival this year of a second squadron of Mig-23 fighter aircraft and an unspecified number of modern attack helicopters enhances that capability.

I believe that, taken together, the Soviet buildup of Cuban offensive military capability and the introduction into Cuba of Soviet forces and modern arms constitutes a blatant violation of the agreement reached in 1962 forbidding the emplacement of offensive weapons in Cuba. The President has noted such violations, and other U.S. Government officials, including CIA Director William Casey, Undersecretary of Defense Fred Ikle, and Chairman of the Joint Chiefs of Staff David Jones, have expressed the judgment that the Soviet offensive presence in Cuba violates the Kennedy-Khrushchev understanding.

The systematic violation of that accord has now produced an even more serious threat to the security of the Western Hemisphere, which has only recently been officially acknowledged. It is now the declared judgment of the U.S. Government that the Soviet Union, through its regional surrogate Cuba and its newly acquired allies Nicaragua and Grenada, has embarked upon the express objective of destabilizing as many governments in the Caribbean as possible, with a view towards spreading violence and expanding pro-Soviet regimes and Soviet power in this hemisphere. I share that somber assessment.

Cuba's exportation of revolution has persisted over the past two decades, spanning support for insurgents in at least 13 Latin American countries. Success in Nicaragua has provided a key base of forward operations from which to direct insurgencies throughout Central America. These terrorist operations are designed to disrupt public life, to weaken economic and industrial infrastructures, to undercut confidence in personal security and in the ability of the existing governments to afford protection against guerrilla actions, and ultimately to cause those governments to fall. And there is no longer any doubt about the guerrillas' source of inspiration, supplies, and arms.

The State Department and the Defense Intelligence Agency have made public evidence of the vast Soviet-Cuban-Nicaraguan arms supply effort in Central America, including their direction of terrorist forces. Other information available to the U.S. Government has been reviewed by the Select Intelligence Committees of Congress, who have affirmed the administration's judgment of intimate Soviet-Cuban control and support of guerrilla insurgents in Central America. Moreover, the international character of the terrorist effort is underscored by Yasser Arafat's public boasting of the presence of PLO operatives in Nicaragua.

And we should not overlook the fact that the terrorists' victims include people, as well as governments. Their tactics of fomenting warfare and strife, if unchecked, will surely generate a stream of refugees seeking to escape violence and looking for a life that offers some promise of well-being. This was true in Cuba following Castro's takeover in 1959, and the flow of Cuban refugees continues today. We have witnessed the plight of Southeast Asian refugees with deep sadness. Totalitarian successes in Latin America not only would bring yet further tragic losses and human suffering, but the ability of the United States and

other nations in this hemisphere to absorb such refugees would be severely taxed.

While combating guerrilla forces, the nations of Central America must also confront the growing disproportionate military might of Nicaragua, which is already far beyond anything credibly needed for Nicaragua's defense. The Sandinistas have announced their intention to build up their armed forces from an estimated 60,000—already the largest in the history of Central America—to 250,000, equivalent to the standing armed forces of Cuba. Major Soviet arms shipments to Nicaragua have reportedly included 25 T-55 tanks with 100mm guns, truck-drawn howitzers, armored personnel carriers and amphibious military ferries.[1] If Soviet Mig-17 or Mig-21 aircraft are shipped to Nicaragua later this year—as expected—the threat to neighboring countries would dramatically increase. currently, an estimated 70 Nicaraguans are being trained as jet fighter pilots and mechanics in Bulgaria; and four major airfields in Nicaragua are being readied to accommodate heavy attack aircraft.

There is reason to believe that these airbases in Nicaragua, in addition to Cuban airbases, are under Soviet supervision. Soon to be added is an airbase now under construction in Grenada, with a 9,800-foot runway capable of handling heavy fighter aircraft. Grenada's Minister of National Mobilization has announced that the new airbase and housing facilities in his country are at the disposal of Cuba and the Soviet Union.

Our ability to deter Soviet intervention and Cuban expansion in this hemisphere as elsewhere depends in the first instance upon Soviet and Cuban perceptions of our will and determination. As President Kennedy wrote to Premier Khrushchev on October 22, 1962,

> The one thing that has most concerned me has been the possibility that your Government would not correctly understand the will and determination of the United States in any given situation.

The President continued:

> It was in order to avoid any incorrect assessment on the part of your Government with respect to Cuba that I publicly stated that if certain developments in Cuba took place, the United States would do whatever must be done to protect its own security and that of its allies . . .
>
> Moreover, the Congress adopted a resolution expressing its support of this declared policy.

That resolution, Senate Joint Resolution 230, was signed into law by President Kennedy in 1962 and still remains the law of the land. It reads in part "that the United States is determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending, by force or the threat of force, its aggressive or subversive activities to any part of this hemisphere." These principles were echoed in a declaration issued by the Organization of American States, in support of measures necessary to prevent Cuba from threatening the peace and security of the hemisphere.[2] And President Kennedy pledged that if Cuba ever became a military base of significant capacity for the Soviets, then the United States would take any action necessary to protect itself and its hemispheric allies.[3]

The danger of incorrect assessment is still very real. If the Soviets should see the United States allowing adverse changes in this hemisphere to proceed without opposition, they may misunderstand the depth of our commitment to the independence of our neighbors and to the defense of our vital interests. I believe that an express congressional reaffirmation of Senate Joint Resolution 230 would make an important contribution to our efforts to deter Cuban aggression and Soviet expansion. Accordingly, I support that language, as included in the conference report on the fiscal year 1982 supplemental appropriations bill, as an important restatement of longstanding U.S. policy to protect our hemisphere from external intervention or manipulation.

The fiscal year 1982 security assistance supplemental also includes $52 million in supplemental military assistance, approximately one-sixth of the President's original request of $30 million. These funds—which represent an amount below that justified by our requirements—are vital to our national security interests.

We need supplemental grant funds right now for Honduras, Costa Rica, and Somalia, all of which are facing active aggression from neighbors, and for Sudan, which is verging on bankruptcy, and cannot afford the FMS guarantees we had to give it last year.

We also need additional funds for Portugal, to diminish the enormous ill-will deriving from the very small concessional credit allocation that was available under the December fiscal year 1982 appropriation. Portugal is critical to the whole range of U.S. defense needs in Europe, and in the Middle East. Without the full use of the bases in the Azores the United States would have been unable to respond to emergencies in the Middle East over the last decade such as the resupply of Israel in 1973. The $10 million included herein for Portugal is absolutely fundamental to reestablishing the climate of trust and reliability that we need to negotiate a new relationship agreement this fall with expanded access rights for the Rapid Deployment Force.

Mr. MCHUGH. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to my friend, the gentleman from New York (Mr. MCHUGH), who was such an able Member of this coalition.

Mr. MCHUGH. I thank the gentleman for yielding.

Mr. Speaker, I simply want to take this brief opportunity to commend my friend, the gentleman from New York (Mr. KEMP), who has spent countless hours attempting to work out very delicate compromises on foreign assistance in this fiscal year and in this supplemental in particular.

It has not been easy, as there are great differences in perspective from time to time between the various members of our subcommittee and this House. But the gentleman, in working with Dr. LONG and others, has done a very responsible job in putting together a package which I think is in the interest of our country.

Mr. Speaker, I rise in support of the conference report on H.R. 6863. While I am not entirely satisfied with all of its provisions, on the whole our conferees have done very well in sustaining the House position in conference. Thus, I hope that our colleaques will support this supplemental and that the President will sign it.

Because I serve on the Foreign Operations subcommittee, I would like to comment on the compromises reached with the Senate conferees on foreign economic and militarty assistance. As many will recall, the President requested more than $950 million in supplemental foreign assistance funds over and above what Congress has previously appropriated for this fiscal year. Of that amount, $550 million was for supplemental military assistance and $400 million was for supplemental economic assistance.

While many of use have traditionally supported a balanced program of security and development assistance as one way of advancing U.S. interests abroad, it is not appropriate to ask for substantial increases in foreign aid at a time when the American people are being asked to accept major cuts in domestic programs. For this reason, I and others were determined to opposed these supplemental requests unless a compelling case could be made by the President.

As a result, a number of significant reductions were made in the President's supplemental request. While the conference report does include the $400 million in economic assistance requested by the President for reasons that I will shortly explain, we have managed to reduce the $550 million request for supplemental military aid to

[1] Aviation Week and Space Technology, Mar. 15, 1982.

[2] Resolution approved by OAS Council, October 23, 1962.

[3] 57 Department of State Bulletin 450,481 (1962).

$180.5 million. Of this amount, $125 million is for the special defense acquisition fund which many of us support so long as strong safeguards on its use are maintained.

Mr. Speaker, this represents a reduction of $371 million, which is approximately 40 percent below the President's original request for foreign aid in the aggregate and almost 70 percent below his request for supplemental military aid in particular.

In short, the President's request has been pared to a level that I can support and I would urge my colleagues to do so as well. At the time, I want to make it clear that I would have great difficulty supporting even this reduced level of foreign aid if the President subsequently vetoes this bill. If the President takes the position that other amounts in this bill should be reduced still further, the supplemental military assistance contained in this bill as well as the funds to implement the aid component of the Caribbean Basin Initiative should be prime targets for elimination from any future bill. We cannot cut essential domestic programs still further and at the same time retain the funds for foreign aid.

Turning to the specifics of chapter VI, Mr. Speaker, there was no controversy regarding the urgent nature of some of these funds, particularly the $50 million in emergency aid to alleviate the plight of those who are homeless and suffering in Lebanon. We all recognize that this is a real emergency, and that the United States should play a constructive role in helping to meet the crisis.

Moreover, there was broad consensus in favor of the President's $350 million request to fund the aid component of his Caribbean Basin Initiative (CBI). It is clear that our neighbors to the south are experiencing some very serious economic problems as a result of the worldwide recession. At the same time, some of us were concerned about the priorities reflected in the proposal submitted by the President.

In his original request, which the Senate essentially adopted, $128 million of the $350 million for the CBI would have been allocated to a single country, El Salvador. While recognizing the serious situation in El Salvador, many of us believed that far too much of the CBI was being targeted to that nation. Although El Salvador has only one-eighth of the Caribbean Basin's people, the President's proposal would have allocated more than one-third of the econcomic aid request to that nation.

Moreover, many of us have very serious reservations about the policy this administration is pursuing in El Salvador, and doubts as to whether the new government of that nation remains committed to the kinds of programs, including the land reform program, that are needed if it is to have any hope of meeting the legitimate aspiration of its own people.

There were other problems with the President's CBI proposal as well. For example, none of the funds were originally targeted for development projects designed to meet the long-term needs of the region. However, as a result of this conference report and the authorization bill approved by the House Foreign Affairs Committee, we have gone a long way toward realtering the priorities in the original proposal and in satisfying the reservations that some of us had. El Salvador would receive only $75 million under this conference agreement, and many of the other problems associated with the CBI will be resolved if the authorization is finally passed.

In sum, Mr. Speaker, this conference report represents a responsible compromise on the President's original CBI request. At the same time, we should recognize that these aid funds will not do very much good in the absence of congressional action on the trade and tax incentives which were also contained in the President's original proposal. Those provisions are critical to the success of the CBI, and I would hope that the Ways and Means Committee will act favorably in the near future. I also hope that the Reagan administration will rethink its proposals to cut back U.S. support for the Inter-American Development Bank and the World Bank, two orginzations which continue to be important in addressing the development needs of the people in the Caribbean and Central America.

The CBI is important to meet the immediate, short-term problems being experienced by these nations. In the long term, however, the problems they face will only be resolved if their economic grow and develop, and if the fruits of development are shared equitably. The IDB and the World Bank play a crucial role in promoting such long-term development, and I think that it is shortsighted for the administration to be proposing cutbacks in their lending programs at the same time it is promoting the CBI as an urgent initiative.

Mr. Speaker, the real sticking point in the conference was the President's request for supplemental military assistance. As many of our colleagues know, the House Foreign Operations subcommittee rejected this request for a number of good reasons.

First, we believe that in requesting substantial increases in military aid the State Department did not deal with us in good faith. As you know, last December Congress was able to pass a foreign aid bill for the first time in 3 years only because of certain very sensitive compromises that were reached on the fiscal year 1982 bill. One of those compromises was that the President would receive less than he originally requested for foreign military assistance. The purpose of these compromises was to retain a responsible balance between security and development aid.

Before the ink had dried on that bill, the administration came back to Congress requesting every last dollar that was authorized but not appropriated. In the absence of some overriding emergency affecting the national interest, that was a clear breach of faith with those of us who worked so hard to reach a compromise on a balance bill.

In fact, while it had every opportunity to do so in hearings before our subcommittee, the administration utterly failed to make a case that the additional military aid funds were needed on an urgent basis. A number of items in its request were particularly objectionable, including its request for $35 million in additional grant military assistance for El Salvador and for $82 million in FMS loan guarantees for Turkey.

Fortunately, these requests were denied on the House side. However, the Senate subsequently added virtually all of the military aid funds that the administration had requested in the supplemental, including the additional aid for El Salvador and Turkey, and the Senate conferees fought very hard to get the House conferees to accept them.

However, under the strong leadership of Mr. LONG (of Maryland) and Mr. DIXON (of California) the House conferees held firm. Instead of the large add-ons proposed by the Senate, the House conferees agreed to only $50 million in loan forgiveness for Sudan, which I support, and to an additional $2 million for the military assistance program. This, in conjunction with $25 million in MAP appropriated for Sudan last year that will now be available for other purposes, will provide $27 million to meet needs in Honduras, $10 million; Portugal, $10 million; Somalia, $5 million; and Costa Rica, $2 million. An additional $3.5 million for the International Military Education and Training (IMET) program was provided in response to a request by Mr. KEMP. Finally, the $250 million provided by the Senate for the special defense acquisition fund was reduced by the conferees to $125 million with some strong report language as to how these funds are to be used.

The administration's request for $35 million in supplemental grant military assistance for El Salvador and the $82 million in FMS loan guarantees for Turkey was totally rejected.

Mr. Speaker, with these modifications I believe that the supplemental appropriations for foreign assistance are reasonable and should be support-

ed, as should this entire conference report.

Mr. KEMP. I very much appreciate my colleagues's comments. I want to say publicly how much I enjoyed working with the gentleman and how much respect I have for his leadership on this issue.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to support my colleague's remarks, but I want to ask a question. It would seem to me that the No. 1 country in the allocation or resources in the Caribbean Basin Initiative ought not to be El Salvador, but ought to be Costa Rica, which, other than the United States and Canada, is the most Democratic country in the Western Hemisphere, and they are under very serious problems now, as the gentleman and I have talked about before. They are under serious attack potentially from Nicaragua, and it would just seem to me that we ought not to be locked into allocation whereby the most Democratic country in the whole group is not receiving the highest amount of resources. I wonder if the gentleman might want to comment on that?

Mr. KEMP. I appreciate the comments of my friend, the gentleman from Kansas, and let me just say to him that Costa Rica is receiving $70 million. Costa Rica is also receiving $2 million in security assistance, not a great deal, to be sure, but Costa Rica is getting security assistance.

I would remind my friend that the total amount of money in this bill for El Salvador is $75 million of economic assistance, not 1 penny of security assistance, as was pointed out by my friend, the gentleman from Massachusetts (Mr. CONTE), as well as Dr. LONG.

□ 1650

So there has been a careful balance struck to reflect the needs of the countries in that region of the world. I do not think one needs to apologize to anybody for providing vital economic assistance to El Salvador. In the light of the courage displayed by the men and women who went to the polls throughout El Salvador, in the face of violent threats and intimidation by leftist guerrillas, I believe that we should continue to support that spirit of freedom by giving the democratically elected new government this desperately needed economic assistance. No one need apologize for this.

Costa Rica is getting $70 million plus security assistance. The gentleman I think would agree that the only chance for democracy and stability in Central America in general and in El Salvador in particular is by providing the assistance needed to support our neighbors' security and economic health.

Mr. GLICKMAN. If the gentleman would yield further, I would make a final comment. I will not argue with the gentleman and will vote for the Caribbean Basin Initiative package. I would say, though, we have one ally of ours, Costa Rica which has a government like ours, which has a political system like ours, which is free from violence, which is free from dictatorship. That is Costa Rica. It is unlike any other country in Central America. And it is suffering from an enormous economic dislocation which may affect its ability to remain democratic. It deserves our highest support.

Mr. KEMP. I would only say if we want El Salvador to be free from violence and to move toward democracy and to provide some hope that there will not be a Nicaragua-like future for El Salvador, it seems to me a modest amount of money should be forthcoming. That was an essential element of the agreement reached by a coalition of the left, the right, the center, the liberals, conservatives, Democrats, Republicans, and so forth.

I hope the gentleman would recognize we went through extensive negotiations to reach this fragile compromise; what we have jointly proposed is a modest, prudent, and responsible approach to not only assistance to El Salvador, but assistance to Costa Rica, Honduras, Belize, and many other countries in that part of the world that are desperate for aid and support.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

In response to the point raised by the gentleman from Kansas (Mr. GLICKMAN) that we are giving less money to Costa Rica, I think the gentleman loses sight of the fact Costa Rica is a much smaller country than El Salvador. When one considers it in relation to the size of the country, Costa Rica is doing very well in this bill; probably almost twice as well as El Salvador. I think that should not be overlooked.

Mr. KEMP. Mr. Speaker, I appreciate the chairman's remarks.

I again want to thank the chairman of the subcommittee.

Mr. Speaker, I yield to the gentleman from California (Mr.

Mr. CLAUSEN. Mr. Speaker, I rise briefly to associate myself with the remarks of the gentleman from New York (Mr. KEMP). I think the Caribbean Initiative that has been worked out through this coalition is one of the more significant things we have done in this Congress. I truly want to support the effort and indicate my willingness and my desire to continue that support.

Mr. Speaker, I rise in support of the Senate amendment to H.R. 6863, which provides funds for the Caribbean Basin Initiative, and would like to associate myself with the remarks made by the gentleman from New York (JACK KEMP).

This legislation is in full accord with what I have long felt should be the policy goals of the United States with respect to Latin America: Balanced regional economic growth stemming from a network of mutually beneficial national development strategies. Over 10 years ago, I stood before the Pan American Highway Congress to give testimony to one of the greatest achievements of inter-American cooperation—the Pan American Highway. This project has set the stage for the unlimited economic, social, educational, and cultural benefits that will become available to the people of North, Central, and South America. Witnessing this, why should we stop short of aspiring to anything less in the way of cooperation with our Caribbean Basin neighbors?

As a cosponsor of H.R. 5900, the Caribbean Basin Initiative, I wish to take this opportunity to stress to you that this is one component of an economic package—emergency loans and grants to finance imports of U.S. goods by private businesses in these Caribbean and Central American nations, the removal of most of the existing U.S. duties on imports from the region, and tax incentives to encourage U.S. businesses to invest in the region. Nowhere in this package is military aid included. With economic assistance, we are seeking to prevent the democratic governments of the Caribbean Basin from being undermined by the severe economic problems they are currently facing. The economic assistance we provide to this region will not be without benefit to the United States—one such benefit is likely to be a step toward the solution of the unprecedented immigration problem we are currently facing with respect to the countries of the Caribbean Basin, as people fleeing from fear and poverty crowd the southeastern shores of the United States, the States along the border, including my own State of California.

Mr. Speaker, I have over the years become very disenchanted with the on-again, off-again relationship the United States has with our neighbors to the south. In my view, we have all wavered from one extreme to the other. When we needed each other desperately, we would join together to meet a common threat to our respective interests. After the threat had passed, we would fail to communicate adequately, to keep in touch, thereby neglecting to recognize or deal with promptly the increasing problems associated with the challenges of

change—economic, political, technological, military. We need to strive for a greater degree of consistency in our relationships that at the same time makes provision for these changes. The legislation before us makes considerable inroads in this area.

Finally, I would like my colleagues in the House to give heed to the imbalance between the attention that has been paid to our neighbors to the east and west of the United States versus the attention that has been paid to our neighbors to our north and south. More and more we are becoming aware, as a nation and as individual business men and women, of the impact the European Economic Community (EEC) is having on world trade and especially on the ability of the United States to expand her commercial export markets. There has been much discussion of late concerning the formation of export trading companies to combat the strengths of the EEC and other blocs in world trade. I welcome these efforts and commend those who initiated them. Yet I wonder at times why we have not chosen to respond to the creation of the European Common Market with a North, Central, and South American common market of our own, a rational, planned, coordinated, and integrated system that functions efficiently in serving the economic needs of our societies. By continuing to foster inter-American cooperation such as that proposed in the Caribbean Basin Initiative, we will have the opportunity to test the feasibility of such a system, and in the meantime benefit economically and politically from improved relationships with our neighbors to the south—and simultaneously minimize the requirements for military confrontation and bloodshed.

Mr. Speaker, I urge you to support this amendment, and H.R. 6863 as a whole.

Mr. KEMP. I appreciate the gentleman's remarks.

Mr. Speaker, I have no further requests for time.

I want to thank my friend, the gentleman from Massachusetts (Mr. CONTE) and simply say this: I do not think this initiative is a cure-all. It is not a panacea. It will not cure the sources of social and economic instability in the Caribbean and Central America, but it is a sign the United States and this Congress and the President and the American people deeply care about those neighbors and friends of the United States south of our border upon whom we rely for so much of our vital resource requirements, and ultimately our very security and prosperity.

I deeply appreciate the leadership of our distinguished chairman, the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. I thank the gentleman.

Let me say that the help of the gentleman from New York (Mr. KEMP) has been enormous in drawing up this compromise and, in fact, his work has been invaluable to the subcommittee during the course of the year.

The gentleman is an extremely valuable member of the subcommittee. I appreciate the gentleman's work, as well as that of the gentleman from California (Mr. DIXON); the gentleman from Wisconsin (Mr. OBEY); the gentleman from New York (Mr. MCHUGH); the gentleman from Pennsylvania (Mr. GRAY); and the gentleman from Florida (Mr. LEHMAN). All these Members were very active in fashioning this compromise. I do not think we could have worked it out quite as well as we did if it had not been for the help of these Members.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, I rise in support of this supplemental. It is absolutely necessary we move ahead on this for a number of reasons; however, I do have a grave concern over the one section of the Caribbean Initiative which deals with El Salvador.

I would like to ask the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI) a question.

My understanding, as the gentleman from Maryland (Mr. LONG) outlined before, is that if we have a bill on this floor before September 15, we will then have an opportunity of further expressing our thoughts and concern on this issue of El Salvador and the money that is allocated for them.

Does the chairman feel that we have an opportunity of having a bill on this floor by September 15?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, it is the hope of the gentleman from Wisconsin that the authorizing legislation on this matter will be scheduled. We have appeared before the Rules Committee. A rule has been granted. I sincerely hope we will have the authorizing legislation considered and enacted before September 15.

Mr. PEYSER. I thank the Chairman for that answer. I still believe the conditions in El Salvador are not of the type that we want to be contributing money to that country at this time until we receive certain further assurances that have not been forthcoming either from the White House or from El Salvador as to the murder of the four American churchwomen.

I hope that the Members have the opportunity when that bill reaches the floor to discuss this issue and let the House work its will on what it wants to do on that $75 million which I believe should be eliminated.

I thank the Chairman for his time.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DYMALLY).

Mr. DYMALLY. Mr. Speaker, I rise in support of this measure. However, I cannot let this opportunity pass without expressing my distress over the fact that Members of Congress and the State Department keep referring to the Caribbean as Central America and Central America as the Caribbean. They are two distinct geographical areas with separate economies, separate cultures and separate language.

It distresses me no end that we keep referring to the Caribbean as a Communist-infested area when we are really speaking about Central America.

When we reflect on the fact that students do not know their geography and history of the Western Hemisphere, we must also remind ourselves that we, too, have indulged in this incorrect designation of one area with another.

Nevertheless, I want to take this opportunity to thank the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI), as well as the gentleman from Maryland (Mr. BARNES), and the gentleman from Maryland (Mr. LONG), and the members of the Subcommittee on Foreign Operations of the Appropriations Committee for bringing about this compromise.

When the measure was originally submitted to the House by the President, it only contained $10 million for the eastern Caribbean nations. That money has been increased to $20 million with an additional $7 million for scholarship. The portion affecting the Commonwealth Caribbean, I think, is in very good shape and deserves support. There are questions about the Central American portion, but we have to compromise on this issue.

Therefore, I urge an "aye" vote on this measure.

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I rise in reluctant support of the motion of the gentleman from Maryland (Mr. LONG). As the Members all know, I am concerned about the entire direction of American policy in Central America. Clearly this bill gives support to and is part of the administration's overall policy toward that region.

On the other hand, the House conferees have done a superb job in reducing the moneys available to El Salvador. Under the leadership of my colleagues, the gentleman from New York (Mr. MCHUGH), the gentleman from Wisconsin (Mr. OBEY), the gentleman from California (Mr. DIXON), and under the leadership of the chairman of the Foreign Operations Sub-

committee, the gentleman from Maryland (Mr. LONG), the Senate figure of $128 million in economic support funds was reduced to $75 million and the Senate's $20 million in military assistance to El Salvador was reduced to zero.

I commend all of the members of that subcommittee for doing that.

Nonetheless, I am still troubled with the amendment. I believe $75 million to El Salvador is still too much by at least $50 million. I agree with the gentleman from Kansas (Mr. GLICKMAN), if anything we ought to take $50 million out of that and put it in Costa Rica.

Let us remember: This $75 million is hard currency. It is a gift to the Government of El Salvador that will not have to be paid back.

Why does the El Salvadoran Government need this money, these U.S. tax dollars? It is because El Salvador's own entrepreneurs have been taking their money out of El Salvador for at least 10 years.

□ 1700

We are trying to bail out the capital flight from that country, but we should remember that Salvador's basic problem is neither economic nor military and no amount of either military or economic aid by itself will solve that country's basic problem, which is political. Salvador needs political negotiations and solutions.

I am troubled also because this $75 million comes 3 short weeks after the administration's certification on progress in human rights by the Government of El Salvador. I believe that certification was fraudulent and it only signaled to the Government of El Salvador that it has a blank check to continue its human rights violations.

In case anybody doubts, they should look at a chart that I have from the Department of State that shows that the civilian deaths in El Salvador from last August until this summer has basically remained the same. The trend has not been downward in El Salvador, as the certification said.

I am also troubled by the $10 million in ESF for Guatemala. I believe that appropriation borders on being illegal and it violates section 502(B) of the Foreign Assistance Act which prohibits ESF to gross and consistent violators of human rights. The basic fact remains that the Guatemalan Army has stepped up, not decreased, its policy of massacres and killings of civilians in the countryside.

Now, while the CBI is not directly related to the administration's policies and actions within Honduras to destabilize the Government of Nicaragua, it is nevertheless an integral part of the administration's foreign policy toward Central America. At the moment, that policy includes a $19 million appropriation to carry out covert operations against the Government of Nicaragua. Our whole policy in Honduras seems to be to turn that country into a surrogate for belligerent U.S. policies.

Such a policy, I believe, is a disaster for Honduras. It will lead to war between Honduras and Nicaragua; and finally, engaging in covert operations is illegal under our treaty obligations.

I am not sure that this Congress can, in good conscience, support any proposal that in any way aids and abets this administration's policy toward Central America.

Finally, I just quite frankly do not trust the people who will administer these funds. I trust the House conferees who fashioned this compromise, but I do not trust this administration. They are indifferent to human rights in Central America in each and every country in the region. This administration prefers intransigence to diplomacy, conflict over negotiation, and apparently war instead of peace.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Speaker, first of all, I want to associate myself with the remarks of the gentleman from Iowa (Mr. HARKIN) because I think his points are well made.

I am delighted that today we are discussing the Caribbean Initiative, a part of the world that has been over the last several years full of strife, killings, and murders. Yet today we are talking about economic development.

Last week I was among those who spoke against the spending of $21 million for an airfield in Honduras. At that time I said that if we really want to help the nations of the Caribbean Basin, then let us encourage them to help themselves.

One of the problems I have is that the money appropriated for El Salvador is excessive. Several years ago there were four Catholic workers in El Salvador murdered, brutally murdered, and yet their murderers have not been brought to trial. Justice has not been served, and yet we are going to allocate $75 million for El Salvador.

I want to help the Government of El Salvador, but that Government has a responsibility to this country, and especially to this Congress, to bring to justice those persons who murdered the four religious workers, so that we can get on with the business of helping that nation and all the other nations of Central America.

I, therefore, want to voice my support for the supplemental appropriation to Caribbean Basin nations. This portion of the Caribbean Basin Initiative is designed to provide balance-of-payment supports for the nations of the region. That is a worthy cause. Many of the basin countries are struggling to establish democratic traditions. The Dominican Republic and Jamaica are two excellent examples.

If the United States wants to promote regional stability, it must help these countries develop economically. The CBI is an appropriate gesture. Although, it does not provide the answer to the region's problems.

What disturbs me, however, is that there is still an excessive amount of money for El Salvador. The House conferees fought to cut out all the military aid for El Salvador. They also cut back economic assistance by over $50 million. This is a victory, but it is still not a strong enough statement.

El Salvador should not get an additional $75 million. It is still in a state of political and civil chaos. The present Government is by no means representative of the majority of the Salvadoran people.

Neither is the Government of Guatemala. The violence in that country since the March 23 coup has not lessened. A state of siege has existed since the beginning of July. The present regime has not outlined a specific economic or political recovery program. It has instead concentrated on terrorizing the civilian population in the countryside, claiming it is wiping out the guerrillas. This is no way to handle a political problem. Yet, Guatemala is being allocated $11 million in this appropriation.

Compromise is the nature of politics, but protest is the nature of democracy. I am willing to compromise by supporting this initiative, but I wish to protest the money being sent to El Salvador, and I hope the money sent to Guatemala is used for humanitarian purposes.

Mr. LONG of Maryland. Mr. Speaker, I might point out in answer to the gentleman from New York that I was strongly opposed to anything for El Salvador. I feel very strongly and, I agree with the gentleman entirely on many of the points he is making; but, like so many compromises, this is one of those things that is not terribly satisfactory from an intellectual point of view.

We were told that if we did not allocate this sum of money, the President would likely veto the entire supplemental bill. That action would have caused $14.5 billion worth of very important programs, social programs and others, to go down the drain.

I do not think there is any question that a veto would occur without these funds. We got the bottom dollar on El Salvador. I think the gentleman from Massachusetts, who helped convince the administration that they were not going to get any Caribbean Basin funds if they vetoed the bill was a very important factor here. The gentleman might want to speak to that point.

In other words, we did the best we could.

Mr. PEYSER. Will the gentleman yield for a question on that?

Mr. LONG of Maryland. I would be glad to yield to the gentleman from New York.

Mr. PEYSER. Mr. Speaker, did I understand the gentleman to say that the administration said that unless they got this money for El Salvador, the $75 million, that they would consider vetoing the supplemental?

Mr. LONG of Maryland. This was never openly stated. So you cannot find the fine print to prove this.

Mr. PEYSER. But that was the inference?

Mr. LONG of Maryland. We were given the unmistakable understanding that if without this sum of money, that the whole supplemental would nearly for sure be vetoed.

Mr. PEYSER. I must say, I would find that probably one of the most outrageous statements our executive branch could ever make, that if we did not give money to a country who has certainly violated all the human rights we can think of, that they would veto an urgent supplemental that covers pay raises for military, schools, and everything else. It is just really inconceivable.

I thank the gentleman for yielding.

Mr. LONG of Maryland. Well, let me point out that in fashioning this compromise, we had the invaluable help of the gentleman from New York (Mr. McHUGH) and the gentleman from Massachusetts (Mr. CONTE). Without those two, I do not know how we could have come to this result. I express my gratitude to both of them for the great job they have done. Further, the valiant work of the gentleman from New York (Mr. McHUGH) throughout the years in the operation of this subcommittee has been outstanding. He is always there and he is a tremendously valuable man.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Speaker, I rise in support of the motion of the gentleman from Maryland and associate myself with the various series of commendations of those Members on both sides who have been instrumental in working out this compromise. It is, like all compromises, imperfect, and I doubt that there is a single Member of this House who is satisfied with it in its entirety.

My own views with respect to the administration's policy in Central America are well known, having been stated often on this floor and in committee.

Notwithstanding my most serious personal reservations with respect to the wisdom of current U.S. policy regarding Central America in general and El Salvador and Honduras and Guatemala in particular, I do believe that this initiative is worthy of support by all of us, whether or not we support the administration's general foreign policy in Central America.

I would caution my colleagues, if possible, not to read page 23 of this conference report before us, because there apparently were some flights of rhetoric engaged in by the Senate, I assume late at night, on this subject, wherein the Monroe Doctrine was invoked and will become recodified in the statutes with the adoption of this, and there is something which can only be called almost a Gulf of Fonseca resolution passed by this Senate, which says the United States is determined to prevent by whatever means may be necessasry, "including the use of arms," the regime in Cuba from extending or subverting activities in any part of this hemisphere.

The Senate frightened even itself, apparently, in adopting that amendment, because a few hours later it adopted another amendment which reads:

> This act does not constitute the statutory authorization for introduction of U.S. armed forces contemplated by the war powers resolution.

That, I think, we can all note with enormous relief.

Notwithstanding, as I say, the flights of rhetoric with which I suppose both bodies tend to be consumed in the late hours of the evening, this effort, I think, is the best we are likely to see made both by this administraton and this Congress to address the economic problems which lead to so much of the violence and unrest in Central America.

I urge its support by all Members on both sides, regardless of our differences with respect to policies in general.

Mr. Speaker, I rise in support of the motion to accede to the language worked out by the conferees.

I believe the Caribbean Basin Initiative, despite its many faults, is on balance a positive effort to address the severe economic problems of nations in Central America and the Caribbean. Several of these nations, particularly Costa Rica, the Dominican Republic, and Honduras, are democracies which both deserve and desperately require the assistance contained in this legislation.

Much of the debate over U.S. policy toward Latin America results from differing perceptions about the primary cause of political unrest in the region. Some argue that Cuba and the Soviet Union are largely responsible, others suggest that social injustice and economic problems deserve the primary blame. I do not believe that those who tend to subscribe to the latter view, including myself, should be recorded in opposition to the best effort we are likely to see made by this administration and this Congress to deal with the economic problems contributing to the violence and unrest so prevalent in Cental America today. I suspect a tendency exists on the part of some to oppose this Initiative simply because it was orginially proposed by President Reagan. I understand this reaction, but I believe the CBI must be considered on its merits.

I doubt there are any Members in this body who are completely satisfied with the terms of the compromise worked out by the conferees. I, myself, discussed a series of reservations in the course of offering additional views to the Foreign Affairs Committee report on this subject. In particular, I question the need to send yet another enormous batch of aid to El Salvador at this point, I am uncertain of the legality of providing aid to Guatemala at a time when the government of that country continues to engage in a systematic pattern of gross violations of human rights, and I wish that a greater portion of the funds could have been used for development assistance, particularly of the sort made available by the Inter-American Foundation.

I am also concerned that the Reagan administration may be using the leverage provided by the CBI to persuade Honduras to cooperate in a blatantly illegal effort to overthrow the Government of Nicaragua. Paramilitary operations are being launched regularly from Honduran soil into Nicaragua, clearly with the knowledge, and very likely with the financial backing, of the United States. These operations threaten to embroil Honduras in a regionwide war, and they are making it almost impossible for democratic elements within Nicaragua to argue for a moderation of policies inside that country. I support economic aid to Honduras, but I want the record to reflect my hope that the Government of that country will end its complicity in violence directed by Somocista exile groups against Nicaragua.

In closing, I want to congratulate particularly the gentlemen from Maryland (Mr. BARNES and Mr. LONG) and the gentleman from New York (Mr. McHUGH) for their work in improving the provisions of this legislation. I think they have done a good job, and I urge support for the CBI.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to clarify one point, and I hope the gentleman from New York (Mr. PEYSER) is here.

I do not ever recall the administration saying that unless they got what they wanted in the Caribbean Basin, that they would veto this.

I know what was at stake was that there was some military credit sales money for Spain, Portugal, Morocco, Tunisia, Greece, Turkey, Korea, Thailand, and Sudan.

□ 1710

They wanted that money very, very badly. I believe it was $186 million. We had hours and hours of negotiations

on this with Mr. MCHUGH, Mr. LONG, Mr. OBEY, and Mr. KEMP.

Mr. MCHUGH said in no way could he buy any package if it contained that $186 million in military credits. Mr. MCHUGH is here. If I am wrong, I would like to be told.

That was a compromise. Finally, they dropped that and they went back to the original Long-Kemp package.

Then there was a great deal of discussion in regard to El Salvador because the Senate wanted $128 million in economic aid, and Mr. LONG wanted $75 million. That was the agreement finally agreed to, and the Senate was very upset, if I recall, at the end, over that agreement. They were upset that the House prevailed with the $75 million rather than the $128 million.

Those are the facts. There is no military assistance, no military assistance whatsoever, for El Salvador in this bill. That was part of the agreement also.

Of course, I concurred on that part with Mr. LONG and with the others.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. I thank the gentleman for yielding this time to me.

Mr. Speaker, I just want to say that it is very difficult to sit here and listen to the sacred cause of human rights being used as a club to beat El Salvador over the head, which is fighting a bloody, dirty war for its survival and has had an election, which is more than Nicaragua will have in your memory.

Then to note that the people who are most strident and loud in attacking El Salvador are those who hardly raise an eyebrow, at least in public, to 400,000 innocent people in Beirut, not PLO but the innocent victims of a brutal war who are being killed daily over there. They have human rights, too. There are many more than the four nuns who were killed down in El Salvador.

I will give you some names if you want them, of people who are withholding food and water and medical care from innocent refugees in West Beirut. Those people have human rights, too.

Now, there are those who say that this double standard is intellectually dishonest—count me among them.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. I thank the gentleman for yielding this time to me.

Mr. Speaker, this is, I think, generally laudable legislation we are looking at but, like all legislation, I think it should be reviewed with a fine-toothed comb and take a look at all the pitfalls involved.

This legislation mandates $7.5 million to scholarships to Caribbean area students. We have at this time some 38,000 students from the Caribbean area and Latin America. I think when this bill comes up for authorization, I intend to add an amendment, to ask for an amendment to correct this defect. I think it is only appropriate that the American people ask this Congress, at a time when we are cutting back on our own students, how can we mandate money for foreign scholarships?

I think this is an issue that we have to take a look at in this Congress, and at the appropriate time I intend to offer an amendment to that effect.

The Caribbean Basin program, as reported by the Foreign Affairs Committee, contains provisions with which I and many of my colleagues disagree. The legislative calendar has been such, however, that today we are compelled to address the question of appropriations even before we have had an opportunity for floor debate on the authorization itself.

In the authorization, I am particularly concerned over the provision that mandates that the President use at least $7.5 million of the Caribbean Basin funds for scholarships for individuals from the Caribbean and Central America. I have already introduced an amendment which will delete that provision from the authorization. I wanted to bring this to the attention of my colleagues because some may be hesitant to vote for the appropriations portion of the program while this scholarship provision remains in the authorization.

I know that many of you feel as I: How can we go back to our districts and defend cutbacks in student aid—and tell our citizens that we can no longer afford to lend money to American college students—when we are setting up a special scholarship program for foreign nationals? Even without these scholarships, over 12,000 students from the nations covered by the Caribbean Basin program are studying here in the United States. In comparison, only some 4,500 students from the region are studying in the Soviet Union and Eastern European universities.

The problem is that we cannot compare just official aid levels—we must look at the total picture. Whereas in the Soviet bloc, only official aid is available; here in America, there are a wealth of private resources: Churches, business, private foundations all supplement our official aid programs.

Perhaps the most damaging argument that can be utilized against those who contend that our Government must do more in regards to official assistance lies in the total number of foreign students. In the 1980-81 academic year, over 300,000 foreign students came to our Nation. On the other hand, the Soviet Union and the Eastern Europeans—despite all of their financial inducements—were only able to attract some 63,000 foreign students.

I think that the facts are clear: We do not need this scholarship program, it should not be part of the overall initiative, and I will work to see that it is taken out of the authorization bill. Because I am confident that the majority in this House will join with me in striking this provision from the authorization, I feel that I am able to support the appropriation which is before us—and that those of my colleagues, who have had reservations about voting for the appropriation because of the scholarship language in the authorization, will join with me in support of the appropriations for the Caribbean program which is, overall, a valuable contribution toward achievement of America's objectives for the region.

During debate on the authorization bill, I look forward to the discussion on my amendment, which I feel will have the strong support of the majority of my colleagues. At that time, we will have an opportunity for full consideration of the merits of the proposed scholarship program—for now, let us join together in support of the appropriations for this important program.

Mr. CONTE. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I hate to put a discordant note into all of the accolades to the conferees in putting together the Caribbean Basin initiative, but I think it ought to be made very clear that at this point we are authorizing and appropriating all at once a new $350 million foreign aid program that will be operational for less than a year, and when we come back in the spring in the new Congress, there will be further appropriations requested in the fiscal year 1983 appropriation bill.

This is at a time when we are cutting back on our own domestic programs as well as asking the American people to pay more taxes to finance bridging the budget deficit.

I think it is wrong to bring up the Caribbean Basin initiative at this time. I believe that the motion of the gentleman from Maryland ought to be defeated, and, furthermore, in a procedure where a non-amendable motion, in a conference report comes up, it will not allow the House to work its will in terms of setting the priorities as to where this money should go.

Mr. CONTE. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DORNAN).

Mr. DORNAN of California. Mr. Speaker, how we work out what is in or what is not in this bill is not my primary concern at this moment although the CBI moneys are critically important. I want to address myself to

several of the statements about human rights in El Salvador. Again, there is an unfortunate distortion of facts on this floor.

Mr. Speaker, some of my colleagues are severely crippled, handicapped, I believe, in the area of deductive reasoning. They simply cannot tell "the good guys" from "the bad guys" in many conflicts around the world.

I have not heard from the more hot-eyed Members who made a case for the Sandinistas in this well, any comments whatsoever about the human rights violations that are going on in Nicaragua right at this minute. As we talk, at this very moment, Catholic students are rioting against the Sandinista government in some neighborhoods of Managua; for example, yesterday, a Catholic priest was run naked through the streets by the Sandinistan-Marxist-Leninist government there and students are sick of suppression of the church.

Now what about El Salvador? Having visited two hospitals there in San Miguel and San Salvador, within the last 6 days, I have to refute the one-sided statements made on this House floor about the murders from the extreme right only. The Marxist left does more than its share of brutal killing and maiming. I have spoken with the wounded, most of them teenagers.

While murders in many of our own metropolitan areas, such as the cocaine-related killings in Dade County are going up and up, the murders are going down in San Salvador and in the other 13 provinces of that small country, and they are going down precisely because of the American presence and U.S. aid.

Thursday, I flew over the destroyed Golden Bridge which once spanned the major river crossing, El Salvador the Lempi. It was blown up and dumped into the river, this expensive, high-suspension bridge, by Soviet- or Cuban-trained demolition teams. And that expense, the economic expense to El Salvador, we cannot make up for in aid in this Congress over the next 4 or 5 years; if we give them $75 million a year for the next 10 years, we would not make up a fourth of the capital that has fled from that country in just the last 2 years because of the Communist terrorism.

El Salvador is a North American nation worthy of our support as long as they keep that ugly death toll going in the right direction, down, and it is going downhill.

When I look at the country of Belize—they are getting $10 million—which has only 146,000 citizens compared to the 4.5 million Salvadorans excluding the half million that are already up here in the United States, I have to say that $75 million is the minimum that we should give in aid to El Salvador.

I saw with my own eyes 1 week ago today British Harriers in the nation of Belize, which, although a bigger land mass, has a tiny population to protect.

I saw F-86 Sabrejets that I flew in the Air Force sitting at San Pedro Sula in Honduras last year. I saw French-built Mysteres there, over 20 of them that were purchased from Israel after they had been used to defend Israel in the 1967, 6-day war. If there are transonic F-86's and Israeli-sold Mysteres in Honduras, and British Harriers of Falklands fame in Belize, what is so threatening to Central American stability having six tiny Cessna T-37 "Dragonfly," converted primary pilot training aircraft, flying as fighter bombers in El Salvador? By the way, those A-37's are doing a superb job in driving the bad guys back into Nicaragua.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

□ 1720

Mr. GILMAN. Mr. Speaker, I rise in support of the chairman's motion in support of the Caribbean Basin Initiative.

The Caribbean Basin Initiative is an important step forward in our efforts to help our neighbors in the Caribbean and Central American area address their longstanding political, social, and economic problems. While helping to strengthen stability and promoting economic development, the CBI will help protect our own political, economic, and security interests in the region.

In addition to our humanitarian interests, it is clear that the Caribbean and Central America has greatly increased in its importance to U.S. interests. With nearly half of our trade, two-thirds of our imported oil and many of our strategic minerals transmitting the region's sea-lanes, this area has become vital to our own self-interest. Furthermore, we are not immune to the violence and unrest that has been taking place as millions of the area's citizens flock to our shores.

The compromise package worked out in the House Foreign Affairs Committee and between the House and the Senate as reflected in this bill is a good-faith effort to meet the concerns of the broad bipartisan coalition that give it near-unanimous support. This measure best reflects that compromise which was designed so that individual country programs complement each other.

Accordingly, I urge my colleagues to support this CBI amendment, to keep the CBI package together, thereby supporting U.S. interests in the Caribbean-Central American region.

Mr. LONG of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GRAY).

Mr. GRAY. Mr. Speaker and colleagues, I rise in support of the Caribbean Basin Initiative, and I do so with many of the strong reservations that have been expressed by some of my colleagues, including the distinguished gentleman from Iowa, because I, too, am concerned about what is happening in El Salvador. Yet, at the same time, I recognize that what has happened during the deliberations, and also the hearings, with respect to this Initiative, has been a carefully constructed compromise that tries to speak to a significant policy area in our hemisphere.

Essentially, we may debate about El Salvador, and there are those of us who do not even like the $75 million going to El Salvador, and I would probably come down on that side, or we can talk about the fact that Belize is getting $10 million, but I think the real central issue we are going to be facing in voting today is whether or not we are going to begin to provide some aid to our Caribbean neighbors whom we have ignored. Essentially, the CBI seeks to address itself particularly to those neighbors in the Caribbean.

Yes, there are those in Central America, and that is why some of my colleagues now call it, not the Caribbean Basin Initiative, but the Caribbean-Latin Basin Initiative. But I think we are beginning to move in the right direction, and that is to provide substantial economic assistance to the Caribbean.

No one perhaps in this Congress has greater unemployment than I do; 25 percent of my adult population is unemployed, but yet at the same time I recognize that the $356 million that will be spent with our Caribbean neighbors particularly is a worthwhile investment so that next year, or the year after next we will not have to vote on high military assistance which will cost more than this Initiative. Let us walk through this door of opportunity.

I urge the support for the Caribbean Initiative.

Mr. LONG of Maryland. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I just want to respond briefly to two comments made by some of our colleagues about this legislation.

One, as one gentleman said, this is not the time; we have got problems here in America. The problem is, there has never been the time. That is why we are where we are now. We have put off doing what needed to be done year after year, and that is why we have the problems we face today in the Caribbean and Central America. If we had done this 20 years ago we would not face the problems we have today.

Another gentleman said he is opposed to the scholarship money that is in this legislation that will provide funds for students to come to the United States from Central America and the Caribbean to study. I am a strong proponent of this. The Soviet Union, the Cubans, and the East Germans are spending a fortune educating these young people, and we are not competing with them. I think we ought to be doing it.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. BARNES. I yield.

Mr. LONG of Maryland. The fact is that the gentleman put scholarships into the authorization but they are not earmarked in the appropriation.

Mr. BARNES. I am glad it is in the authorization, and I hope we can get some money appropriated for it, because the United States ought to be competing with the Soviet Union on scholarships.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I would like to follow up the comments made by the gentleman from Pennsylvania, Mr. GRAY. His point was that this is a very sound proposal, and as the gentleman from Maryland (Mr. BARNES) pointed out, that it is really long overdue. What we are talking about is a practical investment by the United States in an area where we have substantial trade as well as traditional ties. It is essential to our national defense. This is essential to our role of leadership in all of Lation America, but specifically the Caribbean. I maintain we should have had this program in the Alliance for Progress in a much more aggressive fashion.

It is true that there is a never a right time for anything. Perhaps now may not be the right time, but it is the time to make a good, hard decision. This legislation and these funds are necessary to show the leadership and the long-term interest the United States has in the well-being of the nations and the peoples of the Caribbean.

I personally think countries like Haiti and Belize will eventually get a larger slice of the pie. There is nothing magic or hard in the original distribution of funds. That will be corrected over the years, but to fund the program now is absolutely essential. I urge the House to take that position.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

Mr. LONG of Maryland. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I make the point of order that a quorum is not present.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present.

The SPEAKER pro tempore. Is the gentleman from Massachusetts (Mr. CONTE) objecting to the vote?

Mr. CONTE. No, Mr. Speaker, I am just making the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) has a right to object to the vote.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 129, not voting 24, as follows:

[Roll No. 294]

YEAS—281

Addabbo	Derrick	Guarini
Akaka	Derwinski	Gunderson
Alexander	Dickinson	Hagedorn
Annunzio	Dicks	Hamilton
Anthony	Dingell	Hance
Archer	Dixon	Hansen (ID)
Aspin	Dornan	Hansen (UT)
Badham	Dougherty	Harkin
Bailey (PA)	Downey	Hawkins
Barnard	Duncan	Hightower
Barnes	Dwyer	Hiler
Bedell	Dymally	Hillis
Beilenson	Edgar	Holland
Bereuter	Edwards (AL)	Hollenbeck
Bevill	Edwards (CA)	Horton
Biaggi	Edwards (OK)	Howard
Bingham	Erdahl	Hoyer
Bliley	Erlenborn	Huckaby
Boggs	Ertel	Hunter
Boland	Evans (DE)	Hutto
Bonior	Evans (GA)	Hyde
Bowen	Evans (IA)	Jacobs
Brinkley	Evans (IN)	Jeffords
Broomfield	Fary	Kazen
Brown (CA)	Fascell	Kemp
Burgener	Fazio	Kennelly
Burton, Phillip	Fenwick	Kildee
Butler	Ferraro	LaFalce
Campbell	Fiedler	Lagomarsino
Carman	Fields	Lantos
Carney	Findley	Latta
Cheney	Fish	Leach
Chisholm	Flippo	LeBoutillier
Clausen	Florio	Lee
Clay	Foglietta	Lehman
Clinger	Ford (TN)	Lent
Coats	Forsythe	Levitas
Coelho	Fowler	Lewis
Coleman	Frenzel	Livingston
Collins (IL)	Frost	Loeffler
Conable	Fuqua	Long (LA)
Conte	Garcia	Long (MD)
Corcoran	Gejdenson	Lowery (CA)
Coughlin	Gephardt	Lowry (WA)
Courter	Gibbons	Lujan
Coyne, James	Gilman	Luken
Coyne, William	Gingrich	Lundine
Craig	Glickman	Lungren
Daniel, Dan	Gonzalez	Markey
Daniel, R. W.	Goodling	Marriott
Dannemeyer	Gore	Martin (NC)
Daub	Gradison	Martin (NY)
Davis	Gray	Martinez
de la Garza	Green	Matsui
Deckard	Gregg	Mavroules
DeNardis	Grisham	Mazzoli
McClory	Pursell	Spence
McCloskey	Rahall	Stangeland
McCollum	Railsback	Staton
McCurdy	Rangel	Stokes
McDade	Ratchford	Stratton
McGrath	Regula	Studds
McHugh	Reuss	Swift
McKinney	Rhodes	Synar
Mica	Richmond	Tauke
Mineta	Rinaldo	Thomas
Minish	Robinson	Trible
Mitchell (MD)	Rodino	Udall
Mitchell (NY)	Roe	Vander Jagt
Moakley	Rogers	Walgren
Molinari	Roth	Wampler
Mollohan	Rousselot	Waxman
Moore	Roybal	Weber (MN)
Morrison	Rudd	Weber (OH)
Myers	Sabo	Weiss
Natcher	Santini	White
Nelligan	Sawyer	Whitehurst
Nelson	Scheuer	Williams (MT)
Nowak	Schneider	Williams (OH)
Oberstar	Schroeder	Wilson
Obey	Schulze	Winn
Ottinger	Schumer	Wirth
Oxley	Seiberling	Wolf
Panetta	Shamansky	Wolpe
Parris	Sharp	Wortley
Pease	Shaw	Wright
Pepper	Simon	Wylie
Perkins	Skeen	Yates
Petri	Smith (AL)	Yatron
Peyser	Smith (IA)	Young (FL)
Pickle	Smith (NJ)	Young (MO)
Porter	Smith (PA)	Zablocki
Price	Snowe	Zeferetti
Pritchard	Solarz	

NAYS—129

Albosta	Ford (MI)	Neal
Anderson	Fountain	Nichols
Andrews	Frank	Oakar
Applegate	Gaydos	Pashayan
Ashbrook	Gramm	Patman
Atkinson	Hall (OH)	Patterson
AuCoin	Hall, Ralph	Paul
Bailey (MO)	Hall, Sam	Quillen
Benedict	Hammerschmidt	Ritter
Benjamin	Hartnett	Roberts (KS)
Bennett	Hatcher	Roberts (SD)
Bethune	Heckler	Roemer
Blanchard	Hefner	Rose
Boner	Hendon	Roukema
Bonker	Hertel	Russo
Bouquard	Hopkins	Savage
Breaux	Hubbard	Sensenbrenner
Brodhead	Hughes	Shannon
Brooks	Jeffries	Shelby
Brown (CO)	Jenkins	Shumway
Broyhill	Johnston	Siljander
Byron	Jones (NC)	Skelton
Chappie	Jones (OK)	Smith (NE)
Collins (TX)	Jones (TN)	Smith (OR)
Conyers	Kastenmeier	Snyder
Crane, Daniel	Kindness	Solomon
Crane, Philip	Kogovsek	St Germain
Crockett	Kramer	Stark
D'Amours	Leath	Stenholm
Daschle	Leland	Stump
Dellums	Marlenee	Tauzin
Donnelly	Martin (IL)	Taylor
Dorgan	Mattox	Traxler
Dowdy	McDonald	Vento
Dreier	McEwen	Walker
Dunn	Mikulski	Washington
Dyson	Miller (CA)	Watkins
Early	Miller (OH)	Weaver
Eckart	Moorhead	Whitley
Emerson	Motti	Whittaker
Emery	Murphy	Whitten
English	Murtha	Wyden
Fithian	Napier	Young (AK)

NOT VOTING—24

Bafalis	Goldwater	Moffett
Beard	Heftel	Montgomery
Bolling	Holt	O'Brien
Brown (OH)	Ireland	Rosenthal
Burton, John	Lott	Rostenkowski
Chappell	Madigan	Shuster
Foley	Marks	Stanton
Ginn	Michel	Volkmer

□ 1740

Messrs. EMERY, HARTNETT, SAVAGE, MARLENEE, MILLER of California, and D'AMOURS, Mrs. HECKLER, Mr. AuCOIN, and Mr. PATTERSON changed their votes from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 59: Page 21, after line 7, insert:

Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker. I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 59, and concur therein.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 60: Page 21, after line 7, insert:

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessasry expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $16,988,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and $25,012,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only for Somalia, Honduras, and El Salvador: *Provided further*, That of the funds available only for the countries referred to in the first proviso, $10,000,000 shall be available only for Somalia, $12,000,000 shall be available only for Honduras, and $20,000,000 shall be available only for El Salvador.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 61 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $2,000,000, to remain available for obligation until September 30, 1983: *Provided*, That such amount and $25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: $10,000,000 shall be available only for Honduras; $5,000,000 shall be available only for Somalia; $2,000,000 shall be available only for Costa Rica; and, $10,000,000 shall be available only for Portugal.

Mr. CONTE. (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. LONG) will be recognized for 30 minutes, and the gentleman from Indiana (Mr. MYERS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I want to take this opportunity to share with this body some reservations that I and other Members on the House Subcommittee on Africa have with respect to the additional military assistance that is programed for Somalia within the body of this amendment. My subcommittee recommended $20 million in military support for Somalia in the 1982 fiscal year. In the 1983 authorization we have recommended another $20 million. What is before us now is a proposed increase of $5 million for 1982; there is also discussion underway within the administration about possible reprograming of additional military assistance for Somalia.

It needs to be understood that beyond a symbolic affirmation of support for Somalia in its current conflict with Ethiopia, additional military aid is basically irrelevant to both the external and internal problems facing that friendly country. What is desperately needed is not more arms for Somalia but a constructive diplomatic initiative in the region. Without such an initiative, more military aid shows little promise of fulfilling its goal of reducing Soviet and anti-American influences in the Horn of Africa. Moreover, the escalation of American military assistance to Somalia carriers with it substantial risks to American interests in the Horn.

The military assistance for Somalia is being offered as a response to the recent border invasion into Somalia of Ethiopian forces. But this military assistance is clearly inadequate to the military challenge facing Somalia. Ethiopia, with almost 10 times the population of Somalia and possessing large amounts of Soviet equipment, is the predominant regional power. In addition, a key element of Somalia's present problems with Ethiopian incursions and Ethiopian-aided Somali dissident forces is the growing internal political crisis in Somalia. In the past few months, the Somali Government has arrested seven top officials from various political and ethnic groups, repressed nonviolent mass demonstrations in northern Somalia against economic shortages and political underrepresentation, arrested over 1,500 people, and experienced the defection of numerous cabinet ministers, party officials, ambassadors and troops. At least two key opposition groups, the Somalia Democratic Salvation Front and the Somalia National Movement—neither of which are socialist much less Communist—have launched attacks within Somalia from Ethiopian sanctuaries. Somalia's military forces are clearly hampered in the current fighting by the Government's loss of internal political support.

□ 1750

There are really three points that I think need to be understood very clearly. The first is the military aid that is being provided is essentially irrelevant to the effort by Somalia at repelling the recent Ethiopian incursion.

Ethiopia is the dominant regional power with almost 10 times the population of Somalia.

Actually, no one in the administration is even pretending that the limited military assistance that is being extended is going to do the military job. What is being argued instead is that the increased military assistance to Somalia is intended as a symbol of our support for President Siad and a warning to the Ethiopians to desist from efforts to undermine the Siad regime.

The reality, however, is that the signal that is being sent out by the additional programing of military support to Somalia could well have some very serious and negative unintended consequences. The first of those consequences is that Somalia may well be encouraged to expand its military operations in the Ogaden region of Ethiopia. At the heart of the historic conflict between Ethiopia and Somalia is Somalia's claim to Ethiopian territory that is inhabited by Somali, a claim that has been rejected by the U.S. Government as well as by the entire African continent. Somalia has continually supported dissidents in the Ethiopian Ogaden and even invaded Ethiopia with its regular forces in 1977-78 and 1980. Prior to the latest Ethiopian border incursions there were reliable reports of a large Somali-aided guerrilla attack in the Ogaden and even of Somali regular incursions into the Ogaden. There are indications that this activity is now increasing again.

I want to repeat: The position of the U.S. Government has been that the

Somalia claim to Ethiopian territory is an invalid claim. We have opposed consistently Somali troops being involved in the Ogaden region. In fact, in the past we have insisted as a condition of American aid to Somalia that there be no Somali troop involvement in the Ogaden region. We took this position because we did not want the United States to be drawn into a regional conflict, and we did not want American arms exacerbating that conflict.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. WOLPE) has expired.

(At the request of Mr. LONG of Maryland and by unanimous consent, Mr. WOLPE was allowed to proceed for 2 additional minutes.)

Mr. WOLPE. Mr. Speaker, I believe the issues are significant and do require some discussion.

The final point I would make is that U.S. interests in the Horn of Africa are to minimize regional violence which, as developments following the 1977-78 Somalia invasion of Ethiopia make clear, attracts Soviet and Cuban involvement. It is for this reason that the gentleman from Pennslyvania (Mr. GOODLING), the ranking minority member of my subcommittee, and I have urged the administration to back away from its focus upon the military dimension of the conflict in the Horn and to take a broader, diplomatic approach to both Ethiopia and Somalia that will address the underlying causes of that conflict. A high-level diplomatic initiative to both Somalia and Ethiopia should seek mutual withdrawals of all military forces. Such an initiative could meet the security concerns of both sides, as in our successful diplomacy with Angola and Zaire since 1978. As part of this approval, we must reaffirm to Somalia congressional conditions that no regular Somali troops be in the Ogaden when U.S. military aid is agreed to or delivered and the applicability of Somalia's previous assurances to the United States that it would refrain from the use of force against Ethiopia. We must further insist that U.S. aid not be used against internal dissidents in Somalia. Likewise, we need to make clear to Ethiopia our opposition to Ethopian cross-border insurgence into Somalia and Ethopian military support for the Somalia Democratic Salvation Front.

In sum, increased military aid for Somalia, beyond its symbolic effect, gives no promise of helping Somalia cope with recent Ethiopian border incursions. It is irrelevant to the internal crisis in Somalia which could well erupt into internal revolution following military defeats. And it is irrelevant to the need to defuse the historic conflict between Ethiopia and Somalia over the Ogaden which has spawned the current border war. I hope, therefore, that the Congress will be vigilant in insisting that the administration develop a diplomatic and political approach to Somalia's problems. This is the only effective means we have of curbing violence and Soviet influence in the region. By simply throwing money to a weak and willful "friend," we risk a wasteful, expensive course which could result in greater external and internal pressures on a friendly regime, and greater risk of the emergence of a less pro-American successor.

Mr. DIXON. Mr. Speaker, will the gentleman yield?

Mr. WOLPE. I yield to the gentleman from California.

Mr. DIXON. Mr. Speaker, I would like to associate myself with the gentleman's remarks. As the Members know, we tried to get language into the conference. Due to unforseen circumstances, we were not able to accomplish this. I think the gentleman's point that this military assistance to Somalia will do no good is well taken. It probably will do a lot of damage.

Mr. LONG of Maryland. Mr. Speaker, I yield for 4 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, the gentleman from Michigan (Mr. WOLPE), the previous speaker, has given only one side and a very distorted side of the problem of the nation of Somalia in the Horn of Africa with a 15,000-foot runway, a very capable naval port, directly across from Aden in South Yemen, where the Soviets are staging a massive military buildup.

This is a country which the Armed Services Committee visited in 1975 when Siad Barre, the President, was flirting with the Soviet Union.

The Soviets had already constructed the 15,000-foot runway, the longest, I believe, on the east coast of Africa, and they already had their naval ships in the harbor. Within a couple of years of that visit—and I dare say our visit may have had something to do with it—the Somalis broke off with the Soviet Union, and they then sought help and support and understanding from the United States. This gave our country a great opportunity.

I cannot imagine a more strategic location for the activities of the Rapid Deployment Force to be based than in the country of Somalia. After some pressure on the administration—which always seems to resist some of these things—two administrations finally indicated that they recognized the strategic importance of Somalia, the importance of keeping Somalia and its runway in American hands, friendly to the United States of America. Eventually a total of something like $40 million in defensive weapons were designated for Somalia, in conjunction with the agreement which Somalia signed with us to provide facilities for the operation of our Navy in the Indian Ocean and also our RDF.

However, the liberal members of the Foreign Affairs Committee have consistently fought against this agreement, one after the other of the members of the African Affairs Subcommittee because, they said, the Somalis were being nasty to the Ethiopians. But it is the Ethiopians who are invading Somalia today, and with vast, with modern Soviet equipment.

What happens now to our RDF base? And how did this come about? Well, when the Soviet Union saw that in spite of the commitment that the State Department and Secretary Haig had given to President Barre and the renewed assurances that President Barre got just a few months ago from members of the Foreign Affairs Committee at an elaborate breakfast on the second floor of the Rayburn Building, the United States was dragging its feet and consistently refusing to send to Somalia what had been originally authorized and had been promised, the Ethiopians figured obviously the United States is not really sincere in its support of Somalia, so we might as well go ahead and invade Somalia and break up the U.S. Navy's schedule and the U.S. R.D.F. installation.

That is precisely what is going on now. It was only when the actual invasion of Somalia got under way that the administration finally recognized that they better ship the stuff over to Somalia which had been promised to them 2 years ago, if they were going to be able to hold on in the strategically important Horn of Africa, and keep that Horn out of the control and domination of the Soviet Union which ended in 1977.

I think for Members to reject the relatively modest amount of money that the distinguished gentleman from Maryland (Mr. LONG) has included in his request would be a major tragedy for the foreign policy and our whole strategy in the Indian Ocean.

I hope that Members will support the gentleman from Maryland by a wide margin.

□ 1800

Mr. MYERS. Mr. Speaker, I yield back the balance of my time.

Mr. LONG of Maryland. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 237, nays 175, not voting 22, as follows:

[Roll No. 295]

YEAS—237

Addabbo	Frenzel	Murtha
Akaka	Frost	Myers
Alexander	Fuqua	Napier
Andrews	Gibbons	Natcher
Annunzio	Gilman	Nelligan
Archer	Gingrich	Nelson
Ashbrook	Gore	Nichols
Aspin	Gradison	Obey
Badham	Gramm	Oxley
Bailey (PA)	Green	Panetta
Benedict	Gregg	Parris
Bennett	Grisham	Pashayan
Bereuter	Gunderson	Pepper
Bevill	Hagedorn	Petri
Biaggi	Hammerschmidt	Pickle
Bliley	Hance	Porter
Boggs	Hansen (ID)	Price
Boland	Hansen (UT)	Pritchard
Bouquard	Hartnett	Pursell
Bowen	Hertel	Railsback
Brinkley	Hightower	Regula
Broomfield	Hiler	Rhodes
Broyhill	Hillis	Rinaldo
Burgener	Hopkins	Roberts (KS)
Butler	Hubbard	Roberts (SD)
Byron	Huckaby	Robinson
Campbell	Hunter	Rogers
Carman	Hutto	Rose
Carney	Hyde	Roth
Chappie	Jeffords	Roukema
Cheney	Jeffries	Rousselot
Clausen	Johnston	Roybal
Clinger	Jones (NC)	Rudd
Coats	Jones (OK)	Santini
Coleman	Jones (TN)	Sawyer
Conable	Kazen	Scheuer
Corcoran	Kemp	Schulze
Coughlin	LaFalce	Shaw
Courter	Lagomarsino	Shelby
Craig	Latta	Shumway
Crane, Daniel	Leath	Siljander
Crane, Philip	LeBoutillier	Simon
D'Amours	Lehman	Skeen
Daniel, Dan	Lent	Smith (AL)
Daniel, R. W.	Levitas	Smith (NE)
Dannemeyer	Lewis	Smith (NJ)
Daub	Livingston	Smith (OR)
Davis	Loeffler	Smith (PA)
de la Garza	Long (MD)	Snyder
DeNardis	Lott	Solarz
Derrick	Lowery (CA)	Solomon
Derwinski	Luken	Spence
Dickinson	Lungren	Stangeland
Dicks	Marriott	Staton
Dixon	Martin (NC)	Stenholm
Donnelly	Martin (NY)	Stratton
Dornan	Mavroules	Stump
Dougherty	McClory	Taylor
Dreier	McCloskey	Thomas
Duncan	McCollum	Trible
Dwyer	McCurdy	Vander Jagt
Dyson	McDade	Walker
Edwards (AL)	McDonald	Wampler
Edwards (OK)	McEwen	Waxman
English	McGrath	Weber (MN)
Erdahl	McHugh	Weber (OH)
Erlenborn	McKinney	White
Evans (GA)	Mica	Whitehurst
Fary	Michel	Whitley
Fascell	Mineta	Whittaker
Fazio	Minish	Wilson
Fenwick	Mitchell (NY)	Winn
Fiedler	Moakley	Wolf
Fields	Molinari	Wright
Findley	Mollohan	Wylie
Fish	Montgomery	Young (AK)
Foley	Moore	Young (FL)
Fountain	Moorhead	Zablocki
Fowler	Morrison	Zeferetti

NAYS—175

Albosta	AuCoin	Beilenson
Anderson	Bailey (MO)	Benjamin
Anthony	Barnard	Bethune
Applegate	Barnes	Bingham
Atkinson	Bedell	Blanchard
Boner	Hall (OH)	Peyser
Bonior	Hall, Ralph	Quillen
Bonker	Hall, Sam	Rahall
Breaux	Hamilton	Rangel
Brodhead	Harkin	Ratchford
Brooks	Hatcher	Reuss
Brown (CA)	Hawkins	Richmond
Brown (CO)	Heckler	Ritter
Burton, Phillip	Hefner	Rodino
Chisholm	Hendon	Roe
Clay	Hollenbeck	Roemer
Coelho	Horton	Rostenkowski
Collins (IL)	Howard	Russo
Collins (TX)	Hoyer	Sabo
Conte	Hughes	Savage
Conyers	Jacobs	Schneider
Coyne, James	Jenkins	Schroeder
Coyne, William	Kastenmeier	Schumer
Crockett	Kennelly	Seiberling
Daschle	Kildee	Sensenbrenner
Deckard	Kindness	Shamansky
Dellums	Kogovsek	Shannon
Dingell	Kramer	Sharp
Dorgan	Lantos	Skelton
Dowdy	Leach	Smith (IA)
Downey	Lee	Snowe
Dunn	Leland	St Germain
Dymally	Long (LA)	Stark
Early	Lowry (WA)	Stokes
Eckart	Lujan	Studds
Edgar	Lundine	Swift
Edwards (CA)	Markey	Synar
Emerson	Marlenee	Tauke
Emery	Martin (IL)	Tauzin
Evans (IA)	Martinez	Traxler
Evans (IN)	Matsui	Udall
Ferraro	Mattox	Vento
Fithian	Mazzoli	Walgren
Flippo	Mikulski	Washington
Florio	Miller (CA)	Watkins
Foglietta	Miller (OH)	Weaver
Ford (MI)	Mitchell (MD)	Weiss
Ford (TN)	Mottl	Whitten
Forsythe	Murphy	Williams (MT)
Frank	Neal	Williams (OH)
Garcia	Nowak	Wirth
Gaydos	Oakar	Wolpe
Gejdenson	Oberstar	Wortley
Gephardt	Ottinger	Wyden
Glickman	Patman	Yates
Gonzalez	Patterson	Yatron
Goodling	Paul	Young (MO)
Gray	Pease	
Guarini	Perkins	

NOT VOTING—22

Bafalis	Ginn	Moffett
Beard	Goldwater	O'Brien
Bolling	Heftel	Rosenthal
Brown (OH)	Holland	Shuster
Burton, John	Holt	Stanton
Chappell	Ireland	Volkmer
Ertel	Madigan	
Evans (DE)	Marks	

□ 1810

Messrs. DECKARD, SAVAGE, and DYMALLY changed their votes from "yea" to "nay."

Mr. HAMMERSCHMIDT and Mrs. BYRON changed their votes from "nay" to "aye."

Mr. EMERSON changed his vote from "present" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 62: Page 21, after line 7, insert:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $50,000,000, which sum shall be available only for the Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made $50,000,000 of such gross obligations during such fiscal year.

In addition to the total amount of commitments to guarantee loans during the fiscal year 1982 provided under the heading "Foreign Military Credit Sales" of Public Law 97-121, there are provided $186,000,000 of commitments to guarantee such loans during such fiscal year: *Provided*, That such additional commitments and $25,000,000 of reprogrammed commitments to guarantee such loans during the fiscal year 1982 shall be provided only to guarantee loans for Korea, Thailand, Morocco, Tunisia, Portugal, Spain, Greece, and Turkey: *Provided further*, That of the commitments provided only to guarantee loans for the countries referred to in the first proviso $26,000,000 shall be provided only for Korea, $25,000,000 shall be provided only for Thailand, $20,000,000 shall be provided only for Morocco, $10,000,000 shall be provided only for Tunisia, $20,000,000 shall be provided only for Portugal, $25,000,000 shall be provided only for Spain, $35,000,000 shall be provided only for Greece, and $50,000,000 shall be provided only for Turkey.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 62 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, $50,000,000, which sum shall be available only for Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made $50,000,000 of such gross obligations during such fiscal year.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 63: Page 21, after line 7, insert:

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, $250,000,000.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 63 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

There are authorized to be made available for the Special Defense Acquisiton Fund for the fiscal year 1982, $125,000,000.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 64: Page 21, strike out lines 8 to 16, inclusive.

MOTION OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. LONG of Maryland moves that the House recede from its disagreement to the amendment of the Senate numbered 64 and concur therein with an amendment, as follows:

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

The funds appropriated by the Foreign Assistance and Related Programs Approriations Act, 1982, for resettlement services and facilities for refugees and displaced persons in Africa shall remain available until expended.

Mr. LONG of Maryland (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 65: Page 22, after line 3, insert:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further,* That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: *Provided further,* That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: *Provided further,* That not withstanding any other provision of law the Department of Housing and Urban Development shall obligate not more than one-fifteenth of the amount appropriated for personnel compensation and benefits during each month beginning on January 1, 1983, until October 1, 1983, until the Department issues final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further,* That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 CFR section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds $3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such $3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 CFR section 883.207 shall not be deferred: *Provided further,* That the first $89,321,727 of budget authority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 66: Page 22, after line 4, insert:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $304,000: *Provided,* That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendent, as follows: In lieu of the matter proposed by said amendment, insert the following:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $150,000: *Provided,* That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 69: Page 23, after line 22, insert:

LAND ACQUISITION

Notwithstanding the date cited in section 119(d) of Public Law 96-199 for acquisition of Yaquina Head Outstanding Natural Area, Oregon, an additional $700,000 is provided, to remain available until expended.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 69 and concur therein with an amendment, as follows: In lieu of

the matter proposed by said amendment, insert the following:

LAND ACQUISITION

For an additional amount for "Land acquisition", $700,000: *Provided*, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with $1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 84: Page 26, line 18, after "$7,000,000" insert ": *Provided further*, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "INDIAN AFFAIRS" in the paragraph headed "TRIBAL TRUST FUNDS" by deleting the last sentence of said paragraph and isnerting the following in lieu thereof:

"No funds shall be deposited in such 'Indian money, proceeds of labor' (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balance of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that House recede from its disagreement to the amendment of the Senate numbered 84 and concur therein with an amendment, as follows;

In lieu of the matter proposed by said amendment, insert the following: ": *Provided further*, That Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "INDIAN AFFAIRS" in the paragraph headed "TRIBAL TRUST FUNDS" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:

"No funds shall be deposited in such "Indian money, proceeds of labor" (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow account represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than ten percent of the funds transferred to trust accounts for any tribe of individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds.

Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985 through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate Amendment No. 86: Page 27, line 3, strike out all after "$21,400,000," down to and including "funds" in line 22 and insert "to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in turst pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided further*, That such fund and the earnings and distributions therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further*, That $2,000,000 of such fund shall remain available for future ex gratial distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further*, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds."

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 86 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "to remain available until expended, of which $1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: *Provided*, That $19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: *Provided further*, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Inte-

rior: *Provided further,* That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further,* That $2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: *Provided further,* That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: *Provided further,* That of the remaining funds, $2,500,000 shall be transfered to the "Administration of territories" account for technical assistance activities, to remain available until expended".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 91: Page 29, after line 16, insert:

FOSSIL ENERGY CONSTRUCTION

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $28,100,000 shall be used to implement the SRC-I project post-baseline workplan as outlined in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the SRC-I project termination reserve; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned post-baseline workplan or other current SRC-I project contracts.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered #91 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment insert the following:

FOSSIL ENERGY CONSTRUCTION

(DEFERRAL)

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), $64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, $28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; $22,000,000 shall be used for the termination costs of SRC-I; and $5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned activities.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 97: Page 32, line 6, strike out all after "$210,572,000" down to and including "amended" in line 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment, as follows: In lieu of the matter stricken by said amendment, insert the following: ": *Provided,* That not more than $46,325,840 shall be for grants to States under paragraph (3) of section 506(a) of the Older Americans Act of 1965, as amended".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate Amendment No. 98: Page 32, after line 9, insert:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For "Advances to the Unemployment Trust Fund and Other Funds", such sums as may be necessary, to remain available until September 30, 1983, for nonrepayable advances for a Federal supplemental benefits program subject to enactment of authorizing legislation.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", $20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Funds appropriated under this head shall be available for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No 112: Page 36, strike out lines 21 to 25, inclusive, and insert:

For an additional amount to carry out title III of the Higher Education Act, $5,184,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided,* That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further,* That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further,* That of the amounts that shall remain

available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 112 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, $10,000,000 which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which $5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: *Provided*, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: *Provided further*, That the remaining $5,000,000 shall enable the secretary to award grants under parts A and B of title III of the Act to eligible institutions which had an application approved, but did not receive a grant in fiscal year 1982: *Provided further*, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347(e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321(b) of the Act: *Provided further*, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, $300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

Mr. WHITTEN. Mr. Speaker, the next amendment has to do with the Salary Commission. I had expected to make the motion, but instead the gentleman from California (Mr. FAZIO), who is chairman of the Subcommittee on the Legislative Branch, is to present the next amendment to insist on the original House position which strikes the Salary Commission and leaves congressional salaries as they are.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 115: Page 39, after line 2, insert:

SEC. 108. For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), $160,000, to remain available until expended: *Provided*, That, in accordance with such section 225 (except as otherwise provided in this section), the Commission shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall become effective for pay periods which begin 30 calendar days after submission to the Congress, unless Congress disapproves such recommendations by concurrent resolution.

MOTION OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FAZIO moves that the House insist on its disagreement to the amendment of the Senate numbered 115.

The SPEAKER pro tempore. Does the gentleman from California (Mr. FAZIO) desire recognition?

Mr. FAZIO. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman from California (Mr. FAZIO) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes

The Chair recognizes the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Mr. Speaker, I thank the chairman of the full committee for giving me this opportunity, and I will not take anywhere near the amount of time that I have been allotted, but I think it is important that we stop for just a minute and consider the action the House took yesterday on this same amendment when it was part of the reconciliation package.

I do so regretfully, because I think it is important that the House understand fully what was considered, however briefly on the floor, before the House acted in panic to reject the recommendation that has come over from the Senate on both of these measures, the language offered by the assistant majority leader of the other body.

I think it is important that we take this time because a number of people may have been misled by some of the rhetoric that occurred on the floor and was included in Dear Colleague letters, and eventually placed in the RECORD in other instances. I realize there are time when it is best to quickly dismiss these matters and assume they are better left unsaid, but I think we have reached a point where it is important for the House to consider some of them, because impressions are left which I think poison the well for the future. I am personally very troubled by some of the things that were said, and concerned, as I know many others are, as to where we might go from here in dealing with the very serious issue of how the Congress considers these needs in the future to assure a just and reasonable level of compensation for the Members of Congress and all senior officials of the Government.

Obviously, we are in an election period and it is not a good time to talk about these things. Clearly, I am in agreement with my chairman that we should not proceed, and I am not of course forcing that issue. But, there are several things that I think need to be said to clarify further misimpressions. It was said yesterday that we were attempting to use the back door way to get a large pay raise. Well, it was not a back door way, Mr. Speaker. This vote right here is certainly an opportunity for the House to express its opposition to the formation of a Commission to make recommendations to the body as to what our pay might be at some point in the future. The conferees, in reporting the amendment to the House, were giving the House the opportunity to vote up or down on the Commission. That is not back door.

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Certainly there is no assumption that there would be a large raise involved. The President would have to decide upon the recommendations of a Commission comprised of people he would appoint as to whatever amount he would submit to the Congress for our ultimate approval.

There is absolutely no assumption that we could make at this time as to what amount of salary adjustment might have been proposed to us. We might have simply been asked to provide for a catchup in our cost-of-living adjustment, which has been denied to the Members of Congress each year but once since 1977.

I might point out to the Members that we have had a 60-percent-plus cost-of-living increase in our economy during a time period when this membership has had one raise of 5.5 percent several years ago.

It was also said that we could anticipate that in the next Congress we

would be given at least a $96,000 pay scale. That is based I guess on what the Commission recommended 2 years ago.

I think it is important to point out that President Carter, when he submitted the recommendation to this body, which we rejected 2 years ago, reduced the $85,000 figure recommended by the Commission down to $70,900. The President certainly would have had the option to do that again and to even reduce it to a level lower than recommended by the Commission so no assumption along those lines is appropriate at this time.

It was stated that a vote for this is a vote for a $36,000 pay raise. That ignores, as I say, the President's ability to reduce that recommendation as President's have done in every instance of a quadrennial recommendation. It totally overlooks the process in the organic law by which we are protected and our constituents are protected from any decision that would be seen by this body or anyone else as excessive.

We were told that we were giving the Commission the power to decide on our salaries. The Commission merely recommends to the President and it is the President who makes the recommendation to the Congress which will make the ultimate decision as to what that level of compensation will be.

There is absolutely no relegation of power or decision authority to the Commission.

It was stated for the record that last December the House passed a similar hidden pay raise through an amendment never read or printed. I want to point out that we did not pass a pay raise for the Members of this body last December. We allowed the executive branch's top-level people to have a pay raise while at the same time denying it for ourselves.

I take the time to make these comments not because I wish to be combative or to take additional time on the floor on a subject that is very difficult for all of us. But I think it is important we begin to rebut some of the remarks that are made, inappropriately, and to clarify the record.

I think it is time we had some dialog on this issue. I think it is time we stand up in public and create some understanding and awareness of just what the issues are.

I think there will have to be other opportunities to do this because the hour is late. I hope that some of my colleagues will join me perhaps in a bipartisan effort after the session to talk in terms of where we might go from here.

But I do want to take this opportunity to clarify the record and appreciate the chairman of the committee giving me this opportunity.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Wisconsin who has been a real leader in this area.

Mr. OBEY. I thank the gentleman in the well for his comments.

I want to congratulate him for frankly having the courage to even mention the subject on the floor today.

I would just like to observe that I have had at least four or five Members of this House today come up to me and say, "For God's sake, do not talk about this subject." It is almost as though they equate the question of congressional compensation with an unmentionable social desease.

I frankly think it is a mistake for us not to create the Commission which is being considered today, for a number of reasons I think, for instance, that not to do so perpetuates a very serious threat to the integrity of this House.

I have been here now almost 14 years. I have seen Members, very often the same Members, piously, on occasion after occasion, posture against front-door pay raises for Members of this and the other body while at the same time, through their posturing, helping to make inevitable the kind of back-door pay raises that have gone on in this institution over the past years.

They have helped make inevitable the conditions that have created an unhealthy level of outside income, for instance, especially in terms of the other body.

They have helped create the atmosphere that led to the efforts at the tax gimmicks last year.

This House has a responsibility to itself and to the country to find a mechanism to adjust congressional compensation and compensation for high level executives at regular intervals through the front door in a clean way, and this Commission should have been created, in my judgment, to review the question of congressional pay, the question of congressional tax treatment, and the question of outside income.

As the gentleman in the well indicates, he and I were trying to explore a series of amendments which could, for instance, have guaranteed a vote on whatever recommendation came out of the Commission.

It would have also tried to suspend raises which are scheduled to go into effect until that Commission reported and had its product reviewed by the Congress.

This House cannot justify, obviously, large pay raises in the middle of the economic problems the country is having. But it also cannot afford, in my judgment, to avoid the responsibility to look for and establish a mechanism which provides clean, front-door adjustments in congressional pay on a regular basis.

I would suggest that the absence of such a mechanism is a long-term threat to the independence and integrity of this House.

I would suggest also, very frankly, that it guarantees that a larger and larger share of the membership of this and the other body will be composed of people with wealthy ancestors, wealthy husbands or wealthy families or well-heeled sponsors, very frankly, because of the problems associated with outside income.

I personally believe it is absolutely ridiculous for Members of this House to insist that Members vote on their own pay. I cannot think of anyone who is less qualified to vote on our own pay than we are.

But, very frankly, I think it is even more ridiculous and much more regrettable that this body has so few Members who care enough about the long-term integrity of this House to do anything other than talk about the problem.

Mr. FAZIO. I appreciate the gentleman's comments.

I would like to insert in the RECORD at this time a memorandum which explains an amendment that the gentleman and I would have offered at this point which would go a long way to allaying these concerns, I believe the misplaced concerns, that some had expressed during the debate yesterday.

The material referred to follows:

MEMO OUTLINING THE AMENDMENT WHICH WAS CONSIDERED BUT NOT OFFERED BY THE GENTLEMAN FROM CALIFORNIA, MR. FAZIO

An amendment will be offered to the federal pay provision in the Supplemental Appropriations conference agreement when the House considers that measure later today. The pay provision in the Supplemental Appropriations conference agreement is identical to the pay provision in the Omnibus Reconciliation conference agreement which the House rejected yesterday.

The provision: (1) Requires the so called Quadrennial Commission on Executive, Legislative, and Judicial Salaries make salary recommendations to the President by November 15; (2) requires the President to forward his own recommendations to the Congress "as soon as practicable" after receipt of the Commission report; and (3) provided that the President's recommendations shall take effect automatically unless Congress disapproves them by concurrent resolution within 30 calendar days.

Rep. Fazio will offer a motion to amend the pay provision as follows:

(1) Change the time period for Congressional review from "30 calendar days" to "30 legislative days;"

(2) Require a vote by both the House and the Senate before any recommendation could take effect; and

(3) Suspends the automatic pay increase scheduled to take effect on October 1 under the Executive Salary Cost of Living Adjustment Act of 1975. (This law provides that Members of Congress, federal judges, and other top government officials shall automatically receive the same government wide percentage pay increase granted to civil

service workers under the Federal Pay Comparability Act of 1970.)

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Michigan.

Mr. TRAXLER. I commend the gentleman for his statement and wish to join with him. I agree with my colleague from Wisconsin that this body has not straightforwardly addressed this issue.

Let me just say since the history of this Republic there have been eight pay raises for the Congress.

I would also say to the gentleman, in support of his remarks, since 1977, which was the last major consideration given to salary, there has been over 60-percent inflation.

I might add in 1979 there was a 5.5-percent increase for the Members of this body and that is the last congressional pay increase.

If the body votes a bill for an increase in salary then the Members are voting themselves a pay increase and those critics say you ought not to do this and the public says it is rather unseemly.

On the other hand, if Congress sets up an impartial mechanism to establish a fair salary, to make adjustments up or down in salary, to make a recommendation to the President, as the gentleman has pointed out, then it is sort of a back-door approach, according to the critics.

They cannot have it both ways. I have seen the same critics on this floor criticize both approaches.

So I commend the gentleman for his statement.

Mr. FAZIO. I appreciate the gentleman's strong statement.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I would like to say that I think we already have a mechanism. It worked in 1979 and I proved it when I voted for a raise in the salaries of Members of the House. I would do it again.

I was on a nationwide program recently, called the "Phil Donahue Show," and I spoke in no uncertain terms to the whole country, and I have received letters from all over the country about it, explaining the absolute necessity of a rise in the salary of Members of Congress and what it would do for the people of this country.

□ 1840

I believe in it. We have a mechanism. I do think we ought to act by an open and recorded vote. I think it ought to apply, not to the Congress in which we sit, but to the next Congress, as many States as in their constitutions provide. I think we should stand up and say that we know that the time has come when we cannot decently expect fine Members of Congress—as three of my colleagues have told me—to dig into their life's savings to meet expenses. Yes, we need a raise. And I have spoken about it. What was the result? One of my colleagues who heard me on the "Phil Donahue Show" said, "You must be crazy. What a foolish thing for you to do." I do not think it was foolish. I think it was right. And we tell the people of this country the truth, which is that a raise in salary for Members of Congress is absolutely essential; that we ought to do it with an open and recorded vote; and that it should take effect in the Congress following the one in which it has been voted, standing up for what we know is right and necessary. We should do it.

Mr. FAZIO. I appreciate the gentlewoman's enthusiastic support for a pay raise, and I appreciate the fact that she has been willing to take that to the public through the media. There are many other Members here who have a very difficult time meeting the kinds of expenses that most Members have, families who have been finding it difficult to afford a home in the area, with the interest rates at the level that they are, and the very highest of living in Washington, and the necessity in many cases to maintain a house in the district as well as a home in Washington. Those are people who I am most concerned about, the younger Members who have yet to move their families here. The gentleman from Massachusetts (Mr. CONTE) has made this point on many occasions. There are very few Members of this freshman class who have made that move with their families. We have a class system, to some extent, in this House, based upon the level of mortgage interest that people have to pay. It has a tremendous effect upon the disposable income that any of us have. I think it is important for the public to understand that.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Wisconsin, and the gentleman in the well from California, and thank him for his service on this issue.

In this week's Newsweek magazine is, I think, a particularly appropriate article depicting some of the circumstances of serving in Congress today.

The article is as follows:

THE CAPITOL HILL HASSLE

(By James A. Miller)

After a year of working in the United States Senate, I am intrigued less by who votes for what than by why all these "whos" are even here. Recently, serving in Congress has turned into such an aggravating, exhausting and generally exasperating hassle, it's a wonder anybody wants to do it. Perhaps never before in political history have so many sacrificed so much for so little that was supposed to be so much.

A wise man once said, "Person who climb ladder of success too far, may hit head on ceiling." Running for Congress is chancy and perilous enough, but serving there has become nothing less than an endurance test. The Hays Scandal, the Mills Scandal, Koreagate and Abscam weren't enough; now there's talk of Pagescam or Sexscam or Dopescam, or whatever one wants to call the current flurry. It really doesn't matter if a legislator is personally involved or not; citizens assimilate and stereotype at the drop of an innuendo.

If people are starting to feel squeamish about running for Congress, who can blame them? It's not that they can't stand the heat and are getting out of the kitchen; it's that nobody in his or her right mind rushes into a kitchen that's already a blazing inferno.

FUNDRAISING

Congress, lacking miracle cures, keeps falling short of national dreams, and politicians keep falling short of public expectations. The combination of financial sacrifices, wrenching family traumas, media aggressiveness and endless fund raising is driving smart members home and smart potential candidates away.

The sad fact is, the inducements to run for Congress aren't all that glorious to begin with. In fact, they may never before have been so paltry. An individual graduating with honors from a top-ranked law school may earn more after a few years than does a representative or a senator. In addition, lawyers in the private sector do not have to maintain two houses or comply with restrictions on income or publish their tax returns for all the world to see.

Whatever a representative or senator might choose to do instead of serving in Congress would, almost unquestionably, be a great deal more lucrative and rewarding than public office. After all, if these people could convince an entire district, or an entire state, that they were capable of leading and legislating the affairs of those who elected them, and if they had the financial resources to launch a successful drive to office, chances are that they are capable of getting a great many other jobs that would be regarded as darn good.

Congressmen are more than legislators, they are executives who must manage large staffs; they are businessmen as well. It is ironic that they could be more financially successful selling used cars back home.

Republican Sen. Jake Garn of Utah, chairman of the Senate Banking Committee, goes from lunch with bank executives who make hundreds of thousands of dollars a year to the Senate floor where he must fight to lift the limitation on honorariums that senators can accept. Senator Garn has seven children, a mortgage in Washington and a mortgage in Utah.

But there is a much more profound frustration than money that makes serving in Congress more and more of an ordeal. There is a perceived decline in the number of qualified and committed people who serve there—because the positions of senator or representative are not as attractive as they should be, or as they once were. Perhaps this is why Senator Garn, in a speech on the

Senate floor in May, during the debate on the budget, cried out, "I am angry. I am angry at this body. I am angry at Congress—and I do not care which party, Republicans or Democrats—because there are weak-kneed, gutless politicians on both sides who will not face up to the issues . . ."

In Congress today one is expected to have the intellectual credentials of a Rhodes scholar, the oratorical skills of a Ted Kopel, the godlike trustworthiness of a Walter Cronkite and the sense of humor of a Johnny Carson. Americans may expect too much of the people they chose to represent them. After all, these aren't extraterrestrials. They're people who grew up next door, people who are just as capable of failure and indecision as anybody else.

When those folks next door get to Washington, they will have to adapt to a life without privacy. They must endure constant intrusions from aggressive reporters and countless interest groups, nonstop fund raising to sustain their political and financial survival, exhausting plane travel, the disruption of normal family life and a growing fear that all this may just be too much trouble for too little satisfaction. From a great distance, serving in Congress sounds like fun—lots of power, money and great tables at French restaurants. When you see it up close, you realize it's more like tunafish sandwiches from carryouts. The glamour disappears, and people who should know better start regarding you as some lower form of life.

The cost-benefit ratio for many in Congress has fallen to a new low. The usual reasons for retirement—age, political vulnerability, redistricting and new political aims—are being replaced as quickly as one can say, "It's not worth it." In fact, they are being replaced by "It's not worth it."

RISK

It's hard to forget the smile of the wife of former Rep. John Cavanaugh, a Nebraska Democrat, as he announced his retirement from Congress at 35. Or the rhetorical question Texas Democratic Rep. Joe Wyatt Jr. put to a reporter a couple of years ago: "Why stay and take the grief?"

Certainly we should hold the people we elect to high standards—but not impossible ones. If they check all their frailties and vulnerabilities at the door of Congress, might they not be checking their humanity as well? "Nobody's perfect" is a pretty feeble excuse for wrongdoing, malfeasance and willful deceit, but the fact remains that nobody is perfect. If we wait around for perfect beings to elect to Congress, we risk frightening the imperfect but damned good people away. As for those who are currently serving, as long as they are masochistic enough to stay, we might as well take advantage of their talents.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I want to compliment the gentleman from California (Mr. FAZIO) for his comments. I think one of the things that he and the gentleman from Wisconsin were pointing out is that they had some perfecting amendments to the Commission that would have made it better. I think some of the things that people worried about were the calendar days rather than legislative days, the November 15 date, the two Houses having to turn it down, and so forth. That really did make it look a little suspicious.

I understand the gentleman being angry about people portraying it as an automatic pay increase, but I think when it was put in both reconciliation and the supplemental with those kinds of things it did come across that way, and it is really too bad.

The gentleman is correct. This must be argued openly. It must be argued out front. It must be dealt with by this body. There is no way to find some magic pay fairy who is going to say, "Here, take it, you have to have it, even if you do not want it." I think that is a dream, but it is not going to happen. We have to deal with this in an up-front method. I think the methods that happened right before the election made it a little suspicious. It is too bad that the gentleman did not get to offer his amendment that he and the gentleman from Wisconsin prepared. But I hope you do them in an open, up-front way, and we start on a new foot with this in the next session so that everybody can testify, can talk about it, and it is there.

Mr. FAZIO. If I might respond to the gentlewoman, first of all, I think if we do have some disagreements among ourselves as to what the words of the Senate amendment mean, we ought to sit down and try to clarify them, and to develop an amendment that will be clearly understood for the record. That would have been a constructive way to build confidence in what we are trying to do rather than destroy it.

I think there are clearly some questions that were not satisfactorily resolved. I think the amendment we worked out would have done that. But I do not in any way want to imply that the amendment that was drafted in the other body and acquiesced in initially in the conference committee was drawn in a way that would preclude this body from expressing its opinion. I worry very much about a one-house veto, when the other body has no limitation on its outside income. They feel much less pressure to support a pay raise, nowhere near as much pressure as this body does, which is made up of individuals who, in most cases, do not have or want to take the opportunity to derive additional income from honorariums, which is anywhere near the old limit let alone the one we carry today.

Under the Senate amendment, the President had the authority and the power to make his submission to the Congress at a time when we would be in session which would have given us the opportunity to deal with it, in an open, up-front manner, and I am sure he would not have acted in a way to provide a back-door pay raise for us or any of the senior officials of Government who would be covered by these recommendations.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would simply like to say to the gentlewoman from Colorado that the House would be greatly assisted in dealing with this in an up-front manner if, for one thing, the "Dear Colleague" letters which she sent out would be a little more accurate on the subject.

Mr. LEWIS. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from California.

Mr. LEWIS. Mr. Speaker, I thank my colleague from California for yielding, and I would like to say at the outset that I believe that the Members of the House should observe with great care and appreciation the amount of effort and work that my colleague from California has put into this matter. He is one of the very few around here who are willing to recognize the critical importance of professionalism in this House. And he has been willing to put himself on the line when many a person would rather demagog than put themselves on the line.

Having said that, I spent 10 years in the California Legislature, and there I came to the conclusion that a 2-year legislative body was incapable of handling its own compensation matters. As a practical fact of life, I found in the State legislature people who needed raises did not have the guts to stand up and say what they really needed to be able to survive in this business. Demagoguery dominated the day, and so time and time again I suggested we take these matters out of the hands of a 2-year elective body.

In coming to the Congress it was my hope that we would find a different circumstance because, after all, this is the greatest deliberative body in the land. I was sure I would find people of conviction, of good will, people who recognized that the House must reflect a mix of this country. Indeed, that is not the case.

I am coming to the conclusion that this House, too, is too much controlled by those who would wish to demagog for elective purposes. I have come personally to the conclusion that we had better take these matters out of our hands and let some independent body make these decisions. If we do not follow a different path, I would suggest that in the not too distant future we will have a continuation or extension of that which is the current pattern—more and more of people with two kinds of backgrounds coming to this House; on the one hand, those who were born with silver spoons in their mouths, who feel guilty about the way their parents made their money; on the other hand, those who

could never make the kind of money we make, even at $60,000 a year.

The people of this country deserve better than that. So I would suggest, unless the good work of my colleague from California gets a better response than it has up to now, that in the near future we take these matters out of our control.

Mr. BURGENER. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to my good friend, the gentleman from California (Mr. BURGENER), the ranking minority member of the Legislative Subcommittee of the Committee on Appropriations.

Mr. BURGENER. Mr. Speaker, I would like to commend the gentleman in the well and associate myself with his remarks and also the other gentleman from California (Mr. LEWIS). I could not agree more.

Mr. Speaker, I have said many times that if this House does not do something about the pay and allowances of Members and do it up front and do it right, we will soon have two kinds of people in here, as Mr. LEWIS said. We will have a collection of millionaires and ne'er-do-wells—and in some cases you get both at once.

I do want to associate myself with the remarks of the gentleman in the well.

Mr. FAZIO. I thank the gentleman for his remarks.

Mr. SABO. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from Minnesota.

Mr. SABO. I thank the gentleman from California for yielding, and I wish to associate myself with his remarks and the remarks of the gentleman from Wisconsin (Mr. OBEY) and the gentleman from California (Mr. LEWIS). I think their comments are right on target.

In particular, I want to commend my friend from California (Mr. FAZIO) for undertaking what I am sure is one of the more uncomfortable tasks in this body in trying to deal with this sensitive issue. The work that he has done, I think, will reflect well on this body in the future because it is an issue that we have to deal with. It is a difficult issue for the gentleman to deal with. It is not one that I am sure adds to his vote totals. But for those of us who are concerned about the House as an institution of Government, he has made a great and long-lasting contribution.

Mr. FAZIO. I thank the gentleman for his comments.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. FAZIO. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I thank the gentleman for yielding.

Mr. Speaker, I will say today what I had intended to insert in remarks on the last day I serve in this body this year. I announced my retirement some time ago, and I have tried to think of all kinds of reasons for leaving service in this body, which I have greatly enjoyed.

□ 1850

I frankly do not want to leave the Congress. I would prefer to remain here, and the fact that I did not have any opposition indicated to me that my constituents would have preferred that I remain here. Both the gentlemen who are nominated in my district are fine people, I hope, because I do not know either one of them. They have been widely publicized as millionaires. I did not know I had two millionaires in my district. Neither of them ever contributed to my campaign or paid honoraria to me.

There was a program on CBS the other day about those of us who are leaving. I think one of the messages carried there was somebody like me with four children, the first beginning college next week, just cannot remain in Washington under the pay that is provided by this body to itself.

I know a lot of other people I would like to see remain here who have told me privately that that is their basic reason. It is mine. I hope to get out and make enough money in a couple of years to be able to afford to come back.

Mr. FAZIO. Mr. Speaker, I would like to thank the gentleman from South Carolina for his courage on this issue even before his decision to retire and certainly his willingness to discuss it since.

I would like to thank all the Members who commented and express my appreciation to those willing to move on from here in a positive way to see what we can do together to solve our mutual problem.

Mr. Speaker, I yield back the balance of my time.

Mr. CONTE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. FAZIO).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 117: Page 40, after line 25, insert:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogramed for the acquisition of a replacement C-130 aircraft to be based at Kodiak, Alaska.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed $16,000,000 shall be reprogramed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 119: Page 41, line 8, strike out "$45,700,000," and insert "$103,200,000, of which $57,500,000 shall remain available until September 30, 1983,".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 119 and concur therein with an amendment, as follows: in lieu of the matter stricken and inserted by said amendment, insert the following: "$93,200,000, of which $57,500,000 shall remain available until September 30, 1983".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 132: Page 45, after line 15, insert:

From funds previously appropriated for the Urban Mass Transportation Administration, Urban Discretionary grants, advances shall be made immediately toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 132 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants, advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 138: Page 47, line 4, after "$8,084,000" insert ": *Provided*, That none of the funds appropriated by this act shall be used to impose or assess any tax due under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 138 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": *Provided*, That none of the funds appropriated by this Act shall be used to impose or assess any tax due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 149: Page 49, after line 20, insert:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $6,500,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $300,000 shall be for the preservation of Senate historical records.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 149 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

NATIONAL ARCHIVES AND RECORDS SERVICE

OPERATING EXPENSES

For an additional amount for "Operating expenses", $4,100,000, to remain available until expended, of which $1,500,000 shall be for allocations and grants for historical publications and records, and $600,000 shall be for the preservation of House and Senate historical records.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 150: Page 49, after line 20, insert:

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

All moneys that—

(1) are received from the sale of materials sold from the National Defense Stockpile (as defined in the second sentence of section 3(a) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(a))) after July 31, 1982, and before October 1, 1983; and

(2) are covered into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98h(d)),

are appropriated for the acquisition of copper that is mined and smelted in the United States after July 31, 1982. Section 301 of this Act shall not apply to the appropriation made by the first sentence of this paragraph.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House insist on its disagreement to the amendment of the Senate numbered 150.

PREFERENTIAL MOTION OFFERED BY MR. RUDD

Mr. RUDD. Mr. Speaker, I offer a preferential motion.

The Clerk read as follow:

Mr. RUDD of Arizona moves that the House recede from its disagreement to the amendment of the Senate numbered 150 and concur therein.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROYBAL), who handled this matter in the subcommittee.

Mr. ROYBAL. Mr. Speaker, I rise in opposition to the amendment that has been proposed by the gentleman from Arizona (Mr. RUDD).

Mr. Speaker, I would like to lay the groundwork for this coming action, by describing, to the House, action that transpired in conference.

The subject matter before the conferees was a proposal that would appropriate funds from the sale of materials from the national defense stockpile from July 31, 1982, to October 1, 1983, for the purpose of purchasing copper, and only copper.

There was a long debate with regard to this subject matter. Those who made the presentation on behalf of the other body pointed to the fact, Mr. Speaker, that copper is a strategic material pointed out also that copper can be purchased now at its lowest price.

Then they made the further argument that the States that now produce copper have a problem of unemployment and that this is a serious subject matter that must be dealt with by the Congress of the United States.

May I point out that there was not a single conferee who was not in sympathy with the problems that were being presented, and most of us, I am sure, sympathetic to the arguments made by those representing copper States at the conference. The conferees on the part of the House, however, had to depend on facts.

Mr. Speaker, the conferees on the part of the House had to make a decision based on the law itself, and on the true needs of the national defense stockpile. The decision was made because we were sure that their request actually violated the express purpose of the Strategic and General Materials Stockpile Act as found in Public Law 96-41 which was enacted July 3, 1976, and amended by Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981.

□ 1900

Specifically, the law clearly states under section 3(b)(1) of Public Law 96-41, and I quote:

That the purpose of the stockpile is to serve the interests of national defense only and is not to be used for economic or budgetary purposes.

That was the key item upon which the House took a position, a very specific mandate in the law.

We also had a communication from the administration and the adminis-

tration clearly told the conferees that the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes. In other words, the administration clearly agreed with the reasons and the position being taken by the House conferees; but then they went beyond that. They told the conferees in writing in no uncertain terms that the amount in the stockpile fund is now adequate for remaining 1982 purchases and administration proposed 1983 appropriations.

They also went on to tell the conferees that the stockpile contains almost $4 billion in excess materials, not needed for national defense, but should be sold in an orderly manner to provide funds for purchases of materials that are needed.

They went on to inform the conferees that the stockpile has $393 million in unmet priorities I and over $4 billion in unmet priorities II goals for items such as titanium, cobalt, and rubber, and then pointed out to the conferees that while copper is a strategic material, that it is in priority III, IV, and V. The conferees were informed in that same written memo from the administration that at the present time there is $1.2 billion in other priority III needs in the stockpile goals, which means that even though copper falls under that low priority, that there are many other items, other metals higher in priority and needed more for national defense purposes than copper itself.

The administration also pointed out to the conferees that if the proceeds of the sale of these commodities are used to purchase copper, either the national security will suffer or the Congress will have to consider appropriating funds that are not generated by stockpile sales.

If the position of the House is not agreed to, Mr. Speaker, what will happen is that we will open up the doors to the purchase of a particular metal simply because it may be in abundance or because unemployment is high in those States that produce those metals. Pretty soon the entire stockpile can well be open to any section of the country that may seek some relief from their economic problems.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. ROYBAL. I yield to the gentleman.

Mr. STRATTON. I was not quite clear what the proposed amendment was. The gentleman talked about $400 million of items in the stockpile that were not needed for defense. But under the law the decision on what is needed and what is not needed in the stockpile resides in the Committee on Armed Services.

Is there any contemplated change of that procedure in the amendment that the gentleman is proposing?

Mr. ROYBAL. My understanding is that there is absolutely no change in the amendment. What will be proposed, of course, is that the House agree with the position of the Senate, which simply seeks to appropriate all funds for the sale of materials from the national defense stockpile from July 31, 1982, to October 1, 1983, solely for purposes of purchasing copper.

The argument is that copper is so low that now is the time to buy it. The administration takes the position, however, that we have enough copper, that copper is readily available and that the use of this method does not conform with the priorities that have been set up under the stockpile priority system.

I am sure that the administration is also sympathetic with the plight of States that produce copper, but they are interested in getting these materials for defense purposes, not for the purpose of helping economically any particular area of the United States.

Mr. STRATTON. Mr. Speaker, if the gentleman will yield further, the gentleman is absolutely correct and that is the legislation, as I understand it today. Of course, some people would like to sell off the stockpile to reduce the national debt. Some people would like to sell it off and acquire other metals, as the gentleman says, because those metals may be at a low monetary value. But I am glad to see that the Committee on Appropriations is sticking with the basic legislation on the control of the stockpile.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Illinois.

Mr. YATES. Is not the purpose of the amendment of the gentleman from Arizona to grab the funds that are available for purchasing of essential materials for the stockpile, those that are in short supply, in order to use those funds for the sole purpose of buying copper from the copper-producing States, totally in opposition to the basic purposes of the stockpile law?

Mr. ROYBAL. May I say to the gentleman, the proposed amendment is definitely not within the intended purpose of the stockpile agreement.

Mr. Speaker, I hope that I have, in fact, set the stage as to what happened at the conference. I hope that I have clearly indicated that the administration is definitely opposed to any proposal to start buying, not only copper, but any particular metal that is not urgently needed for the national defense, the reasons why they oppose this notion and the same reasons that prompted conferees on the part of the House to take the position that the action being proposed is inconsistent with purpose of the national defense stockpile.

Therefore, I request, Mr. Speaker, that we not go along with this proposed amendment or motion.

May I reiterate the fact that the conferees are most sympathetic to the plight of the States. We have no disagreement with some of their arguments, but their request is really not in keeping with the intent of the law.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, the purpose of this amendment is not to avoid the law. It is to comply with the law. There is nothing subrosa about the amendment at all. We simply want to make sure that the law be complied with.

The stockpile in this effect is 3 percent of what is needed in that stockpile. Copper is a basic industry in our country and I offer this motion on behalf of my colleagues in some 19 States, including not just Western States, but States such as Tennessee, New Jersey, New York, Maryland, Illinois and, of course, on behalf of my colleagues in Western States such as Montana, New Mexico, Arizona, and for my good friend, the gentleman from New Mexico (Mr. LUJAN).

□ 1910

The purpose of this is to rebuild the stockpile with a vital metal which is needed for our defense purposes, and the policy has been that when the metal itself is low, then that is the time to buy and restockpile.

Let me tell my colleagues, copper has dropped from $1.20 per pound to, last week, 57 cents per pound.

Now is the time to buy and to restockpile, at market. It would do some good things for our economy and for people who are out of work. About 50 percent, as high as 60 percent of the workers in the copper industry are out of work. Sixty percent in my own State, for example, where over half of the mines have been closed down and 60 percent of the workers are out of work.

So it would do that job; no question about it. But we have to take some other ideas in mind, too, because copper is a cyclical industry, has its ups and downs, according to a fickle market, I guess, in metals, but the technicians and the people who work in the industry, if they have to leave, will go to some other industry, and if we find ourselves in an emergency it will be impossible to once again start that industry up, speaking of the copper industry.

So the purpose of this amendment is to comply with the law and to comply with the authority which is vested in GSA to sell off excess metals when we have high markets, and to buy them

and keep the stockpile intact also. It is not to avoid the law at all.

We have become so dependent on foreign operations in this industry that if we do not do something about it, we are going to lose the industry because these people are going to find other means of employment.

These mines and smelters and refining institutions that are being closed down, some of them permanently, will never be able to reopen again. Then we will be left at the mercy of the foreign operations, which will have to provide the copper that we need. So it is not to avoid the law that we are doing this; it is to comply with the law the way it is and to protect a vital industry, keep it vibrant and alive and producing for America.

That is the purpose of the amendment, very simply put.

Mr. Speaker, I ask unanimous consent that I may insert in the RECORD at this point a list of the States that have either smelting, refining, or mining operations in copper.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The list of States follows:

List of States that have either smelting, refining or mining in copper:

Smelters.—Montana; Arizona; Texas; Washington; Tennessee; Nevada; New Mexico; Utah; and Michigan.

Refineries.—Illinois; Arizona; New Mexico; Utah; Maryland; New York; Georgia; Michigan; Washington; New Jersey; Montana; and Texas.

Mines.—Missouri; Montana; New Mexico; Tennessee; Utah; California; Arizona; Colorado; Idaho; and Michigan.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I want to thank the gentleman from Massachusetts for yielding this time to me.

I cannot really understand all of the arguments that are going on here, and I shall try to put the problem into perspective.

Senator SCHMITT, from New Mexico, offered this amendment in the Senate. The amendment has a twofold purpose.

One purpose, of course, is the employment situation in the mining industry. This amendment said that we would buy into the strategic pile copper which was mined and smelted within the limits of the United States.

Now, it is true the copper industry is in a very desperate situation, operating at 50 percent of capacity, because the international producers are flooding the world market. So that is true; that is one of the objectives of this amendment.

But the other objective is that we are short of copper in our strategic stockpile.

FEMA, the Federal Emergency Management Agency, sets the goals for the amount of materials that we must have in that strategic stockpile. The goal for copper is 1 million tons. Now listen to this: We have only 28,444 tons, or 3 percent of the goal that is set by FEMA.

The opponents of this amendment would have you believe that it is illegal to buy copper for the strategic pile. It is not. It is clearly within the law. As a matter of fact, I am alarmed that we should be at 3 percent of the goal as set by FEMA.

Sales of strategic materials go on all the time. It is nothing new. Those sales are ongoing. There is income being generated. As a matter of fact, it is estimated that there are $3.6 billion—$3.6 billion—in excess materials in the stockpile.

We have authority right now to sell stone diamonds, tin, tungsten, to the tune of $300 million. That is the amount of money that we are talking about here. We are not talking about going out and appropriating another $300 million. All we are saying is that those materials that are excess to the needs of national security be sold and that we buy a material that is, in fact, in short supply.

So I would think that the request by the gentleman from Arizona is a legitimate one, is a request in the national security interest of this country and, by the way, we can fix a problem that exists in the unemployment area in this country.

Mr. SKEEN. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I will be happy to yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the gentleman for yielding to me.

Mr. Speaker, I would like to associate myself with the remarks of the gentleman in the well, as well as those of the gentleman from Arizona (Mr. RUDD).

Mr. Speaker, I rise in strong support of the gentleman from Arizona's motion.

Mr. Speaker, the copper industry in this country is in dire straits. Today, the copper industry is operating at 50-percent capacity, and is going down fast. And today Mr. Speaker, we have an opportunity to do a real service for an industry that is important to the national security of this country.

As we all know, the strategic stockpile was established in order to provide a temporary source of materials in the event of war.

The Federal Emergency Management Agency sets goals for units of materials in the stockpile, and, also establishes priorities for acquisition of materials for the stockpile.

The goal for copper is 1 million tons. As of June 30, 1982, there were only 28,444 tons of copper in current inventory. The strategic stockpile is not even within 3 percent of its own goal for copper, yet mines are closing at a rapid pace, and miners are sitting idle.

Mr. Speaker, what are we waiting for? The price is now low, and the need is obviously great.

Mr. Speaker, I urge the adoption of this motion.

Mr. CONTE. Mr. Speaker, will the gnetleman yield to me?

Mr. LUJAN. I would be happy to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I want to compliment the gentleman in the well for his fine presentation.

Copper is at a low price right now, I believe around 53 cents a pound. It might be real smart to buy a lot of that copper and keep it in our stockpile when you can buy it this cheap, rather than buy it when the price is high.

Mr. LUJAN. That is exactly right.

Mr. CONTE. I thank the gentleman for yielding.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Speaker, I join in this amendment. I urge the House to see the wisdom in the Senate action regarding the purchase of copper to replenish the copper stockpile.

I know the House wants to get on with business tonight, and so do I, but this House has very few chances, very few chances during our term, to directly vote for increased productivity, more jobs, the revitalization of lost employment, and a more secure defense position.

This amendment offers us that one opportunity. Today the copper industry is operating at 50 percent of capacity, 50 percent. In the district that I represent, we have lost copper refining capacity, copper mining operations, and 5,000 jobs.

The national strategic stockpile stores units of strategic minerals necessary for national emergency purposes. The copper stockpile—listen to this—the copper stockpile is 97 percent below the goal that has been set for it by the Federal Emergency Management Agency.

Copper in this country is a national defense need, and it is 97 percent below what it ought to be, according to the Federal Emergency Management Agency.

This amendment does not affect the purchases currently planned, and it will leave enough money to fund current budget requests. We will still purchase the needed cobalt, palladium, other important minerals. We also will make a strong move, however, to save a vital part of our mining industry. We will put people to work without reducing the National Treasury.

This amendment is most likely the only opportunity this session that this

Congress will have to aid the ailing, failing copper industry.

Mr. Speaker, I urge my colleagues to see the wisdom in doing what we can before it is too late for the copper industry. Every time a mine closes in this country, every time a smelter is mothballed, our defense stockpile needs increase and this Nation goes farther onto its knees.

□ 1920

I hope to have the attention of the House on the gentleman's amendment, and I hope reason prevails. I urge the Members to vote aye.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, I thank the Chairman for yielding. Actually, I am very much in sympathy with the pleas of those who represent copper mining districts; very sympathetic to an industry that has got 50 percent unemployment. But, let us go one better. Let us include iron ore in the stockpiling. We have got 6 percent of capacity operation in iron ore mining—not 50-percent, but 90 percent of iron ore miners in northern Minnesota are out of a job—90 percent. You have a hell of a lot of taconite we can mine and process and put in the stockpile, and put those 14,000 iron ore miners back to work not only in Minnesota, but in northern Michigan as well, and not be dependent upon Canada or Venezuela or Brazil to get our iron ore.

The fundamental industry in this country is steel, so let us go one better. Let us add iron ore. Well, we cannot. We cannot under the conditions of this proposition. I do not think we ought to consider just one industry. We ought to take into consideration the whole country and its needs, and we ought to deal with this matter in the legislative process instead of in an appropriation bill.

So, I do not think that the exclusiveness of the Senate provision ought to prevail in this body where we have no chance to look at the whole condition of the Nation's strategic minerals and materials requirements. So, I do not think that the House ought to recede from its position.

Mr. CONTE. Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding. I wonder if I might get the attention of the subcommittee chairman. I do not have a position on this, but I would like to establish something for the record if the gentleman from California would assist me in a colloquy.

It is my understanding that as strategic materials are sold from the stockpile the money goes into a fund. Then from this fund as other requirements arise, other strategic materials are purchased.

I wonder if the gentleman could assist me. Are there excess funds available at the present time to purchase copper or other strategic materials or minerals?

Mr. ROYBAL. Mr. Speaker, if the gentleman would yield, it is my understanding and that of the committee that there are no excessive funds for the purchase of any materials. May I also call to the attention of the gentleman page 84 of the bill. What we find on page 84 is that all moneys received from the sale of materials sold under the national defense stockpile after July 31 and before October 1, 1983, are appropriated for the acquisition of copper that is mined and smelted in the United States.

That clearly says that all the money received from the sale of the materials sold will be used for the purchase of copper only.

Mr. DICKINSON, Let me see if I understand the gentleman correctly. The last 2 years that I can recall, and perhaps more, there has been an attempt to raid—these are my words—the silver stockpile. This has been beaten back. If silver, for instance, were sold this year, is the gentleman saying that the proceeds then would have to go to purchase copper?

Mr. ROYBAL. Whether it be silver or any other metal sold, if this amendment prevails it will be used exclusively for the purchase of copper.

Mr. DICKINSON. And is the gentleman saying that there are no funds available now for this purchase? Are you saying that whatever is sold hereafter from the strategic stockpile these funds would automatically be mandated to purchase silver?

Mr. ROYBAL. Copper is correct.

Mr. DICKINSON. One other question if I might, Mr. Chairman. I wonder if the gentleman could help me and clarify who sets the goals, that is the strategic stockpile targets and goals?

Mr. ROYBAL. I believe it would be one of the committees, dealing with defense.

Mr. DICKINSON. I believe it is FEMA, the Federal Emergency Management Agency. I believe this is correct.

Mr. ROYBAL. My understanding is, that is in cooperation with the appropriate committee of the Congress.

Mr. DICKINSON. I see my other chairman coming down. He manages this on the Armed Services Committee. Now, I served on the subcommittee for a while, and that is the reason I am engaging in this colloquy with the gentleman. We have authority to approve the disposition and the sale from the stockpile. I am not sure that we approve the purchase to the stockpile. FEMA, as I understand it, sets the goals. GSA manages the acquisition, disposition, and storage. Also, they sell it in such a way as not to adversely impact the economy. Who sets the goals and what criteria do they use, because it seems to me, whether we are talking about industrial diamonds, silver, copper, the requirements go up and down like an elevator, and there is no accountability for the decisions.

They decide at one time that they want to prepare for 1½ wars, then they change this and they decide to prepare for one war or two wars, and the requirements go up and down. We wrote into the law that they could not do that solely for economic reasons to influence the budget. It had to be done for legitimate reasons. But, I think sometimes we circumvent that from time to time.

I was wondering if the gentleman could help me. Who sets the requirement and the criteria that they use?

Mr. ROYBAL. I do not think there is criteria that is being used other than the defense needs themselves. The stockpile is based on what is needed.

Mr. DICKINSON. Does the gentleman know how much rare earth there is in the stockpile?

Mr. ROYBAL. No, I do not have that information.

Mr. DICKINSON. There is a substantial amount. I do not know how this comes into our defense picture, but we have rare earth metals.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I will be happy to yield.

Mr. LUJAN. Who sets the goals for FEMA?

The SPEAKER pro tempore. The time of the gentleman from Alabama has expired.

Mr. MYERS. Mr. Speaker, I yield 8 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, there seems to be some difference of opinion between the gentleman from California and the gentleman in the well as to not only the level of the stockpile transaction fund, but its usage. I would like to ask my friend if he would agree with me that the stockpile transaction fund is subject to appropriation. May I have the attention of the gentleman from Alabama, who was asking the questions?

□ 1930

There is no such thing as automatic authority to expend those sums of money in the stockpile transactions fund. It is subject to appropriation.

I would imagine the purposes for which the money is appropriated would control the types of materials which would be purchased.

I also understand, and this comes from the testimony that was offered

in the Senate committee, that there is some $360 million in that stockpile transaction fund and that therefore there are funds available for appropriation.

Mr. DICKINSON. This is a little bit contrary to what I have just been told.

Mr. RHODES. That is the reason I thought I should bring it up because it does bring a different picture forward.

Mr. STRATTON. Mr. Speaker, will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from New York.

Mr. STRATTON. I think the gentleman is correct that no purchases could be made without appropriations from the Appropriations Committee. But my understanding is that the decision as to what metals should be purchased for the stockpile still resides with the Committee on Armed Services and more specifically with the subcommittee chaired by the very able gentleman from Florida (Mr. BENNETT).

Mr. RHODES. I think that is my understanding, certainly, of the situation.

Mr. DICKINSON. If the gentleman will yield back to me, you are saying, though, that from previous sales there is presently $360 million available for this purpose?

Mr. RHODES. That is my understanding.

Mr. DICKINSON. That must be appropriated, but it can be only spent for this purpose. But it has to be approved by the Appropriations Committee.

Mr. RHODES. That is my understanding from the testimony in the other body and then, of course, if the amendment of the gentleman from Arizona is adopted there would be made available funds for the purchase of copper.

Mr. DICKINSON. I do not think copper should be singled out as the only thing they can buy from the stockpile.

It is interesting, too, that they do have the money available.

Mr. RHODES. For the purposes of this particular bill, as far as I know, nobody is asking for money to buy anything but copper. That does not mean that it is going to last forever.

Mr. BENNETT. Will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from Florida.

Mr. BENNETT. It really disturbs me to hear anybody say that because actually there is a shortage of about $8 billion in the stockpile. There is that much that needs to be acquired and copper is way down on the list.

In other words, it is not one of the top items. Eventually we might buy some copper but it is years off to buy copper. There are things like cobalt and chrome and things like that, billions of dollars of that material which is desperately needed for our national defense long before copper and there is $8 billion of red ink if we face the needs for purchase.

Mr. RHODES. May I regain my time in order to very respectfully, and the gentleman knows I have great respect for him, say that I disagree with the statement that he has made because I am sure that his committee has found that in the past. But I am also sure that you have not looked at the present situation because you were probably since those priorities were set looking at a copper industry which was in motion, which was going, and the mines were working.

Mr. BENNETT. We have copper in the United States and we do not have these other things.

Mr. RHODES. I will not yield. I want to finish my statement and then I will be glad to yield to my friend. But that is not the situation.

My State produces more copper than any State in the Union. As far as I know there is not one working mine of a major nature in Arizona today which is operating. That is because the price has gone from $1.20 a pound down to 53 cents a pound.

Now I ask my friend from Florida if there were to be a war to begin, say, within a year or whatever, if he thinks that 28,000 tons of copper in the stockpile would be anywhere near adequate when not backed up by the mining industry which we have had in this country.

Mr. BENNETT. I do not think that would be adequate but there are some other things that are so much more inadequate that we are not taking care of.

Mr. RHODES. Then I would suggest that the gentleman's committee ought to be asking for them.

Mr. BENNETT. We are asking for them, absolutely. I have not been able to get the President to ask for all of them but we are asking for chromium, we are asking for cobalt, and we are asking for a number of things. That silver bill was passed some time ago. That silver bill was tied to a list of things that would have balanced this.

Mr. RHODES. I am amazed that your committee has not looked at the situation.

Mr. BENNETT. We have. We have. We have recommended purchasing but they do not include copper.

Mr. RHODES. When did you look at it last? When was the last time you considered this?

Mr. BENNETT. This year.

Mr. RHODES. This year? This is August and since January every mine in Arizona has closed, every mine in Montana, and only one is left operating in New Mexico.

Mr. BENNETT. The problem is there are some things that we do not have in this country at all, not at all. We do not produce them here, have no way to produce them here.

Mr. RHODES. That may well be the situation.

Mr. BENNETT. It is the situation.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Illinois.

Mr. YATES. There is a letter here from the chairman of the Armed Services Committee of another body in which he says, urging against the Schmitt amendment,

> Copper is only a category 3 priority. There are over two dozen materials that have been determined to be more critical than copper. Approximately $4.5 billion is needed to purchase these materials to meet inventory requirements.

The problem is the administration refuses to make enough money available to buy the materials that are needed for the stockpile, including copper. But you should not require the administration to take whatever money has been available and use it exclusively to buy copper.

Mr. RHODES. The gentleman must have read the Constitution and he must realize that the Congress disposes and even if the Executive does not propose.

If the situation is that bad then the Armed Services Committee should have brought it to the floor of the House and asked for authorization.

Mr. BENNETT. We have asked and we have authorized the purchase. We have authorized the purchase of a good number of very rare materials, but the Appropriations Committee has nor appropriated the money for them.

Mr. RHODES. We are asking the Appropriations Committee right now.

Mr. BENNETT. We have authorized the purchase of a great number of rare materials.

Mr. RHODES. Would the gentleman let me finish my statement, please?

Mr. BENNETT. Yes, sir.

Mr. RHODES. What I am saying is that the Appropriations Committee is now before the Congress and we are asking for permission for them to spend money to buy one commodity which is certainly in short supply.

Now I am not going to argue with the gentleman from Florida because he knows more about it than I do.

I am sorry I cannot yield any more because I only have 1 additional minute and I would like to finish up.

The facts are that the copper industry, since the first of this year, has flat gone to hell. There is no more copper being mined on a commercial basis in this country.

If you do not believe that that is an emergency then you had better look at the things which copper is used for when we decide to go to war. It is an absolute necessity to do something to start some of these copper mines going again.

I certainly hope, Mr. Speaker, that the House will vote favorably on this amendment.

Mr. CONTE. Mr. Speaker, I yield myself 1 minute.

In answer to the question the gentleman from Arizona (Mr. RHODES) posed to the gentleman from Florida (Mr. BENNETT) about buying the strategic material let me say the FEMA on two occasions has asked the Armed Services Committee to sell silver.

I have appeared before that committee. FEMA says we do not need any silver in the stockpile.

We could have sold silver. I believe it was $20 an ounce at that time. I went there and I pled for the sale of silver—Mr. MCDONALD on that committee has strong feelings about selling silver and therefore I did not prevail.

Had we sold the silver we could have bought the cobalt and we could have bought the other strategic materials that the Armed Services Committee wanted to buy.

Mr. BENNETT. Will the gentleman yield?

Mr. CONTE. I yield to the gentleman.

Mr. BENNETT. The gentleman may have been in a correct position several years ago but more recently the authorization committee has approved the selling of silver and in large amounts.

That is where I presume the $360 million comes from.

Mr. CONTE. But it did not pass the other body, if I recall.

Mr. BENNETT. I know, but the gentleman said the House Armed Services Committee. The House Armed Services Committee has authorized the selling of silver and my memory is that this became law.

□ 1940

Mr. CONTE. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker, I was not going to speak on this subject, but as ranking minority member of the Appropriations Subcommittee on Treasury, Postal and General Government, I feel obliged to oppose my very good friends from New Mexico and from Arizona.

I am very much interested in the subject. We have through our subcommittee handled GSA's business as far as stockpiling is concerned, and we find that, yes, the goal for copper is 1 million tons. We have over 29,000 tons right now. We also have a problem beyond that, because if all of the funds that come into the trust fund to purchase, go for copper, we will not then be able to purchase the 17 materials that are necessary that GSA has found of higher priority than copper.

We have the same problem year after year. There is always an industry that is down and needs aid. And I have sympathy with my friends. But the stockpile should not be used to solve economic problems.

The gentleman from Minnesota spoke about why not have iron ore, as well as copper, in the stockpile. Once we start stockpiling for economic conditions, there is no stopping. One of the items we have right now is a surplus in the stockpile of tungsten, approximately 33 million pounds. And that is hanging over the tungsten market today. Those people who would normally mine tungsten ore are not mining that ore because GSA has it for sale to the tune of 1 million pounds per month. If they do not sell that much, they at least hold the market price down.

If we buy an excess amount of copper, it will be held over the head of people who are mining copper now, and they in turn will find that GSA will be driving the price back down.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, the very point of stockpiling is this: The copper industry is on its knees. It is down from $1.20 a pound to 52 cents a pound. It takes 90 cents a pound for them to break even. That is what is happening in the copper industry. All of the mines are closing down.

The mining industry has now collapsed, and it will stay collapsed for good. That is why the priority will be changed, and that is the point my friend and colleague from Arizona was making in the well. Therefore, we will be at the mercy of the industry from abroad. This does have a different priority and is a far higher priority than any of the metals we have been talking about here because it is about to go defunct. Certainly it has a higher priority than iron, and that is the point I wanted to make.

One other thing. Information given to me is that the administration is opposed to this because they would like to get their fingers on this money to help pay the deficit.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, the gentleman is absolutely correct. There are some 16 vital minerals that are important for the defense effort. Of that 16, the Soviet Union has adequate quantities within its own borders. However, in the United States, in the case of 14 of those 16, we have to import more than 50 percent of our needs from abroad. The purpose of the strategic stockpile is to get adequate amounts of those 16 minerals that we have to import from abroad over to this country before an emergency erupts which would totally cut off any additional supplies from abroad.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I rise in strong support of the motion by my colleague from Arizona, and I want to identify myself with the remarks of the gentleman from my State. We have an opportunity here if we concur in the Senate amendment to do a real favor to the taxpayers. We can buy copper at probably the cheapest price it is going to be in a long, long time, and down the road we can sell it off with a profit to the taxpayers. The mining industries are in bad condition, and we do need this kind of relief. I think it makes sense, and I am glad to support it.

Mr. Speaker, I rise today in support of the amendment of the other body. I do so for several reasons.

First, it is I think in our national interests to purchase copper for the defense stockpile at a time when the price of copper is at a historical low. Just 2 years ago, the price of copper was at $1.20 a pound. Last week, it was just 57 cents a pound. Commonsense suggests that we should meet the needs of the defense stockpile now—not when the price of copper again rises to a dollar or more.

Second, we need copper in the stockpile. I recognize the arguments of those that suggest copper is a category 3 priority. But I also recognize that at the present time we have less than 3 percent of the goal of 1 million tons in the stockpile. I also recognize that the copper industry is itself a strategic asset to this country.

And that industry is in trouble. The copper industry today is operating at only 50 percent of its capacity. Many mines are being shut down. Many may never reopen. With the shrinkage of our domestic copper industry, we will become increasingly dependent on foreign sources. We will become more vulnerable. And we will do so at a time when our stockpile reserves are critically low.

Finally, I also think that the amendment of the other body makes good economic sense. Copper purchases at this time would exert a countercyclical effect on the economy. It would help to put unemployed workers back to work.

In my State of Arizona, there are several thousand unemployed copper workers who face the prospect of long layoffs. Small towns like Douglas, Morenci, Ajo, San Manuel, and others are threatened with economic devastation.

But it is not just Arizona that is affected. Similar problems exist in New Mexico, Utah, and Nevada.

By requiring copper purchases at this time we would be acting in the best defense interests of this country. Even more so, we would be acting in the best economic interests of the country.

I urge my colleagues, therefore, to support the amendment of the other body.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I am chairman of the Strategic Materials Committee, and I have been on the committee for at least 10 or 15 years. There have been some statements made here which I should correct, and some explanations which I should make.

First of all, the committee has authorized the purchase of a half billion dollars' worth of very rare things that we cannot get in the United States, and we put up the silver to buy it with. It was the Appropriations Committee which cut off the sale of silver and not the House authorization committee. The House authorization committee authorized the sale of the silver in order to get a half billion dollars of very rare commodities. Instead, the Appropriations Committee allowed only a little silver to be sold and some of the proceeds were used by the administration to purchase some bauxite, if I remember correctly. So although we reformed the law several years ago to get authorization and appropriation for the ingoing and outgoing of commodities, as a matter of fact the Appropriations Committee has seen to it that the activity of the authorization committee is almost a nullity; because when we sell commodities they do not allow the funds to be used for the purchase of needed commodities.

Now, there is a great temptation to take care of one's friends, and particularly when it is for a bad industry situation. There are no two Members of this House for whom I have greater admiration than the two Members from Arizona who have spoken here. I have urged each of them to think about running for the Presidency at some time in their lives. It is painful for me to say these things I am saying, as I hate to be negative about anything they want. They are doing what they have to do. They are, in a sense, attorneys for their areas and good ones indeed. But it is my duty to tell you that the authorization committee has authorized the purchase of very rare things which we need and we cannot get in this country at all. We also authorized the sale of silver in order to make that available, but the Appropriations Committee has said "No."

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. CONTE. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, first of all, I think we all understand, as the gentleman from Florida would agree, that the stockpile is in pathetic shape. There is no question about that. Cobalt is down half of what it ought to be. Platinum is down one-fourth of what it ought to be. Bauxite is down. Copper is down. Everything is down. So we understand that we have the problem. I would just like to make one statement, Mr. Speaker, if I could, in the time I have, and that is this: We are saying we should not do anything because we cannot deal with the 17 higher priority items in the stockpile. I think that is just the point. There are $300 million setting over there. We are not using that money to buy the priorities. It seems to me, then, that we ought to use that money to buy some of the lower priorities. If we can in fact kill two birds with one stone and help the copper industry and increase the strategic reserve, I think that it is a good thing.

I just got back a year or so ago from Peru, where we went up to the Peruvian copper mines. Believe me, those people take care of themselves. They are not suffering that much because of problems in copper today.

It seems to me, Mr. Speaker, that in fact we ought to do something with that money. The options are these: Either the money sits there or we are going to use it to purchase cobalt and other critical minerals from the big list of 17. Why not help a crippled industry? Why not use it? We are not using it.

My proposal is that we support this resolution and get about doing the things that will benefit this country and benefit the industry.

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Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. Mr. Speaker, there is one piece of confusion which needs correction. No one is suggesting we only buy copper. There is currently $300 million in the national strategic stockpile transaction account. We do not touch that $300 million. We do not change the priorities for buying other strategic minerals. FEMA goes ahead; the national stockpile goes ahead; the authorizing committees of this House are not impeded.

All we say is that the proceeds from the sales of minerals under the normal priority system be used to purchase copper which is currently 97 percent below its goal.

The other purchases go ahead and the sales proceeds are used to purchase copper. This is not a ripoff for the copper industry. This is simply trying to protect the national defense of this country by bringing the stockpile of copper in this Nation up above the unreasonably low level at which it now lies.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Speaker, I would again like to remind the Members of the House of something that is very specific. I again refer to page 84 of the bill which provides that all moneys received from the sale of materials sold from the national defense stockpile will be used for the purchase of copper.

The other main point is that copper is in much lower priority than at least 17 other metals that are necessary for the national defense.

The administration opposes this motion and opposes the motion because again I must repeat that the stockpile has $393 million in nonmet priority No. 1 goals. It also has $400 million in nonmet priority goals No. 2. It also clearly points out that while copper is needed for the national defense, that its priority status is way below other metals needed for the national defense itself.

I would like to again remind the Members of the House that the purpose of the stockpile is to serve the interests of national defense only and is not to be used for economic or budgetary purposes. This motion, in my opinion, is being proposed for the specific purpose of helping an industry that needs to be helped, but should not be done in this manner.

Mr. SKEEN. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from New Mexico.

Mr. SKEEN. I thank the gentleman for yielding.

Is it or is it not true that within the last 12 months the administration has expedited a purchase for the strategic stockpile of some 1.6 million tons of bauxite from Jamaica to help Jamaica's failing economy?

Mr. ROYBAL. This is probably true.

Mr. SKEEN. I thank the gentleman.

Mr. ROYBAL. It has nothing to do with the subject matter before us. The administration takes a definite and positive position in opposition to the motion being proposed by the gentleman from Arizona (Mr. RUDD).

Mr. WHITTEN. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Speaker, I would like to ask the gentleman from Massachusetts (Mr. CONTE) with regard to the sale of silver considered by the Armed Services Committee. Does the gentleman have any particular reference to any individual there with an interest in silver at the time?

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MCDONALD. I yield to the gentleman from Massachusetts.

Mr. CONTE. The gentleman opposed it very strenuously when I came up before the committee. The gentleman even came before the subcommittee of the gentleman from California

(Mr. ROYBAL), and opposed it. There is no doubt about it. The gentleman is very much opposed to the sale of silver.

Mr. McDONALD. The question was whether or not the gentleman from Massachusetts (Mr. CONTE) was suggesting I had a personal and financial involvement in silver.

Mr. CONTE. Nobody said the gentleman had a financial interest. The gentleman is against the sale of silver, period.

Mr. McDONALD. The majority of the Armed Services Committee has consistently opposed this except when faced with the budget reconciliation under Gramm-Latta. We were very much concerned with the sale of silver simply because we had been using it at twice the rate it was being mined. We had to go out and use such a tremendous amount during World War II and during the Vietnam war, far beyond that which we had mined in the past.

As a strategic mineral, for the sake of national defense, it was necessary to increase the silver in the stockpile.

Mr. WHITTEN. Mr. Speaker, I yield back the balance on my time.

The SPEAKER pro tempore. The question is on the preferential motion offered by the gentleman from Arizona (Mr. RUDD).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. RUDD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 62, nays 339, not voting 33, as follows:

[Roll No. 296]

YEAS—62

Alexander	Gephardt	Rahall
Archer	Hall (OH)	Ratchford
Atkinson	Hammerschmidt	Rhodes
Badham	Heckler	Rousselot
Boggs	Jenkins	Rudd
Boland	Kogovsek	Russo
Burgener	Leath	Santini
Butler	Loeffler	Schroeder
Cheney	Lott	Seiberling
Clausen	Lujan	Skeen
Coats	Luken	Spence
Collins (TX)	Marriott	St Germain
Conte	Mattox	Stangeland
Daschle	Mavroules	Stump
Davis	Moakley	Taylor
Derwinski	Moorhead	Udall
Dicks	Mottl	Weaver
Donnelly	Murphy	White
Dorgan	Natcher	Williams (MT)
Duncan	Oakar	Young (AK)
Gaydos	Quillen	

NAYS—339

Addabbo	Applegate	Barnes
Akaka	Ashbrook	Bedell
Albosta	Aspin	Beilenson
Anderson	AuCoin	Benedict
Andrews	Bailey (MO)	Benjamin
Annunzio	Bailey (PA)	Bennett
Anthony	Barnard	Bereuter
Bethune	Fuqua	Mica
Bevill	Garcia	Mikulski
Biaggi	Gejdenson	Miller (CA)
Bingham	Gibbons	Miller (OH)
Bliley	Gilman	Mineta
Boner	Gingrich	Minish
Bonior	Glickman	Mitchell (MD)
Bonker	Gonzalez	Molinari
Bouquard	Goodling	Mollohan
Bowen	Gore	Montgomery
Breaux	Gradison	Moore
Brinkley	Gray	Morrison
Brooks	Green	Murtha
Broomfield	Gregg	Myers
Brown (CA)	Grisham	Napier
Brown (CO)	Guarini	Neal
Broyhill	Gunderson	Nelligan
Burton, Phillip	Hagedorn	Nelson
Byron	Hall, Ralph	Nichols
Campbell	Hall, Sam	Nowak
Carman	Hamilton	Oberstar
Carney	Hance	Obey
Chappie	Hansen (ID)	Ottinger
Clay	Hansen (UT)	Oxley
Clinger	Harkin	Panetta
Coelho	Hartnett	Parris
Coleman	Hatcher	Pashayan
Collins (IL)	Hawkins	Patman
Conyers	Hefner	Patterson
Corcoran	Hendon	Paul
Coughlin	Hertel	Pease
Courter	Hightower	Pepper
Coyne, James	Hiler	Perkins
Coyne, William	Hillis	Petri
Craig	Holland	Peyser
Crane, Daniel	Hopkins	Pickle
Crane, Philip	Howard	Price
Crockett	Hoyer	Pritchard
D'Amours	Hubbard	Pursell
Daniel, Dan	Huckaby	Rangel
Daniel, R. W.	Hughes	Regula
Dannemeyer	Hunter	Reuss
Daub	Hutto	Richmond
de la Garza	Hyde	Rinaldo
Deckard	Ireland	Ritter
Dellums	Jacobs	Roberts (KS)
DeNardis	Jeffords	Roberts (SD)
Derrick	Jeffries	Robinson
Dickinson	Johnston	Rodino
Dingell	Jones (NC)	Roe
Dixon	Jones (OK)	Roemer
Dornan	Jones (TN)	Rogers
Dougherty	Kastenmeier	Rose
Dowdy	Kazen	Rostenkowski
Downey	Kemp	Roth
Dreier	Kennelly	Roukema
Dwyer	Kildee	Roybal
Dymally	Kindness	Sabo
Dyson	Kramer	Savage
Early	LaFalce	Sawyer
Eckart	Lagomarsino	Scheuer
Edgar	Lantos	Schneider
Edwards (AL)	Latta	Schulze
Edwards (CA)	Leach	Schumer
Edwards (OK)	LeBoutillier	Sensenbrenner
Emerson	Lee	Shamansky
Emery	Lehman	Shannon
English	Leland	Sharp
Erdahl	Lent	Shaw
Erlenborn	Levitas	Shelby
Evans (DE)	Lewis	Shumway
Evans (GA)	Livingston	Siljander
Evans (IA)	Long (LA)	Simon
Evans (IN)	Long (MD)	Skelton
Fary	Lowery (CA)	Smith (AL)
Fascell	Lowry (WA)	Smith (IA)
Fazio	Lundine	Smith (NE)
Fenwick	Lungren	Smith (NJ)
Ferraro	Markey	Smith (OR)
Fiedler	Marlenee	Smith (PA)
Fields	Martin (IL)	Snowe
Findley	Martin (NC)	Snyder
Fish	Martin (NY)	Solarz
Fithian	Martinez	Solomon
Flippo	Matsui	Stark
Florio	Mazzoli	Staton
Foglietta	McClory	Stenholm
Foley	McCloskey	Stokes
Ford (MI)	McCollum	Stratton
Ford (TN)	McCurdy	Studds
Forsythe	McDade	Swift
Fountain	McDonald	Synar
Fowler	McEwen	Tauke
Frank	McGrath	Tauzin
Frenzel	McHugh	Thomas
Frost	McKinney	Traxler
Trible	Weiss	Wortley
Vento	Whitehurst	Wright
Walgren	Whitley	Wyden
Walker	Whittaker	Wylie
Wampler	Whitten	Yates
Washington	Williams (OH)	Yatron
Watkins	Winn	Young (FL)
Waxman	Wirth	Young (MO)
Weber (MN)	Wolf	Zablocki
Weber (OH)	Wolpe	Zeferetti

NOT VOTING—33

Bafalis	Ertel	Mitchell (NY)
Beard	Ginn	Moffett
Blanchard	Goldwater	O'Brien
Bolling	Gramm	Porter
Brodhead	Heftel	Railsback
Brown (OH)	Hollenbeck	Rosenthal
Burton, John	Holt	Shuster
Chappell	Horton	Stanton
Chisholm	Madigan	Vander Jagt
Conable	Marks	Volkmer
Dunn	Michel	Wilson

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Messrs. SIMON, PASHAYAN, and WHITEHURST changed their votes from "yea" to "nay."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 161: Page 58, line 4, strike out all after "1980/1982"" down to and including "1982/1983"" in line 9.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 161 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows: ", $10,000,000 shall be derived by transfer from "Missile procurement, Air Force, 1982/1984", $12,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and $17,626,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983"".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 172: Page 69, line 24, after "assistance"" insert "of which

$1,000,000 shall be derived by transfer from State and local assistance" and $1,084,000 shall be derived by transfer from "Emergency planning and assistance": *Provided*, That the National Flood Insurance Fund shall be available, subject to the provisions contained in Public Law 97-101 under the heading "National Flood Insurance Fund", for salaries and expenses of employees engaged in National Flood Insurance Program activities related to the direct, actual and necessary expenses incurred in connection with selling or servicing flood insurance coverage".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 172 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: "and an additional $500,000 to be derived by transfer from 'Emergency planning and assistance', for a total available by transfer of $2,584,000".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, may I be recognized so I may yield to the gentleman from Ohio (Mr. SEIBERLING)?

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. WHITTEN) is recognized for 30 minutes.

Mr. WHITTEN. Mr. Speaker, I yield to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman for yielding to me.

At the time the House voted on amendment No. 58, the House Subcommittee on Monopolies and Commerical Law of the Committee on the Judiciary was in session and, therefore, I was not privy to the debate on the amendment. I voted for the amendment to recede in favor of the Senate when the amendment came up.

To my surprise, that amendment not only deals with the Caribbean Basin Initiative, but also contains with it the reaffirmation of a policy which I will try to read, which says as follows, that it is the policy of the United States—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere.

While I agree we do not like the activities of Cuba, I certainly feel that in voting to provide the funds for the Caribbean Basin Initiative, I certainly did not intend to indicate any support for the use of military force against Cuba and I do not think most of the Members of this House did.

Mr. Speaker, I want to simply state for the record that that is not to be construed as supporting that policy, by my voting for those funds, and I would hope if other Members feel likewise that they would also state so in the RECORD.

Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. WHITTEN).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 177: Page 77, after line 14, insert:

SEC. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 488 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, not less than 180 employees shall be assigned to State and local conservation activities, and not less than 136 employees shall be assigned to renewable resource programs; (2) The Office of the Assistant Secretary for Fossil Energy, 779 employees, of which not less than 175 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Office of the Assistant Secretary for Nuclear Energy, 787 employees, of which not less than 130 positions shall be assigned to the Idaho Operations Office; (4) The Economic Regulatory Administration, 520 employees, of which not less than 51 employees shall be assigned to the Office of Fuels Conversion; (5) The Energy Information Administration, 490 employees; (6) Energy Research, 392 employees; and (7) Departmental Administration, 4,192 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further*, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which the special message was transmitted with respect to such rescission, reservation, or deferral.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 117 and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) The Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) The Energy Information Administration, 490 employees: *Provided*, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: *Provided further*, That if, within such 45-day period, the Congress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which such special message was transmitted with respect to such rescission, reservation, or deferral: *Provided further*, That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriations Acts to programs or activities funded in Interior and Related Agencies Appropriations Acts or vice versa.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. CAMPBELL. Mr. Speaker, I ask for a division of the question.

The SPEAKER pro tempore. The question will be divided.

Does the gentleman from Mississippi desire time?

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. AuCoin).

PARLIAMENTARY INQUIRY

Mr. CAMPBELL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. CAMPBELL. Mr. Speaker, what is the status on the division of the question?

The SPEAKER pro tempore. The gentleman will be protected.

Mr. CAMPBELL. Mr. Speaker, that time has been divided, or is the gentleman under a 5-minute allocation?

The SPEAKER pro tempore. No. There will be 30 minutes on each side. The gentleman from Mississippi (Mr. WHITTEN) has the time here.

Mr. CAMPBELL. I had not heard that stated by the Chair prior hereto.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. McDade) will have 30 minutes. The gentleman is protected on his motion.

The gentleman from Oregon (Mr. AuCoin) is recognized for 5 minutes.

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Mr. AuCOIN. Mr. Speaker, before I am recognized I think it is proper for the gentleman who offered the amendment to be recognized first, is it not?

The SPEAKER pro tempore. The question will be divided. When the question is put, it will be divided.

Mr. AuCOIN. How can the gentleman from Oregon debate against the gentleman's amendment before he makes his argument?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Mississippi. Does the gentleman wish to yield time?

Mr. WHITTEN. I was under the impression that my colleague, the gentleman from Oregon wished to have the time. Should he not wish it, I will reserve the time.

The SPEAKER pro tempore. The gentleman from Mississippi reserves his time at this time.

Mr. McDADE. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a quite unusual amendment which was added to this conference report by the Senate conferees. If my colleagues would give me a moment, we could perhaps avoid a recorded vote on this and look at it for what it really is.

This amendment puts a floor under the level of employees that must be employed by the Department of Energy. It states in the amendment precisely how many employees must be employed by, for example, the Office of Assistant Secretary for Conservation, the Office of Assistant Secretary for Fossil Energy.

I really think this is an amendment that is kind of repulsive to most Members. It is like this Congress mandating how many employees we should have in each individual office, whether we wanted them or not.

I have a letter from Secretary Edwards, and I will read it at this point:

THE SECRETARY OF ENERGY,
Washington D.C., August 17, 1982.

Hon. THOMAS F. HARTNETT,
House of Representatives,
Washington, D.C.

DEAR TOMMY: During floor consideration of the conference report on H.R. 6863, the Supplemental Appropriations Act, 1982, you will take up Senate Amendment No. 177, which has been reported in technical disagreement. That amendment would direct that employment levels in certain Department of Energy offices be maintained indefinitely, subject to special rescission, reservation, and deferral procedures.

I understand that the managers on the part of the House will offer a motion to recede and concur in Senate Amendment No. 177 with an amendment. I strongly urge you to reject that motion and the provision recommended by the conferees.

The bottom of the second page of the enclosure entitled, "General Provision on Personnel Levels," explains in more detail. We are attempting to manage the Department of Energy in an efficient and effective manner and these provisions would be absolutely contrary to our efforts. The personnel levels prescribed in Amendment No. 177 are in excess of our needs. This amendment, in other words, would compel a waste of Federal funds. It would also require the rehiring of separated personnel and, in some cases, the hiring of unneeded new personnel.

Your assistance in defeating this wasteful amendment will be appreciated.

Sincerely,

JAMES B. EDWARDS.

It is my understanding, my colleagues, that this amendment might have been a special interest of one of the senior Members of the other body who was trying to protect a particular Department of Energy installation in his particular district. There is no question, nor has it been said by our Secretary of Energy, that it would waste Federal funds. It would in some instances require the rehiring of already discharged personnel from the Department of Energy, and in many cases, if not some, the hiring of unneeded new personnel at a time when we are trying to cut back on Federal spending and are faced with a great tax increase tomorrow that we are going to have to decide how we are going to vote on.

I just think it would not be in the best wisdom of this body to go about placing a floor level and telling the Secretary of Energy exactly down to what number—for example, 153 employees and 154 and 352—that he must have. I think it would be unwise for us to accept such an amendment as is forced on us by the Senate in the conference committee, and I would urge my colleagues to defeat this amendment.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?

Mr. HARTNETT. I would be happy to yield.

Mr. WEBER of Minnesota. Mr. Speaker, I thank the gentleman for yielding. I have to confess that I am not fully familiar with the amendment, but I do have some interest in energy policy, and I think some of us in this body have disagreement in the area because the Secretary is seeking to reduce personnel in the Department of Energy.

My question to the gentleman is, how does this impact on that particular problem? Specifically, many of us, although we are willing to support a reduction in the level of personnel in the Department of Energy, find that the Secretary's policy is to reduce only in selected areas; conservation, solar programs, and so forth, while making no reductions at all in other areas, primarily nuclear energy programs.

I wonder if the gentleman could inform me if this amendment or his position on it affects that position, which in my judgment is not so much an economic one as a decision relating to energy policy.

Mr. HARTNETT. I would have to say to my colleague that in the amendment, page 5 of the conference report specifically outlines, and it says in here that in the Office of Assistant Secretary of Conservation and Renewables, 352 employees, of which not less than 154 shall be assigned to research, conservation, development activities; the Office of Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 shall be assigned to activities of the headquarters program. In the Office of the Pittsburgh Energy Technological Center, no less than 250 employees.

The SPEAKER pro tempore. The time of the gentleman from South Carolina has expired.

Does the gentleman from Mississippi wish to yield time?

Mr. WHITTEN. Mr. Speaker, I yield 8 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker and Members, it has been stated by the previous speaker that this is an unusual amendment, and I want to submit to my colleagues that it is an unusual amendment because we are faced with an unusual problem. I want the Members to listen very carefully to what the issue is.

The problem simply is that OMB and the Department of Energy are trying to make an end around on the Congress of the United States on program decisions and policy decisions that this body and the other body

ought to be weighing in on. That is what the issue is.

Mr. Speaker, the provision of section 303 of the supplemental appropriation bill reported by the Appropriations Conference as amendment No. 177 would establish minimum employment levels which the Department of Energy must maintain for conservation programs, fossil energy research and development, the Economic Regulatory Administration, and the Energy Information Administration. This language was inserted by the conferees not because they wanted to, but because they felt they had to if Congress is going to retain any policymaking or decisionmaking over programs or policies in the Department of Energy.

The language would insure that the Department of Energy does not proceed with a de facto dismantlement of those programs prior to the time when Congress might take action on the pending reorganization proposals of the agency, which is in bill form, pending before the Congress. It is known in the other body as S. 2562, and we want to preserve that action by the Senate and by the House of Representatives. We also want to preserve our opportunity to have some input on these programs in the fiscal year 1983 appropriation. That is not unreasonable.

I believe that section 303, though unusual, is necessary because the Department of Energy has recently conducted a reduction in force which is contrary to the intent of the Congress. There is also evidence that the Department is planning to conduct other reductions in force which are inconsistent with congressional intent expressed thus far, and which would limit the Congress options in considering fiscal year 1983 appropriations.

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Mr. Chairman, the question is whether the reorganization of this agency is going to be by statute fully considered by this body and the other body or whether it is going to be reorganization by RIF in which we have very little to say about the consequences and do not have the time to debate the issues at stake.

If my colleagues do not think those RIF's have already taken place and future ones are not already being proposed, then listen to this history.

With respect to the Fossil Energy research and development program, the House supplemental appropriation bill which was passed by this body on July 29 contained language prohibiting the expenditure of funds to administer a reduction in force which was scheduled to become effective on August 6.

The language in the supplemental said it was the will of this House that the proposed reduction in force that was scheduled to be effective on August 6 not take place. This reduction in force was designed by the administration to cut the Fossil Energy headquarters staff in half. We said, do not do that. This body agreed to that.

Despite tne House language, the acting Under Secretary of the Department of Energy, Mr. Jan Mares, proceeded with the scheduled personnel reduction in the face of the stated will of this body. He proceeded in the face of the clear statement of the House of Representatives that we were opposed to his planned reduction and he proceeded with the full knowledge that the Senate Appropriations Committee had at that time reported in the supplemental appropriation bill that language in section 303 which clearly stated opposition to his planned reduction.

I might add, Mr. Chairman, I am unaware of any reason why the planned reduction in force could not have been delayed pending a congressional decision which so far has not been made.

Because the Department, Mr. Speaker, has demonstrated an unwillingness to cooperate with the Congress on this matter I believe it is imperative that we identify specific employment levels which the Department must maintain in certain programs. I believe because of this clear threat of a major policy preemption that it is imperative that we in the Congress identify specific employment levels which the Department must maintain in certain programs, not ad infinitum but until further notice so that we can work our will on that.

That is not an unrealistic thing to do. We have been placed in an awkward position. We do not like doing it but if we do not do it we are not going to have any ability to influence these significant policy implications which will be brought about by reductions in force.

I might add I believe the provision in section 303 is fair to the administration. It is not unfair to the administration. It is fair because it does provide the opportunity to the President to seek a rescission or a deferral of funds supporting the position levels established by the Congress under this amendment.

In this way the administration and the Congress can review in an orderly way and with full discussion, the employment levels and make whatever adjustments we in our collective will want to make.

I repeat to my colleagues: If we fail to agree to this language we will be voting for and allowing to go forward a de facto dismantlement of programs in the Department of Energy.

We have already worked our will on them and I do not think we want to do that. There is an orderly way to do this.

Before I finish, let me just say I know there are Members who are not particularly fond of the Department of Energy. The gentleman from Oregon is not particularly fond of the Department of Energy. I think we need a lot of change down in that part of our bureaucracy.

But if you want change, allowing major decisions with major policy implications to go forward by the RIF process you are pretty much sacrificing what the people sent you here to do: the duties you are supposed to uphold.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I now yield to the gentleman from South Carolina.

Mr. HARTNETT. Does my distinguished colleague in the well really not feel that the 27,000 employees presently employed by the Department of Energy are not sufficient to bring about the energy program of this country?

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding, because this is a very important point I would say to the gentleman from Oregon.

The gentleman from South Carolina said we are talking about not permitting a reduction in the number of employees at the Department of Energy. As I read the amendment the gentleman speaks to, they can reduce the number of employees in the Department of Energy. It is only in these program areas where they are trying to get around the policymaking.

Mr. AuCOIN. That is correct, programs that this Congress already stated its will on at least once and may well express its will in the future.

Mr. LEVITAS. If the gentleman will just yield for a question: Is it not true that even with this amendment the number of employees at the Department of Energy could be reduced overall?

Mr. AuCOIN. The gentleman is correct. I appreciate the gentleman's contribution.

Mr. McDADE. Mr. Speaker, I yield 7 minutes to my distinguished colleague, the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, I am deeply concerned with the procedure that we are undergoing here. Had this matter come to the floor it would have been stricken by a point of order in the House of Representatives as legislating on an appropriation bill.

What we are doing here, in effect, because of the other body's nongermaneness rule, is we are putting in an amendment on a particular subject, allowing us then to go back and to then put our amendment back.

We are getting around the rules of this body that protect the legislative committees and protect against legislating on appropriation bills.

That bothers me a great deal because if we do it this time, the next time the other body comes in we can do it and some people would like to do it depending on which agency they are after and want to change and they can do it to the Department of Defense or you might do it to the Department of the Interior or any of the rest of them.

If that is what you want to do, if you think you know enough about each category in every agency to tell them they cannot have but so many employees in x division, then you know a lot more about this Government than the gentleman from South Carolina.

I do not pride myself as a great expert but I do try to keep up.

I will go a little bit further with this thing. I do not think that you can destroy the tools of management in the process of carrying out the policies, the legislative policies that we have passed into law, and you destroy the tools of efficient management by dictating minimum provisions in any division.

I believe that we make a grave mistake as we undertake to put this amendment through.

I would think we would be better served if we were to strike this amendment, carry forward with the provisions that we passed through the House, that we would like to, some say, pass into law, and strike it by law.

I honestly believe, and I am not one that is here to argue any specific, but I would like to say I concur with some who are upset about the conservation areas and all.

□ 2040

But I look in here and I see that we mandate that we are going to have 450 employees, of which not less than 40 shall be assigned to this particular office. I look in another area and see that we are going to have 490 employees, and then we are going to put some more in another particular office in a division. We are telling them how to run each division, every office, what place in the country.

If that is what we are doing in here, then we better start managing a lot more agencies because I do not think we have the expertise to do it. There are one or two that will have a special area they want to protect, but do they really know about the rest of the department? I doubt it. Would you want to take it up on any other one?

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I appreciate the gentleman yielding.

In the event that an administration shows a method of RIF'ing to circumvent the will of the Congress, what alternative, what procedure would you offer? This is the only procedure available to us, unless you have some other alternative. How would you handle a deliberate, willful attempt to circumvent the will of the Congress by using the RIF process?

Mr. CAMPBELL. Will the gentleman cite for me the will of the Congress, as a piece of legislation passed by both bodies, a specific piece of legislation, that prohibited this? Can the gentleman cite it for me? I can cite for the gentleman a provision that came out of the Senate on something or a provision that came out of the House.

Mr. MITCHELL of Maryland. If the gentleman will let me respond, I think I can. I think this issue was addressed by the committee and by the House, the issue of protecting certain programmatic areas in the Department of Energy. I recall the vote on that, unless I am seriously mistaken. So that is the instance that we are dealing with.

Mr. CAMPBELL. I have no problem with a piece of legislation going through saying something shall be maintained, passing and going through the process. That is what we are here for. I have a serious problem with us telling each division, each agency, and every place that they can be, even, in the country, where the office is, how many employees must be in each office. That is what we are doing here. And people would agree with this, I am sure. Why do we not just manage the departments? I am sure there are those who think they could.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentlemen from South Carolina.

Mr. HARTNETT. I would like to say to the gentleman from Oregon that that was my error. I apologize to the gentleman from Oregon and to you. The Department of Energy only has 17,000 employees. I had the 1 and 2 confused.

I just read a letter, and I will ask my colleague from South Carolina, did he not hear the letter I read from the Secretary of Energy which said that if this amendment passes, he would be required to go out and hire unneeded personnel, whom I assume would sit around, and maybe write letters home, or whatever they would do? But would you condone the hiring, in these hard economic times that we face, of unneeded personnel? Of course, I am sure that the Secretary of Energy does not know as much about his Department as do Members of this Congress. But would you condone the hiring of unneeded personnel?

Mr. CAMPBELL. I think the gentleman from South Carolina makes an excellent point. We are trying to force back in the old saying that if you hire somebody, you build a government agency, it never shrinks, it only expands. And we are going to protect. Now, we can keep right on spending. We are going to face a tax bill, we are going to face everything else. But I am more concerned with us getting into the direct management in an agency. If you want to put legislation through that says you have to have a program in conservation and it has to do certain things in a broad context, fine. When you start telling people they are going to have so many people in a certain office in a certain city and that is the way you are going to do it, I think you are going far beyond what is necessary to legislate.

Mr. WHITTEN. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I want to bring to the attention of every Member of this body an issue that is included in this amendment that they will be voting on when they vote on this amendment.

The effort to collect illegal overcharges by individuals and oil companies that have violated the law in a systematic manner since 1973, to the tune of about $12 to $15 billion still outstanding, is at issue in this vote.

The committee has specified that the number of auditors and investigators at work trying to collect the illegal overcharges will not go below the minimum level necessary to successfully prosecute those cases and get the money back.

If you want to let them off the hook, if you want to declare amnesty for all those in the oil industry that brazenly violated the oil price control laws, then vote "no" on the motion to recede.

I actually hope that we have a record vote on this motion, because I think it would make extremely interesting reading.

Let us briefly review the history of this issue. It does not involve the oil price control laws as an issue. It does not matter whether you are for those laws or whether you are against those laws. What does matter is whether or not you believe in equal enforcement of the law. If you believe that an individual who steals $50 from a grocery store to be pursued to the ends of the Earth, of course he should be, he violated the law. What about someone who has stolen $50 million with a pencil and paper? Should they not be pursued as well? They are not being pursued under the work plan that has been devised by this Department of Energy. Why not? The reason is, in my judgment, that they disagreed so strongly with the laws that were in effect that they cannot bring themselves to believe that the violations of those laws were of any particular consequence, so they are not going to waste much time and effort trying to prosecute violators of those laws.

But this committee believes that laws should be enforced equally. Moreover, they believe that $12 to $15 billion is not something to sneeze at. In fact, those overcharges might just come in handy in this day and age, as we prepare to vote on the tax bill tomorrow. You vote on the tax bill; then tell your constituents that you voted to declare amnesty for corporations and individuals that have taken illegally $12 to $15 billion.

One example: A fellow had $7,000 on his form 1040 in one year. The next year it was over $1 billion. Now, do you want that kind of activity to go unprosecuted and unpunished?

Here is the line item: Economic regulation. It was referred to earlier. I wonder if my colleague really knew that this was in here. Conference report: 409 positions. It says no less than 160 shall be auditors. The Department of Energy has just conducted a new RIF, taking that level below the 160 that the conference committee has found to be the minimum level. If you want them to get off the hook, if you want to declare amnesty, go ahead, vote no on the motion to recede.

What the fiscal year 1983 budget would have without the committee's conference report, without this amendment, would be 303.

The Committee on Energy and Commerce has had 20-some odd hearings on this issue. It is unbelievable what the Department is trying to do. If you want to help them, I repeat again, vote "no" on the motion to recede. And I hope we have a record vote.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from California.

Mr. FAZIO. I wonder if the gentleman could enlighten us. Is it not true that the Department has used some of these penalties to help fill the Strategic Petroleum Reserve? Has that not been one of the ways these companies have been repaying the taxpayers for their illegal action?

Mr. GORE. It is currently alleged that some of the individuals and companies that are accused of this activity put garbage oil in our strategic petroleum reserve. If you vote no, they are off the hook.

□ 2050

Mr. McDADE. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Speaker, I would just like to ask the gentleman from Tennessee (Mr. GORE) who just left the well or the chairman, would these auditors that we need so desperately—that the Justice Department ought to go after—would these auditors go after that individual who took $5 million from the Department of Energy shortly before President Carter left office and gave it to charity? Would these auditors go after that same individual to try to recoup that $5 million from the Energy Department which was lost when President Carter was President and gave it to charity? Would they be interested in collecting that also?

Mr. GORE. Mr. Speaker, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Speaker, the question is so incisive I think it demands a response.

I presume that the gentleman's question refers to the distribution of some of the collected overcharges in late 1980. Is that what the gentleman is referring to?

Mr. HARTNETT. I was making reference to the $5 million given to charity by one of the employees of the Energy Department shortly before President Carter left office.

Mr. GORE. Is the gentleman alleging a law violation?

The SPEAKER pro tempore. The time of the gentleman from South Carolina (Mr. HARTNETT) has expired.

Mr. McDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important debate for all of us because what we are really asking ourselves is who is going to make the decision about what the future is in the Department of Energy?

A lot of people want to abolish it outright. There is a way to do that. One sends a bill up to the Congress and gets it approved.

There are a lot of people who say we want to reorganize it, move divisions here, there, and shift a part of it here. There is a way to do that. Send a reorganization bill up to the people's branch and the people's branch makes judgments.

It is true that, as my distinguished friend, the gentleman from South Carolina (Mr. HARTNETT) pointed out, we did not carry this amendment. It was added by the other body. It is not correct—it is totally incorrect—to say it was done by a single Senator to try to have some project some place. That is an absolutely incorrect statement.

What is involved here is whether or not there will be the resources, the people, to do whatever this Congress decides on both sides of the Capitol—hopefully in conjunction with the Department of Energy—on what the Nation's energy policy ought to be and not have it done just by RIF'ing employees, whether we all vote to do something or not.

Let me give the Members one example: We decided many years ago we should facilitate, to the maximum extent, the conversion of electric utilities from burning oil to burning coal or fossil energy, our long suit; that it was improper to have them burning coal because, as all of us know, no matter what is put into an electric utility—whether it be coal, natural gas, or oil—we only get half of the end product out of the other side. There is a conversion penalty for changing that form of energy.

We decided—all of us—it was in our national interest to try to convert those utility plants where we can and put them on coal and move them off oil and natural gas wherever it is in short supply, where we have to import from the OPEC nations, where we pay hundreds of billions of dollars.

Guess what? That seems like a pretty good program. I have not seen anybody here who would argue with that. There are no people in the budget to do it. That is defeating that policy by a backdoor RIF.

We are only talking about roughly four programs here. Conservation—some people think that is a pretty good program to work on. Some people can show you in dollars and cents that the most efficient barrel of oil one gets is the one saved. We put money in the bill to do that. The Department is trying to obliterate that program.

The same is true for renewable resources. One can say this is an unusual sort of amendment. Indeed, perhaps it is, but we are caught in a legitimate dispute between one end of the avenue and the people's branch in deciding what the future energy policy of this Nation will be.

Let me tell the Members what we did when we went over to the other body. As I say to my colleagues, we did not carry this one over there. We put a buffer in for the Secretary of Energy. He does not have to rehire anybody. That is totally false.

We gave him flexibility within these various accounts below his current onboard strength. In other words, our floors are below what his current employment is. That is reflected in the facts at the Department. The people are on board, our floor is below.

The hour is late, everything we do is important, I do not want to minimize this amendment. It is important.

It involves what the energy policy of this Nation will be and who will decide it. Will it be decided by us or will it be decided by fiat based on RIF's downtown?

I hope we will stick with the committee on this. Hopefully we will work out an agreement with the Department of Energy. We certainly want to. But we want to see—all of us—an effective energy program in this country.

I believe and I think the Members do, too, that next to the issue of war and peace, the question of energy survivability of the United States in the future is one of the most critical issues that faces the Nation.

We are not going to let anybody—anybody—decide that issue based on who they want to RIF or what their own personal feelings are about what a given program is.

That is our job. Please stick with the committee and stay with us.

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may consume.

My colleague, the gentleman from Pennsylvania, points up parts of a very serious problem which we have. Many of the Members heard me and many others discussing the fact we have three branches of Government, which, of course, is no new story. But we do need to work together as coequal branches.

We have had problems in the Congress, but we do have the right and the responsibility to pass laws and to say what we mean by those laws. But for years now, whatever the Congress may do in the way of explaining what it has done—in the reports accompanying legislation—it has been said by the Budget Director, that a congressional report is nothing but advisory.

Insofar as immediate enforcement, that may be true; but next year when the issue recurs, they cannot say they did not know what the Congress meant when it passed the law.

For years we have seen the executive branch—through the Budget Director—impose ceilings on programs and thereby circumvent what the Congress intended. There are billions and billions of dollars owed to the Treasury because the Government did not make proper inspection before a loan was made or adequately advise so it was run properly.

Several years ago we appropriated money for personnel where they could not use it for anything else, we did this so the executive branch could not circumvent congressional intent.

I am not familiar with all the details concerning this issue of personnel floors for the Department of Energy, I defer to the subcommittees involved for that. However, in this particular instance here, I call attention to the fact that the Congressional Budget and Impoundment Control Act provides for deferrals and rescissions of budget authority. The law says the executive branch can impound money if accomplished under the provisions of the Budget Act.

What we have here is a power struggle between the people's branch where we write the laws, where we write the reports saying what the laws mean—and the executive branch that wants to circumvent what we mean.

I say let us look to the last section of the amendment where we address the rescission issue. We cannot spell it out here in detail, but I will tell the Members: we can do it as well as the Budget Director, judging from my experience and observation.

I say the situation has gotten so serious I hope you will vote with the committee. We will bring it to a head. We need a working relationship with the Office of Management and Budget. If we do not have it, we will both suffer. If it keeps up as it is, I am going to recommend to some of the subcommittees that have the greatest problems that they appropriate by line item for personnel.

Then if they do not spend the funds for personnel, they cannot spend it for something else. That has been done before and may prove necessary again.

I hope the Members will stay with the committee.

□ 2100

Mr. McDADE. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Minnesota (Mr. WEBER).

Mr. WEBER of Minnesota. Mr. Speaker, I would like to associate myself with the position of the committee, but from a little different point of view. I will not take a lot of the Members' time, but I think there is a point that needs to be made, particularly to some Members who find themselves attracted to the point of view expressed by our colleagues from South Carolina, that we would like to see a reduction in the employee level at the Department of Energy.

I guess I find myself in sympathy with that as well and I think many Members, particularly on our side of the aisle do, because we would like to see us move in the direction of a freer market in energy; but I would raise a point that I think is important for Members to consider. We have seen and I think most Members would agree that there have been serious problems in dislocations caused in the energy marketplace in the past because of artificial controls on the price of one form of energy or another. That is not the only form of serious interference in the energy marketplace.

Another form of interference is subsidization of one form of energy or another by pricing the subsidized form of energy at a lower level than the nonsubsidized forms of energy.

I support the position of the committee, because it is obvious to me that the Department of Energy is presently pursuing a course which is not truly aimed at a freer market in energy, but rather it is subsidizing one or two forms of energy at the expense primarily of solar and conservation programs.

For instance, next year, I believe, the entire research budgets for solar, conservation, and renewables combined will be less than the research budget for the Clinch River breeder reactor alone.

I think that is not a free market approach to the energy budget, and given that fact I think that Members who truly want to see us work toward market pricing of energy resources probably should support the committee position, because if we are going to be subsidizing sources of energy, at least we should try to provide some equity in that subsidization level, rather than pricing certain forms of energy out of the marketplace entirely by subsidizing their competitors too heavily. That is a little different point of view than has been expressed, but I find myself in sympathy with the position of the committee for that reason.

I wanted to bring that point of view to the attention of those Members who find themselves in sympathy with the movement toward a reduction in employment and regulatory power through the Department of Energy.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, there have been some very impressive and eloquent arguments made both for and against this amendment. I am not here to urge or advise Members how to vote one way or the other on this. I think the arguments have been presented.

What I do seek to do, however, is to point out very clearly what this amendment does not do. This amendment does not, as I read it, as the gentleman from South Carolina said to the contrary, put a floor under the number of employees that the Department of Energy is required to have.

This amendment does not say that the present total number of employees of the Department of Energy cannot be reduced by any number.

What it is doing, as I read the amendment, it says that for reasons already pointed out by the gentleman from Pennsylvania and the gentleman from Mississippi, that in certain areas where the Secretary of Energy has indicated his unwillingness to go along with the policy established by the Congress that those programs cannot be gutted through a reduction of personnel in a RIF in those areas, but rather it should be approached directly either through legislation or through reorganization, and there is a reorganization bill now pending before the Congress, which has been referred to the Government Operations Committee.

I would like to ask the gentleman from South Carolina who made the assertion if there is anything in this amendment which he is opposed to that would place a floor under the total number of employees in the Department of Energy, and they may well do without some, whether they are in the Office of the Secretary or the General Counsel or the nuclear weapons area; there are places where reductions can be made. It is only in

these specific categories, not in the overall numbers.

Mr. HARTNETT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I would be happy to yield.

Mr. HARTNETT. Mr. Speaker, I would respond by saying that the Congress of the United States notwithstanding and the typical bureaucrat notwithstanding, there are some of us that manage various departments and businesses that can more efficiently operate with a lesser number of employees. I think that the Secretary of Energy is trying to tell us by virtue of this letter and his request that this amendment be defeated is that maybe he can operate some of these things that have been mandated by the Congress that he can maintain with a lesser number of employees.

The only unfairness, I would say to the gentleman from Georgia, is that we are mandating to the Secretary of Energy the specific number of employees, notwithstanding the efficiency of the operation. I just think that is terribly unfair.

Mr. LEVITAS. Mr. Speaker, let me reclaim the few seconds I have left.

I think that that point is one that can be argued, and the other gentleman from South Carolina argued that point. He said it is a management decision.

The gentleman from Pennsylvania, the ranking member, says it is a policy decision that the Congress ought to make.

I just want to make it clear that we are not placing a floor under the total number of employees in the Department of Energy. They can be reduced by even more than the mandated figure.

Mr. McDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank my colleague and the patience of my colleagues on the committee for taking this time this evening at this late hour.

I reluctantly take issue with the subcommittee here and I do not like to do that, because I believe in the subcommittee system and we have fine, reputable people doing a fine job as members of this subcommittee; however, in agreeing to this conference report, I did take exception to this amendment No. 177. In fact, in conference we took exception to it, to the point that the conferees agreed to exempt the subcommittee that I am closest to, and that is Energy and Water, from the provisions of this particular amendment added by the other body.

Now, it has been said today that this is something that is unusual, this type of amendment. Really, the amendment itself as far as the thrust of it is not unusual. We have done this before. We have put minimums in quite often. We have often put ceilings in, how many people, no more than so many may be hired.

Where this is unusual is the location; the fact that we specifically tell the Department they must employ so many people at certain locations, even though the Department may be more wise and think they could use the same and do the same job some place else. It would be altogether within the prerogative of the subcommittee and the full committee to tell the Department, you must do this job, but where we made the mistake, or the other body did and we are if we accept this, is telling them that they have to do it at this specific location.

Then the timing of this particular amendment, it is only a supplemental for the remainder of this year. From today, we have 44 days left in this fiscal year. We have not got it passed yet. It has to go to the other body. Probably less than a month to hire these people for a month does not make a whole lot of sense.

So I think we have to take exception, not that the practice is unusual, but tonight in this bill and the way it is fashioned, it is unusual.

Now, it was suggested that these people be used for collecting on judgments and elsewhere. How can you say that? How can anyone say this?

Read what this amendment does. It says positions. It does not say what GS rating they shall be. The Department could hire and employ all GS-2's.

Now, if you can go out and foreclose a judgment and collect on it, why have they not done it already?

You do not have any assurance that these judgments are going to be collected and you do not have any assurance they are going to be in the collection side.

Besides, judgments are made not by the Department of Energy, they are carried out by the Justice Department. The case is prepared, it is delivered to the Justice Department to do the prosecution.

Now, the additional employees spoken about here, several have mentioned this, I have some serious objections. As an example, at a location not less than 250 employees are assigned.

The SPEAKER pro tempore. The time of the gentleman from Indiana has expired

Mr. McDADE. Mr. Speaker, I yield 1 additional minute to the gentleman from Indiana.

Mr. MYERS. The instructions by section 303, not less than 250 employees shall be assigned to the Morgantown technology center. I am told that there would have to be 60 additional people employed at Morgantown, W. Va., for some reason—nothing shown here what job they shall do, but 60 additional employees must be hired for the next 30 days to fulfill the obligations brought about in this section 303.

Now, it is said it is going to cripple the Department of Energy if we do not give them these additional people, that they will not be able to carry out the mandate of their responsibility.

In a letter that I have been shown here, written by James Edwards, Secretary of Energy, to the chairman of the subcommittee for the Department of Interior, Mr. YATES, in the next to the last paragraph Mr. Edwards tells Mr. YATES in the August 12 letter:

> The Department realizes that Congress is concerned that the Department have sufficient personnel on hand to manage appropriated funds. We will make no major adjustments to personnel levels for fiscal year 1983 until Congress and the President have agreed on program funding levels for energy programs in fiscal year 1983. Whatever the outcome, we are pledged to maintain the appropriate personnel levels to execute these programs as intended.

Mr. Speaker, I urge a "no" vote.

□ 2110

Mr. WHITTEN. Mr. Speaker, I reserve the balance of my time.

Mr. McDADE. Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to Senate amendment No. 177?

The question was taken; and on a division (demanded by Mr. HARTNETT) there were—ayes 51, noes 22.

So the House receded from its disagreement to Senate amendment No. 177.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment No. 177 with an amendment.

The House concurred in Senate amendment No. 177 with an amendment.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

> Senate amendment No. 180: Page 77, after line 14, insert:
>
> SEC. 306. (a) The Congress finds that—
>
> (1) since the enactment of Public Law 94-142, the Education for All Handicapped Children Act of 1975, amending part B of the Education of the Handicapped Act, significant numbers of handicapped youngsters have been successfully brought into the Nation's educational system;
>
> (2) part B of the Education of the Handicapped Act has been consistently upheld since its enactment and any attempt to

weaken the rights of handicapped children or the rights of parents of handicapped children has been rejected by the Congress;

(3) handicapped children have consistently demonstrated that they can and do take full advantage of the educational opportunities afforded to them;

(4) the success of part B of the Education of the Handicapped Act in States where it is in effect can be attributed in large measure to the statutory and regulatory provisions assuring the rights and participation of parents in determining the education of their children; and

(5) the Department of Education has on August 4, 1982 published proposed changes in the regulations implementing part B of the Education of the Handicapped Act designed to eliminate the assurances that the rights and participation of parents and handicapped school children be recognized.

(b) It is the sense of the Congress that—

(1) the proposed final regulations implementing part B of the Education of the Handicapped Act should not become effective, and should not be transmitted to the Congress under paragraph (1) of section 431(d) of the General Education Provisions Act until—

(A) after the 97th Congress has returned from the recess which is scheduled to begin in October 1982, or

(B) after the 98th Congress is convened, whichever first occurs;

(2) the forty-five day period specified in such paragraph (1) should begin on the day that such regulations are transmitted to the Congress in accordance with clause (1) of this subsection; and

(3) paragraph (2) (except the first sentence) of section 431(d) of such Act should not apply to such forty-five day period.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 180 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment insert the following: "305".

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 182: Page 77, after line 14, insert:

SEC. 308. Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 182 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantees or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 183: Page 77, after line 14, insert:

SEC. 309. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 183 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

SEC. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

Mr. WHITTEN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. WHITTEN. Mr. Speaker, I ask for recognition and yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding to me for the purpose of a colloquy with the gentleman from Iowa (Mr. SMITH), the chairman of the Subcommittee on Commerce, Justice, State, and Judiciary, of the Committee on Appropriations.

Mr Speaker, as our colleagues will recall, there continues to be a wide interest in Congress, as well as in the concerned countries, regarding the reopening of U.S. consulates in the following locations: Turin, Italy; Salzburg, Austria; Goteborg, Sweden; Bremen, Germany; Nice, France; Mandalay, Burma; and Brisbane, Australia.

In the act (Public Law 96-60), authorizing appropriations for the Department of State for fiscal years 1980 and 1981, the Congress mandated that these consulates be kept open, or if already closed, to be reopened. Unfortunately, due to budget constraints, the consulates in question were closed. This year, however, the Department of State notified the Congress of its intention to reopen these consulates in light of their political and economic importance to the United States, and requested permission to reprogram funds for this purpose. Subsequently, the Congress mandated the reopening of these consulates in the conference report on S. 1193, authorizing appropriations for fiscal years 1982 and 1983 for the Department of State.

I have been advised that the Appropriations Committee in the other body is prepared to provide the necessary appropriations to accomplish the reopening of these consulates in fiscal year 1983. I would like to ask the gentleman from Iowa, in his capacity as subcommittee chairman, what his position would be on this issue in conference with the other body?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. ZABLOCKI. I would be delighted to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I would like to point out, first of all, that our committee has a very high regard for the gentleman from Wisconsin (Mr. ZABLOCKI) and we knew of his interest in these consulates.

When we received the reprograming request, we immediately asked for some information on it. First of all, we wanted to know, if we did reprogram funds in fiscal year 1982 to reopen these consulates, what would the cost be in 1983 to continue the same services? The State Department told us it would cost $1.8 million.

We also asked, who is performing these services now? The Department said that they are using consular agents in four locations with another scheduled to begin this fall. These consular agents work part time when there is work to be done and in that sense they are like local agents hired by airlines which do not need full time employees in certain locations. The Department also told us, and and gentleman may disagree, but the Department indicated that the service being provided by the consular agents is working out pretty well. Therefore, we have not proceeded as fast as the gentleman would like, I am sure, but the budget is under great constraint, as the gentleman knows.

Now, the Department of State has the responsibility for providing administrative services and support to all Government agencies at overseas locations. The Department is providing these services to the Commerce Department, the Agriculture Department the Defense Department, and so on, and the Department is strained. It needs all the resources requested to service these departments. Therefore, we wanted to know which Embassies would the Department take people out of to reopen these consulates? What services would be reduced within the Embassies in the countries where the consulates would be reopened? We really have not gotten all the answers to that question. However, I do want to say to the gentleman that, of course, we will always seek the gentleman's opinion. It may be that even though consular agents can perform the services in the seven locations adequately, it might still make sense from a political and economic point of view to spend the extra money to reopen the consulates; that may be the case.

I just want to say that, of course, we will give sympathetic consideration to the gentleman's opinions and those of the authorizing committee because the gentleman has been over this problem. We will try to work with the gentleman on this matter. I would not want to promise in advance exactly what we will do, but if the Senate puts the money in the fiscal year 1983 bill for the consulates, we will consult with the gentleman and we will give every consideration to his request.

Mr. ZABLOCKI. I do thank the gentleman for his cooperation. I do know that the gentleman has agreed that the Congress did speak on this issue, that it is very important for political and other reasons, and that we do have consulates reopened.

I thank the gentleman for whatever help he can give us.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi.

The motion was agreed to.

A motion to reconsider was laid on the table.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. HALL of Ohio, from the Committee on Rules, submitted a privileged report (Rept. No. 97-763) on the resolution (H. Res. 569) providing for the consideration of the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERSONAL EXPLANATION

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, yesterday, August 17, 1982, I was not present to vote because I was with my wife who underwent surgery in Kansas City.

If I were present I would have voted as follows:

Rollcall No. 281, "yes."
Rollcall No. 282, "no."
Rollcall No. 283, "yes."
Rollcall No. 284, "yes."
Rollcall No. 285, "yes."
Rollcall No. 286, "yes."
Rollcall No. 287, "yes."
Rollcall No. 288, "yes."

WE SHOULD NOT LOSE SIGHT OF HUMAN TRAGEDIES WHICH ARE A CONSEQUENCE OF THE ECONOMIC SITUATION

(Mr. RICHMOND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RICHMOND. Mr. Speaker, I would like to share with my colleagues a heart-rending letter I received from one of my constituents:

DEAR CONGRESSMAN RICHMOND: After working 42 years I am retiring. No one cared when the Social Security kept climbing up and up. I always figured well (God willing) one day it will be my turn to get my share of what I had put in.

I don't see no difference today.

Yes the food stamps are a blessing. I get them and they keep me from starving. My unemployment has been cut from $75 a week to $60. How do you pay rent and food plus, gas, electric and phone on $240 a month, plus subway fares? You have to pay bus and subway fares to look for work when you are almost 65. This takes $3 and more out of my small amount of money—so food stamps sure helped me.

Keep up the good work.

EVE ABRAMS.

BROOKLYN, N.Y.

I understand we must bring the Federal budget under control. I voted for the reconciliation bill and I plan to vote for the tax bill.

However, while we are concentrating on these difficult problems, we should not lose sight of the human tradgedies that are the consequence of our present economic situation.

INTRODUCTION OF A BILL TO PLACE A MORATORIUM ON CONTINUING DISABILITY INVESTIGATION TERMINATIONS UNDER TITLES II AND XVI OF THE SOCIAL SECURITY ACT

(Mr. EDGAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. EDGAR. Mr. Speaker, I am introducing today a companion bill to a bill introduced by my colleague in the other body, Senator HEINZ.

Mr. Speaker, today I am introducing legislation which will temporarily halt the case reviews of American workers who receive disability insurance. Since the passage of the 1980 disability amendments, which mandated continuing disability investigations for recipients of disability insurance, many beneficiaries have been suddenly and unjustly dropped from the disability rolls. My colleagues on the Ways and Means Committee have worked hard this session to fine tune and strengthen the 1980 legislation. The product of their efforts, H.R. 6181, is pending on the House calendar, and similar legislation has been introduced in the

other body. However, because neither House has yet acted on these changes, the problem of unfair and inequitable disability terminations has continued.

Since the Reagan administration began the accelerated disability review process in March 1981, this epidemic of improper cutoffs has been reflected in the figures of overturned termination decisions. Although in 1979 the Social Security Administration estimated that only 20 percent of disability insurance recipients no longer qualified for benefits, 45 percent of those reviewed at the State level have been terminated. Eighty to eighty-five percent of these recipients are appealing their cases to the administrative law judge level, and 65 percent of these appeals are successful. This high rate of overturned decisions indicates that a substantial problem exists with the reviews.

This statistical approach to the problem is very antiseptic. Let me illustrate this point more vividly by describing some specific examples which my caseworkers in Delaware County, Pa. have brought to my attention.

One of my constituents, who had been receiving benefits since 1972, was reevaluated in the early part of this year. He had multiple problems: An accident in 1970 had left him with spinal injuries, and he underwent several back operations. Originally he suffered from severe back pain and muscle spasms, and doctors judged him unfit to perform substantial gainful activity. Over time, his condition became worse as the pain and spasms moved to his neck. Doctors feel that the problem might be solved by further surgery, but chances of success would be only 25 percent, with a 25-percent chance of total paralysis and a 50-percent chance of death. Nevertheless, in February his benefits were terminated. On February 16, he appealed to the State reconsideration level; only last month was the State decision reversed on the record by an administrative law judge. The extended period without benefits and his anxiety over his case have caused such mental distress that he has almost been forced to seek psychiatric care.

Another man who lives in my district has been receiving disability insurance for several years, a result of various mental problems. Last year his case was reviewed and his benefits were cut off. An administrative law judge reinstated his benefits, but the stress of the cessation and subsequent procedures and uncertainty aggravated his condition. His physician is of the opinion that his condition deteriorated significantly as a result of the process. This year he was terminated again, and presently has an administrative law judge hearing pending. It seems likely, according to my caseworker, that he will have his benefits reinstated.

In order to properly attack this problem and introduce an element of compassion into the continuing disability investigation process, changes must be made in three areas of the disability insurance review arrangement. The committee bill includes many of these changes. First, we must act to smooth the passage back to work for those who are terminated from disability insurance. We should consider:

Adding additional adjustment benefits for those terminated after more than 36 months on the disability rolls.

Making identical the month benefits are ended and the month in which a termination notice is received, thus avoiding retroactive terminations.

Earmarking funds for special rehabilitative services for those terminated in fiscal years 1983 and 1984, the first round of cuts.

The review process itself must also be modified in several ways:

All disability insurance recipients should be notified by the Social Security Administration of the continuing disability investigations, their intent, and their form.

Considering the high reversal level on appeal, payments to terminated beneficiaries who appeal should be continued through the administrative law judge level. Repayment would be obligatory if the appeal is unsuccessful.

Face-to-face interviews should be instituted at the State reconsideration level.

The hearing record should be kept open through the administrative law judge level.

Finally, and most significantly, we must make major changes in the rules guiding the reviews:

The rules used by the States and those employed by the administrative law judges must be rationalized somewhat, but we must insure at the same time that all guidelines are published and subject to public comment.

In 1980 we indicated that we wished to terminate coverage for individuals who have medically improved and still receive disability benefits. We must now clarify our intent that those whose condition has deteriorated or remained the same should not be cut off. New guidelines should be applied to new recipients; it is cruel and unnecessary to grandfather those who have been on the rolls for many years.

The time limit for filing a State reconsideration appeal should be extended from 60 days to 180 days in order to encourage attempts by terminated recipients to return to the workforce.

Mr. Speaker, both Houses of Congress recognize the necessity for the continuing disability investigations. At the same time, every one of us has heard of the agony and trauma suffered by those unjustly dropped from the disability roles as the reviews proceed. In order to provide us with additional time to consider the myriad of possibilities for making the continuing disability investigation process more fair, and in order to add some time for reflection on the effects of the program to date, I have introduced a companion bill in the House to Senator HEINZ' S. 2730. This legislation will provide for a moratorium on continuing disability investigations until January 1, 1983, giving us all a chance to review the process and modify it. Of course, all cases of medical diaried reviews would be exempted from the freeze, as would those involving fraud and abuse of the system. This is only a temporary pause, but one that would allow us to contemplate the product of our legislation without seriously disrupting the review process. I hope that Members will seriously consider some of these ideas as we examine the present disability provisions.

"COP KILLER BULLETS" AND THE NRA—THE TRUE STORY

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BIAGGI. Mr. Speaker, for the past 3 years, I have been leading an effort to outlaw a special type of handgun bullet that can penetrate the bulletproof vests worn by police officers. Although not used for any legitimate purpose, these so-called cop killer bullets have been used to shoot and kill law enforcement officers.

Most Americans, including police officials across the country, are convinced this is a worthy cause—but not the National Rifle Association. Instead, they argue, "there is no such thing as a good or bad bullet," and they have lobbied heavily against any restrictions on armor-piercing handgun bullets.

Especially disturbing are the deceitful tactics they have employed. Recently, the NRA's campaign reached a new low when they told a newspaper the New York City Police oppose a ban on armor-piercing handgun bullets. Presumably, this is the same New York City Police who asked me to introduce the bill banning these bullets and then testified before Congress in full support of the legislation.

At this time, I would like to clear up further confusion by inserting a recent newspaper editorial that exposes the NRA's totally irresponsible conduct in this matter. It is appropriately entitled, "Tugging at the Truth."

[From the Lakeland (Fla.) Ledger, Aug. 1, 1982]

TUGGING AT THE TRUTH

The National Rifle Association of America apparently has begun to take on a quality attributed to Mark Twain. Twain told the

truth mainly, "but there was things which he'd stretch," Huck Finn said.

When it comes to defending bullets which can pierce soft-body armor worn by police officers, the NRA is having a taffy-pull with the truth. U.S. Rep. Mario Biaggi, D-N.Y., who introduced legislation to restrict the distribution of such bullets, can speak with authority about a police officer's safety. Biaggi, a former New York City police lieutenant, was wounded 10 times in the line of duty.

His bill to ban the manufacture and sale of bullets which can pierce police protection vests when fired from a handgun has drawn the support of the National Fraternal Order of Police, the International Association of Chiefs of Police, the Alabama State Trooper Association, the Baltimore City Police Department, the Connecticut State Police, and the Los Angeles Police Department, to mention but a few.

But the NRA, which long has depicted itself as a friend of the police officer, has fought hard against any restrictions on the sale of armor-piercing ammunition.

The NRA argues that banning these fiendish cop-killer bullets is needless legislation that possibly would outlaw bullets used by game hunters. In a letter to The Ledger published elsewhere on this page, rebutting an earlier editorial, NRA spokesman John R. Iler says that police agencies oppose the legislation. Among them, he cites the FBI, the Los Angeles Police Department, the New York City police, and the Maryland State Police.

While Reagan administration spokesmen have expressed reservations about the blanket nature of the proposals, the other named agencies sing a different song.

The FBI: "We have not gone out either supporting or opposing this bill," said an FBI spokesman Friday. "The NRA is not accurate in saying the FBI is opposed to this legislation."

Additional checks with the other cited agencies cause NRA's credibility to slip further. In a Dec. 9, 1981 letter to federal officials, Los Angeles Police Chief Daryl F. Gates supported Biaggi's ban on cop-killer bullets. Said Gates on the department's behalf: "Because of the significant hazard to our officers posed by ammunition with these capabilities, we have requested that legislation be introduced in California which would control its possession and sale. However, this type of ammunition is available throughout the country. Legislation on a national level is urgently needed to control the ammunition. This needless risk of injury or death for both state and federal law enforcement officers can be eliminated through our combined efforts."

Could the NRA also have missed the fact that a bill to ban the bullets in California was introduced by Sen. Ed Davis, immediate past chief of the Los Angeles Police Department? And that Davis is a life member of the NRA?

NRA's claim that the New York City police have "opposed these bans" also has a hollow ring. On March 30, Phil Caruso, president of the New York City Patrolmen's Benevolent Association, testified before a House subcommittee examining the armor-piercing bullets. Caruso, representing more than 20,000 New York officers (more than 95 percent of the force), said: "Consequently, since there are no legitimate and logical purposes for their availability, there should be no objection to the prohibition of the use of this type of armor-piercing projectile . . . these bullets should be banned."

And what of the NRA claim that Maryland State Police oppose the ban? "Just the opposite," said Sgt. John Hughes, president of the Maryland State Troopers Association, which represents 92 percent of the uniformed state police. "I cannot understand where the NRA got that information. We speak for almost all the troopers in Maryland."

In a recent newsletter, Biaggi pointed out that Florida Highway Patrol trooper and a visiting Canadian policeman were shot and killed in 1976 with 9mm metal-piercing ammunition. In 1974, a Federal Protective Service guard was permanently disabled when a metal-piercing handgun bullet was fired through the rear of his protective vest and still had enough fire power to rip through the front of the vest. Yet the NRA believes these cases don't count: "The fact is, no law enforcement officer wearing soft body armor has ever been killed by the bullets in question," writes Iler.

Perhaps not, but past statistics are sketchy. But must there be police deaths before NRA supports an armor-piercing bullet ban? The International Association of Chiefs of Police presents a strong argument for Congress setting distribution bans on bullets capable of passing through a police vest: "As long as the manufacture and sale of the ammunition remains unregulated, the potential for such a tragedy is only too real. The International Association of Chiefs of Police currently can find no legitimate use, in or out of law enforcement, for this type of ammunition."

In its recent attempt to discredit Biaggi's legislation, the NRA has done exactly what it has accused the media of doing: The NRA has distorted the facts on gun control legislation. Could it be that the NRA doesn't shoot straight?

□ 2120

CONFERENCE REPORT ON S. 2248, DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, pursuant to the order of the House of August 17, 1982, I call up the conference report on the Senate bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. WIRTH). Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of August 16, 1982.)

Mr. PRICE (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the statement.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. PRICE) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. DICKINSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 2248 is the result of an intense and difficult conference conducted over a period of 15 days with conference sessions running late into the night and the conferees faced with a great number of differences and some extraordinarily painful choices.

I am happy to say that we have arrived at a conference report that I think reflects, as well as one could expect, the position of the House, and I want to particularly express my commendation to the House conferees who defended the House position with vigor, even when it was contrary to their personal inclinations. The conference report provides authorizations totaling $177,867,548,000. This is $5,589,762,000 below the amount requested by the President. The sum total of the authorizations referred to here is made up of a variety of separate authorizations for procurement, research, development, test, and evaluation (R.D.T. & E.), operation and maintenance, and civil defense. In addition, the compromise reached on personnel strength and related manpower provisions, although related principally to strength authorizations, rather than dollar authorizations, will result in additional savings in manpower costs.

Mr. Speaker, the bill, as its name implies, provides the authorization for appropriations and, thus, does not provide budget authority. Budget authority must be provided in an appropriation bill. Therefore, there is no direct relationship between this bill and the budget resolution just adopted since the first budget resolution targets levels of budget authority. We were conscious throughout the conference, however, of the requirement under the budget resolution for a total of $9.8 billion in reductions below the President's request for the national defense function (Category 050). This conference report would make a reduction of approximately $5.6 billion and, in the view of the House conferees, is consistent with the target of the first budget resolution in light of reductions that have been or will be made in items

under the jurisdiction of the Armed Services Committee. Included in the latter are reductions in military pay, both active and retired, military construction, Department of Energy nuclear weapons programs, and other personnel changes. Additional reductions in Department of Defense programs are usually made during the appropriations process.

The reductions made here are consistent with the intent of the budget resolution considering the percentage of the total budget that is subject to authorization in the present bill.

The conference report has appeared in the CONGRESSIONAL RECORD for Monday, August 16, which has been available to all Members, so I won't take extensive time to review conference action. Let me just highlight some key decisions of the conferees.

Mr. Speaker, the question of binary chemical munitions was one of the most difficult items in conference and was only settled toward the very end of the proceedings. The Senate conferees felt very strongly that binary chemical munition production should begin and that it was necessary for the United States to have the capacity to deter chemical warfare. The House conferees believed in light of the very strong position of the House against the production of chemical munitions that the House position should be maintained, even though the Armed Services Committee in the House had supported binary production. The House held its ground on this issue and the conferees deleted all of the requested authorization, $54 million, for the beginning of procurement of binary chemical munitions. The language provisions of the House bill concerning chemical munitions were deleted in view of the agreement to deny all funding and, correspondingly, language provisions in the Senate bill were also removed.

Mr. Speaker, as you know, a provision was added to the House bill on the floor in the nature of a reduction on obligation of authorizations contained in the bill, which was designed to impose a limitation 1 percent below the total of authorizations approved. The Senate had an analogous general provision that contained a limitation on spending for the procurement of C-5B aircraft and would have reduced the total authorizations available for obligation in the Senate bill.

The House conferees were able to gain Senate acceptance on the House position for the procurement of the C-5B in view of the substantial vote in the House on that program. This resulted in elimination of the Senate general provision on limitation of funding.

Correspondingly, the Senate conferees objected to the House limitation on obligations. Additionally, the House conferees found that the provision could not be translated into effective reductions in each authorization category without either going beyond scope or denying the conferees virtually all discretion on disputed programs. The conferees concluded, therefore, that further reductions from the authorizations under the bill should more appropriately be made, if necessary, in the appropriations process, and the House reluctantly receded. This was one of the final items settled in the conference.

While approving the House position on beginning procurement of 50 C-5B aircraft, the conferees, in recognizing the serious shortfall in airlift, agreed to the procurement of three commercial cargo aircraft for military airlift and provided a total of $144.8 million for this purpose, including $60 million in new authorization and $84.8 million reauthorized from amounts provided in fiscal years 1981 and 1982 for the CRAF enhancement program. In addition, as part of our concern for airlift, the House conferees were able to maintain in conference the R. & D. line providing $1 million in new authorization for C-17. The conferees concurred that there was a long-term requirement for replacement of the C-141 fleet and that work on C-17 should go forward. It is the opinion of the conferees that with funding available from previous years and the $1 million provided in the bill, research and development work on C-17 can continue; in addition, the conferees would be willing to consider reprograming requests as necessary for this program. The $1 million is available only for the C-17.

On the MX program, it was necessary for the House conferees to agree to a reduction in the procurement authorization of $152 million for procurement, resulting in an authorization of $830 million for procurement of five missiles and the cost of establishing a production base, plus $158 million for missile support equipment and procurement relating to basing and deployment of the missile. The $158 million is restricted in that obligation is not permitted until the President notifies Congress that a permanent basing mode has been selected and 30 days have elapsed after receipt by Congress of such notice. A similar restriction applies to $715 million of research and development authorization that is related to basing. For R.D.T. & E., the conferees agreed to $2,509.3 billion for the MX, a reduction of $250 million.

In shipbuilding, the conferees were able to maintain the House position deleting one Trident submarine from the bill.

Mr. Speaker, there were numerous other difficult decisions made by the conferees, but I will not take the time of the House to discuss them. The decision of the conferees is spelled out in detail in the statement of managers accompanying the conference report. The conferees, led by the gentleman from Alabama (Mr. NICHOLS), spent many hours going over the difficult legal ground involved in the issue of former spouse protection, on which the two bodies had quite different intentions. The compromise reached I think is fair and retains much of the House version.

The House conferees were also able to maintain the position of the House on the creation of an Office of Inspector General for the Department of Defense in providing that the IG in the main will be independent. I want to particularly express my appreciation to the gentleman from Texas, Mr. BROOKS, and his colleagues on the Government Operations Committee, who worked with persistence and diligence with the conferees on this issue and were willing to propose a compromise that allowed a very fair settlement of a difficult issue where there were strongly held views on both sides. The elements of the compromise concurred in were proposed by the gentleman from Texas, Mr. BROOKS, and I congratulate him.

I also want to express my appreciation to the gentleman from Massachusetts, Mr. BOLAND, chairman of the House Permanent Select Committee on Intelligence, and his fellow conferees and capable staff for working with us to solve the differences on intelligence-related matters on which our committees share jurisdiction.

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise with our distinguished chairman, Mr. PRICE, in support of the conference report on the DOD fiscal year 1983 authorization.

As the chairman outlined, the conference report recommends authorization of $177.9 billion or $5.6 billion below the President's request. The recommended amount is large—but in opinion of the House and Senate conferees—it reflects an adequate amount to continue the rebuilding of our military strength that was started in 1982. However, the total is significantly larger than last year because, for the first time, the committees are recommending authorization of appropriations for the categories of ammunition and other procurement.

As we consider this conference report, I would like to ask my colleagues to recall the extraordinary briefing given by the Defense Intelligence Agency in this very Chamber. Those of you who were fortunate enough to attend have a more complete understanding of the capabilities of our major adversary. You saw the progress he is making toward increasing the destructive power of his conventional and nuclear forces.

Let me outline a few of the Soviets' recent accomplishments. In the past year two new fighters have joined their inventory: The Frog Foot—a close air support aircraft similar to our A-10—and, the Foxhound—a fighter/interceptor modification of the Foxbat. We have had the first sighting of their new large variable geometry strategic bomber, the Blackjack. Our analysts estimate an initial operational capability within several years. Additional SS-20's have been added to their forces. These 3,000-mile missiles, with three warheads each, now total 315. Sixty more Backfire bombers have been added to the Soviets' inventory for a total of 200, evenly divided between the naval and strategic air forces.

Finally, the Defense Intelligence Agency has recently reestimated the percentage of Soviet gross national product allocated for defense. That percentage is now estimated to be between 14 to 16 percent up from 12 to 14 percent last year.

It is with this understanding of Soviet power that the conferees joined to work out the differences in our two bills.

The conferees agreed on significant reductions in major programs. We reduced funding in two major programs because of favorable contract negotiations. In the M-1 tank program we found that it is now possible to procure 855 tanks, 79 more than originally requested, for $96.6 million less than requested.

On the AH-64 attack helicopter program, due to the efforts of Congress, the Army, and the contractor, it was possible to reduce the costs of 48 helicopters from $760.3 million to $710.0 million. This translates into a 15-percent cost reduction in the flyaway cost of the helicopter ($10.7 million to $9.1 million).

In other programs, such as the light armored vehicle, we recommended major reductions because the services either could not justify the need for the system or had not yet stabilized the quantities required.

In other areas we simply deleted or deferred programs because of competing requirements for dollars. To this end, the conferees agreed to delete complete funding for the second Trident submarine. The conferees did not dispute the need for that submarine, but felt that there were more urgent requirements for the funds.

The conferees agreed that a strong, flexible strategic airlift force with outsize capability is an urgent requirement. We agreed to the earliest initiation of the C-5B procurement program and to this end, recommended authorization of $847.5 million for fiscal year 1983. The conferees believe that the C-5B program, coupled with KC-10 procurement and the civil reserve air fleet, will provide our forces with a balanced and comprehensive capability.

With respect to the Guard and Reserve Forces, the conferees believe that additional funds must be provided to replace old equipment. Consequently, the conferees agreed to recommend authorization of $200 million for the Guard and Reserve Forces. The chief of each Reserve component will determine the priority for spending these funds and shall report to the Committees on Armed Services of the House and Senate on the items of equipment procured with these funds. The conferees recognize the potential contribution of the Guard and Reserve Forces. For example, as a part of the total force, the Army National Guard comprises 33 percent of the total Army combat division strength, and the Air National Guard comprises 27 percent of the Air Force tactical fighter aircraft fleet. Consistent with other budget priorities, these forces must be modernized to the point where they can make an effective contribution to our total force structure.

Mr. Speaker, in the opinion of the conferees, this bill contains the essential elements that continue the revitalization of our conventional and nuclear deterrent forces.

I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Speaker, I would like to offer a brief statement with regard to the conferees on the Air Force research and development program—the C-17 cargo transport aircraft.

The conferees agreed that of the amount authorized for the Air Force for fiscal year 1983, $1 million is available only for the research, development, test, and evaluation of the C-17 aircraft. The statement of managers was to reflect this fact and clarify the intent of the conferees. Having served as a conferee on S. 2248, I believe that the conferees intent was that these funds be used for the C-17 aircraft and not a C-17 type aircraft as reported in the CONGRESSIONAL RECORD. I wish to emphasize this point here today.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I rise in opposition to the conference report. This is not to say that there are not some good provisions in this report. There are some.

FORMER SPOUSE PROTECTION

The conference report contains a strong section providing for the direct payment of retirement benefits to former spouses of members of the military. There is the provision for health benefits and commissary privileges for spouses of 20-year marriages. Finally, members of the military are permitted to assign their survivor's benefits to former spouses. There are some bad parts to this provision, including a requirement for a 10-year marriage before service Secretaries can honor State court decrees awarding retirement benefits. Still, this provision is a major step forward, a substantial victory for women.

CONTRACTING OUT

The conference report contains a 6-month moratorium on new contracting out at DOD, together with a restoration of the personnel spaces reduced in anticipation of contracting out. It is truly the height of disingenuousness for the administration to claim that it is conducting straight, above board cost comparisons for the purpose of determining whether jobs should be contracted out when it has already reduced the personnel allocation of the Department of Defense in anticipation of contracting out. I think the 6-month moratorium is too short and that what is really needed is some rational Federal policy on contracting out. The chamber of commerce front, known as the Office of Federal Procurement Policy, is only interested in reducing the Government work force, not in saving money.

CIVIL DEFENSE

The conference cut $100 million out of the ridiculous administration request for crisis relocation. We ought to spend our scarce tax dollars on something a little more practical and a little more useful than drawing up plans to evacuate cities in case of nuclear attack.

INSPECTOR GENERAL

After years of steadfast opposition to the establishment of an independent Inspector General in the Pentagon, the conferees have finally agreed to establish an office whose mission it is to find waste, fraud, abuse and mismanagement. If any department of Government needs an IG, it is the Defense Department. It's about time we created one.

COST OVERSIGHT

The Nunn amendment of last year, which I instructed the House conferees to accept in conference, has been strengthed to provide better cost oversight of major weapons programs. Given the Pentagon's dreadful record of cost control in major acquisitions, this sort of regulatory control is needed. I hope it will make some difference.

Despite these good provisions, the conference report is marred by the same philosophy of throwing money at defense which gripped the House Armed Services Committee. Worse still, much of this money is thrown at weapon systems which raise the risk and probability of war.

Acting out of a feeling of self-disgust for having blindly thrown so many billions of dollars at the Pentagon, the House voted overwhelmingly for a cap on authorizations at $175,300,000,000. The bill that came back to us has authorizations set at $177,867,548,000, even higher than the $177,066,115,000 the House bill had before the 1-percent cut was adopted. Even more surprisingly is that the compromise reached is higher than the figure in either the House or the Senate bill. The Defense conferees have given new meaning to the word compromise.

Given this spendthrift penchant, it is not surprising that when the conferees were presented with the difficult choice of buying C-5B's or 747's, they decided to buy both. Rather than anger the Lockheed supporters or the Boeing supporters, the conferees felt it better to spend more money and please both.

The conferees also adopted the meaningless 30-day fence around money for MX interim basing. This means that we have obligated the Government to spending enormous sums to base the MX, when we have no idea how to do so in a survivable manner.

Although funding for chemical weapons was stopped, the conference report makes it quite clear that the committees plan to go ahead with the development of binary weapons.

Additionally, this conference report contains nongermane and unconstitutional language on cutting off benefits for those who fail to register for the draft and on collecting information about young men.

The few good features of this bill do not make up for the numerous, expensive and dangerous bad features of it. I urge my colleagues to oppose it.

□ 2130

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. BOLAND).

Mr. BOLAND. Mr. Speaker, I thank the gentleman for yielding this time.

I just want to ask a particular question with respect to section 1101.

Is it the understanding of the gentleman from Illinois that the provisions of section 1101 do not affect, or in any way diminish, the requirements of section 103 of the Intelligence Authorization Act for fiscal year 1983, the requirements of title V of the National Security Act of 1947, or the requirement to comply with the established reprograming procedures now in force?

Mr. PRICE. Mr. Speaker, will the gentleman yield?

Mr. BOLAND. I yield to the gentleman from Illinois.

Mr. PRICE. Yes. The intent of section 1101 is to provide a statutory basis for established reprograming procedures.

Mr. BOLAND. Mr. Speaker, I thank the gentleman.

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. Mr. Chairman, I, too, would like to compliment the committee on a number of parts about this conference report which is coming back to us from the conference of the Senate and the House Armed Services Committee.

However, I, too, am a little worried about the total amount of money that is in this bill.

To remind the House where we were at the time the House passed this bill, before the Glickman amendment the total amount of money in this bill was $177.1 billion. After the passage of the Glickman amendment, which was the 1-percent cut, we ended up with a total of $175.3 billion.

The other body had a version which went into conference with us of $177.4 billion.

So we went into conference with $175.3 billion and $177.4 billion and we came out of conference with $177.9 billion. So we came out spending more than we went into with either the House or the version from the other body.

It is not subject to a point of order because I know this has happened in the past because what you do is you take each of the parts and take the House version or the Senate version in each of the parts and if you take the House version when it is higher in one part and the Senate version when it is higher in another part you can end up with a total which is higher than either of the two bills going in. That is in fact what happened this time.

I think that is unfortunate because we are quite a bit higher than we went into conference from the House version, $2.4 billion, and we are over what we had in both the House and the Senate versions.

We do not have to conform in this bill. This bill does not have to conform with the budget resolution because it is an authorizing bill and not an appropriation bill.

It is, however, higher than we would have had if this were an appropriation bill.

We are leaving to the Appropriation Committee some very, very large cuts to make. We are leaving cuts of $2.2 billion in budget authority and $3.3 billion in outlays that the Appropriation Committee is going to have to cut to make the defense part consistent with the budget resolution.

So again, while I agree with a lot of the things that were done in this bill, I think the total dollars really are too high. They are too high from the budget resolution standpoint and they are too high from what we went into conference with the House and the Senate version.

Mr. Speaker, I yield back the balance of my time.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Speaker, the bill as passed by the House was $177.1 billion. It is correct that the bill as reported out of conference is $177.86 billion. That represents an increase of 0.4 percent above the House authorization. I would say that 0.4 percent—that is less than one-half of 1 percent—is not too much to leave to the judgment of the Appropriations Committee and I would hope the gentleman would not disagree.

I would also like to point out that the committee has clearly identified other reductions in the personnel area that can be made as part of the effort to be consistent with the budget resolution.

In addition, the committee has yet to finalize action on the Department of Energy nuclear weapons bill, and the military construction bill. A difference of more than $1 billion has to be ironed out in a conference between the House and Senate.

I would point out that the bill as presented in the Senate on May 12 provided for a level of authorization of $177.9 billion. The chairman of the Senate Budget Committee at that time congratulated the Senate Armed Services Committee for having a bill consistent with the budget resolution. It was only later that the Senate bill was reduced to $177.4 billion, an action relating to procurement of airlift aircraft. At the time the chairman of the Senate Budget Committee said that the bill was consistent with the budget resolution, the budget resolution actually contained $1 billion less for defense than the resolution as finally passed.

Finally, let us not forget that this is an authorization bill and it does not provide budget authority. Budget authority is provided in an appropriation bill and leaving an amount less than one-half of 1 percent for the appropriation bill is certainly consistent with past practices.

Mr. PRICE. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I want to thank the chairman for yielding.

On behalf of Chairman BROOKS of the Government Operations Committee and myself as chairman of the Intergovernmental Relations and Human Resources Subcommittee I want to thank the other Members and the conferees on the committee for the cooperation they gave us and for sticking with those of us who had been interested in section 1117 in this bill.

I think this is one of the most important provisions in this bill because it

will enable the Inspector General to coordinate the auditing and investigative activities of the Department of Defense and in my opinion in the years to come will save billions and billions of dollars.

Mr. Speaker, the Department of Defense authorization bill contains a number of provisions which are of great importance to the future of our national defense program.

By far the most important of these provisions, in my judgment, is the one which establishes a statutory Office of Inspector General at the Department of Defense—section 1117.

As most of you know, I have devoted a great deal of time and effort over the last 7 or 8 years in working to establish a system of statutory Offices of Inspector General in Federal departments and agencies.

There are now 16 statutory Inspectors General in civilian departments and agencies. There is still a very long way to go, but their work is beginning to produce very significant benefits to the taxpayers through improved economy and efficiency and reduction of fraud and abuse in Federal programs.

The present situation is a tremendous improvement over the old system where auditors and investigators could—as a practical matter—be kept from doing their job whenever agency heads and program managers so desired.

The statutory Office of Inspector General which this bill will create at the Department of Defense is more urgently needed than any of the others.

In contrast to most civilian agencies, where programs are being cut back, spending by the Department of Defense is increasing rapidly. Over the next 5 years, DOD is expected to spend more than $1½ trillion.

I have consistently supported defense appropriations. Unfortunately, as all of us know, an unacceptably high percentage of the funds made available to the Defense Department has been—and still is being—expended in a manner which does little or nothing to strengthen our national defense.

We cannot expect the Nation's taxpayers to continue to provide massive funding for the Defense Department—at considerable personal sacrifice—unless we provide far greater assurance that their money will not be wasted or stolen.

This bill will help greatly in providing that assurance by establishing a DOD Inspector General whose independence is protected by statute.

The Department of Defense exerted great effort to prevent the establishment of an independent Office of Inspector General. DOD openly acknowledged that they wanted the Inspector General to be subject to the "authority, direction and control" of the Secretary so that he or she could not investigate matters the Secretary did not want investigated.

Although the House had twice voted for an independent DOD Inspector General by overwhelming margins, the Senate versions of the Defense authorization bill called for an Inspector General who would be subject to the "authority, direction, and control" of the Secretary.

I served as a member of the conference committee on the section of the Defense authorization bill relating to the Office of Inspector General, section 1117 in the record, I am glad to be able to report that—thanks to the solid support provided by all House conferees—the House position prevailed and we will have an independent Office of Inspector General.

We did yield to the Senate in providing that the Inspector General might be subject to the authority of the Secretary in specific instances in which the Secretary determined that an Inspector General investigation might endanger the national security. However, in order to prevent national security from being used as a cloak to cover up waste, fraud, and abuse, we provided that the Inspector General must report to the appropriate congressional committees if and when this national security provision is invoked. And the Secretary of Defense is required to provide a full explanation of his actions to the House and Senate Armed Services Committees and the Senate Governmental Affairs and the House Government Operations Committees.

I do not believe the President would nominate—or the Senate confirm—an Inspector General who would knowingly jeopardize the national security. That is why the language was unnecessary, but we need the office so badly in the Defense Department that these compromises with the Senate conferees were necessary. It should rarely—if ever—be necessary for a Secretary of Defense to order an Inspector General to stop an investigation on national security grounds. If it ever does occur, I am confident the Congress will review the circumstances very, very closely.

There is one obvious deficiency in the DOD Office of Inspector General being established by this bill. The Defense Contract Audit Agency is not being transferred to the new Office of Inspector General, even though it has several times as many auditors as will be available to the new Inspector General.

DCAA should be transferred to the Office of Inspector General, and I am confident that it will be so transferred in the not-too-distant future.

With the enactment of this bill, only two major Federal departments will be left without independent statutory Inspectors General. They just happen to be the two most important law enforcement agencies—the Treasury and Justice Departments.

By and large, these two agencies have good records for honesty and integrity. Unfortunately, a high degree of integrity, while essential, does not assure a high degree of effectiveness. Our law enforcement operations must be managed more effectively and statutory Inspectors General are urgently needed to help accomplish this task.

This will be my last year in Congress. The House has voted to establish statutory Inspector General's at the Treasury and Justice Departments on two separate occasions, and House-passed legislation for this purpose is currently pending in the Senate.

I hope these last two Inspectors General will become a reality before the end of my service in this body. If not, you can be sure that I will continue to fight for the establishment of these offices as a private citizen.

● Mr. BROOKS. Mr. Speaker, I just want to comment briefly on the provision in this conference report that establishes an Office of Inspector General in the Defense Department. The establishment of a statutory Inspector General for the Department of Defense may be one of the most significant and responsible actions taken by this Congress. In taking this action, this Congress has shown the American people that we intend to carefully monitor the management and expenditure of the massive appropriations now being authorized for the Defense Department. This bill provides for the first year of a 5-year defense buildup that is expected to exceed $1.6 trillion. It is appropriate that at the outset we are establishing a mechanism to provide for more effective and timely oversight of the expenditure of those funds.

I want to commend the conferees from the Armed Services Committee who stood firmly with those of us from the Government Operations Committee in working out a strong, effective Inspector General provision.

The main issue in disagreement was the degree of independence the Inspector General would have. The House bill gave him the same independence all other Inspectors General have, placing him under the general supervision of the Secretary of Defense, but prohibiting the Secretary from interfering with any audits or investigations. The Senate bill placed the Inspector General totally under the authority, direction, and control of the Secretary.

The conference agreement adopts the language of the House bill in placing the Inspector General under the general supervision of the Secretary, but gives the Secretary authority to step in and prohibit audits and investigations requiring information which, if disclosed, might constitute a serious

threat to national security. The agreement spells out the specific areas in which this authority can be exercised, and provides that whenever it is exercised, the Secretary must make a written report to the Armed Services Committees of the House and Senate and the House Government Operations and Senate Governmental Affairs Committees.

I think we've got a good, workable compromise that will finally bring the Defense Department into line with the rest of the Government in the effort to control wasteful spending and mismanagement. This is something we on the Government Operations Committee have been seeking for a long time and I am delighted it has finally been achieved.●

Mr. PRICE. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. I thank the gentleman for yielding.

I take this time, Mr. Speaker, because there were erroneous reports as to what the conferees had done or agreed to on the binary chemical weapons. I wish to commend the chairman and the conferees because they have strenuously upheld the position of the House on this issue.

I do know that the conferees in the other body were of an adamant attitude but, again, I wish to thank and congratulate the chairman because, indeed, our House conferees upheld the House version.

I yield back the balance of my time.

□ 2140

Mr. PRICE. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY of Washington. Mr. Speaker, I rise in opposition to the conference report on the Defense Department authorization. After careful consideration of the issues involved, I have concluded that this legislation does not adequately deal with the real defense problems facing our nation.

I am pleased by the deferral of $54 million for the production of binary chemical weapons. Our existing stockpiles of chemical weapons are an adequate deterrent to chemical warfare. We do not need to produce new binary weapons. The reduction in civil defense funds to $152 million, from the $252 million provided by the House, is also an improvement. The only defense against a nuclear war is to prevent it from starting in the first place. In addition, the creation of an Office of Inspector General for the Defense Department will hopefully help us to deal with the serious problem of waste in that agency.

However, these positive points are outweighed by many others.

The $178 billion in funds authorized by the conference report is $2.6 billion higher than the amount voted by the House. Given the state of our economy, I believe that even the House bill provided too much for these programs. Because our national security is dependent on economic health, we need to look at the military budget much more carefully. Military spending cuts are an essential part of a responsible fiscal policy which will reduce the record-high deficits of the Reagan administration and lead to economic recovery.

The conference report also authorizes wasteful weapons such as the B-1 bomber, and weapons which will make us less secure, such as the MX missile. In addition to $2.5 billion for research and development on the MX, the report includes $988 million for procurement of the first five MX missiles, even though we do not know how they will be based. If we ever do find a workable basing system for the MX, its high accuracy will threaten the Soviets with a first strike. Their response to this perceived danger could include a move to launch-on-warning status for their missiles. This will increase the chance of war through miscalculation or accident, especially in times of crisis. As a result, the MX will actually make us less secure. The same objections apply to the Trident II missile, which is also authorized in the report.

We are now hearing that any MX basing system will require a ballistic missile defense—BMD—system to protect it. The report provides $520 million for BMD technology advancement, exploitation, research, and development. It is likely that any BMD system, if built, would violate the Anti-Ballistic Missile Treaty, which is perhaps the most successful arms control agreement we have achieved.

The search for an effective BMD system could go on forever, at an enormous cost, without ever making us secure. We are fortunate that the ABM Treaty has kept us from wasting billions of dollars on this futile goal. We need mutual, verifiable arms agreements and substantial arms reductions. We do not need to destroy an effective, existing treaty.

It is also disturbing to me that the report deleted the House amendment stating that no funds could be used for weapons that would violate provisions of the SALT II Treaty. Even the Reagan administration is adhering to the terms of this treaty, although it does not favor ratification. Given the time required to accomplish new arms agreements, we are more secure because we continue to observe the provisions of SALT II.

I supported the unsuccessful amendment to delete funding for 50 new C-5 cargo aircraft and procure, instead, new or used 747's. I remain convinced that this amendment would have saved at least $7.9 billion overall, while still providing sufficient airlift capacity to meet our outsize, oversize, and bulk requirements. Unfortunately, the report did not accept this view.

For all these reasons, I have decided to oppose the conference report. I urge my colleagues to do likewise.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. LOWRY of Washington. I yield to the gentleman from New York.

Mr. STRATTON. We put in three 747's, I might point out to the gentleman.

Mr. LOWRY of Washington. Yes, and there is a real question, I might respond, as to whether we can really afford the type of airlift that will be necessary to carry out this program.

● Mr. HORTON. Mr. Speaker, I rise to commend the House Armed Services conferees for their complete and unwavering support for an independent Office of Inspector General for the Defense Department.

The report before us contains a provision that would place in the Department of Defense an independent Inspector General to lead the fight against waste, fraud, and program abuse. This Inspector General has the same powers and is just as independent as the 16 Inspector General's that the Congress has placed in other major departments and agencies.

To protect sensitive information, this provision would require the Secretary of Defense to exercise "authority, direction, and control" of the Inspector General only when carefully defined matters of national security are concerned. At all other times the Inspector General would remain independent of the Secretary.

Should the Secretary exercise his authority to prohibit the Inspector General from operating in defined sensitive areas, the Inspector General would be required to report the prohibition to the Congress. The Secretary would then have 30 days to explain the prohibition to the appropriate committees of the Congress.

As a further protection of classified information within the Defense Department, this legislation specifically prohibits the public disclosure of certain sensitive information, not just at Defense but also at the 16 other major departments and agencies currently operating with statutory Inspectors General. This is an important feature of the bill, a feature that recongizes the serious nature of an IG's work.

All in all Mr. Speaker, I am quite pleased with the work of the conferees in this area. At a time when Congress is cutting back on social programs and is sharply increasing Defense spending, it is absolutely imperative that someone at Defense has enough independence to investigate and curtail instances of fraud, waste, or mismanagement. This legislation will provide that independence without jeopardizing national security.

Mr. Speaker, I support the Inspector General language in this conference report and I urge its approval.●

● Mr. EVANS of Delaware. Mr. Speaker, I rise in strong support of the conference report on S. 2248, the Department of Defense authorization bill.

This legislation contains authorization of funding for our critically important programs of national defense. A strong national defense to protect the United States from aggression is the single most important duty of the Federal Government. All other Government programs pale in comparison to our efforts at making America secure.

I am particularly supportive of provisions in this bill that authorize the procurement of C-5 transport planes. These aircraft are central to our efforts at putting together a first-rate rapid deployment force. In times of emergency, we must be capable of moving enough troops with the right equipment to those strategic "hot spots" around the globe where America's national security interests must be protected. The C-5 is the best plane around to meet that need.

As my colleagues know, the other body approved purchasing surplus commercial 747's instead of C-5's. When this same issue was debated here in this Chamber, it was made abundantly clear that a 747 just cannot do the job of a C-5. I believe one of my colleagues summed it up well when he said, "If you needed a truck for hauling things, would you buy a used car to do the job?" The overwhelming rejection of the 747's by this House placed our conferees in a strong position, and they were able to insure that the House position prevailed.

I am especially familiar with the capabilities of these aircraft because many of them are stationed in my home State of Delaware at the Dover Air Force Base. A substantial number of the new C-5's we are authorizing today will be stationed at Dover as well, where they will be expertly maintained and kept ready for use by our Armed Forces.

This bill will go a long way toward making America secure from our adversaries and will promote the cause of world peace through a strong United States. I urge my colleagues to join me in strong support of the conference report.●

Mr. PRICE. Mr. Speaker, I yield back the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

Mr. PRICE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Mr. EDGAR. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 251, nays 148, not voting 35, as follows:

[Roll No. 297]

YEAS—251

Akaka	Fowler	Montgomery
Alexander	Frost	Moore
Anderson	Fuqua	Moorhead
Andrews	Gaydos	Morrison
Annunzio	Gejdenson	Mottl
Applegate	Gephardt	Murtha
Archer	Gibbons	Myers
Ashbrook	Gilman	Napier
Badham	Gingrich	Natcher
Bailey (MO)	Gonzalez	Neal
Bailey (PA)	Gore	Nelligan
Barnard	Gradison	Nelson
Barnes	Gregg	Nichols
Benedict	Hagedorn	Oakar
Bennett	Hall, Sam	Oxley
Bevill	Hamilton	Parris
Biaggi	Hammerschmidt	Patman
Bliley	Hance	Patterson
Boggs	Hansen (ID)	Pepper
Boland	Hansen (UT)	Perkins
Boner	Hartnett	Pickle
Bouquard	Hatcher	Price
Bowen	Hefner	Quillen
Brinkley	Hendon	Ratchford
Brooks	Hightower	Rinaldo
Broomfield	Hiler	Robinson
Burgener	Hillis	Roe
Butler	Holland	Roemer
Byron	Hopkins	Rogers
Campbell	Horton	Rose
Carney	Howard	Rostenkowski
Chappie	Hoyer	Roth
Cheney	Hunter	Rousselot
Clausen	Hutto	Rudd
Coleman	Hyde	Santini
Collins (TX)	Ireland	Sawyer
Corcoran	Jacobs	Schulze
Courter	Jeffries	Shamansky
Coyne, William	Jenkins	Sharp
Craig	Johnston	Shaw
Crane, Daniel	Jones (TN)	Shelby
Crane, Philip	Kazen	Shumway
Daniel, Dan	Kennelly	Shuster
Daniel, R. W.	Kindness	Siljander
Dannemeyer	Kogovsek	Skeen
Daschle	Kramer	Skelton
Daub	Lagomarsino	Smith (AL)
Davis	Lantos	Smith (NJ)
de la Garza	Latta	Smith (OR)
Deckard	Leath	Smith (PA)
Derrick	LeBoutillier	Snyder
Derwinski	Lent	Solomon
Dickinson	Levitas	Spence
Dicks	Lewis	St Germain
Dingell	Livingston	Staton
Dornan	Loeffler	Stenholm
Dougherty	Long (LA)	Stratton
Dowdy	Long (MD)	Stump
Dreier	Lott	Synar
Duncan	Lowery (CA)	Tauzin
Dunn	Lujan	Taylor
Dwyer	Lungren	Thomas
Dyson	Marlenee	Trible
Edwards (AL)	Marriott	Udall
Edwards (OK)	Martin (NC)	Walker
Emerson	Martin (NY)	Wampler
Emery	Matsui	Watkins
English	Mavroules	Weber (OH)
Erlenborn	Mazzoli	White
Evans (DE)	McClory	Whitehurst
Evans (GA)	McCollum	Whitley
Evans (IN)	McCurdy	Whittaker
Fary	McDade	Williams (OH)
Fascell	McDonald	Winn
Fazio	McEwen	Wolf
Ferraro	McGrath	Wortley
Fiedler	Mica	Wright
Fields	Michel	Yatron
Fish	Mikulski	Young (AK)
Flippo	Miller (OH)	Young (FL)
Foglietta	Minish	Young (MO)
Foley	Mitchell (NY)	Zablocki
Ford (TN)	Molinari	Zeferetti
Fountain	Mollohan	

NAYS—148

Addabbo	Forsythe	Petri
Albosta	Frank	Peyser
Anthony	Frenzel	Porter
Aspin	Garcia	Pritchard
Atkinson	Glickman	Pursell
AuCoin	Goodling	Rahall
Bedell	Gramm	Rangel
Beilenson	Gray	Regula
Benjamin	Green	Reuss
Bereuter	Grisham	Ritter
Bethune	Guarini	Roberts (KS)
Bingham	Gunderson	Roberts (SD)
Blanchard	Hall, Ralph	Rodino
Bonior	Harkin	Roukema
Bonker	Hawkins	Roybal
Brodhead	Heckler	Russo
Brown (CA)	Hertel	Sabo
Brown (CO)	Hollenbeck	Savage
Broyhill	Hubbard	Scheuer
Burton, Phillip	Hughes	Schneider
Chisholm	Jeffords	Schroeder
Clay	Jones (OK)	Schumer
Clinger	Kastenmeier	Seiberling
Coats	Kildee	Sensenbrenner
Coelho	LaFalce	Shannon
Collins (IL)	Leach	Simon
Conable	Lee	Smith (IA)
Conte	Lehman	Smith (NE)
Conyers	Leland	Snowe
Coughlin	Lowry (WA)	Solarz
Coyne, James	Lundine	Stangeland
Crockett	Markey	Stark
D'Amours	Martin (IL)	Stokes
Dellums	Martinez	Studds
DeNardis	Mattox	Swift
Dixon	McCloskey	Tauke
Donnelly	McHugh	Traxler
Dorgan	McKinney	Vento
Downey	Miller (CA)	Walgren
Dymally	Mineta	Washington
Early	Mitchell (MD)	Waxman
Eckart	Moakley	Weber (MN)
Edgar	Murphy	Weiss
Edwards (CA)	Nowak	Williams (MT)
Erdahl	Oberstar	Wirth
Evans (IA)	Obey	Wolpe
Fenwick	Ottinger	Wyden
Findley	Panetta	Wylie
Fithian	Pashayan	
Florio	Pease	

NOT VOTING—35

Bafalis	Hall (OH)	Railsback
Beard	Heftel	Rhodes
Bolling	Holt	Richmond
Breaux	Huckaby	Rosenthal
Brown (OH)	Jones (NC)	Stanton
Burton, John	Kemp	Vander Jagt
Carman	Luken	Volkmer
Chappell	Madigan	Weaver
Ertel	Marks	Whitten
Ford (MI)	Moffett	Wilson
Ginn	O'Brien	Yates
Goldwater	Paul	

□ 2150

The Clerk announced the following pairs:

On this vote:

Mrs. Holt for, with Mr. Richmond against.

Mr. O'Brien for, with Mr. Moffett against.

Mr. Beard for, with Mr. John L. Burton against.

Messrs. GRAMM, GREEN, FINDLEY, LaFALCE, RALPH M. HALL, GUARINI, ATKINSON, ROBERTS of South Dakota, and COATS changed their votes from "yea" to "nay."

Messrs. EDWARDS of Oklahoma, DREIER, and KOGOVSEK changed their votes from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 2200

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the Senate bill, S. 2248.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 297

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 297, the Carney nuclear freeze regulation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

PERSONAL EXPLANATION

Mr. BROWN of Colorado. Mr. Speaker, on rollcall No. 294 I was necessarily absent on official business. Had I been present I would have voted "nay."

I ask unanimous consent that this statement appear in the permanent RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado.

There was no objection.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unavoidably detained at the White House this evening and had I been present and voting on rollcall No. 296, I would have voted "no."

OUR ENERGY POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EDGAR) is recognized for 60 minutes.

Mr. EDGAR. Mr. Speaker, I would like to thank my colleagues for agreeing to participate in this special order this evening. I have asked for this time so that we could review and document the current state of the energy problem.

Mr. SIMON. Mr. Speaker, will my colleague yield?

Mr. EDGAR. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I wish to change the topic from energy just for a moment, because I have just learned, because unfortunately I was not on the floor when our colleague, the gentleman from Ohio, explained the language that was in the Caribbean Basin provision tonight.

I support the Caribbean Basin Initiative of the administration, but the language that was in there authorizing—I do not know what, and I do not know that anyone else knows what, in the way of possible military adventurism on the part of the United States concerns me a great deal.

I am confident that the majority of the Members of this body were not aware of the language that was in the document that we passed.

I think clearly the sentiment in this House is that we want to support the Caribbean Initiative. We want to do constructive things. We do not want to be using our military muscle where that is not necessary and we do not want to invite this administration to do that.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Illinois.

I am sorry that some of us were not more aware of the exact language that was in that particular report.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his comments. I would like to associate myself with the remarks of the gentleman from Illinois as well on the language that did appear in that legislation.

Mr. Speaker, tonight the special order that I have asked for deals with the issue of energy policy. A number of Members of the House, North, East, South, and West, are concerned about what our energy policy for the future should look like.

I strongly believe, as I know many of you do, that the energy crises is not over. Furthermore, as unpleasant as it may seem, I think it will not be over until we commit ourselves to a safe, efficient and affordable energy future.

Unfortunately, we are experiencing once again the effects of a "glut psychology"—a state of mind that allows us to ignore the lessons of the past and delude ourselves into thinking that our current energy sources are abundant and their supply will remain. Daniel Yergin, in his new book entitled "Global Insecurity," warns against falling prey to the lure of complacency and quotes the Director of the International Energy Agency as saying, "There is still an oil gap; only now it is expressed in the number of unemployed."

To fully comprehend the inordinate effect energy has had upon the economy in recent years, one need only look to energy prices. The increase in size and percentage of national energy spending over the past decade—the era of OPEC and domestic oil decontrol—has been formidable. Data on National and State energy expenditures show that in 1970 the United States paid $83 billion for energy; in 1980, energy spending totaled $378 billion.

While overall energy consumption rose by only 14 percent in the 1970's, the cost of energy used in the United States increased 132 percent in real dollars. That was significantly higher than the decade's inflation rate of 94 percent and the increase in real personal income of 37 percent. Nationally, expenditures for energy over the decade grew from 8.5 percent of the gross national product to 14.4 percent.

The current oil situation, which in recent months has resulted in lower prices for imported and domestic oil, is an encouraging sign. It shows the effect of lower demand on worldwide prices and supplies. However, the price decreases are slight compared to the overall increases since 1973. For example, in 1979, imported crude sold for $21.67 a barrel. By 1981, a barrel of imported crude cost $37.14. In April 1982, the price dropped to $32.50—a 12.5-percent decrease, but still well above the 1979 price. Moreover, U.S. production, despite record prices and levels of new drilling, has not increased dramatically.

Some observers claim that the drop in consumption proves that high energy prices spur investment in energy efficiency. However, it is not known how much of the decrease is attributable to reduced activity in a recessionary economy and how much reflects increased efficiency. The broad indicators are alarming. The greatest drop in energy consumption between 1979 and 1981—fully 69 percent—occurred in the industrial sector. Reduced energy consumption for transportation accounted for another 24 percent, while the residential and commercial sectors combined showed only a 7-percent decline. These figures suggest that an upturn in the economy could increase energy consumption significantly and renew upward pressure on oil prices.

It is difficult to assess the full impact of rising energy prices on the economy. Mr. Yergin, however, paints a dim picture of possible effects worldwide unless we begin the long process of adjustment to new energy realities. He writes:

> The unhappy set of economic circumstances set in motion by the oil shocks contains the potential for far-reaching crises. In the industrial nations, high inflation, low growth, and high unemployment can erode the national consensus and undermine the stability and legitimacy of the political system. In the developing world, zero growth leads to misery and upheavals. Protectionism and the accumulation of debt threaten the international trade and payments system. And, of course, there is the tinder of international politics, particularly involving the Middle East, where political and social upheavals can cause major oil disruptions and where fears about and threats to energy supplies can lead to war.

We in the United States are beginning to adjust. The most impressive example is New England, which used

6.5 percent less energy in 1980 than it used in 1978. This was at a time when that region also was experiencing healthy economic growth—thereby contradicting the commonly held belief that energy use and economic growth must move in lockstep.

Unfortunately, the commitment to energy efficiency and alternative energy development—so evident just a few years ago—has begun to diminish. We could speculate indefinitely on the cause for this loss of interest. I think it is fair to say, however, that the change in administrations, the cautious approach to discretionary spending, and the "glut psychology" all have been partly responsible.

It seems, therefore, that this special order is particularly timely. At a time when not many people are focusing on energy, the next hour or so should give us the opportunity to "get up to speed" on the current energy situation.

Before we begin, let me set the tone for our discussion by relating a conclusion of the Global 2000 report. In their summary of the world energy situation, the report's authors quote Vincent McKelvey's assessment of the current energy situation:

> The era of readily available, cheap fossil fuels is closing and a high order of human ingenuity will be required to extend it and to bring into use another energy resource base. The time necessary to complete these tasks depends not only on the vigor and imagination with which new sources are sought but on the wisdom and restraint exercised in the use of the old.

We will hear tonight from a bipartisan group of members from throughout the country. The group itself is a strong indication of the breadth of support for energy conservation and alternative energy development.

□ 2210

Mr. Speaker, I yield now to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I would like to begin by commending the gentleman from Pennsylvania (Mr. EDGAR) for calling this special order on the important issue of national energy policy. It is remarkable that this critical subject has, in recent months attracted so little public attention.

I would like to make a few observations about national energy policy in general, and comment specifically about the future of solar and renewable energy resources.

It has been estimated that over $7 trillion will be spent on energy in the United States in the next 20 years.

In the best of all possible worlds—with the free market working perfectly—this $7 trillion would be so efficiently invested that we could meet our Nation's energy requirements without any need for a national energy policy. However, as most of us are aware, this is not the best of all possible worlds. The energy marketplace is anything but a perfectly free market, and the policies and practices of powerful energy interests do not always coincide with the interests of the Nation. A comprehensive national energy policy is essential if we are to achieve the goals of economic growth, increased employment, and enhanced national security in the years to come.

However, I would emphasize that the Federal Government need not dominate the energy marketplace or expend tremendous sums of taxpayer dollars in an effort to correct market imperfections. In fact, we must avoid past mistakes which have resulted in an energy policy which is little more than a patchwork of ad hoc special interest subsidies that only serve to exacerbate existing market imperfections and to prolong our energy vulnerability by diverting scarce capital into uneconomic, wasteful investments.

In my view, the role of the Federal Government should simply be to provide guidance to the marketplace so as to match the Nation's present and future energy needs with available resources in the most cost-effective, environmentally sound, manner possible. I am convinced that if we were to adopt the commonsense criteria which I have just described, we could rise above the ideological debates of the past, and form a much-needed consensus on national energy policy.

So where do we begin?

The first step in meeting the criteria must be an assessment of the Nation's end use requirements for heating and cooling, lighting, transportation, and industrial and agricultural processes.

The second step must be an analysis of available energy options to determine which can most effectively meet specific energy end use requirements.

It is imperative that we take these steps in this order. In the past we have put the cart before the horse by spending large sums of taxpayer dollars in developing costly technologies only to find that there are much more efficient ways to meet our energy needs.

For example, numerous studies have indicated that investments in improved energy efficiency can much more cheaply reduce our dependence upon oil and gas than massive spending on nuclear and synthetic fuels technologies. It is now generally acknowledged that U.S. energy consumption could be reduced by at least 25 percent without sacrificing economic growth. Improving energy efficiency should be the highest priority of our national energy policy.

Unfortunately, the current administration has once again put the cart in front of the horse. While continuing to support multibillion expenditures for the Clinch River breeder reactor and the Synthetic Fuels Corporation, the administration proposed reducing energy efficiency funding to only 1 percent of the Department of Energy's research and development budget.

This situation illustrates the importance of establishing criteria to compare the effectiveness of competing energy technologies in meeting the Nation's energy requirements. While it is clear that increased energy efficiency should be our No. 1 energy priority, we must also utilize the same criteria to determine which new sources of energy can effectively meet our energy needs as domestic oil and gas supplies become increasingly scarce.

I strongly believe that solar and renewable energy technologies are excellent examples of potential energy resources which could meet the criteria that I have suggested, but may need assistance in overcoming market imperfections. These resources must be given the opportunity to aggressively compete with highly subsidized nuclear and synthetic fuels technologies as we move to replace dwindling oil and gas supplies.

A number of studies have indicated that solar and renewable energy technologies could provide 20 to 30 percent of our energy supply requirements in the year 2000. Regrettably, the current administration does not share my enthusiasm about the potential of renewable energy technologies. They consider solar to be an "exotic" technology which cannot compete as a viable energy option. Their support for nuclear and synfuels and neglect of solar could make their prediction a self-fulfilling prophecy.

I believe that if solar is to be given a fair shake in the energy marketplace, there are a number of market imperfections which must be addressed by Federal policy.

First, the Federal Government must be committed to a vigorous research program if energy investors are to be given a choice between competing technologies. Unfortunately, the current administration has proposed reducing solar funding to only 4 percent of the Department of Energy's research and development budget. The administration justified its proposed budget on the grounds that existing solar tax credits were sufficient incentives for solar development.

Second, due to the fact that millions of individual energy consumers are potential investors in solar technology, we must insure that they have adequate access to capital to compete with investments in centralized energy technologies. As incredible as it may seem, the current administration attempted to eliminate the same solar tax credits that it had earlier used to justify its proposed cuts in the solar research and development budget. Fortunately, a majority of both Houses of Congress expressed their support for the tax credits. In addi-

tion, the administration attempted to kill the Energy Conservation and Solar Energy Bank. This Congress created the bank to provide low-interest loans to attempt to eliminate the barrier of the "up front" capital required for the purchase of solar technology. It now appears that the bank will finally open its doors—but only after the administration was sued and lost its case in court.

Third, it is critical that the Federal Government provide homeowners, the business community, and the building sector with the solar information necessary to assist them in comparing competing energy investments. While these relatively low-cost programs improve the working of the marketplace, the administration has consistently proposed their reduction.

Finally, if solar and renewable energy resources are to be competitive in the marketplace, we must engage in an extensive examination of Federal subsidies for other energy technologies to determine if they remove, or create, imperfections in the marketplace.

While the administration has attacked solar programs as inappropriate meddling in the marketplace, they have also supported substantial subsidies for the nuclear industry, $12 billion in new tax breaks for the oil industry, and have failed to seriously question the role of the Synthetic Fuels Corporation.

In closing, I believe that it is extremely important to redefine the Federal role in the energy marketplace. It is clearly unrealistic to assert that the Federal Government should either fund every conceivable program or leave all energy decisions to market forces. However, I believe that it is essential for us to agree upon criteria for Federal support for energy technologies which will be consistent from administration to administration if we are to make progress in addressing our energy problems. I believe that the criteria which I have suggested, which would require all energy technologies to fairly compete for Federal support based upon the technology's ability to meet the Nation's energy needs in the most cost-effective and environmentally sound manner possible, is a formula worthy of consideration.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for his leadership and also for his comments.

I think it is important to outline the whole concept of a national energy policy.

Mr. Speaker, at this time I yield to my colleague, the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, first, I would like to thank and commend the gentleman from Pennsylvania (Mr. EDGAR) for organizing this special order. Energy has fallen from the top of our priorities list in the last few years, and I believe that this neglect will come back to haunt us. We seem to have an extremely short memory when it comes to gaslines and skyrocketing fuel costs. I hope that this special order will help to raise the consciousness of the Congress about the energy issue so that we can attempt to head off the next crisis rather than applying band-aids after the wounds have been inflicted.

It is clear that our energy policy must focus on easing our dependence on foreign oil, both for the sake of consumers at home and for international stability. One role of Government is to provide for the needs of its citizens in ways that the market does not address. Just as the Government must spend time and money on defense to promote national security, it must also attempt to minimize the possibility of scenarios that could lead to conflict or other threats to our national security. Certainly one of the most obvious of these is the possibility of an oil cutoff.

There are many policies that we should pursue at home to promote conservation and renewables, and many of the other speakers here today have addressed these eloquently. I would like to discuss two issues that are somewhat divergent from each other and from the other matters we have been talking about today.

For the United States, our overdependence on OPEC is an overdependence on imported liquid fuels. In the last 2 years, a great deal of emphasis have been placed on increasing domestic production of oil. Unfortunately, we have done little to stimulate production of alternative fuels. Government research on alcohol fuels has been cut back, and even with the massive subsidies, synthetic fuels plants have had to be closed. It is clear that the United States will fall far short of the goal of producing 500,000 barrels a day of synthetic fuel by 1987, and 2 million barrels a day by 1992, as spelled out in the Energy Security Act that Congress passed just 2 years ago.

I believe that this is an area where the Government should take a new approach to alternative fuels development that is in keeping with the current emphasis on fiscal austerity in Government and reliance on the marketplace.

Tomorrow, I will introduce legislation to require that by 1990, 10 percent of each gallon of motor fuel sold in the United States must be a replacement fuel. The term "replacement fuel" is defined as alcohol or other liquid produced from coal, oil shale, tar sands or other substance for the purpose of mixing with gasoline to be used as a motor fuel. The ultimate goal, by 1995, is to replace 20 percent or more, by volume, of the nationally projected consumption of motor fuel.

Without a doubt, the United States has the technical capability to produce fuels from grains, garbage, coal, oil shale, tar sands, and other sources. The problem that private industry faces is not technical; rather, there is a lack of certainty about the demand for the final product. The most effective Government policy to promote alternative fuels is to guarantee a market.

This concept is built on the model of the successful program of mandating fuel efficiency in motorcars. I hate to think of the condition the auto industry would be in today if Congress had not mandated these standards. We should take a similar approach to fuel for motor vehicles, a sector that constitutes about one-third of our Nation's energy use.

Another ramification of the long-term, worldwide liquid fuels shortage that often goes unnoticed in this country is the impact of oil prices and shortages in the developing world. The oil bills of many Third World countries have strangled their development by creating balance-of-payments and debt-service problems, international monetary instability, and the potential for energy-related economic, social, and political unrest in several regions.

The threat to vital U.S. interests of present trends include prospects of a collapsed international financial system, lost rights to military bases and facilities, strengthened OPEC influence on the foreign policies of less developed countries, and significantly curtailed international trade. Clearly, the relationship between energy and security is important not only in the domestic context, but in the context of our relations with many other nations of the world.

It is extremely disturbing to me that there is little or no coordinating of foreign, defense, energy, and nonproliferation policies. For instance, it seems ludicrous to address our overdependence on Middle Eastern oil in a military way. It is an energy problem that threatens our security, and it should be treated as such.

In the contect of our policy toward the developing world, it is certainly in our interest to promote renewable technologies in the Third World. Since the United States probably will remain a major importer of petroleum for many years, it is in our interest to reduce the competition for supplies and provide alternative energy options both at home and abroad. A strong leadership role for the United States could also benefit U.S. foreign policy interests by reducing the present hostility of many developing nations toward us. It would also provide stimulation and visibility to our domestic renewable energy industry.

Finally, a commitment to promoting renewables around the world would be of great benefit to our efforts to curb the spread of nuclear weapons. The threat of nuclear proliferation is as serious a problem as any facing the world today. We simply add fuel to the fire, if you will, by pushing nuclear reactors around the world in countries where the need for energy is largely for uses such as heating, cooking, and pumping water. To paraphrase Amory Lovins, the use of nuclear energy for such purposes is like using a chain saw to cut butter.

I appreciate the opportunity to participate in this important special order today on this important, and recently neglected issue. I hope this will be the start of a renewed consciousness in the Congress on energy.

□ 2220

Mr. EDGAR. Mr. Speaker, the gentleman I think has made a good statement. I would like to commend the gentleman for his leadership over the years in both the area of energy and the area of environment. I think it is important for us to have sensible national energy and a sensible national environmental policy that recognizes the need for renewable energy. The gentleman from Vermont has really led the way in many creative ways in making sure the legislation we pass, whether it is appropriation or authorization, really is focused on those concerns.

I know the gentleman has been in anguish over the last year and a half when some of those programs that were put in place to help in conserving renewable energy have indeed been diminished, and I know the gentleman's concern about the dependency we have on imported oil.

I think the gentleman's statement was effective.

Mr. JEFFORDS. I thank the gentleman for those kind comments, and certainly share those views about the gentleman for his leadership, and I have enjoyed working with him on many of these projects.

I think it is incredibly foolish that some of the things we have been doing recently by cutting back, especially on conservation from a dollar deficiency, is so much greater than many of the things that we do.

I thank the gentleman for yielding me this time.

Mr. EDGAR. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend our colleague from Pennsylvania (Mr. EDGAR), for taking this special order to discuss our national energy policy.

I serve as the chairman of the Small Business Committee's Energy Subcommittee. Our activities in this Congress have brought us into close contact with the present administration's energy policies. And I have to tell you, I am thoroughly perplexed by this administration's lack of direction in the energy area.

Most troubling to me is the failure to commit the Government to a policy of pursuing least-cost energy options. Such a policy could, in the long run, reduce our dependence on unstable and environmentally unsound sources of energy.

In the past decade, America has been hit with two major energy supply disruptions that left our economy reeling and threatened our national security. Yet, to this day, the Department of Energy has no idea how to handle a significant energy disruption and the President has vetoed legislation that would have given him standby authority to act in the event of a new energy crisis.

This evident lack of concern for short-term energy contingency planning runs parallel to the administration's lack of direction in its long-range energy goals. Internal contradictions in our national energy policy are abundant.

For instance, if we are going to adopt the notion of an unencumbered, free-market, hands-off approach to energy policy, then we must do so with the conviction of honest principles and root out the billions of dollars in subsidies we now give each year to petroleum, coal, gas, and nuclear. But if this administration will not or cannot do this, then they at least should stop trying to kill the emerging new technologies that are arising to compete with those older sources of energy.

This Government continues to encourage, through tax policy and numerous other subsidies, conventional and capital intensive sources of energy. We even go so far as to encourage and subsidize the export of nuclear energy technology and hardware.

At the same time, however, this administration seeks to deny comparable assistance to decentralized, renewable energy technologies that have the potential to greatly reduce our dependence on uncertain or unsafe fuels. Every budget cycle seems to bring new attacks by this administration on funding for solar energy research and energy conservation programs. Last year, the administration went so far as to suggest the total elimination of the residential and business energy tax credits.

The new regime at the Department of Energy also tried last year to kill virtually all of the Federal Government's efforts to promote solar energy. Congress intervened to save some key portions of the program, but our national efforts in this field have been crippled nonetheless. Foreign competitors, who enjoy strong support from their governments, are rapidly overtaking our domestic solar industry in the race for world markets. Just a few short years ago, there would have been no question of our dominance of the international market.

I submit that our present national energy policy, if we can call it that, is taking us in the wrong direction. If we continue on our present course, we will have to pay an enormous price in the future for the poor choices we are making today. We will lose some of the technological advantages over our international competitors that we have achieved in recent years; the growth of new energy industries in this country will be stunted; jobs and tax revenues will be foregone; and our national security will be weakened. All of this is likely unless we act now to increase our energy independence by investing in the energy sources of the future.

At the conclusion of my remarks, Mr. Speaker, I would like to place in the RECORD an excerpt from a draft report that was prepared by members of the Solar Panel of the Energy Research Advisory Board. This group was established by the Department of Energy to advise the administration on energy policy matters.

While the draft report is still in preliminary form, it is nonetheless a reflection of the best thoughts of the Government's top advisers on energy research and technology. It is interesting to note how different a tack the draft report takes from the course laid out by the administration this group is advising.

It is obvious to me that the administration is acting in disregard of its own advisers. Actually, we can also see that they are acting in disregard of just plain commonsense.

For example, one of the first things this administration did when it took office was to summarily cancel dozens of promising energy research and development contracts with small businesses, many of them being interrupted in midproject. However, the new folks at DOE left in place all of the multimillion-dollar deals with the big corporations that do not really need the Government's help. Instead, they took funds away from the struggling smaller firms who most need the help and who are most likely to come up with the great innovative breakthroughs if they are given the chance.

Mr. Speaker, I believe this country can move forward, toward the goals of least-cost energy and energy self-sufficiency. But the Government is going to have to encourage this movement, either by supporting the emergence of the new technologies or by ending our subsidies and bureaucratic support for the older forms of energy. In short, we are going to have to reject the con-

fused energy policies of this administration.

Congress has expended much effort in resisting, with some success, the misguided energy policy initiatives of this administration. Perhaps we should resolve now to take the initiative to put forward our own energy policy. Whatever we come up with will surely be preferable to the current absence of coherent thinking on this important subject.

An excerpt from the draft report of the Solar Panel of the Energy Research Advisory Board follows:

REPORT OF THE SOLAR PANEL OF THE ENERGY RESEARCH ADVISORY BOARD, JULY 30, 1982[1]

FEDERAL ROLE

The Panel acknowledges the increased reliance on private industry and the use of market mechanisms to commercialize solar technologies to the maximum extent possible. It is even more important now for the federal solar program to work closely with the private sector to leverage private investment. Federal outlays should be viewed not as expenditures, but as investments in the Nation's future to protect us from energy vulnerability, to encourage far greater private activity and to strengthen the economic base in ways that will yield revenues far in excess of the investment.

1. Research and development

Basic research and long-term, high-risk, high-payoff research and development are important federal roles. They provide information and know-how which benefit the country as a whole, but are not sufficiently of benefit to any one interest to warrant private investment.

Under this policy, the federal government retains a critical R&D role to support industry in the development of solar technology. The Panel feels that the proper federal role should be limited largely to supporting technology base activities including basic and applied research, exploratory and technology development, and vigorous technology transfer efforts such as operating some key test facilities and programs. Generally, the most commercially promising technologies must be completed through the technology development stage to permit transfer to U.S. industry, although, for some technologies, private industry will step in sooner. Engineering development programs, such as small scale pilot plants, may be justified in special cases when substantial industry cost-sharing is forthcoming. Until recently this had been accomplished with some form of financial support from the federal government. The Panel believes that costly demonstration and commercialization programs by the federal government are not justified under current economic conditions. This is not to say, however, that the need for demonstration isn't still there.

The expectation that private industry alone will finance the demonstration of near-commercial, "large-scale" technologies (central receiver, OTEC, some large wind machines) that otherwise are ready for commercial operation, is not always realistic as explained in the previous section. In the shorter term, the withdrawal of all government support for demonstration and commercialization of near-commercial, cost competitive solar technologies undoubtedly would slow the rate at which these technologies will be introduced into the marketplace. A slowdown would create a risk that the U.S. solar industry will not be ready when market conditions improve.

The Panel urges, however, that if the new policy is to be successful, federal solar programs which produce near-commercial technology should be transferred to industry as soon as possible.

Dissemination of documents alone is not effective. Personnel exchange and residence programs, widely publicized program and topical review meetings, and other methods should be included. Programs should not be abandoned until it is clear that the technology and know-how have been transferred in an orderly manner.

The federal role should include important technology support functions not likely to be conducted by private industry, namely solar energy resource assessments, and performance testing of specialized materials and components, test facilities programs, and assistance in developing industry-made standards. A key to gaining market acceptance is an independent testing or verification program. Operating without such a program requires offering investors especially large "risk premiums"—rates of return substantially higher than those available on more conventional investments. Such rates of return can, by themselves, make renewable energy technologies appear uneconomic, even when the delivered cost of energy may actually be lower than that of conventional energy technologies financed on the same terms. Test facilities are also often a useful research technology transfer tool and should be supported on a reasonable cost recovery basis with industrial users.

Prompted by very rapid growth in federal funds, solar energy activities of various kinds developed rapidly in universities, national labs and in industry in the mid-1970's. The Panel believes that this diversity is basically healthy, assures richness, and reduces the risk of early commitments to less than optimal paths. Because of extensive recent reductions in the federal solar budget, the available level of administrative overhead and funding may not support the critical number of scientific and engineering teams needed to promote quality research and technology. A consolidation of activities into fewer field operations offices, national laboratories, and research centers is likely to improve efficiency; consolidation efforts already accomplished will be helpful. Consolidation of the management structure and decentralization of programmatic authority to fewer lead centers and research centers is also necessary. However, this must be carefully balanced against the need to keep competent teams in place until technology transfer occurs.

As the national economic outlook and the prices of energy change, and as the development of a solid solar technology base yields insights on new technological options of marketplace potential, the relative significance of the various solar technologies will undoubtedly change. The Panel stresses the continuing need for R&D program planning, technical assessments, systems analysis and program evaluation from inside and outside government to provide an appraisal of program accomplishments and directions.

TAX CREDITS

At a time when direct federal involvement in commercialization is ending, tax policy may be the most important factor to foster the maturity of the solar industry. Both the business energy tax credit (ETC) and the R&D tax credit are important for stimulating private investment in renewable energy R&D. The R&D tax credit reduces the cost of investment in research and development, and encourages greater investment once firms have decided to invest in R&D on a particular subject. But firms rarely engage in an activity just because of the tax code, particularly marginal firms just starting out. To justify R&D a firm must first see an interesting and substantial market for the products. It is in assuring this market that the energy tax credit is so important.

For numerous renewable energy projects—wind, solar thermal, biomass projects of a wide variety, and some proposed photovoltaic projects—the energy tax credit has been essential to financing. It has transformed projects that are essentially attractive into projects with the additional rate of return needed to provide the risk-premium investors demand. These projects are beneficial to the Nation; the energy tax credit must be seen as fostering investment, as investing money to make money, not as a "tax expenditure".

The tax also helps alleviate and correct for market failure. It should be emphasized that, despite move toward deregulation, the overall market for energy is not a free marketplace. Internationally, oil prices are influenced by OPEC decisions on production and pricing. Domestically, producers of traditional fuels (oil, gas, coal, uranium) have special tax treatment for the costs of extraction and for depletion that continue to be important in stimulating production and in obtaining needed capital. Federal and state regulation continues to control the prices of natural gas and electricity.

Moreover, expenditures for fuels used in business constitute operating costs, deductible from revenue in computing income taxes. Renewable energy sources generally are not purchased from someone else. Capturing a river, the wind, or direct solar energy substitutes capital for the continuing expense of fuel. Tax incentives for renewable energy capital investments help provide some equitable balance and partly offset the tax advantage of fuel expensing. Federal R&D investments also help to rectify the deficiencies and inequities in the marketplace. Even discussion of changes in the tax laws create uncertainty in this fragile marketplace.

The Panel recommends that the tax credits be extended until there is an equalization of tax laws for all energy sources. When that occurs, a specific phasedown schedule needs to be set for industrial planning. The R&D tax credit cannot take the place of the Business Energy Tax Credit and will not, in the Panel's view, be a major factor in the private sector moving ahead. However, the R&D tax credit can be improved by expanding it to include new business and limited partnerships to provide further incentives for private solar R&D from these sources. These measures will produce a more stable investment climate for the solar industry by reducing the uncertainties of federal tax policy, and will allow industry to carry out its new leadership role.

CONTINUITY

Rapid changes and discontinuities in Federal actions over the last five years have induced instabilities and unanticipated costs in the private sector. Continuity, relative stability, and gradual change are critical for

[1] This is a draft report which does not necessarily reflect the views of the Department of Energy, the Energy Research Advisory Board, or the Solar Panel.

research and development. This may be more important than the absolute amount of money in the budget. R&D is totally dependent on teams of talented people, trained, assembled and maintained by universities, laboratories, and firms at significant cost and with considerable effort. Such teams of talent cannot be turned off and on like production lines; they are inherently fragile.

Stability and continuity are critical for the regulatory and economic climates, and in R&D funding. Without both, firms cannot adequately plan their investments and their staffing. Industry needs continuity to maintain its teams of people, to maintain commitment, expertise, and strength in important national areas. The same holds true for universities.

To assure future consistency and continuity to facilitate maximum private sector commitment, we suggest five year advance funding for key programs. Such a program, followed quite successfully in the Defense Department and the National Institutes of Health, would encourage far more effective and efficient involvement by leading private institutions in renewable energy development.

We also recommend that any further reductions in funding be phased gradually. Gradual changes are vital to give time to adjust. Rapid, unplanned changes hurt everyone. And by hurting everyone, they waste tax dollars that have been invested in these programs.

Even in programs scheduled for ultimate phasing out, we feel it important to maintain a basic information and tracking function, to serve as a central focal point for continuing private-sector activity. A tracking program would have very modest cost. A handful of people might be required with a modest budget for occasional conferences, symposia, and sponsored state-of-the-art summary publications. These activities help preserve what has been learned. Research that goes undocumented might just as well never been performed.

Mr. EDGAR. Mr. Speaker, the gentleman from Iowa, I think, makes a really telling point, and as one of the leaders of not only the small business community, but also one of the leaders of the new group that formed a few years ago called the Clearing House on the Future, he has helped to give us vision beyond the 2-year and 6-year mentality that legislators have.

The energy problem that we face is a serious one. It is a crisis that confronts all of us to develop a cohesive and comprehensive package of policies that really work, and it is unfortunate to see those policies being diminished in any way, particularly in the renewable area that the gentleman is concerned about, and the conservation area.

I would like to commend the gentleman for his statement. I hope that we can continue to focus people's attention on the energy issue.

Mr. BEDELL. Mr. Speaker, if the gentleman will yield further, one of the new technologies our committee has looked into very significantly is the area of photovoltaics, where you take a panel, put it on the roof, the sun shines on it and generates electricity. There are no moveable parts, no replaceable items. It uses up nothing at all. Tremendous replaceable items. It uses up nothing at all. Tremendous advances are being made at this time.

This technology came out of our space program where we had the technology. The fact of the matter is, with the cutback we are seeing at this time in our Government support for such efforts, the other nations are going to move right in and take advantage of this new technology, and if it does develop into what at least I expect it to be, which will be a major product particularly for developing countries in the world, our producers are going to sit on the sidelines while we watch foreign manufacturers take those markets and other foreign workers have the job of producing those products.

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Mr. EDGAR. I thank the gentleman for his comments about photovoltaics. I think it is a new area and we do in this Nation have to get the skills and the knowledge and the expertise on this area.

I hope the gentleman is wrong, that we do not keep that as one of the technologies here in this country that is on the cutting edge of the future.

I thank the gentleman for his comments.

Before recognizing my colleague from Michigan, I would like to thank all of the gentlemen on the Republican side who have waited to listen to this debate. It is really good to have you here.

Mr. ALBOSTA. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Speaker, there is an energy source that is renewable; that now supplies more net energy than nuclear power; that can be used as a liquid, gas, or solid fuel; that is labor intensive; that is available in great supply in the Northeast, Midwest; that is economical now and could provide several times the amount of clean, low-cost energy that it does now. That energy source is wood.

The Office of Technology Assessment estimates that wood can provide up to 10 quadrillion Btu's, between 10 and 20 percent of our projected energy needs by the year 2000. The OTA adds that this can be done without disrupting the supply of wood or agricultural products for uses other than energy. However, OTA points out that this depends on the level of Government involvement.

In fact, unless the Federal Government can provide better information and assistance on wood energy, we will be taking some serious risks, with the combined pressures of possible price increases for most other energy sources and the ever present threat of foreign oil shortages, energy users may turn to whatever sources are at hand. The Maine Audubon Society has studied the issue and concluded that with a strong wood energy program forests can be improved but without a strong program an energy emergency could do great damage to forests, particularly in the oil-dependent Northeast. With proper planning and assistance now, our wood reserves could take the sting out of an oil boycott or a severe winter.

A study done for the Federal Emergency Management Agency concluded that dispersed energy sources, such as wood, are best for the Nation in terms of security, reliability, and national defense.

The vast potential for renewable energy that can be generated where it is needed, rather than imported, and the fact that the Federal Government was not paying much attention to this source of energy, led to the formation of the congressional Wood Energy Caucus in early 1980. Although the Wood Energy Caucus has members from the South and from the West, over two-thirds of its 29 members are from the Northeast-Midwest region.

In briefings and hearings initiated by members of the Wood Energy Caucus, the Federal wood energy efforts have been shown to be far short of efforts recommended by the Government Accounting Office, and off target in terms of the greatest potential for energy supply and security as identified by OTA and other expert groups.

Let me give some concrete examples. The GAO points out that over $120 million is spent every year just to dispose of wood residues on Forest Service land, often by simply burning the wood in the forests. The GAO recommends that a small fraction of that amount could pay for pilot projects around the country to show how these residues could be used productively for energy. The Agriculture Department has the authority to do those studies and to spend the money that way.

The GAO reported that if the 600 million dry tons of unused wood residue that is available each year could be used to replace oil, we could reduce imports by almost 85 percent. The GAO identified barriers that exist which prevent more efficient use of this waste wood. These are: Lack of information on the availability of wood, lack of investment capital needed for harvesting and using residues, and a limited awareness of wood energy and product technology among industrial firms, utilities, and State and local bodies, among others.

The GAO testified before the Forests, Family Farms and Energy Subcommittee of the Agriculture Committee on their recommendations, saying:

It may also be necessary for the Federal Government to promote markets for these

wood residues by making potential customers aware of the resources and, more importantly, of existing and emerging technologies which make increased wood use feasible. This communication process may require that the Federal agencies demonstrate the use of wood residues and sponsor demonstration of new technologies.

Let me provide an example from my own district of what this can mean to the private sector. The Dow Corning Corp. is now finishing a 22-megawatt cogeneration plant that will be fueled primarily with waste wood. Their supervisor of natural resources testified at another hearing that with management, less than 2 percent of the private forest land within 75 miles of Midland, Mich., can supply all of the energy the Dow Corning plant will need on a regular, renewable basis.

I asked him earlier why this was not being done by the private sector everywhere that forests and industry are near each other. He felt that the main reason is a lack of information. He said that the information the private sector needed is in the hands of the Federal Government. He said this could be provided by an extension service type of approach.

When President Reagan first took office several of the founding members of the congressional Wood Energy Caucus wrote to him. We reminded him that one of his own radio commentaries was devoted to promoting waste wood for clean renewable energy on a scale large enough to produce far more energy that we import in oil. Yet we pointed out that the entire DOE budget for wood and other biomass energy was only one-tenth of 1 percent of the overall DOE budget, and wood was only a part of that.

From a high point of over $40 million under the last administration, the DOE biomass budget has been reduced at the request of the administration to $20 million with a recommendation that it be cut to less than $7 million for fiscal year 1983. Furthermore, the very programs most urgently needed according to GAO and private sector experts have been eliminated. Excellent and vital work remains but key efforts to bridge the gap between industry and Government have been stopped in wood as in other areas of renewable energy and energy conservation.

Even the energy information agency has back-tracked on wood energy information. They refuse to publish information in the Monthly Energy Review that has already cost a considerable amount to produce.

Several members of the Wood Energy Caucus were joined by other key members this year in urging the Appropriations Committee of the House to specifically require a more balanced wood energy program of a size more suited to the potential energy reward.

Wood for energy can provide significant income for farmers and other rural landowners. It can even turn a disposal problem into an asset for cities and towns. It can keep much-needed cash in the Northeast-Midwest and other forested areas. It can provide ethanol, methanol, methane, and various forms of solid fuels for home or industrial use while producing almost no sulfur dioxide—acid rain—unlike coal. It can provide jobs in large numbers for workers with relatively little training. It can complement other forms of energy and other sources so that we can use the right technology and the right energy source for every job and do it economically.

Can you imagine that even Ireland is growing short rotation wood crops for energy on top of the same peat bogs that they have cut for fuel for centuries? Meanwhile, similar programs are scheduled to be cut in next year's budget in this country. We could be exporting wood energy technology to a world that derives 8 percent of its energy from wood but not as efficiently as it could. Instead we keep importing oil.

This administration continues to make the same mistakes in the area of energy. What can we say at this point but, "There you go again."

I want to thank the gentleman for this opportunity to participate in pointing out this problem. The gentleman from Pennsylvania (Mr. EDGAR) has been a leader in this and I want to appreciate his efforts and express this to the gentleman.

Mr. EDGAR. I thank the gentleman for his comments and I thank all the Members who have participated in this special order. I thank Congressman TAUKE and Congressman DICK FAZIO, Congressman JIM OBERSTAR and Congressman AL GORE, Congressman DON FUQUA and Congressman NORM MINETA. I thank Congressman MICKEY LELAND and Congressman SIL CONTE. I thank Congressman CEC HEFTEL, Congressman TOM BEVILL. I thank Congressman STEWART MCKINNEY. I thank Congressman TOM RAILSBACK for his comments. I thank Congressman PHIL SHARP, Congressman HENRY RUESS, Congressman DICK OTTINGER, and Congresswoman CLAUDINE SCHNEIDER for her remarks.

● Mr. SHARP. Mr. Speaker, energy remains a critical item on our national agenda. Although improved conservation and the recession have allowed us to cut oil imports by nearly 50 percent since 1977, we are still dangerously vulnerable to events in the Mideast. Our economy is still suffering from the sudden leaps in oil prices that followed the 1973 and 1979 crises, and it could clearly happen again.

In the short run we must continue to fill our strategic petroleum reserve and develop plans for handling a severe oil emergency. The unfortunate veto of the Standby Petroleum Allocation Act early this year leaves the Gov ernment with questionable authority to protect our economy and our people in the next oil crisis.

For the long run, we must do much more to promote energy conservation and the use of renewable resources. During the previous administration Congress struggled to achieve a balance in the levels of support for various energy sources. While no one was entirely pleased with the compromises necessary to achieve that balance, we were not putting all of our eggs in one basket. The Nation's energy budget supported fossil research and development, nuclear, solar, alcohol, synthetics, and conservation.

With the submission of the present administration's energy budgets, however, we have lost that balance. While the nuclear and synthetic fuels budgets were not reduced, funding for renewable fuels and energy conservation was cut by 97 percent. This is a short-sighted policy that will delay our reaching an energy situation that is less dependent on foreign oil and more reliant on environmentally benign sources.

One promising approach to reducing our need for imported oil is the use of methanol as a transportation fuel. The Subcommittee on Fossil and Synthetic Fuels has begun hearings on this prospect, and I believe it deserves widespread consideration.

Most sectors of the economy can, to some extent, use alternative forms of energy to lessen dependence on foreign oil. There is one major exception. The transportation sector is totally dependent on gasoline and diesel fuel made from crude oil.

In spite of major efforts to conserve gasoline, we remain a nation in love with the automobile. According to recently released 1980 census data, two-thirds of American workers continue to drive to work alone every day. The number of people using public transportation has dropped to 1 in 16, despite two fuel-short periods since the last census, when the figure was 1 in 12. Thus, development of domestic alternative fuels for automotive uses is of critical importance.

Methanol, which can be produced from natural gas, coal, or biomass, has been demonstrated to be a technically and economically feasible automotive fuel.

However, in seeking broader commercialization of methanol, the Nation faces a chicken and egg situation. The oil companies say they can and will produce the methanol if the automakers will produce and sell the dedicated vehicles. The automakers say they will produce the dedicated vehicles if the oil companies will produce and distribute the methanol.

In spite of this dilemma, most major automobile and oil companies agree that methanol is the alternative fuel of preference. However, unless reasonable steps are taken, methanol may not reach its full potential. While the marketplace should decide between gasoline and any alternative fuel, the marketplace has a built-in bias toward gasoline because of its large existing infrastructure. The Federal Government should consider ways to assist in development of a methanol distribution infrastructure so that the American driving public has a choice between gasoline and domestically produced, secure methanol. I believe this can be done at little or no cost.

Testimony before our subcommittee has indicated that on a mile-per-gallon basis, methanol is roughly equivalent to gasoline, and on a mile-per-dollar basis it exceeds methanol. The Bank of America has over 3 million miles of experience with methanol in its fleet, so clearly the fuel is not a laboratory experiment. The State of California has chosen methanol as their preferred alternative fuel. Methanol usage is environmentally advantageous since it burns cleaner and more fully than gasoline.

Our subcommittee will continue to review the appropriate role of the Federal Government in methanol commercialization. I encourage my colleagues to consider the advantages of widespread methanol use as one aspect of a balanced, economical, and secure national energy policy.●

● Mr. TAUKE. Mr. Speaker, I thank the gentleman for calling this special order to draw attention to national energy policy. It is commendable that the gentleman from Pennsylvania (Mr. EDGAR) has chosen a time when our energy supplies are at a relatively stable level.

Unfortunately, this body has a tendency to address our energy problems only when we are faced with an energy crisis or shortage. Then, and only then, does Congress consider our uncertain energy future and develop appropriate energy policies.

As a member of the House Energy and Commerce Committee, and the committee's two key energy subcommittees, I welcome this opportunity to stand back and view our energy situation in an atmosphere removed from the hectic pace generally associated with the development of energy policy.

I am of the belief that our Nation's energy policy should be market oriented. The administration should be praised for trying to develop a market orientation in our energy policy. Clearly, the market is better able to price energy than Government; the market can usually better distribute energy than Government; and the market, if allowed to work, would have prevented many of the problems we in Congress have been forced to rectify in the past.

It does occur to me, however, that as the administration has attempted to lessen the Federal Government's influence in the energy field that we are losing sight of the unique circumstances affecting energy issues.

Widely varying differences among the States in energy production, consumption, and pricing are having a dramatic effect on the national economic balance. States in the Midwest and Northeast, which consume large amounts of energy compared to the South and West but possess limited production resources, are increasingly vulnerable to rapid changes in energy price and supply.

My home State of Iowa produces less than 2 percent of the energy it consumes and therefore is very dependent on energy-producing States as well as foreign sources. To give you an idea of what this has meant to the economy of Iowa, let us compare the cost of energy with revenue from Iowa's corn crops: In 1973, our energy bills consumed 30 percent of the revenues from our corn crops; in 1979, 60 percent; and in 1981, our energy bills consumed an estimated 90 percent of our corn crop revenues.

And, as prices for energy continue to rise—particularly for oil, gas, and coal—the domestic economy will become even more imbalanced and potential disruptions in foreign sources will become even more serious. Clearly, there is a need for a coherent, comprehensive national energy policy.

And, while I strongly believe that our Nation's energy policy should be all encompassing, involving both traditional energy sources and alternative sources, I would like to speak a few moments about one fuel alternative in particular; namely, ethanol, commonly known as alcohol fuels.

Mr. Speaker, my home State of Iowa has taken a dramatic, leading role in the development of the alcohol fuels industry. The citizens of Iowa, in an almost patriotic, zestful spirit, have endorsed the production and consumption of alcohol fuels far beyond anyone's wildest expectations.

Nearly 40 percent of all the gasoline sold in Iowa during the first 5 months of this year contained alcohol. That is the highest it has ever been and about three times the percentage of just 1 year ago. No other State comes close in percentage of use, and in fact more than one-third of all the gasohol sold in the United States during the first quarter of 1982 was sold in Iowa.

Some of the gasohol sold in Iowa is 90-percent unleaded gasoline and 10-percent alcohol; the remainder—referred to as "reguhol"—is a 90/10 mixture of regular leaded gasoline and alcohol.

In the first 5 months of 1982, Iowa motorists used nearly 189 million gallons of gasohol. In other words, we consumed some 19 million gallons of alcohol, reducing our dependence on gasoline by an equal amount. Iowans effectively conserved our Nation's usage of gasoline by utilizing the ethanol mixture.

In 1978, the first year gasohol was made available on a large scale within the State, total use was 4.5 million gallons. The figure climbed to 59.6 million gallons of gasohol in 1979, 156 million in 1980, and 189.5 million in 1981.

Iowa presently has the capability of producing some 55 million gallons of alcohol each year. This productive capability will help greatly to lessen our dependence on other domestic and foreign sources of petroleum. But, while we will be able to produce more than enough alcohol to meet present consumption patterns within the State, it is possible that next year, without additional expansion and growth of the alcohol fuels industry within Iowa, the demand may outpace the supply.

Mr. Speaker, I am pleased to note that a group of 100 farmers from my northeast Iowa congressional district have launched a cooperative effort to build a new alcohol facility in Elgin, Iowa. We are currently awaiting approval from the Farmers Home Administration for a guaranteed loan to help this project get off the ground.

These farmers from Allamakee, Clayton, Fayette, and Winneshiek Counties are planning to construct a $5 million plant because they recognize that the production and utilization of alcohol fuels will help them reduce our staggering surplus of corn. They further realize that through the production and use of alcohol as an energy-stretcher, we can strike a blow against the dominance of OPEC in our Nation's energy future.

I would also like to note that one reason for the widespread acceptance of gasohol by Iowans is the incentives provided by the State and Federal governments. These incentives, which have reduced the State and Federal gasoline taxes on the sale of gasohol, have resulted, in many instances, in gasohol being sold at a cost below that of gasoline.

In my judgment, the Government needs to play a significant role in the research and development of alternative energy sources—such as gasohol—simply because without Government involvement in these areas we may not develop the alternative sources of energy that are needed for a secure energy future.

Further, I believe that it is incumbent upon this Congress and the administration to provide these incentives in a fair and balanced method without unduly discriminating or penalizing any particular energy alternative.

We, in Iowa, have made tremendous strides in the development of the alcohol fuels industry in just 4 short years. We have effectively reduced our State's consumption of gasoline by utilizing the fuel-stretcher—gasohol. Through these efforts we have helped our Nation conserve millions of gallons of gasoline.

This same Yankee ingenuity can, and should be, applied to other alternative sources of energy. I fear that without a balanced, equitable national energy policy, we, as a nation, will fail in our drive to provide for a secure energy future.●

● Mr. FAZIO. Mr. Speaker, I appreciate the opportunity to discuss here the role of energy-related research and development programs funded by the Federal Government. In my judgment it is an issue which remains as important as it was during the height of the Arab embargoes and price increases.

The immediate pressure upon us to come up with energy alternatives seems to have waned. Largely because OPEC nations began to demand excessive oil price increases following the rapid escalations of the 1970's, the Saudis put a brake on their expectations by simply increasing its own production 2 million barrels a day. This was not done out of any charitable concern for the welfare of the industrial West, so much as it was done out of respect for our ability, our willingness to make the effort to come up with energy alternatives. It was no secret that the Saudis understood well that had OPEC continued on its high profile course of steadily increasing the costs of energy, the Western countries would sustain the political will to find sources of energy elsewhere.

The Saudis almost single-handedly created a glut. Gas lines disappeared. Unfortunately, much of the alternative energy constituency in the United States did also. The new administration, bouyed by this glut, announced that it would henceforth rely on the private sector to produce energy and to deliver it when or economies needed it. It deemed the entirety of the previous Federal effort at energy independence to have been superfluous intrusions into the energy marketplace. It credited decontrol entirely for the decrease in energy imports and consumption. It ignored the reasons the Saudis helped create the glut, which was fundamentally to deprive energy development programs of their political base. In fact, the administration sees little more that the Government could or should do to counteract OPEC's manipulation of the marketplace. The Government has, in this administration's view, no responsibility to prepare for events, even events that OPEC may not be able to control.

I do not want to debate the merits of the Department of Energy's previous regulatory programs. Let me say that I tend to be a supporter of decontrol and am a specific supporter of both President Carter's and President Reagan's steps to decontrol the price of oil. I agree that no energy program can succeed unless one of its components brings about accurate price signals from the marketplace.

However, the very confusion in price signals, the hiatus in what we all know will be a steady increase in the price of oil over the coming decades, is conclusive proof of the need for an active research and development program into energy alternatives. It is during periods like this that the short term signals from the marketplace divert us from what commonsense tells us our long term objectives should be. The Wall Street Journal reported August 11 that the regular price of oil is about $31 a barrel, $4 below last year, and the spot market prices are even lower than that. The Journal attributes this unexpected softening to a prolonged international recession, aggravated by widespread cheating on OPEC's production levels while the recession lasts.

When Western economies recover, the entire situation will be reversed and we will again be hostage to OPEC's policies. At that point the test of the administration's policies will occur, and to the extent that it is successful in reducing our governmental efforts at energy independence the failure of the policy will become clear.

Conservation, induced by price or by DOE and State and local programs, has proven to be the shortest term source of energy and it is the most responsive to short-term price signals. As conservation maximizes its potential and as the economy begins to revive, the Nation will have a need for increased energy supplies. The research and development we engage in today will be the source of those new supplies, provided we stick to our energy research and development program.

Particularly important in this period of uncertainty will be those new sources of energy that involve small, incremental investments by either utilities or individuals. One might point to certain utilities as illustrations of this key point. The Southern California Edison Co. has announced in the last year plans to construct three new incremental sources of power, one involving wind energy, the other solar thermal energy, and the third photovoltaics. It also has an interest in geothermal deposits in the California desert and in a solar pond project in the Salton Sea. These options have the advantage of requiring relatively low amounts of initial capital. They can be expanded or left at any level of output and still be cost-productive. Similarly, another utility, the Sacramento Municipal Utility District in my district, has with the help of the Federal Government embarked on a 100-megawatt photovoltaic plant, to be constructed in stages.

These utility projects have several things in common. They all use technologies which have been developed to one degree or another with governmental assistance. They each depend on some form of government backing, tax credits in the case of the SCE and up-front risk loans in the case of SMUD. They are all consistent with incremental capitalization and supply strategies. Not coincidentally, they are all renewable.

The renewable energy research and development budget has been slashed enormously in deference to the marketplace philosophy, though other energy forms have not had that philosophy applied so rigorously to them. They would be cut from $520 million in fiscal 1981 to a proposed $72 million in just 3 years. The chairman of the Science and Technology Committee, Mr. FUQUA, has told the Energy and Water Development Appropriations Subcommittee, on which I sit, that approximately $209 million is necessary in fiscal year 1983 to preserve the core of the renewable energy programs.

Though spending in any brand new exploratory area in an atmosphere of great concern is bound to allow waste, I would think that a reduction from $520 to $209 million in 3 years should be enough sacrifice to satisfy any budget cutter. To go further, to go to the $72 million proposed, would be itself a massive waste of the investment the taxpayers have made in energy options which by now are emerging with real potential.

For instance, we have spent about $150 million on large scale wind energy in recent years. With an additional $20 million, we can produce a wind machine called the Mod 5 which is believed capable of 3 cent per kilowatt hour electricity in over 1,000 locations around the Nation. Electricity does not come much cheaper. However, the administration proposes not making this $20 million final expenditure, which would be matched with $36 million in private commitments incidentally.

We have devoted roughly $550 million to the development of photovoltaics in recent years. If we maintain our level of commitment for just several more years, will probably have in our possession a technology capable of gigawatts by the year 2000. The administration proposes to back away from the photovoltaic program, keeping it at the level of abstruse research so that its transition into the marketplace is doubtful and dependent on its geopolitical whims. We can well expect a Japanese success in this realm of international economic competition.

In biomass we have an energy option that can directly supplant quads of

energy in liquid fuel form in a relatively few years. Alcohol fuels are making a contribution now. If we are wise enough to devote merely $5 million a year for several years on an approach called cellulosics, we will likely unlock 10 quads of energy from agricultural wastes.

The administration is operating on the assumption that if the marketplace does not pick up these technologies, the technologies are ipso facto without merit. The Department of Energy has unfortunately little faith in the technologies it has developed. DOE Secretary James Edwards told me in a hearing before the Energy and Water Appropriations Subcommittee that he thought it was worth having devoted millions of dollars to wind energy up to this point because "to find out that something isn't practical is sometimes worth the investment, and we have found that wind isn't practical for general use now, except in isolated areas." If the department merely proceeds 1 more year with a $20 million contribution to large-scale wind energy, the Secretary could disprove his own self-fulfilling prophecy.

I am hopeful that the Congress will keep alive and well those energy options that we will need should, all of a sudden the marketplace collapse, be the collapse due to war in the Mideast or a resurgence of demand or to any number of possible causes. That is the purpose of research and development: to prepare for the day when this most imperfect marketplace fails us. Sustaining our energy research and development program against the simplistic philosophies that would destroy it will be one test of the wisdom of this Congress and its successors.●

● Mr. CONTE. Mr. Speaker, I would like to thank Mr. EDGAR, my colleague from Pennsylvania and chairman of the Northeast-Midwest coalition, for giving us the opportunity to discuss our energy policy. I am pleased to participate in this important review.

The Arab oil embargo of 1973 forced us to examine two sources of energy that had received little prior consideration—energy conservation and alternative energy development. Through a firm Federal commitment to energy consideration—especially weatherization—and alternative energy programs, we have made great strides in decreasing the amount of energy we use, and in the development of alternative sources of energy. Despite the current "oil glut" we must continue the progress we have made in these areas to achieve our goal of energy independence.

Odd as it may seem, energy conservation is our greatest source of new energy. Every bit of energy we save reduces the amount that has to be imported or produced. I will continue to support the energy conservation tax credits in effect and support legislation of these credits which are expiring.

Another way we are supporting energy conservation is through the small business energy loan program. This program targets capital to businesses that are entering the energy conservation and renewable energy business. I would like to reaffirm my support of this program, and urge all Members to notify their constituents of its existence.

These programs have had tangible, beneficial results. In the late 1970's the Northeast was 80 percent dependent on oil. Now it is approximately 70 percent dependent. Further, while the area's economy has grown, total energy consumption has declined. This is admirable progress, but we must not be lulled into a sense of complacency by this temporary oil glut. It is important that the Members of Congress reaffirm their support for energy conservation, and the development of alternative energy sources. Nothing less than the economic health of our country is at stake.●

● Mr. UDALL. Mr. Speaker, I commend you for arranging this discussion on energy policy. For nearly 9 years the manner in which we produce and consume energy has been a primary focus of national concern. During this period we have considered numerous proposals for paths to secure and affordable energy supplies. With one exception, conservation, these paths have not proven promising.

Nuclear, once considered a panacea, is so burdened with economic, technical and institutional problems that expansion beyond existing projects is on hold for the indefinite future.

Synfuels continue to be too costly even in light of the doubling of oil prices in real terms that has occurred in the last decade. Moreover, we are only beginning to understand the adverse environmental consequences of a major synfuels industry.

We know too well that greatly increased production and use of our plentiful coal reserves is not without serious environmental consequences.

We have made a major commitment to discovering new oil reserves. But success has been limited. In spite of new discoveries, the ratio of reserves to annual demand continues to drop.

Meanwhile on the research and development front, progress has been made, but we do not see anything that is likely to make a major difference before the third or fourth decade of the next century. The road to fusion, so promising in principle, is blocked by engineering obstacles of a significant magnitude.

While the costs of solar have dropped precipitously over the last decade, we obviously have a long way to go before the sun achieves its rightful place in our energy mix.

Wind and geothermal will have their place, but neither seems to be on the verge of becoming a major energy source.

Fortunately we have made much more progress in restricting and reducing energy demand than we have in increasing production. This is the bright spot in the energy picture. We have seen a major movement toward automobiles which make much more efficient use of gasoline than did those of just a few years ago. We have seen individuals take large steps toward insulating their homes and keeping thermostats down in winter and up in summer. Energy use in both new and old commercial structures has been substantially curtailed.

We have come a long way with conservation and I believe we can go much further. In view of this, it is particularly unfortunate that the administration seems to believe that an energy policy emphasizing conservation is somehow inconsistent with the political foundations of our system of government.

I hope that something that might emerge from today's discusson is a renewed effort by the committees having jurisdiction over energy use and conservation. I would hope that they might take steps to insure that citizens are aware of the benefits that have been derived from energy conservation practices in recent years. I would hope that these committees would give serious consideration to legislation that would stimulate further conservation efforts.●

● Mr. BROWN of California. Mr. Speaker, I am extremely pleased to participate in this special order on the subject of energy. In the last 2 years this issue has not gotten the serious attention it needs. Frankly, I think this is because the problem has not been felt as severely on a daily basis as it was following the 1973 oil embargo. This has resulted in neglect of the issue.

I think this neglect is a serious problem. But the problem, unfortunately, goes beyond neglect. Since this administration came to office, we have had no energy policy save for the stated objective of dismantling the Department of Energy. Even worse than the neglect however, has been the concerted effort by the administration to destroy most of the alternative energy and energy conservation programs which enjoy strong public support and which are so important to addressing our energy needs.

For example: The administration is under court order to keep the solar energy and energy conservation bank functioning. The administration request for recession of the fiscal year 1982 funds was rejected by Congress. Funds are included in the HUD-Inde-

pendent agencies appropriations bill for the bank.

The Energy Extension Service has been severely cut.

The "no-standard standard" appliance efficiency proposal would preempt California's standards which have been in place since 1976.

State and local conservation grants programs are being cut.

The geothermal budget is just 10 percent of what it was a couple of years ago. This is an area that shows promise, especially in California.

These are just a few examples of what the administration proposes as an energy policy.

At the same time, the nuclear program comprises almost 90 percent of the entire energy budget. And I don't believe that the money being spent in the nuclear program is being spent in the right place.

A few million dollars invested in improving the efficiency of conventional nuclear reactors would eliminate the claimed need for the expensive nuclear breeder reactor technology—I think the public realizes this technology is unnecessary due to changing electricity demand and the declining price of uranium. The Clinch River breeder reactor, the plant the administration wants built, with a price tag of $3.2 billion, is premature according to Department of Energy estimates. Since I have been fighting this project, the case for building it gets worse and worse every year. I think the public knows this and I believe we will win the fight against the Clinch River breeder reactor this year.

Nuclear waste remains a stumbling block. We ought to be concentrating on solving this problem.

Mr. Speaker, I believe the Federal Government has a role in supporting a balanced energy program. I differ with the administration on this point. Our economy is vitally dependent on the cost and availability of energy. Earlier in the day we debated the reauthorization of the Defense Production Act and found that our national security is dependent not just on military preparedness, but on strategic materials, the health of our industrial base, and the skills of our work force. Energy security is directly related to our national security. If anyone doubts that they only need remember the oil embargo of 1973.

In times of stringent budgets, we should try to plan for the future while addressing immediate problems in the most efficient manner possible. This means that we should be practical in the short term, emphasizing conservation as the cheapest and fastest way of decreasing our dependence on various energy forms. And in the long term, we should assess supply-and-demand trends and adapt our programs to our needs. Unfortunately, just the opposite seems to prevail in the administration's approach. In my view this is exemplified in the lack of emphasis placed on alternative energy such as solar or geothermal, and the increased emphasis on nuclear breeder reactors.

Mr. Speaker, I appreciate the opportunity to express my views on this subject.●

● Mr. OBERSTAR. Mr. Speaker, on March 15, Representative CLAUDINE SCHNEIDER and I introduced H.R. 5833, legislation which would broaden the authority of the Synthetic Fuels Corporation to permit the Corporation to fund district heating and cooling and municipal waste-to-energy projects. The legislation grew out of two hearings of the Northeast-Midwest Congressional Coalition which Representative SCHNEIDER and I held last year, and extensive discussions with the Conference of Mayors and district heating and resource recovery organizations.

The purpose of the legislation is to:

First, broaden the lending authority of the Synthetic Fuels Corporation to include district heating and cooling. These projects would be eligible for all forms of financial assistance available from the Corporation.

Second, amend section 132 of the Energy Security Act, relating to loans made by the Synthetic Fuels Corporation, by adding a new section authorizing price support loans for municipal waste-to-energy projects.

Third, stipulate and require that 25 percent of the financial assistance available from the Synthetic Fuels Corporation be directed to district heating and cooling and municipal waste-to-energy projects.

Fourth, require the Board of Directors of the Synthetic Fuels Corporation to assure that the Corporation is organized and staffed so as to effectively evaluate, process, and review applications for district heating and cooling and municipal waste-to-energy projects.

District heating is an American technology developed in 1877. It is a system of delivering hot or cold water or steam from a central thermal source through pipes to customers for space heating and cooling and industrial processes. District heating and cooling is a flexible energy distribution system that takes heat from any number of fuels and delivers it to many different customers. The central source may be from the waste heat of an electric powerplant, refuse incineration, industrial process, geothermal sources, manufactured sources, or coal. This technology is used widely in Denmark, Sweden, West Germany, France, Italy, and the Soviet bloc. It is gaining acceptance in Japan.

District heating can achieve 85 to 90 percent fuel efficiency and such systems can be cost effective in 48 States. By comparison, kinetic energy derived from an electric turbine uses only 30 percent of the energy potential of a conventional fuel burn. District heating harnesses the remaining byproduct which would otherwise be released into the atmosphere or waterways as waste.

District heating and cooling systems have been getting increased attention in these days of energy conservation and "appropriate energy technology," particularly in the district and State I represent, which have been pioneers in America's use of district heating.

Minnesota is the home of some of the oldest systems in the Nation. Furthermore, my home area, the Mesabi iron range, has some of the largest residential systems in the world. In Virginia, Minn., 90 percent of the commercial district and 75 percent of the residential area are linked to the community's system. Virginia claims the largest number of metered customers of any district heating system in the world.

District heating and cooling offers the very attractive prospect of stabilizing heating and cooling costs for business, industry, and residential consumers, through its broad-based distribution of costs. Fuel accounts for only 25 percent of the annualized cost of supplying thermal energy through district heating and cooling; 75 percent is capital cost. This suggests that fuel price inflation will be less of a factor in future energy pricing for district heating and cooling customers than for other systems.

District heating and cooling systems can be a means of promoting new technology in the energy field. As the new technologies mature, they can be incorporated into an existing district heating and cooling system at relatively low risk. District heating systems can become a convenient channel for new suppliers and new users to enter the energy market.

I believe that the Synthetic Fuels Corporation should be broadened to include energy options applicable to all regions of the country in order to spread out this much-needed investment capital. The entire Northeast and Midwest is virtually eliminated from consideration of Corporation-supported projects. The continued regional inequity in Corporation spending is sure to strengthen growing opposition to the Corporation within our region.

There are substantial benefits for States interested in developing district heating and cooling systems. If district heating were developed in all Minnesota communities over 5,000 people, the total heat delivered by the year 2000 would be 44 trillion Btu's per year. This is about 3.5 percent of the State's total projected primary energy demand in the year 2000. Since about 60 percent of this would be cogenerated, the heat would be produced by

fuel—mainly coal—also used to generate electricity. Cogeneration would save 28 trillion Btu's of energy per year. This is equivalent to 200 million gallons of oil per year.

So why is not every city in the United States scrambling to convert to district heating? Because of the high costs of financing these projects. The assistance provided through the Synthetic Fuels Corporation would mitigate financial impediments and promote development of these innovative energy technologies. I firmly believe that, as a matter of public policy, government—Federal, State, and local—has a responsibility to stimulate the development of initiatives like district heating and cooling.

Mr. Speaker, at a time when the administration and Congress are telling America's cities that there will be no funds for new programs, and less money for existing programs, I urge the Members of this House to focus on an energy source that is as old as the century. District heating and cooling are old processes that Congress, State and local governments, and the American people are wisely giving a new look.

For district heating is not an idea whose time has come; it is an idea whose time has been born again.●

● Mr. FUQUA. Mr. Speaker, I am pleased to participate in this special order on energy policy with particular focus on the Federal role in energy conservation and alternative energy development. It is timely because fundamental changes are occurring in our national energy policies. There are some who say the private sector can handle the research on alternative energy systems and that increased energy costs will encourage conservation without Federal involvement. The majority of witnesses appearing before the Science and Technology Committee state there is continued need for a strong Federal role in alternative energy development and conservation. I would like to review briefly the major energy technologies being developed through Federal assistance and the potential energy savings represented by these new technologies. Then I would like to describe the fundamental changes that have occurred in our Nation's energy policies due to budget cuts and the implications for the future.

A. EXAMPLES OF SOLAR ENERGY AND CONSERVATION TECHNOLOGIES SPURRED BY FEDERAL ASSISTANCE

First. Active heating and cooling: Conducted successful tests of a prototype solar/rankine chiller that permits air cooling; initiated field testing of a commercial-sized solar/rankine cooling system.

Second. Passive and hybrid solar energy: Completed design and development of 27 prototype passive and hybrid manufactured buildings both residential and commercial; constructed 100 passive residential units in a joint DOE/HUD demonstration program.

Third. Photovoltaics: Produced a 10-percent efficient amorphous silicon cell at small scale; several companies have achieved multimegawatt capacity module production lines using technology supported by DOE.

Fourth. Solar Thermal Energy Systems: Began operation of Solar 1, the 10 megawatt central receiver solar thermal pilot plant, at Barstow, Calif.; provided design and evaluation studies of parabolic through mass production techniques compatible with industrial process heat applications.

Fifth. Biomass: Completed conversion of three industrial boilers to wood fuel use on a cost-shared basis; constructed a prototype freshwater microalgal production facility.

Sixth. Wind energy system: Conducted test operation of the first generation MOD-OA large wind turbine (200 kW, 125 ft. diameter) with utilities at four locations; operated three second generation MOD-2 large wind turbines (2 MW, 300 ft. diameter) as a combined system over 2,000 hours with 2,500 MW-hour being generated.

Seventh. Industrial energy conservation: 72 textile mills have adopted the energy efficient foam-finishing process developed with DOE assistance; 177 industries have integrated advanced ceramic recuperators to utilize waste heat more efficiently.

Eighth. Buildings conservation: Worked with a major appliance manufacturer to develop a high efficiency freezer; 1,000 units have been produced thus far; developed high efficiency fluorescent lamp with electronic ballast, which is three times as efficient as traditional lamps; it is now marketed by three major retail outlets; and developed a heat pump water heater in a cost-shared program, which is now produced and marketed by five manufacturers.

This administration's conservative estimate indicates that the solar technologies, if consistently and adequately developed could provide 5.4 quads of energy by the year 2000. A few years ago the Department of Energy estimated that the application of state of the art technology and the development of new technologies by the industrial sector could save the Nation more than 1 quad of energy by 1985 and 5.5 quads by the year 2000, at the cost of $6 per barrel of oil equivalent that is one-fifth the current $30 per barrel cost of oil. The overall potential for energy savings due to efficiency improvements in residential and commercial buildings was estimated to be 14 quads by the year 2000. To have an effective buildings conservation program, technology development is important, but it is also necessary to disseminate the information to homebuilders, contractors, architects and engineers.

B. FUNDAMENTAL CHANGES AND IMPLICATIONS

Despite the achievements listed above, these important programs face a grim and uncertain future; the budgets have been cut drastically, as shown below.

BUDGET AUTHORITY

[In thousands]

	Fiscal year 1981	Fiscal year 1982	Fiscal year 1983 request
Solar	552,001	256,913	72,236
Conservation	289,726	155,098	17,542

The change in budget authority from 1981 to 1983 represents an 87-percent decrease in solar programs and a 94 percent decrease in conservation programs. The overall decrease for the DOE civilian R. & D. programs is 20 percent. Such a drastic and rapid change is difficult for any program, but it is especially devastating for technology development. Technologies will be lost or cut short. Scientific and engineering teams will be dispersed, and their experience will only be regained slowly and painfully.

The administration states the technologies have been developed to the extent that the private sector can take over the development and production of these technologies. Such is not the case. There is still a need for a strong Federal program.

Another major problem facing the Federal programs is addressed by a recent GAO report, dated July 19, 1982 and entitled, "Loss of Experienced Staff Affects Conservation and Renewable Energy Programs." It talks bluntly about the significant personnel losses occurring in these programs. The fiscal year 1981 RIF's and resignations reduced the conservation staff from 266 to 146 persons and the Renewable Energy staff from 217 to 132 persons. Within these two offices there are seven major organizational elements and six of these organizations have over 30 percent new staff. Even more disheartening is the fact that half of the divisions or branch heads were replaced or the positions left vacant. The loss of experience and the reduction in staff has severely crippled DOE's most cost effective programs.

C. NEED FOR A STRONG FEDERAL ROLE IN ENERGY CONSERVATION AND ALTERNATIVE ENERGY DEVELOPMENT

It is projected that in the year 2000 approximately 5.4 percent of our Nation's domestic energy production will be as a result of renewable energy technologies. If this percentage were doubled, the implications for our Nation's energy independence and security are obvious.

Conservation is also a commonsense approach to lessen our Nation's dependence on unstable sources of oil. To pay $30 to import a barrel of oil makes no sense when conservation measures cost you $6 for an equivalent barrel of oil.

The uncertain future coupled with a weak economy dictates that business decisions are made for short-term profits rather than our Nation's long-term needs. Yet, it is the private sector that the Reagan administration is depending on to determine the pace of future growth of renewable energy technology. This simply does not make good sense. What is needed is a long-term, consistent commitment to both renewable energy technologies and conservation.

The Government has and should continue to play an important role in accelerating the pace of technical development of energy renewable and conservation technologies. Two examples clearly show why continued Federal support is essential. In photovoltaics, many experimental projects are under contract to test most major industrial or residential applications. In addition, exploratory development is underway for mass-producing inexpensive sheet silicon needed for making photovoltaic cells. Without these Government efforts cost-competitive photovoltaic systems will not reach the marketplace in the late 1980's.

Another example is the industrial conservation program which involves those projects not being pursued by the private sector. Particular emphasis is placed on waste energy reduction, industrial process efficiency, and industrial cogeneration. When one considers the industrial sector consumes 40 percent of all energy used by our Nation each year and that nearly $100 in energy has been saved by industry for every dollar of Federal investment in industrial conservation, this $30 million program—in 1981—needs to be continued, not shelved. Renewing this Nation's international competitiveness and improving its productivity will depend on cooperative, highly leveraged Federal-private sector programs and the DOE industrial energy conservation program has been an outstanding prototype. A strong Federal role is needed to assert long term leadership and direction that is not forthcoming from any other sector. Without this Federal support, needed energy technologies will be implemented late or not at all, thereby further aggravating our current energy situation.●

● Mr. GORE. Mr. Speaker, recently the Science and Technology Committee's Subcommittee on Investigations and Oversight conducted a hearing on U.S. solar and conservation technologies in international markets.

This hearing examined the U.S. programs to support and promote the sales of U.S. energy conservation and renewable energy technology products in international markets. As had been brought out earlier, many of the problems facing the export of these technologies are generic to small and medium sized industries who want to develop the export market.

We heard testimony that America is gradually losing its leading position in technology as a direct result of failing to develop the international markets. The competitive edge is eroding.

At one time, the United States was a market unto itself; this country could and did support emerging industries; imports were absorbed without adversely affecting our domestic industry. While our market was, and is, very large, we reached a point where the imports began to adversely affect our domestic industries: Steel, automobiles, TV and electronics, and so on.

Another consequence of the very size of our domestic markets has been a neglect of international markets. Historically, our industry has not needed the access to international markets in order to survive and prosper. Consequently, we have not developed the institutions which are needed to successfully market internationally. And now that we need the access to these markets, we are starting to learn our shortcomings in terms of the total effort which results in successful exports.

While these points apply to many technologies, I believe that it is especially critical that we do not permit our solar energy, renewable energy, and energy conservation efforts to falter. These are areas we will depend upon heavily in the future; they are too important to neglect.●

● Mr. MINETA. Mr. Speaker, I am happy to have the opportunity today to join with so many of my colleagues to speak on the important questions of energy production, consumption, and pricing.

There was a time, indeed there have been several times, when the specter of an "energy crisis" has suddenly loomed large in the public consciousness. Each of these crises has come and gone, as public attention has moved on to other issues.

Despite this on again off again crisis atmosphere, there are basic and fundamental problems before us. Curiously, however, these problems are not always the impressions common in the mind of the general public.

For example, our total national energy consumption in 1981 was less than the level of use in 1973. Given the growth in our population over this time, such a drop in consumption is truly remarkable. Moreover, the decrease came entirely in the industrial sector, as residential, commercial, and transportation consumption rose in the same period.

We have also, since 1973, seen a marked shift away from natural gas and petroleum as fuel and an increase in coal and nuclear power as energy sources.

At the same time, there has been growing and significant interest in alternative sources of energy; sources which are renewable and do not deplete our scarce and finite resources. These renewable sources include, of course, solar, wind, geothermal and ocean thermal energy generation.

In summary, we do not have an energy crisis at the moment. Consumption is down and renewable sources are an increasingly important part of our economy. What, then, is the problem? Or is it possible we do not even have a problem?

It is unfortunate that the rhetoric of past energy crises has made it difficult for us to focus on energy matters in times of no crisis. On the other hand, when we are in the midst of one of our recurring energy crises, I am not sure that situation makes for balanced reasonable discussion either.

The real problem is a simple and straightforward one, which perhaps more accurately can be called a task and not a problem. It is a question of long standing, which does not come and go with our recurring crises. How do we plan for balanced development of scarce resources in such a way as to provide for reasonable economic development and protect our environment?

Fossil fuels are limited, and often have difficult environmental problems. Much of our fossil fuels are imported, which creates a whole set of complex economic and political problems we are all too familiar with. Fossil fuels are also costly, and it is clear to many of us that the Federal Government has failed in its attempt to regulate these prices—particularly natural gas costs—so as to protect consumers while gradually removing price controls.

As the author of the Wind Energy Systems Act of 1980, and as the sponsor of the Solar Energy Employment and Training Act; I strongly support and endorse our efforts to stimulate the development of renewable sources. This Federal stimulus is needed, of course, because of the very nature of renewables. There are no mineral rights to own, no long term leases to sign. Without these assets on hand, it is hard for a business to develop an investment package.

Mr. Speaker, we must reaffirm and continue our commitment to renewable energy sources. Not because they are magic solutions to an energy crisis that may or may not exist. Not because renewables are stylish. We must develop our renewable resources as part of a long-term comprehensive plan for the balanced development of all our energy resources. Without such a plan, our prospects for economic de-

velopment will be significantly impaired.

The argument for renewable energy is neither esoteric or complex. Simple commonsense is all that it takes to undestand that we should proceed with this important task. I am proud to say that the city of Santa Clara, Calif., has begun down this road with the purchase of land for an extensive wind farm. I hope that many others will follow their lead.

Thank you. ●

● Mr. LELAND. Mr. Speaker,because escalating energy prices are a major cause of inflation and the resulting unemployment that is so devastating to our communities I would like to read to you the statement of principles of the energy and employment strategy group, that has been working on these two related issues:

STATEMENT OF PRINCIPLES

The energy and employment strategy group is focusing on the dual need for jobs and for reliable, safe, and affordable energy. Particularly today, it is the responsibility of the Government to promote job creation and job training for those who need work, and to concentrate employment opportunities in areas of critical national need. Energy is just such an area of need, and energy conservation and renewable energy are the most cost effective and create the most jobs of all possible energy investments.

EMPLOYMENT

As many Americans are currently unemployed as at the height of the Great Depression. There are 10½ million workers officially out of work, and another 1.5 million have stopped even looking. An additional 5.6 million workers are underemployed and seek full-time, or better-paying, jobs. For minorities and youth, the situation is most drastic. Nationally, black teenage unemployment is a staggering 52 percent with little prospect of improvement.

What America's unemployed workers need is not low paying, dead end, or health destroying make work, but productive, environmentally sound employment at fair rates of compensation in areas of national need.

ENERGY

The Nation still wastes more than half of the energy it uses. Eighty million commercial and residential structures are uninsulated or poorly insulated. And energy prices continue to rise. The Nation still relies on increasingly scarce and costly nonrenewable resources. The poor, the elderly, and those on fixed incomes suffer disproportionately, spending an average 25 percent of their finances directly on energy bills. As consumers and businesses spend more and more money on wasted energy, there is less and less money available for necessities and job-generating purchases and investments.

Rapidly rising energy bills, aggravated by inefficient energy use, are a primary cause of runway inflation and recession. The occasional oil gluts that result from decreased economic activity have led people to believe that the energy crisis has ended. However, domestic energy production and drilling for new oil have also been declining. And the progress that had been made toward increasing energy efficiency and tapping renewable resources has been stymied by current administration policies. Should the economy start to recover, without a new commitment to conservation and renewables, the need for energy will increase, and once again we will be dependent upon insecure oil supplies.

JOBS IN ENERGY

Energy conservation is the cheapest and most readily available new energy source. Energy efficiency improvements can easily be achieved in all sectors of the economy, yielding savings that far outstrip costs. By the year 2000, more than one-fifth of our Nation's energy could come from renewable technologies. Conservation and renewables can create far more jobs per dollar invested than any other energy alternative at a wide range of job skills levels. According to a study commissioned by the Joint Economic Committee of Congress, as many as 2.9 million jobs could be generated by a comprehensive program introducing conservation and solar energy into all sectors of the economy. And millions of additional jobs would be created as consumers shifted their spending from costly and capital intensive energy to other goods and services that generate greater employment. The combined effect of improving energy efficiency and producing energy from renewable resources would: replace all imported oil, reduce fuel consumption and bills significantly, create new jobs in a growing industry, and improve the environment and the economy.

With a genuine commitment to energy conservation and renewable energy employment and training, the Nation could save billions of dollars, create millions of new jobs, make better use of human resources now going to waste, improve public health and the environment, save energy, decrease national dependence on foreign oil, and insure reliable supplies for sound economic growth.

This statement of principles of the energy and employment strategy group *convened by the jobs in energy program*, has been endorsed by the American Federation of State, County and Municipal Employees; Citizen/Labor Energy Coalition; Consumers Energy Council; Environmental Action; Environmental Action Foundation; Environmental Defense Fund; Environmentalists for Full Employment; International Association of Machinists; Interreligious Emergency Campaign for Economic Justice; National Consumers League; National Urban Coalition; National Urban League; Public Citizen; Rural Coalition; Service Employees International Union, Sierra Club; Solar Lobby; United Auto Workers; United Church Board of Homeland Ministers.●

● Mr. HEFTEL. Mr. Speaker, I am pleased to participate in this special order on our continuing national energy problem. I congratulate my distinguished colleague from Pennsylvania, Mr EDGAR, for bringing this issue to the attention of the House at this opportune moment. I appreciate having the opportunity to comment on the need to maintain a program of energy tax incentives.

Mr. Speaker, as the President seeks to dismantle the Department of Energy, and as Congress looks for ways to meet its new budget obligations, it is imperative that we do not abandon the important gains that we have made in energy conservation and utilization over the past 10 years. The industrial energy conservation tax credits, which were enacted in the 1978 Energy Tax Act to provide an important stimulus to energy conservation in the private sector at minimal cost, represent one important program that deserves to be continued.

On June 10, I introduced H.R. 6572, legislation which would extend the termination date from 1982 to 1985 for the industrial conservation tax incentives enacted in 1978. H.R. 6572 also extends so-called affirmative commitments to renewable energy as well as industrial conservation projects. Affirmative commitments assure companies that projects begun but not necessarily completed by 1985 will continue to be eligible for tax incentives until 1993, despite the 1985 expiration date.

While the industrial conservation tax incentives will expire this year in the absence of congressional action to extend them, the renewable energy business energy incentives will remain in effect until the end of 1985. The administration had earlier this year sought to eliminate these credits. However, a strong show of support for the incentives in both the House and Senate has apparently headed off further administration attempts to eliminate them before their intended expiration.

If we do not take action to extend these industrial energy credits, the Nation may never realize important new gains in energy conservation. For example, H.R. 6572 extends tax incentives aimed at encouraging american industry to convert to coal, our most abundant energy source. It also would provide continuing incentives to encourage cogeneration by industrial or commercial facilities. Cogeneration is perhaps the most important and readily accessible source of industrial conservation in the near term. Very simply, cogeneration is the production of two forms of useful energy from one fuel source, leading to a more efficient use of the primary energy. In addition, H.R. 6572 would continue the program of incentives aimed at promoting retrofits of inefficient manufacturing plant equipment and accelerating the recycling of solid waste into useful energy.

Both the national economic costs of dependence on foreign oil and continuing U.S. strategic vulnerability to energy supply disruptions demand that we seek near-term solutions to our energy problems. Energy policy in the early 1980's must respond to this challenge by stimulating increased domestic energy production and by removing impediments to an accelerated energy conservation program in U.S. industry. The current tragic upheaval in the Middle East demands that we

not back away from the national effort to accelerate our energy conservation technologies. In addition, our economy is not so strong that we can afford to eliminate the only significant remaining targeted Federal incentive for industrial energy conservation.

I fully realize that budget constraints have made it virtually impossible to enact a comprehensive energy conservation tax incentive program during the remaining months of this Congress. I, therefore, offer H.R. 6572 to merely continue for 3 years a program that has significantly advanced the state of the art of industrial energy conservation. I believe that the United States is still in a very vulnerable position with regard to its energy supplies. We have not arrived at the point where we can honestly say that we have solved either our short-term or our long-term energy problems. Hence, I believe that the administration has made a grave mistake in failing to recognize the economic and national security implications of our continuing dependence on Middle East oil.

Mr. Speaker, I offer H.R. 6572 to once again encourage congressional debate on America's energy problem and to focus attention on solutions which will promote the energy security which has alluded us thus far.

Thank you for giving me the opportunity to present my views on H.R. 6572 and the need to maintain an aggressive program of tax incentives for industrial energy conservation and renewable energy development.●

● Mr. BEVILL. Mr. Speaker, I am pleased to share my thoughts on U.S. energy policy with the Members of the House. The Energy and Water Development Subcommittee, which I chair, of the Committee on Appropriations, has funded a significant portion of the Federal efforts to develop environmentally sound, cost-effective alternatives to the continued reliance on oil imports. These efforts include the development of:

Solar energy in all its forms—active and passive heating and cooling systems; photovoltaics; large thermal systems; wind; biomass; ocean thermal; small-scale hydroelectric; and others.

Geothermal energy—including high- and low-temperature resources, geopressured wells and loan guarantees to help alleviate uncertainties in commercial use of geothermal resources.

Nuclear energy—including issues relating to the safe application of nuclear technology, research and development to resolve methods for storage and disposal of nuclear waste so as to assure long term isolation and protection of public health and safety, along with the development of more efficient reactors which could provide essentially an inexhaustible energy resource.

Fusion energy—to use the elements of hydrogen in a process so as to provide an unlimited source of clean and efficient energy.

Synthetic fuels—utilizing TVA's capabilities to develop ammonia from coal and coal gasification technologies to the point of commercial use.

Power marketing—to utilize the Nation's investment in hydroelectric development more effectively in substituting for oil-fired generation.

Environmental research—to determine scientifically the effects of energy production on man's environment, to develop cost-effective measures to mitigate their harmful effects, and to better understand their effects on man and his environment.

Basic energy sciences—to understand the basic physical and chemical elements involved in energy options and to develop the scientific and engineering base on which the Nation's future energy options depend.

General sciences—including high energy, medium energy, and low energy physical research to gain better understanding of the fundamental forces of matter and energy.

Considerable progress has been made in each of these areas; more is needed. But fundamentally, all of these programs address the development of longer term energy supply options to provide the energy resources needed for sustained national growth and to alleviate our dependence on imported oil.

The administration's budget proposals for fiscal years 1982 and 1983 reflected a substantial shift in policy with respect to several of these programs, principally, the curtailment of near-term efforts thought to be within the capability of industry. Our committee review found that some of the administration proposals were too precipitous and would run the risk of losing the benefits of the public investment in the work to date. As a result, we recommended and the Congress approved a more gradual transition to the administration's emphasis on long term, high-risk research and development programs. For example, in fiscal year 1982 we provided $141,373,000 or 71 percent more for renewable energy development than requested in the President's September 1981 budget proposals, to provide sufficient funding to complete ongoing efforts and continue promising programs for the future.

With the uncertainties involved in future energy supply and the country's needs for future growth, I believe it is essential that the Congress continue to support a strong Federal energy research and development program with appropriate emphasis on all those technologies which show potential to meet energy needs in an environmentally sound and cost-effective manner. It is essential to be able to respond to change in the future in a balanced and measured way. Moreover, I believe we have an obligation to our progeny to optimize our energy program so as to leave as many options as possible to future generations, including some fair fraction of our natural resources.

There is another element to the Nation's energy policy on which I would like to comment—stability of policy and management for longer term Federal efforts. Since 1974—8 years ago—there have been five reorganizations and five different executives heading the Department of Energy's programs—each with differing perspectives and objectives. Within the Congress, we have several overlapping committee jurisdictions—again with differing perspectives and objectives. From my perspective as an Appropriations Subcommittee chairman, we clearly need a consensus for longer term efforts and stability of management to carry out those efforts more cost effectively than we have to date.

In summary, our energy policy should include:

First, a strong Federal program to continue research and development on all those technologies which can contribute in an environmentally sound and cost-effective manner to meet future needs.

Second, stability of policy and management to allow Federal activities to be pursued and completed in a more efficient manner.●

● Mr. McKINNEY. Mr. Speaker, I know a way to create jobs, encourage capital investment, and spur the growth of new industry, while lowering energy costs and expanding our domestic energy production infrastructure. It is an idea that requires only modest appropriations, while offering a potentially limitless return. It is an investment in the future, not a payment to the past. I am speaking of the Solar Energy and Energy Conservation Bank, a program which I firmly believe offers all the just mentioned benefits. However, despite all its promise, the Bank is still not a reality 2 years after becoming law.

Congress has funded the program for the past 2 years, yet none of this money has been spent. We have battled for funding, we have battled against rescission, and we finally went to court to force the administration to disburse the funds Congress had ordered spent. While we have won each battle, and while Congress has steadfastly supported the Bank, a clear victory still eludes us. The Solar Energy and Energy Conservation Bank remains the missing link in the effort to make the boundless energy of the Sun a significant part of our Nation's energy mix.

We need the Bank more than ever today, to stimulate investment in solar

and conservation applications in the face of unaffordable interest rates and a period of relative calm in world oil markets. I must remind my colleagues that reduced imports and the world oil glut notwithstanding, this country is still paying $80 billion annually to import petroleum. We need the incentive which the Bank offers to move proven solar technology from the store front to homes and small businesses.

For the millions of moderate income homeowners and businessmen who cannot reap the benefit of the energy tax credit and who lack the means to borrow at today's interest rates, the Solar Bank offers the opportunity to invest in equipment they would never otherwise be able to afford. By investing in solar equipment they would have foregone without the Bank, these individuals will benefit, the solar industry will benefit, and the Nation will benefit from new jobs, growing industry, and lessened demand for imported oil.

Congress has contributed millions to developing solar and conservation know-how, and an earnest young industry has grown up around that research base. Yet the new industry faces barriers. Solar investment implies a major up-front financial commitment equal to years' worth of fuel costs.

This represents a new way of thinking about our energy needs as well as requiring access to capital. The Bank can handle the financial barrier with its low interest loans. The mental barrier will only be eroded by the commercial success of this fledgling industry. The Bank can offer the impetus the industry needs to move solar equipment from the realm of the exotic into the realm of the conventional.

While I am no solar moonie, while I would never suggest that solar power represents the quick energy fix for the eighties, I will suggest that existing solar technology can contribute significantly more energy that it does today. What is needed is a fully commercialized solar industry to champion its own cause. The Solar Energy and Energy Conservation Bank can offer the necessary incentive to achieve the goal of a fully commercialized solar industry.●

● Mr. RAILSBACK. Mr. Speaker, I am pleased to have the opportunity to speak on the importance of maintaining a Federal energy information data bank. I think BOB EDGAR should be commended for his effort to highlight the status of U.S. energy policy.

My interest in maintaining energy information programs is not new. During the shortage in 1978–79, I introduced a concurrent resolution calling for expeditious development of Federal data, fully independent of industry statistics. I did so because my constituents demanded action.

At that time, labor unions conducted a post card campaign, calling for an investigation into the major oil companies and for a Government agency to import oil. I received hundreds of cards. I also heard from retail gas station owners and wholesalers who complained about predatory practices used by major refiner-marketers, forcing independents out of business. People from all backgrounds wrote, called and talked with me about their suspicion that the shortage may have been fabricated to provide an excuse to raise prices. Because of the growing public distrust since the 1973 embargo, Congress created the Energy Information Administration (EIA) in 1977. The public displayed distrust of Federal policies based on industry data, so a source of unbiased information was and continues to be needed by Congress.

That is why I first became interested in energy information. My interest was rekindled last year when the Office of Management and Budget (OMB) recommended that the EIA budget be cut to a point where several important collections activities would be curtailed. Speaking on behalf of myself and as a member of the Northeast-Midwest Congressional Coalition, I emphasized the need for a Federal energy data bank, specifically addressing programs which the coalition eventually included in its energy agenda. They are the State-level petroleum product price, supply, and market distribution program; the residential, commercial, and industrial energy surveys; and the financial reporting system (FRS).

State-level energy consumption, prices, and distribution data is needed for emergencies as well as policymaking. No other source of State-level data is available in such a comprehensive form. States need the information for budgeting, conservation goals, and planning for supply disruptions. Federal policymakers must have the information to determine the impact of proposed legislation and Federal budget/tax policies like an oil import fee, a decision to repeal the Fuel Use Act, or emergency planning. OMB just released a form which will provide the data, but obtaining approval has been difficult. Recent congressional authorization of data collection in the conference report on the Energy Emergency Preparedness Act underlined the need for State-level energy consumption, price, and distribution data.

The residential, commercial, and industrial energy surveys report on energy consumption by end use and can be used to study trends of energy use, the market potential for energy conservation supplies and equipment, the price structure by fuel type, and other purposes. No other source of such information exists. Survival of the residential and commercial surveys seems likely, although the EIA proposes to discontinue annual collection. Given the volatile nature of energy prices, a lack of current data could lead to inefficiencies. For example, the residential survey provides data to the Department of Health and Human Services used in administration of the low-income energy assistance program as well as valuable information on housing characteristics and efficiency investments in low-income housing that is important for evaluating the weatherization program.

The industrial survey will probably be discontinued. While the commercial survey looks at nonresidential building energy consumption, the industrial survey views the boilers and machinery inside. Data obtained by both surveys would be invaluable in monitoring building and equipment efficiency and fuel switching capability. Because the Northeast and Midwest have a preponderance of old, energy-inefficient buildings, these surveys should be continued to expedite private sector investment in our regions' best source of energy—conservation.

Another form that is no longer being used is the financial reporting system. I am disappointed in the decision to eliminate the form, because it could be helpful to Members of Congress now that decontrol is a reality. A recent Congressional Committee Chairman JACK BROOKS states that the proposed elimination of the FRS "will make it more difficult for the Government to examine profit and investment patterns of the major oil companies" or monitor the "impact of Federal policies designed to encourage the development of new resources."

Finally, I would like to comment on the proposed budget for the EIA. While Congress authorized $80 million in its budget resolution, OMB recommended $54.5 million. Funding at the fiscal year 1982 level of $78.9 million would be a minimum needed to maintain quality programs. OMB based its $54.5 budget, in part, on a personnel cut from 490 to 415 people. Data quality would be lowered. EIA has already reduced personnel from more than 750 in early 1981, and further reductions will result in additional contracting out, not always the most efficient way to administer a program.

The programs I discussed are not only essential during an emergency or in predicting another shortage, but are necessary for evaluating the energy market and the effects of existing or proposed legislation. Both the FRS and the petroleum product price, supply and market distribution data programs are required by law. EIA has improved its programs and gained credibility. For example, its 1981 annual report published 1981 data in

many cases. Therefore, I feel it is essential that EIA retain the staff and receive the funding required to maintain congressionally established energy information programs.●

● Mr. REUSS. Mr. Speaker, I appreciate this opportunity to discuss our energy problems and their relationship to the cities. This has been a primary concern of mine for many years, but has become particulary urgent for me as energy prices have skyrocketed through the seventies. From 1975 to 1980, I chaired the Subcommittee on the City of the House Banking Committee, where we concentrated on bringing important energy-saving options to the attention of citizens and officials at all levels of government. In the fall of 1979, we held two hearings on "Renewable Energy and the City" and "Compact Cities: A Neglected Way of Conserving Energy." The testimony presented in those hearings was reviewed carefully and discussed in a final report, which I believe, is important to today's discussion.

The report is entitled "Compact Cities: Energy Saving Strategies for the Eighties," which the subcommittee published in July 1980. Since little that has occurred over the last 2 years does anything but confirm our recommendations, I wish to bring them to our attention today.

First, the report notes that uncontrolled sprawl not only wastes energy, but eliminates valuable farmland.

Second, it outlines the many ways in which healthy cities save energy. For example, commuting distances are shortened, public facilities are in place, cogeneration and district heating are economic, and common walls reduce energy consumption.

Third, the report notes that past energy policies have not adequately accounted for urban realities. This was true in 1980 under the past administration and it is even more true today.

The report made 32 recommendations, which I would like to insert at this point in the RECORD. They remain relevant to the problems of urban energy policy that we continue to face.

I. SPRAWL AS A WASTER OF ENERGY

Recommendation 1

The Department of Agriculture should take the lead among federal agencies in (a) demonstrating that farms are vital to urban areas, and (b) promoting state-local efforts to assure that endangered farmlands will not be invaded or surrounded by development except for essential purposes when all feasible locational alternatives are exhausted.

II. THE CITY AS ENERGY SAVER

Recommendation 2

The Department of Energy should include small-scale neighborhood systems in its district heating demonstration projects.

III. CURRENT ENERGY PROGRAMS SLIGHT THE CITY

Recommendation 3

The Department of Energy's biennial revision of the National Energy Plan should specify the contribution expected from urban areas to meet the year 2000 goals for conservation and the use of renewable energy, describing measures by which cities can achieve their share of the goals.

Recommendation 4

Congress should authorize taxpayers to receive the full residential solar tax credit regardless of their tax liability.

Recommendation 5

Congress should allow taxpayers to apply to the Internal Revenue Service for prompt rebates of their residential solar tax credit, rather than making them wait until after filing their annual returns.

Recommendation 6

The Department of Energy, the Department of Housing and Urban Development and the Treasury Department should jointly (a) maintain data on the income brackets, owner or rental status, and location of recipients of federal energy tax credits and agency grants or loans, and (b) submit these data with appropriate analysis to Congress each year.

Recommendation 7

The Department of Energy should shift more of its renewable energy research to the development of cost-effective systems appropriate for existing urban neighborhoods.

Recommendation 8

Congress should provide larger subsidies for the installation of renewable energy systems in existing buildings than in new buildings in recognition of greater actual costs.

Recommendation 9

Federal agencies, in consultation with the Department of Energy, should establish energy conservation standards for existing buildings plus procedures and timetables for bringing into compliance (a) all buildings owned or leased by the Federal Government, (b) all buildings whose owners receive Federal renewable energy subsidies, (c) all federally-assisted housing, and (d) all federally-insured housing.

Recommendation 10

States and localities should revise building codes, zoning regulations and other land use controls to remove restrictions which prohibit or inhibit the use of renewable energy systems.

Recommendation 11

State public utility boards should encourage utilities to make conservation and renewable energy loans to their customers by permitting utilities to include the cost of such loans in their rate bases.

Recommendation 12

In order to tap the job-creating potential of energy projects, the Department of Commerce and the Department of Housing and Urban Development should promote greater use of economic and community development grants for energy conservation industries and local renewable energy projects in distressed urban areas.

IV. HOW TO REVERSE PROGRAMS THAT INDUCE SPRAWL

Recommendation 13

Federal agencies that provide grants and loans for sewer, water and wastewater treatment facilities should require local governments (a) to design systems that channel new growth primarily into existing urbanized areas, and (b) to use pricing systems that reflect the economies of serving compactly-settled areas.

Recommendation 14

The Environmental Protection Agency, to give wider effect to its 1978 anti-sprawl regulations, should encourage local governments to modify waste facilities that were funded before 1978 but that are not yet built. EPA should provide technical assistance to minimize the growth dispersal impacts of these projects.

Recommendation 15

The Department of Transportation should vigorously pursue its declared intention to screen all proposed beltways for adverse urban impacts.

Recommendation 16

State governments should give priority to maintenance of existing highways over new construction.

Recommendation 17

Federal, state, regional and local mass transit agencies should make greater efforts to align bus and rail routes to support urban containment and infill strategies.

Recommendation 18

The Congress should authorize the Department of Housing and Urban Development to increase the quantities of public housing for poor urban residents.

Recommendation 19

The Department of Housing and Urban Development should review all its local development assistance and housing programs to identify aspects that foster sprawl and then recommend corrective measures.

Recommendation 20

The Department of Housing and Urban Development should require that states and localities, as a condition of receiving 701 planning grants, adopt provisions for channeling future growth into already urbanized areas.

Recommendation 21

The Office of Management and Budget, along with current urban impact analyses of new federal programs and policies, should (a) review existing government programs and policies to identify anti-city or pro-sprawl bias, and (b) recommend steps to remove such bias.

Recommendation 22

Federal agencies that help finance local infrastructure should underwrite demonstrations in several urban areas of full-scale user charges and land value recapture systems to measure their land use and fiscal impacts.

Recommendation 23

States should accept their responsibility over land use by (a) specifying land use changes that require state approval, (b) indentifying scenic resources, fragile ecological zones and other lands to be safeguarded, and (c) mandating that localities adopt comprehensive land management programs to curb scattershot growth.

Recommendation 24

State legislatures should prohibit communities from using (a) exclusionary practices such as growth caps that directly bar entry of new residents, and (b) "gold-plated" subdivision standards, large-lot zoning or other devices that price out all but the affluent.

Recommendation 25

States and localities that offer preferential farmland assessments should insist that (a) tax advantages apply only to acreage where exclusive farmland zoning or other legally binding covenants will keep the land

in agricultural use, and (b) conversion to nonfarm use by the owner triggers a return to the local jurisdiction of the cumulative tax savings plus interest.

Recommendation 26

States should enforce minimum property assessment standards with special attention to (a) equal treatment of all property within jurisdictions, (b) equalization among jurisdictions, and (c) proper evaluation of land compared with structures.

Recommendation 27

The Treasury Department, to avoid revenue losses from depreciation of commercial buildings whose stated values reflect substantial amounts of land value, should study the feasibility of refusing to accept assessments as the basis for depreciation in localities that systematically undervalue land and overvalue buildings.

Recommendation 28

Legislatures in states that require uniform property taxation of land and buildings should, by law or constitutional amendment, enable local jurisdictions to exempt buildings entirely or tax them at lower rates, halting present tax "penalties" for structural improvements or investments in solar equipment.

Recommendation 29

State legislatures should provide (a) more effective metropolitan coordination or consolidation of areawide functions, and (b) statewide or regional tax base sharing systems to avoid interjurisdictional disparities between taxes paid and services received.

Recommendation 30

Cities and urban counties should consider greater reliance on true-cost user charges for public services that are costlier to deliver in dispersed developments.

Recommendation 31

State governments should help conserve the central business districts of their cities by withholding capital ependitures in aid of proposed malls and other developments that could undermine existing commercial centers.

Recommendation 32

City and county governments, to prevent market forces from working against social goals, should stop relying almost exclusively on zoning to control land use and make greater use of (a) public service pricing, (b) recapture of land values generated by public expenditures, and (c) creative mixes of compatible land uses.●

● Mr. OTTINGER. Mr. Speaker, every night now on the evening news we are shown stories about the victims of the President's voodoo economics. This magic potion that the President's medicine men have concocted is poisoning the patient. In his budget proposals to Congress for fiscal years 1982 and 1983, the President has presented us with a voodoo energy policy where the marketplace's magic substitutes for balance and substantive analysis.

With only ideology as a guide, the President's fiscal year 1983 budget proposes to slash energy conservation programs by 94 percent, and renewable energy programs by 78 percent. Meanwhile, nuclear programs continue virtually unscathed, and constitute an incredible 87 percent of the proposed energy technologies budget. The Congress largely rejected the fiscal year 1982 energy budget proposal and did so again in the fiscal year 1983 budget resolution. However, even though Congress restored a degree of balance and equity to Federal energy programs last year, support for energy conservation programs is way below what it would be under an administration that was truly concerned about this Nation's energy future.

If the administration gets its way there will be many victims of voodoo energy policy. The poor and the elderly will be victims if the administration is allowed to eliminate the low-income weatherization program and slash low-income energy assistance which so many people depend on. The administration already has tried to wipe out weatherization by starving it of the funds Congress authorized and appropriated. As a result many of the competent workers who were trained in weatherization had to look elsewhere for jobs in the fall.

Moderate- and low-income people will be victims if Reagan succeeds in terminating the Solar Energy and Energy Conservation Bank. The Bank would help individuals pay the upfront costs of installing energy saving equipment. The President has refused to spend the money Congress provided the Bank for fiscal year 1982, and it has taken a successful lawsuit, in which I joined as a plaintiff, to force the administration to spend that money.

Our schools and hospitals will also be victims, as will the people they serve and the taxpayers who support them. The administration wants to eliminate the program to provide technical assistance and grants for energy conservation equipment for those institutions. Apparently, the administration would like schools to lay off teachers, and hospitals to raise medical costs, as their response to the high energy prices of the marketplace.

Consumers will be victims, because the administration wants to cut funds for State energy offices and their efforts to provide energy information to the public.

As this is not bad enough, the administration also proposes repealing numerous energy conservation laws by "zeroing out" the Energy Department programs which implement and enforce those laws. For example, the administration has decided not to prescribe Federal efficient standards for households appliances, even though the law requires it to issue standards unless energy savings are negligible and costs are too high. The Department's own analyses conclude that the Nation could save as much as 2 million barrels of oil and that consumers could save more than $19 billion by the year 2005 through such standards.

The administration also proposed terminating the residential conservation service program which requires utility companies to provide customers with low-income home energy audits, provide advice on cost-effective energy conservation measures, and arrange financing for these measures. Finally, the administration intends to ignore the law establishing the Federal energy management program. That program monitors the Federal Government's own energy performance and could save millions of taxpayer dollars in reduced Government energy bills.

Will the dramatic budget cuts in conservation and renewable energy programs help control the deficit? Absolutely not. In fact, the administration's DOE budget for 1983 is virtually identical to that of 1981. The difference is that cuts aborbed by conservation and renewable energy programs are being reprocessed to fuel the Department's nuclear energy program.

Last year Congress rejected the administration's energy proposals and established its own energy budget priorities. The administration would like to forget that Congress has already spoken on at least a half dozen times over the past year in support of a balanced energy budget. I am confident that once again Congress will reject the administration's proposals and enact its own energy budget.

Repudiation of these misdirected priorities is the best antidote for the noxious curative of the President's medicine men.●

PHOTOVOLTAICS: AN AMERICAN OPPORTUNITY

● Mrs. SCHNEIDER. Mr. Speaker, I would like to thank the gentleman from Pennsylvania for inspiring this special order to discuss the future of our energy policy, and to express my appreciation for the leadership the gentleman has displayed on this important issue.

Contrary to the rumors that have been circulating, the energy crisis is not over. We are still far too dependent on foreign oil, and my constituents in Rhode Island are still trying to cope with $1,500 winter heating bills. Forecasters in both industry and government appear to agree that U.S. reserves of oil and natural gas are declining rapidly, and that the synthetic fuels industry is not growing quickly enough to fill the gap. Before the end of the decade, if we are not prepared, we are going to run short of energy, and OPEC will resume its grip on our economy. We had better use the time we have to diversify our energy system. That means a balanced Federal investment in research to develop those technologies that can make a difference over the next 20 years.

One of the most promising alternatives is photovoltaics, which the Energy Research Advisory Board has identified as one of the two major renewable options for energy supply. Photovoltaics—or the direct conver-

sion of sunlight into electricity—is environmentally benign, potentially cheap, and offers energy users a unique new service—the opportunity to generate their own power on site. It is ideally suited for the small scale, localized production of electricity that can help our existing power supply system to meet peak load demands, thereby reducing the need for the construction of expensive, large fossil or nuclear powerplants that place a stress on our environment.

As a member of the Science Committee, I have had the privilege of participating in a series of hearings to try to determine the potential of the renewable energy industry in the decade ahead so that we may develop appropriate Federal policies. One theme was repeated by almost every witness—the market for photovoltaics, both in the United States and internationally, is going to grow by leaps and bounds. From an expected sales volume of 90 million modules this year, the world market is expected to order 300 million modules in 1985 and 1.5 billion modules by 1990.

Right now, America is a world leader in photovoltaics technology and in a unique position to take advantage of the world market that is quickly developing. In 1980, 85 percent of photovoltaics sales abroad came from American companies, for a total export earning of $25 million. Unfortunately, if our current energy policy—or the lack of one—is not reversed, we may lose our opportunity to exploit the growth of this important high technology energy industry.

Ironically, while we are cutting back on our photovoltaics program, our competitors—particularly the Japanese—are beefing up their own research, with a view toward penetrating the American market within 5 years. The Japanese have pioneered in the development of amorphous silicon, the logical next step in the technological development of low-cost, mass-produced photovoltaic cells. In fact, amorphous silicon cells are already on the American market, in photovoltaic-powered calculators marked "Texas Instruments" on the front, and "Made in Japan" on the back. It should come as no surprise that the Japanese are speeding up their research to emphasize low-cost production techniques. The Japanese photovoltaics budget increased by more than 300 percent between 1980 and 1982—meanwhile, the Department of Energy is preparing to shut down our own photovoltaics research efforts just at the point where it promises to deliver results.

Our Science Committee hearings suggested at least two important conclusions for U.S. policy. The first is that our photovoltaics research effort should be stepped up, not cut back. We are on the brink of capturing the international market in an exciting new technology—it would be foolish to throw that opportunity away.

Equally important, we need to focus our photovoltaics budget on preparing the industry for the world market. West Germany—where the lack of direct sunlight imposes natural limits on photovoltaic applications—is nevertheless investing half of its renewable energy budget in developing photovoltaic technologies for export, with an emphasis on testing and developing PV power generation in developing countries, including Egypt, Argentina, Brazil, the People's Republic of China, Indonesia, Mexico, the Sudan, and the Philippines.

Americans pride themselves on being a practical people. Pragmatism suggests that the Federal Government should team up with private industry and push photovoltaics forward into the worldwide market that surely awaits this technology in the eighties. America's photovotaics industry is on the brink of success—we can not afford to waste the opportunity before us.●

GENERAL LEAVE

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 2240

Mr. EDGAR. Mr. Speaker, tonight's special order was taken to focus attention of the House on the issue of energy. I think the statements that will be included in the RECORD will in fact do that.

LYNDON B. JOHNSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

● Mr. GONZALEZ. Mr. Speaker, had he lived, Lyndon B. Johnson would be 74 years of age this month, August 27. I rise to honor his memory, to recall his vision for America, and to remind my colleagues that it is not only possible for our country to rise to greatness, it is necessary to do so.

Lyndon Johnson never believed in a diminishing future. He believed in growth, in dynamism, in progress. He never believed that this country must live by some sort of economic fatalism; he believed that we could control our own destiny. He never believed that this Nation could or should abide the waste of unemployment, the scourge of poverty, the numbing blight of ignorance, nor the casual inhumanity of injustice.

Lyndon Johnson had a vision for his country. He believed we could conquer our problems, that we could alleviate poverty, and indeed his programs did open whole new worlds of opportunity. Through the vision and unparalleled political skills he commanded, President Johnson brought decent medical care to the old and the poor; he demanded that we no longer tolerate hunger among the people of this, the greatest food producing Nation in the world. He established vast new programs to improve the Nation's schools, to insure that every child got a sound education, and to make available a university education to all who could benefit from it. He insisted that the poor, even the long-term unemployed, could be placed into useful jobs. Through all these, and many other efforts, he was responsible for a vast reduction in the incidence of poverty in our country. Where there was no hope, he opened hope; and where there was hope, he insisted that there be genuine opportunity.

Compare that to the experience of today. Under our present leadership, we have not progress but retreat. There are millions of newly unemployed, there are millions of newly poor. No longer do we seek to insure that the poor are decently housed and fed; far from it, our leadership demands that the hungry should go more hungry. Our leadership is not one with a vision of what our country could be, but one that sees a diminishing future—a world with shrinking hopes, not one of growing possibilities.

Lyndon Johnson was excoriated as a free spender, but the leadership of today, the current administration, will incur deficits that are 60 times as great as any that Johnson would even dream of. He was called a radical experimenter, but he never abandoned the basic principle of sticking with programs that were practical, that were proven, whose results could be measured. Compare that to the pie in the sky claims that we heard for supply-side economics, nonsense that we are paying dearly for today.

The present administration likes to say that there is no need to produce new housing for the poor, or for anybody else, because the marketplace will take care of everything. But Lyndon Johnson knew that this was not so, and could not be so, if there are millions of people who cannot even get into the marketplace. The market serves only people who have the means; it does not serve those who have no means. Johnson would have wanted to know how many were without housing, what could be done to get them into housing, and how to get it done. Compare that to the breezy callousness of today's antihousing administration.

There is no way for me, or for anyone else, to describe the whole, complex, dazzling being who was

Lyndon Johnson. It might be said that he never believed that there was a problem that could not be licked. Whatever it was, he would argue, threaten, worry, demand, plead, work, and pester anyone and anything in his considerable reach, until he was satisfied that the matter had been disposed of. It might be civil rights. It might be interest rates, which today are treated as given from Godly writ—but which he knew were made and broken by men just like him. It might be education, or any one of a thousand things. Whatever it was, he believed the problem could be solved, and he intended to do it.

Compare that to the casual callousness of today, when human needs and human miseries are ignored, and when not only is no positive action taken, every effort is taken to destroy what little help people have available. He would never understand, would be terribly grieved, to see the sorry spectacle that we have today, in which misery is compounded, in which inequity is heaped upon unfairness, in which shameless dishonor is dismissed as practical politics. He would be horrified by policies that are nothing more than warmed over 19th century Darwinism, nothing less than callous disregard of even so basic a thing as providing for economic growth—far from it, policies that destroy even that possibility.

Lyndon Johnson reached farther than he could grasp, but he drove this country to its greatest heights. His programs were the most comprehensive, humane, and effective domestic efforts ever attempted. They were also the most effective. There is no way to describe the kind of new dreams that were not only made possible, but that were achieved, thanks to President Johnson's efforts. He could not understand, and would not tolerate, a government that was indifferent. It is a mercy that he never lived to see the indifference, the outright emptiness that characterizes the present occupant of the White House. A man who was a doer could never understand one whose sole mission seems to be to undo, do nothing, do deliberate and calculated harm.

I salute the memory and legacy of Lyndon Johnson. No man ever cared so much, dared so much, or did so much for his country. May his spirit endure, and may someday this country be blessed with another leader as bold, as caring, as great, and as determined as he was.●

COMPREHENSIVE COAL JOB COMPENSATION, PROTECTION, AND PROMOTION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from West Virginia (Mr. RAHALL) is recognized for 60 minutes.

● Mr. RAHALL. Mr. Speaker, today I am introducing the Comprehensive Coal Job Compensation, Protection, and Promotion Act of 1982 in response to the growing number of the coal mining labor force who are now without a job. Across the Nation, mineworkers are being laid off with those who dig metallurgical coal used in steelmaking, finding themselves especially hard hit as steel imports continue to wreak havoc on our domestic economy.

In my congressional district alone, 20 percent of the coal labor force is unemployed. A large portion of the coal mined in southern West Virginia is used for steelmaking, and as the steel industry continues to feel the harsh brunt of unfair foreign competition in the form of subsidized dumping of steel imports a perverse application of trickle-down economics takes place. As steelworkers lose their jobs, coal miners lose their jobs. In a few counties in my district, up to 70 percent of the personal income is derived from the coal industry. Combine 20-percent unemployment figures with this level of dependency in the coal business and you have a formula for disaster.

While I realize the Department of Commerce is beginning to release the results of several antidumping investigations, the damage to the labor force has already been done and, short of drastic steps, can be expected to escalate. My bill seeks to address this problem by creating a trade adjustment assistance program which would provide trade readjustment allowances, training and job search and relocation allowances similar to those contained in the Trade Act of 1974 for impacted workers in the coal industry. Those workers who can show that steel imports contributed importantly to losing their jobs would be eligible for this program. Steelworkers, of which approximately 35 percent are now unemployed, would also be eligible for this program.

Mr. Speaker, this new trade adjustment assistance program for coal and steelworkers would not place an additional burden on the taxpayer because it would be funded by revenues equal to those obtained from tariffs the Customs Service collects on steel imports which would be deposited into a Steel and Coal Workers Adjustment Assistance Trust Fund. In 1981, for example, tariffs on steel imports amounted to $11.2 billion. I might add that not all this funding would even have to be appropriated because under the trade adjustment assistance program created under the 1974 Trade Act, only $1.636 billion was used in fiscal year 1980 for trade readustment allowances; and this figure was a great increase from the $259 million allocated in fiscal year 1979. However, the need for a new program for coal and steelworkers has become apparent due to the drastic reductions made in this area under the Omnibus Budget Reconciliation Act of 1981. In 1980, under the program as contained in the 1974 Trade Act, 562,000 workers were certified for assistance. In 1981, under the Reagan administration, only 23,687 workers were certified.

The practice of allocating specific amounts of funds quantitatively related to customs collections is not without precedent. Each fiscal year, an amount equal to 30 percent of the gross receipts from customs duties is used for the encouragement of exportation and domestic consumption of agricultural products. The Saltonstall-Kennedy Act requires the Secretary of Agriculture to transfer to the Secretary of Commerce an amount equal to 30 percent of the customs duties collected on fishery products. And, under the National Wool Act of 1954, an appropriation not to exceed 70 percent of the customs duties collected on wool products is provided to the Commodity Credit Corporation.

It only seems fair to me that if foreign imports are going to lead to unemployment figures as high as those being experienced in the coal and steel industries, then those responsible for those imports should be made to pay for this program to help American workers.

The trade readjustment allowance provided to eligible workers under this program would supplement State unemployment insurance and other earnings. If a worker has unemployment insurance the trade readjustment allowance declines by the full amount of the State-provided funds and any training allowances being received. The combined value of the net trade readjustment allowance, unemployment insurance, training allowances and other earnings may not exceed the lower 80 percent of the worker's average weekly wage or 130 percent of the average weekly manufacturing wage. If the worker has no earnings, unemployment insurance or training allowances, the weekly trade readjustment allowance equals the lower 70 percent of the worker's average weekly wage or the national average weekly manufacturing wage. These provisions are identical to those contained in the 1974 Trade Act before the 1981 changes.

With respect to the training provisions of this program, the major change made from the 1974 act is that training becomes an entitlement rather than left to the Secretary of Labor's discretion. The job search and relocation allowances are also being altered to $800 from $600 in order to reflect today's economic climate.

This legislation also would create a Coal Industry Full Employment Council under the Department of Labor. The Council would consist of 30 mem-

bers; 10 from coal labor with the remaining representation being 5 members from coal producers, 5 from shippers and receivers of coal, 5 from banking and other financial institutions having a substantial interest in communities whose economies are based on coal, and 5 from civic organizations whose purposes include the promotion of regional and community economic development within coal producing areas. The purpose of the Council would be to further define the reasons behind growing coal industry unemployment and to make recommendations on how to alleviate the situation. The Council must consider ways to increase the production and use of coal from areas of high unemployment on both the domestic and export fronts. It must make yearly recommendations to the President and the Congress and its findings must be considered by Federal agencies with activities that impact the coal industry.

The final section of this legislation urges the President to enter into negotiations with countries which are major exporters of steel to this Nation for the purpose of establishing agreements where they will import U.S. coal in quantities equal to that used in the production of steel exported into this country. The Secretary of Commerce must also work through the Foreign Commercial Service to promote coal purchases from regions of this country with high-industry unemployment.

While the compensation, protection, and promotion provisions of this legislation will not solve all the reasons for high-coal industry unemployment, I believe they are a step in the right direction toward reducing the human suffering job loss creates. Coal miners are not looking for handouts; they are looking for a fair shake. At this time foreign trade policies are being unjust to the coal miner and this legislation proposes to place a measure of equity in the area of trade policy.●

SOCIAL SECURITY—CURRENT STATUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PICKLE) is recognized for 15 minutes.

● Mr. PICKLE. Mr. Speaker, this Friday the National Commission on Social Security Reform will hold its sixth meeting. A 15-member group announced by President Reagan last September 24 and appointed December 16 in an attempt to diffuse the political heat surrounding this issue, the Commission is due to report by December 31, 1982, but may report sooner if a "lameduck" session on social security materializes. The Commission has made no formal or informal decisions, but has discussed a variety of options for social security financing, primarily centered so far on the long-term problems facing the system.

Right now all focus is on the Commission. After the elections and after the Commission reports, all focus will return to the Congress, which must make the decisions on what to do or not do.

SHORT TERM

Current law will provide for payments from the large social security retirement fund only through June of 1983, and will provide for payments for that long only if the administration borrows enough funds from the medicare and disability funds in December of 1982 to carry benefit payments through June. By June of 1983, therefore, and possibly sooner, the Congress will have to complete some short-term action. Under legislation enacted on December 29, 1981 (Public Law 97-123), the large retirement fund will borrow up to $11 billion from the medicare and disability funds beginning this October in order to make benefit payments. The authority expires in December, but enough could be borrowed then to carry the fund for an additional 6 months.

The authority to interfund borrow could be extended further, but this action may not be universally acclaimed for the following reasons: First, it would further drain the medicare fund, which soon will experience its own difficulties. Second, projections of trust fund assets increasingly predict that interfund borrowing will not be sufficient to carry the retirement fund through the 1980's, making action beyond interfund borrowing inevitable anyway.

The question does remain, however, how long the funds could go solely by allowing the large retirement fund to continue borrowing from the medicare and disability funds. The President's midsession economic review altered the administration's official projections on this issue considerably. Under the midsession review assumptions of July 1982, interfund borrowing would carry the combined trust funds only until early 1984, putting these projections in line with the intermediate (II-B) projections of the 1982 trustees report. Pessimistic projections indicate the combined funds would be sufficient to pay benefits only until sometime in late 1983.

The tax and revenue bill, H.R. 4961, contains $2.879 billion in medicare spending reductions and $0.617 in new medicare revenue for fiscal 1983. These changes could extend the worth of interfund borrowing by 4 to 6 months, according to preliminary estimates, but no further.

Short-term options beyond interfund borrowing are few: First, speedup of the tax increases scheduled for later in the 1980's; second, sharp benefit reductions; third, reductions in the cost-of-living increase; and fourth, assistance from the general revenue.

Few have yet focused on the magnitude of the help needed, especially if a general revenue backup system of some sort is not used. The current system relies on having sufficient reserves in the trust funds to weather adverse economic conditions—or even normal business cycle ups and downs. As one moves 3, 4, 5, or more years into the future, higher reserves are needed because estimates are more likely to be off. To reach a 30-percent reserve in the combined trust funds by 1987, not an extravagant cushion by any means, would require $116 billion in additional resources—or cutbacks—for the funds by that time. Using a general revenue borrowing authority as a backup instead of trust fund reserves would cut this requirement by about in half but would raise deepfelt philosophical concerns. Any changes enacted in the medicare program in the tax bill or any other changes in subsequent legislation can be deducted from this requirement if the Congress chooses to do so, but the remaining task clearly is still huge. It is no wonder all sides share a reluctance to act.

SOCIAL SECURITY BENEFIT CUTS

Since 1980, through the budget process, benefit reductions have been enacted in social security and in medicare. The 1980 budget reconciliation credited 5 year savings of $6.892 billion in social security and medicare for fiscal years 1981-84.

In 1981, in the Gramm-Latta reconciliation bill, extensive reductions were enacted in social security and medicare, totaling $10.275 over the first 3 fiscal years—$8.324 in social security and $1.951 in medicare over fiscal years 1982, 1983, 1984. A later provision regarding payment of social security taxes on sick pay added $2.124 billion in revenue over the same timeframe.

The 1982 reconciliation proposals now before the House will add an additional $8.763 in medicare reductions and revenue in fiscal years 1983 and 1984.

Some may think that we will not need to do more, but we should not be misled.

These changes add up to over $28 billion in benefit reductions and revenue increases over 1981-84, yet trust fund projections for this same period have not improved. Economic hardship has taken revenue away from the trust funds and added expenses to the program faster than these changes could compensate for.

The current volatility of the trust funds and projections concerning them will require the most careful scrutiny by the Commission and the Congress. Clearly we would not want to enact further changes which will do

nothing to insure the solvency of the program and which will do nothing to settle the fears and uncertainties on this issue for some time to come.

We have already lost 2 valuable years. Because we have delayed we now face the inevitable fact that we must rely on the Government directly or indirectly to provide assistance during the next few years to meet benefit payments. At this point I see little other alternative and all Members should be mindful of this cold fact.

TAX BILL

Although the tax and revenue bill, H.R. 4961, contains very little relating to the social security cash benefits program—the programs other than medicare—there are a few matters in this bill of interest and importance to social security.

INDEPENDENT CONTRACTORS

The bill provides that direct sellers and real estate agents will be classified as independent contractors and that the current moratorium and interim relief provision of section 530 of the Revenue Act of 1978 will be extended indefinitely. This provision will cost the social security trust funds between $75 millions and $100 million annually.

NO INCENTIVE TO END SOCIAL SECURITY COVERAGE UNDER HOSPITAL REIMBURSEMENT

The bill sets up a new target system of hospital reimbursement under the medicare program. In the conference, I added an amendment to this provision which would prevent any hospital from avoiding a penalty or earning a bonus if it reduces its costs by ending social security coverage for its employees. A growing number of nonprofit hospitals, who are in the social security program on a voluntary basis, have been terminating coverage for their employees. These employees, particularly nurses and low-paid hospital workers, most likely will never earn any pension rights under any replacement plan, even if one is offered. The amendment does not prevent a hospital from leaving the system if it so desires. But it will avoid rewarding the hospital for doing so.

PENSION REFORM

Under current law, a pension plan ostensibly has to provide equivalent benefits for low- and high-paid workers. However, provisions allowing pension benefits to be offset against social security benefits mean that lower paid workers can receive little or no pension above their social security. The bill requires these plans to provide a minimum pension beneift, so that lower paid workers have a guarantee of some actual pension benefit in addition to their social security.

At the insistence of the House conferees, two provisions of the Senate revenue bill affecting social security were dropped. First, a provision was dropped which would have allowed the Government to collect SSI overpayments by garnishing an individual's social security check. The fundamental purpose of social security was that it be available to the elderly by right, and that it not be something which can be used for debt collection by the mortgage bank, the doctor's office, the tax collector, or anyone else. This provision would have violated that fundamental principle upon which social security is based.

Second, the House conferees removed a loosely worded provision which would have reclassified home health workers as independent contractors. Many of these individuals clearly are employees and are best protected by remaining so.

Finally, H.R. 4961 will reduce benefit payments and increase revenues to the medicare trust funds by $15.688 billion over the next 3 fiscal years. As I have discussed above, this could be an important factor in the short-term decisions made regarding the retirement fund financing.

LONG TERM

Changes made in social security in the 1981 Gramm-Latta reconciliation reduced the long-term deficit faced in the retirement and disability funds combined from 1.82 percent of payroll to 1.65 percent of payroll. This figure is roughly equivalent to the combined employer/employee payroll tax it would be necessary to add to current tax schedules to put the system in actuarial balance. Changes in how the long-term deficits are estimated, however, have returned the long-term deficit to a 1.82-percent level. This is a 75-year projection, and clearly much can happen to change it between now and then. It is sometimes more helpful, therefore, to break this out into shorter, 25-year projections. Under the estimates made in the 1982 trustees report, the large retirement fund by itself will show deficits in all three 25-year periods: A small deficit of −0.21 percent of payroll in the first 25 years, but deficits of −2.23 percent in the second 25 years and −5.00 percent in the third 25 years. The smaller disability fund shows surpluses in all three periods. What this indicates is that the problems facing the retirement fund right now are caused by adverse and temporary economic conditions. Problems down the road have other causes.

The National Commission has discussed several areas of long-term reform, including changing the formula for cost-of-living increases, changing the basic benefit formula, raising the retirement age, altering the treatment of certain categories of beneficiaries, and so forth. There are many options here, and the Congress when it acts will face significant decisions on what social security will look like when the current beneficiaries' grandchildren take their turn.

DISABILITY

Members have been hard hit with casework stemming from the ongoing comprehensive review of the disability rolls. Current estimates are that about 70 percent of those whose benefits are terminated are not returning to the rolls, but appeal levels also are high and there is a 140,000-case backlog of appeals before the administrative law judges.

The Ways and Means Committee has reported legislation, H.R. 6181, which would provide extra benefits for these individuals while they appeal their cases and attempt to improve the process before a case reaches the ALJ level since a beneficiary may have to wait many months before an ALJ can hear his case.

Some ALJ's and lawyers who represent beneficiaries before ALJ's, however, raised objections to changes in the procedures and set off an emotional reaction which has spread to other groups. Mistrust of the Reagan administration and of the State agencies and social security offices has added to this problem.

It is of little use to extend benefits without devising a procedure that will humanely and quickly resolve any review case. Regardless of the problems we now face, I think that help should be extended and the process improved.●

A LOOK AT LONG-RANGE MIDDLE EAST QUESTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. DeNARDIS) is recognized for 30 minutes.

Mr. DeNARDIS. Mr. Speaker, I have asked for this special order today because I believe that as we approach the implementation of an evacuation plan for the Palestine Liberation Organization at the end of this week, we must look beyond with an American policy to deal with the vexing, long-range Middle East questions. As a result of the extraordinary leadership of President Reagan and Ambassador Habib, the United States has exerted positive and skillful leadership in bringing the war in Lebanon to an end. We now have a unique opportunity to move forcefully and creatively to the larger and more difficult questions. Toward that end, I have written the following letter to Secretary of State George P. Shultz.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 18, 1982.

DEAR MR. SECRETARY: Please accept my congratulations for the smooth and competent manner in which you have assumed the critically important position of Secretary of State. I have long admired your ability and performance in service to our country.

As a new member of Congress vitally interested in international affairs with an aca-

demic background in the same, I am prompted by your solicitation of views from certain ranking members of Congrss to respectfully offer you my own views on how to deal with long-range Middle East questions, such as the future of the Palestinians, once the crisis in Beirut is ended.

Last week, in remarks I made in the House of Representatives on the war in Lebanon—"Progress Toward Peace in the Middle East," August 11, 1982 p. H5626—I stated that "American policy should now reach beyond the immediate task of ending the Lebanon conflict to fulfill Palestinian settlement hopes."

My outlook is based on the premise that the pattern of events in the Middle East reflects more than random turbulence in the aftermath of the British and French empires. For over 30 years, the Soviet Union has sought control of this geopolitical nerve center by taking advantage of regional conflicts, especially between Arabs and Israel.

Since the early 1950's the Soviet Union has actively supported the major Arab wars against Israel, as well as guerrilla raids and terrorist attacks. The Palestine Liberation Organization—P.L.O.—was planned and established in the 1960's and has been heavily supported and influenced by the Soviet Union through the 1970's to the present. Through their alliance, they have been successful in focusing media and public opinion attention on the so-called "Palestinian question" as part of their propaganda campaign.

As difficult a political and human problem as this matter is, the real Palestinian problem bears no relation to the somewhat distorted version which is now held in many quarters. The result is that opinion is building to demand that Israel be more "flexible" and that the United States "force" Israel to acquiesce in the establishment of a third Palestinian state—an Arab state in the territories of Palestine generally known as the West Bank (including Jerusalem) and Gaza. It is expected that such a state would be under the control of the P.L.O.

The emergence of such a state, in my view, would weaken Israel, the strongest military power in the Middle East, and the most reliable ally of the West in area, by necessity and conviction. The campaign for such a state is irrational from the point of view of Western security interests.

The legal assumption behind this drive is that the territories in dispute are in some sense "Arab" territories held by Israel only as military occupant. But that premise is erroneous. The only possible geographic, demographic and political definition of Palestine is that of the Mandate as established by the League of Nations, which included what are now Israel and Jordan, as well as the West Bank and Gaza. The term "Palestinian" applies to all the peoples who live or have a right to live in the territory—Jews, Christians, and Muslims alike. Thus, the West Bank and Gaza are not "Arab" territories in the legal sense, but territories which have been recognized as belonging to Israel or to Jordan. Transjordan and Israel were established as states in 1946 and 1948, and were gradually recognized thereafter.

The controversy over the future of the West Bank and Gaza can be understood only as part of the history of the Palestine Mandate and the international law of Mandates which lies behind and informs the U.N. Security Council Resolutions purporting to govern the process of establishing peace between Israel and its neighbors.

In Palestine under this law, Israel and Jordan exist as states created out of the Mandate, and the West Bank and Gaza remain as unallocated parts of the Mandate. While it is true that Israel has established controversial settlements in the West Bank, they are not strictly speaking, illegal. Its right of settlement survived the end of the Mandate and undoubtedly will continue until Jordan and Israel settle what is essentially a territorial dispute between them, make peace, and divide the land in accordance with provisions of Security Council Resolution 242, which is based on the Mandate.

Legally, politically, and strategically, the obvious solution for the Palestinian problem is peace between Israel and Jordan. Such a settlement could take many forms. But it seems to me that a creative approach would establish definitive boundaries between Israel and Jordan, dividing the West Bank and perhaps making Gaza part of Jordan with the potential of giving it a port on the Mediterranean. Special arrangements would have to be made for Jerusalem—perhaps a borough system, as suggested by Mayor Teddy Kollek. Any plan for that city would have to take fully into account all the religious interests in that city.

I think it is important to emphasize that there is no foundation in international law for the idea of a second Arab Palestinian state in the West Bank and Gaza. It would be political and military folly for the West to force Israel to acquiesce in such a scheme. Establishing a new Arab state there would injure Western interests, and advance those of the Soviet Union, by strengthening the Soviet position in the region, and by increasing Arab dependence on Soviet protection. It would weaken Israel, which since the fall of the Shah of Iran, is the most important ally in the area.

The remaining question is whether pressure will be brought to bear on Jordan. Only Jordan and Israel can solve the Palestinian problem; they are the Palestinian states, and they speak for the Palestinian people. Jordan must be brought into the Camp David peace process immediately.

For Jordan and for many other small and vulnerable states of the region, the real issues are not legal, but political and military, and are linked to the question: Will the U.S. and its allies reestablish the system of world public order contemplated by the Charter of the United Nations, or will the Soviet Union succeed in its quest for dominance? In other words, who is going to prevail?

Mr. Secretary, the answer will determine not simply the Palestinian question, but even more importantly, the relevance of international law to international politics.

Thank you for your attention to these views. I look forward to the opportunity to discuss this issue with you soon.

Sincerely,

LAWRENCE J. DENARDIS,
Member of Congress.

SOVIET DAY OF SHAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, August 21 marks yet another anniversary of the unprovoked and unjustified invasion of Czechoslovakia by the Soviet Union. On this date, 14 years ago, Soviet military forces crossed over the borders of Czechoslovakia, crushing the reform-minded government of Alexander Dubcek, and attempting to suppress all efforts by citizens in that country to obtain freedom and liberty.

The Communists have tried to destroy the independence of the Czechoslovak sovereign state, and to deny its people the basic human right of self-determination. Nevertheless, the Soviets have been unable to completely eliminate the courageous spirit of the Czechoslovak people and their zealous opposition to Soviet domination. In January 1977, 242 heroic individuals demanded, in the Czechoslovak charter 1977, the restoration of their fundamental civil and political rights. Even though the Communists have responded with trials, prison terms, loss of employment, and denial of entrance into universities, this human rights group still survives today; and its members still choose to fight for their rights, rather than submit to their Communist oppressors.

On the anniversary of this Soviet Day of Shame, we pause to pay tribute to the brave men, women, and children of Czechoslovakia who must daily live under this brutality. We, as Americans, must renew our commitment to taking a strong stand in the defense of the rights of the Czechoslovak people their efforts to determine the course of their own destinies, free from Communist domination.

Mr. Speaker, a statement by the Czechoslovakia National Council of America located in Chicago, on the Soviet invasion of Czechoslovakia, and an article published in the New York Times on February 7, 1982, regarding the fifth anniversary of the charter 1977 human rights movement follows:

CZECHOSLOVAK NATIONAL
COUNCIL OF AMERICA,
Chicago, Ill., August 21, 1982.

FREEDOM IS INDIVISIBLE

On this sad occasion of the fourteenth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(3) violated the principle of self-determination of peoples (Article 1, Section 2);

(4) was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in

the domestic affairs of any state and guaranteeing its independence and sovereignty.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a Day of Soviet Shame in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "the withdrawal of Soviet troops from Czechoslovakia."

[From the New York Times, Feb. 7, 1982]

CZECH HUMAN RIGHTS GROUP MARKS 5TH YEAR

VIENNA, Feb. 6 (Reuters)—The Czechoslovak Charter '77 human rights movement has celebrated its fifth anniversary.

Set up in January 1977 with 242 signatories who called for an exchange of views with the Government over human rights and urged the authorities to abide by their own laws, it has established itself as a factor in Czechoslovak society, although opinions on its significance vary.

However, hopes that it would develop into a large movement have faded. While it could boast a total of 800 signatories just six months after it was set up, in the intervening four and a half years it has managed to add only 400 to the list.

The Government's strong-arm tactics toward the group and divisions within its own ranks have insured that it has remained a tiny minority, though members say it has much more influence than its numbers suggest.

The authorities' constant pressure on the group has also stemmed its flow of documents, statements and appeals through a variety of underground channels from a high of 400 in its first year to a trickle in 1981.

Last September an offshoot of the rights group, the Committee for the Defense of the Unjustly Persecuted, said in a statement reaching Vienna that repression by the Prague authorities, who were worried by events in Poland, had become so severe that it might be forced to cease its activities.

Several leading members of the committee, which publicizes what it calls examples of Government abuse of power and violations of civil rights, are either in prison or subject to criminal proceedings. Eight others have been forced to emigrate.

The crackdown on this group, formed a year after the Charter '77 movement, followed the detention and expulsion last spring of two French citizens accused of trying to smuggle in émiginé literature and money for dissidents.

The movement marked its birthday last month by declaring that it was one of the realities of contemporary life and by announcing the latest in a long line of spokesmen, some of them once-prominent figures in political and cultural life.

One of the best known, former Foreign Minister Jiri Hajek, wrote to the public prosecutor last November to reject charges of subversion against him on the ground they were based on false evidence.

Last month the group issued statements condemning martial law in Poland and declaring support for the day of solidarity with the Polish people organized in several countries on Jan. 31.

The group was founded as the Charter '77 Civil Initiative two months after Czechoslovakia ratified and published international human rights conventions signed 10 years earlier.

Government reaction was swift. Signatories were pilloried as "political shipwrecks," many were subjected to police interrogation and some were arrested.

An anti-Charter '77 signature campaign was quickly organized, and there was a joke circulating that the millionth signatory would get a special prize—a look at the charter.

In October 1979 the Government moved against the group, putting six activists, including the playwright Vaclav Havel, on trial and sending them to prison for long terms.

The nucleus of the original signatories was formed by former members of the Communist Party who lost their positions in the so-called normalization process that followed the 1968 invasion of Czechoslovakia.

The broad spectrum of interests in the movement has been both its weakness—making consensus on Charter documents difficult—and its strength, since it can hardly be accused of being an organized political opposition.

Charter '77 signatories can expect to lose their jobs, forcing them into casual work, and their children are normally barred from going to universities.

During the past year, a debate has been going on in the group between those prepared to sacrifice their livelihoods and those arguing for a lower profile and broader base.●

OPPOSITION TO CONTINUED CONVERSION OF DUAL-STATUS TECHNICIAN UNDER DOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

● Mr. FRANK. Mr. Speaker, I would like to take this opportunity to voice my opposition to the continued conversion of the dual-status technician to full-time military personnel under the Department of Defense. Historically, this program has served a unique role in providing the Reserve Forces with qualified and mobilization-ready individuals who are fully prepared to take part in military action if the need arises. Those who take part in the program serve as civilian technicians in the military during the normal workweek and serve in the Reserves on weekends, receiving annual military training drills and other instruction necessary for remaining mobilization ready.

The test program to convert the civilian positions to full-time military personnel has been underway since 1978, and we have reached a point where a more permanent decision will be considered on the merits of the program. There has been lengthy study of this situation and it now appears that the benefits of the dual-status program heavily outweigh the detrimental and costly effects of a conversion to permanent military personnel. Primary among the failures of the conversion to full-time military personnel is cost.

There have been many studies on this subject and I would like to point to two which conclude that the conversion of the dual-status technician program will result in either no cost savings whatsoever or it will result in an actual increase in costs. The first study, prepared by Management Consultants and Research, determined that no savings would result from this conversion.

The second study, conducted by the American Federation of Government Employees, concluded that there will be an increase of $1.8 million in costs over the amount now spent on civilian technicians in the 514th Military Airlift Wing. I should point out that this represents only a small part of the overall civilian technician force. In fact, there are six wings in the Military Airlift Command which would result in an increase of $12.1 million dollars for this portion of the dual-status program. Furthermore, this estimate for the increase in costs covers only one of four components of the dual-status program.

Mr. Speaker, it appears that the Department of Defense is creating unnecessary havoc in a program which is operating in a fiscally efficient manner. The benefits of eliminating the program are difficult to discern. There will be increased salary costs, retirement benefits, and other privileges accorded to full military personnel which will drive up the cost of maintaining the functions which are currently performed by the civilian technicians. At a time when the taxpayers are being asked to tighten their belts and to make significant sacrifices, it is incomprehensible how the Department of Defense can continue with this conversion process.

Mr. Speaker, I call on my colleagues on the House Appropriations Subcommittee on Defense to terminate this conversion program and to direct our cost-saving efforts into other areas of the defense budget in which tangible results can be achieved without making hard-working American citizens bear the brunt of an ill-conceived plan to eliminate the dual-status program.●

LET'S CUT FRAUD AND ABUSE INSTEAD OF CUTTING THE MOST NEEDY

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Michigan (Mr. CROCKETT) is recognized for 5 minutes.

● Mr. CROCKETT. Mr. Speaker, I recently received an extraordinary communication from my constituents—a scroll, signed by more than 1,500 people, asking this Congress to cease cutting services to the needy, and to instead seek to cut Federal spending by ending the waste, fraud, and abuse in military spending. These people are deeply concerned, Mr. Speaker, about the economic situation in our community and in our country. They see the callousness of this administration being reflected in the outrageous defense budget; in the unwarranted tax cuts of last year; in the inequities of the tax increase we will debate tomorrow; and in the general tenor of the Reagan administration's approach to the needs of the poor.

Mr. Speaker, I only wish there were time in this body to read to you the names of each of the individuals who signed this petition. Perhaps then my colleagues would have some understanding of the depth of feeling in my district, and in others around this country, for the damage being done. As my constituents say in their scroll: "Why not cut the fraud and abuse, instead of cutting the most needy?"

Why not, indeed?●

LEGISLATION DIRECTING DEVELOPMENT AID TO BE TARGETED TO THOSE IN ABSOLUTE POVERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, I am pleased to introduce, along with Congressman PAUL SIMON and others, legislation which directs that at least 50 percent of our development aid be targeted to projects which directly benefit those who live in absolute poverty.

The World Bank defines absolute poverty as "an income level below which a person cannot afford a minimal nutritionally adequate diet plus essential nonfood items." This contrasts with the somewhat better-off "relatively poor" who are identified by the World Bank as those people with an income of less than one-third of the national average. I quote these definitions to give some perspective on how poor "absolutely poor" is. It is estimated that 800 million people, or 40 percent of people in developing nations, live in absolute poverty.

Our fiscal year 1983 development aid budget is expected to be $1.4 billion—this compares with $2.6 billion that we will spend on the economic support fund and $1.4 billion which will be channeled through international institutions, neither of which require that the money be spent on programs that directly serve the needs of the poor. And even though AID's primary mission in administering development aid is to help the poor become more productive, a survey of development aid projects shows that only about one-quarter of the money for this program is currently being used in projects that directly benefit the absolutely and relatively poor. Examples of development aid projects that do not directly benefit the poor are $722,000 to Sierra Leone to collect taxes, $5.6 million for the Government of Mauritania to improve its administrative procedures, electrification in the Philippines where poor people cannot afford to get their houses wired or buy electrical appliances, $5 million for training of Haitian Government officials, aid to medium size Jamaican businesses for purchase of machinery and equipment, and assistance to the interisland shipping project in the Caribbean to improve cargo traffic.

Our bill simply directs that we spend about $700 million, or 9 percent out of our $6 billion nonmilitary foreign aid budget, on programs that directly benefit the poorest people in the world. The only criticism I would hope to hear of this legislation is that it is not a big enough proportion of our budget to be so directed.

I was struck by a 1980 market opinion research poll which showed that 80 percent of Americans believe we should spend more money, or at least not decrease the amount of money, for alleviating hunger. But the same poll also showed that 60 percent feel we should cut foreign aid. And this attitude held by American citizens is reflected in another statistic—the U.S. ranks very low in relation to our GNP in official development aid assistance, but Americans rank second in relation to GNP in donations to private assistance organizations.

It is no wonder, upon doing any analysis of our foreign aid, including food aid, that people do not perceive a direct relationship between the elimination of poverty and hunger, and foreign aid expenditures. The report from the House Appropriations Committee on the fiscal year 1982 foreign assistance bill says, "Despite the new directions legislation and repeated encouragement by this committee, AID has to a large extent been unable to deliver foreign assistance in a manner which involves the poor in the development process." Our economic support fund money goes mainly to Israel and Egypt for balance of payment and other nonpoverty-oriented things. Our food for peace program is generally governed by political considerations, both foreign and domestic, with food currently going to nations such as Egypt and Indonesia, rather than to countries and people with the most need—there are, however, some reform efforts taking place in the food for peace program. And our foreign aid budget also includes $1.4 billion for concessional arms sales to Israel, Egypt, and 14 other nations—the administration's fiscal year 1983 request for this program is $1.9 billion. Some of the arms sales go to repressive governments which are obviously not committed to alleviating poverty and hunger among even their own citizens.

And so I feel this legislation, by directing our development aid to those who most need it, is very much in line with what Americans feel the Government should be doing. We have certainly had, and have, some development aid projects that directly benefit those living in absolute poverty—community water systems in Kenya, credit for small business cooperatives in Upper Volta, public health training for villagers in Cameroon, irrigation for small farm development in Guyana. These are not dead-end efforts, but rather are ones which will improve peoples' ability to provide their own basic needs. With population projections of 4.8 billion people in the developing world by the year 2000, the ability to provide ones own basic needs must be the goal of our development aid. There is no reason why we cannot, even without increasing our development aid budget, assist more people out of poverty and into self-sufficiency. I urge my colleagues to support this legislation, and include for the RECORD a copy of the legislation below:

In carrying out chapter 1 of part 1 of the Foreign Assistance Act of 1961 the President—

(1) In fiscal year 1983 shall attempt to use not less than 40 percent of the funds made available to carry out this chapter, and

(2) In fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 percent of the funds made available to carry out this chapter

To finance productive facilities, goods and services which will expeditiously and directly benefit those living in absolute poverty as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association. Such facilities, goods and services may include, for example, irrigation facilities, extension services, and credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, foods and services shall not include studies, reports, technical advice, consulting services or any other items unless

(1) They are used primarily by those living in absolute poverty themselves, or

(2) They constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty.

Research shall not constitute the major part of such facilities, goods and services.●

REUBIN O'D. ASKEW PROPOSES A NATIONAL SERVICE PROGRAM FOR THE NATION'S YOUTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL), is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, recently the former Governor of Florida, Reubin O'D. Askew delivered an address to the national convention of the Delta Tau Delta Fraternity in St. Louis, Mo.

In his remarks, Governor Askew proposed a program of national service for the Nation's youth which seems to me to make a great deal of sense. His proposal would not only provide needed direction and sense of purpose for our young people, but would result in badly needed services for other segments of our society, particularly in areas which are now being most severely impacted by Federal budget cuts.

I commend the Governor's remarks to our colleagues:

The material follows:

EXCERPTS FROM AN ADDRESS BY REUBIN O'D. ASKEW TO THE NATIONAL CONVENTION OF THE DELTA TAU DELTA FRATERNITY IN ST. LOUIS, MO. ON AUGUST 14, 1982

The world is not as simple today as it seemed when I was young. It is not always easy now for young people to find the opportunities they seek for service to their country. It is not always easy now for them to define their responsibilities to their country, much less to fulfill them.

Young people today face temptations we never faced. They see obstacles we never saw. They have doubts we never had. This is a different world, a much harder world in which to grow up, a much harder world in which to define personal responsibility, a much harder world in which to tell right from wrong.

In this changed world, youth unemployment has reached staggering levels, especially for minorities in the inner cities. Crime and vandalism by young people have increased. Political apathy among young people is widespread. Alcohol and drug use by young people are at disturbing levels. The suicide rate among young people has doubled in the past 20 years.

All this has occurred, not because young people have ceased to care, but rather because they have been left to drift in a confusing world which seems sometimes not to care for them.

This alienation, this aimlessness, this waste of young lives is tragic. And it is tragic most of all because much of it could be avoided. It could be avoided if we found a way to engage young people once again in shaping their own futures by helping to shape the future of this Nation.

Recent polls reveal that today's young people have been misnamed the "me generation." They are not really self-centered at all. In fact, fully one-third of them told Gallup pollsters they would like to go into social services as a career. George Gallup himself called this "an incredible finding."

To me, it is not incredible at all. I have visited every one of the 50 States in our Union this year. I have returned to a number of those States several times. I have spoken with young men and young women throughout America. And I can say with confidence:

Young people today are willing to serve. They want to help others. They want to give something back to a country which has given so much to them. In many instances, they lack only the opportunity to do so.

I believe we should consider providing that opportunity for young people through a comprehensive and affordable program of national service. In this way, we could tap the resources of youth by giving young Americans a chance to participate in the great unfinished work of our democracy.

Such a program should be available to both young men and young women alike. It should provide opportunities for both military and non-military service. And it should allow for some flexibility to accommodate individual needs and desires.

Through national service, we could revive the sense of community that has sometimes seemed diminished in recent years in our national life. Through national service, we could provide the sense of direction, the sense of purpose, the sense of accomplishment, and, perhaps most of all, the sense of belonging that so many young people long for in America. Through national service, we could help fulfill the deep sense of obligation which is evident among the young people I meet every day.

I recall the sense of obligation I felt upon graduating from high school in 1946 and joining the Army paratroopers at the age of 17. Many of us felt that obligation to our country then. And many young Americans feel it just as fervently now.

This obligation could be met in many ways through national service. By defending our country. By rebuilding our neighborhoods and cities. By protecting our environment. By working with the retarded and the handicapped. By caring for children in schools and day care centers and for the elderly in hospitals and nursing homes. By representing America overseas in a revitalized Peace Corps. In these and numerous other ways, young men and young women could serve America, and, in so doing, could give added meaning to their individual lives.●

A BILL TO ASSIST MEALS ON WHEELS OF MONTEREY COUNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I am today introducing legislation designed to assist the Meals on Wheels organization of Monterey County in California. This organization, which has dispensed nutritional services to homebound senior citizens in Monterey County for 10 years, has, because of incorrect tax advice, found itself owing the Internal Revenue Service some $33,000 in back FICA taxes. Because this was completely unintentional, and because Meals on Wheels will probably have to close down if it is forced to make this payment, I am introducing this bill to relieve the organization of its debt to the IRS and to provide it with the FICA tax exemption that is normally available to nonprofit organizations.

Under current law, a nonprofit organization such as Meals on Wheels has the option to declare whether or not its employees will participate in the social security system. If there is an election to participate, the organization is obligated to withhold the employees' share of the FICA tax as well as to pay its own share of the tax.

When the organization was founded in 1972, it apparently filed a waiver of its exemption for participation and paid taxes on some employees through 1975. However, around that time, Meals on Wheels hired a new accountant, who mistakenly informed the organization that it was exempt from social security texes. At that point, Meals on Wheels stopped reporting and withholding for FICA taxes, and no payment has been made to the IRS for FICA taxes since that time.

The Internal Revenue Service now proposes to assess Meals on Wheels for FICA taxes from 1976 on, an amount which stands at more than $33,000 and which, naturally, continues to rise. As my colleagues are well aware, an obligation of that size is beyond the capacity of the average Meals on Wheels program to pay.

The law permits an organization to apply for a reinstatement of its exemption from FICA taxes with 2 years' advance notice if the waiver has been in effect for 8 years. But even if Meals on Wheels were granted an exemption now, it would still owe the same amount of money in back taxes.

I do not subscribe to the argument that any taxpayer who receives incorrect tax advice from a private source should not be obligated to pay for mistakes based on that bad advice. However, this is a unique case. Meals on Wheels is a charitable organization which provides vital assistance to homebound senior citizens. It could have, had it chosen, avoided obligation for these tax payments, and it will almost certainly have to shut down if it does not receive an exemption. I believe the Congress would be fully justified in relieving Meals on Wheels of Monterey County of any obligation for the past FICA tax payments and providing it with the exemption to which it is entitled as a nonprofit organization.

My bill provides that exemption and relieves the organization of its FICA tax obligation. It is my hope that we can act swiftly on this measure to end any doubt about the status of this important community organization.

Mr. Speaker, at this point in the RECORD I would like to insert the text of my bill:

H.R. 7018

A bill for the relief of Meals on Wheels of the Monterey Peninsula, Inc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) with respect to service performed in its employ after 1975, Meals on Wheels of the Monterey Peninsula, Inc., shall not be considered to have filed (under section 3121(k)(1) of the Internal Revenue Code of 1954) or to have filed constructively (under section 3121(k) (4) or (5) of such Code) a certificate waiving its exemption from payment of taxes imposed by chapter 21 of such Code.

(b) Meals on Wheels of the Monterey Peninsula, Inc., and any individual in its employ before the date of the enactment of this Act are relieved of all liability to the United States for the payment of unpaid taxes imposed by chapter 21 of the Internal Revenue Code of 1954 (and any interest or penalty assessed or accrued on such taxes) with respect to service performed in the employ of Meals on Wheels of the Monterey Peninsula, Inc., before such date.●

THE CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982

(Mr. ALBOSTA asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ALBOSTA. Mr. Speaker, today I am introducing the Crime Control and Victims' Compensation Act of 1982.

This legislation addresses several basic problems in the criminal justice system by providing a sure sentence for certain types of serious offenders; by providing that these offenders work to pay for their keep and to compensate their victims for the harm they have suffered; and by helping States to care for victims of crimes not specifically covered in this bill.

We hear over and over about crimes committed by repeat offenders who are out on parole or released after light sentences. We hear that this is due in part to a lack of prison space and in part to a lack of clear and direct guidance from those who write the laws. We also know that the poor and the elderly, those who can least afford to be victims of crime, are its most frequent victims. The impact of crime is not just local and not just personal. Crime raises insurance rates and the prices of goods for all of us. It raises the overall costs of government at every level. The longer we fail to deal with serious and repeating offenders, the more they are encouraged to strike again. Yet it is not enough just to lock the door and throw away the key. Unless we provide for the innocent victims of crime then justice is not done even if we punish for past crimes and prevent future crimes.

In light of these concerns and the increasingly interstate nature of crime and its impact, I believe it is time for the Congress to take the initiative. The Crime Control and Victims' Compensation Act would create a Federal Mandatory life sentence for three of the most serious classes of offenders. These are: Persons who commit first degree murder with a weapon; those who commit three felonies while carrying a gun; and those who sell $500 or more worth of controlled substances. This sentence would be applied to those who violate either State or Federal law.

The bill requires that these offenders work to pay for their keep and to compensate victims. A recent poll of my district shows that of those responding, 93 percent favor requiring criminals to pay back victims of crime and to perform public service jobs.

In order to provide facilities for housing and employing these prisoners, my bill authorizes the Attorney General to issue bonds to pay for any construction needed. This section completes title I, concerning Federal prisons and criminal law.

Title II was approved by the Judiciary Committee of the House in February 1980. It provides grants to States with programs to compensate victims. This would cover most crimes not covered by title I.

This is a criminal justice bill that offers greater protection for every citizen. A summary and a section-by-section review follow:

CRIME CONTROL AND VICTIMS' COMPENSATION ACT OF 1982—SUMMARY

In light of the fact that serious and repeated offenses have an impact on every sector of society, including interstate commerce, through increased insurance rates, public health expenditures, judicial time and expense, and the general mental and physical well-being of the victims, the community, and the nation, I have drafted legislation to correct some of the most basic problems in our criminal justice system.

The key elements of my bill are provisions to:

(1) Sentence 1st Degree murderers and certain 3-time felons to life imprisonment without parole;

(2) Compensate victims or their families for harm done; and

(3) Make the guilty persons work to pay for their keep and for victims' compensation.

SECTION-BY-SECTION SUMMARY

TITLE I—FEDERAL SENTENCES

Sec. 101. Whoever commits a homicide with a weapon, if that homicide is punishable by life imprisonment under state or Federal law, then that person shall be subject to a mandatory life sentence in a Federal prison without parole.

Sec. 102. Whoever carries a firearm while committing each of three felonies shall be imprisoned for life in Federal prison without parole.

Sec. 103. Whoever sells on three or more occasions $500 worth of controlled substances shall be imprisoned for life without parole.

Sec. 104(a). Each person imprisoned under the terms of this Act shall be employed for pay with half of the pay going to the victim(s), and half going to cover the costs of imprisoning the offender. After the victims are compensated, that half of the prisoner's pay shall be deposited in a fund to compensate victims who would otherwise not be compensated.

(b). The Attorney General is authorized to issue bonds to finance the construction of facilities necessary to provide suitable employment for convicted persons.

TITLE II—VICTIM COMPENSATION

Sec. 201. This Title may be cited as the "Victims of Crime Act of 1982".

Sec. 202. The Attorney General shall make annual grants to states with qualifying programs for compensation of victims of crime.

Sec. 203. There is established an Advisory Committee of state officials appointed by the Attorney General which shall advise the Attorney General with respect to the compensation of victims.

Sec. 204. Criteria for qualifying for grants.—State programs must include the following:

(1) Compensation for personal injury or death;

(2) Applicant victims must cooperate with the law; enforcement authorities with respect to the crime;

(3) Conviction is not necessary for compensation from the fund;

(4) Proceeds from books or interviews about the crime are deposited in compensation fund until victim is compensated.

Sec. 205. Federal Grants limited to actual cost of compensation for injuries or death and directly related expenses.

Sec. 206. Attorney General to report on progress of program to Congress.

Sec. 207. Definitions.

Sec. 208. Authorizes 15, 25, and 35 million dollars for grants to states over the next three years.

LEAVE OF ABSENCE

By unanimous consent, leave of absense was granted to:

Mr. CHAPPELL, in his own behalf for August 18, on account of business in his district.

Mr. YOUNG of Florida for today prior to 11:15 a.m., on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. DENARDIS, for 30 minutes.

Mr. DORNAN of California, for 15 minutes, today.

(The following Members (at the request of Mr. HERTEL) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. MICA, for 60 minutes, today.

Mr. FRANK, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. DASCHLE, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr HANSEN of Idaho, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,190.

(The following Members (at the request of Mr. BROWN of Colorado) and to include extraneous matter:)

Mr. BROOMFIELD in two instances.
Mr. MCKINNEY.
Mr. SHUMWAY.
Mr. WEBER of Ohio.
Mr. COUGHLIN.
Mr. LOWERY of California.
Mr. ERDAHL.
Mr. PORTER.
Mrs. MARTIN of Illinois.
Mr. DAUB.
Mr. DERWINSKI in three instances.
Mr. LEBOUTILLIER.
Mr. GREEN.
Mr. SMITH of New Jersey in three instances.
Mr. PHILIP M. CRANE.
Mr. COLLINS of Texas in two instances.
Mr. CORCORAN.
Mr. JAMES K. COYNE in two instances.
Mr. WOLF.

(The following Members (at the request of Mr. HERTEL) and to include extraneous matter:)

Mr. FUQUA in five instances.
Mr. RANGEL in two instances.
Mr. CROCKETT.
Mr. MOFFETT.
Mr. ALBOSTA.
Mr. FAUNTROY.
Mr. MCHUGH.
Mr. SIMON.
Mr. CORRADA.
Mr. HAMILTON.
Mr. SCHUMER.
Mr. SKELTON.
Mr. STUDDS.
Mr. UDALL.
Mr. MAZZOLI.
Mr. DORGAN of North Dakota.
Mr. PEYSER.
Mr. WYDEN.
Mr. ROSENTHAL.
Mr. STARK in three instances.
Mr. MCDONALD in two instances.
Mr. AUCOIN.
Mr. GUARINI in two instances.
Mr. WILLIAMS of Montana.
Mr. MARKEY.
Mr. KASTENMEIER.
Mr. OBEY.
Mr. FAZIO.
Mr. LEHMAN.
Mr. FRANK.

(The following Members (at the request of Mr. HERTEL) and to include extraneous matter:)

Mr. HUBBARD.
Mr. BONKER in two instances.
Mr. TRAXLER.
Mr. FOLEY.
Mr. PEASE.
Mr. NICHOLS.
Mr. SWIFT.
Mr. ZABLOCKI.
Ms. OAKAR.

ADJOURNMENT

Mr. ALBOSTA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, August 19, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4610. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of transfers of funds appropriated to the Department of Defense, pursuant to section 733 of Public Law 97-114; to the Committee on Appropriations.

4611. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Spain (Transmittal No. 82-34), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4612. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment and services to Spain (Transmittal No. 82-34), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4613. A letter from the Executive Director, National Advisory Committee on Oceans and Atmosphere, transmitting a report on fisheries for the future, pursuant to section 4 of Public Law 95-63; to the Committee on Merchant Marine and Fisheries.

4614. A letter from the Director, National Science Foundation, transmitting the report on "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions, Fiscal Year 1980," pursuant to National Science Foundation Act of 1950, as amended; to the Committee on Science and Technology.

4615. A letter from the Comptroller General of the United States, transmitting a report on the Federal laws and the regulatory supervision for approving bank mergers, pursuant to the Federal Banking Agency Audit Act (31 U.S.C. 67), (GAO/GGD-82-53, August 16, 1982); jointly, to the Committees on Government Operations and Banking, Finance and Urban Affairs.

4616. A letter from the Administrator, National Oceanic and Atmospheric Administration, transmitting the report on the 5-year deep seabed mining environmental plan for the years 1981-85, pursuant to section 109 of Public Law 96-283; jointly, to the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, Science and Technology, and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6838. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982 (Rept. No. 97-762). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 569. Resolution providing for the consideration of the conference report on H.R. 4961, to make miscellaneous changes in the tax laws, and for other purposes (Rept. No. 97-763). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. House Joint Resolution 562. Joint resolution making an urgent supplemental appropriation for the Department of Labor for the fiscal year ending September 30, 1982; with an amendment (Rept. No. 97-764). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. FUQUA: Committee on Science and Technology. H.R. 4281. A bill entitled "Critical Materials Act of 1981"; with amendments; referred to the Committee on Armed Services for a period ending not later than September 22, 1982, for consideration of such portions of the bill and amendment as fall within its jurisdiction pursuant to clause 1(c), rule X (Rept. No. 97-761, Pt. I). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALBOSTA:

H.R. 7001. A bill to amend title 18 of the United States Code to provide additional penalties for certain criminal conduct, to provide assistance to State programs of compensation for crime victims, and for other purposes; to the Committee on the Judiciary.

By Mrs. ASHBROOK:

H.R. 7002. A bill to impose mandatory sentences for violent felonies committed against individuals of age 65 or over, and for other purposes; to the Committee on the Judiciary.

By Mr. CONTE (for himself, Mr. BOLAND, Mr. EARLY, Mr. FRANK, Mr. SHANNON, Mr. MAVROULES, Mr. MARKEY, Mr. MOAKLEY, Mrs. HECKLER, Mr. DONNELLY, Mr. STUDDS, Mrs. KENNELLY, Mr. GEJDENSON, Mr. DENARDIS, Mr. MCKINNEY, Mr. RATCHFORD, Mr. D'AMOURS, Mr. GREGG, Mr. JEFFORDS, and Mr. MOFFETT):

H.R. 7003. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the resto-

ration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on Merchant Marine and Fisheries.

By Mr. EDGAR (for himself and Mr. WOLPE):

H.R. 7004. A bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act; to the Committee on Ways and Means.

By Mr. FAZIO:

H.R. 7005. A bill to amend the Federal Seed Act with respect to prohibitions relating to interstate commerce in seed mixtures intended for lawn and turf purposes and prohibitions relating to importation of certain seeds, and for other purposes; to the Committee on Agriculture.

By Ms. FIEDLER:

H.R. 7006. A bill to amend the Trade Act of 1974 to provide for congressional initiation of actions to respond to unfair foreign trade practices, and for other purposes; to the Committee on Ways and Means.

H.R. 7007. A bill to amend the Internal Revenue Code of 1954 to extend the credit for the employment of certain new employees, to include as a targeted group for purposes of such credit certain individuals who have exhausted their rights to unemployment benefits, and for other purposes; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 7008. A bill to clarify the taxation of cooperative apartments; to the Committee on Ways and Means.

H.R. 7009. A bill entitled: "The Cooperative Apartment Tax Act"; to the Committee on Ways and Means.

By Mr. LEBOUTILLIER:

H.R. 7010. A bill to protect communications among Americans from interception by foreign governments, and for other purposes; jointly, to the Committees on the Judiciary and the Permanent Select Committee on Intelligence.

By: Mr. LONG of Maryland:

H.R. 7011. A bill to prohibit U.S. Government financial assistance and exports of agricultural commodities and high technology to Soviet bloc countries, to require the United States to oppose assistance by the World Bank and International Monetary Fund to Communist bloc countries, and to require approval and justification for extensions of credit by banks to Communist bloc countries, until there is an agreement between the United States and the Soviet bloc countries on stabilizing nuclear and conventional arms; jointly, to the committees on Banking, Finance and Urban Affairs and Foreign Affairs.

By Mr. SIMON:

H.R. 7012. A bill to amend chapter 1 of the Foreign Assistance Act of 1961 to provide that no less than 50 percent of the funds made available through this chapter shall directly benefit those living in absolute poverty; to the Committee on Foreign Affairs.

By Mr. SWIFT (for himself, Mr. FOLEY, Mr. ANNUNZIO, Mr. STOKES, Mr. OTTINGER, Mr. HORTON, Mr. FORSYTHE, AND MR. TAUKE):

H.R. 7013. A bill to promote fairness and equity in used motor vehicle sales by permitting buyers to return the vehicles to dealers from whom the vehicles are purchased within 3 days after the date of purchase; to the Committee on Energy and Commerce.

By Mr. WIRTH (for himself, Mr. ASPIN, Mr. BEDELL, Mr. BEILENSON, Mr. BENJAMIN, Mr. BONIOR of Michigan, Mr. BONKER, Mr. COELHO, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DINGELL, Mr. DONNELLY, Mr. DOWNEY, Mr. EDGAR, Mr. FAZIO, Ms. FERRARO, Mr. FITHIAN, Mr. FLIPPO, Mr. FLORIO, Mr. FOWLER, Mr. FRANK, Mr. FROST, Mr. GEJDENSON, Mr. GEPHART, Mr. GIBBONS, Mr. GLICKMAN, Mr. GORE, Mr. GRAY, Mr. SAM B. HALL, Jr. Mr. HANCE, Mr. HEFNER, Mr. HOLLAND, Mr. HOYER, Mr. HUGHES, Mr. JONES of Oklahoma, Mr. KOGOVSEK, Mr. LEATH of Texas, Mr. LELAND, Mr. LONG of Louisiana, Mr. MCHUGH, Mr. MARKEY, Mr. MATTOX, Mr. MOTTL, Mr. MINETA, Mr. NELSON, Mr. OBERSTAR, Mr. OBEY, Mr. OTTINGER, Mr. PANETTA, Mr. PERKINS, Mr. RATCHFORD, Mr. ROSE, Mr. SABO, Mr. SCHEUER, Mr. SHARP, Mr. STARK, Mr. STENHOLM, Mr. SWIFT, Mr. SYNAR, Mr. WALGREN, Mr. WATKINS, Mr. WAXMAN, Mr. WEISS, Mr. WOLPE, and Mr. WYDEN):

H.R. 7014. A bill to establish a Commission on Capital Markets to evaluate Federal and State regulation of financial and investment institutions and other financial intermediaries, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. BEARD (for himself, Mr. LEBOUTILLIER, Mr. NELLIGAN, Mr. MONTGOMERY, Mr. DERWINSKI, Mr. EMERY, and Mr. ROBINSON):

H.R. 7015. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to minimize the release of sensitive U.S. technology with military applications while improving the efficiency of export regulation, and for other purposes; to the Committee of Foreign Affairs.

By Mr. SAM B. HALL, JR.:

H.R. 7016. A bill to amend sections 2733, 2734, and 2736 of title 10, United States Code, and section 715 of title 32, United States Code, to increase the maximum amount of a claim against the United States that may be paid administratively under those sections and to allow increased delegation of authority to settle and pay certain of those claims, and for other purposes; to the Committee on the Judiciary.

By Mr. RAHALL:

H.R. 7017. A bill to amend the Trade Act of 1974 regarding the trade adjustment assistance available to iron and steel workers and certain coal miners, and for other purposes; jointly, to the Committees on Ways and Means and Education and Labor.

By Mr. GREGG (for himself, Mr. STUMP, Mr. NATCHER, and Mr. HORTON):

H.J. Res. 583. Joint resolution designating the week of October 10 through October 16, 1982, as "Freedom Week USA"; to the Committee on Post Office and Civil Service.

By Mrs. FENWICK:

H.J. Res 584. Joint resolution designating October 5, 1982, as "Raoul Wallenberg Day"; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE (for himself, Mr. SOLOMON, Mr. ROUSSELOT, Mr. HARTNETT, Mr. LEE, Mr. CRAIG, Mr. PAUL, Mr. SHUSTER, Mr. WALKER, Mr. SMITH of Oregon, Mr. DANNEMEYER, Mr. CARNEY, Mr. STUMP, Mr. LIVINGSTON, Mr. JEFFRIES, Mr. MCDONALD, Mr. DANIEL B. CRANE, Mr. BADHAM, Mr. PHILIP M. CRANE, Mr. HUNTER, and Mr. YOUNG of Alaska):

H. Res. 570. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to the People's Republic of China; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. PANETTA introduced a bill (H.R. 7018) for the relief of Meals on Wheels of the Monterey Peninsula, Inc.; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 18: Mr. EVANS of Delaware.

H.R. 65: Mr. LONG of Maryland and Mr. LANTOS.

H.R. 1331: Mr. SIMON and Mr. MARRIOTT.

H.R. 2954: Mr. WRIGHT.

H.R. 3021: Mr. CHAPPELL.

H.R. 3172: Mr. FRENZEL.

H.R. 3268: Mr. PATMAN.

H.R. 4059: Mr. TAUKE.

H.R. 4427: Mr. TRIBLE.

H.R. 4535: Mr. MINETA.

H.R. 4572: Mr. WRIGHT and Mr. ROGERS.

H.R. 5044: Mr. MATSUI and Mr. ZEFERETTI.

H.R. 5045: Mr. MATSUI.

H.R. 5046: Mr. MATSUI and Mr. ZEFERETTI.

H.R. 5047: Mr. MATSUI.

H.R. 5048: Mr. MATSUI.

H.R. 5507: Mr. GUNDERSON, Mr. COURTER, Mr. KRAMER, and Mr. TRAXLER.

H.R. 5738: Mr. MCHUGH and Mr. MINETA.

H.R. 5797: Mr. WEAVER.

H.R. 5897: Mr. BARNARD, Mr. BONKER, Mr. BRINKLEY, Mr. CAMPBELL, Mr. CHAPPELL, Mr. CHAPPIE, Mr. DE LA GARZA, Mr. DERRICK, Mr. DERWINSKI, Mr. ERLENBORN, Mr. EVANS of Georgia, Mr. FAZIO, Mr. FOWLER, Mr. FUQUA, Mr. GIBBONS, Mr. GINGRICH, Mr. GINN, Mr. HARTNETT, Mr. HATCHER, Mr. HEFNER, Mr. HUTTO, Mr. JENKINS, Mr. LANTOS, Mr. MARRIOTT, Mr. MITCHELL of Maryland, Mr. MURPHY, Mr. NAPIER, Mr. NELSON, Mr. ROSE, Mr. SUNIA, Mr. WHITLEY, Mr. WILSON, and Mr. ZABLOCKI.

H.R. 5950: Mr. MINETA.

H.R. 6009: Mr. PARRIS.

H.R. 6048: Mr. SCHUMER, and Mr. SOLOMON.

H.R. 6077: Mr. HALL of Ohio, Mr. SABO, Mr. ERTEL, Mr. DONNELLY, Mr. MOTTL, and Mr. MARTINEZ.

H.R. 6124: Mr. GUARINI.

H.R. 6170: Mr. AUCOIN, and Mr. BENNETT.

H.R. 6202: Mr. AKAKA, Mr. BARNES, Mr. BEDELL, Mr. BEILENSON, Mr. BINGHAM, Mr. BRODHEAD, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mrs. COLLINS of Illinois, Mr. CONYERS, Mr. D'AMOURS, Mr. DELLUMS, Mr. DOWNEY, Mr. DWYER, Mr. DYMALLY, Mr. EDGAR, Mr. EDWARDS of California, Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr. FISH, Mr. FRANK, Mr. GEJDENSON, Mr. GRAY, Mr. HARKIN, Mr. HORTON, Mr. HUGHES, Mr. JEFFORDS, Mr. KASTENMEIER, Mr. LELAND, Mr. MCCOLLUM, Mr. MCHUGH, Mr. MCKINNEY, Mr. MARKEY, Mr. MATSUI, Mr. MINETA, Mr. MOLLOHAN, Mr. OBERSTAR, Mr. PANETTA, Mr. PEPPER, Mr. RATCHFORD, Mr. RICHMOND, Mr. RODINO, Mr. ROSENTHAL, Mr. ROTH, Mr. ROYBAL, Mr. SABO, Mr. SCHEUER, Mrs. SCHNEIDER, Mr. SEIBERLING, Mr. SHARP, Mr. SHAW, Mrs. SNOWE,

Mr. STARK, Mr. STUDDS, Mr. SUNIA, Mr. SWIFT, Mr. SYNAR, Mr. TRAXLER, Mr. UDALL, Mr. WASHINGTON, Mr. WAXMAN, Mr. WEAVER, Mr. WEISS, Mr. WILLIAMS of Montana, Mr. WIRTH, Mr. WOLPE, Mr. WYDEN, Mr. YOUNG of Florida, and Mr. ZABLOCKI.

H.R. 6321: Mr. COURTER.

H.R. 6429: Mr. LOWRY of Washington.

H.R. 6467: Mrs. KENNELLY, Mr. DONNELLY, Mr. BOWEN, Mr. MOFFETT, Mr. SIMON, Mr. REGULA, Mr. GAYDOS, Mr. SHAW, Mr. EMERSON, Mr. MCCURDY, Mr. FORD of Tennessee, Mr. EVANS of Indiana, Mr. HILLIS, and Mr. SHANNON.

H.R. 6526: Mr. APPLEGATE.

H.R. 6527: Mr. APPLEGATE.

H.R. 6676: Mr. WON PAT, Mr. MARKEY, Mr. CORRADA, Mr. MOTTL, Mr. STOKES, Mr. ADDABBO, Mr. DOUGHERTY, Mr. BEARD, Mr. FROST, Mr. EDGAR, Mr. SUNIA, Ms. MIKULSKI, Mr. HUGHES, Mr. DAN DANIEL, Mr. CONYERS, Mr. MITCHELL of Maryland, and Mr. SANTINI.

H.R. 6767: Mr. ROE, Mr. DUNN, Mr. CORRADA, Mr. DAVIS, Mr. ECKART, Mr. SMITH of Pennsylvania, Mr. MITCHELL of Maryland, Mr. FOGLIETTA, Mr. EDGAR, Mr. SHAMANSKY, Mr. SEIBERLING, Mr. KILDEE, Mr. PORTER, and Mr. DOUGHERTY.

H.R. 6794: Mrs. SNOWE.

H.R. 6821: Mr. FORSYTHE, Mr. MORRISON, Mr. WEAVER, and Mr. PATMAN.

H.R. 6864: Mr. MATSUI, Mr. CLAUSEN, Mr. WOLF, Mr. LOEFFLER, Mr. DOUGHERTY, Mr. OBERSTAR, Mr. JONES of North Carolina, Mr. YOUNG of Alaska, Mr. BAILEY of Pennsylvania, Mr. MCDONALD, Mr. MITCHELL of New York, Mr. PARRIS, Mr. PEPPER, Mr. FORSYTHE, Mr. FORD of Tennessee, Mr. JACOBS, and Mr. WHITEHURST.

H.R. 6938: Mr. SMITH of Iowa, Mr. DWYER, Mr. SAM B. HALL, JR., Mr. MURPHY, and Mr. DYMALLY.

H.R. 6972: Mr. CORCORAN.

H.J. Res. 25: Mr. PATMAN.

H.J. Res. 31: Mr. PATMAN.

H.J. Res. 467: Mr. OTTINGER, Mr. BEDELL, Mr. BETHUNE, Mrs. BOUQUARD, Mr. BROWN of Ohio, Mr. BROWN OF COLORADO, Mr. BROYHILL, Mr. DWYER, Mr. FOGLIETTA, Mr. FRANK, Mr. FRENZEL, Mr. GINGRICH, Mr. MARKEY, Mr. MILLER of California, Mr. NEAL, Mr. OBERSTAR, Mr. ROEMER, Mr. TAUKE, Mr. WEAVER, Mr. WEBER of Ohio, and Mr. WEBER of Minnesota.

H.J. Res. 493: Mr. ROBINSON, Mr. TAUZIN, Mr. SNYDER, and Mr. RITTER.

H.J. Res. 552: Mr. SCHEUER and Mr. DONNELLY.

H.J. Res. 564: Mr. SHELBY, Mrs. COLLINS of Illinois, Mr. MITCHELL of New York, Mr. HOWARD, Mr. GORE, Mr. FISH, Mr. YOUNG of Florida, Mr. MCHUGH, Mr. HANCE, Mr. DOWDY, Mr. FOGLIETTA, Mr. WILLIAMS of Ohio, Mr. LOWERY of California, Mr. KEMP, Mr. HYDE, Mr. SUNIA, Mr. RODINO, Mr. DE LA GARZA, Mr. PEYSER, Mr. EVANS of Indiana, Mr. MARKEY, Mr. GRADISON, Mr. LANTOS, Mr. NELLIGAN, Mr. BENJAMIN, Mr. O'BRIEN, Mr. MOLINARI, Mr. PATMAN, Mr. JOHN L. BURTON, Mr. RATCHFORD, Mr. LEWIS, Mr. GEJDENSON, Mr. BEARD, Mr. RAHALL, Mr. ROBINSON, Mr. RUDD, Mr. TRAXLER, and Mr. AUCOIN.

H. Con. Res. 332: Mr. WOLPE and Mr. WILLIAMS of Ohio.

H. Con. Res. 378: Mr. PORTER.

H. Res. 506: Mrs. HECKLER, Mr. ADDABBO, Mr. KRAMER, Mr. LAGOMARSINO, Mr. WON PAT, Mr. LANTOS, Mr. CONTE, Mr. BEILENSON, Mr. BENJAMIN, Mr. ROSENTHAL, Mr. PORTER, Mr. LEBOUTILLIER, Mr. SHAW, Mrs. FENWICK, Mr. FORD of Tennessee, Mr. ARCHER, Mr. EDGAR, Mr. EDWARDS of Oklahoma, Mr. BINGHAM, Mr. ALBOSTA, Mr. FRANK, Mr. CORCORAN, Mr. WYDEN, Mr. SCHUMER, Mr. DERWINSKI, Mr. DOUGHERTY, Mr. YATES, Mr. FROST, and Mr. MINETA.

H. Res. 558: Mr. STOKES and Mr. BONKER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3496: Mr. GARCIA.

H. Con. Res. 297: Mr. RAHALL.

PETITIONS, ETC.

Under clause 1 of rule XXII,

569. The SPEAKER presented a petition of Roof Mechanics, Inc., relative to Federal tax limitation/balanced budget amendment; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5540

By Mr. COURTER:

(To the amendment offered by Mr. BETHUNE)

—At the end of the amendment proposed by the gentleman from Arkansas add the following new section:

SEC. 2. The Secretary of Defense shall, within one year after the date of enactment of this Act, submit to each House of Congress a report containing any recommendations of the Secretary with respect to improvement in the defense industrial base of the United States through programs and policies established by the Defense Production Act of 1950.

EXTENSIONS OF REMARKS

TARGETED DEVELOPMENT AID AMENDMENT

HON. PAUL SIMON
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SIMON. Mr. Speaker, today, on behalf of myself and my colleagues, Representatives, GILMAN, JIM COYNE, ERDAHL, HALL, and STATON, I am introducing the targeted development aid amendment.

This language would require that 50 percent of all money appropriated under the Foreign Assistance Act would have to be spent on goods and services which directly benefit those in developing countries living in absolute poverty. This policy represents a direction in our foreign aid programs that many of us support. In fact, the language from the targeted development aid amendment comes directly from a provision in H.R. 4588, the Hunger Prevention and African Food Security Act sponsored by Mr. GILMAN. That bill has over 100 cosponsors, from both sides of the aisle, and includes 17 members of the Foreign Affairs Committee. While we do not have a legislative vehicle yet for this targeted development aid amendment, it is of such importance to the future of our foreign aid programs that we put it before the House for your consideration and comment.

Mr. Speaker, from all accounts we are seriously deficient in targeting our foreign aid programs on those who are really poor and could benefit greatly from economic assistance. The concerns that those of us supporting this language have are well expressed in testimony presented yesterday by Dr. Ernest Loevinsohn, on behalf of Bread for the World, an organization long involved in the fight to eliminate world hunger. I am submitting a copy of Dr. Loevinsohn's testimony as well as the language of the proposed targeted development aid amendment for your consideration.

TARGETED DEVELOPMENT AID AMENDMENT

In carrying out chapter 1 of part 1 of the Foreign Assistance Act of 1961 the President—

(1) in fiscal year 1983 shall attempt to use not less than 40 per cent of the funds made available to carry out this chapter, and

(2) in fiscal year 1984 and each fiscal year thereafter, shall use not less than 50 per cent of the funds made available to carry out this chapter,

to finance productive facilities, goods and services which will expeditiously and directly benefit those living in absolute poverty as determined under the standards for absolute poverty adopted by the International Bank for Reconstruction and Development and the International Development Association. Such facilities, goods and services may include, for example, irrigation facilities, extension services, and credit for small farmers, roads, safe drinking water supplies, and health services. Such facilities, foods and services shall not include studies, reports, technical advice, consulting services shall not include studies, reports, technical advice, consulting services or any other items unless (1) they are used primarily by those living in absolute poverty themselves, or (2) they constitute research which produces or aims to produce techniques, seeds, or other items to be primarily used by those living in absolute poverty.

Research shall not constitute the major part of such facilities, goods and services.

PREPARED STATEMENT OF DR. ERNEST LOEVINSOHN, ISSUE ANALYST, BREAD FOR THE WORLD, BEFORE THE COMMITTEE ON FOREIGN AFFAIRS, AUGUST 17, 1982

Mr. Chairman, I am glad to appear before this distinguished committee today to discuss the impact of United States development aid on the poorest people. I will be presenting Bread for the World's views on this topic, with particular reference to legislation now before Congress.

As you may know, Bread for the World is a Christian citizens' movement which seeks to alleviate hunger by influencing public policy. We have members in every Congressional District, with a total of about 41,000 members nation-wide.

Mr. Chairman our research indicates that in the great majority of cases the people who receive goods and services financed by U.S. bilateral development aid are not the poor. Bread for the World studied the project budgets of 40 randomly selected[1] projects from among the 422 A.I.D. development aid projects begun in fiscal 1980 and fiscal 1981. In this sample under 25 percent of A.I.D. expenditures went to finance goods and services used primarily by the poor. Poor persons were defined as those who would be classified as absolutely or relatively poor by World Bank standards. A.I.D. relies heavily on a top-down strategy, claiming that goods and services supplied to the non-poor will result in benefits for the poor.

[1] Projects were selected randomly within each fiscal year, except that projects for which project papers were not on file were excluded from the sample.

The top-down approach has two main variants which could be called the orthodox trickle-down approach and the bureaucratic trickle-down approach. I would like to briefly examine each of these and contrast them with a third approach, namely the direct approach to benefiting the poor.

THE ORTHODOX TRICKLE-DOWN APPROACH

Under the orthodox trickle-down approach development aid is used to promote overall economic growth. It is often acknowledged that the factories and highways built with development aid funds will not benefit the poor directly, but it is claimed that the benefits of the economic growth produced by these projects will trickle down to the poor, thus reducing the extent of deprivation.

The orthodox trickle-down approach was heavily discredited by the early 1970's. In 1973 as you know Congress passed the New Directions aid reforms which turned U.S. development aid away from the orthodox trickle-down approach. However, the current A.I.D. leadership is reviving this approach.

For example in the fiscal 1983 program and budget guidance cable to A.I.D. missions A.I.D. Administrator McPherson set out his ten main priorities. Delivering aid to the poor was not mentioned; instead McPherson stressed the importance of overall economic growth.

The priorities set out by McPherson are being translated into project funding decision. Many new projects are being approved which seek to produce general economic growth, rather than attempting to channel benefits to the poor. Examples include the $8 million program to assist private businesses in Africa (A.I.D. project 698-0438) and the $5 million program to promote hydroelectric projects in Central America (project number 596-0106).

A few years ago attacking the orthodox trickle-down strategy would have been flogging a dead horse. However in view of corrent A.I.D. policies it is worthwhile to ask "How effective was the orthodox trickle-down approach in benefiting the poor?"

The track record of this approach in providing benefits to the poor is not a good one. Some trickling down of the benefits of economic growth did occur, but often the poor benefited so little that the extent of deprivation was not reduced. For example in Latin America the number of people receiving less than 80 percent of the required calories increased by 25 percent between the mid 196?'s and the early 1970's despite high rates of economic growth. As one looks at economic growth success stories one sees that in many cases the poor were left out. In the Ivory Coast for example economic growth averaged about 8 percent per annum through the 1950's and 1960's. Despite this spectacular record and despite some trickling down of benefits extreme deprivation remained widespread. Even today average life expectancy in the Ivory Coast is several years less than in much poorer countries such as Tanzania which have paid more attention to the basic needs of their citizens.

It is not just that the orthodox trickle-down strategy happens to have a bad record. Even when it succeeds in producing across-the-board growth it is an inherently inefficient method of benefiting the poor. The reason is that in across-the-board economic growth, that is, growth where each household's income rises by the same percentage, the great majority of the benefits will go to the relatively prosperous. This is because the poorest 60 percent of households in developing countries generally have less than one-third of total household income. Therefore if every household's income rises by the same proportion less than one-third of the extra income will go to the bottom 60 percent of households. More than half of the extra income would typically go to the top 20 percent of households. Thus across-the-board economic

growth tends to benefit the elite much more than the poor majority.

The only way to benefit the poor majority more than the elite is to achieve targeted economic growth, growth such that the income of poor households rises by a substantially higher percentage than the income of more affluent households. But the orthodox trickle-down strategy has no mechanism for achieving this targeted growth. On the contrary, it tends to increase the income of the better-off households (the direct beneficiaries of trickle-down aid) at a higher rate than the income of poorer households.

In sum, the pay-off from aid investments directed by the orthodox trickle-down strategy will mainly be in the form of benefits to the relatively prosperous. At best, the poor majority will get a fraction of the benefits.

In view of the demonstrated ineffectiveness of the orthodox trickle-down approach in producing benefits for the poor it is distressing to see A.I.D. giving new emphasis to this approach.

THE BUREAUCRATIC TRICKLE-DOWN APPROACH

Although the orthodox trickle-down approach has been gaining ground, it is not as prevalent in A.I.D.'s project portfolio as the bureaucratic trickle-down approach. Under this approach aid is provided to government agencies, with the claim that the ultimate beneficiaries will be the poor. Training for government officials and consulting services for government bodies, usually at a cost to A.I.D. of $500 or more per consultant per day, are common forms of assistance to bureaucracies.

In some cases the bureaucratic trickle-down approach is an appropriate way to benefit the poor. In general however this approach faces serious problems. A major difficulty is that the government bodies to which A.I.D. is providing assistance are not generally oriented toward benefiting the poor. It is therefore unlikely that strengthening these government bodies will yield substantial benefits for impoverished people.

For examaple A.I.D. is planning to spend $5 million to provide studies, training and analyses for government officials in Haiti. But since the government of Haiti has long demonstrated neglect for the welfare of its poor citizens it is improbable that the U.S. assistance will end up providing substantial benefits for impoverished people in Haiti.

This problem is not confined to governments such as that of Haiti. Even governments such as that of Tanzania, noted for its commitment to equity in economic development, have developed bureaucratic elites whose interest in providing benefits to the poor is limited. For example A.I.D. has been assisting the authorities in Mbulu district in the Arusha region of Tanzania in drawing up a "twenty year plan". Now it might be thought that in bureaucracy-bound Tanzania there is no pressing need for another long-range plan. But, even aside from that, the priorities chosen by the Mbulu district government in drawing up the plan (e.g. electrification of Mbulu town and of the government buildings) are not oriented to the alleviation of poverty. It is therefore unlikely that A.I.D.'s assistance in helping to draw up the plan will yield any significant benefits for poor people in the district.

Another problem with the bureaucratic trickle-down approach is that the aid provided is often very remotely related to the goal of benefiting the poor. For example A.I.D. is planning to spend $9.3 million in Indonesia to improve English language instruction, mainly in government teacher-training institutions. It is very difficult to imagine that this is the most effective way to reduce poverty in Indonesia.

THE DIRECT APPROACH TO AIDING THE POOR

The top-down strategies which have been discussed can be contrasted with a direct approach to benefiting the poor. Under the direct approach aid funds are used to finance goods and services to be primarily used by the poor themselves. These might include health and family planning services, irrigation facilities, appropriate technology, safe drinking water supplies, and credit for small farmers.

The direct approach should include aid to the very poorest groups, such as landless laborers and squatters. It is true that it may be difficult to reach these groups with some sorts of projects. Electrification projects for instance will obviously tend to bypass those who cannot affort electrical appliances. But human development activities such as health and literacy projects can focus on the poorest of the poor.

A.I.D. does sometimes employ direct approach to benefiting the poor. One interesting example involved the rural water supply program in Kenya.

The Kenyan government's policy in most parts of the country has been to promote individual connections between water supply-pipes and the user's home. The user must pay for this individual connection. Community water taps would be a less expensive alternative. However the government has strictly limited the number of community water taps and often curtailed their hours of operation to encourage people to pay for individual connections.

Because the poor cannot affort the individual connections and because there are not many community taps, poor people have received only limited benefits from the program.

Confronted with this situation A.I.D. did not employ a top-down approach. Instead the agency provided funds through CARE to support self-help water projects. In these projects communities organized themselves and contributed labor and some money to build a water system for themselves. A.I.D. via CARE contributed materials and equipment. Although the self-help water systems suffer from the same maintenance problems as the government systems, they generally serve the entire community, rather than primarily benefiting the more affluent.

Private voluntary organizations such as CARE are one channel for implementing the direct approach but they are not the only channel. Financing government facilities such as schools and clinics in impoverished areas would also exemplify the direct approach.

Bread for the World does not assert that the direct approach to aiding the poor is always appropriate. We recognize that in some cases top-down aid makes sense. But because the direct approach to aiding the poor is often the surest and most efficient way to alleviate extreme poverty we believe that this approach deserves higher priority than it is now accorded. Given that aiding the poor is declared in the Foreign Assistance Act to be the principal purpose of U.S. bilateral development aid, it seems inappropriate that roughly three-quarters of such aid should finance goods and services primarily used by those who are not poor.

BUILDING A POLITICAL CONSTITUENCY FOR DEVELOPMENT AID

A.I.D.'s reliance on the top-down approach is not conducive to building support for development aid among the American public. When Bread for the World campaigns for foreign economic aid,we are made aware of how reluctant many Members of Congress are to vote for foreign aid. They have sound political reasons for their reluctance; we all know that there is widespread public opposition to foreign aid spending, including foreign economic aid spending.

Why is this? At a time when hundreds of millions of people abroad are malnourished, why is there so little support for foreign economic aid?

The answer is not that Americans don't care about hunger and starvation overseas. On the contrary, Americans enthusiastically support private voluntary organizations which fight hunger in the developing countries. Although the U.S. is near the bottom of the list of aid donors in proportion of G.N.P. devoted to official development assistance we are tied for second in terms of proportion of G.N.P. devoted to voluntary assistance.

In a revealing 1980 study the Market Opinion Research organization found that less than 2 Americans in 10 want to see the amount of tax money spent to alleviate world hunger decreased. 8 out of 10 want it either increased or kept the same. However the same study found that 6 out of 10 want the amount of U.S. foreign economic aid decreased. As the study commented, spending on economic aid "is not tied in the public's mind with solving the world hunger problem."

In sum, there is a reservoir of public support for programs which reduce deprivation abroad, but the Public does not believe that the foreign economic aid program is effective in reducing such deprivation.

We have before us then an opportunity. If development aid can be reformed so that it is more effective, and is seen to be more effective, in reducing the extent of deprivation public support for the program would be significantly increased.

PROPOSED LEGISLATION

There is a bill now before Congress which would require that more U.S. development aid directly benefit the poorest people. Bread for the World believes this reform would make development aid more effective in reducing human misery and in improving the economic prospects of the poor.

The bill, HR 4588, would require that half of U.S. bilateral development aid (excluding operating expenses) go to finance productive facilities and other goods and services to be primarily used by those falling below the World Bank's absolute poverty line. This group constitutes about 40 percent of the developing world's population. The bill thus emphasizes the direct approach to aiding the poor.

HR 4588 was introduced by Rep. Gilman and has attracted widespread support. It currently has well over one hundred cosponsors in the House, ranging all across the ideological spectrum. Its cosponsors include 17 members of this committee.

A weakened version of the provision targeting 50 percent of development aid to the poor has gone through the Senate Foreign Relations Committee with Administration approval.

HR 4588 would shift some aid to impoverished people but it leaves the Administration plenty of flexibility. It leaves 50 percent of A.I.D.'s development accounts and all of the huge Economic Support Fund for aid which need not directly benefit the poor. Directing 50 percent of bilateral devel-

opment aid to the poor would place restrictions on approximately $700 million out of a total of over $6 billion in non-military U.S. foreign aid.

In some ways therefore HR 4588's proposed targeting of aid to the poor is a very modest measure. But because this measure would sharply increase the amount of U.S. development aid getting through to the people who need it most desperately we urge you to support the proposal. Without calling for any additional U.S. government spending it nevertheless holds out promise of substantially decreasing the extent of poverty and hunger.●

MAJ. HOWARD HOFFMAN NEW SUPERINTENDENT OF MISSOURI HIGHWAY PATROL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SKELTON. Mr. Speaker, I take this opportunity to congratulate Maj. Howard Hoffman on his appointment as the new superintendent of the Missouri Highway Patrol. Major Hoffman is currently district chief of enforcement at the Jefferson City headquarters of the patrol and, prior to that, was commander of Troop D in Springfield.

Major Hoffman has given 27 years of dedicated service to the patrol. In that time, he has developed a reputation beyond reproach with his fellow patrolmen. He is from my home county of Lafayette, and all of us from our county are proud of his accomplishments through the years. I wish him well in his new position.●

SIMPLE GUIDE TO THE MONETARY MAZE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SHUMWAY. Mr. Speaker, there can be no question that the historically high "real" rates of interest we are now experiencing represent the single most significant impediment to economic recovery. The real rate of interest is the difference between the actual, or "nominal" rate, and the prevailing rate of inflation. It is abundantly clear that, until interest rates decline on a substantial and sustained basis the health of such key sectors as the automobile and housing industries cannot improve.

There is, Mr. Speaker, no single cause for high interest rates nor any simple solutions to the problem. Projected Federal deficits in excess of $100 billion which, as a result of Federal borrowing needs, limit the amount of credit available for the private sector, and thus increases its cost, bear a large part of the blame. The expectation of the financial markets that our recent success on the inflation front cannot be sustained is a significant factor. The policy of the Federal Reserve Board to restrict the rate of growth of money and credit in order to slow inflation has also contributed to the problem.

In this regard, Mr. Speaker, a great deal of confusion exists throughout the country about the Fed's role in the conduct of economic policy generally, and monetary policy in particular. It is widely believed, for example, that the Fed is an entirely independent entity, which profits greatly from the high interest rates which so burden the citizens of our Nation. This is, of course, not true; the members of the Federal Reserve Board are appointed by the President, and are subject to confirmation by the Senate. The Fed must report on a regular basis to Congress. Approximately 90 percent of the revenues the Fed derives from interest income on its portfolio of Treasury securities is returned to the U.S. Treasury, while most of the remainder goes for operating expenses. In short, the Fed was established by Congress, is subject to all the laws of the United States, and will be responsible for U.S. monetary policy only so long as Congress continues to delegate this authority.

At this point, Mr. Speaker, I would like to comment to our colleagues a very lucid explanation of how the Fed conducts monetary policy which recently appeared in the Washington Post.

Controlling the money supply is now a central part of economic policy. Yet the language of monetary policy can be very confusing to the layman—so confusing that it may be hard to understand what the Federal Reserve is trying to control, and why.

Put simply, the Federal Reserve wants to control the amount of spending power—or money—in the economy in order to affect the level of economic activity in the nation. If the Federal Reserve limits the amount of money available for businesses and individuals to spend, then it indirectly influences, and limits, how much is actually spent.

Such a limit may affect both real output in the economy and the rate of inflation, since an extra dollar of spending may be used either to pay a higher price, or to buy more goods. Monetary policy makers hope that their control of the money supply will eventually have a bigger impact on inflation than on output and employment. In other words, they hope a tighter money supply will put the squeeze more on prices than on output.

There are two different kinds of problems with this view of monetary policy.

The first, highlighted by Prof. Tobin, concerns the balance of costs and benefits in using tight money to fight inflation. Tobin argues that restrictive money policy is now damaging the economy, by holding down output and pushing up unemployment, more than it is helping it. In other words, the cost to the nation of reducing inflation through monetary policy is proving too high.

Secondly, there are severe practical difficulties in carrying out a monetary policy aimed at restricting the money supply.

For one thing, there is no single definition of money. While dollar bills and coins are obviously money, people and businesses also use their checking accounts to buy things in much the same way as they use cash. The narrow "M1" measure of the money supply includes currency in circulation and all checking accounts.

But what about money market funds, or passbook savings accounts? While these may not be drawn upon as easily as a billfold full of notes, some people may use them like "money" for making major purchases. The Federal Reserve's "M2" money measure includes these and some other similar items, such as small-denomination certificates of deposit. There is a still broader money measure, "M3," which includes funds even further removed from the cash in one's pocket but which may still be used to support spending—for instance, large CDs.

Monetary policy is further complicated by the fact that the relationship of all of these measures to total spending—which is what the Fed is really interested in—is only loose, and can change over time.

For example, some checking accounts now pay interest. These NOW accounts may be used just as an ordinary checking account and thus be akin to cash. But some people may treat the "money" in these accounts more like savings than like spending money. If people switch money from passbook savings to NOW accounts, M1 grows. But this growth may not represent any increase in spending power.

The final difficulty for the Fed is that it does not have direct control over any of these kinds of money, other than the cash in circulation. Money is actually created when banks lend it. Borrowers, whether businesses or individuals, either deposit the funds in accounts included in one or another of the money measures or pay the money to others who do.

The Fed influences how much banks can lend and how large their deposits can be by adding to or taking away from the reserves which all financial institutions must hold in proportion to the deposits they accept. The Monetary Control Act of 1980 will eventually require banks and all other major deposit-taking institutions to hold as reserves 3 percent of nonpersonal time deposits; 3 percent of the first $26 million of transactions accounts; and 12 percent of the amount above this. These requirements are being phased in.

Banks can obtain the necessary reserves either from the Federal Reserve, from each other, or from overseas. The Fed supplies reserves to the entire banking system by buying government securities, like Treasury bills. This is actually the closest that monetary policy comes to the popular notion of "printing money." If the Federal Reserve does not supply enough reserves to support the level of deposits in the banking system, banks must borrow more from each other, or from the Fed. As banks bid for these reserves, the price, or interest rate, rises.

As their own borrowing becomes more costly, banks will charge their customers, or borrowers, more. Some individuals and businesses will then decide against borrowing and therefore against spending as much as they might have. In this way the Federal Reserve's "tight money," in the form of a tight supply of reserves to the banking system, feeds through, via high interest

rates, to spending power and economic activity.●

INDIAN HEALTH SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DYMALLY. Mr. Speaker, it is of vital importance that I alert my colleagues to a most alarming development in the area of health services for American Indians.

A report submitted to Congress by Dr. Everett R. Rhoades, Director of the Indian Health Service, attempts to assess and categorize various urban American Indian health projects with regard to funding priorities. This report indicates that many Indian health clinics should undergo drastic reductions in funding or be terminated altogether.

This report, however, is completely, and dangerously, misleading. Questionable methodology and dubious conclusions render this report entirely ineffectual.

These health clinics are serving thousands of impoverished Americans who are unable to obtain sufficient health care elsewhere because, for a great many urban American Indians, proper medical attention is prohibitively expensive. Consequently, any further limitation of these people's access to health service would constitute an intolerable injustice.

There remains, for example, only one Indian health clinic in the entire Los Angeles area, in Compton, CA; and that one has been marked for extinction by the authors of this report. The removal of this last Los Angeles-area clinic alone would cause a great many people to go without any health care whatsoever. This, however, is only one of the threatened clinics.

I ask my colleagues not to permit the abolishment of these Indian health centers. Each is carefully geared to provide important, essential services to needy people within its particular service area. The IHS report's most flagrant violation of sound methodology, however, is the fact that individual clinics were evaluated according to blanket criteria which were not established until after each clinic formulated its programs in compliance with its own area's needs and State regulations. This, even without the other substantial methodological shortcomings, is reason enough to disregard the misleading "evidence" of the IHS report. I vehemently oppose taking any actions on the basis of the report's findings or recommendations.

I implore my colleagues to join me in this struggle to maintain, if not increase, funding for these desperately needed clinics. If we are not successful, one of the most disadvantaged peoples in America will suffer yet another crippling blow.●

OUR THANKS TO JOE WOMACK

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SCHUMER. Mr. Speaker, I would like to take this opportunity to publicly express my appreciation and that of the Subcommittee on Housing and Community Development to Joseph L. Womack, an assistant legislative counsel, for his work on behalf of all Members of Congress. Joe will be leaving the service of the House this week after 9 years to take a position at the East Texas State University in Commerce, Tex.

As a freshman and as a member of the Housing Subcommittee, I have benefited from Joe's expertise and his patience. He has always made himself available to me and other members of our subcommittee, as well as to members of the staff.

Now he will be returning to Texas, where he is no stranger, having attended Baylor University and the University of Texas Law School. I am sure that Joe and his wife, Cynthia, and his children, Chris, Todd, and Heather, are looking forward to returning to Texas to start a new life there.

On behalf of all Members who have worked with Joe Womack, I would like to express our thanks and our best wishes for his future success.●

EXPLAINING SOCIAL SECURITY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my "Washington Report" for August 18, 1982, into the CONGRESSIONAL RECORD.

EXPLAINING SOCIAL SECURITY

Everywhere I go in the Ninth Congressional District, I see that Hoosiers are deeply concerned about the future of the social security system. Older people fear that their benefits are in jeopardy. younger people are convinced that they will get little in return for what they pay into the system. As much as three quarters of the nation's population believe that the system will not be able to pay them their full benefits. In fact, the social security system faces a short-term problem beginning next year and continuing through the late 1980's, and a long-term problem beginning around the year 2025. Between 1990 and 2025, however, the system should be in good condition.

The short-term problem is one of cash flow. Since 1974, the old age and disability trust funds have been paying out more in benefits than they have been taking up in taxes: an imbalance due mainly to sharp increases in benefits. However, benefits have always been paid because the funds could draw on substantial reserves which had built up over the years. Under current law, these reserves could be exhausted in 1983. Benefits to be paid out may exceed revenues to be taken in by some 6 percent from 1983 to 1986. At the outset, the main consequence of the fiscal shortfall would be a delay in the receipt of benefits for a few days.

The long-term problem is by far the more serious. As the "baby boom"—those born after 1947—begins to retire, a shrinking number of workers will have to support a growing number of retirees. The fiscal shortfall between 2030 to 2054 would be roughly equal to 33 percent of expenditures.

A number of measures are being considered as solutions to the short-term problem. They include extending interfund borrowing among the trust funds, holding cost-of-living increases to the average rate of increase in workers' wages, granting the system standby authority to borrow from the general fund of the Treasury, taxing some of the benefits received by persons with very high incomes, bringing federal and other non-covered workers into the system, and moving up the scheduled increase in the payroll tax from 1985 to 1983. Measures under consideration to address the long-term problems include a gradual rise in the retirement age from 65 years to 68 years, a change in the formula used to determine initial benefits at retirement, and a gradual reduction in the benefits of those workers who choose to retire before age 65.

The attitude of Congress is of prime concern to Hoosiers. Will Congress ignore the problems until they cannot be solved? Will Congress slash the benefits of current retirees? Actually, there are many reasons for optimism that Congress will act cautiously and prudently to protect the social security system.

1. A complete overhaul of the system is not required. The system faces a fiscal shortfall of only 6 percent in the next few years. Interfund borrowing alone may be a sufficient remedy. Likewise, the more serious long-term problem can be solved as long as we act without too much delay.

2. The record of Congress is a good one. Since the issuance of the first social security check in 1940, monthly benefits have always been sent on time. Congress has taken the steps needed to preserve the integrity of the system on at least 20 occasions in the past. This session, too, Congress and the President have evinced their clear desire that the problems be corrected soon.

3. Congress knows the importance of a stable system. Congress is aware that social security is critically important to the nation's elderly, two thirds of whom have it as their primary source of income. Also, Congress realizes that it must restore the confidence of younger people, who are paying much higher pay roll taxes than their parents paid. Politicians know that they have too much at stake—36 million beneficiaries and 116 million covered workers—to permit the system to falter or collapse.

4. Major recommendations are expected by the end of the year. Action by Congress was postponed last year because of the formation of a 15-member commission whose task is to find a bipartisan consensus on reform of the system. A report should be ready by December 31, 1982, and could be the blueprint for far-reaching legislative reform. Since Congress must take some action before July, 1983, there is a definite

chance that Congress might try to enact important, substantive changes at that time.

Congress will not take steps which destroy public support for the system. First, it will in all likelihood not reduce the benefits of current, legitimate retirees. If you are getting a $400 monthly check now, you can expect to collect at least that much every month in the future. The major proposals under consideration for current retirees would at most trim back future increases in benefits. Second, Congress will give future retirees some years' notice of any significant cutbacks so that they will have time to adjust their plans for retirement. Proposals now under consideration would phase in significant long-term changes at a slow pace.

Present projections about the stability of the social security system should concern us all. I will do all I can both to assure payments to future retirees and to preserve the benefits of current retirees.●

GETTING OUT THE VOTE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of our colleagues a unique and noteworthy contest that took place in Manhattan this summer. The American Citizenship Committee of the New York County Lawyers' Association ran an essay contest for high school students on the subject of "Getting Out the Vote."

Few matters should be of as great concern to the elected representatives of this Nation as the downward slope of participation in elections by voting age citizens. In 1880, 81 percent of voting age population chose to exercise their right of franchise. By 1960, that total had dropped to 65.4 percent. In the 1980 election, a mere 55.1 percent of voting age citizens bothered to cast ballots.

In a government by and for the people, this trend is more than simply disheartening. It is a sign of the breakdown of democratic government itself. When citizens neglect the privilege and duty of voting, our Nation is the grave danger.

The New York County Lawyers' Association, by encouraging students to get involved in solving this problem, has taken steps to turn it around. Focusing the sharp minds of our youth on the problem is, in the end, the only solution. For they are the ones who otherwise will inherit a democracy crippled by apathy.

I would like to share with you the three essays that won. They are reprinted below:

GETTING OUT THE VOTE

(By Darlene Heckstall)

In our society today, many people feel that their vote is useless. They have taken the attitude that their vote does not really count. I feel that this attitude is a threat to all of us and should be rejected, for if each and every person came out to vote we would have a more representative society.

As we look around us, at the conditions in which we live and the current economic situation, we should realize that the only way these conditions will change is if we, as individuals, come together as one and make our vote count.

I believe that we cannot sit back and watch our country decline. The young people should not let this country decline and continue to go under, but instead they should unite and speak up against what is happening to our society. We, as young people, cannot separate ourselves from society, but we instead must become a productive force of society. We should not become leaners on our communities but become a strong foundation of the community.

Black and Hispanic areas must give their vote in order to better their living conditions. They must pull together, so that they will no longer be the part of society that is being left behind.

Blacks and Hispanics cannot sit back and watch their homes turn into useless ghettos, but they have to come out and make their community a help to society, and not a constant burden.

Many people are unemployed, depending on public assistance. These people openly complain of no jobs and poor housing, yet they do not come out to make their vote count. How can we expect a change if we are not willing to give support and let our representatives know that we care about our families and communities.

Recently, while on a bus ride, I passed some abandoned homes and rundown tenements. The streets were filthy, and some of the men and women sat around as if they did not care. As I passed, I tried to understand exactly what I was looking at. I asked myself, why did these people have to live in such degrading areas? Why weren't able-bodied men contributing to their societies, and why were little kids destroying their property? As I sat and watched, I realized that these people lived like this, because not enough people cared enough to come out and speak out against these conditions. Not enough people tried to make their vote count. If these people are unhappy with their surroundings, they can make a change. If we vote someone into office who cares and understands what the people want and need, I feel it would be a step towards a more unified and prosperous country.

One way I think we can get people to come out and vote is if we follow a custom which Australia has. In Australia, if a person is of legal age and does not vote, they can be fined. I think this policy would move a lot of people to vote.

I think our country will once again rise if we, as individuals, join together as one and make our vote count.

GETTING OUT THE VOTE

(By Kim Conway)

Voting is the method used by citizens in a democratic state to decide issues and choose their leaders. Freedom to vote is essential to self-government, whether carried out directly or through elected representatives of the people.

In our own country, the individual states set up the qualifications necessary for a person to vote. All states require the voter to be a citizen of the United States and to live in the state and voting precinct a certain length of time. Most states also require a voter to be at least 21 years of age and disfranchise those convicted of certain serious crimes or who are mentally deficient. Before the recent passing of national voting rights laws, some southern states used poll taxes (a tax paid before voting) and literacy tests to keep Blacks from voting.

The antislavery movement, which culminated in the right of Blacks to vote, was linked with the women's suffrage movement. The Fourteenth Amendment passed in the Reconstruction era guaranteed equal rights for black men, but seemed to deny them not only to black women, but to all other women. It was not until the current century that the women's suffrage movement finally won.

It took 52 years of almost ceaseless effort and hundreds of separate campaigns to convince state constitutional and presidential party conventions to include women's suffrage in state constitutions and presidential platforms.

In countries having forms of government other than democratic, the voting process is sometimes denied, or, if permitted, becomes meaningless because the candidates for office are limited to those approved by the existing government.

Despite how precious the right to vote is, a high percentage of eligible voters in the United States either never or seldom vote. No more than two thirds of the eligible voters become involved, even when Presidential elections are at stake. In many other democracies, at least 80 percent of the voters go to the polls in equivalent elections.

According to Webster's New Collegiate Dictionary, the definition of "vote" is a wish, choice, or opinion of a person or a body of persons expressed by a ballot. To account for the percentage of people who do not vote, can we conclude that non-voters do not possess a real choice among basically similar candidates? If their inaction is simply a matter of disinterest, non-voters seem just as swift in condemning the elected official as those who voted for him, assuming dissatisfaction later prevails.

Therefore, let us encourage non-voters to get out and vote. Let them utilize the power they hold to choose the best candidate. Most importantly, let them realize that every vote does count.

Those working for the success of a particular party's candidate know how important it is to "get out the vote" and employ various methods of reaching potential voters such as direct mail appeals, telephone calls, and door-to-door personal visits. The recent win of New Jersey's Governor Thomas Kean over his democratic opponent was by a margin of less than 2,000 votes. This should convince even the doubtful of the value of the individual vote.

Citizens in other democratic countries consider voting one of their most important rights. All of us should remember that the right to vote, our ability to choose our leaders, is for our collective benefit. That right should not be ignored by anyone.

WOMEN CAST THEIR BALLOTS!

(By Wendy Silverman)

That women should vote is now so generally accepted that few of the post-war generation can appreciate the long and intense struggle that occurred before women's right to political equality was recognized. John Stuart Mill presented his Woman Suffrage petition to the House of Commons in 1866. It took Parliament 52 years to accede. In the United States, the Seneca Falls Declaration of July 19, 1848, resolved, "That it is the duty of the women of this country to

secure to themselves their sacred right to the elective franchise." Again, over 71 years passed before this resolution was adopted.

After reviewing the nationwide voter turnout in the 1980 Presidential election, it is rather hard to comprehend the lengths to which women went in the late nineteenth and early twentieth centuries to secure their right to vote. The percentage of registered voters who did vote was roughly 74.3. However, the percentage of the voting age population that voted was considerably less—only 55.7.

The woman's suffrage movement was organized by such dedicated people as Elizabeth Cady Stanton, Lucy Stone, Susan B. Anthony, and Lucretia Coffin Mott. These were women who devoted their lives to the suffrage cause. Their general intentions were to inform the public through speeches and the like, and dispel the myths that giving women the vote would destroy the family and disrupt politics.

Among the tactics employed by the suffragists was the demonstration. These mass meetings were frequent occasions across the country. In 1910, the Women's Political Union sponsored the first of a series of major suffrage parades in New York City. One such demonstration was held in Union Square on Friday, May 20, 1910. It included over 10,000 persons who listened to the speeches presented by the women. It was the largest suffrage demonstration ever held to that date in the United States. The suffrage campaign in California which saw the use of huge billboards, electric signs, pageants, plays and essay contests, culminated in victory in 1911. The next year, the women of Oregon, Arizona, and Kansas became voters.

In January 1917, women suffragists, representing all parts of the country, posted pickets about the White House grounds, their purpose being to make it impossible for the President to enter or leave the White House without encountering a picket bearing some device pleading the suffrage cause. This culminated in over nine arrests, and during their prison stay, several women risked their health on a hunger-strike to protest their unreasonable arrests.

After the House of Representatives' vote in January 1919 favoring woman suffrage, the Senate proceeded to pass the Susan Anthony amendment to the Constitution on June 4. With ratification taking place by August 18, 1920, women were first able to exercise their right to cast their ballots that November.

It is fascinating to find that for several years, beginning with the presidential election of 1868, women attempted, mostly unsuccessfully, to cast ballots. In 1872, Susan B. Anthony led 50 women to a polling place in Rochester, N.Y., her hometown, where they registered to vote. On election day, she and more than a dozen other women cast their ballots. Within two weeks, Anthony and the others were arrested and charged with voting illegally under a statute which carried a possible three year term.

During the trial of the United States versus Susan B. Anthony in June 1873, Anthony fought gallantly for her right to be represented as one of the governed and one of the taxed in this so-called republican form of government. It is unfortunate that in the last presidential election, 44.3 percent of the voting age population could not even be cajoled into voting. As a matter of fact, 18.6 percent of them were not even registered. If people want the fruits of democracy, it is only fair that they take on the responsibility of expressing their views through the ballot system. The voter apathy of today would shock the suffragists. As Elizabeth Cady Stanton once said to Lucretia Mott, "the power to make the laws is the right through which we can secure all other rights."●

EL SALVADOR CERTIFICATION

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. STUDDS. Mr. Speaker, I would like to take this opportunity to share with my colleagues two recent editorials from Massachusetts newspapers—the first from the Quincy Patriot-Ledger and the second from the Boston Herald American—regarding President Reagan's certification on El Salvador. I believe that these pieces do much to point out the fallacies inherent in such a certification of progress in the areas of human rights, land reform, and the investigations into the murders of six American citizens. It is my hope that my colleagues will support House Joint Resolution 552, legislation which would declare "null and void" President Reagan's certification that El Salvador is in compliance with the conditions placed upon continued U.S. military aid.

[From the Quincy Patriot-Ledger, July 29, 1982]

MATTERS OF CREDIBILITY

If the United States terminated its military and economic assistance to El Salvador on the grounds of human rights violations, things could get much worse in that Central American country.

Still, this week's "certification" by President Reagan that El Salvador is making progress on human rights and on changes in the economic and political systems comes close to being a whitewash.

True, the administration's report—required by Congress as a condition for continuing aid—is not enthusiastic over the situation in El Salvador. While concluding that the Salvadoran government is making "tangible signs of progress," the report also notes that "the strife continues to produce serious and frequent violations of basic human rights committed by leftist guerrillas, right-wing terrorists, and members of the government's military and security forces." (On the day the report was submitted, U.S. reporters in El Salvador found the multilated bodies of four persons apparently in their teens along the side of a major highway not far from the entrance to the barracks of the country's elite battalion. All the victims showed signs of torture. Who killed them has not been disclosed.)

To justify its certification, the administration pointed to the holding of national elections in Salvador despite the continued fighting, the continuation of the land reform program, and fewer civilian deaths and abuses by security forces.

Still, there are reports of police torture, the violence continues, and land reform has slowed.

While there was an elaborate ceremony at the presidential palace this week as President Alvaro Magana delivered titles to the new peasant owners of 12 cooperatives, this event appeared to be a public-relations show. Some peasants continue to be kicked off land for which they had provisional title, President Reagan's report notes. A surge in evictions, some carried out by local military forces, occurred after rightist parties gained political power in the March balloting for the Constituent Assembly. The assembly itself issued decrees that were interpreted as postponing some land redistribution measures.

In requiring the certification progress, Congress was sending a clear message both to the Reagan administration and to the Salvadoran leaders on what the conditions of continued American support would be. It was also giving the administration leverage in dealing with the Salvadoran government.

That leverage won't count for much if it isn't used to get clear results, if the U.S. government pretends things are better than they are.

The administration may believe that without continuing U.S. aid and the accompanying U.S. pressure there would be even less respect for democratic processes and for human rights in El Salvador. Perhaps. But the U.S. government also is weakening the force of the pressure it can bring to bear on aid recipients when it puts a seal of approval on nations that haven't lived up to specified conditions. And the more this happens, the less other nations will believe we mean what we say, and the less heed will be given to American advice, or American "conditions."

[From the Boston Herald American, Aug. 4, 1982]

STOP AID TO EL SALVADOR

There are strings attached to the military aid the United States gives to El Salvador.

Under U.S. law, the president last week certified that progress is being made by the Salvadoran government in protecting human rights and in implementing land reform.

But a look at the situation in El Salvador makes it clear that no progress has been made. Militarily, the Salvadoran army so quick to accept U.S. weaponry has been just as quick to shun U.S. advice. Instead of adopting U.S.-supported counter-insurgency tactics designed to spare civilian lives, the Salvadoran army has continued to use the large-scale military operations that it favors. Its aggressive efforts to ferret out left-wing guerrillas have left many innocent civilians dead.

The Salvadorans have also turned a deaf ear to U.S. advice on how to institute land reforms to turn the land back over to those who work it. The right-wing Constituent Assembly, led by reactionary despot Roberto d'Aubisson, has dismantled the U.S.-sponsored Land to the Tiller program. As a result, thousands of peasants are once again landless, having been evicted from their newly-granted land.

It is time for the United States to yank the string and to cancel military aid to El Salvador. If the tug brings about drastic progress toward human rights and land reform by the Salvadoran government, aid could eventually be resumed.

But if El Salvador refuses to change its tack, aid must be halted permanently. U.S. policy must continue to push for a free and democratic El Salvador. The Salvadoran government, by ignoring and supressing populist demands for human rights and

land reform, is blocking that goal. Every time its army kills an innocent civilian, every time it takes land away from a peasant, the government sows the seeds of rebellion.

As John F. Kennedy once said: "Those who make peaceful evolution impossible make violent revolution inevitable."●

PRESIDENT REAFFIRMS BACKING OF TAIWAN RELATIONS ACT

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROOMFIELD. Mr. Speaker, I was privileged to be in attendance at the White House to hear the President explain the United States-China joint communique issued Tuesday.

I was pleased to hear him reaffirm his support for the Taiwan Relations Act and his longstanding friendship for the people of Taiwan.

Despite reports to the contrary, the President said the issuance of the joint communique will not pressure Taiwan to negotiate with the People's Republic of China.

"The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter," the President said.

In view of the strong interest in this issue, I am including the text of the joint communique along with the President's statement on its issuance for the information of my colleagues.

PRESIDENTIAL STATEMENT ON ISSUANCE OF COMMUNIQUE

The U.S.-China Joint Communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides, and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My longstanding personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper, and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. The position of the United States Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waver from this fundamental position.

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past three decades, and of the American contribution to that process. I have full faith in the contribution of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well being of the people of Taiwan.

UNITED STATES-CHINA JOINT COMMUNIQUE OF AUGUST 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972 and reaffirmed in the Joint Communique on the Establishement of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point Proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point Proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.●

RETIREMENT OF MRS. CANDY C. PARKER

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. CORRADA. Mr. Speaker, I would like today to pay special tribute to Mrs. Candy C. Parker who, on September 15 will leave the Congress of the United States after 15 years of dedicated service to the people of Puerto Rico in the office of four consecutive Resident Commissioners from our island.

That date marks the retirement of Mrs. Parker, whom everyone in the House of Representatives knows as Candy, as my personal secretary and office manager since 1977. Candy, a native of Fajardo, P.R., met her husband Jim while he was on duty in Puerto Rico and except for two brief assignments in Trinidad and New York, the Parkers have lived in the Washington area for the last 30 years.

I wanted to take this opportunity to pay public tribute to Candy and to join with the many friends she leaves behind in the House of Representatives in wishing her health and happiness in the future.

In 1967, Candy began working for the then Resident Commissioner from Puerto Rico, Hon. Santiago Polanco Abreu, as a secretary. She has been working for the office of the Resident Commissioner since that time in various capacities, as a secretary, caseworker, and office manager.

Prior to 1967, when she came to the Congress, she worked in the Washington Office of the Commonwealth of Puerto Rico for 10 years.

Throughout her 25 years of dedicated service to the people of Puerto Rico, and to the Resident Commissioners like myself who were fortunate to have her on board during our tenure in the Congress of the United States, Candy Parker always did her work as a public servant diligently, loyally, and with a cheerful disposition that has endeared her not only to her immediate office colleagues, but to hundreds of people in the Nation's Capitol.

It is, indeed, an acknowledgement of her wise counsel, discretion, friendship, duty and dedication that her career has spanned five consecutive administrations in Puerto Rico.

All have benefited from having her as a coworker, and she will be sorely missed by her many friends.

Oliver Wendell Homes once noted that "every calling is great when greatly pursued" and this maxim certainly applies to the considerable talents Candy brought to her work.

To both her, and her husband Jim, we wish luck and happiness in their new home in Florida, our gratitude for their work and many sacrifices made on behalf of the people of Puerto Rico, we bid a found "hasta luego."●

TOO MANY ROTTEN APPLES

HON. ED WEBER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WEBER of Ohio. Mr. Speaker, I want to bring to the attention of my colleagues an outstanding statement about what is right about America. Instead of blaming everybody but ourselves for our problems today, let us take a good hard look at what each American might be able to do about it himself or herself.

I offer to you the script, "Too Many Rotten Apples," a tape recording which came to me from someone who is obviously the type of concerned citizen we need, the type of person who is ready, willing, and trying to carry his own weight and pull his own oar—my constituent Roger A. Brown.

The statement follows:

TOO MANY ROTTEN APPLES

You read a lot and hear a lot about what's wrong with America. You never hear or read what's right about America.

Well, let me tell you something mister and you too sister—

I was what they called a "depression baby" because I was born in the midst of the Great Depression of the 1930's.

My old man made $10 a week and damn glad to get it—a lot of people who were out of work stood on the corners selling apples. They'd pay a nickel a piece for the apples and hope they could turn a profit—most of them lost their money and ended up with a bunch of rotten apples. And that's the trouble with America today—there's too many rotten apples—we need people with ideas and guts to carry them out to improve ourselves and our country.

Too many people think that America owes them a living. We have double-digit inflation, we have 9- to 12-percent unemployment. And who do we blame? We blame the Japanese, the Russians, the Chinese, the Arabs, and most of all we blame our own President—the man who had the guts and courage enough to run for that office and who was elected by the people of America and just because he didn't make everything hunky dory in less than a year the mess we're in is all his fault.

I can remember when a baby boy was born, the proud parents would say, "Maybe someday he'll be President."

Now you hear, no way would I want my son to be President, that's one giant headache and thankless job. Anyone has to be crazy to want to be President.

The President of the United States doesn't receive respect anymore, he receives condemnation, criticism, ridicule, and an assassin's bullet.

You know what's wrong with America? It's not the Japanese, the Russians, the Chinese, the Arabs, and least of all our President—the trouble with the United States is U-S US we've become too damn soft and lazy and we expect too much for too little. We just have to have two cars, two TV's, a home with two baths, a dishwasher, a room for every kid and that's just the bare necessities—but we think we deserve those things and we shouldn't have to work for them.

We've become masters at seeing how much work we can get out of doing and still get paid for it. Come in late, go home early, take coffee breaks, sick leave. "The company owes me a living, they got so much money, it's about time they gave me some."

That's why we have inflation—nobody does a dollar's work for a dollar's pay—and a country like Japan that does $2 work for $1 pay and takes pride in doing it comes over here and sells cars, computers, cameras, bikes, boats, skis, stereos, and steel better than ours for less money. Then we curse them instead of admire them but, we still buy their products.

Instead of changing our system, we cry and complain—where would we be if our forefathers cried and complained? America would still belong to the Indians.

Why are people out of work? They're out of work because they're not working—they're not working because they say there aren't any jobs. What they mean is, there aren't any jobs to suit their taste or special talent—there's jobs out there, but you might have to sweat a little—you might have to exert some physical labor—heaven forbid. If we would just get off our dead a - - and look for a job and take a job instead of crying about the unemployment, there wouldn't be any unemployment. If we did our job, no matter what it was with pride and did it the best we knew how, there wouldn't be any inflation because our products would be good and the price would be right.

We've stopped thinking and inventing and creating, we expect the other guy to do it—we want the government to pay for everything and then we cry about taxes.

Come on America, wake up—if you don't like what you're doing at your job, learn to like it, change it or leave it.

If you don't like the way America is being run then stop crying about it and do something about it.

We've got enough rotten apples and enough cry babies. What we need are some good old fashioned, honest, hard working, innovative, patriotic Americans that will change it.

So stand up America and get out of the red,
Wake up America and get out of bed,
Damn the complainers America and full speed ahead.●

ENERGY COMPLACENCE IS NATIONAL DANGER

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FUQUA. Mr. Speaker, we are all aware of the danger of complacency about the need for a strong program of developing alternative energy sources during a period of declining petroleum prices caused by events over which the United States had no control.

I am happy to report that others are similarly concerned about our future dependence on foreign petroleum and are alert to the necessity of continuing

the synfuels program which we so ambitiously launched 2 years ago.

The following editorial from the Florida Times-Union, published in Jacksonville, Fla., clearly states the dangers of complacency and the value of planning for alternative energy:

TEMPORARY OIL GLUT WEAKENS SEARCH FOR ALTERNATIVE ENERGY

In an unusual display of foresight a couple of years ago, Congress set up a synthetic fuels project—synfuels—with an ambitious goal: Produce the equivalent of two million barrels of oil per day by 1992.

The mechanics of the program set aside $17.5 billion initially to encourage private-industry synfuel projects, by guaranteeing loans, prices and purchase agreements.

That was two years ago. Of the total sum set aside, $15 billion has never been committed.

Why?

It is because of short-term considerations: A momentary "glut" turned oil prices soft while interest rates made borrowing for major projects uninviting, if not prohibitive.

Industry shied away.

Whereupon immediately, flocks of congressmen coveted the money for various other programs.

"I don't think the country is that stupid," answered House Majority Leader Jim Wright, who had led the fight for the synfuel program.

"After having foreign oil producers pull the rug out from under us twice . . . I can't believe we'll go back to sleep again. Even Rip Van Winkle didn't go back to sleep a second time."

Wright is by no means alone in his expressed concern. Two recognized experts on energy and international politics have written a book, "Global Insecurity," which foresees as "highly likely" a new oil crisis during this decade that could, by the year 2000, drive oil prices to "more than twice what they are today."

The authors point out that "glut can turn to shortfall on little more than an assassin's bullet" and that the "orderly and reasonable functioning of markets" can be totally overwhelmed by a political revolution and the sudden panic of the unprepared.

The scholarly credentials of the two authors—Daniel Yergin is associate director of Harvard University's Energy Security Program, and Martin Hillenbrand, a former U.S. ambassador to Germany and Hungary, is director general of the Atlantic Institute for International Affairs in Paris—and the academic-sounding title of the book should not discourage readers. The book reads like a suspense thriller.

The authors warn that dwindling oil supplies will be responsible for renewed inflation, unemployment, and tensions among the Western allies, causing "the greatest danger to world peace."

The impending crisis is also seen as creating conditions "dangerous to this nation's social structure (and) a challenge on the scale of the Great Depression to the viability of democratic institutions."

It is no secret that repeated and/or critical energy losses pose grave economic, social and political problems, reflected in rising unemployment and declining real incomes. All of this could, as the authors warn, lead to "declining confidence in government."

Indeed, one wonders if what's going on at present might not cause a decline of confidence in Congress and in the foresight of U.S. industry as well.

Despite the government's guarantee, the prime action in the synfuel field to date has been one major oil company pulling out of a giant project in Colorado and another firm delaying a second effort.

Rip Van Winkle may not have gone to sleep a second time but the sounds from the United States alternative energy front sound like snores.●

IN SUPPORT OF THE INCREASED APPROPRIATION FOR THE NATIONAL SCIENCE FOUNDATION

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. RANGEL. Mr. Speaker, I rise today in support of the Appropriations Committee recommendation to increase funding for the National Science Foundation (NSF). The increased appropriation includes additional funds for research in the social and behavioral sciences and more money for science education.

Today, more than ever before, we need reliable information about how our economy and society function. These are the topics addressed by the social and behavioral sciences. The social science research that is supported by the NSF includes studies on productivity, technology and organizational structure, saving behavior, the relationship between level of education and juvenile delinquency, and health and human behavior, among others.

One area of research on human behavior that I believe is particularly important is its relationship to health. We are currently spending enormous sums of money to improve the Nation's health, but we have not yet recognized that a major cause of bad health is not the failure of medical knowledge and technology but the perverseness of human behavior. Seven of the ten leading causes of death in this country are determined, in large part, by behavior that could be changed. Habits relating to diet, exercise, dental care, smoking, drinking, and drug use, to name a few, can be changed to improve the health of millions of Americans. We cannot afford to neglect the human factors that determine the Nation's health, productivity, or progress. The cost is too great.●

A POLITICAL SOLUTION IN NORTHERN IRELAND—ARE WE ANY CLOSER?

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BIAGGI. Mr. Speaker, as chairman of the bipartisan 126-member Ad Hoc Congressional Committee for Irish Affairs I am deeply concerned about the ongoing political vacuum which exists in the six counties of British controlled Northern Ireland. From the outset—our committee has contended that the United States does have a role to play in helping to establish a lasting political solution in Northern Ireland.

It has been my view that the key to a solution in Northern Ireland rests in the fundamental premise that all parties to the problems in the north should be involved in trying to bring about a solution. However, in making this premise—I add the caveat that all parties involved must be committed to a peaceful political solution one where violence has no place.

In October the people of Northern Ireland will elect a new 78-seat assembly under the terms of the British Government's new governmental plan for Northern Ireland. While the British Government and especially its Secretary to Northern Ireland Mr. Prior are to be commended for embarking on an initiative—it is unfortunate that they did not use the occasion to develop a new and workable plan. The elected assembly idea is not new and has already failed—there is no indication that it will fare any better this time out.

It is vital that the base upon which negotiations have been started involving a solution in Northern Ireland go beyond the governmental realm. It is time for bold initiatives which acknowledge a role for all parties in Northern Ireland and which have a return to economic stability as a key element to any plan for a political solution in Northern Ireland.

At this point in the RECORD I wish to insert an article written by Prof. Paul Arthur of the Ulster Polytechnic in Northern Ireland who has written an analysis of current situations in Northern Ireland including his projection on the impact of the prior plan. His article "Wrong Road in Ulster" follows:

WRONG ROAD IN ULSTER

(By Paul Arthur)

BANGOR, NORTHERN IRELAND.—"I long for the time when I can go to the United States and say: 'Look at what we have accomplished. We've got politcal stability and put some money in.'" This is what James Prior, Britain's Northern Ireland Secretary, told a London newspaper in February. Mr. Prior has now carried this message to the United States. But is political stability any closer in Northern Ireland?

Mr. Prior inherited a tense security problem arising from the Irish Republican Army hunger strike, but he ended it successfully. There followed in November 1981 the assassination of the Rev. Robert Bradford, an Ulster Protestant member of the British Parliament, by the outlawed Provisional I.R.A. In retaliation the Rev. Ian Paisley formed a "Third Force," an unofficial militia of hard-line Protestants. Once again civil

war became a real possibility in Ulster. But Mr. Prior proved unflappable and decisive in defusing a dangerous situation.

On the economic front, he has worked mightily but with limited success. In January he extracted an extra £90 million from the British Exchequer, but it has been only a drop in the ocean. "The Northern Ireland economy is not in recession," he conceded. "It is actively in decline." About 1 in 4 of the province's adult men are unemployed and the percentage for Roman Catholics is higher.

But while he can be given high marks for crisis management and praise for his efforts to help the economy, Mr. Prior has done little to achieve the more important goal of political stability.

Every British government to date has failed to achieve an internal political settlement in Northern Ireland because they cannot persuade the political leaders of the two-thirds Protestant majority to share power with the one-third Catholic minority. Mr. Prior hoped to succeed where others had failed by offering Northern Irelanders an elected assembly of Protestants and Catholics, a shot at real power over matters of great local concern that are now exclusively London's province. With these inducements he hoped to turn sectarian foes into allies.

The first stage of Mr. Prior's plan will be an election for a 78-seat assembly in October. Initially the assembly will only scrutinize the British Government's policies on Northern Ireland, but if there is enough agreement between the Nationalist Catholics, who identify with the Republic of Ireland and aspire to a united Ireland, and the Protestant Unionists, who staunchly support the link between Northern Ireland and Britain, then genuine authority will be given to the new assembly.

But Mr. Prior's proposals cannot and will not work. His plan is gravely flawed.

The British Government has quite correctly stated that the clash of identity and aspiration between Nationalists and Unionists goes to the heart of the problem. Recognition of the differing identities and aspirations should be the key elements on which a solution is based.

Ulster politicians are concerned with the fundamental problem of national allegiance and they will not set that concern aside to work together on economic or social issues. Only the nonsectarian Alliance Party, the fourth largest in the province, has shown any enthusiasm for Mr. Prior's proposals. Even a section of his Conservative Party mounted a filibuster against the bill in Parliament. Furthermore, an increasing number of critics believe that the whole exercise has deflected what appeared to be a promising effort to break down decades of suspicion between London and Dublin so they could work together on the problems of the North. Finally, the assembly idea may give a new lease on life to the I.R.A.'s political wing, Sinn Fein, which will now be able to contest the assembly elections on the platform that moderate nationalism has failed to obtain any real power for Nationalists.

So what of the future? Clearly the prospects of the proposed assembly offer little if any hope of stability in Northern Ireland and may indeed be an opportunity for a naked power play not only by the I.R.A. but also by extremists from Mr. Paisley's Democratic Unionist Party. It is worth recalling that in 1980 and again in 1981 the Irish and British Governments embarked on the development of better relations between the two countries and between Northern Ireland and the republic, and agreed on the need to further this relationship in the interests of peace and reconciliation. It is only through the development of this relationship that long-term peace and stability in Northern Ireland can be achieved. All parties to the issue—Dublin, London and Belfast—must eventually sit down and work together to achieve a solution.

(Paul Arthur is senior lecturer in politics in the Ulster Polytechnic in Northern Ireland and the author of two books on Northern Ireland, "The People's Democracy 1968-73" and "The Government and Politics of Northern Ireland.")●

1982 OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DERWINSKI. Mr. Speaker, since July, a great deal of information has been reported on the 1982 Observance of Captive Nations Week. The thrust of the recent observance is well depicted by the following selected examples: The first is a Captive Nations Week Proclamation issued by Governor Carlos Romero-Barcelo of Puerto Rico; followed by a special feature carried in the June 11 News World in New York on the suppression that exists in the captive nations, featuring the activities of the Polish police in the Solidarity movement; and finally an article from the China Post of July 21, which reports on the "Freedom for Captive Peoples" rally held in Taipei, Taiwan:

OFFICE OF THE GOVERNOR,
San Juan, Puerto Rico, July 1982.

A MESSAGE FROM THE GOVERNOR OF PUERTO RICO

As United States citizens fully cognizant of the significance of Soviet interventionism, the people of Puerto Rico join our fellow American citizens and all other freedom-loving peoples of the world in observing Captive Nations Week 1982.

On our Caribbean island we are intensely aware of the menace of Soviet aggression, for agents of this totalitarian power have for over twenty years denied basic human liberties to our neighbors in Cuba, tens of thousands of whom have emigrated to Puerto Rico to escape tyranny. The Moscow-oriented government in Havana, meanwhile, has maneuvered continuously, employing tactics ranging from the hypocritical to the criminal, in an effort to separate Puerto Rico from the United States, despite the overwhelming opposition of our own people, as expressed by majorities consistently exceeding 90 percent in the elections held here every four years.

The people of Puerto Rico cherish our democratic way of life. We have witnessed in this region of the world how cynically and swiftly the enemies of freedom can impose subjugation in the guise of "liberation." And we are responding by moving steadily toward thwarting permanently the brutal designs of dictators, through the achievement of full and equal participation in shaping the destiny of the United States, the nation for which so many young Puerto Ricans have fought and died during this century.

This is the message we would share with the men and women who have been enslaved under Communist totalitarism: the people of Puerto Rico stand ready to join with all other American citizens in supporting the courageous struggle of the people in Captive Nations for deliverance from Soviet oppression.

Sincerely,

CARLOS ROMERO-BARCELÓ.

[From the News World, New York City, June 11, 1982]

POLISH POLICE INFILTRATED UNIONS

(In the last few months a number of refugees have arrived from Austria, among them Andrzej Cyran. Until May 1981 Cyran was the vice president of the Polish Free Trade Union in the region of Malopolska, with its headquarters in Krakow.

(The following interview was granted to Alexander Pruszynski, the publisher of the Polish North American Weekly—"Slowo-Solidarnosc" from Toronto.)

Q: How did you become involved in the Solidarity movement?

A: Even before the workers in Gdansk signed an agreement with the government, I started to organize free trade unions in my home city of Krakow in southern Poland. Together with my friend Krzysztof Palkowski, we helped create more interest in Solidarity for our city.

During the second part of August 1980 in the Lenin Steel Works on the outskirts of Krakow, a Steel Workers Committee was formed and together with our group we created the Inter-factory Committee to form new trade unions, which were formally initiated on the 15th of September.

The first decisive step I made on my behalf was a speech I gave at an open meeting of the Communist Party held at a place of business called Biprostal, where I was employed as an engineering consultant.

I criticized the communist system as a ridiculous medieval form of government. I then referred to a letter I had sent to Mr. Gierek [former president of Poland] in 1971. In this letter I told Mr. Gierek that the Polish state had to be transformed from the "dictatorship of the proletariat" to a national state with free trade unions with a limited role for the police and other oppressive forces.

The speech was met with a fantastic response from both the party members and the non-party members. Suddenly, in just a few hours I became a hero. But everyone was expecting the party to crush the union the next day with force and everything would be lost.

Those who agreed with my speech and wanted to do something contacted me. From this, a group formed with the desire to create a free trade union system in Poland.

On the 26th of August, I formally resigned from the existing trade unions and signed a document of access to the new unions, which did not yet exist. With this letter in my briefcase, I started to promote the new free and independent unions. I was invited to different enterprises (businesses) and there I explained to the people why we had to form such free unions.

Q: How did the security police react to the birth of Solidarity?

A: Each communist state is a totalitarian state which bases its existence on the use of

force, especially from the police. In Poland the police are called "milicja"; its plainclothed or security forces are called "baspieka" or simply "SB."

From the very beginning, the SB made efforts to plant their men inside our union. Few people really know just how successful the SB was in this and how much they were able to manipulate Solidarity through their agents. It was difficult to speak of this problem in Poland, but today it is necessary to tell all the truth. Actually a lot of our activists, including myself, wanted to speak out a long time age.

The effort on the part of the security to infiltrate the new union was being made across Poland and on all levels of the union. We all know now of the success they had in such regions as Jastrzebie Zdroj, Bialystok and Krakow, where the first regional presidents were police agents.

The same took place in other regions, even in Warsaw and Gdansk. In spite of our efforts, of the first 17 members of our presidium [union governing body], at least four were SB agents. They were discovered later because of their actions, which brought tremendous, irreparable damages.

We have proof that the first wildcat strikes, organized against the direct orders of Solidarity headquarters in Nowy Sacz, were the work of the SB. These unauthorized strikes were conducted in coordination with members of the hard-line group of the Polish Communist Party leadership, such as Grabski, Olszowski and Zabinski.

Although the strikes in Nowy Sacz were against the orders of the regional Solidarity headquarters, they opened a series of wildcat strikes across the nation and helped disorganize the union. This disruption was obviously one of the goals of the SB.

Q: What other goals did the SB have in its campaign against the free trade union?

A: A second goal was to create an open confrontation between Solidarity and the party, led then by Mr. [Stanislaw] Kania. Such fighting would be used by the Soviets as an alibi to enter Poland with a "peaceful mission" of conciliating the two sides. The best example of such provocation, which by a miracle failed, took place in Bydgoszcz in March of 1981.

At that time the Politburo, the ruling organ of the party, had two channels of information, through the SB and through the local secretary of the party. If in a region those two channels were controlled by one person or one group, then the Politburo could be fooled in believing false information. Such a situation took place in Bydgoszcz.

A delegation of Solidarity was invited for talks to the City Hall. When they arrived, they were brutally beaten and removed. This action was witnessed by thousands of Solidarity members who were called to witness the talks.

Unfortunately for the SB, the members of Solidarity did not react violently [as the SB had hoped they would] when they saw their leaders carried out of the building bloodstained and nearly lifeless. The masses listened to their leaders and did not attack the party headquarters.

Any violent retaliation by Solidarity would have provoked fighting and a call for police reserves. The SB provocation failed, but they informed the Politburo that the incident was caused by Solidarity, that its union leader, Rulewski, had damaged his head by bumping it against the wall.

If the SB provocation had achieved its goal, there would have been little chance that the real cause of the riots would have come to light. There were more efforts to organize such provocations.

The third goal of the SB was to destroy the liberal wing of the party with Mr. Kania as its leader. The wing was a stumbling block for the conservatives and the SB. It had to be destroyed before a confrontation with Solidarity could be carried out.

To achieve this, various methods had been used, such as anti-liberal propaganda within the party bureaucracy. The situation of Mr. Kania was extremly critical. All the plenary meetings of the Central Community were called by his opposition and he never knew in advance if after the meeting he would still emerge as the first secretary.

The final removal of Mr. Kania from his post was a signal to all who understood the situation in the party that the moment of confrontation was coming. Before Mr. Kania was removed, some of his liberal friends such as Mr. Klasa were removed from their position or kicked out of the party as was Mr. Stefan Bratkowski, the leader of the Polish journalist union.

[From the China Post, July 21, 1982]

RALLY LARGEST OF ITS KIND HERE

Captive Nations Week activities have been taking place in the Republic of China since July 18 and will continue through July 24. One of the highlights of the activities took place yesterday as the "Freedom for Captive Peoples" rally was held in Tsoying, Kaohsiung. This was the largest rally of its kind in the history of the Captive Nations Week activities and the first to be held in southern Taiwan.

Captive Nations Week was first promulgated by an act of the United States Congress in 1959, as the West first became obvious of the threat imposed by the expansionist aims of the Communists.

Fifty-eight foreign guests were on hand in Tsoying yesterday, representing 25 nations in the rally which was attended by an estimated 60,000 people who gathered to show support for all those held captive behind the Iron and Bamboo Curtains of Communism.●

TENNESSEE-TOMBIGBEE WATERWAY

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BEVILL. Mr. Speaker, the Tennessee-Tombigbee Waterway has been the most investigated and the most thoroughly studied public works project ever built in this country. In addition, it is the first major waterway built under the provisions of the Environmental Policy Act, insuring that it will not endanger our environment.

All of these investigations have yielded much beneficial information, showing that this will be a wise investment for our country. However, many charges which have been hurled against this waterway have been made either from a lack of knowledge about its extensive planning, its careful construction and its environmental safeguards, or they have been made with little regard for the truth.

The projected annual appropriations which will be needed in the next few years to finish work on the project are expected to decrease rapidly. By the end of this fiscal year, nearly 80 percent of the navigational features will have been completed. In fact, 83 percent of the funds already have been committed. I want to point out that if construction were halted, as some of the opponents of this project wish to happen, there would be no savings to the taxpayer. In fact, it would cost almost as much to stop work on this project as it would to complete it. And if the project were stopped, more than $100 million in annual benefits would be lost forever.

I was most distressed to read a statement recently published in the CONGRESSIONAL RECORD suggesting some impropriety by the Corps of Engineers and impuning the corps' integrity, because of a 2-year investigation which has been underway affecting one contract on the Tenn-Tom project. The investigation was initiated by the Army Audit Agency and has had the complete cooperation of the Army Corps of Engineers.

I feel it is very important that Members have the true facts in this matter, so I include the following letter I wrote to the Public Works and Transportation Committee regarding the investigation.

The Tennessee-Tombigbee Waterway is an important project which stands on its merits.

The letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 13, 1982.

Hon. JAMES J. HOWARD,
Chairman, House Public Works and Transportation Committee, Washington, D.C.

DEAR JIM: I recently obtained a copy of a letter and accompanying press release, both dated August 3, 1982, from Congressman Robert W. Edgar to you, concerning an ongoing investigation of alleged fraud associated with one construction contract of the Tennessee-Tombigbee Waterway project (TTW).

Certain statements and implications of Mr. Edgar's letter are inaccurate and objectionable. For example, the fourth paragraph of that letter implies that the alleged fraud at issue here would have gone undiscovered without the intervention of the Federal Bureau of Investigation (FBI) and the Justice Department. In fact, the normal and comprehensive auditing mechanisms of the U.S. Army Audit Agency (AAA) discovered the allegedly fraudulent transactions at issue here over two years ago. Following its standard operating procedures, the AAA then invited the FBI to investigate for possible criminal charges; this led to a grand jury investigation. I have been assured that all relevant units of the Department of the Army, including the AAA and the Corps of Engineers' Nashville District Office, have cooperated with the U.S. Attorney, the grand jury, and the FBI to the maximum extent possible, ever since the AAA discovered these alleged irregularities.

To cite a second example, Mr. Edgar's letter and press release state that the Paul Boscoe Company was performing under a

"cost plus" contract when the alleged fraud occurred. One might infer from this statement that the TTW is being constructed on a "cost plus" contractual basis; that is untrue. In fact, the Boscoe contract at issue here was a "firm fixed price" contract; however, a changed condition at the work site (soil conditions different from those anticipated) necessitated a "change order". That change order directed the contractor to proceed with his work on a reimbursable basis, and to keep detailed records of his increased expenses caused by the changed conditions and change order. Once the nature and scope of the changed conditions had been ascertained, the Government would negotiate with the contractor to agree on an equitable adjustment of the original contract. The instant dispute concerns the validity of those expenses which the contractor certified as arising from the change order. The point is that the contract at issue was a fixed price contract, not a "cost plus" contract as claimed in Mr. Edgar's letter.

Thirdly, Mr. Edgar's letter and press release substantially exagerate the amount of Government money which could have been fraudulently obtained in this situation; even assuming the worst. I have been advised that the total amount involved in the change order under discussion was $11 million; only some fraction thereof could have been obtained fraudulently. This fact contrasts sharply with the $18 million figure presented in Mr. Edgar's letter and press release.

Finally, and most importantly, I object to the following statement from Mr. Edgar's letter (repeated in the press release): "I believe this episode could have implications for the whole project and perhaps even for the whole Corps of Engineers program." That statement is unfair and illogical, and raises questions about the motivation underlying Mr. Edgar's letter and press release. The above-quoted statement implies that the U.S. Army Corps of Engineers and the entire TTW project are somehow tainted with fraud, simply because one contractor has been accused of fraudulent activities. That can only be described as a grossly improper attack on a highly reputable Federal agency and a vital national water resources development project.

Mr. Edgar's letter has exaggerated and misrepresented the facts concering one isolated investigation of alleged fraud involoving one construction contract. In fact, this case demonstrates that the Department of the Army's audit and investigatory functions can and do ferret out alleged abuses effectively, if and when said abuses occur.

The TTW is a very large-scale construction project, which has involved many hundreds of contracts and contractors, and thousands of employees of those contractors and subcontractors. One cannot really be surprised that one contractor has been accused of one irregularity, and that two of his employees have been indicted (only for perjury, thus far) during the eleven years of project construction to date. This record compares favorably with that of the great majority of large-scale construction projects.

While such an irregularity should be (and is being) taken seriously and investigated by the appropriate agents of the Executive and Judicial Branches, it certainly does not justify the charges and the allegations presented in Congressman Edgar's letter of August 3, 1982.

Finally, Mr. Chairman, if your Committee does pursue an investigation of this matter, I would strongly urge that the ongoing grand jury investigation be considered. The most important objective at this point should be the indictment of any and all persons (if any) who are guilty of fraud against the Government.

I would certainly hope that nothing we do would in any way impair the ongoing efforts of the grand jury of ascertaining guilty parties (if any) and sending those people to prison.

Whatever action you and your fine Committee take on Mr. Edgar's request will certainly have the support of myself and my Subcommittee.

Sincerely,

TOM BEVILL,
Chairman, Subcommittee on Energy and Water Development.●

A TRIBUTE TO TOM BARRETT BY HON. CHRIS SMITH OF NEW JERSEY, HON. MARK SILJANDER OF MICHIGAN, HON. BILL EMERSON OF MISSOURI, HON. DUNCAN HUNTER OF CALIFORNIA, HON. VIN WEBER OF MINNESOTA, HON. GREG CARMAN OF NEW YORK, HON. GEORGE WORTLEY OF NEW YORK, HON. FRANK WOLF OF VIRGINIA, AND HON. ALBERT LEE SMITH OF ALABAMA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SMITH of New Jersey. Mr. Speaker, I rise this afternoon as spokesman of the Freshman Members' Bible Study to publicly thank Tom Barrett of the Christian Embassy for the outstanding teaching, leadership, and direction he has provided for our weekly Bible session.

In just a few days, Tom, joined by his wife Linda, also a Bible teacher on the Christian Embassy staff, will be leaving for graduate school to earn a master's degree in counseling psychology. This degree, combined with the master's he already holds in Scriptural studies, will undoubtedly enable him to better wed the two academic disciplines into an even more effective Christian ministry.

Mr. Speaker, my colleagues and I are real sad to see Tom go. I'm sure the Senators and staffers in his other studies feel the same way. We will miss him. All of us have profited much by his uncanny wisdom and penetrating knowledge of the Scriptures. Most of all, we have been impressed by the genuine character of his witness for our Lord, Jesus Christ. You see, Mr. Speaker, Tom Barrett practices what he preaches. He is a doer of the Word, not just a hearer. His example has been an inspiration and source of encouragement.

Mr. Speaker, Tom Barrett has worked hard to instill in us a thirst and appreciation for the Bible. He has exhorted us to more actively seek the Lord's will in our lives. He has encouraged us to pray more and read the Bible frequently and intelligently. Tom has also helped us understand more clearly how to claim the Lord's magnificent promises and how to "give thanks in all things" despite the circumstances. After all, the Bible tells us, "I can do all things through Christ who strengthens me . . . In Christ, we are more than conquerors."

Our weekly studies have been practical and relevant. Some of the topics we have explored with Scriptural insight included: Is Christ Nice or Necessary?; How To Deal With Pressure; Persevering Under Adversity; True Forgiveness; Maintaining Priorities in an Election Year; What is Faith: Putting on a New Self; and The Christian Walk.

Our weekly study sessions have truly been a time of spiritual refreshment, fellowship, and learning.●

AMENDMENTS TO THE 1939 SEED ACT

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FAZIO. Mr. Speaker, I have introduced in the House today a bill which I hope will ameliorate consequences of a recent decision by the U.S. Department of Agriculture to close, effective the beginning of the 1983 fiscal year, the Agricultural Marketing Service's four regional seed laboratories. These labs are charged with the enforcement of the requirements in the 1939 Federal Seed Act. The Department has determined that the functions of the regional laboratories may be safely consolidated into the AMS' Federal Seed Standardization Laboratory in Beltsville, Md. The Department has said that the closures will result in the savings of $600,000 a year and will cause a net loss of 17 jobs, though many of the jobs to be preserved will require transfer to Beltsville.

In response to various concerns expressed by the seed industry and knowledgeable members of the general public, the Department has modified its closure plan over the last several months. It has sought to insure that the single laboratory in Beltsville will not be overwhelmed with work and that the seed industry will not suffer inordinate delays while waiting for samples of seed to travel large distances for testing. We were particularly concerned about the closures of the Sacramento laboratory on the west coast, through which more seed is processed than through any other laboratory. In 1981, for example, 4,486 seed samples subject to the Federal Seed Act were handled in Sacramento,

versus 3,599 in New Jersey, 4,130 in Minnesota, and 2,340 in Alabama. Some 57 percent of all the vegetable seed imports were handled through the west coast laboratory, 84 percent of the service tests for imported seed, and 57 percent of the service tests for exported seed. With this volume occurring at a point 3,000 miles from Beltsville, Md., concern was obviously strong that the program consolidation did not result in missed plantings and higher costs—in one of the most time-sensitive and cost-sensitive steps in agriculture.

Therefore during a period of negotiations, when we were ably assisted by Mr. WHITTEN, chairman of the House Appropriations Subcommittee on Agriculture, the Department proposed various ways in which the seed laboratories' workload could be assigned elsewhere within the USDA. The Animal and Plant Health Inspection Service received responsibility for noxious weed testing, a function it could efficiently assume with existing personnel at ports of entry. The Department found and assured us that the awarding of certificates for the export of U.S. seed could be delegated to the States (to be supported with user fees) without any changes in statute. The remaining function of the laboratories—known as pure live seed random sampling—had to be performed at Beltsville, we were told. Subsequently, the APHIS was assigned live random sampling in its laboratory at New Brunswick, N.J.

The Department of Agriculture has assured us that these consolidations and changes will be carried out with absolutely no loss in time or efficiency. However, Mr. Speaker, its good intentions aside, the Department will not be able to eliminate entirely the prospect that the requirement for pure live sampling will not result in costly coast-to-coast shipment delays.

It happens also that pure live seed random sampling does not even appear to be necessary, at least in the minds of the USDA and the seed industry. Each State has its own seed standards, and in most cases they are higher than the Federal standards. In no case are they lower. Additionally, for its own marketing purposes the industry must generally provide quality and germination assurances that exceed even the highest of the State standards. The Federal requirements set forth in the 1939 Seed Act are obsolete and redundant.

The possible problem of shipping great distances combined with the lack of purpose for the Federal pure live sampling requirement lead us to conclude that it would be best to simply eliminate the requirement from the statute prior to October 1, if possible.

That is this bill's primary purpose, as far as I am concerned. In addition, however, it contains some other provisions to eliminate conflicts between Federal and State seed laws and to provide flexibility to the Secretary of Agriculture in administering the act.

The act specifies that certain grasses be classified as "fine textured" or "coarse kinds" and a list of the two categories is provided in the regulations. The development of new improved varieties of grass seed has blurred the distinction between the two lists. It has come to a point where it is impossible, from a legal standpoint, to differentiate between the two kinds. It is a very slow and difficult process to change the lists in the regulations as new varieties are developed and even more difficult to classify a new variety of grass into one of the categories.

The Association of American Seed Control Officials, made up of State representatives, has recommended elimination of the requirement to label according to these distinctions and has made the change in the "Recommended Uniform State Seed Laws." Several States have adopted this labeling change in their seed laws; others are only waiting for the Federal Seed Act to be changed in order to change their laws.

In an attempt to conform to two different sets of laws, a seedsman selling seeds in one of these States could be in violation of either the State or Federal law or both. A member of the seed industry selling seeds on a national level finds it difficult, if not impossible, as well as expensive to attempt to label his seeds in a different manner in the 50 States.

The second immediate need for changes in the FSA pertaining to lawn seed mixtures is to correct the labeling requirement to allow that only the month and year of the oldest germination test be required. Since the test must be completed within a 5-month period of the date of sale, listing only the oldest germination test date would automatically cover those varieties within the mixture which had been tested at a later date. There is a great deal of information required on a small package of seed and, since this is a control measure and does not afford the consumer additional protection, it would save time and money in printing the label and make it easier for the consumer to understand the information that is helpful.

There is also a need to provide the Secretary of Agriculture with authority to extend the 5-month period between the test date and date of sale when he finds that, under ordinary conditions of handling, certain kinds of seed will maintain its germination qualities over a longer period of time.

Mr. Speaker, it may seem late in the year to be introducing a bill. However, one of my Senators from California, Senator HAYAKAWA, has introduced a similar measure. With his help and the cooperation of the Agriculture Committees and the Congress as a whole, I am hopeful we can resolve this lingering problem by October, when the new fiscal year begins and the closure of the laboratories is completed. Thank you.●

SENIOR ENVIRONMENTAL EMPLOYMENT PROGRAM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. UDALL. Mr. Speaker, I would like to take this opportunity to note the passage of an important amendment yesterday, offered by Representative COOPER EVANS of Iowa to the Environmental Research, Development, and Demonstration Act of 1983. The amendment authorized the senior environmental employment program. This program gets at the heart of two problems this Nation faces. First, we need more workers to enforce and research our environmental policies. This problem did not come with the Reagan administration. When the senior environmental employment program was first implemented in 1978, State and local environmental offices cited a need for more employees. I might add that this administration's view that there is no need for more environmental employees—in fact that fewer employees can do the job better—somewhat baffles me. Nevertheless, the job of protecting our environment is an enormous one and the use of senior employees can help get it done.

The second problem the senior environmental employment program can help to alleviate is the growing numbers of unemployed senior citizens. The population of people over the age of 65 is steadily rising. And so is poverty, boredom, and disillusionment among our Nation's elderly. This program is an excellent opportunity for senior citizens to pursue their interests in environmental protection and make a valuable contribution to this Nation's future.●

KEEP THE EMBARGO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DERWINSKI. Mr. Speaker, the bill, H.R. 6838, which terminates certain export controls would directly influence U.S. technological involvement in the construction of the Soviet Union's natural gas pipeline. It has been held for consideration until after the upcoming recess.

Personally, I am pleased to see that this misdirected piece of legislation has been delayed. As a result of an ill-advised legislative effort, this bill was reported out of the full Foreign Affairs Committee without the benefit of thorough debate on the foreign policy impact that could result from its passage.

Therefore, I was especially pleased to note that the distinguished columnist, William Safire, gives very detailed arguments on the possible repercussion on the use of our technology in the Soviet pipeline construction in his column which appeared in the August 17 Chicago Tribune.

KEEP THE EMBARGO

(By William Safire)

Here are seven aguments advanced by Europeans miffed at our refusal to help build their Siberian gas pipeline, followed by short doses of realism that have escaped U.S. congressional doves:

The gas pipeline is a private business deal that should not be blocked by cold war politics.

Nonsense: West German Chancellor Helmut Schmidt, in the twilight of his power, is making this last-ditch attempt to impose the dead hand of detente on the East-West future. When Russians lose their capacity to export oil in a few years, they will need a new source of hard currency to finance purchases from the West. The Soviet-European pipeline deal would provide it more than $10 billion a year. Schmidt's West German Socialists delude themselves that growing East-West trade will somehow make possible the reunification of Germany.

Americans should have told us long ago that they opposed this deal—now it's too late.

Our displeasure was made known over a year ago at the Ottawa summit meeting and followed by a mission to Europe to dissuade the West Germans; these repeated warnings were treated with contempt. Finally, President Reagan publicly warned that unless the crackdown in Poland ended, "further steps" would be taken—but the Europeans didn't believe him.

America's concern that this deal will make Europe subject to Soviet blackmail is misplaced—it will supply only 5 percent of total energy needs.

Even the West Germans admit that the Russians will supply one-third of their natural gas in this deal; within the decade, that dependency will probably jump to one-half, concentrated in the home heating market. Only detente politics dictates this dependency: the needed gas could be developed from the North Sea instead.

If you really wanted to punish Moscow, you would embargo your grain—why ask Europe to make a sacrifice America won't make?

When America embargoed grain after the Soviet invasion of Afghanistan, Europe undercut that pressure of quadrupling its annual grain sales to the Soviet Union to two million tons. Europe profiteered on our embargo. When Schmidt made the grain-pipeline connection this spring, I asked the question that punctures that balloon: If America did embargo grain to help ease the pressure on Poland, would Europe drop the pipeline? The answer was a horrified "No!"

America has no right to apply extraterritoriality to deals made by U.S. companies—if you want to do business in Europe, selling your licenses to our companies, you must abide by our laws.

That charge turns truth on its head: The contracts made by U.S. companies with European concerns contain clauses that permit cancellation if the U.S. government decides the deal is against our national interest. The Europeans are now threatening to breach these contracts, in effect ordering their companies to expropriate the U.S. technology on pipeline compressors. That would be a highly unfriendly act by the Europeans, demanding retaliation. Nor are we acting ex post facto—the issue has to do with the transshipment of our technology, which has not yet taken place.

By denying the use of American technology, the U.S. may delay the pipeline for a couple of years—but won't stop it.

If Schmidt and French President Francois Mitterrand are so committed to making the biggest East-West trade deal in history that they are willing to risk a serious breach in the Atlantic Alliance, that is their business: But the U.S. is not obligated to assist them in what we believe to be a fundamental mistake. As European nations are sovereign, so is the U.S.; and a two-year delay in the flow of hard currency to the Russians would be salutory.

America is suffering a public relations defeat, alienating its allies without stopping the pipeline.

The point of having an alliance is not merely to have an alliance—it is to act together in a common purpose. The purpose of NATO, for example, is to deter the Soviet Union from doing in West Germany what it has done in Afghanistan and Poland. If the West Germans consider it more important to strengthen their ties with the Russians than to maintain their ties with the Americans, then the "alliance" has become a hollow shell and we would do well to so recognize it.

A total of 350,000 U.S. servicemen are stationed in Europe to defend it from Soviet aggression. We have a right to object to actions by misguided allies that add to the power of our common adversary.

If these serious objections are derided by foreign ministers who bluster about "divorce" and threaten to use our technology against our will, Europeans now taking us for granted may find themselves with a fine gas pipeline to the East and no umbilical cord to the West.●

BALANCED BUDGET

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. COLLINS of Texas. Mr. Speaker, there is a pressing need to pass the balanced-budget amendment. We have a balanced budget in our constitution in Texas. It applies to the State of Texas, it applies to the city of Dallas, it applies to the county of Dallas. All of Texas must operate on a balanced budget and the system works.

The big difficulty is that those in political life have pressures to keep spending and spending. Under the balanced budget we have alternatives of having to reduce here or reduce there as you cannot spend for everything.

The Dallas Morning News writes one of the greatest editorial pages in America. They had a very sound editorial on balanced budget. They asked a good question about balanced budget. "Do you have a better idea?" That is what it all boils down to, because inflation is moving fast. Taxes are escalating, interest rates will go even higher. The answer is the balanced-budget amendment.

Remember back in 1968; the national budget was $100 billion under Lyndon Johnson. National budget was $298 billion under Ford in 1976. But right now we are talking about Congress spending $770 billion or more this year. That means that the budget went up $200 billion in 8 years but it has gone up $500 billion in 6 years. The only way that we can establish fiscal responsibility is with a mandated balanced budget.

You will be interested in the editorial from the Dallas Morning News.

BUDGET AMENDMENT: GOT A BETTER IDEA?

David Stockman's interesting essay on the balanced-budget amendment, published on the Viewpoints page last Friday, underlined several notable truths about the spending addiction that has called it forth.

The federal government's share of the total wealth produced by the nation in a year, the gross national product, has increased by a third in just 15 years.

And the addiction is even worse in other industrial nations that have a welfare state. The 10 Common Market economies now turn over half the produced wealth to government every year. On both sides of the Atlantic, the trend climbs toward even greater shares for government.

Meanwhile, the welfare-state mentality continues to increase the numbers getting money in relation to the numbers working to earn the money at productive jobs. In 1950, Stockman shows, there were five people working in private sector jobs for every one getting a transfer payment from the government. Last year, the proportion was 1.3 to 1.

What's more, there is what Stockman calls "asymmetry" between the interest group receiving payments and subsidies and the mass of working taxpayers. In plain English, what he means is that for each payment, the few getting it will fight harder to keep it than the many who pay taxes will fight to stop it.

For example, he cites dairy subsidies. They amount to $7,000 per dairy producer, but they cost the average taxpayer only about $18 a year. Obviously, a dairy producer is much more likely to give his time and money to a lobbying fight to keep the subsidies than John Q. Taxpayer is to get the subsidies cut.

Multiply that situation by the hundreds, thousands, of programs that hand out the taxpayers' money. You can easily see why Congress, for all its brave talk about economy, rarely reduces any spending program.

There are plenty of arguments against the amendment. But there aren't plenty of alternatives.

It is obvious that we cannot go on as we are going. That way lies certain calamity. But none of the critics has produced any other way to get the federal government to budget as well as does a prudent household.

a well-managed business, a fiscally responsible state.

What we've heard so far is criticism. What we'd like to hear is a better idea for doing what clearly has to be done.●

EXPLANATION OF VOTES ON AUGUST 17, 1982

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, I was necessarily absent from the Chamber on official business in order to honor a long-standing commitment to meet with a group of my constituents in Montana. There were a number of recorded votes during the time I was absent and I want to make my position known on those measures considered by the House.

On H.R. 1489, Puerto Rican passenger service, rollcall No. 281, I would have voted "yea."

On H.R. 5618, Organic Farming Act, rollcall No. 282, I would, as a cosponsor of the bill, have voted "yea."

On H.R. 6323, EPA research authorization, rollcall No. 285, I would have voted "yea" on final passage.

On the amendments to the EPA research authorization, I would have voted "yea" on rollcall No. 283 to amend the amendment in the nature of a substitute and would have voted "yea" on rollcall No. 284 to adopt the amendment on the nature of a substitute.

On H.R. 6324, NOAA authorization, rollcall No. 286, I would have voted "yea." On that bill, I would have supported the amendment agreed to by a voice vote that established an objective procedure for opening and closing weather stations and for consulting local officials.

On H.R. 6955, budget reconciliation, rollcall No. 287, I would have voted "yea" to send the bill back to conference to delete the congressional pay raise.

On H.R. 6530, Mount St. Helens volcanic area, rollcall No. 288, I would have voted "yea" on agreeing to the conference report.●

MRS. PATTON SERVED LONGEST ON HILL

HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FAUNTROY. Mr. Speaker, from time to time I have the privilege of knowing men and women who are described as senior citizens because they have been blessed to live a certain number of years, yet by their activity and their spirit they seem to have found the fountain of youth, for their age is measured by the temper of their will, by their hope, and by their faith.

One such person, who many of you may already know, is Mrs. Alma Patton. On Friday, July 30, 1982, Mrs. Patton retired as manager of the Dirksen Senate Branch of Western Union. She is the person you have come to rely on in getting out those last minute messages to your constituents.

Mrs. Patton has seen many a Congressman come and go during her 54 years of service on the Hill and in fact has been in the Congressional Telephone Directory longer than any employee on the Hill.

I think we all owe Mrs. Patton a thank you for her dedicated service, for I am sure that you will all agree that she exemplifies the American ideals of determination, hard work, loyalty, and compassion—qualities which have built our Nation and continue to make us great.●

AMERICAN-FLAG PASSENGER VESSELS SAIL AGAIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, Friday of this week, August 20, ceremonies will be held in Los Angeles welcoming the first American-flag passenger cruise ship to dock in Los Angeles Harbor in over 5 years. An American-flag passenger ship docking in Los Angeles 20 years ago would have warranted absolutely no attention. In the late 1950's there were 15 passenger vessels flying the American flag, directly employing 10,000 American seafarers. And there were about 25,000 shoreside jobs in shipbuilding and repair, tourism and support industries that depended on this segment of the American maritime industry. But, that was 20-odd years ago.

In the intervening years, we have seen the American-flag passenger industry in a steady decline. This decline was caused by the terrific advances made in air traffic which took away passengers from vessels plying normal commercial routes, and heavy competition from less expensive foreign-flag vessels. In 1978 the last two all-passenger vessels flying the American flag were retired. Although for the last 5 years we have had combination cargo-passenger vessels and freighters carrying passengers under the U.S. flag, we have not seen the true all-passenger vessel, stately and majestic, plying the waters under the Stars and Stripes.

But I am happy to say that now this has changed. The ceremonies this Friday welcoming the SS *Independence* to the L.A. Harbor mark a limited, but nonetheless significant, revival of the American-flag passenger trade. The *Independence* and her sister ship, the SS *Constitution*, are operated by the American Hawaii Cruises. The *Independence* began operating in the Hawaii interisland trade in June of 1980, and proved to be so successful that the *Constitution* was placed under the U.S. flag earlier this year. Both of these ships are crewed by members of the Seafarer's International Union.

I am pleased to report, Mr. Speaker, that the rebirth of the American-flag passenger cruise industry is a good example of what labor, business, and Government can achieve when they act together in concert. I am indeed proud of the part that I played in obtaining approval from Congress in 1979 to recommission the 30,000-ton passenger liner *Independence* as a U.S.-flag vessel. And I am proud that this enterprise is proving successful, because that equates to American profits, American jobs, and a broader American tax base. That is surely something which we can all applaud, and it will indeed be a thrill to see a mighty passenger vessel steaming into the Los Angeles Harbor carrying the U.S. flag proudly on its stern.●

"A HANDGUN DEATH TOLL"

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LEHMAN. Mr. Speaker, the Florida Coalition To Halt Handgun Crime has recently released the tragic statistics for the month of June on south Florida's handgun victims. Ralph Renick, vice president and news director of WTVJ in Miami, presented an editorial about these figures and called on our local county commissions to enact handgun legislation.

I am including Mr. Renick's editorial in the RECORD and I commend him for bringing these senseless killings to the attention of television viewers in south Florida.

With more and more local governments taking the initiative in the struggle to curb handgun violence, it is clear that the American people favor stronger handgun control legislation. I hope that my colleagues in the Congress will be encouraged by this trend and act soon to pass Federal legislation.

The editorial follows:

[Broadcast Tuesday, July 27, 1982]

A HANDGUN DEATH TOLL

The Dade County Association of Chiefs of Police is for it . . . the Society of Former F.B.I. Agents supports it . . . the North Miami City Council backs it . . . the American Jewish Congress and Catholic Archbishop Edward McCarthy favors it . . . the "it"

being a proposed ordinance by the Florida Coalition to Halt Handgun Crime.

In April, the Coalition presented its proposed law to the Dade and Broward County Commissions. It's three months later . . . neither commission has come close to considering the seven gun control recommendations.

Today the Coalition released the handgun death toll for the month of June. 30 people died by handgun bullets in Dade and 21 had their lives ended by handguns in Broward. While you look at the names and ages of the 51 victims, we'll highlight verbally some of the circumstances in these deaths.

VIDEOTAPE

Dade handgun death toll in June—30

Jose Andujar	37
Pablo Aviles	20
William Banks	32
Catherine Bleich	14
Oswyn Boyd	26
Keith Brown	17
Juan Jose Bultron	26
Celedonia Cordero	32
Richard Cunningham	22
Barbara Farrell	52
Ronnie Ferguson	18
Janet Gayzel	22
Carlos Hess	53
Jose Ioo	57
Alfredo Lorenzo	36
Grisel Lorenzo	27
Charles Mills	25
German Mitat	38
Ernesto Perez	35
Donald Phillip	26
Jorge Pujol	19
Freddy Ramirez	20
Sara Rey	31
Pedro Rodriguez	35
Letitia Shannon	28
Theotis Sharpe	26
Miguel Suara	23
Percival Wright	35
Clara Zaballa	50
Humberto Zuniga	17

Broward Handgun Death Toll in June—21

Alvin Austin	30
Patricia Daniels	36
Robert Daniels	46
Raymond Dunlop	70
Sharon Evers	35
Ira Goodman	31
William Hall	53
John Hofen	64
Thomas Hosty	44
Monte Klein	33
Paul Neal	67
Byron O'Dena	40
Monica Porth	20
Angel Sarduy	35
Steve Seidel	21
Charles Sherrard	54
Justin Smollin	16
Michael Sparber	37
Shellie Summers	48
John Vissing	65
Leonard Walls	29

Total Dade and Broward handgun deaths Jan. 1 through June 30: 334. Dade, 222; Broward, 112.

AUDIO

14-year-old Cathy Bleich of Miami took her father's handgun from his automobile and killed herself. She and her brother were alleged to be victims of child abuse. She had a high I.Q. and played in her school band.

18-year-old Ronnie Ferguson of North Dade was killed by a neighbor after Ferguson complained of clippings from a hedge falling into his yard.

26-year-old Juan Bultron of Miami was driving along Northwest 79th Street when a passenger in another car pulled a handgun and killed Bultron instantly.

35-year-old Pedro Gonzalez died at the wheel of his truck in Hialeah . . . shot by someone who had pulled up in front of him.

This brings the number of handgun deaths in Dade and Broward for the first half of 1982 to 334. Three-hundred-and-thirty-four . . . that's more than the handgun deaths in the entire year of 1979 in the following countries combined . . . Great Britain . . . Switzerland . . . Canada . . . Israel . . . Sweden . . . and West Germany . . . more in the first half of this year in Dade and Broward then those six countries combined in all of 1979.

Dade and Broward County Commissions . . . are you listening or even caring?●

BALANCED BUDGET FLIMFLAM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. OBEY. Mr. Speaker, recently, we have witnessed the spectacle of an administration which has asked the Congress to pass the largest deficit in history engaging in a diversionary operation to take people's attention away from the ludicrous nature of these deficits by posing as the champions of a constitutional amendment to balance the budget.

The budget should be balanced in years of full employment in order to pay back Treasury borrowing that occurs at other times. But the constitutional amendment sham being enticingly dangled in front of the American public today is a prescription for making recessions deeper and longer and more painful and it is a prescription for minority rule—the very antithesis of the constitutional principle of majority rule built into our system by our Founding Fathers.

I am inserting in the RECORD at this time two newspaper editorials from my home State—one from a traditionally Republican newspaper, and the other from a usually Democratic newspaper. I am also inserting three excellent articles by Tom Wicker, David Broder, and James Kilpatrick, which put into perspective the sham game being played by this administration and many people in this Congress as well.

I also invite Members who are interested in a balanced budget to quit posing about actions they will take 6 years from now to balance the budget and start addressing the need to get today's budget deficits under control now.

The articles follow:

LAW TO BALANCE BUDGET BORDERS ON RIDICULOUS

Two years ago, President Reagan said his economic programs would balance the federal budget by 1984, maybe 1983.

Now, in the wake of approval of a 1983 fiscal budget calling for a deficit of more than $100 billion and smaller but still immense overages down the line, Reagan has called for a constitutional amendment to require a balanced budget.

With all due respect to the basic belief that budget deficits are bad for the economy and that their elimination would have an effect on both interest rates and inflation, the idea that this can be achieved through a constitutional amendment borders on the preposterous.

Indeed, even the proposal under debate in the senate allows a loophole through which the deficit ban could be temporarily lifted by a three-fifths vote of Congress or in wartime.

If Reagan really believes the budget can be balanced by act of law, why doesn't he just forgo the next request to increase the national debt limit? Indeed, if he merely vetoes every objectionable spending bill, it will take a two-thirds, rather than a three-fifths, majority vote of Congress to defy his will.

But it seems obvious that Reagan is trying to divert attention from his budget deficit by wrapping the idea in the constitution and ceremoniously embracing it. It will be an argument to use against Democratic critics who recall his promise in the November elections.

All this is not to say that the deficits are Reagan's fault. As he has noted, there have been deficits in 21 of the last 22 years, some of which were pretty good economically. And a case can be made stricter adherence to and broader acceptance of his supply side theory would have brought us closer to a balanced budget at this time.

But the current situation seems to demand a continuing effort by the administration and Congress to determine where economies in the subsequent budget years can be made.

Wasting time on the constitutional amendment can only divert the president and the lawmakers from this responsible course of action.

[From the Milwaukee Journal, Aug. 7, 1982]

DECEPTIVE "APPLE PIE" AMENDMENT

"It's quite hard to explain why you are not for motherhood, or low interest rates or a balanced budget."—Sen. John Chafee (R-R.I.)

Chafee's wry comment probably explains why many senators voted for the "budget balancing" constitutional amendment in spite of the serious damage that it could do to the orderly processes of government.

Commendably, Chafee chose not to join the stampede. We regret that Wisconsin's Sens. William Proxmire and Robert Kasten didn't show comparable courage.

On the surface, a vote for the amendment was like a vote for apple pie and the Fourth of July; while a vote against it—even for the soundest of reasons—might look too much like a vote for big spending.

Actually, the amendment has no bearing whatever on the mind-numbing deficits that loom over the next few years. If the House quickly follows the Senate's lead and adopts the measure, it still will have to go through a long ratification and implementation process before being put into effect.

Even for the long run, the measure's impact on deficits is somewhat debatable. The amendment apparently would make it harder for Congress to adopt an unbalanced budget and harder to raise the federal debt ceiling. Three-fifths of the membership of both houses would have to approve, except

in wartime. But the measure would not prevent economic recessions, which are one of the main causes of deficits. On the contrary, by limiting the government's policy options, the amendment might make recessions more likely.

Some advocates of the amendment argue that it is a necessary goad to the lawmakers. "We don't have the appetite to limit ourselves," says Sen. John East (R-N.C.). That problem can be remedied at the ballot box. Tying the hands of future Congresses isn't the answer.

Although today's record deficits are cause for genuine concern and appropriate action, deficits are not always bad. Economic depressions or other emergencies can make it temporarily necessary to spend money more than taxpayers can afford to.

The constitutional amendment presents two other serious problems. First, it would clutter the Constitution with what is at best a legislative rule. That's like drawing whiskers on the Mona Lisa. The Constitution is an elegantly simple document that should not be altered except for compelling reasons. Second, the amendment would install minority rule, allowing 41 of the 100 senators or 175 of the 435 representatives to dictate the terms of the federal budget. That is intolerable in a country committed to democratic government.

[From the New York Times]

THE BIGGEST HOAX

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes." The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year $750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from $140 billion to $160 billion, even after approval of the proposed $99 billion tax increase for the same years. Without a shred of evidence other than voodoo throbbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of $214 billion for 1983, $243 billion for 1984 and $279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.

[FROM THE MILWAUKEE JOURNAL, AUG. 10, 1982]

COWARDS IN CONGRESS

(By David S. Broder)

After summarizing the copious arguments for the ratification of the Constitution in the last of the Federalist papers, Alexander Hamilton gave vent, briefly, to the emotions he felt as he contemplated the choice before the infant republic:

"The establishment of a Constitution, in a time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety."

Last week, the Senate of the United States voted for an amendment to the Constitution to require a balanced budget, except in time of war or by vote of 60 percent of both houses of Congress.

This is what a US Sen. John G. Tower of Texas offered as a rationale for his vote:

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States. We are unable to discipline ourselves to do what we should do and, therefore, we feel constrained to try to institutionalize that discipline in the Constitution.

"This is a matter that should not really be in the fundamental law of this land . . . Because I think it should be submitted to . . . a referendum and because I think there should be a great national debate on this issue, I intend to vote to report the amendment. However . . . I would be deeply delighted to testify against its ratification."

What a commentary on the condition of public life and leadership in this republic.

When but recently liberated from colonial status, men of influence were prepared to risk "their lives, their fortunes and their sacred honor" for the ratification of the charter of this nation's being.

Today, this rich and powerful nation is governed by people who are prepared—against their better judgment—to forward, for inclusion in that charter, any kind of simple-minded scheme they think commands a popular majority.

The point is not to condemn Tower. His own words do that. The rationalization he offered was, in fact, adopted by the leaders of the Senate. Majority Leader Howard H. Baker, Jr., of Tennessee used it to solicit votes. Minority Leader Robert C. Byrd of West Virginia employed it in explanation of his own tortured vote.

Not to worry, they said. It's just a harmless little old constitutional amendment, which happens to shackle the national government and prevents it from conducting a national economic policy, which transfers to a minority of 40 percent the power to set fiscal policy, meaning, among other things, the capacity of this country to defend itself and to secure the general welfare—the fundamental purposes of creating the national government.

But, they said, the House may not pass it. Legislatures may not ratify it.

Don't you believe it. Cowardice is contagious. Already, one hears House leaders saying it might be smart to let the members vote for the amendment, in a slightly different form, to "protect themselves" for election purposes, and then hope that it dies in a House-Senate conference committee.

But the conferees will not withstand the heat—nor will state legislators—unless someone decides to stop the buck-passing and vote on conviction. In the Federalist papers, Hamilton explained that the procedure for amending the Constitution was made difficult so that "the judgments of many must unite in the work (and) experience must guide their labor."

Hamilton did not reckon with the kind of leaders we have today, who are all too eager to suspend judgment, ignore experience and avoid responsibility.

It is a different kind of "trembling anxiety" one feels when the Constitution falls into the hands of such people.

[From the St. Paul Pioneer Press, Aug. 16, 1982]

WRONG WAY TO BALANCE FEDERAL BUDGET

(By James Kilpatrick)

WASHINGTON.—The proposed constitutional amendment to compel a balanced federal budget offers a regrettable but familiar combination often seen on Capitol Hill. The resolution is a mishmash of good intentions and bad law.

Since the days of John Randolph of Roanoke, who defined pay-as-you-go as "the philosopher's stone" of wise government, almost everyone has proclaimed the virtues of a balanced budget. This is the ideal. There is nothing wrong with the ideal. The problem lies only with members of Congress who have despoiled it and with the people who have voted these members into office. Barring periods of true national emergency, of course our government should spend no more than it takes in.

There is much to be said, also, for the argument that the only way to restrain our irresponsible lawmakers, who have spent us into a trillion-dollar debt, is to deny them the money in the first place. The theory is that they can't spend what they don't have. It is supposed that the constitutional amendment would provide precisely such a restraint. At the very least, the amendment would raise a symbol that honorable men could repair to.

But for the past 10 years, we have heard some of these same arguments about the ill-fated ERA amendment. It would have provided that "equality of rights under the law" shall not be abridged on account of sex. The ERA never would have accomplished what its proponents believed it would have accomplished; and the notion that constitutional amendments are "symbols" is a notion that ought to be abandoned.

The resolution adopted by the Senate on Aug. 4 is flawed in a dozen ways. It undertakes to write statutory law into the Constitution, and this always is a bad business. In Section 2 of the amendment, it is proposed to limit the rate of increase in annual receipts, but the formula by which this would be fixed is a formula composed of algebra and moonbeams.

The Congress and the president, says this amendment, shall ensure that actual outlays do not exceed a statement of proposed outlays, but there is no way under moon or sun that this provision could be enforced. It is generally forgotten, but we already have a law to this identical effect. Under Section 7 of Public Law 95-435, adopted in October 1978, it is specifically provided that, "Beginning with Fiscal Year 1981, the total budget outlays of the federal government shall not exceed its receipts." This already is a part of the supreme law of the land, and no one has paid a particle of attention to it.

Extended analysis would be a profitless exercise. The political and parliamentary situation in the House suggests that the amendment is dead for this session. Like T. S. Eliot's famous patient, the Senate's amendment now lies etherized upon a table. It is sleeping in the House subcommittee on monopolies and commercial law. This is Chairman Peter Rodino's personal operating room, and Dr. Rodino is a skilled operator.

It is conceivable, though barely conceivable, that the chairman could set aside his own opposition to the amendment and in the name of democracy let the resolution move toward floor consideration. The alternative is for the resolution to be bombed out of its unlikely abode by a petition for discharge. Such a petition requires 218 signatures, and these will be hard to come by.

Suppose the 218 signatures were obtained. Seven legislative days must then elapse. A resolution thus press-ganged then may be called up on the floor, but only on the second or fourth Mondays of each month. Aug. 16 is out; the House will be in recess on Aug. 30; Sept. 13 is a possibility, but only if the seven-day requirement has been met; Sept. 27 is Yom Kippur, when nobody's home; the Congress is expected to adjourn well before Oct. 11, which happens also to be Columbus Day.

If we want balanced budgets, the answer lies not in the straw fetters of this amendment, but in the election of responsible representatives. The whole House and a third of the Senate will be up for election in November. If the deficits get worse, let us blame them—but let us blame ourselves too.●

SECURITY AND STRATEGY IN NORTHEAST ASIA

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BONKER. Mr. Speaker, on July 28, Mr. Lee Jong Chang, the majority leader of the Korean National Assembly, spoke at a symposium on security and strategy in northeast Asia. This meeting was sponsored by the Center for Strategic and International Studies at Georgetown University and the Institute of Foreign Affairs and National Security of the Republic of Korea.

In discussing the efforts to enhance security in Asia and the Pacific region, Mr. Lee makes certain interesting observations which I would like to commend to the attention of my distinguished colleagues.

The remarks of Mr. Lee follow:

Mr. Chairman, Members of the U.S. Congress and the Korean National Assembly, distinguished representatives of the U.S. Government, Ladies and Gentlemen:

As Co-Chairman of the First Annual Korea-U.S. Symposium on Security and Strategy in Northeast Asia, it is indeed an honor and a privilege to have this opportunity to share with you our mutual concern and interest in the theme of this important conference. I feel that today's symposium will provide a significant opportunity for those assembled here to examine the entire Northeast Asian situation of the 80's.

Following the Second World War, with increasing tension between East and West, the communists attempted to expand their sphere of influence by military force and intervention in the affairs of many Asian nations, contrary to the type of activity in which they engaged in western Europe. There are numerous examples of this including the establishment of the People's Republic of China as a result of internal conflict, the outbreak of the Korean War, the communist overthrow of Vietnam in the early 70's and the communization of the Indochinese peninsula.

In Europe, the attainment of political and social stability and economic prosperity, as well as the re-attainment of a military balance, combined to function as a preventive element in avoiding war. This condition also made it possible to conduct various forms of negotiations between the two blocks.

In Asia, however, political instability, economic underdevelopment, and social disorder eventually brought on war, and consequently encouraged expansionism by the communists in the region.

To put it another way, in Europe the communists realized that the values to be preserved by maintaining the peace were far too important to risk destroying them by resorting to war. In Asia, however, it can be said that wars occurred in most cases because of the vague expectation that war, although it causes ruin, might create many new values which would be more beneficial to communism than those which existed before.

From the latter part of the 1970's, however, the people of Asia gradually began to recognize that this was a misconception. In other words, it has been demonstrated that a society that is newly constructed after total destruction can not, under any circumstances, guarantee human dignity, political equality or economic progress, but can only result in endless oppression and the degradation of human life.

Together with this deep awakening of the peoples of Asia, the economic development of Japan gave great incentive to the region. Stimulated by Japanese economic progress, the developing countries of Asia are now making impressive progress in their own economic development plans.

As we emerge into the '80's, with the expectation that an era of competition will eventually replace that of war, Asian countries are seeking peaceful solutions to all their problems. To attain these goals, however, several important conditions must be clearly recognized and met.

The first thing to be considered is that when one nation suffers the ravages of war, all neighboring nations are adversely affected, resulting in a generalized disturbance of the regional order. Consequently, each nation should assume responsibility for the protection of the entire region under a system which delegates an equal share of responsibility to each country.

Second, each nation must exert its utmost efforts to achieve prosperity through growing regional economic cooperation. They must also develop their national economies and improve their standards of living. By successfully accomplishing this, they should be able to prove to themselves that these actions will effectively deter war and lead to fair competition.

Third, the necessity of the United States' continued an active assistance to deter any military aggression should be unequivocally stressed. All available data show us that Soviet military capabilities have been expanded in the Far East during the '70's, and this appears to be the most serious threat to our region. The Soviet Pacific Fleet alone, at a tonnage of 1.5 million, surpasses the United States 7th Fleet. Its overall strength is twice as great. Under these circumstances, it is inevitable that the deterring of Soviet military power should depend to a significant extent, on United States' support through both nuclear weapons and conventional forces.

I believe that only when we successfully meet these requirements, will a new regional order in Asia and the Pacific be established in harmony with the one being

sought in the West, thus ultimately contributing to world peace.

Northeast Asia, in particular, is a key area in measuring the security of Asia and the Pacific region. Four great powers of the world, the United States, Japan, the People's Republic of China and the Soviet Union—together with South and North Korea—maintain a perilous coexistence through their delicate interactions and the formation of triangular relations among themselves. Because of the precarious geopolitical situation, this region has such a built-in vulnerability that even small frictions may immediately cause overall disruption of the balance of power and lead to the total destruction of the existing regional order. The Republic of Korea is located within this strategically important area.

At this point, I would like to discuss U.S. policies toward Northeast Asia. It seems to me that the United States policies in this region have not sufficiently reflected a regional defense concept covering the entire Asia-Pacific Area.

They seem to rely to a large extend, on a strategic area defense concept focusing primarily on the security of Japan.

With regard to the Republic of Korea, it has been unfortunately true that the defense of Korea has been perceived at least in concept, as subordinate to that of Japan and this fact was clearly pointed out in the Nixon-Sato Joint Communique of 1969.

This basic concept and approach of the United States has made it possible for Japan to project even less than one percent of its GNP for its defense budget while the Republic of Korea bears the heavy burden of sacrificing six percent of its GNP for her national defense.

In regard to these budget allotments, it is important to view the military tension on the Korean peninsula as a regional matter, thereby demonstrating North Korean provocation as a potential threat to the region as a whole.

Is it imaginable that North Korean military power, which consumes more than 15 percent of the GNP and maintains a 700,000 man army is designed solely for the purpose of its own defense? I have my doubts.

Is it imaginable that the so-called "export of revolution" through which North Korea trains guerrillas and supplies arms to them would be stopped automatically once they complete the communization of the entire Korean peninsula? I would certainly answer no.

Although the perception that Korea is a dagger pointed at the heart of Japan prevails, it would be more appropriate to say that the Korean problem is a dagger pointed at the entire Asian and Pacific region.

In order to ease these prevailing tensions in Northeast Asia and in order to bring durable peace to our region, we Koreans are making concerted efforts with particular emphasis on the following three points.

To begin with, through successful implementation of a planned defense program, our military capability will not be second to that of the North Korean in the '80's.

Second, we look forward to seeing mainland China continue its moderate line and the present Kim Il Sung regime in North Korea to be replaced by a more rational one which may also follow a moderate line. Thus, hopefully, such a regime would sincerely agree with us on a peaceful solution to the problems on the Korean peninsula.

Third, we anticipate that the United States will unequivocally continue to remain a Pacific power and play a vital role in the region.

When we have a confirmation that these expectations have been fulfilled we can then relax with the knowledge that the security of our region has been significantly solidified.

Our region of Northeast Asia is usually recognized as the "Far East" by Western Europe. However, we might say that the same region is the "Near West" in relation to the United States.

If we look at our relationship from this perspective, the U.S. might generate a more well-defined global picture of world problems.

I would like to conclude my opening remarks by expressing my sincere hope that this symposium will greatly contribute to the exploring of our mutual needs, particularly enhancing security in Asia and the Pacific region.

On behalf of my colleagues, I wish to express my special appreciation to the faculty members of the Center for Strategic and International Studies and the participants from the Institute of Foreign Affairs and National Security of the Republic of Korea who worked very hard to make this symposium a successful one.

Thank you.●

SOVIETS REVOKE ACADEMIC DEGREES HELD BY JEWS

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GREEN. Mr. Speaker, today's Wall Street Journal contains a useful article on official harassment of Jews in the Soviet Union. This article, "The Soviets Are Revoking Degrees Held by Jews," was written by William Korey, director of international policy research for B'nai B'rith International.

Mr. Korey reports that a total of 65 Jewish scientists have lost or will soon lose their degrees as a result of applying to emigrate. Losing a degree means an academic's intellectual freedom is totally restricted, and that he or she cannot earn a living. I am particularly sensitive to the restrictive and repressive influence of the Soviet Government on the lives of academics in the U.S.S.R.: My adopted prisoner of conscience, Dr. Semyon Gluzman, was imprisoned and exiled for refusing to practice his profession, psychiatry, under the terms dictated by the KBG when he would not provide inaccurate testimony to commit on psychiatric grounds a Ukrainian nationalist dissident.

That this loss of academic freedom is occuring is troubling; that it is focused on Jews in extremely disturbing. I commend Mr. Korey's article to my colleagues' attention, and ask that it be printed in the RECORD at this point.

THE SOVIETS ARE REVOKING DEGREES HELD BY JEWS

(By William Korey)

An extraordinary assault upon the autonomy and integrity of academia has been launched in the U.S.S.R. It warrants the attention and concern of the international scholarly community. A number of distinguished Jewish scientists who have sought to emigrate are advised that their higher academic degrees have been or will be revoked.

Not since the imposition by the Kremlin of the scandalous "diploma tax" in August 1972 has the Soviet Jewish intellectual been confronted by such a serious threat to his fundamental academic rights as well as to his livelihood. Higher academic degrees everywhere are granted in recognition of scholarly achievement. In the international community, a veritable sancity envelops the awarding of advanced degrees. Only in Hitler's Germany were academic degrees of Jews revoked. That action foreshadowed more intense persecution.

The unprecedented Soviet revocation practice was initiated in a systematic way about a year ago, though several cases occurred somewhat earlier. In 1978, a Jew holding the very advanced degree of doctor of biological sciences was deprived of the title. In 1980, revocations took place for two Jews holding advanced degrees in economic science and physical science. Since then, the scope has broadened and intensified, embracing a wide number of academic disciplines from geography to cancer research, from history to mathematics. A total of 65 Jewish scientists, according to available information, have lost or are in process of losing their advanced degrees.

The final stage in the revocation process stuns the degree-holder. He is suddenly advised, in a letter, without any previous indication, that the Soviet Higher Attestation Commission (VAK), on the basis of a "request" of some scientific council, "deprives you of the academic degree of Candidate of Agricultural Sciences" (as in one typical case; the "Candidate" degree is approximately equivalent to a Ph.D degree here).

VAK is the special, all-union body that confers academic degrees in the U.S.S.R. Individual Soviet universities, unlike those in the West, don't award them. Originally, VAK operated under the authority of the ministry of higher and specialized secondary education. However in 1974, VAK was transferred to the jurisdiction of the Council of Ministers. Its chairman explained that applicants for higher degrees would be required to "combine a profound professional knowledge with a mastery of Marxist-Leninist theory and with the convictions of an active builder of communist society."

Apparently, under the current interpretation, Jews seeking to exercise the fundamental human right to leave a country do not display the required "convictions." Even worse, several scientists were told that they were deprived of their degrees for "unpatriotic behavior," that is, applying to emigrate.

The personal ramifications of degree revocation are profoundly burdensome and humiliating. Soviet Jewish scientists say that it can mean salary cuts, demotion, denial of access to libraries and laboratories and even job dismissal. Further, those deprived of degrees can be kept from seminars, scientific meetings and professional publications. As non-persons in academia, they can have their research findings pirated or mutilated.

A public letter written by 13 prominent Jewish scientists in February spelled out the trauma: "We are being destroyed as scholars and as breadwinners . . . Our knowledge is locked away to decay." The writers interpret their torment to be "a deterrent for all potential new applicants for emigration to Israel."

They are no doubt correct. The Kremlin has reduced emigration to a trickle. Only a half-dozen Jews with advanced degrees were allowed to emigrate last year. About 500 emigration applicants holding advanced degrees were refused permission. Of these 45 percent have been fired from their jobs.

The revocation of degrees constitutes a new twist of the Soviet bureaucratic screw. The technique is only beginning. One of those affected, Yuri Medvedkov, a geographer associated with the Soviet Academy of Sciences, warns: "This poisonous process is not yet in full swing. We are trying to stop it early." But the burden of responsibility for halting the subversion of intellectual integrity rests with the international academic community. It was the outcry of Western academics in every discipline that helped end the notorious "diploma tax." A renewed outcry could produce a similar result.●

THE TAX REFORM

HON. JIM JEFFRIES

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JEFFRIES. Mr. Speaker, soon this body will be faced with the responsibility of dealing with a so-called tax reform—one that would raise taxes $98 billion over the next 3 years and $228 billion over the next 5 years. If this tax package is passed, you can be sure that the recession, which we are now starting to come out of, will be prolonged.

This week, major banks lowered the prime lending rate, a major economic indicator, to 14 percent. The proposed tax increase may jeopardize this downward trend because it contains certain provisions which affect corporate cash flow at a time when many companies are critically short of cash. Such action will put more upward pressure on short-term rates as companies are forced to borrow more heavily.

Many people believe that the tax increase will lead to more revenues for the Government. True, the Government will receive $98 billion over the next 3 years, but the increase will also ease pressure for Congress to cut spending, the real solution to the huge deficit. Moreover, the tax increase will inhibit personal savings and business growth which, in turn, will limit Government revenues and do nothing for our record high deficit. History shows that tax increases lead to a drop in personal income, which leads to less savings and long-term investment, which, in turn, leads to less revenue producing economic activity. On the other hand, a reduction in taxes has been shown to lead to growth in Government revenues.

Now, however, the administration has abandoned its economic philosophy. If you recall, this year the administration wanted $13 in spending cuts for every $1 in tax increases. But thus far, there have been only 16 cents in spending cuts for every $1 in tax increases. Yet the administration is supporting a $98 billion tax increase, instead of trying to get Congress to enact better than $25 billion of the $40 billion budget cuts of the fiscal year 1983 budget resolution.

Some $37 billion of this tax increase is aimed at the business sector. With Congress changing the tax code so often, how is the business world supposed to set plans for economic recovery? This instability will lead to the business community's distrust of the Government and to a slowdown of the recovery from the present recession.

Last year's tax cuts amounted to only one-fifth for business. But nearly one-half of this year's tax increase is directed at business. As a result, the tax increase will take away over two-fifths from the original business tax cut. How can the administration expect stability in the business world with this kind of give-and-take attitude?

One of the major provisions in this tax package that would inhibit economic recovery is the 10-percent withholding tax on interests and dividends. This tax will lead to a loss of long-term savings in the private sector. This tax package will thus inhibit savings which is something that the administration tried to stimulate last year with a tax cut, knowing that it would increase economic activity. Furthermore, it will cost hundreds of millions of dollars for the financial institutions to administer this increase, costs that will be passed onto the private sector. This increase will inhibit savings even more.

This tax reform must not pass. For one thing, conservatives have not been promised that there will be any action to cut spending which would help to balance such a large increase. Who's to say that this increase won't just provide more money for the liberals to spend? The least that the administration could do would be to promise more spending cuts before it decides to push a major tax increase through Congress.

If this legislation passes, you can be sure that there will be more people in need of the Government's money because the economic situation will not improve and more funding for present government programs will be needed to help support the truly needy. With more money going to welfare programs, the deficit will grow and the recession will remain.●

DEFEAT THE TAX INCREASE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. McDONALD. Mr. Speaker, in the very near future, we will vote on H.R. 4961, the "Tax Equity and Fiscal Responsibility Act of 1982." I would like to take this occasion to urge my colleagues to vote against the measure.

While I have always been a staunch advocate and supporter of a balanced Federal budget, I believe that efforts to balance the budget by raising taxes are misguided as demonstrated by the fact that even if H.R. 4961 is enacted into law, the proposed Federal deficit for fiscal year 1983 will be in excess of $100 billion. Thus, if Congress attempted to balance the Federal budget at the current level of expenditures, it would be necessary to enact massive tax increases—increases that go far beyond those proposed in H.R. 4961. I, for one, do not believe that we have amassed a national debt of over $1 trillion or that Federal deficits continue to escalate because taxes are too low. To the contrary, Federal spending is much too high and passage of H.R. 4961 will do very little to curb the insatiable appetite of the Federal Government's policies of "tax and tax, spend and spend."

If we are indeed serious about lowering Federal deficits without resorting to massive tax increases, then it must be recognized that we must go beyond the political rhetoric and make actual reductions in Federal spending and not be complacent with merely slowing the rate by which expenditures increase. As each of the myriad of federally-funded programs and projects has its own constituency, you can be sure that such action will not be popular with all sectors and special interests. Nevertheless, this is the action that we must take and these are the difficult decisions that we must make if we are to restore fiscal sanity to the economic policies of the Federal Government.

During the past several days, the Chattanooga News-Free Press has carried two excellent editorials concerning H.R. 4961 and the economic policies of the Federal Government. Prior to casting a vote on the largest peacetime tax increase in history, I urge my colleagues to carefully read these editorials which follow:

[From the Chattanooga News-Free Press, Aug. 15, 1982]

DEFEAT THE TAX INCREASE

The huge tax increase that Congress is considering passing has been portrayed by some proponents as mainly closing loopholes and bringing fairness to the tax system. But a close examination of the handiwork of Senate Finance Chairman Robert Dole, R-Kan., shows that the tax package will affect almost everyone in our society.

If you are a traveler, you will pay a portion of the billions of new taxes on air travel over three years. The tax on gasoline for noncommerical aviation will jump from four cents a gallon to 12 cents, and a five percent toll will be collected on airfreight waybills.

If you are going abroad, you will have to pay a $3 departure tax.

If you plan to fish on your trip, you may run into the new tax on fishing equipment or the three percent levy on some boats and equipment.

If you want to call the folks back home, expect to pay twice the current one percent excise tax on long-distance service. That applies to local calls as well. The rate would rise to three percent for 1984 and (at least according to the document) drop back to two percent after 1985.

If you are a saver, you will face the withholding of 10 percent of the interest from your savings account. This aspect is described as being similar to wage withholding, with the aim being to insure collection.

If you are a smoker, you will pay 16 cents on a package of cigarettes, which is double the current eight-cent levy.

If you go to the doctor, you will find that tax deductions for medical expenses and casualty losses are drastically cut. Deductions will only be allowed for medical and dental costs exceeding seven percent of adjusted gross income, up from the current three percent.

The current deduction of half of health-insurance premiums up to $150 would be cut to $100.

If you suffer a theft or fire, you will find that deductions for losses from theft, fire and other misfortunes are limited to losses in excess of 10 percent of adjusted gross income.

If you are a businessman, you will also be hit. A White House summary says, "Though less than one percent of the revenues come from 'new' business taxes, a large amount of the base broadening measures directly affect business. Overall about half of the increased revenues are business taxes."

Employers would be faced with an unemployment levy of 3.5 percent of the first $7,000 of each worker's wages. That is up from 3.4 percent of the first $5,000.

Also in the bill are tighter depreciation requirements, restrictions on the safe harbor leasing law, limits on the investment tax credit and other business tax controls.

The new tax package is often referred to as "the largest peacetime tax increase in history." In truth in absolute dollar amounts, it is our largest tax increase ever, (Earlier wartime tax hikes were bigger percentage-wise, but not dollar-wise).

When considered over a five-year period the tax take is actually $227 billion rather than the $98.9 billion that is usually cited.

Even with the recent personal income tax reductions and even without the Dole tax increase, Treasury Department figures show that people in every income category from $15,000 to $40,000 a year will experience a net increase in taxes over the period 1981-1988.

The study says. "The 'cuts' are only cuts when measured against the rapidly rising tax burden under prior law.

"The 'cuts' are imperfect and often inadequate offsets to tax increases that were occuring."

We can begin to see the real problem when we note that from 1960 to 1982, federal revenues increased by a whopping 578 percent. But during that same 22-year period, federal expenditures skyrocketed by 687 percent.

The dire situation has gotten to the point that in 1982 the Federal Government will take as tax revenue more than 20 percent of all the goods and services produced in our country in 1982. That does not include the Dole increases.

At the same time the government will spend more than 23 percent of every single thing produced in the U.S. this year.

It is true that the federal deficit is great and interest rates are far too high.

It is true that taxpayer compliance needs to be tightened, loopholes need to be plugged and inequities removed in a number of areas in our tax system. (Perhaps the best way to carry that out would be the flat-rate income tax system.)

But it is also a fact that if this unsavory tax package is signed into law that there is no guarantee that it would cure the deficit or interest rate problems.

What it more likely would do is provide the spend-happy Democratic majority in the House of Representatives with a revenue cushion and reduce the pressure for budget cuts.

It would hit business with new levies and disincentives when it is already reeling and on the ropes. Businesses with closed doors would not be able to contribute "any" revenues to government.

It is informative to note that the same package that contains $227 billion in added taxes suggests only $22 billion in federal entitlement program cuts over the same five-year period.

Congress has spent months devising almost every conceivable means of raising new taxes, while it should have been looking at every possible avenue for cutting the wasteful government spending that continues at a rapid pace.

[From the Chattanooga News-Free Press, Aug. 17, 1982]

A JUDGMENT CALL

Sometimes in a sporting event there has to be a judgment call. A pitcher has to be taken out or a new quarterback put in. Or maybe there's a question about whether a player was on sides or a ball went foul. It's a matter of judgment, and different people may have different honest judgments about the situation.

President Ronald Reagan has made a judgment call in his support of the bill before Congress designed to bring in $98.3 billion in additional taxes. Some of his philosophical friends find themselves having a different judgment.

The president's evident sincerity and honesty in presenting his case to the nation last night carried much weight for his side of the argument. We believe, however, that better judgment lies with those who oppose his call for tax increases at this time.

Mr. Reagan agreed that he does not like the idea of tax rises, and finds this plan less than perfect. "Why then do I support it?" he asked. "I support it because it's right for America. I support it because it's fair. I support it because it will when combined with our cuts in government spending, reduce interest rates and put more Americans back to work again."

Those are good reasons. But people who oppose the tax increase make their judgment call on the grounds that not increasing taxes will be better for America, that not taking more from the people and giving it to government will help the national economy, so employment is more likely to rise and interest rates that prohibit economic expansion may go down.

The whole problem is that over the last half a century, government has grown much too big and has made costly promises that the people, members of Congress and presidents have been unwilling to fund. Now faced with staggering deficits, there are only two solutions, to cut more or to tax more.

Mr. Reagan proposes cutting three dollars in spending for each additional dollar to be raised in taxes. We believe spending cuts and tax cuts rather than tax increases offer better prospects for real recovery. Give money to government and it will spend it. Starve government and there is a better chance to hold spending down. Leave more money in the hands of those who earn it and it will be used more productively than if government gets it. That's where judgment calls differ.

Mr. Reagan effectively explained that the whole $98.3 billion involved in the current bill is not a tax increase. Part would be: For instance, additional levies on cigarettes ($2.40 amonth for one-pack-a-day smokers), telephone tax increases, air ticket tax rises and the like would account for about 19 percent of the tax increases. But, said the president, 33 percent of the bill would come from taxes now due but not being paid while 48 percent would come from closing loopholes.

The president is right in calling attention to the large amount of tax being evaded by people who do not pay, on tips, for instance. And those with interest and dividend incomes should pay, as most do. But institution of forced tax withholding on interest and dividend payments would impose new and costly burdens on the payers, with the result that the earners will have to foot the bigger bill.

Mr. Reagan wants as nearly everyone does, to reduce the deficits, easing federal borrowing, easing the loan competition that pushes interest rates up, encouraging economic recovery. All of that is quite sound. But if raising taxes $98.3 billion will keep interest rates down, would raising taxes twice that much reduce interest rates twice as much? We believe the best solution is reducing government spending, not increasing governmental taxing.

We are afraid that raising taxes will ease the pressures on Congress to cut spending. In the end we may see Democratic Speaker of the House Tip O'Neill, a champion symbol of what has caused our economic trouble, continuing big spending, boasting to the voters about what he is "giving" them, while pointing an accusing finger at President Reagan as a tax raiser.

In that case, we would have the worst of all economic possibilities. Mr. Reagan's judgment is that the tax rise would help. But the judgment of many sound conservatives is that it would hurt. We believe they are right. This is a difficult judgment call.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily

Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 19, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building
10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Justin Dart of California, to be a member of the Board of Directors of the Communications Satellite Corporation.
235 Russell Building

SEPTEMBER 16

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building
10:00 a.m.
Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on the effects of coal slurry pipelines on the overall national transportation system.
235 Russell Building
2:00 p.m.
Judiciary
To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol consumption during pregnancy.
4232 Dirksen Building
10:30 a.m.
Veterans Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

SEPTEMBER 23

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.
6226 Dirksen Building

SEPTEMBER 30

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the indemnification of Government contractors.
2228 Dirksen Building

OCTOBER 6

10:00 a.m.
Judiciary
Agency Administration Subcommittee
To hold oversight hearings on the accessibility of the judicial system.
2228 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, August 19, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord and Heavenly King, may we ever seek to know Your will and to do good to all Your people. May Your spirit abound in us that we may do justice, love, kindness, and walk humbly with You. Kindle our hearts with a concern for the right and strengthen us that we may seek truth and be the people You would have us be. Bless our Nation and the people we seek to serve, that righteousness and peace and goodness may be our goal and love our constant joy. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. PETRI. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. PETRI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 27, unanswered "present" 2, not voting 39, as follows:

[Roll No. 298]

YEAS—366

Addabbo	Bethune	Campbell
Albosta	Bevill	Carman
Alexander	Biaggi	Carney
Anderson	Bingham	Chappie
Andrews	Blanchard	Cheney
Annunzio	Bliley	Clausen
Anthony	Boggs	Clinger
Archer	Boland	Coats
Ashbrook	Bolling	Coelho
Aspin	Boner	Coleman
AuCoin	Bonior	Collins (IL)
Badham	Bonker	Collins (TX)
Bailey (MO)	Bouquard	Conable
Bailey (PA)	Breaux	Conte
Barnard	Brinkley	Conyers
Bedell	Brodhead	Courter
Beilenson	Brooks	Coyne, James
Benedict	Broomfield	Coyne, William
Benjamin	Broyhill	Craig
Bennett	Burgener	Crane, Daniel
Bereuter	Burton, Phillip	Crane, Philip
Crockett	Hansen (UT)	Mitchell (NY)
D'Amours	Hartnett	Moakley
Daniel, Dan	Hatcher	Molinari
Daniel, R. W.	Hawkins	Mollohan
Dannemeyer	Heckler	Montgomery
Daschle	Hefner	Moore
Daub	Hendon	Moorhead
Davis	Hertel	Morrison
de la Garza	Hightower	Mottl
Deckard	Hiler	Murphy
DeNardis	Hillis	Murtha
Derrick	Holland	Myers
Derwinski	Hollenbeck	Napier
Dicks	Hopkins	Natcher
Dingell	Horton	Neal
Dixon	Howard	Nelligan
Donnelly	Hoyer	Nelson
Dorgan	Hubbard	Nichols
Dornan	Huckaby	Nowak
Dougherty	Hughes	O'Brien
Dowdy	Hunter	Oakar
Downey	Hutto	Obey
Dreier	Hyde	Oxley
Duncan	Ireland	Panetta
Dunn	Jeffords	Parris
Dwyer	Jeffries	Patman
Dymally	Jenkins	Paul
Early	Jones (OK)	Pease
Eckart	Jones (TN)	Pepper
Edgar	Kastenmeier	Perkins
Edwards (AL)	Kazen	Petri
Edwards (CA)	Kemp	Peyser
Edwards (OK)	Kennelly	Pickle
Emery	Kildee	Porter
English	Kindness	Price
Erdahl	Kogovsek	Pritchard
Erlenborn	Kramer	Pursell
Evans (GA)	LaFalce	Quillen
Evans (IN)	Lagomarsino	Railsback
Fary	Lantos	Rangel
Fascell	Latta	Ratchford
Fazio	Leach	Regula
Fenwick	Leath	Reuss
Ferraro	LeBoutillier	Rhodes
Fiedler	Lee	Richmond
Findley	Lehman	Rinaldo
Fish	Leland	Ritter
Fithian	Lent	Roberts (KS)
Flippo	Levitas	Robinson
Florio	Lewis	Rodino
Foglietta	Livingston	Roe
Foley	Loeffler	Rogers
Ford (MI)	Long (LA)	Rose
Ford (TN)	Long (MD)	Rostenkowski
Fowler	Lott	Roth
Frank	Lowery (CA)	Roukema
Frenzel	Lowry (WA)	Rousselot
Frost	Lujan	Roybal
Fuqua	Lundine	Rudd
Garcia	Lungren	Russo
Gaydos	Madigan	Sawyer
Gephardt	Marlenee	Scheuer
Gibbons	Marriott	Schneider
Gilman	Martin (IL)	Schulze
Gingrich	Martin (NC)	Schumer
Ginn	Martin (NY)	Seiberling
Glickman	Martinez	Sensenbrenner
Gonzalez	Matsui	Shamansky
Gore	Mattox	Shannon
Gradison	Mavroules	Sharp
Gramm	Mazzoli	Shaw
Gray	McClory	Shumway
Green	McCollum	Shuster
Gregg	McCurdy	Siljander
Grisham	McDade	Simon
Guarini	McDonald	Skeen
Gunderson	McEwen	Skelton
Hagedorn	McGrath	Smith (AL)
Hall (OH)	McHugh	Smith (IA)
Hall, Ralph	Mica	Smith (NE)
Hall, Sam	Michel	Smith (NJ)
Hamilton	Mikulski	Smith (OR)
Hammerschmidt	Miller (CA)	Smith (PA)
Hance	Mineta	Snowe
Hansen (ID)	Minish	Snyder
Solarz	Thomas	Whittaker
Spence	Traxler	Whitten
St Germain	Trible	Williams (OH)
Stangeland	Udall	Winn
Stanton	Vander Jagt	Wirth
Staton	Vento	Wolf
Stenholm	Wampler	Wolpe
Stokes	Watkins	Wortley
Stratton	Waxman	Wright
Studds	Weaver	Wyden
Stump	Weber (MN)	Wylie
Swift	Weber (OH)	Yatron
Synar	Weiss	Young (FL)
Tauke	White	Young (MO)
Tauzin	Whitehurst	Zablocki
Taylor	Whitley	Zeferetti

NAYS—27

Barnes	Forsythe	Mitchell (MD)
Brown (CO)	Gejdenson	Patterson
Butler	Goodling	Roemer
Clay	Harkin	Sabo
Coughlin	Jacobs	Schroeder
Dickinson	Johnston	Solomon
Emerson	Luken	Walker
Evans (IA)	Markey	Washington
Fields	Miller (OH)	Yates

ANSWERED "PRESENT"—2

Oberstar	Ottinger

NOT VOTING—39

Akaka	Dellums	Pashayan
Applegate	Dyson	Rahall
Atkinson	Ertel	Roberts (SD)
Bafalis	Evans (DE)	Rosenthal
Beard	Fountain	Santini
Bowen	Goldwater	Savage
Brown (CA)	Heftel	Shelby
Brown (OH)	Holt	Stark
Burton, John	Jones (NC)	Volkmer
Byron	Marks	Walgren
Chappell	McCloskey	Williams (MT)
Chisholm	McKinney	Wilson
Corcoran	Moffett	Young (AK)

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 396. Concurrent resolution to correct technical errors in the enrollment of the bill H.R. 6955.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6955) entitled "An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress)."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3239. An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3239) entitled "An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GOLDWATER, Mr. STEVENS, and Mr. CANNON to be the conferees on the part of the Senate.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to state to the Members that there will be no 1-minute speeches today at this time. We will suspend with them until after the rule and the conference report have been completed.

PERSONAL EXPLANATION

Mr. WEAVER. Mr. Speaker, I wish to state that last night, as I was on my way from the Capitol to my office, the bells rang for a vote on the Defense authorization conference report, and I missed the vote. Had I been here, I would have voted nay.

RESOLUTION RAISING QUESTIONS OF CONSTITUTIONALITY AND INFRINGEMENT OF PRIVILEGES OF THE HOUSE RELATING TO H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. ROUSSELOT. Mr. Speaker, I have a privileged resolution (H. Res. 571), which I wish to send to the desk. I encourage my colleagues to listen to it because I am sure there might be a motion to table it, because it would be a disaster to have a debate on it, I am sure.

Mr. ROSTENKOWSKI. Regular order, Mr. Speaker.

The SPEAKER. The Chair is following regular order.

The gentleman from California, Mr. ROUSSELOT, is bringing up a privileged resolution.

The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 571

Resolved, That the Senate amendments to the bill, H.R. 4961, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and that the action of the conferees on H.R. 4961 and the Senate amendment thereto in agreeing to provisions of the Senate amendment further contravene said constitutional requirement and that the action of the Senate and the action of the conferees is an infringement of the privileges of this House and that the Senate bill with the Senate amendments be respectively returned to the Senate with a message communicating this resolution.

MOTION OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Speaker, I move to lay the resolution on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 268, nays 144, not voting 22, as follows:

[Roll No. 299]

YEAS—268

Addabbo	DeNardis	Hall (OH)
Akaka	Derrick	Hamilton
Alexander	Derwinski	Hance
Annunzio	Dicks	Harkin
Anthony	Dingell	Hatcher
Applegate	Dixon	Hawkins
Aspin	Donnelly	Hertel
AuCoin	Dorgan	Hightower
Badham	Dougherty	Hillis
Bailey (PA)	Downey	Holland
Barnard	Dunn	Hollenbeck
Barnes	Dwyer	Horton
Bedell	Dymally	Howard
Beilenson	Dyson	Hoyer
Benedict	Early	Huckaby
Benjamin	Eckart	Hunter
Bennett	Edgar	Ireland
Bereuter	Edwards (AL)	Jeffords
Bevill	Edwards (CA)	Jenkins
Biaggi	Edwards (OK)	Jones (NC)
Blanchard	Emery	Jones (OK)
Boggs	English	Jones (TN)
Boland	Erdahl	Kastenmeier
Bolling	Erlenborn	Kennelly
Boner	Evans (DE)	Kogovsek
Bonior	Evans (IA)	Lantos
Bonker	Fary	Latta
Breaux	Fascell	Leach
Brinkley	Fazio	Leath
Brodhead	Fenwick	Lehman
Brooks	Ferraro	Leland
Broomfield	Findley	Loeffler
Brown (CA)	Fish	Long (LA)
Broyhill	Flippo	Long (MD)
Burgener	Florio	Lott
Burton, Phillip	Foglietta	Lowry (WA)
Butler	Foley	Lujan
Byron	Ford (MI)	Luken
Carman	Ford (TN)	Lundine
Cheney	Forsythe	Madigan
Clay	Fowler	Markey
Clinger	Frenzel	Marks
Coats	Frost	Marriott
Coelho	Fuqua	Martin (IL)
Coleman	Garcia	Martin (NY)
Collins (IL)	Gaydos	Martinez
Conable	Gejdenson	Matsui
Conte	Gephardt	Mattox
Conyers	Gibbons	Mavroules
Coughlin	Glickman	Mazzoli
Courter	Gore	McClory
Coyne, William	Gradison	McCurdy
D'Amours	Gramm	McDade
Daniel, Dan	Gray	McEwen
Daschle	Green	McHugh
Davis	Grisham	McKinney
de la Garza	Guarini	Mica
Michel	Railsback	Stark
Mikulski	Rangel	Stokes
Miller (CA)	Ratchford	Swift
Mineta	Regula	Synar
Minish	Reuss	Tauke
Mitchell (MD)	Rhodes	Traxler
Mitchell (NY)	Richmond	Udall
Moakley	Roberts (KS)	Vander Jagt
Molinari	Rodino	Vento
Mollohan	Roe	Volkmer
Montgomery	Roemer	Walgren
Murphy	Rose	Washington
Murtha	Rostenkowski	Watkins
Nelligan	Roukema	Waxman
Nelson	Russo	Weaver
Nichols	Sabo	Weber (OH)
Nowak	Sawyer	Weiss
O'Brien	Scheuer	White
Oberstar	Schneider	Whitehurst
Obey	Schroeder	Williams (OH)
Oxley	Schumer	Wilson
Panetta	Seiberling	Winn
Patterson	Shamansky	Wirth
Pease	Shannon	Wolpe
Pepper	Sharp	Wright
Perkins	Simon	Wyden
Petri	Smith (IA)	Wylie
Peyser	Smith (NE)	Yates
Pickle	Smith (PA)	Young (MO)
Price	Snowe	Zablocki
Pritchard	Solarz	Zeferetti
Pursell	St Germain	
Quillen	Stanton	

NAYS—144

Albosta	Heckler	Porter
Anderson	Hefner	Rinaldo
Andrews	Hendon	Ritter
Archer	Hiler	Roberts (SD)
Ashbrook	Hopkins	Robinson
Bailey (MO)	Hubbard	Rogers
Bethune	Hughes	Roth
Bliley	Hutto	Rousselot
Bouquard	Hyde	Roybal
Brown (CO)	Jacobs	Rudd
Campbell	Jeffries	Santini
Carney	Johnston	Schulze
Chappie	Kazen	Sensenbrenner
Clausen	Kemp	Shaw
Collins (TX)	Kildee	Shelby
Coyne, James	Kindness	Shumway
Craig	Kramer	Shuster
Crane, Daniel	LaFalce	Siljander
Crane, Philip	Lagomarsino	Skeen
Crockett	LeBoutillier	Skelton
Daniel, R. W.	Lee	Smith (AL)
Dannemeyer	Lent	Smith (NJ)
Daub	Levitas	Smith (OR)
Deckard	Lewis	Snyder
Dornan	Livingston	Solomon
Dowdy	Lowery (CA)	Spence
Dreier	Lungren	Stangeland
Emerson	Marlenee	Staton
Evans (GA)	Martin (NC)	Stenholm
Evans (IN)	McCloskey	Stratton
Fiedler	McCollum	Studds
Fields	McDonald	Stump
Fithian	McGrath	Tauzin
Frank	Miller (OH)	Taylor
Gilman	Moore	Thomas
Gingrich	Moorhead	Trible
Ginn	Morrison	Walker
Gonzalez	Mottl	Wampler
Goodling	Myers	Weber (MN)
Gregg	Napier	Whitley
Gunderson	Natcher	Whittaker
Hagedorn	Neal	Whitten
Hall, Ralph	Oakar	Williams (MT)
Hall, Sam	Ottinger	Wolf
Hammerschmidt	Parris	Wortley
Hansen (ID)	Pashayan	Yatron
Hansen (UT)	Patman	Young (AK)
Hartnett	Paul	Young (FL)

NOT VOTING—22

Atkinson	Chisholm	Heftel
Bafalis	Corcoran	Holt
Beard	Dellums	Moffett
Bingham	Dickinson	Rahall
Bowen	Duncan	Rosenthal
Brown (OH)	Ertel	Savage
Burton, John	Fountain	
Chappell	Goldwater	

□ 1045

Messrs. STRATTON, GINN, and ROYBAL changed their votes from "yea" to "nay."

Messrs. McCURDY, MARRIOTT, and MARTIN of New York changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE REPORT ON DEPARTMENT OF TRANSPORTATION APPROPRIATIONS BILL, 1983

Mr. BENJAMIN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 3239, FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1981

Mr. WIRTH submitted the following conference report and statement on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-765)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—COMMUNICATIONS AMENDMENTS

SHORT TITLE

SECTION 101. This title may be cited as the "Communications Amendments Act of 1982".

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

SEC. 102. Section 4(b) of the Communications Act of 1934 (47 U.S.C. 154(b)) is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States.

"(2)(A) No member of the Commission or person employed by the Commission shall—

"(i) be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

"(ii) be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

"(iii) be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

"(iv) be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this Act;

except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

"(B)(i) The Commission shall have authority to waive, from time to time, the application of the prohibitions established in subparagraph (A) to persons employed by the Commission if the Commission determines that the financial interests of a person which are involved in a particular case are minimal, except that such waiver authority shall be subject to the provisions of section 208 of title 18, United States Code. The waiver authority established in this subparagraph shall not apply with respect to members of the Commission.

"(ii) In any case in which the Commission exercises the waiver authority established in this subparagraph, the Commission shall publish notice of such action in the Federal Register and shall furnish notice of such action to the appropriate committees of each House of the Congress. Each such notice shall include information regarding the identity of the person receiving the waiver, the position held by such person, and the nature of the financial interests which are the subject of the waiver.

"(3) The Commission, in determining whether a company or other entity has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, shall consider (without excluding other relevant factors)—

"(A) the revenues, investments, profits, and managerial efforts directed to the related communications, manufacturing, or sales activities of the company or other entity involved, as compared to the other aspects of the business of such company or other entity;

"(B) the extent to which the Commission regulates and oversees the activities of such company or other entity;

"(C) the degree to which the economic interests of such company or other entity may be affected by any action of the Commission; and

"(D) the perceptions held by the public regarding the business activities of such company or other entity.

"(4) Members of the Commission shall not engage in any other business, vocation, profession, or employment while serving as such members.

"(5) The maximum number of commissioners who may be members of the same political party shall be a number equal to the least number of commissioners which constitutes a majority of the full membership of the Commission.".

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

SEC. 103. (a) Section 4(c) of the Communications Act of 1934 (47 U.S.C. 154(c)) is amended—

(1) by striking out "The";

(2) by striking out "first appointed" and all that follows through "but their successors"; and

(3) by striking out "qualified" and inserting in lieu thereof "been confirmed and taken the oath of office".

(b) Section 4(d) of the Communications Act of 1934 (47 U.S.C. 154(d)) is amended to read as follows:

"(d) Each Commissioner shall receive an annual salary at the annual rate payable from time to time for level IV of the Executive Schedule, payable in monthly installments. The Chairman of the Commission, during the period of his service as Chairman, shall receive an annual salary at the annual rate payable from time to time for level III of the Executive Schedule.".

(c) Section 4(f)(2) of the Communications Act of 1934 (47 U.S.C. 154(f)(2)) is amended by striking out "a legal assistant, an engineering assistant," and inserting in lieu thereof "three professional assistants".

(d) Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by inserting "(1)" after the subsection designation, and by adding at the end thereof the following new paragraph:

"(2)(A) If—

"(i) the necessary expenses specified in the last sentence of paragraph (1) have been incurred for the purpose of enabling commissioners or employees of the Commission to attend and participate in any convention, conference, or meeting;

"(ii) such attendance and participation are in furtherance of the functions of the Commission; and

"(iii) such attendance and participation are requested by the person sponsoring such convention, conference, or meeting;

then the Commission shall have authority to accept direct reimbursement from such sponsor for such necessary expenses.

"(B) The total amount of unreimbursed expenditures made by the Commission for travel for any fiscal year, together with the total amount of reimbursements which the Commission accepts under subparagraph (A) for such fiscal year, shall not exceed the level of travel expenses appropriated to the Commission for such fiscal year.

"(C) The Commission shall submit to the appropriate committees of the Congress, and publish in the Federal Register, quarterly reports specifying reimbursements which the Commission has accepted under this paragraph.

"(D) The provisions of this paragraph shall cease to have any force or effect at the end of fiscal year 1985.".

(e) Section 4(k)(2) of the Communications Act of 1934 (47 U.S.C. 154(k)(2)) is amended by striking out ": Provided, That the" and all that follows through "by such reports".

(f) Section 4(k) of the Communications Act of 1934 (47 U.S.C. 154(k)) is amended by redesignating paragraph (4) and paragraph (5) as paragraph (3) and paragraph (4), respectively.

(g) Section 4(k)(4) of the Communications Act of 1934, as so redesignated in subsection (f), is amended by striking out "Bureau of the Budget" and inserting in lieu thereof "Office of Management and Budget".

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

SEC. 104. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The Commission, for purposes of preparing any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being prepared. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license.

"(B) The Commission, for purposes of administering any examination for an amateur station operator license, may accept and employ the voluntary and uncompensated services of any individual who holds an amateur station operator license of a higher class than the class license for which the examination is being conducted. In the case of examinations for the highest class of amateur station operator license, the Commission may accept and employ such services of any individual who holds such class of license. Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses, shall not be eligible to render any service under this subparagraph.

"(C)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the amateur radio service, may—

"(I) recruit and train any individual licensed by the Commission to operate an amateur station; and

"(II) accept and employ the voluntary and uncompensated services of such individual.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any amateur station operator organization.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper amateur radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the amateur radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(D)(i) The Commission, for purposes of monitoring violations of any provision of this Act (and of any regulation prescribed by the Commission under this Act) relating to the citizens band radio service, may—

"(I) recruit and train any citizens band radio operator; and

"(II) accept and employ the voluntary and uncompensated services of such operator.

"(ii) The Commission, for purposes of recruiting and training individuals under clause (i) and for purposes of screening, annotating, and summarizing violation reports referred under clause (i), may accept and employ the voluntary and uncompensated services of any citizens band radio operator organization. The Commission, in accepting and employing services of individuals under this subparagraph, shall seek to achieve a broad representation of individuals and organizations interested in citizens band radio operation.

"(iii) The functions of individuals recruited and trained under this subparagraph shall be limited to—

"(I) the detection of improper citizens band radio transmissions;

"(II) the conveyance to Commission personnel of information which is essential to the enforcement of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service; and

"(III) issuing advisory notices, under the general direction of the Commission, to persons who apparently have violated any provision of this Act (or regulations prescribed by the Commission under this Act) relating to the citizens band radio service.

Nothing in this clause shall be construed to grant individuals recruited and trained under this subparagraph any authority to issue sanctions to violators or to take any enforcement action other than any action which the Commission may prescribe by rule.

"(E) The authority of the Commission established in this paragraph shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(F) Any person who provides services under this paragraph shall not be considered, by reason of having provided such services, a Federal employee.

"(G) The Commission, in accepting and employing services of individuals under subparagraphs (A), (B), and (C), shall seek to achieve a broad representation of individuals and organizations interested in amateur station operation.

"(H) The Commission may establish rules of conduct and other regulations governing the service of individuals under this paragraph.".

ORGANIZATION AND FUNCTIONING OF COMMISSION

SEC. 105. (a) Section 5(b) of the Communications Act of 1934 (47 U.S.C. 155(b)) is amended—

(1) by striking out "Within" and all that follows through "and from" and inserting in lieu thereof "From"; and

(2) by striking out "thereafter".

(b) Section 5 of the Communications Act of 1934 (47 U.S.C. 155) is amended by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(c) The first sentence of section 5(c)(1) of the Communications Act of 1934, as so redesignated in subsection (b), is amended by striking out "three" and inserting in lieu thereof "two".

REGULATION OF POLE ATTACHMENTS

SEC. 106. Section 224 of the Communications Act of 1934 (47 U.S.C. 224) is amended by striking out subsection (e) thereof.

JURISDICTION OF COMMISSION

SEC. 107. Section 301 of the Communications Act of 1934 (47 U.S.C. 301) is amended—

(1) by striking out "interstate and foreign";

(2) by inserting "State," after "any" the third place it appears therein;

(3) by inserting a comma after "Territory" the first place it appears therein; and

(4) by inserting "State," after "same".

INTERFERENCE WITH ELECTRONIC EQUIPMENT

SEC. 108. (a)(1) The first sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by inserting "(1)" after "regulations", and by inserting before the period at the end thereof the following: "; and (2) establishing minimum performance standards for home electronic equipment and systems to reduce their susceptibility to interference from radio frequency energy".

(2) The last sentence of section 302(a) of the Communications Act of 1934 (47 U.S.C. 302(a)) is amended by striking out "shipment, or use of such devices" and inserting in lieu thereof "or shipment of such devices and home electronic equipment and systems, and to the use of such devices".

(3) Section 302(b) of the Communications Act of 1934 (47 U.S.C. 302(b)) is amended by striking out "ship, or use devices" and inserting in lieu thereof "or ship devices or home electronic equipment and systems, or use devices,".

(4) Section 302(c) of the Communications Act of 1934 (47 U.S.C. 302(c)) is amended—

(A) in the first sentence thereof, by inserting "or home electronic equipment and systems" after "devices" each place it appears therein; and

(B) in the last sentence thereof, by inserting "and home electronic equipment and systems" after "Devices", by striking out "common objective" and inserting in lieu thereof "objectives", and by inserting "and to home electronic equipment and systems" after "reception".

(b) Any minimum performance standard established by the Federal Communications Commission under section 302(a)(2) of the Communications Act of 1934, as added by the amendment made in subsection (a)(1), shall not apply to any home electronic equipment or systems manufactured before the date of the enactment of this Act.

QUALIFICATIONS OF STATION OPERATORS

SEC. 109. Section 303(l)(1) of the Communications Act of 1934 (47 U.S.C. 303(l)(1)) is amended—

(1) by striking out "such citizens" and all that follows through "qualified" and inserting in lieu thereof "persons who are found to be qualified by the Commission and who otherwise are legally eligible for employment in the United States"; and

(2) by striking out "in issuing licenses" and all that follows through the end thereof and inserting in lieu thereof the following: "such requirement relating to eligibility for employment in the United States shall not apply in the case of licenses issued by the Commission to (A) persons holding United

States pilot certificates; or (B) persons holding foreign aircraft pilot certificates which are valid in the United States, if the foreign government involved has entered into a reciprocal agreement under which such foreign government does not impose any similar requirement relating to eligibility for employment upon citizens of the United States;".

GROUNDS FOR SUSPENSION OF LICENSES

SEC. 110. Section 303(m)(1)(A) of the Communications Act of 1934 (47 U.S.C. 303(m)(1)(A)) is amended by inserting ", or caused, aided, or abetted the violation of," after "violated".

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

SEC. 111. (a) Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new paragraph:

"(t) Notwithstanding the provisions of section 301(e), have authority, in any case in which an aircraft registered in the United States is operated (pursuant to a lease, charter, or similar arrangement) by an aircraft operator who is subject to regulation by the government of a foreign nation, to enter into an agreement with such government under which the Commission shall recognize and accept any radio station licenses and radio operator licenses issued by such government with respect to such aircraft.".

(b) Section 301(e) of the Communications Act of 1934 (47 U.S.C. 301(e)) is amended by inserting "(except as provided in section 303(t))" after "United States".

REVISION OF LICENSE TERMS

SEC. 112. (a) Section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by striking out subsection (c), and by redesignating subsection (d) and subsection (e) as subsection (c) and subsection (d), respectively.

(b) Section 307(c) of the Communications Act of 1934, as so redesignated in subsection (a), is amended—

(1) by striking out "five years" the second place and the last place it appears therein and inserting in lieu thereof "ten years"; and

(2) by inserting after the second sentence thereof the following new sentence: "The term of any license for the operation of any auxiliary broadcast station or equipment which can be used only in conjunction with a primary radio, television, or translator station shall be concurrent with the term of the license for such primary radio, television, or translator station.".

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

SEC. 113. (a) Section 307 of the Communications Act of 1934, as amended in section 112(a), is further amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any licensing requirement established in this Act, the Commission may by rule authorize the operation of radio stations without individual licenses in the radio control service and the citizens band radio service if the Commission determines that such authorization serves the public interest, convenience, and necessity.

"(2) Any radio station operator who is authorized by the Commission under paragraph (1) to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the Commission under this Act.

"(3) For purposes of this subsection, the terms 'radio control service' and 'citizens band radio service' shall have the meanings given them by the Commission by rule.".

(b) Section 303(n) of the Communications Act of 1934 (47 U.S.C. 303(n)) is amended by inserting after "any Act" the first place it appears therein the following: ", or which the Commission by rule has authorized to operate without a license under section 307(e)(1),".

AUTHORIZATION OF TEMPORARY OPERATIONS

SEC. 114. Section 309(f) of the Communications Act of 1934 (47 U.S.C. 309(f)) is amended—

(1) by striking out "emergency" each place it appears therein and inserting in lieu thereof "temporary";

(2) by striking out "one additional period" and inserting in lieu thereof "additional periods"; and

(3) by striking out "ninety days" and inserting in lieu thereof "180 days".

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

SEC. 115. (a) Section 309(i)(1) of the Communications Act of 1934 (47 U.S.C. 309(i)(1)) is amended—

(1) by striking out "applicant" the first place it appears therein and inserting in lieu thereof "application"; and

(2) by striking out "the qualifications of each such applicant under section 308(b)" and inserting in lieu thereof "that each such application is acceptable for filing".

(b) Section 309(i)(2) of the Communications Act of 1934 (47 U.S.C. 309(i)(2)) is amended to read as follows:

"(2) No license or construction permit shall be granted to an applicant selected pursuant to paragraph (1) unless the Commission determines the qualifications of such applicant pursuant to subsection (a) and section 308(b). When substantial and material questions of fact exist concerning such qualifications, the Commission shall conduct a hearing in order to make such determinations. For the purpose of making such determinations, the Commission may, by rule, and notwithstanding any other provision of law—

"(A) adopt procedures for the submission of all or part of the evidence in written form;

"(B) delegate the function of presiding at the taking of written evidence to Commission employees other than administrative law judges; and

"(C) omit the determination required by subsection (a) with respect to any application other than the one selected pursuant to paragraph (1).".

(c)(1) Section 309(i)(3)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)(A)) is amended by striking out ", groups" the first place it appears therein, and all that follows through the end thereof, and inserting in lieu thereof the following: "used for granting licenses or construction permits for any media of mass communications, significant preferences will be granted to applicants or groups of applicants, the grant to which of the license or permit would increase the diversification of ownership of the media of mass communications. To further diversify the ownership of the media of mass communications, an additional significant preference shall be granted to any applicant controlled by a member or members of a minority group.".

(2) Section 309(i)(3) of the Communications Act of 1934 (47 U.S.C. 309(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(C) For purposes of this paragraph:

"(i) The term 'media of mass communications' includes television, radio, cable television, multipoint distribution service, direct broadcast satellite service, and other services, the licensed facilities of which may be substantially devoted toward providing programming or other information services within the editorial control of the licensee.

"(ii) The term 'minority group' includes Blacks, Hispanics, American Indians, Alaska Natives, Asians, and Pacific Islanders.".

(d) Section 309(i)(4)(A) of the Communications Act of 1934 (47 U.S.C. 309(i)(4)(A)) is amended by striking out "effective date of this subsection" and inserting in lieu thereof "date of the enactment of the Communications Technical Amendments Act of 1982".

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

SEC. 116. (a) Section 311(c)(3) of the Communications Act of 1934 (47 U.S.C. 311(c)(3)) is amended by striking out "the agreement" the second place it appears therein and all that follows through the end thereof and inserting in lieu thereof the following: "(A) the agreement is consistent with the public interest, convenience, or necessity; and (B) no party to the agreement filed its application for the purpose of reaching or carrying out such agreement.".

(b) Section 311(d)(1) of the Communications Act of 1934 (47 U.S.C. 311(d)(1)) is amended by striking out "two or more" and all that follows through "station" and inserting in lieu thereof the following: "an application for the renewal of a license granted for the operation of a broadcasting station and one or more applications for a construction permit relating to such station".

(c) Section 311(d)(3) of the Communications Act of 1934 (47 U.S.C. 311(d)(3)) is amended by striking out "license".

WILLFUL OR REPEATED VIOLATIONS

SEC. 117. Section 312 of the Communications Act of 1934 (47 U.S.C. 312) is amended by adding at the end thereof the following new subsection:

"(f) For purposes of this section:

"(1) The term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States.

"(2) The term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.".

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

SEC. 118. Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by striking out "the construction of which is begun or is continued after this Act takes effect,".

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

SEC. 119. Section 319(d) of the Communications Act of 1934 (47 U.S.C. 319(d)) is amended to read as follows:

"(d) A permit for construction shall not be required for Government stations, amateur stations, or mobile stations. A permit for construction shall not be required for public coast stations, privately owned fixed microwave stations, or stations licensed to common carriers, unless the Commission de-

termines that the public interest, convenience, and necessity would be served by requiring such permits for any such stations. With respect to any broadcasting station, the Commission shall not have any authority to waive the requirement of a permit for construction. With respect to any other station or class of stations, the Commission shall not waive such requirement unless the Commission determines that the public interest, convenience, and necessity would be served by such a waiver.".

PRIVATE LAND MOBILE SERVICES

SEC. 120. (a) Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"PRIVATE LAND MOBILE SERVICES

"SEC. 331. (a) In taking actions to manage the spectrum to be made available for use by the private land mobile services, the Commission shall consider, consistent with section 1 of this Act, whether such actions will—

"(1) promote the safety of life and property;

"(2) improve the efficiency of spectrum use and reduce the regulatory burden upon spectrum users, based upon sound engineering principles, user operational requirements, and marketplace demands;

"(3) encourage competition and provide services to the largest feasible number of users; or

"(4) increase interservice sharing opportunities between private land mobile services and other services.

"(b)(1) The Commission, in coordinating the assignment of frequencies to stations in the private land mobile services and in the fixed services (as defined by the Commission by rule), shall have authority to utilize assistance furnished by advisory coordinating committees consisting of individuals who are not officers or employees of the Federal Government.

"(2) The authority of the Commission established in this subsection shall not be subject to or affected by the provisions of part III of title 5, United States Code, or section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

"(3) Any person who provides assistance to the Commission under this subsection shall not be considered, by reason of having provided such assistance, a Federal employee.

"(4) Any advisory coordinating committee which furnishes assistance to the Commission under this subsection shall not be subject to the provisions of the Federal Advisory Committee Act.

"(c)(1) For purposes of this section, private land mobile service shall include service provided by specialized mobile radio, multiple licensed radio dispatch systems, and all other radio dispatch systems, regardless of whether such service is provided indiscriminately to eligible users on a commercial basis, except that a land station licensed in such service to multiple licensees or otherwise shared by authorized users (other than a nonprofit, cooperative station) shall not be interconnected with a telephone exchange or interexchange service or facility for any purpose, except to the extent that (A) each user obtains such interconnection directly from a duly authorized carrier; or (B) licensees jointly obtain such interconnection directly from a duly authorized carrier.

"(2) A person engaged in private land mobile service shall not, insofar as such person is so engaged, be deemed a common carrier for any purpose under this Act. A common carrier shall not provide any dispatch service on any frequency allocated for common carrier service, except to the extent such dispatch service is provided on stations licensed in the domestic public land mobile radio service before January 1, 1982.

"(3) No State or local government shall have any authority to impose any rate or entry regulation upon any private land mobile service, except that nothing in this subsection may be construed to impair such jurisdiction with respect to common carrier stations in the mobile service.".

(b)(1) Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end thereof the following new paragraph:

"(gg) 'Private land mobile service' means a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation.".

(2) Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n)) is amended to read as follows:

"(n) 'Mobile service' means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services.".

NOTICES OF APPEAL

SEC. 121. Section 402(d) of the Communications Act of 1934 (47 U.S.C. 402(d)) is amended—

(1) by striking out "Commission" the first place it appears therein and inserting in lieu thereof "appellant";

(2) by striking out "date of service upon it" and inserting in lieu thereof "filing of such notice";

(3) by striking out "and shall thereafter" and all that follows through "Washington"; and

(4) by striking out "Within thirty days after the filing of an appeal, the" and inserting in lieu thereof "The".

COMPUTATION OF CERTAIN FILING DEADLINES

SEC. 122. The last sentence of section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "public notice" and all that follows through the end thereof and inserting in lieu thereof the following: "the Commission gives public notice of the order, decision, report, or action complained of.".

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

SEC. 123. Section 408 of the Communications Act of 1934 (47 U.S.C. 408) is amended by striking out "within such reasonable time" and all that follows through the end thereof and inserting in lieu thereof the following: "thirty calendar days from the date upon which public notice of the order is given, unless the Commission designates a different effective date. All such orders shall continue in force for the period of time specified in the order or until the Commission or a court of competent jurisdiction issues a superseding order.".

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

SEC. 124. The second sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting ", or is a cable television system operator" before the period at the end thereof.

FORFEITURE OF COMMUNICATIONS DEVICES

SEC. 125. Title V of the Communications Act of 1934 (47 U.S.C. 501 et seq.) is amended by adding at the end thereof the following new section:

"FORFEITURE OF COMMUNICATIONS DEVICES

"SEC. 510. (a) Any electronic, electromagnetic, radio frequency, or similar device, or component thereof, used, sent, carried, manufactured, assembled, possessed, offered for sale, sold, or advertised with willful and knowing intent to violate section 301 or 302, or rules prescribed by the Commission under such sections, may be seized and forfeited to the United States.

"(b) Any property subject to forfeiture to the United States under this section may be seized by the Attorney General of the United States upon process issued pursuant to the supplemental rules for certain admiralty and maritime claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made if the seizure is incident to a lawful arrest or search.

"(c) All provisions of law relating to—

"(1) the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws;

"(2) the disposition of such property or the proceeds from the sale thereof;

"(3) the remission or mitigation of such forfeitures; and

"(4) the compromise of claims with respect to such forfeitures;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section, except that such seizures and forfeitures shall be limited to the communications device, devices, or components thereof.

"(d) Whenever property is forfeited under this section, the Attorney General of the United States may forward it to the Commission or sell any forfeited property which is not harmful to the public. The proceeds from any such sale shall be deposited in the general fund of the Treasury of the United States.".

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

SEC. 126. The last sentence of section 605 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by striking out "broadcast or";

(2) by striking out "amateurs or others" and inserting in lieu thereof "any station";

(3) by striking out "or" the last place it appears therein;

(4) by inserting ", aircraft, vehicles, or persons" after "ships"; and

(5) by inserting before the period at the end thereof the following: ", or which is transmitted by an amateur radio station operator or by a citizens band radio operator".

TECHNICAL AMENDMENTS

SEC. 127. (a) Section 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking out "ether" and inserting in lieu thereof "electromagnetic spectrum".

(b) Section 402(a) of the Communications Act of 1934 (47 U.S.C. 402(a)) is amended by striking out "Public Law" and all that follows through the end thereof and inserting in lieu thereof "chapter 158 of title 28, United States Code.".

(c)(1) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "rehearing" each place it appears therein and inserting in lieu thereof "reconsideration".

(2) The heading for section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended by striking out "REHEARINGS" and inserting in lieu thereof "RECONSIDERATIONS".

AMENDMENT TO OTHER LAW

SEC. 128. Section 1114 of title 18, United States Code, is amended by inserting after "law enforcement functions," the following: "or any officer or employee of the Federal Communications Commission performing investigative, inspection, or law enforcement functions,".

TITLE II—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the administration of the National Telecommunications and Information Administration $12,917,000 for fiscal year 1983, and $11,800,000 for fiscal year 1984, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

STUDY OF TELECOMMUNICATIONS AND INFORMATION GOALS

SEC. 202. (a) The National Telecommunications and Information Administration shall conduct a comprehensive study of the long-range international telecommunications and information goals of the United States, the specific international telecommunications and information policies necessary to promote those goals and the strategies that will ensure that the United States achieves them. The Administration shall further conduct a review of the structures, procedures, and mechanisms which are utilized by the United States to develop international telecommunications and information policy.

(b) In any study or review conducted pursuant to this section, the National Telecommunications and Information Administration shall not make public information regarding usage or traffic patterns which would damage United States commercial interests. Any such study or review shall be limited to international telecommunications policies or to domestic telecommunications issues which directly affect such policies.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,
Managers on the Part of the House.

BARRY GOLDWATER,
TED STEVENS,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I

SHORT TITLE

House bill

The House bill provided that the bill may be cited as the "Federal Communications Commission Authorization Act of 1981."

Senate amendment

The Senate amendment provided that this title may be cited as the "Communications Amendments Act of 1982."

Conference substitute

The conference substitute adopts the Senate provision.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and clean-up. The Act still contains numerous instances of obsolete language, while imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of advancements in technology and changed circumstances.

While many of the provisions of the Conference Substitute are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in reorganizing staff, in carrying out its duties, and in reducing the amount of unnecessary paperwork.

Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. For example, section 307 of the Communications Act would be amended by authorizing the Commission to eliminate the individual licensing of citizens band (CB) and radio control services, which would save the Commission at least $400,000 annually. Other provisions such as those relating to reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits would also result in significant budgetary and resource savings.

Three major classes of licenses are dealt with in the Conference Substitute. Amateur radio, citizens band (CB) radio, and private land mobile radio. In addition, the issues of radio frequency interference rejection standards and Commission authority to use a system of random selection to grant licenses are addressed in the bill. A descriptive background on each issue follows.

A. Amateur radio service.—The amateur radio service is as old as radio itself. Every single one of the early radio pioneers, experimenters, and inventors was an amateur: commercial, military, and government radio was unknown. The zeal and dedication to the service of mankind of those early pioneers has provided the spiritual foundation for amateur radio over the years. The contributions of amateur radio operators to our present day communication techniques, facilities, and emergency communications have been invaluable.

In the early 1920s, amateurs were relegated to the portion of the radio frequency spectrum that was considered at that time to be virtually useless: the short-waves below 200 meters. These short-waves that once were considered useless are now occupied by marine and aviation, police and public safety, television and FM broadcast, international broadcast, and amateur services, to name a few.

Amateurs are pioneering still today. Space or satellite communications are a most important part of amateur radio. Through Program OSCAR (Orbiting Satellite Carrying Amateur Radio), amateurs have been utilizing advanced technology from their relatively simple, inexpensive ground stations. Seven amateur satellites have been built to date by amateurs at their expense. The amateur space activities are playing an important role in attracting the young people of America to scientific fields.

Almost every nation has amateurs who communicate each day with fellow amateurs in other countries and on other continents passing vital emergency message traffic and acting as ambassadors of international goodwill. The modes of communication include Morse code telegraphy, telephone, teletype or teleprinter, television and facsimile. Equipment ranges from home-built transmitters and receivers using parts from discarded radio and television receivers and costing only a few dollars, to the most sophisticated equipment manufactured for commercial, government, and military use costing many hundreds of dollars.

There are approximately 400,000 amateurs in the United States and almost 900,000 throughout the world. At any time of every day, thousands of amateurs scattered throughout the world are listening to and communicating with fellow amateurs over distances varying from only a few miles within a city to thousands of miles across the world. It is the large number of amateurs dispersed around the world operating in the five high frequency bands that has made it possible to provide the first, and for some time thereafter, the only communication links between areas devastated by natural disasters—earthquakes, tidal waves, hurricanes, tornadoes, blizzards and floods—and the outside world.

Every amateur has earned his license by having demonstrated his knowledge of radio theory and application, International Morse Code, the Communications Act, and the regulations of the Federal Communications Commission. Entry into amateur radio usually is through the Novice Class. Amateurs are encouraged to increase their knowledge and skills by a series of five classes or grades of license, all but one with limited operating privileges.

The Amateur Radio Service has been praised for being self-regulated. The Commission has reported that less time has been devoted to monitoring and regulating the Amateur Service than to any other service because of its self-policing and discipline.

One primary purpose of the Conference Substitute is to provide the Federal Communications Commission with the authority to implement various programs which will result in improvements in administration of the amateur radio service and to cut the cost thereof. It will further allow the amateur radio service to continue its tradition as

the most self-regulated radio service in the United States, and to become to some extent self-administered, requiring even less expenditure to government time and effort than in the past.

B. Citizens band radio service.—The citizens band (CB) radio service comprises the largest single class of radio operators in the country. Although the CB fad the nation experienced during the late 1970s may now be over, there are still about millions of CB licensees throughout the United States.

Citizens band radio is the primary highway communications system for individuals in the United States. It is the only two-way service available to conduct personal and/or business communications between private citizens, businesses, police and government officials.

Channel 9 on the citizens band has been designated as an Official Emergency Traveler's Assistance Channel. This has been recognized by users and manufacturers alike, resulting in the purchase of CB radios as a highway safety device to be used in family automobiles and other vehicles. The U.S. Coast Guard monitors Channel 9 to hear boating emergencies. Moreover, many fleets of state highway patrol and state and local police vehicles have been equipped with CB radio to assist motorists.

In addition to the special Channel 9 function, CB radio has often been used by individuals and organizations to notify appropriate authorities of emergencies and natural disasters. In many cases, a CB radio operator on the scene has communicated the first news of airplane crashes, floods, earthquakes, tornadoes, and other catastrophes. Moreover, many CB organization have worked with local law enforcement agencies to establish on-going programs whereby CBers voluntarily perform function such as motorist assistance, security patrol observation, area searches for missing persons, escorts for oversized vehicles or parades, disaster duty, or facilitation of rescue missions.

The community service provided by the CB radio service and its many organizations has been recognized on numerous occasions. For example, in 1978, the heads of the three federal government agencies (Department of Transportation, Interstate Commerce Commission, and Federal Communications Commission) signed a federal policy statement on the benefits of CB radio for the promotion of highway safety. The American National Red Cross has officially recognized the effectiveness of CB radio in disaster situations and has agreed to work with CB groups for the purpose of disaster relief. One CB organization in particular, REACT International, received the 1982 President's Volunteer Action Award in recognition of the outstanding public service performance of its volunteer members in monitoring Channel 9 and providing other assistance to promote highway safety.

These public service voluntary efforts by CB operators have been threatened by a small minority of CB users who, either maliciously or in ignorance of FCC rules, transmit regularly non-emergency communications on the Official Emergency and Traveler's Assistance Channel. One key purpose of the Conference Substitute is to permit the FCC to accept the volunteer services of CB operators to monitor the CB frequencies for such rule violations in order to preserve the integrity of the CB service. Moreover, the Conferees are extremely concerned that should the Commission decide to de-license the CB service, the commission continues to ensure that the overall integrity of this service is protected.

C. Private land mobile service.—Licensees in the private land mobile services include public safety, industrial, business and land transportation users which operate their own private one-way and two-way land mobile systems, most often as means of enhancing a firm's ability of providing a multitude of other goods or services to the American public. Private land mobile services play a relatively unknown, but critically important, role in protecting the public welfare and in promoting economic vitality. Because of the existence of private land mobile radio, a large number of business establishments, large and small, are capable of responding quickly to service calls from homeowners and consumers, enabling them to be more efficient and economical.

Police, fire, ambulance and other emergency services to the public are in large part reliant on the use of private land mobile radio. In addition, private land mobile radio is rapidly becoming an important tool for the survival of the small businessman in the present economy. Additionally, public utilities are able to respond quickly to calls, avoid widespread disruption of utility service to the general public, and promptly restore service during blackouts through use of such radio services. Moreover, manufacturing plants and refineries are able to operate in a more efficient and safe manner; forest crews are able to contain forest fires with less personal danger and with less loss of valuable timber; and, snowplows and other highway equipment can be utilized more effectively and construction activities can be better coordinated. These are only a few of the many important and essential uses of private land mobile radio affecting public safety and the welfare, as well as the economy.

The Conference Substitute recognizes the critical importance of the private land mobile services and provides statutory support and guidance for existing and future FCC regulation of these services.

D. Radio frequency interference rejection standards.—Radio frequency interference (RFI) arises when a signal radiated by a transmitter is picked up by an electronic device in such a manner that it prevents the clear reception of another and desired signal or causes malfunction of some other electronic device (not simply a radio or television receiver). While almost any transmitter of any service is a potential interference source, Amateur or Citizens Band (CB) stations are very often associated with RFI problems involving electronic devices in the home.

Particularly since the advent of commercial television immediately following World War II, amateur radio operators have been active in interference control and elimination. The amateurs learned very early that the incorporation of good engineering practices in their transmitter construction, such as electrostatic shielding and filtering, minimized the possibility of interference by preventing the radiation of spurious signals. Such practices and techniques are well understood and are universally incorporated in transmitters manufactured and in use today, irrespective of the service. Appropriate rules of the Federal Communications Commission require all transmitters of all services, including the transmitting sections of transceivers, to suppress spurious radiation.

It has become evident that many interference problems involving home electronic equipment and systems are not fully resolvable through taking protective steps with the transmitting equipment, but that resolution of some interference problems may require action with respect to receivers and other electronic devices picking up unwanted signals.

Causes for interference to television reception, for example, can be divided into the following categories. First, although least common, is the pickup of a spurious (unwanted) signal having a frequency within or close to the band of frequencies occupied by the television signal. Such interference usually is caused by an interfering transmitter. In many instances, there is what is termed an harmonic relationship between the transmitter frequency and the television channel. That is particularly the case with the 27 Megahertz CB service: the second the third harmonics (multiples) of the 27 Megahertz CB signal fall in TV Channels 2 and 5, respectively. It is generally recognized that no TV design can eliminate susceptibility to harmonic interference. Second is the overloading of the input circuit of the television receiver by an undesired signal so strong that overloading, i.e. malfunctioning, of the circuits generates spurious signals within the television receiver that interferes with the desired signal. Such interference usually is more severe with transistorized receivers and may result from poor circuit design in the receiver. Third is the pickup of an undesired signal by circuits within the set or wiring leading to the set. Poor shielding or poor circuit design in the receiver is usually the culprit.

Interference to other electronic devices such as record players, hi-fi amplifiers, home burglar alarm and security systems, automatic garage door openers, electronic organs, and public address systems usually arises from the pick-up of a relatively strong signal by the external wiring, such as the wires leading to the speakers or to the power source, followed by the rectification of the signal by a circuit, contact or component within the device.

The cures for most such interference have been well known for many years. Often an inexpensive filter in the lead from the antenna to the television receiver will reduce the interference to an acceptable level or eliminate it entirely. For the other electronic devices, the judicious installation of inexpensive capacitors (devices which prevent wiring from picking up undesired signals) may suffice.

Even though the causes and cures of radio and television interference have been known for many years, the number of complaints received by the Commission has grown steadily each year. With the rapid, and indeed explosive, growth of the 27 MHz CB service in the mid-1970s, the probability of a home electronic device being located near a transmitter of some sort has increased substantially. The public's use of home electronic devices has grown, and continues to grow, at an exponential rate.

Many manufacturers of home electronic equipment and systems have been willing to provide, often free of charge, filters for electronic equipment when a particular interference problem is brought to their attention. However, their efforts to voluntarily address the root problem by incorporating such RFI suppression techniques in the design and assembly-line stage have been less than adequate. This is true even though such filtering mechanisms and anti-interference design may only cost a few cents per unit.

Many believe that the Commission does not now have authority to compel the use of

protective devices in equipment which does not emit radio frequency energy sufficient in degree to cause harmful interference to radio communications. Manufacturers and retailers also believe that the Commission cannot require a label on equipment or the supplying of a pamphlet of the possibility of interference and outlining corrective measures. The Commission has thus far acted in consonance with this belief. The Conference Substitute would thus give the FCC the authority to require that home electronic equipment and systems to be so designed and constructed as to meet minimum standards for protection against unwanted radio signals and energy. Extensive amateur and Commission experience over the years with interference investigation and elimination supports the conclusion that, in most instances, satisfactory corrective measures can be simple and inexpensive. The Conferees by no means intends for major modifications and redesigns of equipment to be required, or that the Commission require steps to be taken which impose substantial additional costs or unnecessary burdens on equipment manufacturers. We do not believe that elaborate procedures will be necessary in order to achieve the desired result. Existing equipment and that manufactured prior to the date of enactment of this legislation will be exempt from any such standards as might be established by the FCC.

The millions of purchasers of television and radio receivers and other home electronic equipment and systems each year deserve protection from interference. Significant reduction of interference from the multitude of complaints received each year by the Commission should result from enactment of this provision, as should lawsuits against amateur and other radio operators in local jurisdictions based upon interference. Section 7 of the Conference Substitute is viewed by the Conferees as necessary to address adequately this increasing problem, which plagues so many of the nation's consumers. Moreover, by virtue of this section, the Conferees wishes to clarify that the exclusive jurisdiction over RFI incidents (including pre-emption of state and local regulation of such phenomena) lies with the FCC.

E. FCC authority to use a system of random selection.—On August 13, 1981, President Reagan signed into law the Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, 95 Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

This statute permitted the Commission to grant licenses or construction permits involving any use of the electromagnetic spectrum to a qualified applicant through the use of a lottery system. The statute gave the Commission the discretion to determine when the use of a lottery to grant licenses or permits was appropriate. Any use of a lottery system by the Commission, however, was required to incorporate "significant preferences" to "groups or organizations, or members of groups or organizations, which are underrepresented in the ownership of telecommunications facilities or properties." 47 U.S.C. 309(i)(3)(A). The intent of the Congress in requiring such significant preferences in the administration of a lottery was to increase the number of media outlets owned by such underrepresented persons or groups, thereby fostering diversity of ownership in the media of mass communications. Conference Report on H.R. 3982. Omnibus Budget Reconciliation Act of 1981—Book 2, H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981).

Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). The 180 day period expired on February 9, 1982. On February 8, 1982, the Commission held a public meeting to announce that it would "decline" to adopt rules governing a lottery system, stating that it found the requirements of the statute to be ambiguous and unworkable. Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768 (1982). The Commission stated that it did "not believe that Congress would intend for [it] to expend [its] limited resources to draft and defend rules creating a lottery framework which would not be used." Random Selection or Lotteries, Report and Order, FCC General Docket No. 81-768, footnote at page 28 (1982). While the Commission cited legal and administrative difficulties with the statute, it did not seek any type of formal direction or clarification from the Congress prior to the expiration of the 180 day period as to how a lottery system might be designed. It was only after certain members of the Congress expressed their view that the Commission's abdication of its statutory responsibility must be rectified, that the Commission sought additional guidance from the Congress.

The Conferees considered this action to be in clear violation of the plain language of the statute, which mandated that the Commission prescribe lottery rules within 180 days, while permitting the agency discretion only with respect to when a lottery would actually be used. It was felt that as a creature of Congress, the Commission must obey the directives of its creator, and that it is not for the FCC to presume legislative intent when Congress clearly mandated that an action be taken, or to refuse to take action because it felt that Congress had not passed the precise lottery statute it wanted. Several Budget Reconciliation Act of 1981, Pub. L. No. 97-35, Stat. 357 (1981). Section 1242(a) of this Act added a new subsection 309(i) to the Communications Act of 1934 (47 U.S.C. 309(i)) authorizing the FCC to grant licenses on the basis of random selection or lottery. 95 Stat. 736 (1981).

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Because of Congressional desire that the FCC proceed expeditiously to implement a lottery scheme, the statute directed the Commission to establish rules for a system of random selection, "not later than 180 days after the effective date" of the Act. 47 U.S.C. 309(i)(4)(A). Members considered this to be a violation of Federal law which totally thwarted Congressional intent that generic lottery rules be established and available for use as soon as possible. This was so that if at any time the present or some future Commission wished to utilize a lottery process, the rules would already be in place and there would be no delays brought about by having to then take the time to develop a generic lottery process.

The amendments to the lottery statute in the Conference Substitute and the legislative history contained in the detailed section-by-section analysis which follows are intended to give the Commission the additional guidance and clarification it said it needed to establish lottery rules. The amendments retain the principles which were agreed upon by both the House and Senate during the budget reconciliation process.

FINANCIAL INTERESTS OF MEMBERS AND EMPLOYEES OF FEDERAL COMMUNICATIONS COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment section 4(b) of the Communications Act of 1934 by replacing the absolute bar on the ownership of any interest in any company involved in wire or radio communications or in the manufacture or sale of wire or radio equipment with a standard that prohibits ownership only when there exists a "significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission, and sets forth reasonable guidelines as to when the standard is met.

Conference substitute

The conference substitute adopts the Senate provision, with one change. Section 4(b)(5) of the Act, drafted when the FCC had seven members, has been amended in the Conference Substitute to establish a formula for political balance in Commission membership, regardless of the size of the Commission.

The statutory restriction imposing an absolute bar on ownership interests, addressed by the Senate amendment, has proven to be a hardship, particularly for staff employees who may have minor securities holdings in firms which deal only peripherally with "wire or radio communications." For example, a Commission employee working in the common carrier bureau is forbidden from owning even one share of stock in a bus company which incidentally might own and operate radios on its transportation vehicles.

As the Commission has observed in addressing this prohibition, in the telecommunications age there is scarcely a major enterprise which is not in some way connected with a telecommunications product or service. Employee Financial Interests, Notice of Proposed Rulemaking, 45 Fed. Reg. 47885 (July 17, 1980). For example, radio communications are used and Commission licenses are held by businesses such as airlines, railroads, maritime vessels, taxicabs, and numerous other industries. Additionally, virtually every large retail estab-

lishment sells equipment regulated by the Commission (e.g., radios, television, microwave ovens).

The language amending Section 4(b)(2) of the Communications Act specifies a two-fold requirement that must be met before the prohibition would be applicable: (1) the interest or activity must fall within the parameters of at least one of four specified categories involving significant regulation set out in the legislation; and (2) the entity involved must have a significant interest in activities subject to Commission regulation. The Conferees intend that these ownership prohibitions be read separately. For example, a company that has certain operations which are "significantly regulated" by the Commission would not necessarily have a "significant interest" in activities subject to Commission regulation. The Conferees believe that this provision will add integrity to the regulatory process by assuring that members and employees of the agency will not have conflicts of interest of any meaningful consequence, while at the same time not precluding financial interests in matters that are only remotely related to the agency's activities.

In addition, the provision would permit the Commission to waive the conflict of interest prohibitions for Commission employees (but not Commissioners) if the Commission determines that financial interests of the involved employee are minimal. This waiver authority is subject to 18 U.S.C. 208, which essentially prohibits an employee from participating in any matter in which the employee has a financial interest (subject to another waiver provision where the interest is so insubstantial as to be deemed unlikely to affect the integrity of the employee's services). Any exercise of this waiver authority must be accompanied by publication of such action in the Federal Register and notification of both the House and Senate Authorization Committees in order to retain Congressional oversight and pubic confidence in the Commission's regulatory responsibilities. The Conferees intend that the Commission exercise this waiver authority with the utmost care and propriety.

The Conferees note that the amendment to section 4(b) also deletes a sentence which prohibits any Commissioner who has not served his full term from representing any person before the Commission in a professional capacity for one year following the termination of his service. The Committee wishes to emphasize that the purpose of this deletion is only to make the Communications Act consistent with the conflict of interest rules which govern all Federal officials, the Ethics in Government Act, as amended 18 U.S.C. 207 (1978). The Committee notes that the prohibitions in the Ethics in Government Act are stronger than those presently in section 4(b) of the Communications Act, and that it intends that these stricter requirements govern former FCC officials.

APPOINTMENT, TERMS OF OFFICE, SALARY, AND COMPENSATION OF MEMBERS OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

This section allows the Commission, under certain circumstances, to accept reimbursement from non-governmental entities for travel and related expenses incurred by Commissioners and employees attending non-government-sponsored functions. The provision will expire at the end of fiscal year 1985.

Conference substitute

The conference substitute adopts the Senate provision.

In order to keep in touch with the industries and individuals they regulate, Commissioners and Commission employees have found it useful to travel on occasion to different parts of the country on official business to attend conferences, conventions, and meetings. These trips range from Commissioners' participation in industry-wide conventions, to a bureau chief's panel appearance in an educational institution's symposium, to a division head's meeting to explain a new FCC rule to a small group of licensees. Given the rapid technological changes which are occurring in the telecommunications industry, and the continuing introduction of new communications services and facilities to the public, the ability of the Commission to travel is a relatively significant aspect of its service to the public.

The reimbursement experiment is designed to supplement appropriations to the Commission during a period in which the Commission's responsibilities, particularly in the area of common carrier regulation, are projected to increase, while Congress moves to reduce federal government expenditures. The Committee recognizes that attendance by Commissioners and Commission employees at non-governmental conventions and meetings generate valuable exchanges between government officials and non-governmental groups and should be allowed to continue at reasonable levels. Appropriated travel funds saved hereby should be used to pay for other high-priority non-travel expenses of the Commission.

The Conferees further intended that such reimbursement, in general, should be permissible notwithstanding the provisions of any other statutes, regulations, executive orders or similar restrictions which ordinarily would bar the receipt of such reimbursements from any source.

As part of the program of budget austerity, the amount of money available for travel by Federal agencies is being reduced. This might well have a negative impact upon the Commission's ability to participate in industry functions intended to offer those subject to FCC regulation a better opportunity to interface with Commissioners and staff. As the amount of moneys appropriated to the Commission for travel decreases, smaller organizations and non-profit or educational groups in particular may find themselves out of the Commission's travel picture. Meanwhile, at the present time, those groups which could easily afford to pay the necessary expenses for Commissioners' and Commission employees' travel to their functions are prevented from doing so.

Currently, no independent regulatory agency has the authority to accept travel reimbursement from private parties except with respect to a very limited number of groups. However, given the rather severe budget constraints facing the Commission, providing for an experimental period to test the operation of a limited travel reimbursement mechanism over which Congress could exert strong oversight, preserves Congressional control while enhancing budgetary resources for travel purposes. Thus, the Conference Substitute establishes a limited travel reimbursement mechanism, which will sunset after three years, and is intended to alleviate some of the budgetary pressures which might inhibit the ability of Commissioners and Commission staff to travel.

To ensure Congressional oversight, the amendment to Section 4(b) includes three significant limitations on the Commission's reimbursement authority. First, the total amount that the Commission could travel in any fiscal year is limited to the level of travel money appropriated for the Commission for such fiscal year. In this way, the Commission is not given carte blanche with respect to travel, while Congress continues to decide the overall degree of travel which would be appropriate in any given year. Second, the Commission is required to report to Congress, as well as publicly report, any instances in which it receives travel reimbursements under this section. Third, the entire travel reimbursements section, since it is intended to be an experiment, commences with the beginning of fiscal year 1983, and sunsets at the end of fiscal year 1985.

The Conferees wish to emphasize that during this experimental period, the Commission is not to neglect groups or organizations which do not have the means to reimburse the Commission for its travel expenses. The Conferees intend that the Commission attend and participate in conventions, conferences, and meetings held by non-profit, public interest, educational, and other groups at roughly the same or higher level as in previous years.

The amount of reimbursement permitted is limited to the travel appropriation specified by Congress for each fiscal year. Congress may wish to raise the present ceiling on Commission travel if it feels that additional travel is warranted, particularly if it appears that such additional travel would likely be funded by non-governmental sources. The Conferees intends that, in the absence of an express limitation on the amount of moneys which the Commission can expend on any given fiscal year, the reimbursement limit will be the figure listed as "Travel and Transportation of Persons" contained in the President's Annual Budget Estimate for the Commission. Appropriated travel moneys saved through the reimbursement mechanism may be "reprogrammed" between programs and activities for other uses in the Commission's budget to the extent permissible under existing law. These limits may be exceeded only upon written approval by both House and Senate Appropriations Committees.

The Conferees note that the Commission currently has experience with the travel reimbursement process, since federal law permits acceptance of reimbursement from certain private non-profit organizations for government travel expenses. *See, e.g.,* 5 U.S.C. 4101 *et. seq.* Under its current practive, the Commission pays all the proper expenses of the Commission traveller from its general appropriation; subsequently, the Commission bills and receives reimbursement from the sponsoring private non-profit organization, crediting its appropriation by the amount of reimbursement. The Committee intends that these procedures serve as the model for implemention of this provision notwithstanding any contrary provision of law. See 31 U.S.C. 484 (1976). In no instance should private entities make direct payments to or provide transportation tickets for Commissioner or Commission employees.

The quarterly reports required by Section 3 shall consist of the following information: a) the dates and brief description of the private event, b) the name and address of the sponsoring organization, c) number of Commissioners, and number and title of employees who attended the event, and d) the total amount of reimbursement, subdivided into

travel, room, board, and other expenses. These shall be filed, within thirty days after the close of each fiscal quarter, with the House and Senate Commerce and Appropriations Committees.

USE OF AMATEUR VOLUNTEERS FOR CERTAIN PURPOSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment provided a statutory basis for the present Commission practice of permitting amateurs of a higher license class to voluntarily administer novice (entry) class amateur radio license examinations to candidates and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture of distribution of amateur radio equipment, or involved in the preparation or distribution of publications which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams. The Senate amendment also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976).

Conference substitute

The conference substitute adopts the Senate provision.

There are five classes of amateur radio licenses with admission to higher license classes contingent upon the satisfactory completion of progressively more challenging license examinations. These examinations are presently administered by FCC personnel, generally those in the Field Operations Bureau. Due to resource and personnel reductions, the opportunity to take amateur license examinations is extremely limited. In some areas of the United States, amateur examinations can only be given once per year as a result of shortages of personnel in the Commission's Field Operations Bureau. Should a person not pass an amateur examination the first time, up to two years can pass without an individual having an amateur license. The benefits of amateur radio to individuals, especially young people, including technical self-training and knowledge of electronics should not be denied to such persons on the basis of personnel shortages at the Commission.

To help alleviate this problem, for several years amateurs of a higher license class have voluntarily administered novice (entry) class amateur radio license examinations to candidates. After administering the exam, the volunteer mails the written portion of the exam to the Commission for grading. This has saved Commission resources and provided a convenient method of administering these entry level examinations, especially to young people interested in radio.

The Conferees believe that this use of volunteer services by licensed amateurs by the Commission is a beneficial and efficient utilization of manpower in the public interest. Thus, the Conference Substitute provides a statutory basis for present Commission practice and extends the concept to include the volunteer administration of all classes of amateur licenses. To guard against conflicts of interest, persons who own a significant interest in or are employees of any entity involved in the manufacture or distribution of amateur radio equipment, or involved in the preparation or distribution of publication which may be used as study aids for amateur license exams are disqualified from volunteering to administer amateur exams.

This provision also authorizes the Commission to utilize the volunteer assistance of amateur licensees in the preparation of amateur license exams, notwithstanding any contrary provision of law. See generally, 31 U.S.C. 665(d) (1976). The FCC's failure to update and revise written examinations has resulted, through repetition, in compromise of the examination system. The Conferees note that at least one firm has published study aids which include the exact questions contained in current FCC amateur license exams. This has enabled some to pass amateur exams on the basis of rote memory rather than an understanding of FCC regulations. By permitting the Commission to accept suggested questions for various classes of amateur license exams from the licensees themselves or from amateur radio operator organizations, the Commission will be able to amass a larger pool of examination questions. The Conferees expect that volunteering individuals and organizations will protect against the premature disclosure to the public of submitted questions.

Another important consequence of the diminishing resources of the Commission's Field Operations Bureau, is the inadequacy of monitoring and enforcement services in both the amateur and Citizens Band (CB) radio services. This section authorizes the use of volunteers from the amateur and CB radio services to assist the Commission in monitoring for violations in their respective services. While these volunteers may issue advisory notices to apparent violators, they may not impose sanctions or take any other enforcement action against violators. See Section 4(f) (C) and (D) of the Communications Act of 1934.

This provision also makes it clear that all volunteers will serve without compensation and will not be deemed employees of the Federal Government for the purpose of receiving any benefits as a result of their services.

The Conference Substitute should help conserve Commission resources by giving statutory approval to the use of amateur radio volunteers who will complement the Commission's staff in carrying out licensing and monitoring responsibilities. The use of CB volunteers for monitoring assignments should yield similar benefits.

ORGANIZATION AND FUNCTIONING OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate reduced the minimum composition or quorum of the FCC's Review Board established by section 5(d) of the Communications Act of 1934, from three to two employees.

Conference substitute

The conference substitute adopts the Senate provision.

Section 556(b) of the Administrative Procedure Act, 5 U.S.C. 556(b), provides that a federal administrative agency may designate employee boards to preside over specified classes of proceedings. The FCC's employee board, which is known as the Review Board, on occasion, has not been able to issue decisions either because one of its members was disqualified from participating in a particular proceeding, a member was absent due to long illness or because a vacancy on the Board was unfilled.

By reducing the Board's minimum composition or quorum requirement to two employees, the problems caused by disqualification, prolonged illness, and prolonged vacancies should be alleviated. Where a deadlock occurs on a two-member panel, the Committee expects that such proceedings be certified to the full Commission for final disposition.

This section also deletes obsolete language.

POLE ATTACHMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate repealed Section 224(d) and 224(e) of the Communications Act of 1934.

Conference substitute

The Conferees agreed to the Senate provision deleting Section 224(e) but voted to retain Section 224(d) in current law.

On February 21, 1978, the President signed into law P.L. 95-234, which grants the Federal Communications Commission jurisdiction to regulate the rates, terms, and conditions for the attachment of cable system transmission lines to utility poles, where pole attachments are not regulated by a state. The purpose of requiring the regulation of the pole attachment rates was to provide that the rates are "just and reasonable". The statute imposes a methodology on the FCC to determine appropriate rates. This methodology expires five years after the date of enactment.

The Pole Attachment Act has brought considerable certainty regarding the price of access to utility poles. Further, it has encouraged private settlements by parties to a dispute. It has saved the FCC money by reducing the number of disputes brought to the Commission for administrative action. The FCC has administered the methodology set forth in subsection (d) by applying a formula which deals with all parties concerned.

The Conferees recognized that the FCC has the discretion to continue to use the standard called for in Section 224(d) if that subsection were permitted to expire. Further, the Commission has shown no indication that it would change the existing formula. In the event that the requirement of the formula established by Section 224(d) were permitted to expire, it would increase the likelihood that parties would petition to alter the formula by rulemaking, with resulting increased burden on the FCC and uncertainty in the industry until such issues were resolved.

Finally, the Conferees recognized that Section 224(e) was added to the Section because Congress was uncertain whether the methodology established by the statute would work. In the face of evidence indicating the effectiveness of this provision, the Conferees agreed that it should remain in the statute. Accordingly, the sunset provision of Section 224 has been deleted, while the methodology established in that Section will remain in force.

JURISDICTION OF COMMISSION

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 301 of the Communications Act of 1934 to make clear that the Commission's jurisdiction over radio communications extends to intrastate as well as interstate transmissions.

Conference substitute

The conference substitute adopts the Senate provision.

The present statutory ambiguity imposes wasteful burdens on the Commission and various United States Attorney's particularly with regard to prosecution of Citizens Band (CB) radio operators transmitting in violation of FCC rules. Typically in such a case, the defendants concede the violation, but challenge the Federal Government's jurisdiction on the ground that the CB transmission did not cross state lines. To refute this argument, the Commission invariably is asked to furnish engineering data and expert witnesses, often at considerable expense. In most instances, once the expert evidence is made available, the defendants plead guilty and the case terminated.

The provision would end these wasteful proceedings. Further, it would make Section 301 consistent with judicial decisions holding that all radio signals are interstate by their very nature See, e.g., *Fisher's Blend Station Inc.* v. *Tax Commission of Washington State*, 297 U.S. 650, 655 (1936).

INTERFERENCE WITH ELECTRONIC EQUIPMENT

House bill

The House bill contained no provision.

Senate amendment

The Senate amends Section 302(a) of the Communications Act of 1934 and authorizes the Commission to establish minimum performance standards for "home electronic equipment and systems" to take appropriate action in order to protect such equipment from radio frequency interference (RFI).

Conference substitute

The conference substitute adopts the Senate provision.

For many years, public complaints have persisted about radio frequency interference to consumer electronic equipment, such as televison sets and radio receivers. This interference has often been attributed to transmissions from the Amateur and Citizens Band (CB) radio services.

The Conferees wish to emphasize that it was its hope that voluntary efforts by manufacturers to reduce RFI when possible, as opposed to the use of government regulation, would be sufficient. Devices designed and marketed for use in a commercial environment normally include necessary protection against interference and do not require Commission regulation. In the market for home devices, however, good faith industry attempts to solve this interference problem have not always been as successful. Thus, in view of complaints regarding home devices, the Conferees believe that Commission authority to impose appropriate regulations on home electronic equipment and systems is now necessary to insure that consumers' home electronic equipment and systems will not be subject to malfunction due to RFI. However, the legislation does not mandate Commission exercise of this authority; that decision is well within the technical expertise of the agency.

The Conferees intend that the Commission's authority apply only to "home electronic equipment and systems" likely to be found in a private residence and intended for residential use, as distinguished from devices intended for office and business use. Radio and television sets would be typical examples of equipment subsumed under the term "home electronic equipment and systems." Other examples include home burglar alarm and security systems, automatic garage door openers, electronic organs, record turntables, and stereo/high fidelity amplifier systems. Although this legislation is aimed primarily at home equipment and systems, it is not intended to prevent the Commission from adopting standards for such devices which are also used outside the home. Portable TV receivers and radios as well as medical alert devices, for instance, are intended to be covered.

A number of alternatives are available to the Commission in exercising the authority granted hereunder. The Commission could direct manufacturers of some types of home electronic equipment and systems to meet certain minimal standards by incorporating an interference suppression capability into their devices before the equipment is offered for sale. On the other hand, the Commission may choose to require only a warning label on those types of home electronic equipment and systems for which the installation of filtering, shielding or other interference suppression components would be unreasonably costly in relation to the total price of the device, or where such installation otherwise is unreasonable or impractical. Such a warning could be given in a pamphlet or tag accompanying the equipment, and marketplace forces would determine the success of particular competitors who chose to rely on such warnings instead of actually building in the filtering devices necessary to fully protect against interference.

The Conferees expect the Commission to exercise the authority granted herein, as it has exercised the authority granted under section 302 of the Communications Act of 1934, by balancing the cost of improving the performance of a device to particular levels against the benefit to be gained from requiring manufacturers to meet standards of various levels of stringency. In so doing, the Conferees expect the number of interference complaints recorded and investigated by the Commission to be significantly reduced.

The Conference Substitute is further intended to clarify the reservation of exclusive jurisdiction to the Federal Communications Commission over matters involving RFI. Such matters shall not be regulated by local or state law, nor shall radio transmitting apparatus be subject to local or state regulation as part of any effort to resolve an RFI complaint. The Conferees believe that radio transmitter operators should not be subject to fines, forfeitures or other liability imposed by any local or state authority as a result of interference appearing in home electronic equipment or systems. Rather, the Conferees intend that regulation of RFI phenomena shall be imposed only by the Commission.

QUALIFICATIONS OF STATION OPERATORS

House bill

The House bill contained no provision.

Senate amendment

Section 303(1) of the Communications Act authorizes the Commission to grant radio operator licenses to citizens and nationals of the United States. The Senate broadened this category to include aliens who are legally eligible for employment in the United States.

Conference substitute

The conference substitute adopts the Senate provision.

Under current law, aliens must undergo an extensive time and resource consuming waiver procedure to obtain commercial radio operator licenses. For example, an alien aircraft mechanic or baggage handler seeking employment with an airline cannot obtain the necessary Restricted Radio Operator Permit for aircraft radio communications needed in those jobs without an express waiver from the Commission. The Commission will thus be spared these extensive and time consuming waiver proceedings. The change being proposed here would continue to have the effect of excluding undocumented aliens or other aliens not eligible for employment in the United States. See 8 C.F.R. Part 109 (1981).

In addition, the Conference Substitute would make a minor technical change in other language in Section 303(1). Current law exempts from the citizenship requirement persons holding United States pilot certificates which are valid in this country because of reciprocal agreements between the United States and the foreign country involved. To achieve consistency, the standard for such reciprocal agreements would be changed from one of citizenship to one of eligibility for employment. The intent here is not to narrow the number of persons falling within the scope of the existing law, but merely to make Section 303(1) internally consistent.

GROUNDS FOR SUSPENSION OF LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act to allow the Commission to suspend the license of any operator who causes, aids or abets in a violation of the Act or the Commission's rules.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, the Commission cannot take such action against the increasing number of operators who illegally advise, equip, or otherwise assist applicants seeking communications facilities. This provision authorizes the Commission to suspend licenses when serious violations occur.

LICENSING OF CERTAIN AIRCRAFT RADIO STATIONS AND OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 303 of the Communications Act of 1934 and authorizes the recognition of certain aircraft radio licenses issued by foreign nations. It would authorize a means to permit a foreign aircraft operator who leases a U.S.-registered aircraft to have the aircraft radio equipment licensed by the foreign country.

Conference substitute

The conference substitute adopts the Senate provision.

The Conference substitute conforms the Communication Act to recently proposed amendments to the International Telecommunications Union Radio Regulations and to other international agreements which allow the State of Registry of an aircraft (operated under a lease, charter, or other such arrangement in a second country) to transfer certain functions and duties to that country.

Section 301(e) of the Communications Act of 1934 requires radio equipment on domestic aircraft to be licensed under the provisions of the Act. In light of the recent amendments to the Convention on International Civil Aviation and the ITU Radio Regulations (the ratification of which is pending in the United States), the Confer-

ees intend by this amendment to Section 303 of the Act to provide an exception to Section 301(e) in situations where the Commission agrees to transfer licensing of United States aircraft and radio operators to another country.

REVISION OF LICENSE TERMS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended redesignated Section 307(c) of the Act to expand the maximum license term for non-broadcast licenses from five to ten years, upon a Commission finding that the public interest would be served by such an action.

Conference substitute

The conference substitute adopts the Senate provisions.

A ten-year license term might be inappropriate, for example, in many of the Private Radio Services, where a current data base is necessary for accurate and current knowledge of spectrum availability and usage. For other services, however, where specific frequency assignments are not made to individual stations, ten-year license terms would not impede the Commission's spectrum management capabilities. The Conferees believe that, in authorizing the Commission to issue licenses for such terms where appropriate, the burden on the public and on the Commission will be lessened by reducing the number of renewal applications filed.

The Conference Substitute also eliminates the necessity for separate renewal of auxiliary broadcast station licenses, such as remote pickups, studio-transmitter links and intercity relay transmitters. Currently, over 10,000 auxiliary broadcast licenses outstanding must be renewed periodically by the Commission. A tremendous volume of paperwork is created in processing such licenses. Since these auxiliary licenses are contingent upon possession of the main station license, the terms for all related licenses should be concurrent.

AUTHORITY TO OPERATE CERTAIN RADIO STATIONS WITHOUT INDIVIDUAL LICENSES

House bill

The House bill contained no provision.

Senate amendment

The Senate amendment authorized the Commission to terminate the individual licensing of operators in the Citizens Band (CB) and radio control (RC) services if it determines that permitting the operation of these radio stations without individual licenses would serve the public interest, convenience, and necessity. The Commission would retain blanket licensing authority over CB and RC services and would continue to enforce its rules against and prohibit operation by any operator who violates these rules.

Conference substitute

The conference substitute adopts the Senate provision.

At present, CB and RC licenses are granted to virtually any person who files an application and, unlike broadcast and some other spectrum licenses granted by the Commission, confer no exclusive use of the spectrum. As a result, the grant of individual CB and RC licenses represent neither considered Commission approval nor the exclusive right to a particular frequency. Nonetheless, the cost of processing and granting the millions of license applications in these services has been substantial. Thus, this provision will produce significant savings without impairing important regulatory interests. Moreover, of the estimated twenty million operators in the CB service, some eight million are estimated to be operating without a license. This situation could create a regulatory nightmare for the Commission if serious attempts were made to remedy this situation.

The Conferees wish to emphasize that this provision authorizes only the "de-licensing" (of individual licenses) of the CB and RC services, and not the "deregulation" of such services. The Conferees fully intend the Commission to vigorously enforce the Communications Act and FCC rules relating to the CB and RC services, and to use its forfeiture authority against violators where necessary. Since the Commission would no longer have the ability to revoke a CB license if it chose to de-license the service, forfeiture authority should be exercised in a way that demonstrates a commitment to preserving the integrity of the CB service through enforcement. In addition, the authority granted the Commission in section 4 of this legislation to utilize CB volunteers will provide additional Commission resources to safeguard the integrity of the service.

AUTHORIZATION OF TEMPORARY OPERATIONS

House bill

The House bill contained no provision.

Senate amendment

The Senate lengthened the duration of Special Temporary Authority (STA) from 90 to 180 days, and allows the Commission to renew an STA for additional terms of 180 days each.

Conference substitute

The Conference substitute adopts the Senate provision.

While the Conferees recognize that multiple STA renewals may be appropriate in extraordinary circumstances, it is emphasized that an applicant for STA renewal bears a heavy burden of showing, consistent with the test in Section 309(f), that a renewal should be granted.

RANDOM SELECTION SYSTEM FOR CERTAIN LICENSES AND PERMITS

House bill

The House bill contained no provision.

Senate amendment

The Senate bill amends Section 309(i) of the Communications Act of 1934, relating to the authority of the FCC to grant licenses or permits for the use of the electromagnetic spectrum through a system of random selection.

Conference substitute

The conference substitute adopts the Senate provision.

FCC discretion to use a system of random selection.—Section 309(i) of the Communications Act, as amended by this legislation is intended to alleviate many of the delays and burdensome costs faced by both applicants and the Commission in an initial comparative licensing proceeding with mutually exclusive applicants. Use of a lottery system established pursuant to this subsection is discretionary with the Commission and such use is appropriate in the public interest within the parameters set forth below.

Relevant factors for the Commission's consideration in determining whether a lottery would serve the public interest would include: whether there is a large number of licenses available in the particular service under consideration; whether there is a large number of mutually exclusive applications for each license, for example, when a new service is initiated; whether there is a significant backlog of applications; whether employing a lottery would significantly speed up the process of getting service to the public; and whether selection of the licensee will significantly improve the level diversity of information available in the community versus the use of the traditional comparative hearing process. The Commission, in making this public interest assessment when deciding whether to utilize a lottery in a particular instance, should consider all of these factors.

With respect to the above criteria, if the traditional comparative process would provide a superior means of diversifying media ownership in particular instances, a service should not be subject to a lottery when to do so would undermine or thwart this policy goal, but all factors must be weighed. Diversification of media ownership and information are central goals of the traditional comparative licensing process, and continued promotion of these goals should not be sacrificed merely because a lottery may be more expedient. This concern takes on its greatest significance when the particular license grant involves a service over which the licensee exerts substantial content control, as opposed to strictly common carrier services where the licensee does not appreciably affect the content of the communication. For example, the Commission would have an extremely heavy burden to meet in attempting to justify use of a lottery for purposes of granting an individual license for a full-power station (e.g., the fourth full service television station in a community), the licensing of which is unrelated to the initial grants of licenses for a new service. There, the flood of new applicants for a multitude of licenses in a newly created service, with all of the administrative problems attendent thereto, have not to date confronted the Commission. On the other hand, the Commission would be perfectly justified in using, and is in fact encouraged to use, a lottery when awarding licenses for low power television stations, which involves huge backlogs which would otherwise significantly delay service to the public if the traditional comparative hearing process were relied upon.

The Conference Substitute provides that the Commission adopt implementing rules within 180 days of the date of enactment of this Act. The Conferees wish to emphasize that this is an absolutely mandatory requirement. Once these rules are established, the Commission shall have the authority to modify them as necessary and the discretion, based upon an articulated assessment of the public interest factors discussed above, to apply them to particular proceedings or classes of proceedings before it. The Conferees wish to emphasize their strong expectation that the Commission will exercise carefully its discretion to use a lottery system by making a finding that the public interest would be significantly benefited by using a lottery instead of a comparative hearing to select licenses or permits with respect to those services or instances in which it determines that use of a lottery would be appropriate. Use of a lottery without identifying a substantial public interest benefit flowing therefrom would disserve the Commission's ultimate statutory goal of obtaining the best practicable information service from diverse sources.

The Conferees intend that the Commission, in making this public interest finding, should not apply the aforementioned fac-

tors mechanically or without regard to other salient considerations. For example, the Conferees note that the mere existence of a backlog of applications is not itself a sufficient reason for employing a lottery.

The Conferees also wish to emphasize as strongly as possible their firm intention and expectation that the Commission will use a lottery to expedite the processing of low power television service and translator facilities. Low power television and translator service is the ideal service for which to use a lottery, given the large number of licenses available, the large number of mutually exclusive applications for each license, the substantial backlog of applications on file with the Commission, the likelihood that the use of a lottery is essential to expediting the process of getting low power television service to the public, and the likelihood that bringing low power television service to the public quickly, through the use of a lottery, will result in a significant increase in the diversity of information sources available in many communities throughout the country.

The Conferees do not intend for this provision to be construed to prevent the Commission from granting licenses or permits in "blocks" of frequencies where it determines that this would serve the public interest (e.g. the proposed multi-channel multipoint distribution service).

Qualification of applicants in a random selection system.—It is the intent of the Conferees that, prior to the use of a lottery in a particular proceeding, the Commission conduct a preliminary review of each application submitted to determine that it is acceptable for filing. The Conferees expect that the Commission will use the standards for acceptability set out in James River Broadcasting Corp. v. FCC, 399 F.2d 581 (D.C. Cir. 1968), unless, by rule, it has adopted or shall adopt different standards. See, e.g., 47 C.F.R. 73.3564, 22.20. Following the lottery, the Commission shall determine that the applicant selected therein is fully qualified to become a licensee under 308(b) and 309(a). Should the applicant selected be found not to be so qualified, the Commission shall conduct another lottery, if necessary, and select another applicant. It is the intention of the Conferees that determinations under Section 308(b) and 309(a) need be made only as to the applicant who has been selected by lottery.

It is only at this latter, post-lottery stage that petitions to deny the application need be considered and that the right to a hearing may arise. This hearing may be a "paper hearing" unless the Commission determines, by rule or by decision in a particular case, that due process or other public interest considerations require some or all of the hearing to be conducted by any responsible employee or employees, including Bureau Chiefs or their delegates, to whom the Commission shall, by rule, delegate such functions. If the Commission chooses to delegate the function of presiding over these paper hearings to employees other than Administrative Law Judges (ALJ), the Commission must assure that the examiner or reviewer is truly independent in order to avoid any undue influence in the fact-finding process. Here the Conferees wish to emphasize that use of non-ALJs to govern hearings is strictly limited to post-lottery hearings. This does not imply that similar delegation would be acceptable with respect to the traditional comparative hearing process.

The Conferees wish to emphasize that the qualifications set out in Section 308(b) are not diminished in importance. By permitting the FCC to make the findings after an applicant is selected, it is intended that the Commission will be able to conduct a more thorough and in-depth inquiry than it could if it had to make a finding as to the qualifications of all applicants. Moreover, to preserve the incentives of the other applicants to raise questions concerning their competitors' qualifications, if the initial "winner" is determined to be unqualified, the subsequent lottery must be conducted with the same applicant pool with each applicant's selection probabilities recomputed as necessary (see below).

The Conferees note that requiring the Commission to find the applicant selected by the lottery fully qualified prior to the grant of the license to that applicant protects the public from unqualified licensees, while affording the Commission the relief from the burden of having to pass on the full range of qualifications of every applicant. As with the use of non-ALJs to conduct hearings, the post-selection assessment of qualifications process is strictly limited to the lottery context and should not be utilized in the traditional comparative process.

Application of preferences in a random selection system.—It is the firm intent of the Conferees that traditional Commission objectives designed to promote the diversification of control of the media of mass communications be incorporated in the administration of a lottery system under section 309(i), as amended by this legislation. The Commission's application of its Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393 (1965), has resulted in significant comparative advantages to minority-controlled applicants and to applicants with a low degree of ownership interest in mass communications media. While the degree of advantage, merit, or preference heretofore awarded to such applicants need not be precisely duplicated in the administration of a random selection system, the Conferees expect that the Commission's lottery rules will provide significant preferences to applicants (especially those who are minority-controlled), the grant to whom of the license or permit sought would increase the diversification of the media of mass communications. The Conferees intend that two distinct diversity preferences be applied where appropriate: a media ownership preference and a minority ownership preference.

The underlying policy objective of these preferences is to promote the diversification of media ownership and consequent diversification of programming content. This diversity principle is grounded in the First Amendment, as illuminated in a line of cases in large part stemming from *Associated Press* v. *United States*, where the Supreme Court stated that the First Amendment "rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public." 326 U.S. 1, 20 (1945). Thus, in finding that the "public interest, convenience, and necessity" would be served by granting a given mass communications media license, "the Commission simply cannot make a valid public interest determination without considering the extent to which the ownership of the media will be concentrated or diversified by the grant of one or another of the applications before it." *Citizens Communications Center* v. *FCC*, 447 F.2d 1201, 1213 n. 36 (D.C. Cir. 1971).

The nexus between diversity of media ownership and diversity of programming sources has been repeatedly recognized by both the Commission and the courts. For example, in promulgating its "concentration of control" regulations, the Commission stated that "the fundamental purpose of this facet of the multiple ownership rules is to promote diversification of program and service viewpoints as well as to prevent any undue concentration of economic power contrary to the public interest." Amendment of Sections 3.35, 3.240, and 3.636, Report and Order, 18 F.C.C. 288 (1953), aff'd, *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956). In its rulemaking on low power television, the Commission noted that it has received expressions of interest from minorities wishing to develop new services and that it "specifically encourages this interest, and fully intends that the inauguration of this new broadcast service be the occasion for assuring enhanced diversity of ownership and of viewpoints in television broadcasting." Low Power Television Broadcasting, Notice of Proposed Rulemaking, 82 F.C.C. 2d 47, 77 (1980). In *TV 9, Inc.* v. *FCC*, a landmark case dealing with comparative merit for minority applicants, the court stated "that it is upon ownership that public policy places primary reliance with respect to diversification of content, and that historically has proved significantly influential with respect to editorial comment and the presentation of news." 495 F.2d 929, 938 (D.C. Cir. 1973), *cert. denied*, 418 U.S. 986 (1974).

Common carrier licensees are often not engaged in the provision of information or mass media services over their facilities which they control. When common carrier licensees do exert such control, by definition they do not exclusively control the content of the information or programming which is transmitted over their facilities. Thus, Section 309(i), as amended by this bill, only requires significant preferences to be applied to licenses or construction permits for any media of mass communications. This permits the Commission to use a lottery without preferences for services such as common carrier "beepers," for which there is a large back-log of applications.

A question arises as to the administration of a lottery in services which may be neither clearly common carrier nor broadcast entities (such as multipoint distribution service), or services in which the applicant may be able to self-select either common carrier or broadcast status (such as the Commission's treatment of the direct broadcast satellite service). The Conferees intend that the Commission apply significant preferences, if it decides to use a lottery system for these services, to the extent that the licensees have the ability to provide under their direct editorial control a substantial proportion of the programming or other information services over the licensed facilities. If such services are treated by the Commission in the future strictly as common carrier services with no ability on the part of the licensee to exercise direct editorial control over a substantial proportion of the programing offered over its facilities, no preferences need be applied in using a lottery system for those services.

Characteristics of the preferences.—One important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications. The definition of media of mass communications relevant here includes the entities listed in section 309(i)(3)(C)(i), as amended by this Act, plus daily newspapers, which the Commission

has long regarded as important in considering the diversification of the media. See, e.g., Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order, 50 F.C.C.2d 1046, modified, Memorandum Report and Order, 53 F.C.C.2d 589 (1975), aff'd sub nom., FCC v. Nat'l Citizens Comm. for Broadcasting, 436 U.S. 775 (1978); Policy Statement on Comparative Broadcast Hearings, 1 F.C.C.2d 393, 394-95 (1965).

To the degree an applicant for a license or permit for the media of mass communications has controlling interest in no other, or few other, media entities, the policy of diversifying media ownership would be promoted by the grant of the license to such an applicant. Thus, the Conferees intend that in the administration of a lottery to be used for granting licenses or construction permits for any media of mass communications, the Commission awards a significant media ownership preference to those applicants whose owners control no other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. Thus, each such situated applicant must be awarded a preference so that its chances of being granted the license in a lottery are at least doubled from what its chances would be if a straight random selection process without preferences were conducted. Similarly, a media ownership preference should be awarded to those applicants whose owners, when aggregated, have controlling interest (over 50%) in 1, 2, or 3 other media of mass communications. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 1.5:1 for each such application. No media ownership preference should be awarded to applicants whose owners, when aggregated, have controlling interest (over 50%) in more than 3 other media of mass communications properties.

The Conferees are concerned that the objectives of this media ownership preference scheme might be diluted where there are large numbers of applicants in a given use of a lottery. To help insure that these preferences have appreciable impact on the results of the lottery, adjustments in the preferences awarded may be required where there is a relatively large number of total applicants compared to the number of applicants deserving of the media ownership preference.

The Conferees intend that the Commission assign applicants to groups based on the number of other media of mass communications owned. A specific multiplier (preference) factor should be applied to each applicant in a given group, the factor varying inversely with the number of media of mass communications owned by the applicants in that particular group. After the appropriate preference factor is applied to each preferred applicant, the overall likelihood of selecting an applicant from one of the preferred groups should be calculated. If this probability does not meet or exceed .4, the individual applicant selection probabilities should be recomputed to bring the combined preferred group probabilities to no less than .4. (See Administering the System of Random Selection, infra).

A second important factor in diversifying the media of mass communications is the degree of applicants' ownership interest in other media of mass communications which are in, or close to, the community being applied for. See Policy Statement on Comparative Broadcast Hearings, 1 F.C.C. 2d 393, 395 (1965). The Commission has recognized the importance of this factor in promulgating local cross-ownership rules barring the common ownership of a VHF television station and an aural (AM or FM radio) station in the same community, Multiple Ownership of Standard, FM and Television Broadcast Stations, First Report and Order, 22 F.C.C. 2d 306 (1970), modified, Memorandum Opinion and Order, 28 F.C.C. 2d 662 (1971), and barring daily newspaper—broadcast station combinations under common ownership in the same community, Multiple Ownership of Standard, FM and Television Broadcast Stations, Second Report and Order, 50, F.C.C. 2d 1046, modified, Memorandum Report and Order, 53 F.C.C. 2d 589 (1975), aff'd sub nom. FCC v. Nat'l Citizens Comm. for Broadcasting, 436 U.S. 775 (1978).

The Conferees strongly believe that the avoidance of local ownership concentration should continue to be a factor of major significance in promoting diversity in the licensing process. Where an applicant for a license or permit has controlling interest (over 50 percent) in any other medium of mass communications which would be co-located with the licensed facility sought, it would not promote diversity to give such an applicant a preferred status relative to other applicants. Thus, in the administration of a lottery system to be used for licenses or permits in the media of mass communications, no media ownership preference should be awarded to any applicant whose owners, when aggregated, have controlling interest (over 50 percent) in any medium of mass communications which is licensed to serve, franchised to serve (in the case of a cable television system), or primarily serves (in the case of a daily newspaper) the community of license for which of the grant is sought.

The Conferees expect that the Commission will make certification as to whether or not an applicant has a controlling interest in any media of mass communications in the community of license of the grant sought a prerequisite for an acceptable application for a license or permit for a medium of mass communications. Applicants who do have such ownership interests should be ineligible for a media ownership preference, notwithstanding the possibility that they might otherwise receive a preference by virtue of owning only a few media of mass communications. In sum, awards of licenses which would increase local media ownership concentration, by definition would not further the goal of diversifying media ownership, and thus the Conferees intend that such applications not be eligible for a diversity preference.

A third important factor in diversifying the media of mass communications is promoting ownership by racial and ethnic minorities—groups that traditionally have been extremely underrepresented in the ownership of telecommunications facilities and media properties. The policy of encouraging diversity of information sources is best served by not only awarding preferences based on the number of properties already owned, but also by assuring that minority and ethnic groups that have been unable to acquire any significant degree of media ownership are provided an increased opportunity to do so. It is hoped that this approach to enhancing diversity through such structural means will in turn broaden the nature and type of information and programming disseminated to the public. The Conferees find that the effects of past inequities stemming from racial and ethnic discrimination have resulted in a severe underrepresentation of minorities in the media of mass communications, as it has adversely affected their participation in other sectors of the economy as well. We note that the National Association of Broadcasters recently reported that of 8,748 commercial broadcast stations in existence in December 1981, only 164, or less than two percent, were minority owned. Similarly, only 32 of the 1,386 noncommercial stations, slightly over two percent, were minority owned.

One means of remedying the past economic disadvantage to minorities which has limited their entry into various sectors of the economy, including the media of mass communications, while promoting the primary communications policy objective of achieving a greater diversification of the media of mass communications, is to provide that a significant preference be awarded to minority-controlled applicants in FCC licensing proceedings for the media of mass communications. The narrowly-drawn preference scheme established in section 309(i), as it is amended by this legislation, is intended to achieve such a purpose. Evidence of the need for such preferential treatment has been amply demonstrated by the Commission, the Congress, and the courts. See, in this regard, Statement of Policy on Minority Ownership of Broadcast Facilities, 68 F.C.C.2d 979 (1978); FCC Minority Ownership Taskforce, Report on Minority Ownership in Broadcasting (May 17, 1978) at 3, 7-9; and *Fullilove* v. *Klutznick*, 448 U.S. 448 (1980), and reports cited therein at 467 n.55. As the court stated in *Citizens Communications Center* v. *FCC*:

> The Commission . . . may also seek in the public interest to certify as licensees those who would speak out with fresh voice, would most naturally initiate, encourage, and expand diversity of approach and viewpoint. . . . As new interest groups and hitherto silent minorities emerge in our society, they should be given some stake in and chance to broadcast on our radio and television frequencies.
>
> 447 F.2d 1201, 1213 n.36 (D.C. Cir. 1971) (citation omitted).

The Conferees intend that in the administration of a lottery to be used for granting licenses or construction permits for any media of mass communications, the Commission award a significant minority ownership preference to those applicants, a majority of whose ownerships interests are held by a member or members of a minority group. The Conferees believe that the amount of this preference must be no less than a fixed relative preference of 2:1 for each such application. For purposes of becoming eligible for this minority ownership preference, individuals who are participants in a group, partnership or corporate entities and who are members of different minority or ethnic groups should be allowed to aggregate their ownership interests to achieve a majority interest in any given application.

It is clear that the current comparative hearing process has not resulted in the award of significant numbers of licenses to minority groups. Many minority applicants are simply unable to participate in comparative hearings which often take a considerable period of time and require subtantial economic resources. The Conferees believe that a lottery preference scheme will greatly speed the process of initial licensing awards, and will permit not only greater numbers of minority groups to apply for li-

censes, but also will result in the award of a greater proportion of available licenses to minorities than has been the case to date.

It should be noted that such groups as women, labor unions, and community organizations which were mentioned in the legislative history of the lottery statute that was originally adopted, Conference Report on H.R. 3982, Omnibus Budget Reconciliation Act of 1981—Book 2, H.R. Rep. No. 97-208, 97th Cong., 1st Sess. 897 (1981), are all significantly underrepresented in the ownership of telecommunications facilities. Such applicant groups would, of course, be eligible for both media ownership and minority ownership preferences if they meet the eligibility guidelines. The Conferees expect that such groups will also substantially benefit from this lottery preference scheme, and, consequently, the American public will benefit by having access to a wider diversity of information sources.

The operative definition of minority group is found in section 309(i)(C)(ii), as amended by this bill. It is the Conferees intention that the definitions in Office of Management and Budget Statistical Policy Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," be utilized for guidance with regard to any dispute as to an individual's membership in a named group.

The Conferees direct the Commission to report to the Congress annually on the effect of section 309(i)(3) and whether it serves the purposes stated. See generally *Fullilove v. Klutznick*, 448 U.S. 448, 510, 513 (1980). This report should include a statistical breakdown of the characteristics of applicants involved in lottery proceedings, those receiving preferences, and those actually awarded licenses.

The Conferees intend that both a media ownership preference and a minority ownership preference will be available to all eligible applicants. Thus, for example, an applicant, a majority of which is owned by minorities, and whose owners have no controlling ownership interests in the media of mass communications, would receive no less than a cumulative, 3:1 preference over an applicant without preferences. Moreover, an applicant, a majority of which is owned by minorities, but whose owners have controlling interest in four media of mass communications properties or a medium of mass communications serving the community of license of the grant sought, would still receive a minority ownership preference (though not being eligible for a media ownership preference).

With respect to both the media ownership and minority ownership preferences, the Conferees expect that the Commission shall evaluate ownership in terms of the beneficial owners of the corporation, or the partners in the case of a partnership. Similarly, trusts will be evaluated in terms of the identity of the beneficiary.

The Conferees expect that the preferences which will be awarded in the administration of a lottery will result in a real and substantial increase in the diversity of ownership in the media of mass communications and consequent diversification of media viewpoints. The Conferees note that this carefully designed preference scheme could be undermined by the rapid re-assignment or transfer of stations, construction permits, or licenses granted by a lottery. Thus, it is the firm intent of the Conferees that for any mass communications media service in which the Commission determines use of a lottery is appropriate, it should retain its present anti-trafficking rules (47 C.F.R. 73.3597 (1981)) or devise similar protections to help ensure that the very purposes sought to be achieved by the preference scheme be fulfilled. Moreover, the Commission should require that the applicant that is actually awarded the license certifies that they have not entered into any agreement, explicit or implicit, to transfer to another party after a period of time any station construction permit or license awarded. If those eligible for preferences were simply applying for licenses for the purpose of obtaining a quick profit on the sale of the station once the license is awarded, the entire lottery preference mechanism would be undermined.

Administering the System of Random Selection.—The Commission's administration of the random selection system will differ depending on whether the licenses are to be granted for the media of mass communications or for non-media services. The lottery procedure for the latter is extremely simple, with each applicant for a given license receiving a selection probability of 1/x, where x equals the total number of applicants.

The random selection system for mass communications media licenses, on the other hand, must take into account preferences for ownership of few or no mass communications media entities, and preferences for minority ownership, along with the total number of applicants for a given license.

The Conferees intend that the media ownership preference be computed prior to the minority ownership preference. Those applicants with no controlling ownership in mass communications media should receive a fixed relative preference of 2:1; applicants with controlling interest in one, two, or three mass communications media entities should receive a fixed relative preference of 1.5:1. Applicants with controlling interest in more than three mass communications media entities or in at least one entity serving the city of license should receive no media ownership preference. Following the award of media ownership preferences (where applicable), each applicant's selection probability should be normalized (*i.e.*, adjusted to reflect its actual probability of being selected), taking into account the total number of applicants in the lottery.

The Conferees are concerned that their objective of increasing media diversity by granting preferences in the administration of a lottery system will be diluted in instances where the number of applicants for a given license is large. It is important to ensure that the media ownership preference will have an appreciable impact on the results of the selection process. The award of preferences, therefore, is not only intended to ensure that the lottery process is conducted in a way which guarantees the consideration of certain criteria which are of primary significance in the comparative hearing process, but it is also intended to create a process which is highly outcome-oriented in terms of furthering the actual granting of licenses to those applicants who would most further diversity objectives.

Thus, the Commission must ensure that the sum of the selection probabilities of all applicants deserving of a media ownership preference be no less than .40 for any given instance in which the lottery is being used, even if after the award of the media ownership preference the aggregated selection probabilities of all such applicants awarded this preference totals less than 40 percent. The Conferees intend that this be accomplished by adjusting the normalized selection probabilities of each applicant deserving of a media ownership preference, where necessary, to ensure that the sum of the selection probabilities for all such applicants be at least .40. Following this adjustment (where applicable), the selection probability of applicants not deserving of a media ownership preference should again be normalized.

After making all the necessary adjustments for ownership preferences (where applicable), each minority controlled applicant should receive a fixed relative preference of 2:1. This minority ownership preference should be awarded in addition to any media ownership preference to which a particular applicant may be entitled. Following the award of minority ownership preferences (where applicable), each applicant's selection probability should again be normalized to arrive at the final selection probability for that particular use of the lottery.

The following step-by-step procedure, to which the Conferees and the Commission have agreed following extensive staff discussions, establishes the process for the Commission to follow in the administration of a lottery to be used for granting licenses for any media of mass communications. This detailed procedure offers the Commission guidance to correct its previous failure to implement a lottery system.

A. Divide the total number of applicants into 100 to find the individual applicant selection probabilities without adjustment for preferences.

B. Identify all applicants by ownership group according to the following table:

Group, ownership of mass communications media, and preference factor

1—no controlling ownership interest.	2.0
2—controlling interest in 1-3 entities	1.5
3—controlling interest in more than 3 entities or in at least 1 entity.....	1.0

C. Multiply the selection probabilities for each applicant from Step A by the appropriate preference factor from Step B.

D. Normalize all probabilities using the following formula: Intermediate probability for each applicant=applicant's Step C probability divided by sum of all applicants' Step C probabilities.

E. Sum the probabilities from Step D by group. Then sum the probability totals from Groups 1 and 2. If this sum is greater than .40, skip Step F and go on to Step G. If this sum is less than .40, each applicant in Groups 1 and 2 will have its intermediate probability raised as follows:

(1) Compute the quotient of .4 divided by sum of the probability totals from Groups 1 and 2;

(2) the new intermediate probabilities are then computed as: intermediate probability for each applicant=applicant's Step D probability times quotient from (1) above.

F. Normalize the probabilities not altered in Step E (i.e., Group 3—those with no media ownership preference) using the following formula: intermediate probability for each Group 3 applicant=.6 divided by number of Group 3 applicants.

G. Identify minority controlled applicants.

H. Multiply the intermediate probabilities of the minority controlled applicants by 2.0.

I. Normalize all probabilities using the following formula: Final probability of selecting any applicant=intermediate probability of applicant divided by sum of all intermediate probabilities.

The following hypothetical situation illustrates this procedure. Assume that there are ten mutually exclusive applications for a

given license for a medium of mass communications, with the following characteristics:

Applicant and minority status	*Media ownership*
1—nonminority	owns 1 other media property.
2—nonminority	owns 4 other media properties.
3—nonminority	owns 4 other media properties.
4—nonminority	owns 4 other media properties.
5—nonminority	owns 4 other media properties.
6—nonminority	owns 4 other media properties.
7—nonminority	owns 4 other media properties.
8—nonminority	owns 4 other media properties.
9—minority	owns no other media properties.
10—minority	owns 4 other media properties.

Step A: Total number of applicants equals 10. Individual applicant selection probabilities without preferences equals 10/100 equals .10

STEP B

Applicant	Number of media properties owned	Group
1	1	2
2 to 8	4	3
9	0	1
10	4	3

Step C.—Applicant and selection probability multiplied by preference factor

1	.1(1.5)=.15
2	.1(1.0)=.10
3	.1(1.0)=.10
4	.1(1.0)=.10
5	.1(1.0)=.10
6	.1(1.0)=.10
7	.1(1.0)=.10
8	.1(1.0)=.10
9	.1(2.0)=.20
10	.1(1.0)=.10
Total	1.15

Step D.—Applicant and step C probabilities divided by sum of all probabilities

1	.15/1.15=.1304
2 to 8	.10/1.15=.087
9	.20/1.15=.1739
10	.10/1.15=.087

Step E: Group 1 probabilities and Group 2 probabilities=.1739 +.1304=.3043.

Since .3043 < .40, each Group 1 and Group 2 applicant will have its intermediate probability adjusted as follows:

(1) .4 divided by the sum of the probability totals for Groups 1 and 2 equals .4 divided by 1739+.1304 equals .4 divided by .3043 equals 1.314.

(2) For Group 1: .1739(1.314) equals .2285. For Group 2: .1304(1.314) equals .1713.

Step F: Each Group 3 applicant's probability equals .6 divided by the number of Group 3 applicants equals .6 divided by 8 equals .075.

Step G: Only applicants 9 and 10 are minority controlled.

Step H.—Applicant and probability with minority ownership factor

1	.1713(1.0) = .1713
2	.075(1.0) = .075
3	.075(1.0) = .075
4	.075(1.0) = .075
5	.075(1.0) = .075
6	.075(1.0) = .075
7	.075(1.0) = .075
8	.075(1.0) = .075
9	.2285(2.0) = .457
10	.075(2.0) = .150
Total	1.3033

Step I.—Applicant and final probabilities

1.1713/1.3033=.1314	
2	.075/1.3033=.0575
3	.075/1.3033=.0575
4	.075/1.3033=.0575
5	.075/1.3033=.0575
6	.075/1.3033=.0575
7	.075/1.3033=.0575
8	.075/1.3033=.0575
9	.457/1.3033=.3506
10	.150/1.3033=.1151
Total	.9996

AGREEMENTS RELATING TO WITHDRAWAL OF CERTAIN APPLICATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision amends Section 311(c) of the Act to impose identical standards and further the same goals in proceedings involving competing applications for new broadcast facilities as those used when applications are withdrawn during renewal proceedings.

Conference substitute

The conference substitute adopts the Senate provision.

Section 311(d) of the Act was amended by the Omnibus Budget Reconciliation Act of 1981 to provide that, in broadcast renewal proceedings involving mutually exclusive applications, the Commission shall approve any agreement between the applicants where one or more of the applicants agrees to withdraw its application in return for valuable consideration. However, the Commission first must determine that the agreement is consistent with the public interest and that no party to the agreement filed its application for the purpose of entering such an agreement. Section 311(d) was intended to prevent the filing of frivolous applications calculated to harass an incumbent or coerce payment of expenses to the competing applicant. This provision imposes identical standards and furthers the same goals in proceedings involving competing applications for new broadcast facilities.

The Conferees recognize that in relative terms there are more Commission proceedings involving competing applicants for new facilities than there are proceedings involving license renewal applicants and competing applicants. Similarly, there are relatively more dismissal agreements between competing applicants for new facilities than there are between incumbent licensees and their competing applicants. These dismissal agreements generally serve the public interest because they often avoid lengthy hearing appeals, thus expediting the start of the new broadcast service involved in the proceeding. This public interest benefit would be substantially reduced, if not eliminated altogether, were the Commission required in every case to incur the costs and delays of determining whether the application to be dismissed was filed for the purpose of entering into a dismissal agreement.

It is not the intention of the Conferees that such proceedings be held in every case involving a dismissal agreement. Accordingly, in enacting regulations to implement this provision, the Conferees expect the Commission to create a procedure whereby this question can be resolved expeditiously. For example, Section 73.3525(a) of the Commission's rules, 47 C.F.R. 73.3525(a), currently requires each party to a dismissal agreement to submit an affidavit setting forth all relevant facts about the agreement (i.e., nature of consideration paid, history of negotiations, etc.). These parties also could be required to state the circumstances surrounding the filing of their respective applications. Further proceedings would be required only if, after reviewing these affidavits, there remained a question of whether the applications had been filed in good faith for the purpose of actually obtaining the license.

This provision also makes a clarifying change to Section 311(d) of the Act.

WILLFUL OR REPEATED VIOLATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision in defines the terms "willful" and "repeated" for purposes of Section 312, and for any other relevant section of the Act (e.g., Section 503).

Conference substitute

The conference substitute adopts the Senate provision.

Section 312 of the Communications Act of 1934 presently provides in part that the Commission may revoke any station license or construction permit for willful or repeated failure to operate substantially as set forth in the license, for willful or repeated violation of any provision of the Communications Act of 1934, Commission rule, or treaty, and for willful or repeated failure to allow reasonable access to legally qualified candidates for Federal elective office. Section 503 provides in part that the Commission may impose forfeitures for willful or repeated failure to comply with license terms and conditions, or for willful or repeated failure to comply with the Act, any Commission rule, or treaty.

As defined in the Conference Substitute, "willful" means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. "Repeated" means more than once, or where the act is continuous, for more than one day. Whether an act is considered to be "continuous" would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission's application of those terms in Midwest Radio-Television Inc., 45 F.C.C. 1137 (1963).

The Conferees intend that these new statutory definitions as applied to Section 312(a)(7) of the Act be read in conjunction with past Commission decisions and court precedent with respect to providing reasonable access to Federal candidates.

APPLICABILITY OF CONSTRUCTION PERMIT REQUIREMENTS TO CERTAIN STATIONS

House bill

The House bill contained no provision.

Senate amendment

This provision deletes obsolete language from Section 319(a) of the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

AUTHORITY TO ELIMINATE CERTAIN CONSTRUCTION PERMITS

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that construction permits shall not be required for public coast stations, privately owned fixed microwave stations, or stations licened to common carriers, unless the Commission makes a public interest finding that such permits are necessary.

Conference substitute

The conference substitute adopts the Senate provision.

Currently, most prospective radio licensees must follow a two-step procedure to obtain operating authority—first applying for a construction permit and then for a station license. The Conferees believe this requirement in some cases may delay market entry and place an unnecessary administrative and financial burden on both the potential licensee and on the Commission.

The present procedures for government stations, amateur stations, and mobile stations—for which construction permits are not required—remain unchanged by the Conference Substitute. Broadcasting stations must still comply with the existing two-step procedure. With respect to any other station or class of stations, the Commission shall not waive the construction permit requirement unless it determines that the public interest would be served by such a waiver.

PRIVATE LAND MOBILE SERVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate clarified the treatment of land mobile services under the Communications Act of 1934.

Conference substitute

The conference substitute adopts the Senate provision.

This provision makes a number of additions and revisions to Sections 3 and 331 of the Communications Act of 1934, which will be discussed by subsections.

Subsection 331(a).—The Communications Act of 1934 contains no guidelines for the FCC to follow in managing the spectrum to be made available for the private land mobile services, other than its broad statutory authority to promote the "public interest, convenience, and necessity." The Conferees believe such guidelines are necessary since these services have a direct and substantial impact on the public welfare and the economy. Subsection 331(a) sets forth general principles that are to guide the Commission in taking actions to manage the spectrum made available for use by the private land mobile services, as defined in new subsection 3(gg) of the Communications Act. Private land mobile service includes those services described in new paragraph 331(c)(1).

In managing these services, the Commission should take actions which will promote safety, improve spectrum efficiency, reduce the users' regulatory burden, encourage competition, provide services to the largest number of users, or increase interservice sharing opportunities with these and other services. These guiding principles are not intended to be exclusive. The Commission may consider, consistent with the other provisions of the Act, any other relevant factors in the public interest. Moreover, not all of these guidelines need be considered in each individual case. All are important goals. The Commission may wish to focus its efforts on one or more in each instance, varying its emphasis with each particular case.

The Commission should be ever vigilant to promote the private land mobile spectrum needs of police departments and other public agencies which need to use such radio services to fulfill adequately their obligations to protect the American public. The Conferees are particularly concerned about radio services which are necessary for the safety of life and property and urges the Commission to carefully consider the legitimate needs of public safety agencies in managing the private land mobile spectrum.

The Conferees believe that implicit in the guidelines enumerated in subsection 331(a) is the principle that the Commission may not employ auctions in managing the spectrum made available for use by the private land mobile services. The Conferees are concerned that use of an auction—that is, selling frequency space to the highest bidder—or a similar method which turns upon a user's monetary ability to pay for a frequency allocation will work to the detriment of an efficient and competitive private land mobile spectrum. Thus, by providing the guidelines in this subsection, the Conferees intend to specifically prohibit the Commission from employing auctions or similar economic methods in managing the private land mobile spectrum. However, this prohibition should not be construed to limit the ability of the Commission to use lottery procedures for purposes of granting private land mobile licenses, or to impose reasonable fees upon a private land mobile licensee after the grant of the license.

Subsection 331(b).—The Conferees recognize the value of the assistance provided to the Commission by non-Federal Government advisory coordinating committees in the frequency assignment process for the private land mobile and fixed services. Subsection 331(b) specifically authorizes the Commission to utilize the services of such committees.

The number of licensees and users in the private land mobile and fixed services is already large. There are now approximately 850,000 stations in these services and there are almost 25,000 applications received each month for private land mobile and fixed station licenses. The number of licenses is expected to increase even more dramatically in the future. *See Future Private Land Mobile Requirements,* Notice of Inquiry, FCC 82-2, PR Docket No. 82-10, released January 26, 1982.

From the data on record with the FCC, the Conferees are convinced that the frequency coordinating committees not only provide for more efficient use of the congested land mobile spectrum, but also enable all users, large and small, to obtain the coordination necessary to place their stations on the air. Without such frequency coordinating committee activity, some of these applicants would not be able to afford the engineering required in the applications process. Thus, by essentially equalizing the frequency selection process for all applicants, the applicants are placed on a competitive parity, with no one applicant operating on a better or more commercially advantageous frequency than his or her competitor. The Conferees note that this procompetitive aspect of frequency coordination is of particular importance to small business operators.

To further promote fairness in frequency allocation, the Conferees encourage the Commission to recognize those frequency coordinating committees for any given service which are most representative of the users of that service. The Conferees also encourage the Commission to develop rules or procedures for monitoring the performance of coordinating committees.

The Conferees note that the Commission presently accepts applications for private land mobile services licenses which are based on appropriate field study coordination techniques. *See* 47 C.F.R. 90.175 (1981). In adopting these provisions authorizing the Commission's use of advisory coordinating committees for coordinating the assignment of frequencies to stations in private land mobile service and in the fixed services, the Conferees do not intend to mandate the elimination of frequency coordination by way of field study engineering reports. The FCC would thus have the discretion to conduct frequency coordination through use of a frequency coordinating committee or by accepting the submission of a field study report, as the Commission determines best serves the public interest.

The section also makes it clear that advisory committee personnel retain their private sector status. They are not to be considered employees of the United States Government and they are not covered by the provisions of either 5 U.S.C. 2101 et. seq. or 31 U.S.C. 665(b) (1976). Finally, this section makes it clear that any committee which assists the Commission in this regard is not subject to the provisions of the Federal Advisory Committee Act.

Subsections 331(c) and 3(gg).—The purpose of adding Subsections 3(gg) and 331(c) to the Communications Act of 1934, as amended, is threefold:

(1) to provide a definition of private land mobile service;

(2) to delineate the distinction between private and common carrier land mobile services; and,

(3) to specify the appropriate authorities empowered to regulate these same services.

The Communications Act of 1934, as amended, does not include a definition of the private land mobile services. New subsection 3(gg) adds this definition and thereby provide explicit Congressional support and guidance for existing and future FCC regulation of these services. The definition adopted herein encompasses the myriad of radio systems utilized by these governmental, commercial, industrial and transportation licensees which range from small relatively uncomplicated two-way dispatch systems, to complex ones involving multiple transmitters to cover wide areas. The private land mobile services currently consist of the following radio services: local government, police, fire, highway maintenance, forestry conservation, special emergency, power, petroleum, forest products, motion picture, relay press, special industrial, business, manufacturers, telephone maintenance, motor carrier, railroad, taxicab, automobile emergency, and radiolocation. The Conferees expect the Commission to add, modify, or delete private land mobile serv-

ices as the need arises, consistent with the guidelines specified in subsection 331(a).

New Subsection 331(c) both establishes a clear demarcation between private and common carrier land mobile services and specifies that only the latter may be regulated on a common carriage basis. By contrast, no person, participating in the private land mobile services, whether as a licensee, equipment supplier or otherwise, shall be classified as a common carrier with respect to its participation in these services. The distinction between private and common carrier land mobile services is the subject of considerable litigation between private land mobile operators and radio common carriers before the FCC and the courts. The Conferees believe that establishing this demarcation in the Communications Act of 1934 would serve the public interest by resolving much of this litigation.

The basic distinction set out in this legislation is a functional one, i.e., whether or not a particular entity is engaged functionally in the provision of telephone service or facilities of a common carrier as part of the entity's service offering.[1] If so, the entity is deemed to be a common carrier. If not, it clarifies that private systems may be interconnected with the public switched telephone network under the tests in subsections 331(c)(1) (A) and (B), and the entity providing the base station facility or service is nonetheless providing private land mobile service. With respect to the land mobile services, this test supersedes the traditional common law test of indifferent service to the public established in National Association of Regulatory Utility Commissioners v. ECC, 525 F.2d 630 (1976), cert. denied, 425 U.S. 992 (1976).

To implement this distinction, subsection 331(c)(1) provides for the following: (a) classifies the various types of shared radio systems currently licensed in the private land mobile services (e.g., specialized mobile radio and multiple licensed systems) as "private" (i.e., non-common carrier) radio systems; (b) authorizes the entrepreneurs involved in such systems (i.e., licensees, equipment suppliers or any other third party) to offer their services or facilities to eligible users "indiscriminately" or otherwise, as their discretion and marketplace forces may dictate; and (c) prohibits such shared systems from being interconnected with common carrier facilities if the licensees or entrepreneurs are engaging in the resale of telephone service or facilities.

Section 331(c)(2) further specifies that radio dispatch systems are not authorized in the domestic public (common carrier) land mobile service with the exception of those stations authorized as of January 1, 1982.[2] In substance, the bill deregulates dispatch service, except for "grandfathered" common carrier stations, and requires that it be provided on an unregulated basis in the private land mobile services. The Conferees are informed that current use of common carrier stations to provide dispatch service is de minimis. Thus, while such stations licensed in the domestic public land mobile radio service (47 C.F.R. 22.500, et seq. (1981)) prior to January 1, 1982, may continue to add customers and locations, this limited exception should not impair the Conferees objective of assuring that frequencies allocated for use by radio common carriers are not devoted to dispatch service to any significant extent.

Nothing in Subsection 331(c), however, should be construed to bar persons who are otherwise licensed as common carriers from providing dispatch service in the private land mobile services; nor should it be construed to impair the ability of common carriers to compete for any class or type of customer for their services. Thus, for example, if a plumber or taxi company or a police department has radio communication needs that can be satisfied through service provided by a cellular radio operator, this section interposes no objection. Moreover, Section 331(c) does not bar common carriers from providing interconnected services or facilities to users of licensees of stations licensed in the private land mobile services, via a base station or through interconnection on the user's premises. Only if a private land mobile operator or licensee is reselling for profit interconnected common carrier services is the interconnection prohibited. This will assure that frequencies allocated essentially for purposes of providing dispatch services are not significantly used to provide common carrier message service.

Subsection 331(c)(3) delineates the jurisdiction of state and local governments with respect to the land mobile services, consistent with the demarcation between private and common carrier service established by the bill. State and local authority is entirely preempted with respect to the activities of any person operating within the private land mobile services. Conversely, however, the states retain full jurisdiction to engage in the economic regulation of common carrier stations (*i.e.*, regulation of entry, rates and practices) consistent with Sections 2(b) and 221(b) of the Communications Act of 1934 (47 U.S.C. 2(b), 221(b) (1976)), to the extent they deem it necessary in the public interest to do so. Similarly, the Commission's exclusive radio licensing authority under Title III of the Communications Act is maintained. Nothing in this subsection shall be construed as prohibiting the Commission from forbearing from regulating common carrier land mobile services; however, the Commission may not use its licensing powers to circumvent limitations in its economic regulatory jurisdiction over common carrier stations.

Subsection 3(n).—Finally, the definition of mobile service presently contained in Section 3(n) of the Communications Act of 1934 (47 U.S.C. 153(n) (1976)) would be amended so as to include clearly one-way paging service as well as two-way radio communication services.

NOTICES OF APPEAL

House bill

The House bill contained no provision.

Senate amendment

The Senate shifted the burden from the Commission to the appellant or petitioner when a Commission action is appealed.

Conference substitute

The conference substitute adopts the Senate provision.

The Conferees believe that since the Commission is the appellee in proceedings filed with the U.S. Court of Appeals to review Commission actions, the party seeking review of a Commission decision is the party best able to carry out the relevant notice obligations, and thus should be required to notify all interested parties.

The Conferees intend that the term "interested parties" include only the formal participants in a Commission action, i.e., informal commentators in a rulemaking proceeding need not be individually notified of an appeal of a final order in that proceeding. The Conferees direct the Commission to assist appellants and petitioners in compiling lists of formal participants in order to facilitate the notification process.

This section also removes the requirement that the Commission present the decisionmaking record to the court within 30 days after an appeal is filed, leaving such procedures to be controlled by the Federal Rules of Appellate Procedure, which provides that the record must be filed with the court within 40 days after the Commission is served with the notice of appeal. F.R.A.P. Rule 17, 28 U.S.C. (1976).

COMPUTATION OF CERTAIN FILING DEADLINES

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 405 of the Communications Act by providing that specified pleading periods for seeking agency reconsideration or judicial review of Commission decisions commence from the date on which the Commission gives "public notice" of its decisions.

Conference substitute

The conference substitute adopts the Senate provision.

Recently, the Commission adopted rules which refine the meaning of "public notice." Addition of New Section 1.103 to the Commission's Rules, Amendments to Section 1.4(b), Report and Order, 85 F.C.C.2d 681 (1981).

By adopting these rules, the Commission determined that public notice, as that term is used in Section 405, only can take the form of a written document. See Section 1.4(b) of the Commission's rules as amended, 47 C.F.R. 1.4(b) (1981). The kind of written document constituting public notice will be governed generally by the kind of proceeding that is involved. For example, in notice and comment rulemaking proceedings, public notice of a final Commission decision will occur on the date such decision is published in the Federal Register. See Section 1.4(b)(1) (1981). For most nonrulemaking proceedings, public notice of a final Commission decision will occur when the full text of that decision is made available to the public at the Commission's headquarters. See Section 1.4(b)(2) (1981). See also, Section 1.4(b) (3) and (4) (1981) which describe the other two kinds of written public notice the Commission may give. The Conferees believe that in rulemaking proceedings it is important that the public have the opportunity to obtain a copy of the full text of the Commission decisions before pleading periods for appeal begin. See 47 C.F.R. 1.4(b)(1) (1981). The provision of the Conference Substitute is premised on the present FCC rules remaining in effect.

EFFECTIVE DATE OF CERTAIN COMMISSION ORDERS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 408 of the Communications Act of 1934 and clarifies

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[1] See, e.g., Resale and Shared Use of Common Carrier Services, 60 F.C.C.2d 261 (1976), on recon. 62 F.C.C.2d 588 (1977), aff'd sub nom. American Tel. & Tel. Co. v. ECC, 572 F.2d 17 (2d Cir. (1978)), cert. denied, 439 U.S. 875 (1978).

[2] Common carriers are presently authorized to provide both "general" and "dispatch" two-way communication services. See 47 C.F.R. 22.501(a), (b), (c); 22.911(d) (1981). Only "dispatch" service would not be permitted by the Conference Substitute; neither "general" service nor one-way paging service is affected.

the Commission's authority to specify the effective date of its decisions.

Conference substitute

The conference substitute adopts the Senate provision.

Absent this provision, the unamended language of Section 408 appears to provide that no orders of the Commission (other than orders involving the payment of money) could become effective until thirty days after such orders became final. However, the legislative history shows that Section 408 was not intended to totally restrict Commission flexibility with respect to such matters. The Conferees intend that Section 408, as amended by this provision, will make clear that Commission decisions shall become effective 30 days after public notice is given unless the Commission, in its discretion, specifies a different effective date. The Conferees also note that current Commission rules are consistent with this provision.

APPLICATION OF FORFEITURE REQUIREMENTS TO CABLE TELEVISION SYSTEM OPERATORS

House bill

The House bill contained no provision.

Senate amendment

The Senate amended Section 503(b)(5) of the Communications Act of 1934 to make clear that the Commission may impose forfeitures on cable system operators without first, among other steps, issuing a warning and providing the opportunity for comment. It is not clear under current law whether the Commission must comply with these and other procedures before taking forfeiture action against cable system operators.

Conference substitute

The conference substitute adopts the Senate provision.

This amendment to Section 503(b)(5) makes clear that, for purposes of the forfeiture provisions of the act, cable system operators are to be treated in the same manner as licensees or other holders of Commission authorizations. This amendment ratifies current Commission practice.

FORFEITURE OF COMMUNICATIONS DEVICES

House bill

The House bill contained no provision.

Senate amendment

The Senate added a new Section 510 to the Act to permit courts to be directed to seize and retain illegal radio equipment or unlicensed equipment used in violation of the act, thus preventing its continued operation.

Conference substitute

The conference substitute adopts the Senate provision.

Section 302 of the Communications Act of 1934 empowers the Commission to prohibit the manufacture, import, sale, shipment or use of radio equipment that may cause severe interference problems. Additionally, Section 301 requires the Commission to license radio stations in the United States. In carrying out these statutory responsibilities, the Commission has repeatedly encountered situations where, notwithstanding the conviction or judgment against an individual for violating one of these sections, the court has returned the illegal equipment to the defendant.

The Conference Substitute provision remedies this problem. This new authority will apply only in cases where warrants are properly obtained and served by law enforcement officers and upon a judgment rendered in United States District Court. The Conferees intend this provision to apply only to those violations that involve willful and knowing intent or gross negligence.

EXEMPTION APPLICABLE TO AMATEUR RADIO COMMUNICATIONS

House bill

The House bill contained no provision.

Senate amendment

The Senate permitted self-enforcement of non-compliance of Commission policies by amateur radio operators.

Conference substitute

The conference substitute adopts the Senate provision.

The amateur radio service has long enjoyed the reputation of being largely self-regulating. The amateurs have kept their bands in order with minimal enforcement activity by the Commission. It is critical that amateurs be allowed to continue this self-enforcement because the number of amateurs is increasing at a steady rate, and because the Federal Communications Commission's Field Operations Bureau is unable to monitor amateur radio to any great extent due to its limited resources. From time to time enforcement problems do arise, to which amateurs must and do respond with efforts to bring any noncompliant action into full compliance with amateur rules. For example, one amateur operator might inform another that he was engaging in prohibited transmission of commercial traffic or use of indecent language which should be discontinued. This has worked in an overwhelming number of cases.

There are very few cases involving continued noncompliant behavior, and those have in the past been handled by amateur operators. However, even here amateurs can be helpful through proficient use of direction-finding techniques. Utilizing these techniques and taping on-air conversations on unlicensed or licensed persons on amateur bands, amateurs have saved countless hours of FCC Field Operations staff time in identifying the source of illegal transmissions on the amateur bands.

Questions have arisen from time to time concerning the applicability of Section 605 of the Communications Act to amateur radio. Section 605, which is intended to protect the privacy of persons engaged in wire or radio communications, expressly exempts certain communications, as follows: "This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress."

Amateurs in the past have been considered exempt for the privacy provisions of Section 605 by virtue of the language cited. However, recent interpretations have held that amateur transmissions, other than general calls for a contact from any other station, are subject to the secrecy provisions of Section 605. *Reston v. F.C.C.*, 492 F. Supp. 697 (D.D.C. 1980). The U.S. District Court for the District of Columbia in *Reston* painstakingly reviewed the legislative history of Section 605 in the hope of ascertaining Congressional intent with regard to amateur transmissions as referenced in the last sentence of that section. The Court, frustrated at the lack of clear expression of legislative intent regarding the matter, held that amateur radio transmissions are not exempt from Section 605 unless they are transmissions "for the use of the general public."

The problem with this interpretation is that it precludes amateur radio operators from disclosing the contents of transmissions heard on the amateur bands, even illegal transmissions. Thus, amateurs are prohibited from working together to locate and monitor illegal transmissions and unlicensed operators. Nor can amateurs be of as much assistance to Commission enforcement personnel, because amateurs cannot disclose to Commission personnel the content of transmissions received. This has already had an adverse effect on amateur self-policing efforts.

All amateur and CB radio operators may use any of the channels allocated to their services. Thus, these operators do not enjoy any reasonable expectation of privacy, a right which Section 605 is intended to protect. Therefore, this section of the Conference Substitute expressly exempts the amateur and CB radio services from the prohibitions in Section 605. The Conferees believe that self-enforcement efforts on both the amateur and CB radio services should be encouraged, and that this provision will promote such self-regulation without unduly infringing upon individuals' privacy rights.

TECHNICAL AMENDMENTS

House bill

The House bill contained no provision.

Senate amendment

The Senate made certain technical modifications to the Communications Act of 1934, including Section 405 and its heading, where the term "reconsideration" is substituted for the term "rehearing."

Conference substitute

The conference substitute adopts the Senate provision.

The term "reconsideration" has come to be used customarily in Commission practice and is used in the Commission's rules. The modification of terms will not change the operation of this section 405.

AMENDMENTS TO OTHER LAW

House bill

The House bill contained no provision.

Senate amendment

The Senate provided that offenses against Commission officers or employees assigned to perform investigative, inspection or law enforcement functions will be punished in the same manner and to the same degree as are offenses against the federal employees now specified in this section.

Conference substitute

The conference substitute adopts the Senate provision.

Section 1114 of Title 18 of the U.S. Code imposes specific sanctions against individuals who interfere with or harm certain federal employees who may be assaulted, intimidated or interfered with in the performance of their duties. Commission employees are not now specifically entitled to the protection offered under this statute.

TITLE II

NTIA AUTHORIZATION

House bill

The House bill contained no provision.

Senate amendment

The Senate authorized appropriations for NTIA at $12.4 million for FY 1983.

Conference substitute

The Conference Substitute adopts the Senate provisions with the following change. The Conferees agreed that NTIA

would be authorized for two years at $12.9 million for FY 1983 and $11.8 million for FY 1984. The amounts authorized are below that currently authorized for NTIA. The reduction is based on a change in the functions of the agency; NTIA's level of involvement in Federal regulatory proceedings will be substantially lower than that in prior years.

The Conferees do not expect NTIA to eliminate the Public Telecommunications Facilities Program (PTFP), and expect that the authorization of $15 million in fiscal year 1983 for the PTFP as contained in Public Law 97-35, will be appropriated by Congress.

The PTFP has brought public broadcasting service to states like Arizona, South Dakota, New Mexico, Nevada, and Colorado, where no service would otherwise exist. The Committee expects this program to continue since many areas of the country are yet to be served. An adequate level of funding has to exist to accomplish this end.

There are a number of functions currently performed by NTIA which are either inappropriate for that particular agency, or expendable in light of constraints upon federal funds. In particular, both the Telecommunications Protection program and the Federal Facilities Review program are eliminated under the Administration's request. The Conferees do not object to the elimination of these programs. However, the Conferees are disturbed that the Biomedical Feedback Group, which is concerned with non-ionizing radiation, is being eliminated under the Administration's request. The Conferees agree that this type of biological research should not fall within the purview of NTIA, which has no authority to issue a standard on non-ionizing radiation. However, the Conferees believe that research should continue, under the auspices of a more appropriate agency, such as the National Institute of Health or the Environmental Protection Agency. The Conferees are aware of the budgetary constraints upon each of these agencies, but encourage NTIA to make available its research and experience so that the effects of non-ionizing radiation are better understood.

STUDY OF LONG-TERM TELECOMMUNICATIONS GOALS

House bill

The House bill contained no provision.

Senate amendment

The Senate required that NTIA conduct a study of the long term telecommunications and information goals of the United States, and the policies which are necessary to achieve them.

Conference substitute

The Conference Substitute adopts the Senate provisions with certain changes. The Conferees accepted the Senate provision regarding a study on the telecommunications and information goals of the United States, but included stipulations which serve to focus the study on international telecommunications and information policies. The Conference Agreement also contains a restriction on the release of information which could harm U.S. commercial interests in international trade.

The Conferees agreed that ascertaining the goals and objectives of its international telecommunications and information policies by the United States is of great importance. The Conferees also agreed that the U.S. government should be organized in such a way so as to maximize the ability of the United States to realize its goals in international negotiations.

The Conferees expect NTIA to play a significant role in the formulation of international telecommunications policy by the Executive Branch. The United States faces a rising challenge to its technological telecommunications leadership from foreign firms, many of them directly or indirectly supported by their governments. In the area of information services, there has been an increase in barriers to U.S. service offerings, limits on transmission facilities, problems of entry into foreign markets and restrictions on the flow of information across the national boundaries.

The U.S. government must establish a long range strategy that will promote and protect U.S. interests. NTIA must exercise leadership in the development of that strategy.

The Conferees were concerned that, in the course of conducting the study, data might be released which could enable foreign PTT administrations to harm U.S. commercial interests in international trade. This concern is grounded in the increasing potential for restrictions on the transmission of data across national boundaries; and in various restrictions to telecommunications facilities under discussion in other countries.

In the event that usage or traffic data is released to the public, it would then be possible for these PTT administrations to target restrictions on those industries or sectors which are most vulnerable. The Conferees admonish the Administration to respect the need to avoid giving foreign PTT administrations any information which could be used against American companies doing business abroad. Such information must be kept confidential.

JOHN D. DINGELL,
TIMOTHY E. WIRTH,
JAMES T. BROYHILL,
Managers on the Part of the House.

BARRY GOLDWATER,
TED STEVENS,
HOWARD W. CANNON,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 569 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 569

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, all points of order against said conference report are hereby waived, and said conference report shall be considered as having been read when called up for consideration. After debate in the House on said conference report, which shall continue not to exceed four hours, three hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the previous question shall be considered as ordered on the adoption of the conference report without intervening motion, except one motion to recommit which may not contain instructions, on which the previous question shall be considered as ordered.

The SPEAKER. The gentleman form Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, this rule, which makes in order the tax bill, is a very straightforward, very tight rule. It waives all points of order against the conference report. It does not allow amendments. It therefore is a closed rule. It allows the minority to offer a motion to recommit without instructions.

Perhaps at a later date I will talk a little bit about the philosophy with regard to that, but I should not think that thoughtful Members will give very serious consideration to changing this rule. The reason I say this is that it is very much in line with the philosophy of considering a conference report.

We are at the end of a complicated and difficult process, a process in which most of the difficult work is done by a great many people whose names are not even known, who worked in both committees. I am talking about Members, as well as staff, and I do not deny for a minute that there were plenty of lobbyists involved. But the leaders of this effort were four people that I have never seen work together before. I think that is terribly important. The leaders of this effort were BOB DOLE, RUSSELL LONG, DAN ROSTENKOWSKI, and BARBER CONABLE. You could hardly put together four people with more divergent views.

This is the product of the kind of compromise that has made this country function well. It is supported by people who are precise opposites in the political process. It is supported by the leadership of the House and the Senate, TIP O'NEILL and HOWARD BAKER. Joining them in the process is the President of the United States.

I submit to you that those seven people, when they agree on a matter as in the public interest, ought to be given very careful consideration. This country operates by the compromise of people who differ.

Now, I have no criticism of the people who oppose the tax bill. That is their right. but a little analysis will indicate that in virtually every case they

are heavily involved in a specific interest, a perfectly legitimate interest. All of the interests in this country are legitimate as far as this Member is concerned, except those that are illegal, and I know of no position on this bill by those people who are illegal and support illegal interests.

This is a classic example—and the rule faces up to this—of the difference between the public interest and the mere sum of the special interests. This rule and the previous question deserve your support. The tax bill deserves the opportunity to be voted up or down.

I believe the rule is a good rule, a good rule for a conference report of any kind, a good rule for this particular conference report. I urge the Members to support the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Missouri (Mr. BOLLING) has explained the provisions of the rule, and I agree with him that it has bipartisan support. It is time that we here in the House put America before politics. What needs to be done needs to be done now, and we are facing up to that today.

This is a fair rule, a reasonable rule, a closed rule, permitting an up or down vote on the tax conference report. I would hope that there would be no effort to vote down the previous question. If there is, let us defeat that movement and vote for the previous question and the rule.

Now, what do we face? We face here in America a very critical situation. Only in the last 2 days have things begun really turning around. Our financial market is now on the upturn. We have seen that happen. We have seen interest rates drop to the lowest point in 2 years. Our deficit must be reduced, and this conference report does that.

And how does it do it? The opponents of the measure say that it is the greatest tax increase in history. Let us look at the facts. Actually, what it does is put the freeloaders on the taxpaying rolls. The freeloading should be eliminated. I read in the paper the other day where one corporation listed a total profit of over $1 billion and paid no taxes whatsoever. But in addition to that, they filed a tax form for a tax refund of over $40 million under the rules and regulations that we are using today. Other corporations are in the same category. Is that fair to the American worker, the American taxpayer, who pays through the nose?

Some 80 percent of this conference report is reworking the Tax Code and closing the loopholes and making the freeloaders pay their fair share. Only $19 billion represents a tax increase.

So when the opponents say that the tax increase is the greatest in history, look at the facts. And, besides, the 5, 10, and 10 tax break for the American worker is still in effect.

So let us confront the problem. Let us face it head on. Let us adopt this rule. Let us adopt the conference report for the benefit of all of the American people.

Of course, there are things in it I do not like.

□ 1100

My district is one of the largest burly tobacco growing districts in this country. I do not like the tax on tobacco. I do not like some of the other things in the conference report, but overall, let us take it as a package; let us do what is right for America and get things going even better than they are now.

The trend is favorable. I plead with the Members and I urge the Members to vote for the rule and vote for the conference report when it is on the floor of the House, because it is right for America.

Mr. Speaker, I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Speaker, I thank the chairman of the Rules Committee for having allowed me this 5 minutes, because I rise in opposition to the rule as it is presently drafted and I rise to ask that we defeat the previous question, at which time I would hope to be recognized for the opportunity to submit a new rule which would be identical to the current rule with one exception: the Members would be provided with the opportunity to vote separately "yes" or "no" on the question of whether or not we should withhold taxes on interest and dividends.

One hundred and fifty Members of this body have signed a letter to the Committee on Rules asking for such a separate vote. An overwhelming number of our constituents—an overwhelming number of our constituents—oppose withholding of interest and dividend taxes.

The Members never got a chance to debate it. Most of the Members do not even know what is in it and most Members do not even know how it works.

If the previous question is defeated and if the substitute rule I offer is adopted, we will have at least 20 minutes on each side to find out what we are doing in withholding of taxes on interest and dividends. That is not too much to ask given the fact that we have not had an ounce of debate on it in this body and given the fact that there are misconceptions about what this does, even in the Ways and Means Committee, in the Committee on Rules, and in this House.

People like the gentleman from Wisconsin, Mr. HENRY REUSS, our leader on the Joint Economic Committee; the gentleman from Rhode Island, Mr. ST GERMAIN, of the Banking Committee; a lot of people who understand this issue have signed the letter asking for a separate vote on it, asking that we get a chance to debate it.

Let me tell the Members: One of the reasons people are going to ask us not to support the move to defeat the previous question is that they claim this destroys the tax bill. It is the very cornerstone of the tax bill as Senator BOB DOLE says. I hope to blazes this is not the cornerstone of the tax bill, because it is composed only of loose cement and papier mache.

The $10 billion that they say they are going to raise with this interest and dividends withholding tax can be raised without imposing the tax. All that we need is some reporting. I repeat: All we need is some reporting.

Do the Members know that the IRS has a study—the Members are not aware of this, are they?—the IRS conducted a study in 1981 that said where there is reporting, such as on 1099 forms, there is a 97-percent—97-percent—compliance rate.

When people know there is a 1099 form filed with the Federal Government identifying their interest earnings, they comply; they file. Do the Members realize why people do not file? Because there is no reporting in some cases. Guess where that happens—in the Treasury Department. Treasury obligations, Treasury security, notes, and bonds have no reporting. That is the money we are not collecting.

This bill, independent of anything I am going to do, provides the Treasury with the means and the wherewithal to impose that kind of reporting. That is going to raise revenue without doing all of these terrible things that the public is so righteously indignant about.

I would ask the Members to consider very carefully their vote on the previous question. Vote to defeat the previous question. It is the only chance we will have to get a separate vote on the withholding of interest and dividends.

Do we want to answer to our constituents that we imposed this massive bureaucracy? That we imposed a tax on investments and savings? A year ago, ostensibly, our first concern was to promote investment and savings. Do we want to now explain that we are now taxing investment and savings? That we are imposing a massive bureaucracy to collect money that we could collect anyway by a simpler means? If you are able to justify these absurdities, then you may not want to vote against the previous question.

If we vote for the previous question, our constituents are going to know that, in fact, we voted against taking a separate vote, and against allowing some discussion on interest and divi-

dends withholding and that we voted for this bureaucracy.

One little thing I would like to raise, if we get 20 minutes, is that this $150 exemption everybody is talking about as the great savior of the little people? That is not mandatory. That is a voluntary thing. The banks if they want to can refuse to give this $150 exemption at their choice.

Let us debate this question. Please vote to defeat the previous question.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I take this time on the rule to point out to my colleagues that, as the chairman of the Rules Committee indicated, this rule waives all points of order.

To me this rule is indicative of what has happened in the violating of all principles of legislation all along the way that this bill has followed from the day it began.

It started by violating the most important principle, article 1, section 7, clause 1 of the Constitution since this was a revenue-raising bill and it began in the Senate and not in the House, as that provision of the Constitution plainly provides.

Then in an "extraordinary procedure"—as termed by the chairman of the Ways and Means Committee, our colleague, the gentleman from Illinois (Mr. ROSTENKOWSKI), on the floor in debate—the bill went straight to conference, bypassing the House. This House voted to go to conference without any consideration whatsoever of this bill, violating the very fundamental principles of legislative procedure and concepts of a bicameral legislative body. We did not even look at the bill. We just sent it straight on to a conference committee, abdicating our responsibilities.

Third, this rule now waives all rules of the House, including rule XXVIII, section 3, which clearly provides that a conference is not to go beyond the provisions of the bill in conference—the scope rule. One cannot go beyond the scope of what is in conference.

This has been waived or violated. There was a reason. The conference committee went beyond the scope of the bill in conference, at least some eight times on substantive provisions, according to staff, and many more times on more minor provisions.

Some of these provisions were taken out of thin air, since there was no bill in conference to draw them from.

Then, lastly, those who voted along the way to make it possible for this bill to follow this procedure have violated the principles of legislative responsibility and commonsense. At the time we voted to go straight to conference, the Senate bill was not even in print. Nobody in the House even knew what was in it, but they voted to send it on to conference, putting the stamp of approval on it of the House of Representatives of the United States of America.

We are now going to be asked today to vote and give final approval to the conference report. If the Members will check with their offices, the conference report was just delivered this morning. It just got here. It has 400 pages of small print, single spaced, that I doubt any Member of the House will have read by the time he or she is called upon to vote on it this afternoon.

Look at this history of the rules we have violated, the rules of law, the rules of legislative procedure, the rules of the House.

All of this has been done, I submit, for the reason of political expedience—not a very good reason.

The thing that concerns me is what rules we will violate the next time because of the precedents we set this time. We have violated all these rules. We have not worried too much about it. That now leaves us with a precedent we will hear about in years to come for those of us who may be lucky enough to return. We will hear about this precedent, and what rules will we violate then?

Maybe the next time we will bypass the Senate, too, and just go straight to conference, both Houses, with no bill, write the whole bill out of thin air, ask for a waiver of the rules and depend on a popular President to ram it through the Congress of the United States and down the throats of the America people. When we tear down the rules that govern our Nation, then who shall protect the people?

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I rise in support of the rule and I, like my good friend and colleague, the gentleman from Tennessee (Mr. QUILLEN), ask that the rule be adopted without amendment. I am not used to doing things like this, but in this situation, I feel impelled to ask the Members to vote for the previous question and for the rule.

This package was put together very carefully by the so-called Gang of 17. I was not a member of the Gang of 17, but in my 7 years as minority leader, there were many times that I found myself in about the same scenario as I am sure occurred there.

There was give and take. Believe me, I am sure when this bill came out, there was not a single member of that group that was really happy with it.

I imagine that may be one of the main strengths of this bill: Nobody is really happy with it. Yet, yesterday our beloved Speaker went to the Rose Garden, and with the President of the United States—one of them with impeccable credentials on the liberal side, the other with impeccable credentials on the conservative side—both of them agreed that this bill was in the best interests of the country. I agree with them.

Mr. Speaker, I say to my friends on the Republican side, there are many of the Members I am sure who feel that it is good politics to vote against this bill. Let me just reason with the Members a little bit on that one. People are saying that this is the largest tax increase in history. I would suggest that we might follow the reasoning that our good friend, the minority leader, the gentleman from Illinois, Mr. BOB MICHEL, used the other day in the conference. He put the whole Congress together instead of taking one session at a time and came up with the very startling fact—and it is a fact—that continuing the tax bill of last year and this bill also—if it passes intact—we will still have cut the taxes of the people of this country $370 billion in 3 years.

That is not raising taxes. That is cutting taxes. It ought to suffice to salve the conscience of all of my friends on the Republican side and many of my friends on the Democratic side, also. It is important for us to remember that and to put our performance in this Congress in proper context.

Also, when I was at the Republican conference yesterday, I heard some people saying, "Well, it is great, the interest rate is on the way down, the stock market is on the way up, we do not have to worry about voting for this bill. It is not needed." So, I called one of my private personal gurus of Wall Street.

I said, "Is it true that what has happened in the market, the money market and the stock market is largely due to the anticipation that the Congress will pass this tax bill?"

He said, "Absolutely."

I said, "What will happen if we do not pass it?"

He said, "The markets will reverse themselves inside of 24 hours."

It is his opinion that that would happen. He is in a position to have an educated opinion.

If any Members think it would be good politics to vote against this bill and risk the probability that the salutary effects which it has already had on the money market and the stock market would be reversed, then that Member does not agree with me as to what good politics would be.

The best thing for the country is to pass this bill, to pass it now, and not fool around with adjusting the package. It is not exactly what any of us really want, but it is the best we can do. It is the best thing for the country.

Please, vote for the previous question and vote for the bill.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, I seek the vote of my colleagues to defeat the previous question on this rule; if I am recognized, I will offer a substitute rule which will permit motions to strike each section of this bill and give this House the only opportunity it will have to debate and consider each of its provisions. The substitute rule provides that 5 minutes shall be allowed on each side on each motion.

□ 1115

Mr. Speaker, as has been said before, this omnibus tax increase and expenditure cut bill arrives here under a most unusual procedure. In my view, the Constitution was violated by the House not having satisfied its obligation under the Constitution to initiate revenue raising provisions, and I voted against the motion to table with the gentleman from California (Mr. ROUSSELOT) a short time ago.

Not only that, the House has never considered any of the provisions of this bill. The Senate initiated and passed it, and it then went to conference without any prior consideration by the House, over my objection. Most of the provisions in this bill have not been subject to hearings in either body. Most of the Members of this House had no opportunity even to see its 400 pages until just the day before yesterday. This is no way to legislate.

Just like the omnibus supply side tax bill so unwisely passed in one great lump sum last year, no studies have been made of the effect of this bill on the economy or on individuals, industries, and businesses that will be affected. We are confronted again with measure that will have vast uncharted effects, operating on seat-of-the-pants guesses as to their impact. This is exceedingly unwise.

Many of the provisions of this bill are highly controversial. The provisions for withholding of taxes on interest and dividend income, as pointed out by the gentleman from New Hampshire (Mr. D'AMOURS), have already been overwhelmingly rejected by this body; yet under this rule we will not be given an opportunity to vote on it.

Lumped in with tax provisions, good and bad, are nontax matters, including $13.3 billion in additional medicare cuts, on top of already devastating reductions, $1.1 billion in medicaid cuts, $791 million in cuts in SSI and AFDC benefits and unemployment compensation changes that have no place in a tax bill and will have dire consequences for already hard-pressed poor and elderly individuals. The telephone excise tax will have a particularly harsh effect on seniors for whom a telephone is their lifeline. The disallowance of medical expenses over 5 percent of income will be incredibly harsh for gravely ill people at a time of their greatest economic distress. Waiters and waitresses are burdened while the three-martini lunch survives. These measures, if they cannot be subject to hearings, ought at least to be subject to debate and decision by the elected representatives of the people, not thrown together in one massive up-or-down vote on the entire potpourri.

Also included in this monstrous package is a provision that is incredibly odious and odriferous, the so-called grease provision, which has the taxpayers subsidize bribes by American companies to foreign officials. Now, certainly, if this greasy provision were put to a separate vote it would be overwhelmingly rejected by this body; to concoct a package, as the rule does, which prevents a motion to strike this odriferous provision is simply unconscionable.

I am equally concerned about this highly restrictive procedure as a disturbing pattern of denial of our democratic processes. In my view, this omnibus tax increase and spending cut bill, if considered under a closed rule, will carry us further down the road to destruction of this great institution, the House of Representatives. We are following a pattern of bringing before the House omnibus bills with closed rules or very tightly restricted rules and passing them in packages, just as the tax bill last year was passed and the budget bill with binding reconciliation instructions affecting the entire Federal Government was passed earlier this year.

No longer are Americans given the opportunity to be heard on matters which gravely affect their lives. No longer does legislation get careful study by the committees that have relevant expertise. Indeed, legislation of the most profound importance to this Nation is thrown together hastily, without study, put in omnibus bills and we are asked to vote on them as a package, without study, without hearings, without even the opportunity of the elected Representatives of the people to vote up or down on their various provisions.

I think that this is a very dangerous precedent and I do hope that, whether or not the previous question is adopted and we get an opportunity to vote on the individual parts of this bill, it will be a matter of the highest priority for the Rules Committee and for the leadership of this body to see to it that we do not continue this destruction of the legislative process, the destruction of the opportunity for people to be heard on matters which affect them, the destruction of the opportunity for committees of appropriate jurisdiction to consider legislation and the opportunity for Members of this House to be able to vote on the provisions of law which vastly affect the Nation and our constituents.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support this rule because I think if we try opening this package of tax and spending cuts at this point, and then succeed in knocking just one provision out on a point of order or a vote, then we risk losing the whole package for good.

I would like my colleagues to keep in mind that this is not just a tax bill. It does have spending cuts. It does have unemployment compensation. It is tax reform, and if we do not get this rule and this bill now, I shudder to think what will be the result of what might come next.

I frankly think it would have a devastating impact with an increased deficit the result.

After the good news we have had this week from the financial and investment markets, if we turn around and do not pass these deficit reductions and then hightail it out of here for a 2-week summer district work period, I think we would be saying, in effect, "deficits be damned; full speed ahead with business as usual."

Now, the rule that has been crafted here is a fair one. There may be an effort to defeat the previous question. There is a straight motion to recommit that will go to the ranking member of the minority. We will have those efforts. They are in there. They were not taken away.

Some colleagues might say, "Oh, it won't hurt to knock out just one provision," but let me tell you, if you knock out just one provision in this package by changing the rule, it could be devastating to the conference report.

We should not forget also that this must go back to the Senate. The Senate has yet to act.

Now, I would ask my colleagues to consider this package sort of like an egg, and maybe some people might say it is a rotten egg; but like it or not, we produced this egg when we passed the budget resolution. We said that we were going to cut spending and we were going to raise revenue. If we do not fulfill that commitment to ourselves and the American people, I think it will have an adverse impact on getting the deficit down and our hope to reduce interest rates and end this recession. But if we let one little crack in the shell occur, the whole yolk may drain out and all the President's horses and all the Speaker's men will not be able to put this thing back together.

Like it or not, Democrats or Republicans, this is the usual tight rule that is granted for a bill involving the tax code from the Ways and Means Com-

mittee. We waived scope requirements. The point was made about scope a while ago. I have already researched the RECORDS. At least eight times in recent years on bills like this we have waived scope.

This is a proper rule. I urge my colleagues to support this rule, without change.

Mr. BOLLING. Mr. Speaker, I yield 6 minutes to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I rise in support of this rule and ask the membership to vote for the previous question and for the rule and for the bill.

I guess the title of my talk could be, "How it works," after a previous speaker talked, saying that many Members do not know what is in the bill.

I would like to set part of the record straight. A study that was quoted from saying that there was 97-percent compliance already is somewhat misleading. In talking to the IRS, they have informed me that this figure is only for those cases where there is a perfect match between the taxpayer information number on the 1099 and on the return; but when you take into consideration all of the errors, omissions, either intentional or nonintentional, the compliance rate drops to 88 percent. That is the main reason that this provision was brought forward, to try to bring in those lost revenues.

Well, how does it work? The elderly and the low income taxpayers are largely exempt from withholding under the exemption levels provided in the conference agreement. Elderly couples with income of $22,214 or less, and this is excluding exempt income like social security and before itemized deductions are considered, will be exempt, as will elderly individuals with incomes of $13,323 or less.

At these levels, it is estimated by the IRS that 80 percent of all elderly persons will be eligible for an exemption.

There are 2.7 million nonexempt taxpayers and their interest and dividend earnings amount to about $48 billion. That is an average of $17,778 per taxpayer.

What about the low income taxpayer? Those earning $12,438, married, no dependents, are exempt. This is also before their itemized deductions.

It is $14,438 if they are married with two children, and if they are single, it is $7,450; so I believe that this is very fair treatment for those people.

Mr. PEYSER. Mr. Speaker, will the gentleman yield for a question on that?

Mr. ANTHONY. I yield to the gentleman from New York.

Mr. PEYSER. I am just interested in knowing, how does an elderly person say who has a nest egg of $10,000 in a savings account, how does that interest they earn get exempted? What is the process that has to be gone through?

Mr. ANTHONY. A very simple process; you go in and on a one-time basis, not on a quarterly or semiannual, but one time, lifetime only, unless you go in and voluntarily withdraw the exemption, ask for an exemption, stating what your income level is and that you are subject to the exemption.

It is a very simple process to put into play and, in fact, in order to insure that there is no misunderstanding about that, the conferees moved forward 6 months the effective date of this withholding requirement so that all of the institutions, both large and small and the depositors, can make sure that they understand all the rules by which they will be operating under, a very fair thing that the conferees did.

Mr. D'AMOURS. Mr. Speaker, will the gentleman yield?

Mr. ANTHONY. I will yield briefly, I have got such a short period of time.

Mr. D'AMOURS. Mr. Speaker, when the gentleman just said that this reporting had to be done only one time, not on a quarterly or semiannual basis, the gentleman meant annually, did he not? It has to be done at every institution, at every business, every year. Once every year people with bank accounts have to restart the whole process and file new reports.

Mr. ANTHONY. It is my understanding that you make one declaration and it is valid until you withdraw it.

Mr. D'AMOURS. But you have to do it the following year.

Mr. ANTHONY. It is my understanding, that it is good on an annual basis until you withdraw it.

Mr. D'AMOURS. You will have to file a new certificate each year.

Mr. ANTHONY. Mr. Speaker, I would like to talk about the $150 exemption. The conferees moved this up from a $100 level to a $150 level, trying to alleviate the fears of those who think they would be adversely impacted by this.

What is the effect of this? It is not insignificant and I think the membership should pay attention to this. At a 7-percent interest rate, the principal amount would have to exceed $2,000 in order to generate interest in excess of the $150 level of exemption. Even then, the withholding would only be about $15—10 percent times 150 equals $15.

The Credit Union National Association has prepared materials which indicate that 84.5 percent of the credit union savings accounts are under $2,000, so we are only looking at that top 15 percent, those that are most capable of complying with this rule.

What have the conferees done in order to alleviate some of the problems? I would like to tick them off for you. First, the effective date is delayed by 6 months to July 1 at a revenue loss of approximately $1.1 billion.

Second, the conferees agreed to allow the Secretary to provide an additional 6 months for any payor that could not implement the system on July 1 without undue hardship. How much fairer can you be to our institutions?

No. 3, the conferees also increased the amount of interest that could be exempt from withholding, at the option of the institution, to $150 on an annual basis.

Finally, in order to take care of the additional software costs, the administrative costs, the conferees took this into consideration and there are generous "float" rules that are permitted to all institutions for the first year of withholding to compensate for startup costs, an additional 30 calendar days on average for making deposits of withheld taxes. Small- and medium-sized banks, savings and loans, and credit unions, would be allowed to use these "float" rules for a longer period to time; again, the conferees trying to be extremely fair under the circumstances to the institutions.

I would like to close by just making one additional point. If you are concerned that the effects would be adverse to encourage savings, let us look at the facts and let us compare them with what would be the normal reaction of a depositor.

□ 1130

Let us assume $1,000 in savings at 7-percent interest; that is only $7. Very insignificant.

Now, even assuming a 12-percent money market rate of interest, you are only talking about $12. If this were increased tenfold, we would still only be talking about $120.

I submit to you that argument is a fallacious argument when you say that amount of money withheld is going to change the dynamics of the people saving money.

This rule was put into effect to make sure that those people who are not presently paying their fair share do pay their fair share. When Members go home and discuss the issue with our citizens who do pay their fair share, Members can say, "It is a compliance provision. We are trying to make sure that those who are refusing to report interest income and dividend income and pay taxes are required to pay what is due the Treasury."

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WEBER).

Mr. WEBER of Ohio. Mr. Speaker, I rise in support of the rule, and let me say also that I am going to support this tax bill.

I did not come to that decision in haste; in fact, I was undecided until yesterday. I would like to see a diffen-

ent tax bill; for one thing, I would like to see a tax bill in which the Members of this House had a greater participation in its formulation.

But that is not going to happen. This bill is it. You cannot expect to unglue one section or another of the bill for a separate vote without killing the chance to pass any of it. We all know that. It is up or down on this bill as a package, or nothing.

And on that question, I have to ask: "Is the country better off, more likely to have an economic recovery, if we vote this bill down and finance an additional $21 billion deficit, with the promise of crowding out and higher interest rates that deficits bring; or are we better off by bringing the budget closer to balance?"

Interest rates are beginning to come down. We are on the path back to prosperity and full employment. This is not the time to vote for a deficit that would choke off the recovery that we are beginning to see.

Mr. Speaker, I urge Members to vote for this rule.

Mr. QUILLEN. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, like everybody else in this House, in this country, I hate taxes. Everybody hates taxes.

But everyone wants the benefits from those taxes, and the polls naturally are reflecting that fact. If 10 people are stopped on the street and asked whether they want to pay any more taxes, there will be 10 responses: "No, I do not want us to pay any more taxes."

So these polls that are coming in are expected. Your mail and my mail reflect the fact that the people hate taxes. They do not want to vote for any tax increases. However, my mail also reflects the fact that people hate deficits more. Let me repeat that: My mail reflects the fact that the American people hate deficits more than taxes, and they want something done about it.

This bill before us today will do something about those deficits. Those deficits are unconscionable, and I have said it many, many times in the well of this House. Why are they unconscionable? Because they are unfair to our children's children, and they have no voice in this House.

It is easy, it is easy, to pass all of these expenditures and pass the bills on to our kids. That is what we are talking about here today.

Are we going to do it again? Are we going to have the courage to stand up and do something about it? Are we going to be able to go home tonight and look our kids in the eye, our grandkids, and say, "Well, we put something else on your shoulders. You have no voice in it. We are going to enjoy the benefits?" Or are we going to be able to go home and say, for once, "For once we had the courage to stand up and vote for the benefits that we enjoy today without passing them on to you?"

Will we do that? God help us if we do not.

The national debt right now stands—and, Mr. Speaker, I am sure everybody is interested in the national debt because we all have part of that national debt—at $1 trillion $140 billion—$1 trillion $140 billion—and the interest on that national debt in the budget that this Congress passed is $113 billion in fiscal year 1983, and that is more than the total cost of Government in the second year of President Kennedy's term of office. Imagine that. What are we doing?

For fiscal year 1983, that national debt is going to go to $1 trillion $290 billion, notwithstanding the passage of this legislation.

The budget resolution for fiscal year 1983 passed by this House provides $79 billion in reductions in the deficit anticipated for fiscal year 1983. That deficit at that time was anticipated at $182 billion.

Now, how did we arrive at that $79 billion? $58 billion in spending reductions and $21 billion in new revenues.

That resolution passed this Congress. Many Members who were saying, "I am not going to vote for that tax bill" voted for that resolution. Now, do Members have the courage of their convictions to stand up and say, "I meant what I did when I voted for the resolution"? Or are Members going to be able to say, "Well, I did not vote for these little tax increases. I want to run back home and say I did not vote for that; I really did not mean what I voted for when I voted for that budget resolution"?

I think not. I think not.

So what are we going to do? Well, we have made a fairly good effort toward reducing those expenditures; not as much as I would have liked. I would have liked to cut them more but I happen to be a political realist.

That is behind us. We have passed the reconciliation bill; we have passed the budget. We have no other place to go but to come up with $21 billion, the other part of the package. Are we going to be found wanting in doing that? I hope not.

And the American poeple want this Congress to do something about this deficit, and today is the time Members can do it.

Let me say I do not like the various parts of this bill. If I were writing the bill, I would have changed a lot of the parts in it. I was not writing the bill. I do not sit on the Committee on Ways and Means. I did not sit in that conference.

But that conference did its work. It came up with $21 billion mandated by this House.

Are we going to be able to weasel out of our vote for this bill by saying, "I do not like this part," or "I do not like that part?" When they did their work and came up with $21 billion?

If we had the whole House in on it, then maybe we would have had an opportunity. We did not operate that way.

Yesterday I commended the chairman of the Committee on Ways and Means for following through on the mandate of this House and coming up with the $21 billion, and I salute them for doing it. They had the courage to do it. Now I hope the House has the courage to do what it is supposed to do.

Let me say I have but one vote, and that vote will be cast not to put $21 billion more debt on that tremendous Federal debt and pass it on to our kids. I am going to vote for the bill because we need that $21 billion in revenue.

Shall I cast that vote which will keep interest rates coming down? And they are coming down. The prime today is as low as it has been since October 1980, 14 percent.

I am going to cast that vote to put people back to work. People cannot buy automobiles, they cannot buy homes, they cannot buy TV's, they cannot buy refrigerators. Why? Because the Government is out there in the market week after week borrowing money, borrowing money—and you have not seen anything yet. If we do not pass this legislation, CBO has already estimated that our deficit for fiscal year 1983 will be $150 billion, with this $21 billion. Add that $21 billion and we come up with $171 billion of debt in fiscal year 1983; fail to pass this legislation and we do not have to worry about interest rates. There is not going to be any money out there to borrow. Uncle Sam is going to be borrowing it all. That is what we are faced with.

I do not think we want to go back home and tell those people who are out of work in the automobile industry, in the construction areas, all of these others areas, that we voted to keep your taxes down.

Speaking about taxes, this is a small tax increase when you consider that last year we gave every taxpayer in this country a 25-percent reduction in his income tax, or in her income tax; 10 percent of that is yet to come. What are we talking about? Eight cents on a package of cigarettes, 50 cents on a telephone bill; add it up for a year and then lay it side by side with the 25-percent reduction given last year income taxes.

We have had a dip in the economy. That is the reason we have to go this route. But if Members want to really go out there on deficit financing, want to increase those interest rates, let us vote this bill down.

But I think today is the time we ought to think a little about what President Kennedy said. One thing I remember he said, "Ask not what your country can do for you, but what you can do for your country."

And today is that day. Do something for your country today and leave politics outside this Chamber.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I want to commend the gentleman from Ohio on his statement and address two questions which have been raised earlier today by my colleagues.

First of all, to those who are raising constitutional questions in urging the defeat of this rule because of the procedure which brought us here, I simply say that this is not a question of paternity, but of who will raise the child?

This foundling was left on our doorstep by extraordinary deficits, extraordinary interest rates, and extraordinary unemployment. No one will claim paternity for these conditions. But someone must raise the child.

□ 1145

No one wants to raise the child. Nobody wants to raise taxes. Those are the easy things to cast off. But, with the Congressional Budget Office saying that we will have deficits at $140 to $160 billion, do we not owe at the very least to the American people to put aside once and for all procedural questions and decide whether or not in fairness to this country we are going to raise this baby? If we say no, we will take some risk. If we say yes, we will take some risk. But at least we will have been decisive; at least we will have faced up to the substance of the question before us today: What do we do about these economic conditions?

There is also an effort led by my friend from New Hampshire to defeat the previous question, have a separate vote on the question of withholding of interest. I ask you to consider this: If we were to allow that, would it be fair? Would it be fair to the 85 other items that remain in this bill? Would it be fair to the majority of the items that are being taxed, where there is a real tax increase? The "withholding" item, this one item for which Members are seeking a separate vote is part of the one-third of this package where we are not raising taxes. It is a compliance provision. We are trying to help honest taxpayers who are paying more than their share because a few taxpayers do not pay their fair share of the load.

I am in sympathy with the tobacco-producing States, because we are doubling the tax on a single industry. I am sympathetic with some inequities in other parts of the bill. I am not sympathetic to trying to cut our part of the bill that insures compliance and spreads the load of taxes already owed. It would not be fair under any circumstances for us to defeat the rule, defeat the previous question, and vote on that 1 item and not address the other 85 items also.

The Chairman of the Rules Committee, as usual, put it best. This bill is a compilation of taxes; that is, to a large measure, a smorgasbord. The question before the body is: Will we decide this question on the merits, the merits being the public interest, not individual private interests? The only way to do that is to adopt this rule and get on to the very difficult decision that awaits us.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I support the conference report. I support the rule. I urge an "aye" vote on the previous question.

The issue before us at this point is the rule. The assaults on the rule that have been made so far range all the way from odoriferous unconscionability and a suggestion that we should have a fully open rule to unconstitutionality, to assaults on specific items in the measure which different Members, particularly on the majority side, would like to see taken out of the conference report, and therefore urge a "no" vote on the previous question so that they can be recognized for a new rule.

The most serious assault seems to be on the withholding issue, and I do wish to say a few words about that, although I think that is by no means the issue that would be pinpointed were the previous question to be voted down. It seems to me, my friends on the minority side, that there is very little reason for us to vote against the previous question and leave in the hands of the Speaker the lottery as to who shall be recognized for the submission of an alternative rule. I hope we will not fall into that trap.

Now, on the issue of withholding, let me just say that there are several rumors going around here that need dealing with. First, that Treasury obligations are not subject to withholding. They are under this provision. I must acknowledge that Treasury obligations, particularly bearer bonds, are one of the big areas of avoidance now, but this particular conference report will spike that. All future Treasury obligations will be registered, and those of the type which are offered to the public—coupon bonds, for instance—will be subject to withholding hereafter under this provision.

Second, that this is an assault on the proverbial little old lady who has only a little money in savings accounts. It is alleged that she will lose under this provision. There are, Mr. Speaker, some 26.3 million elderly. Only 3.5 million of them will not be eligible for exemption from withholding under the provisions that we are considering. This 3.5 million have very substantial incomes and contribute very heavily to our taxes now, and so will not suffer from the issue of withholding.

I urge, Mr. Speaker, the support of the previous question when that vote comes. I urge support of the rule.

● Mr. HUGHES. Mr. Speaker, I rise in opposition to the motion on the previous question on House Resolution 569, and urge my colleagues to allow a separate vote on provisions of the conference report requiring the 10-percent withholding on interest and dividend earnings.

Despite many of the much needed reforms in H.R. 4961, there are many other very bad provisions. The 10-percent withholding provisions on interest and dividends remain particularly troublesome and will only result in unnecessary cost and paperwork burdens on financial institutions and corporations. As many Members have expressed their deepest concern with regard to these provisions, I believe that failure to provide for a separate vote on the withholding provisions could prove fatal to final passage of this bill.

As our colleague from New Hampshire, Hon. NORMAN D'AMOURS has so aptly stated: Withholding is overkill. It is not withholding that is needed to insure taxpayer compliance, but rather, better use of information on interest and dividends, much of which is already provided on 1099 forms. Taxpayer compliance with regard to dividend and interest reporting is already remarkably high at a 96.7 percent compliance rate. The provisions outlined in H.R. 4961, will only result in a nominal increase in compliance but at the same time will require millions of new forms to be processed while creating clearly unreasonable paperwork.

I regret that the real impact of the 10-percent withholding provisions will not come from better compliance but rather from speeding up collections by the IRS. Many taxpayers, however, already have more than their fair share of taxes withheld from income during the tax year. Requiring withholding on dividend and interest will only complicate this matter further, resulting in the Federal Government holding more than its share from taxpayers and requiring larger refunds to individuals at the end of the year. Clearly, the projected revenue gain resulting from instituting these provisions is overstated and illusory.

In conclusion, the interest and dividend withholding provisions are an extremely costly way to improve compliance from a very small group of individuals. There are far less burdensome ways to achieve this same goal.

I urge my colleagues to join me in opposing the motion on the previous question so we can adopt a rule allowing a separate vote on these unnecessary provisions.●

Mr. QUILLEN. Mr. Speaker, I urge my colleagues to vote for the previous question, for the rule, and for the conference report when it is debated here on the floor of the House.

Mr. Speaker, to close debate on this side, I yield 4 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, this attempt to defeat the previous question touches one of the most controversial and probably one of the most publicly misunderstood provisions of this bill. When I was back in my district, I got more questions about this provision than any other. Some people thought the tax on interest and dividends was going to be doubled. Others thought it was going to be increased. Few knew of the special exemptions for the poor and the elderly. Even fewer understood that if they are paying what they should already, this provision will mean nothing to them.

I do not want to see the rule opened up for this special vote on one provision. I am ready to stand the test on the whole bill. This provision surely cannot make any difference to those who oppose revenue-raising measures on the grounds of principle. Do some tax provisions apply to principles and others not?

I will concede now that eliminating the withholding provision could make a difference to these in this House who have particular problems with it themselves or who run into heavy opposition back home in their districts, but let me cite, as the gentleman from New York (Mr. CONABLE) did, just a few figures that may assuage this feeling on that matter relative to hurting elderly people particularly.

Mr. CONABLE made reference to 26 million elderly people out there, but 22.8 million of them will be exempted from withholding. So, we are narrowing this down now to about 3.5 million elderly people, only 2.7 million of whom actually file returns. But, get this: What we are talking about is $49.7 billion in income on interest and dividends. Now, we are not talking about helpless elderly people out there, but we are talking about getting the tax due the Government; not a new one, but those who pay have nothing to fear. Those who are escaping ought to pay like everybody else.

We are not talking about chicken feed. It is a meaningful amount. It is almost $4 billion in 1 year. It is much better that we get that than enacting new taxes.

Individuals who have prior year income tax, paying on only $600 or less, they are exempt. Those filing a joint return of $1,000 or less, they are exempt. Elderly with prior year tax liability of $1,500 or less, if an individual, are exempt. Those with $2,500 of tax liability on a joint return are exempt. In other words, they are up here in this $14,000-a-year bracket for a single individual and $24,000-plus for a married couple. So, I think we can dispel this notion that we are really hurting a lot of poor, destitute people here, because that just is not the case.

Keeping the provision intact meets the commitment we made when we voted in June for the budget resolution, as the gentleman from Ohio so well pointed out, and the level of revenues that we agreed upon then at that time.

This bill has seen just about all the hype and controversy it can see. It is too late to be playing procedural video games with this bill at this juncture. The issue before us is not the withholding provision. The issue is whether we raise sufficient revenue and make sufficient reductions in spending to stabilize the deficit and hold interest rates down.

With that, Mr. Speaker, I would urge Members to certainly vote up the previous question on the rule and vote for the rule so that we can get on to discussing this very important piece of legislation the balance of the day.

Mr. BOLLING. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER. The gentleman is recognized for 4 minutes.

Mr. BOLLING. Mr. Speaker, I think this has been a useful and clear debate. I think it supports the contention that I made in the beginning that this is a unique situation with a unique coalition, with a compromise that is only designed to be in the interests of the country. I think to alter that compromise would destroy the fabric of the whole bill and perhaps destroy the whole bill.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. D'AMOURS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 210, not voting 4, as follows:

[Roll No. 300]

YEAS—220

Akaka	Atkinson	Benedict
Albosta	AuCoin	Benjamin
Alexander	Badham	Bennett
Annunzio	Bailey (PA)	Bevill
Anthony	Barnes	Bingham
Archer	Beilenson	Blanchard
Boggs	Frenzel	Murtha
Boland	Frost	Nelson
Bolling	Garcia	Nichols
Boner	Gephardt	O'Brien
Bonior	Gibbons	Oberstar
Bowen	Glickman	Obey
Breaux	Goodling	Oxley
Brinkley	Gore	Panetta
Brodhead	Gradison	Pease
Brooks	Gramm	Pepper
Broomfield	Gray	Pickle
Brown (OH)	Grisham	Price
Broyhill	Guarini	Pritchard
Burgener	Hall (OH)	Pursell
Burton, John	Hall, Sam	Quillen
Burton, Phillip	Hance	Railsback
Butler	Hansen (ID)	Rangel
Byron	Hartnett	Ratchford
Campbell	Heftel	Regula
Chappie	Hightower	Reuss
Cheney	Hiler	Rhodes
Chisholm	Hillis	Richmond
Clinger	Holland	Roemer
Coats	Horton	Rosenthal
Coelho	Hoyer	Rostenkowski
Collins (TX)	Huckaby	Roybal
Conable	Hunter	Russo
Conyers	Hyde	Sabo
Coughlin	Ireland	Sawyer
Coyne, William	Jeffords	Scheuer
Craig	Jones (OK)	Shannon
Crockett	Kogovsek	Shelby
Daniel, Dan	Lantos	Simon
Dannemeyer	Latta	Skeen
de la Garza	Leath	Smith (NE)
Dellums	Lehman	Solarz
Derrick	Leland	Stanton
Derwinski	Levitas	Stark
Dickinson	Livingston	Staton
Dicks	Long (LA)	Stenholm
Dingell	Long (MD)	Stokes
Dixon	Lott	Stratton
Donnelly	Lowry (WA)	Stump
Dougherty	Lundine	Tauzin
Downey	Madigan	Thomas
Duncan	Markey	Traxler
Dunn	Martin (IL)	Udall
Dwyer	Martin (NC)	Vander Jagt
Dymally	Matsui	Vento
Dyson	Mattox	Walker
Early	Mazzoli	Watkins
Eckart	McClory	Waxman
Edgar	McCloskey	Weaver
Edwards (AL)	McDade	Weber (OH)
Edwards (CA)	McHugh	Weiss
Edwards (OK)	Mica	White
Erlenborn	Michel	Whitehurst
Fary	Miller (CA)	Wilson
Fascell	Mineta	Wirth
Fazio	Mitchell (NY)	Wolpe
Fenwick	Moakley	Wright
Ferraro	Moffett	Wyden
Fields	Mollohan	Wylie
Findley	Montgomery	Yates
Flippo	Moore	Young (MO)
Foley	Moorhead	Zablocki
Ford (MI)	Morrison	
Fowler	Mottl	

NAYS—210

Addabbo	Corcoran	Fiedler
Anderson	Courter	Fish
Andrews	Coyne, James	Fithian
Applegate	Crane, Daniel	Florio
Ashbrook	Crane, Philip	Foglietta
Aspin	D'Amours	Ford (TN)
Bailey (MO)	Daniel, R. W.	Forsythe
Barnard	Daschle	Fountain
Beard	Daub	Frank
Bedell	Davis	Fuqua
Bereuter	Deckard	Gaydos
Bethune	DeNardis	Gejdenson
Biaggi	Dorgan	Gilman
Bliley	Dornan	Gingrich
Bonker	Dowdy	Ginn
Bouquard	Dreier	Goldwater
Brown (CA)	Emerson	Gonzalez
Brown (CO)	Emery	Green
Carman	English	Gregg
Carney	Erdahl	Gunderson
Clausen	Ertel	Hagedorn
Clay	Evans (DE)	Hall, Ralph
Coleman	Evans (GA)	Hamilton
Collins (IL)	Evans (IA)	Hammerschmidt
Conte	Evans (IN)	Hansen (UT)

Harkin
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hollenbeck
Holt
Hopkins
Howard
Hubbard
Hughes
Hutto
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kramer
Lagomarsino
Leach
LeBoutillier
Lee
Lent
Lewis
Loeffler
Lowery (CA)
Lujan
Luken
Lungren
Marks
Marlenee
Marriott
Martin (NY)
Martinez
Mavroules
McCollum
McCurdy
McDonald
McEwen
McGrath
McKinney
Mikulski
Miller (OH)
Minish
Mitchell (MD)
Molinari
Murphy
Myers
Napier
Natcher
Neal
Nelligan
Nowak
Oakar
Ottinger
Parris
Pashayan
Patman
Patterson
Paul
Perkins
Petri
Peyser
Porter
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rose
Roth
Roukema
Rousselot
Rudd
Santini
Savage
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Studds
Swift
Synar
Tauke
Taylor
Trible
Volkmer
Walgren
Wampler
Washington
Weber (MN)
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Winn
Wolf
Wortley
Yatron
Young (AK)
Young (FL)
Zeferetti

NOT VOTING—4

Bafalis
Chappell
LaFalce
Rahall

□ 1200

Messrs. SMITH of Iowa, HERTEL, HAMMERSCHMIDT, RODINO, SEIBERLING, SCHUMER, MARTINEZ, and KASTENMEIER changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

□ 1215

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 176, not voting 5 as follows:

[Roll No. 301]

YEAS—253

Akaka
Albosta
Alexander
Annunzio
Anthony
Archer
Aspin
Atkinson
Badham
Bailey (PA)
Barnard
Barnes
Beilenson
Benedict
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Chappie
Cheney
Clinger
Coats
Coelho
Coleman
Conable
Conte
Conyers
Coughlin
Coyne, William
Crockett
Daniel, Dan
Daschle
Davis
de la Garza
Dellums
DeNardis
Derrick
Derwinski
Dicks
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Dunn
Dwyer
Dymally
Dyson
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Emery
Erdahl
Erlenborn
Evans (DE)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frenzel
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Guarini
Hall (OH)
Hall, Sam
Hammerschmidt
Hance
Hansen (UT)
Hawkins
Heftel
Hightower
Hiler
Hillis
Holland
Horton
Howard
Hoyer
Huckaby
Hunter
Hyde
Ireland
Jeffords
Jenkins
Kazen
Kennelly
Kogovsek
LaFalce
Lantos
Latta
Leath
Lehman
Leland
Levitas
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowry (WA)
Lundine
Madigan
Markey
Marks
Marriott
Martin (IL)
Matsui
Mattox
Mazzoli
McClory
McCloskey
McDade
McEwen
McHugh
Mica
Michel
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Mollohan
Montgomery
Moorhead
Morrison
Mottl
Murtha
Nelson
Nichols
O'Brien
Oberstar
Obey
Oxley
Panetta
Pease
Pepper
Petri
Pickle
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rodino
Roemer
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Russo
Sabo
Sawyer
Scheuer
Schneider
Schumer
Seiberling
Shamansky
Shannon
Shelby
Simon
Skeen
Smith (NE)
Solarz
St Germain
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Swift
Tauzin
Thomas
Traxler
Udall
Vander Jagt
Vento
Watkins
Waxman
Weaver
Weber (OH)
White
Whitehurst
Whitten
Wilson
Winn
Wirth
Wolpe
Wright
Wyden
Wylie
Yates
Young (FL)
Young (MO)
Zablocki

NAYS—176

Addabbo
Anderson
Andrews
Applegate
Ashbrook
Bailey (MO)
Beard
Bedell
Bereuter
Bethune
Bliley
Bouquard
Brown (CA)
Brown (CO)
Carman
Carney
Chisholm
Clausen
Clay
Collins (IL)
Collins (TX)
Corcoran
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, R. W.
Dannemeyer
Daub
Deckard
Dickinson
Dorgan
Dowdy
Dreier
Duncan
Edwards (OK)
Emerson
English
Ertel
Evans (GA)
Evans (IA)
Evans (IN)
Fithian
Florio
Foglietta
Fountain
Frank
Fuqua
Gilman
Gingrich
Ginn
Green
Gregg
Gunderson
Hagedorn
Hall, Ralph
Hamilton
Hansen (ID)
Harkin
Hartnett
Hatcher
Heckler
Hefner
Hendon
Hertel
Hollenbeck
Holt
Hopkins
Hubbard
Hughes
Hutto
Jacobs
Jeffries
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kemp
Kildee
Kindness
Kramer
Lagomarsino
Leach
LeBoutillier
Lee
Lewis
Lowery (CA)
Lujan
Luken
Lungren
Marlenee
Martin (NC)
Martin (NY)
Martinez
Mavroules
McCollum
McCurdy
McDonald
McGrath
McKinney
Mikulski
Miller (OH)
Molinari
Moore
Murphy
Myers
Napier
Natcher
Neal
Nelligan
Nowak
Oakar
Ottinger
Parris
Pashayan
Patman
Patterson
Paul
Perkins
Peyser
Porter
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Rogers
Rose
Rousselot
Rudd
Santini
Savage
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Siljander
Skelton
Smith (AL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
Stangeland
Stump
Synar
Tauke
Taylor
Trible
Volkmer
Walgren
Walker
Wampler
Washington
Weber (MN)
Weiss
Whitley
Whittaker
Williams (MT)
Williams (OH)
Wolf
Wortley
Yatron
Young (AK)
Zeferetti

NOT VOTING—5

AuCoin
Bafalis
Chappell
Early
Lent

□ 1230

Mr. ZEFERETTI changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) entitled "An act to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes."

APPOINTMENT OF CONFEREES ON H.R. 3663, BUS REGULATORY REFORM ACT OF 1981

Mr. HOWARD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, with Senate amendments thereto, disagree to the Senate amendments, and requests a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey? The Chair hears none,

and appoints the following conferees: Messrs. HOWARD, ANDERSON, RODINO, CLAUSEN, and SHUSTER.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT ON TODAY AND FOR THE BALANCE OF THE WEEK DURING THE 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today and for the balance of the week during the time that the House is conducting business under the 5-minute rule for purposes of considering two pieces of legislation: First, the Clean Air Act; and, second, the domestic content legislation.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. DANNEMEYER. Mr. Speaker, with respect to the domestic content bill, I reserve the right to object, and I do object.

The SPEAKER. It requires 10 objectors. The Chair hears an objection, and the Chair will count.

(Messrs. PHILIP M. CRANE, CONABLE, WYLIE, FRENZEL, CHENEY, WEBER of Ohio, KINDNESS, CLAUSEN, JAMES K. COYNE, GRADISON, and WAXMAN also objected.)

The SPEAKER. Objection is heard.

CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 569, I call up the conference report on the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to House Resolution 569, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 17, 1982).

The SPEAKER. Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 1½ hours, the gentleman from New York (Mr. CONABLE) will be recognized for 1½ hours; the gentleman from California (Mr. WAXMAN) will be recognized for 15 minutes; the gentleman from Illinois (Mr. MADIGAN) will be recognized for 15 minutes; the gentleman from California (Mr. MINETA) will be recognized for 15 minutes; and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before the House for consideration the conference agreement on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. It is a compromise hard won during 8 days and nights negotiating with Senate conferees.

The compromise is distinguished by tough new compliance demands, the broadest tax reforms in more than two decades and a full measure of economic justice. By any standard it is the finest tax legislation to come before Congress in many years—and most compassionate in its treatment of budget cuts. Along the rugged climb toward our budget mandate we managed to protect the vast majority of individual taxpayers and those now receiving Federal assistance. It is an antirecession document that directly confronts high deficits, high interest rates, and high unemployment.

This bill comes to the House floor under an unusual, but not unprecedented, process under which the Senate has amended a House-passed revenue measure by adding major tax increases. I feel strongly about the prerogatives of the House of Representatives and the Committee on Ways and Means, and I lament that we had to resort to a process whereby the House simply goes to conference on Senate revenue-raising provisions.

In the past, we have used this process when emergency tax legislation was needed. The start of the Korean war or the time of the Vietnam war surcharge are examples. But this, too, is an emergency. Given the economic and political situation that we face, a counterdeficit tax bill is needed this year. The path we chose was the only way to get a tax bill to the House floor, and I am more convinced than ever that we were right to use it.

A few Members of the House have just taken the extraordinary step of challenging the bill in court, claiming that congressional action has violated the revenue bill origin clause of the Constitution. I respond by noting that in both the House and the Senate, the precedents have been clear and consistent from the beginning of the Republic that all bills relating to the raising of revenues—tax decreases as well as tax increases—are covered by the revenue bill origin clause in the Constitution.

The bill before us should not be viewed in isolation, but rather as the final stage in a budget process designed to deal with a very serious deficit problem. Earlier this year, leaders of both parties met over a period of several weeks to talk over solutions to the country's budget problems. We disagreed on many issues, but were unanimous in our dread that no action guaranteed a catastrophic budget deficit. We agreed on a set of assumptions under which these baseline deficits would be a staggering $182 billion in 1983, $216 billion in 1984, and $233 billion in 1985.

In May, Congress passed a budget resolution providing tax increases and spending cuts that would bring these deficits down closer to acceptable levels. Those Members who voted for that budget resolution have a special responsibility to see that the mandate is carried out.

Those Members who voted last year for the economic program which created those deficits have a similar responsibility. This reconciliation bill is the centerpiece of the budget process. It is the only hope of bringing the Federal deficit under control this year. Without this bill, the Nation has no budget. Without this bill, we face a resurgence of interest rates and must abandon hope for a strong economic recovery.

The conference agreement reduces outlays ove: the 3-year period by $17.2 bilion—actually exceeding the committee's reconciliation instruction—and raises revenues by $98.3 billion.

For many of us, cutting domestic spending is more painful than raising taxes.

MEDICARE

The medicare spending reductions were a sensitive issue when the budget resolution was voted on by the House last June. The Members of this body made it clear that they did not want to harm beneficiaries by reducing medicare benefits. The House conferees fought hard for that position and were successful.

We staved off virtually all direct beneficiary cuts. The conferees rejected cuts proposed by the Senate which would have eliminated the first month of medicare benefits, made beneficiaries pay for a share of home health services and increased the part B deductible for physician services.

The only provision in the conference report which directly affects medicare recipients is minimal and would be spread equally among beneficiaries. The part B premium, paid for coverage of physician services, would increase 60 cents a month in the first year and $1.30 a month in the second year. These increases would occur on July 1, 1983 and 1984—at the same time beneficiaries receive increases in their social security checks.

More than 70 percent of the medicare savings were achieved through measures aimed at reducing extraordinary increases in hospital costs. Hospital costs are currently rising at over 16 percent a year, increasing the deficit and straining the medicare trust fund. The agreement would limit medicare reimbursement to hospitals whose medicare costs far outstrip the average for similar hosptials. It would also penalize hospitals whose medicare costs are increasing at an excessive rate and would reward hospitals whose costs rise more slowly. This system of penalties and rewards will provide an incen-

tive for hospitals to keep down their costs for everyone.

Reductions in payments to hospitals would not affect beneficiaries since current law permits hospitals to only charge beneficiaries the specified coinsurance and deductible.

Cuts in payments to physicians are minimal and are not likely to be passed along to beneficiaries.

The medicare agreement contains two important improvements. Medicare coverage would be provided for terminally ill beneficiaries who wish to spend their last months receiving hospice services. In addition, an alternative payment system would be established to encourage health maintenance organizations (HMO's) which have a proven record of reducing medical costs.

One of the most sensitive and controversial decisions of the conferees was to extend medicare coverage to all Federal employees—and to include the 1.3 percent hospital insurance tax.

Right now, 193,000 Federal annuitants age 65 and over are not covered by medicare. These retirees must pay up to $90 per month for medical coverage which cannot match medicare. The maximum medicare tax is $35 per month.

The conference provision has a lenient grandfather provision which protects workers who are employed through January 1983—giving them full coverage even though they have not paid into the trust fund for the requisite 40 quarters.

PUBLIC ASSISTANCE

The conference agreement reduces Federal expenditures for the aid to families with dependent children (AFDC), supplemental security income (SSI) and child support enforcement programs by $343 million over the next 3 fiscal years; $212 million, or almost two-thirds, of the cuts are reductions in administrative costs or Federal matching payments to States. The conference agreement contains no reductions in title XX social services or low income energy assistance.

For fiscal year 1983, the conference agreement contains only $131 million of the $2.3 billion in direct public assistance and social service benefit cuts proposed by the administration and $411 million passed by the Senate. In other words, the conferees approved less than 6 percent of the administration's benefit cuts and 25 percent of the Senate's cuts.

The benefit reductions approved by the conferees include nominal reductions through the rounding of AFDC and SSI benefits to the next lower dollar, and the proration of monthly benefits from the date an application is filed. States are given greater flexibility to require job search on the part of AFDC recipients as well as the option of developing work incentive (WIN) demonstration programs. In addition, the agreement would permit the elderly to own burial spaces or burial contracts and retain eligibility for SSI benefits.

Reductions are made in Federal matching payments for erroneous AFDC payments and for State administrative costs under the child support enforcement program. However, the conference agreement allows States greater flexibility in recovering administrative costs of collecting child support from absent parents.

UNEMPLOYMENT BENEFITS

Mr. Speaker, the current recession has pushed millions of Americans out of work. The national unemployment rate is the highest it has been since World War II. The conference agreement addresses the crisis facing thousands of workers who have already used up, or soon will use up, their unemployment benefits.

The compromise includes an emergency program of up to 10 additional weeks of unemployment compensation that will help more than 2 million jobless workers, and help those States which have recently triggered off the extended benefit program.

Some Members say they will vote against the compromise because it does not fully restore the permanent 13 weeks of extended benefits.

The compromise does better than that. First, the package will help the hundreds of thousands of workers who have already exhausted extended benefits. A simple restoration of the extended benefit program would not help the long-term unemployed. Auto workers laid off the last half of last year, for example, would get nothing from restoration of extended benefits. But under the conference agreement, they get an additional 10 weeks—up to 49 weeks of benefits in all.

Second, these benefits are completely paid for out of Federal general revenues—without an extra dime from employers or financially pressed State unemployment funds.

This package provides $2 billion in benefits for 6 months—the equivalent of $4 billion a year.

To those who say this is not enough, I ask how you would get $2 billion of immediate assistance to workers who have exhausted benefits? When, if not now, do we convince the President to take another $2 billion spending increase? When, if not now, do we move a President who originally opposed any additional benefit increases to unemployed workers?

Let me tell my colleagues from States with chronically high unemployment—especially those States near the trigger point—that this is as large and as timely a benefit package as is likely to come our way.

Effective September 12, 1982, through March 31, 1983, up to 10 additional weeks of benefits will be provided in States where extended benefits are being paid, or have been paid, at any time since June 1, 1982. This covers workers in 38 States who have exhausted some or all of their extended benefits.

Up to 8 additional weeks are provided in States that have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals, or exceeds, 3.5 percent. Up to 6 additional weeks of benefits will be provided in all other States.

Again, these new benefits will be paid to jobless workers who have exhausted their State or extended benefits.

To neutralize the budget impact of the additional benefits, the conference agreement lowers the income thresholds at which unemployment compensation is subject to the Federal income tax.

Mr. Speaker, because of past and present economic downturns, estimated Federal unemployment tax receipts are inadequate to cover projected Federal unemployment benefits, as well as administrative and employment service obligations. In addition, State UC trust fund accounts are severely strained. As of June 1982, 19 States owed $7.8 billion in outstanding Federal unemployment loans.

The conference agreement makes necessary adjustments in the Federal unemployment tax to insure the solvency of the Federal unemployment trust fund. These changes will also generate new revenue for State unemployment compensation systems.

Specifically, the Federal tax wage base is increased from $6,000 to $7,000 and the net Federal tax rate is increased from 0.7 percent to 0.8 percent. By making modest changes in both the wage base and the tax rate, the conference agreement raises necessary revenues in the most equitable manner.

TAXES

Let me now address myself to the principal tax provisions in the bill.

Thirty percent of the revenue from the bill comes from changes in reporting, penalty, withholding, and other administrative provisions designed to achieve a major improvement in compliance with the tax laws. I mention these compliance provisions first because collecting taxes from people and from businesses who are now evading taxes is obviously the fairest way to produce additional revenue. How can we ask the honest American who pays his taxes to accept sacrifices unless we can assure him that every reasonable effort is being made to collect what is owed from the minority who do not obey the law? We have all read about the underground economy. This is the chance to bring some of it above ground.

While there are several dozen compliance provisions in the bill, withholding on interest and dividends has generated the most controversy. I urge the House to look closely at the withholding provision in the conference report. It contains very liberal exemption provisions for low-income taxpayers and for those people over age 65 which will exempt married couples whose adjusted gross income—not including tax-exempt income like social security—is less than $22,000. It also accommodates in every way possible the concerns of financial institutions by delaying the effective date until July 1, 1983; by exempting minimal payments of interest; by allowing generous float provisions and by permitting withholding on an annual, end-of-the-year basis for certain types of accounts.

The debate now in progress on interest and dividend withholding occurred 40 years ago on wage withholding. Now wage withholding is a popular system, and perceived as a relatively painless way to accurately pay taxes. I predict that in a few years, we will be able to say the same of interest and dividend withholding.

Most of the revenue from the bill comes from broadening the tax base for business income. Despite protests from a few special interests, the business tax reforms are long overdue. If you examine the specific provisions, you will find that they close tax loopholes, limit unintended effects of current law, and scale back tax preference provisions that can no longer be justified when the budget is so tight. With only one or two exceptions, these changes in business taxes were proposed by, or have been supported by, the administration.

The bill corrects one of the biggest mistakes we made last year by repealing safe-harbor leasing after 1983. This is the provision that allows companies to use paper transactions to buy and sell tax benefits—an opportunity not available to the average citizen. We provide generous transition rules to allow companies to lease during the remainder of the recession. After 1983, safe-harbor leasing is replaced with a modified form of prior law leasing.

The bill also modifies the 10-5-3 depreciation system enacted last year to make sure that the tax benefits provided for a business that purchases equipment do not exceed the benefits from expensing, that is, writing off that asset in the year it is placed in service. This is done by not allowing businesses to depreciate one-half of that portion of the cost of the assets that is, in effect, paid for by the Treasury through the investment credit. In addition, the further acceleration of depreciation scheduled for 1985 and 1986 is repealed.

The bill also deals with a number of more complex business tax issues that address questions of concern to many Members. The bill reduces the tax benefits for future mergers and acquisitions—like the recent United States Steel-Marathon and the Du Pont-Conoco deals. These large-scale mergers are artificially attractive under the current tax provisions which are modified by this bill. The bill reduces the ability of multinational oil companies to escape tax on foreign-source income. It scales back a broad list of corporate tax preferences by 15 percent.

The conference committee tried hard to take into account concerns expressed by Members of the House. Thus, the provisions dealing with industrial development bonds closely follow those in the Senate amendment.

Concern has also been expressed about the excise tax increases in the bill, often by people who also argue that we should do things to discourage consumption and encourage saving. However, I think a strong argument can be made for these taxes.

The aviation excise taxes in the bill are in the nature of a user fee, under which users of the airport and airway system pay the costs of that system. Forty percent of these taxes are paid by business travelers and as such are fully deductible. The cigarette excise tax increase, equal to 8 cents a pack, will have a significant impact in reducing smoking, particularly by teenagers. Yet it will impose a tax increase of only $30 a year on a pack-a-day smoker. Finally, the telephone excise tax increase will have a very small impact on the typical consumer of less than $5 per year. I want to emphasize that all these excise tax increases are sunsetted.

It would have been preferable not to raise any taxes paid by individuals, but given the budget targets, that was impossible. The conferees attempted to minimize the impact of the tax increases required and raised revenues in the fairest way possible. The conferees also agreed to an important reform that will affect those taxpayers who presently avoid paying tax through complex tax shelters. The bill restructures the minimum tax for individuals to insure that high-income people pay some minimum amount of tax. This is essential to tax equity, and it will only raise taxes for upper income people.

The bill also restructures the medical and casualty deductions to simplify them and restrict their availability to cases of extraordinary costs or losses. These were painful steps, but, I believe, essential ones if we were to meet budget targets. We were successful in moderating the changes to medical deduction passed by the Senate.

I also want to point out a printing error on page 631 of the statement of managers. The second full paragraph on that page provides—

> In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

That paragraph is wrong. It would require that a key employee's aggregate limit in a top-heavy plan be immediately reduced from 1.25 to 1.0 by precluding future contributions or accruals. The paragraph is substantively incorrect and should have been deleted by GPO as instructed.

Although the conferees did decide to make this reduction to 1.0—like the overall reduction from 1.4 to 1.25—immediately effective, they decided to provide a "fresh start" to insure that contributions or benefits provided under the prior-law higher limits would not have such a drastic effect on future contributions or benefits. Accordingly, the conferees required the Secretary of the Treasury to prescribe regulations under which the numerator of the defined contribution plan fraction—as determined for the last plan year beginning before January 1, 1983—would be reduced—by an amount not exceeding this numerator—so that the sum of the fractions does not exceed the aggregate limit permitted under the conference agreement.

A year ago the rhetoric of supply-side economics was full of promise and hope. If many of us doubted the promise, we all shared the hope that massive tax cuts would draw us out of the recession. We hoped that interest rates would fall in anticipation of recovery. We hoped that business would begin to make the enormous investments needed to bring millions of unemployed back to work. But hope is not enough to turn around an economy.

So here we are a year later staring at an economy barely breathing. Financial markets paralyzed by uncertainty. More people out of work than since the thirties. An angry Nation staring back at Washington waiting for an answer. Election day 11 weeks away.

Today's vote is the most critical economic choice we will make this year—

perhaps in the next few years. It will record us individually and as a Congress as for or against record deficits—for or against high interest rates—for or against extending unemployment benefits—for or against meaningful tax reform.

Today's vote will separate those with commonsense from those with blind faith. It will separate those who are convinced that our economic course must be modified from those who would march lockstep to the economic commandments of another century. It will separate those with a passionate concern for the entire country from those with a passionate concern for one special region or one special economic interest.

It is a rare moment when the leaders of both parties can agree. It is even rarer that leaders of both parties can agree to raise nearly $100 billion in revenue and to cut spending by three times that amount. We are passing through a thin shaft of time when economic urgency dominates partisan politics.

We have no real choice but to send this compromise to the President.

I urge the House to approve the conference report.

Mr. CONABLE. Mr. Speaker, in view of the careful opening statement of the chairman, which I appreciate, I shall forego an opening statement and yield 3 minutes directly to a valued member of the committee, the gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, I rise in opposition to the tax bill. Winston Churchill once observed that taxing your way to prosperity is like standing in a bucket and trying to lift yourself up by the handle. The American people understand that we cannot tax our way to prosperity. This bill is being offered to the Nation as a measure that will stimulate economic recovery. It will not. Let me list my objections to the bill, H.R. 4961, in order:

First. It is unconstitutional legislation. Article I, section 7 is explicit about the exclusive House responsibility for initiating money bills: "All bills for raising revenue shall originate in the House * * *." In this instance, the Senate took a miscellaneous tariff bill reported out of the House that reduced revenues, struck everything after the enacting clause, and then proceeded to draft one of the largest tax raising bills in history. Counsel for the Ways and Means Committee in the House described this action as "unprecedented," "troublesome," and possible an invitation to court challenges. Indeed, Mr. Speaker, I am obligated by my oath of office to challenge this unconstitutional action. I, in fact, have filed a complaint with the Federal court, along with 17 colleagues—9 Democrats, 8 Republicans—charging the principal parties involved in this action with a violation of the Constitution.

Second. It is the wrong economic medicine. Neither liberal Keynesians nor conservative free enterprisers believe it is sound economics to levy massive tax increases during an economic downturn. Such action is a recrudescence of the economic decisionmaking that guided President Hoover's advisers early in the Great Depression. It was the wrong policy then; it is the wrong policy now.

Third. It rests upon faulty economic assumptions. The President has been told this will pull down interest rates and thus lead to an economic upturn with increased employment. I cannot, offhand, recall anytime that massive tax increases led to a lowering of interest rates. Moreover, with the dramatic decline in the prime rate that has taken place this past month, and that at a time when the outcome of this tax battle was still very much in doubt, it would appear that the administration changed its game plan just as it was beginning to work.

Further, Mr. Speaker, the President was told, as a condition for getting his support for this tax increase, that he would get a $3 reduction in spending for every $1 in tax increases. The assumptions about future spending, upon which this scheme is based, have been shown to be faulty in a Wall Street Journal editorial, August 13, 1982, entitled "The Budget Scam." The savings allegedly to be made are simply reductions from theoretical projections about future expenditures. The bottom line of the editorial is that: "Congress clearly has no intention of curtailing Federal spending." Thus, as Congressman Kemp noted in a U.S. News & World Report interview, August 23, 1982, the President will be lucky to get a $0.25 reduction in spending for each $1 increase in taxes.

Fourth. It is for the most part, unwise tax legislation. Some forms of taxation, while soaking up more revenue from the private sector, nevertheless have some beneficial side effects. For example—and I am not recommending this—if one raised all of H.R. 4961's anticipated revenue from a single source—such as a tax on imported oil—it would: First, stimulate increased exploration and discovery at home; second, it would increase the world's oil supply thus pressuring prices downward; third, it would accelerate the goal of independence from unreliable and unstable sources; and fourth, it would cause increased conservation because of higher prices. By contrast, the current tax bill mounts a broad scale attack on savings and investment as well as corporate earnings. Moreover, this tax bill has counterproductive features. It assaults waiters, waitresses, bartenders, and the owners of eating and drinking establishments by harrassing them with cumbersome procedures and volumes of additional paperwork. And the drastic cuts in medical deductions, while affecting everyone equally, affects most adversely those lowest on the economic ladder.

Fifth. It sends confusing signals to the public. Last year, the administration and the Congress committed this Government to a policy of reduced spending and tax cuts. That policy has been overwhelmingly endorsed by the American people. In pursuit of this policy, the President achieved great successes in attacking the most serious economic problems he inherited from the Carter years. Last year the American people saw the President and a bipartisan majority in Congress enact into law two major bills which restrained runaway budget increases and provide a measure of tax relief. Now they see the President and some in the Congress reverse course and vote to raise taxes with nothing more than vague and thus far unrealized promises of future reductions. The American people can not help but be confused by this sudden, inexplicable, and unannounced change in direction.

Inflation has been reduced from a 1980 high of almost 14 percent to less than 5 percent. The prime rate in 1980 approached 22 percent, and it is now down to 14 percent. The rate of growth of Federal spending has been slowed, notwithstanding the Democratic leadership's objections to budget reductions proposed by President Reagan. But at the same time these gains were recorded, unemployment rose from 8 million people to 10 million people as a result of past excesses. Nor could the economic situation be reversed overnight. But now, the tax and spend crowd—which conveniently overlooks the enormous progress President Reagan has made since taking office just a year and a half ago—now claim that their assessment of our enduring economic problems is confirmed by what is obviously a self-repudiation of the President's earlier initiatives of last year. The President has told us he is not abandoning his program and I believe him. But he has changed it so much to satisfy critics who never supported his goals and objectives, and that now too many citizens do not know what to believe.

Eighty-seven percent of the 15,000 respondents to my July questionnaire indicated their support of President Reagan's economic recovery program which calls for reduced spending and lower taxes.

I share their commitment to that program. For that reason, I will vote against the current tax bill. In a meeting with President Reagan 2 weeks ago, I indicated my enduring commitment to the President's program of

last year. But I also told him that I was not elected to Congress to raise taxes.

We have come to a time when the Government is consuming the largest portion of our people's labors in history, including World War II. I cannot, therefore, in good conscience support legislation that will aggravate that problem. The creative talent and industry of the American people has rewarded them with an unequaled standard of living. That reward was not produced by a benevolent Government embarked on policies of redistributing income. Nor was it produced by preserving the offices of elected officials who have appealed for votes with costly programs designed to reward special interest groups.

The answer to our existing problems remains unchanged: It is President Reagan's policies of budget and tax reduction. In a letter President Reagan sent to supporters on April 16 of this year, he stated:

> We must adhere to these reductions in federal spending and taxes over the next several years to finally bring down inflation and high interest rates.

In an elaboration of his program before the Los Angeles County Board of Supervisors on March 3 of this year, President Reagan said:

> Bear in mind, they [deficits] would not be significantly reduced, if at all, by raising taxes, which is the common element in most of the curb-the-deficit proposals that are being bandied about. . . .

President Reagan was right, the policies he initiated are still right and for these reasons we must defeat this conference report. This battle will not easily be won, but we must persevere. "If not now, when? If not us, who?"

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the able gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, many Members here do not want to vote on a tax increase. Most Members here do not want to vote on a tax increase before an election. I must add that I am really not thrilled with the prospect myself, but I think our duty is clear. We must pass this tax bill.

This debate is not a philosophical exercise nor a theological debate on whether you are for or against higher taxes. We are not operating in a vacuum. We are operating in an environment of over $100 billion of deficit.

This is the real world. Now is our political moment of truth.

Other speakers are going to discourse on the specifics of this bill. I would rather speak about the package. There have been broad objections to procedure and to concept and specific objections to features. I have plenty of the latter.

I am especially unhappy about the reduction of the ACRS, some annuity and compliance provisions and, of course, the withholding provision. But, in general, the conference committee did as good a job as could be done with any major tax bill.

I would have created a different package, but the conference did a good job of meeting the budget resolution targets. My ideal package might not pass. I hope the conference's version will be passed.

But back to the hard political issue—this bill, must be considered as a package. We will vote on it as a unit. That package will achieve budget resolution targets. It will prevent deficit increases of $26 billion in fiscal year 1983. That $26 billion includes $19 billion in new revenue and $6 and a half billion in spending cuts.

The 3-year combination represents nearly $130 billion in deficit reduction.

For me and for everyone here, this is a difficult vote. However, nearly every person in this body voted for one or another of the budget resolutions. The resolution we passed calls for the total presented today. The Democrat resolutions, all of them, called for much greater tax increases.

Now, support of one of those budget resolutions is not forcing on the vote today, but for me a vote on this package is supportive of the budget resolution this Congress has passed.

Some Members have claimed that this bill exceeds that resolution, particularly with respect to the second and third year, but in my judgment, it comes as close to the targets of that budget resolution as is possible in any complicated tax bill. I personally feel a strong obligation to vote for this bill, simply because it is our only choice to implement the budget resolution.

I can understand that some of our colleagues will not vote for any tax increase. That is their privilege; but if we do not pass this bill, the additional $26 billion in borrowing it will require or the $130 billion over 3 years will surely push interest rates up again. A vote against this bill is a vote for higher interest and will have to be explained as such.

Supporters of the bill, in addition to our House leadership on both sides of the aisle, include all 10 living former Secretaries of the Treasury, led by Bill Simon, a strongly identified tax cut advocate. That is a group that thoroughly understands today's economic problems. It is a bipartisan group which knows what is good for the economy.

The chief supporter of all is, of course, the President. He has made it quite clear, crystal clear, as we used to say, that he considers passage essential to the health and recovery of our economy. He likes taxes less than any of us, but he also knows better than any of us that the passage of this bill is crucial to avoid bigger deficits and higher interest rates. He was also able to preserve his individual tax cuts and to steer this package toward compliance and reform.

Mr. Speaker, despite the fact that many of us object to new taxes on a philosophical basis, and despite the fact that all of us can find some objectionable features as an excuse to vote against it, I urge each Member not to look for a hiding place. Let us look instead to deficit reduction, to economic recovery, to lower interest rates and higher economic opportunities.

Let us not vote for our own convenience. Let us vote for this tax bill and do our country some good.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. Mr. Speaker, I am voting against the Tax Equity and Fiscal Responsibility Act because no matter how you play it, it is neither.

There is nothing equitable or responsible about asking American taxpayers and businesses to pay another $99 billion in taxes, or $228 billion or whatever.

That is not what Americans sent us here to do.

They sent us here in 1980 with a mandate: Cut Government spending. Do not raise taxes.

Even with last year's tax rate cuts in place, the Federal Government will take in more and more revenue for years to come. There is not a shortage of tax revenue.

I have gone the extra mile for President Reagan and I will in the future. Ronald Reagan is one of the best things that has happened in this country for a long, long time.

But call it "revenue enhancement."

"Closing loopholes."

"The price we have to pay."

"The best we can do."

I am not hiding—and neither is the American taxpayer. We will not lower interest rates by raising taxes.

If this were the truth, Americans would have been buying homes and cars interest free for the past 40 years.

Let us look at what has happened to the deficit just this year.

President's budget in February: $92 billion.

Congress budget in June: $100 billion.

OMB midyear estimate: $115 billion.

Recent Treasury estimates: $135 billion.

CBO estimates, as high as $180 billion.

Yet during all this, interest rates have been coming down. Now at 14 percent.

Now here is the deficit, gearing off the CBO estimates, if we pass this tax bill. In the range of $160 billion.

We are literally swimming in the red, any way you look at it.

We are drowning in the red.

What is the difference between drowning in 180 feet or 160 feet of water?

We don't need to raise taxes.

I am not going to swallow this kind of logic.

I am not going to vote to increase taxes on: Businessmen, savers, and investors—millions of Americans across this country.

I urge you to do the same.

I am doing what I was sent here to do—voting to cut taxes.

I came here in 1981 to help provide a different kind of leadership.

I urge you to join me in voting No—against "business as usual."

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas (Mr. BETHUNE).

Mr. BETHUNE. Mr. Speaker, I rise not in opposition to the President, but in support of the beliefs that led me to run for Congress in the first place and the beliefs that I think are essential to economic recovery in this country.

Many say loyalty is the reason to support this tax bill, that we should not resist the President, should not interfere with his plan for the economy, or that we should not oppose because it will limit his ability to govern.

Mr. Speaker, the opposition here does not come from me and it does not come from the gentleman from New York (Mr. KEMP). It does not come from the gentleman from Georgia (Mr. GINGRICH) or the gentleman from California (Mr. LUNGREN), because today in modern politics it is not a struggle among men. It is a struggle of forces.

The opposition to this tax bill comes from the people. The people intuitively know that we have reached a crossroads in this country and that economic growth is the key to the success and the prosperity that we all wish for. If we give way to the excuses and the elitist arguments that are now advanced to support this tax bill, then we are going to wind up, just as Michael Harrington, who wrote "The Twilight of Capitalism" predicted, inexorably to socialism.

Our system was designed to insure limited government and that is why we have the checks and balances that we do. If you want more government, if you want efficiency, speed in the way this Government operates, then see your role here as one just to ratify whatever the Executive wants.

If, on the other hand, you believe that this people's House has a higher duty than to just ratify the Executive, then listen to the commonsense of the people. Here is what they are saying and here is what they are saying to you and here is what they know. You cannot get people to work, save, produce and invest, by taxing them more. You cannot get economic growth and balanced budgets by raising taxes. Congress will not use new tax money to reduce the deficit. It will just spend it. You do not raise taxes in a recession.

The problem is not fiscal. It is monetary. That is what the people are saying. That is what they have been saying for 200 years.

Listen to the people. Do your duty as a representative in the people's House. Vote down this tax bill. This will not hurt the President, to vote down a $230 billion tax increase. This will strengthen the President, because it reaffirms the mandate that the people gave him in 1980.

The people want this House and this President to do the things that they elected him to do in 1980 and that is to get the tax burden off the people, stimulate the work, savings, production and investment that will cause economic growth, that will bring revenues to the Government and that will cut down on the drain of Government which is caused when people are out of work. That is the key to economic success in the country. That is what we need to do.

Let us do what the people are sending us here to do, keep the tax burden down, keep the regulatory burden down, stay on course, do not give way to these flimsy excuses that are being advanced here to continue the policies of the past.

Hold fast and do your duty.

□ 1315

Mr. CONABLE. Mr. Speaker, I now yield 5 minutes to the gentleman from Texas (Mr. GRAMM).

Mr. GRAMM. I thank the gentleman for yielding this time to me.

Mr. Speaker, I would like to address two questions. No. 1, where did the deficit come from? No. 2, where did this tax increase come from? And finally, I would like to talk about the choice we face here today.

Mr. Speaker, we wrote a budget in May a year ago that set out a path toward a balanced budget and reduced Federal spending. In that budget, we assumed that after 18 months of economic stagnation that we were going to have a steady economic recovery. Those same assumptions were present in the House Budget Committee's budget; those same assumptions were made by CBO and OMB and every economic consulting firm of any stature in America.

The only problem was that, crippled by high interest rates, the economy fell into a recession 5 months before any budget cut or any tax cut went into effect. As unemployment went up, as economic growth went down, the deficit soared. A 1-percentage point rise in unemployment sends the deficit up by $38 billion.

So the American people went to bed one night looking at a $42 billion deficit. They woke up the next morning, I am sure at least as they perceive it, and the deficit was over $150 billion.

The question now is: What are we going to do about it? I have heard people call this Ronald Reagan's tax package. That is not true. If you look at the February 8 budget Ronald Reagan sent to this body, a budget that called for $6 billion in new revenues in 1983, $13 billion in new revenues in 1984, $13 billion in new revenues in 1985, all coming from closing of loopholes in the Tax Code, the President asked for $350 billion of spending cuts.

This body and the other body rejected the President's program out of hand.

We have an alternative presented by the Budget Committee that called for $151.9 billion of taxes, an actual increase in entitlements by putting back some of the cuts we made last year, and no significant reduction in discretionary spending.

We were not able, through the first round, to adopt a budget. In the second round, we fought for 6 weeks to come up with a budget that did two things: That, No. 1, had a low deficit; and that, No. 2, did not raise taxes beyond acceptable limits; and finally, one that had acceptable levels of cuts.

After all that effort, we adopted the bipartisan recovery budget that called for $98 billion worth of new taxes in terms of the revenue figures carried in that budget.

So whose tax increase is this? It is our tax increase. We have already voted on it once when we adopted the budget.

Now, there are those who keep saying, "Let us cut more. Let us cut more." I am willing to cut more. I voted for the Rousselot amendment. I voted last year for the Gramm-Latta budget, and when we had the vote on minimum benefits for social security, I stood up with five other people to stick with those cuts.

I would like to know where all these cutters were when we voted on eliminating the minimum benefit on social security. The plain truth is, we could not cut any more and get 218 votes.

I was once asked by someone in the media how I decided how much to try to cut, as if there was something arbitrary about it. I pointed out it is pretty straightforward. It takes 218 votes to pass a budget. If we get 219, we did not cut enough; if we get 217, we got greedy and we did not get anything. We passed the budget by two votes.

I say how much we cut is now an old, dead issue. We cut as much as we could.

The question now is: Are we going to live up to the budget we passed?

We conservatives in both parties have had the luxury for a long time to protest, to cast votes on the basis of what we wished the Congress and the country were really like. Now we have a tacit majority and the time has come

to stop the protesting and to start the governing.

We faced a hard choice, a difficult choice, an unpleasant choice. The choice is between raising revenues as a linchpin to get $280 billion worth of savings, or to accept a $200 billion deficit.

Now, I have never had one of my constituents come up and say, "Raise my taxes." My mail is running overwhelmingly against the so-called tax increase. But nobody is writing me saying, "Accept the $200 billion deficit" either.

We now have to make a fundamental decision, and I would like to address my final remarks to those who share my conservative philosophy: It seems to me we reach a point where we have to make a tough decision, and that is, do we want to be judged on the basis of how we vote or on the basis of what happens to the country?

For me, I think we have reached the point where we have go to go ahead and take the best budget we are going to get. I do not want to tell my grandchildren 50 years from now that "Everything went to hell in Washington, but I want you to know I voted against it every step of the way." I want to be able to tell them that in a critical time in our history when we had to make some marginal decisions to make things better, that I was willing to stand up and take the best we could get.

That is what governing is about. I urge my colleagues to vote aye and pass the budget package and the tax increase that we adopted.

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, having voted for the budget, I certainly will support the legislation before us which implements that budget. Frankly, I do not want to go home and explain why I voted to increase the fiscal year 1983 deficit by $25 billion—which is what a "no" vote could do.

At the same time, I have serious reservations about some of the provisions as well as the procedure we are following. I recognize that questions of constitutionality are settled by the courts, and I have no crystal ball to tell me what they will decide, but I must acknowledge serious doubts about the constitutionality of what we are doing. We now have a revenue raising measure before us—but it did not originate in the House as a revenue raising measure. In fact, the Ways and Means Committee never consider the tax provisions of this bill, nor did the full House—until today. I am glad that my colleague from Louisiana (Mr. MOORE) and others have taken steps to assure that these legal questions are pursued. I am disappointed by the failure of leaders on both sides of the aisle who support this bill to permit us to meet these procedural objections by considering this legislation in the normal manner in the Ways and Means Committee and in the House.

As to substance, my greatest problems are the withholding provision and the cigarette tax. As for withholding, the bill recognizes the compliance problem which exists for interest and dividends, but solves it in the most expensive, cumbersome, complicated way possible: through withholding, and an exemption system. It would be far easier for all concerned to beef up reporting requirements and give the IRS the resources needed for adequate matching and auditing.

As to cigarettes, I feel it is unfair to single out this product to bear such a large increase in excise taxation. Doubling this tax with no increase, for example, in alcoholic beverages cannot be justified; it amounts to discrimination against a single industry. Happily this 8 cents per pack increase expires October 1, 1985, unless extended through separate legislation.

Mr. Speaker, the conference report must be accepted as a package or rejected as a package. On balance the Nation will be far better off with the lower spending, higher revenues, lower deficits, and lower interest rates which will come from approval of this conference report.

Mr. GIBBONS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, a number of years ago, some person far wiser than I observed that there are no final solutions to the problems of mankind; that we try to solve them as we go along. What we are doing here today is providing the best solution that is available to us at this particular time and moment in history.

I think it is wise to reflect on where we have been in the last 2 years.

Over a year ago, we stood in this Chamber and made certain budget decisions to decrease revenue and to decrease expenditures. Early this year, we came to the conclusion that despite our efforts last year, realizing that there may have been some excesses in our activities last year, particularly on the tax reduction side—and the tax reductions last year were huge—we came to the conclusion that the budget deficit facing us, and this was a consensus conclusion shared by the President, by his Office of Management and Budget, by the Senate, by the House, the Budget Committee recommendations, and the Congressional Budget Office, that the deficit was $182 billion that we faced for fiscal year 1983.

Also, that the outyear deficits were far greater than that.

The obvious result was that people who work in the marketplace which controls the economic destiny of this great country decided that that was an intolerable amount of deficit to face.

So in an attempt to cure some of the excesses of last year, particularly in the Tax Reduction Act, and to make prudent trimmings of the expenditures, we find ourselves here today.

What does this bill do? This bill, for the immediate 3 fiscal years that face us, will reduce expenditures by about $17 billion. That is a correct score by the Congressional Budget Office. That is a correct score by the Office of Management and Budget.

It will increase the revenue side in the next 3 fiscal years by about $98.5 billion. Now, these are estimates, because no human being can exactly predict the interaction of the economy and these tax laws, but they are the best that humans can do.

There are some things we should look at. One of the things that we learned after last year's large expenditure reductions is that people were concerned about the outyears and the impact that would have upon the amount of money that was out there to be used in the private capital market.

Some of the provisions of this act—and I would call Member's attention to the conference report on page 691 to what happens in the outyears—we gain a substantial amount of revenue pickup because of some of the mistakes that were made—and they were honest mistakes—in last year's tax bill. Where, in the first year, we pick up $20 billion in revenue, by 1986 we are picking up $63.9 billion in additional revenue. The detail of that is spelled out in the report.

That, coupled with the expenditure cuts, should reassure those who work in the marketplace, not just the stock market, but the big marketplace that runs the economy of America, that we are sincere about trying to match our outgoes.

Mr. FASCELL. Mr. Speaker, will the gentleman yield to me?

Mr. GIBBONS. I yield to my colleague, the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding to me.

Mr. Speaker, I want to rise in support of the conference report and associate myself with the remarks of the gentleman in the well and compliment him and the conferees for having done an excellent job.

I agree also, Mr. Speaker, that after a close examination of this matter, I do not believe we have a real choice. We have to make a decision here whether we like less tax revenue and less taxes or whether we are going to live with over $600 billion of deficits in the next 3 years projected at a cost that would be phenomenal to the economy, much less the actual cost of carrying that debt.

I see no choice, and I am one who did not vote for a $732 billion reduction in revenue, because I thought it

was too big a cut too rapidly. Revenue cuts should have been phased in with expenditure cuts. In that way we would have avoided the huge deficits we now face.

I have voted for expenditure cuts and will continue to do so, even below the level of those requested by the President. But these cuts cannot be made all at once—we all know that. Furthermore, the President did not submit a balanced budget. It contained almost a $100 billion deficit. Now, because the economy did not perform as expected, together with the greatest military expenditure increases in the history of the country, plus the tremendous loss of revenue with the largest tax cut in history we find that we will have the largest deficits in history for the next 3 years. We must reduce these deficits. We must move toward a balance budget. We must cut expenditures. But we must also have enough revenues.

So, I agree with the President, that it is absolutely essential that we support this bill.

Mr. GIBBONS. Mr. Speaker, I thank my colleague for his wise remarks.

□ 1330

There has to be a bottom line in every argument, and the bottom line in this argument, as far as I am concerned, is this: I do not believe America can endure an additional budget deficit over and above the budget deficit we are going to have over the next 3 years of another $115 billion. If anyone in the room really, sincerely believes that, then he sincerely ought to vote no, but I think the strain on our savings, our capital markets, and everything else would be so horrendous that we would go into an even deeper recession than we have now, and we would destroy all confidence in our Government and all confidence in our economic system. So, I would urge my colleagues, when this bill comes to final passage, to vote aye.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to a valued member of the committee, the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. Mr. Speaker, shall the House recede and concur with the other body on a massive, complex, thousand-page bill to raise taxes? Or not?

Some say we should. Some say we can heal the ailing economy and energize its struggling signs of revival by this massive reverse transfusion of taxes out of its weakened vital parts. Some say the only way to raise $98 billion over the next 3 years is to set aside the Constitution and the rules of the House and the prerogatives of the Ways and Means Committee; and instead defer to the judgment of barely half the other body and only six of our own colleagues, swallow hard, and look the other way, and vote for this conference report to H.R. 4961.

I disagree.

In the first place, that House bill number and its enacting clause are the only part of this bill to originate in the House of Representatives, article I section 7 of the U.S. Constitution to the contrary notwithstanding. None of the provisions relating to revenues, not one, is a part of any bill reported to the House by the Committee on Ways and Means. Not one.

What is more (or perhaps I should say: What is less), the House not only did not originate this tax bill, but we have not even reviewed it, studied it, considered amendments, or modified it in any way in the House or in the committee charged with jurisdiction to which, for some reason the Senate bill sporting the purloined House number was referred.

Most of the public debate so far has dealt with the broad, general issues of public policy and revenue aggregates. Very little has focused on the specific provisions of the bill—and for good reason. After all, how can any news or editorial account deal with more than three or four issues at a time? There are over a hundred important changes in the Tax Code scattered through nearly 700 pages of this bill. The outlines available until today could not describe all the ramifications of these hundred provisions.

Most Members are aware of the issue of withholding on dividends and interest, but few know that the same will apply to pension benefits. In the rush to rescue the former, no care was exercised on behalf of the latter. As for failure of some to report such income and pay taxes on it, all that was required was to impose stricter reporting requirements, with triplicate 1099 forms to be attached to your Federal and State tax returns, just like your W-2. That would have garnered half the revenue of this provision. Beyond that, withholding is another way to take money directly out of the savings pool.

Is that going to strengthen our economy?

Another provision which directly damages the business recovery is the doubling of the unemployment tax levied on employers. This is not needed to finance the extra weeks of benefits, for that is covered by another tax on unemployment benefits. But small businesses and other employers in labor-intensive industries like our textiles will be severely damaged by doubling the tax. It is another higher fixed cost which must be paid even when you are unprofitable.

No wonder the National Federation of Independent Business is against this bill, 7 to 1, because of this one measure.

There is another provision, though, that is even worse for them and their employees. That is the package of changes to severely restrict pension funds. The Senate bill was more modest, dealing only with limiting the tax benefits for very high-income individuals and limiting the amount they could borrow from their own pension fund. The conference report went much further. It will seriously impact 92 percent of all 600,000 pension plans in this country. It will terminate an estimated one-third of them. That is worse than ERISA. Those that survive will have to file extensive amendments and reports, at a cost of $2.5 billion.

That is probably the worst achievement of the bill.

Then there is the severe erosion of the recently enacted accelerated depreciation incentives. The biggest change is the cancellation of changes now scheduled for 1986 and 1987, raising $28 billion in those 2 years alone. Ironically, if that is an adequate word, this major change will produce only $1 billion in the 3 years of the budget resolution to which this tax bill is a response. This will levy $20 billion a year in the outyears, in order to boost the first 3 years' collections by a mere 1 percent.

No wonder the business community is unhappy with this bill. This gives them unappreciated deceleration instead.

Next on my list is the doubled excise tax on cigarettes. This was done, we are told, to avoid levying any similar tax increase on whiskey, wine, beer, or even cigars. All these were exempted. One product was singled out as the fall guy.

"Don't tax you;
Don't tax me;
Go tax the fellow
Behind that tree."

Yet, instead of a 100-percent tax increase on cigarettes alone, just a 25-percent increase spread over the whole group of products would have afforded the same revenue, at a lighter burden on any one.

No wonder those of us in the southeastern tobacco States are opposed to this unfair provision. We have been told by House conferees that they did not need our votes for this bill, that we were isolated, and that we would stay that way.

Another unheralded but damaging provision is that dealing with completed contract accounting. The intent is fair: to tax the early-year profits on a multiyear contract. The gentleman from South Carolina (Mr. HOLLAND) pointed out that it would be unfair to require such a contractor who had not yet been paid to have to borrow money to pay the tax on earnings not yet received. He was right. His amendment to correct this was disregarded.

Then there is the unhappy insurance industry. Lured at first to endorse a tax of $1 billion on their busi-

ness, they helped design a way to do it without disrupting the competitive balance between stock companies and mutual companies. This bill overreaches that mark and does disrupt that balance. Yet they gamely support the bill for fear they will be treated worse if they do not.

My colleagues, these are not trivial little parts of this tax bill. These seven provisions make up $38 billion worth, or about 40 percent of the $98 billion total.

There are other features that should have had closer attention. The "grease payments" have already been mentioned. The compliance features have some merit, but how will you feel if your tax accountant is obligated to flag your return for an audit for any deduction that was previously routine and unchallenged by IRS, but for which there yet is no revenue ruling.

Surely there should have been some hearings on these and other measures; but there were not.

Accordingly, I must regretfully oppose this bill in this form; insisting that we start over. We should return to the Committee on Ways and Means and more carefully and correctly do the job we were elected to do.

The SPEAKER pro tempore (Mr. BOLAND). The time of the gentleman from North Carolina has expired.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, we have nothing before us today but tough choices, that will test our mettle as legislators. Before I explain why I think we must support this bill, I would like to take a moment to thank Chairman ROSTENKOWSKI and the ranking minority Member of the committee, Mr. CONABLE, and indeed Senator DOLE, for producing what I think is one of the fairest tax bills to come before this House in the 10 years I have served.

This bill is not going to make anybody happy, be they conservatives, liberals, businessmen, Federal workers or average citizens. All will have some additional burden placed upon them. The value of this legislation and the reason I am supporting it is that it will go a long way toward lowering the deficits which are the cause of increased interest rates, the decline in housing and auto production and leading us into the highest unemployment this country has seen since Hoover's depression. Many of the provisions of this bill reverse tax loopholes on those who have benefited from the unjustified 1981 bill.

One increase over last year will be about a $500 million increase on the General Electric Corp., which made a profit last year of $2.6 billion on which they not only paid no income tax, but they got a check back from the Treasury for $100 million. This bill will cause General Electric to pay the $400 to $500 million that they rightfully owe in taxes, and General Electric is supporting the bill because it is closing a loophole that serves no economic benefit.

The legislation contains a number of provisions to improve taxpayer compliance—it will hit the cheaters, those who create tax shelters, those who do not report income, and those who create phony deductions. These people make a sham of the Tax Code which honest, law-abiding citizens support and participate in. That is where the taxes will be raised.

One of the big items is withholding on interest, about which I think there has been a lot of misunderstanding. The cost to the savers in this country is extremely small. Elderly couples with incomes of less then $22,000 a year are exempt, as are low income couples making less than $12,000. The loss of interest on interest that withholding entails is less that $3. on a $10,000 account.

"But the cost to banks," they say, "will be high." Let me tell the Members that is nonsense. For any Members who have stuck their little plastic in the talking teller and had the teller tell them what their balance was or what their overdraft is, how much they weigh, what State they come from or how much their car payment is going to be; they know that same machine can move a decimal point one point to the left and record the interest deduction. If the machine cannot do that, then my faith in the banking system is completely destroyed.

So, do not be frightened by withholding or compliance. The real question is, do you want to lower car payments from 18 percent and lower mortgages below 17 percent. But, we all have to give a little to get a little. To save the third-year tax cut, you are going to lose safeharbor leasing—which was not even in Kemp-Roth.

The oil companies gained $11 billion last year, and they gave back $2 billion this year.

You give up $300 million in child support enforcement which is used only by 12 States and 2 million workers are going to get extended benefits.

Some people will have small increases in medicare. On the other hand we save $400 million in title 20 that goes to senior citizens and the disabled.

Mr. Speaker, there is something in this bill for everyone to dislike, I personally do not like the increase in the medical casualty deduction or the cuts in medicare, but more than anything else, I dislike our dead-in-the-water economy with its high interest and unemployment rates. This bill is just one of a number of difficult actions that we are going to have to take to restore health to the economy. Without it, deficits will rise, vital Government services will suffer, and interest rates will skyrocket. Mr. Speaker, no one will love us for this bill, but in the long run all of us will benefit from it.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the gentleman from New York for yielding this time to me.

Mr. Speaker, I remained undecided on this tax bill until this very morning. I realize that there is a lot of opposition to the bill from people in my congressional district, and I would say that most of it relates to a provision which the gentleman who was just in the well referred to, the income tax withholding of interest and dividend provision. I do not like that provision in the bill either, and I have said so to the President on three different occasions. I said so to Senator DOLE and Chairman ROSTENKOWSKI. I suggested as an alternative that we ought to consider placing a tax on alcoholic beverages. I think we make a mistake when we do not lay a glove on alcoholic beverages. I would say that 90 percent of the people in my congressional district would support that view. I asked the Joint Economic Committee to give me an estimate, and they said that doubling the tax on a gallon of distilled spirits from $8 to $16 would produce $10.3 billion in new revenue. To me, that would be far better than withholding taxes on interest and dividends.

May I say at this point, however, that there has been a considerable amount of accommodation with reference to the withholding provision, which I appreciate, but misunderstood or not, the withholding provision on interest and dividends is not being well received. So, the provisions of this bill would have been different if it were my bill. I am aware of some of the political vicissitudes which have come into this, and I might say that I congratulate those who did bring the bill to the floor today.

I did not make my decision easily, and I did not make it until this morning for two reasons, one of which I have stated. The other was, I wanted to hear from the people in my congressional district. I would say that on Monday 62 telephone calls came in; 31 were for and 31 were against. Altogether as of noon today, 416 people have called or sent telegrams; 235 are for, 181 are against. So, I would say that people in my congressional district have said, "Congressman, this is a tough vote and you are going to have to make up your own mind."

No one knows for sure how the economy is going to respond, but many people whose judgment I respect and who run successful businesses with many employees say they are worried not so much about what the impact

will be this year, but what the impact will be in the outyears, and that bothers them, and that bothers people in the market. Well, I would say that the deficit will surely worsen and the bond markets will undoubtedly head for new lows, causing more unemployment and higher interest rates, if this bill is not passed. I do not necessarily think it is a good bill, but I am absolutely convinced that we have no alternative. Besides, when in doubt, I say vote with the President.

Mr. CONABLE. Mr. Speaker, I now yield 2 minutes to the distinguished gentlewoman from California (Ms. FIEDLER).

□ 1345

Ms. FIEDLER. Mr. Speaker, the debate on the tax bill reminds me of an old story that I heard from a friend who had been in the service, and perhaps some of the Members have heard it as well. It goes something like this:

The top sergeant walks in and says to a private "do you see that group of rocks? I want you to move them from here to over there."

When he has moved them over there, then he says, "I want you to move them back over there."

That is essentially the way I see the tax bill itself. What we are asking for is to make major shifts in the way in which people invest their money, because that is exactly what will happen. If we plug up a loophole in one place, people who have substantial amounts of money will take those funds and put them into a tax-exempt or tax-reduced investment. Ultimately it becomes the average person who, without the sophisticated assistance of attorneys and financial consultants, end up having to pay the bill. It is with those individuals that I am particularly concerned, and so I plan to vote against this bill.

First of all, I would like to speak just very briefly about withholding of interest and dividends. Most of the money in savings and loans today happens to belong to individuals who are senior citizens. They need the meager incomes that they get from the extra interest that they earn. To put an additional penalty on them by denying them the right to have all the funds they have worked hard for—and paid taxes on, I might add—is simply unfair, as far as I am concerned. If they would take those 5,000 IRA agents they plan to employ and put them to work trying to uncover those individuals who have not been honest and not reported their dividends, and interest then they would not need to take these funds away from honest taxpaying individuals.

Another area, I think, particularly affects senior citizens, and that is the medical deduction. Why should we be penalizing individuals who have suffered ill health by changing the medical deduction?

The SPEAKER pro tempore. The time of the gentlewoman from California (Ms. FIEDLER) has expired.

Mr. CONABLE. Mr. Speaker, I now yield 1 minute to the gentleman from Virginia (Mr. BLILEY).

Mr. HAGEDORN. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. Mr. Speaker, I rise in opposition to the legislation.

I do not believe I was elected to Congress to lower taxes and then reimpose the taxes on the American people and retreat from curtailing Federal spending.

The way to economic recovery cannot be found by imposing tax burdens and regulations on our citizens and the Nation's businesses. As much as I would like to support our President, I have yet to be convinced that the measure we have before us today will reduce interest rates or create new jobs in the private sector.

I believe we can best reach a balanced budget through further spending cuts and reductions in the size of the Federal Government. It seems to me that every time we raise new tax revenues we only create another excuse for the majority in Congress to find new ways to spend tax dollars.

Last year our order of business was to cut and simplify taxes. This year we are being asked to change direction and pass a bill to raise and complicate taxes.

The legislation before us is neither all bad or all good. I wholeheartedly support some of the provisions, but there are far too many that are objectionable.

I question the constitutionality of the legislative path which this bill traveled from House to Senate and back. I further object to the fact that a rule was not granted to allow a separate vote on the withholding provisions which my constituents have strongly opposed. Had there been an opportunity to vote on this provision separately, as I urged the House Rules Committee to do, then many of my colleagues and myself might have supported this bill.

I do not believe we should impose new Federal regulations on our Nation's financial institutions and over 50 million American savers. This runs contrary to the need to encourage savings and investment.

Other features of the tax bill which I oppose are the change in medical deductions, the telephone excise taxes and new regulations requiring restaurant owners to report estimates of their employees' income from tips. I also believe it is unfair to burden the airline users or industry at this time with heavier taxation.

This is not to say I do not support adjustments. Many elements contained within this legislation are necessary and important steps in the right direction. I would have gladly supported these measures if given the opportunity to vote separately on them.

Last year's tax bill was overzealous as we all know. Safe harbor leasing led to many abuses and needs to be repealed. I support extension of the HI social security tax to Federal workers who reap the many benefits of our medicare system in their old age.

Industrial revenue bonds and tax preference items have been the source of much abuse in years past. It is time we cracked down on compliance. I certainly have no problem supporting tougher penalties for those citizens who defraud their government.

I support these measures and wish that I had an opportunity to vote to enact these good provisions into law. No legislation is ever perfect. We must always weigh the good against the bad. Unfortunately, in this case, I find the bad outweighing the good.

The economic events of this week are of great interest to us all. I believe all Members on both sides of the aisle sincerely hope that Wall Street's good fortune is a positive sign for the future. If I only had some small guarantee that the upswing was a result of congressional action, this bill, and the measures I strongly dislike, would be a small price to pay for economic security. If I could guarantee my farmers and small businessmen that this bill would lower their interest rates, I would be the first one to register my aye in favor of H.R. 4961. However, I cannot with conviction say that and therefore, I must regretfully oppose the entire bill.

Mr. BLILEY. Mr. Speaker, only 3 months ago this House came very close to passing a budget, presented by the gentleman from California, Mr. ROUSSELOT, and others, which would have been very nearly balanced, rather than over $100 billion in the red. That budget failed by a margin of only a dozen or so votes and it proved to me that there are still too many excess programs and grants in the Federal budget.

It is remarkable that that budget included no tax increases. That is why I know that the proposed $228 billion tax increase which we have before us today is just plain unnecessary in addition to being a disaster for the economy.

President Reagan himself noted recently that you should not raise taxes in a recession. Even if you believed that this bill only closed loopholes, it would still be taking money out of the productive sector of the economy and giving it to the Government.

But the details of this tax increase are not just loophole closing, they truly hurt people on an every day, personal level. This bill will double the Federal cigarette tax from 8 to 16 cents; and I might add if you smoke that is a couple of dollars right out of your pocket every week. This tax bill would triple the Federal telephone excise tax—an unfair tax that at one time had been scheduled to disappear altogether.

This tax bill would establish a new tax on interest from savings accounts at a time when savings institutions are in trouble, and we are trying to create new capital and lower interest rates. That tax would be particularly harsh on the retired, who are trying to get along on savings they have accumulated over a lifetime of work. Last but not least, this bill would raise the tax on employment—the tax on jobs, most of which would leave my State to fund benefits for people elsewhere.

In other words, every time you smoke a cigarette, every time you use the telephone, every time you put money in a savings account, and even every time you go to your job this bill would tax you. That is just not the kind of medicine the economy needs.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. DOWNEY), a very distinguished member of our committee.

Mr. DOWNEY. Mr. Speaker, I would like to begin by making a prediction. It is not one I make happily, but it is one that I want to be held to. This will be the first of two major tax increases or revenue raisers that this President is going to have to make.

I say to those Members who want to vote against this one, imagine what the second one will look like. All you have to do, if you are serious, is to take a look at the size of the deficit in the next fiscal year, in 1984 and 1985. Take a look, and you will see that if we do not raise revenue or decide to cut entitlements or the military in a massive way we will have to do away with the rest of the Government. All of the discretionary portions of the Government will have to be eliminated if we want to come near a balanced budget.

Now, we are not going to do that. No one wants to do away with the FBI or student loans or the National Park Service. We need this money in the next few years to govern this country.

We have to have a revenue base that will provide us the money to do the things that we all agreee need to be done—providing a strong national defense, minimal health care for the poor, and a recognition that the National Government can provide help and comfort to individuals and industry.

This also is a question of leadership for all Members of Congress. Who shall govern this Nation? Is it the people of this country, or the special interest?

During the last 5 days the tax lobbyists have more than earned their keep. Bleary-eyed, they stayed outside the halls of the Ways and Means Committee and the conference room to work their will. The conferees resisted. They recognized that there was a higher calling, and that calling was to try to staunch the flow of red ink. They have done that. They have bitten the bullet. Now it is our turn.

We need to support that effort because the people come first, not the special interests, and that is also the message in this bill.

When one takes a look at the substantive side, there are three things that the tax policy Members need to keep in mind. Changes in the tax law should attempt to be neutral, simple, and equitable. This bill meets two of those important tests.

It is not simple, but I think until we rewrite the whole tax code, we can forget about ever being simple. But it does move toward neutrality, and it does move toward equity. It broadens the tax base.

Corporations will now have to pay taxes. it will not be like it was last year, when they paid taxes like their contributions to the United Way. They paid that which they wanted to pay. They are going to have to pay taxes. This makes the tax base broader so that the rates potentially in the future will be less for all of us.

It is neutral in the sense that we have, with the ACRS changes and the other business changes, decided that the tax code should not be the impetus for one type of business investment over another, but business persons should be able to make those investments by themselves based on what is in their economic interest, not on what is a tax advantage or a tax penalty.

So the bill meets two of the three important tests of good tax legislation, but, more importantly, it is a recognition on the part of the members of both parties that this is something we need to govern our country. It is that simple.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, in rising to support H.R. 4961, I am conscious of the numerous provisions of this measure affecting virtually every segment of our society. The issues involved in many of these provisions are controversial with highly vocal interests expressing themselves on opposite sides of these issues.

The substantial additional revenues which will result from the provisions requiring the withholding of taxes on certain interest and dividend payments will, in turn, impose burdens upon those who withhold and transmit these tax revenues to the Government.

The delay in the application of these provisions until next July and the authority to compensate for some of the costs of installing this withholding and reporting system are designed to ease the burden on those agencies which will be involved in complying with these provisions. Also, I note that most older Americans and those with limited incomes will be exempted from these provisions.

Without endeavoring to discuss the multiple specific provisions of this measure, let me refer to that part of the bill relating to the subject of possession credit limitation. The provision will modify substantially the tax advantages granted to many American companies which established manufacturing plants in Puerto Rico. While any withdrawal of these advantages may seem unfair, the measure before us has been modified so that it will have only prospective application, and will withdraw as a tax credit only income attributable to intangible assets such as patents and trademarks. These provisions will give some relief. However, the increased cost of production which this change in the law will cause may, indeed, be passed on to consumers. Furthermore, this part of the bill may result in a reduction in employment in Puerto Rico, which was a major objective of the possession credit limitation in the first place.

Finally, Mr. Speaker, I feel that this measure is a clear demonstration that this administration and the Congress are determined to put our governmental economic house in order. That goal is basic to the health of our entire economic, social, and political system. By advancing this tax measure, the President has acted with courage and with a firm conviction that our Government must continue to move in new directions toward greater fiscal responsibility. More opportunities for the private sector to expand, reduced Federal spending, lower Federal deficits, and all of the ensuing benefits which these policies can, and will, produce.

Mr. Speaker, I commend President Reagan on his leadership and our House and Senate leaders, particularly Senator BOB DOLE of Kansas and my colleague Congressman BOB MICHEL, for their tremendous efforts in behalf of this landmark measure. The people of the Nation, at all economic levels, will be the beneficiaries of the action which I expect will be taken today on this measure.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I rise in support of this legislation.

Mr. Speaker, in my 14 years in this House, I have never heard a single one

of my colleagues praise the exhorbitant national debt. Nor have I heard anyone say that we should not have balanced budgets. Has it been lip service?

The House voted for the budget resolution just a few short months ago. Even though we felt the deficit was too high, we still voted for it because it was a beginning toward a balanced budget.

The reduction in the deficit, according to this resolution, was a combination of reduced expenditures and increased revenues. Many of us have fought hard to reduce those expenditures.

We are called today to vote on the other side of the coin, increased revenues. Nobody likes additional taxes, but we must act responsibly. The budget resolution, which most of us voted for, called for a $20 billion increase. To vote against it today would be like hiring an orchestra to play at a dance, enjoy dancing the evening away, but when it came time to pay for the music, we refused to do it. It is time to live up to our commitment of a balanced budget.

To the Members on our side of the aisle, we have long told our constituents that we have the means to responsibly put this country on course. We have told them that we will make our decisions based on what is right, not on what is the best politics. We promised them a new beginning. And we told them the time is now. My friends, there is only one rational decision we can make and that decision is to pass this bill. And the time is now.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Speaker, last week I had lunch with a former Member of this body in the House dining room who told me that he was drawing $78,000 a year in pension benefits from the Federal Government. Those pension benefits are due to increase this year 7 percent.

Yet, what does this act do? This act denies to the private sector of this country adjustments for cost of living. It fixes once and for all at $30,000 a year the maximum contribution to a defined contribution pension plan.

It triples taxes on general aviation.

We ought to read this act before we pass it. It provides for withholding on pensions under section 334 unless people file a certificate to be released from these provisions, and it does nothing to address the real problem that the Federal Government next year will be spending a greater percentage of our total economy than it was at the height of World War II.

What this Congress lacks the courage to do is cut our own generous pensions; instead we impose another burden on an already overtaxed citizenry.

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, this is Stick-It-to-the-Consumers-and-Constituents Day. I do not want anybody in this House to think that, boy, we are really socking it to business today with this bill. The main price of new taxes contained in this bill will be paid for by the consumers of this country.

All of these taxes will be paid for by consumers and constituents in our districts, because the Members know as well as I do that corporations pass those taxes on to us and our constituents.

So I say to the Members, if you want to stick it to the consumers and your constituents today, vote for this bill.

Now, one of my colleagues from this side of the aisle just said that this is not Ronald Reagan's tax bill. He is dead right. This is not President Reagan's tax bill. When he came originally to the Ways and Means Committee, he had a package of roughly $13 billion. This is not his tax bill. It has been added by the other body, and we have acted unconstitutionally, as the Members well know. This constitutional issue will be discussed, I believe, by others.

Mr. Speaker, I do not support this bill, and I want to quote Ronald Reagan, whom so many of my colleagues here are so extensively quoting today. Finally you are quoting President Reagan.

Ronald Reagan, our President, said in March of this year before a group of public officials in Los Angeles, Calif., the following:

> And bear in mind, they (the deficits) would not be significantly reduced, if at all, by raising taxes, which is the common element in most of the curb-the-deficit proposals that are being bandied about. . . . A tax increase now might well stall recovery further, suppressing tax revenues and ensuring permanently high budget deficits.

That is President Ronald Reagan this year in California. He was right then, and I believe that statement is right for today's situation. So I encourage my colleagues to vote down this tax bill which "sticks it to the consumers and to our constituents."

Make no mistake about it, every tax dollar raised in this bill will be passed on to our constituents and our consumers. We are not kidding anybody.

Let me now list other reasons why this gigantic tax bill is defective:

This bill represents tax deform, not tax reform. Any legislation that permits tax deductibility of corporate bribes hardly can be called a reform measure.

The claim may be made that only 17 percent of the Senate-passed tax bill's provisions place additional burdens on individuals. However, it can be shown that a typical middle-income taxpayer could be liable for $810 in additional taxes and lose $1,750 in benefits as a result of the changes this legislation makes.

There is no credible economic theory which argues that tax increases in the midst of a recession are proper medicine for the disease.

Tax increases cannot produce lower interest rates. Additional taxes crowd productive dollars out of the economy in the same way that higher deficits do.

The increased compliance aspects of the tax bill which are one of its principal selling points will in fact result in a regulatory nightmare that will further undercut a weak economy.

The biggest so-called revenue raiser in the tax bill, the withholding of interest on dividends and savings, is in fact a revenue loser. Any new revenues generated by this provision will be more than offset by the deductions which banks and other financial institutions will be able to write off as legitimate business expenses for doing all of the extra paperwork involved.

Reducing red ink in the budget does not take place because we raise taxes. The history of the last decade proves the point. Deficits can only be dealt with successfully in a climate of economic growth. Tax increases deter growth and only spending cuts are consistent with governmental actions which both promote growth and reduce deficits.

New jobs are not created by higher taxes. New jobs are created by more investment. Increased taxes and increased investment are completely incompatible.

Even the administration admits that the Senate-passed tax bill does not protect all of the accelerated cost recovery provisions which were a cornerstone of the President's original proposal.

I urge my colleagues to vote no.

Mr. MYERS. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Indiana, a member of the Appropriations Committee.

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding.

That same President last year told the American people this: That if Congress does not have the money, they cannot spend it. So why are we doing this now?

Mr. ROUSSELOT. Well we should not I say not, be doing it. As the gentleman knows, and the American people as a whole do not favor this tax bill. The polls overwhelmingly show that, and I believe it is the wrong tax at the wrong time.

Let me share some of the data from the latest Washington Post/ABC News poll:

THE WASHINGTON POST/ABC NEWS POLL VIEWS ON THE ECONOMY AND THE NEW TAX BILL

Q. As you may know, Reagan called for public support of a tax bill now being considered by Congress. Reagan said it is more a tax reform bill than a tax increase bill. Would you say the bill is more tax reform or more tax increase, or don't you have an opinion on that?

	Percent
More tax reform	14
More tax increase	32
Mixture of both	3
No opinion	51

Q. Just your best guess: Do you think the tax increase bill would make the federal tax system fairer for all Americans or not?

	Percent
Yes, it would make taxes fairer	29
No, it would not make taxes fairer	52
No opinion	19

Q. Would you say you approve or disapprove of the tax bill?

	Percent
Approve	35
Disapprove	54
No opinion	11

Q. Reagan cut income taxes last year. Now he is calling for new taxes. Do you think this means Reagan has lost faith in his economic program of spending cuts and tax cuts?

	Percent
Yes, he has lost faith	48
No, he hasn't lost faith	41
No opinion	11

□ 1400

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. Mr. Speaker, I have been given 2 minutes here to express a position which took me weeks and a considerable amount of gnashing of my own teeth to arrive at. That in itself is a fairly taxing experience.

Clearly this bill causes heartburn to those of us who came here to reduce the Government. It is a traumatic experience for those of us who happen to believe that one of the best ways to reduce Government is to simply deny it revenues.

When you look at the new Members of the Congress who arrived here with the 97th, at least on the Republican side, we came here with a purpose. That purpose was to slay the colossus that is known as the Federal Government. The purpose was to disassemble and put back together in a better manner this Government which is so out of control.

But the opportunity to do this in a single stroke has been lost. It was lost by this bill, but at a prior time when we had ultimate strength and we chose to compromise.

Now we are in the difficult task of house-to-house, trench-to-trench warfare. You can look on this bill as one confrontation in that effort. Consider it a lost battle, if you wish. But we still have a long way to go. And there is one fact which is abundantly clear, that this Congress has shown in vote after vote, under the leadership of this Congress, is not going to show the way. We need a viable Presidency.

Ladies and gentlemen, this Presidency is the last best hope to turn this Government, to slay this colossus. There is no question but that the Republican Party is in the position of leadership, that we are the party of ideas.

But in order to accomplish those ideas, in order to accomplish those goals, we must have tomorrow. Let us not forsake the leadership that got us here, the leadership which will take us to tomorrow.

Mr. GIBBONS. Mr. Speaker, I yield 4 minutes to a very distinguished member of our committee, the gentleman from Tennessee (Mr. FORD).

Mr. FORD of Tennessee. Mr. Speaker, I rise to commend the House conferees on the legislation which is before the House today.

I know there are those of us on both sides who might disagree with certain tax provisions of the bill. As chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means I would like to state, looking at the spending cuts, that the conferees worked diligently to try to keep intact the subcommittee budget decisions as well as the budget decisions of the full Ways and Means Committee. Again, I commend them.

Mr. Speaker, a number of States have indicated that last year's reductions in aid to families with dependent children, supplemental security income and public assistance programs within the subcommittee's jurisdiction were somewhat excessive. In addition, the administration appears to be insensitive to the work disincentive effect of its AFDC policies.

The House conferees attempted to restore the AFDC work incentives eliminated by last year's reconciliation legislation although their efforts were adamantly opposed by the administration and the Senate conferees.

I regret these changes were not accepted but I wish to thank my House colleagues for their strong support in this area.

Fortunately the conference agreement contains no reductions in title XX social services or any reductions in the low-income energy assistance program.

I also thank the House conferees for standing firm in opposition to most of the AFDC and SSI benefit reductions proposed by the administration and the Senate conferees. For fiscal year 1983, the conference agreement contains only $131 million in direct benefit cuts in the public assistance and social service programs under the Ways and Means Committee. This compares to $2.3 billion in benefit cuts proposed by the administration and $411 million passed by the Senate. In other words, less than 25 percent of the Senate benefit cuts were accepted by the conferees.

Mr. Speaker, I would also like to point out that the national unemployment rate is 9.8 percent, the highest level we have seen since World War II. One of every five workers faced some unemployment in the year of 1981 and the rate is still increasing.

Every month more and more jobless workers are competing for the shrinking number of jobs. Nationwide there are some 550,000 initial claims for unemployment benefits that were filed for the week of July 31.

The number of unemployed workers who have exhausted their unemployment benefits before finding work is increasing dramatically. Nationwide some 423,000 individuals exhausted their State benefits in June, which is 75 percent higher than the exhaustion rate in June of 1981. Over 175,000 exhausted extended benefits in June, which is twice as many as the year before.

Changes enacted in the last year's reconciliation bill have drastically reduced the effectiveness of the extended benefit program. Since June, 10 States have triggered off extended benefits and it is projected that 16 other States will trigger off in the very near future.

The conference agreement addresses the crisis faced by thousands of individuals who are out of work and who have exhausted State-extended benefits. It includes an emergency program that will provide some $2 billion in additional weeks of unemployment benefits between this September and March of 1983. Over 2 million jobless workers will be aided by this program, effective September 12, 1982 through March 13 of 1983.

Up to 10 additional weeks of benefits will be provided in the States in which extended benefits are being paid or have been paid at any time since June 1 of 1982.

This includes 38 States and the new program will largely restore extended benefits to those States. This program will largely restore extended benefits to these States. Further, these new benefits will go to workers in these 38 States which have already exhausted their extended benefits, whereas simply restoring the extended benefit program to these 38 States would not help those jobless workers who have already exhausted their benefits.

In States that have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals or exceeds 3.5 percent, up to 8 additional weeks of benefits will be provided. Up to 6 additional weeks of benefits will be provided in all other States.

The benefit and administrative costs of the additional unemployment benefits will be financed out of Federal general revenues. Therefore, employers will not incur any new financial obligations because of the program. Also, no portion of the cost of these additional benefits will be charged to already hard-pressed State unemployment trust funds.

Mr. Speaker, I call upon my colleagues to consider this provision within the bill that is before us today and act accordingly.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Pennsylvania (Mr. JAMES K. COYNE).

Mr. JAMES K. COYNE. Mr. Speaker, many of my colleagues have already given eloquent reasons to oppose this tax bill. I rise to add my voice to the pleas of others who hope for its defeat.

This is not a small bill, a simple set of painless measures that close loopholes and bring effortless compliance with existing law. Instead it holds a hidden snake, a very painful, permanent economic poison that will affect our economy and all Americans for decades to come.

I am, of course, referring to the proposed withholding of interest on dividends. Here our Government is extending the long arm of the IRS into the pockets of those Americans who receive these interest and dividend payments in a way that will discourage savings and investing for generations to come and at a time when we all know we need desperately to bolster our Nation's capital base.

At the same time, this withholding proposal will slow the drop of interest rates or perhaps even reverse the favorable trend we have seen over the past few weeks, and further crowd out the American saver and investor from access to capital markets they need if we are going to foster a recovery.

We often describe our Nation's source of capital as a "pool of savings." If that is so then this tax bill is going to siphon off those funds from that pool into the Federal Treasury.

In short, we are getting hosed.

Some say we need that siphon so that we can take the funds out of the interest and savings pool and put the money right back into that interest and savings pool, sort of like a perpetual motion machine that will somehow miraculously create a recovery of our economy.

□ 1410

Nonsense. If we drain that pool via increased interest and dividend withholding, it is just as catastrophic as draining the pool by further increasing the national debt or increased Federal borrowing. In either case, our economy will continue to suffer for the months ahead. Is it fair to punish all American savers permanently for decades, if not for centuries, just so that we can achieve a short-term gain in the revenue collection process of our country? Obviously it is not.

This withholding proposal is a phony "tax enhancement." It is a step which cannot easily be reversed. It is a course of action we will all come to regret.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Speaker, it is not with pleasure that I take the floor today to oppose H.R. 4961. As Members know, I have been one of the strongest supporters of the President in this body and, very frankly, I would like to support him today. But not even the President can persuade me to vote for something that I think would be bad for my district, my State and, yes, the Nation as a whole.

Mr. Speaker, I have several problems with this bill beginning with the way the House abdicated its constitutional responsibility to originate revenue raising bills, and thus eliminated any chance for House Members to have input into any of the specific provisions in this nearly thousand page bill.

Now, I tried in good faith to clean up some of the provisions I thought were most onerous. I was one of those who met with the President on several occasions to seek a compromise, and the President was most forthcoming. He and the Senator from Kansas and the Republican House conferees worked for such changes as sunsetting the increase in unemployment taxes on employers; cutting in half the proposed cigarette tax increase; certain changes proposed by my colleague from South Carolina (Mr. HOLLAND) in the completed contract method of accounting; a higher threshold on withholding taxes on interest and dividends; a change in the industrial revenue bond section specifically requested by the Treasurer of the State of South Carolina; a loosening of the new restrictions on pension plans; and, perhaps most importantly, a reinstatement of part of the accelerated cost recovery benefits which was a significant portion of the investment incentives given last year.

But, even after all these efforts—by the President and the Senator from Kansas, by Democrats as well as Republicans—even after all these efforts, the five Democrats on the conference committee voted down each and every one of these changes. And, if television can be believed, they laughed at us as they did so. That is just not right, Mr. Speaker, and I cannot support that kind of legislating.

Specific problems with the tax bill aside, I am also concerned about the failure of the House of Representatives to enact legislation necessary to bring about the budget cuts that the President asked for and Congress approved in the budget resolution. The two went hand in hand when the budget resolution was adopted: increased revenues must be accompanied by budget cuts. But this is not being done; our goals are not being met, particularly for the 2 outyears of the 3-year tax bill.

I will not argue that there are not some good features in the bill that I would like to see enacted. There are. But the bill remains one with more bad than good features. It remains a measure which I feel I must oppose if I am to do the job I was elected to do.

Mr. Speaker, I do not know what the outcome will be today. But if this conference report should be voted down, I make my pledge now to work with my colleagues here in the House, with the other body and with my President to fashion a tax compliance bill that will meet the guidelines of the budget resolution and that I can support. I will work to get the budget cuts we promised to make. I will not, however, work or vote to increase taxes so we can continue to fund programs enacted by the liberals of the past and which have proven to be wasteful and unwieldy.

I cast my vote today against H.R. 4961 not in philosophical rebellion against the President, but in a difference of opinion over the particulars of a piece of legislation. There is no rebellion as far as I am concerned. I have and will continue to support the aims of this administration and I look forward to the resolution of this tax bill so I can once again work with my President to reach the vision for the Nation which we share.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. PEASE).

Mr. PEASE. Mr. Speaker, I rise to support H.R. 4961 and, in so doing, I want to call special attention to just some of the numerous tax loopholes that this bill closes.

Far and away the largest changes in this bill affect corporate taxpayers, not individuals. The changes repeal or modify portions of the Tax Code that have not lived up to our expectations or have simply outgrown their usefulness. One example is the so-called possessions credit which allows some American companies to reduce their Federal income taxes to nearly zero. Another example is a severe modification and eventual repeal of the "safe harbor leasing" law that has become one of the biggest tax scams in recent memory. The bill contains dramatic changes that will plug insurance companies' huge loophole that have allowed them to be close to tax free.

Billions of dollars will be saved by these three changes alone.

The bill also stiffens both the individual and corporate "minimum tax"

to insure that wealthy taxpayers cannot completely escape Federal taxation. Taxation of American oil companies operating in foreign countries is also tightened. And the bill will limit tax-motivated corporate mergers.

Mr. Speaker, this bill closes significant tax loopholes that the Congress has not been able to close before—including many that I have proposed in my own alternative budget and tax reform suggestion over the last 2 years.

More remains to be done, but this bill is an important start. The Congress owes it to the public to approve this bill in order to plug at least some of the "tax loopholes" which are a drain on the Treasury.

Mr. Speaker, there is little question that the conference agreement before us today represents the biggest tax reform bill since the 1969 Tax Reform Act. I hope we do not have to wait another decade for a reform bill of comparable import, but I want to impress upon my liberal colleagues how long it has taken to get here, what a difficult goal tax reform is to achieve, and how unique and fortuitous circumstances must be for success.

Let me now describe in detail a few of the tax reform features of H.R. 4961.

INDIVIDUAL MINIMUM TAX

The conference agreement repeals the two minimum taxes we have in present law and replaces these with a comprehensive alternative minimum tax. The tax is imposed at a flat rate of 20 percent on minimum taxable income which includes most types of preference income, including the bargain element of stock options. The message is clear—all Americans are expected to pay some minimum amount of tax regardless of their ability to use various tax avoidance techniques.

CORPORATE TAX PREFERENCES

The bill reduces a large number of corporate tax preferences by 15 percent. These include percentage depletion for coal and iron ore, excess deductions for bad debt reserves, income deferred through DISC's, intangible drilling costs for integrated oil companies, fast writeoffs for mining exploration and development costs and for pollution control facilities, interest deductions for purchasing tax-exempt bonds by certain financial institutions, and capital gains on certain types of real estate transactions.

INVESTMENT TAX CREDIT

Two important changes are made to reduce the Government subsidy granted through the investment tax credit. The conferees agreed to reduce the basis of assets by 50 percent of the credit taken before applying the depreciation schedules under ACRS. Taxpayers will also be allowed to offset only 85 percent, versus 90 percent, of their tax liabilities by the use of such credits. These new rules will also apply to the energy and historic structure credits.

COMPLETED CONTRACT METHOD OF ACCOUNTING

The bill limits the unwarranted deferral of tax liability that can be achieved under the completed contract method of accounting by requiring a better matching of income and expense items. While far from a complete reform, the bill takes an important first step and at the same time deals fairly with taxpayers who have relied on the old rules. The outright abuses of the method are also curbed.

MERGERS AND ACQUISITIONS

The bill contains a number of provisions which will limit tax-motivated mergers and similar acquisitions. In recent years, many of these transactions have been designed to take advantage of the complex rules of present law to effectuate asset purchases while avoiding the tax consequences of an outright purchase and sale. Economically sound mergers and acquisitions will not be prevented.

FOREIGN OIL AND GAS

Under the conference agreement, U.S. taxpayers will be subject to current tax on the nonextraction income from foreign oil and gas operations under some circumstances, and limitations will be placed on the amount of foreign tax on extraction income that will be allowed as a foreign tax credit.

SAFE HARBOR LEASING

This controversial provision of last year's bill will be repealed at the end of next year. The leasing rules of prior law will then be liberalized.

Mr. Speaker, let us look at this tax bill in relation to Federal deficits.

As directed by the first congressional budget resolution for fiscal year 1983, Congress has been charged with the task of raising approximately $100 billion in new revenue over the next 3 years to reduce our unacceptably large Federal budget deficits. Both the President's own Office of Management and Budget and the Congressional Budget Office have indicated that Federal deficits, if current policy does not change, could reach $182 billion in fiscal year 1983, $216 billion in 1984, and $233 billion in 1985.

I believe very strongly that Congress when looking for ways to raise the revenue needed to offset in part those deficits, must address the problem of tax equity. Before we examine such revenue-raising alternatives as increasing individual income tax rates, we must close the tax loopholes that are allowing people to avoid paying their fair share of taxes. Tax cheaters must be ferreted out and provided with strong incentive to begin paying the taxes they owe. Special treatment under the law for those few taxpayers wealthy enough to take advantage of high income tax shelters must be discontinued. I cannot support creating new taxes, even in the fiscal crisis we are facing now, until existing tax law is enforced fully and fairly.

With the principle of equity foremost in my mind, this spring I prepared a list of 34 tax loophole closings which I felt should be considered by the congressional tax-writing committees before any new taxes were proposed. I offered these 34 tax loophole closings as an amendment to the first congressional budget resolution when it was debated on the floor this May. They would have generated $110 billion in additional revenue in a 3-year period. Although one of my colleagues termed my effort "foolhardy," I stated at the time and would like to emphasize again that closing tax loopholes is the sort of thing which the people across America will understand. Maybe we do not understand in this body why we cannot stand up to the special interests but, believe me, the ordinary rank-and-file American does understand that and will support this kind of action.

Having worked long and hard on these 34 proposals—and I would like to give special thanks to the staff of the Joint Committee on Taxation for their cooperation and assistance—I was extremely pleased to see that the Senate-passed tax bill included changes in tax law in at least 15 of the areas I treated in my proposal. As a result, I am gratified to see a new emphasis in Congress on tax equity which I hope will continue next year as we write tax policy in our effort to bring our skyrocketing budget deficits under control.

Mr. Speaker, everyone in the Chamber today is committed to reducing the tragic level of unemployment that is inflicting suffering on millions of American families across the country. We cannot put people back to work until the Federal Government has demonstrated its ability to set stable and consistent budget policy. Businessmen and investors are not going to expand plants and hire workers when their investment decisions must be made in an atmosphere of wildly fluctuating interest rates setting record highs. We in Congress have the enormous responsibility of steering a stable course in setting our Federal budget goals each year and showing that we can bring the deficits under control. With a reasonable expectation that our budget goals will be achieved at the end of each year and with a reasonable monetary policy emanating from the Federal Reserve, we hopefully will see the unemployed returning to their jobs.

I believe that the Tax Equity and Fiscal Responsibility Act of 1982, with its emphasis on tax equity and its focus on responsible fiscal policy, will turn this country toward a fairer distribution of the tax burden among all

taxpayers and will help reduce Federal deficits, lower interest rates, and put Americans back to work.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Speaker, in my view the Congress should support the President and approve this tax bill.

So far, his decisions and policies seem to have effected substantial accomplishments in certain important areas. Inflation is one; the rate has been cut in half. Interest rates is another; the rate has been cut from 21½ percent to 14 percent.

So far, we the Congress, seem to have been unable to get together and develop solutions to our many problems that actually work, except for those initiated by the President.

A small majority of my calls and mail reflect opposition to the bill, but in almost every case the opposition is directed in rifleshot fashion against one provision or another. The other view, of course, favors the bill in its entirety.

I believe this tax bill is the only acceptable alternative to higher deficits, higher interest rates, and increasing unemployment. I hope the House will approve this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Speaker, no matter in my tenure in the Congress has given me greater pause for reflection and consideration than this conference report.

When the Senate's package came over to the House, and the Ways and Means Committee failed to hold hearings, offer amendments, or do anything but send the package by motion to conference unchanged, I was extremely upset. I felt that this procedure plainly violates the Constitution's specific provision requiring revenue measures to originate in the House closest to the people and most subject to their control. I have three times voted not to allow the measure to proceed in this manner. I commend those Members who have filed suit to question this procedure in the courts and to seek a decision once and for all that the House cannot in this way abdicate its constitutional responsibility. I suspect that earlier, had someone asked me to join in the lawsuit, I would have done so and opposed the bill solely on this ground.

It is unfortunate, perhaps, that a test case occurs on so sensitive and important a piece of legislation, affecting, as this one does, the President's momentum in moving the country from economic stagnation to vibrant growth. It will always be suspected that those who sue do so simply as another means of stopping legislation they oppose. In my judgment, the plaintiff's constitutional concern is genuine and fully justified. The merits of the policy expressed in the bill, however, remain to be considered and a decision on them cannot be shirked or avoided.

I have said repeatedly that the bottom line on this measure is whether this is good economic medicine or bad. Clearly, there are precedents for saying the latter. The depression 50 years ago was the last time a general tax increase was considered and passed by the Congress—all others have resulted from inflation-pushed bracket creep—and most economists believe that one was the wrong prescription at the wrong time.

This one, however, differs substantially. We have in place $930 billion of tax cuts coming on over the next 5 years, and it is in this context that this $230 billion increase—over 5 years—must be considered. The net: A $700 billion tax reduction that should adequately spur consumer spending to raise us out of the economic mud—provided one condition has taken place: Lower interest rates.

Now, Mr. Speaker, there are those who argue that deficits—large ones like we are having now, too—have nothing to do with interest rates—that the supply of lendable money and its consequent price are unaffected by huge Government borrowing demands. I find this impossible to believe. Rather, it seems to me, the prospects of ever-increasing Federal credit demands, competing with consumer and business borrowing, forces up interest rates and keeps them high in the absence of some signal to the markets and the people of our country that the pressure will be reduced.

I see this package as that signal—that Congress has the courage to follow its own budget resolution and to take actions that will help reduce the deficit, bring down interest rates and put unemployed Americans back on the job.

The President has correctly described the package as mainly tax enforcement and reform of some of the excesses—the ornaments hung on the Christmas tree—of last year's tax reduction legislation. But just as correctly—let us not kid ourselves—there is $98.3 billion of new revenue this bill raises. Clearly, the people are the ones who will pay it. But if fairness and equity are a part of our consideration—and God help us when they cease to be—then this package commends itself. Yes, it will require some sacrifice, especially by higher income taxpayers and corporations. But all segments of American society must participate—equitably and fairly—if we are to succeed in turning the corner on our economy's problems.

Mr. Speaker, no one expects Americans to want or like tax increases. The only surprise in today's Harris survey is that one-third of the people favored this measure. But there are times when courage and commitment are needed in the Congress, the courage to recognize what must be done and to do it. That's what the American people are looking for now. The economic crisis is largely one of spirit. The signal must be sent.

Last year we began a program to reverse the stagnation, to rebuild our economic base and to rekindle the competitive spirit in America. We have accomplished much. The rate of increase in Federal spending has been curbed, taxes have been reduced substantially and indexed for the future, and excessive Federal regulation has been cut back. Inflation's back has largely been broken, interest rates have been reduced by one-third, and the supply of money and credit have been stabilized. But because economic growth rates have not responded quickly to our policies—ones which I strongly believe are correct—we face an exorbitant Federal deficit which, as I have said, holds interest rates captive.

Further control on the rate of increase in future Federal spending is also necessary. To secure the $284 billion in additional spending cuts specified in the budget resolution, the administration needed to promise some readjustment—particularly of business deductions—on the revenue side. If we fail now to carry out the revenue portion of the budget resolution, what expectation can there be that the spending portion will be carried out? Without further spending cuts, the third year of the Kemp-Roth tax reduction program will soon be under siege and the prospect of preserving it in the face of even higher deficits, conjectural at best.

My economic instincts frankly find me most comfortable with those opposed to this legislation. But we are not engaged in an exercise in economic theory. We are no longer the minority. We must govern. To do so effectively and preserve the principles and the program we have fought so hard for, passage of the conference report is, in my judgment, essential.

Mr. CONABLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I was not elected to raise taxes, neither was President Reagan, and neither, I suspect, was any Member of this House. I believe the Federal Government is already imposing far too high a burden on our economy, and that burden needs to be reduced, not increased. However, we need to be clear about just what that burden is.

Let us consider two general propositions. The first is one of the core arguments of this bill's opponents. It is that "You don't raise taxes in a recession." This implies that there are

times when you do raise taxes. I was under the impression that there is never a good time to raise taxes, but if there is, the bill is on target as most of its provisions will take effect not during the recession, but after the recovery is well underway.

But most of all, I think this bill's opponents should be uncomfortable with their argument because of a second general proposition that most of them hold: That Federal spending, not taxes, is the best measure of the burden the Federal Government places on the economy. Federal spending is the total resources commanded by the Government.

It is the real level of taxation. Whether those resources come directly out of our pockets through conventional taxes or are taken out of the capital markets through borrowing is important, but in either case the resources are bid away from private uses.

In a recession, spending for unemployment insurance and other transfer payments increases automatically and resources are bid away from private capital markets. Twenty years ago this may have done little damage, for inflation and interest rates were low, financial markets were stable, and private demands for capital would decrease in a recession. Since that time, however, we have had 20 years of deficit spending, ever-increasing Ggovernment, expanding regulatory burdens, growing private sector inefficiencies, excessive monetary growth, upward-ratcheting inflation, and a destruction of confidence reflected in critically ill long-term capital markets.

Finally the country has realized that this could not go on. Fundamental reforms are necessary and have been begun.

Monetary growth is being restrained, hard victories over inflation are being won, businesses are tightening their belts, regulation is being improved, and we are fighting hard to reduce the overall burden of Government spending.

But we have found that the momentum of 20 years cannot be reversed in a few months. In particular, long-term capital markets cannot be revived by promises alone. They require results, and results continued for sufficient time to revive shattered confidence. We are now digging out of a recession caused mainly by capital market disarray. It is crucial that we demonstrate a willingness to stay on the course and continue reducing Government demands on those capital markets and the overall burden of Government spending on the economy.

Earlier this year the Congress and the President worked hard to produce a reasonable budget. No one was completely happy with the eventual result, but it was the best that could be achieved. Now we are debating the actual implementation of that budget.

Opponents of this bill are willing to destroy the previous budget agreement, for which many of them voted. Some claim that this will force further spending cuts.

Mr. Speaker, I do not believe that would be the result. Defeat of this bill destroys the budget process for this year. In the first place, it will defeat the $17 billion of spending cuts in this particular bill. Beyond that, it will shatter our ability to come close to achieving the rest of the cuts envisioned in the budget agreement. But most important of all, it will deeply undermine the leadership of the President, without which the entire program of painfully purchased economic reforms could be lost. Defeat of this measure will produce chaos both in Washington and on Wall Street.

It is helpful that this bill raises revenue in a relatively undamaging way, by collecting it primarily from people who are not now paying their fair share of taxes. It is also helpful that it preserves for the average taxpayer the vastly greater tax cuts enacted last year. But those are not the main reasons for supporting the bill, for no tax measure is palatable.

Rather, I urge my colleagues to vote for this bill in order to cut the real tax level imposed on the economy by Government spending and to support the President's ability to lead us on a steady course of economic reform.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I rise in reluctant support of H.R. 4961. I say reluctant not only because there is never any satisfaction in raising taxes and casting an unpopular vote, but also because several of the bill's provisions are not good.

I dislike withholding on savings. Many people are evading taxes by failing to report income from interest and that I do not defend. Withholding unloads a broadside that mows down the innocent along with the guilty, and is an added burden to savings institutions. More important, in a nation which already saves too little, this is one more disincentive to save.

In this bill we pass up the opportunity to eliminate the abuse of business lunch deductions and instead go after the men and women who work in those restaurants.

I still have concerns as to what this bill will do to hospitals in rural areas like southern Illinois. But after going over this carefully with the staff of the House Ways and Means Committee I have become convinced that what has emerged is as good as can be secured to protect our hospitals and—even more important—senior citizens on medicare. I note that the senior citizens organizations are supporting the bill. There is the possibility that both our hospitals and our senior citizens will be helped appreciably. Also on the positive side, the measure closes some tax loopholes. And most important of all, it provides additional revenue. When the President is wrong I have not hesitated to oppose him, and when he is right I have the duty to support him. He is right in saying this proposal will reduce deficits and be a force for lower interest rates and more jobs. That is what the Nation needs; that is what southern Illinois needs.

If we do not pass it, deficits will grow and interest rates are likely to rise.

The job of a Member of Congress is to do what is best for the Nation, and his district, not what is the most popular. Judged by that standard, I really have no choice but to support the tax increase.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. RUSSO).

Mr. RUSSO. Mr. Speaker, I think I can say, without fear of contradiction, that there are few of us here today who approach the vote we will soon be taking on this revenue measure with any great sense of pleasure. This will be a most difficult vote, one that will not be made without much soul-searching and careful scrutiny. But when those of us who now occupy this body chose to run for the Congress, there were never any guarantees made that all of the votes we would be required to cast would be easy ones. Today confronts all of us with just such a set of circumstances.

With this in mind, I urge my colleagues to vote to adopt the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Our country faces some difficult times in the days ahead. Interest rates are still far too high to stimulate a truly healthy economic recovery. Many of our most critical industries are struggling for survival. Millions of our citizens sit idle, their lives shattered by economic conditions totally beyond their control. And if we fail to act responsibly today, we only increase the likelihood that the Federal Government will continue to run enormous deficits, unprecedented in their magnitude, amounting to some $400 to $500 billion over the next 3 years alone. Deficits of this size, coming at a time when the economy will hopefully be entering a period of reasonably strong growth, can only serve to put immense pressure on the capital markets, thus prolonging the existence of intolerably high interest rates.

There are those who would argue that we should reject this tax package, that no revenue measures are required, that an economic boom awaits just around the corner, holding out the promise of inflation-free economic

growth. I know these individuals are well-intentioned, and possessed of the highest motives. But I cannot help but recall that those are the same words that were being uttered on the floor of the House just 1 year ago. Since that time we have had no increase in growth, except in the length of America's unemployment lines. We have had no rise in output, but we have experienced a surge in business failures of historic proportions. It is these painful circumstances that leave me skeptical of the claims being made by those who urge us to defeat this measure today.

I would not want to close without making a specific reference to several of the provisions contained within this measure that I believe would deserve our support, even without the lengthening shadow of massive budget deficits. I refer to those components of H.R. 4961 which make needed revisions in the depreciation schedules and the investment tax credit. This measure before us repeals the acceleration of the ACRS system for 1985 and 1986 and requires a basis adjustment for one-half of the investment tax credit before the ACRS depreciation allowances could be applied. The rationale for these changes is clear and compelling. Without these alterations in the Economic Recovery Tax Act of 1981, we will be perpetuating an unwarranted distortion in investment patterns, a distortion that in some areas presently allows more than a dollar in deductions for a dollar invested. By adopting the changes that are a part of H.R. 4961, we will insure that the combination of ACRS deductions and tax credits do not result in treatment more favorable than the expensing of equipment costs. This particular proposal makes both good fiscal sense and good economic sense.

I would also like to remind my colleagues of the provisions in this measure that authorize the extension of unemployment benefits to those in need. Some 10 percent of our work force is now jobless, a figure which represents the highest level of unemployment experienced by the United States in 40 years. Nearly 3 million Americans were without work throughout the entire year of 1981. Forty percent of the work force in the steel industry is on layoff.

These are numbers, Mr. Speaker, and they cannot adequately capture the agony and anguish that afflicts those without jobs in a society that values work. And this tragedy has been complicated by a sharp decline in the availability of publicly supported employment counseling, painfully diminishing a traditional source of assistance to those seeking guidance. The conference report on H.R. 4961 addresses this crisis by establishing an emergency program consisting of additional weeks of unemployment compensation to millions of jobless workers. Beginning on September 12 of this year, and running through the end of March 1983, as much as 10 additional weeks of benefits will be provided in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. In States which have not met the extended benefit unemployment requirements, but where the percentage of workers who are collecting State unemployment benefits equals or exceeds 3.5 percent, up to 8 additional weeks of benefits will be provided. An additional 6 weeks of benefits will be provided in all remaining States.

One unemployment office in the Washington metropolitan area, which a little over 1 year ago had 21 job advisers on their staff, has seen this number shrink to 7. This unfortunate situation, precipitated by last year's budget cuts, can only serve to extend the period of unemployment presently being experienced by countless numbers of our fellow citizens.

We all know, Mr. Speaker, that the only real solution for those without work lies in the creation of meaningful employment. But in the interim, we can at least attempt to provide some cushion against the pain of unemployment. This measure, H.R. 4961, contains that cushion.

Again, Mr. Speaker, I would urge my colleagues to lend their support to the passage of H.R. 4961. Reality compels its approval.

□ 1420

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to a valued member of the committee, the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Speaker, we have heard from a number of our colleagues today for and against this bill. Some are opposed to the bill because they are opposed to any tax increase. Others would vote for any tax because of budget pressures, and still others are concerned about the politics of their action today. I leave those issues to others who wish to debate them.

What concerns me is the content of this bill. Before we vote we should try to understand what impacts will result and what this bill will do to the efficiency of our country.

No one—not even I, even though I have participated in the lengthy hours as a member of the conference committee during the last weekend—actually understands all the untoward results which will occur from the enactment of the specific provisions of this bill. I feel it is a minefield of future time bombs.

I do not have enough time to go through a bill of this magnitude and point out all its arcane features, but I do want to mention a few items.

In the pension area, the conference adopted provisions on which the Senate had held no hearings, and on which, to my knowledge, there were no hearings in the House. But the impact of this provision will severely touch every single private pension plan in the United States of America. Every one of the 600,000 plans, as a result of this bill, will have to be rewritten at a nonproductive cost of $2.5 billion; 530,000 are small pension plans of 100 people or less. They are operated by small businesses and small service corporations. It is now estimated that the result of our action in this bill will be the termination or the freezing of up to 50 percent of those plans. Some argue that we are going to hit only the top people in those small organizations, but those are not the people who will be hurt. They have other means of protecting their assets by seeking certain other tax shelters. When these plans are canceled or frozen it will directly impact on the workers, the employees within those organizations who will be less able to plan for the future.

This perhaps is the most damaging and unintended effect of this bill, but please understand that it is a part of this bill.

We have already heard about withholding on interest and dividends. It is estimated that the cost of administration to the private sector will be 50 cents for every dollar that is generated in revenue. That is a poor return in my opinion; but the IRS decided that they did not want to undertake the extra cost as a governmental function because it would increase the Federal deficit and increase Federal spending. So they have dumped it off on the private sector. In that way, it is not supposed to cost anybody anything. More paperwork, more lawyers, more professional people and consultants, but no real benefit to this country.

In the foreign tax area—mostly overlooked because it has a seductive appeal that if you tax corporations working abroad, some way or other that does not impact on us domestically so it is easy politically to do that.

Perhaps, but as a result of the provision that is in this bill, we will make our own domestic corporations noncompetitive overseas in the exploration and development of oil and gas outside of the OPEC countries. We will play right into the hands of OPEC, and we will cede that oil and gas to the Japanese and Europeans. Then if we have a worldwide shortage of oil at a later date, our companies will not control that supply of oil for the benefit of American consumer needs.

Under the completed contract accounting provision for construction industries across this country that have long term construction projects, this bill will require them to borrow the money to pay their taxes in advance before the contract is completed, and

before they know whether they will have a profit or loss in the contract.

Now, what does this mean? This means that the Defense Department is going to have higher costs on all of its long term construction projects and it is tough enough to maintain a defense budget today to keep this country healthy and strong.

In the area of powerplants, it means that every one of us as consumers of electricity is going to have to pay more to build those powerplants, so that the contractor can pay his taxes in advance by borrowing the money and paying interest on it. We need to understand this in advance.

In the area of compliance, we are going to create another massive additional army of IRS agents to go across this country. Yes, we want people who legitimately owe taxes to pay their taxes, but believe me, there is a monstrous gray area in this bill and existing law that will be exploited at the expense of honest taxpayers if the wrong Commissioner gets control of the IRS with the new tools that are provided in this bill.

In the area of tax preferences for corporations, that sounds good, but we have no accurate idea of what the economic impact will be on the municipal bond market.

It is very fragile; yet this bill makes 15 percent of municipal bond interest taxable for the first time in the history of this country.

What is this going to do to the cost of building schools and other local projects? The answer is, "We don't know."

These and many other issues too long to mention are involved in this bill. We have no idea what impact they are going to have. We do know one thing. This bill has taken longer to draft than any other bill in recent history. It will provide for more IRS and Treasury regulations than perhaps we have ever seen from any tax bill in the history of this country.

The compliance costs are astronomical and I do not think we need that at this time.

We also need certainty in our tax code. It is not "certainty" when we pass a bill in 1981 urging capital investment and 1 year later we change all the rules.

We must have time for the people of this country to understand what the tax code does to make their decision with certainty, and we must strive for simplification. At a time when we see a thrust toward a flat tax for simplification, we leash the horses to the chariot to run 180 degrees in the opposite direction and create the most complex tax mechanism in the history of the United States of America.

If you believe that it is proper to raise taxes to close the deficit, it should be in the simplest and most efficient form, it should be fairly shared by everyone and with a certainty to the revenue estimates. This bill fails on all counts.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, as we consider the conference agreement on H.R. 4961, I want to go on record as standing adamantly opposed to this tax increase.

President Reagan, the other evening, painted a pretty good picture why we, as Members of Congress and as Americans, should support his proposals to increase taxes by $98.3 billion and cut spending by $17.2 billion over the next 3 years. The President was quick to point out to the American people that this revenue-raising proposal would be offset by the tax reductions enacted last year by Congress. This would be fine if the tax reductions enacted last year would have been geared for middle- and low-income people. Unfortunately, the tax reductions were meant, and have only helped, the wealthy and corporations. Ironically enough, this is just how the President wants to increase revenues—by taking away the tax breaks he assumed would spur the economy and would be vital to his economic recovery plan. The bottom line of all this for the average American taxpayer is still the same—nothing.

The President spoke of "savings," but the very programs he seeks to save money are the very programs which have suffered devastating budget cuts already. How far does the President want to go? How much does he think the American people can stand? Can we, in all good conscience, support a conference agreement which calls for a "savings" of $13.3 billion in medicare—the very program which helps our older Americans meet their hospital costs? To me, this does not represent a saving, but represents driving our senior citizens to ill-health and pushing adequate health care further from the realm of being obtainable.

If this is not enough, the President also wants to hold the elderly's property hostage and drive them further into the poorhouse. A small, simple provision making cuts in the medicaid program of $1.1 billion would set a lien on property of those poor, elderly persons owing the medicaid system money. States, threatened by new Federal sanctions if money is not collected, would become the "Snidely Whiplashes" of foreclosing on those, who through no fault of their own, are having difficulty in meeting their payments. Now, we all want to see both the State and Federal Government collect revenue rightly due, but those older Americans who had to rely on the medicaid system should not be driven further into the poorhouse. There will be no "Dudley Doright" to help the elderly. There will be no ray of hope for those who desparately need medical attention.

It is also not clear to me how a President, who is insistent upon getting the Federal Government out of peoples' lives and reducing needless paperwork, can support a provision to enact a withholding tax on interest and dividends. We all are aware that such a provision will impose substantial new economic and paperwork burdens on financial institutions, businesses, and taxpayers and the U.S. Government. This is a classic example of "economic smoke screening" because the revenue windfall to the U.S. Government is heavily front loaded. The bulk of the revenue gain—about $2 billion—comes only in the first year when the Government receives its tax revenues earlier than it normally would. After the first year, there is very little revenue difference even though the economic and paperwork burden for taxpayers, businesses, and financial institutions continues at the same level. In other words, this is a one-shot deal of raising revenues while other provisions will continue over the 3-year period. I, therefore, question where the President is going to wave his magic wand next year after we have already been hit with the withholding tax on interest and dividends.

The President has also thrown us, who wants to help the unemployed, a bone to entice us into voting for his tax increase package. That bone, and I might add that bone has no meat on it, is a provision to extend unemployment benefits in States hardest hit by his economic policies. If we really want to help the unemployed, then let us address it in a separate piece of legislation.

Can President Reagan honestly tell the American people that he really wants to extend unemployment benefits after his fiscal year 1983 budget request and his approval of the first budget resolution passed earlier by the Congress provided no funding for extended unemployment benefits? Can President Reagan ignore the fact that since January 1981, when he took office, to July 1982, the unemployment rate increased from 7.4 to 9.8 percent—the highest since 1941? These are very serious questions we need to address, not in tax legislation, but in logical, responsible legislation to effectively deal with our unemployed. Let me also stress that this unemployment benefits "bone" is less enticing when you consider the fact that the President turns around and taxes the very same unemployment benefit he is giving out-of-work Americans. In the conference agreement, the thresholds limiting the inclusion of unemployment benefits in adjusted gross income will be reduced from $20,000 to

$12,000 for a single taxpayer and from $25,000 to $18,000 for a married taxpayer filing jointly. In other words, the President wants to give the unemployed 10 extra weeks of benefits and then tax them on those benefits. This may help the unemployed now, but come the end of the year, that unemployed person is going to end up with nothing.

If we really want to do something meaningful, then let us talk about making corporations accountable for their fair share of the tax burden—not those who can least afford it. A recent independent tax study concluded, very clearly, that Federal taxes paid by 514 largest U.S. corporations has declined from an average of 22.7 percent in 1980 to 20.5 percent in 1981. Why? Because President Reagan wanted and the Congress gave him reductions in taxes last year. It, therefore, makes no sense to me why the President ever proposed cutting these corporate taxes only to turn around in the next year and urge that we support a bill to reverse the corporate tax reductions he so desperately needed last year as part of the Republican economic recovery plan.

Mr. Speaker, the whole idea of increasing taxes at a time when the American people are already overburdened with taxes, depressed about the economy, and tired of the same old rhetoric from Washington is absurd. To recall Vice President BUSH'S phrase, it is nothing but "voodoo economics." We need sound economic policies, not a made-for-television melodrama.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I rise in strong opposition to this unconstitutional Senate Finance Committee tax increase bill.

Mr. Speaker, quite frankly, this bill does not measure up.

If fairness and equity are to play a part in legislating tax increases, then this bill should be defeated.

And if we are to follow the Constitution of the United States of America, that is if this House is to continue to keep its constitutionally mandated duty to initiate tax legislation, then this bill must be defeated. It is a genuine travesty, a black mark on this House.

Let us just take a look at a few of the items contained in this bill.

The double tax on tobacco. Deductions for overseas bribes for large corporations. The paperwork nightmare of forcing institutions to withhold small investors' dividends and interest. The continuation of the three-martini lunch for fat-cat businessmen while sticking it to the waiters and waitresses on the tips they need to survive. And the novel economic theory that raising taxes during a recession is a good idea.

The Senate tax bill encompasses all this and a lot more. And let us be absolutely clear on what this bill is. Whatever you choose to call it, tax reform or revenue enhancement, this Senate bill is a tax increase—an increase which is going to take a lot of money out of the pocket of the average working American and give it to the Federal Government to spend.

And remember, the people out there watching us today know that this is a tax increase bill. In fact, a poll taken by the Washington Post right after Mr. Reagan's Monday night performance shows that a clear majority of Americans oppose this tax increase bill.

Furthermore, that opposition is amplified by a diverse cross section of American groups and organizations which flatly oppose the tax increase bill.

From the National Association of Letter Carriers and the Confectionery and Tobacco Workers Union to the U.S. Chamber of Commerce and the National Federation of Independent Businesses, the opinion is a resounding "No" to this tax increase bill.

Indeed, the National Taxpayers Union estimates that if this bill is passed, the average American household will pay an additional $2,500 in taxes by 1987. Do we really want to adopt the largest peacetime tax increase in our Nation's history here today? And over the objection of the majority of the American people, do we want to adopt this particular tax package which is unfair to some and unjust to others? I think not.

Mr. Speaker, I come from a State and district which is very familiar with the financial benefits each and every level of Government reaps from tobacco; and I can tell you that this double tobacco tax is liable to kill the goose that lays the golden eggs.

Apart from the fact that Government at all levels receives billions and billions of dollars annually from tobacco already, this double tobacco tax is an unfair burden to thrust upon the already hard-pressed average working man and woman of America.

To begin with, the double tobacco tax is regressive in that it places an even greater load on the backs of the low- and middle-income taxpayers. And for low-income smokers, the double tobacco tax will more than wipe out the personal income tax reduction granted by this House only last year.

Furthermore, the double tobacco tax will erode the revenue base of State and local governments which currently derive a significant amount of revenue from cigarette taxes. Indeed, the anticipated reduction in sales, if this ill-advised bill should pass, will be in excess of one-third of a billion dollars for State and local governments. What this bill will do is to further preempt the States' right to increase their own needed excise taxes.

In fact, in the distinguished Speaker's home State of Massachusetts, annual basic income would decline by nearly $20 million and hundreds of tobacco-related jobs in that State would be lost.

In the home State of the distinguished minority leader, Illinois, total decline in annual basic income could be in excess of $30 million, with a loss of well over 400 badly needed jobs.

In fact, at a time of staggering unemployment, this one aspect of the tax increase bill—the double tax on tobacco—could jeopardize over 11,500 needed jobs nationwide. Can we afford to put that many more people out of work with this unfair tax increase bill?

Finally, let me say again that the manner in which this tax increase bill has been handled is highly questionable.

In a bout of political one-upmanship, the House has seen fit to cede its constitutional right and duty to initiate tax legislation.

Let me remind the Members that the Ways and Means Committee held no hearings on this tax increase bill. The House itself has had no prior opportunity to debate or even discuss this issue; and likewise in the Senate, there was neither debate nor were there hearings on this bill. The tax increase bill has simply been railroaded through by the Senate Finance Committee and the House has acquiesced.

Now today, we are expected to vote on a 723-page conference report on a 758-page Senate Finance Committee tax increase bill after only 4 hours of debate—debate which has been almost entirely monopolized by the members of the House conference committee. And we are operating under a closed rule to boot.

In fact, what we really have here today is a conference committee discussion of a tax bill, and the other 400-odd Members of the House are apparently here merely to provide an audience for the conference committee.

I ask the Members: Is this a responsible way to conduct business on tax increase legislation? I don't think so. This very procedure alone is reason enough to oppose the tax increase bill.

And the fact that the tax increase bill presently under consideration is inequitable, and in many places uninterpretable, only adds to my strong opposition to a tax increase which is unfair to the average working American.

I urge, in the strongest terms possible, the defeat of this ill-advised tax increase bill. It is unfair and it may well be unconstitutional.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I am for the conference report, and here is why: High interest rates, as the gentleman from Ohio (Mr. WYLIE) so well pointed out a few minutes ago, are ruining this country and causing the recession. High interest rates are due in part to out-year deficits, and in part to overtight Federal Reserve monetary policy.

We are doing a partial healing of the first cause today. We are going to reduce the 1983 deficit from about $170 billion to about $150 billion. And while that reduction is not much, it is a whole lot better than doing nothing about it.

But that still leaves the problem of the Federal Reserve's part in high interest rates, and there the cause of high interest rates is in large part an overzealous, too-tight monetary policy that could not care less about the level of interest rates, but instead focuses entirely on the monetary aggregates.

We must induce the Federal Reserve to take account of interest rates. That is the job ahead of us, as is getting into place a sensible energy policy, a sensible incomes policy, a sensible credit conservation policy, and a sensible industrialization policy.

The President wrote me—as he did many of the Members—asking for our support, and I am pleased to say—and this undoubtedly will surprise him, as it does me—that I am with him on this one. I welcome his walking the right track. I urge him to enlarge his flirtation with commonsense to a wholehearted embrace. And if he does, there is no limit to the good he can do for this country.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from Connecticut.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 20, 1982, TO FILE REPORT ON H.R. 6598

Mr. MOFFETT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to have until midnight tomorrow, August 20, 1982, to file its report on H.R. 6598.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. MONTGOMERY).

□ 1430

Mr. MONTGOMERY. Mr. Speaker, I rise in support of the conference report and ask my colleagues to support the conference report by their votes.

I keep asking myself, if we do not pass this tax bill and savings bill, what do we do here in Congress? Where do we go? There is not an answer for it. We have to pass the tax bill.

Mr. Speaker, in my opinion we did go too far in the tax cutting package of 1981 and, yes, I supported the tax cutting package. We left too many tax loopholes and were too generous in some areas.

Now we need to tighten up on what we did last year and get some control on some of these reductions. We need to get more money back into the Treasury.

You know, we are kind of kidding ourselves if we think that interest rates will continue to come down if we do not pass this tax bill. We have to pass it.

I point out that of the capital market funds that we have in this country, that is the savings and loan firms, the banks, the pension funds, money markets, I am told that 60 percent of this money will be borrowed by the Federal Government either directly or indirectly in 1982; so naturally, interest rates are going to stay up if the Federal Government does not get out of borrowing so much money and bring spending under control.

Now, to my conservative friends who sit in the middle of the aisle here in the House Chamber, let me point out that there is a savings of $17.5 billion over a 3-year period and also the taxes certainly will bring money into the Treasury.

So I say, there comes a time when we have to make a tough vote and the time is now.

Now, sure, there are many reasons why I can think of not voting for the bill, voting against the bill. I think the cigarette tax is a little too high. I do not like the contracting and the withholding provisions; but I am going to vote for the bill.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the distinguished minority whip, the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to first say what a pleasure it has been for a change to be able to work on a piece of legislation in a bipartisan manner. I hope maybe we can do it again sometime soon.

It is funny how some of the arguments that used to not be too appealing make more sense when they are speaking on the same side that you are on.

Let me make just three brief points, though, because I do have limited time.

Just remember what is in this bill. No. 1, spending cuts. We said we wanted spending cuts and we had them in the budget resolution that we passed. It is in here. The tax bill is in here, tax increases and tax reform.

A lot of us on both sides of the aisle for years have been saying, "Hey, we need to close up some of these unintended benefits and to have a tax reform." Well, this is it.

Remember that there is unemployment compensation extension of benefits in here. Some of us will say, oh, we will get that later. Well, are you sure? Time is running out and nothing is for certain any more.

To me one of the main reasons why I am speaking for this thing is, look, we committed for this when we passed the budget resolution. Those of us who voted for domestic spending and those of us who voted for military spending, you have got to pay the maker. You have got to pay for it. This is it. Now is the time to do it.

Now, one final point. What is the option? If we do not pass this bill today, we are not through with this issue. It will be back tomorrow or next week or in September, and let me remind you on both sides of the issue, it will probably be a worse bill.

Mr. Speaker, I urge my colleagues to vote for this bill. If we do this, I believe it will have a favorable economic impact and we will see a continued drop in interest rates and a recovery of the economy of this country. The American people want very desperately for us for a change to do what is needed in a bipartisan manner.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Speaker, I rise today in support of this bill. In the 6 years that I have been here in Congress, I have never voted for a tax increase, but I think it is the responsible thing to do, today.

The gentleman from Texas (Mr. ARCHER) pointed out that there were time bombs ticking away in this bill, but there is a bigger time bomb ticking away if we do not pass this bill; that is the tremendous deficit overhanging not only us today, but the next generation.

Mr. Speaker, in the last 25 years we have accumulated a debt of a trillion dollars. If we did not have that debt and were not having to pay interest of over a hundred billion dollars, we would almost have a balanced budget today and we would not have these problems.

My fear, Mr. Speaker, is that I have a 7-year-old son. Twenty-five years from now, will he say, "Dad, why did your generation do this to us? We can no longer afford to have the things that you had because of the tremendous tax burden that we have, just paying the debt that you created. Why didn't you do something about it?"

We are still going to have tremendous deficits even if we pass this legislation today, but it will help. It is a start in the right direction for fiscal responsibility.

I urge my colleagues who have voted for cuts, just as I have voted for cuts, let us now also look at the other side of the ledger, let us reduce this tremendous deficit that we have. Because keep in mind, this legislation only reclaims one-fourth of the tax increase that was passed last year.

□ 1440

Mr. CONABLE. Mr. Speaker, I now yield 3 minutes to the distinguished gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Well, Mr. Speaker, here we go again. This bill has dominated our conversation for more than 2 weeks. We have debated it for nearly 5 hours today, and what do we talk about? We talk about shelters, grease payments, business lunches.

Mr. Speaker, the bottom line is people, people who are trying to get ahead, people who are trying to improve their standard of living and save for their retirement or to send their children to college. And they, Mr. Speaker, are the people who will pay this bill. They are going to have to come up with $200 billion in new taxes over the next 5 years.

Now, this bill does not affect the average man and woman in this country, Mr. Speaker, unless they use the telephone, or pay premiums for medical insurance, or smoke, or ride in airplanes, or have a savings account, or unless they work for, invest in, or buy something from, a business. But if they fall into any one of those categories, Mr. Speaker, then they are going to pay the bill created by this massive document that nobody has read.

Mr. Speaker, let me say this, finally, to my fellow Republicans: I love and admire this President. I was his campaign manager in the State of Oklahoma. I respect him and am loyal to him. But, Mr. Speaker, how far does loyalty go?

Every single one of us in this Chamber has been elected by men and women who put their trust in us to represent them and their interests. No one of us should ever vote for any bill with this kind of impact out of loyalty to anybody except the people we represent.

Mr. CONABLE. Mr. Speaker, may I inquire, has any time been yielded back?

The SPEAKER pro tempore (Mr. MURTHA). One minute has been yielded back.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, the gentleman from Mississippi (Mr. LOTT) was saying how pleasant it was to work on a bipartisan basis. I was beginning to think I would end my career in the House this coming year without ever having had the opportunity to support this President on a major issue. But lo and behold, here is an opportunity.

I remember not too long ago, about 2 years ago, when I was one of the token Democrats who was invited out to the Hoover Institute in California for one of those discussions that they have. I remember thinking about how easy it was to agree with people like JOHN RHODES and the gentleman from Illinois (Mr. MCCLORY) and others, in that kind of setting.

The thread that went through our discussions at the Hoover Institute on a whole host of issues was the same thread that is now weaving through the arguments in favor of this bill, and it is called commonsense.

Now, what happens is that we can go away from here to the Hoover Institute or other places and, as conservatives and liberals, Northerners and Southerners, Republicans and Democrats, we can agree on things and say, "Gee, that is commonsense." But we cannot get it done here in this body when we come back. This body has been plagued by paralysis, as we all know, for a long time. We could not close tax loopholes; this bill does it. We could not do anything about oil company loopholes; this bill does it. We could not do anything about a code that gives more incentive to do mergers and acquisitions than to the semiconductor industry; this bill does it. It begins to get us going in the right direction.

So lo and behold, we break out of the paralysis. This conference committee did a great job, an unbelievable job, I think. So let us seize the moment you know, it is likely that tomorrow we will be right back in that paralyzed state, unable to get anything significant done. Oh, we will all have our prescriptions for fixing the economy. But there will not be a majority for anything.

This bill before us is one we can pass. The economy is strangling and this bill represents our only chance to loosen the noose, ever so slightly.

For my own State, this bill means an end to the confusion that has plagued our insurance industry and thrown its future into a cloud.

We need those insurance jobs. We need that industry to be competitive. This bill sets the stage for it.

And, of course, the bill means extended unemployment benefits for lots of people who are on the economic ropes.

Let us pass it. Let us be responsible.

There are issues that come before us that do not have a great ideological framework to them; they are just commonsense, and it is the responsible, reasonable, sensitive thing for us to do, without all sorts of mea culpas about who voted for the tax bill and who did not. Let us support this excellent bill.

Mr. CONABLE. Mr. Speaker, I now yield such time as he may consume to the gentleman from New Jersey (Mr. RINALDO).

Mr. RINALDO. Mr. Speaker, I rise in oposition to the conference report on H.R. 4961, the Miscellaneous Revenue Act.

The bill contains some favorable provisions, notably the extension of unemployment compensation, the assurance that a VHF television station will be allocated to New Jersey, and the designation of the New Jersey public utilities gross receipts tax as a State-collected tax, which would correct the distribution of general revenue sharing within the State.

I have concluded, however, that this tax bill as a whole is too high a price to pay for these benefits. First of all, it is extremely questionable whether a tax increase during this period of recession would have a positive effect on the deficit. An increase in taxes is likely to further retard the Nation's economic recovery by depressing consumer spending and business investment, leading to further declines in Federal revenues and a worsening of the deficit.

In addition, many of the specific tax increases called for by this bill will have the heaviest impact on the middle-income taxpayers who are only now beginning to feel the effects of the tax cut we passed last year. The requirement that taxes be withheld on interest and dividend income is the most objectionable provision of this bill, and one whose cost far outweighs any additional revenue the Government will receive. The New Jersey Savings League has calculated that in my State alone it will cost thrift institutions $18 million to implement withholding. If the withholding requirement is combined with the existing requirement that these institutions maintain a reserve of 3 percent of their assets, thrifts will lose over $500 million in additional savings they might otherwise have taken in. These funds therefore will not be available for home mortgage lending and other productive investments. In view of the severe slump in the housing industry, it is imperative that we not impose this burden on the industry that provides essential financing.

Withholding will also be costly to savers. Only last year, we passed legislation to encourage saving as a means of developing the Nation's capital resources for economic recovery and to lower interest rates. Now we are contemplating a measure that will discourage taxpayers from placing their money in savings accounts by imposing withholding on the earnings. Withholding will result in lower returns to savers because part of the in-

terest that would otherwise have been compounded will have been forwarded to the Government. In addition, the exemptions that have been provided for the elderly and for those with low incomes, while necessary, will further complicate the administration of withholding and the filing of tax returns on interest income. I have already been contacted by elderly constituents unsure of the income used to determine their qualification for the exemption and confused as to how withholding will affect their filing of estimated quarterly tax returns.

Other provisions of the bill, such as the increased excise taxes on cigarettes and telephone use, the increase in the floor for the medical expense deduction, and the increase in airline taxes, will also negatively affect middle-income people who are barely holding their own as a result of current economic conditions. This bill would reverse the course we decided on last year to cut taxes in order to reduce the share of the Nations' productivity taken by the Federal Government. I must therefore oppose the conference report.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Mr. Speaker, I rise in support of H.R. 4961, a bill consistent with the requirements of the first budget resolution to increase revenues in fiscal year 1983 by $21 billion.

The moment of truth is at hand, and the inevitability of the decision that lies before us should not come as a surprise to the Members.

There will be no miracle cures, no elixirs, but there must be responsible action to keep us on a course toward stable economic recovery.

Last year, a new administration pledged to take courageous and bold steps to give us a new beginning as we turned from the failed economic policies of the past, and Congress concurred.

First, on Federal spending, this Congress went against conventional wisdom of the past by cutting the growth of the Federal budget by more than $35 billion in 1981. We rewrote the 25-year trend of ever-spiraling Government spending with astonishing success.

Second, we accomplished an historic redirection of tax policy, including a 3-year, 25-percent reduction in personal income taxes, incentives for savings and IRA retirement plans, a reduction of the marriage penalty and, of particular importance, tax incentives to stimulate business and industry modernization.

But we went too far. Rather than a clean and lean, aerodynamically designed and efficient model—which we originally promised—we passed a revenue "guzzler" that was all fins and flash—a "something-for-everyone" model.

During the debate on that bill, I spoke in support but observed that the cost of the numerous "add-ons" would come back to haunt us. "With the passage of the tax bill, the Congress brings upon itself a solemn obligation to sustain the budget restraint and exercise even sterner budget discipine than was required this year. Unless tax policy is reconciled by this Congress with spending decisions, there is no place to hide. We have made an open commitment to the American people for which we should be held accountable."

One might observe that this overly generous tax cut did have at least one salutory effect: It served to put the brakes on ambitious spending programs and has been a powerful incentive to keep Members from the temptation to stray from the requirements of the Omnibus Budget Act of 1982.

However, the anticipated recovery has not yet taken place. Deficit estimates continue to grow and interest rates have remained intractable for too long. Congress and the administration must now squarely face the responsibility to raise additional revenues to rein in the mushrooming deficits.

I would suggest that today's vote on the tax bill is a test of our commitment to the American people. Last year, we kept our commitment by reversing the course of Government and reducing spending and tax growth. This year, we stayed on course by adopting a budget resolution that requires further limits on spending and some additional revenues.

Now is the time to once again challenge conventional wisdom as we did last year when we reduced the growth of Government spending and voted the largest tax cut in history. Now is the time to keep our commitment to the American people; a commitment to keep our economy on a course toward steady, stable, and lasting economic recovery.

To those who are squeamish about going against the dictum, "you can't raise taxes in an election year," I say we have no alternative.

The American people do not want politics as usual. They want leadership. They want leadership that will bring them lower deficits, lower interest rates, and they want leaders who will be straightforward with them.

As I see it, there are three functions of an elected Member of Congress—the people's house. Those functions are legislator, friend to his constituents, and educator. Please note: Being an educator and leader does not mean public relations. I think people understand and can discern the difference. And this is an issue that clearly requires us to help educate the public on its merits.

I voted against sending this bill to conference because I believed, and I still believe, that the House should have reserved its historic responsibility for tax legislation. If so, I believe we might have had a better bill today.

I also circulated a "Dear Colleague" letter to the Members, which gathered more than 40 signatures, urging the conferees to reject the provisions for withholding taxes on interest and dividends. I have exerted every influence possible on the conference and supported a rule calling for a separate vote on the withholding provision. Clearly, this is the most objectionable portion of the bill, but we lost. On another issue, our objections did result in a compromise on the proposed increase of the threshold for medical deductions.

There are other parts of the bill that would deserve support in and of themselves, such as the provisions to genuinely reform the leasing of corporate tax breaks. The bill also strengthens the tax law relating to the payment of a minimum tax by corporations and individuals.

But we must look at this issue from the larger perspective. We are considering today a tax bill which has been called the greatest tax increase in history, the greatest tax reform in history, and nearly everything in between. It is probably all and none of these. Whatever it is, it is vitally necessary to our current economic situation and vitally necessary to our economic recovery.

I do not use the term "economic recovery" lightly. I am not a purist; I am a realist who can clearly see that the case has been made. If there be any here today who, after a week of "friendly persuasion," can still be open to a few cogent facts, let me take note of them.

Last year, we reduced Federal spending by $130 billion over 3 years. This year, we passed a budget resolution calling for an additional $280 billion in savings over 3 years. We went on to order $27.2 billion in savings so far this year. Yesterday, we passed $13.3 billion of that savings and today we can pass an additional $17.5 billion in savings—which includes about $2 billion saved from interest on the national debt. This is a portion of the tax bill not to be ignored. It is, in my judgment, one of the most difficult parts of the bill. But it is not the size of the savings which has put its passage in jeopardy. It is the so-called revenue enhancement, which you and I and the American people call taxes, that has caused the furor.

But what do the tax increases really mean? Last year, we passed a $402 billion tax cut. This year, we propose to change that by raising $98.5 billion: $31.5 billion through compliance, $48.3 billion in closing loopholes (some of

which my own constituents have admitted are too generous—and that from those who have benefited from our Federal largesse), and $18.7 billion in new taxes on businesses and individuals (8 percent of which are sunseted out in the next few years). What this really means is that we preserve at least 76 percent of last year's tax cut and, if you consider compliance measures as nontax increases, you can even go so far as to say we preserve 83 percent of last year's tax cut.

And we preserve all of the individual tax cut enacted as the cornerstone of the promised tax cut last year.

I know that many of my colleagues on my side of the aisle are still undecided. I noted earlier my own belief that we have an obligation to lead and educate. What we cannot do is fall prey to a rigid mindset which denies basic economic reality and leads us down a road which ignores basic facts. We are still reducing the level of Government spending; we are preserving the individual tax cut, and we do preserve most of the tax cut from last year.

My friends, the inevitability and necessity of raising revenues is before us. There will never be a tax package anywhere, anytime, on which each of us can agree in every detail. To govern, we must have a consensus; this bill is, for the present, the only prospect for consensus. I urge your support.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the gentleman from Florida for yielding this time to me.

Mr. Speaker, I rise in support of this imperfect bill, but I address those who plan to vote "no." There are many reasons to vote "no": procedural, practical, particular, and political. But when you make the easy no vote remember that you have to go home and report to your people.

Just go back home and tell your people that you voted "no," not to close some $40 billion in loopholes for big business.

It is all right to vote "no." Just go back and tell your people that you voted not to require the freeloaders who pay nothing to pay their fair share of taxes.

It is all right to vote "no." Just go back and tell your people that when faced with the biggest deficits in American economic history, you voted to do nothing.

It is all right to vote "no." Just go back and tell your people that after you passed a budget resolution with 3-to-1 spending cuts over tax increases, and after having interest rates go down in the last 6 weeks and the economic recovery begin to pick up, that you decided that you were just kidding and the budget was just a joke.

Vote "no" and then go back and tell the people back home that although you believe in a strong military defense, you are just not willing to pay for it.

Vote "no" and then go back and tell the American people that you are tough on Federal spending, yet you turned down a chance to save some $17 billion in spending cuts.

Vote "no" and then go back and tell the people the truth: political courage is rare and very painful.

I ask you to vote "yes" and go back and tell the folks that it was a vote to reduce Federal spending, to lower the deficit, to continue interest rates down and to get people working again.

Political courage is rare, but it is alive in this House today.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, the bill before us presents a difficult decision for many in this Chamber, including myself.

Many elements in this bill I do not like, and I am sure others do not like. There are many provisions that should probably be included that are not. But I am convinced that it is the only viable option we have to send a clear and unmistakable signal to the financial markets of this country and to the world that the Congress is serious, deadly serious, about reducing the Federal deficit, lowering interest rates, and putting Americans back to work.

□ 1450

There are no magic formulas or instant solutions to the problems that have been building for three to four decades as far as our economy is concerned. This is not an instant solution either, it is not magic, but it is an important step, and I am convinced that we must also move ahead with spending restraints and couple them with measures like this, and make sure that everyone pays their fair share in taxes, no more and no less.

This legislation closes some tax loopholes and closing a loophole is not a tax increase, it is tax equity. This measure does provide for a minimum tax, and these provisions will make sure that everyone contributes their fair share in taxes regardless of the number of accountants and tax attorneys they can afford to hire.

This is a difficult decision, but all of us have a responsibility to vote for this bill, not because it will help out the President or one party or the other, but because it is in the best interests of America.

Mr. CONABLE. Mr. Speaker, I now yield 1½ minutes to the distinguished gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, they say pain brings character, and if that is true, I am a full-fledged Eagle Scout this morning with a chest full of merit badges, because this is the most painful decision I have had to make since I have been here.

I believe in supply-side economics. I believe that if we cut the marginal rates on personal income taxes that behavior modification will set in and we will produce more, save more, and private sector jobs will grow, but there is a time factor involved.

I have been very disappointed that the financial markets have not reacted as promptly as I had wanted them to. I think they will react. I think they will yield to supply-side economics, but meantime there is a problem of perceptions, and I think the people on Wall Street that set interest rates deal in perceptions, and they see us here in Washington, with $140 billion or $150 billion deficits and they want to know what we are going to do about it. Their commitment to supply-side economics is less fervent than my own.

I suppose I am economically impatient, but I am unwilling to sit here passively and do nothing. We might be able to wait, but 10 million unemployed cannot wait, and a $150 billion deficit is staring at us with bloodshot eyes. I am unwilling to just stare back or to try and fight that deficit from Mount Olympus with a rolled-up copy of the Wall Street Journal. Once we convince the financial markets that we are serious about attacking the deficit—through spending cuts and, yes, some tax increases as well, interest rates should respond. I am willing to take that chance in support of my President.

Therefore, I will support, painfully and reluctantly, the conference report.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE).

Mr. WILLIAM J. COYNE. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982.

In the best of all possible worlds, this would not be the measure I would prefer. This is not, however, from my perspective, the best of all possible worlds. We have a conservative Republican administration. We have a conservative Republican Senate. We have a House which, in matters of budget and taxes over the last 18 months, has had a working administration majority.

For the administration, legislative victory has followed legislative victory. This has meant that, in the last session, Congress reduced taxes by more than $750 billion over 5 years, while it embarked on a military spending program of more than $1.6 trillion over the same period. For the administration and its supporters, it has been, if not the best of all possible worlds, cer-

tainly a better world for them than for those who opposed them.

Congress has gone to the well for the administration; it is now coming up dry. Despite administration promises to the contrary, the number of unemployed has risen from 8 million in January 1981 to 10.8 million in July 1982—a 35 percent increase. Tax reductions, it was argued, would aid small business. The numbers say otherwise. In the first 7 months of 1982, nearly 2,000 businesses failed each month. In 1980, the last year of the Carter administration, the average was 978 per month.

The annual growth rate of the gross national product was 7.9 percent when the Reagan administration took office in the first quarter of 1981. In the second quarter of 1982, it stood at 1.7 percent. In one of the most dismal indicators of all for those of us from western Pennsylvania, steel production stands at 44 percent of capacity—the lowest on record.

I opposed the administration's tax and budget bills last year not simply because they were fiscally unsound, but because the administration's proposals lacked any notion of social justice. That opposition, of course, had a partisan nature, as well it should. The views of an urban Democrat and a conservative Republican administration rarely coincide.

This opposition of principle should not be reduced to a strategy based principally on opposition. For those who oppose this tax measure with an eye toward electoral gain in November, I would commend the observation of Governor Adlai Stevenson:

> More important than winning the election is governing the nation. That is the test of a political party—the acid, final test.

The measure we consider today is indeed our acid test. I strongly object to a number of provisions, as do most Members of the House, in one manner or another. I must commend the conferees, however, for extending the time period for unemployment benefits. I regret that the benefits were not extended for a longer period of time. This tax measure is before us because the economic policies of this administration have failed. We, as responsible Members of Congress, must address that issue. The large number of unemployed individuals in the country today are there because the administration has failed them. Simple justice dictates that we address their situation in a fair manner. And Mr. Speaker, a 10-week extension is simply not fair.

We, in Congress, will be judged by what we fail to do as much as by what we do. Failure to enact a responsible revenue measure at this time, by this Congress, would be irresponsible. Congress assisted in creating this fiscal fiasco. It is our responsibility to find a way out. By offering this measure, the administration has, to its credit, admitted that the economic program it so successfully sold to Congress has been a failure—an observation I have made more than a few times in recent months. A vote against this measure, flawed though this bill may be, would be a vote to sustain the economic failure achieved thus far.

I urge a "yes" vote on the Tax Equity and Responsibility Act of 1982.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Speaker, it has been said today on the floor that we should pass this bill to help all Americans, and I wonder what Americans we are helping. The elderly? The students of this country? The unemployed? The middle income?

We are helping none of them. We are hurting them in this billl, and there is no denying it. Mr. Speaker, in spite of all the nice letters and the telephone calls from the White House, from the President himself, I hope that particularly my friends on the Democratic side remember that just 1 week ago, the President was calling us jackasses. I am convinced that we will be if we go along with this bill, because this bill is going to do nothing but hurt the very people whom we should be helping.

I hope we defeat this measure.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I believe the Members should vote "yes" for three reasons:

First, as one who suported last year's tax cut, this bill does not in any way violate the individual rate reductions in last year's tax cut.

Second, it does help to alleviate the deficit problem, which will in turn help to reduce interest rates; thus reducing the unemployement which has thrown millions of Americans out of work, including thousands of aircraft workers in Wichita.

Third, defeat of the tax bill will insure bigger cuts in social security, bigger cuts in veterans' pensions. While I am not so bold to say that a vote against this bill is clearly a vote for social security cuts, the fact of the matter is, because of this Congress reluctance to control the growth of the defense budget, our elderly citizens may well suffer if this bill is not passed, because the budget pressures will inevitably lead to massive and unwise cuts in social security pensions and veterans' payments.

Churchill said:

> Sometimes we have to do more than our best * * * sometimes we have to do what is required.

I think we need to heed Mr. Churchill's advice, do what is required for America, and pass this bill.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FOGLIETTA).

Mr. FOGLIETTA. Mr. Speaker, 1 year ago the President and his lieutenants pushed through this Congress the largest single tax cut in history. Today he is attempting to push through the largest single tax increase in history.

Today's vote is a product of last years mistakes. No business in America could have convinced its stockholders that you could drastically cut revenues, increase expenditures, and still come out in the black. No group of stockholders would have voted for such a program. But that is exactly what this Congress did.

Monday night the President went on national television to endorse this tax package. In effect, he was saying to the American people, "My program is not working." Clearly, he is right.

I opposed the Reagan program last year. I continue to oppose it. It would be simple, and probably easier, to let the administration lie in the mess it has made of the economy. But that would only hurt our Nation, and the people who are already at the end of their economic rope.

This bill does nothing to address the Federal excesses of wasteful, hyperinflated defense spending; of pork barrel projects; or of undeserved tax advantages that help the wrong people, and ignore the ones who need a break. But for all those failing, it takes a major step toward reducing a crippling deficit—a deficit that threatens every program we hold dear, that threatens any hope of economic recovery, and that jeopardizes the economic foundation of our Nation.

It reforms and reduces the tax-loss-leasing provision, oil company write offs for overseas drilling, and cuts back the ridiculous tax breaks given big business last year.

This bill extends for an additional 10 weeks desperately needed unemployment benefits, something that we could not, in good conscience, deny to the 1 out of every 10 Americans presently unemployed.

I am not happy with the 1.3-percent medicare tax, which is undeserved and unfair. Nor am I happy with other cuts in benefits.

Too few Americans have been told that this is not a personal income tax bill. The popular misconception exists that we are raising the average American's income taxes. We are not, and that must be made clear.

This bill closes loopholes that we have been trying to close for years. Loopholes that should never have existed.

Mr. Speaker, I believe that a quote from the Philadelphia Enquirer's editorial of August 18 is appropriate. This editorial says:

Defeat of this tax bill would commit the country to a course of combatting budget deficits entirely through spending cuts—and thus raise an ominous new threat to the future of basic social welfare, especially social security.

There are two reasons to vote against this bill. One is to commit the country to a fiscal course of supply side extremism that is destined to savage the masses for the benefit of the prosperous. The other is to seek quick political popularity by parading nominal opposition to tax increases at the cost of irresponsibility.

No matter the convenience or expediency of voting "no," the right choice, the responsible choice, is clear.

We must put aside our differences on how we got to this point and why. There is no room for recrimination, or grandstanding for the home audience. The national interest is the issue here, and the national interest demands that we vote "aye" and pass this bill.

Mr. GIBBONS. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I bring two straightforward messages today. First, the tax and budget policies of this administration have an uncanny and dangerous similarity to the Republican economic policies preceding the Great Depression. Second, we are on this economic track in part due to the collapse of Democratic leadership in the House of Representatives.

We all know what this Congress and the administration have done. Last year it passed a tax cut which only decreased the actual tax burden for the wealthy. Now, it is attempting to pass the largest peacetime tax increase in history. This increase adds new tax burdens to the middle and lower income Americans.

But I must remind you that these policies run parallel to Republican economic policies in the 1920's and early 1930's. In 1925, under President Coolidge, Treasury Secretary Andrew Mellon steered a tax cut through the Congress which helped mostly millionaires. On top of that, he handed out $3.5 billion in tax credits and refunds to the wealthy during his 8 years in office.

Mellon operated on the trickle down economic theory. If you make the rich rich enough, they will invest, save, and bring prosperity to the rest of the population, said the theory. That theory has been renamed today. We now call it supply side economics.

Coolidge and Mellon achieved the supply sider's dream. By the time they were finished, the wealthiest 60,000 Americans saved as much as the other 25 million. Just 2.3 percent of the population were responsible for two-third's of the country's savings.

And what happened? Working American families did not have the purchasing power that they needed to buy the goods and services that America could produce. The trickle down theory of economics led our country into a recession and then into the Great Depression.

Then, in the midst of a depressed economy, Republican President Herbert Hoover put forth a plan for economic recovery. He described the main components of his plan in 1931 as follows:

One, drastic economies (savings); two, resolute opposition to the enlargement of federal expenditures until recovery, and three, a temporary increase in taxation * * * in such a fashion as not to retard recovery.

The Hoover tax increase for economic recovery succeeded in stagnating the U.S. economy throughout a good part of the 1930's.

As you can see, Republican economics have not changed much over the past 60 years. Americans earning less than $47,800 are losing $18.2 billion under the Republican tax and budget passed last year. Americans earning over $47,800 are gaining $9.2 billion from this program. Those figures come straight from the Wall Street economic analysis firm, Gary A. Schilling.

With this kind of resource shift going on, where is middle America's purchasing power going to come from to boost us out of this recession? Will it come by raising new taxes on the average American taxpayer?

Those who say that this bill does not raise taxes on the average taxpayer are simply not telling the truth. A family making $20,000 a year which incurs major medical expenses will have to pay hundreds of dollars in higher taxes under this bill. A family which loses its house to fire or other accidential damage will also pay hundreds more. Americans who use telephones, airplanes, cigarettes, and savings accounts will face new taxes.

Furthermore, this bill cuts medicare by more than $13 billion. That means higher health care costs and higher private insurance bills for our Nation's senior citizens.

Worst of all, however, this bill locks into law most of last year's tax bill under the guise of reform. It is still a child of last year's bill, which was the most unfair piece of legislation to be passed in this century. Can you really call it reform when you only take back 15 percent of a major oil industry tax loophole? Which is more important, taking back the 15 percent or letting the oil industry keep the 85 percent?

We would not be debating such a bill right now were it not for the collapse of Democratic leadership in the House of Representatives. The leadership has lost its way, first by shirking its responsibility to draft its own revenue bill, then by agreeing to accept this unfair legislation.

When did it become Democratic doctrine to raise taxes on working Americans in the midst of a deepening recession? When did it become Democratic doctrine to cut medicare by $13 billion at a time when hospital costs are rising at a 17 percent annual rate? When did it become Democratic dogma to confirm the three-martini lunch tax deduction for businessmen and then press waiters and waitresses to the wall for collection of their tips? And when did it become Democratic doctrine to give businesses tax deductions for bribes that they give to foreign officials?

I believe the House should have offered an alternative which gets to the root of our deficits—last year's unfair tax cut and an excessive increase in defense spending. I would have liked to see an alternative fashioned much like the amendment offered by the Senator from New Jersey when the Senate debated this bill. That amendment would have postponed or reduced the 1983 tax cut for individuals who earn more than $46,500. The revenue gained from that measure would have made many of the "man on the street" tax increases and medicare cuts now before us unnecessary.

Let me add one other Democratic perspective to this debate. If we lowered the unemployment rate by 1½ percent each year for the next 3 years, it would have the same fiscal impact as this tax hike.

Finally, a word about extended unemployment benefits. The benefits which have been added to this bill are an attempt by the administration to blackmail the American people. In essence, the administration is saying, "If you want jobless workers to get the benefits that they desperately need, you have to accept a $100 billion tax increase."

This is shameless. We should immediately pass a bill separate from this tax bill that extends unemployment compensation. I have cosponsored such a bill. Let me assure my colleagues that if this bill is defeated, there are enough votes in both houses of Congress to pass extended unemployment benefits.

Take a good hard look at our economy. It is time to get off of the trickle down economic track which we are on and to get our economy moving again. This tax bill is not the answer. Let us defeat this bill and draft tax and budget legislation which will effectively deal with our economic problems in a fair manner.

Because of the collapse of Democratic leadership in the House, we have before us a $100 billion tax increase without one new idea in it for creating jobs. How can we raise taxes on people who are going broke? Are we so devoid of leadership that we could not come up with anything better than this?

The SPEAKER pro tempore (Mr. BOLAND). The gentleman from California (Mr. WAXMAN) will be recognized for 15 minutes, and the gentleman

from Illinois (Mr. MADIGAN) will be recognized for 15 minutes.

The Chair recognizes the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report, and I want to urge my colleagues to vote for it.

Members who share my concern for the poor and the elderly medicare and medicaid beneficiaries must understand that a vote for this conference report is a vote for their interests. Given the reconciliation instructions that we finally decided to impose upon ourselves after extensive debate earlier this year, the conference report is the best that beneficiaries could hope for. If we reject this report, we will almost certainly get a far more draconian set of medicare and medicaid cuts—cuts that will do unacceptable damage to the poor and the elderly.

Let us look at the numbers. Last year, we enacted $2.7 billion in medicaid cuts. The administration wanted to slash medicaid again by $8 billion over the next 3 years. The Senate lowered that cut to $2.2 billion. Even the Senate's cuts, coming on top of those enacted last year, would clearly create an impossible situation for the States.

□ 1500

Few, if any, of them are in a position to absorb further Federal cost shifts during this recession.

The conference agreement reduces these cuts to $1.1 billion over the next 3 years. Make no mistake, these reductions, combined with those we made last year, will still hurt the States and the poor. But $1.1 billion is a long way from $8 billion.

As for medicare, last year we enacted $3.4 billion in cuts. The administration proposed to chop the program by $17.7 billion over the next 3 years. The conference agreement reduces that to $13.3 billion. This is over $4 billion less than what the administration wanted.

I think these numbers make it very clear that medicare and medicaid did very well under the circumstances. Let us not kid ourselves. If we do not pass this legislation, the fiscal year 1983 deficit will increase by $24 billion. The deficit increase in the outyears will be even higher—$44 billion in fiscal year 1984 and $50 billion in fiscal year 1985. This will only intensify the pressure on domestic programs, including medicare and medicaid. The resulting reconciliation instructions would be far more devastating, and we would have no alternative but to dismantle parts of these programs in order to comply.

I have decided to support this bill only after a great deal of soul-searching, for it contains many provisions that I find repugnant. I do not believe that medicaid and medicare programs should be cut, but this legislation does cut these programs by $14.4 billion over the next 3 years.

I do not like a lot of these provisions that would shift costs to the States and to the patients, the poor and the elderly, but I know that what is going to happen if we reject this compromise will be something far worse. The conference report cuts medicaid and medicare programs in the least harmful way to beneficiaries.

The conference agreement achieves medicaid savings through the following provisions:

It allows States at their option to impose copayments on beneficiaries; it allows States at their option to impose liens on the homes of nursing home patients with some important exceptions, which I will outline in a minute; it penalizes States whose eligibility errors exceed 3 percent; it changes the medicare hospital reimbursement formula; and it changes AFDC elegibility rules.

The first two provisions were of most concern to our committee, and I would like to explain how these were modified to protect beneficiaries.

The conference agreement allows States to impose some copayments. The provision is optional, not mandatory as the administration originally proposed. The copayments must be nominal. Children under 18 may not be subjected to copayments. Pregnant women are exempt. Patients in nursing homes are exempt. The States may not impose copayments on emergency or family planning services.

The conference agreement contains a provision that allows States to impose liens on the homes of medicaid beneficiaries in nursing homes and to delay medicaid eligibility for persons who dispose of their homes for less than fair market value. Under the agreement, these provisions are also optional. Even if a State chooses to adopt such policies, we have protected the home from a lien so long as a spouse, dependent child, or—in many cases—a brother or sister is living in that home.

The conference agreement moderates existing restrictions on transfers of assets. Burial spaces and burial policies will be protected in most States from transfer prohibitions. The States will have the discretion to waive penalties in cases of undue hardship. This will enable the State of Virginia to restore medicaid coverage to Mattie Dudley, the wheelchair-bound newspaper saleswoman from Charlottesville who was cut off the program for 2 years because she transferred a burial certificate that put her $200 over the allowable resource level for SSI benefits.

These changes may appear small, but they can make a big difference in the lives of the poor toward whom these restrictions are targeted.

I want to make an additional comment about another provision in the bill, one relating to private insurance coverage for the working aged. First, this would in no way remove a person's entitlement to medicare. Second, it would clearly be the employee's choice as to whether to elect his employer's health plan or to keep medicare. The choice is voluntary.

Third, although the Secretary of Labor may issue regulations to prevent deliberate circumvention by employers of the requirement to offer coverage to employees, those employers would also be able to offer policies which provided supplementary benefits, so long as that alternative was available to all employees. Policies covering prescription drugs, eyeglasses, and so on would be acceptable supplementary policies, and would not be considered an attempt to evade the law.

Fourth, even where a person elected his employer's group health plan, medicare would supplement that plan to the extent necessary to assure every person would have the full package of medicare benefits.

The conference agreement is not limited to program cutbacks. It also contains some important improvements. One of these is in medicaid, where States are allowed to provide coverage to certain disabled children at home, even though these children may only be eligible for institutional care at the present time. This will address the problem of families like those of Katie Beckett of Cedar Rapids, Iowa, whose situation our colleague Congressman TAUKE brought to the President's attention, and to whom President Reagan referred in one of his addresses to the Nation. Now families like hers will be able to keep their disabled children at home with them rather than warehousing them in institutions, at less expense to the State and to the Federal Government.

Another program improvement is the provision authorizing health maintenance organizations to participate in medicare on a prospective risk basis. This should greatly increase the options available to medicare beneficiaries, while at the same time promoting competition among providers and reducing Federal outlays.

Yet another program improvement is the provsion authorizing coverage under medicare for hospice services. This will give the terminally ill beneficiaries the option of spending their last days at home rather than in a hospital. Again the Federal Government will benefit from the changes.

Mr. Speaker, when the leadership of this Nation, including the President of the United States of one party, and the Speaker of the House of Representatives, of the other, all support a proposal to help us out of an economic

mess, then if we, their troops, reject their proposal, the American people can only despair at the idea that leadership cannot lead and Government cannot govern.

There are a lot of reasons that each one of us could give for voting against this proposal, but let me say this to my liberal Democratic friends: the alternatives will be worse for the programs and people we care about. Some of you have heard from some senior citizens organizations that they do not like some of the provisions, and there is not a lot of reason to like cuts. But there does come a time when we have to say to our friends that we cannot just follow you blindly. We, who know what will happen if we reject this program, we who are committed to your interest, must lead you to realize that this alternative is better than the other alternative that will be before us.

Mr. Speaker, I urge my colleagues to vote for this proposal.

The SPEAKER pro tempore. The gentleman from California (Mr. WAXMAN) has consumed 9 of his 15 minutes. The Chair now recognizes the gentleman from Illinois (Mr. MADIGAN) for 15 minutes.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, one of the key titles of this bill deals with certain changes that are made in the medicare and medicaid programs. The fact is that the House conferees were able to achieve 3-year savings of $13.3 billion in the medicare program and $1.1 billion in the medicaid program, for a total of $14.4 billion.

□ 1510

I would call attention of the Members to the summary of the changes and the provisions that are provided in this title in the summary sheets that have been provided to the Members.

I would remind Members that these savings and the spending programs are provided in this bill. Most of the debate thus far has been on the tax portion of the bill.

Deficits have plagued the U.S. economy for the past 10 years, 10 deficits in the past 10 years, 19 in the past 20 years. They have come about because of the spending habits of the Congress.

During this period the practice had been to add on dozens of new spending programs and each one of them with their built-in escalators.

Now we have come to a time when no new programs are advocated. In fact, this administration is trying to reduce spending.

Notwithstanding that, the deficit is growing. If it continues we are going to add almost $500 billion to our national debt between 1982 and 1985 and we are going to see the disastrous effects that that is going to have on our economy in continuation of high inflation and high interest rates.

The root cause of deficits is the fact that we have these uncontrollable spending programs.

In this bill we have modest attempts to deal with some of these programs. As I say, modest. The total savings in this bill are some $17 billion, of which medicare and medicaid, as I pointed out, is some $14.3 billion.

Medicare inflation alone is running at 15 percent a year. That program will be bankrupt in 3 years if we do nothing.

Medicare and medicaid together account for $75 billion in spending next year, 10 cents out of every tax dollar.

Failure to deal responsibly with this bill will mean that the people, the economy of this Nation will continue to go through the meat grinder of high inflation, high interest rates, economic stagnation.

I advocate, Mr. Speaker, getting on with the job of putting our economic house in order.

I maintain that this bill is a step forward in helping balance that budget and licking the problem of deficit spending which has plagued this Nation too long.

Mr. MADIGAN. Mr. Speaker. I yield 2 minutes to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, we are in the mess we are in today, very succinctly, because in the last 8 years Federal spending has gone up 152 percent and the increase in prices has gone up 84 percent which means that Federal spending is way out of control.

When you get to this point you can do one of two things: You can raise taxes or cut spending.

What do the American people say that we in this House should do? On June 3 of this year, the National Tax Limitation Committee published the results of a poll which said that 79 percent of the people of this country want the budget balanced.

On March 15 of this year Newsweek produced a poll saying that the way the people of the country want this budget balanced is by cutting spending, not increasing taxes. The margin was 85 percent to 10 percent. So the people all across this land have expressed very clearly how they want the balanced budget to come about: to cut spending, not increases taxes.

Then you say "Well, how do you do that?"

Let me suggest how you can do that. On May 25 of this year some of us in this House proposed a budget resolution which called for spending for the next fiscal year at a level $70 billion lower than what is contained in the budget proposal that we finally adopted, $772 billion versus $702 billion.

On that vote, 182 Members voted for the proposal and 242 Members voted against cutting spending by $70 billion; 191 Democrats, which represents 78.9 percent of their membership in this House, and 51 Republicans, which represents 28.7 percent of the Members of this House made up the 242 negative votes.

Those 242 Members should have the privilege in the November election of explaining why they are standing in the way of a balanced budget by cutting spending.

We can bring runaway Federal spending under control, through the method of cutting spending, when the American people decide to do it. If a Members vote did not reflect the wishes of a Members district on this importance issue, such a person should be retired from the Congress.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LEE).

Mr. LEE. Mr. Speaker, colleagues, I take this opportunity today to share with you my reasons for casting a vote against this proposed tax measure.

I have not turned a deaf ear to the call to battle in this matter. I believe that the most sincere efforts have gone into the creation and drafting of this bill. My principal objection, however, is that the sincerity was badly misplaced. Had the same anguish and work been invested in a budget document just weeks ago, we would not today be faced with this deficit dilemma.

Just a year ago this month, we stood together here on the floor of this Chamber and declared the beginning of a new era for American Government, an era of reversal. We cut spending and because of that, we were able to cut taxes. We were universally applauded by the American taxpayer. A new direction had been declared; we had taken our first major step in that direction.

Our journey was short-lived. I watched in absolute despair in June as we fumbled our way through preparation of a budget that looked, to all American eyes, like nearly every budget before. Congress courage waned. The deficits grew. We all knew the moment that budget resolution was approved that this kind of tax package—or a compounded national debt—lay ahead. I voted against that budget.

We are all painfully aware that there are two ways to balance a budget: we can either make more money come in or we can see to it that less money goes out. I think we have made precisely the wrong decision. Congress insatiable appetite for spending will never be curbed as long as we keep giving it more to spend, even on a "once in a while" basis. As for the taxes, I think it is a sad chronicle to

say that this Government will only close loopholes in taxes when we are a trillion dollars in debt. We might not be a trillion in the hole if everyone's "fair share" had been demanded in the past. Regardless of the ultimate fate of this bill, I will expect those holes to be closed, and, for that matter, all loopholes.

In conclusion, I sincerely hope that a passage of this tax package will not appear to the American taxpayer as the ultimate in hypocrisy. We risk the loss of public confidence only recently restored and terribly fragile. That confidence may be our only path out of America's deep economic doldrums.

I urge my colleagues to consider carefully their actions and the consequences of this tax bill.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the very distinguished chairman of the Energy and Commerce Committee, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I thank my friend and colleague, the gentleman from California (Mr. WAXMAN) for yielding this time.

Mr. Speaker, the Committee on Energy and Commerce has conducted a program of damage control. The committee was directed to cut entitlements.

The committee has, I think, done as good a job as can be done in cutting the spending portions of this bill and has done the least damage possible to the medicare and medicaid program and their recipients.

The beneficiaries have been protected.

We have pressed the hospitals, who are the biggest spenders in the health sector, and they will, as a result of the provisions, save $6.3 billion in medicare. This will compel them to be more efficient. We hope that it will not impose undue hardships either on the hospitals or their patients.

The committee has stopped the President's effort to deregulate the nursing home industry and there is a 6-month moratorium on deregulation of that industry.

The committee believes that we might have done more damage, but this bill is the best way to cut these programs with the least impairment of the humanitarian concerns that have been the reason for the existence of those programs over the years.

This was a bipartisan effort. The gentleman from California (Mr. WAXMAN), the gentleman from Illinois (Mr. MADIGAN), and the gentleman from North Carolina (Mr. BROYHILL), deserve the thanks of the House for their labors in this matter.

Mr. Speaker, I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Speaker, on March 9, I rose on this floor and very highly criticized this administration and the President of the United States for his failure to adjust its policies in light of the severe economic conditions that prevailed at that time.

I followed those remarks with others that were as severe if not harsh.

Today I rise in fairness, in fairness because the President of the United States and his advisers have now taken steps which we have reason to believe will help to bring down unemployment, bring down the interest rates, and reduce the enormous projected deficits which, in spite of what the savior of the Republican Party, the gentleman from New York, says, do affect interest rates.

The most major step, of course, that this administration has taken to date has been the support of this legislation—which I support and will vote for.

Mr. Speaker, it takes political courage of the type exemplified by Senator DOLE, Senator BAKER, the Speaker of this body, Mr. O'NEILL, and the minority leader, Mr. MICHEL, as well as wisdom to see that we can no longer afford the interest rates which prevail today or the intolerable unemployment which we have with us. That political courage was shown by the President in backing this bill.

When I last spoke, Mr. Speaker, I mentioned a marvelous song from the great show, "Annie." It is called, "Thank you, Mr. Hoover, you have made us what we are today." I think again, in fairness, I should mention another great song from that wonderful show, "Annie," which is called, "The sun will come up tomorrow."

Those of us who hope for the very best look forward to this piece of legislation helping that sun shine brightly.

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Mr. WAXMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, the administration's supply-side economic program has bankrupt our National Treasury and is the cause of the most severe economic recession since the Great Depression. The President is not candid when he claims that his program has only been operational for 10 months and that more time is required to see results. Last year's Economic Recovery Tax Act applied every business tax reduction provision retroactive to January 1, 1981, the beginning of the Reagan administration.

We are now into the 20th month of the administration's program. The 1981 multiyear tax cuts will remove $750 billion from the U.S. Treasury at the same time that defense spending will increase by 86 percent. As a result, record deficits are forecast for the next 5 years, driving interest rates high and business investment down. Capital spending by businesses this year will be lower than the 1981 level, and still lower than the level 2 years ago. Business and farm failures are at their highest rate since the Great Depression. One in five Americans were unemployed at some time in 1981. Unemployment today is the highest since World War II.

The administration's supply-side economics has created great inequities across the country. Their program has isolated a small minority of Americans from today's economic realities. A Congressional Budget Office study shows that 35 percent of this year's tax cut will go to less than 5 percent of Americans in the highest tax bracket. A family earning $80,000 will be rewarded next year with a $15,000 tax reduction. Yet the net worth of a family earning less than $10,000 will actually be reduced by the administration's tax and budget programs. Aided by the administration's 1981 Tax Act, 33 companies with U.S. earnings over $100 million paid no income taxes last year. At the same time our national deficit for 1 year exceeds $100 billion, depriving consumers and small businesses credit needed for economic expansion.

Last year's policies created a forecast of expanding budget deficits: 1982—$110 billion; 1983—$210 billion; 1984—$250 billion; 1985—$280 billion; 1986—$330 billion; 1987—$380 billion.

To bring these projected deficits down to a $140 to $180 billion range, the administration is seeking a $98 billion tax raise. This tax hike will not bring deficits down to anyone's notion of an acceptable level, and interest rates will continue to be driven by Government absorbing an unprecedented share of available credit to finance the ballooning red ink. The administration justifies the tax increase bill on the grounds that it will impose minimal taxes on certain individuals and corporations who do not pay their fair share of the tax burden, and that these changes will result in greater fairness in our tax laws.

In numerous and little discussed provisions, however, the administration's tax increases will actually fall most heavily on lower and middle income working Americans, the same group of taxpayers who are receiving the least amount of tax relief under the administration's current tax policies. I do not support a bill that increases taxes on average Americans, while it does nothing to rectify last year's mistake of awarding the largest tax cuts to the most affluent.

The elderly, our society's most vulnerable group, will see their limited income further reduced under the administration's tax bill. Through a combination of out-of-pocket premium increases and curtailment of medicare

reimbursement of services, the administration's bill will increase the amount of money senior citizens have to pay for their health care. Administration officials argue that most of the $13 billion medicare cut is directed at hospitals, physicians, and other health institutions, and not at beneficiaries. But ultimately these health providers are going to pass on the cuts in medicare. Perhaps some portion of the medicare cuts will be passed on to private patients, or purchasers of health insurance, or directly to medicare's beneficiaries, the elderly. Senior citizens will have to pay these added costs, or elect not to seek medical care. In 1980 the elderly paid more than 19 percent of their income for health care costs. The administration's tax bill insures that this burden will increase. The administration's bill asks the elderly to shoulder an increasing burden to make up for a failed economic policy. I do not believe this is fair or acceptable.

The penal nature of the administration's tax bill on the elderly is further reflected in a provision to allow States to impose a lien on the homes of medicaid recipients when they enter institutions, such as nursing homes. Medicaid recipients have very little income, and their home is usually the only property of value they own and which bridges them to their community. The prospect of a State lien against one's home would emotionally traumatize anyone. Such a prospect may discourage a poor elderly medicaid recipient from seeking institutionalized care, even for a short period of time and when it is medically necessary. The "savings" from this provision are estimated at $600 million over the next 3 years, accruing from the State's being in a better position to recover the value of the liened property after the owner dies. But this estimate does not even consider that the threat of losing ones home may delay a medicaid recipient from seeking institutionalized care until his medical condition worsens. This may lengthen the person's hospital or nursing home stay, and end up costing the Government more money.

Middle income, working Americans will be penalized in the administration's tax bill through changes being made to the medical expense deduction. The bill provides that taxpayers will only be permitted to deduct medical expenses exceeding 5 percent of their adjusted income, compared with a 3-percent threshold under present law. Also, the present separate deduction for one-half of medical insurance premiums up to $150 will be eliminated. These provisions will impose over $3.7 billion in new taxes over the next 3 years. A substantial portion of this new tax burden will fall on low- and middle-income taxpayers. Forty percent of the existing medical care deduction is claimed by taxpayers with incomes below $30,000. Clearly this tax increase will fall heavily on those who are already beset with the burden of heavy medical expenses.

The bill's proposed limitation on casualty and theft loss deduction also asks the average American to shoulder an increased tax burden. Under the bill, a taxpayer would not deduct losses of personal property, such as resulting from fire, storm damage, or theft, unless his total casualty losses for the year exceed 10 percent of his adjusted gross income. Current law allows the taxpayer to deduct the fair market value of the lost or stolen property. The FBI recently disclosed figures showing that the volume of reported crime is at an all-time high, with robbery alone showing a 5-percent increase nationwide, and burglary up by 13 percent in the last 2 years. The bill's provision limiting casualty loss deductions will cost Americans $3 billion over the next 4 years and make it harder for low- and middle-income Americans to replace stolen or damaged personal property.

Other tax increases whose burden would be borne most heavily by low- and moderate-income taxpayers include higher excise taxes on cigarettes and telephones. The cigarette tax will be increased from 8 to 16 cents per pack, and the telephone excise tax will be raised from 1 to 3 percent in each of the next 3 years.

The telephone tax increase will net about $6 billion. The administration claims that this will only amount to a 54-cent-monthly increase for an average household. Yet this increase can be a significant burden to an elderly person on a fixed income, or to an unemployed family trying to stretch their savings. The telephone is a necessity of life, and a $6 billion tax increase levied on its use is inequitable and will contribute to making low-income, working Americans feel that they are being asked to bear a disproportionate share of the tax burden.

The administration's tax bill also represents a major step backward from the gains our country has made in increasing the incentive to save, and providing equitable treatment to the small saver. Some $10.5 billion over the next 3 years is expected to be raised in the administration's tax package calling for a 10-percent withholding on interest and dividends beginning July 1, 1983. The loss to savers is estimated between $1.5 billion and $2 billion a year, because interest withheld early in the year by the Government would not be available for compounding.

In these and other ways the administration's tax bill continues to shift the tax burden away from the affluent and onto the backs of the middle class, working men and women, the poor and the elderly. The administration's tax bill does not do enough to force the affluent to share equitably in the effort to reduce our Nation's deficit and put our economy on the path to economic growth. The bill does not correct many of last year's mistakes. Next year persons making over $78,000 a year will be rewarded with a $25 billion tax cut. The administration's bill does nothing to correct that inequity. Last year's policies created "Safe Harbor Leasing," a corporate welfare scheme that will cost the U.S. Treasury $16 billion over the next 3 years. The administration's tax bill only succeeds in recovering half of this enormous corporate tax abuse.

The administration's deficit policies and the resulting recession has fallen heavily on middle- and low-income Americans. These same people must not be asked to reduce the deficit through large and unequal tax increases.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. I rise today in support of the conference report on H.R. 4961. Clearly supporting this conference report is not a simple decision. This tax bill is not a panacea. It does not rectify some of the basic unfairness of the tax bill enacted last year, which left the tax burden to fall much more heavily upon average working Americans and much less heavily upon wealthy individuals and large corporations. Still this tax bill does repeal some of the worst excesses of last year's tax bill.

Mr. Speaker, the present state of our economy forces us to choose between three rather bleak alternatives:

First, we can do nothing. Of course, such inaction would guarantee a Federal budget deficit of no less than $200 billion annually in 1984 and beyond.

Second, we can institute new taxes on average working families. Of course, those individuals are already paying more than their fair share of the national tax burden. Such action would require us to repeal the third year of the individual tax cut, impose an oil import fee, or enact new excise taxes on a multitude of items.

Third, we can enact a bill which is aimed at economic moderation and for tax fairness. We can act to insure that the most highly privileged individuals and corporations in our society, many of whom now pay little or no tax as a result of last year's tax bill, contribute their fair share along with the average wage earner. This bill is a small and imperfect step toward fairness, but a step nonetheless, in the direction of moderation and fairness. In my view, it is a step which must be taken.

Mr. Speaker, even if this tax bill is enacted, the Tax Code will still contain more loopholes, not fewer, than it did when this administration took

office. The average wage earner will still bear a heavier burden of taxation and the wealthiest citizens will still have a much lighter burden than they did just 2 years ago. But this bill reverses the trend which has seen the average working American be forced to accept virtually the entire tax burden of the Nation. In this regard, the conference report represents the best alternative to meet the economic crisis facing this country.

To my colleagues on the other side of the aisle, I say: We have only one economy to give to our country. Fortunately, the President recognizes this fact. This is a Republican tax bill, but it is a Republican tax bill which recognizes the value of acting upon economic reality rather than adhering to an economic theory. We cannot ignore the unwelcome fact that our economic prospects are less than rosy. We cannot create a new economic reality by wishing away our present economic circumstances. We need this step toward moderation and fairness. We all must abandon our rhetoric and take a stand on real issues of the day. I urge my colleagues to support this bill.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Mr. Speaker, today is a very important day for all of us who are facing the stark reality of voting for a bill that will raise taxes in time of a recession.

Raising taxes, by any other name, remains raising taxes. A measure designed to collect an extra $99 billion from American taxpayers and enterprises is going to withdraw, from the economy, precisely that capital which is needed for the investment that yields growth, efficiency, and jobs. Tax hikes do not bring down interest rates and Government spending. They never have; they never will.

Everyone agrees that budget deficits and high interest rates are wreaking havoc on the economy. The question remains, however, is Congress correct in the solution they are currently pushing?

The main reason that the country should support a tax increase, say its advocates, is that increased revenues are necessary to reduce the budget deficits—the major cause, it is claimed, for the high interest rates blocking economic recovery. But tax increases will not lower interest rates, stimulate economic recovery, or create more jobs.

While deficits should be reduced for many reasons, lowering interest rates is not one. There simply is no statistical or historical evidence linking lower deficits to a dramatic lowering of interest rates. Indeed, if high deficits do cause high interest rates, then why have rates declined so dramatically in recent months? The prime rate was at a lofty 21.5 percent when Reagan took office. Today, when project budget deficits are over six times higher than projected in March 1981, the prime rate is 14½ percent and falling.

Recently, the Congressional Budget Office raised its projected deficit for fiscal year 1983 by $40 billion. This should have caused interest rates to jump—if big deficits mean high rates. Instead, Treasury bill rates fell below double-digit levels for the first time since spring 1980. It is simply not the case that there is a direct relationship between high interest rates and budget deficits. History confirms this with many examples.

Budget deficits, of course, do mean that the Federal Government will claim, through increased borrowing, a larger share of the private sector's and taxpayers' money. But tax increases also claim a larger share of the capital or money. When that capital pool shrinks, interest rates are likely to rise. Thus lowering the deficit by hiking taxes is not going to do much to bring down interest rates. For that to happen, the deficit has to be lowered by reducing Government spending.

The contention that this tax increase will not affect middle- or lower-income families is false. As long as you are not among the 80 percent of Americans covered by private retirement pensions, do not use the telephone, do not have big medical expenses, do not pay medical insurance premiums, do not smoke, do not ride in airplanes, do not have a savings account, do not work for, invest in, or buy from a business—you will not be affected. The bill also increase the Federal Unemployment Tax Act (FUTA) tax on wages, which would hit labor-intensive small businesses especially hard and raise the cost of hiring people when unemployment is almost 10 percent.

Supporters of the $99 billion tax package maintain that they are not calling for a tax increase but a tax reform. Three-quarters of the revenues are to be raised, they contend, by enhancing tax compliance and plugging loopholes. Who could be opposed to making tax cheaters pay up and making everyone, especially the rich, pay their fair share? Is it not, as the President asked, a matter of fairness?

Indeed, tax cheaters should be fully prosecuted; laws to do this are already on the books. Mounting tax cheating is a cancer on the tax system, sapping the vigor of what used to be of particular to Americans: their voluntary compliance with the Tax Code.

Despite the attempt to tag the bill a compliance and reform package, only about $2 of every $10 raised comes from what might be called true compliance measures: Increased reporting, penalties, and interest changes. The remaining $8 is a tax increase. Many of these compliance items will cost the honest taxpayers—the vast majority of Americans—more in paperwork and expenses.

Withholding on interest and dividends—the largest single compliance item—typifies the unfair costs imposed on taxpayers and businesses. Withholding could inflict on the law-abiding public about $3.2 billion in administrative costs and lost interest, plus the very real costs of added time to comply with a new set of regulations.

Over 60 percent of the new revenues is from increasing business taxes. Among the dozen or so business tax hikes recommended, the package repeals the 1985-86 depreciation changes, accelerates corporate tax payments, limits the use of investment tax credits, and repeals the safe harbor tax leasing provision.

The argument has also been put forth, that this bill does not affect the tax cuts. Not true.

Almost 80 percent of the tax cuts that had been passed will be wiped out if this bill is allowed to pass. Along with the scheduled social security payroll tax increases, bracket creep due to inflation, and the $98 billion tax increase will effectively take away any benefit of the tax cut.

The question will be: What tax cuts? The Treasury figures show that Americans suffered a $14 billion tax increase in 1981 despite the tax cuts. Taxpayers will only break even this year, and will not recoup their loss until next year under current law. And now, we are proposing to pass a $98 billion tax bill that will further erode any benefits that the taxpayer could have received under the tax cuts.

The tax bill grants IRS agents new power, among other things, to issue and enforce administrative summons. This expands the IRS authority to require financial institutions to divulge confidential information on their customers. These powers are fine when the IRS goes after tax cheats. But the rights of legitimate taxpayers should also be protected. Such civil liberties questions deserve much more attention than the current rushed debate has allowed.

Perhaps the most seductive argument in the tax package is that the hikes are part of a compromise that includes the reductions in Government spending. It is claimed that the $99 billion tax increase is the necessary price to pay for a congressional approval of over $280 billion in budget cuts over 3 years. Under the terms of this compromise, every $1 in tax increases is supposed to yield $3 in budget cuts. This is simply not the case. The true ratio may well be just the opposite: $1 in spending cuts for every $3 in tax increases. Of the $280 billion in promised outlay reductions, Congress has no control over 55 percent or $154 billion: Assumptions

about interest rates, debt service costs, and administrative "management initiatives." Of the remainder, the grand total of cuts actually enforceable by the "budget reconciliation" process is only $27 billion over 3 years—less than a tenth of the $280 billion total. Even if all of these cuts materialize, they would amount to $1 for every $3.66 in tax increases. The CBO has estimated only $17 billion in spending cuts in action to date, meaning roughly $1 in spending cuts for every $6 in tax increase.

Some budget cuts have been made but Congress is very far from achieving the $125 billion in cuts suggested in the budget resolution. So far Congress has acted on only $30 billion in budget cuts over 3 years. This means that here are only some 30 cents in cuts for every $1 in tax hikes—a ratio exactly the reverse of what Reagan said was the minimum tax increase, the Congress in most likely to give Reagan only $1 in budget cuts for every $3 in tax levies.

Even much of the $30 billion in budget cuts that the Congress has passed is dubious. Three-year food stamp savings fall some $6 billion short of administration recommendations. Nonreconciled spending cuts are almost entirely phantom. Of the $13 billion recommended, only $294 million in cuts are expected. Finally, some $85 billion in cuts still await action by the Appropriations Committees.

What this means is that Congress will see little more than $30 billion in budget cuts over 3 years, far from the $280 billion in cuts that Congress has promised.

Tax increase cannot produce lower interest rates. Additional taxes crowd productive dollars out of the enconomy in the same way that higher deficits do. New jobs are not created by higher taxes. New jobs are created by more investment. Increased taxes and increased investment are completely incompatible.

I have stated repeatedly, that the best form of welfare is a job in the private sector. Provisions of this tax bill will have a detrimental impact on our ability to create jobs and hurt that form of welfare we all support.

This is a tough decision but I believe until Congress honors their responsibility to reduce Federal spending, we cannot increase taxes. This is why I am voting no on H.R. 4961.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. Mr. Speaker, in the years that I have been a Member of this body, I have not seen a tax bill that I have been completely happy with. I dare say that 90 percent of the Members of this body would echo those sentiments. While this particular bill is no exception, I do intend to support it because an unusually courageous and healthy step has been taken with it.

Many Members know of my concern with the proliferation and direction of tax expenditures. Even in last year's tight fiscal atmosphere, we created 8 new ones and embellished 22 others while eliminating only 2 for a total 5-year cost of almost $120 billion.

H.R. 4961 reverses that trend for the first time in many Congresses. It—

Repeals the "safe harbor leasing" provisions of last year's tax bill after 1983. That provision had allowed companies earning millions of dollars in profits to actually draw money from the Treasury through the sale of unused tax breaks. Until repeal in 1983, lessor/buyers will be prohibited from reducing their tax liability by more than 50 percent through this method. Savings: $8.1 billion.

The second and third stages of the accelerated cost recovery system (ACRS), by far last year's most expensive tax expenditure, are eliminated. I believe we can go further in this area but this is a start. Savings: $1.5 billion.

Currently, some defense contractors defer taxes until completion of a contract while taking expense deductions over the life of it, in essence an interest-free loan. H.R. 4961 requires deferral of expense deductions until completion of the contract and tightens the ability to defer taxes beyond contract termination. Savings: $5.7 billion.

It reduces by 15 percent tax preferences on:

First, percentage depletion for coal and iron ore;

Second, excess bad debt reserves of banks;

Third, intangible drilling costs of integrated oil companies; and

Fourth, mineral exploration and development costs and others. Savings: $2.4 billion.

Mr. Speaker, I would just like to remind Members that tax expenditures which disproportionately benefit corporations and individuals with incomes over $50,000 per year, will cost the Treasury $439 billion in 1987. For the first time, it seems to me, there is a recognition that that pool of exemptions should, as a matter of equity, be tapped to share the burden of recovery. This bill is certainly not perfect but it is certainly an improvement over the tax bill that was passed by the Congress last year and I urge my colleagues to support it.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Speaker, I rise in opposition to the conference report on H.R. 4961, the proposed $98.3 billion tax increase. I do so as much for what is not in the bill as for what it does contain.

We do not work in a perfect world in Congress, and there probably is no such thing as the perfect tax bill. Still, the legislation before us today falls way short of being a satisfactory bill. It is bad for American working people, bad for American consumers, and bad for American businesses struggling to overcome the current soft economy.

I was deeply disappointed that this House refused to develop a tax bill of its own for fear of putting the stigma of a Democratic tax increase on the measure. The sluggish economy and the impending deficits of upward of $160 billion are everyone's problem. So are the issues of fairness and effectiveness, however, and H.R. 4961 does not live up to these goals.

That any substantial tax increase at all is being considered in August 1982, is an admission by the current administration that adjustments in its economic program are needed. I have been arguing here and back home in Connecticut that adjustments are indeed necessary for several months now. The changes proposed in H.R. 4961—as well as those conspicuously absent—have left me to conclude that this bill is a step in the wrong direction.

I am deeply concerned that this Congress and this administration are holding loopholes for the oil industry sacrosanct. Big oil received $13 billion in breaks in the 1981 tax bill, breaks they did not need and which were added to the bill only to gain votes for the administration's version of the tax bill. One year later, these excesses have not been touched. So the $13 billion in breaks for oil which were approved over this Member's objections last year remain, as do other loopholes for that industry like the multibillion depletion allowance and expensing of intangibles.

Breaks for wealthy individuals in the form of exemptions on estate taxes also remain. The phase-in of this exemption will ultimately exclude all estates worth less than $600,000 from taxation, making most wealthy inheritors free from any taxation. Even a modification of this giveaway would have saved the Treasury several billion dollars.

The three-martini lunch has also once more escaped the plugs of the tax-writing committees. Ironically, this special-interest break was almost reduced. As I am sure all the Members know, however, it was replaced in the conference report by a measure to increase reporting on waiters' and waitresses' tips. Once more, the little guy carries the burden while the big fish go free.

Finally, I am disappointed by the refusal to reexamine the third year of the personal tax cut. I do not advocate a repeal of this tax reduction. Rather, I believe, as I have stated for more

than a year, that the third year ought to be conditioned on the strength of the economy. Locking the Treasury into this policy despite economic conditions which may deem it unwise is not a sound idea. Still, this important proposal has not been included in the conference report.

These and other measures have tragically been neglected. In their place are several provisions which exact a high cost on working men and women as well as businesses which seek to reinvest in job-creating plant and equipment.

I have serious objections to the 10-percent withholding provision on interest and dividends. The measure is impractical for banks, savings and loan, and other financial institutions, for it would require them to create a large and costly withholding system on their interest and dividend payments. Just as importantly, the provision would be damaging to Americans on fixed incomes who rely on regular interest and dividend payments to live. The conferees have made an effort to write into the bill exemptions for low-income and older Americans. I fear that too many men and women will fall through the cracks, though, causing more hardship for those who can least afford it.

American consumers—and every American is a consumer—will be forced to pay higher taxes on telephone bills, cigarettes, and air travel. These nickle-and-dime taxes add up, but they are regressive in nature and thus would be especially damaging to working people and retirees. These consumer taxes are a thin disguise for increases in personal taxes, and should not be supported as long as the administration is unwilling to take a second look at the third year of the tax bill.

I am also concerned over the about-face taken on some of the better breaks given to businesses, provisions which encouraged reinvestment in industries like copper, brass, and steel which are so important to the economy of my district. It seems as though too many of the valuable business tax incentives have been rescinded, while the inefficient loopholes and special interest breaks remain.

Finally, I cannot support the deep cuts in medicare and medicaid, cuts which will have the effect of driving older and low-income Americans away from receiving the health care they need. I recognize the need to cut spending and I am more than willing to support budget cuts. But to take the budget ax to the health care services for the poor and the elderly while so many other wasteful spending programs remain is simply unfair. Let us cut the budget. Let us cut subsidies for tobacco, sugar, and other commodities. Let us cut wasteful spending on public works projects like the Tennessee-Tombigbee Waterway and the Clinch River Breeder Reactor. Let us cut spending on ill-conceived defense systems like the land-based MX missile, the neutron bomb, and nerve gas. And, yes, let us cut social programs where waste and inefficiencies exist. But let us not jeopardize the health of millions of Americans with ill-directed changes in medicare and medicaid, as proposed in the conference report, for Federal employees, for retirees, and for the poor.

Mr. Speaker, I wish this House could come back with a bill which is more balanced and reasonable. In the eyes of the people of the Fifth Congressional District, H.R. 4961 is unacceptable. And it is unacceptable because it is unfair. I have laid out a number of alternative provisions which would at once raise revenues, cut spending, and do so in a manner which would be less costly to the people and businesses struggling to survive the recession.

I recognize that not all of my suggestions would be adopted in 1982. But H.R. 4961 falls so far short of the goals of fairness and responsibility that I see no alternative but to reject it.

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. WALGREN), a very distinguished member of our subcommittee.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, AUGUST 20, 1982, TO FILE REPORTS ON H.R. 6457 AND H.R. 6173

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may have until midnight tomorrow to file reports pertaining to H.R. 6457, relating to reauthorization of NIH, and H.R. 6173, relating to reauthorization of the health planning program.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to support the conference report on H.R. 4961.

The Committee on Energy and Commerce was successful in meeting 93 percent of its 3-year savings goal. Our efforts resulted in a package of medicare and medicaid changes which both slow the growth of these programs and also minimize the effect on the program beneficiaries. But to put this effort in its proper context, I want to advise the Members of this body of the problem our Nation faces regarding the skyrocketing costs of health care and remind all of the Members assembled here that some of the people who are talking against this portion of the conference report are talking against the very cuts in the growth of rate of spending that they have been advocating for all of the time that they have been Members of this body.

The most obvious aspect of health care spending in 1981 was its rapid and sustained rate. In 1981 health care expenditures increased by 15.1 percent. This, along with the 15.8-percent increase in 1980, provide the highest increases in the last 16 years. Public sources provided 42.7 percent of all of the money spent on health care in 1981, including Federal payments of $84 billion, and $39 billion in State and local government funds.

In order to put these increases in a more proper perspective, I would like to recount to the Members a brief program growth history of just these two entitlement programs over the last 5 years, and then the administration's projections through fiscal year 1985.

In 1977 Federal outlays for medicaid accounted for some $9.7 billion. This year $17.2 billion. By 1985 $24.2 billion. For the medicare program, 1977 expenditures were $20.8 billion. Current expenditures for this year are $50 billion rising to $76 billion in 1985, and that would amount to a 266-percent increase over an 8-year period of time.

The programmatic changes called for in this conference report amounting to some $14.5 billion in savings over the next 3 years will help in retarding the growth trends that I have described to the Members, and for this reason alone I would support this package.

But I want to go beyond these reasons, to remind many of the Members of this conference on both sides of the aisle that we admitted to ourselves last year when we passed the tax cut bill that we went too far. We put too many things in it, and at some point we were going to have to address the revenue shortfall that we created last year.

This bill proposes to do that by enacting the very tax changes that the budget resolution that a majority of this House voted for earlier this year calls for.

What we are doing here in adopting this conference report, if we choose to do that, is to merely acknowledge publicly what we have been acknowledging privately among ourselves, that we went too far last year and we have to do something about it. And the alternative to doing something about it is to confront the $184 billion deficit being projected by the Congressional Budget Office and the probable 20 percent prime interest rate that would result from that.

If we want the young people of America to ever be able to afford to buy a home or to even think about a purchase like a new automobile, that interest rate problem has to be addressed. The adoption of this conference report is the manner in which we can address it, and I hope that a ma-

jority of the Members of this body will have the courage to do that.

Mr. Speaker, I reserve the balance of my time.

□ 1530

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

Mr. MADIGAN. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, although the immediate question before this House is the conference report on the Tax Equity and Fiscal Responsibility Act of 1982, the real issue is so much larger that I prefer to call it the Legislative Responsibility Act of 1982.

Look at the legislative record for this session of Congress. We have yet to enact any major legislation. We have not passed a single appropriation bill in the House, which is a disgrace—the worst legislative record in history.

For more than 2 months we stumbled through a concurrent resolution of the budget—not even a statute.

For 4 months we fumbled through a "Keystone Cops" comedy of political gamesmanship on urgent supplementals, which took four bills and two vetoes to get a bill signed.

When we finally brought an appropriation bill to the floor—on August 13—the rule was defeated by the authorizing committee because they have been unable to enact the authorization for the Federal Trade Commission.

What a comic opera. Will this comedy play once more today, or can we finally get our act together? How can we go home, how can we present ourselves to our constituents as responsible legislators if this conference report fails?

The conference report itself is a classic political compromise. The members and chairman of the Committee on Ways and Means—and particularly the ranking minority member of the committee, the gentleman from New York—deserve the gratitude of this House, and indeed of the country, for the many days and nights of sweat and tears which have given the people's House a chance to work its will.

We are on the edge of another legislative miracle—a delicately balanced package of tax and spending reforms which corrects, but does not reverse, the course set by the administration and the Congress last year.

It was the hope and the intent of the Congress and the administration that the tax and spending reductions of 1981 would lead us into an accelerated economic recovery. That has not happened.

Persistent deficits and high interest rates have suffocated that recovery. The administration—to its credit—recognized that more spending cuts were not enough, and that additional revenue could and should be raised through tax reform. Over the next 3 years, this conference report would reduce Federal spending by an estimated $17.5 billion, and would raise an estimated $91.4 billion in additional revenue.

The conference report also authorizes $1.9 billion for supplemental unemployment compensation, beginning September 12, which targets those States with high and persistent unemployment.

The choice is ours: another legislative miracle, or another act in the legislative comedy that will make this House the laughingstock of the Free World.

Vote for the conference report.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I know the gentleman's strong feelings about medicare. I know the gentleman is pleased we have done as well as we have in preserving the program.

Mr. CONTE. Mr. Speaker, I do not have much time remaining, but I do want to compliment the gentleman from California (Mr. WAXMAN) and I do want to compliment the ranking Republican, the gentleman from Illinois (Mr. MADIGAN), for doing a fine job here and bringing in an equitable bill. This is a fair bill overall. It should be passed.

The SPEAKER pro tempore (Mr. BOLAND). The Chair now recognizes the gentleman from California (Mr. MINETA) for 15 minutes and the gentleman from Kentucky (Mr. SNYDER) for 15 minutes.

The Chair recognizes the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to the very distinguished chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I strongly support title 5 of the conference report, the Airport and Airway Improvement Act of 1982. It is important for the continued development of our Nation's airport and airway system that this title be passed and signed into law promptly.

We have heard a great deal lately about the critical needs of our Nation's transportation infrastructure. This bill presents us a valuable opportunity to address the development needs of one important segment of that infrastructure, our Nation's airports and airways. These development needs will be costly, but I would like my colleagues, as they consider this title, to bear in mind that under the conference report the costs of these capital improvements are borne completely by users of the system, at no cost to the general taxpayer.

Our distinguished subcommittee chairman, in his statement, has provided details on the bill, so I will not go through it all again. But I would like to call attention to what I believe are some of the more important aspects of title V.

With regard to the ADAP program, the bill recognizes a number of areas that the conferees believe require greater funding attention in the future. The bill establishes funding minimums for reliever airports, noise compatibility programs, and system planning.

Also, the authorization levels for facilities and equipment reflect levels required for the needed modernization of the air traffic control system. This modernization will generate significant safety and productivity benefits.

The conference bill also authorizes that approximately two-thirds of the FAA's direct cost of operation and maintenance of the Nation's air traffic control and airway system be borne by the users. This representa an increase over what has come out of the trust fund in the past for this purpose, but we believe it represents an equitable split between the users and the general public in funding operations. I would like to note that what we are recommending is considerably less than what the administration was proposing and less than what was in the Senate bill.

Mr Speaker, in conclusion, this title is necessary if we are to continue to accommodate growth in air traffic in a safe and efficient manner. Without this title. the needs of a major element of our Nation's infrastructure will not be adequately met. This title has the broad support of our committee and the conferees on this title, and I urge my colleagues to support it.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of title 5 of the conference report, which renews the authorizations for the airport and airway programs for fiscal years 1982-87. These authorizations have been included in the conference report because the new user taxes supporting the authorizations are part of the basic $98 billion tax package.

The renewed airport and airway programs will be a major step in the development of an aviation system which can handle the increased demands of the eighties. The programs will not burden the general taxpayer since they will be funded completely by user taxes paid into the airport and airways trust fund.

Title 5 renews a highly successful program which was first authorized in 1970. During these 11 years, the program has improved aviation safety and increased airport and airway capacity, at no cost to the general taxpayer. As a result, the airport and airway sys-

tems are now able to handle 100 million more passengers a year than they did in 1970. The increased traffic has been handled without a deterioration of the outstanding safety record of the system, and passenger delays have been reduced.

Although the accomplishments of the first 11 years of the ADAP program have been great, much remains to be done. The airway system now uses computer and radar technology which is more than 20 years old and is becoming increasingly expensive to operate and maintain. It would probably be cost effective to modernize the system even if no increase in use of the system was contemplated. Modernization is mandatory if the system is to be able to handle the increased demands which will be placed upon it during the coming decade. FAA estimates that if the system is not modernized, the number of severely congested airports will grow from the current 11 to 91 by the year 2000.

The legislation now before us provides funding for the first 5 years of the administration's long-range program for modernizing the airway system. The modernization will make the system much more efficient and productive. FAA estimates that its proposal will save $43 billion in operating costs to the Government between now and the year 2000, at an estimated capital cost of $10 billion.

The needs of airport capital development are equally great. It would make no sense to develop the world's best airway system to accommodate aircraft in the air, but have no place for them to land.

Airport development needs have been estimated at $12 billion over the next decade. Unless this development is undertaken, capacity constraints, which are already becoming a problem at some major airports, will become more prevalent. Congestion will increase and significant delays will become normal.

The bill now before us includes substantial funding for airport development and noise compatibility planning and programs. Although the funding for the early years of the program is somewhat less than I would have liked, the 5-year program will enable us to begin the capital development of our airports which is needed if they are to continue to meet the demands placed upon them.

The conference bill also authorizes substantial funding out of the trust fund for operating and maintaining the airway system. Although the amounts are considerably above the level of user contributions in the past, the O. & M. authorization in the conference report is considerably below the requests of the administration and the Senate. Over the 5 years of the conference bill, O. & M. will be $3.2 billion below the administration's request and $400 million below the level in the Senate bill.

The conference bill includes important innovations to insure that capital development continues to take priority over O. & M. In the conference bill the authorization for O. & M. is not stated as a dollar amount, but as a percentage of the funding actually made available for airport development. This will insure that O. & M. funding is related to adequate funding for capital development of airports. The bill also provides that O. & M. will be reduced, on a 2-for-1 basis, if the authorized levels for F. & E. are not appropriated. These provisions will insure that capital development continues to be the primary objective of the trust fund.

Finally, Mr. Speaker, I note that in the conference bill the Senate has receded completely from its prior support of so-called defederalization, the concept of making the larger airports, whose passengers are the main supporters of the trust fund, ineligible for funding. There has been little support for this concept in the House and I am very pleased that we have been able to persuade the Senate to continue the eligibility of all airports for funding.

Mr. Speaker, title 5 of the conference report is a long overdue authorization for modernization of the airport and airway system at no cost to the general taxpayer. I strongly support this important legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I thank the gentleman. I would like to make a point with regard to the funding that goes to general aviation airports. Too often we focus only on the benefits to the airport or to the direct users of the airport when we authorize a program such as this. I believe more recognition should be paid to the broader benefits of the general aviation ADAP funding to a local economy.

In my district there is a general aviation airport in Essex County, N.J., that will probably be applying for future grants to make improvements at that airport. This, of course, will be of great benefit to the airport and its users, but I would like to call to my colleagues' attention that Essex County is also contemplating a business and industrial park next to the airport. This will foster commerce, create jobs, and expand the local tax base. The linkages between ADAP funding and these broader economic benefits are obvious.

In other modes of transportation we are linking capital improvements with economic development objectives. We do this with programs within UMTA, the Federal Railroad Administration, and in the Northeast rail corridor programs. However, it is my understanding that in the ADAP programs we cannot specifically use the money to leverage economic development activity off the airport site.

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. MINISH. I yield to the gentleman from California.

Mr. MINETA. That is correct. ADAP funds must be used on the airport site itself and for specified purposes, but I am very sympathetic to the gentleman's point that more attention should be paid to the linkages between general aviation airports such as Essex County and economic development.

Mr. MINISH. I believe more should be done in this area. Could we inquire with FAA to what extent they do look at the linkages between capital airport improvements and other economic development?

Mr. MINETA. We certainly can, and I believe the gentleman's suggestion is an excellent one.

Mr. MINISH. I thank the gentleman for his comments.

Mr. MINETA. Mr. Speaker, I yield myself such time as I may consume.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, I would like to inquire as to the eligibility for funding of an airport in my district, the Mojave Airport. The Mojave Airport, which is operated by the East Kern Airport District, has a very special and important role in our Nation's aviation system. Mojave Airport is extensively used by civil aviation manufacturers to test aircraft and their components, particularly in the general aviation sector. The airport has attracted numerous businesses involved in flight testing and has generated substantial employment.

Mr. Speaker, given Mojave Airport's role in the design and development of aircraft, would the gentleman agree that the FAA should give serious consideration to the improvement needs at Mojave Airport eligible for ADAP funding?

Mr. MINETA. Yes, I agree with the gentleman. In light of the importance of Mojave Airport to aviation, I believe the FAA should give serious consideration to the Mojave Airport's request for ADAP funds.

Mr. THOMAS. I thank the gentleman.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to the gentleman from California.

□ 1540

Mr. MOORHEAD. Mr. Speaker, we have an airport in our area, the Burbank-Glendale-Pasadena Airport, which has a terminal building and other facilities located within the zone, known as the primary surface

area, adjacent to the runway which is supposed to be clear of all such obstacles under current FAA airport design standards. What kind of priority would the ADAP program under this bill give to projects to correct that type of problem?

Mr. MINETA. The conference bill, in section 502, specifically provides that "the safe operation of the airport and airway system will continue to be the highest aviation priority." And it further provides that "all airport and airway programs should be administered consistent with" the section of the FAA Act which specifies "the assignment and maintenance of safety as the highest priority in air commerce * * *." So I do not think there can be any question that safety is to be the highest priority in the administration of the ADAP program. And I think it should also be clear that projects to correct a preexisting violation of primary surface area are, to the extent they are otherwise eligible, the kind of safety-related efforts which should be accorded that statutory priority for safety.

Mr. MOORHEAD. I certainly agree that this type of safety-related project should receive priority, and I thank the gentleman.

Mr. MINETA. Mr. Speaker, I am pleased to yield such time as he may consumer to my colleague, the gentleman from North Carolina (Mr. NEAL).

Mr. NEAL. Mr. Speaker, since I am not a member of the Public Works Committee and, therefore, did not participate in the committee consideration of this legislation, I want to make certain that my understanding of the bill coincides with that of the distinguished chairman of the subcommittee, Mr. MINETA. It is my impression, for example, that one of the intended purposes of the funds authorized for the airport development aid program is projects involving the construction of new airport facilities. A new airport at Wilkes County, N.C., has been made necessary in order to insure the continued safety of pilots and passengers flying in and out of Wilkes County, as well as to meet the rapidly expanding aeronautical needs of the region. The project has been evaluated by the Federal Aviation Administration, which has indicated that a new airport for Wilkes County is "aeronautically justified."

Am I correct in my understanding that a new airport facility, such as that planned in Wilkes County, would be eligible for ADAP funding?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. NEAL. I yield to the gentleman from California.

Mr. MINETA. Yes; this is precisely the type of project that could be appropriately funded under this program. And from what you have told me, the proposed Wilkes County general aviation airport would contribute greatly to the economic growth of the community and help insure the continued safety of its citizens.

Mr. NEAL. I thank the chairman for this clarification.

Mr. MINETA. Mr. Speaker, I reserve the balance of my time.

Mr. SNYDER. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would like to elaborate on the gentleman's remarks on the aviation title of H.R. 4961. It is a comprehensive measure and one which, if it were not included in this particular bill, would be most worthy of my colleagues' support.

If the conference report on H.R. 4961 is adopted it would mark the third time that the basic airport and airway development programs have been extended by the Congress since their adoption back in 1970. The original statute was enacted because the Congress realized the critical importance of developing and improving our Nation's airports and airways so they could safely accommodate increased levels of air traffic.

Since that time much has been done to help this country retain its position as the world leader in aviation. More airports are equipped with more sophisticated navigation aids than ever before and countless projects have been completed which enhance safety and increase the capacity of the system to handle future growth.

Notwithstanding these positive developments, the national air transportation system can and must be improved. We have all heard about near midair collisions occuring in the crowded airspace, the all too frequent computer and radar outages at our air route traffic control centers, and the need to restrict operations at some of the busier terminals in the country.

Sometimes these problems result from limited airport capacity while at other times the culprit is an air traffic system which is in serious need of a major overhaul. Granted, the PATCO strike has exacerbated the situation and has required FAA to limit operations to the extent the system can safely accommodate them. Recently released forecasts prepared by the FAA demonstrate that, notwithstanding the current shortage of air traffic controllers, the recession and high fuel prices, aviation activity will increase substantially over the coming years.

Therefore, if we do not address the chronic, long-term problems of congestion and delay at many of our airports—whether in this bill or in subsequent legislation—restrictions such as those being imposed today will continue to be required and will become even more widespread in the future. It is these serious problems which title V of H.R. 4961 is designed to address.

As the chairman of the Aviation Subcommittee has indicated, title V of the conference report would authorize funds through fiscal year 1987 for the four programs financed out of the airport and airway trust fund. Total authorizations for these programs are $4.8 billion for airport development (ADAP), just over $6 billion for facilities and equipment (F. & E.), $1.1 billion for research and development (R. & D.) and a maximum of $6.6 billion for operations and maintenance (O. & M.). This latter amount, which represents the user contributions to the operations and maintenance of the airway system, will be substantially reduced if the ADAP and F. & E. authorizations are not spent for their intended purpose.

Many of my colleagues are aware that although F. & E., R. & D., and O. & M. are currently being funded out of the trust fund for fiscal year 1982 pursuant to the DOT appropriations statute (Public Law 97-102), the ADAP program has been dormant since October 1, 1981. Therefore, if the conference report is adopted, adequate funds would once again be made available for critical projects to increase the safety and capacity of our national airport system.

Another major part of title V would authorize funding for the facilities and equipment program through fiscal year 1987. These authorizations were requested by the administration to begin implementation of its national airspace system plan, which would modernize our air traffic and airway systems during the coming decade and beyond. Like the ADAP program, it will be financed entirely by taxes imposed on aviation users.

The main objective of this modernization effort will be to enhance safety through increased equipment reliability, while increasing system capacity. According to the administration, lower labor costs should eventually result due to reduced personnel requirements for air traffic controllers and maintenance technicians. In addition, substantial fuel savings are expected as increased levels of automation are introduced into the ATC system.

Although the FAA plan is not perfect, it still represents the most comprehensive statement we have seen to date on how to deal with the problems associated with the current system.

Moreover, the Public Works Committee, as well as other committees of the House and Senate, will carefully monitor the FAA's progress as it undertakes these important programs. Consistent with this obligation, section 504(b) of H.R. 4961 requires the administration to update its plan as necessary every year so that it can be adjusted to meet new problems which may arise in the future.

Finally, I am pleased that the tax conferees decided to terminate all trust fund taxes on December 31, 1987. This will assure that aviation users will not be taxed as they have been since October 1, 1980, unless the authorizations for these important programs are renewed. It will also permit the Congress to renew both the tax levels and the authorizations in light of the capital and revenue needs prevailing at that time.

In closing, I want to emphasize to my colleagues that if the conference report on H.R. 4961 is adopted, needed airport and airway improvements will be permitted to go forward—improvements which will unquestionably benefit the traveling public while being funded entirely by taxes imposed on aviation users.

If this conference report is defeated the Public Works and Transportation Committee is prepared to accomplish the same result in separate legislation—for which the rule has already been adopted. I recommend the latter course.

Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I rise in support of title V of the conference report and wish to associate myself with the remarks made by the chairman and the ranking member, the gentleman from Kentucky (Mr. SNYDER).

Mr. Speaker, I would like to join my colleagues in their discussion of title V of H.R. 4961 which relates to the airport and airway trust fund authorizations.

As many of you know, I have long been concerned about the direction that our airport development program has been taking. In 1967, I delivered a speech to this body stressing the need to establish a stable and reliable source of funding for our airport and airway system. I emphasized the important role that integrated airport system plans could play in assuring that airport development would be responsive to the needs of our metropolitan areas and that access to these areas would be provided to all segments of aviation.

Three years later, the Congress enacted the Airport and Airway Development Act of 1970, commonly known as ADAP, and a companion revenue bill which created a trust fund comprised of tax revenues from aviation users. This fund was created to assure that the money would be available for necessary capital development along our Nation's airways and at our airports.

While we have undoubtedly made significant progress since this legislation was first enacted in 1970, it is my belief that existing deficiencies in the system must be addressed as soon as possible.

In my opinion, one of the major shortcomings of our airport and airway system has been a lack of national purpose and direction, with not enough emphasis on establishing an integrated airport system.

Therefore, I am pleased that title V of H.R. 4961 addresses these concerns by emphasizing the importance of these integrated airport system concepts. If and when this legislation is adopted, I am confident that these provisions will enable us to effectively respond to the needs of our air transportation system in the future.

The cornerstone of the integrated airport system concept is its emphasis on the development and improvement of reliever airports. These airports not only relieve congestion in our major metropolitan areas by attracting air traffic away from the busier air carrier facilities, but also provide badly needed access to these areas for general aviation. Implementation of a viable reliever system is therefore critically needed to increase the safety and capacity of our national airport system while giving full recognition to the importance of general aviation for the economic development of these areas.

Because the conferees recognize the importance of improving our reliever system without further delay, the conference report sets aside a minimum of 10 percent of total ADAP funds for the development and improvement of reliever airports—an amount which could result in reliever funding at an average of approximately $80 million per year over the 6-year period covered by the legislation.

In addition, the conference report also sets aside 5.5 percent of total ADAP funds for smaller commercial service airports—an amount which will adequately address the needs of our smaller communities and rural areas.

I believe that another way to address these problems is the existence of a 1-percent annual set-aside for local bodies to undertake and implement integrated airport system plans on an areawide basis. Hopefully, by setting aside funds for this purpose, we can assure that adequate funds will exist to finance such planning with the end result being a viable, balanced and integrated system of public-use airports.

Title V also contains other provisions which would go a long way toward assuring that we can safely accommodate the increased demand anticipated in the future. It would strengthen the existing policy statement by recognizing the important role that integrated airport system plans can play in our metropolitan areas and allows the Secretary to give funding priority to those projects which are consistent with such plans.

In addition, the conference report would require a GAO study on the feasibility of increasing joint civilian use of military airports and a subsequent DOT-DOD plan to maximize available opportunities for increasing joint use. While joint use does exist today at some military facilities, there is wide agreement throughout the industry that we can do more in this area. Hopefully, the study required by the conference report will provide greater impetus to this program and thereby increase system capacity wherever feasible.

Although my statement has thus far concentrated on the airport side of the program, we must not lose sight of the importance of implementing the FAA's plan to modernize our air traffic control and airway systems. The plan is a comprehensive effort at setting forth the capital development needs necessary to enable us to accommodate increased growth at even higher levels of safety than we enjoy today.

The Aviation Subcommittee recently held hearings on this issue and the vast majority of witnesses supported the FAA's national airspace system plan. In addition, and I believe this is quite significant, we also heard from five former FAA administrators—Republicans and Democrats—all of whom emphasized the overwhelming importance of proceeding with the administration's plan to modernize the airway system as expeditiously as possible.

Obviously, implementation of this plan will have to be closely monitored by the Congress and revised if future circumstances dictate. Fortunately, there are provisions in the conference report which will assist us in carrying out this oversight role, such as extensive reporting requirements on the FAA during all phases of the plan's implementation.

In conclusion, if H.R. 4961 is adopted, the aviation provisions embodied in title V of the conference report would go a long way toward establishing a fully integrated national airport and airway system and one which will be responsive to the changes which will most certainly occur in the future.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Illinois (Mr. FARY), a very distinguished member of the subcommittee.

Mr. FARY. Mr. Speaker, the bill designates that reliever airports receive a high priority by requiring that 10 percent of ADAP funds be spent at such airports. I understand that the Federal Aviation Administration also supports a greater emphasis on the development and improvement of reliever airports. This type of funding assistance to relievers is essential to traffic relief at larger airports like Chicago O'Hare; the Nation's busiest. Also, Mr. Speaker, I would like to note that investments to preserve and improve relievers are usually cheaper than major

new capacity increases at the larger hub airports. This is extremely important under constrained ADAP authorization levels, particularly since at O'Hare, an approximately $1 billion capital program is being developed just to accommodate the traffic growth through 1990.

Three Chicago area airports that provide O'Hare with critical traffic relief are Midway, Pal-Waukee and Waukegan. Together, they serve 660,000 operations annually and provide a base for over 1,000 aircraft, including 380 multiengine and/or jet aircraft. Midway is especially important in that it also provides commercial traffic relief. Mr. Chairman, considering the importance of these three airports to the efficient functioning of O'Hare, would you agree that these airports are the type of projects where ADAP funds could be put to good use and that they should receive serious consideration for reliever funding.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, yes, I agree that projects to preserve and improve these three airports are the type of projects we would like to see funded with ADAP funds and that FAA should give them serious consideration.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, it is my understanding that under the ADAP entitlements in the legislation, Stapleton Airfield in Denver will receive approximately $4 million in fiscal year 1982 and approximately $5 million in fiscal year 1983; is that approximately the numbers involved?

Mr. MINETA. That is correct. Under the conference report for this, the ADAP entitlements for Stapleton for fiscal year 1982 will be a little over $4 million and for fiscal year 1983 will be $5.3 million.

Mr. WIRTH. I thank my colleague.

Mr. MINETA. Mr. Speaker, I yield 1 minute to my colleague, the gentleman from Minnesota (Mr. OBERSTAR.)

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the airport and airway development title of the tax bill. This legislation will provide the necessary funding to insure that this Nation's airports and airway navigation system are adequately maintained. The bill authorizes between $12 and $13 billion to repair and upgrade the Nation's airport infrastructure, including funds for traffic control and FAA operating costs. Most importantly, enactment of this title will reauthorize the Airport and Airway Development Act which expired in September 1980 and will thereby direct the administration to expend trust fund moneys for airport development. This legislation would penalize the administration for failing to make the amounts authorized in the bill available for obligation.

I do, however, have reservations regarding the airport funding portion of this bill. I am concerned about the large sums earmarked for funding the FAA's operation and maintenance costs. Unfortunately, the administration and the Senate have insisted on using almost half of the annual trust fund authorization, some $1.4 billion in fiscal 1983 alone, to supplement this agency's budget. It is an unwise precedent to allocate trust fund money for a specific Federal agency because it tends to place that agency beyond the control that Congress exercises through the appropriations process and discriminates against certain classes of users.

Another issue, and one that causes me even deeper concern, is the failure of the conference committee to accept an amendment I offered during the conference to require the Labor Department to comply with the labor protection provisions of the Airline Deregulation Act of 1978. My amendment would have forced the Labor Department to implement section 43 of that act or make employee compensation payments directly from the operations and maintenance account of the Airport and Airway Development Trust Fund.

To be specific, the Airline Deregulation Act of 1978 established a program to provide, first, monthly compensation, and second, the right of first hire with other airlines for employees adversely affected by deregulation. The law directed the Department of Labor to draw up the necessary regulations and implement them. The Carter administration's regulations were issued in January 1981 but were withdrawn in one of the Reagan administration's first acts after taking office. They have never been reissued despite several specific reminders from Congress of what the law requires and several specific requests that the Labor Department comply with this clear and unambiguous legal mandate.

Since 1978 over 50,000 airline employees have been laid off and there are now 13 airline relief requests pending before the Civil Aeronautics Board. The administration's refusal to carry out this act of Congress is a blatant disregard for law and has left thousands of airline employees without any labor protection. On June 10 I wrote to the President and reminded him of his constitutional duty to faithfully execute the laws of the land. The response I received from the White House staff claimed that the CAB had not yet determined whether any of the 50,000 employees of various airlines had lost their jobs due to the effects of deregulation. That reply is just plain out of touch with reality; unemployment among airline employees is serious and cries out for relief.

Recently many editorial writers and several Members of Congress have argued that the Federal Government has no business imposing labor protection provisions on any segment of private industry. I would remind those who make this argument that the first labor protection provisions in the United States applied to the railroads, an industry that is both private and regulated. The Interstate Commerce Commission, before it would ever approve mergers, acquisition, or transfers between railroads, consistently imposed some kind of labor protection and, I emphasize, on private industry.

The railroads were privately owned in those days when labor protection was started; they were mostly making a profit. But because they were regulated by the Government and because there were certain things they could and could not do and there were certain things the Government, even though this was private enterprise, said "thou shall and thou shall not." Therefore, when we were going to change the rules, we said, we are going to make sure employees shall not suffer economic injury.

I believe, as the Senator from Nevada (Mr. CANNON) said during our conference committee meeting, that this Congress has an obligation to provide for the legitimate needs of those airline employees who have been injured as a result of airline deregulation. I regret that the conferees felt that there was no remedy available for this issue within the scope of the conference. I would, however, encourage my colleagues who share my concern to join me as a cosponsor of H.R. 6077, legislation introduced by the gentleman from New Jersey (Mr. HOWARD) that would resolve many of the problems currently facing unemployed airline workers.

Despite these misgivings over labor protection and FAA funding, I believe that the airport title is necessary and important legislation and I support it.

Mr. OBERSTAR. Mr. Speaker, I rise in support of H.R. 4961, the Tax Equity Act of 1982.

Three principal considerations have guided my thinking to vote in favor of this tax bill.

First is its effect on jobless workers whose unemployment benefits have been cut off.

Second is its impact on the national economy.

Third is the tax reform it offers.

My first and overriding consideration is the well-being of those people who have exhausted their unemployment benefits or soon will. This bill does not provide the targetting of unemployment benefits or the 13-week extension provision I have advocated, but, frankly, we are not going to get a better deal for the unemployed in this Congress or from this administration

than we have in this bill. I think we've just plain got to be realistic about that fact.

Enactment of the Tax Equity Act will bring $46 million in extended benefit payments to the 60,000 or 70,000 people in Minnesota who have exhausted their unemployment benefits. These benefits are 100 percent federally funded—no contribution from the State and no tax on employers. Nationally it will mean some $2 billion in benefits for an estimated 2 million people who have exhausted their unemployment benefits.

Minnesota workers who have received no unemployment benefits since June 1, either because their entitlement ran out or because they were cut off on July 10 when Minnesota was triggered off eligibility for the extended benefits program under the Reconciliation Act of 1981, will get an additional 10 weeks of benefits beginning September 12 through March 31, 1983, under this legislation.

If we kill this bill, we will not get another chance to help the unemployed in this Congress—and, frankly, they cannot wait until next year; they need help now.

From the standpoint of the national economy, I must say, in all candor, that it would not be right to vote against this tax bill simply because it will help President Reagan out of a serious political problem caused by the severe recession brought on by the failure of his economic program. On the contrary, our decision must be based on what is best for the country. The best decision for the national economy is to acknowledge that this tax bill will help reduce deficits over the next 3 years, restore investor confidence in the future performance of the economy, encourage a reduction in interest rates, and help get the national economy moving again.

We have to recognize that without the additional revenues from this bill, without a substantial reduction in defense spending, deficits will grow, interest rates will rise, and, frankly, the pressures will increase, to make more cuts in domestic, social, and economic programs. And those of us who care about the needy in our society, those who care about programs to help the cities, to sustain education, to provide for the needs of the elderly, have to recognize the reality of this Congress, which is, that this 97th Congress is not going to make any substantial reductions in military spending in order to cut Federal deficits.

Unless we act now, the recession will be prolonged, the suffering of those who have lost their jobs, and of those who have borne the heaviest burden of budget cuts, will be unnecessarily continued and even aggravated.

From the standpoint of tax equity, this bill does have merit; it does include tax reform; it does correct some of the worst corporate giveaways in last year's tax bill.

For example, it ends one of the most offensive provisions of last year's tax bill: the "safe harbor" leasing provision under which corporations have escaped tax liability and which help U.S. Steel buy an oil company.

It strikes at one of the provisions of current tax law that I have found extremely objectionable and which I have been fighting since I came to Congress: The foreign investment tax credit available to oil companies to reduce tax liability on oil and gas income generated in the OPEC countries. For the first time under the law that will take effect under this conference report, oil companies will pay real taxes and a substantial amount of taxes on their foreign income—some $1.2 billion over the next 5 years. Under current law they are escaping $1.2 billion anually in tax liability.

We have also achieved a long sought after limitation on hospital cost increases, which the gentleman from California (Mr. WAXMAN) has fully explained earlier.

Finally, Mr. Speaker, I think we have to consider the alternatives. Any other tax bill written in this Congress will favor big business and the wealthiest of Americans as did last year's tax bill. This bill is our last chance to pass real tax reform in this Congress and perhaps for the next 2 years and our last chance to make the big corporations shoulder their fair share of the Nation's tax burden.

Mr. Speaker, this is not the tax bill that I would have written. It bears no resemblance to the tax bill I helped write and voted for last year or to the one that I have cosponsored this year which would cap the individual tax cut at $700 a year, benefiting all taxpayers under the $42,000 income bracket and repealing indexing; and raising $150 billion in taxes by requiring big business to pay their fair share. No; it is not that tax bill; it is not the tax bill we should have, but it is the best we can get under the present circumstances and I urge a vote in favor of H.R. 4961.

Mr. SNYDER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Arkansas (Mr. HAMMERSCHMIDT), a member of the conference committee.

Mr. HAMMERSCHMIDT. Mr. Speaker, as a conferee on title V of H.R. 4961, I would like to join my colleagues in explaining what is contained in the bill as it pertains to the aviation trust fund programs.

As my colleagues have indicated, this is the first multiyear reauthorization of the aviation trust fund programs since 1976 and would fund airport development, facilities and equipment, research and development and operations and maintenance through fiscal year 1987. It is something that all of us on the aviation subcommittee have been working toward for the last few years and, if this conference report is adopted, title V would make a substantial contribution to the future of our air transportation system.

I know that most of my colleagues are aware that ADAP, the airport grant program, has not been funded thus far for fiscal year 1982. A similar situation also occurred last year when the fiscal year 1981 authorization was not enacted until the middle of August, thereby adversely affecting the ability of many airport operators to undertake important capital improvement projects.

If adopted, therefore, title V of H.R. 4961 would address these problems by lending some much needed stability and certainty to the ADAP program by assisting airport operators in their ability to undertake necessary long-range planning.

Since its inception in 1970, the ADAP program has funded over $4.5 billion in projects to improve the system's ability to accommodate increased demand while maintaining the highest level of safety. New airports, runways, taxiways, and terminals have been built throughout the country and ADAP has played an important role in assuring that this work was accomplished. Without question, this money has been well spent and has resulted in a safer, more efficient airport system than before the program was instituted.

I am particularly pleased that the aviation conferees agreed on a provision which would assure adequate funding for the smaller commercial service airports in the country. While these airports do not account for a large portion of total national enplanements, I am sure all of my colleagues would agree that the traveling public deserves the same level of safety at the smaller airports as it receives at the larger facilities. Accordingly, title V of H.R. 4961 would authorize a minimum of 5.5 percent of the total ADAP funds for these smaller commercial service airports.

My colleagues have mentioned the FAA's national airspace system plan and the higher level of authorizations requested by the administration and agreed to by the conferees to begin implementation of the plan. I think all of us can appreciate the necessity of maintaining our air traffic control and airway navigation equipment at a high level of reliability. Unfortunately, much of the existing equipment is outdated and in need of modernization if we are to safely and efficiently accommodate the growth expected in the future.

Therefore, title V of the conference report would authorize FAA to accelerate its efforts along these lines. Although many of us have concerns

about the FAA's ability to carry out this ambitious plan, we expect to monitor the agency's progress periodically to make sure that its efforts are proceeding on schedule and in accordance with the best interests of the traveling public and the aviation community.

Mr. Speaker, the aviation provisions embodied in title V of the conference report on H.R. 4961 are the result of considerable hard work and perseverance not only by the conferees themselves, but by virtually all segments of the aviation community. If H.R. 4961 is adopted, therefore, it would assure that our air transportation system would be able to effectively respond to the challenges in the years ahead.

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Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Kentucky (Mr. HOPKINS).

Mr. COURTER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, after much deliberation and thought, I am supporting H.R. 4961, the Tax Equity Fiscal Responsibility Act of 1982. This has been the most difficult decision that I have had to make during my 4 years in Congress and I do so despite serious reservations about several provisions in the legislation.

Nevertheless, I am supporting the President in his efforts to reduce the budget deficit and to close certain loopholes in the present tax code which are unfair. This bill must be viewed as part of the initiative made by President Reagan last year to reduce personal income taxes for all Americans and to achieve control over Federal spending. This legislation will, in fact, preserve the $370 billion worth of tax cuts provided to all Americans last year and will also serve to insure the much-needed third year of the tax cut.

While serving in Congress, I have consistently taken the position that sharply reduced Government spending, taxation, and budget deficits are essential for a healthy economy. I am pleased that this bill does include some major reductions in spending, but much more must be done to achieve further spending cuts and to eliminate the deficits that will remain after this year's congressional action.

In my judgment, passage of this legislation is necessary to reduce the Federal budget deficit in fiscal year 1983 and to continue the trend toward lower interest rates. Such action is critical to help stimulate the needed economic recovery. Failure to pass the tax bill will leave the Federal budget deficit at unacceptably high levels and will negatively impact interest rates and recovery.

Mr. HOPKINS. Mr. Speaker, I would like to inquire of my colleague the gentleman from Kentucky (Mr. SNYDER) about the Blue Grass Airport in Lexington.

Mr. SNYDER. Mr. Speaker, if the gentleman will yield, I say to the gentleman that I am personally familiar with that runway because my plane lands there on the way up here most every week.

Mr. HOPKINS. Mr. Speaker, I would like to inquire of the gentleman from Kentucky about some very important work which is needed at the Blue Grass Airport in Lexington, Ky.

Mr. SNYDER. I would be pleased to respond to the gentleman. What type of project is involved?

Mr. HOPKINS. The main runway at Blue Grass (4-22) is 6,500 feet in length which, as you know, is marginally acceptable for DC-9 and B-727 operations. Although the airport operator has studied the feasibility of constructing an 8,000-foot parallel runway to complement the existing runway, our local officials have concluded that the airport would be well served by a 550-foot extension of the existing runway at this time, particularly since there are steep dropoffs at both ends of the runway. No additional land purchase will be necessary for this extension. The Federal share for the project is expected to be about $4.5 million.

While the Blue Grass Airport would be eligible to receive an entitlement as a primary airport under H.R. 4961, I am concerned about whether adequate funds will be available out of the ADAP discretionary program to finance this important project.

I am sure that my colleague can appreciate the necessity of lengthening the existing runway, thereby providing an additional margin of safety to the flying public. What is the gentleman's opinion of the desirability of completing this project as soon as possible?

Mr. SNYDER. I appreciate the gentleman's concern and I agree that this is the type of project which the FAA should accord high priority when it allocates the available discretionary funds. As has always been the case with the ADAP program, projects such as this, which would increase safety, are to be given the highest consideration.

Therefore, I would agree with the gentleman that the completion of the runway extension at the Blue Grass Airport would be a substantial improvement to the safety of operations at the airport and that the FAA should assure that the project is given serious consideration for ADAP discretionary funding.

Mr. HOPKINS. I thank the gentleman for responding.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. CLINGER).

Mr. CLINGER. Mr. Speaker, I would like to ask the gentleman from Kentucky about the discretionary grants program under H.R. 4961, particularly as it applies to the needs of Bradford Regional Airport in Bradford, Pa.

Bradford is a truly regional airport, operated by a multicounty authority and serving McKean, Elk, Cameron, and Warren Counties in Pennsylvania as well as adjacent southwest New York State.

Industry relies heavily on the services provided by Bradford Regional Airport, since this area is very poorly served by other modes of transportation. Access by motor vehicle is difficult, as Bradford is near no Interstate or other high-speed road that would connect it with cities in the rest of the State.

There are a number of vital projects at Bradford Regional Airport in need of funding over the next 2 or 3 years. These include repairs to the shoulders of runway 14-32, as well as overlay and marking work on this runway, at $1,500,000, and an extension of runway 5-23 and rehabilitation of its lights, at around $750,000. This work, which needs to be done if services at Bradford are not to suffer, obviously requires financial support from the ADAP program.

In former years, Bradford Regional Airport would have been entitled, as an air carrier airport, to a regular yearly apportionment from which it could fund such needed projects. However, because of financial limitations, airports will need enplanements of around 32,000 to qualify for entitlement funding as primary airports under H.R. 4961. Therefore, Bradford will be in particular need of funds from other portions of the ADAP program, particularly from the discretionary grants program, in order to complete these much-needed projects over the next few years.

Are these projects at Bradford Regional Airport the sort of work that the gentleman believes the FAA should consider for funding under the provisions of the 5.5-percent set-aside for small commercial service airports, as well as the discretionary fund in general?

Mr. SNYDER. I am well aware of the needs of Bradford Regional Airport. We on the Aviation Subcommittee cannot help recalling how two Allegheny aircraft crashed at Bradford in the early 1970's, killing over 50 people. The airport was then without instrument landing facilities; these have since been provided out of the airport and airway trust fund, and there have been no similar tragedies.

Bradford Regional Airport presently has fine facilities, in large part because of the support it has received

through the decades from the Federal Government. Continued Federal assistance to smaller airports like Bradford is essential not only to these airports but also to the air transportation network of the Nation as a whole.

Therefore, I agree with the gentleman that the projects he has mentioned are precisely the sort of projects that the FAA ought to be considering when making grants under the discretionary program provided by this legislation. It is my expectation that Bradford Regional Airport will continue to receive support from the ADAP program, and I appreciate your having brought its needs to the attention of this body.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOLLENBECK).

Mr. HOLLENBECK. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982.

Earlier today I overheard a colleague say, "This is an easy 'no' vote." Yes, it certainly is, if one chooses to ignore the need to improve the fairness of the tax system, and to reduce deficit levels now destroying the American economy.

Mr. Speaker, we were not elected to serve in this body in order to take the easy way out—to renege, on the short term, the responsibility we have to this Nation and to our constituents in the long run. My support for this bill comes after long and careful reflection. It is not perfect and I have real concerns over several provisions, especially those which impose a small 1.3-percent medicare tax for Federal employees and withholding provisions on interests and dividends (although most objections to them have been satisfied). I will take advantage of future legislative opportunities to voice these objections. However, this bill is in many ways the best alternative available to us in order to bring down interest rates and the deficit without, at the same time, choking off the economic recovery now on the horizon.

Mr. Speaker, the truth about this bill is that fully three-fourths of the new revenue generated by this legislation will come from measures to close loopholes and to collect money from the tax evaders of the underground economy. Let me repeat: This legislation, rather than imposing new taxes on honest taxpayers who report all their income and pay their taxes on a timely basis, simply seeks to collect taxes that are already owed from those who do not.

For example, there are compliance and collection measures that are designed to collect taxes from those who currently owe them, but do not pay them. These include provisions to improve and expand information reporting, to increase penalties for noncompliance, and to change interest computation rules.

Measures contained in the bill to reduce loopholes are also long overdue and are needed to reduce unintended benefits. These include changes in the treatment of long-term contracts, private purpose tax-exempt bonds, construction period interest and taxes, and modified coinsurance. Most importantly, the bill restructures and strengthens the minimum tax for high-income individuals and large corporations.

With regard to the medicare and medicaid agreements in the conference report, although I do not feel these programs should be cut and have voted accordingly, I do believe that the provisions in the conference report are the best we can hope for, having been achieved after negotiation by Member such as Mr. WAXMAN, certainly a sensitive Member. My main concern is for the elderly and disabled medicare and medicaid beneficiaries who I believe will be far better off under this bill than any legislation we could adopt in the future.

Under the medicaid agreements, the bill manages to reduce by over $1 billion, the cuts the Senate and administration have requested. In addition, only one of these reductions comes as a direct shift of costs to the States. This provision will not allow Federal matching payments to States with error rates for medicaid eligibility of over 3 percent. Furthermore, these penalties will not take effect until early 1984 in order to give the States a chance to improve their performance standards. States who have made good-faith efforts to comply with this provision can also apply for a waiver of penalties after this time.

The legislation before us is not only limited to program cutbacks. In my opinion, it also contains some positive provisions. States would now be allowed to provide health benefits to certain disabled children at home when currently only children in institutions are eligible. Hospice benefits are included in medicare, and provisions authorizing health maintenance organizations to participate in medicare on a prospective risk basis are also contained. In addition, the concerns I had that proposed cost shifts to physicians would result in a declining number of doctors accepting medicare and medicaid assignments have been dropped from the conference report.

If we did not pass the reconciliation bill yesterday despite my opposition, I would not be supporting today these changes in the medicare and medicaid programs. However, the majority of my colleagues have imposed these reductions on us, my objection notwithstanding, and I believe this legislation enacts these cuts in the most compassionate way possible. If we do not pass these reductions, I am afraid that the next time we vote, the cuts would be more harmful.

Another favorable change I support is the provision in this bill to place a 6-month moratorium on nursing home regulations. The conference report also establishes a program of emergency Federal supplemental unemployment benefits which provide up to 10 weeks of additional unemployment compensation payments to workers who have exhausted their other benefits. This program will be financed entirely out of Federal general revenues and, therefore, will not impact employer taxes or the solvency of State unemployment programs. We all know the recession has hit hard. This bill is not only designed to bring interest rates down and put Americans back to work, but also, in the interim, to allow half a million workers to stay afloat financially. In New Jersey alone, 50,000 workers will be directly benefited by this provision.

In addition to increased supplemental unemployment compensation benefits, this bill includes several provisions of special importance to New Jerseyans. One such provision will facilitate the allocation of a VHF television station in the State. Also, included is a general revenue-sharing allocation provision which will enable the State's 21 counties to realize an increase in their general revenue-sharing allocations.

Another provision of special benefit to people in New Jersey is the relaxing of the restrictions imposed 2 years ago on mortgage revenue bonds, which should improve the New Jersey Mortgage Finance Agency's ability to finance more homes. The bill also extends the targeted jobs tax credit which was due to expire in December; a program which is of enormous benefit to New Jersey employers and workers.

As I stated earlier, two particular areas of deep concern to me in this bill are the 1.3-percent medicare tax on Federal employees and the withholding provisions on interest and dividends. Although the medicare tax provision would entitle Government workers with the required number of years of service to qualify for medicare, it fails to recognize that many active and retired civil servants have already worked long enough in covered employment to be eligible for these benefits. If I had the opportunity to vote on this particular aspect of the conference report, I would vote "no." Unfortunately, I do not have this opportunity despite my joining an attempt earlier to gain that right and will support future efforts to repeal this provision of the bill.

In addition, I voted prior to consideration of the tax bill to allow consideration of an amendment which would

have removed the withholding provision from the tax bill. Unfortunately, the vote against the rule governing consideration of the tax bill failed. Had I been given the opportunity, I would have voted against the inclusion of the withholding provision.

Nevertheless, it is important to point out that this provision only requires financial institutions to withhold taxes already owed. Individuals who pay their taxes now will not be taxed one additional dime. Added to this is specific exemptions to provide for the elderly and low-income individuals. Nearly 90 percent of the senior citizens in this country (including single people with incomes less than $14,450 and joint returns with incomes less than $24,214) will be exempt. Adjustments have been made to not inflict real hardships on financial institutions because of the exemptions authorized in the conference agreement. First, the Treasury Department is authorized to exempt certain small financial institutions until they are able to comply. Second, the Treasury is authorized to permit financial institutions to retain the money withheld for a period of time so that it can be invested. The income the bank receives from this investment will offset the administrative costs of the withholding provisions.

While the chief function of the measure we are considering today is to insure that we can pay for programs our country needs, programs for education, environmental protection, mass transit, defense, and health care, to name a few, it also makes contributions to tighten many loopholes in the tax system. I deplore the "tax and spend" policies of the Federal Government and want to end this vicious cycle which has placed heavy burdens on our citizens.

When I go home to New Jersey tomorrow to visit with my constituents, I would prefer to be able to say I did not vote to increase taxes. But, I deeply feel that unless we take this action today, when I return home in the months ahead, I will have to face my constituents with higher Federal deficits, higher interest rates, higher unemployment, higher bankruptcies, and worse legislative remedies than we are facing today. No politician in his right mind wants to vote for a tax increase; especially before an election. I, too, would like to take the easy way out today and face the consequences later on down the road. But I know the conference report is necessary for the future strength and stability of the country. And therefore, I must vote today for the future viability of our economy and not my own immediate interests. I hope a sufficient number have the courage to join me.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. FIELDS).

Mr. FIELDS. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, as someone who has supported the President's economic recovery program, I take no pleasure in rising today in opposition to H.R. 4961, the President's tax increase bill.

My decision to oppose this tax legislation is not made in haste, nor is it based on rigid, economic theory. While I enthusiastically support efforts to reduce both interest rates and unemployment in this country, I am not convinced this legislation is the solution to either of these pressing problems.

In fact, I am fearful this legislation will only exacerbate our economic problems and will slow the economic recovery program which this Congress approved just last year.

Without going into a great deal of detail, I would like to share with my colleagues and my constituents some of the general and specific objections I have to H.R. 4961.

Whether you call this legislation tax increase or tax reform, the simple, undisputed fact is that this bill will remove nearly $100 billion, just over the next 3 years, from our economy and this at a time when our industries are starving for capital to create new jobs. A proposal of that sort, whatever it might be called, is not acceptable to me, and is not helpful to this country's economy.

What is even more tragic is that many of these industries were just beginning to respond positively to the tax incentive provisions contained in last year's Economic Recovery Tax Act. Now, this new tax increase will not only repeal 60 percent of the business tax reductions approved last year, but also will heighten investment uncertainty among business managers all over this country.

The second objection I want to express is the timing of this legislation. While there is no good time to raise taxes, history has shown clearly that such a tax increase, during a recession, invites only prolonged and more severe suffering among our people. I will not be a party to such suffering and I am asking you not to be, as well.

We had tax rate increases in 1916-20, 1932, and 1968-69 and all were followed quickly by sharp drops in reported income, tax collections, and economic activity. The increase in 1932 occurred in a period very much like today's with the economy in a slump and the Federal deficit growing. The Hoover administration and Congress agreed to raise taxes by $900 million nearly 30 percent of the 1931 level in order to reduce the deficit. However, tax receipts actually fell by $1.2 billion in 1932, the deficit grew from $0.5 billion to $2.7 billion, and a severe recession turned into the Great Depression.

While I am not suggesting the passage of this bill will result in another depression, I have no doubt that it will slow the economic recovery that all Americans want.

Let me also say that I am deeply troubled that this tax legislation is being taken up at a time when the Congress, and specifically this body, has refused to make necessary spending reductions that we voted to institute earlier this year. It seems to me that what we are doing today is a classic example of putting the cart before the horse.

In my judgment, this Congress must first approve the spending reductions called for in our budget and then, and only then, decide if increase revenues are appropriate. To do otherwise, is to admit that we lack the political courage to make these necessary spending reductions and that we prefer, instead, to return to the vicious old tax-and-tax, spend-and-spend cycle that I have worked so hard to break.

An additonal objection I have to this legislation is that it flies in the face of my efforts to simplify our tax system. At a time when there is a growing movement in this country for a simplified, perhaps even flat rate, tax system, this 800-page tax bill greatly complicates our tax laws and will make it even more difficult for small business people, in particular, to file their own tax statements without substantial professional assistance.

Finally, I am concerned as to how this legislation was written and the possible unintended, adverse effects it may have on thousands of Americans.

While one can argue that this tax bill does not violate the letter of article 1, section 7 of our Constitution, it clearly violates the spirit of this sacred document which states "all bills raising revenues shall originate in the House of Representatives."

Not only has the House of Representatives not had an opportunity to discuss, debate or amend provisions of this bill prior to action on this conference report, but the House committee of jurisdiction the Ways and Means Committee, has not even held hearings on most of the items contained within this proposal.

In my judgment, this legislating by fiat is grossly unfair to those millions of Americans who will be hurt by this bill, Americans who were denied even the opportunity to state their reservations. In addition, I am convinced that once this fight is over, we will find dozens of mistakes and unintended effects which will force this body to once again admit it has legislated a bill without really knowing what effect it will have on thousands of Americans.

At this point, Mr. Speaker, I would like to briefly state some of my specific objections to certain provisions contained within H.R. 4961.

First, I believe the 10-percent withholding requirement on dividends and interest is an absolute disaster. That requirement will create a paperwork nightmare for America's financial institutions and will encourage individuals to spend, rather than save, their discretionary income to avoid this withholding provision. The net result of this action will be a loss to both the Federal Government, in terms of lost revenues, and to the equity capital markets which desperately need a larger, rather than smaller, pool of available capital.

Second, at a time when unemployment has reached near record levels, it is inconceivable to me that we would nearly double, as this bill does, the Federal unemployment payroll tax. As small-business people know, payroll taxes come off the top of their gross income and must be paid whether or not a small business is profitable, In the case of a marginal business, these increased payroll taxes will be one more disincentive to hiring people.

Third, I am concerned at the changes this legislation mandates in the pension plans of thousands of Americans. At a time when the social security system faces complex financial troubles, we should be encouraging, not discouraging, individuals to put aside funds for their retirement years. With these pension plan changes, I believe these thousands of Americans will seek out tax-exempt shelters which not only will deny the Government revenue, but will once again take money out of the badly depleted capital markets.

Fourth, it seems inappropriate to me to be increasing taxes on such things as cigarettes, telephones, airline tickets, aviation fuel, fishing equipment and medical care. These taxes are regressive and they more heavily penalize low-income families in our society. We need to move toward a tax system which, to the extent possible, treats all Americans equally. I regret these taxes, in particular, do not meet that criteria.

Fifth, while I strongly believe that every American should pay his or her fair share of taxes, I am concerned that this bill grants broad dangerous new powers to the internal revenue service. For example, this bill will, for the first time, require taxpayers to pay a penalty for late filings even when the IRS owes them refunds. In the case of businesses, it will allow the IRS to require taxpayers to file their return on their own computer tapes. And, in those cases when the IRS wins certain disputes in tax court, the Service could impose a special penalty on taxpayers for merely challenging a disputed deduction. In my judgment, the IRS already has more than enough power to legitimately collect taxes due. We should be very careful to not further stack the system against American taxpayers.

Finally, this bill contains a number of changes in rules governing depreciation laws, business tax payments, construction deductions, multiyear contracts, corporate mergers and foreign oil and gas income which will result in lost job opportunities. These changes will, I fear, hurt some of my constitutents along the Houston ship channel.

Mr. Speaker, let me say in conclusion, that I believe this legislation is badly timed and ill conceived. It will not create jobs for unemployed Americans and it is generally bad for our economy.

The overwhelming majority of my constituents, in a recent questionnaire to the eighth congressional district, indicated they oppose increased taxes at this time. As their elected Representative in the Congress, as their voice here in Washington, I must oppose this measure, however painful it is for me to oppose my President.

Last year, I supported President Reagan's calls for spending reductions and tax cuts for working Americans. I believe then, and I continue to believe, that such spending cuts and tax cuts will get our economy moving again. I will remain true to my beliefs and consistent in my efforts.

Mr. Speaker, there are ways, which we must pursue, to bring down interest rates and reduce the Federal deficit. Regrettably, this legislation fails to accomplish either of those goals. I, therefore, will oppose passage of this tax increase legislation.

Mr. SNYDER. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in opposition to this bill. This bill is a real bummer.

Mr. Speaker, I rise to express my opposition to this tax increase, for it is an increase, despite the pretense that it is merely a reform involving miscellaneous changes in the tax structure. Leaving all the rhetoric aside for a moment, objectively this is a poor piece of legislation.

My primary objection to this bill is that it is unconstitutional, an issue which many of my colleagues have chosen to ignore. But can we really afford to look the other way on this issue? I submit that we must not, because what is really on trial here is the entire basis of our form of government. Each one of us here in this Chamber today has taken an oath, a moral obligation, to uphold the Constitution.

Regardless of whether they favor or oppose specific provisions of the bill, the American people are sick and tired of the way the system works. Congress gives itself tax breaks, backdoor pay raises, and violates the Constitution as well. This willingness to play fast and loose with the supreme law of the land is what disturbs the American people more than anything else.

But this is just one little provision, you may say, surely what can this hurt? Well, the Constitution is nothing more than a series of provisions. Freedom of speech, freedom of the press, freedom of religion, and the right to due process are all just "little" provisions. Can we afford to flirt with tyranny by blatantly ignoring the clear mandate of the Constitution which states that: "All bills for raising revenue shall originate in the House of Representatives." I call on every Member of this body to exercise his or her moral obligation by voting against this bill on the basis of its unconstitutionality.

Even if this bill were constitutional, it would still be an unjust piece of legislation. It is neither equitable, nor right for America, as its proponents would have us believe. It is not fair to retain the three martini lunch, while going after tip income with a vengeance. It is not just to tax the pensions of senior citizens who are living on low, fixed incomes. Is it really fair to withhold 10 percent on interest income, and allow the banks to have the free use of those withheld funds for at least 30 days? Any objective sense of equity tells us that these provisions will not make the tax system fairer. Our current tax structure is inherently inequitable, and this bill does nothing to correct the problem.

We have chosen a fine to be restricting the deductions for medical expenses by raising the percentage from 3 percent to 5 percent of gross income. The United States has an aging population that will require more health care in years to come; certain diseases such as cancer are reaching near-epidemic proportions; and more people, especially the 10 million unemployed, are finding the cost of health insurance prohibitive; yet we, in our infinite widom, have chosen this time to restrict medical deductions. I would hate to think that people in this country would have to deny themselves necessary medical care for fear that they would not have enough money to pay Uncle Sam on April 15.

This bill will hit virtually every household in this country. The excise tax on telephones, the tax on airline tickets, the withholding on interest and dividend income, will affect every family. Once again, it is the individual who will bear most of the cost of this bill. By the proponents' own admission, of the $19 billion of the purported new taxes, $17 billion will be levied on individuals, while $2 billion will come from corporations.

To increase taxes by $225 billion over the next 5 years is certainly not good for the United States. The Amer-

ican economy is literally starved for investment capital, and removing an additional $225 billion from the economy can only have disastrous consequences. To bring about a real, sustained recovery of the economy, savings must be encouraged, not discouraged. What we really should be doing right now is reducing taxes even further, so that people can begin to save and invest their money. No economy can grow and prosper when there is no capital formation.

I recognize the need to balance the Federal budget, but this should be accomplished by spending cuts rather than tax increases. In 1980, Americans went to the polls and demanded a stop to the old Washington policies of high spending and taxes. Despite all the hysterical claims, there have been no real cuts in Government spending—only cuts in the rate of increase in spending. A sense of fiscal responsibility and a willingness to say "no" to special interest groups are what are really needed in Washington, not a new tax increase.

Some people are making the argument that we will hurt the American people if we do not raise their taxes. This is an incredible assertion that is passing for truth. Raising someone's taxes can never help him, it can only hurt. Some people in this town seem to think that all money belongs to the Government, and that the people should be grateful for what the Government allows them to keep. A person's wages belong to that person, and the Government has no right to take a person's income for wasteful programs. Congress can always find ridiculous and frivolous ways to spend the taxpayers' money.

The people of my district have made it abundantly clear that they are overwhelmingly opposed to the tax increase. The mail and phone calls from my district are running around 15 to 1 against the tax bill. I cannot violate my own conscience, and the clear wishes of the people of my district, by voting for this tax bill. I urge my colleagues to consider their moral obligation to uphold the Constitution, and the wishes of the people in their districts, by defeating this bill.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. JEFFRIES).

Mr. JEFFRIES. Mr. Speaker, I rise in opposition to this conference report because it does exactly the opposite of what we should be doing. It dramatically raises taxes, instead of dramatically cutting spending.

I announced my retirement from this body because of my disgust with the refusal of Congress to do what needs to be done. This proposed tax raise confirms my decision.

Mr. Speaker, the American people have been betrayed. In 1980 they did not call for the biggest tax raise in history, the biggest deficit in history, the biggest national debt in history. No; they called for tax relief, and a government which lives within its means. But, they have been given just the opposite.

We do not need a big fat tax raise. We need a big fat spending cut.

This tax hike will only compound and prolong the recession in which we now find ourselves. With this tax and spend philosophy, Congress is only guaranteeing our citizens that they will continue to be afflicted by the four horsemen of the economic apocalypse: high taxes, high inflation, high interest rates, and high unemployment.

Congress is not solving the problem. Congress is the problem.

I believe that an economic remedy is not going to be found here in Congress, but rather at the grassroots level. The people are going to have to force Congress to make the needed changes.

If you think that the voters are going to overlook this tax raise, you are sadly mistaken. Their response to the President's call for this tax bill has been negative. And it will be negative in November.

I urge my colleagues to rise up and defeat this tax abomination.

Mr. MINETA. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I rise in support of the conference report to H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. As with any legislation of this magnitude there are bound to be provisions with which I disagree, and this bill is no excepton. Among other things, I am opposed to instituting a 10-percent withholding on interest and dividends—and I just voted against the previous question in an effort to remove this provision from the bill. However, despite these objections, I am compelled to support the bill for two overriding reasons.

First and foremost is the desperate economic situation facing this Nation. We are in the grips of the most severe recession we have experienced since the 1930's due to record high interest rates—the result of massive and unprecedented deficits. It is absolutely imperative to reduce this ever-growing budget gap in order to ease upward pressure on interest rates. America cannot go back to work and stay working until interest rates are reduced. Our priorities must rest with achieving this task.

Mr. Speaker, we are on the horns of an economic dilemma, and I encourage my colleagues to muster the courage to pass this bill. Combined with the reconciliation legislation passed yesterday, there will be budget savings of $130 billion. This revenue bill, an integral part of the savings, enjoys remarkable and strong bipartisan support, including that of the President. I am pleased the President recognizes the extreme urgency of taking this action in order to resolve our economic problems and supports the bill as necessary to this end.

It is my contention that we all realize that last year's tax bill simply was too large, especially when combined with the largest peacetime military buildup in our history. As I said 1 year ago, I fail to see how we can cut taxes by $750 billion and increase defense spending to $1.5 trillion over 5 years and not expect the terrible economic problems we are having with deficits and high interest rates.

Second, my support for the conference report stems from some of the tax reform measures in this bill. Given the necessity of narrowing the wide gulf between revenues and spending, I note this bill does not, for the most part, institute new taxes in this severe recession. Instead, it initiates largely warranted and meaningful tax reform measures.

The bill contains reform measures to halt abuses used by some to reduce their tax responsibility at the expense of all. I note with interest that: The corporate pension system will be reformed without harm to the rank and file employee; a new alternative minimum tax will be imposed on the wealthy to insure that they will pay some tax no matter how many shelters and loopholes they utilize; safe harbor leasing allowing corporations to buy and sell tax deductions and credits through paper transactions will be sharply curtailed this year and repealed at the end of 1983; abuses of the investment tax credit will be reformed; the tax provisions encouraging undesirable corporate mergers and acquisitions will be eliminated so that a decision to take over another company will not be based on tax consequences. Finally, the bill contains strong compliance measures to aid in stopping tax cheaters and others who would evade paying their taxes.

Mr. Speaker, we need to take dramatic action to respond to the economic crisis. While any revenue bill is always unpopular, refusing to stop the budget hemorrhage to aid in lowering interest rates is even less popular. Accordingly, I encourage passage of the conference report.

Mr. Speaker, I am pleased to see the provisions in the conference report on H.R. 4961 which pertain to corporate merger activities. This is an area of our tax laws that is much in need of revision.

Merger activity among the Nation's largest corporations has been at a fever pitch in the past few years. While our economy has been languishing in a prolonged recession, Wall Street's investment bankers and stock

market speculators have been busy spending America's capital resources on dubious deals that do little more than shift the ownership of existing corporate assets from one bank account to another.

In the 96th Congress, when I chaired the Small Business Committee's Antitrust Subcomittee, we were told by the Chairman of the Securities and Exchange Commission that in a 5-year period more than $100 billion of corporate cash resources was diverted away from productive uses and spent on tender offers alone. Not one single new job or new innovation or increase in productivity resulted from the expenditure of that money.

And do not believe for 1 minute that these deals only affect those directly involved. The repercussions of these huge mega-mergers are felt throughout the economy. The billions of dollars of credit extended in these deals shrinks the supply of funds available for small business expansions, farm credit and mortgage loans. The amount of credit used in just one merger last year, the one involving Du Pont and Conoco, exceeded the total amount of money lent to all small businesses and entrepreneurs by the Small Business Administration in 1981.

Probably the most disturbing fact uncovered in the Antitrust Subcommittee's merger investigation in the last Congress was that our Federal tax laws actually encourage a large amount of this merger activity. We learned that our tax code is anything but neutral when corporate reorganizations are involved.

For example, we found that the depreciation laws favor the acquisition of existing plant and equipment and real estate assets over the development of new, more productive assets. This is why certain oil companies with substantial, largely depreciated mineral properties are in such demand these days.

The Antitrust Subcommittee also reported that, because of our policy of double-taxing dividends, many large companies often do not pay out their excess cash as dividends. They choose instead to use these excess resources to purchase other companies.

Our tax policies also may be forcing many small business owners to sell out to large corporations. Our subcommittee found that the tax system does not allow small businesses to generate enough capital internally to grow, and at times, this forces them to merge with larger corporations to obtain capital for expansion.

Our estate tax laws, we were told in the 1980 hearings, were so strict that many small businesses were forced to liquidate or sell out in order to settle estate-tax debts.

I am pleased to note that since our report was issued in 1980, progress has been made to change some of these tax policies that adversely affect unproductive economic activity. For one, we have substantially improved our estate tax laws. This move alone will allow many small businesses to remain in family control for subsequent generations that otherwise would not have that option under the old estate tax laws.

Most recently, a measure contained in H.R. 4961 will seek to revise the way the tax code treats depreciated assets acquired in a merger in order to close some of the loopholes companies were using to avoid proper tax payments on acquired assets. This provision, supported by both the Senate Finance Committee and the House Ways and Means Subcommittee on Select Revenue Measures, chaired by our colleague PETE STARK, will greatly reduce the incentives behind tax-motivated mergers and is similar to a bill introduced by HENRY REUSS and myself, H.R. 6604, the Truth in Merger Economics Act.

Closing loopholes in the tax code is never easy. By the standards of corporate tax reform in recent years the antimerger provisions in this tax bill are substantial. But do not think this will be enough. Armies of corporate lawyers will still search for new angles to serve the pecuniary interests of their major shareholders and boards of directors. The promerger incentives in our Tax Code still run deep. For example, I am apprehensive that the massive tax breaks won by the administration in last year's tax bill will allow some corporations to accumulate tax benefits and thus become attractive acquisition candidates.

Nonetheless, I am pleased with the proposals in H.R. 4961 that will tighten the partial liquidation tax laws along the lines suggested in the Small Business Committee's 1980 report on mergers. Hopefully, Congress will follow up on this important first step toward removing tax inducements that provide artificial market incentives for merger and acquisition activity.

Mr. MINETA. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I thank the chairman of the subcommittee for yielding this time to me.

Having heard my colleagues in their recent comments, I feel compelled to speak about the Paducah, Ky., airport in my district, but there are many other problems in my district which are even greater than the problems of the Paducah airport.

Mr. Speaker, let me assure you that high interest rates and unemployment across our country are two serious problems that we need to continue to address ourselves to this afternoon.

In my own Kentucky district, high interest rates and unemployment have been devastating.

My constituents want a balanced budget. However, they want less government spending and not higher taxes.

I sincerely believe that the tax bill that we are voting on this afternoon is unconstitutional. It did not originate in the House of Representatives as required by our U.S. Constitution. Every word in House bill 4961 originated in the Senate, and it now comes to us after conference.

I repeat what the voters of this country so loudly said in November 1980, which is that the people want less government spending, less government controls, and less taxes.

Could it be that we today would inflict upon our people higher taxes instead of cutting back on government spending? It is impossible for me to vote western Kentuckians the biggest tax increase in history while my constituents see their current tax dollars going overseas to foreign countries, some of which are not even friendly to the United States.

I urge my colleagues to think seriously before they vote. This should not be a vote on whether or not we go along with the President, but whether we go along with the great majority of the American people who do not want higher taxes. They want a balanced budget by way of reduced Federal spending.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I simply point out that the debate in which the gentleman and I participated in defeating the previous question on the rule on H.R. 2463 several weeks ago, due to the raising of the tax rates on the aircraft, airline, and air pilot industry, and those revenues not being spent out of the trust fund in the past 10 years. This bill now brings in even higher taxes than H.R. 2463, which we never got around to considering, and the whole reason for the passage of this bill, we are being told, is to bring down the deficit.

That confirms my worst fears: That those air taxes are being collected, put into the trust fund, but will not be spent for air safety, but will remain there as a prisoner or frozen, to help balance the budget, as they have been in years past.

Mr. SNYDER. Mr. Speaker, I would say to the gentleman, if this conference report is defeated, that a rule has already been adopted and we are ready to take up the ADAP bill. We can adopt what is in this title separately the same as it can be adopted in this bill.

I would recommend to the House that course of action.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

Mrs. SCHNEIDER. Mr. Speaker, I rise in support of H.R. 4961. There are many reasons to vote against this bill, but in my opinion there are many more compelling reasons to vote for it. Today's economic climate demands action, and this revenue bill represents one clear opportunity to reduce the deficit and show the financial markets and the American people that we are serious about addressing the problems of interest rate pressure due to Government borrowing and fundamental fairness in our tax laws.

As has been said so eloquently over the past few days, this is not a time for finger pointing. We are not faced with a Republican problem or a Democratic problem, but with an American problem, and it is time for us to join together in positive action.

Why should we vote for this bill? There are many important reasons:

A clear opportunity to reduce the deficit by $20.9 billion during the first year and an additional $78 billion over the following 2 years;

Improved collection to the tune of $48 billion over 3 years, or nearly one-half the revenue generated by the bill—the first place to start raising revenue is to insure that we collect taxes that are owed;

Closing of loopholes in the amount of $32 billion, or one-third of the revenue generated. This makes this legislation the most comprehensive tax reform measure ever undertaken by the Congress. This is a clear chance to insure fairness, including minimum tax reform for the very wealthy in our society.

An opportunity to provide for extended unemployment benefits for those who simply are unable to find work. Unemployment is a national problem, and we in the Congress have a clear responsibility to lend a hand to those encountering hard times.

Like many Members of the House, I am not happy with some of the provisions of this bill. In fact, I have joined with others of our colleagues in seeking a reexamination of the withholding provision. Certainly, those undesirable portions of the bill need not be there, had the nearly 2 to 1 majority on the committee permitted reform of oil taxes and other, further reform measures not affecting most Americans. But they did not, and we are now faced with a package which we must evaluate in terms of the greatest good or greatest detriment.

Mr. Speaker, after days of soul-searching, I believe that H.R. 4961 is a bill which we should all support. Failure to enact this measure promptly will insure continued misdirection in the financial markets and kill any chance to bring fairness to the tax laws for some time to come. My constituents want to buy cars, homes, and borrow capital for their small businesses. Until we can grapple with this country's economic problems and show the ability to exercise leadership on the road to economic recovery, the only signal we will be sending will be one of polarization and inability to move in any direction. This bill represents the only clear shot we may have for a long time to come.

Mr. Speaker, many voices are calling for a courageous vote today. I am calling for the only right vote—a vote in favor of this bill.

Mr. SNYDER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. I thank the gentleman for yielding to me.

Mr. Speaker, I came into this debate uncommitted, not knowing for sure how I was going to vote. I have been listening attentively all afternoon.

I have come to the decision that the only responsible vote on this particular bill is a "yes" vote.

□ 1600

I did not vote for all of the spending that has created historic deficits. I did not approve of all the spending. I just talked to the President a few moments ago from my office, and I told him that I felt like the man who had to feed the cow and did not get the milk. We did not get all the milk we paid for, but I think now is the time to ante up.

I think any vote but yes is a bad vote, a vote that is not responsible and certainly not in the best interests of our country. I urge a "yes" vote.

The SPEAKER pro tempore. All time of the gentleman from Kentucky (Mr. SNYDER) has expired.

The gentleman from California (Mr. MINETA) has 2 minutes remaining.

Mr. MINETA. Mr. Speaker, I yield 1 minute to our colleague from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I thank the gentleman for yielding. I would like to express my appreciation to Mr. MINETA and to the House conferees on the ADAP portion of this legislation, for providing that Puerto Rico will be included as a State in the ADAP legislation funds which are very much needed for the improvement of the San Juan International Airport and will help in our economic development.

I also want to state that the version passed by the other body would have been very damaging and injurious to the possession's tax credit and our ability to create jobs, but the compromise arrived at with the help of Mr. RANGEL, Mr. ROSTENKOWSKI, Mr. CONABLE and others is acceptable to Puerto Rico, to our Government, to the people there.

Mr. Speaker, I urge my colleagues to vote for this bill. It has some positive provisions and some negative provisions, but the balance is one that is favorable for the country, for the United States, and I urge Members to vote in support of this legislation.

Mr. MINETA. Mr. Speaker, I urge an aye vote on the conference report, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired for the Committee on Public Works and Transportation.

The time now returns to the Committee on Ways and Means. The gentleman from Florida (Mr. GIBBONS) has 31 minutes remaining, and the gentleman from New York (Mr. CONABLE) has 30½ minutes remaining.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, we are told that this bill will end the fiscal crisis that the Federal Government confronts, owing to the actions the administration foolishly demanded 1 year ago. It will not. Even with these new taxes, we will again next year be faced with monstrous deficits and yet one more round of foredoomed efforts to deal with those deficits through cuts in domestic spending. As the chairman of the Budget Committee well knows, we could virtually shut down all domestic spending and still be left with immense deficits, thanks to the Reagan program. This bill does not alter the Reagan program; it does not rescue the Nation; and it does not restore fiscal responsibility. All it does is put a tiny rag of respectability over the nakedness of the emperor's economic policy.

We are told that this bill brings about a token advance toward a fair Tax Code. How can it be fair when this bill says that a homeowner who has been robbed cannot deduct his losses, but a corporation that pays bribes overseas can make a deduction? How can it be fair when the bill continues for 1 more year the notorious tax leasing provisions that allow a rich corporation, a profitable corporation, not only to escape all taxes, but to get million dollar refunds—even while it takes away the tiny deduction that individuals have long been allowed on the purchase of health insurance? How can it be fair to claim that businesses will pay the bulk of the tax increases, when in fact the figures we are given shows that individuals will end up paying $13 billion in new medicare expenses, while fatherless children will lose a billion in what is already pitiful support, and while regressive new taxes are piled onto the backs of ordinary citizens? No; this is not a step toward fairness for ordi-

nary, individual taxpayers. It is a leap toward a still more unfair system.

Let me return to the point of fiscal responsibility. The fact is that the projected $150 billion deficit for fiscal 1983 assumes that this tax-and-slash bill will pass. That projection will continue to grow. This means that obviously, the bill we are presented today will not represent a return to fiscal sanity. To accomplish that would take a wholesale abandonment of what the President is pleased to call Reaganomics. He has not changed his policy, nor his plans.

Clearly, when we come back here a few months hence, we will again be faced with this same crisis and renewed demands for still more domestic budget cuts. We will again be called upon to round up the usual suspects—any programs that aid the old, the sick, the young, the poor, or the hungry. We will again find that the cuts will not make any difference. The fact is that even optimistic projections leave us with a $200 billion deficit in fiscal 1985, and that, I repeat, is assuming that this tax-and-slash bill is enacted. If we cut every last dime out of food stamps, welfare, and student loans, we would then be left with a $175 billion problem—bigger than we face today. We could cut 90 percent of all money for highways, for health and science, even for the Weather Bureau, for education, for everything except the most rudimentary Government functions like law enforcement and still be left with a huge deficit. That is what will happen if we continue to swallow the Reagan program. This bill not only fails to solve our immediate problems, it fails to address the needs of the Nation—economic, social, governmental or otherwise.

We are told that this bill is a response to the Nation's economic illness. Certainly there is illness and certainly there is need for a decent response. But this bill changes nothing, and change is what is needed. It does not solve the fiscal problem. Whatever token advance it makes toward repairing last year's corporate raid on the Treasury is obliterated by new and doubly unfair burdens on the elderly, on citizens whose burdens are already unfair, on people who are told that this bill is fair but who will find next April just how unfair it is. They will find that corporations can deduct all manner of expenses for high living—what you might call corporate food stamps—while individuals will not be able even to deduct what they lose to thieves, to fire or to flood, unless such losses are catastrophic. Corporations can deduct the expenses of grease money paid abroad in this bill, but no citizen can deduct the loss of the family silver if it is carried off by a thief. The taxpayers will be forced to absorb the loss of crime, corporate or individual. Where is the reward for virtue?

This bill does not change anything. It does not change the Reagan program. It does not change the continued attacks on people who do not have lobbyists in town—the poor, the old, the young, the sick, and the ordinary citizen in the street, in the store, in the factory, or down on the farm. No; these citizens will find yet more unfairness headed their way. It will not change the foolishness that led to the present economic crisis. What this bill does is to deny responsibility. It allows the President and—I am sorry to say—the leadership of my own party, to deny responsibility. If the economy continues to roll downhill, they will be able to say, "Well, we did our best. We cooperated." If recovery falters and fails, if growth is slow, they will be able to deny any responsibility.

If the Nation somehow escapes its present bind, it will not be any thanks to this bill. All this does is to paper over the problem. It is a prayer that the storm will not break. It is most certainly not a bill that qualifies for the title of fiscal responsibility or tax equity.

Does the leadership believe that Mr. Reagan is any less partisan today than he was a year ago? No; he is desperate and they do not want to carry the burden of responsibility. They do not want to fight the multi-million-dollar lobbies any more than he does. They do not want to face the truth any more than he. They find comfort in a strange alliance. But they should be warned, as Shakespeare wrote:

> Be not fond to think that Ceasar bears such a rebel blood that will be thawed . . . (through) sweet words and crooked courtesies, and base spaniel fawnings.

It is wrong to go along with these inequitable tax increases, these harsh and cruel cuts imposed on the old and the needy, and the continued hokum of a discredited economic policy, or supply-side nonsense. This bill is not fair, it is not responsible, and it is not any solution to our crisis.

Mr. GONZALEZ. Mr. Speaker, I offer for the RECORD, in connection with the consideration today of the tax bill, the following correspondence with the President.

THE WHITE HOUSE
Washington, August 18, 1982.

Hon. HENRY B. GONZALEZ,
House of Representatives
Washington, D.C.

DEAR HENRY: The other night on television Congressman Tom Foley said he supports the bipartisan tax reform conference report currently before the Congress because it is fair. I appreciate Congressman Foley's support, but that support alone is not enough. I need your support as well because I'm convinced that this bill, combined with our other efforts, is going to reduce interest rates even further and get the economy moving again.

As you know, since I've been in office, inflation has been cut about in half and interest rates are down by a third. But, unemployment remains a serious problem, and if we are to put Americans back to work, we must drive interest rates down even further.

I believe the single most important question facing us today is: Do we reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or do we accept bigger budget deficits, higher interest rates and higher unemployment simply because we disagree on certain features of a legislative package that offers hope for millions of Americans at home, on the farm, and in the work place?

You and I both know there's only one fair answer to that question. I know this measure is not perfect, but I'm convinced that it will bring us closer to our goals of a balanced budget, restored prosperity, and jobs for those who need them. Despite any differences we may have, I know we both want what is best for our country. Working together, I'm confident we can have the best. This bill is a start in that direction. I earnestly hope you will vote for it for that reason alone.

Sincerely,

RONALD REAGAN.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 19, 1982.

Hon. RONALD REAGAN,
President of the United States,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have your letter, and have given long and earnest consideration to the tax-and-slash bill that the House is considering today.

It is clear that reform is necessary to rectify the colossally unfair and unwise tax bill enacted last year. It is equally clear that the bill before the House is just as unfair and onerous to ordinary citizens as any bill ever presented. It cannot be defended as anything other than a token admission of last year' irresponsibility. It does not meet the test of reform.

I certainly respect my colleagues, but Tom Foley was not empowered to speak for anyone other than himself. What may satisfy him as being a fair bill fails almost any meaningful test of genuine fairness.

You know, I am certain, that I have not supported your program. I am sorry to say that my worst fears about your program have been realized; indeed, events have proved that my fears were all too modest. With all respect, I cannot believe that your current prescription will benefit the nation any more than your last one did.

Your policy, I know, has been not to respond to letters from Congressmen. I am responding to your letter because I feel a duty to do so, and not because I expect that you feel any reciprocal sense of obligation. Whether or not you read these lines, I do hope that you will reconsider your basic program, for I fear that it not only creates irreconcilable fiscal problems, but will insure that interest rates remain high, economic recovery will be slow or aborted, and that our ability to meet the nation's pressing, basic needs will be severely eroded.

Respectfully,

HENRY B. GONZALEZ,
Member of Congress.

● Mr. HUGHES. Mr. Speaker, my decision to support this bill was not an easy one. Many of us warned early on

that we were trying to do too much at one time—increasing defense spending and cutting taxes against the backdrop of recession and high interest rates.

Those warnings were not heeded, but fortunately the President has acknowledged the need for a mid-course correction. The vehicle for that correction, this tax bill, is not perfect. It is a mixed bag. It has provisions that are going to hurt some people, but it also has some provisions and major reforms that are long overdue.

It regains about two-thirds of the tax losses due to excessive cuts made for businesses last year, such as safe-harbor leasing which provided undeserved benefits to some very wealthy corporations and the equivalent of welfare for some losing corporations.

It reforms the minimum tax, to make sure that the very wealthy do not escape paying at least some taxes.

There are items which I find objectionable: the raising of the threshold for medical expense deductions, the withholding of taxes on interest income which I voted against earlier today, the telephone taxes, and others. But on balance there are more good provisions than bad.

But even more importantly, it sends a message to the American people and the financial community that we are serious about getting our fiscal house in order. It is a step toward getting deficits under control and eradicated.

There is certainly much more to be done. There are still tax reforms that are needed, such as making the oil industry pay its fair share and reducing the use of foreign tax credits and deferrals. There is more to be done in the area of cutting spending and adopting sensible priorities too.

But those proposals are not now before us. What is before us is this tax package, warts and all, as the best that is politically achievable. It is a patch on the dike that holds back the sea of red ink that will absolutely inundate us if we do not do something.

The projected budget deficits, even assuming further massive spending reductions, are mind-boggling in size, measured not in billions or tens of billions, but in hundreds of billions of dollars.

This revenue measure will help keep those deficits under some degree of control. It also makes clear that there is no free lunch, not in our day-in, day-out lives and not for gurus of supply-side economics.

I urge my colleagues to support this responsible measure that points us on the road we all wish to follow toward an improved economy and fiscal responsibility.●

● Mr. STOKES. Mr. Speaker, today, I am voting against H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Over a 3-year period, the conference agreement on this measure raises $98.5 billion in revenues, cuts spending by $17 billion, and provides supplemental unemployment benefits.

Mr. Speaker, I decided to vote against this bill after careful deliberation and with a certain amount of consternation because H.R. 4961 does contain a number of provisions which I endorse. I am particularly supportive of the 6- to 10-week extension of unemployment benefits for those workers who have exhausted their current benefits. This provision, in my estimation, is needed for the nearly 11 million Americans who are now out of work.

On balance, however, I felt that several objectionable and troubling provisions included in this legislation outweighed its beneficial recommendations.

First, I consider the spending reductions recommended in H.R. 4961 to be harsh and unfair given other areas of the budget, primarily defense-related programs, which have completely escaped any sharing of the burden of reducing the Federal deficit. I simply could not support budget cuts amounting to $13.3 billion for medicare, $1.1 billion for medicaid, $405 million for aid to families with dependent children, and $386 million for supplemental security income. These budget reductions will wreak havoc with our Nation's medical care delivery system by further restricting Federal reimbursements for medicare and medicaid services. More importantly, these budget cuts will be passed along to the elderly and the poor, resulting in a loss of much-needed medical care and increased medical costs to these persons.

Second, Mr. Speaker, while I support measures to reform the Tax Code to achieve equity and fairness, I consider some of the proposed tax increases to be unjustifiable or unsound. For example, I am troubled by H.R. 4961's provision to require financial institutions to withhold 10 percent of interest income and dividends in order to achieve improved tax compliance, when the Internal Revenue Service already has the information required to enforce current tax laws in this regard but simply has not. I am equally troubled by the imposition of a 1.3-percent medicare tax on Federal workers when these workers pay substantial amounts for Federal health insurance. Further, Federal employees have already helped to reduce spending by forgoing compensation and benefit increases that otherwise would have accrued to them.

Moreover, Mr. Speaker, several other provisions of this bill are objectionable. I question the propriety of allowing corporations to deduct questionable payments, so-called "grease" money or bribes, to foreign government officials if such payments are not illegal under the laws of the foreign country involved. Further, I do not believe that corporate executives should be allowed to continue to deduct the cost of their three martini lunches while the tax burden for waitresses, waiters, and other workers who receive tips is increased. In my opinion, these and other illogical provisions outweigh the positive features of H.R. 4961, which restrict or terminate unproductive or excessive corporate tax perferences.

Mr. Speaker, I firmly believe that the Congress should enact legislation which will help to reduce the Federal deficit and lower interest rates and thereby put our Nation on sound economic footing once again. All Americans, particularly those who have been thrown out of work due to the recent recession, deserve no less. H.R. 4961, however, is not the way to achieve these goals.●

● Mr. KASTENMEIER. Mr. Speaker, our economy is in serious trouble. About 9.8 percent of our working population is unemployed. This is tragic. Industrial production is running below 70 percent of capacity. Interest rates are still far too excessive. The home building industry is in a depression. Small business bankruptcies are at record levels. The Reagan administration has given the Nation the greatest deficits in the history of our Nation. The midsession review of the 1983 budget of the Office of Management and Budget estimates the fiscal year 1982 deficit to be $108.9 billion and the fiscal year 1983 budget deficit to be $115 billion. We are in the worst situation since the days of the Great Depression.

The President and his party have chosen to blame almost 30 years of Democratic control of the Congress for the mess in which we find ourselves. Nothing could be further from the truth. The truth is, Mr. President, that your administration with its radical economical policies has produced the calamity which confronts us. Your economic program, Mr. President, has caused high unemployment, record budget deficits, and the deep recession.

We are now faced with a $98.3 billion tax bill, the biggest tax increase in the history of the Nation. We are asked to approve this tax measure only 1 year after the passage of the administration's pie in the sky, the misnamed Economic Recovery Act. What happened in the ensuing year to cause this great collapse in the economy? Could it be that the Reagan economic program simply does not work and is the cause for the further deterioration of our economy?

Secretary Regan, on September 14, 1981, said:

> This administration has done its job. It has provided just what American industry said it needed to transform our economy.

On October 31, 1981, Secretary Regan said:

Though I anticipate that there may be several more months of disappointing economic statistics, there are powerful forces already at work to transform current areas of weakness into sources of economic strength. First and foremost, a powerful incentive and growth-oriented tax reduction is already in place. Consequently, the current recession will be mild, its end certain and swift . . . 1982 and subsequent years will show vigorous, perhaps, unprecedented economic growth.

Earlier this year, on February 3, 1982, Secretary Regan again issued another one of his optimistic reports. He said, "I think the economy is going to come roaring back in the late spring." By May the Treasury Secretary began humming a different tune. On May 1, Secretary Regan said, "I don't think the recovery can be nearly as robust as we would like with these deficits." Finally, on July 25, Secretary Regan finally admitted, "This recession came along and was much deeper than we had originally thought it would be."

The administration certainly has transformed our economy and we are now confronted with this tax measure. Interestingly, the President is using the same arguments in citing the need for an increase in taxes as he did last year in promoting his disastrous Economic Recovery Act.

I have many objections against this tax bill. It cuts more than $17 billion in medicare, medicaid, aid to families with dependent children, child support enforcement, and supplemental security income. While the President is promoting these spending reductions with which affect those, I might add, in our society who can least afford curtailments in Government services, Mr. Reagan, on the other hand, is not prepared to hold down wasteful defense spending. In fact, the President proclaims that he does not feel bound by any ceilings Congress may impose on military spending. Mr. Reagan spends more time and shows greater interest in promoting the MX system, neutron weapons, chemical gases, and other instruments of death and destruction than he exhibits on behalf of those citizens in our society who are in need of the helping hand of government.

This tax legislation also contains a number of offensive features. It increases the telephone tax, which was first imposed by Lyndon Johnson to help pay for the war in Vietnam and which is still with us today. It imposes a withholding tax on interest and dividends, and while exceptions are made for certain low-income and elderly individuals, I believe this scheme, which I have opposed since the time when it was first proposed by President Carter, will discourage saving and investment and will produce a whole new set of bureaucratic forms with which individual taxpayers and financial institutions will have to contend. I have joined with other colleagues in urging the House Rules Committee to permit a separate vote on this withholding scheme. I also object to the changes in the medical deductions.

On the other hand, there surprisingly are some commendable provisions contained within this legislation. The conferees shrewdly agreed to include a temporary program of emergency Federal supplemental unemployment benefits which will provide from 6 to 10 weeks of additional unemployment compensation benefits which are urgently needed by workers who are victims of the Reagan recession and who have exhausted other unemployment benefits.

There are a number of tax reform features in this proposal, such as the individual minimum tax on wealthy individuals who would otherwise pay little or no tax, the repeal of the further acceleration of depreciation scheduled for 1985 and 1986, changes in the investment tax credit and corporate tax preferences, and the repeal of the scandalous safe-harbor leasing, effective January 1, 1984. These provisions will allow the Government to recoup billions of dollars which were raped from the Treasury by the 1981 Economic Recovery Act. We will never have another opportunity in this administration to redress the outrageous giveways resulting from the Economic Recovery Act.

Mr. Speaker, it would be easy to sit back and watch the President and the congressional Republicans twist slowly in the wind on this tax bill. Many of President's conservative supporters are agonizing over this bill. Unlike my Republican colleagues, I have not been called to Camp David to be lobbied for the bill. It is far easier for me to vote against this tax measure than to support it. However, those of us who are committed to a responsible Government have a responsibility to repair the state of our economy and to stop the blood-letting practiced by the radical Reagan economic policies on our economy.

Ronald Reagan has brought economic despair to our Nation. He is the biggest budget buster in the history of our Nation. He has produced the largest budget deficits ever. He is responsible for over 10 million Americans being out of work. His wild spending military policies do not reflect the true needs of our national priorities. But, notwithstanding my strong condemnation of the Reagan economic policies which have brought such misfortune to so many of our citizens, I feel that we must do something about the huge Reagan deficits. This tax measure is the only proposal we have before us. We were not permitted to consider any other alternative. We should not derive any comfort from the fact that the taxes raised from this bill, along with the budget cuts, will hold down the Reagan deficit for fiscal year 1983 to OMB's estimate of $115 billion. At best, this bill will keep the Reagan deficit from mushrooming. I will not cast my vote to politically exploit the misfortunes which Mr. Reagan has delivered to our people. The responsible position is to hold down these immense deficits and, thus, I am constrained to vote for this tax bill.●

● Mr. McDADE. Mr. Speaker, I rise in support of the Tax Equity and Fiscal Responsibility Act of 1982 because it's extension of unemployment benefits provides what the unemployed in my district need to cope with our current economic situation and because its revenue-enhancing provisions offer the only practical way before us today to create jobs and work our way out of the current downturn. Over 30,000 jobless people in Pennsylvania would have faced a cutoff of unemployment compensation if this extension has not been approved.

Furthermore, the tax equity and fiscal responsibility stands as the kind of legitimate tax reform that Democrats and Republicans have talked about for years. It is an unusual day when we can cast a vote that will help create jobs and contribute to the basic fairness of our tax system.

The time for economic theories is long past. It is time to look at economic realities, and I know the economic realities of the 10th Congressional District of Pennsylvania. I am sure the situation is similar to that which is found in most of my colleague's districts. I have seen what interest rates are doing to potential homebuyers and businessmen in northeastern Pennsylvania, and I ask myself what else can be done to pull down interest rates. There is no—I repeat, no—other answer on this day than to vote for this tax bill. The financial markets are waiting to see the Congress cut the deficit, and the tax equity bill does just this.

And we can do this fairly and in good conscience. Fairness—we have all talked fairness during the past year—Democrats and Republicans alike. The fact that both the Republican and Democratic House leadership, as well as the President, support this bill underscores the essential fairness of the Tax Equity and Fiscal Responsibility Act of 1982. In essence, more than 80 percent of the increased tax revenue from this bill will come from increased taxpayer compliance and the closing of tax loopholes. The bill will have little or no effect on the majority of individual taxpayers.

There is certainly no perfect bill. Who among us does not object to one or more particular feature of the bill? I have taken my criticism of the bill to both the President and the Ways and Means conferees. Some of my objections have been addressed; others I, too, have had to swallow as part of a revenue package—a whole package—

that is equitable and offers the only way to cut the deficit, help drive down interest rates and get out people back to work now.

There has been much confusion regarding the interest and dividend deduction provision of this bill. There is the mistaken belief that this is a new tax. It is not. This provision simply requires that taxes on interest and dividends, which are or should be paid under current law, will be withheld just as wages are now. One of many major concerns was that our elderly and low-income citizens are in no condition to afford this kind of deduction. Make no mistake: they cannot. But this tax bill provides exemptions for low-income and elderly citizens.

The first budget resolution required these revenue increases, and the Tax Equity and Fiscal Responsibility Act of 1982 raises these funds in a fair and equitable fashion, closing loopholes for corporations and individuals and making sure that all taxpayers pay their fair share.

The people of the 10th Congressional District, Pennsylvania, and the Nation need the extended unemployment benefits, lower interest rates and jobs that will result from the Tax Equity and Fiscal Responsibility Act of 1982. They cannot wait on theories. I therefore support this bill.●

● Mr. HAWKINS. Mr. Speaker, I listened with utter amazement Monday night as the President told the American people that this tax bill before us today will, "put Americans back to work again", and will "increase productivity".

I would like the President to point out to us when in the last 50 years has a revenue increase, geared to reduce a budget deficit and close tax loopholes, accompanied by domestic spending cuts, ever created new jobs? The President said himself that the great percentage of the $99 billion increase is to make sure people pay their fair share of the tax burden and that the Treasury gets the money it is due.

Will that create jobs for the over 12 million unemployed? Or use the money for a $72 billion hike in weapon systems? No one is sure at this time.

If Mr. Reagan cannot make a case for the tax increase based on its own merit of reforming the gross indulgencies of last year's giveaways, then he should be honest and true to his supply-side creed and oppose this bill.

The President tells us to support the tax increase premised on the need to reduce the deficit. He uses the same old worn-out script of blaming the deficit on years of so-called mismanagement and wild spending, ignoring the fact that it is his own economic program (or lack of an integrated policy) that has produced this deficit. It is the result of deep-rooted deficiencies and imbalances in his economic policy of the last year and a half and no amount of revenue increases are going to bring us back into the black as long as lop-sided economic priorities rule the decisionmaking of the day forcing a recession on us as a cure for inflation.

The President continues to have the contradictory belief that you can produce a recovery while supporting a restrictive, stifling monetary policy.

While we are slightly encouraged by the recent lowering of the prime rate, make no mistake about it. As Nobel Prize winner James Tobin so eloquently explained in Sunday's Washington Post, "The Federal Reserve holds the key to recovery. High interest rates, above the inflation rate by unprecedented margins, are the source of the recession and remain the insurmountable barrier to recovery and prosperity." He goes on to argue that there is no way to have both lower interest rates and economic recovery without an easing of the money supply.

The President and some of my colleagues are putting the cart before the horse when they argue that the deficit is preventing a recovery. The deficit is the result not the cause of the recession.

This bad situation is made even more horrible because it is coupled with a shifting of the burden of reducing the deficit to an untargeted-meat-ax approach of reducing domestic spending, including $17 billion cuts in vital social programs.

While the President's rationale for the tax bill is shaky, the supporting arguments for butchering social support systems, food programs, and other necessary governmental responsibilities is even more dubious.

Capital formation and business investments are certainly not likely to be encouraged by the resulting decrease in consumer buying power and reduced Government outlays—both necessary factors in obtaining an adequate GNP growth rate.

So, taking these various factors into consideration, I believe that any tax increase in a deep recession is of questionable economic and philosophical merit, due to its further depressing an already stalled economy. However, if we were to have one, then we should specifically earmark a substantial part of the increased revenues for putting to work our unused resources and involuntarily idle people. That way we can alleviate our domestic problems; and, thereby fairly curtailing inflation, reducing unemployment, increasing revenues and lowering the deficits.

In Mr. Reagan's administration, unemployment has increased by 3 million individuals and plant utilization is at a dangerously all-time low point. Critical shortages have developed in housing, health care, transportation, and urban and rural development. The unemployed and underemployed could be productively utilized on a cost-effective basis working at improving these sectors of the economy. An investment of $30 billion toward this end, would, conservatively estimated, generate $150-$180 billion in economic activity and revenues. Now that would really put a dent in those deficits.

An initial investment of this amount would be more than offset in the budget by a reduction in unemployment compensation (now costing about $20 billion annually), welfare, medical benefits, food stamps and other entitlements to which the unemployed qualify because of the current shortsighted policies.

We would not only recoup the initial $30 billion investment, but reap high dividends in needed goods and services, revenues, and reduced expenditures through savings in outlays for social programs.

Also, the social benefits in terms of reduced crime, health deficiencies, family disruptions and educational losses would be incalculable.

If we are to go the revenue-increase route, let us make sure we will provide a comprehensive framework from which we can save our recession-ridden economy. To fail to do so would be to dangle false hopes before the eyes of millions of struggling Americans who are looking to us for a way out of this malaise. I will, therefore, vote against tax increases until we clarify the purposes for which the money will be used.●

● Mr. MOFFETT. Mr. Speaker, it is no secret that I have not been a big supporter of Reaganomics. I think the supply-side approach embraced by the President and pushed through the Congress by him last year has been an absolute disaster.

When the President's tax package of last year was under consideration by the Congress, I said I believed that, if approved, it would lead to record deficits. I did not believe then that we could afford the tax cuts. And I voted against them and in favor of less extravagant alternatives, including the option of tightening down on existing loopholes. It is ironic that the President is now beginning to move in the direction many of us have been looking toward for many years: insuring that individuals and corporations pay their fair tax share.

I could now take the position that we should let the President stew in his own juices. "Why should Democrats bail him out?" some of my colleagues ask.

Or I could now take the position that this bill does not go far enough, that it does not repeal all of the unwise tax breaks created last year, for instance the modifications in the windfall profits tax that substantially lowered the tax rate of the oil companies.

But there is no question as to what is the responsible thing to do.

As Reaganomics have taken hold, the deficits have mounted. The economy has choked. Joblessness has skyrocketed.

I do not need to dwell on the unemployment figures, the bankruptcy figures, the economic distress signals. Even in my own State, which is in somewhat better shape than many others, we have pockets of near-depression, especially in housing and auto-related industries. Those areas are especially sensitive to interest rates. And interest rates will not come down and stay down until we take action to get the deficits down.

The good economic indicators of recent days, in the stock market and in the figures on personal income growth, mean little unless we get the massive Federal budget deficits down—and bring down interest rates with them.

What are the options for doing that? If we do not pass this bill, there may be no other options in this session of Congress, no other attacks on the deficit for the rest of the year and the first few months of 1983. Our very inaction will likely reverse the first positive signs of the past few days and return us to the psychology of economic despair.

But if this tax bill fails, there are sure to be even more brutal Reagan cuts next year in programs for the elderly, in health care, education, and environmental programs. There is already discussion that if this bill fails, the President would ask for major cuts in the social security program or impose a regionally and socially inequitable energy tax.

This bill is not perfect. It is not a bill that is popular with the American people. But it is obviously the best we are going to do. And we should remember that many of the provisions contained in this bill represent true tax reform. Obviously, more work will need to be done to make our complex tax code more simple and more fair. But if we defeat this first move toward tax reform in many years, I can assure you that the next step will not be greater tax reform but less. At this time and with this administration, this tax reform bill is obviously the best we are going to do.

Eighty percent of the money raised by this bill will result from stricter compliance and from closing loopholes: Collecting taxes that some taxpayers have managed to avoid paying.

The bill closes loopholes that have been used and abused by the oil companies. This bill tightens up some enormous loopholes created especially for oil companies—the foreign tax credit, intangible drilling cost deduction, and changes in the Alaskan pipeline tariff. The bill also tightens up on loopholes available for all companies but which oil companies, because of their tremendous wealth, are best able to take advantage of: Accelerated depreciation, leasing provisions, accelerated corporation payments, and changes in merger provisions.

In general, the bill will force wealthy taxpayers to pay more and those who have paid little or nothing to pay much more.

Undoubtedly, the most important aspect of this bill for my State of Connecticut is its treatment of our insurance industry.

In the past several years, there has been considerable confusion in the industry about what products to sell and how they would be taxed. Because of IRS tax rulings, buyers have been confused.

This bill does not give the industry a free ride. In fact, it requires that the industry pay at least $6 billion more in taxes over the next 3 years.

But it clears up confusion on taxation in the insurance industry—and that is why the leaders of the industry in Connecticut believe this is one of the most important bills affecting their industry ever to be considered by Congress.

If this bill is not passed, the confusion in the industry and among its customers will continue. That will hurt business; it will surely affect jobs in the industry and the economic well-being of our State.

This bill is an effective, responsible response to a serious problem. In and of itself, it will not cure the very serious problems that our economy faces. This bill will have to be coupled with other programs, notably a more reasonable defense spending policy and a more activist posture in controlling interest rates, before we will truly find economic health. But it is a sound beginning. It is more important than any partisan or political election year considerations. I urge my colleagues, therefore, to support this measure as a necessary first step toward restoring economic strength by reducing interest rates and creating new jobs.●

● Mr. GUNDERSON. Mr. Speaker, the tax debate now before Congress presents Members of the House, especially Republicans, with a very difficult choice. Should the Federal Government, in a time of severe recession, raise taxes?

Throughout the past few weeks, I have followed closely debate on the tax bill. During this time, I have studied almost all of the complex issues involved. My discussions on the issues have been with economic experts, the business community, and most important, the people of my district. And yesterday I had the opportunity to discuss the issue with the President and Vice President.

After careful consideration, I am now convinced that the negative impact on the country, should the bill fail, far outweighs the problems with both the concept of raising taxes, and the specific areas of disagreement with the legislation.

For the past 18 months, this country has embarked on a long and difficult struggle to reduce government spending and reduce interest rates, in order that economic activity might be restored.

To defeat this bill would result in adding $37 billion to the 1983 budget deficit and $115 billion to the deficit over the next 3 years.

I am convinced the financial markets and the Federal Reserve both now finally recognize the commitment of this Congress to cutting spending.

As positive actions are being taken to provide economic recovery, it is essential that Congress do its part to maintain that momentum. This concern overrides all others in terms of what is good for America as a whole.

Last year, Congress passed the largest tax cut in U.S. history, as part of its economic recovery program. Many look upon this year's bill as a major retreat from that action.

Yet, we must recognize that the bill passed last year far exceeded what President Reagan sought as part of his tax reduction program.

More important, the net effect of last year's tax cut and this year's revenue increase still represents a $337 billion tax cut for the American people.

COMMITMENT TO REDUCING SPENDING

I came to this Congress with a commitment to reducing spending and reducing the rate of Government growth. I believe we are achieving this goal.

During the last 2 years, we have cut $95 billion in total spending. Some would suggest we cut more. So would I. Unfortunately, we cannot get a majority vote to cut more in other areas.

We must remember that this Congress considered seven budgets earlier this year before finally approving a budget compromise on a very close 204-202 vote. That compromise included an agreement to cut $60 billion in spending and raise $20 billion in revenue.

After taking that action, we must follow through.

Recognizing the need, and commitment, to raise some revenue this year, the bill before us probably does less harm to economic recovery than any other possible measure.

TAX CUTS PRESERVED

The individual income tax rates are preserved. Indexing for inflation is preserved. Inheritance tax cuts are preserved. Most improvements in accelerated depreciation are preserved. And incentives for Americans to put more money in long-term retirement accounts are preserved.

It would be easy indeed to pit one interest group against another on this

issue and simply vote "no." Yet, considering all the issues involved, I believe that would be irresponsible.

Many Americans citizens have paid a very high price over the past few months. They have paid for the excesses and mistakes of the past. They have endured the pain and sacrifice that is a part of the cure.

To abandon that effort at this time, for political gain, would be a disservice to the American people and to our country.

For these reasons, I join with the President today in support of this legislation so important to the total economic recovery program.●

● Mr. GOLDWATER. Mr. Chairman, I rise in very reluctant support of the measure pending before us, the so-called Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961.

Basically I feel that this bill is neither equitable nor responsible. It is a denial of everything that Republicans and conservatives have worked for over the past 2 years.

The bill may be unconstitutional. Measures raising revenue, by the dictates of the Constitution, have to originate in the House of Representatives. This measure was not even considered in committee here, much less debated on the floor of the House.

This bill is being marketed as tax reform. There is no reform involved. Let us face it. A tax increase is a tax increase is a tax increase. Whether it is the largest increase in history or the second largest or whatever is immaterial. The majority of both Houses of Congress has campaigned; some of us for years, others more recent converts, on the platform of the need for and the economic value of cutting individual and business taxes. In my mind, this is still unquestionably valid economic theory. This bill raises individual taxes and repeals 80 percent of last year's business tax changes. And the argument that it simply raises revenues by "enforcing compliance" is nonsense, and makes a mockery of our traditional national pride in voluntary compliance with the tax code. As far as I can see, increased tax fraud is simply indicative of the widespread attitude that taxes are already extortionate without this increase.

We have to look at this bill in perspective. On one hand, most conservatives (myself included) are philosophically opposed to tax increases in general. On the other hand, some tax increases are the price we had to pay last June to get the Latta substitute budget proposal passed. About $21 billion in tax increases were called for in that bill. However, a substantial amount of savings were also called for in the same bill; about $40 billion. The savings were not large enough for some of us, just as the tax increase was unpalatable. However, the Democratic alternative was to repeal the third year of the individual tax cut passed last year and increase spending back to pre-Reaganomics levels. This was clearly unacceptable.

What I am particularly concerned about is that, although this enormous tax increase bill is sailing through Congress, corresponding spending cuts are being sandbagged in committee by the Democratic leadership of the House. A total of $280 billion in various savings was called for in the June 1982 Omnibus Reconciliation bill. About $154 billion of this was to be achieved through nonlegislative means, such as surplus property and Federal land sales, and reducing waste and fraud. I doubt that these proposals will save anything like the sums proposed.

The remainder of the savings was to be through legislated cuts in existing programs; about $125 billion. Only about $30 billion of these has been acted on as yet. This all means that instead of $3 in budget cuts for every $1 in tax increase, the Congress is most likely to approve only $1 in spending reductions for every $3 in tax increases. As an illustration, Congress has only completed appropriations action on three bills as of this date and every one of them exceed the June budget resolution.

We have been given the President's assurance that he intends to veto any and all legislation presented to him that are over the budget spending ceilings. I am willing, for the sake of this assurance, to lend my support to this measure. As I said earlier, this goes completely against the grain for me. I have never voted for a tax increase in my life. Certainly not one of this magnitude. I would not be doing so now if I did not have faith in the President to do what he promises and enforce the budget ceiling—by veto if necessary. The ball is in the administration's court now.●

● Mr. EVANS of Delaware. Mr. Speaker, Members of this body face a difficult decision today. The tax bill before us contains many elements that I do not like, and does not contain many elements that it should.

However, it is clearly the only viable alternative that we now have for this Congress to send a strong and unmistakable signal that we are serious about reducing the deficit, lowering interest rates and putting Americans back to work.

Mr. Speaker, I want to bring to the attention of my colleagues a most thoughtful editorial on this subject, published in the Wilmington News Journal. The editorial reads as follows:

[From the Wilmington News Journal, Aug. 18, 1982]

TAX PLAN MAKES SENSE

President Reagan's appeal to Congress and the nation to support the compromise tax bill should be heeded. Unless the federal government reduces the deficit the economy will continue to stagnate.

The $99.3 billion combination of new taxes, loophole closings and spending cuts is no final solution to the nation's economic difficulties. But, without adoption of this bill, or something very similar, unemployment and interest rates are bound to continue at unacceptable levels.

Many view Mr. Reagan's support for this bill as a sign that he has reversed his economic course. The president must accept much of the responsibility for this perception. It is always dangerous to make economic forecasts in absolute terms. The president did this on the campaign trail and during last year's budget battle. Now, he must ask for adjustments in his economic plan. The political repercussions could be severe. The conservative elements of his own party are waging a bitter battle against the tax compromise. They do the president and the nation a disservice.

Nearly 50 percent of the revenues the bill would generate would come from closing loopholes in the tax system. Many of the unwise features of last year's tax reduction bill—accelerated depreciation and "safe harbor leasing" are examples—are tempered in the new bill. The president correctly described the loophole closing as insisting that those "who are financially well able pay their share."

Demanding stricter compliance with the tax laws will not increase anyone's tax liability. It will mean, however, that those who cheat the government by failing to report all of their income won't be able to continue to do so. Those who save only a small amount each year and low-income elderly persons are exempt from withholding of taxes on interest and dividend income.

The only new taxes on individuals in the compromise package are increases in excise taxes on cigarettes and telephone services. There are valid health reasons, let alone economic ones, to add another eight cents to a pack of cigarettes. The telephone tax would amount to about $7 a year for the average user—not a burdensome amount.

A substantial portion of the compromise is tax reform—closing loopholes that never should have been adopted. The new taxes on individuals and businesses are within acceptable levels.

Though it is never easy or popular to endorse new taxes, particularly in an election year, the president has courageously done just that. He has put the nation's economic health first, instead of political gain. The members of Congress should do the same.●

● Mr. BIAGGI. Mr. Speaker, I have been a Member of the House of Representatives for the past 14 years. In that time period I have cast several thousand votes. On some occasions, the issue or issues have been clear, thus the vote has been simple. On other occasions, the issues have been more complicated and the vote more difficult.

In my judgment, the legislative proposal before us today presents me with a very difficult decision as it does for many of my colleagues. To describe it best, let me paraphrase Charles Dickens in saying "this is the best of bills, this is the worst of bills."

In any type of omnibus bill such as this conference report there are provi-

sions that you support and those you oppose. This is the case here today.

However, I have decided to support this legislation and in doing so I apply the wisdom of the old adage, the whole is always greater than the sum of its parts. If one were to do a detailed pro and con analysis of all the individual components of this legislation, in addition to being a massive undertaking, it would not result in the kind of decision which one must make relative to this legislation.

I am voting for this bill because I believe it is essential for our goal of achieving economic recovery. I am voting for this bill because I have respect for the prestige of the President of the United States who is working so diligently for this bill, not for partisan gain, but to improve the economic fortunes of our Nation.

It is necessary in bills such as H.R. 4951 to qualify your support. My voting for this legislation does not constitute an endorsement for provisions such as cutting medicare and SSI benefits and medicaid by some $13 billion over the next 3 fiscal years or imposing a new 10-percent withholding tax on interest and dividend incomes or imposing a new 1.3-percent medicare tax on postal and Federal employees or the rounding down of benefits under programs such as SSI. I remain opposed to these provisions and if I had been given an opportunity under the rule, I would have voted against them separately.

My vote for this tax bill should not be construed as my supporting the administration's economic policy or "Reaganomics" as it has been called. Far from it, I am voting for this legislation because it will help correct the many flaws which this current economic policy contains—flaws which are causing so much hardship to millions of Americans. Let us not deceive ourselves. We are considering H.R. 4961 because we have to. After about 1 year of Reaganomics it clearly needs a midcourse correction of the magnitude that this bill proposes. We have slashed Federal spending but have produced the opposite of what we expected—we have produced record high deficits. One reason is that our cuts have not been universal in scope which they must be if we are to truly reduce the size of the deficit. The other factor, which brings us to this point of emergency today, is last year's landmark tax cut legislation. This legislation, has not achieved its goal either. Thus far individuals have received 60 percent of the tax cut they will receive under this law yet the industries and businesses which were to be stimulated by these tax cuts have not responded. The reasons are several but the primary one is continuing high interest rates.

Today we have before us the largest tax increase bill in history which we must pass to replace the lost revenues from the tax cut legislation of last year.

In terms of describing this bill it is important to stress that while we are in fact raising taxes, we are doing so in an equitable manner. As Secretary of the Treasury Donald Regan says:

> Rather than raising taxes on working people the bill eliminates abuses, removes obsolete incentives, and improves taxpayer compliance. More than three-quarters of it will have no effect on the average taxpayer. Instead, it is aimed at those who have been taking advantage of unintended loopholes and special benefits.

This is a vitally important point to me. If this legislation were to cancel out the positive benefits which last year's tax cut is providing for individuals and families, I would stand opposed to the bill. If this legislation continued to keep hands off those wealthy individuals and corporations who fail to pay taxes, I would have no part of it. Instead it concentrates its attentions on those who have grown fat at the expense of the tax laws. When people speak of their dislike of taxes, it is oftimes done in the context of the inequity of the system. H.R. 4961 takes significant steps in the right direction toward bringing about a more equitable tax system.

There are a number of individual features of this legislation which I am very supportive of and which aided me in my decision to vote for the conference report. Let me review them briefly:

First, the first time inclusion of hospice services under medicare. This is a long-overdue acknowledgment by Congress of an outstanding element of our health care system which provides humane and compassionate care for those who face the imminency of death.

Second, adoption of a provision barring the use of medicare reimbursements for costs incurred for activities directly related to influencing employees respecting proposed unionization. This is identical to a bill I introduced earlier this year.

Third, the deletion of Senate-passed bill provisions which would have imposed a 5-percent copayment requirement for home health services which would have further impeded the development of this important element in our health care delivery system.

I am especially pleased that the conference report contains specific language allowing medicaid for persons who have burial funds that presently disqualify them from eligibility. This issue was first brought to my attention when an 84-year-old constituent of mine was advised that her decision to prepay her funeral expenses disqualified her from medicaid and other programs where she could obtain an urgently needed home health attendant. This was a ludicrous provision of law which happily would be remedied by this legislation.

I support the strong effects of this legislation to reduce error rates by States in the medicaid program. There is no purer form of waste than that caused by program administrator errors and this step should be encouraged in all Federal programs.

Addressing an issue of particular importance to me as an original member of the House Select Committee on Aging, the conference report states clearly that no regulation that in any way would weaken the health and safety of elderly in nursing homes can be promulgated over the next 6 months. This time period should permit negotiations to commence in earnest between the various sides so if we must develop new regulations they can accomplish the laudable goal of reducing the size of Government while maintaining this Nation's commitment to its elderly citizens.

I applaud the conference report's various efforts to secure more child support payments from delinquent or absent parents. This is a glaring shortcoming in our current tax law which must be remedied to alleviate a most tragic social problem in this Nation. H.R. 4951 starts the process.

I strongly endorse the decision of the conferees to retain those aspects of the safe-harbor leasing provisions of the 1981 tax bill. This will mean a great deal to my home city of New York and especially our metropolitan transit authority which has been effectively utilizing this provision to purchase much-needed new subway and railcars without incurring enormous cash outlays.

I am very supportive of the conferees decision to permit continued use of tax-exempt industrial development bonds for economic development. Similarly, I support the expansion of mortgage subsidy bonds for the purchases of certain cooperatives.

Let me state that I deeply regret the failure of the conference report to address one particular issue dealing with the ability to refinance certain cooperative housing with tax-exempt mortgage bonds. approval of this by the conference would have been of great benefit to the Amalgamated Houses located in the Bronx. I hope that the Committee on Ways and Means will see fit to consider this issue in a subsequent revenue bill as I intend to introduce the necessary legislation later in the year.

I was deeply concerned about the Senate-passed bill's attempts to gut the possessions tax credit—IRC section 936—which has been so vital to the economy of Puerto Rico. I personally wrote to the chairman, Mr. ROSTENKOWSKI, urging the House to oppose the Senate language and I am pleased with the improvements made

in the conference and the assurances which the chairman gave me in a letter that the language did enjoy the support of the Puerto Rican Government.

There are numerous other provisions I could address myself to in this legislation and I, in fact, will in subsequent statements. For example, the decision to extend unemployment benefits in a number of States is vitally important to millions of our citizens who have fallen victim to the realities of the existing administration's economic plans.

In recent weeks I have heard from a number of my constitutents, and like many of us here they too are divided as to their position. For those who opposed the legislation I can assure them that my vote has come after extensive deliberation and is in fact cast with great reluctance. To those who have told me of their support I, too, appreciate having the benefit of their views.

Let me close with an observation especially targeted to those who find fault with this legislation. In my view, if we do not pass this bill now and work to lower the deficit by collecting more taxes from the rich, then we will be faced with the more objectionable choice of having to cut even deeper into already beleaguered social programs including entitlements such as social security. This approach is a harsh one but it is the lesser of two evils.

There is much to be gained by the passage of this legislation today, far more than is to be gained if we defeat it. If we lower our deficit, our interest rates will continue to decline, industries will be stimulated and unemployment will come down. When we look at what is contained in this bill we find that we are closing the tax loopholes that we have been trying to close for years. it could be the forerunner of a long overdue realistic reform of the system.

I urge support of the conference report and once the President gets the reprieve which this bill clearly provides, I hope he will continue to view his future economic policy from a broader and more humane perspective.●

● Mr. COLEMAN. Mr. Speaker, passage of this bill calling for revisions in our Tax Code will help bring down high interest rates by lowering the Federal deficit, and close some of the most flagrant tax loopholes used by major corporations and wealthy individuals. A vote against the bill will be a vote to perpetuate these loopholes.

While any revenue-raising measure faces criticism, I believe the good points of the bill far outweigh the bad. Since coming to Congress I have advocated more fairness in our Tax Code and this bill does that by slamming the door on billions of dollars worth of loopholes. Here are a few examples:

MINIMUM TAX ON WEALTHY INDIVIDUALS

Several thousand taxpayers with incomes of $200,000 or more pay little, if any, Federal tax by making use of extensive loopholes. This bill sets a minimum tax they have to pay—3-year revenue gain, $2.4 billion.

DEFENSE CONTRACTOR LOOPHOLE

By using the "completed contract accounting method," the defense industry has developed a massive tax shelter which allows them to report substantial profits to creditors and shareholders while simultaneously reporting large losses for tax purposes—3-year revenue gain, $5.7 billion.

FOREIGN OIL AND GAS

Big international oil companies have been hiding profits from U.S. tax by claiming excessive foreign tax credits or by putting their profits in offshore tax havens—3-year revenue gain, $1.1 billion.

LIFE INSURANCE LOOPHOLE

Through bogus risk-shifting gimmicks between insurance companies, investment income which should be taxed at 46 percent is subject to far lower tax rates or even escapes tax completely—3-year revenue gain, $6.9 billion.

SAFE HARBOR LEASING

This loophole has allowed many extremely profitable companies to avoid paying any U.S. taxes by selling tax benefits to other companies. For instance, General Electric, certainly no weak struggling company, wiped out this year's tax liability and received refund checks of hundreds of millions of dollars from the Treasury—3-year revenue gain, $8.1 billion.

CAP ON TAX DEDUCTIBILITY OF $100,000+ PENSIONS

While an average family can only contribute $2,000 a year to an individual retirement account, wealthy individuals have been able to shelter over $150,000 a year by contributing such funds to a pension plan. And, they can then borrow from it with no tax liability unlike people with IRA's who suffer a tax penalty if they try to use the money in their accounts—3-year revenue gain, $1.8 billion.

These are but a few of the major loopholes that have been plugged by the bill. In the name of fairness they have to be closed, but you would have thought the world was coming to an end to talk with some of the special interest lobbyists who were malingering in the Halls of Congress the last few weeks.

There are other portions of the bill which deserve attention. In many instances, the true facts about their impact has been ignored by the media and those who tried to scare the public.

For instance, many elderly people are frightened by the withholding of interest provisions of the tax bill. The fact is 87 percent of the senior citizens in America will be exempt from having any interest withheld from their savings accounts. If a senior citizen's income—excluding social security payments—is less than $14,450 ($24,214 on a joint return) they are totally exempt from the withholding provision.

Quite honestly, the impact of this bill on the average American will be minimal. Closing of the tax loopholes like those mentioned earlier accounts for 51 percent of the $99 billion in new revenues. Stricter compliance measures to collect unpaid taxes will account for 31 percent of the money. Law abiding citizens certainly have nothing to fear from this.

Of course, there will be some impact on individuals. For instance, a family with a typical phone bill will pay 54 cents more per month. A one-pack-a-day smoker will pay another $2.40 per month for his habit.

But, I believe that this tax bill, along with the $285 billion in new spending cuts approved by Congress this year, will help lower the Federal deficit and bring down interest rates. And, it will preserve the third year of the individual income tax cuts which will mean $400 next year to the average taxpayer.

A 2-percentage-point drop in interest rates far outweighs any additional tax liability on the average taxpayer. By lowering mortgage interest rates from 16 percent to 14 percent, the median priced new home will cost a homebuyer $1,200 a year less—that's $36,000 less in interest payments over the life of a 30-year mortgage.

Farmers would enjoy similar savings if interest rates drop. A 2-percentage-point decrease in short-term interest rates would save a Missouri farmer who plants 100 acres of corn and another 100 acres of soybeans nearly $700 in interest on his annual operating loan.

While passage of the bill was difficult, I think all Americans who believe in tax equity and fairness should be satisfied with it. This bill is but one part of an overall economic recovery program that is already making headway in the battle to reduce inflation and to turn our economy around. By moving closer to a balanced budget, I believe we will see more jobs created and lower interest rates.●

● Mr. HUTTO. Mr. Speaker, I ask unanimous consent to revise and extend my remarks.

Mr. Speaker, I rise today in opposition to this conference report. Let me assure you that much prayer and consideration went into this matter prior to my decision. I have talked to many of my constituents and asked their advice and believe I am representing them in this vote.

Many items in this report are good for America and close loopholes in our tax laws that need to be closed. Other

items in this report are terrible and it is for that reason I am voting against this report. I understand that it is not possible to vote on each provision in this report separately, although I would like to see that take place.

Mr. Speaker, there are several items that place an undue and unneeded burden on the average taxpayer. I cannot agree that raising taxes is the answer to this Nations economic problems. We do need to close the loopholes that are unfair to the majority of taxpayers, but we do not need to place additional burdens on our people during a recession.

When I ran for the privilege of representing the people of Florida's first and finest congressional district, one of the major planks in my platform was to balance the Federal budget. I still believe that we need to balance the budget. But I do not think this bill is the answer. We can still make more budget cuts in all areas of Government instead of raising taxes.

If we vote this report down, Mr. Speaker, I do not believe we should stand idly by and not immediately begin to enact other legislation that will be beneficial to this Nation and its economy. I would support the several measures in this bill that close the loopholes in our tax laws. I would not support those affecting the average taxpayer.

My suggestion is that we again look at our excise taxes to raise the tax on tobacco and alcohol products, both of which cause many American's lives to be affected adversely each year. Many even die as a result of these products. And the problems caused by each of these products causes the Federal, State, and local governments to spend more and more money directly and indirectly each year than is collected from related taxes.

Also, luxury items including such things as jewelry, furs, yachts, expensive automobiles, and so forth, should be taxed.

The provisions in this report for closing loopholes and causing people to pay their just share of taxes are good measures to collect taxes that are needed. But hitting the man on the street by deleting his deductions for medical expenses and premiums on medical insurance, withholding 10 percent of his interest from his savings account, and other measures is not the answer.

Mr. Speaker, I ask that this conference report be voted down.

Thank you.●

● Mr. YATES. Mr Speaker, the issue before us is whether to take this step toward fiscal commonsense in spite of the unfair and onerous burdens it places upon people who should not have to shoulder that burden.

Our financial plight has increased since the Congress adopted the Reagan programs last year of massive tax cuts and massive increases in military spending. Contrary to supply-side predictions, the Treasury is bare, the country is in a deepening recession and the prospect is for a bleak future unless ways are found to ease the prospective deficits the Reagan programs have brought us.

President Reagan has adopted this tax increase even though he refuses to call it that. It will bring some drops of revenue into the Treasury with which to pay some bills. But it will not begin to pay for the enormous expenditures incurred by the Defense Department. They will go forward at the same extravagant rate at which they were launched last year by the President.

I said the bill was unfair. One has only to look at the figures in the reconciliation bill against which I voted to verify that charge. The total savings claimed by the reconciliation is $31 billion. Of that amount, $16 billion is charged to the medicare, medicaid, and other related family programs, while the savings attributed to the armed services is only $2 billion derived from COLA's.

I would much have preferred a tax bill that would have rescinded many of the inequities that were included in the tax bill of 1981. This bill addresses some of those inequities, not enough, but we welcome the constructive provisions it does include. We welcome, too, the provision for additional weeks of unemployment compensation.

This bill is in measure a repudiation by the President himself of his economic program which was supposed to have stimulated business so much that large deficits would not occur. The fallacy in that assumption has been evident for some time. This bill is a recognition of an existing circumstance, a step toward common sense.

The President must recognize, too, that his huge military programs have unbalanced the economy. He must realize that military programs, too, constitute Government spending and that the military must also share in the parebacks of Government expenditures which have been focused on social programs. We are waiting for that acknowledgment from the President.

Mr. Speaker, I shall vote for this bill. It leaves a lot to be desired, but the alternative to its passage appears to be worse. There is a chance it will help revive the economy, there is the hope it will help put people unemployed back to work, that it will help restore the confidence in the American economy that the current economic programs have eroded. For these reasons, I will cast my vote for this bill.●

● Mr. ROYBAL. Mr. Speaker, this past week all of us were faced with a very difficult decision. We were confronted with a tax bill that, on the face of it, appeared to be an excellent way of raising revenue, closing unwarranted tax loopholes, and reducing the Federal deficit. Every day my office has been flooded with letters from my colleagues, testifying as to the fairness of this legislation. A look at most of the provisions of the tax bill clearly shows the hard work of the conferees. They made every effort to insure that this legislation was balanced and responsible. I recognize all this, but I still decided to cast my vote in opposition to the conference report on H.R. 4961.

I could cite constitutional concerns or economic principles to justify my opposition, as did many of my colleagues. However, my opposition in this case is based on the same reasoning that caused me to oppose every other economic initiative of this administration—my certainty that Reaganomics is wrong.

We have seen its results. Rather than sparking new investment, the Reagan economic program has caused a serious recession, characterized by a decrease of 7 percent in industrial production, sharply reduced new investment, a 45-percent rise in business failures and, most worrisome of all, post-World War II record unemployment rates. In pursuit of his goals, Mr. Reagan has managed to cut the muscle from many of our most worthwhile domestic programs, throw more obstacles in the paths of the working poor who were striving to become self-sufficient, increase military spending by untold billions of dollars, much of it wasted on weapons and equipment about which even the military has doubts, choke off credit to those who need it most—small businesses and home buyers, and saddle us with a budget deficit twice as large as any other in history. Now he wants us to set another record by passing the largest tax increase in history in the middle of a recession. I will not help him continue to pursue his dangerous policies.

During the 1980 Presidential campaign, one of the other Republican candidates said that if Mr. Reagan wanted to make his economic programs succeed, he would have to do it with mirrors. This tax bill is one of those mirrors. It is an illusion that will buy the President a few more months in which to pursue his trickle-down, supply-side theories. As long as he is able to ignore the fact that it was his policies that caused this recession and the huge deficits in the first place, he will continue to promote further increases in the military budget at the expense of the poor and middle class. Enough is enough.

In our zeal to be fair and responsible, we must not lose sight of the big picture. We know Reaganomics is not working. We must pursue programs that will. Let us seek real tax reform—

restructure our system so the burden does not fall disproportionately on the lower to middle income groups. Let us get this country back to work by providing all of our citizens with the educational and vocational training that will make them employable and at the same time strengthen our industrial base. Let us support responsible, rather than reactionary, defense and foreign policies. Let us return to the noble principles on which the Democratic Party is based, and support those programs which provide everyone the chance to fulfull his or her potential.●

● Ms. FERRARO. Mr. Speaker, I rise in opposition to the conference report on the tax bill, and I ask unanimous consent to revise and extend my remarks.

We are all very aware of the need to reduce the Federal deficit as a means of lowering interest rates and achieving economic recovery. It is obvious that the Reagan administration's economic program is a failure, and that drastic changes are needed to reverse the damage done by last year's cruel budget cuts and excessive tax cuts for the wealthy and increases in defense spending.

The bill before us takes some important steps toward undoing the excesses of last year's tax bill. The provisions strengthening the minimum taxes on wealthy individuals and corporations, and eliminating some of the corporate tax giveaways from last year's bill are important tax reforms.

In addition, the bill provides supplemental unemployment benefits for 2 million American workers who have lost their jobs in the Reagan recession. This action is critical to keep people's lives from being destroyed.

Important as these provisions are, however, they are far outweighed by the many tax increases and spending cuts in this bill that continue the assault on America's poor and elderly.

This bill makes $14.4 billion in cuts in medicare over the next 3 fiscal years. Some of the cuts are in the form of direct costs to medicare beneficiaries, including increases in the premium for part B supplemental medical insurance, which pays for doctor's services.

The bill's supporters argue that most of the savings in medicare are in the form of reductions in reimbursements to hospitals and other health care providers, and not in direct costs to beneficiaries. But many hospitals will be forced to pass the increased costs on to patients, or to cut back on the quality of care they provide. Either way, it is the elderly patients who suffer.

Elderly Americans who are working or seeking work could lose under a provision of the bill which requires employers to offer the same health insurance coverage to workers aged 65 to 69 as they do all other workers. Currently, medicare serves as the primary health insurance for older workers, and employers provide supplemental coverage. The new provision could result in increased costs to employers for hiring older workers. The result could be that firms will be discouraged from hiring or retraining older workers. Given the widespread problem of age discrimination in the work force, and this administration's efforts to eliminate the title V job program, this is not the time for us to construct new barriers for seniors seeking work.

Perhaps the most serious concern of many seniors in my district regarding this bill is the requirement that taxes be withheld on interest and dividend income. Elderly Americans whose savings are already being eroded by the effects of inflation should not have the worth of their savings reduced even further by requiring withholding of taxes. And even the exemption procedure for seniors with incomes below certain levels imposes a requirement on the taxpayer to fill out the forms to get the exemption—it is not automatic, and seniors who do not know the exemption is available will be denied it.

There are other good reasons to oppose this bill. I am sure every Member has received letters from constituents concerned about reduction in the allowable deduction for medical expenses. This provision would add thousands of dollars in some cases to the tax burdens of middle- and working-class Americans who have high medical bills. It singles out those with unusual medical ailments that are not covered by medical insurance. We in Congress must not compound the lives of people who suffer from such illnesses by increasing their tax load.

Another group singled out for special disadvantage in this bill is Federal employees, who would be required to pay 1.3 percent of their incomes in medicare taxes. Federal employees have already borne a disproportionate share of the burden of Reaganomics. Most recently, they have had their cost-of-living increase capped at 4 percent, much below what would be necessary to achieve comparability with private-sector workers. Requiring them to pay the 1.3-percent medicare tax effectively reduces the already-inadequate 4-percent increase to only 2.7 percent. And this pay cap comes on the heels of new changes in Federal employees' health benefits that mean Federal workers are paying more for less medical coverage.

The list of bad provisions of this bill goes on and on. It doubles the cigarette tax and triples the Federal tax on telephone usage, both changes of which hurt poor and middle-class Americans more than wealthy Americans. It allows multinational corporations a tax deduction for bribes paid to foreign officials. It cuts almost $1.2 billion over 3 years from SSI, child support enforcement, and Federal aid to single mothers and children, and $1.1 billion from medicaid.

Finally, there is language in this bill which allows continued and somewhat expanded use of industrial development bonds. IDB's have become a very popular means of raising capital for small business, and they are a very effective job-creation tool. My concern, however, is that the growth of IDB's is forcing tax-exempt municipal bonds out of the market, leaving local governments without funds needed for public services like bridge and subway repair.

Mr. Speaker, this is an unusual bill, in that parts of it are very good while other parts are very bad. I am convinced that the bad parts outweigh the good, and I will vote against the bill. I am hopeful, however, that the good sections can be introduced as separate legislation and enacted into law in this Congress.●

● Mr. BARNARD. Mr. Speaker, I cannot support this tax bill for a variety of reasons, but one major reason is the prospect of withholding on interest and dividends. This proposal has been presented as simply a way to make sure that all taxes that are due are collected.

However, withholding is not a simple proposal to eliminate a loophole in the tax laws. This is a major departure from the past, and will impose a new tax that will especially hit the poor and the elderly. Withholding on interest and dividends will hurt individuals, our financial system, and our economy.

First, individuals. Unless an exemption certificate is filed annually, savers and investors will find that 10 percent of their interest and dividends are withheld when credited. However, most of them will simply see that their interest has gone down, and the amount of confusion and anger that will be caused by this procedure will be monumental.

True, there is supposed to be an exemption for the older savers, but that will not be a simple exemption based on age. All will have to file a separate certificate annually with each institution they have an account with. Many of us, who are supposed to be sohpisticated about our investments, have trouble remembering deadlines and forms to fill out. What trouble will older, less sophisticated savers have? How many thousands will not remember to file the forms each year, and will find that the income they depend on to survive is reduced? How many thousands who do not have to file tax returns normally will end up forgetting to file, and will make involuntary contributions they cannot afford to the Government.

The same applies to poorer or smaller savers. True, there is a $150 a year threshold below which the institutions can eliminate deductions. However, this is highly misleading—for this threshold is not mandatory, it is at the discretion of the institution. Banks do not keep all accounts on the same computer for the most part, and most will find it impossible to aggregate them. Thus, this supposed concession to poorer and smaller savers is meaningless.

For financial institutions, the problem is even more serious. The amount of extra work they will be put through will be immense. They will have to process literally millions of new pieces of paper to comply with this provision. They will have to deal with millions of angry savers who will want to know why their interest is less than last time. They will have to bear the cost of implementing this process. True, they will be allowed a more generous float than in the past, but this will not cover their costs—especially the costs associated with starting up this tax.

Financial institutions will have to process the certificates from older savers. Financial institutions will be expected to issue the withholding forms. Financial institutions will be forced to try somehow to find a way to implement the supposed $150 threshold. These are not minor things. They will require major costs that we in Congress seem to imply are minor.

Although the private financial institutions will be expected to bear this cost, the Treasury Department says that it cannot meet the requirements for withholding. In a discussion with Secretary Regan yesterday, he said that the Treasury will not be able to process the paperwork necessary to withhold on Treasury notes. Why do we expect business to comply with regulations the Government is not able to. Why do they have to bear a cost that is impractical for the Treasury?

When you picture these institutions, do not fall into the error of thinking they are all rich banks. Most of them will be the very savings and loans that are already in serious trouble, or the credit unions that service not only wealthier members, but those too poor to have accounts elsewhere. Someone will have to pay the costs of this new tax. It will not be the Government. Most institutions cannot afford to eat the cost. It will be paid by the savers and customers, resulting in lower savings returns and higher interest costs for borrowers.

This provision is not a minor tax reform, but a major change in tax policy. It flies in the face of our vote against it in the last Congress, when we approved a resolution against it by a 401 to 4 margin.

Withholding on interest and dividends alone is reason enough to oppose this bill. Not only is it a new burden, it is in direct conflict with several past actions of this Congress.

Last Congress, we passed both the Regulatory Flexibility Act and the Financial Regulation Simplification Act. Both of these acts stated that it was the intent of Congress to simplify and reduce the regulatory burden on financial institutions. Now we are saddling them with heavy new burdens that will greatly increase their paperwork and regulatory problems.

This Congress, we have passed two measures for the relief of the troubled institutions, both banks and thrifts. We passed a bill last year that makes it easier to merge troubled institutions, and one this year that will give some of them direct Government subsidies to keep them in business.

Now we are imposing huge new costs on them—costs that will hit the hardest on those who can least afford it. We seem to be helping with one hand, and hurting with the other.

Finally, we are hurting the economy for no good reason. We are removing over $30 billion a year in interest income from institutions that could use it to lend to businesses and individuals. Most of this money will simply have to be refunded to the people it has been taken from. This is not a revenue enhancement, we are simply allowing the Government to live on involuntary loans from savers.

Withholding is doubly useless since a simple reform could be used by taking the 1099 form that is currently required, and having it attached to tax returns. No extra cost is involved. No expensive new paperwork. No older or poorer savers will find their income reduced. More money will be available to lend to businesses.

IRS studies show that if such a step were taken instead of withholding, 96.3 percent of taxes due on interest and dividends would be collected. We would accomplish the same thing without all of the problems withholding is going to cause.

Yesterday, I urged the Rules Committee to allow this body to express itself on the issue of withholding separately from the other parts of this tax package. I felt that we needed the opportunity to clarify our positions on regulations, and on the extra burden we will be imposing on the American people.

This was not to be, and I accept that. However, I cannot in good conscience support this tax bill, and I urge my colleagues to join me in opposition.●

● Mr. MOFFETT. Mr. Speaker, while I am a supporter of this package, let me tell you that I have reservations about a bill which imposes further cuts on the elderly and poor recipients of federally financed health care. Ordinarily—if this package was not tied to the tax provisions—I could not support billions in reductions for these essential programs. But these are not ordinary times.

Why are we here considering further health care cuts? We have been told that these cuts are necessary because of the skyrocketing level of inflation in the health care industry. These increases drive up Federal expenditures. Following this argument to its extreme, there may be a time when we eliminate all Federal health care assistance because we have not acted against the persistent inflation levels found among hospitals, providers, medical technology costs, and suppliers.

In November 1979, we were told that a hospital cost containment approach at the Federal level was inappropriate and that a voluntary scheme would do the trick. Now, we are confronted with 2 consecutive years of double-digit increases in health care costs. And, we heard testimony recently before our Health Subcommittee that the voluntary system has not worked.

Despite over 30 years of effort beginning with the Truman administration, there has been no progress in forming national health insurance. While I have certain concerns about elements that such a proposal might contain, it is hard to believe that we have not been able to harmonize the interests of physicians, consumers, hospitals, and insurance companies and make some meaningful progress.

We are concerned about the cost of taking care of elderly people and poor people who are sick. Yet, we do nothing to reduce the incidence of those illnesses. Pending before our Energy and Commerce Committee is legislation which would require food manufacturers to provide information relative to sodium in their products. We know that excessive use of salt leads to hypertension. The incidence of stroke and heart attacks which results cost us $8 billion annually. By reorienting the diets of people in this country we could save a substantial portion of the dollars which are being cut in this bill. Indeed, sodium labeling legislation could have a more significant impact, in terms of lowering overall health care costs, than the legislation which the conference committee has approved.

I would say that the same could be true with respect to cigarette labeling legislation; stiff OSHA regulation on harmful exposures in the workplace; and, so forth.

In conclusion, it seems to me that we are losing the distinction between the cause of the illness of health care inflation and its symptoms. The causes of health care inflation and its symptoms. The causes of health care inflation are numerous—overbuilding, overbedding, overutilization of facilities, unwise reimbursement schemes, et cetera. Finding a solution to these

problems will not be easy. But we should not delude overselves into believing that health care cost inflation will be arrested by cutting people off at the needs.

Let me conclude by pointing the attention of the membership to the excellent hospice reimbursement provisions of the bill. They include some important language for my constituents in Connecticut, for which I am particularly grateful. We had a nearly unanimous congressional delegation favoring this language, and I would like our letter to the conferees—authored by our friend Representative GEJDENSON—printed in the RECORD at this time.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. August 2, 1982.

DEAR CONFEREE: During Conference on H.R. 4961, we urge you to keep intact the waiver of the limitations imposed by the Hospice legislation.

This waiver will permit Connecticut Hospice, the oldest and the first teaching hospice in the country, to continue to provide hospice care. Because it was the first hospice to be organized, Connecticut Hospice served an entire state. Due to this historical factor, patients from all over Connecticut have been welcome in this facility since its inception. Thus, Connecticut Hospice has much higher in-patient care costs than later hospices which deal with localities.

Connecticut Hospice is important to our state and nation because of the excellent pioneering work it has done since it was first started in 1974 under a grant from the National Cancer Institute. Due to its long innovative tradition as the first center of research and the first national center of teaching in hospice care, Connecticut Hospice deserves flexible treatment under H.R. 4961.

During the debate on hospital cost containment, there was widespread Congressional recognition that certain institutions serving national purposes should be exempted from those rate-setting provisions which would cause them to shut down. We submit that Connecticut Hospice serves an important national purpose as a leader in teaching and research and should likewise be granted "grandfather status" to exempt it from provisions which will cause it to cease operating.

We appreciate your assistance.

Very truly yours,

CHRISTOPHER J. DODD,
U.S. Senator.
SAM GEJDENSON,
Member of Congress.
LAWRENCE J. DENARDIS,
Member of Congress.
ANTHONY TOBY MOFFETT,
Member of Congress.
BARBARA KENNELLY,
Member of Congress.
WILLIAM R. RATCHFORD,
Member of Congress.
STEWART MCKINNEY,
Member of Congress.●

● Mr. RAHALL. Mr. Speaker, after very careful consideration, I have decided to support this very important legislation, for the following reasons.

Some claim that this bill will further inflict personal sacrifices on the elderly and low and middle income families of America. The tax increase does not affect the average taxpayer. Most of the new revenues are raised from increased taxes on business, upper-income individuals and from closing a number of loopholes and tax shelters created by the Reagan Tax Act of 1981. The facts will show that this important revenue raising measure will attack deficits and high interest rates by cutting spending less than might otherwise occur and insuring that everyone pays his fair share of the tax burden.

Withholding on interest and dividends is not a tax increase measure; it merely insures that those taxpayers having this type of income pay their proper tax under present laws. Elderly and low income taxpayers are largely exempt from withholding under the exemption levels provided in the conference agreement. Elderly couples with income of $22,214 or less will be exempt next year as well as elderly individuals with $3,323 or less. At these levels nearly 90 percent of all elderly persons will be eligible for exemption.

Many of the loopholes to special interests opened by President Reagan's Economic Recovery Tax Act of 1981 will be closed by this bill. The legislation is designed to insure that all persons who would otherwise avoid taxes because of tax preferences—pay at least some tax. In addition, provisions that allow U.S. oil companies use of foreign tax credits to avoid U.S. tax on other income will be eliminated.

Besides maintaining many vital domestic social programs, which I feared might face further elimination by this administration, and leaving social security untouched, this bill also provides an extension of unemployment compensation benefits for a period of 10 weeks to some 25,000 unemployed West Virginians who stand to lose all means of economic support when State unemployment benefits run out of funds in September of this year.

Therefore, for the reasons that have become apparent to me, I support H.R. 4961 in an effort to reduce the biggest Federal deficit in history created by the biggest tax reduction in history and the biggest military spending increase in history.●

● Mr. ATKINSON. Mr. Speaker, I rise in support of the Miscellaneous Revenue Act of 1982. Over the past 12 months President Reagan's economic program have brought down inflation by 50 percent and have reduced interest rates by 30 percent. Now we are called upon to increase revenue collections and close loopholes in a concerted effort to reduce the Federal Budget deficit and continue to regain the confidence of the economic community.

There are aspects of this bill I do not agree with. However, now is not the time to turn our back on the President or fiscal responsibility. This President's compassion is exhibited in the fact that the bill also contains a provision extending unemployment benefits for the most economically distressed areas. Let us all put limited interests aside and look at the greater national interest. Though it may not be politically popular to make this vote, let us stay on the road to economic recovery. Do not give Wall Street an excuse to raise interest rates, do vote to reduce the Federal deficit.●

● Mr. BROWN of California. Mr. Speaker, it was just a little over a year ago that this Congress agonized over the largest tax package in history. The Economic Recovery Tax Act of 1981 has obviously not met the expectations of its proponents. I did not support the package last year because I believed that it was very inequitable, creating, rather than closing, loopholes. But I must admit, as I pointed out then, the alternative before the House was not substantially better.

Today we must confront the largest tax increase in history. This tax package is of utmost importance and I regret that the manner in which it has been presented has prevented the House of Representatives from fully and thoroughly debating its contents. While I understand the reasons for this unusual step, I fear that, as with the omnibus reconciliation bill last year, we may live to regret the procedural precedent established by this tax bill. By voting against the rule, I had hoped we would have the opportunity to debate and seperately vote on some of the more controversial parts of the bill.

This is not a perfect bill, but some of its provisions will, in part, close some of the worst tax loopholes. And this time we have no alternative. We must attempt to determine on its merits if we should reform taxes, and in some instances increase them, in order to reduce the overwhelming deficit, or do nothing about spiraling deficits.

The package before us will raise $98.5 billion in revenues, while cutting spending by $17 billion over the next 3 years. As a result, the potential deficit will be reduced by $115.5 billion. In any other time in history, these reductions would be substantial, but now they are merely a drop in the bucket compared to deficits of over $100 billion per year. The question last year was not whether the American public deserved a tax break—they most assuredly did. But it was the fairness, the equity of the tax cut that was at issue. This year's debate centers on the same issue. Is this bill fair and equitable?

There are many provisions, a few being highly controversial, in this bill.

Some I support, and have long supported. Others I oppose, and have long opposed. This is not the bill which I would have devised, but I do not sit on the Ways and Means Committee, and I was not priviledged to participate in the conference committee. As with any massive piece of legislation, no Member of Congress can be entirely pleased with everything, but must instead weigh all considerations before determining how to vote.

For instance, the purpose of the withholding tax on interest and dividends appears reasonable by better enforcing compliance with existing law. But while this provision is expected to raise $10.6 billion in the next 3 years, the additional records required of the financial institutions will cost millions of dollars. Can we afford to place additional financial burdens on an already hard pressed part of our economy? Will the fears about the impacts on savings prove to be real?

Federal employees are also hard pressed. Over the last few years Federal employees have had benefits cut, pay increases reduced or capped below inflation, and now by extending the medicare tax to Federal employees, this bill intends to place an additional tax burden on them. This double taxation is essentially for the same benefits Federal retirees already receive if they are enrolled in the Federal employee health insurance system. It will also do very little to resolve the long-term financial difficulties facing the medicare system.

In addition, medical deductions for all citizens have been reduced. This is being done despite the fact that these deductions have not been abused, and the cost of medical care has risen sharply in recent years and shows every sign of continuing to increase faster than the cost of living. To reduce them simply to help lower the Federal deficit is unfair to individuals with high medical costs.

While these and other groups are expected to carry more, others who are not paying their fair share will only be modestly affected. For example, a few new restrictions have been placed upon oil and gas companies, but, for the most part, we have again missed the opportunity to force them to pay their fair share, or repeal the tax breaks they were given in last year's tax bill.

However, there are a number of reforms in this bill that have been long overdue. This bill eliminates the liberalization of capital gains, tightens up the minumum tax for upper income individuals, and restricts some of the worst abuses of the tax leasing benefits for corporations. Another corporate restriction would make mergers and acquisitions more tax-neutral, raising a total of $2.1 billion in the next 3 fiscal years. However, I cannot let pass the opportunity to question the provision allowing corporations to deduct questionable payments—such as bribes or so-called grease money—to foreign government officials, regardless of its legality in other countries.

This bill also temporarily increases the Federal excise tax on cigaretts from 8 cents to 16 cents per pack beginning January 1, 1983, and ending September 30, 1985. I do not particularly want to increase this tax, but given the tax choices and the adverse health effects and costs to Government inherent in smoking, this may be fairer than most new taxes.

One aspect of this tax package is especially important to my constituents, where unemployment exceeds 12 percent. Since this package will only decrease this year's deficit, now estimated at $171 billion, by $21 billion, I am not entirely convinced that this bill alone will substantially reduce deficits and interest rates, and get our economy moving again. Therefore, additional unemployment benefits are needed as we attempt to overcome the highest unemployment rate since the Great Depression. These benefits are needed—and are needed now.

This bill is before us because of the growing Federal deficit. As we speak of the need for a balanced budget, we must make the hard choices in order to accomplish that goal. The tradeoffs are not perfect, but this particular bill is an improvement over past spending without any consideration of financing. Much in the same way the pay-as-you-go budget proposal would do, we explain in this bill how we intend to finance the additional expenditures for unemployment benefits. I urge us to use this approach more frequently.

While all the provisions in this legislation are not acceptable, the whole package must be weighed against the greater good of the Nation. I have not always agreed with the goals or methods of President Reagan, but I must concur, when he said in a recent letter to me, "I know this measure is not perfect, but I'm convinced that it will bring us closer to our goals of a balanced budget, restored prosperity, and jobs for those who need them. Despite any differences we may have, I know we both want what is best for our country. Working together, I'm confident we can have the best. This bill is a start in that direction."

As long as we continue the campaign for tax reform, close loopholes, and insure fairness in our tax laws, I will continue to follow the President's lead. If tens of billions of dollars of loopholes can be found in a few short months, imagine what we could do if we devoted considerably more effort to this task. Let us get on with the job.●

● Mr. LOWERY of California. Mr. Chairman, I have been in the past, and will continue in the future to be a strong and consistent supporter of President Reagan and his economic programs. In fact, it is on the very basis of my belief and commitment to that program that I am today rising in opposition to the conference report on H.R. 4961.

Proponents of this tax package have argued today that they are supporting tax reform, not tax increases. However, only about $2 out of every $10 raised by this legislation comes from what might be called true compliance measures: increased reporting requirements, penalties and interest charges. The remaining $8 is a tax increase, pure and simple.

Furthermore, by whatever name we choose to call it, the fact remains that this proposal exacts an extra $99 billion from American taxpayers and business. If passed, it will withdraw from the private sector the capital that is so desperately needed for new investment to increase productivity, create jobs, and expand our economic base.

The argument against tax increases such as the one we are considering today was perhaps best made by President Ronald Reagan, at the 1980 GOP Convention in Detroit. At that time, he made the statement:

> We are taxing ourselves into economic exhaustion and stagnation, crushing our ability and incentive to save, invest, and produce. We must stop. We must halt this fiscal self-destruction and restore sanity to our economic system.

While I wholeheartedly agree that we must reduce the deficit, I disagree that a $99 billion tax increase is the way to do it. Imposing such a tremendous tax increase on a weakened economy is a sure route to further economic troubles. It could send our economy into an even deeper decline, and actually aggravate the deficit by sabotaging economic growth. A deficit of $104 billion is currently projected by the administration for fiscal year 1983, based on an assumed 4 percent growth in GNP next year. If the tax hike slows economic growth to only 2½ percent, the deficit would climb to about $150 billion. Therefore, tax increases to cut deficits may very well be self-defeating.

The quickest and surest way to reduce the deficit is to speed the economic recovery and get people back to work. Over four-fifths of the estimated increase in the deficit can be attributed to a deteriorating economy. Expenditures for unemployment compensation, food stamps, and other entitlements have increased rapidly, while a slower than expected recovery has depressed revenues. What we need, therefore, are more incentives—not disincentives, as contained in this bill—to stimulate the increased saving

and investment needed for job creation and economic growth.

What is more, we are being asked to pass this tremendous increase without concurrent reductions in spending. It has been claimed that the $99 billion tax increase is the price we must pay for congressional approval of over $280 billion in spending cuts over 3 years. Under the terms of this compromise, every $1 in tax increases is supposed to yield $3 in budget cuts. However, this has simply not proved to be true. Under close examination, the $280 billion in projected cuts evaporates.

Approximately 55 percent of the alleged $280 billion in budget cuts—over $150 billion—is to come from three nonlegislative budget items: management savings, interest rate savings, and debt savings. Few experts believe that we have any chance of saving such enormous sums on these items.

On the legislative side, we have been able to make some of the required cuts. However, Congress has so far acted on only $30 billion of the required $125 billion in cuts over the next 3 years as directed by the budget resolution. We have made only $1 in cuts for every $3 in tax increases—an exact reversal of the ratio in the original bargain. Enactment of H.R. 4961 will merely return Republicans to their all-too-familiar role of tax collector for Democratic spending programs.

Despite the fact that revenues have increased at the tremendous annual average rate of 10½ percent, Government deficits have still ballooned from less than $15 billion in 1973 to over $100 billion today. Over the same 10 years Federal Government spending increased from 21.5 percent of GNP to over 24 percent, or almost one-quarter of the economic pie.

Mr. Chairman, I was first elected as a city councilman in San Diego based on a pledge to trim 10 percent from the municipal budget. We worked long and hard for 6 months to achieve that cut of $25 million to no avail. My city council colleagues and I were told by the bureaucrats that it could not be done.

Coincidentally, proposition 13 passed that very June and effectively mandated a 10-percent cut in the budget. Do you know that it took just 30 days for that same bureaucracy to find the $25 million in budget cuts?

The same phenomenon, multiplied a thousand times, exists here today. Is it possible that this Government and this Congress will spend into deficit any amount of revenue it raises? We have scarcely impacted the spending habits of this Government and, with this tax increase, we will perpetuate "Washington as usual" revenue practices.

We are asked today to do the fiscally responsible thing and accept the tax increase. I submit to you that I, for one, was not elected in 1980 from a tradition of fiscal conservatism to turn on the taxpayers with a $99 billion tax increase in 1982.

The lesson of local government in California I bring to this Chamber today is: The surest way to restrain Government spending is to restrain revenues. The economic policy reflected in this tax bill is directly counterproductive to the expressed desire of the American people to reduce the size and scope of the Federal Government's share of the economy. It represents a return to the tax-and-tax, spend-and-spend cycle that got us into this economic mess in the first place, and I urge my colleagues to join me in opposing it.●

● Mr. CORCORAN. Mr. Speaker, I rise in reluctant opposition to the conference report accompanying H.R. 4961, the Tax Act of 1982. I say reluctance because it has been a painful decision for me to oppose the President and many of my colleagues on this important matter. Many long hours of work have gone into the preparation and presentation of this conference report that we are considering today. There are some provisions in the report which I strongly support, including the continuation of unemployment benefits for the thousands and thousands of our workers who have been caught up in this tragic recession and are still without jobs. The Midwest, and my State of Illinois particularly, has been hard hit. I am also pleased that the conferees have achieved savings to the Government within the medicare/medicaid program areas of $17.2 billion over 3 years.

But, I cannot and will not support this conference report. This bill is not economically consistent with the President's economic recovery program that this Congress enacted little more than 1 year ago. The investment incentives for businesses, small and large alike, which will not trigger in until the out-years of 1985 and 1986, will be effectively repealed in this bill. Capital formation, an important part of the tax cut bill last year, will be stymied. Of more concern to me is the fact that just when the prime interest rate is falling to a 2-year low of 14 percent housing starts are up sharply, and the stock market is showing signs of a major rebound, this Congress is ready to abort this recovery by passing a major tax increase. Simply put, raising taxes during a recession is wrong. Tax increases cannot produce lower interest rates. Additional taxes crowds productive dollars out of the economy in the same way that higher deficits do.

Mr. Speaker, I first was elected to Congress nearly 6 years ago. During that campaign and subsequent campaigns I have promised to reduce the size of the Federal Government. By increasing tax revenues at this time, as this bill would do—not over 1 year, or 3 years, but at least 5 years, to the tune of $26 billion—the temptation to spend it on the bankrupt social welfare programs would be overwhelming. It may never be used to reduce the deficit, still projected to be in the three-digit range in the out-years. Beyond this, by raising taxes, we are taking the focus off the major impetus for the 1980 election revolution—reduce Government spending growth and ultimately Government spending. I am afraid many of my colleagues, especially within your Democratic Party, Mr. Speaker, would see this as a way to get them off the hook. They may ask, why continue to cut spending when the pot of money available to the Government will increase, along with increased inflation which is always a boon to Government?

The programs which have failed us in the past and which we have just begun to overhaul within the last 18 months may have a new life. On the other hand, the absence of additional tax revenues would force the congressional debate back where it belongs: on the spending side of the ledger.

With unemployment hovering near 10 percent, it is fairly certain that raising taxes will not create new jobs. New jobs are created by more investment and the incentive to invest by our people, not our Government. Increased taxes and increased investment are completely incompatible. The businesses of America cannot afford the economic inconsistencies that plagued the Carter administration—there is too much at stake. The provisions dealing with withholding of taxes on interest and dividends are unfair and counterproductive to increased consumer savings and investment.

It is the prerogative of the House, and specifically of the Ways and Means Committee, to write tax legislation under the Constitution. The methods employed to bring this tax increase bill to the floor were unconscionable. There is no reason that in the event this bill does not pass, we cannot come back and write a 1-year, $20 billion tax bill as required by the first budget resolution adopted in June.

Mr. Speaker, this is the wrong bill at the wrong time for the wrong reasons. Let us reject this bill—which is a vehicle for many of the liberal tax programs of the past—and reduce the deficit and interest rates by reducing Government spending.●

● Mr. FUQUA. Mr. Speaker, I am voting today in opposition to H.R.

4961 which would increase taxes on Americans by $99 billion because it is an unaffordable burden on the working person and a measure which would have only a minimal impact on our economic problems.

While I have supported much of President Reagan's economic program, I could not justify to myself nor my constituents increasing taxes during the depths of one of the longest and most onerous recessions of modern times.

One of the dangerous provisions of this bill is the beginning of erosion of the incentives we initiated last year to encourage greater U.S. competitiveness in the vital high-technology industries on which much of our future economic health depends. While other industrialized nations are concentrating immense resources on developing these industries so that they can outperform and outsell American industry, it is the height of economic folly to withdraw from our own commitment. We are talking here about the loss of high-paying jobs which produce income to the Treasury.

Those of our citizens presently fortunate enough to have jobs when unemployment is at the highest level in 40 years, find their earnings already eroded by inflation and see only faint hope of reduction of interest rates which deny them access to credit markets so they can purchase homes in which to live and dependable transportation so they can travel back and forth to work.

To aggravate their problems by taxing their medical costs, driving up their telephone bills, doubling the tax on their cigarettes, and endangering their pension plans, is an affront to their industry.

While these necessities and simple pleasures would be made more expensive under the administration proposal, jewelry and other luxury items would bear no additional taxes.

It has frequently been said that all taxes are ultimately borne by the consumer, but this bill hardly even makes a cosmetic attempt at disguising that fact and would be particularly unfair to individuals who have large medical expenses.●

● Mrs. SCHROEDER. Mr. Speaker, I am voting no today on H.R. 4961, President Reagan's 789 page, $99 billion tax increase bill for these reasons:

First, the tax increases and the spending cuts, notably in medicare and medicaid, will fall heavily on the poor and the working poor, especially working mothers and the elderly. According to the National Taxpayers Union, the Reagan tax bill will cost the average American household $2,500 in increased taxes by 1987.

Second, the bill imposes substantial, new regulatory burdens on millions of individuals and small businesses.

Third, the bill contains the largest tax increase in U.S. history, $99 billion, while it avoids making any hard spending choices.

Fourth, last night we passed the conference report to the DOD authorization, the largest, most bloated military budget in our history. The military got everything they wanted and then some. Today we are attempting to pay for it. I say "attempting" because this $99 billion tax bill, as large as it is, will not even begin to cover Reagan's $1.5 trillion military spending spree. Reagan's fiscal excesses make LBJ's Vietnam era guns and butter budgets look like paradigms of frugality.

Fifth, the inequities in the tax measures are stark: Reagan goes after restaurant workers' tips and makes corporate foreign bribes tax deductible.

Finally, the bill will not help the economy. It is like throwing a cement lifejacket to a faltering swimmer. The bill will not create jobs, it will not spur investments, it will not lower interest rates. The motto of the Reagan administration is, "Spend, spend. Tax, tax." If he wanted to help the economy, he would launch an all-out attack on high interest rates. Instead, he blitzes the already beleaguered taxpayer.●

CALL OF THE HOUSE

Mr. GIBBONS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 302]

ANSWERED "PRESENT"—400

Addabbo
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Ashbrook
Atkinson
AuCoin
Badham
Bailey (MO)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Blanchard
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Brown (OH)
Broyhill
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clay
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, James
Coyne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Dowdy
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Florio
Foley
Ford (TN)
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
Lagomarsino
Lantos
Latta
Leach
Leath
LeBoutillier
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCollum
McCurdy
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Oxley
Panetta
Parris
Pashayan
Patman
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Roybal
Rudd
Russo
Sabo
Sawyer
Schneider
Schroeder
Schulze
Schumer
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

□ 1610

The SPEAKER pro tempore. On this rollcall, 400 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call will be dispensed with.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL AUGUST 26, 1982, TO FILE REPORT ON H.R. 6978, THE BANKRUPTCY COURT ACT OF 1982

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until August 26, 1982, to file a report on the bill, H.R. 6978, the Bankruptcy Court Act of 1982.

Mr. Speaker, the minority has been consulted and has cleared the request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York (Mr. CONABLE).

□ 1620

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. TRIBLE).

Mr. TRIBLE. Mr. Speaker, I rise in opposition to the conference report.

I want to emphasize that the President and I share the same goals: Reducing the size of the Federal deficit, expanding economic opportunities, and creating new jobs. Along with the President, I believe that we must restore fiscal responsibility and balance the Federal budget. My only reservation is about the appropriateness of raising taxes now.

No economic theory supports increasing taxes in a recession. No Keynesian, monetarist, or supply-side model provides a rationale for increasing taxes during a recession. In fact, a tax increase will hamper both the demand and the supply sides of the economy. It will reduce demand and weaken business investment incentives. It could deepen the recession and increase joblessness.

We have heard arguments that increasing taxes will reduce interest rates. A tax increase can only reduce interest rates by weakening the economy and increasing unemployment. Interest rates are falling and will continue to fall without a tax increase. As inflation comes down and stays down, interest rates will continue to fall.

If we are going to reduce the deficit, it should be by restraining Federal spending. The problem is not that taxes are too low, it is that the Government spends too much. Our deficit problem is a problem of overspending. Americans are not undertaxed; the Federal Government is already collecting an unprecedented percentage of the income of working men and women.

I was not elected to increase taxes to pay for excessive Government spending, nor to impose new regulatory burdens on people and businesses. The tax bill does all these things.

This is not tax reform. We cannot extract $100 billion from the economy without taxing people. And we cannot extract $100 billion by taxing "business." People will pay for all the increases in corporation taxes—as consumers in higher prices, as workers in lower wages, and as lenders in reduced dividends, interest, and capital gains. Nor will businesses pay the new taxes for unemployment compensation. These will burden workers as well. Individuals will pay the new telephone, tobacco, and airport taxes. People will pay more, in many cases, much more, for medical expenses, casualty losses, and health insurance premiums. Federal workers will pay up to $470 each year in new medicare taxes.

For my State of Virginia this bill is particularly onerous. It increases the tax on cigarettes and payroll tax for unemployment compensation. This will decrease job opportunities and income in Virginia. The unemployed in Virginia will have their benefits taxed to pay for extended benefits in other States.

The bill singles out Federal workers for sharp new increases in medicare services. I question the wisdom of creating a sizable new classs of those who will be eligible for medicare at a time when we are desperately trying to control medicare spiraling costs.

Accordingly, I must oppose the conference report.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I rise in support of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

I am far from satisfied with this legislation, but taken as a whole, I think it represents an honest and responsible attempt to undo some of the excesses of last year's tax cut bill and close certain tax loopholes at a time when our Federal deficit problem is acute. H.R. 4961 also balances the need for new revenues with additional restraint on the spending side; it cuts $17.5 billion from Federal programs over 3 years. And, the final key element of this package, it provides for up to 10 additional weeks of unemployment compensation benefits to individuals who are out of work and who have exhausted the benefits to which they are currently entitled.

In 1981, the Congress passed and the President signed the largest tax cut bill in this Nation's history, a measure reducing Federal revenues by a least $750 billion over 5 years. I supported the tax cut plan the President had campaigned on, namely a 30-percent across-the-board for individuals and accelerated depreciation for business. The time was right, I felt, for some supply-side economics to be given a chance. The hour had come to try some of these untested but promising theories. I voted against the tax bill which came to the House floor, however, because it was overloaded with add-ons and special interest tax breaks during the vote bidding war between the two parties. All in all, the Congress, with the administration's complicity, added more than $140 billion in cuts to Mr. Reagan's basic plan, more than $40 billion in last few days of the summer. It was perfectly clear to me at that time that these massive revenue reductions, combined with the planned increase in defense spending, would lead to record deficits in the near term. Events have borne out my worst fears.

Some of my more conservative colleagues are not concerned about these record deficits. They reject the argument that we need a modest increase in revenues, coupled with additional spending rollbacks, to cut the size of the fiscal year 1983 deficit. They claim that if we will only give last year's tax cuts a little more time, they will spur the economic recovery that was predicted in the first flush of excitement following the adoption of last year's tax bill. Many of them, in fact, would like to see new tax cuts this year, in place of H.R. 4961. Any additional revenues, even in the form of closed loopholes and increased taxpayer compliance, will choke off the economic rebound that is just around the corner, they maintain. With the economy like an airplane in a nosedive, they would push the stick forward.

I, for one, think the projected deficits for fiscal year 1983, 1984, and 1985 are going to have a very negative affect on the economy. Let us remember that, even with the revenues and spending cuts contemplated by H.R. 4961, the fiscal year 1983 deficit will be near $150 billion. Those who vote against this legislation today are in effect supporting an fiscal year 1983 deficit of closer to $174 billion. These colossal levels of Federal borrowing will crowd private borrowers from the credit markets. The housing and auto industry slumps will be exacerbated, as Americans find themselves unable to finance new home and car purchases. Moreover, there will be continuing and escalating upward pressure on interest rates.

Permit me to turn now to some of the specific provisions in H.R. 4961. As I said earlier, I am not pleased with everything in this bill. I am not enamored of the 10-percent withholding proposal for interest and dividend income. During last administration, I voted several times against a 15-percent withholding plan. I am very re-

luctant to support the new tip reporting system, as well as the new restriction on medical expense deductions. There is a very serious underreporting problem with interest and dividends, H.R. 4961 provides withholding exemptions for the poor and elderly, and for troubled financial institutions like some of our S. & L.'s. It is estimated that 80 percent of all tip income is not reported.

The medical expense deduction, which can include voluntary expenses, such as cosmetic surgery, rest cures and other optional expenses, can only be taken advantage of by the 40 percent of taxpayers who itemize, and these taxpayers are middle- and upper-income individuals. Nonetheless, I would have preferred that we turn to other sources of revenue rather than these three. In addition, I think some of the medicare, medicaid, and other spending cutbacks in this bill are harsh.

However, if one looks at last year's tax cut bill and H.R. 4961 together, as one bill, I think one can make a good argument that H.R. 4961, warts and all, is a worthwhile price to pay for many of the add-ons, over and above the President's tax cut package, in last year's measure. H.R. 4961 is the price we have to pay for last year's reduction in the marriage penalty. It is the price we have to pay for indexing the personal income tax beginning in fiscal year 1985, so that bracket creep does not take an unwarranted bite out of our paychecks. It is the price we have to pay for the reduction in estate and gift taxes which will help our small farmers keep their operations in the family. And I ask my friends from the oil-producing States: Are you not willing to support H.R. 4961 as the price tag for the royalty credits in last year's bill which will help the mom and pop oil operations in your districts?

Let us look at the features of today's legislation which are commendable. H.R. 4961 repeals safe harbor leasing at the end of 1983. As Members will recall, this is the new law which has given profitable U.S. companies net tax refunds from the Federal Government, and which has allowed firms with huge foreign profits to sell their unusable tax credits. Studies have shown that the thriving oil industry was by far the largest buyer of tax breaks under these leasing provisions, and that leasing was only 76 percent efficient, an efficiency rating far below the food stamp program, which has a rating of 90 percent.

H.R. 4961 also contains sound modifications in life insurance company taxation and sound new restrictions on the tax advantages of corporate mergers, which have, because of heavy corporate borrowing, exerted upward pressure on interest rates. It includes new individual and corporate minimum taxes, which will insure that the well-to-do pay their fair share of taxes.

H.R. 4961 includes funding for airport development and planning, airway facilities and equipment and airway research, engineering and development. These capital programs, and the taxes that support them, are very important to my State of Vermont and to the country. Unless they are undertaken, our airports and airways will be unable to handle the demands which will be placed on them in the coming decade.

As the President has pointed out, more than three-fourths of the additional revenues that will be generated by this bill consist of taxes already owed but not being collected and taxes from the closing of loopholes and other unintended advantages in the Internal Revenue Code. If H.R. 4961 is adopted, the American people will still derive the benefits of a $370 billion tax cut over the next 3 years, and a tax cut of more than $600 billion over the next 4 years.

Finally, several months ago this House adopted a first budget resolution for next fiscal year calling for $20.9 billion in new revenues and for roughly $30 billion in spending cuts over 3 years. If this bill is defeated, we will fail to achieve both our revenue and spending targets, and the budget process will be in ruins. Those who oppose the balanced budget constitutional amendment, as I do, must realize that such an outcome will only give ammunition to proponents of the amendment. We will be playing into the hands of those who claim the Congress does not have the discipline and the fortitude to make the tough budget decisions.

Mr. Speaker, I urge my colleagues to support this important legislation. Thank you.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, no one is terribly pleased with this bill. But then I have never known anyone to be enraptured by the prospect of increased taxes. The question is whether we have a decent alternative to passing this bill. All my colleagues know what that alternative would be: a huge 1983 Federal deficit, perhaps as high as $200 billion. I do not think that any of us here today, in our role as Representatives of the American people, can responsibly opt for that alternative. The impact on interest rates, economic confidence, and public faith in this institution would be severe.

You know that I have had my quarrels with this bill. I voted against the motion to go directly to conference with the Senate because I felt we were setting a terrible precedent by abdicating our constitutional responsibility to originate revenue bills. I still feel that way today.

I opposed the provision to withhold 10 percent of interest and dividend income. I wrote to the House conferees. I went before the Rules Committee to ask for separate consideration of the measure. I voted against the previous question this morning. We lost—by 10 votes.

I do not need to reiterate my reasons for opposing the withholding provision. These have been expressed adequately elsewhere. It is based on faulty assumptions and it makes specious claims to raising additional revenues.

We are singling out the honest taxpayer and the hardworking saver as scapegoats for our budgetary problems. In the middle of a recession, in this lowest of all saving nations, I think it is simply unwise to reduce the incentive to save. Yet that is exactly what this measure will do. For this reason, I sought separate consideration of this part of the bill.

Other provisions of the bill which I opposed were improved by the House conferees. The floor for deductible medical expenses, which the Senate Finance Committee originally raised to 10 percent and the Senate lowered to 7 percent, has been further reduced to 5 percent—an increase of only 2 percent over the current level. That is certainly an improvement. The completed contract method of accounting, which the Senate had eliminated, has been reinstated, with a few additional restrictions. Given the current weak state of our housing industry, I think it would have been a mistake to impose this additional burden on contractors. So this, too, is an improvement over the original bill. And, finally, the conferees replaced the rather shortsighted Senate provision regarding possessions corporations—which would have created severe hardship in Puerto Rico—with a reasonable compromise worked out in consultation with the Government of that Commonwealth.

Furthermore, there were some issues of particular regional importance where the conferees upheld our view. I joined with my colleagues from Connecticut in asking that the Senate compromise on taxation of life insurance companies, raising an additional $1.5 billion annually in taxes from this industry, be kept. It was. I joined my colleagues from Connecticut again in asking that the amendment approved on the Senate floor easing the new restrictions on industrial revenue bonds be kept. It was. As a result, IRB's remain exempt from the individual minimum tax, depreciation reverts to the regular, rather than the delayed, schedule, small issue programs remain in effect through 1986, and accelerated cost recovery remains available to

such crucial projects as low income housing, municipal solid waste or sewage facilities, pollution control equipment, and UDAG assisted facilities. I think my colleagues from the older cities of the Northeast and Midwest will be pleased with this.

So for this Member, as for most other Members, there are good points and bad points to the bill. But I think it is important to point out that only 17 percent of the additional revenues raised by this bill will come from new personal taxes. Over 30 percent will come from improved compliance measures, and nearly 50 percent will come from restrictions on some of the tax preferences passed in last year's tax bill, such as safe harbor leasing and accelerated cost recovery. When coupled with last year's tax bill, it still leaves an overall reduction in taxation of $376 billion over 4 years—$358 billion alone in individual income tax cuts.

The crucial question here today is this: Will we lose sight of the forest for the trees? Can we as individual Members afford to take the short-term, parochial view and vote against this entire package because we disapprove of certain features of it? I do not think so. This bill implements the budget resolution recommendations for raising $20 billion in additional revenues for 1983 and $98 billion over the next 3 years. The Congressional Budget Office has already estimated the 1983 budget deficit to be somewhere between $140 and $160 billion if we follow the guidelines of the budget resolution. If we vote down this bill, that figure would go even higher. I do not think our economy can support that.

We must certainly continue with the task of cutting Government spending in a reasonable, equitable manner to further reduce the deficit. My colleagues know full well where I stand on this, ever since my vote for the Aspin budget substitute. I say let us stop cutting everything from social programs, and look to those programs heretofore unscathed: Water projects, agricultural price support programs, and the defense budget. As in the past, I voted against such weapons programs as the MX missile, the B-1 bomber, the nuclear aircraft carrier, and countless others. The savings that the elimination of these programs from the defense budget would have generated is about $61 billion—three times as much as we are hoping to gain from next year from this tax bill. A majority of my colleagues disagreed with me on this; I hope that next year we may see the error of our ways.

In conclusion, Mr. Speaker, I think we have no choice if we are to act as responsible legislators today. I am going to vote for this bill, and I urge my colleagues to do likewise. If the bill passes, I will not exactly be jumping for joy, but at least I will be able to feel that we have acted in the best interests of the Nation.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I rise in support of the conference report.

Reform and fairness is what most of this tax bill is about. Eighty percent involves: first, the collection of taxes presently owed; and second, ending tax havens enjoyed by some industries. Few can argue against everyone paying his fair share or against closing loopholes.

Faced with a staggering Federal deficit, the Congress this spring in its own budget resolution agreed to spending cuts up to a point and insisted on revenue increases as well. What we have before us is a compromise between further cuts in Federal programs and reducing the deficit by raising taxes. It is late in the day and important that Congress send a clear signal it is serious. Our paramount concern must be to reduce the Federal deficit and encourage, not hinder, prospect for lower interest rates.

In his recent address to the Nation, the President pointed out that the tax hike amounts to a rollback of one-fourth of the generous tax incentives for business passed in 1981. The key features of that reduction—capital cost recovery and individual tax relief—are not affected by the 1982 hike. Most would agree that the 1981 tax cut was overgenerous and should be trimmed back.

The most controversial part of the tax bill is the withholding on interest income and dividends. These are not new taxes. Withholding is an effort to meet known evasion. Investment income would be treated the same as salaries and wages, which are presently subject to withholding. However, senior citizens and those with low incomes will not be subject to the withholding.

Withholding is one provision I objected to, proposing instead that Congress rescind the 1981 rollback in the windfall profits tax on oil. The compromise worked out included making the effective date of the withholding July 1983, the date of the next scheduled 10-percent individual income tax reduction. This also allows time for the next Congress to reconsider the matter. Those of us who favor striking withholding have had our day. We were out-voted; we lost. Now we must bite the bullet.

The other factor I find objectionable is the medicare contribution required of Federal employees. These employees are not eligible for medicare and it seems grossly unfair to enhance medicare solvency on the backs of Federal employees. In its comprehensive review of social security later this year or early next year, this issue also should be reviewed.

For those of us in the Northeast, there were tax proposals which would have been far worse. A levy on foreign oil imports would only have driven up the price we would pay for home heating oil. Rescinding the scheduled 10-percent cut for individuals scheduled in 1983, or repealing the indexing provisions were other options. By enacting the provisions of the tax bill, this individual tax cut is protected.

For these reasons, the tax bill should be supported. The need to reduce the deficit outweighs the flaws in the bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the soon to be a former Member, the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I rise in support of the conference report.

I have told President Reagan that I will support him by voting for the tax reform bill. It was a difficult decision and there was no joy in it for me.

I remain a strong advocate of supply-side economics, which holds that if you cut taxes in the right way, you can stimulate work effort, saving and investment. This bill does not do too much damage to that principle.

It is much more of a tax reform package than a tax increase. The minimum tax on individuals, for example, will not increase taxes at the margin, but will increase the basic fairness of the tax code by insuring that all Americans pay their fair share.

I do regret the abrupt impact this bill is likely to have on tobacco growers and the additional burden that will be placed on small banks and small savings institutions.

But the tax reform bill will reduce the deficit, which will help to further reduce interest rates; and that is necessary if we are to have an early recovery from the recession which has devastated Ohio. Jobs and economic growth in Ohio must be my top priority.

There are two ways to reduce the deficit: by increasing taxes or by cutting spending. I continue to prefer spending cuts. I have consistently supported reduced spending and I will continue to do so. President Reagan says he will, too.

But the Congress has begun to weaken in its resolve to cut spending and the President is convinced we will not get more spending restraint from congressional Democrats until we raise more revenue. Reluctantly, I agree with him that the psychology of the Congress on spending cuts and the psychology of the investment community on interest rates depends on passage of this bill.

Because spending restraint and lower interest rates will translate di-

rectly into jobs for Ohioans, I will vote "yes" on the tax reform bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, today we are debating a bill that some say will be the largest tax increase in history. I fail to see the logic behind raising taxes in the midst of an economic recession. I fail to understand how interest rates will fall when $100 billion is taken from businesses and individual taxpayers. I fail to see how new taxes will generate jobs. In fact, there is a good chance that this tax increase could seriously hurt, rather than help our economy.

As disturbing as the thrust of the tax bill is for me, I do feel there are some provisions that are necessary, particularly the provision that allows an airport to use a portion of its ADAP grant to retire debt on terminal development and the provision to extend unemployment compensation benefits.

With the provision concerning the airport development aid program, airports like the Allentown-Bethlehem-Easton (ABE) Airport can use part of its ADAP grant to retire terminal development debt. This will give airports more flexibility to use its grant as it wishes without costing the taxpayer a penny.

Regarding the extension of unemployment compensation benefits, I strongly support this extension of benefits for our Nation's citizens who through no fault of their own have lost their jobs. For my own State of Pennsylvania, this extension will mean an additional 10 weeks of benefits to help the jobless pay their bills and see them through this period of uncertainty.

This provision though unrelated to the tax portion of this bill was added as a sweetener to guarantee its passage. I believe the extension of unemployment compensation benefits should be voted on separately and passed before Congress recesses until September. Our jobless should not be used as political pawns.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, we are faced with a monumental task. Many of us, on both sides of the aisle, have fought hard and long for the principles embodied in the program for economic recovery.

That program is beginning to work. Already, the prime rate is down from a Carter era of 21 to 14 percent and is still falling. There is renewed hope in the stock market and more importantly, renewed activity in the almost deceased bond and equity markets. The inflation rate, which had been almost constantly on the rise for the last decade, is not controlled and still falling.

The most important aspect, however, of the program for economic recovery is that hope has been reborn in this Nation. No longer are the attitudes of "no growth" and static economies prevalent. No longer are Americans told that we need to regulate, ration, or organize because "We can't grow anymore," Americans have seen leadership in Washington for the first time in a long time.

But, leadership brings with it heavy responsibilities. It is easy to stay dogmatically with one's convictions. But these are unusual times. For the first time in 40 years we actually have a good chance to turn around the fiscal and monetary irresponsibility that has governed this Nation since World War II. This Congress has curbed it enormous proclivity for spending programs. Make no mistake, every cut in the gargantuan and bloated budget is being fought tooth and nail by those who seek to keep us on the road to decay and ruin. But we are progressing. We have managed to pass the most significant tax program in the Nation's history; a bill that not only represented the largest tax cut in memory, but a tax cut that would give us what this country was created to give us, the freedom to grow, to build, to restore the economic greatness that is this Nation.

That act, passage of the Economic Recovery Tax Act, was an act of leadership. We now face another act of leadership that is just as necessary as the first.

If we are to keep the program for economic recovery on track, it is necessary to combine the spending cuts that we desire with this tax reform bill.

On its merits, I am not in favor of this bill. I am particularly opposed to the withholding provisions concerning interest and dividend payments.

However, I cannot judge this bill just on the individual components. I have the heavy responsibility of not only representing the citizens of the fourth district of Arizona, but of doing what I think is best for this country.

I feel strongly that we must continue the work done by the program for economic recovery, and, at this time, this tax bill is necessary to keep the program on track.

This is a very hard decision for me to make. I have always opposed increased tax burdens and will continue to do so. But the urgency of the situation with regard to the program for economic recovery and the best interests of the Nation compel me to cast my vote for this bill, despite my distaste for it.

I am committed to continue the fight to reduce the size of the Federal budget, to preserving the individual tax cuts passed last year, and restoring the economic vitality that makes this Nation great.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SHUMWAY).

Mr. SHUMWAY. Mr. Speaker, I rise in strong opposition to the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. Although it is with some discomfort that I find myself compelled to vote against the position of the President and many of my good friends, particularly on this side of the aisle, I am convinced that this tax bill is not in the best national interest.

Before I outline my specific objections to the bill, I would like to emphasize that the entire procedure by which H.R. 4961 has been considered by Congress is, in my view, unconstitutional. The Constitution specifically mandates that all revenue measures must originate in the House of Representatives. This tax package, however, was written in its entirety by the Senate Finance Committee. It was then attached to H.R. 4961, a minor bill passed by the House last year which actually provided for revenue reductions.

No hearings were held by the House Ways and Means Committee; there was no opportunity for the full House to perfect the Senate bill, nor of voting it up or down. By agreeing to send H.R. 4961 directly to conference, a motion I opposed, we in the House effectively abrogated our constitutional responsibilities and established a precedent that will undoubtedly haunt us in years to come. If for no other reason, therefore, this conference report should be rejected on constitutional grounds.

Mr. Speaker, H.R. 4961 provides for tax increases totaling $98.5 billion over the next 3 fiscal years; $228 billion over the next 5. On an annualized basis, this works out to the largest peacetime tax increase in history. No matter how proponents of the bill attempt to diguise this fact by terming it "tax reform," "revenue enhancement," or "improved compliance," the fact remains that, if this legislation is enacted, the average American household will pay an additional $2,500 in taxes by 1987.

I yield to no one in my advocacy of efforts to reduce budget deficits and to bring the growth of Government under control. I am afraid, however, that what really lurks behind all the talk of tax reform and compliance by advocates of this bill is yet another attempt to finance unrestrained Federal spending. According to OMB Director Stockman, Federal spending, as a percentage of GNP, will reach its highest level since 1946 this year. The President's original program for economic recovery called for a reduction of this

ratio to 19.3 percent in 1984. Current estimates are that Federal spending will consume 24 percent of GNP in fiscal 1984. During this fiscal year, the Federal budget will increase by 11.7 percent, a rate substantially greater than that of inflation.

The implication should be obvious: if we are serious about controlling the growth of the Federal Government, reducing the deficit, and improving the economy, we must cut spending. A mid-August Gallup survey asked how Congress should reduce the Federal deficit: 50 percent of those questioned said "reduce spending;" only 4 percent said "raise taxes." The rest suggested doing both, or had no opinion. The same poll shows that 66 percent of those questioned oppose this tax bill. It is that simple. To attempt to avoid the admittedly difficult process of cutting spending by burdening the American people with additional taxes is not only bad economic policy, but also reflects an utter lack of congressional courage and responsibility.

It is claimed by proponents of this tax package that we are getting $3 in spending cuts for every $1 in tax increases. It is more likely that the ratio will be just the opposite—the spending cuts enforceable by the congressional budget process amount to only 27 cents of savings for each dollar in increased taxes. For fiscal year 1983, the first concurrent budget resolution assumes budget savings of $50.6 billion from changes in present law, aside from reconciled spending cuts. According to the Federal Reserve Bank of New York, $33.6 billion of these assumed savings are implausible or nonexistent. Based on this analysis, the ratio of all spending cuts—those subject to congressional enforcement and others—to tax increases for fiscal year 1983 is about 1 to 1.

The administration's arguments are based upon questionable projections and assumptions about future economic activity which cannot be predicted with any degree of certainty. While all tax increases are subject to reconciliation, only a fraction of the projected spending cuts are. Further, if our inability to agree to the limited spending cuts mandated by the budget resolution, as evidenced by the controversy over Federal retiree COLA's, is any indication, tax increases may play a larger role in reducing the deficit than even now anticipated.

I would like to reiterate, Mr. Speaker, that tax hikes are not the way to reduce the deficit, particularly since the concurrent spending cuts promised seem increasingly illusory. In the past, tax increases have been enacted on the basis of the argument that they were necessary to finance spending programs; historically, the greater the tax increase, the greater the growth in Federal outlays. With Federal spending now at an all-time high as a share of GNP, congressional policy should be clear. We must focus on substantially cutting spending, on reducing the growth of Government, and returning economic resources to the private sector where they can be most effectively utilized.

In addition to the fact that the tax increases contained in H.R. 4961 will be quickly consumed by rising Federal spending, it makes little economic sense to enact a tax bill of this magnitude at a time when the economy is only now showing signs of recovery. Although such signs exist—interest rates, for instance, are declining rapidly—corporate liquidity is at its lowest level since World War II, before-tax profits are down 30 percent from last year, and business failures are running at their highest rate in 50 years. There is no evidence which suggests that taxes should be raised during a recession. Herbert Hoover tried it in the early 1930's, and turned a recession into the Great Depression which, at its peak, resulted in an unemployment rate of 25 percent.

If this legislation is enacted, fully one-fourth of the tax relief provided by the Economic Recovery Tax Act of 1981 (ERTA) will be repealed. Aside from reducing personal income tax rates over a 3-year period to a level where, in view of social security tax increases already mandated and bracket creep caused by inflation, the tax burden of most families is held relatively constant, the ERTA provided important incentives for business investment and expansion. Although business received less than 20 percent of the total tax cuts enacted last year, these benefits were intended to help the private sector create more jobs and profits. H.R. 4961, however, repeals nearly 70 percent of these business tax reductions and will have the inevitable effect of hampering savings and new investment. At a time when the private sector is struggling to overcome the worst recession since World War II—a recession caused in large part by the misguided Federal economic policies of the past—it is just plain wrong to take away tax incentives which would ultimately result in more jobs for Americans who want to work because we in the Congress have been unable to restrain our appetite for spending.

Aside from its impact on business, the tax bill before us contains many elements which will adversely affect the average taxpayer. Above all else, the American people desire simplicity, certainty, and fairness in the tax code. H.R. 4961, as passed by the Senate, is a 758-page compendium of complicated corrections, changes, and additions to present law which represents a substantial retreat from our efforts last year, in enacting the Economic Recovery Tax Act, to move in the direction of clarity and certainty. With regard to fairness, the bill provides for an increase in the Federal excise tax on cigarettes, but none on alcohol. It establishes a complicated and burdensome tip reporting system which must be observed by waiters and waitresses, but makes no change in the three-martini lunch business deductions. The general compliance provisions included will empower the IRS to intrude more easily and often into the affairs of law-abiding citizens.

Perhaps the most onerous provisions of the bill is that requiring the withholding of dividend and interest income "at source." The withholding of 10 percent of all such income whenever it is credited to an individual's account will take billions of dollars out of the national flow of savings so essential for the investment necessary for capital formation and economics growth. Those who will suffer directly, however, are not large corporations, or even the financial institutions which will be responsible for the actual withholding, but the small savers who depend to varying degrees on dividend and interest income, and who religiously pay their taxes.

While private savings and investment will be hampered by withholding at source, it is by no means certain that the revenues anticipated will be forthcoming. The increased operating costs of financial institutions necessary to comply with the withholding provisions are deductible business expenses, and will thus reduce net revenues; many individuals may compensate by lowering withholding on their wages.

Two years ago, Congress passed a resolution objecting to a similar withholding proposal by a vote of 401 to 4. If anything, withholding would have a more deleterious effect on the economy today.

The bill contains a number of additional provisions which will discourage savings and investment. The ability to reinvest certain utility stock dividends without taxation, enacted just last year, is repealed. The tax benefits of private pension plans are significantly reduced. At a time when the future of Federal retirement programs is increasingly questioned, it makes little sense, in my view, to reduce the attractiveness of private plans.

There are, Mr. Speaker, several positive features of this bill. The mortgage subsidy bond program is expanded, and will thus stimulate housing construction. For many years overdue, the tax treatment of the life insurance industry is reformed; the tax treatment of independent contractors is clarified in a constructive fashion.

These provisions notwithstanding, however, I remain opposed to H.R. 4961. I am committed to the President's program of reducing the size of government. By providing for massive

tax increases over the next 5 years, this bill will help finance historically high levels of Federal spending; spending which we in the Congress have proven unwilling and unable to bring under control. The bill, if enacted, will make economic recovery more difficult by assuring that a greater share of national resources will be consumed by the Federal Government. The incentive of individuals and businesses alike to save and invest is reduced. The ability of the IRS to intrude in the daily lives of our citizens is enhanced.

In short, Mr. Speaker, we must not enact this huge tax package at this time. To do so would, in effect, be reflective of the fact that we have chosen to violate our constitutional responsibilities, and to discard our commitment to economic sanity. I, therefore, urge that the conference report on H.R. 4961 be rejected.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I rise in support of the conference report. The $99 billion compromise tax reform package has spurred opposition and controversy, but President Reagan has detailed the case for it. Cutting the Federal deficit even further, knocking down interest rates, and creating more jobs are necessary if we are to rise from the economic doldrums.

More than 80 percent of the revenue in the measure would come from collecting taxes due but not paid and from closing so-called special-interest tax loopholes. Many people have called for just such action. For example, there is no additional tax on interest and dividends. Similar to wages and salaries, estimated taxes on interest and dividends would be withheld—but only up to 10 percent—and actual taxes would be refunded or paid at the end of the year. Most older Americans and those with low incomes would be exempted from even those withholding requirements.

Less than 20 percent of the revenues would come from consumer taxes. The bill would not change the 10 percent, third-year phase individual income tax reduction set for July 1, 1983, or the tax indexing provisions, both of which will leave Americans with more real income. When combined with last year's tax cut, individuals and businesses still would have a net tax reduction of $236 billion over 3 years. Further, beginning in 1983, an average family of four will be paying $788 less in yearly taxes.

Although several provisions of the bill were particularly disturbing to me and I continue to be concerned about what—in my view—is excessive defense spending, the tax reform bill is fair and supported by both Democrats and Republicans. The politically popular vote, of course, is against the measure. The responsible vote, I believe, is for it.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Speaker, I am a Democrat, and I was elected to serve in this Congress as a Democrat. The people of my district in the 1980 election voted for a Democrat for President. They did not vote for voo-doo economics; and they did not vote for astronomical interest rates and double-digit unemployment.

This ill-conceived legislation before us is a stopgap remedy for the problems created by this voo-doo economics of a Republican President, a Republican Senate, and a coalition of Republicans and conservative Democrats. It is needed because their program has not worked, and has not put people to work. Instead it has wrecked our economy and worsened our ever-deepening recession.

This bill is a bitter pill to swallow, but it is the only medicine on the shelf. If we do not prescribe it now, I am afraid that Wall Street again will fall to the floor, interest rates again will rise to the ceiling, the Americans will find it even more difficult to put a roof over their heads.

I do not believe many of the doctors of legislation in this House agree with all of the ingredients in this pill of a bill. I have a strong revulsion for many of these ingredients, and I realize that initially there will be harmful side effects for a large portion of our population. This is not an easy decision to make, but since, in this only medicine in town, all the ingredients are compounded into one prescription, and the good effects outweigh the bad, we must swallow this pill whole, and adopt the conference report, or face even more desperate times of higher unemployment and rising interest rates caused by the voo-doo economic policies of the past which have not been effective.

Next year there must be a better economic year for all Americans. During the next year, with the adoption of this legislation, we are taking a positive step toward curtailing the largest deficits ever created by an administration.

The Federal Reserve's money supply targets are too stingy to finance a growing economy. There must be an easing of this monetary policy. The faucet is turned too tightly, squeezing the jugular of our country, and we must open up the faucet a little bit to ease the Nation from this economic stranglehold.

There is only one way to lower interest rates and reduce unemployment, and that is to reduce deficit spending. This legislation will allow the Federal Government to collect an additional $98.5 billion in order to reduce the deficit over the next 3 years, mostly by tightening the enforcement of tax laws already on the books. The bill also cuts spending by more than $17 billion, and authorizes an emergency supplemental unemployment benefits program, a program my own State of Illinois desperately needs. In addition, the bill tightens current tax laws that allow large corporations to make leasing arrangements for the purpose of buying and selling tax breaks among themselves.

Cutting the Federal deficit will work to lower interest rates. Every point of interest costs this Government $7 billion in debt service. At a 15-percent interest rate, our annual cost is $105 billion. At a 5-percent interest rate, our annual cost is $35 billion. Drop interest rates by 10 percent—from 15 to 5 percent—and we have an annual savings of $70 billion. In all the years of this Nation's history until 1968, the interest rates of this country were never more than 5 or 6 percent, and they must be returned to this level.

Lowering the interest rates will stimulate the economy, and will work to cut unemployment in half. Every percentage point of unemployment costs this Government $30 billion in tax revenues that are lost in outlays for benefits. Drop unemployment from 10 to 5 percent, and we will have annual revenue increases of $150 billion.

Full employment and low interest rates—these are the goals of Democrats—these are the hopes of every American—these are the challenges of the 97th Congress.

This pill of a bill proposed by the administration is poor medicine for the massive ills of our economy, but, like the little Dutch boy who used his finger to plug up the hole in the dike, this legislation is the only tool we have to use at this time. With great reluctance, but with a deep sense of commitment to Democratic Party principles of achieving lower interest rates and full employment, I will hold my nose and swallow this sour-tasting medicine.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, after careful consideration I have concluded that the Tax Equity and Fiscal Responsibility Act is a compromise bill which, ultimately, will improve economic conditions by reducing the Federal deficit. Many provision of the legislation are controversial, but the bill clearly improves the equity of our tax system and eliminates some of the excesses of last year's tax bill. For example, the legislation before the House today will:

Create an emergency unemployment compensation program which will provide 6 to 10 weeks of additional unem-

ployment aid for those who have exhausted current benefits. In Rhode Island, where unemployment reached as high as 10.3 percent this year, these benefits are crucial to the survival of many of my hard working constituents who have been idled by Reaganomics;

Repeal safe harbor leasing provisions which allow large corporations to buy and sell tax breaks and thus avoid tax payment;

Increase taxes paid by wealthy individuals, international oil companies, and insurance companies and eliminate preferential depreciation and contracting rules for businesses;

Amend the industrial development bond program to insure the continued availability of a financial tool critical to Rhode Island's economic development;

Alter the mortgage subsidy bond program to assist the housing industry and promote construction of multifamily rental housing.

Focus the burden of cuts in the medicare program to hospitals and service providers rather than on elderly recipients of health care and encourage restraint on the growth of hospital costs.

The new tax liability will fall most heavily on corporation. Corporations will pay 43 percent of the revenue raised; individuals will pay 17 percent. Approximately 80 percent of these revenues will come from improved collection of taxes—collection of tax revenues already owed to the Federal Government, but not now being paid.

This is not a perfect bill. I introduced legislation specifically opposing the new withholding of tax on dividends and interest because it is both unwise and unnecessary. This will discourage savings, create mountains of paperwork for financial institutions, and hurt those dependent on their savings for income. I fought this proposal in 1964, in the last administration in 1979, and again last year. This year, I have repeatedly sought a separate House vote on the new withholding proposal during consideration of the entire tax act. Under the parliamentary situation approved to consider this legislation, it is not possible to obtain separate votes on the withholding issue. So, if we are to do what we must to help right the economy, some of the less attractive features of the bill will have to be accepted in the spirit of bipartisan compromise.

With the prospects of a 1983 Federal deficit reaching $140 billion, the additional revenue raised by this legislation is essential to stop an economic disaster from becoming a full-fledged catastrophe. As chairman of the Banking, Finance and Urban Affairs Committee, the signs of the corrosive effects of the Reagan deficits on the American financial system and our country's economic health are perfectly obvious to me. Already this year, 27 banks have failed—the highest number since 1940. Hundreds of thrift institutions have had to be merged, and loan losses at financial institutions are rising at a disturbing rate. The threat to our financial system from burgeoning deficits and the roller coaster interest rates that accompany them must be halted. The 1982 Tax Equity and Fiscal Responsibility Act will reduce future deficits, and therefore, despite its other provisions, must be passed.

It is not enough to pass this tax act and reduce the deficit. We must understand how and why the Federal borrowing got out of control in the first place. Though the answers are not easy, they can be summarized quickly. The administration's 1981 Economic Recovery Tax Act cut taxes for the wealthy and business, and so dramatically reduced Government revenues that large deficits were inevitable. The spending cuts imposed by the administration were cruel, ill-chosen, ill-timed, and nullified by increases in defense spending. The administration's high interest, tight money policies implemented by the Federal Reserve guaranteed a deep recession which, in turn, has added tens of billions of dollars to the sums government must borrow to meet its obligations.

Passage of the 1982 Tax Equity and Fiscal Responsibility Act alone will not bring us out of a recession. That will require a wholesale reevaluation and repeal of much of the Reagan economic program. Passage of the 1982 Tax Act will reduce the deficit, however, and this is essential if we are to prevent our Nation's economy from slipping even deeper into recession.

The alternative to passing this new tax legislation is grim. If we do not raise revenues, we must cut more spending. The administration has declared that defense spending is sacrosanct. Congress has already cut billions from people programs but, unless this legislation is adopted, we will be forced to further reduce spending for human service programs. In Rhode Island this would mean more cuts in health services, more reductions in student aid, elimination of job training programs, reduced aid for handicapped, vocational, and bilingual education, more reduction in veterans benefits, and more cuts in environmental protection and energy development programs. This could also further reduce programs for senior citizens and add more burdens on them.

In conclusion, Mr. Speaker, I want my vote for the 1982 Tax Equity and Fiscal Responsibility Act to be seen for exactly what it is—an effort to bring deficits under control, to correct the imbalance of benefits under previous Reagan tax and spending programs, and to close some of the huge tax loopholes created in the 1981 act, and to avoid any further cuts in people programs and essential services. My vote is not in support of the President's economic program, it is an effort to minimize its consequences.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ERLENBORN.)

Mr. ERLENBORN. Mr. Speaker, the pension provisions of H.R. 4961 make major changes in the structure of private pension plans that will clearly affect the continuation of existing plans and the growth of new plans. It has been my experience that any proposals along these lines require thorough study in order that the potential long-term, as well as short-term effects on the very diverse employee benefit plans community may be fully analyzed. I believe it is sheer folly to make substantive changes in the pension system without the benefit of hearings and deliberate study. These pension provisions have had neither.

The vast majority of private pension plans cover fewer than 100 employees. I expect that nearly all of these plans will be to have continual, expensive actuarial and legal reviews to determine and redetermine that they are in compliance with the new so-called "top heavy" plan qualification requirements. This uncertain legal environment will be worse than current ERISA and Internal Revenue Code requirements, which I have attempted to correct in the past. The increased administrative and benefit costs to the Pension Benefit Guaranty Corporation resulting from the inevitable plan terminations caused by these new requirements can only further undermine and destabilize the single-employer insurance system, and I need not remind my colleagues that the PBGC recently requested an increase in the premiums paid by single-employer plans.

The pension scheme in H.R. 4961 raises unanswered questions about public plans. Would it apply to governmental plans—Federal, State, and local? Would it disqualify pension plans for State and Federal judges?

While there may be ways to make the pension system more equitable and a more effective complement to social security and private savings, I am not convinced the pension provisions in this bill will achieve these goals.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. SMITH).

Mr. SMITH of Alabama. Mr. Speaker, I rise in opposition to the conference report.

Mr. RANGEL. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. Mr. Speaker, I rise today to explain to this body why I have chosen to vote against H.R. 4961, the tax bill now under consideration. I believe I am doing so for sound reasons.

Because of mistakes made in the past we have a tax policy that places an unfair burden on the poor and the middle class in this country. I believe the bill before us today does not adequately shift that unfair burden.

There are those who claim this tax bill will erase our excessive Federal deficit. The real reason for our large Federal deficit is excessive spending. With spending out of control—as it clearly is—a tax increase on those least able to afford it can only make things worse by moving us deeper in this recession.

While there are good parts of this bill, Mr. Speaker, I believe there are many provisions that are selectively unfair. For example, this bill would raise the Federal telephone tax by 200 percent and raise the cigarette tax by 100 percent. It is not a question of whether cigarette smoking is detrimental to one's health, but a question of who should pay the price. This bill also adds to the cost of transportation.

Lumped in with tax provisions are nontax matters—including $13.3 billion in medicare cuts, $1.1 billion in medicaid cuts, $386 million in social security insurance cuts. These have no real place in the tax bill.

We hear again today, as we have heard too many times in the past year, that this is a do or die situation. Some claim we must pass a tax bill today. I strongly disagree. I think we should go back and spend whatever time it takes to put together a good tax bill. Whether it takes 2 weeks or 2 months, a better, more equitable tax bill can be passed by Congress, one which will lower the deficit without hurting the poor and working people.

We have the opportunity now to take the good parts from this bill and include them in a fair tax bill. We must, however, make some critical additions to make this a better measure.

Mr. Speaker, we can start by looking at next year's tax break. Those earning over $50,000 should not receive a tax break unless they are willing to invest in our industrial revitalization. As for those earning $35,000 to $50,000, they should receive all scheduled tax breaks only if they invest a specified portion of their return in job creation. Next year's tax cut should be maintained for those earning less than $35,000, because they are the ones who will use the money to purchase durable goods, thereby bringing this country out of the recession.

We must take a second look at tax breaks given to the major oil companies. They should be paying a fair share of taxes to this country instead of reaping windfall profits. Mr. Speaker, Congress and the President should take the time to write a good tax bill which will undo many of the mistakes made in the past and help reduce our swelling deficit. It is time that Congress act responsibly for all the people and not just the special interest groups. I stand ready to work with my colleagues in drafting a fair tax bill which does not place the burden of economic recovery on the working men and women of this country.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, in an election year I think most of us try to be adept at the art of survival. Unfortunately one of the ways we try to survive is to have it both ways, to argue one position and then vote another.

I recognize and respect those who sincerely disagree with this bill on principle. But from this debate I sense that there are many who are trying to play the game of walking both sides of the same street.

Many claim that they are against deficits and that they are for a balanced budget and, indeed, many of the opponents of this tax bill are strong supporters of a constitutional amendment to balance the budget. But when it comes to getting there they will not vote to cut defense, they will not vote to cut social security or entitlement programs, and they will surely not vote to raise revenues.

There simply is no other way to reduce the deficit, with or without a constitutional amendment.

Many claim that they are for tax reform, that they are for tax simplification. Indeed, many now support a flat rate tax that would exclude all deductions and all loopholes.

But if Members cannot vote to enact this bill, which has the most significant tax reforms in over 14 years before this House, then how possibly can they vote to eliminate all deductions?

They claim that the tax cut bill that was enacted last year is unfair, that it was excessive, and yet refuse to support the one bill that tries to correct those inequities.

When this final vote comes there are Members who may very well be able to play it both ways and survive politically. But I remind you that the country cannot play it both ways, that its economic survival is very much dependent on the passage of this bill.

□ 1630

Edmund Burke said that the only thing necessary for the triumph of evil is for good men to do nothing. Let us do something and vote for a reduced deficit, for tax reform, for fairness, but, most of all, for economic survival.

Mr. CONABLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Speaker, the preceding speaker is right. The country cannot have it both ways. Most Americans want to cut spending and cut taxes. From proposition 13 in California to proposition 2½ in Massachusetts, the American people have asked their elected leaders to cut taxes.

In 1980 the American people repudiated a tax and tax, spend and spend Presidency and elected a Senate and House committed to cutting spending and cutting taxes.

President Reagan in the state of the Union for 1982 said:

> Higher taxes would not mean lower deficits. If they did, how would we explain the tax revenues more than doubled just since 1976, yet in the same 6-year period we ran the largest series of deficits in our history. In 1980 tax revenues increased by $54 billion, and in 1980 we had one of our all time biggest deficits. Raising taxes won't balance the budget.

That was President Reagan just 8 months ago.

Today we are at crossroads. This week was the week of Camp David and White House dinners. Next week is the week of the people, when we go home to the people who elect us. After President Reagan's speech, the Washington Post-ABC news poll discovered that by over 2 to 1 the people believe this bill is a tax increase. By almost 2 to 1 the people do not believe this bill will make taxes fairer. By 54 to 35 the people disapprove of this tax increase. Democrats polled 4 to 1 against this tax increase. The Midwest was 2 to 1 against this tax increase.

What you will decide in the next hour is simple: Who really matters to you? Do you listen to the strange, unexplainable alliance of powerful political opponents who, together, form an establishment in Washington? Or do you listen to the long anguished voice of the American people, which in every referendum, every poll, every vote for 4 years have begged us to cut taxes, not to raise them.

You, the Members of the people's House are the country's last stronghold against mistaken policy.

I urge you, I beg you to vote against this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN), a valued member of the committee.

Mr. DUNCAN. Mr. Speaker, the Tax Equity and Fiscal Responsibility Act is a patchwork quilt of tax increases, tax reforms, and reductions in tax incentives. These measures will take their toll on businesses, investors, farmers, and the average American taxpayer in the years ahead. The feeling seems to be that more taxes are all right as long as they are spread out, but not around.

The one who will end up paying for this tax bill, however, will be the middle-class American. Whether it is

in his job, or her phone bill, a father's pension, or the withholding of interest on a mother's account, the tax bite will be felt in the pocketbooks of taxpayers. While the quilt may be taken only from a patchwork of groups, its impact will cover us all.

As a member of the conference which produced this quilt, I recognize the need for some of the reforms contained in this bill. The route which the conference followed, however, made it impossible to tie these together in a more acceptable manner. This was the most difficult and awkward conference I have participated in during my years in Congress. Many of the issues which are addressed in this bill have not been the subject of hearings of the House side. The impact of these provisions has not been measured, and the results will probably be a shock to many.

Many other avenues for raising revenue were ignored because the conferees had only one horse in the race. I hope both the House and the Senate have learned the reason our Founding Fathers believed two Houses are needed in this great democracy of ours, and will never again allow the other House to delegate its legislation for us. In this kind of race no one can be the winner, but everyone can be a loser.

The reforms which are included here were chosen piecemeal. The need for these reforms depended on the amount of revenue each could raise, instead of the amount of good the reform could bring. Because of this, many worthwhile incentives have been wiped out. And with the loss of these incentives will come a loss in expansion and growth in our economy. Plants which might have been built will be delayed or canceled. Jobs which would have opened up in labor surplus areas will not appear. Investments which might have set up new products and industries will be forgotten. All of this because revenue was given a higher priority than value.

There are those, however, who believe they can support this bill because it does not touch them. They support a tax increase because it is not an increase on distillers, or brewers, or cigar manufacturers. These are most interested in the safety of their own constituency than in the good of the whole. This selfish attitude will not pay. Just as it is the cigarette industry today, it will be the distilled spirits, or beer, or cigars tomorrow.

There are also those who will be taking a stand against issues they have supported in the past. They will vote for withholding of dividends and interest, after stating publicly that they would oppose such an action. These may suggest that this bill is needed to reduce the deficit, but I do not believe it is our intent to reduce the deficit on the backs of the taxpayer. We have an obligation to reduce spending to the maximum degree possible, before we even consider raising taxes. I do not believe anyone here would suggest that we have eliminated all the waste and mismanagement in our Federal Government, and could make no further cuts in our budget. We should move in this direction first and tackle those difficult, but necessary spending cuts, before looking at higher taxes.

This is, after all, the largest revenue raiser in our history. To approve such an increase the year after the largest tax reduction in history is to admit to the American people that the tax and spend cycle is neverending. While the third year of the individual tax cut was saved in one pocket, the Government dipped into the other pocket and pulled out even more. We are using mirrors to deceive the taxpayer into thinking that because the third-year cut remains he is safe. I believe the least the taxpayer can expect is for us to be open and honest with them on this matter. This crazy quilt which is the tax bill has no sense or symetry to its pattern. It is a mishmash of increases and reforms put together for the sole purpose of raising revenue. I do not believe this is what the American people expect or want from the Congress, and would urge my colleagues to oppose this bill.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Maine (Mr. EMERY).

Mr. EMERY. Mr. Speaker, I rise in support of the conference report this afternoon. There is absolutely no doubt in anyone's mind that it is essential for us to reduce the size of the Federal deficit, and the tools to do this are fairly simple. One is to cut spending, which many of us prefer. The other is to raise revenues in a responsible fashion, as we were called upon to do in the budget document recently passed.

No tax increase is popular. That is obvious. And the last tax cut, in fact, was criticized by some Members as being unfair because of certain provisions affecting various segments of society.

We can make the tax laws more equitable, and raise revenues at the same time by passing this bill. This legislation will help us reduce the budget deficit. It will help us to bring interest rates down. But failure to pass this legislation today may well choke off those sparks of optimism that we are now seeing from Wall Street, at a time when it is essential that we send the right signal to strengthen our economy.

Mr. Speaker, although I continue to have reservations about specific provisions in the bill, I intend to vote for this $99 billion revenue reform measure because I believe that, on balance, the legislation is an equitable, well-reasoned, and responsible approach to reducing the Federal deficit, lowering interest rates, and insuring a lasting economic recovery. Tough decisions are a part of effective leadership and few issues have caused as much concern as devastatingly high interest rates, unemployment, and the threat of a $180 billion deficit next year. The long-range answer definitely lies in further Federal spending cuts. In the short term, however, it is painfully evident that any effort to cut the 1983 deficit must be based on a program targeting both expenditures and revenues for reform.

The first budget resolution for 1983 passed by Congress in June, anticipated major spending cuts, improvements in program management, and $20.1 billion in revenue increases as the primary weapons in our battle to curb deficit growth next year. Congress has, in fact, tentatively agreed to $280 billion in spending cuts over the next 3 years. For 1983 alone, we have targeted $30 billion in outlay reductions. There is much more to be accomplished, but we have made a start. The Tax Equity and Fiscal Responsibility Act of 1982, which will be voted on today, comprises the revenue portion of this year's deficit reduction effort. Failure to pass this legislation would simply signal a lack of fortitude on the part of Congress to live up to the deficit reduction blueprint included in the first budget resolution.

The tax bill before us does not ask working Americans to sacrifice the well-deserved tax cuts adopted last year. The bill makes absolutely no changes in either the third year of the tax cut or in the indexing provision scheduled to go into effect in 1985. What the bill does do is require big businesses and individuals who owe taxes to pay them. Thirty-two percent of the revenue will be raised through improved compliance and collection measures; 49 percent through reductions in unintended or unwarranted tax benefits now enjoyed by wealthy persons and larger corporations. Only 19 percent of the revenues will be raised through new taxes.

A study of the Nation's 514 largest corporations recently conducted by tax analysts found that 33 companies with U.S. earnings in excess of $100 million paid no taxes at all last year, and that the average rate for all corporations was 20.5 percent, a decline of 10 percent from 1980 levels. The tax package now before Congress would call upon these corporations to assume some responsibility for their tax liabilities by closing a number of generous loopholes. Moreover, the legislation calls upon the Nation's wealthiest individuals to pay a minimum tax, and limits generous tax breaks benefiting the life insurance industry.

While I support the shape and direction of the tax package, I do continue

to have reservations about the most controversial aspect of the revenue measure: the flat 10 percent withholding requirement for interest and dividend earnings. Although I believe that we must insist on taxpayer compliance, I am concerned that a withholding provision could impede savings at a time when we are trying to encourage personal investment and capital formation. Consequently, I joined over 130 of my colleagues in a letter to the House Rules Committee requesting a separate vote on the withholding provisions. Additionally, during debate on the rule accompanying the conference report for H.R. 4961, I voted to open the debate up so that amendments in disagreement could be offered. This section of the legislation could, I believe, have been eliminated without jeopardizing the overall effectiveness of the bill in closing the revenue-expenditure gap.

Opponents of the legislation have argued that this tax package represents the largest peacetime tax hike in history. While I dispute these allegations due to the fact that less than one quarter of the revenue will come from new taxes, I do think it is time we faced the real facts. We have the largest projected deficit in history. Encouragingly, interest rates are coming down. Nevertheless, there is no doubt in my mind that interest rates will climb back up, that the recovery will be stymied, and that unemployment could worsen if Congress allows a recordbreaking deficit to materialize. For this reason, I support the revenue reform bill which, when combined with the spending cuts we have already made, will reduce the deficit by almost $400 billion over the next 3 years.

Mr. CONABLE. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. Mr. Speaker, the two essential questions we must face are these:

First. Do we need additional revenue or not?

Second. If so, how can we raise that revenue in the fairest way possible?

I believe the bottomline to the first question is whether we would rather reduce deficits and interest rates by raising revenue from those who are not now paying their fair share, or would we rather accept larger budget deficits, higher interest rates and higher unemployment?

I believe we need additional revenue this year to help us continue to move toward economic recovery and a balanced budget. Therefore, how do we meet that requirement in the most equitable fashion possible?

The conference report we have before us raises a substantial amount of revenue through procedures to insure more effective compliance to existing taxes and by correcting and removing from the Tax Code unintended benefits accruing to certain corporations and businesses.

The bill takes a number of steps that will strengthen the fairness of the code. It is tax reform in the best sense. Its greatest feature is "equity."

Mr. Speaker, a Minister of Finance under King Louis XIV named Colbert once said that the art of taxation is like plucking a goose: How to get the most feathers for the least squawk. While I wince at the analogy, Colbert, if he was alive today would probably say that the feathers on this "bird" are the plumes that adorn the rich and the more well-to-do and not the hairs that protect the poor and the middle class.

He would say it is a good bird and ought to be plucked. I think it is a good bill—a fair bill—and ought to be passed. Thank you.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, the issue of the Reagan-Dole tax increase bill—which may be called the Reagan-Dole-O'Neill-Rostenkowski tax bill or even more accurately the George Bush-James Baker tax bill—is somewhat analogous to an event that took place on January 1, 1929. There is an interesting parallel.

The place was Pasadena, Calif., and the event was the national football championship match, the Rose Bowl. An All-American star-studded team from Georgia Tech, was pitted against a tough University of California team.

Roy Riegels (R.R.) was named captain of the California team and was All-American center in 1929. R.R. was to go down in history as "Wrong Way Riegels."

Early in the second quarter, just after the teams had changed sides, California's star single-wing tailback Benny Lom, tackled Tech's halfback, Stumpy Thomason, to cause a fumble. Riegels dashed from his roving center position to grasp the bounding ball at Tech's 36-yard line. A touchdown was surely ahead as he passed the 20-yard-line but a nagging voice kept shouting at him above the strange sounds from a crowd of 71,000 (capacity in 1929).

"Stop, Roy! Stop, you're running the wrong way!" shouted Benny Lom, slowly gaining on his teammate in an agonizing chase.

Riegels heard but did not understand. He thought the speedier Lom was asking for a lateral. "Get away from me," he barked. "This is my touchdown."

At the 10-yard-line, Lom managed to grab him but Riegels shook clear. At the 3-yard-line Lom clutched again and somehow convinced Riegels to come about. They fell together as a wave of Tech tacklers smeared them. Riegels had run a 64-yard path to a kind of zany immortality.

Riegels had run the wrong way and by so doing had run into the record book. One of the most unique photographs of sports is that of a frantic and determined Roy Riegels bent over and running with conviction but heading in the wrong direction. In the background were a number of Georgia Tech players, the opposition, running along as an escort. For the Georgia Tech team it must have been a humorous moment to have the captain of the California team make one of the best gains of the season for Georgia Tech.

Now we come to 1982, 53 years later, when the captain of the conservative movement, R.R., is found running in the wrong direction. His political enemies in his own party and in the opposition party are galloping along as an escort. President Reagan campaigned and was elected as a foe of the philosophy of "tax and tax, spend and spend * * *." Candidate Reagan presented himself as a clear foe of the New Deal-Great Society philosophy.

Unfortunately, President Reagan has three qualities, desire for consensus, desire for nonconfrontation, and desire for gradualism; the 1980's require exactly the opposite characteristics. As the result of a fascination for consensus, candidate and President Reagan has surrounded himself with the same members of the elitest wing of the Republican Party who have been part of the program of the last 50 years; that is, the policies of "tax and tax, spend and spend * * *." He is surrounded by those who opposed his candidacy for President in the 1980 Republican primaries and at the convention of the Republican Party in Detroit, Mich.

Today we see two Reagans. The American people elected Ronald Reagan No. 1, a foe of the New Deal-Great Society philosophy. With the sellout of Taiwan and with this giant tax bill we see Ronald Reagan No. 2. Which is the real Ronald Reagan?

I plan to support Ronald Reagan No. 1. I support the President and plan to do my best to tackle him before he makes a touchdown for those who are radical collectivists or elitest collectivists. We need to reject this bill and avoid turning the clock back to the failures of the welfare state, the concepts that have given us the disaster we face in the economic arena.

Finally and in summary, I would like to add the recent column of John Lofton of this tax bill:

[From the Washington Times, Friday, Aug. 6, 1982]

BALL'S IN YOUR COURT, MISTER PRESIDENT

(John Lofton's Journal)

Dear Mr. President: Thank you very much, sir, for your prompt reply to my rather unorthodox method of questioning

you. And just as I hope my note was not impertinent, I also hope the following observations are not out of line.

Point One: No, I do not mind if you prefer to use the three-year Dole bill "increased revenue" projections of roughly $99 billion. And the point you make about the reliability of five-year estimates has merit. But, despite your preference, the fact remains that according to the Senate Finance Committee's report, by 1987, the Dole bill increases taxes by about $228 billion.

Point Two: Regarding the size of the Dole bill, you say that even if the entire three-year, $99 billion figure is counted, this is still not the biggest single tax increase in history. You say that for this same time period, the Social Security tax hike is larger and there are other equally valid examples.

Well, sir, I'm sure you've been told this. But Charlie Powers, a public information officer at your Treasury Department, tells me that the Dole bill is the "largest, one-year and three-year legislated tax increase on record, in dollar terms, in a single piece of legislation."

Furthermore, even if what you say is true, the question remains: Why now, in a recession, support a large tax increase when even larger tax increases are already in place?

Point Three: As to the "why?" of your support for the Dole bill, you say it is the price you had to pay to get a reduction in outlays which amount to three dollars for every one dollar of increased revenue.

Now, I assume that this three-to-one ratio is an allusion to the First Concurrent Budget Resolution conference report which passed the House (210-208) and the Senate (54-45) in late June. Because in the Dole bill—which is what I asked you about—there is no such ratio. In fact, the Dole bill, over three years, calls for $99 billion in tax increases and only $17.5 billion in budget savings.

Speaking of this alleged three-to-one ratio rationale, sir, I must be blunt: Many of your strongest supporters on the Hill believe that in buying this, you were sold a bill of goods. What these Reaganites believe is that there's no way—once the dust settles—that Congressional spending cuts are going to outnumber tax increases by a margin of three-to-one. No way.

One strong Republican backer of yours on the Hill put it to me this way:

"The problem with the three-to-one spending cuts versus tax hikes argument is that it is premised on events in the House the President has no hope of controlling, that is how the Democrats will specifically consider cuts and tax increases and how many votes they will force us through.

"Last year we were very lucky. We defeated a rule on reconciliation and we got our own rule adopted with the result being one big vote on the whole package. But this won't happen this year.

"The only way the three-to-one ratio could possibly work would be if the Democrats let us set the voting procedure which, of course, they won't."

This source says that what the House Democrats are doing, and will continue to do, is put Republicans through a whole series of votes—like silhouette targets in a shooting gallery—where they will be cut to ribbons by highly organized special interest groups.

Point Four: You say that as a "supply sider" you believe that tax increases "slow the recovery." Well, I could not agree more. And the reason I agree is because I have found your previous utterances on this subject so convincing. Over and over, you have said that the way to reduce the size of the deficit is not to increase taxes but to cut Federal spending. For example, at the White House on May 20, you told a group of businessmen:

"We don't have a trillion dollar debt because we don't tax enough; we have a trillion dollar debt because government spends too much. Simply raising taxes won't do the trick. It's well for us to remember that in the last five years taxes went up by more than 200 percent, and we still had in those five years the largest string of deficits in our history."

Well, sir, this is indeed something to remember. But, acording to a report prepared for the Senate-House conference committee by the staff of the Joint Economic Committee on Taxation, the business tax provisons of the Dole bill will account for $40 billion of the $99 billion in proposed new revenues. People will, of course, pay these additional taxes.

And, in addition, even though you traveled to Hartford, Connecticut, on Tuesday and declared that "we've replaced that old doctrine of tax and tax, spend and spend with a new philosophy that says there is one overriding cause for our current economic troubles: government is too big and it spends too much money," this has not happened. A study released yesterday by the New York Federal Reserve Bank shows that under the First Concurrent Budget Resolution—which you supported—federal spending, as a percent of the Gross National Product, will be 24.3 percent of the GNP in 1983, 24 percent of GNP in 1984 and 23.8 percent of the GNP in 1985. To put it kindly, this hardly represents an end to the old doctrine of tax and tax, spend and spend.

I know, Mr. President, that you sincerely believe the Dole bill represents an acceptable trade-off in terms of tax hikes versus budget cuts. But, for what it's worth. I and a lot of other people who are among your staunchest and most enduring supporters, strongly disagree.

In my judgement, because I agree with your repeated statements that tax increases only increase the deficit, you should have thrown down the gauntlet and fought! You should have fought for at least another $100 billion in budget cuts and dared Tip O'Neill and Company to oppose you.

Too many of your top advisers really believe that because you don't "have the votes" on an issue—and you might not on another $100 billion cut—that the battle is over, that you've lost. But his is a dangerously mistaken analysis. If you don't have the votes on another $100 billion budget cut, all this means is that another battle has begun.

Take your case to the people, Mr. President, in a systematic comprehensive campaign to pin the tail on the Democratic donkey where it belongs. The Big-Government, tax and tax, spend and spend issue is yours, all yours.

In every poll I've seen, when given a choice between raising taxes or cutting federal spending to reduce the deficit, by sizeable margins the American people favor the latter over the former.

This is your issue, Mr. President. You have only to seize it and run with it. As you've often asked, sir, if not you, who? If not now, when?

Best regards,

JOHN.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CROCKETT).

Mr. CROCKETT. Mr. Speaker, I rise in opposition to the conference report.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. WOLPE).

Mr. WOLPE. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I do not think there has been any decision that has been more difficult for me to reach. But I rise today in support of the tax bill before us, convinced that this is the only responsible position I can take.

This decision is difficult, because I know full well that there is seldom a constituency in support of legislation that increases tax revenue; it is always much easier to cut than it is to raise taxes. Moreover, there are several features of this legislation that I find personally objectionable and that I would have preferred to see modified or eliminated: I am particularly uncomfortable with the provision mandating the withholding of 10 percent of interest and dividend income, with the regressive nature of some of the excise tax increases, and with some of the medicare and medicaid cuts. However, in a package as comprehensive and complex as this, it is inevitable that there will be provisions that trouble each and every Member of this body. The real question that we must ask is: Do the benefits and positive features of this legislation outweigh the more objectionable provisions? And in my judgment, the answer to this question is a resounding and unequivocal yes.

There is an urgent need for a midcourse correction in the administration's economic recovery plan. However well-intended that plan may have been, it simply has not produced the results that had been promised. Instead of lower Federal spending, what has been produced is higher Federal spending; instead of a balanced Federal budget, we are facing the largest Federal deficits in our history; instead of economic recovery, we are facing an economy on the verge of collapse. The tragic reality is that the combination of a massive supply-side tax cut—totalling $750 billion over 5 years—in combination with an equally massive defense build-up—representing a $1.6 trillion expenditure over the same period—undermined the confidence of the financial markets; and resulting high interest rates have plunged the Nation into the deepest economic crisis since the years of the Great Depression. We are now looking toward Federal deficits in excess of $140 billion for the next 3 years.

What more compelling indication of the severity of our economic problems can there be than the President's decision to ask for this tax increase? Would he have taken an initiative that

was certain to be seen as a backtracking from his original program, as an acknowledgement that his program had not generated the desired results, if he were not persuaded that an economic disaster was upon us? It is no secret that I have been highly critical of the President's program and of this administration's priorities. But I believe that the President is to be applauded for his willingness, in this time of emergency, to support required modifications in his original program. We can ill afford either continued ideological rigidity or narrow partisanship. In calling for the passage of this bill, designed to correct some of the excesses and unfairness of last year's tax cut, the President has taken an important and constructive initiative.

We really have no responsible alternative but to act favorably upon the tax bill before us: it is a critical first step in achieving the desperately needed midcourse correction in the administration's economic plan.

One warning is needed: This is only a first step; in and of itself it will not mean lower interest rates or economic recovery. It is increasingly obvious that we must make further deep cuts in Federal spending. Such cuts, however, must not come from critical domestic programs, but must be taken from those parts of the budget that have yet to be touched by the budget cutters and which contain the greatest amount of waste. Specifically, the administration's defense budget must be reexamined and pared down. Given the recent disclosures that $30 billion is wasted annually, there is simply no justification for writing the Pentagon a blank check. Similarly, other "sacred cows" in the budget—such as the Clinch River breeder reactor and uneconomic water projects—must be recognized as the pandering to special interest pressures that they are, and be measured against both the real and deserving spending needs that face us and the urgent need to reduce the size of Federal deficits.

This legislation deserves bipartisan support for another reason as well: Aside from a few objectionable features, it on balance represents the most significant tax reform legislation to pass through this body in many a decade. Frankly, I began my examination of the conference committee report with some decidedly cynical assumptions about the kind of provisions I expected the bill to contain. But the closer I looked, the more obvious it became that this legislation contains some extremely important tax reforms—reforms that I have publicly and repeatedly supported. I am referring to such provisions as the repeal of the so-called safe harbor leasing provision enacted last year, an increase in the minimum tax paid by the wealthiest individuals, the elimination of the ability of oil companies to use foreign tax credits to avoid U.S. tax on other income, and the closing of a variety of other corporate and special-interest loopholes. We are finally, in this bill, making some progress in restoring some semblance of equity to the Tax Code; for a change, it is the special interests rather than the average taxpayer that is faced with most of the new tax burden.

A number of provisions of this bill are particularly compelling for a Representative of Michigan—the State with the highest percentage of unemployed workers in the country. For millions of jobless Americans whose unemployment benefits have expired, this legislation offers at least some hope in the form of extended unemployment compensation benefits; in Michigan, a 10-week extension is authorized. Moreover, Michigan employers and the fiscally strapped State government come out way ahead under the legislation's mandated changes in the system of unemployment insurance financing. The State government stands to gain as much as $114 million in savings in the bill's first year, and Michigan employers will be able to avoid literally millions of dollars in additional taxation that would trigger into effect in 1986 without the passage of this legislation.

Finally, I cannot emphasize enough the importance of the mortgage revenue bond provisions to Michigan. Michigan now leads the country in economic distress, and the housing industry has shouldered a large part of this painful burden. The revisions in the mortgage revenue bond program included in this bill are a long-awaited and much-needed step toward revitalizing our housing industry.

This legislation makes sense for the Nation, but it is absolutely obligatory for Michigan.

Mr. Speaker, throughout this session of Congress we have been called upon to make important decisions affecting the present economic climate. Unfortunately, these decisions have too often been molded by partisan conflicts and rigid ideology. We now have an opportunity to move beyond these petty conflicts. The bill before us has been endorsed by the leadership of both parties and has the support of many Members on both sides of the political aisle. It has received the support of many diverse interests—realtors, homebuilders, workers, small business men and women, and a variety of public-interest groups. We all share the goal of economic recovery. The administration and the Congress share the responsibility for taking the steps necessary to move us toward the realization of this goal. Economic distress does not discriminate between Republicans and Democrats. We are all in this together. It would indeed be a tragedy if this important opportunity to embark upon a true partnership is rejected by this body. Such an action can only postpone indefinitely all of our shared hopes for a substainable economic recovery.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Speaker, I rise in support of the measure before us, not because it is perfect but because not to pass it would be to endanger the economy of our Nation and the economic survival of its citizens. The excessive tax cut bill of last year is, in my opinion, the principal cause of our present national economic recession; but whatever the cause, our current deficits cannot be continued without grave danger to every American. This bill will help fight those deficits. A still better way to fight deficits is to cut expenditures; and my voting record shows I strongly support massive cuts every year. Some targets for substantial cuts that I favor cutting are revenue sharing, foreign aid, arts and humanities and in fact a host of others. But since Congress has not made such cuts as are needed the current bill before us will at least help us fight high interest rates and unemployment.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. NELSON).

Mr. NELSON. Mr. Speaker, the political and economic crosscurrents are very strong. The political and economic intrigue is such that there has been considerable confusion, and that is what is the case across the land now among our people, wondering: What about all of these alliances?

For this Member, that confusion dissipated quickly and it became quite clear what was in the national interest, and that is to bring the huge annual deficits down and to continue the downward trend in interest rates in order to resurrect our national economy.

Thus, I will vote for the bill.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Speaker, may I have the attention of the minority leader for a question? Would the gentleman respond to a question? This morning on television, Secretary Don Regan said: "This tax bill is a deal the President made with the Democrats to obtain spending reductions."

Is that statement true or false?

Mr. MICHEL. If the gentleman will yield, I did not hear what the Secretary said and I did not observe the interview.

Mr. JACOBS. Is the statement I quoted true or false?

Mr. MICHEL. I am not sure what the Secretary had in mind when he

said that. All I have been concerned about in my own case is that we are trying to do the best we can to get a good tax bill, period.

Mr. JACOBS. I thank the gentleman.

To quote our beloved colleague, Jimmy Burke, "That's the answer you get."

I tell you that is exactly what the Secretary said this morning, and I tell you that this bill was authored by Members of the other party in the other body, and not one Member of our party in the other body voted for it. But this is just a sample of what you are going to get if you pass this bill. That statement was made by the Secretary of the Treasury this morning. This is a deal made with the Democrats to obtain spending cuts, as if Democrats were not frugal in the first place.

Mr. GEPHARDT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, why does JACK KEMP challenge his President and his party leader?

First, is it personal?

Second, is it raw ambition?

Third, is it unswerving dedication to a principle?

Fourth, is it pragmatic?

Fifth, is it out of self-interest?

This bill officially concedes the unworkability of supply-side economic theory. Everything that JACK KEMP stands for is being swept away by, of all people, the President of the United States, and this is the heart of the matter.

Raising corporate taxes in an election year has never been done before, and who could have predicted that the most conservative President since World War II would be the instrument by which we would raise corporate taxes in an election year?

The President faces a reality that KEMP will not, and that is that his economic ship is sinking, and not so slowly either.

Now, in these instances one would imagine the Democrats would be having a field day, but not so. Many object to the SSI, medicare, medicaid, and AFDS cuts. Others, incensed with our gross military appropriations, claim that they will vote for no more taxes unless the military gets less. And my dear colleague from Indiana has pointed out that the Democrats who support this White House bill will be blamed for sponsoring the largest tax hike ever, and the President will be depicted as being forced into this deal to get the Democrats into spending reductions. He claims on good evidence that Mr. Reagan did this in California and now here we go again.

We do not have to let this administration make jackasses out of us. Let us write a fair bill in January. Well, he and I have been trying to write a fair tax bill since January of 1965, and never before have we been able to raise corporate taxes as much as is contained in this legislation. The chances of us doing better in January than we can do today in August are nonexistent. Now is the time.

If this bill goes down, those entitlements will be cut far deeper than presently provided and there will be no 10 weeks, unemployment compensation and, as ANDY JACOBS must know, there will be no tax bill either.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MATSUI).

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Mr. MATSUI. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. ROSTENKOWSKI), the chairman of the Committee on Ways and Means.

First of all, I want to commend the gentleman for the fine job he and the gentleman from New York (Mr. CONABLE) the ranking member, did in putting together this conference report. I think it is a fair, fine, reasonable proposal.

I speak in favor of this particular bill. I think a lot of people have already spoken about the deficits and the fact we could have economic calamity if in fact this tax bill does not pass.

I think one other thing should be noted: This bill will bring fairness to the process of taxation, fairness we have not had over the past 18 months.

Let me just bring up another factor about that fairness aspect of this particular bill.

In addition to all of the good provisions in the bill, we have the unemployment benefits that the gentleman from Michigan (Mr. CONYERS) just spoke about. If many of the Members have been receiving phone calls from their constituents over the past 24 or 48 hours about some of the provisions in that bill and wanting the Members to vote against it, I can assure the Members in September and October of this year, when over 2 million people lose their extended unemployment benefits, we will be receiving many more phone calls and many more people angry about that situation.

Last, Mr. Speaker, I think there has been a lot of misunderstanding about the withholding of the interest and dividend provisions of this bill.

First of all, I might say there is a $150 exemption. Basically that means one can have $2,000 in a savings account, and not have to have any withholding or taxes paid during the course of that year.

In addition, over 80 percent of the senior citizens of this country will be exempted. All they will have to do is file an exemption statement. It will be good for the rest of their lives.

Third, there have been statements made by the gentleman from New Hampshire that the compliance rate on this proposal is 97 percent, and therefore we do not need to have withholding.

The gentleman is mistaken. The compliance rate is only 87 percent and that comes to $9.5 billion in lost revenue.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, I think there really are three issues here today. I want to quickly dispose of the first two.

The first one is whether this is a good tax bill or not. I think most people here have read the major provisions in it and understand them. We can argue about whether this provision is good or that provision is good.

In my view, on the whole, the bill is a good tax bill. It performs lots of good tax reform. It is a fair bill in the main.

The second issue is whether or not this helps or hurts Reaganomics. We have argued Reaganomics up one side and down the other. We will continue to do that.

In my view Reaganomics has many flaws and defects, and this bill corrects some of these defects and makes a midcourse correction that may help make Reaganomics begin to work.

The third issue is the most important issue today and I hope everybody in the House will listen to this for just a minute. The real issue today is whether or not the House and the Congress can govern. We passed a budget a few weeks ago. We said we wanted to raise revenues by so much and cut spending by so much.

If a Member voted for that budget, I find it hard to understand how now we can say we do not want to vote for the implementation of it. Half of the reconciliation cuts are in this bill. Half of the deficit reduction over the next 3 years is in this bill. If a Member voted for the budget, it is almost certain that that Member has to vote for this bill, if that Member meant what he said.

If one did not vote for the budget because the cuts were too great, they are going to get worse if we do not vote for this bill. If one votes against the budget because we wanted to make more cuts, the decision was made in the budget. That is where we said we wanted to do this and that. We are now here today to try to do it.

If we do not do it, I say this is a historic moment because we will be saying we are not capable of governing.

Then I think we are saying there is only one part of the Government that can govern—and that is the President of the United States. If you do not want to transfer the power of the Congress over budgets and fiscal policy to

the Executive branch you should support this bill.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. I thank the gentleman for yielding and rise in opposition to this tax measure. After careful consideration of the provisions of the conference report on the tax bill and after consultation with the people in my district in New York, I have decided to vote against this tax bill. I previously voted against sending the bill directly to conference because at that time I had serious reservations with certain provisions and hoped that the House, as the revenue-initiating body, might have an opportunity to hear debate on the issues involved and the effects of this bill on all segments of America. This has not been an easy decision for any of us to make, and I congratulate the conferees who have worked long exhausting hours and put a great deal of tremendous thought into producing an equitable bill.

There are provisions in this legislation with which I agree wholeheartedly, and I want to do what is best for this country in reducing record high deficits to get interest rates down and hopefully stimulate the economy. Overall, however, I feel that the short-term benefit of the revenue increase is not worth the long-term loss to American taxpayers. Of particular concern is the effect of some of these provisions on the average taxpayer with a minimum amount of money to save and who, barely makes ends meet once expenses are accounted for at the end of the year. The medical expense deduction limits will hit millions of Americans very hard and may go directly to affect, not only their expenses, but their health.

The conferees eliminated the original proposal to halve the three martini lunch provision, yet maintained the tip income reporting requirement. Again, the hard-working American is tackled here rather than those more capable of affording stiffer tax requirements. It gives the impression of unfairness as does another compliance provision—the withholding tax of 10 percent on most interest and dividends. At a time when we are working to stimulate savings and investment, to restore growth and productivity to our ailing economy, we turn around and, by this provision, reduce the incentive to say by implying that these small savers have not been complying with the law and therefore will be deprived of interest earned on those savings up until the time of reporting.

Though I applaud that portion of the withholding provisions exempting senior citizens and others below a certain income level, I believe the reporting provisions required by this and the general withholding provisions would be a devastating blow to our Nation's banks and savings and loans, many of which are struggling as it is. The cost and complication of the withholding provisions to our financial institutions and the impact it will have on individual savings has been a major factor in my early determination that this aspect of the bill should be considered separately from the rest of the tax bill.

The fact that we are not able to consider individual provisions of the bill, which do have such an impact on the workers in America, is especially important because this bill involves so many complex areas of our economy and programs long a part of our system. As a member of the Post Office and Civil Service Committee, I am particularly aware of the opposition of Federal employees to the provision bringing them into the medicare system by requiring that they contribute 1.3 percent of their salary to it every year.

Finally, Mr. Speaker, although it is true that we should be doing more to reduce the deficit, this tax bill attempts to accomplish this laudable goal in the wrong way. It does so by raising taxes, taking money out of the private sector, while we are in a crucial phase of a recovery. We stand a good chance of killing the recovery off if taxes are raised right now.

Accordingly, Mr. Speaker, I urge my colleagues to defeat this conference report.

Mr. CONABLE. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Speaker, a little earlier a Member asked us to perform a legislative miracle and pass this tax bill. Miracle indeed. That Member understated what we are talking about here. This should be known as the "Tax bill of the Immaculate Conception." Think about it.

This bill was not conceived in this House. This bill is unsoiled by the requirements of the Constitution. It has not had any real deliberation, it has not had any consultation, it has not had input by the Members of this, the people's House. The Constitution ought to be more important than that.

Other than contravening the Constitution, what does all this mean? It means, of course, we are not even sure what is in this bill. Look at it. The conference report is 722 pages long. Who has read it? Four hundred and six pages of a bill, 313 pages of an explanation. Who here really knows what is in it?

If you think this is something, wait until we see the regulations that are going to follow upon the passage of this bill. This will be a bonanza for tax preparers, a bonanza for tax attorneys, a bonanza for accountants, but not for our constituents.

Just the cost of the pension changes will be $2 billion. Add it all up and it means $21 billion on our constituents.

Is that what we need when we still find ourselves in the midst of a recession? Can anyone here cite one economist or one economic theory that suggests we ought to raise taxes while we are in the midst of a recession?

In fact, with this week's good economic news, our pell mell rush to judgment on this bill suggests that we desperately wish to make sure that we impose these taxes before the recession is over.

What nonsense. To these who would say the interest rates will decline with the passage of this bill, let me just ask one question: Is there any difference in crowding money out of the national borrowing pool with deficit Government spending or crowding it out with higher taxes? There is one difference. Higher taxes are more destructive because they destroy incentive and initiative.

In short, Mr. Speaker, this is the wrong bill at the wrong time. Our constituents are begging us: Please vote this bill down.

Mr. ROSTENKOWSKI. Mr Speaker, I yield 2½ minutes to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Speaker, I thank the gentleman from Illinois (Mr. ROSTENKOWSKI).

I am not a supporter of the Reagan administration's policies. I opposed Gramm-Latta I, Gramm-Latta II, and the Kemp-Roth tax cut. So I do not feel comfortable coming down here saying I support this President on anything, but I do support what he is trying to do in this tax bill.

I think we all have to ask ourselves, What is it that could drive someone like Ronald Reagan, who has built his political career on cutting taxes and cutting Government spending, to come to the Congress within 90 days of an election and ask for a major tax increase? And this is a tax increase.

What is it that could get him to risk the type of political division that we are seeing on the minority side today?

I think there is only one thing that could do that, only one thing that could create the type of alliance that we have seen created here on behalf of this tax bill. That is fear; absolute terror about what happens if we do not pass this bill.

What is happening? The unemployment rate last month was 9.8 percent. This week in my district in Massachusetts, General Motors announced it is closing an automobile factory, throwing 3,500 people out of work. This sort of thing is taking place all across the country because things did not work out the way we all hoped that they would.

Last year when I opposed the administration in its budget and tax policies, I fervently hoped that I was wrong and they would work. For one reason or another, they have not. I do not think this is a time for any of us to stand here and point fingers and blame one another. This is a time for us to work together to deal with what is a very serious economic crisis, the most serious of my lifetime.

We have been talking on the Democratic side for years about tax reform. Well, let me tell the Members something: Tax reform does not just mean lowering taxes, it also means raising somebody's taxes. We have a $750 billion tax cut that was passed last year. We have been talking about how unfair it is. The only way we can make it fair is to go back and rework it, and I think that this bill has done that.

It repeals those provisions of the reductions in the corporate tax that have created corporate welfare. It says that business will not have subsidies anymore, but they will be paying taxes on income.

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The changes in the accelerated cost recovery system alone are going to amount to $18 billion a year once they fully go into effect, and believe me, that is going to save some of the programs that all of us are interested in saving in this House.

Let us work together. Let us solve the problem. Let us support this bill.

● Mr. BOLAND. Mr. Speaker, I commend my colleague Mr. SHANNON for his able and knowledgeable statement. I am pleased to associate myself with his remarks.

Like many of my colleagues, I do not favor each and every component of this package. Several of the provisions which will increase revenue, such as the withholding of tax on income from interest and dividends, and some of the provisions which will reduce spending, are not particular favorites of mine. It is time to face economic reality, however, and that reality is that the mammoth deficits we now face have to be reduced.

Deficits can be reduced by cutting spending, and Congress has, over the last 2 years, taken steps to cut tens of billions of dollars from the Federal budget. It is unrealistic to assume, however, that cutting spending alone can solve our budgetary problems. Revenues sufficient to pay for the necessary activities of Government must be generated. Regrettably, both the administration and a majority in Congress lost sight of this fact last year, and a tax reduction bill that decimated our revenue base was enacted. The plain fact of the matter is that the tax reductions enacted last year, in conjunction with the record increase in defense spending contained in the last two budgets endorsed by the administration, have led to the historic deficits we now face. Those deficits must be addressed; they must be addressed now, and they must be addressed by both reducing spending and increasing revenues.

So, Mr. Speaker, I am going to vote for this year's tax bill. In addition to being necessary, the bill deserves support because the preponderance of the revenues it will generate, $80 billion, will not come from the imposition of new taxes. Those revenues will instead result from requiring those who either deliberately fail to pay all their taxes, or who artfully shelter their incomes in some loophole in the Tax Code, to pay their fair share to maintain this Nation. In that way, the bill will partially balance the excesses of last year's tax reduction legislation, which was inequitably tilted toward some of the most wealthy and privileged businesses and individuals in our society.

This tax package gives us the opportunity to begin to moderate some of the radical economic theories that were unfortunately enshrined in legislation last year. Hopefully, we have learned that massive increases in spending in one area of the budget, when combined with massive reductions in revenues, are a recipe for mammoth deficits. No meaningful economic recovery can occur in the face of such deficits. We cannot undo today all of the damage sustained by the economy as a result of last year's budget and tax bills, but we can make a start. The hope for a healthy economy, which all Americans share, depends on us taking this step.●

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, I think there is one thing that everbody agrees on about this measure before use, and that is the defeat or passage of this conference report holds grave consequences for the American people, and because of you, I believe that this House has reached one of those rare and p-recious moments when in the main most every Member on each side is laying aside personal and political and partisan considerations and basing his agonizing decision on the principle, what is best for my country and the chances of bringing about economic recovery.

Actually, the political considerations were probably awash anyway. It is bad politics to vote for a tax increase 75 days before an election, but I believe it is equally bad politics to vote in a way that increases the deficit by $116 billion or says that this Congress will fail to live up to the fiscal responsibility that we imposed upon ourselves as recently as June in the budget reconciliation bill.

This measure is in no way a retreat from the tax incentives that were enacted last year. Every dollar of the individual income tax cut remains, as we were triumphant in resisting the overwhelming pressures to eliminate the third year of the tax cut, and 90 percent of the business incentives remain.

Where does the revenue come from? Three places: eliminating unintended benefits, better compliance, and only $17 billion in new and additional taxes.

Let us take a look at those unintended benefits. Right now it is possible for a company to spend $90 and get $100 tax writeoff. That is not an incentive. That is a subsidy and it ought to be corrected, whether we have a surpluse or a deficit.

Last year there were four major U.S. corporations each with net earnings in excess of $500 million and none of them paid a penny of Federal tax.

It is no retreat to say we ought to strengthen the corporate minimum tax and in greater compliance.

Let us take a look at the most coontroversial of all, the withholding of interest and dividends. Nearly 90 percent of the senior citizens have been exempted. That leaves 2.7 million and those 2.7 million earn each year in interest and dividends $48 billion. It sure is not a retreat to say that we are going to collect $6 billion in upaid taxes on incomes of that vas scope. That is why the coauthor of the Kemp-Roth bill of last year, the gentleman from Delaware said. "I reject any suggestion that this bill is in any way a retreat from the basic thrust of the Kemp-Roth tax cut."

I found some things hard to swallow. I personally do not like the increase in the cigarett tax, but when you stop to think about it, that had not been increased since 1952. Can you think of anything else in America that has not gone up since then? And the tax disappears in 3 years.

The increase on telephone use from 1 to 3 percent, not only the increase, the whole tax disappears in 3 years, and to suggest that the average American paying $24 more a year in cigarrett tax and $4.86 more a year in telephone use, that that somehow undermines the extra $788 he has in his wallet from the tax cut which we enacted last year is I believe trying to turn a couple of raindrops into a thunderstorm through exaggeration.

II believe in the incentives that we enacted last year and I believe that they will work. That is why I support this measure: first, to protect the tax incentives that remains in place, but second, those encentives have not worked up until now because they could not get through the barrier of high interest to the business community so that they could respond to it.

The strach-stopper pill on the market today stops the starch from reaching the system in a body, and high interest rates have prevented our

incentives from reaching the investment community of this country.

So let us do what we can to reduce interest rates and unleash our incentives and put America back to work again.

Last January in the minority leader's office, Henry Kaufman of Salomon Bros. predicted that interest rates would continue upward, because he said, "You people in the Congress don't have the political courage in an election year to take the steps you have to take to reduce the deficit and therefore interest rates.

Continuing to observe us the day before yesterday, he changed his mind about whether we would find political courage or not and predicted that interest rates would go down, and set off the biggest explosion in the history of Wall Street.

This afternoon, whatever we do, we will be sending another message. I hope the message that we send is that we can find the political courage to do the untkinkable and pas a tax increase in an election year and send the message that we do have the courage to do whatever is necessary to reduce the deficit, reduce the interest rates, so that we can unleash those incentives that remain intact and make this American system work right again.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, first I want to commend the gentleman from Michigan (Mr. VANDER JAGT) for his very effective and forthright speech. It is good to hear it, and I think the gentleman has helped the cause today.

Mr. Speaker, as one of the House conferees, I support the tax bill which is before us now. I believe it is a necessary part of the overall program we must undertake to redirect our ailing economy. This may be like swallowing castor oil—or a bitter pill—but it is necessary.

When the House passed the Latta budget resolution on June 10, I think we made a commitment that this body would take a number of necessary steps to lower the deficit and reduce interest rates. We agreed then—by vote—that we would raise new revenue totaling $20.9 billion. We also agreed to reduce expenditures by holding down the increase in defense spending, lowering some entitlements and discretionary programs and by cutting out waste, fraud, abuse, and mismanagement of programs.

This bill is one part of those commitments. If you voted for the Latta budget, or indeed, the Jones budget, then you made a commitment, I think, to raise some new revenues as a part of this package—just as you made a commitment to cut back on spending. This is our opportunity to fulfill the second half of that commitment, as we honored the first half of the bargain with the reconciliation bill yesterday. Those of you who supported the Democratic alternative may recall that it called for some $30 billion in revenue raisers compared to the $20.9 billion in the bill we adopted. Those of you who supported the Latta budget will recall that this was the price you said you were willing to pay for continued spending cuts and for lower interest rates. Both groups should remember that this is essentially a reform bill, and that both our Democratic Speaker and our Republican President support it.

It does us little good at this point to wallow in our anxieties and our fears, or even our preferences. Sure, it is always easier to vote "No." As a former colleague told me years ago, "you never have to explain a 'no' vote on a tax bill!" Any one of us could select a few sections of this bill and find reasons to campaign against it. For my part, I could argue that we did not cut defense spending quite enough, though I consider myself normally very conservative on defense issues. I could repeat my complaint that we should have delayed the third-year tax cut unless the economic indices justify it. And most of all, I could lecture us because we have not done more to cut entitlements. As I have said before, here is a big area which we have not really touched: As a body we are guilty of looking at the huge entitlement mountain with apprehension and foreboding, and this makes us stand back and postpone action. I say again to you that we will not bring the budget into the arena of solvency until we have indeed made meaningful changes in the entitlement formula. And I could complain about the heavy tobacco tax, the completed contract provisions, and certainly the withholding of dividends and interest.

But once you look beyond all the "easy outs," the fact remains that we have a revenue-raising measure before us today, one nowhere near perfect, but probably as close as this Congress can come. And the truth is, as most of us know deep inside our political hides and hearts, that this bill is a necessary ingredient to economic recovery.

Standing alone it will not cure all our problems. Perhaps no one thing will. But if we do not pass a revenue-raising bill today, then the burden will fall on spending cuts alone, and as surely as the sun rose this morning, that will not work. If this bill is defeated the Congress will have proven for its critics that it cannot live up to its obligations, that it is too weak to honor its commitments; the bargain will be broken, agreements for spending cuts will evaporate, and the deficit will continue to rise, along with interest rates.

This is tough medicine. But our economy is ailing, and we must swallow a bitter pill to help cure it. I urge its adoption today.

If we pass this bill I think the American people will accept it. If we do not, I think the American people will be shocked, and dismayed and worried about the shaky economy. My friends, it could cause fear and panic—and great damage.

Although this bill contains very little relating to the social security retirement and disability programs, there are a few matters of importance the Members should be aware of.

First. It is good that we have come to some resolution of the independent contractor issue and that at least in some of the most troublesome categories these individuals can now know their status with certainty. But this is going to cost the social security trust funds money. Mandating real estate agents and direct sellers as self-employed will cost the trust funds annually between $75 and $100 million. When we grant these exemptions, it costs. And we should be aware from the start that if these exemptions start to proliferate then other action will be pushed to cut losses to social security. It could take the form of stricter compliance rules, or reform of the self-employment tax so that we do not lose money there—but something would have to be done if this is abused or expanded.

Second. The bill sets up a new target system of hospital reimbursement under the medicare program. In the conference, I added an amendment to this provision which would prevent any hospital from avoiding a penalty or from earning a bonus if it reduces its costs by ending social security coverage for its employees. A growing number of nonprofit hospitals, who are in the social security program on a voluntary basis, have been terminating coverage for their employees. These employees, particularly the nurses and low-paid hospital workers, most likely will never earn any pension rights under any replacement plan, even if one is offered. The amendment does not prevent a hospital from leaving the system if it so desires. But it will avoid rewarding a hospital for doing so.

Third. Just as important as what is in the bill are provisions which, at the insistence of the House conferees, were dropped in conference.

A provision was dropped which would have allowed the Government to collect SSI overpayments by garnishing an individual's social security check. The fundamental purpose of social security was that it be available to the elderly by right, and that it not be something which can be used for debt collection by the mortgage bank, the tax collector, or anyone else. This provision would have violated that

fundamental principle upon which social security is based.

The House conferees removed a loosely worded provision which would have reclassified home health workers as independent contractors. Many of these individuals clearly are employees and are best protected by remaining so.

Mr. CONABLE. Mr. Speaker, I now call forth that clarion voice from the State of New York, the distinguished gentleman from New York (Mr. KEMP), and I yield 5 minutes to the gentleman.

Mr. KEMP. I thank my friend from New York for yielding this time to me.

Mr. Speaker, this is not really a clash of purism versus pragmatism or party or personality. It is an historic clash of ideas. It is, as GUY VANDER JAGT mentioned, a precious moment in this body when only we can make up our minds which, in our judgment, is the best course, the best strategy, the best thing to do to get this country on the road to full recovery and price stability.

Each and every one of us has to make that decision, predicated on our own beliefs, our own principles, our own ideals, and those values which we hold dearly, as well as our loyalty to our constituents and to the cause for which we were elected in 1980.

Fifty years ago a Congress faced a similar choice. There was high unemployment, there was a huge deficit, the President wanted a tax increase, and the Congress went along blindly with it. Interestingly enough, interest rates did not go down, they went up; unemployment did not go down, it went up; the deficit grew and the recession deepened into the Great Depression.

In 1946, a courageous President by the name of Harry Truman faced a choice. We were coming out of the war. There was high unemployment, millions of Americans coming out of uniform, a deficit five times as big as a percent of the economy as the one that we are facing today, as bad as that is.

The Congress—it was a Republican Congress with a Democratic President—cut taxes, restored sound money and reduced regulations. The economy grew and produced its way out of the problems of the post-World War II economy.

We are today faced with the choice of how to get more revenue for Government. There is nobody—well, maybe there are some—there are very few of who do not want more revenues. There are defense needs, there are domestic needs, there are needs that go beyond any of our immediate considerations with regard to the long-term rebuilding of our Nation's infrastructure.

We need more revenue. How do we get it? Can we raise taxes at this point in the economy? We talk about tax reform, and tax compliance, but, ladies and gentleman, whether we call it reform or compliance or a tax increase, this bill takes $100 billion out of the economy; it takes $100 billion of resources out of the pockets of the American people and out of the cash flow of American business, and particularly small businesses, at a time when individuals and businesses are facing a liquidity crisis and a credit crunch.

This Nation and Congress before us have faced these questions before and it has not torn them apart. They have been able to go on and strengthen the process and strengthen the political party system, and indeed ultimately it strengthened the Presidency.

Lower interest rates by raising taxes? Why do we in the face of interest rates finally starting to come down—and they have since July—why do we all of a sudden think that raising taxes will lower interest rates? The Fed is proving it can lower interest rates. It is doing it irrespective of what we do today. It started in July, it lowered the Federal funds rate, it lowered the discount rate and the prime rate has come down, short-term interest rates have come down to less than 9 percent.

The way to get the rates further down is to force monetary reforms along the lines of what Senator BOREN and Senator QUAYLE and many other Republicans and Democrats are starting to talk about: Bring about monetary reform that will allow forcing the Fed to target the price of money and not the quantity of money.

Some have said on my side of the aisle that it will weaken the President if he happens to lose this tax bill. I do not think this will weaken the President. I think it will strengthen the President.

As ED BETHUNE said, it will remind us all of the mandate for which we were elected in 1980, to get America moving again, to get deficits down, to get interest rates down by making this Nation grow and expand again.

After all, it did not weaken Franklin Roosevelt to lose votes in the Congress. In 1936-38, he lost a big clash with the Congress over tax policy. He went on to win elections by a bigger margin than he had in 1932 and 1936.

In 1937 there was a clash over the Supreme Court. Everyone said that this was vital to the President, to have a bigger Supreme Court. He lost. But it strengthened the Roosevelt Presidency.

As far as loyalty goes I am as loyal as anyone in this room to the President of the United States but I do not think loyalty requires that you sacrifice your judgment and your conscience and your belief in your principles, and that is what this clash is all about, a fundamental idea as to how to get this Nation back to work.

Ladies and gentlemen, some in this body have said that we have cut taxes too much. Do not forget that we must view the tax cut of last year against the backdrop of the tax increase that is going on. Social security over the next 3 years is going up, as well as bracket creep, by $238 billion. Taking $100 billion of resources out of the economy at this anemic point in our economy, coupled with the tax increase on social security and bracket creep, will return about $338 billion of revenue into the Government and wipe out about 80 percent of the tax cut.

This is no time to be passing this tax bill. Our goal should be getting interest rates down, getting people back to work. That will do more to get the deficit down than anything else. Economic recovery will help the President of the United States and more importantly it will benefit the people of America.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, it has been said of the early settlers of this country that they were never disillusioned because they had no illusions in the first place.

We modern Americans have not been so fortunate. Over the last two decades we have seen the illusions of our country the illusions of unlimited power, of unlimited virtue, and now unlimited wealth, shattered one by one.

That is not to say that we are not still a country of great power, of great virtue and of great wealth. But we must begin the painful process of rebuilding that wealth without illusion, to forget that there is no economic magic, and to rebuild, as a God-fearing businessman, your capital and your revenue, and your optimism simultaneously, if we are to progress, because, my friends, optimism, unlike oil, cannot be imported at any price.

I am proud of the President of the United States. As one who did not support the President's economic policies, I am proud that he is man enough to shuck off an ideological straitjacket and face the hard economic realities that are to be faced if we are to rebuild our economy without illusion.

The question is not to go back to supply-side economics; the question is, for goodness sakes, not that offered by my colleague, the gentleman from Georgia, to go to Government by polling.

The question before this body is: Who will bell the cat? Who will bell this economic cat? Who will make the painful decisions, because pain every once in a while, let us face it, is required for progress?

Or will we be judged, as Churchill once had to judge, by the American people that we are still rats swimming toward the sinking ship?

This bill is no panacea. This will not save the Nation; but this bill is a cold splash of economic reality. It is a clarion call, as Thomas Paine once said, to test the summer soldiers and the sunshine patriots, to test those who are man enough when one theory does not work to say to the American people, "Well, we will not continue to sit on our hands, we will not continue to preach our rhetoric; but we will offer, even though painful, some hope that the first step toward recovery can be taken."

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Mr. CONABLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, we have had a number of attractive campaign speeches here today, but government should be more than a place for politics. It should be a place of reality and responsibility as well. At this point we must face fiscal reality. I hope we will support the conference report.

I hesitate to challenge anything said by my good friend from New York. I must say, though, that if we are in a state of serious illiquidity, the stock market has not noticed it in the last 3 days. I must say also that while there are many historic and economic precedents which can be used as arguments for or against the action we will take here, the old Greek philosopher who said that we never step into the river at the same point is absolutely correct when talking about a society or an economy as well. The cross currents are constantly changing, and this river has flowed on into a new channel.

It seems to me that we must have refuge in commonsense and judgment and our own individual sense of responsibility, and not in precedents which probably occurred in a very different economic environment than the environment we have today.

I would like to suggest five good reasons for voting for this conference report.

First, the President asked us to do so, and that in itself is a compelling reason. He has laid his prestige on the line for this measure, and I am disposed to support him. As a nation, we needed a stong President, and we got one. We needed a leader with a sense of direction and a firm commitment to restoration of our sagging economic base. That is exactly what we have, and this conference report is entirely consistent, in my opinion, with that leader's program. It has been said that we may have the leaders we elect, but we cannot elect to do without them. I hope the Nation will follow, not reject, reasonable leadership.

I certainly do not believe in following any leader blindly into chaos or oblivion. All this leader has asked us to do is to vote for legislation which is likely to improve the Nation's economy, and is very unlikely to damage it. It is not unfair legislation. His request does not seem to me immoral or unethical or even very difficult.

Second, this conference report is indeed designed specifically to improve the economy by closing a deficit gap and helping to bring down interest rates as well. Our greatest single economic need today involves the reduction of these interest rates. It might be argued that enactment will not guarantee lower interest rates, but it can also be argued that failure to enact it is much less likely to help.

Some critics of the conference report contend it will not reduce the size of future budget deficits. This is one argument I simply cannot buy. Both mathematics and economics point the other way. The math indicates that if Federal revenues are increased by some $98 billion and expenditures cut by $17.2 billion over the next 3 years, the gap between income and outgo will be closed by at least that much. The President has assured us that he will veto excessive spending bills, so we know that the added revenue will not be used for additional expenditures. Therefore, I think most economists would go further and assume an even greater deficit reduction, largely because of the domino effect the static reduction would have in money markets.

The third good reason for backing this report lies in the legislative budget process itself. Earlier this year, a majority of Members on both sides of the aisle and on both sides of the Capitol agreed to cut expenditures by $17 billion and increase revenues by $98 billion over the next 3 years. This report merely complies with that requirement. A vote for the report is a confirmation of that earlier action. A vote against represents repudiation and complete reversal of our goal at that time.

A fourth good reason for endorsing the report is from a taxpayer's standpoint, perhaps the best of all. It preserves the third year of the President's tax cut for individuals and the indexing which follows. The other provisions, designed to help get the Nation's industrial body back on its feet, eventually will mean more and better jobs and living conditions for all, but for the here and now, the individual rate reduction has been the chief symbol of Reaganomics for the average American.

In a very real sense, then, this conference report is the price we must pay for the retention of the individual tax reduction. Once we agreed to raise revenue, we began moving inexorably in that direction. The leading alternatives were a huge tax on energy, massive excise levies on all sorts of commodities, or repeal of the individual tax cuts.

The fifth good reason to vote for this report is that it includes substantial cuts in spending, cuts which would otherwise be very hard to achieve.

A fifth good reason for me to vote for this report is that it follows, and includes, some substantial cuts in spending—cuts which were very hard to achieve. Many of us, particularly those on my side of the aisle, have been anxious to reduce the growth of Government expenditures, because it is the right thing to do and because so many of our constituents want it. I do not believe we can expect, realistically, to attain that objective except through a combined package along the lines of this report. We might wish to do otherwise, but wishing will not get us there.

Now that I have cited five good reasons why I intend to vote for this conference report, I should in all candor and fairness concede that I am not entirely comfortable in this position. I have some very substantial problems with both the report and the way in which it developed.

First, I deplore the circumstances which forced us to bypass the normal legislative procedures. It would have been far, far better if we could have spent the time necessary in the Committee on Ways and Means to develop our own bill. It probably would not have been more acceptable, in substance, than the product before us today, but it certainly would have been more palatable from a procedural standpoint.

Mr. Speaker, I hope most sincerely that we have, at the least, learned a valuable if painful lesson from this unorthodox sequence of events. I do not see any point in standing here and figuratively wringing my hands over the matter, but I do want to express the strong hope that we will avoid this kind of pitfall whenever possible in the future.

Second, I must say also that I have some problems with the substance of the report. Most of this represents not real tax increases, but adjustments or reforms designed to make certain that taxes already owed are actually paid. In that respect, the legislation has merit, especially now. At a time when we are cutting back on programs affecting millions of our citizens, it does not seem unreasonable to expect all of us to pay the taxes we rightfully owe.

I am not happy with the details of conferees' decision on accelerated cost recovery, leasing, medical deductions, corporate tax preferences, the individual minimum tax, and others.

As most of my colleagues know, I have been a highly vocal advocate of liberalized rules to encourage the revitalization of American industry. I was one of the patrons of the accelerated

cost recovery system which became an important part of the Economic Recovery Tax Act of 1981. Those ACRS advances are being scaled back in the legislation before us.

I also worked hard for the so-called safe harbor leasing rules, which have been terribly misunderstood and maligned. These rules did need some adjustment in order to remove perceived abuses, and I developed a plan to do just that, while retaining the basic safe harbor concept, which I still feel is a desirable and needed economic device. The conferees declined to accept my plan. adopting instead an outright repeal of the safe harbor rules, with a sop thrown toward our distressed industries, in the form of some selective transitional rules.

Tightening-up medical and casualty loss deductions never has appealed to me. The only salutary aspect of this change is that the conference agreement does soften to a considerable extent the cutback provided in the bill developed by the other body.

As for corporate and individual minimums, I certainly do not disagree that everyone should pay a fair share of assessed taxes. But I have found that reforms of so-called minimum taxes often lead to mischief rather than equity.

Just as there are provisions of the report which I would have designed differently, there are sections which represent real and desirable reforms. One which comes quickly to mind impose the hospital insurance, or medicare tax on Federal civilian employment.

Most Federal employees already either have, or will have, medicare coverage as spouses of insured workers or through their own employment as "moonlighters" or after early Federal retirement. The others should have this coverage also. If medicare participation is good enough for the 116 million Americans who already are required by law to pay for it, it should be good enough for the 2½ million who, as Federal employees, do not have to pay for it. The only problem with this provision is that it provides a "windfall" for a few civil servants who will be getting medicare benefits even though they have contributed to the hospital insurance trust fund for just a few months. Despite this bonanza, it is a good provision.

Some of the opposition to this proposal cites its complexity. It is complex. But the same people would vehemently oppose a simple tax increase, which would necessarily be an across-the-board measure reversing the thrust of last year's bill.

In summary, Mr. Speaker, although I do have problems with the legislation and the legislative procedure, these are outweighed by the reasons I cited earlier for supporting the measure.

I will support the President and his economic policy, I will reaffirm my earlier vote on the budget resolution, I will do my part to reduce the Federal deficit with the hope it will help cut interest rates, I will endorse substantial expenditure reductions, and I will help preserve the third year of the individual income tax reduction. In short, I will vote for this conference report today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. RANGEL).

Mr. FAUNTROY. Mr. Speaker, will the gentleman yield?

Mr. RANGEL. I yield to the gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Speaker, I rise in support of the Conference Report, the Tax Equity and Fiscal Responsibility Act of 1982. I support this bill, not because the President has belatedly endorsed it, not because I like all of its provisions, not because I support the cuts which it makes in medicare, medicaid, and AFDC, but because it is, on balance, better than any other alternative before us, including the alternative of inaction.

Let me say that this legislation has many good points, especially in its tax provisions. Many of the tax provisions—indeed, $51.6 billion worth—are ideas which were included in the Fauntroy amendment incorporating the Congressional Black Caucus's alternative budget. Consequently, when I first saw the reports on the contents of the tax bill, I was pleased that members of the Senate Finance and House Ways and Means Committees had found so much virtue in the tax ideas which the CBC had offered. I did have reservations, and still do, about the excise taxes in the bill and the mechanisms for withholding of income taxes on dividends and interest, but I felt that on balance the tax bill was a good first step toward redressing the excesses and inequities of last year's tax bill. I continue to feel that way, that this tax bill will not significantly affect poor people and middle income people, but will fall most heavily on those who most benefited from last year's tax cuts, the rich and big businesses.

On the other hand, I was very concerned about the cuts which were made by this bill in medicare, medicaid, aid to families with dependent children, and supplemental security income. I was concerned that medicare recipients would have to be paying a large amount of their limited income for insurance premiums and minimum treatment payments, and I was concerned that Federal employees, who have already been subjected to so much abuse, RIF threats, pay freezes, and other hardships, would have to pay a medicare tax. I have been opposed to these ideas, and I continue to be opposed to them.

The problem is that some cuts in these programs have been made inevitable by passage of the First Budget Reconciliation Act in June. I opposed that particular act, offering instead a much more humane substitute that would have avoided those cuts. But, that act was passed and we cannot escape its mandates without destroying the whole budget process. Thus, whether or not we vote for this particular package of cuts, these or even worse cuts in these programs will sooner or later be adopted. My fear is that, if we do not pass this bill, even worse cuts, which would inflict even more hardship on the poor and the elderly, will prevail. Moreover, those cuts will occur without the increase in revenues and the closing of loopholes that this bill provides. Other Members may hope differently, but I think that you have only to look at the large number of Republican Members who are opposed to even these tax increases and who want even larger cuts in social programs to realize what the political realities are.

I should note that there is one favorable spending provision in this bill, the extension of unemployment benefits for an additional 10 weeks. I know that this is not enough, that our unemployed people will need more assistance than this, but without this bill there would be nothing.

Consequently, while I do not like in any sense the cuts made by this bill, I think that the benefits of the tax bill, the extension of the unemployment benefits, the realities of potentially larger spending cuts in social programs if we do not pass this, and the threats of even worse unemployment and economic deterioration if we do not act to restore fiscal soundness from the irresponsible actions of this administration last year, all argue for adoption of this bill, even if it has been endorsed by the President.

Mr. RANGEL. Mr. Speaker, I hope the record does not put me down as being a friend of the President, but certainly I have to sympathize with our President if he has to depend on all the friends that he has on this side of the aisle for support. Boy, there were some great days when we were talking about supply-side economics; no one knew what we were talking about, but you had a popular President, and by giving away billions of dollars, we were going to turn the economy around following the years of Jimmy Carter.

But, I guess it happens the same way in Washington as it does in Harlem; when things are not looking too popular, the people have to find another reason and ideology to explain why politically they cannot support the President. What a wonderful day this would be for me if I were to enjoy the luxury of saying, I told you so.

Who in the heck ever believed by reducing taxes by $750 billion, by having an insane obsession with defense, and by talking about a balanced budget, that would end up with a tremendous deficit? Oh, I know that we will never be able to win against the Pentagon, not when we are talking about medicaid and medicare, not when we are talking about housing programs, but now the time has come when the President is asking us to raise some taxes.

You can call it revenue enhancement; you can call it reform; you can call it anything you want, but if you are going to deal with Federal programs and if you are going to deal with deficits, you have got to raise the revenues.

Mr. CONABLE. Mr. Speaker, will the gentleman yield for a comment?

Mr. RANGEL. I yield to my colleague.

Mr. CONABLE. Am I not correct in noting that the gentleman has been nominated frequently by the Republicans?

Mr. RANGEL. There is no question about that.

Mr. CONABLE. Makes a lot of sense; makes a lot of sense.

Mr. RANGEL. Makes a lot of sense in New York, but it certainly did not make a lot of sense nationally, and I think the American people are catching up with it.

I would like to say one thing. If we pass this tax bill, and I certainly hope we do, you can bet your life that they will be coming back, that the Stockmans will be coming back, and the GRAMMS and the LATTAS will be coming back, and they will be asking to cut and to cut again, and we will be here trying to defend against the Pentagon and losing each step of the way.

But, I ask just one question. If we do not pass this tax bill, and the only thing we have left is those rascals who made their minds up in Hollywood many years ago, not that they were going to balance the budget, but rather that they were going to dismantle social programs. I do not care whether you are Republican or Democrat, you know darn well there are people that believe that medicaid should never have been enacted, medicare should never have been enacted, and our Secretary of Housing says the best thing you can do for housing for the poor is to leave it to the private sector.

□ 1720

So what I am saying is this: Yes; we have to raise taxes. I can tell you that this Congress has never seen a bill that has raised so many dollars from so few people. From people who should not have had those bucks in the first place and only have them because of inequities in the tax system.

Now it took a lot of courage to put a package together. This package certainly does raise some of the money that is necessary.

I am saying this: We are dealing with a battle that some of the people say is between two elephants. Who cares who wins the battle on television between the Republicans or between the economists since they can shift with the wind anytime they get in front of the cameras.

The real question I guess people have to decide is how are they going to look in front of their voters come the election.

I would submit that saying you are for a tax increase is not the best way to get elected. But I will tell you this: For those people that are dealing with the sick, the poor, and the aged, if we fail to provide the revenue that is necessary to have these programs, I hope that when the time comes to use the cleaver that you will be able to explain why you did not provide the revenues to support some of the programs.

Ask the unemployed and ask the teenagers which side you should have been on when they asked for this vote today.

Mr. ZABLOCKI. I rise in support of the conference tax bill, H.R. 4961.

Mr. Speaker, to vote for the pending bill is one of the toughest votes of my political career. Tough, not because of the merits of the bill but because of the misconceptions surrounding the bill. I received, as did all our colleagues, hundreds of letters, telegrams, phone calls urging me to vote one way or the other from individuals, special interest groups and members of businesses and labor organizations.

After careful and full consideration I will vote for the bill because I feel it is in our country's best interests. If we are serious about getting down interest rates, about balancing the budget and about making everyone—big business included—pay its fair share, then passage of this conference report is necessary.

It is no secret that this bill is not perfect—far from it. This bill has things in it that I do not like—for example, withholding on interest and dividends. But it also has:

Extension of unemployment benefits for Wisconsin's workers—10 weeks;

The closing of loopholes that allow big businesses to sell their tax breaks; and

Billions of dollars in new revenues raised primarily from increased taxes on business and upper-income invididuals.

In short, passage of this bill has the real possibility of lowering interest rates. It is in our country's best interests.

Therefore, I can not cast the easy political vote. My conscience dictates, and the dictates of my constituents who want a lower deficit and the restoration of a healthy economy require that I vote in favor of this bill.

Mr. CONABLE. Mr. Speaker, I yield 3 minutes to a distinguished member of the committee, the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, this debate has been helpful, unfortunately it is all too brief and the only one we will have. If we had followed the basic law of the land, the House rules, the fundamentals of legislative procedure and commonsense, there would have been other debates. There should have been.

We did not have that normal, regular legal procedure because of political expediency. Some felt it expedient that one political party or the other should take the lead or blame, others did not want to face a tax bill, still others felt whatever the President wanted was acceptable to them, and lastly many felt this tax bill would never become law if we followed principles. We had to break all the rules, they felt, to get this through to help the economy. There is no evidence to the correctness of that feeling as the House never even tried for so much as 1 hour to write a tax bill, but the feeling is there and I acknowledge that it is genuine.

But I would hope that as responsible representatives of the people and Members of the greatest and most deliberative lawmaking body in the world, we would consider before we act that expediency often has a noble reason behind it. We would not allow expediency to violate the fundamental civil rights of the American people, and we should not, the basic order of their Government.

The people have the right to have both Houses of Congress consider carefully taxes they are to be ordered to pay and to have the House closest to them originate that tax bruden. The framers gave them that right in article I, section 7, clause I of the Constitution. We have the duty to uphold that right, and no privilege to waive it. I know as a member of the Committee on Ways and Means that there are taxes in this bill that the House would not have originated, but if this bill passes, the people will be forced to pay due to our abdication of their rights. Proponents try to hide behind the legal hope that this is a political question the courts will not consider. They know they are in trouble if a court does consider it and reads the clear language of the Constitution. It is no political question, it is a basic question of the order of government.

I have always supported this President and badly want him to win in the fight to lower deficits and interest rates. This is a noble cause I share, but there is a right way and a wrong way to accomplish that end. The ends do not justify the means as we are a nation of laws, not men. The casting aside of our most basic principle of

this Nation for expediency is wrong. We should not do this wrong for any political party, any President, or any desirable end. We have a higher allegiance we must first honor. For when we finished casting aside the Constitution, House rules, legislative principles and commonsense, what then is left to protect the people?

As Henry Ward Beecher said, "expedients are for an hour, but principles are for the ages."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts, the Honorable TIP O'NEILL, Speaker of the House.

Mr. O'NEILL. Mr. Speaker, during the course of the day I have spoken literally to dozens of the Members on my side of the aisle asking them to go along with this tax bill. I did not do it in a method that I was trying to twist their arm. I did it in the method of what I thought was best for America.

So any of you that I have missed along the line, I ask you to vote with your conscience and your heart. I ask you to vote for the arguments that have been presented here today, the arguments that have been presented as America needs more confidence, America needs to be turned around.

Let me just say a few words to the Republicans over here. Usually, as the Speaker of my party, I do not address my remarks to you, but to the body as a whole, not to an individual.

I remember a year ago when you stood and wildly applauded the fact that you had a victory for the President of the United States. He was your President. In lockstep you followed along, the greatest discipline I have ever seen in the 30 years that I have been in the Congress of the United States.

To the younger Members who are here for the first term: You should have applauded and cheered the President of the United States. He elected you.

We have analyzed the elections and we lost about 20 or 30 Members. I am addressing the young Members. We lost them because of a coattail effect and the 8½-million vote victory of Reagan elected about 30 of you. You are here because of Reagan. You are here because he was elected President of the United States. He brought you to the Congress of the United States and now we are on the eve of an election and he is asking for a change of policy.

Are you going to follow the leader that brought you here or are you going to run? I ask you just to think of that.

Today I rise in support of the legislation endorsed by the President. It is his legislation.

The President and I do not belong to the same political party. We do not share the same philosophy. In fact, we seldom agree. But we do share something together, a deep love for this country and a deep concern for its future.

This is one bill that we do not disagree on. We are together because we know that if the economy of this Nation is not strong and vigorous its citizens are going to suffer.

We know that we need a strong economy if we are going to maintain a strong defense.

We know that today the economy is suffering and millions of people are suffering out there.

I know from 30 years' experience in the House of Representatives that no tax reform or increase can occur without the full support of the President of the United States. In the last 20 years we have given nothing but tax rebates and how easy it is to vote for a tax reduction and tax rebates, starting with my own Jack Kennedy in 1962.

There was a slight increase in 1976 at the time of the Vietnam war.

Then we had nine consecutive tax reductions which we gave to stimulate the economy, or we gave back to the people with the sole exception of the tax increase for social security.

That is the record. How easy it is to vote for a tax decrease, but only the President of the United States and the full support of his office can pass a tax bill. And only will the President do it when he thinks the Nation is in dire trouble and it needs this kind of a shift.

Last year I opposed the administration's tax bill. I thought it did not give the President and the Congress an opportunity to assess the results of enacted policies and to make corrections.

Today the President has sent over a correction and we have that opportunity to make that correction.

□ 1730

We have it before us only because the President of the United States has endorsed it. He believes that it is necessary to put this country back on the road to an economic recovery. And I believe that this tax increase is necessary. It is unfortunate that this correction must take place just weeks before an election. But it is more unfortunate that there are 10 million unemployed out there today. It is unfortunate that millions of small businesses and small farmers are facing disaster.

We Democrats in the House leadership believe the most important task Congress faces is to put millions of people back to work. We believe that they will not go back to work unless the citizens of this country, the people, the white-collar worker, the blue-collar worker who lost confidence, who still is employed but feels that he or she may be laid off, and because of that they save for the rainy day, they do not invest in a new automobile or a refrigerator or a toaster or clothes for their children.

And then we must have confidence stimulated in the business of America. That is what this is all about—the actions of this week in the market. I wonder what will happen if we were to leave here tonight with a failure. Millions of Americans who have looked to this Congress will say, "The Congress of the United States in a conference voted out a bill. How proud I am of this great free Nation of ours that they had the courage at a time of election to do what is best for the Nation."

Ladies and gentleman of the Congress, I ask you today as the leader of the opposition party, as a leader opposed to the President of the United States in most of his philosophies, the President is right. We need this tax bill. I ask for your vote.

Mr. CONABLE. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. MICHEL), the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, this is one of those votes that will not be won or lost by either of our political parties. There are marked divisions on both sides of the aisle. Let us face it. There is no mileage out there in raising taxes of any kind. How many times have I said it takes no particular manly quality to be for tax reduction? That is an easy vote. The Speaker corroborated that a few moments ago. It is a lot tougher around here to be for expenditure reduction or to raise taxes if you have to do it.

Now, why do I come down on the side of supporting this conference report?

I have to build my case beginning with last year's tax bill. President Reagan, as I recall, asked for two things: 3 years of personal rate reduction, 10 percent, 10 percent, 10 percent across the board 3 years in a row for all individuals in this country. Second, more rapid depreciation writeoffs for business and industry. That is all he asked for.

Now, admittedly, he advocated some of the other changes but they would be added later. What did he get? Not only the 3 years of personal rate reduction that totaled not 30 but 25 percent, but a reduction on unearned income subject to tax from 70 to 50 percent in 1 year, not 3 years, indexing, IRA's, marriage penalty correction, estate tax reduction, reduction of capital gains from 28 to 20 percent, reduction of corporate rate taxes from 48 to 36 percent, utility dividend investment, all-savers certificates, safe harbor leasing, and what have you.

Now, most of these are desirable. But I wonder if we had to do it, in retrospect, all at once.

This tremendous loss of revenue so quickly was not commensurate, with the kind of expenditure reduction that was possible to achieve around here. And there is plenty of blame to go

around when you consider them as individual spending reduction bills

As a result, the President was forced to submit a budget with an unacceptable deficit that almost everyone in this body decried on both sides of the aisle.

But we here in the Congress reworked the budget our way and agreed, after long, tortuous hours, on a budget resolution. It passed this body by a very narrow margin, if you recall, and in it we called for that $21 billion of revenue to be raised in fiscal year 1983 to narrow the deficit.

Now, the skeptics did not think we would meet our reconciliation goals on expenditure reductions called for in that budget. But we did it with that vote yesterday, 96 percent of it.

The skeptics did not think we would meet our revenue goals either in an election year, but here we are, biting down hard on the bullet, just to prove them wrong.

Do you think that has not gone unnoticed by those smart money market managers? I read the ticker a while ago and the market is up by 9 points with 78 million shares traded. I tell you, they have been watching what we have been doing around here in the last week or 2, and have concluded that we really mean business. We have beaten down inflation, down to half the rate it was.

And interest rates finally seem to be responding to what we have been doing.

I am convinced personally the vote for this bill will reduce those interest rates further, and that is the key element to full economic recovery.

Defeat of this bill will surely mean a higher deficit. Mark that in your book. We might very well expect interest rates to rise again if the bill goes down.

I have to say here, in conclusion, my friends—that I have been in the Congress now for 26 years. Would you believe it, except for the social security tax increases and that temporary excise tax during the Vietnam war that the Speaker referred to, I have never had to vote for a tax increase, and Federal revenues went from $78 billion when I come here in 1956, to what they are at $650 billion today.

How did it happen? Bracket creep. Inflation. Bracket creep. Inflation. And who was the beneficiary? Big government. Tax moneys just kept rolling into the Treasury.

I say that is why those personal rate reductions enacted last year are so important, why the President has been so insistent that we have got to retain the third year of that tax reduction, because that is the way the average citizen catches up with these other preferences some of which we are trying to correct today.

□ 1750

That principle has been preserved and indexing beyond 1985 has also been preserved. If it holds in the future, every time we want some big spending program, we are going to have to toe the mark for the taxes to pay for the program. I have been in the Congress a quarter of a century as I said, and have never had to vote for a tax increase like today but these are different times.

By voting for this bill we are not doing a flip-flop, I might say to the Members on our side, or turning our back on the principal thrust of what we began to do last year.

Yes, we are strengthening compliance.

Yes, we are making a few adjustments in our excesses of last year, but the bottom line here is that passage of this bill will still leave us with a net tax reduction from last year's most comprehensive tax bill of $377 billion. Those are the facts.

May I say in conclusion, it is good to have this bipartisan support we see manifested here today. I urge Members to vote for the conference report.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 3½ minutes to close debate.

Mr. ROSTENKOWSKI. Mr. Speaker, Joe Louis, one of the greatest athletes that I have watched in my lifetime once said about his opponent in the ring, "He can run, but he can't hide."

I think that time has come in the ring of this Hall. We can make all the political speeches, posture ourselves, talk about whose fault it was, but in several minutes, there will be no place to hide. The choice is at hand. We have to choose what this institution is all about.

There have been some changes in procedure, but I was convinced when we decided to go directly to conference, that we would not be here at this time; that the best interests of our country and the people that we represent, would be best served by a change in procedure.

I am concerned about the credibility of this institution. I am not in the well today to criticize the President or the Republican Party or my colleagues in the Democratic Party for a different philosophical view.

What concerns me is what the Nation thinks about this institution.

How will they feel when they hear this evening's news or when they read tomorrow's papers?

Whether or not people agree with me or not, I wonder if we have the courage to take a midcourse correction?

I congratulate the President of the United States. I think he has provided leadership by recognizing that deficits are out of hand. I admire the fact that he recognizes that the only way that we can confront the problems of our economy is to make a correction. I applaud him for it and I applaud my Speaker for having the courage to recognize that there must be a unity of purpose.

When it is reported what we have done in this House today, I am sure we will have once again established this institution's credibility.

We cannot allow people in tomorrow's unemployment lines to feel that they have been denied additional weeks of benefits.

All the rhetoric is behind us. We have to make a choice. I hope that once the vote is over, we can unite again in the Nation's best interest, for tomorrow's economic revival.

Mr. Speaker, I urge Members of both sides of the aisle to support this conference report.

● Mr. BIAGGI. Mr. Speaker, I voted against the previous question to the pending rule to demonstrate my opposition to this closed rule. If we are to adopt this resolution we will be forced to cast one vote up or down on a massive combination of tax increases and spending cuts some of which if permitted to be voted on separately would be soundly defeated.

Nowhere is the inequity of this situation clearer than with respect to the new provisions calling for a new 10 percent withholding penalty tax on earnings achieved from interest and dividends. This is one clear example of a provision which if subject to a separate vote would be defeated. I predict that its inclusion in the overall tax bill before us could jeopardize the prospects of passage for this important bill.

I joined with more than 145 of my colleagues in a very reasonable appeal to Chairman BOLLING of the House Rules Committee to permit a separate vote on this particular provision. Unfortunately this request was denied and as a result efforts will be made to open the rule and not thwart the will of almost one-third of the House.

Further, just 2 years ago by an overwhelming vote of 401 to 4 the House voted to reject a similar withholding proposal advanced by the previous administration. I am hard pressed to believe that the sentiments of this body have changed all that much in this short a time period.

On its merits the new withholding tax does not stand up. One of the main arguments advanced by the proponents is that it will produce a great savings to the Government thus lowering the deficit. First, even the most generous estimates point to this withholding provision only reducing the deficit by $1.3 billion in fiscal year 1983. When one considers the new paperwork and administrative burdens which will be thrust on the Govern-

ment, this will cut directly into these savings. Further, according to the U.S. Chamber of Commerce, withholding will force 50,000 lending institutions to spend $1 billion or more to implement and another $1 billion to maintain.

Perhaps an even more relevant issue is: Why do we need this new penalty? In my judgment the answer is, We do not. According to the Internal Revenue Service, in tax year 1975 taxpayers reported $55.8 billion out of $57.7 billion, or 96.7 percent, of all interest and dividends for which information returns were filed. The IRS notes further that voluntary compliance levels are substantially higher when the payments are reported on information returns. Overall the Department of the Treasury estimates it has an 85 percent rate of collection due on interest and dividend income.

Obviously we have a system which works, why do we need to invent new trouble for ourselves? The withholding provisions in this legislation represent an example of an unnecessary action on the part of the Government.

I call upon my colleagues to vote against the previous question and allow us to debate separately the merits or lack thereof of the withholding provisions in this legislation. Let us not again travel down the road which has brought us to this bleak point in our economic history. We are now seeing the outcomes of some of the votes we took last year. Failure to open up this rule most certainly will come back to haunt us very soon.●

● Mr. UDALL. Mr. Speaker, I rise in support of the tax bill. I do so with some reluctance. Like many Members of this body, I have objections to various aspects of this bill.

I am particularly concerned about the withholding of interest and dividends. In this regard, however, I am glad to see that the House conferees were able to negotiate for some important changes in the bill. The effective date has been delayed 6 months. The allowable exemption has been raised from $100 per account to $150 per account. We have retained provisions exempting a large number of elderly households from the withholding requirements. And we have made special provision for those financial institutions who are unable to comply due to undue hardship, by giving them an additional 6 months for compliance at the option of the Secretary of the Treasury.

I am also troubled by the changes in the medical deduction. The other body wanted to increase the floor for itemized deductions from 3 percent of gross income to 7 percent of gross income. House conferees were able to reduce that figure to 5 percent. Still, I would have preferred to retain the existing law and the protections it affords to those with high medical costs.

I also have reservations about the repeal of the dividend reinvestment provision, which allows utility share stockholders to reinvest their dividends in utility stocks and thereby defer the payment of taxes.

And I am aware of the concern expressed about the changes made in the law regarding tax-qualified pension plans.

But these reservations aside, I still must support the bill that is before us today. I do so for several reasons.

First, I have always felt that the President on close calls deserves the benefit of the doubt. This one such occasion. Without the passage of this bill, the deficit will rise from an estimated $141 billion next year to an estimated $165 billion deficit. Or higher. Such an increase would serve to further boost interest rates and shake the confidence of the financial markets. In turn, higher interest rates and reduced business conference would trigger a major economic downturn.

Second, I think voting for a mixture of spending cuts and revenue increases is the prudent and responsible thing to do given the size of the projected deficits. I do not think we can go on borrowing hundreds of billions of dollars each year. Such a policy could only lead to economic disaster and saddle our children with a huge public debt. We must reduce the deficit.

But, of course, there is no easy way to cut the deficit. Nor is there one single solution.

Last year, in the debate over the President's tax cut I rose and offered an alternative. It was not half as generous as the President's tax package. Nor did it gain as many votes. But it did point the way to a balanced budget. It was, I think, the responsible alternative. If it had passed, we would not be talking here today about $150 billion deficits. We would be on our way to a balanced budget and we would not have to vote on a tax package like the one we have before us today.

But my plan did not pass. The President's plan passed. We gave the President nearly everything he wanted: The tax cuts, the spending cuts, and the increases in the Defense budget. What we have received in return is a record deficit, not a balanced budget. And higher interest rates, not lower. And instead of economic recovery, we have had a recession. A severe one.

It is time to make some mid course corrections in the President's plan. The President knows that, that is why he is supporting this bill. And I am going to support him on this one.

But let us move on to some of the positive aspects of the bill that is before us today. A few weeks ago, unemployed workers in Arizona became eligible for an additional 13 weeks of unemployment beyond the standard 26 weeks. But unless changes are made in the law, a new standard of eligibility will go into effect on September 25—one that would likely deny extended benefits to the unemployed in Arizona. This bill guarantees that Arizonans will have at least 10 weeks of extended unemployment benefits beyond the standard 26 weeks. I support that change. It is needed to help the hardship being experienced by unemployed copper miners and others who are now experiencing extended layoffs.

Beyond that, this bill provides for some important tax reforms. It limits the amount of foreign oil and gas extraction taxes allowed companies as foreign tax credits. It provides for the current taxation of foreign oil and gas nonextraction income. It closes in a responsible way a new tax loophole that has developed in the taxation of life insurance companies and annuities. It tightens up the safe harbor leasing provisions that have allowed profitable corporations like General Electric to collect tax refunds. It clarifies the independent contractor status of real estate agents. And finally, it contains a number of provisions that will improve taxpayer compliance, insuring that all taxpayer compliance, insuring that all Americans pay their fair share of taxes.

And so, Mr. Chairman, despite my reservations about H.R. 4961 I urge its passage. Its defeat would mean higher deficits in the years ahead. In turn, those higher deficits would mean higher interest rates and troubled economic times ahead. Passage of this bill is not a solution to our economic woes, but it is a start. Coupled with spending cuts—some of which are contained in this bill—this bill will help to restore fiscal responsibility and economic stability.●

Mr. ROUSSELOT. Mr. Speaker, one of the most issues that I wish to address here today as we discuss this measure is the issue of the completed contract method of accounting.

It is my understanding that under the accounting method changes for long-term contracts, a contract which is not expected to be an "extended period long-term contract" would not become an extended period long-term because of unforseeable circumstances which a reasonable businessman could not anticipate based on prior experience with similar long-term contracts or events which are beyond his control. For example, litigation between the parties to the contract, litigation by third parties, defaults by subcontractors, owner caused delays such as failure to make progress payments or provide access to the construction site, unusual delays in delivery of materials or supplies, change orders extending contract duration beyond 36 months which could not be anticipated, delays due to zoning or

permit applications, and delays caused by Government agencies as in the acceptance of environmental impact statements are the types of events which will not turn a contract into an extended duration contract if they are not forseeable.

It is my understanding, Mr. Speaker, that the chairman of the House Ways and Means Committee agrees with this interpretation. Further, Mr. Speaker, I would like to enter into the CONGRESSIONAL RECORD, Secretary Regan's letter of August 13, 1982, to Senator DOLE supporting Senator DANFORTH and Representative HOLLAND'S alternative complete contract proposal because of the effects of the Senate passed proposal on the construction industry.

THE SECRETARY OF THE TREASURY,
Washington, August 13, 1982.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: After further consideration I am concerned that the Senate provision dealing with the completed contract method of accounting is perceived to have a unnecessarily adverse impact upon the construction industry at this time.

Senator Danforth has supported a proposal which is sponsored in the House by Representative HOLLAND. This proposal restricts abuses associated with the completed contract method of accounting without harming the construction industry. This proposal meets the goals of the Administration in this area and I urge you to support it.

With best wishes,
Sincerely,

DONALD T. REGAN.

It is my further understanding, Mr. Speaker, and I have been informed that the chairman of the House Ways and Means Committee concurs with this understanding, that contract commencement begins with the first contract costs incurred other than bidding expenses. Therefore, in view of the dire economic straits of the construction industry, it would seem to us that mobilization and insignificant preparatory costs weeks or months prior to actual physical construction start should be treated as bidding costs.

Mr. Speaker, I stand in opposition to this tax bill. Winston Churchill once observed that taxing your way to prosperity is like standing in a bucket and trying to lift yourself up by the handle. The American people—the hard working Americans that made our country the great Nation it is today—understand that you just cannot tax your way into prosperity. Rather than stimulate our economy, this measure will hurt the efforts that have already been agreed to in this body under the Reagan economic recovery program.

The initial policies of our President are still correct today. It is imperative that we defeat any and all proposals before us which will hurt this initiative and delay our economic prosperity. After all, the President said it best: "If not now, when? If not us, who?

The SPEAKER pro tempore. All time has expired.

Pursuant to House Resolution 569, the previous question is ordered on the conference report.

MOTION TO RECOMMIT OFFERED BY MR. DUNCAN

Mr. DUNCAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the conference report.

Mr. DUNCAN. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

Mr. DUNCAN moves to recommit the conference report on H.R. 4961 to the committee on conference.

The SPEAKER. Pursuant to House Resolution 569, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit offered by the gentleman from Tennessee (Mr. DUNCAN).

The motion to recommit was rejected.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 226, nays 207, not voting 1, as follows:

[Roll No. 303]

YEAS—226

Akaka	DeNardis	Green
Annunzio	Derwinski	Gregg
Anthony	Dicks	Grisham
Aspin	Dingell	Guarini
Atkinson	Donnelly	Gunderson
Badham	Dorgan	Hall (OH)
Bafalis	Dornan	Hamilton
Bedell	Dougherty	Hance
Beilenson	Downey	Harkin
Benedict	Dunn	Hartnett
Benjamin	Dwyer	Heftel
Bennett	Early	Hightower
Bereuter	Edgar	Hillis
Biaggi	Edwards (AL)	Holland
Bingham	Edwards (CA)	Hollenbeck
Boggs	Emery	Holt
Boland	Erdahl	Horton
Bolling	Erlenborn	Huckaby
Bonior	Ertel	Hughes
Bowen	Evans (DE)	Hunter
Breaux	Evans (IA)	Hyde
Brodhead	Fary	Ireland
Broomfield	Fascell	Jeffords
Brown (CA)	Fazio	Kastenmeier
Brown (OH)	Fenwick	Kennelly
Broyhill	Findley	Kildee
Burgener	Fish	LaFalce
Butler	Foglietta	Lagomarsino
Byron	Foley	Latta
Carman	Ford (MI)	Leach
Chappie	Ford (TN)	Leath
Cheney	Forsythe	Lehman
Clinger	Fowler	Leland
Coats	Frenzel	Lent
Coelho	Frost	Livingston
Coleman	Gejdenson	Long (LA)
Collins (IL)	Gephardt	Long (MD)
Conable	Gibbons	Lott
Conte	Glickman	Lowry (WA)
Conyers	Goldwater	Lujan
Coughlin	Goodling	Madigan
Courter	Gore	Markey
Coyne, William	Gradison	Marks
Davis	Gramm	Marlenee
Marriott	Pickle	Smith (NE)
Martin (IL)	Porter	Smith (PA)
Martin (NY)	Price	Snowe
Matsui	Pritchard	Solarz
McClory	Pursell	St Germain
McCloskey	Quillen	Stanton
McCollum	Rahall	Stark
McDade	Railsback	Swift
McHugh	Rangel	Tauke
McKinney	Regula	Thomas
Mica	Reuss	Udall
Michel	Rhodes	Vander Jagt
Miller (CA)	Richmond	Vento
Mineta	Roberts (KS)	Waxman
Mitchell (NY)	Rodino	Weaver
Moakley	Roemer	Weber (OH)
Moffett	Rosenthal	Weiss
Montgomery	Rostenkowski	White
Morrison	Roukema	Whitehurst
Murtha	Rudd	Williams (MT)
Nelligan	Russo	Williams (OH)
Nelson	Sabo	Wilson
Nowak	Sawyer	Wirth
O'Brien	Schneider	Wolpe
Oberstar	Schumer	Wright
Obey	Seiberling	Wylie
Oxley	Shamansky	Yates
Panetta	Shannon	Young (FL)
Pashayan	Sharp	Young (MO)
Pease	Shaw	Zablocki
Pepper	Simon	
Petri	Skeen	

NAYS—207

Addabbo	Evans (IN)	Mazzoli
Albosta	Ferraro	McCurdy
Alexander	Fiedler	McDonald
Anderson	Fields	McEwen
Andrews	Fithian	McGrath
Applegate	Flippo	Mikulski
Archer	Florio	Miller (OH)
Ashbrook	Fountain	Minish
AuCoin	Frank	Mitchell (MD)
Bailey (MO)	Fuqua	Molinari
Bailey (PA)	Garcia	Mollohan
Barnard	Gaydos	Moore
Barnes	Gilman	Moorhead
Beard	Gingrich	Mottl
Bethune	Ginn	Murphy
Bevill	Gonzalez	Myers
Blanchard	Gray	Napier
Bliley	Hagedorn	Natcher
Boner	Hall, Ralph	Neal
Bonker	Hall, Sam	Nichols
Bouquard	Hammerschmidt	Oakar
Brinkley	Hansen (ID)	Ottinger
Brooks	Hansen (UT)	Parris
Brown (CO)	Hatcher	Patman
Burton, John	Hawkins	Patterson
Burton, Phillip	Heckler	Paul
Campbell	Hefner	Perkins
Carney	Hendon	Peyser
Chappell	Hertel	Ratchford
Chisholm	Hiler	Rinaldo
Clausen	Hopkins	Ritter
Clay	Howard	Roberts (SD)
Collins (TX)	Hoyer	Robinson
Corcoran	Hubbard	Roe
Coyne, James	Hutto	Rogers
Craig	Jacobs	Rose
Crane, Daniel	Jeffries	Roth
Crane, Philip	Jenkins	Rousselot
Crockett	Johnston	Roybal
D'Amours	Jones (NC)	Santini
Daniel, Dan	Jones (OK)	Savage
Daniel, R. W.	Jones (TN)	Schroeder
Dannemeyer	Kazen	Schulze
Daschle	Kemp	Sensenbrenner
Daub	Kindness	Shelby
de la Garza	Kogovsek	Shumway
Deckard	Kramer	Shuster
Dellums	Lantos	Siljander
Derrick	LeBoutillier	Skelton
Dickinson	Lee	Smith (AL)
Dixon	Levitas	Smith (IA)
Dowdy	Lewis	Smith (NJ)
Dreier	Loeffler	Smith (OR)
Duncan	Lowery (CA)	Snyder
Dymally	Luken	Solomon
Dyson	Lundine	Spence
Eckart	Lungren	Stangeland
Edwards (OK)	Martin (NC)	Staton
Emerson	Martinez	Stenholm
English	Mattox	Stokes
Evans (GA)	Mavroules	Stratton

Studds	Walgren	Whitten
Stump	Walker	Winn
Synar	Wampler	Wolf
Tauzin	Washington	Wortley
Taylor	Watkins	Wyden
Traxler	Weber (MN)	Yatron
Trible	Whitley	Young (AK)
Volkmer	Whittaker	Zeferetti

NOT VOTING—1

Scheuer

□ 1800

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DIRECTING THE CLERK TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 4961, TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. ROSTENKOWSKI. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 398) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 398

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) In the table of contents of the bill—

(A) insert after the item relating to section 281 the following new item:

"Sec. 281A. Technical provisions relating to tax on transportation of persons by air."; and

(B) insert after the item relating to section 349 the following new item:

"Sec. 349A. Extension of period for redemption of real property."

(2) Immediately before the section heading for section 116 of the bill, insert the following:

"SUBPART C—OTHER PAYMENT PROVISIONS".

(3) In section 1916(a)(2) of the Social Security Act (as added by section 131(b) of the bill), insert "and" at the end of subparagraph (D).

(4) In section 1916(b)(2) of the Social Security Act (as added by section 131(b) of the bill), insert "and" at the end of subparagraph (D).

(5) In clause (viii) of section 168(f)(8)(D) of the Internal Revenue Code of 1954 (as added by section 208(b)(3) of the bill), strike out "DEFINITIONS" and insert in lieu thereof "DEFINITION".

(6) In paragraph (8) of section 168(f) of the Internal Revenue Code of 1954 (as amended by section 209(a) of the bill)—

(A) strike out "the taxable year" in subparagraph (B)(vii)(II) and insert in lieu thereof "the calendar year", and

(B) strike out "For purposes of" in subparagraph (C)(iv) and insert in lieu thereof "AGREEMENT OTHERWISE LEASE, ETC.—For purposes of".

(7) In clause (ii) of section 168(i)(1)(D) of the Internal Revenue Code of 1954 (as amended by section 209(b) of the bill)—

(A) strike out "(other than any deduction for interest)" in subclause (I), and

(B) strike out subclause (III).

(8) In subparagraph (B) of section 954(h)(2) of the Internal Revenue Code of 1954 (as added by section 212(c) of the bill), strike out "any preceding" and insert in lieu thereof "the preceding".

(9) In section 222(f)(2)(D)(iv) of the bill, strike out "subclause (I)" and insert in lieu thereof "subclause (II)".

(10) In section 222(f)(4) of the bill, strike out "229" each place it appears and insert in lieu thereof "224".

(11) In section 269A(b)(3) of the Internal Revenue Code of 1954 (as added by section 250 of the bill), strike out "106(b)(6)(C)" and insert in lieu thereof "103(b)(6)(C)".

(12) In section 256(d)(3) of the bill strike out "contract, the reinsurer" and insert in lieu thereof "contract which the reinsurer".

(13) In section 260(a) of the bill, strike out "section 259(a)" and insert in lieu thereof "section 258(a)".

(14) Subsection (1) of section 4041 of the Internal Revenue Code of 1954 (as added by section 279(b) of the bill) is amended by striking out "System Development" and inserting in lieu thereof "Improvement".

(15) Subsection (e) of section 4261 of the Internal Revenue Code of 1954 (as added by section 280(a) of the bill) is amended by striking out "System Development" and inserting in lieu thereof "Improvement".

(16) In section 9502(d)(1)(A) of the Internal Revenue Code of 1954 (as added by section 281(a) of the bill)—

(A) strike out "(as such Acts were in effect on the date of enactment of the Fiscal Year 1981 Airport Development Authorization Act)", and

(B) strike out "Airport and Airway System Development Act of 1982" and insert in lieu thereof "Airport and Airway Improvement Act of 1982 (as such Acts were in effect on the date of the enactment of the Airport and Airway Improvement Act of 1982)".

(17) After section 281 of the bill, insert the following new section:

SEC. 281A. TECHNICAL PROVISIONS RELATING TO TAX ON TRANSPORTATION OF PERSONS BY AIR.

(a) TECHNICAL MODIFICATIONS TO TRANSPORTATION OF PASSENGERS BY AIR.—

(1) LONGER LAYOVER PERMITTED TO QUALIFY AS UNINTERRUPTED INTERNATIONAL AIR TRANSPORTATION.—Paragraph (3) of section 4262(c) (defining uninterrupted international air transportation) is amended by striking out "6 hours" each place it appears and inserting in lieu thereof "12 hours".

(2) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—Section 4262 (defining taxable transportation) is amended by adding at the end thereof the following new subsection:

"(e) AUTHORITY TO WAIVE 225-MILE ZONE PROVISIONS.—

"(1) IN GENERAL.—If the Secretary of the Treasury determines that Canada or Mexico has entered into a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) effective with respect to transportation beginning after the date specified in such notice, to the extent provided in the agreement, the term '225-mile zone' shall not include part or all of the country with respect to which such determination is made.

"(2) TERMINATION OF WAIVER.—If a determination was made under paragraph (1) with respect to any country and the Secretary of the Treasury subsequently determines that the agreement is no longer in effect or that the agreement is no longer a qualified agreement—

"(A) the Secretary shall publish a notice of such determination in the Federal Register, and

"(B) subparagraph (B) of paragraph (1) shall cease to apply with respect to transportation beginning after the date specified in such notice.

"(3) QUALIFIED AGREEMENT.—For purposes of this subsection, the term 'qualified agreement' means an agreement between the United States and Canada or Mexico (as the case may be)—

"(A) setting forth that portion of such country which is not to be treated as within the 225-mile zone, and

"(B) providing that the tax imposed by such country on transportation described in subparagraphs (A) will be at a level which the Secretary of the Treasury determines to be appropriate.

"(4) REQUIREMENT THAT AGREEMENT BE SUBMITTED TO CONGRESS.—No notice may be published under paragraph (1)(A) with respect to any qualified agreement before the date 90 days after the date on which a copy of such agreement was furnished to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after August 31, 1982.

(b) MANNER IN WHICH TAX ON TRANSPORTATION BY AIR IS REQUIRED TO BE SHOWN ON AIRLINE TICKETS.—

(1) GENERAL RULE.—Subsection (a) of section 7275 (relating to penalty for offenses relating to certain airline tickets and advertising) is amended to read as follows:

"(a) TICKETS.—In the case of transportation by air all of which is taxable transportation (as defined in section 4264), the ticket for such transportation shall show the total of—

"(1) the amount paid for such transportation, and

"(2) the taxes imposed by subsections (a) and (b) of section 4261."

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to transportation beginning after the date of the enactment of this Act.

(18) In Section 289(b) of the bill, strike out "of such Act" and insert in lieu thereof "of the Second Liberty Bond Act".

(19) In Section 310(d)(3) of the bill, strike out "warrant for" and insert in lieu thereof "warrant or".

(20) In Section 6053(c)(1)(D)(ii) of the Internal Revenue Code of 1954 (as added by section 314 of the bill) strike out "6041" and insert "6051".

(20A) In Section 6053(c)(5) of the Internal Revenue Code of 1954 (as added by section 314 of the bill), strike out "paragraph (3)(A)(ii)" each place it appears and insert in lieu thereof "paragraph (3)(B)".

(21) In Section 604(a)(1) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(22) In the first sentence of section 604(a)(2) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(23) In the first sentence of section 604(b) of the bill, strike out "this Act" and insert in lieu thereof "this subtitle".

(24) In Section 605 of the bill, strike out "this title" and insert in lieu thereof "this subtitle".

(25) In Section 611(a) of the bill, strike out "section 85" and insert in lieu thereof "section 85 of the Internal Revenue Code of 1954".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SCHEUER. Mr. Speaker, I failed to vote on the last bill, the conference report on the tax bill. I was here, and I had my card in my hand. I was talking with my colleagues. I omitted to vote. Of course, I would have voted "aye."

CONFERENCE REPORT ON H.R. 6068, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BOLAND submitted the following conference report and statement on the bill (H.R. 6068) to authorize appropriations for the fiscal year 1983 for intelligence and intelligence-related activities of the U.S. Government, for the intelligence community staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the U.S. Government, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 97-779)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, having met, after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That titles I, II, III, IV, V, and VII may be cited as the "Intelligence Authorization Act for Fiscal Year 1983."

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1983, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 6068 of the Ninety-seventh Congress. That Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

CONGRESSIONAL NOTIFICATION OF EXPENDITURES IN EXCESS OF PROGRAM AUTHORIZATIONS

SEC. 103. During fiscal year 1983, funds may not be made available for any activity for which funds are authorized to be appropriated by this Act unless such funds have been specifically authorized for such activity or, in the case of funds appropriated for a different activity, unless the Director of Central Intelligence or the Secretary of Defense has notified the appropriate committees of Congress of the intent to make such funds available for such activity.

AUTHORIZATION OF APPROPRIATIONS FOR COUNTERTERRORISM ACTIVITIES OF THE FEDERAL BUREAU OF INVESTIGATION

SEC. 104. In addition to the amounts authorized to be appropriated under section 101(9), there is authorized to be appropriated for fiscal year 1983 the sum of $12,125,000 for the conduct of the activities of the Federal Bureau of Investigation to counter terrorism in the United States.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1983 the sum of $15,400,000.

AUTHORIZATION OF PERSONNEL END-STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and ten full-time personnel as of September 30, 1983. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1983, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1983, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detained on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1983, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a-403n) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1983 the sum of $91,300,000.

TITLE IV—SUPPLEMENTAL AUTHORIZATION FOR FISCAL YEAR 1982

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. In addition to the funds authorized to be appropriated under title I of the Intelligence Authorization Act for Fiscal Year 1982 (Public Law 97-89; 95 Stat. 1150), funds are hereby authorized to be appropriated for fiscal year 1982 for the conduct of the intelligence and intelligence-related activities of the United States Government. The amounts authorized to be appropriated under the preceding sentence are those specified for that purpose in the classified Schedule of Authorizations described in section 102.

CEILING ON THE EMPLOYMENT OF CIVILIAN PERSONNEL BY THE CENTRAL INTELLIGENCE AGENCY

SEC. 402. Section 102 of the Intelligence Authorization Act for Fiscal Year 1982 (95 Stat. 1150) is amended—

(1) by striking out in the first sentence "The" and inserting in lieu thereof "(a) Except as provided in subsection (b), the"; and

(2) by adding at the end thereof the following:

"(b) The Director of Central Intelligence may authorize the employment of civilian personnel by the Central Intelligence Agency in excess of the number authorized by subsection (a) when he determines that such action is necessary to the performance of important intelligence functions, except that such additional number may not exceed two percent of the total number authorized for the Central Intelligence Agency by such subsection.

"(c) The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of any authorization to increase civilian personnel of the Central Intelligence Agency under subsection (b).".

TITLE V—PROVISIONS RELATED TO INTELLIGENCE AGENCIES

UNAUTHORIZED USE OF DEFENSE INTELLIGENCE AGENCY NAME, INITIALS, OR SEAL

SEC. 501. (a) Title 10, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—DEFENSE AGENCIES

"Sec.
"191. Unauthorized use of Defense Intelligence Agency name, initials, or seal.

"§ 191. Unauthorized use of Defense Intelligence Agency name, initials, or seal

"(a) No person may, except with the written permission of the Secretary of Defense, knowingly use the words 'Defense Intelligence Agency', the initials 'DIA', the seal of the Defense Intelligence Agency, or any colorable imitation of such words, initials, or seal in connection with any merchandise, impersonation, solicitation, or commercial activity in a manner reasonably calculated to convey the impression that such use is approved, endorsed, or authorized by the Secretary of Defense.

"(b) Whenever it appears to the Attorney General that any person is engaged or is about to engage in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice. Such court shall proceed as soon as practicable to the hearing and determination of such action and may, at any time before final determination, enter such restraining orders or prohibitions, or take such other action as is warranted, to prevent injury to the United States or to any person or class of persons for whose protection the action is brought.".

(b) The tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 7 the following new item:

"8. Defense Agencies..... 191".

AUTOMATIC DATA PROCESSING EQUIPMENT OR SERVICES

SEC. 502. (a) Section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding subsection (e) of section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(e)), the provisions of section 111 of such Act relating to the procurement of automatic data processing equipment or services shall not apply with respect to such procurement by the Central Intelligence Agency.".

(b) Subsection (e) of section 3 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403c(e)), as added by subsection (a) of this section, does not apply to a contract made before the date of enactment of this Act.

TITLE VI—RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES OF CENTRAL INTELLIGENCE AGENCY EMPLOYEES

SHORT TITLE

SEC. 601. This title may be cited as the "Central Intelligence Agency Spouses' Retirement Equity Act of 1982".

ANNUITANTS

SEC. 602. Section 204 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(1) by inserting "former spouses," after "including surviving wives and husbands,"; and

(2) by adding at the end thereof the following:

"(4) 'Former spouse' means a former wife or husband of a participant or former participant who was married to such participant for not less than 10 years during periods of service by that participant which are creditable under sections 251, 252, and 253 of this Act, at least five years of which were spent outside the United States by both the participant and the former spouse.".

COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES

SEC. 603. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by inserting immediately above the section the following section heading: "COMPUTATION OF ANNUITIES FOR OTHER THAN FORMER SPOUSES"; and

(2) by amending subsection (b) to read as follows:

"(b)(1)(A) Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 60), the participant shall receive a reduced annuity and provide a survivor annuity for his or her spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualifies as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

"(C) If a participant or former participant has a former spouse, the participant (or former participant) and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse, if the election is made (i) before the end of the 12-month period beginning on the date the divorce or annulment involving that former spouse becomes final or (ii) at the time of retirement of the participant.

"(D) The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

"(2) The annuity of a participant or former participant providing a survivor benefit under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(4).

"(3)(A) If a former participant entitled to receive a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse equal to 55 percent of the full amount of the participant's annuity computed under subsection (a), or 55 percent of any lesser amount elected as the base for the survivor benefit under paragraph (1)(B).

"(B) Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor benefits which remains available under section 222(b)(4)(B).

"(C) An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.".

RIGHT OF ELECTION

SEC. 604. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 603 of this title, is further amended in subsection (g)—

(1) by inserting "(1)" after "(g)";

(2) by redesignating paragraphs (1) and (2) as clauses (A) and (B), respectively; and

(3) by adding at the end thereof the following:

"(2) A surviving former spouse of any participant or former participant shall not become entitled to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the survivor elects to receive it instead of any other survivor annuity to which he or she may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than that participant.".

SUPPLEMENTAL ANNUITIES; RECOMPUTATION OF ANNUITIES

SEC. 605. Section 221 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by sections 603 and 604 of this title, is further amended by adding at the end thereof the following:

"(m)(1) Any married annuitant who reverts to retired status with entitlement to a supplemental annuity under subsection 271(b) shall, unless the annuitant and his or her spouse jointly elect in writing to the contrary at that time, have the supplemental annuity reduced by 10 percent to provide a

supplemental survivor annuity for his or her spouse. Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant and shall be payable to a surviving spouse to whom the annuitant was married at the time of reversion to retired status or whom the annuitant subsequently married.

"(2) The Director shall issue regulations to provide for the application of paragraph (1) of this subsection and of subsection 271(b) in any case in which an annuitant has a former spouse who was married to the participant at any time during a period of recall service and who qualifies for an annuity under section 222(b).

"(n) An annuity which is reduced under this section or any similar prior provision of law to provide a survivor benefit for a spouse shall, if the marriage of the participant to such spouse is dissolved, be recomputed and paid for each full month during which an annuitant is not married (or is remarried if there is no election in effect under the following sentence) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor benefit under section 222(b) or (c). Upon remarriage the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive during such marriage a reduction in annuity for the purpose of allowing an annuity for the new spouse of the annuitant in the event such spouse survives the annuitant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5)), and shall be effective the first day of the first month beginning one year after the date of remarriage. A survivor annuity elected under this subsection shall be treated in all respects as a survivor annuity under subsection (b).

"(o) The Director shall, on an annual basis—

"(1) inform each participant of his or her right of election under subsections (f)(2) and (n); and

"(2) to the maximum extent practicable, inform spouses or former spouses of participants or former participants of their rights under this section and section 222, 223, and 234(c), (d) and (e).".

COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

SEC. 606. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end thereof the following:

"COMPUTATION OF ANNUITIES FOR FORMER SPOUSES

"SEC. 222. (a)(1) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), a former spouse of a participant or former participant is entitled to any annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such annuity which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes final, whichever is later. The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the former spouse dies or remarries before 60 years of age; or

"(B) the date the annuity of the participant terminates (except in the case of an annuity subject to paragraph 4(B)).

"(4)(A) The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating the survivor annuity for any spouse, former spouse, or other survivor under this title, and in calculating any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or section 221(b).

"(B) If any annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the salary of the annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

"(5) Notwithstanding paragraph (3), in the case of any former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date the participant would qualify on the basis of his or her creditable service for an annuity under this title (other than a disability annuity) or the date the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(6) An annuity under this subsection shall be treated the same as a survivor annuity under subsection (b) for purposes of section 221(g)(2) or any comparable provision of law.

"(7) No spousal agreement or court order under section 263(b) involving any participant may provide for an annuity or any combination of annuities under this subsection which exceeds the annuity of the participant. No such court order relating to an annuity under this subsection may be given effect if it is issued more than 12 months after the date the divorce or annulment involved becomes final.

"(b)(1) Subject to any election under section 221(b)(1)(C) and unless otherwise expressly provided by any spousal agreement or court order under section 263(b), if a former participant who is entitled to receive an annuity is survived by a former spouse, the former spouse shall be entitled to a survivor annuity—

"(A) if married to the participant throughout the creditable service of the participant, equal to 55 percent of the full amount of the participant's annuity, as computed under section 221(a), or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 55 percent of the full amount of such annuity which is the proportion that the number of days of the marriage of the former spouse to the former participant during periods of creditable service of such former participant under this Act bears to the total number of days of such creditable service.

"(2) A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 60 years of age.

"(3) An annuity payable from the fund to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(4)(A) The maximum survivor annuity or combination of survivor annuities under this section (and section 221(b)(3)) with respect to any participant or former participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

"(B) Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221 (b)(3)) with respect to a participant or former participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) After the death of a participant or former participant, a court order under section 263(b) may not adjust the amount of the annuity of any former spouse under this section.

"(5)(A) For each full month after a former spouse of a participant or former participant dies or remarries before attaining age 60, the annuity of the participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(c)(1) In the case of any participant or former participant providing a survivor annuity benefit under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 263(b) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant or former

participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, shall exceed 55 percent of the full amount of the participant's annuity, as computed under section 221(a).

"(3)(A) In accordance with regulations which the Director shall perscribe, the participant involved may provide for any annuity under this subsection—

"(i) by a reduction in the annuity or an allotment from the salary of the participant,

"(ii) by a lump-sum payment or installment payments to the fund, or

"(iii) by any combination thereof.

"(B) The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

"(C) If a former spouse predeceases the participant or remarries before attaining age 60 (or, in the case of a spouse, the spouse does not qualify as a former spouse upon dissolution of the marriage)—

"(i) if an annuity reduction or salary allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the salary allotment terminated, as the case may be, and

"(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

"(D) Under regulations prescribed by the Director, an annuity shall be recomputed (or salary allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 60 and an increased annuity is provided for that spouse in accordance with this section.

"(4) an annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 60.

"(5) Section 291 shall not apply to any annuity under this subsection, unless authorized under regulations by the Director.

"(d) Section 221(1) shall not apply—

"(1) to any annuity payable under subsection (a) or (b) to any former spouse if the amount of that annuity varies by reason of a spousal agreement or court order under section 263(b), or an election under section 221(b)(1)(B), from the amount which would be calculated under subsection (a)(1) or (b)(1), as the case may be, in the absence of such spousal agreement, court order, or election; or

"(2) to any annuity payable under subbsection (c).".

SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

SEC. 607. Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended by section 606 of this title, is further amended by adding at the end thereof the following:

"ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES

"SEC. 223. (a) Any participant or former participant in the Central Intelligence Agency Retirement and Disability System who on November 15, 1982 has a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

"(b)(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982 as the Director may prescribe.

"(3) For the purposes of applying this Act, any such election shall be treated in the same manner as if it were a spousal agreement under section 263(b).".

"(c) An election under this section may provide for a survivor benefit based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for survivor benefits for a spouse or any other former spouse of the participant. The participant and his or her spouse may make an election under section 221(b)(1)(B) prior to the time of retirement for the purpose of allowing an election to be made under this section.

"(d) The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2). Such reduction shall be effective as of—

(1) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1), or

(2) November 15, 1982 in the case of an election under subsection (b)(2).".

DISCONTINUED SERVICE BENEFITS

SEC. 608. Section 234 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by striking out in subsection (a) "Any" and inserting in lieu thereof the following: "Subject to the limitations contained in subsections (c), (d), and (e), any"; and

(2) by adding at the end thereof the following:

"(c) Whenever a participant becomes separated from the Agency without becoming eligible for an annuity or a deferred annuity under this Act and becomes entitled to receive a lump-sum payment under this section or section 241, a share of that lump-sum payment shall be paid to any former spouse of the participant in accordance with subsections (d) and (e).

"(d) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit under this section or under section 241 payable to a former spouse of that participant shall be—

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of such lump-sum credit to which such participant would be entitled in the absence of this subsection; or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this Act bears to the total number of days of such creditable service.

Such lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse.

"(e) A lump-sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant—

"(1) only upon written notification by the Director to a current spouse of the participant, if any; and

"(2) only if the express written concurrence of that spouse has been received by the Director.".

SPOUSAL AGREEMENTS; COURT DECREES

SEC. 609. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out "None" in section 263 and inserting in lieu thereof "(a) Except as provided in subsection (b) of this section, none"; and

(2) by adding at the end thereof the following:

"(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement agreement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.".

TECHNICAL AMENDMENTS

SEC. 610. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended—

(1) by striking out in the first sentence of section 221(f) "Any" and inserting in lieu thereof the following: "Subject to the rights of former spouses under sections 221(b) and 222, any"; and

(2) by adding to subsection 221(1) the following paragraph:

"(4) This subsection shall not apply to the extent provided in section 222(d).".

COMPULSORY CONTRIBUTIONS

SEC. 611. Section 211 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is further amended by adding at the end thereof the following new subsection:

"(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed thirty-five years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b), and any balance not so required shall be refunded in a lump sum to the participant after separa-

tion (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a current spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivor benefits for a current or former spouse or spouses.".

PARTICIPANTS IN THE CIVIL SERVICE RETIREMENT SYSTEM

SEC. 612. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a-m) is amended by adding at the end thereof the following new section:

"RETIREMENT EQUITY FOR SPOUSES OF CERTAIN EMPLOYEES

"SEC. 14. (a) The provisions of sections 204, 221(b)(1)-(3), 211(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) establishing certain requirements, limitations, rights, entitlements, and benefits relating to retirement annuities, survivor benefits, and lump-sum payments for a spouse or former spouse of an Agency employee who is a participant in the Central Intelligence Agency Retirement and Disability System shall apply in the same manner and to the same extent in the case of an Agency employee who is a participant in the Civil Service Retirement and Disability System.

"(b) The Director of the Office of Personnel Management, in consultation with the Director of Central Intelligence, shall prescribe such regulations as may be necessary to implement the provisions of this section.".

EFFECTIVE DATE

SEC. 613. (a) Except as provided in subsections (b) and (c) of this section, this title shall take effect on November 15, 1982.

(b) The provisions of section 222(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as added by this title, regarding the rights of former spouses to an annuity shall apply in the case of any individual who after the effective date of this title becomes a former spouse of an individual who separates from service with the Agency after such date.

(c) Except to the extent provided in section 223 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, the provisions of section 221(b) (as amended by this title) and the provisions of subsections (b) and (c) of section 222 of such Act, as added by this title, regarding the rights of former spouses to receive survivor annuities shall apply in the case of any individual who after the effective date of this title becomes a former spouse of a participant or former participant in the Central Intelligence Agency Retirement and Disability System.

TITLE VII—GENERAL PROVISIONS

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 701. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 702. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EFFECTIVE DATE

SEC. 703. The provisions of titles IV and V and of this title shall become effective upon the date of the enactment of this Act.

And the Senate agree to the same.

EDWARD P. BOLAND,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
BOB STUMP,
CHARLIE ROSE,
ALBERT GORE, Jr.,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For matters falling within the jurisdiction of the Committee on Armed Services:
MELVIN PRICE,
SAMUEL S. STRATTON,
W. L. DICKINSON,
Managers on the Part of the House.

BARRY GOLDWATER,
MALCOLM WALLOP,
JAKE GARN,
W. V. ROTH, Jr.,
HARRISON J. SCHMITT,
DANIEL PATRICK MOYNIHAN,
D. K. INOUYE,
HENRY M. JACKSON,
PAT J. LEAHY,
LLOYD BENSTEN,
For matters of interest to the Committee on Armed Services:
J. W. WARNER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6068) to authorize appropriations for fiscal year 1983 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, to authorize supplemental appropriations for fiscal year 1982 for the intelligence and intelligence-related activities of the United States Government, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Comittee of Conference.

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill, and the classified report and appendix that accompanied the Senate amendment) are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions between the two Houses and consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the Department of Defense Authorization Act, 1983, for those programs subject to annual authorization and contained in the Department of Defense Authorization bill. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation categories of Military Pay and Military Construction.

TITLE II—INTELLIGENCE COMMUNITY STAFF

The House bill authorized $17 million and 220 personnel for the Intelligence Community Staff in fiscal year 1983. The Senate amendment authorized $15.2 and 210 personnel for the Staff. The conferees agreed to a total authorization of $15.4 million and 210 personnel.

INTELLIGENCE COMMUNITY STAFF (ICS)—CONFERENCE ACTIONS—FISCAL YEAR 1983

[Dollars in millions]

Project	Fiscal year 1983 request	Changes: House action	Changes: Senate action	Changes: Conference action	Authorization
ICS computer	1.3	−1.3	−1.2	−1.3	
Personnel increase—funding	.4		−0.4	−0.4	
(Manpower)	(10)		(−10)	(−10)	
External contracts	4.5		−1.5	−1.2	3.3
Funding not at issue	12.1				12.1
(Manpower not at issue)	(210)				(210—
Total ICS funding	18.3	−1.3	−3.1	−2.9	15.4
Total ICS manpower	(220)		(−10)	(−10)	(210)

ICS Computer (millions): −$1.3

The conferees were in agreement that the IC Staff may receive computer support from any agency of the Community provided such support is in keeping with other authorization decisions.

IC staff personnel (millions): −$0.4.

The conferees agreed to the Senate reduction.

External contracts (millions): −$1.2.

The Senate reduced CIA external contracts by $1.5 million. The conferees agreed to a restoration of $0.3 million. The restored funds are to be earmarked as indicated in the classified annex to the joint explanatory statement.

SECTION 401

The actions of the conferees on all matters at difference between the two Houses (stated in the classified annex accompanying the House bill and classified report and appendix accompanying the Senate amendment) are shown in the classified annex to this joint explanatory statement.

SECTION 402

The Senate amendment contained a provision, section 402, which empowered the Director of Central Intelligence to authorize the employment of additional civilian personnel at the Central Intelligence Agency above the limit set by the Intelligence Authorization Act for Fiscal Year 1982, upon his determination that such action was necessary to the performance of important intelligence functions. Section 402 permitted this additional authorization to exceed the statutory limit by two percent of the fiscal year 1982 personnel ceiling and required that the authorization be reported promptly to the House and Senate Intelligence Committees. The House bill contained no similar provision.

The conferees agreed to the Senate provision. The conferees believed that, based on the presentation by CIA officials, an opportunity existed to hire new employees at CIA in several critically important fields. These were applicants whose qualifications would provide job opportunities in other areas of government or private industry. The conferees had agreed to increase the CIA personnel ceiling in fiscal year 1983 and felt that advancing the time within which certain new employees could be hired made good sense.

It is the understanding of the conferees that the authority granted by section 401 will be used to hire only those new employees who fall within areas of identified need. Section 401 represents the unique congruence of both opportunity and need within the last few months of the fiscal year. Ordinarily, such authority is not needed.

SECTION 502

The Senate amendment contained a provision, section 502, which would exempt the Central Intelligence Agency from the provisions of Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), the "Brooks Act." The House bill contained no similar provision. The conferees agreed to the Senate provision.

Section 111 authorizes and directs the Administrator of General Services to coordinate and provide for economic and efficient purchase, lease, and maintenance of automatic data processing (ADP) equipment by federal agencies. Section 111 grants the Administrator authority to provide ADP equipment for federal agency use through purchase, lease, transfer from other federal agencies, or otherwise, and to provide for ADP equipment maintenance and repair by contract or otherwise. The Administrator may delegate his ADP equipment procurement authority to federal agencies for reasons of efficiency or national security.

In addition to granting ADP equipment procurement authority to the Administrator of General Services, section 111 grants to the Secretary of Commerce authority to provide scientific and technological ADP advisory services to other agencies and to recommend uniform federal ADP standards to the President. The President has delegated his authority to establish uniform federal ADP standards to the Secretary of Commerce.

The Federal Property and Administrative Services Act generally does not affect the Central Intelligence Agency since section 602(d)(17) of the Act provides in pertinent part:

"Nothing in this Act shall impair or affect any authority of— . . . (17) the Central Intelligence Agency; . . ."

However, section 111(e) of the Act provides in pertinent part:

"The . . . provisions of section 602(d) of this Act shall have no application in the administration of this section. No other provision of this Act or any other Act which is inconsistent with the provisions of this section shall be applicable in the administration of this section."

Thus, unlike the rest of the Federal Property and Administrative Services Act, section 111 (the "Brooks Act") applies to the Central Intelligence Agency.

Since 1973, the Central Intelligence Agency has operated under a delegation of ADP equipment procurement authority from the Administrator of General Services. In the exercise of this delegated authority the Agency observes the Federal Procurement Regulations and the Federal Property Management Regulations. The General Services Administration periodically reviews CIA ADP equipment procurement under its delegated authority.

In its exercise of ADP equipment procurement authority the Agency must also observe the Federal Information Processing Standards, the uniform federal standards established by the Secretary of Commerce.

The Central Intelligence Agency, like the Department of Defense, uses automatic data processing equipment and services extensively in the conduct of intelligence activities. To conduct such activities effectively requires reliability, reasonable flexibility and speed, and the highest security in the acquisition of supporting automatic data processing equipment and services. Externally imposed ADP-related constraints diminish the effectiveness of this process. To resolve this conflict with respect to Department of Defense intelligence activities, the Congress included in the Fiscal Year 1982 DOD Authorization Act a new provision which excludes *all* Department of Defense ADP equipment and services procurement whose function, operation, or use involves intelligence activities from the scope of the Brooks Act (10 U.S.C. 2315(a)(1)).

The Congress also excluded from the scope of the Brooks Act DOD procurement of ADP equipment and services whose function, operation, or use, while not involving intelligence activities, is critical to the direct fulfillment of intelligence missions, except for routine administrative and business applications (10 U.S.C. 2315(a)(5) and (b)). This separate category of ADP procurement exclusion, in addition to the category involving intelligence activities, is unnecessary with respect to CIA. Unlike the Department of Defense, which has a great variety of national security-related responsibilities, the Central Intelligence Agency engages exclusively in intelligence activities, and the function, operation, and use of all CIA ADP equipment and services involves intelligence activities (Executive Order 12333, sections 1.8 and 3.4(e) (4 December 1981)). Thus, excluding CIA ADP equipment and services procurement from the scope of the Brooks Act is equivalent to the exclusion for DOD intelligence activities contained in 10 U.S.C. 2315(a)(1).

Such an exclusion is warranted. Since 1973, the Administrator of General Services has provided a delegation of authority for procurements under the Brooks Act. Likewise, when the Agency has sought a waiver of the Federal Information Processing Standards from the Secretary of Commerce, it has been granted. It appears clear that, over a considerable period of time, the Agency has always been able to make its case for exception from the statute's provision in the interests of the national security. Exempting the CIA entirely will not change the nature of CIA ADP procurements, but it is likely to result in more timely procurements and better security at no loss to the government as a whole, since the Agency's ADP procurements have always been creafted to meet the CIA's unique requirements and have not resulted in shared use by other agencies.

TITLE VI: RETIREMENT EQUITY FOR SPOUSES OF CERTAIN CIA EMPLOYEES

Both the House bill and the Senate amendment contained provisions designed to provide retirement equity for spouses of certain CIA employees. The conferees agreed to a modified version of the Senate provision.

The provisions of Title VI are substantially equivalent to those of section 814 and related sections of the Foreign Service Act of 1980, Pub. L. No. 96-464. These sections established a vested interest for spouses of Foreign Service officers in the officers' retirement benefits by entitling qualifying former spouses to a pro rata share of the employees' retirement annuities, survivor benefits and lump-sum disbursements paid from the retirement fund. The amount of these payments would be based on the duration of the marriage during the period of creditable government service. These interests are accorded the spouses in recognition of the difficulties of their life abroad in support of the professional activities of the officers and their contribution to fulfillment of the mission of the CIA. Providing these benefits automatically and directly from the fund in case of divorce will provide substantive and procedural protections for these persons. However, in individual cases in which the division of benefits specified by Title VI would be inappropriate, state courts (or the parties themselves through spousal agreement) will remain entirely free to review the division and reach an alternative disposition.

METHODOLOGY

The intent of both the House bill and the Senate amendment was to extend to the CIA the provisions of the Foreign Service Act of 1980 that dealt with the rights of former spouses. The House bill would have established the rights of the spouses in general terms and directed the Director of Central Intelligence and the Director of the Office of Personnel Management (for Civil Service Retirement and Disability System—CSRDS—participants) to implement them through regulations conforming to the relevant terms of the Foreign Service Act.

The Senate amendment would have adopted detailed statutory amendments, based on the provisions of the Foreign Service Act, to the CIA Retirement and Disability System (CIARDS) to guide the Director of Central Intelligence (and the Director of OPM, for the CSRDS participants) in pre-

scribing regulations to implement the interests of the spouses.

In adopting the Senate approach, the conferees believe that no undue inflexibility is created by statutory amendments, which spell out in great detail the precise legal interests of the participants and their spouses. The Director of Central Intelligence and the Director of OPM are completely free to prescribe, within the legal framework that has been created, the procedures required to implement these interests.

The detailed provisions contained in the Senate amendment and adopted by the conferees have been drawn directly from the relevant provisions of the Foreign Service Act, with minimal conforming amendments to the Act which established CIARDS. Since the virtually identical provisions in the Foreign Service Act were enacted, the State Department has had nearly two years of experience in implementation and has developed an extensive body of regulations.

RETIREES IN THE CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM (CSRDS)

Both the House bill and the Senate amendment covered CIA employees who are retirees from CIARDS or the CSRDS, providing that the marriage upon which former spouse benefits is based was for at least ten years during the period of creditable government service of the participant, at least five years of which were spent outside the United States by both the participant and the former spouse.[1]

The House bill required further, however, that CSRDS payments would be affected only "in the case of an employee of the Agency on an immediate annuity under such system or who . . . dies while employed by the Agency."

The Senate amendment contained no similar restriction.

One effect of the requirements of the House bill would have been that the vested interests of the spouse, accrued during the period of marriage in Agency service, could have been defeated by a transfer of the participant to another federal agency prior to retirement. The conferees agreed that the need to close this loophole outweighed any possible administrative inconvenience that OPM might suffer in processing those few cases in which a long-time CIA officer, with at least five years overseas service, transfers late in his career to another civilian federal agency.

Under section 612, it is the Director of the Office of Personnel Management who has primary rulemaking authority for the CSRDS participants affected by these provisions, in consultation with the Director of Central Intelligence. The conferees feel that the Directors of OPM and Central Intelligence can minimize any recordkeeping difficulties by OPM in providing this special benefit. For example, CIA could provide in its rules that ex-employees of the Agency inform it of their retirement; OPM could require that the CIA inform it of the retirement of these individuals. CIA could also inform OPM of the few facts needed to compute the former spouse benefits in eligible cases: Whether the participant and spouse qualify for this treatment based on the duration of the marriage and extent of overseas service, and if so, how many days the marriage perdured during Agency service. Provided with this information, OPM would not have to earmark participant files for application of this procedure upon retirement. It should be noted that OPM already, under Pub. L. No. 96-366, must provide retirement benefits directly from the fund to former spouses if ordered by a court to do so. (Similarly, the Director of Central Intelligence is required to make payments from CIARDS directly to a former spouse if ordered to do so by a divorce court, under Ex. Ord. No. 12197, section 1-101(e), which conformed the Administration of CIARDS with the CSRDS in this regard.)

LUMP-SUM PAYMENTS

The House bill incorporated by reference provisions of the Foreign Service Act which entitled former spouses to a share of any lump-sum payment made to a participant from the retirement fund.

The Senate amendment contained detailed provisions which afforded the same entitlements as the House bill and also required the Director to notify a current or certain former spouses and obtain written consent to such a withdrawal of employee contributions to the retirement fund.

The conferees have accepted the Senate provision, modified to eliminate the requirement of consent by certain former spouses. These former spouses would already have a statutory entitlement to a pro rata-share of such payments. The purpose of the notice and consent provision is to ensure that the entitlement is not defeated by a lump-sum withdrawal by a still married employee.

TIME LIMITATIONS

The House bill incorporated by reference the substance of sections 806(b)(1)(C) and 814(a)(4) of the Foreign Service Act of 1980.

The Senate amendment struck the 12-month time limitations found in each of these provisions.

The conferees agreed to the House position, reinserting the 12-month time limitation in the detailed CIARDS amendments drawn from the analogous Foreign Service Act provisions. The inclusion of these time limits ensures that judicial divorce orders based in part on a division of benefits affected by this Act can become final.

In readopting the time limitations in CIARDS section 221(b)(1)(C), however, the final phrase of section 806(b)(1)(C) of the Foreign Service Act, "whichever comes first," has been left deleted. This is because this phrase would unnecessarily restrict marital partners from making alternative dispositions of survivor benefits after retirement but prior to a divorce.

ELECTION OF SURVIVOR BENEFITS FOR CERTAIN INELIGIBLE FORMER SPOUSES

The House bill incorporated by reference the terms of section 2109 of the Foreign Service Act enabling participants voluntarily to provide survivor benefits out of their uncommitted base for such benefits to persons who are former spouses at the time of this Title's enactment and thus are not eligible for its benefits.

The Senate amendment adopted detailed provisions from section 2109 but several subsections inadvertently were omitted.

The conferees have adopted the Senate language, modified to take the effective date provision into account, with the missing subsections reincorporated.

EFFECTIVE DATE

The House bill established an effective date of 30 days after enactment for Title VI.

The Senate amendment established an effective date of 90 days after enactment for Title VI.

The conferees agreed that Title VI should become effective on November 15, 1982.

EDWARD P. BOLAND,
CLEMENT J. ZABLOCKI,
NORMAN Y. MINETA,
BOB STUMP,
CHARLIE ROSE,
ALBERT GORE, Jr.,
J. K. ROBINSON,
G. WILLIAM WHITEHURST,
For matters falling within the jurisdiction of the Committee on Armed Services:
MELVIN PRICE,
SAMUEL S. STRATTON,
W. L. DICKINSON,
Managers on the Part of the House.

BARRY GOLDWATER,
MALCOLM WALLOP,
JAKE GARN,
W. V. ROTH, Jr.,
HARRISON J. SCHMITT,
DANIEL PATRICK MOYNIHAN,
D. K. INOUYE,
HENRY M. JACKSON,
PAT LEAHY,
LLOYD BENTSEN,
For matters of interest to the Committee on Armed Services:
J. W. WARNER,
Managers on the Part of the Senate.

[1] The House bill did not contain a separate provision to cover CSRDS retirees. Rather, the phrase "agency retirement system" in the House bill was defined to include the CSRDS for participating CIA employees.

The Senate amendment contained a separate section 612 which established the general criteria for coverage of CSRDS retirees and ordered the Director of OPM to prescribe implementing regulations, in conformance with the relevant provisions of CIARDS.

The conferees, in adopting the detailed approach of the Senate amendment, modified section 612 to make clear by more detailed references to the relevant CIARDS provisions that those CIA employees and their spouses who come within the purview of Title VI are to be treated equally, whether the employee spouse is a member of CIARDS or CSRDS.

□ 1810

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was give permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I asked to proceed for 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of the day, and conceivably tomorrow.

Mr. WRIGHT. Will the distinguished minority leader yield?

Mr. MICHEL. Yes.

Mr. WRIGHT. Mr. Speaker, I will send to the desk a privileged resolution concerning the committee appointment for our newest Member, Mr. MARTINEZ. Then, I will send to the desk a concurrent resolution for approval by the House and the Senate, that when we adjourn, we stand adjourned until 12 o'clock on Wednesday, September 8.

I understand there is one conference committee report that should take

maybe 5 minutes, the Communication Act.

We will have some unanimous consent requests, and then while awaiting the Senate's return of our concurrent adjournment resolution, we will take up the appropriations bill on military construction and proceed as far as we can with that. If it were possible to do it in a short period of time, perhaps we could finish that tonight, but when we adjourn tonight, whether or not that bill is completed, we would adjourn until Wednesday, September 8, and any further program will be announced later.

Mr. MICHEL. Do I gather then, for emphasis, that there will definitely be no session tomorrow?

Mr. WRIGHT. The gentleman is exactly correct. There is no session planned for tomorrow.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield.

Mr. CONTE. We may have a problem, though, which I mentioned on the floor yesterday, with the supplemental. If the President should decide to veto the supplemental, will we have to come back here?

Mr. WRIGHT. If the gentleman will yield further for a response, if the President were to veto the supplemental it contradicts my understanding of the situation.

Mr. CONTE. Beautiful. I thank the gentleman.

Mr. MICHEL. I thank the gentleman.

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM THURSDAY, AUGUST 19, 1982, TO WEDNESDAY, SEPTEMBER 8, 1982

Mr. WRIGHT. Mr. Speaker, I send to the desk a privileged concurrent resolution (H. Con. Res. 399) providing that when the House adjourns on Thursday, August 19, 1982, it stand adjourned until 12 o'clock meridian Wednesday, September 8, 1982, and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 399

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, August 19, 1982, and that when the Senate adjourns on Thursday, August 19, 1982, or on Friday, August 20, 1982, or on Saturday, August 21, 1982, pursuant to a motion made by the majority leader in accordance with this resolution, they stand adjourned until 12 o'clock meridian on Wednesday, September 8, 1982.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ELECTION OF MEMBER TO CERTAIN STANDING COMMITTEES

Mr. WRIGHT. Mr. Speaker, I call up a privileged resolution (H. Res. 572) designating membership on certain Committees of the House, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 572

Resolved, That the following-named Member be, and is hereby, elected to the following standing Committees of the House of Representatives:

Veterans' Affairs: Matthew G. Martinez, California.

Education and Labor: Matthew G. Martinez, California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 8, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 8, 1982.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO ACCEPT RESIGNATIONS AND TO APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that, notwithstanding any adjournment of the House until Wednesday, September 8, 1982, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

VETERAN'S ADMINISTRATION HEALTH-CARE PROGRAMS IMPROVEMENT AND EXTENSION ACT OF 1982

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6350) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Administration Health-Care Programs Improvement and Extension Act of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

SEC. 2. (a) Paragraph (10) of section 4107(e) is amended to read as follows:

"(10)(A) Notwithstanding any other provision of law but subject to subparagraphs (B) and (C) of this paragraph, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses, the Administrator—

"(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

"(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.

"(B) An increase under subparagraph (A)(i) of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic area as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

"(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

"(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for

in paragraph (3) of this subsection of the applicable hourly rate of basic pay.".

(b) Section 4107(f) is amended by striking out "paragraphs (2) through (8) of".

(c) Section 4107 is amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding any other provision of law but subject to paragraph (2) of this subsection, if the Administrator determines it to be necessary in order to obtain or retain the services of nurses at any Veterans' Administration health-care facility, the Administrator may provide, in the case of nurses appointed under this subchapter and employed at such facility, that such nurses who work two regularly scheduled 12-hour tours of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) of this subsection to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C) of this paragraph.

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 12-hour tour of duty within the period commencing at midnight Friday and ending at midnight the following Sunday shall be derived by dividing the nurse's annual rate of basic pay by one thousand two hundred and forty-eight.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled two 12-hour tours of duty is entitled to overtime pay under subsection (e)(5) of this section, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a Saturday or Sunday or in excess of 24 hours within the period commencing at midnight Friday and ending at midnight the following Sunday.

"(ii)(I) Except as provided in subdivision (II) of this division, a nurse to whom this paragraph is applicable is not entitled to additional pay under subsection (e) of this section, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(II) If the Administrator determines it to be further necessary in order to obtain or retain the services of nurses at a particular facility, a nurse to whom this paragraph is applicable who performs service in excess of such nurse's regularly scheduled two 12-hour tours of duty may be paid overtime pay under subsection (e)(5) of this section, or other applicable law, for all or part of the hours of officially ordered or approved service performed by such nurse in excess of 40 hours during an administrative workweek.

"(3) A nurse described in paragraph (2)(A) of this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of five hours of leave for three hours of absence.

"(4) The Administrator shall prescribe regulations for the implementation of this subsection.".

(d)(1) Not later than 120 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period of not to exceed sixty days, proposed regulations for the implementation of subsection (e)(10) of section 4107 of title 38, United States Code (as amended by subsection (a) of this section), subsection (g) of such section, and subsection (h) of such section (as added by subsection (c) of this section).

(2) Not later than 300 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register final regulations for the implementation of such subsections.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

SEC. 3. (a) Section 4142 is amended—

(1) in subsection (a)—

(A) by striking out "full-time" in clause (1); and

(B) by adding below clause (4) the following new sentences:

"To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a 'part-time student'.)";

(2) in subsection (e)(1)(A)(i), by inserting "(or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as the result of such extension)" after "years";

(3) in subsection (e)(1)(B)—

(A) by inserting "(to be reduced, in the case of a participant who is a part-time student, in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant)" in division (iv)(I) after "Scholarship Program";

(B) by striking out "years; and" in division (iv)(II) and inserting in lieu thereof "years (or in the case of a participant who is a part-time student, one calendar year);";

(C) by inserting "and" at the end of division (v); and

(D) by adding at the end the following new division:

"(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility;";

(3) in subsection (f)—

(A) by inserting a comma and "except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section" before the period at the end of paragraph (1)(B); and

(B) by inserting "maximum" after "The" in paragraph (3);

(4) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively;

(5) by inserting after subsection (f) the following new subsection (g):

"(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

"(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

"(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

"(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

"(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States."; and

(6) in subsection (h) (as redesignated by clause (4))—

(A) by inserting "by virtue of their participation in such program (1)" after "Program shall not";

(B) by striking out "and shall not" and inserting in lieu thereof a comma and "or (2)";

(C) by striking out "employment" and inserting in lieu thereof "personnel"; and

(D) by striking out "while they" and all that follows through "clinical training".

(b)(1) Section 4143(b) is amended—

(A) by inserting "who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student" in paragraph (1) after "Scholarship Program";

(B) by amending paragraph (2) to read as follows:

"(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.";

(C) in paragraph (3)(B) by inserting "the later of (i) the date upon which the participant completes such participant's course of training, or (ii)" after "is"; and

(D) by adding at the end the following new paragraph:

"(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.".

(2) Section 4143(c) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a)

of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this subsection, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.".

"(c) Section 4144(b) is amended—

(1) in clauses (1) and (2), by striking out the semicolon at the end and inserting in lieu thereof a comma;

(2) by striking out the semicolon and "or" at the end of clause (3) and inserting in lieu thereof a comma;

(3) by striking out the semicolon at the end of clause (4) and inserting in lieu thereof a comma and "or"; and

(4) by inserting after clause (4) the following new clause:

"(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.".

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 4. Section 601(4)(C)(v) is amended by striking out "September 30, 1982," and inserting in lieu thereof "September 30, 1983,".

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

SEC. 5. (a) Section 613 is amended by adding at the end the following new subsection:

"(d) Notwithstanding the second sentence of section 1086(c) of title 10 or any other provision of law, any spouse, surviving spouse, or child who, after eligibility for medical care under this section by virtue of becoming entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), has exhausted any such benefits shall become eligible for medical care under this section and shall not thereafter lose such eligibility under this section by virtue of becoming again eligible for such hospital insurance benefits.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

SEC. 6. Section 620A(f) is amended by striking out "March 31, 1983," and "September 30, 1982," and inserting in lieu thereof "March 31, 1984," and "September 30, 1983,", respectively.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

SEC. 7. Section 643 is amended by striking out "of any war".

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

SEC. 8. The first sentence of section 5033(a) is amended to read as follows: "There is hereby authorized to be appropriated $15,000,000 for fiscal year 1980 and such sums as may be necessary for fiscal year 1981 and for each of the five succeeding fiscal years.".

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

SEC. 9. Section 5054(b) is amended by inserting "(including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans)" before the period at the end of the first sentence.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

SEC. 10. Not later than July 1, 1984, the Administrator of Veterans' Affairs shall submit to Congress a report on the results of the use of flexible and compressed work schedules by the Veterans' Administration. Such report shall include (1) an evaluation of the effects of the use of such schedules on the recruitment and retention of Veterans' Administration employees, on such employees' productivity and morale, and on such employees' effectiveness in carrying out the missions of the Veterans' Administration, and (2) such recommendations for administrative or legislative action, or both, as the Administrator considers appropriate in light of the need for and use of flexible and compressed work schedules by the Veterans' Administration.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to enhance recruitment and retention by the Veterans' Administration of nurses and certain other health-care personnel, to improve the Veterans' Administration Health Professional Scholarship Program and certain aspects of other Veterans' Administration health-care programs, and to extend certain expiring Veterans' Administration health-care programs; and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, the House originally passed this bill on June 15, 1982. The Senate took up the measure on June 21, 1982, and struck all of its provisions after the enacting clause and substituted a companion measure, S. 2385, and returned it to the House. Since that time we have been working with the Senate Veterans' Affairs Committee to reach a compromise agreement on the final provisions of this bill.

Mr. Speaker, the compromise agreement would:

First, provide discretionary authority to the Administrator of Veterans' Affairs to pay premium pay to VA nurses for Saturday work.

Our Subcommittee on Hospitals and Health Care has found that a major factor contributing to the nationwide shortage of VA nurses is the inability of the Department of Medicine and Surgery to successfully compete with the private sector for nursing personnel. Difficulty in recruiting and retaining nurses without this needed flexibility to provide incentive plans would only exacerbate this shortage.

The proposed amendments would also provide the Administrator with authority, when he determines it to be necessary in order to retain the services of nurses at VA health care facilities, to consider nurses who work two regularly scheduled 12-hour tours of duty within the period commencing midnight Friday and ending midnight the following Sunday to have worked a full 40-hour basic workweek.

Second, amend subchapter IV of chapter 73 of title 38, United States Code, the "Roberts" scholarship program, to provide for an expansion of the program. Registered nurses currently employed by the Veterans' Administration on a full-time basis who desire to pursue part-time training for a baccalaureate or advanced degree or other health-care personnel, such as licensed practical or vocational nurses, would be able to participate in the scholarship program.

This provision would make current employees eligible for financial assistance from the Veterans' Administration while pursuing training as part-time students. In addition, it would provide the Administrator with the authority to prescribe the conditions under which part-time students would be obligated to serve the Veterans' Administration as full-time registered nurses based on VA support while pursuing such training.

Third, amend section 601(4)(C)(v) to extend for 1 fiscal year, or until September 30, 1983, the Administrator's authority to waive certain restrictions, based on the provision of hospital care and medical services, for treatment of eligible veterans who are residents of the Commonwealth of Puerto Rico and the Virgin Islands.

The loss of the Administrator's authority to waive these restrictions would place an undue hardship on eligible veterans in Puerto Rico and the Virgin Islands now being furnished essential services by limiting the provision of such services in Government and private facilities to the annually determined incidence of such care in the 48 contiguous States. The Veterans' Administration Medical Center in Puerto Rico is unable to meet the demand for care of veterans in that area.

Mr. Speaker, the Committees on Veterans' Affairs of the House and Senate desire to permanently resolve the provision of medical services and hospital care to veterans who are residents of Puerto Rico and the Virgin Is-

lands at the earliest possible date. We expect the Administrator of Veterans' Affairs to immediately develop comprehensive plans for providing such care within VA facilities, to the extent that new construction of VA facilities may be involved. We expect the Administrator to develop the needed project or projects, including bed sizing and cost estimates, for inclusion in the President's budget. In the joint statement following these remarks, the two Veterans' Affairs Committees direct the VA to provide them by December 1, 1982, a specific, detailed proposal, including construction, of what the VA considers necessary for the provision of health care to eligible veterans in Puerto Rico and the Virgin Islands. Such submission is considered essential for the committees to evaluate the proposal and to plan for any short-term extension of the fee-basis authority that is being granted in H.R. 6350.

Fourth, restores VA civilian health and medical program (CHAMPVA) eligibility for the spouses and children of certain severely disabled service-connected veterans who lose such eligibility by virtue of becoming eligible for hospital benefits under part A of medicare, and the latter benefits have been exhausted due to limitations placed upon the beneficiaries. The spouses and dependent children of totally and permanently service-connected disabled veterans, survivors of veterans who died of a total and permanent service-connected disability, or survivors of members of the Armed Forces who died while on active duty in the military service would not again lose their CHAMPVA benefits by virtue of later becoming eligible for benefits under medicare.

It would also encourage the Veterans' Administration to provide the medical care for these individuals in VA medical facilities to the extent such facilities are available, equipped to provide the care, and are not being used for the care of eligible veterans.

Fifth, extend the reporting period for the Administrator's report on the pilot program on alcohol and drug dependency and abuse required by section 620a(f) of title 38, United States Code, for 1 additional year.

Sixth, extend authorization of appropriations for the Administrator of Veterans' Affairs to make grants to State veterans homes to assist them in construction, modernization, or alteration for an additional 4-year period, or through fiscal year 1986.

Mr. Speaker, the remaining provisions of H.R. 6350 are technical amendments relating to payments to State veterans homes, and a report by the Administrator of the use of flexible and compressed work schedules by the Veterans' Administration.

There follows a more specific explanation of the differences between the House- and Senate-passed bill, and the proposed agreement:

EXPLANATORY STATEMENT ON HOUSE BILL, SENATE AMENDMENT (S. 2385), AND COMPROMISE AGREEMENT ON H.R. 6350, THE "VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS IMPROVEMENT AND EXTENSION ACT OF 1982"

PAY AND WORK SCHEDULES FOR NURSES AND CERTAIN OTHER HEALTH-CARE PERSONNEL

Both the House bill (section 1) and the Senate amendment (section 3) would amend subsection (e) of present section 4107 of title 38, United States Code, relating to rates of additional pay for registered nurses and (by virtue of subsection (f)) certain other health-care personnel employed in VA facilities under title 38, to give the Administrator discretionary authority, under paragraph (3) of that subsection, to extend on a nationwide, local, or other geographic basis the period for which additional pay is paid under that paragraph for certain work on a weekend—presently limited to a period of work that occurs at least in part on a Sunday. The House bill would have amended present paragraph (3) to authorize the Administratior to provide additional pay, at a rate of up to 25 percent of the applicable basic houly rate, for each hour of service on a tour any part of which is on a Saturday. Under the House bill, the Administrator would set the rate of such additional pay within a geographic area at a percentage, up to 25 percent, that the Administrator considers necessary to retain and recruit adequate nursing staff in that area. The Senate amendment would have amended present paragraph (10), relating to the Administrator's authority to modify rates of additional pay, to authorize the Administrator to provide additional pay—at a rate of 25 percent of the applicable basic hourly rate, the rate set forth in present paragraph (3)—for some of all of a tour that occurs on a Saturday. Under the Senate amendment, the authority would be available when its use is justified on the basis of a review of the need for it.

The compromise agreement (section 2(a)) contains a provision that would amend paragraph (10) of present subsection (e) to provide the Administrator with discretionary authority to extend, on a nationwide, local, or other geographic basis, the period for which additional pay is paid under paragraph (3) to include some or all of a tour that occurs at least in part on a Saturday. The authority would be available if the Administrator has determined that its use is necessary for recruitment and retention purposes and that the extension is justified on the basis of a review of the need for it in the geographic area involved. The rate of such additional pay for "Saturday" work would be set at a rate determined necessary for recruitment and retention purposes but not in excess of the percentage rate specified in paragraph (3)—25 percent under current law. As noted above, the Administrator has discretionary authority under paragraph (10) to increase that percentage. Such increase may be made where necessary for recruitment and retention purposes, and where the percentage has been increased, the higher percentage would replace the 25-percent limitation on additional pay for "Saturday" work.

The Senate amendment (section 3(1)), but not the House bill, would have further amended paragraph (10) to provide that any discretionary increase under that paragraph in rates of additional pay may be made on a nationwide, local, or other geographic basis, provided that the increase is justified by a specified review of the need for it.

The compromise agreement (section 2(a)) contains this provision and a provision (section 2(b)) amending subsection (f) of section 4107, relating to the general applicability of the additional-pay provisions in subsection (e) to physician assistants or expanded-function dental auxiliaries or both, to clarify that the provisions of subsection (e)(10) are applicable to these categories of personnel (that is, may be applied, as a matter of the Administrator's discretion, in the case of either category or both), based on the individual justification therefor.

Both the House bill (section 1) and the Senate amendment (section 3) would have further amended present secton 4107, relating to the pay of VA Department of Medicine and Surgery (DM&S) personnel employed under the DM&S title 38 personnel system, to authorize the Administrator, when necessary to recruit or retain registered nurses in DM&S, subject to specified limitations relating to rates of pay and computations of leave, to provide that a nurse may work two regularly-scheduled twelve-hour tours of duty during a weekend and have such service be considered a full forty-hour workweek.

The compromise agreement (section 2(c)) contains a provision derived from these provisions.

The House bill would have limited eligibility for participation in the "Baylor plan" program to VA nurses appointed under section 4104 of title 38, all of whom are permanent VA employees. The Senate amendment would have permitted all nurses appointed under subchapter I of chapter 73 to participate in the program, thereby making possible the participation of temporary as well as permanent VA employees.

The compromise agreement would allow all VA nurses appointed under subchapter I to participate in the program. In adopting this approach, the Committees stress that they intend and expect that, to the extent that the use of this authority for weekend scheduling is necessary, the "Baylor plan" opportunity will first be offered to permanent employees and that it will be offered to temporary employees only as a last resort in order to obtain adequate nurse staffing.

Under the House bill, a nurse working such a weekend schedule—a so-called "Baylor plan" schedule—would be entitled to additional pay under subsection (e)(5) of present section 4107, relating to additional pay for overtime service, when the nurse's total officially ordered or approved service is in excess of either fifty-two hours during his or her administrative workweek (the period from Sunday to Saturday), eight hours on a day other than a Saturday or Sunday, or twelve hours on a Saturday or Sunday. Under the Senate amendment, such a nurse would be entitled to additional pay under subsection (e)(5) when the total officially ordered or approved service is in excess of either forty hours during the nurse's administrative workweek, eight hours on a day other than a Saturday or Sunday, or twenty-four hours within the weekend period during which the two regularly-scheduled twelve-hour tours of duty are worked.

The compromise agreement would specify that additional pay for "Baylor-plan" nurses would, with certain exceptions, be paid in accordance with the provisions of current law—section 4107(e) for permanent employees and, for temporary employees,

section 4114(a), which authorizes temporary and part-time appointments and the administrative establishment of pay rates for those with such appointments. Thus, a "Baylor-plan" nurse would generally be entitled to overtime pay only for officially ordered or approved service that is in excess of eight hours on a day other than a Saturday or Sunday or in excess of twenty-four hours on a weekend, and would not be eligible for "night differential" pay (under section 4107(e)(2)) for tours beginning during the period between 6 P.M. and 6 A.M. on a Saturday or Sunday, for "holiday" pay (under section 4107(e)(2)) when a holiday occurs on a Saturday or Sunday, or—except as described in the next sentence of this discussion—for overtime pay (under section 4107(e)(5)) for work in excess of forty hours in an administrative workweek. However, if the administrator determines it to be further necessary in order to obtain or retain the services of nurses so as to obtain adequate staffing at a particular facility, a "Baylor-plan" nurse may be paid additional pay for service in excess of forty hours—or in excess of such number of hours over 40 that the Administrator determines with respect to that facility—in an administrative workweek.

REGULATIONS FOR IMPLEMENTATION OF CERTAIN SPECIAL PERSONNEL AUTHORITIES

The Senate amendment (section 10), but not the House bill, would require the Administrator, within 90 days after the date of enactment, to publish in the Federal Register, for a 60-day public-review and comment period, proposed regulations for the implementation of the discretionary authorities in section 4107(e)(10) (as proposed to be amended in part by section 2 of the compromise agreement) to increase rates of additional pay and (as proposed to be added by section 2 of the compromise agreement) to extend the period for which additional pay is paid for certain weekend work and the authority in present section 4107(g) to increase rates of basic pay for certain health-care personnel. The Administrator would be required to publish final regulations within 210 days after the date of enactment.

The compromise agreement (section 2(d)) contains this provision with amendments making this requirement applicable also to the "Baylor plan" regulations under new subsection (h) of section 4107 (as proposed to be added by section 2 of the compromise agreement) and extending to 120 days and 300 days the post-enactment deadlines for publication of proposed and final regulations, respectively, to implement all of these authorities.

The Committees note that these deadlines for the regulations are extended, upon the VA's request, to ensure that adequate time is provided for the agency to develop proposed regulations and fully to take into account the views of all parties before publishing final regulations. Also, Committees emphasize that these periods are only maximums. Thus, the Committees urge that every effort be made to publish final regulations in a lesser period of time.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

The Senate amendment (section 2), but not the House bill, would amend various provisions in subchapter IV of chapter 73 of title 38, relating to the VA's Health Professional Scholarship Program, to authorize the Administrator to provide scholarship assistance to VA health-care employees attending school on a part-time basis; to clarify that the amount of the stipend to be paid to a participant under the program may be modified so that the Administrator may limit, to tuition reimbursement and a nominal stipend, its payments to a VA employee participating in the scholarship program as a part-time student; to authorize, in the case of part-time students, an up-to-2-year extension of the 4-year limit on scholarships if the extension is in the best interest of the United States and the student maintains an acceptable level of academic standing; and to provide that sums appropriated for the purpose of making payments under the Scholarship Program shall remain available for that purpose until expended.

The compromise agreement (section 3) contains a provision derived from this provision with modifications—to limit the VA employees eligible for scholarship assistance for part-time study to those who are full-time employees when they apply for and are awarded a scholarship; to make a part-time student's scholarship contingent upon continued employment in a VA health-care facility and make the scholarship pay-back requirement (in section 4144(b) of title 38) applicable to a part-time student who fails to maintain such employment; to specify that no stipend may be paid to a full-time VA employee participating in the Scholarship Program; and to delete the provision extending the availability of appropriated funds.

The compromise agreement also contains certain conforming and clarifying amendments. These include amendments that would clarify the Administrator's responsibility (under section 4143(b)(2)) to act promptly with respect to the appointment and assignment of scholarship recipients after they have completed their training (where such action is necessary) so that they may begin to discharge their service obligations without undue delay; would clarify the provision (section 4142(c)) regarding the date on which a period of obligated service begins so as to specify, in the case of a scholarship recipient who is also a VA employee, that the period begins as soon as that individual has completed training and is appointed or assigned as a full-time employee in the Department of Medicine and Surgery in a position for which the training prepared him or her; and would make certain conforming changes in the provisions (section 4142(e)) specifying what must be included in the written contract between the Administrator and a scholarship recipient.

With respect to VA employee participation in the Scholarship Program, the Committees note their view that the first preference should be given to those VA employees who, by the length and quality of their VA service, have demonstrated their commitment to the agency. In this way, the Scholarship Program can promote retention not only through the requirement of a period of obligated service in return for scholarship assistance but also through the use of such assistance as a reward for continuity of service to the agency.

With reference to the requirement that VA employees be working on a full-time basis at the time of application and award, the Committees note that this requirement is intended to allow a full-time employee the option to apply to the VA for conversion to part-time service after being notified of the award of a scholarship and beginning the training course. As to the possibility of making the program available to applicants who are working in the VA on a part-time basis, the Committees note that the Scholarship Program is just now about to be implemented and that they intend to follow closely the award of scholarships to full-time employees. After experience has been gained in that regard, the Committees will give further consideration to the need for and desirability of legislation authorizing the award of scholarships to part-time VA employees.

With respect to the provision that would make funds appropriated for the program available until expended, this provision was not included in the compromise agreement in response to the request of the Appropriations Committees. In this connection, the VA has assured the Veterans' Affairs Committees that the $4 million appropriated for this program for fiscal year 1982 in the VA's medical administration and miscellaneous operating expenses (MAMOE) account will be fully obligated by September 30, 1982. With respect to future appropriations, the Veterans' Affairs Committees understand, as a result of staff discussions, that the Appropriations Committees will specifically take into account the need for the extended availability, beyond a single fiscal year, of funds made available for this program.

The Veterans' Affairs Committees are satisfied that, with these understandings, the duration of the availability of funding for the Scholarship Program will receive appropriate attention and that there is, therefore, no need to amend title 38 to extend the availability of appropriated funds for the program.

CONTRACT CARE IN PUERTO RICO AND THE VIRGIN ISLANDS

Both the House bill (section 2) and the Senate amendment (section 4(2)) would amend present section 601(4)(C)(v) of title 38, relating to the Administrator's authority to provide hospital care and medical services in certain noncontiguous "States" (defined in present section 101(20) to include United States Territories and possessions and the Commonwealth of Puerto Rico), to extend for one year—from September 30, 1982, until September 30, 1983—the VA's contract authority, in Puerto Rico and the Virgin Islands and other Territories and possessions of the United States, to provide hospital care for non-service-connected disabilities and such medical-care services as will obviate the need for hospital admission for such disabilities.

The compromise agreement (section 4) contains this provision.

The Committees note that this is the second, consecutive short-term extension—the first having been enacted on November 3, 1981, in Public Law 97-72—of this authority to provide certain fee-for-service care in Puerto Rico and the Virgin Islands, and that it is likely that further extension will be required before a permanent approach to providing appropriate and cost-effective health care to veterans in those locations can be developed. In order to move toward such an approach as quickly as is possible, the Committees consider it imperative that the VA take immediate steps to develop a comprehensive plan for providing such care and, to the extent that new construction is involved, prepare the needed project or projects for inclusion in the President's budget.

In order to be able to evaluate the VA's proposal in this regard prior to the time that a further, short-term extension of the fee-basis authority is required, the Committees direct that by December 1, 1982, the agency provide them with a specific, detailed proposal, including any construction

project that the VA considers necessary, pertaining to health care for eligible veterans in Puerto Rico and the Virgin Islands and, most particularly, for meeting the health-care needs of those veterans included in that population who have service-connected disabilities.

RESTORATION OF CHAMPVA ELIGIBILITY FOR CERTAIN MEDICARE BENEFICIARIES

The Senate amendment (section 5), but not the House bill, would amend present section 613 of title 38, relating to eligibility for medical care through the CHAMPVA program for the survivors and dependents of certain severely disabled service-connected disabled veterans, to provide for a reinstatement of CHAMPVA eligibility if an individual, after losing CHAMPVA eligibility by virtue of becoming eligible for hospital insurance benefits under part A of Medicare, exhausts some or all such Medicare eligibility.

The compromise agreement (section 5) contains this provision.

The Committees note that an amendment was enacted last year in Public Law 97-72 (section 105) to section 613(b) to facilitate the treatment in VA facilities of individuals eligible for health care through the CHAMPVA program where the use of those facilities for CHAMPVA beneficiaries would not interfere with the care or treatment of any eligible veteran. In this regard, the Committees urge that, to the extent feasible and with a view toward optimal utilization of VA health-care facilities, the VA use this authority as much as possible with respect to those whose eligibility would be restored under the compromise agreement as well as current CHAMPVA beneficiaries.

EXTENSION FOR REPORT ON ALCOHOL AND DRUG DEPENDENCE AND ABUSE PILOT PROGRAM

The Senate amendment (section 6), but not the House bill, would amend subsection (f) of present section 620A of title 38, relating to the Administrator's report to the Committees on the pilot program of alcohol and drug treatment and rehabilitation being conducted under that section, to extend by one year both the due date of the report—from March 31, 1983, to March 31, 1984—and the end date of the period of pilot program operations to be covered in the report—from September 30, 1982, to September 30, 1983.

The compromise agreement (section 6) contains this provision.

TECHNICAL AMENDMENT RELATING TO PAYMENTS TO STATE VETERANS' HOMES

The Senate amendment (section 7), but not the House bill, would amend present section 643 of title 38, relating to payments to State veterans' homes for care provided to eligible veterans, to strike an anachronistic reference to service during a period of war as an eligibility factor for such payments. This would conform section 643 to section 641, which sets forth the operative criteria for payments by the VA to State veterans' homes.

The compromise agreement (section 7) contains this provision.

AUTHORIZATION OF APPROPRIATIONS FOR GRANTS TO STATE VETERANS' HOMES

Both the House bill (section 3) and the Senate amendment (section 8) would amend present section 5033(a) of title 38, relating to the authorization of appropriations for matching-fund grants to States for the construction of State veterans' home domiciliary and nursing-home facilities and to expand, remodel, or alter existing buildings for furnishing domiciliary, nursing-home, or hospital care in State veterans' homes, to extend the current authorization of appropriations (at a level of "such sums as may be necessary"). The House bill would extend the authorization for three years (through fiscal year 1985); the Senate amendment would extend the authorization for four years (through fiscal year 1986).

The compromise agreement (section 8) contains a provision to extend the authorization for four years, through fiscal year 1986.

EXCHANGE OF MEDICAL INFORMATION WITH STATE VETERANS' HOMES

The Senate amendment (section 9), but not the House bill, would amend present section 5054(b) of title 38, relating to the discretionary authority to make available to non-VA medical facilities, particularly those near VA facilities in remote areas, VA educational facilities and programs and the VA electronic communications capability linking such VA facilities to major medical centers and to charge a fee for such services, to include an express reference to State veterans' homes as part of the surrounding medical community eligible to participate in such reimbursable medical information programs.

The compromise agreement (section 9) contains this provision.

REPORT ON THE USE OF FLEXIBLE AND COMPRESSED WORK SCHEDULES BY THE VETERANS' ADMINISTRATION

The Senate amendment (section 3(2)), but not the House bill, would have further amended section 4107 (see the first part of this statement for discussion of the other amendments), to authorize the Administrator, upon a determination that it is necessary in order to recruit or retain certain specified categories of health-care personnel in DM&S, to permit the use by such personnel, on a nationwide, local, or other geographic basis, of the flexible and compressed work schedules that were described in regulations and guidelines issued by the Office of Personnel Management in order to carry out the Federal Employees Flexible and Compressed Work Schedules Act of 1978, Public Law 95-390. This authority would have been available through fiscal year 1987, and the Administrator would have been required to report to the Congress, not later than four years after the date of enactment, on the results of the use by the VA of such alternative work schedules, both as authorized by this provision and otherwise. The mandated report would include an evaluation of the effects of the use of such schedules on the recruitment and retention of health-care personnel, together with recommendations for administrative or legislative action, or both, based on the VA's use of and need for such schedules.

The compromise agreement does not contain the provision authorizing the VA to utilize such alternative work schedules. In light of recent enactment of Public Law 97-221, the Federal Employees Flexible and Compressed Work Schedules Act of 1982, which provides government-wide authority to utilize alternative work schedules until July 23, 1985, the Committees do not believe that the VA-specific authority proposed in the Senate amendment is needed at this time.

However, because of the Committees' strong interest in the results of the VA's use of this authority, the compromise agreement (section 10) contains a provision, derived from the Senate provision, requiring the Administrator to submit a report—not later than July 1, 1985, one year prior to the expiration of the new government-wide authority—on the VA's experience under that authority. The Committees intend to study that report carefully so that they will be able to assess the VA's use of that authority and to consider again, prior to the expiration of the government-wide authority, the desirabilty of providing the VA with agency-specific authority.

CONTRACT CARE FOR WOMEN VETERANS

The Senate amendment (section 4(1)), but not the House bill, would amend present section 601(4)(C)(iv) of title 38, relating to the Administrator's authority to provide contract hospital care to women veterans, to expand that authority so as to allow the Administrator to provide, on a fee basis, such outpatient medical services as are needed pre- or post-hospitalization or that would obviate the need for hospital admission for non-service-connected, gender-related disabilities of a woman veteran that the VA itself is not able to treat.

The compromise agreement does not contain this provision. Rather, in light of the expected increase in demand for VA medical services from women veterans in the coming years, the Committees believe that it would be preferable for the agency to build up its in-house staff capacity to meet the gender-related needs of these veterans for outpatient care and are concerned that the new fee-for-services authority proposed in the Senate amendment might discourage that result if enacted. The Committees note that, in those cases in which a particular VA facility does not have the capacity directly to provide such care to an otherwise eligible woman veteran, authorities under two provisions of title 38—section 4117 (authority to contract for scarce medical specialist services) and section 5053 (authority to enter into agreements for sharing of specialized medical resources)—are available to and should be used by the VA to arrange for furnishing the needed care.

The Committees intend to monitor closely the VA's efforts to meet the health-care needs of the growing population of women veterans and will consider legislative action in the future if that appears necessary.

Mr. Speaker, this is an excellent bill which is essential to the provision of quality health care to eligible veterans. I urge my colleagues to support this measure. I want to express my appreciation to my distinguished colleague, the ranking minority member of our committee (Mr. HAMMERSCHMIDT), the chairman of our Subcommittee on Hospital and Health Care (Mr. MOTTL), the distinguished chairman of the Senate Veterans' Affairs Committee (Mr. SIMPSON) and the very able ranking minority member of the Senate committee, (Mr. CRANSTON) for the cooperation they have provided in helping to resolve differences between the bills passed by the two bodies. The compromise agreement will enhance the quality of care to be provided to our Nation's veterans.

● Mr. MOTTL. Mr. Speaker, the House passed H.R. 6350 on June 15, 1981, by a vote of 390 to 0 and sent it to the other body. On June 21 the

Senate amended the bill and returned it to the House.

Since that time we have been working with the Senate Veterans' Affairs Committee to come to an agreement on the measure.

The principal provisions of the compromise agreement are as follows:

First. It provides the Administrator of Veterans Affairs with the authority to pay premium pay to VA nurses who work on Saturdays.

It also grants the Administrator the authority to pay nurses who work two regularly scheduled 12-hour tours of duty between midnight Friday and midnight Sunday as if they had worked a full, basic workweek. A similar plan is being used in the private sector.

Second. It expands the existing VA nurse scholarship program to allow nurses employed full time by the VA to participate in this scholarship program on a part-time basis.

Third. The agreement would extend for 1 year the authority of the Administrator to provide hospital care and medical services to eligible veterans in the Commonwealth of Puerto Rico and the Virgin Islands.

Fourth. It also restores CHAMPVA benefits—the civilian health and medical program of the Veterans' Administration—for certain spouses or children of veterans with total, permanent service-connected disabilities.

Fifth. The agreement would extend by 4 years—through fiscal year 1986—the authorization of appropriations for the Veterans' Administration to make grants to States to construct, modernize, or alter State veterans homes.

These are the principal provisions of the House amendments being proposed. The remaining amendments are technical in nature.

I urge my colleagues to accept the amendments so the bill can be adopted by the Senate and sent to the President without further delay.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, H.R. 6350 was a good bill when it passed the House on June 15 of this year. I believe it is now a better bill as a result of the compromise agreements with the other body which have been explained by Mr. MOTTL and by the chairman of the House Veterans Affairs Committee, the gentleman from Mississippi.

Passage of this legislation will enable the Veterans' Administration to better compete with the private sector in the recruitment and retention of nurses. This is so because we improve premium pay provisions of existing law and we improve the nurse scholarship program just recently enacted. The end result of H.R. 6350 will be enhancement of quality of care in the VA medical system.

The bill also provides for extension of expiring authority for VA to participate with the States in the providing of medical care in State extended care facilities. This participation is an excellent example of good Federal-State relationships and is a program that has long enjoyed the support of the Congress.

Finally, Mr. Speaker, H.R. 6350 extends a much needed special authority for contract medical care in Puerto Rico and the Virgin Islands. The extension is limited to 1 year during which time it is expected that the Veterans' Administration will present a construction plan to the Congress designed to finally solve medical care needs of veterans in those two imporant areas.

Mr. Speaker, I urge support of H.R. 6350 and I congratulate the gentleman from Ohio, Mr. MOTTL, the chairman of the Subcommittee on Hospitals and Health Care, and I also congratulate our chairman for his excellent work on an important bill.

Thank you, Mr. Speaker.●

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

FEDERAL MANAGERS' FINANCIAL INTEGRITY ACT OF 1982

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1526) to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert:

SECTION 1. This Act may be cited as the "Federal Managers' Financial Integrity Act of 1982".

SEC. 2. Section 113 of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a) is amended by adding at the end thereof the following new subsection:

"(d)(1)(A) To ensure compliance with the requirements of subsection (a)(3) of this section, internal accounting and administrative controls of each executive agency shall be established in accordance with standards prescribed by the Comptroller General, and shall provide reasonable assurances that—

"(i) obligations and costs are in compliance with applicable law;

"(ii) funds, property, and other assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and

"(iii) revenues and expenditures applicable to agency operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the assets.

"(B) The standards prescribed by the Comptroller General under this paragraph shall include standards to ensure the prompt resolution of all audit findings.

"(2) By December 31, 1982, the Director of the Office of Management and Budget, in consultation with the Comptroller General, shall establish guidelines for the evaluation by agencies of their systems of internal accounting and administrative control to determine such systems' compliance with the requirements of paragraph (1) of this subsection. The Director, in consultation with the Comptroller General, may modify such guidelines from time to time as deemed necessary.

"(3) By December 31, 1983, and by December 31 of each succeeding year, the head of each executive agency shall, on the basis of an evaluation conducted in accordance with guidelines prescribed under paragraph (2) of this subsection, prepare a statement—

"(A) that the agency's systems of internal accounting and administrative control fully comply with the requirements of paragraph (1); or

"(B) that such systems do not fully comply with such requirements.

"(4) In the event that the head of an agency prepares a statement described in paragraph (3)(B), the head of such agency shall include with such statement a report in which any material weaknesses in the agency's systems of internal accounting and administrative control are identified and the plans and schedule for correcting any such weakness are described.

"(5) The statements and reports required by this subsection shall be signed by the head of each executive agency and transmitted to the President and the Congress. Such statements and reports shall also be made available to the public, except that, in the case of any such statement or report containing information which is—

"(A) specifically prohibited from disclosure by any provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs,

such information shall be deleted prior to the report or statement being made available to the public.".

SEC. 3. Section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11), is amended by adding at the end thereof the following new subsection:

"(k)(1) The President shall include in the supporting detail accompanying each Budget submitted on or after January 1, 1983, a separate statement, with respect to each department and establishment, of the amounts of appropriations requested by the President for the Office of Inspector General, if any, of each such establishment or department.

"(2) At the request of a committee of the Congress, additional information concerning the amount of appropriations originally requested by any office of Inspector General, shall be submitted to such committee.".

SEC. 4. Section 113(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 66a(b)), is amended by adding at the end thereof the following new sentence: "Each annual statement prepared pursuant to subsection (d) of this section shall include a separate report on whether the agency's accounting system conforms to the principles, standards, and related requirements prescribed by the Comptroller General under section 112 of this Act.".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HORTON. Mr. Speaker, reserving the right to object, and I will not object, but I would ask the chairman of the committee to explain briefly what H.R. 1526 contains. I rise in support of the bill and make the point that this is a bill originally introduced by the gentleman from Illinois (Mr. HYDE).

Mr. BROOKS Mr. Speaker, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Texas.

Mr. BROOKS Mr. Speaker, the House passed H.R. 1526 by voice vote on May 18, 1981. The bill would require agency heads to sign an annual statement certifying the effectiveness of the agencies' internal accounting and administrative controls.

The Senate amendment incorporates, with only minor changes, the House provision requiring annual evaluations by agency heads of the agencies' systems of internal accounting and administrative controls. The Senate added a provision which would protect sensitive information. The Senate amendment also deletes a House provision which, in effect, restated current law requiring specified investigations by an inspector general.

The Senate amendment also makes minor modifications in the type of information to be provided Congress concerning original budget requests made by the Offices of Inspector General. The Senate amendment preserves the basic purpose of the provision, however, by requiring that the President specify in his budget message the amount of appropriations requested for each statutory Office of Inspector General.

Mr. Speaker, we have worked with the Senate of the language of their amendment and I can assure my colleagues that the Senate amendment is consistent with the original intent of the bill as passed by the House.

Mr. HORTON. Mr. Speaker, I support H.R. 1526, the Federal Managers' Financial Integrity Act, which amends the Accounting and Auditing Act of 1950 by requiring ongoing evaluations and reports on the systems of internal control used by each executive agency. It is a good product, one that reflects the continuing interest of the Government Operations Committee in financial accountability, effective audit followup, and other basic ingredients of sound financial management and good government.

H.R. 1526 would require the establishment of internal accounting and administrative controls at each executive agency in accordance with standards prescribed by the Comptroller General. These controls would provide assurances that all obligations and costs are in compliance with the law; that all funds, property, and other assets are protected against waste and mismanagement; and that all transactions are properly recorded. Standards would also be prescribed by the Comptroller General to insure the prompt resolution of all audit findings.

Once the standards have been prescribed by the Comptroller General, the Office of Management and Budget would be required to establish guidelines for the evaluation by agencies of their internal control systems. By December 31 of each year the head of each executive agency would be required to prepare a statement certifying that the agency's control system either is in compliance with the standards or is not in compliance. If the system is not in compliance, weaknesses must ge identified and a plan and schedule for correcting those weaknesses must be described in detail. The statements would be signed and transmitted to the President and to the Congress.

There are safeguards in the bill to protect against public disclosure of sensitive or classified information or of information specifically prohibited from disclosure by any provision of law.

Finally, the bill would require additional efforts on the part of the President and of the agency heads in preparation of annual budget documents. The President would be required to submit with annual budget information a simple statement on the amount of appropriations requested by the President for each Office of Inspector General. At the request of a committee of Congress, additional information concerning the orginal amount of appropriations requested by any inspector general shall be submitted to such committee.

Mr. Speaker, I believe that it is vitally important that the Congress know when agency financial systems do not meet appropriate GAO standards. H.R. 1526 will provide the Congress with the information it needs to keep track of the adequacy of these financial systems and will contribute substantially to reducing fraud, waste, and abuse of Federal programs.

For these reasons, I support H.R. 1526, Mr. Speaker, and urge its approval here today.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL MIDNIGHT, FRIDAY, AUGUST 27, 1982, TO FILE REPORTS ON H.R. 6813, H.R. 6520, H.R. 6804, AND H.R. 6580

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee on Marine and Fisheries may have until midnight, Friday, August 27, 1982, to file reports on the bills, H.R. 6813, Federal Boat Safety Act amendments; H.R. 6520, Transfer of the Truman House Bridge Administration program; H.R. 6804, Subsistence and Allowance in Institute of Commodore Rank, Coast Guard; and H.R. 6580, the Sailing School Facilities Act of 1982.

The SPEAKER pro tempore (Mr. BRODHEAD). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

AUTHORIZING COASTWISE TRADING PRIVILEGES FOR THE VESSEL "SKYLARK"

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3126) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, do pass with the following, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Strike out all after the enacting clause and insert:

That, notwithstanding the provisions of section 27 of the Merchant Marine Act of 1920 (46 U.S.C. 883), or any other provisions of law to the contrary, the Secretary of the department in which the United States Coast Guard is operating shall cause the vessel Sky Lark (official number 617395), owned by Edwin E. Corwin, of Costa Mesa, California, the vessel Tempest (official number 611985), owned by Charles H. Bundrant, of Seattle, Washington, the vessel Alani Lipine (official number 609822), owned by Albert J. Barder, of Boulder City, Nevada, and the vessel Sylvia, owned by Les Bolton of Everett, Washington, to be documented as a vessel of the United States, upon compliance with the usual requirements, with the privilege of engaging in the coastwise trade so long as such vessel is owned by a citizen of the United States.

SEC. 2. (a) The Secretary of Transportation is authorized and directed, at any time not later than 90 days after the date of the enactment of this Act, to transfer to the State of Hawaii, without consideration, all right, title, and interest of the United States in and to the United States vessel Chepachet, the former United States Navy ship Coffatot (AO-78).

(b) Any interests transferred under this section shall revert to the United States if the Secretary determines that—

(1) the State of Hawaii has not taken control of the Chepachet within 90 days after its transfer;

(2) the State of Hawaii is using the Chepachet for operation or transportation purposes; or

(3) the State of Hawaii has not scrapped the Chepachet within 24 calendar months following the date of enactment of this Act.

SEC. 3. Notwithstanding the last sentence of section 2 of "An Act to authorize the foreign sale of certain passenger vessels" (Public Law 92-296; 86 Stat. 140), the Secretary of Transportation may permit United States Lines, within a reasonable period not to exceed 12 months from enactment of this section, to use the funds committed pursuant to that sentence as equity capital for the construction of new vessels or of new containers for vessels or the reconstruction of vessels which the Secretary of Transportation determines are made to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

Amend the title so as to read: "An Act to direct the Secretary of the department in which the United States Coast Guard is operating to cause the vessel Sky Lark to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade, and for other purposes.".

□ 1820

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SNYDER. Mr. Speaker, reserving the right to object, there is no objection to this legislation that I am aware of, on our side of the aisle. The administration today delivered to the committee a letter recommending approval of section 3 added by the Senate. As the chairman has already stated, this legislation passed the House earlier this year and we are considering it today due to the fact the Senate added several provisions to the bill. As a result of that action, I had some concerns about these amendments and their affect. Accordingly, the bill has been delayed pending review of these provisions and until the administration was afforded an opportunity to comment upon them. I am now in a position to report to the Members that the administration has informed the committee about their views. Accordingly, I would like to read the following letter for the benefit of the Members from the General Counsel of the Department of Transportation.

DEAR MR. CHAIRMAN: This is in response to your request for the Administration's position on H.R. 3126, as amended by the Senate, a bill "to direct the Secretary of the Department in which the United States Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwide trade."

Prior to amendment by the Senate, this Department submitted reports on H.R. 3126 to the Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation, respectively. In these reports we stated that the Department was not in a position to comment on the merits of conferring coastwise trade privileges on the yacht *Sky Lark*. We note that, as amended by the Senate, the bill would also confer coastwise trading privileges on two additional vessels. Our position remains unchanged on this provision in the bill.

Section 2 of the bill would transfer title to a surplus United States Navy tanker vessel to the State of Hawaii, without consideration, for scrapping within two years after enactment. The Administration believes that the government should receive consideration for the vessel.

Section 3 of the bill would authorize the Secretary of Transportation to permit United States Lines to utilize the net proceeds from the sale of the SS *United States* as equity capital for the construction of new vessels or of new containers for vessels or the reconstruction of vessels which the Secretary of Transportation determines are made to effectuate the purposes and policy of the Merchant Marine Act, 1936, as amended.

This Department supports enactment of this provision, since it would provide U.S. Lines flexibility to finance vessel reconstruction or the construction of new containers, in addition to new construction. This provision would put U.S. Lines on an equal footing with other U.S. carriers, and is consistent with the Administration's thrust to provide even broader flexibility to U.S. carriers.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

JOHN M. FOWLER.

Mr. Speaker, as a result of the correspondence, I would urge my colleagues to pass H.R. 3126 as amended by the Senate, thus clearing the bill for the President.

Mr. Speaker, I would ask the chairman of the committee to explain to the Members what the three Senate amendments are.

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. SNYDER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. Mr. Speaker, H.R. 3126 was passed by the House on December 15, 1981. On May 27, 1982, the Senate passed H.R. 3126 with an amendment, adding five distinct items to this legislation.

The first of these permits the vessel *Tempest* to engage in coastwise activities. The *Tempest* is a fish-processing vessel which although originally built overseas, has been operating legally in the Alaska fishery for 3 years. Recent problems with the Customs Service in regard to the transportation of materials used in processing fish makes it essential that this vessel be granted the right to operate in the domestic commerce. Incidentally, work done in a U.S. shipyard resulted in the expenditure of twice the original purchase price of the *Tempest*.

The second involves the *Alani Lipine*, a pleasure yacht capable of carrying six passengers, built in the United States, previously owned by a foreign citizen, but now owned by a U.S. citizen who plans to provide a luxury charter service in Hawaii.

The third item involves the vessel *Sylvia*. The *Sylvia* is a unique and historically significant wooden sailboat built in Denmark in the 19th century. The current owner has preserved the vessel and intends to use it for charter purposes to defray maintenance costs.

The fourth addition involves the *Chepachet*, the former U.S. Navy ship *Coffatotg*, which is to be transferred to the State of Hawaii for sale as scrap. This vessel was being used as an ocean test facility under a joint ocean thermal energy conversion (OTEC) program with the Department of Energy and the State of Hawaii until the program was canceled due to budgetary limitations. Hawaii wishes to dispose of the ship itself, using the proceeds from the sale of the vessel to narrow a shortfall in Federal funding for OTEC and other renewable energy programs in Hawaii. This proposal has the support of the administration. The language is identical to that in H.R. 5723, the authorization for the Maritime Administration reported by the Merchant Marine and Fisheries Committee on May 5, 1982.

The fifth and final change involves the use which can be made of certain funds deposited in a capital construction fund. In 1974, Congress allowed the United States Lines to sell a passenger ship to the Federal Government. The proceeds ($4.6 million) were required to be placed in a tax-deferred capital construction fund for construction of new vessels. This amendment would allow these funds to be used for reconstruction of existing vessels or purchasing new containers consistent with current requirements in section 607 of the Merchant Marine Act, 1936. All work would be done in the United States.

There is no known opposition within the maritime industry, the administration, or the House and Senate to any of the amendments added by the Senate.

Mr. BADHAM. Mr. Speaker, will the gentleman yield to me?

Mr. SNYDER. Further reserving the right to object, I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding under this reservation and I, too, will not object .

I want to say that H.R. 3126 originally started out as a bill having to do with a vessel in my district and I thank the chairman for his response

to the bill and I thank the ranking minority Member.

H.R. 3126 will restore coastwise trading privileges to a U.S.-built vessel that had been sold, in part, to a person who was not a citizen of the United States.

The *Sky Lark*, official No. 617395, is presently documented as a yacht under a yacht license issued at Los Angeles, Calif., on April 1, 1980, with an endorsement prohibiting the vessel from employment in the coastwise trade.

Coast Guard records show that the *Sky Lark* was built in 1975 by Ericson Yachts, Inc., at Santa Ana, Calif., for Trans Pac Yachts, Inc. Subsequently, the vessel was transferred to Valentin H. Wirth and Maria A. Wirth. Mr. Wirth was not a citizen of the United States. Accordingly, pursuant to section 27 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 883), the vessel lost its coastwise trading privileges.

Since the loss of coastwise trading privileges is a matter of law, these privileges can only be restored by legislation such as H.R. 3126.

Mr. SNYDER. Mr. Speaker, I withdraw my reservation of objection.

● Mr. HEFTEL. Mr. Speaker, the House of Representatives has on this day, August 19, 1982, taken from the Speaker's desk and passed H.R. 3126 as amended by the Senate and has sent the legislation to the President for his signature.

Section 2 of the legislation which is of particular interest to my State of Hawaii would give the Secretary of Transportation the authority to transfer to the State of Hawaii, without consideration, all right, title, and interest of the United States in the *Chepachet*, an ex-Navy tanker. The transfer is subject to a number of limitations. The State of Hawaii must take control of the vessel within 90 days of transfer; it cannot be operated or used for transportation purposes; and it must be scrapped within 24 calendar months following date of enactement.

This vessel was being used as an ocean test facility under a joint ocean thermal energy conversion program with the Department of Energy and the State of Hawaii until the program was canceled in 1981 due to budgetary limitations. The vessel is presently moored in Pearl Harbor, Hawaii, and was turned over to the Maritime Administration for possible disposal as scrap or for release to any Federal agency interested in using it. MarAd delayed offering the vessel for sale under the competitive bid procedures pending enactment of legislation to permit transfer of the vessel to the State of Hawaii.

It should be noted that the House Committee on Science and Technology (in Committee Report 97-94 dated May 19, 1981) encouraged the Department of Energy to take all steps possible to transfer title of the vessel to the State of Hawaii.

It is expected that the funds to be derived by the State of Hawaii from the scrapping of the *Chepachet* will be used to fund renewable energy projects and programs in Hawaii.

The proceeds that the State of Hawaii expects to realize from the sale of the vessel for scrap will help narrow a shortfall in Federal funding for the completion of the Seacoast Test Facility—potentially, the preeminent shore-based ocean thermal energy conversion and marine science research facility in the world—and other renewable energy projects and programs in Hawaii.

Mr. Speaker, I would like to take this opportunity to thank the distinguished chairman of the Merchant Marine and Fisheries Committee, Mr. JONES, the distinguished ranking minority member, Mr. SNYDER, and the distinguished chairman of the Merchant Marine Subcommittee, Mr. BIAGGI, for helping to expedite the passage of this legislation.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3126.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO HAVE UNTIL 5 P.M. FRIDAY, AUGUST 20, 1982, TO FILE REPORT ON MONETARY POLICY

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs may have until 5 p.m. Friday, August 20, 1982, to file its report on monetary policy.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 294

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of House Joint Resolution 294.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4576, RURAL ENTERPRISE ZONE DEVELOPMENT ACT OF 1981

Mr. WATKINS. Mr. Speaker, I ask unanimous consent that the name of the gentleman from Arizona (Mr. STUMP) be removed from the list of cosponsors of H.R. 4576, the Rural Enterprise Zone Development Act of 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include therein extraneous matter on the bill, H.R. 6350.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONFERENCE REPORT ON H.R. 3239, COMMUNICATIONS AMENDMENTS ACT OF 1934

Mr. WIRTH. Mr. Speaker, I call up the conference report on the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The Clerk read the title of the bill.

Mr. WIRTH. Mr. Speaker, I ask unanimous consent that the joint statement of the managers be read in lieu of the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see Proceedings of the House of today, August 19, 1982.)

Mr. WIRTH (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The SPEAKER pro tempore. The gentleman from Colorado (Mr. WIRTH) is recognized for 30 minutes.

Mr. WIRTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3239. This report embodies an agreement between the House and Senate conferees on the Communications Amendments Act of 1982, and authorization of the National Telecommunications and Information Administration for fiscal year 1983 and 1984.

While the Communications Act of 1934 has been amended several times since its initial passage, it has never received a thorough technical overhaul and cleaning up. The act still contains numerous instances of obsolete language, while also imposing regulatory requirements and responsibilities upon the FCC which are no longer necessary in light of changed circumstances.

While many of the provisions of this package of amendments are merely technical revisions of existing law, several provisions permit the FCC to have greater flexibility in carrying out its duties, and in reducing the amount of unnecessary paperwork. Most importantly, the bill provides a number of budget saving provisions which will enable the Commission more efficiently and effectively to utilize its manpower and resources at a time of budgetary constraint. The budget saving provisions include authorizing the FCC to eliminate individual licensing of citizen band services, as well as those involving reimbursement for travel, awarding licenses by lottery, increasing the terms of certain licenses, and eliminating the need for certain construction permits.

In addition, the conference substitute repeals the sunset of the existing methodology for determining the reasonableness of rates for cable television pole attachments. The existing standard has resulted in adoption of a formula by the FCC which is fair to all parties and has worked extremely well.

Finally, the conference report reauthorizes the National Telecommunications and Information Administration of the Department of Commerce for fiscal years 1983 and 1984 at levels of $12.9 million and $11.8 million respectively. These amounts are below the current authorization level but provide for a sufficient level of funding to enable NTIA to effectively carry out its responsibilities in the area of public broadcasting.

I urge my colleagues to support passage of this conference report.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I rise in support of the conference report.

This bill is to authorize appropriations for NTIA which is in the Department of Commerce, and also various amendments to the Federal Communications Act.

Basically it is a number of amendments to the act that have been requested and have been supported by the Commission and others for some time that are basically deregulation.

I would urge support. It had unanimous support of the conferees and bipartisan support on both sides of the Capitol. I would urge it be adopted at this time.

Mr. WIRTH. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BROYHILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

EXPRESSION OF GRATITUDE TO SPECIAL ENVOY PHILIP HABIB

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 397) expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 397

Whereas a peaceful and just solution to the fighting in Lebanon is important to the continued viability of the overall Middle East peace process; and

Whereas Special Envoy Philip Habib has given freely of his time and energies to promote and support the vital national interests of the United States in peace in that critical region; and

Whereas, in furtherance of those national interests, Special Envoy Philip Habib has carried out with tireless dedication supremely difficult and demanding negotiations to bring an end to the tragic bloodshed in Lebanon: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress expresses its deep gratitude for the selfless and courageous service of Special Envoy Philip Habib, in the best tradition of American diplomacy, to negotiate an end to the siege of West Beirut and to achieve the removal of all foreign forces from Lebanon.

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I do so for the purpose of giving the chairman of our committee an opportunity to explain the purpose of this resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to the gentleman.

Mr. ZABLOCKI. Mr. Speaker, I consider it an honor and a distinct privilege to join with the ranking minority member of the Committee on Foreign Affairs, the distinguished gentleman from Michigan (Mr. BROOMFIELD), in sponsoring this resolution of commendation for a great and dedicated public servant, Ambassador Philip Habib.

Ambassador Habib's remarkable accomplishments, against all odds, as well as his unusual diplomatic skills, are a matter of public record and need little further elaboration. In his heroic and persistent effort to secure a just settlement to the Lebanese conflict, he has managed to maintain the confidence of a broad spectrum of conflicting interests and parties to the dispute. This, in itself, is a testament to his abilities and, I might add, to his character.

Above all, however, I would like to emphasize one additional point: Ambassador Habib has enjoyed a long, honorable, and very distinguished career in the Foreign Service of the United States. He has no further career ambitions and was, in fact, recalled from retirement by the President of the United States to undertake a thankless assignment of critical importance to this country and to the peace of the region.

Mr. Speaker, the role of Ambassador Habib and the universal confidence he has inspired among the disputants in the Lebanon crisis—speak for themselves. We own him, as a nation, a profound debt of gratitude.

□ 1830

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BROOMFIELD. Mr. Speaker, further reserving the right to object, as a principal sponsor of this concurrent resolution, I strongly urge support of this effort to express the deep gratitude of the Members of this body for the contributions of Special Envoy Philip C. Habib to bring about an end to the tragic bloodshed in Lebanon.

On many occasions, he has been called upon to serve his country in resolving the most difficult and chal-

lenging problems in this particularly volatile region. His prowess in diplomacy and his negotiating skills are legend among his colleagues and foreign government officials. His successes are noteworthy.

Once again, in furtherance of the national interests of his country, he has carried out with dedication the extremely complex negotiations to end the horrible bloodshed and destruction in Beirut.

In the midst of the bitter fighting, Envoy Habib traveled to war-torn Beirut and deftly worked with the many concerned parties to effect a rapid cease-fire. He displayed not only personal courage, but incredible stamina in pursuing the long-term negotiating efforts. When a resolution of the problems appeared to be slipping away, his determination and professionalism prevailed; he resolved differences by urging compromise when necessary, and displayed sensitivity to the vital interests of the concerned factions. He brought together men with varying backgrounds and political positions, and urged them to stop the carnage. When personal meetings with high-ranking officials were critical to maintain momentum, he seized the moment and shuttled off to distant capitals in his quest for peace.

He is more than a man with a mission; I believe that because of his personal commitment and involvement with the Middle East, he has truly devoted his life to resolving the longstanding troubles in this strategic area of the world. It is perhaps fitting that a son of Lebanon should return to bring peace to his ancestral land.

I believe that the international community should reward these achievements by presenting Envoy Habib with the coveted Nobel Peace Prize.

As we approach the day for the implementation of the Habib Plan to bring about an end to the siege of West Beirut and the removal of all foreign forces from Lebanon, I encourage my colleagues to join me in expressing our sincere appreciation for Mr. Habib's distinguished service and historic accomplishments in working to bring peace to the Middle East.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I, too, wish to join in the tribute to this outstanding peacemaker who, despite all kinds of problems from all sides, in a very difficult situation, has helped to bring peace to a very troubled part of this world. We hope and pray that it will be a longlasting peace. Our hats are off to a great Ambassador, Philip Habib.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. BROOMFIELD. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman and the ranking minority member for bringing this resolution for a truly great American and a great peacemaker.

During the last several days in July, Mr. speaker, I had occasion to be in the Middle East, and on two occasions I met with Ambassador Habib in the course of his travels from capital to capital. While you could see very clearly the effects of these hard labors and stringent schedules upon him, he never lost hope. I came away from meeting with him with an optimism and an encouragement that this man, if anyone, could bring about the peaceful solution to the events there. He was universally respected by every one of the national leaders with whom he met and with whom we talked, and I simply want to add my word of commendation for Ambassador Habib.

Truly, "Blessed are the Peacemakers."

● Mr. MOFFETT. Mr. Speaker, I would like to join my colleagues in praising Presidential Envoy Philip Habib's extraordinary success in negotiating an end to the seige of West Beirut, and the removal of PLO guerrillas from that beleaguered city.

Against tremendous odds, Mr. Habib has averted a terrible clash in Beirut and laid the groundwork for a lasting peace in Lebanon, and, hopefully, in the Middle East.

I would like to insert in the RECORD at this point my comments before the Democratic Mid-term Conference regarding the Lebanon conflict. Our party made official its support for Mr. Habib's heroic efforts on behalf of peace.

REMARKS OF REPRESENTATIVE TOBY MOFFETT IN SUPPORT OF SIEGEL RESOLUTION ON LEBANON

In 1964, as a junior in college, I flew into Beirut as a Lebanese American who was being welcomed there for the first time by hundreds of relatives.

For those of you who went to and were ever in Lebanon before the destruction of the 1970s, you will remember very well that it was the pearl of the Mediterranean. It was an awesome experience to be welcomed by relatives, to have celebrations last for two and three days both in east and west Beirut, in Moslem communities like Tripoli, as well as in the mountains of northern Lebanon.

The next time I returned to Lebanon was in 1980, January of 1980, as chairman of a delegation charged with trying to figure out how Lebanon could be put back together again. The situation was quite different, to put it mildly, in 1980 than it had been in 1964. You could hardly recognize the country as the same country except for traces of the physical beauty.

The PLO had set up a state within a state, as we all know, and an intensive military operation. The Syrians, under the name of peacekeepers, had come in and done enormous damage, particularly in one section of Beirut, but also in other parts of the country.

We found a situation where one militia after another, one group after another—the Syrians, the PLO—could put 25,000 troops on the street. The central government was outnumbered something like 200,000 to 5,000 in terms of total armed might.

Now, what Mark Siegel is trying to do here, by proposing this resolution on the Middle East, is not to pass judgment on the current situation, but to do something very important: to recognize that at this moment there is a man in Lebanon named Phil Habib who probably doesn't have much in the way of instruction and guidance. If you read this language very carefully, it presents a perfect blueprint for what our policy should be in that part of the world.

I congratulate Mark for his craftsmanship because he has included the obvious things. He says we should focus on reunification and on restoration of Lebanon's sovereignty and independence, potentially breaking the vicious cycle of violence which has inflicted such tragic suffering on the people of Lebanon. He does not fall into the trap of including only the Christian people of Lebanon. We should all know that when Lebanon is put back together again, it will be put back together again with a difficult political equation, but one that is doable, and it will have to include the Moslems of Lebanon as well.

When we were in Lebanon in 1980, my conclusion was that the Moslems wanted everybody out as much as the Christians did. They wanted to be left alone. And what Mark Siegel's resolution is doing here is saying that is the major diplomatic challenge for the United States:

Disarm everyone other than the central army;

Remove the PLO state within a state military operation;

Have the Syrians go home and stay there;

And finally, after those agreements are made, have the Israelis go home—and they are perfectly willing to do that, as I read it.

I hope we will adopt this without any opposition. I think it is critically important that we adopt this. I think it is critically important for the people of Lebanon that we adopt this, and that the Democratic Party make the strongest possible statement that we want Lebanon left to the Lebanese, and we look forward to the day when we can have two great pro-Western allies side by side in that area of the world.

TEXT OF SIEGEL AMENDMENT

The Democratic Party believes that the current situation in Lebanon presents an opportunity for the reunification and restoration of Lebanese sovereignty and independence, free from any form of foreign occupation, potentially breaking the vicious cycle of violence which has inflicted such tragic suffering on the people of Lebanon for the last decade. International terrorism has been dealt a severe blow and Soviet influence has been reduced. The Democratic Party believes that the United States should exert every effort to reinstate Lebanese sovereignty and Israeli security. We support as well immediate humanitarian relief efforts by the United States to provide medicine, food, and other badly needed aid to the ci-

vilian population of Lebanon. With strong and decisive leadership by the United States, a new opportunity exists to build a lasting peace for the people of Lebanon and greater security for Israel. We urge such leadership.●

Mr. BROOMFIELD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. OBEY). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin,

There was no objection.

FINANCING OF OUR NATIONAL ECONOMIC LIFE IS MATTER OF CENTRAL CONCERN IN AMERICA

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, the financing of our national economic life is a matter of central concern in America. The experiences of recent years have raised fundamental questions about the adequacy of capital formation in this country and about the continuing vitality of current laws regulating the financial intermediaries that raise and allocate capital.

In recent years we have witnessed dramatic changes in the American capital markets. High and volatile interest rates have resulted in a shifting of capital from long-term investments to short-term instruments offering liquidity. Money market mutual funds, less than a decade old, have emerged as deposit alternatives. The thrift industry, traditionally charged with funding home mortgage loans, today is seriously threatened, and its future mission is under serious debate. Insurance companies and pension funds—financial intermediaries which are now major factors in our capital markets—once had dramatically different roles.

The differences in regulatory treatment of commercial banks and securities firms, pension funds, insurance companies and other financial intermediaries reflect their previously separate and distinct roles. But the proliferation of new financial instruments in the market, mergers among financial and nonfinancial institution, and the general homogenization of institutions offering financial services, reflects dramatic changes in those roles. Distinctions between classes of institutions that were previously maintained by statutory boundaries are disappearing in the marketplace, as developments in telecommunications technology make certain geographic and product restrictions virtually obsolete.

It is clear that changes in the financial markets have in many ways outpaced the regulatory structure in form and content. Laws and regulations written after the great crash to insure the safety and soundness of institutions and protect investors could not anticipate the current shifts in investment patterns or the creation of many of today's new financial products and instruments. The blurring of functions among institutions has called into question the legally mandated separation of markets under Glass-Steagall and other laws, and the notion of applying sharply different regulatory approaches to institutions with different labels now performing much the same functions.

In the past, changes in regulatory policy have come about through piecemeal amendments. We have applied band-aids as small cuts have appeared: Regulation Q to the initial outflow of savings from thrift institutions; and last year, the all-savers certificate made its debut. Moreover, each proposed change which would benefit one group is fought by market participants from another group. Bills introduced to give thrifts certain powers of commercial banks and to permit banks to engage in securities activities are good examples: The recent experience in the Senate demonstrates the difficulty of gaining a consensus on these issues, even among similar institutions.

More and more, participants in the debate are turning to the regulators, who are called upon to give expansive or strained interpretations of existing laws.

I believe Congress must seek a comprehensive reexamination of this Nation's financial and investment institutions and other financial intermediaries and the regulatory structure overseeing those institutions. The legislation I am introducing today proposes the creation of a Commission on Capital Markets—composed of outstanding men and women representing the full spectrum of financial intermediaries, business, and labor—to work closely with the Congress in examining these issues.

The first charge in the Commission's review should be an evaluation of America's long-term capital requirements. What kinds of institutions and markets will we need in the future to meet those requirements? What will users of those institutions and markets—from consumers and small businesses, to governments themselves, require for their continued vitality and growth? How does the institutional structure and regulatory policy impact on the level of savings and capital formation, and upon our overall economic growth? How do these factors impact upon the efficient and fair allocation of capital to all business sectors and geographic regions? Finally, the Commission should assess whether significant legislative or regulatory changes in Federal and State financial policies are required to efficiently raise and allocate capital to meet this Nation's future needs.

The present regulatory structure was imposed to improve the efficiency, fairness, and safety of finanical intermediaries that raise and allocate capital in this country. Thus, deregulation should not be an end in itself. Concerns about safety and soundness—from which investor and depositor confidence flows—and concentration of financial power should be kept in mind throughout the review.

We have been fortunate that the financial system developed by those preceding us has served us so well for many years. But we are at a crossroads where we must develop policies that will insure the soundness of our institutions and continued growth of our economy for future generations. If we act now, with the counsel of those who are most knowledgeable, we can develop a workable, logical framework which will keep our financial institutions viable, and serve our economic needs, for the next 50 years.

UNITED PARCEL SERVICE'S 75TH ANNIVERSARY

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY of Washington. Mr. Speaker, I would like to take this opportunity to salute a little messenger company opened in Seattle in 1907 with $100 of borrowed capital. Today, its familiar brown vehicles serve every community in the contiguous 48 States, as well as Anchorage, Alaska and Oahu, Hawaii. The company that started with 6 messengers now has 114,000 employees in more than 1,000 locations. I am proud to congratulate that little messenger company, better known today as the United Parcel Service, on its anniversary of 75 years of dependenable service and share with you a brief history of the organization.

THE PIONEER DAYS IN SEATTLE

At night, ships heading into its harbor found its streets alive with pearls of light and the energy of high-spirited people flowing from all corners of its hilly landscape. This was

Seattle, early 1907, a time when people on their way to dig for gold in Alaska would stop for fresh stocks and merriment. Seattle—the City of Seven Hills—welcomed and inspired visitors, and rewarded those dreamers who chose to stay and test their mettle in the city just beneath the Gold Coast.

One thoughtful 19-year-old who chose to build his dream of a delivery service in Seattle was James E. Casey. In spite of his age, Jim had several years experience under his belt and had even tried his hand at another delivery service. Now he was determined to make his new dream work. In August 1907, with the help of another young partner, Claude Ryan, Jim brought the American Messenger Co. to life.

At first the fledgling company took on all sorts of assignments to gain a foodhold in Seattle, where other firms were already competing for business. Jim's original messengers—called foot pads because they often walked or used the trolleys for their work—did just about anything. Their assignments ranged from taking a blind man to a funeral, to tracing a husband for a jealous wife, to carrying chocolates and flowers, to the many ordinary calls, like bringing a satchel to the depot or carrying a tray of dinner and delivering a note.

In 1911, Jim's younger brother George joined the company to help solicit business: The young men tacked up placards near hotels advertising, "Want a Messenger?" for the "Best Service and Lowest Rates." In the early days, Jim took all the calls that came into the office, and personally instructed messengers on their assignments.

One competitor stood out in the early days—a congenial, imaginative young man named Evert "Mac" McCabe. Jim and Mac decided that a better service could be provided if they joined forces and in 1913 their two companies merged to form Merchants Parcel Delivery, a name more in keeping with the direction they wanted the business to follow.

By 1915, the firm had four automobiles, five motorcycles and 20 messengers. In 1916, Charlie Soderstrom became a partner and another force on the management team. To Charlie goes much of the credit for standardization of vehicles and use of the Pullman Brown color which identified the company's cars and, in later years, driver uniforms.

Yet the company still struggled in search of a direction. George Casey recalled: "We didn't know what rates we should charge, or what schedules we should keep * * *." It took the advent of World War I and three major new customers to give the young firm the direction it needed to help shape it into a thriving consolidated retail parcel delivery company over the three decades to follow.

THE RETAIL ERA

It was 1918—the year the company clearly became the consolidated delivery department for retail department stores and specialty stores.

A number of events encouraged the move into what is now called the retail era of UPS. World War I had made dramatic changes in the work force, prompting stores to consign their parcel deliveries to outside companies. Three stores: Fraser-Paterson, Rhodes, and Bon Marche, were the first major department stores to give Merchants Parcel Delivery their package business.

When the Seattle operation was running smoothly, the founders sought ways to expand their business. In December 1918, they took an option to purchase a small delivery company in Oakland, and the growth was on. It was in Oakland that the founders decided to change the name of the firm to United Parcel Service, although operations in Seattle remained as Merchants Parcel Delivery until 1925.

With Oakland's operation established, the founders set their sights on Los Angeles, which was growing faster than any other American city in 1922. Development here was not easy, but UPS persevered, confident that with high standards of service and appearance—it could win the trust of Los Angeles businesses.

It did. One innovation in the early days of Los Angeles was establishment of a wholesale business patterned after parcel post but with added features to meet service requirements of shippers. Inaugurated in 1922, United Express Service was the forerunner of the common carrier operation which was begun in earnest in the 1950's.

In 1924, UPS established suburban operating stations in Long Beach and Pasadena. These substations filled a need for the first feeder runs operated by UPS.

Attracted by the outstanding job UPS was doing in other areas, four of the five largest department stores in San Francisco invited UPS to set up a delivery service, which it did in 1925. Then, in 1927, Portland called for UPS business.

By the late 1920's UPS operations overall were on a profitable basis. A holding company was incorporated in 1927, when UPS of America was organized. Managers were given an opportunity to become shareowners in the business.

Around this time, Jim and Mac made several exploratory trips to the east coast to determine delivery needs of New York merchants. Jim wrote: "It is strange that someone has not discovered the wonderful opportunity that exists here. Maybe our chance will come some day."

Some day came in 1930, when three stores, Lord & Taylor, James McCreery and Co., and Hahnes turned over their delivery operations to UPS. Although it was difficult gaining that foothold in New York, UPS never let go of the commitment to high standards and service. Before World War II, UPS had inaugurated retail operations in Cincinnati, Milwaukee, Philadelphia, and Chicago. Thereafter, Detroit, Minneapolis, Pittsburgh, and Cleveland also became major centers of UPS retail delivery operations.

COMING OF AGE

Expanded retail store delivery operations, improvements in package-sorting systems and vehicles, a growing acceptance by the public of UPS delivery as part of American tradition and a war—this was the setting as UPS entered another new era.

There were many forces at work to help UPS take the bold new step into common carrier operations. During and after World War II, retail deliveries were dramatically reduced. Stores, regulated to curtail deliveries and save on gas and rubber, encouraged shippers to carry their own. Suburban branch stores and shopping centers came of age, further encouraging the drop in retail store deliveries. Only because UPS was serving more stores and had entered more cities, did volume continue to grow.

At the same time, parcel post rates were kept far below cost and it was difficult for private firms to keep their rates competitive. In 1950, Congress remedied the situation by putting enforcement teeth into the law requiring the Postmaster General to establish rates that covered costs. In 1951, when parcel post rates increased again, to more than double the pre-1949 level, private carriers could finally compete with the Postal Service.

It was decided to expand the company's limited common carrier operation. This was accomplished by extending to northern California the common carrier service then being rendered in the Los Angeles area only.

This was a highly regulated business, and Government approvals had to be secured every step of the way. UPS'ers began what was to become 30 years of extensive regulatory applications. After proceedings in which shippers testified to their needs for service, UPS secured the California extension and operations began Jan. 2, 1953. Two other common carrier seeds were planted in that year: operations were initiated in the commercial zones of Chicago and New York City.

The retail store delivery business continued to be important, but UPS soon realized that future growth would lie in a quality parcel delivery service as a common carrier primarily in competition with parcel post. To this goal UPS set its full energies. All

facets of operation, administration and customer service were geared up.

THE GROWTH YEARS

Stimulated by that historic turn in 1953 toward common carrier service, UPS forged ahead into one of the most unprecedented periods of growth in the company's existence.

The common carrier developments extended into the 1960's and 1970's requiring innovations in equipment, systems and planning. UPS moved cautiously, demonstrating its capacity to serve first in smaller areas, then in larger ones. Always it demonstrated the ability to provide the highest level of service at rates equal to or lower than parcel post.

A climax to the chapter on common carrier service occurred in 1975, when the ICC gave UPS the authority to serve five additional States and the west coast was linked with the rest of the country.

In September 1980, UPS received ICC authority to remove the remaining geographical restrictions. UPS was finally providing interstate service from and to all points in the 48 States.

In the meantime, intrastate service was added in State after State. By 1982, UPS faced the need to secure intrastate authority in only Oklahoma and Texas.

In this, its 75th year, UPS has improved its service through the purchase of 21 Boeing 727 aircraft which it uses to provide expedited delivery service throughout our country. From that small beginning in Seattle to today, UPS has extended and improved its service until now, it provides prompt, dependable delivery to every person in 48 States and beyond.

U.S. ACADEMY OF FREEDOM

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, on June 8 President Reagan addressed the Parliament of Great Britain. In that address, he challenged the Western World to join the United States in a major effort to promote the growth of democracy—"a crusade for freedom." As you know, the President has initiated a comprehensive study to determine how the United States can realize this goal. He has called upon the Congress, along with representatives of business, labor, and other major institutions in our society for ideas.

Mr. Speaker, today I am introducing legislation which proposes to establish a U.S. Academy of Freedom whose function shall be to develop and implement programs to promote the growth of democracy and free and open societies throughout the world. I believe that this proposal will prove to be a major initiative in fostering free institutions and the infrastructure of democracy. The freedom initiative which I am proposing goes well beyond the global quest for peace—there is peace in East Germany, Hungary, and Czechoslovakia—but peace without freedom and the right of self-determination is contrary to human nature.

I would like to urge my colleagues to examine this proposal carefully.

The time has come to put freedom on the move. We are the leading advocates of a free and open society. Let us demonstrate to the world our burning desire to help people everywhere enjoy the benefits of living, working and realizing a quality of life—consistent with their own ideals, ideas, and goals. This is in marked contrast to the advocates of a closed-controlled society. I ask my colleagues to join me in this exciting freedom initiative.

By joining in the President's "crusade for freedom," we can light the darkest corners of the world—for people who hunger for a better life.

IN HONOR OF LT. COL. DAVID S. OSTERHOUT

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I would like to bring to the attention of the Congress the September 30, 1982, Air Force retirement of Lt. Col. David S. Osterhout, Office of the Secretary of Defense, Legislative Affairs.

I first met Dave when I came to Congress in 1976 and he was an Air Force liaison officer for the House. During his tour in the Liaison Office he was particularly helpful to Members and their staffs in understanding Air Force issues and in resolving constituent problems. His knowledge of the Air Force, his thorough understanding of congressional operations and his extremely personable manner made him very popular in this forum. Since being selected to coordinate overall Department of Defense issues with the House, Colonel Osterhout has become even more valuable to this Nation. He has demonstrated a complete grasp of the issues, combining a clear-cut understanding of Defense needs, while mindful of the responsibilities of the Armed Services Committee.

There is no doubt that his presence will be sorely missed by the Air Force, the Defense Department, and by the many Members of Congress, who have looked to him for valuable advice and counsel in recent years.

My colleagues and I salute Colonel Osterhout for his dedicated and faithful service to his uniform, his God, and his country. All his many friends in the Congress join me in wishing he and his wife, Priscilla, continued success and good fortune as they pursue new endeavors.

PROTECTION OF THE HOUSE AGAINST UNWARRANTED INVASION BY THE EXECUTIVE

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I have introduced a resolution today involving a matter of fundamental constitutional duty for the House to protect itself against unwarranted invasion by the executive. Actions by police agents have always been the method employed by ruthless kings who wished to compromise or destroy the independence of the elected representatives of the people.

In the present case, we have a colleague who invited a police agent or agents to carry out undercover operations on the premises of the House, who allowed that agent or agents to pose as House staff, and who then accused six members of illegal, possibly criminal misconduct. The gentleman in question (Mr. DORAN) then refused to provide any evidence to support his accusations, nor even the names of those individuals he claimed to have violated civil or criminal laws.

At the very least, those actions impugned the House. More fundamentally, they are precisely the kind of actions that caused the Framers of the Constitution to provide the congressional privilege against executive harassment and intimidation. The authors of the Constitution never would have tolerated the kind of police activity invited by the gentleman from California, and would never have tolerated his subsequent accusations, which he refused to support with any shred of fact or evidence. These actions were dishonorable, they were an improper use of House facilities and privileges, and the House ought not leave unchallenged this dangerous vigilantism, which ultimately invites executive harassment and intimidation that clearly would compromise the independence and integrity of the House as the freely elected legislative body of the people. The constitutional privilege exists in order that we may speak and act freely—for if the representatives of the people cannot be free from harassment, intimidation, or entrapment, the people themselves cannot be free. That is the issue here, and it is a matter that cannot be ignored by any legislative body that is cognizant of the fragility of political freedom.

MILITARY CONSTRUCTION APPROPRIATION BILL 1983

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 561 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 561

Resolved, That during the consideration of the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 2, line 1 through page 8, line 21.

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 561 waives points of order against H.R. 6968, the military construction appropriation for fiscal year 1983. The rule specifically waives points of order against the bill for failure to comply with clause 2 of rule XXI of the Rules of the House.

Clause 2 of rule XXI prohibits the consideration of provisions in an appropriation bill unless an authorization for those provisions has been enacted into law. To date, H.R. 6214, the military construction authorization for fiscal year 1983, has not been finally passed. The bill was passed by the House August 11 and while conferees have been named, it is not expected that the conference will begin to meet until after the August district work period. In order to provide for the expeditious and orderly consideration of the programs in H.R. 6968, the Committee on Rules has granted the waiver of clause 2, rule XXI as requested by the Committee on Appropriations. The waiver covers all appropriations in the bill.

The appropriations in H.R. 6968 closely track the provisions of the authorizing legislation by recommending $7 billion for military construction activities in fiscal year 1983. This figure is $500 million less than the authorization level reported from the House Armed Services Committee and all recommended appropriations are authorized in the committee reported bill.

Mr. Speaker and colleagues, I am sure we are all well aware of the lateness of the date. I would urge the adoption of this rule in order that the House may proceed to the consideration of this most important appropriation.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 561 is an open rule waiving certain points of order against our consideration of the military construction appropriations bill for 1983.

This rule waives all points of order that would otherwise lie against the bill because certain specified provisions fail to comply with clause 2 of rule XXI. Clause 2 of rule XXI prohibits appropriations that are not previously authorized by law, and this waiver is necessary because the appropriations contained in H.R. 6968 are not yet authorized by law.

The authorization bill, H.R. 6214, was passed by the House on August 11, and a conference between the members of the Committee on Armed Services and the other body will be held shortly.

Mr. Speaker, the Members will notice that the waiver provided by House Resolution 561 begins on the second page of the bill and runs through the eighth page of the bill. These are all the appropriating paragraphs in the bill. There is no doubt that this waiver is necessary, if we are to consider this vital legislation.

H.R. 6968 appropriates slightly over $7 billion for military construction activities during the 1983 fiscal year. These are the "brick-and-mortar" expenditures necessary to provide for construction, operation, and maintenance of our Nation's military facilities both here at home and overseas during 1983.

Mr. Speaker, the Subcommittee on Military Construction Appropriations, chaired by the able gentleman from Georgia (Mr. GINN) and the distinguished gentleman from Ohio (Mr. REGULA) conducted 22 days of hearing on the bill made in order by this rule. They have brought forth an excellent bill, one that deserves our support.

There was no controversy about the necessity for this rule in the Committee on Rules, and I urge my colleagues to adopt the rule.

Mr. FROST. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. GINN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio (Mr. REGULA) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. GINN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6968, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. By unanimous consent, the first reading of the bill is dispensed with.

Under the unanimous-consent agreement, the gentleman from Georgia (Mr. GINN) will be recognized for 30 minutes and the gentleman from Ohio (Mr. REGULA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia (Mr. GINN).

Mr. GINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to present today the fiscal year 1983 military construction appropriations bill. The $7 billion recommendation includes more than 1,000 projects in the United States and in 28 countries overseas. The program before you is $1.2 billion below the President's request in budget authority and $252 million below in outlays. The program is $470 million below our budget 302 allocation in authority and $163 million below in outlays.

I think too often we forget about the importance of military construction in the overall large defense spending picture. It should not be overlooked, because construction programs outlast both personnel and equipment and represent decisions that will be with us for 30 to 50 years. Military construction appropriations are also important because our building program sends a signal on what and where our military priorities are going in the future.

Our role in making decisions that have that degree of permanency and direction is one we take very seriously. The committee went to great lengths this year to establish a program that we believe provides for firm priorities, permanency, and addresses both readiness and quality of life in the military.

This year—more than any in the past—there was a need to examine the large $8.2 billion military construction request and weigh the highest priority military requirements against the need for fiscal restraint.

In assessing the Department's request, we found that it was possible, in fact, to recommend a strong military construction program and yet provide for a substantial billion dollars in savings.

Our priorities in this bill have been to increase readiness not only through operational and training facilities but also through better housing and facilities that support the quality of life in the military. We have made promises to individuals joining the military as

volunteers, and to retain this system we must fulfill our commitments. We need to demonstrate that we recognize the worth of each person in the military by creating an environment that is conducive to professional and motivated work. You will find in this bill new or modernized unaccompanied personnel housing—barracks—for almost 30,000 people. This is the largest peacetime housing improvement program ever recommended. The $2.8 billion family housing appropriation and other support facilities will improve substantially the quality of life in the military.

The committee has also made a concerted effort to provide funding for improvements in Europe and the Persian Gulf to support improved readiness and, in the case of Europe, to address long neglected needs. You will find that in our report we have been quite critical of the lack of our NATO allies and Japan to be more responsive to the need for increased defense expenditures. We have specified areas that the Department of Defense is to pursue in order to obtain more support from our NATO allies and Japan.

The committee has also recommended changes to be made in DOD policy that will lead to savings in defense spending. For instance, in the area of planning and design, the committee has insisted on the development of an aggressive program to pursue architect and engineer liabilities and cost increases due to contract modifications and change orders. In the NATO infrastructure area, more than $150 million in recoupments owed to the United States have been identified that are to be pursued and paid.

In determining what reductions could be made to the program, the committee followed a general thrust:

First, eliminate overseas projects that have either uncertain country-to-country agreements or uncertain building plans. Estimated savings: $350 million.

Second, eliminate overseas projects that can or should be funded through NATO or host-nation support. Estimated savings: $55 million.

Third, concur in the Armed Services Committee authorization reductions. Estimated savings: $300 million.

Fourth, eliminate construction for programs in which program decisions have not been approved by Congress. This includes MX, ballistic missile defense, and binary chemical programs, none of which can be under construction in fiscal year 1983 because of decision delays. Estimated savings: $300 million.

Fifth, eliminate projects that are not fully justified or are too costly. Also, eliminate or reduce funding for nondefense items. Estimated savings: $170 million.

Sixth, reduce NATO infrastructure to reflect fiscal year 1983 recoupments and fiscal year 1982 carryover. Estimated savings: $50 million.

Seventh, reduce per unit cost of family housing by 10 percent because of good bidding climate. Estimated savings: $25 million.

Eighth, reduce high overhead and non-cost-effective family housing items. Estimated savings: $100 million.

Ninth, apply savings from good 1981 and 1982 bids toward fiscal year 1983 project funding. Estimated savings: $90 million.

In order to take advantage of the current good bidding climate, the committee has recommended funding several authorized projects in the United States that; First can be under construction in fiscal year 1983; Second, have a firm defense justification; and Third will offset higher costs in future years.

I urge the swift adoption of this bill for two important reasons: First, so that the Department can proceed with programs that provide for an essential foundation to our defense needs; and second, to provide $4 billion for construction within the United States, thereby providing 250,000 jobs in construction and related industries. Our action today will lead to an early initiation of both of these priorities.

Mr. Chairman, the committee is recommending appropriations totaling $7,000,249,000 for military construction projects for the Department of Defense and for family housing. The committee's recommendations reflect the current fiscal and economic conditions of the country and weigh the highest priority military requirements against the need for fiscal restraint.

The recommendation is $1,211,578,000 below the President's request and $61,003,000 below the final amount appropriated in fiscal year 1982.

The committee conducted a thorough and comprehensive review of this year's request, holding 22 different hearings on individual functional areas of the program. The areas focused on especially were the Persian Gulf/Indian Ocean construction, MX missile program, NATO and European construction, the Caribbean Basin, the security of nuclear weapons, quality of life in the military, and planning and design. I will highlight a number of major recommendations, which are explained in more detail in the committee report.

PERSIAN GULF/INDIAN OCEAN

The committee supports the continued development of necessary capabilities in the Persian Gulf area. The expansion and enhancement of existing facilities will help assure a continued flow of oil from the region while respecting the sovereignty of foreign states. A total of $700 million has been provided by the United States in the last 2 years for the development of facilities in Diego Garcia, Kenya, Oman, Somalia, and Portugal. The completion of facilities planned or under construction at these locations will cost the United States an additional $400 million, of which $156 million has been approved for fiscal year 1983. This program will provide the United States access to six separate airfields and three ports in the immediate Persian Gulf area, as well as providing a large capability for air and sea support from Diego Garcia and Lajes, Portugal.

Clearly the United States has assumed the leading role for maintaining the stability of this region. Neither our NATO allies nor Japan, who import over 70 percent of their oil from the Persian Gulf region, have taken any steps to support facility construction in the region or to develop other types of offsets to the large U.S. investment. In fact, certain Western European countries have recently concluded arrangements to build a natural gas pipeline from the Soviet Union. The United States has assumed total responsibility for assuring the flow of oil from the region at a time when we import less than 10 percent of our oil from there. Neither the Department of State nor the Department of Defense has taken any action on the committee's recommendation of the past 2 years to develop and aggressively pursue new burden-sharing concepts with NATO countries and Japan.

The Department, in addition to the funding mentioned earlier, has requested $178,600,000 in fiscal year 1983 to initiate construction of an additional facility at Ras Banas, Egypt. The total known cost of construction and minimal pre-positioned equipment for this facility is $948 million. The Congress denied funding of the initial construction requests in fiscal year 1982 because of the preliminary nature of development plans. Additionally, however, the House objected to the development of Ras Banas because of the lack of allied support, the lack of a country-to-country agreement, program uncertainties, and the need to more closely examine other facilities in the region. Despite these concerns the Department submitted an identical request as part of the fiscal year 1982 supplemental, which the House rejected.

The committee has approved requests for funding at the authorized level for all locations except Ras Banas in order that those facilities already planned or under construction can be completed. The committee has again rejected the current plan for Ras Banas and denied all funds requested to initiate construction.

CARIBBEAN BASIN

The fiscal year 1983 military construction request included funding in three areas of the Caribbean Basin. The committee has recommended the

$8 million requested for Panama and the $25 million requested at Guantanamo Bay, Cuba.

The executive branch also requested $21 million for facility improvements at two airfields in Honduras. The authorization was not approved because of the lack of the necessary country-to-country agreement and, therefore, appropriations for these airfields have not been recommended.

The committee feels that the Department should proceed cautiously in expanding the Caribbean Basin access program. The committee believes that if further access were required into Central America, the facilities proposed in Honduras could prove valuable.

EUROPEAN CONSTRUCTION PROGRAM

The committee has recommended more than $2 billion in military construction and family housing improvements for Europe. This includes approximately $700 million for military construction projects at U.S. installations, $325 million for the NATO infrastructure program, and more than $1 billion for family housing construction, improvements, operations, and maintenance.

In the past there has not been enough attention paid to addressing the large backlog in military construction and family housing improvements in Europe. This year's program funds substantial improvements in areas from tank hard stands to major increases for the maintenance of family housing units. In every area the program recommended is the largest ever provided for Europe.

The committee feels that the United States is proceeding with too many unilateral funding programs overseas. The increases to fund facility improvements in Europe have been made this year in order not to deprive our own service members of decent living and working conditions. Further increases in unilateral funding will be reviewed against the Department's success in obtaining more host nation and allied support.

The committee has deferred without prejudice the prefinancing of $28 million for collocated bases in NATO. Last year the committee insisted that the U.S. mission proceed to accelerate the priority of this program within the NATO infrastructure program. The committee is pleased to note that NATO has recently moved forward $32 million for COB funding that had been planned for later years. The committee feels that this is a positive result of efforts by the U.S. delegation and should be pursued for each NATO slice.

Also the committee has stated its belief that the NATO infrastructure program presents an excellent opportunity for our NATO allies to increase their funding of construction projects to offset U.S. costs in the Persian Gulf.

The committee has also included language expressing concern that U.S. contractors have consistently not been given a fair opportunity to bid on NATO projects.

MASTER RESTATIONING PLAN

The Department is proceeding in the right direction to seek and obtain both approval and financial support from the Federal Republic of Germany for the proposed $1.2 billion master restationing plan in Germany. However, the committee is disappointed that the German Government has not made firm financial commitments to the restationing plan.

The master restationing plan as now proposed will relocate approximately 20,000 U.S. personnel in 3 U.S. Army brigades from their present decentralized locations in the western part of Germany to three forward locations. This is an opportunity for the United States to improve its facilities in Europe in an orderly, well-planned matter. The master restationing plan also provides an opportunity to build the type of bases our personnel deserve and provides for improved readiness.

Last year $18 million was provided for various facilities at Vilseck, Germany, as advanced funding for the first state of the program. The Congress showed its support for the program in the hope of attracting a like response from the German Government. Additional facilities requested for this purpose this year were not funded. The committee is hopeful of some positive sign from the Germans prior to conference on this bill.

HOST NATION SUPPORT

The committee feels that current defense burden sharing is wholly inconsistent with economic realities. The situation is much changed from the early postwar period when it was widely recognized that the United States would have to carry the major free world defense load. Today our NATO allies and Japan have gross national products that are proportionally not far from that of the United States.

The United States has increased its defense spending by an average of 4.6 percent during the past 3 years, and even larger increases will be realized this year. Our NATO allies have increased their spending by an average of 2.2 percent during the same period. Japan has realized real growth of approximately 4 percent. As the United States significantly increases its spending on defense, other countries should develop host nation programs to reduce the U.S. costs associated with the maintenance of large numbers of U.S. troops and dependents stationed abroad.

The following are presented as areas that should be pursued by the Department: (1) Increased support for unaccompanied housing, family housing, and operational facilities in NATO countries, Japan, and Korea; (2) funding commitment from the Federal Republic of Germany for the master restationing program in Germany; (3) specific increases in host nation support to offset U.S. construction costs associated with the Persian Gulf construction program; and (4) increased emphasis on peacetime host nation support.

SECURITY OF NUCLEAR WEAPONS

The committee is alarmed at the slow progress being made by the Department in providing security for nuclear weapons. The program has been fully funded by Congress.

A major problem in implementing the program is the lack of expeditious coordination within the NATO construction program. The committee recommends that the Department address this problem at the highest level and desires confirmation from the Secretary of Defense that he has expressed his concern over this issue to NATO officials.

MX MISSILE PROGRAM

The committee has not recommended the $207 million requested for construction of the initial portions of the interim basing of the MX missile system. It is the committee's feeling that military construction funding for MX basing should follow firm policy decisions on site-specific basing proposals.

The Department recently announced its intentions to review yet another approach to basing the MX missile. This proposal is called closely spaced basing, and is known as "dense pack." It is unclear to the committee how the "dense pack" plan relates to the three areas of research proposed last year.

The committee does not recommend proceeding with design or construction associated with basing the MX missile until specific program and site decisions on the near term plan have been resolved.

Almost a year after the near-term plan was selected, no site has been announced, environmental impact assessments or studies have not been initiated, and consequently no design work can begin. As a result, the fiscal year 1983 near-term MX request is funding in search of a program and, if approved, would be tantamount to handing the Department a blank check.

Since site decisions on the near-term plan have been so delayed, the committee feels that the Department should evaluate the interim plan together with the long term program. If the executive branch fulfills its planning promises and is ready to announce its long term plan by July 1, 1983, or before, it may be possible to proceed with only one permanent basing plan.

QUALITY OF LIFE IN THE MILITARY

Improving the quality of living and working conditions in the military is an essential factor in the improvement of overall readiness. The committee has made a determined effort to fund quality of life projects that were requested and authorized. Additionally, the committee has recommended adding more than $230 million to the Department's request to provide for additional quality of life programs. This will provide for an additional $100 million for unaccompanied personnel housing facilities, $100 million for improved working facilities, and more than $30 million for increased family housing maintenance in Europe.

PLANNING AND DESIGN

Because of rapid increases in the funds requested for these purposes and the too frequent occurrence of cost overruns and reprogramings, the committee conducted an in-depth study into this process. It revealed both strengths and weaknesses in this area. The committee has, as a result, required more stringent contract modification and change order procedures for field offices, encouraged greater use of value engineering, and more vigorous pursuant of architect and engineer liability.

ENERGY

The committee has approved all funds requested for energy conservation and has urged the Department to request necessary funds to achieve its goal of 20 percent reduction in energy consumption by 1985.

The general provision in the bill governing the application of solar energy has been deleted, because it was recently made permanent law in other legislation. As a result, however, the discount rate used to calculate life cycle costs has been changed from 7 percent to 10 percent.

The committee has also requested the Department to review potential sites for development of geothermal energy resources.

MILITARY CONSTRUCTION, ARMY

The committee is recommending appropriations totaling $941,570,000 for military construction, Army. This is $158,630,000 less than the amount requested and $2,131,000 less than the amount appropriated in fiscal year 1982. The major reductions are the binary munitions facility in Pine Bluff, Ark.; RDF facilities at Ras Banas, Egypt; a host of various facilities failing authorization; and a general reduction of $40 million. The committee has added a number of new barracks projects to reduce the backlog of substandard spaces.

MILITARY CONSTRUCTION, NAVY

The committee is recommending appropriations totaling $1,120,813,000 for military construction, Navy. This is $87,487,000 less than the request and $330,580,000 less than the amount appropriated in fiscal year 1982. Major reductions include a host of various facilities failing authorization, five projects with a low design status, and a general reduction of $45 million. The committee has added several projects to modernize and enhance the capabilities of the Nation's shipyards. The committee has also approved the full request of the Marine Corps.

MILITARY CONSTRUCTION, AIR FORCE

The committee is recommending appropriations totaling $1,420,825,000. This is $660,975,000 below the amount requested and $124,926,000 less than the amount provided in fiscal year 1982. Major reductions include RDF facilities at Ras Banas, Egypt; MX missile basing construction; a host of facilities failing authorization; planning and design; and collocated operating bases. Major increases include various barracks projects and industrial facilities.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

The committee is recommending $289,145,000 for military construction, defense agencies. This is $119,755,000 below the amount requested and $17,345,000 less than the amount provided in fiscal year 1982. Major reductions include the Mariana Islands land lease, emergency construction, and a European war headquarters facility.

NATO INFRASTRUCTURE

The committee is recommending appropriations totaling $325 million for NATO infrastructure. This is $20 million less than the amount requested and $60 million less than the amount provided in fiscal year 1982.

MILITARY CONSTRUCTION, RESERVE COMPONENTS

The committee is recommending appropriations totaling $285,458,000 for military construction for the Reserve components. This is $23,958,000 more than the amount requested and $25,913,000 less than the amount appropriated in fiscal year 1982. The committee has added several projects to accelerate replacement and modernization of needed facilities but has recommended adding only projects that are at a sufficient design level to allow construction in fiscal year 1983.

FAMILY HOUSING, ARMY

The committee is recommending appropriations totaling $1,054,610,000 for family housing, Army. This is $37,343,000 less than the amount requested and $189,210,000 above fiscal year 1982 appropriations as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, NAVY

The committee is recommending $741,400,000 for family housing, Navy. This is $55,444,000 below the amount requested and $130,325,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, AIR FORCE

The committee is recommending $929,271,000 for family housing, Air Force. This is $59,814,000 less than the budget estimate and $134,235,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimated for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

FAMILY HOUSING, DEFENSE AGENCIES

The committee is recommending $14,233,000 for family housing, Defense agences. This is $4,088,000 below the amount requested and $1,310,000 above the fiscal year 1982 appropriation as allocated. The committee has made reductions where better management, more emphasis on energy conservation, more realistic cost estimates for new construction, and a limitation on the amount invested in foreign-owned housing will lead to cost savings.

HOMEOWNERS ASSISTANCE FUND

The committee has recommended $2 million to insure payment to individuals who are forced to dispose of their homes due to base closure or reduction in scope of operations.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from New York (Mr. ADDABBO), the chairman of the Defense Appropriations Subcommittee.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding.

I take this opportunity to rise in support of this legislation, but more important to wish our colleague, the gentleman from Georgia—the next Governor of Georgia—the best. This will probably be the last time he will be handling this bill—military construction—as the chairman. We lose the gentleman to the State of Georgia. We know the gentleman will be successful in the forthcoming primary and election in November.

The gentleman has been a great chairman of the subcommittee and he also has been helpful to me as a member of my Subcommittee on Defense Appropriations. The gentleman has been a great supporter of the Defense Department and a great fighter of waste in defense spending.

The gentleman's leaving for Georgia as its Governor will be a great win for

them and a great loss to me and my committee and the entire country and the Congress.

We wish the gentleman well and commend the gentleman on the great service to the subcommittee, to the Committee on Appropriations, and to all Americans.

Mr. GINN. Mr. Chairman, I thank the gentleman for his optimism with regard to my future. Of course, I thank the gentleman for the great work and great assistance the gentleman has been to me as chairman of Military Construction and for permitting me to serve with the gentleman on the Subcommittee on Defense Appropriations.

I thank the gentleman very much.

□ 1850

Mr. ADDABBO. Mr. Chairman, I thank the gentleman.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. I also want to add my words of congratulations with the chairman for his excellent work. He has provided outstanding leadership on the Military Construction Subcommittee. The gentleman has been totally free from partisanship. Every effort was made on the part of the chairman to allow all points of view adequate time to be heard and to recognize and evaluate these in a very responsible way.

We will lose the gentleman to the Governor's office in Georgia, but it will be a gain for the people there. I am quite sure he will provide to the people of Georgia the same leadership, the same freedom from partisanship that has characterized the chairman's stewardship in this Military Construction Subcommittee.

Mr. Chairman, military construction is not a glamorous subject. Our hearings are not overwhelmed with TV cameras or large audiences. Our expenditures do not shoot. They do not fly. They do not sail. They do not dive, but military construction is the fabric of an effective national security.

I would point out a couple things to my colleagues and that is that military construction precedes weapons systems. You can have a lot of airplanes, you can have a lot of ships, you can have a lot of tanks and troops, but if you do not have adequate construction, you are not going to be able to use those systems effectively. It is our responsibility to be sure that we have the airfields, that we have the Army bases, that we have the naval bases, that we have the necessary facilities for troops, that we have all the things that go with systems.

Therefore, our committee has to be out front in determining defense policy, because as new systems come on stream, it is our responsibility to make sure that adequate construction and adequate facilities resulting from that construction are available.

Second—and I think a point that is oftentimes missed—is that military construction represents a Nation's foreign policy, a decision as to whether we will build facilities, be it in Oman, be it in the Caribbean, be it in Hawaii, be it in South Korea, all flow from the foreign policy decisions of the United States.

Therefore, judgments as to what type of construction, the length that it will serve, where it will be located, all are effective instruments of foreign policy and, therefore, are important decisions, because as the United States reaches out to provide for free world security—and ours is part of that—the decisions on construction of facilities become extremely vital. This is reflected in Europe. It is reflected in the Middle East. It is reflected, as I mentioned, in the Caribbean.

I would say this, that the burden of this responsibility was clearly understood and respected by the members of the Military Construction Subcommittee. Just a few minutes ago we completed work on a tax reform bill. What we did, in effect, is take some of the hard-earned dollars of the American people to fund the necessary programs of these United States through the Federal budget.

It is our responsibility as a followup to that action to manage those dollars carefully, to insure that we give value received to the taxpayers that have to share part of their earnings with their Government.

I would mention that many times we, as Members, hear the statement at home that we ought to cut military spending. There is a concern that we do not always get a dollar's worth of value for a dollar expended in military activities. Certainly as we reflect on the decision of this body a few minutes ago to raise revenues, we have to look at what this bill accomplishes in that respect.

The chairman has outlined very well the fact that our bill is about $1,200 million less than was requested by the administration. This represents a very dedicated effort on the part of committee members to get as much value as we could for every dollar that we appropriated through this bill for construction.

As I mentioned earlier, it is not a glamorous activity, but I remember so well just recently being in a meeting where General Vesey, the Chairman of the Joint Chiefs, just recently appointed, said that one of the key elements in the morale, in the ability of the American serviceman and servicewoman to function effectively is to have adequate housing and to have a decent workplace.

I have seen some of the facilities we provide for our troops, particularly overseas, and they are not very desirable. We cannot ask the young men and women of America to go out and serve without providing for them decent housing and a decent workplace. This is an essential part of the morale and of the well-being of people who serve this Nation of ours.

We have a volunteer force, that is a policy decision that has been made by the people of this Nation, as reflected in the Congress of the United States and a very important element of having a volunteer force is to have good housing, to have good working conditions, to say to those people who sign up and serve that we care about your well-being.

The chairman initiated a rather unique program in military construction hearings and that is he brought in to testify not only the officers and the leaders of our military forces, but he brought in enlisted personnel to discuss the quality of life in the military service. I think that the information these people shared with us was a vital part of our response to the needs in funding this budget.

I would make a couple points, because this is an management responsibility that this committee has. We need in Government to address even more than we do our need to manage dollars carefully. We are living in an era where we have shrinking resources in relationship to the many needs, both private and public. Therefore, we have to insure that we spend money wisely. What we have done in this bill in the way of management are several things I would point out. For one thing, as the chairman mentioned, we require much more careful procedures on planning and design. We want to avoid overruns. We want to avoid changes in plans. We want to avoid change orders. All of which are very expensive.

We have had some glaring situations that were brought to the attention of the committee wherein there was not adequate planning, not adequate design, nor adequate engineering, and the result is that the taxpayers of this Nation were required to pick up costs that should not have been part of the construction project.

We have attempted in this bill to address that problem by demanding and insisting on adequate planning and design before venturing forth on a construction project.

Second, we point out the fact that host nations do not provide enough support in terms of what we are doing for Free World security. We have precise recommendations in the way of what we think should happen in host nation support for our overseas troops.

Recently I introduced a bill on this along with several others to put an import tax on goods coming in from other nations that do not spend their fair share on defense. A glaring example, of course, is Japan. While we provide security for this nation, they

spend less than 1 percent of their gross national product on security, as compared to over 6 percent in this Nation of ours. That is not fair. The per capita GNP in Japan is larger than the United States and, therefore, they should be paying much more than they presently do. They can do much more in host nation support. They can provide housing. They can provide facilities. They can provide utilities. They can provide a lot of things that are not presently being done.

We also address the problem of recruitment and refinancing of NATO commitments. We have been too easy in putting our money up front, whereas the other NATO nations hold back, and the result is that we pay an inordinate share of NATO costs in relationship to our responsibility.

Mr. ECKART. Mr. Chairman, will my colleague yield?

Mr. REGULA. Yes. I yield to the gentleman from Ohio.

Mr. ECKART. My good colleague, the gentleman from Ohio, has been very outspoken and articulate on the difficulties that are besetting our economy as the result of the disproportionate share in defense spending with our NATO allies.

Could I ask the gentleman to specifically reference some of the spending recommendations contained in this legislation that would give our American taxpayers a better share and a better feeling that we are doing more to watch our tax dollars in relation to the spending of our allies?

Mr. REGULA. I thank the gentleman for his contribution. I would refer the gentleman to pages 11 through 15 wherein his concerns are discussed. That is exactly what we have tried to do, because construction is a very significant place that our NATO allies, as well as Japan, could contribute through host nation support by taking a larger responsibility for support.

I would point out, for example, that in the Persian Gulf we are taking responsibility through the Rapid Deployment Force in the construction of bases at Oman, Diego Garcia, Mombasa, and some other locations.

We take responsibility for access to the raw materials of the Middle East, whereas Japan and the NATO countries get over 70 percent of their supplies. Now, perhaps they cannot necessarily duplicate what we have done, but certainly through the device of host nation support and a greater contribution to NATO, other countries that are benefiting from the efforts of the United States in the Middle East should, in fact, take on that responsibility.

I would point out just two more things. One is that we have added $230 million above the President's request for housing, for working conditions, for quality of life programs.

While the overall bill is about 15 percent below the President's request, about 19 percent in nonhousing areas, we went above in the things that are vital to the morale of our service people wherein we say to them that we care about you, we care about your living conditions, and we are doing something to change that.

□ 1900

One only has to travel in Europe and some other overseas lcoations where we ask our service people to live to realize how badly we need to improve those conditions.

Just let me once again emphasize that construction decisions are long term; they precede any weapons system; they commit us to a foreign policy decision that reaches out for many years.

We build runways, we build housing, we build working facilities, and they are there for many, many years. Therefore, it becomes important that we make wise decisions in terms of making these long-term investments in the military construction program of this Nation.

Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON), the ranking member on the Committee on Armed Services.

Mr. DICKINSON. Mr. Chairman, I would like to pay tribute to the Committee on Appropriations, the Military Construction Subcommittee. They have done a tremendous job. Particularly do I want to recognize the efforts of the chairman of the subcommittee, whom we can call "Bo" GINN.

We are going to miss you, Mr. Chairman. I hope the gentleman from Georgia winds up as the Governor of Georgia, or wherever he would like to go. I understand that his ticket is punched for that as his next stop.

But let me say that we have a measure to work with. The committee does a tremendous job. I think that the product that the subcommittee has brought to the House this evening attests to that. The gentleman from Georgia and the gentleman from Ohio (Mr. REGULA), my good friend, and other members of the subcommittee, do good work. They are conscientious, they have the best interests of the country at heart, and of the people in uniform, those in the military. I think that the results that they have brought to the floor attest to that.

Yesterday we had a bill up on the floor which has not been completed but which would charge against the total defense bill—bumping against the budget—vocational education, revitalization of our industrial base, increased enhancement of the Davis-Bacon Act, and so forth, all of which militates against what we are trying to do here.

I would hope that Members of this body and certainly this committee would be cognizant of what has occurred here because when we levy a budget ceiling against the "defense," it works against military construction just as it does procurement, just as it does other areas of defense, operations and maintenance, and so forth. It is wrong.

Mr. Chairman, I just want to raise this flag because the fight has not ended. I think it came up on the blind side of most of us.

What we are doing here, this gentleman and many others from the Committee on Armed Services—we have just completed a conference with the Senate on the authorization bill, not military construction, where we have procurement, operations and maintenance, research and development and so forth. We were bumping up against the ceiling in a budget that made it impossible for us to get what we thought was needed for the total defense of this country. We did a pretty good job.

The conference report passed last night, but it was made evident in the conference that the total ceiling was such that the exotic weapons we were buying, the MX missile, the satellites that we put up in the air, the Trident submarines, and so forth, if we were to add more to this procurement we would have to balance this by reducing our military construction budgets. We do not want to do that.

I made the point as emphatically as I could, and I reiterate it this evening: Quality of life has got to come first. We have got to get our troops into livable conditions.

I was in Kaiserslautern as a member of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services. One of the gentlemen said to me, "Congressman, you would not let your son live in the conditions where some of our enlisted men have to live."

So what we are doing here, I think, contributes to the quality of life. As has been commented on it does help morale; it does help retention.

We are talking peanuts in terms of total dollars expended versus satellites, MX missiles, B-1 bombers, all of these things, and we are foolish if we do not spend more for our military construction budget than we have in the past.

I think if you talk to any military commander, he will agree to this.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. REGULA. Mr. Chairman, I yield 2 additional minutes to the gentleman from Alabama.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentleman for yielding.

Mr. Chairman, I too was concerned over the same matter when it came to the floor, about its eating into this particular budgetary area. I am in a quandary as to why that bill, at least part of it, was not referred to the Committee on Armed Services.

Mr. DICKINSON. Mr. Chairman, I think we got blind-sided.

Mr. SKELTON. This impacts so much on the decisions that we make. I would hope that somewhere along the line we would have at least some sort of a joint jurisdiction on that. It bothers me a great deal because it eats into what we are doing here today.

Mr. DICKINSON. That is correct. I think we can work this out, but the gentleman is correct.

Mr. SKELTON. I thank the gentleman for yielding.

Mr. DICKINSON. Mr. Chairman, let me say again that I think the subcommittee has done an outstanding job. I commend them. We will miss some of those gentlemen. Hopefully, we will stay in very close contact.

Mr. Chairman, I yield back the balance of my time.

Mr. GINN. Mr. Chairman, may I first thank the distinguished gentleman from Alabama for his very gracious comments and express the viewpoint that we have enjoyed working not only with him, but with all members of the Committee on Armed Services.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I want to first add my plaudits to those of the gentleman from Alabama (Mr. DICKINSON) for the gentleman from Georgia (Mr. GINN), who has the admiration and respect of all of us.

We wish him, well. I know he will do well. We will watch him in Newsweek and Time magazine in future years as he progresses along his political career.

Mr. Chairman, the House Appropriations Committee deleted $6.7 million for the division air defense training facility (DIVAD) at Fort Bliss stating that Congress had approved a ROLAND facility at Fort Bliss in fiscal year 1982 that was later defined as DIVAD thus the fiscal year 1983 request would provide a second separate building for the same purpose.

The fiscal year 1982 ROLAND/DIVAD facility approved by Congress was and still is a joint-use facility. When ROLAND was reduced to a one-battalion force, the project was down scoped with the resultant cost of $3.7 million ($1.56 million—DIVAD portion). The DIVAD area will house one classroom trainer, one fire control trainer, and one organizational trainer. Delivery of these training devices will begin October 1983.

The training devices for both fiscal year 1982 and fiscal year 1983 projects are currently under contract at a cost of $16.1 million.

The fiscal year 1983 project contains 31,259 square feet and houses 2 organizational maintenance trainers, 3 classroom trainers, 11 fire control trainers, 14 troop proficiency trainers and cannon, mount and feed system training devices. Delivery of training devices will begin in March 1984.

The facility will be utilized to train 2,500 officers, warrant officers, and soldiers annually during the 4- to 5-year deployment period. After deployment, these facilities will be required for replacement training of personnel for the life of DIVAD. The design of this facility took into consideration the facilities available in the fiscal year 1982 project and was sized accordingly.

If the fiscal year 1983 project is not constructed, the trainers to be housed in the building could not be used thus requiring that DIVAD fire units be used for training. Based on a Directorate of Training, U.S. Army Air Defense School Study, it would require 90 DIVAD fire units to maintain the same student load. This would require an additional buy of 90 fire units costing in excess of $250 million.

If only the facilities and three training devices in the fiscal year 1982 project are used, an unacceptable slippage of DIVAD fielding would result and the initial operating capability (IOC) would be delayed until after fiscal year 1988.

Mr. Chairman, the House Appropriations Committee also deleted $5.5 million for a launch complex at White Sands Missile Range stating that military construction funding for ballistic missile defense (BMD) facilities should be deferred until further program decisions have been reached.

The ability to conduct research and development (R. & D.) as a hedge to defend intercontinental ballistic missile systems (ICBMS), and other strategic facilities depends on test facilities to validate the R. & D. effort. It is necessary to develop interceptor components that are insensitive to the basing modes. Major interceptor subsystem components must be tested early in order to reduce the lead time necessary to deploy a BMD. The current SENTRY interceptor design is an outgrowth of several years of technology development in the areas of propulsion and guidance and control systems. The fiscal year 1983 R. & D. funding of $313 million for SENTRY is adequate to maintain interceptor development which is to be test validated in the proposed launch complex.

In order to support the test vehicle flights at White Sands Missile Range (WSMR), installation and checkout of the launcher and test support equipment must begin in January 1985. Accordingly, test facility construction must begin in fiscal year 1983 to support a beneficial occupancy date of December 1984. Military construction funding in fiscal year 1983 is required to support this schedule. A delay in funding until fiscal year 1984 would result in approximately a 6-month delay in the test program and in final verification of the SENTRY Interceptor Subsystem design.

Mr. Chairman, in view of the extreme importance of these facilities to our national defense and security, I would like to ask the gentleman from Georgia that if the Senate military construction appropriations bill includes these full facilities, in the conference between the two House would he seek to rectify these omissions and restore the full Fort Bliss allocation of $21,300,000, and the launch complex at White Sands Missile Range.

□ 1910

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield.

Mr. GINN. Mr. Chairman, I want to thank the gentleman and the gentleman is correct, that the committte has raised questions concerning both the trainer facility at Fort Bliss and the launch complex at the White Sands Missile Range. It is our understanding that the Army is now preparing a very thorough analysis of both these facilities, and it appears certain to us that our concerns will be in fact clarified.

The gentleman has my assurance that once the Army has provided additional information, we on the subcommittee will work with the House conferees and that I will, as chairman, work toward a favorable consideration of the project.

Mr. WHITE. I thank the gentleman very much.

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HUNTER) for the purpose of having a colloquy with the chairman.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. I would like to enter into a colloquy with the subcommittee chairman at this time if I could.

I notice that the Appropriations Committee has deferred without prejudice the Navy's request for $18.5 million to build a composite remanufacture/repair facility at the Naval Air Rework Facility, North Island Naval Air Station. I also understand that the committee has deferred this project because they do not feel that the Navy has provided sufficient justification for the project. I wonder if the gentleman could confirm this for me and explain the committee's reason for the decision.

Mr. GINN. The gentleman is correct. The committee has deferred the re-

quested funds without prejudice. We have stated in the committee report that, "The Navy should reevaluate the need for this F-18 laminated skin production facility and confirm that no private sector potential exists to fulfill this function." Basically, what we are saying is not that the project is unwarranted, but simply that we had some questions that we do not feel were adequately answered by the Navy. The Navy has not fully addressed the possibility of the private sector being able to provide the composite materials and other spare parts. It is our hope that the Navy will be forthcoming with a short study so that we may reconsider this decision in the future.

Mr. HUNTER. I admit that I am not the expert in this area that the gentleman is, but will say that I think that the project should be funded in fiscal year 1983. The composite remanufacture/repair facility is designed to support the increasing requirement for repair of composite aircraft structures. The Navy's new fighter/attack airplane, the F-18, has a significant percentage of composite material, and repairing and maintaining it will involve industrial facilities and processes that are significantly different from the facilities used to repair current Navy planes.

If the project is funded in 1983, it will be constructed and ready to service F-18's by early 1985. By then, we will have 150 F-18's in the fleet with the oldest being 3 years old. If we wait another year, the facility will not be built until 1986. At that time, we will have 225 F-18's in the fleet. I think it is reasonable to assume that by 1985 we will have the need to repair F-18's. I believe that we should continue to rely on the rework facilities to fill this need. A failure to do so may result in decreased readiness for the Navy.

I hope that the other body would include this project in their version of the bill. I would like to ask the gentleman if the other body includes the project, and the Navy provides adequate information, would the gentleman consider receding to the other body in the conference committee?

Mr. GINN. I want to assure the gentleman that if the Navy is able to present a better case for this project, I will work with the House conferees toward favorable consideration.

Mr. HUNTER. I thank the gentleman for yielding to me.

Mr. GINN. Mr. Chairman, I yield 4 minutes to the gentleman from Florida (Mr. NELSON).

Mr. NELSON. Mr. Chairman, first of all I want to say what a delight it has been to serve with the gentleman from Georgia, the chairman of the Appropriations Subcommittee. Our loss will be the State of Georgia's gain as he goes on to a higher calling of public service, and we will look forward to the continuing friendship and communication we have had.

Second, let me say that I support without reservation this funding bill. The gentleman has done a marvelous job.

I would like to engage in a colloquy on one part of the bill that I have some concern about. It is the part dealing with the Ras Banas facility in southern Egypt, on the Red Sea.

My concern is that whereas the authorizing committe, the Armed Services Committee, has included and passed a bill providing for $172.1 million for construction of this base, and that the authorizing committee of the other body has likewise passed a bill for fiscal year 1983 of $178.6 million for this base as a future advance point for us in the Middle East should we have to go to help quell any uprising in that region, should we have to go to protect the interests of the United States, particularly to see that oil flows from the Persian Gulf region to the free world, I would urge upon the chairman that when he goes to conference with the Senate on this appropriations matter, and if the Senate were to include an appropriation for this Ras Banas base in southern Egypt, then I would ask the chairman of the Appropriations Subcommittee for a fair review of this proposal if it were to be an issue in conference.

Mr. GINN. Mr. Chairman, I want to thank the gentleman from Florida for his keen interest in this matter. I would like to take just a moment to give the gentleman a little background as to why the committee acted as it did.

First, I would remind the gentleman from Florida that the Congress has provided a total of $700 million in the last 2 years to develop facilities at Diego Garcia, Kenya, Oman, Somalia, and in Portugal. Of the $400 million necessary to complete work at these locations, $156 million has been recommended in the bill this year. This program will provide the United States access to six separate airfields and three ports in the immediate area of the gentleman's concern, as well as provide substantial air and sea support from Portugal and Diego Garcia.

□ 1920

The subcommittee denied in the bill this year the funding requested for Ras Banas and directed the Department to develop plans for a truly bare base at Ras Banas or at some other location for some very simple reasons.

These are the high cost, the lack of a country-to-country agreement, questions about the operational feasibility, and that existing facilities would be available.

A further summary of the committee's concerns about Ras Banas are as follows:

First, high cost. The Egyptian air facility at Ras Banas, Egypt, was originally proposed for development as a bare base to support Army staging and resupply. However, the current plan calls for more than 500 separate buildings and improvements to support housing for many thousands of Army and Air Force troops, B-52 capability, tactical air support, a substantial amount of pre-positioned portable equipment, and a large-scale port development.

The best current estimate of its total cost is $948 million. The accuracy of this estimate is uncertain, although the costs are most likely to rise.

Second, no country-to-country agreement. Country-to-country agreements have been signed by every country involved in the Persian Gulf RDF program except Egypt. The signed agreements are necessary to verify what both the United States and the host nation expect from the facility development program. Since there is no country-to-country agreement with Egypt and no prospect of getting one, when, how, and to what extent we can use Ras Banas is uncertain.

Third, operational feasibility. Ras Banas has numerous potential operational problems that make reliance on it as a staging facility unrealistic. These problems include extreme desert heat coupled with constant wind, certain flooding whenever it rains, the difficulty of resupply by sea through the narrow choke points of the Red Sea, the uncertainty of early access to the facility, and its distance from likely areas of conflict.

Fourth, existing facilities would be available. With or without a staging facility at Ras Banas, the ability of the United States to assure the stability of the Persian Gulf region in a time of conflict depends heavily on the willingness of those states who are directly affected to allow us access. Clearly the United States cannot be expected to assist in maintaining the security of these nations without this access.

Fifth, allied support lacking. Neither our NATO allies nor Japan, who import over 70 percent of their oil from the Persian Gulf region, have taken any steps to support facility construction or to develop offsets to the sizable U.S. investment. In fact, Western European countries have recently concluded arrangements to build a natural gas pipeline from the Soviet Union. For the United States to increase the magnitude of its present investment at a time when we import less than 10 percent of our oil from the region, and when our allies are increasing their reliance on the Soviet Union, is incongruous.

We feel, I would say to the gentleman from Florida, that until these concerns are addressed we cannot in good faith come to the House and rec-

ommend initiating construction on an additional $1 billion base in the Persian Gulf region.

I assure the gentleman that we are well aware of his concern and we will go to conference with an open mind.

Mr. NELSON. I thank the gentleman.

When I revise and extend my remarks I will point out some rebuttal to the arguments the gentleman has made.

The House Appropriations Committee recently sidetracked the Department of Defense's plans for protecting the Persian Gulf region's oil fields. The committee refused to appropriate funds to enlarge air fields in Egypt for large aircraft such as bombers and transports.

If the oil fields were attacked, U.S. strategy is to blunt that aggression with bombers and then land America's Rapid Deployment Force. Also importantly, a threat could be thwarted with an advance force deployed into an area near the theater.

The recent committee action is very shortsighted.

I believe the potential cutoff of oil is a major threat to the security of the United States. If the Persian Gulf oil stopped flowing to the free world or even were disrupted, there would be immediate panic, hoarding, long gas lines, and very high gas prices. Fuel supplies would be short. It would be 1973 and 1979 all over again—only worse.

Unfortunately and alarmingly, the possibility that this senario will materialize is becoming increasingly real. The instability caused by the Iran-Iraq war, as well as the instability caused by the vengeful PLO searching for a home outside of Lebanon, are real possible preludes for attack.

I definitely believe that if Iran is successful in its war with Iraq, then a Khomeini-inspired, Soviet-encouraged attack against Saudi Arabia will be planned.

Recognizing the fact that, at full production, Saudi Arabia's share of Persian Gulf oil is 11 million barrels a day of the region's total 18 million barrels per day, it is clearly in the interest of the United States to protect the free flow of that oil.

We can do so by achieving a rapid military deployment and an air defense for the area. That is why I believe the committee to be mistaken in its action.

Furthermore, we must continue aggressive pursuit of energy research and development. I differ sharply with the present administration in their policies to cut back the Government's role in energy research and development.

We can do no less—for energy independence is our future—economically and militarily.

I would like to engage in a colloquy with the chairman of the subcommittee concerning funding for the Ras Banas facility in Egypt.

The House Appropriations Committee deleted funding to the Army and the Air Force for the construction of this base. There is funding at the President's request in the Senate authorizing bill of $178.6 million for fiscal year 1983. The House authorization bill contains $172.1 million for the construction of this base for fiscal year 1983. There is a very good possibility that the Senate Appropriations Committee will concur with their authorization committee to fund this program.

Mr. Chairman, I would like to discuss some of the arguments that were made by the House Appropriations Committee and I ask for a fair review of this proposal if it is a conference issue.

I submit the following rebuttal to the five arguments printed in the committee report. Each rebuttal I believe to be on point to show why this appropriation is in our national interest.

High Costs. The House Appropriations Committee stated that the estimates have increased dramatically since the first proposal two years ago. Also, according to the committee, the best current estimate of the total cost is $948 million. The accuracy of the total is uncertain. The Committee drew the total from "numerous" sources at the Department.

Rebuttal. The planned construction at Ras Banas would be constructed elsewhere for at least comparable cost if not at Ras Banas.

The $948 million includes not only the actual $522 million for the construction over three years, but prepositioned supplies and equipment that must be located in the area to improve response time and force susstainability, which is required whether or not Ras Banas is constructed. This total of $522 million has been consistent for the last year.

This figure of $522 million is the official DOD figure for construction of this facility. These funds—over three years—are the only ones that would come within the jurisdiction of this bill. The other supplies and equipment would be contained within the regular DOD Appropriations Bill and would be necessary regardless of whether we build at Ras Banas or some other facility.

The scope of the project has changed since its inception two years ago. Originally it was to be a "Bare Base." Since that time the DOD has decided that this was insufficient for the purposes of protecting our oil interests in the Persian Gulf region. It is now anticipated to be a rear-staging supply, and support base.

No Country-to-Country Agreement. The House Appropriations Committee stated that these agreements have been signed by all of the other countries except Egypt and that there is no prospect of reaching one with Egypt.

Rebuttal. This is not a bone of contention with the Senate Appropriations Committee. In their recent report for the FY82 Supplemental Appropriations, they state, "the Committee is satisfied that our present relationship with Egypt fully supports the development of the rear staging base at Ras Banas. A letter to President Reagan offering the use of Egyptian facilities for contingency purposes was signed by the late Egyptian Sadat. Since the death of President Sadat, the new Egyptian President Mubarek, has confirmed the Egyptian support for the Ras Banas Facility. This confirmation was made to President Reagan, administration officials and various Members of Congress. In addition, other high-ranking Egyptian officials have expressed their support as evidenced by such joint military exercises as Bright Star 81 and 82."

Lack of Allied Support.—The Committee Report states that neither our NATO allies nor Japan who imports over 70% of their oil from the Persian Gulf region, have taken steps to support facility construction or to develop offsets to the sizable U.S. investment.

Counter.—There is no doubt that we are still the leader of the Free World. We must be the ones to take the initiative to protect the interests of the Free World.

Neither oil nor other economic resources are our principal concerns in the area. The U.S. has a commitment to the concept of the freedom of a nation to choose its future without the threat of aggression. The Soviet presence in the Middle East is a fact of life. We must be a realistic deterrent presence to constantly remind the Soviets of our dedication to the principles of self determination.

In the area of international economics we know that in the final analysis the health of U.S. economy depends on the health of our trading partners. The production of the industrial economies of the U.S. and our European allies are largely dependent on oil. While we would not be as directly and immediately affected as our allies we would feel the strongly detrimental effects of a major oil decrease within months.

Operational Feasibility. Floods from the Red Sea are a potential problem. The high winds and the sand could also be potential problems.

Counter. According to the Department of Defense, the weather at Ras Banas is one of its strongest pluses. Because of the location on the Red Sea the temperature here is considerably moderated over inland desert locations in Egypt and Saudi Arabia. The blowing sand does not normally present any problems for USAF pilots and their sophisticated aircraft. The flooding that occurred at the field in 1977 was the first such event in nearly 100 years (the area is outside the normal rain pattern for Egypt). The facilities planned are designed to withstand water erosion.

Deployment of men and materiel can reach Ras Banas through both the Suez Canal at the north end of the Red Sea and the Bab al Mandeb straits in the south. It is doubtful both of these would be simultaneously closed. In such an unlikely event there are other options. One is by land from Alexandria. Another are the POL pumping stations 125 miles across the Red Sea in Saudi Arabia.

Consider Alternative Existing Facilities. The House Appropriations Committee Report states that other countries would offer facilities if there were an emergency in that area.

Counter. According to the DOD the distance from Ras Banas to potential combat areas is one of the principal reasons that the site was selected. It is within troop deployment range by C-130 while located outside the threat area of tactical fighter aircraft.

Mr. GINN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I join with the gentleman from Florida (Mr. NELSON) in his concern about Ras Banas as an airfield. We have seen this.

All of the fields you have named, with the exception of the Portuguese, and I presume you are talking about the Azores, are on the opposite side and not in the route of transit of American aircraft that would be moving toward the Persian Gulf. So, therefore, I did not hear in the list you gave a stopping point that would be necessary for predisposition and for refurbishing of troops that would be moving into whatever area of emergency.

The problem is you may be looking at a situation of political realities. It may be that country may not be able to enter into an agreement as such, yet the threat still exists as far as our Nation goes, and as far as our needs go for a forward deployment area.

Mr. GINN. Will the gentleman yield?

Mr. WHITE. I yield to the gentleman.

Mr. GINN. The gentleman makes a good point.

Our main concern is one of significantly increased costs for the base at Ras Banas over and above what we were originally and initially told it would be. We are simply asking for more facts.

We are not prejudiced against Ras Banas at all. We are awaiting additional facts and we will be willing to take another look.

Mr. WHITE. I thank the gentleman.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. I thank my good friend and colleague from Ohio for yielding.

I want to take one moment to express my strong support of this bill and to commend and compliment the committee for one particular item that appears in here and that I happen to know about because it affects Grissom Air Force Base in my district.

That particular item involves some $3,400,000 which is a considerable sum, but in view of the entire amounts involved in the legislation it is probably not all that great.

But it provides for improvements in unaccompanied and enlisted personnel housing.

I happen to know about this because I visited the base and I went through these particular buildings. I suspect we have a lot of these all over the country on important bases. Grissom is a very important refueling base for SAC.

The history of the buildings, as I recall, they are 1950 Korean war vintage, and they are well maintained, as well as they can be, and they are clean, they are orderly and all of that. But I know in one of those particular buildings we had a rather severe winter in Indiana last year and that building had to be vacated because the interior temperature that could be reached during that stretch of weather was 40 degrees. So it is in need of insulation, updating on its heating and storm windows and that sort of thing.

The second thing that is needed there, and I suspect in many places in the Volunteer Force, and Grissom is just an example of it, we have so many more young women who are coming in and serving in so many vital roles. They are mechanics, drivers, you name it, they do about everything. In this renovation these quarters are being modified so that the enlisted personnel both male and female, can utilize them and it provides for more privacy and everything else that is necessary.

But the point is if we are going to keep a good, strong Volunteer Force, and we are going to keep bright, young people, men and women both in the service, we are going to have to do this sort of thing on all of our important facilities.

I congratulate the committee for taking this step forward and thank the gentleman.

Mr. GINN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Chairman, I wish to extend my personal optimism and good wishes to the distinguished gentleman, the chairman of the subcommittee, the gentleman from Georgia (Mr. GINN), on his professionalism, his integrity, his intelligence, and his personal friendship, which have meant a great deal to this House.

I truly wish him the very, very best. Georgia is a very fortunate State to have you as her native son, Mr. Chairman.

I would also wish to engage the chairman in a colloquy if I might.

The Appropriations Committee deferred without prejudice $710,000 which was authorized for a small arms range complex at Whiteman Air Force Base, Mo. the reason was that this project was at a very preliminary design level. Now, however, we know that the project is 90 percent design complete and will be 100 percent design complete by October 1. I would like to seek the assurance of the distinguished subcommittee chairman that if this project is authorized by the conference committee and funded by the Senate Appropriations Committee, that he will work with the House conferees toward favorable consideration of this project, especially in light of its importance and the change in its design status.

Mr. GINN. Will the gentleman yield?

Mr. SKELTON. I yield to the gentleman.

Mr. GINN. First I want to thank the gentleman for his very gracious personal remarks. I am pleased to learn that substantial progress has been made in completing the design of the range complex at Whiteman Air Force Base. The gentleman has my assurance that if the project is authorized, I will work with the House conferees toward favorable consideration of the project.

Mr. SKELTON. I thank the gentleman and wish him well.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I have asked this time from the other side rather than my normal side because I want to spend most of my time, the 2 minutes that I have, in saying some things about Bo GINN.

I have been here for 34 years and I have watched a lot of Congressmen come and go. I really do not remember a more outstanding person than Bo GINN that has come into this Chamber.

The St. Mary's River, a historical river that divides our two districts, has on its banks a lot of Floridians that are in Georgia and a lot of Georgians that are in Florida. We have a great propinquity and a great affection for our various constitutents who are there.

I guess the greatest pleasure and the greatest joy and the greatest personal reward that comes in being a Member of Congress is the association we have with people that come here to Congress that we serve with.

This man is a man of intelligence and of dedication to his country. He has a great sense of humor. I am just so glad that all over the world, certainly in our own country and all over the world there are memorials to his concern about the sailor, the airman, and the infantryman, and so forth, in the buildings that he has made possible and the things that he has done for his country. They are really outstanding.

So, Bo GINN, I realize you are not leaving right away, but you are leaving soon, and this is your last major bill before us. As I say, I have taken the time form the other side because I did not want you to be yielding to me to say these things.

But you are a magnificent person and we are going to miss you.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman.

Mr. GINN. I must thank you for your very gracious remarks and say that you have certainly been an inspiration to me. I thank you.

Mr. BENNETT. God bless you.

Mr. GINN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. DYSON).

Mr. DYSON. Mr. Chairman, I, too, would like to add my voice to the numerous others who have appeared before us today in recognition of the service that Congressman GINN has offered.

Certainly, he will be sorely missed, but I know his talents will be appreciated by the people of Georgia.

Mr. Chairman, I rise in support of H.R. 6968, military construction appropriations for 1983. I am particularly pleased with and supportive of the committee's efforts to address the quality of life issue in the militar·v. In my opinion, the most significant steps we can make in this area are in the improvements to family housing. This bill does just that.

I understand there are some differences in the bill before us now and the legislation which the military installations and facilities reported out earlier this year. In the Senate large cuts have been made in family housing and new construction. The differences in each of these authorizations and appropriations will be resolved during the month of September.

Before you reach the conference on the bill before us today I would hope that the conferees would favorably consider some of the important projects which the House Armed Services Committee has already approved.

Mr. Chairman, I can appreciate the budget constraints under which both Houses are operating this year. I understand, also, that some funds may be available from fiscal year 1982 to accomplish some of the projects we sought to include in this bill but could not.

The House Armed Services Subcommittee on Military Installations and Facilities has evaluated the family housing situation at Patuxent River over the last 2 years. In its markup this year the subcommittee approved $5 million for the acquisition of 1,000 Wherry housing units. It also approved $16.8 million for the first phase of a renovation process which would greatly improve the condition of these units. At the same time, this effort will address the painfully acute shortage of adequate housing now at Patuxent River.

We made substantial progress last year when the committee successfully sought a waiver to a DOD regulation which had complicated all previous efforts to deal with the housing problem at Pax. The funds, which I previously mentioned, were included in the President's budget for fiscal year 1983 and approved by the House Armed Services Committee. More recently, the full House gave its approval to this $21.8 million authorization.

I would certainly appreciate any efforts your committee and our colleagues in the Senate may undertake to help finish the work on this important project.

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Mr. GINN. Mr. Chairman, if the gentleman will yield, I will be glad to respond.

Mr. DYSON. I yield to the gentleman from Georgia.

Mr. GINN. I have become aware of the availability of existing fiscal year 1982 funds in the Navy's family housing construction account. I am prepared to direct the Navy to use these existing funds to purchase these units and to relocate those nonmilitary families now occupying them. As chairman, I will give favorable consideration to including the $16.8 million for improvement or new housing in the fiscal year 1983 conference agreement on this bill.

Mr. Chairman, I thank the gentleman, a very distinguished Member of the Committee on Armed Services for working closely with us on this very important matter.

Mr. DYSON. I thank the chairman. I certainly appreciate your interest in this matter and I look forward to working closely with you and the members of your committee in addressing this problem in the future.

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will just wrap this up by saying, particularly in dealing with Ras Banas, we have been very careful in the committee to avoid construction in areas where we do not have an adequate country-to-country agreement. I think sometimes construction has raced ahead of foreign policy decisions. What we have tried to require as prerequisites to making construction investments are a solid country-to-country agreement and a very fundamental foreign policy decision that any construction that is put in place will be used for many years hence.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. GINN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 6968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1983, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander-in-Chief, $941,570,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $137,900,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *And provided further,* That $8,000,000 of the funds available for planning and design shall be available only for the design of the renovation of and addition to Brooke Army Medical Center at Fort Sam Houston, Texas.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,120,813,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $110,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless he Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,420,825,000, to remain available until September 30, 1987: *Provided,* That of this amount, not to exceed $102,453,000 shall be available for study, planning, design, architect and engineer serivices, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefore.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $289,145,000, to remain available until September 30, 1987, and, in addition, not to exceed $20,000,000 to be derived by transfer from the appropriation "Research, development, test, and evaluation, Defense Agencies" as determined by the Secretary of Defense, to be merged with and to be available for the same purposes, and for the same time period, as this appropriation: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*

further, That of the amount appropriated, not to exceed $10,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, U.S. Code, $325,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contribution therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $54,958,000, to remain available until September 30, 1987.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $127,900,000, to remain available until September 30, 1987.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $41,800,000, to remain available until September 30, 1987.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, as amended, and military construction authorization Acts, $25,200,000, to remain available until September 30, 1987.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United Staes Code, as amended, and military construction authorization Acts, $35,600,000, to remain available until September 30, 1987.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $146,781,000; for Operation and maintenance, $864,645,000; for debt payment, $43,184,000; in all, $1,054,610,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $104,091,000; for Operation and maintenance, $604,516,000; for debt payment, $32,793,000; in all, $741,400,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $143,004,000; for Operation and maintenance, $722,153,000; for debt payment, $64,114,000; in all, $929,271,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $433,000; for Operation and maintenance, $13,800,000; in all, $14,233,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1987.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000.

GENERAL PROVISIONS

SEC. 101. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such department by the authorizations enacted into law during the second session of the Nineyseventh Congress.

SEC. 102. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 103. None of the funds appropriated in this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories, or possessions, as to which the Secretary of Defense does not certify, in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

SEC. 104. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 105. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 106. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 107. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except: (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 108. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriations Acts.

SEC. 109. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committee on Appropriations.

SEC. 110. None of the funds appropriated or otherwise made available under this Act shall be obligated or expended in connection with any base realignment or closure activity, until all terms, conditions and requirements of the National Environmental Policy Act have been complied with, with respect to each such activity.

SEC. 111. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 112. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided*, That the low responsive bid of a United States contractor does not exceed the lowest responsive bid of a foreign contractor by greater than 20 per centum.

SEC. 113. No part of the funds appropriated in this Act may be obligated for design of any site-specific facilities for the MX missile system until all terms, conditions, and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

SEC. 114. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 115. No part of the funds appropriated in this Act may be used to pay the com-

pensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 116. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such projects, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 118. Unexpended balances in the Family Housing Management Account established pursuant to section 501(a) of Public Law 87-554 shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the purposes for which originally appropriated, and shall remain available for obligation for the same period as such funds were available before such transfer is made, except for funds available for debt payment, which shall remain available until September 30, 1983.

This Act may be cited as the "Military Construction Appropriation Act, 1983".

Mr. GINN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objeciton.

The CHAIRMAN. Are there any points of order against the bill?

The Chair hears none.

Are there any amendments?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY: page 13, after line 18, insert the following new section:

SEC. 119. Each sum appropriated by this Act for any account, activity, or project is reduced by an amount equal to 30.8 percent of such appropriated sum.

(By unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Mr. Chairman, at the desk at the present moment, as most people in the country are beginning to understand, is a discharge petition that would bring to the floor the Conable-Jenkins constitutional amendment requiring by constitutional mandate that the budget for the U.S. Government in all years be in balance.

Despite the fact that the President has submitted the largest deficit in the country's history, he is telling the country with a straight face that he wants that amendment passed; and despite the fact that many Members of this House have voted on many occasions for budget-busting amendments, we have at this point 200 Members of this House who have signed that discharge petition.

I think, in light of those two facts, that the country has reached new heights in doublespeak, and it seems to me that if the President is sincere, and if the Members who have signed that discharge petition or who have authored that constitutional amendment are sincere, then they ought to vote not just to require a balanced budget 5 years from now, as the constitutional amendment would require, but they ought to vote for a balanced budget now. It seems to me that what is sauce for the successor ought to be sauce for the incumbent.

So, very simply, what I am doing is offering an amendment that would reduce this bill by the portion that would be required across the board throughout the Federal Government if we were in fact to balance the budget not 5 years down the line but this year.

I suppose you might call it the put-up-or-shut-up balanced budget amendment before we go home for Labor Day. The purpose of offering this amendment is twofold: To illustrate what would be required if the Jenkins-Conable constitutional amendment were now law and, second, to give all of you who say you are for it a chance to demonstrate that you are sincere and not just engaged in a diversionary ploy.

Now, how do we get to a 31-percent reduction in this bill? It is very simple. The Congressional Budget Office estimates that the projected deficit for the coming fiscal year will be somewhere between $140 billion and $150 billion. They estimate total outlays for the year to be about $770 billion. Of that $770 billion, about $300 billion is direct spending which is not subject to appropriations—items, for instance, such as social security, which amounts to about $170 billion, interest, which amounts to about $117 billion, and unless we can repeal the basic laws of mathematics, we cannot do anything about the amount of interest we are required to pay this year.

That means that there is in the budget for this year only $448 billion which is subject to appropriation, and $245 billion of that is mandatory spending. It is entitlements or it represents contractual commitments already entered into by the Federal Government.

What that means, very simply, is this: The sum total of discretionary outlays which will occur in fiscal year 1983 as a result of the adoption of all 13 appropriation bills, assuming they come in at their budget targets, is about $213 billion. Of that total, $126 billion is in the defense area.

If, for instance, you are one of the Members of this House who seems to buy the line that we should not go much further than we already went on entitlements in this year's reconciliation package, and that the tax bill before the Congress is too big and that the world is too dangerous to permit any cuts in defense, it means that you have a $141 billion deficit, and only $87 billion in programs which you can take cuts from.

If you eliminate all discretionary domestic spending, ranging from the salary of Members of Congress to the cost of printing tax forms at IRS, all of the discretionary spending that remains in the budget, you would still have remaining this year a $54 billion deficit. Therefore, to balance the budget, we would have to cut more than the entire discretionary amount contained in those programs. It seems to me that since interest on the debt cannot be cut and the Congress position in resistance to social security cuts is quite clear, therefore it makes sense to apply this cut only to appropriated funds.

To reduce total outlays by $140 billion, which is the lower end of the deficit projection by CBO, we would have to cut all programs subject to appropriations by 30.8 percent, keeping in mind that this would, of course, not only require a reduction in the appropriated amounts, it will also require changes in law for each of the entitlements involved, otherwise those who are entitled will have standing to sue the Treasury and force the expenditure with or without an appropriation.

□ 1940

Very simply, this is the put-up-or-shut-up amendment on the constitutional amendment. It indicates what would have to be done this year if that discharge petition came out to the floor and was actually passed by the Congress and was in effect now.

It seems to me if we are sincere about wanting a balanced budget down the line, we ought to be willing to apply it to this budget this year and not in some never-never land in the far distant future.

It means very simply we have three choices if we want to reach a balanced budget this year: We would have to cut across the board by 21 percent on all programs if we exempted only interest from the cut; or if we wanted to exempt all mandatory spending items from any budget reduction, we would

have to cut the remaining portion of the budget by 64 percent this year.

Or we have the third item available, which is to do what I am offering the opportunity for the Members to do tonight which is to take all of the money which is subjected to appropriations and reduce that by the amount required to balance the budget if we do the same thing on all appropriations bills which we are doing on this bill.

I intend to offer this same amendment incidentally to every appropriations bill.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Chairman, is this amendment similar to an amendment that has continually been offered by the gentleman from Pennsylvania, the gentleman's notorious balance the budget amendment?

Mr. OBEY. I frankly do not remember what the gentleman from Pennsylvania's amendment was, but this amendment simply says that if one really is for balancing the budget under all economic circumstances regardless of the unemployment levels, regardless of conditions of national security or anything else, one has to cut it by this amendment here tonight right now.

Mr. WILLIAMS of Montana. I thank the gentleman.

Mr. GINN. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I have to say as chairman of the Military Construction Subcommittee, I am pleased we are the first of the 13 appropriations bills to reach the floor. I cannot say that I am overjoyed to be the target of my distinguished colleague's amendment to reduce what we have done by 30.8 percent.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GINN. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I want to say I certainly regret the fact that the gentleman from Georgia is the first target, so to speak, because I hold him in immensely high regard. Having been a member of the subcommittee myself, I know that the gentleman would just as soon get the bill through with as little trouble as this amendment will cause at this late hour.

Mr. GINN. I thank the gentleman for his comments.

Let me say this: Reducing the military construction appropriations bill or any appropriations bill through a percentage basis negates the appropriations and congressional review process. The bill before us has been carefully constructed, program by program, project by project, after very extensive hearings and weeks of analysis and review by both the subcommittee and the full committee.

Our job has been so thorough, Mr. Chairman, that we have found over a billion dollars in reductions that can be made. No further reduction can be justified, Mr. Chairman.

Certainly the method of reducing by percentage would do nothing but harm the central portions of the military construction program.

Further reductions to this military construction appropriation would mean drastic reductions in the quality of life for our people in the military. Problems in our vast family housing programs would go unattended. More than $1½ billion in readiness programs could be delayed or eliminated. Efforts by the committee to improve the living conditions for more than 30,000 individuals now living in substandard housing would be wasted.

Programs such as the Space Shuttle, Persian Gulf facilities, national security functions, and Navy, Army, and Air Force complexes throughout the world would be affected.

Mr. Chairman, the gentleman from Wisconsin (Mr. OBEY) has been a very valuable part of the appropriations process here in the Congress now for many fruitful years. I urge the gentleman to respect the appropriations process of which he has been a part and withdraw his amendment.

Mr. OBEY. Mr. Chairman, if the gentleman will yield further, I most certainly respect the appropriations process which is why I am offering the amendment, because as the gentleman from Louisiana, our former colleague, Mr. Passman, used to say: "This amendment is offered for illustrative purposes."

Everything that the gentleman has said is absolutely true; but I think nonetheless, it is important to decide whether people are really willing to put up or shut up on this issue of a balanced budget amendment.

Mr. GINN. Mr. Chairman, since my distinguished colleague, the gentleman from Wisconsin (Mr. OBEY) will not withdraw his amendment, I would ask the Members to vote against it in the interests of the work of the subcommittee, and in the interests of the appropriations process. I would also like to say that I am very interested in balancing the budget. However, this is not the appropriate mechanism to achieve that end.

Mr. REGULA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I concur in the remarks of the chairman of the subcommittee and would also emphasize that what we are talking about here is investment in real estate. It is not the grocery bill. It is something that is long term in nature. It is absolutely essential if we are to maintain a volunteer service in this Nation that we provide decent housing and adequate working conditions. If the Members could see, as I did in Germany, young men lying in mud in the middle of winter trying to fix tanks, the Members would want to add to this bill rather than subtract.

I would point out one other thing. That is that in fiscal year 1983, the bill will only spend out $2.14 billion.

The gentleman from Wisconsin (Mr. OBEY) does not indicate in his amendment whether the gentleman is addressing this amendment to budget authority or to outlays, but if, in fact, it is directed toward outlays, it would even more seriously cripple the ability to meet the housing and quality of life needs of America's servicemen and servicewomen.

I would urge all my colleagues to vote against this amendment if the Members care about the people that serve this Nation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 34, noes 322, not voting 78, as follows:

[Roll No. 304]

AYES—34

Albosta	Kastenmeier	Rodino
Aspin	Lehman	Roybal
Bonior	Leland	Savage
Brown (CO)	Martin (IL)	Schroeder
Collins (IL)	Miller (OH)	Seiberling
Dellums	Mitchell (MD)	Stark
Dymally	Murphy	Washington
Edgar	Obey	Weaver
Forsythe	Paul	Weiss
Garcia	Rahall	Zablocki
Gephardt	Rangel	
Harkin	Reuss	

NOES—322

Addabbo	Boggs	Conable
Akaka	Bonker	Conte
Alexander	Bouquard	Corcoran
Anderson	Bowen	Coughlin
Andrews	Breaux	Coyne, James
Annunzio	Brinkley	Coyne, William
Anthony	Brooks	Craig
Archer	Broomfield	Crane, Daniel
Ashbrook	Broyhill	Crane, Philip
Atkinson	Burgener	D'Amours
AuCoin	Burton, Phillip	Daniel, Dan
Badham	Butler	Daniel, R. W.
Bailey (MO)	Byron	Dannemeyer
Bailey (PA)	Campbell	Daschle
Barnard	Carman	Daub
Barnes	Carney	de la Garza
Bedell	Chappell	Deckard
Beilenson	Chappie	DeNardis
Benedict	Cheney	Derrick
Benjamin	Clausen	Derwinski
Bennett	Clinger	Dickinson
Bereuter	Coats	Dicks
Bevill	Coelho	Dingell
Bliley	Coleman	Dixon

Donnelly	Johnston	Pritchard
Dorgan	Jones (NC)	Pursell
Dornan	Jones (OK)	Quillen
Dougherty	Jones (TN)	Railsback
Dowdy	Kazen	Ratchford
Downey	Kemp	Regula
Dreier	Kennelly	Rhodes
Duncan	Kildee	Rinaldo
Dwyer	Kindness	Ritter
Dyson	Kogovsek	Roberts (KS)
Eckart	Kramer	Roberts (SD)
Edwards (AL)	LaFalce	Robinson
Edwards (OK)	Lagomarsino	Roemer
Emerson	Lantos	Rogers
Emery	Leach	Rostenkowski
English	Leath	Roth
Erdahl	LeBoutillier	Roukema
Evans (DE)	Lee	Rousselot
Evans (IA)	Lent	Rudd
Evans (IN)	Levitas	Russo
Fary	Lewis	Sabo
Fascell	Livingston	Santini
Fazio	Loeffler	Sawyer
Ferraro	Long (LA)	Scheuer
Fiedler	Long (MD)	Schneider
Fields	Lott	Schulze
Findley	Lowry (WA)	Schumer
Fish	Lujan	Shamansky
Florio	Luken	Sharp
Foglietta	Lungren	Shaw
Ford (MI)	Markey	Shelby
Ford (TN)	Marlenee	Shumway
Frank	Marriott	Shuster
Frenzel	Martin (NC)	Siljander
Frost	Martin (NY)	Simon
Gaydos	Martinez	Skeen
Gejdenson	Matsui	Skelton
Gibbons	Mavroules	Smith (AL)
Gilman	Mazzoli	Smith (IA)
Gingrich	McClory	Smith (NE)
Ginn	McCloskey	Smith (NJ)
Glickman	McCollum	Smith (OR)
Goldwater	McCurdy	Snowe
Gonzalez	McDade	Snyder
Goodling	McDonald	Solomon
Gradison	McGrath	Spence
Gramm	McHugh	St Germain
Gray	McKinney	Stangeland
Green	Michel	Staton
Gregg	Miller (CA)	Stenholm
Grisham	Mineta	Stokes
Guarini	Minish	Stratton
Gunderson	Moakley	Stump
Hagedorn	Molinari	Swift
Hall (OH)	Mollohan	Synar
Hall, Ralph	Montgomery	Tauke
Hall, Sam	Moore	Tauzin
Hamilton	Moorhead	Taylor
Hammerschmidt	Morrison	Udall
Hance	Murtha	Vander Jagt
Hansen (ID)	Myers	Vento
Hansen (UT)	Napier	Volkmer
Hatcher	Natcher	Walker
Hawkins	Neal	Watkins
Heckler	Nelligan	Waxman
Hefner	Nichols	Weber (MN)
Heftel	O'Brien	Weber (OH)
Hendon	Oakar	White
Hertel	Oberstar	Whitley
Hightower	Ottinger	Whittaker
Hiler	Oxley	Whitten
Hillis	Panetta	Williams (MT)
Hollenbeck	Parris	Williams (OH)
Hopkins	Pashayan	Wirth
Howard	Patman	Wolf
Hoyer	Patterson	Wolpe
Hubbard	Pease	Wortley
Huckaby	Pepper	Wyden
Hughes	Perkins	Wylie
Hunter	Petri	Yatron
Hutto	Peyser	Young (MO)
Ireland	Pickle	Zeferetti
Jacobs	Porter	
Jeffries	Price	

NOT VOTING—78

Applegate	Boner	Courter
Bafalis	Brodhead	Crockett
Beard	Brown (CA)	Davis
Bethune	Brown (OH)	Dunn
Biaggi	Burton, John	Early
Bingham	Chisholm	Edwards (CA)
Blanchard	Clay	Erlenborn
Boland	Collins (TX)	Ertel
Bolling	Conyers	Evans (GA)
Fenwick	Lundine	Shannon
Fithian	Madigan	Smith (PA)
Flippo	Marks	Solarz
Foley	Mattox	Stanton
Fountain	McEwen	Studds
Fowler	Mica	Thomas
Fuqua	Mikulski	Traxler
Gore	Mitchell (NY)	Trible
Hartnett	Moffett	Walgren
Holland	Mottl	Wampler
Holt	Nelson	Whitehurst
Horton	Nowak	Wilson
Hyde	Richmond	Winn
Jeffords	Roe	Wright
Jenkins	Rose	Yates
Latta	Rosenthal	Young (AK)
Lowery (CA)	Sensenbrenner	Young (FL)

□ 2000

Messrs. DINGELL, SCHEUER, WHITE, ROSTENKOWSKI, AuCOIN, McDADE, and VENTO changed their votes from "aye" to "no."

Mr. WEISS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 13, after line 15, add the following new section:

SEC. 119. No funds appropriated under this act shall be expended in violation of section 7 of Public Law 95-435.

Mr. WALKER. Mr. Chairman, I might say at the outset that I do not have an intention of asking for a record vote on this amendment. I realize the hour is late.

□ 2010

The reason why I offer the amendment is to show how this amendment is different from the kind of approach taken in the amendment before, is the point that I have been trying to make for some time about the balanced budget amendments that I have been offering, because what I have been asking is that we comply with the law that now stands. It is the law that this Congress has passed and reaffirmed on a couple of occasions.

I think it is important to realize that that does not necessarily imply an across-the-board cut in the manner the previous amendment talks about doing. What my amendment would require is a setting of priorities, a setting of priorities across the totality of the budget.

If, in fact, there is a balanced budget approach taken in any given bill, my point is that the President of the United States, this Congress, any number of ways in which we handle the budget could be applied toward getting us to a balanced budget if, in fact, we mandated it in these particular bills.

So, there is a large difference between an across-the-board cut in particular categories and areas and the balanced budget approach that I am taking, which asks that we comply with the law. I think that it is important for Members for future reference if this amendment is offered to realize that this is not an attempt to do any more than ask that we obey the law of the land.

Why is that important? Because right now, as an alternative to constitutional amendments, we are hearing a number of people come forth with things they say we are going to pass into law, we are going to have a law requiring a balanced budget. I am saying that the law of the land now is a balanced budget, and if we do not have the courage in this body to go along with what we have already passed into law, I have no reason to think that any other law would be any more effective.

So, this is an attempt, and it is an attempt that I have been making now for several weeks, to show that a law just will not work; we have got to have a constitutional amendment if we are ever going to get fiscal discipline based upon what the Constitution requires us to do.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I will be glad to yield.

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding. I just want to reemphasize once again to the Members that are here that this bill is $1.2 billion less than the President's request. That represents a reduction of nearly 15 percent from the amount requested by the President, and I think that the committee made every effort to respond to the kind of concerns expressed by the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman.

Mr. GINN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the bill before us, as pointed out by Mr. REGULA, contains the funds necessary to house the operations of our Armed Forces. Adopting this particular provision would tie up the funds necessary to improve readiness and the quality of life of the women and men and those who serve in our Armed Forces. I am confident that the gentleman from Pennsylvania does not intend to hinder that process. I ask for a nay vote.

The CHAIRMAN. The question on the amendment offered by the gentleman from Pennsylvania (Mr. WALKER).

The amendment was rejected.

Mr. GINN. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr.

FOLEY) having assumed the Chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983 and for other purposes, had directed him to report the bill back to the House with the recommendation that the bill do pass.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 325, nays 31, not voting 78, as follows:

[Roll No. 305]

YEAS—325

Addabbo	Conable	Florio
Akaka	Conte	Foglietta
Albosta	Corcoran	Foley
Alexander	Coyne, James	Ford (MI)
Anderson	Coyne, William	Ford (TN)
Andrews	Craig	Fountain
Annunzio	Crane, Daniel	Frank
Anthony	Crane, Philip	Frenzel
Archer	D'Amours	Frost
Ashbrook	Daniel, Dan	Gaydos
Aspin	Daniel, R. W.	Gejdenson
Atkinson	Dannemeyer	Gephardt
Badham	Daschle	Gibbons
Bafalis	Daub	Gilman
Bailey (MO)	de la Garza	Gingrich
Bailey (PA)	Deckard	Ginn
Barnard	DeNardis	Glickman
Barnes	Derrick	Goldwater
Beilenson	Derwinski	Gonzalez
Benedict	Dickinson	Goodling
Benjamin	Dicks	Gradison
Bennett	Dingell	Gramm
Bereuter	Dixon	Gray
Bethune	Donnelly	Green
Bevill	Dorgan	Grisham
Bliley	Dornan	Guarini
Boggs	Dougherty	Gunderson
Bonior	Dowdy	Hagedorn
Bonker	Dreier	Hall (OH)
Bouquard	Duncan	Hall, Ralph
Bowen	Dwyer	Hall, Sam
Breaux	Dyson	Hamilton
Brinkley	Eckart	Hammerschmidt
Brodhead	Edgar	Hance
Brooks	Edwards (AL)	Hansen (ID)
Broomfield	Edwards (OK)	Hansen (UT)
Broyhill	Emerson	Hatcher
Burgener	Emery	Hawkins
Burton, Phillip	English	Heckler
Butler	Erdahl	Hefner
Byron	Evans (DE)	Heftel
Campbell	Evans (GA)	Hendon
Carman	Evans (IA)	Hertel
Carney	Evans (IN)	Hightower
Chappell	Fary	Hiler
Chappie	Fascell	Hollenbeck
Cheney	Fazio	Hopkins
Clausen	Ferraro	Howard
Clinger	Fiedler	Hoyer
Coats	Fields	Hubbard
Coelho	Findley	Huckaby
Coleman	Fish	Hughes
Hunter	Mollohan	Shaw
Hutto	Montgomery	Shelby
Jacobs	Moore	Shumway
Jeffries	Moorhead	Shuster
Jones (OK)	Morrison	Siljander
Jones (TN)	Murtha	Simon
Kazen	Myers	Skeen
Kennelly	Napier	Skelton
Kildee	Natcher	Smith (AL)
Kindness	Neal	Smith (IA)
Kogovsek	Nelligan	Smith (NE)
Kramer	Nichols	Smith (NJ)
Lagomarsino	O'Brien	Smith (OR)
Lantos	Oakar	Snowe
Leach	Oberstar	Snyder
Leath	Obey	Solomon
LeBoutillier	Oxley	Spence
Lee	Panetta	St Germain
Lehman	Parris	Stangeland
Levitas	Pashayan	Stark
Lewis	Patman	Staton
Livingston	Patterson	Stenholm
Loeffler	Pease	Stokes
Long (LA)	Pepper	Stratton
Long (MD)	Perkins	Stump
Lott	Petri	Swift
Lowery (CA)	Peyser	Synar
Lowry (WA)	Pickle	Tauke
Lujan	Porter	Tauzin
Luken	Price	Taylor
Lungren	Pritchard	Udall
Madigan	Pursell	Vander Jagt
Markey	Quillen	Vento
Marlenee	Railsback	Volkmer
Marriott	Ratchford	Walker
Martin (IL)	Regula	Watkins
Martin (NC)	Rhodes	Waxman
Martin (NY)	Rinaldo	Weber (MN)
Martinez	Ritter	Weber (OH)
Matsui	Roberts (KS)	Weiss
Mavroules	Roberts (SD)	White
Mazzoli	Robinson	Whitley
McClory	Rodino	Whittaker
McCollum	Roemer	Whitten
McCurdy	Rogers	Williams (MT)
McDade	Rostenkowski	Williams (OH)
McDonald	Roth	Wolf
McGrath	Roukema	Wolpe
McHugh	Rousselot	Wortley
McKinney	Sabo	Wyden
Mica	Santini	Wylie
Michel	Sawyer	Yatron
Miller (CA)	Scheuer	Young (MO)
Mineta	Schneider	Zablocki
Minish	Schulze	Zeferetti
Moakley	Schumer	
Molinari	Sharp	

NAYS—31

AuCoin	Harkin	Reuss
Bedell	Kastenmeier	Roybal
Brown (CO)	LaFalce	Russo
Collins (IL)	Leland	Savage
Coughlin	Miller (OH)	Schroeder
Crockett	Mitchell (MD)	Seiberling
Dellums	Murphy	Washington
Downey	Ottinger	Weaver
Dymally	Paul	Wirth
Forsythe	Rahall	
Garcia	Rangel	

NOT VOTING—78

Applegate	Fithian	McCloskey
Beard	Flippo	McEwen
Biaggi	Fowler	Mikulski
Bingham	Fuqua	Mitchell (NY)
Blanchard	Gore	Moffett
Boland	Gregg	Mottl
Bolling	Hartnett	Nelson
Boner	Hillis	Nowak
Brown (CA)	Holland	Richmond
Brown (OH)	Holt	Roe
Burton, John	Horton	Rose
Chisholm	Hyde	Rosenthal
Clay	Ireland	Rudd
Collins (TX)	Jeffords	Sensenbrenner
Conyers	Jenkins	Shamansky
Courter	Johnston	Shannon
Davis	Jones (NC)	Smith (PA)
Dunn	Kemp	Solarz
Early	Latta	Stanton
Edwards (CA)	Lent	Studds
Erlenborn	Lundine	Thomas
Ertel	Marks	Traxler
Fenwick	Mattox	Trible
Walgren	Wilson	Yates
Wampler	Winn	Young (AK)
Whitehurst	Wright	Young (FL)

□ 2030

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may be permitted to include extraneous matter and tabulations, on the bill just passed.

The SPEAKER pro tempore. (Mr. FOLEY). Is there objection to the request of the gentleman from Georgia?

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1119. An act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J.;

H.R. 4347. An act to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power;

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service; and

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3663) entitled "An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PACKWOOD, Mr. DANFORTH, and Mr. CANNON to be the conferees on the part of the Senate.

ELECTION OF HON. MELVIN PRICE AS SPEAKER PRO TEMPORE DURING THE ABSENCE OF THE SPEAKER

Mr. ROSTENKOWSKI. Mr. Speaker, I offer a privileged resolution (H. Res. 573) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 573

Resolved, That Hon. Melvin Price, a Representative from the State of Illinois, be, and he is hereby, elected Speaker pro tempore during the absence of the Speaker.

Resolved, That the President and the Senate be notified by the Clerk of the election of Hon. Melvin Price as Speaker pro tempore during the absence of the Speaker.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SWEARING IN OF HON. MELVIN PRICE AS SPEAKER PRO TEMPORE DURING ABSENCE OF THE SPEAKER

The SPEAKER pro tempore. The Chair asks the distingished gentleman from Illinois (Mr. PRICE) to assume the chair.

Mr. PRICE assumed the chair and took the oath of office administered to him by the gentleman from Washington (Mr. FOLEY).

CONFERENCE REPORT ON H.R. 3663, BUS REGULATORY REFORM ACT OF 1982

Mr. HOWARD submitted the following conference report and statement on the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers:

CONFERENCE REPORT (H. REPT. NO. 97-780)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Bus Regulatory Reform Act of 1982".

PURPOSE OF THE ACT

SEC. 2. This Act is part of the continuing effort by Congress to reduce unnecessary and burdensome Government regulation.

CONGRESSIONAL FINDINGS

SEC. 3. The Congress hereby finds that a safe, sound, competitive, and fuel-efficient motor bus system contributes to the maintenance of a strong national economy and a strong national defense and is vital to the transportation needs of the elderly, handicapped, and the poor; that the statutes governing Federal regulation of the motor bus industry are outdated and must be revised to reflect the future transportation needs and realities; that historically the existing Federal and State regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utilization of equipment and energy resources, and opportunities for minorities and others to enter the motor bus industry; that State regulation of the motor bus industry has, in certain circumstances, unreasonably burdened interstate commerce; that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry; that the objectives contained in the national transportation policy can best be achieved through greater competition and reduced regulation; that in order to reduce the uncertainty felt by the Nation's motor bus industry and those persons and communities that rely on its services, the Interstate Commerce Commission should be given explicit direction for reduced regulation of the motor bus industry and should do everything within its power to promote competition in the motor bus industry; and that legislative and resulting changes should be implemented without unnecessary disruption to the transportation system consistent with the scope of the reforms enacted.

CONGRESSIONAL OVERSIGHT

SEC. 4. The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, not less than annually until July 1, 1985, to ensure that this Act is being implemented according to congressional intent and purpose.

NATIONAL TRANSPORTATION POLICY

SEC. 5. Subsection (a) of section 10101 of title 49, United States Code, is amended by striking out "and in regulating those modes" and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, passengers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and maintain service to small communities and small shippers and intrastate bus services; (F) provide and maintain commuter bus operations; (G) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (H) promote greater participation by minorities in the motor carrier system; and (I) promote intermodal transportation; and

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.".

MOTOR CARRIER OF PASSENGERS ENTRY POLICY

SEC. 6. (a) Subsection (a) of section 10922 of title 49, United States Code, is amended (1) by striking out "II or", and (2) by striking out "motor common carrier of passengers or water common carrier, respectively," and inserting in lieu thereof "water common carrier".

(b) Section 10922 of title 49, United States Code, is amended by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) (and any references thereto) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Except as provided in this section—

"(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and shall issue a certificate to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(B) For any application for authority as a motor common carrier of passengers, except an application to which subparagraph (A) of this paragraph applies, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

"(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of this subsection to provide interstate transportation of passengers if the

Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

"(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority, or will be granted authority, after the effective date of this section to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(C) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and if a city within the commercial zone, as defined in section 10526(b)(1) of this title, is served by a motor common carrier of passengers providing regular-route transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(D) Subject to subparagraph (F) of this paragraph, any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this subtitle. Upon issuance of such certificate, the carrier shall establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under such subchapter establishes rates, rules, and practices applicable to such interstate transportation. Any such rate, rule, or practice (including changes thereto) shall be subject to the provisions of chapter 107 of this subtitle as if such rate, rule, or practice were related to interstate transportation.

"(E) Not later than 30 days after the date on which a motor common carrier of passengers first begins providing transportation entirely in one State pursuant to a certificate issued under this paragraph, the carrier shall take all action necessary to establish under the laws of such State rates, rules, and practices applicable to such transportation.

"(F) Transportation entirely in one State authorized by issuance of a certificate under this paragraph shall remain subject to the jurisdiction of the Commission, and rates, rules, and practices applicable to such transportation established under subparagraph (D) of this paragraph shall remain in effect, until permanent rates, rules, and practices applicable to such transportation are established under the laws of such State.

"(G) The Commission shall take final action upon an application filed under subparagraph (A) of this paragraph for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

"(H) This paragraph shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(I) Notwithstanding subparagraph (F) of this paragraph, intrastate transportation authorized under this paragraph may be suspended or revoked by the Commission under section 10925 of this title.

"(3) In making any findings relating to public interest under paragraphs (1)(A) and (2)(B) of this subsection, the Commission shall consider, to the extent applicable—

"(A) the transportation policy of section 10101(a) of this title;

"(B) the value of competition to the traveling and shipping public;

"(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

"(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route system.

"(4) The provisions of paragraph (1) of this subsection relating to the Commission finding that transportation to be authorized by issuance of a certificate is not consistent with the public interest shall not apply to any application under this subsection for authority to provide—

"(A) interstate transportation service to any community not regularly served by a motor common carrier of passengers under this section;

"(B) interstate transportation service which will be a substitute for discontinued rail or commercial-air passenger service to a community if such discontinuance results in such community not having any rail and commercial-air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

"(C) interstate transportation service to any community with respect to which the only motor common carrier of passengers providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to discontinue or reduce its level of intrastate service to such community under section 10935 of this subchapter.

"(5) The Commission may not make any finding under paragraphs (1) and (2) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(6) The requirement that persons issued certificates under this subsection be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.

"(7) No motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the traveling public; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(8) No motor contract carrier of passengers may protest an application to provide transportation filed under this subsection.

"(9) For purposes of this section, authority under this subsection to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation or any combination of air, rail, or water transportation.".

(c) Paragraph (4) of subsection (e) of section 10922 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended to read as follows:

"(4) A certificate of a motor common carrier to transport passengers shall be deemed to include permissive authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with the passengers, or baggage of passengers in a separate motor vehicle.".

(d)(1) Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (5) through (29), and any references thereto, as paragraphs (6) through (30), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) 'commuter bus operations' means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geographical boundaries of a State, and utilized primarily by passengers using reduced-fare, multiple-ride, or commutation tickets during morning and evening peak period operations.".

(2) Section 11711(f) of such title is amended by striking out "10102(10)(A)" and inserting in lieu thereof "10102(11)(A)".

(3) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(18)" and inserting in lieu thereof "10102(19)".

(4)(A) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(12)" and inserting in lieu thereof "10102(13)".

(B) Section 5201(6) of title 39, United States Code, is amended by striking out "10102(7)" and inserting in lieu thereof "10102(8) of title 49".

(e) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting "10708(f)," immediately after "10708(b),";

(2) by striking out "10922(h)(2)" and inserting in lieu thereof "10922(i)(2), 10922(i)(4)"; and

(3) by adding at the end thereof the following new sentence: "In addition, the deadlines set forth in this section do not apply to any application filed under section 10922(c)(2)(A) of this subtitle for authority to provide regular-route transportation entirely in one State as a motor common carrier of passengers.".

(f) Section 10521(b) of title 49, United States Code, is amended—

(1) in clause (1) by inserting "except as provided in sections 10922(c)(2), 10935, and 11501(e) of this title," immediately before "affect";

(2) in clause (2) by inserting "except as provided in sections 10922(c)(2) and 11501(e)," immediately before "authorize"; and

(3) in clause (3) by inserting "except as provided in section 10922(c)(2) of this title," immediately before "allow".

(g) Section 10922 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Except as provided in paragraph (2) of this subsection, the Commission, notwithstanding any other provision of law (other than such paragraph (2)), shall not issue any certificate to any motor common carrier, or any permit to any motor contract carrier, domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country in the two-year period beginning on the effective date of this subsection. The President of the United States may extend, beyond such two-year period, such moratorium with respect to any contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision.

"(2) The President of the United States may remove or modify, in whole or in part, any moratorium imposed under paragraph (1) of this subsection on the issuance of certificates or permits if the President determines that such removal or modification is in the national interest and notifies, in writing, the Congress of such removal or modification before the date on which such removal or modification is to take effect. In any case in which such moratorium applies to a contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision, such removal or modification shall not take effect before the 60th day following the date on which the Congress is notified of such removal or modification.".

RESTRICTION REMOVAL

SEC. 7. Section 10922(i) of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by adding at the end thereof the following new paragraphs:

"(3) On the effective date of this paragraph, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authorize (but not require)—

"(A) round-trip operations where only one-way authority exists; and

"(B) special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

"(4) Upon request of any person issued a certificate to provide interstate transportation of passengers under this section, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be provided.".

MIXING OF REGULAR AND CHARTER PASSENGERS

SEC. 8. Subsection (j) of section 10922 of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, by inserting "(1)" before "A person holding", and by adding at the end of such subsection the following new paragraphs:

"(2)(A) Subject to the provisions of this paragraph, a motor common carrier of passengers who has authority under this section to provide special or charter transportation of passengers and to provide regular-route transportation of passengers may transport the special or charter passengers in the same motor vehicle with regular-route passengers.

"(B) Subparagraph (A) of this paragraph shall only apply to transportation of passengers entirely in a State if the motor common carrier of passengers has authority under the laws of such State to provide within such State special or charter transportation of passengers and regular-route transportation of passengers and if the laws of such State and the certificate, permit, or other authority under which such carrier provides intrastate transportation in such State authorizes such carrier to transport special or charter passengers in the same motor vehicle with regular-route passengers.

"(C) Special or charter transportation of passengers may only be provided under subparagraph (A) of this paragraph in the same motor vehicle as regular-route transportation of passengers if the mixing of such passengers does not interfere with the obligation of the carrier to comply with section 11101 of this subtitle.

"(3) Subject to such regulations as the Commission may issue, a person who has authority under this section to provide charter transportation of passengers may transport groups of charter passengers in the same motor vehicle at the same time.".

RULE OF RATEMAKING

SEC. 9. (a) Section 10701(e) of title 49, United States Code, is amended by striking out "of property" each place it appears.

(b) Section 10704(b)(2)(B) of title 49, United States Code, is amended by striking out "of property".

RATE BUREAUS

SEC. 10. (a) Paragraphs (1) and (2) of section 10706(b) of title 49, United States Code, are amended by striking out "of property" each place it appears.

(b)(1) Section 10706(b)(3)(B)(i) of title 49, United States Code, is amended by striking out "and (D)" and inserting in lieu thereof ", (D), (E), and (F)".

(2) Section 10706(b)(3)(B)(iii) of title 49, United States Code, is amended by striking out "of property".

(3) Section 10706(b)(3)(D) of title 49, United States Code, is amended by inserting after the first sentence the following new sentence: "This subparagraph shall not apply to any single-line rate proposed by a motor common carrier of passengers.".

(4) Section 10706(b)(3) of title 49, United States Code, is amended by redesignating subparagraphs (E) and (F), and any references thereto, as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (D) the following new subparagraphs:

"(E) On and after January 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon any single-line rate proposed by a motor common carrier of passengers. On and after January 1, 1984, no agreement approved under this subsection may provide for discussion of or voting upon any joint rate proposed by one or more motor common carriers of passengers. This subparagraph shall not apply to any rate applicable to special or charter transportation. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:

"(i) any general rate increase or decrease, broad change in tariff structure, or promotional or innovative fare change, as defined by the Commission and subject to such notice requirements as the Commission may specify by regulation, if discussion of such general increase or decrease is limited to industry average carrier costs and intermodal competitive factors and does not include discussion of individual markets or particular single-line rates or joint rates; and

"(ii) publishing of tariffs, filing of independent actions for individual member carriers, providing of support services for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(F) After the effective date of this subparagraph, no agreement approved under this subsection may provide for discussion of or voting upon any rate applicable to special or charter transportation proposed by a motor common carrier of passengers. This subparagraph shall not apply to publication of any such rate.".

(c) Subsection (b) of section 10706 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this subtitle (other than paragraph (3)(F) of this subsection, relating to special and charter transportation of passengers), before January 1, 1983, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of passengers from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, or divisions, except that before January 1, 1983, the Commission may issue regulations which take effect on or after January 1, 1983, to carry out the provisions of paragraph (3)(E) of this subsection.".

(d) The first sentence of section 10706(c) of title 49, United States Code, is amended by striking out "of property".

(e)(1) Paragraph (2) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended to read as follows:

"(2)(A) The Study Commission shall make (i) a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and upon the need or lack of need for continued antitrust immunity therefor, and (ii) a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for antitrust immunity therefor. The Study Commission may study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. Each such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. Each such study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

"(B) The Study Commission shall make a full and complete investigation and study of the impact of implementation of the Bus Regulatory Reform Act of 1982 on persons over the age of 60, including those who reside in rural areas and small communities. In particular, the Study Commission shall investigate and study the effect on such persons of the potential termination of routes as a result of implementation of the Bus Regulatory Reform Act of 1982. In making the study required by this subparagraph, the Study Commission shall provide for notice and the opportunity for interested parties to comment, but need not provide for oral evidentiary hearings. In addition, the Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high quality intrastate motor bus services. Such study shall focus on the impact on existing firms currently providing service, some or all of which is conducted between points wholly within a single State. The Study Commission shall present its conclusions in its final report. Prior to such final report, if the Study Commission finds the existence of conditions that jeopardize the viability of continued intrastate services, it shall immediately notify the Congress and the Interstate Commerce Commission of its findings. If such notice is presented to the Interstate Commerce Commission, it shall give expedited treatment to whatever recommendations are made. The mandate to study the impact on intrastate bus transportation shall be an on-going one throughout the duration of the Study Commission's existence.".

(2) Paragraph (3) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended—

(A) by striking out "ten members" and inserting in lieu thereof "fourteen members";

(B) by striking out "and" at the end of clause (B); and

(C) by striking out the period at the end of such paragraph and inserting in lieu thereof "; and"; and

(D) by adding at the end of such paragraph the following:

"(D) four members of the public appointed by the President, one who is a motor common carrier of passengers receiving $3,000,000 or more per year in revenues from motor common carrier of passengers operations, one who is a motor common carrier of passengers receiving less than $3,000,000 per year in revenues from motor common carrier of passengers operations, and two who are not affiliated with the motor common carrier industry.

No member of the Study Commission who is appointed under clause (C) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of passengers, and no member of the Study Commission who is appointed under clause (D) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of property.".

(3) Paragraph (4) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended by striking out the first 2 sentences and inserting in lieu thereof the following:

"(4) The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of property not later than January 1, 1983, and its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984. The Study Commission shall, not later than January 1, 1984, submit to the President and the Congress the report required by paragraph (2)(B) of this subsection. Such reports shall include, but not be limited to, the findings and recommendations of the Study Commission. The Study Commission shall cease to exist 6 months after submission of the last of such reports.".

(4) Paragraph (12) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 808) is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000".

(f) Any organization established pursuant to an agreement entered into by motor common carriers of passengers and approved by the Commission prior to the effective date of this subsection under section 10706(c) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such effective date, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

ZONE OF RATE FREEDOM

SEC. 11. (a) Subsection (d) of section 10708 of title 49, United States Code, is amended by redesignating paragraph (4) of such subsection, and any references thereto, as paragraph (6) and inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any single-line rate proposed by a motor common carrier of passengers, or joint rate proposed by one or more such carriers, applicable to any transportation (other than special or charter transportation) on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

"(A) the carrier or carriers notify the Commission that they wish to have the rate considered pursuant to this subsection; and

"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 20 percent below the lesser of the rate in effect on the effective date of this paragraph (or, in case of any rate which the carrier or carriers first establish after such date for a service not provided by the carrier or carriers on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.

"(5) One year after the effective date of this paragraph, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 15 percent and 25 percent, respectively. Two years after the effective date, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 20 percent and 30 percent, respectively.".

(b) Paragraph (6) of section 10708(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting after the first sentence the following new sentence: "Evidence that any motor common carrier of passengers established pursuant to this subsection a joint or single-line rate applicable to transportation over any route which is the same as or similar to a joint rate applicable to transportation over such route which such carrier together with one or more other motor common carriers of passengers established pursuant to this subsection shall not be in and of itself sufficient to establish a violation of any such antitrust law.".

(c) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Notwithstanding any other provision of this title, 3 years after the effective date of this subsection, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers on the grounds that such rate is unreasonable on the basis that it is too high or too low, unless the proposed rate is established collectively in accordance with the procedures of an agreement approved by the Commission under section 10706(b) of this title. In publishing and filing a tariff under section 10762 of this title, the carrier shall disclose whether such rate is the result of collective ratemaking procedures pursuant to an agreement approved by the Commission under section 10706(b) of this title.

"(f) Notwithstanding any other provision of this title, an interested party may file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under this section by a motor carrier of passengers. Any such complaint proceeding shall be finally determined by the Commission no later than 90 days after the filing of the complaint.".

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

SEC. 12. (a) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

(b) Section 10762(c)(3) of title 49, United States Code, is amended—

(1) in the second sentence by inserting "and motor common carrier of passengers with respect to special or charter transportation" immediately after "a rail carrier"; and

(2) by adding at the end thereof the following new sentence: "In the case of a motor common carrier of passengers, a proposed rate change resulting in an increased rate or a new rate applicable to special or charter transportation shall not become effective for 30 days after the notice is published, and a proposed rate change resulting in a reduced rate applicable to special or charter transportation shall not become effective for 10 days after the notice is published.".

MOTOR CONTRACT CARRIERS

SEC. 13. (a) Section 10923(b)(2) of title 49, United States Code, is amended to read as follows:

"(2) The provisions of paragraph (2) of subsection (a) of this section shall not apply to applications under this section for authority to provide transportation as a motor contract carrier of passengers. The requirement that persons issued permits under this section as motor contract carriers of passengers be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.".

(b) Subsection (e) of section 10925 of title 49, United States Code, is amended—

(1) by striking out "of property" each place it appears;

(2) by striking out "section 10922(b)" each place it appears and inserting in lieu thereof "section 10922"; and

(3) in paragraph (2)—

(A) by striking out "transportation"; and

(B) by striking out "of the same property" and inserting in lieu thereof "the same type of transportation".

BROKERS

SEC. 14. (a) Subsection (a) of section 10924 of title 49, United States Code, is amended by striking out "passengers or".

(b) Subsection (e) of section 10924 of title 49, United States Code, is amended by striking out "of travelers and".

(c) Section 10924 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Commission may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers.".

(d) Section 10526(a) of title 49, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) brokers for motor carriers of passengers, except as provided in section 10924(f) of this title.".

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

SEC. 15. Section 10928 of title 49, United States Code, is amended—

(1) in subsection (a) by striking out "motor carrier of passengers or" each place it appears;

(2) in subsection (b)(1) by striking out "of property" each place it appears; and

(3) in subsection (c)(1) by striking out "of property" each place it appears and by inserting immediately after "not more than 90 days" the following: "and, in addition, in the case of a motor carrier of passengers, the Commission may extend such authority for a period of more than 90 days but not more than 180 days if no other motor carrier of passengers is providing transportation to the place or in the area".

EXIT POLICY

SEC. 16. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10935. Discontinuing bus transportation in one State

"(a) When a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of this subchapter, to provide transportation over any route to any point in such State has proposed to discontinue providing transportation over such route to such point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays) and the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over granting such discontinuance or reduction for permission to discontinue such intrastate transportation or to reduce its level of service to a level which is less than one trip per day (excluding Saturdays and Sundays) and the request has been denied (in whole or in part) or such department, agency, or instrumentality has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request, the carrier may petition the Commission for such permission.

"(b) When a petition is filed under subsection (a) of this section, the carrier shall certify that he has notified (1) the Governor of the State in which such transportation is provided, (2) the State authority having jurisdiction over granting discontinuances of transportation by motor common carriers of passengers and reductions in levels of service by such carriers, (3) local governments having jurisdiction over areas which would be affected if such petition is granted, and (4) such other interested persons as the Commission may specify by regulation.

"(c) Any person (including a department, agency, or instrumentality of a State or local government) may object to the Commission to the granting of permission to any motor common carrier of passengers to discontinue or reduce transportation under this section.

"(d) If no person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the Commission shall grant such permission at the end of such 20-day period.

"(e)(1)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that such discontinuance or reduction is not consistent with the public interest or that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted, on or before August 1, 1982, authority to provide interstate transportation of passengers.

"(2)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce. For the purposes of this paragraph, continuance of the transportation would not constitute an unreasonable burden on interstate commerce only if discontinuance or reduction of such transportation is not consistent with the public interest and the interstate and intrastate revenues from such service under reasonable pricing practices are not less than the variable costs of providing the transportation proposed to be discontinued or reduced.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted after August 1, 1982, and before the effective date of this section, or is granted on or after such effective date, authority to provide interstate transportation of passengers.

"(3) The Commission shall only grant permission to a carrier to discontinue intrastate transportation over any route to any point under this subsection if such carrier has applied for authority to discontinue its interstate transportation over such route to such point under section 10925(b) of this subchapter and the Commission has granted or will grant such authority.

"(4) If any person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the carrier, within 15 days after the filing of such objection with the Commission, shall furnish to the Commission and to objecting persons—

"(A) an estimate of the annual subsidy required, if any, to continue the service;

"(B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service; and

"(C) such other information as the Commission may require by regulation.

The Commission shall take final action upon such petition not later than 90 days after the date the carrier files such petition.

"(f) Before a discontinuance or reduction in level of service proposed in a petition

filed by a carrier under subsection (a) of this section has become effective, the Commission may order the carrier to continue any part of the intrastate transportation in not to exceed the 165-day period beginning on the date the carrier files such petition with the Commission.

"(g)(1) In making a finding under subsection (e)(1) of this section, the Commission shall accord great weight to the extent to which interstate and intrastate revenues received for providing the transportation proposed to be discontinued or reduced are less than the variable costs of providing such transportation, including depreciation for revenue equipment. For purposes of the preceding sentence, the carrier filing a petition for permission to discontinue or reduce service shall have the burden of proving the amount of the interstate and intrastate revenues received for providing the transportation and the variable costs of providing the transportation.

"(2) In making a finding under subsection (e)(1) or (e)(2) of this section, the Commission shall consider, to the extent applicable, at least—

"(A) the national transportation policy of section 10101 of this title;

"(B) whether the motor common carrier of passengers has received an offer of, or is receiving, financial assistance to provide the transportation to be discontinued or reduced from a financially responsible person (including a governmental authority); and

"(C) in the case of a petition to discontinue transportation to any point, whether the transportation is the last motor carrier of passenger service to such point and whether a reasonable alternative to such service is available.

"(h) No State or political subdivision thereof and no interstate agency or other agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to discontinuance or reduction in the level of intrastate service by a motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title corresponding to an interstate service initiated pursuant to the provisions of section 10922(c)(4) of this title, except to the extent that notice of discontinuance or reduction in service, not in excess of 30 days, may be required.

"(i) This section shall not apply to any carrier owned or controlled by a State or local government.".

(b) The analysis for subchapter II of chapter 109 of title 49, United States Code, is amended by inserting

"10935. Discontinuing bus transportation in one State."

after

"10934. Household goods agents.".

(c) Section 10322(a) of title 49, United States Code, is amended by inserting "10935," after "10934(c),".

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

SEC. 17. (a)(1) Section 11501 of title 49, United States Code, is amended by redesignating subsection (e), and any references thereto, as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) The Commission shall prescribe any rate, rule, or practice applicable to transportation provided entirely in one State by a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

"(A) if the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice for permission to establish such rate, rule, or practice and the request has been denied (in whole or in part) or the State authority has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request; and

"(B) if the Commission finds that the rate, rule, or practice in effect and applicable to such intrastate transportation causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

"(2) For purposes of paragraph (1)(B) of this subsection, there shall be a rebuttable presumption that—

"(A) any rate, rule, or practice applicable to transportation provided by a motor common carrier of passengers entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds—

"(i) that such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers;

"(ii) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice such carrier does not receive revenues from such transportation which exceed the variable costs of providing such transportation; or

"(iii) that the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice failed to act finally (in whole or in part) on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request; and

"(B) any rate applicable to transportation entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds that the most recent general rate increase applicable to transportation provided by motor common carriers of passengers in such State is less than the most recent general rate increase applicable to interstate transportation provided by motor common carriers of passengers under this subtitle.

"(3)(A) A motor common carrier of passengers must file an application with the Commission for prescription under this subsection of a rate, rule, or practice applicable to transportation provided entirely in one State by such carrier. When such application is filed with the Commission, the carrier shall certify that he has notified (i) the Governor of such State, (ii) the department, agency, or instrumentality of such State which denied, or failed to take action on, the request of such carrier related to such rate, rule, or practice, and (iii) such other interested persons as the Commission may specify by regulation. The Commission shall take final action on any such application not later than 60 days after such application is filed with the Commission.

"(B) The Commission shall establish, by regulation, procedures for processing applications under this subsection.

"(4) This subsection shall not apply to any carrier owned or controlled by a State or local government.

"(5) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation provided by motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title on an authorized interstate route or relating to the implementation of any reduction in the rates for such transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This paragraph shall not apply to intrastate commuter bus operations.

"(6)(A) No motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission may charge or collect a rate for intrastate service provided on an authorized interstate route which constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title.

"(B) When the Commission decides, upon complaint by any person, that a reduction in a rate charged or collected by such a motor common carrier of passengers for intrastate service provided on an authorized interstate route constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title, the Commission shall prescribe the rate applicable to such service.".

(2) Subsection (f) of section 11501 of title 49, United States Code, as redesignated by paragraph (1) of this subsection, is amended by inserting "(1)" immediately after "take action" and by inserting ", or (2) with respect to a rate, rule, or practice of a motor common carrier of passengers, in accordance with the procedures established by the Commission under subsection (e)(3)(B) of this section" immediately after "a full hearing".

(b) Section 10322(a) of title 49, United States Code, is amended by inserting "or 11501(e)" immediately after "section 10934".

(c) The Interstate Commerce Commission, in consultation with each national association representing State departments, agencies, and instrumentalities having jurisdiction over motor common carrier transportation of passengers, shall cooperate with each such department, agency, or instrumentality of a State for the purpose of establishing standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers who provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of subtitle IV of title 49, United States Code, which are—

(1) to the extent feasible, uniform among the States; and

(2) consistent with the standards and procedures established by the Interstate Commerce Commission under such subtitle for regulation of interstate transportation provided by motor common carriers of passengers.

(d) It is the sense of Congress that each State should revise its standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers to conform such standards and procedures to the standards and procedures for rates, rules, and practices applicable to interstate transportation provided by motor carriers of passengers not later than 2 years after the effective date of this section.

(e) Not later than 30 months after the effective date of this section, the Interstate Commerce Commission shall report to the Congress on the results of its efforts to estab-

lish uniform standards and procedures applicable to motor common carrier of passengers rates, rules, and practices.

FINANCIAL RESPONSIBILITY

SEC. 18. (a) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability and property damage for the transportation of passengers for hire by motor vehicle in the United States from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.

(b) The minimal level of financial responsibility established by the Secretary under subsection (a) of this section—

(1) for any vehicle with a seating capacity of 16 passengers or more shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $2,500,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service; and

(2) for any vehicle with a seating capacity of 15 passengers or less shall not be less than $1,500,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $750,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(c)(1) If, at the end of the one-year period beginning on the effective date of this section, the Secretary has not established regulations to require minimal levels of financial responsibility as required by subsection (a) of this section for any class of transportation of passengers, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in subsection (b)(1) of this section in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount set forth in subsection (b)(2) of this section in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount under this section.

(2) Notwithstanding the provisions of subsection (b) of this section, the Secretary may only make reductions in the $5,000,000 and $1,500,000 amounts set forth in such subsection for the two-year period beginning on the 366th day following the effective date of this section or any part of such period.

(d) Financial responsibility may be established under this section by any one or combination of the following methods acceptable to the Secretary: evidence of insurance, including high self-retention, guarantee, or surety bond. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(e)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) This section shall not apply—

(1) to a motor vehicle transporting only school children and teachers to or from school;

(2) to a motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points; and

(3) to a motor vehicle carrying less than 16 individuals in a single, daily round trip to commute to and from work.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" means a State of the United States and the District of Columbia.

(h) Section 10927(a)(1) of title 49, United States Code, is amended by inserting immediately after "Motor Carrier Act of 1980" the following: ", in the case of a motor carrier of property, or section 18 of the Bus Regulatory Reform Act of 1982, in the case of a motor carrier of passengers".

SECURITIES

SEC. 19. (a) Section 11302 of title 49, United States Code, and the item relating to such section in the analysis for chapter 113 of such title, are repealed.

(b) Section 11348 of title 49, United States Code, is amended by striking out "11302," each place it appears.

(c) Section 11911(a) of title 49, United States Code, is amended by striking out "or of a person to which that section is made applicable by section 11302(a) of this title".

(d) Section 3(a)(6) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended by striking out "Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any" and by inserting in lieu thereof "Any".

TAX DISCRIMINATION

SEC. 20. (a) Section 11503a(a)(3) of title 49, United States Code, is amended by striking out "of property".

(b) Section 11503a(c)(1) of title 49, United States Code, is amended by striking out "other commercial and industrial property" and inserting in lieu thereof "such other property".

MERGER PROCEDURE

SEC. 21. (a)(1) Section 11341(a) of title 49, United States Code, is amended by inserting "or exempted by" immediately after "approved by".

(2) The third sentence of section 11341(a) of title 49, United States Code, is amended by inserting "approved or exempted" immediately after "participating in that".

(b) Section 11343 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any provisions of this title, the Interstate Commerce Commission, in a matter related to a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, may exempt a person, class of persons, transaction, or class of transactions from the merger, consolidation, and acquisition of control provisions of this subchapter if the Commission finds that—

"(A) the application of such provisions is not necessary to carry out the transportation policy of section 10101 of this title; and

"(B) either (i) the transaction is of limited scope, or (ii) the application of such provisions is not needed to protect shippers from the abuse of market power.

"(2) At least 60 days before any transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter may take effect, each carrier intending to participate in such transaction shall file with the Commission a notice of its intention to participate in such transaction and shall give public notice of such intention. The Commission shall prescribe the information to be contained in such notices, including the nature and scope of the transaction.

"(3) The Commission, on its own initiative or on complaint, may revoke an exemption granted under this subsection, to the extent it specifies, when it finds that application of the provisions of this section to the person, class of persons, or transportation is necessary to carry out the transportation policy of section 10101 of this title.

"(4) If the Commission, on its own initiative, finds that employees of any carrier intending to participate in a transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter are or will be adversely affected by such transaction or if employees of such carrier adversely affected by such transaction file a complaint concerning such transaction with the Commission, the Commission shall revoke such exemption to the extent the Commission deems necessary to review and address the adverse effects on such employees.".

(c) The heading of section 11345a of title 49, United States Code, is amended to read as follows:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier procedure".

(d) Subsection (a) of such section is amended by striking out "of property".

(e) The item relating to section 11345a in the analysis for subchapter III of chapter 113 of title 49, United States Code, is amended to read as follows:

"11345a. Consolidation, merger, and acquisition of control: motor carrier procedure.".

(f) Section 11344(b) of title 49, United States Code, is amended by redesignating paragraphs (1), (2), (3), (4), and (5) (and any references thereto) as subparagraphs (A),

(B), (C), (D), and (E), respectively, by inserting "(1)" immediately before "In a proceeding", and by adding at the end thereof the following new paragraph:

"(2) In a proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, the Commission shall consider at least the following:

"(A) the effect of the proposed transaction on the adequacy of transportation to the public.

"(B) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

"(C) the total fixed charges that result from the proposed transaction.

"(D) the interest of carrier employees affected by the proposed transaction.".

(e) Section 11344(d) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The provisions of this subsection do not apply to any proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.".

SAFETY ENFORCEMENT

SEC. 22. (a) Section 10925(d) of title 49, United States Code, is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, upon petition by the Secretary of Transportation, the Commission may suspend a certificate or permit of a motor carrier of passengers if the Commission finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.".

(b) Paragraph (3) of section 10925(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting immediately before the period at the end thereof the following: "or, in the case of a suspension under paragraph (2) of this subsection, until the Commission revokes such suspension".

ILLEGAL OPERATIONS

SEC. 23. Section 11901(g) of title 49, United States Code, is amended by inserting immediately before the period at the end of the first sentence the following: "; except that, in the case of a person who does not have authority under this subtitle to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 10921 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be more than $1,000 for each violation and $500 for each additional day the violation continues".

ADMINISTRATIVE ASSISTANCE

SEC. 24. Section 10321(b) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of such section and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(4) consistent with the transportation policy of section 10101 of this title, provide administrative assistance to small motor common carriers of passengers and local governments in preparing for proceedings under sections 10922(c)(2), 10935, and 11501(e) of this title.".

STUDY OF CITIZEN BAND RADIOS ON BUSES

SEC. 25. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the use of citizen band radios on motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, by the operators of such vehicles. Such study shall determine, at a minimum, the following:

(1) the effect on safety if such operators are authorized to use such radios; and

(2) the effect on safety, health, and convenience of the passengers of such vehicles if such operators are authorized to use such radios.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit to the Secretary and the Congress, within one year after entering into arrangements with the National Academy of Sciences for conducting the study under subsection (a) of this section, a report on the results of such study along with its recommendations concerning whether operators of motor vehicles providing transportation of passengers should be allowed to use citizen band radios. The Secretary shall furnish to such Academy, at its request, any information which such Academy deems necessary for the purpose of conducting such study.

(c) Not later than 60 days after the National Academy of Sciences submits its report to the Secretary of Transportation under subsection (b) of this section, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether operators of motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, should be allowed to use citizen band radios in such vehicles. In making such determination, the Secretary of Transportation shall give substantial weight to the recommendations and conclusions of the National Academy of Sciences. Such rulemaking proceeding shall be completed not later than 120 days after such proceeding is commenced. If the Secretary issues a rule or regulation which recommends that operators of such vehicles be allowed to install temporarily and operate citizen band radios in such vehicles, the Secretary of Transportation shall issue regulations establishing guidelines for the use of such radios in such vehicles in order to ensure that the public safety is adequately protected.

(d)(1) Subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 11111. Use of citizen band radios on buses

"(a)(1) A motor carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall allow the operator of any motor vehicle providing such transportation to temporarily install and operate a citizen band radio in such vehicle if the Secretary of Transportation issues a rule or regulation which recommends that operators of such vehicles be allowed to temporarily install and operate such radios in such vehicles.

"(2) Citizen band radios installed and operated in motor vehicles providing transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be installed and operated in accordance with the guidelines established by the Secretary of Transportation under section 25(c) of the Bus Regulatory Reform Act of 1982.

"(b) The Commission shall issue such regulations as it considers necessary to carry out this section.".

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by inserting

"11111. Use of citizen band radios on buses."

after

"11110. Household goods carrier operations.".

(e) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11111" after "11109".

(f) This section shall not be construed to provide new spending authority within the meaning of section 401(c)(2)(A) of the Congressional Budget Act of 1974.

BUS TERMINAL STUDY

SEC. 26. (a) The Secretary of Transportation and the Interstate Commerce Commission shall conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in section 10101 of title 49, United States Code. A report on the results of such investigation and study, including legislative recommendations, shall be submitted to the President and Congress not later than December 31, 1983.

(b) The report under this section shall include an analysis of at least the following:

(1) the pattern of ownership of bus terminals, including public and private ownership;

(2) the desirability of terminals for more than one mode of transportation and their impact on urban development;

(3) the desirability of governmental assistance in the construction of nonurban bus terminals.

EMPLOYEE PROTECTION

SEC. 27. (a)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of priority reemployment, in his or her occupational specialty, by such carrier at such time as such carrier is hiring additional employees.

(2) Any motor common carrier of passengers hiring additional employees shall have a duty to hire an individual eligible for protection under this section, in his or her occupational specialty, before hiring any other individual if such individual—

(A) was terminated previously by such carrier;

(B) has applied for a vacant position for which such carrier is accepting applications; and

(C) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(b)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of consideration for em-

ployment, in his or her occupational specialty, by any other motor common carrier of passengers who is hiring additional employees.

(2) Each motor common carrier of passengers who is hiring additional employees shall have a duty to consider for employment, in his or her occupational specialty, an individual who is eligible for protection under this section if such individual—

(A) has applied for a vacant position for which such carrier is accepting applications; and

(B) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(c) An individual (other than a member of a board of directors or an officer of a corporation) who was employed by a motor common carrier of passengers for the 2-year period ending on the date of enactment of this Act shall be eligible for protection under this section if, upon application of such individual, the Commission determines that the employment of such individual has been terminated by a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of title 49, United States Code, to provide transportation over any route to any point in such State as a result of such carrier—

(1) discontinuing (A) interstate service over such route under section 10925(b) of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State;

(2) reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State; or

(3) substantially reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 11501(e) of such title, or (ii) under the laws of such State.

In a proceeding to determine whether an individual is eligible for protection under this section, it shall be the obligation of the individual whose employment has been terminated by a motor common carrier of passengers to identify to the Commission the discontinuance or reduction which such individual alleges resulted in such termination and to specify the pertinent facts; and it shall be the obligation of any carrier contesting the eligibility of the individual for protection under this section to prove that the discontinuance or reduction was not a contributing factor causing such termination.

(d) The Commission shall establish, maintain, and periodically publish a comprehensive list of jobs available with class I motor carriers of passengers. Such list shall include that information and detail, such as job descriptions and required skills, the Commission deems relevant and necessary. In addition to publishing the list, the Commission shall make every effort to assist individuals eligible for protection under this section in finding other available employment. The Commission may require each class I motor carrier of passengers to file with the Commission the reports, data, and other information necessary to fulfill the duties of the Commission under this subsection.

(e) For the purposes of this section:

(1) A motor common carrier of passengers shall not be considered to be hiring additional employees when it recalls any of its own furloughed employees.

(2) An individual who is furloughed by a motor common carrier of passengers and who still has a right of recall by such carrier shall not be considered to be terminated.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "motor common carrier of passengers" means a person who has authority under section 10922 of title 49, United States Code, to provide transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title.

(5) The term "class I motor carrier of passengers" means a motor common carrier of passengers having annual gross revenues from motor common carrier of passengers operations in excess of $3,000,000.

(f) Nothing in this section shall be construed to affect (1) an affirmative action plan or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan.

(g) This section shall not apply (1) to any carrier owned or controlled by a State or local government, and (2) to any periodic discontinuance of or reduction in motor carrier of passenger service which is seasonal in nature.

(h) The Commission shall issue such rules and regulations as are necessary to carry out this section. Initial rules and regulations shall be promulgated within 6 months after the effective date of this section.

(i) The provisions of this section shall terminate on the last day of the 12-year period beginning on the effective date of this section.

PUBLICATION OF COMMISSION ACTIONS

SEC. 28. (a) Section 10322(b)(3) of title 49, United States Code, is amended by striking "in the Federal Register".

(b) Section 10328(b) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by amending paragraph (1), as so redesignated, by striking out "that is, or is proposed to be, provided in a State" and by striking out all after "interested persons" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following:

"(2) The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as a motor or water common or contract carrier or freight forwarder, or to be a broker for transportation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceedings, that such method of providing notice would not be unduly burdensome to the public.".

GENDER-NEUTRAL TERMINOLOGY

SEC. 29. (a) Section 10722(c)(4) of title 49, United States Code, is amended by striking out "newsboy" and inserting in lieu thereof "newspaper carrier".

(b) Section 10722(d)(1)(B) of title 49, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(c) Section 10723(b)(1)(C) of title 49, United States Code, is amended to read as follows:

"(C) an individual traveling on behalf of a nonprofit organization which provides recreational, housing or other services and benefits for the general welfare of employees of common carriers.".

(d) Section 11504(c)(3) of title 49, United States Code, is amended by striking out "seaman" and inserting in lieu thereof "sailor".

(e) Section 11905 of title 49, United States Code, is amended by striking out "linemen" and inserting in lieu thereof "line maintainers".

EXEMPT MOTOR CARRIER TRANSPORTATION

SEC. 30. Section 10525 of title 49, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding the provisions of this section, the Commission has no jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from the jurisdiction of the Commission under this subsection and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt from the jurisdiction of the Commission under section 10523 of this title.".

EFFECTIVE DATE

SEC. 31. (a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect on the 60th day after the date of enactment of this Act.

(b) The amendment made by section 10(e)(4) of this Act shall take effect on October 1, 1982.

(c) The provisions of sections 6(g) and 30 of this Act shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

JAMES J. HOWARD,
GLENN M. ANDERSON,
PETER W. RODINO, Jr.,
DON CLAUSEN,
BUD SHUSTER,
Managers on the Part of the House.

BOB PACKWOOD,
JOHN C. DANFORTH,
HOWARD W. CANNON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below.

except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

The short title of the bill is the "Bus Regulatory Reform Act of 1981".

Senate amendment

The short title of the bill is the "Bus Regulatory Reform Act of 1982".

Conference substitute

Same as Senate amendment

PURPOSE OF THE BILL

House bill

The purpose of the bill is to reduce unnecessary and burdensome government regulation.

Senate amendment

Same as House bill

Conference substitute

Same as House bill.

CONGRESSIONAL FINDINGS

House bill

This House bill makes findings with respect to regulation of the intercity bus industry.

The findings highlight the importance of a financially sound bus industry and the need for that industry to meet the transportation needs of the citizens of this country. The findings set forth the need for a change in the regulatory scheme and that the new policy should be regarded closely and be implemented by the Interstate Commerce Commission (I.C.C.) consistent with Congressional policy. Finally, the Congress finds that some regulatory practices by the States have tended in certain circumstances to impair the industry to the detriment of the public and that procedures need to be established to minimize those effects.

Senate amendment

The findings highlight the importance of a sound and competitive bus industry and the need for that industry to meet the transportation needs of the citizens of this country. It is emphasized that the existing Federal and State regulatory structure has tended to impair, in certain circumstances, the ability of carriers to enter markets and to maximize use of equipment and opportunities to expand. The Committee finds that this overly protective regulation has caused diminished price and service completion. The ICC is given explicit direction to reduce regulation and to do everything possible to promote competition in the industry. It is through greater competition and reduced regulation that the goals of the national transportation policy can be best achieved.

Conference substitute

Same as the Senate amendment.

CONGRESSIONAL OVERSIGHT

House bill

The House bill directs the appropriate Congressional authorizing committees to hold periodic oversight hearings to assure that the Act is being implemented according to Congressional intent and purpose. The committees are to hold hearings no less than annually until July 1, 1985.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

NATIONAL TRANSPORTATION POLICY

House bill

The House bill amends the national transportation policy by modifying section 10101(a) of title 49, United States Code, to incorporate motor carriers of passengers into the provision by the Motor Carrier Act of 1980 for motor carriers of property and to include a new subparagraph (3) applicable to motor carriers of passengers. The emphasis of the three additional goals added to the national transportation policy for passenger carriers is the continued development of a cooperative and reasonable approach to Federal and State regulation of interstate bus carriers.

The guidelines provide for the Interstate Commerce Commission to cooperate with the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of the subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1981 are not nullified by State regulatory actions.

Senate amendment

The Senate amendment amends the national transportation policy by modifying subsection (a) of section 10101 of title 49, United States Code, to incorporate motor carriers of passengers into the provision added by the Motor Carrier Act of 1980 for motor carriers of property, with some modification. This language states that it is the Federal policy with respect to all motor carriers to promote competitive and efficient transportation services in order to meet a number of important goals.

Specifically, the Senate amendment states nine guidelines for the regulation of all motor carriers. These include: meeting the needs of shippers, receivers, passengers, and consumers; allowing a variety of quality and price options; allowing the most productive use of equipment and energy resources; enabling efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; providing and maintaining service to small communities and small shippers and intrastate bus services; providing and maintaining commuter bus operations; improving and maintaining a sound, safe, and competitive privately-owned motor carrier system; promoting greater participation by minorities in the motor carrier system; and promoting intermodal transportation.

Three additional guidelines are added with respect to regulating transportation by motor carrier of passengers. The ICC is directed to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle, and to ensure that Federal reform initiatives contained in this Act are not nullified by State regulatory actions.

Conference substitute

Same as the Senate amendment.

MOTOR CARRIER OF PASSENGER ENTRY POLICY

House bill

The House bill adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers. In addition, the new subsection would govern applications of motor common carriers of passengers for authority to provide intrastate transportation in certain situations.

Subsection 10922(c) retains the test requiring the Commission to find that the applicant is fit, willing, and able. However, it revises the public convenience and necessity requirement. Specifically, it directs the Commission to grant the application unless it finds, on the basis of evidence presented by any person protesting the application, that the transportation to be provided would not be consistent with the public interest.

This entry standared will apply to all types of service offered by motor common carriers of passengers, including regular route service, charter service, special service, or any combination thereof.

Paragraph (3) of proposed subsection 10922(c) prohibits the Commission from granting an application if a protesting carrier demonstrates that issuance of the certificate would impair, contrary to the public interest, its ability to provide a substantial portion of its regular route passenger service.

Paragraph (4) of new subsection 10922(c) requires the Commission, to the extent raised by a protestant, to consider the national transportation policy, the effect on small community service and commuter bus service, the effect of transportation-related subsidies (in charter and special operations cases), and the effect of multiple applications, in making any public interest determinations.

Paragraph (5) of proposed subsection 10922(c) eliminates the required finding on public interest for particular types of proposed service. Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a direct substitute (service in the same corridor, generally along the same route) for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail or air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (6) of new subsection 10922(c) assures that applications will be decided on a case-by-case basis by prohibiting master certification. This applies to findings related to fitness as well as to public interest.

Paragraph (7) of new section 10922(c) modifies the fitness standard by directing the Commission to look at operational and financial fitness, as well as safety fitness.

Paragraph (8) of proposed section 10922(c) lists the qualifications for protesting an application and are the same as those enacted for motor common carriers of property in the Motor Carrier Act of 1980.

Paragraph (9) of new section 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (10) of new section 10922(c) states that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way serv-

ice is provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation.

Paragraph (2) of the proposed section 10922(c) provides for the preemption of State law to authorize the provision of intrastate transportation on a route over which a bus carrier has authority to provide interstate transportation. The paragraph requires that the interstate carrier apply first to the State for the removal of the closed door restriction. If the State denies the request or fails to act within a specified time frame, then the carrier can petition the Commission to preempt the State decision. States would be required to act on a carrier request within 150 days for the first two years after the effective date of the Bus Regulatory Reform Act and within 120 days thereafter.

If the State denies the request or fails to act (or State law prohibits entry), the interstate carrier can petition the Commission for relief. The Commission's authority to grant relief is limited to granting authority to provide regular route intrastate transportation of passengers, including incidental authority to transport newspapers, baggage or passengers, express or mail in the same motor vehicle with the passengers. The Commission does not have the authority to authorize intrastate charter service or special operations.

In order for the Commission to grant relief, it must find (1) that the applicant is fit, willing, and able, (2) that the intrastate transportation to be provided is along the carrier's interstate route, and (3) the applicant went to the State first and the State denied the request or failed to act. If these three requirements are met, the Commission can preempt the State and authorize the interstate carrier to provide the intrastate regular route transportation.

However, the Commission cannot preempt the State decision if it finds, on the basis of evidence presented by the State or any other protestant, that the grant of authority is not consistent with the public interest, or that the denial or faiure to act by the State is not an unreasonable burden on interstate commerce.

In determining whether the grant of authority is not consistent with the public interest, the Commission can consider, under paragraph (3) of proposed subsection 10922(c), whether a substantial portion of the operation of an existing intrastate carrier would be impaired contrary to the public interest.

The Commission is required to act on petitions of interstate carriers to preempt State actions within 90 days from the time the petition is filed.

Any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission. Upon issuance of the certificate, the carrier should file rates and comply with practices in the same manner as for a regular interstate operating certificate not later than 30 days after the carrier begins providing the service. The carrier would have to take all actions necessary to establish under the laws such States, rates and rules applicable to such transportation. Federally established rates and practices shall remain in effect until permanent rules, rate, and practice are established under the law of the State. The Commission would retain jurisdiction for suspending and revocation of certificates.

In addition, the preemption provision applies to pending applications which are not acted upon by the 120th day after the effective date of the Act and to any denial which is administratively final after January 1, 1981.

And, finally the bill adds a new subsection (l) to section 10922. New subsection (l) gives the Commission the discretion to deny an application of a Mexican or Canadian company if the Commission determines that Mexico or Canada, or the pertinent governmental entity thereof, does not treat American companies at least as favorably as it treats its own companies. This determination may extend beyond an examination of the foreign government's granting of operating authority. Moreover, the Commission would be prohibited from issuing a certificate to a Mexican or Canadian firm if it determined that Mexico or Canada did not grant authority to American firms. This applies to both trucking and bus companies.

Senate Amendment

The Senate amendment adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers.

New subsection 10922(c) requires the ICC to find that the applicant is fit, willing, and able. The burden of proof in this case is on the carrier applying for the operating authority.

For charter or special operations service to be provided by privately-funded companies, the ICC is required only to find that the applicant is fit, willing, and able. For regular route service or any service to be provided by a carrier receiving government financial assistance, the ICC is to issue a common carrier certificate if it finds the person fit, willing, and able, unless the ICC finds, on the basis of evidence presented by opponents, that the proposed transportation is not consistent with the public interest.

The amendment makes two other changes in the entry procedure. First, the new evidentiary standard ("consistent with" rather than "required by") will expedite the substantive analysis of the application. Second, the provision creates a presumption that the grant of the application is consistent with the public interest. This means that the burden will be on any protestant to provide sufficient evidence to negate the presumption of consistency.

The Senate amendment also substantially eases intrastate entry for interstate carriers. Paragraphs (2)(A) and (B) are intended to remove the problem of "closed door" intrastate policies on interstate operations.

For entry authority to serve intrastate points on existing interstate routes, the Commission is to allow entry unless it finds that the intrastate service would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. For intrastate entry authority to serve points on new interstate routes, the ICC is to allow entry unless it finds the transportation to be authorized is not consistent with the public interest. The burden of proof is on the protestant. The bill also allows immediate entry for interstate carriers to provide pick-up and delivery express service within the commercial zone of each city reserved by the carrier.

The terms "commuter bus operations" and "commuter bus service" are synonomous. The definition of "commuter bus operations" is set forth. The new definition of "commuter bus operations" includes short-haul regularly scheduled passenger service utilized primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak period operations.

The ICC is to take final action on these intrastate applications under paragraph (2)(A) within 90 days. Any intrastate transportation authorized by the ICC shall be subject to ICC jurisdiction. Upon issuance of such certificate, the carrier is to establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as would a carrier subject to ICC jurisdiction. Any such initial rate, rule, or practice related to this transportation shall be subject to Federal regulations as if it were related to interstate transportation.

Within 30 days after a common carrier begins providing intrastate transportation approved by the ICC, the carrier is to take all action necessary under the laws of the State to establish rates, rules, and practices applicable to such transportation. Intrastate transportation authorized by the ICC shall remain subject to ICC jurisdiction and initial rates, rules, and practices established by the carrier shall remain in effect until permanent rates, rules, and practices are established under the laws of the State. The ICC can suspend or revoke intrastate transportation it has authorized.

Paragraph (3) of new subsection 10922(c) specifies the factors to be considered by the ICC in making the public interest determination. The ICC is to consider, to the extent applicable, the national transportation policy, the value of competition to the traveling and shipping public, the effect on small community service, and whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the service it provides over its entire regular-route system.

Paragraph (4) of new subsection 10922(c) eliminates the required finding on public interest for particular types of proposed service.

Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a substitute for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail and commercial air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (5) of new subsection 10922(c) prohibits master certification relating to fitness and public interest findings. Applications will be decided by the ICC on a case-by-case basis.

Paragraph (6) of new section 10922(c) modifies the fitness standard by directing the ICC to look at safety fitness and an applicant's proof of insurance, subject to the minimum insurance standards of this act.

Paragraph (7) of new subsection 10922(c) lists the qualifications for protesting an entry application or a request to remove operating restrictions under section 10922(i)(4) of this title. These qualifications are the same as those enacted for motor common

carriers of property in the Motor Carrier Act of 1980. It should also be noted that under subparagraph (c) any carrier may protest on the grounds of safety fitness.

Paragraph (8) of new subsection 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (9) of new subsection 10922(c) clarifies existing law by expressly stating that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation. This provision recognizes developing intermodal transportation systems. The act also redefines common carrier authorities in paragraph (4) of section 10922(e), as redesignated. The act includes in operating certificates permissive authority to transport newspapers, passenger baggage, express, or mail in the same vehicle with passengers baggage in a separate vehicle.

The Senate amendment also amends section 10922 to add a new subsection (1) to direct the Commission not to grant authority to motor carriers (truck carriers and bus carriers—common and contract carriers) owned or controlled by Canadians or Mexicans in the 2-year period after enactment. The U.S. Trade Representative, in consultation with the Secretaries of Transportation and State, may remove or modify such restriction if it is in the national interest.

Conference substitute

Same as Senate amendment (other than minor technical changes); except that with respect to the moratorium on entry of Canadian and Mexican motor carriers (1) the Commission, during the two-year period after enactment, is directed not to grant authority to motor carriers domiciled in Canada or Mexico as well as motor carriers owned or controlled by Canadians or Mexicans; (2) the President may extend such moratorium beyond such two-year period with respect to Canada or Mexico or both if such country or countries are substantially prohibiting American carriers from receiving authority to provide motor carrier transportation; and (3) the President may remove or modify a moratorium under clause (1) or (2) if he finds it is in the national interest and first notifies the Congress. In those situations where Canada or Mexico is substantially prohibiting American carriers from receiving motor carrier authority, the effective date of a removal or modification of a moratorium applying to such country is delayed for the 60-day period after Congress is notified of such proposed removal or modification.

The moratorium provision applies to the issuance of certificates or permits for motor carrier operating authority, all motor carrier merger, consolidation, and acquisition of control proceedings, and all motor carrier restriction removal proceedings.

The conferees recognize that application of this provision can be to any contiguous foreign country or a political subdivision thereof and that this provision applies to foreign-owned corporations domiciled in Canada or Mexico.

The Conferees want to acknowledge the deep concern of Congressman Glenn M. Anderson over the situation which currently exists with respect to the unfair and inequitable treatment of U.S. motor carriers by Mexico. The Conferees believe that the overall compromise reflected in the Bus Regulatory Reform Act of 1982 on foreign reciprocity is adequate to deal with this problem.

The compromise has three key elements to it. First, the President is given the discretion to extend the prohibition with respect to Mexico if Mexico does not substantially change its current policies.

Second, it is the intent and expectation of the Conferees that the President will not waive or modify the moratorium against Mexico until such time as Mexico substantially changes its laws in such a manner to ensure the fair and equitable treatment of U.S motor carriers.

And third, in reaching this compromise, the Conferees have relied on the representations of Administration officials that there will be an increased enforcement effort (including a significant increase in resources) against illegal operations by Mexican carriers in the United States.

In light of the urgent nature of this problem, it is the intent of the Conferees that the Department of Transportation shall, in consultation with the Departments of State, Treasury, Justice, and the U.S. Special Trade Representative, submit a comprehensive progress report to the Congress every six months during the three-year period commencing on the date of enactment of this Act on the implementation of the foreign reciprocity provisions of the Act and on efforts to eliminate illegal Mexican operations in the United States. Such report should also address the Canadian situation, and should be submitted to the Chairman and Ranking Minority Member of the Senate Committee on Commerce, Science and Transportation, and the House Committee on Public Works and Transportation.

Finally, it is the judgment of the Conferees that, notwithstanding the existence of a prohibition imposed under this Act, the ICC has the authority to deny operating rights or the easing of any circumstance related to operating rights, to any carrier from any contiguous foreign country or political subdivision thereof which discriminates against or prohibits entry by U.S. operators. This authority may clearly be traced back to any of the number of sections of title 49, U.S.C.; section 10101, section 10321(a), section 10521(a)(1)(E), and section 10922(b).

RESTRICTION REMOVAL

House bill

The House bill directs the Commission to implement by regulation, within 180 days after the effective date, procedures to process expeditiously applications filed by operators to reduce unreasonable restrictions so as to (1) authorize service to intermediate points on any route covered by their certificates; (2) reasonably broaden regular route service covered by the certificate to off-route points; (3) provide under the certificate round-trip authority where presently only one-way authority exists; or (4) authorize special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited by the certificate to one or more points of origin in such political subdivision. In deciding these applications, the ICC must give consideration (1) to the impact of the restriction removal on commuter bus operations; (2) to the impact upon the consumption of energy resources, to potential cost savings and to improved efficiency; (3) to the national transportation policy; and (4) to providing and maintaining service to small and rural communities and small shippers.

Senate amendment

The Senate amendment removes certain ICC imposed operating restrictions from existing bus certificates. Certificates shall be deemed to authorize, but not require: (1) round-trip operations where only one-way authority exists; and (2) special and charter transportation from all points in a political subdivision of a State in any case where such authority is limited to one or more points of origin.

With respect to restrictions against service to intermediate points on routes over which transportation of passengers is authorized by an interstate certificate, the amendment provides for removal of such restrictions by the ICC within 90 days upon the request of the holder. The ICC would be required to remove an intermediate point restriction unless it found that the resulting interstate transportation "directly competes with a commuter bus operation" and "will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed." Commuter bus operations are defined the same as for the entry process.

Conference substitute

Same as Senate amendment except for minor technical changes.

MIXING REGULAR AND CHARTER TRANSPORTATION

House bill

The proposal allows motor carriers of passengers to provide charter passenger service in the same vehicle and at the same time as it provides regular route scheduled passenger service. Charter trips between points authorized in the charter certificates could make use of authorized regular route service over any segment of the charter trip. The proposal would also allow mixing of intrastate charter with regular route operations if the law of the individual State allows such mixing. The mixing of charter passengers on regular route service shall not interfere with the obligation of the motor common carrier to comply with the provisions of the Interstate Commerce Act. This section would also allow bus companies, subject to rules and regulations adopted by the Commission, to transport up to three groups of charter passengers in the same motor vehicle and at the same time.

Senate amendment

Same as House bill, except that the Senate amendment deletes the limitation on the mixing of charter groups to three groups per bus.

Conference substitute

Same as Senate amendment.

RULE OF RATEMAKING

House bill

This House provision would establish a rule of ratemaking which must be considered by the Commission in proceedings to determine the reasonableness of rate levels of passenger carriers. It would authorize revenue levels for passenger carriers that are adequate to allow well-managed carriers to cover their costs and to earn a fair return. The standards must allow passenger carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure repayment of debt, permit raising of equity capital, and cover the costs of inflation by taking into consideration estimated or foreseeable future costs.

The provision also requires the Commission to consider the new rule of ratemaking when it prescribes the rate; that is, when the ICC establishes the rate.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

RATE BUREAUS

House bill

This House provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

Now, carriers may collectively act on rates where the Commission has approved an agreement for collective action and, in order to have antitrust immunity, the carriers must act within the scope of the agreement. This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

Specifically, this provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry.

The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. Specifically, it eliminates antitrust immunity for voting upon or discussion of single-line rates after January 1, 1984.

The same time limitation applies to joint-line rates except where carriers can practicably participate in the transportation to which the rate applies. This provision will limit the scope of antitrust immunity for collectively discussing and voting on joint rates.

Antitrust immunity is retained for general rate increases and decreases, broad changes in tariff structures, ministerial functions, and for unlimited travel on the system of concurring carriers.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations.

The bill provides for the appointment of three members of the public by the President of the Motor Carrier Rate-making Study Commission. The newly appointed members will include one member from a motor common carrier of passenagers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than $3 million per year from motor common carrier of passengers operations, and one member not affiliated with the motor common carrier industry. The Study Commission members representing the motor common carriers of property shall limit their Commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their Commission voting to matters related to motor common carriers of passengers.

The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The bill provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the Commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Senate amendment

This Senate provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

At the present time, motor carriers of passengers are authorized by the terms of an agreement approved by the ICC to jointly discuss, initiate, and maintain rates for the transportation of passengers and express. Since the agreement was approved by the ICC as in furtherance of the national transportation policy, the antitrust laws do not apply to actions of the carriers in conformity with the collective ratemaking agreement (section 10706(c), title 49, United States Code). This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

This provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry. The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. On and after January 1, 1983, no collective ratemaking agreement approved for motor carriers of passengers may provide for discussion of or voting upon single-line rates. Under the House bill, this prohibition would not become effective until January 1, 1984.

Second, on and after January 1, 1984, no agreement approved for motor carriers of passengers may provide for discussion of or voting upon any joint rate. The House bill would provide antitrust immunity for an indefinite period with respect to joint rates for interline movements if the carriers involved "can practicably participate" in such movements.

Finally, as in the Motor Carrier Act of 1980, general rate increases and decreases are excepted from the prohibitions against collective consideration of single-line and joint-line rates. In considering such increases and decreases carriers would not be allowed to discuss individual markets or particular single-line rates or joint rates. Industry average carrier costs and intermodal competitive factors may be discussed by the carriers.

Immunity for broad changes in tariff structure and changes in promotional or innovative fares is also retained.

Immunity is also retained for publishing of tariffs, filing of independent actions, providing of support services for members, and changes in rules or regulations.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations. Using the language of the Motor Carrier Act of 1980, new subsection (c)(5) prohibits the ICC from taking any action which would result in the exclusion of discussion or voting on matters concerning rates, allowances, or divisions prior to January 1, 1983, unless the regulations are to take effect after that date.

The amendment provides for the appointment of four members of the public by the President to the Motor Carrier Ratemaking Study Commission. The newly appointed members will include one member from a motor common carrier of passengers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than than $3 million per year from motor common carrier of passengers operations, and two members not affiliated with the motor common carrier industry. The study commission members representing the motor common carriers of property shall limit their commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their commission voting to matters related to motor common carriers of passengers. The bill increases the authorization for the study commission from $3 to $4 million.

The study commission will be required to make a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The study commission will be permitted, but not required, to study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. The study commission will be required to submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The study commission also is required to study the impact of the Senate amendment on persons over the age of 60 and submit its final report on the results of this study not later than January 1, 1984. If the study commission, before submission of such report, finds that the viability of continued intrastate services are jeopardized, the study commission shall immediately notify Congress and the ICC. After receiving notification of such a finding, the ICC shall give expedited treatment to any recommendations made to it.

The Senate amendment provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Conference substitute

Same as Senate amendment except for miner technical changes.

ZONE OF RATE FREEDOM

House bill

The House bill amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise passenger and express fares, including both single-line and joint rates, not more than ten percent above

or more than twenty percent below the rate in effect one year prior to the effective date of the proposed rate without suspension by the I.C.C. The use of percentage general rate increases by passenger carrier will count against the upward ten percent zone of freedom.

Under the zone of rate freedom, the Commission has the discretion to increase the zone an additional ten percentage points annually above that provided the carrier under the new paragraph (4)(B) of section 10708 of title 49, United States Code. In deciding whether to increase the percentage, the Commission will consider (1) whether there is sufficient actual and potential competition to regulate routes and whether there are benefits to the traveling public from further rate flexibility, or (2) whether an increase is needed to meet the costs of inflation.

The House bill also provides that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

The antitrust laws apply to all proposals using the zone or rate freedom.

Senate amendment

Amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise any passenger or express fare (other than charter or special transportation fares) not more than 10 percent above or more than 20 percent below the rate in effect 1 year prior to the effective date of the proposed rate without suspension by the ICC on the grounds that such rate is unreasonable on the basis that it is too high or too low. The carrier must notify the ICC that it wants the rate considered pursuant to this subsection. The use of general rate increases by a passenger carrier will count against the upward zone of freedom.

One year after the effective date of the Act, the limits for the zone become 15 percent above and 25 percent below rates then in effect; 2 years after, 20 percent above and 30 percent below. Three years after the effective date, paragraph (e) removes ICC authority to suspend rates, except on ratemaking actions where antitrust immunity is retained or where any rate is predatory or discriminatory. Interested parties may, however file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under the zone. The complaint remedy continues to be available after the specific parameters of the zone are removed after three years. Paragraph (e) requires the ICC to dispose of such complaints within 90 days after the complaint is filed.

The antitrust laws apply to all proposals using the zone of rate freedom. However, paragraph (d)(5) of section 708 states that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

Conference substitute

Same as Senate amendment.

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

House bill

The House bill eliminates Commission investigation and suspension powers over the reasonableness of rates proposed by passenger carriers of special operations or charter transportation. Collective consideration of these rates by the industry rate bureau would be prohibited although filing and publication of such rates by the rate bureau would continue to be allowed. The Commission would retain the authority to suspend or investigate proposed charter or special service rates on the basis that rates are discriminatory or constitute predatory practices.

The bill retains the notice requirement for charter and special operations rate change increases at 30 days while the notice requirement for charter and special rate decreases is reduced to 10 days.

Senate amendment

Same as House bill, except that the ICC only retains authority to review special and charter rates on the basis of predatory practices.

Conference substitute

Same as Senate amendment.

ENTRY POLICY FOR MOTOR CONTRACT CARRIERS OF PASSENGERS

House bill

Entry for contract carriers of passengers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Senate amendment

The Senate amendment states that the entry test for bus contract carriers is a fit, willing and able entry test only. Fit, willing and able is defined as a carrier meeting safety and insurance requirements.

The Senate amendment further allows the ICC to amend or revoke a contract carrier's permit and issue in its place a common carrier certificate if the ICC determines that a carrier's operations do not conform with those of a contract carrier but rather are those of a common carrier.

Conference substitute

Same as Senate amendment, except for minor technical changes.

ENTRY POLICY FOR BROKERS OF PASSENGERS

House bill

Entry for brokers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Regulated common carriers and regulated contract carriers are given a specific duty to utilize only brokers that hold licenses.

Senate amendment

Exempts motor carrier brokers of passengers from ICC regulation except that the ICC retains discretion to impose such requirements for bonds or insurance or both as it determines are needed to protect passengers and carriers dealing with brokers.

Conference substitute

Same as Senate amendment, except for minor technical changes.

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

House bill

This provision generally applies the changes of section 23 of the Motor Carrier Act of 1980 to motor carriers of passengers. This section expedites the handling of temporary authority requests by the Commission and codifies emergency temporary authority (ETA) for passenger carriers. The main difference between this section and the comparable section of the Motor Carrier Act of 1980 is that in the case of an ETA used for passenger transportation in an area or to a point not previously served, the Commission can extend the ETA an additional 90 days (a total extension of 180 days).

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

EXIT POLICY

The House bill adds a new section 10935 to title 49, United States Code, to provide a procedure for carriers to exit or substantially reduce the service level on the intrastate portion of a route for which they have both interstate and intrastate authority.

Subsection (a) of proposed section 10935 establishes the criteria that must be met before a bus carrier can petition the Commission for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in the proposed amendment to section 11501 of title 49.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate authority and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request or failed to act within 120 days.

Fourth, the bus carrier must not be owned or controlled by a State or local government.

And fifth, the bus carrier must certify that it has notified the Governor of the State, the appropriate State agency, the affected communities, and such other persons as the Commission may specify that it intends to petition the Commission for relief.

If these conditions are met, the Commission is required to consider granting relief. If no one protests within 20 days, the Commission must grant the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the Commission must grant the discontinuance or reduction in service unless the State or other protestant demonstrates that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce. However, the Commission can only grant a discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the Commission has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest or that continued intrastate service would not constitute an unreasonable burden on interstate commerce, the Commission is required to consider (to the

extent raised by a protestant) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source;

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether a reasonable alternative transportation service to that area is available; and

(4) whether granting a carrier's request will have a significant adverse effect on commuter bus operations.

If the Commission finds that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

The Commission must complete action within 90 days from the time the petition is filed.

The Commission is also given the discretionary authority to require the carrier to continue providing service for up to 180 days after the petition so that, in cases where it is going to permit the discontinuance or reduction in service, the State and affected communities have time to find a replacement carrier.

Senate amendment

The Senate amendment proposes a two step process by which the ICC can preempt burdensome state regulations by adding a new section 10935 to title 49, United States Code, which establishes a procedure under which carriers can exist or substantially reduce interstate and intrastate routes on which both types of service are provided.

Subsection (a) of section 10935 establishes the criteria that must be met before a bus carrier can petition the ICC for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in section 17 of the Bus Regulatory Reform Act of 1982, pertaining to discriminatory State regulation of rates and practices.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request of failed to act within 120 days.

Fourth, the bus carrier must not be owned or controlled by a State or local government.

Fifth, the bus carrier must certify that it has notified the governor of the State, the appropriate State agency, the affected communities, and such other persons as the ICC may specify that it intends to petition the ICC for relief.

If these conditions are met, the ICC is required to consider granting relief. If no one protests within 20 days, the ICC must allow the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the ICC must grant the discontinuance or reduction in service unless it demonstrated that it is not an unreasonable burden on interstate commerce to continue or maintain the service. Continuance of the transportation would not be a burden if discontinuance or reduction of the service is not consistent with the public interest and the interstate and intrastate revenue from the service are adequate to cover the variable costs of operating the service.

In defining what constitutes an unreasonable burden on interstate commerce, the Senate amendment provides that the intrastate and interstate revenues must be adequate under reasonable pricing practices to cover the variable costs of providing the transportation.

However, the ICC can only grant discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the ICC has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest, the ICC is required to consider (to the extent applicable) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source; and

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether a reasonable alternative transportation service to that area is available.

If the ICC finds that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

In order to expedite proceedings under this section, the ICC must complete action with 75 days from the time the petition is filed.

The ICC is also given the discretionary authority to require the carrier to continue providing service for up to 150 days after the petition so that, in cases where the discontinuance or reduction in service is to be granted, the State and affected communities have time to find a replacement carrier.

In order to encourage experimental service by a motor common carrier of passengers, the act prohibits States from taking action on exit from service initiated under the three fitness-only cases. These include entry for: (1) interstate service to any community not regularly served by a motor common carrier of passengers; (2) interstate transportation service which will substitute for discontinued rail or commercial air passenger service; and (3) interstate service to any community where the only interstate bus carrier providing service to the community applies to discontinue interstate service or reduce its intrastate service. Carriers, may, however, be required to give 30 days notice before discontinuing or reducing the service.

Conference substitute

Same as House bill; except that (1) the Commission must give great weight to the extent to which the carrier's interstate and intrastate revenues on the route to be discontinued are less than the variable costs of providing the transportation on such route; (2) in the case of a route for which interstate authority is granted after August 1, 1982, the Commission shall grant a protested application for discontinuance of or reduction in intrastate service on such route, unless it finds that continuing the service will not constitute an unreasonable burden on interstate commerce; (3) the Commission may order an exit applicant to continue providing the intrastate service to be discontinued or reduced for 165 days after submission of such application instead of the 180 days specified by the House bill; and (4) the States are preempted from taking any action (other than requiring 30-days pre-notification) on exit from intrastate service which corresponds to interstate service initiated under the 3 fitness-only categories specified in section 10922(c)(4) of title 49, United States Code. The exceptions specified in clauses (2) and (4) of the preceding sentence are the same as the Senate amendment.

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

House bill

This section of the House bill would permit the Commission to prescribe any intrastate rate, rule, or practice of a motor common carrier of passengers if the carrier has requested permission to establish the rate, rule, or practice from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request. If the request relates solely to scheduling, the time is shortened to 60 days.

Once the Commission has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule, or practice in effect at the State level causes unreasonable discrimination against or imposes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. As in the other preemption sections, the carrier would first have to go to the State for a rate change request and, after a denial or undue delay, could appeal the action or inaction to the Commission. The State could protest at the Commission and argue that the State action was reasonable.

The House bill creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the Commission.

There is a rebuttable presumption that:

(A) any rate, rule, or practice imposed by a State for a motor common carrier of passengers imposes an unreasonable burden on interstate commerce if it makes the following findings:

(1) that the rate, rule or practice results in intrastate rates lower than comparable interstate rates;

(2) that the carrier's intrastate revenues which result from the State's rate, rule, or practice fall below the variable costs of providing such intrastate service; or

(3) the department, agency, or instrumentality of the State having jurisdiction over the rate, rule, or practice failed to act on the request of the carrier by the 120th day (or by the 60th day for a scheduling change);

(B) if a State grants a general rate increase that is below the most recent general rate increase approved by the Commission; and

(C) if the Commission finds that the scheduling which the carrier proposes to establish would conform the schedules applicable to such transportation on such route to schedules applicable to interstate transportation provided by the carrier on such route under this subtitle.

If a carrier applies for relief to the Commission under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The Commission must take final action within 60 days upon receipt of application (30 days if the application relates solely to scheduling). This subsection shall not apply to any carrier owned or controlled by a State or local government.

The House bill also provides that the Commission, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the Commission for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this Act, the Commission is required to report to Congress on its effects in this area.

Senate amendment

The Senate amendment, with two exceptions, confers a review power in the ICC with respect to all proposed increases in intrastate passenger fares and express rates. The first exception is that the States would retain full authority over the rates of carriers owned or controlled by a State or local government. Secondly, State ratemaking authority over the intrastate rates of solely intrastate carriers would not be affected.

Although the ICC, with the two exceptions noted, is granted appellate review power over the intrastate rates of interstate motor carriers of passengers, States would continue to regulate such rates. State regulatory commissions are familiar with the special circumstances which might justify the prescription of some intrastate fares at a level lower than the corresponding interstate fares.

The Senate amendment would permit the ICC to prescribe any intrastate rate increase of a motor common carrier of passengers of the carrier has requested permission to increase the rate, from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request.

Once the ICC has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule or practice in effect at the State level causes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. The State could however, protest at the ICC and argue that the State action was reasonable.

The Senate amendment creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the ICC.

There is a rebuttable presumption that any intrastate bus rate, rule, or practice imposes an unreasonable burden on interstate commerce if the ICC finds that: (1) such rate, rule, or practice results in the carrier charging a rate for intrastate transportation which is lower than the rate for comparable interstate transportation; (2) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice, the carrier does not receive revenues which exceed the variable costs of providing such transportation; or (3) the appropriate State authority failed to act finally on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request.

Any rate applicable to solely intrastate transportation imposes an unreasonable burden on interstate commerce if the ICC finds that the most recent general rate increase applicable to the bus transportation in a State is less than the most recent general rate increase applicable to interstate common carrier bus transportation.

If a carrier applies for relief to the ICC under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The ICC must take final action within 60 days upon receipt of application.

States may not act on intrastate scheduling changes on authorized interstate routes or on intrastate rate reductions relating to transportation over such routes. For scheduling changes, carriers may be required to give States 30 days advance notice. This provision does not apply to intrastate commuter service.

If the Commission, upon complaint, determines that a rate reduction for intrastate service provided on an interstate route is a predatory practice, the Commission shall prescribe the rate.

The Senate amendment provides that the ICC, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the ICC for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this act, the ICC is required to report to Congress on its efforts in this area.

Conference substitute

Same as Senate amendment, except for minor technical changes and the addition of language which makes clear that a rate reduction for intrastate service provided on an interstate route which the Commission finds is a predatory practice is unlawful. A predatory practice includes a destructive competitive practice.

FINANCIAL RESPONSIBILITY

House bill

Section 18(a) of the House bill amends existing law so as to require the Secretary of Transporation to establish regulations which will provide minimum financial requirements for motor carriers of passengers involved in interstate or foreign commerce.

Section 18(b) (1) and (2) establishes the following minimum levels of financial responsibility: $5 million for vehicles having a seating capacity of more than 15 persons and $1.5 million for vehicles having a seating capacity of 15 or less. The Secretary of Transportation has the discretion to reduce these minimum levels for the two-year period beginning on the effective date of the regulations issued under subsection (a), or for any part of this period, if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation. During the two-year period, the minimum financial requirement for a carrier having a vehicle with a seating capacity of more than 15 passengers, is $2.5 million, and no less than $750,000 for a carrier having a vehicle with a seating capacity of 15 or less.

Subsection (c)(1) provides that, if the secretary does not establish regulations setting a minimum financial requirement by the end of the one-year period, beginning on the effective date of the Act, then the higher levels cited in 18(b) go into effect until such time as the Secretary, by regulation, changes such amount as discussed in this section.

Subsection (c)(2) provides that if the Secretary, by regulation, makes a change as discussed in (c)(1) after the higher levels have gone into effect, then these lower amounts may only remain in effect for a two-year period, beginning on the 366th day following the effective date of this Act.

Section 18(d) sets forth the methods by which carriers will be able to demonstrate financial responsibility.

Section 18(e)(1) establishes civil penalties for violations of this section.

Section 18(e)(2) establishes procedures for collecting civil penalties for violations of this section.

Section 18(f) excludes school buses, taxicab service and certain motor vehicles carrying less than 16 individuals (van pools).

Senate amendment

Same as House bill, except that the Senate amendment expressly includes high self-retention as a method of establishing financial reponsibility.

Conference substitute

Same as Senate amendment.

SECURITIES OF MOTOR CARRIERS OF PASSENGERS

House bill

The House bill transfer's jurisdiction over the issuance of securities for motor carriers of passengers from the Commission to the Securities and Exchange Commission.

The Commission would still retain its general authority under sections 11343 and 11344 to regulate intercorporate transactions and monitor or impose any conditions on any transactions referred to in this section. In the past, the Commission has imposed conditions on a bus carrier that stated that the carrier could not engage in any of the following activities without express Commission approval:

(1) declare or pay a dividend; for example, the Commission determined that the carrier should not pay in excess of 70 percent of its net income in dividends without Commission approval;

(2) make advances to affiliated companies;

(3) encumber its assets for noncarrier purposes; or

(4) engage in any other intercompany property transactions.

Senate amendment

The Senate amendment removes all motor carriers from ICC jurisdiction in the securities area and places them under the jurisdic-

tion of the Securities and Exchange Commission.

Conference substitute

Same as Senate amendment except for a conforming cross reference change to section 11348 of title 49, United States Code.

TAX DISCRIMINATION

House bill

Section 20 of the House bill amends section 11503a(a)(3) of title 49, U.S.C., by striking out "of property." this provision makes current law which prohibits the assessment, levying or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property applicable to motor carriers of passengers.

This section applies to motor carriers owned and used in interstate commerce, whether or not subject to the Commission's jurisdiction. The provision thus makes the law uniform for motor carriers of passengers and motor carriers of property.

The prohibition applies to taxes on real or personal property, general sales taxes, or other levies that are part of the general tax structure applicable to commercial activity. It does not apply to highway user taxes.

Relief from violations is available in Federal and State courts.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill except for a minor technical change to clarify an amendment made by the Motor Carrier Act of 1980.

MERGER PROCEDURE

House bill

Section 11345 of title 49, U.S.C., is amended to include the identical merger procedures established under the Motor Carrier Act of 1980 for motor carriers of passengers. The intent of this procedure, as was the case for motor carriers of property, is to expedite Commission procedures for consolidation merger, and acquisition of control. Deadlines are imposed for disposition of these types of proceedings.

The House bill also changes the criteria for deciding motor carrier applications under section 11344 back to the criteria that existed for motor carriers prior to the Staggers Rail Act of 1980.

Senate amendment

Section 21 of the Senate amendment gives the ICC the authority to exempt merger, consolidation, and acquisition of control transactions involving motor carriers of property from the pertinent provisions of title 49. The ICC may exempt such transaction if it finds that scrutiny of the transaction is not necessary to carry out the national transportation policy and either that the transaction is of limited scope or that such scrutiny is not needed to protect shippers from the abuse of market power. The ICC may revoke an exemption if it finds that review of the transaction is necessary to carry out the national transportation policy.

Section 21 also reinstates the criteria which the ICC must consider in merger, consolidation, and acquisition of control proceedings involving motor carriers of passengers which existed prior to enactment of the Staggers Rail Act of 1980. These criteria include: (1) the effect of the proposed transportation on the adequacy of transportation to the public; (2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of affected carrier employees.

This section also amends section 11345a to include the mergers of motor carriers of passengers in the expedited procedures established for motor carriers of property in the Motor Carrier Act of 1980.

This section does not in any way affect the ICC's jurisdiction with regard to rail transactions under subchapter III of title 49 U.S.C.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment with respect to merger, consolidation, and acquisition of control provisions involving motor carriers of passengers. In addition, the conference substitute, like the Senate amendment, amends subchapter III of chapter 113 of title 49, United States Code, to authorize the Commission to exempt a person, class of persons, transaction, or class of transactions, involving an interstate truck carrier from the merger, consolidation, and acquisition of control provisions of such subchapter if (1) such provisions are not necessary to carry out the national transportation policy, and (2)(A) the concerned transaction is of limited scope, or (B) such provisions are not needed to protect shippers from abuse of market power.

The conference substitute, unlike the Senate amendment, requires before an exemption takes effect, the applicant for the exemption to give the Commission and the public 60 days advance notice. It is expected that the Commission will arrange for publication of the notice in a manner that notifies the public of the proposed transaction. The Commission may publish the notice itself or it may require the participants to publish the notice. In any event, the notice should be provided in a manner so that persons and employees affected by the transaction receive adequate notice.

A merger exemption granted may be revoked, in whole or in part, if the Commission finds (1) it is necessary to carry out the national transportation policy, or (2) employees of a carrier who is to participate in the exempt transaction are or will be adversely affected by such transaction.

SAFETY ENFORCEMENT

House bill

This section of the House bill provides for suspension of operating authorities by the Commission in an expedited manner. Upon request of the Secretary of Transportation, the Commission would be able to suspend the operating authority of a carrier where the carrier has engaged in continuous unsafe acts that constitute an immediate hazard to life or property.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ILLEGAL OPERATIONS

House bill

This section of the House bill would double the civil penalties for illegal operations for carriers holding no authority to operate in interstate commerce.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ADMINISTRATIVE ASSISTANCE

House bill

To assist local governments and smaller carriers in presenting their positions effectively, section 24 of the House bill permits the Commission to provide them with assistance in preparing for proceedings dealing with the new preemptive sections of the law.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

STUDY OF CITIZEN BAND RADIOS ON BUSES

House bill

This section of the House bill directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the bus operator on motor vehicles providing intercity motor carrier passenger transporation. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health, and convenience of passengers of such vehicles.

A full and complete investigation and study by the National Academy of Sciences shall be conducted to resolve safety, technical, and administrative problems precluding intercity bus operators from having full access to any type of communication system that may be used for enhancing public safety.

The National Academy of Sciences shall submit to the Secretary of Transportation and the Congress the results of the study, along with its recommendations, within six months of entering in the contract but no later than one year after the effective date of this bill.

After receipt of the report, the Secretary is required to initiate a rulemaking proceeding to detemine whether or not citizen band radios should be allowed to be used by bus operators. The Secretary has 120 days to complete the proceeding.

The provision also provides that the Secretary shall issue regulations establishing guidelines for the use of such radios if the Secretary determines that their use should be allowed.

If the Secretary recommends the use of citizen band radios, motor carriers would be required to permit the use of such radios.

Senate amendment

This section of the Senate amendment directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the operators of carriers providing intercity bus service. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health and convenience of passengers on these vehicles.

The Academy is to submit a report to Congress and to the Secretary on the result of this study, along with its recommendations within 1 year after entering into a contract with the Secretary.

Within 60 days of submission of the Academy's report the Secretary is required to initiate a rulemaking proceeding to determine whether operators of buses for ICC regulated bus companies should be allowed to use citizen band radios. The rulemaking is to be completed within 120 days after its initiation.

If the Secretary issues a rule or regulation which recommends that bus operators be allowed to install temporarily and operate citizen band radios the Secretary must issue

guidelines on their use to ensure protection of public safety.

A new section 11111 is added to title 49, United States Code, which provides that the Secretary may recommend the temporary use of citizen band radios. If the Secretary recommends this, then the Secretary must issue guidelines for their use and installation.

Conference substitute

Same as Senate amendment.

BUS TERMINAL STUDY

House bill

The House bill directs the Department of Transportation and the Commission to conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in title 49, U.S.C., sec. 10101. This investigation and study must be completed, including legislative recommendations, and be submitted to the President and the Congress not later than December 31, 1982.

The House bill provides that the report include an analysis of, at least, (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Senate amendment

The Senate amendment requires the Secretary of Transportation and the ICC to make a full investigation and study of the relationship between the ownership, location and adequacy of bus terminals and their capacity to provide passenger service in accordance with the national transportation policy. A report, including legislative recommendations, shall be submitted to the President and Congress by December 31, 1983. The report shall include an analysis of: (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Conference substitute

Same as Senate amendment.

EMPLOYEE PROTECTION

House bill

The House bill requires that an employee who is terminated by a motor common carrier of passengers for a reason other than cause within ten years of the date of enactment of the Act shall have a right of priority reemployment by that carrier at such time as it is hiring additional employees in his or her occupational specialty.

The House bill provides that a motor common carrier of passengers has a duty to hire an individual in his or her occupational specialty before hiring any other individual, if such individual (1) was terminated previously by such carrier, (2) has applied for a vacant position for which such carrier is accepting applications, and (3) if the employee has notified the carrier that he or she is eligible for protection under this section.

The House bill states that an employee who is terminated for reasons other than cause within ten years of the date of enactment of the Act shall have a right of consideration by those other motor common carriers of passengers, aside from the one which terminated his or her employment, whenever it is hiring employees in his or her occupational specialty. The House bill applies this provision to those employees who have applied for a vacant position for a carrier which is accepting applications to fill the vacancy and have notified such carrier that he or she is eligible for protection under this section.

Eligible protected employees under the House bill are those who, other than members of a board of directors or officers of a corporation, were employed by a motor common carrier of passengers for the two-year period ending on the date of enactment and who, upon application of such individual, the Commission determines was terminated as a result of certain actions under the Act.

The House bill requires the Commission to establish and publish a list of vacancies available with Class I carriers (those having annual gross revenues from motor carrier of passenger operations exceeding $8 million) that includes relevant information relating to those job descriptions and requisite skills, as the Commission deems necessary. The Commission may require Class I carriers to provide it with certain information allowing it to fulfill its mandate under this provision. The Commission is also directed to make every effort to assist eligible protected employees in finding other available employment.

Under the House bill, a motor common carrier shall not be considered to be hiring employees when it recalls any of its own furloughed employees, and furloughed employees who still enjoy a right of recall shall not be considered to be terminated.

The House bill shall not be construed as affecting any affirmative action plan or hiring plan designed to eliminate discrimination that is required by any Federal or State law, regulation, or executive order, or by order of a Federal court or agency, or is a permissible voluntary affirmative action plan.

The House bill does not apply to a carrier owned or controlled by a State or local government or to any periodic discontinuance or reduction which is seasonal in nature. The House bill directs the Commission to issue regulations implementing the employee protection provision within six months of the Act's effective date and terminates the employee protection provision on the last day of the twelfth year following the Act's effective date.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill and Senate amendment.

BUDGET AUTHORITY

House bill

The House bill insures that for fiscal year 1982 only funds which have already been appropriated or authorized may be used to support the various activities of the bill. No new budget authority or new spending authority is authorized.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

PUBLICATION OF COMMISSION ACTIONS

House bill

No comparable provision.

Senate amendment

The Senate amendment allows the ICC to adopt, after a rulemaking a special procedure for providing interested parties reasonable notice of entry or restriction removal applications rather than requiring use of the Federal Register.

The legislation also amends section 10328 to eliminate the statutory requirement that notice of filing of new applications be provided to state regulatory commissions in all of the states in which the applicant proposes to operate. At present, the ICC's regulations provide for service upon the State commissions at their request. This type of notification will also continue.

Conference substitute

Same as Senate amendment.

GENDER NEUTRAL TERMS

House bill

No comparable provision.

Senate amendment

This section of the Senate amendment replaces gender specific terms in title 49 of the United States Code with gender neutral terms. For example, the term "seaman" is replaced with "sailor."

Conference substitute

Same as Senate amendment.

EXEMPT TRANSPORTATION

House bill

The Senate amendment amends section 10525 of title 49, United States Code, to exempt motor carrier transportation (other than transportation of household goods) in the State of Hawaii from the jurisdiction of the Commission and to authorize such State to regulate such exempt transportation and motor vehicle transportation in terminal areas exempt from the Commission's jurisdiction under section 10523.

Conference substitute

Same as Senate amendment.

EFFECTIVE DATE

House bill

The Act is to take effect 60 days after enactment.

Senate amendment

The Act is to take effect 60 days after the enactment, except that (1) the amendment to section 14(b)(12) of the Motor Carrier Act of 1980, increasing the authorization for the Motor Carrier Ratemaking Study Commission from $3,000,000 to $4,000,000 takes effect on October 1, 1982, and (2) the amendment pertaining to entry of Mexican and Canadian motor carriers and the amendment exempting motor carrier transportation in the State of Hawaii from ICC jurisdiction take effect on enactment.

Conference substitute

Same as Senate amendment.

JAMES J. HOWARD,
GLENN M. ANDERSON,
PETER W. RODINO, Jr.,
DON CLAUSEN,
BUD SHUSTER,
Managers on the Part of the House.

BOB PACKWOOD,
JOHN C. DANFORTH,
HOWARD W. CANNON,
Managers on the Part of the Senate.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code,

to provide for more effective regulation of motor carriers of passengers.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PRICE). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. ANDERSON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from California (Mr. CLAUSEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. ANDERSON. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on H.R. 3663, the Bus Regulatory Reform Act of 1982. It represents yet another effort by the Congress to lessen government regulation in the transportation marketplace. The conference report is the product of long and hard work by the Committee on Public Works and Transportation and the Senate Committee on Commerce.

The conference report, like previous regulatory measures, calls for regulatory reform and not total deregulation. This result was thought to be the best approach. It is an approach reached after extensive and open meetings with many groups of interested persons. The conference report balances the interests of all parties, with an intent to maintain and to improve transportation and to oversee closely that this intent bears fruition.

The conference report on H.R. 3663 permits freer entry for those who wish to participate in this marketplace by substantially reducing Federal entry requirements. Simultaneously, it permits the interstate bus companies to augment their intrastate services where State regulation has prohibited them from fully utilizing their resources.

Conversely, it permits them to abandon segments of their operations unless such actions are not consistent with the public interest or such abandonment is not an undue burden on interstate commerce. The ICC is to oversee these processes in a manner that requires that agency to examine the effects on service to small communities and commuter services.

In the future, pricing will be freer; yet, antitrust immunity for collective ratemaking is narrowed.

Additionally, more emphasis will be placed upon safety by requiring minimum insurance levels and by giving the ICC more clout in suspending unsafe operations.

Other provisions in the legislation give the carriers opportunities to better utilize their equipment in a manner that should be beneficial to the public.

The conference report represents a compromise position, yet it is a balanced compromise, one that should benefit the industry and the traveling public it serves.

Mr. Speaker, I believe this conference report deals with an important piece of legislation that should be considered favorably by the House.

At this time, I wish to thank all the members of the committee, Mr. ANDERSON, and Mr. SHUSTER, for their hard work and leadership on this report.

I would also like to thank the distinguished gentleman from California (Mr. CLAUSEN) for the important role that he played in assuring that the rural areas of the country are adequately protected. His strong leadership was instrumental in preserving the protections of the House exit provision for existing bus service. Without his perseverance and input, I do not think that it would have been possible to achieve the level of protection contained in the conference report.

Mr. ANDERSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the agreement arrived at by the conferees on H.R. 3663, the Bus Regulatory Reform Act of 1982. H.R. 3663 was passed by the House on November 19, 1981. The Senate passed a similar bus reform bill on June 30, 1982. While the Senate bill was patterned on the House bill and adopted most of the House bill provisions, it slightly changed provisions of the House bill in a few areas. The sections of the bill where changes were made are the following: Entry, restriction removal, entry, reciprocity, regulation of passenger brokers, rate bureaus, zone of rate freedom, exit, discriminatory rates, securities, and mergers.

In general, these modifications to the House bill provisions provide for an overall slightly less regulated environment for the bus industry than the overall provisions of the House bill. The Senate provisions would generally involve less Government regulation and more reliance on market discipline to insure that the public is well served and protected from carrier abuse and to promote the financial well-being of the industry.

Like the House bill, the Senate bill represented a balanced regulatory approach in terms of entry, ratesetting, and exit. It is in light of this need for a balanced regulatory reform bill that the differences between the House and Senate bill were resolved in conference. While the Senate bill opts for greater carrier flexibility than the House bill, the Senate, like the House, was extremely concerned about the provision of bus service to small communities and, in fact, the Senate bill was amended on the floor to include a provision to institute a study to the impact of the bill on intrastate bus service and on older citizens. The ICC is directed to give expedited treatment to whatever recommendations are made.

The Senate bill added sections not contained in the House bill which dealt with: publication of Commission actions, gender neutral terminology, and exempt motor carrier transportation.

With the recognition that the differences between the two bills represented differences in the degree of reliance on Federal regulation versus market regulation, the conferees reached an acceptable compromise agreement. While the conference report results in slightly less Federal regulation of the bus industry than the House bill, it is important to emphasize that the protections on service to small communities included in the House bill and amended to the Senate bill are substantially maintained in the conference report.

Mr. Speaker, for the benefit of our colleagues, let me outline the conference agreement that is before us, and point out some of the key differences which exist between it and the bill which was approved in this Chamber on November 19 by a vote of 305 to 83.

If the theme of this legislation is competition, then this is perhaps best reflected in our entry section. For too many years, in too many locales, carriers have enjoyed sanctioned monopolies. And, of course, where a monopoly exists, normal marketplace forces cannot work.

The conference agreement that is being considered, like the House bill, will allow the marketplace to work. A carrier who demonstrates that he is fit, willing, and able will be issued a certificate unless this would be contrary to the public interest. The ICC could consider, as contrary to the public interest, the effect the issuance may have on small communities, and its impact upon the ability of other

carriers to provide a substantial part of its service.

Further, under the conference agreement, the restriction removal provision for interstate certification is automatic except for intermediate point restrictions where the Commission shall remove the restriction in 90 days unless protestant's evidence shows that removal would have an adverse effect on commuter bus service. Under the House provision, the restriction removal procedures were to be established by the ICC after formal rulemakings.

With respect to the regulation of brokers of passengers, the conference agreement discontinues the regulation of brokers of motor carriers of passengers. However, it still permits the Commission to require bonds or insurance, or both, if the Commission determines they are needed to protect passengers and carriers. Regulation of passenger brokers under the House bill consisted mainly of a simplified ICC licensing procedure.

With regard to rate bureaus, the House bill would have removed antitrust immunity for single-line collective ratemaking on January 1, 1984. The Senate bill and this agreement moves that date up to January 1, 1983, and removes this immunity for joint-line rates on January 1, 1984.

The zone of rate freedom, under which carriers may unilaterally revise their rates, has been liberalized from the House bill. The provision before us here would allow carriers to increase their rates by 10 percent the first year after enactment, 15 percent the second, and 20 percent the third. After the third year, the Commission loses its power to suspend a rate based on reasonableness. However, the Commission retains its authority to suspend proposed rates on the basis of discriminatory or predatory practices and the Commission must consider complaints against the reasonableness of existing rates filed under the zone on an expedited basis.

In the exit section, the conference substitute maintains the House exit test for intrastate regular route bus service on routes for which interstate authority was granted before August 1, 1982. For intrastate authority as a motor common carrier of passengers on a regular route granted after August 1, 1982, the exit test is modified. The new language requires the Commission to grant the requested discontinuance unless the Commission finds on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction is in the public interest and revenues from such service cover the variable costs of such service. The conference report clarifies the financial burden test on carriers and places the burden of proving financial burden on the carrier. In addition, the conference substitute allows for expedited exit from new routes initiated pursuant to the fitness-only entry standards of the entry provision. Finally, the agreement contains a requirement that the Rate Study Commission make an investigation and study the impact of implementation of the Bus Act on persons over the age of 60, including those who reside in rural areas and small communities. The Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high-quality intrastate bus services. The ICC shall give expedited treatment to whatever recommendations are made.

With respect to rates, interstate scheduling and rate decreases on interstate routes are preempted from State control except for up to 30 days' notice of schedule changes. The conference report further specifies as a check on the greater carrier flexibility that predatory pricing practices on interstate rates is a violation of the law and provides a complaint procedure and remedy at the ICC. This provision does not apply to commuter service.

And finally, with respect to entry, States are totally preempted on intrastate portions of interstate routes. For existing interstate certificates, the ICC can eliminate closed-door intrastate restrictions for fit carriers unless the restricted service would adversely affect commuter bus operations. For new authority, the entry test for interstate and intrastate authority would be the same.

The conference agreement on merger procedures has the same provisions for bus mergers as the House bill. For motor carriers of property, the conference agreement treats truck mergers differently than mergers of buses. Specifically, the agreement would retain existing law for truck mergers, except that the Commission could exempt a person, class of persons, transaction, or class of transactions for motor carriers of property from the provisions of the law if the Commission finds that the application of these provisions is not necessary or of limited scope. In addition, the Commission could revoke an exemption if it finds the merger provisions are necessary to carry out the national transportation policy.

The provisions of the merger section of the conference agreement would specifically require that the Commission consider "the interests of carrier employees affected by the proposed transaction" in the merger application for buses and if raised by affected parties in case of motor carriers of property.

Mr. Speaker, I have been particularly concerned these past weeks and months that this legislation, when enacted, address and remedy the very serious problem of foreign motor carriers operating within our borders despite the fact that the laws of their own countries may discriminate against or preclude the operation of U.S. carriers within their borders.

This conference report does contain a provision designed to help protect U.S. truck and bus operators from such discriminatory foreign practices. Our 1981 subcommittee hearings on oversight of the Motor Carrier Act helped illustrate to us how damaging the present situation was.

The Mexican Government has two laws, the "Law to Promote Mexican Investment and Regulate Foreign Investment," and the "Law on Several Means of Communication" that work to prohibit the certification of U.S. carriers in Mexico, even through partially owned subsidiaries or joint ventures.

It is not difficult to figure out the impact of this prohibition when superimposed over the easier entry into our country guaranteed, inadvertently to foreign carriers, by the 1980 Motor Carrier Act. Our carriers are effectively shut out of crossborder traffic. What Mexican or U.S. shipper would want to have a U.S. carrier, when doing so means their goods must be interlined at the border, when he can just hire a Mexican carrier to single line his shipment between any two points in Mexico and the United States?

And there exists a similar problem with respect to Canada. Motor carrier regulation there is done on a provincial basis, with each Province having its own laws and regulations. As might be imagined, the laws among the Provinces with respect to entry by U.S. carriers vary.

They also have in Canada, superimposed over this provincial regulatory structure, a national Foreign Investment Review Board. This board may prohibit, without any public documentation, an American company from operating within its borders. It is not concerned, however, with a U.S. company's acquisition of a noncontrolling minority interest in a Canadian motor carrier nor with operation of a U.S. carrier's trucks north of the border so long as no terminals are established there. And even then, such an operation could be initiated if doing so would result in a significant benefit to Canada.

So, though the situation with respect to Canada is lamentable and demanding of action and redress, it is not as clear cut as is the Mexican prohibition.

To address these circumstances, H.R. 3663, as initially passed in the House, would have prohibited the issuance of certificates to carriers from contiguous countries such as Mexico,

which prohibits U.S. carriers from operating within their borders, and have allowed the ICC to refuse certification to carriers from countries that treat U.S. carriers desirous of operating within their jurisdictions in a less favorable manner than their own.

Nearly every person with whom I have discussed this issue concurs that this is a perfectly reasonable approach to a very real problem. The administration, though, refused to sign off on the proposal and, indeed, threatened to veto over it.

As a result, we have a provision here today that prohibits the issuance of certificates to Mexican or Canadian carriers for 2 years, and authorized the President to extend this moratorium to beyond that point with respect to carriers from any country which precludes entry by U.S. carriers. Such restrictions may be removed or modified if the President determines that doing so is in the national interest and notifies Congress in writing that he is doing so. If the President intends to modify or remove such a restriction on a country which prohibits U.S. entry, notice must be made to Congress 60 days ahead of time.

The Secretary of Transportation, Drew Lewis, wrote to me on August 5 concerning the administration's authority to waive these restrictions:

> As you are aware, the Mexican constitution prohibits non-national motor carriers from being authorized to provide service within Mexico. I do not believe that any removal or modification of the moratorium would be warranted when such a prohibition is in effect.

The Secretary's position on this is clear. And equally appreciated were the words of the ICC Chairman, Reese Taylor, in a letter to me, also dated August 5:

> With respect to reciprocity, the intent of Congress appears to me to be quite clear. The ICC will refrain from issuing certificates to foreign carriers while the moratorium is in place, and the moratorium will not be lifted unless and until an appropriate solution to the reciprocity issue is negotiated.

Chairman Taylor's statement perfectly reflects the intent behind this provision. It is my expectation that the prohibition on the carriers from nations that prohibit U.S. entry will be continued until that situation is remedied and that, similarly, no restriction removals or any other regulatory mechanism that facilitates or liberalizes operations within this country will be extended to carriers from offending governments.

I would be negligent if I failed to clearly make another point here. And that is: With or without the moratorium, the ICC is presently possessed with the authority to deny operating rights, or the easing of any circumstance related to operating rights, any carrier from any contiguous foreign country or political subdivision thereof which discriminates against or prohibits entry by U.S. operators. I would posit that the mere existence of ex parte No. MC-157 is ICC acknowledgement that this is the case. Regardless of the findings of this investigation, the fact that it is continuing indicates that the Commission believes it has the authority to deny certification on this basis.

But, more importantly, title 49 of the United States Code gives the Commission this authority. There first, section 10922(b), which allows the Commission to find that it would be inconsistent with the public convenience and necessity to grant operating certificates to foreign carriers whose governments prohibit entry or discriminate against U.S. carriers; second section, 10521(a)(1)(E) authorizes the ICC to regulate that motor carrier transportation between points in the United States and a foreign country that takes place in the United States; third, the national transportation policy which directs the Commission "to promote competitive and efficient transportation."

The conference agreement has provisions for three subjects not included in the House bill. They are:

First. It gives the ICC the authority to provide notice of proposed applications for motor carrier and broker authority in a publication other than the Federal Register.

Second. Makes certain changes in reference to gender in the Interstate Commerce Act.

Third. The agreement would provide for clarification of the Interstate Commerce Act on the issue of regulation of interstate motor carrier transportation in Hawaii. The agreement provides that Hawaii may regulate certain Hawaiian motor carrier transportation exempt from the jurisdiction of the Commission.

Mr. Speaker, I would like to commend the efforts of Chairman HOWARD, Mr. CLAUSEN, whose outstanding efforts have been instrumental in helping to protect the interests of those in smaller communities in California and across the country, and Mr. SHUSTER for their efforts in producing this fine legislation.

I urge adoption of the conference report.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 3663, the Bus Regulatory Reform Act of 1982. The compromise agreement reached on this bill reflects substantial contributions by all interested parties, including the administration, labor and public interest groups, and representatives of large and small carriers in the intercity bus industry. Through the cooperation of all parties involved, we have been able to reach agreement on the final product and present it for floor action prior to the August recess.

We have, as a result of long hours of negotiations and deliberation, a carefully constructed approach to a very difficult problem of regulatory reform, one which has not been addressed in nearly 45 years.

We have sought throughout to strike a proper balance on entry and exit by opening up the system, while providing safeguards to protect small communities and those who depend on bus service. What has resulted, I believe, is a piece of legislation that will foster constructive competition and realistically address the needs of the industry and the traveling public which it serves.

As Members will recall, the legislative initiative originated in the House, where H.R. 3663 passed by a vote of 305 to 83 on November 19 of last year. Working on the basis of our bill, the Senate retained the essential framework while making a number of amendments which were incorporated into the conference report. In addition, there are a number of compromise provisions, particularly in the area of foreign reciprocity, involving Canada and Mexico, and conditions which must be satisfied if carriers wish to reduce or discontinue service, which I will discuss at some length at a later point in my statement.

In approaching the modernization of the economic regulation of the intercity bus industry, the legislation recognizes the practicalities of the Federal-State climate in which the industry has operated for decades and the special problems associated with the structure of the industry and the competitive environment in which it operates.

Eased entry is fundamental to any regulatory reform measure which seeks to infuse a greater degree of competition. The conference report, to a somewhat greater degree than did the House bill, makes it easier for new bus companies to enter the market by requiring that applicants meet a fitness-only test. There would be exceptions in cases where the Interstate Commerce Commission finds that the proposed service would not be consistent with the public interest.

In making this public interest determination, the Commission will be required to consider, among other things, whether a substantial portion of the regular-route service of an existing carrier would be impaired. This is intended to give due regard to the ability of small carriers to compete.

As a means of promoting a more competitive and efficient intercity bus industry, the bill would substantially reduce State-imposed closed door restrictions, which prevent a carrier with interstate authority from providing intrastate service along the same routes.

One key aspect of entry involves the ability of U.S. carriers to compete in the contiguous nations of Canada and Mexico. The House bill provided that no certificate for operation as a common carrier in this country be issued to a carrier from Mexico or Canada, or any political subdivision thereof, unless the country or political subdivision grants operating authority to U.S. carriers. In addition, it provided that the Commission, in its discretion, could deny operating authority to foreign carriers whose country of origin or political subdivision thereof discriminates against U.S. carriers

The conference substitute provides for a 2-year moratorium on issuance of certificates to Mexican and Canadian carriers, which the President can extend if either country or a political subdivision of that country substantially prohibits the operation of U.S. carriers. The President may remove or modify, in whole or in part, such a moratorium if he finds it in the national interest and so notifies the Congress. If the moratorium involves a foreign country or a political subdivision of such a country which prohibits the operation of U.S. carriers, the removal or modification of such a restriction would not take effect for 60 days after notification to the Congress.

Another entry-related provision in the House bill, slightly modified in the conference report, would promote maximum use of equipment by carriers through the mixing of charter- and regular-route passengers in the same vehicle at the same time.

The House bill provided for removal of restrictions on operating authority on a case-by-case basis. The conference report provides that restriction removal shall be automatic subject to the following exception: In the case of restrictions against service to intermediate points, it provides for removal by the Commission within 90 days upon request by the holder of a certificate, unless it found that resulting competition with a commuter bus operation would harm such a commuter operation.

The conference report's provisions with respect to rate bureaus would eliminate antitrust immunity regarding single-line rates on January 1, 1983, and joint-line rates on January 1, 1984.

Another key element of regulatory reform deals with pricing freedom. Under the House bill, individual carriers could increase by 10 percent and decrease by 20 percent their fares in any given year without being subject to suspension as unreasonably high or low. The conference report provides that, in the second year after enactment, carriers would be free to increase or decrease fares by 15 and 25 percent respectively from levels in effect a year earlier; in the third year, rates could go up another 20 percent or down 30 percent. after the third year, there would be no restrictions on rate increases or reductions exempt from suspension and investigation. Nevertheless, the Commission would still have the authority to suspend rates on the grounds that they are discriminatory or constitute predatory practices, that is, that they are intended to destroy competition.

As a member representing a considerable number of small towns and rural countryside, I have been particularly concerned about the impact of any regulatory reform on service to such areas. And I know these concerns are shared by many Members on both sides of the aisle. The interests of rural America are not and should not be a partisan matter. I therefore have concentrated on the exit-from-service aspects of this bill as much as any other single provision in my role as ranking minority member of the full committee in order to beef up the protection for small communities.

Intercity bus service in this country is in trouble; that applies not only to smaller companies but the two largest, Greyhound and Trailways, which account for roughly two-thirds of the service provided. If we insist that they continue providing service on routes on which they are sustaining heavy financial losses, their ability to provide service in otherwise profitable markets will be impaired. And we do not want to see the intercity bus industry go the way of passenger rail.

I could not go along with proposals by the Interstate Commerce Commission, the Department of Transportation, and the industry, which while varying in detail would all amount ultimately to automatic exit.

Members who have focused particularly on this issue will recall that, as it passed the House, H.R. 3663 provided that, in the case of proposed reduction or discontinuance of intrastate service by a carrier with interstate operating authority over the same route, the Commission could preempt State authority and approve such a request. However, if the Commission found that discontinuance or reduction would not be consistent with the public interest, or that continuing the transportation without the proposed discontinuance or reduction would not constitute an unreasonable burden on interstate commerce, the service would be retained.

In other words, there was an either-or test, with an affirmative finding in either case serving as grounds to deny the reduction or discontinuation.

However, in amending the House bill, the Senate made it more difficult for protesting parties to successfully challenge a proposed reduction or discontinuation of service. The Senate language would have required the Commission to grant such permission unless it found that continuing the service would not constitute unreasonable burden on interstate commerce. A finding of no unreasonable burden on interstate commerce would require a showing both that discontinuance or reduction of service is not consistent with the public interest and revenues from the service are adequate to cover the variable costs of providing the service.

In the simplest shorthand terms, the Senate test said that if you are a carrier and your are losing money—any money on a route—you are out. The House test said that either the public interest or the absence of an unreasonable burden on interstate commerce—which I translate as excessive losses—could keep you in.

Substitute language in the conference report before the House today provides that, in the case of existing service, the Commission shall permit the proposed reduction or discontinuation of service unless it finds that such would not be consistent with the public interest or that continuing the transportation would not constitute an unreasonable burden on interstate commerce. In other words, we retain the House test for existing service, and protection for small communities.

In the case of new service initiated in the future, the Senate test would apply. And I would emphasize that new service is just that—new service by a carrier on a route which it has not previously served. We emphatically do not mean that a carrier would qualify for the lesser test for exit by virtue of picking up a community or two on an existing route and calling it new service.

In determining variable costs, the Commission is given authority to consider some amount of depreciation of revenue equipment and we leave it to the discretion of the Commission to determine the most appropriate means of doing so. The language also leaves latitude to the Commission in identifying revenues appropriately attributable to service on routes or segments thereof.

Consider, for example, the case in which a carrier provides service at a relatively low per-mile fare between two major metropolitan areas, points A and B, and also between point B and a smaller city, point C, on the same route. Fares between points A and C might well be much more costly on a per-mile basis than between points A and B.

If the carrier proposed to discontinue service between points B and C, the Commission would have the ability to consider the differences in revenues generated between points A and B and between points A and C in determining the revenues generated by service between points B and C. In other words, a carrier could not necessarily

average the per-mile revenues generated between points A and C in the calculation of interstate and intrastate revenues which are compared with variable costs.

Another important point: The conference substitute also provides that, in making its public interest and burden-on-commerce determinations with respect to reduction or continuation of existing service, the Commission shall give great weight to the extent to which the revenues derived from the service in question are less than the variable costs of providing the service.

I would think it entirely appropriate that the Commission, in making its determinations as to whether discontinuation of a route would be in the public interest, to take into account whether, first, the State affected had a statewide plan relating to intercity bus service and, second, whether the route in question is identified on such plan as an essential or priority route.

On another matter, dealing with rates and schedules for intrastate service, the House bill authorized the Commission to preempt a State rate or scheduling practice if found to be the cause of unreasonable discrimination or an unreasonable burden on interstate commerce. The conference report is the same as the House provision, except that State-sanctions scheduling changes and decreases in rates would be preempted.

Mr. Speaker, this conference report also deals with other matters, such as regulation of passenger brokers, securities and mergers, provisions regarding Hawaiian motor carrier regulations, and changes in certain terminology to remove references to gender. These have been or will be elaborated on by my colleagues in the Committee on Public Works and Transportation and I shall not go into them at this point.

In summary, Mr. Speaker, if we as a nation expect to meet our national transportation objectives, if we truly expect to have the best possible coordinated, integrated, and balanced transportation system, we must insure that our regulatory systems enhance our ability to achieve those objectives. Only by operating our modal systems at maximum efficiency can we preserve what is generally accepted as the world's best transportation system. To that end, we have already reduced Federal regulation in the airline, trucking, and rail industries. H.R. 3663 represents another part of the overall effort to reach our national transportation objectives.

I urge the adoption of the conference report.

Mr. Speaker, I yield to the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member on the Subcommittee on Surface Transportation, who has done an outstanding job.

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Mr. SHUSTER. Mr. Speaker, we bring before the House today the conference agreement on H.R. 3663, the Bus Regulatory Reform Act. Negotiations have been ongoing with the Senate and the administration for several weeks and I believe the compromise we have reached is sound and fair.

I would like to specifically point out to my colleagues that this would be the last of a long line of transportation regulatory reform bills to be brought to this Chamber. Previously, this House has debated and passed legislation on railroads, airlines, trucks, and household goods carriers. The intercity bus industry competes directly with two of those modes previously given regulatory relief. It is only reasonable and proper that regulatory reform for intercity buses be enacted into law.

In reaching this compromise with the Senate, several issues of concern to House Members were discussed. The issue of exit policy and its impact on small communities was one of the most debated topics when H.R. 3663 was discussed on the House floor last year. The House provision loosened up regulation as compared to current law but was a proper balance with the entry provision. The Senate provision completely opened up exit and left little protection for small towns from losing bus service. This compromise goes beyond the House provision and makes it tougher for a carrier for no justifiable reason from abandoning a small town that may rely solely on bus service. I am convinced this agreement was the best possible for rural America and for intercity bus transportation. Congressman DON CLAUSEN deserves great credit for his untiring efforts to provide this provision to protect small communities.

There were several other problem area where compromise was reached such as zone of rate freedom, merger requirements and reciprocity. I am pleased to see that with this agreement nearly all of the recommendations of the National Transportation Policy Commission, which I chaired, were implemented in the area of intercity buses.

The Commission called for more route flexibility for intercity buses. As discussed, this bill sets a proper balance on entry and exit with freer opportunities for intercity bus companies but adequate safeguards to protect service to the public. The Commission report also called for more flexibility for both upward-and-downward rate changes within a zone of reasonableness. This compromise provide for that flexibility.

I urge my colleagues to support this agreement and send it to the President for his signature.

Mr. PATMAN. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Texas.

Mr. PATMAN. I thank the gentleman for yielding.

Mr. Speaker, could the gentleman give me some assurance smaller communities will be, in fact, served after this deregulation goes into effect? I have heard complaints that some communities after airline deregulation went into effect were not served and have not been served.

Mr. CLAUSEN. I was faced with the same situation, because I come from a rural, sparsely populated area. As the gentleman knows, the exit provision we had in the House version was designed to protect the smaller communities. Of course, the Senate version did not have that kind of protection.

So, as a result, there is a requirement for wherever a public interest test is needed, the communities themselves can, in fact, go to the public utilities division as in the case of the State of California, or whatever your counterpart organization would be in the State of Texas. They have the right of appeal to the Interstate Commerce Commission.

There is a provision in the legislation that would give them the right of that forum; and as I say, if the gentleman voted for the bill when it went through the House and was concerned about the protection provision—the House provision on exit—in essence, prevailed.

Mr. PATMAN. In fact, I did not vote for the bill as it went through the House. Our Texas Railroad Commission, which is the regulatory agency which has jurisdiction over matters of this nature, had gotten in touch with the members of the Texas delegation and expressed their opposition to that legislation.

Has that opposition been met and satisfied?

Mr. CLAUSEN. As far as I am concerned, those that have expressed concern to me from these rural areas are satisfied with the provision.

As I said, the Senate had virtually no exit protection, and the House committee held firm on this and backed us to the hilt so we could sustain our position.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, I share the same concerns that my friend, the gentleman from Texas (Mr. PATMAN) has. I had communications from the Texas Railroad Commission stating that they had serious reservations about this matter because they

feared that if this bill passes—and I know that it will—small cities in Texas would probably have very severe difficulty in trying to keep Trailways and that sort of bus transportation in the cities.

The gentleman stated in our situation, the Texas Railroad Commission would make the final determination. Do I understand if a city, a small town, files an application with the regulatory body—whatever it is throughout the country——

Mr. CLAUSEN. State or Federal, intrastate or interstate——

Mr. SAM B. HALL, JR. Does the local regulatory body have the final say so as to whether or not there will be bus service in a small town or does that have to be appealed, if necessary, to the Federal level to make that determination?

Mr. CLAUSEN. The ICC does in fact have the final say.

Mr. SAM B. HALL, JR. If the Texas Railroad Commission held that the Greyhound busline should service Marshal, Tex., or Jefferson, Tex., or whatever—both small towns—then the action of that tribunal would not be final?

Mr. CLAUSEN. No; that is correct, because there is a clear distinction, as the gentleman knows, between the intrastate jurisdictional responsibilities and the interstate routes. That, of course, lies with the ICC.

Let me go one step further in stating that if an intrastate exit decision is appealed to the Commission, the test would be whether the State could show that the discontinuance was not a burden on interstate commerce or was in the public interest.

So they are subjected to the public interest test, meaning the community itself would have the right of access to make their appeal to the State regulatory authority and the Interstate Commerce Commission.

Mr. SAM B. HALL, JR. If the gentleman would yield further, if the Texas Railroad Commission ruled that an intrastate busline should serve a town or towns—intrastate—would the buslines have the right to appeal that decision to the ICC?

Mr. CLAUSEN. No; not if it is purely intrastate.

Mr. SAM B. HALL, JR. Suppose the buslines attempted to show that their intrastate line had a direct bearing on interstate commerce? Would they then have the right to appeal to the ICC if the local instrumentality held that they should serve a small town?

Mr. CLAUSEN. Only if it is a part of an interstate route.

Mr. SAM B. HALL, JR. If the gentleman would yield further, I do not understand what the gentleman means by that.

Mr. CLAUSEN. Only if the point that is involved—the community involved—is a part of an interstate route.

Mr. SAM B. HALL, JR. There is no way to get from Dallas, Tex., to east Texas without going Interstate 20, unless you go on a dirt road to get to those small towns. Would not all of those cities be governed by the ICC?

Mr. CLAUSEN. I am advised by counsel it has to be a bus that crosses State lines. It would be interstate service in that sense—intrastate service between two points on an interstate route.

Mr. SAM B. HALL, JR. I thank the gentleman.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PROVIDING FOR U.S. PARTICIPATION IN 1984 LOUISIANA WORLD EXPOSITION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6409) to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 12, after line 3, insert:

SEC. 16. (a) That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803), is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2), and (3), respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

(4) by adding at the end thereof the following new subsections:

"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) The enactment of a specific authorization of appropriations shall be required—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I shall not object, I make this reservation so the gentleman might explain what the Senate amendment is.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, as the Members know, this bill authorizes $10 million to fund Federal participation, staffing, and providing the exhibitions for the 1984 World's Fair in New Orleans.

The Senate passed the bill as it passed the House with the addition of one amendment implementing a 1980 GAO report by requiring certain procedures be followed in the construction of Federal pavilions at world's fairs, including prior provision for the post-fair utilization of a permanent structure; and if such an agreement is not possible, for the pavilion to be a temporary structure.

That is all the Senate amendment provides.

Mr. LAGOMARSINO. Further reserving the right to object, I strongly support the legislation and the Senate amendment and urge my colleagues to vote for it.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. I thank the gentleman for yielding.

I certainly urge the gentleman not to object.

I appreciate all the work the gentleman has done along with the chairman of the subcommittee, the gentleman from New York (Mr. BINGHAM) as well as the chairman of the full committee, the gentleman from Wisconsin (Mr. ZABLOCKI), and the ranking member, the gentleman from Michigan (Mr. BROOMFIELD).

All have been extremely cooperative. They have managed to move this bill through the Congress very proficiently with the cooperation of myself and the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentlewoman from Louisiana (Mrs. BOGGS).

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Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding. I would like to make certain that all of us know the very, very particular attention that the chairman of the full committee and the members, the ranking minority members of the full committee and the subcommittee, have paid to this legislation.

Those of us in Louisiana are very grateful to the gentleman for the expeditious way in which he has handled this. We are especially happy that the gentleman has taken it up this late at night as we are about to adjourn.

I would hope that we would pass the legislation and that in 1984 all of you will come down to enjoy the World's Exposition in New Orleans in the State of Louisiana with us.

Mr. LIVINGSTON. Mr. Speaker, I simply want to echo that challenge. We hope that everybody here in the House will come down and join us for the 1984 World's Fair.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Wisconsin?

There was no objection.

A motion to reconsider was laid on the table.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES AT ANY TIME TODAY, SUBJECT TO THE CALL OF THE CHAIR

Mr. MURTHA. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to declare recesses at any time today subject to the call of the Chair.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LIVINGSTON. Mr. Speaker, reserving the right to object, I would like to inquire whether there will be any additional legislative business at this time.

Mr. MURTHA. No.

Mr. LIVINGSTON. And not tomorrow either; is that correct?

Mr. MURTHA. That is correct.

Mr. LIVINGSTON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO HAVE UNTIL MIDNIGHT FRIDAY, AUGUST 20, 1982, TO FILE CERTAIN REPORTS

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology may have until midnight, Friday, August 20, 1982, to file certain reports.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

GENERAL LEAVE

Mrs. BOGGS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just adopted concerning the World's Fair.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Louisiana?

There was no objection.

TRIBUTE TO THE HONORABLE THRUSTON B. MORTON, FORMER MEMBER OF THE HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kentucky (Mr. PERKINS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members who may desire to do so may have 3 weeks in which to extend their remarks on the subject of this special order on the late Honorable Thruston B. Morton.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was not objection.

Mr. PERKINS. Mr. Speaker, today would have been the 75th birthday of Thruston Ballard Morton, a former Member of this House from Kentucky, a former Senator of the United States, a former Assistant Secretary of State, a former national chairman of the Republican Party, and one of the outstanding Kentuckians of the 20th century.

The occasion for these remarks today is so that we who admired him so much in life may now come to eulogize him in death, for Thruston died last Saturday in Louisville, his native city. He was buried there on Monday of this week.

Thruston B. Morton was already a successful businessman and active community leader in Louisville when in 1946 his fellow citizens elected him to the House as a Member of the famous 80th Congress. He took his seat here on January 3, 1947.

Two years later I was privileged to join him when the 81st Congress came in, and I was enriched and honored to have him as a friend until his dying day.

Although we were of opposite political parties, Thruston was far too big a man to be partisan in his personal relationships. We could talk with each other as friends, and we did often—all through his political career, and even after he reentered private life in 1969.

Today, my mind returns to those days in the late 1940's and early 1950's when Thruston and I served together as young members of the Committee on Education and Labor. That was

during the chairmanships of John Lesinski and Graham Barden.

Two other young men then serving with us on the committee later went on to carve out notable careers for themselves in other pursuits. They were John Fitzgerald Kennedy and Richard Milhous Nixon.

Those were years of great activity and great controversy on the committee, when we wrestled with questions such as whether or not to repeal Taft-Hartley, or whether we should enact Federal assistance to education; and there were many others.

Thruston and I had many discussions about these matters as we tried to determine what was the best thing to do for our home State of Kentucky and for the country. You get to know a man that way, that is the way I came to know and respect the young Louisville Congressman.

Thruston decided to retire from the House in 1952, even though he knew with some certainty that he could have been reelected in that year of the Eisenhower sweep. But he devoted full time to his party's campaign in Kentucky that year, and came within 700 votes to carrying it for the popular general-turned-candidate.

As the new administration came to power in 1953, the President drafted Thruston Morton to be Assistant Secretary of State for legislation. It was a wise choice, for his three terms in the House had given Thruston considerable stature on Capitol Hill, as well as knowledge about and respect for the legislative process.

I saw him often during those years as he made trips to the Hill to explain the President's foreign policy initiatives, and sometimes to soothe the congressional feathers that had been ruffled by the high-flying Secretary of State, Mr. Dulles. Thruston did his job well and enhanced the high regard in which he was already held by both House and Senate.

In 1956, the leadership of the Republican Party in Kentucky and nationally prevailed upon Thruston to stand for the U.S. Senate. It was a year of turmoil in Kentucky politics, for the great Alben Barkley had died suddenly that spring, and the seat held by Senator Earle C. Clements was up. That meant two Senate seats to be filled. A divided Democratic Party nominated former Gov. Lawrence Wetherby for the Barkley vacancy.

And so Thruston Morton became a Senator of the United States. Among many political friends it was believed that he would be a one-termer, and that Kentucky would in 1962 revert to its old pattern of electing Democrats to the Senate. But he stood for reelection in 1962, opposing the able Wilson W. Wyatt, his fellow Louisvillian, a former mayor of that city, and the incumbent Lieutenant Governor of Kentucky. It was a hard-fought campaign between two good friends. But even though Thruston's old friend and former colleague on the Committee on Education and Labor, John Kennedy, came to Kentucky to campaign for the Democratic candidate Wyatt, it was Thruston who carried the day.

That he could be fiercely partisan on issues and in matters of political philosophy is evidenced by the fact that his party turned to him for leadership as its national chairman from 1959 to 1961. But surely no Democrat would ever say that Thruston Morton denied him civility or even friendship on the ground of politics.

This happy faculty to be decent and courteous and always reasonable is what endeared him to his fellow Kentuckians. They never denied him election to any office he sought.

A wealthy, Yale-educated, almost patrician man in manner and dress, Thruston Morton struck a chord with the people of the farms and small towns of rural Kentucky, just as he did with people in the larger cities.

During the 1962 Senate campaign, a Kentucky reporter at one of the Morton rallies in an isolated, impoverished rural community asked a man in the edge of the crowd how the people felt about "a rich man from Louisville who wears white-on-white shirts with French cuffs and gold cuff links, and $400 suits" when he came among them to ask for their votes.

"Well," the man replied, "when our Senator comes to see us, we kind of expect him to wear his good clothes."

In the early spring of 1968, when he confided to me his decision to retire from the Senate at age 61, I told him he was unbeatable in Kentucky if he wanted another term. But he had made up his mind. He wanted to go home to Louisville. He wanted to spend more time with his wife, Belle Clay, and with his fine family. He wanted to do some things as a private citizen that he thought were important and which he did not have time to do as a U.S. Senator.

He wanted to go home to Kentucky, a State where his very name echoed the rich heritage of pioneers moving westward from Virginia as the new American Nation expanded and developed. Thrustons and Ballards and Mortons rode in Pullman cars and jetliners in later days, but in the 18th century they came afoot or on horseback, with a flintlock slung across their arms. The 20th century man who came to wear all of their names in one, Thruston Ballard Morton, was a descendant worthy of his stock. He added mightily to the heritage now passed to his children and his grandchildren.

He left to his native city, to his beloved State, and to his country a legacy of public service of the highest order.

And now he deserves to rest well in the sweet Kentucky land.

Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. NATCHER).

Mr. NATCHER. Mr. Speaker, it was with profound sorrow that I learned of the passing of Thruston B. Morton. Mr. Morton's service in the House of Representatives and in the U.S. Senate will continue always to be one of the bright spots in our country's legislative history. He was a good Member of the House and Senate in every sense of the word.

While serving as chairman of the Republican National Committee, he established an outstanding record and served with distinction in the State Department. His forward-looking attitude and determination to give great service gives all of us an inspiration to work harder in our years upon this Earth for worthy causes.

We are today honoring him in death, but he did not have to wait for the many honors and respect his colleagues in the Congress and Americans accorded him during his life. His service to his people was during an unusual period in the history of our country. His name will be known in all time to come at home and in the far corners of the Earth for his monumental works in behalf of representative government, which is the source and the protector of all human liberties in all nations where freedom prevails.

During his tenure as a Member of Congress, he was always willing to listen. This is a trait, Mr. Speaker, possessed by few people, and one that is almost sacred.

Mr. Speaker, I regret his death, and I extend my condolences to the members of his family.

Mr. PERKINS. Mr. Speaker, I yield to my colleague, the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I thank my friend, the chairman of the Committee on Education and Labor, for yielding to me.

Mr. Speaker, I rise to join my colleagues in paying tribute to a great Kentuckian, a great American, a great man, and a very close personal friend of mine, Thruston B. Morton. It was with sadness that I attended his funeral last Monday.

Thruston B. Morton was a Kentuckian from pioneer stock, with a strong political heritage who went on to greatness. He was a man who could be a hard-hitting campaigner and master politican when he had to be. I had the pleasure of campaigning with him in 1962—during his second Senate race while I was running for the old Third District seat he had held earlier in his career. During that campaign, I learned a great deal about the art of politics from a master—but I also

learned that, above it all, Thruston Morton was a statesman always.

Throughout his career, Thruston served in many posts and served his Nation and his party in many ways. But whether it was as a U.S. Representative for the Third District of Kentucky or as a U.S. Senator for the Commonwealth of Kentucky, or as chairman of the Republican Party or as Under Secretary of State, he served with distinction. Serving through many periods of extreme divisiveness and heated emotions, when harsh rhetoric and extremism were in vogue, he was a constant proponent and spokesman of moderation when we needed it most. Still, he was a man capable of vigorous action in support of his ideals. He never sought out an unnecessary fight, but never backed away from one either. One might not have always agreed with his positions on issues, but one always had to admire the way he stood by them—and no one could ever deny the sincerity of his convictions or his effectiveness in pursuing them.

Thruston Morton was a very good friend of mine. Over the years, I went to him many times for advice—and it was always sound and true. I will miss him deeply.

But, above it all, Thruston Morton was a Kentuckian who did Kentucky proud; who served his State and Nation in exemplary fashion; a statesman, a master legislator and a true American.

I extend my sympathies to his lovely wife, Belle Clay and his two sons.

Mr. PERKINS. Mr. Speaker, I yield to our colleague, the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank the gentleman for yielding to me, and I thank him for taking this special order for our late friend Thruston Morton, who was a distinguished Member of this body and a distinguished Member of the other body, and who further served in the executive branch of Government with great distinction.

Mr. Speaker, it was not my good fortune to have served in this body with the gentleman, Mr. Morton. However, all of those who did, friends of mine who were here and those who came in contact with him, always knew him to be a man of courage and a man of his word and a man of vision for the future.

When he returned to Louisville following his public service, which also spanned a session and term as chairman of the Republican National Party, the gentleman, Mr. Morton, returned to Kentucky and resumed business activities which included chairmanship of the Churchill Downs. From time to time our paths crossed over these years, but while I did not know him personally, I do know and have had contact with his sons and with his family.

I thank the gentleman for taking this special order because he will be widely mourned, both for his outstanding public service, for his civic responsibilities, and for his being a genuine Kentuckian.

Mr. PERKINS. Mr. Speaker, I yield to our colleague, the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, it was with deep regret that I learned of the death of former U.S. Senator Thruston B. Morton of Kentucky at his home in Louisville on August 14.

Thruston Morton was a decent and honorable person, and a man of many careers. He was successful in all of them: in business, in community service, as a naval officer during World War II, as a Member of the U.S. House of Representatives, as an Assistant Secretary of State under President Eisenhower, as chairman of the Republican National Committee, and as a U.S. Senator. His wide experience and thorough knowledge, both in international and national affairs, placed him in positions of great responsibility and leadership.

A native of Louisville, Ky., and a 1929 graduate of Yale University, Senator Morton became a leader of his party's moderate faction. He was well known as a leading proponent for improving East-West relations. He believed that global problems needed dialog and communications. Upon Morton's retirement, he was remembered as an alert, vigorous, and well-informed man of moderate views, completely in tune with the problems of his time.

I extend my deepest respect and sympathy to his wife, Bell Clay Lyons Morton, his two sons, T. Ballard Morton, Jr., and Clay Lyons Morton, his sister, Jane Morton Norton, and his five grandchildren, all of Louisville.

● Mr. McCLORY. Mr. Speaker, the passing of Thruston B. Morton of Kentucky marks the close of an outstanding career of public service and private endeavor. Thruston Morton served in this House for 6 years between 1947 and 1953. Subsequently he was elected to the U.S. Senate for the State of Kentucky, during part of which period he was elected and served as chairman of the Republican National Committee.

An outstanding American whose imposing appearance and manner gave character and prestige to every office in which he served, Thruston Morton brought great honor to this body and to the U.S. Senate by reason of his qualities of leadership and his active participation in the legislative process.

Mr. Speaker, while we honor our former colleague in this body today, we should recognize also that the people of the entire Nation have reason to express gratitude for this great American and for the honorable and constructive service which he provided during his useful life as a public official and as an active and valuable private citizen.

Mr. Speaker, I take this occasion to express my respect and sympathy to surviving members of Thruston Morton's family.●

● Mr. PHILIP M. CRANE. Mr. Speaker, we were all saddened by the news of the loss of a friend who served his country so well, both in and out of uniform—Thruston B. Morton.

A member of one of the pioneer families of Kentucky, he devoted 5 years of his life to his country, serving as a lieutenant commander in the U.S. Naval Reserve during World War II. Once having tasted service for his Nation, he embarked on a political career which brought him to Washington where he contributed his many talents to both his country and his party.

He had been discharged from the Navy only a short time when he began his successful campaign for a seat in the U.S. House of Representatives. After serving three terms in the House, he retired and moved to the executive branch upon his appointment as Assistant Secretary of State by President Dwight D. Eisenhower.

But Congress had captured his heart, and he relinquished his State Department post to run for the U.S. Senate. He was victorious in that campaign in 1956, and he won again in his reelection bid 6 years later. For 2 years during that 12-year span, he stood at the helm of his party, as chairman of the Republican National Committee. As one friend noted, he was a "hard-driving charger" as he battled for his party in the political arena, while at the same time he fought for better government in the Senate Chamber.

He retired from the Senate in 1969, and returned to his native Kentucky where he was active in the business world until overcome by bad health.

Thruston B. Morton unhesitatingly devoted his life to his country, his family, and his party. His contributions were many and will long be remembered by a grateful citizenry.●

● Mr. GOODLING. Mr. Speaker, I am privileged today to pay tribute to a skilled and genial politician who passed away recently and who during his lifetime was noted for having maintained good relations with every segment of my own Republican Party, which he once ably served as National Chairman—the Honorable Thruston Ballard Morton, a former Member of this body. Although I myself never had the honor to serve in Congress with Thruston, my Dad, George Goodling, did and he remembers Thruston as being tough as well as charming, at all times a man who knew what he was doing.

The designation of Thruston as chairman of the 1964 Republican National Convention while he was a U.S. Senator topped a distinguished career which included 6 years in the House, 3 years as Assistant Secretary of State for Congressional Relations under President Eisenhower, and 13 years in the Senate. While he served in this body, Thruston sat for a time on the Education and Labor Committee, of which I am a member, and his House colleagues recalled him as being an easy-going fellow with quick intelligence who seldom spoke unless he had something important to say. When he did, Members listened. During his three terms in the House, he represented the District in Kentucky which included Louisville, and the quality for which he will always be remembered is his independence, which gave him the courage to reprimand even his own party on occasion. Thruston said his fellow Kentuckians recognized the need for experienced leadership in those dangerous years, and the record indicates that he cast his congressional votes in an independent manner. Thruston himself acknowledged that he always "followed one pattern" and that was to "never take a partisan—violent partisan—attitude for the sake of being partisan."

His independence was most striking where U.S. foreign policy was concerned, and during his heyday Thruston was known as an internationalist Republican who came out strongly in favor of the consular treaty with the Soviet Union and for expanded East-West trade. When the McCarthy era was at its height, Thruston claimed that, while the threat of communism was severe, there were some Americans whom he considered to be "so disturbed by the menance of communism that they are beginning to wonder whether it would not be best to chip off a little liberty to preserve the basic fundamentals of democracy. . . . The fact is that you cannot chip any part of the structure of liberty without beginning to destroy the entire structure."

On domestic issues, Thruston can be remembered for his advocacy of Federal aid to education, and for his long time support of civil rights measures and for the Voting Rights Act. I look back on his voting record, and I see a man who had visions that we as a Congress are just now considering, such as balancing the budget and streamlining Federal spending. Thruston thought of himself as a moderate conservative, and on this day just after we have considered the major tax bill of this session—in a session in which we for the first time have taken serious attempts to cut the growth in Federal spending—I think it appropriate that we are remembering a man who, as early as 1967, said, referring to the 1968 Presidential nominee, "whoever he is, I personally think he will win if he restrains some of these Great Society programs." And, he continued, "I think there is great disaffection among the people with many of these programs in the domestic field."

The man who founded the Chowder and Marching Club in the House was formerly a businessman in the family grain and milling business, the Ballard & Ballard Co., of Louisville, and prior to that he served in the Navy for more than 4 years in the Pacific. Thruston B. Morton was a 6'2", 200 lbs., native of Louisville with seventh generation Kentuckian Republican roots that can be traced back to Abraham Lincoln. I understand that he got his first taste of politics at the tender age of 7, when he witnessed his maternal grandfather, S. Thruston Ballard, represent the Wilson administration in labor negotiations with Samuel Gompers. That grandfather later became Lieutenant Governor of Kentucky, and took his grandson with him to Frankfort as an assembly page.

May I take this opportunity to extend my condolences to Thruston's wife, Belle, to his sons, Thruston Ballard Jr., and Clay Lyons, and to his grandchildren, family, and personal friends. The public record is clear: Thruston B. Morton served the GOP—he served Kentucky—he served his country, and he served all of them admirably.●

● Mr. RHODES. Mr. Speaker, I am honored to join in this tribute to Thruston Morton who died last week.

When I first come to Washington, Thruston was an Assistant Secretary of State. He soon moved on to the many other posts in Government and in politics which comprised his varied career.

His service during the Eisenhower adminsitration, as Assistant Secretary of State for Congressional Affairs—his 12-year term as a U.S. Senator—and his tenure as the Republican national chairman from 1959 to 1961—all provided Thruston with opportunities to demonstrate his many personal talents in the broad arena of public service and politics.

Thruston Morton identified with the volatile issues of the 1950's and the 1960's, taking an early stand against the Vietnam war, and opposing the policy of racial segregation in the South. He scored victories in the Congress through the deft application of his outstanding parliamentary skills, and he led with distinction the Republican Party as its national chairman.

Thruston voluntarily declined to run for reelection after serving two terms in the Senate, prompting the Washington Post to write an editorial lamenting the formidable loss his retirement would be to the Congress and to his constituents.

He was missed then and he will be missed now by all who knew and respected him. Mrs. Rhodes joins me in offering sincere sympathy to Senator Morton's wife, Belle, and to all his family.●

● Mr. CONTE. Mr. Speaker, I am pleased to take part today in the special order taken by the gentleman from Kentucky, Mr. PERKINS. I appreciate the opportunity to pay tribute to my good friend, Thruston Morton, who passed away this last Saturday. I was sad to learn of his death, but I am proud to be able to have counted this truly great American among my friends.

Thruston Ballard Morton represented the Louisville, Ky., area in this body from 1947 to 1953. After leaving the House, he went to the Senate, where he served the people of the State of Kentucky well for 12 years, from 1957 to 1969. In 1960, he was the Republican national chairman during the Presidential campaign.

In his selfless years of dedication to this Nation, he always showed unending realism, and the belief that being an American meant more than being a politician. As an early critic of the Vietnam war and the uncompromising anti-Communist tone of American politics in the 1960's, Thruston proved that he knew what was right for this Nation. "I think," he said at one point over debate over the U.S. involvement in the war, "that we have a somewhat myopic view of communism that doesn't help the cause of world peace. * * * I hate communism. I deplore its atheistic qualities and all about it. But I think that if the Russians and ourselves could sit down together like grown men and say we're going to start wars, why, we could do it."

Tim made a tremendous contribution to American politics, nearly being nominated ahead of Henry Cabot Lodge for the Vice-Presidential seat in the 1960 election. But the most important thing I feel he did was to teach us all of the importance of being Americans first and politicians second.

Thank you, Mr. Speaker.●

● Mr. DE LA GARZA. Mr. Speaker, today I join my colleagues in honoring a past Member of the House, the Honorable Thruston B. Morton, who passed away this last Saturday. During his distinguished career in Washington, Thruston Morton also served in the other Chamber, and was a valued member of the Eisenhower administration.

As a young Member of the House, I had the honor and pleasure of being able to work with Thruston Morton on a number of projects. We who knew him during his years in Washington join the legions of his friends in his home State of Kentucky in mourning his death.

Thruston Morton was an outstanding American, loved and respected by

those who knew him. For his dedication to public service, he leaves a legacy for others to follow.●

● Mr. DERWINSKI. Mr. Speaker, I wish to join with my colleagues in paying a special tribute to the late Thruston B. Morton, an old friend and respected colleague. Thruston B. Morton will long be remembered as a dedicated American and a dynamic statesman for Kentucky as well as a loyal leader for the Republican Party.

I had the pleasure of working with Thruston during the years that he served as chairman of the Republican National Committee. Thruston was an effective spokesman for the views and ideals for which the Republican Party stands. He handled that all-encompassing position, a job that carries with it a great amount of work and responsibility, in an exemplary fashion.

Thruston was an able and dedicated individual who was a credit to public office as well as to the business world. He served as chairman of the board of Churchill Downs and chairman of the board of Liberty National Bank in Louisville, Ky., after leaving Government.

During the Eisenhower administration, Thruston served as Assistant Secretary of State for Congressional Relations, and he was known for his outstanding dedication to getting the job done.

As a Member of the House for 6 years and then as a Senator for two terms, Thruston's consistent concern for not only the people of the State of Kentucky, but also for the good of our country, made him a driving force in passing responsible legislation. Thruston was a true gentleman who was well respected for his strength of character.

Thruston served as a superb role model for those of us who followed him in elective office. He was always available for those seeking his advice and counsel. He was a strong leader, excellent legislator, and a caring representative of his constituency. He exemplified the finest attributes of a public servant.

My wife Pat joins me in extending our heartfelt condolences to his wife, Belle, and the entire Morton family.●

● Mr. WON PAT. Mr. Speaker, during the time of Senator Thruston B. Morton's service in the U.S. Senate, I was a frequent visitor to his and other Senator's offices in my quest for assistance to Guam. I always found the Senator to be a willing listener and compassionate man. He was a source of great encouragement to me.

I also had the pleasure of knowing and working with the Senator's brother, the late Honorable Rogers B. Morton, when he was a Member of the House, and as Secretary of Interior.

I have always held the Morton brothers in the highest regard, and now that Thruston has joined his brother, Rogers, in the life beyond, I join my colleagues in paying tribute to him while offering my deepest sympathies to the Morton family.●

Mr. PERKINS. Mr. Speaker, I yield back the balance of my time.

CONTROL OF INDUSTRIAL DEVELOPMENT BONDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PICKLE) is recognized for 15 minutes.

● Mr. PICKLE. Mr. Speaker, the use of industrial development bonds has become popular with many Members of Congress and has been endorsed and used by many of our cities and counties and other public entities. This is understandable because in many instances these kinds of bonds can be very useful and can help a community. But the growth of these industrial development bonds (IDB's) has increased in such an alarming manner that we, the Congress, should take a careful look at the operation of this program. In particular, our cities, our counties, schools, and our other public entities should realize that there is a "hook" in the growth of these bonds. As the use of IDB's grows in a larger and larger manner, the inevitable fact that local taxes will have to be raised to pay for these bonds is becoming increasingly apparent.

Last week the Dallas Morning News ran a story by Mr. Richard Fish which noted that the abuse and overuse of IDB financing is just as prevalent in Texas as it is in other States. Mr. Fish pointed out that a Japanese petrochemical plant on the Houston ship channel and a beer, bowling, and billiard parlor in Port Arthur have one thing in common: Both are being built for private profit with taxpayers' help.

"Texas taxpayers," the story goes, "also have aided a distributor of X-rated magazines, helped build a plant for Krupp Steel, and cut costs for Coors Beer, Coca-Cola, Honda Motors, and Hitachi Metals. Those enterprises and more than 500 other private companies have received nearly $2 billion in below-market loans to finance plants, warehouses, motels, and offices under the State (Texas) industrial revenue bond program."

The writer continues, "Industrial revenue bonds are a way of letting corporate borrowers use the tax exemption granted to a government on the theory that stimulating local economies and creating jobs benefit local citizens."

But, "In the process of providing cheaper financing for private businesses, the bonds have increased the cost of public projects and reduced Federal tax revenues, according to the Municipal Finance Officers' Association in Washington, D.C. There is almost no dispute that the growing use of the bonds for the financing of private business has helped drive up the cost of local government borrowing for such public purposes as roads and water systems."

If the increase amounts to 1 percentage point of added interest, local governments must pay to finance public projects, then the municipal bonds that Texas governments will issue this year could cost their taxpayers and ratepayers $400 million in extra interest during the life of the bonds. Many finance experts believe the impact is even greater than that.

Mr. Speaker, many of our local officials actively approve and promote the sale of these bonds. In many instances they have done it in the past without public hearings and without the open approval of a locally elected body. As the article I have just quoted said, some of them feel that they can "sprinkle holy water" on the IDB bond program and take credit for the addition of a new facility, but they do not give much thought to the fact that in so doing they are drying up sources of revenue and driving up interest rates for the traditional municipal tax-exempt bonds. The inevitable result is that local governmental political subdivisions will have to raise taxes to pay for traditional public service functions and projects.

There are times and places where these IDB's can and should be used. But, Mr. Speaker, if we do not control them, we may well destroy our regular tax-exempt municipal bond program. As much as a community wants to have an IDB project in its area, as appealing as it is to build a new shopping center or a hotel, the cold and honest truth is that we are allowing private business to reap a benefit of some 3 to 4 percentage points off the conventional interest rate through the use of tax-exempt bonds. This amounts to a direct Federal grant of $300,000 to $400,000 per project for a typical $10 million "small issue" package.

We have to ask ourselves what business does the Federal Government have in allowing DuPont or any other large corporation the right to have Uncle Sam finance their projects. The Federal Government has many serious problems of its own, and we ought to avoid trying to help any major corporation or developer in making Uncle Sam foot the bill for their project.

Let me give you a bit of background on these IDB programs. As you know, Mr. Speaker, tax-exempt, private-purpose bonds are corporate bonds issued by a government entity and are similar to municipal bonds. It is important to note, however, that they differ from municipal bonds which are used to fund public works projects sponsored by a municipal, State, or public authority in that they are issued by gov-

ernments to raise funds for private development.

In the past 5 years, the use of these bonds to subsidize the borrowing costs of private business has increased dramatically. In 1976, the issuance of bonds for private business activities amounted to $8.5 billion or 25 percent of all tax-exempt bonds. By 1981, the figure had jumped to a total of $25 billion or 48 percent of all tax-exempt bonds issued. Beyond doubt, the share of private-purpose bonds will continue to grow explosively in the absence of additional limits. Meaningful restrictions on these tax-exempt bonds will help restore the benefit of tax-exempt financing for traditional government purposes and will reduce the growing Federal revenue loss attributable to the increasing volume of private-purpose, tax-exempt obligations.

The dramatic increase in issuance of private-purpose, tax-exempt bonds has had the effect of flooding the tax-exempt money market and driving up interest rates for the traditional government financing of municipal water and sewerage projects, roadpaving, and other State and county projects. Thus, the burden of financing business subsidies through tax-exempt bonds is passed to local, county, and State taxpayers in the form of higher taxes and increased fees for public services.

The sale of "small issue" industrial revenue bonds has grown more rapidly than private-purpose bond sales for any other purpose, except for residential housing. Between 1975 and 1980, annual "small issue" sales grew from approximately $1.3 billion to about $8.4 billion. In 1975, small issues accounted for approximately 4 percent of all long-term tax-exempt bond issues; in 1980 they represented 15 percent of the market. According to Congressional Budget Office estimates, under current law small issues could amount to between $15 and $49 billion by 1986, resulting in revenue losses increasing from approximately $1 billion this fiscal year to between $2.9 and $4.4 billion in fiscal year 1986.

Tax-exempt bonds are clearly an inefficient method of providing a subsidy. Historically, the ratio of interest rates on tax-exempt bonds to the interest rates of taxable bonds has averaged between 65 and 70 percent. At that ratio, the Federal Government loses approximately $3 of tax revenue for every $2 of benefit to the entity for whom the bonds were issued. This year, however, the interest rate ratio of tax-exempt bonds to taxable bonds has increased to 80 percent and above, further reducing the efficiency of tax-exempt bond financing. As more tax-exempt bonds are issued, this ratio can be expected to increase further, and the value of tax-exempt bonds will be further diluted.

It is frequently argued, Mr. Speaker, that local communities need IDB's to attract business and industry. But, the simple truth is that these bonds can be issued by any community in the country and thus provide no incentive for a business to locate in one community over another. The simple truth is that IDB's give a competitive advantage to those companies able to get them—a competitive advantage awarded at taxpayer expense.

We in the Congress, Mr. Speaker, should address ourselves to placing some meaningful limits, in a relatively equitable manner, on further expansion of the IDB program. We should recognize, for example, that large corporations have access to sources of capital unavailable to small businesses, and thus do not have the same need for tax-exempt financing to make investment possible.

Mr. Speaker, the House conferees on the tax bill, of which I was a member, attempted to place some limitations on the use of tax-exempt, private-purpose industrial development bonds. We diluted, to some extent, the rich ACRS provisions of present law and we place some rather stringent limitations on the use of "small issue" bonds to finance big business.

But, finally, Mr. Speaker, the conferees yielded to the pressure and sidestepped what had become a controversial political issue. Some apparently felt their "pet projects" were being attacked and threatened to withdraw their support for the tax bill if we persisted. The changes adopted by the conferees, Mr. Speaker, were very few and very minor. Our major accomplishment was to sunset small issues on December 31, 1986, rather than 1 year later. So the task is still before us. And most of the conferees agree that the problem grows larger every day and must be faced.

Potentially, Mr. Speaker, the issue of uncontrolled issuance of tax-exempt, private-purpose industrial development bonds is a national embarrassment to both the communities involved and to the Congress. Local taxpayers are beginning to wake up to the fact that they are picking up the tab for these Federal subsidies to private business in the form of higher taxes and user fees for traditional public services. In our next session, Mr. Speaker, the Congress must take a close look at this program and make some much-needed changes in the private-purpose use of these bonds as distinguished from regular public-purpose bonds.●

ANALYSIS OF ABC DOCUMENTARY BY SOCIETY OF FORMER SPECIAL AGENTS OF THE FBI, INC.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. RUDD) is recognized for 30 minutes.

● Mr. RUDD. Mr. Speaker, in June of this year, ABC televised what I considered to be an extremely biased and slanderous attack against J. Edgar Hoover. Numerous citizens, former agents, and lawmakers have since come out and severely criticized this program on the former Director, including myself and other Members of Congress during a special order earlier this summer.

The Society of Former Special Agents of the FBI, to which I belong, recently released a comprehensive and fact-filled response to the ABC program, which clarifies statements made on the program and should remove doubts about our Nation's chief domestic law enforcement agency.

On behalf of the society's 8,000 members, this analysis was done to correct what has been called by many a television vendetta spawned in anti-Mr. Hoover sentiment that was founded on preconceived notions fitted out with contents only suited to "ABC News Close-Up" purpose. This should fill in these large gaps with truth and accuracy.

ANALYSIS AND COMMENTARY OF "ABC NEWS CLOSE-UP: J. EDGAR HOOVER" ON ABC NETWORK, JUNE 3, 1982, BY THE SOCIETY OF FORMER SPECIAL AGENTS OF THE FBI, INC.

The June 3, 1982, program "ABC News Close-up: J. Edgar Hoover" serves as a classic example of the shortcomings and dangers of the current news programs and documentaries on television. The American Broadcasting Companies, Inc., the Federal Communications Commission, and the television industry should examine this show as a prime threat to the cherished concept of "freedom of the press" and as an explanation of the increasing public distrust of news media coverage.

This particular project, along with the Janet Cook hoax in the Washington Post and the recent CBS News attack on the reputation of General William Westmoreland, certainly spotlights the laxity of the television media in maintaining safeguards for fairness and accuracy.

On behalf of the 8000 members of the Society of Former Special Agents of the FBI, we have publicly charged this program as "a television vendetta, spawned in anti-Mr. Hoover sentiment, founded on a pre-conceived conclusion, and fitted out with contents only suited to ABC News Close-up purpose."

In May, 1981, the cooperation of this Society was solicited by the Close-up staff on assurance that this was to be an objective and balanced evaluation of Mr. Hoover's leadership of the FBI and to be based on interviews with the late Director's supporters as well as adversaries.

The Present Society President, Mr. Joseph A. Sizoo, was contacted by investigative reporter Ms. Patricia K. Lynch in November, 1981, shortly after assuming office. Stating she already had a surplus of favorable references about Mr. Hoover, Ms. Lynch asked only for critical comments or areas where he had conflicts with the Director. When such remarks were not forthcoming, the interview was terminated.

For approximately one year the officers, liaison representative Lawrence J. Heim, and numerous members of this Society furnished material and answered inquiries of the Close-up staff consisting of producer Tom Bywaters, investigative reporter Ms. Patricia K. Lynch (both at her office and residence in New York City), and assistant Eames Yates. The staff was afforded: comprehensive data concerning the history and accomplishments of the FBI under Mr. Hoover from 1924 to 1972; references and arrangements for interviews with numerous friends of the late Director; and privileges at the Society annual convention in Atlanta, GA, in October, 1981. None of the material furnished and not one of the suggested friends of Mr. Hoover, with the exception of former Bureau officials Cartha D. DeLoach and W. Mark Felt, appeared on the program.

In presenting documentaries, which have almost unfettered influence on public opinion, the television networks possess an awesome power. Backed by bountiful funds from sponsors who have little cognizance of the end result, and with sights set on television ratings, the producers seem more interested in entertainment than education, theatrics than truth. The viewing audiences have little knowledge of the make-up of these shows. Hundreds of hours of interviews and thousands of feet of film are culled, edited, re-arranged at the whim and desire of the production staff. Interviews of an hour or longer are reduced to a minute or less on screen. The interviewee has no knowledge of or control over the liberties that might be taken with his contribution. Little if any opportunity for correction exists.

As Congressman Eldon Rudd (Arizona) a former Special Agent not interviewed for the program, noted in the Congressional Record:

"This documentary represents what is becoming the genre of broadcast journalism—the courtroom technique, if you will, of interrogating one witness, then editing his or her comments and sandwiching them between other hostile comments, out of context. The viewers are never treated to the full facts, nor are they given the full answer. It is, in fact, the camera or editor acting as the prosecutor and the judge. The jury, we the viewers, are not given the chance to see all the evidence. We only see what the interviewer wants us to see"

That is what occurred in this case—an array of predominantly hostile witnesses, inflammatory rhetoric by the commentator, elimination of achievements of historic record by Mr. Hoover, a crescendo of innuendo and general accusations without documentation, and total absence of qualifications or motivation of Mr. Hoover's detractors.

Accordingly, this analysis and commentary by the Society will fill some of the voids and misrepresentations—deficiencies created, it is found, mainly by willful intent and partly by faulty research. Due to one of the major short-comings of the program—lack of specific details—only a few tangible points need rebuttal, and attention will center on the selection and use of a highly prejudiced cast of characters and the manipulation of their statements.

HARSH DISCIPLINE

In an effort to tar-brush Mr. Hoover for his "grim ways of punishing agents who disappoint him or criticized the Bureau", commentator Marshall Frady cited the case of former Agent Jack Shaw who resigned after receiving disciplinary action for conduct reflecting bad judgment. The FBI, like the U.S. Marine Corps, prospered under strong discipline, and strict adherence to the existing regulations was well known to all incoming and working members of the Bureau. This case was an internal administrative matter handled within the well-promulgated rules and regulations of the FBI. It is not surprising that the Jack Shaw case was first given public notice by another FBI critic on the program, Jack Nelson, in an article in the January 17, 1971, issue of the Los Angeles Times headlined: "Hoover Blackballs ex-Agent who was critical of him." Jack Nelson is a perennial detractor of Mr. Hoover and has accepted cameo appearances on talk shows to criticize him and the FBI.

Quinn Tamm, described as "another Assistant Director who was rumored to be Hoover's successor", was critical of some disciplinary measures as "extreme" and some "transfers for punishment reasons" as being "needless and thoughtless."

Comment

Mr. Tamm served in the FBI from 1934 until 1961, and had few transfers himself inasmuch as he was stationed at FBI Headquarters in Washington, D.C. from 1936 until his retirement in 1961. During this period he served as Assistant Director of the Identification Division, the Laboratory Division, and the Training-Inspection Division. In this capacity he spent most of his career in the Bureau as a participant in the FBI Executive Conference which was the advisory board on FBI policy and procedures. He had ample opportunity for in-put in personnel policies he considered "extreme" or "needless". Another unsuccessful successor to Mr. Hoover, Mr. Tamm became hostile and critical only when he entered private employment after 26 years in the Bureau.

LACK OF COOPERATION

Patrick V. Murphy was erroneously listed in the program script as "Head of Association of Police Chiefs". As a matter of fact, the International Association of Chiefs of Police in July 1982, was in the process of expelling Murphy for statements detrimental to the organization and self-serving contradictory remarks.

Mr. Murphy makes a two-sentence contribution to the program, stating that the FBI Agents get information from police departments but "rarely ever gave information back that would have been helpful to those police departments in solving cases, and that the FBI took credit for cases in which the local police had done most of the work."

Comment

Patrick Murphy, an unsuccessful aspirant to the post of FBI Director, served short periods of time as police chief or commissioner in three different cities before affiliating with the Police Foundation, and has been a long-time critic of the FBI. In spite of Mr. Hoover's 50 years of leadership in the law enforcement profession and as founder of the FBI National Academy, it is noteworthy that ABC News Close-up selects only Mr. Murphy to represent the police and law enforcement.

Contrary to Mr. Murphy's remarks, the FBI's Annual Report for fiscal year 1971 (last year before Mr. Hoover's death) lists the following:

"During the 1971 Fiscal Year, over 340,000 items of criminal intelligence data were furnished to local, state, and other Federal agencies by the FBI Field Offices throughout the Nation. Included among this was information which led to the arrest of nearly 4,000 rackets and gambling figures by these other agencies—and to the seizure of more than $2,000,000 in currency, contraband and gambling paraphernalia."

In regard to cooperation, the Close-up staff was furnished material concerning the J. Edgar Hoover Physical Memorial, consisting of a sculpture and a wall quotation, which this Society placed in the courtyard of the FBI Headquarters Building in Washington, DC in 1979. This data was not used.

It is noted that at the end of the program, commentator Frady states, in an insinuating manner: "We asked the current Director of the FBI, William Webster to comment on the Hoover era. He declined."

Commentator Frady could have used the reply of FBI Director Webster to an inquiry regarding Mr. Hoover at an address before the National Press Club in Washington, DC on May 13, 1980. The Director at that time said:

"History itself reflects the contributions of a man who, for my entire lifetime—I was born the year that J. Edgar Hoover took over the FBI—made enormous contributions to law enforcement, not only at the Federal level, but state and local, and there is a quotation inside the courtyard that the Former Agents put up in his memory, that says: 'The most effective weapon against crime is cooperation . . . the efforts of all law enforcement agencies with the support and understanding of the American people'. That is quite a legacy—a tremendous legacy that all of us can be proud of."

WILLIAM C. SULLIVAN, COINTELPRO, DR. MARTIN LUTHER KING, JR.

In many instances the Close-up staff had correct information, or access to it, and designed to ignore it or to present a false concept. A glaring example is the use of deceased William C. Sullivan as a chief weapon in the character assassination of Mr. Hoover. Sullivan, a former Bureau official, turned from a "favorite son" to an antagonist of Mr. Hoover. At the same time, two of the major charges against Mr. Hoover were the COINTELPRO activities and the harassment of Dr. Martin Luther King.

Now the facts are:

(1) W. C. Sullivan was the originator and director of the COINTELPRO activities.

(2) W. C. Sullivan was the instigator and promoter of the Martin Luther King activities in the FBI; and he was not only the author of the letter to Dr. King which the latter believed to have suicide suggestions but Sullivan was the sole individual in the FBI with any pre-knowledge of this letter and the package of tapes sent to Dr. King's Atlanta home.

(3) the program totally ignored this connection.

(4) this program included three individuals who know the above facts, and two of them had published this information previously, namely: ABC Close-up investigative reporter Patricia Lynch; author and program consultant Sanford J. Ungar; and author David J. Garrow.

COINTELPRO

The Cointelpro program was originally suggested by William C. Sullivan (then a Section Chief in the FBI Domestic Intelligence Division) as a systematic program for the disruption of the Communist Party, USA, in a memorandum dated July 17, 1956. This memorandum cited the confusion and dissatisfaction existing in the Communist Party and noted:

"These developments are clear indications of the opportunities present to disrupt and seriously damage the Party. We may never have a better chance to do so."

He bolstered his idea with a quote from a Party National Committee member to the effect that the latter was "surprised that the enemy (e.g. the FBI) has not used this intolerable situation to its own advantage." Sullivan recommended:

"An ad hoc committee be established, with one member from each Section of the Domestic Intelligence Division, to meet and discuss and formulate and recommend a systematic program for the disruption of the Communist Pary, U.S.A."

The recommendation was approved, with the full force of Sullivan's influence in Communist matters, and the Cointelpro program initiated in August 1956. Subsequently, other phases of this program also were initiated and directed by Sullivan as he took charge of the Domestic Intelligence Division.

In regard to her inquiries about Cointelpro, Ms. Patricia Lynch of the Close-up staff, by letter dated January 1, 1982, addressed to her New York City residence, was specifically referred to testimony and court records in the case of Socialist Workers Party, et al, V. Attorney General (S.D., N.Y.) 73 Civ 3160 (TPG) and to testimony in the trial transcript beginning with page 7523. The referenced records include as an exhibit the July 17, 1956 memorandum of Mr. Sullivan as well as the initiating memoranda concerning other Cointelpro activities after Mr. Sullivan became head of the Domestic Intelligence Division in 1961.

* * * * *

It is not surprising that Sanford J. Ungar, never a member of the FBI, was selected as the consultant for this Close-up show. He has consistently been a severe critic of Mr. Hoover and the FBI as a reporter for the former Washington Evening Star; in his book "FBI: An Uncensored Look Behind the Wall"; and in his August 21, 1977, article in the Outlook section of the Washington Post, entitled: "An Agenda for Rebuilding the FBI". What is surprising is that Ungar, in his professional capacity as consultant, would allow ABC News to use William C. Sullivan as a principal accuser, and condemn Mr. Hoover for Cointelpro, when he was aware of Sullivan's responsibility for the program.

In his book "FBI", Ungar cites Sullivan's rise in the Bureau and mentions a 1964 conference in Atlanta, GA called by Sullivan to plan an attack on the Ku Klux Klan. Ungar's book (pp. 300-301) then sets out:

Out of the conference came a bold decision—and what would turn out to be a major precedent—to use against a purely domestic organization techniques that had previously been reserved for espionage cases, forign intelligence matters, and Communist Party and other old-line, leftist political groups with alleged foreign connections: to set up a full-fledged 'counterintelligence program' in Bureauese, a COINTELPRO, against the Ku Klux Klan.

"The purpose of this program," said a memorandum that went out from Headquarters to Atlanta and other southern field offices on September 2, 1964, "is to expose, disrupt and otherwise neutralize the activities of the various Klans and hate organizations, their leadership and adherents." The memorandum continued:

". . . We must frustrate any effort of the groups to consolidate their forces or to recruit new or youthful adherents. In every instance, consideration should be given to disrupting the organized activities of these groups and no opportunity should be missed to capitalize upon organizational and personal conflicts of their leadership."

A victory for Sullivan, the COINTELPRO—Disruption of White Hate Groups led to a broad expansion of such techniques in the domestic intelligence field. Eventually he proposed and obtained Hoover's approval for, other similar COINTELPROs against "black extremists" and the constellation of groups that the FBI helped to label as the New Left.

DR. MARTIN LUTHER KING, JR.

The program attempts to becloud the issue of the authorization by Attorney General Robert F. Kennedy of FBI wire-taps on Dr. King on the basis of King's association with Stanley Levison, a Communist figure.

Comments

In his book "The FBI and Martin Luther King, Jr.", David J. Garrow, who appeared on the program, verifies the fact that Attorney General Kennedy did authorize the wire-taps on Dr. King, and further points out the concern of the Kennedy Administration by citing the personal contacts by Robert Kennedy, President Kennedy, and officials of the Department of Justice with Dr. King concerning his association with Stanley Levison.

In response to her request for data on the Dr. King wire-tap controversy, Ms. Patricia Lynch was furnished by letter dated December 31, 1981, a copy of a letter of December 7, 1966, from Director Hoover to Congressman H. R. Gross; and a copy of an FBI News release dated December 11, 1966. These public source data detail the FBI procedure in regard to having wire-taps authorized by the Attorney General, and particularly cite the handling of wire-tap authorization under Attorney Robert F. Kennedy. This news release of December 11, 1966, related to the controversy of the authorization of wire-taps on Dr. King, and included a copy of an August 17, 1961 memorandum signed by Attorney General Kennedy approving the use of leased telephone lines in New York City in connection with microphone surveillance.

* * * * *

In regard to the wire-taps on Dr. King, commentator Marshall Frady stated that: ". . . the tapes indicated a highly active sex life by King" and that this scandalized Hoover who scrawled on a memorandum "King is a tomcat with obsessive degenerate sexual urges."

Comments

It is noted that Close-up Ms. Patricia Lynch specifically requested from a Society member some documentation of Dr. King's sexual activities which were so frequently mentioned in this case. She was advised that this Society could not accede to her request and that it would be most difficult to document inasmuch as by mutual bargaining between the King family and the Department of Justice, all tapes, transcripts and reports in this category of the case have been sealed for 50 years. Approximately one week later, Ms. Lynch called back. According to the recorded account of this long-distance call, Ms. Lynch stated that she had contacted the Department of Justice and talked with the attorney who had handled the Dr. King reports and heard the tapes, and he had advised her that she could be assured that Dr. King's reputation for "moral degenerate acts" was true. She said this had satisfied her superiors at ABC in New York as far as using such data on the program.

* * * * *

Commentator Frady stated that in 1964, when it was announced that Dr. King would be awarded the Nobel Peace Prize ". . . the FBI mails an unmarked package of the sex tapes to King's home in Atlanta with a letter which King thought suggested suicide."

Comments

It categorically can be stated it was not the FBI or Mr. Hoover who engineered, approved or had knowledge of this mailing. The program's main critic of Mr. Hoover, the deceased and discredited William C. Sullivan, was singly and solely responsible for the planning, preparation, and perpetration of this action. And ABC News Close-up knew it, or should have known it.

In his book "The FBI and Martin Luther King, Jr." (pp. 125-126, 163), David J. Garrow, a participant on the show, specifically sets out the details of Sullivan as the author and sole individual responsible for this mailing. In his research, Garrow contacted pertinent former FBI personnel unwittingly connected with this incident and he cites them in his account. None of these individuals, both by Garrow's account and their own current personal statements, had any knowledge regarding the contents of this "package and letter." Furthermore, knowledgeable former Bureau officials are firmly convinced that Director Hoover had no pre-knowledge of this incident. One facet of the so called "suicide letter" has not been widely publicized. A copy of the "letter" was received at Dr. King's Atlanta residence in November 1964. After the forced FBI retirement of William C. Sullivan on October 6, 1971 an inventory of Sullivan's "personal files" in his office uncovered the original copy of this document—and up to this time there was no trace of such a letter in the FBI filing system.

Surely, the blatant disregard for the truth in this passage suggests willful intent and malice aforethought. Certainly, Sanford J. Ungar, the consultant, and Ms. Patricia Lynch, the investigative reporter, must stand responsible for this chicanery.

(NOTE.—For further illumination on the integrity of critic William C. Sullivan and his personal hostility toward Mr. Hoover, there is attached hereto a compendium of public source data relating to his actions and statements.)

PRESIDENT J. F. KENNEDY ASSASSINATION

The confusing treatment of the Kennedy assassination, which filled no less than 10 minutes of this one-hour program, purported, according to pre-program publicity, to provide "new evidence surrounding the complex series of mistakes, cover-ups, disinformation, and intelligence failures. . . ." Commentator Frady stated' "Only seventeen days then after the assassination, Hoover produced his FBI report; its conclusion—Oswald was the lone assassin and there was no evidence of a conspiracy."

Facts

In this investigation the FBI conducted approximately 25,000 interviews and reinterviews and submitted over 2,300 reports totalling approximately 25,400 pages to the Warren Commission, as reported in the Commission's findings. The cited report, made 17 days after the tragedy, was in fact a preliminary report, but it developed that it did agree with the final report.

In its final report the Warren Commission listed among its conclusions the following:

(1) "The shots that killed President Kennedy and wounded Governor Connally were fired by Lee Harvey Oswald."

(2) "The Commission has found no evidence that either Lee Harvey Oswald or Jack Ruby was part of any conspiracy, domestic or foreign, to assassinate President Kennedy."

* * * * *

Commentator Frady further stated: "It was not to be until 1979, after Hoover himself had died, that a Special House Assassination Committee would criticize the FBI for a 'seriously flawed' investigation that 'ignored substantial evidence of a conspiracy'."

Facts

The House Assassination Committee report was based in large measure on examination by acoustics experts hired by the Committee. These experts examined a police tape recording made in the vicinity of the assassination and their testimony was to the effect that the tests showed "beyond a reasonable doubt" that a second gunman fired at the President from the area of the so-called grassy knoll near Dealey Plaza in Dallas, Texas.

Subsequently, the House Committee referred its report to the FBI with a request for further investigation of these findings, particularly the acoustic tests results. The FBI assigned this task to the National Science Foundation and its affiliate, the National Academy of Sciences. On May 14, 1982, the National Academy of Sciences concluded after a 1½ year study that:

"The acoustic analyses do not demonstrate that there was a grassy knoll shot, and in particular, there is no acoustic basis for the claim of 95 per cent probability of such a shot."

The study by the National Academy of Sciences contends that the noises believed to be gunshots were probably static, and were "recorded about one minute after the President was shot and the motorcade had been instructed to go to the hospital".

* * * * *

One of the chief critics in the assassination segment is former FBI Agent James P. Hosty, assigned the Lee Harvey Oswald case in the Dallas FBI Office, and who was disciplined for investigative deliquencies which had no bearing on the outcome of the assassination investigation.

In connection with Hosty's testimony, the Warren Commission report states:

"The official Bureau files confirm Hosty's statement that from November 5 until the assassination, no active investigation was conducted. . . . Agent Hosty testified that several matters brought to his attention in late October and November, including the visit (by Oswald) to the Soviet Embassy in Mexico City, required further attention."

Not only the FBI but also the Warren Commission criticized Hosty for his shortcomings. Yet the program, neglecting to furnish any details, used him as an "expert witness". It is noted that Mr. Hosty remained in the FBI for 16 years after the assassination (from 1963 to his retirement in 1979) and waited 19 years to express his disenchantment with Mr. Hoover and the FBI.

In a perplexing use of "hearsay" evidence, Hosty claimed that in 1964 the FBI sent its source "SOLO" to Cuba where Premier Fidel Castro allegedly told SOLO that on his visit to the Cuban Embassy in Mexico City Lee Harvey Oswald had told them he wanted to kill President Kennedy for the Cubans.

After the assassination Castro consistently and vehemently attacked "reactionary elements" in the United States for trying to link Cuba to the killing. In a June, 1976, public radio address Castro emphatically said: "I can categorically affirm that the Cuban Revolution never had the most minor participation in the death of the United States John Kennedy."

There is public source substantiation for Castro's latter statements and Hosty's word for the former statement. In any case, which Fidel Castro, if at all, should be believed?

Surely, this entire handling of the Kennedy assassination is an example of the technique prompting the Washington Post reviewer to write:

"The general sketchiness of the documentation and the use of second-and third-hand testimony from highly interested parties leaves a large credibility burden on correspondent Frady."

After 19 years of controversy and numerous books and television programs for sensationalism and profit, the conclusion of the FBI and the Warren Commission that Lee Harvey Oswald was the lone assassin and there was no conspiracy still stands.

DECEPTION AND DISTORTION—CONGRESSMAN DON EDWARDS

An example of deceptive tactics is the appearance of Congressman Don Edwards, described as a former Special Agent of the FBI and as Chairman of the FBI Oversight Committee—apparently to give him relevancy. Edwards states:

"Mr. Hoover would go to the Appropriations Committee every year and show the Appropriations Committee that for every dollar spent on the FBI, the FBI got back a dollar fifteen or a dollar twenty or whatever the figure might be. And the Subcommittee started to wonder about these figures . . . and so we asked the General Accounting Office to audit those statistics . . . and the General Accounting Office found out that the statistics really didn't hold water."

Facts

The General Accounting Office report Cong. Edwards cites is set out in the GAO news release made on September 29, 1976 captioned: "Statement of Victor L. Lowe, Director, General Government Division, before the Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, on the Federal Bureau of Investigation's Methods of Developing and Reporting Accomplishments from the Criminal Investigative Activities."

This report included the following:

"We found only a small number of errors in the accomplishment statistics. However, the statistics are subject to misinterpretation because of the way they are presented."

Even more important is the portion of this report which states that it is based on a study of FBI cases by the General Accounting Office encompassing the period of July, 1975, through July, 1976. Here it should be noticed that Mr. J. Edgar Hoover died on May 2, 1972. Who is responsible for this chicanery— Congressman Don Edwards or ABC News Close-up?

Is Don Edwards a bona fide critic of the FBI and Mr. Hoover? He was a Special Agent in the FBI from December, 1940, until December, 1941, when he resigned. Subsequently, he attempted unsuccessfully to return to the FBI before going into military service in 1942. A long-time critic of Mr. Hoover, Don Edwards fell prey to the discredited news articles stating that the FBI caused the suicide of Jean Seberg. In the heat of that erroneous publicity Congressman Edwards came out for taking Mr. Hoover's name off the FBI Headquarters Building.

MASSIVE SURVEILLANCES

At the beginning of the program, commentator Frady stated that one of the charges that would be examined was "massive surveillances of hundreds of thousands of innocent Americans."

Maybe hyperbole or maybe dishonesty, this is certainly outside the realm of reason. At its highest Agent complement the FBI had 8000 Special Agents. Without expertise in law enforcement, one can realize that surveillance require shifts of personnel and huge manpower quotas. If the FBI handled no other work at all, the 8000 Agents could not begin to handle physical coverage of hundreds of thousands.

This charge never is examined but later in the program commentator Frady, on second thought perhaps, says these surveillances were:

". . . directed—the best authorities say—against many thousands of innocent citizens."

And who are the "best authorities" cited?

One is Morton Halperin, current Director of the American Civil Liberties Union's Center for National Security Studies and well-known antagonist of the FBI. He is not identified by ABC as one of the victims of the Nixon-Kissinger wire taps, which may furnish some motivation.

Another expert is an unidentified Letty Pogrebin whose expertise consists of her review of 1,377 pages of the "Women's Liberation Movement file."

The third alleged "best authority" is former Agent William Turner, who complains that his file obtained under the Freedom of Information Act shows the FBI kept watch on him after he left the Bureau.

Not mentioned on the program is the fact that William Turner was dismissed from the FBI in July, 1961, for disruptive actions, inexcusable bad judgment, and irresponsible statements. As a result of his appeal to the Civil Service Commission, the Commission found that the FBI action in discharging Turner was "warranted" and for such cause as will promote the efficiency of the service. . . ." On May 10, 1963, the U.S. District Court in the District of Columbia upheld this decision. On April 2, 1964, the Federal Court of Appeals in the District of Columbia concurred in the decision. And on November 4, 1964, the U.S. Supreme Court closed the case by declining to hear it. Unable to win a legal suit, Turner proceeded to earn a livelihood writing anti-FBI books and articles.

Another "authority" on harassment by the FBI is former Sen. Frank Church, whose personal ambition at the head of the Church Committee demolished the ability of the FBI, CIA and intelligence community in safeguarding national security. Referring to FBI activity, Church states on the program: "Nothing is more ominous to freedom than a secret police."

How much of Frank Church's comments can be taken in good faith? He visited Havana, Cuba, in 1977 and fawned over Fidel Castro without discovering any evidence of the Soviet troops stationed there. Then in a re-election bid in 1979, Church used "insider" information from the State Department regarding these Soviet troops in Cuba to suddenly become a hard-line anti-Soviet and anti-Cuban campaigner. Al-

though the voters of Idaho ejected Church from the Senate, it is taking his associates in Congress many years to repair the damage his self-serving crusade did to the intelligence apparatus of the United States.

EIGHT NAZI SABOTEURS CASE

In relation to the 1942 Nazi saboteurs case, Mr. Hoover is charged by an unidentified Army major general with "premature breaking" of a story of the capture of the Nazis which had "wrecked our plans" for seizing other Nazis in the country.

Commentator Frady declares: ". . . the fact is the Nazis were not apprehended by the FBI. George Dasch, one of the leaders of the saboteurs actually had trouble getting himself and others apprehended." He then introduces author Seth Kantor in a 15-second comment that at first the FBI didn't believe Dasch's story.

Facts

In this particular case the White House was vitally interested in early arrests and President Franklin D. Roosevelt instructed FBI Director Hoover that as soon as the saboteurs were caught the arrests should be announced immediately in order to forestall additional saboteur attempted landings.

Contrary to the commentator's remarks, the FBI did apprehend the eight saboteurs—within 14 days of the initial landing on Long Island, NY. Dasch was arrested at Washington, DC; Neubauer and Haupt in Chicago, IL; and Kerling, Thiel, Burger, Heinck and Quirin at New York, NY.

Seth Kantor has been in contact with a member of this Society in connection with a book Kantor is writing on the saboteur case. Regarding Kantor's 15-second segment, Kantor in correspondence with our Society member said he had been interviewed on camera for one-hour for this show. Kantor also stated: "At the same time my research led me to discover that the Coast Guard had withheld evidence from the FBI and had dragged its feet in notifying the FBI about the landing. I also discovered how unstable and self-seeking George Dasch was. These things have changed my views about the overall approach of J. Edgar Hoover and the FBI into the saboteurs affair." These comments were in a letter dated December 9, 1981.

ABC News did not choose to use these views of Seth Kantor. In addition the following first-person testimony contradicts the Close-up account of this case!

In a letter to the Editor of the Arizona Republic, issue of June 12, 1982, Dr. William Helme, a Phoenix, AZ neurological surgeon and former FBI Agent, called the program's version of the saboteurs case "demonstrably false." He refuted the statement that the subjects were not apprehended by the FBI. Dr. Helme stated: "A number of FBI Agents, including myself, arrested Herbert Haupt and Herman Neubauer on June 27, 1942, and we were surely working under Mr. Hoover."

In one of many protest letters sent to ABC, another former FBI Agent, George E. Davis, Jr., Pinehurst, NC, denounced the program's treatment of this case. Mr. Davis stated: "It so happened that I was involved in this case from the inception. Another agent and myself picked up Dasch at the Mayflower Hotel in Washington, DC, and delivered him to the Bureau for interrogation. We then returned immediately to the hotel, searched his room, and found over $80,000 in $20 bills as well as other evidence to support Dasch's claim of being a Nazi saboteur. This left no doubt at once concerning his authenticity. The intensive FBI investigation that immediately followed resulted in the apprehension of Dasch's seven fellow saboteurs in different parts of the country to which they had dispersed."

ALGER HISS CASE

In the treatment of the Alger Hiss case the program makes the following charges:

"Hoover mismanaged one of the most celebrated cases of the Cold war."

"Hoover was furious when he discovered the case was developing outside his own hands due to lapses by his own Bureau.

". . . they did not find the major pieces of evidence in the case—the House Committee on Un-American Activities turned up Chambers. . . . Chamber's defense lawyers turned up the famous incriminating "Pumpkin papers."

"Hoover found himself . . . somehow . . . the last to know when the key pieces of evidence turned up."

"Despite his failure on the Hiss case. . . ."

Facts

This passage is a glaring example of condemnation by innuendo—something the program castigates as "McCarthyism" in a later portion on the deceased former Sen. Joseph McCarthy.

The Hiss case began with Whittaker Chambers' appearance before the House Committee on UnAmerican Activities in August, 1948, where he identified Alger Hiss as one of his accomplices. After Hiss' denials and libel suit, Chambers produced incriminating documents and the "Pumpkin papers". On December 15, 1948, Alger Hiss was indicted for perjury.

Over the years there has been a misunderstanding, as in this case on the part of ABC News Close-up apparently, that the FBI was in the Hiss case as an espionage investigation. Actually the FBI's role was to investigate the controversy—the accuracy of Chambers' charges against Hiss' denials. Until the perjury allegation, the FBI was not involved.

In regard to the "key pieces of evidence", the following include some of the damning evidence that Hoover's FBI furnished as vital in the successful prosecution of Hiss on the perjury charge:

(1) proof that documents in Chambers' collection has been typed on a Woodstock typewriter which belonged to the Hisses in 1936 and 1937.

(2) the location of Chambers' maid, Edith Murray, who verified the association of the Hisses with the Chambers in the latter's home in Baltimore, MD.

(3) substantiation of Chambers' claim that Hiss had loaned him $400 to buy an automobile.

(4) location of the photographer and the Leica camera which had filmed the pumpkin "microfilms".

Concerning the allegation of "Hoover's failure on the Hiss case," the record reflects that Alger Hiss was convicted in Federal Court in November, 1949, mainly on the investigative and scientific crime detection work of the FBI, and was sentenced to serve five years on each of two counts of perjury. It should also be noted that Whittaker Chambers in his book "Witness" credits the "men of the FBI" as one of the major forces which "won the Hiss case for the Nation."

RAMSEY CLARK

Of the 16 Attorneys General under whom Mr. Hoover served, it is expected that ABC News would select only Ramsey Clark whom Mr. Hoover publicly called the "worst Attorney General of all" and characterized as a "jellyfish" for his inefficiency.

Constantly complaining that he never knew what was going on while he was Attorney General, Clark subsequently has been masquerading in liberal costume. Two of his comments on the program are particularly of interest:

(1) "On a subjective level, at least, Mr. Hoover had deep racial prejudices."

(2) "I never heard the word COINTELPRO until. . . .when in the mid-70's early '70's, I don't know. . . .years after I left the Department of Justice. The idea that you would have, you know, deliberate activities of disruption, interference with the lives and rights of people in the United States never occurred to me."

Facts

Now Ramsey Clark, as Attorney General, received in the Department of Justice copies of all FBI reports and it was his responsibility to supervise activities of the Department.

In the summer of 1967 racial violence and rioting throughout the country mounted. From Boston, Tampa, Cincinnati, Buffalo, the guerrilla warfare spread to major disasters in Newark, NJ and Detroit, MI, in July, 1967. As reported in the news media: "The looting, arson, and rioting that occurred in Detroit, July 25-30, reached a scale unknown in an American city in the 20th century." This was the period in which Stokely Carmichael, leading advocate of "Black Power", was urging American Negroes to use arms if necessary to get full equality. Before a crowd of 7000 at Berkeley, CA, in February, 1967, he cried: "To hell with America." At a Washington, DC, gathering in May 6, 1967, Carmichael charged that "the United States stands on the brink of murdering all Negroes."

At this time, Attorney General Ramsey Clark, who accuses Mr. Hoover of racial prejudice and disclaims any knowledge of "deliberate activities of disruption", personally sent the following direct order to FBI Director Hoover under date of September 14, 1967:

"It is important that you use maximum available resources, investigative and intelligence, to collect and report all facts bearing upon the question as to whether there has been or is a scheme or conspiracy by any group of whatever size, effectiveness or affiliation to plan, promote or aggravate riot activity." The order further said that Mr. Hoover was "to take every step possible" to this end "before, during and after any overt acts."

THE ROSENBERG ESPIONAGE CASE

The program claims a "first" in reporting the statement of former Agent Robert Lamphere that the deciphering of the Soviet code, though not cited in the trial for security reasons, confirmed the guilt of Julius and Ethel Rosenberg. Even in citing this successful case, the program criticizes Mr. Hoover for "eagerness for quick arrests" and for posing "problems for a sensitive investigation of Soviet espionage."

Mr. Lamphere is quoted: "I was not always in total agreement with some of the decisions he made. On occasion, I would have been less interested in prosecuting a case than I would have been in working the case as a carefully controlled counter-intelligence operation."

Comments

In his quoted statement, former Agent Lamphere was not citing the Rosenberg

case. For historical purposes, this documentary could have reflected that the Rosenberg case still holds status as one of the most reviewed and appealed cases in American judicial history.

In espionage cases, there generally is a difference of opinion between FBI, other intelligence agencies, and the State Department as to the decision of making an arrest or continuing the intelligence investigation, and the final decision is based on an aggregate of factors and circumstances. In major cases, such as the Nazi saboteurs and the Rosenbergs, the judgement rests not with the FBI but in the highest levels of government.

After the program, former Agent Robert Lamphere advised that in August, 1981, he was contacted by ABC News Close-up reporter Ms. Patricia Lynch and participated in a one-hour filming session. He said he agreed only after Ms. Lynch "assured me that this program on the Director would be a balanced one." He said that as a result of telephone contacts with Ms. Lynch since his filming "I came gradually to understand that much in the program would be critical of the Director except for the portion in which I was to appear. It was not, however, until I saw the program on June 3 that I realized how far the program would go to slant and sensationalize the program. I have told Ms. Lynch of my unhappiness and my strong belief that portions of the program were inaccurate."

OMISSIONS

Two very salient points in any J. Edgar Hoover documentary, which were specifically furnished to Ms. Patricia Lynch, were totally ignored. At the outbreak of World War II, when then California Attorney General (later Supreme Court Chief Justice) Earl Warren and other liberals of the period spearheaded the mass evacuation of thousands of Japanese-American citizens from California without due process, FBI Director J. Edgar Hoover was the lone public figure to oppose this move.

Also no mention was made of the Supreme Court's special citation of Mr. Hoover and the FBI in the famous Miranda decision of 1966. In that landmark decision in the history of criminal justice, the Court decreed that a person in custody had to be first advised of his right against self-incrimination and also of his right to counsel. The Court's decision specifically lauded Mr. Hoover for his "exemplary record" in having the FBI discharge these two provisions for several decades prior to this decision.

Civil libertarians, minority activists, and the FBI detractors of today credit Mr. Hoover with the above stands as well as the FBI's destruction of the awesome power of the Ku Klux Klan. Yet the Close-up promoters chose to dismiss these facts which did not fit into their general picture of the late Director.

Mr. Roy K. Moore, former FBI official, directed the 4-year FBI investigation of the Ku Klux Klan in the State of Mississippi, and this effort solved the murders of the 3 civil rights workers in Philadelphia, MS, and smashed the Klan in 1968. Mr. Moore was interviewed extensively for this program but his contribution was excluded from the show. He has advised:

"Yes, I reluctantly submitted to an interview . . . I made it clear to the persons involved—producers, interviewers etc. . . . that only after being assured that it was not a 'hatchet job' would I cooperate. I was assured it would be fair and objective. . . . I now can only assume that the results of my interview were too favorable for their slanted desires."

Instead of details regarding how the FBI defeated the Klan, the ABC News staff used old film clips of local police repelling riots with dogs, fire hoses and clubs to project the false impression that Mr. Hoover was responsible for these tactics.

PRO-FBI WITNESSES

Of the 20 individuals interviewed on the program, only 4 can be called supportive of Mr. Hoover and the FBI. The reaction of former Special Agent Robert Lamphere has been previously set forth. The other three expressed their opinions in letters to Mr. Leonard Goldenson, Chairman of the Board of ABC.

Mr. Roy M. Cohn, prominent attorney and friend of Mr. Hoover, stated:

"Not only I, but many, many of us of all persuasions felt that the June 3, 1982, program on the FBI was one-sided and biased against the FBI. I am sure that my participation of a few seconds and that of a few others represented tokenism rather than any effective effort to make a balanced presentation."

Mr. W. Mark Felt, retired FBI official, interviewed briefly on the program, wrote:

"Everyone I have talked to thought the program was slanted, biased, frequently in error and sometimes actually deceitful. I know this to be the case. To put it bluntly, a real 'hatchet job'."

Inasmuch as only a few seconds of his interview were used, Mr. Felt requested ABC News to furnish him with a transcript of his two extensive filmed interviews. Mr. Tom Bywaters, producer of the program, replied that, after consultation with his superiors, he was not permitted to furnish such a transcript.

Mr. Cartha D. DeLoach, retired former No. 3 Man in the FBI, said in his protest letter:

"When I was approached to cooperate in the preparation of this program, I was assured that it was intended to be an even-handed evaluation of the man and his leadership developed through extensive interviews of Hoover associates and adversaries. . . . Much to my dismay, I found that my contribution to the program was reduced to two exceedingly brief appearances, followed immediately by attempts to brand me as a liar through the use of completely uncorroborated rebuttals by two well-known critics of Mr. Hoover and the FBI."

FRIENDS OF MR. HOOVER IGNORED

In response to the request of Ms. Patricia Lynch for personal friends of Mr. Hoover among FBI veteran officials, Mr. W. Richard Glavin, former FBI Assistant Director in charge of Administration and Personnel, and Mr. Lee O. Teague, former Chief FBI Inspector and current President-elect of the Society of Former Special Agents of the FBI, were interviewed at the Societys, annual convention in Atlanta, GA, in October, 1981. Neither interview was used.

In his letter to the Vice-President of ABC News Close-up, Mr. Glavin said:

"I want to thank you for not using the interviews with me and other former Special Agents of the FBI conducted by Pat Lynch in Atlanta, GA. I would not want to be associated with your vindictive smear program called a 'documentary'. . . . The program had one purpose only, to destroy the image of a great and dedicated American, and why? The hate that came through from (commentator) Marshall Frady's comments raised the question again—why?. . . . Deliberately and viciously smearing a public servant, for no useful purpose, who can no longer defend himself, reaches the depth of degradation in media news coverage."

Mr. Teague wrote to the Chairman of ABC as follows:

"The recent 'ABC News Close-up' on J. Edgar Hoover was far beneath the jounalistic abilities and responsibilities of a news media organization such as ABC. . . . I was one of those orginally interviewed by Ms. Lynch and, of course, data I provided was not presented. It (my data) was an honest appraisal of certain incidents regarding Mr. Hoover."

If ABC News had not pre-determined to criticize Mr. Hoover for "harsh discipline over his agents" and for lack of personal interest in his employees, one of the incidents related to Ms. Lynch by Mr. Teague would have been most appropriate. She asked whether in his later years Mr. Hoover withdrew from all contact with people in the Bureau, and Mr. Teague answered this was not true and gave an example.

During the Vietnam War the eldest Teague son served in the U.S. Marine Corps for over a year in the DMZ near Khe Sanh, Vietnam, and was seriously wounded when a contingent of 5000 Marines was surrounded and over-run by 48,000 Vietcong. He received a telegram and very sketchy information that his son was shot, in serious condition, and not expected to live. Not being able to get any details of the injuries or where their son was hospitalized, the Teague family was naturally confused and distraught. Without having advised the FBI about this incident, Mr. Teague received a telephone call from Mr. Hoover who extended sympathy and sought details. The Director advised that he was meeting with the Commandant of the U.S. Marine Corps that very day and would be back in touch with Mr. Teague. Within several hours, the FBI Director called back long-distance and told Mr. Teague the nature of his son's injuries, that he was going to recover, and that arrangements had been made for the Teagues to contact their son in the Naval Hospital in Guam.

* * * * * *

The names of all former Agents currently or formerly serving in the Congress, along with names of numerous personal friends of Mr. Hoover in various fields of endeavor, were furnished to the Close-up staff. Of this entire group not one was interviewed or appeared on the program. It should be noted again that the only member of Congress interviewed for the program was Don Edwards, an FBI critic, who barely met this Society's requirement of one year's FBI service but is not a member of this organization.

Congressman Eldon Rudd (Arizona), who served 20 years in the FBI, inserted his remarks in the Congressional Record, an excerpt of which follows:

"This supposedly unbiased view of the career of Director Hoover, which spanned five decades, was a collection of half-truths and oft-repeated criticisms which have been standard fare for those opposed to him and the Bureau . . . the public deserves better."

Congressman Mike Oxley (Ohio), a former FBI Agent, inserted in the Congressional Record his respect and support for the FBI and Mr. Hoover, and among his comments he said:

"I would simply point out that ABC waited 10 years after J. Edgar Hoover was dead before they had the intestinal forti-

tude to even think about airing the hatchet job that they showed on television."

Former Congressman Sam Devine (Ohio), a former FBI Agent, was quoted in the Congressional Record from his letter to ABC as follows:

"I never cease to be amazed at the sudden surge of courage by certain media people, after a subject has passed away and cannot defend himself against untrue, scurrilous, twisted charges. Most of them lacked the guts to take him on when he was alive. You and your network should be ashamed of yourselves, and recognize what a disservice you have done to the millions of TV viewers by your intentional destructive tirade against one of America's great patriots."

Congressman Dan Daniel (Virginia), a personal friend of Mr. Hoover, wrote about this program:

"It was one of the most biased, vicious, unsubstantiated cases of character assassination it has ever been my misfortune to witness". He then cited the remark of a prominent attorney after viewing the program: ". . . a media predisposed to a subjective point of view is a dangerous force in a free society—to say the least."

EDITORIAL COMMENT

A survey of available editorial comment and reviews . . . reported by representatives of this Society throughout the country, reflect sparse coverage and predominantly unfavorable opinions of this program. Several pertinent examples follows:

Christian Science Monitor, June 3, 1982:

". . . in the light of the questioning now going on about the easy opportunity for distortion in TV documentaries, one cannot help but wonder if the premise for the show ordained the conclusion."

Atlanta Constitution, June 3, 1982:

". . . the hour-long program—hosted by Marshall Frady and produced by Tom Bywaters—is just as calculated and one-sided a hatchet job as CBS's on Westmoreland."

Minneapolis Star Tribune, June 3, 1982:

"The documentary would have been better if ABC News had either narrowed its focus to new information about Hoover, or expanded the show beyond a single compressed hour of one-sided diatribe. ABC wields a broadsword against Hoover, and its the wrong weapon."

CONCLUSION

J. Edgar Hoover was born, he lived, and he died—the same chronology for all mortals. Like all mortals, he had his virtures and vices, his strong characteristics and his weaknesses, his likes and dislikes. He could be dictatorial and dogmatic in business matters, compassionate to a friend in need, relentless against malicious attacks, austere in administration, humorous and personable in social affairs. The vast majority of FBI Agents who served under him recognized him as a leader who demanded no more than he was willing to give, and one who would support them in any honest effort in fulfillment of duty. And yet, it is safe to say, that at one time or another, every agent grumbled about some idiosyncrasy or rule of the late Director.

Former FBI Official W. Mark Felt, in his book "The FBI Pyramid", said of Mr. Hoover:

"Charismatic, feisty, charming, petty, giant, grandiose, brilliant, egotistical, industrious, formidable, compassionate, domineering—all these adjectives were applied to Hoover and, to a degree, they all fitted him. He had both wide recognition and detraction—and he accepted this. He was a human being."

In an editorial in the Tucson Citizen of July 8, 1982, chief editorial writer Asa Bushnell, a former FBI Agent, stated:

"He made mistakes, who doesn't?—as he tried too hard to protect America by the old-fashioned book. But the man did not deserve the totally unfair and unbalanced treatment he received last month in "ABC News Close-up: J. Edgar Hoover."

In America the record of an individual and his place in history is based on the "bottom line". None of our "founding fathers", illustrious Presidents, or other giants of American history has ever been an unanimous selection to fame without some dissenting opinion. However, it is customary to judge a person on the over-all performance of his short-comings and achievements.

Truly, and sadly, this ABC News program did not follow the rules, did not play fair. It spot-lighted some human frailties, magnified other alleged faults, and totally eliminated achievements. In replies to Society members' protest letters, Mr. George Watson, ABC News Vice President "responsible for investigating charges of inaccuracy or unfairness" stated: "As an analytical documentary, the program reached conclusions based on the evidence and information we had compiled."

As reflected in this analysis, the ABC News staff had considerable additional "evidence and information," both furnished by this Society and available through sources connected with the production. Apparently not given consideration, this "evidence and information" was not used.

Recently, Mark S. Fowler, Chairman of the Federal Communications Commission, stated:

"Reporters are like many other people; they come to their work with experiences bound to shape perceptions. But if they are professional, they put their biases to one side and get on with the job of reporting as accurately as they can."

The June 3, 1982, program on the late FBI Director J. Edgar Hoover should cause the Federal Communications Commission, the American Broadcasting Co. network, the television industry, and the sponsors of this show to take an objective look at the integrity of the "ABC News Close-up" operation, and to seriously question the personal honesty and professional competence of producer Tom Bywaters, investigative reporter Patricia K. Lynch, and commentator Marshall Frady.

In our American society it is understood that for every privilege there is a responsibility. Privileged to use the airways to enter the homes of millions of citizens, the television networks certainly must have an obligation to present history and purported documentaries in an unprejudiced and objective manner. Broadcast journalism, in conformity with its own code and the tradition of fair play, must at least make a distinction for the viewing audience between fact and fiction.

The "ABC News Close-up: J. Edgar Hoover" of June 3, 1982, on an American patriot who dedicated his life to government service, was a disgrace to the television industry, an affront to the principle of freedom of the press, a mockery of journalism's standards, and a most undesirable invitation for outside censorship in such cases where internal safeguards for honesty and accuracy are woefully lacking or wantonly violated.

ADDENDUM

Inasmuch as Mr. William C. Sullivan, former Bureau official, was used as a vital witness in the program's denunciation of the late FBI Director Hoover, there is set out here pertinent public source data reflecting on Mr. Sullivan's character, personal ambition, motivation, and hostility toward Mr. Hoover.

On three occasions the producers of the program quoted from what were described as "exclusive tapes of a series of interviews Sullivan gave shortly before his death." These inserts were used to riducule Mr. Hoover's personnel policies, charge FBI assistance to the late Sen. Joseph McCarthy's anti-communist campaign, and to allege FBI influence in some way on some of the conclusions of the Warren Commission.

In selecting Sullivan's comments for the program, the producers knew or should have known of his background and hatred for Mr. Hoover, which are spread clearly on the public record.

The following data are based on "Submission of Recorded Presidential Conversations to the Committee on the Judiciary of the House of Representatives by President Richard Nixon, April 30, 1974" (Nixon tapes):

During a meeting between President Nixon and John Dean in the Oval Office on March 13, 1973, Dean told Nixon, "The person who would destroy Hoover's image is going to be this man Bill Sullivan. Also it is going to tarnish quite severely some of the FBI. And a former President. He is going to lay it out, and just all hell is going to break loose once he does it. It is going to change the atmosphere of the Gray hearings and it is going to change the atmosphere of the whole Watergate hearings."

PRESIDENT. "Why is Sullivan willing to do this?"

DEAN. "I think the quid pro quo with Sullivan is that he wants someday back in the Bureau very badly."

PRESIDENT. "That's easy."

DEAN. "That's right."

PRESIDENT. "Do you think after he did this, the Bureau would want him back?"

DEAN. "I think probably not. What Bill Sullivan's desire in life is, is to set up a domestic national security intelligence system, a White House program. He says we are deficient. He says we have never been efficient, because Hoover lost his guts several years ago. He and Tom Huston worked on it." (pp. 122, 123)

The Church Committee devoted an entire volume to the so-called Huston Plan—"Hearings before the Select Committee to Study Governmental Operations With Respect to Intelligence Activities of the United States Senate, Ninety Fourth Congress, First Sessions, Volume 2, Huston Plan, September 23, 24, 25, 1975."

During testimony before the Church Committee on September 23, 1975, Tom Charles Huston, former Associate Counsel and Staff Assistant to President Richard Nixon, stated under oath that prior to June 1970, he had numerous conversations with Mr. William Sullivan of the FBI. They had discussed "inhibitions upon intelligence collections." Huston said:

"I think it was his (Sullivan's) opinion that the Bureau was operating under restraints. . . . that they did not have available for use the tools that they felt were necessary to do the job." (p. 3)

Under President Nixon's instructions, a working group was set up to propose a plan

to alleviate the "restraints". Mr. Sullivan chaired the working group and a plan (the Huston Plan) was submitted to the President and approved.

Regarding the Huston Plan, Sen. Frank Church said:

"Some provisions of the plan were clearly unconstitutional; others violated Federal statutes. As the distinguished American journalist Theodore White observed, the Huston Plan would have permitted Federal authorities to reach "all the way to every mailbox, every college campus, every telephone, every home."

"Five days after the President approved the plan, he revoked it at the insistence of the FBI Director and the Attorney General—to the dismay of those CIA, NSA, and FBI representatives who had helped Huston develop it." (pp. 1, 2)

The Attorney General's opposition to the Huston Plan was predicated on Hoover's adamant refusal to be a part of the plan. FBI Director Hoover informed the Attorney General of his opposition and took the stand that the FBI absolutely would not undertake an investigative step bordering on unconstitutional or illegal action without the Attorney General's specific and prior approval in each instance. Since he was the main architect, Sullivan was infuriated at the collapse of this plan and turned against Mr. Hoover, whom he held solely responsible for its demise.

* * * * *

Sullivan's penchant for making his perceptions supercede factual information is illustrated in just one passage from his book attacking Mr. Hoover—"The Bureau—My Thirty Years in Hoover's FBI." On page 135 Sullivan states:

(1) "When I took over the Intelligence Division in 1961, the FBI counter-intelligence operation was already in existence.

It definitely was, inasmuch as the counter-intelligence program (COINTELPRO) originated with the adoption of Mr. Sullivan's initial suggestion for this program by his memorandum of July 17, 1956. (Details of Sullivan as originator of COINTELPRO previously set out in this analysis.)

(2) "Hoover singled out the King case, emphasizing the need to extend great care and discretion in the wiretaps and other techniques that were being used against King. . . ."

His insinuation that wiretaps had already been used in the King case when he became head of the Intelligence Division in 1961 is blatantly false. The Final Report, Book III, under date of April 3, 1976, of the Church Committee contains a chart at bottom of page 116 showing that the earliest wiretap in the King investigation was installed on October 24, 1963, some two years after Sullivan took over the Division. On Page 115 this report states: "On September 6, 1963, Assistant Director William Sullivan first recommended to Director Hoover that the FBI install wiretaps on Dr. King's home, and the offices of the Southern Christian Leadership Conference."

(3) ". . . the tapes that Hoover had placed on King. . . ."

The above citation refutes this statement by Sullivan that the tapes originated with Mr. Hoover. In addition, the Final Report of the Church Committee, Book III, page 101, reflects that in July, 1963, Attorney General Robert Kennedy first suggested the possibility of wiretap coverage on Dr. King, and then decided against it until Mr. Sullivan recommended such coverage on September 3, 1963. The dates for the Attorney General's approval were October 10, 1963, for home coverage and October 21, 1963, for the office coverage.

* * * * *

The reviews of the above-cited book by Mr. William C. Sullivan are very illustrative of his lack of integrity and character in his attack on Mr. Hoover.

Law Enforcement News, Book reviews, October 22, 1979, page 11:

"The image of the author (William C. Sullivan) that emerges in this book is that of a deceitfully ambitious man. Sullivan continually refers to himself as a 'liberal democrat' but at the time tries to justify official use of illegal wiretaps, breakins, and dirty-trick letters. His book might be compared with John Dean's 'Blind Ambition' except that Sullivan's ambition, after thirty years in the very shadow of a boss he considered to be 'one of the most balefully powerful men in America' can hardly be called blind."

Washington Post, Book World, September 30, 1979, by Anthony Marro:

"This book . . . adds up to little more than a diatribe against Hoover and the Bureau he created, coupled with a scattering of self-serving (and not entirely believable) justifications for Sullivan's having stayed in the organization for so long, and for being a part of so many of the things—the anti-communist hysteria, the harassment of political and civil rights groups, among them—that he later found reason to denounce Hoover for. (It should be noted that in this context that Sullivan was the sort of person who, while in government, believed that the government should have great powers to involve itself in people's lives; but who, after retirement to New Hampshire, questioned the right of the state to make him have his car inspected each year.)

"Also, Sullivan had to be cautious in assigning any blame to himself because by the time of his death, he had been named in civil suits stemming from almost every infraction, real or imagined, that the Bureau had committed against citizens since World War II. . . .

"But the main purpose of the book appears to be neither serious history nor self-justification, nor disclosure with intent to reform. Rather the purpose seems to be getting even, pure and simple, and the result is a series of assaults on Hoover and almost all his lieutenants that should cause even veteran Hoover-haters to wince."

As set out previously in the body of this analysis, William C. Sullivan authored and promoted many of the alleged FBI abuses for which the Bureau has been criticized. On the occasion of his death the previous day in a hunting accident, the Washington Post, issue of November 10, 1977, published an article which stated that when Sullivan joined the FBI in August, 1941,

". . . the FBI saw itself—and was seen by other—as a crime-fighting organization and as the country's first line of defense against Nazis and other subversives. By the time he left, the Bureau was coming under increasing attack for violating the rights of American citizens. . . . Mr. Sullivan played a role in these transformations, first as a loyal lieutenant of Hoover who initiated many of the abuses that been uncovered by Congress and the press in recent years, and then as a bitter critic of his late boss."

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For an insight into Mr. Sullivan's character deficiencies, duplicity, and unreliability, the ABC News Close-up staff would have had to go no farther than the two books previously cited in this piece: "The FBI: An Uncensored look behind the Walls" by the program consultant, Sanford J. Ungar: and "The FBI and Martin Luther King, Jr." by David J. Garrow, who was a participant on the program.

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Acquaintances of the late Wiliam C. Sullivan know that he was an avid reader with a fondness for philosophy, poetry and history. One of his favorite quotations was the following from Shakespeare:

"Blow, blow, thou winter wind!
Thou art not so unkind
As man's ingratitude,"

How ironic! Sullivan spent thirty years of his life in the FBI under J. Edgar Hoover as Director. He rose from Special Agent to the post No. 3 Man, personal counselor to the Director, and a personal favorite of Mr. Hoover. In the 1950's Sullivan suffered a near physical collapse and nervous breakdown. Mr. Hoover personally arranged for Sullivan to spend several months recuperating in Arizona, and made certain Sullivan received the best of medical attention. The Director also arranged to have Sullivan's family join him in Arizona for the last phase of his recovery period, and subsequently restored him to his position at FBI Headquarters.

This is the same man who conspired with the Nixon Administration to oust Mr. Hoover and give him the FBI Director post, and when unsuccessful, proceeded on a character assassination campaign against his former benefactor and friend.●

THE OTHER SIDE OF THE STORY: ISRAEL'S ROLE IN THE CURRENT CONFLICT IN THE MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California. Mr. Speaker, the hour is late and we have had a most exciting and hopefully productive day in the House of Representatives of the U.S. Congress.

I apologize to my colleagues and the excellent staff here at the end of a long, difficult day, for discussing so serious and tragic a subject as the Middle East; but given the long recess that we are going on, I think that I must address the subject of the calumny being perpetrated against a nation that is a true and good friend of the United States, so that one voice and other voices will begin to help the good citizens of Israel get back the good name of that much maligned nation.

Yesterday, I met with three family members, Israeli family members, whose lives were shattered by vicious PLO terrorist attacks that took loved ones from them, husbands or children, of blessed memory, as they were described.

Unfortunately, only three Members from this distinguished body turned up in the Rayburn Building to hear their stories, the stories that we all

heard in brief or sketchy reports on our evening news, as we heard so much about terror in the Middle East and on the aviation routes of the world over the past decade and a half.

Before I give a brief analysis of what I learned on a recent trip to the Middle East, I have to say that I have lost count of how many times I have been to Israel and some of the surrounding countries; I have been to Lebanon at least three times. I have traveled more deeply into the country that I believe any Congressman or Senator has traveled now or for many years, putting over 850 kilometers on the car that we used to criss-cross the mountains of Lebanon and to visit several times the cities of Tyre, Sidon, and the Christian village of Ad Damour that was utterly devastated in a blood bath a few years ago; up into the southern regions of the Bekaa Valley, those parts secured by the State of Israel looking over the beautiful man-made Lake Karoum and talking to not only some of the young Israeli soldiers, but to the citizens of Lebanon who had been gracious to those Palestinian people who also have a crying need to find themselves a place in the world that they can call home.

They were gracious to them, but horridly abused by the PLO terrorists among the Palestinian people—a minority, anyone is grateful to be able to say.

Before I give this analysis, I want to set the scence by describing the front page of the Los Angeles Times of Wednesday, August 18, to my colleagues and anyone listening on television. It tells a great deal about what is going on in Beirut at this moment.

Here is a sort of cowboy-looking character described by the Los Angeles Times as a Palestinian guerrilla. I have refrained from using the world guerrilla in the El Salvador situation or in respect to the PLO because a guerrilla can be a noble fighter. He fights with the support of the people. He usually has weapons or a uniform of some conformity, although that is not necessary.

□ 2110

But, he usually has the capability to hold terrritory and face his adversary honorably on the field of battle. In the case of El Salvador and the PLO in Lebanon, they hide in the night. They hide among villagers; literally hide behind the skirts of women and behind little children, and in the case of Beirut it is just as though they were on a gigantic 747 jumbo jet. They have held a whole city hostage over the past 2½ months.

This cowboy on the front page of the Los Angeles Times is carrying a big, brand new suitcase, probably lifted from some store window, and he has at least eight grenades across the front of his chest and sort of a straw plantation hat perched on his head. He is boldly walking off to some waiting point where he thinks some airline is going to take him into some Arab country where he is going to get off the airplane in his designer jeans and keep these hand grenades and what looks like a machinegun pistol or a small submachinegun that he is carrying in the hand opposite his suitcase-carrying hand.

This symbol of PLO terriorism traveling somewhere else in the world to wreak its mischief is not going to bring stability anywhere in the Arab world, I am afraid.

These three families came to the United States—a wife, a mother, and a husband—to try and give some balance, as they put it, to the slander that has been committed against the good name of Israel over the last 10 weeks. They called the PLO murderers, and they have every right to use that harsh term, because the PLO is the umbrella for eight or more terrorist groups, different groups that took the lives of their loved ones. They said they are dismayed at the way the PLO seems to be leaving with some peculiar honor that these survivors do not feel the PLO is entitled to. They complain about the gentleness with which the PLO has been treated even by members of this distinguished House of Representatives, and they warn against allowing them into countries where they might be allowed to start operations all over again. They use the quote of President Reagan where he called the PLO "a scourge of international terrorism."

The first of the citizens of Israel that I had the honor to visit with was Mrs. Ankie Spitler. Her husband, Andrei, emigrated to the nation of Israel from Austria. She emigrated from Holland, and they began to build a new life. She was an athelete, a fencer, and he was the fencing coach for the Israeli team. I was lucky enough to be at the Olympic Games in Munich, and I left from there, coincidentally, to go to Lebanon and to Israel. I had visions of those handsome young athletes in my mind as I sat stunned like every other American by a television set and watched a handful of terrorists hold the coaches and the athletes of the nation of Israel in hostage status after they brutally murdered a weight lifter who tried to prevent their entry into the Olympic quarters, and then later shot to death another of the weight lifters and allowed him to bleed to death slowly over a 3- to 4-hour period, and in the black of night at the German air base at Furstenfelburck threw a grenade into one of the hallways at close range and machinegunned to death the athletes and the coaches on another helicopter.

Andrei Spitzer was the father of a brandnew, 3-week old daughter. His wife was with him at the Olympic village. It was in his room that the athletes and coaches were taken and held hostage. The bargain that the terrorists were trying to strike was that 292 terrorists held in prison in Israel would be released before they would release the athletes. When one of the other House Members, Mr. SOLARZ of New York, asked Mrs. Spitzer if she would have succumbed to the hostage demand, she said:

> At the time I was a suffering family member. I would have given the hostages anything they wanted, but as soon as the immediate agony of my sorrow began to subside, I realized my husband's life was the sacrifice any nation of integrity must pay so as not to be held hostage ever to the demands of bloodthirsty terrorists.

She actually had sitting next to her a mother whose two children had been brutally blown apart, one of them again bleeding to death over a 3-hour period, when young youths paid $10 by an Arab terrorist group threw a grenade in the back of their car while they were on holiday. The Israeli security forces arrested these three young men, and it is quite possible, because this happened in June 1971, it is quite possible that those young terrorists were some of the very ones among the 292 that the Munich terrorists, the Olympic terrorists, were asking to be released. She said, knowing the suffering that the mothers and fathers and wives and girlfriends and younger brothers and sisters of all the athletes that were under the gun in Munich were going through, she knew what the hostages were asking for was release of the murderers, maybe, of her very own children.

Then sitting there was a gentleman I had heard about in Israel last week, saw an interview with him on television and had no idea that a few years later in one of our own congressional office buildings I would have the honor of meeting him: Mr. Joseph Hochman, who works for one of the bus transportation companies in Israel. He and his wife, Rivka, and their two young sons were on a vacation to the stalactite caves in the middle of Israel, a routine holiday picnic. On their way home, on the very bus system he worked for, heading north to Haifa, they were highjacked by a team of PLO commandos. It started out as 13. Two of them drowned in the surf as they landed on the beach of Israel. They thought they were landing on the outskirts of Tel Aviv. They had misidentified the single funnel of an energy plant, and after losing two of their number in the surf they came up on the beach, and as a peculiar fate would have it, they come across the niece of a U.S. Senator, former Senator Abraham Ribicoff. His niece was a nature photographer. She

was on the beach with her Israeli boyfriend, and when they saw her camera they shot her to death and shot the boyfriend in the stomach, who miraculously survived.

The 11 of them, including a female terrorist, made their way to the highway, stopped this bus, turned it around and then began what Mr. Hochman described as a sheer nightmare ride of terror. The 11 terrorists were on the bus with 50 people, with the shades pulled down as they thundered south to Tel Aviv to destroy God knows how many people. The discovery of the body and the dying young man who had survived on the beach alerted the Israeli security forces, and the soldiers put up a blockade north of Tel Aviv. As the bus approached the blockade, the terrorists, who had already shot to death a 4-year-old boy who would not stop crying, frightened in the darkness, then shot the father to death when he sobbed in protest over his son's brutal murder in front of his face, leaving 48 people alive on the bus.

The gentleman that I was visiting with, Joseph Hochman decided he had to take some immediate action because the terrorists were desperate. He grabbed a rifle away from one of the female terrorists and shot to death two of the terrorists. One of them, before he died, threw a grenade in the midst of the Hochman family, tearing his wife apart—she died almost immediately; snuffed out the life of his two sons, and so badly mangled Mr. Hochman's legs that they were both amputated later that day in an Israeli hospital.

Mr. Hochman has never remarried. The other family, husband and wife, who lost their two children in the back of the car, have rebuilt their lives and God has given them three new young children to raise in this small country of Israel. Mrs. Spitzer has tried to rebuild her life. Her daughter knows very well that this September 5, when we are in recess, will be the 10-year anniversary of the ugliest blight on sports in the entire history of recorded civilization. The 10-year anniversary of the Munich hostage horror is coming up next week.

□ 2120

These three people from Israel including Mrs. Preetam Aroyo, hope that they will be able to get some brief moments in the Sun on American television, meeting with editorial boards of newspapers, talking to radio commentators to try at least in a small way to straighten out the record of what I have called the calumny against the reputation of Israel.

In all of the trips I have taken to Israel, and I have traveled extensively throughout the West Bank, going all the way back to 1966 when that part of the Holy Land was under the authority for 19 years of the State of Jordan, and every time I have talked to Israeli citizens the overwhelming majority agree that there must be some moderate approach to give the 1,200,000 Palestinians who live in what had been their homeland over 700 years a shared role in the government of the Jewish State that represents a millenia of existence in that area of the world for the Hebrew people.

But the path of terrorism is a sickening road to take anywhere in the world today, whether it is Morazan Province in El Salvador or blowing apart English Army musicians in a bandstand in one park, hours after we see the English Household Guard blown apart on their horses by a deed of cowardly terrorism in the streets of London.

No matter what our sympathies may be for some of the geographical or ethnic injustices we see in the world today, and there are injustices, certainly at the root of the struggle in Northern Ireland, no one today, after meeting the relatives who have had their lives nearly destroyed and certainly shattered by the cowardice of terrorism, a phenomenon reaching intolerable proportions in this last decade, no one can ever opt for that terrorism process, particularly when there is a Parliament, a Knesset, a Congress, a right to vote to handle problems the way we handle them in this House, through debate and compromise.

I would like to make several points that I learned traveling throughout Lebanon and Israel last week about a service that I think Israel and its defense forces have performed literally for the world. I put them in my own sort of arbitrary order of importance, but depending upon what someone's own view is on geopolitics, they can order them any way they want.

But I suggest anyone taking exception with the points that I make had best do their homework if they want to explain to me why they are not valid areas of discussion for what Israel has tried to accomplish and, in fact, has accomplished in the Middle East.

One, Lebanon now has a chance to become a nation once again. It has literally been drenched in blood in a fratricidal struggle for over 7 years.

I remember I was in Israel 4 years ago as well as 5 years ago and people would say to me:

Is there no Christian organization or group anywhere in Europe or the United States that can bring about an end to this slaughter of Christian Arabs in this state of Lebanon?

I called the Lebanese office in this town and several pro-Lebanon groups that want all of the foreign soldiers out of their small nation. They want the Syrian troops out, they want the Israeli defense forces out, and they certainly want to get rid of these grenade-toting cowboys that have been holding the city hostage.

But the Lebanon offices in Washington, D.C., gave me the following figures: 100,000 people killed in Lebanon over the last 7 years without any Israeli involvement. That is a third of all of the men that the United States lost over the 3-year 9-month period of World War II. It is double what we lost on the battlefield in World War I. It is double what we lost in the Vietnam war over a 10-year period, including drug overdoses and airplane and car crashes in Vietnam.

We did not lose but barely half of 100,000 people.

The wounded, because there is a lot of talk about people being maimed and hurt during the last 2½ months, the wounded figure is 130,000 and the Lebanese office told me that may be a conservative figure.

But after the initial flurry of the gunfights in 1975, 1976, and 1977, and the ugly films of parliamentarians in Lebanon trying to get to vote for the current president, Elias Sarkis, being shot at from an ambush, their cars machinegunned, artillery fire hitting the President's car and a Parliament house in Lebanon, with no one trying to prevent it, and the legislators who did in fact vote and did keep a skeleton government for over the last almost 6 years, in spite of all of that, after the initial flurry of news coverage the world turned to other things and the suffering of Lebanon went on in private.

I talked, for example, to just pick one symbolic family, the Said family. They say that word opposite to the phonetic way it is pronounced, which sounds like sad but means hope and happiness in Arabic. The Said family invited me into their home in the small city of Rashayya up in the southern edge, before the Bekaa Valley starts, with a beautiful Mount Hermon which nurtures the Jordan River and is the site some people think for the transfiguration of Jesus Christ into God before his apostles, with Mount Hermon like an Alpine backdrop, I sat in this beautiful home as this Christian family told me that they had felt like strangers in their own country over the last years.

They said they only wished that the Israeli defense forces had gone all the way north in the Bekaa Valley to Zahiah to stop a slaughter of Christian people in the northern part of the Bekaa by Syrian and/or disgruntled PLO forces. They said I should consider, as any Congressman should, their home in Lebanon a second home to any American in this Nation, and they said, similar to a question I used to ask in Vietnam about our young soldiers: "Do you believe the Israelis will leave?"

They said, "Our problem, Mr. Congressman, is that the Israelis leave too soon. We know they will go eventually, but they have come to liberate us from being held hostage in our own country."

It was not only the Christian Lebanese that felt this way. There were many other Lebanese of the Muslim faith who felt that they were held hostage in their own country.

In Tyre, in Sidon, which I drove through 2 days in a row, going both directions, people were at the beaches, it was a Saturday and Sunday, the stores were opening back up, the camera shops were filled with cameras, goods were being sold, fruit was back on the stands, and what is not properly conveyed by some of the European camera coverage, some of the press coverage is that, yes, you will see two houses in a row that were pummeled badly by the advancing Israeli columns. When you have soldiers armed to the teeth and snipers are killing the men in your lead vehicles, you use whatever firepower you have to defend your forces, then suddenly you found a house that stood idle, untouched, and there stenciled on the side of the house, or on the white front of it, or the brick fence in front would be a Lebanese Cedar of Lebanon or a white flag symbolizing that they were not involved in the struggle, or simply no sniper fire came from this dwelling and the Israeli forces would respect that.

I was informed this was to their own detriment because sometimes they would take sniper fire to the back from a home or a dwelling or a business that they had bypassed on their charge up that once beautiful coastal road before the PLO had turned armed camps out of all of the villages between Beirut and the Israeli, a major defended buffer area.

□ 2130

Lebanon will have a chance, God willing, to be a country again. If after the PLO is out, if the Syrians and the Israelis leave, a nation can once again become what was described in the past as the Paris of the Orient.

Second, this may not be important to some people, but it is certainly important to Israelis. The constant rocketing and shelling of the small kibuzzin in the northern part of Israel, the farm and agricultural cooperatives, like Metulla, their furthermost city, or Kiryat Shemona, a beautiful little agricultural community kibuzzin right on the border, there were the colorfully painted bomb shelters to take some of the terror away from the children having to grow up under constant katusha, rocket threat, all of them gaily painted so that they could run through their bomb drills, which only too often became real. And who was supplying the weaponry for this? The Soviet Union.

Yes; it is important to Israel. Just as they went through the Camp David process with the United States of America and the great nation of Egypt to secure their southern borders, as they would like to have King Hussein of Jordan involve himself in the peace process with them on their eastern flank, they now have peaceful and secure borders on the northern boundaries of their country.

Third, ridding the world, hopefully, more than temporarily, of PLO terrorism. Who knows when the threat of a George Habash, the head of one of those groups under the PLO umbrella, to punish the United States or any other nation who defended Israel during the coming decade, to bring terrorism right here entirely to the United States, who knows if those threats will be fulfilled?

Do you know that I was told in the U.S. Embassy in Tel Aviv—and it has been confirmed to me by State Department people of long experience here in the United States—that they consider the murderers of our Ambassador to Lebanon in 1976, Francis Malloy, to be George Habash and his group?

And here we have Congressmen meeting with the umbrella group over the group that murdered, shot him dead in the dust of the streets at the beginning of all of this fratricidal murder in Beirut, Lebanon, killed an American Ambassador, one of five American Ambassadors to die in a 10-year span of history. And that is the first time in two centuries we saw an American Ambassador suddenly fair game for murder in the streets of the world.

Ridding the world of PLO terrorism or attempting to suppress it is no small accomplishment.

Fourth. A cooperative moderate effort can now emerge within Israel in a peaceful climate as to what type of arrangement to have with the Palestinians in the Gaza, the peace-loving ones who have lived in isolation from what they consider their own native land, and the Palestinians living on the West Bank, some sort of autonomy. There are several valid plans. I am not expert enough to choose one over the four or five that have been described to me. But when people describe to me the brutal murders like mafia gang killings of every moderate voice that has tried to rise in the West Bank area or in the Gaza area, to speak out for some accommodation with the nation of Israel, to have moderate leaders killed by the PLO, has only kept that tragic area of the world that some of us like to call the Holy Land in a state of turmoil, when years ago, decades ago, a just resolution could have been worked out.

The moderate voices now will have the courage to speak out, particularly since the Palestinians have learned that their course for justice remains with the sense of justice and the good will of the Members of the Knesset in Israel and its Government, not with the Arab nations, none of whom were willing initially to take in the PLO or come to their aid in the streets of Beirut.

Fifth. This is a significantly important point. The Persian Gulf nations, all of which I visited last year, Kuwait, Bahrain, Qatar, the United Arab Emirates, Oman, all of these nations that are threatened by the religious fanaticism of the Ayatollah Khomeini and the warlike posture of Iran, which was once the stable anchor of the Persian Gulf, that No. 1 problem now comes back into full focus because suddenly the Persian Gulf nations can see very clearly that Israel is not their threat and that there is nowhere they can go supporting PLO terrorism.

Sixth. Syria has been disabused of the idea that at some point in 1984, 1985, it alone could take on the nation of Israel and beat it into submission or annihilate it, because Syria, with more tanks supplied by the Soviets, more aircraft—what they thought were advanced Mig aircraft supplied by the Soviets—more men under arms, more armored units, and a population of 9 million to Israel's less than 4 million, on paper they had puffed themselves up to think that they could take out Israel.

After they had lost 79 of their best Soviet supplied aircraft and pilots to the loss of only 1 obsolete Israeli American-made Douglas A-4 Skyhawk, they suddenly realized losing even the T-72 tanks in head-on conflict with the Israeli Merkava—the Hebrew word for chariot—tanks, in the Bekaa they suddenly realized that their ally, the Soviet Union, was not reliable, nor was its training or its equipment.

So the Israelis, I believe, have avoided a far more serious conflict in war that could bring the superpowers into juxtaposition next year or the year after.

In short, Syria has learned that peace in the Middle East—peace with her neighbors, Arab or Jewish, will never be attained by military associations with a Communist atheistic state. Especially when that state, the Soviet Union, looks upon Syrians, upon all Arabs as inferior people.

Seventh. The Soviet Union has been shown to be an unreliable ally. I ask you: What Arab nation is in the market to purchase Soviet arms today? I say not one.

There they are: Seven points and there are more which I will discuss here after September 7.

Here is a footnote. A very, very important footnote. The treasure trove of intelligence about Soviet equipment gleaned by the Iraelis is invaluable to

our Defense Department. Plus the improvements that they have made to every American weapon system that they have used will help us to defend ourselves and Europe and strengthen an increasingly fragile peace.

Finally, the role President Reagan has played has been laudatory. He cannot stand the thought of innocent civilians being hurt, but he never, even in frustration and anger, lost sight of who perpetrated this bloody conflict—the PLO.

In closing may I make the observation that with all due respect to the conduct of American fighting men in the field—and our Armies have been as humane to our enemies as any in history—the young men and officers of the Israeli defense forces are as decent and humane as any army that has ever taken to a field of battle. They want to be so and they know they have to be so.

Civilization always demands more of those with a just cause.

The first 10 days of September the Speaker of the Knesset, Mr. Menachem Savidor, will be visiting here in Washington, D.C. I hope many of my colleagues will try to meet with this fine statesman and hear the other side of the story of Operation Peace in Galilee.

Thank you, Mr. Speaker.

INTRODUCTION OF A BILL TO AMEND TITLE II OF THE SOCIAL SECURITY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) is recognized for 20 minutes.

● Mr. HAMMERSCHMIDT. Mr. Speaker, serious problems surrounding the continuing disability investigations (CDI's) being undertaken by the Social Security Administration (SSA) are causing thousands of eligible persons to be erroneously terminated from the disability rolls. I am introducing legislation today that I believe will protect persons who are truly disabled from the egregious loss of their disability insurance and medicare benefits.

In order to understand the necessity for my amendments, we must take a brief look at the Social Security Disability Amendments of 1980. One section of that bill addressed Congress concern that there were persons receiving disability who were no longer eligible due to medical improvement or who, in spite of their condition, had achieved gainful employment. To assure that benefits went only to eligible persons, Congress mandated that SSA conduct continuing disability reviews of all nonpermanently disabled persons every 3 years.

It is important to note that in 1980, SSA was straining its resources to review 100,000 cases. The 1980 amendments require SSA to review 500,000 cases in 1982 and 700,000 cases in 1983, a 500-percent and 600-percent increase over 1980 levels. Since the 1980 amendments, State staff responsible for these reviews has increased on the average only 27 percent. Further stress was added to the system when the new administration decided to limit the 18-month preparation time to only 10 months, which rapidly accelerated the CDI process.

Testimony before the House Select Committee on Aging and the Senate Government Affairs Committee revealed that cases are being handled carelessly and arbitarily. The volume, gross understaffing, and rapid acceleration are having tragic results. Many recipients are not receiving fair or careful medical evaluations. State agencies have monstrous backlogs, some of 6 months or more. I believe the highest is Florida with a 15-month backlog and New Jersey is not far behind. Wrongful terminations are so high that one wonders if staff has resorted to flipping coins instead of conducting serious reviews. In 1981, of the approximately 50 percent of the cases that were denied at the continuing disability review, almost 67 percent were reversed and placed back on the disability rolls through the reconsideration and appeals process.

It is important to understand the number of people whose lives are being painfully disrupted by the accelerated CDI process. Federal Social Security Administration officials, testifying before a Senate subcommittee on May 25, 1982 admitted that out of all the individuals whose disability eligibility will be reviewed during the current review period (fiscal year 1982 through fiscal year 1984), about 250,000 people will be terminated by State agencies but then reinstated on appeal by the the administrative law judges. What this means is that 250,000 disabled workers who shouldn't be terminated in the first place will be forced to live without necessary income or medicare services for an average of 8 months. Their 200,000 dependent wives and children will also be deprived of necessary income.

My amendment proposes to slow down and better target the continuing disability reviews. The amendment maintains the basic intent of the periodic reviews, but by slowing the pace, provides time for thorough reviews. It mandates continuing reviews of all persons who are not permanently disabled during their first 3 years on disability with further reviews conducted at the discretion of the Secretary.

SSA can use the profiles they have developed to target reviews to the beneficiaries most likely to recover. From a sheer management, cost/benefit perspective, this makes sense. Moreover, SSA has informally confirmed that a substantially smaller but targeted review will net over 90 percent of the currently projected savings—assuming 350,000 reviews a year. This will save over $100 million a year in administrative costs.

My second amendment continues the payment of benefits through the administrative law judge hearing—the second level in the appeals process. As of February of this year, it took 6½ months to get an administrative law judge decision following reconsideration, and another 1½ months before checks began after a favorable decision.

In paying benefits through the administrative law judge decision, we are simply recognizing the principle that legally awarded benefits should not be taken away without due process. Without the amendment, 250,000 workers and 200,000 dependents, who will have their benefits reinstated at the administrative law judge level, will be deprived of their just benefits for an average of 8 months. During this waiting period with no disability benefits, I have learned that many of my constituents have lost their homes and cars. Others have been forced into bankruptcy. Many disabled workers have had serious declines in their health because at the same time their benefits were terminated, they lost their medicare services. Many are ending up on the rolls of hard-pressed State and local public assistance agencies or in public mental institutions. Finally, there have been instances of persons dying from their disabling condition at the same time SSA was finding that they were no longer disabled. This amendment requires the payback of extended benefits if one is found ineligible at the end of the appeals process. I feel this caveat will limit appellants to those who firmly believe in their eligibility.

The combination of the slow down and paying benefits through the administrative law judge level work together to keep the costs very low. First, limiting the reviews to those who are most likely to recover will allow for more streamlined administration of the program. This reduces both the numbers of people seeking appeals and the time it takes to render a decision. The fiscal year 1982 to fiscal year 1985 net savings from the targeted review will approach $2.5 billion as compared with $2.6 billion for the current accelerated review. In a phone conversation with CBO on July 14, I received an estimate of the cost of paying benefits through the administrative law judge level of about $190 million for fiscal year 1982 to fiscal year 1985.

My third amendment requires that any rules, regulations, or procedures used to make determinations of disability have to be consistent with the

law and shall be subject to public review and comment. According to the May 1982 Social Security Bulletin, SSA intends to use the Program Operation Manual System (POMS), internal operating instructions written within SSA, as the single set of binding administrative standards. The POMS, however, have not been subject to public review and comment and may not reflect the law's definition of disability. Disability advocates and many administrative law judges charge that, although the law's definition of disability has not changed, SSA has continually narrowed the administrative interpretation of disability through the POMS. The publication, public review, and comment requirements of the Administrative Procedures Act do not guarantee that all mistakes or inconsistencies with law are caught, but they at least give the public a chance to correct administrative errors before they affect people's lives. They also make a Government agency openly accountable to the Congress and the public for its policies.

My fourth amendment would institute a policy that cessation of disability benefits for medical reasons be allowed only when evidence shows that there has been: First, substantial medical improvement, or second, in spite of an individual's impairments, new medical or rehabilitative technology that provides an individual with the functional capacity to perform substantial gainful employment on a regular basis, or third, fraud or error in the original determination.

There have been numerous reports that, under the accelerated continuing disability investigations, many beneficiaries are being terminated despite a lack of improvement or even a worsening in their medical condition. Unpublished GAO information estimates that as many as one-third of the current CDI terminations based on medical rationale affect nonrecovered beneficiaries.

This amendment simply codifies the standard legal doctrine of "res judicata" and administrative finality. It assures that when there has been a proper finding of disability in the first place, there is a presumption that disability continues. The burden of proof is then on SSA to show that a condition has changed, not on the beneficiary to show that it has not. Numerous court rulings have upheld the doctrine of res judicata and the need for proof of medical improvement (Finnegan against Matthews, Patti against Schweiker).

My final amendment provides a face-to-face meeting for the mentally impaired at the beginning of the CDI process. Although the mentally impaired are only 11 percent of the DI recipients, they make up 28 percent of those terminated by the CDI process. For those who are on the roles because of mental illness, a face-to-face would be required. If there is immediate family or a guardian they would also have to be notified of review.

Generally, the CDI process includes sending a form to the attending physician and a self-evaluation form to the recipient. This form asks about mental health, physical health, and employment. Many of the mentally ill are not intellectually capable of filling out this form. Others, fearing they might be reinstitutionalized if they say they are still sick, may not be truthful and fill out the form favorably. Written forms are inadequate to communicate with this population.

Mr. Speaker, I think that the problems surrounding the CDI process warrant the immediate action of Congress. I hope we will act expeditiously upon our return to Washington from the district work period.●

LET'S GIVE THE OLYMPICS A PERMANENT HOME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, several weeks ago the United Hellenic American Congress, one of the leading Greek-American organizations in this country, adopted a resolution calling for Athens, Greece to become the permanent home of the summer Olympic games. I would like to direct my colleagues to this resolution as I think it raised a number of issues that deserve our careful consideration.

Giving the Olympics a permanent home in Greece would be in keeping with tradition since the games were born there more than 26 centuries ago when the first competition was held at the sacred site of Olympia. The first modern Olympic games were held in Athens in 1896. We also commemorate the Greek birth of the Olympics at the beginning of each Olympiad when we pass the Olympic torch from its resting place in Greece to the host country.

The Olympics celebrate human ideals that are shared and honored by all of mankind—pure athletic competition and individual excellence. Placing the games in a permanent neutral site would not only give universal recognition to the value we place on these ideals, but would also lessen the likelihood of our amateur athletes being adversely affected by world politics. It would also eliminate the scrambling that seems to go hand in hand with the selection of the host city.

In recent years many have commented on the prohibitive cost of staging and promoting the Olympic games; we are still hearing about the enormous debt Montreal faced after the 1976 Summer Olympics. If the same facility was used for each Olympiad, these expenses would be reduced tremendously. And the hugh effort that goes into readying a new city could be used to preserve and improve the permanent site, thereby insuring the success of the event.

The proposal to give the summer Olympics a permanent home in Greece warrants the attention of the Congress and the various Olympic committees for it may offer a viable solution to some of the problems that have confronted the games in the past few years. The world's amateur athletes that devote so much time and energy to train for this outstanding competition deserve to have an environment that is peaceful and free from political and social turmoil in which to test their athletic prowess. And we, who are so proud of their accomplishments, should do everything in our power to help these young men and women achieve their goals, for the Olympic spirit is part of all of us.

The resolution of the United Hellenic American Congress follows:

RESOLUTION

Whereas, The Olympic Games were founded in Ancient Greece to promote the ideal of a sound mind in a sound body and to foster competition between men in athletics instead of in armed conflict on the field of battle; and

Whereas, The first modern Olympic Games were held in Athens, Greece; and

Whereas, In recent years the exploitation of the Olympic Games for political purposes and the extravagant expenses incurred in their presentation threatens the true spirit and high ideals of the Olympic Games; and

Whereas, Greece has indicated a willingness and ability to provide a permanent home for the Olympic Games at its original ancient site where they may be held in the true spirit of their original founding and in keeping with the hopes and purposes of their reestablishment in modern times to serve the youth of the world in healthful athletic competition in an atmosphere of mutual respect and brotherly affection; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress, that the Olympic Games be held permanently in Greece where they may be conducted in a manner and in an atmosphere conducive to the true and ancient ideals of the Olympic Games; and, be it further

Resolved, That a suitable copy of this Resolution be presented to the appropriate representatives of the United States, the Republic of Greece, the International Olympic Committee, and the United States Olympic Committee.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

WE MUST HONOR OUR COMMITMENTS TO ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, last night, some of our colleagues took

part in a special order on the current situation in the Middle East. That event gave colleagues an opportunity to set forth their views on the Middle East conflict. Unfortunately, I believe some allegations possibly misstated the case against Israel.

There are many who have condemned Israel for her military actions in Lebanon against the Palestinian Liberation Organization. There are certain facts which I believe must be clarified before any further decisions are made.

Several years ago, Lebanon was ravaged by PLO terrorists who had been expelled from Jordan. Along with the supposed "peacekeeping" force of the Syrian army, the PLO waged war on the Lebanese: Killing thousands of civilians, orphaning thousands of children, and wounding countless others. The PLO made Beirut the center of its activity—from where they launched their bombs and missiles against Israel—blatantly inviting retaliation. Lebanon was held hostage by PLO terrorists who would do anything—shell East Beirut, set up roadblocks to stop Lebanese citizens trying to escape, and use hospitals and schools to house military equipment.

Various legal agreements were arranged to control the PLO presence in Lebanon—agreements which the PLO signed and subsequently ignored.

Given the stated purpose of the Palestinian Liberation Organization, given the willingness to pursue these goals, any action against the PLO is warranted. The Israeli action was definitely an anticipatory move taken to avoid the prospect of continued murder and terrorization of those living in the northern territories. The PLO could not be allowed to continuously jeopardize the lives of innocent citizens; they could not be allowed to continue their efforts to destroy a proud and courageous nation. The PLO has turned into a full force Army—equipped with Soviet arms. Israel's move into Lebanon was aimed at removing a serious military threat. We have all heard that the amount of ammunition and weapons that Israel has captured from the Palestinian terrorists is tremendous.

In conclusion, I think that we all agree—all foreign troops should be removed from Lebanon—Israeli, PLO, and Syrian. However, I caution my colleagues to remember that the independence of Israel is important to our and the world's national security. This is the only democratic nation in the Middle East, and we must honor our commitments.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. RUDD, for 30 minutes, today.
Mr. DORNAN of California, for 30 minutes, today.
Mr. HAMMERSCHMIDT, for 20 minutes, today.

(The following Members (at the request of Mrs. BOGGS) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. DICKS, for 60 minutes, today.
Mr. ADDABBO, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HUGHES, prior to the vote on House Resolution 569, today.

Mr. ZABLOCKI, to revise and extend his remarks following the remarks of Mr. RANGEL on the conference report on H.R. 4961 in the House today.

Mr. RUDD, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,808.

Mr. HUGHES prior to the vote on the conference report on H.R. 4961, Tax Equity and Fiscal Responsibility Act of 1982.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. ROBERT W. DANIEL, Jr.
Mr. ERLENBORN.
Mr. LEACH of Iowa in two instances.
Mr. LEE in two instances.
Mr. GUNDERSON in two instances.
Mr. ROUSSELOT in two instances.
Mr. WAMPLER in two instances.
Mr. BROOMFIELD.
Mr. DUNCAN.
Mr. PAUL in two instances.
Mr. DAVIS.
Mr. CORCORAN.
Mr. KEMP.
Mr. RITTER.
Mr. DENARDIS.
Mr. DICKINSON.
Mr. JEFFORDS.
Mr. WOLF.
Mr. PHILIP M. CRANE.
Mrs. HOLT.
Mr. DOUGHERTY.
Mr. MOORHEAD in two instances.
Mr. HANSEN of Idaho.
Mr. EVANS of Delaware.
Mrs. HECKLER.

(The following Members (at the request of Mrs. BOGGS) and to include extraneous matter:)

Mr. WIRTH.
Mr. SKELTON.
Mr. ALBOSTA in two instances.
Mr. MCHUGH.
Ms. OAKAR.
Mr. LEHMAN in two instances.
Mr. WEISS in two instances.
Mr. COELHO.
Mr. MATSUI.
Mr. MAZZOLI in two instances.
Mr. HANCE.
Mr. BARNES.
Mr. WHITE.
Ms. MIKULSKI in two instances.
Mr. PEYSER.
Mr. LAFALCE.
Mr. MOFFETT.
Mr. RODINO.
Mr. GUARINI.
Mr. ROYBAL.
Mr. STUDDS in two instances.
Mr. MCDONALD in two instances.
Mr. JONES of Tennessee.
Mr. BROOKS.
Mr. HEFTEL.
Mr. STOKES.
Mr. FASCELL.
Mr. WAXMAN.
Mr. DICKS.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 167. An act for the relief of Juan Esteban Ramirez.

ENROLLED BILL SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on August 18, 1982, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 2160. An Act to amend the Potato Research and Promotion Act;

H.R. 4647. An Act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6033. An Act relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States;

H.R. 6260. An Act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. An Act to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

RECESS UNTIL 12 O'CLOCK TOMORROW, FRIDAY, AUGUST 20, 1982

The SPEAKER pro tempore. The Chair declares the House in recess until noon tomorrow.

Accordingly (at 9 o'clock and 37 minutes p.m.), the House stood in recess until tomorrow, Friday, August 20, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4617. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the American Institute in Taiwan's proposed sale of certain defense articles to the Coordination Council for North American Affairs (Transmittal No. 82-80), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4618. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the operation of the administration center in the Provost Marshal's Office, Fort Riley, Kans., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4619. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the proposed conversion to contractor performance of the laundry and dry cleaning function at the Presidio of San Francisco, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4620. A letter from the Acting Deputy Assistant Secretary of the Air Force (Logistics and Communications), transmitting notice of the proposed conversion to contractor performance of the food service mess attendants function at Port Austin Air Force Station, Mich., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4621. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the administrative telephone service function at the Navy Experimental Diving Unit, Panama City, Fla., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4622. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting a notice of the decision to convert to contractor performance the guard service function at the Naval Construction Battalion Center, Davisville, R.I., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4623. A letter from the Director of ACTION, transmitting final notice of guidelines for minigrants, pursuant to section 420(d) of the Domestic Volunteer Act of 1973, as amended; to the Committee on Education and Labor.

4624. A letter from the Secretary of Energy, transmitting the quarterly report on the strategic petroleum reserve, pursuant to section 165(b) of the Energy Policy and Conservation Act, as amended; to the Committee on Energy and Commerce.

4625. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the American Institute in Taiwan's intention to offer to sell certain defense articles and services to the Coordination Council for North American Affairs (Transmittal No. 82-80), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4626. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the proposed issuance of a license for the export of certain defense equipment sold commercially to Taiwan (Transmittal MC-14-82), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4627. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Peru, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4628. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Guatemala, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4629. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Ecuador, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4630. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Morocco, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4631. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Cameroon, pursuant to section 653(b) of the Foreign Assistance Act of 1961 as amended; to the Committee on Foreign Affairs.

4632. A letter from the Acting Director, Agency for International Development (Legislative Affairs), transmitting justification of an increase in the funding level of the Agency's proposed fiscal year 1982 program in Malawi, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

4633. A letter from the Inspector General, Department of Health and Human Services, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

634. A letter from the Lieutenant General, U.S. Marine Corps (Installations and Logistics), transmitting the annual report for the retirement plan for the civilian employees of the Marine Corps exchanges, recreation funds, clubs, messes, and the Marine Corps Exchange Service, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4635. A letter from the Register of Copyrights, Library of Congress, transmitting a report on revised records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4636. A letter from the Secretary of Transportation, transmitting a quarterly report on Urban Mass Transportation Administration obligations by State and activity as of March 31, 1982, pursuant to section 4(h)(1) of the Urban Mass Transportation Act, as amended; to the Committee on Public Works and Transportation.

4637. A letter from the Comptroller General of the United States, transmitting a report on the impact of congressional review on the Federal Trade Commission decisionmaking and rulemaking processes (HRD-82-89, August 17, 1982); jointly, to the Committees on Government Operations, Energy and Commerce, and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee of conference. Conference report on H.R. 3239 (Rept. No. 97-765). Ordered to be printed.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 5519. A bill to give trade negotiating priority to service sector issues, to expand and clarify existing laws governing interestate and foreign commerce to better deal with service trade problems, and for other purposes; with amendments (Rept. No. 97-766, Pt. I). Ordered to be printed.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 6384. A bill to extend title XVII of the Public Health Service Act (Rept. No. 97-767). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of Energy and Commerce. H.R. 6458. A bill to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes; with amendments (Rept. No. 97-768). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1628. A bill to amend the Emergency Fund Act (Act of June 26, 1948, 62 Stat. 1052) (Rept. No. 97-769). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5652. A bill to authorize and direct the Secretary of the Interior to convey certain real property to the Pershing County Water Conservation District; with an amendment (Rept. No. 97-770). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1621. A bill to authorize the replacement of existing pump casings in southern Nevada water project pumping plants 1A and 2A, and for other purposes; with an amendment (Rept. No. 97-771). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on improvements needed in the Department of Housing and Urban Development's efforts to avoid single-family mortgage foreclosures (Rept. No. 97-772). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 6422. A bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut; with an amendment (Rept. No. 97-773). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 6124. A bill to reduce interest rates, control inflation, and insure the availability of credit for productive purposes, and promote economic recovery by extending the Credit Control Act; with an amendment (Rept. No. 97-774). Referred to the Committee of the Whole House on the State of the Union.

Mr. ST GERMAIN: Committee on Banking, Finance and Urban Affairs. H.R. 6222. A bill to amend the Federal Reserve Act to exempt from reserve requirements a certain amount of the deposits and accounts of depository institutions; with an amendment (Rept. No. 97-775). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2177. An act to amend title III of the Colorado River Basin Project Act, Public Law 90.-537 (82 Stat. 885), as amended by Public Law 95-578 (92 Stat. 2471), and Public Law 96-375 (94 Stat. 1505); With an amendment (Rept. No. 97-776). referred to the Committee of the Whole House on the State of the Union.

Mr. FUQUA: Committee on Science and Technology. H.R. 6928. A bill to promote the development of nonanimal methods of research, experimentation, and testing, and to assure humane care of animals used in scientific research, experimentation, and testing; with an amendment (Rept. No 97-777, Pt. I). Ordered to be printed.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 5154. A bill to amend the Lanham Trademark Act to prohibit any State from requiring that a registered trademark be altered for use within such State, and to encourage private enterprise with special emphasis on the preservation of small business; with an amendment (Rept. No. 97-778). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee of conferences. Conference report on H.R. 6068 (Rept. No. 97-779). Ordered to be printed.

Mr. HOWARD: Committee of conference. Conference report on H.R. 3663 (Rept. No 97-780). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. Report on stronger support for coordinated Federal policy on voluntarism needed in action (Rept. No. 97-781). Refered to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 6788. A bill to amend title 38, United States Code, to clarify the period for which an employer is required to grant an employee who is a member of the National Guard or Reserve a leave of absence in order to allow the employee to perform required active duty for training (Rept. No. 97-782). Referred to the Committee of the Whole House on the State of the Union.

Mr. BENJAMIN: Committee on Appropriations. H.R. 7019. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-783). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BENJAMIN:

H.R. 7019. A bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. CLAUSEN:

H.R. 7020. A bill to establish the U.S. Academy of Freedom whose function shall be to develop and implement programs to promote the growth of democracy and free and open societies throughout the world; jointly, to the Committees on Foreign Affairs and Education and Labor.

By Mr. DASCHLE:

H.R. 7021. A bill to remove the limitation on the maximum rate of interest which may be paid on certain balances maintained in a negotiable order of withdrawal account; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DE LA GARZA (for himself, Mr. WHITE, Mr. KAZEN, and Mr. LOEFFLER):

H.R. 7022. A bill to amend the Small Business Act to provide assistance to areas of economic dislocation in the United States that is the result of drastic fluctuation in the value of the currency in a country contiguous to the United States; to the Committee on Small Business.

By Mr. DICKS, (for himself, Mr. FAZIO, Mr. BARNES, Mr. HOYER, Mr. GEJDENSON, Mr. GRAY, Mr. MATSUI, Mr. PARRIS, Mrs. SCHROEDER, Mr. SWIFT, Mr. WEISS, Mr. AKAKA, Mr. HANCE, Ms. OAKAR, Ms. FERRARO, Mr. ST GERMAIN, Mr. ANDERSON, Mr. WHITE, Mr. KOGOVSEK, Mr. STARK, Mr. MOFFETT, Mr. COELHO, Mr. MOAKLEY, Mr. ZEFERETTI, Mr. MARKEY, Mr. BIAGGI, Ms. MIKULSKI, Mr. GARCIA, Mr. FRANK, Mr. VENTO, Mr. DWYER, Mr. DIXON, Mr. DORGAN of North Dakota, Mr. PEYSER, Mr. DOWNEY, Mrs. KENNELLY, Mr. DYSON, Mr. BONKER, Mrs. BOGGS, Mr. MICA, Mr. DYMALLY, and Mr. LOWRY of Washington):

H.R. 7023. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982, which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 7024. A bill to amend the Federal Reserve Act to require the Board of Governors of the Federal Reserve System and the Federal Open Market Committee to take such actions as are necessary to reduce interest rates to reasonable levels; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DUNCAN (for himself and Mr. GUARINI):

H.R. 7025. A bill to amend the Internal Revenue Code of 1954 with respect to the unrelated business taxable income of certain nonprofit charitable organizations; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.R. 7026. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits for any person employed by a correctional institution or facility who dies as the result of personal injury sustained while performing official duties; to the Committee on the Judiciary.

By Mr. EVANS of Iowa (for himself and Mr. ROBERTS of Kansas):

H.R. 7027. A bill to suspend the duty on sulfapyridine until the close of December 31, 1985; to the Committee on Ways and Means.

H.R. 7028. A bill to lower the rate of duty on sulfathiazole until the close of December 31, 1985; to the Committee on Ways and Means.

By Mr. FASCELL (by request):

H.R. 7029. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia; to the Committee on Foreign Affairs.

H.R. 7030. A bill to amend the Hostage Relief Act of 1980; jointly, to the Committees on Foreign Affairs, Post Office and Civil Service, and Ways and Means.

By Mr. FLORIO:

H.R. 7031. A bill to remove certain restrictions relating to voluntary contributions by utilities for remedial action at Three Mile Island; to the Committee on the Judiciary.

By Mr. FRANK:

H.R. 7032. A bill to abolish the insanity defense for Federal crimes; to the Committee on the Judiciary.

By Mr. FROST (for himself, Mr. WRIGHT, Mrs. CHISHOLM, Mr. LELAND, Mr. GRAY, and Mr. MATTOX):

H.R. 7033. A bill to assist certain institutions receiving funds under the Higher Education Act of 1965; to the Committee on the Judiciary.

By Mr. SAM B. HALL, JR. (for himself, Mr. MOORHEAD, Mr. MAZZOLI, Mr. MCCLORY, Mr. KINDNESS, Mr. EVANS of Georgia, and Mr. COLLINS of Texas):

H.R. 7034. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, to provide a remedy against the Unites States with respect to constitutional torts, and for other purposes; to the Committee on the Judiciary.

By Mr. HAMMERSCHMIDT:

H.R. 7035. A bill to amend title II of the Social Security Act to provide continued payment of disability benefits during appeal of decisions to terminate benefits, to make equitable adjustments to the continuing disability review process, to insure that rules, regulations, and procedures governing the adjudication of disability determinations are established with adequate notice and public participation, and to provide standards for disability benefit terminations; to the Committee on Ways and Means.

Mr. HEFTEL:

H.R. 7036. A bill to amend the Congressional Budget Act of 1974 to establish a Council on Economic Indicators and to provide for House and Senate approval of economic assumptions underlying the budget; to the Committee on Rules.

By Mr. JEFFORDS:

H.R. 7037. A bill to establish a program for replacing, by 1990, 10 percent or more of the gasoline consumed in the United States with alcohol and other replacement fuels derived from coal and renewable resources; to the Committee on Energy and Commerce.

By Mr. JONES of North Carolina:

H.R. 7038. A bill to promote maritime safety on the high seas and navigable

waters of the United States; to the Committee on Merchant Marine and Fisheries.

By Mr. KASTENMEIER:

H.R. 7039. A bill to amend title 18, United States Code, to provide for the protection of Government witnesses in criminal proceedings, to establish a U.S. Marshals Service, and for other purposes; to the Committee on the Judiciary.

By Mr. MADIGAN (for himself, Mr. WAXMAN, Mr. SHELBY Mr. DINGELL, and Mr. BROYHILL):

H.R. 7040. A bill to amend the Public Health Service Act to replace title XV of such act with a new program of grants to States for certificate of need programs and health planning, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MARLENEE (for himself and Mr. FORSYTHE):

H.R. 7041. A bill to repeal the withholding of tax from interest and dividends; to the Committee on Ways and Means.

By Ms. MIKULSKI:

H.R. 7042. A bill to amend the Internal Revenue Code of 1954 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

By Mr. NAPIER:

H.R. 7043. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to employers who add new employee positions to their payrolls in areas of substantial unemployment; to the Committee on Ways and Means.

By Mr. PEPPER (for himself, Mr. FORD of Michigan, and Mr. LELAND):

H.R. 7044. A bill to amend title 39, United States Code, to strengthen the investigatory and enforcement powers of the Postal Service by authorizing certain inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H.R. 7045. A bill to provide certain protections for tenants of public housing and other assisted housing projects; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING:

H.R. 7046. A bill to establish the private employment training incentive program, and for other purposes; to the Committee on Education and Labor.

H.R. 7047. A bill to amend the Bankruptcy Act to provide that judgment debts resulting from a liability which is based on driving while intoxicated shall not be discharged; to the Committee on the Judiciary.

By Mr. SIMON (for himself, Mr. PERKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. ANDREWS, Mr. WEISS, Mr. PEYSER, Mr. ECKART, Mr. ERLENBORN, Mr. COLEMAN, Mr. ERDAHL, Mr. DENARDIS, and Mr. BAILEY of Missouri):

H.R. 7048. A bill to require a separate family contribution schedule for Pell grants for academic years 1983-84 and 1984-85, to establish restrictions upon the contents of such schedule, and for other purposes; to the Committee on Education and Labor.

By Mr. STENHOLM (for himself and Mr. YOUNG of Alaska):

H.R. 7049. A bill to authorize the Secretary of the Air Force to enter into certain contracts for the lease of family housing facilities for assignment to members of the Armed Forces; to the Committee on Armed Services.

By Mr. STUMP:

H.R. 7050. A bill to amend the Internal Revenue Code of 1954 to provide that certain individuals will not be treated as manufacturers for purposes of the excise tax on sporting goods or firearms, and for other purposes; to the Committee on Ways and Means.

By Mr. WAMPLER:

H.R. 7051. A bill to require that a certain minimum amount of funds be appropriated for grants to conduct forestry research, to require that such funds be apportioned among the States on the basis of specified, objective factors related to growing and harvested timber, and for other purposes; to the Committee on Agriculture.

By Mr. WAXMAN:

H.R. 7052. A bill to amend the Federal Food, Drug, and Cosmetic Act to revise the procedures for performance standards for medical devices and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILLIAMS of Montana (for himself, Mr. COURTER, Mr. WYDEN, Mr. MITCHELL of Maryland, Mr. CORCORAN, Mr. HUGHES, Mr. LEBOUTILLIER, Mr. RATCHFORD, and Mr. ROSENTHAL):

H.R. 7053. A bill to amend the Internal Revenue Code of 1954 to provide for individual education accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. WOLF (for himself, Mrs. HOLT, Mr. HOYER, and Mr. PARRIS):

H.R. 7054. A bill to provide for the reimbursement of certain moving expenses incurred by Federal civil service employees who are transferred in the interest of the Government from one official station or agency to another for permanent duty; to the Committee on Government Operations.

By Mr. ANDERSON (for himself, Mr. RHODES, Mr. RAHALL, Mr. WOLF, Mr. SUNIA, Mr. ROBERTS of South Dakota, Mr. KINDNESS, Mr. JEFFRIES, Mr. BAFALIS, Mr. ANDREWS, Mr. BEILENSON, Mr. STUMP, Mr. LUNGREN, Mr. BLILEY, Mr. BINGHAM, Mr. DWYER, Mr. CONTE, Mr. FOUNTAIN, Mr. BEARD, Mr. CHAPPELL, Mr. LOWERY of California, Mr. MONTGOMERY, Mr. HATCHER, Mr. ROTH, Mr. MAVROULES, Mr. WEBER of Ohio, Mr. FAZIO, Mr. NAPIER, Mr. DREIER, Mr. CORRADA, Mr. HOYER, Mr. PERKINS, Mr. VENTO, Mr. WHITEHURST, Mrs. FENWICK, Mr. CLINGER, Mr. YATRON, Mr. EDGAR, Mr. DERWINSKI, Mr. DE LA GARZA, Mr. LAGOMARSINO, Mr. SHELBY, Mr. FORD of Tennessee, Mr. HORTON, Mr. HAGEDORN, Mr. APPLEGATE, Mr. DENARDIS, Mr. PEPPER, Mr. RALPH M. HALL, Mr. BEVILL, Mr. WAMPLER, Mr. O'BRIEN, Mr. PATMAN, Mr. ROE, Mr. GINN, Mr. KEMP, Mr. LANTOS, Mr. SKELTON, Mr. ADDABBO, Mr. FUQUA, Mr. STANTON of Ohio, Mr. ANNUNZIO, Mr. FOLEY, Mr. HANSEN of Idaho, Mr. STUMP, and Mr. FARY):

H.J. Res. 585. Joint resolution to designate the week commencing with the third Monday in February of 1983 as "National Patriotism Week"; to the Committee on Post Office and Civil Service.

By Mr. DE LA GARZA (for himself, Mr WAMPLER, Mr. ALBOSTA, Mr. ANNUNZIO, Mr. ANTHONY, Mr. AUCOIN, Mr. BEDELL, Mr. BENEDICT, Mr. BEREUTER, Mr. BEVILL, Mr. BOWEN, Mr. BRINKLEY, Mr. BROWN of California, Mr. BROWN of Colorado, Mr. BROYHILL, Mr. BUTLER, Mr. CHAPPIE, Mr. COLEMAN, Mr. CORCORAN, Mr. CORRADA, Mr. CRAIG, Mr. ROBERT W. DANIEL, JR., Mr. DASCHLE, Mr. DAUB, Mr. DERWINSKI, Mr. DICKINSON, Mr. DORGAN of North Dakota, Mr. DYSON, Mr. EMERSON, Mr. ERDAHL, Mr. EVANS of Iowa, Mr. FASCELL, Mr. FAZIO, Mrs. FENWICK, Mr. FINDLEY, Mr. FISH, Mr. FITHIAN, Mr. FOLEY, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. GINGRICH, Mr. GINN, Mr. GOODLING, Mr. GUNDERSON, Mr. HAGEDORN, Mr. HANSEN of Idaho, Mr. HARKIN, Mr. HATCHER, Mr. HOPKINS, Mr. HORTON, Mr. HUBBARD, Mr. HUCKABY, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. JONES of North Carolina, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LATTA, Mr. LEACH of Iowa, Mr. MCEWEN, Mr. MADIGAN, Mr. MARRIOTT, Mrs. MARTIN of Illinois, Mr. MATSUI, Ms. MIKULSKI, Mr. MINETA, Mr. MITCHELL of New York, Mr. MONTGOMERY, Mr. MORRISON, Mr. NAPIER, Mr. NICHOLS, Mr. OBERSTAR, Mr. O'BRIEN, Mr. PANETTA, Mr. PASHAYAN, Mr. PATMAN, Mr. PEPPER, Mr. PORTER, Mr. RAHALL, Mr. RICHMOND, Mr. ROBERTS of South Dakota, Mr. ROBERTS of Kansas, Mr. ROE, Mr. ROGERS, Mr. ROSE, Mr. RUDD, Mr. SCHEUER, Mr. SHAMANSKY, Mr. SKEEN, Mr. SKELTON, Mr. STANGELAND, Mr. STENHOLM, Mr. STUMP, Mr. TAUKE, Mr. TAUZIN, Mr. THOMAS, Mr. TRAXLER, Mr. VOLKMER, Mr. WATKINS, Mr. WEAVER, Mr. WHITEHURST, Mr. WILSON, Mr. WINN, Mr. WOLF, Mr. WORTLEY, Mr. WYLIE, Mr. YATRON, and Mr. YOUNG, of Alaska):

H.J. Res. 586. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mr. MOAKLEY (for himself and Mr. DONNELLY):

H.J. Res. 587. Joint resolution to repeal provisions of law which require withholding on interest and dividends; to the Committee on Ways and Means.

By Mr. ROGERS (for himself, Mr. PERKINS, Mr. ANDREWS, and Mr. PETRI):

H.J. Res. 588. Joint resolution to provide for the designation of the month of October 1982, as "Head Start Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD (for himself, Mr. ZABLOCKI, Mr. O'NEILL, Mr. MICHEL, and Mr. WRIGHT):

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib; to the Committee on Foreign Affairs.

By Mr. SWIFT (for himself and Mr. DORGAN of North Dakota):

H. Con. Res. 400. Concurrent resolution expressing the sense of Congress that the President should fill the next vacancy on the Federal Reserve Board with a person of substantial small business or agricultural experience; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WEISS (for himself, Mr. LEHMAN, Mr. ROSENTHAL, Mr. OBERSTAR, Mr. EDWARDS of California, Mr. SCHUMER, Mr. SIMON, Mr. SCHEUER, Mr. BRODHEAD, Mr. FAUNTROY, Mr. PEYSER, Mr. HUGHES, Mr. SHAMANSKY, Mr. DOWNEY, Mr. MURPHY, Mr. KILDEE, Ms. MIKULSKI, Mr. YATES, Mr. UDALL, Mr. PEPPER, Mr. STARK, Mr. MOFFETT, Mr. SHANNON, Mr. FISH, Mr. CROCKETT, Mr. VENTO, Mr. WYDEN, Mr. DYMALLY, Mr. DEL-

LUMS, Mr. RATCHFORD, Mr. SYNAR, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. BONER of Tennessee, Ms. OAKAR, Mr. FRANK, Mr. PHILLIP BURTON, Mr. JOHN L. BURTON, Mr. ROYBAL, Mr. MOTTL, Mr. PEASE, Mr. ERDAHL, Mr. OTTINGER, Mr. GARCIA, Ms. FERRARO, Mr. BINGHAM, Mr. MITCHELL of Maryland, Mr. CONYERS, Mrs. SCHROEDER, Mr. GUARINI, Mr. RICHMOND, Mr. WILLIAMS of Montana, Mr. FLORIO, and Mr. SOLARZ):

H. Con. Res. 401. Concurrent resolution expressing the sense of the Congress that the Secretary of Health and Human Services should withdraw a proposed reduction in public notice and comment opportunities; to the Committee on the Judiciary.

By Mr. GONZALEZ:

H. Res. 574. Resolution to direct the Committee on House Administration and the Committee on Standards of Official Conduct to conduct certain investigations; to the Committee on Rules.

By Mr. PAUL:

H. Res. 575. Resolution to amend the Rules of the House of Representatives to require a recorded vote upon final passage of legislation which provides budget authority, including spending authority, of at least $1 billion; to the Committee on Rules.

By Mr. PICKLE (for himself and Mr. CONABLE):

H. Res. 576. Resolution to honor the work and achievements of Allyn Cox, N.A., D.F.A., Artist of the Capitol and those who made possible the program of beautifying the Capitol with historical murals; to the Committee on House Administration.

By Mrs. SNOWE (for herself and Mr. PURSELL):

H. Res. 577. Resolution expressing the sense of the House of Representatives that the President should request levels of funding for national defense in his budget requests for fiscal years 1984 and 1985 that are not in excess of the target levels for defense spending for those fiscal years adopted by Congress in the first concurrent resolution on the budget for fiscal year 1983; to the Committee on Armed Services.

MEMORIALS

Under clause 4 of rule XXII,

459. The SPEAKER presented a memorial of the Legislature of the State of California, relative to child health care; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2222: Mr. GOODLING, Mr. MCCOLLUM, and Mr. PEPPER.

H.R. 2832: Mrs. SCHNEIDER.

H.R. 3298: Mr. RALPH M. HALL and Mrs. SCHNEIDER.

H.R. 4657: Mr. ST GERMAIN.

H.R. 4663: Mr. STUMP and Mr. EMERY.

H.R. 5006: Mr. EVANS of Delaware.

H.R. 5084: Mr. DWYER.

H.R. 5238: Mr. BONER of Tennessee.

H.R. 5653: Mr. CHENEY.

H.R. 5717: Mr. MARTIN of New York, Mr. FORSYTHE, Mr. MARRIOTT, Mr. RITTER, Mr. WEAVER, Mr. GREGG, Mr. BEVILL, Mr. MCHUGH, and Mr. GLICKMAN.

H.R. 5818: Mr. DE LUGO, Mr. FOGLIETTA, Mr. LANTOS, Mr. OBERSTAR, and Mr. MOLINARI.

H.R. 5920: Mr. MCKINNEY.

H.R. 6230: Mr. DYSON.

H.R. 6291: Mr. BEILENSON.

H.R. 6299: Mr. SMITH of Alabama.

H.R. 6315: Mr. HOYER.

H.R. 6328: Mr. ANTHONY.

H.R. 6348: Mrs. SNOWE, Mr. MATSUI, Mr. MOLINARI, Mr. RANGEL, Mr. DYMALLY, Mr. PICKLE, Mr. RUDD, Mr. MCHUGH, Mr. HOYER, Mrs. SCHNEIDER, Mr. ST GERMAIN, and Mr. COATS.

H.R. 6391: Mr. GORE.

H.R. 6461: Mr. PATMAN.

H.R. 6463: Mr. ERDAHL and Mr. LEACH of Iowa.

H.R. 6483: Mr. TAUKE.

H.R. 6488: Mr. WON PAT and Mr. PATMAN.

H.R. 6492: Mr. LAGOMARSINO, Mr. LIVINGSTON, Mr. LUNGREN, Mr. MAVROULES, Mr. MITCHELL of New York, Mr. SENSENBRENNER, Mr. TAUKE, and Mr. ZEFERETTI.

H.R. 6497: Mr. ROBERT W. DANIEL, JR., Mr. LENT, Mr. BEARD, Mr. WOLF, Mr. PEPPER, Mr. DANNEMEYER, Mr. TRIBLE, Mr. WHITEHURST, Mr. MITCHELL of New York, Mr. LAGOMARSINO, Mr. HENDON, Mr. SOLOMON, Mr. DOUGHERTY, Mr. HIGHTOWER, Mr. DUNN, Mr. BAFALIS, Mr. GRISHAM, Mr. WHITTAKER, Mr. STUMP, Mr. TAUKE, Mr. FRENZEL, Mr. DENARDIS, Mr. SMITH of New Jersey, Mr. ZEFERETTI, and Mr. WON PAT.

H.R. 6529: Mr. ANNUNZIO and Mr. LOTT.

H.R. 6531: Mr. FRANK, Mr. CONYERS, Mr. GRAY, Mr. BEREUTER, and MITCHELL of Maryland.

H.R. 6538: Mr. BEREUTER.

H.R. 6673: Mr. DORNAN of California, Mr. GRADISON, Mr. PERKINS, Mr. MILLER of Ohio, Mr. O'BRIEN, Mr. RITTER, Mr. BENJAMIN, Mr. EVANS of Georgia, Mr. BEVILL, Mr. HILLIS, Mrs. ASHBROOK, and Mr. ROE.

H.R. 6773: Mr. EMERY.

H.R. 6815: Mr. FORSYTHE, Mr. JEFFRIES, and Mr. WILSON.

H.R. 6820: Mr. DENARDIS, Mr. DREIER, Mr. FRENZEL, Mr. HAGEDORN, Mr. MOLINARI, Mr. OBERSTAR, Mr. SABO, Mr. SIMON, Mr. STANGELAND, Mr. VENTO, and Mr. WEBER of Minnesota.

H.R. 6825: Mr. LENT.

H.R. 6880: Mr. ROBERT W. DANIEL, JR., Mr. MAVROULES, Mr. EMERY, and Mr. STUMP.

H.R. 6938: Mr. ANNUNZIO and Mr. STOKES.

H.R. 6974: Mr. BROWN of Colorado, Mr. WIRTH, Mr. KRAMER, and Mr. KOGOVSEK.

H.R. 6989: Mr. LAGOMARSINO and Mr. SANTINI.

H.R. 7012: Mr. GILMAN, Mr. DASCHLE, Mr. JAMES K. COYNE, Mr. STATON of West Virginia, Mr. HALL of Ohio, and Mr. ERDAHL.

H.J. Res. 172: Mr. JEFFORDS.

H.J. Res. 486: Mr. RANGEL.

H.J. Res. 496: Mr. MOLLOHAN, Mr. ALBOSTA, Mr. MURTHA, Mr. MILLER of Ohio, Mr. NELLIGAN, Mr. COELHO, Mr. HENDON, Mr. JONES of North Carolina, Mr. DYMALLY, Mr. SMITH of Oregon, Mr. SNYDER, Mr. FOLEY, Mr. BRODHEAD, Mr. GOLDWATER, Mr. BOLAND, Mr. RAHALL, and Mr. PEPPER.

H.J. Res. 532: Mr. MARKEY, Mr. HORTON, Mr. ROE, Mr. WINN, Mr. LEBOUTILLIER, Mr. FAUNTROY, Mr. BOWEN, Mr. DWYER, Mr. SUNIA, Mr. HUGHES, Mr. YATES, Mr. GUARINI, Mr. VENTO, Mr. EVANS of Georgia, Mr. BARNES, Mr. FISH, Mr. FRENZEL, Mr. RODINO, Mrs. COLLINS of Illinois, and Mr. WILLIAMS of Ohio.

H.J. Res. 543: Mr. TAUKE, Mr. STUMP, Mr. GUNDERSON, Mr. BONER of Tennessee, and Mr. MADIGAN.

H.J. Res. 547: Mr. BEVILL.

H.J. Res. 556: Mr. FORSYTHE, Mr. EDWARDS of California, Mr. JEFFORDS, Mr. BINGHAM, Mr. FRANK, Mr. ROSENTHAL, Mr. HALL of Ohio, Mr. EDGAR, Mr. LEHMAN, Mr. RANGEL, Mr. RICHMOND, Mr. BROWN of California, Mr. GRAY, Mr. MCKINNEY, Mr. SEIBERLING, Mr. WIRTH, Mr. CONYERS, Mr. DOWNEY, Mrs. CHISHOLM, Mr. WYDEN, Mr. BARNES, Mr. STOKES, Mr. JOHN L. BURTON, Mr. DWYER, Mr. DELLUMS, Mr. FAUNTROY, Mr. AUCOIN, Mr. WEISS, Mr. LOWRY of Washington, Mr. DENARDIS, Mr. MINETA, Mr. WEAVER, Mr. OBERSTAR, and Mr. GORE.

H.J. Res. 566: Mr. BENJAMIN, Mr. JOHN L. BURTON, Mr. DAUB, Mr. DUNCAN, Mr. GOODLING, Mrs. FENWICK, Mr. FLORIO, Mr. FOLEY, Mr. FORSYTHE, Mrs. HOLT, Mr. HORTON, Mr. KINDNESS, Mr. LEE, Mr. MATSUI, Mr. PEPPER, Mr. RAHALL, Mr. SAVAGE, Mr. SCHEUER, Mr. SIMON, Mr. WHITEHURST, Mr. YATRON, Mr. ZEFERETTI, and Mr. STATON of West Virginia.

H.J. Res. 571: Mr. FITHIAN, Mr. CONYERS, Mr. MITCHELL of Maryland, Mr. SIMON, Mr. WOLPE, and Mr. WYDEN.

H. Con. Res. 314: Mr. SHUSTER.

H. Con. Res. 321: Mr. BEDELL, Mr. BEILENSON, Mr. BINGHAM, Mr. BONIOR of Michigan, Mrs. CHISHOLM, Mr. COELHO, Mr. CONYERS, Mr. EDGAR, Mr. EDWARDS of California, Mr. FAZIO, Mrs. FENWICK, Mr. FORSYTHE, Mr. FRANK, Mr. HARKIN, Mr. HUGHES, Mr. KILDEE, Mr. MCHUGH, Mr. MCKINNEY, Mr. MOFFETT, Ms. OAKAR, Mr. OTTINGER, Mr. PATTERSON, Mr. RODINO, Mr. ROE, Mr. SCHUMER, Mr. STARK, Mr. STATON of West Virginia, Mr. WEISS, and Mr. WOLPE.

H. Con. Res. 355: Mr. SHAMANSKY, Mrs. SCHNEIDER, Mr. BEDELL, and Mr. PATTERSON.

H. Con. Res. 379: Mr. NEAL, Mr. OBERSTAR, Mr. GORE, Mr. RATCHFORD, Mr. FRANK, and Mr. HERTEL.

H. Con. Res. 391: Mr. COATS, Mr. FROST, Mr. EDWARDS of Oklahoma, Mr. EDGAR, Mr. GOODLING, Mr. WOLF, Mr. HUGHES, Mr. EDWARDS of California, and Mr. CORCORAN.

H. Res. 506: Mr. WORTLEY, Mr. AUCOIN, and Mr. BARNES.

H. Res. 532: Mr. FORD of Tennessee, Mr. PRITCHARD, Mr. MATTOX, Mr. MCDADE, Mr. RODINO, Mr. JOHN L. BURTON, Mr. RICHMOND, Mr. MOTTL, Mr. MATSUI, Mr. BRODHEAD, Mr. MOLINARI, Mr. CONYERS, Mr. WYDEN, Mr. DYMALLY, Mr. ADDABBO, Mr. DE LA GARZA, Mr. SEIBERLING, Mr. SAVAGE, and Mr. STANTON of Ohio.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4576: Mr. STUMP.

H.J. Res. 294: Mr. WATKINS.

PETITIONS, ETC.

Under clause 1 of rule XXII,

570. The SPEAKER presented a petition of the City Council of Oakland, Calif., relative to its opposition to the expanded 1983 Federal military budget; which was referred to the Committee on Armed Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6957

By Mr. YOUNG of Florida:

—Page 20, line 16, strike out "$799,478,000" and insert in lieu thereof, "$817,078,000".

SENATE—*Thursday, August 19, 1982*

(Legislative day of Tuesday, August 17, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

God of all wisdom, all power and all love, we invoke Thy presence in this place today. Our Nation was born out of struggle. Strong men with strong convictions disagreed. But they prayed, and out of controversy came a great Nation. We know Lord that when two disagree, one is not necessarily right and the other wrong. Both may be wrong—or both may be right; and agreement is most difficult when both sides in an issue are right.

Somehow Almighty God, visit the Senate with Your wisdom and Your power. Make known to us the truth which transcends sides, or positions or views. Lead us to synthesis. Show us Thy will for our Nation at this critical hour as Thou didst guide our forbearers.

And gracious Father, infuse this place with Thy love. May it never be forgotten that we are one in purpose seeking the best for our Republic. In the name of Him who was Incarnate Love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, the Senate should be on notice that today will be a very busy day and it could be a very busy, long night.

We have special orders and routine morning business here this morning. At 11 a.m. we will resume consideration of House Joint Resolution 520, the debt limit bill and under the previous order of yesterday the Senator from Oregon (Mr. PACKWOOD) is to be recognized.

Mr. President, the leadership is hopeful that some agreement may be reached on the controversial issues now pending before the Senate on the debt ceiling bill, and we are hopeful that a compromise or some approach to controversial issues involved in the amendment and before the Senate will be forthcoming today.

The Senate will some time today take up the supplemental appropriations bill. That is the current plan. There is a strong possibility that we will have the conference report on the tax bill before the remainder of the day is over.

What it means, Mr. President, is that the majority leader may ask us to remain in session tonight in order to complete consideration of these matters.

It is my understanding the majority leader will make a further statement on the schedule of the Senate later today.

I ask unanimous consent that when I complete my statement here the remainder of the time be reserved for his use and that a place in the RECORD at this point be reserved for his comments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDATION OF SENATOR STAFFORD FOR INTER-PARLIAMENTARY UNION SERVICE

Mr. BAKER. Mr. President, I want to take this opportunity to commend my good friend and distinguished colleague from Vermont, Senator STAFFORD, for the exemplary and dedicated service which he has given to the Inter-Parliamentary Union. Senator STAFFORD will soon be completing his term as President of the U.S. delegation to the IPU, and is also finising his tenure as a member of the IPU's Executive Committee.

The Inter-Parliamentary Union is the oldest organization of unions. U.S. involvement in the Union predates the birth of the United Nations by almost an entire century. Throughout war and peace, the IPU has been a vital forum for the exchange of socioeconomic issues between political leaders, and has been a constructive force which has enhanced our relationship with our allies and the Third World.

When he first arrived in the Senate, Senator STAFFORD was appointed to the U.S. delegation and has since become one of our Nation's most devoted and able representatives. Membership in the IPU is a demanding and arduous assignment. It requires constant attention and hard work, and is a responsibility that many Senators would not be willing to accept.

But BOB STAFFORD has not only accepted this challenge, but made the most of it. Last year, he was cited by President Reagan for defending our country against a tirade by Castro in Cuba, and prior to that, was the driving force behind resolutions condemning the Soviet invasion of Afghanistan—the only condemnations of that invasion by any world body.

Mr. President, I believe that Congress and the citizens of our country owe Senator STAFFORD a debt of gratitude for his participation and leadership at the IPU. He has protected American interests, and has brought honor to our country in a most important international forum.

FEDERAL COMMUNICATIONS ACT AMENDMENTS

Mr. STEVENS. Mr. President, I understand this has been cleared with the minority.

Mr. PROXMIRE. It has indeed. There is no objection on our side.

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3239.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 3239) entitled "An Act to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Dingell, Mr. Wirth, and Mr. Broyhill be the managers of the conference on the part of the House.

Mr. STEVENS. Mr. President, I move that the Senate insist on its amendments and agree to a conference as requested by the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. GOLDWATER, Mr. STEVENS, and Mr. CANNON conferees on the part of the Senate.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I understand that I may use a small portion of the minority leader's time and I reserve the remainder of his time for his use later.

WHO REMEMBERS THE ARMENIANS?

Mr. PROXMIRE. Mr. President, I have recently received a letter from an Armenian American who is distressed over the world's amnesia regarding the first genocide of the 20th century, that against the Armenians of the Ottoman Empire. This terrible episode has become the "forgotten genocide" of modern times. History records that it began in April of 1915, when the Empire uprooted the Armenian inhabitants and forced them to migrate on foot. The letter recounts what happened:

> The Armenian people . . . were . . . deported from every city, town, and village of Asia Minor and Turkish Armenia. In most instances during the death marches, the men were quickly separated and executed soon after leaving town. The women and children were marched for weeks into the Syrian desert; thousands were seized along the way, forcible converted to Islam, and raised in Turkish homes and harems. The majority of the deportees died of starvation and disease during the forced marches. Many others were murdered brutally. During the years 1915-1922, 1,500,000 Armenians were killed and more than 500,000 exiled from the Ottoman (Turkish) Empire. Thus, the Armenian Community of the Ottoman Empire was virtually eliminated as a result of a carefully executed government plan of genocide.

Eyewitness accounts alerted a horrified world to these massacres almost immediately. On May 24, 1915, the Triple Entente nations of Britain, France, and Russia declared that they would hold all the members of the Ottoman Government personally responsible for the fate of the Armenian people.

Yet only two decades later, the slaughter of the Armenians had faded from the memory of the world. Adolph Hitler scoffed at the notion that he would go down in infamy for perpetrating the Holocaust. He would ask: "Who remembers the Armenians?" Just as popular wisdom has it, history forgotten is history repeated. How many times must me vow, "never again?" We can never stop learning the lessons from the "final solutions" of the past.

We should never let anyone ask of the Armenians, or of the Jews, or of any others, "Who remembers?" Nor should anyone ask, "Who cares?" or "Who would bring me to justice?" If only the U.S. Senate would ratify the Genocide Convention, we could announce with conviction that we will remember, we will care, and we will bring the guilty to justice. Let us insure that the horror of genocide stays alive in our collective conscience, that those who may consider such a crime will be shamed and deterred, and that no future Hitler shall shrug off the prospect of a judgment day.

BIOLOGICAL WARFARE BY U.S.S.R. RAISES ARMS CONTROL QUESTIONS

Mr. PROXMIRE. Mr. President, those who believe strongly in the prospects and promises of arms control, and I count myself among that group, are faced with a critical problem. How do we interpret the meaning of the apparent violation of the Biological Warfare Convention by the U.S.S.R.?

This issue tests our dogma that the Soviets will keep any treaties entered into and that while they may press treaty restrictions to the limit they will not willfully disregard them.

Arms controllers also have long believed that the step-by-step process of reinforcing relationships creates the climate for successful arms control.

But now there is growing evidence that the Soviets have experimented with biological warfare in Southeast Asia through their allies the Vietnamese.

If the Soviets have violated the Biological Warfare Convention, then what does that mean for the SALT or START process? Will they violate nuclear arms control agreements if conditions favor such action? Is a paper signature security enough against cheating?

Mr. President, I think it is time that the arms control community address these issues head on. I believe there are answers—answers that revolve around verification and compliance procedures which are lacking in the Biological Warfare Convention.

But if nothing else, the Soviet activity in biological warfare should give us pause for it signals the need for the toughest kind of verification procedures in subsequent arms control agreements.

Mr. President, I ask unanimous consent that two articles from the Washington Post discussing some of these issues be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 17, 1982]

IS IT WORTH NEGOTIATING WITH THE U.S.?—CONSIDER THE CASE OF THE NUCLEAR TEST BAN TREATY

(By Bruce A. Bishop)

A most interesting aspect of the current debate on nuclear arms control is the lack of comment on the Reagan administration's foreclosure of further negotiations on a Comprehensive Test Ban Treaty (CTB). There were news stories reporting President Reagan's decision to stop negotiations for a treaty, but I've seen no follow-ups of any substance anywhere in the media or on Capitol Hill.

Reagan's sincerity on nuclear arms control and eventual disarmament is once again in question.

The president's excuse for ceasing efforts to obtain a CTB is that his administration will instead seek to upgrade, or perfect, the Threshold Test Ban (TTB) and the Peaceful Nuclear Explosions (PNE) treaties, with respect to the means of verification of those instruments.

"Verification" is the question raised consistently by those who have time after time opposed any ban on the testing of nuclear explosives. Arms designers and some in the military have raised this scarecrow every time it appeared likely that any administration was going forward with a test ban treaty, and they have propagandized Congress and the nation with it.

Now Reagan has abandoned an effort started during the Eisenhower administration and carried forward by every president since, on which considerable progress has been made.

The whole idea of a Comprehensive Test Ban Treaty is to make verification unnecessary. With a CTB in force, the world could simply watch its seismographs, and any suspicious "earthquake" would be subject to immediate question. "National Technical Means" of observation—a euphemism for spy satellite—insure observation of any atmospheric tests.

It is generally agreed among arms control specialists that the provisions for verification of nuclear explosions already included in the TTB, the PNE and in SALT II could render Russian cheating almost immediately observable. Experts from a variety of public and private agencies here generally agree that if the provisions already accepted by the Soviet and American negotiators were ratified and therefore functional, a nuclear explosion of 0.5 kilotons could be verified almost immediately anywhere in the world. Yet the Reagan administration continues to allege that an explosion of 150 kilotons, or 300 times as large as 0.5 kilotons, would be unverifiable.

The Russians have a justified reputation for being tough negotiators. The Standing Consultative Commission (SCC), a supersecret joint American-Soviet body established under the provisions of the SALT I Treaty, which became effective in 1972, provides part of the record on Soviet capacity to live up to agreements. A former U.S. representative on the SCC, Sidney N. Graybeal, told the Senate Foreign Relations Committee in 1979: "I do not believe that the Soviets would enter into any agreement which required them to cheat in order to attain their military objectives, or on which they planned to cheat."

Graybeal pointed out to the committee that the Russians have lived up to the letter of any nuclear arms treaty they have signed. "This is not to say that they will not press the agreement to its limit . . . " Graybeal said. However, with respect to the Soviet propensity to cheat, Graybeal also concluded that "the risk of being caught is always greater than zero."

The Soviets, in fact, have agreed to verification methods for the three treaties in question that would have been unthinkable in the political climate 25, or perhaps even 10 years ago. These methods include the use of tamper-proof instrumentation for on-site installation and on-site seismic devices. The Soviets have even agreed to allow on-site inspection by specialists in case of ambiguous

events. This is an unprecedented political concession by the Soviets and, if acted upon by the United States could have lasting effects on the ability of the two superpowers to control nuclear arms.

It is this last fact that scares the pants off the weapons designers and the military. As one analyst here in Washington has said, the Joint Chiefs "turn pasty white at the idea" of Soviet specialists running around the testing sites of Nevada and New Mexico. The military and the weapons designers want to conduct a whole new series of tests of a new generation of weapons, and that is their reason for being unenthusiastic about the appearance of Russian technicians at American test sites. They have been talking for years about the need for verification and now, with verification nearly at hand, they are backing away.

The cries about verification, in the context of the new Russian willingness to verify, also lends credence to the general belief among arms specialists that the Reagan administration wishes to depend on nuclear weapons for our security, instead of negotiating arms control or limitations on arms.

With a CTB, we could—or perhaps will—establish the principle that the United States is committed to arms control. We will have gotten major concessions from the Soviet Union. However, a CTB is not the be-all and end-all. It will represent, if we can attain it, only one more step down the road to the control and possible banning of the use of nuclear weapons.

Arms control specialists are disturbed that the Reagan decision to end efforts for a CTB is evidence that the administration is caving in to the demands of the weapons designers and the military—the whole bureaucracy at the Department of Defense, the Department of Energy, which manufactures the bombs, and other elements that oppose nuclear arms control.

Some officials at the Arms Control and Disarmament Agency are concerned that the White House staff, some at the Department of State and many at the Pentagon seem to believe that the nuclear freeze movement here and abroad will wither away. If this is so, they and Reagan must be depending on the silence of the press and the preoccupation of Congress for help in preventing examination of the record.

AN INTERVIEW WITH FRED IKLE—THERE'S REASON FOR OUR CAUTION ABOUT DEALING WITH THE SOVIETS

Q: There is quite a history, not just in this administration, but generally in American governments lately, of either participating heavily in negotiations or actually going so far as to sign agreements and then somehow walking away from them. We think of SALT II, Law of the Sea, Threshold Test Ban and Peaceful Nuclear Explosion, a couple of fishing treaties with Canada. There is a record of this. What accounts for it?

A: I don't know whether other governments have a better record in ratifying the treaties that they sign, other governments that have a democratic ratification process. But you're right: it's happened before, from the League of Nations onward and probably backward, too. The Geneva Protocol of 1925, prohibiting the first use of chemical weapons, was negotiated with a lot of U.S. inspiration, and it was not ratified until 1975. I was myself involved in taking it to the Senate for ratification.

That incidentally is one of the agreements that the Soviet Union violated by using chemical weapons in Afghanistan. Then, there's been a long hassle about the genocide convention.

What accounts for these difficulties of ratification? Maybe our constitutional structure: the Senate's two-thirds requirement, and the fact that in a change of administrations there's almost always a certain change in foreign policy.

Q: But is there no feeling of the sanctity of the contract, the gravity of the treaty? Would it not be desirable to have such feelings come to be the political norm?

A: Well, we shouldn't walk away lightly from any international agreement that has been signed by the president. But there are two steps—signature and ratification—and this is understood by other governments that negotiate with the United States.

Q: Let us take the threshold test ban and the peaceful nuclear explosion agreement, which were signed in '76. You were involved in both. What is the American ratification problem? What is the hangup?

A: There are three hangups. First, at the end of the Ford administration we had to package together the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty because they are legally linked. But it was too late in the administration to get ratification.

Early in 1977, the Carter administration decided to submit these twin treaties to the Senate for ratification, and I remember myself testifying in behalf of ratification together with Paul Warnke. The Senate Foreign Relations Committee was about to vote out favorably the recommendation for ratification when the Carter administration pulled the package back because they felt it would divert from the effort to get a comprehensive test ban treaty, banning all tests, regardless of size.

After that the Carter administration did not want to submit it throughout the four years. Once they'd pulled it back, they just left it lying there.

In the Reagan administration, we do not have the concern that these twin treaties would interfere with a comprehensive test ban. But we have deeper concerns about their verifiability. That is because we have had some additional experience with the Soviet test program. That program was supposedly under the limits negotiated in the threshold treaty. We had an agreement worked out between the Soviet Union and us to temporarily observe these limits, even without ratification. But for many tests, it was impossible for us to know enough.

Q: Why? Was some evidence developed in the intervening five years that gave you grounds for reservations about the verifiability?

A: Right. Facts that were not that clear in '74 when we negotiated that treaty came to light. We saw these seismic signals coming in from Soviet tests, and in several instances throughout the late '70s, we really were unable to determine whether the test wasn't substantially at a larger yield than the agreement allowed.

Q: That's a statement with some heavy implications—an argument for those who will say, "Well, you can't *ever* be sure. Something might turn up. We'd better wait." It makes it very hard to call positively for the ratification of anything.

A: Well, there are two things that happened that made us more concerned. One, we learned somewhat more about how difficult this seismic analysis would turn out to be. Two, as a backdrop to this uncertainty, we had had the experience of the violation of the biological weapons convention, which had been signed in 1972 and ratified in 1975.

In the early '70s, we had the view that the Soviet Union would probably not violate a treaty if doing so was of marginal military value—even if verification would be rather difficult. We felt if there was at least a chance of detection, the Soviet Union would not want to run the risk of the reaction that would occur in event of such discovery. Now, after what has happened on the biological weapons convention, we no longer have this comforting expectation.

Q: What you're talking about then is not so much the result of new scientific techniques of monitoring. It is a new or different *political* interpretation—a difference in judgment not about science but about Soviet intentions and reliability. Whether or not it is justified, it does mean we will change our terms in mid-negotiation. So is there any way we can establish some consistency in our negotiation? What guarantee can we give anyone, not just in terms of ratifying a treaty that's been signed but of the continuity of the thinking of our negotiators, that they are not wasting their time?

A: I think the issue is more narrow here. It's not a general problem of American unreliability. There's not a broad overall revision of American views on the Soviet Union. There's one particular revision: our view of the reliability of arms control agreements for which verification is inadequate or marginal.

In earlier years, we felt since all the arms control agreements in some sense hang together and since there seemed to be a Soviet interest in arms control, the Soviet government would not want to incur the risk of undermining this entire edifice by violating a few agreements here and there, where they might get away with it because they were hard to verify. After what we have learned of the "yellow rain"—the Soviet use of prohibited biological weapons—we can no longer think that way. That doesn't mean that we don't want to negotiate. Obviously, we are negotiating.

Q: Then you don't think this changeability reflects something distinct or characteristic of this country as a negotiator?

A: No. Just recall the nuclear nonproliferation treaty. There was a long list of countries that had signed, but it took years and years to get the ratification, in some cases 10 years. I don't think American habits are particularly bad in this respect.

Q: Earlier in the '70s there was a common feeling that negotiations with, especially with, the Soviet Union were very difficult but were a necessary instrument for achieving American security interests. This administration does not put so much reliance on serving our security by means of negotiating agreements with the Soviet Union but rather by steps that we take on our own. What are the implications of this?

A: I believe it would be fair to say that the Reagan administration takes a more pragmatic view toward negotiating with the Soviet Union, that it thinks this is just one process among many processes of dealing with the Soviet Union. In particular that the approach of the Carter administration of considering the SALT negotiations almost the be-all and end-all of our relationship with the Soviet Union, that approach was mistaken.

Under the best of circumstances strategic arms limitation agreements could only cover a small sector of our military relationship and a smaller sector even of our overall rela-

tionship, but the Carter administration seemed to feel that really the entire U.S.-Soviet relationship hinged on SALT.

Q: So that even if this administration had to deal in our political arena with the charge that it backed off from an agreement negotiated by three presidents, not just Carter, and had thus incurred some suggestion of unrealiability, you think that this is a lesser charge, that this is a lesser price to pay considering the gains that come about by virtue of adopting a firmer security policy?

A: Well, if you're talking about the SALT II agreement, first of all, it's two presidents, Presidents Ford and Carter. The treaty was submitted by the Carter administration to the Senate and encountered a lot of criticism, mixed reaction without coming to a vote in the Senate, a negative reaction in the Senate Armed Services Committee, and in the end the treaty was pulled back from ratification by the Carter administration. So the president, who was instrumental in negotiating the greater part of that very treaty, himself didn't push it.

Q: We have a situation now where a particular MX basing option, Dense Pack, is being studied and the question arises as to whether that would be consistent with the ABM treaty on one side and perhaps with some provisions of SALT I on the other. Are those considerations that are real, that are troubling at all?

A: Well, they are important considerations. If and when there is a concrete proposal, we would obviously have to review it and see whether it would require a change in the ABM treaty. At this time, we do not have any proposal for an ABM system to protect the MX deployment that is sufficiently advanced to make this judgment. Likewise, once the particular way of basing the MX is developed in final form, we have to see whether our temporary policy of not undercutting the SALT provisions can be continued or has to be discontinued.

The ABM treaty is a valid treaty; there is no question about undercutting or not undercutting. If there was a conflict between an important way of protecting the MX and the ABM treaty, that would then raise the question of whether or not we want to try to renegotiate the treaty. But it's clear that we are legally bound to abide by the ABM treaty.

Q: So if matters come to that, it's not a question of violating that treaty, it's a question of attempting to change the terms of it?

A: Correct.

Q: Could public confidence and public interest in arms control negotiation as a method of serving our security survive the reopening of the ABM treaty? The ABM treaty and SALT are popularly regarded as the bedrock, the scripture, what negotiations are all about. Once you start going into those, what do you have left?

A: I beg to disagree. The opinion polls went quite strongly against SALT II, particularly when the issue of ratification was a prominent issue in the Senate, and in opinion polls support for SALT II often fell below a majority of the public. On the other hand, the ABM treaty, among the people who focused on it, is probably regarded as a more solid treaty.

But in a way, the belief in arms control, I think, is surprisingly sturdy, maybe almost too sturdy. And one might wonder whether the belief should not be shaken more by the fact that the very party with which we are currently negotiating treaties has been caught violating a treaty.

Well, here's a partner with whom you are dealing in a particular area and in this very area where you are trying to make additional contracts he has violated an important contract, yet you continue to negotiate contracts with him.

Q: You're saying then that, in effect, our changeability in negotiating is a lesser problem, a lesser offense than the fact that our principal negotiating partner negotiates a law and then cheats?

A: Oh, indeed, an immensely lesser offense.

Mr. PROXMIRE. Mr. President, I yield the floor.

S. 2857—NATIONAL PORT DEVELOPMENT AND CUSTOMS REVENUE SHARING ACT OF 1982

Mr. ROBERT C. BYRD. Mr. President, I am today introducing legislation designed to address the need to develop and improve America's commercial ports so that we can take full advantage of the opportunities in the world market for American coal.

The bill I have introduced carries with it the following cosponsors: Senators RANDOLPH, FORD, HUDDLESTON, BRADLEY, and HEINZ. I anticipate that other Senators on both sides of the aisle—and I invite Senators on both sides of the aisle—will join my effort to improve our Nation's ports.

The world is looking to coal as a major alternative to OPEC oil. It is estimated that there will be an expanding long-term world demand for U.S. steam coal through the rest of this century. U.S. steam coal exports could be as high as 79 million tons by 1990, as compared to about 16 million tons in 1980. U.S. metallurgical coal exports could be as high as 55 million tons. By the year 2000, U.S. steam coal exports could improve our international balance of trade by $6 billion in 1990 and $14 billion by the year 2000.

In 1980 the United States experienced a dramatic upsurge in demand from Europe and the Pacific rim nations. Overseas demand for U.S. coal was 72.8 million tons, including steam and metallurgical coal. Overseas demand for our steam coal was more than 16 million tons, a sixfold increase over 1979. The value of all U.S. coal exports was about $4.5 billion in 1980, which should be considered against that year's trade deficit of $24 billion.

This bright future for U.S. coal exports is not assured. Price is one of the major factors which will play an important role in determining the extent to which the full potential for U.S. coal exports can be realized. Since ocean transportation costs represent from 20 to 30 percent of the delivered cost of the coal, there is a strong economic incentive to search for ways to lower costs. The use of large "supercolliers," ships which are 150,000 deadweight tons and over, to transport coal to overseas markets is one attractive alternative. However, these ships require channel depths of 55 feet. The deepest U.S. port has a depth of 51 feet. Consequently, American ports can only accommodate ships of 80,000 to 100,000 deadweight tons. If our ports could accommodate the larger ships to transport American coal overseas, transportation costs could be lowered by as much as 40 percent. This would be a significant reduction, since U.S. steam coal exports are currently priced about $4 per ton above the world price of steam coal.

The tragedy of this situation is that over the years our attention has been called to the problem of developing America's ports by various studies, reports, and the testimony of expert witnesses at congressional hearings. It seems that anyone with any concern for the future competitiveness of American coal in overseas markets has warned us that we may allow a golden opportunity to slip through our fingers like sand.

Mr. President, we seem no closer today to addressing the problem of improving America's port system. Given the magnitude of the opportunity which lies before us, it would be a travesty of prodigious proportions if we failed to move forward to help improve the competitive position of American coal in the world market.

U.S. PORT DEVELOPMENT: A 200-YEAR PARTNERSHIP

The national system of 189 deep-draft commercial ports and 25,000 miles of navigable inland waterways is the result of a 200-year old partnership between the Federal Government and the States (operating through ports, municipalities, and State port authorities). The partnership has proven to be a successful demonstration of American federalism, where the Federal Government pays the cost for maintaining and improving the ports and the States pay the costs for landside and other developments.

As a result, the Federal Government has invested (since 1824) about $1 billion for improving and maintaining the navigability of deep-draft commercial ports. Local ports and the private sector have invested about $40 billion in terminals and other landside facilities.

Recently, however, there has been an effort to bring about changes in U.S. port development policy. In the Senate, the administration is supporting a legislative proposal which would dramatically change the terms of the Federal-State partnership. That proposal, sponsored by Senators ABDNOR and MOYNIHAN (S. 1692), would require that 25 percent of Federal maintenance costs for the Nation's ports be recovered by the local port authority through the imposition of user fees. New harbor construction dredging would be paid for entirely by the local port authority. These provisions are

strongly opposed by the small and medium-sized ports. User fees tend to discriminate against low-volume, high-maintenance-cost ports. In addition, under S. 1692 it is highly unlikely that any small port could afford to pay all the costs of construction dredging.

PORT DEVELOPMENT AND INTERNATIONAL TRADE

In the context of a world economy which is becoming increasingly competitive, port development is important for maintaining the competitive position of the United States. There is cause for concern. We are falling behind our most aggressive competitors in the area of port development.

Ports play a key role in international trade, and improvements in some of the 2,000 major world ports lead to pressures for improvements in others. During the seventies, at least 30 major ports undertook significant navigation improvements in order to expand trade handling capacity. This is in contrast to the United States which, by any measure, lags behind the rest of the world in this area. Indeed, there has not been a single navigation improvement project initiated in the last decade. The apparent lack of Federal support for port development in the United States is in contrast to the policy of national governments in most developed nations, where at least half the cost of construction and the entire cost of maintaining ports is financed by those governments.

NATIONAL ECONOMIC BENEFITS

The costs of port development are a good investment, for international trade represents a significant source of revenue to the United States and provides a stimulus to economic development. Customs revenues are the fourth largest source of revenue for the General Treasury. In 1981 customs revenue amounted to about $9.2 billion. According to the U.S. Bureau of Customs, customs revenues are expected to reach $13.8 billion in 1967.

In addition, it is estimated that America's ports make a direct contribution to the GNP of over $35 billion and are credited with the creation of about 1 million jobs in the domestic economy.

POTENTIAL U.S. EXPORT COAL MARKET

The world is looking to coal as a major alternative to OPEC oil. It is estimated that there will be an expanding long-term world demand for U.S. steam coal through the rest of this century. U.S. steam coal exports could be as high as 79 million tons by 1990, as compared to about 16 million tons in 1980. U.S. metallurgical coal exports could be as high as 197 million tons. At those levels, U.S. coal exports could improve our international balance of trade by $6 billion in 1990 and $14 billion by the year 2000.

In 1980 the United States experienced a dramatic upsurge in demand from Europe and the Pacific rim nations. Overseas demand for U.S. coal was 72.8 million tons, including steam and metallurgical coal. Overseas demand for U.S. steam coal was more than 16 million tons, a sixfold increase over 1979. The value of all U.S. coal exports was about $4.5 billion in 1980, which should be considered against that year's trade deficit of $24 billion. This bright future for U.S. coal exports is not assured. Price is one of the major factors which will play an important role in determining the extent to which the full potential for U.S. coal exports can be realized. Since ocean transportation costs represent about 20 to 30 percent of the delivered cost of the coal, there is a strong economic incentive to search for ways to lower costs. The use of large "supercolliers," ships which are 150,000 deadweight tons and over, to transport coal to overseas markets is one attractive alternative. However, these ships require channel depths of 55 feet. The deepest U.S. port has a depth of 51 feet. Consequently, American ports only accommodate ships of 80,000–100,000 deadweight tons. If our ports could accommodate the larger ships to transport American coal overseas, transportation costs could be lowered by as much as 40 percent. This would be a significant reduction, since U.S. steam coal exports are currently priced about $4 per ton above the world price of steam coal. It is expected that about 25 percent of the world's coal export tonnage will be carried by these supercolliers in 1985, and 44 percent by 1990.

I am today introducing legislation, the Port Development and Customs Revenue Sharing Act. First, my bill would establish a national policy based upon a recognition of the significance and importance of waterborne commerce to America's economic well-being.

Second, my bill would authorize the use of customs revenues to pay for the deep-draft channel operation, maintenance, and navigation improvements. A portion of the gross customs revenues would be put in a $750 million Customs Revenue Sharing Trust Fund. Financing for port development and maintenance would come from that trust fund.

Third, my bill would establish an orderly procedure for authorizing necessary maintenance, operation, and deep-draft navigation improvements, and would give us reasonable and fair ways to grant necessary Federal permits needed for such improvements.

Finally, my bill would continue the traditional Federal role relationship to ports which are between 14 and 45 feet in depth. However, for ports with navigation improvements deeper than 45 feet, there would be 50–50 cost sharing between the Federal Government and the local port authority. The additional operation and maintenance required by the deeper channel would also be subject to 50–50 cost sharing.

Mr. President, we must act now to put the Nation in a position to take full advantage of the opportunity which awaits the American coal industry and the American economy. I am convinced that my bill addresses that need and will help establish the future position of the United States and the American coal industry in the world coal market.

Mr. President, I ask unanimous consent that my bill be appropriately referred and that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "National Port Development and Customs Revenue Sharing Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that—

(1) it is in the national interest to maintain and develop a viable marine transportation system within the United States, including a network of commercial deep-draft seaports adequate to accommodate the needs of foreign and domestic commerce, promote economic stability and provide for the national security of the United States;

(2) development and maintenance of the national system of transportation necessary to promote and accommodate foreign and domestic waterborne commerce has been accomplished through a productive partnership of the Federal Government, States, port authorities and private commercial enterprises, in which the Federal Government has developed and maintained the navigability of deep-draft channels and harbors and facilitated maritime commerce, while States, port authorities and private commercial enterprises have provided the necessary landside port facilities and other navigation improvements necessary to accommodate foreign and domestic waterborne commerce;

(3) while each of the deep-draft ports has its own concerns, problems, and opportunities which affect the flow of international and domestic commerce, it is in the public interest to treat each port as an essential component of the national port system to facilitate the waterborne commerce of the Nation;

(4) ports in the United States are significant generators of national and regional revenue and customs revenues and are promoters of exports to improve the United States balance of trade, providing economic stability and growth; domestic and foreign shippers, producers, consumers, and receivers of international commerce have been well-served by the Nation's unified seaport system; and

(5) there have been costly delays in the authorization of, and the granting of required Federal permits for, new deep-draft navigation projects, and there is a backlog of economically justified projects which, if

implemented, would enhance the overall efficiency of the waterborne transportation system of the Nation.

(b) It is the purpose of this Act to—

(1) provide a national policy that recognizes the significant role and importance of waterborne commerce to the economic well-being of the United States;

(2) establish a procedure to facilitate the orderly authorization of necessary maintenance, operation, and construction projects for deep-draft navigation improvements and to provide consistency and predictability in the granting of required Federal permits with respect to such projects;

(3) expedite the permitting, authorization, and funding of deep-draft navigational improvements necessary for the Nation to compete effectively in export markets for coal, grain, and other commodities, and to import necessary commodities in cost-effective fashion;

(4) authorize the use of revenue from customs duties to finance necessary deep-draft channel operation, maintenance, and navigation improvements to the port system which generates these customs revenues;

(5) continue the traditional Federal role in performing operation, maintenance, and navigation improvement projects between 14 and 45 feet in depth;

(6) provide for cost-sharing between the Federal Government and public port authorities for the cost of navigation improvements for channels with depths greater than 45 feet and the operation and maintenance of such improvements; and

(7) relieve the Saint Lawrence Seaway Development Corporation of its construction debt and treat the Seaway on a fair and equitable basis as part of the overall port system of the Nation.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "deep-draft commercial port" means any port, harbor, or other place within any State that—

(A) is open to public navigation;

(B) has a federally authorized channel at least 14 feet in depth at mean low water (or mean low low water on the Pacific coast); and

(C) is subject to operation by a public port authority, or private port interests;

(2) the term "existing channel" means a channel which—

(A) is in a deep-draft commercial port having a depth of not less than 14 feet;

(B) was authorized by Congress, and its construction was completed before the date of enactment of this Act; and

(C) an agreement pursuant to section 221 of the Flood Control Act of 1970 (42 U.S.C. 1962d-5b) was executed prior to December 31, 1981;

(3) the term "access channel" means a channel associated with a particular pier, dock, or ancillary harbor facility which is not a federally maintained channel, but which is required in order to provide access from such pier, dock, or ancillary harbor facility to a federally maintained channel;

(4) the term "navigation improvement project" means a project authorized by Congress to increase the depth of any channel and modify other required features (other than an access channel) in a deep-draft commercial port;

(5) the term "maintenance project" means any dredging or other operation and maintenance, deemed necessary by the Secretary pursuant to section 5 of this Act—

(A) for a channel, regardless of whether the operation and maintenance, or any portion thereof, will be undertaken by the Secretary or by persons under contract to the Secretary; and

(B) for the access channels, and berthing areas associated with that channel, that will be undertaken by a public port authority, or by persons under contract to such an authority, or by any other entity allowed by State and Federal law to undertake such operation, maintenance, or dredging of non-Federal channels;

(6) the term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers;

(7) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of Northern Marianas, the Trust Territory of the Pacific Islands, and any other territory of the Pacific Islands, and any other territory and possession over which the United States exercises jurisdiction;

(8) the term "public port authority" means—

(A) a State;

(B) a political subdivision of a State;

(C) an authority, established for the purpose of developing or operating a deep-draft commercial port, under an interstate compact or under a law or ordinance of, or a charter issued by, a State or political subdivision thereof; or

(D) any other entity, public or private, designated by a State, political subdivision, or authority pursuant to subparagraph (C) established to operate, maintain, or improve deep-draft channels, or to help finance such operations, maintenance and improvements; and

(9) the term "customs revenues" means any duty or penalty levied pursuant to the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), including any duty or penalty levied pursuant to the Tariff Schedules of the United States, any countervailing duty, any antidumping duty, and any excise tax collected by the Customs Service pursuant to any statutory authority.

CUSTOMS REVENUE SHARING TRUST FUND

SEC. 4. (a) There is established in the Treasury of the United States a fund known as the "Customs Revenue Sharing Trust Fund" (hereafter in this Act referred to as the "Fund"). The Secretary of the Treasury shall administer the Fund and shall invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest bearing obligations of the United States.

(b) The Secretary of the Treasury shall pay into the Fund not later than October 31, 1983, and not later than each October 31 occurring after October 31, 1983, an amount equal to 7 per centum of all customs revenues collected during each preceding fiscal year, beginning with the fiscal year ending on September 30, 1982, until there are $750,000,000 in the Fund. The Secretary of the Treasury shall maintain the Fund at $750,000,000. In the event that all revenues and interest derived therefrom exceed $750,000,000, the amount in excess shall be applied as payments in the following order:

(1) payment on interest for any amount borrowed for the Fund;

(2) payment on the principal of any amount borrowed for the Fund; and

(3) payment into the general fund of the Treasury.

(c) The Secretary of the Treasury shall deposit $187,500,000 from the Treasury into the Fund no later than October 31, 1983. Such amount shall be repaid into the Treasury, with interest, in accordance with terms to be determined by the Secretary of the Treasury.

(d) The Secretary is authorized to expend money from the Fund as may be necessary to conduct the operation, maintenance, and navigation improvement authorized by Congress pursuant to this Act.

(e) Congress shall make an annual appropriation from the Fund in order to pay for the operation, maintenance, and navigation improvements authorized by Congress pursuant to this Act. The Secretary of the Treasury is authorized to expend the money from the Fund as may be necessary to conduct the operation, maintenance, and navigation improvement authorized by Congress pursuant to this Act.

(f) All moneys in the Fund which have not been allocated by the end of the fifth full fiscal year after the Fund begins to collect money, and at the end of each fifth fiscal year thereafter, shall revert to the Treasury.

(g) Beginning October 1, 1984, and at the end of each fiscal year thereafter, the Secretary of the Treasury shall submit to the Senate Appropriations Committee and the House Appropriations Committee a report on the status and operations of the Fund, including a specification of—

(1) all revenues accured in the Fund and the source of such revenues; and

(2) each amount expended from the Fund and the recipient of each such amount.

MAINTENANCE PROGRAM FOR COMMERCIAL PORT CHANNELS

SEC. 5. (a)(1) Within 2 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a comprehensive port maintenance program that specifies, with respect to each deep-draft commercial port—

(A) those non-Federal maintenance projects requiring Federal permits during the 5-year period beginning after the close of the 60th day referred to in section 6(a);

(B) existing Federal maintenance projects for existing channels required during the 5-year period in subparagraph (A) and any additions deemed necessary by the Secretary; and

(C) the alternate sites at which dredged or fill material resulting from the projects referred to in subparagraphs (A) and (B) should be disposed and the conditions of disposal.

(2) In preparing the comprehensive port maintenance program required under paragraph (1), and in preparing revisions to and reapprovals of approved maintenance projects under this Act, the Secretary shall consider, among other factors the findings, conclusions, and recommendations of the study required under section 158 of the Water Resources Development Act of 1976 (33 U.S.C. 540 note).

(b)(1) The comprehensive maintenance program required under subsection (a) shall be accompanied by a programmatic environmental impact statement prepared by the Secretary in consultation with the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Marine Fisheries Service, and the Fish and Wildlife Service.

(2) In preparing the comprehensive port maintenance program and the programmatic environmental impact statement, the Secretary shall publish the proposed program and an environmental impact statement

summary in the Federal Register 18 months after the date of enactment of this Act, and shall receive comments thereon for 60 days after publication. He shall consider such comments in preparing his final program.

(3) At the conclusion of the comment period, the Secretary shall conduct at least one public hearing concerning the proposed program and the accompanying environmental impact statement. The Secretary, at his discretion, may hold any further public hearings he deems necessary. No other public hearings or public comment periods shall be required after completion of the environmental impact statement.

(c) Nothing in this section shall affect the conduct of the Federal maintenance program or any non-Federal maintenance project prior to the date of completion and approval of the port maintenance program required by this section nor shall it affect the completion of any maintenance project authorized prior to such date.

PROCEDURES FOR ADOPTION AND REVISION OF MAINTENANCE PROGRAM

SEC. 6. (a) The Congress may approve the maintenance program required under section 5 by adopting a concurrent resolution approving the program. To the extent practicable, the Congress will act on such concurrent resolution before the close of the 60th day, as determined under section 14, after the date on which the program is delivered to Congress. Each such concurrent resolution introduced in the House of Representatives shall be referred to the Committee on Public Works and Transportation, and each such concurrent resolution introduced in the Senate shall be referred to the Committee on Environment and Public Works. Each project included in the program that is approved by Congress under the preceding sentence shall be treated as an approved project for purposes of subsection (b), and the Corps of Engineers shall carry out the approved projects within 5 years. Approval pursuant to this subsection shall be deemed to grant all necessary Federal approvals and permits, and to conclusively establish the adequacy of the environmental impact statement.

(b)(1) After the 60th day referred to in section 14(c), the Secretary shall periodically submit to Congress, subject to section 14, documents containing one or more of any of the following:

(A) such changes to approved non-Federal maintenance projects as he deems necessary or appropriate;

(B) any dredging or other operation and maintenance deemed necessary by the Secretary under section 12 for navigation improvement projects and for associated access channels and berthing areas; and

(C) a supplement to the programmatic environmental impact statement required by section 5(b).

(2) In preparing revisions, the Secretary shall publish the proposed revision in the Federal Register, receive public comment thereon for 30 days after publication, and consider such comments in preparing any such revision proposal to Congress.

(3) If Congress approves the change, or the dredging, or operation and maintenance, as the case may be, set forth in the document, then the change, or dredging, or operation and maintenance, shall be carried out by the Corps of Engineers within 5 years of the date of approval.

(4) Approval pursuant to paragraph (3) shall be deemed to grant all necessary Federal permits, authorization, and approvals for operation and maintenance to proceed, and shall be deemed conclusively to establish the adequacy of the accompanying supplemental environmental impact statement or environmental assessment.

CONSOLIDATED PERMIT PROGRAM FOR PORT DEVELOPMENT PROJECTS

SEC. 7. (a) There is hereby established a consolidated port development permit program which shall be administered by the Secretary. A consolidated port development permit shall constitute all necessary permits, authorizations, and approvals required under Federal law in order to construct, operate, and maintain a navigation improvement project and any shoreside installations ancillary to the navigation improvement project. Upon grant of such a permit, the Secretary shall submit appropriate amendments to the maintenance program described in section 5 of this Act.

(b) A public port authority which has filed applications under otherwise applicable Federal permit requirements, shall have the option to apply for a consolidated port development permit in lieu of such other permits. Permits which the public port authority has already granted prior to the enactment of this Act, shall not be reexamined in the consolidated port development permit proceeding, but shall, at the option of the public port authority, be made part of any consolidated port development permit which the Secretary may issue to the public port authority, and may be reviewed only under the judicial review provisions of this Act.

(c) For the purposes of this section, any entity allowed by State and Federal law to undertake operation, maintenance, or improvement with respect to non-Federal channels may apply for a consolidated port development permit for such work in the same fashion as a public port authority.

(d)(1) A public port authority making an application under this section shall submit detailed plans to the Secretary. Within 21 days after the receipt of an application, the Secretary shall determine whether the application appears to contain all of the information required by paragraph (2). If the Secretary determines that such information appears to be contained in the application, the Secretary shall, not later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Secretary determines that all the required information does not appear to be contained in the application, the Secretary shall notify and advise the applicant of the necessary steps to bring the application into substantial compliance with paragraph (2).

(2) Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—

(A) the proposed cost-sharing agreement, if any, pursuant to section 8;

(B) a request for the Secretary's engineering feasibility determination pursuant to section 8 on the basis of either (i) feasibility studies for which Congress has appropriated the necessary funds; or (ii) engineering feasibility studies prepared by an independent third-party contractor and submitted to the Secretary by the applicant; or (iii) the applicant's binding commitment to advance funds to have such a feasibility determination made by the Secretary under section 8(a)(1)(B);

(C) detailed plans concerning ancillary onshore facilities proposed to be constructed by or for the public port authority if the public port authority is seeking authorization under the consolidated port development permit to construct such facilities;

(D) the environmental impact statement or environmental assessment, to the extent required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332);

(E) such other information as may be required by the Secretary to determine the environmental impact of the proposed operation, maintenance, or navigation improvement and ancillary onshore facilities; and

(F) such additional information necessary to determine the proposed substantial compliance of the project with the standards of Federal and State law concerning health, safety, and environmental protection.

(3) The applicant may satisfy the requirement of paragraph (2)(D) by—

(A) submitting or agreeing to submit, when available, an environmental impact statement or assessment concerning the project prepared as part of a feasibility study for which Congress has appropriated the necessary funds; or

(B) making a binding commitment to advance funds to the Secretary to have such an environmental impact statement or assessment prepared either by the Secretary or an independent third-party contractor.

The applicant may submit previously completed environmental studies concerning the project in partial satisfaction of the requirement of subparagraph (B).

(4) The Secretary shall make engineering feasibility and financial responsibility determinations within 1 year of the filing of a completed application by a public port authority for a consolidated port development permit.

(e) An application filed with the Secretary shall constitute an application for all Federal permits, authorizations, and approvals required under Federal law for the conduct of operations, maintenance, and navigation improvements and the construction of ancillary onshore facilties by or for a public port authority. At the time notice of any application is published pursuant to subsection (d), the Secretary shall transmit a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such consolidated port development activities (operation, maintenance, and navigation improvement and construction and operation of ancillary onshore facilities by or for a public port authority) for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Secretary the approval or disapproval of the application, not later than 45 days after the last public hearing on a proposed permit for operation, maintenance, navigation improvement, and ancillary onshore facilities constructed by or for the public port authority. In any case in which the agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Secretary how the application may be amended to bring it into compliance with the law or regulation involved.

(f)(1) In the event an environmental impact statement or assessment has not been prepared concerning the proposed project at the time the permit application is

filed, the Secretary in cooperation with other involved Federal agencies and departments, shall pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), prepare a single, detailed environmental impact statement or assessment, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environomental impact statement or assessment.

(2) The Environmental Protection Agency, the National Park Service, the Fish and Wildlife Service, the National Marine Fisheries Service, the National Oceanic and Atmospheric Administration, and the Department of Transportation shall be included in the agencies consulted by the Secretary under paragraph (1) and shall be transmitted copies of the application and supporting materials pursuant to subsection (d).

(3) Comments by Federal agencies pursuant to subsection (e) or (f) (1) shall conclusively discharge the statutory responsibilities of such agencies with respect to the consolidated port development permit application pursuant to Federal environmental law, including section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), section 309 of the Clean Air Act (42 U.S.C. 7609), the Endangered Species Act (16 U.S.C. 531 et seq.), the Fish and Wildlife Act of 1956 (16 U.S.C. 777 et seq.), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), and the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1401 et seq.).

(4) The Secretary, at his discretion, may deem the failure of a Federal or State agency or department to comment on the draft environmental impact statement or assessment of a project within 90 days of its transmittal to such agency or department, to conclusively waive any objections by such department or agency to the adequacy of the environmental impact statement or assessment of such project.

(g) (1) The Secretary shall transmit the application and supporting materials to the Governor of the State in which the proposed project is to be located, as well as to the State agencies which the Governor may thereafter designate. State agencies shall have the right to comment on the permit application with regard to substantive environmental, health, and safety requirements under their jurisdiction pursuant to State law, to the same extent Federal agencies or departments may comment pursuant to subsection (e). The State or its designated agencies shall concur or object to a certification furnished pursuant to section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456), within the time specified in that Act. The Secretary, at his discretion, may condition the permit to address issues raised by the State or its designated agencies.

(2) The Governor of the State in which the proposed project is to be located may, within 45 days of the conclusion of the final public hearing concerning the proposed permit, submit comments on the proposed permit. Failure to do so shall be deemed conclusively to waive any State objections to the permit.

(h) A consolidated port development permit may be issued, transferred, or renewed only after public notice and public hearings in accordance with this subsection. At least one such public hearing shall be held at the port or the closest location to the proposed operation, maintenance, navigation improvement, or construction of ancillary onshore facilities is to occur. Any interested person may present relevant material at any hearing. If the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, after hearings at the port are concluded, at least one adjudicatory hearing shall be held within the District of Columbia in accordance with the provisions of section 554 of title 5, United States Code. The record developed in any such adjudicatory hearing shall be the basis for the decision of the Secretary to approve or deny a permit. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on an application for a consolidated port development permit shall be consolidated to the extent feasible and shall be concluded not later than 1 year after notice of the initial application has been published pursuant to subsection (d) (1).

(i) The Secretary shall approve or deny any application for a permit under this Act not later than 90 days after the last public hearing on a proposed permit. Failure of the Secretary to approve or deny a permit application within 16 months of its completed filing shall be deemed to constitute approval and issuance of the permit as proposed by the applicant.

(j) The Secretary may issue a consolidated port development permit if—

(1) the Secretary determines that a State port authority is capable of meeting its financial obligations under any applicable cost-sharing agreement under section 8;

(2) the Secretary determines that the applicant can and will comply with applicable law, regulations, and permit conditions;

(3) the Secretary determines that the grant of the permit will be in the national interest, and is consistent with national security, promotion of trade, and environmental quality; and

(4) the Secretary has considered any comments by the Administrator of the Environmental Protection Agency concerning the compliance of the proposed operation, maintenance, navigation improvement, and ancillary construction with the requirements of the Clean Water Act of 1977 (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.) and the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) except that, the Secretary need not consider such comments, if they are submitted later than 45 days after the last public hearing on a proposed permit.

AUTHORIZATIONS FOR CONSTRUCTION OF NEW NAVIGATION IMPROVEMENT PROJECTS

SEC. 8. (a)(1) The Secretary shall submit a report to Congress recommending approval for any new channel improvement project within 1 year of the date of which—

(A) Congress appropriates money for an engineering feasibility determination and any necessary environmental impact statement or assessment for the project; or

(B) a public port authority first advances the Secretary funds for the purpose of preparing, or causing to have prepared, an engineering feasibility determination.

A public port authority may satisfy the requirement of subparagraph (B) by submitting completed engineering studies and a binding commitment to fund further work that the Secretary finds necessary to make a determination.

(2) Failure of the Secretary to submit his report on a project to Congress within 90 days of completion of the necessary determinations and statements shall be conclusively treated as a transmittal of a report recommending construction of the proposed project.

(b) A navigation improvement project shall not be submitted to Congress by the Secretary unless the following events first occur—

(1) to the extent required by section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), an environmental impact statement or assessment for the project has been prepared;

(2) the Secretary determines that the proposed project is feasible from an engineering standpoint; and

(3) the State port authority agrees to enter a cost-sharing agreement, if required by section 9.

(c) Notwithstanding any other provision of law, the Secretary may accept and expend funds advanced to him by a public port authority for the purpose of preparing or causing to be prepared any engineering studies which the Secretary, in his sole discretion, may require to determine the engineering feasibility of a proposed navigation improvement project. No engineering feasibility studies beyond those deemed necessary by the Secretary shall be required. The Secretary shall also accept and expend such funds for the purpose of preparing the necessary environmental impact statement. Any or all of the studies or statements referred to herein may be carried out, in consultation with the Secretary, by an independent third party contractor agreed upon by the Secretary and the public port authority.

(d)(1) The Secretary shall make an engineering feasibility determination and complete or cause completion of any environmental impact statement or assessment necessary under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) within 1 year of the date when—

(A) Congress appropriates funds necessary for such studies and determinations;

(B) the public port authority first advances funds to the Secretary for such studies or determinations; or

(C) the public port authority submits the necessary studies and makes a binding commitment to advance funds to the Secretary for additional work the Secretary may thereafter deem necessary to make a determination and complete the required environmental impact statement or assessment.

(e) The final environmental impact statement or assessment required by this section shall comply with section 102 of the National Environmental Policy Act of 1969.

(f) Congress shall consider the Secretary's report pursuant to the procedures of section 14 within 60 days of the submission of the report to Congress.

(g) Navigation improvement projects approved pursuant to section 14 shall be funded and constructed by the Secretary from funds in the Fund. The Secretary shall enter a binding cost-sharing agreement as may be appropriate under section 9, within 60 days of project approval by Congress.

(h) Approval pursuant to section 14 shall be deemed to grant all necessary Federal authorizations for the Secretary to construct, or cause to have constructed, the projects so approved. Such approval shall be deemed conclusively to establish the adequacy of the environmental impact statement or assessment.

CONSTRUCTION OF, OR CONSTRUCTION FINANCING ASSISTANCE FOR, ELIGIBLE NAVIGATION IMPROVEMENT PROJECTS

SEC. 9. (a)(1) The Secretary shall expedite construction of the projects authorized pursuant to section 8 and, with respect to projects subject to a cost-sharing agreement under paragraph (2), expedite such construction after the execution of a satisfactory cost-sharing ageement with the public port authority.

(2) For purposes of this Act, a cost-sharing agreement means an agreement entered into between the Secretary and the public port authority concerning an authorized navigation improvement project requiring depths in excess of 45 feet at mean low water, and that contains such terms and conditions as are necessary to protect the interest of the United States, and under which—

(A) the Secretary agrees to implement the project with funds from the Fund for the construction of the project; and

(B) the public port authority agrees to reimburse the United States through financing arrangements acceptable to the Secretary, during the life of the project (but not after the fiftieth year after the project becomes available for use) for—

(i) 50 per centum of the construction funds appropriated to the Secretary under subparagraph (A), plus interest, and

(ii) 50 per centum of the additional annual operating and maintenance costs incurred by the United States with respect to the project after construction.

(3) Reimbursement payments to the United States shall be paid into the Fund.

(b)(1) A public port authority that wishes to undertake, either on its own or through contractors or both, the construction of a navigation improvement project that is authorized for construction through financing assistance under this section may finance the construction through financing arrangements acceptable to the Secretary, if the authority enters into a cost-sharing or reimbursement agreement under paragraphs (2) and (3) for such project.

(2) For an authorized navigation improvement project, greater than 45 feet in depth at mean low water, a public port authority may enter a cost-sharing agreement whereby—

(A) the public port authority agrees to finance 100 per centum of the costs of the construction of the project; and

(B) the Secretary agrees to reimburse the public port authority from the Fund for 50 per centum of the construction and financing costs of the project.

(c) No cost-sharing or reimbursement agreement may be entered into under this section unless the public port authority agrees to such terms and conditions as the Secretary deems necessary to ensure that the construction of the project is being carried out in accordance with the project plans and specifications and is subject to such periodic inspection by the Secretary as he deems necessary to assure compliance with the plans and specifications.

(d) Payments from the Fund for a project authorized pursuant to section 8 shall be given priority according to the date the public port authority applies for a cost-sharing agreement, and, in the case of an authorized navigation improvement project less than or equal to 45 feet in depth at mean low water undertaken by the Secretary, priority shall be given according to the date that the Secretary makes a binding commitment for construction for the project.

(e) Regulations issued by the Secretary pursuant to section 20 shall include regulations pertaining to applications for cost-sharing and payments to and from the Fund, and shall provide that reimbursement to a public port authority for a project constructed pursuant to a reimbursement agreement shall be completed when the project is completed and becomes available for use or as soon thereafter as is reasonably practicable in view of the payment priority of the project pursuant to subsection (d).

APPLICABILITY TO CERTAIN OTHER NAVIGATION IMPROVEMENT PROJECTS

SEC. 10. (a) A project to increase the depth of a deep-draft commercial port channel (other than an access channel) to more than 45 feet at mean low water, if not authorized by Congress before the date of the enactment of this Act but for which a permit was approved under section 404 of the Federal Water Pollution Control Act before the date of enactment, is eligible for construction financing assistance under section 9 of this Act with respect to the construction that remains to be completed as of the date of enactment.

(b) A project to increase the depth of a deep-draft commercial port channel (other than an access channel) to more than 45 feet at mean low water, if authorized by Congress before the date of the enactment of this Act but the contruction of which was not completed before the date of enactment, is eligible for priority construction by the Secretary under section 9 (a), and for construction financing assistance under section 9 (b).

EFFECT UPON OTHER AUTHORIZED NAVIGATION IMPROVEMENT PROJECTS

SEC. 11. (a) This Act does not modify, amend, or repeal any congressional authorization for the construction of a navigation improvement project to increase the depth of any channel in a deep-draft commercial port to a depth not to exceed 45 feet, or for the United States, to the extent provided for in appropriations Acts, to pay all of the costs of constructing and maintaining any navigation improvement project other than a project approved under this Act.

(b) This Act does not modify, amend, or repeal any agreement requiring local cooperation as a condition of Federal authorization of a navigation improvement project.

FEDERAL MAINTENANCE RESPONSIBILITY

SEC. 12. (a) The Secretary, after the completion of the construction of a navigation improvement project under sections 7, 8, and 9 shall, on a continuing basis, determine—

(1) the dredging or other operation and maintenance that is necessary for the project;

(2) The dredging or other operation and maintenance that is necessary for associated access channels and berthing areas; and

(3) the sites at which dredged or spoil material resulting from the dredging or other operation and maintenance described in subparagraphs (1) and (2) should be disposed and the conditions of disposal.

For purposes of paragraph (3), disposal sites shall be selected, and conditions of disposal shall be established in accordance with section 404(b)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1344(b)(1)) and section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413).

(b) The Secretary shall make appropriate revisions to the maintenance program pursuant to sections 5 and 6 in order to assure that new navigation improvement projects are properly maintained once completed.

JUDICIAL REVIEW

SEC. 13. (a) Only the United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review any issue arising from the approval of the maintenance program, a program revision, or navigation improvement project. Any such challenge shall be filed within 30 days after approval of the maintenance program, program revision, or navigation improvement project by Congress.

(b) Only the United States Court of Appeals for the circuit in which a proposed maintenance project or navigation improvement is to be located shall have jurisdiction to review any challenge to the adequacy of the environmental impact statement or assessment of the project, the issuance, denial, or conditions of any consolidated port development permit, and the compliance of any related revision to the comprehensive maintenance program with applicable law. Any such challenge shall be filed within 60 days of the decision by the Secretary to grant or deny a consolidated port development permit under section 7.

(c) In reviewing alleged procedural errors, the court may invalidate the program or permit only if errors were so serious and related to matters of such central relevance to the program or permit that there is a substantial likelihood that the program or permit would have been significantly changed if such errors had not been made.

(d) In the case of the review of any action of the Secretary to which this section applies, the court may reverse any such action found to be—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(2) contrary to constitutional right, power, privilege, or immunity;

(3) in excess of statutory jurisdiction, authority, or limitations; or

(4) without observance of procedure required by law;

if (i) such failure to observe such procedure is arbitrary or capricious, or (ii) the requirements of subsection (c) are met.

PROCEDURES FOR APPROVING NEW NAVIGATION IMPROVEMENT PROJECTS, THE MAINTENANCE PROGRAM AND MAINTENANCE PROGRAM REVISIONS, AND OTHER PROCEDURAL MATTERS

SEC. 14. (a) For purposes of this section, the term "approval resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress approves the ———— maintenance program, program revision, or navigation project specified in the document submitted to Congress on ———— pursuant to ————," with the first blank space being filled in with the name of the maintenance program, program revision, or navigation project intended to be approved, the second being filled in with the appropriate date, and the third being filled in with a reference to either section 5, 6, or 8 of this Act, as appropriate.

(b) All approval resolutions introduced in the House of Representatives shall be referred to the Committee on Public Works and Transportation, and all approval resolutions introduced in the Senate shall be referred to the Committee on Environment and Public Works.

(c)(1) For purposes of submitting a document referred to in section 5, 6, or 8 to Congress, a copy of the document must be delivered to both House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

(2) In computing the 60th day for purposes of applying section 5, 6, or 8, there shall be excluded—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday or Sunday not excluded under subparagraph (A).

CONGRESSIONAL CONSENT TO THE LEVYING OF DUTIES OF TONNAGES BY THE STATES

SEC. 15. (a) The Congress consents, under clauses 2 and 3 of section 10 of article I of the Constitution, to the levying by the States of duties of tonnage as provided for in this Act, but only to the extent that any such levy is consistent with the conditions of consent set forth in subsection (b).

(b) The consent of Congress under subsection (a) is granted with respect to any State, subdivision of a State, or any port authority, subject to the following conditions:

(1) The duty of tonnage may only be levied for the following purposes:

(A) The reimbursement of the United States under, and in a manner consistent with the terms and conditions of, the cost-sharing agreement entered into under section 8 with respect to a navigation improvement project. The levy may not exceed that portion of the costs of construction and maintenance that the public port authority is obligated to pay.

(B) The financing of the costs of constructing, and the reimbursement of the United States for the costs of operating and maintaining a navigation improvement project under, and in a manner consistent with the terms and conditions of, the cost-sharing agreement entered into under section 8 with respect to the project. The levy may not exceed that portion of those costs that the State port authority is obligated to pay.

(2) The duty of tonnage is computed in accordance with section 16.

(3) The public port authority may levy the duty of tonnage on vessels engaged in commerce and their cargo entering the port and cargoes loaded at the port, except that such cargoes moving in domestic commerce shall not be assessed such a duty more than once. The public port authority shall impose, compute, and collect the duty in a nondiscriminatory manner and in accordance with this Act and such limitations as may be prescribed by the Secretary under section 16.

(4) Those revenues accruing through the levy of a duty of tonnage, or moneys equal in amount of such revenues, may be expended solely for the purposes enumerated in subparagraph (1)(B).

(5) The public port authority shall provide to the Comptroller General of the United States, upon his request, such books, documents, papers, or other information as the Comptroller General considers to be necessary or appropriate to carry out the audit required under section 17.

(6) The public port authority shall designate an officer, or other authorized representative or agent of the port, to receive tonnage certificates and cargo manifests from vessels engaged in commerce; export declarations from shippers, consignors, and terminal operators; and such other documentation as may be necessary for the imposition, computation, and collection of the duty of tonnage.

(7) No duty of tonnage authorized by this section may be imposed on—

(A) a vessel owned and operated by the United States or any other nation or any political subdivision thereof and not engaged in commercial service; or

(B) a vessel used by a State or political subdivision thereof in transporting persons or property in the business of the State or political subdivision.

(c) The Congress expressly reserves the right to withdraw the consent granted by it under subsection (a) with respect to any public port authority if at any time in the view of Congress—

(1) the conditions of consent set forth in subsection (b) are not being complied with by the authority; or

(2) an impediment to compliance with any of those conditions is imposed by the authority or under State law.

COMPUTATION OF DUTIES OF TONNAGE RATES

SEC. 16. The Secretary shall establish guidelines for the use by public port authorities in computing the rates of duties of tonnage levied by them under this Act. Such guidelines shall contain, but not be limited to—

(1) a formula for allocating rates on an equitable basis between vessels and cargo;

(2) a rate ceiling with respect to cargo which shall be established by the Secretary after consultations with the Secretary of Commerce, not exceeding $1 per short ton of cargo, unless the Secretary determines that a higher rate is just and equitable and that the imposition of such a higher rate will not impose an unreasonable burden upon any commodity by virtue of its sensitivity to increased transportation costs;

(3) provisions requiring the imposition of a flat rate surcharge (which shall not be subject to the rate ceiling provided under paragraph (2)) on all vessels that draw 41 or more feet of water; and

(4) such limitations as may be necessary or appropriate to ensure that the rate of the duty for each fiscal year (or other appropriate accounting period) is established at the level necessary to ensure that the revenues resulting from the levy during that period will equal, as nearly as practicable, the expenditures to be made during that period with respect to the purposes for which the levy is made.

AUDITS BY THE COMPTROLLER GENERAL

SEC. 17. The Comptroller General of the United States shall carry out periodic audits of the operations of public port authorities that have elected duties of tonnage under this title in order to ascertain whether the port is complying with the conditions of consent provided in section 15. The Comptroller General shall submit to each House of Congress a written report containing the findings resulting from each audit and shall make such recommendations as the Comptroller deems appropriate regarding the compliance of those authorities with the requirements of this Act.

INJUNCTIVE RELIEF

SEC. 18. The United States District Court for the district in which is located a public port authority that is levying duty of tonnage under this Act shall have original and exclusive jurisdiction over any matter arising out of, or concerning, the imposition, computation, or collection of such duty of tonnage, and, upon petition by the Attorney General, may grant appropriate injunctive relief to restrain any act by such port authority that violates the conditions of consent provided in section 15(b).

ENFORCEMENT

SEC. 19. (a)(1) The master of each vessel engaged in commerce, upon the arrival of such vessel in a deep-draft commercial port that levies a duty of tonnage under this Act shall, within 48 hours after arrival and before any cargo is unloaded from such vessel, deliver to the appropriate authorized representative or agent (appointed as required under section 15(b)(6)) a tonnage certificate for the vessel and a manifest of the cargo aboard such vessel or, if the vessel is in ballast, a declaration to that effect.

(2) The shipper, consignor, or terminal operator having custody of any goods to be loaded on a vessel engaged in commerce while such vessel is in a deep-draft commercial port that levies a duty of tonnage under this Act shall, within 48 hours before departure of such vessel and before the loading of such goods on board such vessel, deliver to the authorized representative or agent a declaration specifying the goods to be loaded on such vessel.

(b) The Secretary of the Treasury, acting through the appropriate customs officer, shall withhold, at the request of an appropriate authorized representative referred to in subsection (a), the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91), for any vessel—

(1) if the master of the vessel is subject to subsection (a)(1) and fails to comply with such subsection; or

(2) if a shipper, consignor, or terminal operator having custody of any goods to be loaded on such vessel is subject to subsection (a)(2) and fails to comply with such subsection.

Clearance may be granted upon the filing of a bond or other security satisfactory to the Secretary of the Treasury and the authorized representative or agent of the public port authority.

(c) A duty of tonnage levied under this Act against a vessel engaged in commerce constitutes a maritime lien against that vessel which may be recovered in an action in rem in the United States District Court of the district within which the vessel may be found.

REGULATIONS; ISSUANCE, AMENDMENT, OR RESCISSION; SCOPE

SEC. 20. The Secretary shall, as soon as practicable after enactment of this act, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code. Such regulations shall pertain to, but need not be limited to tonnage duties, and to application, issuance, transfer, renewal, suspension, and termination of permits. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with the State in which an affected port is located and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this Act, to amend or rescind any such regulation.

FINANCING, OPERATION, AND MAINTENANCE OF SAINT LAWRENCE SEAWAY CHANNELS

SEC. 21. (a) Section 4 (a)(10) of the Act of May 13, 1954 (33 U.S.C. 984(a)(10)) is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a comma and "nor facilities necessary to the

operation and maintenance of seaway channels;".

(b) Section 5(b) of the Act of May 13, 1954 (33 U.S.C. 985(b)) is amended by adding the following sentence at the end thereof: "The obligation of the Corporation to pay the principal on such obligations is terminated on the date of enactment of the National Port Development Act of 1982.".

(c) Section 12(a) of the Act of May 13, 1954 (33 U.S.C. 988(a)) is amended by striking out the second sentence and inserting in lieu thereof "Any formula for a division of revenues shall not take into account annual debt charges and shall not include the total cost incurred by the United States in financing activities authorized by this Act, including both interest and debt principal, but shall provide for an equitable division of the revenues of the seaway between the Corporation and the Saint Lawrence Seaway Authority of Canada.".

(d) Section 12(b)(4) of the Act of May 13, 1954 (33 U.S.C. 988(b)(4)) is amended to read as follows: "That the rates prescribed shall be calculated to cover, as nearly as practicable, all costs of operating and maintaining the works under the administration of the Corporation, except for the cost of operating and maintaining connecting seaway channels, which shall be the responsibility of the Secretary of the Army pursuant to the National Port Development Act of 1982.".

(e) Section 12(b)(5) of the Act of May 13, 1954 (33 U.S.C. 988(b)(5)) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "but such rates shall not include any charge to amortize the principal of the debts and obligations of the Corporation which have been terminated by the United States pursuant to this subsection.".

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, there are two special orders this morning; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. STEVENS. Mr. President, I understand that that will be followed by a period for the transaction of routine morning business not to extend beyond 11 a.m. with 2 minutes allowed therein for speeches of Senators; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the period for routine morning business commence at this time and Senators who have special orders be recognized for their 15 minutes as they appear in the Chamber.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HATFIELD). Without objection, it is so ordered.

Mr. NUNN. Mr. President, is there a special order in the name of the Senator from Georgia?

The PRESIDING OFFICER. The Senator is correct.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes. The Senator from Georgia is recognized.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. I thank the Chair.

Mr. President, Senator CHILES and I have been addressing this Senate for over 3 months about the necessary need for habeas corpus reform. Almost every day I have pointed to a case where a convicted felon had actually delayed and frustrated the ends of justice by manipulation of the writ of habeas corpus. In all these cases, the problem would have been alleviated under the proposals included in S. 2543, the Crime Control Act of 1982. I might add they would also be alleviated under Senator THURMOND's bill which has recently been introduced, and which is now on the calendar, which Senator CHILES and I have both gladly cosponsored. These examples clearly demonstrate the long-awaited need for change in the rules governing habeas corpus proceedings.

In the case of Dorsey against Gill, the Court of Appeals for the District of Columbia affirmed a district court's denial of a petition for a writ of habeas corpus, but only after fully examining a series of seemingly frivolous and already litigated allegations by the petitioner. In facing that time-consuming task, the appellate court was obviously frustrated with what appeared to be yet another instance of misuse of the writ for purposes of delay.

Given that frustration, it is hardly surprising that the Dorsey court took great care to make some particularly appropriate comments on the problem of abuse of the writ of habeas corpus. It is interesting to note that those comments, made in 1941, are equally pertinent and appropriate today, in 1982. Even in 1941, the problem had already reached substantial and burdensome proportions. Consider the comments and statistics pointed out in the Dorsey opinion:

. . . [P]etitions for the writ are used not only as they should be to protect unfortunate persons against miscarriages of justice, but also as a device for harassing court, custodial and enforcement officers with a multiplicity of repetitious, meritless requests for relief. The most extreme example is that of a person who, between July 1939 and April 1944, presented in the District Court 50 petitions for writs of habeas corpus; another person has presented 27 petitions, a third 24, a fourth 22, a fifth 20. One hundred nineteen persons have presented 597 petitions—an average of 5.

Imagine for a moment the spectacle of an individual filing some 50 petitions for habeas relief within a span of only 5 years. Surely that sort of outrageous litigation does little to enhance the credibility of our courts in the public eye.

Citing the "dangerous possibilities of a too-liberal use of the writ for review purposes," the Dorsey court considered the problems of purposefully delayed petitions:

. . . . If the presumption of regularity of proceedings were permitted to be lightly upset by irresponsible allegations, the judges, to whom petitions for writs of habeas corpus are presented, would be forced to look back of and beyond records, into unreported proceedings, conducted by other judges, with witnesses, lawyers and other court officers long since dead or scattered. The problem would be intensified, also, by the fact that a large percentage of commitments are based upon pleas of guilty. A premium would be placed upon deception if an accused person could plead guilty; wait until the case had become "cold" and then, by challenging jurisdiction or alleging deprivation of constitutional rights, secure a reopening and new trial of his case. If greater safeguards are needed in original proceedings, they should be provided. But it will not solve any problem, which may exist there, to permit large-scale use of this extraordinary writ for review purposes. Instead, it would cause confusion worse confounded.

Abuse of the writ of habeas corpus law has rendered our criminal justice system nearly incapable of producing finality of judgment. S. 2543 confronts this grave problem by requiring Federal courts to give increased deference to State court findings. The bill will also limit Federal habeas corpus relief to those cases brought within a 3-year statute of limitations. This measure will pave the way to a return to a credible and effective criminal justice system. Based on the overwhelming evidence of abuse, no one should doubt the importance of these reforms to this Nation's continuing struggle against violent crime.

Mr. President, I yield back the remainder of my time and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. SPECTER) is recognized for not to exceed 15 minutes.

S. 2856—AMENDMENT OF PROTECTION OF CHILDREN AGAINST SEXUAL EXPLOITATION ACT OF 1977

Mr. SPECTER. Mr. President, I am today introducing a bill to amend the Protection of Children Against Sexual Exploitation Act of 1977.

Four years ago, congressional hearings indicated that child pornography had become a multimillion dollar industry, victimizing thousands of children. Congress responded by outlawing the production of child pornography and the distribution for sale for sale of obscene materials which pornographically depicted children.

Last month the Supreme Court ruled in New York against Ferber that the compelling State interest in safeguarding the physical and psychological well-being of minors constitutionally justified the prohibition of nonobscene pornography involving children.

I applaud the Supreme Court and concur that the child pornographer's first amendment guarantee of free speech is not violated when he is prohibited from sexually expoliting a child.

My interest in, and commitment to fighting the child pornographer stems from a series of hearings on the sexual exploitation of children which began last November before the Subcommittee on Juvenile Justice. Although it is clear that Federal efforts to enforce existing laws have decreased the availability of child pornography, testimony at those indicated that the Federal law is not tough enough to protect the thousands of our children who continue to fall victim to pornographers and exploiters.

Father Bruce Ritter who directs a runaway house in Times Square testified that thousands of runaways in New York City are "recruited, if not openly abducted, by the organized child prostitution and pornography industries which, in New York at least, are estimated to earn close to $1 billion each year."

In contrast figures supplied by the Department of Justice and the Postal Service show a low number of Federal arrests and convictions of child pronographers. From May of 1977 to April of 1982, 43 persons have been convicted under all available obscenity statutes for distribution of obscene material depicting minors. Less than half of these convictions were for violations of the laws specifically focusing on child pornography, which carry penalties exceeding those imposed by the general obscenity laws. As of April 29, 1982, the 20 persons who were convicted under these tougher child pornography laws had received sentences ranging from a $500 fine with a suspended sentence to a $25,000 fine with a 20-year sentence.

Testimony at the subcommittee hearings offered one key explanation for the limited Federal success in attacking the child pornography industry—Federal law currently reaches only distribution of child pornography for sale. Charles P. Nelson, Assistant Chief Postal Inspector, Office of Criminal Investigations for the U.S. Postal Service testified:

> The bulk of the child pornography is noncommercial. This activity is not in violation of the Federal child pronography statutes. These statutes require a commercial transaction in connection with the manufacture or distribution of the material before a violation exists.

The result of this commercial limitation is far reaching. Dana E. Caro of the Criminal Investigation Division of the Federal Bureau of Investigation testified that:

> (T)he FBI has determined that a clandestine subculture exists in the United States which is functioning in violation of the child pornography and sexual exploitation of children statutes. This culture is involved in recruiting and transporting minors for sexual exploitation and investigation has revealed that this culture is very difficult to penetrate. It has been determined that the largest percentage of child pornography available in the United States today was originally produced for the selfgratification of the members of this culture and was not necessarily produced for any commercial purpose. Pedophiles maintain correspondence and exchange sexual explicit photographs with other members of this subculture and often establish contact with each other through "swinger" type magazines and newspapers which act as mail forwarding services for the readers. FBI investigations have revealed that commercial photographers and major distributors pose as members of this subculture and obtain free of charge the sexually explicit photographs of minor children. As a result, many of the photographs taken for private use and obtained by these commercial photographers and pornographic distributors subsequently appear in child pornography magazines which have wide commercial distribution. Neither the child posing for the picture or the original photographer receive any payment from these commercial photographers or major distributors. Therefore, the FBI's effectiveness in combatting child pornography and the sexual exploitation of children at the grass roots has been seriously impaired by the pecuniary interest requirement contained in title 18, U.S. Code, sections 2251 and 2252.

The bill I am introducing today reflects the testimony of the law enforcement community. It makes any interstate distribution of child pornography or any distribution of child pornography through the mails a Federal crime.

My bill also amends the 1977 law to bring it into accord with the Supreme Court's July 2, 1982, decision in Ferber: It makes unlawful the distribution of any photographs which sexually exploit children under age 16.

Finally, this bill provides for tougher penalties—fines would increase from $10,000 to $75,000 for a first offense and from $15,000 to $150,000 for a second offense. Given the testimony we have heard, it is apparent that the current statutory penalties are insufficient to take the profit out of child pornography. The elevated fines I propose are intended to correct this shortcoming, as well.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2856

Be it enacted by the Senate and Housing of Representatives of the United States of America in Congress assembled, That section 2251 of title 18, United States Code, is amended in subsection (c)—

(1) by striking out "$10,000" and inserting in lieu thereof "$75,000"; and (2) by striking out "$15,000" and inserting in lieu thereof "$150,000".

SEC. 2. Section 2252 of title 18, United States Code is amended—

(1) in subsection (a)(1) by striking out "for the" through "obscene" and inserting in lieu thereof "any";

(2) in subsection (a)(2) by striking out "for the" through "obscene" and inserting in lieu thereof "any"; and

(3) in subsection (b)(A) by striking out "$10,000" and inserting in lieu thereof "$75,000"; and (B) by striking out "$15,000" and inserting in lieu thereof "$150,000".

SEC. 3. Section 2253 of title 18, United States Code is amended—

(1) in clause (2)(E) by striking out "lewd exhibition" and inserting in lieu hereof "exhibition without literary, artistic, scientific or educational value"; and

(2) in clause (3) by striking out ", for pecuniary profit".

THE PRICE OF ACQUIESCENCE IS TOO HIGH

Mr. BOREN. Mr. President, earlier this week, the United States and the People's Republic of China issued a communique jointly in their respective capitals on the matter of the Republic of China on Taiwan. At the same time, the President of the United States let it be known that he was now prepared to go ahead with the sale of 60 F-5 fighter planes to Taiwan, to be coproduced in Taiwan. This is a sale the President had agreed to in principle last January, but upon which he had not acted until this week.

It is clear that last January when he agreed in principle to the sale, the President was also in the midst of negotiations with the P.R.C. over Taiwan and he knew that the outcome of those talks were going to require at least some small gesture to try to satisfy the friends of Taiwan when the joint communique was finalized and made public.

The price of acquiescence is too high, Mr. President, and I, as one Senator, will not be placated by so cynical a display of diplomatic doubledealing.

Nowhere does it appear that we held to a strong bargaining position on behalf of the 18 million free people of Taiwan. What did we get in return for apparently bartering away their security? What guarantee did we obtain for their right to self-determination? How can we defend such callous treatment of a nation which is one of our best trading partners and one of the few that pays its bills with hard cash? Taiwan has also been our ally in the Korean conflict and in every other international and military crisis.

An excellent editorial appeared in Wednesday's Wall Street Journal entitled "China's China Card." It points out that "it is easy to see what is being surrendered, hard to see what is being gained. As Washington edges its policy further away from Taipei, the world has new cause to wonder what an alliance with the United States is worth."

Beyond even those issues, Mr. President, rises the specter contained in an article on the front page of this morning's Washington Post—namely, that this joint communique has handed the Communist leadership in China what 33 years of civil war has not achieved, the inevitable reunification of Taiwan and the mainland. Included in this analysis is the observation of an unidentified European diplomat that "Peking can just let time run its course."

In 1979, when I first came to this Chamber, one of the first major issues we debated was the Taiwan Relations Act. In fact, the first amendment I offered as a U.S. Senator was to that act.

I remember well the feelings prevailing in the Senate at the time. No one argued with then President Carter's right to normalize relations with the People's Republic. A majority of us, however, were highly displeased with the manner and the conditions under which he proceeded. In particular, we disputed his abrogation of the mutual defense treaty between the United States and Taiwan and his acceptance of a set of conditions which had been rejected by other administrations. There was an additional feeling that Carter's rush to judgment was driven by a strong need to show leadership in foreign affairs.

The result of all this was the passage of the Taiwan Relations Act—an expression of the Congress that we wished to continue our relationship with these 30-year-old allies in as normal a manner as possible under the circumstances. The Taiwan Relations Act was also a signal to the rest of the world that U.S. alliances did mean something and that the Taiwanese could be assured that their future security, resting as it does on U.S. defense arms support, would be uppermost in the minds of their friends in the U.S. Congress.

Almost from the day of its passage, the implementation of the Taiwan Relations Act has been weighed down by the foot-dragging of a State Department which never agreed with its provisions and an administration that viewed its very existence as an infringement on the executive branch's inherent right to conduct foreign policy.

Time after time, the senior Senator from Arizona, Mr. GOLDWATER, and others, inserted into the RECORD examples of how the Taiwan Relations Act was being ignored or circumvented and the trend of eroding away its provisions bit by bit became evident. The old game was on—Congress cannot concentrate on anything for long, so if at first you don't succeed, stall, wait, vacillate—sooner or later, you can get what you want little by little.

There was some hope for those of us who feel commitments are not matters of convenience. In addition to the tenacious pursuit of Senator GOLDWATER, there was a new day on the horizon. Ronald Reagan was on his way to the White House, campaigning around the country in large measure against what he called the weak-kneed foreign policy which was then emanating from the Carter administration, a prime example of which was Jimmy Carter's abandonment of Taiwan. A Reagan administration would not be so callous and capricious with our friends. We were told Communist China needs us more than we need them, and on August 25, 1980, candidate Reagan told the world he "would not impose restrictions which are not required by the Taiwan Relations Act."

But the air on Pennsylvania Avenue is rarefied, Mr. President, probably due in part to its proximity to Foggy Bottom. When Senator JOHN GLENN brought that quote to the attention of the State Department's John Holdridge at a meeting of the Foreign Relations Committee recently, Holdridge made no comment.

In this week's communique and the accompanying statement, now President Reagan declares his affection and commitment to Taiwan while saying the United States—

* * * does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution.

None of these limitations and phaseouts can be found in, nor can they be squared with, the Taiwan Relations Act.

The Wall Street Journal editorial writers wonder what we received in return, Mr. President, and so do I. Part 4 of the communique does mention the Communist Chinese Government's "fundamental policy of striving for peaceful reunification of the motherland." One is supposed to hope, I suppose, that the P.R.C. can successfully strive to avoid military force on behalf of the motherland. It is possible, however, that Taiwan may be a little nervous on this point faced as they are with 400,000 troops and nearly 4,000 aircraft in the southeast region of Communist China. The reality Taipei must deal with is that the biggest single reason they have been able to deal evenly with Peking—U.S. defensive support—is fading fast.

I disagree with the President's action. I believe that once again our negotiations were driven by expediency, not prudence, and the only long-term interests that have been served are those of the Communist Chinese.

For all these reasons, Mr. President, I deplore this week's communique and urge all my colleagues to review their diligence in protecting the rights of our friends on Taiwan as set forth in the Taiwan Relations Act.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I believe there is an order that at 11 a.m., the Senate will resume consideration of the unfinished business, which is the debate on the debt limit; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, for the benefit of Senators, let me say that I continue to hope for some sort of a time agreement that will permit us to vote on something today. As I indicated last evening, I hope there is some possibility that the distinguished Senator from Oregon (Mr. PACKWOOD), the distinguished Senator from North Carolina (Mr. HELMS), and others who are principally involved in this matter, will urgently explore that possibility. We will be on this bill for the remainder of this day, and since this is Thursday, there is a possibility that it will be a late day, particularly if we can make some progress on the question at hand, that is, the debt limit and the pending amendments to it.

Mr. President, I anticipate that we will have from the other body the conference report on the tax bill sometime today, which, of course, is a privileged matter. If we do receive that today, it would be my hope that we could proceed to the consideration of that tax conference report and dispose of it, and then resume the debate on the debt limit bill.

There is a messenger, I believe, seeking entry to the Chamber at this time from the House of Representatives, who has, I believe, the conference report on the supplemental appropriations bill. Senators should know that

it is not my plan to take up that supplemental conference report today. I think our platter is full today, as the minority leader has said so many times. But I do not think it is possible for us to take care of the tax conference report, the supplemental conference report, and the debt limit during this day, so I anticipate that the supplemental appropriations conference report will be dealt with tomorrow as well as the continuation of the debate on the debt limit as and if that is necessary.

I continue to hope, Mr. President, that we can finish these matters, the debt limit, the amendments to it, the supplemental conference report, and the tax conference report and go out tomorrow evening. There is a recess resolution on its way here from the House of Representatives that provides for a recess tomorrow or Saturday. I would warn Senators once again of the possibility of a Saturday session or even perhaps next week, although I think that is a receding prospect if we get the tax bill, as I anticipate we will, from the House of Representatives.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. Yes. I yield.

TEMPORARY DEBT LIMIT INCREASE

Mr. HELMS. Mr. President, I thank the able minority leader.

Let me ask the Chair if I am correct in my impression that there are now four amendments that are pending?

The PRESIDING OFFICER. The Senator from North Carolina is informed that there are five amendments pending including the committee substitute.

Mr. HELMS. The Chair is obviously correct, including the committee substitute, but with relation to the school prayer and abortion question there are four amendments, two offered by the Senator from North Carolina, on which the yeas and nays have been obtained, one offered by the able Senator from Connecticut (Mr. WEICKER), and a second-degree amendment by the able Senator from Montana (Mr. BAUCUS).

Am I correct that the yeas and nays have been obtained on all four of these?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Am I further correct in my understanding that if we were to start voting right now the Baucus amendment would be first to be considered?

The PRESIDING OFFICER. The Senator is correct?

Mr. HELMS. The second will be the Weicker amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. The third would be the Helms abortion amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And the fourth would be the Helms prayer amendment, so-called?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Let me say to the distinguished majority leader that I am ready to vote now.

Mr. BAKER. I thank the Senator.

Mr. President, I wonder if the Senator from Oregon, the manager of the bill, and a principal in the debate, could indicate to me what he thinks the prospects are that we might have a vote on one, all, or some kind of composite of these amendments today?

Mr. PACKWOOD. Mr. President, one of the difficulties I face is I need to talk with some of my allies, and I cannot do that while I am on the floor. When we go back on the bill, I have the floor. I am reluctant to give up the floor if it might jeopardize the parliamentary situation.

The other side has indicated, some of them, that they felt shut out; they have not had a chance to speak. I would like to explore the possibility of some agreement, but I would need some time off. During that time I would need agreements that there would be no motions or no votes while the debate is going on.

Mr. BAKER. Mr. President, now I inquire of the distinguished Senator from North Carolina if he would have any objection to such an agreement, were it formulated and presented to the Senate.

Mr. HELMS. I say to the Senator from Tennessee that all I have done this entire week is protect my rights and the interests of the cause I am representing.

While we are on the subject, let me say that there have been certain assertions that there was some double-dealing in this matter. I ask the majority leader right now if I have misled him even once.

Mr. BAKER. Mr. President, the Senator has not. I have indicated to him that, while it is my job to try to protect the interests of every Senator—Senators on both sides of this issue—the Senator from North Carolina has always been square with me. He has never misled me. He has indicated no intention to deceive me, nor has he deceived or misled me. I state for the RECORD that he has dealt aboveboard in every respect, and I have no reservations in making that statement.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The hour of 11 a.m. having arrived, under the order previously entered, the Senate will now proceed to the consideration of House Joint Resolution 520, which will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

The Senate resumed consideration of the joint resolution.

Mr. BAKER. Mr. President, a parliamentary inquiry. Does the order provide that the Senator from Oregon be recognized as we resume debate on this measure?

The PRESIDING OFFICER. It does.

Mr. BAKER. Will the Chair please recognize the Senator?

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor and without his statements prior to or after this interruption appearing as a second speech under the rules.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me under those conditions?

Mr. PACKWOOD. I yield.

Mr. BAKER. Mr. President, it seems to me that there is the possibility, at least, of working out something. I think the requirement of the Senator from Oregon, that he needs time to check with his conferees and allies, is reasonable.

I suggest, then, that we debate this matter for the next few minutes, while I explore the most reasonable time for the Senate to recess briefly.

I have in mind at this time—so that those who may be listening in their offices may hear and know what I am contemplating—that we recess from 12 until 1:30. That would accommodate, I think, the needs of some other Senators, and it would give the Senator from Oregon and the Senator from North Carolina time to check with their respective partisans and perhaps to bring us closer to an agreement.

First, I ask the Senator from Oregon whether that would be suitable for his purposes.

Mr. PACKWOOD. Yes—if we recess at 12 noon and I have the floor when we return from the recess.

Mr. BAKER. Yes. I include that in the request.

I ask the Senator from North Carolina if that would be agreeable to him.

Mr. HELMS. Mr. President, there is no problem at all. As I have said repeatedly, let us vote. The forces on my side—if indeed there are any forces—are not holding up this matter. We have not even been allowed to have the floor, except when I had to use some unusual circumstances to modify

my own amendment yesterday. I was forbidden to do that by my friend.

So I say to both Senator PACKWOOD and the distinguished majority leader that I want to accommodate the Senate in any way possible, and I think we should go ahead and vote in the order that the amendments appeared, under the Senate rules.

Mr. BAKER. I thank the Senator.

I see the distinguished minority leader on the floor. I would have consulted him in advance on this subject, but I believe he may have been testifying before a committee and could not be present at the time.

I am not sure whether he heard the nature of the request I am perpared to make—that is, at 12 noon we recess for an hour and a half, until 1:30, p.m., so that Senator PACKWOOD and Senator HELMS could explore the possibility of an agreement on some formulation on which we could vote, with the understanding that when we resume debate, the Senator from Oregon would once more be recognized.

Mr. President, I will put a request, now that I have had a moment to consult informally with the minority leader.

Still under the unanimous-consent request which was granted, that the Senator from Oregon will not lose his right to the floor, nor will the interruption create a second speech, I ask unanimous consent that at 12:15 p.m. today, the Senate stand in recess until 2 p.m.; that at 2 p.m., the Senate resume consideration of the pending business, the debt limit; that at that time, the Senator from Oregon, who presently has the floor, will be re-recognized, to proceed with his debate, without it being charged as a second speech.

The PRESIDING OFFICER (Mr. ANDREWS). Without objection, it is so ordered.

Mr. BAKER. Mr. President, we now need some time for a variety of other reasons, for the transaction of routine morning business. In a moment, I will yield the floor, and I thank the Senator for yielding.

I am a firm and staunch believer in looking forward instead of backward, so what I am about to say is not meant to engage in a further analysis of how we reached the point we are at now, but I should like to say one thing for the RECORD.

Neither side, in my view, has misled me. Both sides have treated fairly with me, and I am grateful for that.

Yesterday what we had, in the parlance of the basketball world, was a tipoff. We had a free ball and threw it in the air to see who would be recognized. The distinguished President pro tempore was in the chair, and he recognized the Senator from North Carolina. I will not engage in that debate, except to say that no unanimous-consent agreement was violated.

There was a previous agreement, on the prior day, that the Senator from Oregon would be recognized. I recessed the Senate on the previous evening because we appeared to be stymied as to how to proceed next, with the understanding that we would resume consideration of that bill, that we would throw the ball up in the air and see how it came down.

So, Mr. President, all I want to say was that, so far as I am concerned, I do not feel misled in any respect. I have seen reports that one side or the other has taken advantage of the Senate or of me, and I wish to say that that is not my understanding of the situation.

Mr. PACKWOOD. May I ask a question?

Do I correctly understand, however, that under the normal precedents of the Senate, after the recognition of the leaders, it is usual for the manager of the bill to be recognized?

Mr. BAKER. Yes, Mr. President, that is the precedent of the Senate. The Chair ruled that the precedent applied in the case of simultaneous efforts by Senators to gain recognition; and as I understood the Chair, he ruled that the recognition effort was not simultaneous. That is not a matter I would care to judge, because I was not in the Chair, which is one of my many blessings.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend past 11:30 a.m., in which Senators may speak for not more than 15 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. That is not the end of the request.

I also ask unanimous consent that the interruption in this debate not be counted as a second speech to the Senator from Oregon and that after we resume debate on this measure, he once again be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader and the distinguished Senator from Oregon.

NATIONAL SUDDEN INFANT DEATH AWARENESS WEEK

Mr. DURENBERGER. Mr. President, I send a joint resolution to the desk and ask for its immediate consideration.

Mr. ROBERT C. BYRD. Mr. President, will the Chair have the clerk state the title of the joint resolution first?

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 233) to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration and without objection the joint resolution will be considered to have been read the second time at length.

The joint resolution is introduced by Mr. DURENBERGER, for himself and Senators ABDNOR, BAUCUS, BURDICK, COCHRAN, CRANSTON, DANFORTH, DOLE, FORD, HATCH, HAYAKAWA, HEINZ, HOLLINGS, JACKSON, KASSEBAUM, LEAHY, LEVIN, LUGAR, MATHIAS, MCCLURE, METZENBAUM, MURKOWSKI, PACKWOOD, QUAYLE, SARBANES, WEICKER, ZORINSKY, GORTON, KENNEDY, PROXMIRE, CHAFEE, D'AMATO, and ROBERT C. BYRD.

Mr. DURENBERGER. Mr. President, I thank the minority leader and I thank the Chair.

Mr. President, each day, some 20 infants in the United States succumb while asleep to the sudden infant death syndrome, which is commonly called SIDS. Before it was called SIDS it was known to many as crib death. There is no warning and no reason to expect that any particular baby will die. But 7,000 of them do die each year in this country—7,000 apparently normal and healthy infants between the ages of 1 week and 1 year.

Little is known about his mysterious syndrome. It appears to be as old as recorded history, and it strikes every ethnic group, every social class, every economic stratum, every region of the world.

The death of any child is a senseless tragedy which can totally disrupt the lives of parents and siblings. But a SIDS death or crib death often results in unique and particularly traumatic problems for the families of victims. Because SIDS is not well understood and because it is not well known among the general public, the families of SIDS victims can often find themselves suspected of child abuse or child neglect. Even when an autopsy results in a formal finding of SIDS as the cause of death, friends, neighbors, and relatives often remain confused and parents often suffer from feelings of guilt. This added anguish can be helped with counseling where needed, but it can be avoided if more people are aware of SIDS in the first place. It was for this reason that Congress passed legislation in 1974 to provide for counseling projects and medical protocols in SIDS cases.

But SIDS cuts a wider swath. Because it is not well understood, it can cause panic among parents of any young children. Recently, for example, a brief news item concerning a possible link between SIDS and certain innoculations—a link which was disproved—caused many parents to insist that their children not be innoculated. More horrifying, a number of unscrupulous people have been known to capitalize on the ignorance about SIDS to peddle quackery.

Substantial progress has been made in the investigation of SIDS in the past few years. It is possible that we may soon be able to identify infants who appear particularly susceptible to this pernicious killer. Once identified, they can be closely monitored so that resuscitation is undertaken as soon as needed. But diagnosis and prevention remain only distant goals, and research must be supported with contributions.

In other words, there is a clear need for more awareness of the sudden infant death syndrome. A greater awareness by the public can help the parents of victims to avoid added anguish. Just as important, it can prevent panic among other parents. Finally, it can stimulate the contributions needed for further research.

Mr. President, for the last 10 years, I have known Dr. Ralph Franciosi, a young pathologist up in Minneapolis. He has dedicated his life at the Children's Health Center in Minneapolis to the study of SIDS, and to trying to spread knowledge, information, and a greater awareness among the public. But it was not until I received a phone call about 5 o'clock in the morning very early this spring from one of my legislative assistants who said only, "Something terrible has happened. Our baby is dead," that I felt as a U.S. Senator that I had to take it upon myself to inform my colleagues about their obligations to spread the word and increase the awareness of sudden infant death syndrome.

This resolution is only part of that process. What we and others do with this resolution from here on out is what will help other parents to avoid the problems experienced every year by 7,000 parents in this country.

That is why I have introduced this resolution designating the first week of October as National SIDS Awareness Week. It is why so many other Senators, more than 30, have cosponsored this resolution.

The breadth of support indicates just how serious the problem of sudden infant death syndrome is and how willing people are to work for its solution.

● Mr. QUAYLE. Mr. President, I rise to join my colleague, Mr. DURENBERGER, as he introduces this resolution to declare the week of October 1, 1982, as "National Sudden Infant Death Awareness Week."

Twenty times a day in this country a lifeless infant is found. These babies are normal, healthy infants that are found dead in their cribs by their families. One cannot imagine the grief and heartache these crib deaths bring into a family, nor the guilt or the prosecution.

Because these crib deaths are not well known, many families of sudden infant death victims are suspected of child abuse. In one case, three siblings were removed from the grieving parents by child protection authorities within hours of the death of the new baby. With more public awareness, these needless tragedies can be avoided.

I support this resolution because it will bring public attention not only to the problem, but to the progress that is being made, particularly in the development of monitoring for susceptible children. Infants who have had near misses can be monitored through their first year of life, when the danger of another episode appears to subside.

I commend the Senator from Minnesota for his interest in this problem, and join him in support of this resolution.

Mr. DURENBERGER. Mr. President, I move the adoption of this resolution.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DURENBERGER. I yield.

Mr. ROBERT C. BYRD. I congratulate the Senator for his introduction of the joint resolution, and I wonder if I might be named as a cosponsor?

The PRESIDING OFFICER. Without objection, the Senator from West Virginia is added as a cosponsor.

If there are no amendments, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading; was read the third time, and passed.

The preamble was agreed to.

The joint resolution (Senate Joint Resolution 233), together with its preamble, is as follows:

S. J. RES. 233

To provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week."

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas Sudden Infant Death Syndrome is a recognized disease entity which kills at least 7,000 infants per annum in the United States;

Whereas the victims of Sudden Infant Death Syndrome are babies who appear healthy but who nonetheless die without warning while asleep;

Whereas Sudden Infant Death Syndrome knows no boundaries of race, ethnic group, region, class or country;

Whereas Sudden Infant Death Syndrome is the leading killer of infants between the age of one week and one year;

Whereas Sudden Infant Death Syndrome annually kills more infants than cystic fibrosis, cancer, heart disease and child abuse combined;

Whereas research is underway throughout the world to identify the causes and process of this syndrome and to treat infants who can be identified as potential victims;

Whereas the parents and siblings of Sudden Infant Death Syndrome victims often suffer added anguish because many people are unaware of the existence of the pernicious killer; and

Whereas an increase in the national awareness of the problem of Sudden Infant Death Syndrome may ease the burden of the families of victims and may stimulate interest in increased research for the causes and the cure of Sudden Infant Death Syndrome: Now, therefore be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the week beginning October 1, 1982, is designated as "National Sudden Infant Death Syndrome Awareness Week," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. BAKER. Mr. President, I have a number of items that are cleared for action by unanimous consent on this side. May I inquire of the minority leader if he is in position to proceed on items that I believe have been brought to his attention?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the Chair.

FEDERAL COMMUNICATIONS ACT AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 3239 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, August 19, 1982.)

Mr. GOLDWATER. Mr. President, I rise in support of the conference report on H.R. 3239, a bill that contains amendments to the Communications Act of 1934 to facilitate the provision of amateur radio and private land mobile radio services. I first proposed similar provisions to the Senate in 1979. That year, along with Senators SCHMITT, PRESSLER, and STEVENS, I introduced S. 622, the "Telecommunications Competition and Deregulation Act of 1979." No action was taken on that bill. On April 8, 1981, I introduced S. 929, a more far-reaching bill to improve the administration of these communications services. S. 929 was cosponsored by Senators PACKWOOD, SCHMITT, PRESSLER, STEVENS, CANNON, HOLLINGS, and INOUYE. The Committee on Commerce, Science, and Transportation reported that bill with amendments on September 18, 1982 and it passed the Senate on September 25, 1981.

Mr. President, I have been continually frustrated by the failure of many in Congress to appreciate the important role that ham operators and private land radio users have in our national communications system. With the passage of H.R. 3239, I hope we have finally overcome this failure to grasp the importance of these services.

The contributions of the over 400,000 amateur radio operators nationwide to the welfare and safety of the United States, through the furnishing of public service communications, emergency communications, technical self-training, self-regulation and advancement of the modern radio and television arts are too well documented to require elaboration. Nonetheless, threats to the continuation of amateur radio's unblemished record of service to the public exist from a number of sources, including governmental fiscal restraints, unintentional statutory restraints and problems arising from interference to home entertainment equipment through no fault of the amateur radio station. These problems can be easily solved at essentially no cost, and in most cases, the apparent solutions are actually cost-saving measures. Despite the simplicity and cost-saving aspects of these solutions, however, the need for them remains acute.

Amateur radio constitutes one of the best educational opportunities for America's youth and one of the most worthwhile pastimes for its elderly. The unavailability of Federal funds to administer this service need not and should not be permitted to preclude amateur radio involvement for the young or the elderly. Amateurs must be permitted, through voluntary efforts supervised by the FCC, to supply the services, including examinations, to those who would benefit from them, as funds are not available to supply these services any longer. In that regard, the FCC must insure that there are no conflicts of interest in the preparation and administration of amateur examinations and that no one is treated unfairly.

Judicial construction of statutory limitations have bound the hands of amateurs who would work together to identify intruders into the frequency bands used for amateur radio public service communications. It is imperative that amateurs be unfettered in their efforts to continue the cooperative self-regulation that has impressed regulatory authorities since the dawn of radio.

The problem of interference to television and other home entertainment equipment from transmitting equipment has plagued our citizens for years. Complaints are increasing at an exponential rate. This is not because of the transmitting equipment, but because of the need to incorporate inexpensive filtering mechanisms in home entertainment equipment. The need for better design now in such home entertainment equipment is critical to stem the tide of electromagnetic incompatibility now throughout our atmosphere and creating disputes among neighbors. The millions of purchasers of television and radio receivers and other electronic devices each year deserve and need protection from interference.

In addition, this bill contains a provision which will enable the FCC to eliminate licensing of citizens band radio (CB) and radio control (RC) services. The major purpose of this provision is to give the FCC the option of relaxing or virtually eliminating its regulation of operators in the RC and CB services. With respect to CB, licenses are available to virtually anyone who makes such a request. These licenses do not grant any special spectrum privileges, meaning that all CB licenses may use any of the 40 channels allocated to that service. These same considerations apply to the RC service. I believe this is a necessary step, and one which will result in significant savings to everyone concerned.

Mr. President, I also want to emphasize the importance of private land mobile services to the Nation. These services are rapidly becoming an important tool for small businesses to use in operating more efficiently. Also, police, fire, emergency rescue services and other governmental services are heavy users of land mobile radio, as are the railroads and motor carriers. Public utilities depend upon land mobile radio to promptly restore utility service to the public. Other uses include heavy construction, fuel oil delivery, manufacturing, the petroleum industry, and the forest products industry.

At a time of governmental belt-tightening at all levels, this bill is timely. It provides a means of cutting costs, eliminating problems which have plagued a most worthy public service-oriented avocation, and yet actually permits an increase in the availability of services to amateur radio, the most self-regulated radio service in the United States. In an electronic age, it is critical to nurture an interest in technical experimentation and development. Amateur radio inherently fosters such an interest. This bill is necessary to insure continued growth of the service and its continued effectiveness as a source of public service involvement.

Mr. President, the amateur radio and land mobile provisions in this bill are far too important to allow them to not be enacted this year. The time for action is now and I therefore endorse this bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BOUNDARY OF CRATER LAKE NATIONAL PARK

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1119.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1119) entitled "An Act to correct the boundary of Crater Lake National Park in the State of Oregon, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) the first section of the Act entitled, "An Act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, nd so forth", approved May 22, 1902 (32 Stat. 202), as amended, is further amended by revising the second sentence thereof to read as follows: "The boundary of the park shall encompass the lands, waters, and interests therein within the area generally depicted on the map entitled, 'Crater Lake National Park, Oregon', numbered 106-80-001-A, and dated March 1981, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.".

(b) Lands, water, and interests therein excluded from the boundary of Crater Lake National Park by subsection (a) are hereby made a part of the Rogue River National Forest, and the boundary of such national forest is revised accordingly.

(c) The Secretary of the Interior is authorized and directed to promptly instigate studies and investigations as to the status and trends of change of the water quality of Crater Lake, and to immediately implement such actions as may be necessary to assure the retention of the lake's natural pristine water quality. Within two years of the effective date of this provision, and biennially thereafter for a period of ten years, the Secretary shall report the results of such studies and investigations, and any implementation actions instigated, to the appropriate committees of the Congress.

SEC. 2. (a) In accordance with section 3(c) of the Wilderness Act (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Cumberland Island National Seashore, Georgia, which comprise about eight thousand eight hundred and forty acres, and which are depicted on the map entitled "Wilderness Plan, Cumberland Island National Seashore, Georgia", dated November 1981, and numbered 640-20038E, are hereby designated as wilderness and therefor, as components of the National Wilderness Preservation System. Certain other lands in the Seashore, which comprise about eleven thousand seven hundred and eighteen acres, and which are designated on such map as "Potential Wilderness", are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, designated wilderness. Such notice shall be published with respect to any tract within such eleven thousand seven hundred and eighteen acre area after the Secretary has determined that such uses have ceased on that tract. The map and a description of the boundaries of the areas designated by this section as wilderness shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the Superintendent of the Cumberland Island National Seashore.

(b) Within six months after the enactment of this Act, a map and a description of the boundaries of the Cumberland Island Wilderness shall be filed with the Energy and Natural Resources Committee of the United States Senate and with the Interior and Insular Affairs Committee of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made.

(c) The wilderness area designated by this section shall be known as the Cumberland Island Wilderness. Subject to valid existing rights, the wilderness area shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference in that Act to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

Mr. MATTINGLY. Mr. President, it is with great pride that I rise to support S. 1119, which contains a provision establishing portions of Cumberland Island, Ga., as a wilderness area. Some sections of the island are being designated as potential wilderness and will remain so long as there are retained rights owners.

Cumberland Island is one of the many barrier islands along the southern Atlantic coast. Unlike so many of the islands, however, it is unspoiled by commercial development.

There are almost 20 miles of beautiful, untouched beaches. There are marshes, freshwater ponds, creeks, and forests that provide natural habitats for a host of plants and animals.

I cannot adequately describe the beauty of the island here on the Senate floor. Magazines such as National Geographic have attempted to capture the island in words and pictures. But none of these prepare the visitor for the full impact of Cumberland. It is a unique experience and I urge all Senators to one day visit this natural wonder.

The legislation before you today is the end product of more than 10 years of work. In 1972 Congress established the Cumberland Island National Seashore. Since that time, the Interior Department and the State of Georgia have acted to purchase much of the island.

The legislation will insure that the public will always have an unspoiled, natural Cumberland to visit. The provisions of the bill have been worked out carefully between private landowners, the Park Service, the State of Georgia, and other concerned groups. All deserve creidit for the many days of hard work that went into passing the bill.

The legislation has already passed the House, where it was attached by Congressman BO GINN of Georgia to the Crater Lake bill sponsored by Senator HATFIELD. I would especially like to thank Senator HATFIELD for his patience in this matter, as he watched the Georgia amendment slow down passage of his bill.

I was joined by our distinguished senior Senator from Georgia, SAM NUNN, in introducing S. 2569. That bill was the Senate's vehicle for hearings and committee approval. This enabling bill, S. 2569, retained the Cumberland Island language that is in the bill, S. 1119, before you today. I am deeply indebted to my distinguished colleagues Senator WALLOP, Senator MCCLURE, and Senator JACKSON for the expeditious way in which they handled the hearings and the markup on this companion bill.

And so, Mr. Presdient, I commend this bill to the Senate as one that is supported by all parties and will result in the protection of one of my State's and this Nation's treasures.

Mr. NUNN. Mr. President, today the Senate marks a significant achievement in the protection of one of the most outstanding natural areas remaining on our eastern seaboard by passing S. 1119 which designates the majority of the Cumberland Island National Seashore as a wilderness area.

My family and I camped on Cumberland Island during this past Easter, and I can personally attest to this island's beauty and tranquility. Cumberland Island is the largest and southern-most of Georgia's barrier island system. On Cumberland's eastern edge are waves of the Atlantic Ocean, a majestic white sandy beach that stretches for 16 miles with both shifting and stable sand dunes, some of which rise to a height of over 50 feet. West of and behind the dunes is the maritime forest of live oaks, pines, magnolias, hollys, palmettos, and Spanish-moss. Ribbons of tidal creeks slice through this deep forest and are home to waterfowl and alligators. West of the maritime forest is the salt marsh and the Atlantic Intercoastal Waterway.

In 1972, Cumberland Island was established as a National Seashore in order to preserve the scenic, scientific, and historical values of this unique land. Of the 36,878 acres within the national seashore area, the legislation which we are enacting today designates 8,840 acres as wilderness and an additional 11,718 acres as potential wilderness. This acreage comprises the mostly natural area of the northern half of Cumberland Island.

Passage of this legislation by the U.S. Senate guarantees the availability of experiences found nowhere else in the world. This legislation will assure that people seeking a natural wilderness experience will have an opportunity to see representative examples of all of the island's ecosystems under conditions almost identical to those discovered by the island's first inhabitants.

The existence within this wilderness area of a number of privately owned life estates, and of retained rights to vehicular access along the primitive island roads, presents a unique management challenge. Until these rights expire or are teminated, the National Park Service also will be permitted to use the existing access ways for emergency purposes, for essential law enforcement, and for administrative purposes necessary to meet minimum requirements for the administration of these areas as wilderness. The ultimate goal in the Cumberland Island wilderness plan is to phase out activities or uses which are nonconforming to wilderness as soon as it is practicable to do so, and these vehicular access uses—by both private residents and the National Park Service—are to be considered special and limited. Such uses which presently exist should not

be considered or allowed to become traditional or "established," as such term is used in the Wilderness Act.

At the same time, this legislation assures the availability of other examples of the same ecosystems to those people who are not seeking a wilderness experience by leasing the southern half of the island under nonwilderness management.

Mr. President, this bill represents the culmination of a long and deliberate effort by a great many people over a period of nearly 10 years to develop an appropriate wilderness plan for Cumberland Island. It represents the input of thousands of citizens, virtually all of the national conservation organizations, the National Park Service and the State of Georgia.

This work has been shepherded by my colleague in the House of Representatives, Congressman Bo GINN, and by individuals representing each of the major conservation organizations in my State.

I am pleased to join my colleague Senator MATTINGLY and these dedicated individuals in this effort to preserve for the enjoyment of future generations of Americans this remarkable part of our rich environmental heritage.

● Mr. McCLURE. Mr. President, for purposes of the legislative history on S. 1119, I would like to clarify that section 2 of S. 1119 is identical to the text of S. 2569, a bill to declare certain lands in the Cumberland Island National Seashore, Ga., as wilderness, ordered reported by the Committee on Energy and Natural Resources on August 13, 1982. The report to accompany S. 2569 (S. Rept. No. 97-531) provides the legislative history of the Senate for section 2 of S. 1119. The section-by-section analysis included in that report is particularly important and for ease of reference I quote it here in full:

Subsection (a) would designate certain lands as wilderness and potential wilderness additions at Cumberland Island National Seashore, Georgia. About 8,840 acres would be designated wilderness and about 11,718 acres would be designated potential wilderness. Most of the potential wilderness is intertidal area owned by the State of Georgia. The bill provides for public notification of future wilderness boundary changes and for making maps available to the public.

Subsection (b) provides that a map and a description of the wilderness boundaries be filed with the authorizing committees of the Congress within six months of the date of enactment.

Subsection (c) designates the wilderness as the "Cumberland Island Wilderness" and provides that the area be administered in accordance with the relevant provisions of the Wilderness Act.

Since so many of the other barrier islands of the Atlantic Ocean along the eastern seaboard of the United States are in various stages of development, it is most appropriate that the majority of the lands of the Seashore be retained in, and restored to the maximum degree possible, to their natural state.

The Committee supports the compatibility and reinforcement which wilderness designation provides in assuring that the dynamic natural forces at play on the wilderness-designated portions of Cumberland Island National Seashore will continue basically unfettered by activities of man.

Some present human activities and structures and evidence of past activities remain on the landscape, but will phase out in time. The Committee notes some complexities introduced into the wilderness designation action by virtue of: (1) the implications of the retained rights (including vehicle use) granted to former landowners; (2) the need to restore, maintain and provide public access to the historical values of the Plum Orchard mansion bounded by the proposed wilderness; (3) the geologically unstable intertidal zones proposed as potential wilderness additions and (4) existing non-conforming uses of the intertidal areas and related channels. The legally retained private rights which exist shall not be adversely affected by the designation of wilderness or potential wilderness. The Committee does express its desire, however, that insofar as possible as practicable, all such rights, as well as the management activities of the National Park Service, be exercised in a manner as compatible as possible with the wilderness and potential wilderness addition designations.

To the extent it can legally do so, the National Park Service is expected to manage the potential wilderness areas as wilderness, according to the provisions of the Wilderness Act of 1964. Although portion's of the island's existing primitive roads are included within the designated wilderness and potential wilderness areas, the Committee intends that while these access ways continue to exist for honoring retained private rights, the National Park Service may utilize these access ways for emergency purposes. The Committee intends that the National Park Service shall be permitted to respond in an adequate manner to any emergency that might occur within the designated wilderness or potential wilderness. Until all private rights expire or are terminated, National Park Service access within the designated wilderness or potential wilderness also will be permitted for essential law enforcement, and for administrative purposes necessary to meet minimum requirements for the administration of this area. The Committee intends that, wherever feasible, the use of non-motorized conveyance is preferred to the use of motorized conveyance. The Committee notes that nothing in the bill shall affect retained right agreements previously negotiated by the Government, nor shall the bill prejudice the standing of current private landowners in the negotiation of retained right agreements as part of future land sales, nor the renewal of special use permits in accordance with the established practices of the National Park Service.

The Plum Orchard mansion and grounds have been excluded from designation as wilderness or potential wilderness. That portion of Grand Avenue from Plum Orchard mansion to the southernmost wilderness boundary is designated as potential wilderness, and any part of it is intended to change to wilderness classification at such time that all retained rights for use of such road segments expire.

The Committee recognizes the need for access to Plum Orchard for purposes of public visitation and National Park Service restoration, rehabilitation and maintenance activities.

The National Park Service may provide access via the potential wilderness segment of Grand Avenue. The Committee does not intend that any motorized vehicle use of Grand Avenue should become a traditional or "established" use, as such term is used in the Wilderness Act, and all such motorized use shall be discontinued no later than the expiration of the last private, retained right to use any segment of the road. The Committee desires to be kept advised of the development of plans for access to Plum Orchard, and desires to be informed in writing of new access plans before they are implemented.

Existing utility lines may continue to be maintained by the minimum practical tools so long as the retained rights which require their existence remain. The Committee intends that the National Park Service be responsible for determining what constitutes the minimum practical tool(s) each time a maintenance activity is proposed.

Such tool(s) may include motorized vehicles and mechanical equipment if the National Park Service determines that the use of such tool(s) are (is) essential to repair and maintenance of the existing utility lines.

It is the intent of the Committee to allow for the continuation of the operation and maintenance of necessary navigation aids, dredging ranges and survey markers including those intended to assure proper alignments for the maintenance and use of the Kings Bay navigation channel. The agency responsible for these aids should consult with the National Park Service prior to taking actions other than routine maintenance within the wilderness and potential wilderness additions areas established by this Act.

The intertidal lands (those lands between mean high and mean low tides) within the boundary of the Seashore located north of Greyfield on the western side and north of Stafford Beach on the eastern side are designated as potential wilderness. These lands shall be classified as wilderness at such later time as title may be granted to the United States acting through the National Park Service. Since the channels, navigable by small craft, are not included within the wilderness or the potential wilderness additions, the existing uses of these channels for waterborne access or fishing shall not be affected or diminished. The Committee recognizes that these intertidal areas are unstable and subject to changes due to the tide and storm. Accordingly, the Committee feels that the wilderness map that is finally developed by the National Park Service should clearly set forth in writing the Committee's intent, as described in this paragraph, so as to preclude the need to publish new maps each time a physical change in the intertidal lands or channel configuration occurs.●

Mr. BAKER. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONVEYANCE OF CERTAIN NATIONAL FOREST SYSTEM LANDS

Mr. BAKER. Mr. President, Calendar Order 700, S. 705, has been cleared on this side of the aisle for action at this time, and if the minority leader has no objection, I ask the Chair to lay before the Senate S. 705.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The Senate proceeded to consider the bill (S. 705) to authorize the Secretary of Agriculture to convey certain national forest system lands, and for other purposes, which had been reported from the Committee on Agriculture, Nutrition, and Forestry with an amendment to strike out all after the enacting clause, and insert the following:

That for purposes of this Act—

(1) the term "person" includes any State or any political subdivision or entity thereof;

(2) the term "interchange" means a land transfer in which the Secretary and another person exchange titles to lands or interest in lands under such regulations as the Secretary may prescribe; and

(3) the term "Secretary" means the Secretary of Agriculture of the United States.

SEC. 2. The Secretary is authorized, when the Secretary determines it to be in the public interest—

(1) to sell, exchange, or interchange by quitclaim deed, all right, title, and interest, including the mineral estate, of the United States in and to National Forest System lands described in section 3; and

(2) to accept as consideration for the lands sold, exchanged, or interchanged other lands, interests in lands, or cash payment, or any combination of such forms of consideration, which, in the case of conveyance by sale or exchange, is at least equal in value, including the mineral estate, or, in the case of conveyance by interchange, is of value, including the mineral estate, to the lands being conveyed by the Secretary.

SEC. 3. The National Forest System lands which may be sold, exchanged, or interchanged under this Act are those the sale or exchange of which is not practicable under any other authority of the Secretary, which have a value as determined by the Secretary of not more that $150,000, and which are—

(1) parcels of forty acres or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership under the mining laws and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

(2) parcels of ten acres or less which are encroached upon by improvements occupied or used under claim or color of title by persons to whom no advance notice was given that the improvements encroached or would encroach upon such parcels, and who in good faith relied upon an erroneous survey, title search, or other land description that there was not such encroachment; or

(3) road rights-of-way, reserved or acquired, which are substantially surrounded by lands not owned by the United States and which are no longer needed by the United States, subject to the first right of abutting landowners to acquire such rights-of-way.

SEC. 4. Any person to whom lands are conveyed under this Act shall bear all reasonable costs of administration, survey, and appraisal incidental to such conveyance, as determined by the Secretary. In determining the value of any lands or interest in lands to be conveyed under this Act, the Secretary may, in those cases in which the Secretary determines it would be consistent with the public interest, exclude from such determination the value of any improvements to the lands made by any person other than the Government. In the case of road rights-of-way conveyed under this Act, the person to whom the right-of-way is conveyed shall reimburse the United States for the value of any improvements to such right-of-way which may have been made by the United States. The Secretary may, in those cases in which the Secretary determines that it would be consistent with the public interest, waive payment by any person of costs incidental to such conveyance or reimbursement by any person for the value of improvements to rights-of-way otherwise required by this section.

SEC. 5. Conveyance of any road rights-of-way under this Act shall not be construed as permitting any designation, maintenance, or use of such rights-of-way for road or other purposes except to the extent permitted by State or local law and under conditions imposed by such law.

SEC. 6. The Secretary shall issue regulations to carry out the provisions of this Act, including specification of—

(1) criteria which shall be used in making the determination as to what constitutes the public interest;

(2) the definition of and the procedure for determining "approximate value"; and

(3) factors relating to location or size which shall be considered in connection with determining the lands to be sold, exchanged, or interchanged under clause (1) of section 3.

SEC. 7. Nothing in this Act shall authorize conveyance of Federal lands within the National Wilderness Preservation System.

SEC. 8. The Act of December 4, 1967 (81 Stat. 531), is amended by inserting before the phrase "public school district" wherever it appears, and before the phrase "public school authority" the second time it appears, the words "State, county, or municipal government or" and from the Committee on Energy and Natural Resources with amendments to the reported amendment of the Committee on Agriculture, Nutrition, and Forestry, as follows:

On page 5, line 15, after "lands", insert the following: "of approximately equal value where the Secretary finds that such a value determination can be made without a formal appraisal and."

On page 6, line 9, strike "approximate value,", and insert "approximately equal value,";

On page 6, after line 11, insert the following: "The Secretary shall insert in any such quit-claim deed such terms, convenants, conditions, and reservations as the Secretary deems necessary to ensure protection of the public interest, including protection of the scenic, wildlife, and recreation values of the National Forest System and provision for appropriate public access to and use of lands within the System. The preceding sentence shall not be applicable to deeds issued by the Secretary to lands outside the boundary of units of the National Forest System.".

On page 8, line 5, strike "consistent with the public interest", and insert "in the public interest,";

On page 8, beginning on line 13, strike "consistent with the public interest,", and insert "in the public interest,";

On page 8, beginning on line 15, strike "such conveyance", and insert "any conveyance authorized by this Act";

On page 9, line 4, strike "'approximate value'" and insert "'approximately equal value'";

On page 9, line 12, strike "System.", and insert the following: "System, National Wild and Scenic Rivers System, National Trails System, or National Monuments. Nothing in this Act shall authorize sale of Federal lands, within National Recreation Areas.".

On page 9, line 17, strike "Sec. 8.", and insert "Sec. 8. (a)";

On page 9, after line 21, insert the following: "(b) The Act of December 4, 1967 (81 Stat. 531), is further amended by adding the following at the end thereof: "Lands may be conveyed to any State, county, or municipal government pursuant to this Act only if the lands were being utilized by such entities on the date of enactment of this sentence. Lands so conveyed may be used only for the purposes for which they were being used prior to conveyance.".

Mr. DOMENICI. Mr. President, S. 705, the Small Tracts Act is long overdue because the problem it addresses grows with each passing day.

The problem is one that involves disputes between the U.S. Forest Service and adjacent landowners. These disputes have occurred as the Federal Government has engaged in resurveying of the public lands of this Nation. Those surveys are conducted today using the most modern technological equipment available. However, they have turned up numerous boundary discrepancies across the United States. This is not simply a New Mexico problem nor just a California problem. It exists across our Nation and currently the U.S. Forest Service has some 60,000 pending cases involving adjacent landowners who thought they owned land that they now find has been placed by these new surveys within the boundaries of our national forests.

I want to make it very clear that through absolutely no fault of their own these property owners now find their titles to deeds clouded and have seen, in some cases, improvements to their property now placed within the boundaries of the national forests. It is clear that these citizens relied on the only surveys that were available, those that had been done to the best degree possible years ago with the then-existing surveying equipment. Everyone, including the U.S. Government, thought those surveys were correct.

Now, if these disputes had occurred between two private landowners, the individual would have some recourse through the doctrine of adverse possession. However, under our laws, an individual cannot invoke that doctrine against the U.S. Government.

So what are the individual's options?

Of course the individual can perhaps sue the U.S. Government. That type of action is, needless to say, long and costly with no guarantee of vindica-

tion in our courts. And in most cases, the amount of land involved in these disputes is less than 10 acres.

Another method of satisfaction to the individuals involved is the use of legislative remedy or private relief bills which allow the individual to purchase the dispusted land back from the Federal Government or trade it back for an equal value.

Can you imagine some 60,000 individual relief bills coming before the U.S. Senate in trying to solve this problem?

I think S. 705 provides us with a solution to this dilemma. It also provides a form of relief to countless thousands of property owners across the Nation who just want this cloud of ownership lifted.

Simply stated, the Small Tracts Act allows the Forest Service at the local level to enter into negotiations with these individuals and, further, it gives the U.S. Forest Service the authorization to clear title.

I would point out that we have placed a cap on this legislation and only parcels of 10 acres or less can be returned to the property owners. It seems to me that the cap insures the fact that this act will not be abused. Furthermore, with this cap we allow the Forest Service to administratively resolve 99 percent of the existing disputes.

I think this bill, while not addressing all of issues involved with the Government's land survey problems, goes a long way in resolving the issue for thousands of our citizens. It is a fair bill that is supported by the administration, by the U.S. Forest Service, by countless organizations and by thousands of individual Americans.

I would point out that the U.S. Government has to some extent just begun its resurveying of Federal land across the United States. This means that today we may have 60,000 cases of boundary disputes and tomorrow we could easily have 100,000. Unless the Congress acts we are doing an extreme disservice to countless thousands of our citizens.

A similar measure is currently moving its way through the House of Representatives and, I am confident that once the U.S. Senate acts, the Members of the House will expedite this legislation.

Mr. HUDDLESTON. Mr. President, I support S. 705 as reported by the Senate Committee on Agriculture, Nutrition, and Forestry and the Committee on Energy and Natural Resources.

S. 705 authorizes the Secretary of Agriculture to convey certain small tracts of national forest lands to individuals and local governments. Presently, the Forest Service is responsible for managing many thousands of very small and irregularly shaped lots for which proper management is impractical. An example of such a parcel of land is a road right-of-way several yards wide and 33 miles long. By allowing the Secretary to sell or exchange these small tracts of land, S. 705 would enable the Secretary to better manage national forest lands.

In addition, some parcels of national forest land have been innocently encroached upon because of inaccurate surveys taken many years ago. S. 705 would provide a method of resolving innocent encroachment cases equitably and avoid lengthy and costly litigation for private landowners and the Government.

The amendments included by the Committee on Energy and Natural Resources would provide additional protection of the public interest. The committee's amendments specify that scenic, wildlife, and recreation values be included in assessing the value of small tracts to be conveyed.

I urge my colleagues to join me in supporting S. 705.

Mr. BAKER. Mr. President, there are amendments from the Committee on Agriculture as well as from the Committee on Energy and Natural Resources, is that correct?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The PRESIDING OFFICER. If there are no further amendments, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

The Senate proceeded to consider the bill (S. 1986) to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the U.S. Court of Claims, and for other purposes, which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 2, line 8, strike "Reservation", and insert "Indian Community";

On page 2, line 23, strike "Reservation", and insert "Indian Community";

On page 3, line 6, strike "Reservation", and insert "Indian Community";

On page 3, line 12, strike "Reservation", and insert "Indian Community";

On page 3, line 19, strike "Reservation", and insert "Indian Community";

On page 3, strike line 24, through and including page 4, line 5, and insert the following:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in section 3 of this bill.

On page 4, line 19, strike "Reservation", and insert "Indian Community";

On page 5, line 14, after "Act", insert "or other Federal assistance programs"; and

On page 5, line 17, strike "Act", and insert the following:

"Act, including the establishment of deadlines for filing applications for enrollment.".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of the law, the funds appropriated on January 23, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250-A and 179-C of the United States Court of Claims (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be distributed and used as herein provided.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation, Montana, in docket numbered 279-C, amounting to $400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for governmental operation and social and economic programs.

SEC. 3. The funds appropriated to the Assiniboine Tribe of the Fort Belknap, Indian Community, Montana, in docket numbered 250-A, amounting to $2,170,013 shall be used and distributed as follows: *Provided,* That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboine members of the Fort Belknap Indian Community and born on or prior to and living on the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Community, Montana, in docket

numbered 279-C, amounting to $2,094,987, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are duly enrolled as Gros Ventre members of the Fort Belknap Indian Community who are at least one-quarter degree Gros Ventre blood or who are at least one-eighth degree Gross Ventre blood and at least one-eighth degree Assiniboine blood and who are not eligible to share in section 3 of this bill.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under age eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interests of such individuals.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

UP AMENDMENTS NO. 1254

(Purpose: To distinguish between membership in the Gros Ventre Tribe and the Fort Belknap Indian Community and to clarify that eligibility for per capita payments as provided in S. 1986 does not affect the Tribe's right to determine its membership)

(Purpose: To assure that other judgments awarded by the Court of Claims to the Gros Ventre Tribe of the Fort Belknap Indian Community are distributed in accordance with the provisions of S. 1986)

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of Mr. MELCHER two amendments, and I ask unanimous consent that they be considered en bloc and that an explanation of the amendments by Mr. MELCHER be printed in the RECORD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. MELCHER proposes an unprinted amendment numbered 1254, en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, beginning on line 18, strike Sec. 4 and insert a new Sec. 4 as follows:

"SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Reservation, Montana, in docket numbered 279-C amounting to $2,094,987, shall be used and distributed as follows: *Provided*, That no person shall be eligible to share in more than one award in his own right.

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in the sums as equal as possible) to all persons born on or prior to and living on the date of enactment of this Act who are (1) duly enrolled members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one-quarter degree Gros Ventre blood, or (2) who are enrolled in the Fort Belknap Indian Community and are at least one-eighth degree Gros Ventre blood and at least one-eighth degree Assiniboine blood and are not eligible to share in Section 3 of this bill.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to the approval of the Secretary, for social and economic programs. Such programs may include but are not limited to land acquisitions and the development of local reservation projects.

(c) Nothing in this section is deemed in anyway to increase, diminish or in anyway affect the right of the Gros Ventre Tribe to determine its membership."

On page 5, after line 18, insert the following new sections:

"SEC. 8. Twenty-six and eight-tenths percent of funds in the amount of $29,404,951.84 (less attorney fees and litigation expenses), appropriated on June 30, 1981 in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in Docket numbered 649-80L of the U.S. Court of Claims, shall be distributed to the Gros Ventre Tribe of the Fort Belknap Reservation in accordance with sections 4, 5, 6, and 7 of this Act.

"SEC. 9. Funds in the amount of $77,780.13 (less attorney fees and litigation expenses), appropriated on July 16, 1981, in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), in satisfaction of a judgment awarded to the Gros Ventre Tribe of the Fort Belknap Indian Community in Docket numbered 309-74 of the U.S. Court of Claims, shall be distributed in accordance with sections 4, 5, 6, and 7 of this Act.".

● Mr. MELCHER. The blood quantum requirements in S. 1986 for participation in per capita payments differ from the requirements for membership in the Gros Ventre Tribe, whose affairs are conducted by its treaty committee. The amendment clarifies that the distribution of the judgment awards will not affect tribal membership requirements. It should be noted that membership in the tribe is not synonymous with enrollment in the Fort Belknap Indian Community, which is made up of Indian residents of the reservation who have enrolled as either Gros Ventre or Assiniboine. Some are mixed blood of the two tribes, but the election determines how they participate in affairs affecting the entire Fort Belknap community.

The new section 8 relates to a plan for the distribution of judgment funds awarded by the U.S. Court of Claims in Docket 649-80L to the Gros Ventre Tribe of the Fort Belknap Reservation that was timely submitted to the Congress in accordance with the Indian Judgment Funds Act of October 19, 1973. The Gros Ventre Tribe was awarded 26.8 percent of the $29,404,951.84 judgment, with the remainder going to the Blackfeet Tribe. The Blackfeet Tribe's share of the judgment is not affected by the bill. The Gros Ventre plan, as submitted, was to conform to an amendment proposed by the Department of the Interior to S. 1986. However, the specific amendment referred to was further amended by the Select Committee on Indian Affairs in its business meeting. To be sure that the distribution of the Gros Ventre portion of the funds in Docket 649-80L is in accordance with the decisions of the select committee, the plan was disapproved by the Senate. (See: S. Res. 409, passed on June 16, 1981.) Section 8 authorizes the distribution of these judgment funds in accordance with sections 4, 5, 6, and 7 of the bill.

The new section 9 relates to a judgment in the amount of $77,780.13 awarded to the Gros Ventre Tribe by the U.S. Court of Claims in Docket 309-74 for which the Department of the Interior failed to submit a distribution plan within the statutory time limit. The funds were appropriated on July 16, 1981, and section 9 provides that these funds shall be distributed to the Gros Ventre Tribe in accordance with sections 4, 5, 6, and 7 of the bill.●

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (UP No. 1254) were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I take great pleasure in moving to table the motion

of the distinguished Senator, who serves very ably as majority leader of this body. I am able to win on these motions.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, it will not diminish the relationship between the two of us to say that if the Senator is going to win on something, I would rather it would be on this than almost anything else. [Laughter.]

ORDER THAT H.R. 5288 BE HELD AT THE DESK

Mr. BAKER. Mr. President, I ask unanimous consent that H.R. 5288 be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, on today's Executive Calendar on my side of the aisle I find that I am prepared to proceed by unanimous consent to the consideration of nominations under Department of State on page 4, continuing on page 5 under New Reports in the Air Force and the Army, through page 6 and page 7, including nominations in the Navy, page 8 for nominations in the Marine Corps and those nominations under Securities and Exchange Commission, and finally, on page 9, the nominations placed on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to proceeding with the nominations enumerated by the majority leader.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, the Senate will go into executive session.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominees identified and listed just previously be considered and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered en bloc and confirmed en bloc.

The nominations considered en bloc and confirmed en bloc are as follows:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs, vice James L. Buckley.

AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8036, to be Surgeon General of the Air Force:

To be Surgeon General, USAF

Maj. Gen. Max B. Bralliar, xxx-xx-xxxx xxx-... FR, U.S. Air Force, Medical.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, xxx-xx-xxxx xxx-... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast xxx-xx-xxxx FR, U.S. Air Force.

ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, xxx-xx-xxxx xxx-x... Army National Guard of the United States.

The following-named Army National Guard of the U.S. officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., xxx-xx-x... xxx-....

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., xxx-xx-xx... xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, xxx-xx-x... xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsiblity designated by the President under title 10, United States Code, section 601.

To be lieutenant general

Maj. Gen. Emmett H. Walker, Jr., xxx-xx-x... xxx-x... Army National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601.

To be lieutenant general

Lt. Gen. LaVern E. Weber xxx-xx-xxxx, Army of the United States.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370.

To be lieutenant general

Lt. Gen. Hillman Dickinson, xxx-xx-xxxx, (age 56), U.S. Army.

NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601.

To be admiral

Vice Adm. Wesley L. McDonald, xxx-xx-xx... xxx-... /1310, U.S. Navy.

MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

SECURITIES AND EXCHANGE COMMISSION

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1987, vice Bevis Longstreth, term expired.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, ARMY, MARINE CORPS, NAVY

Air Force nominations beginning Clayton B. Anderson, and ending Terrence P. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Air Force nominations beginning John S. Adams, Jr., and ending Allen V. Wexler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Army nominations beginning Robert O. Porter, and ending Robert A. Sharp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Army nominations beginning Enrique Del Campo, and ending Richard Hagle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Marine Corps nominations beginning Robert L. Peterson, and ending Michael L. Zanotti, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

Navy nominations beginning Michael L. Arture, and ending Charles E. Johnston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Navy nominations beginning Javier Arquimedes Arzola, and ending Patricia James Watson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Navy nominations beginning Bruce P. Dyer, and ending Joseph C. Wiley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 17, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT THE RECESS TODAY BE EXTENDED TO 2:30 P.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the previous order providing for a recess of the Senate over until 2 p.m. be extended to 2:30 p.m. under the same terms and conditions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (H. J. Res. 520) to provide for a temporary increase in the public debt.

The Senate resumed consideration of the Joint Resolution.

AMENDMENT NO. 2040

(Previously number UP amendment No. 1253.)

The PRESIDING OFFICER. The pending question is the Baucus amendment. The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, when I was speaking last night, we were talking about the so-called prayer portion of the substantive amendment before the body. Let me recap the situation. There is clearly a difference of opinion in this country on the subject of abortion. Should a woman have a right to make a choice whether or not she wants to have an abortion? There are people who feel strongly on both sides of that issue. There are well-intentioned people on both sides and we fully understand in this body that difference of opinion.

There is a second issue involved now before us that was not initially before us, and it has nothing to do with abortion. It has to do with the issue of the jurisdiction of the Federal courts over the subject of voluntary prayer in public schools. Only, in a greater sense, it goes way beyond that, because it has to do with the issue of whether or not this Congress has the right to take away from the Federal courts jurisdiction to hear cases involving fundamental constitutional issues.

Therefore, I want to read for the Senate the particular amendment that relates to the jurisdiction of the courts and voluntary prayer.

This section may be cited as the "Voluntary School Prayer Act of 1982" and

Chapter 81 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1259. Appellate jurisdiction; limitations

"Notwithstanding the provisions of sections 1253, 1254, and 1257 of this chapter, the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.": *Provided further,* That the section analysis at the beginning of Chapter 81 of such title 28 is amended by adding at the end thereof the following new item:

"1259. Appellate jurisdiction; limitations."

Provided further, That Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1364. Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."; provided, further, that the section analysis at the beginning of chapter 85 of such title 28 is amended by adding at the end thereof the following new item:

"1364. Limitations on jurisdiction."

And provided further, That the amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to any case which, on such date of enactment, was pending in any court of the United States.

Translated into layman's language, that means essentially as follows: If this bill passes, we will be taking away by statute—which can be passed by 51 votes in the Senate out of the 100 and by a majority out of 435 in the House of Representatives—we will be passing by statute a bill that will take away from all Federal courts—Federal district courts, Federal courts of appeals, the U.S. Supreme Court—the right to hear any cases involving voluntary school prayer, including any appeal from any State court to the U.S. Supreme Court.

The reason offered by the proponents of this amendment is that they do not like the Supreme Court decisions on this subject which have limited school prayer. Those decisions started about 20 years ago. The gist of them is that you cannot have a school board or a State legislature or a Governor, or any other governmental body, write the school prayer which the school teacher is compelled to recite and the students in the class recite it with the teacher, unless they want to be excused from reciting. They can go stand in the hallway or go in the cloakroom, whatever. They are not compelled to do it. But in the process of not doing it they are going to have to distinguish themselves from their fellow students who are willing to stand and recite the prayer of the teacher.

The first issue, of course, is what prayer—assuming this statute passes—whose prayer? A Catholic prayer? A Baptist prayer? I would defy anyone in this Senate, let alone in the gallery, to sit down and attempt to get an agreement among the different religions in this country as to what would be a uniform, acceptable prayer that had any meaning.

In New York City, you have a heavy predominance in the public schools of Hispanics, many of whom are Catholic. You have heavy predominance of Jewish students who are obviously of the Jewish faith. Does it mean that the school board in New York City can write a prayer that would tilt toward the Jewish religion? tilt toward the Catholic religion? And despite the fact that many Baptists, Presbyterians, and Moslems go to those schools, they would be compelled to say the prayer or ask to be excused.

First, Mr. President, I defy you to try to write a meaningful prayer.

If the purpose of religion, as we understand it in our churches and in our homes, is to try to inculcate our families with the religion of the parents, to try to pass it on to our grandchildren, you do not do it by some meaningless, watered-down prayer that has no significance to anybody and is so inoffensive because it says nothing. Yet if you try to write a meaningful prayer, you are clearly going to have objections.

But if this amendment is agreed to, what it means is that any school district can decide what the prayer is going to be for that school district, compel the teacher to read it, and say that the students must recite it unless they are going to be excused.

If you do not like it, if your child is going to a school where a prayer is being given that you think tramples on your child's religion, you cannot sue in the Federal courts. That marvelous first amendment of ours that prohibits the Government from establishing religion will be of no help.

That is what is going to be accomplished if this amendment is agreed to.

I was struck by an article I read in the Washington Post some time ago, which read as follows:

PINEVILLE, LA.—At precisely 7:45 a.m. Principal Robert Cespiva eyed the wall clock at E. I. Barron Elementary School and made the day's first official announcement over the intercom: "Will everyone please stand while Matt Barlett leads us in prayer."

A fifth-grader stepped to the microphone, a pint-sized point man in Rapides Parish's (county) defiance of the U.S. Supreme Court. "Dear Heavenly Father," said Matt, 11, as students bowed their heads, "we are thankful for today. We ask that You let us live without committing any sins. In Your name we pray. Amen."

And with that, he was off to class, having sent a message from this Bible Belt of bayou rebels all the way to Washington, D.C., via the Lord.

Louisiana's law allowing voluntary prayer sessions in public schools was ruled unconstitutional by the U.S. Supreme Court last month, but many schools are praying away. The people of Rapides Parish say God and President Reagan are on their side.

As for the Supreme Court, "To heck with them," said Ina LaBorde, who defied a federal busing order last year to send her daughter, Michele, to all-white Buckeye High School. "I'm not going to let anyone tell me when my child can pray. If we're breaking the law, so be it."

All across America, people like Ina LaBorde are interpreting Reagan's election and his vow to get government off the backs of the people as a license to do their will, even if it goes against the law of the land.

"I feel like Reagan is cheering us on from the sidelines," said school board member Arthur Martin, 63, a local real estate man whose white Cadillac sports a "My Nationality, American" bumper sticker. "He keeps making references to God on the TV. In fact, he's the most outspoken president, in reference to God, we've ever had. I figure if he had to take a stand, he'd come out for prayer in public schools."

Mr. GOLDWATER. Will the Senator yield at that point?

Mr. PACKWOOD. I am willing to yield so long as I do not lose my right to the floor and so long as what I say following not be considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. I thank the Senator. I wanted to ask a question relative to a court case. As I remember a court case which prohibited schools from giving prayer, did it not involve a prayer prepared by the State?

Mr. PACKWOOD. There is a particular case in Alabama where the prayer that is being given to the children in the Alabama schools was written by the Governor's son. That is being contested in court right now, yes. That is correct.

Mr. GOLDWATER. Could I ask a further question? Would the prayer amendment proposed by the Senator from North Carolina allow the Governor's son to write the prayer or the Governor or the school board?

Mr. PACKWOOD. Yes; it would.

Mr. GOLDWATER. Is there much argument against children praying in school as long as they pray in their own way?

Mr. PACKWOOD. I think Senator Danforth, if we every get to the substantive issue, will have a long amendment on that. So long as you or your child want to stand up and say a silent prayer to themselves, to their own God, there are many people who have no objection to that. But when the school board writes the prayer that you are going to say if you are going to say a prayer at all, that is an entirely different matter.

Mr. GOLDWATER. I agree with the Senator. I think that that one inclusion in Senator HELMS' amendment will destroy an amendment that many people in this body had hoped they could support, but I cannot support that type of prayer amendment. As much as I want my grandchildren to pray anytime they want to, I do not want them praying some prayer that somebody wrote. I hope that the Senator from North Carolina would understand this and remove it. But if he does not, he is going to lose some votes.

Mr. PACKWOOD. I thank the Senator from Arizona very much. I could not agree with him more.

May I ask a question of the Chair? What is the order of the Chair as to when we reconvene at 2:30? Who has the floor?

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon would be recognized and his speech will still be the first speech.

Mr. PACKWOOD. I would be recognized regardless of who had the floor when we recessed at 12:15?

The PRESIDING OFFICER. Will the Senator withhold for a minute?

The Senator is correct. Regardless of who has the floor at the time the Senate goes into recess, the Senator from Oregon will be recognized when the Senate reconvenes.

Mr. President, let me read that one sentence again. I am quoting now from Mr. Martin, school board member:

Just because the Supreme Court says it doesn't mean it is the law. The people are the law of the land.

Mr. President, it was only a few years ago, during the zenith of the Vietnam war, that we heard roughly that same chant:

Power to the people. It doesn't matter what the Supreme Court says about the legitimacy of the draft; it doesn't matter what the Supreme Court ruled about whether or not Americans have a right to be fighting in Vietnam. The people are the law of the land.

Mr. President, this country cannot be operated on the basis of everybody choosing to observe or not observe the laws as they choose. We are a free country. We vote every 2 years for the House of Representatives, we vote every 4 years for President. In addition, we elect a third of the Senate every 2 years. The legitimate way to express your complaints about Government is to change the Government when you have an opportunity to vote. But we do not selectively decide which laws we are going to observe and which ones we are not. And we do not, if we have any good sense, decide to try to overrule the Supreme Court by a statute when we do not like the constitutional decisions of the Supreme Court.

Do I like every decision of the Supreme Court? Of course not. When I was a young lawyer, I practiced extensively in labor relations. The court made decision after decision interpreting the National Labor Relations Act and upholding decisions of the National Labor Relations Board that I thought were wrong. I thought they were adverse to my clients. I thought they put us in a difficult situation in the area dealing with labor relations. I did not go out and attempt to say, I am the law, and thumb my nose at the Supreme Court.

If we can do it for prayer, and I want to emphasize that this is a constitutional right, there shall be no establishment of religion. If we can pass a law that says henceforth, the Federal courts, including the Supreme Court on any right of appeal, shall have no jurisdiction over the issue of establishment of religion, because that is what prayer is, then there is nothing we can not take away from the Supreme Court.

Do you think the local newspapers are unfair, think they slant the news? Take away from the Federal courts the right to review cases involving freedom of the press.

Are you mad because a group you do not like in your town gets a permit from the local city council and assembles 300 or 400 people in the city park and chants things you do not like and holds meetings you find objectionable? Get the city council to pass a limitation on the right to peaceably assemble. Then pass a law saying that the Federal courts cannot review the right of the citizens to assemble.

You do not like self-incrimination? You think that a defendant ought to have to be made to take the stand in a criminal trial regardless of the Constitution, that says no person shall be made to be a witness against himself? Pass a statute saying that, henceforth, the Federal courts cannot review any cases involving the fifth amendment and self-incrimination. It is easy to do.

When I was reading last night, I was reviewing the history of some of the efforts made by Congress to take away jurisdiction from the Court. I had just started to move into the issue of reapportionment of the legislatures and eventually of Congress because, prior

to 1964, in a case called Baker against Carr, the Federal courts took no jurisdiction over issues involving reapportionment.

We had congressional districts in this country with a million, a million and a half people; congressional districts with 50,000, 60,000, 70,000 people; we had legislative districts five, six, or seven times as big as other districts. While we all paid homage to the concept of one man, one vote, we did nothing to enforce it. Finally, the Supreme Court, after years of saying they would not interfere in this subject, found the disparity of representation so gross that it was a denial of the equal protection of the laws to the citizens when perhaps, in one district, a citizen's vote was worth 10 times as much as that in another district.

So, in those famous cases, Baker against Carr and Reynolds against Simms, the Supreme Court said, henceforth, that is out; the districts are going to be reasonable in size; one person's vote in a congressional district in Tennessee is going to mean as much as one person's vote in a congressional district in New York, Oregon, Connecticut, and Virginia. So Congress set about trying to undo that Supreme Court decision.

I continue with that history:

H.R. 11926 was introduced in 1964 by Congressman Tuck to remove the Court's appelllate jurisdiction and to deprive the inferior federal courts of trial jurisdiction in all cases relating to the apportionment of representation in state legislative bodies.

To translate what that means, it was to remove the jurisdiction of the Federal courts to determine whether or not you are being denied equal protection of the laws in reapportionment matters where you had districts that were horrendously different in population. Take it away.

The bill was referred to the House Committee on the Judiciary, but the Committee gave no evidence of intention to act on the bill. Therefore, proponents of the measure introduced a procedural resolution, which was referred to the Rules Committee and reported out, to discharge the Judiciary Committee from consideration of the bill and calendar the bill for immediate action by the full House. After an acrimonious debate, the resolution was passed and the bill was called for consideration. By nearly the same margin, the bill was subsequently passed. However, the Tuck bill died in the Senate without further action being taken. In the case of the Tuck bill, the House was affirmatively on record in a formidable way as disapproving of a particular doctrine enunciated by the Court, and one peculiarly close to the political question doctrine of justiciability. The relevant language of the Tuck bill was as follows:

"The Supreme Court shall not have the right to review the action of a Federal court or a state court of last resort concerning any action taken upon a petition or complaint seeking to apportion or reapportion any legislature of any State of the Union or any branch thereof. . . .

"(c) The district courts shall not have jurisdiction to entertain any petition or complaint seeking to apportion or reapportion the legislature of any State of the Union or any branch thereof."

The lack of action in the Senate on this bill is, however, illusory. The Senate had considered a bill introduced by Senator Dirksen which would have required that in cases before the federal courts which complained of malapportionment, the court, on petition, would be required to stay further action until two regular sessions of the legislature involved had passed. The House action in passage of a stronger measure was seen as a possible method of acquiring the Senate's approval of a lesser version; in fact, this was not to be successful.

Other than the Jenner Bill in 1958 and the Tuck Bill in 1964, no substantial activity took place in Congress to except subjects from the appellate jurisdiction of the Court until the Spring of 1979. During debate on the establishment of the Department of Education, Senator Helms proposed an amendment to exclude from the Court's appellate jurisdiction, and the inferior federal court's jurisdiction as a whole, any cases drawing into question the validity of state or local statutes or ordinances permitting voluntary prayer in public schools or other public buildings.

Subsequently, on the premise that the Department of Education bill would not otherwise pass, the Helms Admendment was added to a bill abolishing for the most part the mandatory jurisdiction of the Court—i.e. The Appeals Docket—thus permitting the Court complete control and discretion as to what cases it would hear. Thereafter, the Senate reconsidered the Helms Amendment as added to the education bill and tabled it; both the Department of Education bill and the Supreme Court jurisdiction bill was passed and sent to the House.

In the House, the Supreme Court jurisdiction bill, with the Helms amendment, was referred to the Committee on the Judiciary, but the Committee took no action. Congressman Crane filed a petition to discharge the Committee on the Judiciary of further responsibility for the bill, thus allowing individual Members to indicate whether they desired the bill brought before the full House. The petition for discharge, which is filed with the Rules Committee, is essentially the written version of the up-or-down vote on the procedural resolution which brought the Tuck bill to the floor of the House in 1964, and requires a majority of Members' signatures to become effective. Thereafter the Judiciary Committee's Subcommittee on Courts, Civil Liberties and the Administration of Justice held hearings on the school prayer amendment. However, neither the Committee nor the discharge petition brought the bill to the floor and the measure died at adjournment.

At the beginning of the 97th Congress, Senator Helms reintroduced his proposal as a free standing bill. On the House side, Representative Crane introduced an identical bill. The language is as follows:

"§ 1259 Appellate Jurisdiction; limitations

"(a) Notwithstanding the provisions of sections 1253,1254, and 1257 of this chapter the Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation, which relates to voluntary prayers in public schools and public buildings.

"For the purposes of this section, the term 'voluntary prayer' shall not include any prayer composed by an official or employee of a State or local government agency.

"§ 1364 Limitations on jurisdiction

"Notwithstanding any other provision of law, the district courts shall not have jurisdiction of any case or question which the Supreme Court does not have jurisdiction to review under section 1259 of this title."

Like its predecessors, the Helms bill responds to a perceived erroneous interpretation of the Constitution by the Court, in this instance to the cases of *Engel* v. *Vitale* and *Abington School District* v. *Schempp*. Engel held that the regulated recitation of the "Regents' Prayer" at the beginning of each school day violated the Establishment Clause of the First Amendment. Schempp held that mandatory Bible reading violated the Establishment Clause. The doctrinal development of the Establishment and Free Exercise Clauses has been steady since the mid-1960's. Most recently, the Court held that a University could not prohibit religous services held by students at its facilities, in *Widmar* v. *Vincent*. The bills to limit jurisdiction in instances of state regulation relating to voluntary school prayer would appear to preclude adjudications such as Widmar. The bills introduced in the 97th Congress are pending before the respective Committees on the Judiciary.

The only other substantial action in this area occurred in 1968 during consideration of what is now the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. § 3500 *et seq.* (1976). Similar provisions were included to limit the power of the Court in State criminal confessions cases, but these were dropped before passage. Other bills have not received attention on either Floor; the bulk of proposals introduced to limit the appellate jurisdiction or remedies of the Supreme Court have been reintroductions of prior bills.

Mr. President, I emphasize once more the seriousness of that with which we are dealing: Should we take away from the Federal courts of the United States the right to hear cases involving fundamental constitutional liberties, take it away, cannot hear it.

This debate is not a debate over whether we agree or disagree with certain decisions of the courts. As a matter of fact, I thought the best single statement that I have seen on this subject comes from Robert Bork. Robert Bork was a well-known professor of law in this country. He is a previous Solicitor General of the United States, and he has recently been appointed by President Reagan to the U.S. court of appeals. He is generally regarded as a conservative legal scholar, and his credentials on scholarship are without question unassailable. Professor Bork, now Judge Bork, did not think that the case of Roe against Wade, which was the case which granted to women the right to make the decision whether or not they wanted to have an abortion, was correctly decided. He thought that the Supreme Court overstepped its bounds in that case. He thought that their decision was unconstitutional. He means

that, of course, in a technical sense, because whatever the Supreme Court finds to be constitutional is what our forefathers said will be the final interpretation unless it is reversed by the Court itself or reversed by a constitutional amendment.

Professor Bork, now Judge Bork, thought the case was utterly and totally wrong. He said as follows:

The question to be answered in assessing S. 158—

S. 158 is the so-called human life bill and in that bill—it is a bill of Senator HELMS—we would take away from the courts the power to hear cases involving abortion—

is whether it is proper to adopt unconstitutional countermeasures to redress unconstitutional action by the Court. I think it is not proper. The deformation of the Constitution is not properly cured by further deformations. Only if we are prepared to say that the Court has become intolerable in a fudamentally democratic society and that there is no prospect whatever for getting it to behave properly should we adopt a principle which contains within it the seeds of the destruction of the Court's entire constitutional role. I do not think we are at that stage, but if others think we are then we should be debating not the technicalities of S. 158 but the question of whether we should retain, abandon or modify the constitutional function of the courts as we have known it since Marbury v. Madison in 1803. That is a legitimate subject for inquiry, but we ought not arrive at the answer in the narrow context of S. 158 without fully realizing what we are really discussing.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Oregon may yield to me without losing his right to the floor and without it counting as an additional speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield to the majority leader.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that the time for the recess—which is now 12:15—ordered earlier today be changed to 12:30 and that the remainder of the order remain unchanged.

Mr. PACKWOOD. Mr. President, based upon the previous agreement, I have made arrangements to meet with some people at 12:15.

Mr. BAKER. Mr. President, I can assure the Senator that between 12:15 and 12:30, no action will be taken on this measure. I need the additional 15 minutes, however, in order to let another Senator try to clear another piece of work on this bill, and it is not possible for him to reach Senators who have to consider that by 12:15.

Senator LEVIN is trying to reach Senator DOLE, the chairman of the committee. I am not certain he will be able to do that by 12:15, and in order to accommodate that, I want to extend the time to 12:30.

Mr. PACKWOOD. I am wondering if there is a way we could put that into a unanimous-consent order, so that I could go to the 12:15 meeting without jeopardizing any of the parliamentary rights I would have.

Mr. BAKER. Mr. President, instead of extending the agreement, I will suggest the absence of a quorum at 12:15, and I will object to calling it off.

Mr. WEICKER. Mr. President, to accommodate the distinguished Senator from Oregon and the distinguished majority leader, if I took the floor at this time, would it be all right? What was the agreement as to whom should be recognized when we return?

Mr. BAKER. The previous agreement provided that the Senator from Oregon would be recognized when we resume debate on this bill.

Mr. PACKWOOD. That would be most helpful to me, if the Senator from Connecticut could have the floor until he yields it to the majority leader for the purpose he has requested; and when he returns at 2:30, I would still have my right to the floor.

Mr. BAKER. Mr. President, I amend the unanimous-consent request as follows: That at 12:15 the Senator from Connecticut (Mr. WEICKER) will be recognized; that the Senate will recess at 12:30; that at 2:30, the Senate will reconvene, and the Senator from Oregon will be recognized once more to resume the debate; that in neither case will the interruption—that is, of the Senator from Connecticut or the Senator from Oregon—count as an additional speech.

Mr. WEICKER. If, by some chance, the Senator from Oregon is in negotiations or discussion with the majority leader, why not just leave it that the Senator from Oregon or the Senator from Connecticut can resume at 2:30?

Mr. BAKER. I include that in the request.

The PRESIDING OFFICER. Will the Senator restate the unanimous-consent request?

Mr. BAKER. As we put it together, it is this: Instead of going out at 12:15, in order to accommodate certain Senators who must attempt to arrive at a time agreement—and they know that I wish them well in that respect—we will go out at 12:30; that at this time, the Senator from Connecticut will be recognized; that the Senate will recess then at 12:30, to reconvene at 2:30; that at that time, 2:30, the Chair will recognize either the Senator from Oregon or the Senator from Connecticut, depending on which seeks recognition at that point; and that the interruption of their presentation will not show as a second speech.

The PRESIDING OFFICER. Without objection, the new unanimous-consent request is agreed to.

Mr. PACKWOOD. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I have in my hands a memorandum prepared by the Congressional Research Service of the Library of Congress. It is from the American Law Division. The subject is "Possible Arguments in Opposition to Amendment to Strip the Federal Courts of Jurisdiction over Cases Involving School Prayer."

[Memorandum]

(This is in response to your request for brief "talking points" that might be used in opposition to an upcoming amendment to the debt-ceiling bill. That amendment would eliminate the jurisdiction of the federal courts over cases involving voluntary school prayer. Arguments that might be used are attached.)

POSSIBLE ARGUMENTS IN OPPOSITION TO AN AMENDMENT TO STRIP THE FEDERAL COURTS OF JURISDICTION OVER CASES INVOLVING SCHOOL PRAYER

(1) If enacted, proposal would undermine the system of separation of powers embodied in the Constitution. The Founding Fathers created a system of government in which—the better to protect liberty—political power was dispersed rather than concentrated and certain rights of the people were enumerated. One aspect of this system was the vesting in the federal courts of the power to review the acts of the other branches of government, and particularly of the Congress, for consistency with the Constitution. As expressed by Alexander Hamilton in the Federalist Papers, this power of judicial review was deemed essential to the preservation of constitutional rights from "legislative encroachments."

"Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing."—The Federalist, No. 78

But the pending proposal would undermine this notion of an independent judiciary dedicated to upholding the Constitution against abuse by the other branches of government. It would vest in Congress the power to determine whether its acts should be subject to judicial review in the federal courts.

(2) Similarly, if enacted, the proposal would undermine the system of checks and balances created in the Constitution. Though creating a system of political power divided among three branches of government, the Founding Fathers provided as well for numerous checks and balances among and between the branches, again for the purpose of preventing the exercise of tyranny by any one branch and preserving liberty. Each branch was given some degree of authority with respect to the other branches. But the pending proposal, if enacted, would connote a plenary power in Congress, virtually unchecked and uncheckable by the other branches. Under the Constitution, the acts of Congress are subject to review in the federal courts, and this was seen as an essential restraint on majoritarian excess. But if Congress can insulate its own acts from review by the federal judici-

ary by simply denying the courts jurisdiction of their subject matter, that essential check on majoritarian excess would be eliminated.

(3) The proposal would substantially undermine the independence of the federal courts. The Constitution takes great pains to assure that federal judges can exercise their powers free from political pressures—life tenure, no diminution of compensation, etc. That independence was deemed essential if the courts were to maintain an "inflexible and uniform adherence to the rights of the Constitution, and of individuals . . ."[1] and to render judgment impartially. But the pending proposal would make judges less independent. To preserve their powers, they would have to pay close attention to the political tides of the moment, lest popular displeasure with their decisions cause Congress to divest them of jurisdiction in particular subject areas. As the Senate Judiciary Committee noted in 1937, in opposing President Roosevelt's plan to "pack" the Supreme Court:

"Courts and the judges thereof should be free from a subservient attitude of mind, and this must be true whether a question of constitutional construction or one of popular activity is involved. If the court of last resort is to be made to respond to a prevalent sentiment of a current hour, politically imposed, that Court must ultimately become subservient to the pressure of public opinion of the hour, which might at the moment embrace mob passion abhorrent to a more calm, lasting consideration.—S. Rept. No. 711, 75th Congress, 1st Session (June 7, 1937).

(4) The proposal attempts to amend the Constitution without using the procedures of Article V. The Constitution contemplates the overruling or revision of federal court interpretations of the Constitution in two ways-reversal by the courts themselves, and constitutional amendment. The former may happen as the courts themselves reconsider their previous decisions or as new judges are appointed to the courts. The latter is, perhaps, even more cumbersome, a process that Justice Frankfurter has described as deliberately "leaden-footed." The reason for the difficulty of the amending process was to assure that the basic charter of the nation would not be changed unless there was a considered consensus in the country that it ought to be changed. But the pending proposal attempts to obtain a reversal of Supreme Court interpretations of the Constitution without going through this process. It attempts to bypass the method set out in the Constitution for assuring that the Constitution is not changed for merely temporary reasons.

(5) The proposal would eliminate as well the other means of altering federal court interpretations of the Constitution—reconsideration by the courts themselves. By eliminating Supreme Court jurisdiction over the matter, the proposal would set in stone the Court's previous decisions on the matter of school prayer. State courts would remain bound by those decisions, and the possibility of Supreme Court revision of its precedents would be eliminated.

(6) The proposal is based on a pernicious assumption about the integrity of state court judges. The proposal would not in itself restore prayer to the public schools; that could occur only as stated authorities acted to do so and had their actions upheld by the state courts. Because the pending proposal would leave intact the Supreme Court's decisions on school prayer, that could occur only if state court judges, freed from the possibility of Supreme Court review, chose to ignore the Court's decisions. But Article VI of the Constitution makes it the "Supreme Law of the Land" and obligates state court judges, by oath or affirmation, to support the Constitution. Thus, as the Conference of State Chief Justices observed in a resolution adopted on Jan. 30, 1982:

"These proposed statutes give the appearance of proceeding from the premise that state court judges will not honor their oath to obey the United States Constitution, nor their obligations to give full force to controlling Supreme Court precedents."

(7) The proposal would undermine the essential function of the Supreme Court of giving national uniformity to the interpretation of the Constitution. The proposal, if adopted, would make the highest court in each state final arbiter of the meaning of the First Amendment in the context of school prayer. Thus, the possibility would be created of the First Amendment coming to mean different things in each of the fifty states. An individual's constitutional rights would become a matter of geography.

(8) Similarly, the proposal would undermine the supremacy of the Constitution and of federal law. If state courts could be the final arbiters of the meaning of the Constitution and of federal law within their jurisdictions, and if as a consequence the Constitution and federal law could be interpreted differently from place to place, it would mean little to say, as does Artaicle VI, that "This Constitution and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the Supreme Law of the Land . . ." That exhortation connotes some means to make it a reality, some national tribunal able to give binding and uniform interpretations to the Constitution and to federal law. As Chief Justice Taney stated in *Ableman v. Booth*, 62 U.S. (21 How.) 506 (1858):

"But the supremacy thus conferred on this Government could not peacefully be maintained, unless it was clothed with judicial power, equally paramount in authority to carry it into execution; for if left to the courts of justice of the several States, conflicting decisions would unavoidably take place . . . and the Constitutions and laws and treaties of the United States, and the powers granted to the Federal Government, would soon receive different interpretations in different States, and the Government of the United States would soon become one thing in one State and another thing in another. It was essential, therefore, to its very existence as a Government that . . . a tribunal should be established in which all cases which might arise under the Constitution and laws and treaties of the United States . . . should be finally and conclusively decided . . . And it is manifest that this ultimate appellate power in a tribunal created by the Constitution itself was deemed essential to secure the independence and supremacy of the General Government in the sphere of action assigned to it; and to make the Constitution and laws of the United States uniform, and the same in every State."

(9) The language of the "exceptions and regulations" clause itself suggests that it is not a grant to Congress of plenary power over the appellate jurisdiction of the Supreme Court. In contrast to the sweeping description of Congress' power relative to the inferior federal courts ("The judicial power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish"), the term "exceptions" suggests a broader power of appellate review in the Supreme Court immune from Congressional excision. As Attorney General William French Smith has stated:

"The concept of an "exception" was understood by the Framers, as it is defined today, as meaning an exclusion from a general rule of law. An "exception" cannot, as a matter of plain language, be read so broadly as to swallow the general rule in terms of which it is defined. Letter to Sen. Strom Thurmond, Chairman, Senate Committee on the Judiciary (May 6, 1982), reprinted at 128 *Cong. Rec.* S4727 (May 6, 1982)."

(10) The Case of *Ex parte McCardle*, 74 U.S. (7 Wallace) 506 (1868) is no justification for a broader interpretation of Congress' exceptions power. In that case the Court upheld the constitutionality of a Congressional act repealing an 1867 *habeas corpus* statute under which McCardle had brought his appeal. Even though the Court had already heard oral argument on the case, it promptly dismissed it, stating:

"We are not at liberty to inquire into the motives of the legislature. We can only examine its powers under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words. What, then, is the effect of the repealing act upon the case before us? . . . Jurisdiction is power to declare the law, and when it ceases to exist, the only function remaining to the court is that of announcing the fact and dismissing the cause. 74 U.S. (7 Wallace) at 514."

But the Court carefully noted that Congress had repealed only the means provided in 1867 for appealing from a denial of *habeas corpus* and that it retained jurisdiction over such appeals if brought under the Judiciary Act of 1789. The case thus stands only for the limited proposition that Congress may eliminate one means of appealing from a denial of a petition for *habeas corpus* when another avenue remains open.

(11) More to the point of the proper scope of the exceptions power is the case of *United States v. Klein*, 80 U.S. (13 Wallace) 128 (1871). That case involved a statute adopted by Congress which provided that, contrary to a Supreme Court ruling, a Presidential pardon could not be used as the basis for claiming damages from the U.S. for property seized or destroyed during the Civil War and which further provided that the Supreme Court would have no appellate jurisdiction over any pending case if it found that a pardon had been held to be the predicate for such a claim. The Court held not only that the statute unconstitutionally infringed on the President's pardoning power but also that it unconstitutionally infringed on the Judicial function by prescribing a particular outcome for the cases pending before the Court:

"* * * The language of the proviso shows plainly that it does not intend to withhold appellate jurisdiction except as a means to an end * * * Congress has already provided that the Supreme Court shall have jurisdiction of the judgments of the Court of Claims on appeal. Can it prescribe a rule in conformity with which the court must deny to itself the jurisdiction thus conferred, because and only because its decision, in accordance with settled law, must be adverse to the government and favorable to the suitor? The question seems to us to answer itself. 80 U.S. (13 Wallace) at 145-147."

[1] The Federalist No. 78 (Hamilton).

The case establishes, in other words, that the separation of powers doctrine imposes substantial limitations on Congress' use of the exceptions power.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. Under the previous order entered into, the Senate now stands in recess until 2:30 p.m. today.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, as we continue the debate on the Weicker-Baucus-Helms amendments, I would like to read a later communication from the American Bar Association, from the new president of the American Bar Association, Mr. Morris Harrell. It is dated August 18, 1982:

AMERICAN BAR ASSOCIATION,
Washington, D.C., August 18, 1982.

DEAR SENATOR: As the newly installed president of the American Bar Association, I write at this critical time to repeat, and reinforce strongly, the position of the ABA expressed by my predecessor, David Brink, opposing the many pending proposals to limit the ability of federal courts to act in abortion, school prayer and busing cases. I urge the Senate to reject any and all such proposals offered as amendments to the debt limitation bill, H.J. Res. 520, currently under consideration.

These proposals have been perceived by many as involving only positions for or against prayer, abortion or busing. But the truth is that they are unabashedly court-stripping bills, and that is the reason that thoughtful Senators on both sides of the underlying controversial social issues should recognize these proposed amendments for what they really are and join in defeating them.

The present proposed amendments are offensive to our American governmental framework and processes on two grounds. First, the means by which these proposals attempt to change constitutional law derogate the Constitution, the separation of powers and the restraint that traditionally and uniformly has been observed among the three branches of government. Second, the amendment procedure being used circumvents the normal legislative process by coupling two unrelated measures of great importance that deserve separate consideration, by forcing uncritical consideration of both as a unit and by avoiding customary and appropriate advance study.

Mr. President, I ask unanimous consent that I might be permitted to yield to the distinguished Senator from Vermont (Mr. LEAHY) for 10 minutes without losing my right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Without this being construed as the end of the speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. HELMS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Chair asks the Senator from Connecticut to restate his request.

Mr. HELMS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank my distinguished colleague from Connecticut, and I thank the Chair.

The debate over limiting Federal court jurisdiction to make changes in the nature and quality of rights declared by the Supreme Court under the Constitution is not new. It seems that every generation is bound to test the strength and the limits of the principles of an independent judiciary and the separation of powers. I compare the current assault on Federal court jurisdiction to attacks through our history on the first amendment. It is by now a truism that the first amendment is most ardently embraced when there is relatively little dissent in the society and most challenged when unpopular views seem to disturb the placid consensus.

Much the same can be said of our courts, the branch of Government devoted to interpreting our Constitution and laws, free of the pressures of the passing majority. A healthy and independent judiciary is never more necessary than at a time when there is impatience and discontent with the way the Supreme Court chooses to interpret the Constitution.

There are numerous bills before the Senate that seek to limit or eliminate the jurisdiction of the Federal courts, and the amendment of the Senator from North Carolina on school prayer eliminating both lower and Supreme Court jurisdiction is but one example. On some of the issues a majority of this body will agree with the underlying social goals of particular bills. But much more than school prayer, busing, or abortion are at stake, and much more than court jurisdiction will be limited if we let expediency become the engine of change.

In all of these examples, State statutes to be shielded from review would override rights declared and protected by the courts. The impatience and outrage of some Americans is directed to the fact that the courts move more slowly than legislative bodies, and a change in the law is brought about not in response to a public outcry for change but as a byproduct of a legal dispute arising under our laws—that is, a case or controversy.

In normal times, we all perceive a great personal stake in the independence of the courts. No one can safely predict whose rights will depend on that independence in the future. Therefore, we favor a strong judiciary, under law, rather than a judiciary that bends first in one popular direction, then in another. But to make this system work, no one has the right to look to the courts for a quick fix. No one has a stake in courts that can be easily persuaded to follow the howls rather than the law.

I do not accept the proposition that if Congress creates lower Federal courts it must endow them with unlimited authority to vindicate every federally created right. There have been limitations on Federal court jurisdiction, such as increases in the jurisdictional amount, changes in the nature of diversity and removal jurisdiction, and a few—very few—instances where Congress has limited Federal court jurisdiction altogether, such as the Norris-LaGuardia Act and the Tax Injunction Act of 1937.

But not even the few instances where Congress limited the jurisdiction of the Federal courts in specific subject areas did Congress ever go so far as to remove from the total protection of the Federal courts rights guaranteed under the Constitution. Through the lengthy and sometimes tumultuous history of Congress, many bills have been introduced to do just that, and none has ever passed. Through that long history the power of Congress to establish lower Federal courts and to make exceptions to the appellate jurisdiction of the Supreme Court has been exercised to adjust the scope and authority of the judiciary to better serve the needs of the litigants, to promote efficiency, to maintain a healthy balance between the State and Federal systems.

But there should be a clear distinction in the minds of every Senator between legislation to improve the courts and legislation to use the courts to accelerate changes in substantive constitutional law. The thrust of the court-stripping bills now before the Senate, including the amendment to the debt ceiling bill on school prayer, is to short circuit the normal processes for amending the Constitution, which are difficult and time consuming. But they are difficult and time consuming for a reason. The Constitution should reflect the wise resolve of the people, tested over time.

In the Constitution Subcommittee hearings on court jurisdiction conducted in 1981, we observed the Nation's finest legal scholars in a sincere and technically complex discussion of the constitutionality of various proposals to limit lower and appellate Federal court jurisdiction on an issue-by-issue basis. It is hard to predict the outcome of that same debate in the courts, simply because there is a scarcity of precedents truly on point. The scarcity, however, results from the devotion of past Congresses to the principle of shared powers and an unwillingness to buy fast changes in law at a steep constitutional price.

Among the eminent law professors who appeared before the Constitution

Subcommittee, a few believed that there were few limitations imposed by the Constitution on Congress under article III and that an underlying purpose of Congress to extinguish particular rights did not, in general, signal a violation of the Constitution. But it is interesting that most of the scholars who read article III broadly—that is, in a manner giving Congress relatively broad authority—also believe that it would be a tragedy for Congress to forgo the self-restraint that has united each generation with the next.

One witness, Prof. Martin Redish of Northwestern University Law School, believed that Congress has a broad authority under article III and that the court-stripping bills may be constitutional. But he ended his visit with us on a very different note:

> In past years, previous Congresses were also disturbed with many substantive decisions of the Supreme Court. They, too, considered legislation to curb the Court's jurisdiction. But, with rare exception, those Congresses declined to take such drastic action. I strongly urge you to exercise similar restraint, both for the good of the nation and for the rule of law.

The hearings and the opinions can only help us to decide if we have the authority to act. We must answer the question of whether we ought to act. It is that issue which must concern us all.

Nothing less than the rule of law is at stake. It may be shocking to think that not every syllable of every word necessary to protect the rights of citizens under the Constitution is located within the four corners of that document, that so much of the quality of constitutional government rests with the judgment of the fallible men and women who serve in government.

Limiting the jurisdiction of the courts as a means of reversing particular decisions or limiting their effects is a grave and potential threat to our system of checks and balances.

The separation of powers has never been absolute in our system of government. The three branches overlap. The lines of authority are at times unclear.

Underlying the success of the system over nearly 200 years, is a strong notion of comity and accommodation among the branches. The self-restraint exercised by each branch is strengthened by genuine concern about destroying that sense of comity, just as one is careful to nurture a fruitful relationship with a good neighbor.

Perhaps the most important language from the most important Supreme Court case on the issue of Congress control of the Supreme Court's appellate jurisdiction, ex parte McCardle, is the Court's simple description of what happens to the legal process itself when jurisdiction is eliminated:

> Without jurisdiction the court cannot proceed at all in any cause. Jurisdiction is the power to declare the law, and when it ceases to exist, the only function remaining in the court is that of announcing the fact and dismissing the cause.

In limiting the power of the Supreme Court, no one is left to declare the law. There are no rights out there that you can rely on. The people of our country must realize that if their rights are violated, they have no one to turn to.

Mr. President, the issue before us, the issue of court-stripping, is truly a radical issue. This is a radical concept. Anyone who considers himself a true conservative should reject this. This is radicalism in the extreme. This is a vast change in 200 years of our history. It is destructive of the process of three equal branches of Government.

Every school child in this country, if they have had even a modicum of training in the Government of their Nation, will tell you we have three equal and separate branches of Government. If this radical court-stripping move were to be adopted where we say there are two far more than equal branches of Government and there is a third branch of Government but a vestigial residue of its former self, not equal, unequal, grossly unequal, and that your rights, if they are not protected by the executive and the legislative, they will never be protected by the judiciary no matter what might be the makeup of the judiciary because they no longer will have the power to do so.

A Government of carefully balanced powers is very literally unbalanced and thrown into disarray. Relations among the three branches of Government are a careful mix of competition and accommodation. Without the final authority to declare the law in any branch, the will to accommodate the other branches declines, and the need to become the strongest branch, prevailing amid the chaos, grows ever greater.

The matter has never been put better than Alexander Hamilton stated it in the Federalist, No. 80:

> There ought always to be a constitutional method of giving efficacy to constitutional provisions. What, for instance, would avail restrictions on the authority of the State legislatures without some constitutional mode of enforcing the observance of them? * * * No man of sense will believe that such prohibitions would be scrupulously regarded without some effectual power in the Government to restrain or correct infractions of them. This power must either be a direct negative on the State laws or an authority in the Federal courts to overrule such as might be in manifest contravention of the articles of Union. There is no third course that I can imagine. The latter appears to have been thought by the convention preferable to the former, and I presume, will be most agreeable to the States.

I hope that as we consider the amendment presented to this body earlier today, we can remember that what is permissible is not always wise. Simply because we can do it does not mean that we should. Simply because we have the power does not mean that it is good for our Nation. Congress must resist temptation to adjust the jurisdiction of the lower Federal courts, or of all Federal courts, to respond to particular decisions of the Supreme Court.

The process of constitutional amendment is clearly open to the Nation to alter or reverse a judgment of the Supreme Court. While that process is slow, the result is a more certain measurement of national sentiment and a deeper respect for the law that results.

In addition to the amending process, the power of the President to affect the makeup of the courts over time through judicial appointments is an important one. The President, and indirectly, the political process, can have a potent effect on law and public policy.

The 75th Congress was faced with a dilemma not unlike our own when it considered and rejected President Roosevelt's Court-packing proposal. The Senate Judiciary Committee rose to the occasion, despite the great pressure to speed along legislation that was designed to ease the pains of the Great Depression. The words of that committee could be our own today:

> Let us, of the 75th Congress, in words that will never be disregarded by any succeeding Congress, declare that we would rather have an independent court, a fearless court, a court that will dare to announce its honest opinions in what it believes to be the defense of liberties of the people, than a court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact. We are not the judges of the judges. We are not above the Constitution.

Mr. President, what the Judiciary Committee said during the 75th Congress should be harkened to by this Congress.

If the amendments before us were to be enacted into law, we would shatter the independence of the Federal courts. We would shatter the foundation of our freedoms which have been nurtured through 200 years of constitutional government. We would shatter the Constitution, itself.

The freedom of every American is at stake. And every American should know that we will have as much freedom as he or she is willing to fight for.

I believe the American people will not reject our history. They are not seeking a new, radical vision of America in which the Government can sweep into every corner of a person's personal life. I believe that when the American people understand the stakes we are playing for, they will do what every generation of Americans has done. They will fight to preserve

the Constitution and the freedoms it protects.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I resume the letter of August 18, 1982, from the president of the American Bar Association, Morris Harrell, to this Senator:

As you well know, the ABA takes no position on the issues of school prayer, abortion or busing, but is concerned that the pendency of another highly emotionally-charged debate over prayer or abortion will obscure the fundamental flaw in all these proposals. We emphasize again that the issue is not prayer, abortion or busing; the real issue is the integrity of our tripartite system of government. The ABA has long opposed any legislative attempt to alter constitutional law through means other than constitutional amendment. We believe that the enactment of any of these measures would constitute an unprecedented attack on the Constitution and the independence of the federal judiciary and establish unwise policy. Such proposals, if enacted, could be used in the future as precedents for effecting constitutional changes that would impair other rights of all Americans, including proponents of the present amendments. All such proposals should be vigorously resisted.

We also reiterate that the serious constitutional questions involved in these court limitation proposals deserve full consideration in Committee. Avoiding the healthy public debate currently underway in the Judiciary Committee and injecting the unrelated court jurisdiction issue into the debate over the debt ceiling would do a grave disservice to both issues.

We strongly urge that the Senate permit the normal legislative process to continue uninterrupted and to oppose any court-stripping proposals. Consequently, we endorse adoption of the pending Weicker and Baucus amendments.

Sincerely,

MORRIS HARRELL.

Mr. President, let me review for a few minutes, if I might, the amendment of the distinguished Senator from North Carolina. I will ask rhetorical questions as to the substance of that amendment.

QUESTIONS AND ANSWERS ON SCHOOL PRAYER BILLS

WHAT DOES THIS LEGISLATION PROPOSE TO DO?

This legislation would enable State courts to sanction "voluntary" prayers in public school classrooms. No longer would the Supreme Court be able to review State court decisions. Additionally, challenges to school prayer programs could no longer be brought in any Federal court.

The statutes do not define "voluntary" prayer, but it is generally assumed that the term refers to proposals whereby students, teachers or others offer prayers of their own choosing in school classrooms. Used as such, the term "voluntary" is a misnomer because, as the courts have found, prayer sessions in the schools are never truly voluntary. Students are pressured by their peers and teachers to participate in the prayer sessions and are severely stigmatized if they choose not to.

WHAT IMPACT WOULD THIS LEGISLATION HAVE ON THE FIRST AMENDMENT PRINCIPLE OF RELIGIOUS LIBERTY, THE ESTABLISHMENT CLAUSE, AND CHURCH-STATE SEPARATION?

This legislation would violate the fundamental principle of church-state separation and dilute the strength of the establishment clause. Its intent is to undermine those Supreme Court rulings which prohibit government sponsored and supervised prayer in public schools. This would directly violate the establishment clause which guarantees each and every citizen the right to be free of governmental entanglement with religion, such as prayer in the public schools. The passage of this legislation would run counter to American tradition and religious liberties.

WHAT IS THE CURRENT LAW ON THE SUBJECT?

In the early 1960's, the Supreme Court ruled in the cases of *Engel* v. *Vitale*, 370 U.S. 421 (1962) and *Abington School District* v. *Schempp*, 374 U.S. 203 (1963) that a State may not compose and prescribe a form of prayer for recitation in the schools, and that a State or city may not require the Bible to be read without comment and the Lord's Prayer to be recited in public schools. Following upon the principles established in these cases, Federal courts have forbidden students to compose their own prayers and offer them. As recently as January 25, 1982, the Supreme Court unanimously upheld a fifth circuit ruling that Louisiana's "voluntary" school prayer law which authorized local school districts to adopt a before-class school prayer period was unconstitutional. (*Treen* v. *Karen B.*, No. 81-1031)

Neither the fact that the prayer may be denominationally neutral, nor the fact that its observance on the part of the students is voluntary can serve to free it from the limitations of the Establishment Clause . . . The Establishment Clause, unlike the Free Exercise Clause, does not depend upon any showing of direct governmental compulsion and is violated by the enactment of laws which establish an official religion whether those laws operate directly to coerce nonobserving individuals or not. (Engel at 430.)

Nothing under current law regarding school prayer prohibits a student from freely exercising his/her right to voluntarily pray. Religious freedom and true voluntary prayer for public schoolchildren has never been outlawed by the Supreme Court. Therefore, this legislation is unconstitutional and unnecessary.

WHAT ELSE IS PERMISSIBLE UNDER CURRENT LAW?

First, schools may use the Bible or other religious books as source books in teaching about religion.

Second, schools may offer a course in the Bible as literature and history.

Third, schools may offer objective instruction in comparative religion.

Fourth, students may study the history of religion and its role in the story of civilization.

Fifth, students are free to recite such documents as the Declaration of Independence which contain reference to God.

Sixth, students may sing the national anthem and other patriotic songs which contain reference and assertions of faith in God.

Seventh, references to faith in God in connection with patriotic or ceremonial occasions are permissible.

Eighth, students may be dismissed for sectarian instruction off school premises.

Ninth, school facilities may be rented during off-hours to religious groups if there is a general policy of renting the facilities to nonschool organizations.

WHAT IS THE GOVERNMENT'S ROLE WITH REGARD TO RELIGION?

Government's role has been and should continue to be one of neutrality. It should neither oppose nor support religion, favor one religion over others or favor nonreligion. It has no expertise in religion and should leave the teaching of theology and the practice of it to parents and theologians.

HOW WILL THIS LEGISLATION ALTER THE FEDERAL COURTS' ABILITY TO ADDRESS CONSTITUTIONAL RIGHTS?

This legislation removes the jurisdiction of the Supreme Court and the lower Federal courts in cases of government sponsored and supervised prayer in the public schools. It would establish a dangerous precedent of disabling the Federal courts and preventing them from protecting constitutional rights when those rights become politically unpopular. Only through decisions by the Federal judiciary has this country seen a uniform and consistent principle of judicial supremacy in matters of constitutional interpretation established in *Marbury* v. *Madison*, 1 Cranch 137 (1803). By precluding Supreme Court and lower Federal court review of any cases arising from State court decisions pertaining to school prayer, parents and other aggrieved parties would have no opportunity to acquire relief from State court decisions.

WHY DO MAINLINE DENOMINATIONS OPPOSE THIS LEGISLATION?

This legislation, contrary to the philosophical view of its proponents on other issues, would not get Government out of our lives. There would merely be a transfer of governmental authority and power from the Federal level to the State level. Local governments would be given greater power to intervene, influence, support and control religious exercises in the classroom.

These programs are never truly "voluntary" and produce psychological pressures upon the children who do

not wish to participate or whose parents do not wish them to participate. No child should be faced with the Hobson's choice implicit in any "voluntary" school prayer program: Either participate in a ceremony contrary to your religious beliefs or find yourself labeled as "different."

The Supreme Court's interpretation of the first amendment's wall of separation in school prayer cases is consistent with the Constitution and the intention of the Founding Fathers. It is in the best American tradition and serves religion and religious freedom. The legislation proposed is unconstitutional, unnecessary, and constitutes an unconscionable attempt to breach that "wall." It is an attempt which we strongly urge Congress to reject.

(Mr. HAYAKAWA assumed the chair.)

Mr. President, I would like to, if I might, at this time indicate for the benefit of those who might be listening to these words the difference between the prayer recited in this Chamber and that recited or that proposed to be recited in the classrooms of the Nation. Many times people say, "Well, prayer is recited in the Senate Chamber at the opening each day of this body." What has to be pointed out is that this Senator does not have to attend. He does not have to be in this Chamber and, indeed, may leave the Chamber in the middle of the prayer if he so chooses.

That choice and that option is not available to any child attending school. There is nothing voluntary about attendance at school. That is mandatory. So let us make it clear that when the term "voluntary" is used, it might be used in conjunction with the prayer. It cannot be used in conjunction with presence in the classroom. That is mandatory. That is the very distinct difference between the occasion of prayer in the Senate and the occasion of prayer in the public schools. One truly is voluntary in the sense that those who are in the Chamber do not have to be here and may leave. It is mandatory in the sense of the schoolchildren who are obliged to be in the classroom.

There are those who indicate that no harm can come from this, and, indeed, a young child does not have to listen. I ask anybody within the sound of my voice, what 6-year-old, 7-year-old child is going to stand up and insist on their constitutional rights? At that age and even older, when everybody stands, you stand; when everybody bows their head, you bow your head; when everybody mumbles words, you go ahead and mumble words. So, in the very real sense, neither is the exercise of the prayer voluntary to a young child.

I am well aware, Mr. President, that public polls are taken on this subject of "voluntary prayer in the schools." I am well aware that a majority say, "Let us have voluntary prayers in the schools." Maybe this is a good time for us to once again review the history of this Nation to come to an understanding as to what it is the Constitution of the United States says. These words were not planted here by some liberal fanatic from the 1960's and 1970's and 1980's. Rather, these words were carefully chosen and written on the basis of experience back in the 1700's.

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

No law. The Archbishop of Canterbury was not on the *Mayflower.* The Archbishop of Canterbury was not on the *Mayflower* because those who were on the *Mayflower* were fleeing from the state religion of England. That is our origin as a Nation. There is no greater mischief that can be created than to combine the power of religion with the power of government, and history has shown us that time and time and time again.

Now, tell me, what is the prayer to be if it is to be voluntary? Is it to be a Protestant prayer? Is it to be a Catholic prayer? Is it to be a Jewish prayer? Is it to be a Buddhist prayer? Is it to be a Mormon prayer? Or is it to be a mishmash of every religion known to the world and therefore meaningless?

The Constitution of the United States was not written for the generation that existed at the time of its writing. It was meant to last through all generations and all circumstances, and so now I pose to you the question: Who knows today whether any faith or any religion is the true faith or the true religion?

What the Constitution is saying is that when that comes along—if indeed none of the faiths existing today are the true faiths—when that comes along, the circumstances should exist whereby it could be proclaimed in total freedom to all the people of this country. That is the purpose of the Constitution.

So I do not care if a prayer is written that encompasses every faith in this country. I have to make sure that document stays clean for the faith that has not even been proclaimed yet. That is the purpose—not to tailor it to the existing circumstances or the people of this generation, but to make certain that it is operative for all generations and all circumstances and, in the case I am talking about, all faiths.

That is why I say that probably nothing is more important to the Nation than this debate.

It sounds very comfortable, very inspiring: One can almost envisage a Norman Rockwell painting, with people in their pews, with hands clasped, to illustrate all this business of prayer in school, as if it will protect us. The only thing that will protect us is the assurance, by the laws of this country, that no matter what a person believes, he will be able to practice it in total freedom, free from any hurt or any harm.

People say, "In the United States of America, in 1982, how can we have religious persecution?" Why do we have to put it in terms of persecution? Why do we have to put it in terms of anybody being burned at the stake, and so forth? Let us put it in its mildest form: Why should a child be embarrassed by his or her classmates because he or she fails to stand up or bow his or her head or mumble some set words prescribed by the Government of the United States?

I referred earlier to our history as a nation, when I said that those who came here were fleeing from religious persecution, the religion of the state—the Church of England. We are a nation of immigrants. Nearly all of us come from families that have practiced various faiths around the world.

It is ironic that here I stand as a citizen of the United States, reciting the history of a people fleeing from the Church of England, when my own great-uncle was the Archbishop of Canterbury. But I do not want a state religion in this Nation.

We forget so fast. It is not a matter that there is any peculiar mark upon all of us living in the year 1982 that we tend to forget our origins or the words in that document, because it was shortly after the arrival in the United States by those who were persecuted that they started their own persecution. The Salem witch trials are nothing of which any citizen of this Nation is particularly proud.

Ask my colleagues here on the floor of the U.S. Senate who are of the Mormon persuasion about the persecution of the members of their faith as they trekked across the Nation to find their final home in the West.

As I say, it sounds very convenient and very comfortable and warm and cozy, this idea of a little prayer. But the history of the world offers too many instances of being bathed in blood in the name of religion. What has distinguished the United States of America from any other nation has been our unwillingness to go down that path.

For those who disagreed with the Supreme Court decisions of several decades ago and thought the world was going to come to an end, I suggest that never before have we had such religious freedom in the United States of America. It was a touchy matter just within my lifetime to be Jewish. It was touchy to be Roman Catholic. Why should it have been? Who gave to anybody the right to say that Protestantism, my faith, should de facto be the State religion of the United States? Who gave anybody the right to do that? And the fact that that "right"

was taken away is bothersome? Not at all. It should not be. It should never have been. This is not a Protestant country; but for some 200 years it was—to the detriment of Catholic and Jew, to the detriment of the Mormon, to the detriment of many other minority faiths.

I do not yearn for those good old days. We are finally living what the Constitution says, and I want to leave it that way.

Just in our memory, President John F. Kennedy brought down the barriers that existed for politicians of the Roman Catholic faith. It was said that no Catholic could be President of the United States, because he or she would owe their allegiance to the Pope in Rome. That did not come out of your history book. Those were the words we heard as we were growing up. With the election of President Kennedy, that barrier came tumbling down.

Let me read some words of that President of these United States. During a campaign address in 1960, President Kennedy told the Greater Houston Ministerial Association:

> I believe in an America where the separation of church and state is absolute, where no Catholic prelate would tell the President how to act, and no Protestant minister would tell his parishioners for whom to vote, where no church or church school is granted any public funds or political preference, and where no man is denied any public office merely because his religion differs from the President who might appoint him or the people who might elect him.

When the Supreme Court banned school prayers in the New York public school system in 1962, President Kennedy commented:

> We have in this case a very easy remedy and that is to pray ourselves. And I think it would be a welcome reminder to every American family that we can pray a good deal more at home, we can attend our churches with a good deal more fidelity, and we can make the true meaning of prayer more important in the lives of all our children.

There was a man who understood what prayer is all about and what the Constitution is all about, whose faith had been denied access to the highest offices in the land because Protestantism was de facto the official state religion.

No, I think we are under a far better set of circumstances today, since that Supreme Court decision.

It is not up to the Senator on Monday to take up where the rabbi leaves off on Saturday or the priest or the minister on Sunday. That is not the job of the men and women of this Chamber.

It is all we can do to see the Constitution of the United States is lived up to, never mind some particular religious creed.

When I think of the teachings of my own faith on the matter of prayer, I recall the words of the Sermon on the Mount. I am reading from the Phillips edition of the New Testament, the Gospel of Matthew:

> Beware of doing your good deeds conspicuously to catch men's eyes or you will miss the reward of your Heavenly Father.
>
> So when you do good to other people don't hire a trumpeter to go in front of you like those play actors in the synagogues and streets who make sure that men admire them. Believe me, they have had all the reward they are going to get.
>
> No, when you give to charity don't even let your left hand know what your right hand is doing so that your giving may be secret. Your Father who knows all secrets will reward you.
>
> And then when you pray don't be like the play actors. They love to stand and pray in the synagogues and street corners so that people may see them at it. Believe me, they have had all the reward they are going to get. But when you pray go into your own room, shut your door and pray to your Father privately. Your Father who sees all private things will reward you, and when you pray don't rattle off long prayers like the pagans who think they will be heard because they use so many words.
>
> Go into your room and pray to your Father in secret because he knows all secrets.

Why all this great proclamation? Why this wearing of religion on the sleeve? Why the writing of these matters in the Constitution of the United States when they should be written in the heart?

This is one of the great debates, not in the sense of my contribution to it, but in the sense of the subject matter, that will ever come before this Chamber during the course of the lives of those both on the floor and in the galleries.

If anyone thinks that the problems of this Nation are reduced merely to those things which we hold in our hand, be it money, or be it an automobile or a home, or a television set, or all these matters—that has never been the measurement for greatness in this Nation. It has been our idealism, and the courage to have that idealism manifest itself time in and time out that has given to us the greatness that we enjoy.

You do away with the Constitution of the United States and what it says and the United States will not be No. 1 for very long, not with all the missile systems in the world, not with all the billions of dollars spent on defense, not with the greatest gross national product. The greatness of this Nation lies in those words, those principles, those ideals. They give to this very few people a greatness way beyond our numbers and way beyond the resources or the land that comprises America.

People have come here to this Nation because man and woman can speak whatever they feel. They can worship as to however they feel. Why is it up to us to narrow those visions and to define religion in terms of the religions that we know now? There might be something greater and more beautiful out there than anything we have ever heard or seen something that might be even truer than anything that we have had taught to us.

But it will take that much longer to flower and to be revealed to us by virtue of the fact that we have defined religion within the terms of our own experience.

I understand that it is difficult for those of us as we move along in years to comprehend what the status of the young of this Nation is compared to our experiences.

I was asked a question by the distinguished Senator from North Carolina—we had a good go-around on public television yesterday. He very articulately and eloquently expressed his point of view. I did my best to lay out on the table my own belief. He indicated to me that prayer was recited as he was attending public school. He asked me whether or not such was my experience. I explained I had not been to public school, that I attended private school, and indeed in the private school I attended, prayer was mandatory. Worship was mandatory, and believe me it was Protestant in form.

My Jewish friends either had to attend or they could stand in the park. The same holds true of my Catholic friends. And we looked upon them as something different just as they must have looked upon themselves. There have to be certain scars that go along with that, even though they are not the ones that you visibly see on a person.

Of my children, and there are eight of them, some go to private school and some go to public school. They have not had that experience. On the other hand, I think they probably have a more profound understanding of the world around them and a greater love and a greater beauty to their lives than I do mine. I wonder when I see them working with a group of retarded children, giving of their free time, whether or not that really is not a form of worship far more exhilarating and far more meaningful than my sitting in the pew in church with hands folded. It is certainly different, far different from what I did. But according to the matters in which I believe I think maybe they are closer to Heaven than I am. Times change. Love changes. Faith changes.

How we view our fellow man changes. But, yes, I believe this is a far more religious Nation, and one far closer to the ideals professed by many religions, today than it was 20 or 30 or 40 years ago.

People say, "Well, take a look at all the promiscuity, drugs and sex," and all the rest of it. There is only one difference, only one difference today. You are seeing it, you are seeing it in a free society.

Everybody is amazed. When I grew up, to be called Victorian was the epitome of strictness, of discipline. Now we know differently, do we not? We know behind those closed doors and under all those big dresses and all the rest of it that it was not such a disciplined or such a strict society. So that all that is different is not that the world is going downhill. What we see is with a far greater eye for the truth, and there is nothing wrong with that.

I do not feel my children are one step behind me. Indeed, they are ahead of me in the practice of ideals, the lessons I learned through a formalized instruction in my particular religious faith. Some turn to me and say, "Well, you know, unlike those of us who had to perform our military service, the youngsters nowdays do not have to go into the Army, the Navy, or the Marine Corps, or whatever, and, therefore, they are less patriotic."

They are not less patriotic. My kids and all those I know would lay down their lives just as would any other generation. They might demand a little bit of reason, a little bit of logic, before they do it. Too often in the past we have all gone marching just on the symbol of a flag to lay down our lives, not always necessarily in the greatest causes. Because there is some logic that comes to our patriotism, does that make somebody less patriotic? Hopefully, it takes us a step away from war and from death and from destruction. But indeed when we do lay them down, we know what we are laying them down for, and it will be for a good reason.

I remember when I first came to the Congress of the United States representing the Fourth District of Connecticut, and I believe it was during the October break, it was during the time of Vietnam, and a time of profound change in the physical, not just the mental but the physical, appearance of the Nation. Young people were considered to be disrespectful and not patriotic. We did not understand people who had beards and bluejeans and granny dresses and all the rest of it; they were different, they were not patriotic. To be sure, some were not patriotic.

But I always remember this: I remember a class of seniors from Roosevelt High School in Bridgeport, Conn., and they came down during their Thanksgiving vacation and they were dressed just as I have described to you. Their appearance was nothing that was in line with the way I had been raised or indeed the Nation as a whole had been raised. But when it came to the subject of patriotism, instead of standing all neatly dressed and cleanshaven in their classrooms in Bridgeport, Conn., reciting the Pledge of Allegiance to the flag and singing the Star Bangled Banner, they chose to take their Thanksgiving vacation and bring down to Washington, D.C., one-on-one a retarded child.

So I would have to ask the question, who is the greater patriot? That is a different form of patriotism, is it not, to share America with those who do not have the opportunity available to each one of us? All of a sudden the bluejeans and the beards and the stench, and everything else, are sort of forgotten. What a great act of Americanism.

There can be no returning to the good old days. I do not want people dying for just a flag or a bar of music. I want them to lay down their lives because this Nation in its living means something, has a value to it. To recite words, does that do any of us any good? Call it a prayer but it becomes just words and, indeed, if it is so watered down that it appeals to every religion in the world it cannot mean very much. By the time you are through with the Constitution of the United States and you throw in there busing and abortion and balanced budgets and congressional salaries and school prayer, it is not going to mean very much. It may make you feel good to read it but it will not mean anything, and it will not create something better as each day dawns on this Nation.

I do not recall, for example, that we can rest easy with religion around or that all good emanates from it. Where were the religious leaders of this Nation, where were they, when we unabashedly practiced segregation? That was not just something of the time of Martin Luther King. We have been practicing it since the document was written. Where were they? Where were all the great principles that were recited in church on Sunday and forgotten on Monday? Where were they? Maybe it will be that if indeed there has been a decline in church attendance that that will spur people on to doing a better job in convincing persons they ought to belong to some particular faith. I might add that my profession is not immune from that because we have had a little decline in attendance when it comes to voting. I have all I can do to take care of the Government side of the United States. Do you know where we have come to in this Nation? We are at the point now where a majority to elect a President of the United States is 29 percent of those eligible to vote. That was the majority in the last election.

A majority to elect a Senator of the United States is now about 25 percent. Probably a majority to elect a Congressman is somewhere around 20 percent. I should worry whether the churches are full? I have got to worry whether the voting booths are full of people who care about this Government, and if they do not then something is wrong in our own backyard.

Maybe it is that we are not living up to the ideals of that document so that we can inspire people to participate in Government, to elect the best, to vote. Obviously, we are falling short, and maybe so it is with the various religions in this country. No, the churches are not full. Maybe they had better do something about that. But that is their job. My job is to reinstill an enthusiasm and a faith and ideal in the political system of this country.

I have never seen a merger between two weak companies that ever worked, and that is what you are trying to do, trying to lean one on the other, religion and government, in this country. Each has to stand on its own two feet, and if it cannot, then shake it up, but do not glue them together because then we will both go down the chute.

I realize that at the outset of this debate I have got an awful lot of convincing to do. The polls say that, people say we ought to have prayer. But, it is to be hoped that by the time we are through we will have it clearly understood that what we are not talking about in any way is the stifling of religion but rather the encouragement of it.

I find it ironic that my conservative brethren, so-called, who want Government out of our lives want Government in religion. There are some areas where the Government should be because nobody else wants to go there. But religion is not one of those areas. Once the Government comes into our faith, then, believe me, it can tell you exactly what to believe in. That is not a happy circumstance for the United States of America.

Mark Twain had a great paragraph in his "A Connecticut Yankee in King Arthur's Court," which book a little later I think my colleagues would like to listen to. But Twain, speaking on the separation of church and State, said:

> Spiritual wants and instincts are as various in the human family as are physical appetites, complexions, and features, and a man is only at his best, morally, when he is equipped with the religious garment whose color and shape and size most nicely accommodates themselves to the spiritual complexion, angularities, and stature of the individual who wears it; and besides I was afraid of a united church; it makes a mighty power, the mightiest conceivable, and then when it by and by gets into selfish hands, as it is always bound to do, it means death to human liberty, and paralysis to human thought.

You see, he was not just a man who wrote about Tom Sawyer and Huck Finn. He knew about the spirits that bring greatness or bring tragedy to this world.

How many of you remember seeing the movie "Cromwell"? I remember that depiction of the Battle of Naseby. The two forces opposing each other across the valley were the forces of Charles I and the forces of the Lord Protector Oliver Cromwell. And there

on one side of the valley sat Charles I, next to him the Archbishop of Canterbury and all the bright Polesian horses and armored officers, with Charles I praying to the Almighty to give him the victory in the name of right. And the camera pans across the field and there sit the troops of the Lord Protector, a ragtag bunch, and there sits Cromwell on his horse, hands clasped, asking the Almighty to give him the victory in the name of right.

My job is not to define who is right. That is left to a far higher authority. And I do not know what that authority is. Do I think he exists, she exists? Yes. But there is no great wisdom on this floor of this U.S. Senate in the year 1982 that should make that determination.

So I would hope that everybody that is of a religious bent would please write their Senator and Congressman and ask them kindly to keep their noses out of their particular faith.

This is not the business of the U.S. Senate, the President of the United States, or the House of Representatives. It is the business of each American.

Do I encourage my fellow citizens to pray? Yes. And I hope that much of it will be devoted to those of us serving here in the U.S. Senate. But constitutionally for this body to tell you what to pray, that is a blasphemy. That is blasphemy, constitutionally.

Now we get back to the issue presented, the form as to how we are all supposed to line up here and pledge allegiance to some particular prayer that is going to be put together by—I do not even know what committee this is going to be assigned to in the U.S. Senate, but whatever it is let us talk about the form as to how we are going to achieve this.

We are going to achieve it, in essence, not by constitutional amendment, but by stripping the courts of their powers.

You see, as soon as I see that I smell the weakness of the case. Why not go the constitutional amendment route? Do you want to know why? Let me read to you from the Constitution of the United States.

This is not the personal credo of some screaming liberal. It is the Constitution.

This article is just as it was written. Just as it was written. Just as George Washington signed it. I do not think he has ever been put into the screaming liberal category.

Article V. The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article, and that no State without its Consent, shall be deprived of its equal Suffrage in the Senate.

That is why we are coming down the road of court stripping. This is too tough. This is too tough. You cannot get it through, not for a long time. And, if there is any opposition, you might never get it through. But in the tempers of these times, in the philosophy and partisanship of this particular moment, it is the intention of some to quickly try to run it through the legislative route to strip the courts of their authority to protect the rights of all of us as Americans under the Constitution of the United States.

That is the reason why it is being done in the fashion of court stripping. The Constitution is too tough. Well, it was meant to be too tough. It was not easy to amend. It is not easy to amend the Constitution of the United States.

Now what? Is this generation going to be the one to change the rules of the game just so we feel good and cozy with our little prayer? Never mind future generations, never mind the protections of the courts. To heck with the first amendment and the Constitution as to no establishment of religion. Throw it all out. People will not care. You cannot drive it, you cannot live in it, you cannot watch it, you know, in the evening. Who cares about the first amendment? Who cares about article V of the amending process? Nobody even knows the Constitution anymore.

Make people feel good in 1982. But I am not going to let you feel good. It is a disagreeable activity on the floor of the U.S. Senate for Senator PACKWOOD, myself and others, who are clearly in the minority on this issue. The idea is to go along with the polls, go along with the majority and enjoy life.

No. If you are going to win this one, and I am addressing both my fellow Senators and the American people, you are going to have to fight very hard. You are not just going to have something handed to you. If you want to change the Constitution of the United States, and the ideals and principles that have brought this Nation to its present greatness, if you want to do that you are going to have to really fight.

This is not just the fight of a few Senators here on the floor, whether it is Senator BAUCUS, Senator PACKWOOD, Senator LEAHY, Senator SPECTER, or others. This is not our problem. I do not think that many people in the State of Connecticut care about what it is that is going on right now. I am up for reelection. I have things to do.

People ask, "How does this affect your election?" I do not think it is affecting my election one iota. Certainly it is not a plus. Certainly, it is true that I am not in Connecticut doing what I am supposed to be doing during an election year.

We have thrown too much of value out the window of late without exacting any price or any recognition of what it is we are doing. But when it comes to the Constitution, we all take an oath. We all line up, those who are elected come walking down this aisle and then move to the right, hold up the Bible and take an oath of office under the Constitution, to preserve it and protect it, and we are here for another 6 years. Most of the time they are great moments. They are moments of humor, moments of great thought, great debate, the adulation of the public, the television cameras, the press, all the rest. It is great. But then there come those times when you just have to stand in there. What you do is unpopular. But in this case I think it is totally necessary. It is one of those times. So much has been given away without anybody thinking twice or exacting any price for it. But I am saying, as I have said since the beginning of this session, leave the Constitution alone—alone. The Constitution is not in trouble. The words that are there are the words that have lasted for hundreds of years. The ideas have lasted for hundreds of years. The concepts.

There is nothing wrong with the Constitution. It is the country that is in trouble, big trouble. Unemployment, high interest rates, no homes being built. I can go down the whole list. There is the problem.

That is what we ought to be doing on the floor of the U.S. Senate. Instead, all we have to do is to fend off all this garbage that is being thrown out here in the name of social issues.

I will fight tooth and nail against the making of a trash basket out of this document. Maybe my generation is willing to let it go in return for "feeling good."

But then that means that my children and those after them will not have a United States of the same value as the one that was my Nation when I took my oath of office in that well. And I would hope others would feel the same.

Get on your Congressmen and Senators. Tell them to fix up the economy. Tell them to get people back to work. Tell them to bring the interest rates down. Tell them to get the housing industry and the automobile industry going. Tell them to clean up the air and all the rest. That is all well and good. But tell them that you want this document with the same value tomorrow, next week, next month, that it has today.

Right now it is all right. It has not been changed. But it is only when the American people speak on this subject that the efforts will stop here on the floor of the U.S. Senate.

This is not an exercise separate and apart from what the American people think and feel.

I remember several years ago an enterprising young radio reporter standing in the supermarket, I think in Miami, Fla., with a copy of the Bill of Rights. It was not labeled Bill of Rights. It was just a copy of the statements of the Bill of Rights. He had it there as a petition for people to sign. Seventy-five percent of the people he asked to sign it would not sign it, and the reason given was that it was some Communist document.

If everybody knows what is in here and they still want what is being advocated on the floor, I will give up. But I do not think anybody in this country has read this for a heck of a long time. I think they better start to do it.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Contained there is a whole group of concepts and of ideals just within the first amendment that are very uncomfortable to live with. But they were born of the discomfort that was visited upon those in their home country who came to found this one. They did not have a free press.

How many times do I hear people say, "The press is at fault. Look at all that bad news. Why do they not clean up what they talk about?"

They cleaned up the press in the nations from which our forefathers came and they did not have the truth. Hitler cleaned up the press. Stalin cleaned up the press. Brezhnev cleans up the press.

You either have the press free or you do not have it free. And there is no middle ground. That means you get the bad news with the good, and it means that you get the biggest bigots and the racists and the incompetents in the press along with the great people, just like life. You cannot pick and choose any more than you can pick and choose as to what the right religion is. Again, our forefathers came here when somebody tried to pick and choose the right religion.

Do you think there is some magic that is going to excuse us from the tragedies of history when it comes to religion, that we are going to escape scott free? The heck we are.

Freedom of speech, the right of people peaceably to assemble.

Well, the Ku Klux Klan was recently in Connecticut. You know, that is a thrill we do not normally enjoy up in my neck of the woods.

I have never been prouder of my State than I was several weeks ago. They were there. They were there. They went into town and there they were with their hoods and sheets, hiding behind whatever it is they hide behind, mouthing their thoughts, which defy every principle of religion or of State, as we know State in this country. But they were there.

People say, "Well, they should not be here. Let us get an injunction to stop them from speaking."

Let them speak. Do you want to know how to destroy the Ku Klux Klan? Let them get out in that bright sunshine and unload from those dirty minds with those dirty mouths. They will not last a week. They were made a laughingstock in the State of Connecticut with that hate. That has been an issue from time to time throughout the Nation, as to whether or not they should be permitted to speak, to assemble. They certainly should be. Nothing will knock them off faster than letting them speak.

On the other side of town, the NAACP was having a voter registration session.

Now, there is the difference of the United States, not to deny the Ku Klux Klan their first amendment rights but, rather, to assure every American of their right to vote. That way not only will the people of the Klan not get elected but the ideas they espouse will never come to pass.

That is the way you knock off the Klan. Let them do their work in the daylight and out vote them. Do not deny them their first amendment rights.

Mr. RANDOLPH. Will my able colleague yield?

Mr. WEICKER. Yes. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from West Virginia (Mr. RANDOLPH) for the purpose of debate only without losing my right to the floor and without this being construed as the end of the speech for purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I am grateful to the able Senator from Connecticut.

The Senator has been discussing, very thoughtfully, a subject that needs to be discussed, the right of all eligible Americans to vote in our country. The trouble is that we talk about the right to use the ballot but we fail, in substantial degree, to use that ballot.

In 1960, when John Kennedy was elected President of the United States, 63 percent of the eligible voters in this country were at the polls. Approximately 1 year later, as I recall, he created a commission to study an appalling condition in the country where Americans do not vote. As many other studies, it went forward and then, gathered dust.

Twenty years later in this country we had not 63 out of every 100 Americans using their vote but the figure had dropped to 53.4 percent.

We are a republic of, for, and by the people. We talk of the strengthening of voting rights. I would appreciate it very much if the Senator and others would help me, and I would work with those of good intent, as is the Senator from Connecticut, to have that American ballot used at the polling place.

Most recently, in Michigan, for example, a State where there is heavy unemployment, with the condition of the automobile industry, that in the primary election contests for the governorship, approximately 21 to 22 eligible voters out of every 100 were at the polls.

I shall not ask my friend what the vote was percentagewise in Connecticut in 1980. It was 71.4 percent in the State of West Virginia. So I am not attempting to spell out States so much but to give an indication, with which the Senator would agree, that the strengthening of the voting rights legislation has seemingly not received a positive response from the American people.

I offered the constitutional amendment, first in 1942 when I was a Member of the House of Representatives, to provide the opportunity for 18-, 19-, and 20-year-old youth to have not only the right but the responsibility to vote. As the Senator will recall, the only State in 1942 to have this vote by our youth was Georgia.

In 1942 I was disappointed that in the process of the hearing on the subject only two members of the House Judiciary Committee were present—the veteran chairman, Emanuel Celler, of New York, and Representative John Tolan of California. The energetic young Governor of Georgia, Ellis Arnall, appeared and testified for the constitutional amendment. It went absolutely nowhere. It was 30 years later in this country that we gave the right, coupled with the responsibility, to vote to the young people of this Nation. We passed it in the Senate and in the House in 1971 almost unanimously and referred it to the States. In 90 days, the quickest time in which a constitutional amendment has received the approval of the States, we acted to provide the right and responsibility to our youth to vote.

In the last Presidential election, in 1980, only 22 out of every 100 of these young Americans went to the polls.

I hope that I have not made an interruption in reference to the Senator's discussion of the ballot and its use by saying we have every reason to mount a crusade for a nonpartisan effort—an effort in which leaders like the senior Senator from Connecticut,

can join, to elicit from men and women, fathers and mothers, youth, their sons and daughters, the responsibility of the use of the American ballot.

Mr. WEICKER. Mr. President, I agree with the comments of my good friend, the distinguished Senator from West Virginia. As usual, he has articulated the matter in a very expert way, in a way that clearly speaks from the heart.

He raises this very valuable point: We are not going to take care of the problem as articulated by the Senator from West Virginia by adding an amendment to the Constitution saying that we will all vote. We are not voting. The Senator is right: We are not voting. That is the situation in elections for Senators, President, and Congress—in Connecticut, West Virginia, and across the country.

Now, according to the temper of the times, we are going to put a little amendment to the Constitution saying that we will all vote. How do you think anything is going to change? The way people are going to vote is if we get good men and women running, if we have a simplified political process in which all can share in the selection of candidates. Get it out of the smoke-filled rooms. Get it to the American people. We are not going to accomplish it by saying that we will all vote.

Yet, that voting is absolutely key to everything else that issues therefrom—everything. The United States is only going to be as good as the men and women who run it. Right now, with only a few people voting, the emphasis is on mediocrity so far as the humanity of politics is concerned; and if that is the case, we are going to have mediocrity with the Government of the United States and everything this Government does.

Would it make everybody feel good? Do you want to feel good? Let us have a little amendment saying we will all vote. Let us write it in the Constitution: We will all vote. Does it make you feel good? Do you think one more person is going to vote than voted last week or last year? Not one.

Congress wants to balance the budget. So it seeks to write it in the Constitution. You will balance the budget by electing men and women who have the guts to stand up here and set their priorities and be willing to speak out for the costs of achieving those priorities. That is the way you balance the budget. You do not balance it by saying, "We are going to balance the budget." You do not get political participation by saying, "We will vote." You are not going to get great religious fervor by mumbling a prayer in school. And so on down the list.

There is no easy way to excellence or greatness. There just is not.

I hope that the words of the distinguished Senator from West Virginia are taken to heart, that people will realize the importance of what is at stake here in terms of their Nation.

We have had great pressure lately on the floor of the U.S. Senate on abortion, because somebody was elected just on the issue of abortion; or somebody was elected just on the issue of school prayer; or somebody was elected on the issue of busing; or just on the issue of balancing the budget.

How about the issue of the United States of America, of life in these United States? How about all those issues, instead of just one issue? I think it is terribly important that good men and women come down here.

I repeat: I respect the differing points of view as articulated by the distinguished Senator from North Carolina and others. I am not saying they are wrong. Obviously, they are very forceful in their presentation, and very convincing, if a lot of the polls I read are correct. But there had better be another point of view, and there had better be somebody here to enunciate it. The only time we really get into trouble in this country is when everybody agrees. Right now, the agreement is an agreement to silence, an agreement to the easy way out, and that is of concern.

I certainly hope that serious attention is paid to this matter by the Senate, that we stand up and be counted.

Mr. PACKWOOD. Mr. President, the Senate is deeply indebted to the Senator from Connecticut for the extraordinary analysis he has made, not just of the bill before us but also the fact that we are talking about something greater than just this bill. We are talking about a fundamental change in the concept of government, a change so fundamental that we have never even dared approach it with any seriousness since the founding of this country.

Mr. President, when I was speaking yesterday, I was talking about the history of the efforts that have been made—and they are only recent—to strip the courts of jurisdiction. They really started only in the 1950's, with the Jenner bill to strip the courts of jurisdiction over subversive activities. That was the word—subversive activities—however defined, and it can be defined by school boards or by States.

We had an effort to strip the courts of their right to hear cases on reapportionment after the Supreme Court made its famous one-man, one-vote decision in the mid-1960's.

Then, again, we did not have any serious effort until 1978 or 1979, when we approached the attempt to remove from the jurisdiction of the courts some of the issues with which we are now dealing.

Mr. President, one of the excellent memos that has been done on this subject was done by Mr. David Ackerman of the Library of Congress, entitled "Adoption of Bills Limiting Federal Court Jurisdiction over Prayer, Busing, and Abortion by Either House or Senate, Bills Pending in Present Congress." I should like to read that memo:

This is in response to your request for a listing of bills limiting federal court jurisdiction over prayer, busing, or abortion which have been adopted by either the House or Senate, and for a listing and brief description of such bills pending in the current Congress.

With respect to prayer, the Senate on April 9, 1979, adopted an amendment sponsored by Sen. Helms denying the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."

Several days earlier the Senate had initially added this amendment to the bill establishing the Department of Education by a vote of 47–37 after rejecting, 43–43, a motion to table the amendment. But on April 9 the Senate deleted the amendment from that bill and added it instead to a minor bill (S. 450) which specifically concerned federal court jurisdiction. That bill was then adopted by the Senate and became the subject both of an unsuccessful discharge petition campaign in the House and of hearings by the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Judiciary Committee. But no further legislative action was taken on the bill.

With respect to abortion, neither the House nor the Senate has adopted any restriction on the federal courts' jurisdiction, although the Subcommittee on the Separation of Powers of the Senate Judiciary Committee has approved a bill (S. 158) which would, inter alia, deny the federal courts jurisdiction to issue any temporary or permanent injunction or declaratory judgment with respect to any state statute or municipal ordinance protecting fetuses or regulating abortions and an identical bill (S. 1741) has been placed directly on the Senate calendar.

Congressional action with respect to limitations on the jurisdiction of the courts to employ busing as a remedy in desegregation cases is detailed in the enclosed CRS report, "A Legislative History of Federal Anti-Busing Legislation: 1964 To 1981."

With respect to bills in this Congress relating to prayer, abortion, and busing which would limit or eliminate the jurisdiction of the federal courts, three constitutional amendments and thirty statutory limitations have been proposed. Each of the constitutional amendments—H.J. Res. 56, H.J. Res. 91, and H.J. Res. 95—would bar the federal courts from requiring that a student attend a particular school because of race. Eight of the proposed bills—H.R. 340, H.R. 761, H.R. 869, H.R. 1079, H.R. 1180, H.R. 3332, S. 1005, and S. 1647—would similarly extinguish federal court jurisdiction to order the attendance of children at particular schools, while three bills—H.R. 2047, S. 528, and S. 1743—would limit federal court

jurisdiction to order the transportation of any student except in specified circumstances. Six bills—H.R. 73, H.R. 900, H.R. 3225, S. 158, S. 583, and S. 1741—would bar the lower federal courts from issuing any injunctive or declaratory relief with respect to state statutes and municipal ordinances protecting fetuses or limiting abortions, while another bill—H.R. 867—would eliminate all original and appellate federal court jurisdiction over matters relating to abortion. Eleven bills—H.R. 72, H.R. 311, H.R. 326, H.R. 408, H.R. 865, H.R. 989, H.R. 1335, H.R. 2347, H.R. 4756, S. 481, and S. 1742—would eliminate all original and federal court jurisdiction over state statutes and regulations relating to voluntary prayer in public buildings. Finally, one bill—H.R. 114—would bar the federal courts from modifying any order of a state court that is or was reviewable in the highest court of a state.

Submitted by David M. Ackerman, Legislative Attorney, American Law Division, Library of Congress.

Mr. RANDOLPH. Mr. President, will my capable colleague from Oregon yield to me for an observation?

Mr. PACKWOOD. I yield, asking unanimous consent that I not lose the floor and succeeding comments that I may make not be counted as a second speech for the purposes of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I have listened with interest to what my colleague is saying. He has made reference, as our colleague from Connecticut has made reference, to constitutional amendments.

I do believe the record should indicate that we have had, as of now, 193 years under which Congress has been constituted as it is at this moment, only 26 amendments have been brought into being.

I shall not say that some were wrong and some were right. But I do for the record include one that I believe should be mentioned today and that was the right given to women to vote in the United States of America.

The record can further indicate that there are at the present time 8 million more women eligible to vote in the United States of America than there are men eligible to vote.

So as we look back to those earlier days of the so-called suffrage movement. It seemed that this constitutional amendment would not have support. But we have come forward with a greater activity, a greater participation of women in the body politic. I mentioned particularly the right of women to vote and a responsibility to vote.

Franklin Roosevelt at the very beginning of his first term in March 1933 nominated Frances Perkins to be the Secretary of Labor of the United States. She served for 12 years in a constructive manner indicating then as now that women have a very vital public role in this country. Only a few months ago President Reagan nominated the first woman to serve on the Supreme Court of the United States, Mrs. Sandra O'Connor.

I refer only to the earlier action with the nomination by Franklin Roosevelt of Frances Perkins, coming up to just a few months ago, as I have indicated, the first women to serve in the Supreme Court of the United States of America, and I supported both of those efforts. I supported the nomination of Frances Perkins in 1933, although I was not in the Senate. I could not on rollcall support it, but I advocated it then in the House where I served. Recently I supported with my vote the nomination of Mrs. O'Connor to be a member of the Supreme Court.

In fact, I testified before the Judiciary Committee, for Mrs. O'Connor.

I realize my comments today do not focus directly on the issues that are being discussed. I think however, that we must pause, in a sense, and mention the contributions of women, as well as men.

A young man asked me in recent days, "why is my one vote important, Mr. Randolph?" I said to him, as I have said to hundreds of young people, it is important, and I say this to the able Senator from Oregon, it is important because it belongs to that person, no one else. "It belongs to you and if you do not use it it ceases to exist."

Over and over, with an organization hopefully like Convention II meeting here soon on the 195th year of the Constitution, young people themselves must generate this effort to a greater degree than before. But with dad and mother not voting it is increasingly difficult, perhaps even though they have concerns, for them to vote in elections, local, State, and Federal.

The prayer and the abortion issues are controversial. I include in the RECORD today the words of a poem I shall read, called "There's Another Day."

If things go wrong
And skies are gray,
Remember—there's
Another day!
If paths are steep
And hard to climb,
Remember—sometimes
Things take time!
Don't give up hope
And don't despair,
Remember—God hears
Every prayer!

I believe those words by Helen Farries in her book—and I know they are believed by the Senator who now occupies the floor and allows me to interrupt him—that it all comes back to the belief that the individual himself or herself must feel so deeply on any of these subjects that they are direct participants in the process.

Perhaps, in the quiet of a morning or evening, it would be good to remember that there is another day. Each day on this Hill must be not just another day, Senator; it is a new day. I ask the Senators, the Representatives, those who sit in these galleries, to remember that there are firm foundations in this country. If we drift from these moorings we are in difficulty in a world of violence and strife and misunderstanding and war.

Mr. PACKWOOD. I thank my distinguished colleague from West Virginia. Few people have done more to advance the causes of women and the poor and disenfranchised than the Senator from West Virginia with his 50 years of service, with a slight intermission, as I recall, in the service of this country, having been elected for the first time in 1932 to the House of Representatives.

Mr. President, I ask unanimous consent that I might yield without losing the floor to my colleague from the State of Oregon, Senator HATFIELD, for the purpose of his making remarks.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

Mr. PACKWOOD. I ask unanimous consent that my previous comments not be considered to be a second speech under the second-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I want to thank my colleague and friend from Oregon for yielding the floor at this time.

Mr. President, I will not belabor the constitutional issues involved when Congress attempts to wrest jurisdiction from the Federal judiciary. This constitutional question has been vigorously debated and is an issue upon which the minds of reasonable persons can, with good cause, differ. The grant in article III of the Constitution to Congress, which vests judicial power in such inferior courts as Congress deems necessary, is well documented. I am also aware of how, by curtailing the Federal court's jurisdiction, the Supreme Court's constitutional authority to interpret constitutional questions could be eviscerated, if not altogether eliminated.

No, Mr. President, I will not consume more of the Senate's time with an elaboration on the constitutional merits of court-stripping legislation. Even if we assume, for purposes of argument, that Congress is within the four corners of the Constitution when it enacts legislation that deprives the Federal judiciary of jurisdiction over controversial issues—in this instance, voluntary prayer in schools—Congress must still go a step further. An examination of constitutional authority should not be Congress primary inquiry. A cursory look at the language in the Constitution indicates that Congress has tremendous authority and

can enact a broad range of restrictive legislation.

If this body is to be truly a deliverative one, then it must ask the normative question: Should Congress legislate here? Should Congress consent to legislation which withdraws court jurisdiction from the Federal judiciary? In my estimation, this is the crucial channel of inquiry.

I oppose this court-stripping legislation because I perceive it as a gross intrusion into the sacred area which, throughout history, has separated our three branches of Government. By enacting this legislation, Congress would sanction affirmatively such an abhorrent invasion. What Congress is contemplating in the amendment offered by my colleague from North Carolina is no minor housekeeping matter. There is a fundamental question at stake in this debate, and that is: To what degree will Congress compromise our historical adherence to the constitutionally ordained and time-honored doctrine of separate but equal branches of government? That, my distinguished colleagues, is the pertinent question.

Mr. President, deciding what Congress ought to do is a two-step process. We must look into the past and we must glimpse into the future. From a historical perspective, I see a clear parallel between the proposal at the desk and the effort by President Franklin Roosevelt in 1937 to stack the Supreme Court so that the Court would render decisions consistent with the New Deal philosophy. A discussion of the history of this matter will not only set the amendment being considered today in close perspective, but will be sufficient to caution against similar assaults on the judiciary, both now and in the future.

Rather than consume precious time of the Senate by expounding on the details of President Roosevelt's initiative, I have a prepared statement that I would like to insert into the RECORD, Mr. President, which adds a historical color to this debate and which discusses the events of some 45 years ago when revolutionary use of Executive power was tempered by legislative review.

Mr. President, I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MARK O. HATFIELD

Mr. HATFIELD. Mr. President, in November 1932, the Nation voted in large Democratic majorities in the Congress and a Democratic President. President Roosevelt made it clear that he would exercise "broad executive power to wage a war against an emergency as great as the power that would be given me if we were in fact invaded by a foreign foe." He called an emergency session of the Congress and during the next 100 days passed into law much of the New Deal.

Legislation passed included such bills as the Emergency Banking Act, which called for the surrender of all gold and gold certificates to the Treasury Department; the Agricultural Adjustment Act, which provided for an agreement between the Federal Government and farmers that the farmer would plant fewer acres and in return would receive better prices for his goods through a Federal subsidy; the National Industrial Recovery Act, which established codes of fair competition for wages, prices, and trade practices; and the Tennessee Valley Authority Act, which created a Government corporation to construct dams to develop the Tennessee Valley region. Each of these bills was based on the emergency powers of the Executive and the power of the Congress to act on behalf of the general welfare of the Nation and to regulate interstate commerce. Each was passed with alacrity due to the pressing needs of the moment by a Congress that was most receptive to supporting the President.

However, the New Deal package encountered significant opposition in the Supreme Court, which was not receptive to this revolutionary use of Executive power. Between January 1935 and June 1936, the Supreme Court ruled against the New Deal in 8 out of 10 major cases involving New Deal statutes. The only measures upheld by the Court were the monetary legislation of 1933 and the creation of the Tennessee Valley Authority.

The first major New Deal measure to be overturned was the case of Panama Refining Company against Ryan, the hot oil case, where the Court held unconstitutional the portion of the National Industrial Recovery Act (NIRA) which provided for a code to govern the production of oil and petroleum products. The Court held that the contested portion unlawfully delegated legislative power to the President.

Shortly thereafter, the Court struck down the Railroad Pension Act. This action was based on the Court's view that Congress had exceeded its scope of power to regulate interstate commerce when it approved the creation of an industry-wide pension system. The vote on this ruling was 5 to 4 and initiated a series of votes by that tally, indicating an ideological split against the New Deal on the Court.

On "Black Monday," May 27, 1935, the Court, in unanimous decisions, struck down the National Industrial Recovery Act, the Frazier-Lemke Act and ruled that the President lacked any inherent power to remove members of the Federal Trade Commission from their posts. FDR was particularly upset at the Court's actions in overturning the NIRA, as it was the foundation of the President's recovery program. In expressing his frustrations with the Court, FDR stated:

"Is the United States going to decide . . . that their Federal Government shall in the future have no right under any implied or any court-approved power to enter into a solution of a national economic problem, but that the national economic problems be decided only by the states? . . . We thought we were solving it, and now it has been thrown right straight in our faces. We have been relegated to the horse-and-buggy definition of interstate commerce.

The Court continued its opposition to the New Deal in 1936 as the court struck down several portions of the New Deal. On January 6, 1936, the Court opposed the Agricultural Adjustment Act as an unconstitutional invasion of State's rights. In May 1936, the Court struck again, as it held the Bituminous Coal Conversion Act to also be an unconstitutional invasion of State's Rights. One week later the Court maintained the same position in overturning the Municipal Bankruptcy Act.

Throughout this time, opposition to the actions of the Court in overturning New Deal legislation was mounting throughout the country and within the administration. The Nation was viewing the court as an obstacle to much-needed reform and several Members of Congress introduced bills which ranged from expanding the size of the Court to allowing congressional override of Court decisions.

In response to this growing concern and based on an overwhelming mandate from the Nation, FDR moved with a plan to increase the size of the Supreme Court to 15 Justices, creating one new seat for each Justice who, upon turning the age of 70 refused to retire. While calling for other changes, such as the creation of additional judgeships and assignment of judges to congested areas to relieve the backlog of cases, the President's purpose was barely concealed:

"During the past half-century the balance of power between the three great branches of the Federal Government has been tipped out of balance by the Courts in direct contradiction of the high purposes of the framers of the Constitution. It is my purpose to restore that balance. You who know me will accept my solemn assurance that in a world in which democracy is under attack I seek to make American democracy succeed."

Opinion in the Congress was sharply divided over the President's proposal. Some shared the view of Senator Thomas Minton:

"It is said that this is an attempt to pack the Court. How do we find the Court today? It is packed now by appointees of administrations gone and repudiated. Do you think these administrations are more entitled to pack the Court than Roosevelt? Do you think that Harding, Coolidge, or Hoover were qualified to pick judges for the Supreme Court, but Roosevelt is not? I think the Court is already packed, and this bill would unpack it."

Similar sentiments were shared by the Honorable Thomas F. Ford, who stated:

"These men are legal-minded; they are corporation-minded; they were nourished on the discredited economy of laissez-fair; they do not believe in Government 'interference' in business; they are doubtlessly honest and sincere in thinking that the public welfare clause of the Constitution is not to be taken seriously, while the tragically perverted 'without due process of law' clause is to be utilized against every law that looks too progressive to be safe. Thus, five reactionaries exercise the veto power over legislation they are temperamentally unable to see as constitutional, because it is out of line with old economics."

However, most of the sentiments toward the President's proposal ran contrary to it. Despite disgruntlement with the decisions of the Court, a great surge of opposition arose from all sectors of the Nation, since the people of this country saw that the independence of the judiciary was at stake. We would be well-advised to fully consider the sentiments expressed in that day, as I believe we could learn much from the wisdom of our predecessors. The noble Senator from North Carolina, Josiah W. Bailey, expressed his deepest concerns as he stated:

"Courts, in order to administer justice, must be independent. Grant that his motive is the purest, I deny the President's right to

seek to mold the Supreme Court to his heart's desire. I deny the right of Congress to seek to form a court that will interpret the Constitution to suit its interpretation, its judgment, or its will. None may seek to influence the Court save by accepted processes of justice. President, Congress, and Court are each under the Constitution. It is the people's instrument, the charter of their rights, the sheer anchor of their liberties and it must be interpreted, if it is to be of value, only by a court independent of all influence, free of all politics or personal will, free of all force, inducement, or temptation, and upon the altars of reason and conscience * * *

"Congress is mighty, but the Constitution is mightier. Presidents are powerful, but the Constitution is more powerful. Courts are great, but the Constitution is greater.

"The Court and the Constitution, they stand or fall together. The Constitution creates the Court, and the Court declares and maintains the Constitution. To weaken one is to weaken the other. To weaken either is to weaken the foundations of our Republic; to destroy either is to destroy the Republic."

As we can see from the statement by the Senator from North Carolina, Senator Bailey, he properly understood the issue of the day—the shaking of the very foundations of the Republic. We simply cannot affect the independence of the Court without shaking the roots of this great Nation of ours. For these roots are planted firmly in the Constitution and are nourished by the freedoms protected in that document. By causing an imbalance in the delicate balance created in the Constitution between the three branches of Government, we are heading down a reckless course. Senator Arthur Vandenburg of Michigan understood this as he stated:

"When you tamper with the Supreme Court you tamper with the Constitution's safety valve. It is not enough to infer that it has occasionally been done to some degree before. Maneuver to control the Court may address an objective which you may aggressively approve. Tomorrow's objective, under different Auspices, may address a purpose you abhor. The consequences of such an innovation are as incalculable as time and vital as the spark of life itself."

This same sentiment was echoed by the Senate Judiciary Committee report, signed by members of the President's party, loyal supporters, but who nevertheless were able to envision the consequences of FDR's action. These great men, Patrick McCarran, Tom Connally, Joseph O'Mahoney and Republicans like William E. Borah, among others, had a sense of vision. I trust we would exercise that same vision in the contemplation of this proposal today. This Senate Judiciary Committee report stated some very succinct points for our consideration today, and let me quote from the Judiciary Committee's report of that day:

"Today it may be the Court which is charged with forgetting its constitutional duties. The next day it may be the Executive. If we yield to temptation now to lay the lash upon the Court, we are only teaching others how to apply it to ourselves and to the people when the occasion seems to warrant. Manifestly, if we force the hand of the Court to secure our interpretation of the Constitution, then some succeeding Congress may repeat the process to secure another and a different interpretation and one which may not sound so pleasant in our eyes as that for which we now contend."

Mr. HATFIELD. Mr. President, Congress also has a duty, to the best of its ability, to take a prospective look at the effect of its actions. None of us here can claim to predict future developments without legitimate reservations. But it is incumbent upon this body to attempt to consider what this amendment will mean 10, 15, 25 years down the road. Do we want every constituency that is the victim of a Supreme Court ruling to turn to Congress for relief in the form of a court-stripping bill? More importantly, do we want to address public policy questions with after-the-fact, jurisdiction-limiting bills?

Let me pose a simple hypothetical situation which illustrates exactly what I am talking about. Suppose public sentiment reached a point whereby the majority of this body was staunchly pro-gun control. How would we look at legislation which precluded the Supreme Court from interpreting the meaning of the right to bear arms?

Mr. President, the plethora of jurisdiction-stripping proposals that the Congress has considered over the years, in many cases, reflect the failure of the Congress to perform its responsibilities on controversial matters. When the courts step into this vacuum created by congressional inaction, then a host of legislative initiatives are dropped into the hopper denying the Supreme Court and lower Federal courts the authority to decide such cases.

The most obvious example of what I am talking about occurred between 1953 and 1969 with the Warren Court when it stepped into the legislation vacuum by delivering activist opinions affecting civil rights and civil liberties. While many in Congress proposed drastic jurisdiction-stripping measures, fortunately, wisdom prevailed and major civil rights legislation was enacted.

Today that same "ducking of issues" is continuing and is leading to more of this same judicial activism. By refusing to deal with emotional issues like school prayer, abortion, and tax exemptions for racially discriminatory schools, we invite the kind of drastic jurisdiction-stripping measures that we are faced with today.

For nearly 10 years, we have waited for the Congress to substantively deal with the emotionally charged issue of abortion. For nearly the entire 97th Congress, we have told the right-to-life groups that pressing economic and budgetary matters precluded the consideration by the Senate of this issue. Again, we are avoiding a quality and substantive debate on the abortion issue and are concentrating our efforts on procedural haggling.

I understand the strategy fully, and I do not in any way question the right of any Senator to further his particular issue and position on that issue. All I am saying is simply that if the Committee on Labor of the Senate 5, 6, 7, 8, 9 years ago had addressed this issue and brought the bill to the floor where we could have had a substantive debate up or down we would not be facing then this issue every year on the appropriations bills which has, in effect, crippled in many ways the appropriation process. Mr. President, the Senate must break this cycle of inaction and avoidance and face up to the responsibilities that the Constitution puts squarely in our hands.

We cannot forever postpone the discussions of abortion and school prayer and busing and other controversial issues and use the appropriations vehicle in order to get some kind of confrontation. We cannot afford to dodge these issues by consenting to legislation which perverts the Constitution and which dodges a debate on the merits of controversial social and moral issues by trying to strip the courts of their rightful jurisdiction for judicial review.

I thank the Senator from Oregon for yielding the floor.

Mr. PACKWOOD. I thank my distinguished colleague.

I must say that no one has had to put up with this more than he has. He has been patient and long-suffering as the chairman of the Appropriations Committee.

He is absolutely right. There are great issues to be discussed in this Congress. Abortion, busing, and prayer are some of them. But the place to discuss them is not on the appropriations bills. My colleague from Oregon and I are longstanding friends of 35 years duration and fraternity brothers from college. He was my teacher in college. We have gone through many battles together, mostly side by side. And, as far as the battles on the appropriations bills, I stand side by side with him again.

Let us face up to this. Let us have a debate. Let us do it in a proper forum. The proper forum is not the appropriations bill or the debt ceiling.

Let us dispose of some these issues up or down. He and I have been in politics long enough to know that we are going to lose some and win some.

But you do not try, when you lose a case in the Supreme Court, to overturn it by some kind of a statute because you do not like the decision.

I would say again that there are a fair number of decisions the Supreme Court has passed that the senior Senator from Oregon does not agree with. Yet I have not found him as an author of any bill to overturn those decisions.

Again, I wish to thank him once more. And I hope—and I will say this to him publicly—I hope we can work out something, somehow that will get us through the rest of this Congress with appropriation bills where we dis-

cuss money and how much money we should spend for the subjects that are relevant to those appropriation bills. And that is a fair discussion. I hope we can keep those bills as clean and neat as possible, and he will have my support in that.

Mr. HATFIELD. Will the Senator yield?

Mr. PACKWOOD. Without losing my right to the floor.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Senator be able to yield to me without losing his right to the floor.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I just want to make a record here that even though my very dear friend and colleague from Oregon and I happen to be, perhaps, on opposite sides of the question of abortion, let us not be found off wandering into the byways and highways of these other matters which we stand shoulder to shoulder on, and that is the question of keeping the appropriations process free from the entanglements and these thickets in which we have been plunged by these controversial measures because of the use of that vehicle.

Second, we revere equally the role of the Supreme Court in our constitutional system. As I say, we may be on different sides of a particular issue from time to time, but these are issues I think that transcend the subject issues that we find ourselves in debate and so forth. These are matters that really strike at the very heart of our whole constitutional system, strike at the very heart of our legislative system.

I think sometimes we do not concern ourselves sufficiently with the preservation of the vehicles and the framework and the whole mechanism of government that is the greatest that has ever been conceived by human minds, our constitutional system.

I think, wherever we may differ on the issue, that transcending those differences are greater common allegiances to the things we are trying to preserve in this country.

Mr. PACKWOOD. My distinguished colleague will recall that Senator Morse, my predecessor and his colleague in the Senate, he probably heard him say many times, as I did: "Give me control of the procedures of democracy and I will control the substance of democracy." And he was absolutely right.

Mr. HATFIELD. Absolutely, I thank the Senator.

Mr. PACKWOOD. I thank my distinguished colleague.

Mr. President, in an earlier speech on the floor of the Senate, our distinguished colleague from Maryland had indicated attempts in the past to limit Supreme Court jurisdiction or Federal court jurisdiction. He indicated those issues had not been limited solely to busing, prayer, and abortion. Those are the hot issues now, Federal court jurisdiction over those things.

As I indicated in my earlier comments, this is not the only time in the last 20 years, because of passion—I will not say misguided conclusions, because many times the courts have taken actions I did not agree with. But I think in misguided passions we have attempted to overturn decisions of the Supreme Court.

Therefore, let me recount again what we have done in the past when we have found decisions that we did not agree with. The distinguished Senator from West Virginia, Senator RANDOLPH, talked about the fact there have been only 26 amendments to the Constitution. And when you realize the first 10 of those, the Bill of Rights, were passed in 1791, we have had only 16 amendments since that time in almost 200 years of history.

Hundreds of amendments have been introduced in Congress. Most have failed. A few have passed Congress and been submitted to the States for ratification and have failed as, unfortunately, the equal rights amendment. It would be my hope that we will again see that amendment passed through Congress and submitted to the States and one day adopted.

But in the past, we have had circumstances where the Congress and the populace in this country did not agree with decisions of the Supreme Court and we went through the proper procedure for changing them—the constitutional amendment.

First, the 11th amendment. In the case of Chisholm against Georgia, the Supreme Court came forth with a decision that a citizen of one State had the right to sue another State in Federal courts. A citizen of one State suing a State, the States did not like that. The 11th amendment was offered in the Congress which would prohibit a citizen of one State from suing another State and that amendment was adopted for the specific purpose of overturning a Supreme Court decision. It was a legitimate way to go about overturning it.

In the infamous Dred Scott case, the Supreme Court reached the conclusion in the mid-1850's that blacks were not citizens. Even then, when we were approaching the Civil War and the passion that that war generated—and that war divided this country more deeply than even the Vietnam war—even in the heat of that war, and even though in the Congresses of that period the southerners had left so that it would have been easy to pass through the remainder of the Congress a bill to overturn the Dred Scott case, we did not do so.

Instead, we adopted an amendment, the 14th amendment, to overturn the Dred Scott case. And even though Abraham Lincoln, a wartime President, was beset with criticism at a time when the war was going badly for the North, he did not succumb to the pressure of trying to overturn the Dred Scott case with a statute. It was done with an amendment.

A few years later, the Supreme Court, in the case of Pollock against the Farmers' Loan Trust Company, handed down a decision that said Congress could not levy an income tax, mainly because Congress the previous year had tried to tax income as uniformly throughout the United States and the Court held that violated the Constitution. Therefore, we adopted the 16th amendment. We said that Congress could levy an income tax.

There were efforts, there were thoughts, that we should overturn that Supreme Court decision by statute. Suggestions were made in the Congress, but we did not adopt them. And after waiting a fair number of years, we finally passed and had ratified that amendment that allows the Congress to levy an income tax.

And then just recently, Congress passed a statute that said 18-year-olds could vote in this country in both Federal and State elections. The Supreme Court held that while Congress has the power to say that 18-year-olds could vote in Federal elections, we did not have the power to say they could vote in State elections. So, Congress sent out the 26th amendment guaranteeing to all those 18 and over the right to vote in all elections in this country. And that amendment was adopted by the States.

In each case, we followed the constitutional procedure for reversing Supreme Court decisions we did not like.

But as my distinguished colleague, the Senator from Connecticut said earlier, it is a very difficult and burdensome process, deliberately so. It was meant to be so.

All of us who supported the equal rights amendment were very disappointed that it was not ratified by the States. For 10 years we worked for the ratification and we lost. But we will try again, and I assume the fight will be another long fight. But our founders did not intend that the Constitution be changed easily or lightly. Least of all did they intend that it be changed in moments of passion.

Mr. President, there is another excellent memo that has been written by the Library of Congress, written by David Ackerman 3 years ago, on the subject of the constitutionality of the withdrawal of all Federal court jurisdiction over questions involving state-sponsored prayer in public schools and public buildings.

I would like to read that memorandum for the benefit of the Senate.

In the case of *Engel* v. *Vitale* the Supreme Court held the establishment of religion

clause of the First Amendment to be violated by a state requirement that school children say aloud at the beginning of each school day the following prayer:

"Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country."

The following year the Court similarly held unconstitutional, in the case of *Abington School District* v. *Schempp*, a state requirement that at least ten verses from the Holy Bible be read at the beginning of each school day and that students join in the unison recital of the Lord's Prayer. The Court found these requirements to constitute establishments of religion notwithstanding that in both cases the states made provision for the excusal or nonparticipation of students either at their own request or at the request of their parent(s) or guardian(s).

Let us understand what the situation is. My children are 15 and 11. They go to the neighborhood public schools. A prayer is not required of them in the public school, and I would object if it was. We will say grace at our dinner table at night. We will worship in our way. But I do not want my children having to say a prayer written by the local school board or written by the State or written by anybody else. I will challenge any of you to try to sit down and say to yourselves, "What kind of a prayer, am I going to write?"

One of the most interesting cases that has recently come to mind comes out of Alabama. I am reading here from the wire service report from the Associated Press:

A bill to allow prayer in Alabama public schools was signed into law Monday of Gov. Fob James, and opponents of school prayer promised a court challenge of the measure.

James said he views the new law as a legal vehicle for Alabama to test the U.S. Supreme Court's 1962 ruling against prayers in public schools.

He said the law will "challenge the fundamental essence of that '62 decision that I think is totally ridiculous."

He said he doesn't think the nation's founders intended the Constitution to ban prayer in public schools and that the new legislation gets "right at the heart of that question."

The law allows public school teachers and professors to lead "willing students" in prayer. It includes a suggested prayer written by the governor's oldest son, Fob James III.

I say to my fellow Senators, that is one written by the Governor's son, whatever it is he may be. The children in Alabama are going to have a choice of saying the prayer written by the Governor's son or excusing themselves and going outside the room, to the bathroom or someplace, but they will have to say to the teacher: "Teacher, I do not want to say this prayer written by the Governor's son."

We all know what kind of pressure there is on our children to conform in school, be it in terms of dress, social behavior, or the possibility of trying drugs. They do not want to be "out."

Consequently, when a prayer is going to be read by the teacher, written by the Governor's son, most children will probably say it or recite it, even if they in their heart do not feel they want to, because they will not have the courage to ask to be excused.

To resume the Library of Congress memorandum:

On April 9, 1979, the Senate adopted an amendment which would deny the federal district courts all original jurisdiction, and the Supreme Court all appellate jurisdiction, over "any case arising out of any State statute, ordinance, rule, regulation, or any part thereof, or arising out of an Act interpreting, applying, or enforcing a State statute, ordinance, rule, or regulation which relates to voluntary prayers in public schools and public buildings."

All appeal of any Federal court, including the U.S. Supreme Court, would be stricken. That means that the interpretation of the first amendment, which is probably the most important amendment in the history of our liberty and probably the most important single sentence in the history of liberty in the world, will be left to the vagaries of the different State courts. What the term "establishment of religion" means may mean one thing in Alabama and another in Connecticut and another in Oregon. The one thing that you will be able to guarantee, guarantee with certainty, is that it will not be a uniform protection of civil liberties throughout this country. That is not what our founders intended.

They were well familiar with State churches. They had left a country that had a State church, and they had no desire for a State church to be imposed in this country. Yet that is exactly what you will get in some States if this kind of an amendment is passed.

Quoting again from the memorandum:

That is, under this amendment, sponsored by Senator Helms, no case challenging the constitutionality of a state statute relating to voluntary prayer in the public schools could be heard in any federal district court. Such cases could be adjudicated only in state courts. Moreover, no decision by the highest court of any state concerning such a statute or regulation could be reviewed in the Supreme Court. Each state's highest court would be its own final arbiter in such cases. *Engel* and *Schempp* would continue to stand as controlling precedents, but future litigation on the issue could be heard only in state courts, with no opportunity for review by any federal court.

The issue addressed in this report is whether Congress has the constitutional power to eliminate completely all federal court jurisdiction over a matter involving a constitutional right. Assuming the efficacy of the Senate-adopted amendment, the constitutional right that is implicated is the First Amendment right to be free from governmental establishments of religion, in this instance, as held by the Supreme Court in *Engel* and *Schempp*, state-sponsored voluntary prayer in the public schools. The Senate amendment would remove all federal court jurisdiction, both original and appellate, over all cases related to such state-sponsored prayer. The issue is, does Congress have that power under the Constitution?

CONGRESSIONAL POWER OVER THE JURISDICTION OF THE LOWER FEDERAL COURTS

Article III of the Constitution defines the judicial power of the United States in the following terms:

Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime jurisdiction;—to Controversies to which the United States shall be a Party;—to Controversies between two or more States;—between a State and Citizens of another State; between Citizens of different States; and Citizens of the same State claiming Lands under grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Article III does not by its terms create any of the inferior federal courts, but instead confers that power on Congress:

Section 1. The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. . . .

This Congressional power is also affirmed in Article I of the Constitution concerning the legislative power, which states:

Section 8. The Congress shall have the Power . . . To constitute Tribunals inferior to the Supreme Court.

Let me digress from the memorandum for a moment so that it is clear what we are talking about. The United States Constitution creates the Supreme Court. That Court is not a creature of Congress. All of the other Federal courts are created by statute, all of the U.S. Federal district courts, all of the courts of appeals, and we determine their jurisdiction. We have on occasion raised what is known to lawyers as the "amount in controversy," how much are you suing for, so that cases with a very low amount in controversy will not be brought in Federal court and clog up the Federal courts. And thereby we have denied jurisdiction to certain kinds of claims in Federal courts by simply saying that they must reach a certain amount or the courts cannot hear them.

In the Norris-LaGuardia Act, we passed a law that said that henceforth Federal courts could not issue injunctions in labor disputes. The case testing that went to the Supreme Court, and the Supreme Court upheld the right of Congress to take away the power to issue injunctions in labor disputes although it was very clear that the court said in that case it was not leaving litigants without other remedies, that all Congress did was remove from the courts one remedy, an injunction.

The issue boils down to this: If we in Congress have the power to create the

district court and the courts of appeals, do we have the power to abolish them? We probably do. If we have the power to create them and determine their jurisdiction, do we have the power to say that they may not have jurisdiction over certain subjects? Clearly, we do. We say that they cannot have jurisdiction over cases unless a certain amount of money is involved and they cannot issue injunctions in labor disputes.

Then the question further evolves, do we have the power to deny to the Federal district courts and courts of appeals, which we have created, the power to hear cases involving constitutional liberties guaranteed to our citizens by other sections of the Constitution?

By the very act of taking away the jurisdiction of the court, can we effectively prevent a citizen of the United States from attempting to bring a case involving what they regard as a constitutional liberty?

That case has never been tested clearly and exactly in the Supreme Court. I hope that we do not have that constitutional power because, if we do, then we are perfectly at liberty to say not only do we take away from the courts jurisdiction over cases involving the establishment of religion and school prayer, not only do we take away from courts the right to hear cases involving abortion, even though the Supreme Court in its decision almost 10 years ago said that that is a constitutional liberty that the women of this country are entitled to, but if we can take away from the courts the power to try abortion cases or prayer cases or busing cases, we can take away from them the power to try freedom of speech cases, freedom of press cases, self-incrimination cases.

Mr. President, I ask unanimous consent, without losing my right to the floor and without this being construed as the end of a speech for the purposes of the two-speech rule, to yield to the Senator from Colorado.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. HART. Mr. President, I thank the distinguished Senator from Oregon. Among the many ironies that prevail and surround the current debate over the issues of stripping the courts of jurisdiction of cases involving abortion or school prayer are the relative roles of the parties in this debate, for there are those who have complained at great length and with extreme conviction about the prevailing role of Government in our lives and the increasing repressive and suppressive position that the Government plays in intruding into the lives of the American people one way or the other, and yet these very same people, who claim to be extremely concerned abouth the growth of governmental power, are here in the Senate today advocating an increase in governmental power, for it is, after all, the Government that would write the prayers that the children of this country would recite. Whatever claim might be made for voluntariness, we all know that in the mind of the 5-, 6-, and 7-year-old child there is very little sense of voluntariness when an official in a school is presenting a prayer for the children of that school to recite.

One wonders who the governmental official would be who would write the prayer. Would it be a committee? Would it be a group of teachers? Would it be the school principal? Would it be some designee of the board of county supervisors? Would the school board pick the prayer writers? Who are these prayer writers and how will they be selected?

Further, what is one's qualification to write prayers? Must one attend church every Sunday or the synagogue? Must one hold a seminary degree? Must one be qualified by examination in religious history or theology or doctrine? If so, who will judge those qualifications? Who will set the standards that qualify someone to be the official government prayer writer for the school district where that prayer is going to be invoked?

Mr. President, I can think of no area of our lives, particularly given the history of religious liberty dwelt upon, to a very accurate and considerable extent, by the Senator from Connecticut, no area of our lives where the Government is less qualified to intervene than in our practice of religion and our individual religious beliefs. If there is one theme that runs throughout the deliberation of the Founding Fathers and the framers of our Constitution, it was, "Keep the Government out of religion." Keep the Government out of religion—no official ministers of the country, no official church of the country. I dare say that the Jeffersons, the Madisons, the Hamiltons, the Patrick Henry's all would roll over in their graves if they thought there was serious consideration in the Senate to the designation of an official writer of prayers for our children. But that is exactly what this amendment contemplates. It says that the court cannot hear a case by an aggrieved party where that individual has been subjected to the official hand of the Government inserting religion and prayers into the public schools.

There was no American of his time—and perhaps of any time since—who felt more strongly about the role of public education in this democracy and of sustaining the future of this Republic than Thomas Jefferson. Throughout his writings, throughout his speeches, throughout his leadership, he constantly stressed the need for a strong educational system to underlie the foundations of this country. Also, there was no individual who was more concerned about the intermingling of state and church than Thomas Jefferson.

I should like to see the advocates of this amendment to incorporate official government prayers in the schools go down and hold a rally at the Jefferson Memorial and find anywhere in the writings of Thomas Jefferson justification for the radical proposal to appoint official school prayer writers. Who is going to do that? The Secretary of Education? I suppose that he would be the logical officer in our Government to select the official school prayer writers for our schools.

What if a prayer writer, the officially designated prayer writer, for the school districts in Portland, Oreg., or Denver, Colo., did not write a good prayer? Maybe parents in those cities quarreled with that prayer. They did not like it. It did not sound like the kind of prayer they wanted their children reciting. To whom would they appeal? Maybe they would write a letter to the Secretary of Education: "Mr. Secretary, we are reciting prayers in our schools here in Denver that we do not like. Can you intervene and get the official school prayer writer dismissed?"

Let us think about that. We could have the Secretary of Education before the appropriate committees of Congress, and we could inquire as to how he is doing in terms of the thousands of official school prayer writers around our country. We could hold hearings. We could compare the relative merits of the prayers that are being written. That might be interesting. Or we could do what most governments in the history of mankind have done: We could help devise the, single, official prayer, so that the 7-year-olds in Portland are reciting the same prayer as the 7-year-olds in Denver and Montgomery, Ala., and New York City and Sacramento, and all across this country. Would not that be nice?

We would eliminate disparities in the prayer, so that one child was not reciting a better prayer than another, or a worse one; but we would have an official Government religion.

I think that anyone who spends 10 minutes thinking about the implications of government bureaucrats, whether at the local, State, or Federal level, trying to devise an official prayer for the schools of America, understands the brier patch that the amendment represents in terms of social policy, in terms of equity in our society, in terms of public well-being; leaving aside the issues of law and constitutionality. It is the height of irony that those who profess to worry about the Government intruding into our lives are now suggesting that the Government write the prayers for our chil-

dren. They cannot be serious. They cannot be serious.

A government runs our schools, our public schools. That is what public schools in the United States means. They are functions and institutions of the State, of the Government—albeit, and I think wisely, those are local institutions, local school boards, local school districts, but local governments.

There is government all over the United States. There is the General Government that we participate in, in Washington. There are 50 governments in the States of the Union, in 50 State capitals, and there are thousands, if not tens of thousands, of governments at the local level. Many of those governments and those governmental units, official public bodies created by law and sustained by law, do nothing but run the school system of this country, the public schools, and that is what we are talking about. But they are governmental entities.

So, do the people who advocate this amendment really believe they are talking seriously about getting the Government out of our lives? They cannot be serious. They cannot be serious. They are not talking only about getting the Government deeper into our lives. They are talking about having the Government do something that, to a person, the Founding Fathers said should not be done, and that is even suggest the possibility or the insinuation of an official Government role in religion.

There is no end to that. Once the Government, any government, even a local school board, acquires to itself the authority to write an official school prayer, then it can do all kinds of things, without—if this amendment were adopted—any possibility on the part of any American citizens to question the constitutionality of any of those things.

If you can take the Supreme Court out of the issue of the constitutionality of school prayer, you can take the Supreme Court out of the constitutionality of when churches should meet. Let us not have churches meet on Sundays. Let us have churches meet on Wednesday. Why not? Do you want the Government deciding that? No church on Sunday. We think Sunday is more important for professional football—or who knows that? Maybe government rallies. So the churches will convene on Wednesdays.

Do you want to appeal that to the Supreme Court? No, no, you cannot do that. You cannot do that in any Federal court. We have taken the jurisdiction away. We took it away in 1982 for official government school prayers, and now we are going to take it away—in 1985, 1990, or 1995—for a challenge to the constitutionality of a law that says churches will convene only on Wednesdays, because the Government wants them to convene on Wednesdays, not on Sundays. The Government has another purpose for Sundays.

I think that is wonderful. I think it is wonderful that we are talking seriously in the U.S. Senate about the Government—the Government—writing prayers for our schoolchildren. It may not be the Federal Government, or it may be. There is nothing that says the Federal Government, down the road, could not write these prayers or might not be called upon to do so when the squabble breaks out among the parents of the children as to whether one prayer is better than another. Why not take it to Washington? That is where everything else ends up.

I can see it: a Subcommittee of the Senate Judiciary Committee on School Prayer. Or on official religion. Subcommittee of the Senate Judiciary Committee on Official Religion. The first hearings will be held on the adequacy of school prayers in Portland, Oreg., or Cleveland, Ohio, or Denver, Colo. The prayers in Denver are better than the ones in Cleveland and Portland, so the parents in Cleveland and Portland want a prayer as good as the one in Denver.

They come back to Washington to appear before the Subcommittee on Official School Prayer of the Senate Judiciary Committee. They have their Senator convene a hearing of that subcommittee to have the Senate of the United States discuss whether one prayer is better than another, and we could have all the Government bureaucrats up here. We could have the Secretary of Education and call some ministers in.

What is that? That is the Govenment in religion that Thomas Jefferson said we should not have, James Madison said we should not have, and all the rest. Talk about a slippery slope. This is it.

If you talk about getting the Government out of our life, this is the place to do it. This is the place to do it.

I cannot believe anyone in this body is serious about a claim of Government intrusion in our lives and comes out on the floor of the Senate barefaced and advocates the Government writing official school prayers.

It is appalling. It is shameful. It is ridiculous, not to say asinine.

So how do we fix this? How are we going to guarantee the Government is not going to get in religion, get itself hip deep in religion in this country and violate all of the principles, standards, and barriers set up by the framers of the Constitution. We are going to say you cannot appeal to the Constitution. That is the way to fix that.

Now, we heard a lot in the 1960's and 1970's about radicals, radicals in our country, radicals opposing the Vietnam war, radicals doing this and radicals doing that. Radicals were going to tear down our form of Government. They were going to tear down America, radicals who wanted to peaceably assemble, radicals who disagreed with the official Government policy of being involved in Vietnam, radicals who disagreed with the CIA and the FBI wiretapping them and opening their mail and intervening in their political meetings—radicals. Radicals were threatening America. We heard a lot about that in the late 1960's and early 1970's.

I have not heard a more radical proposal in my 8 years in the Senate than the one that is pending before the Senate today, not one, not one. If we want to look for some radicals in this country, let us find the people who are proposing to strip the courts of the authority to hear constitutional challenges to these actions.

I will challenge any Senator to find me a more radical proposal of the tens of thousands that get introduced in this body every session than the ones that are pending before the Senate today. That is a challenge. I cannot think of anything more radical, a back door alteration of the sacred charter of this country, back door, not front door, not the procedure set up in the Constitution, a back door alteration of the Constitution of the United States so the Government can write prayers for the children of this country. If that is not radical I will eat your hat.

So here we have a wonderful situation. We have people saying the Government is involved in our lives too much, and they also say or did say some years ago the country was in jeopardy of some sort of radical element in our country. So what are we doing? We are spending our time while the economy of this country deteriorates debating one of the most radical notions this body has seen in decades, a back door alteration of the constitutional process and the authority of the judicial branch of this Government, so the Government can write prayers for the children of this country.

If you seriously think about that for 3 minutes we would be off this matter and we would be onto something that really counts and that is getting people back to work, getting this economy stabilized, controlling nuclear weapons, and the rest. No. We are wasting our time debating the issue of whether we are going to have official prayers in the schools.

I still have not heard from any of the proponents of this measure their views on who is going to write the prayers or what their qualifications are, or who is going to judge their qualifications, or to whom they will be responsible, and where a parent who believes the prayer is not the best kind of prayer can go to get that matter solved. A parent is certainly not going to be able to go to the Federal courts if this amendment passes. We are

taking that constitutional right away from him. We are going to take that constitutional right away from that parent. You cannot, if this amendment passes, go to the court to exercise your constitutional right to complain about that prayer. So not only are we going to get the Government into religion, we are going to take your right away to complain if you do not like what the Government did—that is pretty frightening—all in the name of the free exercise of religion.

I say nonsense. I think Thomas Jefferson would have said nonsense thrice over and I suspect his colleagues who established this Republic would have done likewise.

This is not a serious proposition. I cannot believe it is a serious proposition. And I certainly do not hear any advocates of it out on the floor of the Senate trying seriously to suggest that it is a serious proposition, and I particularly do not hear the advocates of it out here justifying the radical scheme that is incorporated here so that we can have an official prayer for our schools.

There is no justification for the radical proposal that we take away individual constitutional rights so that we can have official Government prayers in our schools.

Talk about a compound felony, we are going to have the Government writing prayers and to permit that happening we are going to deny the existing constitutional rights of citizens to complain if they do not like the Government action.

I wonder if the American people really understand that. I really seriously wonder if the people outside this Chamber who pay their taxes, pay our salaries, and wish we would get on with the business of this country understand what it is we are discussing here today. We are discussing taking away their constitutional rights—that is what we are discussing—in the name of religion.

I have made my case, and one hopes that sooner rather than later the majority of Senators will let their views be known on what their priorities are so that we can get back to serious business and get off this sidetrack that unfortunately we have been put on while the economy burns.

I appreciate the indulgence of the Senator from Oregon and I wish him well in his continued leadership.

I yield back the floor.

Mr. PACKWOOD. I thank very much my distinguished colleague.

I was intrigued by the question of who writes the prayer. It is a very valid question. I know what Alabama's solution is. The Governor's son writes the prayer.

Mr. HART. Yes; I saw that.

Mr. PACKWOOD. That makes it much more simple. It is sort of a gubernatorial primogeniture, so long as the Governor has an eldest son he can write the prayer. I do not know what he would do if the Governor has daughters.

Mr. HART. He would pick his major contributor to his last campaign. We all know how that works. We get people who contribute to our campaigns who get certain privileges. They can come down and have lunch with us in the Senate dining room. Why not be the prayer-writer for the State of Colorado or the State of Oregon?

Mr. PACKWOOD. If you have a prayer a week you can spread it around. It has good potential.

The Senator mentioned churches on Wednesday night. He raised a very valid question. We are all old enough to recall the blue laws in our country that were passed on the assumption that people went to church on Sunday or they should go to church on Sunday and we would not have any businesses on Sunday. It did not matter if the Sabbath, the Jewish Sabbath, was Friday night and Saturday; it did not matter that for the Seventh Day Adventists it was the same time; it did not matter that other religious groups observed it during the week. This was a country that was going to observe Sunday as a day of rest, even though many people in this country did not observe a religion that said Sunday was a day of rest. Finally, the Court struck down those laws and justifiably so.

Mr. HART. Mr. President, will the Senator yield for a question? What does the Senator think would happen if, in its infinite wisdom, the Senate of the United States had said at that time, "We are going to permit the States and local governments to have those blue laws, and you cannot take a challenge of those laws to the Federal courts in this country"? That is exactly the analogy, as I understand it.

Mr. PACKWOOD. You know it would be dependent upon the predominance of a particular religion in a different State. You could have different days of observation officially designated by the State and based on the observation by the rest of the citizens of the State, depending on whether you belonged to that religion or not.

There is no reason why this country can or will escape. It happens in most countries which have a dominant religion, which insists on imposing its views on the country, and they are well meaning people who do it out of zeal, and who want to make the country perfect, as they see it, in their God's eyes, and if you do not agree, you are not on the right wavelength because it cannot be that they are wrong. There must be some other reason, and that is dangerous thinking because when you know you are right, you absolutely know you are right, because God tells you you are right, and then those who disagree with you must be wrong. They have to be.

Mr. HART. Do you not suppose it is exactly that concern about that peculiar brand of zealotry that led Jefferson and Madison and others to say, "Don't do that"?

Mr. PACKWOOD. They absolutely knew our liberties were best protected not by some kind of compelled conformity to one view but by a protection of diversity where each of us had our own God, each of us had our own jealousies, each of us were a bit suspicious of each other's God, but we tolerated all of our views for the sake of liberty for all of us, and that has worked well for 200 years.

Mr. HART. Does not the Senator agree that we have breached that separation between church and state in this very crucial way, and that we are opening up the floodgates for untold mischief of the sort the Senator From Colorado tried to suggest in his remarks?

Mr. PACKWOOD. I posed the question yesterday, and I am delighted that the Senator from Colorado dwelt on it at length, because it is not just the establishment of religion clause we are dealing with. I posed the situation of a particularly heinous murder, a Lindburgh kind of kidnaping, and a suspect is caught, and on the way to the police station he makes some statements to the police officers, and maybe signs a confession. It is hard to tell whether he has done so. He goes to trial. The defendant does not take the stand, but the alleged confession or statements to the police officers are admitted in evidence, and the defendant is convicted, sentenced to death, and the case goes to the U.S. Supreme Court, and the Supreme Court overturns it on the basis of self-incrimination, and the defendant is set free, and the public is up in arms.

We come to this Congress and we pass a law that says that henceforth the Federal courts cannot consider cases involving self-incrimination. If we can do that with religion, we can do that with self-incrimination, we can do that with the right to assemble if we get tired of our constituents bothering us or we can do it with regard to the right to petition your government.

Mr. HART. Or freedom of the press.

Mr. PACKWOOD. Or anything.

The danger of starting down that road on something that is so popular, because we have all seen the polls, so popular as prayer in schools, is that it then becomes very easy to bend whatever popular transitory, passionate opinion happens to be in the majority at the time, and if that means an absolute trampling on the rights of the minority, so be it. They will understand or they will learn to live with it.

Only what happens in history is they do not learn to live with it; they

chafe under it, it rankles in them all the time, and finally, if worse comes to worst, and there is no safety valve for them to be able to protect their liberties, you finally have civil war because one group insists upon using the Government to impose upon another group the views of the dominant group.

Mr. HART. Certainly that is so from reading human history.

The Senator from Colorado thanks the Senator from Oregon.

Mr. PACKWOOD. I thank the Senator from Colorado.

Mr. President, I ask unanimous consent that I may yield to the Senator from Ohio (Mr. GLENN) for the purpose of debate only without losing my right to the floor and without it being construed as the end of a speech for the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I thank the distinguished Senator.

The amendments we are talking about here or we are considering are wrong, and I am opposed to them. The one on abortion would have the effect of overturning by a majority vote of Congress the Supreme Court's 1973 Roe against Wade decision which legalized most abortions under the constitutional right to privacy.

We are discussing two important issues here: A woman's right to choose whether to have an abortion, and also whether we can overturn a constitutional decision of the Supreme Court by congressional statute.

I believe the decision to have an abortion should be an individual one based on the woman's own personal religious and moral views, in consultation with her husband, her priest, her pastor, her rabbi, whomever, and I do not think it would be wise for this body to try to reverse the Supreme Court's Roe against Wade decision.

You know, recent polls across these United States have shown that the majority of Americans support those views for freedom of choice, not pro-abortion but freedom of choice, and are opposed to legislation prohibiting abortion.

Further, making abortion illegal would not end the controversy, and it certainly would not stop women from having abortions. What it would do would be to cause them to once again probably go and seek unsafe, illegal abortions.

Before 1973 the individual States had different laws with regard to abortion, and women who could afford to went to the States with the least restrictive abortion laws. Others relied on self-induced or even illegal abortions. I do not want to see a return to that tragedy that was caused by illegal abortions.

We have all heard too many horror stories about that, and we have seen the difficulties with it.

Even with the Roe against Wade decision some women are unable to obtain abortions due to a restriction on Federal funding under medicaid to pay for abortions except to save the life of the mother.

I believe this discriminates against low-income women, and I have consistently voted against such prohibition when it has come up on appropriation bills.

The amendment before us now would make permanent this restriction of Federal funds, and it would also prohibit the use of Federal funds for medical training and research with regard to abortion. I think that would be a mistake.

I also oppose this amendment on the ground that it attempts to overturn a constitutional decision of the Supreme Court by a majority vote of Congress, and I do not want to see that precedent set.

Many consitutional scholars who disagree with the Roe against Wade decision, nevertheless, even though they disagreed, believe that to overturn a Supreme Court decision by a majority vote is an unconstitutional violation of the separation of powers. A Supreme Court decision can be reversed by the Court overturning its own decision or by an amendment to the Constitution.

Our Nation is divided on this issue of abortion. I respect the hearfelt views of those who are opposed to abortion, and I certainly support their right to live their lives under whatever rules, whatever moral compunctions, they feel are right for them. But, Mr. President, I also feel that those who do not believe the same as the people who hold those views against any abortion at all should not force their views on others in this country who feel every bit as strongly. If we do not know the moment when this is a God-given life, and that moment is not just the instant of conception, those who wish to go along with the Roe against Wade decision of the Supreme Court. In other words, I do not believe that the views of those who are so opposed to abortion should be imposed on those who hold a different but equally firm conviction.

Mr. President, I thank the distinguished Senator for yielding to me for this purpose, and I yield the floor back to him.

Mr. PACKWOOD. I very much thank my distinguished colleague from Ohio. I agree with every word he said.

Mr. President, I ask unanimous consent that the earlier yielding of the floor by the Senator from Connecticut (Mr. WEICKER) not be construed as the end of a speech for the purpose of the two-speech rule.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, those who are listening to this debate or reading the RECORD may wonder why there is a mix of discussion on the establishment clause and prayer in schools and the subject of abortion. That is mainly because the issue has been fused in an amendment that we may or may not have to vote on offered by the Senator from North Carolina (Mr. HELMS), which has put both the subject of prayer and abortion in one amendment.

The prayer part of it is the straight-out court stripping that Senator HART from Colorado and others have referred to, that no Federal courts may hear these issues involving voluntary school prayer. The abortion part of it, after some extensive statements that the decision in Roe against Wade allowed the woman to make the choice whether she wants to have an abortion or not was wrong. There were attempts to overturn that decision by statute and also prohibit funding by the Federal Government for a whole variety of reasons, training of doctors, Federal health insurance that would provide abortions for Federal employees, and what not. But they are in the same amendment and that is why, therefore, you will find some speakers talking about one and others talking about the other.

Let me dwell at some length on the abortion part of it, although I have spent the bulk of my time today on the prayer part.

The abortion part comes from the decision of Roe against Wade in 1973 when the Supreme Court said that a woman had the choice, the right for herself to decide whether or not she wanted an abortion.

Basically, it said that in the first 3 months of her pregnancy she had an unlimited right to make the choice whether or not she wanted to have the abortion. In the second 3 months, she could, by and large, make the choice but the State could put limitations on who could perform it and where it could be performed, basically medical limitations. In the third 3 months, the balance tilted on the side of the fetus and the woman could only have an abortion if her physical or mental health was in danger. That is roughly the paraphrasing of the decision. That is not exactly legally it, but very close.

Now, what that caused, of course, is any number of people wanting to reverse the Supreme Court decision; people who very honestly do not think that a woman ought to have the right to make the choice; that it is not an individual choice; that basically it is a State choice and the position of the State should be that she cannot legally have an abortion.

I think even the proponents of those measures are not blind enough to fool themselves into thinking that if a law is passed people will not have abortions. We tried that once with prohibition. It did not work. It is very clear, from the evidence that is available, that, during the entire history of the period in this country when many of the States had laws against abortions, women had them. Dangerous on many occasions, performed under very adverse circumstances, very unsanitary circumstances, and many women died because of unsafe abortions.

Fortunately, since the Supreme Court decision in the legalizing of abortion, that problem has been almost totally eliminated in this country until today, and abortions, properly done, are safer than the conditions for a woman who carries the child. More women die in carrying a fetus to 9 months than die by abortions. But that is the background.

The Supreme Court made that decision and the argument was made that the Supreme Court had no business making that decision, that it was an unconstitutional decision, although that is an internal contradiction in terms. As our founders gave to the Supreme Court the ultimate responsibility to determine what is and what is not constitutional, clearly what they say is constitutional is constitutional, because there is no higher authority to appeal to. If we do not like their decision, if we want to reverse what they have done, then we pass a constitutional amendment to reverse their constitutional decision.

For those who say the Supreme Court has become too activist, too far-reaching, that the Court is undertaking the legislative decisions in the guise of constitutionality, they would suggest the responsibility be shifted to the Congress to make the decisions as to what is constitutional. And we can do that in a variety of guises, but the principal one is that we will take away from the courts the power to make decisions on those cases and then we will write what is constitutional and there will be no appeal from us.

Of course, the danger in that is that our minds change and popular opinion changes. And if we are to be nothing but a weather vane and reflect popular opinion, abortion will be legal this year, illegal the next year, and legal after that. We will put limitations on the press the next year, perhaps ease them up after that, depending upon what the popular opinion may be as reflected by the elections. That is not what our founders intended.

I would go even further, however, in attempting to analyze why those who want to reverse the Supreme Court decision want to reverse it. First, they have a misreading of history in this country and in England. In arguing on this subject, they will talk about returning to the morality of our founders and, in their mind, I think they are thinking of a Puritan time of heart and home, strict morality, enforced puritanism. That was not this country at the time the Constitution was written.

First, in England, an abortion was not a felony, or at least what we call abortion before quickening; that is, when a woman could feel a child move, and that would be some place between 20 and 24 weeks in most cases. It was not a felony. It was common. It was not punished as a felony at common law.

At the time this country was founded, not a single State had any laws against abortion. It was commonly practiced in this country. Our founders were well familiar with it. Whatever they may have thought of it personally or whether they liked it or did not like it, they did not think it rose to the dignity of having to pass laws to prohibit it.

So, whatever their personal views may have been, they thought it was certainly not the job of the Constitutional Convention or the Bill of Rights or Congress to pass laws prohibiting women from having that choice.

It was only in the middle 1800's that many of the States in this country began to pass laws against abortion. Some of the motivation behind the passage of the laws was moral. People seized control of the legislatures that did not like abortion, did not like the women's right to choose, and they passed laws prohibiting it.

Some of it was medical, because many women were dying from infection following badly performed abortions.

Interestingly, part of the motivation was commercial. The establishment doctors—those that had gone to establishment medical schools—really were dispensing relatively primitive medicine in those days, primitive even by the standards in those days. They could set a broken arm. They had slightly above a witch doctor's concept of the use of herbs and certain remedies. But, by and large, if you got any of the diseases that you could commonly be saved from today, you died in those days. And the doctors did not know how to save you. They did not know how to treat smallpox. They did not know how to treat typhoid. They did not know how to treat most of the diseases that would ravage across the country from time to time.

Most of the citizens in this country, and especially in the rural areas, began to realize that the establishment doctors could not do them much good and there was really no harm, no greater harm, in turning to folklore remedies dispensed by people with significantly less training than the establishment doctors and at a significantly less price than the establishment doctors charged.

Abortion was commonly performed by these people that were not trained at the then existing medical schools. The establishment doctors found themselves in the position of losing patients. So they, either on the sly, began to do the abortions themselves or attempted to get them outlawed.

Now, that is the history, again, a very condensed history, of the 1800's.

In the 1950's, the situation had turned again. First, we realized by that time that abortions properly done under clinical circumstances were very safe.

Second, the issue of physicians and money had faded and most physicians were not worried about what they regarded as quacks taking away their business. Consequently, you find the American Medical Association on the side today of saying that a woman should be able to make the choice as to whether or not she wants to have an abortion.

Then you begin to have a greater tolerance for differences of opinion, for your religious tolerances in ths country.

Most of us in the Senate today can still remember when, if you were a Jew, you could not be admitted to the so-called better country club, and unfortunately in some areas that still exists today.

If you were a black, you could not join the local civic clubs.

If you were a woman, you were discriminated against in a variety of ways. I am not talking just about abortions, I am talking about joining clubs, practicing law, joining a law firm, becoming a partner. Letting a woman handle a case? Terrible.

Those barriers have gradually changed, and with that change came the difference in attitude on abortion. Several States changed their laws. Colorado was the first to adopt what is known as the modern, liberalized abortion law in the mid-1960's, followed closely by a titanic struggle in New York when abortion was legalized by the legislature, followed in Hawaii, followed in Alaska. In the State of Washington, interestingly enough, the issue was placed on the ballot. The people voted on it and they voted to allow women to have the right in that State.

So you began to have a variety of States saying that as far as the women in that State were concerned, they should be permitted to have an abortion if they wanted.

Naturally, this lent itself to a situation where women of wealth traveled to the States where abortion was legal to have one, and the women of poverty could not. It was very clearly a dual standard. If you were poor, whether or not you wanted it, you had a baby, and if you were rich, if you chose you

could have an abortion by flying to New York, Washington, or Hawaii.

At that juncture, the case of Roe against Wade went up to the Supreme Court out of Texas.

Texas had a very restrictive law, very, very severely limiting abortions. The Supreme Court struck it down. They rested the case principally on the woman's right of privacy, on the 9th and 14th amendments, and said that henceforth States could not pass laws prohibiting a woman from making the choice. They could set certain limitations on where it could be done, when it could be done, but not on the fundamental decision.

That is why we find ourselves in the position we are in today. Those who think that the right to make a choice is immoral, is ungodly, is irreligious, is going to cause this country to degenerate into debauchery, want to change the law in one way or another. Their preference would be, if they had their druthers, to have a constitutional amendment passed which would simply reverse the Supreme Court decision and, as a matter of law in the Constitution, say that henceforth nobody could legally have an abortion.

They have clearly not the votes to pass that constitutional amendment through this Congress. I very greatly doubt if it were passed through this Congress that it would be ratified by the States. That would take the law even further back than where it was before the case of Roe against Wade, because prior to that case whether or not a State wanted to sanction abortion was a State's decision. But those who would like to abolish that choice all together would take a national decision that there would be no freedom of choice on abortion any place, in any State, under any circumstances.

It is hard to tell, then, what the next best choice is because it presents a dilemma for those who do not want the choice. Picture in your mind, assuming that you are very much opposed to a woman having the right to make that choice, just morally opposed, but you cannot pass a constitutional amendment that will reflect your choice. Well, another alternative is to pass what is known as a States rights constitutional amendment. We will send an amendment out to the States for ratification that says henceforth it will be up to each State to decide whether or not they want to permit a woman to have a choice in that State.

But that bothers the moral sensibilities of those who do not think you should have the right in any State, and it puts you back in the situation roughly where you were before Roe against Wade, where some States would have it and some States would not. A rich woman could fly to a State to have an abortion and a poor woman could not.

I do not think that type of a constitutional amendment could pass this Congress either, and if by chance it did pass I do not think it could be ratified by the States. Besides that, it is a long, slow, tortuous process. The attempt for the passage of the Equal Rights Amendment demonstrated that. It was an attempt for 10 years and it did not pass.

Those who want to limit the right of a woman to have the choice as to whether or not she can have an abortion want action now—not 5 years from now, not waiting for the ratification of a constitutional amendment assuming you could pass one through the Congress that you liked. They want it now. So the avenue they are prepared to try is to strip the Federal courts of the right to pass on the subject of abortion. They they hope that different States will pass laws restricting abortions and perhaps the courts in those States will uphold at least those State laws. But in any event, the Federal courts would be prohibited from ever again passing on the subject.

Do not let it bother you that it is a constitutional right the Supreme Court says every woman has. Henceforth, they will take away the decisions of the courts to determine that, if the votes are here. It is the quick and expedient way, if the votes are here, to impose on this country their view of morality.

That is what we are basically debating, only we have also fused it, and perhaps confused it, with the school prayer issue because both of the issues are involved in the one amendment. If and when we finally have to vote on the issue we will have to vote on both. Both of them reflect the same principle: Should this Congress pass a law to take away from the courts the right to pass on fundamental liberties, assuming the courts uphold it? I do not think they will, but I would not advise anyone to vote for it or against it on the assumption of what a court would or would not do when the constitutionality of this issue is tested.

If the court did find it constitutional, then there is no end to the mischief, no end to the dangers to the constitutional liberties that may be threatened by the possibility of a Congress, this Congress or any Congress, by a majority vote, passing a law to prohibit any particular enforcement in the Federal courts of any particular liberties guaranteed under the Constitution.

Let me read from three statements of three different groups involving the issue of prayer.

The first is from the National Council of Churches of Christ in the United States, from testimony presented on July 29, 1980, before the Subcommittee on Courts, Civil Liberties, and Administration of Justice of the House Judiciary Committee during the hearings on S. 450, a Senate-passed school prayer bill.

The quote is from M. William Howard, the president.

This the fifth time in 17 years that major religious bodies of the nation have come to Washington to resist attempts to reverse the rulings of the Supreme Court which held that it is not the business of government to institute prayers for the nation's children to recite in public schools.

There was the Becker Amendment in 1964, followed by two Dirksen Amendments in the '60s, the Wylie Amendment in the early '70s and now the Helms Amendment in 1980. Whereas the previous four attempts sought to reshape the First Amendment to the U.S. Constitution by straightforwardly following the amending process set forth in the Constitution, the Helms Amendment seeks to achieve the same effect without submitting the issue to the necessary two-thirds majority vote of both houses of Congress and the ratification by three-quarters of the States.

The Amendment in question undertakes to withdraw the subject of prayer from the jurisdiction of the U.S. Supreme Court and relegate it to jurisdiction of State authorities. This tactic is fraught with problems that reach far beyond the issue of prayer itself. If Congress can eliminate from the purview of the Supreme Court any issues on which its decision displease a portion of the electorate, what implication will this have for the entire Bill of Rights? If this can happen by way of a mere majority vote of both houses of Congress, without ratification by the States, is this not a way of amending the Constitution without regard for the safeguards which shield our nation's highest laws and principles from capricious attack?

To say the very least, it is appalling that one should propose to put outside the purview of the Supreme Court the protection of the basic rights of Americans guaranteed by the Bill of Rights in any area, let alone the sensitive and intimate area of religion. It is also disturbing indeed that one house of Congress should actually have approved such a proposal. Now it rests with the other house to resist this misguided undertaking, lest the important gains made with regard to civil liberties of all kinds be whittled away.

Why does the National Council of Churches oppose the effort to reintroduce prayer in public schools? The reasons should be plain to all who have reviewed the three volumes of hearings which the House Judiciary Committee held in 1964. Nothing significant has been added to the controversy since that time, but once more we must reiterate the arguments for a new generation, and we do so glady.

1. Public school prayers are an injustice to those children and their families who belong to minority religions or to no religious group. Persons in this category, because of their religious views, can be made to feel out of place and less than equals in public institutions. Such persons are told they are free to excuse themselves from prayers which offend their religious beliefs. I suppose that is what is meant by "voluntary" prayer.

But do we really expect impressionable and vulnerable children to separate themselves from the rest of their peers, thus branding themselves as "oddballs"? Do we expect them to excuse themselves from ac-

tivities that are sanctioned by their school, in which all the other children are joining? Having a difference in religious belief should not be a stigma for our children. In our increasingly pluralistic society, we must not subject youngsters of religious minorities to the queries, taunts and jeers of uncomprehending classmates. Instead we must leave way for the children, with ease, to be true to the religious tutelage, or the lack of it, that is propagated in their families. This does not even begin to address the problem of religiously pluralistic teaching and administrative staffs who would presumably be responsible for leading such prayers.

2. Public school prayers are a disservice to true religion. The other reason we are opposed to prayer in public schools is that we believe prayer is too important, too sacred, too intimate to be scheduled or administered by government. It is the responsibility of the family, the home, the religious institution, not the public school, to provide religious education and experience. Children attend public schools under force of law. They come from many religious and ethnic backgrounds and, therefore, should not find their school experience demeaning to their religious heritage.

We are told that the prayers could be "nonsectarian," or that they could be offered from various religious traditions in rotation. I believe such a solution is least acceptable to those most fervently devoted to their own religion. Furthermore, I believe they do not want least-common-denominator prayers addressed "to whom it may concern." Even less do they wish to engage in the prayer forms peculiar to religous traditions other than their own or to have to show their colleagues the discourtesy of nonparticipation.

In our view, there is simply no such thing as "nonsectarian" prayer, and if there were, it would be of little value to either committed Christians or adherents of the other religious traditions. Whenever prayer is presented in a group gathered for other purposes (such as a public school classroom), the question cannot be avoided: "Whose prayer is it"? And all too often it will be either the prayer form of the majority (imposed on the minorities) or a nearly meaningless prayer belonging to no historic religion. In the latter case, the exercise is likely to be offensive to devout members of all religions.

We are told that there are many children in public schools who would have no other contact with prayer and religion than what they might gain from public schools.

We think it odd that this argument comes most often from those who otherwise are highly resistant to governmental interference in family life. It suggests a curious willingness to condone governmental imposition of religious practices on children contrary to their own parents' choices for them. We oppose any effort to allow the government to intrude in this most sacred of parental responsibilities, even if the parents have chosen to give their children no religious training. This is their right. If it is not, then religious freedom in this nation has lost an essential part of its meaning.

We are told that the current proposal is not designed to overturn the Supreme Court's decisions barring prayer from public schools. We are told that it is meant only to restore the matter to the States for the future. What can this mean other than a return to the "local option" which prevailed before the Supreme Court's decision on this issue? During the days of local option, children were actually subjected to corporal punishment for refusing to participate in public school prayers that were contrary to their own religious practice.

"Local option" is unlikely to be very pluralistic. Though this nation is highly pluralistic, taken as a whole, its pluralism tends not to be very local. A map showing the religious complexion of the counties of the United States submitted in the 1964 hearings showed that the vast majority of the counties in the U.S. have more than 51 percent of their population affiliated with one particular denomination; Lutherans in the North Central States, Baptists in the Southeast, Roman Catholics in the Northeast and Southwest, et cetera. In those counties it would be surprising if the majority religion did not dominate the prayer practices. in the public schools.

We are told that 70 per cent of our people responding to public opinion polls favor restoring prayer to public schools, and that may indeed be the case. But the rights protected by the Bill of Rights. I am pleased to say, are not at the mercy of public opinion polls. As the U.S. Supreme Court said in words that undergird the rights of every one of us:

The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials and to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no election."

Our experience over the past 20 years has been that when people are asked point-blank, "Do you think there should be prayer in public schools," their impulse may be to reply "Why yes, I guess so." But if they study the issues, all their ramifications, for a while, they often come to the opposite conclusion. That has happened in the governing body of the NCCC—the National Council of Church of Christ—when it considered this issue in 1963. It happened in the United Presbyterian Church and in one after another of our major member denominations.

That is the kind of consideration that we believe this important matter deserves. We do not believe these issues can be properly understood without indepth study and reflection on the issues and their widest implications. So we welcome the hearings being undertaken by this committee. We are confident that all sides will be fully considered and that a deeper understanding of this fundamental issue of civil liberty will be attained by all.

I think, Mr. President, if you were to actually take a poll of the governing bodies of the principal denominations about "Do you want prayer reinstituted in public schools?" you would find that they would come out in opposition to prayer, voluntary or otherwise, in public schools.

Next I read a statement by the Synagogue Council of America given at the same hearing, presented by Rabbi Daniel F. Polish:

The Synagogue Council has a long history of defending both dimensions of the First Amendment's guarantees—both free exercise and the separation of church and State.

Yours is a most important and unquestionably difficult task, as you deliberate what must be called by its proper name—the issue of prayer in public schools. Certianly it would be appropriate for you to ask why then is there such an intense interest in introducing it into the school setting? Why not prayer in factories or offices, prayer on public transportation or places of entertainment?

The issue, no doubt, is because the school setting offers the prime opportunity to shape and mold the attitudes of future citizens, and an exposure to the minds of people when they are at the most malleable and impressionable stages of their lives. It is precisely for those reasons that the issue of prayer in public schools arouses such deep-seated concern.

Certainly, it is commendable to seek to see religious attitudes inculcated in our children. Certainly, it is of greatest importance to instill in them the values taught by the Jewish and Christian traditions. But it is no less self-evident that prayer in the public schools is not a satisfactory means of attaining those fine and desirable ends.

I respectfully suggest that you judge the proposal not by its worthy intent, but by a careful consideration of the consequences which would flow its adoption. I can talk with some competence about two of the consequences which would flow from its adoption—the impact on children who are members of minority religious groups and the effect on popular understanding of prayer itself.

Truly, voluntary prayer is already permitted in public schools. What we are discussing here is officially sanctioned and officially conducted prayer exercises.

The voluntary nature of these exercises would be difficult indeed for a child to comprehend. For a child, these class prayers are more likely to be understood as compulsory. Children, who are encouraged to hold their teachers in the highest respect and to accept their word as authoritative in all matters, are not likely to question their authority when it comes to this specific subject.

Similarly, children are more subject than adults to the tremendous influence of peer pressure. A child in school would rather conform to the actions and expectations of his classmates than deviate from them, even if that deviance carried the approval of their families.

To suggest that under the proposed amendment a child would be free to excuse himself to remain aloof from a class prayer is, at the very best, to invite that child to be exposed to the cruelest inner turmoil.

Add to this the fear, real or imagined, of the disapproval of the teacher, and the ridicule of their classmates and the threat of alienation from them for being different and you have a situation which involves coercion of the most potent kind.

Now you may ask, what would be wrong with coercing a child to pray. The answer to that question lies in the nature of those prayers themselves. They will either possess a specifically sectarian character or they will be of a nondenominational nature. Either alternative carries within it implications which warrant attention.

It is not inconceivable that prayer in a school setting will, indeed, be sectarian in form and content. It is not unreasonable to conjecture that they may well reflect the religious orientation of the individual teacher or child assigned to lead them. Or, they may simply conform to the religious patterns of

the majority community of a particular school district.

In either event, they would be indirect conflict with the religious traditions of some, perhaps a sizeable number, of children in the class. Of course, this could be true of Jewish children. But it would be no less possible for Catholic children in a predominately Protestant community, Protestant children in largely Catholic areas, members of other minority religious communities, of children of no faith at all.

Perhaps, some might suggest, it is right and proper for a majority group to impose its values and beliefs on the minority. This is certainly a conceivable position. But it is manifestly at odds with the pluralistic ideals of America.

America is unique in the religious history of mankind. For too much of human history, States arrogated to themselves the right to impose religious beliefs and practices on their children.

America alone has been scrupulous in avoiding that practice. Indeed, American society arose in part in reaction against theocratic government. The religious genius of America, for which we have become a beacon to the entire world, is the conviction that each of its citizens is entitled to his own faith, and even the right to have no faith at all.

The Jewish community is one that has had a long and painful acquaintance with the government imposition of religion. Indeed, it was the pain that resulted from that very union of church and State which led many of our ancestors to flee the tyrannies of Europe and seek refuge in this blessed land. We cannot help but view the attempt to undermine America's pluralism with alarm and profound concern.

The form of the very proposal before you, of course, assures the likelihood rather than the unlikeliness of a sectarian character to the prayers which would be introduced into the schools.

For this amendment would deprive aggrieved parents of judicial recourse if the religious sensitivities of their children were violated by the practices of their schools.

It is those children who would suffer most grievously. Children of minority religious communities would be confronted with the choice between fidelity to the religious patterns of their families, or participating with their classmates in religious practices which are not their own and which might even be in conflict with their own beliefs. Such a choice can only be wrenching and painful and beyond what a young child should be expected to cope with.

Now it is possible that the prayers to be recited in schools will be especially constructed to reflect the lowest common denominator of the faith traditions represented in a particular class; that is, they would be nondenominational in character.

Certainly, this would solve some of the civil rights and civil liberties issues with which we have dealt to this point. But it would raise questions which are no less disturbing from a theological or religious perspective.

The effect of the State-enforced, mechanical recitation of 'prayers' at times that must be called arbitrary because of their unrelatedness to the religious calendar of any faith, would be to trivialize the nature of prayer itself, to diminish rather than enhance it in the eyes of those who were forced to participate in such exercises.

By the same token, these prayers would have to be carefully constructed to avoid specific theological content. The effect of such denatured religious expression could only be to give children a distorted sense of what real prayer is.

The effect of the attempt to create nonsectarian prayers would, ultimately, and most disturbingly, amount to the creation of a secular religion, a religion of the State, if you will, which would now take its place alongside the various particular faith traditions.

The need to compose or monitor such prayers would put the government in the business of religion, a position which neither government officials nor religious leaders can contemplate with much enthusiasm.

Perhaps, in response to everything that I have said, you might ask me how children are to form religious values and come to appreciate the elevating and sustaining nature of prayer.

I would tell you that the proper locus for the formation of religious values and for religious expression is in the home and in the religious institutions with which a family is affiliated.

Let children pray in the home, in the church, the mosque, or the synagogue, there and not in the classroom. It is not proper to intrude the State into the true domain of faith.

Mr. President, we have discussed at length the problems involved in the amendments we face—one on abortion and one on prayer. There are some people who are not as disturbed by the removal of the jurisdiction of the courts for prayer as others of us are. There are some who are more concerned with the abortion section of this amendment than the prayer section of this amendment. But, whichever section you are concerned with, it is very, very clear that those in this body who do not agree with the Supreme Court decisions in these areas want, if they can find it, to change those decisions by a majority vote and to impose upon this country not a tolerance and a diversity of opinion but a conformity of opinion to a particular belief.

I will not call it a particular religious belief, because there are many, many religious views that have misgivings about a woman's right to choice.

This not an issue to attempt to remove the right of choice nor one that is being pushed by any particular religion, but the attempt to remove the right of choice to have an abortion is an effort by a coalition of people who share a similar belief to impose that belief on those who do not share that view.

What is going to happen to this country if those who want to impose their view that a woman should have no choice in the matter of abortion fail? What if the Supreme Court decision is not overturned by constitutional amendment? What if they are not successful in getting a majority of votes in Congress and the situation continues as it is—that is, a woman will have a right to make a choice whether or not she wants to have an abortion? Are families going to fly apart? There is no evidence of that.

In the almost 10 years we have had legalized abortion in this country, there has been no evidence—no evidence—that the divorce rate or the decision to marry or not to marry has been in any way related to the fact that the Supreme Court has allowed a woman to make a decision as to whether or not she wants to have a choice. Has the country become less patriotic? I think not.

COURT JURISDICTION AND SCHOOL PRAYER STATEMENT

Mrs. KASSEBAUM. Mr. President, my comments will be brief. I believe strongly in the need for a strong and independent judicial branch of our Government. This structure was created by our Constitution and nothing in our 200 years of history has cast doubt on the wisdom of it. Indeed, one of the central themes of the deliberations of our Founding Fathers was the need for such an independent judiciary.

I have long held a strong and abiding belief in the value of voluntary prayer in our public schools. It is also my belief that such voluntary prayer is consistent with the first amendment guarantee of the free exercise of religion. Voluntary prayer has an essential role to play in the shaping of the moral and social fabric that has served our country so well.

Regardless of how one feels concerning the role of voluntary school prayer, however, the method that this amendment utilizes to achieve the laudable goal of insuring such prayer sets an extremely dangerous precedent. To arbitrarily strip the Supreme Court of its jurisdiction to interpret any area of our Constitution strikes at the very heart of our tripartite form of government. The essential strength of our Constitution lies in the structure that it created making the Supreme Court the final arbiter of its meaning. This structure has resulted in a living Constitution that is able to adapt to our rapidly changing world. This amendment would establish the dangerous precedent of "freezing" the Constitution by prohibiting review of whatever area happened to be in disfavor with the Congress at the time.

I would readily admit that I do not always believe that the Supreme Court interprets the Constitution correctly, nor do I always believe that even correct interpretations of the Constitution lead to wise social policies. However, the Constitution clearly spells out the procedure to be followed when Congress and the country desire to change those fundamental precepts contained in that document. To endorse this attempt to, in effect, amend the Constitution by a simple majority vote of the Congress would be to yield to the siren song of the easy cure, the quick fix. We would not be making progress, but rather breaking down

the process of order when it has been struck by the tide of the public opinion of the moment. I urge my colleagues to join me in opposing this unconstitutional assault on the jurisdiction of the Supreme Court.

IN SUPPORT OF PRO-LIFE LEGISLATION

Mr. ZORINSKY. Mr. President, it is a privilege for me to stand before my colleagues in support of this pro-life initiative by the distinguished senior Senator from North Carolina. I greatly admire the diligence and dedication that he has consistently demonstrated in defense of the unborn child. It has long been my position that legislation which protects the rights of unborn children be enacted. Today we have the opportunity and we must take this opportunity to prevent the future loss of so many young lives.

I can think of no more worthy role for the Senate of the United States of America than the protection and safeguarding of innocent human life. As Thomas Jefferson declared, "the care of human life and happiness, and not their destruction is the first and only legitimate object of good government."

When one considers that over 10 million human lives have been lost through abortion since the tragic Supreme Court decision of January 22, 1973, it is not at all difficult to appreciate why the Senate Judiciary's Subcommittee on Separation of Powers has reported that "today there is strong concern among many citizens that Government is not fulfilling its duty to protect the lives of all human beings."

Those concerned citizens include many of my constituents and they certainly include me.

There may have been a time when the key question to the abortion issue was "When does human life begin?" But I submit the answer to that question can no longer be held to be in reasonable doubt. Not when Newsweek can declare: "A developing baby is known as an embryo * * * during its first 8 weeks of gestation. The process starts at the moment of conception. * * * the sperm merges its genes with the egg * * * that union creates a new human life." and again: "a fertilized human egg * * * is unquestionably alive, a unique entity whose destiny was forged in the ecstatic mingling of male and female gametes, within minutes of fertilization." Again, the subcommittee is on sound footing in finding that "contemporary scientific evidence points to a clear conclusion: The life of a human being begins at conception, the time when the process of fertilization is complete."

So if the key question to the abortion issue was "When does human life begin?" The key question today is "What value shall we assign that life?"

Obviously, there can be no "mother" without a "child." Should the happiness of the mother sanction the killing of her child? Not, Mr. President, in a civilized and humane society, one which holds with the principles outlined in our Declaration of Independence, which as the subcommittee quite properly observed, "expressly affirms the sanctity of human life."

Mr. President, I believe with our Founding Fathers, with the distinguished Senator from North Carolina, and with numerous people of Nebraska that we are endowed by our Creator with the unalienable right to life and this it is the legitimate and necessary function of Government to safeguard that God-given right.

Accordingly, I proudly and earnestly urge my colleagues to favorably consider this amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may yield to me without losing his right to the floor and without the interruption counting as an additional speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I believe that very shortly we will receive the conference report on the tax bill from the House of Representatives, and I hope we can proceed to the consideration of that matter. I should like to do certain routine matters that the Senate should attend to before that. I will make this unanimous-consent request, which has been cleared on this side with the principals involved, and which I hope will be satisfactory to the Senate.

Mr. President, I ask unanimous consent that the Senate now have a brief period for the transaction of routine morning business, not to extend past 7 p.m., in which Senators may speak for not more than 10 minutes each.

I ask unanimous consent that when we resume consideration of the pending bill, the pending question, the distinguished Senator from Oregon be rerecognized and that the interruption in his presentation not count as an additional speech under the rule.

The PRESIDING OFFICE. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I also say to my colleagues that as soon as we receive the conference report, since it is privileged, it is my intention to ask the Senate to proceed to its consideration. I hope we may do that prompty and by unanimous consent. I think it is urgently important that we try to do that tonight.

We still have the supplemental appropriations conference report to deal with tomorrow, plus a continuation of the debate on abortion. We will deal with that, of course, when the conference report arrives and is received in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

ROBERT C. BYRD. I suggest that our respective cloakrooms—certainly my own—alert Senators to the fact that the distinguished majority leader is going to present the unanimous-consent request to proceed to the consideration of the tax bill, so that they can be present, hear the request, and if they have any objections, make them.

Mr. BAKER. Mr. President, I think the suggestion is very timely. I will instruct my cloakroom to issue a hotline notice to that effect, and it should be done promptly, because I intend to try to proceed to it as soon as we receive it from the House of Representatives.

Mr. President, there are certain routine matters I am prepared to deal with.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. BAKER. I yield.

Mr. LEVIN. Is it the majority leader's intention to propound a unanimous-consent request relative to the tax bill?

Mr. BAKER. Yes. Mr. President, it is my hope that the Senate will grant unanimous consent to proceed immediately to the consideration of the tax bill when it is received from the House of Representatives.

Mr. LEVIN. Without any time limitation?

Mr. BAKER. I would hope the Senate would also agree to a short time limitation. I do not know how much time Members might require, but I had in mind 1 hour equally divided or 2 hours equally divided.

Mr. LEVIN. In any unanimous-consent request which is propounded by the majority leader, I request that the interests we discussed earlier, relative to an amendment of mine on the debt limit bill—to be sure that amendment is voted on by the end of business tomorrow—be considered.

I think it is important—we discussed this earlier, and the majority leader has been very helpful—that I have an opportunity to have a vote in a short period of time before we go out, and I ask that any unanimous-consent request propounded by the majority leader consider that.

Mr. BAKER. Mr. President, I will consult once again with the distinguished chairman of the Finance Committee, Senator DOLE.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there are certain matters that can be dealt with at this time by unanimous consent, according to my calendar.

I inquire of the minority leader if he is in a position to consider one nomination on the Executive Calendar, the nomination of Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission, Calendar No. 902.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader allow me just a moment to ascertain what our situation is here?

Mr. BAKER. Yes, I will indeed.

Mr. ROBERT C. BYRD. Mr. President, I am now prepared to respond to the distinguished majority leader with respect to the nomination, and I am prepared on behalf of Senators on this side of the aisle to go forward with the nomination.

Mr. BAKER. I thank the Senator.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nomination of Oliver G. Richard III.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF ENERGY

The bill clerk read the nomination of Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission.

Mr. McCLURE. Mr. President, on August 12 the Committee on Energy and Natural Resources held a hearing on the Presidential nomination of Oliver G. Richard III, to be a member of the Federal Energy Regulatory Commission. Mr. Richard was nominated for a term expiring on October 20, 1985. The Committee on Energy and Natural Resources favorably reported Mr. Richard's nomination on August 13. The vote was 16 to 0.

Mr. Richard is a partner in the law firm of Hayes, Durio & Richard in Lafayette, La. From 1977 to 1981, Mr. Richard served as energy legislative assistant to Senator BENNETT JOHNSTON. In that position he worked on a broad variety of energy legislation, including the Natural Gas Policy Act of 1978, the Powerplant and Industrial Fuel Use Act of 1978, the Public Utility Regulatory Policies Act of 1978, the Emergency Conservation Act of 1979, and the Energy Security Act.

Mr. Richard holds a bachelor of arts degree and a juris doctor degree from Louisiana State University, and he has also received a master of laws degree in taxation from Georgetown University.

In his testimony before the committee, Mr. Richard described why his background as a member of the Senate staff is particularly relevant to a position on the FERC. He stated:

During my tenure, Mr. Chairman, my duty involved analyzing questions of national energy policy. National policy does not stand in a vacuum, devoid of particular regional considerations. The mosaic is made up of many pieces of unique regional characteristics.

As an energy advisor to Senator Johnston I became aware of the diversity of regional perspectives. As importantly, I came to recognize the importance, indeed the obligation, for decisions regarding national policy to be made so as to balance interests from all parts of the country. Without that balance, compromise is difficult, if not impossible. And compromise is the heart of consensus decisionmaking.

Mr. President, Mr. Richard has fully complied with the committee's rules requiring submittal of a financial disclosure report and a detailed information statement. On behalf of the Committee on Energy and Natural Resources, I am pleased to recommend Senate approval of the Presidential nomination of Oliver G. Richard, III, to be a member of the Federal Energy Regulatory Commission.

Mr. BAUCUS. Mr. President, I support the President's nomination of Mr. Richard, and I am confident that the Senate will confirm him as a member of the Federal Energy Regulatory Commission (FERC).

As the Senate is no doubt aware, the only opposition to Mr. Richard's appointment has come from some who are concerned that being from Louisiana his decisions will too often reflect oil and gas producing States' interest as opposed to consumer or national interest.

I am confident that Mr. Richard will not let this occur. Indeed, I would call to the Senate's attention two letters from Mr. Gordon Bollinger, chairman of Montana's Public Service Commission, with regard to this point.

On July 13, Chairman Bollinger wrote to me to express his concern about this appointment. His concern reflects the spirit of activism and consumer protection that has been evident at the Montana Public Service Commission in recent years. Indeed, his letter is just one example of many in which the commission or its individual members have taken extra initiative, beyond their traditional rate-setting duties, to try to protect the interests of Montanans. I, for one, appreciate and strongly encourage this activism and vigor at the Montana Commission.

Upon receiving Mr. Bollinger's letter, I forwarded it to the Senate Energy Committee, and had my office contact Mr. Richard. At my request, Mr. Richard in turn took the time to telephone Chairman Bollinger. I understand they had a most productive discussion during which Mr. Richard expressed his strong concern and willingness to work with Montanans and others to make sure that FERC policy and case decisions are regionally balanced and do not work on behalf of one interest over another.

Based upon this conversation, Mr. Bollinger wrote to me a second time. In this letter of August 5, he expressed his support for Mr. Richard. I have forwarded this letter to the Energy Committee as well, and I ask that both letters be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BAUCUS. Mr. President, I have expressed my concern in several forums that FERC work harder to see that the interests and needs of parts of the country remote from Washington, D.C., are adequately taken into account during its decision processes. I have been particularly concerned that FERC hold field hearings close to the sites of matters in controversy before it. Indeed, I recently wrote to the Senate Appropriations Committee to express my strong concern on this point. In at least three instances over the past year—concerning natural gas pricing review: a Kootenai Falls, Mont., hydroelectric proposal; and the designation of a potential tight sands gas formation in Montana—I have asked for FERC field hearings and in only one case received a positive response. Even in this case, concerning the Kootenai Falls application, at this time FERC has agreed to hold a hearing only in Montana's capitol, hundreds of miles from the site in controversy.

I ask unanimous consent that a copy of my letter to the Senate Appropriations Committee also be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BAUCUS. Mr. Richard has assured my office that he shares this strong concern about FERC responsiveness to State and local concerns, especially those brought to FERC's attention by Members of the Senate. His quick responsiveness to my request that he call upon Chairman Bollinger reflects his willingness to respond to my State and others.

During its hearings on the nomination, the Senate Energy Committee has reviewed Mr. Richard's background thoroughly. He has been found to be both highly qualified and personally competent to become a member of the Commission, and I would strongly urge my colleagues to support his nomination.

EXHIBIT 1

PUBLIC SERVICE COMMISSION,
Helena, Mont., July 13, 1982.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: I am writing you to urge that you oppose the pending nomina-

tion of Oliver G. Richard III of Louisiana to the Federal Energy Regulatory Commission. The appointment of another commissioner from a major producing State could have major consequences for natural gas consumers at a time when FERC is contemplating whether to effectively decontrol old gas.

At present two of the four commissioners are from Texas. A third is from Hawaii, which consumes little natural gas, and the fourth is from Virginia, a State ranking in the lower half of the natural gas consuming States.

I am also enclosing a reprint of the Plain Dealer which is an editorial and self-explanatory.

Anything that you may be able to do to keep the nomination from going to Mr. Richard would be appreciated.

Sincerely,

GORDON E. BOLLINGER,
Chairman.

PUBLIC SERVICE COMMISSION,
Helena, Mont., August 5, 1982.

Hon. MAX BAUCUS,
U.S. Senator,
Washington, D.C.

DEAR SENATOR BAUCUS: This is a follow-up on my July 13 letter, in which I opposed the nomination of Oliver G. Richard, III, of Louisiana to the Federal Energy Regulatory Commission.

While the conditions remain that the FERC Board will not be made up of members representing the various parts of the United States, after talking with Mr. Richard, I am certain that he is very well qualified and will do his best to represent the interests of the entire United States, as well as the various regions. I am also certain that he will not be parochial in his outlook as the FERC regulations affect our part of the country.

In visiting with our congressional people, I am assured that Mr. Richard is a very knowledgeable individual and would be a good asset to the Federal Energy Regulatory Commission. It is very important to have someone with a knowledge of the industry, as well as the interest of the entire nation at heart when decisions are made on the Commission.

I, therefore, withdraw my opposition to Mr. Richard and concur that he would be an excellent member of FERC.

Sincerely,

GORDON E. BOLLINGER,
Chairman.

EXHIBIT 2

U.S. SENATOR,
Washington, D.C., August 13, 1982.

Hon. MARK HATFIELD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I write concerning appropriations for the Federal Energy Regulatory Commission (FERC).

As you are no doubt well aware, in places such as Oregon and Montana it is quite difficult for a citizen to see and participate in FERC hearings held in Washington, D.C. FERC, by nature of its responsibilities, has the decision making authority for many constroversial issues ranging from dam permits to natural gas pricing. When these matters are before FERC, constituents often seek intervention from their Senators and Congressmen. While the quasi-judicial nature of FERC significantly restricts the substantive involvement that would be appropriate from members of the House and Senate, at least these elected representatives are often able to point out to FERC matters of significant public concern to their states and attempt to see that FERC's administrative procedures are adequate.

Often, the simple rescheduling of hearings from Washington, D.C., closer to the areas of controversy will suffice to allow adequate public participation in the process. It is, therefore, most unfortunate when members of the Senate advise FERC of the need for a field hearing on a matter of such importance to a locality of state only to be told that budget constraints prohibit FERC from holding its hearings far from Washington. If travel costs pose a difficulty for FERC and its personnel, they certainly pose a difficulty for individual citizens and local interest groups with an interest in the proceedings.

Accordingly, I seek appropriations report language as follows:

The Committee would emphasize its concern that the Commission utilize its support funds to hold field hearings as necessary to ensure that controversial matters before it and its administrative law judges affecting states and regions distant from Washington, D.C., are aired in the states and localities affected. The Committee is especially concerned that the Commission respond favorably to requests from the Senate and its members for such hearings.

The Commission is directed to report back to the Committee as part of its fiscal 1984 budget request with a comparison of field hearings scheduled in response to congressional requests during fiscal years 1980, 1981, 1982, and 1983.

It is my hope that report language this year will focus the Commission's attention on this problem and avoid the need for specific earmarking of a higher percentage of FERC support appropriations for this function in the future.

Thank you for your assistance.

With best personal regards, I am

Sincerely,

MAX.

Mr. JOHNSTON. Mr. President, under the Constitution it is the duty of the Senate to give to the President advice and consent on certain nominations. I am particularly well qualified to perform this function with regard to the nomination of Oliver G. "Rick" Richard to be a Commissioner of the Federal Energy Regulatory Commission.

As most of you know, Rick served as my legislative assistant for energy matters for roughly 3½ years. During this period, which extended from November 1977 to August 1981, the Energy Committee dealt with some of the most complex and difficult issues in recent memory. Rick was intricately involved in virtually every aspect of these matters, which included such bills as the Natural Gas Policy Act, the Public Utility Regulatory Policies Act, the Fuel Use Act, and the Energy Security Act.

Rick clearly demonstrated an outstanding intellectual ability, and showed a great capacity for thoughtful, independent judgment. As a Commissioner at the FERC, Rick will once again be called upon to use these abilities. From his previous experiences in the Senate, Rick learned very well the special concerns which combine to form the national interest. I have no doubt that he will prove himself to be one of the most qualified and able Commissioners to serve on that body. I commend the President for his choice of nominees for this position, I congratulate Rick in his selection, and I strongly urge my collegues to support his nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, today we had the Executive Calendar and Gen. Emmett H. Walker was confirmed to be Director of the National Guard Bureau.

I ask unanimous consent that my remarks be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF MAJ. GEN. EMMETT H. WALKER TO BE THE CHIEF OF THE NATIONAL GUARD BUREAU

Mr. STENNIS. Mr. President, I wholeheartedly and enthusiastically endorse and support the nomination of my fellow Mississippian, Maj. Gen. Emmett H. Walker, to be the Chief of the National Guard Bureau. From long personal experience and observation, I know that General Walker, or Mickey, as we know him, is qualified in every respect for this important and responsible position.

General Walker has made outstanding contributions to the Army National Guard during more than 37 years of distinguished commissioned service in the U.S. Army. This service culminated most recently with a 4-year tour as Director of the Army National Guard. During his tenure the Army National Guard benefited greatly from his fine leadership and sound judgment. Upon confirmation by the Senate, as I know he will be, he will bring the same fine qualities to all of the activities of the National Guard Bureau.

Some of us sometimes overlook the important and major role of the National Guard and other reserve components in our military posture, structure and policy. The Army National Guard represents some 46 percent of the total ground combat power of the U.S. Army as measured by the number of combat brigades and battalions.

The Air National Guard represents 32 percent of the Air Force tactical airlift forces and 26 percent of the tactical fighter forces.

The truth is that our military strength and power would be significantly reduced and impaired without the National Guard forces. It is important that we keep the very valuable talents and abilities of these forces carefully honed and adequately trained so that we can call on them immediately if the need should arise. It is also important that we provide these forces with the modern equipment which is necessary for these forces to do their job.

Equally important we must provide the National Guard with the finest type of leadership at the highest levels of command. I am convinced beyond all doubt that Mickey Walker will bring that type of leadership to his new command. His long, varied and distinguished military career assured that he will provide the guidance and direction that will serve to enhance the quality, capability and preparedness of our Guard forces.

I congratulate General Walker on the new honor and challenge which has come to him. He is completely qualified in every respect by training, experience and character for his new post. I know that he will continue the superb performance he has consistently displayed over his years of service and bring added credit both to himself and our National Guard forces.

I urge my colleagues to give prompt consent to and approval of General Walker's nomination.

I was highly impressed and personally with the Nations wide support that rolled in from over 40 States that officially recommended the selection of General Walker. These recommendations were of the highest quality and all emphasized his achievement and his high sense of dedication. This all pleased me very much. I predict that his services will continue to be of the highest order.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MOTOR CARRIER DEREGULATION

Mr. BAKER. Mr. President, another matter that has been cleared on this side to which I invite the attention of the majority leader is H.R. 3663.

Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 3663.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 3663) entitled "An act to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers", and ask a conference with Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. HOWARD, Mr. ANDERSON, Mr. RODINO, Mr. CLAUSEN, and Mr. SHUSTER be the managers of the conference on the part of the House.

Mr. BAKER. Mr. President, I move that the Senate insist on its amendment and agree with the conference requested by the House of Representatives and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Chair appointed Mr. PACKWOOD, Mr. DANFORTH, and Mr. CANNON conferees on the part of the Senate.

EXTRADITION ACT OF 1981

Mr. BAKER. Mr. President, S. 1940, Calendar Order No. 576, is cleared on this side for action by unanimous consent.

I inquire of the minority leader if he is prepared to consider that item at this time.

Mr. ROBERT C. BYRD. Mr. President, speaking on behalf of the Senators on this side of the aisle, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 1940.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1940) to amend chapter 209 of title 18, United States Code, relating to extradition, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 16, line 17, strike "may", and insert "shall";

On page 16, line 19, strike "Attorney", through and including "satisfaction", and insert "court is satisfied";

On page 18, line 7, strike "punishing the person for his political opinions", and insert the following: "punishing the person for his political opinions. When it is claimed that the foreign government is seeking the person for a political offense or an offense of a political character, the Secretary will make his determination in accordance with the following principles. A political offense or an offense of a political character normally does not include—

"(A) an offense within the scope of the Convention for the Supression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or serious unlawful detention;

"(F) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(G) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs; or

"(H) an attempt or conspiracy to commit an offense described in clauses (A) through (G) of this subparagraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

On page 19, line 25, strike "A decision", through and including line 2 on page 20, and insert the following: A decision of Secretary under paragraph (1) or (2) or a decision of the Secretary under paragraph (3) with respect to whether the foreign state is seeking the person's extradition for the purpose of prosecuting or punishing the person for his political opinions is final and is not subject to judicial review. A decision by the Secretary under paragraph (3) denying the person's claim that the foreign state is seeking his extradition for a political offense or an offense of a political character may be appealed by the person to the United States court of appeals to which an appeal under section 3195 would lie. The court shall not set aside the Secretary's decision if it is based on substantial evidence. The appeal shall be determined promptly. Pending determination of the appeal, the court shall stay the extradition of the person, unless the court determines that the appeal is frivolous or taken for purposes of delay.

And had been reported from the Committee on Foreign Relations, with amendments, as follows:

On page 7, beginning on line 22, strike "for a political offense, for an offense of a political character, or";

On page 10, strike line 19, through and including page 11, line 11, and insert the following:

"(e) POLITICAL OFFENSES AND OFFENSES OF A POLITICAL CHARACTER.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has established by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense.

"(1) For the purposes of this section a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) For the purposes of this section a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or a serious unlawful detention;

"(B) an offensive involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraphs (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(f) DETERMINATION BY THE COURT OF THE APPLICATION OF THE POLITICAL OFFENSE EXCEPTION.—

"(1) Upon motion made by the person sought to be extradited or the Attorney General, the United States district court may order the determination of any issue under paragraph (e) of this section by a judge of such court.

"(2) No issue under paragraph (e) of this section shall be determined by the court and no evidence shall be received with respect to such issue unless and until the court determines the person sought is otherwise extraditable.

"(g) OTHER ISSUES.—

"(1) Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(2) any issue as to whether the extradition of a person to a foreign state would be incompatible with humanitarian considerations shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(3) In determining the application of subparagraphs (1) and (2) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State including the Bureau of Human Rights and Humanitarian Affairs.

"(h) CERTIFICATION OF FINDINGS TO THE SECRETARY OF STATE.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.".

On page 17, line 25, strike "; or";

On page 18, strike line 1, through and including page 19, line 21;

On page 20, line 3, strike "or a decision", through and including "opinions" on line 6;

On page 20, line 7, strike "A decision", through and including line 17;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Extradition Act of 1981".

SEC. 2. Chapter 209 of title 18, United States Code, is amended as follows:

(a) Section 3181 is deleted.

(b) Section 3182 is redesignated as section "3181".

(c) Section 3183 is redesignated as section "3182" and is amended by striking out "or the Panama Canal Zone" in the first sentence.

(d) A new section 3183 is added as follows:

"§ 3183. Payment of fees and costs

"All costs or expenses incurred in any interstate rendition proceeding and apprehending, securing, and transmitting a fugitive shall be paid by the demanding authority.".

(e) Sections 3184 through 3195 are deleted.

(f) The chapter heading and section analysis are amended to read as follows:

"CHAPTER 209—INTERSTATE RENDITION

"3181. Fugitives from State or Territory to State, District, or Territory.
"3182. Fugitives from State, Territory or Possession into extraterritorial jurisdiction of the United States.
"3183. Payment of fees and costs.".

SEC. 3. A new chapter 210 of title 18 of the United States Code is added as follows:

"CHAPTER 210—INTERNATIONAL EXTRADITION

"Sec.
"3191. Extradition authority in general.
"3192. Initial procedure.
"3193. Waiver of extradition hearing and consent to removal.
"3194. Extradition hearing.
"3195. Appeal.
"3196. Surrender of a person to a foreign state.
"3197. Receipt of a person from a foreign state.
"3198. General provisions for chapter.

"§ 3191. Extradition authority in general

"The United States may extradite a person to a foreign state pursuant to this chapter only if—

"(a) there is a treaty concerning extradition between the United States and the foreign state; and

"(b) the foreign state requests extradition within the terms of the applicable treaty.

"§ 3192. Initial procedure

"(a) IN GENERAL.—The Attorney General may file a complaint charging that a person is extraditable. The Attorney General shall file the complaint in the United States district court—

"(1) for the district in which the person may be found; or

"(2) for the District of Columbia, if the Attorney General does not know where the person may be found.

"(b) COMPLAINT.—The complaint shall be made under oath or affirmation, and shall specify the offense for which extradition is sought. The complaint—

"(1) shall be accompanied by a copy of the request for extradition and by the evidence and documents required by the applicable treaty; or

"(2) if not accompanied by the materials specified in paragraph (1)—

"(A) shall contain—

"(i) information sufficient to identify the person sought;

"(ii) a statement of the essential facts constituting the offense that the person is believed to have committed, or a statement that an arrest warrant for the person is outstanding in the foreign state; and

"(iii) a description of the circumstances that justify the person's arrest; or

"(B) shall contain such other information as is required by the applicable treaty;

and shall be supplemented before the extradition hearing by the materials specified in paragraph (1).

"(c) ARREST OR SUMMONS.—Upon receipt of a complaint, the court shall issue a warrant for the arrest of the person sought, or, if the Attorney General so requests, a summons to the person to appear at an extradition hearing. The warrant or summons shall be executed in the manner prescribed by rule 4(d) of the Federal Rules of Criminal Procedure. A person arrested pursuant to this section shall be taken without unnecessary delay before the nearest available court for an extradition hearing.

"(d) DETENTION OR RELEASE OF ARRESTED PERSON.—

"(1) The court shall order that person arrested under this section be held in official detention pending the extradition hearing unless the person establishes to the satisfaction of the court that special circumstances require his release.

"(2) Unless otherwise provided by the applicable treaty, if a person is detained pursuant to paragraph (1) in a proceeding in which the complaint is filed under subsection (b)(2), and if, within sixty days of the person's arrest, the court has not received—

"(A) the evidence or documents required by the applicable treaty; or

"(B) notice that the evidence or documents have been received by the Department of State and will promptly be transmitted to the court:

the court may order that the person be released from official detention pending the extradition hearing.

"(3) If the court orders the release of the person pending the extradition hearing, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"§ 3193. Waiver of extradition hearing and consent to removal

"(a) INFORMING THE COURT OF WAIVER AND CONSENT.—A person against whom a complaint is filed may waive the requirements of formal extradition proceedings, including an order of surrender, by informing the court that he consents to removal to the foreign state.

"(b) INQUIRY BY THE COURT.—The court, upon being informed of the person's consent to removal, shall—

"(1) inform the person that he has a right to consult with counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) address the person to determine whether his consent is—

"(A) voluntary, and not the result of a threat or other improper inducement; and

"(B) given with full knowledge of its consequences, including the fact that it may not be revoked after the court has accepted it.

"(c) FINDING OF CONSENT AND ORDER OF REMOVAL.—If the court finds that the person's consent to removal is voluntary and given with full knowledge of its consequences, it shall, unless the Attorney General notifies the court that the foreign state or the United States objects to such removal, order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition. The court shall order that the person be held in official detention until surrendered.

"(d) LIMITATION ON DETENTION PENDING REMOVAL.—A person whom the court orders surrendered pursuant to subsection (c) may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings, the person is not removed from the United States within thirty days after the court ordered the person's surrender. The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3194. Extradition hearing

"(a) IN GENERAL.—The court shall hold a hearing to determine whether the person against whom a complaint is filed is extraditable, unless the hearing is waived pursuant to section 3193. The purpose of the hearing is limited. The court does not have jurisdiction to determine the merits of the charge against the person by the foreign state or to determine whether the foreign state is seeking the extradition of the person for a political offense, for an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. The hearing shall be held as soon as practicable after the arrest of the person or issuance of the summons.

"(b) RIGHTS OF THE PERSON SOUGHT.—The court shall inform the person of the limited purpose of the hearing, and shall inform him that—

"(1) he has the right to be represented by counsel and that, if he is financially unable to obtain counsel, counsel may be appointed to represent him pursuant to section 3006A; and

"(2) he may cross-examine witnesses who appear against him and may introduce evidence in his own behalf with respect to the matters set forth in subsection (d).

"(c) EVIDENCE.—

"(1) A deposition, warrant, or other document, or a copy thereof, is admissible as evidence in the hearing if—

"(A) it is authenticated in accordance with the provisions of an applicable treaty or law of the United States;

"(B) it is authenticated in accordance with the applicable law of the foreign state, and such authentication may be established conclusively by a showing that—

"(i) a judge, magistrate, or other appropriate officer of the foreign state has signed a certification to that effect; and

"(ii) a diplomatic or consular officer of the United States who is assigned or accredited to the foreign state, or a diplomatic or consular officer of the foreign state who is assigned or accredited to the United States, has certified the signature and position of the judge, magistrate, or other officer; or

"(C) other evidence is sufficient to enable the court to conclude that the document is authentic.

"(2) A certificate or affidavit by an appropriate official of the Department of State is admissible as evidence of the existence of a treaty or its interpretation.

"(3) If the applicable treaty requires that such evidence be presented on behalf of the foreign state as would justify ordering a trial of the person if the offense had been committed in the United States, the requirement is satisfied if the evidence establishes probable cause to believe that an offense was committed and that the person sought committed it.

"(d) FINDINGS.—The court shall find that the person is extraditable if it finds that—

"(1) there is probable cause to believe that the person arrested or summoned to appear is the person sought in the foreign state;

"(2) the evidence presented is sufficient to support the complaint under the provisions of the applicable treaty;

"(3) no defense to extradition specified in the applicable treaty, and within the jurisdiction of the court, exists; and

"(4) the act upon which the request for extradition is based would constitute an offense punishable under the laws of—

"(A) the United States;

"(B) the State where the fugitive is found; or

"(C) a majority of the States.

The court may base a finding that a person is extraditable upon evidence consisting, in whole or in part, of hearsay or of properly certified documents.

"(e) CERTIFICATION OF FINDINGS TO THE SECRETARY OF STATE.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropriate, to the Secreatary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.

"(e) POLITICAL OFFENSES AND OFFENSES OF A POLITICAL CHARACTER.—The court shall not find the person extraditable after a hearing under this section if the court finds that the person has extablished by clear and convincing evidence that any offense for which such person may be subject to prosecution or punishment if extradited is a political offense.

"(1) For the purposes of this section a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (D) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(2) For the purposes of this section a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(C) an attempt or conspiracy to commit an offense described in subparagraphs (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(f) DETERMINATION BY THE COURT OF THE APPLICATION OF THE POLITICAL OFFENSE EXCEPTION.—

"(1) Upon motion made by the person sought to be extradited or the Attorney General, the United States district court may order the determination of any issue under paragraph (e) of this section by a judge of such court.

"(2) No issue under paragraph (e) of this section shall be determined by the court and no evidence shall be received with respect to such issue unless and until the court determines the person sought is otherwise extraditable.

"(g) OTHER ISSUES.—

"(1) Any issue as to whether the foreign state is seeking extradition of a person for the purpose of prosecuting or punishing the person because of such person's political opinions, race, religion, or nationality shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(2) Any issue as to whether the extradition of a person to a foreign state would be incompatible with humanitarian considerations shall be determined by the Secretary of State in the discretion of the Secretary of State.

"(3) In determining the application of subparagraphs (1) and (2) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State including the Bureau of Human Rights and Humanitarian Affairs.

"(h) CERTIFICATION OF FINDINGS TO THE SECRETARY OF STATE.—

"(1) If the court finds that the person is extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify its findings, together with a transcript of the proceedings, to the Secretary of State. The court shall order that the person be held in official detention until surrendered to a duly appointed agent of the foreign state, or until the Secretary of State declines to order the person's surrender.

"(2) If the court finds that the person is not extraditable, it shall state the reasons for its findings as to each charge or conviction, and certify the findings, together with such report as the court considers appropri-

ate, to the Secretary of State. The Attorney General may commence a new action for extradition of the person only with the agreement of the Secretary of State.".

"§ 3195. Appeal

"(a) IN GENERAL.—Either party may appeal, to the appropriate United States court of appeals, the findings by the district on a complaint for extradition. The appeal shall be taken in the manner prescribed by rules 3 and 4(b) of the Federal Rules of Appellate Procedure, and shall be heard as soon as practicable after the filing of the notice of appeal. Pending determination of the appeal, the district court shall stay the extradition of a person found extraditable.

"(b) DETENTION OR RELEASE PENDING APPEAL.—If the district court found that the person sought is—

"(1) extraditable, it shall order that the person be held in official detention pending determination of the appeal, or pending a finding by the court of appeals that the person has established that special circumstances require his release;

"(2) not extraditable, it shall order that the person be released pending determination of an appeal unless the court is satisfied that the person is likely to flee or to endanger the safety of any other person or the community.

If the court orders the release of a person pending determination of an appeal, it shall impose conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.

"(c) SUBSEQUENT REVIEW.—No court has jurisdiction to review a finding that a person is extraditable unless the person has exhausted his remedies under subsection (a). If the person files a petition for habeas corpus or for other review, he shall specify whether the finding that he is extraditable has been upheld by a court, and, if so, shall specify the court, the date, and the nature of each such proceeding. A court does not have jurisdiction to entertain a person's petition for habeas corpus or for other review if his commitment has previously been upheld, unless the court finds that the grounds for the petition or appeal could not previously have been presented.

§ 3196. Surrender of a person to a foreign state

"(a) RESPONSIBILITY OF THE SECRETARY OF STATE.—If a person is found extraditable pursuant to section 3194, the Secretary of State, upon consideration of the provisions of the applicable treaty and this chapter—

"(1) may order the surrender of the person to the custody of a duly appointed agent of the foreign state requesting extradition;

"(2) may order such surrender of the person contingent on the acceptance by the foreign state of such conditions as the Secretary considers necessary to effectuate the purposes of the treaty or the interest of justice; or.

"(3) shall decline to order the surrender of the person if the Secretary is persuaded, by written evidence and argument submitted to him by written evidence and argument submitted to him by the person sought, that the foreign state is seeking the person's extradition for a political offense or an offense of a political character, or for the purpose of prosecuting or punishing the person for his political opinions. When it is claimed that the foreign government is seeking the person for political offense or an offense of a political character, the Secretary will make his determination in accordance with the following principles. A political offense or an offense of a political character normally does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970;

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971;

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of homicide, assault with intent to commit serious bodily injury, rape, kidnaping, the taking of a hostage, or serious unlawful detention;

"(F) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender;

"(G) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs; or

"(H) an attempt or conspiracy to commit an offense described in clauses (A) through (G) of this subparagraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

The Secretary may order the surrender of a person who is a national of the United States unless such surrender is expressly forbidden by the applicable treaty or by the laws of the United States. A decision of the Secretary under paragraph (1) or (2) or a decision of the Secretary under paragraph (3) with respect to whether the foreign state is seeking the person's extradition for the purpose of prosecuting or punishing the person for his political opinions is final and is not subject to judicial review. A decision by the Secretary under paragraph (3) denying the person's claim that the foreign state is seeking his extradition for a political offense or an offense of a political character may be appealed by the person to the United States court of appeals to which an appeal under section 3195 would lie. The court shall not set aside the Secretary's decision if it is based on substantial evidence. The appeal shall be determined promptly. Pending determination of the appeal, the court shall stay the extradition of the person, unless the court determines that the appeal is frivolous or taken for purposes of delay.

"(b) NOTICE OF DECISION.—The Secretary of State, upon ordering a person's surrender or denying a request for extradition in whole, or in part, shall notify the person sought, the diplomatic representative of the foreign state, the Attorney General, and the court that found the person extraditable. If the Secretary orders the person's surrender, he also shall notify the diplomatic representative of the foreign state of the time limitation on the person's detention that is provided by subsection (c)(2).

"(c) LIMITATION ON DETENTION PENDING DECISION OR REMOVAL.—A person who is found extraditable pursuant to section 3194 may, upon reasonable notice to the Secretary of State, petition the court for release from official detention if, excluding any time during which removal is delayed by judicial proceedings—

"(1) the Secretary does not order the person's surrender, or decline to order the person's surrender, within forty-five days after his receipt of the court's findings and the transcript of the proceedings; or

"(2) the person is not removed from the United States within thirty days after the Secretary ordered the person's surrender.

The court may grant the petition unless the Secretary of State, through the Attorney General, shows good cause why the petition should not be granted.

"§ 3197. Receipt of a person from a foreign state

"(a) APPOINTMENT AND AUTHORITY OF RECEIVING AGENT.—The Attorney General shall appoint an agent to receive, from a foreign state, custody of a person accused of a Federal, State, or local offense. The agent shall have the authority of a United States marshal. The agent shall convey the person directly to the Federal or State jurisdiction that sought his return.

"(b) TEMPORARY EXTRADITION TO THE UNITED STATES.—If a foreign state delivers custody of a person accused of a Federal, State, or local offense to an agent of the United States on the condition that the person be returned to the foreign state at the conclusion of criminal proceedings in the United States, the Bureau of Prisons shall hold the person in custody pending the conclusion of the proceedings, and shall then surrender the person to a duly appointed agent of the foreign state. The return of the person to the foreign state is not subject to the requirements of this chapter.

"§ 3198. General provisions for chapter

"(a) DEFINITIONS.—As used in this chapter—

"(1) 'court' means

"(A) a United States district court established pursuant to section 132 of title 28, United States Code, the District Court of Guam, the District Court of the Virgin Islands, or the District Court of the Northern Mariana Islands; or

"(B) a United States magistrate authorized to conduct an extradition proceeding;

"(2) 'foreign state', when used in other then a geographic sense, means the government of a foreign state;

"(3) 'foreign state', when used in a geographic sense, includes all territory under the jurisdiction of a foreign state, including a colony, dependency, and constituent part of the state; its air space and territorial waters; and vessels or aircraft registered in the state;

"(4) 'treaty' includes a treaty, convention, or international agreement, bilateral or multilateral, that is in force after advice and consent by the Senate; and

"(5) 'warrant', as used with reference to a foreign state, means any judicial document authorizing the arrest or detention of a person accused or convicted of a crime.

"(b) PAYMENT OF FEES AND COSTS.—Unless otherwise specified by treaty, all transportation costs, subsistence expenses, and translation costs incurred in connection with the extradition or return of a person at the request of—

"(1) a foreign state, shall be borne by the foreign state unless the Secretary of State directs otherwise;

"(2) a State, shall be borne by the State; and

"(3) the United States, shall be borne by the United States.".

SEC. 4. This Act shall take effect on the first day of the first month after enactment, and shall be applicable to extradition and rendition proceedings commenced thereafter.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move adoption of the amendments.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (S. 1940) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CERTAIN FEDERAL LANDS HELD IN TRUST

Mr. BAKER. Mr. President, if the minority leader does not object or other Senators do not, I propose to ask the Chair to proceed to the consideration of Calendar Order No. 727, S. 1858.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1858) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northwest quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northwest quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of and lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 munutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239.50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing in this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

The PRESIDING OFFICER. The bill is open to amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1858) was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 5081) entitled "An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service", do pass with the following amendment: Strike out all after the enacting clause and insert: That (a) subject to the provisions of subsection (b), all right, title, and interest of the United States in the following lands (including all improvements thereon and appurtenances thereto, particularly all water rights appurtenant thereto which are presently administered by the Bureau of Indian Affairs of the Department of the Interior) are hereby declared to be held by the United States in trust for the benefit and use of the Washoe Tribe of Nevada and California and are hereby declared to be part of the Washoe Indian Reservation:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 1: Lot 2 northeast quarter, lot 3; 84.90 acres.

Section 3: West half lot 1 west half lot 2, northeast quarter, east half lot 1, east half lot 2, northeast quarter; 157.14 acres.

Section 14: East half southwest quarter, southwest quarter northeast quarter, southeast quarter northwest quarter excluding any portion lying west of Jack's Valley Road as it presently exists; 160.00 acres.

Section 22: South half north half; 160.00 acres.

Section 23: South half, south half northwest quarter, northeast quarter northwest quarter; 440.00 acres.

Section 24: South half south half; 160.00 acres.

Section 25: North half, southeast quarter, northeast quarter southwest quarter; 520.00 acres.

Section 36: West half, north half northeast quarter, southwest quarter northeast quarter, south half southeast quarter, northwest quarter southeast quarter; 560.00 acres.

Total acreage: 2,242.04 acres more or less.

Township 14 North, Range 20 East, Mount Diablo Meridian, Nevada

Section 5: The north half of the northeast quarter lying west of the V and T right-of-way and south of Clear Creek; and the east half of lot 2 in the northwest quarter. Total acreage: 108.01 acres more or less.

Section 6: Lots 1 and 2; 144.13 acres.

Section 18: West half northeast quarter, southeast quarter northeast quarter, northwest quarter southeast quarter; 160.00 acres more or less.

Section 19: South half lot 2 northwest quarter, lot 2 southwest quarter; 98.36 acres more or less.

Township 15 North, Range 20 East, Mount Diable Meridian, Nevada

Section 32: The east half of the southeast quarter and the southwest quarter of the southeast quarter; and two parcels of land lying within the northwest quarter of the southeast quarter of section 32 in township 15 north of range 20 east of the Mount Diablo Meridian in Ormsby County, Nevada. Parcel numbered 1 is south of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, the corner being also the southwest corner of the missionary lot, said point of beginning and further described as bearing north 52 degrees 43 minutes west, a distance of 2,198.00 feet from the southeast corner of section 32:

thence north 89 degrees 50 minutes west, a distance of 900.00 feet to the southwest corner of the parcel, said corner being also the southwest corner of the above described subdivision;

thence north 0 degrees 04 seconds east, a distance of 1,102.00 feet to a point at the northwest corner of the parcel and the southerly side of the highway 100-foot right-of-way line;

thence south 51 degrees 32 minutes east, along the southerly side of the highway right-of-way line at a distance of 1,600.28 feet to a point at the intersection of the highway right-of-way line and the northerly property line of the missionary lot;

thence north 55 degrees 24 minutes west, along the northerly property line of said lot a distance of 430.00 feet to a point;

thence south 0 degrees 04 minutes west, along the west boundary of said lot a distance of 354.40 feet to the point of beginning; said parcel numbered 1 containing 15.51 acres more or less.

Parcel numbered 2 is north of the highway leading from the Stewart Indian School to the Minden-Carson City Highway and is described as beginning at a point at the southeast corner of the parcel, said corner being on the northerly side of the highway 100-foot right-of-way line and the east side of the above described subdivision, said point of beginning being further described as bearing north 41 degrees 18 minutes west, a distance of 2,010 feet from the southeast corner of section 32:

thence north 51 degrees 32 minutes west, along the northerly side of the highway right-of-way line a distance of 1,690.00 feet to a point;

thence north 0 degrees 04 minutes east, a distance of 35.80 feet to the northwest corner of the parcel, said corner being also the northwest corner of the above described subdivision;

thence south 89 degrees 50 minutes east, along the subdivision line a distance of 1,239,50 feet to the northeast corner of the parcel and the west right-of-way line of the Virginia and Truckee Railroad;

thence south 0 degrees 04 minutes west, along the railroad right-of-way line a distance of 44.50 feet to a point;

thence from a tangent whose bearing is the last described course curving to the left with a radius of 1,196.28 feet through an angle of 21 degrees 15 minutes 40 seconds a distance of 443.90 feet to a point on the railroad right-of-way line and the east side of the subdivision;

thence south 0 degrees 04 minutes west, along the east side of the subdivision a distance of 655.70 feet to the point of beginning.

And the south half of the southwest quarter excepting the following parcels:

(1) land lying west of the V and T Railroad right-of-way contained in the southeast quarter southeast quarter; and

(2) southwest quarter southeast quarter.

Total acreage 165.54 acres more or less.

(b) Nothing is this section shall deprive any person or entity of any legal existing right-of-way, legal mining claim, legal grazing permit, legal water right (including any water right with respect to the Carson River as decreed by order of the United States District Court of the State of Nevada on October 28, 1980, in the matter of the determination of the relative rights in and to the waters of the Carson River and its tributaries in Douglas County, Nevada), or other legal right or legal interest which such person or entity may have in land described in subsection (a).

(c) The lands which are declared to be held in trust and part of the Washoe Indian Reservation under subsection (a) shall be used primarily for agricultural purposes.

(d) Section 164 of the Act of July 14, 1955 (69 Stat. 322, 42 U.S.C. 7474), as amended, shall be applied without regard to the provisions of this section.

SEC. 2. On or before the expiration of one hundred and eighty days from the date of enactment of this Act the Bureau of Indian Affairs shall transfer to the Forest Service, United States Department of Agriculture, the following lands which shall become national forest system lands subject to all laws, rules, and regulations applicable to the national forest system:

Township 14 North, Range 19 East, Mount Diablo Meridian, Nevada

Section 21: Southeast quarter northeast quarter; 40 acres.

Section 28: Northeast quarter northeast quarter; 40 acres.

Total acreage: 80.00 acres more or less.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5081.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5081) to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that all after the enacting clause of H.R. 5081 be stricken and that there be substituted therefor the text of S. 1858, as amended, as just adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the bill will be considered as having been read twice and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 5081), as amended, was passed.

Mr. BAKER. I thank the Chair.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that S. 1858 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, H.R. 4347 is cleared on this side. If it is agreeable to the majority leader, I wish to ask the Chair to proceed to the consideration of that item at this time.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask that the Chair lay before the Senate the budget waiver to accompany that measure which is Calendar Order No. 732, H.R. 4347, if there is no objection.

The resolution (S. Res. 440) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4347, was considered and agreed to, as follows:

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 4347. Such waiver is necessary because H.R. 4347, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit construction of the WEB rural water development project to be initiated in early fiscal year 1983 so as to take advantage of favorable weather conditions for such construction.

H.R. 4347 provides a reauthorization of the WEB project which was authorized by the Rural Development Policy Act of 1980 (94 Stat. 1171). It should be noted that $1,900,000 was appropriated for fiscal year 1981 to provide for initial planning and construction of the project; however, obligation of the funds was deferred until conditions of section 9(b) of the Rural Development Policy Act of 1980, regarding the Oahe project (also in South Dakota), had been met; H.R. 4347, as reported, meets those conditions.

Failure to pass H.R. 4347 would preclude initial construction activities during calendar year 1982 (or early in fiscal year 1983) because the construction season for the authorized types of work is generally only from March to November. Such a delay in initial construction activities until calendar year 1983 would result in increases in construction costs.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENT OF CERTAIN WATER PROJECTS

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate H.R. 4347, Calendar Order No. 732.

The Senate proceeded to consider the bill (H.R. 4347) to authorize the Secretary of the Interior to proceed with development of the WEB pipeline, to provide for the study of South Dakota water projects to be developed in lieu of the Oahe and Pollock-Herreid irrigation projects, and to make available Missouri basin pumping power to projects authorized by the Flood Control Act of 1944 to receive such power, which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That the WEB Rural Water Development Project, authorized by section 9 of the Rural Development Policy Act of 1980 (94 Stat. 1175), is reauthorized subject to the provisions of section 9 of that Act, as amended by section 2 of this Act. The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to proceed with the development of the WEB Rural Water Development Project, consistent with the terms and conditions of section 9(e) of that Act, as amended by section 2 of this Act, and to make available for immediate obligation any funds appropriated for such project for fiscal year 1981.

SEC. 2. Section 9 of the Rural Development Policy Act of 1980 is amended by—

(a) striking out in subsection (b) all after "the types of construction involved herein" and inserting a period in lieu thereof;

(b) striking out the first sentence of subsection (d); and

(c) striking out the first sentence of subsection (e) and inserting in lieu thereof the following: "The Secretary of the Interior shall use funds appropriated under this Act to provide financial assistance to plan and develop the WEB Rural Water Development Project under the terms and conditions of the Consolidated Farm and Rural Development Act and the rules and regulations promulgated by the Department of Agriculture under that Act, except to the extent such Act or rules or regulations promulgated thereunder are inconsistent with the provisions of this section.".

SEC. 3. (a) The Secretary is authorized, in cooperation with the State of South Dakota, to conduct feasibility investigations of the following proposed water resource developments:

(1) alternate uses of facilities constructed for use in conjunction with the Oahe unit, initial stage, James division, Pick-Sloan Missouri basin program, South Dakota;

(2) future uses in South Dakota of water delivered by the Garrison unit, Pick-Sloan Missouri basin program, North Dakota; and

(3) a reformulated plan for the development of the Pollock-Herreid unit, South Dakota pumping division, Pick-Sloan Missouri basin program, South Dakota, including irrigation of alternative lands or reduced acreages.

(b) The Secretary shall report to Congress the findings of the studies authorized by this section along with his recommendations.

(c) The Secretary may contract with the State to carry out the studies authorized by this section.

SEC. 4. (a) The Secretary is authorized to cancel the master contract and participating and security contracts for the Oahe unit, initial Stage: Provided, That such actions shall be done with the agreement of the Oahe Conservancy Subdistrict and the Spink and West Brown irrigation districts: Provided further, That any repayment obligation existing at the time of cancellation of the master and participating and security contracts shall thereafter be treated as a deferred cost of the Pick-Sloan Missouri basin program: Provided, however, That such costs shall be assumed and repaid by the beneficiaries of any future project which utilizes the Oahe unit facilities. Such repayment obligation and manner of repayment shall be determined pursuant to the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof (43 U.S.C. 371).

(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for an could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East canals; Cresbard, and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

SEC. 5. The Secretary of the Interior, in cooperation with the Department of Energy, is authorized to make available the Pick-Sloan Missouri basin program pumping power to the Crow Creek, Cheyenne River, and Standing Rock Indian Reservation irrigation developments, and the Grass Rope Unit, Pick-Sloan Missouri basin program. Such pumping power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by Act of Congress.

SEC. 6. There is hereby authorized to be appropirated beginning October 1, 1982,

such funds as may be necessary to carry out the provisions of this Act.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

UP AMENDMENT NO. 1255

Prupose: To include the Omaha Indian Reservation Irrigation Development within the authorization to receive Pick-Sloan Missouri Basin program pumping power.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. EXON, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for Mr. EXON, proposes an unprinted amendment numbered 1255:

On page 9, line 16, after the word "River," and before the word "and" add the word "Omaha".

Mr. MURKOWSKI. Mr. President, I am pleased the majority leader has offered this amendment on behalf of the Senator from Nebraska (Mr. EXON). As my colleagues will note, section 5 of H.R. 4347 as reported by the Committee on Energy and Natural Resources, identifies specific irrigation projects as being eligible to receive pumping power from the Pick-Sloan Missouri Basin program. The amendment which I offer on behalf of the Senator from Nebraska identifies an additional irrigation development which would be authorized to receive such power. The lands to be served are on the Omaha Indian Reservation and the irrigation development is being funded by the Bureau of Indian Affairs. This proposal is similar in nature to the other Indian irrigation projects which were included in the bill by the committee and I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment (UP No. 1255) was agreed to.

Mr. PRESSLER. Mr. President, I rise in support of House Resolution 4347, legislation to reauthorize the WEB pipeline project, authorize feasibility studies of the CENDAK irrigation project and the extension of the Garrison Diversion Unit, as well as provide low-cost pumping power to a number of Indian irrigation projects. Passage of this legislation will be a first step in meeting the Federal commitment to South Dakota for land sacrificed for construction of dams on the Missouri River.

Under the Pick-Sloan Missouri Basin program, a water development plan was established for the Missouri River basin. This plan included the construction of four dams on the Missouri River in South Dakota and irrigation of over 900,000 acres of land in South Dakota. The four dams were constructed, flooding over 530,000 acres of land in South Dakota, but the irrigation facilities have not been constructed.

The Oahe irrigation project was authorized in 1968 to meet a major part of the commitment to South Dakota, but due to local controversy over the project, work on it ceased in 1977. As a result, South Dakota has not received any irrigation from the Pick-Sloan Missouri basin program. South Dakota has not been compensated for the 530,000 acres of land sacrificed to construct the dams.

In 1975, the WEB Water Development Association was formed to provide domestic and municipal water to an area in north central and northeast South Dakota. The WEB pipeline project was proposed to provide domestic water to 30,000 people and 50 rural communities in 10 counties. The project has the support of South Dakota's Governor and State legislature, the Oahe subdistricts and the people in the WEB region. In fact, the State of South Dakota and the Oahe subdistricts have committed funds to help finance the construction of the WEB pipeline. The WEB pipeline project was originally authorized in 1980, but the authorization was tied to the deauthorization of the Oahe project. Because of this linkage, the WEB project authorization expired September 31, 1981, since the Oahe project was not deauthorized.

The bill will reauthorize the WEB pipeline, subject to the provisions of the original 1980 authorization and the terms and conditions of the consolidated Farm and Rural Development Act. The Rural Development Policy Act of 1980 specifies that the project be funded by a combination of grants and loans with grants for not less than 75 percent of the eligible cost. When the WEB project was originally authorized the Rural Development and Policy Act and the Farmers Home Administration regulations established a 5-percent interest rate for the loans that may be required to develop the WEB project.

This legislation, H.R. 4347, would reauthorize the WEB project and begin to resolve the Oahe project issue. The bill will provide for the cancellation of the contracts between the Bureau of Reclamation and the Oahe subdistricts and will prohibit the construction of the Oahe project features listed in the bill without specific direction from Congress. The features could not be constructed unless reauthorized by Congress. To further clarify this section, I request that two letters interpreting this section of the bill be included in the RECORD, immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. PRESSLER. Feasibility level studies of the CENDAK irrigation project and the Garrison diversion unit extension would also be authorized in H.R. 4347. The CENDAK project is a grassroots movement to use the Oahe unit features that were constructed to irrigate an area in central South Dakota. The CENDAK organization has already done a great deal of work and study on the project. The next step needed is a feasibility study for the project.

The extension of the Garrison diversion unit would study the possibility of the Garrison diversion unit providing water for irrigation and domestic use along the James River in South Dakota. With Canada's objection to receiving return flows from the Garrison diversion unit in North Dakota, the alternative route for return flows is the James River in South Dakota. If the return flows are to flow down the James River through South Dakota, it is important that the possible beneficial use of the water be studied.

Finally, H.R. 4347 also provides low-cost Missouri Basin program pumping power to a number of Indian irrigation projects. This power is part of the Pick-Sloan program and will help to make these small irrigation projects profitable. Other qualifying irrigation projects may also be granted low-cost pumping power by Congress in the future.

Mr. President, I would also like to enter into a brief colloquy with the floor manager of the bill to clarify one technical point. This legislation includes a provision for making available $1.9 million appropriated for fiscal year 1981 for initial planning and construction of the WEB pipeline which were not spent. The Secretary of the Treasury will make these funds available at the request of the Secretary of the Interior, based on the authority of this act. It is my understanding that this is the administrative procedure to be followed for the release of the $1.9 million appropriated for the WEB pipeline. Is this correct?

Mr. MURKOWSKI. That is correct.

Mr. PRESSLER. I thank my distinguished colleague from Alaska for his clarification of this important matter.

The WEB organization has met all of the requirements to begin construction of the project as soon as it is authorized and the funds released. The WEB organization has waited 2 years for the $1.9 million and it is important that the funds be made available as soon as possible.

Mr. President, I urge my colleagues to join me in support of H.R. 4347. South Dakota has made a major sacrifice for flood control, navigation, and hydroelectric power, mostly for the benefit of neighboring and downstream States. South Dakotans have long waited to receive compensation

for their sacrifices and H.R. 4347 would begin to repay South Dakota for its sacrifices.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., March 17, 1982.

To: Hon. LARRY PRESSLER.
From: American Law Division.
Subject: Whether Language in H.R. 4347 (97th Congress) Constitutes a Deauthorization of the Oahe Irrigation Unit.

This memorandum responds to the request of Mr. Ustad that our telephone conversation on the topic above be put into writing.

H.R. 4347 provides in section 3(b) that—

"Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts . . . shall not be constructed by the Secretary [of the Interior] . . ."

Research reveals no reason why the operative phrase—"shall not be constructed by the Secretary"—should be interpreted as anything less than a deauthorization of the specified features of the Oahe unit. The legal literature reveals no rule to the effect that Federal project deauthorizations can only be achieved through use of the term "deauthorize" or any other particular language.

The contemplated addition of the phrase "unless reauthorized by Congress" immediately following "shall not be constructed by the Secretary" seems to be unnecessary, given the foregoing interpretation. It is a truism that a deauthorized project remains so only until such time as it is reauthorized.

ROBERT MELTZ,
Legislative Attorney.

U.S. SENATE,
OFFICE OF THE LEGISLATIVE COUNSEL,
Washington, D.C., March 5, 1982.

MEMORANDUM

To: Senator Pressler.
Re deauthorizing language in H.R. 4347 relating to the WEB Pipeline.

You requested an opinion as to the effect of subsection (b) of section 3 of H.R. 4347 which provides as follows:

"(b) Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts, namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron Dams and Reservoirs; James and Byron Pumping Plants; and associated features; shall not be constructed by the Secretary, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon the study authorized by section 2 (a) (1) of this Act".

You have specifically asked about the effect of the language "shall not be constructed". If this bill is enacted into law, the effect of the language would be to deauthorize construction of the features specified in such subsection. Any future construction relaitng to such features would have to be specifically reauthorized by legislation.

Please do not hesitate to contact me if I can be of further assistance in this matter.

Respectfully,

WILLIAM F. JENSEN.

Mr. ABDNOR. Mr. President, I rise in strong support of H.R. 4347, as reported by the Committee on Energy and Natural Resources, and I urge its passage.

Congressman ROBERTS and I have authored this measure, with the cosponsorship of our colleagues in the South Dakota delegation; and while we would prefer to see it enacted in the form it was introduced, it is acceptable to us and to the State of South Dakota as it has been modified by the committee.

Repeatedly, on the floor of the House and the Senate, I have raised the issues which justify enactment of this measure; and my colleagues may wish to look in particular at page S8868 of the July 30, 1981, CONGRESSIONAL RECORD and page H8758 of the September 15, 1980, RECORD for further background. The committee report (S. Rept. 97-514) restates the case very well, however, and I ask unanimous consent that an excerpt from the report be reprinted at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND NEED

A comprehensive program for the development of the water resources of the Missouri River Basin was authorized by section 9 of the Act of December 22, 1944 (58 Stat. 887). The Act authorized the then War Department and the Secretary of the Interior to undertake a massive program based upon water resource development plans set forth during the 78th Congress in House Document 191 (the Bureau of Reclamation's proposal) as revised and coordinated in Senate Document 247. The reconciliation of the two plans became known as the Pick-Sloan Missouri Basin Program and called for construction by the Corps of Engineers of a series of main stem dams on the Missouri River in Nebraska, South Dakota, North Dakota, and Montana and irrigation of over 5 million acres to be served by Bureau of Reclamation facilities. Major project purposes included flood control, navigation, irrigation and municipal and industrial water supply, and electric power generation.

Under the Pick-Sloan program, South Dakota was to be the site of four main stem dams along the Missouri: Gavins Point, Fort Randall, Big Bend, and the Oahe. Identified for irrigation development were 972,000 acres of irrigable land. The main stem dams have been built at the expense of the flooding of over 530,000 acres of lands in South Dakota; much of which were fertile bottom lands along the Missouri River. However, the irrigation developments as authorized for South Dakota under the Pick-Sloan plan have not come to fruition. The strong support which South Dakota has given to the Pick-Sloan plan resulted, in effect, in benefits accruing to downstream states with virtually none accruing to the State which had made the greatest sacrifice.

Mr. ABDNOR. Mr. President, the committee is absolutely correct that virtually none of the irrigation benefits promised to my State have been provided, despite the fact we sacrificed over a half million acres to provide flood control for downstream States. The strong support of which the committee report speaks was predicated upon the Federal commitment to irrigation development in our State. It should be noted as well that there was also strong opposition to the program in the Dakotas. I myself, as a private citizen, was against construction of the high dams because of all the land required. Based upon the promise of Federal irrigation development, however, our major elected officials went along the program; and the supporters prevailed over the opponents.

Notwithstanding the promises which were made, the following tables demonstrate very graphically that we, along with our sister State to the north, have been left behind by comparison to the water development which has been undertaken both in the other States of the Missouri River basin and in the other 15 traditional Western reclamation States. I ask unanimous consent that these tables be printed at this point in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

ESTIMATED USE OF WATER IN THE UNITED STATES IN 1980

	Water withdrawal (million gallons per day)		
	Industrial	Irrigation	Total
Missouri Basin States:			
1. Colorado	910	14,000	14,910
2. Nebraska	2,300	9,300	11,600
3. Montana	280	11,000	11,280
4. Kansas	530	5,600	6,130
5. Missouri	5,800	130	5,930
6. Wyoming	420	4,900	5,320
7. Iowa	3,800	60	3,860
8. Minnesota	2,300	160	2,460
9. North Dakota	930	280	1,210
10. South Dakota	50	460	510
Reclamation States:			
1. California	12,400	37,000	49,400
2. Idaho	2,200	16,000	18,200
3. Texas	8,300	8,400	16,700
4. Colorado	910	14,000	14,910
5. Nebraska	2,300	9,300	11,600
6. Montana	280	11,000	11,280
7. Washington	1,030	6,400	7,430
8. Arizona	250	7,100	7,350
9. Oregon	520	5,900	6,420
10. Kansas	530	5,600	6,130
11. Wyoming	420	4,900	5,320
12. Utah	580	3m200	3,780
13. New Mexico	70	3,600	3,670
14. Nevada	240	3,100	3,340
15. Oklahoma	550	870	1,420
16. North Dakota	930	280	1,210
17. South Dakota	50	460	510

Source: Geological Survey 1980 update to Circular 765 (1982).

Mr. ABDNOR. Mr. President, these tables speak for themselves. The Dakotas, which together gave up over 1 million acres for the benefit of other Missouri basin States, have been forgotten and ignored. We have not received equal consideration, even if not for our sacrifice. Taking into account the tremendous acreage we relinquished, the failure of the Federal Government to honor its commitment to water development in the Dakotas becomes almost criminal. Considering that I was opposed to the high dams in the first place, I would be more than justified in being outraged, but I prefer instead to be hopeful.

Mr. President, the measure before the Senate today, H.R. 4347, constitutes a small step toward rectifying the great injustice which has been done to my State. Hopefully, it will help to get water development moving in South Dakota, consistent with the obligation of the Federal Government to do so. Specifically, it will reauthorize the WEB pipeline project, a sizable rural and municipal water supply project; it will authorize three studies which may lead to development of irrigation projects; and it will provide hydropower for several Indian irrigation projects funded by the Bureau of Indian Affairs, rather than through traditional procedures.

The latter provision has significance beyond its importance for the particular projects named in section 5 of the bill because it sets the precedent that Missouri basin hydropower will be provided for nonreclamation irrigation projects in the Missouri basin. In other words, the failure of the Bureau of reclamation to provide construction funding for irrigation developments, as promised, will no longer be a sufficient excuse to deny the hydropower allocated to these projects as well. The promised hydropower will be provided even if the local sponsors must finance construction of their projects through sources other than the Bureau of Reclamation.

In that regard it should be noted that the Indian projects covered by section 5 will use a very small portion of the Missouri hydropower allocated to irrigation development in our State. Over 300 million kilowatt hours of energy and over 170,000 kilowatts of power are allocated to irrigation in South Dakota under the Missouri basin program. For further information on water and power allocations under the program, my colleagues may wish to refer to my statement on page 1677 of the April 5, 1978, CONGRESSIONAL RECORD.

This measure takes a hopeful step in the direction of honoring the Federal commitment through the projects listed in section 5, and the committee has also included language in the bill which states: "* * * power shall also be made available to such additional irrigation projects as may be subsequently authorized to receive such power by act of Congress." This language renews in clear, explicit statutory terms the commitment of the Federal Government to follow through on its obligation to provide the hydropower as promised.

While not addressed directly in H.R. 4347, the provision of Missouri basin hydropower is vital to the CENDAK project, which will be studied under paragraph 3(a)(1) of the bill as a potential alternate use of facilities already constructed for use in conjunction with the Oahe unit. The Oahe unit was authorized by Public Law 90-453 (43 U.S.C. 371), approved August 3, 1968, but subsequently became embroiled in controversy, as noted in the committee report, and has been terminated. CENDAK has garnered substantial local support, however, and appears at this point to be a viable alternative, potentially to be constructed as a reformulation of the Oahe unit. If CENDAK can be constructed under the Oahe authorization, the hydropower can be provided under that authorization, too. If, on the other hand, CENDAK requires a new authorization, the language the committee has included in section 5 indicates that the power will be provided at that time.

Technically, it appears CENDAK could be constructed under the Oahe authorization, and I ask unanimous consent that the Oahe authorization be reprinted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PUBLIC LAW 90-453—AN ACT TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONSTRUCT, OPERATE, AND MAINTAIN THE INITIAL STAGE OF THE OAHE UNIT, JAMES DIVISION, MISSOURI RIVER BASIN PROJECT, SOUTH DAKOTA, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to construct, operate, and maintain in accordance with the Federal reclamation laws (Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto) the initial stage of the Oahe unit, James division, Missouri River Basin project, South Dakota, for the principal purposes of furnishing a surface irrigation water supply for approximately one hundred and ninety thousand acres of land, furnishing water for municipal and industrial uses, controlling floods, conserving and developing fish and wildlife resources, and enhancing outdoor recreation opportunities, and other purposes. The principal features of the initial stage of the Oahe unit shall consist of the Oahe pumping plant (designed to provide for future enlargement) to pump water from the Oahe Reservoir, a system of main canals, regulating reservoirs, and the James diversion dam and the James pumping plant on the James River. The remaining works will include appurtenant pumping plants, canals, and laterals for distributing water to the land, and a drainage system.

SEC. 2. The conservation and development of the fish and wildlife resources and the enhancement of recreation opportunities in connection with the initial stage of the Oahe unit shall be in accordance with the provisions of the Federal Water Project Recreation Act (79 Stat. 213). Construction of the initial stage of the Oahe unit shall not be commenced as long as the State of South Dakota retains in its laws provisions that prohibit the hunting of migratory waterfowl by nonresidents in the waterfowl enhancement areas included within the area served by the project herein authorized.

SEC. 3. The Oahe unit shall be integrated physically and financially with the other Federal works constructed or authorized to be constructed under the comprehensive plan approved by section 9 of the Act of December 22, 1944, as amended and supplemented.

SEC. 4. For a period of ten years from the date of enactment of this Act, no water from the project authorized by this Act shall be delivered to any water user for the production on newly irrigated lands of any basic agricultural commodity, as defined in the Agricultural Act of 1949, or any amendment thereof, if the total supply of such commodity for the marketing year in which the bulk of the crop would normally be marked is in excess of the normal supply as defined in section 301(b)(10) of the Agricultural Adjustment Act of 1938, as amended, unless the Secretary of Agriculture calls for an increase in production of such commodity in the interest of national security.

SEC. 5. The interest rate used for purposes of computing interest during construction and interest on the unpaid balance of the capital costs allocated to interest-bearing features of the project shall be determined by the Secretary of the Treasury, as of the beginning of the fiscal year in which construction is initiated, on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations, which are neither due nor callable for redemption for fifteen years from date of issue.

SEC. 6. There is hereby authorized to be appropriated for construction of the initial stage of the Oahe unit as authorized in this Act the sum of $191,670,000 (based upon January 1964 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering costs indexes applicable to the types of construction involved herein. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the unit.

Mr. ABDNOR. It may be argued that the CENDAK proposal is significantly enough different from the originally authorized Oahe unit plan that it should be reauthorized. Realistically speaking, that is no doubt the most likely course of action if the results of the study are positive. CENDAK could be constructed under the terms of Public Law 90-453, however, particularly in light of the provisions of paragraph 3(a)(1) and subsection 4(b) of the measure before us.

Paragraph 3(a)(1) provides for a study of alternate uses of Oahe unit facilities, and subsection 4(b) lists certain facilities which cannot be constructed under the existing authorization. If the listed facilities cannot be constructed "without further action by the Congress," as stated in section 4(b), the implication is clear that other facilities can be constructed. That implication is made still more clear by the clause which follows: "* * * nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by paragraph 3(a)(1) * * *" Therefore it is quite clear that features identified in the study authorized in paragraph 3(a)(1) can be constructed under the author-

ity of Public Law 90-453, so long as they are not explicitly prohibited from construction "without further action by the Congress," under the terms of subsection 4(b). To construct the features identified under paragraph 3(a)(1), the Secretary would recommend their development to Congress through the Department's budget submission, and Congress would determine whether to appropriate the necessary funds.

I ask unanimous consent that subsection 4(b) of H.R. 4347 be reprinted at this point in the RECORD.

There being no objection, the subsection was ordered to be printed in the RECORD, as follows:

Those features of the authorized plan of development for the Oahe unit, initial stage, which were designed for and could be used only to deliver irrigation water to the Spink and West Brown irrigation districts namely: Faulkton, Cresbard, West Main, Redfield, James, and East Canals; Cresbard and Byron dams and reservoirs; James and Byron pumping plants; and associated features; shall not be constructed by the Secretary without further action by the Congress, but nothing in this Act shall be deemed to limit the authority of the Secretary to recommend development of other features, based upon any study authorized by section 3(a)(1) of this Act.

Mr. ABDNOR. Mr. President, there has been quite a controversy over the language of subsection 4(b). This controversy delayed action on the bill in the House Agriculture Committee; and the words, "without further action by the Congress," were added at the insistence of the Oahe Conservancy Subdistrict. Whereas the subsection previously stated simply that the listed facilities "shall not be constructed," now the implication is clearly present in the compromise language that Congress may act to reauthorize construction of those facilities. I do not believe that is likely, but I have raised the issue to show how petty differences can be made into major obstacles and, in fact, have been made into obstacles to the passage of H.R. 4347.

The last thing South Dakotans need is to continue needlessly to fight among ourselves. Doing so will only make it easier for the Federal Government to continue to ignore us.

On March 2, 1982, Commissioner Broadbent wrote to me on this particular issue. His letter makes very clear that the objectionable features of the Oahe unit plan could not have been constructed under the terms of subsection 3(b), which has become subsection 4(b) in the committee amendments, prior to the addition of the language, "without further action by the Congress," upon which the Oahe Subdistrict insisted. I ask unanimous consent that the Commissioner's letter be reprinted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., March 2, 1982.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR ABDNOR: In response to your letter of earlier today, this is to confirm your understanding of the meaning of the language of subsection 3(b) of S. 1553/H.R. 4347 regarding the construction of certain features of the authorized Oahe unit, initial stage. The Department has endorsed enactment of this legislation with amendments.

In our view the language of subsection 3(b) is clear on its face. The listed facilities could not be constructed under this provision unless Congress were to reverse itself and reauthorize them. Enacted into law, subsection 3(b) would preclude construction of those facilities by the Department.

While the intent of the language is clear as it is, we would have no objection to a technical amendment citing House Document 90-163 in order to further and more formally identify the features not to be constructed.

I regret any confusion which has resulted on this point as a result of the August 31, 1981, letter addressed to Mr. John Sieh by Acting Assistant Commissioner Aldon Nielson. Hopefully, this will clarify the legal interpretation of subsection 3(b).

Sincerely yours,

ROBERT N. BROADBENT,
Commissioner.

Mr. ABDNOR. Again, this was a minor misunderstanding which was blown all out of proportion, into a major, public, confrontation simply because of the petty differences of the parties involved. South Dakotans must guard against future incidents of this sort or we will have no one but ourselves to blame for the results. There is no reason why such differences cannot be settled quietly, dispassionately, and without fanfare; and the results will not be good if South Dakotans cannot learn to do so among ourselves, rather than in the press and before congressional committees in Washington.

Washington is not the seat of all wisdom, nor can the Federal Government respond to a Tower of Babel of voices from South Dakota. It is for that reason that I believe two apparently minor provisions of section 3 may prove to be major in importance; that is, the provision in subsection 3(a) which directs the Secretary to conduct the authorized studies "in cooperation with the State of South Dakota" and the provision in subsection 3(c) which allows the Secretary to contract with the State to carry our the studies.

These provisions will be important for several reasons, not the least of which is that the State can speak as a single, authoritative voice for the best overall interests of the people of the State. In addition, by conducting the studies with and through the State, the Bureau of Reclamation will be able to avoid the bureaucratic redtape and delays associated with the Federal procurement process. The Reagan administration has worked to eliminate bureaucratic requirements which exist only for their own sake, and the provisions of subsection 3 (a) and (c) will enable the Department to cut the redtape in this instance. Finally, in view of its past failings, the credibility of the Federal Government is not great in our State. Having the State play a major role in the studies will enhance in the eyes of South Dakotans the validity of the findings and will increase the likelihood of success in developing the projects.

On that note, the one, major project which will actually be brought to the construction stage through enactment of H.R. 4347 is the WEB pipeline project. Considering the relatively short period of time since WEB was conceived, as compared to the much longer period it takes normally to authorize water projects, WEB has a very intricate history, one which would require many words fully to explain. I will try to give an admittedly less-than-complete summary in a few words, however.

As pointed out in the committee report, the area to be served by WEB is characterized by inadequate water supplies, both in terms of quality and quantity. Much of the water consumed by citizens in the area does not meet Safe Drinking Water Act standards; and the dual quality and quantity problems prompted citizens in Walworth, Edmunds, and Brown Counties to band together in search of a feasible solution. Thus, the name, WEB, resulted from the first initial of each of the three originally organized counties. Subsequently, others in other counties expressed interest in joining; and WEB's engineering firm determined that the presently proposed area, involving 51 towns and about 30,000 people in portions of 10 counties, could feasibly be served by one system using the Missouri River as a source.

WEB is solely a rural and municipal domestic and livestock water supply system. It will use a relatively small quantity of water, only about 6,000 acre-feet annually, and in that sense is more a public health project than it is a water development project. Nevertheless, it will have beneficial economic impacts upon livestock production in addition to the obvious health, convenience, and esthetic benefits. It will not be an inexpensive source of water, but it will certainly be cheaper than hauling water, as one community was forced to do last winter. It will be cheaper, too, than many of the existing, inadequate wells which provide poor quality water and can fail with little warning.

WEB will be reauthorized through enactment of H.R. 4347. It was authorized initially in the Rural Development Policy Act of 1980, and first year

funding in the amount of $1.9 million was appropriated in the fiscal year 1981 Interior appropriations. The House attempted to rescind these funds, however. At my urging, the Senate refused to do so, but the House insisted in the conference that the funds be deferred until the project is reauthorized. Section 1 of the measure before us today reauthorized WEB, thereby meets the conditions of the deferral and directs that the first year funding be released for obligation.

Mr. President, this incident involving first year funding for WEB is yet another episode in a long and continuing tale of how South Dakotans have been promised one thing and given another, or perhaps I should say given almost nothing at all, in the context of the Pick-Sloan Missouri Basin program commitment to water development in the Dakotas. Although I had been assured, once the Senate had rejected the House-passed deferral, that the house would give us no further trouble on the WEB funds, we were betrayed and the House conferees did insist that the funds be deferred. In order to refute certain misrepresentations being made by the House conferees, my staff prepared and I circulated at the afternoon session of the conference committee a seven-point factsheet. The House conferees were not interested in the facts, however, and continued to insist that the funds be deferred. Facing a delay in progress in resolving other differences in the bill and in view of the fact the House conferees had relented to the degree of insisting only on a delay in expenditures of the funds, and not a rescission as the House had originally proposed, the Senate conferees were forced to agree to the WEB funding delay insisted upon by the House.

Immediately upon conclusion of the conference committee, I wrote Chairman YATES, who headed the House conferees on this issue, to express my disappointment and displeasure. Enclosed with my letter was another copy of the seven-point factsheet which I had presented to him at the conference committee meeting. I ask unanimous consent that the letter and factsheet be reprinted at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 3, 1981.

Hon. SIDNEY YATES,
Chairman, Subcommittee on Interior, House Committee on Appropriations, Washington, D.C.

DEAR SID: As you know, the history is not good with respect to the Federal Government living up to its commitment to South Dakota to provide water development assistance to offset our sacrifice of over 500,000 acres for the flood control benefit of downstream states. It is a history of changing authorizations through appropriations to delay and deny the water development needed and promised to my state.

You are well aware that I consider the action just taken by the appropriations conference committee to be a continuation of that history, as per the seven points on the attached sheet. Be that as it may, however, can we be assured that if "the conditions of Section 9(b) of Public Law 96-355 regarding deauthorization of the Oahe Unit have been met," that you will support funding the WEB project to completion?

More specifically, officials at OMB have indicated to WEB that $33 million is available for their project in the fiscal year 1982 budget, under the Interior Secretary's contingency fund. I have attempted to obtain some assurance from Interior and OMB that these funds will, in fact, be made available to WEB. The language which you moved in conference would seem to imply that WEB's funding problems will be resolved when continued authorization is assured. Is that the case as far as your subcommittee is concerned, and will you support the provision of $33 million for WEB in fiscal year 1982?

Again, Sid, I sincerely believe that the interests of my state are being deeply wronged. In fairness, any further consideration you can give us will be appreciated, particularly with respect to the prospect of fiscal year 1982 funding for WEB.

With best wishes,

Sincerely,

JAMES ABDNOR,
United States Senator.

Enclosure.

Per section 9(a) of Public Law 96-355, fiscal year 1981 funding for the WEB project in the amount of $1.9 million is not contingent upon deauthorization of the Oahe Unit.

The agreement between the Carter Administration and the South Dakota Congressional delegation and enacted by Congress provides for a period, ending September 30, 1981, during which the terms of deauthorization of the Oahe Unit should be negotiated.

In view of critical water supply needs, now aggravated by the drought, the WEB project was to be initiated without delay as part of the Oahe "settlement."

The South Dakota Congressional delegation is working to achieve an acceptable settlement and has requested Congressional field hearings on the necessary legislative action.

Deferring fiscal year 1981 funding for WEB will contravene the intent of Public Law 96-355 and negate the agreement between the Carter Administration and the South Dakota Congressional delegation which was reached through long and arduous discussions.

South Dakotans have been waiting for years for the Federal Government to live up to its commitment to provide water development assistance to offset over 500,000 acres relinquished for flood control reservoirs for the benefit of downstream states.

Deferring fiscal year 1981 funding for WEB is not consistent with the clear intent of the authorization act and would be further evidence to the people of South Dakota that the Federal Government cannot be trusted to live up to its commitments.

(Note: The Oahe unit was initially authorized in the Flood Control Act of 1944, which also authorized construction of the dams and reservoirs which have taken so much of our land, only in effect to be deauthorized in a Missouri Basin Program monetary authorization act in 1964. It was reauthorized in 1968, only to be stymied again. Now an appropriations act has been used to contravene the first year funding for WEB, in clear contradiction to the authorization.)

Mr. ABDNOR. Mr. President, Chairman YATES never replied to my letter; but I have heard thirdhandedly, through Congressman DASCHLE'S office that the language in H.R. 4347 with respect to WEB is adequate to insure that Chairman YATES and the House will cause no further problems with the funding of WEB. I wish I could be confident that such will be the case. Bitter experience would cause me to feel otherwise, but, again, I prefer to be hopeful.

Lest there be any further confusion on that point, however, I ask unanimous consent that a pertinent excerpt from the Senate committee report be reprinted at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Section 1 reauthorized the WEB Rural Water Development project authorized by section 9 of the Rural Development Policy Act of 1980 (Public Law 96-355; 94 Stat. 1175, 1176), as amended by section 2 of this Act, and authorizes the Secretary of the Interior to proceed with the development of the WEB Rural Water Development project and make immediately available any funds heretofore previously appropriated.

It should be noted that the sum of $1,900,000 was appropriated to the Department of the Interior on December 12, 1980, by the Department of the Interior and Related Agencies Appropriations Act, fiscal year 1981 (94 Stat. 2970), for initial planning and construction for the WEB Rural Water Development project, and that on June 5, 1981, the Supplemental Appropriations and Rescission Act of 1981 (95 Stat. 46), deferred obligation of said funds until the conditions of section 9(b) of the Rural Development Policy Act of 1980 (Public Law 96-355), regarding deauthorization of the Oahe unit, had been met. H.R. 4347, as amended, meets those conditions.

Mr. ABDNOR. Thus, Mr. President, the Senate committee removes any doubt as to the authority to proceed with development of WEB and the availability of first year funding. Prospects for funding for fiscal year 1983 and beyond are uncertain at this point due to budgetary constraints, but the funds which were appropriated for obligation in fiscal year 1981 will be released immediately to initiate construction.

So after numerous fits, starts, and frustrations it appears the WEB project may at last get underway. The success of WEB, together with the progress on the irrigation projects addressed in the bill, can provide the impetus and the inspiration toward the development of other projects in South Dakota so that we can begin to capitalize upon the great potentials which the huge Missouri River reservoirs afford. For the hope that H.R. 4347 represents for the future of water

development in my State, a number of people have my deepest gratitude.

Foremost among those responsible for passage of H.R. 4347 today is my good friend and colleague, Senator FRANK MURKOWSKI, the chairman of the Subcommittee on Water and Power, who scheduled and sat through a long and hot field hearing in Pierre, S. Dak., followed up with the requisite hearing here in Washington, and shepherded the bill through the Committee on Energy and Natural resources and to the floor of the Senate. The chairman has been ably assisted throughout by Mr. Russell Brown of the committee staff, and the unanimous vote by which the committee reported the bill to the floor is a testament to Mr. Brown's work.

Finally, Mr. President, I have spoken repeatedly of the sacrifice made by the Dakotas for the benefit of other States under the Pick-Sloan Missouri Basin program. Mr. Michael L. Lawson, a historian in the BIA's Office of Rights Protection in Aberdeen, S. Dak., has written a book on this subject as it relates to the Indian people of the Dakotas. The foreword to Mr. Lawson's book, entitled "Dammed Indians: The Pick-Sloan Plan and the Missouri River Sioux, 1944-1980," was written by Mr. Vine Deloria, Jr., who has authored such works as "Custer Died for Your Sins" and "Behind the Trail of Broken Treaties."

I ask unanimous consent that the following review of "Dammed Indians" by the University of Oklahoma Press be reprinted at this point in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

Increasingly in the twentieth century the United States has used its powers of eminent domain to seize large parcels of Indian land for flood-control and reclamation projects. The Pick-Sloan Plan in the Missouri River Basin was developed by the United States Corps of Engineers and the Bureau of Reclamation in 1944. It caused more damage to Indians than any other public works project in America and was perhaps the single most destructive act perpetrated against an Indian tribe by the United States. Three of the dams constructed—the Fort Randall, Oahe, and Big Bend dams—flooded over 202,000 acres of profitable Sioux bottomland on the Standing Rock, Cheyenne River, Lower Brule, Crow Creek, and Yankton reservations in North Dakota and South Dakota.

Using the Sioux reservations flooded by the Pick-Sloan Plan as examples of federal acquisition of trust land and the application of recent Indian policies, Michael L. Lawson sketches briefly the history of the Missouri Basin, the Pick-Sloan legislation, and the land and peoples of the reservations. He chronicles eloquently and thoroughly the events from the 1940s through the 1960s, when the impact of the federal water projects was most keenly felt, and describes in detail the personalities and agencies involved.

"One cannot read this book without a shudder of fear at bedtime that one's life and property may someday fall victim to ruthless, power-mad federal agencies."—Vine Deloria, Jr., in his foreword to "Dammed Indians."

Mr. ABDNOR. Mr. President, while I do not shudder in fear or share Mr. Deloria's view that the Bureau of Reclamation and the Corps of Engineers are "ruthless, power-mad Federal agencies" his comments do make a valid point. The institutional effect of the actions of these agencies through the Pick-Sloan program has been inexcusable, even though the officials of these agencies may have acted with the best of intentions. In H.R. 4347, however, we have the threads of hope that the wrong which has been done will be righted, both for the Indian and the non-Indian people of my State alike.

Mr. President, I am committed to developing the water resources of our State and to seeing to it that the Federal Government carries out its obligations in that regard. H.R. 4347 is a good stride in the right direction and I urge its enactment.

The committee amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 448) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6409, a bill to authorize appropriations for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes. Such waiver is necessary to allow the authorization of an appropriation of $10,000,000 for the costs of the design and fabrication of exhibits, and the appointment by the President of a commissioner general for the exposition. The need for the expeditious passage of authorizing legislation is great. There are less than two years remaining to put together a presentation of which the American people can be proud.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982, deadline because the committee was unaware of the time constraints on the planners of the exposition and the administration had failed to formally request authorizing legislation prior to the deadline.

The effect of defeating consideration of this authorization will severely impede the preparations for the Louisiana World Exposition.

The desired authorization will not delay the appropriations process and is being accommodated in the supplemental appropriation.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

U.S. PARTICIPATION IN THE LOUISIANA WORLD EXPOSITION

The Senate proceeded to consider the bill (H.R. 6409) to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes, which had been reported from the Committee on Foreign Relations with an amendment. On page 11, after line 24, insert the following:

SEC. 16. (a) That section 3 of the Act of May 27, 1970 (84 Stat. 272; 22 U.S.C. 2803), is amended by—

(1) striking out "The" and inserting in lieu thereof "(a) The";

(2) redesignating clauses (a), (b), and (c) as clauses (1), (2) and (3), respectively;

(3) striking out all after the period where it first appears in clause (3) as redesignated in clause (2) of this Act and inserting in lieu thereof the following: "The Secretary of Commerce shall include in such plan any documentation described in subsection (b)(1)(A) of this section, a rendering of any design described in subsection (b)(1)(B) of this section, and any recommendation based on the determination under subsection (b)(1)(C) of this section."; and

(4) by adding at the end thereof the following new subsections:

"(b)(1) In developing a plan under subsection (a)(3) of this section the Secretary of Commerce shall consider whether the plan should include the construction of a Federal pavilion. If the Secretary of Commerce determines that a Federal pavilion should be constructed, he shall request the Administrator of General Services (hereinafter in this section referred to as the 'Administrator') to determine, in consultation with such Secretary, whether there is a federally endorsed need for a permanent structure in the area of the exposition. If the Administrator determines that any such need exists—

"(A) the Administrator shall fully document such determination, including the identification of the need, and shall transmit such documentation to the Secretary of Commerce;

"(B) the Secretary of Commerce, in consultation with the Administrator, shall design a pavilion which satisfies the federally endorsed needs for—

"(i) participation in the exposition; and

"(ii) permanent use of such pavilion after the termination of participation in the exposition; and

"(C) the Secretary of Commerce shall determine whether the Federal Government should be deeded a satisfactory site for the Federal pavilion in fee simple, free of all

liens and encumbrances, as a condition of participation in the exposition.

"(2) Notwithstanding paragraph (1)(B) of this subsection, if the Secretary of Commerce, in consultation with the Administrator, determines that no design of a Federal pavilion will satisfy both needs described in paragraph (1)(B) of this subsection, the Secretary shall design a temporary Federal pavilion.

"(c) The enactment of a specific authorization of appropriations shall be required—

"(1) to construct a Federal pavilion in accordance with the plan prepared pursuant to subsection (a)(3) of this section;

"(2) if the Federal pavilion is not temporary, to modify such Federal pavilion after termination of participation in the exposition if modification is necessary to adapt such pavilion for use by the Federal Government to satisfy a need described in subsection (b)(1)(B)(ii) of this section; and

"(3) if the Federal pavilion is temporary, to dismantle, demolish, or otherwise dispose of such Federal pavilion after termination of Federal participation in the exposition.

"(d) For the purposes of this section—

"(1) a Federal pavilion shall be considered to satisfy both needs described in subsection (b)(1)(B) of this section if the Federal pavilion which satisfies the needs described in paragraph (1)(B)(i) of such subsection can be modified after completion of the exposition to satisfy the needs described in paragraph (1)(B)(ii) of such subsection, provided that such modification shall cost no more than the expense of demolition, dismantling, or other disposal, or if the cost is higher, it shall be no more than 50 per centum of the original cost of the construction of the pavilion; and

"(2) a Federal pavilion is temporary if the Federal pavilion is designed to satisfy the minimum needs of the Federal Government described in subsection (b)(1)(B)(i) of this section and is intended for disposal by the Federal Government after the termination of participation in the exposition.".

Mr. JOHNSTON. Mr. President, I am both pleased and gratified to see the Senate take up H.R. 6409 today, legislation which authorizes the participation of the United States in the 1984 Louisiana World Exposition scheduled to be held in New Orleans from May 12, 1984, through November 11, 1984.

Sections 1 through 15 of H.R. 6409 as reported incorporate the main concepts of S. 2701, legislation which the senior Senator from Louisiana and I introduced on June 30 to provide for U.S. participation in the New Orleans World Fair. The committee amendments authorize the appropriation of $10 million for expenses associated with the planned exhibits, personnel necessary to staff the U.S. pavilion and other necessary expenses associated with our responsibilities as host nation. No funds are authorized in the amendments for construction of the pavilion itself. Instead, this facility will be built with local funds and will be leased to the United States for a nominal sum. After the Expo is finished, the site, all permanent structures and improvements will be returned to private developers and public use.

The $10 million authorized is considerably less than the total Federal investment made in the two most recent world fairs held in the United States in Spokane, Wash., in 1974—$11.5 million—and in Knoxville, Tenn., this year—$20.8 million. Moreover, the Federal investment authorized in H.R. 6409 is less than 10 percent of the State and local commitments made to date—$100 million and $50 million respectively. As the report accompanying H.R. 6409 points out, "the organizers have presented the Congress with the minimum possible funding request for U.S. participation, in keeping with the current budget restraints being addressed by the Congress and the Nation." The administration supports enactment of this authorization, Mr. President, and I was pleased to note that the Foreign Relations Committee ordered it favorably reported by voice vote.

Mr. President, the need for expeditious action on this measure is critical. Funding for the United States participation requested by the administration was included in the fiscal year 1982 supplemental appropriations bill, but none of the funds can be made available until the authorization is enacted. I believe the need for urgent action is amply explained in a letter from the Assistant Secretary for Trade Development in the Department of Commerce to the majority leader and I ask unanimous consent that this letter be printed in full in the RECORD at this point.

I urge approval of this measure and hope congressional action on it will be completed prior to the upcoming recess.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. HOWARD H. BAKER, Jr.
Majority Leader,
U.S. Senate, Washington, D.C.

DEAR HOWARD: On behalf of the Department of Commerce, I urge you to help expedite authorizing legislation for the 1984 Louisiana World Exposition. As you know, the legislation has cleared the Senate Committee on Foreign Relations and is awaiting consideration before the Senate floor. Not only will passage of this bill permit the Department of Commerce to proceed on this project, but it also will make it possible for the President to nominate a Commissioner General of the United States for this exposition. Until that time, I have been appointed to be the United States Commissioner General.

While I appreciate the critical nature of the numerous issues before you, I want to alert you to the very serious time pressures faced by the Department of Commerce as we seek to provide a suitable Federal presence at the 1984 Louisiana World Exposition. Even if we already had Congressional authorization and appropriations in hand, we would be facing the shortest deadline we have ever faced for a BIE-sanctioned exposition. May 1984 is now less than two years away, and there is much to be done. Until we receive Congressional approval for this project, we cannot sign the contracts or hire the staff necessary for the most important phase of this undertaking.

If action on this measure is delayed until the fall months, I have grave doubts that the U.S. Pavilion can be completed in time for opening day. I am sure that with your knowledge of international expositions, you will agree that as the host nation for this exposition, we cannot permit such an unfortunate occurrence to take place. It would be a blow to our international prestige and standing in the BIE and could endanger future U.S. expositions requiring BIE approval.

I appreciate your consideration and assistance in this matter.

Sincerely,

W. H. MORRIS, Jr.,
Assistant Secretary
for Trade Development.

Mr. HOLLINGS. Mr. President, I am pleased that the Committee on Foreign Relations has amended H.R. 6409 by adding most of the substance of S. 1482, that Senator WEICKER and I introduced to provide a procedure for determining the need for permanent facilities for U.S. participation at international expositions. As the committee's report indicates, S. 1482 was based on a series of recommendations by the General Accounting Office, in report No. 81-11 of March 20, 1981, and are designed to avoid unnecessary expenditures and maximize residual use of U.S. pavilions constructed as part of such expositions in the future. I requested the GAO report as the former chairman of the State, Justice, Commerce, the judiciary and Related Agencies Appropriations Subcommittee, that Senator WEICKER now chairs, and of which I am the ranking minority member. The GAO also submitted an earlier report in June 1976 that came to the same conclusions.

The current Knoxville World's Fair is evidence of why this legislation is needed. We have built a $12,800,000 building down there and no one knows what to do with it after the Fair is over. They are now thinking of making an arts center out of it. While we all support the arts, it is obvious they are straining to find a use for the building. You may recall that in New York, the Federal Government had to spend $530,000 to demolish the beautiful $10,400,000 pavilion we built there, when no use could be found for it. We have got to treat the taxpayers better than that in the future.

I believe that U.S. participation in international expositions is good in the context that it promotes the sale of our products or substantially draws international visitors to the United States. However, Senator WEICKER and I are among the many that are concerned that these events are becoming thinly disguised urban renewal projects, with huge amounts of Federal funds being passed through the back door in grants that result in far greater costs than is readily evident.

In Knoxville for example, GAO documented $23,000,000 in Federal funds went out through the back door in addition to the $21,800,000 appropriated directly for U.S. participation—and that does not count all the highway improvements.

By training the spotlight on Knoxville, we held things down in New Orleans so that this bill contains the $10,000,000 lid that the President imposed on U.S. participation. That is salutory indeed and is commendable, but these proposals are always last-minute, hurry-up matters. Our bill would insure that permanent facilities not be constructed unless the after use is clearly identified, a change that I believe the Congress should grasp if only to protect us from ourselves.

Therefore, I am concerned that the amendments proposed by the Committee on Foreign Relations may weaken the reforms we seek with regard to the facilities constructed for U.S. participation in international expositions. The committee has changed our original language so that a "federally endorsed" need has to be determined for future structures for U.S. pavilions instead of a strictly "Federal Government need" in S. 1482.

The committee's hearing on S. 1482 is printed in the report. Senator MATHIAS used that opportunity to show the difference between a "Federal need" and a "federally endorsed" need. On page 22 he noted that the fine officers quarters at the Norfolk Naval Base were constructed as part of the Jamestown Exposition of 1907. This certainly is a true Federal need, but not likely to come along often. On the other hand, he mentions the pavilion in Golden Gate Park that was left over from the Golden Gate Exposition. I agree with Senator MATHIAS that pavilion is beautiful, and with that example of a "federally endorsed" need, as the after-use of that building was clearly in the public's interest. If Knoxville had presented us with a pavilion with a continuing use—such as the one in San Francisco—perhaps I would not have been as aroused about this, but we were asked to build a $12,800,000 pavilion that they are now scrambling for someone to use after the fair.

Mr. President, based on the above examples, I cannot object to the term "federally endorsed" being inserted in our bill. That is considerable progress from the conditions that now govern these international expositions.

Mr. BAKER. Mr. President, I might say that I wish the city of New Orleans and the State of Louisiana well in their efforts for a world exposition and world fair. Being a native of Tennessee, as I am and of my hometown of Knoxville, I can attest to the extraordinary effort that is required to consummate an undertaking, but the great satisfaction that results from a successful exposition, and I wish them well.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRANSFER OF CERTAIN LAND TO HOBOKEN, N.J.

The Senate proceeded to consider the bill (H.R. 3620) transferring certain Federal property to the city of Hoboken, N.J., which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 1, line 4, strike "transfer", through and including "value,", and insert the following: "transfer for the fair market value as determined by the General Services Administration under the guidelines set forth in this Act, at a price to be negotiated,"

On page 3, after line 12, insert the following:

SEC. 2. In making its determination of fair market value, the General Services Administration shall recognize that the fair market value of the property is determined by the market in which it shall be sold, with the city of Hoboken being the only potential purchaser. The General Services Administration shall make every effort to expedite the sale and transfer of the property to the city of Hoboken, recognizing the hardship which would result in any undue delay in lengthy negotiations. The General Services Administration shall give full consideration to the right of the Federal Government to be compensated for the property while considering the city of Hoboken's ability to pay for the property. Furthermore, the General Services Administration shall give consideration and recognition to whatever funds and costs the Federal Government has invested in the property. The General Services Administration shall also give consideration to the fact that the city of Hoboken has been deprived of tax revenue from the property since its acquisition by the United States, in 1917, but has been required, despite its loss of tax revenue, to provide municipal services to the property.

On page 4, line 8, strike "2." and insert "3."

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. STEVENS. Mr. President, H.R. 3620 is a bill to transfer certain property located in Hoboken, N.J. from the Federal Government to the city of Hoboken. The transfer will be made at fair market value, under guidelines specified in the bill. The bill was reported out unanimously by the Governmental Affairs Committee on June 17, 1982, and the committee report was printed on August 11, 1982.

I also ask unanimous consent to insert into the RECORD at this time two letters received by Chairman ROTH on the issue of whether a related transfer of land from the Maritime Administration to the Department of Agriculture shall be made for monetary consideration. I want to emphasize, however, that this intra-agency transfer of property is not the subject matter of the bill before us.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C., August 16, 1982.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in regard to H.R. 3620, a bill providing for the sale of the Hoboken Pier Terminals. The bill was reported out of your Committee recently.

The property has been under the jurisdiction of the Maritime Administration since 1917. One parcel of the property has been occupied by the Department of Agriculture; this parcel is not subject to sale. It was my Committee's intent that this excluded portion be transferred from the Maritime Administration to the Department of Agriculture without compensation. As I understand it, the General Services Administration has recently established a policy that transfers of property between Federal agencies shall be compensated. I thought it important that the intent of the Committee on Merchant Marine and Fisheries be clarified on this point. I would hope that you concur in this judgment and that the Department of Agriculture will be relieved of complying with the new policy laid down by the General Services Administration.

Sincerely,

WALTER B. JONES,
Chairman.

U.S. SENATE, COMMITTEE ON GOVERNMENTAL AFFAIRS, SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENT PROCESSES,
Washington, D.C., August 18, 1982.

Hon. WILLIAM V. ROTH, Jr.
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR BILL: I am writing you to clarify my intentions with regard to H.R. 3620, the Hoboken Pier Terminals bill.

As you know, I offered an amendment to the bill to require that the property be transferred at the full fair market value. The determination of full market value is to take into consideration several factors including the planned use of the property, as well as Hoboken's ability to pay. Since marking up the bill, some questions have been raised as to whether this fair market standard was intended to cover a portion of the Hoboken Piers property that is to be

transferred from one federal agency to another.

The portion of the property I am referring to has been under the jurisdiction of the Maritime Administration since 1917. It has been occupied by the Department of Agriculture. This parcel is not part of the sale to the city of Hoboken.

I fully support the President's policy, as explained in the 1982 budget message, of requiring full fair market value payment by federal agencies when transferring excess property from one agency to another. It is my intention that for any portion of the Hoboken Piers property which is transferred from one agency to another, the receiving agency pay full fair market value. Also, any such transfer should be reviewed and approved by the Federal Property Review Board. Any exceptions to this policy should come only if approved by the Federal Property Review Board.

Thank you for your cooperation on this matter.

Warm personal regards,

CHARLES H. PERCY,
Chairman.

Mr. BRADLEY. Mr. President, the measure which the Senate is now considering is one of utmost importance to the people of New Jersey. Very briefly, this legislation which I am pleased to sponsor authorized the sale of approximately 50 acres of Federal property to the city of Hoboken, N.J. With the anticipated sale of the property, the city of Hoboken will be able to turn blighted land and burned-down piers into economically productive property.

This extraordinary legislation is necessary to dispose of the property because the legal and leasing arrangements which now govern the property prevent its economic development and prevent any transfer under normal administrative means. This legislation, H.R. 3620, sponsored in the House of Representatives by Congressman FRANK GUARINI, will provide for the expedited sale of the property to the city of Hoboken.

I am particularly pleased that this legislation provides for the sale of the property in a manner which is fair to all parties involved—the people of New Jersey, the city of Hoboken, and the Federal Government. The General Services Administration is specifically directed to consider the enormous burden which Federal ownership of the property has placed on Hoboken for over 50 years and must make every effort to expedite the transfer of the property to relieve Hoboken of this hardship without undue delay.

Mr. President, the passage of this legislation represents an important first step in our effort to rebuild our urban waterfronts. I thank the members of the Governmental Affairs Committee for their assistance in bringing this legislation before the Senate. I hope that this measure will soon become law so that we may begin to rebuild Hoboken's waterfront without delay.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I thank the minority leader for his cooperation on this extensive list of items to be dealt with by unanimous consent.

Now, Mr. President, I see my fondest wish has been realized. There is a messenger from the House of Representatives at the door seeking admission, and I yield for that purpose.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, as I indicated earlier in my remarks during morning business, it is my hope that the Senate will proceed now to the consideration of this item of this important conference report which has just been adopted by a substantial margin in the other body.

I am prepared now, Mr. President, to ask the Chair to lay before the Senate and I do ask unanimous consent that the Chair lay before the Senate, the conference report on H.R. 4961.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The clerk will report.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there a reservation there?

Mr. ROBERT C. BYRD. I beg the Chair's pardon?

The PRESIDING OFFICER. Is there a reservation?

Mr. ROBERT C. BYRD. I beg the Chair's pardon?

The PRESIDING OFFICER. Did the minority leader reserve the right to object?

Mr. ROBERT C. BYRD. Yes, momentarily.

Mr. President, I personally have no objection, but I am reserving the right to object in order to protect my colleagues on this side who may or may not wish to object. For the moment I continue my reservation.

Mr. LONG. Mr. President, reserving the right to object, I just do not believe that for the Senate to vote on this conference report that anybody ought to have any commitment, anybody ought to receive a commitment, and, therefore, I object, and I will continue to object as long as the condition of bringing this conference report up here is that somebody has to make some agreement with somebody to do anything. This is something we are all entitled to vote on regardless of how we want to vote, and I just object to doing business that way.

One hundred Senators are entitled to vote on the conference report however they want to vote, and I do not think as a condition of voting on that we have to agree to do anything for anybody, and I therefore object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, Senators should pay attention because I really want to ask the Senate to act on this request, if it will. I ask unanimous consent that the Senate now proceed to the consideration of the conference report on H.R. 4961.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I withdraw my request for the time being. We are still in morning business and I believe one or two Senators are seeking recognition.

THE SOVIET DAY OF SHAME

Mr. ZORINSKY. Mr. President, Saturday, August 21, marks the 14th anniversary of the brutal Soviet-led 1968 invasion and occupation of Czechoslovakia. With martial law continuing in Poland and the "Forgotten War" dragging on in Afghanistan, it is more important than ever that we pause now to remember this infamous Soviet Day of Shame and the plight of yet another country suffering under Communist tyranny.

The occupation of Czechoslovakia foreshadowed in many ways last year's equally brutal Polish crackdown. Both brought to an end brave experiments in independence behind the Iron Curtain. And both proved once again that Soviet communism is incompatible with the traditional concepts of freedom and democracy.

In Czechoslovakia, the Soviets, threatened with a breath of freedom, had no choice but to crush the people's attempt to fashion institutions of government free of external influence. But, despite a Soviet occupation that continues to this day, many courageous Czechoslovak citizens continue to call out for a restoration or freedom and human rights in their country.

In particular, the charter 77 group continues to grow and urge adherence to the Helsinki agreement. It flour-

ishes despite severe oppression that takes the form of harassment, arrest and imprisonment by the puppet regime in Prague.

These people deserve our admiration, our support and, most of all, or gratitude for constantly reminding us that we cannot turn our backs on Soviet aggression. Nor can be ignore flagrant violations of human rights and the denial of freedom of an entire nation.

The struggle of the Czechoslovak people reminds us of our own good fortune to be citizens of the United States and of our responsibilities and obligations to the 1 billion people now living under Communist enslavement. Let us join with these brave patriots in their own solemn acknowledgment of the Soviet Day of Shame and reaffirm our commitment to men and women everywhere who yearn for freedom and democracy.

ACID PRECIPITATION TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, today I testified before the Committee on Energy and Natural Resources. The committee was holding hearings on the acid precipitation control proposal which was recently adopted by the Committee on Environment and Public Works during their markup of the Clean Air Act. I have been very concerned with this issue for some time, especially since the proposal, if passed, will have a devastating impact on an important segment of the West Virginia coal industry, as well as on the economy of my State.

Since this issue is of interest to many of my colleagues from the Appalachian and Midwestern States, I ask unanimous consent that my testimony be inserted in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

ACID PRECIPITATION TESTIMONY BEFORE THE SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

Senator ROBERT C. BYRD. Mr. Chairman, let me first take this opportunity to thank you for providing this occasion to express my views on a difficult issue. As you know, the issue of acid precipitation has been of concern to me for some time now. On January 28, 1982 I introduced S. 2027, the Acid Precipitation Accelerated Review and Reporting Act. This legislation, which is identical to Title IV of S. 2266, my bill to amend the Clean Air Act, is an alternative to the proposal which was recently adopted by the Committee on Environment and Public Works. The Committee's proposal would require expensive reductions in SO_2 emissions to achieve an arbitrary reduction target. More recently, I have written letters to the Chairman of the Committee on Environment and Public Works and to you, Mr. Chairman, to express my deep concerns.

Mr. Chairman, the new acid precipitation control program recently adopted by the Committee on Environment and Public Works as a part of the Committee's revision of the Clean Air Act is considered by some to represent a compromise. I cannot agree.

The proposal adopted by the Committee requires an 8 million ton emissions reduction. However, it also requires that any new sources be offset by equal reductions from existing sources. As a consequence, the estimated total reduction is not 8 million tons, but 12 million tons when one includes the estimated 4 million tons of reductions required to offset emissions from new sources.

In addition, the proposal places a cap on nitrogen oxide emissions. This provision would, in effect, prohibit coal conversions altogether, and it is conceivable that facilities which have converted from oil to coal may have to convert back to oil in order to comply with the cap. This is quite obviously contrary to the bipartisan policy which the Congress has endorsed calling for greater use of coal to meet our energy needs.

Mr. Chairman, I am deeply concerned by the proposal. It implicitly assigns the blame for acid precipitation in the Northeast on the Midwestern and Appalachian states. In my view, this approach is based upon incomplete scientific information and a limited understanding of the implications for the use of coal. Indeed, such an approach does a disservice to the complexity of the issue by over-simplifying the scientific evidence and virtually ignoring the severe economic and social impacts on the Midwest and Appalachian regions.

I am particularly concerned with the disruptive impact of the Committee's proposal on the pattern of traditional markets for coal. Midwestern and Northern Appalachian coal markets could be devastated as high sulfur coal from these regions lose their markets to low sulfur coals from the Western coal states. Obviously, this would entail the loss of thousands of jobs in the mining industry in states such as West Virginia. In West Virginia it is estimated that the acid precipitation control program being proposed will put about 15,000 miners out of work, and could entail a direct loss of about $380 million to the West Virginia economy.

As these figures suggest, the proposed new control program would place inequitable burdens upon some of the states in the 31 state control region defined by the Committee's proposal.

In fact, under the proposal adopted by the Committee on Environment, eight states—Illinois, Indiana, Kentucky, Ohio, Pennsylvania, Missouri, Tennessee and West Virginia—would bear 78 percent of the required 8 million ton reduction. This means that the costs of the program would be borne largely by the residents of these states. In contrast, the Northeastern states, where acid precipitation is perceived to be most in evidence, eight states—New England plus New York and New Jersey—would bear less than 2 percent of the reduction requirement. Thus, the responsibility, and the costs, for achieving the reduction target will be borne by those living outside the Northeastern states.

Mr. Chairman, let me say that while acid precipitation appears to have some environmental consequences over a long period of time, there is also little doubt that the Committee proposal will have major economic consequences which will be manifest in the near term. Yet I fear that these consequences were only superficially explored and may have received only passing consideration.

Mr. Chairman, with your indulgence, let me go into a bit more detail with regard to the points I have just raised.

The proposal adopted by the Committee on Environment is based upon an oversimplification of the diversity of scientific opinion regarding a complex phenomenon. Based upon the testimony received in the Senate and other evidence, it is clear that there are areas of agreement within the scientific community about the origins, causes and effects of acid precipitation. However, it is very important to point out that there are also areas of disagreement and uncertainty on key issues. Indeed, there is insufficient scientific data in many of these areas so that drawing firm conclusions is impossible.

For example, the Interagency Task Force on Acid Precipitation, which was directed to conduct a scientific research program on acid precipitation, has pointed out that there is considerable controversy regarding the data presented as evidence of changes in precipitation acidity. The Task Force has pointed out that the acidity of precipitation has only been measured consistently for a long period of time in one place in North America—the Hubbard Brook Experimental Forest in New Hampshire. According to the Task Force, there is no marked trend in PH evident in that record. In other words, because of the general lack of consistent monitoring, trends in acid deposition in North America are only poorly defined.

Indeed, a recent report by the U.S. Geological Survey in New York has concluded that sulfate concentration in New York has actually decreased an average of 1 to 4 percent per year. The report notes that this decrease in sulfate concentration is similar to that observed for precipitation in New York and "may, therefore, reflect a decrease in sulfate from atmospheric deposition." This, then, suggests that acid precipitation may be decreasing in New York, despite the increased use of coal in the Midwest and elsewhere, over the past several years.

The Committee's proposal is based upon the assumption that SO2 emissions from coal-fired powerplants in the Midwest are transported long distances, transformed into acid precipitation, and deposited in New York and New England. In other words, the Committee's proposal is based upon the principle of "what goes up must come down." The issue of long range transport of pollutants is one of the crucial questions. Although this issue is becoming better understood, the Interagency Task Force has pointed out that it is still not possible, based upon the scientific evidence, "to determine the extent to which any specific source or collection of sources, of SO2 in one region leads to acid deposition in another region." In mid-November 1981, a panel of distinguished scientists testified before the House Committee on Natural Resources, Agriculture Research and Environment. During their testimony on the status of acid precipitation resarch, the panel testified that on the basis of available scientific evidence, it is not feasible to identify the contribution of individual sources to an area affected by acid deposition. Furthermore, "while the relationship between sulfur emissions and total sulfur deposition is linear on a global scale, that is, what goes up must come down, one may not be able to predict what comes down regionally." Consequently, these scientists concluded, for a given reduction in emissions, "it is difficult to predict a reduction in deposition or acidification."

In January of 1982, the U.S. Department of Energy convened a workshop of scientists to examine the "source-receptor" relationship in acid precipitation. The technical panel concluded that "significant policy

guidance" is precluded by the current state of scientific knowledge regarding this relationship. As the GAO recently reported, "scientists studying these processes generally indicate that, while it appears clear that acid deposition comes from oxide emissions, the proper course of action to take is not yet clear, because we lack the necessary understanding of how the sequence of events operates."

Mr. Chairman, these considerations indicate to me that there is considerable diversity of opinion and uncertainty in the scientific community on the issue of acid precipitation. At this time it does not seem prudent to design a massive new regulatory program which, in light of the state of scientific knowledge, would be of dubious effectiveness.

The second point on which I would like to elaborate is that the Committee's proposal will disrupt the traditional coal market pattern in the United States, to the detriment of the Northern Appalachian and Midwestern coalfields. For example, recent projections developed under the auspices of the Office of Technology Assessent indicate that an acid precipitation control program, such as the one being proposed, would cause a redistribution of coal production among the coal producing regions of the nation. The effect of the proposal would be to increase the demand for low sulfur coal, while drastically diminishing (if not eliminating) the marketability of the nation's medium and high sulfur coal reserves. As a consequence, there would be shifts in production between high sulfur coal producing areas to low sulfur areas. Indeed, when compared to the projected levels of production for 1990 which would be expected if there were no new regulatory programs, it is estimated by OTA and others that the shift in production would be largely from the eastern coalfields to the western coalfields, especially Colorado.

Although there could be some increase within regions of some eastern states, Northern Appalachia and the Midwestern coal production would suffer production losses. The Edison Electric Institute has estimated that in 1990 Northern Appalachian coal production would be about 45 million tons less than it would have been under current law. In the Midwest, coal production is estimated to be 51 million tons less. Thus, these two regions of the nation would be producing 96 million tons less than they would have under current law. Northern West Virginia would be producing about 9 million tons less; Ohio would be producing 27 million tons less; and Illinois could be producing 38 million tons less. In other words, the coal industries in these states would be the big losers.

To put this into perspective, it has been estimated that coal production in Northern Appalachia and Midwestern coalfields would be about 329 million tons in 1985 under current law. However, if there were no SO2 restrictions—i.e, absent current law—production would have been about 423 million tons. Thus, the imposition of the current clean air standards for SO2 has meant a production displacement of 94 million tons.

Now recall that the Committee's proposal would mean a production displacement of 96 million tons. What this suggests to me is that the coal industry in Northern Apalachia and the Midwest will have to sacrifice another 96 million tons in 1990 with little assurance that it will contribute to cleaner air anywhere.

If these estimates are accurate, it will mean that employment will continue to be restricted in an industry that has already been hit hard by the current recession. In fact, the United Mine Workers has estimated that the imposition of an acid precipitation control program as severe as the current proposal could result in the loss of as many as 89,000 jobs in the coal industry. It would entail direct economic losses as high as $6.6 billion. It is important to point out that these losses would be suffered only by the Northern Appalachian and Midwestern coalfields.

Mr. Chairman, I am deeply concerned that the effect of the Committee's proposal will be to single out the Northern Appalachian and Midwestern states for additional economic hardship.

In order to appreciate the significance of the proposed acid precipitation control program for ordinary people living in the Midwest, we need to consider the impacts on consumer electric utility rates. In a recent analysis, ICF has estimated the change in electric utility rates that would be required in 1990 in order for utilities to recover capital costs associated with an acid precipitation control program. According to that analysis, several states in the Midwest had utility rate increases of over 10 percent. These same states are also currently facing high unemployment rates. In my own state of West Virginia, where unemployment is about 10.9 percent, the first-year electric rate increase would be about 6.3 percent. In Ohio, where unemployment is about 11 percent, electric utility customers would see their rates increase by 19.2 percent in 1990. Indiana, where unemployment is about 11.4 percent, would see electric rate increases in 1990 of 14.3 percent. Kentucky, where unemployment is about 9.8 percent, would see electric rate increases of 10.9 percent. In other words, Mr. Chairman, people in those states who have already been hit hard by the economic recession can also look forward to the prospects of significantly higher electric rates.

I would point out that these estimates of electric rate increases are probably understated, because they are based upon an ICF computer model which assumes that electric utilities will adopt a "least-cost" optimum compliance strategy. For a variety of reasons, this assumption has little or no grounding in the real world.

Mr. Chairman, there is one final point I wish to make, which has not been discussed by anyone. There has been no consideration given to the impact of the Committee's proposal on the export market for American steam coal. It has been estimated that, under normal market conditions, low sulfur steam coal commands a market premium of 30 percent over the price of high sulfur coal. That is, low sulfur coal is about $11 more expensive than high sulfur coal. An acid precipitation control program would enhance the demand for low sulfur coals which, in turn, would then command a market premium of an additional 30 percent, about $12 per ton. This could impair the competitive position of American steam coal in the world market. American steam coal already commands a price of about $4 per ton above the world price. With the prospects of significantly higher prices for U.S. coal, we might find potential customers in Europe and the Pacific Rim nations looking elsewhere for their coal supplies.

If this were to occur, the significant potential benefits to the American economy would be lost. In 1980 the value of all U.S. coal exports was $4.5 billion. It is estimated that by 1990 U.S. coal exports could have a value of $6 billion. These estimates, however, do not take into account the impact on demand of significantly higher U.S. steam coal prices as the result of an acid precipitation control program.

In closing, Mr. Chairman, let me say that I have been trying to point out the extent to which this issue represents a conflict between the nation's environmental goals, and our energy and economic goals. In the past we have been able to achieve a delicate balance between the need for maintaining and improving environmental quality and the need for increased energy supplies and economic growth. Public opinion polls consistently show that Americans overwhelmingly support protection of the environment. However, those same polls also show that Americans are just as concerned with such issues as jobs, inflation, energy, defense and tax burdens. I think the Senate can draw one conclusion from such data: We must recognize that environmental goals cannot be pursued in isolation from other goals. I hope that we can take that message to heart.

In light of these considerations, I am firmly convinced that my bill, S. 2027, represents the basis of a reasonable, balanced approach to the issue.

My bill requires the federal Acid Precipitation Task Force, established in Title VII of the Energy Security Act of 1980 (P.L. 96-294), to complete its study of the causes and effects of acid precipitation by June 30, 1985. That date is five years sooner than provided for in the Energy Security Act.

The federal government should have sound scientific information available to it on the complex relationships between sulphur and nitrogen-based emissions and acid precipitation before it attempts massive regulatory action. The federal study, accelerated by my bill to complete its work and submit a final report by June 30, 1985, will help provide the information required for a responsible approach to this problem.

I therefore hope that the members of the Committee will give careful consideration to my proposal.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—CONFERENCE REPORT

Mr. BAKER. Mr. President, with the full knowledge that someone will perhaps reserve the right to object, I renew my request to proceed to the consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Reserving the right to object, I did not hear the request.

Mr. BAKER. Mr. President, we provided for the transaction of routine morning business until 7 p.m. I made a request that we proceed immediately

to the consideration of the conference report on the tax bill. There were several reservations of objections to that. The absence of a quorum was suggested, which ran until just now, until it was called off. I called it off, which I suppose closes morning business, and renewed my request.

So the request now pending before the Senate is a unanimous-consent request that the Senate proceed to the consideration of the conference report.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. Reserving the right to object. I would like to inquire of the majority leader, had he considered the possibility of laying this over until tomorrow. The hour has gotten so late. We might dispose of it on tomorrow. I wondered if he had considered that option in view of the fact that the House has just adopted the conference report. The opportunity for us to reflect upon it at all has been greatly reduced. I inquire if the majority leader has considered that possibility.

Mr. BAKER. I do understand the concern of the Senator. It is now past 7 o'clock in the evening. Occasionally, things come along in the Senate which require our immediate attention. This bill is one of them. This conference report is so important in terms not only of its economic impact but also in terms of the overall economic policy of Government that we should move promptly. It is a privileged matter. It is a conference report of the most privileged sort under the Budget Act. The House has just acted upon it.

There is an adjournment resolution at the desk. Not that that should determine our course of action, but there is an adjournment resolution at the desk which provides for the House and the Senate to go out tomorrow or Saturday.

I would hope two things would happen. I would hope, first, that there not be an objection to my request that we proceed immediately to the consideration of the conference report so that it may be laid before the Senate.

I must say in all candor, however, that if and when that is done, my second request would be that the statutory time for debate on the conference report be reduced from 10 hours to either 1 or 2 hours. I would think 2 hours would be adequate, and I would hope for 1 hour equally divided; 2 hours would be reasonable, I think, under most circumstances.

The act, as the Senator knows, provides for 10 hours of debate. Beginning at 7 o'clock and given the interruptions that might occur, we could run all night, if we take advantage of the full 10 hours. I very much do not want to do that. I think the Members are tired and it would seldom serve a good purpose. That is our realistic alternative.

We still have the conference report on the supplemental appropriation bill to deal with. It is my intention to ask the Senate to turn to the consideration of that item early in the morning.

My somewhat long-winded answer to my good friend from North Carolina is that I have considered that and I must say reluctantly I do not feel it is feasible to postpone it until tomorrow. That is why I make the request.

Mr. EAST. I thank the majority leader. I will accede to the request. I will not object to it. I saw some advantages first in considering this on tomorrow.

I would like to make a parliamentary inquiry, if I might.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator will state it.

Mr. EAST. The majority leader referred to the fact that we are operating under the Budget Act in disposing of this matter. Is the majority leader correct on that point?

The PRESIDING OFFICER. This is the tax reconciliation conference report which comes under the act, that is correct.

Mr. BAKER. Mr. President, I thank the Senator for indicating he will not object. I say parenthetically that I did not move the consideration of this measure, which would have been the normal procedure under the Senate rules, because I wanted to make sure that Senators had an opportunity to object. But under the act I can also do that. Indeed, I believe I am correct in saying that a motion to proceed to the consideration of the conference report, even notwithstanding the other provisions, such as the report time or even to reduce the time for debate, would be a nondebatable motion at this time.

I would hope we could arrange this amicably and by unanimous consent.

I am grateful to the Senator for indicating that he will not object.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senate will get on with its business.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. I would hope that the majority leader would press for action tonight. I would also hope that action can be completed within an hour or two. We have not been unaccustomed to staying on Thursday nights. The majority leader made that clear at the beginning of the year. I would not like to see an objection, because, under the provisions of the Budget Act, he could move and he would have a majority of the votes. He would have my vote.

There is no point in waiting until tomorrow. I simply want to say I hope the majority leader will press forward.

As to shortening the time, 1 hour or 2 hours, I think, would be sufficient, but maybe my colleagues on this side of the aisle would want more time. That question can be resolved once the matter is before us.

Mr. BAKER. Mr. President, I thank the Senator. I understand his situation. He has indicated to me privately and off the floor that he intends to vote against the conference report. I understand that. But I am especially grateful for his statement that he will support my motion, if necessary, to go forward with consideration of this conference report.

Mr. MATTINGLY. Will the majority leader yield?

Mr. BAKER. Yes, Mr. President, I yield.

Mr. MATTINGLY. I just want to make the point that there is not one undecided vote in this Chamber, so I do not see there is any time needed for debate.

I yield to the Senator from Kansas.

The PRESIDING OFFICER. The clerk will state the conference report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Aug. 17, 1982, pt. II.)

Mr. ROBERT C. BYRD. Mr. President, I yield my time to the distinguished Senator from Louisiana.

Mr. BAKER. If the Senator from Louisiana will yield to me, I had hoped to make a request at this time to move to reduce the time for debate on this measure.

Mr. LONG. I do not have the floor.

Mr. BAKER. I ask unanimous consent that the time for debate on this measure be reduced to 1 hour.

Mr. EAST. I object.

Mr. LEVIN. Reserving the right to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for debate on this measure be reduced to 2 hours equally divided.

Mr. EAST. I object, Mr. President. I shall be happy to explain my position. I am willing to move along with this in an expeditious manner, no question about that, but I would like to reserve

the right to object now on specific time limits.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, I really hope that we can arrive at a time that Members will be happy with. I make one more request.

I ask unanimous consent that the time for debate on this matter be limited to 3 hours equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. EAST. I would like to object, Mr. President, again. I do not anticipate any long delay here, but I would simply like to leave open the possibility of——

Mr. GOLDWATER. Will the Senator yield for a suggestion?

Mr. BAKER. Yes; I yield.

Mr. GOLDWATER. I suggest we go the full 10 hours.

Mr. BAKER. Mr. President, if I did not know my friend so very well, I would take that seriously.

Mr. METZENBAUM. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Ohio.

Mr. METZENBAUM. Is it not the fact that, by majority vote, the majority leader can obtain a reduction in the number of hours? Are those not the rules?

Mr. BAKER. Mr. President, I believe that is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. On a nondebatable motion, that time can be set at any time under 10 hours.

Mr. METZENBAUM. I thank the Senator.

Mr. BAKER. Mr. President, I am reluctant to do that. Before I do that, a parliamentary inquiry: Am I not correct that that motion can be made at any time during the pendency of the measure?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Before I make that motion, I would like to pursue the matter a little. I suggest that the managers go forward with the debate. The Senators should know that before 8 o'clock, I intend to renew my motion and try to establish a lesser time for debate.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. Am I not correct in saying that any other Senator can make the same motion?

Mr. BAKER. Yes; indeed, Mr. President, any other Senator can make that motion.

Mr. ROBERT C. BYRD. May I say that while the majority leader has made such a promise, I do not make such a promise. I am not committed by such promise.

Mr. BAKER. I understand fully, Mr. President. There are cases when I would think of that as a usurpation of leadership right, but in this case I do not.

For the time being, Mr. President, why do we not proceed with the debate and I shall confer with my friends.

Mr. EAST. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I am happy to yield to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. EAST. Am I correct now that the conference committee report is before the Chamber?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAST. Mr. President, I would like to make a point of order regarding the conference report.

The PRESIDING OFFICER. Will the Senator turn on his speaker?

Mr. EAST. I have it on. I think it had gotten turned off up there. I do not know.

If I may state my point of order:

Mr. President, I make the point of order that under the provisions of rule XXVIII, paragraphs 2 and 3, the conference report is out of order in that it contains material which is not a germane modification of subjects in disagreement, to wit: That the report contains a provision requiring a new set of information reporting requirements for certain businesses, and a tip allocation requirement.

I state in explanation of the point of order that the Senate struck out a similar provision from the Senate committee amendment to H.R. 4961, and that no such provision was contained in either the Senate-passed or original House-passed versions of the bill. Although the Senate-passed bill contained a provision dealing with the deductibility of business expenses incurred for meals and beverages, that provision dealt only with the issue of deductibility of business expenses. The provision included by the committee on conference deals with the allocation and reporting of income which in no way can be considered a modification of a provision dealing with deductions.

I further state in explanation of the point of order that the provision relating to the deductibility of business expenses appears under the heading, "Reduction in Certain Deductions and Credits," in the Senate-passed version of H.R. 4961. The provision on tip reporting and tip allocation contained in the report of the Committee on Finance on H.R. 4961 appeared under the heading, "Provision Designed To Improve Taxpayer Compliance." Likewise, these matters appeared in separate titles. The tip provision appeared in the Senate committee amendment in title III. It is thus clear that the committee on conference did not confine itself to modifying a matter in disagreement. Rather, it inserted new matter that had been approved at no time by either the Senate or the House.

I accordingly state that under the provisions of rule XXVIII, paragraph 2, the conference report is out of order and must be rejected in its entirety, since the House of Representatives has already acted thereon.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The conferees went to conference with a complete substitute, which gives them the maximum latitude allowable to conferees. The standard is that matter entirely irrelevant to the subject matter is not in order. That standard has not been breached. The point of order is not well taken.

The Senator from Kansas.

Mr. EAST. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. I am happy to yield.

Mr. EAST. I would like to appeal from the ruling of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On an appeal, there is 1 hour of debate equally divided.

Mr. BAKER. Mr. President, who has control of the time on the appeal?

The PRESIDING OFFICER. The Senator from North Carolina and the Senator from Kansas or their designees.

Mr. BAKER. Will the Senator from Kansas yield to me?

Mr. DOLE. I am happy to yield.

Mr. BAKER. Mr. President, I hope we will not take an hour to debate the appeal from the ruling of the Chair. Would the Senator from North Carolina be willing to reduce the time?

Mr. EAST. I should be happy to reduce the time to 15 minutes to a side.

Mr. BAKER. Mr. President, I ask unanimous consent that the time for debate on this appeal be 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. Mr. President, my purpose in raising this matter is that I think it goes to the question of the integrity of the legislative process; that in any dimension of the legislative process we ought to maintain, as well as we can—granted, reasonable minds will differ sometimes over whether we are moving the right way—the integri-

ty of the legislative process. We do know that under rule XXVIII, as I have indicated, paragraphs 2 and 3—Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senator will repeat his request.

Mr. EAST. I am requesting that we might have order in the Chamber.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The Senator will continue.

Mr. EAST. Mr. President, my appeal again is offered in the spirit of trying to maintain the integrity of the legislative process and is not offered in the spirit of being dilatory or offered in the spirit of simply trying to slow down the final process of consideration of this matter, but we did deal with this matter in the Senate. We had made our position clear on it. The House never did act upon the matter. I submit that under rule XXVIII, paragraphs 2 and 3, where we are required to have a germaneness of subject matter and that modifications must meet that germaneness of subject matter requirement, this in fact does not do that. Or to put it another way, if you can tie these two matters together under some notion that they are both done under the roof of a restaurant, then I would submit that rule XXVIII has no vitality at all in terms of germaneness.

We had clearly and expressly in this Chamber rejected the idea on this matter of tip reporting, the feeling being this was an undue burden upon restaurants, restaurant owners, restaurant operations. It was simply placing an additional burden of paperwork and Government regulation and control upon them, and whatever relative benefit might come out of it was more than offset by the inconvenience placed upon them. We had specifically rejected that out of hand.

In the conference committee that was altered, and in lieu of it we now have this question of the deductibility of business expenses, the three-martini lunch problem. That was put in here on the floor. Then the matter went over to the conference committee, and they in fact then made the change back the other way. Thus, we are in the very strange position where neither Chamber ever agreed to the tip provision prior to conference, and in fact the Senate had expressly rejected it.

When the conference makes that modification, I submit it runs up against a very clear statement in rule XXVIII, paragraphs 2 and 3, regarding germaneness of subject matter, making a substitution, an alteration, an interchange, exchange, or whatever label you wish to put on it, of matters that are not germane and hence runs afoul of this rule.

It might appear to be a small matter, but again it is a matter of the integrity of the rulemaking process. It is a matter of the integrity of the rules of our own Chamber. More particularly, I do think, since we had expressly rejected this in our own Chamber, we do owe a certain degree of responsibility to see the matter through, and that includes then honoring the requirement of subject matter germaneness under rule XXVIII, paragraphs 2 and 3.

My point is—and I do not wish to delay this unduly and I will not—that if this is germane as a subject matter requirement under rule XXVIII, paragraphs 2 and 3, I submit that this rule then has no substance at all and in effect the conference committee now and henceforth would be under no real genuine germaneness requirement as regards subject matter.

As I had previously indicated, Mr. President, these provisions are in separate titles in the bill. They deal with very dissimilar matters. The only thing they have in common is restaurants. I submit that certainly could not be the subject matter requirement of germaneness in the rule. That could not certainly have been the intent of the rule. If so, the rule has no substance to it at all. You have merely the form of a rule with no substance to it, and hence I feel it does great violence to the integrity of the legislative process.

One of these provisions is taxpayers' compliance, the other is in a revenue measure, and so whether you look at it in terms of the physical location in the bill or whether you simply look at it in terms of comparing the subject matters in question, I do not see how one comes out having met this germaneness requirement.

I would certainly appreciate having this matter explained to me by someone, as to how it does in fact meet this requirement and why they think I am wrong in raising it, if they think it is a frivolous point.

I would happily entertain this opportunity to hear the explanation from anyone, Mr. President.

Mr. President, I will yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EAST addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAST. Mr. President, in order that we might expedite this matter, I am willing on my own time to inquire of the distinguished chairman of the Finance Committee, or anyone else, how this is explained as having met this germaneness requirement of subject matter under the rule. There may be an explanation for it. It simply is not clear to me what it is. Aside from these events occurring under the roofs of restaurants, which I cannot believe is the touchstone of germaneness here, how does one justify this?

If I might put that inquiry to the distinguished chairman of the Finance Committee, I think it would expedite this and ultimately get a vote on the matter.

Mr. DOLE. Mr. President, I think the Chair properly ruled.

I repeat that for the purpose of consideration of a conference report, there are extremely broad rules on germaneness, much broader than the normal germaneness requirement which applies in the case of reconciliation bills or after cloture.

Any matter added in conference is germane if it is not entirely irrelevant to matters in Senate or House bills. The Senate bill as it passed the Senate contained a variety of provisions requiring or improving information reporting. The tip reporting requirements are part of the taxpayer compliance package and are not dissimilar to other expanded reporting requirements contained in the Senate bill.

The following are four areas where the Senate bill dealt with information reporting:

First was expanding reporting on interest and dividends.

Second, reporting of gross proceeds from broker transactions.

Third, reporting on payments made to independent contractors.

Fourth, reporting on State and local income tax refunds.

In addition, we increased penalties on reporting requirements.

So, Mr. President, we considered whether or not this was appropriate in the Congress itself. In fact, we discussed the very question raised by the distinguished Senator from North Carolina. We checked with the Parliamentarian and decided that we were following the proper course, and I am prepared to vote.

I yield back the remainder of my time.

Mr. EAST. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Six minutes and 55 seconds.

Mr. EAST. Mr. President, I am prepared to move quickly. If the Senator from Kansas, for whom I have the greatest admiration, wishes to move in that direction, I will do so.

To justify my position, lest some think I raised a frivolous point—I wish

to move on and to vote on it and have my colleagues resolve it—I will quote from the rule and ask my colleagues to reflect soberly on this, as to what they think it means and whether it meets that germaneness requirement.

In any case in which a disagreement to an amendment in the nature of a substitute has been referred to conferees, it shall be in order for the conferees to report a substitute on the same subject matter; but they may not include in the report matter not committed to them by either House.

I submit, Mr. President, that that covered this situation.

Mr. DOLE. Mr. President, will the Senator yield on that point?

Mr. EAST. I yield.

Mr. DOLE. I think the subject matter is information returns subject to reporting of income. That is what the tip provision is. There are a number of other similar provisions. We were led to believe it complied with that rule.

Mr. EAST. Will the Senator repeat that, please?

Mr. DOLE. There are a number of provisions on information reporting, various types of income, in the compliance section. That is the subject matter. I just indicated four specific areas addressed in the Senate bill. Therefore, we believe this provision does comply with the rule referred to.

As I indicated, we were not unaware that this question might be raised. We think it is appropriate to raise it. So we checked it ourselves during the conference. Can we drop the provision on the business lunch, go back to tips, and still come back to the Senate without a point of order being raised? We were advised it was possible, on the basis of the Chair's ruling and the statement the Senator from Kansas just made.

Mr. EAST. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes and ten seconds.

Mr. EAST. I thank the Chair.

I continue reading from rule XXVIII:

They may, however, include in their report in any such case matter which is a germane modification of subjects in disagreement.

I am simply submitting that this subject was not in disagreement. Therefore, I think that by any reasonable reading of rule XXVIII, they have run afoul of it.

If the Chair's ruling is upheld, I submit that henceforth we have a precedent that germaneness of the subject matter under rule XXVIII, conference reports, in effect, is so broadly conceived as to be defined out of existence.

I think it will tend to weaken greatly the power of the respective Chambers and each Member thereof, because even though we expressly reject something—which we did in the case of tips—the conference committee henceforth will be in a position simply to make that alteration. I think it tends to elevate the conference committee to a power of a superlegislature, which is beyond the intent of Members of both Chambers. I think it does violence to rule XXVIII.

So, Mr. President, not wishing to unduly delay this, and assuming my colleagues can reflect on this and do what they think is proper—I believe I have requested the yeas and nays; have I not?

The PRESIDING OFFICER. Yes.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. EAST. I yield.

Mr. DOLE. We want to make a record. I think the Senator makes a serious point.

As I recall, the distinguished Senator from Arkansas (Mr. PRYOR) offered the amendment to knock out that section. The Senate bill contained a penalty for failure to report tip income. We knocked out the reporting but did not knock out the penalty.

We were persuaded by the House conferees to restore the reporting, so that there was a part of the amendment that is still under consideration in the conference report. I submit that is another reason why we have not violated the rule.

Mr. EAST. Mr. President, in a desire to expedite this matter, I have stated my case. I hope I have stated it as well as I can and have made clear that it is not frivolous.

I yield back the remainder of my time, if the opposition does, and we can proceed to vote on my appeal of the ruling of the Chair on the germaneness of the subject matter question under rule XXVIII.

The PRESIDING OFFICER. All time has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. BAKER. Mr. President, will the Chair please state the question?

The PRESIDING OFFICER. Shall the decision of the Chair stand as the judgment of the Senate?

Mr. BAKER. A parliamentary inquiry. An "aye" vote sustains the ruling of the Chair. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Vermont (Mr. STAFFORD) the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. JOHNSTON), is necessarily absent.

I also announce that the Senator from Florida (Mr. CHILES) is absent because of illness in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 68, nays 27, as follows:

[Rollcall Vote No. 336 Leg.]

YEAS—68

Abdnor	Ford	Mattingly
Andrews	Garn	Metzenbaum
Armstrong	Goldwater	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Percy
Brady	Hayakawa	Pressler
Byrd, Harry F., Jr.	Heinz	Quayle
	Inouye	Roth
Chafee	Jackson	Rudman
Cochran	Jepsen	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kennedy	Specter
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Weicker

NAYS—27

Boren	Exon	Melcher
Bumpers	Glenn	Mitchell
Burdick	Heflin	Proxmire
Byrd, Robert C.	Helms	Pryor
Cannon	Hollings	Randolph
Denton	Huddleston	Riegle
Dixon	Humphrey	Sarbanes
Eagleton	Kasten	Sasser
East	McClure	Zorinsky

NOT VOTING—5

Chiles	Stafford	Warner
Johnston	Thurmond	

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the ruling of the Chair was sustained.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. DOLE. Yes.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I would like to renew the unanimous-consent request with respect to the time for debate on this measure.

Mr. President, I ask unanimous consent that there be a period of 1 hour and 30 minutes, equally divided, for debate on this measure.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Will the majority leader be willing to revise that request to 2 hours? This is an extremely important measure, as somebody has said. Everybody has made up their minds, as near as I can tell, but it would be appropriate, on a measure of this consequence, this particular change of economic direction, to make

sure that there was no semblance that we might be steamrolling.

Mr. BAKER. Mr. President, I really hope that nobody thinks that we are steamrolling this. We spent 1 hour and 3 minutes on this matter already. That is why I reduced the request from 2 hours to 1½. That is a 50-percent discount.

But I will not quarrel with the Senator from New Mexico if he feels that is a reasonable time. I amend my request to make it 2 hours, an hour to a side.

Mr. SCHMITT. I appreciate that. I do not intend to use the time, but I suspect others may wish to.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. I thank all Senators.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I might say to the Members, if I could have order for just a minute.

The PRESIDING OFFICER. May we have order in the Chamber so we may hear the Senator from Kansas?

Mr. DOLE. Mr. President, the Senator from Kansas does not intend to take the full hour unless there are requests for time on this side. I understand there may not be that many requests on the other side. So I would just caution Members not to be too far away. Hopefully we can finish this in an hour but if it takes a little longer, so be it.

Mr. President, may we have order?

The PRESIDING OFFICER. Senators will please conduct their private conversations outside of the Chamber. Let us have order in the Chamber so the Senator can be heard.

Mr. DOLE. Mr. President, I wish to extend my thanks to the President of the United States for his successful effort in the House of Representatives and my congratulations to the Speaker of the House of Representatives and the distinguished minority leader, Congressman MICHEL, for their valiant efforts this afternoon in moving this conference report back to the Senate, where I hope that, within 1 hour we can approve the conference report.

Mr. President, after many months of effort, we are finally prepared today to complete the first substantive congressional action to reduce the deficit this year. The conference report on H.R. 4961 now before the Senate follows closely on the Budget Committee reconciliation bill approved by both Houses on Wednesday. That bill reduced spending by about $13.3 billion over 3 years, a significant and much-needed step toward implementing the budget resolution for fiscal year 1983. The bill now before us, however, goes quite a bit further. Under the conference agreement on the Tax Equity and Fiscal Responsibility Act, spending will be reduced by $17.5 billion and revenues will be increase by $98.3 billion over the next 3 years. The deficit reduction provisions of this bill account for over 30 percent of the entire deficit reduction called for by the budget resolution.

A LONG ROAD

This legislation has been a long time in the making; it was not developed overnight. A few times last weekend, though, it did seem, as though much of the work was being done late at night; or early in the morning, depending on your point of view. But the long hours that have been devoted to this bill in recent weeks are only the culmination of a process begun early this year. In fact, the pedigree for the revenue provisions of this bill can be traced back to September 1981, when President Reagan proposed a package of loophole closings designed to raise $22 billion, plus additional spending reductions to cut the deficits projected due to the onset of recession. Those revenue proposals were not pursued at that time, but many of the same items were included in the fiscal year 1983 budget proposal President Reagan submitted to Congress in early February of this year. The Senate Finance Committee promptly began to review budget alternatives on both the spending and revenue side, with hearings on the budget beginning in late February and carrying through the middle of March.

Mr. President, during the course of those hearings it became clear that a major deficit reduction effort on both the spending and revenue sides was vitally necessary to insure a sustained economic recovery. Four distinguished economists who testified to our committee on February 24, while they disagreed on the specific deficit-reduction measures that ought to be taken, did agree on this basic point. Those witnesses were Dr. Martin Feldstein, who has been named for the post of Chairman of the Council of Economic Advisers; Dr. Joseph Pechman of the Brookings Institution; Dr. William Fellner of the American Enterprise Institute; and Dr. Allan Meltzer of Carnegie-Mellon University. These gentlemen represent a wide range of viewpoints cutting across partisan lines, so it has been clear for quite some time what Congress had to do if it wanted to be responsible and reassert control over our fiscal affairs.

I would add that our February and March hearings were only the first formal, public review of the budget problem. Long before that our staff—even before the President's budget was submitted—was at work reviewing possible spending reductions and sources of revenue, along with the Joint Committee on Taxation, the Congressional Budget Office, and others. At the same time the Budget Committees of both Houses were similarly hard at work.

Because there was a general consensus that the President's budget did not go far enough in reducing the deficit, an effort was made to forge a bipartisan consensus in Congress on a package of spending cuts and revenue increases, with primary emphasis on spending. That effort, while it proved less successful than many of us hoped, did prove important in laying the groundwork for the budget we finally adopted. The so-called gang of 17 meetings helped us sort out the options, understand where everyone stood, and give us a target to shoot for. Thanks to the leadership of the Budget Committees, we did finally adopt a budget in June that calls for $378 billion in deficit reduction over 3 years. By July 2 the Finance Committee had completed action on the present package, and this legislation was approved by the Senate early in the morning of July 23. Finally, at about 2 a.m. on August 15, we reached final conference agreement on the spending cuts and revenue increases—tax reforms, for the most part—that are now before us.

A BALANCED PACKAGE

Mr. President, we have come a long way in a very difficult year for the economy and for the Congress, and an election year to boot. We have, I believe, assembled a fair and sensible package of spending cuts and tax changes that tackle the deficit problem head-on without interfering with or underminging the fundamentals of the President's economic recovery program. This is not a step backward; it is a shift in emphasis that is the only way to guarantee continued momentum for the President's program of reducing the rate of growth of Federal spending, restraining the tax burden, building a strong defense, and insuring monetary restraint to keep inflation in check. Many of us believe those principles are still the key to an economic recovery that will last, creating real jobs and leading to higher productivity and stable growth. That is why it is so important that we approve this legislation now. It should have been done much earlier: but we now appear to be at a crucial turning point for the economy, and it is imperative that we do the right thing.

At the conclusion of my remarks I will ask to have printed in the RECORD a detailed summary of the spending reductions, tax reforms, tax compliance changes, and new revenue sources provided by H.R. 4961. I would, however, like to summarize at this time some of the major features of the bill as it emerged from conference.

Mr. President, on the spending side of the ledger we have agreed to changes with an emphasis on better allocation of program costs and administrative improvements, with minimal

impact on beneficiaries themselves. In fact, it should be noted that in the health area the conferees agreed to drop three provisions of the Senate bill that would have had a direct impact on beneficiaries. These are the proposed copayment for home health services, the increase in the part B deductible for physician services, and the 1-month delay for initial medicare benefits. In the conference agreement 73 percent of the cuts are out of reimbursements to providers of services; only 19 percent directly affect beneficiaries. If we also include all of the income security savings, the breakdown for this spending reduction package is 68 percent of savings from payments to providers, 19 of savings from beneficiaries, and 13 percent from employers and others, including various administrative savings such as improved error rates.

This is a fair and carefully considered package. It addresses the urgent need to bring burgeoning entitlement programs under control, but with concern and compassion for those who depend on these vital benefit programs. For example, 63 percent of the savings in the supplemental security income program come from tightening the retrospective accounting procedures adopted last year and from eliminating special Federal subsidies to a few States. Much of the rest comes from rounding and prorating benefits. What we are trying to do here, in short, is what we ought to do as legislators in any event: make these programs work better and more efficiently for our citizens, cutting bureaucratic overhead and improving administration.

Mr. President, at this point I would like to take the opportunity to clarify the intent of the conferees with respect to three provisions of the spending package, so that there can be no confusion with regard to these items.

REIMBURSEMENT OF PROVIDER BASED PHYSICIANS

While this provision has been slightly modified in conference, the intent in making this change remains the same. Under the amendment, the Secretary is required to differentiate those services that require a physician to personally perform in the diagnosis or treatment of a patient's illness from those activities that are of a general administrative nature. General administrative services—such as supervision of personnel who perform clinical laboratory tests—and those services that do not require a physician to perform in person are to be reimbursed as a hospital service on a cost basis. These distinctions will assure the appropriate source of payment, while continuing to reimburse physicians a reasonable amount for the services they perform. Our intention was not to penalize but rather to create some equity between the way we pay physicians generally and the way we pay those who are hospital based.

WORKING AGED

Medicare will become secondary for older workers who choose to remain covered under the group health plans provided by their employers. That provision produces program savings of $1,480 million while allowing older workers the option of rejecting the plan offered by their employers. The savings are realized because we assume employers would be prevented from offering a health insurance plan or option designed to circumvent this provision by inducing employees to reject the coverage offered other employees—those under age 65. The clear intent of this provision, however, is to continue to allow employers to offer limited coverage for those health care services wholly uncovered by medicare; outpatient prescription drugs, for example.

Again, I want to stress the basic point: Although the employer must offer private coverage to the elderly, the retention of private coverage is voluntary for the employee.

The medicare trust fund is rapidly approaching a period of time where expenditures will exceed income. It is only appropriate that we encourage beneficiaries to utilize private resources first, while making sure they receive no less than they would have under medicare.

SUBSTANTIAL SPENDING CONTROL

Mr. President, before I move on to briefly discuss the revenue provisions of H.R. 4961, I want to emphasize once again that this bill is a solid, significant step toward getting spending under control. The medicare savings in our bill alone exceed the total savings in the reconciliation bill for all other legislative committees that was just adopted. We are making real progress on containing the growth of health care programs. If you consider the savings contained in last year's reconciliation bill, together with the savings contained in the present bill, you see that in fiscal years 1983, 1984, and 1985 combined medicare and medicaid spending is reduced by $19.3 billion. Of this amount 75 percent is a result of the program changes provided by the bill now before us. This is a major shift in favor of fiscal restraint for programs that have, over the past decade, grown far faster than original cost estimates projected.

The same is true of other major programs in the jurisdiction of the Finance Committee: AFDC, supplemental security income, and unemployment compensation. While the savings in this area in H.R. 4961 are relatively modest, you have to remember that the 1981 reconciliation bill made major and lasting changes in those programs that provide large cumulative savings in the years ahead. Combining last year's reconciliation changes in these programs with the further modifications in the pending conference agreement, total savings are $15.5 billion over the fiscal years 1983, 1984, and 1985. I should add that the total outlay savings in H.R. 4961 are about $1 billion over our reconciliation instruction, as costed out by the Budget Committee. So, it cannot be said that we have not done a thorough job on the spending side in this legislation. There is of course always more to be done: But we will be back next year to continue the job, as we should.

REVENUE RAISING: TAX REFORM

Mr. President, the revenue provisions in this legislation have, of course, been much debated: much more so than the spending cuts, I might add. There probably is little point in extending the debate any further, but I would like to set out for the record at least a basic outline of the tax changes. A more detailed description of the revenue provisions will appear in the RECORD following my statement.

In the Finance Committee, and in the Senate, and in the conference, there was basic agreement that we should concentrate not on new taxes, or on undermining tax relief for working Americans, but on tax reform and improved compliance. Most of our bill, as President Reagan noted in his address to the Nation on Monday, is in these areas. The reasons for this are simple: We ought to make sure that everyone pays their fair share of tax before we try to collect more from those who already are fulfilling their obligations as citizens. Second, given our fiscal problems, we should take this opportunity to review provisions of existing tax law that may be obsolete, inefficient, unjustifiably generous to a limited group of taxpayers. That is what we have tried to do: I believe we have done a good job, although there is much more yet to be done.

TAX COMPLIANCE

A very large proportion of the new revenues to be raised under this bill—about $28 billion—comes from a series of measures to improve compliance with existing law. New information reporting and penalties do much of the job, existing withholding requirements are strengthened, and 10 percent withholding is imposed on interest and dividend income. In addition, a new allocation rule is provided to help collect tip income, an area where compliance is notoriously low.

Mr. President, I believe it is important that we have taken these steps to improve compliance. On March 5, when the Dole-Grassley compliance bill was first unveiled, there was a great deal of skepticism. Compliance is something people usually talk about, and go through the motions without having any real impact. By now I hope everyone knows that we were serious.

We do not believe it is fair to raise everyone's taxes while a minority of taxpayers gets away with evading their obligation to their fellow citizens. This package of compliance measures does not bridge the gap, but it does take us a long way.

Withholding on interest and dividends has been widely criticized. I believe the case for this provision has been made, not only by the President, but by the Members of the House and the Senate who have contributed to making this an equitable and effective change. In conference we agreed to delay this change until next July 1, to give everyone more time to gear up for the new system. In addition, we have provided an exemption for the first $150 of interest income for all taxpayers; a low-income exemption covering those whose previous year's tax liability was under $600 ($1,000 joint returns); and an exemption for the elderly, age 65 or over, whose tax liability does not exceed $1,500 ($2,500 for joint returns). This exempts all those over 65 with adjusted gross incomes in 1984 under $14,450 ($25,214 joint returns). So this provision has been carefully thought out, and it merely provides the same compliance tool for those with interest and divident income as now applies to those with wage income.

PENSIONS

In the act we have eliminated the distinctions in the tax law between retirement plans of corporations and retirement plans of self-employed individuals—so-called Keogh plans. These parity rules, which will allow equal contributions and benefits under both types of plans, will apply in 1984. However, for 1983, a corporation is allowed contributions for its employees that are higher than the permitted contributions under Keogh plans.

The act also provides rules to address certain limited cases where the principal purpose for which a personal services corporation is formed or availed of is to evade or avoid Federal income tax by securing significant tax benefits for an employee-owner. These rules are intended to overturn cases like *Keller* v. *Commissioner* (77 T.C. 1014 (1981)) where the corporation served no meaningful purpose other than to secure income tax advantages for the employee-owner. These rules (contained in new code section 269A) will apply beginning in 1983—1 year before the parity rules for retirement plans take effect.

I want to make it clear that under the conference agreement a personal service corporation will not be considered to be formed or availed of for the purpose of evading or avoiding Federal income tax solely because, for 1983, the qualified plan rules will permit higher contributions and other advantages for corporate employees. Thus, in applying section 269A, the Secretary of the Treasury will not take a corporation's retirement plan into account.

I also want to point out a printing error on page 631 of the statement of managers. The second full paragraph on that page provides:

> In some cases, the aggregate of a key employee's accrued benefit under an employer's defined benefit plans and annual additions under the employer's defined contribution plans may exceed 1.0 (as applied to the dollar limits) at the time the key employee becomes subject to an aggregate limit of 1.0. In such a case, the key employee is permitted no further benefit accruals under the defined benefit plans and no additional employer contributions under the defined contribution plans until (1) the aggregate of the key employee's accrued benefits and annual additions is less than 1.0 (as applied to the dollar limits), or (2) the aggregate limit for the key employee is increased to 1.25 (as applied to the dollar limits) under the bill. Of course, in no event are further benefit accruals permitted if the aggregate of the employee's accrued benefit and annual additions exceeds 1.25 (as applied to the dollar limit) or 1.4 (as applied under present law).

That paragraph is wrong. It would require that a key employee's aggregate limit in a top-heavy plan be immediately reduced from 1.25 to 1.0 by precluding future contributions or accruals. The paragraph is substantively incorrect and should have been deleted by GPO as instructed.

Although the conferees did decide to make this reduction to 1.0 (like the overall reduction from 1.4 to 1.25) immediately effective, they decided to provide a fresh start to insure that contributions or benefits provided under the prior law higher limits would not have such a drastic effect on future contributions or benefits. Accordingly, the conferees required the Secretary of the Treasury to prescribe regulations under which the numerator of the defined contribution plan fraction (as determined for the last plan year beginning before January 1, 1983) would be reduced (by an amount not exceeding this numerator) so that the sum of the fractions does not exceed the aggregate limit permitted under the conference agreement.

EQUITY IMPROVEMENTS

I have already noted that President Reagan proposed in his budget a series of significant loophole closings and measures to improve the equity of the Tax Code. This conference agreement raises over $24 billion from the President's proposals. In addition, we addressed other loopholes or overgenerous provisions which, while not raised formally by the administration, were a matter of concern to the Treasury as well as to Members. These additional equity improvements raise about $28 billion.

Mr. President, in both these areas we cut provisions that have helped companies evade paying a fair share of tax, and cut back preferences for both businesses and individuals with strengthened minimum taxes. The areas addressed include industrial development bonds, pension tax breaks, completed contract method of accounting, modified coinsurance, tax breaks for mergers and acquisitions, modifying and sunsetting safe harbor leasing, and a number of others. With respect to the medical deduction, a matter of concern to some in the version passed by the Senate, in conference we reduced the floor from 7 to 5 percent. We believe this is economically realistic but should not cause hardship.

USER FEES AND EXCISE TAXES

We have also agreed to increase the telephone excise tax to 3 percent for 3 years, and to double the cigarette tax for 3 years. Both of these provisions are temporary expedients; to be perfectly frank, we would have preferred to do the entire package without resorting to add-on taxes. That did not prove to be possible, but we should note that these are temporary changes, sunsetted after 1985; and that they are relatively modest increases. The higher cigarette tax would cost someone who smokes a pack a day about $2.40 more per month.

Finally, the bill raises the taxes that finance the Airport and Airways Trust Fund, as part of a broadly supported compromise to deal with the financing of the airport system and the FAA. In addition, taxes associated with specific spending—the unemployment tax and the medicare tax—are raised. In the case of the medicare tax, it is extended to Federal employees. This change has been the source of some confusion. In fact, we are also insuring that Federal workers receive an assurance of medicare coverage when they retire. This puts them on the same footing as other workers and shares the cost of financing medicare more equitably.

EXTENDED UNEMPLOYMENT BENEFITS

Lastly, Mr. President, the conferees agreed to a major addition to the Senate bill; a new program of extended unemployment benefits to aid unemployed workers during this period of economic difficulty. For the period between September 12, 1982, and March 31, 1983, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks would be provided where the extended benefit trigger rate equals or exceeds 3.5 percent, and up to 6 additional weeks of benefits would be provided in all other States. These extra benefits will be available to workers whose entitlement to State benefits or extended benefits ended on or after June 1, 1982, and who have exhausted benefits to which they are

entitled, have worked 20 or more weeks prior to applying for State unemployment compensation, and who continue to meet all other State and extended benefit requirements. The cost of this program will be covered by lowering the income thresholds for taxing unemployment compensation from $20,000 to $12,000 for single taxpayers, and from $25,000 to $18,000 for joint returns.

I would add that there is an urgent need for these additional benefits; in many States benefits are now being exhausted, and more will be used up in the weeks ahead. That is why it is important to approve this provision of our bill promptly.

In summation, Mr. President, this is a fair bill, a good compromise, even if it is not perfect. It is essential to sustaining the economic recovery program. It preserves the rate reductions and indexing that are so vital to working Americans. It spreads the burden of deficit reduction equitably, and it improves the equity of the Tax Code. The President has shown outstanding leadership to put this legislation through Congress. We owe it to him, and to the American people, to reaffirm that leadership by approving this conference agreement.

Mr. President, I ask to have included in the RECORD at this point a summary of revenue estimates of the tax provisions of H.R. 4961, and a descriptive summary of the spending reduction provisions included in the conference agreement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF REVENUE ESTIMATES

[Dollars in millions]

	1983–85 revenue effect	Percent
Compliance and collection:		
Administration proposals:		
Withholding on interest and dividends	$10,565	
Accelerated corporate payments	4,864	
IRS personnel	6,900	
Subtotal	22,329	22.7
Other proposals:		
Improved reporting, increased penalties, etc.	10,329	
Independent contractors	−303	
Subtotal	10,026	10.2
Total, compliance and collection	32,355	32.9
Elimination or reduction of loopholes and unintended benefits:		
Business:		
Administration proposals:		
Reduction of corporate preferences (including ITC limit)	3,023	
Construction period interest & taxes	2,940	
Tax-exempt bonds	863	
Completed contract	5,652	
Original issue discount & coupon stripping	938	
Life insurance	7,017	
Subtotal	20,433	20.8
Other proposals:		
ITC basis adjustment	4,394	
ACRS acceleration	1,541	
Leasing	7,937	

SUMMARY OF REVENUE ESTIMATES—Continued

[Dollars in millions]

	1983–85 revenue effect	Percent
Foreign oil income	1,146	
Possessions credit	1,102	
Mergers	2,135	
Targeted jobs credit	−1,324	
Subtotal	16,931	17.2
Total, business	37,364	38.0
Individuals:		
Minimum Tax	1,360	
Pension provisions	1,844	
Total, individuals	3,204	3.3
Total, loopholes and unintended benefits	40,568	41.3
Earmarked taxes on those responsible for specific spending programs:		
Administration proposals:		
Airport and airway	2,868	
Medicare—Federal employees	2,381	
Subtotal	5,249	5.3
Other proposals:		
FUTA	6,486	6.6
Total, earmarked taxes	11,735	11.9
Other revenue increases:		
Telephone tax ($6 per year for $25 monthly bill)	3,289	
Cigarette tax ($29.20 for 365 packs per year)	4,963	
Medical deduction	3,731	
Casualty deduction	1,400	
TAPS adjustment	389	
Miscellaneous	−109	
Total, other	13,663	13.9
Grand total	98,321	100.0
Memo:		
Administration proposals [1]	48,011	48.8
Other	50,310	51.2

[1] Administration revenue increase proposals in fiscal year 1983 budget would have increased revenues by $56.3 billion.

SUMMARY OF SPENDING REDUCTION PROVISIONS

I. HEALTH PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT

Medicare

Modify coverage of the working aged: Employers would be required to offer employees aged 65 through 69 the same health benefit plan offered to younger workers and medicare would be secondary payor to these plans.

Reimburse inpatient radiology and pathology services at 80 percent of reasonable charges: The special 100 percent reimbursement rate for inpatient radiology and pathology services would be eliminated. Such services would be paid for on the same basis as other physicians' services.

Repeal routine nursing salary cost differential: The differential factor paid to hospitals and skilled nursing facilities for inpatient routine nursing salary costs would be eliminated.

Payments for services of provider based physicians: The Secretary of HHS would be directed to prescribe regulations which would distinguish between the services of hospital-based physicians which are covered under medicare on a reasonable cost basis and those which are reimbursable on the basis of reasonable charges; and establish standards of reasonableness to be applied in each case.

Hold part B premium constant as a percentage of program costs: The part B premium would be increased on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues equal to 25 percent of program costs for aged beneficiaries.

Limit medicare reimbursement to hospitals: The current limits on medicare reimbursement to hospitals (i.e., the section 223 limits) would be extended and modified to include ancillary operating costs and special care unit operating costs; annual increases in the overall operating costs per case would be limited (for a period of not more than 3 years); the Secretary of HHS would be directed to develop methods under which hospitals, skilled nursing facilities and other providers could be paid on a prospective basis; the Secretary, at the request of a State, could allow medicare payment to be made under a cost control system in the State.

Require certain medicare regulations: The Secretary of HHS would be required to issue regulations to (a) eliminate the private room subsidy for hospitals, (b) establish single reimbursement limits for skilled nursing facility and home health agency services, (c) eliminate duplicate overhead payments for outpatient services.

Audit and medical claim review: The medicare contracting budget for fiscal years 1983, 1984, and 1985 would be supplemented by $45 million in each year to be spent specifically for audit and medical review activities.

Temporarily delay the periodic interim payments (PIP): Periodic interim payments to hospitals for the latter part of September 1983 would be delayed until October 1983. There would be a similar deferral of PIP payments from September to October of 1984.

Assistants at surgery: Reimbursement for assistants at surgery in hospitals where a training program exists in that specialty would be prohibited, except in the case of exceptional circumstances.

Ineffective drug provision: Payments for ineffective drugs under medicare part B and under medicaid would be prohibited.

Medicare payments to HMOs: Current requirements for contracting with health maintenance organizations (HMOs) would be modified by authorizing prospective reimbursement under risk sharing contracts with HMOs and other organizations at a rate equal to 95 percent of the Adjusted Average per Capita Cost (AAPCC).

Technical Corrections to Omnibus Budget Reconciliation Act of 1981

Hospice Care: Authorizes coverage for hospice care for terminally ill medicare beneficiaries with a life expectancy of 6 months or less.

Coverage of extended care services without regard to 3-day prior hospitalization requirement. Authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

Prohibiting recognition of payments under percentage arrangements: No cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Interest charges on overpayments and underpayments: Requires interest payments

with reapect to medicare overpayments. Similarily, the medicare program would be required to pay providers interest on underpayments.

Prohibition payment for Hill-Burton free care: Requires the Secretary to provide, by regulations, that the costs incurred by a hospital or SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

Prohibiting payment for anti-unionization activities: Prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

Elimination "lesser of cost or charges" provision: The lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

Extending medicare proficiency examination authority: Extends to September 30, 1983, the authority of the Secretary of HHS to conduct a program to detemine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

Retroactivity of regulations regarding access to books and records: Section 952 of Public Law 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1982, preceded by a comment period of no less than 60 days.

Private sector utilization review: Requires the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities.

Special part B enrollment without penalty: Requires a special open enrollment period under medicare part B for merchant seamen.

Medicaid

Allow nominal medicaid copayments: The prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients would be repealed except in the case of certain inpatient hospital and ambulatory services for children and pregnant women, for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses, for categorically needy persons enrolled in an HMO, and for emergency services and family planning services.

Modify lien provision: States would be permitted under certain circumstances to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions.

Reduce medicaid error rates: States would be required to reduce their medicaid error rates to 3 percent.

Optional medicaid coverage of disabled children at home: States would be allowed to cover services for certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previously medicaid was not available if the child received care at home.

Technical corrections to Omnibus Budget Reconciliation Act

Six-month moratorium on nursing home regulations: Prevents the regulations currently proposed by the Secretary regarding changes in survey and certification requirements for nursing homes from going into effect for six months.

Medicaid funding for American Samoa: Provides Federal funding for medicaid services in American Samoa.

Utilization and quality control peer review

Contract for utilization and quality control peer review: The Professional Standards Review Organizations (PSRO) program, would be repealed. The Secretary would be required to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting effective, efficient, and economical delivery of health care under medicare.

II. SENATE HEALTH PROVISIONS NOT INCLUDED IN CONFERENCE AGREEMENT

Medicare

Senate provisions not included in the conference agreement: The conference agreement does not include the provision relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board.

Medicaid

Senate provisions not included in the conference agreement. The conferees did not agree to the following proposals: a provision to eliminate Federal matching for States paying the medicare part B premium for joint medicaid/medicare eligibles; a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROVISIONS

Rounding of eligibility and benefit amounts.—States would be required to round both their needs standards and actual monthly benefit amounts to the next lower whole dollar.

Proration of first month's benefit.—States would be required to pay benefits no earlier than the date an application is filed. Therefore, the AFDC benefit would be prorated from the date of application.

Elimination of uniformed services as basis for AFDC eligibility.—Absence from the home solely because of uniformed services would be excluded as a basis for AFDC eligibility.

Job search.—States would be given the option of requiring individuals applying for AFDC benefits to participate in job search while the application is pending. Continued job search would be required, after the application becomes effective, for not more than a total of 8 weeks each year (or 16 weeks in the first year).

Proration for shelter and utilities.—States would be allowed to prorate the portion of the AFDC grant for shelter and utilities for AFDC families living in households with other individuals.

Reduction of Federal match for payment errors.—The allowable error rate for AFDC would be 4 percent in fiscal year 1983, 3 percent in fiscal year 1984, and 3 percent in fiscal year 1985.

Exclusion from income of certain States payments.—States would be allowed to exclude from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated and paid.

Extension of time for States to establish a work incentive demonstration program.—States would be allowed two additional years in which to exercise their option to operate a WIN demonstration program (as provided in the 1981 Reconciliation Act).

Accounting method for income from certain state payments.—States would be allowed to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by States to AFDC households.

Technical amendments to Title XX Social Services and Foster Care Program.—Several technical corrections to social services and foster care provisions of Public Law 97-35 were made.

The following proposals were not included: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (continuing eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT PROVISIONS

Fee for services to non-AFDC families.—The law in effect prior to Public Law 97-35 would be restored which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. As a State option, authority would be retained for States to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.—Allotments would be required from the pay and allowances of any member of the unformed services, on active duty, when he fails to make child (or child and spousal) support payments.

Reimbursement of State agency in initial month of ineligibility for AFDC.—States would be permitted to reimburse themselves for AFDC that would have already been paid for months before the support was collected and known to make the family ineligible. Thus, the family would not receive double payment for the same month, both in the form of AFDC and through receipt of the support collection.

Reduction in certain Federal payments under the Child Support Enforcement Program.—The Federal matching rate for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Effective October 1, 1983, State child support incentive payments would be reduced from 15 percent to 12 percent and the Federal match for the costs of court personnel who perform child support enforcement functions would be repealed.

Technical amendments to Child Support Enforcement Program.—Several technical corrections in the Child Support Enforcement provisions contained in Public Law 97-

35 were made, including certain inaccurate references.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Prorate first month's benefit based upon date of application.—The first month's SSI benefit would be prorated from the date of application or the date of eligibility, whichever is later.

Round SSI eligibility and benefit amounts.—SSI monthly benefit and income eligibility amounts would be rounded to the next lower whole dollar. Rounding would take place after the cost-of-living adjustment had been made.

Coordination of SSI and OASDI cost-of-living adjustments.—The SSI and social security (OASDI) benefit increase would be coordinated so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information.

Phase out "hold harmless" protection.—Federal hold harmless payments would continue to be phased out, being reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years.

Exclusion from resources of amounts set aside for burial expenses.—For purposes of determining SSI eligibility, burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary) would be excluded from countable resources. Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies as would any amounts held by the individual in an irrecovable burial contract or other arrangement made to meet burial expenses.

The Secretary would be authorized to exclude, as income and resources, increases in the value of: (1) amounts set aside for burial expenses because of interest earned, and (2) pre-paid burial arrangements.

SSI pass-through requirement.—In order to meet mandatory pass-through requirements, a State would be allowed to shift from the aggregate spending option to the State supplementation payment level option so long as the State does not decrease its State supplementation payment below the level in the previous December.

Treatment of unnegotiated SSI checks.—The authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks would be clarified.

A provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits) was not included.

UNEMPLOYMENT COMPENSATION PROVISIONS

Round unemployment benefits to next lowest whole dollar.—The Federal 50 percent share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

Reed Act funds.—The authority for States to use Reed Act funds for administrative purposes would be extended for 10 years. The provision would also permit States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

Exclusion from FUTA of wages paid to certain students.—Wages paid to certain full-time students would be exempt from FUTA tax: (1) students enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program; and (2) students employed by certain summer camps (1983 only).

Extension of exclusion from FUTA of wages paid to certain alien farmworkers.—The provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes, would be extended for two years, from January 1, 1982 to January 1, 1984.

Unemployment Compensation (UC) Financing.—The Federal unemployment tax (FUTA) wage base would be increased from $6,000 to $7,000 and the FUTA rate would be increased from 3.4 to 3.5 percent, effective January 1, 1983. (Employers in States with approved State programs would continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate would be increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

Additional unemployment compensation financing provisions would:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration Account (ESAA) and 40 percent to the Extended Unemployment Compensation Account (EUCA) in the Federal Unemployment Trust fund. Amounts allocated to EUCA which exceed the Federal share of extended benefit expenditures would be used to repay Federal general revenue advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues would be allocated to ESAA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience-rating system and/or benefit reductions;

(c) drop the present low additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferred amount.)

Treatment of certain employees of institutions of higher education.—States would be allowed to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years or terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

Short-Time compensation.—The Department of Labor would be directed to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor would also be directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Additional weeks of unemployement benefits.—Additional weeks of unemployment compensation benefits would be provided to unemployed workers. Effective September 12, 1982, through March 31, 1982, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits (EB) are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate (i.e., the percentage of workers who are collecting State unemployment benefits) equals or exceeds 3.5 percent. Up to 6 additional weeks of benefits would be provided in all other States.

The additional benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and:

(a) who have exhausted all State, or State and extended benefits to which they are entitled;

(b) who have worked 20 or more weeks (or had the equivalent in wages as specified in the extended benefit program) prior to applying for State unemployment compensation; and

(c) who continue to meet all other State and extended benefit requirements.

Benefit and administrative costs of the program would be financed out of Federal general revenues.

Taxation of unemployment compensation benefits.—The income thresholds limiting the inclusion of unemployment benefits in adjusted gross income for Federal income tax purposes would be reduced from $20,000 to $12,000 for single taxpayers and from $25,000 to $18,000 for married taxpayers filing jointly. This change would apply to unemployment benefits paid on or after January 1, 1982.

The following proposals were not included: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

Mr. DOLE. Mr. President, as I said, we have been on this matter for a number of months and we have heard a lot of campaign rhetoric. We have not heard much discussion about the bill itself from those who oppose it. We have heard discussions that we should not raise taxes, and that we certainly should not raise taxes in an election year. My answer is that we are not, in effect, raising taxes. Most of this bill, 80 percent or 77 percent or a great majority of the percentage of this bill, is tax reform.

It has been a long road, but we are simply carrying out the provisions of the budget resolution. I would say to my colleagues that the Senate Finance Committee did not stand around looking for something to do and dream up a tax bill. We are carrying out our budget agreement. We believe we have carried out the budget mandate successfully and effectively. We have met the requirements of the budget resolution on the spending side and on the revenue side.

Mr. President, may we have order?

The PRESIDING OFFICER. May we have order so we may hear the Senator from Kansas? Private conversations will be moved to the cloakrooms so that we may hear the Senator from Kansas.

The Senator from Kansas may proceed.

Mr. DOLE. Mr. President, I know some will say we did not cut spending enough so we should not raise taxes. Well, under this conference report, we have cut spending. Spending is going to be reduced by $17.5 billion and we are going to increase revenues by $98.3 billion over the next 3 years.

The deficit reduction provisions in this bill account for over 30 percent of the entire deficit reductions called for by the budget resolution. We have been a long time in the making of this legislation. It was not developed overnight. A few times last weekend, though, it did seem as though much of the work was being done late at night or early in the morning, depending on your point of view.

But the long hours that have been devoted to this bill in recent weeks are only the culmination of a process begun earlier this year.

In fact, the pedigree for the revenue provisions of this bill can be traced back to September 1981—not this year, but last year—when President Reagan proposed a package of loophole closings designed to raise $22 billion, plus additional spending reductions to cut the deficit projected and to help offset the onset of a recession.

Those revenue proposals were not pursued at that time, but many of these same items were included in the fiscal year 1983 budget proposal, the one that President Reagan submitted to Congress in early February of this year. The Senate Finance Committee promptly began to review budget alternatives on both the spending and revenue side with hearings on the budget beginning in late February and carrying through the middle of March.

Mr. President, during the course of those hearings it became clear that the major deficit reduction effort on both the spending and revenue sides was vitally necessary to insure a sustained economic recovery. Four distinguished economists who testified before our committee on February 24, while they disagreed on the specific deficit reduction measures that ought to be taken, did agree on this basic point.

Those witnesses were Dr. Martin Feldstein, who has been named to the post of the Chairman of the Council of Economic Advisers; Dr. Joseph Pechman, of the Brookings Institution; Dr. William Fellner, of the American Enterprise Institute; and Dr. Allan Meltzer of Carnegie-Mellon University. They have wide and differing philosophies, but they all came down with the same result, that we had to do something.

And that continued through the so-called first round of budget discussions, involving, I think, the Gang of Five, five Republican Senators—the distinguished Senator from New Mexico, Senator DOMENICI; the distinguished majority leader, Senator BAKER; the distinguished Senator from Oregon, Senator HATFIELD; and the distinguished Senator from Nevada, Senator LAXALT—in a series of meetings trying to figure out some way to bring down the deficit, lower interest rates, and get people back to work.

After that effort, the next step was some 13 or 14 meetings of the so-called Gang of 17—Republicans, Democrats, administrative officials—who gathered on a day-to-day basis trying to reach some agreement on revenue increases and spending reductions.

I might say at that time there was almost an agreement to raise $122 billion in revenue over a 3-year period.

That was reduced to $98.3 billion by the budget resolution.

Mr. President, I am not here to apologize for this package. I am here not on the defense. I am here to suggest to Members on both sides of the aisle that we are near the moment of truth.

Do we want to reduce the deficit, do we want to continue the downward trend of interest rates, or do we want to signal to the financial markets and the people in our States that we really do not care, that we really have not quite enough courage to take this step, because some tax might affect someone in our constituency?

I would say that those who talk about tax increases, where you have not paid taxes at all but now you have to start paying taxes because of tax compliance, that is not a tax increase, and there is $30 billion of compliance in this measure.

We have also tried to bring some equity into the system. We have said in effect to those who put away $45,000 to $47,000 a year in pensions, tax free, that is too much. We are cutting food stamps, we are cutting medicaid. We are cutting social programs. The people at the bottom of the scale are making the sacrifices. What about the upper middle income and upper income American? When do they make a sacrifice?

Then we closed some loopholes, giant loopholes.

It seems to me, when you properly consider that, then I suggest that we have a pretty good bill. Call it a tax bill, call it a tax increase, call it a tax reform, call it anything you want, but vote for it. Vote for it because it is good policy.

I really believe we have met our targets and exceeded our targets on the spending side because of the concern of many Senators, including the distinguished Senator from Montana. We dropped many of the provisions that would have directly affected beneficiaries in the conference. We have solid spending reductions, I think about 18 to 19 percent, coming from beneficiaries, the great bulk coming from reducing reimbursement payments to physicians and reducing hospital payments.

We also decided that medicare will become secondary for older workers who choose to remain covered under the group health plan provided by their employers. That provision is going to save about $1.4 billion.

Mr. President, this legislation must be approved in the interest of sending a clear signal at the earliest possible time to people around this country that we are serious about our work.

Mr. President, I have additional information to submit at a later time, but at this time I will yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, almost exactly 1 year ago, the Congress passed and the President signed historic legislation to reduce the rate of growth in Government spending and reform our tax system. When Congress had finished its share of the job last August I took a plane home to Minnesota half expecting to be greeted by a crowd of people congratulating us on our accomplishments.

There was one person at the airport. And the only thing he wanted to say to me was, "When are you going to do something about getting the interest rates down?"

During the last 12 months people I see throughout Minnesota keep asking me the same question: "When are you going to get the interest rates down?"

And they have been asking a few other questions: "When are you going to do something to make the tax system more fair? When are you going to do something to create new jobs? When are your going to cut into that hugh Federal deficit? When are you going to re-do the abuses that crept into last year's tax bill?"

Mr. President, I expect that when I return to Minnesota for this year's August recess, the crowds at the airport will not be much larger or much

more enthusiastic than they were last year. But there is a big difference. Last year we only started the process of turning the country around. The bill we are considering tonight takes us another big step forward in an ongoing process of tax and spending reform.

If each of the items in this legislation came along as a separate bill, there are many I probably would not vote for. But as a package it is a good piece of legislation. It will create new jobs. It will spur new investment in basic industries. It will make our tax system more fair. And it will keep us on the right road to lower interest rates.

The arguments being raised against this conference report share two common flaws. First, they treat this bill in isolation, as an end in itself, as if it had no relation to overall economic policy and no relation to ongoing tax reform. Second, they proceed on the assumption that U.S. Senators have the luxury of being "100 percenters"—refusing to accept any legislation that contains any element that does not suit our individual fancies.

West of the Washington Beltway people understand that the world does not work that way. And the best way to puncture these misconceptions is to step back from the details of the bill for just a moment, and review the context in which it comes before the country. When Ronald Reagan was inaugurated as this Nation's 40th President, he warned the country that reversing 20 years of economic erosion would be neither a quick nor a painless process. And while in our hearts we hoped the President was wrong, we knew in our minds he was right.

Last year's historic tax and spending reforms came easily, as first steps usually do, and 1981 saw the beginnings of a dramatic reversal in the direction of Federal tax policy.

It was driven by the recognition that the tax system as presently structured was not conducive to work, to savings, and to investment. The reduction of marginal tax rates, the provision indexing inflation out of the Federal income tax, and the many specific provisions encouraging investment and savings all reflect this fundamental shift in policy.

If 1981 was the time to make the first effort at genuine tax reform in almost 50 years, 1982 was to be a period of reflection, adjustment, and refinement of the basic changes begun a year ago. But those thoughts proved to be false optimism. We had all underestimated the price this country was about to pay for two decades of overconsumption and overcommitment. And the roots of this evening's debate actually go back to February, when the President released a budget calling for deficits in excess of $700 billion over the next 3 years.

Those deficits were unacceptable by any criteria. Congress responded by forging a reconciliation budget that reduced these deficits by nearly $400 billion. The Senate proposed achieving those savings mainly through spending reductions; the House proposal called for higher taxes—$180 billion higher over the next 3 years.

The final compromise reached by the two Houses was a blend of both. It reduced the deficit by $378 billion—$279.5 billion through spending reductions and $98.5 billion through new tax revenues. In light of the way interest rates have held up over the past 6 months, I shudder to think what would have happened to the economy if that compromise had not been reached—or if Congress should fail to pass this bill and the other legislation required to meet these budget ceilings.

That is where the tax debate comes into the picture. When the Senate Finance Committee met in July it met to fulfill a specific mandate—draft legislation sufficient to raise the required $98.5 billion in new revenues over the next 3 years.

When the Republican members of the committee met in closed door session to consider how to accomplish that goal, we laid all possible choices on the table. We discovered very quickly that it was impossible to reach the $98.5 billion target simply by accepting revenue proposals we could all support. It was going to be necessary to adopt tax changes that some of us would not support under other circumstances—and the only question was "Which ones?" The committee began that sorting out process by adopting two general principles:

First, wherever possible, the committee would seek to collect taxes from those who owe them but are not paying, rather than levying new taxes on those who are complying with present laws.

Second, if present tax benefits had to be altered or repealed, the committee would seek to preserve tax benefits that applied to all businesses across the board, and alter only those provisions which grant special benefits to one group or company at the expense of others.

The conference report now before this Congress was assembled in line with these principles.

It is not, as some critics have called it, the biggest tax increase in history, It cannot be viewed in isolation from the rest of the President's tax program of which it is a very small part. We have all received more benefits from last year's tax reductions, savings incentives, and the resulting decline in the tax of inflation than we are being asked to return in this proposal.

Moreover, the President was right in pointing out that this bill does not levy $99 billion in new taxes. The bulk of the revenue it raises comes through compelling better compliance from taxpayers who owe taxes but are not paying them. A tax system that fails to force compliance by a small segment of society—usually the richest segment—is a system unfair to the great majority of working men and women who do comply. By improving compliance, this bill creates a tax system that is fairer, and a deficit nearly $45 billion lower. That is a fair deal for all Americans.

At the same time, this bill is not painless. Tax loopholes are closed, and some new taxes are levied. But let us be realistic—there is not any painless way to cut a $140 billion deficit. Everyone is going to have to feel some pain so we can avert the very real threat of indefinite economic stagnation. So far the brunt of the deficit reduction has fallen on some of the poorest elements in society, as so many of the appropriated programs have been cut back. But we are never going to complete the job until all segments of society—including defense, entitlements, and those who benefited the most from recent tax reforms—share in the burden.

No Senator should be foolish enough to believe we have the luxury of rejecting a basically sound bill simply because it contains one or two provisions we might personally disagree with. I am not ashamed to admit that I was the last Republican holdout on several of the provisions in this bill. There are portions of the package I disagree with and will work to modify next year. But I am also not ashamed to tell you that when no other way to meet the budget requirements surfaced, I voted with the committee to keep those proposals in the bill.

There are 100 Senators in this body and 435 Representatives in the House. Each of us would have assembled the bill in a slightly different way. But the fact that I might have constructed the tax bill differently if I had had the power to do so cannot change the reality that a failure to meet the $98.5 billion budget ceiling would have a catastrophic effect on interest rates, inflation and Federal borrowing.

This vote is being taken at a time when the impact of the President's program is beginning to take hold. For the first time in many months, there are some good economic signs. Interest rates have fallen rapidly, down more than 7 points from the peak levels inherited from the last administration. Inflation has been cut in half in just 12 months, and there are signs that the country is finally beginning to recover from the tragedy of this recession. Rejection of this conference report would shatter the confidence that has begun to grow in the financial community, confidence that has been months in the building. Even if this bill differs somewhat from our personal preferences, it is a sound bill,

and we cannot afford the risk of being 100 percenters.

The fact is that this bill meets the basic objectives of sound tax policy at this stage of the Nation's passage to tax reform.

It raises the revenue necessary to reduce the deficit and meet budget ceilings without doing harm to the budding tax reform begun last year. The individual rate reductions have been preserved, as has the essence of the accelerated cost recovery system.

It furthers those reforms in several areas, including the further changes made in IDB's and mortgage revenue bonds.

It corrects and adjusts policies made last year that are not in line with the overall thrust of tax reform, for example, by correcting those areas where ACRS was actually better than expensing.

It is also essential to recognize that our consideration of tax law changes in the Finance Committee this year added another important dimension to the goals of Federal tax reform. Besides shifting the tax penalties off workers, savings and investment, American taxpayers have—since ERTA—voiced a strong desire for fairness and equity as a goal of comprehensive tax reform. This bill is what its name implies—a tax equity bill. Its major thrust falls on upper income taxpayers. It imposes a minimum tax on large corporations that have utilized tax expenditures to escape their responsibilities to pay a share of this Nation's expenses. It raises millions of dollars in revenues by imposing a minimum tax requirement on the 200,000 millionaires who now avoid paying any taxes at all.

There are also specific provisions in this conference report that will benefit the country as a whole and Minnesota in particular.

The bill contains a provision I authored cutting out the abuses in safe harbor leasing, and focusing its benefits on the farmers and distressed industries that need the help the most. Estimates are that the provision will save or create tens of thousands of jobs in the steel, airline, and automobile industries.

I take great pride in the fact that we were able to exclude from the restrictions on tax-exempt financing contained in this bill those bonds to finance student loans and the construction of college facilities. In response to a continued reduction in Federal aid to colleges and college students, many States and colleges are compensating by selling tax-exempt bonds and loaning the proceeds to students who otherwise would not be able to obtain a higher education. Also, colleges are using those proceeds to finance the construction of new facilities and the improvement of existing structures. While applying the restrictions in this tax bill to such tax-exempt borrowing would have raised a small amount of revenue in the short term, the long-term consequences would have been devastating—in terms of both human and financial costs. The colleges of this country and their students are showing amazing resilience, creativity and energy in coping with the many difficulties they face. Saving a few dollars now at the expense of higher education is one of the costliest decisions we could have made. I am pleased that the Senate spared them the need to cope with one more difficulty by excluding student loan and college facility construction tax-exempt bonds from the restrictions in this tax exempt bill.

The bill also contains a provision I authored that will allow tax-exempt bonds to be used for district heating and cooling projects. Minneapolis already heats much of its downtown with a district heating system, and my amendment will facilitate its expansion. St. Paul is planning a district heating project, and the bill makes it far more likely that St. Paul can accomplish its goal.

The bill also corrects a loophole in Federal IDB legislation, enabling the city of St. Paul's Port Authority to proceed with an IDB issue needed to further the city's development program.

The bill extends the targeted jobs tax credit, and insures Minnesota's unemployed an additional 10 weeks of supplemental unemployment compensation—something I have been fighting for for more than a year.

These are significant accomplishments, and they are good reasons in their own right to support the bill.

This is, in short, a sound bill from any policy perspective. And in a real sense, Mr. President, the bill is a test of whether we have the courage of the convictions we so often preach to our constituents.

We all speak in ringing terms about our commitment to cutting the Federal deficit. But is that the kind of commitment we abandon when the path to a lower deficit, though a sound and fair path, is a little bit different from the one we might have preferred?

We thrive on the campaign rhetoric of tax equity and closing tax loopholes. But are we going to abandon that commitment when some of those loopholes affect a few of our own constituents?

And we speak so often in this Chamber of the need to support the President. Do we really mean that we will support him only when it is easy, or when his programs do not ask us or our political constituencies to share in some of the sacrifice?

This is not the last tax bill this Congress will consider. The movement toward tax reform will continue next year, and during the years following. I know as well as anyone in this Chamber that increasing taxes in an election year is a difficult thing to do. But we were not sent to Washington just to make the easy decisions. We have an obligation to lead public opinion and do what is right for the country. Passage of this conference report is the only way to meet the budget ceilings and I am going to vote yes. The stakes for the entire country are just too high to do anything else.

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I shall vote in favor of the conference report on the Tax Equity and Fiscal Responsibility Act of 1982.

I support this legislation for several reasons:

First, this legislation provides for an extension of unemployment compensation payments for the jobless who have been unable to find new jobs during this severe and extended economic recession. This is extremely important at a time when our national jobless rate is 9.8 percent and it is very important in the State of Rhode Island where several hundred jobless persons exhaust their unemployment benefits each week and face the prospect of turning to welfare or charity to survive.

This legislation also is an essential part of an effort to narrow the huge gap between Federal revenue and spending, to bring Federal Government budget deficits under control. The bill will increase Federal revenues by nearly $100 billion during the next 3 years. Without this revenue increase, the Federal deficits which threaten to undermine any economic recovery will continue to grow.

I also support this legislation because it corrects some of the most serious mistakes made by the Congress when it passed the Economic Recovery Tax Act of 1981. That tax bill provided much-needed incentives for increased savings and investment, but in my view, the tax cut bill went too far and provided, in some cases, grossly excessive corporate tax cuts. The bill we are considering today corrects the worst of those mistakes, while preserving the justified tax reduction needed to promote sound economic growth and investment.

I am particularly pleased that this bill provides for restriction and ultimate elimination of so-called "safe-harbor" leasing, the provision of the 1981 Tax Act which permits corporations to buy and sell Federal tax credits. I was the principal sponsor of Senate legislation to repeal this unwarranted and unjustified corporate tax loophole and I am happy that this bill closes the loophole.

This tax bill also corrects some blatant inequities and flaws in our tax code. It eliminates a widespread abuse

in professional corporation pension plans and it corrects serious flaws in taxation of the life insurance industry.

Mr. President, from the outset of the current administration 18 months ago, I have been critical of its economic policy. I said at that time that I believed the administration's proposed tax cuts were too deep, its proposed cuts in spending for worthwhile Federal Government programs were too severe and its proposals for increases in defense spending were too large. I said at that time that these proposals ran a serious danger of creating huge budget deficits that would undermine our national economy.

The tax bill we are considering today is, in part, an admission by the administration that the huge tax cuts approved last year were too large and could hurt instead of help our economy by depriving the Government of needed revenues. This bill moves toward reestablishing a responsibile fiscal policy, toward providing the revenues needed to pay for essential Government services without huge Government deficits. I welcome this correction in the administration's economic policy.

I have said frequently that I want the President's economic program to succeed. All too frequently during the past 18 months, however, I have been compelled to vote against the President's economic policy proposals because I believe they were ill-advised. Today, I am happy to say I believe the President is right. This is basically a very good and very fair tax bill. The bill strengthens our economy by narrowing the budget deficit in the coming years and I will vote for the bill.

Mr. PERCY. Mr. President, I intend to strongly support the report before us. I commend the distinguished managers of this bill for the extraordinary hard work, and imaginative and creative work, they have put into it.

Mr. THURMOND. Mr. President, as my colleagues are well aware, Congress is moving toward consideration of the House-Senate conference report on the tax bill.

The news media has gone to great lengths to show that there is opposition to this bill from a variety of groups including lobbying organizations for businessmen and professionals.

I, for one, plan to support President Reagan on this issue despite that opposition because I firmly believe that this is no time to abandon our economic recovery program.

Today, I had the privilege of meeting with a group of officials from the National Association of Retail Druggists, an organization which represents more than 30,000 stores and the 18 million consumers who do business with them every day.

I was pleased to learn that this group has added its support to the tax bill, believing as I do that we must support the President if we are to have sustained economic growth and a reduction of interest rates. A great deal has been said about the opposition to the tax bill from independent businesses and the lobbying organizations representing them. It is refreshing to know that there are a great number of people who also support the tax bill because they know that is the only sure way, coupled with a program to steadily reduce Government spending, that we will get back on the track to a healthy economy and years of prosperity.

Mr. President, I ask unanimous consent that a statement of endorsement for the tax bill from the National Association of Retail Druggists be included in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The National Association of Retail Druggists, on behalf of America's independent retail pharmacists and our more than 30,000 stores and the 18 million consumers who do business with them daily, urge you to vote for the House/Senate conference report on the tax bill, H.R. 4961.

Through our efforts as the only organization registered with the Congress to represent the interests of independent retail pharmacy, many of you are personally aware of our concerns about the economy. As the owners of independent small businesses that you represent, who have been ravaged by the twin demons of inflation and interest rates, we took a long and hard look at the bill. Likewise, we reviewed proposed alternatives including minimum tax, surtax, excise taxes, as well as the repeal of the 1981 estate and gift tax reform or the 10 percent individual tax cut scheduled for July 1983.

Although those of us who are supporting the President and congressional leaders in this effort to revitalize the American economy have some reservations about the bill, we see the conference bill as the only available vehicle that could further reduce interest rates. NARD, however, does continue to oppose, as shortsighted, cuts in reimbursement for the cost-effective medicaid pharmacy program.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I would like to say a few words about the alternative minimum tax provisions agreed to by the conference committee. The House conferees proposed substantial revisions to this provision. We were able to reach an agreement which incorporates some of these changes. The differences between the Senate provision and the conference agreement are clearly described in the conference report. But I would like to point out a couple of changes the House conferees attempted to make but which were not agreed to.

First, the House proposal would have disallowed all deductions for charitable contributions. It was my position, and that of the other Senators in the conference, that this proposal was totally unacceptable, in fact, not even worthy of debate. Here we are asking the charitable organizations of this country to take on a greater burden in serving the needs of education, welfare, health care, and a wide range of other functions we have come to rely on the Federal Government for. How could we, at the same time, justify diluting the incentive for charitable giving? Charitable deductions, unlike most other itemized deductions, are already limited under current law. Further restrictions would have been regrettable; to have disallowed the deduction completely, as the House suggested, would have been disgraceful. I am pleased to inform my colleagues that the conference agreement makes no changes in this area, and charitable contributions remain deductible for minimum tax purposes, subject only to the same limitations which apply for the regualr income tax.

Second, the House conferees proposed disallowing the deduction for home mortgage interest for the minimum tax, unless the taxpayer had investment income of at least that amount. Again, I an pleased to point out that the conference agreement does not include that proposal. As under the Senate bill, for purposes of the alternative minimum tax, home mortgage interest remains fully deductible and only other interest is limited to the amount of investment income included in the minimum tax base.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise tonight because I am very proud. I am proud of a lot of things. I am thinking back to May 5 of this year. I did not think that night when the Budget Committee was marking up the budget resolution that we would get this far. We have gone through a lot, including negotiations with the White House. I will never forget the great conversation that I had with our President when I suggested that we could produce a budget resolution with $101 billion of new revenue. I suggested that we instruct and hope that the Congress would agree, that the Committee on Finance must produce $101 billion. The President listened and then in a few sentences said, "Go ahead. I will support it." Those who know him know he does not talk that way. He uses other, more typically "Great Communicator" phrases.

I did tell the press that night literally what he said.

I am proud that he has followed through. He has been marvelous in this support of this measure.

I am proud, too, of the Senate. The Senate voted the first budget resolution that contained about $106 billion in new revenue and a lot of budget cuts in it. I am proud of the action taken by those conferees from the House when the bill went over there. We compromised. We came up with $98 billion plus in revenue. We did not lose much of the budget cuts either.

We voted on that measure and that took a lot of courage.

Basically, I am proud of the courageous activity around here. Then it goes without saying that I could not be more proud than to be associated with such distinguished Senators as those on the Finance Committee. Those on my committee did what they had to do, but it is comparatively easy because we do not have to formulate the details. Those members of the Finance Committee and the members from the Ways and Means Committee in the House had to go off and produce a bill. Our committee produced that bill and we voted for it.

The House in the last 10 days or so through their committee conferred and produced another reconciliation bill.

Today I watched another series of courageous acts. I watched the Speaker of the House, and I watched the leader of the Republican Party there, and the chairman of the Ways and Means Committee and many others, and I was proud of what they said in support of the Tax Equity and Fiscal Responsibility Act. Then I anxiously watched the vote and I was proud to be part of the U.S. Congress again. I really was.

It is absolutely historic to see Members in both bodies, on both sides of the aisle less than 90 days before an election, vote yesterday to cut $13.3 billion. That was by a large margin here and by a large margin in the House. Why was I proud? Was that really courage?

Well, it was either courage or there has been some significant change in the way we do business around here. Maybe they are synomymous. Maybe it takes courage to do things differently than they had been done for decades in the past.

Who would believe we would vote a major change in the automatic cost of living just yesterday?

Who would believe that the Finance and the Ways and Means Committees would add another $16.8 billion in savings over 3 years in those uncontrollables that are within their respective jurisdictions? Without those savings, most of those programs would be growing at about 2½ or 3 times inflation.

I am proud that we have done that.

It does not make me proud just because our President said yes on May 5 and has been marvelous ever since, or that the Committee on Finance followed the instruction. If it were not good policy and the right thing to do, it surely would not make me proud. But I am absolutely confident that we are on the road to recovery.

I am absolutely confident that we are on the road to less Government, not more.

I am absolutely convinced that we are on the road to lower interest rates, lower service on the debt. These are the sign posts along the road to prosperity for millions of Americans.

I know of no other way to send a more dramatic signal to the people of this country than by what we have done and what I hope we do here tonight.

I know of no better way to send a message to the money markets that we are serious about getting the huge deficits under control and that we are doing it in a prudent and reasonable way.

I know of no better way that we could send a message that we are serious about a positive reduction in the deficits each year for the next 4 or 5 years. Hopefully, this will culminate in a balanced budget in the not-too-distant future. I would like to be chairman of the Budget Committee when that happens.

There are so many people to be proud of, Mr. President. I missed some as I discussed it. There were literally hundreds of hours in our leader's—HOWARD BAKER'S—office, with Senator DOLE, Senator HATFIELD, Senator LAXALT, figuring out what we could do and what we could get through. There were many others who are running for office, who have voted time and again on tough issues; first on the budget resolution, then on the tax bill and on reconciliation bills. Hopefully we will hang tough here tonight, and pass the conference report on the tax bill. It is one more necessary step if we are to achieve prolonged economic recovery.

None of these votes was easy. They were all hard votes. I am positive, as positive as I have ever been about anything in my life, that those votes were not in vain. To the contrary, Mr. President. If we do not vote this conference report in, I believe we have acted in vain for about the last 18 months.

Then I do not think anybody in the money markets of America or those wondering whether inflation is going to go wild again will have any reason to believe us. I just think they will say, "That is just some more talk up there. That is just more idle promises."

Well, the House did their job. I hope we do ours tonight.

Mr. President, this is a critical moment in our drive for fiscal responsibility. This is a critical moment for the Senate.

We have before us the Conference Report on H.R. 4961, The Tax Equity and Fiscal Responsibility Act of 1982. The question we face is as simple as it is difficult: Do we have the courage to vote for changes in taxing and spending patterns in an election year when the public good demands it?

I fervently hope the answer will be "yes."

We may have gotten a partial answer yesterday when the Senate voted 67 to 32 to adopt the conference report on the Omnibus Budget Reconciliation Act of 1982. I commend my colleagues for that action. I know it was not easy for many. But it was necessary.

Adoption of the conference report before us today is equally necessary. Together, these two actions would provide a clear signal that the Congress means to make the tough decisions that are required to achieve the economic goals we all seek.

I especially want to applaud the efforts of the distinguished chairman of the Senate Finance Committee, Senator DOLE. He and the members of this committee have produced deficit-reduction measures totaling $115.5. billion over the next 3 years. This is an extraordinary achievement. Laboring through many all-night sessions, they have put the common interest of all Americans ahead of the special interests.

This bill cuts spending by $16.8 billion over the next 3 years. It reforms the tax system to yield $98.3 billion in additional revenues over the same period. And it provides for a program of extended unemployment benefits that will pay for itself over 3 years. All these actions are necessary.

Our action yesterday on the Omnibus Budget Reconciliation Act brings the spending cuts in the two bills to $30 billion over the next 3 years.

Mr. President, I ask unanimous consent that a table showing the revenue and spending changes in this conference agreement be included in the RECORD at the conclusion of my remarks.

With the passage of this conference report, the Congress will show the country that we can remove tax loopholes while preserving the fundamental elements of the President's economic program. It will show the American people that Congress means to check the relentless growth in Federal spending. This bill is only one step along the path of fiscal restraint, but it is a very big step.

The necessity of this action should be evident to all. Never before has this country faced the possibility of annual deficits in the hundreds of billions. Never before have interest rates stayed so high for so long. These are

not just the results of a few policy mistakes but rather the products of a prolonged period of fiscal excess ranging over the past 20 years. Passing the conference agreement today is one of many steps Congress must take to restore the Nation's economic health.

Some recent developments show that if we regain control of Federal spending and reduce deficits, we can lay the groundwork for lower interest rates and economic recovery. The inflation rate has declined more rapidly in the past year than anyone thought possible. And now we find that interest rates are declining as well. Last Monday Treasury 90-day T bills sold at an interest rate of 8.6 percent, the lowest level in 2 years. Even Henry Kaufman is now predicting that intertest rates will decline dramatically. Such progress could be reversed if we fail to adopt this conference report.

Let us look now at some of this bill's major provisions.

MEDICARE

The conference report contains major reforms which will help slow the growth of medicare, saving $12.8 billion over the next 3 years. The bill contains many changes in health care provider reimbursements, including a sweeping reform of hospital reimbursements that for the first time gives hospitals a financial incentive to restrain their cost increases. These changes still permit medicare to grow more than 13 percent per year for the next 3 years.

MEDICAID

The bill saves $1.1 billion in medicaid over the next 3 years, by giving the States the flexibility to adopt small copayments and to recover part of the costs of long-term care. This still allows 9.6 percent growth per year in medicaid.

AFDC AND SSI

In the AFDC and SSI programs, savings of over $700 million are obtained by streamlining benefit calculations and asking States to reduce their error rates. This will have a negligible impact on the truly needy while providing an incentive for beneficiaries to work their way out of welfare dependency.

UNEMPLOYMENT BENEFITS

The conference report provides federally funded supplemental unemployment benefits to help the long-term unemployed for an additional 6 to 10 weeks. The bill provides funds to pay for these benefits by lowering the income threshhold at which unemployment benefits are taxed. This provision responds to instructions given by the Senate to the conferees during debate on S. 2774, the Omnibus Budget Reconciliation Act.

ADAP

The conference report provides for increased spending through fiscal year 1987 for the airport grants-in-aid (ADAP) program and for modernization of the air traffic control system. The bill also enables most of the Federal Aviation Administration's operating and maintenance costs to be paid by aviation users, rather than by general taxpayers. The needed improvements in the safety and efficiency of our Nation's airways will thus be supported by commercial airlines, general aviation users, travelers, and business.

TAXES

The primary emphasis of the tax provisions in the bill is reform. Of the $98.3 billion revenue increase, $70 billion, or 71 percent, involves closing special-interest loopholes and assuring that people who owe taxes actually pay them. We can no longer afford to allow some taxpayers to avoid paying the taxes they owe, nor can we permit business writeoffs which divert resources away from their most productive use.

Only 7 percent of the revenues raised in this bill fall upon individuals. All of the increases on individuals affect either very high income taxpayers subject to the minimum tax or the 20 percent of taxpayers who itemize and claim certain medical and casualty deductions. These structural changes in our tax laws make good sense whether we are in recession or recovery.

This bill, in combination with the 3-year tax cut of last year, keeps the individual tax burden essentially flat over the next 3 years. In addition, it equalizes the taxes on corporate America. It scales back special tax preferences, such as safe harbor leasing; the tax credit for companies locating in Puerto Rico; modified coinsurance; foreign tax havens for multinational oil companies; completed contract method; and certain provisions affecting banks. These provisions affect only a narrow range of industries who now benefit from special tax treatment.

The provisions which affect most corporations include the 50 percent investment tax credit basis adjustment and the acceleration of corporate tax payments. The scheduled increase in the ACRS depreciation for 1985 and 1986 has also been removed. These changes are necessary because the depreciation reductions made in last year's tax bill were simply too generous. They would have misallocated capital and thus reduced economic growth. Approximately half of the business tax reductions contained in the 1981 act still remain even after the changes in this bill.

A third of the increased revenues in this bill come from stopping cheating. This bill implements 10 percent withholding on interest and dividends and requires the reporting of tips. It is only fair that every effort be made to insure the collection of taxes owed.

Much has been made of the impact of the excise tax increases in this bill, especially the 8 cents a pack increase on cigarettes. This increase will amount to less than 50 cents a week for almost all smokers. These taxes have not been changed since 1951. Since that time inflation has reduced the real value of this excise tax by almost half, so in a sense we are only returning the level of taxation to what it used to be.

Each of us may have other measures which we would have liked to include. But it is important to set aside our own particular interests so that we may achieve the essential common goal of reducing the Federal deficit and getting interest rates down. The stock market increase of 39 points last Tuesday, a further substantial rise today, and the continuing reduction in interest rates this week are clear evidence that bold action on the part of the Congress and the President can have dramatic effects upon our economic health.

I urge my colleagues to continue the progress we have made by voting in favor of this bill.

Mr. President, I ask unanimous consent to have printed in the RECORD tables relating to the conference report.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 (H.R. 4961)

EXPLANATORY NOTE

This table outlines the revenue and spending changes in the conference agreement on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

All numbers in this table have been prepared by the Congressional Budget Office based on the materials provided by the conference Committee.

Revenue increases and spending reductions are stated in terms of changes from the baseline estimates used in developing the First Budget Resolution.

This table does not include the "by-product" effects of the changes in revenues and spending in the conference agreement. Some examples of these "by-products" are (1) increases in budget authority for medicare due to greater interest earnings because of the recommended savings in benefit payments; (2) increases in budget authority and outlays for medicaid and food stamps due to the savings being recommended in medicare, AFDC, and SSI; (3) increases in budget authority for the unemployment trust fund that result from the recommended FUTA tax increases; and (4) increases or decreases in budget authority and outlays that result from the federal employees medicare tax.

Recommended authorization levels in H.R. 4961 are not included in this table. These amounts are not binding on the Appropriations Committee which will determine the actual levels of spending at a later date.

Direct spending increases recommended in H.R. 4961 (other than the "by-product" amounts discussed above) are netted against the savings in the bill only to the extent that they exceed the assumptions contained

in the First Budget Resolution, pursuant to previously announced Senate Budget Committee practice.

CONFERENCE AGREEMENT—TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 (H.R. 4961)

[In millions of dollars]

	Fiscal year—			
	1983	1984	1985	Total, 1983–85
Revenues:				
Individual income tax provisions	+272	+3,113	+3,106	+6,491
Business tax provisions	+5,422	+13,292	+16,497	+35,211
Compliance provisions	+3,365	+8,869	+8,660	+20,894
Pension provisions	+194	+780	+870	+1,844
Life insurance and annuities	+1,942	+2,155	+2,920	+7,017
Employment tax provisions	+1,904	+3,083	+3,577	+8,564
Excise tax provisions	+2,798	+4,009	+4,702	+11,509
Miscellaneous provisions	−38	−37	−34	−109
Revenue gain from additional IRS enforcement	+2,100	+2,400	+2,400	+6,900
Total revenue increase in H.R. 4961	+17,959	+37,664	+42,698	+98,321
Reconciliation revenue instruction	+20,900	+36,000	+41,400	+98,300
Spending:				
Medicaid:				
BA	−208	−364	−502	−1,074
O	−275	−364	−502	−1,141
Medicare:				
BA	−248	−472	−750	−1,470
O	−2,759	−4,267	−5,821	−12,847
AFDC:				
BA	−84	−95	−163	−342
O	−84	−95	−163	−342
SSI:				
BA	−116	−126	−144	−386
O	−116	−126	−144	−386
Child support enforcement:				
BA	−92	−141	−151	−384
O	−92	−141	−151	−384
Unemployment insurance				
BA	+85	−32	−21	+32
O	+79	−50	−49	−20
Savings bonds/debt management:				
BA	−329	−691	−858	−1,878
O	−329	−691	−858	−1,878
Airport and airway development [1]				
BA		+194	+312	+506
O		+39	+149	+188
Total spending reduction in H.R. 4961:				
BA	−992	−1,727	−2,277	−4,996
O	−3,576	−5,695	−7,539	−16,810
Reconciliation spending instruction:				
BA	−1,106	−1,444	−1,740	−4,290
O	−4,429	−5,564	−5,976	−15,969
Supplemental unemployment benefits:				
Increased benefits:				
BA	+1,939			+1,939
O	+1,939			+1,939
Offsets:				
Reductions in food stamps and AFDC:				
BA	−209			−209
O	−209			−209
Lower income tax threshold	−763	−734	−611	−2,108
Total effect on deficit	+967	−734	−611	−378
Effect on deficit:				
Revenues	−17,959	−37,664	−42,698	−98,321
Spending (outlays)	−3,576	−5,695	−7,539	−16,810
Supplemental unemployment benefits	+967	−734	−611	−378
Total effect on deficit: H.R. 4961	−20,568	−44,093	−50,848	−115,509
Reconciliation instruction	−25,329	−41,564	−47,376	−114,269

[1] Increase over First Budget Resolution assumption only.

Mr. DOLE. Mr. President, I yield to the Senator from California, then the Senator from Ohio, then the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, when the Senate considerd the tax bill last month, I voted against it. While I agreed that we are in desperate need because of the gigantic Reagan deficits, I believed there were better ways to generate the revenues we need to reduce the deficit and to pay for President Reagan's unprecedented escalation of defense spending.

I was concerned, too, about the severity and inequity of proposed cost savings in medicare, medicaid, and other programs.

What we have before us now is a somewhat different bill. Democratic alternatives like postponement of the third year of Kemp-Roth have not emerged, but this bill is better than the one that passed the Senate.

I remain concerned about the cost-saving provisions of the bill, although they are now less onerous.

I approve some of the current tax provisions, and oppose others.

Despite these reservations, however, I believe the revenues the bill will generate are essential to bring interest rates down and to otherwise alleviate the horrendous economic conditions spawned by Reaganomics.

What is at stake now, Mr. President? What is at stake now is the very credibility of Government to deal with a rising crisis, to manage the deficits we face, and to reverse the financially disastrous course the Reagan deficits are forcing upon the economy.

Failure of the conference report could further imperil our hopes for economic recovery. Failure could severely weaken our Government's ability to cope with rising unemployment, rising bankruptcies, rising foreclosures, rising misery, and rising fear.

Mr. President, I have not frequently supported President Reagan. We have different philosophies. We have different approaches to most of the vast, intricate, and intractable problems of our time. But when I think he is right, I will support the President. I think he is right now.

He is seeking to make a midcourse correction in his economic program, a correction of his own mistakes, his own misjudgments. We should not prevent him from making that correction.

This measure will not cure all the ills of our economy. Much, much more needs to be done. But let us begin tonight. Let us take the first step. Let us approve the conference report.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I promised the Senator from North Carolina he might be recognized next but does he mind if the Senator from Ohio goes first?

Mr. EAST. Mr. President, that is all right, if it would be possible for me to follow the Senator from Ohio.

Mr. DOLE. If it is all right with Senator METZENBAUM, it is possible for him to go before the Senator from Ohio.

Mr. EAST. I thank the Senator, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. EAST. I thank the Chair. I shall try to be as concise as I can.

I would like to indicate in this final debate for the public RECORD that I shall be voting against this conference report. I should like to outline briefly why I am doing so.

I appreciate the work that many of our distinguished colleagues have put into this measure and I appreciate that it is one of those things that fair-minded people can differ over. The state of the Nation's economy is one of the highest priorities, if not the top priority item, we have facing us at this point. It transcends party lines and it transcends ideology. We are all trying to accomplish the same end.

I simply dissent from the notion that the increasing of taxes in this form, in this report, makes the most decisive and effective contribution to the end we all seek; namely, reduced interest rates and a revitalized economy. Let me put it this way, Mr. President: I am convinced if we continue to increase taxes of this kind or if we put the third year of tax decrease back on, if we slash military sales, we are, in the near term and the long run, going to continue to have a serious problem of deficits in Federal spending in this country until we come to grips with what I think everybody knows is the fundamental problem—the entitlement programs.

The entitlement programs are the open end of the Federal budget over which we do not now have control. So increased taxes simply mean more money available for spending, but it does not come to grips with what I think is the unspoken word and unspoken understanding in this Chamber, that at some point after the election, after the turn of the year—I do not know when it will occur—this Chamber and our colleagues in the House will have to come to grips with the single biggest cause of hemorrhaging in the Federal budget; namely, the entitlement programs. Anything else prior to that, at best, perhaps as an assist, is helpful. But I say, Mr. President, it lulls us into a false sense of security that, some way or other, now, we have done all that needs to be done.

We are increasing revenue, we are increasing taxes. Yes, we may find some cuts in military sales. We may find some more here, there, and yonder. But again, I keep coming back, perhaps ad nauseam, to the basic problem we face in the Federal budget, the entitlement programs.

I have heard may responsible Members of this Chamber on both sides acknowledge that until we come to grips with that and deal with it decisively and responsibly, we cannot control Federal spending, we cannot keep the

deficits down, and we will not be able to keep interest rates down. That is supposedly what this tax increase is supposed to do—make a healthy contribution to getting interest rates down.

The final point I make, Mr. President, is that often we are told this is primarily tax reform. I understand that language and rhetoric becomes important. We are told it is primarily a matter of compliance and closing loopholes; that there are those provisions in here. I understand why that kind of language is used. But let us also be candid. There are new taxes in here. Revenue is being raised. Taxes are being levied. I will be candid. I have been very troubled about the doubling of the excise tax on cigarettes in this bill. It will have impact in my State and, frankly, in other States.

Here is the problem I raise with the cigarette tax. The cigarette tax has been one of the basic taxes that States have utilized in raising their own revenue. I find it somewhat at odds with the so-called New Federalism, giving greater responsibility back to the States and trying to get the tax base back to the States, when that is one of the areas that they have taxed very heavily, quite candidly, in recent years. Since 1951, the States have increased their excise taxes on cigarettes by 350 percent.

It is true that the Federal Government has not raised it since 1951 but we are now on the threshold of doubling it, which I think is unconscionable and unwarranted from the standpoint of Federal taxation. I do think it is contrary to the grains of the New Federalism, which means we try not to erode away the tax base of the States. If we are trying to get more responsibility and a broader tax base back to the States, we ought not to be taking away this tax, because at some point you will begin to kill the goose that laid the golden egg. Cigarette taxes in this country raise over $6 billion a year. At some point when you are going beyond revenue raising and approaching the point of simply being punitive to an industry, you will kill the goose that laid the golden egg. You will simply suppress sales. You will have less revenue. Ironically, this could not only be nonproductive as regards Federal revenue but I think it will have an effect on State revenues in the whole concept of the New Federalism.

My point is that there are new taxes in this bill. Cigarette taxes are new; taxes on small boats under 20 feet, that is new; telephone taxes, that is new; airlines, that is new. That is not compliance. Those are not loopholes. Those are new taxes. They are regressive taxes in that they are levied against those least able to pay.

I simply bring that out as a point that I think is worth stressing. It is not at all a matter of compliance and loopholes.

I conclude then, Mr. President, by reminding my colleagues that in the euphoria of the evening, when we are perhaps about to join the House in passing this measure and going home with a sense of accomplishment—and I do not belittle that—the day of reckoning still lies ahead in getting control of Federal spending via the entitlement programs. That is where we will ultimately be tested in terms of our sense of responsibility, and that includes, of course, returning integrity to the social security program so that those who are investing in it can make sure they get their return back. We have a lot of very serious work ahead of us. This does not bail us out. This merely defers that day of reckoning, and I remind my colleagues that day of reckoning is yet to come. I wish we had already come to grips with it, but we have not. We have done this as an alternative and we shall do some other things.

So it is not in a spirit of a desire to contribute to big deficits or high-interest rates or a continued weakening economy. To the contrary. I think we would have made the single greatest contribution to low-interest rates and a strong economy and lower deficits by hitting directly at the problem, namely, the spending side, and in particular the entitlement programs.

Mr. President, I appreciate the opportunity to speak on this matter, and I again wish to give my respects to the distinguished Senator from Kansas for whom I have the greatest personal regard. I simply disagree with him on this very important measure.

Mr. President, I will happily yield the floor.

Mr. LONG. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. METZENBAUM).

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I thank the Senator from Louisiana for yielding 10 minutes to me.

I rise, Mr. President, first to commend the leadership of the chairman of the Finance Committee on this measure because, in all fairness, he has taken on a very difficult assignment. He has brought forth a piece of legislation that unquestionably has a good deal of merit in it. Many of the issues that he tackled in order to provide the necessary revenue for this measure were not easy issues to zero in on, and I wanted to see him succeed.

As a matter of fact, when the bill was originally before the Senate, on an amendment to strike the provision dealing with withholding on interest and dividends, there were only two of us on this side of the aisle that saw fit to vote with him. That provided him the margin of victory, because the amendment was defeated 47 to 50. With respect to a motion to eliminate the increase of unemployment tax on employers, I again saw fit to support as one of two Members on this side of the aisle the Senator from Kansas. And again those two votes provided the measure of victory on a 47 to 50 vote.

I further saw fit to support him in his effort to defeat the motion to strike the provisions on tips. Although he did not succeed I did vote with him.

Having seen his efforts to move in the right direction in connection with many of the matters contained in this measure, on Monday of this past week in Ohio, I indicated publicly that I was seriously considering voting for the measure. I did so in part because the Senate had previously seen fit to adopt my resolution directing the tax bill conferees to provide additional assistance to unemployed Americans. I thought that that particular direction was important. I thought it was especially important for people in my own State who are very much in need of unemployment compensation.

UNEMPLOYMENT BENEFITS

The resolution called for two changes in current law: First, it specified that all States receiving extended benefits on July 1 would continue to receive them. Second, the resolution called for the establishment of a new program of supplemental benefits, providing between 10 and 13 weeks of additional eligibility over and above the extended benefit program.

The conference report on H.R. 4961 addresses some, but by no means all of these concerns. It does not go far enough.

Through March 31, 1983, it provides for a munimum of 6, rather than 10 weeks of supplemental benefits for all unemployed Americans.

For those who reside in high unemployment States, the extension is 8 weeks, with 10 weeks made available only to the States that have been the hardest hit of all.

But, Mr. President, the 1981 reconciliation bill made two crucial changes in the formula that triggers extended benefits: First, it changed the calculation formula determining whether a State is eligible for extended benefits; and second, it raised the actual trigger level for extended benefits.

As a result of these two changes, about 29 States have, or soon will, lose their eligibility for the 13-week extended benefits program. We are talking about States with persistently high unemployment—Alabama, Arkansas, Delaware, Indiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, Vermont, Alaska, Arizona, California, Illinois, Iowa, Kansas, Kentucky, Louisiana, Michigan, Montana, New Mexico,

North Carolina, Ohio, Oregon, Tennessee, Utah, the Virgin Islands, Wisconsin, and by some estimates, Mississippi and West Virginia.

Mr. President, I intended to offer an amendment to the debt ceiling bill which would have assisted these States by doing three things.

First, it changes the effective date for the termination of the supplemental benefits program from March 31, 1983 to the date upon which the national unemployment rate drops below 8.7 percent. That figure—8.7 percent—is the estimated unemployment rate for March 1983 as assumed in the first budget resolution.

Second, the amendment temporarily suspends the formula changes enacted last year that have inadvertently denied benefits to the neediest States. Restoration of the formula is tied to the achievement of an 8.7-percent unemployment rate.

Finally, the amendment suspends the higher insured unemployment rate trigger, which is due to take effect on September 25. This suspension will continue until unemployment falls below the 8.7 percent level.

Mr. President, I believe that this amendment at the relatively modest cost of $529 million, does what the Senate intended to accomplished on August 5.

I am disappointed that the tax conferees did not address these concerns. By not changing the trigger, many States including Ohio, will actually receive fewer weeks of benefits, due to last year's budget cuts. I will use every opportunity to correct this problem, and I urge my colleagues to support me in that effort.

But Mr. President, the fact of the matter is that the Senate conferees did not do that which the Senate had instructed them to do. In all fairness it is my understanding that the chairman of the Finance Committee did indeed make an effort to achieve that which he was directed to do by the Senate, a measure in connection with which he himself had cosponsored. He made a serious, conscientious effort to achieve it. Unfortunately, the objective which he saw fit to attain did not come to pass, and as a consequence many States, 29 to be exact, will be triggered off unemployment compensation benefits within the coming weeks and months. By reason of that fact, it makes it very difficult for me to support this bill.

I was seriously considering supporting this bill because it does close unproductive and costly tax loopholes. It restricts and eventually repeals safe harbor leasing. It reduces tax breaks which have benefited oil companies, and it eliminates some of the accelerated depreciation benefits which were too generous. Also, it improves taxpayer compliance.

But when the matter got to the conference committee, not only did it fail to do that which many of us felt it should do in connection with the extension of unemployment benefits for needy unemployed workers, but it also eliminated the existing $150 deduction for medical premiums which the Senate had only reduced to $100. In all fairness, the conference committee did reduce the amount by which medical expenses must exceed income from 7 to 5 percent of income, and continues to permit medical premiums to be calculated into that amount.

So we find in this instance one change in the right direction, the reduction from 7 to 5 percent, and another change, to eliminate the $150 deduction, a change in the wrong direction.

That change in the law will cost the taxpayer who itemizes his or her deductions more than $70 per year, a burden that I do not believe the average taxpayer is in a position to carry.

The fact that the conference committee saw fit to keep the excise tax on cigarettes at the double figure is a measure I did not approve of, but I thought I could live with it; and the tripling instead of the doubling of the telephone tax, which was the way the matter had left the Senate, was also a regressive move and provides an additional burden for the people of this country.

So this measure comes before this body not being all good, not being all bad. But in this Senator's opinion, the failure of the conferees to do that which the Senate had instructed them to do in connection with the extension of unemployment benefits makes this Senator conclude that, on balance, it does not warrant my voting for the measure. In all fairness, I do want to say again that the Senator from Kansas was not indifferent to the concerns that have been expressed on the Senate floor with respect to unemployed workers. It is a fact that the measure includes a 6- to 10-week extension, which helps some. But it does not mitigate the harm that is done by denying the 13 weeks of extended benefits, which is an entirely different kind of benefit, to the unemployed workers of 29 States.

On balance, I think the effort is commendable on the part of the chairman and the Finance Committee and those who worked on this measure; but, overall, this Senator cannot see fit to vote for it, and I intend to vote "no."

Mr. DOLE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Ohio, because he did properly indicate his strong support in three very vital areas during the debate on this bill.

I also indicate for the record, because other Senators may have the same concern, that we believe, based on the sense-of-the Senate instruction, that we had a better proposal than did the House. We worked the greater part of 1 night on the unemployment compensation. We worked with Democrats and Republicans. We also worked with representatives of the AFL-CIO. When our proposal, in effect, was rejected and they offered their plan, we decided that rather than have a fight over it in the conference, we would accept it.

It did not do as much as the other version would have done, so far as the Senator from Ohio is concerned, but it did do more in other States. I guess the one big difference is that what we have done will not cost the States anything, will not cost the employers anything, but will benefit by $2 billion some 2 million unemployed Americans for periods of 6 to 8 to 10 weeks. We hope that will be acceptable to the Senate.

It was not precisely as we might have done had we not had another body to confer with, but we tried to carry out the sense of the Senate resolution offered by the Senator from Ohio and the Senator from New Mexico (Mr. SCHMITT).

Mr. METZENBAUM. Mr. President, as I said in my statement, I think that the Senator from Kansas did indeed make a good faith effort to achieve the objectives of the Senate, as instructed. Unfortunately, with the technical language and the problems concerning this subject, that did not result. But I do not in any manner suggest that there was not a good faith effort on the part of the leadership of this body.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Massachusetts (Mr. KENNEDY).

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have already stated my decision to support the conference report on the tax bill.

The bill has been improved since it was last before us, particularly with regard to the medicare cuts, that would come directly out of the pockets of the elderly, and unemployment compensation.

On balance, it is the best bill we can now obtain in the midst of one of the worst economic situations in our history.

Let us be honest with each other and with the country about what this bill is—and what it is not.

First, it is a tax increase—but one that is fairer than last year's tax cut, since it asks the most of those wealthy corporations and individuals who can afford to pay more.

Second, it contains major tax reforms for which I and others have fought during many years. The Tax Code will be less unjust after the enactment of this bill. It eliminates the worst excesses in the depreciation writeoffs enacted last year—and it will end the most flagrant abuses of tax leasing.

Third, let us recognize that the bill before us will not end our economic problems; at best, it will only prevent them from getting worse. The failure of the bill would send the wrong message and could spark a full-scale economic crisis. But we must move further in the months ahead to correct the broader failures of administration policy, especially the continuing and disastrous reign of high-interest rates.

No one yearns to vote in favor of a tax increase. No Member of the Senate or the House—surely no voter in any State—loves a tax increase. But perhaps the action the House has taken today, and the action I hope the Senate takes tonight, will send a signal that we in Congress are at last ready to deal with our economic problems in a realistic and sensible way.

I voted against the Reagan-Kemp-Roth tax bill last year, and I hope this vote a year later spells the end of economic nonsense and easy political appeals of the kind which told us falsely that we could cut taxes, raise defense spending massively, and balance the budget—all at the same time. That was the mistaken assumption of Reagan-Kemp-Roth—which rested more on ideology than reality. In our hearts, how much we all wish now that we had rejected the excesses of that bill.

There is no economic magic cure; there are only hard decisions which must be made. With this decision, we can move closer to a balanced budget than we ever could by approving the empty and meaningless constitutional amendment which was drummed through this body 2 weeks ago.

On this tax bill, let us make the hard choice—which here, as it so often is, also happens to be the only right choice. On this issue, we can and must see beyond partisan tactics. On this issue, to paraphrase words once spoken by Thomas Jefferson, "We are all Republicans; we are all Democrats." In the spirit, let us write this bill into law—and in so doing, we will have met the challenge to put our country and our economy first.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield to the distinguished minority leader, Mr. ROBERT C. BYRD.

Mr. ROBERT C. BYRD. I thank the Senator from Louisiana.

Mr. President, the conference committee has worked long and hard to make the tax bill more fair to working Americans and to the elderly.

Unfortunately, the conference did not eliminate the most unfair provisions. This tax bill still means that the average taxpayer must pay more in medical expenses, before he can deduct them from his taxes. This tax bill still triples the tax on telephones. And together, these two provisions will add more than $7 billion to our taxes over 3 years.

The conference bill still increases the cost of medical treatment for the elderly, striking hard at those who most need medical attention and those who can least afford it.

Senate Democrats offered a plan to stop the tax increases and spending cuts aimed at working Americans, small business people, the elderly, and small farmers. We would have spared middle class taxpayers new telephone taxes, new cigarette taxes, new unemployment taxes and cuts in their medical and casualty loss deductions. We would have saved American middle class nearly $25 billion in increased taxes and medical bills by delaying the full 1983 tax cuts for those who make more than $78,000 a year, and partially delaying that final cut for those making between $46,500 and $78,000.

Those making $46,500 and under, annually, would still get the full 10 percent cut in July 1983 under the fairness amendment offered by Mr. BRADLEY, myself, and other Senators. Had that amendment been adopted I would have supported the bill's passage.

Mr. President, less then 8 percent of American taxpayers make more than $46,500 a year and only 1 percent of our taxpayers make more than $78,000 a year. To protect these very privileged individuals, this administration decided to impose nearly $25 billion in tax increases and health care cuts on the rest of the taxpayers.

This tax bill has been supported with great vigor by the administration. The tax increase is being fought for by the same President who addressed a joint session of Congress in this year's state of the Union, saying:

> I will seek no tax increases this year, and I have no intention of retreating from our basic program of tax relief . . . I will stand by my word.

I would like to take this administration at its word, but I cannot. This administration has flip-flopped. It has broken its promise not to raise taxes, and it is opposing the will of the American public, as demonstrated in today's Washington Post/ABC poll that found the people against this tax increase 54 to 37 percent.

We have heard the President say that this bill is necessary to balance the budget and to bring on economic recovery. But this is a far different story than the one he told us during the state of the Union. Then, he said:

> Raising taxes won't balance the budget; it will encourage more Government spending and less private investment. Raising taxes will slow economic growth, reduce production, and destroy future jobs. . . . So, I will not ask you to try to balance the budget on the backs of the American taxpayers.

Well, I agreed with the President in January, and unlike him, I am still against tax increases parading as a path to recovery and low deficits. Lasting reductions in Federal deficits can only come in the wake of strong economic growth and full employment. I have introduced a bill to bring deficits down and promote economic growth by reducing the level of interest rates to their traditional levels above the rate of inflation. This bill is cosponsored by 33 of our colleagues and is gaining recognition and support on both sides of the Capitol.

We must never forget that high interest rates are a direct cause of high deficits and that by lowering interest rates we can lower our deficits. This is true in two ways. First, high interest rates depress the economy, increase unemployment, and thereby cause both lowered tax revenues and higher spending for unemployment benefits. It has been conservatively estimated that each additional percentage point of unemployment adds $25 billion to the deficit. This, the 2.4 percentage points that the unemployment rate has climbed during the Reagan Presidency—from 7.4 to 9.8 percent—has increased our defict by $70 to $75 billion—about two-thirds of what the administration projects it to be in fiscal year 1983.

Second, high interest rates significantly increase the interest we must pay on our national debt. In fact, interest on the national debt is the fastest growing element of the Federal budget—faster growing, for example, than either defense spending or social security. Ten years ago, interest payments took up 6 cents of every dollar spent by the Federal Government. For 1983 those interest payments will have more than doubled, to 13 cents out of every Federal dollar.

Clearly, to lower interest rates would directly and dramatically lower our Government's annual deficits. We all want a balanced budget, and lower interest rates would be a vital first step.

Mr. President, we cannot accept the premise that the only answer for inflation is recession. This is not an either/or choice. We have had economic growth without inflation in this country, and we can have that again, but only if we pursue balanced, sensible policies that will lower interest rates.

This brings forward another serious problem with the tax bill before us. There have been many claims that the conference report before us contains provisions making additional unemployment benefits available to every State. Some have used that as a reason to support the bill, including

the President himself in his televised message.

Mr. President, there is no doubt that we have a terrible, tragic, unacceptable unemployment situation in this Nation. There also is no doubt that we must provide unemployment benefits for a longer period of time than current law allows in those States with the highest rate of unemployment. Last May I introduced legislation to do just that.

The conference report before us claims to do much for the unemployed, but for the great majority of States it is guilty of deceptive advertising. Before the conference began, Mr. President, the Senate voted 84 to 13 to request that the conferees address two major unemployment insurance issues: First, they were asked to remedy provisions in existing law that are causing States with high unemployment to lose eligibility for the existing second tier of benefits—"extended benefits." Second, they were asked to provide a third tier of "supplemental benefits" to last no less than 10 weeks nor more than 13 weeks.

The conference committee simply ignored the first of these two requests. As a result, by the end of December, the second tier—extended benefits for 13 weeks—will cease to be available in all but seven or eight States. My own State of West Virginia may well lose eligibility for these 13 weeks of benefits in December or thereafter, even if total unemployment there remains high.

The conferees did establish a supplemental benefits program, but its duration ranges only from 6 to 10 weeks, depending on the State's unemployment rate.

The net result, Mr. President, is that by the time December arrives, only seven or eight States will be eligible for more than 36 weeks of unemployment benefits—whereas 38 States have been eligible for 39 weeks at some point in the current quarter. For at least 30 States, that is a reduction in duration of benefits—not the increase the Senate unequivocally said it believed is necessary.

Yet, another major flaw in the bill's unemployment insurance provisions is the fact the 6 to 10 weeks of supplemental benefits it establishes will expire on March 31 of next year—no matter how high the unemployment rate is in the Nation or in any individual State. After that point, only five or six States will be eligible for more than 26 weeks of benefits.

Mr. President, the unemployment insurance provisions of the conference report are a thin, watery salve being applied to a gaping wound. They are completely insufficient. They are unacceptable. I do not believe this Congress—either the House or Senate—will settle for these provisions as the sum and substance of our efforts to help the 10.8 million unemployed persons in this Nation and their families.

Without question, these provisions give absolutely no incentive or reason to vote for this conference report.

For the reasons I have stated I am against the tax increases in this bill aimed at our working men and women. I oppose this bill reluctantly, because I think there are some important loophole closings here, but they do not outweigh the unfairness of imposing new taxes on working Americans to spare those better able to afford a delay in new tax cuts.

We have heard that this tax bill is not the largest tax bill in peacetime history. We have heard that it is hardly any tax increase at all. In fact, we are almost led to believe that this tax bill is devoid of tax increases.

Doubling the tax on cigarettes from 8 cents to 16 cents is certainly a tax increase.

Tripling the tax on telephones is certainly a tax increase.

Raising the tax on airplane tickets by 60 percent and adding a 5 percent tax on airfreight, and a $3 tax on all international travelers, are certainly tax increases.

Small businessmen are having their taxes increased on unemployment insurance.

When we raise the minimum medical expenses a family must suffer before any deductions can be taken from 3 to 5 percent, that is certainly a tax increase.

It is a tax increase when we raise the minimum casualty loss a family must endure before deductions are available from $100 to 10 percent of their income.

Let us not kid ourselves, or the American people on this. This bill raises taxes. This bill raises taxes on middle class and lower class working men and women, small business people, the elderly, and the veterans, and it raises them on the theory that new taxes will help us balance the budget and escape from a recession. It is a faulty theory, and I reject it.

I do not believe that this bill is entirely bad. I do not believe that people should ever escape paying their fair share of taxes, nor do I believe that businesses should be faced with negative tax rates when they are making healthy profits. But the unfair aspects of this bill, in my judgment outweigh the small progress made against outrageous loopholes. I will vote against this bill.

I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield myself about 3 minutes.

Mr. President, I wish to make a few comments this evening on the spending reduction provisions in the bill.

When the Senate passed the budget resolution, it directed the Finance Committee to come up with 3-year spending cuts totaling $23 billion. The conferees, however, required the Finance Committee to achieve only $16 billion in savings even though the budget totals still assume savings above $20 billion.

The tax bill conference report now before us purports to achieve 3-year spending cuts totaling $17 billion. This is slightly more than the reconciliation instruction but it is only about three-fourths of the savings needed to meet the actual budgetary targets underlying the budget resolution. And on a basis comparable to the spending cut provisions as they passed the Senate, the conference report would achieve only $13 billion of comparable savings.

As one of the conferees on this bill, I am well aware that it was difficult to obtain House agreement to even as much savings as it does contain.

In addition not achieving the full savings needed to meet our budgetary goals, this legislation was considered in a manner which raises serious concerns. As has happened before, the reconciliation process which was designed to help balance the budget has been used to expedite consideration of proposals to increase Federal spending. In this case, there was an even more troubling departure from the usual legislative procedures. An attempt was made to use this procedure to repeal savings enacted last year by introducing into the conference matters which had not been considered by either the House or the Senate.

Last year, the administration proposed to reduce spending by eliminating certain expensive features of the welfare programs. These were not cuts in the level of assistance provided to families on welfare but rather changes to eliminate elements which make it difficult for families ever to free themselves from welfare dependency. In addition to the strong support of the administration, these proposals were recommended by the Committee on Finance and approved as a part of the 1981 reconciliation package by both the House and Senate.

In the conference on this bill, the House conferees insisted on considering a proposal to restore those provisions which were eliminated by last year's legislation. The proposal made by the House conferees could not by any stretch of the imagination have been considered a proper matter for the conference. It was not in either the House-passed bill or the Senate amendment. It had not been considered by the House or Senate in this or any other legislation—indeed the only House and Senate action on the matter went in exactly the opposite direction from this proposal.

But the House conferees insisted that the Senate conferees violate the rules of conference to consider this matter which had not been committed

to their consideration by either House. I cannot recall any similar situation occurring in the past where House conferees wanted the Senate conferees to accept a controversial matter involving significant cost and contrary to the most recent established position of both House and Senate.

In order to avoid agreeing to these costly House provisions which were not within the scope of conference, the Senate conferees had to agree to another provision reducing funding for the child support enforcement program—also language which had passed neither House of Congress. The House position, in effect, was that the Senate conferees must either accept provisions which would expand the welfare program or agree to a cut in the one Federal program which is most effectively aimed at reducing the welfare program by requiring parents to support the children they have deserted. Given this choice, the Senate conferees reluctantly accepted a reduction in Federal funding of the child support enforcement program.

This change in the child support program will prove to be a mistake. Although it achieves a theoretical savings in Federal funds by reducing matching for State costs, it will ultimately cost the taxpayers money by allowing more parents to abandon their children to welfare. This program, since its enactment in 1974, has been the most effective of all Government programs to aid children. Under the AFDC program, the Federal Government generally must put up $1 for every $2 that is provided in aid; the rest of the cost is also borne by the taxpayer through his State taxes. Under the child support program, for every Federal dollar spent, $4 in support is collected for children—most of this is paid by the parents of the children, not by the taxpayer.

It is unfortunate that the procedure followed for this bill forced the Senate conferees to deal with matters which had not been considered by either House. I believe this is a very dangerous precedent which undermines important traditions in our constitutional structure. The rules of conference are designed to permit expeditious resolution of the differences between matters adopted by the two Houses. They are not intended to provide a means for enacting legislation which has not been adopted by either House.

I believe it would be appropriate for the Senate to review the procedures associated with reconciliation bills to see whether changes might be desirable before we act on another reconciliation bill.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield 10 minutes to the Senator from Ohio (Mr. GLENN).

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, last year I voted for and in favor of the President's tax package when it was before us. I sincerely hoped it would work.

We had tried on the Democratic side to modify that package to make it a less massive tax cut. We failed. And having exhausted all our remedies, many of us voted for it hoping very sincerely it would work for the benefit of our country.

Mr. President, it has not worked, and it has turned into such a charade this year that I no longer can support it, and I rise to oppose the legislation before us.

I think it is important that we review the chronology of the past year. I know that many of the speakers this evening have already talked about the details of the proposal that they agree with or do not agree with, but I think it is important we put the chronology of the last year into the RECORD so we can see exactly what we have done.

Last year the President's tax cut encompassed some one-fourth reduction in revenue over a 3-year period while increasing spending. But we were assured if we did that, that just as soon as we did there would be such a business euphoria, there would be such investment, that the program would come out with a plus on revenues because increased business in this country would result in more revenues coming into the Federal Government.

That program did not work. That euphoria did not occur. The projected Federal deficits, however, went up and up and up. The financial markets reacted accordingly, and real interest rates went up and went up until it became a matter of great concern to the Congress of the United States.

If the press reports during the past year were correct, the concern became so great that basically the Republican leadership in the Senate and in the House went to the President about reducing that third-year tax cut so we would not run up such large Federal deficits.

The President would not give in, would not budge an inch. So the leadership here took action which they thought was appropriate and decided on their own tax increase to make an effort to balance the deficits that were hitting the $150 billion to $160 billion per year level.

The President came out, as I understand from press reports, first solidly opposed to this tax increase and now supports it as being absolutely vital. So, Mr. President, we stand in the position here of seeing the ridiculousness of this economic progam. We passed a tax cut last year mainly to have a beneficial effect on business. Now we turn around and have a tax increase that takes it out of the hides of businesses that the first bill was designed to help. At the same time, we see the President leading a balanced budget amendment rally on the steps of the Capitol, which he should be glad he does not have now or we would be in more trouble than we are in. So the record of what happened over the last year seems to be very clear.

A tax cut was absolutely essential last year; a tax increase seems to be absolutely essential to the President this year. I guess we should ask will the real administration policy stand up and stop playing charades.

Mr. President, Monday night President Reagan addressed the Nation on television to urge support for this year's tax bill. I want to take this opportunity to respond to his remarks.

The President justified his support of this year's tax bill on the grounds that it will reduce interest rates and put more Americans back to work. This is simply not true. This year's tax bill does not reduce projected deficits enough to make any significant impact on interest rates. In spite of the $99 billion in revenues collected by this measure, CBO estimates that our deficits over the next 3 years will exceed $450 billion, almost adding half again onto the national debt. The massive deficits will keep interest rates high and will continue, not end, our unemployment problems.

The President defended keeping indexation in the Tax Code on the grounds that inflation is a tax from which the Government profits. He neglected to mention that the most taxing problem facing American businessmen, workers, and consumers is high interest rates, not inflation. These high interest rates will be perpetuated by indexation. Indexation will contribute nearly $80 billion to deficits for 1985, 1986, and 1987; combined with the third year of the individual tax cut, it will place us $235 billion further away from attaining a balanced budget by 1987.

The President complained to his critics that it has been only 10 months since the first phase of his program went into effect. This is misleading. The business tax cuts Congress enacted were made retroactive to January 1, 1981; the President's deregulation program has been in effect for more than a year; his budget cuts have been in place since last October; the Federal Reserve has given him the tight money policy he wanted since his first day in office; and the President, himself, last year promised that as soon as his package was enacted—1 year ago, August 4—a wave of confidence would wash over our economy and recovery would immediately follow.

The President urged us to evaluate his economic recovery program by looking at the record. Start with inter-

est rates—the basic cause of the present recession. He points to the nominal interest rate and noted that it is declining. And he is right, the nominal interest rate has declined. But, as any investor or consumer can tell you, it is the real interest rate—the difference between the nominal interest rate and the rate of inflation—that affects the cost of doing business or making installment purchases. The President neglected to mention that the real interest rate is at its highest level in history. For him to suggest that interest rates are lower today than when his program went into effect is misleading.

The President pointed out that double-digit inflation has been cut in half and he is right. But he failed to mention that that reduction has come as a result of economic policies that have thrown 3 million Americans out of work. In my home State of Ohio, double-digit inflation has been replaced by double-digit unemployment.

The President reported that real earnings are increasing, but he failed to mention that half of this increase comes from inflation adjustments in social security and other Government payments or that factory payrolls continue to decline. He noted that personal savings are increasing, but he failed to mention that the share of personal savings absorbed by Federal borrowing to finance Government debts is increasing at an even faster rate. According to Manufacturers Hanover Trust, borrowing by the Federal Government, Government agencies and Government guaranteed loans will consume at least 75 percent of all new, net savings in 1983 and 1984. This means less, not more, money in the pool for capital investment. It means higher, not lower, interest rates.

The President concluded his report on his economic recovery program by saying "it hardly looks like a program failed to me." Well, to paraphrase Al Smith as the President did," Let's really look at the entire record."

Current and projected deficits will increase the Federal debt by nearly 50 percent over the next 4 years, Federal spending as a percentage of gross national product is at the highest level since World War II, real interest rates are higher than at any time since 1932, unemployment lines are longer than at any time since 1938, real farm income is at its lowest level in American history, the rates for business bankruptcies and bank failures are the highest since the Great Depression. Housing starts, auto sales, and industrial plant capacity utilization rates are at the lowest levels in decades.

This is the record of Reaganomics—an economic program that has disrupted rather than stimulated our economy.

As the President admits, our biggest problem is unemployment and the main obstacle to getting people back to work is high interest rates. The President says that "interest rates should be lower than they are" and blames their persistence on the psychological problems of pessimism and fear in the money markets. I agree, he could not be any closer to the truth.

There is pessimism and fear on Wall Street and Main Street because the President's supply side economic programs threw fear and gloom into the hearts and minds of businessmen and consumers. They realized, as even the most thickheaded supply side economist must now understand, that you cannot massively cut revenues and increase spending without causing massive deficits, high interest rates, and widespread unemployment.

They realized that the massive deficits created by last year's tax cuts could not be balanced by reductions in nondefense spending—even though Congress actually gave the President more budget cuts last year than he requested—$37 billion versus $35 billion. They realized that these deficits would continue long into the future and that they would sustain interest rates so high that the prospect of profitable investment would disappear. They realized that without the prospect of profitable investment, job opportunities would diminish and unemployment would continue to worsen. Sadly, all this has come to pass and the future is bleak.

A loss of confidence permeates our economy. Whether your point of view is that of Wall Street, Main Street or the union hall—the future appears uncertain. And this uncertainty is killing our hopes and turning dreams into nightmares. Rather than moving boldly to implement plans and realize ambitions, Americans are hunkering down and hedging their bets; postponing investments and forgoing purchases—all the while searching for a hopeful sign, a promise of economic stability and moderation on which they can plan their future.

And what do Americans find when they turn to Washington? Instead of believable programs, they hear false promises. They see their President, who last year cut taxes and reduced revenues by one-fourth over a 3-year period—while increasing Federal spending—now unwilling to admit that his program went too far and has not worked out as forecast; unwilling to make the midcourse corrections every American would understand in light of the enormous deficits that are now projected; unwilling to admit that this year's bill is the largest tax increase in our Nation's history, disguising it instead as revenue reform; yet actively leading a rally on the Capitol steps for a balanced budget amendment he should be glad he does not have or we would all be in even more economic troubles than we are.

They hear their President juggle statistics of economic recovery while they see their hopes for employment and a home of their own dashed on the rocky terrain of high interest rates. They hear their President urge support of a tax reform bill that he promises will "reduce deficits and interest rates" and they see a tax bill which fails to address the most important problem of Reaganomics—inequitable, massive tax cuts for individuals which are the real cause of enormous deficits and resultant high interest rates. They hear him vow to prevent Government from profiting by inflation and they see a tax bill that reduces the tax reductions for medical expenses—unavoidable costs that have risen faster than income or insurance coverage of most Americans. They hear him stress the importance of personal savings and they see a tax bill that withholds income on interest and dividends. They hear the President proclaim the safe port of economic recovery while they see their fortunes sinking in the icy waters of triple-digit, billion-dollar deficits.

The President's message and his new tax bill perpetuate the cruel hoax of Reagonomics. They promise a balanced budget and economic prosperity while adding to our national debt and casting the dark shadows of joblessness across our land. When we look at the record, as the President asked us to do, the statistics for unemployment, bankruptcies, real interest rates, and massive projected deficits clearly report the failure of the President's program. But these cold statistics understate the grim reality of Reaganomics—shattered dreams, broken spirits, and a growing loss of faith in the leadership of our country.

Mr. President, we cannot rekindle the dreams of homeownership by tinkering with tax preferences, we cannot nourish the hopes of jobless Americans with higher unemployment taxes, and we cannot restore faith in our leadership by issuing more false promises. We need plain speaking, not clever communicating, to address the loss of confidence in our future. We need bold leadership, not half-way measures, to revive our economy.

For these reasons, I cannot abide the President's message and I cannot support H.R. 4961.

The PRESIDING OFFICE (Mr. WALLOP). The time yielded to the Senator has expired.

Mr. GLENN. I urge my colleagues to vote against this proposal.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. I yield 5 minutes to the Senator from Massachusetts (Mr. TSONGAS).

Mr. TSONGAS. I thank the Senator from Louisiana.

President Reagan's political history is one of rabid adherence to partisan advantage. Time and time again when initiatives were proposed by Democratic Presidents, Ronald Reagan rushed forth in opposition. When President Carter proposed the Panama Canal Treaty, it was Ronald Reagan who ran around the country trying to defeat it. When Jimmy Carter signed the SALT Treaty, it was Ronald Reagan who helped destroy its chance of passage. When the Democrats proposed modifications to the original tax bill that got us into this mess, Ronald Reagan told them to go to hell. His tenure in office has been marked by the most partisan rhetoric this Capital has seen in my political lifetime. He is a partisan whose instinct is to push to the ideological limits. Now that instinct has gotten him in trouble, and he wants the Democrats to bail him out. What this long public record deserves is an equal dose of partisanship. The temptation among Democrats to respond in kind is very strong. The issue however, is not what Ronald Reagan deserves—it is what the country deserves. And what the country deserves from the Democrats is more than Ronald Reagan-type behavior.

If the Democrats in the House were as partisan and ideological as Ronald Reagan, the bill would have been defeated by a three to one margin. That did not happen. Despite Ronald Reagan's long record of joyous beating up on House Democrats, including TV ads that ridiculed TIP O'NEILL, they came to his defense in the country's time of need. They put country before party and so must we.

There were many Members of this body who voted for the original Kemp-Roth tax bill, knowing that it was a shaggy dog, because they feared the wrath of a dogmatic President. They were wrong; he was wrong; but it was the country that paid the price. Millions of people have lost their jobs; thousands of businesses have gone bankrupt; and the human suffering is untold—and now it is time to begin the long road back. When the smoke clears, I would hope that President Reagan, upon quiet reflection, will understand the difference between the instinct that seeks to dominate and vanquish, and the instinct to lead and unite. He above all should remember the slogan at the Republican convention: "Together—A New Beginning." Together, Mr. President—it is a simple word and it is about time you remembered what it means.

Anyone can be a partisan—that is easy. Being a President and all that implies requires a higher standard. Starting today, I think it is time for a new beginning together. In that spirit, I will vote for the tax bill.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Massachusetts for that last line in particular.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Will the Senator from Kansas yield me 10 minutes?

Mr. DOLE. Mr. President, I yield 7 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I first of all wish to compliment the Republican leadership, including the President, who were behind this bill. I think that clearly from the standpoint of the technical progress of the measure through committee, through the Senate, into conference and now through the House that there is no question that they have shown superior technical activity.

I can understand how they got themselves into this position. I sympathize with that. In fact, maybe I assisted in that process with my support of the budget resolution.

I did support that budget resolution, on balance, even though the tax provisions might have been met in other ways. They have tried to live up to the mandates of the resolution. But, unfortunately, Mr. President, the tax increase bill that they have put before the Congress makes no economic sense, in my judgment, either for the country or for New Mexicans.

This has been clear to me at least ever since it was passed by the Senate Finance Committee. However, as the distinguished chairman knows, I did support the Republican leadership with a vote to continue to try to make something of this measure in conference with the House. I should note that all of my Democratic colleagues voted against this bill as it left the Senate. Now many have had a change of heart. We might ask why. Maybe, Mr. President, it is because it is really what some of them wanted all along.

In spite of efforts to delete the worst provisions of this on the floor and in the House-Senate conference, the bill remains a bad bill.

There is no historic justification for raising taxes at the bottom of a recession.

There is no economic justification for raising taxes in hopes of putting people back to work.

There is no personal justification for adding several hundred dollars to the individual tax burden, directly or indirectly, of millions of middle-income Americans.

If this bill were just the reform of existing tax inequities that it is touted to be, I could support it. Unfortunately, it is far more than that.

The bill would raise taxes on all Americans whose tax burden was reduced just last year. I cannot support such an action.

I was one of the few Republicans who publicly supported the President's original fiscal 1983 budget proposals. They were consistent with the new fiscal course we had set in 1981 and had tolerable deficits in comparison to our total GNP and the growth of that GNP which the new tax cuts would stimulate.

Mr. President, that fiscal course is bearing through and we should stick with it.

Now we are asked to change course before our destination is in sight.

The tax increase bill we are asked to support is not just a reform, "sock it to the rich and big corporations" measure. It is also a reversal of all we have stood for for years. It is the dream bill of the Democratic leadership of the Congress.

This bill will raise the taxes, either directly or indirectly, that middle Americans must pay. It will wipe out the effects of the third year of the personal income tax cut for many working Americans.

This bill will raise the cost of small business activities to the point where more workers will be laid off, not hired.

This bill is exactly the wrong medicine at the bottom of a recession. We should be encouraging savings and investment, not taxing it. We should be cutting the costs of running a small business, not raising them.

An analysis of what the provisions of the tax bill conference report would do to the middle American taxpayer is worth close examination.

In the name of forcing compliance by a few, the bill would penalize honest taxpayers by requiring the withholding of taxes on savings income. It is estimated that the cost to savers due to reduced interest compounding and loss of reinvestment would be $1.7 billion to $2 billion annually. The cost of compliance that will be passed on to the consumer would be at least $1.5 billion per year plus a new paperwork nightmare.

The bill would reduce deductions allowed for medical expenses by the average taxpayer. The amount of nondeductible medical expenses paid by a middle-income taxpayer would increase by about $350 from $500 to $850. The $150 deduction for medical insurance premiums would be abolished.

Uninsured casualty losses would be deductible only to the extent that the total losses exceeds 10 percent of adjusted gross income. Current law provides for the amount of loss in excess of $100 to be fully deductible. This change virtually repeals the deduction for casualty losses. The nondeductible cost of personal property losses will rise dramatically, and fall especially hard on middle income taxpayers.

The bill would raise excise taxes on telephones, aircraft fuel, and other broadly used articles in domestic commerce. The effect is to add at least an-

other $100 a year of taxes, direct or indirect, on the average man or woman in this country.

The bill would undermine private pension plans potentially affecting 6½ million Americans and eliminating $5 billion to $10 billion in annual capital formation.

The bill would take the first step toward forcing Federal workers into the social security system without fixing that system so it will work for all retirees. The cost to a Federal worker making $22,000 will be over $280 in 1983 and over $310 in 1985.

The bill would change the business tax cuts enacted last year for small and large businesses but particularly onerous on small businesses, thus discouraging and confusing investment needed to form new jobs.

The bill would discourage new investment in mineral and energy activities at exactly the wrong time for the country and for my own home State of New Mexico and its employment and revenue needs.

The bill would discourage new hiring and encourage layoffs by all businesses by raising Federal unemployment taxes. The additional tax paid by employees would increase by $41 in 1983 and hit $231 in 1985. And that is for a medium-income employee in the Federal work force.

In total, Mr. President, the so-called Tax Equity and Fiscal Responsibility Act is a retreat from the policy of reduced Government taxation and spending that the American people elected most of us to pursue. I supported that policy last year and I intend to continue to support that policy by voting against the unwarranted tax increases contained in the conference agreement.

I supported that policy last year and I intend to continue to support that policy by voting against this unwarranted tax increase that is contained in the conference agreement. Must this bill pass? I think not. Whatever happens, we will go on. We will keep trying. We will eventually, Mr. President, do the right thing.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 5 minutes to the Senator from Iowa.

Mr. JEPSEN. Mr. President, this is perhaps the most difficult vote I have ever cast as a Member of the U.S. Senate.

It is a classic case of "damned if you do and damned if you don't." We either raise taxes or have higher deficits. Neither prospect is desirable.

In point of fact, the reason we are faced with this dilemma is because we have been unable or unwilling to do what we should have done in the first place: Cut spending. Just since I have been a Member of this body—a relatively short time, I might add—Federal spending has gone from about 21 percent of our Nation's gross national product to close to 24 percent in the coming fiscal year. If we had simply kept the burden of spending from rising we would be close to a balanced budget. But we did not and this is why we are here today.

I would feel a lot better about casting a yes vote for this legislation if the $99 billion increase in taxes contained in it were likely to achieve a balanced budget. If that were the case I would not be quite as concerned as I am about some of the specific provisions of this tax bill. As it is, I am left with the feeling that we are imposing a substantial cost on the American people without the likelihood of a corresponding benefit. A balanced budget would be the payoff which justifies this extreme action. Unfortunately, the latest reestimate of revenues for the next fiscal year shows that this tax increase will merely make up the revenue which has been mysteriously lost since the last estimate was made.

This brings me to a point which disturbs me very much about this whole process: We are never dealing with hard numbers. We are always talking about estimates and projections that are just as soft and flakey as they can possibly be. Every Member of this body knows the frustration of casting some tough vote to cut or restrict funding for some program he believes in only to find out the next day that some yo-yo from OMB or CBO or someplace else has reestimated the deficit up again by $5 or $10 billion. Frankly, I do not have the slightest faith in these numbers, but unfortunately we end up guiding our actions by them anyway. And this bill we are voting on today is about as loaded with phony numbers as any bill I have ever seen. Let me elaborate:

One of the principal revenue-raising items in this legislation is tax withholding on interest and dividends. According to the committee report we are supposed to raise some $5 billion per year from this provision because some smart guy at the IRS or the Joint Committee on Taxation or someplace concluded that this amount of tax is currently due as a result of current law and is not being paid. Personally I do not believe this for a minute. These dividend and interest payments are already being reported to the IRS and I think the estimate of underpayment is grossly exaggerated. But there the numbers are in black and white in the committee report and who is to dispute them?

But there is another side of the coin which is not shown in the Joint Committee's revenue estimate: The cost to financial institutions of instituting this withholding and the cost to taxpayers of lost interest they could have earned on the withheld taxes. Remember, the IRS pays no interest on the money that is withheld from our paychecks and they are not going to pay interest on dividend and interest withholding either. So if you have $1,000 per year withheld from interest and dividends you are losing the interest you would have earned on this $1,000 if it had remained in your bank account instead of the Treasury's. And this cost is not insignificant. My staff on the Joint Economic Committee estimate it to be as much as $2 billion per year.

Now I know that there are supposed to be exemptions in this legislation for the poor and the elderly, but realistically how can we expect financial institutions to figure out who is exempt and who is not. I think this whole idea is just crazy and will be an administrative nightmare. I voted to delete it when the issue came up earlier this month and I am very sorry to see that the conference retained it. In fact, I would not be at all surprised if we end up having to undo this provision when the outcry from the people hits us after financial institutions start the withholding.

Another thing about this bill which bothers me is the phony spending numbers in it. For example, there is an assumption that we are going to save some $15 billion a year in interest payments because of the reduction in the deficit and its impact on financial markets. In other words, we reduce the deficit, this reduces interest rates and interest payments, which further reduces the deficit. Using this line of logic all we have to do is reduce the deficit $1 and let the compounding effect I described take care of everything.

What I see lacking from this legislation is the hard cuts in entitlements. These so called untouchable programs are the real source of our problems. We enacted these programs and indexed them to the inflation rate and the unemployment rate so that they go up without any action on the part of the Congress. Again, I would feel a lot happier about casting this vote if I thought we were making some real progress in controlling these entitlements by permanently restraining their growth. We should have done it last year and if we had we would only have had to cast that hard vote once and we would not be here now.

In closing, Mr. President, I have grave reservations about this legislation. We ought to be cutting spending instead of raising taxes and we ought to be casting a vote for permanent spending reductions instead of using phony numbers to make people think that is what we are doing. I feel bad about this vote: We either raise taxes or have higher deficits. What a choice.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOLE. I yield 2 minutes to the Senator from Oklahoma.

Mr. NICKLES. I thank the Senator.

Mr. President, after long and careful consideration, I have decided to vote against the $98 billion tax increase which also includes about $15 billion in entitlement cuts. This decision was reached after some difficulty because of my respect and admiration for President Reagan and because I believe we must balance the budget as soon as possible.

Upon examination of the reconciliation proposals now before us, we are confronted with spending cuts of approximately $28 billion and tax increases of $98 billion over 3 years. The balance of the $280 billion in spending cuts called for under the first budget resolution is supposed to be made up of about $85 billion in appropriated reductions over the next 3 years, $13.6 billion in additional cuts, which may not be made, $108 billion hoped-for reductions in interest expense, and an estimated $47 billion in administrative and management savings, which I hope will take place. In the final analysis, the only definite changes are a $28 billion spending reduction and $98 billion tax increase over 3 years, a ratio of about 3 to 1. In other words, a ratio of $3 in tax increases for $1 in spending reductions.

It is my belief that we must balance the budget, but we must look at the source of the problem—either we are spending too much or taxing too little. I do not believe that Americans are undertaxed today. I do believe that we continue to overspend. We are presently spending $3,300 for every man, woman and child in this country.

The problem is not due to the Reagan administration. The problem lies with the Congress and its unlimited desires to spend someone else's money for which Congress has had a relentless appetite for the past 20 years.

I do believe we must do everything within our grasp to reduce Federal spending, not increase taxes, in order to balance the budget.

Mr. LONG. I yield to the Senator from Alabama.

Mr. HEFLIN. Mr. President, currently there are techincal statutory rules—such as section 46(f)(8)—prescribing the extent to which accelerated depreciation deductions and the investment tax credit may be considered in setting rates for a regulated company. These rules are applicable to the election to claim an investment tax credit of 8 percent or 4 percent without a reduction in the cost basis for depreciation with respect to regulated companies.

In my opinion, the election to claim or not to claim a lesser investment tax credit without a basis reduction is within the sole discretion of the regulated company. Further it is my opinion, that no regulatory authority may impute additional depreciation to such regulated company which elects the 10 percent or 6 percent ITC and reduced basis. The Internal Revenue Service has been contacted about this and there is no disagreement from that agency with my opinion.

The PRESIDING OFFICER (Mr. MATTINGLY). Who yields time?

Mr. LONG. I yield 10 minutes to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, when this body approved the Economic Recovery Tax Act 1 year ago, claims were made that it would release almost magical powers and propel our economy into an unprecedented boom. Unfortunately, that did not happen. Instead, the contradictory mix of tight money and loose fiscal policy pushed us into the highest unemployment and the deepest recession in 50 years. That is where we are right now, and the people wonder if we have confidence in our own actions and a vision for our economic future. Our sense of uncertainty cast a shadow over all the industrialized and Third World countries whose futures are inextricably bound up with our own.

In today's economically interdependent world, our actions take their toll on the economies of friend and allies. No nation can insulate itself from shocks experienced continents away, in faraway countries such as Poland, or in neighboring countries such as Mexico. When our policies wreak havoc with the economies of our trading partners, that, too, comes back to haunt us. Foreign demand for U.S. goods slackens. That puts Americans out of work. The dollar may appreciate to all-time highs. But that makes foreign products cheaper, giving them a distinct advantage in our markets. Even more disturbing, an international recession threatens to unleash powerful forces for protectionism abroad and isolationism at home—forces that if not soon checked threaten peace and prosperity worldwide.

Laying the foundation for renewed confidence in our own Government's ability to manage and to lead is therefore of paramount importance. The stability of our international financial institutions and indeed, of the world economic order, may hang in the balance.

But restored confidence will not materialize from a single act of the U.S. Congress. It will only evolve gradually from cumulative demonstrations that we know what must be done over the long haul. And it will require repeated evidence that we are willing to make the tough choices involved in translating mere knowledge into effective action.

Approving the Tax Equity and Fiscal Responsibility Act is but one of many steps we must take if we are to nurse our economy back to health and to renew confidence in Government's wisdom and commitment.

Mr. President, I say this because I think it is important to put the legislation now before us in its proper context. Once again, extraordinary claims are being made on both sides. Proponents argue that if this bill is not enacted, our economy will be catapulted into the abyss. Opponents insist that adoption of this bill will put the final nail in the economy's coffin. These are both extremes. Overblown claims are dangerous. They either raise hopes that cannot be fulfilled, or they create despair that is its own undoing

Our economic situation is serious, to be sure. And, it can be repaired only if we are willing to bring our fiscal and monetary policies back into balance and to demonstrate the sense and courage to correct past excesses—whether they be in runaway spending or excessive tax reductions. We only complicate the task ahead if we are less than forthright in estimating how long the recovery will take and how much discipline will be needed

Economic recovery demands that we get control of Government deficits. This in turn requires less spending and increased revenues. I voted to cut spending when I voted this year for the reconciliation bill. I will vote now to raise revenues by supporting this tax bill. But I do so without illusions that this legislation is a panacea.

All in all, Mr. President, I think the bill before us is a significant improvement over the one the Senate passed last month. As I said when I voted against that bill, I believed that important parts of the spending cuts were unfair and unsound. The original Senate bill would have increased out-of-pocket health care costs for millions of Americans who need skilled nursing care in their homes, who visit a doctor, or purchase a medical appliance. I was especially troubled by the prospect of copayments for home health care. Imposing new charges for these services would only encourage the poorest, oldest, and sickest members of our society to resort to more and lengthier hospital stays, thereby making the whole medicare program more costly. I also thought the provision shifting the costs of these medicare programs to the States was unwise and unfair. And I felt that some of the changes to the AFDC program were simply unnecessary for a nation that, for all its difficulties, is still among the richest in the world. Particularly troubling was the elimination of the entire emergency assistance program. Eliminating waste, fraud, and abuse in welfare programs is one thing. Relegating the neediest members of our society to abject poverty, however, is another. I found that unacceptable.

Fortunately, these provisions that most disturbed me about the Senate bill were deleted in conference. Thus, the bill before us is much improved.

I also objected to some of the act's tax provisions. I felt that while parts of the bill merit the label "tax reform," other parts would unfairly and unnecessarily burden low- and middle-income taxpayers. These are the very groups hardest hit by the recession and least able to insulate themselves from its effects.

The conference committee made some much needed corrections. Interest and dividend withholding has been delayed for 6 months until July 1, 1983. In addition, all interest payments under $150 were exempted. There are exemptions for about 90 percent of the elderly and all low-income citizens. Financial institutions were granted an escape hatch if compliance created an undue burden.

The floor for deducting medical expenses was reduced from 7 to 5 percent of adjusted gross income. This should ease the burden on those facing high medical bills.

Finally, the act now provides a much-needed $2 billion temporary unemployment compensation supplemental benefit package. This provision will help a million workers who have exhausted their benefits under existing programs to get through these difficult times. The benefits under this program will be available in every State beginning in mid-September.

Even so, I still have some reservations about this bill. I wonder if its architects are prepared now to acknowledge the origins of the serious problems confronting our economy. Yet understanding their cause is essential to developing sustainable, effective solutions for the long haul. Last year, Congress adopted a 3-year tax cut that reduced Federal receipts by $750 billion over a 5-year period. We also voted to increase defense spending by $150 billion, while cutting nondefense spending by only $135 billion. Taken together, these actions committed us to a highly stimulative fiscal policy at a time when inflation was widely perceived as the primary threat to our economic well-being.

To counter the inflationary thrust of its tax and defense policies, the administration urged, and the Federal Reserve implemented, an unprecedentedly tight monetary policy. This in turn has produced the record high interest rates that have choked off growth and laid the foundation for economic stagnation at home and abroad.

All the bill before us does is to take a few modest steps toward correcting the exceeses in last year's tax bill. Yet these steps are necessary and that is why I will vote for this legisation.

But future progress requires that we learn from our past mistakes. We must acknowledge that we would be much better off today if we had reduced spending in 1981 and limited ourselves to a 1-year tax cut that would have benefited rich and poor alike. Interest rates, deficits and unemployment would be lower and economic growth higher. Only by facing up to past errors can we avoid deluding ourselves into settling for shortrun solutions to what are in fact longrun problems.

At the same time, I am encouraged that this bill corrects at least some of ERTA's excesses. Hopefully, this signals that those managing our economy will take a new and more promising direction in the coming months. Perhaps it even signals understanding that it is not just cutting tax rates that is important. What matters most is the way we cut tax rates. There is no free lunch. We cannot afford to lower rates unless we close loopholes at the same time. Failing to recognize that got us into the budget mess we are in today. If and when we can acknowledge this, we will be on the way toward a new tax policy that guarantees Americans the fair and efficient tax laws they need and deserve.

In closing, Mr. President, let me once again stress that we will not restore economic health, nor will we renew confidence in Government, without making difficult political choices. The mismatch between economics and politics that characterized last year's legislative agenda has brought about the present recession. Worse, that mismatch threatens to feed on itself until some big, perhaps even catastrophic, event jolts us into a painful confrontation with reality. The bill before us is not a cure-all. We should vote for it soberly for much more remains to be done.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 3 minutes to the distinguished Senator from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. I thank the chairman for yielding.

Mr. President, the Senate has labored with great determination so that we might finally consider the Tax Equity and Fiscal Responsibility Act of 1982. No detail has escaped our analysis. We have literally dissected every section and subsection in order to determine the impacts of these many provisions on the Nation's economy. The chairman of the Senate Committee on Finance is to be commended for his persistence and care for details during the last several months when the various provisions were in the process of refinement.

I am pleased that I have been able to work closely with the chairman on the Dole-Grassley tax compliance sections of the act. There is perhaps no section in this legislation that has suffered more seriously from distorted or misguided analysis. The record on compliance should once again be clarified.

The goal of this entire section of the Tax Equity and Fiscal Responsibility Act is to step-up efforts to collect the taxes already owed the Government from those people who have been successful in avoiding paying their fair share. In my view, it is imperative that we collect taxes from those people before we start raising taxes on all honest taxpayers. This portion of the bill includes such measures as information reporting on stock and securities brokers, and on corporate bearer bonds and Treasury bills which currently escape such information reporting.

Additional provisions such as a penalty for substantial understatement of income tax, increased penalties for failure to supply a taxpayer identification number and for failure to file an income tax form all illustrate the growing awareness that increased efforts must be made to collect unpaid taxes.

Although a great deal of attention has been focused on the tip reporting requirement the conferees restored to this bill, I must stress the broadness of the measures contained within the section of the conference report that deals with compliance. It would be a great injustice to describe this bill as targeting the waiters and waitresses of the Nation while letting higher income individuals manipulate our tax code to their advantage. The problem with taxpayer compliance is not concentrated at the lower end of the income scale, and the provisions of this specific section of the bill reflect the need to collect taxes from upper-income individuals who are in a far better position to shelter their income from the tax collector.

I worked hard with Senator DOLE to come up with a compliance bill that was fair and that addressed a serious problem. It was very gratifying to see the Senate Finance Committee, and subsequently, the House and Senate Conferees include the bulk of the compliance provisions within the Tax Equity and Fiscal Responsibility Act. I encourage my colleagues to look beyond some of the unfavorable and largely unjust criticisms of the compliance measures, and examine the compliance section on its merits. I am hopeful they will agree with me that these changes are indeed necessary to restore faith to our tax system, and to return a sense of fairness to the tax code.

I am also pleased to note that the conferees agreed to include taxpayer protections in the conference report which I have long felt were necessary to prevent the Internal Revenue Service from unfairly inflicting financial harm to delinquent taxpayers in its efforts to collect overdue taxes. By accepting these provisions sought by my distinguished colleague from the House, Representative RANGEL, and myself, I feel that many of the major complaints echoed by delinquent tax-

payers have been heard by this body and addressed in a responsible fashion. During hearings which I conducted in the Subcommittee on Oversight of the Internal Revenue Service last year, testimony revealed the frequent sluggishness on the part of the IRS in releasing liens to private property of delinquent taxpayers after they finally pay off their overdue taxes. In this conference report, provisions were adopted which will require the IRS to release such liens within 30 days after payment of Federal tax obligations. In addition, concerns were expressed in my hearings as to irregularities in the sale of private property by the IRS to satisfy an individual's tax liability. Under the conference protections, the IRS will be required to notify delinquent taxpayers 10 days in advance by certified or registered letter before seizing or attaching a levy to private property. The time during which taxpayers can redeem property which has been sold by the Government to satisfy their tax liability will be extended, which I feel is particularly helpful during the current recession. Under the conference report provisions, taxpayers will be provided an extension from 120 to 180 days to repurchase such property. Lastly, these reforms will protect taxpayers from unjust financial loss when their property has been wrongfully sold by the IRS. Current law allows taxpayers to recover sale proceeds of property wrongfully sold by the IRS, however, such proceeds may be less than fair market value of the property. This measure will change current law to allow the taxpayer to collect the greater of the fair market value of the property or the sale proceeds.

I am also gratified to note that the conference report retains a provision based on legislation which I introduced earlier this year to encourage youth employment during the summer months. Youth unemployment has risen to 22 percent this summer, with unemployment among black youths approaching a straggering 45 percent, five times the rate of all workers. High youth unemployment threatens the economic survival of many families, epecially as the number of one-parent families with children continues to rise. This tax provision will offer employers who hire qualified, low-income youth a tax credit increase from the current 50 percent to 85 percent of the first $3,000 earned. Effective from May to Septemer, 1983, the credit is limited to qualified youths 16 or 17 years of age, who fill substantially full-time slots without displacing other workers. I feel that this tax credit expansion is a cost-effective way to increase the productivity of our workforce and assist our disadvantaged youth in entering the job market and economic mainstream.

One final provision I would like to comment on is the retention of the fixed purchase price option for farmers and farm implement dealers when engaged in leasing transactions. The farm implement provision was jeopardized during debate on the broader "safe harbor" leasing modifications, and I am grateful that the conferees realized the importance of the fixed purchase price option to this Nation's farm community. Under this provision, an individual will be allowed to lease $150,000 of farm implement equipment annually with a fixed purchase price option. This measure is exceedingly important to cash poor farmers in this time of economic uncertainty.

I could not have supported any bill which did not address the real culprit in our deficit problem, and that is the rapid increase in the level of Government spending. The bill reported out of the conference committee reduces spending over the next 3 years by $17.5 billion, which meets the budget reconciliation orders agreed to earlier by this Chamber. In my view, the spending reductions are essential to restoring faith to our financial markets and demonstrating that Congress is serious about reigning in the growth of Government. While the need to reduce spending is urgent, we must insure that any such reduction is done in a fair and evenhanded manner, and protects those individuals who merit Government assistance. I believe the bill reported out of the conference committee accomplishes both of those goals.

The conferees agreed to a number of provisions to restrain the growth in medicare expenditures, which have been increasing much faster than the rate of inflation over the past years. The bulk of the savings achieved in this bill are associated with the medicare program. Important strides were made in controlling the spiraling medicare costs attributable to the current hospital reimbursement procedures. These efforts to control costs are critical to the long-term health of Federal health programs. Furthermore, I am pleased to see that the conferees agreed to a provision requiring the Secretary of Health and Human Services to develop a plan for prospective payments for hospitals and skilled nursing facilities.

Various changes in the medicaid, AFDC, and supplemental security income programs also signal gains in streamlining the multiplying expenditures for health and income maintenance programs. The conferees took great efforts to maintain benefits for deserving individuals, and also included provisions targeted to encourage a more efficient administration of State and Federal programs.

One final portion of the bill on which I would like to comment is the extension of unemployment benefits for those unemployed workers whose entitlement to State benefits will shortly expire. This is no doubt a grave time in history for many American workers, and I am glad the conferees found it appropriate to extend some relief to those individual. It is a serious problem, and the conferees are to be commended for recognizing and addressing the problem in an expeditious manner.

I am sure all of us have some reservations about specific portions of the bill. However, given our current economic condition, action needs to be taken, and taken immediately. This bill demonstrates that Congress is serious about narrowing our deficit through a combination of spending reductions and tax reform measures.

I support this conferense report, and urge all of my colleagues on both sides of the aisle to do the same.

Mr. President, I would like to spend the rest of my 2 minutes visiting with the chairman of the committee on the flat-rate tax resolution that was left out in the conference committee. I have a letter I ask unanimous consent to have printed at this point from Secretary of the Treasury Donald Regan, stating that they are involved in a study and that they expect that to be completed very quickly, and that it should be completed in time for the hearings that we are going to have.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
Washington, D.C. August 19, 1982.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, D.C.

DEAR CHUCK: I am aware of your interest in the flat tax concept and I ageee with you that this is a matter that must be studied very carefully.

I wanted to let you know that the Department is currently studying a simplified income tax system. This study will take into account the complexities of the existing income tax system with a view toward expanding the current base and lowering present rates.

I will be pleased to share with you and your colleagues the results of this study upon completion.

With best wishes.

Sincerely,

DONALD T. REGAN.

Mr. GRASSLEY. Mr. President, may I ask, the Senator does have hearings scheduled?

Mr. DOLE. Yes, Mr. President.

Mr. GRASSLEY. Just because the flat-rate resolution was left out does not signify any less interest in moving ahead with it, as chairman of the committee, or any less emphasis as far as the Secretary of the Treasury completing that study?

Mr. DOLE. No, Mr. President. In fact, we had hoped to have hearings early in September, but now we have been on this bill for some time. Cer-

tainly by the end of September, we will be having hearings in our committee on the flat-rate tax.

There were two studies, as I recall, in conference and it was determined to eliminate both studies, particularly the flat-rate study, because we were assured by Treasury that we would have it in any event; it would be available in time for the hearings in September.

Mr. GRASSLEY. I thank the chairman. I want him to know how much I appreciate his leadership in that area and the extent to which he has been helpful to me in helping to incorporate some of my ideas into this tax legislation.

Mr. DOLE. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. DOLE. I compliment the Senator from Iowa, because when you start adding up the dollars in new revenues, there are about $30 million in compliance.

As I recall, in March, the Senator from Kansas and the Senator from Iowa had a press conference. I am sure a lot of people left that press conference saying, "Well, this is another dog-and-pony show for home consumption." Yet here, some months later, we have most of those compliance provisions in this bill. If this conference report is adopted, they are going to become effective. I thank the Senator from Iowa for his role in that effort.

Mr. GRASSLEY. I thank the Senator. I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield 2 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I rise today to announce my support for the conference committee's report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act. Mr. President, the tax bill has presented me with one of the most difficult decisions I have had to make since entering the Senate.

Each of us must decide what we believe is right.

The people of Montana sent me here, giving me their trust, to exercise my best judgment.

These are extraordinary times that demand extraordinary action. A great writer once suggested that the hotest places in hell are reserved for those who, in times of great crisis, maintain their neutrality.

These are times of crisis.

Over 10 million Americans, including 50,000 Montanans, are out of work.

We face $100 billion deficits. High-interest rates are crippling the economy.

In some parts of Montana, which depend on the housing industry, unemployment has reached 30 percent.

Mr. President, to reduce the deficit and lower interest rates, we must make difficult decisions. Adoption of this conference report will help reduce interest rates and help restore American confidences in the economy.

Congress needs to make responsible, but not Draconian, cuts in spending.

Congress needs to take a good hard look at the tax code, a duty we cannot escape, no matter how great the temptation to take the easy way out.

Look at the facts:

The tax code is littered with a hodgepodge of subsidies, loopholes, credits and shelters. In 1967 there were some 50 of these provisions. Today there are over 100, and the cost to the Treasury is $270 billion a year.

By 1987, according to the Joint Tax Committee, the cost will rise to an astounding $450 billion a year.

That is real money. That is the stuff budget deficits are made of. That is the stuff high-interest rates rates are made of. That is the stuff unemployment is made of.

Moreover, there has been an alarming growth in the underground economy. According to the IRS, in 1980, some $90 billion in taxes were owed but not paid. Tax cheating is on the rise, and the hard-working, law-abiding people have a right to be angry.

We do not have a Republican economy, or a Democratic economy, but an American economy.

We do not have unemployed Democrats or unemployed Republicans, but unemployed Montanans and Americans.

This bill is not a panacea. It is one of many difficult steps that must be taken.

Montanans understand the problem. They want action, and will sacrifice, as long as the sacrifice is fair. I believe the tax bill is one important step on the long road to economic recovery. The people outside Washington, Mr. President, are confused. They are the people who sent us here and have waited patiently for action, but their patience has run out.

Mr. President, over the past several months, I have listened to the arguments of various groups who oppose one portion or another of this legislation. I have sympathized with many and agreed with some. Needless to say, there are portions of the tax bill that I do not like. But no legislation is perfect.

By and large, I believe that the bill is fiscally responsible. I believe it is a sound beginning to meaningful tax reform. I believe it is necessary, however politically difficult, for the good of the nation.

THE TAX PROVISIONS OF H.R. 4961

Half of the $98 billion in revenue raised by this bill comes from eliminating abusive tax loopholes. Safe harbor leasing—the selling and buying of corporate tax breaks—is one obvious example. Leasing is sharply restricted next year, and it is repealed altogether as of January 1, 1984.

Another 30 percent of the bill's revenues come from improved tax compliance measures. The bill picks up revenue from people who legally owe taxes but do not pay them. If we are to make the tax code simpler and fairer for everyone, then we must insure that those who legally owe taxes pay them. This bill is a big step in that direction.

Roughly 17 percent of the bill's revenues will come from individuals. However, most of that will come from high-income taxpayers. Less than 10 percent of the revenue burden of this bill will come from middle-income taxpayers. Better than 90 percent of the revenues raised in this bill will not come from the wallets of middle-income Americans.

Mr. President, this bill is a step toward meaningful tax reform. And I hope that we will contiune to make the Tax Code simpler, fairer, and more equitable for all Americans. In that way, we can begin to restore fairness to the Tax Code and trust in the Government.

This bill is fiscally responsible. It is a substantial and necessary moderation of President Reagan's economic program. It eliminates many of the abusive and unintended loopholes included in last year's tax act. It will reduce the projected deficit. At the same time, it does not cut back on legitimate incentives for economic investment.

Mr. President, I shall have more to say on this bill and on tax reform in the coming days and weeks. In the meantime, I ask unanimous consent that a summary of the tax provisions in H.R. 4961 that appeared in the New York Times be inserted at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

MEDICARE

Mr. BAUCUS. Mr. President, I have devoted a great deal of time and energy this year trying to prevent cuts in medicare benefits and to enacting badly needed reforms in this program.

Health care costs are rising at an astronomical pace. So is the cost of the medicare program. The question is why? Is it due to spendthrift senior citizens? Are the elderly being wasteful and causing these costs to rise? No.

The real reason is that hospital costs are rising. Doctors' fees are increasing. The cost of medical equipment, drugs, laboratory tests, and supplies is skyrocketing.

Since early this year, I have been waging a battle to defeat proposals that I thought would not solve the fundamental causes of the price escalation in the medicare program. I fought these proposals in the Finance Committee, on the floor, and in conference.

Mr. President, I am still unhappy about the cuts in medicare in this bill. Federal medicare expenditures will be cut $13.2 billion over the next 3 years, including provisions that will cost beneficiaries $1.6 billion.

I believe my efforts saved beneficiaries millions of dollars, but I'd be much happier if I had defeated several proposals in this bill. As it is, however, we were able to remove some very objectionable provisions.

We eliminated the increase in the part B deductible. The part B premium increase was sunseted after 1985, and the home health copayments provision was also eliminated.

Congress also committed more money to auditing medicare claims. A relatively small investment in auditing pays big dividends in increased savings and improved efficiency.

Now we must make sure sufficient funds are appropriated to carry out our intentions.

Section 101 of the bill also is encouraging. The changes in the way medicare reimburses hospitals are painful—but necessary to contol outlays for hospital care. I look forward to working with Senator DURENBURGER in the next few years to develop prospective rate reimbursement for medicare.

In the past, small hospitals have been penalized by the medicare reimbursement system. Section 101 specifically exempts small rural hospitals with fewer than 50 beds from these section 223 limits. Thus, our Nation's small rural hospitals, which have proportionately higher fixed costs than large urban or metropolitan hospitals, will not be threatened.

I admit there is a lot in this bill that I oppose. All beneficiaries are going to pay increased costs. But I am pleased that the cuts are not as bad as those first proposed by President Reagan and adopted by the Senate Finance Committee.

The increase in the premium and other costs is the price we pay to avoid such provisions as delaying initial eligibility for medicare, physician reimbursement provisions that would have had a terrible impact on beneficiaries, increasing the part B deductible, home health copayments, and other proposals that were rejected by the Finance Committee, the Senate or the conferees.

I believe the benefits of supporting this bill outweigh the costs. That is why I have decided to vote for this bill.

EXHIBIT 1

[From the New York Times, Aug. 15, 1982]

WASHINGTON, Aug. 15—Following are the main provisions of the $98.3 billion tax bill agreed to by House and Senate conferees early this morning. The bill, which will affect individual taxpayers and businesses differently, remains to be passed by both the House and the Senate.

I. Effects on Individuals

Withholding on interest and dividends: Beginning July 1, 1983, financial institutions, and other businesses will be responsible for withholding 10 percent of interest and dividends earned by individuals. Exceptions would be made for individuals receiving less than $150 a year in interest and for persons 65 or older who paid less than $1,500 of tax in the previous year (or $2,500 on a joint return).

This provision is expected to raise nearly $12 billion in revenues over three years, the most significant part of the Government's efforts to improve tax payments under existing laws.

Capital gains: The conference rejected Senate efforts to shorten the capital gains holding period to six months and to permit indexing of investment assests for tax purposes. The holding period will remain one year.

Medical deductions: Beginning next year, taxpayers will no longer be permitted to take a separate deduction for premium payments for health insurance, although those costs would still be included in the calculation of total medical costs. Under current law, taxpayers who itemize their deductions could deduct one-half of their premium payments, up to a maximum deduction of $150.

Also effective in 1983, deductions for medical costs would be allowed only to the extent that they exceed 5 percent of adjusted gross income, up from the 3 percent level that now exists. However, the requirement that costs of prescription drugs must exceed 1 percent of adjusted gross income to be deducted would be removed in 1984, allowing these costs to be added to the pool of other medical costs.

These changes will save an estimated $3.8 billion over the next three years.

Casualty deductions: Uninsured casualty lossed not involving business would be deductible begining in 1983 only to the extent that the total of losses exceeds 10 percent of adjusted gross income. Furthermore, each casualty loss may be deducted only to the extent that it exceeds $100, as under current law. This measure is expected to bring in $1.4 billion in revenues over three years.

Individual minimum tax: Under current law, high income individuals who would otherwise pay little or no tax are subject to two different minimum taxes. The bill would repeal the so-called add-on minimum tax, and it would expand the existing alternative minimum tax.

Under the alternative minimum tax, the definition of income to be taxed would be expanded to include items that were taxed under the add-on tax and also benefits gained from special tax treatment of incentive stock options, interest and dividends not taxed under the $100 exclusion and the untaxed interest earned on "All Savers" certificates.

For individuals, the tax rate to be applied to income subject to this tax would be 20 percent on all amounts greater than $30,000 (for couples filing joint returns, $40,000).

Public utility dividend reinvestment plan: The conference rejected Senate efforts to repeal the favored tax treatment applied to the reinvestment of utility dividends.

Excise taxes on cigarettes: The Federal tax on cigarettes, which was last increased in 1951, would rise to 16 cents a pack, beginning in 1983, from 8 cents currently. This would increase Federal revenues by $5 billion over the next three years.

Excise tax on telephone services: The federal tax on telephone services, currently 1 percent, would be tripled to 3 percent for 1983–85 and then fall to zero. This would raise $2.8 billion over three years.

Pensions: The bill would change the overall limits on contributions and benefits available under pension plans. For defined benefit plans, the maximum dollar limit on benefits would be lowered to $100,000 from $136,425. The maximum sum that could be contributed to defined contribution plans would be reduced to $30,000. These new limits, first effective in 1983, would not be increased until 1986 at which point they are to be adjusted for cost-of-living increases.

On Keogh plans for the self-employed, the maximum permitted contribution would be increased gradually from the present $15,000 limit. The figure would rise to $20,000 in 1983, $25,000 in 1984 and $30,000 in 1985. However, tougher rules governing loans from pension plans would also be instituted.

II. Effects on business

Business meals: The conference rejected the Senate's proposal that businesses be allowed to deduct only half of the costs of most business meals.

Restaurant tips: Restaurants with more than 10 employees would be required to report their gross income to the Internal Revenue Service as well as figures for charge receipts and the tips recorded on them. Employees would generally be assumed to earn tips equivalent to 8 percent of the restaurants' income. This provision would take effect on April 1, 1983.

Accelerated depreciation: The bill would repeal the further acceleration of depreciation scheduled for 1985 and 1986, thus dropping a major provision of last year's tax bill.

The savings to the Government will be $1.5 billion in 1985 as well as $10 billion in 1986 and $18 billion in 1987.

Investment tax credit: Businesses are currently allowed to depreciate the full amounts of their investments, even where they also benefit from tax credits. Under the new provision, effective in 1983, the amount that can be depreciated would be reduced by one-half of the amount of available credits. This would include investment tax credits, energy credits and credits for certified historic structures.

An investment tax credit of 10 percent, for example, would mean that a business could no longer depreciate 100 percent of the cost of the project, but only 95 percent (100 percent less one half of 10 percent).

Businesses would be allowed to retain full depreciation, however, if they are willing to reduce the tax credit they are using by 2 percentage points. This will primarily benefit businesses that are currently unable to use their investment credits.

There will be transition rules to protect some companies that have already ordered equipment.

Also, beginning in 1983, the amount of tax liability that could be offset by investment tax credits would be reduced. Taxpayers would be allowed to apply their investment tax credits against the first $25,000 of tax liability plus 85 percent of the amount greater than $25,000. Currently, 90 percent is allowed.

These provisions would save the Government $5.1 billion over three years.

"Safe harbor leasing": Provisions in last year's tax law that permit companies to sell unused tax credits to other companies would be repealed after 1983. Before then, changes would be made reducing the value of the tax benefits. Also, tax treatment of

traditional leasing, known as leveraged leasing, would be liberalized beginning in 1984.

Acceleration of corporate tax payments: In making quarterly estimated payments of taxes, businesses would be required to reach 90 percent of their liability for the year, rather than the 80 percent level now required. Companies would be penalized at only three-fourths of the normal penalty rate on amounts that pass the 80 percent mark but fail to reach 90 percent. To ease the burden on companies with large seasonal variations in income, a company would not be penalized if its payments were in line with the average of its annualized income over the previous three years. The measure, which takes effect beginning in 1983, would raise more than $4 billion.

Construction period interest and taxes: The bill would require corporations to capitalize construction period interest and taxes for nonresidential real property. These capitalized costs would be amortized over a 10-year period. This provision would raise $3 billion over three years.

Completed contracts: Companies would be sharply restricted in their ability to defer taxes on longer-term contracts. The Treasury has been instructed to issue regulations. This provision, aimed mainly at defense contractors and the aerospace industry, would raise $5.7 billion over three years.

Independent contractors: The bill would establish tests to determine whether employees are independent contractors. Independent contractors are not subject to withholding on income and also benefit from being treated as self-employed for Social Security taxes. Direct sellers and real estate agents would be specifically excepted from this rule.

Corporation tax preference cutback: Certain corporate tax preferences would be cutback by 15 percent. These include percentage depletion for coal and iron ore, bad debt reserves for financial institutions and interest on debt used to carry tax-exempt securities acquired after 1982.

Mergers and acquisitions: Certain tax benefits that are currently available when two companies merge and their assets are restructured would closed off. Partial liquidation of assets often results in capital gains or losses to shareholders. Now the company doing the liquidation does not have to recognize these gains or losses. Under the new rules, which take effect Sept. 1, 1982, the corporation would have to recognize these gains or losses, with some exceptions. Some mergers already in progress would be protected from these new rules.

Tax-exempt bonds: Issues of tax-exempt bonds will be required to file quarterly reports to the Internal Revenue Service. Furthermore, owners of property financed by tax-exempt bonds will not be eligible for accelerated depreciation of their property. There would be some exceptions, however, for institutions such as nursing homes and municipal waste disposal facilities.

Also, beginning in 1986, it would no longer be possible to issue "small-issue" tax-exempt industrial development bonds, which had allowed many businesses to finance plants on a tax-exempt basis.

The bill would loosen some of the restrictions on mortgage revenue bonds. Purchasers of homes financed through these bonds would be permitted to buy slightly more expensive homes than currently allowed. Also, tax-exempt bonds could be used to finance cooperatives and other multifamily dwellings.

Life insurance taxation: The tax breaks currently available to life insurance companies through the use of co-insurance, in which one company sells part of its risk to another company, would be ended. This would be retroactive to Jan. 1, 1982.

Original issue discount bonds (including zero-coupon bonds): The tax advantages now available on these bonds would be eliminated. Companies issuing these bonds would be forced to reduce the rate at which they take tax deductions for interest paid to bondholders. The rule would apply to bonds issued after July 1, 1982, but some issues after this date would be exempt if a binding commitment existed.

Puerto Rico: The conference generally accepted the Treasury's proposal on taxation of companies operating in Puerto Rico. The measure would limit the tax advantage available to these companies, but by less than the Senate had proposed.

Generally, companies would still be allowed to shelter investment income earned in Puerto Rico (mostly interest payments), but the amounts that could be sheltered would be reduced. Most companies, however, would not be affected by the tighter limit.

Also, the operating income that these companies could protect from United States taxes by transferring patents and similar intangible property to Puerto Rico would be substantially reduced, particularly in the pharmaceutical and electronics industries.

These changes, which would be effective January 1983, would raise $1.2 billion over three years, compared with the $2.7 billion the Senate proposal would have raised.

Alaskan oil: Oil companies bringing oil out of Alaska would be forced to pay higher "windfall profit" taxes on that oil, because a provision known as the TAP adjustment would be eliminated. This adjustment involves the calculation of the cost of moving the oil from the North Slope by the Trans-Alaska Pipeline to the Alaska port of Valdez.

Foreign oil and gas income: A tighter fence would be place around income from oil and gas extracted in foreign countries so that excess foreign tax credits could not be used against taxes on other foreign income.

Targeted jobs tax credit: Tax credit for hiring the hard-to-employ would be extended for two more years and would apply to individuals who begin work before 1986.

Mr. BAUCUS. Mr. President, I think we should support this bill for one simple reason. That is because the country needs it. Interest rates are coming down. The stock market is beginning to go up. American confidence is beginning to rise. I think it is imperative. In fact, I think we in the Senate have a duty to bite the bullet, swallow the pill, and do what we think is right for the good of the country.

I compliment my friends on the other side of the aisle because they are, in the main, swallowing their pride to some degree, biting that bullet, by passing the bill which does, in the main, raise some taxes in an election year. It is very much against the grain of Members on the other side of the aisle.

This bill, too, is a tacit admission that we need a midcourse correction in Reaganomics, that there are some problems with Reaganomics. In fact, the President's strong support of this bill is an admission that we do need changes. I compliment him for noticing that and acting on that conviction.

Mr. President, we on our side of the aisle, too, should be courageous. We should join in the bipartisan effort. We should support the President. We should not vote against this bill just because the President is supporting it and those on the other side of the aisle have, in the main, fashioned this bill. There are some problems with the bill, there are some other problems, but it is my judgment that this bill will help bring interest rates down.

Further, it will give the right signal to the country. It will show Americans that we in Congress are acting courageously, in a bipartisan way, we are not playing politics and in fact, we are trying to get our country moving again.

Conversely, if we do not pass this bill, we will see that stock market take a nosedive that significantly surpasses the increase in the market that has taken place in the last couple of days.

I suggest, I urge, I implore the Members of the Senate to vote for the bill, because I think it is the right vote. If we search our consciences, we will know it is best for this country.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield to the Senator from Rhode Island.

Mr. CHAFEE. One minute, Mr. President.

I commend the chairman of the Finance Committee and commend the House for approving this conference report. I hope the Senate will approve this conference report. It is the right thing to do.

As the distinguished Senator from Montana mentioned, what are the alternatives? Suppose we do not pass this.

Mr. President, I hope all my colleagues will join in support of the conference committee.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, at this point in the RECORD, I ask unanimous consent to have printed a summary of the spending provisions and a summary of the individual income tax provisions of this measure so that those Members who will be seeking information and other Members who consult the CONGRESSIONAL RECORD for information will have a summary in brief form of the spending reductions as well as the individual tax revenue measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF SPENDING REDUCTION PROVISIONS

1. HEALTH PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT

Medicare

Modify coverage of the working aged.—Employees would be required to offer employees aged 65 through 69 the same health benefit plan offerd to younger workers and medicare would be secondary payor to these plans.

Reimburse inpatient radiology and pathology services at 80 percent of reasonable charges.—The special 100 percent reimbursement rate for inpatient radiology and pathology services would be eliminated. Such services would be paid for on the same basis as other physicians' services.

Repeal routine nursing salary cost differential.—The differential factor paid to hospitals and skilled nuring facilities for inpatient routine nursing salary costs would be eliminated.

Payments for services of provider based physicians.—The Secretary of HHS would be directed to prescribe regulations which would distinguished between the services of hospital-based physicians which are covered under medicare on a reasonable cost basis and those which ae reimbursable on the basis of reasonable charges; and establish standards of reasonableness to be applied in each case.

Hold part B premium constant as a percentage of program costs.—The part B premium would be increased on July 1, 1983, and on July 1, 1984, to a level which will result in premium revenues equal to 25 percent of program costs for aged beneficiaries.

Limit medicare reimbursement to hospital.—The current limits on medicare reimbursement to hospitals (i.e., the section 223 limits) would be extended and modified to include ancillary operating costs and special care unit operating costs; annual increases in the overall operating costs per case would be limited (for a period of not more than 3 years); the Secretary of HHS would be directed to develop methods under which hospitals, skilled nursing facilities and other providers could be paid on a prospective basis; the Secretary, at the request of a State could allow medicare payment to be made under a cost control system in the State.

Require certain medicare regulations.—The Secretary of HHS would be required to issue regulations to (a) eliminate the private room subsidy for hospitals, (b) establish single reimbursement limits for skilled nursing facility and home health agency services; (c) eliminate duplicate overhead payments for outpatient services.

Audit and medical claim review.—The medicare contracting budget for fiscal year 1983, 1984, and 1985 would be supplemented by $45 million in each year to be spent specifically for audit and medical review activities.

Temporarily delay the periodic interim payments (PIP).—Periodic interim payments to hospitals for the latter part of September 1983 would be delayed until October 1983. There would be a similar deferral of PIP payments from September to October of 1984.

Assistants at surgery.—Reimbursement for assistants at surgery in hospitals where a training program exists in that specialty would be prohibited, except in the case of exceptional circumstances.

Ineffective drug provision.—Payments for ineffective drugs under medicare part B and under medicaid would be prohibited.

Medicare payments to HMOs.—Current requirements for contracting with health maintenance organizations (HMOs) would be modified by authorizing prospective reimbursement under risk sharing contracts with HMOs and other organizations at a rate equal to 95 percent of the Adjusted Average per Capita Cost (AAPCC).

Technical corrections to Omnibus Budget Reconciliation Act of 1981.

Hospice Care.—Authorizes coverage for hospice care for terminally ill medicare beneficiaries with a life expectancy of 6 months or less.

Coverage of extended care services without regard to 3-day prior hospitalization requirement.—Authorizes the Secretary of HHS to eliminate the 3-day prior hospital stay requirement for skilled nursing facility coverage at such time as, through reimbursement changes or other adjustments, he determines that such action will not lead to an increase in program costs and that it will not alter the acute care nature of the benefit.

Prohibiting recognition of payments under percentage arrangements.—No cost incurred under a contract would be considered reasonable if determined as a percentage (or other proportion) of the provider's reimbursement. The provision would not apply where costs incurred under a percentage arrangement were subject to the limitation on reimbursement of provider-based physicians established elsewhere in the conference agreement.

Interest charges on overpayments and underpayments.—Requires interest payments with respect to medicare overpayments.

Similarly, the medicare program would be required to pay providers interest on underpayments.

Prohibiting payment for Hill-Burton free care.—Requires the Secretary to provide, by regulations, that the costs incurred by a hospital or SNF in complying with its free care obligation under the Hill-Burton Act would not be considered reasonable for purposes of medicare reimbursement.

Prohibiting payment for anti-unionization activities.—Prohibits medicare reimbursement for costs incurred for activities directly related to influencing employees respecting proposed unionization.

Eliminating "lesser of cost or charges" provision.—The lesser of cost or charges provision of current law would not apply to a class of providers if the Secretary determines and certifies to Congress that elimination of the provision will not increase medicare payments to that class of providers.

Extending medicare proficiency examination authority.—Extends to September 30, 1983, the authority of the Secretary of HHS to conduct a program to determine the proficiency of health care personnel, including clinical lab personnel, who do not meet certain formal education requirements.

Retroactivity of regulations regarding access to books and records.—Section 952 of P.L. 96-499, the Omnibus Budget Reconciliation Act of 1980, allows the Secretary of HHS or Comptroller General to have access to the books and records of subcontractors who supply hospitals or other providers with goods and services valued at $10,000 or more over a 12-month period. The provision would prohibit the regulations from being applied retroactively unless such regulations are issued in final form prior to January 1, 1982, preceded by a comment period of no less than 60 days.

Private sector utilization review.—Requires the Secretary of HHS to undertake an initiative to improve medical review by intermediaries and carriers under medicare and to encourage similar review efforts by private insurers and other private entities.

Special part B enrollment without penalty.—Requires a special open enrollment period under medicare part B for merchant seamen.

Medicaid

Allow nominal medicaid copayments.—The prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients would be repealed except in the case of certain inpatient hospital and ambulatory services for children and pregnant women, for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses, for categorically needy persons enrolled in an HMO, and for emergency services and family planning services.

Modify lien provision.—States would be permitted under certain circumstannces to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions.

Reduce medicaid error rates.—States would be required to reduce their medicaid error rates to 3 percent.

Optional medicaid coverage of disabled children at home.—States would be allowed to cover services for certain disabled children who are currently eligible only if institutionalized. The provision addresses cases like that of Katie Beckett, where previcusly medicaid was not available if the child received care at home.

Technical corrections to Omnibus Budget Reconciliation Act.

Six-month moratorium on nursing home regulations.—Prevents the regulations currently proposed by the Secretary regarding changes in survey and certification requirements for nursing homes from going into effect for six months.

Medicaid funding for American Samoa.—Provides Federal funding for medicaid servıces in American Samoa.

Utilization and quality control peer review

Contract for utilization and quality control peer review.—The Professional Standards Review Organizations (PSRO) program, would be repealed. The Secretary would be required to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting effective, efficient, and economical delivery of health care under medicare.

II. SENATE HEALTH PROVISIONS NOT INCLUDED IN CONFERENCE AGREEMENT

Medicare

Senate provisions not included in the conference agreement.—The conference agreement does not include the provision relating to the one month delay in entitlement to medicare benefits; the five percent copayment for home health services; the increase in the part B deductible; the limitation on the physician fee economic index; the judicial review of decisions by the Provider Reimbursement Review Board.

Medicaid

Senate provisions not included in the conference agreement.—The conferees did not agree to the following proposals; a provision to eliminate Federal matching for States paying the medicare part B premium for

joint medicaid/medicare eligibles; a provision to allow States the option of continuing medicaid coverage for working families who are made ineligible for AFDC as a result of various earned income changes made by the Omnibus Budget Reconciliation Act of 1981.

AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) PROVISIONS

Rounding of eligibility and benefit amounts.—States would be required to round both their need standards and actual monthly benefit amounts to the next lower whole dollar.

Proration of first month's benefit.—States would be required to pay benefits no earlier than the date an application is filed. Therefore, the AFDC benefit would be prorated from the date of application.

Elimination of uniformed services as basis for AFDC eligibility.—Absence from the home solely because of uniformed services would be excluded as a basis for AFDC eligibility.

Job search.—States would be given the option of requiring individuals applying for AFDC benefits to participate in job search while the application is pending. Continued job search would be required, after the application becomes effective, for not more than a total of 8 weeks each year (or 16 weeks in the first year).

Proration for shelter and utilities.—States would be allowed to prorate the portion of the AFDC grant for shelter and utilities for AFDC families living in households with other individuals.

Reduction of Federal match for payment errors.—The allowable error rate for AFDC would be 4 percent in fiscal year 1983, 3 percent in fiscal year 1984, and 3 percent in fiscal year 1985.

Exclusion from income of certain States payments.—States would be allowed to exclude from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated and paid.

Extension of time for States to establish a work incentive demonstration program.—States would be allowed two additional years in which to exercise their option to operate a WIN demonstration program (as provided in the 1981 Reconciliation Act).

Accounting method for income from certain state payments.—States would be allowed to continue to exclude from countable income, both in the month of receipt and in future months, certain special payments made by States to AFDC households.

Technical amendments to Title XX Social Services and Foster Care Program.—Several technical corrections to social services and foster care provisions of Public Law 97-35 were made.

The following proposals were not included: sanction for termination or reduction of employment; the inclusion and exclusion of specified individuals' needs and income (continuing eligibility of a parent, eligibility of a child, and counting income of unrelated persons); repeal of the emergency assistance program; and the treatment of earnings (earnings disregards, earnings from CETA youth jobs, gross income limitation, and the treatment of the earned income tax credit).

CHILD SUPPORT ENFORCEMENT PROVISIONS

Fee for services to non-AFDC families.—The law in effect prior to Public Law 97-35 would be restored which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. As a State option, authority would be retained for States to collect from the parent who owes child or spousal support an amount to cover administrative costs, in addition to the child support payment.

Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.—Allotments would be required from the pay and allowances of any member of the uniformed services, on active duty, when he fails to make child (or child and spousal) support payments.

Reimbursement of State agency in initial month of ineligibility for AFDC.—States would be permitted to reimburse themselves for AFDC that would have already been paid for months before the support was collected and known to make the family ineligible. Thus, the family would not receive double payment for the same month, both in the form of AFDC and through receipt of the support collection.

Reduction in certain Federal payments under the Child Support Enforcement Program.—The Federal matching rate for State administrative costs would be reduced from 75 percent to 70 percent, effective October 1, 1982. Effective October 1, 1983, State child support incentive payments would be reduced from 15 percent to 12 percent and the Federal match for the costs of court personnel who perform child support enforcement functions would be repealed.

Technical amendments to Child Support Enforcement Program.—Several technical corrections in the Child Support Enforcement provisions contained in P.L. 97-35 were made, including certain inaccurate references.

SUPPLEMENTAL SECURITY INCOME PROVISIONS

Prorate first month's benefit based upon date of application.—The first month's SSI benefit would be prorated from the date of application or the date of eligibility, whichever is later.

Round SSI eligibility and benefit amounts.—SSI monthly benefit and income eligibility amounts would be rounded to the next lower whole dollar. Rounding would take place after the cost-of-living adjustment had been made.

Coordination of SSI and OASDI cost-of-living adjustments.—The SSI and social security (OASDI) benefit increase would be coordinated so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit would be based on his or her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information.

Phase out "hold harmless" protection.—Federal hold harmless payments would continue to be phased out, being reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no "hold harmless" payments made in 1985 and future years.

Exclusion from resources of amounts set aside for burial expenses.—For purposes of determining SSI eligibility, burial spaces for an individual or members of his immediate family (subject to limits prescribed by the Secretary) would be excluded from countable resources. Burial funds of up to $1,500 each for the individual and his or her spouse would also be excluded if specifically set aside for this purpose. Such funds would reduce the value of excludable life insurance policies as would any amounts held by the individual in an irrevocable burial contract or other arrangement made to meet burial expenses.

The Secretary would be authorized to exclude, as income and resources, increases in the value of: (1) amounts set aside for burial expenses because of interest earned, and (2) pre-paid burial arrangements.

SSI pass-through requirement.—In order to meet mandatory pass-through requirments, a State would be allowed to shift from the aggregate spending option to the State supplementation payment level option so long as the State does not decrease its State supplementation payment below the level in the previous December.

Treatment of unnegotiated SSI checks.—The authority to credit States for unnegotiated SSI benefit checks which are "State supplementation only" checks would be clarified.

A provision to allow recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits) was not included.

UNEMPLOYMENT COMPENSATION PROVISIONS

Round unemployment benefits to next lowest whole dollar.—The Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

Reed Act funds.—The authority for States to use Reed Act funds for administrative purposes would be extended for 10 years. The provision would also permit States that have used such funds to pay unemployment benefits to reestablish a Reed Act account.

Exclusion from FUTA of wages paid to certain students.—Wages paid to certain full-time students woud be exempt from FUTA tax: (1) students enrolled full-time in a work-study or internship program, regardless of age, for work that is an integral part of the student's academic program; and (2) students employed by certain summer camps (1983 only).

Extension of exclusion from FUTA of wages paid to certain alien farmworkers.—The provision of prior law that excluded wages paid to certain alien farmworkers from FUTA taxes, would be extended for two years, from January 1, 1982 to January 1, 1984.

Unemployment Compensation (UC) Financing.—The Federal unemployment tax (FUTA) wage base would be increased from $6,000 to $7,000 and the FUTA rate would be increased from 3.4 to 3.5 percent, effective January 1, 1983. (Employers in States with approved State programs would continue to receive the 2.7 percent offset credit under current law, so that the standard net Federal tax would be 0.8 percent.) Effective January 1, 1985, the FUTA tax rate would be increased to 6.2 percent (a permanent tax of 6.0 percent and a temporary extended benefit tax of 0.2 percent) with a credit of 5.4 percent. States that under current law allow certain specified industries to pay a non-experience based State unemployment tax rate that is below 5.4 percent, could provide for such industries to gradually reach the new 5.4 standard tax rate. Annual increases in the State unemployment tax rate for such industries could be limited to no less than 20 percent of the difference between the current rate paid by an employer and 5.4 percent.

Additional unemployment compensation financing provisions would:

(a) allocate 60 percent of total FUTA revenues to the Employment Security Administration Account (ESAA) and 40 percent of the extended Unemployment Compensation Account (EUCA) in the Federal Unemployment Trust Fund. Amounts allocated to EUDA which exceed the Federal share of extended benefit expenditures would be used to repay Federal general revenues advances. Upon repayment of the Federal general revenue advances to EUCA (and the elimination of the 0.2 percent temporary tax), 90 percent of FUTA revenues would be allocated to ESAA and 10 percent to EUCA, as under current law;

(b) permit States to make debt repayments out of their State trust fund accounts in lieu of further FUTA credit reductions provided the payments come from new funds generated through the State experience-rating system and/or benefit reductions;

(c) drop the present law additional credit reductions in the fifth year of delinquent State loans so that credit reductions continue at an additional 0.3 percent each year; and

(d) allow a State, under certain conditions, to reduce payments of interest on Federal unemployment loans to 25 percent of the amount due in any year, and thereby extend the payment of the total interest obligation over a four-year period. (Interest would be charged on any deferred amount.)

Treatment of certain employees of institutions of higher education.—States would be allowed to deny unemployment compensation benefits to non-teaching, non-research and non-administrative employees of colleges and universities during periods between academic years of terms, if there is a reasonable assurance that the individual will be employed by the institution at the beginning of the forthcoming academic year or term.

Short-Time compensation.—The Department of Labor would be directed to develop model legislation that can be used by States that wish to establish short-time compensation (or "worksharing") programs. The Department of Labor would also be directed to evaluate the operation and impact of any such programs implemented by the States and report its findings to Congress no later than October 1, 1985.

Additional weeks of unemployment benefits.—Additional weeks of unemployment compensation benefits would be provided to unemployed workers. Effective September 12, 1982, through March 31, 1982, up to 10 additional weeks of unemployment compensation benefits would be provided in States in which extended benefits (EB) are being paid or have been paid at any time since June 1, 1982. Up to 8 additional weeks of benefits would be provided in States in which the extended benefit trigger rate (i.e., the percentage of workers who are collecting State unemployment benefits) equals or exceeds 3.5 percent. Up to 6 additional weeks of benefits would be provided in all other States.

The additional benefits would be paid to unemployed workers whose entitlement to State benefits (i.e., benefit year) or extended benefits ended on or after June 1, 1982; and: (a) who have exhausted all State, or State and extended benefits to which they are entitled; (b) who have worked 20 or more weeks (or had the equivalent in wages as specified in the extended benefit program) prior to applying for State unemployment compensation; and (c) who continue to meet all other State and extended benefit requirements.

Benefit and administrative costs of the program would be financed out of Federal general revenues.

Taxation of unemployment compensation benefits.—The income threshholds limiting the inclusion of unemployment benefits in adusted gross income for Federal income tax purposes would be reduced from $20,000 to $12,000 for single taxpayers and from $25,000 to $18,000 for married taxpayers filing jointly. This change would apply to unemployment benefits paid on or after January 1, 1982.

The following proposals were not included: unemployment benefits for ex-servicemembers and interest on State unemployment loans transferred to the extended unemployment compensation account.

BRIEF SUMMARY OF TAX PROVISIONS OF H.R. 4961

A. INDIVIDUAL INCOME TAX PROVISIONS

Individual minimum tax: The bill consolidates the add-on minimum tax with the alternative minimum tax, adds several new tax preferences to the minimum tax, restructures the treatment of itemized deductions in the minimum tax, establishes a flat 20-percent tax rate and increases the minimum tax exemption from $20,000 to $30,000 for single persons and $40,000 for married couples.

Casualty loss deduction: The bill provides that nonbusiness casualty losses are only deductible to the extent they exceed 10 percent of adjusted gross income.

Medical expenses deduction: The bill increases the floor under medical deductions for 3 percent of adjusted gross income to 5 percent. It repeals the separate deduction for one-half of health insurance premiums up to $150. It eliminates the 1-percent-of-income floor on deductions for drugs and limits that deduction to prescription drugs and insulin.

B. BUSINESS TAX PROVISIONS

Corporate tax preferences: The bill scales back the following corporate tax preferences by 15 percent: percentage depletion for coal and iron ore, excess bad debt reserves of financial institutions, interest incurred by financial institutions to carry tax-exempt obligations acquired after 1982, DISC, section 1250 recapture on real estate, rapid amortization of pollution control facilities, intangible drilling costs of integrated oil companies (which would be amortized over 36 months) and mining exploration development costs. This cutback applies only to corporations.

Investment credit limit: The percent of tax liability which taxpayers may offset by the investment tax credit is reduced from 90 percent to 85 percent.

Basis adjustment for investment credit: The basis of assets, which is used to compute cost recovery deductions and capital gain or loss, is reduced by one-half of the amount of the regular, energy and historic structure investment tax credit.

Accelerated depreciation: The bill repeals the acceleration of depreciation currently scheduled for 1985 and 1986.

Construction period interest and taxes: Interest and taxes attributable to the construction period on nonresidential real estate owned by a corporation will be capitalized and written off over 10 years.

Safe-harbor leasing: The bill repeals safe-harbor leasing after 1983. For the period between July 1, 1982, and January 1, 1984, a restricted form of safe-harbor leasing is put into effect. After 1984, a liberalized form of prior law leasing is permitted.

Foreign oil and gas: The bill provides rules under which companies with foreign oil and gas extraction income will not be able to use tax benefits from that income to reduce their taxes on other kinds of oil-related income and under which oil companies will be taxed on the oil-related income of their foreign subsidiaries.

Possessions corporations: The bill contains a series of rules to limit the extent to which businesses can use operations in U.S. possessions to avoid tax by transferring intangibles to their possession subsidiaries and by allowing passive income to accumulate in a possession.

Industrial development bonds: The bill provides several restrictions on industrial development bonds including a sunset of the small issue exemption after 1986. Investments financed with IDBs would, with certain exceptions, be limited to straight-line depreciation.

Mortgage subsidy bonds: The bill liberalizes several of the rules restricting the issuance of mortgage subsidy bonds for both single family and multi-family houses.

Mergers and acquisitions: The bill makes a number of changes in the rules relating to partial liquidations, stock redemptions, stock purchases and other provisions relating mergers and acquisitions. These are designed to reduce the tax benefits which now arise from mergers and acquisitions.

Completed contract method of accounting: The bill revises the rules for determining which costs are currently deductible and which must be allocated to long-term contracts. Exceptions are provided for small construction contractors.

Original issue discount bonds: The bill eliminates the tax benefits associated with original issue discount, or zero coupon, bonds.

Coupon stripping: The bill eliminates the special tax treatment now afforded stripping of coupons from bonds.

Targeted jobs credit: The bill extends the targeted jobs credit for 2 years, makes the credit available for summer employment of economically disadvantaged 16 and 17 year olds, and makes several administrative changes.

Accelerated corporate tax payments: The bill increases the percent of tax liability which corporations must cover with estimated tax payments from 80 to 90 percent.

C. COMPLIANCE PROVISIONS

Withholding on dividends and interest: The bill imposes 10 percent withholding on dividends and interest, similar to the withholding which now applies to wages. Exemptions are provided for people over 65 whose income (not including exempt income like social security) is less than about $22,000 for a married couple, and there is an exemption at a lower level of income for individuals below 65.

Other compliance provisions: The bill includes a number of changes designed to improve taxpayer compliance. These include additional reporting requirements, changes in penalty provisions, modifications of voluntary withholding on pensions, partnership audits, and various taxpayer safeguards.

D. PENSION PROVISIONS

The bill reduces the limits on contributions to, and benefits from, tax-qualified pension plans. The limit for defined contribution plans is reduced from $45,475 to

$30,000 per year, and the limit on annual benefits in a defined benefit plan is reduced from $136,425 to $90,000. The indexing of these limits is suspended until 1986. Limits are placed on loans from retirement plans. Rules are provided to achieve parity between corporate and noncorporate pension plans. A $100,000 cap is placed on the estate tax exclusion for annuities. Finally, there are modifications in the rules relating to retirement plans for church employees, State judicial retirement plans, profit-sharing plans for disabled employees, and group trusts. A nondiscrimination rule is added for employer-provided group term life insurance.

E. TAXATION OF LIFE INSURANCE COMPANIES

The bill makes a series of changes in the tax treatment of life insurance companies and annuities. The Modco provisions of present law are repealed, and the formula for revaluing preliminary term reserves is changed. In addition, a number of provisions are adopted to reduce insurance company taxes for a 2-year stopgap period. There are also new rules relating to annuity contracts and (for 2 years) flexible premium contracts.

F. EMPLOYMENT TAX PROVISIONS

Independent contractors: The bill provides that real estate agents and direct sellers will be treated as self-employed persons and extends the moratorium and interim relief provisions relating to independent contractors.

Federal unemployment tax: The wage base subject to the Federal unemployment tax is increased to $7,000 and the Federal tax rate to 3.5 percent.

Medicare coverage of Federal employees: The bill subjects Federal employees to the hospital insurance portion of the social security tax and makes them eligible for Medicare.

G. EXCISE TAXES

Airport and airway taxes: The bill reauthorizes the airport and airway trust fund through 1987 and reinstates (with some modifications) aviation excise taxes which were reduced in 1980.

Telephone tax: The bill increases the telephone tax to 3 percent for the years 1983 through 1985 and terminates the tax after 1985.

Cigarette excise tax: The bill increases the cigarette excise tax by 8 cents per pack through September 30, 1985.

Windfall profit tax: The bill repeals the special windfall profit tax adjustment for transportation costs applicable to Alaskan oil and clarifies the exemption for Alaskan native corporations.

H. MISCELLANEOUS PROVISIONS

The bill contains the following miscellaneous changes in the tax law:

(a) Extension of the exclusion for National Research Service Awards.

(b) Tax-exempt status for certain amateur athletic organizations.

(c) Modification of the provision denying deductions for payments to foreign government officials.

(d) A technical change permitting use of annual accrual accounting for partnerships growing sugarcane.

(e) Modifications for the provision awarding reasonable attorneys' fees in civil tax cases where the government's position was unreasonable.

(f) Modification of the definition of a lending or financial business under the personal holding company tax.

(g) Additional refunds of the excise tax on buses.

(h) Modification of the rules under which veterans organizations may qualify for tax-exempt status.

(i) A revision of the rules limiting the disclosure of tax information in nontax criminal investigations.

(j) Authorization for the Secretary of the Treasury to vary the investment yield on savings bonds and to issue additional long-term debt.

(k) Relief for the Jefferson County Mental Health Center.

(l) Modifications of the New Jersey general revenue sharing allocation.

(m) Modifications to the Communications Act of 1934 facilitating the movement of VHF television stations to States which do not currently have such stations.

I. REVENUE EFFECT

The bill is expected to raised $18.0 billion in fiscal year 1983, $13.7 billion in 1984 and $42.7 billion in 1985.

Mr. ARMSTRONG. Mr. President, for most of the year, cynics who have observed the budget process have predicted failure for efforts to cut spending, curtail growth of entitlements, and raise revenue. They observed repeatedly that this was an election year and the task force set before Congress was a difficult one politically.

The prevailing wisdom has been that governing amid huge budget deficits could not be done. After all, six Republican Senators of the committee writing the tax increase bill were up for reelection, as were 33 Senators and all of the House of Representatives. Election-year jitters would, the cynics said, scare off efforts to cut spending $300 billion and raise $100 billion in revenue. Over and over again, it was predicted that when push came to shove, the committees, the Senate, the House, and the President would quit, or worse, settle for repealing President Reagan's third year 10-percent tax cut.

Well, the cynics were wrong. Congress for the first time in years fulfilled its principal task—writing and implementing a budget for the National Government. Congress has enacted a budget resolution and the implementing legislation that will help reduce the $600 billion in deficits now projected for the next 3 years. With reduced deficits and less government presence in the capital markets, there is every assurance interest rates will fall, the economy will prosper, the unemployed will return to work, new ventures will form, business will expand, and Americans will be able to afford new homes.

In considering the Tax Equity and Fiscal Responsibility Act of 1982, Congress today votes on the third and final segment of the budget process. This bill is, of course, the most significant and controversial component—alternatively ballyhooed as either the greatest tax increase or the greatest tax reform in American history. Its real significance is neither. What this bill represents, in essence, is that Congress finally admits that deficits do matter, and that the fiscal irresponsiblity of the past two decades brought high inflation, high interest rates, a sick economy, high tax rates, and international disrespect. By endorsing this legislation, and the other components of the budget resolution, the House Senate Democratic and Republican leadership unanimously endorse the twin concepts of fiscal responsibility and deficit reduction.

After a decade serving in Congress while fighting its leadership that has increased the national debt from $398 billion to more than $1.2 trillion, I cannot begin to express my sheer though delighted amazement. If the current attitude prevails, and in the future governs countless congressional and Presidential decisions, the economic recovery so long promised will actually materialize and endure.

For years, deficit spending has been intellectually, but never politically, discredited. With passage of the budget resolution, its implementing budget reconciliation bill, and now with this pending bill raising $100 billion in revenue and reducing entitlement programs, deficit spending is now at last politically discredited. I cannot underscore the significance. Congress has suffered for two decades with the delusion that we can spend ourselves into prosperity. Now, Congress has reversed itself, not just words, but with action: Economic prosperity is accomplished through balanced budgets.

I am delighted with this new attitude—especially if it prevails. I must admit to some cynicism, however. After all, it is just 2 months before election, and the populace has said in no uncertain terms that it wants, no demands, Washington to get its head out of the sand, and get spending under control. My hope is that Congress retains the budget balancing fervor after the election. Based on the congressional track record, my fear is Congress will not.

Congressional sincerity on this issue is incredibly important. Let we say on the floor what I have heard muttered over and over again in the cloakroom. There is concern that the spending restraint provided in the budget resolution may not ever materialize because the spending cuts are either phony, or soft, or require Presidential implementation of further action by Congress. Besides, skeptics say, Congress has yet to pass any of the required appropriations bills for the coming year.

Mr. President, like so many in this body and in the House of Representatives, the major reason I am voting for the tax portion of this bill is because of the spending reductions it accompanies. The Nation's drastic economic problems, caused by two decades of

gross fiscal irresponsibility, urgently require reduction of Federal budget deficits at the earliest possible time and a balanced budget within the near future. Although I personally feel that the budget resolution does not go far enough toward deficit reduction, it offers the best available prospect for achieving fiscal integrity and, thereby, restoring the Nation's economic health. Under the circumstances, I feel obligated to support certain parts of the budget package which would otherwise be anathema. I therefore will support the conference report on the Tax Equity and Fiscal Responsibility Act of 1982. By supporting this conference report, I am also committing myself, as is Congress, to full and complete implementation of the path toward a balanced budget.

This conference report fulfills the mandate imposed by the congressionally enacted budget resolution. It amends once sacred domestic entitlement programs in compassionate and reasonable ways at the same time saving taxpayers $18 billion over the next 3 years. For example, the bill reduces Federal subsidies for administrative errors, requires benefits to be paid on the date of eligibility and not before, makes uniform the reimbursement schedules for medicare service providers, ends AFDC benefits for those who refuse to work or reject a bona fide job offer, and other similar reforms.

These reforms are important, but I emphasize they are only a step in the right direction. The $18 billion cut is only a small part of the $549 billion that Federal entitlement programs—not counting social security retirement or disabilty—will spend the next 3 years. Further review is necessary to identify additional savings, and they will require congressional enactment.

The tax portion of this bill is also noteworthy in that it meets the budget resolution revenue targets without repealing, delaying, or modifying the third year of President Reagan's multiyear tax cut program. By retaining the third year, Congress has elected to put in the wallets and purses an additional $560 for the typical American family.

The revenue targets were achieved under the skillful leadership of Senator BOB DOLE, the Finance Committee chairman. He and his staff scoured the Tax Code to find every possible loophole that needed tightening and that would raise substantial revenue. This tax bill includes provisions that:

No longer permits multibillion dollar defense contractors to pay little or no taxes on record earnings.

Repeals a loophole used by the insurance industry to escape taxation, and at the same time, modernizes antiquated tax laws governing the industry.

Partially ends another loophole in which business received double tax benefits for new equipment purchases.

Authorizes the taxes and finances the spending necessary to update the Nation's airports and airways.

Increases taxpayer compliance at a time when $120 billion in Federal revenue remains uncollected because of outright tax cheating.

Makes critically needed reforms of over-generous provisions permitting corporations to "sell" unused tax benefits.

Scales back provisions permitting some corporations to defer tax payments for as long as 10 years.

The tax bill is not perfect. It includes provisions that I predict will require rethinking and revision, including the provisions governing pensions, acquisitions and mergers, and interest and dividend withholding. This tax bill was written under incredibly tight time deadlines, and pressure to raise revenue, and in a tense, confrontational atmosphere. Now that there is an overwhelming consensus that spending restraint and revenue increases are necessary to reduce deficits and thereby interest rates, I predict there will be a willingness on both sides to make adjustments in light of unforeseen or unreasonable requirements.

Finally, Mr. President, I commend the personal leadership of BOB DOLE. I dare say that without Senator DOLE, the Congress today would not be reducing future deficits by $400 billion. How we got where we are today is an interesting story, and one laced with irony. The origin of this bill is the infamous "Gang of 17" budget discussions early this year that attempted to achieve a budget compromise among President Reagan, House Democrats, and Senate Republicans. That effort failed—yet, strangely, all have since endorsed the deficit reduction bill crafted by Senator DOLE. It was BOB DOLE who recognized the vital importance of reducing deficits, and committed himself to reducing them.

I commend him for his perspicacity, intelligence, political intuition, and guts.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. Mr. President, I thank the chairman. I urge Senators to put aside territorial fears, perhaps put aside election year jitters and take a careful look at what may be good for the country.

This legislation has not been arrived at as an easy decision on the part of any Senator, let alone those who sit on the Finance Committee. This has achieved bipartisan support for the simple reason that it is good for America.

Mr. President, nobody likes the difficult task of doing what is necessary to restore this country to a position of economic soundness through some difficult housekeeping measures, whether that be raising revenues or reducing expenditures,

This bill and this conference report contains a large dose of both. It is not possible for a country to continue to borrow and borrow and borrow and spend as if there were no tomorrow.

Mr. President, we woke up and found that tomorrow was here. Those who are responsible and care about America, those who are responsible and care about those who are out of work, those who are responsible and care about the continued decline in interest rates so that homebuilders can get back to building houses again, so that farmers can make a living in agriculture again, so that this country can restore some of its lost vitality, should take a close, hard look at this bill and do something which is not only courageous but correct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WALLOP. Mr. President, I ask for 1 additional minute from the Senator from Kansas.

It is all very easy to cut and run for cover when there is a large measure of misunderstanding as to what this bill does abroad in the land. I say to Senators who harbor these misconceptions that they have the obligation to know what is in this bill and to the extent that they do not and cannot make the argument for it on behalf of the country, that is the extent to which their constituents perhaps ought to look to them for a little more accountability.

Mr. President, I urge my colleagues to vote for this bill. I urge my colleagues to do what is right for the country and to put aside a little bit of election year cowardice in the process.

Mr. LONG. Mr. President, I yield to the Senator from Hawaii (Mr. INOUYE).

Mr. INOUYE. Mr. President, when the budget and tax bills as proposed by President Reagan were before us last year, I voted for them even though I questioned the economic assumptions underlying them because I and many of my constituents believed that the President deserved a chance to implement his polices. I explained at length that my vote was not an endorsement of his policies but only an effort to enable him to pursue his economic programs.

The President got virtually everything he wanted—not every single item—but every major proposal was approved by the Congress. The only major adjustment in his tax program was a scaling down of the cuts from an immediate 30 percent to 25 percent over 3 years.

The President's tax cut program was the largest multiyear reduction in U.S. history. Between 1981 and 1986, busi-

ness and individual taxes will have been reduced by $749 billion. The Nation was promised that the benefits would begin immediately. Speaking to the Congress on March 10, 1981, President Reagan claimed, "Our tax proposal will, if enacted, have immediate impact on the economic vitality of our Nation."

The President now suggests that we must raise taxes to reduce the very deficits for which his program is largely responsible. The supply-side illusion has given way to a sober assessment of the impact of his economic proposals. The fiscal 1983 deficit is now estimated at $115 billion by the OMB and, more realistically at between $140 and $160 billion by the Congressional Budget Office, with a possible out-year deficit by fiscal year 1985 of $200 billion. Investment, far from booming, has actually declined.

These horrendous figures far exceed the deficits incurred under former President Carter, whose last full year in office saw a deficit of $73.8 billion. The President cannot continue to blame former President Carter for the fiscal year 1983 deficit while accepting the credit for the decline in inflation. An administration theoretically committed to conservative economic policies will preside over the worst 4-year total deficit in American history.

The 1981 tax cut bill, the so-called Economic Recovery Tax Act, was deliberately skewed in favor of the rich. Budget Director David Stockman confessed in his now infamous Atlantic magazine interview that supply-side economics is nothing but the old trickle-down theory in new clothes. The inequities created by the 1981 tax act are startling.

By cutting taxes across the board and reducing the maximum tax rates, the act gave 40 percent of the individual savings to only 5 percent of taxpayers. A taxpayer earning $15,000 would save taxes of $604 between 1980 and 1984, while a taxpayer earning $150,000 annually would save $21,952 in taxes.

The inequities of that act would only be enhanced by this tax increase bill, H.R. 4961, which is now being marketed as tax reform. Who will suffer under this tax bill? Low- and middle-income taxpayers would not benefit, for it does not cut marginal tax rates. Upper income taxpayers would not necessarily pay more because marginal tax rates for them are not increased. Instead, much of the increase would fall on those least able to afford the extra taxes or the extra costs of compliance with this measure. A significant part of this bill's revenues—up to an estimated 30 percent—would be raised from lower and middle income taxpayers.

Cigarette taxes would rise from 8 to 16 cents per pack. For a two pack per day smoker, this would amount to more than $58 a year. The excise tax on telephones would treble from 1 percent to 3 percent.

Taxes on air travel would rise 60 percent, from 5 to 8 percent on passenger tickets. The tax on noncommercial aviation fuel would jump from 4 cents per gallon to 12 cents, while the expired 5-percent tax on freight waybills and $3 tax on international departures would be restored. Citizens of Hawaii traveling round trip to the west coast would be forced to pay $6 in international departure taxes, while those traveling on to other mainland destinations, such as students, tourists, and family visitors, would also have to pay the increased ticket tax.

Excise taxes are justifiably called regressive, for they strike hardest at ordinary citizens, and there are few citizens in Hawaii who do not smoke, use the telephone, or travel by air.

The wealthy may not have to absorb these taxes. Corporate executives or professionals can bill their businesses or clients for travel and telephones, while well-to-do individuals can usually write off these expenses as business deductions. I am not against the rich because I believe that the capitalist system must contain incentives for the talented to innovate and succeed, but I do suggest that sacrifices in these difficult times be spread evenly and fairly throughout society.

Another example of unfairness in this bill is the new tip income reporting requirement which would compel restaurant employers to report an assumed tip income of 8 percent of gross receipts as imputed income to their employees. This proposal is grossly unfair and raises questions about how gratuities in nonpublic facilities are to be treated. For example, in one Honolulu club, the bills of members are aggregated at the end of the year, and each member is then urged to make an employees payment based on his or her total expenditures. Is this gratuity a gift or income?

Restaurant employees were singled out even though they are not the only workers who receive tips. Will the IRS now go after beauticians, cab drivers, shoeshine boys, porters, maintenance employees, entertainers, and others? I cannot underemphasize that restaurant employees are generally among the lowest paid employees in our society. I am certain that this bill is anything but a tax reform measure to them.

Although I generally feel that the health provisions of this bill are reasonable and fair, I am distressed by the extent to which we are being asked to direct our Nation's hospitals to bear far more than their appropriate share of our national effort to curtail ever escalating health care costs. We are proposing to cut approximately $7.5 billion from them over the 3-year period. This is more than a minor reduction.

I was especially saddened to see the proposed elimination of the current medicare 5 percent nursing salary cost differential payments. In my judgment the anticipated $330 million savings over the next 3 years will in the long run be very costly. This is not the time to send a message to our Nation's professional nurses that their services are not necessary. We are currently facing a major shortage of nursing personnel, especially in our Nation's hospitals. Why should we cut back on funds for their services? Who will be expected to pick up these costs?

Similarly, it is patently unfair to individual families in these days of ever-escalating health care costs to eliminate the present $150 deduction for half of one's health insurance premiums and to raise the floor for deductible medical expenses from 3 percent to 5 percent of adjusted gross income. Section 213 of the Tax Code, the medical expense deduction provision, has been available to individuals since 1942. During the Senate deliberations, the floor manager of the Senate bill, Senator George, in response to a direct question as to whether there was any proposed relief for individuals who had incurred long-term obligations responded on October 10, 1942:

> As far as individuals are concerned, no relief is proposed except as provided under the Victory tax . . . We did one thing in the bill to which I should call attention, and I think it an important matter; we allowed a deduction, in computing the tax of all taxpayers, of expenses for unusual medical costs . . .

At that time the committee provided for 5 percent of net income floor. I am sincerely sorry that we have now apparently decided to retreat 40 years. In 1976, more than 19 million Americans claimed deductions under section 213 for a total of $21.1 billion. This item may not be of interest to our business community, but it is very important to individual families.

It is most unfortunate that the conferees decided to reduce the Federal matching commitment for State child support enforcement programs from 75 percent to 70 percent. They recommended that the child support incentive payments should be reduced from 15 percent to 12 percent, with the Federal matching for the costs of court personnel to be totally repealed. In these times of trying economic conditions, we should increase, not decrease, our Federal assistance to programs that address the needs of these vulnerable children.

The conferees' decision to repeal the Professional Standards Review Organization (PSRO) program was also most unfortunate. Although their proposal for consolidation of existing PSRO review areas and the development of new performance contracts

for utilization and quality control peer review may on its face have some validity, I personally feel that our basic PSRO legislation was quite sound. Those entities already in place should have been given more responsibility for insuring that only high quality health care was being provided. Very few of us really understand the complexities of the medical care that we or our loved ones receive, and it is very much in our national interest to insure that every opportunity is made available for our health care providers, of whatever discipline, constantly to review the overall quality of care being delivered by their peers.

I was quite pleased, however, to see that the conferees have agreed to begin coverage for hospice care under medicare and further that they have recommended that the Government of American Samoa will finally be able to develop a truly culturally sensitive medicaid program. I have strongly supported both of these latter initiatives for some time.

If this bill is rejected, we have far preferable alternatives in our efforts to cut Government expenditures and reduce the deficit. Specifically, we can begin to control defense spending as Budget Director David Stockman suggested last year in his Atlantic interview. For fiscal year 1983, he recommended privately to the President reductions totaling $18 billion in budget authority and $11 billion in outlays, while still leaving intact all major new weapons systems and a vastly increased conventional weapons armory.

I would go even further and recommend the termination of several expensive, cost-ineffective weapons that are failing to fulfill their assigned mission or can be replaced by less costly, better substitutes.

For example, a needlessly expensive weapon, the F-18 Hornet, would cost $2.45 billion in fiscal year 1983 and a total of $20 billion. This costly plane can be outperformed by less expensive, well-tested fighters such as the F-4—which costs about one-eighth as much as the F-18—or the A-7.

Cancellation of the cumbersome, fragile M-1 tank would save $440 million in fiscal year 1983 and a total of $6.4 billion. Replacement of the Bradley infantry fighting vehicle would save $790 million next year, and $9.7 billion overall. This new personnel carrier costs eight times more than the vehicle it replaces without delivering the promised performance.

These are only a few examples of weapon systems which could be easily canceled without impairing the effectiveness of our armed services, and these savings could be duplicated throughout the Defense Department.

Finally, a simple deferral of the reduction in the third year would more than make up for the revenue which would be raised in this bill. In 1983, the rate cuts will result in a revenue loss of $66 billion, climbing up to $105 billion in 1984. Yet, President Reagan has stoutly refused to contemplate this simple step even though the supply side miracles of vigorous economic expansion and investment have not materialized.

The tax increase bill is not totally without merit for there are certain desirable improvements which I could support if it were not for the regressive features. The increase in the minimum tax and the changes in the safe harbor leasing provisions are both desirable features, and my vote should not be interpreted as being against genuine tax reform.

Having reviewed the provisions of this bill, I have decided to vote against passage of the conference report. I urge the President and the committees to produce a bill that would first, contain true tax reform; second, defer the 10-percent reduction planned for 1983; and third, avoid the imposition of taxes on our already hard-pressed lower and middle income taxpayer. I would also urge the Congress to delete the expensive, wasteful weapons which have bloated the defense budget beyond reasonable need and which have actually undermined the combat effectiveness of our Armed Forces by burdening them with overly complex technology. I am voting against this bill in the hope that we enact a fair tax bill that truly addresses the serious fiscal problems of this country and finally sets us on a course of economic revitalization.

Mr. MITCHELL. Mr. President, I rise to speak in opposition to the passage of the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

I intend to vote no on final passage because in the final analysis this bill fails to meet the standard implied in its title: It neither restores nor establishes equity in the way it allocates its cuts. And it is not the most fiscally responsible way to raise additional revenues.

There are far better ways to solve our budgetary problems. Some of the tax provisions before us are sound and worthy of support, as the President and others have said. I supported and voted for a number of them when the bill was before the Finance Committee. But on balance, the entire bill does not represent an equitable or responsible step in the resolution of our budgetary problems.

Last Monday evening, when the President spoke to the Nation about this tax bill, he urged Americans not to consider this bill in isolation, but to examine it in the context of the entire economic program.

I agree that this is the proper perspective from which to examine this measure. And from that perspective, the measure fails to correct the flaws that have become evident in last year's program.

One of the most fundamental failings in both this bill and in the economic program is the unfair way that the spending reductions and tax cut have been slanted. I am pleased that some of the worst inequities in the original bill were alleviated in the conference. But sufficiently unfair cuts remain to warrant rejecting this measure.

The bill will cut $17 billion over 3 years in programs serving the health needs of all our elderly, the health needs of the poor, and the basic Federal program which provides a floor under income for the poorest of the poor—old, blind, and handicapped people who are not covered by social security or insurance programs and who have no way to become self-supporting.

The bill before us makes a $386 million reduction in the basic supplemental security income program. This program serves people whose age and disabilities are combined with poverty. People who have more than $1,500 in assets cannot participate in this program. It is, in reality, the most fundamental support for the most needy in our society—the destitue elderly.

The bill contains major cuts in medicare—cuts which will be made up in two ways. Hospitals will either be forced to increase health care costs for other patients, or they will seek direct payment from medicare recipients. Even though the conference version of the bill eliminates some authority for directly increasing out-of-pocket costs to the elderly, the higher costs will ultimately come from other taxpayers or the elderly themselves.

Despite the claim that the social safety net would not be eliminated for those in our society most dependent on society's support, this bill continues to make cuts directed at the elderly and others who are unable to protect themselves against lost income and reduced services. That is simply unfair.

The most controversial provisions in the bill, of course, are those raising taxes.

Some of these provisions are, as they have been characterized, more in the nature of tax reforms than tax increases. But it is incorrect to characterize virtually the entire bill in that fashion.

The bill raises unemployment taxes by $6.6 billion over 3 years. At a time when small businesses, in particular, are struggling to maintain operations, such an additional tax cost is unwise. Small businesses are not responsible for the increase in unemployment.

The excise tax increases are not reforms: they simply raise regressive sales taxes on average-income Americans. They further accentuate the shift in tax burden from those with

the highest incomes to those with middle incomes.

The funds raised by withholding taxes on interest and dividends earned are, by the Treasury's own admission, largely a speed up in taxes which would ultimately have been paid. That does not represent either reform or increased compliance. It is simply a form of forced earlier compliance.

But the central feature of last year's tax reduction—the Kemp-Roth across-the-board cut, which has contributed the most to the shifting of the tax burden, has been protected against any and all change.

Last year I voted to change that proposal to a fairer one. That effort failed and the President got exactly the economic program for which he asked.

This year, it is obvious that the economic recovery program has failed, not only to produce a recovery, but even to sustain our economy at the level it was operating last July, when 7.1 percent of working Americans were jobless. Today, 9.8 percent of working Americans cannot find a job, and a million more have given up the hope of doing so.

Surely, when the centerpiece of a program fails, it is sensible to admit that failure and change it.

The administration has now tacitly admitted that last year's tax cut was too big. So this year, it is supporting a partial restoration of that lost revenue. This is a circular way to proceed.

It would have made more sense and provided a better direction to recognize that the Nation could not afford the third year of the tax cut while we were in a recession and to defer it—not repeal it—until the economy recovered. That course was argued last year and again this year. It received no serious consideration by the administration either time.

So we remain locked into a 3-year tax cut we cannot afford. And most importantly, it is a tax cut structured to shift the burden of taxes to the middle and lower income people of this Nation in pursuit of a misguided theory that the economy can only improve if only taxes on the wealthy can be reduced enough.

Ironically, the very same middle and lower income Americans were being eagerly advertised by the administration throughout this June as the key to recovery. They, it was said, would create a surge of buying with their tax cut, which would serve to revive demand and help put Americans back to work.

The average family of four, earning $20,000 gained about $275 a year from the tax cut. This is around $5 per week. Those earning less, of course, received much less. Contrary to the President's assertion, a $400 per year average tax saving is not what the average family received at all.

The fact is that middle-income Americans and lower income Americans were not fairly treated when the tax relief was proposed and have not been fairly treated by its continuation in its present form.

When higher taxes from inflation and social security payroll taxes are taken into account, the tax cut will have a lasting benefit which disproportionately favors the upper income. Last year's across-the-board tax cuts, which superficially promised fairness by giving everyone the same percentage reduction in income taxes, delivered far more relief to the highest income, and much less relief to ordinary Americans. Taxpayers earning over $50,000 per year, who pay one-third of income taxes, will receive almost two-thirds of the net tax cut. Those making under $50,000, who pay two-thirds of income taxes, will only receive one-third of the net tax reduction.

A family of four earning $20,000 will, by 1984, be paying 16.1 percent of its income in Federal taxes if its earnings keep up with inflation, because the combined effect of higher social security taxes and inflation will still result in a higher tax liability. Ironically, before the tax reductions, that same family of four was paying just 16.2 percent of its income in Federal taxes.

A family of four with an income of $30,000 was paying 18.4 percent of its earnings in Federal taxes in 1980. After the effects of the tax cut the higher social security taxes and inflation have occurred, in 1984, that family will owe 18.8 percent of its income to the Federal Government—an increase.

By contrast, a family earning $100,000 will receive a real tax cut, over and above the effect of higher social security taxes, which affect only the first third of its income, and over and above the effects of inflation. That family will receive a tax cut of nearly $2,300, in 1980 dollars.

This was an unfair tax distribution last year. It remains unfair this year.

The administration has belatedly acknowledged that the 1981 tax cut was too large to be comfortably afforded. The unfair elements of that tax cut are predictable, and are widely acknowledged. Surely the most effective as well as the most fair way to raise the revenues needed to help offset the cost of that tax cut would be to defer the cut for those most able to afford a delayed tax cut—those fortunate enough to have high incomes.

The tax increases in this bill are coming mainly at the expense of working families: The excise tax increases take proportionately more from lower incomes. The increased limit on medical deductions eliminates one of the few deductions millions of Americans can use except for those with truly huge medical bills.

When that factor is considered in context—and the context is last year's tax cut—then it is clearly best to reject this unfair measure.

I do not reject this bill without having an alternative. One alternative which is clearly preferable and which I strongly supported when the tax increase was being debated, was the proposal by Senator BRADLEY, which would have asked those earning $46,000 to $50,000 per year to accept a delay in getting part of their final 10 percent installment of the tax cut, and would have asked those with incomes above $50,000 to accept a delay in all of their 1983 tax cut. That alternative would have allowed us to eliminate several of the tax increases which are most regressive, including the increased taxes on telephones and cigarettes and the cutback in the medical and casualty deductions. It would also have allowed us to eliminate the unemployment tax increase, which will have its heaviest effect on small businesses.

That alternative would have protected the tax cut for 75 percent of all Americans, without imposing directly higher taxes on them in other forms, as this bill does. It would have made the shared cost of tax raising and spending cuts more equitable. Unfortunately, this alternative was rejected.

During the debate I offered an alternative which, without changing the total cost of the tax cut itself, would at least have changed its distribution so that more of the relief would have gone to middle-income taxpayers. That alternative too, was rejected.

The bill before us does not further the cause of tax equity. Rather, it continues the unfair policy of spending cuts from those who can least afford them and tax increases for those who are already paying their fair share. I do not believe that such a bill deserves support, and I will not vote for it.

WHY THE TAX BILL IS UNFAIR

Mr. PROXMIRE. Mr. President, it is called the Tax Equity and Fiscal Responsibility Act of 1982. And to some extent that description is true. It closes some of the more blatant loopholes in the Tax Code that the Congress generously provided last year. Some of these issues, such as individual and corporate minimum taxes; treatment of discount and striped coupon bonds; partial reform of safe harbor leasing; reductions in corporate tax preferences; modifications in the completed contract method of accounting; mergers and acquisitions incentive reductions; and foreign oil and gas income are proper and prudent changes in our complex system of taxation.

But all is not equity and fairness in this bill. Take withholding on interest and dividends as an example. This, the largest single compliance feature of

the bill, will add as much as $3.2 billion in administrative costs and lost interest on American taxpayers. This is not to mention the hundreds of millions of forms that will have to be filled out, filed, and processed to grant the various exemptions and to catalog the actual withholding. This alone justifies a new title for this bill as the redtape and paperwork bill of 1982.

Food establishments will be required to report tip income equal to 8 percent of gross receipts for their employees unless, of course, the employees already have reported their tip income by that amount. How will the managers know who has reported what? Imagine the paperwork that will be generated to allocate the tip receipts by each employee.

There was an opportunity to improve this bill but the Senate did not take it. Amendments were offered to redistribute the benefits and obligations of our tax system so that those Americans in the low- and middle-income class could have shared more in the benefits of reduced taxation and be called upon to provide less by way of revenue. We could have reduced the burden of this tax bill on small businessmen, on the elderly, on the sick and infirm, on those using our phone system and at the same time leave a cushion of $3 billion to reduce the deficit. We could have redistributed the benefits of lower taxes to middle and lower income Americans. But each attempt to do so, the Bradley and Mitchell amendments, were defeated.

The defeat of these amendments makes this tax bill skewed in favor of those in the very highest income categories while asking the middle and lower income classes to foot the bill.

Add to this the scandalous situation involving tax deductions for certain illegal foreign bribes. Under present law, taxpayers may not deduct payments to foreign governments or employees if those payments would be illegal under U.S. law. The conferees decided that payments made illegal under the Foreign Corrupt Practices Act would remain undeductible but that other payments, which would be illegal under U.S. law, could be deducted by U.S. corporations. Thus we have the situation that a U.S. corporation makes a payment overseas which ordinarily would be illegal under U.S. law and it now can receive a deduction on its tax form. Think of it, U.S. taxpayers will be subsidizing foreign bribes that would be illegal under U.S. law if they occurred here. But since they occurred overseas, they are deemed legitimate tax deductions.

I do not think many U.S. citizens will be happy with thinking that their fair share of the U.S. tax burden will be increased because some U.S. corporation can now deduct what would be an illegal bribe on their taxes.

We have just told the U.S. corporate community to go ahead and make as many "grease" payments and facilitating payments and customs bribes as they want because Uncle Sam and the rest of American taxpaying public is going to grant them a big, fat subsidy. Make no mistake about it, this is a subsidy for illegal bribes—courtesy of the U.S. taxpayer.

There is so much more that could be done with this tax bill to change its impact on the average taxpayer and make it a fair reform vehicle. The leasing provisions could have been closed more tightly. Adjustments should have been made to require integrated oil companies to include disallowed intangible drilling costs in the basis of their property. Other oil and gas tax reforms should have been addressed.

But this did not come to be and consequently I cannot support this bill.

SECTION 207(e)(2)(A)

Mr. HATCH. I understand that during the course of the conference committee deliberations on the construction period interest and taxes provision of the bill, there was some discussion of the requirement in section 207(e)(2)(A) of the bill that approval from a governmental unit has been requested in writing by the taxpayer regarding the construction of a hospital, nursing home, hotel, or motel.

As the author of that requirement, it was my intention, clearly stated on the floor of the Senate when I introduced the amendment adding section 207(e)(2), that a written request for governmental approval did not have to be submitted by any particular date, but only pursuant to the normal course of events. There is no uniform timetable for the submission of these requests. They will vary according to the nature of the project and the nature of the governmental approval concerned.

It was specifically not my intention to require the taxpayer to make a request for an approval by July 1, 1982. Rather, it was my intent that eligible taxpayers qualify who can establish that first, a written plan was in existence on July 1, 1982; second, the project actually commenced is consistent with that plan as evidenced by a submission to a governmental unit in the ordinary course which is based on that written plan; and third, construction is commenced before January 1, 1984. The sole purpose of the governmental approval requirement is to corroborate that the written plan in existence on July 1, 1982, can be specifically identified with the ultimate construction project approved by the governmental unit or units concerned.

I would like the distinguished Senator from Kansas to confirm that this is the intention and understanding of the conferees.

Mr. DOLE. I thank the distinguished Senator from Utah for this opportunity, and I do confirm that his intention regarding this provision was the understanding and intention of the conferees. The Senator's inquiry has been very helpful in assuring that our understanding of your amendment was consistent with your intent and that the statute will be interpreted and applied in that manner.

Mr. LONG. Mr. President, I would like to clarify the scope of the authority granted to the Internal Revenue Service to provide guidelines for reducing the allocation, if any, from 8 percent of receipts to a lesser amount for certain establishments. I understand that the Internal Revenue Service is authorized both to provide general rules for reducing the minimum percentage of reported tips in specifically defined and justified circumstances and to provide administrative procedures for a case-by-case determination of lower amounts.

Mr. DOLE. The Senator from Louisiana is correct; both general rules for appropriate cases and case-by-case procedures may be provided.

Mr. LONG. Mr. President, I would like to confirm that the Senator from Kansas understands that the Internal Revenue Service will cooperate with the affected institutions and employees in making its required study of tip compliance.

Mr. DOLE. It is our fervent hope that the Internal Revenue Service will continue to enjoy and draw upon the full cooperation of employers and employees alike in this industry in making this study. As the Senator from Louisiana knows, it is that cooperation which has made possible the improvement of this legislation in conference over prior proposals. And it is that cooperation, including the anticipated publication of these new requirements by the employers and union, that will do so much to make this new law work.

Mr. LONG. Mr. President, I want to clarify the operation of the tip allocation rule. Is it the Senator from Kansas' understanding that allocation would be required only if voluntary employee reporting does not reach an 8-percent level, and that employees to whom allocations are made need include only those customarily tipped employees to whom allocations are made, including employees who receive tips indirectly through tip pooling or tip sharing?

Mr. DOLE. That is my understanding.

Mr. ROTH. Section 214(e) of the conference report amends paragraph 6 of section (103)(b) by adding at the end thereof a new paragraph entitled, "(O) Restrictions on Financing Certain Facilities." May I ask the distinguished Senator from Texas if he con-

curs that in our discussions in the conference it was specifically agreed that the language "retail food and beverage services" is meant to apply only to establishments such as restaurants and bars where the primary purpose of the establishment is the service of food already prepared for consumption and that such language would not apply to grocery stores, supermarkets, convenience stores, or other such establishments engaged principally in the sale of grocery and other items?

May I also ask the distinguished Senator if one of the reasons that convenience stores which incidentally may offer the service of prepared foods or drinks would not be prohibited by this amendment from obtaining IDB financing since the service of prepared foods or drinks in those establishments would not constitute 25 percent of the primary activity of the entire establishment?

Mr. BENTSEN. The gentleman from Delaware is correct. The amendment to section 103(b)(6) is intended to apply only to restaurants and bars and that the language referring to "retail food and beverage services" is not intended to apply to grocery stores, supermarkets, convenience stores, or other such establishments engaged in the sale of grocery or other items.

Mr. DANFORTH. I wish as a conferee on the Tax Equity and Fiscal Responsibility Act, H.R. 4961, to associate myself with the remarks of the Senators from Delaware and Texas.

Mr. LONG. I wish as a conferee on the Tax Equity and Fiscal Responsibility Act, H.R. 4961 to associate myself with the remarks of the Senators from Delaware and Texas.

SENATOR HAYAKAWA STATEMENT ABOUT ADAP PORTION OF TAX BILL

Mr. HAYAKAWA. Mr. President, I would like to mention some matters that particularly concern my State. First, the Mojave Airport, which is operated by the East Kern Airport District, has a very special and important role in our Nation's aviation system. It is extensively used by civil aviation manufacturers to test aircraft and their components, particularly in the general aviation sector. The airport has attracted numerous businesses involved in flight testing and has generated substantial employment.

In light of the importance of Mojave Airport to aviation, I believe the FAA should give serious consideration to the Mojave Airport's request for ADAP funds.

The other problem of concern to me is the Burbank-Glendale-Pasadena Airport. It has a terminal building and other facilities located within the zone—known as the primary surface area—adjacent to the runway that is supposed to be clear of all such obstacles under current FAA airport design standards.

The ADAP bill specifically provides that "the safe operation of the airport and airway system will continue to be the highest aviation priority." Further, it provides that "all airport and airway programs should be administered consistent with" the section of the FAA act which specifies "the assignment and maintenance of safety as the highest priority in air commerce * * *" there can be no question that safety is to be the highest priority in the administration of the ADAP program. It should also be clear that projects to correct a preexisting violation of primary surface area are, to the extent they are otherwise eligible, the kind of safety-related efforts which should be accorded that statutory priority for safety.

Mr. MATTINGLY. Mr. President, I rise today to oppose this bill, H.R. 4961, to raise taxes by $98.3 billion over the next 3 years. I do so because this bill—I sincerely feel—is wrong and that it is the wrong economic policy at this time. And it is the wrong message for this Senate and this Congress to send the American people.

Mr. President, I know I will be joined by Members from the other side of the aisle in opposing this bill. But my reasons for opposing this bill have nothing to do with partisan politics. My reasons for opposing this tax increase have to do with the heart of the economic policy debate on the floor of this Senate over the past 18 months. Were we serious about reducing the size of Government, cutting spending, and cutting taxes as the means to economic recovery and renewal in our country? Are we going to pay attention to the popular mandate of the last national election? Or were we just kidding when we passed President Reagan's economic recovery program last year. Is it the truth that this body really does not care what the people of this country want? Is it the truth that we intended all along to continue down the same old road, pursue the same old failed policies, and the public be damned?

I do not have to remind my fellow Members how the people of their States feel about this tax increase. You all know how your mail and phone calls are running. Phone calls to my offices, both here in Washington and back in Georgia, are running 2 to 1 against. The mail in my office is running 5 to 1 against. I do not have to remind my fellow Members of the poll that appeared in this morning's paper. If anyone in this body seriously believes that the people of this country feel the answer to our economic problems is a tax increase, they have been hiding in a closet. Are we to tell the people back home that they are too dumb to know what is good for them? Personally, I will take the wisdom of the working men and women of Georgia over the wisdom of Washington any day of the week.

Mr. President, let me remind this body what we did here only 10 short months ago. We enacted a tax cut. We cut the tax rates on individuals and businesses as a part of the President's economic recovery program. We cut taxes to return incentives and encouragement to individuals and businesses to save, invest and create jobs. We did that because it was realized that years of spiralling Federal spending and taxes had given us the highest inflation and the highest interest rates in history. Now we are told that 10 months is long enough. Now the economy needs a tax increase.

The fact is President Reagan's program is working. In less than 2 years we have cut inflation by two-thirds. In less than 2 years interest rates have been cut from 21 percent to 14 percent. Real income, the real worth of the paychecks in the hands of the working people of this country, increased last month by a greater amount than any time during the past 2 years.

We are told we need a tax increase in the middle of a recession to insure that needed spending cuts are continued in the future. That is a joke. There has not been one dime of reduction in the Federal budget during the 97th Congress. When this Congress came into office in 1981 the Federal budget for that fiscal year stood at $657 billion. Projected 1983 outlays currently stand at $777.5 billion, and that is after the so-called spending cuts. Unless my arithmetic is off, that is an increase of more than $100 billion. Almost the exact amount of this tax bill.

We are told that we need this tax increase to reduce the deficit. Let me quote President Reagan on this subject. On May 20, the President made the following statement to a group of businessmen:

> We do not have a trillion dollar debt because we do not tax enough; we have a trillion debt because government spends too much. Simply raising taxes will not do the trick. It is well to remember that in the last 5 years taxes went up by more than 200 percent, and we still had in those 5 years the largest string of deficits in our history.

Let us be honest here. The purpose of this tax increase is to fund more spending.

Mr. President, we are even told that this tax bill is not really a tax increase at all. We are told it is not even the largest tax increase in history. But the fact is if it walks like a duck, quacks like a duck, and looks like a duck, it must be a duck. And this, my friends, is a duck. It is true this is not the largest tax increase in history. It is the second largest behind the Carter administration's $122 billion social security tax increase. But the worse part is that both of these tax increases will

hit the American taxpayer at the same time in the middle of a recession.

And finally, we are told, that we must support this tax increase out of loyalty to President Reagan. That if the President loses his ability to lead we will not be able to continue to make the kind of policy changes we must have to turn our country around. Well, I do not mind saying that I have been one of the President's most consistent supporters in this body. I was No. 10 out of 100 in support of the President last year. And I expect to be as high or higher on the list of the President's supporters this year. In fact, I have a better record of supporting the President than a lot of those here in this body who have been waving the loyalty banner for this tax bill.

And it is because I believe in the President and his program, and because I share in his mandate to turn the tide against more government, more spending, and more taxes, that I cannot vote for this bill.

Mr. President, we do need to reduce the Federal deficit. But we need to do so by cutting Federal spending. Not by raising taxes. I, for one, did not come to Washington to vote for more taxes. I hope a majority of my colleagues in this body will join me in support of the Reagan economic recovery program and vote against this bill.

Mr. THURMOND. Mr. President, although I strongly disagree with some of the particular provisions in this revenue-raising legislation and have reservations about other specifics, I have concluded that this package, taken as a whole, is necessary. Thus, I shall lend my support to passage of the conference report for three basic reasons.

First, it is my belief that passage of this bill is essential to reducing the projected Federal deficit for fiscal year 1983 and the following years. The expectation of massive Federal deficits, which would result in a huge drain on the capital markets by Federal borrowing, is perhaps the biggest hindrance to a further reduction of interest rates and a sustained economic recovery.

Fortunately, it appears that interest rates are finally headed down to more reasonable levels. Indeed, the prime rate has dropped by over 7 points from the historic high levels that prevailed when President Reagan assumed office. Most economists and financial market analysts are now predicting further declines in the prime rate, to be followed by a drop in rates charged consumers on loans for automobile and other durable good purchases, and also on home mortgages. As interest charges subside, this will help give a broad-based boost to the economy that will help put people back to work.

These are our hopes and expectations, but they will not be realized if Congress fails to act now and in the future to reduce the budget deficits. This legislation will help to trim deficits by between $98 and $99 billions over the next 3 years. Moreover, it will accomplish that goal without jeopardizing the investment incentives and across-the-board tax relief for individual taxpayers enacted last August.

A second important reason why I am supporting this bill is that it fulfills a commitment made by Congress and the President earlier this year when we adopted the budget blueprint for fiscal year 1983 and the following 2 years. Under the budget resolution approved in June and endorsed by President Reagan, Congress agreed to enact legislation that would reduce the Federal deficit by approximately $380 billion over the next 3 years. Most of the deficit reductions—about $280 billion—are to come from cutbacks in spending, but a portion must be achieved through increasing tax revenue.

My preference would have been for greater emphasis on spending reductions and less emphasis on the tax side of the budget. However, it was necessary to reach an accommodation in order to pass a budget, and the resulting compromise directed the tax-writing committees to produce this revenue enhancement bill. The economic health of our Nation depends on decisive congressional action to trim the Federal deficits, and the budget resolution calls for almost $3 in spending cuts for every $1 of revenues raised by this tax bill. In my judgment, this is a reasonable tradeoff and an acceptable price to pay in order to get much greater and critically needed spending restraint.

Indeed, the legislation before the Senate in this conference report is not just a tax bill. Also included are savings of some $17.3 billion over the next 3 years in several entitlement programs whose cost was spiraling out of control. Again, that is not as much as we needed, but I know the distinguished chairman of the Finance Committee, Mr. DOLE, and the Senate conferees did the best they could in bargaining with the House conferees, who were less willing to cut spending. Together with the omnibus reconciliation bill cleared for the White House on Wednesday, savings approximating $30 billion through fiscal year 1985 will be achieved. Further, substantial curtailments must be achieved in the appropriation bills and through management initiatives by the administration, if the outlay savings goals established in the budget resolution are to be met.

The third reason why I believe this legislation is deserving of support is that it achieves most of the necessary revenue increases through improved compliance with existing tax laws and closing down of loopholes which have been used by some individuals and corporations to avoid paying their fair share of the tax burden. It should be emphasized, Mr. President, that this bill does not contain an across-the-board tax increase. In fact, it carefully preserves the 3-year, 25 percent tax reduction for individuals, reduction in the marriage tax penalty, much-needed estate tax relief, and most of the capital investment incentives for businesses enacted as part of the President's Economic Recovery Tax Act last year.

For the most part, the typical wage earner will feel little or no effect from this legislation. There are, however, a number of genuine tax reforms in this bill that are needed to broaden the tax base, improve the fairness of the tax system, and insure that honest taxpayers do not have to bear the burden imposed by those who, through various tax avoidance schemes, have not been meeting their obligations as citizens to help support their government through taxes.

Mr. President, as I emphasized at the outset, I support the necessity of this measure as a means of curtailing the impending budget deficits, which are otherwise frighteningly high. That is not to say, however, that I endorse each of the provisions in the bill, for there are some that I believe are unwise and unjustified. For example, I strongly opposed the doubling of the cigarette excise tax because of the adverse effect this particular increase may have on the tobacco industry, which is so important to the economy of South Carolina and the Nation. I regret that the conferees were unable to shift part of this increase to alcoholic beverages, as I had proposed unsuccessfully in an amendment on the Senate floor.

I am also concerned about the impact of tax withholding from interest and dividends on investors and on depository institutions. This burden will be cushioned, however, by the several exceptions built into the bill for small savers with accounts yielding less than $150 per year, for about 90 percent of the elderly, and all low-income individuals, and by postponing the effective date of this provision by 6 months until July 1, 1983.

Mr. President, I had also expressed strong reservations during Senate consideration of the bill about the pension plan provisions of this legislation. I regret that the conferees did not hold firm against further changes desired by several liberal Members of the other body. It is my understanding that the distinguished manager of the bill is willing for the Finance Commitee or the appropriate subcommittee, to hold hearings for the purpose of reviewing the impact of these provisions, and that he also will recommend to the IRS that the effective date of the provisions designed to overrule the Keller case be delayed until January 1,

1984. I shall be pleased to work with him and the committee to remove any inequities and preserve incentives for these pension and profit-sharing plans.

The conferees did add a program of supplemental unemployment compensation, which I support and feel is necessary due to the recession. This will provide an additional 10 weeks of benefits for jobless workers in South Carolina and other States to help them and their families until they are able to find employment.

Mr. President, this bill is certainly not perfect. I hope the Finance Committee will carefully scrutinize the wisdom of its various provisions and be prepared to make necessary changes in the months ahead. However, I believe it is needed and is the price we must pay for a healthier economy. I hope the Senate will join the House in approving it.

Mrs. HAWKINS. Mr. President, I rise in opposition to the conference report on H.R. 4961, the so-called Tax Equity and Fiscal Responsibility Act of 1982. This is not a new position for me. When the Senate debated a similar version of H.R 4961 in late July, I opposed that bill, too. I will vote against this conference report for five reasons. First, the report calls for $13 billion in medicare cuts principally by imposing revenue caps on hospitals and restricting payments to doctors which treat medicare patients. This combination will put additional financial pressure on public service hospitals already on the brink. And equally dangerous, it will slow dramatically the spread of lifesaving technologies.

Hospitals that already do not have CAT-scanning devices already in place, for example, will not be able to introduce them for use on medicare patients. While CAT scanners are now the primary diagnostic tool used to save the lives of many private patients, they are expensive. Hospitals that use them for the first time in 1984 will breach the revenue caps established by this bill. All recent improvements in medicine, if expensive, will likewise face serious impediments to their introduction in hospital settings. It was for this and similar reasons that Congress defeated an analogous proposal put forward by President Carter in the 96th Congress. This reason was sound then and it is sound now.

Second, the tax portions include five major proposals which are especially objectionable. They are: increasing the telephone excise tax to 3 percent, nearly doubling the unemployment tax, imposing 10 percent withholding on dividend and interest income, raising the threshold from 3 percent to 5 percent of adjusted gross income for those with high medical expenses while eliminating the $150 deduction for medical insurance, and eliminating the casualty loss deduction except for those who, due to robbery, fire or accident, have losses exceeding 10 percent of adjusted gross income. All these provisions will hurt real people, and they raise $25 billion of the $98 billion raised by this bill over 3 years.

Third, I question the wisdom of raising taxes during a recession. The last President who tried to raise substantial amounts of revenue to balance the budget during a recession was Herbert Hoover. The results of his strategy should give us all cause before we argue that the way to encourage economic expansion is to raise the level of Federal taxes, as a share of GNP, even higher than the record levels already in existence. Net revenues are therefore likely to be lower than we think, since the economy will be weaker than it would be otherwise.

Fourth, I would like to address the question of fairness. Certain provisions included in H.R. 4961 do improve equity by closing loopholes and insuring that more people pay their fair share. However, the revenues raised by these provisions should be used to pay for long-overdue tax reduction proposals, including two recommended by the administration—tuition tax credits for parents who send their children to private schools and tax relief for business that invest in "enterprise zones." Instead, the additional revenue will be used to finance additional spending.

Finally, some argue that tax increases are needed to eliminate large projected deficits. Their analysis fails to note the dramatic impact unemployment and interest rates have on the deficit, under existing law. If the unemployment rate were 6 percent, instead of 9.8 percent, the budget would now be in surplus, and ways to lower taxes further would dominate discussion on fiscal policy.

The impact of interest rates on the deficit is also large. Over $700 billion in Federal securities are now held by the public. If the average interest rate or these securities were lowered by 5 percent, Federal spending would fall by more than $100 billion over 3 years, an amount larger than that raised under the tax provisions of H.R. 4961.

Finally, unemployment and interest rates are determined as much by monetary policy as by fiscal policy. Changes in monetary policy can and do impact on unemployment and interest rates swiftly. Therefore, we should not move to make permanent changes in fiscal policy until the options for revising monetary policy are explored.

For all these reasons, I will vote against this conference report.

Mr. BUMPERS. Mr. President, this is a difficult vote. On the one hand, some provisions in this bill are long overdue, and the Senator from Kansas must be commended for biting the bullet and standing up to some powerful special interests that oppose controversial provisions of this bill. The bill phases out the so-called leaseback provision Congress adopted just last year. This is the provision that allows some of the largest and wealthiest corporations to buy and sell tax breaks they cannot use. The whole notion of selling unusable tax breaks is anathema to me, and I applaud the conferees for deciding to eliminate this tax giveaway for leases entered into after December 31, 1983.

The bill also contains additional unemployment benefits for millions of unemployed individuals who are victims of the most serious economic crisis this Nation has experienced since the Great Depression. Under the formula in the bill, unemployed persons in Arkansas, for example, who have exhausted their other benefits, will be entitled to an additional 10 weeks of benefits if this bill passes. For the thousands of unemployed in Arkansas, this will help buy groceries, pay the rent, and catch up on overdue bills. With the Arkansas unemployment rate approaching 10 percent, and with over 20,000 workers in Arkansas having exhausted their regular unemployment benefits, the inclusion of these additional benefits in this bill certainly makes it more attractive to me.

On the other hand, Mr. President, I am convinced that this bill contains more bad than good. It will increase the redtape involved in dealing with the Internal Revenue Service and will impose an unfair burden on some employers. It will also impose what I consider to be unnecessary tax increases on consumers.

Mr. President, I have stood on this floor more times than I can count and argued that we cannot even approach fiscal responsibility unless we postpone or repeal a part of the $750 billion tax giveaway we passed last summer. That was the largest tax cut in history, and it went to the wealthiest Americans, those who needed it the least. The person who makes $100,000 a year got a $7,000 tax break. People in my State who earn a median income of $16,000 got a $242 tax break. Meanwhile, that huge tax cut is making it impossible for us to even come close to balancing the Federal budget in the foreseeable future.

So, only 1 year after we gave away $750 billion to the wealthiest Americans, we are forced to come back and pass new tax increases much of which will fall heaviest on those who got the least last summer. There is a better way, Mr. President, and many staunchly conservative economists agree on what should be done. We should postpone the 1983 tax cut, and in so doing we would save at least $76.3 billion. We would not be taking away something that the American

people are already enjoying, and we would not be creating the bureaucratic nightmare that some of the provisions of this bill may cause.

Mr. President, even if this bill passes and becomes law, we will be faced next year, and the next, with the need to increase taxes again in order to deal with the huge budget deficits caused mainly by last year's tax giveaway. A much simpler solution is to undo some of the evil we created last year rather than thinking up new kinds of taxes. We will be like a dog chasing its tail until we face up to the irresponsibility of last year's tax cut.

Finally, Mr. President, we are in the process, on the urgent insistence of the President, of increasing defense authorization for 1983, by $37 billion, much more than all the much-heralded cuts in medicaid, medicare, student loans, school lunches, immunization, and a host of other worthy programs. Until we recognize that defense is not sacrosanct and insulated from scrutiny, there will be no balanced budget.

Again, Mr. President, I want to commend the Senator from Kansas for his leadership. I oppose this bill with regret. Senator DOLE in many ways had his hands tied because of the President's unwillingness to agree to the postponement or repeal of portions of the tax cut we passed last year. Senator DOLE has shown a high degree of statesmanship in tackling the next-to-impossible task of raising revenues in an election year.

I want to assure my colleagues that I intend to continue to work for responsible tax reform. But I cannot support a tax increase that leaves in place inequities less than a year old while increasing redtape and the burdens of complying with our already complicated tax laws.

Mr. DECONCINI. Mr. President, I voted against H.R. 4961 when it passed the Senate last month. At that time, I did not see how it was possible to reconcile the largest increase in taxes in history with the most severe economic contraction in the postwar period. In addition, I found the massive expansion in the bureaucratic power of the IRS which is at the heart of the so-called compliance provisions of the bill extremely disturbing. No other agency inspires more fear and loathing than the "Infernal" Revenue Service. To augment its regulatory authority so enormously in the name of "revenue enhancement" is, in my judgment, unwise if not dangerous. A statement detailing some of my major concerns with respect to the bill as passed by the Senate appeared in the RECORD July 22, and I ask unanimous consent that it be reprinted in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DECONCINI

Mr. DECONCINI. Mr. President, I intend to cast my vote against final passage of H.R. 4961, the 1982 medicare cut and tax increase bill.

This is not an easy vote. I have spent many hours pondering what is the proper course for me to take—proper for the people of Arizona and proper for the Nation as a whole. In the final analysis, however, the issue comes to this: Is this legislation the right way to partially offset what will be the largest deficit in American history? The answer is "No."

Unfortunately, the administration which entered office with high hopes and the full backing of the American people has faltered in its economic policies. The 1980 election put us all on record in favor of fiscal responsibility, and most especially a balanced Federal budget. The administration convinced itself that this could be accomplished by simultaneously increasing defense spending, and decreasing taxes.

The result of these actions has been a massive recession which still shows no real signs of abating and Federal deficits far in excess of those contemplated in previous years. Now, the administration has decided that the deficits created by its own policies are intolerable and asks Congress to pass the largest peacetime tax increase in history.

The rational approach to fiscal matters should have been to decrease taxes commensurate with decreases in Federal spending. Many of us in Congress have asked the President to reconsider the original tax cut bill and to phase in those cuts as the Federal budget can absorb them. That still remains the proper course of action.

The bill we have before us today will strike a powerful blow against middle-income Americans, although it seeks to masquerade as a bill which closes corporate loopholes.

The tax increase bill will double the excise tax on telephone service, an action that will have special impact on Arizonans in light of recent and very substantial increases in telephone rates.

The tax increase bill initiates the withholding of dividends and interest payments to individuals at great cost in paperwork for financial institutions like savings and loan companies which are already going bankrupt because of the deteriorating economic stiuation. It will also impact on retired persons who rely upon their interest and dividends to make ends meet. I fought this proposal when it was advanced by the Carter administration and its advocacy by the Reagan administration has not affected its total inappropriateness.

The tax increase bill dramatically increases the total amount of medical expenses a family must incur before they can be taken as a deduction. It also reduces from $150 to $100 the amount of insurance premiums that can be deducted, an action that will impact upon practically every single filer of an itemized return.

The tax increase bill will double—from 8 to 16 cents—the Federal excise tax on cigarettes. Whatever one's views on the harm that may accrue from smoking, this type of tax penalizes only the poor and middle-income persons.

The tax increase bill raises the wage base upon which business—including hard-hit small business—will have to pay FUTA—Federal Unemployment Tax Act. It also increases the FUTA tax rate.

The tax increase bill reverses some of the capital information—that is, productivity enhancing—changes in depreciation allowances enacted last year which I cosponsored.

The tax increase bill also substantially reduces the basis upon which the investment tax credit is calculated, further reducing the incentives to invest in our undercapitalized economy.

The tax increase bill does close some corporate tax loopholes, but leaves hundreds of others wide open. First, it is totally deceptive to believe that closing these loopholes will not affect average taxpayers. Taxes are a cost of doing business, and businesses will simply pass them on. So, we will all pay in the long run.

Second, the selective closing of loopholes is a mixed blessing. It is a process whereby Congress decides that this loophole is better than that loophole and therefore it penalizes or rewards businesses according to who had the best lobbyists. The rational approach to the terrible problem of our Tax Code—the approach which I have sponsored in S. 2147—is to scrap the present system in favor of a broadbase flat rate tax. It eliminates all loopholes for individuals and corporations and applies a reasonable tax on all income. This would provide the Government with sufficient revenue and restore basic equity to a system whose fundamental unfairness has gotten out of hand.

The time, Mr. President, when the administration and Congress will have to acknowledge that this Nation's fiscal affairs are in disarray is close upon us. We are like helpless bystanders trying to stop massive hemorrhaging with band-aids. The American people—certainly the people of Arizona—are tired of the deceptions and false promises. They do not want "pie in the sky" promises; they do not want free lunches; they do not want what is not rightfully theirs.

However, they do demand that their elected representatives place commitment to the country above the empty rhetoric of campaign promises and election strategies. They want commonsense, common decency, and common fairness to be the rule and not the exception.

First, the present tax system must be fundamentally transformed to meet the dual needs of revenue raising and equity. The flat-rate tax is the best way to achieve this. Second, we must pass a constitutional amendment requiring a balanced Federal budget as a means of forcing Government to live within its means in the face of constant political temptations. Third, we must keep our taxes as low as possible without going into national debt by adopting rational, not irrational, fiscal policies.

In the meantime, Mr. President, I find the 1982 tax increase bill unacceptable. I proposed that we reduce the deficit by cutting certain Federal programs, like foreign aid. We cannot continue to take and take from the American people while we open our Treasury to foreigners. Generosity and altruism have their place, but our obligations are to our own citizens first. And, those citizens, Mr. President, are suffering from unemployment, high interest rates, poor productivity, a lack of capital investment, a decimated housing industry and an unprecedented number of bankruptcies.

When there are alternatives to raising taxes at a time of extreme economic hardship, we owe it to those we represent to pursue those alternatives. If we can cut foreign aid, eliminate waste, reduce the number of trips Government officials take and the number of cars the Government

buys, we should. Raising taxes should be a method of last resort, not a substitutte for making difficult decisions about the size, role and function of the Federal Government.

I cannot in good conscience support a measure which increases taxes or American working men and women by $100 billion at a time when many millions are out of work and are experiencing the desperation of shattered dreams.

Mr. DECONCINI. Mr. President, the month that has elapsed since Senate action, has witnessed little, if any, improvement in general economic conditions. Almost 11 million Americans are now out of work and the national unemployment rate is approaching double digits for the first time in recent memory. In Greenlee County, Ariz., the unemployment rate stands at 59 percent. Let me repeat that, Mr. President. Fifty-nine percent of the labor force in Greenlee County is without gainful employment. And that story is duplicated in county after county, and community after community across my State and the length and breadth of this land. Moreover, Mr. President, from the first of this year to August 5, over 14,000 businesses have turned belly up. The business bankruptcy rate is over 400 a week. Industrial output has fallen almost 16 percent below last year and 30 percent of our industrial capacity—our mines and factories—is currently idle.

And so, Mr. President, the economic environment has not changed for the better since the Senate considered this legislation. And I regret to say that neither has the bill itself. The conference report before us, far from rectifying the flaws in the Senate-passed version, simply reaffirms, and in all too many cases, exacerbates its worst tendencies. It retains a regressive reliance on excise taxes. It dilutes or repeals many of the savings and investment incentives that are central to a genuine supply-side policy. It proliferates the special rules, arbitrary distinctions, and general administrative complexity and opaqueness that have brought the existing tax system into well-deserved public disrepute. There is, in short, no reason to change my original judgment on this measure. It is still the wrong answer to our fiscal and economic woes.

Finally, Mr. President, I cannot bring myself to support a measure that seeks, in effect, to reduce the Federal deficit by shifting the costs of essential medical services to the poor and the elderly. An increase in the part B medicare premium when the costs of health care are skyrocketing and the economy is severely distressed is just plain unfair. People who have worked hard all their lives and paid into the social security and medicare systems should not have to pay for the policy miscalculations and fiscal profligacy of their Government. The same is true for those who are forced by economic or other circumstances to depend on medicaid. While I strongly support efforts to improve the administration of these programs and reduce State error rates, I do not believe it is fair to cut back on real services and impose a new set of copayments on people who are already having a very tough time making it—especially under such trying economic circumstances.

And so, Mr. President, I will vote against this bill and I hope that a majority of my colleagues will vote their conscience, or at least their better judgment, and defeat it. We can do better. And nothing short of our best efforts will serve if we are to restore the kind of economic stability and fiscal soundness this country deserves.

Mr. HELMS. Mr. President, I had not intended tonight to comment on this tax bill as the Senate moves toward what I presume will be final passage of it. But some of the remarks in this Chamber tonight prompt the observation that originated, as I recall, with Will Rogers who once said something to the effect that "It ain't the things that people don't know that hurt them, it's the things they know that just ain't so."

It has given me concern to hear the disdainful comment tonight about what is popularly known as supply-side economics. In earlier days, before the notion became prevalent that we could somehow spend ourselves into prosperity by confiscating the earnings of the people, they did not call it supply-side economics. It was called the free-enterprise philosophy.

But by whatever name—supply-side economics or the free-enterprise philosphy—its is not a matter of its having been tried and failed. It has not been tried.

Ronald Reagan has not been allowed by this Congress to cut Federal spending. At best, Congress has nervously agreed to reduce somewhat—but only somewhat—the rate of increase in Federal spending.

If Congress had been willing to bite the bullet last year, and do what all of us must surely have known was absolutely essential, there would not tonight be any need, nor any excuse, for this tax bill. Interest rates would have been down, unemployment would have been down, and the Nation's productivity would have been up.

So this compromise tax bill is now before us. We shall see in the weeks and months ahead whether it will cause a significant decline in Government spending. We shall see whether the Wall Street Journal was correct when it described this legislation as "an exercise in economic idiocy."

I watched the vote earlier today in the House of Representatives, and it was an interesting coalition—an intriguing collection of bedfellows. The same is true here this evening. Senator HARRY BYRD calculated the other day that this bill, when all the smoke and mirrors are pushed aside, is $4 billion worse than the original bill passed by the Senate, $4 billion worse in terms of increased spending. That may explain why some Senators who voted against the bill in late July will tonight vote for it. The final rollcall will disclose that assessment.

I shall not dwell in the obvious inequity of the excise tax increase on cigarettes. I confess to being provincial about that—in terms of my objection to it. Here we have the spectacle of the cigarette tax being doubled—while the tax on beer, wine, and liquor remains untouched. I proposed a fair and equitable compromise, which the able Senator from Kansas agreed was fair and equitable. I proposed that the excise tax on all of these products be increased by 25 percent. That would have amounted to a 2-cent-per-package increase in the cigarette tax, perhaps a 5-cent increase in the tax on a six pack of beer, a few cents increase on a bottle of wine, and maybe as much as 24 cents on a fifth of whiskey.

It is my understanding that the Senate conferees were willing to agree to my proposal, but that the House conferees rejected it. That is the kind of inequity to which I cannot be a party. If there is to be a tax bill, it should be fair.

Beyond that, I will not discuss in great details my personal evaluation of this measure. And certainly I will not be critical of those who put it together. They have worked hard, and I accord them no less good faith than I would hope they accord me.

But somewhere, somehow, it seems to me that we have lost our sense of history. We have not tried to examine the past in search of a light to guide us down the rocky pathway we must travel, because, Mr. President, if we had searched the history of this and all other nations, we would not have found one instance wherein a tax increase in time of recession was successful.

All of us must pray that this will be then one time when a tax increase will work beneficially. At the same time, surely we can acknowledge privately, if not publicly, that excessive Government spending creates deficits, and that deficits are the consequence of bad economic policies. That is why a tax increase in time of recession is certain to increase the deficit instead of lower it.

We will see whether increasing taxes will not depress economic conditions through reduced incentives, and whether this will not mean smaller-than-expected revenues. Slower economic growth will cause entitlement expenditures to explode—and remember: The budget deficit increases by

$25 to $28 billion for every 1 percent increase in unemployment.

Mr. President, over four-fifths of the recent estimated increase of the deficit was caused by a deteriorating economy, not by the Reagan tax cuts. Therefore, our problem is a lack of growth, not a lack of revenues.

The logic behind the proposed tax increase is contrary to every respected school of economic thought. I cannot think of a single group—from monetarists to Keynesians to classical supply-siders—that would recommend raising taxes in the middle of a recession. Yet that is exactly what is being done.

Massive tax hikes and policies of austerity in the midst of a recession are not without historical precedence. From 1930 to 1932, Herbert Hoover pursued a policy course that included massive tax increases. Mr. Hoover and his advisers were hopeful that the budget could be balanced and economic expansion unleashed. Mr. Hoover held the view that deficits were the crucial issue—he ignored the factors that would provide for growth. Thus he followed an extremely tight monetary policy, disregarding the massive inflows of gold to the Treasury which should have caused the Federal Reserve to increase the money supply, and Congress raised taxes massively.

Does that strike a familiar chord?

History makes clear that this not only failed to balance the budget, it also set into motion the most severe economic depression in this Nation's history. Today our policymakers are following a frighteningly similar course. We are ignoring growth, we are mesmerized by deficits and we are pursuing a monetary policy that is causing liquidations and deflation in basic commodity prices.

Let me quote from speeches by President Hoover in April and May of 1932 when he was lobbying for his income tax increase. He said that:

> The fundamental contribution to the stability of the situation is the obvious acceptance by everybody that the budget must be balanced . . . The most imperative need of the nation today is a definite and conclusive program for balancing the budget. Uncertainty is disastrous . . . If such a program should be agreed to by the leaders and members of both Houses it would so far to restore business, employment and agriculture . . . The continued downward movement in the economic life of the country has been particularly accelerated during the past few days . . . There can be no doubt that . . . the long continued delays in the passage of legislation providing for such reductions in expenses and such addition to revenue as would balance the budget . . . have given rise to doubt and anxiety as to the ability of our Government to meet its responsibilities.

After the 1932 tax increases passed, the economy took a nosedive. No one could ignore the dire situation, but the President responded with pleas for further tax increases in order to balance the budget. In an address to Congress on January 17, 1933, Mr. Hoover said:

> The increase in revenues enacted at the last session have not had the results hoped for because of continued economic stagnation. The income of the Government for the next fiscal year . . . is likely to fall short under present . . . conditions.

Unfortunately, the President adhered to this economic logic and called for even further tax increases to balance the budget. Later on in the same speech he said,

> No matter how rigid economics may be it is obvious that the Budget cannot be balanced without a most substantial increase in revenues.

President Hoover concluded his address with a passage that could have been used in support of the present bill:

> The balancing of the budget is one of the essential steps in strengthening the foundations for recovery. Capital expenditures are a very important item in our economic life. There can be no doubt that there is an enormous accumulated demand for equipment and replacements of all kinds if long-time funds could be obtained cheaply and if confidence were restored. For some time now long-time funds have not been available for the public at reasonable rates. The retirement of the Federal Treasury from the market as a borrower, the balancing of the Federal Budget and the refunding operations necessary to bring the Government into better balance would have a stimulating effect, would vitalize our entire credit structure and produce one of the conditions essential to continued recovery.

It was said in 1932 that we must balance the budget in order to end Government "crowding out" of the credit markets so as to lower interest rates in order to spur recovery. But when taxes were raised the economy stagnated and revenues declined. Some people would say that the much maligned Laffer curve effect had taken place—that tax increases had so reduced incentives that the economy stagnated and the budget could not be balanced, because revenue declined.

Lowering barriers to exchange and reducing the tax burden to promote growth and prosperity has been called Reaganomics. The view that higher taxes in the midst of a recession is the path to prosperity has been called by some Hoovernomics, and, until very recently, has been discredited and rejected by all schools of economic thought. By opposing this tax increase I am alining myself with the supporters of Reaganomics in opposition to those who see only austerity as a policy alternative. Though economists will disagree on many issues, one thing is undisputed: The last time we implemented Hoovernomics we experienced the most catastrophic economic calamity in our Nation's history.

Mr. President, a growing economy with a high savings rate can handle a large deficit. A stagnating economy cannot. If we adopt policies that are conducive to savings and growth, a temporary deficit is much less a threat to the economy. Tax rate changes have a proven effect on personal savings rates. From 1963 to 1967, when tax rates were reduced by 30 percent, savings rose at a rate of 51 percent. Then a 10-percent tax surcharge was imposed in 1968 and 1969, and the savings rate dropped by 21 percent. Each time, the savings rate changed two to three times the change in tax rates. Such a savings rate change in response to the rate cuts enacted last year would lead to an increase in savings of roughly $100 billion by 1984. Such a dramatic increase in the savings pool will have a dampening effect on interest rates regardless of whether or not there is a deficit.

Nations that have prospered have adopted economic policies that are conducive to growth—low tax rates and minimal barriers to exchange. While I certainly do not condone deficits, I do suggest that we should not try to eliminate it by adopting policies that will strangle productive activity. Higher taxes is the kind of "cure" sure to kill the patient.

Tonight in this Chamber, Mr. President, a number of references—critical references—have been made about the big tax cut of 1981. But the 1981 tax cut has turned out to be no tax cut at all. It was, in fact, a net tax increase of $7 billion, if the austerity advocates have their way—as the chart below demonstrates.

Mr. President, I ask unanimous consent that a chart showing tax revenues be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

[In billions of dollars]

	Fiscal year—			Total
	1983	1984	1985	
Tax increases due to inflation and social security	50	78	110	238
Finance Committee's recommendations	20.9	34.2	43.9	99
Total tax increases	70.9	112.2	153.9	337
Personal income tax reductions [1]	70.1	113.6	146.56	330.26
Net tax increase (+), tax cut (−)	+.8	−1.4	+7.34	+6.74

[1] Rate cuts, marriage penalty, indexing.

Source: Senate Budget Committee.

Mr. HELMS. Mr. President, I could go on, but the hour is late. Suffice it to say that I wish I could agree with the optimism that some have expressed about this bill. I hope that they will prove to be correct—and that I will be proved wrong.

I wish I could in good conscience support the measure, but I cannot. I must cast my vote in opposition.

Mr. DOLE. The bill would apply the new stripped-bond provisions to bonds issued and stripped prior to the effective date of July 1, 1982. It has been

suggested that the provisions apply only to bonds stripped after the effective date, just as the original issue discount provisions apply only to instruments issued after the effective date. That was not our intent. However, we intend to consider this suggestion at the appropriate time and if it has merit to include in appropriate legislation a provision grandfathering instruments that were stripped prior to July 1, 1982, so that current law will continue to apply to such instruments.

Mr. STEVENS. Mr. Chairman, it is my understanding that a calculation of gross food and beverage receipts from a hotel or roadhouse would include all charges to the room, but the calculation of aggregated charged tips would not include tips related to those charges. Is that correct?

Mr. DOLE. I am pleased to clear up an ambiguity in the conference report. The Senator is correct. Only gross food and beverage charges to a room—whether consumed in a restaurant, bar, or in a guest's room, would be included in gross receipts—not aggregate charged receipts. Tips on such amounts would not be included.

Mr. DODD. Mr. President, I have a question concerning section 260(b) of the bill, relating to life insurance company taxation. This provision relates particularly to the deduction for certain amounts credited under group pension contracts. It has come to my attention that some life insurance companies issue single premium group annuity contracts, which are sold to allow an employer in a merger, bankruptcy, or other situation to fix permanently the liability for vested employee benefits. Under these contracts, interest is not explicitly credited each year; rather, the price, or premium, for each contract is established primarily by competition, without the identification of a specific interest amount. In this type of situation, where the life insurance company cannot actually determine the exact amount credited under the contract, I understand that this provision of the bill permits the taxpayer to take into account, as an amount credited to policyholders, interest based upon reasonable estimates reflecting the facts and circumstances involved in pricing the contract.

Mr. DOLE. I agree with the gentleman's interpretation of the bill. I also understand that the Treasury will issue regulations to provide further guidance in this and similar situations.

Mr. BENTSEN. I wish to invite the chairman's attention to section 266 of the bill, which enacts new section 101(f) of the code. Paragraph (2)(E) of this new provision concerns the computation of adjustments to the guideline premiums for universal life insurance. It states that if the death benefits or rider benefits are changed after issue of these policies, adjustments will need to be made, upward or downward, when the change becomes effective. Mr. Chairman, I understand that such adjustments are only to be made in two situations: First, if the change represents a previously scheduled benefit increase that was not reflected in the guideline premiums because of the so-called computational rules; or second, if the change is initiated by the policy over to alter the amount or pattern of the benefits. Is this correct?

Mr. DOLE. That is my understanding. I would also note that these adjustments may be computed in the same manner as the initial guideline premiums, but based on the change in the amount or pattern of the benefits and the insured's attained age at the time of the change. Of course, the Treasury may determine in regulations that some other method of computing adjustments is to be used instead.

Mr. HAYAKAWA. On July 23, 1982, I offered an amendment to the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, which was adopted by my colleagues. This legislation amended the transitional rules under section 4943 of the Internal Revenue Code providing the Ahmanson Foundation with a limited extension of the time within which it must dispose of stockholdings in H. F. Ahmanson & Co., the holding company of Home Savings of America, the largest savings and loan association in the United States. It allowed the Ahmanson Foundation to avoid sales of H. F. Ahmanson stock at significantly depressed prices. It is my understanding that during consideration of the conference report, the conferees though it best this language not be included in H.R. 4961.

Mr. DOLE. The Senator is correct. At the unrelenting insistence of the House conferees, all provisions dealing with private foundations were deleted from the bill.

Mr. HAYAKAWA. It is also my understanding that it was agreed on both sides that hearings will be held to review the problems caused by the divestiture requirement applicable to all private foundations, including the Ahmanson Foundation.

Mr. DOLE. The Senator is correct again. Senate Finance Committee hearings will be scheduled at an appropriate time to consider the issue of private foundation divestiture, including the problems faced by the Ahmanson Foundation.

Mr. HAYAKAWA. I would ask that the Senator continue to consider this matter carefully.

Mr. DOLE. I will keep the Senator's concerns in mind.

Mr. HAYAKAWA. I thank my distinguished colleague.

Mr. CRANSTON. Mr. President, I understand that the provisions regarding the financing of rental housing through industrial development bonds have been amended to provide a definition of low- and moderate-income persons that determines who would be eligible under the program. It appears that there is concern that State housing finance agencies and other local issuers may not be able to continue to provide interim financing through loans by the Farmers Home Administration under the section 515 rural rental housing program. I am very concerned that the viability of this program will be threatened if such issuers are unable to provide interim financing for these projects. It is my understanding that the Secretary of the Treasury would not be forbidden from permitting such projects to be financed under the provisions of subparagraph (a) of section 103(b)(4) of the code provided that the definition of individuals of low and moderate income used for such purposes is determined by the Secretary of the Treasury in a manner consistent with determinations under section 8 of the Housing Act, except that the percentage of median gross income which qualifies as low or moderate income shall be 80 percent.

I want to ask the chairman of the Senate Finance Committee and manager of the conference report if my understanding is correct.

Mr. DOLE. Mr. President, I appreciate the opportunity to clarify this point. The Senator from California's understanding is correct.

Mr. PACKWOOD. It is my understanding that, under present law, a pension plan may enter into an investment program which includes investment in home mortgages fully secured by real estate, and not by participants' plan benefits.

However, the conference report at page 620 seems to indicate that there is a blanket prohibition against these investments when a mortgage may be related to a home of an officer, director, or owner. That was not the intention of this Senator. Does the language on page 620 of the conference report intend to change current law with respect to whether loans to these persons are permissible plan investments?

Mr. DOLE. No, it is not intended to change current law in this respect. As I understand the requirements of ERISA, loans which benefit officers, directors, or owners, or their beneficiaries, may be subject to restrictions as "prohibited transactions." This conference report does not change these rules.

The statement of managers at page 620 notes that certain mortgage investments made by a pension plan will not be treated as loans to plan participants which this legislation limits. The language there relating to loans to an officer, director, owner, or his

beneficiary should not be interpreted to introduce or create a bar on treatment of loans to these persons as plan investments. However, this does not change the rules that prohibit certain loans to officers, directors, or owners.

Mr. PACKWOOD. Mr. Chairman, as you know, at the very end of the conference on this legislation we decided to move the effective date for withholding on interest and dividends from January 1, 1983, to July 1, 1983. However, we did not make the same change in the effective date for pension withholding, which, in some cases, could be more difficult to implement by January 1. Therefore, it is quite important that the Secretary of the Treasury exercise his authority under the act to provide pension payors with expeditious and liberal relief from the withholding requirements for the first 6 months of 1983.

Is it the chairman's understanding that the Secretary can and should follow such a policy in issuing regulations and considering applications to delay the application of the pension withholding requirements?

Mr. DOLE. Yes, it is. The legislation provides the Secretary of the Treasury with the authority to delay application of the pension withholding provision where a payor is unable to comply without undue hardship. It is the understanding of this Senator that the "payor" in this provision may be an insurance company or a bank which may administer a large number of individual pension plans. The determination should be made on a case-by-case basis for each payor, but in making this determination of undue burden, the Secretary should be satisfied that the payor has made a good-faith effort to retrieve necessary information from employers whose plans it administers.

Mr. PACKWOOD. I thank the Senator.

Mr. LONG. Mr. President, I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr President, on August 13, 1981, President Reagan signed into law the biggest tax cut in American history. Flush with sparkle and promise, the President told us that the 5-year, $750 billion revenue reduction would, at last, flatten the high deficits, and make possible a return to the great days of prosperity.

We were told economic recovery was on the way. We could look forward to increased savings, said the President, and more investment capital at lower rates of interest. There would be more jobs, greater productivity, and all of that was to happen because the Kemp/Roth tax package was the great elixir of economic growth.

Those were euphoric times. And they lasted exactly 6 weeks before the President went on national television in September to say he needed another $22 billion in revenue enhancements in order to meet his goal of a balanced budget by 1984. So it took just 42 days before the country found out that the Kemp/Roth elixir was just snake oil in a fancy bottle, and we had drunk too much.

Last year's high hopes were dashed in a hurry. Now, in August of 1982, the hopes seem high again. The stock market soared 39 points on Tuesday, and traded 133 million shares yesterday. Interest rates have taken a sudden plunge. But, remembering last year's 6 week flipflop, I wonder where we will be 6 weeks from today, especially if Congress approves the biggest tax hike in American history, an increase President Reagan seems to want as badly as the record tax cut he wanted just 1 year ago.

Last year's Kemp/Roth tax package haunts every corridor of the economy, and has deprived us of the chance to mount a realistic attack on the Federal deficit. No matter what we have done in the effort to curtail spending, it has not—and cannot be—enough to catch up with the beheading of revenues because of Kemp/Roth.

With the projected revenue loss of $750 billion over the next 5 years, it is clear that further spending cuts alone cannot achieve a balanced budget. In 1985, defense will cost $300 billion, social security $200 billion, health $100 billion, veterans $25 billion, and the increased cost for interest on the national debt—$140 billion. We are bound to have $765 billion in spending during fiscal 1985, but the expected revenues are only $760 billion.

If we eliminated food stamps—completely wiped out the program—if we closed the Department of Agriculture, Commerce and Interior and stopped all their programs; if we eliminated the courts, the Congress and the FBI; in short, if we, dismantle all the rest of the Federal Government, we would still have a deficit.

So, rather than setting off a boom in the economy, the Kemp/Roth tax reduction has inflicted despair at the very time that the American people need hope.

I am not here to question the President's good intentions. Like everyone else, he wants the country back on its feet. Kemp/Roth, however, has bent the economy to its knees, and that is something the President has not been able to fully grasp. The President's strong support for a tax increase is at least a belated admission that we cannot fight deficits with the revenue arm tied behind our backs. But while the tax bill now before us has its virtues, it is not the kind of adequate or equitable package we need so that more economic surgery will not be needed later.

On the positive side, this bill closes some loopholes. It does away with the obnoxious safe-harbor leasing provision.

But there are many negatives. The bill raises the floor on itemized medical deductions to 5 percent. It includes interest and dividend withholding provisions that tend to discourage savings at the very time that increased personal savings are needed. It penalizes the development of technology. It removes revenue resources from the States. But the largest negative feature of this tax bill is a provision that is not even in it: It obscures the fact that we are still faced with persistently high and totally unacceptable Federal deficits.

This tax bill does not set us on a new course. It leaves us flying blindly and blithely through a mountain range of deficits. We need to get our bearings. We need the political willpower and the economic commonsense to adopt a flight plan toward budgets balanced by spending restraint and prudent revenues.

We must move immediately to forgo the third year installment of the Kemp/Roth tax cut. That would bring in some $74 billion without enacting a tax increase, but just by freezing tax schedules as they are.

Next, we need to look clearly at defense spending. In the last 2 years, we have increased defense spending by a total of $74 billion. Instead of rushing to throw money at the defense industry in the misguided belief that the dollars can be converted overnight into an improvement in national security, we should stretch that out over a longer period. We cannot afford to make actual cuts in defense spending. Neither can we afford to threaten the rest of the economy by accepting exorbitant increases. If we agree to a 3-percent real growth in national defense spending, that still leaves us a $23 billion increase for next year, a level of spending that exceeds President Carter's when adjustments are made for recent rates of inflation.

More than anything else, we must finally face up to the problems in our entitlement programs. What we need to do, and what I have been trying to persuade my colleagues is necessary, is to momentarily freeze the cost-of-living increases and cap them off at 3 percent. It has been done elsewhere—in city halls, in State capitals, and among members of organized labor—where necessary and temporary restraint has been applied to wage increases.

The ideas I have just described are at the core of a program I have offered on several occasions throughout this year. I will do it again, not because I am ornery or because I am a member of a political party different from the President's, but because we genuinely need a firm, fair, and effective approach to the deep trouble we are in.

It is not necessary that the President eat humble pie and reverse his program in total. I am not asking that at all. I share the President's view that we must turn down the spending thermostat. I agree we need to restrain government intrusion. But if the President is truly serious about restraint, then it is essential that he practice it himself.

The wild ride the economy has been on has not served any of us very well. The Reagan program running full out, has not cut the budget deficits, has triggered massive unemployment, and, while the recent genuflection in interest rates is welcome, there is nothing to suggest that it is long term, or related in any way to the President's economic program.

If the events this week on Wall Street tell us anything at all, it is that the economy is dangerously vulnerable to little nudges, to isolated events, to the opinions of highly visible economists. This week tells us we have an unstable economy, made even more uncertain by shifting signals. One day, the distinguished chairman of the Senate Finance Committee expresses disappointment in the President's economic program; the next day the President tells us we should be willing to pay the price for keeping the program going. One morning the President's top advisor, Jim Baker, admits the economic plan is not working as advertised; the same night President Reagan tells us he is not going to change it.

We need to change gears, and we had better do it soon. This tax bill does not do that. It obscures our real problems, and I will not support it.

Mr. LONG. I yield 2 minutes to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, we have enormous economic problems in the country with our main requirement to get people back to work and deal in a fundamental way with our problems. I do not think this tax increase package gets that job done. I think it will create the illusion that we are making progress and thus postpone real action for some months, to the real peril of this country. So I will be voting against this tax increase because I think it is the wrong measure to take at this critical time.

THE PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, if there is no further request for time, I am prepared to yield back.

Mr. DOLE. Mr. President, I would just like to take 2 or 3 minutes.

How much time does the Senator from Kansas have?

THE PRESIDING OFFICER. Four minutes, 31 seconds.

The Senator from Kansas.

Mr. DOLE. Mr. President, as we prepare to vote on this measure, I thank all Senators and members of their staffs, Treasury representatives, the staff of the joint committee, our own Finance Committee, on both sides of the aisle, and all the others who have been working night and day for the past month, I might say, to bring us to this point.

Obviously, if we lose, it will be a disappointment—not really a personal disappointment, but I think a disappointment to many Americans who expect more from the Senate and from those who are privileged to sit in this body. I think the vote will be very close. I think it will be favorable. If it is unfavorable, then I hope that someone will come up with a solution. We will go back and visit some taxes that we overlooked the first time in an effort to bring in more people and make it more palatable to more people.

I say, finally, that if someone is concerned about spending reduction, 60 percent of it in the reconciliation process is in this bill. We exceeded the budget resolution in spending reductions. If Senators are looking for tax reform, for closing loopholes, it is in the bill.

Yes, we increased the telephone tax an average of 54 cents a month. If you smoke 200 packs of cigarettes a year, that is $16 more under our bill. We reinstated an airplane tax that we have had until 2 years ago.

We can make all the speeches we want about those great taxes and how they are bad for the American people, but so is unemployment, so are high interest rates and so are big deficits bad for America. I do not suggest for one moment that this bill is perfect or that it is the answer to all America's ills, but I do suggest that if we reject this conference report, after the House passed it today and after the Senate passed the bill once, then we send exactly the wrong signal to those who are looking to us for appropriate action.

Mr. President, as we near what I hope will be a successful conclusion to a long and difficult struggle, I again commend the Speaker of the House of Representatives, the distinguished ranking minority leader, Congressman MICHEL, Congressman CONABLE, and DAN ROSTENKOWSKI, and others on the House side, for their courageous leadership.

In my own view, having managed the tax bill last year when we were giving away money, I must say that the President's action this year in supporting necessary revenue increases in my view is much more courageous than it was last year. It takes a practical, pragmatic leader to make difficult decisions, and the President has made those difficult decisions.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, if the Senator will withhold for just 30 seconds, the last few speakers have indicated that some of us who oppose this bill are less than knowledgeable, less than patriotic in that opposition. We disagree. That is the bottom line. We disagree. If this bill does fail, we will in fact offer alternatives. There are plenty of alternatives or we would not be in this position today.

Mr. DOLE. Let me say that I do not intend to indicate that. I do not believe the Senator from Kansas has. But I do believe, having gone through the process, if we all wrote our own tax bill, we would have a great time. There would be 100 tax bills on the Senate floor, and we would each have a perfect bill. But I must say that this bill was put together in the Senate Finance Committee, passed on the Senate floor and improved in conference. It comes back now for a final approval by the Senate.

I am prepared to accept that verdict.

Mr. SYMMS. Will the Senator yield?

Mr. DOLE. I yield.

Mr. SYMMS. I thank the Senator for yielding.

I rise in support of this conference report.

I would like to make a few comments with regard to the section of this conference report relating to the completed-contract method of accounting.

I am concerned that under the accounting method changes for long-term contracts, a contract which is not expected to be an extended-period long-term contract could, unintentionally, become an extended-period long-term contract because of unforeseeable circumstances which a reasonable businessman could not anticipate based on prior experience with similar long-term contracts or events which are beyond his control. For example, strikes, unanticipated soil failures, litigation between the parties to the contract, litigation by third parties, defaults by subcontractors, owner-caused delays such as failure to make progress payments or provide access to the construction site, unusual delays in delivery of materials or supplies, change orders exending contract duration beyond 36 months which could not be anticipated, delays due to zoning or permit applications, and delays caused by Government agencies as in the acceptance of environmental impact statements are the types of events which could turn a contract into an extended duration contract if they are not foreseeable.

Also, it would seem that the mobilization and insignificant preparatory costs weeks or months prior to actual

physical construction should be treated as bidding costs.

I do believe, however, that those concerns can be addressed during the regulatory process. It is my hope that prior to the formulation of the regulations all concerned parties could consult on this matter.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. LONG. I yield back the remainder of my time.

Mr. DOLE. I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), is absent because of illness in the family.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—52

Abdnor	Durenberger	Packwood
Andrews	Garn	Pell
Armstrong	Gorton	Percy
Baker	Grassley	Pressler
Baucus	Hart	Quayle
Boschwitz	Hatch	Roth
Bradley	Hatfield	Rudman
Brady	Hayakawa	Simpson
Chafee	Heinz	Specter
Cochran	Jepsen	Stafford
Cohen	Kassebaum	Stevens
Cranston	Kennedy	Symms
D'Amato	Laxalt	Thurmond
Danforth	Lugar	Tower
Denton	Mathias	Tsongas
Dodd	Matsunaga	Wallop
Dole	McClure	
Domenici	Murkowski	

NAYS—47

Bentsen	Goldwater	Metzenbaum
Biden	Hawkins	Mitchell
Boren	Heflin	Moynihan
Bumpers	Helms	Nickles
Burdick	Hollings	Nunn
Byrd, Harry F., Jr.	Huddleston	Proxmire
	Humphrey	Pryor
Byrd, Robert C.	Inouye	Randolph
Cannon	Jackson	Riegle
DeConcini	Johnston	Sarbanes
Dixon	Kasten	Sasser
Eagleton	Leahy	Schmitt
East	Levin	Stennis
Exon	Long	Warner
Ford	Mattingly	Weicker
Glenn	Melcher	Zorinsky

NOT VOTING—1

Chiles

So the conference report was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. The majority leader is recognized.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there will be no more record votes tonight. The Senate will convene at 9 a.m. tomorrow.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Arizona seeks recognition.

Mr. DECONCINI. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, we cannot hear what the Senator is saying. May we have order?

The VICE PRESIDENT. The Senator will suspend.

Will the Senate be in order? The Senator from Arizona is speaking.

The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still not in order.

The VICE PRESIDENT. The Senator makes a valid point. The Senate is not in order.

Mr. ROBERT C. BYRD. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER (Mr. MATTINGLY). Will the Senate please come to order. Those who wish to talk please retire to the cloakroom.

VHF TELEVISION FOR NEW JERSEY

Mr. BRADLEY. Mr. President, I am extremely pleased that tonight also marks the successful conclusion of one of the chief legislative battles I have fought since coming to the U.S. Senate. With the enactment of tonight's legislation, New Jersey will no longer be one of only two States in the country which has no VHF commercial television station.

For 3½ years, I have tried, through both the administrative and legislative routes, to get a television license reallocated to New Jersey. I deeply appreciate the support I have received from my colleagues in that effort. Four times the Senate has passed amendments I have offered to reallocate a license to my State. Yet, until tonight, those efforts have been stalled.

To those who do not live in New Jersey, this problem may not seem as serious as those in our State know it to be. Last year, for example when we had a drought so severe that water was rationed for most of the residents of our State, the New York television stations gave little meaningful coverage to the problem. New Jerseyites did not learn from those New York stations how to conserve water or what the daily changes were in water use regulations.

And the out-of-State stations do not cover daily events of importance to those who live and work in our State. As a result, New Jerseyites know more about what is happening in New York and Philadelphia than they do about important occurrences in Trenton and the rest of the State.

My amendment, which was ultimately accepted by the House conferees, will remove the impediments which currently discourage an existing licensee in either New York or Philadelphia from voluntarily seeking to move to New Jersey. Under current law, that request would automatically trigger an action to open up that license to new applicants. In other words, the license would automatically be at risk to the current licenseholder. This makes it very unlikely that anyone would voluntarily offer to move to New Jersey.

This amendment will direct the FCC to renew the license of any current VHF TV licenseholder in a State that has more than one VHF TV station who applies to move that license to a State that has no commercial VHF television station.

It is my hope that an application will shortly be made. One station has already expressed a desire to move to New Jersey.

Under the provisions of my amendment, the reallocation of a license to New Jersey will mean that the licenseholder will move its studios and offices to New Jersey and operate in New Jersey for the benefit of the people in our State.

While I have consistently indicated that I will take no part in any effort to determine who will hold a New Jersey license, I intend to carefully monitor the development of any New Jersey station to insure that it is responsive to the needs of my State. This station will not be a New Jersey station in name only. It will serve the people of New Jersey.

Mr. President, we all recognize the tremendous impact that telecommunications has on our lives, on our children's education, on our ability to understand each other's needs. No longer will New Jersey suffer from the lack of this very important tool. I am grateful that tonight signals a new day for the people of my State.

Mr. BAKER. Mr. President, I understand the distinguished manager of the bill has certain details to attend to at this time, before I make arrangements for tomorrow.

CORRECTIONS IN THE ENROLLMENT OF H.R. 4961

Mr. DOLE. Mr. President, I call up House Concurrent Resolution 398, which is at the desk.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 398) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 398) was agreed to.

Mr. DOLE. That makes some printing and technical corrections.

The PRESIDING OFFICER. The Senator is correct.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, could I have the attention of the Senate for a moment?

The PRESIDING OFFICER. Will the Senate please come to order so the majority leader may proceed.

Mr. BAKER. Yes. I ask unanimous consent, Mr. President, when the Senate completes its business today it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, on tomorrow after the recognition of the two leaders under the standing order, it is anticipated that the Senate will be asked to proceed to the consideration of the supplemental appropriations conference report.

The supplemental conference report is the last item of must business that must be transacted before we can pass the adjournment resolution. The House will be in session tomorrow awaiting our action on the adjournment resolution. Mr. President, I hope it will be possible to proceed to the consideration of that matter by unanimous consent.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 10:30 p.m. in which Senators may speak for not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUS DEREGULATION CONFERENCE REPORT

Mr. PACKWOOD. Mr. President, it had been my hope—and I talked with the distinguished minority leader—to bring up the bus deregulation conference report tonight. He has indicated he would like a rollcall vote but, as I understand it, there will be no more rollcall votes.

Mr. BAKER. That is correct. There will be no more rollcall votes tonight.

Mr. PACKWOOD. So I will not push it tonight. I can assure the minority leader that this will not harm the small communities. The problem has been taken care of in the House, and the distinguished chairman of the House committee, Mr. HOWARD, is in the Chamber tonight. I will defer to the minority leader.

I would like to bring it up tomorrow. We may have to have a rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. The bill, when it passed the Senate, would threaten bus service for at least 39 West Virginia communities. I have not had an opportunity to look at the conference report. I would not want to say at this time that I definitely will ask for a rollcall vote. I may be willing to have a voice vote. I may be willing to have a voice vote even if I vote "no." But I will reserve my rights until tomorrow to ask for a rollcall vote.

Mr. PACKWOOD. I understand perfectly, and I appreciate the Senator's consideration.

Mr. ROBERT C. BYRD. The Senator will be assured I will not hold up the conference report.

IN MEMORY OF JACK GILES

Mr. HEFLIN. Mr. President, I have the sad duty of informing the Senate of the death of Jack Giles of Huntsville, Ala.

Jack Giles played an invaluable role in the progress of the Alabama Space and Rocket Center in Huntsville. He had been actively involved with the Alabama Space Science Exhibit Commission since 1965, and served as chairman of the commission since 1970, the year the Alabama Space and Rocket Center opened. Jack worked diligently for the betterment of the space center, and was a key figure in the development of a $16 million expansion program for the center.

Jack's dedication and concern for his community and State is evidenced by the many years he devoted to public service. The former attorney was appointed as director of the State department of industrial relations by former Gov. George Wallace in 1963. In addition, he served as a Huntsville city judge, president of the Huntsville Bar Association and a Madision County Circuit Court registrar.

The native Alabamian was an all-state football player at Huntsville High School. He attended Auburn University and earned his law degree from the University of Alabama. Jack chose to interrupt his college years and enter the military during World War II, where he served as captain of engineers under General Stillwell in the Burma theatre.

A devout Christian, Jack was an elder and former trustee of the Central Presbyterian Church in Huntsville. In addition, he was a retired lieutenant colonel in the Alabama National Guard and a member of the Troy State University Board of Trustees.

I wish to express my deepest sympathy to Jack's family. Survivors include his wife, the former Majorie Brown; two sons, Jack Giles, Jr., of Huntsville and Tom Giles of Birmingham; three daughters, Mary Grace Giles and Phyllis Giles of Huntsville, and Judy Moon of Birmingham; three sisters, Mrs. Sara Poole of Petersburg, Va., Mrs. Molly Goodloe of Richmond, Va., and Mrs. Dolly Stevenson of Birmingham.

Jack has served his family, his State, and his country well. His presence will be greatly missed by those who dearly loved him, and also by those whose lives he touched during his great service to our society.

NATIONAL FIREFIGHTERS WEEK

Mr. HEFLIN. Mr. President, I would like to rise in support of Senate Joint Resolution 227, concerning the commemoration of the week beginning September 20, 1982, as National Firefighters Week. It is certainly appropriate that these brave men and women be honored in this way.

Firefighting has been characterized as the most dangerous occupation in this country. More than 120 firefighters died in the line of duty last year, and countless others were injured. These courageous people risk life and limb every day while protecting the lives and property of other Americans. In fact, we may proudly say that American firefighters are the finest and bravest in the world; their skill and professionalism are evidenced by the fact that America suffers less property damage per fire than does any other country in the world.

Besides serving to honor our firefighters, National Firefighters Week will be a golden opportunity to increase public awarnesss about fire. Despite the valiant efforts of our firefighters, America experiences an inordinately high number of fires per capita, primarily because of the lack of public awareness about fire.

I urge my colleagues to support this resolution honoring our brave firefighters, and I call upon the general public to become actively involved in National Firefighters Week.

THE FLAT-RATE TAX

Mr. LONG. Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the Washington Post in connection with the flat-rate tax.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 13, 1982]

FLAT-RATE TAX WOULD HELP THE RICH

Many persons have asked what I think of proposals to replace our progressive rate income tax system with a so-called flat rate income tax.

My answer to them is simple: "If you're rich you'll love it; if you're not rich, look out!"

A pure flat-rate income tax would eliminate all deductions and tax everyone at a single rate. For example, with a flat rate of 10 percent, a $20,000-a-year worker would pay $2,000 in federal income taxes, while a person with a $200,000-a-year income would pay $20,000. Our "progressive" system permits deductions and taxes individuals at rates ranging from 12 to 50 percent, depending on income. This system is based on the principle that those with large incomes should pay a higher percentage than those with low incomes.

Advocates of a flat-rate tax have correctly argued that our present system is complicated and in need of simplification. The question is whether it is justifiable to shift the tax burden from the rich to the middle- and low-income taxpayers in the name of simplicity.

In my view, simplification of the tax system and flat rates are completely separate issues. If it is desirable to close loopholes in order to reduce tax rates, that can be done without the massive shift in tax burden involved in a flat-rate tax. I am concerned that some proponents of a flat-rate system are using simplification as a convenient slogan to justify big tax cuts for the rich at the expense of middle- and lower-income taxpayers.

Much of the support for a flat-rate tax is inspired by the belief that "fat cats" use loopholes to avoid paying their fair share of taxes under the present system. But what constitutes a loophole is in the eye of the beholder. I doubt that many middle-income homeowners consider their home mortgage interest deductions a "loophole." But how do the millions of taxpayers who do not own their homes view this deduction?

Other deductions—or loopholes—that would be eliminated by a flat-rate tax include charitable and church donations, consumer installment interest, state and local taxes, union dues, medical bills, moving expenses, alimony and educational expenses.

Employer-paid fringe benefits, such as health and life insurance, pension contributions, subsidized parking and educational expenses, would be subject to full taxation. Also subject to immediate taxation would be the gain a homeowner makes when he sells his home. At present, homeowners are permitted to defer tax payment on the sale of their homes if they purchase new ones of equal or higher value within a certain period.

Congress' Joint Committee on Taxation recently reported how an 11.8 percent flat-rate tax on adjusted gross income would affect taxpayers. Using adjusted gross income figures for 1984, the Joint Committee found that the amount of taxes paid by persons with incomes below $30,000 would increase by percentages ranging from 12.8 to an astronomical 1,259. However, taxes for those earning more than $30,000 a year would decrease by amounts ranging from 5 percent to 53.2 percent.

In studies on flat-rate taxes, the Congressional Research Service found that under present law, taxpayers with adjusted gross incomes below $30,000 a year pay 41 percent of the total of federal income taxes raised from individuals. However, if a flat-rate tax of 15.5 percent were imposed, that same group of moderate- and low-income taxpayers would end up paying 58.2 percent of all individual federal income taxes.

Sponsors of some of the flat-rate bills attempt to remedy the built-in inequities of this type of system by allowing some deductions, by increasing the personal exemption allowance, by exempting low-income persons from all taxes and by imposing several—rather than a single—tax rates. All that most of these modifications do is reduce the degree of unfairness in an inherently unfair system. I know that once one type of deduction in a flat-rate tax system is allowed, Congress would be unable to resist the pressure for numerous other deductions.

Justice and fairness require that those who make large amounts of money should pay a higher rate of tax on income than middle- and low-income families. It seems totally unfair to have a person earning $15,000 a year paying the same rate as someone making $1 million.

I strongly support reducing taxes and simplifying our income tax system, and have worked to do so for many years. Our efforts toward simplification made it possible last year for 40.7 percent of the taxpayers to file their income taxes on the so-called short form, which usually can be completed in less than an hour. Another sign of progress in our efforts at tax simplification is the fact that 79 percent of taxpayers in 1980 chose *not* to itemize their deductions. Further work toward simplification is needed, and I intend to continue to push for a simpler and fairer tax system.

I am not arguing that the concept of a flat-rate income tax should be ignored. In fact, I favor giving this idea a thorough study, as the Senate Finance Committee is scheduled to do this year.

Perhaps a way can be found to structure a flat-rate income tax system that will be fair to all. But until such a system is found, the flat-rate income tax will *not* have my support.

AMERICA'S TOWN OFFICIALS TO HOLD EDUCATIONAL CONFERENCE IN WASHINGTON, D.C.

Mr. DURENBERGER. Mr. President, close to 1,000 town officials will be in Washington, D.C., the week of September 6 to take part in the 1983 educational conference of the National Association of Towns and Townships (NATaT). This event is the biggest town meeting in the Nation.

Mr. President, I know that you and our colleagues here in the Senate will want to join me in extending our warmest greetings to the distinguished members of this nationwide federation of State associations and individual community members representing approximately 13,000 units of local government throughout the country. I would also like to commend to you the following officers, directors, and advisors of NATaT. These officials are carrying on the tradition of our Nation's Founding Fathers by promoting cooperation between all levels of government, and by providing economical, effective, and efficient local government services to millions of Americans in small, rural, and suburban communities:

OFFICERS

President, Ed. K. Krueger, Wisconsin Towns Association; First Vice President, George H. Miller, Township Officials of Illinois; Second Vice President, Michael H. Cochran, Ohio State Association of Township Trustees and Clerks; Secretary/Treasurer, B. Kenneth Greider, Pennsylvania State Association of Township Supervisors; and Immediate Past President, Robert R. Robinson, Michigan Townships Association.

BOARD OF DIRECTORS

Wiifred Johnson, Indiana Township Trustees Associations; Floyd D. Snyder, Association of the Towns of the State of New York; Don Misener, South Dakota Association of Townships; David Russell, Connecticut Council of Small Towns, Ervin Strandquist, Minnesota Association of Townships; James Totten, New Jersey Association of Towns and Townships; North Dakota Township Officers Association; and Jean Levesque, ex officio, National Association of Smaller Communities.

ADVISORY COUNCIL

Bob Bergland, President, Farmland-Eaton World Trade; Landrum Bolling, Distinguished Research Professor, Georgetown University, Consultant, Council on Foundations; Herrington Bryce, President, National Policy Institute; Daniel Elazar, Director, Center for the Study on Federalism; Orville Freeman, President, Business International, Inc.; Leigh Grosenick, Director, Graduate School of Public Administration, Virginia Commonwealth University; Robert Hawkins, President Sequoia Institute; Barry Wellar, University of Ottawa, Canada. Executive Director: Barton D. Russell.

Mr. President, these officials and the other delegates to NATaT's national conference are coming to Washington, as their conference theme states, to make their voices count. As a Senator from the State of Minnesota, where there are more than 1,800 townships, I understand the concerns that these men and women are bringing with them and their need to make their voices heard here in Congress, in the White House, and with the Federal agencies.

All they ask is equal treatment with their urban counterparts on the Federal level: A fair share in the Federal budget for programs that help them provide sorely needed services and facilities that create jobs in their communities; equal access to block grants that are going to the States to administer; less Federal redtape that creates a disproportionately heavy burden for small towns and townships; and a fair share of general revenue sharing. In this regard, NATaT is extremely interested in the renewal of this vital program, which expires next year.

The national association is also working hard to gain representation for towns on the prestigious Federal Advisory Commission on Intergovernmental Relations, a deficiency that would be remedied by legislation that

I have the honor of sponsoring in this Congress.

Mr. President, these are some of the issues that NATaT's conference delegates will be discussing and debating during the association's 1983 Make Your Voice Count conference. I know that you will want to join me in applauding their efforts to make their voices count and take part as fully as possible in our federal system of government.

With your permission, I would like to insert at this point in the RECORD the following information on the town system of local government, which has encouraged our citizens to play a vital role in the life of their communities and to help shape the direction of their government.

TOWNSHIPS—THE VITAL LINK

The township was the first form of local government to be adopted in America, brought to the continent by settlers from England. First established in Massachusetts around 1620, township government moved west as the country grew, and today serves nearly 63 million people.

Townships were originally known as the Nation's rural form of government. This is no longer completely true, as a number of townships have developed characteristics and problems similar to urban communities.

Townships and other small communities differ from State to State, but most are governed by an elected board or council which often consists of a mayor or supervisor, a clerk, and several officials called trustees or selectmen. Most town governments administer a wide variety of vital services such as fire and police protection, water and sewer systems, construction and maintenance of roads, emergency medical care, and aid to the poor.

To this day, small town governments reflect the values of our Founding Fathers. The town meeting is still held in many areas of the country, providing citizens with the opportunity to participate directly in the affairs of their community.

A VOICE FOR TOWNS IN THE NATION'S CAPITAL

When NATaT was first established, towns and townships formed the cornerstone of its membership. Today, the association has expanded to reach across the country to small communities of all types.

The National Association of Towns and Townships is a nonprofit organization offering technical assistance, educational services, and public policy support to local government officials from more than 13,000 small communities across the country. Through its Washington, D.C., headquarters, the association conducts research and develops public policy recommendations to help improve the quality of life for rural people. NATaT's educational conferences, training workshops, and specialized publications help small town officials cope with and manage change in their communities.

As the voice of small town America in the Nation's Capital, NATaT is a highly respected authority on rural community development matters.

NATaT receives numerous requests from Congress, the White House, and the Federal agencies to provide the town perspective as national policy legislation, and regulations are being formulated. NATaT represents the town point of view on a broad range of governmental matters from infrastructure needs to general revenue sharing to the Federal paperwork burden.

One of the most important educational services NATaT offers town officials is the national educational conference, attended by hundreds of local officials every year. Every event is designed to help local leaders learn how to be more effective in administering their local governments and providing vital services to their constituencies.

Conference events include workshops on a wide range of local government topics, general sessions addressed by executive branch officials and key Members of Congress, a legislative exchange between local leaders and Members of Congress on Capitol Hill, and exhibits on local government products and services that seldom reach small rural communities.

Another key element of NATaT education program for small town leaders is the National Community Reporter, the association's bimonthly news journal. The Reporter is the only regular national source of information and ideas exclusively for town officials. Topics range from community and economic development to tested small town management and planning techniques.

In addition to these elements of the association's education program, NATaT offers its members a free information clearinghouse, which distributes a wealth of information on problem-solving resources and other hard-to-find information for small jurisdictions.

Many local officials look to NATaT for information and advice on Government grants-in-aid, technical support, and community improvement programs that will work in their localities. Through its technical assistance program, NATaT helps local leaders find cost-effective solutions to their most pressing community development problems, and guides them through the often bewildering maze of Government rules and regulations.

The National Association of Towns and Townships also works with other major public interest groups on matters important to officials in small rural and suburban communities. Through this type of cooperation, the association helps insure that smaller local governments will remain a vital, effective voice in our Nation's federal system of government.

Mr. President, I know you will agree with me that townships represent a vital system of local government, particularly today when many Government responsibilities are being shifted to the State and local levels. These local forms of government continue to provide outstanding service to millions of Americans and to serve as a crucial link in the intergovernmental system.

It is indeed a pleasure for me to seek this national recognition and to join with you and our colleagues in welcoming delegates to the annual conference of the National Association of Towns and Townships to our Nation's Capital and to salute small town officials everywhere for their commitment and hard work on the local level.

COUNTDOWN ZERO: NUCLEAR TESTS AND THE HUMAN FALLOUT

Mr. CRANSTON. Mr. President, I want to call to the attention of my colleagues the recent publication of a book, "Countdown Zero," which, by focusing on the experiences of the authors, Thomas H. Saffer and the late Orville Kelly, as they participated in this country's nuclear testing program, provides a very personal and useful perspective on the subject of the effects of the use of nuclear weapons.

This book is a moving account of U.S. troops who already may be victims of the horrible force of our nuclear arsenal. The authors, along with 250,000 other nuclear test participants who were guinea pigs in the Government's nuclear weapons tests, were exposed to health risks that may have lasting, sometimes fatal effects. Although I cannot endorse all of the authors' views, the book provides a valuable perspective on an important and tragic problem confronting our Nation.

Recently, the New York Times Review of Books published a review of "Countdown Zero." Because I intend to ask that this review be printed in the RECORD, I want to make one point of clarification. The legislation that the reviewer discusses in the early part of the review was enacted last year as section 102 of Public Law 97-72. The effect of this law is that veterans exposed to radiation from nuclear devices are now eligible to receive health care from the VA for diseases and disabilities that may be related to their exposure without regard to their disability having been adjudicated as service connected or their ability to pay for the needed care. The statutory provision permits care to be denied, if the veteran is not otherwise eligible for it, only when there is evidence that

the condition resulted from some cause other than radiation.

Mr. President, I ask unanimous consent that the August 1 review of "Countdown Zero," by Blanche Wiessen Cook be printed in the RECORD.

There being no objection, the review was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 1, 1982]

THE LEGACY OF ATOMIC TESTING

("Countdown Zero," by Thomas H. Saffer and Orville E. Kelly; Introduction by Stewart L. Udall)

(By Blanche Wiesen Cook)

The 1950's are remembered by many as a time of air-raid drills during which people were told to stand in hallways or "take cover" beneath their desks. Nelson Rockefeller wanted to build fallout shelters all over America, and neighbors wondered if God would forgive them if they barred their friends or enemies, or bridge or canasta partners, from their backyard bunkers. The still partly classified Killian Report, "Meeting the Threat of Surprise Attack" (prepared by President Eisenhower's Science Advisory Committee, chaired by Dr. James A. Killian and submitted in February 1955), announced: "The public will need indoctrination to accustom themselves to the fact that low levels of radiation can and must be lived with. Radiation must be a phenomenon that is universally accepted." Lewis Strauss ran the Atomic Energy Commission and talked blandly of the temporary and minor inconvenience of radiation; Dr. Edward Teller's thermonuclear (hydrogen) bombs were tested and described as new, different and very clean.

Although the myth of the harmless atom continues to be official government policy, it has actually been laid to rest again and again. According to California Senator Alan Cranston, there are 80,000 published articles on the cancer risks of low-level ionizing radiation exposure. But when Senator Cranston introduced legislation in 1981 to extend veterans' health benefits to the victims of nuclear experiments during the 1950's, William H. Taft 4th, general counsel for the Department of Defense, protested. He objected that Senator Cranston's bill created "the unmistakable impression that exposure to low-level ionizing radiation is a significant health hazard." Mr. Taft condemned this "mistaken impression" as potentially "damaging to every aspect of the Department of Defense's nuclear weapons and nuclear propulsion programs. The legislation could adversely affect our relations with our European allies, impact upon the civilian nuclear power industry, and raise questions regarding the use of radioactive substances in medical diagnosis and treatment."

"Countdown Zero" answers the Department of Defense more personally and more accessibly than any other single volume. Senator Cranston's bill was introduced in response to the case histories of 14 atomic veterans presented by the widow of former Sgt. Maj. Orville E. Kelly, who died in 1980 at age 49 from malignant lymphoma, cancer of the lymph glands. Before Orville Kelly died, he and Thomas Saffer wrote of their own experiences and collected the testimony of many of the servicemen who were assigned to witness or participate in one or more of the 235 announced United States atmospheric nuclear tests conducted between 1945 and October 1958, when President Eisenhower declared a moratorium that drove weapons tests underground.

An estimated 250,000 servicemen and 150,000 civilians participated in the atmospheric tests. Some, like Thomas Saffer, participated in war games in which they were ordered to "attack" the blast site immediately after detonation. Rifles raised, bayonets poised, hundreds of troops were to charge ground zero from less than two miles away. Many, dazed, nauseated and blinded by dust from the explosion, wandered within a few hundred yards of ground zero. For 17 years, nuclear experiments involved the activity of military personnel, exposed to the awesome force of the blast, the heat, the turbulence and the metallic smell and taste of the elements found in fallout. They bore witness to atomic explosions many times the power of the bombs that leveled Hiroshima and Nagasaki—without protective clothing and without information of any kind. They were assured there was no danger. They were dusted off with brooms and told to shower. Now, as they sicken and die, they are denied medical benefits by the Veterans Administration. They have been told their illnesses are not service-related.

Written out of anguish and rage, "Countdown Zero" describes the experiences of atomic veterans, reveals the government's continuing cover-up of the full extent of the 1950s tests and makes clear the seriousness of their medical legacy. It also recounts the founding of the National Association of Atomic Veterans. The Association, organized by Orville and Wanda Kelly, locates veterans, provides legal and personal support and works to achieve medical benefits for the thousands of veterans now struggling against cancer, neuromuscular diseases and leukemia, as well as the genetic defects that have already damaged the lives of many of their children and grandchildren.

This is not a definitive book. It covers much the same ground as Michael Uhl and Tod Ensign's "G.I. Guinea Pigs" (1980), a well-researched and more thorough analysis of the Pentagon's exposure of United States troops to atomic radiation and the herbicide Agent Orange. Leslie J. Freeman's "Nuclear Witnesses: Insiders Speak Out" (1982), Howard L. Rosenberg's "Atomic Soldiers: American Victims of Nuclear Experiments" (1980) and Harvey Wasserman and others' "Killing Our Own: The Disaster of America's Experience with Atomic Radiation" (1982) have added significantly to our knowledge of this subject. But Mr. Saffer and Mr. Kelly present the fullness of their lives, lives of courage and caring in the face of an official disregard for the health and well-being of men who considered themselves above all the patriots and defenders of this culture.

On June 24, 1957, 23-year-old Thomas Saffer, a second lieutenant in the United States Marine Corps, knelt down in a trench that was to protect him from a nuclear blast called Priscilla. He was told to close his eyes and shield them with his left forearm. Trained and educated at the Virginia Military Institute to be "a citizen-soldier," he neither doubted nor questioned his superiors. Inspired by the words of Gen. Stonewall Jackson, "You may be whatever you resolve to be," Lt. Saffer had resolved to be an outstanding officer. Bolstered by a swagger stick and an "attitude of gung-ho guts and glory," he became platoon leader of the Fourth Marine Corps Provisional Atomic Exercise Brigade, assigned to Nevada for "combat maneuvers using atomic bombs as offensive weapons." His superior officers considered nuclear war inevitable. Lt. Saffer and his troops were to create a team of nuclear warriors who would triumph and prevail. They were repeatedly assured there was no danger, "because the 1957 test series marked the advent of the 'clean' bomb."

Mr. Saffer, who reached the rank of captain before leaving the Marine Corps, received many of the details for this book through the Freedom of Information Act. Unfortunately, many of the relevant documents were destroyed in a mysterious fire that raged out of control on July 12, 1973, on the top floor of a Federal-records storage building in St. Louis. Over 17 million records relating to Army and Air Force personnel were incinerated, including the files of many atomic veterans. Mr. Saffer's research did, however, recover startling examples of the military's slovenly approach to these experiments. When, for example, Gen. Alfred Gruenther, commander of NATO, asked in March 1955 how in fact United States troops were to be protected from fallout during the course of the planned atmospheric tests, he received a memo from the Joint Chiefs of Staff that explained, "Although a great deal is unknown about fallout, the problem is a manageable one." When Saffer arrived in Camp Desert Rock, Nevada, he was handed an information bulletin that explained, "The sun, not the bomb, is your worst enemy at Camp Desert Rock."

According to Mr. Saffer, the Pentagon's safety standards differed from those of the Atomic Energy Commission's Division of Biology and Medicine, which warned that troops should be seven miles from ground zero during a nuclear blast. During the 1952 tests, troops in trenches were positioned as close as four miles to the blast site. Between 1952 and 1957, they were "moved closer and closer to the actual detonation, tentatively at first, but later without caution." The Army's official Infantry School Quarterly assured military radiological-safety officers that in combat their "troops can move into or leave an exposed area a few minutes after an air burst. A soldier is not a casualty until he requires treatment. Even though he has been exposed to a lethal dose of radiation, he can perform his combat mission until symptoms appear."

Mr. Saffer describes his first reaction to a nuclear blast, positioned as he was in a trench two miles from ground zero, wearing a gas mask, a helmet and fatigues: "I heard a loud click. Immediately, I felt an intense heat on the back of my neck. A brilliant flash accompanied the heat, and I was shocked when, with my eyes tightly closed, I could see the bones in my forearm as though I was examining a red x-ray." The earth gyrated violently and Mr. Saffer was thrown from trench wall to trench wall as he was showered with dust, dirt and rocks. "A light many times brighter than the sun penetrated the thick dust, and I imagined that some evil force was attempting to swallow my body and soul. I thought the world was coming to an end."

Mr. Saffer's first blast experience was with a 38-kiloton bomb. He wondered, "Whose decision was it to place us only two miles from such a vengeful creature?" Scientists viewed the explosion through thick glass windows in a concrete and steel control tower ten miles from ground zero. Some noted that Priscilla was the most ethereal and wondrous sight they had ever seen. The fireball was mesmerizing as it changed color, and the mushroom top of the cloud

rose to 40,000 feet. Men close to ground zero took off their gas masks and watched "transfixed." But Mr. Saffer was also discomforted by a metallic taste in his mouth and an offensive smell, like that of an overheated electrical unit, that would not go away. Then a "column of dark, powdery dust . . . spread like a dark pall over the entire area." The fallout was like ash and burned holes in his green fatigues. At that point, Mr. Saffer and his men boarded armored personnel carriers for a bumpy ride that would take them within 300 yards of ground zero, where they were to inspect the equipment placed there before the blast. Of course, much of it, including tanks and trucks, had simply vanished or been vaporized. The ground was hot beneath his boots.

His "decontamination" began as soon as he was returned to Camp Desert Rock. A Geiger counter was passed over his body. He was told nothing. "Two men with brooms brushed at me from either side. The dislodged dust stung my eyes and burned my nostrils." A shower had to wait until after lunch. Mr. Saffer washed his hands before eating.

By 1957, the fallout debate raged internationally. But the Atomic Energy Commission supported continued tests, the Los Alamos and Livermore Laboratories insisted on the tests' significance and the subcontractors depended on them. In June 1957, Dr. Edward Teller, Dr. Ernest O. Lawrence of the Livermore Laboratory and Lewis Strauss persuaded President Eisenhower to promote a "clean bomb" test series. Actually, the series of 34 tests conducted in Nevada, "designed to reduce radioactive fallout," determined in part the effectiveness of Teller's new thermonuclear device.

According to Mr. Saffer, this series, called Plumbbob, was a media manipulation "to defuse public pressure." The Plumbbob shot he witnessed up close, code-named Hood, was definitely the dirtiest in the series and was five times larger than the Hiroshima bomb. Assigned to a trench three miles from ground zero, Saffer wondered, "If a much smaller bomb detonated at nearly the same height killed 150,000 Japanese, then why or how are 2100 of us expected to survive. Were we leathernecks supposed to be immortal?" Mr. Saffer, undoubtedly grateful that there was no city to collapse about him, doubted the wisdom of those in command for the first time. Nevertheless, after the blast, he dutifully led 900 of his Marines into the dust storm to charge a hill slightly to the left of ground zero. Two Marine companies moved on foot to within 400 yards of the blast site—a distance officially labeled "safe."

The Nevada experiments were followed in 1958 by the Hardtack I series. Much larger bombs, some in the megaton range, were exploded in the Pacific. In addition to the citizens of the islands chosen as test sites, 20,704 servicemen experienced these blasts. As in the Nevada tests, they were neither physically prepared for nor informed of the dangers of their duties. They watched the blasts in shirt sleeves and shorts.

Sgt. Maj. Orville Kelly, 27, was assigned to command Japtan Island in the Eniwetok Atoll. At first, he was pleased. Born in Iowa, he had long dreamed of traveling to a coral island of blue-green waters, fabulous snorkeling and endless palm beaches. And Japtan was, Kelly thought, "the most beautiful island of the atoll." His description of the moral and emotional breakdown of life on that island is devastating. There was nothing to do but wait, and to witness the bombs. For seven months, they waited. Then the men in Kelly's company walked to the edge of the lagoon 22 times in 16 weeks to observe the blasts, each with its own name: Butternut, Koa, Holly, Magnolia, Linden, Sequoia, Dogwood, Fig.

Each blast followed a pattern, and each time the men endured the searing heat, the penetrating light, the shock waves and winds and the changing colors of an unknown force. One member of Kelly's group, Morris Friberg, recalled that the first time he stared into that "violet ionized air," his conscience asked, "Does God really want this?" The men drank too much. Some became deranged. Some were denied the psychological services they requested. They were told not to eat the fish they caught, but they ate the coconut crabs and drank the water from the lagoon.

Fig was the last shot in the series. On Oct. 30, 1958, President Eisenhower declared a moratorium on United States atmospheric tests. Later tests in Nevada were conducted underground. But the long, silent death that trailed the thousands of atomic veterans who participated in these experiments was under way. Today Mr. Saffer suffers from the debilitating effects of a neuromuscular disease. Kelly died on June 24, 1980.

When Orville Kelly's cancer was finally diagnosed accurately, he vowed to have a remission so that he could "become an expert, and bring national attention" to the plight of all atomic veterans. "In the end," he wrote, "I want to see a world free from the menace of nuclear warfare. If people learn what a supposedly harmless level of radiation did to servicemen like me, perhaps they will begin to understand the urgency of uniting to stop senseless nuclear weapons proliferation." In the process, he and Wanda Kelly founded the National Association of Atomic Veterans. They contacted thousands of veterans who had suffered severe depressions, undiagnosed physical maladies and general upheaval at work and at home; and they contacted thousands of widows of veterans who had died of cancer, leukemia and a disease that took the form of premature "old age." After seven years, Kelly won his case and received veteran's medical benefits. Today Wanda Kelly is director and Thomas Saffer is deputy director of N.A.A.V.

In May 1982, an unpublished Department of Defense document, "Fiscal Year 1984–1988, Defense Guidance," made national headliness. The 125-page report projected strategy for the future that included nuclear war fought "with many exchanges" over a protracted period of time. Continued promises of survival and victory in a nuclear war are being challenged by the global protests of citizens increasingly informed by a growing mountain of literature, highlighted recently by Helen Caldicott's "Nuclear Madness: What You Can Do," "Protest and Survive," edited by E. P. Thompson and Dan Smith, Jonathan Schell's "The Fate of the Earth" and the monumental study by a panel of Japanese physical and social scientists. "Hiroshima and Nagasaki: The Physical, Medical, and Social Effects of the Atomic Bombings." "Countdown Zero's" contribution to this literature is personal and immediate. This harrowing book—with its catalogue of official cruelty, dishonesty and contempt for life—underscores how unprepared we are for our entrance into the nuclear age.

AMENDMENTS TO THE CLEAN AIR ACT

Mr. BAKER. Mr. President, I want to congratulate the chairman and members of the Committee on Environment and Public Works on being in the enviable position of having reported out a comprehensive set of amendments to the Clean Air Act today. The task of developing changes to the act has been a long, difficult process which required study and decisions on a number of complex, technical issues.

The committee's exhausting deliberations over the past 18 months have necessitated the development and clarification of many ideas, concepts, and programs. I commend all the participants in this process—Members, staff, industry, and government representatives, and members of environmental and public interest groups—for achieving this first giant step in the legislative process. This successful journey through the legislative process was based upon the involvement and contribution of such interests, and I appreciate their inputs.

It is my hope that the bill will come to the Senate floor for full consideration this session. I will work hard to see that the amendments are taken up this year and will cooperate fully with the chairman, members of the committee, and all Senators, to achieve passage of amendments to the Clean Air Act this year.

THE RETIREMENT OF GEN. DAVID C. JONES, CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Mr. LEAHY. Mr. President, this summer, Gen. David C. Jones retired as Chairman of the Joint Chiefs of Staff of the United States. Much has been said already about General Jones' background. I ask unanimous consent to place in the RECORD the official biographical material relating to General Jones.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEN. DAVID C. JONES

General David C. Jones was appointed Chairman of the Joint Chiefs of Staff, Department of Defense, on June 21, 1978. He was reappointed to a second two-year term in 1980. In this capacity, he served as the senior military adviser to the President, the National Security Council, and the Secretary of Defense. Through the commanders of the unified and specified commands, he was also responsible for executing the decisions of the National Command Authorities regarding worldwide readiness and employment of combat forces of the United States Army, Navy, Air Force, and Marine Corps. He served eight years as a member of the Joint Chiefs of Staff, the last four as the Chairman.

Drawing from a widely varied career, General Jones brought to his position a wealth of experience and knowledge of national se-

curity affairs, the diverse U.S. Defense Establishment, and our defensive alliances with other nations. His domestic and overseas assignments have included operational, staff, and command positions in strategic, tactical, training, and Allied organizations. He is a command pilot.

In combat, General Jones was assigned to a bombardment squadron during the Korean War and accumulated more than 300 hours on missions over North Korea. In 1969, he served in the Republic of Vietnam as Deputy Commander for Operations and then as Vice Commander of the Seventh Air Force.

General Jones has had extensive experience in dealing with the leaders of many nations. His intimacy with the North Atlantic Treaty Organization (NATO) alliance and its complex multinational defense structure is based on a range of assignments which cover the spectrum of planning and operational responsibilities, culminating with duties as Commander in Chief of the United States Air Force in Europe (USAFE). Concurrently, he was Commander of the Fourth Allied Tactical Air Forces. General Jones also has been deeply involved in working out mutual security problems with nations of the Middle East and Southwest Asia.

In addition to his military duties, General Jones actively serves a number of civilian public-service organizations. In 1981, President Reagan appointed him to the Board of Governors, American Red Cross. A member of the Board of Directors for Youth Services, U.S.A., Inc., a national youth agency, General Jones has long supported this organization's development activities aimed at making meaningful opportunities available for all young people. He is also a member of the Council on Foreign Relations; the Washington Policy Council of the International Management and Development Institute (IMDI); and the Center for the Study of the Presidency; and is Co-Chairman, Awards Committee, American Academy of Achievement. General Jones has been awarded numerous decorations from foreign governments honoring his accomplishments in international security affairs. Among the numerous civilian awards honoring his public service are the Tuskegee Airman Gold Medallion and the designation as Educator of the Seventies by the Education Magazine, and recipient of the Theodore Roosevelt "Rough Rider Award," the highest award that can be given by the State of North Dakota to a current or former citizen of the State. He also received the National Guard Bureau Eagle Award and the Air National Guard Meritorious Service Award, the highest awards which can be presented by each organization.

General Jones was born in Aberdeen, South Dakota in July 1921. He graduated from high school in Minot, North Dakota, and attended the University of North Dakota and Minot State College until the outbreak of World War II. He volunteered for the Army Air Corps in January 1942 and received his commission and pilot wings in February 1943. A graduate of the National War College, General Jones was awarded an honorary doctorate of human letters from the University of Nebraska at Omaha in 1974; an honorary doctorate of laws degree from Louisiana Tech University in 1975; an honorary doctorate of human letters degree from Minot State College in 1979; and an honorary doctorate of laws degree from Boston University in 1980.

General Jones is an avid jogger and racquetball player. He is married to the former Lois M. Tareel of Rugby, North Dakota. They have three children: Susan, Kathy and David.

DECORATIONS AND AWARDS

Department of Defense Distinguished Service Medal with three oak leaf clusters.
Army Distinguished Service Medal.
Air Force Distinguished Service Medal with two oak leaf cluster.
Legion of Merit.
Distinguished Flying Cross.
Bronze Star Medal.
Air Medal with one oak leaf cluster.
Air Force Commendation Medal.
Air Force Outstanding Unit Award.
American Campaign Medal.
Asiatic-Pacific Campaign Medal.
World War II Victory Medal.
Army of Occupation Medal (Japan).
National Defense Service Medal with one bronze service star.
Korean Service Medal with two bronze service stars.
Vietnam Service Medal with three bronze service stars.
Air Force Longevity Service Award Ribbon with eight oak leaf clusters.
Grand Cross of the Royal Order of St. Olav (Norway).
National Order, Republic of Vietnam, 5th Class.
Republic of Vietnam Air Force Distinguished Service Order, 1st Class.
Grand Cross, 2nd Class of the Order of Merit (Federal Republic of Germany).
National Order of Security Merit (Tong-Il) (Republic of Korea).
French Legion of Honor, Grade of Commander.
Air Force Order of Merit with Grade of Grande Official (Brazil).
Venezuelan Air Force Cross, 1st Class.
Venezuelan Legion of Merit Inter-American Aerial Brotherhood Degree of Officer.
Italian Knights of the Grand Cross.
Japanese First Class Order of the Rising Sun.
Wisam Al Ghomhoria First Stage (Decoration of the Republic of Egypt).
Highest Commander of the Order of Honor (Greece).
Yugoslavian Air Force Pilot Wings.
Swedish Knights Grand Cross of the Order of the North Star.
Colombian Antonio Ricaurter Aeronautical Order of Merit.
Republic of Vietnam Cross of Gallantry with palm.
United Nations Service Medal.
Republic of Vietnam Campaign Medal.

ADDITIONAL AWARDS

Gold Medal Educator of the Seventies, Education Magazine, 1976.
The Jimmy Doolittle Fellowship Award, Air Force Association, September 1977.
The Maxwell A. Kriendler Memorial Award, Irongate Chapter (New York). Air Force Association, April 1978.
Golden Plate Award, American Academy of Achievements, June 1979.
Tuskegee Airmen Distinguished Achievement Gold Medallion Award, December 1979.
American Defense Preparedness Association Meritorious Service Award, May 1981.
Gold Medal "For Extraordinary Service" to the Awards Council, American Academy of Achievements, June 1981.
H. H. Arnold Award, Air Force Association, September 1981.
Nathan Hale Award, Reserve Officers Association, October 1981.
North Dakota Hall of Fame, May 1982.
North Dakota "Rough Rider" Award, May 1982.
Ira Eaker Fellowship Award—AFA, May 1982.
National Guard Bureau Eagle Award, June 1982.
Air National Guard Meritorious Service Award, June 1982.

Mr. LEAHY. The official material, impressive though it is, does not do enough credit to him. I had the privilege of serving in the Senate during much of General Jones' tenure both as Chief of Staff for the Air Force and as Chairman of the Joint Chiefs. I knew him both through my service as a member of the Senate Armed Services Committee, service on the Senate Appropriations Committee, and on the Senate Select Committee on Intelligence. Far more importantly, however, was the chance to get to know David Jones as a person and as a friend.

Mr. President, we often forget about the number of highly dedicated, strongly motivated, and extremely qualified people in our Government. General Jones certainly fits all of these categories. It is because of people like him that our military remains the finest in the world and because of the foresight of people like him that we can hope to avoid the kind of wars that would be not only devastating for us as a country but quite possibly for all of humankind.

I will miss my good friend as he enters retirement. At this time, everyone in the Senate should pause to consider deeply his proposals for revamping of the Joint Chiefs of Staff. He made these proposals for his successors and with the kind of objectivity available to one leaving his position of authority. Notwithstanding his career, I feel perhaps his greatest service will be in the future if we follow his proposals.

The whole proposal is so important that I intend to ask unanimous consent that the RECORD contain it but some of the editorials and analyses printed about it.

I do not believe I have ever asked the Senate to print this much material regarding an individual during the 8 years I have served here. But then I have known few people in Government of General Jones' quality or few proposals this important.

I ask unanimous consent that the attached material be made part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE DISTINGUISHED SERVICE MEDAL (THIRD OAK LEAF CLUSTER) TO DAVID C. JONES

General David C. Jones, United States Air Force, distinguished himself by exceptionally distinguished service as Chairman, Joint Chiefs of Staff, from February 1981 through June 1982. During this critical period, General Jones demonstrated the

highest degree of leadership and dedication in shaping national security policy and building our military forces. His personal efforts in developing a United States power projection strategy and posturing the forces required to carry out that strategy; his key role in averting a major crisis in the Middle East; and his strong leadership of our joint and combined forces have demonstrated to all nations that we remain dedicated to peace but fully able to protect our interests should the need arise. The distinctive accomplishments of General Jones culminate a distinguished career in the service of his country and reflect great credit upon himself, the United States Air Force and the Department of Defense.

WHY THE JOINT CHIEFS OF STAFF MUST CHANGE

(By General David C. Jones)

I have been a member of the Joint Chiefs of Staff for nearly eight years and its Chairman for most of the past four years, and have thus served as a member of the Joint Chiefs under four Presidents and four Secretaries of Defense. During this time, and before, many good men have struggled very hard to make the best of the joint system, and most, if not all, have experienced a great sense of frustration in dealing with both large and small problems.

Much of this frustration comes from having to cope with legislative and organizational constraints which reflect concerns of the past, inhibit attempts to meet the rapidly changing demands of today's world, and violate basic leadership and management principles. Yet, despite many studies that have periodically documented problems with this military committee system and made cogent recommendations for improvements, the system has been remarkably resistant to change. Committees can serve as useful purpose in providing a wide range of advice to a chief executive or even in making some key policy decisions, but they are notoriously poor at running anything—let alone everything.

Although I recognize the very strong and persistent headwinds, I could not leave office in good conscience this summer without making a major effort to illuminate the real issues once more and hopefully wrest some substantial changes. Most of the problems and some of the approaches I will address have been discovered—then reburied—many times in the past 35 years. The difference this time is that the proposals for improvement are coming from someone inside the system who for many years has been in the best position to understand the causes and consequences of its shortcomings. In formulating my approach, I have been helped by a group of senior retired officers who are in a better position than those now serving to step aside from long-standing Service positions and objectively assess the joint system.

The watershed for development of a permanent interservice system was the crisis atmosphere surrounding our entry into World War II. The British had established a committee of the heads of their military services in 1923. When intensive military consultation with the British commenced after Pearl Harbor, it soon became apparent that we too needed some such system, not only to assure smoother dealings with the British but also to coordinate our own national war effort.

The Joint Chiefs of Staff was established informally by President Roosevelt in February 1942. The White House appointments calendar suggests that the President met with the Chiefs as a body frequently during 1942, but primarily with the Chief of Staff to the President in the remaining three years of the war. For the most part, the Chiefs, along with their British counterparts, directed largely separate wars through three geographic commands which were essentially divided by Service. General Eisenhower commanded Europe while Admiral Nimitz and General MacArthur commanded separate theaters in the Pacific. Strategic planning was conducted on the basis of direct guidance: Put first priority on Europe, use the nation's full resources to support coalition efforts to defeat the enemy forces, and compel the Axis governments to surrender unconditionally. In many ways, it was a simpler world. But as the biographies of many World War II leaders reveal, the joint system established then did not work very well: Service partisanship and inadequate coordination resulted in innumerable delays on many critical issues.

As the war drew to a close, an exhaustive debate ensued on how to organize the postwar military: the Army favored, but the Navy opposed, a highly integrated system. Many at that time believed that the Army would dominate any integrated system. The Air Force, then still part of the Army, supported integration, but was primarily interested in becoming a separate Service.

COMPROMISE FINALLY REACHED

After nearly two years of studies, committee reports, and presidential interventions, the National Security Act of 1947 emerged as a compromise between those who favored full Service integration and those who feared centralization of military authority. The Act created a loose confederation among the military Services and a Secretary of Defense who initially had little authority. Amendments in 1949, 1953, and 1958 served to strengthen the Secretary's authority and to expand the size and purview of his staff, but as far as the joint system was concerned, the changes were much more marginal. The role of the Chairman was formalized, the Joint Staff was expanded, and the chain of command from the President and Secretary of Defense to the combatant commands was clarified.

Even modest changes, however, created great controvesy. During part of the period the amendments were being addressed, I was aide to General Curtis LeMay, then Commander of the Strategic Air Command, and I had many opportunities to observe the intense debate which took place not only in Washington but throughout much of the military. Only from such a vantage point was it clear how strong the pressures for preserving Service autonomy remained.

President Eisenhower, writing in 1965, said he had reminded his associates on signing the Defense Reorganization Bill of 1958 that it was just another step toward what was necessary. I believe he would be disappointed that further steps have not been taken.

Since 1958, there have been many recommendations for fundamental revisions of the system but few changes in its statutory framework. In 1978 the Commandant of the Marine Corps was made a full member of the Joint Chiefs by law, but this primarily codified what has already become practice. Essentially, despite major changes in the world on which I will comment later, we have had 24 years—and in many ways 35 years—without fundamental revisions of the joint system, a system which in effect represents arrangements developed in a patchwork way during World War II.

HOW WE OPERATE

At the top of that system are the Joint Chiefs, appointed by the President and confirmed by the Senate. By law, we are the principal military advisors to the President, the Secretary of Defense and the National Security Council.

As a body, we are responsible for reviewing and developing ways to improve the state of military readiness, assessing threats to our security interests and idenfifying the forces required to meet those threats. We supervise but do not command the senior Combatant Commanders (the Commanders of European Command, Pacific Command, Atlantic Command, Southern Command, Readiness Command, Strategic Air Command, Aerospace Defense Command, Military Airlift Command, and the Rapid Deployment Joint Task Force; some of these have multiple services involved and some a single service). We maintain an elaborate command, control, and communications system which provides the links to and within our combat forces worldwide. We also consult with foreign military leaders and provide military representation to arms control negotiations teams.

Four of the members of the Joint Chiefs are the military heads of their individual Services who, except in time of war, are restricted to a single four-year term. Since 1947, nearly 50 officers have held the office of Chief of one of the four Services. A Service Chief is not only a full member of the Joint Chiefs of Staff but also is the leader of his uniformed Service. As its principal military spokesman, the Service considers him the guardian of its professional interests, standards, and traditions.

The fifth member of the Joint Chiefs, and the only one to devote all of his time to joint affairs, is the Chairman. Although outranking all other military officers, the Chairman does not exercise command over the Joint Chiefs or the Armed Forces but acts as an advisor, a moderator, an implementer, and an integrating influence whenever possible. A Chairman is appointed for a two-year term and may be reappointed one time, except in wartime when unlimited two-year reappointments are allowed.

MORE INFLUENCE BUT LESS CONTROL

After four years as a Service Chief and now on my fourth year as Chairman, I have found a Chairman generally has more influence but less control than a Service Chief. Whereas a Service Chief can draw on significant institutional sources of formal authority, the Chairman's influence must be derived primarily from his effectiveness in personal relationships. His position provides the opportunity to meet with the leadership of the nation, but it is his professional competence, his ability to present well-thought-out and broad-based arguments, and his performance as a team player in grappling with difficult questions of national priorities that determine his degree of influence. The Chairman's only institutional advantage is his status as the one senior military official whose sole responsibility encompasses the entire spectrum of defense.

The Joint Chiefs are supported by a Joint Staff which is significantly limited by law in terms of size—it is dwarfed by the Service and Secretary of Defense staff—and the tenure of officer assignments. Except for urgent matters, a joint action is traditionally handled by assigning the issue to a Joint Staff action officer who meets with compa-

rable level representatives from the four Service staffs. The pressures at this point create a greater drive for agreement than for quality: the process usually results in extensive discussion and careful draftmanship of a paper designed to accommodate the views of each Service—at least to the extent of not goring anyone's ox.

Then the paper works its way up through a series of such committees to a group composed of the Service Operations Deputies (three-star positions on each Service staff) and the three-star Director of the Joint Staff. These individuals—who normally attend the meetings of the Joint Chiefs—can approve a routine paper, but refer any substantive issue or unagreed upon matter to the Chiefs. As would be expected, papers produced by such a multiple committee process are often watered down or well waffled, although not as badly as Dean Acheson judged when in his 1969 memoirs he wrote of the Joint Chiefs orgainzations: "Since it is a committee and its views are the result of votes on formal papers prepared for it, it quite literally is like my favorite old lady who could not say what she thought until she heard what she said."

When there is not time for this elaborate staff process or even to convene the Joint Chiefs, I must take action and consult with my colleagues later. The most extreme example would be that of direct attack on the United States. The Soviets have a number of submarines on alert off our Atlantic and Pacific coasts which could deliver nuclear warheads on Washington and other targets in a very few minutes. If an attack were made, our warning sensors would pick up the launches within seconds and reports would reach Washington and other key points almost immediately. The general or admiral on 24-hour duty in the National Military Command Center would at once notify me as well as others. I would then recommend a course of action to the President and Secretary of Defense, and would implement the presidential decision without delay.

THE LIBYAN INCIDENT

At the other end of the spectrum are incidents such as the one last year when a Libyan pilot fired a missile at our Navy fighters over the Gulf of Sidra and our pilots responded by downing two of the Libyan planes. I was notified immediately and in turn informed the Secretary of Defense. I then proceeded to the National Military Command Center in the Pentagon to determine what further action, if any, was required. The need to respond to crises and incidents such as this one requires that I be immediately available, a requirement to which I have long been accustomed.

The more routine actions are considered each week in three regularly scheduled Joint Chiefs meetings in which operational as well as policy issues are addressed. When in Washington, the first responsibility of a member of the Joint Chiefs of Staff is to attend all of these meetings, but because of our worldwide responsibilities we must be gone a considerable amount of the time. The Vice Chief of Staff substitutes when a Service Chief is absent but since the Chairman is not allowed a deputy (a major weakness which I will address later), the senior Service Chief in attendance chairs the meeting when I am away. My experience has been that one or more substitutes attend about three-quarters of the meetings, a situation that results in a lack of continuity.

By law, if we cannot reach unanimous agreement on an issue, we must inform the Secretary of Defense. Such splits are referred to the Secretary a few times a year, but we are understandably reluctant to forward disagreements so we invest much time and effort to accommodate differing views of the Chiefs.

IMPORTANT RELATIONSHIPS

The Joint Chiefs must maintain many constructive external relationships, the most important of which derives from our role as the senior military advisors to the civilian leadership, particularly the Secretary of Defense and the President. We meet with the Secretary and Deputy Secretary of Defense each Tuesday to discuss joint matters as well as attend other meetings with them during the week. As Chairman, I meet privately with the Secretary and his Deputy each day and participate with them in interagency discussions.

Traditionally, Presidents have met with the Chiefs as a body only on a few occasions. More often we send memoranda to the Secretary of Defense and request that they be forwarded to the President. Any Chief has the right to ask for an individual appointment or correspond directly with the President, but this right has also been exercised very rarely.

The main contact with the President comes when I participate as the Joint Chiefs' representative in National Security Council meetings. Such meetings are scheduled frequently by President Reagan, who has used the National Security Council forum more than any President since Eisenhower. I have the full opportunity at these meetings to express to the President the corporate views of the Chiefs as well as my personal views on any matters, regardless of whether the Chiefs have addressed them. I also have the opportunity to express such views below the presidential level as a member of various interagency and defense working groups such as the Military Manpower Task Force, the Defense Resources Board and the Armed Forces Policy Council.

Next to advising the President and the Secretary of Defense, the Joint Chiefs' most important responsibility is the requirement to oversee the Combatant Commands. In meeting this responsibility, it is essential to nurture a close relationship with the commanders through long-standing personal contacts and frequent communications as well as visits to the field. The Service Chiefs are also responsible to their Secretaries for organizing, equipping, and training the forces assigned to the Commands.

Responsiveness to Congress is another important responsibility of the Joint Chiefs. The Secretary of Defense and I normally appear together before eight congressional committees—many times each year before some of them. Service Chiefs also have hearings before several committees, particularly those concerned with Service budget matters. And the Joint Chiefs occasionally will appear as a body, as we did during various arms control hearings. Extensive questioning of every action of the Defense Department is the norm during hearings as well as in detailed written questions addressed to us throughout the year.

Whenever military officers appear at a congressional hearing, we are expected to respond fully to questioning, even when asked for personal views about matters on which we may disagree with the position of the Administration. I have responded to unsolicited questions with personal views at variance with the decisions of the civilian leadership on a number of occasions, the most recent of which concerned my reservations on the basing decision for the MX Intercontinental Ballistic Missile. I believe our system is unique among the nations of the world in airing such disagreements. A number of years ago, when I explained this aspect of U.S. military-congressional relations to a head of government of one of our allies, he responded that one of his military officers would be fired if he gave a view other than the official position to his parliament. The U.S. civilian leadership throughout the years has understood and even supported the military's responsiveness to congressional questions so long as our comments have been made in good faith and neither solicited nor intended to circumvent a decision. I have found that senior officers have generally been sensitive to this responsibility.

Finally, it is important for the Joint Chiefs to work very closely with our friends and allies since we simply cannot go it alone in today's world. I meet with my NATO counterparts on at least four occasions each year, and with officials from many other countries somewhat less frequently.

These important external relationships take a great deal of time, but it is the cumbersomeness of the committee processes that constrains our ability to produce the best joint military advice. One of the presidentially directed studies of the joint system, the 1978 "Steadman Report," concluded that the advice provided personally (usually orally) by the Chairman and the Service Chiefs was of high quality but that the institutional products (the formal position papers) were not found very useful.

CONSTRAINTS ON ADVISORY ROLE

Despite the institutional constraints, however, we have managed to make some joint program improvements over the last few years. Much of the credit for whatever progress has been made must go to my colleagues on the Joint Chiefs. The nation has been, and continues to be, well served by these competent, hard-working officers. Some of the improvements are:

Development of a broader joint exercise program to include mobilization practice;

Establishment of a Joint Deployment Agency to integrate deployment plans and activities;

Integration of our land and sea transportation systems;

Redirection of the Industrial College of the Armed Forces to achieve better understanding of mobilization;

Revamping of our joint education system to include establishment of research centers at the National Defense University, in conjunction with the Secretary of Defense, to help us take fresh looks at defense problems;

Organizational adjustments for better integration of the joint command, control, and communications system;

Establishment of the Rapid Deployment Joint Task Force to improve our capability to deploy and operate forces in Southwest Asia and as a mechanism to develop and exercise integrated operations by elements of all four Services;

Increasing the Combatant Commanders' opportunity to influence resource decisions, to include appearing before the Defense Resources Board.

Involving the Service Chiefs in specific joint issues when visiting the field in order to report findings and recommendations at a Joint Chiefs meeting.

PERSISTENT SHORTCOMINGS

While the above represent some important and helpful changes in interservice programs, such progress has been limited primarily to issues which only marginally affect important Service interests. However, unless the basic long-term shortcomings of the system are corrected, the severity of their consequences will continue to increase as the national security environment becomes ever more complex. We need to spend more time on our war-fighting capabilities and less on an intramural scramble for resources.

In my view, the basic causes of our most serious deficiencies can be divided into two categories: personnel and organization.

Personnel. There is inadequate cross-Service and joint experience in our military, from the top down. The incentives and rewards for seeking such experience are virtually nonexistent. And the problem is compounded by the high degree of turbulence in key positions.

We do not prepare officers to assume the responsibilities of membership on the Joint Chiefs as well as we should. I include myself in this judgment, even though I was fortunate in having an unusually diversified background before becoming a member of the Joint Chiefs. In my many years in the Air Force I have been assigned to bombers and fighters, command and staff, Washington and field tours. I had attended the National War College, an institution designed to prepare military officers and foreign policy civilians for joint and interagency duty. I had been an aide to an unusually competent commander, General LeMay, and he taught me much; his initial guidance to me was, "You are in this job to learn first and serve second and do not mix those priorities." I had 10 years overseas in Japan, Vietnam, and Europe, including direct involvement in two wars. And in my last overseas assignment I had two jobs—as U.S. air commander with geographic responsibility stretching from Norway to Iran, and concurrently as a NATO air commander with coalition responsibility for air forces of a number of nations.

However, I still lacked two major ingredients of a fully rounded experience when I was appointed Chief of Staff of the Air Force. I had begun service in the Army and had maintained close contact with that Service even after the Air Force became independent. But my contact with the maritime forces—the Navy and the Marines—was limited. I had visited and had participated in joint exercises with maritime forces, but still did not have as deep an understanding of their strengths and weaknesses, their doctrines and traditions, as I would have liked. Unfortunately, my experience in this regard is far from unique: Few Navy or Marine officers have substantial experience with the Army or Air Force, and vice versa.

EXPERIENCE GAPS ARE COMMON

The second gap in my experience is also far too common among officers who assume key positions in the joint system (both on the Joint Chiefs and as Combatant Commanders): I had never served on the Joint Staff or in the headquarters of a Unified Command. And frankly, I have found from my own experience that serving on the Joint Chiefs as head of a Service does not necessarily make an individual a truly joint officer. My perspective changed when I became Chairman and was immersed every hour in joint problems. But as Air Force Chief, while I prided myself on my joint attitude, and believed that some fundamental changes were needed, I must confess that I was very reluctant—as were the other Service Chiefs—to accept any infringement on Service autonomy on individual issues.

Most newly assigned officers arrive on the Joint Staff or a Unified Command staff from a Service-oriented career with little interservice experience and inadequate preparation for joint duty. In the case of the Joint Staff, the problem is compounded by statutory limits—restrictions which do not apply to the Service and Secretary of Defense staffs. For example, public law (10 USC 143) states that:

"The tenure of members of the Joint Staff . . . except in time of war . . . may [not] be more than three years."

"Except in time of war . . . officers may not be reassigned to the Joint Staff [in] less than three years" unless the Secretary of Defense waives this restriction, which he may do for no more than 30 officers.

Furthermore, officers come from and return to their Services, which control their assignments and promotions. The strong Service string thus attached to a Joint Staff officer (and to those assigned to the Unified Commands as well) provides little incentive—and often considerable disintentive—for officers to seek joint duty or to differ with their Service position in joint deliberations. Indeed, it is hard to argue that Joint Staff duty is a path to the top. With the exception of Army General Earle Wheeler, not a single Director of the Joint Staff or one of its major components has ever become Chief of his Service or Chairman of the Joint Chiefs of Staff.

NEED FOR BETTER CONTINUITY

We have many outstanding officers on the Joint Staff who work very hard under very difficult conditions with few rewards. It is no wonder that many retire while on, or soon after leaving, the Joint Staff, or seek early release for a more rewarding job. The three-year limit on assignments—when coupled with our reluctance to stand in the way of good people attempting to move to Service jobs that may further their careers—results in a turnover of the Joint Staff of a little more than two years. Better continuity is required.

Organization. In the Joint system we not only have the advantages and all the disadvantages typical of committees, but our problems are futher compounded by the "spokesman-statesman" dilemma that a Service Chief encounters. This is especially true when the issue of distribution—of resources or of missions—is raised. Time after time during my years as a member of the Joint Chiefs, the extraordinary difficulty of addressing—let alone gaining the Chiefs' agreement on—the distribution of constrained resources has been driven home to me. A Service Chief finds himself in a very tough position when asked to give up or forego significant resources or important roles and missions: both because his priorities have been shaped by his Service experience, and because he must be the loyal and trusted leader of a Service whose members sincerely believe their Service deserves a greater share of constrained resources and of military missions—and the control thereof.

Service Chiefs do differ from the position of their Service staffs on occasion, but to do so too often and particularly on fundamental issues is to risk losing the support essential for carrying out Service responsibilities. One former Chief relates that during a joint meeting, a Service action officer (a major) handed him a note which said, "General, under no condition can you agree to the third paragraph." This incident is representative of a phenomenon which has often been called "the tyranny of the action officer." However, that phrase tends to obscure a significant point: The major was expressing the viewpoint of a large and often unforgiving bureaucracy.

We in the defense business share the problem which afflicts most of corporate America—the difficulties inherent in long-range planning. Today's business leaders are of course well aware of the problems of accurately predicting the future and developing successful strategies to improve long-range profitability—and creating incentives within constituencies to address the long term. Those of us responsible for defense planning must contend with the same problems, as well as further complications stemming from the lack of a readily calculable "bottom line," the buffetings of political and social disturbances anywhere on the globe, and a high degree of resistance to change.

Any institution that imbues its members with traditions, doctrines, and discipline is likely to find it quite difficult to assess changes in its environment with a high degree of objectivity. Deep-seated Service traditions are important in fostering a fighting spirit, Service pride, and heroism, but they may also engender a tendency to look inward and to perpetuate doctrines and thought patterns that do not keep pace with changing requirements. Since fresh approaches to strategy tend to threaten an institution's interests and self-image, it is often more comfortable to look to the past than to seek new ways to meet the challenges of the future. When coupled with a system that keeps Service leadership bound up in a continuous struggle for resources, such inclinations can lead to a preoccupation with weapon systems, techniques, and tactics at the expense of sound strategic planning.

Despite valiant efforts to improve strategic planning in the Pentagon, we are often faced with intense pressures to spend most of our time addressing immediate issues. Those pressures are particularly great with regard to budget actions: Sometimes we are addressing three Budget documents at a time. For example, in the fall of 1981 we were working with Congress on the fiscal year 1982 budget (well after the fiscal year had started), preparing the 1983 budget for submission to Congress in January 1982, and doing long-range planning for the following five-year budget period (1984–1988). The work with Congress obviously took budgetary precedence, and at the same time, big and small crises (Poland, El Salvador, Libya, the Middle East, etc.) were rippling through Washington with increased frequency. Under such conditions, it takes strong discipline to avoid being a total captive of the urgent.

NEEDED CHANGES

The shortcomings outlined above have been with the joint system for too long and the need for correction is more urgent now than at any time. Since we live in an era in which conflicts could erupt regionally or globally much more quickly than in the past, we must build our military strength without delay—and we must be able to integrate our military forces with great efficiency.

It is clear to me that the fundamental problem is not with individuals but is an organizational one. I have been a close observ-

er or a direct participant in joint activities for more than 20 years. During that time there have been six Chairmen and dozens of Service Chiefs and the basic problems have continued regardless of who has been in a specific chair.

As a minimum, we need changes in three specific areas:

(1) Strengthen the role of the Chairman. Many areas cannot be addressed effectively by committee action, particularly when four out of five committee members have institutional stakes in the issues and the pressure is on to achieve unanimity in order to act. It is unreasonable to expect the Service Chiefs to take one position as Service advocates when dealing in Service channels, and a totally different position in the joint areas. Such matters should therefore be removed from addressal by the Joint Chiefs as a body.

To the extent that an inter-Service perspective is needed on distribution issues, that perspective could be better provided by the Chairman in consultation with the Combatant Commanders. This in turn would require the strenthening of the Unified Commander's role with respect to his Service Component Commanders who command the forces and report both to the Unified Commander and the Service Chief. Under the current system the Service Component Commander's attention is often drawn more to Service issues than to inter-Service co-ordination problems. In other areas—such as joint operational and long-range planning, crisis management, and a number of routine matters—neither the Service Chiefs nor the Service staffs need participate at the level of detail in which they are involved today.

Furthermore, the Chairman should be authorized a deputy. It is an anomaly that the military officer with the most complex job is virtually the only senior—and in many cases not so senior—officer who does not have a deputy. This causes substantial problems of continuity when individual Service Chiefs, who spend only a fraction of their time on joint activities, stand in for the Chairman in his absence. Second, the Chairman needs assistance, particularly in insuring the readiness, improving the war planning, and managing the joint exercising of the combatant forces.

I would also recommend that, at least until there is far more cross-experience and education among all four Services, the Chairman and the Deputy Chairman should come from the two different groupings (one a Navy or Marine officer and the other an Army or Air Force officer.)

TIME DEMANDS COULD WORSEN

I am convinced that without some such revised role for the Chairman and less reliance on cumbersome committee processes, the very great demands on the time of a Service Chief will continue and perhaps even worsen. President Eisenhower recognized this problem and when he transmitted his final reorganization plan to Congress in 1958, he stated:

"This situation is produced by their having the dual responsibilities of chiefs of the military services and members of the Joint Chiefs of Staff. The problem is not new but has not yielded to past efforts to solve it."

Unfortunately, the approach Eisenhower then advocated—having a chief delegate major portions of his Service responsibilities to his Vice Chief (with the hope that this would overcome many of the joint problems)—has not worked either, as the subsequent 24 years of experience have shown. I for one, would also like to see the Service Chiefs be able to spend more time as the leaders of their Services in improving the combat capabilities of their units and in managing the spending of the billions of dollars in the Service budgets.

There is great wisdom in having the Joint Chiefs of Staff act as senior military advisors to the President and Secretary of Defense of certain key issues. But without a stronger role and better support for the chairman, the work of the Joint chiefs is likely to remain too dispersed, diluted, and diffused to provide the best possible military advice or to insure the full capability of our combatant forces.

(2) Limit Service staff involvement in the joint process. As mentioned before, the Service staffs dwarf the Joint Staff, with many of the Service officers duplicating the work of the Joint Staff. There are two basic problems. First, the Service staff involvement is a cumbersome staffing process and second, the Service Chiefs receive their advice on joint matters from their Service staffs.

There are some advantages to having Service staffs involved in the joint process, but we should abolish the current system in which each Service has almost a de facto veto on every issue at every stage of the routine staffing process. President Eisenhower noted 23 years ago that "these laborious processes exist because each military department feels obliged to judge independently each work product of the Joint Staff." The situation has not changed. The role of Service staffs can and should be reduced to providing informational inputs—the result would be a better product and fewer officers needed on the Service staffs.

When a Service Chief acts on a Service matter he should receive advice from his Service staff, and when he acts on a joint matter he should receive his advice from the Joint Staff; however, since the beginning of the joint process, Service Chiefs have relief almost exclusively on their Service staffs in preparing for joint meetings. It is unreslistic to expect truly inter Service advice from a staff comprised of officers from only one Service. The Joint Staff can and should provide such advice.

(3) Broaden the training, experience and rewards for joint duty. Finally, more officers should have more truly joint experiences at more points in their careers—and should be rewarded for doing so. There should be more interchange among Services at the junior ranks, as Eisenhower strongly advocated, and preparation for joint assignments should be significantly upgraded. The joint educational system should also be expanded and improved. (Along these lines, one innovative idea that is being addresed is to have all newly appointed generals and admirals attend a common course of joint education.) An assignment to the Joint Staff or to a Unified Command headquarters should be part of an upward mobility pattern rather than a diversion or end of a career, as has been the case so often in the past. It is difficult to see how present patterns can be changed, however, without some influence by the Chairman on the selection and promotion of officers. Also, the statutory restrictions on service on the Joint Staff should be removed.

Despite the magnitude of the task, I am encouraged by the willingness of my colleagues to address the issues and by the support of the Secretary of Defense and others in the Administration on the need for change. Furthermore, I sense a different mood in Congress than that shown in the forties and fifties when large and powerful elements strongly protected Service autonomy.

I am working hard in my final months as Chairman to bring about the necessary changes. More specifically, I have underway a course of action which addresses, first, recommendations to my colleagues on changes which are within the authority of the Chiefs, and second, recommendations to the Secretary of Defense and the President on other changes, to include specific proposals for legislative action.

CHANGES FORCED FROM OUTSIDE

Such change never comes easily. As the Navy approached its major reorganizations at the start of the century, Admiral Mahan concluded that no Service could agree to give up sovereignty, but would have to have reorganization forced upon it from outside the organization.

The Services have an understandable desire to protect organizational interests, to preserve their sovereignty, and to conserve hard-won prerogatives. Nevertheless, we cannot escape the fact that our national security today requires the integration of Service efforts more than at any time in our history. To attempt to achieve meaningful integration only through the existing committee system is to leave it at the mercy of well-proven institutional counterpressures. I believe we can find a middle ground which draws on the strengths of the separate Services and of having Service Chiefs as members of the Joint Chiefs, while at the same time making the changes necessary to strengthen our joint system. If not, major surgery will be required.

A MILITARY BOARD OF DIRECTORS

The Joint Chiefs of Staff, if viewed as the military board of a government corporation, would provide some striking contrasts to organization and management principles followed in the private sector: Board consists of five directors, all insiders, four of whom simultaneously head line divisions—reports to the chief executive and a cabinet member—supported by a corporate staff which draws all its officers from line divisions and turns over about every two years—line divisions control officer assignments and advancement (there is no transfer of officers among line divisions)—Board meets three times a week to address operational as well as policy matters, which normally are first reviewed by a four-layered committee system involving full participation of division staffs from the start—at 75 percent of the Board meetings, one or more of the directors are represented by substitutes—if the Board can't reach unanimous agreement on an issue, it must—by law—inform its superiors—at least the four top leadership and management levels within the corporation receive the same basic compensation, set by two committees consisting of a total of 535 members—and any personnel changes in the top three levels (about 150 positions) must be approved in advance by one of the committees.

ROOTS OF THE PROBLEM

The roots of enforced diffusion of military authority can be traced to a period which precedes the founding of the republic. The Continental Congress distrusted standing armies and military heroes, and even with George Washington in command, established multiple checks on his authority. The

principles of the separation of powers and civilian control over the military have appropriately become deeply embeded in our culture, both in law and in custom as well as in the attitudes of our military professionals.

In many cases, however, the mechanism erected to exercise such controls has had the unintended effect of permitting—and often promoting—serious organizational deficiencies. As our military institutions evolved, the various military subbureaucracies attempted to establish as much independence as possible. As a result, by the end of the nineteenth century, both military departments—War and Navy—were riddled with semiautonomous, often intractable fiefdoms: branches, corps, departments, bureaus, and so forth. By the time we went to war with Spain in 1898, conditions were ripe for reform, but as is so often the case, it took near military disaster in the conduct of the war to provide the impetus within the Army and Navy to move toward better integration within the Services. The Army, despite much opposition, created a Chief of Staff position in 1903; after several intermediate steps, the Navy created the position of Chief of Naval Operations in 1915. Insititutional resistance was still great, however, and it would take decades before centralized authority had shifted to the Chiefs of the Services.

Both the Army and the Navy began World War II with authority and responsibility diffused. The Army still had a large number of semiautonomous agencies with little effective coordination below the Chief of Staff level. Immediately after Pearl Harbor, General Marshall streamlined the Army by reducing the number of officers reporting directly to him from 61 to six. In December of 1941, the Navy had split responsibility in Washington with Admiral Stark as Chief of Naval Operations and Admiral King as Commander-in-Chief of the U.S. Fleet. A few months later, much of that problem was solved when Admiral King assumed both jobs.

Interservice cooperation developed even more slowly. Before technological developments began to blur the boundaries between sea and land warfare, the Services had evolved independently into distinctly different organizations with separate policies and traditions. Competition rather than cooperation was the standard. This evolution resulted in four organizations which even today gravitate quite naturally to two groups of shared traditions and experiences: a maritime grouping (Navy and Marine Corps), and a primarily land warfare grouping (Army and later Air Force).

[From the Washington Post, Feb. 18, 1982]

THE JOINT CHIEFS NEED A REAL CHIEF

(By R. James Woolsey)

Gen. David C. Jones, chairman of the Joint Chiefs of Staff, has done the country a service. A few months before his retirement this summer he has published a proposal for a thorough revamping of the Joint Chiefs. It is high time.

The weakness and lack of influence of the Joint Chiefs is one of the Pentagon's less well-kept secrets. Of course, each of the chiefs, except the chairman, is the head of one of the four military services as well, and in these roles they are far from weak or ineffective.

Therein lies the problem. In dealing with most of the normal business of a peacetime military establishment—research, weapons procurement, budget, manpower policy, training—each chief heads a sizable and competent staff composed of officers from his own service. As a service chief he also has contacts on the Hill friendly to those who wear his color of uniform, as well as a number of well-connected retired officers and reservists who are sometimes so friendly that they trample folks in their enthusiasm.

For certain other "joint" functions, however, on which the president and secretary of defense seek and need an overall collective military judgment (e.g., SALT, overall defense budget questions, military operations in a crisis), each mighty service chief steps into a phone booth and becomes . . . Clark Kent. Wearing horn-rimmed glasses and a slightly dopey stare, he goes into "the tank," as the Joint Chiefs' conference room is called, a mild-mannered seeker of unanimity.

Ah, unanimity. The price of unanimity among all four military services in this beribboned committee has been, for 35 years, intellectual flab clothed in flaccid prose. True, much good military advice has been given—but ordinarily informally, not through the joint staff system. True, the Joint Chiefs system occasionally produces something useful—a testament to the caliber of some able officers assigned there who have been able to make bricks without straw. But generally it has worked as badly as, Jones reminds us, Dwight Eisenhower suggested it would 24 years ago.

Normally, as the interminable four tiers of their staff's committee meetings lumber on, the formal advice that the Joint Chiefs produce comes more and more to resemble the famous committee-designed camel.

The Joint Chiefs' force planning advice (the Joint Strategic Objectives Plan—say "jaysop") is the least-read document in the Pentagon. Adm. Bud Zumwalt, former member of the Joint Chiefs, wrote after his retirement that even he had never seen a copy. It's no wonder. Memorializations of bureaucratic logrolling that merely add up everyone's "requirements" and staple them together go to the bottom of anyone's inbox.

Bureaucratic stasis is no stranger to Washington, but on many issues the lack of a coherent overall military position—one that rises above individual service interests—is becoming dangerous. As Jones points out in his crisp recent statement of the problem, there is a tendency in each service to look inward and to perpetuate outmoded doctrines and thought patterns since "fresh approaches to strategy tend to threaten an institution's interests and self-image. . . ." We badly need, and have not had, a coherent overall military view about such matters as strategy and forces. Partly as a result, a gaggle of kibitzers has formed throughout government on these questions. Everyone from OMB budget examiners to the stray congressional staffer with a Bonaparte complex now believes himself to be the nation's premier strategist. The individual military services have clear stands on many of these issues, but an overall coherent military view has been conspicuous by its absence.

Such a view may not prove to be correct or persuasive on a good many questions, but it should at least have a chance to be heard in the debate. Clemenceau was absolutely right: war is indeed too important to be left to the generals. But people who have led troops all their lives, after all, do have a contribution to make to the discussion, and they should be permitted to put their most cogent case forward. It is not unimaginable that, seeing the difficulty today of obtaining political consensus behind large increases in defense spending, our senior military officers could think of some relatively inexpensive ways to increase our military effectiveness. They are the ones most genuinely and immediately concerned about prevailing in any hostilities—after all, they'll be the ones who have to fight.

But for years the only central voice in defense has been provided by the civilian staff of the secretary of defense. Lacking military expertise it has, largely, failed. For example, the Office of the Secretary of Defense has labored mightily and given us two decades of systems analysis, enabling us to have certain victory over an enemy only if each side is limited to bombing the other with old computer printouts.

Jones proposes a stronger role for the chairman of the Joint Chiefs and a reduction in influence, on joint matters, for the individual service chiefs. The latter would continue to head their individual military services and would advise the chairman, the secretary of defense and the president. But on strategy, military questions that relate to foreign policy and some aspects of carving up the defense budget pie, the chairman and a stronger central military staff would gain influence over the services. The chairman, for example, would have some control over the promotions of those assigned to his staff; this is not true today, and it is one of the main reasons the current system is so weak.

Some will caution against steps that, it will be contended, might lead to an all-powerful Prussian-style "General Staff." Piffle. We can afford to move several light years toward military staff centralization before we come within any distance of Prussianism. The United States is about as close to having a Prussian-style general staff today as it is to having a dictatorship of the proletariat.

By speaking out, Jones bequeaths to his successor a chance to make the system work. Like Joe DiMaggio, he is retiring with style.

[From the Los Angeles Times, Mar. 10, 1982]

SHORING UP THE JOINT CHIEFS: GENERAL JONES' PROPOSED CHANGES DESERVE A SYMPATHETIC HEARING

(By Philip A. Odeen)

Last month, Gen. David Jones, chairman of the Joint Chiefs of Staff, publicly stated what Pentagon insiders have known for years: that the Joint Chiefs organization simply doesn't work. Jones, who plans to retire this summer, called for badly needed changes that could well result in stronger military leadership and improve the quality of the advice being offered to senior civilian leaders of the government.

The cumbersome Joint Chiefs structure in existence today emerged as a compromise from the post-World War II debate over the establishment of the Defense Department. Because of opposition in Congress and within the military, proposals to create a strong, independent military chief to advise the President were rejected. Instead, a committee approach was adopted, preserving considerable autonomy for each military department. The chief of each service is a member of the Joint Chiefs; in addition, there is a chairman, who presides over meetings but has little independent power. Each chief devotes most of his time to the person-

nel, weapons and budget problems of his own particular service. His joint responsibilities are clearly a secondary concern.

The Joint Staff, which supports the Joint Chiefs, is also weak and ineffective. It consists of military officers who serve two- to three-year terms and then return to their services, where all assignment and promotion decisions are made. It should be no surprise, then, that able, ambitious officers usually avoid assignment to the Joint Staff, and that those who are assigned seldom take positions contrary to those favored by their service. Moreover, issues that come before the Joint Chiefs are handled via a slow, unimaginative bureaucratic process. Each service essentially has a veto over actions that conflict with its parochial interests. Not surprisingly, the result is lowest-common-denominator mush—no clear, hard-hitting military advice.

The Joint Chiefs, as a body, are incapable of giving advice on the allocation of resources among the services, the most difficult issue that the secretary of defense and the President must face. Melvin R. Laird, secretary of defense during the Nixon Administration, made a valiant effort to bring the Joint Chiefs into the budget process and failed, despite the sympathy of most military leaders. Because there are inevitably winners and losers when such questions are addressed, the committee structure of the Joint Chiefs simply couldn't cope with them. Also, the laws greatly limit the ability of the chairman to voice his views independently.

The Joint Chiefs structure functions almost as badly when advice is sought on military strategy and priorities. Each branch of the armed services has its pet strategic concepts, designed to emphasize its own role and forces. As a result, Joint Chiefs strategy papers incorporate all four service approaches rather than present the best choice or set priorities.

Presidents and Cabinet members need and will seek help in making difficult policy and resource decisions. In the absence of an effective military voice, they turn to the systems analysts, budget specialists, "think tanks" and consultants for help in setting military priorities and deciding on budget increases or cuts. Thus, individuals who don't have operational experience and who won't have to live with the consequences of their recommendations play a key role in developing strategy, planning future forces and making tough budget decisions.

In his proposal, Jones suggested three steps that would greatly enhance the effectiveness of the Joint Chiefs:

Let the chairman advise the secretary of defense and the President on resource-allocation issues based on his judgment and input from the Joint Staff and the field commands (Europe, Pacific, Strategic Air, etc.).

Eliminate the veto that the individual services exercise on most issues, and rely more heavily on the Joint Staff for support of the Joint Chiefs in all areas in which their advice is called for.

Provide better training for personnel assigned to the Joint Staff and take steps to reward those who accept such assignments. This would include giving the chairman power to influence assignments and promotions.

Jones' proposal is certain to be opposed on the grounds that it could lead to a "German general staff" with greatly enhanced powers. But Jones' recommendations would amount to only a modest increase in power for the chairman of the Joint Chiefs. Numerous checks would remain to ensure that the views of the individual services would be heard, both at the Pentagon and in Congress. Nevertheless, the individual branches can be counted on to protest the threat to their veto power over the chairman's views.

It may well be true that war is too serious to be left to generals. But leaving them out of key defense decisions makes even less sense. Jones' proposal to reform the Joint Chiefs of Staff would help ensure that our civilian leaders get clear and sensible military advice on the toughest issues that the nation must face. This is a real reform; it deserves a prompt and sympathetic hearing.

[From the New York Times, Feb. 25, 1982

Q. & A.: GEN. DAVID C. JONES: RETIRING CHIEF SPEAKS OUT ON MILITARY COUNCIL

(By Richard Halloran)

WASHINGTON, Feb. 23.—Gen. David C. Jones, who will retire as Chairman of the Joint Chiefs of Staff in June after having served with the Joint Chiefs longer than any other officer, has begun his valedictory by circulating a provocative set of proposals for reforming the nation's senior military council.

Rarely have military officers, bred in the tradition of keeping their own counsel except when asked by properly constituted civilian authority, undertaken so public a campaign for change.

General Jones, who served four years as Chief of Staff of the Air Force and another four as Chairman of the Joint Chiefs advocates greater authority for the Chairman and the development of a corps of strategic military thinkers. He elaborated on his proposals in a recent interview.

General, what are the fundamental problems in the J.C.S.?

A. The Chiefs have two overall roles. One is to give advice to the Secretary of Defense, to the President, to the National Security Council, to the Congress, to a very wide audience.

The other is to supervise the combatant commands. We don't command them, by law, but we supervise their readiness, their capabilities, their planning.

In advice, one problem is that we've never sired a Clausewitz. In our system, Clausewitz would probably make full colonel, retire at 20 years and go to work for a think tank. We need great commanders with innovation and imagination. But we also need great strategists and our current system doesn't develop that.

Q. Is it in the system or is there something peculiarly American about not developing strategists?

A. Someone once wrote that long-term planning is almost anti-American. We have not done as well as other countries in long-term planning. That's true in government, it's true in business, and it's true in the military.

But there are also specific institutional problems. There are few rewards for the people who step back and look at the problems from the global standpoint. Promotions are determined by a service, assignments are determined by a service, the basic move is up the service channel.

I'm not proposing a general staff of people who are in it for the majority of their careers. But the pendulum is too far one way right now. I'm not suggesting moving it the other way to an elitist group because that would be as bad as what we've got now. There should be something in the middle where there can be greater incentives for people who work beyond their own service's interest.

Q. What about the supervision of combat forces by the J.C.S., which is really a committee of four service chiefs and a Chairman?

A. Committees are useful in providing advice and even in a few policy decisions. But committees are notoriously poor at running things.

Therefore, I would have a more streamlined process. I would give the Chairman a much greater role in this regard, with greater authority. And I would give him a deputy, who would be a four-star officer, to help in this. Between them, they could discharge two very different, very demanding responsibilities—being in Washington to give advice on policy and strategy and getting out to the field to supervise combat readiness.

Q. Is this the main point to your proposals?

A. Yes, the key is to strengthen the role of the Chairman. Part of that is to give him a deputy. Part of it would be to delineate certain areas where the Chairman can act without going through the committee process. Part of it is to give him some influence in promotions.

But all of the combatant commands are under the Secretary of Defense. Therefore, strengthening the role of the Chairman doesn't end up with his having authority to go off on his own and alert forces or to take action with the forces or to get the United States committed.

Q. Should your successor have a new title that sounds more like a military commander than a corporate executive?

A. I think I would still call him, probably, Chairman of the Joint Chiefs. In my analogy or comparison with industry, the Secretary of Defense is the chief executive officer with the Chairman being the chief operating officer.

Q. The Chairman is not in the chain of command now; would you put him back into the chain of command?

A. Although I would like to see that done, I have not recommended it because it is not essential to make major progress. Even though philosophically I support it, it isn't so critical to the issue as to be worth the effort that would be required by me.

Q. Along the same line, General, you wear four stars; should your successor wear five stars to make clear that he is the top soldier in the United States?

A. I think there is a clear advantage to that. I would welcome it, but again I have not proposed it because it would probably be misread as giving the Chairman more power than is intended. My proposal doesn't make him the commander of all other military officers.

Q. How would you get the Chairman and the joint staff more involved in the defense budget?

A. The country's leaders need military advice on issues that cut across the services, that transcend the interests of any one service. But we need to be recommending and commenting on how to get an integration of effort. We are doing more of that already. For example, we formed the Command, Control and Communications Directorate a few years ago. I probably involved myself in the budget process in "C cube" more than on any budget issue.

We are not trying to come up with our own budget but at least to be able to say, here are some of the problems, here are some of the things that need to be done.

Q. General, why have you brought this up now?

A. Well, I guess part of it is that I was ready. Before, I wasn't. I have seen so many abortive efforts for change that I wanted to make sure that I was fully prepared. Also I would like to do it at a time when it didn't look like empire building and self aggrandisement.

Q. After you retire, would you like to become a consultant on this?

A. No, I don't believe in trying to stay around after you're through. I will continue to provide advice after I retire, whether welcome or not, because I think there is so much more that needs to be done.

I intend to continue to work, hopefully in a constructive way, but in a critical way, even beyond my retirement, and on questions broader than the reorganization issue that I have addressed.

We can do so much better.

JCS Reform—and More: A Long Overdue Initiative

(By Robert E. Ellsworth)

General David C. Jones has done the nation a great service in triggering the debate over how our senior military command should be organized. General Edward C. Meyer has made an equally important contribution by going further than General Jones could tactfully go, noting that much stronger central institutions are needed, and not simply a stronger Chairman. Both sets of recommendations are in our interest if we are to avoid seeing our military become bureaucrats in uniform. As I look out over the next few years, one thing this nation surely requires is military and strategic advice straight from the shoulder. Professional. Tough. And smart. One way to get it is to begin with reform of the JCS, as Jones and Meyer have suggested.

THE OBJECTIVES REFORM MUST SERVE

The objectives of such reform may be summarized as follows:

To give professional military expertise a central role in shaping the nation's military strategy:

To strengthen the role of military expertise in military operations: and

To channel military professionalism so that it can influence the nation's force plans, to create more effective deterrent and war-fighting capabilities for the money made available.

The nation's present Chiefs of Staff and Joint Staff are incapable of adequately meeting these objectives, not because of personal inadequacies but because of statutory institutional roadblocks. The nation's top commanders must now give strategic advice in spite of their Services. They must give it privately, and in the knowledge that Service differences undermine their ability to staff strategic planning from an overall perspective. Whether the issue is nuclear strategy or strategy for the Gulf, the person Joint Staff system tends to reduce military advice to a lowest common denominator of Service and branch biases. Civilians have not taken over strategic planning, but the military are blocked from providing it.

Similarly, it has been exceedingly difficult to get unvarnished professional military advice on military operations. The efforts of the Joint Chiefs to create a national command center in Washington have largely been a waste of time. It has been all too clear that the Joint Staff, which supports this command center, lacks the political sophistication needed to advise on operations, the practical experience in military operations and crisis management, and the ability to react quickly and effectively. On balance, the Joint Staff has become a Service-oriented filter between the nation's top civilians and the Unified and Specified Commands—while the nation's top policy makers have tended to bypass it because it lacks the expertise, flexibility, and competence to do the job.

Among the failures of the present system, moreover, is the inability of the nation's top military to properly influence force planning. While the sophistication of the Joint Staff has increased steadily since the time of former Defense Secretary Robert S. McNamara, the grim truth remains that no responsible civilian can fully trust its advice. The Joint Staff has many competent individual members, but it produces formal staff work that has aroused the dismay of every senior civilian who has been forced to read it. It is laborious, cumbersome, and hopelessly compromised. It ignores real-world resource constraints.

REFORMING THE JOINT CHIEFS AND THE JOINT STAFF

The answer to this is obviously to create a strong single chief of staff and a career joint staff. General Jones and General Meyer are absolutely correct in seeking this objective. Without such reforms, this nation's top military command institutions will continue to fall far short of what the nation needs. General Meyer is also correct in emphasizing the role of the commanders of Unified and Specified Commands. This nation no longer has a serious need for Service chiefs of staff, any more than it has a need for Service Secretaries. Our strategy, our military operations, and our force plans must be shaped to support national missions and to meet global needs involving joint operations. While there is a need for Service-oriented administrators at the major general and assistant third secretary level, such administrators are not the proper advisors to the JCS Chairman, the Defense Secretary, or the President.

REFORMING THE SERVICES AND JOINT COMMANDS

This of course means that reform must in fact go somewhat further than either General Jones or General Meyer has suggested. The time has come to firmly subordinate Service interests to area commands like CINCPAC, CINCLANT, CINCEUR, and Readiness Command, and mission-oriented joint task forces. This can be done by going one step further than General Meyer suggests and giving the major commanders a direct voice in reporting to the JCS Chairman. They should be part of a committee or council that is subordinate to the Chairman, but clearly superior in rank and authority to any committee with a membership that includes the senior, single Service staff officers.

The end result will be more than a stronger Joint Staff, or Chairman. It will be to limit the career path to high command to either operational command or joint command. It will make single Service staff commands at best steppingstones to serving in such a command. It will cut through the forest of uniformed civilians or bureaucrats that now make up the Service military staffs and, combined with a strong, centrally led Joint Staff, will give the nation's responsible commanders a direct voice in decision making.

REFORMING CIVILIAN PLANNING AND DECISION MAKING

These reforms must be supplemented by reforms within the civilian side of the Department of Defense (DoD) and within the Congress. First, with all due respect to General Meyer, the military are not going to reassert their roles as commanders, strategists, and planners unless they work directly with civilian resource managers and policy planners in shaping one coherent force plan that can be implemented with the manpower and defense resources the nation has available.

This means that the Joint Strategic Objectives Plan must vanish forever, and that it must be replaced with a joint policy, planning, programming, and budgeting effort that is jointly drafted, reviewed, and implemented by staffs that mix members from the new Joint Staff and the Office of the Secretary of Defense. As long as the military planner is segregated from the civilian resource manager, and as long as military planners focus on trying to live beyond their resources, the real defense planning in this country will always be done by civilian planners. The golden rule in defense planning is that he who has the gold rules. No reform of the JCS will have much meaning that ignores this reality.

Second, the revised policy, planning, programming, and budgeting system must be directed toward giving the major commands the forces they need to meet potential threats. No reform can survive, or meet the nation's needs, which continues to plan and program around Service-oriented "slices" of general-purpose forces; which prevents joint planning and programming of the nation's strategic forces across Service lines; and which segregates the nation's research, development, and acquisition effort from an explicit link to the forces that will be built in each mission area. The nation must refocus its defense planning and budgeting activities away from a Service-oriented structure. It must concentrate on key mission areas, and it must judge by outputs rather than inputs.

This requires a third reform as well. The nation's forces plans will never support effective military operations or the implementation of a meaningful strategy as long as the annual Congressional budget cycle focuses on Service-oriented or line item budgets; as long as it only looks one year into the future; and as long as it ignores how the mission capabilities being built up compare to those of the threat. Yet the planning effort within DOD is now focused on a budget review process that forces this inadequate and short-sighted approach to planning. Defense must submit plans and budgets to the Congress with a five-year time horizon, which are structured by mission area rather than by Service, and which involve explicit net assessments of U.S. capabilities, those of our allies, and those of the threat.

These are not minor reforms, and it is certainly necessary to begin with the efforts suggested by General Jones and General Meyer. The President and the Congress must, however, have no illusions about the results. Reforms of the Joint Chiefs will not be enough by themselves. They must be accompanied by broad reforms in the organization of the Department of Defense, in the way civilians operate within the Office of the Secretary of Defense, and in the way in which the Congress treats the nation's defense budget. Without such reforms, the nation is virtually certain to fail to create a

broad and sustainable public consensus around its true requirements.

[From U.S. News & World Report, May 24, 1982]

INTERVIEW WITH GEN. DAVID C. JONES, CHAIRMAN, JOINT CHIEFS OF STAFF: U.S. MILITARY ORGANIZATION "DOESN'T WORK WELL AT ALL"

Q. General Jones, as you prepare to step down as chairman of the Joint Chiefs of Staff, what is the major lesson that you will carry away from the Pentagon?

A. That there is an absolutely critical need to change this nation's structure of military leadership. The fundamental weakness in this area cuts across the whole spectrum of American military efforts—from military advice for grand strategy, for a coherent defense budget and even for management of weapons programs.

Historically, the United States has not paid attention to military organization until a catastrophe occurs. The Spanish-American War was a debacle. In World War I, our logistics system broke down. Pearl Harbor was a disaster. In each of these cases, the U.S. was forced to make radical changes after the conflict began or ended. This time, I hope we can take the needed steps before an emergency is upon us.

Q. What specific change do you have in mind?

A. To put it bluntly, the chairman of the JCS has to be given considerably more authority than he has today. Now he commands a desk—that's all. The chairman can have considerable influence, but he has little real authority. In my view, the chairman should become the President's principal military adviser, and the Joint Staff should be responsible to the chairman rather than to a committee staff. That would enable the chairman to address defense issues far more effectively. Today, we have all five members of the JCS trying to reach agreement on every issue. It doesn't work well at all.

Q. What's wrong with that system?

A. There are four basic, longstanding and very dangerous weaknesses.

One is diffused responsibility. As the 1970 blue-ribbon panel stated: "Everybody is somewhat responsible for everything, and nobody is completely responsible for anything." The JCS is a committee, and committees perform certain tasks well. But they're notoriously inept at running things.

Secondly, JCS advice is not timely or sharp; it's committee advice. The basic drive is for unanimity. So you end up with the lowest common denominator of advice.

Third, the chiefs represent institutions—the services—and they become advocates for their services. There's a built-in conflict of interest between service loyalty and loyalty to the good of the U.S. defense capability as a whole.

Fourth, military jobs are very complex today. A service chief doesn't have time to tend to his own branch and then put on another hat and try to manage joint operations of the entire defense establishment.

Q. What about the criticism that your plan could lead to something like the once all-powerful German general staff?

A. The misperception of the German general staff was that a single general had great overall power. I find it interesting that today many democratic nations have systems which give an individual military leader greater overall authority than the German military leaders had. I'm not proposing we go that far. There would still be individual service chiefs, and they would work for the service secretaries. Furthermore, any chief could appeal directly to the Secretary of Defense or the President if he were strongly enough opposed to the chairman's recommendation on an issue.

Q. How would this improve the management of the military?

A. Service chiefs would be able to spend more time on running their service—combat readiness, discipline and the management of weapon-systems procurement. This really has to come from the military. During the past 20 years, the 30 top Pentagon civilian positions have had people assigned with an average tenure of about 2½ years. They can't focus on all of the problems. Some problems just fester, and not enough is done over the years.

Q. If the system is not overhauled, what will be the likely consequences in the future?

A. Over the past 30 years, 90 percent of our major arms systems have suffered cost overruns even when you take out inflation. This is caused partly because there is great turmoil in our leadership—civilian and uniformed—and the military leaders of the services don't have enough time to do two jobs well. If we continue in that direction, we will not achieve the defense capability that we need and we'll squander our resources. If we are going to solve these problems, some fundamental changes have to be made.

Q. Turning to the dangers this country faces: In the past, you have expressed deep concern about adverse trends in the U.S.-Soviet military balance. Have we begun to reverse those trends?

A. We've reversed the perception of the adverse trends, and this has had a beneficial psychological impact. The world sees that the United States is finally deciding to do something about a deteriorating security situation. That is important.

But there's a lag time. Because of long lead times, the increases in this year's defense budget, for example, won't really translate into a substantial increase in military power for several more years.

Q. How great an impact will the massive defense budgets of recent years have on U.S. military capability?

A. They won't propel us toward superiority over the Soviets, but they will arrest the trend toward U.S. inferiority. No one should expect that higher defense spending will quickly create a no-risk world. In fact, in a lot of ways, it's going to get riskier in years ahead.

Q. What do you mean?

A. In this decade, we're going to see a new leadership group in the Soviet Union. It will be, in a likelihood, a leadership clique that is more willing to take risks.

This leadership group will probably be forced to travel one of two roads. One road is to decide to make painful, but necessary, internal changes in the Russian economy and social structure in order to head off over the long term a potential of a collapse of the Soviet state. A turn in that direction would be to our advantage, because it would siphon off resources that might otherwise be devoted to arms and divert their attention from external adventures.

The other road is for Moscow to attempt to solve—or divert attention from—its internal problems by using its military power against other countries. I'm not predicting war, but I think this second scenario is more likely.

Q. There is criticism that the administration has adopted an ambitious strategy that cannot conceivably be implemented by available forces. Does the Pentagon run the risk that, by trying to do everything, it will end up not doing anything effectively?

A. There is no option but to broaden the scope of U.S. military power. We have a requirement for a global strategy now, and that global strategy is more demanding than our old regional strategies. We used to have overwhelming strategic nuclear superiority. And the Soviets had very limited ability to project power beyond their own borders. We could afford to fight in Korea or Vietnam and not worry too much about the rest of the world. We knew the Soviets either wouldn't or couldn't move.

Now we don't dare turn our back and dedicate massive amounts of military power in one area without worrying about something happening in another area. The only way to overcome that is to steadily build our own military power to cover several areas. Solving this problem will take a long time, and we have only recently started up that hill.

Q. Does this mean the U.S. must be prepared to fight Soviet forces in all areas of the world simultaneously?

A. Not necessarily, but it's hard to envisage a war between the Soviet Union and the United States that's limited to one small part of the world. Whatever the cause for its expansion, it's hard to see our fighting the Soviets with combat divisions in Southwest Asia, for example, and yet be meeting with them in the United Nations or sailing our ships past their ships on the high seas.

Q. Are you saying that any conflict between Russia and the U.S. will automatically escalate to all-out war?

A. I didn't say that. I said it's hard to see how a war between the superpowers could be limited, confined to some specific geographical area, or to certain types of weapons. The Korean and Vietnam wars demonstrated we could fight limited wars against third parties, but it's hard to imagine how Americans and Soviets can ever start fighting each other without having a high likelihood that the war will spread. That's not all bad. The high probability that a war will spread is a powerful deterrent.

Q. Doesn't Secretary of Defense Caspar Weinberger go further by hinting that the U.S. may deliberately widen a war with the Soviets in retaliation for any Russian military aggression?

A. He didn't say we would do it; he said we have the option to do so. Part of deterrence is uncertainty—making the Soviets nervous about how we may respond. They are then forced to consider these uncertainties in their strategic calculations. Nothing could be worse than for them to know that there would be no penalty for an aggressive act somewhere in the world. They should know there would be a penalty but have no certain knowledge about what it may be. That may not prevent them from moving, but they are likely to consider the risks before they act.

Q. How important, in your view, are arms-control negotiations in U.S. strategy to contain Soviet power?

A. The Joint Chiefs have been supporters of arms control. I wouldn't want to have arms control for arms-control sake, where Washington strives to achieve some treaty regardless of its merits. But truly equitable and verifiable arms-control measures can add to our security.

The best way to achieve these agreements is to convince the Soviets that a continued arms buildup is not in their best interest—that they won't obtain an advantage and

that it will be a terrible strain on their economy. We're more likely to have a successful arms-control negotiation if they see we are prepared to match their efforts rather than if we exercise unilateral restraints with or without arms control. The latter, unfortunately, has been our tendency for the last 20 years.

Q. What lies at the root of the current strains between the U.S. and its allies.

A. Partly, it's a difference of opinion over détente. The Europeans believe that they go a lot out of détente—growing trade with the Soviet bloc, a lessening of war tensions on the Continent, greater social contacts between East and West Germany. We saw very little—if any—benefit. We saw the Soviet Union, despite détente, continue its massive military buildup and engineer Marxist military takeovers in Angola and Ethiopia and outright invasion of Afghanistan.

Between the U.S. and Western Europe, there are different interests. What we ought to do is try to minimize those differences. However, neither side should make every disagreement a litmus test on the fate of the alliance and claim, just because we can't agree on every issue, that the North Atlantic Treaty Organization is coming apart.

Q. How significant is the demand that is surfacing again to pull American troops out of Europe?

A. There's an isolationist streak in this country that says, "Let's bring our troops home." That would be catastrophic for the United Staes because our troops are there primarily to defend the U.S.; however, our security is inextricably linked. The best we can do is consult thoroughly with our allies, keep pushing them to undertake a greater military effort, continue to remind them of the Soviet threat and try to minimize our differerices. But we must recognize that we will never eliminate all differences and that picking up our marbles and going home clearly would not be in our best interest.

Q. Does the growing feeling in this country that Pentagon spending is out of control endanger the big military buildup?

A. Our consensus for increased military spending is fragile. There are lots of arguments lined up against it—that it will harm the economy, that our allies are not doing enough to share the defense burden, that major cuts can be made because of waste, fraud and mismanagement, that our nuclear modernization program is destabilizing and unnecessary and that we are "crying wolf" and exaggerating the Soviet threat. We have good answers to each of these allegations.

But I am concerned. I don't think the consensus for building a stronger U.S. military position is broken. However, it's much harder this year to get the support for the budget than it was last year.

BUDGET RECONCILIATION ACT

Mr. BURDICK. Mr. President, I voted against the fiscal 1983 Budget Reconciliation Act because agriculture gets short shrift again. I just do not see how we can have any faith in the future of agricultural States if we retreat further on farm policy.

We are facing the largest surplus carryover of wheat stocks ever. At the same time, the lack of clear, concise trade policies by this administration is costing us markets overseas.

The administration has not moved in any meaningful way to deal with the surpluses. And, farm income supports have been set at the minimum level permitted by the farm bill, which is not enough to allow wheat and feed grain producers to even recover their costs of production.

When the Budget Reconciliation Act was on the floor of the Senate last month, 63 Senators voted for our acreage reduction amendment—to provide a 15-percent voluntary set-aside and 10-percent paid voluntary diversion for 1983 wheat, and a 10-percent set-aside and 10-percent paid diversion for feed grains—and against the substitute contained in this Budget Act. The large vote showed clearly that the Senate finally wanted to put its own imprint on farm policy.

The amendment was not a bailout for farmers. But it could have helped halt the drift into deeper and deeper depression in the farm economy. But, in the face of pressure from the administration, House and Senate conferees on the Budget Act reduced the paid diversions to 5 percent.

It is important to point out that the House also passed a 10-percent paid diversion. Both the House and the Senate spoke clearly on this issue. But somehow, the conferees compromised the 10-percent House provision and the 10-percent Senate provision and came up with 5 percent.

It is also important to point out that by reducing the surplus and increasing market prices, as the amendment would do, Government costs would be reduced. Two studies, one by the Congressional Budget Office and one by a private consulting firm, looked at this amendment and said the increased market prices would save the Government money. By cutting the paid diversion to 5 percent, we not only prolong the depression in the farm economy, but we increase Government spending by an estimated $626 million.

The Senate Budget Committee chairman recommended earlier this summer that the USDA adopt the 10-percent paid diversion for its 1983 program. When the USDA failed to do that, the chairman voted for our amendment. Again, the amendment passed the Senate by a 2-to-1 vote, in spite of the fact that Secretary Block was standing in the hall twisting arms to get Senators to vote against it.

There are some good features in this Budget Reconciliation Act, and there are many things we could have done to cut deficits further. But, I did not vote for it because of this further retreat on farm policy.

THE DECATUR MIRACLE

Mr. PERCY. Mr. President, Americans are asking anxious questions about the future of free enterprise in our Nation. The United States has been the acknowledged leader in the development of new technologies, new resources, and new opportunities. But that status has been questioned in the face of a slumping economy, high unemployment, and increased competition from abroad.

I want to share with my colleagues in the Senate today the news of a startling and revolutionary innovation that gives me great confidence that the spirit of enterprise that made this Nation great is still at work in our land.

Imagine witnessing the moment when Henry Ford's first automobile rolled off an assembly line in Detroit; or the moment when Cyrus McCormick's combine first thrashed through a field of grain; or the moment when Thomas Edison closed a circuit to illuminate the first practical light bulb. If we had witnessed such events, we would feel like we had been a part of history that, in such a moment, changed our way of life.

I had that feeling last Saturday, August 14, as I was standing under a tent, surrounded by cornfields, on the farm of J. G. Waddell, near Latham, Ill. Latham is located near Decatur in the central part of my State.

With me at that ceremony were representatives of nations abroad, State and local officials, business leaders, reporters, farmers, and area residents, and—most important—the family and friends of a young man named Dale Edgecombe. All of them were there to join Dale in the realization of an innovative idea that may well revolutionize agriculture throughout the world.

To meet a man like Dale is to feel like one is meeting a young 20th century Ford, a McCormick, or an Edison. Dale has developed a new concept in mass food production called controlled environment agricutural systems (CEAS). This system has historic implications for changing the way mankind provides nourishment for himself.

I first met Dale when he was a high school student who led a delegation of the Future Farmers of America that visisted my office in Washington in 1971. To behold the technology he has created for food production as I did last weekend is to believe anew that American genius is still thriving. We are a nation of inventors that has nourished creativity, free thought, and individualism. Dale is a symbol of the kind of progress that will lead the United States into the future.

It is a special tribute to Dale Edgecombe's creativity that he was able to pull his project together during these troubled economic times. In the Decatur area the farm economy is in near depressionlike condition and unemployment stands at over 18 percent. I was heartened, not simply by the representatives of businesses that are sup-

porting Dale's enterprise, but by the dozens of citizens, Dale's family and neighbors, who helped him to build this demonstration project. Many of them worked full-time jobs during the day and spent their evenings and weekends helping Dale. In fact, much of the labor that went into constructing the facility was volunteer labor. That, alone, is a great tribute to the astounding confidence people have in Dale.

I can assure my colleagues and my fellow citizens that they will be hearing a lot more about Dale Edgecombe and the concept he has created.

CEAS takes the conventional greenhouse that is designed for human harvesting and downsizes it so that the structure barely clears the plants. This design allows for a considerable saving in energy. Using robotlike tractor devices that move on rails, computerized harvesting allows for a considerable saving in labor costs. Plants are grown under solar panels in a nutrition rich watery medium instead of soil. Air purity is regulated, eliminating the need for insecticides. Waste heat can be used in the system such as the heat created by industrial boilers and manufacturing processes—a graphic example of cogeneration of energy. In short, CEAS are closed growing systems in which all factors affecting plant growth are carefully regulated to maximize rapid, healthy plant growth. Seedlings will reach maturity in weeks instead of months.

This concept can be a major step in improving world health through introducing a vitamin-rich diet of vegetables that could otherwise never be grown locally or that would be too costly to import. With me in Latham were representatives for the nations of Nigeria, Canada, Norway, Venezuela, and France. These agriculture experts already see the potential to raise better crops, year round, using this concept. Further, the distinguished industrialist, Armand Hammer, who has a devoted interest in fighting world hunger, has taken a strong interest in this project.

CEAS can mean new sources of food in nations abroad, but it can also be used to grow crops during the winter months in northern climates. Enormous savings could be realized in eliminating the costs of transportation of vegetables from southern climates. The technology could be adapted for use in city neighborhoods. Food could be grown right where the market is located and new jobs could flourish in decaying city neighborhoods.

Most important for the people of central Illinois who have invested their faith in Dale Edgecombe: His project he estimates will initially create 300 new jobs in that part of the State with an annual payroll in excess of $7 million. Eventually, employment levels and the subsequent payroll are projected to reach 10 times that amount. The jobs are good paying jobs and average up to $20,000 annually.

As one who is ceaselessly interested in finding new export markets for Illinois products, commodities, and services, I see a vast potential in this concept. As founder of the Alliance to Save Energy, I am especially pleased by the implications this concept has to conserve our precious energy resources.

In conclusion, I want to underscore a dramatic highlight of this project. Not $1 of Federal money created CEAS. This project is an outstanding example of free enterprise at its best: A solid idea that wins the support and confidence of people who cannot be defeated by pessimism; people who are seeking the new opportunities that will keep America second to none.

I ask unanimous consent, Mr. President, that a description of the CEAS concept prepared by Dale Edgecombe, president of Edgecombe Enterprises International, Inc., be printed in the RECORD, along with the text of the proclamation signed by James R. Thompson, Governor of Illinois, declaring "Edgecombe Enterprises International Day" in Illinois.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEEDS OF THE FUTURE

Welcome to a new era in food production technology. From current state-of-the-art techniques in nutrient flow farming, Edgecombe Enterprises International, Inc., has developed a new generation concept in mass food production . . . Controlled Environment Agricultural Systems (CEAS).

CEAS are closed growing systems in which all factors affecting plant growth are carefully regulated to maximize rapid, healthy plant growth.

They are more efficient growing systems, functionally designed to reduce the need for energy, labor and land; yet, for a given area of land, to produce more food, more often than any other food growing system available today. In an environment monitored, controlled and enhanced by sophisticated computer technology, products will grow from seeding to full maturity in weeks instead of months . . . and, through the use of automation, go on to harvest with a minimum involvement of manpower.

Controlled Environment Agricultural Systems will make it possible to grow products in areas where they have never been possible before. It means growing decorative foliage in arid deserts by using the cool subsands for temperature control . . . and enjoying "fresh fruit and vegetables in December, from a system heated by "waste" air or water from a local utility or manufacturing plant.

At Edgecombe Enterprises International, we're doing more than growing food more efficiently; we're sowing the seeds of a better tomorrow.

MORE FOR LESS

Man has been growing food for countless generations . . . and in each generation, he has gained knowledge that will help him improve productivity. Today, "open field" farming is the most efficient way to feed millions. But despite increasing investments in labor-saving machinery, land and energy, productivity still remains vulnerable to "uncontrollable" factors that affect plant growth . . . light, heat, insects, disease, poor soil conditions and even the length of the growing period itself.

Traditional greenhouse or "hothouse" farming offers far greater control of environmental factors, but at a great cost in efficient production. Labor-intensive, greenhouse systems require unnecessarily large investments in land and energy just to accommodate human tending, making the system impractical for large scale food production.

The EEI Controlled Environment Agricultural System is a blend of greenhouse and open field systems and more. Soilless farming techniques, labor-saving machinery, efficient land use, co-generation waste heat, plus the control of environment from greenhouse systems, combine to create a food production system of unparalleled productivity.

TOTAL ENVIRONMENTAL CONTROL

Because CEAS are constructed to provide plant growing area alone, they require up to 90 percent less growing volume and heating energy than traditional greenhouse systems.

The base structure is tailored to maximum plant height, serves as a buffer against the outside environment and a basin for the free-flowing water which heats/cools the system to optimum growing temperature. Baffles also make the system ideal for isolating plant populations for controlled genetic research.

CEAS can be adapted to tap diverse water sources, such as wells, geothermal springs, lakes, industrial "waste" water and oceans . . . and, depending on availability, to recycle water back into the system or discharge it into the natural ecosystem.

Hinged panels covering the base protect the system against outside factors such as inclement weather and also complete the containment of ideal growing conditions.

(1) Light Control . . . Growers can regulate the amount or intensity of light. Conversely, optional artificial lights can add light to extend the growing period to 24 hours a day.

(2) CO_2 Control . . . CO_2 levels in the growing atmosphere can be greatly enhanced through the use of CO_2-laden "waste" air from industrial plants and sparger lines located in the heating/cooling water. Sparget lines can increase CO_2 concentrations up to 100 percent for specified periods. Research has indicated that you can control insects by pumping the system with high levels of CO_2 for short periods of time.

(3) Air Temperature/Humidity Control . . . Exhaust fans complete the job of environmental control by removing excess humidity, heat and oxygen created by plant growth. System air is recirculated through dessicants and heated/cooled before its return to the growing tanks.

(4) Nutrient Control . . . The root systems of plants in the growing trays are supplied with a constant flow of liquid nutrients via nutrient trays. The nutrient solution is maintained at a constant termperature and pH balanced to insure maximum growth.

AUTOMATED EFFICIENCY

Just as they provide complete control over all plant growth factors, CEAS also provide one of the most labor efficient growing systems in the world.

Each growing system is constantly monitored to provide current information on growing conditions. When required, sophisticated computer software programs will automatically adjust levels of heat, light, humidity and CO_2 to provide the exact balance required for maximum productivity.

Planting and harvesting, the two most labor-intensive parts of the growing process, have been automated through the development of a unique tractor system which works outside the growing environment itself. This tractor enables one operator to plant and harvest the growing system without disturbing the growing environment. Lateral rail systems enable the tractor to move sideways; one operator and tractor can plant and harvest systems concurrently minimizing equipment and labor investments. Acreage per unit is a factor of the respective crops growing cycle.

From a closed cab, the operator can move over the growing tanks on rails embedded in the base. Sensing devices in the tractor signal when the operator is correctly positioned over a growing tank. In position, the operator can open each set of panels into the tractor, creating a seal which traps the growing environment within the system and the loading bay. Vacuum operated hoists lift trays into the loading bay and on to a storage area; when the tank has been unloaded, the doors swing back into position and the tractor moves on to the next tank.

When the storage area is full, the tractor moves back to the processing building, where it seals against the building to form an air lock. Storage area doors open to unload full trays and load newly planted growing trays.

By centralizing seeding and processing in an on-site building, CEAS can reduce per unit picking, handling and processing costs. And, in areas where food is largely imported, CEAS can also drastically cut retail prices by reducing transportation costs to a minimum.

TECHNICAL ASSISTANCE

Edgecombe Enterprises International, Inc., is the guiding force in an international consortium dedicated to the development of better food production systems. Each consortium partner is a recognized and respected member in a given field; in the aggregate, they represent a full spectrum of assistance in the conceptualization, design, financing, construction, coordination and managment of each individual Controlled Environment Agricultural System.

Their expertise assists EEI in offering the world a superior food production system that can grow any food product in any climate of the world more quickly than ever before . . . and by doing so, helping EEI sow the seeds of a better tomorrow.

PROCLAMATION

Whereas, the Governor's Economic Development Advisory Board, the Illinois Special Events Commission and the Illinois Department of Commerce and Community Affairs are officially recognizing Edgecombe Enterprises International Day on August 14, 1982; and

Whereas, this company's recent development of controlled environment agricultural systems, coupled with computer science and agricultural economics, have produced advances in automation of hydroponics as well as in automated marine life production systems; and

Whereas, the results of these achievements are the improvement of food production and the nutritional welfare of all people not only in Illinois but throughout the world; and

Whereas, such efforts are consistent with Illinois, Inc., the program of cooperative public and private sector activities that improve the quality of life for every Illinois citizen;

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim August 14, 1982, as Edgecombe Enterprises International Day in Illinois, to further encourage Illinois companies to research and develop new ideas, techniques and products.

ECONOMIC CRISIS IN MEXICO

Mr. KENNEDY. Mr. President, I would like to draw the attention of my colleagues to the increasingly difficult economic situation facing Mexico, a friend and neighbor whose importance we must never underestimate.

External events have hit hard the recent efforts of the Government of Mexico to harness its oil and gas reserves through a diversified economic development program intended to raise overall living standards for its people.

The current glut in world oil markets has placed severe strains on the still fragile Mexican economy. Observers fear that revenues may drop to $12 billion in 1982, less than half of the previously projected sum of $27 billion. As with other countries in Latin America, economic growth has plummeted to virtually zero, in Mexico's case from a high of nearly 8 percent per annum.

Austerity measures were adopted and the peso was devalued earlier this year to respond to the economic crisis. Those measures, however, were undermined by an inflationary spiral which soared to 60 percent. Unemployment and underemployment are approaching 50 percent, and social programs are hard pressed to match the rising level of need, particularly at a time of fiscal cutbacks. Mexico's total foreign debt now exceed $80 billion—the highest in the developing world—and its debt repayments could amount to a staggering $18 billion in this year alone.

Within the last few weeks, the economic problems have come to a head. In the face of huge debt payments and a continuing slackness in exports, the Government announced on August 5 a system of multiple exchange rates, with the floating rate reaching 90 pesos per dollar. The foreign exchange market was closed and stringent capital controls were instituted to prevent capital flight.

Over the past weekend, Mexico received $2 billion from the United States—$1 billion in advance payments for oil and $1 billion in grain import credits. Finance Minister Jesus Silva Herzog announced that the Mexican Government would seek to restructure its debt with commercial banks and to conclude an early credit agreement with the International Monetary Fund.

The economic health of Mexico is vital to the United States, for two reasons. First, Mexico has long been an important friend of the United States, not only in this hemisphere but on a wide range of issues. It is the third largest trading partner of the United States—after Canada and Japan. Mexico plays an essential role in international economic affairs, including its important contribution to the energy security of the hemisphere, its support for just and peaceful solutions to the crisis we face in Central America, and its leadership in efforts to forge a meaningful north-south economic dialog. Mexico's economic health and progress is a major factor in that country's ability to make a positive contribution internationally, and to pursue social and economic progress at home.

Second, the issue of Mexican immigration into the United States is a familiar one here in the Senate. There can be no question that the economic crisis in Mexico will put even greater pressure on our border, as the unemployed come in search of food and work to the United States. The solution to these problems lies fundamentally not in immigration controls, but in reducing the economic pressures which drive Mexicans and other foreign workers to the United States.

We cannot underestimate the great problems that we face in the United States as a result of the administration's failed economic policies. At the same time, I urge the Senate to recognize that those policies—high interest rates and our own recession—exacerbate sharply the economic crisis in Mexico and other friends and allies of the United States. It is time to address at the highest levels of government ways in which we can cooperate with Mexico in taking actions to ease its present economic difficulties.

First, I support the short-term economic measures taken by our two governments to deal with this crisis. We should continue to do all we can to overcome the credit and currency emergency that we face.

Second, I join in urging the International Monetary Fund to respond quickly and effectively in helping to put the Mexican economy back on a sure footing, and making it possible to resume both equitable and substantial economic growth.

Third, I believe that our two governments should jointly seek to develop long-term solutions to the economic problems we both face. A high priority must be to resolve the trade and immigration issues between us.

In pursuing these matters, we must begin with the fundamental recognition that our bilateral relationship is of the highest priority; the attention

we give and the diplomats we assign must convey a recognition of that importance. We must recognize that the future of the American and Mexican peoples is increasingly intertwined. Our Nation has a deep interest in the restoration of the Mexican economy, in the well-being of the Mexican people, and the broadest possible range of cooperation between our two governments. The present crisis offers us a major opportunity to act on that interest, and we should not let this opportunity pass us by.

Mr. President, earlier this week the Senate adopted a bill that will have extraordinary implications on our Nation's immigration policies, especially as they relate to Mexico. The bill was promoted as a way of gaining control over illegal migration to the United States. I opposed that bill because I did not feel it constituted a fair or adequate course of action.

As I pointed out during our recent debate, the only real way to gain control over these migration pressures—particularly from Mexico—is if we join with Mexico in cooperative efforts to deal with the root cause of the problem, which is the state of Mexico's economy and its population growth.

If we are really interested in dealing with migration from Mexico, we should be pursuing true economic cooperation between our two nations—not circulating memorandums within the Department of State on how we can take advantage of Mexico's economic plight.

We must look to the longer term implications of Mexico's current economic problems for our bilateral relationship—a relationship that involves a range of political, economic, migration, and cultural issues. By looking only to the short term, as this administration has done—and as the Senate did this week in moving on an immigration bill without full regard for its implications for Mexico—is to mortgage our ability to address the fundamental bilateral problems affecting our two nations in the years to come.

PRODUCTIVITY—AMERICA'S MOST IMPORTANT ISSUE

Mr. PERCY. Mr. President, productivity is acknowledged by nearly everyone in this Chamber as the top economic problem facing us. So many of our other economic symptoms—inflation, unemployment and to a great extent, even high interest rates—can be traced to a slowdown in our productivity.

A number of organizations have appeared in recent years, addressing themselves totally to understand the productivity dilemma and recommend to government, business, and labor ways to improve that productivity performance. One of the most active of these organizations is Productivity, Inc., a small company in Connecticut which publishes a monthly newsletter that bears the same name. An increasingly important part of the American business world is the periodic productivity conferences this company holds around the country. It is an invaluable way for businessmen, labor, and Government officials to discuss their common interests in productivity and begin to take the reins into their hands.

Surely the productivity-enhancing tax cuts we passed last year will contribute to an improvement in productivity in the United States. But the major effort must reside daily in all businesses across the country. Tax policy alone cannot do it. It is a part, but the major thrust will come in ways the private sector can undertake only by itself.

These conferences, produced by Norman Bodek, president of Productivity, Inc., are excellent forums to examine the tools that have been so helpful in some companies. I was very pleased to have had an opportunity to speak to the most recent Productivity Conference which was held in Chicago from June 2 to 4.

Mr. President, I ask unanimous consent that my remarks delivered in Chicago on June 3 be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

PRODUCTIVITY—AMERICA'S MOST IMPORTANT ISSUE

(Address by Senator CHARLES H. PERCY)

ACKNOWLEDGMENTS

It is a pleasure to be here with so many business executives today. Before I begin my remarks, I would like to thank Norman Bodek, the sponsor of this conference and the publisher of PRODUCTIVITY newsletter. In a few short years, Mr. Bodek has created his own publishing business and moved to fill a gap in our communications network. He has in this initiative not only brought fourth a great resource in his newsletter, but also launched a new business in its own right. I congratulate him on these achievements and I think we all owe him our gratitude for bringing to the Midwest this excellent opportunity for an in-depth look at one of the most fundamental concerns for our economic future.

I noticed that my good friend Leon Skan preceded me on the dais this afternoon. No discussion of productivity in Chicago would be complete without reference to Leon Skan, who has been a knowledegable advisor on this subject for many years. He was instrumental in founding the American Productivity Management Association in the Chicago area seven years ago. The Association encourages productivity enhancement in both the private and public sectors. Through exchange of ideas and business methods, the Association is able to provide a tremendous service to its many business members. I am pleased that Leon is a participant in your program and know that he has much to offer.

Illinois—appropriate place for conference

In recent years, similar conferences sponsored by PRODUCTIVITY have been held in New York City and Washington, D.C. I know that they have been successful in communicating productivity experiences and the sites for the conferences are logical. After all, New York is a financial and commercial center—the source of much of our capital and managerial ideas. And, on the other hand, Washington has for many years stood as the antithesis of that. Taxes have been a drain on much of our investment capital and regulation has demanded more and more of the creative talents of business. I am pleased that Federal tax and regulatory policies have been changed to lighten these burdens and I will address them more fully in a moment. It is certainly our goal to make Washington more of a partner with business and less of an adversary.

This year, productivity selected Chicago as the site of its conference, and I congratulate you on that choice. Chicago offers yet another perspective on American business, one which might not have been emphasized in New York or Washington: namely, the critical importance to our economy of aggressively and creatively meeting the foreign economic challenge.

Meeting the foreign economic challenge

We have a business leader here today, who, as you may have noticed in today's Chicago Tribune, made what was probably the strongest statement ever made by an American bisinessman on the issue of Japan.

As a former businessman, I have always preferred to push for more open world markets as a response to the foreign economic challenge. The American market of 220 million people is very limited compared to four and one-half billion people out there who need and want our services and products. I've spent a good deal of my life leading the international division of Bell and Howell and as its Chief Executive Officer. For two decades I built up our business in other countries, and by so doing expanded our employment in this country. When I started we had 800 people; when I left we had 10,000 and eventually it reached 14,000 in the U.S. I have always believed that the ever widening market opportunities will be this country's greatest economic opportunity for the future. Only in an open system of trade will each country's strongest businesses expand rapidly and achieve economies of scale with commensurate productivity gains.

Yesterday, Bob Galvin, Chairman of the Board and Chief Executive Officer of Motorola, one of our great Chicago companies, singled out the Japanese as a major obstacle to free trade. We seem to be confronted with a trading partner that seeks to use the open trading system to its own advantage, without offering equal access to its market for foreign competition. This system of limited access to the Japanese market was permissible in the 1950s and early 1960s. When I built a factory over there, it was a time when we were helping to rebuild their economy, while taking advantage of their very low labor costs, their skills, and their hard work. But we doing that as a basis of repairing the damage of a war, and these conditions are entirely different today. Today, Japan's protectionist attitude is really threatening to undermine the entire economic system that has been forged over the last 30 years. It is time for us to come to grips with Japan's apparent unwillingness

to lower its barriers enough for American investment and products.

Yesterday in Massachusetts, Bob Galvin delivered a strongly worded speech focusing on what must be our response to Japan's trade and investment policies. Now I've known Motorola a long time—30 years—it is the type of company we are talking about today. They're innovative. They're creative. They're imaginative. They're bold. They're not unwilling to try new things. Motorola has put the resources into research and development that will give it the lead into the future. It is a quality and productivity leader in its field, in this country and throughout the world. It is known for its employee participation in management. In short, it is not the type of company that is quick to complain about foreign competition. Some companies blame all their internal problems on foreign competition—Motorola has never done that. Motorola has shown that it is willing to meet that competition head on and has made the productivity-enhancing investments necessary to do so.

Bob Galvin's speech yesterday painted an economic adversary armed with tools that American business would never have at its disposal: for instance, a series of laws that sanction the establishment of cartels. They sanction them! Our laws prohibit them, theirs sanction them. The Japanese system provides for concessionary loans allowing interest and loan forgiveness, collaboration among companies to fix export prices and ostracism of companies that do not play according to those rules. Bob points out that these policies are, and I quote, "supported by the interlocking financial structure of government, banks and manufacturers whose socialized method of financing provides funds on such a low risk basis that one can hardly sense the actions of a free market."

Over and over again in his remarks, Bob Galvin makes the point that Japan is preventing the free market from operating. It is a system, he says, at variance with our own market system.

Now Japan is moving toward a lowering of its barriers and just last week proposed another round of trade barrier reductions. I lauded their drive to remove barriers, but the steps Japan has taken are so few and limited that an economy governed by market mechanisms is still not even on the horizon. Tremendous barriers still exist against American business.

Congress is now in the process of drafting the most sweeping legislation in nearly a decade and Motorola's recommendations for action will be heard loud and clear in Washington. I can think of no other state that has made a greater effort than we have in Illinois to become an export oriented state; to be able to sell our products in free markets throughout the world. My test has always been "How many do we sell in Hong Kong?"—a completely free market. That ought to be the test we all have. Certainly, we all can do a great deal more.

A couple of years ago, I wrote a letter to Prime Minister Ohira. I talked a great deal about the closed nature of the Japanese market and pointed out that they expect us—30 years after the war is over—to hold a nuclear umbrella over them and to protect their sea lanes. They don't have enough anti-tank weapons, they don't have enough antisubmarine weapons, they don't have enough mine layers—all of which is allowed for in their constitution. They spend 8/10 of 1 percent on defense. We are spending better than 6 percent. It is *we* that are protecting the sea lanes and the Persian Gulf with an $11 billion dollar investment—and who is the first beneficiary?—*Japan.* They are almost totally dependent. They would be decimated if they were cut off from Mideastern oil. Yet we are the ones spending $11 billion to protect it. I suggested to Prime Minister Ohira that they should be helping to provide development assistance to Egypt and Somalia and other areas that provide bases for our common defense. Two weeks after I sent him my letter signed by 39 of my colleagues he unfortunately suffered a heart attack, but I have pursued this with his successors.

We have made a little progress since then, but we still must forcefully indicate that fairness is something that must be adhered to. We don't want to have protected markets. We don't want to start a wave of protectionism. We don't want to erect trade barriers. We don't want to raise tariffs. That route has been traveled before as many of us can recall the disastrous Smoot-Hawley Tariff Act of the 1930s. It embodied the highest tariffs in American history and helped to push the world economy even deeper into the deepest depression we have ever experienced. There are more creative ways to deal with the economic challenge from abroad and I can think of no other state that is more in the forefront of that effort to expand our exports and make American products more competitive overseas. Illinois is one of the top exporting states in the country and stands as the number one agricultural exporting state. International trade is a way of life in this state. Not only here in Chicago, the transportation hub of the country, with the Great Lakes, O'Hare Airport—busiest in the nation—and the rail center of the country, but also throughout the state. Employment in places like Peoria, Springfield and Decatur are heavily dependent on exports. In fact, in these downstate cities, as much as a quarter of the jobs depend on export trade.

Nationwide you have heard the statistics before: one of every eight U.S. jobs is export-related; one of every three dollars of U.S. corporate profits comes from international trade or investment; one of every three acres of U.S. farmland produces for export. You are seated today in the most export-dependent city in one of the most export-dependent states in the Union. Illinoisans know that their jobs on the farm, in the factory, at the bank, at the airport depend in large part on U.S. exports. I will never rest until we can go out to O'Hare and get on a United Airlines plane and fly nonstop to Tokyo. I've been working on that one for a year now. It is just a symbol of fairness. If Japan Air Lines can land in Chicago, we must be able to land in Tokyo. They ought to be able to stand a little competition. That's just an example of what I consider to be unfair trade practices and restrictive measures that create the tremendous imbalance we have in our balance of payments.

Now what role does productivity have in all of this? Just as we must expand our exports, we must protect our markets with economic power through productivity, not with political power. Political power—tariffs, quotas—that can always be pulled out from under you, but productivity and economic power cannot be.

Productivity and international competitiveness

I mention the importance of exporting because there is no question that our efforts to rebuild our productivity will influence and be influenced to a great extent by our efforts to compete effectively overseas. Competition in the world marketplace has become increasingly fierce in the past decade and there is no sign that it will let up. To the contrary, all the signals point to even greater competition in the future. We must be prepared to meet these twin challenges of productivity growth and international competitiveness. They are linked together almost like Siamese twins and their solutions are inextricably bound together, too.

At the risk of being accused of preaching to the choir, it may be helpful to sketch the dimensions of the productivity slowdown we face.

U.S. productivity—the record

During the 1950s and first part of the 1960s, our economy enjoyed substantial annual increases in productivity growth, amounting to about 2.5 percent a year. In fact, during the business cycle that ended in 1973, we were still enjoying productivity growth in the range of 2.5 percent. Since 1973, however, productivity has not increased at the historical post-World War II rates. From 1973 right through the first half of 1981, productivity grew at a rate of only 0.7 percent a year, about one third of our earlier pace. During each business cycle, of course, productivity went up and down with the relative health of the economy, but the trend is unmistakable: productivity growth since 1973 has deteriorated. In the years 1978 through 1980, we actually recorded productivity declines. These were not the first productivity declines we had experienced, but they were the only ones that were recorded during a period of relative economic prosperity. They are of great concern to business and government leaders, for they signal an erosion of our economic base.

As a Senator I have taken steps to further the much needed communication between business and labor. I've had both a business advisory committee and a labor advisory committee—65 CEOs on one side and 26 labor union representatives on the other. The first week Governor Thompson was in office I held a meeting of combined management and labor with the theme, "What can we do to grow and expand in Illinois?" It was the first time those labor leaders really heard what was driving business out of Illinois. Our high unemployment compensation, our workmen's compensation. Too high benefits cost far too high—we just were not competitive. For the first time we began to realistically look at what creates labor union membership and what drives people out of this state. Now, we are trying to become more competitive.

Now, every time we meet in the steel caucus with the heads of the steel companies, organized labor is sitting right in that room working together with management to rebuild that industry. That's what has to happen. Labor has to be brought in a partnership to see their companies through the eyes of management. They have to realize that they have a big part in restoring America's productivity.

The present recession has only intensified our concern over productivity. During the last quarter of 1981—and the first quarter of the present recession—productivity fell by 6.9%, the largest drop in any recession since World War II. Economists expected productivity to decline in the first part of the recession, but not so steeply. The gov-

ernment has released the preliminary data for productivity in the first quarter of this year and it is up slightly, by 0.3%. Despite this small uptick in productivity, the fundamental problems remain with us. We must search for ways to bring about a long-term resurgence in productivity.

Now that is a bleak picture if we look at these statistics. But statistics do not tell the whole story. These recent declines in productivity growth do not mean, of course, that we are no longer one of the most advanced and productive economies in the world. It simply means that we are not pushing as hard as we used to. If our productivity growth were to remain slack for years, we would eventually lose our competitive edge in the world marketplace and, in the absence of trade barriers, we would see a large influx of more efficiently-produced foreign goods and services.

Competitiveness of U.S. business

While we move ahead with plans to improve productivity performance, we need to keep one thing in mind. Namely, U.S. businesses still lead. Let me give you an example of what I mean. According to the Bureau of Labor Statistics, the level of productivity in Japan in 1960 was about 25 percent of the U.S. level. In other words, for every 100 items the U.S. worker produced 20 years ago, the Japanese worker produces only 25 in the same time, with the same resources. We are still outperforming the Japanese, but not as well. Last year, Japanese productivity was 66 percent of the U.S. level. So for every 100 units American workers produce today, Japanese counterparts produce 66 in the same time. These data show that our competition is gaining on us quickly.

There are many reasons for the decline in our productivity. Federal tax policies, excessive regulatory burdens, high labor costs, research and development expenditures and management decisions all have a major part. There is no doubt among economists that each of these played some role in the productivity slowdown.

I know from my own business experience that one of the first items cut back on by corporations in economic slumps are expenditures for research and development. This is always a short-sighted way to economize and these cutbacks have undoubtedly affected our overall productivity performance.

Although no single item is responsible for this slowdown in productivity, one conclusion can be drawn from the evidence. As productivity began its slide in 1973, inflation began its upward march. The rise in inflation and the drop in productivity led directly to the President's proposal for a concerted attack on Federal policies that contribute to them.

Federal efforts

Last year the Congress passed a tax reduction program specifically designed to increase savings and investment. The Accelerated Cost Recovery System, streamlining our antiquated depreciation system, is the core of the investment program. I have worked for modernization of the depreciation system since I came to the Senate in 1967. My years as President of Bell & Howell had convinced me of the need to redesign our tax laws to more adequately allow for new capital expenditures. Inflation only made this need more acute.

The new depreciation system is the most neutral one that Congress could devise. Rather than limiting it only to businesses with profits, the safe harbor leasing provision was added so that all companies could modernize and improve their productivity performance. Some of our key industries—like steel, autos and airlines—could have been hamstrung in their investment planning had there been no safe harbor leasing provision. Moreover, the absence of this incentive could have led to a great number of corporate takeovers and a decline in competitiveness here at home.

On the savings side, the tax bill has a number of specific provisions—like universal IRAs—to encourage less consumption and more savings. Moreover, the three-year individual tax cut will also spur savings. We have only had the smallest part of the tax cut—5% last October. The bigger cuts—10% next month and another in 1983—will be major incentives for savings. Had the government collected these revenues, we know all of it would have been spent. Instead, a great share of it will ultimately go into savings and from there into new productive investments.

In addition, the President has also put in place new research and development incentives and reduced new regulations by about half.

The Economic Recovery Program was ambitious from the start and has yet to prove itself. Enactment of this program does not, however, mean that we are automatically on our way to higher productivity.

Business efforts

The government has removed some heavy burdens and provided some new incentives, but the challenge lies—as it always has—in the private sector. Business must respond to these incentives and there is no question that job-creating investments will take time. Moreover, there is a great deal that management and labor must initiate themselves. As I look over your program at this conference, I see that the focus is properly on the role of business and labor in productivity-enhancement. The ball is now in your court and I know you will respond, as some companies are already.

Earlier this year, I asked Congress' General Accounting Office to look into private sector efforts to boost productivity. GAO has given me a preliminary report of their samplings and has found a number of promising cases. GAO zeroed in particularly on the productivity managers that are cropping up in many businesses. Certainly those of you here today are increasingly aware of this trend. The tasks of the productivity managers vary from company to company and range from technology improvement to quality of work life. GAO has been able to conclude that the companies they surveyed with productivity managers and with measurable goals for all managers to meet had a number of similarities, including: (1) a highly visible productivity manager; (2) a company-wide awareness of productivity's importance to management and employees; (3) an organization-wide productivity plan with specific goals for each manager; (4) a productivity measurement system designed specifically for that organization's needs; (5) repeated use of the productivity plan and measurements to hold employees accountable for productivity improvements; and (6) a mechanism for identifying productivity bottlenecks and their solutions.

GAO is still working on this study so it is premature to draw final conclusions at this time. A central theme of their report, however, has developed around the motivation of firms that have adopted productivity managers.

GAO found that the surveyed companies were led to this system not out of academic interests in productivity. Rather, they were confronted with international competition that prevented them from continually raising prices or increasing volume as they had in the past. Because of foreign competition, the surveyed companies looked inward for a change and found that they could reduce production costs and improve their productivity. It is no surprise that the companies questioned by GAO are among the leaders in their field. Most of the companies are older businesses that have made transitions before and are in the process of doing so again. This time, they are preparing for expanded world trade by taking a hard look at their productivity record and acting when the improvements become clear. Many of you have adopted such programs.

What underlies the GAO evidence is the fact that successful productivity management programs emphasize communication between management and workers. The highly-visible productivity manager, the well-publicized productivity plan and even the measurement system are all expressions of corporate communication.

An old friend of mine and expert on management has stressed this same theme recently and I am struck by the similarity of his findings and those of GAO.

Larry Appley in now Chairman Emeritus of the American Management Associations. The AMA is the group that I worked with in 1958 in sponsoring the Economic Mobilization Conference to pull us out of the recession. President Eisenhower was our featured speaker and he told me later that he viewed that conference as contributing significantly to the end of the recovery, which commenced the very next month. So Larry Appley's business experience goes back a long way.

I think you will be interested in his findings that excellence in productivity hinges in a large part on the ability of managers to communicate with their workers. In fact, AMA has even launched a "Communicating for Productivity Program" to focus management's attention on communicating for productivity.

The AMA productivity program is based on a belief that managers have not been trained extensively on what to communicate or how to communicate. Larry Appley says that in his opinion, this is the reason for the "pitiful productivity record of this nation."

Larry Appley goes on to point out that productivity problems can be related to a lack of skill in clarifying productivity subject matter between supervisors and workers or between managers and other managers for whom they work. Larry says, the productivity subject matter is: "the work to be done; how well it should be done; how well it is being done; and how it can be done better."

Frank Considine, President and Chief Executive Officer of National Can Corp. in Chicago has fully used this program, starting with top officer groups, including himself, and he fully endorses the program.

I cite Larry Appley's efforts to boost productivity because it reaffirms the statistical report of GAO and because it seems to be a workable way to increase this country's productivity.

These are important accomplishments on the part of the business community and they are central to a productivity revival. The government's tax cuts and regulatory relief are only part of the answer to declining productivity. The present recession may

obscure some of the efforts companies are making to get ready for a recovery that will ultimately arrive.

When our domestic economy does begin to recover, there is going to be a certain amount of pent-up demand that will look for the best goods at the lowest prices. The companies that will win in that market will be those that have streamlined their operations and improved productivity. This is the way—the American way—to prepare for stiff competition from Japan and Europe. Economists are now predicting that by the late 1980s and 1990s, the United States will be keeping pace with its foreign competitors and possibly even outstripping them in markets around the world. The U.S. and Japan, these economists say, will pull even.

CONCLUSION

That is almost a dream today, as we continually seem to try and catch up with Japan. It is a goal, however, that we can meet, if we put the effort behind productivity improvement. This route will put us on the track for another round in expanding world markets and prosperity. Productivity enhancement is the response to foreign competition that does not require import barriers and trade restrictions. Productivity growth is, in short, an important weapon in our arsenal of expanding and competing effectively in world trade. It is essential that we raise our productivity back up to the levels we knew only a decade ago. This is the challenge that has been given to you as business executives. It is the challenge that has been given to our nation as well.

MESSAGES FROM THE HOUSE

At 11:33 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2248) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize supplemental appropriations for fiscal year 1982, to provide additional authorizations for fiscal year 1982, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 1, 3, 4, 5, 8, 10, 11, 12, 13, 15, 18, 19, 21, 22, 37, 44, 47, 49, 50, 51, 55, 57, 59, 67, 74, 83, 88, 89, 93, 96, 100, 103, 107, 108, 114, 120, 121, 123, 124, 126, 128, 135, 137, 140, 143, 145, 146, 151, 153, 166, and 178, and agrees thereto; it recedes from its disagreement to the amendments of the Senate numbered 2, 6, 17, 24, 41, 42, 43, 45, 58, 60, 62, 63, 64, 65, 66, 69, 84, 86, 91, 97, 98, 112, 117, 119, 132, 138, 149, 161, 172, 177, 180, 182, and 183, and agrees thereto, each with an amendment in which it requests the concurrence of the Senate; and that the House insists upon its disagreement to the amendments of the Senate numbered 115 and 150.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 167. An act for the relief of Juan Esteban Ramirez; and

H.R. 6530. An act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.

The enrolled bills were subsequently signed by the Vice President.

At 4:58 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2577. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1983, and for other purposes.

The message further announced that the House disagree to the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, and asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HOWARD, Mr. ANDERSON, Mr. RODINO, Mr. CLAUSEN, and Mr. SHUSTER, be the managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which requests the concurrence of the Senate:

H.R. 2193. An act for the relief of Berendina Antonia Maria van Kleeff;

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf;

H.R. 6324. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes; and

H.R. 6811. An act for the relief of Alejo White and Sonia White.

At 6:43 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4961) to make miscellaneous changes in the tax laws.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H.R. 398. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4961; and

H.R. 399. Concurrent resolution providing for an adjournment of the House from August 19 to September 8, 1982, and an adjournment of the Senate from August 19 or August 20, or August 21 to September 8, 1982.

At 7:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3239) to amend the Communications Act of 1934 to authorize appropriations for the administration of such act, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3126) to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Sky Lark* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1526) to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 6350) to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide that Veterans' Administration nurses who work two 12-hour regularly scheduled tours of duty over a weekend shall be considered to have worked a full basic workweek, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

At 9:30 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6409) to provide for the participation of the

United States in the 1984 Louisiana World Exposition to be held in New Orleans, La. and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2193. An act for the relief of Berendina Antonia Maria van Kleeff; to the Committee on the Judiciary.

H.R. 2520. An act for the relief of Emanuel F. Lenkersdorf; to the Committee on the Judiciary.

H.R. 6168. An act to amend title 18, United States Code, to provide a criminal penalty for threats against former Presidents, major Presidential candidates, and certain other persons protected by the Secret Service, and for other purposes; to the Committee on the Judiciary.

H.R. 6811. An act for the relief of Alejo White and Sonia White; to the Committee on the Judiciary.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6324. An act to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes;

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read; and referred to the Committee on Foreign Relations:

H. Con. Res. 397. Concurrent resolution expressing the deep gratitude of the Congress to Special Envoy Philip Habib.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4096. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a request for an extension of the statutory time in Docket No. 38805, Railroad Cost Recovery Increase on Recyclables (other than iron and steel); to the Committee on Commerce, Science, and Transportation.

EC-4097. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for March 1982; to the Committee on Commerce, Science, and Transportation.

EC-4098. A communication from the Director of the Minerals Management Service, Department of the Interior, transmitting, pursuant to law, an application for refund of an excess royalty payment by the Koch Exploration Company; to the Committee on Energy and Natural Resources.

EC-4099. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on rental charges for noncompetitive oil and gas leases, dated August 1982; to the Committee on Energy and Natural Resources.

EC-4100. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, proposed lease prospectus amendments; to the Committee on Environment and Public Works.

EC-4101. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the 1981 annual report on advisory committees under section 1114(f) of the Social Security Act; to the Committee on Finance.

EC-4102. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 11, 1982; to the Committee on Foreign Relations.

EC-4103. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a copy of the report entitled "Projected Annual District of Columbia Obligations as of June 1982"; to the Committee on Governmental Affairs.

EC-4104. A communication from the Chairman and the Supervising Commissioner of the Federal Communications Commission, transmitting, pursuant to law, a report summarizing actions taken in the Commission's proceeding to revise its Uniform System of Accounts; to the Committee on Governmental Affairs.

EC-4105. A communication from the Chairman of the National Arthritis Advisory Board, transmitting, pursuant to law, a report covering the activities of the Board with specific reference to the implementation of the Arthritis Plan; to the Committee on Labor and Human Resources.

EC-4106. A communication from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the Act of September 30, 1950 (P.L. 874, Eighty-first Congress) and P.L. 93-380, and for other purposes; to the Committee on Labor and Human Resources.

EC-4107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the administration of sections 304-309 of the Public Health Service Act for fiscal year 1981; to the Committee on Labor and Human Resources.

EC-4108. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the status of vocational education in fiscal year 1981; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute, an amendment to the preamble; and an amendment to the title:

S. Res. 367. A resolution expressing the sense of the Senate with respect to recognition of the Red Shield of David of the Magen David Adom by the International Committee on the Red Cross.

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2420. A bill to protect victims of crime (Rept. No. 97-532).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 448. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409.

By Mr. DURENBERGER, from the Committee on Governmental Affairs, without amendment:

S. Res. 452. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329; referred to the Committee on the Budget.

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 956. A bill to amend the Reclamation Safety of Dams Act of 1978 to authorize additional appropriations, and for other purposes (Rept. No. 97-533).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, with amendments:

S. 2436. A bill to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes (Rept. No. 97-534).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Harry W. Wellford, of Tennessee, to be United States Circuit Judge for the Sixth Circuit.

By Mr. SIMPSON, from the Committee on Veterans' Affairs:

Everett Alvarez, Jr., of Maryland to be Deputy Administrator of Veterans' Affairs.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy.

(The above nomination was reported from the Committee on Commerce, Science, and Transportation with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations:

James L. Buckley, of Connecticut, to be Counselor of the Department of State.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to

appear and testify before any duly constituted committee of the Senate.)

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Bevis Longstreth, of New York, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 1984.

By Mr. ROTH, from the Committee on Governmental Affairs:

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board for a term expiring March 1, 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER:

S. 2856. A bill to amend the Sexual Exploitation of Children Act of 1977; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (for himself, Mr. HUDDLESTON, Mr. FORD, Mr. RANDOLPH, Mr. BRADLEY, and Mr. HEINZ):

S. 2857. A bill to establish a Customs Revenue Sharing Trust Fund for public works projects for the development and maintenance of the Nation's ports; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 2858. A bill to amend the tariff schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States; to the Committee on Finance.

By Mr. DANFORTH:

S. 2859. A bill to amend the tariff schedules of the United States to correct an anomaly in the rate of duty applicable to textile fabrics, articles and materials coated, filled or laminated with rubber or plastics; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. CHAFEE):

S. 2860. A bill to eliminate the retroactive application of certain provisions of Public Law 96-364; to the Committee on Finance.

By Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. BOSCHWITZ, Mr. BURDICK, Mr. DIXON, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HUDDLESTON, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, and Mr. PERCY):

S. 2861. A bill to authorize the construction of a lock on the Mississippi River in the vicinity of Alton, Illinois and Missouri, and to authorize appropriations to carry out certain programs for the Upper Mississippi River System, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 2862. A bill for the relief of Joseph E. Saleeby; to the Committee on the Judiciary.

By Mr. GRASSLEY:

S. 2863. A bill to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employment rights, and authorizing the service of jury summonses by ordinary mail; to the Committee on the Judiciary.

By Mr. FORD (for himself and Mr. QUAYLE):

S. 2864. A bill to provide for a two-year Federal budget cycle, and for other purposes; read twice and held at the desk by unanimous consent.

By Mr. BIDEN:

S. 2865. A bill to reinstate the provisions relating to parental involvement in chapter 1 of the Education Consolidation and Improvement Act of 1981 relating to financial assistance to meet special educational needs of disadvantaged children; to the Committee on Labor and Human Resources.

By Mr. HELMS (for himself and Mr. EAST):

S. 2866. A bill to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within Cape Hatteras National Seashore Recreational Area; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. BAUCUS, Mr. GORTON, Mr. HEINZ, Mr. MITCHELL, Mr. PELL, and Mr. TSONGAS):

S. 2867. A bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; to the Committee on Evironment and Public Works.

By Mr. HATCH:

S. 2868. A bill to amend the Federal Food, Drug, and Cosmetic Act and related statutes, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER (for himself, Mr. ABDNOR, Mr. BAUCUS, Mr. BURDICK, Mr. COCHRAN, Mr. CRANSTON, Mr. DANFORTH, Mr. DOLE, Mr. FORD, Mr. HATCH, Mr. HAYAKAWA, Mr. HEINZ, Mr. HOLLINGS, Mr. JACKSON, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. LUGAR, Mr. MATHIAS, Mr. MCCLURE, Mr. METZENBAUM, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. QUAYLE, Mr. SARBANES, Mr. WEICKER, Mr. ZORINSKY, Mr. GORTON, Mr. PROXMIRE, Mr. CHAFEE, Mr. D'AMATO, Mr. ROBERT C. BYRD, and Mr. KENNEDY):

S. J. Res. 233. Joint resolution to provide for the designation of the week beginning October 1, 1982, as "National Sudden Infant Death Syndrome Awareness Week"; considered and passed.

By Mr. GOLDWATER (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. BOREN, Mr. HARRY F. BYRD, JR., Mr. CANNON, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. EAST, Mr. FORD, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCLURE, Mr. MELCHER, Mr. MURKOWSKI, Mr. NUNN, Mr. RANDOLPH, Mr. SASSER, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. WARNER):

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on the Judiciary.

By Mr. HELMS (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CHILES, Mr. COCHRAN, Mr. DIXON, Mr. DOLE, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. SYMMS, Mr. TOWER, Mr. WALLOP, and Mr. ZORINSKY):

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on the Judiciary.

By Mr. MCCLURE:

S.J. Res. 236. A joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURENBERGER, from the Committee on Governmental Affairs:

S. Res. 452. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2329; to the Committee on the Budget.

By Mr. NUNN (for himself, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. BOREN, Mr. HUDDLESTON, Mr. SASSER, Mr. JACKSON, Mr. LEVIN, Mr. COCHRAN, Mr. RANDOLPH, Mr. PELL, Mr. ZORINSKY, Mr. EAST, Mr. HATFIELD, Mr. HAYAKAWA, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HELMS, Mr. D'AMATO, Mr. ABDNOR, Mr. KASTEN, Mr. THURMOND, Mr. TOWER, and Mr. CHILES.

S. Res. 453. Resolution designating the week of October 3 through October 9, 1982, as "National Productivity Improvement Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER:

S. 2856. A bill to amend the Sexual Exploitation of Children Act of 1977; to the Committee on the Judiciary.

(The remarks of Mr. SPECTER on this legislation appear earlier in today's RECORD.)

By Mr. ROBERT C. BYRD (for himself, Mr. HUDDLESTON, Mr. FORD, Mr. RANDOPH, Mr. BRADLEY, and Mr. HEINZ):

S. 2857. A bill to establish a Customs Revenue Sharing Trust Fund for public works projects for the development and maintenance of the Nation's ports; to the Committee on Finance.

(The remarks of Mr. ROBERT C. BYRD on this legislation appear earlier in today's RECORD.)

By Mr. DANFORTH (for himself, Mr. CHAFEE, and Mr. MOYNIHAN):

S. 2858. A bill to amend the tariff schedules of the United States with respect to the dutiable status of watches and watch movements from insular possessions of the United States; to the Committee on Finance.

REVITALIZATION OF WATCH ASSEMBLY INDUSTRY IN THE INSULAR POSSESSIONS

Mr. DANFORTH. Mr. President, I am today introducing legislation for the administration which would revitalize the watch assembly industry in the insular possessions of the United States by: Eliminating the existing foreign content limitations on watches assembled in the possessions, thus providing needed pricing flexibility to the industry; and providing for an additional incentive, based on actual wage payments in the possessions, to encourage quartz analog production in the territories.

The bill would also authorize the Departments of Commerce and the Interior to adjust the annual size of the benefits and require them to publish regulations designed to prevent pass-through operations.

The cost of the bill in 1983 is estimated to be approximately $1.5 to $1.8 million in lost revenues. About 500 jobs are expected to be maintained or restored in 1983, with the potential for additional employment in subsequent years. Without the bill, the entire industry in the Virgin Islands will be forced to shut down operations during 1983. The industry's demise would be a severe blow to the territorial economies particularly in the Virgin Islands, where the watch industry once provided almost one-fourth of all manufacturing sector employment. The bill will also indirectly benefit some domestic manufacturers of watch cases and bracelets having a traditional supply relationship with the insular watch industry.

Mr. CHAFEE. Mr. President, I am attaching my name as cosponsor to the bill introduced by my esteemed colleague from Missouri, Senator DANFORTH. This bill will not only revitalize an industry which is crucial to the Virgin Islands' economy, it will also benefit my constituents in Rhode Island.

The United States, which has been a leader in timekeeping technology since the turn of the century, no longer enjoys the employment fruit of its innovative genius. Very few jobs remain within the continental United States in the manufacture of watch movements and parts. Japan, Hong Kong, Switzerland, and the Soviet Union now dominate the world horological industry, even in the industry's electronic sector in which the U.S. semiconductor industry held a commanding technological advantage a short 5 years ago. The overseas flight of this technological edge and the virtual demise of the U.S. watchmaking industry have, of course, been a severe blow to U.S. manufacturers of watch cases, bracelets, dials, and hands. Accordingly, the relationship of these U.S. supplies with Virgin Islands watch assemblers has assumed greater importance for their long-term survivability.

Bulova's Providence, R.I., Case Manufacturing Division, as well as its Watch Casing Division in New York City, will benefit from enactment of this bill. These two sites alone employ about 750 people. If Bulova is forced to close its Virgin Islands facility, it will have little choice but to divert at least some of this production activity abroad. If the entire Virgin Islands industry closes down, there will be similar impact throughout the domestic watch-peripheral manufacturing industry. This industry now provides employment in Pennsylvania, Puerto Rico, and other locations in addition to Bulova's sites in Rhode Island and New York.

Mr. President, my colleagues and I are acutely aware of the need to assist regional economic development in the Caribbean. By enacting this bill, we will not only be responding to the development needs of our own citizens in the Caribbean but at the same time will be acting to prevent additional unemployment in the States we represent.

By Mr. DANFORTH:

S. 2859. A bill to amend the Tariff Schedules of the United States to correct an anomaly in the rate of duty applicable to textile, fabrics, articles, and materials coated, filled, or laminated with rubber or plastics; to the Committee on Finance.

DUTY APPLICABLE TO CERTAIN LAMINATED OBJECTS

Mr. DANFORTH. Mr. President. I am introducing today a bill intended to correct an anomaly in the rate of duty applicable to textile fabrics, articles, and materials coated, filled, or laminated with rubber or plastics.

The problem this legislation would correct results from two recent customs court cases which have overturned the intent of Congress and have the potential for damaging the American textiles and coatings industries and for causing significant losses of customs duties. Since the current Tariff Schedules of the United States were enacted in 1962, fabric coated with plastic materials has been classified in Tariff Schedule 3, the schedule pertaining to fiber, fabric and apparel. Recently, however, the customs court, in *U.S.* against *Canadian Vinyl Industries* and *U.S.* against *Elbe Products Corp.*, ruled that such products should be classified in schedule 7, which covers plastic materials. The U.S. Treasury strenuously, but unsuccessfully, opposed such a ruling.

When classified in schedule 3, these coated fabrics were subject to duties as high as 13 percent ad valorem plus 10 cents a pound. They also were subject to the provisions of the multifiber arrangement and any bilateral agreements negotiated under it. As a result of the court decisions, these fabrics now are subject to duties ranging between 3.7 percent and 5.3 percent and are not subject to the multifiber agreement. However, as classified in schedule 7, these products are eligible for the generalized system of preferences and subject to zero duty.

Coated fabrics are an important segment of the domestic textile industry, which already is beleaguered by imports. Coated fabrics include such products as tarpaulins, sports equipment, pollution and erosion control fabrics and safety equipment. Their domestic markets amount to about 460 million square yards a year. At an estimated value of $3 a yard, this market is worth more than $1.3 billion.

The attached bill would make certain that these coated fabrics would be classified as textiles, as Congress intended.

By Mr. DANFORTH (for himself and Mr. CHAFEE):

S. 2860. A bill to eliminate the retroactive application of certain provisions of Public Law 96-364; to the Committee on Finance.

WITHDRAWAL LIABILITY ON MULTIEMPLOYER PENSION PLANS

Mr. DANFORTH. Mr. President, today Senator CHAFEE and I are introducing legislation to rectify an unfortunate situation which has unexpectedly arisen as a result of an effective date provision in the Multi-Employer Pension Plan Amendments Act of 1980.

Provisions of that act, among other things, impose a withdrawal liability on employers who withdraw from multiemployer plans. This legislation, which was clearly well-intentioned, was enacted to protect the beneficiaries of multiemployer plans which were on shaky ground. To discourage employers from pulling out of these plans, the act imposes rather stiff penalties on those who do. The penalty is based on a share of the future benefits to which the participants of the multiemployer plan are entitled.

In the nearly 2 years since this law was enacted, it has become apparent that there are problems with its provisions. Labor leaders, business leaders, and pension fund administrators agree on that point. Senator HATCH has introduced legislation to revamp the act. The bill we are introducing today does not conflict with Senator HATCH's bill, nor is it intended to supersede it.

This bill deals with a very specific problem. Mr. President, this is an extremely urgent problem, and failure to address this issue could result in the bankruptcy of a number of companies around the country, which would be

disastrous not only for those companies, but for their employees and the very pension plans the 1980 act is intended to protect.

The provisions of the 1980 act were generally effective on the date of enactment, September 26, 1980. However, the withdrawal liability provisions were made effective retroactively to withdrawals which occurred after April 29, 1980, nearly 5 months prior to date of enactment. As a result, a number of companies who were forced to withdraw from multiemployer plans prior to the date of enactment were caught up in the net of this penalty.

Let me give you an example. A trucking company in my State of Missouri was forced, by economic conditions, to liquidate a subsidiary, which was also in the trucking business, in August 1980. Six months later, the company was notified by the Central States Pension Fund that it owed almost $17 million in withdrawal liability to the fund, under the 1980 act. This amount was nearly three times the total assets of the company before liquidation, and more than the company's total earnings in its 35 years of existence.

This resulted solely because of the retroactive effective date of this particular provision. Our bill would simply provide that those provisions of the Multi-Employer Pension Plan Amendments Act of 1980 which had a retroactive effective date will be effective on September 26, 1980, the date of enactment of that act, thereby eliminating any liability for withdrawals which occurred before that date.

Mr. President, this bill is supported by the Teamsters Union and the administrator of the Central States Pension Fund. The Labor Department is studying the bill. It would have no revenue effect. I hope my colleagues will agree with us that this is an important revision to the 1980 act, and pass this into law.

I ask unanimous consent that the text of the bill be printed in full in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2860

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) any withdrawal liability incurred by an employer pursuant to part I of subtitle E of title IV of Public Law 93-406, or section 108 of Public Law 96-364, as in effect immediately before the amendments made by subsection (b), as a result of the complete or partial withdrawal of such employer from a multiemployer plan prior to September 26, 1980, shall be void.

(2) Any amounts paid by an employer to a plan sponsor as a result of such withdrawal liability shall be refunded by the plan sponsor to the employer, less a reasonable amount for administrative expenses incurred by the plan sponsor in calculating, assessing, and refunding such amounts.

(b)(1)(A) Sections 4211 (b) and (c), 4217(a), and 4235(a) of Public Law 93-406 are amended by striking out "April 28, 1980" each place it appears and inserting in lieu thereof "September 25, 1980".

(B) Sections 4211 (b) and (c), 4217 (a), 4219(c)(1)(C) (iii), and 4402(e) of such Act are amended by striking out "April 29, 1980" each place it appears and inserting in lieu thereof "September 26, 1985".

(C) Section 4402(f)(1)(B) of such Act is amended by striking out "April 29, 1985" and inserting in lieu thereof "September 26, 1980".

(2)(A) Paragraph (4) of Section 108(c) of Public Law 96-364 is repealed.

(B) Section 108(d) of such Act is amended—

(i) by striking out "April 29, 1982" in paragraph (1) and inserting in lieu thereof "September 26, 1982"; and

(ii) by striking out "April 29, 1980" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "September 26, 1980".

(c) Section 108 of such Act is amended by striking out subsection (e) and redesignating subsection (f) as subsection (e).

By Mr. DANFORTH (for himself, Mr. EAGLETON, Mr. BOSCHWITZ, Mr. BURDICK, Mr. DIXON, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HUDDLESTON, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, and Mr. PERCY):

S. 2861. A bill to authorize the construction of a lock on the Mississippi River in the vicinity of Alton, Illinois and Missouri, and to authorize appropriations to carry out certain programs for the Upper Mississippi River System, and for other purposes; to the Committee on Environment and Public Works.

LOCKS AND DAM 26

Mr. DANFORTH. Mr. President, two great arteries of water-borne commerce come together above St. Louis, Mo.: The Upper Mississippi River and the Illinois River and Waterway. The first is a navigable waterway stretching north to Minneapolis; the second is a link to the Great Lakes and the St. Lawrence Seaway. Between their confluence and the uninterrupted water of the Lower Mississippi River stand two linchpins of the entire inland waterway system: Locks and dams 26 and 27. Together, they lock through more traffic than any other facility in the United States.

Locks and dam 27 consists of a 1,200-foot chamber and an auxiliary 600-foot chamber, constructed in 1963. But locks and dam 26 is no such modern structure. It was built in 1938 and has chambers only 600 and 300 feet in length. The facility is deteriorating and in frequent need of repair. Even when functioning properly, it is so undersized that barges must wait in line a day or more to pass through.

This situation could not long be allowed to continue, and in 1978, Congress recognized that fact by authorizing construction of a replacement lock—1,200 feet in length—at Alton, Ill. The need to have identical structures at 26 and 27 seems obvious: After all, both have to handle the same river traffic. And the need for a second lock appears equally obvious: At such a critical juncture in the river, a failure in the main lock could prove disastrous.

But Congress, in 1978, decided to dot every "i" and cross every "t"; before authorizing the second lock, it directed the Upper Mississippi River Basin Commission to prepare a comprehensive master plan for the management of the Upper Mississippi River system. The commission was directed, in part, to undertake a "specific analysis of the immediate and systematic environmental effects of any second lock at Alton, Ill.," as well as a "specific evaluation of the economic need for a second lock at Alton, Ill., and the direct and indirect systematic effects and needs for such a lock at Alton, Ill."

Congress further mandated that: "no replacement, construction, or rehabilitation that expands (the) navigational capacity of locks, dams, and channels shall be undertaken by the Secretary of the Army to increase the navigation capacity of the Upper Mississippi River system, until the master plan prepared pursuant to this section has been approved by the Congress."

Mr. President, on January 1 of this year, the Upper Mississippi River Basin Commission presented that comprehensive master plan to Congress. It examined the environmental effects of a second lock. It examined the economic need for a second lock. And its very first recommendation was: "That Congress immediately authorize the engineering, design, and construction of a second chamber, 600 feet in length, at lock and dam 26."

And so I rise today to bring that recommendation one step closer to fruition. Along with a bipartisan coalition of my colleagues, I am introducing legislation today to approve the master plan prepared by the Upper Mississippi River Basin Commission and to authorize a second lock at Alton.

This is not a project of interest to only one or two States, but a critically needed improvement in the commercial waterway system serving the entire Midwest. As the commission's report observed, "The Upper Mississippi River system is an integral part of a broad regional, national, and international transportation network. As such, it has played a key role in the economic growth and development of the upper Midwest and numerous river communities, including Minneapolis-St. Paul, the Quad Cities, Dubuque, St. Louis, Peoria, and Chicago. The river system provides an important link in the movement of goods both into and out of America's heartland."

In 1980, more than 126 million tons of commodities moved on the Upper Mississippi River system, including nearly 50 million tons of grain from Illinois, Indiana, Iowa, Minnesota, Missouri, South Dakota, North Dakota, and Wisconsin. Locks and dams 26 and 27 each handled twice the traffic of any other lock on the system, and traffic projections show each of them close to 100 million tons a year by 1990. Traffic delays during the summer of 1980 often ran from 3 to 5 days.

The commission's examination of the economic impact of a second lock at Alton, under a variety of scenarios, found an excess of benefits to costs ranging from $6 to $117 million a year. These benefits will be reflected in consumer prices throughout the Midwest and, indeed, in the prices of everyone who consumes Midwest grain.

Such findings are not surprising to anyone who has studied the bottleneck that is locks and dam 26: They merely corroborate what commonsense would tell us anyway. It does not make any kind of sense to have fully loaded barges stacked up and idle because they cannot get through a major lock. And so it is not surprising, either, that a consensus appears to be forming on the need for a second lock.

The U.S. Army Corps of Engineers considers a second lock to be its top priority for new construction in the entire country. The Governors of the five States bordering the Upper Mississippi River (Missouri, Illinois, Iowa, Wisconsin, and Minnesota) have unanimously endorsed construction of a second lock. And now the Upper Mississippi River Basin Commission, after 3 years of intensive review, has come to the same conclusion: We should build a second lock at Alton.

Commonsense dictates that we act. Fiscal prudence dictates that we act quickly. Construction has begun on the main replacement lock at Alton. Clearly, the most economical way to proceed will be to integrate construction of the second lock into construction of the first, as a smooth follow-on, rather than to disrupt the process and start it up again later. Such a disruption, the corps indicates, would add at least $25 million to the estimated $200 million cost of the second lock—a cost which itself pales by comparison with the $875 million price tag on the main replacement lock and dam. But in order to achieve the $25 million saving, the corps says it needs to have the project authorized and the initial appropriations approved by October 1983.

Mr. President, we must start moving toward that goal without delay. The legislation I am introducing today, along with my colleagues, represents the first step on that journey. It reflects the several recommendations of the Upper Mississippi River Basin Commission and presents a reasonable and equitable balance between the need for immediate navigational improvements and the concern about long-term enhancement of the river system environment as a whole.

I would like to draw particular note to the assistance I have received from the Senator from Minnesota (Mr. DURENBERGER) in striking this balance. He proved, as always, to be a forceful and convincing advocate in the preparation of this legislation. His arguments in favor of a strong environmental section carried great weight and are reflected in the bill.

This legislation confers congressional approval on the master plan prepared by the Upper Mississippi River Basin Commission, which formally went out of existence on January 1 of this year but which continues as an association. The Commission was entrusted in Public Law 95-502 with promulgating regulations for carrying out the plan; because the Commission no longer exists, this legislation amends Public Law 95-502 to strike that language, as well as other language that could be a cause of mischievous litigation.

This legislation also authorizes $53.95 million for four programs recommended by the master plan: a habitat rehabilitation and enhancement program; a long-term resource monitoring program; a computerized inventory and analysis system; and a recreational program. The Secretary of the Interior and the Chief of the Army Corps of Engineers are directed to review all of the recommendations of the master plan, including those authorized by the bill, and submit a proposal for further implementation by June 1985.

In this connection, I must emphasize that these four programs are completely separate and distinct from the authorization for the second lock. The legislation clearly states that the costs of these programs shall not be considered attributable to navigation.

Finally, the bill provides for an exemption from the National Environmental Policy Act of 1969. Ordinarily, I would not support such a proposal, but this case is in many ways out of the ordinary. It is not in any sense a new project, but rather is a follow-on to the first lock. A full-blown environmental impact statement was produced, at considerable time and expense, for construction of the first lock. That assessment subsequently was upheld by the courts after lengthy litigation—litigation that commenced in 1974 and concluded only last November. Second, the environmental impact of the second lock was one of the specific topics that the Upper Mississippi River Basin Commission was charged with examining in producing its master plan—again, at considerable time and expense. Further expenditures in this area, I believe, would not be a wise use of the taxpayer's dollars.

Mr. President, it is my fervent hope that the controversy surrounding construction of the first lock will not afflict this legislation. The need for a second lock is clear, and prompt enactment of this bill will enable construction to proceed in an orderly way, to minimize the impact on the budget and assure an orderly flow of commerce on the Upper Mississippi.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2861

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for purposes of this Act, the term "Master Plan" means the Comprehensive Master Plan for the Management of the Upper Mississippi River System, dated January 1, 1982, prepared by the Upper Mississippi River Basin Commission and submitted to the Congress pursuant to the Act entitled "An Act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes", approved October 21, 1978 (92 Stat. 1693; Public Law 95-502), hereafter in this Act referred to as the "Act of October 21, 1978".

(b) The Congress hereby approved the Master Plan as a guide for future water policy on the Upper Mississippi River System. Such approval shall not constitute authorization of any recommendation contained in the Master Plan.

(c) Section 101 of the Act of October 21, 1978 is amended by striking out the last two sentences of subsection (b) and the last sentence of subsection (j).

(d) To ensure the coordinated development and enhancement of the Upper Mississipi River System, the Congress recognizes such System as a nationally significant ecosystem and a nationally significant commercial navigation system. The Congress further recognizes that the system provides a diversity of opportunities and experiences. Such System shall be administered and regulated in recognition of its several purposes.

SEC. 2. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide for the engineering, design, and construction, at an estimated cost of $200,000,000, of a second lock at locks and dam 26, Mississipi River, Alton, Illinois and Missouri. Such second lock shall be 110 feet by 600 feet and shall be constructed at or in the vicinity of the location of the replacement lock authorized by section 102 of the Act of October 21, 1978.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 3. (a) The Secretary of the Interior is authorized to undertake with respect to the Upper Mississipi River System, substantially in accordance with the recommendations of the Master plan—

(1) a habitat rehabilitation and enhancement program to plan, construct, and evaluate projects to protect, enchance, or rehabilitate aquatic and terrestrial habitats lost

or threatened as a result of man-induced activities or natural factors;

(2) the implementation of a long-term resource monitoring program;

(3) the implementation of a computerized inventory and analysis system for data storage and retrieval, and for use in the long-term resource monitoring program; and

(4) the implementation of a program of recreational projects.

(b) The Secretary of the Interior shall cooperate and consult with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin in planning and implementing the actions authorized by subsection (a).

(c) There are authorized to be appropriated—

(1) to carry out paragraph (1) of subsection (a)—

(A) for the fiscal year 1984, $1,500,000;

(B) for the fiscal year 1985, $6,500,000; and

(C) for the fiscal year 1986, $13,000,000;

(2) to carry out paragraph (2) of subsection (a)—

(A) for the fiscal year 1984, $7,680,000; and

(B) for each of the fiscal years 1985 through 1988, $5,000,000;

(3) to carry out paragraph (3) of subsection (a)—

(A) for the fiscal year 1984, $40,000;

(B) for the fiscal year 1985, $240,000;

(C) for the fiscal year 1986, $1,220,000; and

(D) for each of the fiscal years 1987 and 1988, $975,000; and

(4) to carry out paragraph (4) of subsection (a), for each of the fiscal years 1984 through 1986, $500,000.

(d) None of the funds appropriated pursuant to the authorization contained in this section shall be considered to be attributable to navigation.

SEC. 4. The Secretary of the Interior and the Secretary of the Army, acting through the Chief of Engineers, in cooperation and consultation with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, are directed—

(1) to review the recommendations contained in the Master Plan;

(2) to assign priorities to such recommendations; and

(3) to develop and submit to the Congress, not later than June 1985, a proposal for further implementation of those recommendations.

SEC. 5. (a) The Congress finds that there has been reasonable compliance with the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in the formulation of the Master Plan and the environmental impact statement on construction of the first lock at locks and dam 26, Mississippi River, Alton, Illinois and Missouri.

(b) The actions authorized in sections 2 and 3 of this Act are exempt from the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Mr. BOSCHWITZ. Mr. President, I am pleased to join my colleagues in sponsoring S. 2861, a bill to authorize the construction of a second replacement lock at locks and dam 26; and to also authorize a complementary program that funds a program for environmental rehabilitation and monitoring.

The Mississippi River provides a vital link to the Midwest's commercial waterway system. In 1981, the Upper Mississippi carried 30 million tons of cargo, 9 million of which were Minnesota farm products headed overseas.

The importance of this waterway to the future of Minnesota's agricultural exports cannot be overstated. Minnesota's agricultural exports, based on our percentage of national farm output, jumped 18 percent in 1981 for a total worth of over $2 billion. These export dollars are special. Every 1 dollar's worth of export sales brings in $1.05 in additional economic activity. This "multiplier" effect means the agriculture support industries such as transportation, financing, warehousing, and agriculture suppliers created another $2 billion for Minnesota's economy. This is real money, and our State cannot survive without it.

For Midwestern farmers, the river is proving to be one of the only stable methods of transporting grain. A quick look at the last few years bears this out:

In 1979, the State of Minnesota suffered a trucker's strike that crippled grain transportation. Later, a grain millers strike at the Port of Duluth/Superior further paralyzed grain shipping. By 1981, after President Carter's restricting grain embargo to the Soviet Union, steady movement of grain appeared to be an antiquated notion. Grain prices fell so low that Minnesota farmers lost $140 million in wheat revenue alone.

Today, farmers are again looking at a record crops; the solution must be to expand our export markets. To handle this needed expansion, we must also expand the ability of the Mississippi to move the grain. Locks and dam 26 is the key.

Locks and dam 26 is part of the overall lock and dam system of the Upper Mississippi. Constructed in the 1930's, the system allows uninterrupted navigation by assuring an even river depth. Locks and dam 26 is located in Alton, Ill., a strategic position only 15 miles south of the confluence of the Mississippi and Illinois Rivers. Together, the two rivers sent 70 tons of cargo through locks and dam 26 in 1981. Unfortunately, the practical capacity of No. 26 is only 65 million tons.

The Corps of Engineers is trying to correct this bottleneck by constructing a 1,200-foot replacement lock 2 miles south of the existing locks. The new lock will immediately increase the practical capacity to 85 million tons, but does not solve the long-term problem. Minnesota farmers are shouldering the burden of millions of dollars in excess cost when traffic is held up by the bottleneck, because transport costs are determined by the hour. Time means money, and a 2-day delay is not unusual.

The Corps of Engineers recognized the need for new locks at Alton, Ill., in 1969, but Congress did not authorize construction until 1978—and then only authorized one lock instead of two. That the second lock must be immediately authorized is clear.

First, it will take 10 years to fund and build the second lock and navigation projections show the second lock will be needed by the early 1990's. Second, substantial cost savings will occur if the second lock is built at the same time the first is being constructed; and third, a single lock system will stop all traffic if the one lock is damaged. With no auxilliary lock no river tows would move until repairs are completed. Locks and dam 26 will continue to be a barrier to foreign trade until the second lock is built.

The Upper Mississippi is a unique resource. It is the only inland river in the United States which is both a Federal commercial navigation project and a major national wildlife refuge. Because of that it has unique demands as well.

The wildlife refuge spans 560 miles, from Wabasha, Minn., to St. Louis. Along the banks of this refuge are 290,000 acres of wooded islands, waters, and marshes all largely untouched.

The value of this refuge system cannot be overemphasized. Not only is the Mississippi "flyway" vital to 75 percent of the Nation's migrating waterfowl, but the refuge also plays host to 270 species of birds, 50 species of mammals, 123 species of fish, and 35 species of reptiles and amphibians.

Unfortunately, the backwater areas which are the invaluable breeding areas, are slowly being destroyed by sediment deposits. The natural process of heavy rains, spring runoff, and snow-melts wash sediment from fields into streams and tributaries. At the same time, deteriorating riverbanks create more sediment. Eventually the sediment is deposited on the inside of river bends and the backwater areas. In fact, since 1939, sediment has changed 25 percent of the open backwater areas to marshland.

This bill begins the process of making these needed corrections. It establishes a 3-year habitat rehabilitation-and-enhancement program to begin cleaning out the backwater areas, plus we will continue to monitor the use of the river by setting up a 5-year resource monitoring program. I believe these programs are a positive first step. Congress must, however, take further steps to assist the Upper Mississippi. I will continue working with my colleagues to develop these preservation programs.

The Upper Mississippi is a special river with special needs. I feel this bill recognizes the multipurpose use of the river, and tries to set a balance. A balance which has been missing in the past. I urge my colleagues to give this

bill their support and their timely consideration.

Mr. DIXON. Mr. President, I am pleased to join with my distinguished colleague, Senator DANFORTH, in introducing legislation to authorize the construction of a second lock for the new locks and dam 26. The need for a second lock at the replacement facility for the current, deteriorating locks and dam 26 is indisputable.

The existing facility is the chokepoint for the entire Upper Mississippi River system. It passes more traffic than the Panama Canal.

The locks and dam is over 40 years old. It is becoming increasingly costly to maintain and is grossly inadequate to handle the traffic on the Upper Mississippi and the Illinois Rivers. It has a main chamber of 600 feet in length and an auxiliary chamber of 360 feet, while the next and final locks and dam, locks and dam 27, has a main chamber of 1,000 feet in length, and an auxiliary chamber of 600 feet. The result is that barges are often lined up for days at a time waiting to pass through locks and dam 26.

Congress has recognized the desperate need for a replacement facility. In 1978, it authorized construction of a new locks and dam with a single lock of 1,000 feet in length. At the same time, Congress authorized a comprehensive economic and environmental analysis of the entire Upper Mississippi River system. To insure that the analysis would be a useful tool for future congressional actions affecting the future of the Upper Mississippi River system, any capacity expanding construction was prohibited until the master plan that would be the final result of the analysis was approved by Congress.

On January 1 of this year, the Upper Mississippi River Basin Commission, the agency responsible for the development of the master plan, presented its recommendations. Its first recommendation was for construction of a second lock, 600 feet long, at the new locks and dam 26.

Mr. President, I think the case for this second lock is clear. Midwestern agriculture and other users of our waterway system will continue to suffer real economic damage until the second lock is in place.

The need to handle the greatly increased traffic now using our river system is not the only reason an additional lock is essential, however. Because locks and dam 26 is the chokepoint for the entire Upper Mississippi River system, we need to insure that it will be able to continue to handle river traffic even if one lock were to be out of service, due to damage or some other cause. We simply cannot afford to shut down the entire river system because a lock is damaged.

The new locks and dam 26 is now under construction. Now is the time to authorize and construct a second lock. Not acting now will add millions to the ultimate cost of the project. I urge my colleagues, therefore, to join with Senator DANFORTH, with me, and with the other cosponsors of this essential legislation.

The case for a second lock at Locks and Dam No. 26 is compelling. I am sure that a careful review of the merits of the project will convince all Senators of the need to enact the bill swiftly. No single project will be more important to the economic future of the upper Midwest.

AUXILIARY LOCKS IS NEEDED AT LOCK AND DAM NO. 26

Mr. EAGLETON. Mr. President, the 95th Congress ended the long and heated debate over replacing Locks and Dam No. 26 on the Mississippi River at Alton, Ill. The replacement project authorized in 1978 consists of a new dam and a 1,200-foot lock about 2 miles downstream from the old facility. The new lock and dam have been under construction since April 1980, and are expected to be operational by 1987.

While good progress is being made on the major portion of the replacement project, it is appropriate to consider the addition of an auxiliary lock. I am, therefore, pleased to sponsor legislation to authorize a second 600-foot lock at the Alton facility.

Situated as it is below the confluence of the Upper Mississippi and Illinois Rivers, Lock and Dam No. 26 are strategic to the movement of commodities up and down the rivers. Any disruption in the single-lock operation could bring shipping to a halt. Clearly, it will be necessary from time to time to close the chamber for routine maintenance, not to mention the possibility of unexpected emergencies that might occur in the main lock. An auxiliary lock, though smaller in size, would be capable of keeping traffic moving and minimizing delays.

The old facility, with its two locks of smaller capacity, experienced trafffic delays in the summer of 1980 of from three to five days. The average delay that year was about 20 hours per tow. Delays are costly, which is why we decided to replace the old structure. Locks and Dam No. 27 immediately below Alton consists of two chambers, one 1,200 feet long and one 600 feet long. Locks and Dam No. 26 should be of equal capacity if the system is to operate in a safe and cost-effective manner.

Public Law 95-502, which authorized the replacement project, also required the Upper Mississippi River Basin Commission to prepare a master plan for the management of the Upper Mississippi River. Among the questions the panel addressed was the need for a second lock at Alton. The Commission's master plan submitted to Congress in January of this year recommends construction of a 600-foot auxiliary chamber. Furthermore, the Corps of Engineers' own National Waterway Study, which took inventory of the condition of navigation facilities in the Nation, placed first priority on the additional lock at Alton.

We are fortunate in this country to have been blessed with a natural waterway transportation system that enabled this country to grow and prosper in its early years. George Washington wrote to a friend in 1783, "I could not help taking a more comtemplative and extensive view of the vast inland navigation of these United States . . . would to God we have the wisdom to improve them." We were foresighted enough to realize the hope of Washington. Today, the system we built carries 2 billion tons of cargo annually to foreign and domestic markets. Nationally, the waterway industry employs some 80,000 workers with an annual payroll of nearly $1 billion.

The importance of our inland navigation system cannot be understated, especially to the economy of St. Louis. As the "Gateway to the West," St. Louis played an historic role in our Nation's expansion. It is the leading inland port on the Mississippi River handling over 22 millions tons of cargo in 1978. A study of the Port of Metropolitan St. Louis made in 1977 by A. T. Kearney, Inc., found that over 2,000 full-time jobs were directly related to port activities and that an additional 43,000 manufacturing jobs indirectly depended upon the shipping industry. The annual value of cargo handled in the Port of Metropolitan St. Louis exceeds $5 billion.

In recognizing the importance of replacing Locks and Dam No. 26, Congress departed from the long established policy of free use of the rivers, and imposed a barge fuel tax. Those who ship on the inland waterway system paid the price to remove the Locks and Dam No. 26 bottleneck. The tax which began at four cents a gallon in 1980 will rise to 10 cents in 1985. The users will be sharing between 20 and 25 percent of the cost of the navigation facilities.

The Reagan administration has made it clear that it will not seek funds for new waterway projects until the users pay 100 percent of the costs associated with building and maintaining the navigation facilities. Their proposal goes far beyond the principle established in the 1978 law requiring the commercial users to share in the costs of the system. No mode of commercial transportation pays 100 percent of these costs because there are benefits that accrue to the public at large from investment in efficient transportation systems, whether they be rail, roads, or riverways.

In the case of the riverways, recreational boaters enjoy the pools created

by the lock and dam structures; river communities are protected from flooding; some navigation facilities even generate hydroelectric power, and studies are underway to see if this capacity can be increased. Moreover, bulk commodities are more efficiently transported by barge; a single barge carries as much as 15 freight cars or 60 trucks. The major part of our grain for export is shipped to port by barge, and in a national emergency, this capacity would be vital to our defense preparedness.

It would be shortsighted not to complete the Locks and Dam No. 26 facility by adding the auxiliary chamber. But the project should be considered on its own merits. It should not be tied to the Reagan admininstration's proposals for higher waterway user fees.

● Mr. DURENBERGER. Mr. President, it is a privilege to join in sponsoring this long overdue legislation, and I believe it merits the support of every Member of Congress. The introduction of this bill marks another step in Congress effort to carry out the provisions of Public Law 95-502. Section 101 of that act established the Upper Mississippi River Basin Commission and charged it with the responsibility of formuiating a comprehensive master plan for the management ofthe Upper Mississippi River system. Our actions today will help bring the recommendations of the Commission, reached on January 1 of this year, to fruition.

The most important component of our bill from the perspective of the Minnesota farmers and shippers who rely on the Mississippi to carry their products to the gulf, is the authorization of a 600-foot chamber to complement the 1,200-foot chamber at Locks and Dam No. 26. By making Lock and Dam No. 26 compatible with Locks and Dam No. 27, our proposal will streamline grain movements on the Mississippi and bring peace of mind to Minnesota's farmers.

It is impossible to overstate the importance of the Mississippi to Upper Midwest farmers, as the river provides them with a transportation system essential to the cheap, efficient, and orderly flow of agricultural products to national and international markets. In addition to these obvious and direct benefits, the river provides indirect benefits in the form of effective competition to the rates other modes of transportation charge farmers for the movement of agricultural commodities.

Over 40 million tons of agricultural commodities, representing 45 percent of all agricultural exports, move through the locks and dam on the Mississippi River. Demand for these commodities is projected to double by the year 2000, and at the very least, the river's share of this traffic will remain constant. Locks and Dam 1-25, in conjunction with the Illinois River, have the capacity to handle 115 million tons of traffic per year, and Locks and Dam No. 27 has the capacity to handle 125 million tons; Locks and Dam No. 26, with its limited capacity of 70 to 75 million tons, will become a serious obstacle to upper midwest farmers' ability to meet foreign demand for U.S. feed grains. Without the second chamber, it will be impossible for Lock and Dam No. 26 to accommodate any increase in barge movements on the upper Mississippi.

Another equally compelling reason to move ahead of the construction of the second chamber is security. Locks and Dam No. 26 is the only single-chamber lock on the Upper Mississippi River system. If that chamber were to become inoperable, we would need one 100-car-unit train, leaving every 12 minutes, 24 hours a day, to haul grain from St. Louis to New Orleans. From anyone's perspective, be it environmental or logistical, such an occurance would be an unmitigated disaster.

This bill acknowledges the Upper Mississippi River system as a major multipurpose water resource of national significance for both its rich ecosystem and commercial navigation system. Reflecting both areas of national significance, the bill authorizes the recommendations in the comprehensive master plan for management of the Mississippi River system by establishing programs for habitat rehabilitation and enhancement, long-term resource monitoring, computerized inventory analysis for data storage and retrieval, and a program for recreational projects.

It was my belief that handling the authorizations for the navigation system separately from the ecosystem programs would contradict congressional intent that this magnificent river be managed as a multipurpose resource. The bill encompasses both concerns and provides balanced support for both nationally significant systems.

It is of utmost importance that we move forward with the needed authorizations contained in the bill, and take action to implement the other recommendations in the comprehensive master plan for which authorization exists but which lack needed appropriations and agency direction.

EROSION CONTROL

The most pervasive and damaging problem for the Upper Mississippi River system is excessive sedimentation from upland and stream bank erosion in the watershed. Eroded material settles in the river backwaters, sloughs, and marshes. The natural erosion process has been intensified by agricultural practices and other land surface modification.

The master plan recommends that immediate action be taken to accelerate existing USDA and State programs to target present and increase future funds. The estimated $912 million total cost of the needed programs would be shared by Federal, State, local, and private concerns. Because no additional authorization is needed, this recommendation is not included in the bill.

Recommendations in the master plan concerning programs for system capacity analysis, dredged material productive uses and certain navigation programs do not need additional authorization and are also not included in the bill. It is expected that the appropriate agencies will review the master plan as approved by Congress and take the necessary action to include these programs in their agency budget requests.

AUTHORIZATION OF PROGRAMS FOR HABITAT REHABILITATION AND ENHANCEMENT, RECREATION PROJECTS, LONG-TERM RESOURCE MONITORING AND COMPUTER INVENTORY AND ANALYSIS

Mr. President, existing data and studies completed under the master plan conclude that the natural environment of the UMRS is degrading at a rapid rate as a result of a combination of man-induced and natural forces.

In order to provide for the reasonable development and use of the system without destroying the valuable environment which is unique to the system, the Commission recommended that a habitat rehabilitation and enhancement program be undertaken immediately.

Several studies have also indicated the need to commence work on the many river-oriented recreational projects in order to meet the anticipated growth in recreational demand for the use of the river.

In addition to the Commission's recommendation to initiate immediate implementation of projects to rehabilitate and enhance habitat areas, a long-term resource monitoring program to facilitate those projects and enhance the ability to understand complex and dynamic system relationships is urged. The master plan states that a long-term resource monitoring program (LTRM) is needed to enable decision-makers to measure ecological impacts attributable to a combination of natural and man-induced forces. Included in that program are specific actions to futher our understanding of the physical, chemical, and biological relationships in the system. The program would improve our understanding of future multipurpose management needs and help determine equitable management actions.

Establishment of a computerized inventory and analysis system for data storage and retrieval was also recommended for immediate authorization.

In drafting this bill, it was determined that it was urgent to proceed

immediately with the four programs included for authorization.

Section 3 therefore, provides a 3-year, $2.1 million authorization for habitat rehabilitation and enhancement and a 3-year, $1.5 million authorization for recreational projects. A 5-year, $2.8 million program is authorized for long-term resource monitoring and is facilitated by a 5-year, $3.5 million inventory and anlysis program. The bill also establishes priorities for funding of the programs authorized in the bill and the additional recommendations in the master plan. Section 4 specifies that the Secretary of Interior and Chief of Engineers, in cooperation and consultation with the Governors of the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, are to utilize the additional information obtained in the habitat restoration and enhancement planning process as well as monitoring data to establish a list of priorities by 1985 for consideration by the Congress.

This approach for establishing priorities takes into account the need for additional information and allows the time needed to evaluate the recommendations proposed in the comprehensive plan.

Finally, the bill's exemption of the second chamber at lock and dam 26 from the National Environmental Policy Act of 1969, recognizes the urgent need to obtain authorization for the second chamber and the other programs included in the bill. The extensive studies conducted for the environmental impact statement on the first chamber and the Upper Mississippi master plan are determined to provide reasonable compliance with NEPA. This provision is not intended to serve as a precedent for congressional exemption from NEPA.

In conclusion, I urge the Senate to act promptly on this bill which is vitally needed to insure the balanced management of the Upper Mississippi River system and the economic vitality of the Upper Midwest.●

Mr. PERCY. Mr. President, I am very pleased to join my distinguished colleague from Missouri (Mr. DANFORTH,) in cosponsoring this measure to authorize the construction of the second lock at the new Locks and Dam No. 26 facility under construction at Alton, Ill. Throughout discussion and work on the authorization of the replacement of Locks and Dam No. 26 in the seventies, it was clear that a second lock would be necessary to adequately handle projected traffic and to prevent the possible shutdown of this essential facility located just below the confluence of the Illinois, Missouri, and Mississippi Rivers—the infamous bottleneck of the Inland Waterway System handling more water borne traffic annually than passes through the Panama Canal.

The possibility of a shutdown was magnified earlier this year when a barge accident at the existing facility halted river traffic for two 8-hour periods. With only one lock at the new facility, the risk of a possible accident or maintenace problem that could shut the river down completely is simply too great. I was delighted when the Upper Mississippi River Basin Commission also recognized how essential the second lock is as they prepared the Upper Mississippi River Basin master plan for Congress that calls for the immediate authorization of the second lock.

Since construction began in 1980, $200 million has been appropriated to finance grading the Illinois bank, building a coffer dam, and starting construction of the main dam. This facility, without the second lock, is now estimated to cost $776 million to complete. Timely authorization of the second lock is critical for coordinating engineering and construction schedules for this addition to the project. Taxpayers will be the beneficiaries of timely authorization of the $200 million second lock, with estimated cost savings of $20 to $50 million—a full 10 to 25 percent of the second lock cost.

The new locks and dam would then be designed to more efficiently handle the flow of river traffic projected through the remainder of this century with a 1,200-foot and 600-foot set of locks replacing the existing 600-foot and 350-foot set. This is the kind of facility that will speed the flow and lower transport costs of farm products, coal, and manufactured goods without endangering the river with tremendous growth in barge traffic that could adversely effect the environment of the river.

I am also pleased that this bill authorizes an additional $53.95 billion, over 3 years, for necessary environmental safeguards such as resources monitoring, computerized inventory, and analysis system for data storage and retrieval, river habitat rehabilitation and enhancement, as well as important recreation projects. Because of our concern for protecting this great natural resource, authorization for these measures will help insure its protection.

Because of projected traffic needs, the importance of having the insurance of a backup lock, and the savings to be accrued by taxpayers if the facility is integrated into the current construction schedules for Locks and Dam No. 26, I urge bipartisan support for this authorizing legislation. I know it is good for Illinois and the Midwest and, I believe, the Nation as well. Being able to move products for export helps strengthen our economy and greatly improves our Nation's balance of payments. We must act responsibly by authorizing this needed facility as soon as possible.

By Mr. GRASSLEY:

S. 2863. A bill to amend title 28 to provide protection to all jurors in Federal cases to clarify the compensation of attorneys for jurors in protecting their employments rights, and authorizing the service of jury summonses by ordinary mail; to the Committee on the Judiciary.

JUROR PROTECTION

● Mr. GRASSLEY. Mr. President, today I am introducing a bill that will provide equitable injury protection to all Federal jurors and imporve the administration of the jury system. As a package, the provisions of this bill will not only clarify and correct certain inconsistencies in the current law regarding jurors, but also establish a more efficient jury operation resulting in significant cost savings to the Government.

Among the three provisions of this bill is one which extends coverage under the Federal Employees Compensation Act to all Federal jurors. Current law provides compensation to jurors for duty-related mishaps only if they are also Federal employees. Due to jurisdictional problems, that law, Public Law 93-416 enacted in 1974, failed to extend such benefits to jurors who are private citizens. However, such coverage was expressly supported by the Senate Committee on Labor and Public Welfare as indicated in Senate Report No. 93-1081.

Problems have arisen prior to and since the enactment of Public Law 93-416 which illustrate the need to extend its application to all jurors. While fortunately juror mishaps are rare, a survey of the district courts reveals a number of juror injuries occurring during the performance of duty. Such was the case of a South Carolina woman who fell from the jury box and fractured her wrist. Another Minnesota juror sustained an arm injury while viewing an accident site and was forced to miss several days work. In both cases the injured jurors lacked eligibility for injury compensation on the basis that they were not Federal employees. While these injuries proved relatively minor in nature, the potential exists for a major or possibly disabling injury to befall a Federal juror who would be left without compensation.

Jurors render a valuable service to the Government in carrying out the constitutional guarantee of a right to a jury trial. The United States in turn should afford them the benefit of protection in the case of a duty-related injury. Without that protection, what begins as a high duty of citizenship could result in an economic catastrophe for the private sector juror.

The remaining two sections of this bill stem from studies conducted by the U.S. Judicial Conference, Committee on the Operation of the Jury

System. Both result in Government cost savings and a more efficient administration of the Federal jury.

The first section relates to the awarding of attorneys' fees for Government funded attorneys as well as privately retained attorneys when jurors are successful litigants against their employers. Under the Jury Systems Improvement Act, jurors are authorized to bring legal action against employers interfering with their jury service. This law also provides for the remittance of attorneys' fees to an employer who ultimately prevails in such an action. However, when the juror is represented by appointed counsel paid by the Government, the law does not require that Government be reimbursed.

This bill will appropriately clarify that attorneys' fees should also be paid be paid back to the court, and thus the Government, in such cases. I note that this same provision was passed by the Senate in 1980 but was unfortunately caught in a committee backlog in the House.

The second section of this bill is also a cost-saving measure for the Government, one that will likely save the court administration budget hundreds of thousands of dollars each year. This provision extends to the courts the option of using regular first-class mail for the delivery of juror summonses along with the current methods of personal service and registered or certified mail. In a survey of clerks to U.S. district courts, the Judicial Conference found overwhelming support for this provision which they estimate will reduce mailing costs, lessen the clerical burden and improve the delivery rate of jury summonses.

One Federal appeals circuit court predicts that allowing regular mailing of summonses will cut their delivery costs by nearly 90 percent. This savings estimated by the ninth circuit combined with those of the other 10 circuits represents a sizable portion of Government court funds retained. In the face of our current economic plight, any such economizing of public money is a welcome achievement.

In the event that any court faces a problem of voluntary compliance with the summonses delivered by regular mail, this provision allows the court to retain its discretion in selecting the means of service which proves most efficient.

I would like to thank the Judicial Conference for calling attention to these important and needed steps toward improving the efficiency and conditions of the jury system and I ask my colleagues to join me in supporting the expeditious adoption of this legislation.●

By Mr. FORD (for himself and Mr. QUAYLE):

S. 2864. A bill to provide for a 2-year Federal budget cycle, and for other purposes; by unanimous consent, read twice and ordered held at the desk.

BUDGET PROCEDURES IMPROVEMENT ACT OF 1982

Mr. FORD. Mr. President, on behalf of the junior Senator from Indiana (Mr. QUAYLE,) and myself, I send to the desk a new bill to establish a 2-year budget and appropriation cycle, and to make other improvements in the budget process.

I am pleased to say that this new bill is the product of a joint effort by Senator QUAYLE and me to eliminate the minor differences which exist in our earlier bills—S. 1683 and S. 2008—and to increase our chances of early enactment of a 2-year budget bill by this joining of forces.

The new bill is not, in substance, significantly different from either S. 1683 or S. 2008. If enacted, it will substitute a 2-year budget period for the present annual cycle which is clearly no longer viable.

By eliminating much needless duplication of effort—in Congress and in the executive branch—we will gain time to improve our budget planning, and to strengthen congressional oversight over existing legislation.

We will lengthen the periods of certainty for State and local government planning, which must take into account Federal decisions and inputs affecting their activities.

By lengthening the budget period, we will increase the chances of economic stability in both the public and private sectors. In my judgment, the less frequently we have to tinker with basic tax and spending issues, the more likely we are to level the peaks and valleys in our economy.

Mr. President, Senator QUAYLE and I have requested that this new bill follow the same referral path as S. 1683, and be jointly referred to the Budget, Governmental Affairs and Rules and Administration Committees. For this purpose, we have also spoken with the chairmen and ranking minority members of the Budget and Governmental Affairs Committees, and I have spoken with Senator MATHIAS, chairman of the Rules Committee, on which I serve as ranking minority member.

It is my hope that at the appropriate time, the majority leader will make the request for such joint referral, and I ask that the bill be held at the desk until such request can be made.

Mr. President, I yield to my distinguished friend, the Senator from Indiana, Senator QUAYLE.

Mr. QUAYLE. Mr. President, I thank the Senator for yielding.

I wish to concur with the Senator's remarks and to point out, Mr. President, that this legislation is a composite of ideas that the Senator from Kentucky and the Senator from Indiana have developed concerning the 2-year budget process.

I do not think there is any doubt about it—there are some fundamental problems with the current process. As a matter of fact, so far this year we have not had one—not one—appropriation bill from the House of Representatives. Not one has come over from the House of Representatives. Since the Budget Impoundment Control Act of 1974, we have had but 1 year when we adopted all the regular appropriation bills. We operate instead on continuing resolutions.

So let us face the facts, and face reality. There is no way that Congress can conduct its business of authorizations, appropriations, and a full budget process in 1 year.

What the Senator from Kentucky and I are trying to do is to take that 1-year process and spread it over 2 years. We will have, in the first year, a first budget resolution and authorization bills. During the second year, we will have a second resolution, reconciliation, and appropriations.

Therefore, this legislation will emphasize, Mr. President, what everyone in this Chamber says they want, and that is oversight. We need time to study what we have already enacted and to see what we can reform, modify, increase, decrease, or whatever the case may be. I think that this is a first step to real institutional reform.

I am a strong supporter of the budget process. In no way should this be interpreted as any kind of change of attitude toward the budget process that has served this institution well. But there are some fundamental reforms that need to be taken. Now that the Senate has passed Senate Joint Resolution 58, the constitutional amendment to balance the budget, it is essential that we move ahead expeditiously to strengthen our budget process.

It has been clear for some time that our current budget process, which requires two budget resolutions each year in addition to the required annual authorization and appropriations bills, is simply too time consuming. The current process leaves Congress with little time for needed legislative activity. Indeed, under time constraints embodied in the 1974 Budget Act, the system is in danger of complete collapse.

Since passage of the Budget Act, the first and second budget resolution deadlines have been met only twice out of 11 reporting dates.

Our record on the appropriations has been equally dismal. Since 1976, the first year in which the Budget Act actually went into operation, only once were all appropriations bills enacted by the beginning of the fiscal year. Even in that year a continuing resolution was needed to fund some programs. Over the past 5 years, 10

continuing resolutions have been enacted. Today, much of the Federal Government is still operating on the basis of a continuing resolution.

We clearly need more time for consideration of authorization and appropriation bills. Our authorization processes need to be strengthened so programs can effectively be reviewed and evaluated. The work of oversight committees needs to be integrated into the work of the appropriations committees as well as into the budget.

Only by providing all our committees with sufficient time and our full, undivided attention can we regain full control of our legislative, budget and appropriations process. Only then can the budget we pass be based on sound economic review of legislative proposals as well as the economic considerations of the moment.

The ability of Congress to gain control over the budget is today in serious doubt. The weight of prior-year obligations and automatic expenditures built into the budget is causing us to drown in a sea of increasing deficits. Mr. President, we face a budget crisis.

Unless we can correct this situation, we will have effectively lost our power to legislate in any meaningful sense. Government will continue to operate on a kind of automatic pilot, without meaningful evaluation of current policy by the legislative branch and with the budget heavily dominated by uncontrollable spending.

It is our responsibility to see that legislation is carefully considered and spending policies are brought under control. For these reasons, I believe it is essential that we move to a 2-year budget cycle as soon as possible.

With a 2-year budget cycle, we would see the results of first year decisions by the second year of the cycle and could make midcourse corrections as necessary. We would have the time to review the major Federal programs and to carefully consider the new ones.

Under the Quayle/Ford bill we will have twice the time we now have to make the necessary decisions on appropriations and budget.

The bill we introduce today:

Establishes a 2-year budget process. The budget for each 2-year budget period is considered and enacted throughout both sessions of the preceding Congress.

Requires that enrollment of all spending bills be withheld until action on the second budget resolution and reconciliation is completed.

Prohibits: (1) including reconciliation instructions in other than the required second resolution; (2) using budget resolutions to expand the congressional budget process to include additional aspects of Government operations; and (3) directing committees, in any budget resolution, to change legislation authorizing the enactment of new budget authority.

Requires that spending measures and budget reports include tables in which the estimates or recommendations are set forth in the same budget accounts used by the President, and requires the President to consult with committees prior to changing the budget accounts.

Strengthens the requirement for committees to conduct oversight investigations and to report their findings to their respective Houses during each Congress. Also strengthens the authority of committees to request assistance and information from agencies and from the General Accounting Office and other legislative staff agencies, while safeguarding the protection of confidential information.

A 2-year budget process is fully consistent with Senate Joint Resolution 58, the constitutional amendment to balance the budget. The constitutional amendment clearly directs Congress to pass enabling legislation which would put the constitutional amendment into effect. The detailed analysis of Senate Joint Resolution 58, contained in the report issued by the Senate Judiciary Committee, July 10, 1981, states clearly that the term "fiscal year," for purposes of balancing the budget, shall be defined by statute. The report states (p. 44): "The amendment does not require an immutable definition of fiscal year; other fiscal years could be defined without straining the intent."

Nothing in the constitutional amendment would require the Congress to change the fiscal year for all Government programs, if it chose to do so for purposes of the budget process. The amendment addresses only the budget process and the constraints under which it shall be balanced.

In addition, it is clear from the legislative history and the debate on the Senate floor prior to passage of the amendment, that its sponsors hoped to provide Congress with substantial procedural flexibility. In a colloquy on July 27, 1982, Senator DOMENICI proposed that the constitutional amendment be written so as to permit Congress to establish a multiyear base period for determining the rate of national economic growth, should Congress decide that is appropriate. Senator HATCH, floor manager of the constitutional amendment, spoke in support of Senator Domenici's amendment which was accepted by the full Senate. (CONGRESSIONAL RECORD, July 27, 1982, p. S9190). Senator THURMOND, Chairman of the Senate Judiciary Committee and one of the floor managers of the balanced budget amendment, unequivocably stated in a colloquy with Senator FORD, that "we know of nothing that would prohibit going to a 2-year cycle" (CONGRESSIONAL RECORD, August 3, 1982, p. S9681).

Congress must review the budget timetables now. Only by moving to a 2-year budget process can we reestablish our capacity to legislate.

Mr. FORD. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Mr. President, I believe I should have made a unanimous-consent request that the bill be held at the desk until such time as the distinguished majority leader can make a motion that this legislation be jointly referred to the three committees. I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

By Mr. BIDEN:

S. 2865. A bill to reinstate the provisions relating to parental involvement in chapter I of the Education Consolidation and Improvement Act of 1981 relating to financial assistance to meet special educational needs of disadvantaged children; to the Committee on Labor and Human Resources.

PARENTAL INVOLVEMENT IN SPECIAL EDUCATION

● Mr. BIDEN. Mr. President, today I am Introducing legislation to amend chapter I of the Education Consolidation and Improvement Act of 1981 to restore the parental involvement requirement previously contained in title I of the Elementary and Secondary Education Act.

I take this action, Mr. President, in recognition of the fact that, without the active and constructive input of parents, students are far less likely to attain a high level of educational performance. This fact is true, I believe, for students throughout the possible realm of economic circumstances; but is especially true for the disadvantaged students title I was written to help. Oftentimes, these children lack solid and effective role models, making parental involvement all the more crucial.

The justification for removing the parental involvement requirement from the law was based on a perception that the provision was being carried out with an excess of Government regulation and redtape and, therefore, should be discontinued. While I do not share the view of those who believe that programs carried out in such a manner should be wiped out automatically, believing instead that otherwise good programs can be streamlined in their administration; I am always concerned about instances of excess Federal involvement in our educational programs. Consequently, I stand ready to work with the Labor and Human Resources Committee, together with all other interested parties, to insure that criticism of the previous arrangement can be avoided.

I also recognize, Mr. President, that many noted authorities in the field of education have had problems with the use of Parent Advisory Councils as the instrument through which to channel the most effective parental involvement. As such, I also stand ready to discuss alternatives to the Councils with all parties concerned.

Basically, Mr. President, I am introducing this legislation to indicate my strong belief that parental involvement is vital to our compensatory education program, and to provide a vehicle for contructive and useful discussion of the matter. I hope my bill will receive a full and prompt public hearing, as a result of which we may move ahead to reaffirm the idea that parental involvement is a cornerstone of sound educational policy.●

By Mr. HELMS (for himself and Mr. EAST):

S. 2866. A bill to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within Cape Hatteras National Seashore Recreational Area; to the Committee on Energy and Natural Resources.

MAINTENANCE AND REPAIR OF A CERTAIN HIGHWAY IN NORTH CAROLINA

● Mr. HELMS. Mr. President, I am today introducing legislation to authorize the Department of Interior to assist the State of North Carolina in improving and maintaining N.C. Highway 12, which lies within the confines of the Cape Hatteras National Seashore Recreational Area.

The Cape Hatteras National Seashore Park is a beautiful jewel in the necklace of barrier islands that stretch along the scenic coastline of North Carolina. Unfortunately, however, this jewel has a flaw—the highway through the park is in a state of serious disrepair.

Mr. President, the State built N.C. 12 primarily to serve the needs of its citizens who live in several villages that are now enclaves with the park. When the park was created in 1953, the State retained jurisdiction over the highway to protect access to these villages. Since that time, however, large numbers of visitors have been attracted to the area. N.C. 12 has had to bear much more traffic than it was designed and built for. Traffic in the park often numbers more than 5,000 vehicles per day. More than 85 percent of that volume is attributable to the park, and at least 50 percent of it is from outside North Carolina.

The State maintains the 21 miles of N.C. 12 within the park's boundaries that lie within the eight village enclaves. The State also provides ferry service connecting N.C. 12 across Hatteras Inlet and Ocracoke Inlet. But the U.S. Park Service is responsible for maintaining the park. Since the park attracts so much of the traffic on N.C. 12, the Park Service should at least assist in the improvement and maintenance of the highway through the park. This is what my proposed legislation would authorize.

Mr. President, Congressman WALTER JONES is sponsoring a bill in the House identical to the one I am introducing in the Senate today. This proposal has been developed with input from local, State, and Federal officials. I understand officials from the Deparment of the Interior and the U.S. Park Service want to help.

I urge my colleagues to support this bill.●

By Mr. CHAFEE (for himself, Mr. STAFFORD, Mr. BAUCUS, Mr. GORTON, Mr. HEINZ, Mr. MITCHELL, Mr. PELL, and Mr. TSONGAS):

S. 2867. A bill to establish a program of grants administered by the Environmental Protection Agency for the purpose of aiding State and local programs of pollution abatement and control; to the Committee on Environment and Public Works.

ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1982

Mr. CHAFEE. Mr. President, today I am introducing the Environmental Programs Assistance Act which would make permanent the current senior environmental employment pilot project—SEE. The Environmental Protection Agency would be authorized to employ and direct the efforts of older Americans to provide monitoring, and regulatory and technical assistance in several environmental programs. The act would be managed by the EPA with guidance from the Department of Labor at an authorized level not to exceed $250,000—a small amount to pay for the objectives of this program.

In the pilot project begun in 1977, SEE demonstrated the effectiveness of older Americans employed in jobs relating to the protection of environmental resources. For example, in Arkansas, 8 senior citizens conducted an EPA-mandated survey of open dumps within the State; in New Jersey, 21 older Americans were hired to gather followup information for an earlier survey of hazardous waste products generated by State industries; and in California, a project studied the extent to which migrant workers were exposed to dangerous pesticides while on the job. It is a rare occasion when the public derives such benefit from an investment as small as the amount expended for the senior environmental employment pilot program.

Retired, unemployed older workers have a wealth of talent and experience that should and must be used. At a time when Federal assistance for environmental programs is being reduced, additional resources are needed to help implement State and Federal programs.

The Environmental Programs Assistance Act will assist in accomplishing such projects as:

Air monitoring and emission testing; pesticides inventory and control; water quality and supply sampling and monitoring; technical libraries and public information projects; carcinogenic surveys and follow-up; hazardous materials routing surveys; health and screening in rural areas and among migrant workers; and noise abatement and control.

The bill requires that SEE participants not replace existing activities within a State. The participants must augment or improve existing programs. SEE will not displace EPA employees. This criterion in the pilot program has brought about ingenious uses of the senior environmental employment program. This trend will certainly continue should this worthy program be given permanent status.

An example of the original use of SEE is an EPA program which was spurred on by medical finding concerning the hazards of exposure to asbestos. In 1980, the EPA launched a program to help educators check school buildings for asbestos-containing materials.

The national manager of the asbestos control program, John Wilson of EPA, commended the program participants, and I quote,

> The great success of this program springs from each enrollee's unique combination of long work experience and enthsiasm to do what he can do to help people in need. We have thrown these people into some difficult situations, and in all cases they have been able to provide.

The SEE project is already a proven success based upon the pilot program. The legislation I am introducing today will give the SEE program a 3-year authorization at a level not to exceed $250,000 each year—a necessary step to insure permanence to a program that will provide many benefits. This legislation offers us the chance to more fully utilize the experience and energy of our senior citizens, and at the same time to enhance environmental programs.

Earlier this week the House, seeing the wisdom of this program, adopted similar language in an amendment to H.R. 6323, the Environmental Research, Development and Demonstration Act of 1983.

I encourage my colleagues to join with me in voting for this.

● Mr. STAFFORD. Mr. President, I am pleased to join with my friend and colleague, the Senator from Rhode Island (Mr. CHAFEE) in introducing legislation that deals with two of my major interests—the environment and the activities of senior citizens.

This legislation would establish a senior environmental employment

(SEE) program. It would be administered by the Environmental Protection Agency to assist State and local environmental programs to work better with the help of interested older Americans.

A 1977 SEE pilot project demonstrated how talented and effective many of our senior citizens are in dealing with protection of our natural resources.

Retired or unemployed older Americans can bring broad talent and experience to such tasks as air monitoring and emission testing; pesticides inventory and control, water quality sampling and monitoring, surveys of the way we transport hazardous materials, and a wide variety of other environmental activities.

At a time when the threat to our environment is growing and Federal budgets for environmental protection are failing to keep pace with the need, this program will help our efforts to protect the quality of our water, air, and land.

At the same time, the legislation makes it clear that no EPA worker may be displaced by any older American hired under this proposal.

This is one of those rare proposals that has only pluses for our Nation and for its citizens.●

By Mr. HATCH (by request):

S. 2868. A bill to amend the Federal Food, Drug, and Cosmetic Act and a related statute, and for other purposes; to the Committee on Labor and Human Resources.

FOOD, DRUG, AND COSMETIC AMENDMENTS OF 1982

Mr. HATCH. Mr. President, today I am introducing the Food, Drug, and Cosmetic Amendments of 1982.

This legislation would simplify the administrative procedures for establishing performance standards for medical devices, permit the labeling or advertising of marketed drugs and devices that have been approved under the Food, Drug, and Cosmetic (F.D. & C.) Act, and would repeal the obsolete Filled Milk Act of 1923.

Under current law, the present statutory procedures for developing and establishing performance standards for certain medical devices regulated by the Food and Drug Administration (FDA) are unnecessarily complex and cumbersome. They require, at a minimum, six separate publications in the Federal Register to establish a standard for a device. The procedures that are currently in place, if followed, will result in both governmental waste and unnecessary expense to affected persons participating in these procedures. The administration's proposal substitutes informal notice-and-comment rulemaking under the Administrative Procedure Act, with a stipulation that the Secretary of Health and Human Services consult with an appropriate advisory committee. Presently, section 301(l) of the F.D. & C. Act prohibits drug or device labeling or advertisements indicating FDA's approval of a new drug application with respect to these products. In other words, drug and device manufacturers which have received approval to market their products from FDA cannot advertise this fact during product promotions or marketing. Repeal of section 301(l) would permit drug manufacturers to provide pharmacists, health practitioners, and consumers with a means of readily determining which products have FDA approval by reference to labeling or advertisements.

Finally, the administration's bill proposes to repeal the obsolete Filled Milk Act of 1923 which prohibits shipment in interstate commerce of any milk, cream, or skimmed milk which has any added fat or oil other than milk fat. The Filled Milk Act was enacted by Congress in 1923, at a time when food technology was in its infancy. It sought to protect consumers from fraudulent products by prohibiting the interstate and foreign shipment of filled milk products which looked like milk but were actually a combination of dairy and nondairy products. This act was declared unconsitutional in 1972 and has not been enforced by the FDA since this date.

Mr. President, this legislation was submitted by the Department of Health and Human Services, and I ask unanimous consent that the text of the bill and the executive communication which accompanied the proposal from Secretary Schweiker, in which he thoughtfully articulates the purpose and rationale of this legislation, and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

REPEAL OF PROHIBITION ON USE IN LABELING OR ADVERTISING OF REPRESENTATIONS CONCERNING DRUG OR DEVICE APPROVALS UNDER THE ACT.

SEC. 2. Section 301(l) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(l)) (hereafter in this title referred to as "the Act") is repealed.

PROCEDURES FOR ESTABLISHING PERFORMANCE STANDARDS FOR MEDICAL DEVICES

SEC. 3. (a) Section 514(a) of the Act (21 U.S.C. 360d(a)) is amended by striking out the caption.

(b) Section 514(a)(4) of the Act (21 U.S.C. 360d(a)(4)) is amended—

(1) by striking out "and" at the end of subparagraph (B),

(2) by redesignating subparagraph (C) as subparagraph (D), and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) consider relevant safety and effectiveness data, and relevant voluntary standards developed by private organizations, and".

(c) Section 514(a) of the Act (21 U.S.C. 360d(a)) is further amended by adding at the end the following new paragraphs:

"(5) The Secretary may by regulation amend or revoke any performance standard prescribed under this section.

"(6) In promulgating, amending, or revoking any performance standard prescribed under this section, the Secretary shall consult with the appropriate panel or panels established under section 513.".

(d) The caption of section 514(c) of the Act (21 U.S.C. 360d(c)) is amended by striking out "Invitation for Standards" and inserting instead "Establishment of Standards".

(e) Section 514(c)(1) of the Act (21 U.S.C. 360d(c)(1)) is amended by striking out "a notice inviting any person" and all that follows and inserting instead "a notice of proposed rulemaking to establish a performance standard for the device.".

(f) Paragraphs (2) through (4) of section 514(c) of the Act (21 U.S.C. 360d(c) (2) through (4)) are repealed and replaced with the following new paragraphs:

"(2) A notice of proposed rulemaking for the establishment of a performance standard for a device published under paragraph (1) shall set forth proposed findings with respect to the degree of the risk of illness or injury designed to be eliminated or reduced by the proposed standard and the benefit to the public from the device.

"(3) After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard, and after consideration of such comments and any report from the appropriate panel or panels established under section 513, the Secretary shall (i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (2), or (ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

"(4) Each regulation prescribing, amending, or revoking a standard shall specify the date on which it shall take effect which, in the case of any regulation prescribing or amending any standard, may not be sooner than one year or not later than two years after the date on which such regulation is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest and publishes in the Federal Register his reason for such finding, in which case such earlier or later date shall apply.".

(g) Subsections (d) through (g) of section 514 of the Act (21 U.S.C. 360d(D) through (g)), including the captions thereof, are repealed.

(h) Section 517(c) of the Act (21 U.S.C. 360 (c)) is amended in the second sentence by striking out "(2) or".

(i) Section 520(i) of the Act (21 U.S.C. 360j(i)) is amended by striking out "section 514(g)(5)(B) or".

REPEAL OF THE FILLED MILK ACT

SEC. 4. (a) The Act of March 4, 1923 (42 Stat. 1486), known pursuant to Fifty-seventh Statutes at Large, page 499 (1943) as the Filled Milk Act, is repealed.

(b) Section 902(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 392(c)) is amended by striking out "the Filled Milk Act of March 4, 1923 (U.S.C. 1946 ed., title 21, ch. 3, secs. 61-64);".

THE SECRETARY OF HEALTH AND HUMAN SERVICES,
Washington, D.C., July 14, 1982.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Federal Food, Drug, and Cosmetic Act and related statutes, and for other purposes." When enacted, it would be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

The bill would reduce administrative burdens both for the Department and for regulated firms. The bill would simplify the administrative procedure for establishing performance standards for medical devices. It would permit the labeling or advertising of marketed drugs and devices that have been approved under the Act to include truthful statements concerning this approval. The bill would also repeal the obsolete Filled Milk Act.

The provisions of the bill are discussed in detail in the enclosed section-by-section summary.

We urge the Congress to give the draft bill its prompt and favorable consideration. We are advised by the Office of Management and Budget that there is no objection to the transmission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

DICK SCHWEIKER,
Secretary.

Enclosures.

FEDERAL FOOD, DRUG, AND COSMETIC AMENDMENTS OF 1982—SECTION-BY-SECTION SUMMARY

SHORT TITLE

Section 1 would provide the short title of the bill. When enacted, it would be cited as the "Food, Drug, and Cosmetic Amendments of 1982".

Repeal of prohibition on use in labeling or advertising of representation concerning drug or device approvals under the act

Section 2 of the bill would repeal the prohibition on the use in labeling or advertising of representations concerning drug or device approvals under the Federal Food, Drug, and Cosmetic Act ("the Act"). The purpose of this amendment is to allow the labeling or advertising of marketed drugs and devices that have been approved under the Act to include truthful statements concerning this approval. The Secretary would retain his authority elsewhere in the Act to ensure that investigational devices (devices which have been approved only for limited experimental and investigational purposes) are not promoted.

Procedures for establishing performance standards for medical devices

Section 3 of the bill would repeal the present statutory procedures for developing and establishing performance standards for medical devices, and would substitute a procedure similar to the one presently in use for prescribing performance standards for radiation-emitting electronic products under section 358 of the Public Health Service Act. Under this procedure, standards would be set by informal notice-and-comment rulemaking under the Administrative Procedure Act, except that the Secretary would be required to consult with an appropriate advisory committee.

Repeal of the Filled Milk Act

Section 4 of the bill would repeal the Filled Milk Act. The Act, which bars interstate shipment of milk, cream, or skimmed milk which has any added fat or oil other than milk fat, was declared unconstitutional in 1972 and is not enforced.

By Mr. GOLDWATER (for himself, Mr. ABDNOR, Mr. ARMSTRONG, Mr. BOREN, Mr. HARRY F. BYRD, Jr., Mr. CANNON, Mr. COCHRAN, Mr. D'AMATO, Mr. DECONCINI, Mr. DENTON, Mr. DOLE, Mr. EAST, Mr. FORD, Mr. GARN, Mr. GRASSLEY, Mr. HATCH, Mr. HELMS, Mr. HOLLINGS, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LUGAR, Mr. MATTINGLY, Mr. MCCLURE, Mr. MELCHER, Mr. MURKOWSKI, Mr. NUNN, Mr. RANDOLPH, Mr. SASSER, Mr. SCHMITT, Mr. STAFFORD, Mr. STEVENS, Mr. SYMMS, Mr. THURMOND, Mr. TOWER, Mr. WALLOP, and Mr. WARNER):

S.J. Res. 234. Joint resolution to provide for the designation of the week commencing with the third Monday in February 1983 as "National Patriotism Week"; to the Committee on the Judiciary.

NATIONAL PATRIOTISM WEEK

● Mr. GOLDWATER. Mr. President, I am today introducing legislation for myself and more than 35 other Senators to designate the week of February 21 through 27 of 1983 as "National Patriotism Week." This week has been proclaimed by President Reagan twice before in 1981 and 1982, but the basic authorizing law must be renewed each year.

The idea originated with a young lady in Arizona, Miss Lori Cox, while she was a high school student. The unique nature of the week is that it is addressed to young persons especially.

The legislation would encourage, but not require, primary and secondary schools to use an appropriate curriculum for Patriotism Week. Numerous private organizations have already made commitments to assist schools voluntarily and financially in offering special activities each year during this week.

National Patriotism Week has served as a rallying point for the great majority of Americans who retain their confidence in our country, our lasting principles, and the Nation's future. In my opinion, there can never be enough patriotism.●

By Mr. HELMS (for himself, Mr. HUDDLESTON, Mr. ANDREWS, Mr. ARMSTRONG, Mr. BAUCUS, Mr. BENTSEN, Mr. BOSCHWITZ, Mr. BRADLEY, Mr. BUMPERS, Mr. BURDICK, Mr. HARRY F. BYRD, JR., Mr. CHILES, Mr. COCHRAN, Mr. DIXON, Mr. DOLE, Mr. EAGLETON, Mr. EXON, Mr. FORD, Mr. HATCH, Mr. HATFIELD, Mrs. HAWKINS, Mr. HAYAKAWA, Mr. HEFLIN, Mr. HEINZ, Mr. HOLLINGS, Mr. INOUYE, Mr. JEPSEN, Mr. JOHNSTON, Mr. KASTEN, Mr. LAXALT, Mr. LEAHY, Mr. LONG, Mr. LUGAR, Mr. MCCLURE, Mr. MATTINGLY, Mr. MELCHER, Mr. MURKOWSKI, Mr. NICKLES, Mr. NUNN, Mr. PRESSLER, Mr. PRYOR, Mr. RIEGLE, Mr. SARBANES, Mr. SASSER, Mr. SCHMITT, Mr. STEVENS, Mr. SYMMS, Mr. TOWER, Mr. WALLOP, and Mr. ZORINSKY):

S.J. Res. 235. Joint resolution to proclaim March 21, 1983, as "National Agriculture Day"; to the Committee on the Judiciary.

NATIONAL AGRICULTURE DAY

● Mr. HELMS. Mr. President, on behalf of Senator HUDDLESTON, 48 other Senators and myself, I introduce today a joint resolution proclaiming March 21, 1983, as "National Agriculture Day."

The continuing observance of a special day commemorating agriculture is important so that all Americans, young and old, might understand and appreciate the contributions America's farmers and ranchers make to our economy. Adoption of this resolution now will allow planning for the event to move forward quickly and will alleviate time pressures next spring. A similar resolution is expected to be introduced today in the House of Representatives with bipartisan support.

Mr. President, agriculture is the foundation on which our Nation's hopes for economic recovery are based. The achievements and contributions of America's farmers are numerous and far-reaching. There are four major contributions which I would like to emphasize today: The increase in farm productivity, agriculture's impact on the overall American economy, agriculture's importance in export trade, and the values of the American farmer.

All Americans continue to have a more adequate and healthy food supply than anyone else in the world because farmers today produce over 76 percent more on the same number of acres than did their fathers. As populations expand and the need for food increases at home and abroad, the reliable American farmer meets the challenge of supplying these needs with an abundance of food.

When the family farmer intitiates his planting season, he starts a series of activities for which the economic impact extends beyond the farm to effect the urban population to a degree most Americans do not seem to understand. As President Reagan stressed in a recent address:

With all the miracles of modern day electronics, there is still no greater technological revolution than modern day American farming. . . . To produce effectively a farmer must have seed, fertilizer, fuel, chemicals, labor, machinery, and equipment—just to name a few items.

Agriculture creates jobs for over 23.7 million people—nearly 23 percent of the total available workforce. The total assets of agriculture are equal to 88 percent of the capital assets of all manufacturing corporations in the United States.

Farmers produce not only enough for their fellow Americans, but also enough to make large quantities of food available to insure a favorable balance of trade. Without the farmer's $45 billion contribution, our world export trade base would be horrendous.

All of these facts are certainly important, but they pale in comparison to the impact the strong spirit of the family farmer makes on the American character. Farm family life is one of high values, decency, honor, and dedication that spring only from living close to, and working with, the land.

For these reasons and many more, I would urge passage of this resolution to proclaim March 21, 1983 as "National Agriculture Day."●

● Mr. HUDDLESTON. Mr. President, I am pleased to cosponsor the joint resolution proclaiming March 21, 1983, as National Agriculture Day.

I think it is important to set aside 1 day each year to pay special tribute to the Nation's farmers and ranchers. Although the production of food and fiber is the foundation of our national economy, the important contributions of the Nation's farmers and ranchers are sometimes overlooked by Americans not involved in the production, processing, or marketing of agricultural products.

Today, each farmer and rancher produces enough to feed and clothe 75 Americans. In addition, because of the remarkable productivity of U.S. agriculture, Americans spend only about 15 percent of their disposable income for food—the lowest of any nation in the world.

National Agriculture Day will provide an opportunity for the Nation to focus on the agricultural segment of our economy, recognize its achievements, and get a better understanding of its problems.

I urge my colleagues to join me in sponsoring this joint resolution.●

By Mr. McCLURE:

S.J. Res. 236. Joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week"; to the Committee on the Judiciary.

NATIONAL WATER RESOURCES WEEK

Mr. McCLURE. Mr. President, as I have said many times on this floor before, I have been interested in the issues of water development, management, and control all of my professional life.

Such interest comes naturally, I suppose, for those of us who hail from the arid West where water is in short supply. It became clear to me early that the kind of life we are going to have—whether we are going to continue to grow and prosper or just stand still—depends on having an adequate supply of water. I think the basic truth of that statement is coming home to people in all parts of the country, since increased demand for water and the ensuant strains on water supplies has become a problem in eastern as well as western localities.

Water is not just a western concern, it is a national concern.

I believe it is important to elevate the issue of water to the high level of national concern and priority it deserves. We need to develop an understanding of these vital issues in the contexts of traditional forms of control, which differ between East and West. I am, therefore, introducing today a joint resolution to designate the week of October 24 through 28, 1982, as "National Water Resources Week."

This week coincides with the Golden Jubilee Convention of the National Water Resources Association, in Salt Lake City, Utah. For 50 years, this organization has been at the forefront of those who recognize the importance of water to our society, and who have encouraged the wise use and development of our Nation's water resources.

The National Water Resources Association—its membership and its outstanding executive director, Pat O'Meara—do a great service to this country and I am proud that I have been able to work closely with them through the years. I ask unanimous consent that the text of this joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 236

Whereas water is the fundamental resource upon which we rely for our social and economic activities, as well as for our health and well-being; and

Whereas water is the necessarey ingredient for the successful operation of every home, factory, city and farm; and

Whereas the continued growth and prosperity of this Nation is dependent on an adequate supply of water; and

Whereas development of needed sources of new energy will require further use of our water resources; and

Whereas expanded use of water for irrigation could increase farm production and hold down domestic food costs and provide additional commodities for export; and

Whereas without water, life itself is impossible; and

Whereas the National Water Resources Association has been an important and effective force in promoting the importance of our Nation's water resources and the wise and careful use thereof; and

Whereas 1982 marks the fiftieth anniversary of the National Water Resources Association: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the President of the United States is requested and authorized to designate, by proclamation, the week of October 24 through 28, 1982, as "National Water Resources Week," and urge all citizens in the States of the Union, the national and local governments, and groups and organizations, especially officials who are responsible for the collection, treatment, distribution, and disposal of water, to conduct educational programs and otherwise alert the citizenry of the vital importance of water to every American.

ADDITIONAL COSPONSORS

At the request of Mr. CANNON, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 894, a bill to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976.

S. 1840

At the request of Mr. DURENBERGER, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1840, a bill to amend section 170 of the Internal Revenue Code of 1954 to increase the amounts that may be deducted for maintaining exchange students as members of the taxpayer's household.

S. 2149

At the request of Mr. DECONCINI, the name of the Senator from Alaska (Mr. STEVENS) was withdrawn as a cosponsor of S. 2149, a bill to provide for deferrals on repayment, and a moratorium on foreclosures, of Farmers Home Administration farm loans for borrowers temporarily unable to make payments due to circumstances beyond their control.

S. 2189

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of S. 2189, a bill to amend section 1951 of title 18 of the United States Code, and for other purposes.

S. 2419

At the request of Mr. DECONCINI, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 2419, a bill to amend title 28, United States Code, regarding venue, and for other purposes.

S. 2580

At the request of Mr. MATHIAS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2580, a bill to establish the Christopher Columbus Quincentenary Jubilee Commission.

S. 2585

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S.

2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Connecticut (Mr. WEICKER), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2985, supra.

S. 2659

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 2659, a bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly reports with respect to the results to periodic reviews of disability determinations.

S. 2700

At the request of Mr. HOLLINGS, his name was added as a cosponsor of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set-aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2792

At the request of Mr. STEVENS, the names of the Senator from Florida (Mrs. HAWKINS), and the Senator from New Jersey (Mr. BRADY) were added as cosponsors of S. 2792, a bill to establish an ocean and coastal development impact assistance fund and to require the Secretary of Commerce to provide to States national ocean and coastal development and assistance block grants from moneys in the fund, and for other purposes.

S. 2801

At the request of Mr. JACKSON, the names of the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Nevada (Mr. CANNON), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Florida (Mr. CHILES), the Senator from Maine (Mr. COHEN), the Senator from Missouri (Mr. DANFORTH), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Missouri (Mr. EAGLETON), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Washington (Mr. GORTON), the Senator from Colorado (Mr. HART), the Senator from Florida (Mrs. HAWKINS), the Senator from Pennsylvania (Mr. HEINZ), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Mr. MATHIAS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Maine (Mr. MITCHELL), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from Arkansas (Mr. PRYOR), the Senator from Michigan (Mr. RIEGLE), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Connecticut (Mr. WEICKER), the Senator from Delaware (Mr. ROTH), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New York (Mr. D'AMATO), the Senator from Virginia (Mr. WARNER), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 2801, a bill to withdraw certain lands from mineral leasing, and for other purposes.

SENATE JOINT RESOLUTION 174

At the request of Mr. LEAHY, the names of the Senator from Montana (Mr. BAUCUS), the Senator from California (Mr. CRANSTON), the Senator from Illinois (Mr. DIXON), the Senator from Connecticut (Mr. DODD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Montana (Mr. MELCHER), the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Mr. SARBANES), the Senator from New Mexico (Mr. DOMENICI), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Indiana (Mr. LUGAR), the Senator from Oregon (Mr. HATFIELD), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Missouri (Mr. DANFORTH), and the Senator from Minnesota (Mr. BOSCHWITZ) were added as cosponsors of Senate Joint Resolution 174, a joint resolution to authorize and request the President to designate October 16, 1982, as "World Food Day."

SENATE JOINT RESOLUTION 213

At the request of Mr. TSONGAS, the name of the Senator from Delaware (Mr. ROTH) was added as a cosponsor of Senate Joint Resolution 213, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women.

SENATE JOINT RESOLUTION 226

At the request of Mr. COCHRAN, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'AMATO, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 355

At the request of Mr. DECONCINI, the name of the Senator from New Jersey (Mr. BRADY) was added as a cosponsor of Senate Resolution 355, a resolution expressing the sense of the Senate with respect to the need to continue Federal funding for energy conservation and renewable energy resources.

SENATE RESOLUTION 444

At the request of Mr. DANFORTH, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of Senate Resolution 444, a resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war.

SENATE RESOLUTION 449

At the request of Mr. ARMSTRONG, the names of the Senator from Utah (Mr. GARN), the Senator from North Carolina (Mr. HELMS), and the Senator from Georgia (Mr. MATTINGLY) were added as cosponsors of Senate Resolution 449, a resolution expressing the sense of the Senate with respect to human rights violations in connection with the construction of the trans-Siberian pipeline.

AMENDMENT NO. 1906

At the request of Mr. CRANSTON, the names of the Senator from Oklahoma (Mr. BOREN), the Senator from Arkansas (Mr. PRYOR), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

AMENDMENT NO. 2016

At the request of Mr. QUAYLE, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Amendment No. 2016 intended

to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

SENATE RESOLUTION 452—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DURENBERGER, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 452

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2329. Such waiver is necessary because S. 2329 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The waiver of section 402(a) is necessary to permit congressional consideration of statutory authority for an efficiency advisory roundtable to assist the Advisory Commission on Intergovernmental Relations in its consideration of proposals to rebalance the federal system.

S. 2329 authorizes such sums as are necessary to complete the work of the roundtable mandated by the bill. The Congressional Budget Office has estimated that appropriations of $300,000 over two fiscal years will be necessary for this purpose. The Committee on Governmental Affairs noted that ACIR is authorized to accept gifts and enter into contracts to finance programs similar to those mandated by the bill and made authorization for the roundtable conditional on an appropriation or other financing in advance of appointing the roundtable members. Thus, the authorization included in S. 2329 is only triggered when funds for the mandated purposes become available, and not expressly for Fiscal Year 1983.

The Appropriations Committees of the Senate and House have not yet considered legislation which would include appropriations for the Advisory Commission on Intergovernmental Relations and the roundtable in Fiscal Year 1983 and will therefore have adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere or delay the appropriations process.

SENATE RESOLUTION 453—DESIGNATING NATIONAL PRODUCTIVITY IMPROVEMENT WEEK

Mr. NUNN (for himself, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. BOREN, Mr. HUDDLESTON, Mr. SASSER, Mr. JACKSON, Mr. LEVIN, Mr. COCHRAN, Mr. RANDOLPH, Mr. PELL, Mr. ZORINSKY, Mr. EAST, Mr. HATFIELD, Mr. HAYAKAWA, Mr. DURENBERGER, Mr. GOLDWATER, Mr. HELMS, Mr. D'AMATO, Mr. ABDNOR, Mr. KASTEN, Mr. THURMOND, Mr. TOWER, and Mr. CHILES) submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 453

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work-related ingenuity and know-how has brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living of United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore be it

Resolved by the Senate of the United States of America in Congress assembled, That, for the purposes of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the week of October 3 through October 9, 1982, is designated "National Productivity Improvement Week". The President is requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. NUNN. Mr. President, I am pleased today to offer a resolution on behalf of the American Institute of Industrial Engineers which designates a week in October as "National Productivity Improvement Week." A greater understanding of the effects of lagging productivity on our Nation's economy and of methods to increase productivity is necessary today as we face the great challenges of lowering inflation and achieving economic recovery. It is, therefore, my pleasure to submit this resolution, which designates the week of October 3 through October 9, 1982, as "National Productivity Improvement Week."

Traditionally, America has been the international leader in productivity growth since the machine age began. This growth has, however, slipped significantly during the past decade. Now other nations are closing the gap. Japan and Germany have surpassed United States productivity in many areas.

The 1981 tax cut bill made many important tax changes to encourage investment and plant modernization to help improve American productivity. Progress is also being made in the area of regulatory reform and the elimination of unnecessary Federal regulation and paperwork.

Increased productivity growth can play a major role in reducing inflation and at the same time create greater job opportunities and security for our workers. As wage rates increase but productivity decreased, labor costs become more inflated and it becomes necessary for the producer to pass along this expense to the consumer. Increased productivity on the other hand, creates more goods and services for the same capital investment guaranteeing the company a savings and stabilizing or lowering prices for consumers. As long as our Nation's industries can remain competitive through greater productivity, greater job security can be insured for our workers.

Productivity growth can be encouraged. A greater understanding of the serious effects of declining productivity growth will facilitate efforts to reverse this trend. Therefore, Mr. President, I am pleased that the American Institute of Industrial Engineers has continued their public information campaign to promote a better understanding of the critical aspects of productivity improvement. The members of the institute are actively engaged in efforts to enhance productivity through the management of plant design and engineering, systems engineering, energy conservation, operational research and production and quality control. The institute's public information campaign to promote a better public understanding of the need for productivity improvement are to be highly commended and encouraged. I am pleased to introduce this resolution designating October 3 through October 9, 1982, as "National Productivity Improvement Week." I am hopeful that the Senate will act expeditiously on this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN THE PUBLIC DEBT LIMIT

AMENDMENT NOS. 2041 AND 2042

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 520) to provide for an increase in the public debt limit.

AMENDMENT NO. 2043

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 520, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. WEICKER. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy Conservation and Supply to receive testimony on the Department of the Interior's Outer Continental Shelf 5-year oil and gas leasing plan. This oversight hearing will be held on

Wednesday, September 8, beginning at 9:30 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Energy Conservation and Supply, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing, you may wish to contact Mr. Gary Barbour of the subcommittee staff at 224-0613.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to receive testimony on the following bills: S. 2088, to require treatment of citizens of the Northern Mariana Islands as citizens of the United States of America for purposes of particular Federal statutes; S. 2089, to clarify the applicability of the Federal Tort Claims Act to claims arising in the Northern Mariana Islands; S. 2090, to amend the application of the Clean Air Act to the Northern Mariana Islands; S. 2632, to authorize the government of American Samoa to issue bonds and other obligations and for other purposes; S. 2633, to amend the Organic Act of Guam and the revised Organic Act of the Virgin Islands to transfer the audit authority and related staff of the offices of the government comptrollers for Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa to the Office of Inspector General, Department of the Interior, and for other related purposes; S. 2729, to amend or repeal certain provisions of the organic acts applicable to the Virgin Islands, and for other purposes.

The hearing will be held on Monday, September 13, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to submit testimony for the hearing record should write to the Committee on Energy and Natural Resources, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Jim Beirne or Ms. Becky Tucker of the committee staff at 224-2564.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 19, at 10 a.m., to hold a hearing to consider acid precipitation and the use of fossil fuels.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 19, at 9:30 a.m., to mark up amendments to the Clean Air Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, August 19, at 2 p.m., to hold a hearing on S. 2235, a bill to provide improved protection for foreign diplomatic missions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ANNOUNCEMENT OF COSPONSORSHIP OF S. 2585, S. 2700, AND S. 2659

● Mr. HOLLINGS. Mr. President, I am pleased to be cosponsoring three important pieces of legislation today.

The first, S. 2585, restores the social security student benefit for the widows and children of members of the Armed Forces who were killed while on active duty or who died as a result of a service-connected disability.

As we all know, in last year's Budget Reconciliation Act phased out the social security student benefit. However, that change affected over 26,000 surviving spouses and 70,000 children of individuals who died while in the service or later as a result of service-connected disabilities. Of this group, 70,000 were the widows and children of soldiers who served during Vietnam.

Many people will ask why these widows and children should be treated differently from the survivors of other social security recipients. The answer, Mr. President, is that these student benefits, along with other Veterans' Administration programs, were part of a large package of benefits promised by the Department of Defense in documents provided to our servicemen. They were told by the Armed Forces that the social security student benefit, eliminated last year, would be there to help their families in the event they could not. And, through this combination of VA and social security benefits, they were promised that the needs of their wives and children would be met.

Mr. President, the survivors of those who gave their lives in service to this country are, in my opinion, one of our highest national responsibilities. To renege on a promise made to these people would be a terrible breach of our moral obligation. We would, in effect, be saying "Yes, we promised to provide for your family. And yes, you did make the ultimate sacrifice for your country. But no, we cannot keep our promise now because it is too expensive in 1982." That to me is bankruptcy of the worst sort—moral bankruptcy. This bill prevents it. I am proud to be a cosponsor.

The second bill I am cosponsoring today—S. 270—excludes burial plots and prepaid funeral arrangements from the supplemental security income (SSI) program assests test.

Mr. President, SSI provides income to the neediest of our elderly, blind, and disabled people. It is a needs-based program. Eligibility is determined by an assets test.

Under current law, several resources are excluded from the calculation of assets: a home, a car, property used for self-support, and reasonable amounts of life insurance. These exclusions are intended to insure that applicants need not dispose of essential items in order to qualify for SSI. Furthermore, these exclusions are intended to encourage people to provide for themselves as much as possible.

Burial plots and funeral plans are not currently included in the list of exclusions from assets. But those SSI recipients who plan ahead and are seeking some peace of mind in their later years should not be penalized. In addition, if the burial expenses are not excluded, the States and local governments will be forced to pick up the costs of the additional indigent burials.

It is absurd that we have, in many cases, forced the elderly to make a choice between giving up plans for a respectable internment or forfeiting benefits they need to stay alive. This bill eliminates that cruel choice.

Mr. President, the third bill is S. 2659, a bill to improve the new disability review process, which, in the year and one-half since its implementation, has become increasingly unmanageable.

In 1980, Congress enacted amendments that required the review of nonpermanently disabled recipients every 3 years. Regular review was thought to be necessary since evidence presented by the Government Accounting Office indicated that as many as 20 percent of the recipients on the rolls—over half a million people—were not truly disabled.

But, there have been problems in implementation of the review process, es-

pecially since the administration, in its quest for immediate savings, started the review process nearly a year before it was scheduled to begin.

The results were predictable. The States, understaffed and not prepared for the new regulations, were overwhelmed. Most recipients had their cases decided by physicians who never even saw them. Nearly one-half of the cases reviewed resulted in benefit terminations—only to have two-thirds of these decisions overturned in appeal.

The personal hardship of this merry-go-round has been devastating. The appeals process takes several months, during which time no disability benefits are received. Medicare coverage, often the most important benefit to the disabled, is also terminated, pending the appeal. Anxiety, poverty, and poor health are heaped upon those who are often the least able to handle them.

This bill makes three important changes to rectify this situation: First, it continues benefit payments for 6 months or until the first appeals hearing is held after notice of termination; second, it continues medicare benefits until the final administrative appeal has been decided; and third, it allows the recipient to be present at the first appeals hearing.

Mr. President, few in this body can doubt my resolve to have a financially sound income security system for the poor and elderly. In the past 2 years, I have offered several proposals to prevent the impending bankruptcy of social security. I also have supported the reconciliation bills to scale back our income security programs in those areas where they have gotten out of control.

But, this does not mean that I wear blinders, that good policy is no longer important. In our pell-mell rush to regain control of the income security function, we cannot forget what our objectives are. We cannot forget that we are dealing with the most vulnerable people in our society. And, we cannot forget that good budgeting works both ways—spending decreases and spending increases.

My support for these three bills in no way diminishes my resolve to see a balanced budget. But it will continue my resolve that good government can and does exist. Government can have its fiscal house in order while at the same time providing a home for the helpless in our society.

Mr. President, I submit for the RECORD an article by James J. Kilpatrick entitled "Mattie Dudley," and an editorial from the Washington Post.

The material follows:

[From the Baltimore Sun, Aug. 8, 1982]

MATTIE DUDLEY

THROUGH A HOLE IN THE SAFETY NET

(By James J. Kilpatrick)

CHARLOTTESVILLE, VIRGINIA.—The story that follows is a true story. It is not one of those events that reportedly happened to someone else in some other place. This story didn't happen once upon a time. It happened here, this week, to Mattie Dudley, 67, crippled since infancy, a little old lady in a wheelchair who peddles the Daily Progress on the streets of this university town.

As of August 1, her Medicaid benefits have been suspended for the next two years.

How come?

The government's welfare workers discovered that Mattie Dudley has assets—really, one asset—in excess of the maximum permitted by law. And what was this asset?

It was a $1,000 funeral certificate that she finally was able to purchase in 1979 from the savings of a lifetime. Possession of the certificate, guaranteeing her a funeral from the Hill & Wood Funeral Service, made her ineligible for benefits under the Supplemental Security Income program. In order to preserve her SSI benefits, she was compelled to give up Medicaid.

Charles Giametta, a reporter for the Progress, spelled out the infuriating facts in a Page One story last week. Mattie Dudley was born at Miller School in Albermarle county, where her father was a grounds keeper. A congenital condition caused her legs to shrivel and atrophy. She lives alone in a sparsely furnished basement apartment, but every day she is out on the downtown streets, a familiar figure in her canopied wheelchair, selling papers and talking to her customers.

Miss Dudley had been getting along, just barely, on her $280 a month in SSI benefits. This is a federally funded program that aids disabled or poor persons who are not covered by regular Social Security. Such benefits are limited to those persons whose assets do not exceed $1,500.

Purchase of the burial certificate in 1979 pushed her close to the limit. Now, along with a small savings account, interest on the burial certificate, amounting to $226.17, has pushed her over the top. As Mr. Giametta said in his newspaper story, she has dropped through a hole in the safety net.

When this calamitous overage first was called to her attention a few weeks ago, Miss Dudley transferred her burial certificate to a friend. The friend promised to bury her according to plan, in the gray dress in the gray casket that Miss Dudley had picked out. It turned out that mere transfer of the certificate wasn't enough. Mr. Giametta explains: "Because she did not sell the certificate and use the money to purchase necessities such as food or clothing, she violated state Medicaid rules."

Welfare workers summoned Miss Dudley to a conference in City Hall. They gave her three options: (1) She could reacquire the certificate, cash it in and spend the proceeds on approved necessities; (2) she could reacquire the certificate and keep it, and thus lose her SSI benefits; or (3) she could leave things the way they are and forfeit her Medicaid benefits for the next two years. Spinning the wheel of fortune, she picked No. 3. Goodbye, Medicaid.

"Maybe sometime I might need it," she told Giametta, "if I got sick and couldn't do for myself. But right now, I can do for myself. I ain't never sick much."

The welfare workers should not be cast as the wicked witches in this story. They were sympathetic with Mattie Dudley's plight, but rules are rules. "It's not what we want, it's the regulations we have to follow." Another local funeral home confirmed that a dozen other elderly pensioners have cashed in their pre-paid certificates in the past year in order to preserve their eligibility for welfare.

A proper story should have a happy ending. This one doesn't. Congressman Kenneth Robinson, who represents the Charlottesville area, boiled over when he learned of Mattie Dudley's case. He has introduced a bill to remedy the situation for all pensioners so situated, but the mills of the law grind slowly and for this little old lady in a wheelchair, time is running out.

[From the Washington Post, Aug. 3, 1982]

MATTIE DUDLEY'S TROUBLES

There is a lesson for budget-cutters in the story of Mattie Dudley, well told by James J. Kilpatrick on the opposite page today. It is this: there are important social values bound up in how a society runs its welfare programs, and these aren't always measured in the bottom line of a budget sheet.

Miss Dudley has been caught in one of those "welfare traps" that have proliferated in the welfare laws in the last few years. Her trouble comes from the fact that she is too much like other people—and not enough like that stereotypical wastrel whose image has guided recent developments in welfare law. Mattie Dudley wants to be productive, so, despite having been crippled from birth, she sells newspapers on the street. She knows she'll never be well-off in this life, but she thought she might at least provide herself with a decent burial.

The government, of course, could have none of that. Welfare recipients aren't supposed to have aspirations or dignity, and they are certainly not to be encouraged to accumulate any assets beyond the minimum needed for daily survival. So the welfare office threatened to take away her modest welfare grant unless she got rid of the $1,000 certificate guaranteeing her a funeral. When she gave the certificate to a friend, they got her on another technicality added to the welfare law in the budget process a year and a half ago. Because she disposed of an asset for less than fair market value, her Medicaid was cut off.

There are many such traps now built into welfare law—rules that reinforce dependency and destroy people's self-respect. The rule that we noted last week, for example, that now keeps poor youngsters from holding summer jobs lest their mothers lose all welfare aid. And the provisions that now make welfare families considerably worse off if they try to achieve independence by working.

Laws like these are corrosive in their effects on families and individuals. When they come to light in real cases, like Mattie Dudley's, they arouse the general sense of outrage. But somehow those feelings don't come forward in the cold, hard calculations of the budget process that now dominates all congressional consideration. So we'll make another argument more suitable to the times. Destroying peoples' sense of dignity and achievement doesn't save money for the taxpayer, it simply ensures that the problems of dependency will be with us for a long time to come.

There are provisions in the House Ways and Means Committee budget reconciliation bill—in conference with the Senate this week—that would dismantle some of these welfare traps. They're too late to help Mattie Dudley, but they could prevent more cases like hers in the future.●

SENATOR ROTH CONSPONSORS ERA

● Mr. ROTH. Mr. President, I rise today to announce that I have once again cosponsored the equal rights amendment.

I cosponsored this legislation in 1971, and was pleased that it passed the Congress the following year. I also sponsored an equal rights amendment in 1970 when I served in the House of Representatives.

The protection of equal rights is one of the most basic roles and responsibilities of government. That right should not be abridged in any way because of one's sex. In recent years, women have made tremendous strides in many fields and occupations previously thought limited to men.

But more needs to be done. Wage discrimination still exists. Equal pay for equal work is still not the uniform practice around this country. The equal rights amendment is designed to correct, through the highest law of our land, these remaining inequities.

However, I am concerned that the national debate over the past several years surrounding the equal rights amendment did raise certain questions as to whether the courts might be required to find that in the event of a military draft, women must be drafted. I urge the Judiciary Committee, in their consideration of the new ERA, to carefully study these sorts of questions which have been raised.

Mr. President, I hope Congress will move expeditiously on the amendment, and allow the States to once again consider its inclusion into our Constitution.●

TRIBUTE TO JAMES M. MORTON

● Mr. HOLLINGS. Mr. President, I rise on this occasion to praise the loyal service of James M. Morton (Rock Hill, S.C.), a dedicated Senate employee.

During his 4½ years of service as a Senate door attendant, Jim has endured many long evenings with his usual good humor and enthusiasm. He has become an indispensible member of the Senate family, who will be sorely missed.

Jim is leaving us to continue his education at the University of South Carolina Law School. We wish him good luck, and continued success, in his new endeavor.●

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 16, 1982.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, room 4229 Dirksen Building.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 16, 1982.

Dr. HANS BINNENDIJK,
Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

Dear DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an American Republic country tentatively estimated to cost in excess of $50 million.

Sincerely,

WALTER B. LIGON,
Acting Director.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive prior notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annex referred to in one of the covering letters is available to Senators in the office of the Foreign Relations Committee, room 4229 Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 18, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-34, concerning the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $379 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL NO. 82-34

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value: Major defense equipment [1] $262 million; other, $117 million; total, $379 million.

(iii) Description of Articles or Services Offered: Twelve AV-8B aircraft with spares, related repair parts, and logistic support.

(iv) Military Department: Navy (SCA).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: See Annex under separate cover.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Included in report for quarter ending 31 December 1981.

(viii) Date Report Delivered to Congress: August 18, 1982.

POLICY JUSTIFICATION

Spain—AV-8B aircraft

The Government of Spain has requested the purchase of 12 AV-8B aircraft with spares, related repair parts, and logistic support at an estimated cost of $379 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Spain; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance by improving Spain's coastal defense. Such improvement will benefit the defensive posture of the southern flank of NATO and contribute to keeping the sea lanes open for supplying the U.S. military facilities in Spain which are important staging and reinforcement sites.

The purchase of the AV-8B aircraft will substantially improve the Spanish Navy's VSTOL capability and upgrade and modernize its air strike and support capabilities. These aircraft will be used by Spain to supplement and replace its existing AV-8A aircraft. The Spanish Navy will be capable of absorbing these aircraft within their inventory. Additionally, the Spanish Navy will be capable of performing the required maintenance of these aircraft without adverse impact on its current military capabilities.

The sale of this equipment and support will not affect the basic military balance in the region.

[1] As defined in Section 47(6) of the Arms Export Control Act.

The prime contractor will be the McDonnell Douglas Aircraft Corporation of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 19, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-80 and under separate cover the classified annex thereto. This Transmittal concerns the American Institute in Taiwan's proposed Letter of Offer to the Coordination Council for North American Affairs for defense articles and services estimated to cost $240 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director,
Defense Security Assistance Agency.

TRANSMITTAL NO. 82-80

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Coordination Council for North American Affairs (CCNAA), pursuant to P.L. 96-8.

(ii) Total Estimated Value: Major Defense Equipment,[1] $127 million; other, $113 million; total, $240 million.

(iii) Description of Articles or Services Offered: The Government-furnished equipment portion of 30 F-5E and 30 F-5F aircraft to be co-produced in Taiwan which includes 60 AN/ALR-46(V)3 Radar Warning Receiver sets, 60 AN/ALE-40(V)7 Chaff/Flare Dispenser systems, and 150 J-85-21 engines.

(iv) Military Department: Air Force (SFD).

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: August 19, 1982.

POLICY JUSTIFICATION

Coordination Council for North American Affairs on Behalf of Taiwan—F-5E/F aircraft and related equipment

The proposed Letter of Offer and Acceptance (LOA) provides for the sale of the Government-furnished equipment protion of 30 F-5E and 30 F-5F aircraft to be co-produced in Taiwan which includes 60 AN/ALR-46(V)3 Radar Warning Receiver sets, 60 AN/ALE-40(V)7 Chaff/Flare Dispenser systems, and 150 J-85-21 engines at an estimated cost of $240 million.

The Taiwan Relations Act states that the U.S. will make available to Taiwan defense articles and services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability. The proposed sale of 60 additional F-5E/F is consistent with U.S. law and policy.

Improvement of its air defense is one of Taiwan's highest military priorities. The proposed sale would sustain Taiwan's air defense capability and thus contribute to both Taiwan's security and the maintenance of regional stability. The relative power balance in the Taiwan Strait area has not changed appreciably since normalization of relations between the United States and China. However, attrition of aging F-100, F-104, and F-5A/B aircraft between now and 1986 could degrade Taiwan's air defense capability. Accordingly, Taiwan relies increasingly on the F-5E/F and needs to procure additional aircraft to compensate for these projected losses.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Northrop Corporation of Hawthorne, California.

Implementation of this sale will not require the assignment of any U.S. Government personnel or additional contractor representatives to Taiwan.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

[1] As defined in Section 47(6) of the Arms Export Control Act.

DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

● Mr. JEPSEN. Mr. President, this morning the Senate Banking Committee completed action on the Depository Institutions Amendments of 1982. I congratulate Senator GARN and the other members of the committee for resolving their differences so that the Congress can act on this important legislation this year. Following is a summary of the provisions of this legislation prepared by the Senate Banking Committee staff:

TITLE-BY-TITLE SUMMARY: DEPOSITORY INSTITUTIONS AMENDMENTS OF 1982

TITLE I.—DEPOSIT INSURANCE FLEXIBILITY

Part A.—FDIC amendments

The bill expands FDIC's powers to assist troubled banks by allowing either direct or merger-related assistance to prevent the closing of or to reopen any insured bank or when severe financial conditions threaten the stability of a significant number of banks or banks with significant financial resources and by expanding the forms of assistance. FDIC could also assist an FSLIC-insured institution or a bank or savings and loan holding company in acquiring a failing FDIC-insured bank.

This bill permits savings banks to covert from State to Federal charter and continue to be FDIC insured. The FHLBB would charter and regulate such institutions but FDIC, as insurer, would retain essentially the same powers over savings banks chartered under the bill as it retains over national banks.

The bill allows commerical banks and mutual savings banks with assets of $500 million or more which are closed or, in the case of mutual savings banks, are in danger of closing to be acquired. State consultation is mandated. Priority is given to acquisitions in-state first, contiguous states next, and other interstate acquisitions last. All bidders within 15 percent or $15 million of the highest first bid are given the opportunity to re-bid. The agency must give consideration to maintenance of local institutions along with the need to minimize financial assistance.

Part B.—Federal Home Loan Bank Board amendments

The bill expands FSLIC's powers to assist troubled thrifts by permitting assistance when severe financial conditions exist and by increasing the forms of assistance to include deposits in the institution and a purchase of its securities.

The bill provides for emergency acquisistions of insured institutions that are eligible for FSLIC assistance. Priority is given to acquisitions in-state first, contiguous states next, and other interstate acquisitions last. All bidders within 15 percent or $15 million of the highest first bid are given the opportunity to re-bid. The agency must give consideration to maintenance of local institutions along with the need to minimize financial assistance. In the case of a state chartered institution, written approval of the state regulator is required within 90 days after the state chartered institution has exhausted its net worth. The future branching capabilities of an acquired thrift are subject to national bank branching restrictions.

The need for FSLIC assistance for troubled mutual institutions will be reduced by a provision authorizing FSLIC to permit any mutual thrift to obtain a Federal stock charter, notwithstanding any other law, as long as that institution is in receivership, has contracted to receive FSLIC financial assistance or is under threat of instability because of severe economic conditions.

Another provision allows the Bank Board to waive the requirement that institutions set aside a portion of net earnings to a reserve account. FSLIC is also permitted to use its secondary reserve exactly in the manner it uses the primary reserve.

The Bank Board is allowed to appoint the FSLIC as conservator or receiver of a State chartered insured institution regardless of any state action, upon a determination that the institution is in an unsafe or unsound condition to transact business, has substantially dissipated its assets, or had assets less than its obligations. The Bank Board must seek written approval from the relevant state official prior to exercising its receivership authority, but may act without such approval if the state fails to act in a timely manner or FSLIC is appointed receiver by a public authority of an institution in default.

Part C—National Credit Union Administration amendments

The National Credit Union Administration is given flexibility and authority to handle certain emergency situations. NCUA Board can approve mergers or purchase and assumption transactions between two insured credit unions if one of the credit unions is insolvent or in danger of becoming so, if an emergency is found to exist, and if other reasonable alternatives are not available. The Board may also authorize a purchase and assumption arrangement between a failing insured credit union and any federally-insured financial institution. This authority exists without any restrictions as to field of membership or geographic area and permits other federally-insured financial institutions to purchase or assume the assets of a federally-insured credit union.

Additionally the NCUA Board is authorized to act as a conservator of an insured credit union in order to protect the interests of the members, the assets of the credit union, and the share insurance fund. In the case of federally-insured state chartered credit unions, the state credit union supervi-

sor must be consulted at least 24 hours prior to NCUA's exercise of this authority.

Part D—Sunset provision

The emergency provisions contained in Title I sunset 5 years after the date of enactment.

TITLE II—CAPITAL ASSISTANCE

This title establishes a program whereby Federally-insured financial institutions may exchange capital notes with the Federal insurance agencies to buoy up their net worth.

To qualify, institutions must (1) have net worth of less than 3 percent, (2) have incurred losses during the two previous quarters, (3) comply with the terms established by the insuring agencies (although no merger resolution may be required from an institution which after receipt of assistance will have positive net worth for at least nine months), (4) be solvent for at least six months, and (5) have at least 20 percent of their assets invested in residential mortgages or mortgage backed securities.

State consultation, as well as consultation with the appropriate Federal banking agency in the case of a commercial bank, will be required.

The initial formula will be as follows:

Net worth	*Level of assistance*
Less than 3 percent	30 percent of period loss.
Less than 2 percent	40 percent of period loss.
Less than 1 percent	50 percent of period loss.

The insuring agencies may change the formula but cannot provide more than 100 percent of period loss.

State law overrides (1) One provision ensures that the capital notes will be treated as net worth and that State chartered institutions can continue to operate and pay dividends. (2) As long as a qualified institution has notes outstanding, it will not be liable for any State or local franchise tax.

Statutory net worth for savings and loans is amended by deleting statutory minimum and requiring institutions to hold adequate reserves in a form satisfactory to the Federal Home Loan Bank Board.

TITLE III—DEPOSITORY INSTITUTIONS INSURANCE AND SERVICES

Part A.—Form of charter: demand accounts

Under this section, the Federal Home Loan Bank Board is authorized to charter Federal associations known as Federal Savings and Loan Associations or Federal Savings Banks. Their purpose shall be to provide thrift institutions for the deposit or investment of funds, and for the extension of credit for homes, and other goods and services. Existing limitations on the chartering of Federal Mutual Savings Banks and distinctions among Federal associations' investment authority are eliminated. Additionally, any institution that is a Federal Home Loan Bank member (or is eligible to become a member) is permitted to convert to a Federal Savings and Loan, a Federal Savings Bank, or a Federal Mutual Savings Bank. Conversion from stock to mutual form or mutual to stock form is also liberalized for institutions eligible to become Federal Home Loan Bank members.

Federal Associations are also given the authority to accept demand accounts from persons or organizations with an established business relationship. Additionally, the statutory 30-day notice-of-withdrawal period for savings accounts (including NOW accounts) is eliminated in order to enable S. & L.'s to be more competitive with commercial banks with respect to this account.

Finally, the existing prohibition against the issuance of capital stock by Federal S. & L.'s is deleted, and an explicit grant of authority to issue such stock is substituted. This will permit the Bank Board to authorize Federal stock S. & L.'s on a de nova basis.

Part B—Investments

Federal associations' investment authority is expanded as follows:

Overdrafts.—Overdraft loans could be issued with respect to any transactions account, rather than only NOW accounts.

Real property loans.—Existing loan-to-value ratios are deleted for residential property. Non-residential real estate lending is increased from 20 percent of assets to 40 percent of assets.

Time deposits.—Permits associations to invest in each other's time and savings deposits.

State securities.—Permits investment up to 100 percent of assets in state and local obligations.

Consumer loans.—Authorizes investment up to 30 percent of assets in consumer loans, including inventory and floor planning loans.

Personal equipment.—Invest up to 10 percent of assets in tangible personal property to engage in leasing activities.

Education loans.—Maintain 5 percent of assets limitation but broadens scope to include all educational loans.

Small Business Investment Corporations.—Restores investment authority up to 1 percent of assets.

Commercial loans.—Are phased in as follows: (1) for direct loans, up to 5 percent of assets of an S. & L. (7½ percent of assets of a savings bank) prior to January 1, 1984 and 7½ percent of assets of an S. & L. or savings bank thereafter; (2) for participations or purchases, 5 percent of assets of an S. & L. or savings bank prior to January 1, 1984 and 7½ percent thereafter.

Federal thrifts are made subject to antitying restrictions comparable to those applicable to bank holding companies. These provisions prohibit an association from conditioning and extension of credit on the purchase of a product from the association and authorize private law suits. With some limitations and grandfathering, interstate branching of Federal Associations is limited to those associations who qualify for the bad debt deduction. Further, the activities of single S. & L. holding companies would be restricted to only those permitted multiple S. & L. holding companies if the company's S. & L. subsidiary does not qualify for the bad debt deduction.

All interest rate differentials are to be phased out no later than January 1, 1985. However, any differential established after July 1, 1982 must be eliminated no later than January 1, 1984. The Depository Institutions Deregulation Committee is required to authorize a new account that effectively competes with money market funds not later than 60 days from enactment. Such account shall not be subject to transaction account reserves even though no minimum maturity is required if all transfers to third parties are prohibited and other transfers in excess of three per month are prohibited.

Part C—Preemption of due-on-sale prohibitions

Under this subsection, lenders could enforce due-on-sale clauses in real property loan contracts, notwithstanding state law, except for loans originated or assumed during a "window period". The "window period" begins on the date the state acted to restrict enforcement of due-on-sale clauses and ends on the date the federal preemption becomes effective. These "window period" loans would be subject to applicable state law for three years, and after three years the due-on-sale clauses would become enforceable, unless the state legislature acted to otherwise regulate such loans. The Comptroller of the Currency and the National Credit Union Administration would similarly be able to regulate "window period" loans originated by national banks or federal credit unions. Federal savings and loan associations and federal savings banks would be exempt from this "window period" restriction because they have had a due-on-sale regulation since 1976 whose application, in the face of inconsistent state law, was recently upheld by the Supreme Court. Nonbinding language would encourage lenders and borrowers to negotiate blended rates upon assumption of mortgages.

Nine circumstances are listed which restrict the lenders ability to enforce due-on-sale clauses. The Federal Home Loan Bank Board, in consultation with the Office of the Comptroller of the Currency, has the authority to write rules and regulations, and issue interpretations.

Part D—Miscellaneous

These provisions are largely technical. The Bank Board is given the authority to determine the appropriate security for advances, and it is made clear that courts may only assess attorneys' fees against the Bank Board when the agency loses the case. Obsolete requirements are deleted and authority is granted to compensate members of the Federal Savings and Loan Advisory Council.

TITLE IV—PROVISIONS RELATING TO NATIONAL AND MEMBER BANKS

Part A—General Provisions

The amendments to the laws governing national banks replace some of the rigid limitations imposed on national banks. They provide greater flexibility and the opportunity for more effective competition with less regulated institutions.

The lending and borrowing limits are amended. The amount a bank is permitted to lend to a single borrower is raised from 10 percent of unimpaired capital and surplus to 15 percent, plus 10 percent if the loan is fully secured. Real estate lending provisions are simplified. Rigid funding restraints are eliminated.

The bill provides for federal chartering of bankers' banks. Bankers' banks are limited charter institutions which provide services to, and are exclusively owned by, depository institutions.

There is a mechanism for the orderly disposition of unclaimed property in the possession of the Comptroller of the Currency. This property was acquired from receivers of national banks closed during the Depression and consists of the contents of safe deposit boxes. It also allows state unclaimed property administrators to examine National bank records.

Formal approval for a bank name change or relocation of headquarters to any already approved branch within the same city, town or village is eliminated. Any other move

would still require agency and shareholder approval, and would remain subject to a 30-mile limitation.

The special venue provision for national banks which permits a national bank to be sued only in the district in which its headquarters is located, is deleted, except with respect to closed banks or banks in receivership.

The bill increases the maximum allowable bankers' acceptances to 100 percent, or 150 percent if approved by the Fed. It also rewrites section 23A of the Federal Reserve Act in order to simplify it, close some loopholes and exempt transactions among sister banks.

The bill provides an exemption from reserve requirements for institutions with deposits of less than $5 million.

Part B—Financial Institutions Regulatory Act (FIRA) amendments

The Federal Financial Institutions Examination Council (FFIEC) has suggested that Congress amend certain provisions of FIRA. The agencies' several years of experience in implementing the requirements of FIRA have led them to recommend minor modifications to the law.

To provide greater flexibility, the dollar limitations on loans to executive officers for real estate and education are deleted. The $10,000 ceiling on loans for other purposes is replaced with a provision authorizing the bank agencies to determine an appropriate limit. The agencies are also authorized to set the threshold amount above which approval is required for insider loans. Certain reporting requirements are eliminated.

The bill permits a management official to be removed for a violation of the interlock prohibitions without the agency's having to prove financial loss or personal dishonesty. It also provides the Justice Department with a procedural mechanism for carrying out its responsibilities under the Interlocks Act.

The bill extends the prohibition against preferential loans to insiders of banks which maintain correspondent relationships to include the related interest of these insiders. The annual reporting requirement is also eliminated.

TITLE V—AMENDMENTS TO THE FEDERAL CREDIT UNION ACT

A large number of the credit union amendments in the bill relate to the internal operations of credit unions. As such, they are largely non-controversial and simply designed to afford credit unions and their boards of directors greater flexibility and authority in day-to-day operations.

Some amendments in this category would simplify the organizational process for credit unions by eliminating a requirement that subscribers gather collectively in order to certify their desire to form a credit union. Other amendments permit Federal credit unions to schedule annual meetings at any time during the year, chose their own titles for board officers, and convert from Federal to state charter based on a majority of those voting, rather than a majority of members.

A few amendments are designed to clarify and somewhat broaden the authority of credit unions to handle their own affairs. Boards of directors would be empowered to establish the par value of shares (although another amendment would protect consumers by insuring that the credit union pay dividends on all dollars over $5). The amount which directors and committee members can borrow without board approval is raised from $5,000 to $10,000.

Other amendments relating to internal credit union operations would make the establishment of a separate Credit Committee an option of the elected Board of Directors and would more clearly enumerate the powers of the Board of Directors.

Minor changes and clarifications in the real estate provisions of the Federal Credit Union Act account for five amendments in the legislation. These would give NCUA authority to allow first mortgage loans of more than 30 years, remove the "150 percent of media sales price" requirement, clarify the ability of a Federal credit union to refinance a mortgage, allow greater flexibility in second mortgage lending, and permit technical accounting changes in the way mortgage payments are collected.

Several amendments are aimed at clarifying or slightly modifying existing authority for credit unions. For example, one amendment makes clear that the definition of "member account" includes custodial accounts for insurance purposes and another clearly allows Federal credit unions to invest in investment funds whose portfolios are limited to permissible credit union investments.

In other provisions, credit unions are granted similar authority to savings and loans to invest in state and local Government obligation and to issue mortgage-backed securities. They also are given needed business flexibility by authorizing them to make deposits in any Federally insured, state chartered bank, rather than just state chartered banks located in the same state in which the credit union does business.

National Credit Union Administration activities and operations are addressed through a number of amendments. For instance, NCUA would be permitted to invest and receive the income from its operating fees. Another section would result in a GAO audit of NCUA on a fiscal year, rather than a calendar year, basis. This change is consistent with audits of other government agencies and has been supported by the General Accounting Office.

An amendment would provide for equal insurance treatment of state and Federal credit unions when both have funds deposited in a Federally insured credit union. Complex computations would be ended by another amendment eliminating partial year NCUA insurance premiums and rebates. Additionally the Board would be permitted to differentiate its regulatory treatment of corporate central credit unions (i.e. credit unions for credit unions) versus natural person credit unions.

The Central Liquidity Facility also would be granted the status of Agent of the Federal Reserve System. Lastly, the NCUA Share Insurance Fund would acquire the ability to borrow from the Central Liquidity Facility if necessary.

TITLE VI—PROPERTY, CASUALTY, LIFE INSURANCE ACTIVITIES OF BANK HOLDING COMPANIES

This title amends Section 4(c)(8) of the Bank Holding Company Act of 1956 to generally prohibit a bank holding company from providing insurance as a principal, agent, or broker. There are six exemptions to this general prohibition, resulting in the prohibition being principally applicable to the underwriting or sale of property and casualty insurance products. The exemptions establish a grandfather date (October 7, 1981) for the continuation of previously authorized insurance activities, such as selling credit related property and casualty coverages, and permit bank holding companies to engage in, among other things, credit life, disability, and involuntary unemployment insurance activities and general insurance agency activities in towns of less than 5,000 people.

TITLE VII—MISCELLANEOUS

This title contains two amendments to the Truth in Lending Act. One title exempts student loans from truth in lending. The other excludes "arrangers of credit" in order that the Act will not apply to real estate brokers.

This title makes industrial banks eligible for FDIC insurance and also qualifies state and local governments for NOW accounts. In addition, the bill resolves three specific situations that have arisen under the grandfather provisions of the Bank Holding Company Act and the International Banking Act.

FNMA is authorized to issue preferred stock and its statutory debt to equity requirements are eliminated. The grandfather date for phasing in reserve requirements is changed from July 1, 1979 to March 20, 1980.●

A COMMENTARY ON THE ADMINISTRATION'S PUBLIC LANDS POLICY

● Mr. LEAHY. Mr. President, I submit for the RECORD an excellent commentary on the Reagan administration's public lands policy by Senator EDWARD M. KENNEDY.

I commend the Senator for his superb statement.

The commentary follows:

[From the Christian Science Monitor, July 30, 1982]

A LEADING DEMOCRAT ON REPUBLICANS AND THE 'LAND ETHIC'

(By EDWARD M. KENNEDY)

As I travel in Massachusetts and the nation, I hear more and more complaints that the Reagan administration is selling America's common heritage of natural resources to a few powerful special interests. The founders of the Republic resisted such concentrations of power. The pioneers, homesteaders, and sodbusters of the last century recognized that America's greatest treasures are a free political system and a remarkable natural inheritance.

It is time to reaffirm their view and weave what has been called the "land ethic" into US national policy. That ethic reaffirms the self-evident truth that our natural resources are as much a shared inheritance as the right to vote.

The values that underlie the land ethic have always been part of our history. They have moved Americans to develop a unique treasure of national parks, wilderness areas, and urban parks in our cities. We have sought to preserve natural wonders and to conserve the bounty of our soil, waters, and coasts for our children's children and for generations of Americans to come.

Our success or failure in this continuing challenge is a measure of our democratic vitality. For democracy is strong only when citizens are willing to sacrifice some private gain for the greater good of the whole society. Democracy works best when our eyes are on the future and when we weigh our decisions on a scale that counts more than narrow and transitory advantages of the moment.

But at the center of national power today there prevails a fundamentally undemocratic ethic of selfishness directly opposed to the community spirit of the land ethic. Secretary of the Interior James Watt and Environmental Protection Agency Director Ann Gorsuch have put irreplaceable ecological resources on the auction block to be bought by the highest bidder. Their extremist and ideological version of private enterprise leaves very little, if any, room for a public morality of conservation and a priority on sound environmental management.

The President and Secretary Watt are now putting 50 million acres of public lands up for sale. This sale represents the biggest land grab in modern history; acreage as large as the entire state of Iowa will be gaveled over the exploitation. In a depressed market, it is likely the land will go cheap. In a recent sale of mineral rights to a billion tons of Wyoming coal, only 3 of 13 available tracts attracted more than one bidder.

It is a national tragedy that a Republican administration is abandoning the historic commitment of the Republican Party to the land ethic. Theodore Roosevelt would never have surrendered our natural legacy for a budgetary quick fix, let alone one as strikingly modest as this—a few million dollars to apply against hundred-billion-dollar deficits. President Reagan should know—and care—that the damage once done will be irreversible and that the stakes here are as lasting as the earth itself. The President says he wants an America in which everyone can be rich, but at the same time he is stripping away the natural riches which belong to all Americans.

Instead, we should remember and represent the Americans of the future when we make choices which will have ecological consequences that will reach far into the future. In this democracy, we cannot consign such major decisions exclusively to any elite group. Even our best experts cannot be certain that nuclear power is safe enough. Even our best scientists cannot predict the exact degree to which toxic wastes will damage our health and that of our grandchildren. There is no solution yet to the ecological disasters we are causing by the accelerating erosion of Midwestern farmland, the clearcutting of national forests, or the disappearance of three species a day from the face of the earth.

As citizens of this country, we should feel a special concern because America the beautiful is inextricably bound up with America the free. The first of our people determined, in the preamble of the Constitution, "to secure the blessings of liberty for ourselves and our posterity"—and the environment was part of that legacy of liberty which they fought and died to defend. In 1792, Thomas Paine wrote:

"As America was the only spot in the political world where the principles of universal reformation could begin, so also was it the best in the natural world. . . . The scene which the country presents to the eye of the spectator has something in it which generated and enlarges great ideas. Nature appears to him in magnitude. The mighty objects he beholds act upon the mind by enlarging it and he partakes of the greatness he contemplates."

Our heritage requires us to secure for posterity a natural legacy which nurtures liberty of thought and guarantees the clean air, water, and soils necessary for real long-term productivity.

There are Americans who will never have the opportunity to explore the Brooks Range in the Alaskan Rockies. Many others may never see Yellowstone or the Grand Canyon or experience the peace of a Cape Cod sunrise with sails full of the western wind. And yet I believe that these natural legacies, which are heritage of all Americans, expand the American spirit and give breath and life to our continuing experiment in democracy and equality. Before nature, we are all equal, and the wilderness and seashores and public lands we preserve remind us of this truth. "Such is the irresistible nature of truth," Thomas Paine said, "that all it wants and all it asks is the liberty of appearing."

Now as much as ever, and with the same dedication that the first Americans brought to their Revolution, we must defend the land ethic against special interests determined to convert our natural wealth into the coin of their own heedless profits. We must insist that our posterity, too, shall be able to see and sing of an America where "God shed his grace on thee—from sea to shining sea."●

SALUTE TO WALLACE R. GRAY

● Mr. SARBANES. Mr. President, it is particularly appropriate at this time, in the light of the debate which has taken place in this Chamber in recent days with respect to reform of our immigration laws, to bring to your attention to the outstanding record of achievement of Wallace R. Gray, who is retiring as Baltimore District Director of the U.S. Immigration and Naturalization Service. For more than 25 years with INS, he has served the citizens of this Nation with distinction. His career has reflected his commitment to service as an instrument for improving the public welfare.

A native of Springfield, Mo., Mr. Gray entered the Service in 1956 as a patrol inspector trainee with the Border Patrol at Yuma, Ariz. In 1960, he moved to Homestead, Fla., to assume responsibilities as a patrol inspector. Between 1966 and 1975 he devoted his energies toward similar duties at such diverse locations as Texarkana, Ark.; San Juan, Puerto Rico; Miami, Fla.; and Cincinnati, Ohio. For the last 7 years Mr. Gray has demonstrated thoughtful and vigorous leadership as Baltimore District Director.

As District Director, Wally Gray effectively steered the Baltimore office, which serves all of Maryland, through a period in which there was a dramatic rise in the number of applications for immigration benefits, at the same time as public attention was increasingly directed at the Service's administration and enforcement of our immigration laws. Marylanders have been extremely well served by his efficient management and his sensitivity in administering the law fairly and in a spirit of compassion.

Mr. President, Marylanders will soon be honoring Wallace Gray as he steps down as District Director. His friends and associates have organized a retirement dinner September 11 to recognize his distinguished record of public service. I ask my colleagues to join me in saluting this outstanding citizen.●

SEVEN VIEWS ON TAX REFORM

● Mr. GRASSLEY. Mr. President, despite wild and varied opinions on what is necessary to accomplish meaningful tax reform, the consensus is that major surgery is needed on the Tax Code.

Mr. President, I shall submit for the RECORD a series of articles from this week's U.S. News & World Report on seven different concepts of how to reform our tax system. These alternative tax systems range from a flat rate tax to a gross income tax to a value-added tax. Each of these systems seeks to add simplicity, lower tax rates, and a broader tax base to our present Tax Code.

The merits and drawbacks of these differing ideas should be understood and debated thoroughly. Although these articles only scratch the surface of the debate on tax reform, they serve as a good general overview of each concept.

Mr. President, I introduced a bill, S. 2376, earlier this year which would direct the Secretary of the Treasury or his delegate to conduct a study of the advisability of replacing the current Federal income tax system with an alternative broad-based, low-rate tax system.

I intend to offer this bill as an amendment to the debt extension bill, House Joint Resolution 520, currently pending before the Senate.

The bill was originally included in the tax reform package reported by the Senate Finance Committee to the full Senate on July 12. And then on July 23 it was included in the Tax Equity and Fiscal Responsibility Act of 1982, which passed the full Senate. But the measure was later taken out in the Senate-House conference.

I hope, Mr. President, that this body will once again display prudence by passing this act. As tax reform debate has progressed over the recent months, it has become increasingly evident to all those participating that any attempt at major tax reform will cause complications, dislocations, and transitional problems. These potential hazards must be identified, addressed, and overcome if we are to deal with this massive problem in a pragmatic way. Thorough and abundant analysis of the impact of tax reform is needed before we can begin to tackle the issue. That is what this amendment would provide.

Since tax reform is needed at once, we can lose no time in establishing the framework for reform, a job best handled by the Treasury Department. Secretary Donald Regan, testifying before the Budget Committee on August 4, indicated to me that a Janu-

ary reporting date is not unreasonable. I would urge my colleagues to support my amendment so that the Treasury can get on with this important task.

The articles follow:

WHAT TO DO ABOUT OUR TAX SYSTEM—SEVEN IDEAS

"A LOW, FLAT RATE" TO "REWARD" WORKERS

(By Robert E. Hall, Economist, Hoover Institution, Stanford University)

High income-tax rates are diverting economic resources from productive areas into maneuvers to pay less tax. A simpler income tax, levied at a low, flat rate but with few deductions, would reward people who work hard and don't worry too much about tax consequences.

It would eliminate almost all the incentive to engage in wasteful tax shelters. Many wealthy people who now pay little or not tax because of deductions and shelters would be forced to bear their share of the tax burden. At the same time, a low flat-rate tax gives relief to hardworking, straightforward taxpayers.

The plan proposed by Hoover Institution political scientist Alvin Rabushka and myself envisions an income tax that would be imposed only on employment earnings—wages and salaries. Other income, including interest, dividends and capital gains, aren't taxed when they are received by individuals. Instead, they are taxed as part of the business tax I will talk about in a minute.

Tax returns could be postcard-size. You list your compensation in the past year, and then subtract from that a personal allowance based on your marital status and family size. Currently, such an allowance might be about $6,200 for a couple filing a joint return and about $3,800 for a single person. In addition, there would be an exemption of about $750 for each dependent. The levels would be adjusted each year to reflect changes in the cost of living.

There are no other deductions. State and local taxes, interest, charitable donations—none would any longer be used as itemized deductions to reduce taxes.

A common tax rate of 19 percent would be imposed, regardless of income. Since that rate is applied after the family allowance, its impact is less for lower-income persons. The very poor end up paying no tax. Because of the substantially reduced tax rate, most middle-income people stand to come out ahead even though they have to give up a lot of deductions they can now take. But taxpayers who have been avoiding taxes, such as by aggressively using tax shelters, would pay more.

One complaint about a flat-rate tax is that it departs from the practice of imposing progressively higher rates on people as their income goes up. The fact is, we only pretend that we tax high-income people at very high rates. A family making $120,000 a year, for example, is typically paying nowhere near as much tax as the law says it should. These people have figured out ways to get large deductions and shelter income from tax. We reward people who are willing to spend the most time figuring out clever ways to avoid paying tax. I prefer a system that says, "We'll tax people at a fairly low rate, but then we'll really make them pay it."

People worry about removing the deductibility of home-mortgage interest, but remember, we also propose to exempt interest income from tax. Savers will thus demand a smaller return, and the resulting fall in interest and home-mortgage rates will offset the loss of the interest deduction.

A flat rate solves many problems. The marriage penalty, for instance, is cut to a minor amount because the tax rate is the same for everyone. Two working people are no longer bumped into a higher tax bracket when they get married.

The income tax on businesses can be simplified, too.

Our suggestion is to levy a flat 19 percent rate on all the earnings of a company after is expenses. The firm would list the value of its sales, then subtract such items as the compensation it has paid to its workers and the cost of the materials it has purchased. It also could deduct the cost of investments it made in the year. There's no stretched-out depreciation deduction; an entire investment is immediately deducted in the first year. The complexities of depreciation are eliminated, along with the investment tax credit.

This means a lower corporate tax rate than the current 46 percent; but the base upon which it is imposed would be larger. Interest payments, for example, aren't deductible.

Our overall personal-and-business-tax proposal generates more revenue than is now collected. Based on current assumptions about the federal budget and economic outlook, the plan could balance the budget in 1985. In addition, its simplicity will cut down the time needed to check returns and decide tax questions.

TAX ALL INCOME BUT "REDUCE TAX RATES"

(By Joseph Pechman, Director, Economic Studies, Brookings Institution)

Our tax system is today riddled with inequities and full of provisions that lead to economic distortions.

We should adopt a simplified comprehensive tax base under which all income is taxed and most deductions eliminated. We could then reduce tax rates across the board in all tax brackets, providing extra incentive to work and save and still raise the same revenues.

Because of deductions and exemptions, people with the same total income now pay vastly different amounts of tax, depending on the sources of their income and the expenses they can write off. I see no reason why people with the same income and family responsibilities should pay different taxes.

We create financial distortions by encouraging people to put savings in one form rather than another and by giving special breaks to certain economic activities. Tax-exempt industrial-development bonds, for example, funnel money into the particular forms of favored investment as against having the savings available for all enterprise. Likewise, the law encourages people to invest in tax shelters rather than in investments that yield ordinary incomes.

Special provisions complicate the tax law and the tax return to the point where most people can't understand them. That's an atrocity in a democratic society.

There are not many deductions that I favor retaining. I would keep a deduction for unusual medical expenses and casualty losses—say outlays in excess of 10 percent of income, compared with the 3 percent threshold for medical expenses under the law now.

I also back a deduction for state income taxes. Those rates vary a great deal, and a federal-tax deduction has the desirable impact of moderating the differences among states with respect to total tax burden.

If we want to encourage charitable giving, we could do it better in most cases by a subsidy rather than muddying the tax system with deductions. Nevertheless, I support a deduction for those who make an unusual effort—say people who donate more than 3 or 5 percent of their income.

For businesses, I'd allow deductions for actual expenses but would end the percentage depletion allowance, deferral of tax on export earnings, and investment credits. Depreciation write-offs that more closely reflect wear and tear on equipment would replace the overly generous rapid write-offs now allowed. As a result of all of this, the basic corporate tax rate could be lowered substantially.

On the income side, I want to eliminate all tax-exempt interest. I don't see why we should subsidize state and local governments through the tax system. If we want to subsidize them, we should do it directly.

Capital gains, under my plan, would be subject to the same rates as regular income.

I would include in the tax base all unemployment-compensation benefits, though the lowest-income people would be exempt. In addition, I would include a least half of Social Security benefits in the tax base. Though workers pay tax on their half of Social Security contributions, the half that is paid by employers now escapes tax.

My purpose is not to favor any particular income group. I want to broaden the tax base for all taxpayers and use the extra revenue to reduce tax rates at all income levels. My objective is to get rates down to a range of about 8 percent at the bottom to 28 or 30 percent at the top.

Though rates must come down, they should stay progressive. I am against a single flat rate for all income levels, because a flat rate would reduce the taxes of those in the highest income classes and raise them for low and middle-income taxpayers. Most people, I believe, support some degree of progression as appropriate. Paying an extra dollar of income as tax is clearly less of a burden for a millionaire than for a wage earner on the assembly line.

I propose generous personal exemptions and a big zero-bracket amount, commonly thought of as a standard deduction. These provisions protect people with incomes below the poverty line from being taxed. If this plan were in effect now, the amount of income excludable for a family of four would be close to $10,000—$2,600 higher than it is under present law.

Over all, taxpayers would end up about the same as now. The total tax take will not increase. Even the tax taken in each income class can remain the same, though how the burden is allocated in each class will shift. People won't be able to get away with murder because of big deductions, loopholes and a lot of tax-exempt income. People who now pay too much tax, including higher-income people with few deductions, will pay lower tax.

TAX CONSUMPTION, NOT SAVING OR INVESTING

(By David F. Bradford, Professor of Economics And Public Affairs, Princeton University)

Attempts to levy a tax based on income are causing unfair treatment of taxpayers and immense complications. One result is that people who save and invest are penalized. That's especially so in a time of inflation, when, for example, savings may lose

real buying power but still be taxed on their apparent growth.

Switching to a consumption-based tax would end the unfair and economically harmful traits of our current system. A consumption tax is closely related to an income tax with a big difference—it excludes from taxation all income put into savings and investment.

A deposit to a savings account, for example, is deducted from income subject to tax. A withdrawal is added to your taxable base. In a similar manner, investment in stocks and bonds is deducted; receipts from stocks and bonds are added.

There is flexibility as to the tax's structure. It could generally follow the current system's form or be different.

The levy, for example, could be at a single rate or at a series of progressively higher rates, as we now have. Personal exemptions, similar to the $1,000 allowed today, would presumably be retained, and, if desired, many of the present deductions could be kept. Deductions for charitable donations and state and local taxes, for example, are compatible with a consumption tax. But since money going into savings and investment isn't taxed, it wouldn't be appropriate to give deductions for interest expenses on borrowing.

By adusting rates, a consumption-based tax can be devised so that different income groups bear the same tax burden as they do now. What changes, however, is how the burden is distributed within each group. Within each class of people, savers are benefited and consumers are relatively more burdened. For instance, high earners who are saving for their children's education come out ahead. Those who are consuming heavily out of borrowed money come out worse.

The same consumption approach can be used for business. All purchases of assets would be deducted from the tax base, and all sales of assets or returns from assets would be included. Purchase of items for inventory, for example, are deducted; sales out of inventory are included. Businesses would immediately deduct the full cost of an investment in new machinery. It is written off all at once, instead of over a number of years.

One of the most important reasons for a consumption-based tax is that it simplifies the determination of tax liability. It's stunning how many smart people are involved in working out the complicated features of the tax code, most of which arise from an effort to define, measure and tax income instead of consumption.

Capital gains account for tremendous complexity. It's simple with a consumption tax—you don't tax them. Depreciation is also no problem—you don't have it.

A consumption tax eliminates the problem of levying a tax on income and profits that have been puffed up by inflation but haven't increased in real terms.

Some supporters of a consumption-based tax argue that it will increase savings and investment, but that's not the strongest argument for it. Simplicity and equity are the most important factors in its favor.

If we enact this sort of tax, revenue collections could fall because of the lack of tax on funds going into savings and investment. But it is wrong to regard that as a loss in tax liability. While every dollar put into savings or investment reduced current tax liability, a future tax liability is created for the time when the savings and investment are taken out for spending.

From an overall economic view, a consumption tax doesn't really penalize spending or promote savings. What's important is that it is neutral toward savings. It lets you decide whether you want to consume now or in the future.

ELIMINATE MUCH OF PERSONAL INCOME TAX

(By Jim Jones, Texas Businessman, Founder, J. H. Jones Company, Supplier of Industrial Equipment)

Many of the bookkeeping, enforcement and other problems in our tax system can be ended by doing away with much of the personal income tax and relying instead on a tax levied on the gross income of business firms. Such a gross-income tax, or GIT, would be imposed on a firm's revenue after deductions only for the cost of goods bought by the firm. A firm couldn't deduct labor or other operating expenses, and there are no depreciation write-offs or investment credits.

A shoe store, for example, deducts only the cost of the shoes it buys for resale. An auto maker deducts the cost of materials used in car making, as well as the cost of components bought from suppliers. Service firms, which generally buy little, may get no deductions. The tax will be at a single low rate between 4½ and 7½ percent, depending on how much revenue we want it to yield. These low rates would eliminate the need for deductions.

A GIT is levied on a company whether it makes a profit or not. Loss companies now don't pay income tax and can even sell the tax-saving benefits of their losses to profitable firms or carry over the losses to offset future profits. That increases the tax burden on profitable companies, who thus subsidize money-losing firms.

Individuals would be exempt from tax on wages up to $50,000 a year. Someone with compensation over $50,000, though, is treated as a business entity for that excess. There will have to be a transition period, but eventually wage levels would adjust to reflect the fact that the first $50,000 is tax-free.

Investment income will be taxed as gross business income, though for the sake of efficiency, I would exempt amounts under a certain level, maybe $5,000 a year. Deducted from the total subject to tax is the cost of the investment.

If you buy $10,000 of stock and sell it for $15,000, your gross taxable income is $5,000. Interest and dividends are fully taxed since there is no cost to deduct.

Behind my proposal is the view that business activity is the real generator of taxable revenue. By switching to a GIT, we levy tax closer to the source of that revenue.

A simple GIT, moreover, allows companies to make economic decisions rather than worry about the tax consequences of a move. Instead of maneuvering for tax purposes, firms ought to be figuring out how to make more money, sell more goods and increase their output.

"A VALUE-ADDED TAX" ON ALL TRANSACTIONS

(By Al Ullman, consultant, former chairman, House Ways and Means Committee)

The present high-rate income tax if offering the wrong economic incentives. The income tax penalizes additional work effort. It rewards spending and discourages saving.

The only reason our society can struggle along with high interest rates is because they are tax deductible, and high tax rates make those deductions more valuable. For people who pay tax at the top rate of 50 percent, the government, in effect, pays half of their borrowing cost.

To turn the incentive around, I would favor a significant reduction in income-tax rates. To make up the shortfall in revenue, I propose imposing a business-transaction tax imposed on added value. Although differing from the European version, most people would call it a value-added tax.

Under such a VAT, every business transaction is taxed. The tax is imposed on the value that a firm adds to the product or service it sells. A manufacturer is taxed on the difference in value between the raw materials it buys and the value of the manufactured product it sells. In the case of a firm providing a service, where there is no value at the start, the tax is levied on the total value of the service.

A VAT differs from a sales tax because a VAT is spread throughout the economy. A fabric maker pays tax on the difference in value between the raw materials used and the finished cloth. A dress manufacturer then pays tax on the value added when the cloth is turned into a garment. Later, a wholesaler pays tax on the difference between what it pays for the dress and what it sells it for. A retailer pays tax on the difference between the wholesale cost and the final consumer selling price.

It is an equitable tax that is easily collected.

My last formal proposal, in 1980, included a 10 percent rate with exemptions for food, shelter and medical care. By exempting necessities, you counter the claim that a VAT is a regressive tax that ultimately lands on the poor because of higher prices for the items such people buy most.

Higher-income people who spend a lot on nonnecessities would bear more of the burden. Of course, the more you save or invest, the less value-added tax you face.

Remember, I don't want to levy a VAT on top of the existing income tax, but rather as a supplement to a simpler and much lower income tax, preferably with few deductions and with only a few steps of increasing rates as income rises.

An important benefit of a VAT is that, under international agreement, firms exporting goods could get a rebate of the value-added tax on the items they export, while goods entering the U.S. would be subject to the VAT. That's what is done now in Europe, but because we don't have a VAT, our exports are penalized and imports to the U.S. get a break.

A VAT can also replace the existing corporate income tax, thus moving away from the concept of taxing a company based on its profits. Efficient companies are now penalized with higher taxes, and inefficient companies usually benefit from lower taxes.

You would clean up all the deductions companies now get and eliminate the economic distortions created by firms making business decisions with an eye on the tax law.

A company that produces with a minimum of added cost will pay the least amount of taxes. Or, if a company with low production costs adds in a large profit, that will be taxed as part of the value added to the product.

A VAT is geared to encourage efficiency. High-profit companies shoulder a relatively greater share of the burden. So do less efficient companies. It's the efficient companies that maintain a narrow profit margin on each sale that benefit the most.

CHANGE LONG-TERM CAPITAL-GAINS RULES

(By Samuel J. Foosaner, Federal-Tax Attorney, New Jersey)

Because of the way capital gains are taxed, millions of investors are now disposed to hold on to securities and other assets for longer than they otherwise would. That can mean missed opportunities if decisions are based on tax consequences rather than on economic and business factors. By changing the rules, we can encourage investing, stimulate the stock market and raise extra tax revenue.

Rather than requiring someone to hold an asset for more than a year to qualify for favorable long-term capital-gain rates, I propose letting them sell out earlier in exchange for paying a higher tax rate, though still less than the ordinary rate applied to regular income.

Under current law, which may change, if you hold an asset for more than a year and then sell it, 60 percent of the profit is not taxed. This means that the maximum tax rate on capital gains is 20 percent, instead of the 50 percent maximum tax rate which applies to ordinary income.

Being taxed at ordinary-income rates instead of at the long-term capital-gain rate discourages many taxpayers from selling or exchanging capital assets held short term, even where large gains may be involved.

What I am proposing is that we retain a 60 percent tax exemption for assets held longer than 360 days, but also allow lesser exclusions for shorter holding periods: 55 percent for from 271 through 360 days, 50 percent for from 181 through 270 days, 45 percent for from 91 through 180 days, and 40 percent for up through 90 days. For someone in the 50 percent bracket, these additional exclusions would translate into top effective rates of 22½, 25, 27½ and 30 percent, respectively. For people in lower brackets, their effective capital-gains rates change in a similar way.

This change in capital-gains treatment will encourage turnover of money and give the economy a shot in the arm. Americans like action. They like to buy and sell at a profit. This will satisfy their speculative desire. And, of course, if someone elects to sell out earlier at the higher rate, that means a bigger tax take for the government.

This is better than retaining the present tax and simply shortening the holding period for capital gains. That's a tax cut that will generate opposition. My plan is a tax-raising measure and, thus, should face less resistance.

"PAY OFF PUBLIC DEBT" WITH A TEMPORARY TAX

(By Charles W. Steadman, Chairman, Steadman Security Corporation, Washington, D.C.)

High interest rates are strangling the country, but rates are not going to come down until we do something about the national debt. Therefore, I propose levying a temporary 5 percent excise tax on the sales of manufacturers and on imported goods, with the revenue earmarked to pay off the public debt. Such a simple and easy-to-administer tax would be imposed at the final level of manufacture, with no exemptions whatsoever.

This arrangement would be similar to the Federal Highway Trust Fund, which collects gasoline and other taxes from users and spends revenue solely for development and maintenance of the nation's highway system.

As things now stand, the federal government is simply taking too much of the country's available savings for its own credit needs, forcing up interest rates. Businesses, as a result, face stiff competition for the capital they need, and consumers can't afford the loan rates charged to buy a house or a car. The strains on the federal budget are enormous. Interest on the public debt is the third largest item in the budget and, at the rate it is growing, will double in the next five years.

A special tax to repay the debt, now just over a trillion dollars, will reverse the trend. Based on 1981 figures, a 5 percent excise tax would yield about 113 billion dollars a year.

Of course, the yearly deficits themselves will have to decline, too, or it will be like pouring money into a bottomless hole. Thus, this plan ties in well with the various proposals to require a balanced budget and to put a cap on federal spending.

Though prices might rise as a result of the new tax, that impact will be more than offset by the benefits people gain from the reduction in interest rates.

I want to emphasize that this is a single-purpose tax. When the debt has been retired, the tax will self-destruct.

I think I'm addressing a popular desire. The country is in a no-growth pattern, and we won't change that until we can finance new plant and equipment. Taking understandable steps to deal with the public-debt problem will have a galvanizing effect on national psychology because people will see that something positive is being accomplished.●

RADIO MARTI

● Mr. JACKSON. Mr. President, to help clarify key issues in the current discussion of Radio Marti, I want to bring to the attention of my colleagues an editorial in today's Washington Post. This editorial evaluates a number of questions that have been raised as to the wisdom of establishing a station for broadcast to Cuba and concludes that "an effective Radio Marti could be of value to American foreign policy."

I ask that this editorial be printed in the RECORD.

The editorial follows:

RADIO MARTI'S HOUR

The administration-proposed Radio Marti, which would broadcast news of Cuba to Cubans, faces an evident do-or-die mark-up session in the Senate Foreign Relations Committee; it has already been approved in the House. For lack of an enthusiastic champion in the committee, the station could conceivably succumb to the prevalent atmosphere of doubt. This would be, we think, regrettable. An effective Radio Marti could be of value to American foreign policy.

The principal doubt about the station is that it represents a hard, intrusive line when the real need is for a moderate negotiating line. But broadcasts are not inconsistent with negotiations. Why not conduct both? Anyway, there need be no apology for a hard line if by that is meant offering Cubans an American-style alternative to the material put before them by their government-controlled media—as Radio Free Europe and Radio Liberty do for East Europe and the Soviet Union. Certainly, open broadcasts are a more acceptable expression of administration hostility to Fidel Castro than, say, another Bay of Pigs. In this administration there is undeniably a danger of the broadcasts' becoming propaganda broadsides; the experience with RFE and RL and the certainty of failing to gain or keep an audience constitute the best guarantees against such a turn.

The second area of doubt about Radio Marti concerns Cuban radio interference with domestic broadcasts in the United States and other countries of the hemisphere. The Cubans are threatening to step up the number and power of their international broadcasts if Radio Marti goes on the air. But wait a minute: Cuba is a mouse of a country with, already, an elephant's radio roar. Its radio interference and its refusal to be a good neighbor of the air waves long predated the announcement of Radio Marti. The latest Cuban threats recycle familiar and ambitious international broadcast proposals that Havana may or may not have the resources to deliver on. The correct response for the United States is to keep on insisting, with similarly aggrieved Latins, that Cuba accept the standard procedures for working out disputes over radio broadcasts.

The administration has misadvertised and over-sold Radio Marti as something like the beginning of the end for Fidel Castro. That's foolish. It is enough that it is a modest and potentially useful step to make available to interested Cubans a flow of information and opinion that Americans have routinely provided to other communist-controlled countries for decades and that Americans rightly take for granted for themselves.●

JOHN CHAMBERLAIN

● Mr. D'AMATO. Mr. President, nearly 35 years ago Henry Luce, founder and editor in chief of a publishing empire that included Time magazine and Life magazine, sent one of his top writers to New Haven to find out if it was true that the chairman and editor of the Yale Daily News was a conservative. Mr. Luce, a Yale grad himself, found this hard to believe, and in the context of the times his disbelief is understandable. But it was true. The editor was William F. Buckley, Jr., and the Luce journalist was his chief editorial writer, John Chamberlain.

That episode and many more are described in the foreword to "A Life With the Printed Word" by John Chamberlain to be published in mid-October by Regnery/Gateway. Interestingly, the foreword, preprinted in the August 20 issue of National Review, is by the same William F. Buckley, Jr., now editor of National Review, author, columnist, television personality, and a journalist of some note.

Because the man, John Chamberlain, is so unique in the world of journalism, I would like to insert Mr. Buckley's foreword in the RECORD. While John Chamberlain's biography modestly describes him merely as a staff writer, John Renssalaer Chamberlain is an editor, columnist, author,

book reviewer, tennis buff, skier, snorkler, family man, and for many years keeper of the conservative faith. His career spans more than 50 years going back to 1926 as a reporter for the New York Times and his work as book review editor for the Times in the late 1920's. He later edited Fortune magazine, taught news writing at the Columbia School of Journalism in the early 1940's—where his students included Marguerite Higgins, Edith Efron, and Elie Abel—was chief editorial writer for Henry Luce at Life magazine in the 1950's, helped give birth to the Freeman and National Review, wrote for Barron's and the Wall Street Journal, and for the past 20 years, he has commented on national affairs in his popular column, "These Days," syndicated by King Features Syndicate to nearly 175 daily newspapers. His book, "The Enterprising Americans: A Business History of the U.S.," is a classic and required reading in most university economics departments and schools of business administration.

I ask that the world of John Chamberlain as described by Bill Buckley in the August 20 issue of National Review be printed in the RECORD as a testament to a truly enterprising American.

The article follows:

INTRODUCING JOHN CHAMBERLAIN AND HIS WORLD

(By William F. Buckley, Jr.)

Late one afternoon in the fall of 1955, on the eve of the appearance of the first issue of National Review, something people more loftily situated would have called a "summit conference" was set in New York City, for which purpose a tiny suite in the Commodore Hotel was engaged. Tensions—ideological and personal—had arisen, and the fleeting presence in New York of Whittaker Chambers, who had dangled before us in an altogether self-effacing way the prospect that he might come out of retirement to join the fledgling enterprise, prompted me to bring the principals together for a meeting which had no specific agenda, being designed primarily to reaffirm the common purpose.

As I think back on it, two of the five people present at the outset were born troublemakers. To say this about someone is not to dimiss him as merely that: Socrates was a troublemaker, so was Thomas Edison. But troublemaking was not what was primarily needed to distill unity, and so things were not going smoothly, one half hour after the meeting began. And then, when it was nearly six o'clock and I thought I detected in Chambers a look of terminal exasperation, John Chamberlain came in, a briefcase in one hand, a pair of figure skates in the other. He mumbled (he usually mumbles) his apology . . . He had booked the practice time at the ice rink for himself and his daughters . . . The early afternoon editorial meeting had been protracted . . . the traffic difficult . . . No thanks, he didn't want anything to drink—was there any iced tea? He stole a second or two to catch up on Whittaker's family, and than sat back to participate in a conference—which had been transformed by his presence at it. When a few days later Chambers wrote, he remarked the sheer "goodness" of John Chamberlain, a quality in him that no man or woman, living or dead, has ever to my knowledge disputed.

At the time a sharp difference had arisen, not between me and John, but between Willi Schlamm and John's wife, Peggy (RIP). Schlamm viewed the projected magazine as a magnetic field, professional affiliation with which could no more be denied by the few to whom the call was tendered, than a call to serve as one of the Twelve Apostles. Poor Peggy would not stand for it: John was serving then as editor of Barron's magazine. Before that he had been with The Freeman, before that with Life, before that the Wall Street Journal, before that Fortune, before that the New York Times. In each of these enterprises he had achieved singularity. He had two daughters not yet grown up. How could anyone reasonably ask that now, in middle age, he detach himself from a secure position to throw in with an enterprise whose working capital would not have seen Time magazine through a single issue, or Barron's through a dozen, and whose editor-in-chief was not long out of school?

I like to remind myself that I did not figure even indirectly in the protracted negotiation, respecting, as I did, not only the eminence of John Chamberlain, but also the altogether understandable desire of his wife for just a little economic security. But Willi was very nearly (nothing ever proved that conclusively shocking to Willi) struck dumb with shock. That was one of the clouds that hung over that late afternoon discussion, in which Willmoore Kendall exploited every opportunity to add duel to the fire, principally by the device of suggesting that for some people security means everything; the kind of thing John did not wish to hear, among other things because it so inexactly reflected his own priorities—he was concerned not with security, but with domestic peace.

So it went, and in one form or another the tensions continued, though they never proved crippling. John settled the problem by moonlighting—as lead reviewer for National Review. But I learned then, during that tense afternoon, the joy of a definitively pacific presence. Ours might have been a meeting to discuss whether to dump the bomb on Hiroshima; and John Chamberlain's presence would have brought to such a meeting, whatever its outcome, a sense of inner peace, manliness, and self-confidence.

There are stories he does not tell, in this engrossing autobiography; stories about himself, and this is characteristic. Bertrand de Jouvenel once told me, in a luncheon devoted to discussing our common friend Willmoore Kendall, that any subject at all is more interesting than oneself. Actually, I am not sure that this is so, because some people know no subject thoroughly other than themselves, but with John Chamberlain self-neglect is not an attribute of manners, but of personality. When National Review started up, he would come in to the office every week (it was then a weekly) and, sitting down in whatever cubicle was empty, type out the lead review, with that quiet confidence exhibited by sea captains when they extricate their huge liners from their hectic municipal slips to begin an ocean voyage. After 45 minutes or so a definitive book review was done; and he would, quietly, leave, lest he disrupt the office.

In those days "the office" consisted of six or seven cubicles, each one with desk and typewriter. Most of NR's top editorial staffers, from the beginning on, have served only part-time—James Burnham, Willi Schlamm, Willmoore Kendall, Whittaker Chambers, Frank Meyer—so that although they would, week after week, always use the same office, at any given moment at least one cubicle was unoccupied, though seldom the same one. A young graduate of Smith, age 24, four or five months into the magazine's life complained to her classmate, my sister, that the repairman who came once a week to check the typewriters had not once serviced her own. No one was more amused on hearing this than John Chamberlain, the delinquent typewriter repairman, who that week, servicing the typewriter, had written a marvelously illuminating review of the entire fictional work of Mary McCarthy.

I never saw him, during the Thirties, slide into his chair at the New York Times to write his daily book reviews, many of them masterpieces of the form. Nor at Fortune, returning from two weeks on the road to write what he here calls a "long piece," which would prove the definitive article on this or that intricate problem of management or labor. Or at Life, presiding over the editorial page which was Henry Luce's personal cockpit, from which he spoke out, through John, to God and man in authoritative, not to say authoritarian, accents: but I decline to believe that in any of these roles, or in any of the myriad others—as professor at Columbia, as dean at the University of Alabama, as book writer, or columnist—John Chamberlain ever did anything more disruptive than merely to greet whoever stood in the way, and amble over to wherever the nearest typewriter was, there to execute his craft: maintaining standards as high as any set by any critical contemporary. Because John Chamberlain could not ever sing off key. And the combination of a gentle nature, and a hard Yankee mind, brought forth prose of which this book gives a representative sample. The voice of reason, from an affable man, unacquainted with affectation, deeply committed to the cause of his country, which he believes to be co-extensive with that of civilization; and certainly, with that of his two girls by his first marriage, and his son—a budding young poet—by his second, with the enchanting Ernestine, to whom he went soon after Peggy's untimely death.

In this book Chamberlain seeks to bring the reader quiety along, that he might reexperience the author's odyssey. He does this, characteristically, without pushing or shoving; as if to say that if—at any point—the reader desires to hew to a different turn in the road, why that is all right by Chamberlain; although the probability is that, if the reader will reflect substantially on the data, he will in due course come around.

The data!

We are all familiar with autobiographical accounts of ideological explorations, some of them wonderfully exciting. John Chamberlain's is surely the most soft-throated in the literature. As a young man who had demonstrated his prowess as a critic (William Lyon Phelps called him the "finest critic of his generation"), as a political thinker manifestly addicted to progress, he wrote his book Farewell to Reform, in which he seemed to give up on organic change, suggesting the advantages of radical alternatives. But his idealism was never superordinated to his intelligence, and in the balance of that decade of the Thirties, and following that of the Forties, Chamberlain never ceased to look at the data, which care-

fully he integrated in his productive mind. Along the line (he tells us) he read three books, so to speak at one gulp (how many books has he read, reviewed, during his career? Or better, Has anyone read, and manifestly digested, more books than John Chamberlain?)—and the refractory little tumblers closed, after which he became what is now denominated a "conservative," though Chamberlain prefers the world "voluntarist." The books in question, by the three furies of modern libertarianism—Rose Wilder Lane, Isabel Paterson, Ayn Rand—provided the loose cement. After that, as he shows us here, he ceased to be surprised by evidence, now become redundant; evidence that the marketplace really works, really performs social functions, really helps live human beings with live problems.

This book is a story of that journey. Its calmness and lucidity, its acquiescent handling of experience, free of ideological entanglement, provokes in the reader the kind of confidence that John Chamberlain throughout his life has provoked in his friends; that he is that to them—a friend—but that in no circumstances are the claims of friendship so to be put forward as to run any risk of corrupting the purity of his ongoing search, through poetry, fiction, economic texts, corporate reports—and, yes, seed catalogues—for just the right formulation of what may be acknowledged as the American proposition, by which an equilibrium of forces breeds the best that can be got out of the jealous, contentious, self-indulgent, uproarious breed of men and women that have made so exciting a world here, giving issue, in one of America's finest moments, to a splendid son, who here has given us his invaluable memoirs.●

ORGANIZED LABOR: "BUSY BEING BORN"

● Mr. KENNEDY. Mr. President, the eminent historian Henry Steele Commager once observed that Americans have customarily regarded change and reform as part of the natural order of things.

In the 1980's, the United States is entering a new economic epoch which will test once again the ability of the American people to adjust in new ways as our society continues to evolve.

No segment of our society will be more affected by these changing conditions than will the American labor movement. Fortunately, organized labor is keenly aware of the dramatic challenge that it faces.

I recently read a stimulating and perceptive article which discusses some of the ways in which the labor movement is already adjusting to these rapidly changing times. The article which was coauthored by Glenn E. Watts, president of the Communications Workers of America, is entitled "Organized Labor: 'Busy Being Born.'" It is also included in a new book, "Making It Happen: A Positive Guide to the Future," published by the U.S. Association for the Club of Rome.

President Watts' insightful article provides a wealth of information on the changing composition of the work force and emerging employment patterns which ought to be examined by anyone interested in finding a long term solution to our unemployment problems.

I ask that the text of the article be printed in the RECORD.

The article follows:

ORGANIZED LABOR: "BUSY BEING BORN"

(By Glenn E. Watts and Lou Gerber)

A period of reordering our priorities: The United States is entering a new economic epoch, and the American labor movement is alert to that fact. In the decades ahead, mastery over the physical environment will no longer guarantee growth in productivity and in employment.

We are already seeing a heightened interplay between technological development, the availability of vital resources, and changes in human values. The evolving recombination of these forces will form the DNA "building block" that will determine organized labor's role in the United States and in the world.

The traditional image of America has been of a cornucopia endlessly able to satisfy consumer appetites. But because of the transition that is now under way, that image is giving way to a new reality. As a consequence, the United States will now endure a period of painful readjustment, as we seek to cope with natural resources that are shrinking and a slower pace of economic expansion.

As America enters a post-affluent period of reordered priorities, this process of transformation will stand in marked contrast to the unparalleled economic uplift experienced by our nation's wage earners since the end of World War 2. Indeed, as working people in the decades ahead contend with what Buckminster Fuller has described as "more with less," they will experience a series of austere challenges.

One outcome will be a new ethic, which will significantly alter the landscape of human values. It will extol the virtues of recycling and conservation. It will rein in the impulse that drives us to acquire and consume material goods.

TECHNOLOGY AND JOBS

As new technologies flourish and others gradually disappear, the jobs of many wage earners are going to be eliminated or radically altered. And our country will confront the perplexing problem of providing these displaced wage earners with employment opportunities and suitable working conditions.

The development of efficient new machines may constitute "progress." But the evolution of useful inanimate devices can also be accompanied by the dark prospects of unemployment, personal alienation, and economic upheaval. It is understandable that workers dread and resist being simply cast aside as social driftwood before the onrush of technology.

Yet without the improved productivity that comes with the development or more efficient machines, America and the world may not be able to meet essential human needs. So, like Solomon, we face a dilemma as we try to balance adverse arguments, a dilemma that will demand our most creative thinking.

The telecommunications industry and its patterns of technological development are a case study of all this. New devices are rapidly coming into use which will significantly transform the composition of the telephone industry's labor force in the coming decades. In fact, massive changes are already altering job content and skill requirements. In particular, efficient electronic switching systems and broad-based computerization of operations are causing a decrease in labor requirements throughout the industry.

Examples of new instrumentalities of telecommunication that are being developed, with portentous potential impact on jobs, are glass fiber cables and a contrivance known as a millimeter wave guide. The glass fiber cables will transmit pulses of light in place of the electrical signals and radio waves now in use. The millimeter wave guide is an underground tube through which radio signals are transmitted.

It is not yet clear which of these evolving systems, waveguide technology or fiber optics, will be the primary telecommunications transmission medium of the future. But what is becoming unmistakably evident is that either or both could profoundly alter the composition of the industry's basic workforce.

Telephone operators have already been enormously affected by indoor developments in telecommunications. The switchboard, for example, has been replaced by an electronic console that automates most of the switching and billing tasks on previously operator-assisted and long-distance calls.

Intercept operators, who handle calls to disconnected or other nonworking numbers, are being supplanted by a machine that automatically handles such calls. This is done by means of computer-assembled voice reponse, explaining the cause of the interception and providing new number information.

An automatic coin telephone soon to be tried involves a further threat to telephone operators' jobs. This machine can monitor and compute charges on coin phone calls without any operator contact at all.

Jobs traditionally held by women have been adversely affected by these recent innovations and impending changes more than jobs traditionally held by men. Male employees in the industry have been engaged largely in construction, installation, and telephone maintenance occupations. In the future, however, technological change will also affect a wider variety of telecommunications employment, including the highly skilled craft positions that have been dominated by men.

A possible solution to this and similar problems in other American industries would be to require, as a component of technological advancement, careful examination of the implications of proposed industrial advances for job dislocation. Such an examination could be made a mandatory part of an overall assessment of a new product's value to society.

In any case, if the United States and other nations are to avoid creating a large class of dissident unemployed former wage earners, there will need to be a heightened awareness of the job dislocation prospects inherent in technological development. And it will be essential to have available job retraining programs and, if necessary, adjustment assistance to help displaced workers overcome job dislocation.

More generally, when a technological development threatens the well-being of large numbers of workers in any industry, the government should be required to conduct a human dignity or social impact study. This would parallel the requirement under the National Environmental Policy Act of 1969 that an environmental impact statement (EIS) be prepared before major public projects are undertaken.

Just as today the design of proposed bridges or dams must include an EIS about impacts and alternative ways to less endanger the environment, the effect of the implementation of technological changes on human dignity and social well-being should be an integral part of our technological progress and rational economic planning.

Technological change and job-induced stress: The notion of a human dignity impact study would also be relevant in another challenging area, that of the relationship between technological change and job-induced stress. Most research in this area has been centered on the "stress of success," the workaholic pattern among middle and upper-level management in business. In 1979, however, the Communications Workers of America (CWA) conducted a national "job pressures" day to sensitize the public to the stresses that workers are currently experiencing in coping with the modern worksite, impassive supervisors, and mechanization.

In the future, labor will emphasize the need for close scrutiny of the stress of adjusting to changing work roles. Examples of the many facets of this problem are compulsory overtime work in a leisure-oriented society, entrapment in dead-end jobs, and the feeling of many workers that they are treated like "machines" rather than people. Negative feelings arising from such work-related problems directly contribute to job dissatisfaction, absenteeism, and stress-related illnesses.

Technology affects working people not only by reducing the need for their services and by producing job-related stress, but also by changing the patterns of activity at the workplace. To assess the implications of technological change for working people, the Communications Workers of America recently held the first national conference sponsored by an American labor union to focus exclusively on helping workers adjust to new patterns of work.

A theme repeatedly emphasized by union delegates attending this conference was the need for continuing education and retraining to enable employees to keep abreast of new techniques and equipment. This need for the enhancement of old skills and the acquisition of new ones contrasted sharply with the situation in the past, when workers went to school or enrolled in apprenticeship and training programs that were expected to prepare them for lifelong careers.

To analyze further the present awkward relationship between the technology of tomorrow and future employment, the labor movement must continue to monitor all new developments and their potential impact on workers.

THE CHANGING WORKFORCE

Burgeoning technological developments may well revolutionize the way in which Americans live in the future, but human energy and skill will continue to be the United States'—and the world's—most precious resource. The nature of our national workforce is rapidly changing, however, and will soon bear little resemblance to the employment picture we know as recently as a decade ago.

In the coming years, the rate of growth of the domestic workforce will decline drastically as a result of the slowing increase in the number of working-age individuals. The Congressional Joint Economic Committee has projected the expansion of the labor force to be only two-fifths as rapid in the next decade as it was in the last one.

Moreover, as the post-World War 2 baby-boom generation approaches middle age, a major transformation will occur in the age of American jobholders. Persons in the 25-54 age group in the United States constituted 61 percent of the total workforce in the middle of the 1970s, but they will amount to almost 90 percent in 1990. Teenages and young adults (ages 16-24), who comprised 27 percent of the labor froce in 1975, will make up only 18.5 percent by 1990.

Despite the slowdown in the rate of growth of the workforce, the labor movement anticipates more and more young workers of both sexes will choose to benefit from collective representation. It is especially interesting for the future of the labor movement to note that the majority of union members today are under 40 years of age, and a substantial part of the majority consists of those under 30. The average age of union members is expected to decrease in the coming years.

Women in the workforce: This slowdown in the growth of the labor force will be somewhat offset by a continuing increase in employment participation rates among women. In 1970, 43 percent of women held jobs. Nine years later, a clear majority, 51.4 percent of women were employed.

Similarly, the actual number of women in America's workforce leaped in the same period by almost 40 percent, from 31.5 million to 44 million. The women who have entered the labor force in recent years were not, by and large, "liberated" women in quest of self-fulfillment. Instead, they were bringing home an essential second income necessary to put food on the table, buy shoes for their children, and pay the rent or make a mortgage payment.

As a result of the changing male/female composition of the workforce, only a small percentage of the country's 58 million families today consist of a father who works and a mother who remains at home, the pattern of a generation ago.

As a sidelight of this new social situation, one of the most illuminating statistics of our time is the fact that 8.5 million American families are now solely supported by women breadwinners.

Despite the growing number of working women, and the existence of equal pay laws, female workers earned only 59¢ for every dollar male employees were paid in 1979. By comparison, 40 years ago, in 1939, wages of female workers comprised 58 percent of male salaries, meaning that despite the recent emphasis on equal rights and affirmative action in the workplace, there has been a change of only one percent in four decades.

The low pay of these workers has resulted largely from the fact that women have been segregated into female job ghettos. For example:

80 percent of women in the workforce are found in the lowest-paying, least-skilled, least-unionized occupations.

One-third of all female employees are in clerical occupations, the same proportion as a decade ago.

98.6 percent of all secretary-typists, 97 percent of nurses, 91.5 percent of bank tellers, 90.7 percent of bookkeepers, and 86 percent of file clerks are women.

Despite the increase in the number of women in the American workforce, only 6.7 percent of all female wage earners carried a union card as of 1979. Between 1976 and 1978, however, the labor movement gained one-half million new female workers. Because of this sudden upsurge, women now constitute 27.4 percent of all organized American workers.

Eleven million more women are expected to enter the workforce by 1990. Many of these new women workers, along with those currently employed, will be motivated to join unions if the deplorable disparity between the pay of female and male wage earners is not corrected.

In the coming period, the labor movement will redouble its efforts to organize women, especially those in clerical, retail, and other traditionally female jobs. Labor unions will seek to raise women's consciousness so that they will become aware that there is no better road to economic equality in the workplace than via a union contract.

A related trend involving female members of the labor force is the goal of "equal pay for comparable work." Recently, with this goal in mind, the Equal Employment Opportunity Commission launched a study to determine whether procedures exist or can be developed to measure and evaluate women's jobs according to their "real worth."

The purpose of the study is to devise a means of ensuring that real progress will be made toward seeing that wages paid all workers reflect skill, effort, responsibility, and working conditions—without regard to the sex of the jobholder. Promotion of the concept of equal pay for comparable work was urged in a resolution adopted unanimously by the 105 affiliated unions at the AFL-CIO's convention in November, 1979.

College graduates entering the labor force: In addition to women, the number of college graduates entering the labor force will expand in the near future.

The National Planning Association projects that, by 1985, there will be an annual surplus of 700,000 college graduates relative to professional and technical jobs available. Estimates of the total oversupply of recent degree recipients in comparison to the positions open to them range as high as 6-8 million by 1990.

This gloomy prospect contrasts sharply with the expectations of college students, 68 percent of whom, according to a recent poll, will be seeking jobs in which they can express themselves and 77 percent of whom will be looking for a challenge in their employment.

The predictable clash of high hopes with harsh reality may trigger a traumatic reversal of the historical pattern in which successive generations of college graduates have obtained employment in work of a higher status than that in which their parents were engaged. Instead, many degree holders may be forced to accept jobs of lower status, although they will have received more education.

Disillusionment from this experience could result in a rise of alienation and the development in the United States of a class of dissident, underutilized intellectuals similar to those who form a chief ingredient in the seething cauldron of frustration that often erupts in emerging nations. A "Coxey's Army" of unemployed college graduates, however, could be avoided through the development of programs similar to the Federal Writers and Artists Projects undertaken in the 1930s.

Continuing shift to a "service economy": An additional prominent feature of the labor force in the years to come will be the continuing shift in the United States to a "service economy." America first became a service economy in the early 1950s, when more than half of the labor force became

employed in non-goods-producing industries. Indeed, during the quarter-century from 1950 through 1974, only a little over one million of 27 million new jobs added were in goods-related industries.

Early in the 20th century 3 out of every 10 jobs were in service industries. But by 1970 it was 6 out of 10. And by the mid-1980s, only 20 percent of the labor force will produce all of our agricultural and manufactured goods, while the remaining workforce will be concentrated in services.

WORKERS' VALUES CHANGING

As its physical resources dwindle, America is beginning to experience a stunning revival of neglected human values. Reflecting this humanistic reawakening, the range of workers' values in undergoing a rapid transformation.

Employees are placing a growing emphasis on attaining self-fulfillment at the worksite as a basic human need. As we approach the third millennium, "being rather than having" may become the ultimate value at the workplace as well as in other phases of life.

Because of this development, "self-actualization" may well be the psychological watchword of the future in labor-management relations and in industrial psychology. This term connotes improving one's opportunities for individual development, autonomy, and choice.

The United Auto Workers has pioneered in the emerging trend toward emphasis on the "quality of worklife." The UAW signed an agreement in 1973 with General Motors, which urged local management and employee groups to cooperate in experiments and projects designed to augment humanization of the workplace.

There are more than 50 such UAWGM programs under way. They have resulted in improvements in discipline and product quality as well as a diminution of absenteeism and worker turnover. CWA has also been active in the quality-of-worklife movement.

The principal achievements, however, have been the enhancement of human dignity, the strengthening of self-esteem, and the promotion of self-fulfillment at work. These have been the fundamental objectives of the trade union movement since the 19th century when it was in the forefront of the effort to humanize the workplace by fighting for restrictions on child labor.

Another idea that is part of the new thinking on the quality of worklife is a program of sabbatical educational and advanced training for all members of the workforce. Under such a program, employees would take leave from their jobs one year out of every seven, to go back to school, acquire new skills, improve existing skills, or pursue public service.

Some companies, in fact, have established a system of "Fulbright Fellowships," for people who want to take a year or two away from their jobs and engage in public service. Expanded implementation of this idea and similar plans would not only assist workers in preparing to develop new skills, but also improve the outlook and performance of those who have grown stale on the job.

Employers themselves would benefit from such a program. Among the rewards reaped by employers would be a reduction in job-hopping and the providing of management with a more stable, interested, and regularly upgraded workforce.

Reappraisal of material success: One of the most interesting examples of the revolution in values taking place in the workforce is the growing conviction among both white-collar and blue-collar employees that the "nose to the grindstone" way of life is too high a price to pay for material success.

This appraisal entails a dilution of the Puritan ethic, with its spartan precepts of hard work, unflinching loyalty to employers, and suppression of desires that conflict with "duty."

The drive to reach the top is being replaced by the need to keep one's life on a satisfying and relatively even keel. Success is defined in relative terms, achieving a rational balance between commitment to making a living and enjoyment of an enriched lifestyle.

In a development closely related to this, young workers especially evidence a preoccupation with finding a way of life that expresses the unique individuality of each wage earner. Indeed, the compelling appeal of the "human potential" movement is shown in a Yankelovich poll of workers under age 30. According to the survey, young workers—male and female, white and black, white collar and blue collar—want jobs that contribute to others or society, are challenging, and offer the opportunity to learn and grow.

Beyond GNP: One of the most striking ideas with regard to worker values is the notion that the gross national product will soon outlive—or may have already outlived—its usefulness and the basic index of America's national progress. To replace GNP, Dr. Preston Cloud of the University of California at Santa Barbara has proposed a new barometer of national well-being which he calls the Enhancement of the Human Condition [EHC]. Other efforts with a similar goal are being pursued elsewhere.

Dr. Cloud's formula for measuring the EHC involves adding together the positive indicators that reflect improvement in the quality of life, such as the number of jobholders, advanced educational degrees, protected land, and other desirable attributes, and subtracting such negative factors as joblessness, crime, poverty, unrecycled waste, and other components of the "misery index" in our society.

Work as self-expression: Finally, of special interest to social theorists, the growing emphasis placed on "quality of work" may even compel a sharp modification of the age-old assumption of manpower economists that people work to make money. This, in turn, may result in a redefinition of what we mean by the word "work."

The next generation may come to think of work as an essential human need for self-expression in the spirit reflected by Robert Frost in his poem "The Road Not Taken," in which he explained how he decided to make his avocation his vocation and why "that has made all the difference."

COLLECTIVE BARGAINING AGENDA

During the next 20 years, organized labor will expand its collective bargaining agenda to include several pathbreaking trends that are beginning to be evident.

One evolving practice provides hope for workers to satisfy their need for personal participation in the shaping of a world of proliferating complexity. This is the process of codetermination, the joint labor-management planning of a company's future. Already embraced in Western Europe, this concept may take hold in other nations as a means of giving wage earners a greater sense of partnership in guiding a business' destiny.

The Chrysler loan guarantee legislation signed into law by President Carter, for example, contains a provision requiring representation of the United Auto Workers on the board of the auto company. The results of this pioneering development will be closely scrutinized.

Akin to codetermination is another idea that gives working people an incentive to achieve prosperity for their employer. This concept involves the increased use of employee stock ownership plans, intended to give workers a direct stake in their company's financial health. The goal of these plans is to improve productivity in the workplace. This idea also would benefit business by providing much needed capital, the "mother's milk" of economic expansion in the private sector.

CWA and the American Telephone and Telegraph Company have recognized the rewards that this new idea promises for both management and working people. They have cooperated in the establishment of employee stock ownership plans.

Another emerging idea is the policy of indexing workers' wages in relation to the cost of living. The indexing concept as a means of fighting inflation has been endorsed by political economists spanning the spectrum from the late English Fabianist John Maynard Keynes to the contemporary University of Chicago conservative Milton Friedman.

Automatic inflation adjustment is a principal feature of the federal government's budget policy. Virtually all federal retirement and disability programs are indexed, as are many welfare benefits, including food stamps, child nutrition assistance, and supplementary security income payments. In the private sector, cost-of-living provisions were included in 26 percent of union contracts negotiated in 1979.

Along a different line, we may see a workweek shortened to 32 hours. Moreover, "flextime" programs, which are found in a number of collective bargaining contracts in European nations, may become more prevalent. Under "flextime," employees are permitted to select work hours that meet job requirements but also enable them to fulill their varied life activities more conveniently.

Perhaps the most difficult conflict in the collective bargaining arena in the coming years will be the struggle for the control of workers' pension fund assets. Indeed, the late Senator Philip Hart (Democrat, of Michigan), who chaired the Senate Antitrust Subcommittee, prophesied that the future battle for control of pension capital will "be the central structural and policy problem of America's economy for years to come."

Pension fund assets—the deferred wages of 50 million American workers—are now the largest source of investment money in the American capitalist system. They are now worth over $600 billion.

The pervasiveness of pension funds is reflected in the fact that they own an estimated 20–25 percent of equity in American corporations and 40 percent of corporate bonds. By the way of comparison, the total accumulation of workers' retirement assets in the United States is larger than the combined GNP of the United Kingdom and France. Given the present growth rate of pensions, which is about 10 percent a year, these assets will be worth $1.3 trillion by the end of this decade.

While retirement money represents the deferred wages of millions of workers, many large pension funds are not directly controlled by the workers who are their intend-

ed beneficiaries. Instead, management in such cases acts as the sole executor of workers' pension money rather than sharing the administration with employee representatives.

To many unions, management's exclusive control of workers' pension capital represents "investment without representation." To the labor movement, this calls to mind the similar slogan of America's founding fathers 200 years ago.

Ironically, the managers of pension funds sometimes invest workers' prospective retirement income in blantantly anti-union companies. In this way, they provide an invigorating transfusion of economic assistance to union-busting employers.

Moreover, such pension fund managers are not attuned to good investments that are also socially valuable. As a result, unions are now reexamining the current policy of management control of pension funds, with an eye toward attaining joint administration of this vast pool of venture capital.

TRANSNATIONAL UNIONS

Labor unions in the United States have observed with concern the unprecedented growth of U.S. companies with foreign affiliates or subsidiaries. During the last 10 years, such international corporations have grown so fast that their combined sales exceed the gross national product of every industrial country in the world except the United States and the Soviet Union. Several years ago, General Motors alone had annual sales that exceeded Switzerland's gross national product.

Many foreign nations provide a bountiful, cheap labor supply that will work under substandard conditions at less than American wage levels. For example, in Hong Kong alone, 60 percent of the adults work a seven-day week, and 40,000 children aged 14 or younger work at least 14 hours a day.

Taking advantage of these concentrations of low-priced labor, large multinational companies in effect have exported the jobs of millions of American workers. Furthermore, employment of foreign nationals in plants of U.S. companies abroad is predicted to increase at a rate more rapid than the employment of American wage earners at these companies' plants in the United States.

To cope with the problem of runaway plants and other vexing issues, American labor unions may well turn increasingly to existing international organizations, such as the ILO [International Labor Organization] and the 16 international trade secretariats composed of national unions from different countries with members working in related industries or occupations.

These structures may be utilized more in the future than they have been in the past. They can provide the institutional framework for promoting cooperation among unions of many nations seeking to counter the global threat of businesses that exploit employees.

FORGING NEW COALITIONS

Organized labor has long been an active participant and an agent for progressive change on our national legislative-political scene. Although the traditional emphasis of labor's trust was on bread and butter issues, unions are becoming more cognizant of the need to maintain an ecological balance and to preserve the environment from the ravages of pollution. Reflecting this awareness, they are more and more joining forces with other thoughtful groups in pursuit of a sustainable world.

To this end, the labor movement worked alongside environmentalists to obtain enactment of a landmark federal law outlawing strip mining. Similarly, environmentalists have joined with labor to defend the Occupational Safety and Health Administration, to demand the removal of carcinogens and other toxic substances from the workplace, and to protest the continued operation of textile plants in which workers have been stricken with brown lung disease.

Along the same line, an organization, Environmentalists for Full Employment, lobbied for the establishment of federal programs to achieve the purposes of the Humphrey-Hawkins Full Employment and Balanced Growth Act.

The emerging resolution of former differences between the labor and environmental movements is a hopeful sign of recognition that the human species is riding a precarious vehicle in its voyage on spaceship Earth, and that the planet's "supply depot" must be carefully utilized.

AN EVOLVING SOCIETY

Two hundred years ago the English statesman Edmund Burke wrote that "a nation without means of reform is without means of survival."

While America (plagued by high unemployment in the early 1980s) is not on the verge of becoming an economic paradise, neither does it appear about to fulfill the negative threat of Burke's warning by plunging into a national collapse. Instead, just as President Franklin Delano Roosevelt forecast in the 1930s that his generation of Americans had a "rendezvous with destiny," so the current generation of Americans appears fated to confront a dramatic challenge and a propitious opportunity to build a new and better world.

Organized labor has long perceived the American Revolution not as a finished product or a priceless antique to be polished and admired every July 4th and then placed back on the shelf, but as a dynamic, ongoing process, involving a never-ending drive toward improving the quality of life. The evolutionary character of our society will require unions to continue to put their shoulders to the wheel of history and provide a more fulfilling life for working people and their families.

Trade unionists are congenital optimists. We firmly believe in our ability to effect change for the better by facing up to the challenges and opportunities as we approach new frontiers of the future. The American labor movement is in step with a sentiment expressed by the contemporary poet Bob Dylan who, in a way different from that of Robert Frost, is in tune with the temper of his times. Dylan has written that "those who are not busy being born are busy dying."

The labor movement, along with other flourishing segments of our diverse, pluralistic society, is "busy being born" as it confronts an array of stimulating options. We see the future as a chance to seize the initiative for improving the quality of the life that was given to us and for ensuring that it will be lived with dignity in a sustainable world.●

POWER FOR ISABELLE

● Mr. D'AMATO. Mr. President, I rise to continue my efforts to educate my colleagues concerning the merits of the intersecting particle accelerator called Isabelle which is now under construction at Brookhaven National Laboratory on Long Island, N.Y. This particle accelerator is a vitally necessary scientific tool which will allow our high energy physics community to expand the boundaries of human knowledge about the way the universe works.

Contrary to public statements by officials of the Office of Science and Technology Policy, earlier difficulties with superconducting magnet design have been resolved. The new magnet design has been extensively tested and it works. OSTP officials have further stated that they anticipate difficulties in manufacturing these magnets on a production line basis. That argument is disingenuous and without merit. There are no unique or unexplored problems associated with establishing a magnet-manufacturing process. Personnel working on the Isabelle project at Brookhaven have had extensive experience with other particle accelerator construction projects. They have converted other products of research and development efforts to production line manufacturing processes. They will be successful again converting superconducting magnets from research and development products to production line products.

Recently, the development of the accelerator's power supply took a major step forward. The Isabelle Power Supply Group moved into the accelerator tunnel. They became the first people to be assigned to the facility on a regular basis. They are preparing for a major test of magnets and power supplies scheduled for next spring.

Anita Cohen, writing for the August 13, 1982, edition of the Brookhaven Bulletin, described their activities in a story entitled "Tunnel Has Powerful Tenants." I comment that article to my colleagues' attention.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

TUNNEL HAS POWERFUL TENANTS

The Power Supply Group of Project ISABELLE moved recently. And with that move, technical associate John Dunning, engineer Bob Edwards and technical supervisor Mike Iwantschuk became the first people to be assigned to the accelerator tunnel on a regular basis. "Lots of people are working out there," Edwards said, "but we're the only ones living out there."

The group moved to the Wide Angle Hall in order to facilitate completion of the power supply system needed for the full cell test scheduled for the spring. At that time, a string of prototype superconducting magnets—six dipoles and two quadrupoles—will be tested, along with many of their support systems.

Some of the power supplies that will be used in the full cell test are prototypes of those that will eventually be installed at 19 locations around the accelerator tunnel to provide two types of power for the superconducting magnets. First, the main magnet power supplies must be capable of ramping the magnet current up to 4,200 amperes at 600 volts dc (over 2.5 megawatts). When ramping is completed and the magnets level

off to steady-state operation, the supplies must hold the current to less than 10 parts per million. To prevent excessive ripple current, a phenomenon which can result in an undesirable increase in beam size, the main magnet power supply system has been designed for a maximum ripple current of one part in 10^7.

Overall, these specifications require a precision which, Edwards said, "is at least an order of magnitude tighter than the magnet power supplies at the ISR [intersecting storage rings] at CERN." These tight tolerances are necessary to control the working line and higher level resonances associated with a proton-proton colliding beam accelerator.

Early testing has shown that the main magnet power supply is reliable and stable over the short term to approximately one part in 10^6. Two of these supplies are being used to test superconducting magnets. While operating for the past 24 months and running 50 hours a week, these supplies are producing impressive performance statistics—averaging over 5000 hours without a failure.

In addition, the accelerator will require over 400 magnet correction coil power supplies with power ratings from 1000 to 50,000 watts, some with precision specifications similar to those of the main supplies.

By the time these power supplies are completed, the Group will have been joined in their headquarters in the Service Building by many other groups. But for now they are alone in the tunnel. With only a pocket pager for one-way communication with other parts of the Lab, they are looking forward to the day when telephones are installed and a real road winds its way to the Wide Angle Hall.

Still, the group members feel that being in the tunnel has many compensations. Dunning calls their unique setting "a new frontier" and finds that working at the accelerator site is "an adventure."

On the practical side, Edwards explained that moving the group to the tunnel "solved a space problem. Since we were preparing to set up the power supply system, it was a natural thing to move out here." Then he added, "And we wanted to be the first ones here anyway."●

GORDON RULE

● Mr. WARNER. Mr. President, Gordon Rule, dead at the age of 75, will be remembered as a husband, friend, a dedicated public servant, a watchdog who courageously pursued and identified waste in the Government—especially in the Department of Defense. His efforts often reached legendary proportions.

As Chief of the Navy's Procurement Control, Gordon dedicated himself to the implementation of sound procurement practices. With a keen vision he worked to insure that Government funds were not wasted. Oftentimes, his was the lone voice raised in opposition to procurement waste.

Gordon was not afraid to sound the alarm irrespective of the ramifications to him personally.

Moreover, Gordon was evenhanded. He was equally concerned about contractors doing business with the Government. He scorned the practice of Government officials supplying rosy cost estimates to Congress only later to admit that the costs would indeed exceed the estimates. He tried to insure that industry did not get bulldozed into signing contracts with hidden cost overruns.

Gordon earned his reputation of courage and honesty. This reputation was well-known to Members of Congress. They recognized and respected his expertise in and his opinion of Government procurement practices. He was called upon often to testify before congressional committees and to share his perspective on an issue with Members of Congress even after his retirement.

The Commonwealth of Virginia has lost an honorable citizen and our country has lost a dedicated patriot. Gordon Rule was a giant in our times. We all shall miss him and we will always remember him.●

HOW THE SENIOR COMMUNITY SERVICES EMPLOYMENT PROGRAM IS ADMINISTERED

● Mr. GRASSLEY. Mr. President, in recent weeks both Houses of Congress have passed resolutions endorsing the senior community services employment program, that part of the Older Americans Act known as title V. These resolutions provided a sense of Congress regarding the continued funding of this program within H.R. 6863, the general supplemental appropriations bill.

During the many laudatory floor statements submitted during the resolution colloquy, no mention was made of the way this significant program is administered.

The senior community services employment program is administered partially through State governments and partially through national contractors. This is specified in the 1978 amendments to the Older Americans Act and is reemphasized in the conference report on the 1981 amendments. It is important that this specific structure be maintained despite the report language of H.R. 6863 conferees; the efficient management of the program and the continued employment of older workers being served by the program is too important to do otherwise.●

INSTITUTE FOR DEMOCRACY

● Mr. MOYNIHAN. Mr. President, I would like, if I may, to bring to the attention of the Senate an important essay by the distinguished journalist William Safire, published just this morning in the New York Times. It concerns the proposal made by President Reagan, in the course of his celebrated address to members of the British Parliament on June 8, that the United States establish a nongovernmental Institute for Democracy to propogate democratic principles and practices abroad.

As Mr. Safire notes, informal discussions are now underway between various officials in the administration and certain officers of both the Republican and Democratic National Committees with respect to how the institute should be organized and what exactly its mandate should be. Senators will recall that it was agreed at the outset that the two National Committees would be the principal sponsors of the institute, in order that it might become an enterprise devoted to proselytizing American-style democratic practices rather than the particular policies of any given administration. It has been hoped that an institution designed to explain and demonstrate in the Third World the actual workings of modern democracy—party organization, trade unionism, a free press—might be established as an enterprise largely independent of government, even if it were to be financed in part by public moneys.

That this initiative will be most effective if separated from the usual bureaucratic process of government is explained by Mr. Safire in these words:

• • • (T)he organizers do not agree on the center of power: Is this to be primarily a State Department operation? That would guarantee incoherence; State's inclination is traditionally to soothe rather than upset foreign countries. A CIA front? That would get shot down here even before it had a chance to be discredited abroad. A foundation effort? That usually leads to philanthropoid mush.

It would be a mistake to center this much-needed activity in government, since that would invite constant hectoring about "destabilization" from overseas and from isolationists. The trick is to put the power of encouraging foreign party competition in the hands of the two American parties.

Certainly this should be the work of the two principal American political parties. Moreover, their respective chairmen, and their staffs, have demonstrated more than their willingness to handle the task; they have already demonstrated their aptitude and competence for this immense responsibility in the conduct of the informal negotiations to this point.

Charles Manatt, for the Democratic National Committee, and Richard Richards, for its Republican counterpart, have done an outstanding job in accommodating a broad range of views and interests relating to the Institute for Democracy, as they have moved the discussion ever closer to a consensus with respect to the vital questions involved. They have consulted with distinguished political scientists, accomplished organizers of free trade unions abroad, and elected officials of both parties.

I can state with particular knowledge that in my own Democratic Party, which earlier this year adopted rules allowing greater participation by

elected officials in our most major party decisions, Chairman Manatt's forthright and early solicitation of elected individuals' views on this matter has been greatly appreciated.

It is, of course, only proper that Federal legislators be consulted about a project of such magnitude. Later, when it comes time for appropriating an operating budget for the institute, their support will surely be needed. At the outset, their experience in foreign affairs and in American politics may enable them to offer constructive advice. Chairman Manatt understands this as few others would, and has masterfully engaged the cooperation of a broad range of Democrats—as I trust Chairman Richards has done among Republicans.

I am confident that this process of consultation will continue, and will be fruitful. I am grateful to William Safire for bringing the matter to the attention of a wider audience than as heretofore been able to witness these deliberations, for the publication of his column has provided this opportunity for me to reiterate my own belief that the Institute for Democracy can and should be a matter of the highest priority to this body. I look forward to further, more detailed discussion of it in the Senate and in the Congress.

Mr. President, I ask that the full text of William Safire's column in this morning's New York Times be printed at this point in the RECORD.

The column follows:

[From the New York Times, Aug. 19, 1982]

ORGANIZING "WORLD PAC"

(By William Safire)

WASHINGTON, Aug. 18.—Why aren't the world's television screens filled with protests about the way Communist East Berlin has expelled the organizers of the June 27 "peace workshop," and has called up peace activists for military duty—jailing those who refuse to serve?

Why hasn't the Vietnamese artillery captain who defected two months ago been brought back to a suitable communications center and asked about the chemical weapons supplied by the Soviet Union—being used as "yellow rain" by Vietnamese units in Laos even today?

And why has no campaign been mounted to publicize and condemn the war of slander and blackmail being waged by the Communists running Nicaragua against individual priests who refuse to cooperate—a war in which the Sandinists censor pastoral letters from the Pope?

Why no sustained counterattack on these offenses against humanity and its institutions? Not so much because the press is biased, or the offenses are not of top rank, or the democracies lack the capacity for outrage.

The reason is that we are not organized, as Communists usually are, to strike back in the field of mass persuasion. The invaders of Afghanistan sponsor nuclear freezes; the crushers of Polish freedom identify themselves with the "peace movement" around the world. The forces of tyranny get away with condemning the forces of freedom for supporting the right of the people of El Salvador to choose their own government.

To set this straight—to find a means to encourage democracy actively and to shine a light on the wrongs of totalitarianism—a speech writer in the State Department, Mark Palmer, came up with an idea that President Reagan expounded in his address to the British Parliament this summer.

The idea is to engage in an open political struggle with all those who seek to subvert the basic freedoms human beings tend to seek. The West Germans, through federally funded political institututes affiliated with their political parties, have led the way: in some third-world countries, they conduct political training and give money to democratic candidates. In Portugal, West German help made the difference when that country's democracy was in the balance.

Americans should stop being embarrassed about sharing our political know-how—money, mimeo machines and political action plans—with leaders and parties and institutions in beleaguered democracies; more than that, we should carry the banner of political consciousness-raising to third-world and even Communist countries. The A.F.L.-C.I.O. has been promoting a free labor movement abroad, as much as one organization could, for years. "This is not cultural imperialism," said Mr. Reagan, "it is providing the means for genuine self-determination and protection for diversity."

A group is now being organized to put the U.S. into organized political competition around the world. Not surprisingly, since it deals with politics, the embryonic "World PAC" has become embroiled in its own politics.

The Democratic and Republican national chairmen are working together fairly well on this, along with the American Political Foundation, a group brought in by Mr. Reagan's trade negotiator, Bill Brock. The N.S.C.'s Walter Raymond, I.C.A.'s Scott Thompson, Defense's Richard Stilwell, with State's Mr. Palmer, are the Government "honchos." All have agreed to offer the key part-time slot to a neo-conservative Democrat, Ben Wattenberg.

However, Mr. Brock and Under Secretary of State Larry Eagleburger also want the staff headed full time by a former Brzezinski aide. Alfred Friendly Jr.; Republicans advised by Richard Allen prefer Allen Weinstein, of the Georgetown Center for Strategic Studies. That impasse can be worked out in the textbook way, balancing the staff to reflect shades of opinion and party coloration.

More important, the organizers do not agree on the center of power: is this to be primarily a State Department operation? That would guarantee incoherence; State's inclination is traditionally to soothe rather than upset foreign countries. A C.I.A. front? That would get it shot down here even before it had a chance to be discredited abroad. A foundation effort? That usually leads to philanthropoid mush.

To get the politics out of Political Action, we must rely on politicians. It would be a mistake to center this much-needed activity in government, since that would invite constant hectoring about "destabilization" from overseas and from isolationists. The trick is to put the power of encouraging foreign party competition in the hands of the two American parties.

The time for this World PAC idea has come; the best way to avert military competition is to turn to economic and political competition. And in party politics, we should turn to the pols and labor skates: the public should fund international political competition, but the Government should not be in the driver's seat.●

PROGRAM

Mr. BAKER. Mr. President, so that I may state the program for tomorrow, may I say the Senate will convene at 9 a.m. After the recognition of the two leaders under the standing order, it is anticipated that the leadership will ask the Senate to proceed to the consideration of the supplemental appropriations conference report.

Mr. President, after that matter is disposed of, it is anticipated the Senate will resume consideration of the debt limit bill. I wish to say that I anticipate as well that a cloture motion will be filed tomorrow, and I will have a further statement to make on this and other developments in the course of the day.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Can he indicate to the Senator what the cloture motion will be filed on?

Mr. BAKER. Mr. President, at this time the cloture motion will be filed against further debate, to limit debate, on the Helms amendment.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. The Helms abortion amendment.

Mr. LEVIN. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. That amendment is in the second degree.

Mr. BAKER. I yield to the Senator from Michigan.

Mr. LEVIN. Does the majority leader intend to propound any unanimous-consent request tonight relative to the supplemental?

Mr. BAKER. Relative to the supplemental?

Mr. LEVIN. Yes.

Mr. BAKER. I do not. I am advised it would be the better part of discretion to wait until tomorrow.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I am prepared to take the Senate out unless some other Senator is seeking recognition.

Mr. President, does any other Senator seek recognition? If not, then, Mr. President, I move, in accordance with the order previously entered that the Senate stand in recess until the hour of 9 a.m. tomorrow.

The motion was agreed to; and the Senate, at 10:17 p.m. recessed until Friday, August 20, 1982, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 19, 1982:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance programs.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8036, to be Surgeon General of the Air Force:

To be surgeon general, USAF

Maj. Gen. Max B. Bralliar, xxx-xx-xxxx xxx-... FR, U.S. Air Force, Medical.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, xxx-xx-xx... xxx-... FR, U.S. Air Force.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast xxx-xx-xxxx FR, U.S. Air Force.

ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, xxx-xx-xxxx xxx-x... Army National Guard of the United States.

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., xxx-xx-x... xxx-....

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., xxx-xx-xxxx xxx-... U.S. Army..

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, xxx-xx-x... xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Emmett H. Walker, Jr., xxx-xx-x... xxx-x... Army National Guard of the United States.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. LaVern E. Weber xxx-xx-xxxx, Army of the United States.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Hillman Dickinson, xxx-xx-xxxx, (Age 56), U.S. Army.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

SECURITIES AND EXCHANGE COMMISSION

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1987.

IN THE AIR FORCE

Air Force nominations beginning Clayton B. Anderson, and ending Terrence P. Woods, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Air Force nominations beginning John S. Adams, Jr., and ending Allan V. Wexler, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE ARMY

Army nominations beginning Robert O. Porter, and ending Robert A. Sharp, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Army nominations beginning Enrique Del Campo, and ending Richard Hagle, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Crops Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

Marine Corps nominations beginning Robert L. Peterson, and ending Michael L. Zanotti, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 12, 1982.

IN THE NAVY

Navy nominations beginning Michael L. Arture, and ending Charles E. Johnston, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 4, 1982.

Navy nominations beginning Javier Arquimedes Arzola, and ending Patricia James Watson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 10, 1982.

Navy nominations beginning Bruce P. Dyer, and ending Joseph C. Wiley, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of August 17, 1982.

DEPARTMENT OF ENERGY

Oliver G. Richard III, of Louisiana, to be a Member of the Federal Energy Regulatory Commission for a term expiring October 20, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

AMERICA'S SPACE PROGRAM SPURS EDUCATIONAL EFFORTS TO TRAIN MORE SCIENTISTS, ENGINEERS

HON. JENNINGS RANDOLPH
OF WEST VIRGINIA
IN THE SENATE OF THE UNITED STATES

Thursday, August 19, 1982

● Mr. RANDOLPH. Mr. President, Americans pride themselves in our scientific advances, in the acquisition of high technology which produces everything from wristwatch television to Space Shuttles. A quarter-century ago, jarred by the launching of the Soviet's Sputnik, America entered the space race through our academic and scientific community. Scholarships produced today's achievers in technology.

But in recent years, the public interest in space exploration has lagged; The flights of Space Shuttles become "routine," the planned November 11 launch of the *Columbia's* first operational mission will provide temporary public distraction operation from everyday problems.

This attitude presents a danger to space operation and to every facet of our scientific endeavors. Educators today are concerned that the apparent lack of public interest in science reflects the feeling of many young people who choose not to study engineering and the hard sciences.

Dr. James M. Beggs, Administrator of the National Air and Space Administration, pinpointed this concern recently by comparing our educational effort with other nations. He said:

> The United States is turning out 60,000 engineering graduates a year. This is far fewer than some of our most powerful rivals in many high-technology fields. For example, the Soviet Union graduates 300,000 engineers annually, five times the number of the United States. And Japan, with less than half our population, graduates 75,000 engineers a year.

Mr. President, last month my alma mater, Salem College, awarded honorary degrees to Dr. Beggs and Thomas G. Pownall, president and chief executive officer of Martin-Marietta Corp. Mr. Pownall, a native West Virginian, was the principal speaker at our second annual Festival of Flight. We also honored aviation and space pioneers Senator HARRISON H. SCHMITT, Michael Collins, Arthur Hyde, another West Virginian, and ABC Science Editor Jules Bergman.

The following day, Dr. Beggs addressed the annual luncheon of the National Youth Science Camp on Capitol Hill. He urged the NYSC delegates—two of the outstanding high school science students from each State—to continue their study in science and space, and to turn their dreams into reality.

Mr. President, I submit for the RECORD the addresses of Dr. Beggs and Mr. Pownall, both of whom focus on the question of America's future in science, and whose remarks will provide enlightened insights for my colleagues and many others.

The material follows:

REMARKS BY JAMES M. BEGGS

I am delighted to be here and extremely pleased to be introduced for the second time in 2 days by my good friend, Senator Jennings Randolph, your host. Yesterday, I was privileged to receive an honorary degree from Salem College, the Senator's alma mater. So I feel it is a special privilege to have been invited to speak to you today and look forward to your questions following this brief talk.

First, let me congratulate you all on having been chosen by your respective States to attend this 20th Annual National Youth Science Camp. You are a star-studded group and your leadership and scholastic achievements are overwhelmingly impressive. Having read your biographies, I am reminded of President Kennedy's remarks back in 1972 at a White House dinner honoring nobel laureates. He said: "I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered together at the White House, with the possible exception of when Thomas Jefferson dined alone."

No doubt some of you may well be White House guests at some future dinner for nobel laureates. But as we look to the future, I think we need to remind ourselves that past achievements are no guarantee of future performance. Indeed, in government, in industry and in the cases of individuals, it is clear that what we can do tomorrow depends on how we replenish our working capital today.

Our Nation's working capital rests in the potential of young people like yourselves. You are the high achievers of today and will be the leading scientists and engineers of tomorrow. And there is no question that the United States needs your talents and skills if we are to maintain our technological edge in the world.

Twenty years ago, when the youth science camp program began, the United States was the leading technological power in the world. We had come from behind the Russians and were leading in space. We were first in aeronautical and other high-technology development projects and we led the world in scientific achievements. But today, although we still lead in many areas of high technology, our supremacy is being increasingly challenged by foreign competitors.

We are feeling the pinch in every major industry, as the competition in Japan and Europe, using our methods and the technology we developed, is beating us at our own game. Whereas, just 10 years ago, the U.S. would capture all nobel prizes in the hard sciences, this is no longer so. Indeed, the signs of strain are such that it is no exaggeration to say that our accustomed preeminence in science and technology—on which a large part of our security and economic power depends—is so fragile that it is seriously endangered.

A few statistics help tell the story. The United States is turning out some 60,000 engineering graduates a year. This is far fewer than some of our most powerful rivals in many high-technology fields. For example, the Soviet Union graduates 300,000 engineers annually, five times the number of the United States. And Japan, with less than half our population, graduates 75,000 engineers a year.

Moreover, for more than a decade, secondary school curriculum requirements and achievement in this country have fallen sharply in science and mathematics, while there has been an opposite trend in most other developed countries. The result has been a shortage in the United States of well-trained scientists and engineers that affects adversely our scientific and industrial productivity.

This is a serious problem. It is serious because a vigorous scientific research and high-technology base are the key to a nation's productivity, economic growth, national security and high standard of living for its people. Over the past few decades we led the world in high technology. And during this period Americans enjoyed the highest standard of living ever known. We provided higher real income by raising productivity, and did that, to a large extent, through technological innovation.

We certainly are not the kind of people to sit idly by and let the rest of the world overtake us and leave us behind. We are a pioneer people, whose restless urge to explore the unknown and to excel built this Nation.

Our last quarter century in space has been magnificient.

We have sent 12 Americans to walk on the Moon. We have explored most of the solar system, and, we hope, by the decade will have explored all of the planets except Pluto and Neptune. We have built a new reusable space transportation system—the Space Shuttle—which will go into routine operation in October, opening unlimited opportunities in space for science, commerce and our national defense through the 1980's and beyond. So you are arriving on the scene at just the right time.

And the next 25 years hold the promise of so much more. Next year we will be flying the Space Lab, a gift from our European Space Agency friends, which will provide a shirt-sleeves environment for scientists and engineers to pursue their experiments in space. In 1985, we will fly the large Space Telescope, probably the most scientific instrument we have ever put into orbit. And in the future, we will be living and working in space on a permanent basis, building new structures for communications, Earth observations and many other purposes only limited by our imaginations.

Because any great civilization depends not on any particular knowldge, but on the continuing disposition to crave knowledge and know the unknown, we will continue to explore the vastness of space—simply because it is there.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Theodore Roosevelt once said that "The best prize life has to offer is the chance to work at work worth doing." You have chosen to pursue that prize in science and technology and if our past experience is any judge, you will be well rewarded.

All of us at NASA, I believe, have won that prize and we hope that one day you will be joining us in this great adventure of building our Nation's future in space. And in the process, we will continue to gain new knowledge strengthen our economy, fuel a national sense of pride at home and prestige abroad, and I believe, inspire other young people, like yourselves, to dream great dreams and to transform them into reality.

And perhaps the most important reason for our work is a quote from a poem written by T. S. Eliot:

"We shall never cease from exploration and the end of all our exploring will be to arrive at where we started and to know the place for the first time." That says it all.

Thank you very much.

REMARKS OF THOMAS G. POWNALL

You have honored me on a plane far higher than I could have ever dreamed when I was a lad growing up in this remarkable State of West Virginia. Also, you have presented me—in your suggestion that I talk to you about space exploration—with an overwhelming topic. I say overwhelming because, in fact, I believe that mankind's future in space has no boundary lines. The subject and its implications are enormous beyond comprehension. Within less than three decades, within the lifetime of every one of us here, space exploration has changed forevermore the way we must think of our universe.

We have brushed back some, a few, of the curtains of natural ignorance that hung for all of prior history between Earth and the universe beyond. Who among us will ever forget the summer's Sunday in 1969—14 years ago—when one our kind set first one foot and then the other onto the Moon's surface. And since then we have peered further over the edge of the universe, to sample the surface of Mars and to look in awe at the wondrous realities of other planets.

And we have barely begun.

So splendid have been our technological, scientific, and engineering accomplishments in space that we have tended to devalue, or perhaps entirely overlook, an aspect of space exploration that has spiritual overtones. By that, I mean space exploration can be also viewed as adventure of the very highest order.

Think of it in your own, personal lives—the exhilaration that arises from the occasional opportunity presented to break some new ground. To do something different. To accomplish a personal "first." In this sense, I think it is proper to stand back and to strive for a special view. In doing so, I conclude that the exploration of space during the past quarter century—the time span from Sputnik to now—has been the spice of our national existence. Whether or not you choose to share my perspective, I believe it is beyond argument that in Projects Mercury, Gemini, and Apollo we were given dramatically uplifting and inspirational counterpoints to the cares and problems and complications of everyday living. Of our earthly society, I was reminded again of this aspect of space exploration on our independence day just past. When nearly a half-million proud Americans seized upon the moment to gather in the California desert. To watch in person the triumphant return from space of the Shuttle vehicle Columbia. I daresay most of the untold millions of others who looked in by television on that event shared vicariously in the emotion of the moment. It is not too much, I think, to place high value on the sense of national self-esteem and prestige that flowed from that event—and from other events in the sparkling sequence of accomplishments in Earth orbital and planetary ventures that we have undertaken since the enactment by Congress in 1958 of the National Space Act and the creation of the National Aeronautics and Space Administration.

Now, clearly that act and that agency were given to the country with larger ambitions than to lift up our spirits on occasions of high and intense drama. But let me say again that, personally, I feel this is a tremendously valuable collateral benefit. I just happen to feel this way because I think that whatever encourages us to have national pride and self-esteem is important in this complicated world. If we have no respect for ourselves, we surely will have none for our Nation—and we will neither earn nor merit the respect or admiration of other peoples or of other nations.

These simple truths, I am aware, are not by themselves alone enough to maintain the wide spread of support that has been required to bring us this far—or will be necessary to keep us as a nation on a coherent and logical course in the future. I am reasonably certain that Mr. Beggs and all of his predecessors in the Space Agency agree with that. I daresay also that everyone of us has heard in some context or another voice given to the plaintive question:

"If we can go to the Moon. why can't we. . . ?" And you can just about end the question with any subject, any problem imaginable.

One may be tempted to dismiss such a question as irrelevant. But what it really is, I think is evidence of frustration. Of a deep-down craving for equal progress in so many areas of material need.

In fact, there have been elemental and breath-taking leaps forward in the acquisition of fundamental knowledge through our space activities. And by no means have these been esoteric. Many have hard relevance to our earthly needs—better management of natural resources, mind-stretching improvements in communications, simply outstanding advances in weather monitoring and forecasting, to mention but a few.

An eminent panel of NASA's brightest minds, addressing the evidence of seeming public lassitude about space a few years ago, concluded that—in their words—"The most striking effects of the space experience are likely to come in the years just ahead, as humans who have lived entirely within the space age become adults." And to quote further briefly from their conclusion: "We do not know yet what kind of a society it will be in which space is regarded as a natural arena for human endeavor and for the solving of human problems."

This suggests—and I think it is true—that we as a people do not yet know how we should value space exploration and space development.

What are the terms on which we look at its future, apart from its embodiment of technological accomplishment and its contributions to our national sense of self-esteem and accomplishment on those occasions when we as citizens are all tuned in for high adventure?

In such a setting as this, dominated by academic thought and respect for knowledge and learning, it is quite appropriate to remind ourselves that sweeping societal benefits most often have not been evident until many years after a scientific discovery or a technological breakthrough. At this time, it can be left only to the most inspired human imaginations to conceive what may be the ultimate benefits from space science and space technology.

We cannot, we must not turn back. In fact what we need most to understand right now is that there is so much we do not know—and then go for it! We are in good shape to do that.

The allocation of national treasure to attain these ends will, I recognize, involve hard decisions. Hard tradeoffs, uneasy accommodations with large societal segments that feel a need for immediate improvement of the human condition should flow from all sizeable expenditures for any large goal.

The finest arts of political diplomacy, nevertheless, should be mustered, and promptly, I think for a broad-based action program that would encompass, among others, such goals as these:

A firm commitment to a specific plan for the remainder of this century. It should cover expansion and operation of the Shuttle system. It should assure a vigorous program of civil and national security operations in Earth orbit. It should incorporate a stable program, with a firm sense of continuity, for planetary exploration in the interest of pure scientific knowledge. It should commit the basic support for long-range new technology, not only in Federal laboratories but in those of universities and of industry, as well. Some of the fertile evident fields for exploration include propulsion, materials, large structures, robotics, and life-support systems.

Such a program for the remainder of this century also should, it seems to me, encourage the private sector to invest in applied research and development of space technologies, with proper incentives for introducing beneficial space results into commercial marketplaces.

There is more, but the foregoing is sufficient to illustrate the character and the size of the challenge to our national processes—indeed, to our national will.

To accept the challenge is to declare ourselves a great and confident people, not afraid of the future but ready to embrace it.

Thank you.●

TRIBUTE TO ALYCE JONES

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROUSSELOT. Mr. Speaker, I would like to take this opportunity to honor an outstanding resident of the 26th District of California on the occasion of her retirement as official hostess of the Chamber of Commerce of Arcadia—Alyce Jones.

For 27 years, Alyce has selflessly served as Arcadia's official hostess. Her enthusiasm, gracious manner, and sunny smile have welcomed many newcomers to the city.

Alyce urges them to get to know their community by becoming involving with various clubs, civic groups, and, above all, by registering to vote. It is exceedingly important, she believes, for new families to have a strong feeling of belonging to their new community. Services she has performed for newcomers range the gamut from babysitting to mending clothes to helping a new family pull weeds. She many times lends an ear to those who just need to talk with a sympathetic listener.

Prior to being tapped by the chamber for the duties of official hostess, Alyce had been an active member of the local PTA, holding many positions including that of President. She and her husband, Charles, have lived in the same home in Arcadia for 44 years. They have three children living in the area, and eight grandchildren who frequently drop by just for a chat.

Concurrent with her myriad duties as official hostess, Alyce has been an active member of the Church of Jesus Christ of Latter Day Saints. When approached 27 years ago to assume the office of official hostess, Alyce was asked to stay a year.

Today, 27 years later, I would like my colleagues to join with me in saluting Alyce Jones, a truly remarkable American who has served her community cheerfully, selflessly, and always with a smile.●

OPPOSITION TO AID FOR EL SALVADOR

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. FRANK. Mr. Speaker, I recently received a copy of a statement in opposition to the certification of El Salvador as eligible for continued U.S. aid, forwarded to me by the Boston Committee for Medical Aid to El Salvador. The members of this committee ask that their statement be shared with those who will have to make a decision on the legitimacy of the President's certification. I believe that the President erred in certifying that El Salvador has met the conditions set down by Congress last year. By their refusal still to take any serious action to find those who murdered four American women in El Salvador well over a year ago, by their retreat from the principles of land reform, and in many other ways, the current rulers of El Salvador have shown themselves unwilling to comply with the minimal conditions set down by Congress for the continuation of aid.

The statement from the Boston Committee is an important one that makes a significant contribution to the debate on this issue and I wish to share it here with my colleagues.

BOSTON, MASS., *July 30, 1982.*

Hon. BARNEY FRANK,
U.S. House of Representatives
Washington, D.C.

DEAR REPRESENTATIVE FRANK: We have prepared the attached statement on our opposition to the recertification made by the Reagan Administration that human rights in El Salvador are "improving." We request that our statement and supporting documentation be entered into the record of the recertification hearings.

Yours truly,

THE BOSTON COMMITTEE FOR MEDICAL AID TO EL SALVADOR.

Enclosures.

STATEMENT OF THE BOSTON COMMITTEE FOR MEDICAL AID TO EL SALVADOR IN OPPOSITION TO RECERTIFYING THE CONTINUATION OF U.S. AID TO EL SALVADOR

Once again, the Reagan Administration has certified before Congress that human rights conditions in El Salvador are improving. To document this "improving" situtation, the Reagan Administration has submitted "data" from the government-censored Salvadoran press to show that the number of people killed by violence has abated during the past six months, thereby suggesting that "less" people murdered is equivalent to "less" human rights violations.

Contrary to the assertion of the Reagan Administration, our information indicates that the human rights situation is not improving. Human rights associations in El Salvador (the Legal Aid Office of the Archdiocese of San Salvador and the Human Rights Commission of El Salvador) and other groups such as the Center for Information and Documentation at the University of Central America, Amnesty International, Americas Watch and the Washington Office on Latin America indicate that the assassination of innocent civilians continues—unabated.

It is estimated that since October of 1979, close to 40,000 civilians—1 of every 118 people—have been murdered, most by the Salvadoran military and security forces. Those dead include infants, children, old people, and whole families as described in the enclosed materials in Appendix A. Violence and murder, perpetrated by Salvadoran government and security forces upon the civilians in the countryside, has also created an estimated 600,000 refugees, almost 13 percent of the population, according to the United Nations High Commission on Refugees. Dislocated Salvadoran refugees are now in all countries of Central America, as well as in Mexico and the United States. A recent report from the Center for Information and Documentation of the University of Central America indicates that in one refugee center outside the capital where there are approximately 7,000 children, each day from 4 to 7 children die from a ravaging disease. The situation has deteriorated to such an extent that recently, the International Red Cross threatened to withdraw from the country. In a news account (The Washington Post, July 3, 1982), Andre Balmar, a Red Cross delegate said: ". . . we are to provide humanitarian aid in a zone of conflict. It is not our role to protest; we never make public condemnations. . . . On the other hand, we do not intend to allow our presence here to become a label that governments can point to to demonstrate its compliance with humanitarian norms." Murder by government hands continues to be the leading cause of death in El Salvador, far surpassing death by disease or natural causes.

The institutionalized violence in El Salvador, perpetrated through the structures of a feudal society and bolstered by a government which acts on behalf of oligarchic interests, must be measured not only in terms of innocent people slaughtered, but also in terms of the daily violence of hunger, poverty and malnutrition which has produced in El Salvador, the highest child mortality rate of 24 Western Hemisphere areas surveyed by the Pan American Health Association. (See Appendix B.) Even now, the health sector continues to be repressed and militarized as documented by an American Public Health Commission to El Salvador which reported on conditions from the country during July 1980. (See Appendix C). The medical school, closed since June 1980 by the Salvadoran Army, remains to this day occupied by government forces. The military continues to retain control over the distribution of drugs, medical supplies and blood for transfusions. And rural hospitals, health posts and pharmacies continue to be under seige. Health workers provide services in an atmosphere of constant threat to their own survival, mindful of the fact that many of their co-workers have already been murdered, kidnapped or "disappeared." A recent Washington Post news report (July 26, 1982) indicates that the Salvadoran police tortured a volunteer from the Salvadoran Green Cross, a medical relief agency based in the country.

We would like it known that as doctors, nurses and other health workers, we oppose any aid to a government that wantonly abuses the human rights, including the health rights, of its own citizens. We want to emphasize the point that the recertification process should not depend upon a debate over the monthly variation in the number of those murdered, tortured or disappeared. There is no numerical level below which mass murder becomes acceptable. To suggest that "less" murder is better than "more" murder or to hold to a standard of violence as a criteria from which to assess improving human rights conditions defies rational understandings.

We observe with dismay that the Reagan Administration, with the approval of Congress, continues to make unprecedented cutbacks in health, education and welfare programs at the expense of the most disadvantaged of U.S. citizens. On the other hand, it increases, also at unprecedented levels, military aid to countries such as El Salvador. (See Appendix D). In essence, while it is willing to spend hundreds of millions of tax dollars funding the brutal activities of the Salvadoran government, the Reagan Administration refuses to maintain adequate funding for immunization programs for our own children, as recently revealed by the Center for Disease Control in Atlanta.

This viewpoint is not our opinion only, but is shared by many members of the U.S. health care community. Our Committee has been circulating a petition amongst health care workers nationwide, calling for a cessa-

tion of all aid to the Salvadoran government. (See Appendix E). Hundreds of signatures that represent not only individual health care workers such as doctors, nurses, social workers, physical and occupational therapists, medical amd nursing students and others, but health related associations as well are being forwarded to us weekly. The following are representative of the groups who have also endorsed our petition drive: the American Medical Student Association, OXFAM AMERICA, the Nurses' Network, the Maine State Nurses Association, the Massachusetts Nurses Association, the New York Committee for Medical Aid to El Salvador, the Milwaukee Medical Aid Committee to El Salvador, the Asian Caucus of the American Public Health Association, the Hispanic Task Force of the American Orthopsychiatric Association.

We ask Congress to reject the Reagan Administration certification that the human rights situation in El Salvador is "improving." We urge Congress to discontinue all aid to the present government of El Salvador. We urge that Congress support all efforts toward a negotiated political solution to the conflict and that it defend the rights of all nations to self-determination.

TERESA CHOPOORIAN R.N., M.S.,
ALAN MEYERS M.D.,
KAREN WOLF R.N., M.S.,
For the Committee.

COMMITTEE MEMBERS

Steve Anderson-Hermann M. Div., Naomi Bock M.D., Melanie Brunt M.D., Teresa Chopoorian R.N., Adrienne Epstein R.N., Paul Epstein M.D., Andrea Fox M.D., Jonathon Fox, Nancy Greenleaf R.N., D.N.Sc., Steve Hagan, Maurice Lemon M.D., Alan Meyers M.D., Kenneth Thompson M.D., Karen Wolf R.N.●

THE PORT OF LOS ANGELES TO CELEBRATE ITS 75TH BIRTHDAY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, 300 years or so after San Pedro Bay was discovered in 1542 by the Portuguese navigator, Juan Rodriguez Cabrillo, Richard Henry Dana described the swampy shores of this shallow bay in his great adventure "Two Years Before the Mast" with little sense of the future promise of the bay. Today, however, I doubt that Dana would recognize San Pedro Bay.

San Pedro Bay became the home of the Port of Los Angeles 75 years ago and thus began its conversion to one of the largest manmade ports in the world. Over the past century the bay's tideflats have been dredged to serve as deep-draft channels, Terminal Island has been created from the dredge spoils, and 9 miles of breakwater extending across the mouth of the bay has been built. In all, 7,000 acres of land and sheltered water and 28 miles of waterfront are now encompassed within the Port of Los Angeles.

In Congress I have watched with pride the growth of one of my largest constituents, the Port of Los Angeles. It gives me great pleasure, therefore, to announce that the 75th anniversary of the foundation of the port will be celebrated on the 11th of next month.

For the port the past 75 years have been marked by continued success and expansion. From the Federal construction of the breakwater in 1899 to the opening of the Panama Canal, to the expansion necessitated by World War II, to the container revolution of the sixties, to the present main channel deepening project—to 45 feet—the Port of Los Angeles has secured and maintained its position as a preeminent world-class port.

The importance of the port to the Nation is becoming more evident every year. Los Angeles is a major coal exporting port—3 million tons per year—with plans to expand its coal handling facilities and further deepen its main channel. From the port's five major container handling facilities, container boxes move across the country via truck and rail. To speed the transfer of containerized cargo, and more efficiently use precious waterfront space, the Port of Los Angeles, along with the Port of Long Beach and the Southern Pacific Railway, is building an intermodal container transfer facility 2½ miles north of the port waterfront area.

Besides being a national asset, the Port of Los Angeles is a vital component of the local and regional economies. It is estimated that over 200,000 jobs in the Los Angeles area are created either directly, or indirectly by port operations. These jobs generate $500 million each year. The businesses operating within the port provide jobs for one-third of the total work force in the communities adjacent to the port.

The Port of Los Angeles is a public port created in order to promote the public good. As such, the port has a strong commitment to enhancing the quality of life for its constituents. This means that the port engages in such undertakings as the construction and operation of public yacht basins, fishing harbors, sportfish landings, and tourist attractions like the ports of call.

One final note: The Port of Los Angeles has been, and remains, a thoroughly modern and contemporary institution. There is no better illustration of this fact than the selection several years ago of a lady, Gene Kaplan, to be a harbor commissioner, and her elevation this year to the presidency of the Los Angeles Board of Harbor Commissioners.

Mr. Speaker, while I rise today to pay tribute to the Port of Los Angeles on the occasion of its 75th anniversary, I am confident that the port will welcome the 21st century with even greater stature as one of the world's greatest ports.●

DESPITE CANADIAN CONCERN ABOUT AMERICAN ACID RAIN, CANADIAN UTILITY SHELVES PLANS FOR ADDING SCRUBBERS

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. CORCORAN. Mr. Speaker, the Canadian Government has on many occasions and through many forums expressed its concern about acid rain that supposedly emanates in the United States, especially the Midwest, and ends up in Canada. The Canadians have been quite adept in communicating their views during the 97th Congress as the Senate and House committees of jurisdiction consider possible amendments to the Clean Air Act. As a Member from a Midwestern State, and as a member of the House Energy and Commerce Committee, I am particularly aware of the Canadian efforts.

Particularly in view of these Canadian efforts, Mr. Speaker, I find it interesting that Ontario Hydro, Canada's largest utility, recently announced plans to shelve construction of sulfur dioxide scrubbers which had been touted as Canada's good-faith effort to control acid rain. While I recognize the existence of the acid rain phenomenon, I remain unconvinced that it would be proper at this time for the Congress to mandate an expensive acid rain control program. I do support thorough study of the acid rain issue, and I supported the accelerated study amendment to the Clean Air Act that my colleague ED MADIGAN offered during Energy and Commerce Committee consideration of Clean Air Act legislation. That amendment passed in committee, and I continue to support its final approval.

Mr. Speaker, for the benefit of our colleagues, I would like to include in the RECORD at this point a page 1 article regarding this matter from the August 16 issue of Coal News, published by the National Coal Association.

The article follows:

CANADIAN UTILITY SHELVES PLANS FOR ADDING SCRUBBERS

Two days before the Senate Environment Committee okayed its acid rain control plan, Ontario Hydro, Canada's largest utility, announced plans to shelve construction of sulfur dioxide scrubbers which had been touted as Canada's good faith effort to control acid rain.

The announcement touched off a flap on the floor of the Canadian parliament and likely served as an embarrassment to Canadian officials who had offered the plan as a response to American criticism of Canada's less-stringent air-quality standards.

In a press statement on the issue, Ontario Hydro President Milan Nastich said, the

scrubbers were included in the program to reduce "acid gas emissions" 18 months ago when Hydro expected to sell large amounts of electricity to General Public Utilities of New Jersey, and when growth of electric demand, in both Ontario and the U.S. eastern seaboard, warranted the estimated $240 million outlay.

"Since that time, economic conditions have worsened and Hydro believes it is essential to review again the timing and amount of its capital expenditures," he said. Unstated in the release was the fact that Ontario Hydro lost the export sale to General Public Utilities (GPU).

Canadian press reports quoted Adele Hurley of the Canadian Coalition on Acid Rain as saying the utility's action was "pulling back on a commitment . . . Scrubbers were a symbol of good faith by the people of Ontario in dealings with the United States." The press reports also stated that Miss Hurley has been lobbying for a year in Washington to get together U.S. pollution controls.

Ontario Hydro, a provincial government utility, is reportedly planning to meet sulfur dioxide air quality standards by switching from "high sulfur" Pennsylvania coal to low sulfur western Canadian coal, according to transcriptions of the Parliament's debate.

The head of the utility's air quality control program was also quoted as saying, "One of the reasons the scrubbers were there, the major reason, was for GPU."

Canadian newspapers reported that last winter when Ontario Hydro expected to make the export deal with the U.S., an official of the utility said in hearings, "From a cost-benefit analysis, you'll wonder why we're adding scrubbers. One reason is we hope to have a multiple effect."●

1982 CAPTIVE NATIONS RALLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, recently a declaration was made at the 1982 Captive Nations Rally in Taiwan which summed up most clearly and succinctly the attitude men and women everywhere should embody in the anti-Communist fight being waged in the world today. Mindful of the inroads which this enslaving force of communism has made throughout the world in this century, I would suggest that the message proclaimed in this document is something Americans should take to heart. I commend it to the attention of my colleagues.

DECLARATION—1982 CAPTIVE NATIONS WEEK MEETING OF THE REPUBLIC OF CHINA

An epochal torrent against Marxist-Leninist forces of enslavement has been formed by captive peoples and others waging a global campaign for freedom and democracy. Man's future is radiantly bright. Representatives of the Republic of China's various circles have, along with freedom-fighters from all world regions, gathered in Taipei for a 1982 Captive Nations Week Meeting to demonstrate the unity and surge of free democratic forces.

Freedom being indivisible, we remain staunchly opposed to the Chinese Communists for their tyrannical crimes against the 1 billion captive people on the Chinese mainland. We strongly support President Reagan's Captive Nations Week Proclamation of July 19 this year, in which he calls for reaffirmation of "our faith over the rule of force and coercion which denies human rights to so many other parts of the world today." We will restore freedom to all those held captive under Communism, and assure that freedom will never be trampled on or threatened.

Democracy is never to be infringed upon. We remain resolutely opposed to all the Marxist-Leninists for their totalitarian rule and deprivation of rights. We are vehemently opposed to all the Red infiltrators and expansionists for their wicked designs against democracies. We therefore enthusiastically respond to President Reagan's righteous call for a global campaign for democracy. By thus expanding the quest for freedom and self-determination, we will destroy totalitarianism and consign Marxism-Leninism to the ash heap of history.

World peace must be promoted by all means. We remain firmly opposed to Soviet Russia and the Chinese Communists for their armed expansion, infiltration, and subversion. We also are opposed to all free world attempts to work with one Red regime against another. We strongly urge all the free nations to see unequivocally that all Communists are enemies of free world security and peace. For the promotion of genuine security and peace throughout the world, all free nations should unite closely together and strike decisively at Marxism-Leninism.

The confrontation between the Red bloc and the free world is growingly intense. No peace talk attempt can resolve the conflicts between the two diametrically different sets of ideologies and political systems. Negotiation can only make people oblivious of Communist designs.

The Soviet Union is pushing strategic arms development and nuclear blackmail, attempting at the same time to create and aggravate rifts among free nations. Moscow is determined to profit from global turmoil and attain its goals of aggression and expansion.

Taking advantage of America's wishful thinking about them, the Chinese Communists are applying pressures on Washington, hoping that they can obstruct the implementation of Taiwan Relations Act and cut the United States off the Republic of China. When the time comes, they will try to use force against Taiwan. To consolidate their rule, these Communists have to do away with all the Chinese forces of freedom at home and abroad.

This 1982 Captive Nations Week Meeting of the Republic of China has erected an important milestone for the victory of freedom. Having reviewed the current situation, we the participants hereby issue the following calls for stepped-up struggle against slavery and for freedom:

We urge the masses of freedom-fighters in the Soviet Union, the 1 billion enslaved compatriots on the Chinese mainland, and all those in Communist chains elsewhere to understand clearly that the Communists will never change their tyrannical Marxist-Leninist color, that there absolutely is no future for Communist rule, and that all those who want freedom must rise as one to break through the Red stronghold from within.

We urge all those of Communist-ruled lands, regardless of regions, to wage vehement anti-Communist struggle for freedom and democracy, defeat Marxist-Leninist colonialism, get rid of the satellite yoke, regain full independence in freedom, and restore their national cultures to full bloom.

We urge all the free nations of the world to understand once and for all that the Communists, be they Russian or Chinese or others, are bent on world communization and human enslavement. Instead of attempting to pit one Red group against another, we all must establish a global anti-Communist strategy, revitalize all the regional security and common defense systems, and bring forth pooled strength for the enhancement of national security and world peace in freedom.

We urge strong free world support to the struggle for freedom waged by the masses of people on the Chinese mainland, to the campaign for liberalization pushed by people within the Soviet Union and its satellite states, to the fight against aggression and enslavement staged by the Afghans, Salvadoreans, and the Poles, and to the efforts of Africans against Red inroads. We urge steps to make these anti-Communist campaigns growth with positive action against Red aggression and expansion.

We strongly support President Reagan's call for a global campaign for democracy. We similarly support his 1982 Captive Nations Week Proclamation, which fully reflects his confidence and righteous stand. We urge immediate response and support by all free nations. We furthermore urge that a conference of free nations be convened to work out ways and means to counter Marxism-Leninism and to promote a democracy campaign throughout the world.

We urge the U.S. Government to translate into action President Reagan's political ideals of "peace through strength." To do so, the United States must stop risking the dangers that will surely result from assistance to the Chinese Communists, faithfully implement the Taiwan Relations Act, speed up defensive weapons sale to the Republic of China, and blast all the Communist designs of international united front.

Fellow countrymen and friends: The freedom front is expanding strongly; the anti-Communist situation is growing. This is history's turning point. All those who love freedom will now start forceful efforts, behind the Iron Curtain and in the free world. Let us crush Marxism-Leninism, and win the final victory of freedom and democracy.●

RETIRED PAY CHANGES—THE CAMEL'S NOSE UNDER THE TENT

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. NICHOLS. Mr. Speaker, I had to vote against the conference report on H.R. 6955, the Omnibus Budget Reconciliation Act for fiscal year 1983. I take this opportunity to explain my reasons for that vote and to express my concern regarding some of the changes that were adopted in that conference report.

By adopting the conference report on this legislation, we have made significant changes to the system of adjustments of Federal Government annuities. Although these changes are limited to the next 3 fiscal years, they could lead to an eventual decision to make these changes permanent.

This is not the way to adopt permanent changes to existing, important law.

Two provisions are particularly bothersome to me. The first provision would provide only half of the cost-of-living adjustment to military and civilian retirees who are under the age of 62. This provision would only apply for 3 years, but I think we must understand that even in this limited form it applies unequally to military and civilian retirees. Approximately 70 percent of the individuals affected are military retirees—the majority are enlisted members. Placing a disproportionate burden on service members—who, I believe, are willing to share equally the burden of reducing the Federal budget—could easily lead to a reversal in the improvements in retention we have recently experienced as a result of positive congressional action on military pay and benefits. I do not want to return to the decade of deterioration.

The other provision that I am particularly concerned about would deny increased military retired pay to individuals who are employed in the Federal Government. Why these types of changes are suggested, penalizing individuals who have served a full career and who continue to serve their Nation in a civilian capacity, is beyond my comprehension. This provision will provide an undesirable incentive for qualified military retirees to seek employment in the private sector where they will receive their full cost-of-living adjustment in military retired pay. The net result will be no savings and the loss of qualified civil service employees.

Mr. Speaker, I would like to conclude by saying that I am extremely concerned with the procedures that have been employed in the last 2 years to effect substantial budget savings. I strongly agree that we need to reduce Federal spending. But I feel even stronger that these reductions should be recommended by the authorizing committees that have jurisdiction over these areas. Hasty, ill-conceived changes lead to bad law, and I am concerned that we will be a long time rectifying the unintended effects of the actions we are taking at this time. We may spend more money correcting the ill effect created than we have saved in retirement outlays.●

THE CRISIS IN LEBANON

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEYSER. Mr. Speaker, when a crisis occurs, there is always a risk that one will prejudge, jump to conclusions, and form opinions in haste.

Over the last several weeks, Mr. Speaker, some people have been too quick to jump to conclusions over the strife in Lebanon. Each day they have watched the situation deteriorate in that desperate country, and based upon daily television and newspaper reports, one could conclude that the State of Israel has been a transgressor, has invaded a neighboring country, and should be condemned for continuing acts of war.

We must resist this effort to blame Israel for the situation in Lebanon, Mr. Speaker.

We should remember that this so-called invasion is really an act of self-defense—that Israel for years has been subjected to attacks from Lebanon, including rocket attacks, shellings, and terroristic bombings. Scores of innocent civilians in northern Israel have been killed or wounded.

And we should also remember that Israel has not attacked the nation of Lebanon itself, but rather the PLO which for over 7 years has occupied that country. Since being expelled from Jordan, the PLO has subjected the Christians and Moslems in Lebanon to a reign of terror, totally subverting authority in that country. There is no question that the Lebanese want the PLO—and the Syrians—and all their weapons and Soviet-supplied tanks and artillery out of their country.

The confrontation in Lebanon is not between the Lebanese and the Israelis, but rather between the PLO and Syrians there and the Israelis. The PLO has been in effect using the Lebanese people as hostages. When the PLO and the Syrians are out of Lebanon, Israel has pledged to leave as well, and Lebanon itself, thanks to the Isrealis will be in a position to reassert its own sovereignty. That will be an important step toward peace in the Middle East, Mr. Speaker, and a factor we should not forget.

Israel's commitment to withdraw from Lebanon upon departure of the occupying forces of the PLO brings to mind the Camp David agreement. Israel promised to withdraw from the Sinai at Camp David, and on April 25 of this year, Israel completed its final withdrawal. This step demonstrated Israel's commitment to peace.

It is ironic that in spite of Israel's dedication to implementation of the Camp David agreement with Egypt, the surrounding Arab States have done all they could to scuttle the peace process. The terrorist actions of the PLO against Israel and its border settlements continued, and attacks against Israeli citizens occurred in other places around the world.

Israel's appeals to the world to secure her sovereignty and the safety of her citizens have been largely ignored. Her efforts to establish peace with her neighbors have been frustrated. The recent outbreak of hostilities is a tragedy which could have been avoided had other governments—including some of the principal Arab States in the region whom we have sought to befriend—moved more forcefully to terminate terrorist activities and to finally recognize Israel's right to exist.

These are things to bear in mind, Mr. Speaker, as we size up the tragic situation in Lebanon. We should recall the past, Mr. Speaker, and Israel's demonstrated commitment to peace, and to the future, and to where the best hope for peace lies, before we hastily leap to conclusions based upon last evening's news or this morning's front page photo. Our best hope for peace lies with a strong and secure Israel.●

JAMES WATT IS HITCHED TO AN EVIL STAR

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. STARK. Mr. Speaker, I would like to include in the RECORD a copy of a letter to the editors of the San Francisco Chronicle from world famous photographer Ansel Adams.

The letter, printed in the July 30, 1982, edition, expresses the reaction of the world's most famous naturalist photographer to Secretary Watt's decision to open up all our coastal lands to oil drilling.

The overwhelming number of my constituents and I agree with the sentiments expressed by Mr. Adams:

AN EVIL STAR

Editor: The announcement by Secretary of the Interior James Watt to open all of our American coasts to oil leasing is disastrous. He made his decision painfully clear to the American public on July 21 during a televised interview on the excellent MacNeil/Lehrer show on PBS. Watt never spoke of the spiritual values we gain from our environment, but he did speak strongly of the immediate material gain. He has no consideration of the future conditions under which our children and their children will be obliged to live if the greed for development and quick profit that he champions, is not controlled in our time.

His continuing statements clearly reveal the catastrophe he is inviting on our country: squandering our resources, and in the

process, polluting the oceans and beaches, smogging the air and stripping the land.

It is imperative that we, the citizens, gather for concerted political action and not allow the destruction of our American earth. We should all ponder John Muir's statement, "Everything in the Universe is hitched to everything else." James Watt is hitched to an evil star.

ANSEL ADAMS,
Carmel.●

SLAVE LABOR ON SOVIET PIPELINE: INTEGRITY VERSUS PROFIT

HON. JOHN LeBOUTILLIER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, Last week the House Foreign Affairs Committee voted 22 to 12 to require the President to revoke his restrictions on the sale of U.S. parts for the Soviet Union's natural gas pipeline to Western Europe. Defending this action, one of the critics of the President's policy said that all the sanctions have done is to anger the Europeans and to deprive U.S. companies of business.

In spite of these criticisms, solid practical reasons do exist in support of the President's decision to oppose construction of the pipeline. If completed, the pipeline would make America's European allies dangerously dependent on Soviet energy and would give the Soviet Union billions of dollars in annual hard currency earnings with which to help its defense buildup.

Transcending this debate, however, is another concern that is emerging, a concern that is moral in nature and obliging of human conduct.

Reports are circulating once again that the Soviet Union is using slave labor to build the Siberian natural gas pipeline. France and West Germany have launched official probes into these charges and a West German human rights organization has appealed to both Germany and France to halt the project.

In a recent interview, Dr. Reinhard Gnauck, a physician at the German Diagnostic Clinic in Wiesbaden, West Germany, and head of the International Society for Human Rights, said:

After World War II, German officers were convicted of war crimes on the basis of their participation in slave labor camps. Now, Western countries would share moral responsibility for Soviet labor camps through their financial and technical aid to the natural gas pipeline. If people in Western Europe are going to warm their feet or cook their food with that natural gas, they should know that others had to die, work, go hungry, or freeze to get the gas from there to here.

While attention to the slave labor issue is beginning to mount, the issue is not new. Last September, in connection with the construction of the pipeline, I charged that the Soviet Union and Vietnam had come to an agreement that over 500,000 Vietnamese were destined to work in the Siberian projects as a means for Vietnam to repay its debt to the USSR. The Vietnamese workers, according to the reported agreement, were to receive 40 percent of their wages in local currency and the remaining 60 percent would be credited against Vietnam's trading debts with the Comecon countries.

In short, the question of slave labor relative to the construction of the Soviet natural gas pipeline has been around for at least 1 year. And yet, the House Foreign Affairs Committee chose last week to overlook these facts, oppose the President, and callously disregard the fate to which hundreds of thousands of innocent victims would be condemned.

Mr. Speaker, in view of the concern which the members of the Foreign Affairs Committee have expressed on other occasions for human rights, it is somewhat startling that so little concern could be expressed over a violation which makes other injustices pale in comparison.

To direct attention to this matter once again, I am submitting two articles into the CONGRESSIONAL RECORD. One treats the large numbers of Vietnamese "guest workers" who are destined to work on the pipeline unless it is stopped. The other is a statement released on June 25, 1982, by the International Society for Human Rights based in Frankfurt, Germany. This statement charges that the Soviet Union has set up seven forced labor camps on construction stretches along the 3,000-mile pipeline route and that political and religious prisoners are being used for labor.

I urge my colleagues to read and reflect on the significance of these two statements. After a year of growing concern, can the House continue to neglect an issue of so basic importance? Let us remember, it is not only our conscience and the fundamental moral integrity of this deliberative body which is at stake. Standing in the balance are also the lives and fortunes of those who will perish if the pipeline is constructed.

In the final analysis, this body can choose either profit or principle. If we should choose profit at the expense of principle, the human costs will be awesome. But, If we stand on our time-honored principles, we can only gain.

These two articles are as follows:

"GUEST WORKERS" IN THE SOVIET UNION

The secretary-general of Vietnam's Communist party, Le Duan, and the deputy prime minister, To Huu, visited Moscow last week. They met President Brezhnev and other Soviet leaders and discussed their growing economic difficulties, including the high cost of supporting an army of over 1m men, one fifth of them based in Cambodia. Vietnam is increasingly dependent on the Soviet Union.

Le Duan informed the Russians that the monthly food ration has dropped from 13 kilos of rice to eight kilos of rice, sweet potatoes or maize. For meat, 100 grams is the monthly norm. One kilo of meat of the black market costs about two weeks' wages.

Brezhnev promised Le Duan to increase Soviet economic support as well as military aid to Vietnam. Within the next five years the Russians will support 40 more industrial projects and will intensify oil exploration. The leaders may also have talked about a new means by which the Vietnamese government is planning to offset its massive debts to the Soviet block: the provision of large numbers of Vietnamese "guest workers".

Estimates of numbers vary, but authoritative east European sources say that up to 500,000 Vietnamese may work in eastern Europe between 1981 and 1985. Most are destined for the Soviet Union, where they will live in segregated communities with little contact with the local population. This scheme, quite separate from the training of party cadres, was hatched at the 34th session of the Communist world's trade grouping Comecon in Prague last year. The Vietnamese workers are due to receive 40 percent of their wages in local currency and the remaining 60 percent would be credited against Vietnam's trading debts with the Comecon countries.

Since the Vietnamese cannot afford to send skilled labour or technicians, the "guest workers" are unskilled labourers who are expected to work in remote development projects in Siberia and elsewhere. According to official Soviet statements, there were around 2m unfilled job vacancies in the Soviet Union last November and Brezhnev has said that up to 400,000 additional workers will be needed in the next few years to develop new oil and gas fields in western Siberia.

This is the background for the Soviet and Vietnamese decision in July to sign an agreement "on the movement of citizens of Vietnam and the Soviet Union between the two countries". Scheduled air services from Hanoi to Prague began in June. A regular service from Hanoi to Sofia will start in October. Since some 15,000 Vietnamese are expected to travel to Bulgaria for periods of between three and five years from 1981 to 1985, the new air service can expect to be busy. There are already regular flights between Hanoi and Moscow.

The Comecon countries have struck a hard bargain but the Vietnamese had little choice. Indentured labour will help to offset the country's debts and reduce unemployment, which the chairman of the state planning commission, Nguyen Lam, admitted in February was around 1m. The total external debt, according to previously unpublished Vietnamese government figures, is now $3 billion of which some $1.4 billion is in convertible currencies and $1.6 billion is in non-convertible currencies like roubles. Debt servicing cost $25m in 1976 and has grown to about $240m this year. In 1980, debt servicing amounted to 57 percent of Vietnamese exports.

The Soviet Union pumps the equivalent of $6m a day into Vietnam's economy but it is tied to the provision of Soviet goods and services. Soviet wool arrives in Hanoi for the manufacture of carpets which are exported back to the Soviet Union. Russian influence over the Vietnamese economy is growing steadily.

PRISONERS SENTENCED TO HARD LABOR FORCED TO CONSTRUCT SIBERIAN NATURAL GAS PIPELINE

We have received reports from various locations in the Soviet Union that more and more prisoners sentenced to hard labor are being used to construct the Siberian natural gas pipeline. The number of prisoners actually working on the pipeline is estimated at 100,000. Of this number, at least 10,000 are actually sentenced to hard labor because of their political stance, religious beliefs, or actual criminal offenses. The remainder is comprised of prisoners in various other categories as well as persons who have been exiled. Included among this number are women and children.

A number of well known political prisoners have likewise been forced into laboring on the Siberian pipeline. Among these are Semjon Glusman, a psychiatrist accused of misusing his psychiatric practice for political purposes, the Ukranian writer Sinovi Krassivski, the Lithuanian architect and civil rights activist Julius Sasnauskas, the Soviet German civil rights activist Yuri Grimm, and the Baptist ministers Vladmir Marmus and Alexander Ussatjuk.

During the past two years, many more hard labor camps have been set up along the route of the Siberian pipeline. In Ustj-Ischim alone 8 such camps exist. Other camps are located in Urengoi, Surgut, Tavda, Tjumen, Irbit and Lysva.

Prisoners are housed neither in houses or barracks but in scanty wagons which offer no protection from the elements, with winter temperatures reaching lows of −30–−40C.

Those workers sentenced to exile are also minimally provided for. The few shops in the exiled worker colonies are almost always empty. The only shipments which the workers receive are packages of food supplies which are sent by relatives in other parts of the Soviet Union. Vitamin deficiencies cause dental disease and other severe health problems.

Since almost no heavy construction equipment has been provided for construction of the pipeline, workers are forced to perform most of the heavy manual labor. Work related injuries are daily occurrences. Women who work with the asbestos and fiberglass which cover the pipeline suffer severe blistering of their hands, as they are only issued worker's gloves twice a year. In the hard labor camps where prisoners also work with the asbestos, eczema is common. Prisoners who work regularly with fiberglass suffer an unusually high rate of lung collapse.

Those companies which are supplying materials for the construction of the pipeline are also making use of the labor of prisoners and exiles. Some psychiatric prisons are using their "patients" in the production of working clothes and gloves.

The prisoners, who live in camps surrounded by barbed wire, are transported daily to the construction sights under the watch of guard dogs.

After the initial construction work, such as the movement of the earth and other preliminary work, is completed, volunteer workers are brought in to continue construction of the pipeline. These workers include Comsomol-brigades. Also at this stage of construction, Western journalists are allowed to view the progress for the first time and report what they see.

The engineers who have been brought in from West Germany are cut off from all contact with the workers. In Borovski, for example, the skilled West German workers are housed in a hotel and are under the constant watch of the KGB.

A PROMINENT POLITICAL PRISONER REPORTS

When I first arrived at the construction sight, the other workers said to me: "You are one of those which the West is making so much alarm about. You have the chance one day to live in the West, but we must stay here forever. Life is good in West Germany. The unemployed there live better than our engineers here in the USSR. We see this with our own eyes in the skilled workers here from West Germany."●

ADMINISTRATION SHOULD SUPPORT H.R. 5540

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. MARKEY. Mr. Speaker, one of the long-neglected aspects of our Nation's defense posture has been its base—that is, its defense industrial base. This is the foundation upon which the credibility of our defense ultimately stands. But I think, as all Members realize, that the foundation is weak. Simply put, our defense industrial base is in trouble.

Our plants are aging. Our skilled workers in key defense industries are retiring and there are too few people to replace them. More and more, the United States is becoming dependent on foreign countries for strategic and critical materials.

None of us want to see unilateral disarmament by the United States. But if we do not do something about our weak defense industrial base, that is indeed what we might face. We might face unilateral disarmament because there will simply be no workers and no factories to build the arms.

That is why I support H.R. 5540, the Defense Industrial Base Revitalization Act.

Mr. Speaker, this bill offers a sound pragmatic program to modernize and strengthen our defense industrial base. It would provide more jobs in skills that are critical to our national defense. It would reduce our dependence on foreign sources for critical materials.

And most important, from my perspective, H.R. 5540 would lower the cost of defense. By improving productivity, by making key defense materials and equipment more available, and by helping more businesses participate in defense-industrial activities, we will be increasing competition in this sector of the economy.

And, as we all know, increased competition means lower prices.

I have been astounded by the Reagan administration's opposition to this very important measure. This administration wants to launch a massive military buildup. Yet it appears to have given little thought to who is going to build these arms. Tanks and planes do not grow on trees. Unskilled, unemployed workers cannot be turned into weapons manufacturers overnight.

This bill will provide financial assistance through loans, loan guarantees, and purchase agreements to small- and medium-sized businesses that manufacture or supply defense materials.

It will provide grants to States for training workers in skills necessary for defense. It will provide grants to colleges and universities to train students who will be needed in priority industries.

As any military leader will agree, the next war will be a come-as-you-are war. There will not be time to retrain our workers or upgrade our factories.

H.R. 5540 offers an important first step in insuring that our defense industrial base remains strong and our Nation remains secure.●

THE 600TH ANNIVERSARY OF OUR LADY OF CZESTOCHOWA

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GUARINI. Mr. Speaker, on August 26, 1982, the 600th anniversary of the arrival of the renowned image of Our Lady of Czestochowa in Poland will be solemnly observed.

The sacred icon of the Black Madonna has been enshrined at the fortress monastery of Jasna Gora, Czestochowa, Poland, in the custody of the Pauline Fathers since 1382.

Legend has it that the Black Madonna was painted by St. Luke the Evangelist on the top of a table built by St. Joseph for use in the Holy Family's Nazareth home. It remained there until Our Lady's Assumption, then was taken by St. Luke to St. John's home at Ephesus. In the fourth century, while searching in that region for relics of the Holy Family and the apostles, St. Helena came upon the painting. Her son, the Emperor Constantine, erected a church for it at Constantinople, where it remained until the ninth century.

According to Most Rev. Frank J. Rodimer, bishop of Paterson,

The picture is one of the oldest of the Blessed Virgin in the world. It portrays the Holy Mother pensive in sufferings, with deep sorrow reflected in Her eyes and clouded brow. On the face of Our Lady are two distinctive scars, made by the sword of a Hussite soldier in 1430.

The present precious crown on the icon is a gift of St. Pius X. The coronation took place in 1910 in the presence of a half million people.

Jasna Gora is unique in history, since it was the scene of signing vows between human beings and their Queen to live an in-

dividual, family and national life in conformity with the laws of God.

The sacred icon at Jasna Gora is held in the highest esteem by Roman Catholics and others, along with the shrines at Lourdes, Fatima, Guadalupe, Knock, and La Salette.

What is this magic power, this unique charm of the Black Madonna, the Queen of Poland, that has endured for centuries? Polish writers, poets, composers, and artists have enriched the world's culture with their melodious praises and creations of the Mother of Jesus. Every Polish emigrant departing his native land carried with him a medallion or a picture of "nasza Pani—our Lady," as a sacred memento of his dedication. Even today, throughout the world, rare is the Polish home without a painting of a symbol of Czestochowa's Madonna.

According to the Marian Helpers Bulletin of Stockbridge, Mass., Rev. Walter F. Pelczynski, M.I.C., editor, "The shrine (which persons who had been favored through recourse to Our Lady had decorated with precious metals and jewels), suffered the first of many acts of banditry" during the years.

The robbers had looted the shrine and were rushing from the town when their horses stopped short and could not be prodded into continuing the escape. One of the thieves, sure that the theft of the painting accounted for the animals' obstinacy, hurled it from the cart (a spring, over which a chapel has been built, is said to have erupted at the spot where it struck the ground). It split, and another of the robbers, angered because it had slowed their escape, marred it with his sword. He was struck dead; his frightened companions fled, and the townspeople returned the damaged painting to its shrine. The sword-inflicted scars can still be seen in the Virgin's face; since then no combination of paints has successfully covered them.

Through the centuries, the Blessed Virgin has continued to exhibit love for the Polish people, for whom Our Lady of Czestochowa (venerated since 1656 as the "Queen of Poland") is the symbol of national survival.

And Our Lady has manifested her love for the Poles in more modern times.

In 1920, for instance, on the feast of Our Lady of Sorrows, Russian forces were gathered at the Vistula River, awaiting a signal to invade Warsaw. As they were accustomed to do in times of trouble, the Polish people prayed to Our Lady of Czestochowa. Her image appeared over the city. The Russians retreated, and Warsaw was spared.

We are told of Polish soldiers who, during World War II, escaped to England, where they joined the Allied Army. One of them, having been told of the shrine of Our Lady of Walsingham, organized the Polish exiles into a group. Carrying a banner of the Black Madonna, which they had smuggled from their homeland, they made a pilgrimage to that English shrine, where they vowed to fight oppression until their land was fully free, and to protect their national shrine against any attack.

On Assumption Day, 1948, despite Communist attempts to play down the role of religion in the national life of Poland, more than 800,000 people went in a group to Jasna Gora. Although Red soldiers and police patrolled the streets of Czestochowa, they were powerless to stop the beautifully defiant demonstration of faith.

Visitors to Jasna Gora see the Black Madonna (three and one-half by five feet) exhibited above an ebony, silver, and gold altar. Pilgrims arrive early, often before dawn, to be present at the six o'clock drawing aside of the curtain, which, at night, covers the painting. A trumpet flourish announces that Our Lady of Czestochowa has been revealed to her faithful and loving children for another day.

Pope John Paul II, in his multilanguage addresses to the world following his elevation as head of our church in 1979, was tremulous as he spoke of the inspired Polish bards who sang praises in honor of the mother of God: "She who reigns at Jasna Gora and guards the Pointed Gate in Wilno." The Pope's simple words, powerful yet poignant, drew tears from millions of Poles and Slavics all over the world as they observed the historic events in St. Peter's Square.

Just last Sunday, August 15, while celebrating the feast of the Assumption at his summer home, Castel Gondolfo, Italy, Pope John sent a special Polish language greeting to the "120,000 pilgrims going on foot to the shrine of the monastery of Jasna Gora (Hill of Light) overlooking Czestochowa, Poland."

No doubt his heartfelt thoughts were with 300,000 pilgrims visiting his native Poland which he was scheduled to visit this year, but had to postpone because of a disagreement with government authorities.

I recall on January 18 of this year, when I visited with Pope John Paul II, his expression for the people of Poland, who must be protected by the Black Madonna, the Queen of Poland.

Religious leaders of the predominantly Polish parishes in my district are joined to celebrate this 600th anniversary with special Masses. The church leaders include: Our Lady of Czestochowa Church, Jersey City, Rev. Walter Niedzwiecki, pastor, Rev. Francis Knutowicz, assistant pastor, and Rev. Joseph Gajda, assistant pastor;

St. Ann's Polish R.C. Church, Jersey City, Rev. Stanley Urbanik, pastor, Rev. Rudolph Zubik, assistant pastor, and Rev. Leonard A. Miodowski, assistant pastor;

St. Anthony's R.C. Church, Rev. Marion Walichowski, pastor, and Rev. Edward Gubernat, assistant pastor;

Our Lady of Mt. Carmel Church, Bayonne, Rev. Thaddeus Zaorski, pastor, Rev. Eugene Kasper, Rev. Eugene Diurczak and Rev. Richard Kwiatkowski, assistant pastors;

Sacred Heart R.C. Church, North Bergen, Rev. John A. Ryzner, pastor, Rev. Anthony Berchmanz, assistant pastor;

Our Lady of Czestochowa R.C. Church, Harrison, Rev. Sigismund Zajkowski, Ph. D., Pastor Emeritus, Rev. John S. Olszewski, pastor, and Rev. Joseph Weligala, assistant pastor.

In my correspondence with Lech Walesa, the imprisoned Polish Solidarity leader, who is now in his ninth month of detention by military rule in Poland, there is an expression for international prayer to Our Lady of Czestochowa, "The cause of peace, justice, and freedom for freedom of all the people," not only in Poland but also in other countries.

This expression was contained in a letter, dated October 7, 1981, from Lech Walesa, chairman of NSZZ "Solidarnosn", mailed from Gdansk.

Polish community leaders, including Col. Anthony K. Podbielski, historian, Polish American Heritage Festival Committee, and William Kowalski, both of Bayonne, plus Bayonne City Councilman Richard Rutkowski, and Jersey City Councilman Harold P. Zielaznicki, have asked me to have my colleagues here in the Congress join in this 600th anniversary celebration to Our Lady of Czestochowa, the outstanding example of Polish faith, devotion, and dedication.●

SOVIET GAS PIPELINE SHOWDOWN

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BONKER. Mr. Speaker, I am introducing in the RECORD today a thoughtful editorial from the Christian Science Monitor, which calls on the President to end the confrontation with our allies over the Soviet gas pipeline.

In this context, I want to bring to the attention of my colleagues, H.R. 6838, sponsored by myself and my distinguished colleague from Illinois, PAUL FINDLEY.

H.R. 6838—which last week was approved by the full House Foreign Affairs Committee by a vote of 22 to 12—would lift the unilateral U.S. export controls imposed last December 30 on oil and gas equipment and technical data destined for the Soviet Union. The legislation also ends the extraterritorial sanctions the United States imposed on June 22, 1982, on American subsidiaries overseas and U.S.-licensed data related to oil and gas equipment. The bill ends the broad sanctions, but does not prevent the President from blocking individual exports to the Soviets on the grounds of national security.

Unilateral export controls on goods which are widely available from other nations have no impact on Soviet behavior. They merely send U.S. business and jobs overseas. The United States should not rely on the crutch of

unilateral export sanctions to demonstrate that it is reacting to events in Poland but should devise more effective strategies for influencing global events.

American companies and workers should not be punished by misguided foreign policy efforts. The answer to influencing Soviet behavior in Poland is a multilateral allied effort. Yet these sanctions have created deep division within the Atlantic alliance; they were imposed without consulting our allies and will make it difficult to obtain European agreement on effective ways to influence Soviet behavior in Poland and elsewhere.

Some $1.2 billion in immediate U.S. contracts and billions of dollars in follow-on contracts have been lost to overseas competitors such as Komatsu of Japan. Thousands of American workers have lost their jobs.

We should not impose sanctions on U.S. goods while Japanese and European sales of the very same goods to the U.S.S.R. remain unfettered. President Reagan lifted the grain embargo because he said it was creating the image of the United States as an unreliable trading partner. The same applies to these pipeline sanctions.

I would urge my colleagues to vote for H.R. 6838 when it reaches the House floor. The reasons for ending these sanctions are spelled out quite convincingly in the following Christian Science Monitor editorial.

THE PIPELINE SHOWDOWN

It does not cheer anyone but the Russians that the Western alliance is in such turmoil. Indeed the front-page news that the European Economic Community has officially protested the American ban on sales of pipeline equipment to the Soviet Union as "unacceptable interference" evokes sadness. Allies are not expected to march in step at every twist and turn, but when a falling out reaches the point of formal protest notes it concerns all who value allied cooperation as a strong bulwark against Sovietism. President Reagan will want to find a way out of the uncomfortable position in which the United States now finds itself.

As he takes up the EC protest, a number of questions need to be addressed:

Will the U.S. sanctions delay the natural gas pipeline as hoped? The Europeans assert it is "unlikely" construction will be materially delayed. So the U.S., if it persists in its ban, would be making a cause célère of something that is bound to occur anyway.

Is the ban legal? The administration claims that it is, but the EC says it violates international law and possibly some "rules and principles" of U.S. law. Only international lawyers can argue out this complex subject but, even if the U.S. decides it has a solid legal case, it will have to ask whether pursuing the ban is worth the political cost.

What will the U.S. sanctions do to the credibility of American business? One worrisome fallout of the ban is that West European firms are questioning the reliability of deals with U.S. firms when political considerations are permitted to intrude so strongly.

Will Siberian gas create a dangerous West European dependency on the Soviet Union? The issue is not minor. But the EC argues that, even when flowing at the maximum rate in 1990, it will account for less than 4 percent of the EC's total consumption of energy from all sources.

Will the U.S. ban appreciably hurt the Soviet economy? The West Europeans contend it will only spur the Soviets to accelerate development of their own technology, a view for which there is an historical precedent. In the mid-'60's, when the U.S. successfully blocked West German sales of wide-diameter pipe to the Soviet Union following the Cuban missile crisis, the Russians proceeded to develop their own—and even larger—pipe.

Most important of all, will the pipeline sanctions really affect the situation in Poland? This is Mr. Reagan's principal argument, yet it is a weak one. It is naive to think that the Soviet leadership will let Western economic arm-twisting dictate its policy in Poland, where it has overriding strategic and political interests. Martial law will be lifted only when the Polish military leaders and their Soviet patrons feel the communist system is no longer threatened.

There can be no benefit in a U.S.-European showdown. If the administration persists in its course, it may find future American exhortations being ignored when they concern matters of far more strategic importance. It will not be easy politically for Mr. Reagan to reverse course and cancel the pipeline ban, but the fact that the Polish authorities have eased some martial law restrictions provides him an out.

For the sake of allied harmony, the U.S. must end the pipeline confrontation—and then proceed with its partners to work out new and stronger guidelines for East-West trade. The pipeline controversy is not the cause of disunity in the alliance but only a symptom of it. The need is to get quickly to the larger question of the rules by which the West conducts business with the Soviet Union.●

SOVIET SLAVE LABOR HELPS BUILD PIPELINE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROOMFIELD. Mr. Speaker, the wisdom of President Reagan's opposition to the Soviet Union's European gas pipeline is clearer each day.

The President's ban on the use of American technology and equipment for pipeline construction was conceived as a protest against Soviet repression and human rights violations in Poland.

Now, ironically, it turns out the building of the pipeline itself has spawned an entirely new human rights tragedy of major proportions.

Day-by-day reports are filtering out of the Soviet Union confirming the use of thousands of political prisoners to construct the 3,600-mile pipeline under slave-labor conditions.

The International Society for Human Rights estimates as many as 100,000 prisoners, including political, civil rights, and religious dissidents, are being used as Gulag forced labor.

Other estimates predict that as many as 500,000 Vietnamese and others in 2,000 slave-labor camps across the Soviet Union will be pressed into the pipeline work force.

So serious are the charges, Mr. Speaker, that responsible members of the French and German Governments have called for an investigation by impartial, independent international organizations.

Yet I am amazed, Mr. Speaker, that anyone is surprised by these charges.

As the West German news magazine, Der Spiegel, commented, Soviet industry has been built "on the bones of millions of forced laborers."

What is surprising is that so many are able to turn a blind eye to these massive human rights atrocities to accommodate their own parochial economic interests.

Mr. Speaker, the President is right in his decision to ban U.S. participation in the pipeline project, and he deserves our support.

The Soviet record of repression in Poland, in Afghanistan, and of its own political and religious dissidents demands that we do no less.●

HONORING JOHN M. ASHBROOK

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SMITH of New Jersey. Mr. Speaker, the memory of John Ashbrook—his spirit and his love for life—continues to inspire those who have known him.

By his fellow Members of Congress, John has been remembered as a great patriot who never gave up his deep belief in old-fashioned American values. To those in the prolife movement, John is remembered as a champion of human rights—a dedicated spokesman for the innocent victims of abortion on demand.

In recognition of his strong devotion to respect for human life, the Board of Directors of the National Right to Life Committee, Inc., passed a resolution honoring John Ashbrook last month. The resolution also passed during the July 17 general session of the National Right to Life Convention in Cherry Hill, N.J.

On behalf of the millions of Americans who feel so strongly for this brave man and his family, I am submitting this resolution into the CONGRESSIONAL RECORD. We know that John rests in peace with the Lord. He will not be forgotten by the Members of this body, or by those who have long admired his service to our Nation.

NATIONAL RIGHT TO LIFE COMMITTEE, INC., IN CONVENTION—JULY 17, 1982

RESOLUTION

Whereas John Ashbrook has served with great distinction in the United States Congress for 18 years; and

Whereas his term of office was marked by high moral caliber and devotion to pro-life and pro-family efforts; and

Whereas he was prime sponsor of a major pro-life amendment to the Constitution as well as being co-sponsor to numerous other pro-life measures; and

Whereas in sorrow, we note that in the prime of his career, he was taken from this life, now, therefore be it

Resolved, that we the National Right to Life Committee wish to honor his memory, express our condolences to Mrs. Jean Ashbrook and his children, and note that he will be remembered in the pro-life movement as one of its authentic heroes.●

SOMALIA: AN ALLY IN NEED OF HELP

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. McDONALD. Mr. Speaker, the recent attacks upon our ally, Somalia, from Ethiopia, a Soviet surrogate, have refocused attention on the Horn of Africa, an area of vital concern to continued Western security. Ambassador Marion Smoak, former Chief of Protocol during the Nixon administration, has written an excellent analysis of the situation and on America's lack of commitment to its ally. Entitled "Correcting Mistakes in the Horn of Africa" and appearing in the August 16, 1982, Christian Science Monitor, Ambassador Smoak notes that "Somalia and tiny Djibouti are the only remaining pieces of territory on the Horn of Africa not in Communist hands and that, from Somalia, control of the Gulf of Aden and the Red Sea is easy." I strongly commend Ambassador Smoak's article to my colleagues.

The article follows:

[From the Christian Science Monitor, Aug. 16, 1982]

CORRECTING MISTAKES IN THE HORN OF AFRICA

(By Marion H. Smoak)

The recent incursions by military forces from Ethiopia into the territory of Somalia on the Horn of Africa have again focused attention on that area.

Predictable reaction and some posturing by those perceiving an interest in the area were immediate: Moscow announced its support of the invasions and warned the United States not to interfere. Ethiopia claimed that it had nothing to do with attacks although they were launched from its territory (40,000 troops, according to the Somali government, with tanks and aircraft). Kenya voiced concern for the breach of peace in the area, and the US responded with shipments of jeeps and small arms that had been promised to the Somalis two years before.

From those quarters in the US that usually oppose any action designed to help friendly nations in trouble as a result of communist aggression, there were protests that by all means we should avoid any move helpful to Somalia.

Rep. Howard Wolpe, chairman of the Subcommittee on Africa of the House of Representatives, obtained the signature of the senior Republican on the committee, Rep. William F. Goodling, and fired off a letter to Secretary of State Shultz, which asked exactly what the State Department always pursues as a matter of course: a diplomatic solution.

The arguments from these writers have a familiar ring:

America's real interest should be expressed in "human rights, economic development," and any other approach indicates "the lack of any real policy toward" the Horn.

The present government in Somalia is weak anyway and if outside forces overthrow it, then it is only getting what it deserves.

Only "cronies of President Barre" are appointed to government positions where they practice "corrupt and inefficient administration," justifying military action to overthrow them.

If Somali bases are important to the US, "elementary wisdom" dictates that we should hasten the overthrow of the friendly government and let someone else (Russians and Cubans) install one of their choosing which we can always "do business with" anyway.

The attacking forces are not Ethiopian, or Cuban, nor are they receiving help from the Russians, they are just Somali insurgents trying to overthrow a rotten government that keeps the people under the iron thumb of oppression, all of this with weapons they "obtained themselves."

How often have we heard these arguments where communist aggression is in open conflict with an existing regime? Cuba, Angola, Nicaragua, Afghanistan, Namibia, Ethiopia all come to mind. It would seem that these tired accusations would have long ago lost their claim to any credibility.

One doesn't need to know very much about the history and geography of Somalia to understand what is going on and what the US should be doing. It is only necessary to remember that Somalia and tiny Djiubouti are the only remaining pieces of territory on the Horn of Africa not in communist hands and that, from Somalia, control of the Gulf of Aden and the Red Sea is easy.

Beyond that, it should be known that Somalia threw out its former allies, the Russians, with only 48 hours notice and turned to the West for help. The Somalis are friends who have nowhere else to go, and they are pleading with the U.S. to make some tangible show of support. That we should help appears obvious and so does the indication that the recent probes into Somali territory were conducted for the precise purpose of testing the will of the Reagan administration.

US strategic interest in this territory is enormous and it is begging for us to pick it up at fantastically little cost.

The Somalis are courageous and determined fighters. In the war over the Ogaden region they gave excellent account of themselves and probably would have defeated Ethiopia, which is several times larger, except for the introduction of Cuban and East German soldiers. Russian officers to train and command, and $3.5 billion in military aid.

The Somalis maintain that they can take care of themselves and that they will also protect US installations as well as the US interest. They only ask a reasonable amount of modern weapons with which to defend themselves.

Will we respond?

We will never have a better opportunity to blunt the world communist movement under circumstances where vital interests are at stake.

It is time that our policymakers begin following the direction of the President that US national interest must come first. We must stop making feeble excuses for the failure to deliver on agreements for arms (as we did in this case) and, further, we must put into the Somalis' hands weapons adequate to the task ahead. Red herrings from some members of the Congress and those of a defeatest belief must be recognized for what they are.

No territory has been dragged behind the iron curtain thus far in this administration. Somalia must not be the first.●

SOVIET ANTISEMITISM

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, the effects of Soviet antisemitism have been well chronicled in the pages of this journal. With some luck, the authors of this documentation will be instrumental in prompting the Soviet Union to relax the stifling campaign of personal repression that it has waged.

With that in mind, I would like to draw attention to the plight of Naum and Lea Prestina-Akkerman, a refusenik couple that since 1978 has repeatedly been denied permission to emigrate from the U.S.S.R. to Israel. Their requests to leave have been denied on the basis of Naum's alleged access to secret information during his years of employment as a physicist, but Naum and Lea have not given up hope of one day being allowed to leave the Soviet Union in order to openly and freely celebrate their Jewish faith and to enjoy the isurance of the basic human rights protection that the U.S.S.R. denies them.

As Dr. William Korey, quoting from a U.N. study on the significance of emigration rights has observed,

> Deprivation of the right (of emigration) for racial, ethnic, or religious minorities . . . can have cataclysmic psychiatric consequences. . . .

It is my hope, particularly given the drop in June's emigration level, that Soviet officials will both relax their emigration restrictions in general and their prohibition on the Akkerman's exit in specific.●

MORE DIRTY AIR IN OUR FUTURE?

HON. GEORGE E. BROWN, JR.
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROWN of California. Mr. Speaker, last night the Energy and Commerce Committee completed consideration of the automobile emissions standards provisions of the Clean Air Act. I am distressed to say that although automobile manufacturers are already meeting the current standards, a majority of the committee, chaired by our colleague from Michigan Mr. DINGELL, saw fit to relax these standards. This will have a devastating effect on air quality if it is approved by Congress when the bill is taken up for consideration pending final committee action. I am particularly distressed with this action since the district I represent suffers from severe air pollution. The Riverside-San Bernardino area which I represent was cited in the most recent Council on Environmental Quality yearly report as one of the top three air polluted regions in the country.

On a related front, an amendment will be offered to the Environmental Protection Agency's (EPA) appropriations bill when it is considered by the House, prohibiting EPA from enforcing implementation of the inspection and maintenance (I. & M.) provisions of the Clean Air Act. I. & M. has been shown to work in reducing pollution from cars, a major source of pollution in my area. I. & M. repairs that might be required have generally cost between $18 and $30 and have been shown to result in greater fuel efficiency.

Mr. Speaker, these two actions pose a significant threat to the progress we have already made in achieving cleaner air and certainly leave in doubt any progress we might make. I would like to insert for the RECORD an article from California Business on the subject which I commend to all my colleagues whether they are from California or not.

The article follows:

[From the California Business, August 1982]

CLEANING UP THE AIR: HOW MUCH MORE WILL IT COST US?

(By Marty Olmstead)

If you're concerned about the quality of the air you breathe, avoid downtown San Jose on Friday nights in September. In recent years, that's been the time, and the place, where some of the highest concentrations of carbon monoxide and ozone have been measured in the Bay Area. In Southern California, the place not to be is Riverside.

Although the quality of California's air seems to be improving in general, the worst pollution is not necessarily found at the source but frequently in areas like San Jose and Riverside where weather and topography combine to aggravate airborne pollutants.

The good news is that many air experts express cautious optimism about the future.

The majority of the state's pollution is caused by motor vehicles and industrial sources, each accounting for nearly 50 percent of the total pollutant mix. Viewed another way, more than 90 percent of California's current air pollution problems are associated in one way or another with the use of oil. Fuels refined from oil produce hydrocarbon, carbon monoxide, oxides of nitrogen, sulfur dioxide and particulate matter when they are burned in motor vehicles electric power plants and industrial facilities. These same pollutants are produced during the refining of the oil. The hydrocarbon evaporation from gasoline can also be added to the list. California currently has ambient air quality standards for: ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, suspended particulate matter, sulfates, lead, hydrogen sulfide, hydrocarbons, vinyl chloride, ethylene and visibility-reducing particles.

Clearly, the state's pollution is not caused by one major source but by a combination of many small sources, making the problem harder to solve. The solution lies in technology, better land use planning, changes in societal attitudes and behavior, and the proper enforcement of regulations already on the books. In some instances, such as diesel emissions, the appropriate technology to deal with the problem is not yet available. By and large, the remainder of the cleanup job will become increasingly expensive for each increment of pollution that is removed from the air. Naturally, efforts to reduce pollution were first aimed at sources and materials where the smallest investment netted the largest gains. Now the state must get down to brass tacks—or tactics.

The responsibility for getting our air clean and keeping it that way is spread among a network of federal, state and local agencies. By extension, industries, automobiles, gas stations, public transportation systems—and, to a smaller extent, each Californian—also play a part.

Headquartered in San Francisco and headed by a 39-year-old lawyer named Sonia F. Crow, the Region 9 office of the federal Environmental Protection Agency (EPA) oversees air and water quality in California, Arizona, Nevada, Hawaii and the Pacific Territories. EPA has the authority to issue or deny permits to businesses and industries on the basis of their pollutant potential. The agency also conducts research and acts as a watchdog over polluters.

On the state level, the Air Resources Board (ARB) in Sacramento was created by the Legislature to control air pollutant emissions and to improve air quality throughout the state. The board bears the primary responsibility to control pollutants from motor vehicles and oversees the activities of local air pollution control districts, which are primarily responsible for controlling emissions from all non-vehicular sources. There are 46 such districts in the state.

All these groups are working to meet the standards of the Clean Air Act by 1987, a five-year deadline extension that gives several districts time to clean up their act. Notable exceptions will include Los Angeles and Lake Tahoe (in at least one pollutant category). Normally these two areas are rarely mentioned in the same breath in terms of pollution, but they share common problems such as a bowl shape that traps air and the pollutants in it. Bounded by mountains on three sides and pushed by ocean breezes, the Los Angeles air mass is trapped and thus exposed to sunlight much longer than normally. Sunlight causes chemical changes, and it is those changes that really produce most pollution.

Like many other areas of the state, the Los Angeles basin also commonly suffers from temperature inversions that warm the air as it rises (whereas in most places the ground air cools as it goes up). This, too, stagnates the air and leads to chemical interractions between polluting substances, resulting in "photochemical oxidants"—what we call smog.

Tahoe has more stringent carbon monoxide standards than any other California region. "The attitude and the bowl shape of the basin aggravate environmental problems," explains Bill Sessa of the ARB. "The casinos attract auto traffic, leading to an oxidant buildup that develops a haze which cuts down on visibility, one of the major features of the area."

Air quality standards elsewhere are based on the presumption that adverse health effects are created at a certain level of pollution from various sources. (Pollution also hurts crops; it is said to cost the state $1 billion annually in agricultural losses.) The Clean Air Act requires states to meet its standards or at least to take reasonable measures to meet the 1987 deadline.

Already, California's failure to pass legislation requiring periodic vehicle inspection has resulted in severe federal sanctions, including a withholding of federal funds for highway construction and sewage treatment facilities. Until such a law is passed here, the state bears another burden: No new major industrial sources of pollution can be constructed in any district until the standards for the district are met.

Like so many laws, this sanction has loopholes and exceptions. A company wishing to modify or expand existing facilities within the state may do so by "offsetting"—making certain, by reducing air pollution in other parts of the plant or by closing outmoded facilities, that there is a net reduction in pollutants emitted. For instance, the Chevron USA refinery in Richmond received authorization in April from the Bay Area AQMD to construct a new $613 million lubricating oil plant. An existing plant at the complex will be shut down when the new plant goes into operation sometime in 1984. Required to apply the best available pollution control technology to the project, Chevron claims there will be a net decrease in air pollutants.

Other exceptions include funds for highway construction—such as the Hoffmann Freeway in the East Bay and the Century Freeway in Los Angeles—that result in air quality benefits, mass transit gains or an improvement in highway safety.

Research by EPA indicates that these sanctions have cost the state some $1.6 billion in new construction and lost funds since they went into effect two years ago.

The California Council for Environmental and Economic Balance (CEEB), a trade organization that lobbies on behalf of industry and labor, isn't too happy with either the sanctions themselves or the doggedness with which they are imposed at the state level.

"Things are relatively better than they've been in the past," concedes CEEB Vice President Peter Fearey. "That's partially a function of better relations between state

and local districts and industry. And it's partly a function of the fact that hardly anyone is trying to build anything. It's a serious problem in all areas of air pollution in the state that the state continues to insert itself and intervene in areas where it has no authority."

Fearey says that under state law it's the responsibility of the local AQMD to control stationary sources, and he argues that the ARB has intervened in industrial siting and in the regulation of oil from the outer continental shelf and of airborne toxic substances such as asbestos that are produced in the course of "modern living."

"The ARB is trying to peddle a sweetness-and-love theme, saying that everything's hunky-dory, but it's not," he says. "The state will continue to press for their version of what is reasonable air quality management in California, which we think is unreasonable. It varies from specific to specific. In some cases, it costs industry more money. In others, industry is prevented from locating or expanding."

As for the expense of exceeding violation limits, EPA, ARB or local districts have the responsibility of notifying the source of its violation and possibly following up with a fine or with legal proceedings. Rarely if ever is a facility completely shut down.

Last year, Pacific Refining, a large independent oil company in Contra Costa County, agreed to a $100,000 penalty for selling gasoline that exceeded state standards on vapor pressure. And in May of this year, Chevron USA's oil refinery at Point Richmond was fined a $1,000 nuisance violation (a typical fine) and was liable for additional $1,000 fines for violating emission limits for hydrogen sulfide gas and sulfur dioxide gas.

In the opinion of Sonia Crow, however, such excesses and fines are "exceedingly rare" with major industries.

"They have no interest in being viewed as major sources of pollution. They want to keep their public image in good shape. There is occasionally a major problem, but it's a business decision as to whether to invest money in putting control equipment on older plants or to shut down instead of spending millions.

"We have no problem enforcing the law. No one's under the illusion we're looking the other way. We're not.

"This [the Reagan] administration does not have the built-in assumption that business is greedy. We think business is capable of acting responsibly. There is now more room for discussion, communication and negotiation. That's the appropriate method for government in dealing with the regulatory community. We assume good intentions, but if bad intentions are shown . . . Look out!"

As for the ARB, "We hear few charges now about how environmental regulations are stifling business," says Bill Sessa. "We have found a lot of ways of tailoring our obligation to clean up the air with industry's goal of productivity. As long as they come up with the amount of pollution reductions they agree to, we don't care how they do it."

The EPA has followed California's lead in at least one policy designed to give industries a voice in how they handle their overall pollution emissions, by offering the option of offsetting.

In addition, through an emissions trading policy, a company that has reduced emissions below required levels can "bank" these credits. The credits can be set aside for future use or sold at whatever market value is appropriate.

Since, as Sessa points out, most of the easy gains have been made in cleaning up pollution, industry may have some steep bills before long. EPA studies indicate that the cost of additional industrial controls will range from $500 to $20,000 a ton, with most costing from $5,000 to $10,000 a ton. Compared to vehicle inspection programs that cost $2,400 to $3,200 per ton of hydrocarbon emissions removed, these controls do look expensive.

A statewide mandatory vehicle inspection program would not only help clean the air but should result in an easing of the sanctions. Currently, such inspections are conducted only when a car changes hands. (Most states have such laws, though a few have not yet implemented them.) Local governments tend to favor such a bill, but it is still a long way from passage, let alone implementation. Sonia Crow refuses to admit a bias but does say her agency's research shows that a checkup every two years would attain 80 percent of the results of an annual inspection, if carried out under strict guidelines.

While diesel-powered automobiles use less fuel than gasoline-powered cars, they emit 50 to 100 times more particulates, primarily carbon soot, and produce even more nitrogen oxides. With diesels on the increase, visibility could be correspondingly diminished.

So far, technology has not found a way to burn the pollutants trapped in diesel emission-control mechanisms, but it is hoped the problem will be solved in time for the 1986 or 1987 model year.

Meanwhile, California's use of leaded gasolines is on the decline, and new anti-smog nozzles required at service stations prevent tons of smogforming gasoline vapor from getting into the air.

On a regional level, the biggest problem in the South Coast AQMD (Los Angeles, Orange, Riverside and San Bernardino counties) is ozone. In fact, the chances of meeting the Clean Air Act deadline for ozone are, says Crow, "zero."

"Ozone is tough and elusive" to reduce, says Jim Birakos of the district office. "We're taking a very realistic approach. It will require changes in lifestyle and societal options to reach those standards even by the turn of the century." With nearly 11 million people, 6.5 million cars and the largest petrochemical operations in the world, the South Coast will be hard-pressed to clean up either ozone or carbon monoxide by the year 2000.

Birakos says the AQMD has "gotten rid of the big chucks" of pollutants but must rely on breakthroughs in terms of control strategies to improve the remaining problems.

The AQMD in San Diego has already attained some standards, such as those for nitrogen dioxide, and expects to attain standards for carbon monoxide sometime in 1983 or 1984. As for ozone, spokesman Rick Sommerville isn't sure the district will make the 1987 deadline. Still, he thinks it will be a close race in other categories, based on modeling programs that take into account the likelihood of high growth for the area.

Kern County is grappling with a major problem of nitrogen dioxide emitted by the steam generators used to get heavy crude oil out of the ground, says the ARB, but the local AQMD isn't keen on making predictions.

In the Bay Area, the air is better than it was 15 or 20 years ago, says Paul Brand of the Bay Area AQMD. "That surprises some people. Pollution peaked here in 1967," and now the BAAQMD is anxious to hold onto the gains it has made in the interim. The nine Bay Area counties collectively enjoyed better air in 1981 than they had in the previous two decades, thanks to emission controls and to favorable weather conditions in the fall and winter. Except for carbon monoxide and ozone, pollution levels of major contaminants were below Clean Air Act goals.

Still, the fact that much of the region's housing is being built farther from work sites could put more cars on the road, perhaps a 17 percent increase between 1979 and 1987, according to studies by the Metropolitan Transportation Committee and the Association of Bay Area Governments.

On the national level, efforts to revise the Clean Air Act have become so politicized that some Senate and House leaders say it's unlikely a bill will be passed this session. In March, a House subcommittee on health and environment chaired by Rep. Henry Waxman (D-Los Angeles) sent a bill to the full committee, a package posing a clear threat to the progress California has made in cleaning up the air. John Dingell (D-Michigan), chairman of the House Energy and Commerce Committee, advocates loosening the standards and delaying the deadlines written into the Clean Air Act. Such a measure would double the auto emission standards for carbon monoxide and nitrogen oxides, set the deadline for attainment back to 1993, remove the requirement for offsets for new construction in non-attainment areas, and would not require action on acid rain or toxic air pollution.

Organized labor is divided in its support for and opposition to the act. A bright spot is provided in a recent joint statement put out by six industrial unions, including the United Steelworkers of America:

"Claims that weakening the Clean Air Act is necessitated by the present economic situation and the need to promote job security are simply false. Pollution abatement and job security go hand in hand—environmental regulations have not been the primary cause of even one job shutdown. It is a fact that deteriorating and obsolete facilities, which are obsolete polluters, are vulnerable to economic collapse and plant closings."●

TRIBUTE TO PAUL HORVAT, OUTSTANDING CITIZEN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PORTER. Mr. Speaker, I would like to call to the attention of my distinguished colleagues the many contributions of an outstanding individual from my 10th District in Illinois, Mr. Paul Horvat. Among Mr. Horvat's many notable achievements has been his initiation of a self-help plan in the Chicago metropolitan area in which farmers come to sell their products directly to senior citizens and the needy, making a profit for themselves but allowing others to buy products at substantially less cost than they pay in conventional marketplace.

M. Horvat was born in 1898 in Slovenia, now a part of Yugoslavia. It was there, at an early age, that he first

became aware of drawbacks in the society in which he lived and began devising methods of improving it. His idea for the self-help program originated in his work experience on his father's farm in Slovenia. There he observed—to his dismay—that his family, though extremely hard working, never seemed to get anywhere.

This Horvat eventually attributed to the fact that, as long as the government was involved, market prices remained too low for any profit to be made. Mr. Horvat's realization led to the organization of his "Family Farmers' New Economic Rescue Plan," whereby farmers were able to derive a profit by bypassing the government to sell their products—at a low cost—directly to the poor.

From before World War I to the time of his exile by the Communist government after World War II, Mr. Horvat organized many different private enterprise, self-help organizations that proved effective in overcoming excessive governmental regulation and interference. He then came to the United States to begin a new life, settled in Wilmette, Ill., and along with his family opened a landscaping business. He showed that his concern for others had not stopped upon arriving in this country. Before long he was directing his energies toward the poor and hungry of the Chicago metropolitan area.

After watching a television program showing farmers in the Midwest protesting low farm prices by killing their livestock, burning their crops, and pouring out their milk, Mr. Horvat visited these farmers and explained to them his self-help plan.

His program's success has led to the establishment of a national self-help action center food program. Ten States are now organizing their own food programs based on the Horvat model and many farmers and consumers organizations are following the Horvat lead. As a result, many needy people all over the country are able to receive this low-cost institutional assistance.

As an indication of how successful this program has been, in 1981 alone, there were 3,857 food shows where farmers sold their products directly to the needy; 975,575 low-income families participated in these shows where they were able to save 70 percent or more.

Mr. Speaker, I am proud to bring to the attention of my colleagues this distinguished citizen and to commend his many contributions to our Nation. Mr. Horvat has demonstrated through his self-help plan a method which helps preserve the small family farmers that have been the backbone of this country and, in turn, aids the needy in obtaining food at lower prices. Mr. Paul Horvat has proven himself a tireless worker in devising solutions for people to better help themselves.●

ELECTIONS IN LEBANON

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. WYDEN. Mr. Speaker, tomorrow will mark the date of elections in Lebanon. Dr. Ralph Nurnberger of the Georgetown Institute on Strategic Studies and the American Israel Public Affairs Committee has authored a very helpful article on the subject which has appeared in the Near East Report.

Dr. Nurnberger gives an interesting look at this multifactioned nation and I recommend his article to my colleagues.

RECONSTRUCTING LEBANON

(By Ralph D. Nurnberger)

The Lebanese elections provide a vehicle for the reconstruction of Lebanon. President Elias Sarkis has indicated that he will not serve any longer than his prescribed term, which ends on September 23. Kamal Assaad, the speaker of the parliament, has now formally called for the elections to replace Sarkis. This move also implies a growing alliance among the Shiite Moslems and Maronite Christians that is essential if the new government is to succeed.

Some critics have already declared that the elections should be considered invalid as long as any foreign troops remain in Lebanon, particularly those from Israel. These critics, however, ignore the fact that two recent Lebanese Presidents were also elected while the country was occupied when Fuad Chehab was elected in 1958, U.S. Marines sent by President Dwight Eisenhower patrolled Labanon, and Syrian troops were the dominant force in Lebanon, when Sarkis was elected in 1976. In addition, elder statesman Camille Chamoun, the 82-year-old former president, who is still one of the few Lebanese respected by both Christians and Moslems, has advocated proceeding with the elections even if the Israelis are still in the country, provided the PLO are removed from West Beirut.

There is little national cohesion. After seven years without an effective government, the only thing the various Lebanese factions can agree upon is their eagerness to see the departure of all foreign forces—the PLO, Syria and Israel. In light of past chaos, this is not too surprising.

HORROR STORIES

Moslems and Christians alike have told innumerable horror stories of their existence during the recent years. The PLO massacred Lebanese citizens, destroyed their homes and occupied such cities as Damour and Nabatiyah. The Syrians had been in control of eastern Lebanon since their "peace-keeping forces" arrived in 1975. According to the American Lebanese League, nearly 100,000 people were killed during and after the civil war in Lebanon—long before the current strife. The PLO and Syrian presence flourished as the weak Lebanese Government collapsed.

THE DELICATE BALANCE

Unfortunately, the Lebanese government was always a delicately balanced mechanism. The constitution, the unwritten Covenant of 1943, was a system of proportional representation which ensured Maronite Christian control. It was based on the census of 1932, which established the Maronite Christian community as the predominant sectarian group in Lebanon. This was the last census ever taken.

Under this arrangement, the Maronite Christians always hold the Presidency the Speaker of the House is always a Shiite Moslem and the Prime Minister is always a Sunni Moslem. Lower posts are also assigned on a sectarian basis.

This balance was upset when a flood of PLO terrorists entered the country in the late 1960's and early 1970's. They established their own state-within-a-state, created armed strongholds and administered their own law, breaking repeated agreements with the Lebanese government.

The Israeli operation has now destroyed the infrastructure by which the PLO held the country hostage. The August elections have the potential to resurrect the old system—or even to create a new one.

MOST LIKELY WINNER

Bashir Gemayel, the 35-year-old commander of the Christian militia and a leading opponent of the PLO and other radical leftist elements in Lebanon is the most likely winner. Gemayel has promised to rebuild Lebanon and establish a strong central government in Beirut. For Gemayel to succeed, either of two courses of action must be pursued.

First, and most preferable, the Lebanese people must develop a nationalistic spirit to rally behind whomever is elected President. By removing the PLO and Syrians as potent military factors and by pledging to leave as soon as the fighting is ended, the Israelis have established the minimal military conditions in which a free Lebanon can finally emerge. Unfortunately, critical elements of the Lebanese political spectrum remain unenthusiastic. Not surprisingly leftist Moslem leader Walid Jumblatt has resurrected old differences and rejected Gemayel's leadership. The important large Druze population has not yet indicated substantial support for Gemayel. Lebanese nationalism should grasp the opportunity presented by the Israelis.

CONSTITUTIONAL CONVENTION

Second, if the Lebanese prove incapable of developing their own leadership, the United States and its western allies should seek to convene a constitutional conference to help create an independent, sovereign state in Lebanon. This convention should consider such diverse alternatives as reviewing the Covenant of 1943 or establishing a federal system similar to the cantons in Switzerland or possibly even ceding some territory to Syria.

Regardless of the approach, Lebanon must take advantage of current conditions if it is to emerge from today's conflict with a strong government able to prevent future uses of its territory by outside forces. This alone would allow the nation to be restored as a cultural and financial center and hub for trade in the Middle East.●

AN ALL-OUT CAMPAIGN TO CUT ENTITLEMENTS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. AuCOIN. Mr. Speaker, a front page news story in the Washington Post shows the administration admitting that it intends to cut entitlement programs to support its runaway defense buildup and irresponsible tax cuts. According to the news story, a senior administration official promises "an all-out campaign to cut entitlements" next year.

The President is faced with a budget deficit the likes of which has never been seen before in this country. Yet, a 3-year tax cut is on the schedule, as are massive weapons expenditures. With all this money pouring out of the Treasury, now money has to be brought in. The administration is saying social security cuts are the way to do it.

But, Mr. Speaker, our Government has a longstanding commitment to workers who paid and are paying social security taxes. The Government promised them they would receive certain benefits, and now the administration's budget experts want to break that promise.

There are other entitlement programs which have been cut—food stamps, housing assistance, medicare, and medicaid. But even this has not done the job of balancing our troubled budget.

Social security cuts to both current and future recipients have been proposed by administration officials even while the White House reaffirms its determination to build up the defense budget.

All this from the man who pushed a 3-year tax cut through Congress against the best judgment of most economists; the man who submitted a budget for 1983 with a deficit of $160 billion and now calls for a constitutional amendment to balance the budget; the man who held a press conference to say he would do nothing to hurt current social security beneficiaries. According to President Reagan, all this was possible and there would still be enough left over to double defense spending.

Well, as so many of us feared, the President's economic package has hurt our country. Our Nation is more than $100 billion deeper in debt, our people are out of work, and our families can not afford housing. Now, instead of trimming the fat on defense spending, the administration chooses to assault our senior citizens, our disabled workers, our "truly needy."

Well, Mr. Speaker, this is not how America wants to balance the budget. It is in everyone's interest to preserve social security. It is in everyone's interest to be able to look forward to secure senior years. The social security system needs help, no one can deny it. But, it is unfair to punish those who depend on social security. We should not break the promise made by our Government to all those who contributed a portion of each paycheck to the social security system with the notion that if they were disabled or retired, they would receive the insurance they paid for.

That would be wrong. There are ways to shore up the social security system without affecting current beneficiaries or those almost set for retirement and I intend to fight to see that the social security system is saved in a way that keeps our promises to the senior citizens of the Nation, to whom we owe so much.●

PAUL GROSSINGER

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEYSER. Mr. Speaker, it is my pleasure to join with the scores of individuals who will be honoring Mr. Paul Grossinger tonight at the Concord Hotel in Sullivan County, N.Y.

Mr. Grossinger, who is the president of the Grossinger Hotel and Country Club, has long been a strong and outspoken advocate for protecting the civil rights of minorities in this country. For many years Paul has led the fight against discrimination that Jews, blacks, and others have encountered through the years.

The Anti-Defamation League of B'nai B'rith, which is awarding their 1982 Torch of Liberty Award to Mr. Grossinger, was founded in 1913 to secure justice and fair treatment for all citizens. A recognized leader in its field, the ADL is dedicated to insure that civil rights laws are enforced in this country as well as to expose and denounce radical extremist groups who have an affinity for antisemitism.

Shortly after the end of World War II Paul hosted the annual meeting of the ADL at his hotel and, aside from being an active participant in this organization, has held this event at Grossinger's each year since that time.

I can think of no man who deserves this tribute more than Paul Grossinger. May we all be influenced by the unwavering support he has given to the Anti-Defamation League and by his fight to obtain justice and end discrimination to all citizens of this country.●

NURSING HOMES PROTECTIONS IN JEOPARDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ROSENTHAL. Mr. Speaker, I would like to call attention to the critical problems posed by the new nursing home regulations proposed this past May by the Secretary of the Department of Health and Human Services, Richard Schweiker. These proposals include: Biannual, rather than annual, facility inspections; inspections performed over the phone, rather than in person at the facility site; the termination of mandatory 90-day resurveys for facilities in which violations have been discovered; and the elimination of a mandatory cancellation clause when facility violations have not been corrected quickly enough.

Secretary Schweiker claims these proposals would reduce waste in the nursing home bureaucracy. This position is one of the most disingenuous claims I have yet heard from the present administration. No one can really believe that nursing home care will remain what it is today if inspections of homes are made less frequent and less public, as these new proposals would effectively provide.

Mr. Schweiker's plan would affect the most vulnerable segment of our population: the elderly and the disabled. A nursing facility is often the last home its residents know; moreover, the average stay of a resident is approximately 2 years. The "deregulation" that Secretary Schweiker proposes must be seen for what it really is: a euphemism for destroying the protection of nursing home residents.

No one supports waste in government; no one endorses inefficiency. Secretary Schweiker claims his intention is to wipe out waste and inefficiency in the nursing home industry. These are laudable objectives. But I am hard pressed to see how these goals are furthered by this new "deregulation scheme." Rather, this plan is a remarkably ill-conceived one because it concerns an industry whose history has been plagued by numerous and severe violations of law and of ethical conduct. Deregulation will return the nursing home industry to the spotty, exploitative, and wholly inadequate conditions which were all too prevalent before proper regulation took hold.

That is why I have been working with several of my congressional colleagues on legislation to stop Secretary Schweiker from turning back the clock on nursing home protection.

H.R. 6916, the Nursing Home Standards Act of 1982, would safeguard nursing homes for 2 years by disallow-

ing deregulation during that time. These 2 years could be a time of examination and recommendations by a committee established for that purpose.

Some time has been gained by the actions last week of the House-Senate conference on the tax bill which put a 6-month moratorium on nursing home deregulation. But ultimately we must develop an effective system which will safeguard the health and dignity of nursing home residents. H.R. 6916 is an extremely necessary and constructive step in assuring these residents the quality care they so much deserve.●

HUMAN RIGHTS IN ROMANIA

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PEASE. Mr. Speaker, I would like to take this opportunity to express my opposition to House Resolution 521, to disapprove the President's recommenation to extend MFN waiver authority to Romania and my support for the the motion to postpone consideration.

For many years, I have worked both as a member of the Foreign Affairs Committee and the Ways and Means Committee to establish policy incentives to improve the human rights records of many countries around the world. Although I believe the human rights record of Romania clearly demonstrates violation of basic human freedoms, I do not believe the resolution before us will serve to stimulate any improvement on the part of the Romanian Government in their human rights position.

Withdrawal of MFN status and the trade benefits associated with it would only leave the United States with no leverage to influence the Romanian Government's actions toward its citizens wishing to emigrate.

Although I do not support House Resolution 521, I worked as a member of the Subcommittee on Trade to strengthen the committee report language to impress upon the Romanian Government the seriousness with which the committee members view human rights in their country. The committee has added specific goals to the report language to be met by the Romanians. We emphasized that committee consideration of next year's waiver will depend on the success of the Romanian Government in reducing the emigration application backlog and not obstructing the departure of those waiting 9 months or more. The committee will also examine the Romanian Government's success in simplifying and shortening emigration procedures including reduction of waiting time and repeal or removal of unreasonable preapplication procedures and maintaining a consistent and steady consideration and approval of emigration applications to the United States and to Israel.

The Romanian Government has agreed to sit down with U.S. officials in September to discuss ways to improve their emigration procedures. I cannot emphasize too strongly the committee's dissatisfaction with the current status of human rights in Romania and our intention to view the results of these talks as a major factor in committee review of MFN status for Romania next year. It is my understanding from discussions with the Romanian Ambassador and from correspondence that I received from the Ambassador that it is the position of the Romanian Government to improve emigration procedures and eliminate bureaucratic delays and that it is the firm desire of the Romanian Government to make further progress in improving emigration procedures including the question of reducing the processing time for applications. The Government has reaffirmed its position of not subjecting applications to discrimination.

On June 2, 1982, the President recommended to the Congress and additional 1-year extension of waiver authority to Romania. However, he expressed dissatisfaction with Romanian emigration procedures and threatened to discontinue Romania's MFN status for 1983 if this trend continues. I am pleased to see complementary points of view emanating from the White House and Congress on this critical issue.

Every year around the time that Romania's MFN waiver authority is up for renewal, the Congress expresses its dissatisfaction with Romania's emigration levels, particularly with respect to Israel. Every year we receive assurances that their human rights record will improve. I, personally, can say that my willingness to negotiate in good faith with the Romanian Government will be matched by their track record during the next year. I am interested in the rate of approval of applications and, also, in removing the time lag between this approval and the actual date during which the emigrants leave the country for their new homes.

I ask my colleagues to disapprove this resolution in recognition of the committee's strengthened report language and to extend 1 last year to the Romanian Government to fulfill the obligations it has made to this Congress and to its own citizens.●

SUPPORT FOR RADIO MARTI

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. GUARINI. Mr. Speaker, the House passage of H.R. 5427, legislation establishing Radio Marti to transmit propaganda-free news to the citizens of Cuba, on August 10 was most gratifying. The final vote of 250 to 134 shows the firm and vital support of the House of Representatives for this effort.

As a cosponsor of this legislation, I appreciated the efforts of Chairman DINGELL and Chairman ZABLOCKI in guiding this measure through their respective committees. I especially want to thank Mr. FASCELL, chairman of the Subcommittee on International Operations, for the service he performed in guiding this legislation through the House of Representatives.

Tomorrow, the Senate Committee on Foreign Relations meets to consider Radio Marti. I strongly urge my colleagues on the Senate committee to approve this measure without adding any weakening amendments during committee debate. Firm action by the Senate Foreign Relations Committee on S. 1853 tomorrow will allow for early full Senate consideration of this bill, while sending a message to Cuba that the United States will not be blackmailed into giving up this much needed project.

Radio Marti will play an essential role in properly informing the people of Cuba about news of interest to them. For this reason, it is imperative that the Senate not delay on this important issue.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982, H.R. 6514, has received support from a wide range of respected organizations.

Recently, I was very pleased to learn that two very well respected and broadly representative business groups, the National Association of Manufacturers and the Business Roundtable, have come out in support of the Simpson/Mazzoli bill.

I am also pleased to report that Mr. Albert Shanker, president of the American Federation of Teachers, and one of the most widely respected union leaders in this country, has endorsed this immigration reform bill.

As Mr. Shanker points out in his recent piece in the New York Times, the legislation Senator ALAN SIMPSON and I are sponsoring addresses the immigration problem in a rational, humane, and effective way.

Receiving support for the Simpson/Mazzoli bill from both union leaders, such as Mr. Shanker, and the business leaders, such as the members of the National Association of Manufacturers and the Business Roundtable, is very gratifying. It indicates the balanced approach that this Congress is taking toward immigration reform.

For the benefit of my colleagues, I am including a copy of Mr. Shanker's article from the New York Times of August 15, 1982, at the conclusion of my remarks.

[From the New York Times, Aug. 15, 1982]

CONGRESS SHOULD ACT ON FAIR, HUMANE MEASURE

(By Albert Shanker)

For the first time in 30 years, the Congress is now considering major changes in the nation's immigration laws. As I write, the Senate is voting on a bill authored by Sen. Alan K. Simpson, Wyoming Republican, and Rep. Roman L. Mazzoli, Democrat of Kentucky. The measure seems likely to pass the Senate, where strong support for it emerged in votes on amendments last Thursday. Then it will be the House's turn. There should be no delay in moving ahead with this measure. It is long overdue, and the bill incorporates most of the recommendations made by thoughtful business-labor-citizen groups which have studied immigration problems over a number of years.

The major problem the bill addresses is illegal immigration. There are millions of illegal aliens in the United States. No one knows just how many, but some suspect the number is between 10 million and 15 million. This huge population, here unlawfully and without the full protection of U.S. laws, creates enormous problems, for itself and for American citizens.

First of all, the illegal aliens themselves are targets for exploitation. Employers know who they are and can threaten to report them to immigration authorities if they demand the minimum wage, overtime pay, protection under health and safety laws. Of 2,100 garment shops surveyed in Los Angeles County, 79% were found to have minimum wage and overtime violations—as did 63% of 2,500 restaurants surveyed. To many employers illegal aliens are the ideal workers—employees who work hard for very little and can never complain.

For many unscrupulous employers, in fact, illegals are preferable to American citizens as employees. In a healthy economy where there are plenty of jobs, this might not result in too much displacement of American workers, although studies have indicated that illegal aliens are nearly always in competition for unskilled or low-skilled jobs with young American black and Hispanic workers. But with 10 million Americans unemployed, and with unemployment among blacks and especially black youth far higher than the national 9.8% rate, it is pretty clear that citizens who would demand the protection of U.S. labor laws are losing out to illegals who cannot demand it, at least in some industries and some areas of the country. There is debate about the extent to which this is happening, but on one question there's very little doubt. A report of the Immigration Policy Panel of the Economic Policy Council, a business-labor-academic offshoot of the United Nations Association of the U.S.A., states: "There is almost universal agreement that illegals depress the wages and working conditions in these low-wage jobs." In other words, not only do illegals displace American workers, but where Americans have such jobs, the presence or threat of illegals tends to keep wages and conditions down.

What to do? It would be unconscionable to deport these hordes of people. Many have been here for years; their children have been born here and are therefore American citizens. There is overwhelming support for amnesty for those who are already here and have been here for a substantial period of time, and the Simpson-Mazzoli bill includes it, although an amendment adopted in the Senate makes the provision somewhat more restrictive.

Second and very important, there have to be stiff sanctions against employers who knowingly hire illegal aliens. The bill includes a fine of $1,000 per illegal worker for such employers—a tab that could be very costly for persistent violators. But employers also have to be able to tell who is an American citizen or legal resident and who is an illegal alien. Some system of permanent identification is needed for workers such as most other democratic countries have. The bill has identification provisions.

There are, of course, other parts of the bill which continue legal immigration to the United States at its present level, 425,000, and which limit immigration from all countries except Canada and Mexico to 20,000 per year. Our two neighbors are permitted double that number.

We are a nation of immigrants, of course, and there are few Americans who want policies that totally restrict immigration to the United States. But the problem is real. Jacob Sheinkman, Secretary-Treasurer of the Amalgamated Clothing and Textile Workers Union and chairman of the Immigration Policy Panel, wrote in the preface to the panel's report: "Net immigration (legal and illegal, immigrants and refugees) is now well in excess of 1 million per year, which means that the U.S. accepts twice as many immigrants and refugees as the rest of the world put together. This rate of inflow is at the highest level in the nation's history. It is usually not recognized that the country's largest number of immigrants came not in 1833 or 1911, but in 1980. . . .

"Can the United States successfully integrate the newcomers, or will it find, particularly in times of rising unemployment, that xenophobic impulses and racial and ethnic tensions become more pronounced as citizen workers feel increasingly threatened by immigrants? Perhaps the most sobering factor in these calculations is that unless a restrictive policy is put into place, the rate of inflow in the future is likely to accelerate rather than to stabilize or diminish, generating even greater domestic problems."

The bill the Congress is considering begins to address the problem in a rational, humane, effective way.●

WOMEN'S EQUALITY DAY

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DAUB. Mr. Speaker, next week, on August 26, the Nation will recognize Women's Equality Day. This is an appropriate time to honor the achievements and contributions of women to American society and to consider the implications of their changing role in our society.

The most recent and dramatic change is surely women's participation in the work force. In 1948 women accounted for 28 percent of the American labor force. Today, that figure has grown to 43 percent.

Women under 45 years of age have shown the sharpest acceleration in their participation rate over the past decades, and for women ages 25 to 34, their participation rate advanced from 42 percent in 1968 to 62 percent in 1978. In 1981 this figure had reached 67 percent and is projected to be over 80 percent by 1990.

These changes are not limited to women without children or to women with grown children. As a matter of fact, the U.S. Census Bureau reports that in 1980, 45 percent of mothers with preschool children were working at jobs away from home—up fourfold from three decades before. With the majority of American college students now being women, these trends can be expected to continue.

All of this greatly increases the economic value of the American homemaker. According to one study that calculated the costs of hiring an individual to serve as housekeeper, tutor, nurse, cook, chauffeur, and so forth, the yearly value of the homemaker comes to $51,029. In truth, the value of work done inside the home is incalculable, and the contributions of the homemaker are immeasurable.

The changing role of women has changed the way we work and the way we live. It has sharpened our focus on problems that still challenge us as a nation—problems such as assuring equal pay for equal work, obtaining the equal credit that is guaranteed by law, and having access to quality child care services.

We must recommit ourselves to meeting the challenge and encouraging all Americans in their progress toward full participation in American society.●

"TAKE ACTION"—LETTER TO CONGRESS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HUBBARD. Mr. Speaker, as the House and Senate are continuing to work with the budget and tax bills, I would like to share a letter from a constituent of mine, Patricia Shade of Grand River, Ky., who has written me a strong letter urging the Congress to take action and help the country.

Her letter follows:

GRAND RIVERS, KY.,
July 12, 1982.

DEAR CONGRESSMAN HUBBARD: I am just wondering what Congress is doing in Washington. Isn't it about time that President Reagan is stopped? He has got this country in such bad shape. Is there nothing that can be done?

The people in this country are hurting and hurting badly. It just cannot go on. What is Congress to do? Are they just going to continue to let the President go ahead and hurt all the poeple who aren't rich? It just doesn't seem fair.

Congress is going to have to act now, to get America back on her feet.

The American people are waiting to see Congress take some kind of action. Where is the American dream? The people in this country have no dream any more.

Sincerely,

PATRICIA SHADE. ●

PORTER QUESTIONS NEUTRALITY DRIFT IN WEST GERMANY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. PORTER. Mr. Speaker, crucial to a strong Western alliance and NATO is the political stance of West Germany. Solidly pro-West since the end of the Second World War, recent political trends and disturbing shifts in public opinion within West Germany raise the specter of a serious radicalization of German electoral politics, possibly resulting in withdrawal from NATO and greater German neutrality toward the East-West power blocs. These German political trends were underscored in a recent New York Times news report filed by Times German correspondent, John Vinocur. For the Members' attention, I insert this article in today's CONGRESSIONAL RECORD:

SIGNS OF INSTABILITY CLOUD GERMANY'S FUTURE

(By John Vinocur)

BONN, July 30.—West Germany's strength and political stability, standard assumptions in the post-World War II balance of power between East and West, are now increasingly uncertain matters.

The strong economy, the strong Parliament, the strong army and the strong labor unions are unmistakably less vigorous, less confident than they were 5, 10 or 20 years ago. The country's involvement with the future of Western Europe has become more hesitant, and Common Market polls show the West Germans of 1982 are the most anxious, the least self-assured and perhaps the most self-involved people in the 10 member countries.

Chancellor Helmut Schmidt, traveling privately in the western United States last week, complained frequently about what he thought were American cliché notions about his country. But the real clichés about West Germany—that it is immune to political adventure and social upheaval, that its future is irrevocably joined to that of the West—are being obliterated by events.

On some days, 37 years after the end of World War II, it appears that a third Germany has developed here alongside the Soviet-dominated German Democratic Republic and the West Germany of the 1960's and 70's.

This third Germany is a country that is losing its sense of tolerance, a place where 79 percent of the adults feel there are too many foreigners around. It is a country that lives well but morosely, that talks about its victimization. Its leaders in the last 12 months have spoken of serving as "translators" between the United States and the Soviet Union and of desiring a "security partnership" between Bonn and Moscow.

It is a country where the Green Party, the political force with the greatest momentum and appeal to young people, questions the worth of the parliamentary system, advocates zero economic growth and likes the idea of defending the homeland with the rough equivalent of guerrilla units.

The signs of change are clear in every aspect of German life but most importantly in the economy, because throughout its postwar history West Germany's political stability has been based on its strong economic performance.

Now that relationship has been undermined. Although still intact in many areas, the West German economy is severely weakened in its structure. It is not just a question of ebbing demand due to a world recession but a situation in which West Germany has lost competitiveness in central areas. After becoming a diminished presence in the textile, shipbuilding and ball-bearing markets, the country also declined in machine tools, a traditional area of German dominance. In the sectors of highest technological innovation, such as computers and electronics, West German products stand well behing the leaders.

FASTEST GROWTH IN UNEMPLOYMENT

Where West German industrial investment remains constant, it is in labor-saving equipment. The graph describing new product development heads downwards. This creates a framework of basic problems that go well beyond current figures that show West Germany has the fastest growing unemployment rate in Europe and a 50 percent rise in bankruptcies and in business collapses in the last year.

Over the last decade, the composition of the economy has changed. Although West Germany continues to be associated with capitalist enterprise and private ownership, the fact is that Government spending as a percentage of gross national product grew faster here from 1980 to 1981 than in any other major industrialized nation.

In terms of the next decade, the possibilities of full economic recovery are limited. For a country whose social peace has always been linked to unusual prospertiy, this creates a sense of strain and even threat. Mr. Schmidt has pointed this out himself.

The country is not seething with unrest, but the Interior Ministry reported nonetheless that there was a political demonstration that degenerated into violence for every day in the year—357 incidents altogether—in 1981.

The political changes accompanying the economic changes also confront the standard operating assumptions about postwar West Germany.

At present, the three-party system that has functioned since the birth of the country in 1949 is under siege. According to a poll taken this week by the Allensbach Institute, the most respected German public opinion research organization, the Green Party has become the country's third political force, indicating that the Free Democrats, the Social Democrats' coalition partner, have fallen back to a precarious level.

CHALLENGE TO THE BASIC COURSE

The poll suggests that a traditionally moderate, Western-oriented element of West German political life, personified by the Free Democratic Party chairman, Foreign Minister Hans-Dietrich Genscher, has been overtaken by a group challenging the country's basic postwar course.

There is a parallel development in Mr. Schmidt's party, which now rates about 31 percent of the vote. For the first time, Mr. Schmidt is being attacked publicly by the Social Democratic left wing. The Chancellor, with other party moderates, is in an increasingly isolated position, and the temptation is to make some gesture, perhaps a softening of support for NATO's medium-range missile program, to hold the left from rebellion for the rest of his term.

The same polls show that opposition Christian Democrats hold about 53 percent of the vote. A Christian Democratic government would represent a broad band of moderate opinion, but it probably would be confronted with a radicalized opposition of Social Democrats and Greens.

This appears to signify a polarized, constantly tense political environment. Without strong economic recovery and faced with the possibility of violent attempts to block deployment of new American missiles, the Christian Democrats would be attracted to compromise and unwilling to offer the Western alliance much more than a minimal version of the policy outlines established by Helmut Schmidt.

OTHER SHIFTS FROM STABILITY

The difficult political prospects are complicated by and reflected in shifts in other previously stable aspects of West German life.

One of the most significant involves the loss of prestige and influence of the labor unions through a series of scandals in which leaders of related organizations were exposed as speculators and profiteers. The union leadership, closely involved with the West and traditionally supporting a strong West German military, has lost much of its moral prestige.

There is no way to measure the effect, but the problems facing the unions hindered their efforts to fight the widely acknowledged increase in discrimination against foreigners, particularly the 1.5 million Turks who live largely in the big cities.

The situation has a kind of symbolic quality amid the rest of the fluctuations. Of all

the sources of pride in postwar germany, one of the most genuine had been its success in banishing present-day associations with prejudice. Now that walls are covered with "Turks Out" graffiti and audits tell vicious racist jokes about the Turkish immigrants, there is a sense of lost compassion.

This has had an unpleasant confirmation in a canvass by the Common Market's polling organization, which found that Germans regard human rights and the struggle against misery as less important "great causes for Europeans" than did any other of the 10 nationalities questioned.

GERMAN ROLE IN NATO

Of all the assumptions West Germany's allies have made about their relationships to bonn, a central consideration has been the west German involvement in the North Atlantic Treaty Organization and the excellence of its armed forces. There are no suggestions from the established parties that West Germany ought to turn its back on the alliance, but the country's military effort has slackened.

After two decades of growth, the federal military budget for this year and next, as currently projected, will have little or no growth. Some officers have warned of a loss in effectiveness. Whatever the degree, it is indisputable that the character of the military commitment has changed. The Government is willing to trim programs, which would have been difficult to conceive of only a few years ago.

The same kind of problems concern German-American relations. Their quality has deteriorated. Three years ago, when reporters began writing about the trend, the development was denied. Now it is confirmed by the creation, at West German urging, of an intergovernmental commission to improve ties.

The West German press and many West German politicians blame the policies of the Reagan Administration for the situation. However, the first serious difficulties, involving conflicting attitudes on the spread of nuclear weapons, then differences in evaluating the Soviet intervention in Afghanistan and Soviet pressure on Poland, came while Jimmy Carter was President.

TIES TO THE EAST

West Germany has shown reluctance to take action that would complicate its relationship with the Soviet Union or East Germany. This reluctance was emphasized in the last week after East Germany refused to admit Bernhard Vogel, the Minister President of the state of Rhineland-Palatinate, for a private visit.

West Germany has many ways to press East Germany, including extensive credit arrangements, but it responded to the action against Mr. Vogel with only a protest.

For some people, these events were emblematic of two other now vanishing constants in West Germany's postwar development that have survived the rush of change—avoidance of confrontation at any cost and unwillingness to begin a serious debate about its relationship with East Germany and the possibilities of reunification.

None of the changes now taking place appear to have made anyone happier here in a country historically inclined toward pessimism.

Johannes Gross, one of West Germany's best political essayists, caught the mood of slippage and dissatisfaction in an essay last year. His view was of a peevish society, bored with reforms and hollow arguments over school curriculum changes and debates about mandatory tax deductions that support the country's churches.

Although Mr. Gross did not say it directly, he seemed to be suggesting that West Germany was in the right frame of mind for an existential crisis, one that would pose excruciating questions about where it was going.

In many respects, that crisis is already under way.●

TARGETED DEVELOPMENT AID

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ERDAHL. Mr. Speaker, the United States has a long and outstanding record of providing assistance to the undeveloped and developing nations of the world. Our foreign aid is used to achieve worthwhile goals such as alleviating starvation, establishing schools, and constructing water and sanitation projects. I was heartened to read the most recent report of the World Bank which states that agricultural growth in the Third World has exceeded expectations. U.S. assistance, in part, deserves credit for these improvements.

Many significant problems remain, however, especially in the area of agricultural development. Indeed, the same World Bank report concludes that the overall economic outlook for poor nations has actually worsened. Assistance for the absolute poor of undeveloped nations is considered to be of paramount importance. I believe the most effective way to promote development is to specifically target U.S. assistance to the absolute poor.

As a member of the Subcommittees on Africa and on International Economic Policy and Trade, I am pleased to lend my support to draft legislation submitted today by the distinguished gentleman from Illinois, Mr. SIMON. This legislation would target U.S. development assistance to the world's poorest people—approximately 40 percent of the population of developing countries.

The draft language submitted today is similar to H.R. 4588, the Hunger Prevention and African Food Security Act, which has over 130 cosponsors. In May, the Senate Foreign Relations Committee passed similar legislation without dissent. It is now incumbent upon the House to debate this vital issue.

This legislation would not prohibit development aid from going to the nonpoor, but it would give higher priority to aid for the absolute poor. The proposal would not affect AID's $2.5 billion economic support fund or any aid channeled through international financial institutions. Most importantly, the proposal would not require any additional spending.

I urge my colleagues to lend their support for this draft legislation. If adopted by Congress, such legislation would go far in maintaining and improving U.S. developmental assistance for the poor and needy of the world.●

VOTING RECORD

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, on Tuesday, August 17, 1982, because I was flying back from North Dakota, I missed two votes in the morning. Had I been present, my votes on the two suspensions would have been cast as follows:

H.R. 1489: Puerto Rican passenger service. "Yea."

H.R. 5618: Organic Farming Act of 1982. "Yea."●

REAL NUCLEAR ARMS CONTROL NEEDS A COMPREHENSIVE TEST BAN TREATY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. BROWN of California. Mr. Speaker, one of the worst decisions by the Reagan administration has been its opposition to a Comprehensive Test Ban Treaty. The arguments made against such a treaty included concerns about verification, and the fact that bomb-builders in the United States want to go on testing new warheads.

Twenty years ago, similar arguments were made against the ban on atmospheric testing of nuclear weapons. Since the early 1960's the arms race has gotten out of control in every conceivable way, which is why a nuclear freeze is so popular. The sad truth is that our weapon makers operate, with their civilian counterparts, on a technological imperative—if we can make it, we have to make it. Another imperative associated with war comes to mind, which is—if we have it, we will use it.

The concerns about verification are real, and serious. I share them. Perhaps this is why I see the comprehensive nuclear test ban as something far easier to verify than a treaty limiting weapons design, or yield. When the proposition is all or nothing, it is easier to identify.

I recently came upon an essay on this subject by the director of the 1983 International Student Pugwash Conference. As a recent participant with the Student Pugwash, I found this ar-

ticle of special interest. At this time, I wish to share it with my colleagues by inserting it in the CONGRESSIONAL RECORD.

[From the Christian Science Monitor, Aug. 13, 1982]

N-BOMB TESTS: IT'S EASIER TO VERIFY A TOTAL BAN

(By Michael B. Berger)

The Reagan administration recently announced its intention to postpone talks on the Comprehensive Nuclear Test Ban Treaty (CTBT) until verification problems related to nuclear test limitation treaties can be resolved. The administration has failed to recognize, in public, that a complete test ban and test limitations are two different propositions. It is much easier to monitor compliance with a total test ban than with test limitations. Thus the argument that a test ban treaty must await solutions to the problems of verifying test limitations is spurious.

In truth, the administration's espoused concern about verification is a subterfuge, meant to deflect attention from the fact that nuclear testing is an integral component of the President's arms buildup.

Any arms control treaty or agreement involves the risk that signatories might choose to violate the treaty clandestinely, and succeed. In order to minimize another country's incentives and opportunities to violate an arms control agreement secretly, the United States employs a variety of means: satellite surveillance, radar, seismic sensors, electronic monitors, and human intelligence collection. These verification capabilities are designed to detect actual violations and, more important, deter potential violators by increasing the probability that noncompliance will be detected.

Each party to an arms control agreement must consider the trade-off between risks and benefits: Do the risks of undetected noncompliance outweigh the benefits of compliance? A recent Congressional Research Service report states ". . . it is generally held that no . . . agreement is completely verifiable. The question becomes how much uncertainty can be accepted in exchange for an agreement, as opposed to demanding complete verifiability, which would preclude any agreement."

When examined in terms of risks and benefits, the increase in our national security that the CTBT offers far outweighs the very limited risk of failing to detect noncompliance

The risks associated with a test ban agreement are smaller than those associated with other types of proposed arms control treaties, i.e., START, chemical weapons, etc. There is general agreement that modern seismic verification capabilities permit the detection of even very low yield nuclear test explosions. The problem is to distinguish between seismic signals from smaller tests and those of natural seismic events, and thus to identify a particular seismic event as either man-made or natural. The CTBT would require the Soviets to explain all ambiguous seismic occurences, thereby resolving the identification problem. As the size of a test exceeds five to ten kilotons, the probability of detecting and identifying nuclear explosions dramatically increases.

The most recent round of CTBT negotiations (completed in November 1980) made considerable progress on verification issues. Britain, the US, and the USSR agreed to place ten tamperproof seismic sensors on the territory of both the US and the Soviet Union. (The number to be located in the United Kingdom was not decided.) Data from these stations would be monitored by all parties to the treaty, and by an independent panel of international seismic experts.

The three countries also agreed on a framework for resolving disputed seismic and surveillance data, including onsite inspection in disputes which cannot be satisfactorily settled through additional data exchange and discussion.

What would be the consequences of Soviet testing if our verification measures failed? The yields of clandestine tests would have to be small, below approximately five kilotons, to avoid seismic detection. Five kilotons is one-thirtieth the size of the smallest Russian warhead currently deployed, and one-hundredth the size of the standard Soviet strategic warhead. Clearly, such tests would provide the Russians with little useful information about full-size weapons.

In addition, because significant military results are likely to be achieved only from a series of tests, rather than from a single test, multiple tests would substantially increase the likelihood of detection.

In sum, the chances of failing to detect Soviet violations of comprehensive test ban are very small.

The benefits of the CTBT are threefold.

First, the CTBT would severely inhibit the proliferation of nuclear weapons to the "near nuclear" countries (Argentina, Brazil, India, Israel, Pakistan, and South Africa). An agreement signed by the three nuclear superpowers would put heavy domestic and international pressure on these states to refrain from testing. Since all countries that have developed nuclear weapons have found it necessary to test prior to reaching full nuclear capability, the CTBT, by inhibiting testing, would curb the "horizontal proliferation" of nuclear weapons.

Second, concluding the CTBT would increase America's credibility in the world political community. In the Limited Test Ban Treaty of 1963, the US, USSR, and Great Britain pledged to "achieve the discontinuance of all test explosions of nuclear weapons for all time" and stated that the parties were "determined to continue negotiations to this end." Therefore, a test ban treaty would redeem an American promise that has been outstanding for 19 years.

Third, the CTBT would halt the momentum of the arms race in both the US and Russia. A ban on all testing would prevent further improvements in warheads that might be used in future weapons systems. It would also establish a better climate for the current Strategic Arms Reduction Talks (START) and Intermediate Range Nuclear Forces (INF) negotiations.

By dropping the comprehensive test ban negotiations, the administration has discarded its most useful tool for checking nuclear proliferation. President Reagan would demonstrate true statesmanship by reversing his position and calling for an early resumption of them.

Michael B. Berger is director of the 1983 International Student Pugwash Conference and staff assoicate at the Committee for National Security's Comprehensive Test Ban Task Force.●

THE PLIGHT OF ISAAK KHAIMCHAYEV

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. LOWERY of California. Mr. Speaker, it is no secret that the number of Jews permitted to leave the Soviet Union—with Israeli visas—has reached its lowest point in many years. This drastic cut in the number of exits has been accompanied by a wave of harassments and imprisonments among those seeking to leave.

Such unconscionable treatment has especially plagued refuseniks like Isaak Khaimchayev. Mr. Khaimchayev, a scientist, applied for permission to emigrate to Israel in 1973. He was refused with no reason given and immediately fired from his job at a research institute. His wife, Raisa, also lost her job. Consequently, Isaak has been supporting his wife and two children by doing menial labor.

In October 1973, Isaak's elderly father emigrated to Israel. Now 76 and ill, Shmuel Khaimchayev has repeatedly appealed to Soviet authorities to allow his son to be reunited with him in Israel.

Following the arrest of Viktor Brailovsky, refusenik scientists began experiencing extremely difficult times in the Soviet Union. Many were brought into the KGB's orbit and placed under intensive surveillance. They were continually threatened by the KGB "with the fate of Brailovsky" if they continued with their activities.

To be a refusenik scientist often means being fired, as in the case of Isaak Khaimchayev, or forced to resign from employment, the rescinding of certificates for scientific degrees, a ban on lecturing and publications, a deterioration in scientific qualifications, and becoming outcasts in Soviet society. Increasingly, Soviet Jews see themselves as locked into a world where the few remaining freedoms dwindle and their security as Jews seems dimmer than it has in the past.

Mr. Speaker, Soviet Jewry must remain a priority issue in this country. Only with the strong support of the U.S. Congress will the plight of Isaak Khaimchayev and his family be resolved. Our help is vital to the release of Isaak and to the fate of over 2 million Soviet Jews.●

OFFSET NEEDED FOR MEDIA DISTORTIONS

HON. GEORGE HANSEN
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. HANSEN of Idaho. Mr. Speaker, I have been presented an interesting treatise on media distortion and corrective proposals authored by a Virginia resident, Edward D. Valentine, which should be shared with everyone concerned with a balanced application of first amendment rights.

RULERS IN DISGUISE—THE LIBERAL MEDIA

(By Edward D. Valentine)

FOREWORD

Their axes and daggers freshly sharpened, the liberal media are once again on the attack. Their latest victims, the President, and through him their detested adversary, conservatism, are being discredited.

They denounce the "Reagan deficit" even though liberals created the trillion dollar debt and the programs responsible for the deficit. Each attempt to reduce the enormous social spending schemes (over two-thirds of the budget) is met with an avalanche of stories designed to show cruelty and widespread suffering. Distortion, emotion, negative emphasis and exaggeration are the media weapons. The effect is real and devastating. The resulting public pressure and outcry are too much to withstand.

How Americans survived, indeed prospered, before the massive social programs is not mentioned. Most money earmarked for the truly poor does not reach the target as its substance is usurped by politicians, bureaucrats, lawyers, think tanks, consultants and other feeding at the trough labeled "compassion". Generous eligibility levels further victimize the most needy. All of this the media ignore.

The media have successfully diverted the issues to (1) cutting defense spending and (2) raising taxes. Never mind that defense is less than one-third of the budget. Conveniently forget the consensus of just one year ago that defense spending must be substantially increased due to years of neglect. Above all don't let the people know that government already devours 40 percent of their income and that liberals want to raise their taxes even more during a recession.

In the last two decades the media have bloodied free enterprise and businessmen, the FBI, CIA, our military, traditional education, anti-communists and various other sound policies, traditions and entities. Conversly, liberal hogwash and failed programs escape the magnifying glass. The tyranny and carnage of the left have been ignored or glossed over, while communist revolutionaries and leftist demonstrators receive sympathy and even glorification.

So it is today. The media blitz of Reagan and conservatism continues. They say he misspeaks but quite the contrary, it is the media that misinform.

The liberal media decide what is news and how it will be presented. They determine the issues and subjects for public reflection and debate. As Austin Ranney recently observed, "The media in general and TV in particular, make it tougher for presidents to succeed. They accelerate political consciousness and feed on impatience for quick results, no matter how complex the problems. They want things solved in 60 minutes—less commercials".

As a direct result of media transgressions America once again is being divided. The sickness of spirit continues to grow. Attempts to govern fail due to manipulation of public opinion. America is drifting and unfortunately the direction is leftward.

Winning elections and Supreme Court appointments will not change the course. Clearly, the solution is to win the information war and vanquish the liberal media juggernaut.

As the President said, "If not us, who? If not now, when?"

OUR PROBLEM

1. Public opinion has drifted leftward rather steadily since early in the presidency of Franklin D. Roosevelt. Political oratory was only partially responsible. More important was the infiltration of campus faculties and the news media by clever, persistent leftists. This trend developed into a juggernaut. It rode roughshod over traditionalists using emotionalism, ridicule, demagoguery and glorification of change in the name of progress. As a result outrageous, liberal policies and nonsense permeate our society.

2. The 1980 election was a dramatic conservative victory. The people were clearly fed up with massive social spending programs, busing and other social engineering schemes. They disliked a wishy-washy foreign policy that created disrespect and even loathing of America. Most Americans were worried about our weakended defenses while communism had marched from nothing in 1917 to its current level of world dominance. People were agitated by the educational system's declining achievement scores, discipline and moral values and with the indocrinations of liberalism. These were only a few of the concerns of 1980 voters.

3. The afterglow of 1980 finds conservatives back where they usually are—on the defensive. President Reagan's efforts to trim giant spending programs are being discredited. His tax cut goals to encourage investments are being discredited. His attempts to stop communism's growth—especially in El Salvador—are being discredited. His program for peace through military strength is being discredited. Why? Why is a president—conceded by his adversaries to be an effective, personable communicator—having these difficulties? Why is victorious conservatism—with truth, facts and logic on its side—being discredited?

4. Retaliation by the media juggernaut is the answer. The press, TV and radio incessantly bombard us with liberal emotion and nonsense. Attempted economies generate sensational, tear-jerking and distorted media images of poor people freezing, starving and being deprived of necessities.

5. El Salvadorian Marxists and their naive supporters are portrayed on TV as the good guys. On parade, in dress uniforms, goose-stepping like Nazis of yesteryear and portrayed as the villains are the government troops. A parallel is drawn between El Salvador and Viet Nam involvement by Americans. No parallel is hinted as to how communist blood baths and tyranny in Viet Nam, Laos and Cambodia might follow a communist victory in El Salvador. Charges of revolutionary support by Nicaragua, Cuba and the Soviets are ridiculed. But communist propaganda is picked up, amplified and dramatized with heart rending views of the poor and of weeping widows and orphans.

6. That most tax cuts go to people who paid most of the taxes—workers and the middle class—is ignored by the juggernaut. They choose to zero in on tax savings by the wealthy who pay a small percentage of all taxes.

7. Unemployment in the spring of 1982 is less than half the percentage existing after several years of peacetime liberal efforts to relieve it by Franklin Roosevelt. (Roosevelt's unemployment was conquered only by World War II—not by liberal nostrums). Only a small part of Reagan's program started taking effect in October, 1981. Yet the media juggernaut charms us with tales of Roosevelt's compassionate successes and pronounces Reagan's approach a dismal failure. Indeed, they declared it a failure even before it took effect. How absurd to expect that 5 decades of mismanaged, step by step travel down the wrong road can be reversed in several months. But such absurdities escape the juggernaut.

8. Reagan's "misstatements" excite the media no end. However, in the major cases cited, Reagan was right and the media wrong.

Example: They charged him with a press conference distortion of the unemployment percentage. In fact he was right. He cited the average percentage for 1981 versus 1980—a standard practice by economists. The juggernaut chose differing year-end percentages, hoping to discredit him with the public.

Example: Reagan said no law authorized IRS to deny tax exemption to otherwise qualified private schools. The media said he was mistaken but have never cited such a law.

Example: Reagan correctly stated that the communists opposed free elections in Viet Nam. However, the juggernaut disagreed and media criticisms were headlined. The media acknowledgements of their numerous errors rate little more than a footnote—if anything.

9. The defense budget is about 25 to 30 percent of the total budget. Therefore, major spending cuts would have to focus to a great extent on the 70 to 75 percent non-defense portion of the budget. Ignoring mounting threats to our freedom, the juggernaut shrilly demands cuts in defense spending and slight or no cuts in massive social programs.

10. Self-styled conservatives—politicians and businessmen—are moving away from Reagan and toward the left as a result of this constant media drum fire. Recently some Business Roundtable leaders indicated disagreement with the president and endorsed some liberal concepts. Conservative politicians now talk of reversing some of the tax cuts and propose other retreats. The effect of the propaganda juggernaut is persuasive and devastating.

11. Dripping water—prolonged and uninterrupted—erods rocks and drives victims mad in torture chambers. Likewise, widespread, continuous, repetitive, near-unanimous hammering away with the liberal message brain washes the irresolute and softens the resolve of stalwart men. Thus, conservatives are forced on the defensive and are overwhelmed by the juggernaut. Voters make decisions based on information they receive. Legislators vote with their constituents in mind. Conservatives, therefore, are having little impact.

12. Dedicated conservative activists raise and spend huge sums to elect other conservatives. We have the presidency, an improved Congress and a supposed Supreme Court majority. We buy conservative books, magazines and newsletters. But our audience is

primarily ourselves. We commiserate and communicate with one another while the juggernaut molds public opinion. How can this process be altered? Reversed?

13. Stemming the liberal tide will not occur until we learn, accept and act on this maxim: Leaders act and react from public pressure. The media creates, orchestrates and applies this pressure. Conservatives will act as liberals and liberals as Conservatives, depending on the pressure stimulus. The liberal media juggernaut is presently ruling America unofficially, without being elected to any office, simply by directing the public pressure. We have lost for decades and are losing today because we try to win elections without a fundamental reshaping of public opinion. Public opinion can be reshaped only by reshaping the media. With truth, facts and logic on our side the advantage is ours.

THE STRATEGY—A CONSERVATIVE TV SHOW LATER A NETWORK NEWS SERVICE

1. Major influences on public opinion are: Educational institutions, TV, the press and radio. Most people rely on TV for news and information. TV has a major impact on lifestyles and attitudes. This condition can only increase due to: (a) FCC's recent approval of low power TV stations; (b) growth of cable TV; and (c) technological improvements in home reception from satellites. Presently America relies on the Washington-New York based libereal media for national and world news. Any hope of fairness or objectivity is utterly futile

2. A conservative TV news-information show is the first step toward reshaping public opinion. It should start as a one hour, weekly program. Later, the schedule would be expanded as appropriate. Features would be:

(a) Serious news items often with interpretive comment.

(b) Conservative viewpoints by articulate experts such as Patrick Buchanan, Petr Beckmann, Marva Collins, Milton Friedman, William Simon, Aleksandre Solzhenitsyn, Thomas Sowell, Ben Wattenberg and Walter Williams.

(c) Views of Mr. and Mrs. America—blue collar, white collar, rural, urban, all races, ages and interests—to show widespread agreement with and support of conservatism. Mainstream America is basically conservative and this point must be clearly demonstrated.

(d) Attacks on liberal bias of the media and liberalism generally. By using fact, logic, reason, wit, satire and sarcasm our offensive would be effective and convincing. The objective is to totally discredit the liberal media and liberal dogma. Until liberalism becomes unfashionable and in utterely demolished, the attacks must be repetitive and relentless—even to the point of redundancy.

Liberal targets on this conservative TV show would be legion.

Example: Replay comments of liberals when they advocated lowering the legal drinking age. Then dramatize the increases in highway deaths and property damage by intoxicated drivers—particularly the young. Dwell on the agony of the crippled and suffering of loved ones as the products of liberalism.

Example: Replay assurances by well known liberals during the Viet Nam war that it was only a civil war between oppressed revolutionaries on the one side, versus the reactionary capitalists; that there would be no retaliatory blood bath if the communists won; that the domino theory was ridiculous; that a communist victory was no concern of ours. Then document with pathetic pictures and statements, the sufferings of the "boat people"; the mass exterminations in Cambodia; the chemical and germ weapons used on resisting survivors; anguished escapees whose spouses and children remain in slavery under the communist oppressors. Draw parallels between Viet Nam, Laos and Cambodia yesterday and Nicaragua, Guatemala and El Salvador today.

Example: Cite liberal affinity for socialism and excuses for communism; then show conditions under those systems. Quote Jane Fonda's "pray on their knees" pro-communist remarks; then show pictures of fleets of Cuban escapees with their comments about communism. Contrast conditions in socialist nations with those practicing free enterprise. Play back Andrew Young's "stabilizing" effect of communism remark followed by dead bodies, bloated bellies of starving children and incredibly primitive conditions in these "stabilized" places.

Example: Quote views of leading liberals on student rights, permissiveness, relevant courses, open classrooms, progressive education and similar concepts. Intersperse evidence of classroom violence, declining test scores, teen pregnancies, reading deficiencies, functional illiteracy and like results.

Example: Offer quotes of Chief Justice Earl Warren, Ramsey Clark and various liberals on criminal rights, rehabilitation, contributing guilt of society and the resulting coddling of and sympathy for criminals. Correlate these with soaring crime statistics, pictures of murdered and crippled victims, stories of orphans and other suffering relatives and survivors, plus monetary costs to victims and society. Show current fears and restricted living of poor and aged compared with earlier days.

Example: Replay leading liberal rhetoric on oppression and human rights violations by the Shah of Iran, Batista in Cuba and Somoza in Nicaragua. Follow each, respectively, with evidence of Iranian treatment of U.S. hostages, subsequent butchery and madness of the post Shah era; Castro's firing squads, political prisoners rotting in Cuban jails and "volunteer labor" for communism; and Sandinista suppression of elections, newspapers, radio, unions and free migration that were allowed under the "tyrant" Somoza.

Examples ad infinitum can be created showing how bubble-headed, fuzzy liberal "progress" almost always makes matters worse and at colossal cost in wealth, lives and suffering. Being "soft on communism" has lost East Germany, Poland, Czechoslovakia, Romania, Hungary, Yugoslavia, Albania, China (with perhaps 50 million Chinese murdered in a few months), Viet Nam, Laos, Cambodia (more millions exterminated), Angola, South Yemen, Ethiopia, Cuba and Nicaragua. Who will be added to the list? How many more must die or be enslaved before we can reverse public opinion?

4. Dissolving old liberal coalitions to acquire new conservative allies is another major objective of this conservative TV show.

Example: Most workers—including union members—have strong, conservative instincts. they are led or forced down the primrose path of liberalisim with media assistance. Some union members reluctantly pay dues to support candidates and causes they oppose. Many would never willingly join a union. The working many would fare better under conservatism. These points should be emphasized repeatedly.

Example: Blacks have been exploited on a vast scale by liberals. "Minimum" wages have inflated black unemployment—especially for the young. Black English and African Studies have wasted latent talents. Welfare careerists, social workers and bureaucrats have stifled natural desires to break out of the poverty rut. Liberal busing advocates have their own children in mostly white public, or exclusive private schools. Let's demonstrate the liberal hypocrisy and exploitation.

Example: Jewish voters have generally supported the liberal-leftist movement. Yet leftists in the U.S., Russia, Libya, Syria, etc., as well as prominent U.S. leftists, constantly castigate and plot against Israel. Clearly, leftists are the deadly enemies of Israel. Liberal laws and regulations afflict Jewish professionals and businessmen.

5. Attacking the media juggernaut directly would be a regular, important feature of the conservative TV show. The approach would be to embarrass and cast doubt on liberal media credibility in general and their leading characters specifically. Each week we would critique and expose the latest examples of media bias and distortion.

Example: If a New York Times or Washington Post news story, through distortion, falsely charges the President with a misstatement, cite the occasion, then follow immediately with the truth. Simultaneously question their motives. Are they uninformed? Are they inept? Are they biased by an editorial dislike of the President, or a basic prejudice against conservatism?

Example: When reporters sneer at conservative affluence or cost of new White House dishes, replay this, accompanied by footage on how the Roosevelts, Kennedys and Johnsons lavished money on both their personal estates and the White House; and how they were praised by the media for this elegance and good taste. Ask why this double standard? Is affluence a virtue for liberals but a vice for conservatives? Are reporters biased? Are their views dependable? Do they have a liberal axe to grind?

Example: When media personalities criticize the mink coats and Cadillacs of conservatives while shedding crocodile tears for the poor—counter with shots of these critics entering or leaving their chauffeured limousines, Cronkite boarding his yacht, or news reports of Rather's $8 million contract. Show shots of their palatial dwellings. Ask whether people who live in glass houses should be throwing stones with such abandon. As if such double standards permit impartial newscasts. Does their prejudice color all of their work?

Example: A study of the "media elite" by Professors S. Robert Lichter and Stanley Rothman revealed these alarming facts:

(a) "Much of the medial elite upholds the cosmopolitan or anti-bourgeois social perspective."

(b) "Exactly 50 percent eschew any religious affiliation. Very few are regular church goers."

(c) In presidential elections between 1964 and 1976, 81 to 94 percent voted for the more liberal candidate.

(d) Their "presidential" choices are consistent with the media elite's liberal views on a wide range of social and political issues.

(e) Most "agree that American economic exploitation has contributed to Third World poverty."

(f) In rating leadership groups as to the influence they should have, "Emerging at the top of the heap, as the group most fa-

vored to direct American society, are the media."!!

(g) The media elite is far to the left of and out of step with the general public on a wide range of issues and questions.

This explosive material rates minimal exposure by the juggernaut. So it is we who must drive the point home that the extremist views of the media are far to the left of most Americans. And we must constantly remind the people that this leftist juggernaut manages the news and information they receive.

6. Publicizing secret inner workings and skelteons of the juggernaut would also be a regular segment of the conservation TV show. Liberal investigative reporters demolished the Nixon presidency by inducing personnel within his administration to furnish leads and to betray one another. So we must do with the liberal juggernaut. Surely at the Times, Post, CBS, etc., there are or were numerous disgruntled editors, reporters, cameramen, producers, et al, who might "tell all". We might uncover illegal handling or pilfering of news material, or deliberate cover-ups, distortion, twisting—even falsifying—the news. Imagine both the public's anticipation and the sweaty-palmed anxiety of media villains as they speculate on who will be zapped next! We could add insult to injury by using their own "ambush" technique on them. For example, when a media star leaves for work, shove the microphone in his face, start the cameras and ask embarrassing questions or demand an ad lib statement.

7. Expected impact and growth of the conservative TV show would be dramatic if produced aggressively, creatively and with generous doses of wit and variety. Credibility would be established and maintained by truth, facts and logic. Emphasis would be on attack rather than defense. As ratings and revenues rise, the show should be expanded from weekly to eventually several nights per week. A major result would be improved balance, fairness and honesty by the media once liberalism is discredited and media distortions exposed.

8. Finally, a conservative news network must be created and offered as quickly as possible. This network would provide news feeds, stories and program service to the press, radio and TV outlets or the world. Presently these outlets depend on the biased products of the liberal media juggernaut such as the Associated Press, New York Times, Washington Post—Los Angeles Times news services and major TV networks. A vast number of local outlet owners, editors and managers would leap at our fresh, new conservative orientation. Ultimately, we should penetrate the educational complex at all levels, starting with scholarships for graduate and undergraduate schools with conservative journalism and economics courses and schools where patriotism and morality are encouraged.

FUNDING AND ORGANIZATION

1. The foregoing is utterly worthless unless there is enough money to fund these enterprises. Eventually, revenue will come principally from advertisers currently funding the media juggernaut to the detriment of these same advertisers. But before the program hits the airwaves and receipts from advertising flow in, cash is essential for cadre, space, equipment and making contracts. This need calls for contributions to the tune of millions of dollars from like-minded financiers.

2. A tax exempt non-profit corporation should be the organizational structure of the enterprise. This status will induce contributions and enable us to effectively use all of the revenue instead of sharing it with the government.

3. Promotional brochures should be composed. They must be personally delivered and explained to trusted, sympathetic, business leaders and wealthy prospects by articulate funds seekers. Prospective donors must be persuaded: (a) they have the most to lose if the liberal juggernaut is not vanquished: (b) their very survival is at stake; (c) that past efforts failed by attacking the surface instead of the heart of the problem; and (c) that our strategy will succeed. They should encourage others to divert advertising from the liberal media to the conservative TV show.

4. Appropriate advertising and solicitation by mail will raise funds, stimulate wider interest and demonstrate widespread support. Once on the air, periodic fund raising from the public would provide more income and deflect charges the enterprise is a creature of the wealthy and powerful.

5. A top flight legal department is essential for defending the enterprise against the onslaught of litigation that will develop and continue as we increasingly damage the juggernaut in particular and liberalism in general. Going on the legal offensive to attack liberal media bias before the FCC, other regulatory bodies and the courts will be the other major responsibility of the legal group.

6. Proper location of the headquarters and major centers of operation is extremely important. They should be rural, conservative areas to:

(a) Avoid metropolitan area high taxes, high living costs and salaries, distractions, crime, vandalism and disloyal personnel.

(c) Provide a more favorable legal climate for expected litigation than would exist in New York or Washington, D.C., for example. Conservative judges are more likely to render favorable decisions.

7. Volunteer personnel such as retired people and bored housewives and others should be sought and used to the maximum extent. They could be recruited all over the country as reporters, reseachers, speakers, writers, lawyers, typists, fund solicitors, librarians, etc., especially for the news network service. Pressure should be applied constantly to economize, conserve resources and strive for efficiency in the best conservative manner. Also, this would be another indication of grass roots support.

8. An informational library would be indispensable. It would obtain (or identify in other libraries), classify and catalog for instant use by computer retrieval; radio and TV programs; newspapers; magazines; books; speeches; biographical facts and so on. It would have an invaluable role in factual, dramatic attacks on and defenses of controversial issues and concepts.

SUMMARY

Public opinion has trended leftward for 5 decades. Conservative election victories were surface phenomena but did not alter basic thought tendencies in America. Currently, liberalism is effectively attacking conservatives in the White House, Congress and the States, preparing for a return to power. Vast sums spent to elect conservatives are exciting but have slight and brief effect on the overall liberal trend. The crucial need is to achieve a major, permanent reversal in public opinion. This can best be done (a) by a regular conservative TV show that mercilessly exposes, ridicules, discredits and destroys the bias in the liberal media and eventually, liberalism itself, and (b) as soon as possible by creating a conservative news network service to ensure the permanence of the victory. Millions of dollars will be required until advertising revenues develop. The TV show and news network service should be owned by nonprofit, tax exempt corporations. They should be headquartered in rural, conservative areas for reasons of economy and safety. Such locations would provide access to more conservative judges and juries to pass on inevitable litigation. Volunteer talent should be encouraged. Conservatives have spent billions in 5 decades to stem the liberal tide with minimal results

Lenin indicated we would provide the rope to hang ourselves and the liberal domination of the news and information our people receive is surely fashioning the noose. But, instead of cowering before the media, shouldn't we fight back? Shouldn't we take to the air waves and expose the juggernaut and slam dunk leftist dogma?●

TARGETED DEVELOPMENT ASSISTANCE AMENDMENT

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JAMES K. COYNE. Mr. Speaker, I would like to speak in favor of the targeted development assistance amendment. It provides us with the opportunity to, at no cost, increase the self-sufficiency and productivity of poor people in developing countries. Too much of AID funding has been squandered by government bureaucracies and not enough has been focused on training and education to help people help themselves.

The targeted development assistance amendment would require 50 percent of AID development aid to finance projects such as irrigation facilities, and health facilities which will directly benefit poor people. Such goods and services will enable the poor to provide for their own families as well as contribute to a stronger national economy. This aid strategy emphasizes small loans and credit to enable rural businesses, thereby creating increased employment opportunities and encouraging private sector development.

One way of directly benefiting the poor is through the private voluntary organizations. Such organizations as CARE and Save the Children carry out many of AID's most effective people-to-people projects. These are the types of projects the 50-percent requirement would stress.

The targeted development assistance amendment is similar to the central provision of H.R. 4588, introduced by BENJAMIN GILMAN of New York and of which I am a cosponsor. I have been glad to note that over 100 Representatives have joined me in cosponsorship. The companion legislation in the Senate has been cosponsored by 38

Senators. An amendment similar to the targeted development assistance amendment has passed the Senate Foreign Relations Committee with administration approval. I urge your support of this amendment which will put our foreign aid funds to productive and efficient use.●

PROTECTING CONSUMER IN USED CAR MARKET

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. SWIFT. Mr. Speaker, this body and the Federal Trade Commission have struggled for years with the problems of how to protect the consumer in the used car market. Frankly, the struggle has not resulted in any particularly impressive action.

The House recently voted down an FTC rule which was, in the judgment of this Member, more loophole than law and would have been, quite literally, worse than no rule at all.

There have been some other suggestions—all of which require dealers to measure, test, check, and report. These are onerous to dealers and, frankly, are not very helpful to most consumers.

As I said in the floor debate on the FTC rule:

> Most American men will not admit they do not know anything about a car. Most consumers, men and women, in fact, are a little hesitant, particularly facing a good strong salesman. They are hesitant about saying: "Can I have the car so I can take it down the street and have it checked?"

I think there is an approach to this thing, however, that deals with that reality, that keeps Government involvement to the barest minimum, that requires no FTC or other bureaucratic involvement, that gives the consumer the ability to protect himself and which accomplishes all of this in the marketplace.

I am today introducing legislation to establish a 3 day 200 mile cooling off period for the purchase of used cars. This will give consumers the ability to protect themselves by giving them time, away from the pressure of the sales arena, to check a car, or have someone with expertise evaluate the vehicle for him. It does not require the dealer to jump through hoops, make evaluations or be jeopardized by potential Government prosecution for failure to meet complex requirements.

One big advantage is that it permits the consumer to get the kind of expert subjective advice that no law, rule or Government agency can provide. For example, a skilled mechanic can comment on the value of the car, as well as tell you it's condition. He can say, "All these things are wrong with it, but at that price, it's a good deal." Or he can say, "That car is in very good condition, but I think it's way over priced." That is information that can be very useful to a buyer—but which no set of rules can provide. A cooling off period, however, gives the consumer time to seek such input to his decision.

Here are more specifics about the bill.

The bill will offer both consumer and dealer rights of legal action that can be used when either feels he is being taken advantage of in the used car marketplace.

Under this bill, the purchaser of a vehicle bought from a used car dealer may return the vehicle to the dealer if the following conditions are met:

First, the used car is returned within 3 days of the date of sale;

Second, the purchaser states in writing that the car has been driven less than 200 miles since the date of sale, and has not sustained any damage during this period of possession; and

Third, the dealer may request upon return of the used car, a $100 deductable or 10 percent of the purchase price (whichever is less) to cover dealer costs and depreciation.

Upon the sale of the used car, any known mechanical defects and any exterior damage to the car would be noted in writing and signed off to by both purchaser and the dealer. The purchaser would have liability for the used car in his possession, and could only return the car if it were in the same condition as sold. Both dealer and purchaser would have the right to legal action if these conditions were not met. Any person who makes a false statement or violates the conditions of this legislation would be liable for three times the amount of legal damages or $1,500 (whichever is greater) and reasonable attorney fees.

ADVANTAGES FOR CONSUMERS

First, allows purchaser to get the best expertise available in order to make an informed judgment in the purchase of a used car.

Second, creates an incentive for dealers to be very frank about the conditions of used cars they offer for sale.

ADVANTAGES FOR DEALERS

First, having these guarantees gives the consumer more incentive to shop at a used car dealership.

Second, allows for legal action against consumers who abuse used cars taken off the dealer's lot.

Third, avoids complicated listing and testing required by other suggested approaches.

I do not expect action on this bill in this Congress. Time is too short. Further, I think we should hold sufficient hearings to be sure that we know of all State laws and practices that might be affected by this bill. Once we have worked out such complexities, and I am sure we can, I think we can pass legislation early in the next Congress that will actually serve the consuming public in a manner that causes minimal inconvenience to dealers and which leaves the basic enforcement, not to a Government agency, but to consumers who, with this help, are perfectly capable of protecting themselves.

I hope in the interim the used car industry, consumer organizations, and the Members of this body will consider carefully the merits of this approach to the matter that has so long been before us.●

THE MIDDLE EAST—A QUEST FOR PEACE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Ms. OAKAR. Mr. Speaker, in the near future, I intend to discuss in detail our fact-finding mission to the Middle East. Our delegation consisted of Codel leader NICK RAHALL, ELLIOTT LEVITAS, PAUL MCCLOSKEY, MERVYN DYMALLY, DAVE BONIOR, and myself. Most of us went from Syria to Lebanon to Israel to Egypt to Saudi Arabia to Jordan. We toured Lebanon, not under the auspices of a private group or the Israeli Army, but solely with American personnel and the Lebanese Central Government. We attempted to be fair and objective. Not all of us shared the same views or conclusions, but all of us were searching for peace—peace for the sake of the innocent peoples of that troubled region—the cradle of civilization.

I am deeply dismayed that the media, in general, chose to isolate our discussion with Yasser Arafat and not report on much else. This was extremely enlightening to me considering the fact that we were the first public officials to witness the devastation of West Beirut and considering the fact that we met with every conceivable leader, from Prime Minister Begin to President Mubarak—see the list of meetings and places.

The media did not choose to report on our trip through Lebanon or talks with most leaders of this region. This was surprising to me since on our tour of Lebanon, members of Time magazine, Gannett News, CBS, et cetera, accompanied us. In addition, after every meeting in every country, there was a press conference. Still there was nothing or little in the American press, with the exception of our visit with Mr. Arafat. Why this suppression of news? Our full story was never told. Nonetheless, our trip was invaluable. The following is a copy of my press release concerning our Middle East trip and a copy of our agenda:

[News release, Aug. 2, 1982]

OAKAR SUMMARIZES FACT-FINDING TRIP TO MIDDLE EAST

Cong. Mary Rose Oakar, D-Ohio, a member of the fact-finding mission to assess the conflict in the Middle East, especially the crisis in Lebanon, and to investigate whether there are peaceful solutions, made the following statement:

"I undertook this assignment to see first-hand the impact of the Israeli invasion on the country of Lebanon, to meet with all leaders who may play a role in this crisis and the future of the Middle East, to talk to the people themselves, to evaluate the chances of an end to this destruction and loss of lives, and to evaluate the opportunities for peace.

"It should be noted that we were the first delegation to go through war-torn Lebanon under the guidance of the Lebanese Central Government and our own American personnel. Although this meant possible danger to us, we felt it was the only way to be objective.

"In addition, the majority of members felt that in order to view the situation as comprehensively as possible, we had to view West Beirut first-hand and to meet with every leader including Pres. Sarkis, Chairman Arafat, Prime Minister Begin, Gen. Sharon, Bashir Genayel, Pres. Hassad, Crown Prince Hassan of Jordan, King Faud, and President Mubarak. (See attached list of meetings and activities in various countries.)

"In addition, I felt it necessary to evaluate whether tax-payers' money as part of our foreign aid program was abused, and to determine whether it was at all possible for my Country to make a contribution for peace since we play such a vital role in that area of the world.

"Some of my conclusions are:

"(1) Lebanon is a devastated country. There is massive destruction of buildings and the countryside; thousands have been killed and wounded; many people are innocent civilians. The bloodshed must stop. Pres. Sarkis believes that more Lebanese have been killed than Palestinians. Estimates are that 300,000 Lebanese and 83,000 Palestinians need help in terms of shelter, and medical care, nutrition and water.

"(2) Every Middle Eastern country has similar fears: possible loss of their territorial integrity and fear of violence to their people.

"(3) The Arab countries disagree on various issues and have varying relationships with each other. Most agreed, however, that a long-range solution is necessary to:

"(a) end the immediate crisis, the military arm of the PLO must leave West Beirut.

"(b) The departure of the Palestinians must be linked to a long-term solution of a homeland for the Palestinian people. If the Palestinians are given no hope and only are dispersed, they will become even more militant.

"(c) There are varying degrees of attitudes toward Israel. I believe the Arab countries we visited want to deal with Israel. One even suggested a "common market" once peace is achieved.

"(4) In Israel we met with members of the Cabinet, Gen. Sharon, Prime Minister Begin, three West Bank mayors, Shimon Peres, Shulamit Aloni, members of the Knesset, and members of the "Peace Now" movement.

"(a) My view is that Gen. Sharon and Prime Minister Begin are looking for military solutions to this problem, inflexible in dealing with the PLO, and fearful of a future homeland for the Palestinians/PLO on the West Bank and Gaza.

"(b) The West Bank mayors want the PLO to acknowledge U.N. Resolution #242 and believe they are being repressed. They believe their plight on the West Bank is forgotten.

"(c) There is a movement, however, in Israel, reminiscent of the anti-Vietnam era—Peace Now. The people involved are a growing minority. Shulamit Aloni is a leading advocate of the position that military solutions are not the answer, and the Palestinian people must be dealt with for a peaceful solution. The movement is comprised also of non-politicians. Most are men; three out of four are in the military.

"My conclusions: The people of the Middle East are exhausted by war the psychological apprehension of war, particularly in Lebanon and Israel. There is a waste of human resources. The people desire to rise above the goals of their leaders and live together. Most leaders have a difficult time forgetting past grievances. They must look to the future as Anwar Sadat did when he and Golda Meir talked about making peace for the sake of their grandchildren.

"There is another principle in which our country can play a role. It is the adage of John F. Kennedy when he said, 'never negotiate out of fear, but never fear to negotiate.'

"There are signals that the parties want to negotiate—it is the only solution. The bloodshed must stop.

"In addition, I do not believe American troops should be sent into Lebanon; it should be an objective military—possibly under the auspices of the U.N. This group should oversee all foreign Military Forces' exodus from Lebanon."

MEETING SCHEDULE DURING MIDEAST MISSION

FRIDAY 7/23—SATURDAY 7/24—DAMASCUS, SYRIA

Mr. Muhsin Bilal, Chairman of Peoples' Council Foreign Council;
Mr. Abu Farris, Ministry of Foreign Affairs;
Deputy Prime Minister and Minister of Foreign Affairs, Abd al-Halim Khaddam;
President Hafez al-Assad;
Deputy Foreign Minister Nasir Qaddour.

SUNDAY 7/25—LEBANON

Sa'b Salam, Former Prime Minister;
Walid Jumblatt, Minister Marwan Hammada, and Nabih Barri at Parliament;
President of National Assembly Kamal al-Assad;
Amin and Bashir Gemayel;
Camille Chamoun, former President;
Yassar Arafat, Chairman of PLO;
Foreign Minister Fuad Boutros.
Toured West Beirut and Palestinian camps north of Tripoli—1. Al-Beddawi; 2. El-Bared.

MONDAY 7/26—LEBANON

President Elias Sarkis;
Governor of South Lebanon;
Mayor of Sidon.
Toured South Lebanon including Sidon and Tyre.

MONDAY 7/26—TUESDAY 7/27—JERUSALEM, ISRAEL

Ambassador Philip Habib;
Honorable Elias Freij, Mayor of Bethlehem;
Honorable Mustafa Abdul Nabi Annalche, Acting Mayor of Hebron;
Samir Khathe, Chairman, West Bank Doctors' Union, Administrative Director, West Bank Council on Higher Education;
Foreign Minister Yitzhak Shamir;
Prime Minister Menachem Begin;
Defense Minister Ariel Sharon;
MK (Member of Knesset) Shimon Peres, Labor Party Leader;
MK (Member of Knesset) Shulamit Aloni, and others;
Peace Now Leaders Prof. Galia Golan; Mr. Benvenisti (former Jerusalem Deputy Mayor).

WEDNESDAY 7/28—CAIRO

President Hosni Mubarak;
Speaker of the People Assembly Soufy Abou-Taleb;
Minister of State for Foreign Affairs Boutros Ghali;
Foreign Relations Committee Chairman Muhammad Abdellah.

THURSDAY 7/29—CAIRO

Minister of Defense Field Marshall Abou-Ghazala.

THURSDAY 7/29—AMMAN, JORDAN

Crown Prince Hassan (brother of King);
Minister of Information Adnan Abu Odeb.

FRIDAY 7/30—DHAHRAN, SAUDI ARABIA

Aramco Group;
Hugh H. Goerner, President;
Ali I. Naimi, Executive Vice President;
Faisal Al Bassam, Vice President, Public Affairs;
Muhammad Mughamis, Manager, Public Relations;
James P. Mandaville, Administrator, Government Affairs Policy and Planning Staff;
David D. Bosch, Member, Government Affairs Policy and Planning Staff;
Lee C. Carson, General Supervisor, Petroleum Engineering;
Acting Principal Officer Bill Polik.

FRIDAY 7/30—JIDDA, SAUDI ARABIA

Foreign Minister Prince Saud al-Faysal;
King Fahd bin Abdul Aziz al-Saud;
Defense Minister Sultan bin Abdul Aziz al-Saud.●

SALUTE TO HILDA CZULEGER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ANDERSON. Mr. Speaker, on Thursday, September 30, 1982, the American Legion Auxiliary—South Bay Unit No. 184, will host a dinner at their American Legion Hall in honor of Hilda Czuleger for her many years of service to the community.

Born in Pennsylvania, Hilda left in 1934 with her husband, Bill, and settled in Redondo Beach, Calif. Upon her arrival, Hilda began working at the Redondo Trading Post.

To her many friends in Redondo and the entire South Bay community, Hilda Czuleger is known as a person always willing to lend a helping hand. The numerous positions she has held on citizen boards and committees is evidence of her never ending generosity and concern for others. In the past, she has served as a member of the City of Hope's South Bay Chapter;

president of the American Legion's Women's Club of Redondo Beach; president of the B.P.O. Deers (Lady Elks); president of the Pocahontas; member of the Eagles; and the Redondo Beach Sister City Committee.

Her dedication toward positive community work continues in preparing meals for various worthwhile functions. For example, this year Hilda cooked and furnished all the food for a dinner which netted the City of Hope over $2,000. Annually, she cooks and furnishes the "Lasagna Dinner" for an estimated 250 people in which all proceeds go toward a scholarship fund in the South Bay Union High School District. Also, she prepares the annual dinner for the B.P.O. Deer's fashion show—their major fundraiser of the year.

Mr. Speaker, I am very proud of the great spirit of involvement and voluntarism that exists throughout the South Bay area. I am especially proud to give recognition to one person who symbolizes this special trait. Hilda's career of community service is a true model of citizenship. She has extended herself, working tirelessly as few people have for the benefit of others. She can certainly reflect with pride and satisfaction upon the many accomplishments of her life and her dedicated involvement on behalf of the people of Redondo Beach.

My wife, Lee, joins me in congratulating Hilda Czuleger for her devotion to the community. We are fortunate to share a fond friendship that goes back to the years when her husband, Bill, was mayor of Redondo Beach. Her past accomplishments will be long remembered, and you can be sure that we will continue to see the Czuleger tradition of service continue for many more years.●

WAUKESHA PROGRAM WORKS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. ZABLOCKI. Mr. Speaker, last week I had the privilege of bringing to the attention of my colleagues an excellent example of business and labor concerns working together for the unemployed workers in Waukesha, Wis. As I pointed out, the Waukesha people for unemployed people unemployed discount program, was started in my own area of Waukesha, soon to become part of the Fourth District of Wisconsin which I have the honor of representing. It is an excellent program.

The PUP unemployed discount program is successfully offering discounts to unemployed workes while helping Waukesha merchants attract business. It is my understanding that over 60 merchants are presently offering discounts to workers who show verifications of unemployment in businesses ranging from food stores to barber shops to auto repair shops.

Mr. Speaker, everyone is struggling to make ends meet in these unfortunate times. Workers and small businesses alike are faltering because of our recessionary economy and economic ills. That is why I am heartened to see programs like the unemployed discount program working in a smooth fashion. I believe that the Waukesha business community and the labor unions alike deserve our commendation for endorsing this very worthwhile program.

Mr. Speaker, I hope other communities can learn from the Waukesha experience. I am inserting in the CONGRESSIONAL RECORD several excellent articles which recently appeared in the Waukesha Freeman, written by Mr. Gary D. Miller and Ms. Karen Litscher.

SUPER VALU STORE—SUPER JOHN'S OFFERS DISCOUNT TO JOBLESS

(By Gary D. Miller)

With Waukesha County's unemployment rate at a record high and layoffs mounting, a Waukesha supermarket is offering a 5 percent discount to customers who have lost their jobs.

The three Super John's Super Valu stores are giving a 5 percent discount through May 1 to people who have been laid off.

"We're trying to help out the community as best we can," Bob Rake, assistant manager of Super John's at 2132 E. Moreland Blvd., said today. The discount program began Monday.

The discount is the idea of Super John's owner, Neil C. Lofberg of Beaver Dam, and was based on similar programs in Iowa. Lofberg decided two weeks ago to offer the program, Rake said.

"We thought with the growing unemployment in the Waukesha area, we'd give it a try," he said.

To qualify for the discount, a customer must present an unemployment compensation check and two forms of identification. Super Value cannot offer the discount to a customer without an unemployment check to verify he is out of work, Rake said.

Unemployment in Waukesha County rose to 7.6 percent in January, topping December's record 7.3 percent unemployment rate. And Job Service officials in Madison have predicted the February unemployment rate will be higher.

Layoffs and shutdowns have affected some of the area's biggest employers including International Harvester, RTE Corp., Waukesha Engine Division and Quality Aluminum Casting Co. in recent months.

Besides the Moreland Boulevard store, the discount is available at Super John stores at 1600 Summit Ave. and 300 Delafield St. Although the stores are open 24 hours, the discount is available only from 6 a.m. to 10 p.m. daily.

Local Kohl's, Sentry and Pick 'N Save food store spokesmen said they were unaware of any plans to offer similar discounts at their stores.

LABOR COUNCIL BACKS DISCOUNTS FOR JOBLESS

(By Gary D. Miller)

The Waukesha County Labor Council gave its approval Wednesday night to a plan that would establish a program to give unemployed workers discounts on purchases from local merchants.

Allen Levie, chairman of the unemployment committee for the machinists union, said today the council established a steering committee to help put together a system of identifying unemployed workers—whether union members or not—in Waukesha.

Levie, who is on layoff from Waukesha Engine Division of Dresser Industries, said the idea got its start from a program being offered by the Super Valu stores. Abel Garcia, president of Local 1377 of the International Association of Machinists and Aerospace Workers suggested the Labor Council seek support for an expanded program.

The council is now seeking the support of other local merchants in offering discount programs to the unemployed.

Super Valu's three Waukesha stores offer a 5 percent discount on merchandise, excluding minimum mark-up items. The stores use an unemployment check to verify that a customer is out of work.

The program was scheduled to run through Saturday, but Levie said the Labor Council would ask Super Valu to extend the discount.

He added that Brian Lofberg, who operates the three Waukesha Super Valu stores, has worked closely with the Labor Council in establishing the program community-wide.

"He helped us explore the idea and showed us where merchants feel good about some things," Levie said.

The Labor Council is trying to set up a procedure to identify people either on unemployment compensation or those who are no longer eligible but are still unemployed.

The council wants to develop that procedure before actively seeking merchants to offer the discount, but already there has been some support for the program, he said.

The Waukesha Chamber of Commerce, without specifically endorsing the Labor Council project, last week urged local businesses to "seriously consider various ways of aiding those currently in desperate need."

As a result of the chamber's support, Levie said, the program has generated "tremendous interest from people who feel positive about it. The chamber has been more than cooperative."

DISCOUNTS SOUGHT FOR JOBLESS

(By Gary D. Miller)

At a time when Waukesha County's growing population of unemployed workers has very little to look forward to, local labor leaders are trying to band together with merchants to help one another out.

"The people who are unemployed are the same ones who make business prosperous" in times of full employment, said Al Levie, laid off from his Waukesha Engine job. "Now we're hurt, and we're asking merchants to help us out."

Levie was one of a group of laborers in the area who have been trying to expand on one grocer's promotion to give people who have lost their jobs a small discount on their purchases.

This week, the last detail was ironed out and, starting Tuesday, businesses in the

area will be approached about offering discounts to the unemployed.

Levie, a member of International Machinists and Aerospace Workers Local 1377, outlined the program Friday at the Labor Temple. The intent is to offer discounts and price reductions to unemployed customers—union and non-union alike.

One supermarket, Super John's Super Valu store, is offering a 5 percent discount to shoppers who present an unemployment compensation check.

But many workers have been unemployed so long they no longer receive those checks. So Levie and members of a special steering committee have developed an identification card system.

The card would be issued to anyone who was working in Waukesha County or lived in Waukesha County when he was laid off. To establish proof, the unemployed worker must produce one of three forms:

A Wisconsin Job Service card.

An unemployment card.

Employer verification from the last place of employment.

To ensure that people do not take advantage of the discount unfairly, unemployed workers have to register for the card every two months.

The key to making the program work now, said Levie, is to enlist the cooperation of merchants. The Waukesha Chamber of Commerce, which is prohibited from making endorsements, has given the plan a great deal of publicity in its newsletters.

"We have open communications with the Chamber," Levie said. "They've been more than cooperative in helping (draft) guidelines that are acceptable to merchants."

Although the Super Valu promotion offers 5 percent discounts, Levie said the size of the discount would be up to the participating business. For example, a barber may want to offer 50 cents or $1 off the price of a haircut.

The focus now, he said, is on essential services: food, car repairs, pharmacies and the like.

With time and luck, said Doug Stone of the Coalition of Organized Labor—which is administering the program—the discount could expand to include health services.

Stone is also on indefinite layoff from Waukesha Engine and a member of Local 1377, as is Al Bethke.

Bethke said until the program gains momentum, there will be some difficulty recruiting merchants to get involved.

"Some people, they don't give a hoot," Bethke said. "When things are bad, they should bend the rules. Help the community out."

From June 1-7, members of the coalition will be canvassing businesses seeking their help. Levie said merchants interested should write him at 1726 S. West Ave. or call 542-7395 to find out more about the program.

During the sign-up week, a group of volunteers and unemployed workers will be working a bank of telephones to take registrations and answer questions.

The discount program is expected to begin in earnest June 7.

DISCOUNT PROGRAM FOR JOBLESS GROWS

(By Karen K. Litscher)

About 34 businesses have agreed to offer discounts to Waukesha County's unemployed according to the program's coordinator.

"We are thrilled with the response," said Al Levie of the Unemployed Discount Program. "Some businesses have even called us and asked to take part in the program."

Levie said the group had contacted about 140 businesses between Tuesday morning and Thursday night.

"We have received very few hard and fast no's," said Levie, who is laid off from his Waukesha Engine job.

"Some businesses had more of a 'wait and see' attitude because, understandably, they are strapped financially too and they want to see how well the program is received by other merchants."

Levie said the goal of the program is to provide discounts for as many services as possible. Organizers this week have focused on businesses that provide essential services, but other businesses and professionals will be approached as the program continues.

Businesses that have agreed to participate in the discount program include groceries, clothing stores, shoe stores, pharmacies, doctors, hardware and lumber stores, auto repair and parts stores, a barber shop, a beauty salon, a major appliance store and the *Freeman.*

Discounts offered by businesses will range from 5 percent to 20 percent, Levie said.

"Just because we haven't approached a business doesn't mean we don't want their participation. We'll be soliciting (for participants) as long as the program continues," he added.

Levie said labor and church groups in Racine and Milwaukee have called him for advice on starting similar discount programs in those areas.

To receive the discount, the unemployed person must obtain an identification card. Anyone who was working in Waukesha County or lived in Waukesha County when he was laid off is eligible for the card.

Cards are available at 1726 S. West Ave., located next to the International Machinists and Aerospace Workers Local 1377 office.

To obtain a card, the jobless person must establish proof by presenting one of the following: a Wisconsin Job Service card, an unemployment card or some type of employer verification, such as a layoff notice, from the last place of employment.

A sign with the program's new symbol will be posted in the window of each participating business.

To decrease the possibility of people unfairly taking advantage of the discount, the unemployed person must reapply for the card every two months.

The color of the cards and the signs in business windows will also be changed every two months.

The office of the Unemployed Discount Program will be open from 10 a.m. to 4 p.m. Monday through next Friday. Starting June 15, the office will be open 10 a.m. to 2 p.m. Tuesdays, Wednesdays and Thursdays.●

PLIGHT OF TATYANA ULANOVSKY

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 18, 1982

● Mr. JAMES K. COYNE. Mr. Speaker, I would like to call to your attention, and to the attention of my colleagues, the plight of Tatyana Ulanovsky, a 55-year-old woman, and her ailing mother, Raisa Cherches. These women have been denied permission to leave Russia and be reunited with their only living relative, Tatyana's son Lev, in Israel. An electronic engineer, Tatyana has been unemployed since she applied to emigrate in December 1980. Suffering from chronic ulcers of both legs, her 81-year-old mother requires constant care and lives with Tatyana. They have no more living relatives in the U.S.S.R. but were refused permission for lack of "any sufficient reason to emigrate."

Tatyana Ulanovsky and her mother have a clear reason and desire to emigrate and join Lev Ulanovsky in Israel. We, as free individuals, must speak out for those less fortunate individuals suffering senseless harassment and bureaucratic persecution in the Soviet Union. Not only are those who apply to emigrate denied permission to leave the Soviet Union, but upon application, they lose jobs, opportunities for education and housing, and must face personal indignities, arrests, and often imprisonment.

We are currently witnessing the sharpest decline in Jewish emigration from the Soviet Union since it effectively began in 1971. A comparison of today's emigration statistics with those from 3 years ago reveals a shocking 96-percent decline in Jewish emigration from the Soviet Union. Only 9,447 Soviet Jews were permitted to emigrate last year as compared to 51,320 in 1979. Last month alone, a mere 86 Soviet Jews arrived in Vienna with Israeli visas compared to the 4,068 who received visas in July of 1979. Hebrew teachers and Jewish activists have been experiencing an increased number of searches, seizures, and arrests—systematic harassment aimed at the eventual breakdown of the Jewish community in the Soviet Union.

We, as free individuals, cannot tolerate such violations of others human rights and personal freedoms.●

PROBLEM IN STUDENT AID

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. SIMON. Mr. Speaker, Members of the House, today I am introducing a bill to resolve a longstanding problem in the student aid area. The basic problem is the failure of the Department of Education (DOE) and its predecessor the Department of Health, Education, and Welfare (HEW) to timely publish the Pell Grant Family Contribution Schedule. The Pell Grant Family Contribution Schedule

is the essential regulation governing the Pell grant (or basic grant) program. It establishes the mechanism for evaluating family income and assets to determine student eligibility and size of the award. Without an "approved" family contribution schedule, the processing systems cannot function and awards cannot be made to eligible low- and middle-income students. In addition, in Illinois our State scholarships are tied into the same processing system as the Pell grant program. When the Pell grant processing does not function in a timely fashion, low-income Illinois students pay twice.

The problem of delays in submitting the family contribution schedule has existed throughout my service in the House as a member on the Subcommittee on Postsecondary Education. Despite a series of legislative attempts to allow time for publication of a proposed rule for public comment on the proposal for Secretarial review of the comments and publication of a final regulation, followed by congressional review—the Department has consistently failed to comply with the law. This year is no exception.

On August 2, 1982, the Department of Education published (in alternate form) two schedules in the Federal Register. The August 2 publication date comes 4 months (or 124 days) after the statutory deadline for submission of a proposed rule, and 33 days after the final rule was due to be published. This year's experience is not atypical, however, for example:

The 1981-82 schedule, which should have been published as a proposed rule on July 1, 1980, and finalized on October 1, 1980, was not published as a final rule until January 19, 1981, by the Carter administration. The Reagan administration withdrew the final rule, modified it, and republished it on March 13, 1981. The resulting impasse over the modified schedule delayed Pell grant awards to more than 1 million students for up to 3 months.

The Department also failed to meet the July 1, 1981, publication date last year. In light of the pending budget reconciliation bill, it was agreed that the Secretary could delay submission of an academic year 1982-83 schedule until 30 days after Congress completed work on the Omnibus Budget Reconciliation Act. The Department still failed to keep its commitment to Congress and to needy students. A schedule was published on October 16, 1981, more than 1 month late. The Senate rejected that schedule on December 10, 1981, and the Secretary transmitted a revised schedule on December 30, 1981—90 days after the statutory deadline and 110 days after the date agreed upon with the chairman and ranking minority members of the responsible authorizing committees.

The family contribution schedule was, in the 1970's routinely published for public comment and submitted for congressional review. Although the subcommittee has frequently concerned itself with policy differences with the Department, the timely submission of the proposed and final schedules was not a problem. This is no longer the case and the Congress has found it necessary to advance the date for public comment and congressional review, and specify Congress role in insuring that the intent of Congress and not that of Department regulation writers or OMB budget cutters are carried out.

The legislation I am introducing today is necessary in order to provide a failsafe mechanism for providing Pell grants when the Department fails to abide by the law. The bill provides for a statutory family contribution schedule for 1983-84, similar to the 1982-83 schedule. It also provides for use of an updated 1983-84 schedule in academic year 1984-85, if the Secretary fails to timely publish the 1984-85 family contribution schedule. This legislation, which is supported by all members of the subcommittee—Republican and Democratic—is justified because:

First. The repeated failure of the Department of Education to establish Pell grant family contribution schedules under title IV of the Higher Education Act of 1965 in a timely and lawful manner has resulted in serious disruption to planning by families for financing higher education;

Second. Repeated delays by the Department of Education in submitting such schedules have substantially impaired the ability of Congress to conduct, in a timely manner, necessary oversight of the operation of affected education programs and to take appropriate action to insure that the laws concerned are faithfully executed in a manner consistent with congressional intent;

Third. The schedule most recently proposed as it would apply to the Pell grant program conflicts with the statute from which it derives its authority; and

Fourth. It is necessary for the Congress, by law, to fix the terms and content of the family contribution schedule for academic year 1983-84, and, if the Department again fails to prescribe such schedules in a timely and lawful fashion, for academic year 1984-85.

I hope that many of my colleagues in the House will study this bill carefully, understand the need for its enactment and join me and my colleagues on the subcommittee in sponsoring this legislation.●

COLA REDUCTIONS

HON. ROBERT W. DANIEL, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ROBERT W. DANIEL, JR. Mr. Speaker, while I did support the conference report on H.R. 6955, the omnibus reconciliation bill, I want to make known my strong objections to the provisions of this legislation which affect cost-of-living adjustments for Federal retirees.

Breaking promises to individuals who spent their careers in public service does not constitute the sort of entitlement reform necessary to make significant reductions in Federal spending. We must maintain our commitment to Federal retirees both out of fairness to them and in order to be able to continue to recruit able people into civil service.●

THE REVEREND PHILIP MAJKA

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEE. Mr. Speaker and honored colleagues, I would like to bring to your attention the following article, written by the Reverend Philip Majka. The subject of this paper is a painting entitled "The Polish Madonna, Our Lady of Czestochowa," whose 600th anniversary will be observed this August 26.

The danger-filled and miraculous history of this painting has made it an important symbol for the Pauline Fathers, who administer to the Madonna. But, there is a much greater significance. This picture has become the focus of adoration for Poles everywhere. I propose today that we give this painting's fascinating story the recognition it so greatly deserves.

I know the substantial Polish constituency in my own central New York district share our interest in this story. I offer it today to the RECORD on behalf of all Americans of Polish ancestry.

BRIGHT MOUNTAIN MADONNA

(By Rev. Philip S. Majka)

The history and legend of Our Lady of Czestochowa, a highly venerated image of the Madonna at the Pauline Fathers' monastery on top of "Bright Mountain" (Jasna Gora) in Poland has a tradition reaching into the early ages of Christianity.

There are many legends mixed with facts concerning this Madonna's fate prior to its appearance on Polish soil in the Fourteenth century, when Prince Wladyslaw of Opole brought it to its present site. When legends get mixed with facts, truth is extremely difficult to unravel. People like to believe in legends. Yet the human mind also desires facts.

Legends are passed from father to son and through the details and words change, there stays a common denominator. According to Polish legend, the Madonna of Czestochowa was painted by St. Luke, the Evangelist. Historians shake their heads. Where then lies the truth?

Christian tradition says that after the death of Christ, Mary, His mother, lived among the Christians in Jerusalem. At that time St. Luke frequented the home of Mary to gather information for his Gospel narrative. Luke was a physician by vocation, and, like St. Paul, became a Christian and disciple of Christ after His death on the cross. The mode of Luke's scriptural writings shows that he was a well educated man, and his highly descriptive literary style indicates that he could also have been an artist or painter. For this reason, the Church in the thirteenth century made him the patron of artists. However, some modern biblical scholars dispute that Luke was a painter.

Legend has it that one day, while visiting Mary's home, St. Luke painted his impression of Mary and Child using a table top for lack of proper canvas. This is supposed to be the first picture of Mary with Child ever painted. The table is said to have been of linden wood by Jesus Himself while still a carpenter, and to have remained in the family home after Jesus' and Josephs' death. After Mary's Assumption the painting supposedly remained in the possession of Christians in Jerusalem until the early part of the Fourth century.

Historians confirm that there did exist a picture of the Virgin with Child in Jerusalem, since Canisius writes that people's desires were satisfied by looking at this image of Mary more so, when unable to visit Her."

It is also an historical fact that in 326 A.D., St. Helena, mother of Constantine the Great, made a pilgrimage to Jerusalem. She returned with many relics from the Holy Land, and among them a picture of the Virgin with Child. The Emperor, after his conversion to Christianity, not only built up the Byzantine Empire, but also erected places of worship for his people.

He also built a church in honor of Mary in his capital city. There, the image his mother brought from the Holy Land was enshrined, and shortly began to be highly venerated.

This was "the Spring of Christianity." The devotions of the people were just starting to form, and the only serious and popular devotion besides the Eucharist Meal was that to Mary, the Mother of God.

Ever since then the veneration of Mary has always ranked high among the faithful. No doubt pious pilgrims from many lands who heard of or saw this image of Mary in Constantinople during those first centuries wanted a replica of it for their own places of worship.

Byzantine art began to develop a century or so after the founding of the Byzantine Empire, and in time icon reproduction (in the East pictures of saints were called "icons") became rather intensive. There were some very rigid rules governing the size, color and figure of the icon. In fact, the actual image of the subject was traced carefully from a master, and then painted. There were many icons uniform in appearance.

Many visitors to Constantinople experienced intense devotion to the Mother of God. She did protect the city in times of civil unrest and war, and both the visitors and enemies found profound meaning in Marian worship. Copies of some variants of this original Constantinople icon were to be found in all sections of Byzantium.

Later, in the Ninth Century, many missionaries carried the Gospel of Christ to the northern regions. No doubt some icons of Mary with Child accompanied them on their journeys.

On Polish soil the devotion to the Holy Virgin is ages old. Historians have established the date of arrival of the image of Mary and Child at "Bright Mountain" near Czestochowa, as August 26, 1382. But the very first religious song of the Poles, "Bogu Rodzica Dziewica" (God's Mother Virgin) has been traced to the early part of the Thirteenth Century—a good hundred years earlier.

Is the image brought to Czestochowa in 1382 the one painted by St. Luke in early Christian times? Could this image have survived the elements of time, wars, invasions, civil unrest, and the Iconoclastic heresy which destroyed many Byzantine icons? This is open to profound thought and maybe Faith.

It has been historically ascertained that an image of Mary and Child was brought from Byzantium to Russia, and that by the middle of the Fourteenth Century it was found highly venerated at the castle of Belź (Belz) near Lwow.

In early 1382 Tartars attacked the castle. A Tartar arrow pierced the Madonna's neck leaving a scar on her throat. Prince Wladyslaw of Opole, who was fighting off the invaders, decided to take the holy painting for safekeeping to his own home at Opole in Upper Silesia. He set off toward the West by carriage.

His journey took him near the town of Czestochowa where he camped overnight on a nearby hill. The next day he intended to resume his journey, but his horses for some reason refused to move. Wladyslaw prayed for Divine guidance and came to the conclusion that it was the Lord's will for the painting to remain there—on "Bright Mountain." It was August 26, 1382.

Soon, the Pauline Fathers who had fled from Hungary also to escape the Tartars, erected on this spot a Shrine to house the Madonna's image and a monastery. Each year, on August 26, the day the horses refused to move with the Madonna, there is a solemn Feast of Our Lady of Czestochowa at Jasna Góra, and hundreds of thousands of pilgrims venerate the Virgin.

A comparative calm settled over "Bright Mountain" Monastery and the Madonna grew in fame. The many worshippers bestowed gifts of silver, gold and precious stones and the painting was encased in an ornate bejeweled metal dress.

In 1430 the calm was broken when the Hussites attacked the area. On the morning of Easter Sunday, April 16, Polish Hussite sympathizers broke into the monastery looking for money. Finding none, the took precious religious art objects. Among these was the famous Madonna. When the men tried to hack the jeweled dress away from the image it fell to the ground and broke into three pieces. Angered at not having found more valuables, they slashed the face of the Madonna twice on the cheek with their swords.

Restoration had to be made and the Pauline monks in 1434 asked King Jagiello for help. The damage was so extensive that the painting had to undergo complete renovation. Tradition claims that it was impossible to remove the scars on the cheek. Perhaps the gashes were too deep and the artists did not know how to repair them, or maybe they were left on purpose.

Pilgrims to the Shrine brought more gifts and jewels to adorn the new dress of the Madonna and Child. It is said that the Polish Queen Jadwiga, Jagiello's wife, herself made Her a gown embroidered with precious stones and gold.

The Monastery was attacked again in the Seventeenth Century by Swedish invaders. After a 40 day seige, the Shrine was saved by a handful of monks led by their heroic Abbot, Augustine Kordecki. (In the Eighteenth Century once more Jasna Góra was attacked, this time by Cossacks. It was successfully defended by Kazimierz Pulaski who later, as a cavalry general, gave his life for American freedom in the Revolutionary War). The 1655 victory over the Swedes at Czestochowa was reguarded by the people as a miracle. And in 1665 King John Casimir proclaimed Mary as Queen of Poland.

A crown was donated by Pope Clement XI in 1717 and that same year Bishop Jan Krzysztof Szembek officiated at the coronation ceremony. In 1909 the priceless crown and dress were stolen and Pope Pius X sent another crown, and a new dress was made by the faithful. In 1910 the Madonna was crowned for the second time by Bishop Stanislaw Zdzitowiecki of Wroclaw.

Devotion to Our Lady of Czestochowa, as the image came to be called, has for centuries given spiritual and moral comfort to the Polish Nation. Jasna Góra, the "Bright Mountain" became the very soul of Poland.

The first miracles connected with this image were recorded in 1430. In a letter to Pope Martin V, King Wladyslaw Jagiello stated that seven miracles had occurred at Jasna Góra, the earliest in 1402. Between that date and the year 1948 there were 1,300 miracles recorded at the Shrine.

Inspecting closely the picture, we see two sets of scars. One at the neck, made by the Tartar arrow in 1382, and two on the face caused by sword slashes in 1440. The face and hands of the Madonna and Child are the only original features showing, and these are dark in color. The dark color was caused by time, changes in paint pigments, varnishes, and smoke from the everburning candles. Thus the painting is often called "The Black Madonna."

The adornments of the painting, such as the crown and dresses, are works of many artisans from many periods and are of great artistic value.

In the United States we now have a counterpart of "Bright Mountain"—the National Shrine of Our Lady of Czestochowa at Doylestown, Pa. near Philadelphia. There, on a high hill overlooking the countryside, stands a Pauline monastery and a modern spired church housing a faithful replica of the Madonna of Czestochowa. Just as in Poland, the Shrine was initiated and is administrated by Pauline Fathers. Every year thousands of Polish Americans visit the New World center of devotion to their beloved Madonna.

What is the significance of Marian devotion? To many of God's children it gives consolation in troubled times. The material image has never been said to have effected miracles. It is only the fervent belief of the people and their prayers to the Mother of God in Heaven that cause their wishes to be answered.

Every Catholic nation has a beloved Shrine to worship at. To us Poles it is the visage of Our Lady of Czestochowa, Queen of Poland.●

SPEAKER'S COMMISSION ON PAGES

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Ms. OAKAR. Mr. Speaker, I wish to commend Representative BILL ALEXANDER, members of the Speaker's commission, and the fine staff for the thoughtful report and recommendations concerning our page system.

There is no question that a page system is valuable—there is also no question that there is a need for reform in many areas including supervision.

My only hope is that we follow through with legislation to implement the fine recommendations of the commission.●

KNOXVILLE HONORS A GOOD SAMARITAN

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. DUNCAN. Mr. Speaker, the Volunteer State had long been known for its dedication to the notion of helping one's neighbor. This is how it has built its volunteer reputation throughout the world. Volunteers, however, first need a cause to sign on to, and it takes a special kind of person to provide that cause and give the leadership to encourage others to participate.

Knoxvillians will honor just such a person Sunday night. Mrs. Jessica Bloom is known as "the woman who started just about everything good in Knoxville." Her work over the past 40 years has been to serve her neighbors. She began by founding the Knox County chapter of the American Cancer Society in 1940. Since that time, she has been a founder and active participant in dozens of other organizations.

Sunday night, the Cancer Society will host "A Night To Bloom." This is a fitting tribute to the efforts and warm heart of this woman. Proceeds from this event will go to the American Cancer Society as an indication of the role Mrs. Bloom has played in promoting the Cancer Society in Knox County.

I believe Jessie Bloom has done more good than any other single person in Knoxville. She has been both a Good Samaritan, and dedicated leader in a variety of causes. Her work has prompted an awareness of these causes in Knoxville and prompted the concern of her fellow citizens in cancer and arthritis research, historic preservation, interdenominational cooperation, and the rehabilitation of handicapped and disabled children. Without her work, the people of Knoxville would not be as likely to fulfill their obligation to their brothers in need.

A true Samaritan is one who continues to perform good deeds long after they have taken that first step of charity. Mrs. Bloom has taken that step again and again, and with each new step, she has brought more followers to the aid of the charity. Her organizing abilities and network of aides have made her the premier fundraiser in the area.

Besides the Cancer Society, she has devoted her time and efforts to the Arthritis Foundation, East Tennessee Children's Rehabilitation Center, Pan American League for Christians and Jews, Blount Mansion, and Ramsey House historic sites. Mrs. Bloom was chosen First Lady of Knoxville by Beta Sigma Phi in 1965. She was listed in the Who's Who of American Women in 1967. The Treasury Department has honored her for her role in promoting the sale of U.S. Savings Bonds in Tennessee. Jessica Bloom is an honorary member of the State board for the American Cancer Society. And in recognition of her good works, she has been named a Good Samaritan of Holy Land Christian Mission in Bethlehem. A good deal more could be said of the contributions Mrs. Malcolm Bloom had made, but I think you can see why Knoxvillians have chosen to honor her.

The date of this event has been chosen to coincide with her birthday, August 24, when Jessie Bloom will be 88. This small reward for a lifetime of service, reflects only a portion of the great respect her neighbors hold for her. It does show, however, the unselfish nature of Mrs. Bloom in giving of herself for a cause she supports. I would like to join my neighbors in thanking this dedicated woman for her efforts. She has been a true Samaritan, and a real volunteer.

A FEW FACTS ABOUT GSL'S

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. ERLENBORN. Mr. Speaker, on August 4 my good friend from New York, Mr. PEYSER, came to this floor to describe the effects of what he called the devastating attack made on students in last year's Budget Reconciliation Act. Mr. PEYSER noted, and I quote:

> That attack is having an impact today as estimated by the Congressional Budget Office that over 1 million students in college who were receiving guaranteed student loans are now out of that program and for the lower middle income and poor students, probably over a half million this September will not be able to attend school.

I have tried to verify Mr. PEYSER's figures, but have been unable to do so. The Congressional Budget Office was unable to locate a document giving the estimates referred to in Mr. PEYSER's speech. Similarly, CBO estimates in my possession flatly disagree with Mr. PEYSER's statement.

Mr. PEYSER said 1 million students who were receiving guaranteed student loans are now out of the program. CBO figures show that 3.522 million loans were made in the program in fiscal year 1981, which is the fiscal year before last year's changes became effective, and estimates that 3 million loans will be made during fiscal year 1982. Thus the reduction in the number of borrowers between 1981 and 1982 is only 522,000, all of which can be attributed to the requirement that students with adjusted family incomes above $30,000 per year are subjected to a need test for a loan.

Congress enacted GSL changes in 1981 to repeal certain liberalizations made to the program in 1978 which could not be justified either by students' need or in light of the resulting Federal costs. The legislation, enacted in 1978, was the Middle Income Student Assistance Act, or MISAA, which qualified all guaranteed student loans for a Federal interest subsidy, regardless of family income or resources.

At the time the Middle Income Student Assistance Act was considered before the House in 1978, I was concerned that the removal of all income-related criteria for participation in the program was a grave mistake. To correct the overkill in MISAA, I offered an amendment which would have capped program eligibility at $40,000 of adjusted gross family income. Unfortunately, this reasonable and sound amendment was not adopted.

We are now paying the price for the lack of foresight that led to the enactment of MISAA. Congress should have never enacted this extravagant and excessive legislation. Our mistake in passing MISAA is now directly the cause of the continued pressure for legislative changes in the guaranteed student loan program. I submit that if Congress had not enacted MISAA, we would not have before us today the wide variety of proposals to reduce the cost of student loans.

We are now reaping the fruit of the seeds we so recklessly sowed in 1978. Let me review a few of the effects MISAA has had on the program. Simply put, the enactement of MISAA led to an immediate and dramatic expansion of the size of the program. During the period between 1977—immediately before MISAA—and 1981—immediately before the changes made in the Omnibus Reconciliation Act became effective—cumulative outstanding loan volume rose by over 400 percent, and the number of borrowers

rose by over 250 percent. Coupled with these increases in participation rates was a steep increase in the interest subsidy paid to lenders resulting from the high cost of money. As a result, Federal program costs rose by over 600 percent from 1977 to 1981—from $357 million to $2.535 billion.

The students who primarily benefited from MISAA and whose eligibility for loans was also either reduced or eliminated by the 1981 amendments were students whose families have annual adjusted gross incomes over $30,000 per year. These students were not made ineligible for GSL's in 1981, but were only required to undergo a need analysis to determine whether a need for a loan existed at all. Thus, as Mr. PEYSER fails to point out, those students made ineligible by the 1981 changes are those students who are unable to show any need under this need analysis. These students are predominantly middle to upper income class students attending low to average cost institutions.

Mr. PEYSER's figures appear to have come from CBO memorandum issued in letter form to a number of Members. This memorandum includes the estimate that, if no changes had been made in the 1981 Reconciliation Act, the number of GSL borrowers would have risen from the 3.522 million in 1981 to 4 million. The figure of 1 million students can be derived by subtracting the estimated number of 1982 borrowers from the 4 million borrower estimate based on the assumption that no changes were made in the program. This figure of 1 million students is thus something quite different from the "1 million students in college who were receiving guaranteed student loans" that Mr. PEYSER has cited.

Regarding Mr. PEYSER's other assertion that CBO has estimated that the changes made in student assistance last year will result in over a half million students not being able to attend school, I am told flatly by CBO that no such estimate was made by them. CBO apparently believes such an estimate to be too speculative to make.

Mr. Speaker, I believe all of us have to be cautious in quoting statistics before this body. In a program as important to our country as guaranteed student loans, I believe it is our responsibility not to be spreading misleading or incorrect information.●

THE HONORABLE EDWARD LAUCKERN

HON. GARY A. LEE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEE. Mr. Speaker, it gives me great pleasure to call to the attention of this House the work of the Honorable Edward Lauckern of Auburn, N.Y.—a man whose accomplishments are many, and a man whose record of service to his community is unparalleled.

During the last 4 years I have had the pleasure of representing the city of Auburn in the Congress of the United States. Throughout those years I was fortunate to have had the pleasure of working with Ed Lauckern on a number of projects in his roles as city councilman, as Cayuga County's deputy director of veterans services, and as a major figure in the Auburn Industrial Development Authority.

Ed has been a tremendously strong advocate on behalf of hundreds of veterans throughout central New York, and I was proud to have worked with him to insure the vets of our area received the benefits they justly deserve.

Ed is active in countless community organizations, and has given long hours to the Easter Seals Society.

Above all, Ed is a man devoted to his family. As the loving father of two children he has the ability to mesh his active community service with his family responsibilities.

It is with great pride that I ask this Congress to recognize the Easter Seals' Citizen of the Year—a fine man and dear friend—Edward Lauckern.●

INFORMATICS IN THE 1980'S: SOME SUGGESTIONS FOR A CONSTRUCTIVE DIALOG

HON. TIMOTHY E. WIRTH

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. WIRTH. Mr. Speaker, as chairman of the House Subcommittee on Telecommunications, Consumer Protection and Finance, I have argued that the Congress must address the economic and social impacts of the information revolution, and craft public policies that allow these emerging technologies to contribute to greater diversity and accessibility of information.

It is apparent that our current vehicle for dealing with this changing environment, the Communications Act of 1934, is hopelessly obsolete. Legislation I introduced, H.R. 5158, was an attempt at a comprehensive reform of this law.

Mr. Matthew Nimetz, who as Under Secretary of State for Security Assistance, Science and Technology coordinated U.S. international communications policy, recognizes the important public policy consequences of technological advances in the information field. I commend his address before the International Information Industry Conference, "Informatics in the 1980's: Some Suggestions for a Constructive Dialogue", to my colleagues.

It is now commonplace to recognize the so-called "information revolution" not only as an important technological advance, but also as a development with profound economic and social ramifications. This audience needs no lecture on the vast impact of new information systems on our public and private institutions. Yet despite this progress, we have been dilatory on an important front. I want to use this opportunity to call your attention to what I perceive as a serious failure to date: our neglect in educating our political and governmental leaders about these technological advances and in initiating a serious dialogue on their public policy consequences. Rectifying this failure, in my opinion, poses a critical challenge to the private sector.

The scope of the information revolution is vast, as you well know. The development and widespread use of computer technology, combined with the capacity to link computers worldwide through a network of rapid, reliable and inexpensive telecommunication facilities, has touched every facet of our economic, social, political and psychological existence. This development, which we often call international information flow, or informatics, is transforming our industrial methods, financial systems, trading patterns and the structure of transnational companies.

In assessing the effects of informatics, we should look not only at the changes in economic structures, although these are the most obvious, but at social and political developments as well. Modern systems of telecommunications have over the past decades transformed the public media, allowing every family to witness would events firsthand. And now two-way cable systems, which can link our homes with offices, shops, polling booths, universities, data banks or hospitals, will introduce new opportunities, and doubtless new frustrations, into our lives.

World politics have already been transformed by this technology. While the revolution in Iran was based on traditional Islamic principles, its most important weapon was the not-so-traditional cassette tape, on which the exiled Ayatollah's message was recorded, duplicated and widely distributed. The hostage crisis was to a significant extent a media event, and its negotiated resolution would have been impossible without a highly computerized and interlinked banking system able to inventory the relevant accounts and, within minutes, transmit billions of dollars from the U.S. to London to Algiers to effect the agreement.

Although the importance of informatics in daily life is quite extraordinary, most Americans would not recognize the word. Only now are the issues beginning to be understood. A good test of the importance of any subject in American life is the amount of interest taken in it by our elected representatives. In our Congress, communications and information policy was rarely a matter of concern until very recently. As late as 1980, when I supervised this issue within the State Department, with a few notable exceptions, one could scarcely secure 10 minutes of a Congressman's time to discuss U.S. or international communications. This year, however, one of the major bills before Congress is a Telecommunications Bill. And whenever a major policy matter must be resolved in the American system, all three branches of government get involved—our

Executive develops a policy, our Congress holds hearings and enacts legislation, and our courts decide major cases. This upsurge in popular attention already has contributed to the major restructuring of our largest corporation, AT&T, which promises a restructuring of our entire informatics industry and injects a new issue into our politics. Indeed, one leading Senator has even called for a constitutional amendment addressing electronic communications—the definitive test that an issue is politically "in."

Along with the AT&T settlement and the debate over the Telecommunications Bill, another "event" of the past year should be mentioned—the popularization of the computer. The most sought-after Christmas gift in 1981 was the computer game: Americans paid $1 billion for home video-game consoles. Affluent parents now almost routinely buy their children home computers. At Harvard Law School, a major issue this year is whether computers can be brought into the examination room during an open-book exam. Today a significant percentage of young people learn, enjoy and feel comfortable with computer technology.

Where in New York City do people tend to congregate these days? The traditional gathering places—the church, club, cafe or dance hall—find themselves under increasing competition from computer related establishments. The young people—and some not so young—meet at the growing number of computer-game arcades, spending $5 billion in the process. We should recognize that these arcades are offering a new form of entertainment, perhaps a new addiction, whatever we might think of their social or moral qualities. More serious adults, for their part, can go, not to computer-game arcades but to money-dispensing machines, convenient and efficient computer-driven instruments that are blossoming in our cities and transforming daily life. Not only do they permit one to perform financial transactions almost anywhere 24 hours a day, but the local dispensing machine often becomes a mini-community center to meet a friend, make a new acquaintance, affix a notice, or pick up neighborhood news. And for some users the bank's computer itself can have a therapeutic effect as well: in a large and often forbidding city, it welcomes you, recognizes you, knows a great deal about you, and is generally responsive.

Each of you can readily name a dozen or more additional changes in our daily routine caused by this technology. And I have purposely not mentioned the most obvious transformation of all—because you know it so well—the introduction of advanced information systems into the office, factory, retail establishment and other place of work.

I have of course exaggerated somewhat in my remarks—and dwelled perhaps too long on these maters—because I think it clear that the informatics revolution is an important one, affecting all aspects of economic and social life—even the very concept of literacy. Despite this pervasive impact, however, our policymakers know little about it. Whether out of indifference, intellectual fear or plain ignorance, they at best only dimly understand the current level of technology, much less where the technology is headed. Most of our governmental officials in positions to make decisions are of a generation whose education was untouched by computers and information technology. And yet these same policymakers are being asked to address fundamental issues with important consequences:

Which industries are being strengthened and which weakened by the growth of information technology? How will our universities be affected, indeed how will our primary and secondary schools, and libraries, be transformed? Does this technology make economic centralization inevitable, or will the flexibility and low cost of micro-computers lead in many cases to a greater ability to decentralize? Will informatics cause certain regions—or countries—to prosper at the expense of others? Will it further entrench the dominance of the largest cultures and languages—particularly English—or can its very neutrality, universality and versatility help to bolster the cultures and economies of dynamic but smaller nations with unique languages and alphabets? Will the establishment of a world information network assist the developing countries by making them active participants in the world economy, or will it risk widening the gap between the developed and less developed nations? Are countries rendered more vulnerable if data about their citizens is stored or processed abroad, or is this fear the product of fantasies about an autarkic world that could not exist even in medieval days, let alone today. Does informatics harbor real social risks, or is the technology essentially benign? Are decisions made in the informatics area likely to undermine protections for free speech and press? As we move to digitalization of all communications, how can we distinguish between different types of communications, and should we even contemplate making such distinctions even if technically possible? What will be the effect of informatics on traditional concepts of property rights and other legal relationships? How can our trading regime under the GATT cope with non-tariff barriers in this field as they affect services as well as goods? Is the procedure for developing technical standards something traditionally left to professional experts likely to foster undue rigidity which will effectively limit advances in the state of the art and impose a set of troublesome trade barriers?

How do we begin to answer these questions? Are our political leaders sufficiently informed even to understand the questions, let alone to deal with them substantively on a timely basis? Based on several years experience in both the public and private sectors, I come to four basic conclusions:

First, information based technology not only is here to stay, but is developing so fast and in so many ways, and its current uses are so varied and incipient, that even the wisest among us cannot foresee with any detail the path its future will take.

Second, government will have to play a major role in shaping the development of informatics. But sound policies must be cautious and flexible, not dogmatic. Some people think government is weak when it admits inadequate knowledge and a lack of clear direction. But when benefits and burdens are not capable of adequate analysis, much less precise balancing, it is an act of statesmanship to exercise self-restraint and permit positions to modify in light of experience.

Third, the private sector in the U.S. and other nations must devote greater efforts to educate and work with officials responsible for public policy affecting informatics. As a former government official with responsibilities in this field, I can attest to our lack of information, the inadequcy of our governmental structures, and the sporadic and unstructured nature of consultations between government and the private sector. The situation may be somewhat different in countries where the government operates telecommunications facilities and has a tradition of giving stronger direction to industry, but even there I suspect that policymakers are not adequately exposed to the breadth of these issues. Remedying this deficiency of knowledge is made more difficult by the lack of direct exposure to the world of informatics in even its simpler forms on the part of most government policymakers. This inexperience with informatics leaves many public servants uncomfortable with what they fear will be an abstruse, technical exercise, or, at the other extreme, encourages them to seek prematurely to expound and implement comprehensive theories after only superficial exposure.

Fourth, at the international level, we must commence a serious, long-term dialogue on these subjects, paying particular attention that both the substance and form of the dialogue remains flexible. I cannot accept the view that the principle of "free flow" is the beginning and end of discussion. As an advocate of "free flow," I take it to be a guiding principle, an important and basic presumption, but not a magic incantation that by itself establishes policies. Neither do I believe that information-flow and telecommunications issues should be debated, as we do the law of the sea, in one comprehensive negotiation. Information flow is not a single subject, but a set of related issues, a cluster of topics. For the foreseeable future, I believe we would do better to address on a formal governmental level only the parts that are more maturely developed and more susceptible of at least tentative solution.

Since the need for dialogue is perhaps the most important challenge we face, let me elaborate on the main elements of this dialogue, as I see it developing.

First, within each of our countries, the information industry must make a greater effort to discuss these issues with academic thinkers, government officials and other concerned members of the private sector. I want to highlight the inadequacy of dialogue within the private sector itself, particularly between the information industry, which concerns itself with "data-flow," the telecommunications industry, which concerns itself with "communications," the mass media, which concerns itself with "free press issues," and users, who rely on all this but rarely reflect on the threats and impediments to the development of a sound informatics system. A dialogue among these and other private sector groups, together with interested parties in universities and government officials, would do a great deal in each of our countries to prevent adoption of unworkable or perverse policies.

Second, an international dialogue is required among the industrialized states, perhaps centered in the OECD, but also in the GATT, WIPO, ITU, CCITT and to some extent in NATO. Here the private sector should also play an active and constructive role. Those of us who value a free society and an advanced market economy should find ways to humanize basic policies in informatics. The trade issues involved in particular are not easy to solve, given the perceived risks of harm that mark today's jittery economic and political structure. Witness as an example the misconceived provisions on "reciprocity" that were proposed for the telecommunications and information

industries in our Congress a few months ago, and are still being pursued in our country.

Third, a serious dialogue between the industrialized states and the less developed states is overdue in this field. I do not consider the rhetorical duels that take place under the UNESCO umbrella to be a serious endeavor. All sides must bear some responsibility for the present situation. It should be clear that the Western countries are not going to debate our commitment to free press principles in an international forum. But we would be foolish if we believed that, beneath the grandiose and often offensive rhetoric, there are no legitimate issues to be addressed. Moreover, no single group of nations has a monopoly on foolish and self-defeating policies. The United States' development assistance programs put almost no resources into this vital field; when I tried to promote a change in orientation a few years ago, I was told that our AID programs focus exclusively on basic human needs, and that communications is not considered to fit under that heading.

A final word about the type of national and international dialogue I am advocating. I envision this process as one to be pursued over years, even decades. Discussions will take place in a variety of forums, from international organizations to trade associations to less formal groupings. I am not concerned about the passage of time, because for the most part I believe that time and greater familiarity will be conducive to sounder policies. It will be important not only to recognize interconnections between issues, but also to distinguish differences, and to separate out when possible those issues that are more amendable to initial consensus. Finally, a dialogue is not the same thing as a negotiation. There is often a need for negotiation—bilateral or multilateral—and we should not shrink from such negotiations when issues are ripe and participants and forums are defined. But just now I believe that self-education, and the education of our political leaders, about the dimensions and development of our information-based societies is the paramount challenge facing us. Those of us in the private sector concerned with this issue would be well served to use greater initiative in pursuing this long-term strategy.●

COAST TO COAST IN AN ANTIQUE CAR POINTS OUT NEED FOR ROAD IMPROVEMENT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 19, 1982

● Mr. LEHMAN. Mr. Speaker, one of my constituents, Mr. Bob Lewin, recently completed a coast-to-coast automobile trip in a 1914 Buick.

It seems that more and more people are yearning for the good old days when life was less complicated, but most people do not actually live out an experience in the past as Bob Lewin has done. Traveling with a group of fellow antique carowners, Bob drove through mountains and deserts from Pebble Beach, Calif., to Jekyll Island, Ga.

While he knew that old-fashioned cars would not be as comfortable as modern vehicles, Bob was amazed by the poor condition of many of our secondary roads. He has told me of some of his experiences and confirmed my strong belief that we have got to improve our Nation's infrastructure. We cannot allow all the roads and bridges, that we worked so hard to build, to become unsafe and unusable.

Mr. Speaker, I would like to include in the RECORD an article that appeared in the Neighbors section of the Miami Herald about Bob Lewin's trip.

The article follows:

[From the Miami Herald]

1914 BUICK GOES COAST TO COAST

(By Lisa Getter)

Robert Lewin—the 66-year-old owner of a 68-year-old Buick—has returned from his recent road rally for relics.

Not only did he finish the 3,600-mile trip in one piece, but he ended with a perfect score and a plaque to prove it.

The 32-day transcontinental trek from Pebble Beach, Calif., to Jekyll Island, Ga., ended July 23.

Sponsored by the Veteran Motor Club Cars of America, the group of 56 antique car owners hobbled at speeds of 35 miles per hour through mountains, deserts, oil fields and small towns.

Lewin, also known by his CB radio handle as Rapid Robert, was one of 13 car-owners to chug into every checkpoint on time.

"We knew it would be an adventure," said the Miami Shores real estate appraiser. "It was more of a pleasure because the car ran so well. That's the bottom line."

Each car was awarded 1,000 points to start. Drivers earned an additional 100 points for each year their car was older than 1914, the minimum year for eligibility.

They lost 100 points each time the car was pulled, pushed, trailered, towed, or late to a checkpoint.

Lewin's 1914 Buick, nicknamed Flintstone after the television show about the stone-age family, never lost a point. The car used only a half gallon of water and no extra oil.

"All the other cars boiled. They looked like steam engines," he said. "It never even got to normal. Everyone marveled. A lot of people looked to see if I had a hidden radiator."

The Buick wasn't without its problems. But mechanics along the route repaired whatever problems he ran into—and the fees were usually free. A ride in the car, a peek at the engine, a request for a postcard—that was payment.

Going down 10,000 feet by Tioga Pass in California was the trip's most terrifying drive. Lewin's car hit 40 miles per hour, the high speed breaking its ignition points. Another car lost a wheel; another lost its brakes.

The first half of the trip was so cold that Lewin had to buy two pairs of thermal underwear and gloves. He picnicked by the side of the road in Yosemite Park, washing his hands with water and snow.

But restoration hour, otherwise known as happy hour, saved the days. "We restored ourselves," Lewin said.

He said the trip taught him one thing: "The United States has its priorities and our roads are going to hell. They were horrible."

The trip, including shipping the car to California, motels, food and entry fees, cost Lewin about $14,000. "That's a lot of money to win a $50 plaque," he said.●